

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by
the
Publisher's
Editorial Staff

MINNESOTA STATE LAW LIBRARY

MASON PUBLISHING CO.
SAINT PAUL 1, MINNESOTA

1944

~~PROPERTY OF
MAHONIN LAW LIBRARY
ASSOCIATION~~

who are eligible for the benefits provided for in this act. At the end of each semester or term, each institution shall certify one of such lists certified to such institution by the Commissioner Veterans' Affairs, showing the period each student listed thereon has attended and the proportion and amount of tuition applicable to such semester or term, and file the same with the Commissioner of Veterans' Affairs, who shall check such lists and, if correct, authorize payment of the amounts due thereon in the manner provided by law. (Act Apr. 24, 1943, c. 663, §5.) [360.015]

4397-27i. Commissioner of Veterans' Affairs to employ assistants.—Subdivision 1. The Commissioner of Veterans' Affairs is hereby empowered to employ such assistance and to incur such other expense as may be necessary for the administration and the carrying out of the provisions of this act. The funds necessary for the administration and carrying out of the provisions of this act including the subsistence of the members of the advisory committee and their traveling expenses at the rate of 15 cents per mile, shall be expended from the War Veterans Fund.

Subd. 2. The state department of civil service shall establish a special register in the classified service of the state from which may be certified the employees engaged in the administration of this act.

No person, other than technically trained or highly skilled persons shall be placed on the special register, unless he is a soldier as defined in this act or a veteran as defined by Section 254-79, Mason's Minnesota Supplement 1940. The Commissioner of Veterans' Affairs, whenever he deems it practicable, shall employ in the administration of this act persons certified from the special register provided for herein. Pending the establishment of the special register, the Commissioner of Veterans' Affairs may employ temporary employees, but he shall so far as practicable employ a soldier as defined in this act. (Act Apr. 24, 1943, c. 663, §6.) [360.016]

4397-27j. How expended.—Subdivision 1. Except as provided in Subdivision 2 hereof, all money expended hereunder shall be subject to laws 1939, Chapter 431, as amended.

Subd. 2. Money appropriated by this act shall not be cancelled into the general revenue fund until the purposes of this act shall have been fully and completely accomplished. When the purposes of this act have been fully and completely accomplished, the Commissioner of Veterans' Affairs shall certify that fact to the state auditor. (Act Apr. 24, 1943, c. 663, §7.) [360.017]

CHAPTER 25

Board of Control and Charities Under Its Exclusive Management

THE BOARD

4401-11. Direct relief, veteran relief, work and employment relief, etc.

Veteran's relief may be handled on a cash grant basis instead of the prevailing relief order base, in a discretion of the commissioner of veteran's affairs. Op. Atty. Gen. (310s), June 29, 1943.

4406-1. New employees of state institutions, etc.
[Repealed.]

Repealed. Laws 1941, c. 479.

4406-2. Same—Infected employees to be treated.
[Repealed.]

Repealed. Laws 1941, c. 479.

Employee may use accumulated sick leave prior to application for hospitalization, and application need not be made immediately upon evidence of necessity thereof. Op. Atty. Gen. (644), June 4, 1940.

Hospitalization may be provided by state under Laws 1939, c. 116, during same period of time that employee is receiving salary or sick leave allowance under a rule of the civil service director. Id.

Employee of state hospital contracting tuberculosis in line of duty need not use his accumulated sick leave as a classified employee before hospitalization is used under Laws 1939, c. 116, but must use his accumulated sick leave before continued payment for sick leave and a full or partial rate permitted under civil service rule. Id.

Where an employee has contracted tuberculosis in line of his employment and is being hospitalized at expense of his department and is carried on department's pay-roll on a leave of absence with pay, deductions for retirement fund should be based only on amount of salary employee is actually receiving, and money paid for hospitalization is no part of salary. Op. Atty. Gen. (331a-12), Jan. 15, 1941.

4406-3. Same—Who are eligible for treatment.
[Repealed.]

Repealed. Laws 1941, c. 479.

4406-4. Examination of new employees for tuberculosis.—After the effective date of this act no new employee shall be given employment in any state institution under the direction of the Division of Public Institutions, Department of Social Security, whether certified for such employment by the State Civil Service Department or otherwise selected, unless such person presents to the appointing officer of such institution a

certificate showing that he or she has undergone the physical examination hereinafter provided for and has been found to be free of tuberculosis. (Act Apr. 26, 1941, c. 479, §1.) [246.27]

Those who are presently well but who have had tuberculosis are not disqualified. Op. Atty. Gen. (611a-8), Oct. 30, 1941.

Whether an arrested tuberculosis case is one "free from tuberculosis" is a medical question. Op. Atty. Gen. (88a-19), Apr. 1, 1942.

4406-5. Same—Report by examining physician.—

Such physical examination shall include an X-ray examination of the lungs and such additional special diagnostic tests for the detection of the presence of tuberculosis as shall be set up in regulations of the State Board of Health in cooperation with said Division of Public Institutions. Such examination shall be made by a licensed physician and surgeon, who shall report in writing to the superintendent of the institution in which the employment is contemplated on a form set up by said Division of Public Institutions in cooperation with the State Board of Health showing the presence or absence of tuberculous infection and disease based upon such examination. (Act Apr. 26, 1941, c. 479, §2.) [246.28]

4406-6. Employee contracting tuberculosis—Claim with Industrial Commission.—

Whenever the superintendent of any state institution under the direction of the Division of Public Institutions learns that any employee of such institution whose duties brought such employee in direct contact with inmates therein who were known to be afflicted with tuberculosis has contracted and become ill from tuberculosis while employed in such institution, he shall report such illness to the director of the Division of Public Institutions, who shall, in turn, report the same to the Industrial Commission. The Industrial Commission, upon receiving such report, shall mail to the superintendent of such institution blank forms for a petition to be filled out by such employee claiming the medical and

sanatorium treatment and compensation hereinafter provided for. The Industrial Commission shall thereupon set the claim for a hearing and determination in the same manner as claims of other state employees under the workmen's compensation law are heard and determined. (Act Apr. 26, 1941, c. 479, §3.) [246.29]

Op. Atty. Gen. (523g), Nov. 12, 1941.
By accepting the appropriation made by Laws 1941, Chapter 537, §85, claimant is barred from claiming compensation under Laws 1941, c. 479. *Wolner v. State*, 213M 96, 5NW(2d)67. See Dun. Dig. 10388.
Employee receiving compensation is not on leave of absence within meaning of civil service act. Op. Atty. Gen. (644D), Jan. 28, 1942.
Whether or not a person will be said to have contracted tuberculosis while employed within an institution is a pure question of fact for industrial commission. Op. Atty. Gen. (88a-19) Apr. 1, 1942.

4406-7. Employee's admission to sanatorium.—If, upon the evidence produced at such hearing, the Industrial Commission finds that such employee is suffering from tuberculosis contracted in such institution by contact with tuberculous inmates therein, it shall order the director of the Division of Public Institutions to apply for the admission of such employee to the state sanatorium for consumptives or some county tuberculosis sanatorium. The Department of Social Security shall pay, out of funds heretofore or hereafter appropriated for aid to or maintenance of county tuberculosis sanatoria, to the state sanatorium for consumptives or the county tuberculosis sanatorium where said patient may be received the same fee for the maintenance and care of such person as is received by said state sanatorium for consumptives or said county tuberculosis sanatorium for the maintenance and treatment of a non-resident patient. The Industrial Commission shall also order payment to such employee from the State Compensation Revolving Fund two-thirds of his salary during the period of his disability, not, however, to exceed 65 weeks. All such compensation payments made from said State Compensation Revolving Fund shall be reimbursed by the Department of Social Security in the same manner as now required of other state departments by law. (Act Apr. 26, 1941, c. 479, §4.) [251.04]

Where industrial commission ordered department of social security to pay for cost of maintenance of an employee of the St. Peter State Hospital in the Walker Sanatorium, but a county actually made the payments, it is duty of department of social security to reimburse the county. Op. Atty. Gen. (611a-8), Apr. 8, 1942.

4406-8. Continuation of benefits.—All employees of state institutions under the direction of the Division of Public Institutions who are now receiving benefits under Laws 1939, chapter 116, shall continue to receive such benefits, and in addition thereto shall, beginning with May 1, 1941, be paid compensation with the same limitations as employees of such institutions who become beneficiaries of this act. (Act Apr. 26, 1941, c. 479, §5.) [251.05]

Employees receiving benefits under Laws 1939, c. 116, will continue to receive such benefits under this act for a period of 65 weeks beginning May 1, 1941, regardless of length of time they have previously been receiving care and compensation, without any consideration of payments made to them, subject to limitation that this act refers only to employees of state institutions under direction of division of public institutions. Op. Atty. Gen., (523g), May 21, 1941. See 25MinnLawRev261, 269-274.

4406-9. Repealed.—Laws 1939, chapter 116, is hereby repealed. (Act Apr. 26, 1941, c. 479, §6.)

4406-10. Time of taking effect.—This act shall take effect and be in force from and after its passage. (Act Apr. 26, 1941, c. 479, §7.)

4419. Supervision over paroled patients from certain institutions—Etc.

Under current appropriation act parole expenses incurred on account of inmates of hospitals for the insane, school for feeble-minded, and colony for epileptics, including compensation of parole agents, are to be paid from current expense fund of the respective institutions. Op. Atty. Gen., (640), Dec. 5, 1939.

4421. Surgical operations.

"Next of kin" who may consent to operation are the spouse, children, parents, brothers or sisters, in the order named. Op. Atty. Gen., (88a-27(e)), April 3, 1940.

4422-1. Sterilization by vasectomy or tubectomy—Etc.

Responsibility for selecting proper persons to examine patients, for causing sterilization operation upon the feeble-minded, and for consenting thereto is imposed upon director of social welfare. Op. Atty. Gen., (679J), Dec. 22, 1939.

Married woman in state institution at Faribault, which will not release her until operation is performed, may not be operated upon without husband's consent, though he has commenced an action for divorce which he has not completed because he probably desires his wife to remain in the institution, and other relatives of wife may not supply that consent. Op. Atty. Gen. (679L), Sept. 25, 1941.

There being no spouse, operation may be performed with consent of mother of girl and without consent of father who has been convicted of incest with the girl. Op. Atty. Gen. (679J), Dec. 19, 1941.

One committed to guardianship of state board of control is feeble-minded may be sterilized though she has married. Op. Atty. Gen. (679k), June 16, 1943.

4422-2. Same—Insane persons in state hospitals; etc.

If mother of patient refuses to consent, father may consent, and if there is no father, nearest blood relatives may consent, and, since the statute is in the alternative, duly appointed guardian of patient may consent. Op. Atty. Gen. (679J), Dec. 15, 1942.

4438. Transfers—Questionable commitments.

An inebriate may not be transferred to hospital for insane without a new proceeding for commitment. Op. Atty. Gen. (248B-6), Dec. 17, 1940.

4439. Money of inmates.

Though purchases for inmates at state prison and state reformatory are made by division of purchases of department of administration, requirement of reorganization act of competitive bidding is not applicable, stores being owned and operated by inmates. Op. Atty. Gen. (980B-22), July 10, 1940.

An inmate in a penal institution may be advanced money deposited with warden to employ attorneys to present case to parole or pardon board in the discretion of the director of division of public institutions, bearing in mind long established policy of giving accused an opportunity to present his case through counsel. Op. Atty. Gen. (342B), Oct. 2, 1941.

4440. Unclaimed money of inmates of state institutions.

Funds belonging to a patient who dies at a state hospital belong to the estate of the deceased and can only be paid to a person appointed representative of that estate, and cannot be paid to a mere relative who claims it. Op. Atty. Gen. (349h), Sept. 10, 1942.

4441. Disposition of funds.

Earnings from operation of rock crushing plant at Rochester State Hospital must be paid to state treasurer and not used as revolving fund. Op. Atty. Gen. (454e), Nov. 5, 1942.

4447. Persons admissible to institutions.

A person coming from another state and committed to state hospital as an insane person may acquire settlement while on parol and not supported by the state. Op. Atty. Gen. (248b-4), June 10, 1942.

Director of public institutions may not sign an agreement between the state of Washington and the state of Minnesota for exchange of persons suffering from mental disease and defects or epilepsy, which agreement attempts to define the term "resident" and to determine many things which are determined by law. Op. Atty. Gen. (248b-7), June 16, 1943.

4448. Additional powers.

Powers of Board of Control in relation to supervision of jails and lockups have been transferred to the Director of Public Institutions. Op. Atty. Gen. (127b), Feb. 16, 1943.

4448-1. Use of appropriations.

Disposition of certain lapsed appropriations. Op. Atty. Gen., (640), Dec. 8, 1941.

4451. Indigent blind infants—Duties of board of control.

A blind child is subject to compulsory education law, and it is duty of county attorney to bring appropriate proceedings to compel parents to send a blind child to the state school for the blind. Op. Atty. Gen., (482a), Dec. 6, 1939.

ILLEGITIMATE CHILDREN

4454. Board of control may have legal guardianship of children. [Repealed.]

Repealed. Laws 1941, c. 159.
Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

4460. Expenses of members and agents.

Social welfare board may reimburse agents for traveling expenses but may not purchase automobile to be furnished to its agents at county expense. Op. Atty. Gen. (125A-64), Dec. 22, 1943.

SOCIAL SERVICE

4463. To be deposited in state treasury.

Commodity Stamp Fund should be deposited by stamp issuing officer with depository designated by county welfare board. Op. Atty. Gen. (140A-7), Aug. 8, 1941.
Commodity stamp funds. Op. Atty. Gen. (140a-7), Dec. 22, 1941; note under §3199-114.

County welfare board may withdraw funds which it has deposited in a local bank bearing federal deposit insurance, such withdrawals being for purpose of disbursements contemplated by statute. Op. Atty. Gen. (125A-64), Mar. 9, 1942.

4464. Social Welfare Fund — Use — Disposition—Depositories.—The Director of Social Welfare and the Director of Public Institutions at least thirty days before the first day of January and the first day of July in each year shall file with the state treasurer an estimate of the amount of the social welfare fund to be held in the treasury during the succeeding six months' period, subject to current disbursement. Such portion of the remainder thereof as may be at any time designated by the request of the Director of Social Welfare and the Director of Public Institutions may be invested by the state treasurer in bonds in which the permanent trust funds of the State of Minnesota may be invested, upon approval by the state board of investment. The portion of such remainder not so invested shall be placed by the treasurer at interest for the period of six months, or when directed by the Director of Social Welfare and the Director of Public Institutions, for the period of twelve months thereafter at the highest rate of interest obtainable in a bank, or banks, designated by the board of deposit as a suitable depository therefor. All the provisions of law relative to the designation and qualification of depositories of other state funds shall be applicable to this act except as herein otherwise provided. Any bond given, or collateral assigned or both, to secure a deposit hereunder may be continuous in character to provide for the repayment of any moneys belonging to the fund theretofore or thereafter at any time deposited in such bank until its designation as such depository is revoked and the security thereof shall be not impaired by any subsequent agreement or understanding as to the rate of interest to be paid upon such deposit, or as to time for its repayment. The amount of money belonging to the fund deposited in any bank, including other state deposits, shall not at any time exceed the amount of the capital stock thereof. In the event of the closing of the bank any sum deposited therein shall immediately become due and payable. (As amended Mar. 30, 1943, c. 236, §1.)

4467-1. Director of Social Welfare to take possession of estates in certain cases.—In any case where the guardianship of the person of any defective, illegitimate, dependent, neglected or delinquent child, has been committed to the director of social welfare, and in any case where the guardianship of the person of any feeble-minded or epileptic person has been committed to the director of public institutions, and such person's estate shall consist only of personal property not exceeding in value the sum of \$1,000, and there shall be no guardian of the estate of such person, the probate court having jurisdiction of such estate may

on such notice as the court may direct and upon notice to the director to whose guardianship said person has been committed, authorize such director to take possession of the property in such estate, liquidate the same, and hold the proceeds thereof in trust for such ward, to be invested, expended and accounted for as provided by Mason's Minnesota Statutes of 1927, Sections 4462, 4463, 4464, 4465, 4466 and 4467, and acts amendatory thereof. (As amended Apr. 24, 1943, c. 612, §4.)

Guardian of person and estate of a married insane woman committed to a state institution has no legal authority to dictate a policy of administration to director of division of public institutions as affecting temporary releases of patient. Op. Atty. Gen. (248a-2), Apr. 29, 1942.

4467-2. Director of Social Welfare to file annual report with Probate Court.—The director of social welfare and the director of public institutions shall annually or at such other times as the probate court may direct file with the court an account of moneys received and disbursed by each of them for their respective wards, pursuant to Mason's 1940 Supplement, Section 4467-1. Upon petition of the ward or of any person interested in such estate and upon notice to the director to whose guardianship such ward has been committed, the probate court may terminate such trust and require final accounting thereof. (As amended Apr. 24, 1943, c. 612, §5.)

STATE TRAINING SCHOOL

4470. Location and management.

Act Mar. 13, 1941, c. 63, authorizes sale of certain lands belonging to state known as the Minnesota State Training School for Boys.

4472. Duties of board—Girls—Discharge.

Powers and duties respecting children committed to state training school for boys and Minnesota home school for girls vested in state director of public institutions, state board of parole, director of social welfare, or any other state agency are transferred to the director of public institutions. Laws 1941, c. 356. See §§3199-106a and 3199-106b.

One committed to state home school for girls is a ward of state until she becomes 21 years of age, and director of division of public institutions is her guardian though she is out on parole and may consent to operation of tonsillectomy by doctor at institution, over objections of parents of ward, providing the ward also consents and has an understanding of nature and consequences of operation by doctor in institution. Op. Atty. Gen. (88A-27e), Jan. 16, 1942.

4473. Duties of board.

Powers and duties respecting children committed to state training school for boys and Minnesota home school for girls vested in state director of public institutions, state board of parole, director of social welfare, or any other state agency are transferred to the director of public institutions. Laws 1941, c. 356. See §§3199-106a and 3199-106b.

Laws 1941, c. 356, as far as it goes, supersedes Laws 1941, c. 159, and functions of public guardianship and other custodial authority over children committed either to training school for boys or to home school for girls are vested in director of public institution, including money belonging to them. Op. Atty. Gen. (88A-4), Jan. 2, 1942.

MINNESOTA HOME SCHOOL FOR GIRLS

4478. School created—Commitment, etc.

One committed to state home school for girls is a ward of state until she becomes 21 years of age, and director of division of public institutions is her guardian though she is out on parole and may consent to operation of tonsillectomy by doctor at institution, over objections of parents of ward, providing the ward also consents and has an understanding of nature and consequences of operation by doctor in institution. Op. Atty. Gen. (88A-27e), Jan. 16, 1942.

SCHOOL FOR FEEBLE-MINDED, ETC.

4500. Who may be admitted—Expenses.

Fact that child has been adjudged feeble-minded and committed to guardianship of state board of control does not impose on guardian duty to support, because unless placed in some state institution or otherwise cared for, municipality in which child has a settlement for poor relief is liable for its support. Jorgenson v. City of Northfield, 211M377, 1NW(2d)364. See Dun. Dig. 7427.
Where a poor person was adjudged to be feeble-minded and probate court issued a warrant of commitment,

which was not executed because state institution was filled with patients, city of his settlement must pay cost of maintaining him in a boarding home, since a municipality charged with support of poor persons must give them such care as their physical and mental condition may require, in addition to merely furnishing food and shelter. Op. Atty. Gen. (679-c), Apr. 19, 1943.

4504-1. Discharge of epileptic inmates from state institutions.—Whenever in the judgment of the superintendent of any state institution any epileptic inmate shall be recovered or his epilepsy shall be arrested and such inmate is not feeble-minded or psychotic and is not charged with or convicted of some criminal offense, the superintendent may recommend the discharge of such inmate, and upon approval by the Director of Public Institutions such inmate shall be discharged. (Act Mar. 22, 1943, c. 116, §1, effective July 1, 1943.)

[246.103]

Act provides for a discharge and not a mere release on parole. Op. Atty. Gen. (88a-14), July 13, 1943.

HOSPITALS AND ASYLUMS FOR THE INSANE

4508. Location—Superintendents.

Director of public institution may permit men who die at Homeless Men's Camp to be interred in burial plot at Hastings State Hospital. Op. Atty. Gen. (89), Jan. 22, 1941.

4509. Detention hospitals.

Director of public institution may not designate more than three detention hospitals. Op. Atty. Gen. (248), June 6, 1942.

4511. Patients, how admitted—Discharge; etc.

Voluntary admission of minor is legal when application is signed by his parent. Op. Atty. Gen. (248), July 15, 1942.

4523. Patients may be paroled in certain cases.

Release of psychopathic personality patients. Op. Atty. Gen. (248B-11), Dec. 26, 1941.

4524. Discharge of patients.

Parole or discharge of patients with psychopathic personality is governed by same provisions as dangerously insane. Op. Atty. Gen., (248B-11), March 19, 1940.

Release of psychopathic personality patients. Op. Atty. Gen. (248B-11), Dec. 26, 1941.

Guardian of person and estate of a married insane woman committed to a state institution has no legal authority to dictate a policy of administration to director of division of public institutions as affecting temporary releases of patient. Op. Atty. Gen. (248a-2), Apr. 29, 1942.

4529. Commitment—Proceedings—Restoration of sanity.

Superintendent of St. Peter State Hospital is not authorized to transfer one committed as dangerously insane from asylum for criminal insane to the main hospital. Op. Atty. Gen., (248a-7), May 22, 1941.

STATE SANATORIUM FOR CONSUMPTIVES

4544. Buildings—Superintendent.

State Sanatorium cannot sell telephone equipment at private sale to telephone company, which will install new equipment, and if it did sell the equipment it could not retain the money received and use it to help defray expenses on telephone service to be rendered, authority to sell obsolete and surplus property being in the commissioner of administration, and sale on basis of competitive bids being necessary, and the proceeds thereof would go to general revenue fund of the state. Op. Atty. Gen. (640), Oct. 22, 1940.

4545. Persons admitted to—Powers of county sanatorium commission.—Only persons who have resided in the state throughout the year preceding application and who are afflicted with incipient pulmonary tuberculosis shall be received into the sanatorium. Persons desiring admission shall apply to the superintendent, and all applications shall be numbered in the order of receipt. When a vacancy exists the superintendent shall give to the person whose name is first upon the list an order for examination directed to any examining physician. The director of the division of social welfare shall appoint such physicians, not exceeding three for each county, whose fee for examination shall be three dollars, payable out of funds appropriated for the sanatorium. The examiner shall determine whether the applicant is afflicted as aforesaid and report his conclusion to the

superintendent. The director of the division of social welfare shall annually fix the rate per day to be charged for maintenance and treatment. A person unable to pay such charges and without kindred legally liable therefor and able to pay may be admitted on request of his county board, and the charges shall be paid by the county.

In all counties in this state now or hereafter having a population of over 200,000 inhabitants and maintaining a county tuberculosis sanatorium, the county sanatorium commission shall have the same powers with reference to tubercular persons as county boards under this section, and the charges for their care shall be paid by said county sanatorium commission out of its funds. (As amended Apr. 22, 1943, c. 561, §1.)

Where lifelong resident of one county spent six years in sanatorium at Walker and was discharged from sanatorium for the summer and married a resident of another county, she lost her residence in original county and county of residence of her husband must pay any charges for subsequent treatment at hospital. Op. Atty. Gen. (556a-1), Oct. 1, 1942, Oct. 28, 1942.

GILLETTE STATE HOSPITAL FOR CRIPPLED CHILDREN

4549. Rules and regulations.

Rules of admission to Gillette State Hospital for Crippled Children is a subject for proper regulation by Director of Public Institutions, but they cannot extend to administration of other governmental subdivisions and that department. Op. Atty. Gen. (840A-4), Aug. 23, 1941.

MATERNITY HOSPITALS

4550. Maternity hospital defined.

"Corporations" does not include public corporations. Op. Atty. Gen. (1001A), Mar. 3, 1942.

4551. Licensed by board of control.

All functions provided for in maturity licensing law that are specifically covered in laws 1941, c. 549, are necessarily transferred to department of health, and in addition such administrative procedure as is necessary to proper functioning of that act. Op. Atty. Gen., (840a-8), June 24, 1941.

Licensing of maternity hospitals is one of functions transferred to department of health, and it is no longer necessary for division of social welfare to issue license. Id.

A general hospital maintaining a maternity hospital ward will not be required to have two licenses. Id.

4554. Physician or midwife to make report.—Every birth occurring in a maternity hospital shall be attended by a legally qualified physician or midwife. The licensee owning or conducting such hospital shall within 24 hours after the birth therein of a child known to be of illegitimate birth, make a written report thereof to the director of social welfare, giving the name of the mother, the sex of the child and such additional information as shall be within the knowledge of the licensee and as may be required by the director. The licensee owning or conducting any such hospital shall immediately after the death in a maternity hospital of a woman, or an infant born therein or brought thereto, cause notice thereof to be given to the local board of health of the city, village or town in which such hospital is located. (As amended Act Feb. 5, 1943, c. 16, §1.)

CUSTODY OF CHILDREN

4569. Children's Homes defined—Applications.

Any person who receives for care or treatment or has in his custody at any one time one or more infants under the age of fourteen years, unattended by a parent or guardian, for the purpose of providing such child or children with food, care and lodging, except infants related to him by blood or marriage, shall be deemed to maintain an infants' home.

The word "person" where used in this act shall include individuals, partnerships, voluntary associations, corporations and municipal or county war child care centers and nurseries; provided, however, that this act shall not be construed to relate to any institution under the management of the state board of control or to its officers or agents, nor to any person who has

received for care alone, children from not more than one family during any period of 30 days.

This act shall not apply to any person who receives for care, only children in the care or custody of a private child welfare agency, if such agency is approved by the state board of control to select persons to care for such children. The state board of control is hereby empowered to grant such approvals to such private welfare agencies as in its judgment will select only persons to care for such children who would otherwise be eligible to receive and hold a license under this act, and upon its own motion or after investigations occasioned by complaint of any citizen to the Board it may revoke such approvals when it believes such revocation to be for the public good. (As amended Act Apr. 17, 1943, c. 486, §1.)

Statute applies to all private institutions but not institutions maintained by the state, county, city, village or any institutions set up under supervision and direction of director of social welfare or county welfare board, such as the Minnesota War Emergency Child Care Program in the Office of Civilian Defense. Op. Atty. Gen. (840a-2), Feb. 15, 1943.

MINNESOTA GENERAL HOSPITAL

4578. What patients may be treated—Research work.

Patient must be a resident of Minnesota financially unable to secure care at hospital. Op. Atty. Gen. (1001c), Feb. 9, 1943.

4579. Officers to report cases needing hospital care.—Whenever the existence of a case described in Section 2 of this act shall come to the notice of the sheriff, town clerk, health officer, public health nurse, policeman, or any other public official, or any physician or surgeon, it shall be his duty to, and any other person may, file with the board of county commissioners of the county of the residence of such person, an application for the treatment of such person at the Minnesota General Hospital.

Such application shall be made in duplicate on blanks to be furnished by the Minnesota General Hospital, and shall contain a full statement of the financial situation of the person sought to be treated and a general statement of his physical condition, and shall be verified. Upon the filing of such application, the board of county commissioners shall make investigation in such manner as it shall deem advisable, and it shall be the duty of any public official of any county, city, town, village or ward of the residence of the person sought to be treated to supply to the county board on request thereof, all information within his knowledge relative to the financial situation of the person sought to be treated. If after such investigation, the county board shall be satisfied that the person on whose behalf the application is made is not financially able to provide himself with such treatment, or, in case of a minor, that his parent, guardian or trustee, in representative capacity, or the person having legal custody over him or legally responsible for his support or maintenance, is not financially able to provide such treatment, then the county board shall appoint a physician of said county whose duty shall be personally to make an examination of the person on whose behalf said application for treatment has been filed. Said physician shall thereupon make and file with the county board a verified report in writing, setting forth the nature and history of the case, and such other information as will be likely to aid in the medical or surgical treatment of the disease, malady, deformity or ailment affecting said person, and shall also state in said report whether or not, in his opinion, the condition of such person can probably be remedied at a hospital. The report of said physician shall be made in duplicate within such time as the county board may direct, and upon blanks to be furnished by the Minnesota General Hospital for that purpose. Said report shall include any information within the knowledge of said physician relative to the financial situation of the person proposed to be treated. The physician appointed to make said examination

unless he is already a salaried officer of the state or some division thereof, shall receive \$5.00 for making said examination and in any case shall receive his actual and necessary expenses; which fee and expenses shall be paid by the county of residence of said patient; and it shall be the duty of the board of county commissioners to provide for such payment.

If, upon filing of said report, the county board shall be satisfied that the case is one which should be treated at the Minnesota General Hospital and that the person to be treated, or his parent, guardian, trustee or other person having legal custody of his person in case of a minor, is not financially able to provide such person with proper treatment, the county board shall enter an order finding such facts. In case the county board is not so satisfied, it may make such further investigation as to it shall seem proper. The county board may reject any application which is found to be without sufficient merit. Upon the entry of the order of the county board approving said application, it shall communicate with the superintendent of the Minnesota General Hospital and ascertain whether or not the applicant can be received as a patient. If the Minnesota General Hospital can receive such applicant, the county board shall thereupon certify its approval of such application. One copy of the application and the physician's report shall be sent to the superintendent of said hospital.

If the county board should find that an applicant or the person legally responsible for him is able to pay in part but not in full for case at the Minnesota General Hospital at the rate to be charged as determined in Section 5 the county board may approve the application of such patient on such terms of division of hospital charges as it may deem equitable and just. (As amended Act Feb. 15, 1943, c. 31, §1.)

The \$5.00 fee to be paid an examining doctor under Laws 1921, c. 411, §3, is applicable to Laws 1935, c. 355, §2, and examination under the 1935 law entitles doctor to flat fee of \$5.00, providing examining doctor was appointed by judge of probate court. Op. Atty. Gen., (1001c), Dec. 11, 1939.

Laws 1935, c. 359 (§§3164-19 to 3164-22), was passed as a supplemental measure to §§4577 to 4585, and did not amend this section, and gives county option of sending its patients to Minnesota General Hospital or to some other hospital. Op. Atty. Gen., (1001c), March 8, 1940.

Five dollar fee is proper charge against county of residence of patient, whether there is county or township system of poor relief. Id.

Probate court jurisdiction in proceeding under §§4577 to 4585 is transferred to county board, and if proceeding is under Laws 1935, c. 359 (§§3164-19 to 3164-22), county board has jurisdiction. Id. But see §4590.

Cost of hospitalization is paid by county of residence rather than county of settlement so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339g-2), July 19, 1940.

4580. Transportation of patient to hospital—Payment.—Upon approval of such application, if the patient is unable to travel alone the board of county commissioners may appoint a suitable official or person to take the patient to said hospital, and such person shall receive his actual and necessary expenses, and, if not a salaried officer of the state or any subdivision thereof, shall receive in addition \$3.00 per day for the time actually and necessarily consumed in transporting said patient to said hospital and returning. The traveling expenses of such patient, the per diem and expenses of the person appointed to accompany him, and one-half of the expense charged against such patient while an inmate of the hospital shall be paid by the county of residence of said patient, and it shall be the duty of the board of county commissioners of said county to provide for such payment. Provided, however, that if the county of residence of the patient is not the county in which the patient has legal settlement for the purposes of poor relief, then the county of residence may seek reimbursement from the county in which the patient has settlement for the purposes of poor relief for all costs it has necessarily incurred and paid in connection with the hospitalization of said patient. (As amended, Act Feb. 15, 1943, c. 31, §2.)

Cost of hospitalization is paid by county of residence rather than county of settlement so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339g-2), July 19, 1940.

Payment of traveling expenses is mandatory upon county board, but it cannot be made until an itemized claim is filed with board and allowed by them. Op. Atty. Gen., (1001c), June 10, 1941.

Cost of hospitalization in Minnesota General Hospital to be paid by county of residence rather than county of settlement of poor person. Op. Atty. Gen., (1001c), Jan. 6, 1943.

Matter is a legislative and not an executive or judicial question. Op. Atty. Gen. (1001c), Feb. 9, 1943.

County operating under town system of poor relief may not require or permit town to pay any portion of hospitalization of patients sent to the Minnesota general hospital. Op. Atty. Gen. (1001c), Apr. 30, 1943.

Where one receiving old age assistance moved to another county and later was sent to the University Hospital by the authorities of the latter county, the county of his residence and not the county of his settlement was liable for the hospital bill, if his death occurred before the effective date of Laws 1943, c. 31. Op. Atty. Gen. (1001c), Dec. 10, 1943.

4584. Expenses paid by counties.

State has no authority to reimburse county for charges to patients referred to Minnesota General Hospital, which was unable to receive them, necessitating treatment in other hospitals. Op. Atty. Gen., (1001c), Dec. 9, 1939.

University of Minnesota hospital expense may be paid by county from welfare fund. Op. Atty. Gen., (905B), May 14, 1940.

Where poor person residing in one county was subjected to an emergency appendectomy and hospitalized, and proper local authorities of county of settlement ratified hospitalization and medical care, county in which operation and hospitalization were had could pay the bill and recover from county of settlement, notwithstanding that it had an arrangement whereby cases taken care of in the hospital were in lieu of hospitalization in University Hospital. Op. Atty. Gen., (339g-2), May 31, 1940.

Cost of hospitalization is paid by county of residence rather than county of settlement so in proper case reimbursement may be had from county of legal settlement. Op. Atty. Gen. (339g-2), July 19, 1940.

A person does not have to be a pauper to be entitled to treatment at University Hospital and the county sending person to that hospital, rather than county of settlement, is liable. Op. Atty. Gen., (339g-2), May 1, 1941.

4590. County board to receive and investigate applications—Hospitalization.—The several boards of county commissioners in the state and any members of such a board may receive, investigate and act upon applications for treatment in the general hospital. (As amended Act Feb. 15, 1943, c. 31, §3.)

Probate court does not retain jurisdiction in proceeding under §4577 to §4585. Op. Atty. Gen., (1001c), March 8, 1940; note under §4579.

Section gives each individual member of county board authority to act on applications, but this does not include right to authorize transportation, and the payment therefore cannot be made until an itemized claim is filed with county board and allowed by them. Op. Atty. Gen., (1001c), June 10, 1941.

4590-1. County board may delegate powers to welfare board.—The county board and the several members thereof of any county in this state are hereby authorized to delegate to the county welfare board of such county all the rights, powers, and duties conferred upon it and them by Mason's Statutes 1927, Sections 4577 to 4590, with reference to the hospitalization of indigent persons. (Act of Feb. 15, 1943, c. 31, §6.)

STATE SOLDIERS WELFARE FUND

4605-1 and 4605-2. [Repealed.]

Repealed. Laws 1941, c. 548.

CHAPTER 26

Schools for the Deaf and the Blind

4610. Location—Organization.

Name of state school for the blind at Faribault, changed to, The Minnesota Braille and Sight Saving School. Act Apr. 21, 1941, c. 332, §1.

There is no appropriation out of which school for the deaf at Faribault may pay part of cost of improvement of street adjoining institution. Op. Atty. Gen. (88a-2), March 25, 1943.

4613. Blind student to receive expenses while at certain schools.

Under laws relating to dependent, neglected, and delinquent children, a probate court has power to commit a blind boy to state school for blind at Faribault. Op. Atty. Gen., (482a), Dec. 28, 1939.

4615. Certain children required to attend.

A blind child is subject to compulsory education law, and it is duty of county attorney to bring appropriate

proceedings to compel parents to send a blind child to the state school for the blind. Op. Atty. Gen., (482a), Dec. 6, 1939.

Boy's failure to attend school is sufficient proof that he is a delinquent child. Op. Atty. Gen., (482a), Dec. 28, 1939.

4616. Duties of state board of control.

Director of Public Institutions has authority in respect to institutionalized blind, and Director of Social Welfare has authority in respect to blind persons not institutionalized. Op. Atty. Gen. (88a), Sept. 17, 1943.

4617. Payments by state board of control.

Director of Public Institutions has authority in respect to institutionalized blind, and Director of Social Welfare has authority in respect to blind persons not institutionalized. Op. Atty. Gen. (88a), Sept. 17, 1943.

CHAPTER 27

State Public School

4618. Location—Purpose.

State public schools with approval of director of division of public institutions may permit use of auditorium by private organizations for a theatrical performance. Op. Atty. Gen. (345c), Aug. 21, 1940.

CHAPTER 28

Railroads, Warehouses and Grain

RAILROAD AND WAREHOUSE COMMISSION

4634. Secretary—Employees.

Secretary to Railroad and Warehouse Commission is within classified service. Op. Atty. Gen. (644), Jan. 21, 1941.

Certain schedule bonds are approved. Op. Atty. Gen. (930a-4), Nov. 4, 1941.

4636. Procedure and office.

Participation in railroad and warehouse commission proceedings as basis for right to appeal. 25MinnLawRev 938.

4638. Proceedings before commission; etc.

Lenihan v. Tri-State Telephone & Tel. Co., 208M172, 293 NW601. Cert. den. 311US711, 61SCR392, 448, 85LEd463. See note under §5291.