

CHAPTER 141

LOCAL HEALTH OFFICIALS

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141.01 County health commission, committee or health care professional. (1) Unless a county has a county health department organized under s. 140.09 or the entire area of a county has local boards of health under s. 141.015, 141.02 or 141.04, or the county has a population of 500,000 or more, the county board may provide for a county health commission or a county health committee under sub. (10). A commission shall:

(b) Act in cities and villages which do not operate a board of health or have a health officer.

(1m) Any county authorized to provide for a county health commission or committee under sub. (1) but elects not to do so shall designate a health care professional to assume the powers and duties of a local health officer under ch. 143. The health care professional shall perform these powers and duties only in areas of the county outside of towns that elect to create a board of health under sub. (9). The person designated shall be a person licensed, permitted, registered or certified to provide health care under chs. 441 or 446 to 449, such as a physician, podiatrist, osteopath, physician's assistant, physical therapist, nurse, chiropractor, dentist, dental hygienist or optometrist.

(1r) (a) Notwithstanding subs. (1) and (1m), if a county has a population of 100,000 or more and the county board of that county has by July 1, 1985, abolished a county health commission or committee, the county board shall designate a county health officer.

(b) The county health officer designated under par. (a) shall:

1. Assume the powers and duties of a local health officer under ch. 143.

2. Have jurisdiction under this chapter over the areas of the county that do not have boards of health as provided under s. 141.01 (9) or (9m), 141.015 or 141.02 or a city health officer under s. 141.02 (2), except that the town, city or village that has failed to establish a board of health shall reimburse the county for the cost of services provided.

3. Meet the training and experience requirements established by the department.

(c) The county health officer designated under par. (a) may, by contract, acquire support staff to assist in the provision of services for which provision the officer is responsible under this chapter and ch. 143.

(2) Such commission shall consist of:

(a) One or more members of the county board; or

(b) Not less than 6 nor more than 8 members: One a member of the county board; 2 physicians practicing in the county to be selected from a list of 5 physicians submitted by the county medical society; one dentist practicing in the county to be selected from a list of 3 dentists submitted by the county dental society; one registered nurse with experience in community health practice; the remainder to be residents of the county who are known to have a broad social viewpoint and a serious interest in the health protection of their

community. The first appointee to serve one year; the second 2 years; the third 3 years; the fourth 4 years; the fifth 5 years; the sixth one year; the seventh, if any, 2 years; the eighth, if any, 3 years; and their successors shall each serve for 5 years.

(c) 1. Except as provided under subd. 2, the chairperson of the county board shall appoint the county health commission.

2. In any county with a county executive or county administrator, the county executive or county administrator shall appoint the county health commission, subject to confirmation by the county board. A commission appointed under this subdivision shall exercise only the policy-making functions specified for the commission under this section. A member of a commission appointed under this subdivision may be removed by the county executive or county administrator for cause.

(3) (a) 1. Except as provided under subd. 2, or unless the manner of appointment is otherwise provided for by ordinance, the commission shall elect a chairperson and shall designate a qualified public health professional, as specified by the department by rule, to fulfill the requirements of a local health officer under ch. 143 and a public health nurse to conduct general public health nursing programs under the direction of the commission and in cooperation with the department. The commission shall also designate a qualified public health professional, as specified by the department by rule, for the purposes of environmental sanitation and other public health programs not specifically designated by statute as functions of the public health nurse. The commission may employ one or more sanitarians under s. 140.45 (3) and shall coordinate the activities of any sanitarian employed by the county board. The commission is not required to designate different persons to perform these functions. The commission may arrange for the provision of services of a physician as necessary and may provide reasonable compensation therefor.

2. Notwithstanding subd. 1 and sub. (10), in any county with a county executive or a county administrator, the county executive or the county administrator shall appoint and supervise the officers designated by the county health commission under subd. 1. The appointments are subject to confirmation by the county board unless the county board, by ordinance, elects to waive confirmation or unless the appointments are made under a civil service system competitive examination procedure established under s. 59.07 (20) or ch. 63. Such health officers shall exercise any administrative power or duty specified for the commission under this section and ss. 101.01 (1) (f), 101.02 (7) (a), 120.13 (11), 141.10 (1) and (4), 146.13 (1) and 146.14 (3). Such health officers are subject only to the supervision of the county executive or the county administrator and the commission in a county with such health officers shall be only a policy-making body determining the broad outlines and principles governing the administration of county health programs.

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(b) The commission shall be supplied with materials needed to carry out its functions. Unless such materials are provided by the department, their costs shall be paid for by the county.

(4) The commission shall have jurisdiction over the areas of the county which do not have boards of health as provided in s. 141.015, 141.02 or 141.04.

(5) The commission shall take such measures as shall be most effectual for the preservation of the public health.

(6) The commission:

(a) May make an annual sanitary survey and maintain continuous sanitary supervision over the territory.

(b) May make a sanitary inspection periodically of all school buildings and places of public assemblage, and report thereon to those responsible for the maintenance thereof.

(c) Shall promote the spread of information as to the causes, nature and prevention of prevalent diseases, and the preservation and improvement of health.

(d) Shall take steps necessary to secure prompt and full reports of communicable diseases and prompt and full registration of births and deaths.

(e) Shall enforce the health laws and the rules of the department.

(f) Shall keep a record of all official acts.

(g) Shall report to the department as required.

(7) The commission has the powers vested in local boards of health under ss. 141.015, 141.02 and 141.04.

(8) No services shall be performed by the commission for any political subdivision in a county which does not contribute toward the support of the commission.

(9) If the county board does not provide for a county health commission or committee every town board of a town with a population exceeding 2,500 may, within 30 days after each election of officers, organize as a board of health or appoint wholly or partially from its own members, a suitable number of competent persons as a board of health for the town. The board of health shall elect a chairman, a clerk and a health officer who shall be a member of the board with voting power and its executive officer and take the oath of office. The health officer shall hold office for 2 years. The town board of health has the powers and duties authorized for the county health commission in this section. The health officer has the powers and duties of a local health officer under ch. 143.

(9m) If a county has a population of 100,000 or more and the county board of that county has by July 1, 1985, abolished a county health commission or committee, every town board of a town in that county may organize as a board of health or appoint wholly or partially from its own members, a suitable number of competent persons as a board of health for the town. The board of health shall elect a chairman, a clerk and a health officer who shall be a member of the board with voting power and its executive officer and take the oath of office. Except as provided in sub. (6) (d), the town board of health has the powers and duties authorized for the county health commission or committee in this section. Notwithstanding s. 141.015 (13), the person elected as health officer shall be a person licensed as a physician under ch. 448 or a person certified as a registered nurse under ch. 441.

(10) A county health committee created under this section shall consist of 5 or more members appointed by the chairperson of the county board, at least 3 of whom shall be county supervisors. Except as provided under sub. (3) (a) 2, the committee may employ one or more persons designated under sub. (3) (a), who shall have the powers and duties specified for a commission in subs. (1) and (3) to (7).

(11) The county board shall make an appropriation to fund the operation of any commission or committee created under this section.

History: 1977 c. 331; 1979 c. 34, 110; 1981 c. 291; 1981 c. 391 ss. 128, 210; 1983 a. 192 s. 303 (2); 1985 a. 29; 1987 a. 27; 1989 a. 31.

141.015 City and village boards of health. (1) Unless a county health commission is created under s. 141.01 and the village or city elects to come under the jurisdiction of the county health commission, the board or council of any village or city shall provide for a board of health. In such villages and cities the board or council shall appoint wholly or partially from its own members, a suitable number of competent persons as its board of health.

(2) "Health officer" as used in this chapter means the officer performing the duties thereof regardless of his designation.

(3) In case the board or council fails to appoint a board of health the county health commission or committee shall perform the health services in such village or city.

(4) Unless the manner of appointment is otherwise provided for by ordinance, the board of health shall elect a chairman, a clerk and a health officer who shall be a member of the board and its executive officer and take the oath of office. If a vacancy in the position of health officer occurs, the board of health shall immediately fill the position. The board shall immediately report to the department and the county health commission or committee except that in a county with a county executive or county administrator and a single county health department, to the head of the health department, the names, post-office addresses and occupations of the officers thereof, and any changes therein. The health officer shall receive an annual salary to be fixed by the city council or the village board and shall be reimbursed for actual and necessary expenses. If the appointee is not a physician, the board of health shall arrange for and provide in addition such services of a physician as may be necessary on either a part-time or full-time basis and provide reasonable compensation therefor.

(5) Whenever a health officer fails to perform the duties of his office and assist the department, the appointing board, either upon its own initiative or upon recommendation of the department, shall discharge such officer and immediately select a new officer.

(6) The board shall take such measures as shall be most effectual for the preservation of the public health.

(7) The board may appoint persons to aid them and regulate their charges.

(8) The health officer shall perform the duties specified in s. 141.01 (6).

(9) All record books, quarantine cards and other material needed by the board, except such as is furnished by the department, shall be supplied by the health officer at municipal expense, upon order of the board.

(10) The health officer and the clerk shall report to the department as required. They shall also submit a report of their transactions to the department.

(11) Physicians acting and receiving compensation as health officers in all cities and villages, except cities having a population of 25,000 or more, may also hold office as city physicians.

(13) In cities having a population of 39,000 or more the health officer shall be a physician, or a person with training and experience in public health administration which shall meet the training and experience requirements established by the department.

(13m) Notwithstanding sub. (13), for a village or city in a county that has a population of 100,000 or more and whose county board has by July 1, 1985, abolished a county health commission or committee, the health officer shall be a person licensed as a physician under ch. 448 or a person certified as a registered nurse under ch. 441.

(14) No part of any expense incurred by a county health commission or health officer appointed under s. 141.01 (3), shall be levied against any property in any city or village which operates its own board of health or has a health officer or provides health services jointly with another city or village under s. 141.04.

History: 1979 c. 34, 110; 1981 c. 291; 1983 a. 192; 1985 a. 29; 1987 a. 27; 1989 a. 31.

141.02 City health officer. (2) If so provided by local ordinance, the board of health may be dispensed with and the powers and duties thereof vested in a full-time health officer to be appointed by the mayor. Such health officer shall be a physician, or in lieu thereof, a person with training and experience in public health administration which shall meet training and experience requirements established by the department. The health officer shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases, and to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be reported to the council by him, and if the council approves the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation. He shall from time to time recommend to the council such sanitary measures, to be executed by the city as seem necessary, and shall discharge such other duties as may be imposed upon him by the council by ordinance or resolution.

(2m) Notwithstanding sub. (2), for a city in a county that has a population of 100,000 or more and whose county board has by July 1, 1985, abolished a county health commission or committee, the health officer appointed under sub. (2) shall be a person licensed as a physician under ch. 448 or a person certified as a registered nurse under ch. 441.

(3) The police and other civil officers and all citizens shall aid, to the utmost of their power, the health officer in the discharge of duties, and on the health officer's requisition the chief of police shall serve or detail one or more police officers to serve the notices issued by the health officer and to perform such other duties as the health officer requires.

(4) The officer may appoint assistants subject to confirmation by the mayor, and they shall receive such compensation as the council may fix.

(5) The commissioner of health of any 1st class city shall be appointed under s. 66.146. The commissioner shall appoint a deputy outside the civil service. The deputy shall file the official oath and the official bond in the amount and with the sureties directed by the common council. The deputy may perform all acts which the commissioner is authorized or required to perform. If the commissioner is absent or the office of the commissioner is vacant, the deputy shall act in the commissioner's place and is subject to the same liabilities and penalties. The commissioner of health and his or her deputy appointed under this subsection shall be physicians or, in lieu thereof, persons with training and experience in public health administration which meet training and experience requirements established by the department.

History: 1985 a. 29, 135; 1987 a. 27, 289, 410; 1989 a. 31.

141.04 Joint services. Towns, villages and cities jointly may provide health services as agreed upon under s. 66.30.

141.045 Public health nurses. (1) The qualifications of all public health nurses shall be prescribed by rules adopted by the department. All public health nurses shall be registered nurses. Practical nurses may be employed by health agencies under the supervision of a public health nurse to perform services for which licensed.

(3) Every agency employing one or more public health nurses shall submit a written report monthly of work done on prescribed forms to the department. The department shall examine the report and make recommendations for the improvement and the development of the nursing service. This subsection shall not apply to cities of the 1st class.

(4) The department shall recommend other record and report forms and notify the nurses where they can be purchased.

(6) This section shall not apply to school nurses, as defined in s. 115.001 (11), while acting in the employ of a public school.

History: 1971 c. 42; 1975 c. 115; 1977 c. 29 ss. 1157, 1157m, 1657 (18) (f); 1983 a. 189 s. 329 (17); 1985 a. 281; 1989 a. 56 s. 259.

141.05 Local public health nurses. (1) The local board of health or health officer may employ public health nurses within the limits of the appropriation made therefor by the municipality and such nurses shall possess the qualifications required by s. 141.045. They shall work under the direction of the board of health and health officer and shall conduct a generalized public health nursing program in cooperation with the department.

(2) Towns, villages and cities may employ public health nurses jointly, salary and other expenses to be paid jointly as agreed upon or in proportion to population.

A county health commission, with the consent of the property owner, can authorize its staff to enter private property for the purpose of determining the location of an existing private sewage disposal system. If consent of the property owner is not obtained, it can only be undertaken with a special inspection warrant obtained under 66.122. 63 Atty. Gen. 337

141.07 Dental clinics. Any county may establish and maintain a dental clinic or clinics to be operated under rules adopted by the county health committee or commission named under s. 141.01. Monthly reports shall be made by the director of the clinic or clinics under s. 141.045 (3) on blanks prescribed by the department.

History: 1977 c. 29; 1981 c. 291; 1983 a. 27.

141.10 Home nursing care. (1) AUTHORITY. County boards of supervisors or city councils may authorize their respective county health committee, commission or county or city board of health to establish programs of home nursing care, including rehabilitative nursing services, to employ additional nurses as provided in s. 141.045, and to collect fees for such services to ill or disabled persons. The county health committee, commission or board of health authorized to establish a program of home nursing care shall develop a plan of operation in consultation with a representative of the department and the county medical society. The representatives of the department and county medical society shall be invited to provide advice and guidance on the operation of the program. Home nursing care shall be provided under the direction of a licensed physician of the patient's choice.

(2) FEES FOR NURSING CARE ONLY. A fee may be established and collected only for nursing care to the sick in their place of residence. Visits for health instruction and supervision, when counseling or demonstration care only are indicated, shall be given without charge as part of the established program of public health nursing.

(3) FEE SCHEDULE. A schedule of fees shall be established:

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(a) As a result of a cost study conducted at least every 3 years and filed as required with the department after approval by the county board or city council; or

(b) By the adoption of a schedule of fees established by the department from information gathered by it.

(4) CHARGES. Persons receiving such home nursing care shall not be charged fees in excess of the scheduled costs, and shall be charged according to their ability to pay full or part costs as determined by the policy of the county health committee, commission or board of health. No person shall be denied necessary services, within the limits of available personnel, because of inability to pay the cost of such service. The county board or city council shall determine the procedure for collecting and depositing fees and auditing receipts.

(5) CONTRACTS WITH OTHERS. Any county or city health department or nursing service authorized to establish a plan of home nursing care may contract with public, private or voluntary agencies to provide home nursing care to clients of such agencies.

(6) GIFTS AND GRANTS. Counties and cities under this plan may accept grants, bequests and gifts for the development and expansion of home nursing services to patients.

History: 1981 c. 291.

Finance committee of county board probably has right to inspect applications of persons seeking home nursing care. 60 Atty. Gen. 422.

141.15 Licensing and regulation of home health agencies.

(1) DEFINITIONS. As used in this section, unless a different meaning appears from the context:

(a) "Home health agency" means an organization that:

1. Primarily provides skilled nursing and other therapeutic services;

2. Has policies established by a professional group including at least one physician and at least one registered nurse to govern services, and provides for supervision of these services by a physician or a registered nurse; and

3. Maintains clinical records on all patients.

(b) "Home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in subd. 6, provided on a visiting basis in a place of residence used as such individual's home:

1. Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

2. Physical or occupational therapy or speech-language pathology;

3. Medical social services under the direction of a physician;

4. Medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

5. In the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under an approved teaching program of such hospital; and

6. Any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or extended care facility, or at a rehabilitation center which meets such standards as may be prescribed by rule, and a) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or b) which are furnished at such facility while he is there to receive any such

item or service, but not including transportation of the individual in connection with any such item or service.

(c) "Patient" means individuals cared for or treated by home health agencies.

(2) RULES. (a) The department may develop, establish and enforce standards for the care, treatment, health, safety, welfare and comfort of patients by home health agencies and for the maintenance and operation of home health agencies which, in the light of advancing knowledge, will promote safe and adequate care and treatment of such patients by home health agencies.

(b) The department shall, by rule, set a license fee to be paid by home health agencies. The fee for license renewal shall be based on the annual net income, as determined by the department, of a home health agency.

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

(4) LICENSING, INSPECTION AND REGULATION. The department may register, license, inspect and regulate home health agencies as provided in this section. The department shall ensure, in its inspections of home health agencies, that a sampling of records from private pay patients are reviewed. The department shall select the patients who shall receive home visits as a part of the inspection. Results of the inspections shall be made available to the public at each of the regional offices of the department.

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

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

(6) ISSUANCE OF LICENSE; INSPECTION AND INVESTIGATION; ANNUAL RENEWAL; NONTRANSFERABLE; CONTENT. (a) The department shall issue a license if the applicant is fit and qualified, and if the home health agencies meet the requirements established by this section. The department, or its designated representatives, shall make such inspections and investigations as are necessary to determine the conditions existing in each case and file written reports.

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

(c) Each license shall be issued only for the home health agency named in the application and shall not be transferable or assignable. If application for renewal is not so filed, such license is automatically canceled as of the date of its expiration. Any license granted shall state such additional information and special limitations as the department, by rule, prescribes.

(7) DENIAL, SUSPENSION OR REVOCATION OF LICENSE; NOTICE. The department after notice to the applicant or licensee is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements of this section and the rules established hereunder.

(8) FAILURE TO REGISTER OR OPERATING WITHOUT LICENSE; PENALTY. It is unlawful for any person, acting jointly or severally with any other person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in the conducting, maintenance or operating of a home health agency, unless, it is licensed as a home health agency by the department. Any person who violates this section shall be

fined not more than \$100 for the first offense and not more than \$200 for each subsequent offense, and each day of violation after the first conviction shall constitute a separate offense.

(9) RIGHT OF INJUNCTION. All orders issued by the department pursuant to s. 141.15 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.

(10) PROVISIONAL LICENSES. A provisional license if approved by the department may be issued to any home health agency, the facilities of which are in use or needed for patients, but which is temporarily unable to conform to all the rules established under this section. A provisional license may not be issued for more than one year.

History: 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316.