

## CHAPTER 145

## PROVISIONS RELATING TO PUBLIC HEALTH

## 145.01 LOCAL HEALTH BOARDS; HEALTH OFFICERS.

**HISTORY.** 1873 c. 8 s. 1; G.S. 1878 c. 10 s. 117; 1883 c. 132 ss. 4, 14; 1885 c. 4 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 171, 181; G.S. 1894 ss. 1459, 7048, 7058; 1901 c. 239; R.L. 1905 s. 2134; G.S. 1913 s. 4643; G.S. 1923 s. 5348; M.S. 1927 s. 5348.

Since the Duluth charter was amended by Ex. Laws 1891, c. 55 s. 6, the term of office of the health officer of Duluth has been, and now is, one year only. State ex rel v Routh, 61 M 205, 63 NW 621.

Legislative grants of power to municipalities intended to secure the preservation of the public health and to provide for enforcement of sanitary regulations to prevent disease are, notwithstanding the individual liberty of the citizen, entitled to broad and liberal construction by the courts. State ex rel v Zimmerman, 86 M 353, 90 NW 783.

Where the chairman of the town board of supervisors, upon notice from the state board of health, received information that an epidemic of smallpox was prevalent in the town, and incurred the expense to quarantine persons afflicted therewith, but without receiving specific authority therefor from the town board of health, and the expenses were audited and paid by such board, the want of authority to order quarantine was sufficiently ratified to authorize reimbursement from the county. Iosco v County Board, 93 M 134, 100 NW 734.

Where a person in a town whose residence was quarantined under the health laws is responsible for expenses in attention to his personal affairs during the quarantine, those expenses are not a town charge and not subject to reimbursement from the county. Iosco v County Board, 93 M 134, 100 NW 734.

This is an appeal to the district court from an order of the town board denying an application for a permit to operate a rendering plant within the town. The court, on appeal, does not try the matter anew as an administrative body and substitute its findings for those of the board. It will not disturb the action of the board unless such action is improper, oppressive or unreasonable or is without evidence to support it, or is contrary to law. Hunsteiger v Killian, 130 M 474, 153 NW 869, 1095.

A regular town medical officer in the course of his duties is expected to take care of communicable diseases. However, when they reach the extent of an epidemic and it is necessary that he have additional help, the cost of such additional help should be borne by the county. OAG Dec. 22, 1939; 1940 OAG 218; OAG Dec. 6, 1939; 1940 OAG 219.

A member of the town board may act as health officer and receive compensation for both offices. OAG Feb. 7, 1929.

The health officer appointed by the town board must be a duly licensed physician. OAG April 16, 1931.

A village is not compelled to establish its own board of health. OAG April 28, 1932.

Where there is no board of health, costs and expenses incurred by the town board must be paid by the town. OAG April 28, 1932.

The town board if it act in good faith, has the power to revoke the permit for rendering plants, and in so doing neither the town nor the members of the board are liable for damages. OAG Mar. 22, 1935 (434a-6).

Whether or not required by the city charter, it is mandatory that the health officer be a registered physician. OAG March 13, 1944 (371b-14).

Town boards are required to hire a physician as health officer when no member is a physician. OAG Sept. 22, 1944 (437b-3).

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### 145.02 DEPUTY HEALTH OFFICER IN CITIES OF THE THIRD CLASS.

HISTORY. 1925 c. 215; M.S. 1927 s. 5348-1.

### 145.03 DUTIES OF LOCAL BOARDS OF HEALTH; PENALTIES.

HISTORY. 1883 c. 132 s. 10; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 s. 177; G.S. 1894 s. 7054; R.L. 1905 s. 2135; G.S. 1913 s. 4644; 1923 c. 92 s. 1; G.S. 1923 s. 5349; M.S. 1927 s. 5349.

If a hog feeding ranch is dangerous to health and constitutes a nuisance, the nuisance may be abated and criminal proceedings instituted. OAG Dec. 31, 1938 (225j).

### 145.04 ENTRY FOR INSPECTION.

HISTORY. 1883 c. 132 ss. 8, 9; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 175, 176; G.S. 1894 ss. 7052, 7053; R.L. 1905 s. 2136; G.S. 1913 s. 4645; G.S. 1923 s. 5350; M.S. 1927 s. 5350.

### 145.05 POWERS OF HEALTH OFFICER IN ASSUMING JURISDICTION OVER COMMUNICABLE DISEASES.

HISTORY. 1883 c. 132 ss. 28, 29; 1885 c. 4 s. 2; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 195, 196; 1889 c. 178 s. 1; 1893 c. 176 s. 1; G.S. 1894 ss. 7072, 7073; 1901 c. 238; 1902 c. 29; R.L. 1905 s. 2137; 1907 c. 327 s. 1; G.S. 1913 s. 4646; 1917 c. 427 s. 1; G.S. 1923 s. 5351; M.S. 1927 s. 5351.

There being an epidemic of smallpox in the town, the town board provided nurses, medical attendants and other necessities to poor people unable to pay. The liability and duty of the county to pay for same does not depend upon the fact that the town has paid those expenses. It is sufficient that the town has provided them and the county is liable. *Montgomery v LeSueur*, 32 M 532, 21 NW 718.

The health officer of the municipality is justified in incurring the expense of furnishing medical treatment for the purpose of controlling a contagious disease when the county physician whose duty it is refuses to treat the infected person, and such expense incurred by the municipality may be recovered against the county. *Mankato v County of Blue Earth*, 87 M 425, 92 NW 405.

The family resided in the defendant county continuously for more than one year and then moved to an adjoining county and became resident thereof. They were not paupers. Being sick with a contagious disease, the board of health of the town to which they moved caused them to be quarantined and cared for. In an action brought by the town against the county of their former residence, it was held that the county was not liable for the reason that the family had acquired a legal residence in the county to which they had removed. *Loriston v County Board*, 89 M 91, 93 NW 1052.

A town or village board of health formed under the provisions of the general statutes prior to Laws 1901, Chapter 238, one of whose members is a practicing physician, may employ such physician to act for the board in all matters requiring such services. *Buffalo Lake v County Board*, 89 M 402, 95 NW 221.

The expenses incurred by the village board of health in the matter of quarantining certain persons affected with smallpox, under Laws 1901, Chapter 238, are such that the whole expense was a proper charge against the county. *Buffalo Lake v County Board*, 89 M 402, 95 NW 221.

Bills for expenses in controlling contagious diseases if actually paid and adjusted before the amendment of Laws 1901, Chapter 238, are not chargeable against the county; but if the bills are not in fact paid, and the cases are continuing and pending at the time of the enactment of Laws 1901, Chapter 238, the county is liable for the expenses incurred both before and after the passage of the act. *Lake Crystal v County Board*, 91 M 247, 97 NW 888.

Laws 1901, Chapter 238, changing the liability for the expenses incurred in the preventing of the spread of contagious diseases from towns and villages to counties, did not abrogate contract relations then existing between individuals and such towns or villages. *Comstock v County Board*, 92 M 88, 99 NW 427.

On receiving information from the state board of health that an epidemic of smallpox was prevalent, the chairman of the town board without specific authority from the town board of health, incurred certain expenses which were afterward audited and paid by said board. Under the circumstances, the town is entitled to reimbursement from the county. *Iosco v County Board*, 93 M 134, 100 NW 734.

Action to recover for medical services rendered by the plaintiff, who was the health officer of Mankato at a fixed salary, in controlling and eradicating an epidemic of smallpox and typhoid fever, pursuant to a contract with the state board of health of which he was a member, that he should render such services and be paid the reasonable value thereof. Held, following *Stone v Bevens*, 88 M 127, and distinguishing *Board of Health v County Board*, 89 M 402, that the contract was void. *Bjelland v City of Mankato*, 112 M 124, 127 NW 397.

A request having been made to the county board for an appropriation for the purpose of vaccinating children who are on the relief roll, it is our opinion that if there is no danger of spread of disease and no epidemic, the board should not be authorized to make an appropriation. No agency can go out and indiscriminately compel vaccination, unless there is a present necessity for it. 1936 OAG 221, Feb. 14, 1935 (711a-9).

The county is not liable for one half the expense incurred in treatment of communicable disease when there has been no quarantine. OAG June 27, 1935 (611a).

Expense necessary to establishing quarantine is a legal charge upon the health district, irrespective of the final policy of the individual quarantined. But the physician's charge for services rendered to the sick person had not become a charge upon the health district unless the sick person is a pauper. OAG Sept. 24, 1935 (611a-7).

The responsible city officers should use such efforts to collect from the person responsible as seem necessary under the circumstances of each individual case, "before the city can be entitled to reimbursement from the county to the extent of one-half of the cost of such services". 1936 OAG 220, April 22, 1936 (611a).

If the primary purpose of statement is to benefit the patient, section 251.02 applies. While if the purpose is for isolation of the person for the protection of the general public, section 145.05 et seq should be complied with. 1936 OAG 103, June 16, 1936 (611a-8).

When a non-resident of the state has been hospitalized at the request of the health commissioner of Minneapolis, as a tubercular person and public health menace, the patient will not be paid for as a free patient under section 376.31 but the state agency may pay for maintenance under section 376.33. OAG Mar. 22, 1937 (88a-31).

The expenses incident to the care and welfare of a person sick with a communicable disease are not legally chargeable against a health district, and it is only when the expense is acquired for the prevention of such communicable diseases in the protection of the public when the expense is chargeable against the health district. 1938 OAG 91, June 8, 1937 (611a-6).

Holding relative to the division of expense in transporting a patient to the state sanatorium. 1938 OAG 92, Aug. 16, 1937 (611a-8).

The county is responsible for one-half of the expense incurred by municipality in controlling venereal disease. OAG July 20, 1938 (611a-6).

Opinion as to the liability as to payment of the health officer distinguishing between municipality and county. 1940 OAG 219, Dec. 6, 1939 (225i-2); 1940 OAG 218, Dec. 22, 1939 (225i-2).

The county of legal settlement is liable for costs of hospitalization, where the patient is hospitalized in the county of his residence. OAG Dec. 4, 1944 (339g-2).

#### 145.06 ALLOWANCE AND PAYMENT OF EXPENSES.

**HISTORY.** 1903 c. 127; R.L. 1905 s. 2138; G.S. 1913 s. 4647; G.S. 1923 s. 5352; M.S. 1927 s. 5352.

Where an individual is treated for rabies, and the individual is unable or cannot be made to pay, the expense of such treatments may be at public expense. OAG Oct. 13, 1938 (611a).

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A town finding it necessary to isolate a poor person for tuberculosis and operating under the town system of caring for the poor, is entitled to reimbursement from the county to the extent of one-half of the cost. OAG Dec. 2, 1933.

A village is not legally liable for the services of a practicing physician unless the treatment was for a communicable disease and unless the physician was employed prior to the time such service was rendered. OAG Dec. 30, 1938 (611a).

Classification as to the kinds of measures to be employed in control of a communicable disease. OAG Apr. 12, 1939 (225f-1).

See notes under section 145.05.

### 145.07 APPEAL FROM DISALLOWANCE; COST.

HISTORY. 1903 c. 127; R.L. 1905 s. 2139; G.S. 1913 s. 4648; G.S. 1923 s. 5353; M.S. 1927 s. 5353.

### 145.08 PUBLIC HEALTH NURSES.

HISTORY. 1919 c. 38 s. 1; 1921 c. 138 ss. 1, 2; 1925 c. 196 s. 1; M.S. 1927 ss. 5353-1, 5353-2.

Whether it is necessary for a town to employ a driver for the nurses' or health officers' car is a matter for factual consideration. OAG Oct. 13, 1934 (442a-17).

Nurses may, if their contract so provides, be required to give insulin to children; teachers are not so required. OAG Feb. 27, 1945 (169).

### 145.09 HEALTH NURSES TO REGISTER.

HISTORY. 1921 c. 138 s. 3; 1925 c. 196 s. 1; M.S. 1927 s. 5353-3.

Nurses employed by municipalities must be registered. OAG Aug. 10, 1932.

### 145.10 LIST OF NURSES FURNISHED BY STATE BOARD.

HISTORY. 1925 c. 196 s. 1; M.S. 1927 s. 5353-4.

### 145.11 STATE BOARD TO ASSIST HEALTH NURSES.

HISTORY. 1925 c. 196 s. 1; M.S. 1927 s. 5353-5.

### 145.12 COUNTY BOARD OF HEALTH.

HISTORY. 1921 c. 138 1; 1925 c. 196 s. 1; M.S. 1927 ss. 5353-6, 5353-7.

### 145.13 DISINFECTION OF PREMISES AFTER CONTAGIOUS DISEASES THEREIN.

HISTORY. 1919 c. 479 s. 1; M.S. 1927 s. 5388-1.

### 145.14 DELIVERY OF SUBJECTS FOR DISSECTION.

HISTORY. 1872 c. 22 ss. 1, 2, 3; G.S. 1878 c. 124 ss. 36, 37, 38; 1887 c. 40; G.S. 1894 ss. 8031, 8032, 8033; R.L. 1905 s. 2152; G.S. 1913 s. 4687; G.S. 1923 s. 5392; M.S. 1927 s. 5392.

If a body is claimed for burial or cremation by a relative, fraternal organization or a friend of the deceased, that is, persons who have an interest in the body, the official in charge, and having such body in trust has authority to deliver it for such burial. If not claimed it may be disposed of according to the terms of sections 145.14 to 145.16. 1938 OAG 194, March 2, 1938 (103f).

### 145.15 WHAT BODIES EXCEPTED.

HISTORY. 1872 c. 22 s. 1; G.S. 1878 c. 124 s. 36; 1887 c. 40; G.S. 1894 s. 8031; R.L. 1905 s. 2153; G.S. 1913 s. 4688; G.S. 1923 s. 5393; M.S. 1927 s. 5393.

The coroner of Hennepin County, or his deputy, is required to investigate violent, mysterious or accidental deaths, and may order an autopsy when and where he deems proper. In this action for damages for the wrongful mutilation of the body of the plaintiff's husband, the court properly dismissed the action because there was no proof that the deputy coroner wrongfully ordered the autopsy, or that the autopsy was improperly made. *Kingsley v Forsythe*, 192 M 468, 257 NW 95.

Nature of proprietary rights in a dead body. 18 MLR 204.

An official in charge of a body has authority to deliver it to a fraternal organization, or persons claiming friendship with the deceased, for the purposes of burial or cremation. OAG March 2, 1938 (103f).

#### 145.16 DELIVERY OF BODIES.

HISTORY. 1872 c. 22 ss. 1, 2, 3, 4; G.S. 1878 c. 124 ss. 36, 37, 38, 39; 1879 c. 42 s. 1; 1887 c. 40; G.S. 1894 ss. 8031, 8032, 8033, 8034; R.L. 1905 s. 2154; G.S. 1913 s. 4689; G.S. 1923 s. 5394; M.S. 1927 s. 5394.

#### 145.17 OFFENSIVE TRADES.

HISTORY. 1885 c. 222 ss. 1, 2; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 ss. 265, 266; G.S. 1894 ss. 1489, 1490; R.L. 1905 s. 2143; G.S. 1913 s. 4666; G.S. 1923 s. 5371; M.S. 1927 s. 5371.

The court of appeal considering the right of a permit to operate a rendering plant, does not try the matter anew as an administrative body and does not substitute its findings for those of the board. It will not disturb the action of the board unless such action is arbitrary, oppressive or unreasonable, or without evidence to support it, or is contrary to law. *Hunstieger v Killian*, 130 M 474, 153 NW 869, 1095.

On being refused a license to operate a rendering plant, the plaintiff appealed to the district court. The court found that the action of the town board was arbitrary, oppressive and unreasonable, and the verdict was for the applicant. *Hunstieger v Killian*, 136 M 64, 161 NW 263.

Where garbage and refuse are placed on property, the council may by ordinance declare such placing a nuisance, and if on order of the local health office the owner refuses to remove the garbage, the town may do so and charge the expense to the parcel of ground on which such nuisance is located. OAG April 14, 1938 (477b-20).

A hog feeding ranch may be abated and criminal proceedings instituted if such ranch is dangerous to health and constitutes a nuisance. OAG Dec. 31, 1938 (225j).

Right of public contractors to share sovereign's immunity from liability for damages to third parties. 19 MLR 129.

#### 145.18 ASSIGNMENT OF PLACES.

HISTORY. 1885 c. 222 ss. 1, 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 ss. 265, 267; G.S. 1894 ss. 1489, 1491; R.L. 1905 s. 2144; G.S. 1913 s. 4667; G.S. 1923 s. 5372; M.S. 1927 s. 5372.

#### 145.19 APPEAL TO DISTRICT COURT.

HISTORY. 1885 c. 222 s. 4; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 s. 268; G.S. 1894 s. 1492; R.L. 1905 s. 2145; G.S. 1913 s. 4668; G.S. 1923 s. 5373; M.S. 1927 s. 5373.

#### 145.20 STATE BOARD; POWERS; APPEAL.

HISTORY. 1885 c. 222 s. 7; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 s. 271; G.S. 1894 s. 1495; R.L. 1905 s. 2146; G.S. 1913 s. 4669; G.S. 1923 s. 5374; M.S. 1927 s. 5374.

#### 145.21 OTHER REMEDIES PRESERVED.

HISTORY. 1885 c. 222 s. 9; G.S. 1878 Vol. 2 (1888 Supp.) c. 10 s. 273; G.S. 1894 s. 1497; R.L. 1905 s. 2149; G.S. 1913 s. 4672; G.S. 1923 s. 5377; M.S. 1927 s. 5377.

The owner or local occupant of private property may maintain an action against a municipal corporation for damages caused by an invasion of his property by the

municipality. Where the municipality casts sewage upon the property and creates and maintains a nuisance thereon, it constitutes such an invasion and is actionable. *Hughes v Nashwauk*, 177 M 547, 225 NW 898.

The discharge of whey from a cheese factory constitutes a nuisance to other users of the stream, and may be enjoined. Laws 1927, Chapter 273, granting to the state board of health powers relating to the pollution of waters did not repeal Section 561.01, giving district courts jurisdiction to abate private nuisances. *Satren v Hader Coop. Cheese Factory*, 202 M 553, 279 NW 361.

**145.22 NUISANCE, SOURCE OF FILTH, OR CAUSE OF SICKNESS; DUTY OF HEALTH OFFICER; NOTICE; PRIVY VAULTS.**

HISTORY. 1907 c. 425 s. 1; G.S. 1913 s. 4674; G.S. 1923 s. 5379; M.S. 1927 s. 5379.

Plaintiff seeks to recover damages on account of building destroyed by defendants. The court held that the action of the city in condemning the building was irregular and void, and consequently plaintiff is entitled to recovery. *Cates v Rose Bros.* 182 M 494, 234 NW 681.

It is the duty of the local health office to move, or cause the occupant to move, garbage in cases where the village council has determined that such garbage dumped is a nuisance. 1938 OAG 49, April 13, 1938 (477b-20).

**145.23 ABATEMENT; COSTS ASSESSED ON PROPERTY.**

HISTORY. 1907 c. 425 s. 2; G.S. 1913 s. 4675; G.S. 1923 s. 5380; M.S. 1927 s. 5380.

**145.24 VIOLATIONS; PENALTIES.**

HISTORY. 1872 c. 22 ss. 2 to 4; 1883 c. 132 ss. 8 to 10; G.S. 1878 c. 124 ss. 36 to 39; 1887 c. 40; G.S. 1878 Vol. 2 (1888 Supp.) c. 124 ss. 175 to 177; G.S. 1894 ss. 7052 to 7054, 8031 to 8034; R.L. 1905 ss. 2135, 2136, 2154; G.S. 1913 ss. 4644, 4645, 4689, 1919 c. 479 s. 2; 1923 c. 92 s. 1; G.S. 1923 ss. 5349, 5350; M.S. 1927 ss. 5349, 5350, 5388-2, 5394.

**145.30 SUPERINTENDENT OF HOSPITALS TO TRANSFER RECORDS.**

HISTORY. 1941 c. 229 s. 1.

**145.31 PHOTOSTATIC COPIES TO BE USED AS EVIDENCE.**

HISTORY. 1941 c. 229 s. 2.

**145.32 OLD RECORDS MAY BE DESTROYED.**

HISTORY. 1941 c. 229 s. 3.

**145.33 CONSTRUCTION.**

HISTORY. 1941 c. 229 s. 4.