

CHAPTER 146

MISCELLANEOUS HEALTH PROVISIONS

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146.01 Infant blindness. (1) For the prevention of ophthalmia neonatorum, or blindness in the new born babe, the department shall, annually, cause to be prepared and put up in proper containers a one per cent solution of nitrate of silver with instructions for its use. These shall be distributed free to local health officers in quantities sufficient to enable them to, and they shall, deliver one to each physician and midwife. The attending physician or midwife shall use the said solution as directed in said instructions.

(2) In a confinement not attended by a physician or midwife, if one or both eyes of an infant becomes inflamed, swollen and red, or show an unnatural discharge, at any time within two weeks after birth, the nurse, parents, or other person in charge shall report the facts, in writing, within six hours to the local health officer who shall immediately give warning of the danger and a copy of said instructions, and shall employ at the expense of the municipality a competent physician to examine and treat the case as directed in said instructions.

(3) Any person who violates this section shall be fined not more than one hundred dollars.

146.02 Tests for mental retardation. (1) The attending physician shall cause every infant born in each hospital or maternity home, prior to its discharge therefrom, to be subjected to a test for phenylketonuria and such other causes of mental retardation under sub. (2) as the department directs.

(2) The tests to be performed shall be determined by the department and shall be performed in such regional laboratories as the department approves for this purpose, in accordance with rules prescribed by the department.

(3) This section shall not apply if the parents of the child object thereto on the grounds that the test conflicts with their religious tenets and practices.

146.03 Home manufacturing. (1) Under this section "manufacturer" shall mean the owner or lessee of any factory or contractor for such owner or lessee, "manufactured" shall mean manufactured, altered, repaired or finished, and "home" shall mean any tenement or dwelling, or a shed or other building in the rear thereof.

(2) No articles shall be manufactured for a manufacturer in a home unless he shall have secured a license from the local health officer, which shall designate the room, apartment or building and name the persons to be employed. License shall be granted only upon payment of a fee of \$3, and when the health officer shall have satisfied himself through inspection that the place is clean and fit for the purpose and that none of the persons employed or living therein are afflicted with any communicable disease likely to be transmitted to consumers. The license shall be issued for one year. At least one reinspection shall be made during the year, and the license revoked if reinspection discloses improper conditions. The license shall be kept on file in the principal office of the licensee.

(3) The department may adopt and enforce rules for local health officers hereunder, and may prohibit home work upon specified articles when necessary to protect health of consumers of workers. Section 140.05 (3), (4) and (5) shall apply.

(4) Every manufacturer giving out articles or materials to be manufactured, in any home shall issue therewith a label bearing the name or place of business of the factory, written or printed

legibly in English, and shall keep a register of the names and addresses of the persons to whom given, and with whom contracts to do so were made, the quantities given out and completed and the wages paid. This register may be inspected by the department, a district health officer, the local health officer, or a deputy of the department of industry, labor and human relations.

(5) Anyone who shall for himself or as manager or agent give out materials to be manufactured, in a home, for an unlicensed manufacturer or who shall employ, or contract with anyone to do such work without such license shall forfeit to the state not less than \$10 nor more than \$100 for each offense.

History: 1971 c. 164 s. 85

Cross Reference: See 103.44 which requires that home manufacturers obtain a permit from the industry, labor and human relations department.

146.04 Mattresses and upholstering. (1) Whoever manufactures for sale, offers for sale, sells, delivers, or has in his possession with intent to sell or deliver any mattress which is not properly branded, or labeled; or whoever uses, in whole or in part in the manufacture of mattresses, any material which has been used, or has formed a part of any mattress, pillow or bedding used in or about public or private hospitals or on or about any person having a communicable disease; or dealing in mattresses, has a mattress in his possession for the purpose of sale, or offers it for sale, without a brand or label as herein provided, or removes, conceals or defaces the brand or label, shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned not to exceed six months, or both. The brand or label herein required shall contain, in plain print in the English language, a statement of the material used, whether they are, in whole or in part, new or secondhand, and the qualities. Such brand or label shall be a paper or cloth tag securely attached. A mattress within this section is a quilted, stuffed pad, to be used on a bed for sleeping or reclining purposes.

(2) Any person upholstering or reupholstering any article, or who manufactures for sale, offers for sale, sells or delivers, or who has in his possession with intent to sell or deliver anything containing upholstering, without a brand or label as herein provided or who removes, conceals or defaces the brand or label, shall be punished as provided in subsection (1). The brand or label shall contain, in plain print in English, a statement of the kind of materials used in the filling and in the covering, according to the grades of filling and covering used by the trade, whether

they are in whole or in part new or secondhand, and the qualities, and whether, if secondhand, they have been thoroughly cleaned and disinfected. Such brand or label shall be a paper or cloth tag securely attached.

(3) If the department of industry, labor and human relations believes this section is being or has been violated, it shall advise the attorney general, giving the grounds of its belief; and the department of justice or, under the direction of the department of justice, the district attorney shall institute proceedings for enforcement and punishment.

146.05 Public places. The owner and occupant and everyone in charge of a public building, as defined by s. 101.01 (2) (a) to (i), shall keep the same clean and sanitary.

History: 1971 c. 185 s. 7.

146.06 Calcimining and paper hanging. Before repapering or recalcimining any part of a wall or ceiling in any hotel or other public place anyone engaged in the business, shall remove all old paper or calcimine and thoroughly cleanse the surface. Violation shall be fined not less than five nor more than twenty-five dollars for each offense.

146.07 Drinking cups. (1) If the owner or manager shall furnish, or permit the use of a common drinking cup in a railroad train or station, state or other public building, street, public park, educational institution, hotel or lodging house, theater, department store, barber shop, or other places where it is inimical to health, and the department so finds and orders, he shall be fined not less than ten nor more than fifty dollars.

(2) No railroad car in which any passenger is permitted to ride for more than ten miles of continuous passage in one general direction shall be operated unless there is provided for every passenger therein, at all times during such operation, opportunity to obtain free of charge a paper drinking cup not theretofore used by any person. Such drinking cups shall be kept in a clean, conspicuous and convenient place at or near the drinking fountain in each such car. Any owner or manager or person in charge who shall fail to comply herewith shall forfeit not less than twenty-five nor more than one hundred dollars for every day or part of day of such failure, to be recovered in an action to be brought by the attorney-general in the name of the state of Wisconsin. The provisions of this section shall be enforced by the public service commission.

146.08 Spitting; cuspidors; flasks. (1) Spitting upon the sidewalk or crosswalk of any public place, or upon the floor of any tenement house hall used in common, hotel or lodging house hall or office used in common, factory, any building used by the public, railroad car or street car, or upon the station platform of a common carrier, is forbidden.

(2) The owner or manager of any such building, factory, car, or station platform shall keep posted an adequate number of notices hereof.

(3) The owner or manager of any such place, or of smoking cars or compartments shall provide adequate cuspidors, and provide for their cleansing and disinfection at least once a day.

(5) Violation of the foregoing provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than six months, or both.

(6) The provisions and penalty of subsection (3) of section 143.06 shall apply to any person with a disease whose infecting agent is in the sputum.

146.085 Toilets, penalty for locking. If the owner or manager of any public building, other than licensed hotels and resorts, as defined in s. 101.02 (2) (h), shall keep more than 50% of the toilet compartments of any public toilet room locked, he shall be fined not less than \$10 nor more than \$50. It shall be the duty of the department, the department of industry, labor and human relations and the public service commission to enforce this section within their respective jurisdictions.

History: 1971 c. 228 s. 44.

146.09 Sweeping. If the owner or manager shall sweep, or permit the sweeping, except when vacuum cleaners or properly filled reservoir dustless brushes are used, of floors in a railroad station, passenger car, state or public building, educational institution, hotel, or department store, without the floor being first sprinkled with water, moist sawdust, or other substance so as to prevent the raising of dust, he shall be fined not less than ten nor more than fifty dollars.

146.10 Smoke. The council of any city or the board of any village may regulate or prohibit the emission of dense smoke into the open air within its limits and one mile therefrom.

146.125 Powers of villages, cities and towns. The provisions of s. 97.30 shall not be construed as a limitation upon cities, villages and towns to license and regulate the construction, operation and maintenance of slaughter-

houses or to prohibit the same nor shall the provisions of s. 95.72 be construed as depriving any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries specified in s. 66.052 nor as nullifying any existing law or ordinance prohibiting the rendering of dead animals within such area, nor prohibiting any city or village from licensing, revoking such license, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than provided by said section and the rules of the department of agriculture and any such licensing and regulation shall be construed as supplementary to the provisions of this section and the rules of the department shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the department. The provisions of s. 95.72 shall be expressly construed as modifying the powers granted to towns and any city, village or town is empowered to take any action to be taken under the provisions of s. 146.14 and to institute and maintain court proceedings to prevent, abate or remove any nuisances thereunder and to institute and maintain any action under provisions of ss. 280.01, 280.02 and 280.07.

146.13 Discharging noxious matter into highway and surface waters. (1) If anyone constructs or permits any drain, pipe, sewer or other outlet to discharge into a public highway infectious or noxious matter, the board of health of the village, town or city shall, and the town sanitary district commission or the county board of health, acting alone or jointly with the local board of health may, order the person maintaining it to remove it within 10 days and if such condition continues or recurs after the expiration of 10 days the board or boards issuing the order may enter upon the property and cause removal of the nuisance. The cost thereof may be recovered from the person permitting such violation, or such cost may be paid by the municipal treasurer and such account, after being paid by the treasurer, shall be filed with the municipal clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed, "For Abatement of a Nuisance," as a tax on the lands upon which such nuisance was abated, which tax shall be collected as other taxes are. In case of railroad or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and he shall collect

the same as prescribed in ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance shall also be fined not exceeding \$300 or imprisoned not exceeding 90 days, or both.

(2) No person shall discharge by any means whatsoever untreated domestic sewage into any surface water as defined by s. 144.01 (9), or drainage ditch governed by ch. 88; nor shall any person discharge effluents or pumpage by any means whatsoever from any septic tank, dry well or cesspool into any surface water as defined by s. 144.01 (9), or drainage ditch governed by ch. 88. Whoever violates this subsection shall be fined not to exceed \$50 for the first offense and not less than \$50 nor more than \$200 or imprisoned 30 days, or both, for each subsequent offense.

146.14 Nuisances. (1) A "nuisance," under this section, is any source of filth or cause of sickness. The department may order the abatement or removal of a nuisance on private premises, and if the owner or occupant fails to comply, the department, or its agent, may enter upon the premises and abate or remove such nuisance.

(2) If a nuisance, caused by improper sewerage disposal facilities, is found on private property the local health officer or the chairman of the local board of health shall notify the owner and the occupant of such property by registered mail with return receipt requested of the presence of such nuisance and order its abatement or removal within 30 days of receipt of notice. The officer shall also notify the local governing body of the nuisance. If the nuisance is not corrected by that date, the local governing body shall immediately enter upon the property and abate or remove the nuisance or may contract to have the work performed. The nuisance shall be abated in a manner which is approved by the department. The cost thereof may be recovered from the person permitting such violation or may be paid by the municipal treasurer and such account, after being paid by the treasurer, shall be filed with the municipal clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed "For Abatement of a Nuisance" as a special tax on the lands upon which such nuisance was abated, which tax shall be collected as are other taxes. In case of railroads or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or

controlling the land specified, and he shall collect the same as prescribed in ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance may also be fined not more than \$300 or imprisoned not more than 90 days or both. The only defenses an owner shall have against the collection of a tax under this subsection are that no nuisance existed on his property, that no nuisance was corrected on his property, that the procedure outlined in this subsection was not followed or any applicable defense under s. 74.135. If a nuisance resulted from any other cause or source, the local board of health or town sanitary district commission shall order its abatement within 24 hours, and if the owner or occupant fails to comply, he shall forfeit not less than \$25 nor more than \$100, and the board or commission may abate or remove the nuisance.

(3) If the local board of health or commission is refused entry to any building or vessel to examine into and abate, remove or prevent a nuisance, any member may complain under oath to a judge of a court of record, stating the facts in his knowledge. Upon a finding of probable cause the judge shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by 2 or more members of the board of health or commission, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance.

(4) In cities under general charter the health commissioner or a person under him may enter into and examine any place at any time to ascertain health conditions, and anyone refusing to allow such entrance at reasonable hours shall be fined not less than ten nor more than one hundred dollars; and if the commissioner deems it necessary to abate or remove a nuisance found on private property, he shall serve notice on the owner or occupant to abate or remove within a reasonable time, not less than twenty-four hours; and if he fails to comply, or if the nuisance is on property whose owner is a nonresident, or cannot be found, the commissioner shall cause abatement or removal.

(5) The cost of abatement or removal of a nuisance under this section may be at the expense of the municipality and may be collected from the owner or occupant, or person causing, permitting or maintaining the nuisance, or may be charged against the premises and, upon certification of the health official, assessed as are other special taxes. In cases of railroads or other lands not taxed in the usual way the amount chargeable against the same shall be certified by

the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and he shall collect the same as prescribed in ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance may also be fined not more than \$300 or imprisoned not more than 90 days or both. The only defenses an owner shall have against the collection of a tax under this subsection are that no nuisance existed on his property, or that no nuisance was corrected on his property, or that the procedure outlined in this subsection was not followed, or any applicable defense under s. 74.135.

(6) Cities of the first class may but shall not be required to follow the provisions of this section. Cities of the first class may follow the provisions of its charter.

146.15 Information. State officials, physicians of mining, manufacturing and other companies or associations, officers and agents of a company incorporated by or transacting business under the laws of this state, shall when requested furnish, so far as practicable, the department any information required touching the public health; and for refusal shall forfeit \$10.

146.16 Expenses. Expenses incurred under chapters 142 to 146, inclusive, not made otherwise chargeable, shall be paid by the town, city or village.

146.17 Limitations. Nothing in the statutes shall be construed to authorize interference with the individual's right to select his own physician or mode of treatment, nor as a limitation upon the municipality to enact measures in aid of health administration, consistent with statute and acts of the department.

146.18 Maternal and child health. (1) The department shall prepare and submit to the proper federal authorities a state plan for maternal and child health services. Such plan shall conform with all requirements governing federal aid for this purpose and shall be designed to secure for this state the maximum amount of federal aid which can be secured on the basis of the available state, county, and local appropriations. It shall make such reports, in such form and containing such information, as may from time to time be required by the federal authorities, and comply with all provisions which may be prescribed to assure the correctness and verification of such reports.

(2) No official, agent or representative of the department, by virtue of this section, shall have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this section shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

(3) The department shall use sufficient funds from the appropriation now made by s. 20.435 (1) (a) for the promotion of the welfare and hygiene of maternity and infancy to match the funds received by the state from the United States under the provisions of such act of congress.

146.20 Servicing septic tanks, seepage pits, grease traps and privies. (1) **POWERS OF DEPARTMENT OF NATURAL RESOURCES.** The department of natural resources shall adopt rules relating to the business of servicing septic tanks, seepage pits, grease traps or privies and establish necessary safeguards to protect the public health against the hazards of insanitary and unhealthful practices and conditions. It shall have general supervision and control of methods of servicing septic tanks, seepage pits, grease traps and privies to prevent a nuisance or menace to public health.

(2) **DEFINITIONS.** For the purpose of this section:

(a) "Department" means the department of natural resources.

(b) "Septic tank" means and includes a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement, domestic or industrial wastes.

(c) "Seepage pit" means and includes a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank.

(d) "Grease trap" means a watertight tank for the collection of grease present in sewage and other wastes, and from which grease may be skimmed from the surface of liquid waste for disposal.

(e) "Privy" means a cavity in the ground constructed for toilet uses which receives human excrement either to be partially absorbed directly by the surrounding soil or storage for decomposition and periodic removal.

(f) "Servicing" means cleaning, removing and disposal of scum, liquid, sludge or other wastes from a septic tank, seepage pit, grease trap or privy.

(3) **LICENSING.** (a) *License; application; fee.* Every person before engaging in the business of servicing septic tanks, seepage pits, grease traps or privies in this state shall make application on forms prepared by the department for licensing of each vehicle used by him in such business. The annual license fee is \$25 for each vehicle for a state resident licensee and \$50 for a nonresident licensee. If the department, after investigation, is satisfied that the applicant has the qualifications, experience, and equipment to perform the services in a manner not detrimental to public health it shall issue the license, provided a surety bond has been executed. The license fee shall accompany all applications.

(b) *Expiration date of license.* All licenses so issued shall expire on June 30 and shall not be transferable. Application for renewal shall be filed on or before July 1, and if filed after that date a penalty of \$5 shall be charged.

(c) *Wisconsin sanitary licensee.* Any person licensed under this section is required to paint on the side of any vehicle, which he uses in such business, the words "Wisconsin Sanitary Licensee" and immediately under these words "License No." with the number of his license in the space so provided with letters and numbers at least 2 inches high; and all lettering and numbering shall be in distinct color contrast to its background.

(d) *Licensing exceptions.* No license is required of any person for servicing a septic tank, seepage pit, grease trap or privy on real estate owned or leased by him or of a licensed plumber but such servicing shall be in conformity with the law and the rules of the department.

(4) **SURETY BOND.** Before receiving a license the applicant shall execute and deposit with the department a surety bond covering the period for which the license is issued, by a surety company authorized to transact business within the state, to indemnify persons for whom faulty work is performed. Such bond shall be in the amount of \$1,000 for residents of the state and \$5,000 for nonresidents; provided that the aggregate liability of the surety to all such persons shall, in no event, exceed the amount of the bond. Such bond shall be conditioned on the performance of services in conformity with all applicable health laws and rules.

(5) **AUTHORITY TO SUSPEND OR REVOKE LICENSES.** The department may and upon written complaint shall make investigations and conduct hearings and may suspend or revoke any

license if the department finds that the licensee has:

(a) Failed to execute, deposit and maintain a surety bond.

(b) Made a material misstatement in the application for license or any application for a renewal thereof.

(c) Demonstrated incompetency to conduct the business.

(d) Violated any provisions of this section or any rule prescribed by the department.

(6) **PENALTIES.** Any person who engages in the business of servicing septic tanks, seepage pits, grease traps or privies without first securing a license or renewal thereof, or who otherwise violates any provision of this section, shall be fined not more than \$100 or imprisoned not more than 30 days, or both. Each day such violation continues shall constitute a separate offense.

146.24 Certification of milk sheds. The department shall conduct sampling surveys of milk sheds in Wisconsin to the extent necessary to certify to the department of agriculture, the U.S. public health service, and local health departments, the compliance rating of such milk sheds based upon the standards for grade A milk and grade A milk products of the department of agriculture and the provisions of the recommended milk ordinance and code of the U.S. public health service.

146.30 Licensing and regulation of nursing homes. (1) **DEFINITIONS.** As used in this section, unless a different meaning appears from the context:

(a) A "nursing home" means any building, structure, institution, boarding home, convalescent home, agency or other place, not limited by enumeration, for the reception and care or treatment for not less than 72 hours in any week of 3 or more unrelated individuals hereinafter designated patients, who by reason of disability, whether physical or mental, including mental retardation and mental illness, are in need of nursing home services but "nursing home" shall not include institutions under the jurisdiction of or subject to the supervision of the department, including but not limited to county institutions, child care institutions, child care centers, day care centers, day nurseries, nursery schools, foster homes, child welfare agencies, child placing agencies, mental health clinics, tuberculosis sanatoria, maternity homes, maternity hospitals, hotels, and general and special purpose hospitals, except any part thereof which comes within the definition of a "nursing home". A "nursing home" shall not include the offices of persons

licensed by the state to treat the sick. The reception and care or treatment in a household or family of a person related by blood to the head of such household or family, or to his or her spouse, within the degree of consanguinity of first cousin, shall not constitute the premises to be a "nursing home".

(c) "Patient" means individuals cared for or treated in any nursing home, irrespective of how admitted.

(f) "Rule" has the meaning ascribed in s. 227.01.

(2) **STANDARDS.** The department may develop, establish and enforce standards (a) for the care, treatment, health, safety, welfare and comfort of patients in nursing homes and (b) for the construction, general hygiene, maintenance and operation of nursing homes, which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of such patients in nursing homes; and promulgate and enforce rules consistent with this section.

(3) **ADMINISTRATION.** (a) The administration of this section shall be under the department which shall make or cause to be made such inspections and investigations as it deems necessary.

(b) With approval of the department, the county board of any county having a population of 500,000 or more may, in an effort to assure compliance with this section, establish a program for the inspection of nursing homes within its jurisdiction. If a county agency conducting inspections under this paragraph finds that a nursing home fails to comply with this section or rules established hereunder, it shall promptly notify the department. If it deems such action necessary after medical, nursing and social services evaluation by its inspection personnel, the county agency or its medical officer in charge of nursing home care may, after notifying the department, withdraw any nursing-home patient receiving county support for care in a home failing to comply with this section or rules established hereunder.

(c) If the department, after considering the recommendation of a welfare director of any county or after evaluating information provided by inspection personnel, determines that an emergency exists which places the patient's health, safety or welfare in jeopardy, the department may immediately withdraw or may authorize the county to withdraw any nursing home patient who receives county or state support for care in a home which fails to comply with the standards established by this section or by rules promulgated hereunder.

(4) **LICENSING, INSPECTION AND REGULATION.** The department may register, license, inspect and regulate nursing homes as provided in this section.

(4m) **LICENSED ADMINISTRATOR REQUIRED.** No nursing home within the state may be allowed to operate except under the supervision of an administrator licensed under ch. 456 by the nursing home administrators examining board.

(5) **APPLICATION FOR REGISTRATION AND LICENSE.** (a) Registration shall be in writing in such form and contain such information as the department requires.

(b) The application for a license shall be in writing upon forms provided by the department and shall contain such information as it requires.

(6) **ISSUANCE OF LICENSE; INSPECTION AND INVESTIGATION; ANNUAL RENEWAL; NON-TRANSFERABLE; CONTENT.** (a) The department shall issue a license if the applicant is fit and qualified, and if nursing home facilities meet the requirements established by this section. The department, or its designated representatives, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and file written reports. The department may designate and use full-time city or county health departments as its agents in making such inspections and investigations, including such subsequent inspections and investigations as are deemed necessary or advisable; but provided that when such designation is made and such services are furnished, the department shall reimburse the city or county furnishing such service at the rate of \$25 per year per license issued in such municipality.

(b) A license, unless sooner suspended or revoked, shall be renewable annually on July 1, upon filing by the licensee, and approval by the department of an annual report and application for renewal on forms provided by the department.

(c) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. It shall be posted in a conspicuous place in the nursing home. If application for renewal is not so filed, such license is automatically canceled as of the date of its expiration. Any license granted shall state the maximum bed capacity for which granted, the person or persons to whom granted, the date, the expiration date and such additional information and special limitations as the department, by rule, may prescribe.

(7) **DENIAL, SUSPENSION OR REVOCATION OF LICENSE; NOTICE.** The department after notice to the applicant or licensee may deny, suspend or revoke a license in any case in which it

finds that there has been a substantial failure to comply with the requirements of this section and the rules established hereunder.

(9) **PENALTY.** It shall be unlawful for any person, acting jointly or severally with any other person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in the conducting, maintenance or operating of a nursing home, unless it is licensed as a nursing home by the department. Any person who violates this section shall be fined not more than \$100 for the first offense and not more than \$200 for each subsequent offense, and each day of continuing violation after the first conviction shall be considered a separate offense.

(10) **RIGHT OF INJUNCTION.** (a) *Licensed nursing homes.* Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, who shall represent the department in all proceedings, maintain an action in the name of the state in the circuit court for injunction or other process against any licensee, owner, operator, administrator or representative of any owner of a nursing home to restrain and enjoin the repeated violation of any of the provisions of this section or administrative rules adopted by the department under this section where the violation affects the health, safety or welfare of the patients.

(b) *Unlicensed nursing homes.* Notwithstanding the existence or pursuit of any other remedy, the department may, upon the advice of the attorney general, who shall represent the department in all proceedings, maintain an action in the name of the state for injunction or other process against any person or agency to restrain or prevent the establishment, conduct, management or operation of a nursing home without a license or without being registered.

(c) *Enforcement by counties maintaining inspection programs.* The county board of any county conducting inspections under sub. (3) (b) may, upon notifying the department that a nursing home is in violation of this section or the rules established hereunder, authorize the district attorney to maintain an action in the name of the state in circuit court for injunction or other process against such nursing home, its owner, operator, administrator or representative, to restrain and enjoin repeated violations where such violations affect the health, safety or welfare of the patients.

(11) **PROVISIONAL LICENSES.** A provisional license if approved by the department may be issued to any nursing home, the facilities of which are in use or needed for patients, but which is temporarily unable to conform to all

the rules established under this section. A provisional license may not be issued for more than one year.

(12) **FORFEITURE.** Any owner, operator, administrator or officers, directors, agents, employes or other persons acting or claiming to act in behalf of the owner of a nursing home who violates any provision of this section or any rule adopted by the department under this section shall forfeit not less than \$10 nor more than \$1,000 for each such offense. Each day of violation shall constitute a separate offense under this section.

(12m) **EXCEPTION FOR CHURCHES OPPOSED TO MEDICAL TREATMENT.** Nothing in this section shall be so construed as to give authority to supervise or regulate or control the remedial care or treatment of individual patients who are adherents of any well recognized church or religious denomination which subscribes to the act of healing by prayer and the principles of which are opposed to medical treatment and who are resident in any home or institution operated by a member or members, or by an association or corporation composed of members of such well recognized church or religious denomination; provided, that such home or institution admits only adherents of such church or denomination and is so designated; nor shall the existence of any of the above conditions alone militate against the licensing of such a home or institution; and provided, further, that such home or institution shall comply with all rules and regulations relating to sanitation and safety of the premises and be subject to inspection thereof. Nothing herein contained shall modify or repeal any laws, rules and regulations governing the control of communicable diseases.

(12n) **EXCEPTION FOR RESIDENTIAL CARE INSTITUTION.** Nothing in this section shall be so construed as to give authority to supervise or regulate or control the remedial care of individuals in a residential care institution as defined in s. 146.32 (1).

(13) **NURSING HOME LICENSE ACT.** This section shall be known and may be cited as the "Nursing Home Licensing Act".

(14) **UNIFORM ACCOUNTING SYSTEM.** The department shall establish a uniform classification of accounts and accounting procedures for nursing homes which shall be based on accounting principles that are generally accepted for enterprises similar to nursing homes and which reflect the allocation of revenues and expenses by primary functions to be used by the department in carrying out this subsection. Each nursing home or other facility subject to this subsection shall satisfactorily establish with the depart-

ment by July 1, 1972, that it has instituted the uniform accounting system as required in this subsection or is making suitable progress in the establishment of such system. Failure to do so shall make the nursing home or other facility subject to the penalties of sub. (7).

History: 1971 c. 125, 161

146.31 Blood or tissue transfer services.

(1) It is unlawful to operate a blood bank for commercial profit.

(2) The procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues such as corneas, bones or organs for the purpose of injecting, transfusing or transplanting any of them into the human body is declared to be, for all purposes, the rendition of a service by every person participating therein and, whether or not any remuneration is paid therefor, is declared not to be a sale of such whole blood, plasma, blood products, blood derivatives or other tissues, for any purpose, subsequent to August 25, 1965.

146.32 Residential care institution. (1)

DEFINITION. A "residential care institution" means, without limitation because of enumeration, any building, structure, institution, boarding home or other place for the reception and care of 3 or more unrelated individuals for not less than 72 hours in any week, who by reason of physical or mental disability, including mental retardation and mental illness, are in the opinion of a licensed physician, in need of care but not the care given in a nursing home as defined in s. 146.30 (1) (a).

(2) LICENSING AND STANDARD SETTING AU-

THORITY. The state department of health and social services shall license and may develop, establish and enforce standards for the care, treatment, health, safety, welfare and comfort of persons in residential care institutions, and for the construction, general hygiene, maintenance and operation of such institutions, and may adopt and enforce rules for such purposes.

(3) **DENIAL, SUSPENSION OR REVOCATION OF LICENSE; NOTICE.** After notice to the applicant or licensee, the department may deny, suspend or revoke a license upon a finding of substantial failure to comply with this section or rules adopted hereunder.

(4) **FINANCING RESTRICTION.** The trustees of a benefit fund of a public employes retirement system shall not be authorized to invest any part of such fund in real or personal property pledged as security for a loan to finance the construction or operation of a privately owned or administered residential care institution where the governmental unit having supervisory authority over such benefit fund places one or more individuals for care in such institution and dispenses monetary payments toward the cost of such care in order to prevent any conflict of interest on the part of any such governmental unit. This subsection shall apply only to counties having a population of 500,000 or more.

146.33 Blood donors. Any adult may donate blood in any voluntary and noncompensatory blood program.

History: 1971 c. 228.