

TITLE XV.
Public Health.

CHAPTER 140.

STATE BOARD OF HEALTH.

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140.01 State board of health. The state board of health shall consist of 7 members, appointed by the governor with the consent of the senate. One member shall be appointed each year, and their respective terms of office shall begin on the first Monday of February in the year of appointment and shall continue for 7 years. Each member of the board, except the secretary, shall be paid \$10 per day when actually and necessarily engaged in his duties, but no member shall receive more than \$600 in any fiscal year.

140.02 Officers. A member of the board shall be chosen president. His term shall be fixed by the board, and his duties prescribed by bylaw or statutes. The board shall elect a secretary from outside the board, who shall hold his office subject to removal at discretion by a vote of 5 members of the board at a regular meeting. The secretary shall be the executive officer of the board and the state health officer. He shall keep a record of the board's transactions and have custody of its books, papers and other property; he shall, so far as practicable, communicate with other similar state boards and local boards of health within this state, and file and keep all reports and correspondence; he shall prepare and distribute to local boards blank forms and instructions as may be necessary, and collect all such information and statistics as concern the work of the board and perform all other duties which may be prescribed by bylaw or statute. The state health officer's salary shall be fixed by the board at not to exceed \$500 more than the maximum of the highest classified salary range in the department.

History: 1963 c. 225.

140.03 Meetings; bylaws. The board shall meet each month and at such other times and at such places as may be directed by the board or its president, except that the January meeting shall be held at Madison. The board may adopt bylaws for its government.

140.04 Offices, printing, obsolete records. (1) Suitable apartments equipped with fireproof vaults shall be provided in the capitol by the department of administration for the state board of health. The official printing of the board shall be furnished as provided in ss. 20.125 and 35.03. The board may supply to local health officers and others on re-

quest quarantine signs, placards, record books and other uniform blanks and other publications and materials.

140.05 Powers and duties. (1) The state board of health shall have general supervision throughout the state of the health and life of citizens, and shall study especially the vital statistics of the state and endeavor to put the same to profitable use. It shall make sanitary investigations into the causes of disease, especially epidemics, the causes of mortality, and the effect on health of localities, employments, conditions, habits and circumstances, and make sanitary inspections and surveys in all parts of the state. It may, upon due notice, enter upon and inspect private property. It shall have power to execute what is reasonable and necessary for the prevention and suppression of disease. It shall voluntarily or when required, advise public boards or officers in regard to heating and ventilation of any public building or institution. It may send its secretary or a committee to any part of the state to investigate the cause and circumstances of any special or unusual disease or mortality, or to inspect any public building; and such officers shall have full authority to do any act necessary therefor. The board may establish bureaus and shall possess all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules. It may empower the state health officer to act for the board upon such matters as it may determine in issuing and enforcing orders in compliance with law and rules and regulations adopted by the board. Whenever anyone feels aggrieved by any order of a state health officer, he may appeal to the board.

(2) The board shall disseminate such health information as it deems proper. It shall recommend from time to time works of hygiene for use in the public schools and shall cooperate with the several educational institutions and the school system of this state in disseminating information to the general public in all matters pertaining to health, and shall use the research facilities of the University of Wisconsin for the preservation and improvement of the public health under such rules and regulations as may be agreed upon with the regents of the university, and facilitate the special instruction of students in sanitation, hygiene and vital statistics in any school or department of the university in manner not inconsistent with and not interfering with the orderly and efficient administration of the public health work.

(3) The board shall have power to make and enforce such rules, regulations and orders governing the duties of all health officers and health boards, and relating to any subject matter under its supervision, as shall be necessary to provide efficient administration and to protect health, and any person violating such rule, regulation or order shall be fined not less than \$10 nor more than \$100 for each offense, unless penalty be specially provided.

(4) Any member of the board may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and production of papers, books, documents and testimony. Witness fees and mileage shall be paid by the state and charged to the appropriation for the board, but no witness subpoenaed at the instance of parties other than the board shall be entitled to fees or mileage from the state, unless the board shall certify that his testimony was material.

(5) The board shall keep a full and complete record of proceedings before it on any investigation, and have all testimony taken by its stenographer.

(6) The board shall, in October of each even-numbered year, report to the governor, its transactions, investigations and discoveries during the preceding term, with suggestions for legislation.

(7) The board shall have power to make and enforce rules relating to lot size and lot elevation necessary for proper sanitary conditions in the development and maintenance of subdivisions not served by a public sewer, where provision for such service has not been made.

(8) The board shall have power to license and exercise supervision over maternity hospitals as provided in ss. 140.35 to 140.39.

(9) The board shall have power to establish, equip and operate a state branch laboratory of hygiene in a city accessible to physicians and health officers in the northern part of the state for the conducting of bacteriological and chemical examinations of material from the various contagious and infectious diseases or material from suspected contagious and infectious diseases of men and animals when public health is concerned; on condition that suitable quarters for such laboratory shall be offered to the state free of charge for rent, light, heat and janitor service. The board may also establish and aid in maintaining in conjunction with the cities of the state not more than seven state co-operative laboratories. All such co-operative laboratories shall be operated in such manner and under

such conditions as the board may determine in its rules and regulations governing the state public health laboratories.

(11) Any physician knowing or having reason to know that a patient treated or visited by him has cancer, carcinoma, sarcoma or other malignant growths shall report the same to the state board of health, in writing, on blanks furnished by said board and as it directs. These reports shall be confidential and not open to public inspection.

(12) The board may make transcripts of its records for governmental agencies upon their request and payment of the fees mutually agreed upon.

(13) BIENNIAL REPORT OF BOARD. On or before December 1 in each even-numbered year the state board of health shall make to the governor a report of its proceedings during the preceding biennial fiscal term, with such recommendations as it deems fit respecting the subjects in its charge or under its supervision, and including also: A detailed statement of all expenditures from the state treasury on behalf of the board, a summary of the results of all its visits, inspections and investigations in respect to matters committed to it, and of all statistical information collected by it, properly tabulated; and a concise statement showing the conditions of said institutions.

(14) The board may conduct investigations, studies, experiments and research pertaining to any public health problems which are a cause or potential cause of morbidity or mortality and methods for the prevention or amelioration of such public health problems. For the conduct of such investigations, studies, experiments and research, the board may on behalf of the state accept funds from any public or private agency, organization or person. It may conduct such investigations, studies, experiments and research independently or by contract or in co-operation with any public or private agency, organization or person including any political subdivision of the state.

History: 1963 c. 155.
Various types of hospitals discussed. mination of types. Enforcement of stand-
Power of board of health relates to sanitary ards limited. 49 Atty. Gen. 56.
conditions in hospitals and not to deter-

140.055 Sanitary supervision of county institutions. (1) The state board of health shall investigate and supervise the sanitary conditions of all the charitable, curative, reformatory and penal institutions of every county and other municipality, all detention homes for children and all industrial schools, hospitals, asylums and institutions, organized for the purposes set forth in section 58.01.

(2) The board shall annually and oftener, if necessary, and whenever required by the governor, visit the jails, municipal prisons, houses of correction, workhouses and all other places in which persons convicted or suspected of crime or insane persons are confined and ascertain the sanitary conditions thereof.

(3) The provisions of section 46.16 (8) and (9) shall apply to such investigations and visitations except that the expenses thereof shall be charged to the appropriation made to the state board of health.

140.07 Districts; district health officers. (1) The state board of health shall from time to time divide the state into sanitary districts, not exceeding 10, and it shall appoint for each a district health officer, who shall hold office during efficiency and good behavior and who may be removed for cause by the board after opportunity to be heard. He shall not during his term of office engage in any occupation which would conflict with his official duties.

(2) The district health officer shall have jurisdiction throughout his district; and he shall have in pursuit of his official duties right of entry into any workshop, factory, dairy, creamery, slaughterhouse or other place of business or employment. He shall carry out the instructions of the state board of health and make such investigations and reports as the board may require. He shall, when required by the board with the help of local health officers, inspect and report upon the sanitary conditions of streams and sources of public water supplies, schools and schoolhouses, dairies, creameries, slaughterhouses, workshops and factories, and of all places where offensive industries are conducted.

(3) The district health officer shall make careful inquiry, when required by the state board of health, into the effects of the different kinds of employment upon the health of employes and operators, with special reference to tuberculosis and to lead and phosphorous poisoning and other industrial diseases, and in all such investigations and inquiries he shall have the power to administer oaths. He shall enforce any public health statute, or rule or regulation of the state board of health or of any local board of health or health officer when such local board of health or health officer neglects or refuses to enforce such statute, rule or regulation, after due notice by him or by the state board.

(4) The district health officer, under the direction of the state board and subject to laws, rules and regulations relating to public health, shall:

- (a) Keep himself informed as to the work of each local health officer.
- (b) Aid each local health officer in the performance of his duties, and particularly on the appearance of communicable disease, and he shall respond promptly when called upon for advice or assistance by any board of health or health officer.
- (c) Assist each local health officer in making an annual sanitary survey and in maintaining a continuous sanitary supervision.
- (d) Adjust questions of jurisdiction arising between local health officers.
- (e) Study the causes of excessive mortality from any disease in any portion of his district.
- (f) Promote efficient registration of marriages, births, fetal deaths and deaths.
- (g) Inspect from time to time all labor camps and enforce the regulations of the state board of health in relation thereto.
- (h) Endeavor to enlist the co-operation of all organizations of physicians within his district in the improvement of the public health therein.

140.08 Local and state conferences. (1) The state health officer, directly or through district health officers, may call a biennial state conference of health officers, and may call local conferences.

(2) District health officers and local health officers shall attend such conferences, but local officers need not attend more than one state and one local conference a year.

(3) The expense of attendance of local health officers shall be paid by the municipality, upon certificate of the state or district health officer, but only for one state and one local conference a year.

140.09 County, city-county and multiple county health departments. (1) **DEFINITIONS.** As used in this section:

(a) "County health department" and "county board of health" refer to a single county health department or board of health; a multiple county health department or board of health, or a city-county health department or board of health.

(b) "County health officer" refers to the position of a health officer either in a county health department, multiple county health department or city-county health department.

(c) "Health department" means a full-time health department unless otherwise specified and refers to one whose personnel, other than consultants and clinicians, devote their full time to health department duties.

(2) **POWER OF COUNTY BOARD.** Any county board may organize a single county department of health, or a city-county department of health or may join with one or more adjacent counties to organize a multiple county department of health. But no more than 3 counties shall join in one such department without prior approval of the state board of health.

(3) **COUNTY BOARD OF HEALTH.** (a) Each single county health department shall be managed by a board of health, consisting of not less than 5 nor more than 7 members, appointed by the chairman of the county board with the approval of the county board. One member shall be a member of the county board. Two members shall be physicians, practicing in the county, and shall be selected from a list of 5 physicians submitted by the county medical society. One member shall be a dentist, practicing in the county, and shall be selected from a list of 3 dentists submitted by the county dental society. The remaining members shall be residents of the county, men or women who are persons of ability and known to have a broad social viewpoint and a serious interest in the health protection of their community. The first appointee will serve one year, the second 2 years, the third 3 years, fourth 4 years, fifth 5 years, sixth, if any, one year, seventh, if any, 2 years, and their successors shall each serve for 5 years. Terms shall begin on anniversary dates of the organization of the board of health.

(b) Each multiple county health department shall be managed by a board of health consisting of 3 members appointed from each county by the chairman of the respective county board with the approval of the county board. One shall be a member of the county board. One shall be a physician practicing in the county and shall be selected from a list of 3 physicians submitted by the county medical society. The third member shall be a dentist practicing in the county and shall be selected from a list of 3 dentists submitted by the county dental society. The term of office will be for 5 years except that the first appointee of each county board will be for 2 years, the second for 4 years and the third for 5 years. Terms shall begin on the anniversary dates of the organizations of the board of health.

(c) A county board and a city council for a city located in a county may organize a joint city-county department of health. Such city-county health department shall be managed by a board of health consisting of 7 members. One member shall be a member of the city council and shall be appointed by the mayor or city manager with the approval of

the council. One member shall be a member of the county board and shall be appointed by the chairman of the county board with the approval of the board. Two members shall be physicians practicing in the county selected from a list of 5 physicians furnished by the county medical society. One such physician shall be appointed by the chairman of the county board with the approval of the board and one by the mayor or city manager with approval of the council. One member shall be a dentist practicing in the county and shall be appointed by the chairman of the county board with approval of the board from a list of 3 dentists submitted by the county dental society. Two members shall be residents of the county and shall be persons of ability and known to have a broad social viewpoint and a serious interest in the health protection of the community. The chairman of the county board, with the approval of the county board, shall appoint one such member and the mayor or city manager, with the approval of the council, shall appoint the other. The first member appointed shall hold office for one year, the second member for 2 years, the third member 3 years, the fourth member 4 years, the fifth member 5 years, the sixth member one year and the seventh member 2 years. Their successors shall each hold office for 5 years. Terms shall begin on anniversary dates of the organization of the board of health.

(4) HEALTH OFFICER, ELIGIBILITY, DUTIES. The board of health shall appoint a county health officer who shall be a licensed physician especially trained in public health administration, or in lieu thereof shall be a person, other than a physician, with training or experience in public health administration, and in either case, except in counties covered by ss. 63.01 to 63.17, said health officer shall meet training and experience requirements established by the state board of health; provided that if the appointee is not a physician, the local board of health shall arrange for and provide in addition, such service of a licensed physician as may be necessary on either a part-time or full-time basis and provide reasonable compensation therefor. The health officer shall be appointed for a term agreed upon by the board and shall be subject to removal by a two-thirds vote of the board. The county department of health shall be under the immediate direction of the county health officer, who shall give his entire time to the work.

(5) ORGANIZATION OF BOARD OF HEALTH. The board of health of each county, multiple county or city-county unit shall immediately after appointment meet and organize by the election of one of its members as president and one as secretary, to hold office for a term of one year. Members shall serve without compensation but may be reimbursed for their actual and necessary expenses.

(6) BOARD'S POWERS. The county board of health when established in any county shall have all the powers and authority now vested in local boards of health and local health officers and shall have authority to enforce such rules and regulations as may be adopted by the state board of health under the laws of the state. It may adopt such rules for its own guidance and for the government of the health department as may be deemed necessary to protect and improve public health, not inconsistent with state law nor with rules and regulations of the state board of health. The county board of supervisors shall determine compensation of health department employees.

(7) DUTIES OF THE COUNTY HEALTH OFFICER. The county health officer shall have charge of the county department of health and perform the duties prescribed by the county board of health. He shall enforce this section and the regulations of the state and local boards of health and have supervisory power over all officers or employes of the county health department. He shall submit to the board of health, county board of supervisors and city council an annual report of the administration of his department.

(8) LOCAL EMPLOYEES. The county health officer shall appoint, subject to the approval of the county board of health, all necessary subordinate personnel.

(9) PUBLICATION AND EFFECTIVE DATE OF REGULATIONS. The orders and regulations of the county board of health shall be published in some newspaper of general circulation throughout the county and shall take effect immediately after publication.

(10) LOCAL BOARDS AND OFFICERS ABOLISHED. Whenever a county board provides for a county department of health, the boards of health and health officers in all towns, cities and villages within such county shall be abolished, except as provided in subsection (11).

(11) JURISDICTION OF COUNTY; LOCAL OPTION. The jurisdiction of the county department of health shall extend to all towns, villages and cities within the county, other than those having a full-time health department. Towns, cities and villages having full-time health departments may by vote of their governing bodies determine to come under such jurisdiction. No supervisor from any city, village or town maintaining a full-time health department shall have any part in any determination under this section, and no part of any expense incurred under this subsection shall be levied against any property within such city, village or town.

(12) OFFICES, APPROPRIATIONS. Whenever provision is made for a single county department of health, the county is empowered to provide office facilities and appropriate funds necessary for the maintenance of the work. The board of health of such department shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year.

(13) GIFTS; COUNTY CO-OPERATING. The county board of health may receive gifts and donations for the purpose of carrying out the provisions of this section.

(14) JOINT HEALTH DEPARTMENTS, HOW FINANCED. The board of health of every multiple county health department and of every city-county health department created under this section shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year and determine the proportionate cost to each participating county and city on the basis of equalized valuation. A certified copy of such budget, which shall include a statement of the amount required from each county and city, shall be delivered to the county board of each participating county and to the mayor or city manager of each participating city. The appropriation to be made by each participating county and municipality shall be determined by the governing body thereof. No part of the cost apportioned to the county shall be levied against any property within such city.

(15) JOINT HEALTH DEPARTMENT FUNDS. In the treasurer's office of the county wherein is located the principal office of each multiple county or city-county health department, or in the office of the city treasurer of a participating city, as determined by the board of health, there shall be created a joint health department fund. The treasurer of each county and city participating in such health department shall annually pay or cause to be paid into said fund the share of such county or city. This fund shall be expended by the treasurer in whose office said fund is kept in the manner prescribed by the county board of health pursuant to properly authenticated vouchers of such health department signed by the county health officer.

(16) COUNTY NURSES. When a county health department is established county nurses shall be transferred to the jurisdiction of the county health department and county health committees shall cease functioning.

(17) WITHDRAWAL OF COUNTIES AND CITIES. After establishment of a multiple county health department any participating county may withdraw by giving written notice to its board of health and the county board of supervisors of all other participating counties. Such notice shall be given at least one year prior to commencement of the fiscal year at which it takes effect. Cities having full-time health departments prior to their decision to participate in a city-county health department may withdraw therefrom in the same manner. Whenever any county or city shall withdraw from any health department established under this section all provisions of law relating to local boards of health and health officers shall immediately become applicable within such county or city.

Discussion of meaning of health department and its officers. 50 Atty. Gen. 56. Date of resolution creating county health department governs rather than effective date of operation. Municipalities cannot free themselves from such jurisdiction if action is taken after date of resolution. 50 Atty. Gen. 60.

140.10 Name of act. Sections 140.10 to 140.22 may be cited as the "Wisconsin Hospital Survey and Construction Act".

140.11 Definitions. As used in sections 140.10 to 140.22:

(1) "The federal act" means Title VI of the public health service act as now and hereafter amended.

(2) "The surgeon general" means the surgeon general of the public health service of the United States.

(3) "Hospital" includes public health centers, medical facilities and general, tuberculosis, mental, chronic disease and other types of hospitals and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, but not in limitation thereof by enumeration, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.

(4) "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

(5) "Nonprofit hospital" means any hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) "Medical facilities" means diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes as defined in the federal act, and such other facilities for which federal aid may be authorized under the federal act.

140.12 Administration; division of hospital survey and construction. There is

hereby established in the state board of health a division of hospital survey and construction which shall be administered by a full-time salaried director under the supervision and direction of the state health officer. The board, through such division, shall constitute the sole agency of the state for the purpose of:

- (1) Making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing the program of hospital construction specified in sections 140.15 and 140.16, and
- (2) Developing and administering a state plan for the construction of public and other nonprofit hospitals specified in sections 140.17 to 140.22.

140.13 General powers and duties. In carrying out the purposes of ss. 140.10 to 140.22, the board is authorized and directed:

- (1) To require such reports, make such inspections and investigations and prescribe such regulations as it deems necessary;
- (2) To provide such methods of administration, appoint a director and other personnel of the division and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;
- (3) To procure in its discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;
- (4) To the extent that it considers desirable to effectuate the purpose of ss. 140.10 to 140.22, to enter into agreements for the utilization of facilities and services of other departments, agencies and institutions, public or private;
- (5) To accept on behalf of the state and to deposit with the state treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of ss. 140.10 to 140.22, and to expend the same for such purposes;
- (6) To make an annual report to the governor on activities and expenditures pursuant to ss. 140.10 to 140.22, including recommendations for such additional legislation as the board considers appropriate to furnish adequate hospital, clinic and similar facilities to the people of this state.

140.14 Advisory hospital council. (1) The board shall appoint an advisory hospital council to advise and consult in the carrying out of the administration of ss. 140.10 to 140.22. The council shall consist of the state health officer, and 13 members, residents of the state, and shall include:

- (a) Two persons of recognized ability in the field of hospital administration who shall be appointed from a list submitted by the Wisconsin hospital association.
- (b) Seven persons of recognized ability from the fields of medicine, nursing, welfare, public health, architecture, or allied professions in the field of health, including 2 persons licensed to practice medicine and surgery in the state, one person licensed as a pharmacist and one person licensed as a dentist in this state, and including the director of public welfare, the director of the state board of vocational and adult education or their representatives, and
- (c) Four persons with broad civic interests representing varied segments of the population and the consumers of hospital services and including one person representing agriculture and one person representing labor.

(2) Terms of members appointed prior to April 16, 1949, shall be continued, and of the 4 additional members, 2 shall be appointed for one year, one for 2 years, and one for 3 years, and their successors shall be appointed for terms of 3 years except when appointed to complete an unexpired term. Members whose terms expire shall hold office until appointment of their successors. Where any professional group fails to submit a list of suggested appointees within 90 days after being invited so to do, the board may appoint persons within the group as it may see fit. The state health officer shall serve as chairman or secretary of the council, as the members may choose, and the other officers shall be elected annually.

(3) Council members, while serving on business of the council, shall receive compensation at the rate of \$10 per day and shall also be entitled to receive actual and necessary travel and subsistence expenses while so serving away from their places of residence.

(4) The council shall meet as frequently as the state board of health deems necessary but not less than once each year. Upon request by 5 or more members, it shall be the duty of the chairman to call a meeting of the council.

140.15 Survey and planning activities. The board is authorized and directed to make an inventory of existing hospitals, including public, nonprofit and proprietary

hospitals, to survey the need for construction of hospitals, and on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit hospitals as will, in conjunction with the existing facilities, afford the necessary physical facilities for furnishing adequate hospital, clinic and similar services to all the people of the state. The state health officer is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities.

140.16 State hospital construction plan. The state health officer shall prepare and submit to the surgeon general a state plan which shall include the hospital construction program developed under section 140.15 and which shall provide for the establishment, administration and operation of hospital construction activities in accordance with the requirements of the federal act and regulations thereunder, and shall make the plan or a copy thereof available upon request to all interested persons or organizations. The state health officer shall from time to time review the hospital construction program and submit to the surgeon general any modifications thereof which he may find necessary and not inconsistent with the requirements of the federal act.

140.17 Construction program. The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate hospital facilities for the people residing in this state and in so far as possible for their distribution throughout the state in such manner as to make all types of hospital service reasonably accessible to all persons in the state.

140.18 Minimum standards for hospital maintenance and operation. The board shall by regulation prescribe minimum standards for the maintenance and operation of hospitals which receive federal aid for construction under the state plan.

140.19 Priority of projects. The plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act, and provide for the construction, in so far as financial resources available therefor and for maintenance and operations make possible, in the order of such relative need.

140.20 Construction projects; applications. Applications for hospital construction projects for which federal funds are requested may be submitted to the board by the state or any political subdivision thereof, or by any public or nonprofit agency authorized to construct and operate a hospital. Each application for a construction project shall conform to federal and state requirements.

140.21 Consideration and forwarding of applications. The board shall afford to every applicant for a construction project an opportunity for a fair hearing. If the board, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 140.20 and is otherwise in conformity with the state plan, it shall approve such application and shall recommend and forward it to the surgeon general.

140.22 Inspection of projects. From time to time the board shall inspect each construction project approved by the surgeon general and, if the inspection so warrants, it shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an instalment of federal funds is due to the applicant.

140.23 Hospital regulation and approval act. Sections 140.23 to 140.29 may be cited as the "Hospital Regulation and Approval Act".

140.24 Definitions. Unless the context requires otherwise, as used in ss. 140.23 to 140.29:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than 24 hours in any week of 4 or more nonrelated individuals suffering from illness, disease, injury or deformity, except homes for the aged, or nursing or convalescent homes as defined by the board. Institutions now governed by ss. 49.16 and 49.17, and institutions now governed by ss. 46.16, 46.17 and 46.18 and primarily designed only for mental and tuberculosis cases or the aged and infirm, are specifically exempt from all the provisions of ss. 140.23 to 140.29.

(2) "Board" means the state board of health.

140.25 Purpose. The purpose of ss. 140.23 to 140.29 is to provide for the estab-

lishment and enforcement of standards for the care of individuals in hospitals in order to comply with the federal requirements relating to old-age assistance, aid to the blind, and aid to the totally and permanently disabled.

140.26 Application for approval. After July 1, 1953, application for approval to maintain a hospital shall be made to the board on forms provided by it. The board shall not withhold or revoke approval unless for a substantial failure to comply with ss. 140.23 to 140.29 after giving reasonable notice, a fair hearing, and a reasonable opportunity to comply.

140.27 Standards. (1) The board, with the advice of the advisory committee, shall establish such standards for hospitals as shall be necessary for the adequate care of individuals in hospitals. But the board shall not adopt or enforce any regulation or standard which would have the effect of denying approval to any hospital solely by reason of the school or system of practice employed by physicians therein; provided that such school or system is recognized by the laws of this state. The board shall not have authority, under ss. 140.23 to 140.29, to establish standards relating to the following:

- (a) Professional personnel.
- (b) Administration of hospitals except in so far as necessary for the adequate care of individuals who are hospitalized.
- (c) Facilities now governed by regulations of the industrial commission.

140.28 Advisory committee. The board shall appoint an advisory committee to consist of not more than 5 members. A member of the committee while serving on official business shall receive compensation at the rate of \$10 a day and his actual and necessary travel and subsistence expenses while serving away from his place of residence.

140.29 Injunction. The district attorney of the proper county with the assistance of the attorney general may, in addition to other remedies, prefer action in the name and on behalf of the state against any person to enjoin him from operating a hospital without approval under ss. 140.23 to 140.29.

140.35 Maternity hospitals; licenses. (1) The term "maternity hospital" as used in ss. 140.35 to 140.39 is defined as a place in which any person, firm, association or corporation receives, treats or cares for more than one woman within a period of 6 months because of pregnancy or in childbirth or within 2 weeks after childbirth, but not counting in case of an individual, women related to such person or his or her spouse by consanguinity within the sixth degree of kindred computed accordingly to the civil law.

(2) The person or persons conducting any such maternity hospital shall obtain an annual license from the state board of health, and no person conducting a maternity hospital shall receive a woman because of pregnancy or in childbirth or within 2 weeks after childbirth, without first obtaining such license. Such license shall not be transferable and shall expire on the thirty-first day of December of the year for which issued unless sooner revoked by the state board of health.

(3) Each such license shall state the name and address of the licensee, the specific location of the premises used and the number of women and infants that may be cared for or treated therein at any one time. No greater number of women or infants shall be lodged or cared for at any one time in any maternity hospital than is authorized by the license and no premises shall be used other than those authorized by the license. A record of licenses issued shall be kept by the state board of health.

(4) No license for a maternity hospital shall be renewed unless the person licensed to conduct the same shall have faithfully observed all of the provisions of ss. 140.35 to 140.38 and the rules and regulations of the state board of health issued thereunder. Before renewing any such license the state board of health shall secure from the state department of public welfare a certification that the licensee has complied with all requirements of ss. 140.36 to 140.38.

140.36 Application for license; supervision; records. (1) No license for a maternity hospital shall be granted without an investigation as in this section provided. Whenever application for a license is made for a maternity hospital, the state board of health shall forthwith give notice of such application to the local health officer. The local health officer shall make such investigation of such application for license as he shall deem necessary and shall then make his recommendation to the state board of health regarding granting of such license. If within a reasonable time, but not exceeding 30 days, the local health officer has not made a recommendation to the state board of health upon any application for license to conduct a maternity hospital the state board of health shall make the necessary investigation. The investigation of any application for a license to conduct a maternity hospital shall include an inquiry as to the number of cubic feet of air space

available for each patient, the facilities for ventilation and the admission of sunlight to the rooms used for the care of mothers and their infants. No license shall be issued unless the state board of health is satisfied that the physical equipment of the place to be used as a maternity hospital is adequate for the proper care of mothers and infants. The state board of health and the local health officer shall keep informed of the nature and reputation of every such maternity hospital and shall visit and inspect the same as often as they deem necessary and for such purposes shall at all reasonable hours be given free and unrestricted access to every part thereof. The members and authorized agents of the state department of public welfare shall have access to such records as maternity hospitals are required to maintain under this section, and they shall be furnished with any information which they may require and which is in possession of such hospitals or the persons conducting the same and which is in relation to the welfare of the children of unmarried mothers.

(2) Each license shall specify in general terms the kind of maternity hospital which the license covers. The state board of health shall make such general rules and regulations for the various kinds of maternity hospitals as shall be necessary to effect the purposes of ss. 140.35 to 140.37.

(3) The state board of health with the approval of the state department of public welfare shall prescribe forms for the registration and record of women cared for in pregnancy or in childbirth or within 2 weeks after childbirth in maternity hospitals. Every maternity hospital shall maintain a complete record of every such patient and her infant on the forms so prescribed, which record shall be kept in the office of such maternity hospital.

(4) No person connected with a maternity hospital shall directly or indirectly disclose the contents of its records as such, except in a judicial proceeding where the same is material or for the information of the state board of health, the state department of public welfare, or the local health officer. Nothing herein shall be construed to limit or modify the provisions of s. 325.21.

H 26.063 (2), Wisconsin Administrative Code, is a valid rule of the state board of health, 50 Atty. Gen. 205.

140.37 Reports on children born out of wedlock. Whenever any woman is received in a maternity hospital because of pregnancy or in childbirth or within 2 weeks after childbirth, such hospital shall use diligence to ascertain whether such patient is married; and, if there is reason to believe that her child is or will be when born born out of wedlock, such hospital shall report to the state department of public welfare within 24 hours the presence of such woman.

140.38 Revocation of licenses. (1) The state board of health may revoke the license for any maternity hospital if the persons licensed to conduct the same violate any provision of ss. 140.35 to 140.37 or any rules and regulations of the state board of health issued thereunder or the provisions of such license.

(2) The state board of health may revoke the license for any maternity hospital if any person licensed to conduct or in any way connected with the conducting of the hospital violates s. 48.63 (1).

(3) No license for a maternity hospital shall be revoked unless the holders of such license shall have notice in writing of the grounds for such proposed revocation, a public hearing upon at least 10 days' written notice, and opportunity thereat to present testimony and to confront witnesses. Such notice may be given either by personal service thereof or by mailing the same by registered mail to the holder of such license at the address therein specified.

140.39 Penalties. Any person found guilty of violating any of the provisions of ss. 140.35 to 140.37 shall be fined not less than \$10 nor more than \$500, or imprisoned in the county jail for not more than one year, and said term of imprisonment in case of an association or corporation may be imposed upon its officers who participated in said violation.

140.45 Sanitarians; qualifications, duties, registration. (1) **DEFINITIONS.** When used in this section:

(a) "Sanitarian" is a person trained in the field of sanitary science and technology who is qualified to carry out educational and inspectional duties or to enforce the law in the field of sanitation.

(b) "Board" is the state board of health.

(c) "Municipality" is a county, city, village or town.

(2) **REGISTRATION.** In order to safeguard life, health and property, to promote public welfare and to establish the status of those persons whose duties in environmental sanitation call for knowledge of the physical, the biological and social sciences, the board is authorized to establish minimum qualifications for the registration of sanitarians.

(3) PUBLIC BODIES MAY EMPLOY SANITARIANS. Any pertinent agency of the state and any municipality may employ, on a full-time basis, one or more sanitarians, registered as provided in this section, who shall enforce laws and rules (as defined in s. 227.01 (3)) of the state and municipalities, relative to environmental sanitation.

(4) EXAMINING COMMITTEE. (a) The board shall appoint an examining committee consisting of 5 members; one member selected by the state department of agriculture to represent that agency, one member to represent the state board of health and 3 sanitarians qualified for registration under this section whose initial appointments shall be for one year beginning July 1, 1957. Beginning July 1, 1958 the sanitarian members shall be registered under this section. Appointments of the sanitarian members made as of July 1, 1958, shall be for 1, 2 and 3 years, respectively, and thereafter as the term of each such member expires an appointment shall be made for 3 years.

(b) The examining committee shall conduct examinations in various parts of the state for the purpose of determining the qualifications of persons who desire to act as registered sanitarians pursuant to minimum standards and qualifications established by the board. The examining committee shall act in an advisory capacity in establishing minimum standards and qualifications.

(c) The members of the committee shall receive a per diem of \$10 per day spent in such service and their actual and necessary expenses incurred while serving in their assigned tasks and away from their homes.

(5) CERTIFICATION OF REGISTRATION. The board, upon application (on forms prescribed by it) and payment of the prescribed fee, shall certify as a registered sanitarian any person who has satisfied it by satisfactory evidence that:

(a) He has passed the examination given pursuant to sub. (4), or

(b) He, on or before July 1, 1957, has passed a civil service examination given by the state or any municipality as certified by the state, or by any city, village, town or county personnel agency, qualifying him as a sanitarian; food, meat, milk, market or restaurant inspector; sanitary inspector; or housing inspector; or

(c) He has been employed for not less than 2 years prior to July 1, 1957 as a sanitarian; food, meat, milk, market or restaurant inspector; sanitary inspector; or housing inspector by the state, any municipality of this state.

(7) FEES; RENEWAL OF CERTIFICATE; DELINQUENCY AND REINSTATEMENT. A fee of \$10 shall accompany the application under sub. (5). Every sanitarian who desires to continue his registration shall annually pay to the board an annual fee of \$5, which shall be paid on or before the date fixed by the board for renewing the certificate of registration for the current year. All fees collected shall be paid into the general fund. Certificates of registration revoked for failure to pay renewal fees shall be reinstated under the rules and regulations of the board.

(8) RECIPROCITY. Agreements for reciprocity with those states having a registered sanitarian's act may be entered into by the board at its discretion and under such rules as the board may prescribe.

(9) REVOCATION OF CERTIFICATE. The board shall have the power to revoke the certificate of registration of any registrant for unprofessional conduct or the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency, or misconduct in the practice of professional sanitation, provided that no such revocation of certificate shall be permitted until after a hearing, duly noticed, is held and the person affected given the opportunity to answer the charges that have been filed against him with the board.

(10) PENALTY. No person not registered under this section shall hold himself out as a registered sanitarian nor append to his name the initials "R.S.". Any person violating this subsection may be fined not more than \$100 or imprisoned not more than 6 months.

History: 1961 c. 191.

140.50 Radiation protection act. Sections 140.50 to 140.60 shall be known as the radiation protection act.

History: 1963 c. 325.

140.51 Public policy. Since ionizing radiations and their sources can be instrumental in the improvement of the health and welfare of the public if properly utilized, and may be destructive or detrimental to life or health if carelessly or excessively employed, or may detrimentally affect the environment of the state if improperly utilized, it is hereby declared to be the public policy of this state to encourage the constructive uses of radiation and to prohibit and prevent exposure to ionizing radiation in amounts which are or may be detrimental to health. It is further the policy to advise, consult and

co-operate with the industrial commission and other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries; and, in general, to conform as nearly as possible to nationally accepted standards in the promulgation and enforcement of rules.

History: 1963 c. 325.

140.52 Definitions. As used in ss. 140.50 to 140.60:

- (1) "Board" means the state board of health.
- (2) "Commission" means the industrial commission.
- (3) "By-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.
- (4) "Nuclear facility" means any reactor plant, any equipment or device used for the separation of the isotopes of uranium or plutonium, the processing or utilizing of radioactive material or handling, processing or packaging waste; any premise, structure, excavation or place of storage or disposition of waste or by-product material; or any equipment used for or in connection with the transportation of such material.
- (5) "Radiation" or "ionizing radiation" as used in this chapter refers to electro-magnetic radiations such as X rays and gamma rays, or particulate radiations such as electrons or beta particles, protons, neutrons, alpha particles, usually of high energy, but in any case it includes all radiations capable of producing ions directly or indirectly in their passage through matter.
- (6) "Radiation installation" is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed of or used for any purpose.
- (7) "Radiation machine" is any device that produces radiation when in use.
- (8) "Radioactive material" includes any solid, liquid or gaseous substance which emits radiation spontaneously.
- (9) "Radiation source" means a radiation machine or radioactive material as defined herein.
- (10) "Source material" means any material except special nuclear material, which contains by weight 0.05 per cent or more of uranium, thorium, or any combination thereof.
- (11) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the atomic energy commission determines to be special nuclear material; or any material artificially enriched by any of the foregoing. Special nuclear material does not include source material.

History: 1963 c. 325.

140.53 Powers and duties. (1) The board and the commission shall:

- (a) Formulate, adopt and enforce, amend and repeal rules, including registration of sources of radiation, as may be necessary to prohibit and prevent unnecessary radiation. Such rules may incorporate by reference the recommended standards of nationally recognized bodies in the field of radiation protection and other fields of atomic energy, under the procedure established by s. 227.025.
- (b) Administer ss. 140.50 to 140.60 and the rules promulgated thereunder.
- (c) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration.
- (d) Advise, consult and co-operate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries.
- (e) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it deems necessary or advisable for the discharge of its duties under ss. 140.50 to 140.60.
- (f) Collect and disseminate health education information relating to radiation protection as it deems proper.
- (g) Review and approve plans and specifications for radiation sources submitted pursuant to rules promulgated under ss. 140.50 to 140.60; and inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard.

(2) The board and the commission may:

- (a) Enter, at all reasonable times, any private or public property for the purpose of investigating conditions relating to radiation control.

(b) Accept and utilize grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out its functions under ss. 140.50 to 140.60. Such studies, investigations, training and demonstration may be conducted independently, by contract, or in co-operation with any person or any public or private agency, including any political subdivision of the state.

History: 1963 c. 325.

140.54 Registration. (1) **APPLICATION.** Every radiation installation in this state, not exempted by this section or the rules of the board shall be registered by the board by January 1, 1964, by the person in control thereof, and no such radiation installation shall be operated thereafter unless it has been duly registered by January 1 of each year and a notice of such registration is possessed by the person in control. Every radiation installation established in this state after January 1, 1964, shall be registered prior to its operation. The application for registration shall be made on forms provided by the board which shall be devised to obtain any information that is considered necessary for evaluation of hazards. Multiple radiation sources at a single radiation installation and under the control of one person shall be listed on a single registration form and only one registration fee shall be required. Registration alone shall not imply approval of manufacture, storage, use, handling, operation or disposal of the radiation installation or radioactive materials, but shall serve merely to inform the board of the location and character of radiation sources. The board shall furnish the commission with a copy of each amended and new registration. Persons engaged in manufacturing, demonstration, sale, testing or repair of radiation sources shall not be required to list such sources on the registration form.

(2) **AMENDED REGISTRATION.** Whenever the person in control increases the number of sources, source strength, rated output or energy of radiation produced in any installation, he shall notify the board of such increase prior to operation on such revised basis, and such change shall be recorded in the registration. If any installation is discontinued, the person in control shall notify the board within 30 days of such discontinuance.

(3) **FEES.** An annual registration fee of \$5 shall be levied on every person in control of a radiation installation registering under this section. No additional fee shall be required for recording changes in the registration information.

(4) **EXEMPTIONS.** The board shall exempt from registration any source licensed by the atomic energy commission and may exempt from registration any source of radiation installation which the board finds to be without undue radiation hazard as determined by standards established by the national committee on radiation protection and measurements or any comparable nationally recognized agency established for the purpose of recommending standards for radiation protection, and after the initial registration may exempt from subsequent annual radiation requirements any source of radiation devoted primarily to industrial purposes.

History: 1963 c. 325, 459.

140.56 Advisory radiation protection council. (1) There is created an advisory radiation protection council to advise and consult in carrying out the administration of ss. 140.50 to 140.60 and in the development of rules. It shall provide the board with technical advice and assistance.

(2) The advisory radiation protection council shall consist of 9 members, 5 to be appointed by the board and 4 by the commission.

(3) The terms of office of all members of the advisory council shall be 3 years, except that in making the original appointments of the 5 members appointed by the board one shall be appointed to serve for terms of 1 year, 2 for 2 years and 2 for 3 years. Of the 4 members appointed by the commission 2 shall be for 1 year, 1 for 2 years and 1 for 3 years. All members shall serve after the expiration of their terms until their respective successors are appointed and qualified. Any vacancy occurring, whether by expiration of the term or otherwise, shall be filled by the appointing authority for the unexpired term.

(4) The chairman of the advisory council shall be elected by the members from among their membership. Five members of the advisory council shall constitute a quorum to transact its business.

(5) The advisory council shall meet as frequently as necessary but not less than once each year. Meetings shall be called by the chairman upon request of the board or 5 members of the advisory council.

(6) All members of the advisory council shall serve without compensation but shall be entitled to receive their actual and necessary expenses while serving as a council member.

History: 1963 c. 325.

140.57 Uniform code. The board shall, on the recommendation of the advisory council promulgate a radiation protection code. Other departments and agencies of state government and local governmental units may adopt the identical code, but no other codes or ordinances relating to this subject shall be promulgated or enacted.

History: 1963 c. 325.

140.58 Enforcement. (1) **NOTIFICATION OF VIOLATION AND ORDER OF ABATEMENT.** Whenever the board or commission finds, upon inspection and examination, that a source of radiation as constructed, operated or maintained results in a violation of ss. 140.50 to 140.60 or of any rules promulgated thereunder, it shall notify the person in control that is causing, allowing or permitting such violation as to the nature thereof and order that, prior to a specified time such person in control shall cease and abate causing, allowing or permitting such violation and take such action as may be necessary to have the source of radiation constructed, operated, or maintained in compliance with ss. 140.50 to 140.60 and rules promulgated thereunder.

(2) The board or commission shall issue and enforce such orders or modifications of previously issued orders as may be required in connection with proceedings under ss. 140.50 to 140.60. Such orders shall be subject to review by the board upon petition of the persons affected. Whenever the board or commission finds that a condition exists which constitutes an immediate threat to health due to violation of ss. 140.50 to 140.60 or any rule or order promulgated thereunder it may issue an order reciting the existence of such threat and the findings pertaining thereto. The board or commission may summarily cause the abatement of such violation.

(3) The state board of health shall enforce the rules pertaining to ionizing radiation in establishments principally engaged in furnishing medical, surgical, chiropractic and other health services to persons and animals. The industrial commission shall enforce the rules pertaining to ionizing radiation in industrial establishments. The board shall notify the commission and deliver to it a copy of each new registration and at such time a decision shall be made as to which state agency shall enforce the rules pertaining to ionizing radiation. The board and the commission are directed to consult with the advisory committee in case of jurisdictional problems.

(4) All orders issued pursuant to ss. 140.50 to 140.60 shall be enforced by the attorney general. The circuit court of Dane county shall have jurisdiction to enforce such orders by injunctive and other appropriate relief.

History: 1963 c. 325.

140.59 Impounding materials. The board or commission may impound or order the sequestration of sources of ionizing radiation in the possession of any person who is not equipped to observe or who fails to observe such safety standards to protect health as may have been established by rule.

History: 1963 c. 325.

140.595 Exceptions. (1) Nothing in ss. 140.50 to 140.60 shall be interpreted as limiting intentional exposure of persons to radiation for the purpose of analysis, diagnosis, therapy, and medical, chiropractic or dental research as authorized by law.

(2) Sections 140.50 to 140.60 shall not apply to on site activities of any nuclear reactor plant licensed or operated by the atomic energy commission.

History: 1963 c. 325.

140.60 Penalties. Any person who violates any provision of ss. 140.50 to 140.60 or any rule or order of the board or commission issued pursuant thereto shall forfeit and pay into the state treasury not less than \$10 nor more than \$500. Each day of continued violation after notice of the fact that a violation is being committed shall be considered a separate offense. Should injury or death of an employe ensue, due to a failure of an employer to observe or enforce any rule issued under ss. 140.50 to 140.60, compensation and death benefits shall be increased by 15 per cent as provided in s. 102.57.

History: 1963 c. 325.