

3; Stats. 1923 s. 129.24; 1935 c. 550 s. 384; Stats. 1935 s. 129.12; 1969 c. 336 s. 30; Stats. 1969 s. 440.91.

440.92 History: 1870 c. 72; 1877 c. 296; R. S. 1878 s. 1574; Stats. 1898 s. 1574; 1905 c. 490 s. 15; Supl. 1906 s. 1584; 1907 c. 643; 1911 c. 663 s. 262; 1917 c. 670; 1923 c. 165, 278; 1923 c. 291 s. 3; Stats. 1923 s. 129.14; 1925 c. 199 s. 4; 1935 c. 550 s. 385; 1963 c. 406; 1969 c. 276 s. 584 (1) (b); 1969 c. 336 s. 30; Stats. 1969 s. 440.92.

A wild west show is a circus and must pay a license fee. 2 Atty. Gen. 622.

A carnival or wild west show is not exempt from payment of the license fee because it is engaged by a park company which owns the grounds upon which the carnival or wild west show is exhibited. 5 Atty. Gen. 583.

A carnival company is required to pay a license fee of \$100, in general, and \$20 in addition for each Ferris wheel, each ocean wave and each merry-go-round, but not for a side show, as that term applies to a circus. 8 Atty. Gen. 495.

A vaudeville, exhibiting for money, trained or wild animals, must have a license. 11 Atty. Gen. 163.

The fees provided for carnivals and other shows are collectible by the state, not by the fair association on whose grounds a carnival is held. The reduced fees provided by this section, in case a carnival is held under direction of an association receiving state aid, are applicable throughout the year, not merely during fair week. 11 Atty. Gen. 501.

A fortune teller is not a "sideshow" under this section. 14 Atty. Gen. 421.

A person exhibiting motion pictures is not subject to the provisions of this section. 15 Atty. Gen. 136.

A private corporation operating a number of rides on which a charge is made for each person is required to pay an annual license fee of \$20 for each such device so operated. 19 Atty. Gen. 463.

A showman's license is not required for a penny arcade but a showman's license is required for a wild life exhibit where no regular admission fee is charged but collection is taken at the exit of the exhibit. A showman's license may not be transferred from one kind of amusement ride to another even though both are owned by the same person. Ch. 259, Laws 1947, has no application to the licenses granted under this section. 36 Atty. Gen. 435.

Under this section a showman's license is not required for pony rides operated at carnivals and picnics. A showman's license is not required for a stand using guns which shoot out corks to knock over packages of cigarettes, since such stand is not a shooting gallery as commonly understood. 37 Atty. Gen. 39.

The owner of a circus may operate all stands on the circus grounds under a single transient merchant's license, if the stands are covered by 129.05. If the stands are such as might be classed as sideshows, wild animal shows, rides or any other type of show governed by 129.14, this rule would not apply. 41 Atty. Gen. 4.

440.93 History: R. S. 1849 c. 32 s. 2; 1852 c.

386 ss. 1 to 9; 1856 c. 117 ss. 1, 2; R. S. 1858 c. 39 s. 2; R. S. 1858 c. 50 ss. 7 to 11, 15, 16, 20; R. S. 1858 c. 169 s. 29; 1877 c. 296 s. 2; R. S. 1878 s. 4573; Stats. 1898 s. 4573; 1925 c. 4; Stats. 1925 s. 348.45; 1935 c. 550 ss. 386, 391; Stats. 1935 s. 129.15; 1969 c. 336 s. 30; Stats. 1969 s. 440.93.

440.94 History: 1941 c. 223; Stats. 1941 s. 129.17; 1953 c. 187; 1961 c. 24; 1969 c. 336 s. 30; 1969 c. 392 s. 87g; Stats. 1969 s. 440.94.

440.95 History: 1901 c. 372; 1909 c. 210; 1911 c. 663 s. 265; Stats. 1911 s. 1584cn; 1923 c. 291 s. 3; Stats. 1923 s. 129.18; 1935 c. 550 s. 387; 1959 c. 145; 1969 c. 336 s. 30; Stats. 1969 s. 440.95.

440.96 History: 1945 c. 446; Stats. 1945 s. 110.16; 1955 c. 10; 1969 c. 336 ss. 15, 16; Stats. 1969 s. 440.96.

CHAPTER 441.

Division of Nurses.

441.01 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-1; 1923 c. 448 s. 74; Stats. 1923 s. 149.01; 1941 c. 132; 1943 c. 63, 304; 1945 c. 242; 1949 c. 402; 1955 c. 10, 333; 1963 c. 458; 1965 c. 433 s. 121; 1965 c. 533, 645; 1969 c. 55 s. 113; 1969 c. 154 s. 377; 1969 c. 331; 1969 c. 336 ss. 67, 68, 158; Stats. 1969 s. 441.01.

The committee on nursing education appointed under 149.01, Stats. 1929, can make rules whereby accredited training schools must require of student nurses that they have high school education or its equivalent. 19 Atty. Gen. 252.

Under 149.01 (4), Stats. 1937, the committee on nursing education has power to accredit schools for nurses and in a proper case may remove a school from the accredited list after giving the school a hearing. 26 Atty. Gen. 400.

441.02 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-2; 1923 c. 448 s. 75; Stats. 1923 s. 149.02; 1941 c. 132; 1949 c. 402; 1959 c. 659 s. 76; 1969 c. 336 s. 70; Stats. 1969 s. 441.02.

441.04 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-3 (1); 1923 c. 448 s. 77; Stats. 1923 s. 149.04; 1941 c. 132; 1943 c. 63; 1947 c. 450, 483; 1949 c. 402; 1955 c. 290; 1963 c. 458; 1967 c. 43; 1969 c. 336 s. 72; Stats. 1969 s. 441.04.

The committee on nursing education may make administrative rules, but cannot add to the statutory requirements for registration of nurses; a rule which requires 6 months' residence prior to application for registration is inconsistent with the statute and void. 10 Atty. Gen. 1130.

The state board of nursing may not waive or reduce the \$25 examination fee provided by 149.04, Stats. 1949, for applicants who fail the examination for registered nurses and who apply for subsequent examination. 38 Atty. Gen. 341.

The board may not retain the examination fee and refuse to examine the applicant upon grounds of inadequacy of qualifications. 39 Atty. Gen. 12.

Applications filed with the department of nurses pursuant to 149.04 and 149.08, Stats. 1943, are public records within the meaning of 18.01 (1) and must be preserved unless disposal is authorized in the manner provided by 44.08. 39 Atty. Gen. 603.

441.05 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-6 (1), (2); 1923 c. 448 s. 78; Stats. 1923 s. 149.05; 1949 c. 402; 1963 c. 458; 1969 c. 336 s. 73; Stats. 1969 s. 441.05.

441.06 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 ss. 1435c-3 (1), 1435c-4, 1435c-6 (3), 1435c-7 (1), (2); 1923 c. 448 s. 80; Stats. 1923 s. 149.06; 1941 c. 132; 1943 c. 304, 480; 1943 c. 553 s. 29; 1949 c. 402; 1955 c. 290, 333; 1959 c. 135 s. 37; 1961 c. 362; 1963 c. 94, 458; 1965 c. 249; 1967 c. 43; 1969 c. 336 s. 74; Stats. 1969 s. 441.06.

149.06 (4) and 149.10, Stats. 1929, do not prohibit any one from practicing as a nurse, but merely from practicing as a registered, trained, certified or graduate nurse without a registration certificate. *Nickley v. Eisenberg*, 206 W 265, 239 NW 426.

A nurse who is not a registered nurse may nevertheless advertise as a practical nurse. 9 Atty Gen. 87.

A registered nurse of another state may act as a practical nurse but may not employ the letters "R.N." 24 Atty. Gen. 563.

Ch. 149, Stats. 1939, which prohibits a nurse from holding herself out as a registered nurse and practicing as such without a certificate of registration, does not specifically provide any penalty for hospital authorities who knowingly hire a nurse who has no such certificate and who permit her to practice as a registered nurse; but they may nevertheless be guilty of aiding and abetting violation thereof under such facts; they may also be guilty of a common-law conspiracy to violate ch. 149 under the provisions of 348.40. 30 Atty. Gen. 95.

A person employed as an anaesthetist in a hospital is not required to be a registered nurse under ch. 149, Stats. 1941, so long as she does not hold herself out as being a registered, graduate, certified or trained nurse and practice as such. 30 Atty. Gen. 245.

Where a nurse from another state seeks registration without examination by reciprocity in Wisconsin under 149.06 (1), Stats. 1947, the equivalency of her training and qualifications is to be determined on the basis of whether or not such training and qualifications would have qualified her for a certificate of registration in Wisconsin on the date that she obtained her certificate in the other state. 37 Atty. Gen. 399.

Credentials of a certificate holder of another state are discussed in 39 Atty. Gen. 224.

Any person not a registered nurse who displays caduceus with D. N. superimposed or who represents self as "D. N." or "Doctor's Nurse" violates 149.06 (4), Stats. 1959, and is subject to the penalty of 149.12. 48 Atty. Gen. 147.

Civil liability for treatment rendered at scene of emergency. 48 MLR 80 and 1964 WLR 494.

441.07 History: 1921 c. 365 s. 2; 1921 c. 590

s. 6; Stats. 1921 s. 1435c-6 (4); 1923 c. 448 s. 81; Stats. 1923 s. 149.07; 1949 c. 402; 1955 c. 290; 1963 c. 458; 1969 c. 336 s. 75; Stats. 1969 s. 441.07.

441.08 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-7 (3); 1923 c. 448 s. 82; Stats. 1923 s. 149.08; 1941 c. 132; 1943 c. 63, 169; 1947 c. 483; 1949 c. 402; 1955 c. 290 s. 5; 1963 c. 458; 1969 c. 392 s. 57c; Stats. 1969 s. 441.08.

441.09 History: 1961 c. 501; Stats. 1961 s. 149.081; 1969 c. 336 s. 76; Stats. 1969 s. 441.09.

441.10 History: 1943 c. 304; Stats. 1943 ss. 149.045, 149.055, 149.065; 1947 c. 450; 1949 c. 402; Stats. 1949 ss. 149.041, 149.045, 149.055, 149.065; 1955 c. 10 s. 124; 1955 c. 290 ss. 2, 4; 1955 c. 333 ss. 4, 5, 6, 8, 9; Stats. 1955 s. 149.09; 1959 c. 135 s. 38; 1959 c. 659 s. 76; 1963 c. 458; 1967 c. 43; 1969 c. 336 ss. 77, 78; 1969 c. 392 s. 84g; Stats. 1969 s. 441.10.

The state board of nursing may not waive or reduce the examination fee for trained practical nurses. 38 Atty. Gen. 341.

441.11 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1923 s. 1435c-8; 1923 c. 448 s. 86; Stats. 1923 s. 149.10; 1949 c. 402; 1955 c. 333 ss. 10, 11; 1963 c. 458; 1969 c. 336 s. 79; Stats. 1969 s. 441.11.

441.12 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-9; 1923 c. 448 s. 87; Stats. 1923 s. 149.11; 1943 c. 304; 1949 c. 402; 1955 c. 290; 1961 c. 362; 1963 c. 177; 1965 c. 97; 1965 c. 433 s. 121; 1969 c. 336 s. 80; Stats. 1969 s. 441.12.

441.13 History: 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-10; 1923 c. 448 s. 88; Stats. 1923 s. 149.12; 1955 c. 290, 333, 652; 1963 c. 458; 1969 c. 336 s. 81; Stats. 1969 s. 441.13.

CHAPTER 442.

Accounting Examining Board.

442.01 History: 1913 c. 337; 1913 c. 772 s. 111; Stats. 1913 s. 1636-202; 1919 c. 362 ss. 19, 32; 1923 c. 291 s. 3; Stats. 1923 s. 135.01; 1935 c. 481; 1943 c. 375 s. 51; 1949 c. 220; 1951 c. 319 s. 242; 1963 c. 140; 1967 c. 237; 1969 c. 336 ss. 32, 33, 160; Stats. 1969 s. 442.01.

442.02 History: 1935 c. 481; Stats. 1935 s. 135.02; 1969 c. 41; 1969 c. 336 s. 34; Stats. 1969 s. 442.02.

See note to 442.06, citing *Wangerin v. Wisconsin State Board of Accountancy*, 223 W 179, 270 NW 57.

On the distinction between "accountant" and "public accountant" see *Tom Welch Accounting Service v. Walby*, 29 W (2d) 123, 138 NW (2d) 139.

Upon the evidence submitted it does not appear that Co-operative Auditing Service, Inc., a Minnesota cooperative association, is operating in Wisconsin in violation of ch. 135, Stats. 1945. 36 Atty. Gen. 30.

On employment of bookkeepers and accountants under 135.02 (9), see 54 Atty. Gen. 16.

Accountants' liability to third persons for an audit. *Anderson*, 52 MLR 158.