

CHAPTER 145

PROVISIONS RELATING TO PUBLIC HEALTH

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HEALTH BOARDS AND OFFICERS

145.01 LOCAL HEALTH BOARDS; HEALTH OFFICERS. Every town board shall be a board of health within and for the town and have jurisdiction over every village within its boundaries wherein no organized board of health exists. Every village may, and every city shall, provide by ordinance for the establishment of a board of health therefor. In the absence of such provision in any city, the state board of health, hereinafter called the state board, may appoint three or more persons to act as such until a local board is established and organized and may fix their compensation, which the city shall pay. Two members of each county board, chosen by it yearly at its annual meeting, and one resident physician elected at the same time, shall constitute the county board of health, with jurisdiction over all unorganized towns therein, and with such other powers and duties in reference to the public health as the state board shall, by its published regulations, prescribe. All local health boards of each county shall cooperate so far as practicable and the state board by written order may require any two or more local boards to act together for the prevention or suppression of epidemic diseases. At least one member of every local board shall be a physician, who shall be the local health officer and executive of the board. If no member of a town board is a physician, it shall appoint a health officer for the town. The compensation of all local health officers shall be prescribed by the body appointing him or to which he belongs and the same,

together with his necessary expenses, shall be paid by the county or municipality in which he serves.

[R. L. s. 2134] (5348)

145.02 DEPUTY HEALTH OFFICER IN CITIES OF THE THIRD CLASS. The governing body of any city of the third class in this state shall have authority to appoint a deputy local health officer with power to exercise, under the supervision of the local health officer, all of the powers and duties of such officer and to be paid such compensation as the governing body of the city shall determine. The total compensation for the local health officer and the deputy local health officer shall not exceed that now or hereafter authorized to be paid to the local health officer.

[1925 c. 215] (5348-1)

145.03 DUTIES OF LOCAL BOARDS OF HEALTH; PENALTIES. All local boards of health and health officers shall make such investigations and reports and obey such directions concerning communicable diseases as the state board may require or give; and, under the general supervision of the state board, they shall cause all laws and regulations relating to the public health to be obeyed and enforced. When the state board shall have reason or cause to believe, from its records or any other information in its possession, that the provisions of this section are being or have been violated, the state board shall advise the attorney general thereof, giving the information in support of such belief, and the attorney general or, under his direction, the county attorney of any county in which the violation occurs, shall forthwith institute proceedings for the enforcement of the provisions of this section and for the punishment of the violation thereof.

[R. L. s. 2135; 1923 c. 92 s. 1] (5349)

145.04 ENTRY FOR INSPECTION. For the purposes of performing their official duties, all members, officers, and employees of the state and local boards of health and all health officers shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

[R. L. s. 2136] (5350)

145.05 POWERS OF HEALTH OFFICER IN ASSUMING JURISDICTION OVER COMMUNICABLE DISEASES. The health officer in a municipality or the chairman of the board of supervisors in a town shall employ, at the cost of the health district over which his local board of health has jurisdiction and in which the person afflicted with a communicable disease is located, all medical and other help necessary in the control of such communicable disease, or for carrying out, within such jurisdiction, the lawful regulations and directions of the state board, its officers or employees, and, upon his failure so to do, the state board may employ such assistance at the expense of the district involved. Any person whose duty it is to care for himself or another afflicted with a communicable disease shall be liable for the reasonable cost thereof to the municipality or town paying such cost, excepting that the municipality or town constituting such district shall be liable for all expense incurred in establishing, enforcing, and releasing quarantine, half of which may be recovered from the county, as provided for under sections 145.06 and 145.07.

[R. L. s. 2137; 1907 c. 327 s. 1; 1917 c. 427 s. 1] (5351)

145.06 ALLOWANCE AND PAYMENT OF EXPENSES. All claims arising under section 145.05 against any town, village, or city, if not paid by persons liable therefor, shall be presented to the town board or council for audit and allowance as in the case of other claims. If any such claim be deemed excessive, or the whole or any part of the services or expenses charged for unnecessary, the items or parts objected to shall not be allowed without the approval of two disinterested physicians, given in the presence of the board or council. Upon the allowance of any such claim, the amount thereof shall be paid, and a certified statement shall be transmitted to the county auditor, embracing a copy of the claim as allowed, the date of such allowance, and showing for what purpose and to whom the allowance was made. The auditor shall lay such statement before the county board at its meeting next following the receipt thereof. One-half the amount so allowed and paid shall be a claim against the county and, if deemed just and reasonable by the board, the same shall be allowed and paid.

[R. L. s. 2138] (5352)

145.07 APPEAL FROM DISALLOWANCE; COSTS. Within ten days after written notice by the auditor to the clerk of the town, village, or city of the disallow-

ance of the whole or any part of the half of any such claim chargeable upon the county, the claimant may appeal from such disallowance to the district court by giving notice of appeal as in other cases and without giving any bond or other security thereon. Such appeal shall be noticed, tried, and determined as in other appeals from the disallowance of claims by the county board. Unless the appellant shall recover more than the amount allowed by the county board, he shall be liable for costs and disbursements; otherwise the county shall be liable.

[R. L. s. 2189] (5353)

PUBLIC HEALTH NURSES AND HOME HEALTH SERVICES

145.08 EMPLOYMENT, APPROPRIATION. Subdivision 1. **Appropriation for compensation and expenses; exception.** Every board of county commissioners, except in counties now or hereafter having a population of 550,000 or more, and every city council, village council, school board and town board is hereby authorized and empowered to employ and to make appropriations for the compensation and necessary expenses of public health nurses and home health service personnel, for such duties as may be deemed necessary.

Subd. 2. **Expenses defined.** The term "expenses" may cover and include suitable furnished office rooms, records, stationery, postage, necessary public health and home health service supplies and equipment, transportation, including the purchase and maintenance of automobiles, meals and lodging of personnel when on duty away from their places of residence, telephone, rent and tolls, administrative and clerical assistance, and such other actual expenses as shall be necessarily incidental to the carrying out of these purposes.

Subd. 3. **Nursing district in rural Hennepin County.** In each county now or hereafter having a population of 550,000 or more, every city and village council and every school and town board is hereby vested with the authority and power provided for and imposed by provisions of subdivision 1. In such counties two or more municipalities, school districts and towns may by written agreement of their respective governing bodies, form a nursing district within the territory comprising the contracting municipalities, school districts and towns for the purposes set out in subdivisions 1 and 2. All such agreements shall contain provisions for the apportionment of the cost and expenses incident to the carrying out of the hereinbefore mentioned purposes. Once formed, no such nursing district shall be discontinued, nor shall any municipality, school district or town withdraw from same, within three years from the effective date of formation.

Public health nurses employed by nursing districts as provided for in this subdivision shall be considered public health nurses in accordance with Minnesota Statutes 1949, Sections 145.08 to 145.125. The board of county commissioners in each county as provided for in this subdivision shall act as the certifying agency in accordance with Minnesota Statutes, Section 145.125, and all monies received from the State of Minnesota, the Federal Government or any monies provided for public health nurses shall be made available to such nursing districts in the same relation to the total sum available as the population of such districts bears to the total population of such county, exclusive of the population of any cities of the first class located in such county.

Subd. 4. **Home nursing care services.** Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, which employs public health nurses may employ and make appropriations for the compensation and necessary expenses of licensed practical nurses, registered nurses, and home aides who will provide under the supervision of such public health nurses such home nursing care services as may be deemed necessary. Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, also may contract for or employ, and make appropriations for the compensation and necessary expenses of medical social workers, occupational therapists, speech therapists, physical therapists, and other home health services personnel, who will provide such home health services as may be deemed necessary. Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, also may make arrangements for such home health services with another provider agency approved by the social security administration for participation under Public Law 89-97, Titles XVIII and XIX, or may contract for such home health services with a hospital, nursing home facility,

or rehabilitation facility provider agency not approved by social security administration for participation in Public Law 89-97, Titles XVIII and XIX, and may make appropriations for the payment of the costs of such services. Physical therapists who provide physical therapy as part of the home health services program shall provide such services in conformity with sections 148.65 to 148.78.

[1919 c 38 s 1; 1921 c 138 s 1, 2; 1925 c 196 s 1; 1951 c 563 s 1; 1955 c 284 s 1; 1963 c 27 s 1; 1967 c 694 s 1-3] (5353-1, 5353-2)

145.09 [Repealed, 1965 c 45 s 73]

145.10 STATE BOARD TO FURNISH LIST OF NURSES. There shall be available from the state board, for the use of councils and boards included in sections 145.08 to 145.12, employing such nurses, a list of nurses qualified for public health duties, approved and certified by a majority of a committee consisting of a physician appointed by the state medical association and four registered nurses; one representing the faculty of the course in public health nursing of the University of Minnesota, one representing the Minnesota league for nursing, one representing the state board of health, and one representing the Minnesota board of nursing.

[1925 c 196 s 1; 1955 c 284 s 2] (5353-4)

145.11 STATE BOARD TO ASSIST HEALTH NURSES. Such nurses shall receive upon request the aid and advice of the state board in regard to nursing problems and make written reports through the board employing them to the state and local boards of health in such form and at such times as shall be prescribed by the state board. The state board shall by rules and regulations require that local agencies submit a plan for the delivery of public health nursing and home health agency services commensurate with the health needs of the residents of the county and the maintenance of qualified personnel to implement such plan.

[1925 c 196 s 1; 1971 c 895 s 1] (5353-5)

145.12 COUNTY PUBLIC HEALTH AND HOME HEALTH SERVICE PERSONNEL; PUBLIC HEALTH NURSING COMMITTEE. Subdivision 1. **Members; expenses and payments.** The board of county commissioners of any county, except counties now or hereafter having a population of 550,000 or more, may detail county public health nurses and home health service personnel to act under the direction of the county board of health or a public health nursing committee composed of at least five members, as follows:

(1) The county superintendent of schools if there be one, otherwise the county commissioners shall appoint one from among the superintendents of independent school districts in such county;

(2) The county health officer or a physician appointed by the county commissioners;

(3) A county commissioner appointed by the board of county commissioners;

(4) Two residents of the county appointed by the county commissioners.

The public health nursing committee of each county shall effect a permanent organization and meet at regular intervals with the nurses.

The county board of each county having a county board of health or nursing committee may allocate in its annual budget a sum not to exceed \$2,000, which sum may be used by such county board of health or nursing committee for the purpose of purchasing supplies and for the payment of necessary mileage at the legal rate, for the members of such board or committee when attending regular or special meetings of said board or committee such meetings not to exceed 12 in number annually, or for the payment of a per diem of \$5 to members of such board or committee not on any other public payroll for each such meeting necessarily attended; said expenses and payments to be made on verified accounts and payable out of the general revenue fund of such county by auditor's warrant after allowance by the county board.

Subd. 2. Nursing committee, Hennepin county. In Hennepin county, when a nursing district is formed under the provisions of section 145.08, subdivision 3, the governing bodies of the municipalities, school districts and towns comprising such nursing district, meeting in a joint session, shall detail the district public nurses to act under the direction of a nursing committee of nine members appointed by representatives of such governing bodies meeting in joint session, as follows:

Four from the membership of said governing bodies; and,

Four residents of the nursing district who do not hold any other elective public office, at least one of whom shall be a physician; and one superintendent of an independent school district within Hennepin county.

The nursing committee shall have power to employ nurses and make all other commitments and expenditures necessary to carry out the purposes of this act, and may arrange with one of the participating public units in the district for the keeping and disbursements of its fund. Expenditures shall be by warrant or order signed by the chairman of the committee and countersigned by its secretary.

The nursing committee shall be a permanent organization and meet at regular intervals with the nurses. At its first meeting each year, the committee shall elect from its members a chairman and secretary. All appointments to membership of the nursing committee shall be for one year and until successors are appointed. The committee shall fill vacancies in its membership for the unexpired term.

[1921 c 138 s 1; 1925 c 196 s 1; 1951 c 563 s 2; 1953 c 460 s 1; 1955 c 65 s 1; 1967 c 694 s 4; 1969 c 546 s 1] (5353-6, 5353-7)

145.123 PUBLIC HEALTH AND HOME HEALTH SERVICES. Subdivision 1. **Charging of fees.** The county board of any county providing public health and home health services under Minnesota Statutes, Sections 145.08 and 145.12, and the governing body of a nursing district formed under section 145.08, subdivision 3, may charge and collect fees for such health services furnished to ill or disabled persons within the county or the nursing district. Payment, in whole or in part, for such services may be accepted from any person. Payment of any charges due may be billed to and accepted either from a local, county, state or federal public assistance agency or any combination thereof; or from any individual, governmental agency, or corporation, public or private, when such services are provided any person, including but not limited to a recipient of any type of social security aids administered by the federal or state governments, or a recipient of direct relief.

Subd. 2. **Schedule of fees.** The county board or the nursing district, as the case may be, shall set up an equitable schedule of fees, taking into consideration the ability of some of the ill or disabled persons to pay fully for the services received, the ability of others to pay only a part of the fee, and the inability of others to pay any part thereof. Public health and home health services shall not be denied to any person who is in need of such services and lacks means, either personally or as a beneficiary under a health or accident insurance policy, to pay either in whole or in part for the cost of the services he has received. These fees may not exceed the costs of the actual service furnished, as determined by a study of costs which the county board or the nursing district will make each year. The results of this study, together with a schedule of such fees, shall be filed with the state board of health.

Subd. 3. **Collection of fees.** The county board or the nursing district, as the case may be, shall set up a procedure for the collection of these fees and may assign the duty of collection to the public health nursing service.

Subd. 4. **Fees paid into county revenue fund or home health services fund.** Fees so collected in any county shall be paid into the revenue fund of the county and shall be used for such purposes as the county board determines after giving due consideration to the total needs of the public health and home health service. Fees so collected in any nursing district shall be paid to the special nursing fund of the nursing district and used for the purposes of carrying out the program of public health and home health services therein.

[1955 c 456 s 1-4; 1961 c 397 s 1; 1967 c 694 s 5; 1969 c 19 s 1]

145.125 COUNTY PUBLIC HEALTH NURSING SERVICE. Subdivision 1. **State aid quota; employment of nurse.** A county shall be paid from the appropriation to the state board of health for that purpose the sum of \$375 a quarter to aid in the payment of the cost of public health nursing. Each county with less than 20,000 population, which on May 1, 1971 had not established both a public health nursing service and a home health agency service shall receive \$7,500 in the biennium ending June 30, 1973, to establish those services. Each county with less than 20,000 population, which on May 1, 1971, had established only a public health nursing service shall receive \$2,500 in the biennium ending June 30, 1973, to establish a home health agency service. The money appropriated to the counties in this section shall be used only for the purposes of this section. Those moneys not expended shall be deposited in the general fund of the state treasury. Two or more counties who by a joint powers agreement establish public health nursing or home health agency services or both, shall also qualify for payments under Laws 1971, Chapter 895. County boards shall certify to the state board of health within 60 days

from a quarter ending September 30, December 31, March 31, or June 30 respectively, the following facts:

(1) That the county is complying with the provisions of sections 145.08 to 145.12.

(2) That during the preceding quarter, stating the last date thereof, the county had employed a public health nurse who was approved and certified pursuant to section 145.10 and other qualified home health agency personnel.

(3) The name and address of each public health nurse and other qualified home health agency personnel employed during the preceding quarter, and the amount paid to such persons during each month of such quarter.

If a public health nurse was employed for less than a full quarter, the county shall be paid only the proportion of \$375 which the period of time for which such nurse was actually paid is to the full period of the quarter.

Subd. 2. Certificate by county board; certificate to state auditor. At the end of each 60 day period provided for in subdivision 1, the state board of health shall certify to the state auditor, in the manner prescribed by law, the name of each such county, the amount to be paid to it, and that there are funds available for the payment thereof. Such certificate shall be supported by the certificate of the county board of such county. Thereupon, the state auditor shall draw his warrant upon the state treasurer payable to the county for the amount so certified.

[1947 c 54 s 1; 1971 c 895 s 2]

OTHER PROVISIONS

145.13 DISINFECTION OF PREMISES AFTER CONTAGIOUS DISEASES THEREIN. No wall, partition, or ceiling of any room in which there has been contagious disease in any tenement house, hotel, or dwelling shall be repapered, calcimined, or have any other covering placed thereupon, unless the old paper or other covering shall have first been disinfected and removed therefrom and the wall, partition, or ceiling cleaned, disinfected, and freed from bugs, insects, or vermin.

[1919 c. 479 s. 1] (5388-1)

145.14 DELIVERY OF SUBJECTS FOR DISSECTION. Except as otherwise provided in section 145.15, the bodies of all persons dying within the state and not claimed for burial within 36 hours after death shall be delivered by the person in charge thereof for purposes of anatomical study. The deans of the medical colleges of the state shall appoint a committee to receive such bodies, which committee shall apportion the same to the several colleges according to the numbers of their students. Any body so received shall be surrendered on demand of a relative entitled to its possession. The remains of any such body, after it has answered the purposes, shall be decently buried in a public cemetery and the expense of transporting and burying such body shall be borne by the college receiving the same.

[R. L. s. 2152] (5392)

145.15 WHAT BODIES EXCEPTED. No body shall be so delivered:

- (1) After it has been regularly interred;
- (2) After it has been claimed for burial or cremation by any person entitled to receive it for such purpose;
- (3) Without the consent of all known relatives of the person deceased;
- (4) If such person in his last sickness requested that his remains be buried;
- (5) If he died while detained as a witness or under suspicion of crime; or
- (6) If by any provision of the law another disposition thereof be required.

[R. L. s. 2153] (5393)

145.16 DELIVERY OF BODIES. Every official or other person in possession or control of any such body shall forthwith notify the committee and deliver the same according to its request.

[R. L. s. 2154] (5394)

145.161 DISSECTION; WHEN PERMITTED. The right to dissect the dead body of a human being shall be limited to: (a) cases specially provided by statute, or by the direction or will of the deceased; (b) cases where a coroner is authorized to hold an inquest upon the body, and then only so far as he may authorize dissection; (c) cases where the husband or wife shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized; and (d) cases where one of the next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death and then only to the extent so authorized, provided no dissection shall be per-

formed pursuant to this clause if there is objection by anyone of such next of kin. Every person who shall make, cause or procure to be made, any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor.

[R L s 4975; 1967 c 220 s 1] (10227)

145.162 BURIAL OR CREMATION. Except in cases of dissection provided for in section 145.161, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death.

[R L s 4976] (10228)

145.163 INTERFERING WITH DEAD BODY OR FUNERAL. Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor.

[R L s 4978] (10230)

145.17 OFFENSIVE TRADES. No person, without the written permission of the board of health of the town, village, or city, shall engage therein in any trade or employment which is hurtful to the inhabitants, or dangerous to the public health, or injurious to neighboring property, or from which noisome odors arise. Any person so doing shall forfeit \$50 for each day of which such trade or employment is exercised, to be recovered by the local board of health by suit in its name and for its benefit.

[R. L. s. 2143] (5371)

145.18 ASSIGNMENT OF PLACES. Such local boards, from time to time, may designate places within their respective jurisdictions wherein such trades or employments may be carried on, by orders filed with the town, village, or city clerk, and may revoke the same by like orders. Within 24 hours after written notice of any such revocation, every person exercising such trade or employment in the locality to which it relates shall cease to do so or forfeit \$100 for each day thereafter on which the same is continued, to be recovered as provided in section 145.17.

[R. L. s. 2144] (5372)

145.19 APPEAL TO DISTRICT COURT. Within five days after service of such notice, any party aggrieved by an order made under sections 145.17 and 145.18 may appeal therefrom to the district court of the county by giving notice of appeal as in other cases, together with a bond of not less than \$500, to be approved by the judge of the court, conditioned for the prosecution of the appeal to judgment and for payment of all costs and expenses that may be awarded against the appellant. If the appeal be taken within 20 days before the time for holding any general term of the court within the county, it shall be heard at such time and, at either party's request, may be tried by a jury; if taken more than 20 days before any such term, the judge shall appoint a time and place for hearing the same and, if demanded, direct the sheriff of the county to summon a jury of 12 persons to serve in the cause, any of whom may be challenged as in civil cases, and talesmen may be called and the appeal tried as in other civil cases. During the pendency of the appeal such trade or employment shall not be exercised contrary to the order of the board; and, upon violation of any such order, the appeal shall forthwith be dismissed. Upon the return of the verdict the court may either alter or amend the order of the board or confirm or amend it in full, to conform to such verdict. If the matter be tried by the court, it shall have and exercise the same power.

[R. L. s. 2145] (5373)

145.20 STATE BOARD; POWERS; APPEAL. Upon written complaint made to the state board that any person is occupying or using any building or premises within any town, village, or city for the exercise of any such trade or employment, it shall appoint a time and place for hearing and give notice, of not less than ten days, to the complainant and the person complained of, and after such hearing, if, in its judgment, the public health or comfort and convenience require, it may order such person to cease from further carrying on such trade or employment in such

building or premises; and, after written notice of such order, any person thereafter exercising such trade or employment in this building or premises shall forfeit \$100 for each day after the first, to be recovered as provided in sections 145.17 to 145.19. Any person aggrieved by such order may appeal, and the appeal shall be taken and determined, in the same manner as prescribed in section 145.19. During its pendency such trade or employment shall not be exercised contrary to the orders of the state board; and, upon the violation of any such order, the appeal shall forthwith be dismissed.

[R. L. s. 2146] (5374)

145.21 OTHER REMEDIES PRESERVED. Nothing in section 145.17 shall curtail the power of the courts to administer the usual legal and equitable remedies in cases of nuisances or of improper interference with private rights.

[R. L. s. 2149] (5377)

145.22 HEALTH OFFICER; DUTIES RELATIVE TO FILTH AND CAUSES OF SICKNESS. Nuisance, source of filth, or cause of sickness; duty of health officer; notice; privy vaults. When any nuisance, source of filth, or cause of sickness is found on any property, the health officer of the city, village, or town shall order the owner or occupant thereof to remove the same, at his expense, within a time not to exceed ten days, the exact time to be specified in the notice. This notice shall be served by the sheriff, marshal, or other peace officer by delivering a copy thereof to the owner, occupant, or agent of the property. If the owner of the property is unknown or absent, with no known representative or agent upon whom notice can be served, then the sheriff, marshal, or other peace officer shall post a written or printed notice upon the property or premises, setting forth that unless the nuisance, source of filth, or cause of sickness is abated or removed within ten days, the sheriff, marshal, or other peace officer will abate or remove, or cause to be abated or removed, at the expense of the owner, the nuisance, source of filth, or cause of sickness complained of and found to exist. In carrying out the provisions of sections 145.22 and 145.23, no debt or claim against any individual owner, or any one piece of real property, shall exceed the sum of \$100. In all cities of the first class in this state, the collection and disposal of night soil from privy vaults and contents of cesspools shall be under the charge and supervision of, and shall be done by, the department of health of such cities.

[1907 c 425 s 1; 1949 c 80 s 1; 1951 c 235 s 1] (5379)

145.23 ABATEMENT; COSTS ASSESSED ON PROPERTY. If the owner, occupant, or agent fail or neglect to comply with the requirement of the notice, then the health officer shall proceed to have the nuisance, source of filth, or cause of sickness described in the notice removed or abated from the lot or parcel of ground and report the cost thereof to the city clerk, or other like officer, and the cost of such removal or abatement shall be assessed and charged against the lot or parcel of ground on which the nuisance, source of filth, or cause of sickness was located, and the city clerk, or other like officer, shall, at the time of certifying their taxes to the county auditor, certify these costs and the county auditor shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city, village, or town as other taxes are collected and paid.

[1907 c. 425 s. 2] (5380)

145.24 VIOLATIONS; PENALTIES. Subdivision 1. Every member of any local board of health or any health officer refusing or neglecting to perform any duty imposed upon him by any statute, ordinance, or by-law relating to the public health shall be guilty of a misdemeanor.

Subd. 2. Every person who wilfully prevents or hinders any member, officer, or employee of the state board or any member, officer, or employee of any local board of health, or any health officer from entering any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected, or otherwise interferes with the performance of their duties, shall be guilty of a misdemeanor.

Subd. 3. Every person who shall fail to comply with the provisions of sections 145.15 and 145.16 shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25. Every person who shall use any body mentioned in sections 145.15 and 145.16 for a purpose other than that contemplated therein, or who shall remove it from the state, or in any manner traffic therein,

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or refuse to deliver the same upon proper demand, shall be guilty of a gross misdemeanor.

Subd. 4. Any person, firm, or corporation violating any of the provisions of section 145.13 shall be guilty of a misdemeanor.

[R. L. ss. 2135, 2136, 2154; 1919 c. 479 s. 2; 1923 c. 92 s. 1; 1941 c. 475 s. 6] (5349, 5350, 5388-2, 5394)

145.30 SUPERINTENDENT OF HOSPITALS TO TRANSFER RECORDS. The superintendent or other chief administrative officer of any public or private hospital, by and with the consent and approval of its board of directors or other governing body, is authorized to transfer and record, or cause to be transferred and recorded, upon photographic film of convenient size for the preservation thereof as evidence, any or all of the original files and records of any such hospital dealing with the case history, physical examination, and daily hospital records of the individual patients thereof, including any miscellaneous documents, papers, and correspondence in connection therewith.

[1941 c. 229 s. 1]

145.31 PHOTOSTATIC COPIES TO BE USED AS EVIDENCE. Upon the transferring and recording of any such original hospital files and records in the manner hereinbefore provided, such photographic film records thereof shall have the same force and effect, when offered in evidence in any proceeding in this state, as the original records from which the same were so transferred and recorded, and any photographic or photostatic copy made therefrom, when duly certified in writing, attached thereto, by the officer or employee of such hospital in charge of the records, to be such correct and complete photographic or photostatic copy thereof, shall be admitted and received in evidence, without further foundation, in any proceeding in this state with the same force and effect as the original record of such hospital from which such film recording was originally made, whether the original is in existence or not.

[1941 c. 229 s. 2; 1971 c. 231 s. 1]

145.32 OLD RECORDS MAY BE DESTROYED. The superintendent or other chief administrative officer of any such public or private hospital, by and with the consent and approval of such board of directors or other governing body thereof, is authorized to divest the files and records of such hospital of any such individual case records bearing dates more than three years prior to the date of such divestiture and, with such consent and approval, to destroy the same. Such records shall first have been transferred and recorded as authorized in section 145.30.

[1941 c. 229 s. 3; 1971 c. 231 s. 2]

145.33 CONSTRUCTION. Sections 145.30 to 145.33 shall not be construed as requiring any such public or private hospital to retain among its files and records, during the period hereinbefore specified or otherwise, any such individual hospital case records; miscellaneous documents, papers, or correspondence, except as the preservation and retention thereof is otherwise required by law.

[1941 c. 229 s. 4]

145.34 IMPURE WATER. Every owner, agent, manager, operator, or any one having charge of any water-works, furnishing water for public or private use, who knowingly permits the appliances of the same to become in a filthy condition, or in such condition that the purity and healthfulness of the water supplied by reason thereof becomes impaired shall be guilty of a felony and punished by imprisonment in the state prison for not more than ten years.

[R. L. s. 5012] (10274)

145.35 COMMON DRINKING CUP IN PUBLIC PLACES. Subdivision 1. **Prohibited.** In order to prevent the spread of communicable diseases, the use of common drinking cups in public places, public conveyances and public buildings, is hereby prohibited.

Subd. 2. **Penalty.** Whoever violates the provisions of this section shall be guilty of a misdemeanor and be liable to a fine of not exceeding \$25 for each offense.

[1913 c. 61 s. 1, 2] (10277, 10278)

145.36 EXPOSING PERSON WITH CONTAGIOUS DISEASE. Every person who shall wilfully expose himself or another affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his necessary

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removal in a manner not dangerous to the public health, shall be guilty of a misdemeanor.

[R L s 5008] (10270)

145.37 MANUFACTURE OF CERTAIN PRODUCTS WHICH MAY BE INJURIOUS. Subdivision 1. It shall be unlawful for any person to manufacture for sale or distribution within the state any product to be used in water-proofing or curing cement which product may be injurious to the skin or eyes of the user unless there is specified on the container of such product the chemical composition thereof, a warning of possible injurious effect, and the antidote in the event of injury.

Subd. 2. Violation of this section shall constitute a misdemeanor.

[1957 c 67 s 1]

145.38 SALE AND DISPLAY OF TOXIC GLUE. Subdivision 1. No person shall sell to a person under 19 years of age any glue or cement containing toluene, benzene, zylene, or other aromatic hydrocarbon solvents, or any similar substance which the state board of health has, by rule adopted pursuant to sections 15.0411 to 15.0417, declared to have potential for abuse and toxic effects on the central nervous system. This section does not apply if the glue or cement is contained in a packaged kit for the construction of a model automobile, airplane, or similar item.

Subd. 2. No person shall openly display for sale any item prohibited in subdivision 1.

[1969 c 296 s 1]

145.39 USE OF TOXIC GLUE. Subdivision 1. No person under 19 years of age shall use or possess any glue, cement or any other substance containing toluene, benzene, zylene, or other aromatic hydrocarbon solvents, or any similar substance which the state board of health has, by rule adopted pursuant to sections 15.0411 to 15.0417, declared to have potential for abuse and toxic effects on the central nervous system with the intent of inducing intoxication, excitement or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.

Subd. 2. No person shall intentionally aid another in violation of subdivision 1.

[1969 c 296 s 2]

145.40 PENALTY. Each violation of sections 145.38 to 145.40 is a misdemeanor.

[1969 c 296 s 3]

145.41 BLOOD DONATIONS, AGE OF DONOR. Any person of the age of 18 years or over shall be eligible to donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization.

[1969 c 685 s 1]

145.42 ABORTIONS; NON-LIABILITY FOR REFUSAL TO PERFORM. Subdivision 1. No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion, and no hospital that refuses to permit the performance of an abortion upon its premises, shall be liable to any person for damages allegedly arising from the refusal.

Subd. 2. No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion shall, because of that refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital with which he is affiliated or by which he is employed.

[1971 c 693 s 1, 2]

COUNTY HEALTH DEPARTMENTS

145.47 HEALTH DEPARTMENT DEFINED. The term health department, as used in sections 145.47 to 145.54, is defined as a health department organized and supported by one or more counties.

[1949 c 405 s 1]

145.48 ESTABLISHMENT OF COUNTY HEALTH DEPARTMENTS. Subdivision 1. Any county or two or more adjacent counties are hereby authorized and empowered, by resolution adopted by a majority of the members of the county board or county boards of the respective counties, to establish and maintain a health department as herein defined. The county commissioners of any two or more adjacent counties may submit, and on petition of qualified electors equal to 10 percent of the total vote at the last general election, shall submit such action

to a vote of the people. If the majority of the voters voting thereon favor the action, it shall go into effect on the date specified.

Subd. 2. A city of the first, second, or third class located within a county in which a health department is established under sections 145.47 to 145.54, shall not come within the jurisdiction of the board of health of such health department until such city, by ordinance of its governing body, shall take action to be included within the jurisdiction of such health department subject to the referendum provided in the following subdivision. In counties containing a city of the first class and wherein the majority of the county commissioner districts lie within the city of the first class, it shall require the unanimous vote of the county board to establish a county health department as provided for in sections 145.47 to 145.54.

Subd. 3. The governing body of a city of the first, second, or third class may submit, and on petition of qualified electors equal to 10 percent of the total vote at the last regular municipal election, shall submit such action to a vote of the people. If the majority of the voters voting thereon favor the action, it shall go into effect on the date specified.

[1949 c 405 s 2; 1959 c 604 s 1, 2]

145.49 POWERS TRANSFERRED. All powers and duties now or hereafter vested in or imposed upon the local health boards defined in Minnesota Statutes 1945, Section 145.01, shall, in all areas included in the jurisdiction of any health department established under sections 145.47 to 145.54, be transferred to, vested in and imposed upon such health department from the date when the health officer of such health department assumes the responsibilities of his appointment or such later date as may be determined by such health department; provided, however, that nothing herein shall affect the registration of vital statistics, except that when any city comes within the jurisdiction of any health department established under sections 145.47 to 145.54 and is without a city health officer, the state registrar of vital statistics shall appoint a local registrar therein.

[1949 c 405 s 3]

145.50 RESPONSIBLE TO LOCAL BOARD OF HEALTH. Subdivision 1. Every health department shall be responsible to a local board of health as hereinafter provided for.

Subd. 2. The board of health of a health department embracing one county shall consist of five members appointed by the board of county commissioners. Where two or more counties combine to form a health department, each such county shall, by the same method, appoint two members to the board of health, except that the county having the largest population shall appoint three such members. In each such board of health, one member from each county shall be selected from the largest participating municipality located within such county. In each such board of health, one of the members so appointed shall be a doctor of medicine and one shall be a doctor of dental surgery, each licensed to practice in Minnesota. The remaining members of the board shall be laymen, representative of the people served by the health department.

Subd. 3. At the first meeting of any board of health appointed under this section, the members thereof shall determine by lot the respective original terms to be served by each member, whether one, two, or three years. The same number of such members shall be chosen for each such length of term as nearly as may be. All subsequent appointments, except to fill vacancies in unexpired terms, shall be for three year terms.

Subd. 4. The officers of the board shall be a chairman and a vice chairman, to be elected annually by the members thereof for a term of one year.

[1949 c 405 s 4]

145.51 FUNDS APPROPRIATED AND FEES COLLECTED. Subdivision 1. Every health department established under sections 145.47 to 145.54 shall be operated and maintained from funds appropriated and fees collected within the counties included in the area covered by such health department, together with such state and federal funds and private grants which may be appropriated or granted to it or to any of its participating county or other political subdivisions. The cost of maintenance of every such health department shall be borne by the several participating counties on the basis of the ratio of the population of each such county to the total population served by the said health department, and the amount thus required of each of the participating counties for such health department purposes shall be spread as a separate tax levy against all of the taxable property of each of

such counties. The tax levy shall not exceed two mills against all of the taxable property of each of such counties, and, where a city of the first or second class does not come within the jurisdiction of such health department its population shall not be considered in such computation, and the health department tax levy of such county shall not apply to the property within such city.

Subd. 2. The health officer and board of health of every health department created under sections 145.47 to 145.54 shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year and determine the proportionate cost to each participating county. A certified copy of such budget, which shall include a statement of the amount required from each such county, shall be delivered to the board of county commissioners of each participating county. The county boards of all participating counties in each such health department shall meet in joint session, prior to the regular annual July meetings of such boards, for due hearing and agreement on such health department budget. The budget adopted shall be effective when approved by a majority of the members of each such county board in attendance at such joint meeting. A majority of each county board shall be in attendance to constitute a quorum for a joint meeting. At its regular meeting in July, each such county board shall include in its annual levy of county taxes, such amount as may be necessary, not to exceed the tax limitations imposed by sections 145.47 to 145.54, for the health department purposes provided for in sections 145.47 to 145.54, as a separate levy over and above the limits now imposed for the general fund of the county. Such amount, when collected, shall be credited to the "health department fund" of the county.

Subd. 3. In the accounts and treasury of the county wherein is located the principal office of each multicounty health department there shall be created a "joint health department fund." The treasurer of each county participating in such health department shall pay or cause to be paid into this joint fund from the county "health department fund" all tax monies, fees, grants-in-aid, gifts, or bequests designated for public health department purposes by drawing a warrant in favor of the "joint health department fund" payable to the treasurer of the county selected as the place of deposit of such fund. The said fund shall be used only for the purposes of said health department in accordance with the adopted budget, and shall be expended in the manner prescribed by such board of health pursuant to properly authenticated vouchers of such health department signed by its health officer.

[1949 c 405 s 5; 1957 c 470 s 1]

145.52 BOARDS; ORGANIZATION, DUTIES. Subdivision 1. The board of health of every health department organized under sections 145.47 to 145.54 shall hold regular meetings at least quarterly at such time and place as may be provided by such board, and such special meetings as may be called by its chairman or a majority of its members. Members shall serve without compensation, but shall be entitled to statutory travel and other necessary expenses while engaged in their official duties.

Subd. 2. The board of health shall employ a health officer who shall be a doctor of medicine duly licensed and registered in the state of Minnesota who shall have the approval of the state board of health. He shall be appointed for a term of five years subject to removal for cause after a hearing before the board of health. He shall be the executive officer of the board of health, shall select subordinate personnel subject to the approval of the board and shall have general supervision of all work conducted by such health department.

Subd. 3. In all counties containing a city of the first class the county health nurse in each of said counties shall be under the supervision and jurisdiction of such county or multiple county health department.

Subd. 4. Every such board of health shall enter into a joint agreement with the boards of county commissioners of the counties and the governing bodies of participating cities of the first, second, and third class within its jurisdictional area to regulate such matters as salary scales, merit systems, the acquisition of property and personnel of previously existing health departments, the distribution of assets upon withdrawal of any county or city and other matters wherein practices may vary in different participating counties and cities.

Subd. 5. Every such health officer and board of health shall annually prepare a budget of the proposed expenditures of such health department for the ensuing year and the proportionate cost thereunder to each participating county; provided,

however, that for the first year of operation of any such health department this function may be performed by the said board alone.

Subd. 6. Each such board of health shall prepare and cause to be published for free public distribution an annual report of the work of its health department.

Subd. 7. Each such board of health may make recommendations to the boards of county commissioners for local legislation pertaining to the public health and generally applicable throughout their counties. It may also recommend to any municipality within its jurisdiction local legislation having specific application to health problems peculiar to such municipality.

[1949 c 405 s 6; 1951 c 530 s 1; 1959 c 604 s 3]

145.53 RULES AND REGULATIONS. Subdivision 1. The board of county commissioners of any county within the jurisdiction of any health department created under sections 145.47 to 145.54 shall have the power to adopt and to alter by resolution, and to enforce reasonable regulations for the preservation of the public health, applicable throughout the whole or any portion of the county. Proposed regulations shall be published at least once in a newspaper of general circulation throughout the county or counties served by the health department before adoption. In counties containing a city of the first class and wherein a majority of the county commissioner districts lie within a city of the first class, it shall require the unanimous vote of the county board to adopt such rules and regulations, and no county regulation shall supersede or conflict with higher standards established by statute, the regulations of the state board of health, or the provisions of the charter or ordinances of any city pertaining to the same subject matter.

Subd. 2. Nothing in sections 145.47 to 145.54 shall prohibit any municipality from adopting ordinances or resolutions for the regulation of the public health setting higher standards than those of the state board of health, the board of county commissioners, or the statutes.

[1949 c 405 s 7]

145.54 ENFORCEMENT; WITHDRAWAL. Subdivision 1. Every health department created under sections 145.47 to 145.54, subject to the general supervision of the state board of health, shall cause all laws and regulations relating to public health to be obeyed and enforced within its jurisdictional area.

Subd. 2. After any two or more counties shall have taken action to establish a joint health department under sections 145.47 to 145.54, any participating county may withdraw therefrom not earlier than one year from the beginning of the next fiscal year following written notice to its board of health and the boards of county commissioners of all other participating counties of its intention so to do.

Subd. 3. Any city of the first, second, or third class participating in a health department established under sections 145.47 to 145.54 may withdraw therefrom in the manner provided for the withdrawing of a participating county. Thereafter its population shall not be considered in the computation of apportionment of taxes for health department purposes and the health department tax levy of the county thereof shall not include the taxable property within such city.

Subd. 4. Whenever any county or city of the first, second, or third class shall withdraw from any health department established under sections 145.47 to 145.54, all provisions of law relating to local health boards and officers as defined in Minnesota Statutes 1945, Section 145.01, shall immediately become applicable within such county or city.

[1949 c 405 s 8; 1959 c 604 s 4, 5]

145.55 AGREEMENT TO PERFORM FUNCTIONS OF STATE BOARD. Subdivision 1. The state board of health hereafter called the state agency may enter into an agreement with any county which has established a health department, hereafter called the county agency, under the provisions of Laws 1969, Chapter 235, or Minnesota Statutes, Sections 145.47 to 145.54, under which agreement such county agency may agree to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of Minnesota Statutes, Sections 144.075 and 144.12 and Chapter 157. Such agreement may set out requirements that the county agency comply with rules and regulations promulgated by the state agency for the performance of duties under the provisions of Minnesota Statutes, Sections 144.075 and 144.12 and Chapter 157. It may also set forth criteria under which the state agency will determine that the performance by the county

agency complies with state standards and shall be deemed sufficient to replace licensing by the state board of health.

The agreement may further specify minimum staff requirements and qualifications and may provide for procedures for termination if the state agency finds that the county agency fails to comply with the terms and requirements of the agreement.

Subd. 2. No county agency may perform any licensing, inspection or enforcement duties pursuant to an agreement entered into under the authority of subdivision 1, in any territory outside of the county boundary.

Subd. 3. The scope of agreements entered into under the provisions of subdivision 1 shall be limited to such duties and responsibilities as agreed upon between the parties and may provide a basis for automatic renewal and provisions for notice of intent to terminate by either party.

Subd. 4. During the life of an agreement under this section the state agency shall not perform any licensing, inspection or enforcement duties which the county agency is required to perform under the agreement, except for inspections necessary to determine compliance with the agreement and this section. The state agency shall consult with, advise, and assist a county agency in the performance of its duties under the agreement.

[1971 c 630 s 1-4]

HEALTH CARE INFORMATION, REVIEW ORGANIZATION

145.61 DEFINITIONS. Subdivision 1. As used in sections 145.61 to 145.67 the terms defined in this section have the meanings given them.

Subd. 2. "Professional" means a person licensed to practice a healing art under Minnesota Statutes 1969, Chapter 147, or Chapter 148, to practice dentistry under Minnesota Statutes 1969, Chapter 150A, to practice as a pharmacist under Minnesota Statutes 1969, Chapter 151, or to practice podiatry under Minnesota Statutes 1969, Chapter 153.

Subd. 3. "Professional service" means service rendered by a professional of the type such professional is licensed to perform.

Subd. 4. "Health care" means professional services rendered by a professional or an employee of a professional and services furnished by a hospital, sanatorium, rest home, nursing home, boarding home or other institution for the hospitalization or care of human beings.

Subd. 5. "Review organization" means a committee whose membership is limited to professionals, and which is established by a hospital, by one or more state or local associations of professionals, or by an organization of professionals from a particular area or medical institution, to gather and review information relating to the care and treatment of patients for the purposes of:

- (a) Evaluating and improving the quality of health care rendered in the area or medical institution;
- (b) Reducing morbidity or mortality;
- (c) Obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;
- (d) Developing and publishing guidelines showing the norms of health care in the area or medical institution; and
- (e) Developing and publishing guidelines designed to keep within reasonable bounds the cost of health care.

[1971 c 283 s 1]

145.62 LIMITATION ON LIABILITY FOR PERSONS PROVIDING INFORMATION TO REVIEW ORGANIZATION. No person, firm, or corporation providing information to a review organization shall be subject to any action for damages or other relief, by reason of having furnished such information, unless such information is false and the person providing such information knew, or had reason to believe, such information was false.

[1971 c 283 s 2]

145.63 LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW ORGANIZATIONS. No person who is a member or employee of, or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by him of any duty, function or activity of such review organization,

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unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby.

[1971 c 283 s 3]

145.64 CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.

All data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery. No person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization.

[1971 c 283 s 4]

145.65 GUIDELINES NOT ADMISSIBLE IN EVIDENCE. No guideline established by a review organization shall be admissible in evidence in any proceeding brought by or against a professional by a person to whom such professional has rendered professional services.

[1971 c 283 s 5]

145.66 PENALTY FOR VIOLATION. Any disclosure other than that authorized by section 145.64, of data and information acquired by a review committee or of what transpired at a review meeting, is a misdemeanor.

[1971 c 283 s 6]

145.67 PROTECTION OF PATIENT. Nothing contained in sections 145.61 to 145.67 shall be construed to relieve any person of any liability which he has incurred or may incur to a patient as a result of furnishing health care to such patient.

[1971 c 283 s 7]

DETOXIFICATION CENTERS

145.696 ARREST OF INTOXICATED PERSON; CONFINEMENT IN DETOXIFICATION CENTER. Subdivision 1. "Detoxification center" means a facility operated by a community mental health center in accordance with section 245.692.

Subd. 2. A peace officer who arrests a person for a crime and that person appears to be intoxicated may take him to a detoxification center to be held in custody.

Subd. 3. The person taken to a detoxification center pursuant to subdivision 2, shall be brought before a magistrate for arraignment promptly as soon as his condition permits.

Subd. 4. Where a magistrate refuses to bail the person or sufficient bail is not offered the person may be confined until trial in a detoxification center.

Subd. 5. A person convicted of a violation of any law may be confined in such manner and nature as the court may determine in a detoxification center in lieu of confinement as otherwise required by law where the court finds that the person is an inebriate.

Subd. 6. Where no detoxification center is available the arresting officer shall proceed as otherwise provided by law.

[1971 c 892 s 9]

145.697 ARREST FOR DRIVING UNDER THE INFLUENCE OF AN ALCOHOLIC BEVERAGE. Subdivision 1. "Detoxification center" means a facility operated by a community health center in accordance with section 245.692.

Subd. 2. A peace officer who arrests a person for driving under the influence under section 169.121, or any other law, may, after compliance with the provisions of section 169.123, take him to a detoxification center to be held in custody.

Subd. 3. The person arrested pursuant to subdivision 2 shall be brought before a magistrate for arraignment as soon as his condition permits as determined by the detoxification center, but no later than 72 hours after his arrest.

Subd. 4. Where a magistrate refuses to bail the person or sufficient bail is not offered the person shall be confined until trial only in a detoxification center.

Subd. 5. Where no detoxification center is available the arresting officer shall proceed as otherwise provided by law.

[1971 c 892 s 10]

145.698 CONFINEMENT OF DRUG DEPENDENT PERSON. Subdivision 1. When a person has been accused of violating any state or local law or ordinance in district or municipal court, and if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may not be responsible for his actions, the court may adjourn the proceedings and order the county attorney to file a petition for commitment of the defendant pursuant to the Minnesota hospitalization and commitment act for confinement in a hospital, a mental health center, the Willmar state hospital or other drug treatment facility until such time as the court feels that such person can be returned to the court.

Subd. 2. Upon conviction of a defendant for any crime in district court or any municipal court from which an appeal lies directly to the supreme court, or following revocation of probation previously granted whether or not sentence has been imposed, if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may be in imminent danger of becoming addicted, the court may adjourn the proceedings or suspend imposition or execution of sentence and order the county attorney to file a petition for commitment of the defendant pursuant to the Minnesota hospitalization and commitment act for confinement in a hospital, a mental health center, the Willmar state hospital, or other drug treatment facility until such time as the court feels that such person is no longer in need of institutional care and treatment.

[1971 c 892 s 11]

145.699 POLICY. It is the purpose of Laws 1971, Chapter 892 to provide adequate funding, personnel and facilities through the expedient of the state planning agency and the governor of the state as the state's planning officer to meet the critical needs of the state in the areas of drug abuse and alcohol problems. Section 245.695 expires on January 1, 1974 by which time it is intended that permanent provision will have been made within the framework of state government for the planning and administration of the state's policy in the fields of alcohol problems and drug abuse.

[1971 c 892 s 14]

CERTIFICATES OF NEED FOR HEALTH CARE FACILITIES

145.71 PURPOSE; CITATION. Subdivision 1. The legislature finds that the unnecessary construction or modification of health care facilities increases the cost of care and threatens the financial ability of the public to obtain necessary medical services. The purposes of sections 145.71 to 145.83 are to promote comprehensive health planning; to assist in providing the highest quality of health care at the lowest possible cost; to avoid unnecessary duplication by ensuring that only those health care facilities which are needed will be built; and to provide an orderly method of resolving questions concerning the necessity of construction or modification of health care facilities.

It is the policy of sections 145.71 to 145.83 that decisions regarding the construction or modification of health care facilities should be based on the maximum possible participation on the local level by consumers of health care and elected officials, as well as the providers directly concerned.

Subd. 2. Sections 145.71 to 145.83 may be cited as the Minnesota certificate of need act.

[1971 c 628 s 1]

145.72 DEFINITIONS. Subdivision 1. As used in sections 145.71 to 145.83, unless the context otherwise requires the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Health care facility" means any hospital licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56; any nursing home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56 or Minnesota Statutes 1969, Section 144.583; or any boarding care home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56.

Subd. 3. "Construction or modification" means the erection, building, alteration, reconstruction, modernization, improvement, extension, or purchase or acquisition of diagnostic or therapeutic equipment, by a health care facility, which

- (1) requires a total capital expenditure in excess of \$50,000; and
- (2) will either (a) expand or extend the scope or type of service rendered, or (b) increase the bed complement of the facility.

Subd. 4. "Certificate of need" means a certificate issued in accordance with sections 145.71 to 145.83.

Subd. 5. "Area wide comprehensive health planning agency" means an agency established to meet the requirements of the Partnership for Health Act, P.L. 89-749, as amended, and designated as such by the Minnesota state planning agency; provided that in the metropolitan area the area wide comprehensive health planning agency shall be the metropolitan council, if it has appointed a health board to advise it meeting the requirements of section 145.74.

Subd. 6. "Consumer" means any person other than a person (a) whose occupation involves, or before his retirement involved, the administration of health activities or the providing of health services, (b) who is, or ever was, employed by a health care facility, as a licensed professional, or (c) who has, or ever had, a material financial interest in the rendering of health service.

[1971 c 628 s 2]

145.73 COMMENCEMENT OF CONSTRUCTION. No construction or modification of a health care facility, whether public, non-profit, or proprietary, shall be commenced unless a certificate of need has been issued therefor in accordance with sections 145.71 to 145.83.

[1971 c 628 s 3]

145.74 HEALTH PLANNING AGENCIES; MEMBERSHIP REGULATIONS. The state planning agency shall, subject to chapter 15, after consulting with the state board of health promulgate regulations concerning the membership of area wide comprehensive health planning agencies. The regulations shall include, but not be limited to, the following factors. The regulations shall:

- (1) comply with the provisions of the Partnership for Health Act, P.L. 89-749, as amended;
- (2) provide that a majority of the membership be composed of consumers;
- (3) provide for representation of providers of each of the following: hospital, nursing home and boarding care;
- (4) provide for representation of licensed medical doctors and other health professionals;
- (5) provide for a fixed term of membership; and
- (6) provide that members of an area wide comprehensive health planning agency shall not select their successors.

No existing area wide comprehensive health planning agency shall exercise the functions provided in sections 145.71 to 145.83 until it is in compliance with regulations issued pursuant to this section.

If there is no area wide comprehensive health planning agency in a designated area of the state in compliance with sections 145.71 to 145.83, the Minnesota state planning agency shall perform the functions and duties of an area wide comprehensive health planning agency for that area.

[1971 c 628 s 4]

145.75 HEALTH PLANNING AGENCIES; REGULATION OF DUTIES. The state planning agency, in accordance with chapter 15, shall, after consulting with the area wide comprehensive health planning agencies and the state board of health, make regulations to guide the area wide comprehensive health planning agencies in the performance of their duties. The regulations shall provide for the consideration of at least the following factors:

- (a) the need for health care facilities and services in the area and the requirements of the population of the area;
- (b) maximum and minimum hospital, nursing home, and boarding care home bed ratios per 1,000 inhabitants of the area, subject to differences in requirements of the various designated areas;
- (c) the possible economies and improvement in service that may be derived from operation of joint, cooperative, or shared health care resources;
- (d) the relationship of proposed construction or modification to overall plans for the development of the area;
- (e) the availability and adequacy of the area's existing hospitals, nursing homes, and boarding care homes currently conforming to state and federal standards; and
- (f) the availability and adequacy of other health services in the area such as out-patient, ambulatory or home care service which may serve as alternates

or substitutes for the whole or any part of the service to be provided by any proposed health care facility construction or modification.

The fact that a health care facility serves more than a local area constituency or population or is engaged in educational or research activities shall be taken into consideration in the decision making process with respect to any proposal.

[1971 c 628 s 5]

145.76 PROCEDURE PRIOR TO PROPOSAL. No health care facility, or person, group, corporation or association intending to embark upon a program of construction or modification of a health care facility, shall engage architectural, professional consultation, or fund raising services with respect to the project until it has notified the area wide comprehensive health planning agency of its intention to engage such services. The notice shall state simply the nature of the architectural, professional consultation, or fund raising services to be engaged and the nature of the construction or modification contemplated. Upon receipt of notice under this section, the area wide comprehensive health planning agency shall promptly notify the state board of health and the state planning agency. No area wide comprehensive health planning agency shall be required to accept or act upon a proposal if the notice required by this section has not been given. Nothing in this section shall be construed to limit in any way the right to engage architectural, professional consultation, or fund raising services.

[1971 c 628 s 6]

145.77 CONTENT OF PROPOSALS. Each proposal shall contain information concerning, but not limited to, the following:

- (a) the geographic area likely to be served;
- (b) the population likely to be served;
- (c) the reasonably anticipated need for the facility or service to be provided by the proposal;
- (d) a description of the construction or modification in reasonable detail, including
 - (1) the capital expenditures contemplated; and
 - (2) the estimated annual operating cost, including the anticipated salary cost and numbers of new staff necessitated by the proposal;
- (e) the anticipated effect of the proposal on the per day cost charged by an existing health care facility;
- (f) so far as is known, existing institutions within the area to be served that offer the same or similar service; the extent of utilization of existing facilities or services; and the anticipated effect that the proposal will have on existing facilities and services;
- (g) the anticipated benefit to the area that will result from the proposal;
- (h) so far as is known, the relationship of the proposed construction to any priorities which have been established for the area to be served; and
- (i) the availability and manner of financing of the proposed construction or modification, and the estimated date of commencement and completion of the project.

[1971 c 628 s 7]

145.78 PROPOSAL PROCEDURE. Proposals for health care facility construction or modification shall be made to the area wide comprehensive health planning agency serving the area in which the proposed construction or modification is to take place. Prior to acting on the proposal, the area wide comprehensive health planning agency shall send a copy to the state board of health and to the state planning agency. In reviewing each proposal, the area wide comprehensive health planning agency shall:

- (1) hold a public hearing;
- (2) provide notice of the public hearing by publication in a legal newspaper of general circulation in the area for two successive weeks at least ten days before the date of such hearing;
- (3) allow any interested person the opportunity to be heard, to be represented by counsel, to present oral and written evidence, and to confront and cross-examine opposing witnesses at the public hearing;
- (4) provide a transcript of the hearing at the expense of any individual requesting it, if the transcript is requested at least three days prior to the hearing;
- (5) make findings of fact and recommendations concerning the proposal

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which findings and recommendations shall be available to any individual requesting them; and

(6) follow any further procedure not inconsistent with sections 145.71 to 145.83 or Minnesota Statutes 1969, Chapter 15, which it deems appropriate.

Within 90 days after receiving the proposal, the area wide comprehensive health planning agency shall make its recommendation to the state board of health. The area wide comprehensive health planning agency shall either recommend that the state board of health issue, or refuse to issue, a certificate of need. The reasons for the recommendation shall be set forth in detail.

[1971 c 628 s 8]

145.79 DETERMINATION. Within 60 days after receiving the recommendation of the area wide comprehensive health planning agency, the state board of health shall review the recommendations and make one of the following decisions:

(a) issue a certificate of need;

(b) reject the application for a certificate of need; or

(c) refer the application back to the area wide comprehensive health planning agency with comments and instructions for further consideration and recommendations.

If the decision of the state board of health is contrary to the recommendation of the area wide comprehensive health planning agency, the state board of health shall set forth in detail the reasons for reversing the recommendation.

[1971 c 628 s 9]

145.80 EXPIRATION OF CERTIFICATE. A certificate of need shall expire if the construction or modification is not commenced within one year following the issuance of the certificate.

[1971 c 628 s 10]

145.81 APPEALS. Any person aggrieved by an order of the state board of health denying a certificate of need may, within 30 days of such action, appeal in accordance with this section. Notice of appeal and the reasons therefor shall be filed with the governor, who shall appoint a board to hear the appeal. The board shall be composed of three consumers of health services, at least two of whom shall reside outside the area from which the appeal is made, who shall serve without compensation. The board shall proceed in accordance with the provisions of Minnesota Statutes 1969, Chapter 15.

[1971 c 628 s 11]

145.82 EVASIONS. No health care facility shall separate portions of a single project into components in order to evade the \$50,000 cost limitation of section 145.72, subdivision 3.

[1971 c 628 s 12]

145.83 ENFORCEMENT. The district court in the county where an alleged violation occurs shall have jurisdiction to enjoin violations of sections 145.71 to 145.83. At the request of the state board of health, the attorney general may bring an action to enjoin an alleged violation. At the request of an area wide comprehensive health planning agency, the county attorney of the county where an alleged violation occurs may bring an action to enjoin the alleged violation. The state board of health shall not issue a license for any portion of a health care facility in violation of section 145.73 until a certificate of need has been issued. No health care facility in violation of section 145.73 shall be eligible to apply for or receive public funds under Minnesota Statutes 1969, Chapters 245 to 256B, or from any other source, until a certificate of need has been issued.

[1971 c 628 s 13]