

CHAPTER 145

PROVISIONS RELATING TO PUBLIC HEALTH

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**145.22 HEALTH OFFICER; DUTIES RELATIVE TO FILTH AND CAUSES OF SICKNESS.**

When any nuisance, source of filth, or cause of sickness is found on any property, the health officer of the city or town shall order the owner or occupant thereof to remove the same, at the owner's expense, within a time not to exceed ten days, the exact time to be specified in the notice. This notice shall be served by the sheriff, marshal, or other peace officer by delivering a copy thereof to the owner, occupant, or agent of the property. If the owner of the property is unknown or absent, with no known representative or agent upon whom notice can be served, then the sheriff, marshal, or other peace officer shall post a written or printed notice upon the property or premises, setting forth that unless the nuisance, source of filth, or cause of sickness is abated or removed within ten days, the sheriff, marshal, or other peace officer will abate or remove, or cause to be abated or removed, at the expense of the owner, the nuisance, source of filth, or cause of sickness complained of and found to exist. In carrying out the provisions of sections 145.22 and 145.23, no debt or claim against any individual owner, or any one piece of real property, shall exceed the cost of abatement or removal. In all cities of the first class in this state, the collection and disposal of night soil from privy vaults and contents of cesspools shall be under the charge and supervision of, and shall be done by, the department of health of these cities.

**History:** 1981 c 278 s 1

**145.834 CERTIFICATE OF NEED REQUIRED.**

No construction or modification of or predevelopment activities by a health care facility, whether public, nonprofit, or proprietary, shall be commenced or offered unless a certificate of need has been issued therefor in accordance with sections 145.832 to 145.845. The state planning agency, as the administrative authority for the National Health Planning and Resource Development Act of 1974, 42 U.S.C., Section 300k, et seq., shall enter into an agreement with the commissioner of health under which the commissioner of health shall adopt rules governing the administration of sections 145.832 to 145.845. The commissioner of health shall adopt rules to define the commencement of a construction or a modification or predevelopment activities and other rules necessary to implement, enforce and administer sections 145.832 to 145.845. All rules heretofore adopted by the state planning agency pursuant to certificate of need shall remain in effect until amended or repealed by the rules of the commissioner of health.

**History:** 1981 c 356 s 171

**145.835 NOTICE TO HEALTH SYSTEMS AGENCY.**

Subdivision 1. **Preconstruction notice.** No health care facility, or person, group, corporation or association intending to embark upon a program of construction or modification of a health care facility, shall engage architectural,

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professional consultation, other predevelopment activities, or fund raising services with respect to construction or modification until it has notified the health systems agency of its intention to engage the services or activities. The notice shall state simply the nature of the architectural, professional consultation, other predevelopment activities, or fund raising services to be engaged and the nature of the construction or modification contemplated. Upon receipt of notice under this section, the health systems agency shall promptly notify the commissioner of health and the commissioner of energy, planning and development.

*[For text of subds 2 to 5, see M.S.1980]*

**History:** 1981 c 356 s 172

## 145.836 APPLICATION FOR CERTIFICATE OF NEED.

Subdivision 1. **Application procedure.** Applications for certificate of need shall be submitted to the health systems agency serving the area in which the proposed construction or modification is to take place. Prior to acting on the application and within ten days of receipt, the health systems agency shall send a copy to the commissioner of health and to the commissioner of energy, planning and development with a recommendation that the application be considered either complete or incomplete. The commissioner of health shall determine that the application is initially complete or incomplete within ten days of receipt of a recommendation from a health systems agency. If the application is incomplete, it is not to be considered to be submitted to the health systems agency or the commissioner and it shall be returned stating the specific needs to be met in order for the application to be considered complete.

*[For text of subds 2 and 3, see M.S.1980]*

**History:** 1981 c 356 s 173

## 145.837 REVIEW OF APPLICATIONS.

Subdivision 1. **Criteria for review.** The commissioner of health shall, after consulting with the commissioner of energy, planning and development and the health systems agencies, adopt rules governing the health systems agencies in their determinations whether certificates of need are required and in their review of applications for certificates of need pursuant to sections 145.832 to 145.845. The rules shall provide for the consideration of at least the following criteria:

(a) The relationship of the proposed construction or modification to the applicable health system plan and annual implementation plan;

(b) The relationship of the construction or modification being proposed to the long range development plan of the health care facility requesting the certificate of need;

(c) The need for health care facilities and services, excluding home health services, in the area and the requirements of the population of the area;

(d) The availability and adequacy of other less costly or more effective health services in the area which may serve as alternates or substitutes for the whole or any part of the service to be provided by the proposed construction or modification;

(e) The relationship of the proposed construction or modification to the existing health care system of the area, including the possible economies and improvement in service that may be derived from operation of joint, cooperative, or shared health care resources;

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(f) The availability of resources, including health care providers, management personnel, and funds for both capital and operational needs for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services;

(g) The immediate and long-term financial feasibility of the proposed construction or modification, as well as its probable impact on the operational costs and charges of the health care facility;

(h) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services;

(i) The special needs and circumstances of medical teaching, research facilities and referral facilities which provide a substantial portion of their services or resources, or both, to individuals outside of the health service area;

(j) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages;

(k) In the case of a construction project: the costs and methods of the proposed construction, including the costs and methods of energy provision and the probable impact of the construction project reviewed on the costs of providing health services by the person proposing the project;

(l) The special needs of hospitals to convert excess hospital beds to long-term care or other alternate functions, but only if the hospitals terminate all acute care services; and

(m) The special requirements of health maintenance organizations to meet the health care needs of their present and future subscribers.

*[For text of subds 2 and 3, see M.S.1980]*

**History:** 1981 c 356 s 174

## 145.838 DETERMINATION.

*[For text of subds 1 and 2, see M.S.1980]*

Subd. 3. Any persons aggrieved by the decision of the commissioner of health pursuant to subdivision 1 or of the hearing examiner pursuant to subdivision 2 denying a certificate of need or by the commissioner of health denying a waiver pursuant to section 145.835, subdivision 4 shall be entitled to judicial review in the manner provided for in sections 15.0424 to 15.0426; provided, however, that the commissioner of health may appeal the decision of the hearing examiner whenever the decision changes, modifies, or reverses the decision of the commissioner of health.

*[For text of subd 4, see M.S.1980]*

**History:** 1Sp1981 c 4 art 1 s 80

## 145.845 HEALTH SYSTEMS AGENCIES; MEMBERSHIP.

The commissioner of health shall after consulting with the commissioner of energy, planning and development adopt rules concerning the membership of health systems agencies. The rules shall:

(1) Comply with the provisions of the National Health Planning and Resources Development Act, 42 U.S.C., Section 300k, et seq.;

(2) Provide that a majority of the membership be composed of consumers;

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- (3) Provide for representation of hospital and nursing home providers;
- (4) Provide for representation of local boards of health;
- (5) Provide for representation of licensed medical doctors and other health professionals;
- (6) Provide for a fixed term of membership; and
- (7) Provide that members of a health systems agency shall not select their successors.

No existing health systems agency shall exercise the functions provided in sections 145.832 to 145.845 until it is in compliance with rules adopted pursuant to this section.

If there is no health systems agency in a designated area of the state in compliance with sections 145.832 to 145.845, the commissioner of energy, planning and development shall perform the functions and duties of a health systems agency for that area. In this specific instance, the commissioner of energy, planning and development shall be exempt from utilizing the services of the hearing examiner.

**History:** 1981 c 356 s 175

## 145.912 DEFINITIONS.

*[For text of subds 1 to 14, see M.S.1980]*

Subd. 15. "Population" means the total resident population as enumerated during the most recent federal census or, the annual population estimate prepared by the commissioner of energy, planning and development in cooperation with the bureau of the census shall be used in order to have the most current data available.

*[For text of subds 16 to 20, see M.S.1980]*

**History:** 1981 c 356 s 176

## 145.913 LOCAL BOARD OF HEALTH; ORGANIZATION.

*[For text of subd 1, see M.S.1980]*

Subd. 1a. **Multi-county boards.** A county that elects to implement the provisions of the community health services act by organizing a multi-county board of health jointly with another county or counties under the provisions of section 471.59 may reserve and assign to a single county board of health organized under the provisions of subdivision 1, any powers and duties previously assigned by law to boards of health pursuant to section 145.01, and sections 145.47 to 145.55, any powers and duties previously assigned by law to public health nursing and home health services agencies pursuant to sections 145.08 to 145.125, and any discretionary authority of a board of health as provided in section 145.914.

*[For text of subds 2 and 3, see M.S.1980]*

**History:** 1981 c 360 art 2 s 6

## 145.914 LOCAL BOARD OF HEALTH; AUTHORITY.

*[For text of subd 1, see M.S.1980]*

Subd. 2. **Powers.** In addition to any other powers assigned to a board of health by sections 145.911 to 145.921, the board of health for a county or city eligible for a subsidy under section 145.917 shall possess all the powers and duties

now assigned by law to local boards of health pursuant to section 145.01, and to public health nursing and home health services agencies pursuant to sections 145.08 to 145.125, provided however that this subdivision shall not supersede or otherwise change the powers and duties of any city or township eligible for the subsidy under the provisions of section 145.917, or of any city of the first or second class with an existing program of community health services located within a county with a population of 300,000 or more persons until the city council of said city shall take action to allow the county to preempt the powers and duties of said city. Not later than 365 days after the approval of the community health services plan by the state commissioner of health, any township, city, or county board of health organized under the provisions of section 145.01 and any public health nursing committee organized under the provisions of sections 145.08 to 145.125, shall cease operation and no per diem or reimbursement of expenses shall be paid to any member of the board, committee, or commission; provided, however, that any city or township eligible for the subsidy under the provisions of section 145.917, and any city of the first or second class with an existing program of community health services located in a county with a population of 300,000 or more persons may continue operations and the payment of per diem and reimbursement of expenses.

*[For text of subds 3 to 11, see M.S.1980]*

**History:** 1981 c 360 art 2 s 7

#### **145.97 HILL-BURTON PROGRAM; RULES.**

The commissioner of health may promulgate temporary rules under section 15.0412, subdivision 5 to implement and enforce the provisions of 42 United States Code, Sections 291c(e), 291e(b)(3), 300s(3), 300s-1(b)(1)(K), or 300s-6, and the provisions of regulations promulgated by the United States secretary of health and human services pursuant to 42 United States Code, Sections 291c(e) or 300s(3), known as the Hill-Burton program. The commissioner shall maintain records on the number and nature of complaints received and any actions taken to implement or enforce the Hill-Burton laws and rules.

**History:** 1981 c 360 art 2 s 8