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CHAPTER 146

MISCELLANEOUS HEALTH PROVISIONS

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146.001 Definitions. In this chapter unless the context otherwise requires:

(1) "Department" means the department of health and social services.

History: 1973 c. 323.

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.

146.015 Safety eye protective goggles. (1) Every student and teacher in schools, colleges, universities and other educational institutions participating in or observing any of the following courses is required to wear appropriate industrial quality eye protective goggles at all times while participating in or observing such courses or laboratories:

(a) Vocational, technical or industrial arts shops, chemical or chemical-physical laboratories involving exposure to:

1. Hot molten metals or other molten materials.

2. Milling, sawing, turning, shaping, cutting, grinding or stamping of any solid materials.

3. Heat treatment, tempering or kiln firing of any metal or other materials.

4. Gas or electric arc welding or other forms of welding processes.

5. Repair or servicing of any vehicle.

6. Caustic or explosive materials.

(b) Chemical, physical or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations or other hazards not enumerated.

(2) Eye protective goggles may be furnished for all students and teachers by the institution, purchased and sold at cost to students and teachers or made available for a moderate rental fee and shall be furnished for all visitors.

(3) In this section, "industrial quality eye protective goggles" means devices meeting the standards of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1 - 1968, and subsequent revisions thereof, approved by the American National Standards Institute, Inc.

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(4) The state superintendent of public instruction shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

History: 1973 c. 66.

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.

A physician and parent may enter an agreement to perform a PKU test after the infant has left the hospital without violating (1). 61 Atty. Gen. 66.

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, or the local health officer.

(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; 1973 c. 135.

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

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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.

146.085 Pay toilets prohibited. (1) PROHIBITION. The owner or manager of any public building shall not permit an admission fee to be charged for the use of any toilet compartment.

(2) PENALTY. Any person who violates this section shall be fined not less than $10 nor more than $50.

(3) ENFORCEMENT. The department, the department of industry, labor and human relations and the public service commission shall enforce this section within their respective jurisdictions.

History: 1971 c. 228 s. 44; 1973 c. 12 s. 37; 1975 c. 298.

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.

The social and economic roots of judge-made air pollution policy in Wisconsin. Laitos, 58 MLR 465.

146.125 Powers of villages, cities and towns. Section 95.72 shall not 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 not be construed as excusing or justifying any failure or neglect to comply with this section and the rules of the department. Section 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 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 ss. 823.01, 823.02 and 823.07.

History: 1973 c. 206; Sup. Ct. Order, 67 W (2d) 774.

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

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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

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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.

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(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 is not printed.

Note: Ch. 413, laws of 1975, sections 5 to 9, affected all subsections. Subs. (1) and (2) were renumbered 50.02 (1) and (2). Sub. (4) was renumbered 50.02 (3) and amended. Sub. (4m) was renumbered 50.02 (4). Subs. (3) and (5) to (14) were repealed. The effective date of Ch. 413 was stated in section 20 as follows: "The department shall promulgate rules under section 50.01 within one year of the effective date of this act. The act shall take effect upon implementation of the rules so promulgated."

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146.305 is not printed.

Note: Ch. 413, laws of 1975, repealed this section. For the effective date of Ch. 413, see note following 146.30.

146.309 Rights of residents in certain facilities. (1) RESIDENTS' RIGHTS. Every resident in a nursing home, adult group foster home or residential care institution shall, except as provided in sub. (5), have the right to:

(a) Private and unrestricted communications with the resident's family, physician, attorney and any other person, unless medically contraindicated as documented by the resident's physician in the resident's medical record, except that communications with public officials or with the resident's attorney shall not be restricted in any event. The right to private and unrestricted communications shall include, but is not limited to, the right to:

1. Receive, send and mail sealed, unopened correspondence, and no resident's incoming or outgoing correspondence shall be opened, delayed, held or censored.

2. Reasonable access to a telephone for private communications.

3. Opportunity for private visits.

(b) Present grievances on the resident's own behalf or others to the facility's staff or administrator, to public officials or to any other person without justifiable fear of reprisal, and to join with other residents or individuals within or outside of the facility to work for improvements in resident care.

(c) Manage the resident's own financial affairs, including any personal allowances under federal or state programs, unless the resident delegates, in writing, such responsibility to the facility and the facility accepts the responsibility or unless the resident delegates to someone else of the resident's choosing and that person accepts the responsibility. The resident shall receive, upon written request by the resident or guardian, a written monthly account of any financial transactions made by the facility under such a delegation of responsibility.

(d) Be fully informed, in writing, prior to or at the time of admission of all services included in the per diem rate, other services available, the charges for such services, and be informed, in writing, during the resident's stay of any changes in services available or in charges for services.

(e) Be treated with courtesy, respect and full recognition of the resident's dignity and individuality, by all employes of the facility and licensed, certified or registered providers of health care and pharmacists with whom the resident comes in contact.

(f) Physical and emotional privacy in treatment, living arrangements and in caring for personal needs, including, but not limited to:

1. Privacy for visits by spouse. If both spouses are residents of the same facility, they shall be permitted to share a room unless medically contraindicated as documented by the resident's physician in the resident's medical record.

2. Privacy concerning health care. Case discussion, consultation, examination and treatment are confidential and shall be conducted discreetly. Persons not directly involved in the resident's care shall require the resident's permission to authorize their presence.

3. Confidentiality of health and personal records, and the right to approve or refuse their release to any individual outside the facility, except in the case of the resident's transfer to another facility or as required by law or third-party payment contracts.

(g) Not to be required to perform services for the facility that are not included for therapeutic purposes in the resident's plan of care.

(h) Meet with, and participate in activities of social, religious and community groups at the resident's discretion, unless medically contraindicated as documented by the resident's physician in the resident's medical record.

(i) Retain and use personal clothing and effects and to retain, as space permits, other personal possessions in a reasonably secure manner.

(j) Be transferred or discharged, and be given reasonable advance notice of any planned transfer or discharge, and an explanation of the need for and alternatives to such transfer or discharge. The facility to which the resident is to be transferred must have accepted the resident for transfer, except in a medical emergency.

(k) Be free from mental and physical abuse, and be free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time and documented in the resident's medical record. Physical restraints may be used in an emergency when necessary to protect the resident from injury to himself or herself or others or to property. However, authorization for continuing use of the physical restraints shall be secured from a physician within 12 hours. Any use of physical restraints shall be noted in the resident's medical records. "Physical restraints" includes, but is not limited to, any article, device or garment which interferes with the free movement of the resident and which the resident is unable to remove easily, and confinement in a locked room.

(l) Receive adequate and appropriate care within the capacity of the facility.

(m) Use the licensed, certified or registered provider of health care and pharmacist of the resident's choice.

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(n) Be fully informed of the resident's treatment and care and participate in the planning of the resident's treatment and care.

(2) The department, in establishing standards for nursing homes under s. 146.30 (2), adult group foster homes under s. 146.305 (2) and residential care institutions under s. 146.32 (2), may establish, by rule, rights in addition to those specified in sub. (1) for residents in such facilities. Such rules shall not be effective until approved by the senate and assembly health committees.

(3) If the resident is adjudged to be incompetent under ch. 51 or 880 and not restored to legal capacity, the rights and responsibilities established under this section which the resident is not competent to exercise shall devolve upon the resident's guardian.

(4) Each facility shall make available a copy of the rights and responsibilities established under this section and the facility's rules to each resident and to each resident's guardian at or prior to the time of admission to the facility, to each person who is a resident of the facility on December 12, 1975 and to each member of the facility's staff. The rights, responsibilities and rules shall be posted in a prominent place in each facility. Each facility shall prepare a written plan and provide appropriate staff training to implement each resident's rights established under this section.

(5) Rights established under this section shall not, except as determined by the department, be applicable to residents in such facilities, if the resident is in the legal custody of the department and is a correctional client in such facility.

(6) (a) Each facility shall establish a system of reviewing complaints and allegations of violations of residents' rights established under this section. The facility shall designate a specific individual who, for the purposes of effectuating this section, shall report to the administrator.

(b) Allegations of violations of such rights by persons licensed, certified or registered under chs. 441, 446 to 450, 455 and 456 of the statutes shall be promptly reported by the facility to the appropriate licensing or examining board and to the person against whom the allegation has been made. Any employe of the facility and any person licensed, certified or registered under chs. 441, 446 to 450, 455 and 456 of the statutes may also report such allegations to the board. Such board may make further investigation and take such disciplinary action, within the board's statutory authority, as the case requires.

(c) No person who files a report as required in par. (b) or who participates, in good faith, in the review system established under par. (a) shall be liable for civil damages for such acts.

(d) The facility shall attach a statement, which summarizes complaints or allegations of violations of rights established under this section, to an application for a new license or a renewal of its license. Such statement shall contain the date of the complaint or allegation, the name of the persons involved, the disposition of the matter and the date of disposition. The department shall consider such statement in reviewing the application.

History: 1975 c. 119, 199.

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. No person involved in the procurement, processing, distribution or use of whole blood, plasma, blood products or blood derivatives for the purpose of injecting or transfusing any of them into the human body shall be liable for damages resulting from these activities except for his own negligence or wilful misconduct.

(3) No hospital, nonprofit tissue bank, physician, nurse or other medical personnel acting under the supervision and direction of a physician involved in the procurement, processing, distribution or use of human tissues such as corneas, bones or organs for the purpose of transplanting any of them into the human body shall be liable for damages resulting from those activities except for negligence or wilful misconduct by that hospital, nonprofit tissue bank, physician, nurse or other medical personnel.

History: 1975 c. 75, 76.

(1) is an unconstitutional violation of the commerce clause, art. I, sec. 8, and the supremacy clause, art. VI, of the U.S. Constitution. State v. Interstate Blood Bank, Inc. 65 W (2d) 482, 222 NW (2d) 912.

146.32 Is not printed.

Note: Ch. 413, laws of 1975, repealed this section. For the effective date of Ch. 413, see note following 146.30.

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

History: 1971 c. 228.

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146.35 Emergency medical services. (1) EMERGENCY MEDICAL TECHNICIAN — ADVANCED (PARAMEDIC) DEFINED. As used in this section, "emergency medical technician — advanced (paramedic)" means a person who is specially trained in emergency cardiac, trauma and other lifesaving or emergency procedures in a training program or course of instruction prescribed by the department and who is examined and licensed by the department as qualified to render the following services:

(a) Render rescue, emergency care and resuscitation services.

(b) While caring for patients in a hospital administer parenteral medications under the direct supervision of a licensed physician or registered nurse.

(c) Perform cardiopulmonary resuscitation and defibrilation on a pulseless, nonbreathing patient.

(d) Where voice contact with or without a telemetered electrocardiogram is monitored by a licensed physician and direct communication is maintained, upon order of such physician perform the following:

1. Administer intravenous solutions.

2. Perform gastric and endotracheal intubation.

3. Administer parenteral injections.

(e) Perform other emergency medical procedures prescribed by rule by the department.

(2) DEFINITIONS; OTHER. In this section:

(a) "Department" means the department of health and social services.

(b) "Secretary" means the secretary of health and social services.

(3) EMERGENCY MEDICAL SERVICES PROGRAMS. Any county, municipality, hospital or combination thereof may, after submission of a plan approved by the department, conduct a program utilizing emergency medical technicians — advanced (paramedics) for the delivery of emergency medical care to the sick and injured at the scene of an emergency and during transport to a hospital, while in the hospital emergency department, and until care responsibility is assumed by the regular hospital staff. Nothing in this section shall be construed to prohibit the operation of fire department, police department or other emergency vehicles utilizing the services of emergency medical technicians — advanced (paramedics) in conjunction with a program approved by the department. Hospitals which offer approved training courses for emergency medical technicians—advanced (paramedics) should, if feasible, serve as the base of operation for approved programs utilizing emergency medical technicians—advanced (paramedics).

(4) LICENSING OF EMERGENCY MEDICAL TECHNICIANS — ADVANCED (PARAMEDICS). (a) No person shall be employed as an emergency medical technician — advanced (paramedic) in conjunction with an emergency medical services program authorized under sub. (3) unless he holds an emergency medical technician — advanced (paramedic) license issued under this section. Persons so licensed may perform all procedures specified in sub. (1) under the conditions and circumstances set forth in this section and prescribed by rule of the department.

(b) The department shall license emergency medical technicians — advanced (paramedics) and may establish reasonable license fees. A license is not transferable and shall be valid for the balance of the license year or until surrendered for cancellation or suspended or revoked for violation of this section or any other law or rule relating to an emergency medical technician — advanced (paramedic). Any denial of issuance or renewal, suspension or revocation of a license shall be subject to review in accordance with chapter H-1 of the Wisconsin administrative code or ch. 227.

(5) QUALIFICATIONS FOR LICENSURE. To be eligible for an emergency medical technician — advanced (paramedic) license a person shall:

(a) Be at least 18 years of age, of good moral character and physically and emotionally capable of performing the duties of an emergency medical technician — advanced (paramedic).

(b) Satisfactorily complete a course of instruction prescribed by the department or present evidence satisfactory to the department of sufficient education and training in the field of emergency medical care.

(c) Pass an examination administered by the department.

(d) Have such additional qualifications as may be required by rule of the department.

(6) RENEWAL OF LICENSE. Every holder of an emergency medical technician — advanced (paramedic) license shall renew it annually on July 1, by making application on forms provided by the department. A renewal shall be granted unless the department finds that the applicant has acted or failed to act in such a manner or under such circumstances as would constitute grounds for suspension or revocation of a license. As a prerequisite to renewal, the department may by rule provide for the reexamination of licensed emergency medical technicians — advanced (paramedics).

(7) TRAINING. The department shall approve and may conduct or arrange for courses sufficient to meet the education and training requirements of this section and shall make such

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courses available to counties, municipalities and hospitals conducting approved emergency medical services programs authorized under this section. The department shall by rule establish a system for the issuance of temporary training permits, to be issued at a reasonable fee. A person issued a temporary training permit may perform all medical procedures specified in this section when performed in the presence and under the direction of a training instructor.

(8) RULES. The secretary may promulgate all rules necessary for the administration of this section and prescribe emergency medical service equipment and standards therefor. Rules adopted by the secretary under this section shall not be effective until approved by the senate committee on health, education and welfare and the assembly committee on health and social services.

(9) EXAMINING COUNCIL. The emergency medical services examining council shall conduct such examinations as are required for the licensing of emergency medical technicians—advanced (paramedics) and shall serve the secretary in an advisory capacity in the preparation of such examinations and all rules relating to the education and training of emergency medical technicians—advanced (paramedics). The examining council shall further advise and assist the secretary in adopting rules and standards for the approval of emergency medical services programs authorized under this section.

(10) UNLICENSED OPERATION. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in all proceedings, institute an action in the name of the state against any person, organization or agency, public or private, to restrain or prevent the establishment, management or operation of any emergency medical services program without the licensed personnel required by this section or in violation of the provisions of this section or any department rule promulgated hereunder.

(11) LIABILITY INSURANCE. The department shall, as a condition to the approval of any emergency medical services program under sub. (3), require adequate liability insurance sufficient to protect all emergency medical technicians — advanced (paramedics) and physicians from civil liability resulting from the good faith performance of duties authorized under this section.

(12) EMERGENCY MEDICAL SERVICES ACT. This section shall be known and may be cited as the "Emergency Medical Services Act".

History: 1973 c. 322; 1975 c. 39 ss. 643 to 643m, 732 (2).

146.36 Cystic fibrosis aids. (1) The state may provide financial assistance for costs of medical care of financially needy persons over the age of 18 years with the diagnosis of cystic fibrosis. This section shall be administered by the division for handicapped children which shall adopt rules, including eligibility standards, and establish procedures for administration of this section.

(2) Approved costs for medical care under sub. (1) shall be paid from the appropriation under s. 20.255 (1) (e).

History: 1973 c. 300; 1973 c. 336 s. 55; 1975 c. 39.

146.37 Health care services review; civil immunity. (1) No person acting in good faith who participates in the review or evaluation of the services of health care providers or facilities or the charges for such services conducted in connection with any program organized and operated to help improve the quality of health care, to avoid improper utilization of the services of health care providers or facilities or to determine the reasonable charges for such services is liable for any civil damages as a result of any act or omission by such person in the course of such review or evaluation.

(2) In determining whether a member of the reviewing or evaluating organization has acted in good faith under sub. (1), the court shall consider whether such member has sought to prevent the health care provider or facility and its counsel from examining the documents and records used in the review or evaluation, from presenting witnesses, establishing pertinent facts and circumstances, questioning or refuting testimony and evidence, confronting and cross-examining adverse witnesses or from receiving a copy of the final report or recommendation of the reviewing organization.

History: 1975 c. 187.

146.38 Health care services review; confidentiality of information. (1) No person who participates in the review or evaluation of the services of health care providers or facilities or charges for such services may disclose any information acquired in connection with such review or evaluation except as provided in sub. (3).

(2) All organizations reviewing or evaluating the services of health care providers shall keep a record of their investigations, inquiries, proceedings and conclusions. No such record may be released to any person under s. 804.10 (4) or otherwise except as provided in sub. (3). No such record may be used in any civil action for personal injuries against the health care provider or facility; however, information, documents or

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records presented during the review or evaluation may not be construed as immune from discovery under s. 804.10 (4) or use in any civil action merely because they were so presented. Any person who testifies during or participates in the review or evaluation may testify in any civil action as to matters within his or her knowledge, but may not testify as to information obtained through his or her participation in the review or evaluation, nor as to any conclusion of such review or evaluation.

(3) Information acquired in connection with the review and evaluation of health care services shall be disclosed and records of such review and evaluation shall be released, with the identity of any patient whose treatment is reviewed being withheld unless the patient has granted permission to disclose identity, in the following circumstances:

(a) To the health care provider or facility whose services are being reviewed or evaluated, upon the request of such provider or facility;

(b) To any person with the consent of the health care provider or facility whose services are being reviewed or evaluated;

(c) To the person requesting the review or evaluation, for use solely for the purpose of improving the quality of health care, avoiding the improper utilization of the services of health care providers and facilities, and determining the reasonable charges for such services;

(d) In a report in statistical form, without identification of providers or facilities reviewed or evaluated, for educational purposes to the public or to any interested person;

(e) With regard to any criminal matter, to a court of record, in accordance with the provisions of Title XLIII and after issuance of a subpoena; and

(f) To the appropriate examining or licensing board or agency, when the organization conducting the review or evaluation determines that such action is advisable.

(4) Any person who discloses information or releases a record in violation of this section, other than through a good faith mistake, is civilly liable therefor to any person harmed by the disclosure or release.

History: 1975 c. 187.

146.50 Ambulance service providers and ambulance attendants. (1) DEFINITIONS. In this section:

(a) "Ambulance" means an emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designed, constructed or equipped to transport patients.

(b) "Ambulance service provider" means a person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.

(c) "Ambulance attendant" means a person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to, ambulance attendants and ambulance drivers.

(d) "Department" means the department of health and social services.

(e) "Person" includes any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.

(f) "Secretary" means the secretary of health and social services.

(2) AMBULANCE SERVICE PROVIDER AND AMBULANCE ATTENDANT LICENSES REQUIRED. No person may operate as an ambulance service provider or an ambulance attendant unless he holds an ambulance service provider license or ambulance attendant license issued under this section.

(3) RULES. The secretary may adopt rules necessary for administration of this section and prescribe ambulance service equipment and standards therefor, except that any ambulance which does not conform to rules adopted by the secretary may be used for a period not to exceed 5 years after December 30, 1974. Counties, municipalities and volunteer or paid-on-call fire departments and rescue squads shall be exempt from all rules prescribing standards for ambulances and other vehicles until January 1, 1979. Rules adopted by the secretary under this section shall not be effective until approved by the senate committee on health, education and welfare and the assembly committee on health and social services.

(4) EXAMINING COUNCIL. The emergency medical services examining council shall conduct such examinations as are required for licensing ambulance attendants and ambulance service providers and shall serve the secretary in an advisory capacity in the preparation of examinations, rules and the education and training of ambulance attendants.

(5) LICENSING OF AMBULANCE SERVICE PROVIDERS AND AMBULANCE ATTENDANTS. The department shall license ambulance service providers and ambulance attendants. An ambulance service provider shall not be required to take an examination for licensure. A license is nontransferable and shall be valid for the balance of the license year or until surrendered for cancellation or suspended or revoked for violation of this section or of any other laws or rules relating to

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ambulance service providers or ambulance attendants. The department may charge a reasonable fee for licensure under this section, but no fee may be charged to persons working for volunteer or paid-on-call ambulance service providers or to municipal or county employes. Any denial of issuance or renewal, suspension or revocation of a license shall be subject to review upon the timely request of the licensee directed to the department, in accordance with chapter H-1 of the Wisconsin Administrative Code or ch. 227.

(6) QUALIFICATIONS FOR LICENSING OF AMBULANCE ATTENDANTS. To be eligible for an ambulance attendant's license a person shall:

(a) Be not less than 18 years of age, of good moral character and physically and emotionally capable of performing the duties of an ambulance attendant.

(b) Have satisfactorily completed a course of instruction and training prescribed by the department or have presented evidence satisfactory to the department of sufficient education and training in the field of emergency care.

(c) Have passed an examination administered by the department.

(d) Have such additional qualifications as may be required by the department.

(7) LICENSING IN OTHER JURISDICTIONS. The department may issue an ambulance attendant's license, without examination, to any person who holds a current license as an ambulance attendant from another jurisdiction if the department finds that the standards for licensing in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified.

(8) PROVISIONAL LICENSE. Any person who, on December 30, 1974, has been actively engaged as an ambulance attendant or is enrolled in an acceptable training program and who does not meet the requirements for licensing, shall be issued a provisional license for one year without the need to present evidence of satisfactory completion of a course of instruction and training and without examination. A provisional license may be renewed for just cause, except that a provisional license shall not be renewed more than twice.

(9) TRAINING. (a) The department may arrange for or approve courses of instructional programs within or without this state as sufficient to meet the education and training requirements of this section and shall make such courses available to the residents of this state and to persons holding a provisional license. The courses shall be free of charge to any person who holds an ambulance attendant license, an ambulance service provider license or a provisional license and who is employed by a county, city, village or town. If the department determines that an area or community need exists, such courses shall be offered at vocational, technical and adult education schools in such area or community. Initial priority shall be given to the training of ambulance attendants serving the rural areas of the state.

(b) The department shall by rule establish a system of training and temporary permits, to be issued, at a reasonable fee, but no fee may be charged to persons working for volunteer or paid-on-call ambulance service providers or to municipal or county employes. All temporary permit applications shall be signed by licensed ambulance service providers. Persons holding temporary permits shall work only with licensed ambulance attendants.

(10) RENEWAL OF LICENSE. Every holder of an ambulance service provider license or an ambulance attendant license shall renew it annually on July 1, by making application to the department on forms provided by the department. A renewal shall be granted unless the department finds that the applicant has acted or failed to act in such a manner or under such circumstances as would constitute grounds for suspension or revocation of such license.

(11) UNLICENSED OPERATION. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in all proceedings, institute an action in the name of the state against any person or agency to restrain or prevent the establishment, management or operation of an ambulance service without the licensed personnel required by this section.

History: 1973 c. 321; 1975 c. 39 ss. 645 to 647d, 732 (2); 1975 c. 224.

146.60 Prospective hospital rates. (1) CONTRACT RATES. The department may enter into a contract with the Wisconsin hospital association and associated hospital services for the purpose of setting hospital rates prospectively.

(2) DEFINITIONS. In this section:

(a) "Hospital" means any health care institution approved under ss. 140.23 to 140.29 and hospitals established under ss. 46.21, 49.16 and 142.05.

(b) "Rates" means the fees, charges and rates of reimbursement payable to a hospital for patient health care, including, but not limited to, those made for space, equipment, materials and services.

(c) "Contract" means the policies and procedures governing the hospital rate review

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program, which agreement is mutually based involving the Wisconsin hospital association, associated hospital services, and the department of health and social services.

History: 1975 c 224