

CHAPTER 146.

MISCELLANEOUS HEALTH PROVISIONS.

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

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

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

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

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

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

History: 1965 c. 372.

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

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

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

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

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

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

Cross Reference: See 103.44 which requires that home manufacturers obtain a permit from the industrial commission.

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

(2) Any person upholstering or reupholstering any article, or who manufactures for sale, offers for sale, sells or delivers, or who has in his possession with intent to sell or deliver anything containing upholstering, without a brand or label as herein provided or who removes, conceals or defaces the brand or label, shall be punished as provided in subsection (1). The brand or label shall contain, in plain print in English, a statement of the kind of materials used in the filling and in the covering, according to the grades of filling and covering used by the trade, whether they are in whole or in part new or secondhand, and the qualities, and whether, if secondhand, they have been thoroughly cleaned and disinfected. Such brand or label shall be a paper or cloth tag securely attached.

(3) If the industrial commission believes this section is being or has been violated, it shall advise the attorney-general, giving the grounds of its belief; and the attorney-general or, under his direction, the district attorney, shall forthwith institute proceedings for enforcement and punishment.

146.05 Public places. The owner and occupant and everyone in charge of a public building, as defined by section 101.01, shall keep the same clean and sanitary.

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

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

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

146.08 Spitting; cuspidors; flasks. (1) Spitting upon the sidewalk or crosswalk of any public place, or upon the floor of any tenement house hall used in common, hotel or lodging house hall or office used in common, factory, any building used by the public,

railroad car or street car, or upon the station platform of a common carrier, is forbidden.

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

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

(4) When ordered by the local health board, the owner, occupant or person in charge of any public or quasi public building shall furnish and efficiently place cuspidors, and thoroughly cleanse and disinfect them daily, when the building is in ordinary use. An efficient number and type of cuspidors and system of cleansing and disinfecting may be prescribed by the board.

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

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

146.085 Toilets, penalty for locking. If the owner or manager of any public building, other than licensed hotels and resorts, as defined in subsection (12) of section 101.01, shall keep more than fifty per centum of the toilet compartments of any public toilet room locked, he shall be fined not less than ten nor more than fifty dollars. It shall be the duty of the state board of health, the industrial commission and the public service commission to enforce the provisions of this section within their respective jurisdictions.

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

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

146.125 Powers of villages, cities and towns. The provisions of s. 97.07 shall not be construed as a limitation upon cities, villages and towns to license and regulate the construction, operation and maintenance of slaughterhouses or to prohibit the same nor shall the provisions of s. 95.72 be construed as depriving any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries specified in s. 66.052 nor as nullifying any existing law or ordinance prohibiting the rendering of dead animals within such area, nor prohibiting any city or village from licensing, revoking such license, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than provided by said section and the rules of the department of agriculture and any such licensing and regulation shall be construed as supplementary to the provisions of this section and the rules of the department shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the department. The provisions of s. 95.72 shall be expressly construed as modifying the powers granted to towns and any city, village or town is empowered to take any action to be taken under the provisions of s. 146.14 and to institute and maintain court proceedings to prevent, abate or remove any nuisances thereunder and to institute and maintain any action under provisions of ss. 280.01, 280.02 and 280.07.

History: 1961 c. 191 s. 109; 1961 c. 622.

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

the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and he shall collect the same as prescribed in ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance shall also be fined not exceeding \$300 or imprisoned not exceeding 90 days, or both.

(2) No person shall discharge by any means whatsoever untreated domestic sewage into any surface water as defined by s. 144.51 (1), or drainage ditch governed by ch. 88; nor shall any person discharge effluents or pumpage by any means whatsoever from any septic tank, dry well or cesspool into any surface water as defined by s. 144.51 (1), or drainage ditch governed by ch. 88. Whoever violates this subsection shall be fined not to exceed \$50 for the first offense and not less than \$50 nor more than \$200 or imprisoned 30 days, or both, for each subsequent offense.

History: 1963 c. 572.

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

(2) If a nuisance, caused by improper sewerage disposal facilities, is found on private property the local health officer or the chairman of the local board of health shall notify the owner and the occupant of such property by registered mail with return receipt requested of the presence of such nuisance and order its abatement or removal within 30 days of receipt of notice. The officer shall also notify the local governing body of the nuisance. If the nuisance is not corrected by that date, the local governing body shall immediately enter upon the property and abate or remove the nuisance or may contract to have the work performed. The nuisance shall be abated in a manner which is approved by the state board of health. The cost thereof may be recovered from the person permitting such violation or may be paid by the municipal treasurer and such account, after being paid by the treasurer, shall be filed with the municipal clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed "For Abatement of a Nuisance" as a special tax on the lands upon which such nuisance was abated, which tax shall be collected as are other taxes. In case of railroads or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the clerk to the state treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the land specified, and he shall collect the same as prescribed in ch. 76 and return the amount collected to the town, city or village from which such certificate was received. Anyone maintaining such a nuisance may also be fined not more than \$300 or imprisoned not more than 90 days or both. The only defenses an owner shall have against the collection of a tax under this subsection are that no nuisance existed on his property, that no nuisance was corrected on his property, that the procedure outlined in this subsection was not followed or any applicable defense under s. 74.135. If a nuisance resulted from any other cause or source, the local board of health or town sanitary district commission shall order its abatement within 24 hours, and if the owner or occupant fails to comply, he shall forfeit not less than \$25 nor more than \$100, and the board or commission may abate or remove the nuisance.

(3) If the local board of health or commission be refused entry to any building or vessel to examine into and abate, remove or prevent a nuisance, any member may complain under oath to a justice of the peace, whether or not such justice be a member of the board or commission, stating the facts in his knowledge and the justice shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by 2 or more of the board of health or commission, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance.

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

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

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

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

History: 1963 c. 364.

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

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

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

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

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

(3) The state board of health shall use sufficient funds from the appropriation now made by s. 20.410 (1) (a) for the promotion of the welfare and hygiene of maternity and infancy to match the funds received by the state from the United States under the provisions of such act of congress.

History: 1961 c. 191; 1965 c. 433.

146.19 Certification of migrant labor camps. (1) **DEFINITIONS.** In this section:

(a) "Board" means the state board of health, and any action required under this section, to be taken by the board, may be taken by its officers, employes or authorized agents.

(b) "Person" means an individual or group of individuals, association, partnership or corporation.

(c) "Migrant labor camp" means the site and all structures maintained as living quarters for 6 or more seasonal or migrant agricultural, industrial or construction workers by any person or for him or under his control and supervision.

(2) **APPLICATION.** (a) *Application to operate.* Every person maintaining a migrant labor camp shall annually by April 1 or 30 days prior to the opening of a new camp make application to the board to operate. Each such application shall be accompanied by a nonreturnable application fee of \$5 which shall be deposited within one week in the general fund.

(b) *Inspection.* The board shall administer and enforce this section and its rules relative to migrant labor camps and for these purposes may during reasonable, daylight hours enter and inspect such camps. No agent or employe of the board shall enter the premises of such camp for inspection purposes until he has given notice to the owner or to the person in responsible charge of such camp that he intends to make such inspec-

tion. Such agent or employe may also enter public or private property to determine whether there exists any camp to which this section applies, upon such notice.

(c) *Certificate.* The board shall inspect each such camp for which application to operate is made to determine if it is in compliance with the adopted rules for migrant labor camps. If the board finds that the camp is in compliance with the rules, it shall issue a certificate authorizing the camp to operate for one year.

(d) *Conditional permit.* If the board finds that the camp is not in compliance with the rules, it shall issue a conditional permit setting forth the defects which must be remedied and establish a date not to exceed 3 years hence for compliance.

(e) *Suspension or revocation.* The board may at any time suspend or revoke a certificate or a conditional permit if the operator fails to maintain a migrant labor camp in accordance with rules or fails to show progress in meeting the terms of a conditional permit. If a certificate or conditional permit is suspended, the order of suspension shall set forth the cause of the suspension and the date by which the conditions causing the suspension must be remedied. If the operator fails to remedy the condition listed within the time allotted, the certificate or conditional permit shall be revoked.

(f) *Operation.* Only certified camps or those having conditional permits may operate in this state. The board shall order the immediate closing of all other camps. A violation of any such order shall be deemed a public nuisance. All orders shall be enforced by the attorney general. The circuit court of any county where violation of such an order has occurred in whole or in part shall have jurisdiction to enforce the order by injunctive and other relief appropriate to the enforcement of the order.

(g) *Late registration.* Any person who fails to make application to operate an existing camp by April 1 or within 30 days prior to the opening of a new camp shall pay a late application fee of \$10 instead of the regular application fee; and shall also be subject to the penalty under sub. (3).

(3) **PENALTIES.** Any person violating this section or any rule of the board relating to migrant labor camps may be fined not less than \$10 nor more than \$100 for each offense, except that in the case of a wilful violation the maximum shall be \$250 for each violation. Each day of continued violation shall be deemed a separate offense.

History: 1961 c. 470; 1965 c. 138.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) **AUTHORITY TO SUSPEND OR REVOKE LICENSES.** The board may and upon written complaint shall make investigations and conduct hearings and may suspend or revoke any license if the board finds that the licensee has:

(a) Failed to execute, deposit and maintain a surety bond.
 (b) Made a material misstatement in the application for license or any application for a renewal thereof.

(c) Demonstrated incompetency to conduct the business.
 (d) Violated any provisions of this section or any rule prescribed by the board.

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

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

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

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

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

(e) "Board" means the state board of health as that term is defined in s. 140.01.

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

(2) **STANDARDS.** The board shall have the power to develop, establish and enforce standards (a) for the care, treatment, health, safety, welfare and comfort of patients in nursing homes and (b) for the construction, general hygiene, maintenance and operation

of nursing homes, which, in the light of advancing knowledge, will promote safe and adequate accommodation, care and treatment of such patients in nursing homes; and to promulgate and enforce rules consistent with the provisions of this section.

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

(4) LICENSING, INSPECTION AND REGULATION. The board is empowered to register, license, inspect and regulate nursing homes as provided in this section.

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

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

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

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

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

(7) DENIAL, SUSPENSION OR REVOCATION OF LICENSE; NOTICE. The board 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) ADVISORY COMMITTEE. (a) The board shall appoint an advisory committee to advise and consult in the establishment and review of minimum standards and rules for carrying out this section. The committee shall consist of the state health officer and the director of public welfare, or their designated representatives, and 10 additional members, residents of the state, and shall include 4 persons of recognized ability in nursing home administration selected to represent the various types of nursing homes and 6 persons of recognized ability in the fields of hospital administration, medicine, nursing, social services and persons with broad civic interests representing the general public.

(b) Of the 10 appointed members, all shall be appointed for terms of 3 years each, except when appointed to complete an unexpired term. Members whose terms expire shall hold office until the appointment and qualification of their successors. The state health officer, or his representative, shall serve as chairman or secretary of the committee, as the members may choose, and all other officers shall be elected annually.

(c) Committee members, with the exception of the state health officer and the director of the department of public welfare, or their designated representatives, while serving on business of the committee, shall receive compensation at the rate of \$10 per day, plus actual and necessary travel and subsistence expenses while so serving away from their places of residence.

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

(9) FAILURE TO REGISTER OR OPERATING WITHOUT LICENSE; PENALTY. It shall be unlawful for any person, acting jointly or severally with any other person, to conduct, maintain, operate, or permit to be maintained or operated, or to participate in the conducting, maintenance or operating of a nursing home, unless within 60 days after August 12, 1951, it is registered with the board, or unless after June 30, 1952, it is licensed as a nursing home by the board. Any person who shall violate this section shall

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

(10) **RIGHT OF INJUNCTION.** Notwithstanding the existence or pursuit of any other remedy, the board may, in the manner provided by law, upon the advice of the attorney general, who shall represent the board in all proceedings, maintain an action in the name of the state for injunction or other process against any person or agency to restrain or prevent the establishment, conduct, management or operation of a nursing home without a license or without being registered.

(11) **PROVISIONAL LICENSES.** A provisional license if approved by the board may be issued to any nursing home, the facilities of which are in use or needed for patients, but which is temporarily unable to conform to all the rules established under the provisions of this section. A provisional license may not be issued for more than one year; no provisional license shall be in effect prior to June 30, 1952.

(12) **ACCREDITED NURSING HOMES.** Nursing homes operating at a standard above the minimum required for licensing as contemplated under this section may be determined by the board to be "Accredited Nursing Homes", and their names listed in a book maintained for that purpose by the board.

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

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

History: 1963 c. 187; 1965 c. 168.

The board may adopt separate rules for the license and name of such nursing home. The regulation of different types of nursing homes and such distinction may appear in 52 Atty. Gen. 121.

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

History: 1965 c. 213.