

CHAPTER 145

PROVISIONS RELATING TO PUBLIC HEALTH

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HEALTH BOARDS AND OFFICERS

145.01 LOCAL HEALTH BOARDS; HEALTH OFFICERS.

Every town board shall be a board of health within and for the town and have jurisdiction over every statutory city within its boundaries wherein no organized board of health exists. Every statutory city not within the boundaries of a town shall, and every other statutory city may provide by ordinance for the establishment of a board of health therefor. Every home rule charter city shall by charter or ordinance establish a board of health which shall be composed as provided in this section unless otherwise provided by charter. In the absence of provision for a board of health in any home rule charter city, or in any statutory city not within the boundaries of a town, the state commissioner of health, hereinafter called the state commissioner, may appoint three or more persons to act as such until a local board is established and organized and may fix their compensation, which the city shall pay. Two members of each county board, chosen by it yearly at its annual meeting, and one resident physician elected at the same time, shall constitute the county board of health, with jurisdiction over all unorganized towns therein, and with such other powers and duties in reference to the public health as the state commissioner shall, by his published regulations, prescribe. All local health boards of each county shall cooperate so far as practicable and the state commissioner by written order may require any two or more local boards to act together for the prevention or suppression of epidemic diseases. At least one member of every local board shall be a physician, who shall be the local health officer and executive of the board except that a home rule charter city may provide by charter that the council shall be the board of health, but in that case it shall appoint a health officer who is a physician. If no member of a town board is a physician, it shall appoint a health officer for the town. The compensation of all local health officers shall be prescribed by the body appointing him or to which he belongs and the same, together with his necessary expenses, shall be paid by the county or municipality in which he serves.

History: *RL s 2134; 1973 c 123 art 5 s 7; 1976 c 44 s 3; 1977 c 305 s 45 (5348)*

145.02 [Repealed, 1976 c 44 s 70]

145.03 DUTIES OF LOCAL BOARDS OF HEALTH; PENALTIES.

All local boards of health and health officers shall make such investigations and reports and obey such directions concerning communicable diseases as the state board may require or give; and, under the general supervision of the state board, they shall cause all laws and regulations relating to the public health to be obeyed and enforced. When the state board shall have reason or cause to believe, from its records or any other information in its possession, that the provisions of this section are being or have been violated, the state board shall advise the attorney general thereof, giving the information in support of such belief, and the attorney general or, under his direction, the county attorney of any county in which the violation occurs, shall forthwith institute proceedings for the enforcement of the provisions of this section and for the punishment of the violation thereof.

History: *RL s 2135; 1923 c 92 s 1 (5349)*

145.031 AGREEMENTS TO PERFORM FUNCTIONS OF COMMISSIONER OF HEALTH.

Subdivision 1. The commissioner of health may enter into an agreement with any county, two or more contiguous counties, or city, hereafter called the designated agent, under which agreement the designated agent may agree to perform all or part of the licensing, inspection, and enforcement duties authorized under sections 144.075, 144.12, 144.71 to 144.76, 327.14 to 327.29 and chapter 157. The agreement shall also set forth criteria by which the commissioner will determine that the performance by the designated agent complies with state standards and is sufficient to replace licensing by the commissioner. The agreement may specify minimum staff requirements and qualifications and provide for termination procedures if the commissioner finds that the designated agent fails to comply with the terms and requirements of the agreement.

Subd. 2. No designated agent may perform any licensing, inspection, or enforcement duties pursuant to the agreement in any territory outside of its jurisdiction.

Subd. 3. The scope of the agreements shall be limited to duties and responsibilities agreed upon by the parties and may provide a basis for automatic renewal and provisions for notice of intent to terminate by either party.

Subd. 4. During the life of the agreement the commissioner shall not perform any licensing, inspection, or enforcement duties which the designated agent is required to perform under the agreement, except for inspections necessary to determine compliance with the agreement and this section. The commissioner shall consult with, advise, and assist a designated agent in the performance of its duties under the agreement.

History: 1975 c 310 s 11; 1977 c 305 s 45; 1978 c 762 s 2

145.04 ENTRY FOR INSPECTION.

For the purposes of performing their official duties, all members, officers, and employees of the state and local boards of health and all health officers shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

History: *RL s 2136 (5350)*

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

The health officer in a municipality or the chairman of the board of supervisors in a town shall employ, at the cost of the health district over which his local board of health has jurisdiction and in which the person afflicted with a communicable disease is located, all medical and other help necessary in the control of such communicable disease, or for carrying out, within such jurisdiction, the lawful regulations and directions of the state commissioner, his officers or employees, and, upon his failure so to do, the state commissioner may employ such assistance at the expense of the district involved. Any person whose duty it is to care for himself or another afflicted with a communicable disease shall be liable for the reasonable cost thereof to the municipality or town paying such cost, excepting that the municipality or town constituting such district shall be liable for all expense incurred in establishing, enforcing, and releasing quarantine, half of which may be recovered from the county, as provided for under sections 145.06 and 145.07.

History: *RL s 2137; 1907 c 327 s 1; 1917 c 427 s 1; 1977 c 305 s 45 (5351)*

145.06 ALLOWANCE AND PAYMENT OF EXPENSES.

All claims arising under section 145.05 against any town or city, if not paid by persons liable therefor, shall be presented to the town board or council for audit and allowance as in the case of other claims. If any such claim be deemed excessive, or the whole or any part of the services or expenses charged for unnecessary, the items or parts objected to shall not be allowed without the approval of two disinterested physicians, given in the presence of the board or council. Upon the allowance of any such claim, the amount thereof shall be paid, and a certified statement shall be transmitted to the county auditor, embracing a copy of the claim as allowed, the date of such allowance, and showing for what purpose and to whom the allowance was made. The auditor shall lay such statement before the county board at its meeting next following the receipt thereof. One-half the amount so allowed and paid shall be a claim against the county and, if deemed just and reasonable by the board, the same shall be allowed and paid.

History: *RL s 2138; 1973 c 123 art 5 s 7 (5352)*

145.07 APPEAL FROM DISALLOWANCE; COSTS.

Within ten days after written notice by the auditor to the clerk of the town or city of the disallowance of the whole or any part of the half of any such claim chargeable upon the county, the claimant may appeal from such disallowance to the district court by giving notice of appeal as in other cases and without giving any bond or other security thereon. Such appeal shall be noticed, tried, and determined as in other appeals from the disallowance of claims by the county board. Unless the appellant shall recover more than the amount allowed by the county board, he shall be liable for costs and disbursements; otherwise the county shall be liable.

History: *RL s 2139; 1973 c 123 art 5 s 7 (5353)*

145.075 INJUNCTIVE RELIEF BROUGHT BY COMMISSIONER OR LOCAL BOARD.

In addition to any other remedy provided by law, the commissioner of health or local board of health may in its own name bring an action in the district court in the county in which the activity or practice sought to be enjoined occurs, to enjoin any violation of a statute or rule which the commissioner of health or local board of health is empowered to enforce or promulgate. Any such activity or practice may be enjoined as a public nuisance.

History: *1978 c 762 s 7*

**PUBLIC HEALTH NURSES AND
HOME HEALTH SERVICES****145.08 EMPLOYMENT, APPROPRIATION.**

Subdivision 1. **Appropriation for compensation and expenses; exception.** Every board of county commissioners, except in counties now or hereafter having a population of 550,000 or more, and every city council, school board and town board is hereby authorized and empowered to employ and to make appropriations for the compensation and necessary expenses of public health nurses and home health service personnel, for such duties as may be deemed necessary.

Subd. 2. **Expenses defined.** The term "expenses" may cover and include suitable furnished office rooms, records, stationery, postage, necessary public health and home health service supplies and equipment, transportation, including the purchase and maintenance of automobiles, meals and lodging of personnel when on duty away from their places of residence, telephone, rent and tolls,

administrative and clerical assistance, and such other actual expenses as shall be necessarily incidental to the carrying out of these purposes.

Subd. 3. Nursing district in rural Hennepin county. In each county now or hereafter having a population of 550,000 or more, every city council and every school and town board is hereby vested with the authority and power provided for and imposed by provisions of subdivision 1. In such counties two or more municipalities, school districts and towns may by written agreement of their respective governing bodies, form a nursing district within the territory comprising the contracting municipalities, school districts and towns for the purposes set out in subdivisions 1 and 2. All such agreements shall contain provisions for the apportionment of the cost and expenses incident to the carrying out of the hereinbefore mentioned purposes. Once formed, no such nursing district shall be discontinued, nor shall any municipality, school district or town withdraw from same, within three years from the effective date of formation.

Public health nurses employed by nursing districts as provided for in this subdivision shall be considered public health nurses in accordance with Minnesota Statutes 1949, Sections 145.08 to 145.125. The board of county commissioners in each county as provided for in this subdivision shall act as the certifying agency in accordance with Minnesota Statutes, Section 145.125, and all moneys received from the state of Minnesota, the Federal Government or any moneys provided for public health nurses shall be made available to such nursing districts in the same relation to the total sum available as the population of such districts bears to the total population of such county, exclusive of the population of any cities of the first class located in such county.

Subd. 4. Home nursing care services. Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, which employs public health nurses may employ and make appropriations for the compensation and necessary expenses of licensed practical nurses, registered nurses, and home aides who will provide under the supervision of such public health nurses such home nursing care services as may be deemed necessary. Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, also may contract for or employ, and make appropriations for the compensation and necessary expenses of medical social workers, occupational therapists, speech therapists, physical therapists, and other home health services personnel, who will provide such home health services as may be deemed necessary. Every board of county commissioners as authorized in subdivision 1, or every nursing district formed under the provisions of subdivision 3, also may make arrangements for such home health services with another provider agency approved by the social security administration for participation under Public Law 89-97, Titles XVIII and XIX, or may contract for such home health services with a hospital, nursing home facility, or rehabilitation facility provider agency not approved by social security administration for participation in Public Law 89-97, Titles XVIII and XIX, and may make appropriations for the payment of the costs of such services. Physical therapists who provide physical therapy as part of the home health services program shall provide such services in conformity with sections 148.65 to 148.78.

History: 1919 c 38 s 1; 1921 c 138 s 1,2; 1925 c 196 s 1; 1951 c 563 s 1; 1955 c 284 s 1; 1963 c 27 s 1; 1967 c 694 s 1-3; 1973 c 123 art 5 s 7 (5353-1, 5353-2)

145.085 THROAT CULTURES OF SCHOOL CHILDREN AND FAMILY, NURSES QUALIFIED.

Subdivision 1. A school nurse or, if a school does not have a nurse, a public health nurse assigned to the school or a nurse with whom the school district has

contracted to provide health care services may take throat cultures of school children for the purpose of detecting streptococcus infection. If the student has a positive culture, the entire family may also have cultures taken by the aforementioned person. A nominal charge may be made by the school board to cover the cost of materials and laboratory fees.

Subd. 2. This section shall not apply to any child who has been reared as an adherent of a religious denomination whose teachings are opposed to such health care procedures.

History: 1974 c 334 s 1,2

145.09 [Repealed, 1965 c 45 s 73]

145.10 STATE BOARD TO FURNISH LIST OF NURSES.

There shall be available from the state board, for the use of councils and boards included in sections 145.08 to 145.12, employing such nurses, a list of nurses certified for public health duties by the state board.

History: 1925 c 196 s 1; 1955 c 284 s 2; 1973 c 250 s 1 (5353-4)

145.11 STATE BOARD TO ASSIST HEALTH NURSES.

Such nurses shall receive upon request the aid and advice of the state board in regard to nursing problems and make written reports through the board employing them to the state and local boards of health in such form and at such times as shall be prescribed by the state board. The state board shall by rules and regulations require that local agencies submit a plan for the delivery of public health nursing and home health agency services commensurate with the health needs of the residents of the county and the maintenance of qualified personnel to implement such plan.

History: 1925 c 196 s 1; 1971 c 895 s 1 (5353-5)

145.12 COUNTY PUBLIC HEALTH AND HOME HEALTH SERVICE PERSONNEL; PUBLIC HEALTH NURSING COMMITTEE.

Subdivision 1. **Members; expenses and payments.** The board of county commissioners of any county, except counties now or hereafter having a population of 550,000 or more, and except Cook, Isanti, and Kanabec counties, shall detail county public health nurses and home health service personnel to act under the direction of the county board of health or a public health nursing committee composed of at least five members, as follows:

(1) The county commissioners shall appoint one member from among the superintendents of independent school districts in the county. Another person may be designated by the appointed superintendent to serve on this committee in place of the superintendent. This person shall be employed in the same district as the appointed superintendent;

(2) The county health officer or a physician appointed by the county commissioners;

(3) A county commissioner appointed by the board of county commissioners;

(4) Two residents of the county appointed by the county commissioners.

The public health nursing committee of each county shall effect a permanent organization and meet at regular intervals with the nurses. The public health nursing and home health services shall be available to the entire population and shall not be restricted to persons eligible for public assistance.

The county board of each county having a county board of health or nursing committee may allocate in its annual budget a sum to be determined by the county

board which sum may be used by such county board of health or nursing committee for the purpose of purchasing supplies and for the payment of necessary mileage at the legal rate, for the members of such board or committee when attending regular or special meetings of said board or committee such meetings not to exceed 12 in number annually, or for the payment of a per diem to the members of such board or committee for each such meeting necessarily attended; said expenses and payments to be made on verified accounts and payable out of the general revenue fund of such county by auditor's warrant after allowance by the county board. Members of the committee who are full time public employees shall not receive this per diem unless they suffer loss of compensation or benefits due to their service on the committee.

Subd. 2. **Nursing committee, Hennepin county.** In Hennepin county, when a nursing district is formed under the provisions of section 145.08, subdivision 3, the governing bodies of the municipalities, school districts and towns comprising such nursing district, meeting in a joint session, shall detail the district public nurses to act under the direction of a nursing committee of nine members appointed by representatives of such governing bodies meeting in joint session, as follows:

Four from the membership of said governing bodies; and,

Four residents of the nursing district who do not hold any other elective public office, at least one of whom shall be a physician; and one superintendent of an independent school district within Hennepin county or that superintendent's designee.

The nursing committee shall have power to employ nurses and make all other commitments and expenditures necessary to carry out the purposes of this act, and may arrange with one of the participating public units in the district for the keeping and disbursements of its fund. Expenditures shall be by warrant or order signed by the chairman of the committee and countersigned by its secretary.

The nursing committee shall be a permanent organization and meet at regular intervals with the nurses. At its first meeting each year, the committee shall elect from its members a chairman and secretary. All appointments to membership of the nursing committee shall be for one year and until successors are appointed. The committee shall fill vacancies in its membership for the unexpired term.

History: 1921 c 138 s 1; 1925 c 196 s 1; 1951 c 563 s 2; 1953 c 460 s 1; 1955 c 65 s 1; 1967 c 694 s 4; 1969 c 546 s 1; 1973 c 678 s 1; 1975 c 169 s 1; 1978 c 517 s 1 (5353-6, 5353-7)

145.123 PUBLIC HEALTH AND HOME HEALTH SERVICES.

Subdivision 1. **Charging of fees.** The county board of any county providing public health and home health services under sections 145.08 and 145.12, and the governing body of a nursing district formed under section 145.08, subdivision 3, may charge and collect fees for such health services furnished to persons within the county or the nursing district. Payment, in whole or in part, for such services may be accepted from any person. Payment of any charges due may be billed to and accepted either from a local, county, state or federal public assistance agency or any combination thereof; or from any individual, governmental agency, or corporation, public or private, when such services are provided any person, including but not limited to a recipient of any type of social security aids administered by the federal or state governments, or a recipient of direct relief.

Subd. 2. **Schedule of fees.** The county board or the nursing district, as the case may be, shall set up an equitable schedule of fees, taking into consideration the ability of some of the ill or disabled persons to pay fully for the services received, the ability of others to pay only a part of the fee, and the inability of others to pay any part thereof. Public health and home health services shall not

be denied to any person who is in need of such services and lacks means, either personally or as a beneficiary under a health or accident insurance policy, to pay either in whole or in part for the cost of the services he has received. These fees may not exceed the costs of the actual service furnished, as determined by a study of costs which the county board or the nursing district will make each year. The results of this study, together with a schedule of such fees, shall be filed with the state commissioner of health.

Subd. 3. Collection of fees. The county board or the nursing district, as the case may be, shall set up a procedure for the collection of these fees and may assign the duty of collection to the public health nursing service.

Subd. 4. Fees paid into county revenue fund or home health services fund. Fees so collected in any county shall be paid into the revenue fund of the county and shall be used for such purposes as the county board determines after giving due consideration to the total needs of the public health and home health service. Fees so collected in any nursing district shall be paid to the special nursing fund of the nursing district and used for the purposes of carrying out the program of public health and home health services therein.

History: 1955 c 456 s 1-4; 1961 c 397 s 1; 1967 c 694 s 5; 1969 c 19 s 1; 1974 c 355 s 60; 1977 c 305 s 45

145.125 COUNTY PUBLIC HEALTH NURSING SERVICE.

Subdivision 1. State aid quota; employment of nurse. A county shall be paid from the appropriation to the state commissioner of health for that purpose the sum of \$375 a quarter to aid in the payment of the cost of public health nursing. Each county with less than 20,000 population, which on May 1, 1971 had not established both a public health nursing service and a home health agency service shall receive \$7,500 in the biennium ending June 30, 1973, to establish those services. Each county with less than 20,000 population, which on May 1, 1971, had established only a public health nursing service shall receive \$2,500 in the biennium ending June 30, 1973, to establish a home health agency service. The money appropriated to the counties in this section shall be used only for the purposes of this section. Those moneys not expended shall be deposited in the general fund of the state treasury. Two or more counties who by a joint powers agreement establish public health nursing or home health agency services or both, shall also qualify for payments under Laws 1971, Chapter 895. County boards shall certify to the state commissioner of health within 60 days from a quarter ending September 30, December 31, March 31, or June 30 respectively, the following facts:

(1) That the county is complying with the provisions of sections 145.08 to 145.12.

(2) That during the preceding quarter, stating the last date thereof, the county had employed a public health nurse who was approved and certified pursuant to section 145.10 and other qualified home health agency personnel.

(3) The name and address of each public health nurse and other qualified home health agency personnel employed during the preceding quarter, and the amount paid to such persons during each month of such quarter.

If a public health nurse was employed for less than a full quarter, the county shall be paid only the proportion of \$375 which the period of time for which such nurse was actually paid is to the full period of the quarter.

Subd. 2. Certificate by county board; certificate to commissioner of finance. At the end of each 60 day period provided for in subdivision 1, the state commissioner of health shall certify to the commissioner of finance, in the manner prescribed by law, the name of each such county, the amount to be paid to it, and

that there are funds available for the payment thereof. Such certificate shall be supported by the certificate of the county board of such county. Thereupon, the commissioner of finance shall draw his warrant upon the state treasurer payable to the county for the amount so certified.

History: 1947 c 54 s 1; 1971 c 895 s 2; 1973 c 492 s 14; 1977 c 305 s 45

OTHER PROVISIONS

145.13 [Repealed, 1980 c 357 s 22]

145.14 DELIVERY OF SUBJECTS FOR DISSECTION.

Except as otherwise provided in section 145.15, the bodies of all persons dying within the state and not claimed for burial within 36 hours after death shall be delivered by the person in charge thereof for purposes of anatomical study. The deans of the medical colleges and chiropractic colleges of the state shall appoint a committee to receive such bodies, which committee shall apportion the same to the several colleges according to the numbers of their students. The maximum number of cadavers allotted to a chiropractic college shall be 16 per year. Any body so received shall be surrendered on demand of a relative entitled to its possession. The remains of any such body, after it has answered the purposes, shall be decently buried in a public cemetery and the expense of transporting and burying such body shall be borne by the college receiving the same.

History: *RL s 2152; 1976 c 200 s 1 (5392)*

145.15 WHAT BODIES EXCEPTED.

No body shall be so delivered:

- (1) After it has been regularly interred;
- (2) After it has been claimed for burial or cremation by any person entitled to receive it for such purpose;
- (3) Without the consent of all known relatives of the person deceased;
- (4) If such person in his last sickness requested that his remains be buried;
- (5) If he died while detained as a witness or under suspicion of crime; or
- (6) If by any provision of the law another disposition thereof be required.

History: *RL s 2153 (5393)*

145.16 DELIVERY OF BODIES.

Every official or other person in possession or control of any such body shall forthwith notify the committee and deliver the same according to its request.

History: *RL s 2154 (5394)*

145.161 DISSECTION; WHEN PERMITTED.

The right to dissect the dead body of a human being shall be limited to: (a) cases specially provided by statute, or by the direction or will of the deceased; (b) cases where a coroner is authorized to hold an inquest upon the body, and then only so far as he may authorize dissection; (c) cases where the husband or wife shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized; and (d) cases where one of the next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death and then only to the extent so authorized, provided no dissection shall be performed pursuant to this clause if there is objection by anyone of such next of kin. Every person who shall make, cause or procure to be made, any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor.

History: *RL s 4975; 1967 c 220 s 1 (10227)*

145.162 BURIAL OR CREMATION.

Except in cases of dissection provided for in section 145.161, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death.

History: *RL s 4976 (10228)*

145.163 INTERFERING WITH DEAD BODY OR FUNERAL.

Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor.

History: *RL s 4978 (10230)*

145.17 OFFENSIVE TRADES.

No person, without the written permission of the board of health of the town or city, shall engage therein in any trade or employment which is hurtful to the inhabitants, or dangerous to the public health, or injurious to neighboring property, or from which noisome odors arise. Any person so doing shall forfeit \$50 for each day of which such trade or employment is exercised, to be recovered by the local board of health by suit in its name and for its benefit.

History: *RL s 2143; 1973 c 123 art 5 s 7 (5371)*

145.18 ASSIGNMENT OF PLACES.

Such local boards, from time to time, may designate places within their respective jurisdictions wherein such trades or employments may be carried on, by orders filed with the town or city clerk, and may revoke the same by like orders. Within 24 hours after written notice of any such revocation, every person exercising such trade or employment in the locality to which it relates shall cease to do so or forfeit \$100 for each day thereafter on which the same is continued, to be recovered as provided in section 145.17.

History: *RL s 2144; 1973 c 123 art 5 s 7 (5372)*

145.19 APPEAL TO DISTRICT COURT.

Within five days after service of such notice, any party aggrieved by an order made under sections 145.17 and 145.18 may appeal therefrom to the district court of the county by giving notice of appeal as in other cases, together with a bond of not less than \$500, to be approved by the judge of the court, conditioned for the prosecution of the appeal to judgment and for payment of all costs and expenses that may be awarded against the appellant. If the appeal be taken within 20 days before the time for holding any general term of the court within the county, it shall be heard at such time and, at either party's request, may be tried by a jury; if taken more than 20 days before any such term, the judge shall appoint a time and place for hearing the same and, if demanded, direct the sheriff of the county to summon a jury of 12 persons to serve in the cause, any of whom may be challenged as in civil cases, and talesmen may be called and the appeal tried as in other civil cases. During the pendency of the appeal such trade or employment shall not be exercised contrary to the order of the board; and, upon violation of any such order, the appeal shall forthwith be dismissed. Upon the return of the verdict the court may either alter or amend the order of the board or confirm or

amend it in full, to conform to such verdict. If the matter be tried by the court, it shall have and exercise the same power.

History: *RL s 2145 (5373)*

145.20 STATE BOARD; POWERS; APPEAL.

Upon written complaint made to the state board that any person is occupying or using any building or premises within any town or city for the exercise of any such trade or employment, it shall appoint a time and place for hearing and give notice, of not less than ten days, to the complainant and the person complained of, and after such hearing, if, in its judgment, the public health or comfort and convenience require, it may order such person to cease from further carrying on such trade or employment in such building or premises; and, after written notice of such order, any person thereafter exercising such trade or employment in this building or premises shall forfeit \$100 for each day after the first, to be recovered as provided in sections 145.17 to 145.19. Any person aggrieved by such order may appeal, and the appeal shall be taken and determined, in the same manner as prescribed in section 145.19. During its pendency such trade or employment shall not be exercised contrary to the orders of the state board; and, upon the violation of any such order, the appeal shall forthwith be dismissed.

History: *RL s 2146; 1973 c 123 art 5 s 7 (5374)*

145.21 OTHER REMEDIES PRESERVED.

Nothing in section 145.17 shall curtail the power of the courts to administer the usual legal and equitable remedies in cases of nuisances or of improper interference with private rights.

History: *RL s 2149 (5377)*

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: *1907 c 425 s 1; 1949 c 80 s 1; 1951 c 235 s 1; 1973 c 123 art 5 s 7; 1980 c 509 s 46; 1981 c 278 s 1 (5379)*

145.23 ABATEMENT; COSTS ASSESSED ON PROPERTY.

If the owner, occupant, or agent fail or neglect to comply with the requirement of the notice, then the health officer shall proceed to have the nuisance, source of filth, or cause of sickness described in the notice removed or abated from the lot or parcel of ground and report the cost thereof to the city clerk, or other like officer, and the cost of such removal or abatement shall be assessed and charged against the lot or parcel of ground on which the nuisance, source of filth, or cause of sickness was located, and the city clerk, or other like officer, shall, at the time of certifying their taxes to the county auditor, certify these costs and the county auditor shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city or town as other taxes are collected and paid.

History: 1907 c 425 s 2; 1973 c 123 art 5 s 7 (5380)

145.24 VIOLATIONS; PENALTIES.

Subdivision 1. Every member of any local board of health or any health officer refusing or neglecting to perform any duty imposed upon him by any statute, ordinance, or bylaw relating to the public health shall be guilty of a misdemeanor.

Subd. 2. Every person who wilfully prevents or hinders any member, officer, or employee of the state commissioner or any member, officer, or employee of any local board of health, or any health officer from entering any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected, or otherwise interferes with the performance of their duties, shall be guilty of a misdemeanor.

Subd. 3. Every person who shall fail to comply with the provisions of sections 145.15 and 145.16 shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25. Every person who shall use any body mentioned in sections 145.15 and 145.16 for a purpose other than that contemplated therein, or who shall remove it from the state, or in any manner traffic therein, or refuse to deliver the same upon proper demand, shall be guilty of a gross misdemeanor.

Subd. 4. [Repealed, 1980 c 357 s 22]

History: RL s 2135, 2136, 2154; 1919 c 479 s 2; 1923 c 92 s 1; 1941 c 475 s 6; 1977 c 305 s 45 (5349, 5350, 5388-2, 5394)

145.30 SUPERINTENDENT OF HOSPITALS TO TRANSFER RECORDS.

The superintendent or other chief administrative officer of any public or private hospital, by and with the consent and approval of its board of directors or other governing body, is authorized to transfer and record, or cause to be transferred and recorded, upon photographic film of convenient size for the preservation thereof as evidence, any or all of the original files and records of any such hospital dealing with the case history, physical examination, and daily hospital records of the individual patients thereof, including any miscellaneous documents, papers, and correspondence in connection therewith.

History: 1941 c 229 s 1

145.31 PHOTOSTATIC COPIES TO BE USED AS EVIDENCE.

Upon the transferring and recording of any such original hospital files and records in the manner hereinbefore provided, such photographic film records thereof shall have the same force and effect, when offered in evidence in any proceeding in this state, as the original records from which the same were so

transferred and recorded, and any photographic or photostatic copy made therefrom, when duly certified in writing, attached thereto, by the officer or employee of such hospital in charge of the records, to be such correct and complete photographic or photostatic copy thereof, shall be admitted and received in evidence, without further foundation, in any proceeding in this state with the same force and effect as the original record of such hospital from which such film recording was originally made, whether the original is in existence or not.

History: 1941 c 229 s 2; 1971 c 231 s 1

145.32 OLD RECORDS MAY BE DESTROYED.

The superintendent or other chief administrative officer of any such public or private hospital, by and with the consent and approval of such board of directors or other governing body thereof, is authorized to divest the files and records of such hospital of any such individual case records bearing dates more than three years prior to the date of such divestiture and, with such consent and approval, to destroy the same. Such records shall first have been transferred and recorded as authorized in section 145.30.

History: 1941 c 229 s 3; 1971 c 231 s 2

145.33 CONSTRUCTION.

Sections 145.30 to 145.33 shall not be construed as requiring any such public or private hospital to retain among its files and records, during the period hereinbefore specified or otherwise, any such individual hospital case records, miscellaneous documents, papers, or correspondence, except as the preservation and retention thereof is otherwise required by law.

History: 1941 c 229 s 4

145.34 IMPURE WATER.

Every owner, agent, manager, operator, or any one having charge of any waterworks, furnishing water for public or private use, who knowingly permits the appliances of the same to become in a filthy condition, or in such condition that the purity and healthfulness of the water supplied by reason thereof becomes impaired shall be guilty of a felony and punished by imprisonment in the Minnesota correctional facility-Stillwater for not more than ten years.

History: RL s 5012; 1979 c 102 s 13 (10274)

145.35 COMMON DRINKING CUP IN PUBLIC PLACES.

Subdivision 1. **Prohibited.** In order to prevent the spread of communicable diseases, the use of common drinking cups in public places, public conveyances and public buildings, is hereby prohibited.

Subd. 2. **Penalty.** Whoever violates the provisions of this section shall be guilty of a misdemeanor and be liable to a fine of not exceeding \$25 for each offense.

History: 1913 c 61 s 1,2 (10277, 10278)

145.36 EXPOSING PERSON WITH CONTAGIOUS DISEASE.

Every person who shall wilfully expose himself or another affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his necessary removal in a manner not dangerous to the public health, shall be guilty of a misdemeanor.

History: RL s 5008 (10270)

145.365 TRAFFICKING IN SKUNKS.

Subdivision 1. **Prohibition.** In order to protect the public health and prevent human and domestic animal exposure to rabies, it shall be unlawful to:

(a) Import into or export out of this state any live skunk, for sale, barter, exchange or gift for any purpose whatsoever;

(b) Acquire, sell, barter, exchange, give, or purchase any live skunks.

Subd. 2. **Exception.** The provisions of subdivision 1 do not apply to the importation, acquisition, or exportation of a skunk by a publicly or privately owned zoological park or circus or any other show where a skunk is exhibited but is not in physical contact with the public, or by scientific or educational institutions for research or educational purposes.

Subd. 3. **Commercial operations.** Notwithstanding the provisions of subdivision 1, any person who, on March 23, 1982, is engaged in a business in this state which includes the buying or selling of skunks may continue to buy or sell skunks or to export skunks until January 1, 1985, but shall not import any live skunks after March 23, 1982. Any person may purchase a skunk from a person who is allowed to sell a skunk under this subdivision until January 1, 1985. This subdivision is repealed July 1, 1985.

Subd. 4. **Penalty.** Violation of subdivisions 1 or 3 is a misdemeanor.

History: 1982 c 591 s 1

145.37 MANUFACTURE OF CERTAIN PRODUCTS WHICH MAY BE INJURIOUS.

Subdivision 1. It shall be unlawful for any person to manufacture for sale or distribution within the state any product to be used in waterproofing or curing cement which product may be injurious to the skin or eyes of the user unless there is specified on the container of such product the chemical composition thereof, a warning of possible injurious effect, and the antidote in the event of injury.

Subd. 2. Violation of this section shall constitute a misdemeanor.

History: 1957 c 67 s 1

145.38 SALE AND DISPLAY OF TOXIC GLUE.

Subdivision 1. No person shall sell to a person under 19 years of age any glue or cement containing toluene, benzene, zylene, or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system. This section does not apply if the glue or cement is contained in a packaged kit for the construction of a model automobile, airplane, or similar item.

Subd. 2. No person shall openly display for sale any item prohibited in subdivision 1.

History: 1969 c 296 s 1; 1977 c 305 s 45; 1982 c 424 s 130

145.39 USE OF TOXIC GLUE.

Subdivision 1. No person under 19 years of age shall use or possess any glue, cement or any other substance containing toluene, benzene, zylene, or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system with the intent of inducing intoxication, excitement or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.

Subd. 2. No person shall intentionally aid another in violation of subdivision 1.

History: 1969 c 296 s 2; 1977 c 305 s 45; 1982 c 424 s 130

145.40 PENALTY.

Each violation of sections 145.38 to 145.40 is a misdemeanor.

History: 1969 c 296 s 3

145.41 BLOOD DONATIONS, AGE OF DONOR.

Any person of the age of 17 years or over shall be eligible to donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization.

History: 1969 c 685 s 1; 1976 c 169 s 1

145.411 REGULATION OF ABORTIONS; DEFINITIONS.

Subdivision 1. **Terms.** As used in sections 145.411 to 145.416, the terms defined in this section have the meaning given to them.

Subd. 2. **Viable.** "Viable" means able to live outside the womb even though artificial aid may be required. During the second half of its gestation period a fetus shall be considered potentially "viable".

Subd. 3. **Hospital.** "Hospital" means an institution licensed by the state commissioner of health; adequately and properly staffed and equipped; providing services, facilities and beds for the reception and care of one or more non-related persons for a continuous period longer than 24 hours for diagnosis, treatment or care of illness, injury or pregnancy; and regularly providing clinical laboratory services, diagnostic x-ray services and treatment facilities for surgery, obstetrical care or other definitive medical treatment of similar extent. "Hospital" shall not include diagnostic or treatment centers, physicians' offices or clinics, or other facilities for the foster care of children licensed by the commissioner of welfare.

Subd. 4. **Abortion facility.** "Abortion facility" means those places properly recognized and licensed by the state commissioner of health under lawful rules and regulations promulgated by the commissioner for the performance of abortions.

Subd. 5. **Abortion.** "Abortion" includes an act, procedure or use of any instrument, medicine or drug which is supplied or prescribed for or administered to a pregnant woman which results in the termination of pregnancy.

History: 1974 c 177 s 1; 1977 c 305 s 45

145.412 CRIMINAL ACTS.

Subdivision 1. It shall be unlawful to wilfully perform an abortion unless the abortion is performed:

(1) by a physician licensed to practice medicine pursuant to chapter 147, or a physician in training under the supervision of a licensed physician;

(2) in a hospital or abortion facility if the abortion is performed after the first trimester;

(3) in a manner consistent with the lawful rules and regulations promulgated by the state commissioner of health; and

(4) with the consent of the woman submitting to the abortion after a full explanation of the procedure and effect of the abortion.

Subd. 2. It shall be unlawful to perform an abortion upon a woman who is unconscious except if the woman has been rendered unconscious for the purpose of having an abortion or if the abortion is necessary to save the life of the woman.

Subd. 3. It shall be unlawful to perform an abortion when the fetus is potentially viable unless:

(1) the abortion is performed in a hospital;

(2) the attending physician certifies in writing that in his best medical judgment the abortion is necessary to preserve the life or health of the pregnant woman; and

(3) to the extent consistent with sound medical practice the abortion is performed under circumstances which will reasonably assure the live birth and survival of the fetus.

Subd. 4. A person who performs an abortion in violation of this section is guilty of a felony.

History: 1974 c 177 s 2; 1977 c 305 s 45

145.413 RECORDING AND REPORTING HEALTH DATA.

Subdivision 1. The state commissioner of health shall promulgate regulations to effect a reporting system on terminated pregnancies in order that statistical data is obtained that will relate to maternal health. The regulations and reporting system shall not interfere with the right of a pregnant woman to seek an abortion before the fetus is potentially viable. No such report, or any part thereof, shall be disclosed, in any manner, by any official or clerk or other employee or person having access thereto, and all such information shall be confidential.

Subd. 2. If any woman who has had an abortion dies from any cause within 30 days of the abortion or from any cause potentially related to the abortion within 90 days of the abortion, that fact shall be reported to the state commissioner of health.

Subd. 3. A physician who performs an abortion and who fails to comply with subdivision 1 and transmit the required information to the state commissioner of health within 30 days after the abortion is guilty of a misdemeanor.

History: 1974 c 177 s 3; 1977 c 305 s 45

145.414 ABORTION NOT MANDATORY.

No person and no hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion for any reason.

History: 1974 c 177 s 4

145.415 LIVE FETUS AFTER ABORTION, TREATMENT.

Subdivision 1. A potentially viable fetus which is live born following an attempted abortion shall be fully recognized as a human person under the law.

Subd. 2. If an abortion of a potentially viable fetus results in a live birth, the responsible medical personnel shall take all reasonable measures, in keeping with good medical practice, to preserve the life and health of the live born person.

Subd. 3. (1) Unless the abortion is performed to save the life of the woman or child, or, (2) unless one or both of the parents of the unborn child agrees within 30 days of the birth to accept the parental rights and responsibilities for the child if it survives the abortion, whenever an abortion of a potentially viable fetus results in a live birth, the child shall be an abandoned ward of the state and the parents shall have no parental rights or obligations as if the parental rights had been terminated pursuant to section 260.221. The child shall be provided for pursuant to sections 256.12, subdivision 14 and 256.72 to 256.87.

History: 1974 c 177 s 5

145.416 LICENSING AND REGULATION OF FACILITIES.

The state commissioner of health shall license and promulgate regulations for facilities as defined in section 145.411, subdivision 4, which are organized for purposes of delivering abortion services.

History: 1974 c 177 s 6; 1977 c 305 s 45

145.42 ABORTIONS; NON-LIABILITY FOR REFUSAL TO PERFORM.

Subdivision 1. No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion, and no hospital that refuses to permit the performance of an abortion upon its premises, shall be liable to any person for damages allegedly arising from the refusal.

Subd. 2. No physician, nurse, or other person who refuses to perform or assist in the performance of an abortion shall, because of that refusal, be dismissed, suspended, demoted, or otherwise prejudiced or damaged by a hospital with which he is affiliated or by which he is employed.

History: 1971 c 693 s 1,2

145.421 HUMAN CONCEPTUS, EXPERIMENTATION, RESEARCH OR SALE; DEFINITIONS.

Subdivision 1. **Terms.** As used in this section and section 145.422, the terms defined in this section shall have the meanings given them.

Subd. 2. **Human conceptus.** "Human conceptus" means any human organism, conceived either in the human body or produced in an artificial environment other than the human body, from fertilization through the first 265 days thereafter.

Subd. 3. **Living.** "Living", as defined for the sole purpose of this section and section 145.422, means the presence of evidence of life, such as movement, heart or respiratory activity, the presence of electroencephalographic or electrocardiographic activity.

History: 1973 c 562 s 1

145.422 EXPERIMENTATION OR SALE.

Subdivision 1. Whoever uses or permits the use of a living human conceptus for any type of scientific, laboratory research or other experimentation except to protect the life or health of the conceptus, or except as herein provided, shall be guilty of a gross misdemeanor.

Subd. 2. The use of a living human conceptus for research or experimentation which verifiable scientific evidence has shown to be harmless to the conceptus shall be permitted.

Subd. 3. Whoever shall buy or sell a living human conceptus shall be guilty of a gross misdemeanor, provided that nothing herein shall prohibit the buying and selling of a cell culture line or lines taken from a non-living human conceptus.

History: 1973 c 562 s 2

145.423 ABORTION; LIVE BIRTHS.

Subdivision 1. A live child born as a result of an abortion shall be fully recognized as a human person, and accorded immediate protection under the law. All reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, shall be taken to preserve the life and health of the child.

Subd. 2. When an abortion is performed after the twentieth week of pregnancy, a physician, other than the physician performing the abortion, shall be

immediately accessible to take all reasonable measures consistent with good medical practice, including the compilation of appropriate medical records, to preserve the life and health of any live birth that is the result of the abortion.

Subd. 3. If a child described in subdivision 1 dies after birth, the body shall be disposed of in accordance with the provisions of sections 145.14 to 145.163.

History: 1976 c 170 s 1

145.424 PROHIBITION OF TORT ACTIONS.

Subdivision 1. **Wrongful life action prohibited.** No person shall maintain a cause of action or receive an award of damages on behalf of himself based on the claim that but for the negligent conduct of another, he would have been aborted.

Subd. 2. **Wrongful birth action prohibited.** No person shall maintain a cause of action or receive an award of damages on the claim that but for the negligent conduct of another, a child would have been aborted.

Subd. 3. **Failure or refusal to prevent a live birth.** Nothing in this section shall be construed to preclude a cause of action for intentional or negligent malpractice or any other action arising in tort based on the failure of a contraceptive method or sterilization procedure or on a claim that, but for the negligent conduct of another, tests or treatment would have been provided or would have been provided properly which would have made possible the prevention, cure, or amelioration of any disease, defect, deficiency, or handicap; provided, however, that abortion shall not have been deemed to prevent, cure, or ameliorate any disease, defect, deficiency, or handicap. The failure or refusal of any person to perform or have an abortion shall not be a defense in any action, nor shall that failure or refusal be considered in awarding damages or in imposing a penalty in any action.

History: 1982 c 521 s 1

145.425 PAY TOILETS IN PUBLIC PLACES; PROHIBITIONS; PENALTY.

Pay toilets and urinals in public places, public conveyances or public buildings are prohibited unless at least one-half of the available toilets in the same area or rest room are free and maintained at the same standards of sanitation and upkeep. Violation of this section is a misdemeanor.

History: 1975 c 215 s 1

145.43 HEARING AIDS; RESTRICTIONS ON SALES.

Subdivision 1. **Definition.** "Hearing aid" means any instrument or device designed for or represented as aiding defective human hearing, and its parts, attachments, or accessories, including but not limited to ear molds. Batteries and cords shall not be considered parts, attachments, or accessories of a hearing aid.

Subd. 2. **Prescription or written recommendation required.** No hearing aid shall be sold by any person in this state except upon the prescription or other written and signed recommendation of an authorized person who is neither employed by, or in a business relationship with, a seller of hearing aids. For purposes of this section, "authorized person" means an audiologist, otolaryngologist, otologist, or licensed medical doctor. "Audiologist" means an individual who holds a master's degree or doctor's degree in audiology from a college or university that is fully accredited by the North Central Association of Colleges and Secondary Schools or an equivalent accrediting association. Any person selling a hearing aid as provided in this section shall maintain for not less than one year, in a file under the name of the person to whom the hearing aid was sold, a true copy of the prescription or other written recommendation, as provided herein, upon which

such sale was made. Nothing in this section or section 145.44 shall apply to a sale solely limited to either repair services or replacement parts, or both, for a hearing aid already owned by a consumer or to the sale of a replacement hearing aid to an aid already owned by a consumer.

Subd. 3. [Repealed, 1975 c 182 s 2]

History: 1973 c 383 s 1

145.44 CONDITIONS REQUIRING CONSULTATION OF DOCTOR OR AUDIOLOGIST; WAIVER OF SALE RESTRICTIONS.

Subdivision 1. When a hearing aid vendor finds the following conditions in any person either by observation or being told by said person, said vendor shall not fit or sell a hearing aid until that person has consulted with a licensed medical doctor or audiologist:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap.

Subd. 2. Adults under 60 years who are legally competent may be exempted from the provisions of section 145.43, subdivisions 2 and 3, if they sign a waiver acknowledging that they have been provided a copy of this law printed in large typeface (at least 14-point) and that the law has been read aloud to them by the hearing aid vendor. A copy of the signed waiver will be kept on file for three years from the date of sale.

History: 1973 c 383 s 2

145.45 PENALTIES; REMEDIES.

Subdivision 1. Any person who is found to have violated sections 145.43 to 145.45 is guilty of a misdemeanor.

Subd. 2. In addition to the penalties provided in subdivision 1, any person who is found to have violated sections 145.43 to 145.45 is subject to the penalties and remedies provided in section 325F.69, subdivision 1.

History: 1975 c 182 s 1

145.46 DENTAL HEALTH EDUCATION PROGRAM.

Subdivision 1. **Development of program.** The commissioner of health shall assist school and community personnel, including dental professionals, to develop a comprehensive preventive oral health program in the elementary school community.

Subd. 2. **Objectives.** The program shall be operated so as to achieve the following:

- (a) Decreasing oral disease through an instruction program or oral health education for teachers;
- (b) Improving oral health knowledge, attitudes, and behavior of both the student and the wider school community, including educators, administrators, and parents; and
- (c) Planning a sequential oral health education curriculum emphasizing behavior modification for the total health education program of a school system.

Subd. 3. **Duties of commissioner of health.** (a) Technical assistance teams; inservice training of educators. The commissioner of health shall establish technical assistance teams of dental hygienists, consulting dentists, and consulting health educators. The initial program will place one team in four state health regions and reflecting rural, suburban, and urban communities. The teams shall provide inservice education to teachers in the district on methods and techniques of dental behavior change.

(b) Guidelines for implementation in schools. The commissioner of health shall provide guidelines to selected schools for the implementation of their programs to train classroom teachers to be dental health educators. The teachers shall participate in oral health education, analysis, and recording of data.

(c) Standards; evaluation. The commissioner of health shall establish standards for program performance. These standards, together with accepted dental indices, shall be used by the technical assistance teams to evaluate school programs of oral health knowledge and behavior modification on test and control groups.

(d) Consultation to dental personnel. The commissioner of health shall provide information and assistance to dental personnel on methods and techniques of oral health behavior improvement.

History: 1975 c 434 s 25; 1977 c 305 s 45

COUNTY HEALTH DEPARTMENTS

145.47 HEALTH DEPARTMENT DEFINED.

The term health department, as used in sections 145.47 to 145.54, is defined as a health department organized and supported by one or more counties.

History: 1949 c 405 s 1

145.48 ESTABLISHMENT OF COUNTY HEALTH DEPARTMENTS.

Subdivision 1. Any county or two or more adjacent counties are hereby authorized and empowered, by resolution adopted by a majority of the members of the county board or county boards of the respective counties, to establish and maintain a health department as herein defined. The county commissioners of any two or more adjacent counties may submit, and on petition of qualified electors equal to 10 percent of the total vote at the last general election, shall submit such action to a vote of the people. If the majority of the voters voting thereon favor the action, it shall go into effect on the date specified.

Subd. 2. A city of the first, second, or third class located within a county in which a health department is established under sections 145.47 to 145.54, shall not come within the jurisdiction of the board of health of such health department until such city, by ordinance of its governing body, shall take action to be included within the jurisdiction of such health department subject to the referendum provided in the following subdivision. In counties containing a city of the first class and wherein the majority of the county commissioner districts lie within the city of the first class, it shall require the unanimous vote of the county board to establish a county health department as provided for in sections 145.47 to 145.54.

Subd. 3. The governing body of a city of the first, second, or third class may submit, and on petition of qualified electors equal to 10 percent of the total vote at the last regular municipal election, shall submit such action to a vote of the people. If the majority of the voters voting thereon favor the action, it shall go into effect on the date specified.

History: 1949 c 405 s 2; 1959 c 604 s 1,2

145.49 POWERS TRANSFERRED.

All powers and duties now or hereafter vested in or imposed upon the local health boards defined in Minnesota Statutes 1945, Section 145.01, shall, in all areas included in the jurisdiction of any health department established under sections 145.47 to 145.54, be transferred to, vested in and imposed upon such health department from the date when the health officer of such health department assumes the responsibilities of his appointment or such later date as may be determined by such health department; provided, however, that nothing herein shall affect the registration of vital statistics, except that when any city comes within the jurisdiction of any health department established under sections 145.47 to 145.54 and is without a city health officer, the state registrar of vital statistics shall appoint a local registrar therein.

History: 1949 c 405 s 3

145.50 RESPONSIBLE TO LOCAL BOARD OF HEALTH.

Subdivision 1. Every health department shall be responsible to a local board of health as hereinafter provided for.

Subd. 2. The board of health of a health department embracing one county shall consist of five members appointed by the board of county commissioners. Where two or more counties combine to form a health department, each such county shall, by the same method, appoint two members to the board of health, except that the county having the largest population shall appoint three such members. In each such board of health, one member from each county shall be selected from the largest participating municipality located within such county. In each such board of health, one of the members so appointed shall be a doctor of medicine and one shall be a doctor of dental surgery, each licensed to practice in Minnesota. The remaining members of the board shall be laymen, representative of the people served by the health department.

Subd. 3. At the first meeting of any board of health appointed under this section, the members thereof shall determine by lot the respective original terms to be served by each member, whether one, two, or three years. The same number of such members shall be chosen for each such length of term as nearly as may be. All subsequent appointments, except to fill vacancies in unexpired terms, shall be for three year terms.

Subd. 4. The officers of the board shall be a chairman and a vice chairman, to be elected annually by the members thereof for a term of one year.

History: 1949 c 405 s 4

145.51 FUNDS APPROPRIATED AND FEES COLLECTED.

Subdivision 1. Every health department established under sections 145.47 to 145.54 shall be operated and maintained from funds appropriated and fees collected within the counties included in the area covered by such health department, together with such state and federal funds and private grants which may be appropriated or granted to it or to any of its participating county or other political subdivisions. The cost of maintenance of every such health department shall be borne by the several participating counties on the basis of the ratio of the population of each such county to the total population served by the said health department, and the amount thus required of each of the participating counties for such health department purposes shall be spread as a separate tax levy against all of the taxable property of each of such counties. When a city of the first or second class does not come within the jurisdiction of such health department its population shall not be considered in such computation, and the health department tax levy of such county shall not apply to the property within such city.

Subd. 2. The health officer and board of health of every health department created under sections 145.47 to 145.54 shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year and determine the proportionate cost to each participating county. A certified copy of such budget, which shall include a statement of the amount required from each such county, shall be delivered to the board of county commissioners of each participating county. The county boards of all participating counties in each such health department shall meet in joint session, prior to the regular annual July meetings of such boards, for due hearing and agreement on such health department budget. The budget adopted shall be effective when approved by a majority of the members of each such county board in attendance at such joint meeting. A majority of each county board shall be in attendance to constitute a quorum for a joint meeting. At its regular meeting in July, each such county board shall include in its annual levy of county taxes, such amount as may be necessary for the health department purposes provided for in sections 145.47 to 145.54, as a separate levy over and above the limits now imposed for the general fund of the county. Such amount, when collected, shall be credited to the "health department fund" of the county.

Subd. 3. In the accounts and treasury of the county wherein is located the principal office of each multicounty health department there shall be created a "joint health department fund." The treasurer of each county participating in such health department shall pay or cause to be paid into this joint fund from the county "health department fund" all tax moneys, fees, grants-in-aid, gifts, or bequests designated for public health department purposes by drawing a warrant in favor of the "joint health department fund" payable to the treasurer of the county selected as the place of deposit of such fund. The said fund shall be used only for the purposes of said health department in accordance with the adopted budget, and shall be expended in the manner prescribed by such board of health pursuant to properly authenticated vouchers of such health department signed by its health officer.

History: 1949 c 405 s 5; 1957 c 470 s 1; 1973 c 583 s 9,10

145.52 BOARDS; ORGANIZATION, DUTIES.

Subdivision 1. The board of health of every health department organized under sections 145.47 to 145.54 shall hold regular meetings at least quarterly at such time and place as may be provided by such board, and such special meetings as may be called by its chairman or a majority of its members. Members may receive a per diem not to exceed \$25 plus statutory travel and other necessary expenses while engaged in their official duties.

Subd. 2. The board of health shall employ a health officer who shall be a doctor of medicine duly licensed and registered in the state of Minnesota who shall have the approval of the state commissioner of health. He shall be appointed for a term of five years subject to removal for cause after a hearing before the board of health. He shall be the executive officer of the board of health, shall select subordinate personnel subject to the approval of the board and shall have general supervision of all work conducted by such health department.

Subd. 3. In all counties containing a city of the first class the county health nurse in each of said counties shall be under the supervision and jurisdiction of such county or multiple county health department.

Subd. 4. Every such board of health shall enter into a joint agreement with the boards of county commissioners of the counties and the governing bodies of participating cities of the first, second, and third class within its jurisdictional area to regulate such matters as salary scales, merit systems, the acquisition of property and personnel of previously existing health departments, the distribution of assets upon withdrawal of any county or city and other matters wherein practices may vary in different participating counties and cities.

Subd. 5. Every such health officer and board of health shall annually prepare a budget of the proposed expenditures of such health department for the ensuing year and the proportionate cost thereunder to each participating county; provided, however, that for the first year of operation of any such health department this function may be performed by the said board alone.

Subd. 6. Each such board of health shall prepare and cause to be published for free public distribution an annual report of the work of its health department.

Subd. 7. Each such board of health may make recommendations to the boards of county commissioners for local legislation pertaining to the public health and generally applicable throughout their counties. It may also recommend to any municipality within its jurisdiction local legislation having specific application to health problems peculiar to such municipality.

History: 1949 c 405 s 6; 1951 c 530 s 1; 1959 c 604 s 3; 1977 c 305 s 45; 1980 c 368 s 1

145.53 RULES AND REGULATIONS.

Subdivision 1. The board of county commissioners of any county within the jurisdiction of any health department created under sections 145.47 to 145.54 shall have the power to adopt and to alter by resolution, and to enforce reasonable regulations for the preservation of the public health, applicable throughout the whole or any portion of the county. Proposed regulations shall be published at least once in a newspaper of general circulation throughout the county or counties served by the health department before adoption. In counties containing a city of the first class and wherein a majority of the county commissioner districts lie within a city of the first class, it shall require the unanimous vote of the county board to adopt such rules and regulations, and no county regulation shall supersede or conflict with higher standards established by statute, the regulations of the state commissioner of health, or the provisions of the charter or ordinances of any city pertaining to the same subject matter.

Subd. 2. Nothing in sections 145.47 to 145.54 shall prohibit any municipality from adopting ordinances or resolutions for the regulation of the public health setting higher standards than those of the state commissioner of health, the board of county commissioners, or the statutes.

History: 1949 c 405 s 7; 1977 c 305 s 45

145.54 ENFORCEMENT; WITHDRAWAL.

Subdivision 1. Every health department created under sections 145.47 to 145.54, subject to the general supervision of the state commissioner of health, shall cause all laws and regulations relating to public health to be obeyed and enforced within its jurisdictional area.

Subd. 2. After any two or more counties shall have taken action to establish a joint health department under sections 145.47 to 145.54, any participating county may withdraw therefrom not earlier than one year from the beginning of the next fiscal year following written notice to its board of health and the boards of county commissioners of all other participating counties of its intention so to do.

Subd. 3. Any city of the first, second, or third class participating in a health department established under sections 145.47 to 145.54 may withdraw therefrom in the manner provided for the withdrawing of a participating county. Thereafter its population shall not be considered in the computation of apportionment of taxes for health department purposes and the health department tax levy of the county thereof shall not include the taxable property within such city.

Subd. 4. Whenever any county or city of the first, second, or third class shall withdraw from any health department established under sections 145.47 to

145.54, all provisions of law relating to local health boards and officers as defined in Minnesota Statutes 1945, Section 145.01, shall immediately become applicable within such county or city.

History: 1949 c 405 s 8; 1959 c 604 s 4,5; 1977 c 305 s 45

145.55 AGREEMENT TO PERFORM FUNCTIONS OF COMMISSIONER.

Subdivision 1. The commissioner of health hereafter called the state agency may enter into an agreement with any county which has established a health department, hereafter called the county agency, under the provisions of Laws 1969, Chapter 235, or Minnesota Statutes, Sections 145.47 to 145.54, under which agreement such county agency may agree to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of Minnesota Statutes, Sections 144.075, 144.12, 144.71 to 144.76, 327.14 to 327.29 and Chapter 157. The agreement may set out requirements that the county agency comply with rules promulgated by the state agency for the performance of duties under the provisions of Minnesota Statutes, Sections 144.075, 144.12, 144.71 to 144.76, 327.14 to 327.29 and Chapter 157. It may also set forth criteria under which the state agency will determine that the performance by the county agency complies with state standards and shall be deemed sufficient to replace licensing by the commissioner of health.

The agreement may further specify minimum staff requirements and qualifications and may provide for procedures for termination if the state agency finds that the county agency fails to comply with the terms and requirements of the agreement.

Subd. 2. No county agency may perform any licensing, inspection or enforcement duties pursuant to an agreement entered into under the authority of subdivision 1, in any territory outside of the county boundary.

Subd. 3. The scope of agreements entered into under the provisions of subdivision 1 shall be limited to such duties and responsibilities as agreed upon between the parties and may provide a basis for automatic renewal and provisions for notice of intent to terminate by either party.

Subd. 4. During the life of an agreement under this section the state agency shall not perform any licensing, inspection or enforcement duties which the county agency is required to perform under the agreement, except for inspections necessary to determine compliance with the agreement and this section. The state agency shall consult with, advise, and assist a county agency in the performance of its duties under the agreement.

History: 1971 c 630 s 1-4; 1977 c 305 s 45; 1978 c 762 s 3

HEALTH CARE INFORMATION, REVIEW ORGANIZATION

145.61 DEFINITIONS.

Subdivision 1. As used in sections 145.61 to 145.67 the terms defined in this section have the meanings given them.

Subd. 2. **Professional.** "Professional" means a person licensed or registered to practice a healing art under chapter 147 or chapter 148, to practice dentistry under chapter 150A, to practice as a pharmacist under chapter 151, or to practice podiatry under chapter 153.

Subd. 3. "Professional service" means service rendered by a professional of the type such professional is licensed to perform.

Subd. 4. "Health care" means professional services rendered by a professional or an employee of a professional and services furnished by a hospital,

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sanatorium, nursing home or other institution for the hospitalization or care of human beings.

Subd. 4a. "Administrative staff" means the staff of a hospital or clinic.

Subd. 5. "Review organization" means a committee whose membership is limited to professionals and administrative staff, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in Minnesota Statutes, Chapter 62D, by a nonprofit health service plan corporation as defined in Minnesota Statutes, Chapter 62C or by a professional standards review organization established pursuant to 42 U.S.C., Section 1320c-1 et seq. to gather and review information relating to the care and treatment of patients for the purposes of:

(a) Evaluating and improving the quality of health care rendered in the area or medical institution;

(b) Reducing morbidity or mortality;

(c) Obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) Developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) Developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) Reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(g) Acting as a professional standards review organization pursuant to 42 U.S.C., Section 1320c-1 et seq.;

(h) Determining whether a professional shall be granted staff privileges in a medical institution or whether a professional's staff privileges should be limited, suspended or revoked; or

(i) Reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers or health maintenance organizations and their insureds or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee; or

(5) professionals or their patients and the federal, state, or local government, or agencies thereof.

History: 1971 c 283 s 1; 1974 c 295 s 1,2; 1975 c 73 s 1; 1976 c 173 s 49; 1982 c 424 s 133; 1982 c 546 s 1

145.62 LIMITATION ON LIABILITY FOR PERSONS PROVIDING INFORMATION TO REVIEW ORGANIZATION.

No person, firm, or corporation providing information to a review organization shall be subject to any action for damages or other relief, by reason of having

furnished such information, unless such information is false and the person providing such information knew, or had reason to believe, such information was false.

History: 1971 c 283 s 2

145.63 LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW ORGANIZATIONS.

No person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by him of any duty, function or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No person shall be liable for damages or other relief in any action by reason of the performance of him of any duty, function, or activity as a member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made.

History: 1971 c 283 s 3; 1974 c 295 s 3

145.64 CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.

All data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery. No person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization. The proceedings and records of a review organization shall not be subject to discovery or introduction into evidence in any civil action against a professional arising out of the matter or matters which are the subject of consideration by the review organization. Information, documents or records otherwise available from original sources shall not be immune from discovery or use in any civil action merely because they were presented during proceedings of a review organization, nor shall any person who testified before a review organization or who is a member of it be prevented from testifying as to matters within his knowledge, but a witness cannot be asked about his testimony before a review organization or opinions formed by him as a result of its hearings. The provisions of this section shall not apply to a review organization of the type described in section 145.61, subdivision 5, clause (h).

History: 1971 c 283 s 4; 1974 c 295 s 4; 1975 c 73 s 2

145.65 GUIDELINES NOT ADMISSIBLE IN EVIDENCE.

No guideline established by a review organization shall be admissible in evidence in any proceeding brought by or against a professional by a person to whom such professional has rendered professional services.

History: 1971 c 283 s 5

145.66 PENALTY FOR VIOLATION.

Any disclosure other than that authorized by section 145.64, of data and information acquired by a review committee or of what transpired at a review meeting, is a misdemeanor.

History: 1971 c 283 s 6

145.67 PROTECTION OF PATIENT.

Nothing contained in sections 145.61 to 145.67 shall be construed to relieve any person of any liability which he has incurred or may incur to a patient as a result of furnishing health care to such patient.

History: 1971 c 283 s 7

DETOXIFICATION CENTERS

145.696 [Repealed, 1973 c 572 s 18]

145.697 [Repealed, 1973 c 572 s 18]

145.698 CONFINEMENT OF DRUG DEPENDENT PERSON.

Subdivision 1. When a person has been accused of violating any state or local law or ordinance in district or municipal court, and if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may not be responsible for his actions, the court may adjourn the proceedings and order the county attorney to file a petition for commitment of the defendant pursuant to the Minnesota hospitalization and commitment act for confinement in a hospital, a mental health center, the Willmar state hospital or other drug treatment facility until such time as the court feels that such person can be returned to the court.

Subd. 2. Upon conviction of a defendant for any crime in district court or any municipal court from which an appeal lies directly to the supreme court, or following revocation of probation previously granted whether or not sentence has been imposed, if it appears to the court that the defendant may be a drug dependent person, or by reason of the repeated use of drugs may be in imminent danger of becoming addicted, the court may adjourn the proceedings or suspend imposition or execution of sentence and order the county attorney to file a petition for commitment of the defendant pursuant to the Minnesota hospitalization and commitment act for confinement in a hospital, a mental health center, the Willmar state hospital, or other drug treatment facility until such time as the court feels that such person is no longer in need of institutional care and treatment.

History: 1971 c 892 s 11

145.699 [Repealed, 1973 c 572 s 18]

145.71 [Repealed, 1979 c 323 s 16]

145.72 [Repealed, 1979 c 323 s 16]

145.73 [Repealed, 1979 c 323 s 16]

145.74 [Repealed, 1979 c 323 s 16]

145.75 [Repealed, 1979 c 323 s 16]

145.751 [Repealed, 1979 c 323 s 16]

145.76 [Repealed, 1979 c 323 s 16]

145.761 [Repealed, 1979 c 323 s 16]

145.77 [Repealed, 1979 c 323 s 16]

145.78 [Repealed, 1979 c 323 s 16]

145.79 [Repealed, 1979 c 323 s 16]

145.80 [Repealed, 1979 c 323 s 16]

145.81 [Repealed, 1975 c 299 s 12]

145.811 [Repealed, 1979 c 323 s 16]

145.812 [Repealed, 1979 c 323 s 16]

145.82 [Repealed, 1979 c 323 s 16]

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PROVISIONS RELATING TO PUBLIC HEALTH 145.833

145.83 [Repealed, 1979 c 323 s 16]

145.831 [Repealed, 1979 c 323 s 16]

MINNESOTA CERTIFICATE OF NEED ACT

145.832 PURPOSE; CITATION.

Subdivision 1. The legislature finds that the unnecessary construction or modification of health care facilities increases the cost of care and threatens the financial ability of the public to obtain necessary medical services. The purposes of sections 145.832 to 145.845 are to promote comprehensive health planning; to assist in providing the highest quality of health care at the lowest possible cost; to avoid unnecessary duplication by ensuring that only those health care facilities and services which are needed will be developed; and to provide an orderly method of resolving questions concerning the necessity of construction or modification of health care facilities.

It is the policy of sections 145.832 to 145.845 that decisions regarding the construction or modification of health care facilities should be based on the maximum possible participation on the local level by consumers of health care and elected officials, as well as the providers directly concerned.

Subd. 2. Sections 145.832 to 145.845 may be cited as "The Minnesota Certificate of Need Act."

History: 1979 c 323 s 1

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.833 DEFINITIONS.

Subdivision 1. As used in sections 145.832 to 145.845, unless the context otherwise requires, the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Health care facility" means any facility licensed under sections 144.50 to 144.56, or any nursing home licensed under sections 144A.02 to 144A.11; but does not include any facility licensed under sections 245.781 to 245.813 or 252.28, unless the facility is a vendor of medical care under section 256B.02, subdivision 7, and is certified as any type of intermediate care facility or skilled nursing facility or is operated by the commissioner of public welfare as a state hospital. "Health care facility" also includes any facility in which services are provided primarily for the treatment of kidney diseases.

Subd. 3. "Health services" means all clinically related services, diagnostic, treatment or rehabilitative, that are cost centers utilized by a health care facility for its accounting purposes. The cost center shall conform to definitions of cost centers recognized by generally accepted accounting principles and shall conform to the cost center definitions utilized in reports of the facility, or organization to any other state agency or program. The cost centers include alcohol, drug abuse and mental health services.

Subd. 4. "Predevelopment activity" means any activity by or on behalf of a health care facility or any person which occurs in preparation for the offering or development of a new institutional health service if the predevelopment activity would require an expenditure in excess of \$150,000 or if the predevelopment activity involves any arrangement or commitment for financing the offering or development of a new institutional health service.

Subd. 5. "Construction or modification" means:

(a) Any erection, building, alteration, reconstruction, modernization, improvement, extension, lease or other acquisition, or any purchase, lease or other

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acquisition of diagnostic or therapeutic equipment, by or on behalf of a health care facility which:

(1) Requires, or would require if purchased, a total capital expenditure, under generally accepted accounting principles, in excess of \$600,000; or

(2) Changes the bed capacity of a health care facility in a manner which increases the total number of beds, or distributes beds among various categories, or relocates beds from one physical facility or site to another, by more than ten beds or more than ten percent of the licensed bed capacity, whichever is less, over a two year period;

(b) The establishment of a new health care facility or any predevelopment activity by or on behalf of a health care facility which may result in a proposal reviewable according to sections 145.832 to 145.845;

(c) Any establishment of a new institutional health service, excluding home health services, by a health care facility which is to be offered in or through a health care facility and which was not offered on a regular basis in or through that facility within the 12 month period prior to the time when that service is intended to be offered;

(d) The purchase, lease or other acquisition of diagnostic or therapeutic equipment by a licensed medical doctor, a group of licensed medical doctors, or a professional corporation of licensed medical doctors organized pursuant to chapter 319A, which requires, or would require if purchased, a capital expenditure in excess of \$400,000 for any one item of equipment and is determined by the state commissioner of health to be designed to circumvent the provisions of sections 145.832 to 145.845; and

(e) The purchase, lease or other acquisition of diagnostic or therapeutic equipment by, or on behalf of, a health care facility which requires, or would require if purchased, a total capital expenditure in excess of \$400,000 for any one item of equipment.

Subd. 6. "Certificate of need" means a certificate issued in accordance with sections 145.832 to 145.845.

Subd. 7. "Health systems agency" means an agency designated pursuant to the National Health Planning and Resources Development Act, 42 U.S.C., Section 300k, et seq.; provided that in the metropolitan area the health systems agency shall be the metropolitan council, if it has appointed a health board to advise it which meets the requirements of section 145.845.

Subd. 8. "Consumer" means any person other than a person:

(a) Whose occupation involves, or before his retirement involved, the administration of health activities or the providing of health services within the 12 months previous to appointment;

(b) Who is, or ever was, employed by a health care facility within the 12 months previous to appointment, as a licensed professional; or

(c) Who has, or ever had, a material financial interest in the rendering of health service within the 12 months previous to appointment.

Subd. 9. "Health service areas" means those areas established pursuant to 42 U.S.C., Section 300l.

Subd. 10. "Health systems plan" means the plan developed by the health systems agency pursuant to the requirements of 42 U.S.C., Section 300l-2.

Subd. 11. "Annual implementation plan" means the plan developed annually by the health systems agency pursuant to the requirements of 42 U.S.C., Section 300l-2 which relate to the implementation of the health systems plan.

Subd. 12. "Develop" means to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial obligation in relation to offering the service.

Subd. 13. "Offer" means that the health care facility holds itself out as capable of providing or as having the means for the provision of a specified health service.

Subd. 14. "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of the state.

History: 1979 c 323 s 2; 1982 c 424 s 36-38; 1982 c 614 s 4

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

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 department of energy, planning and development, 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 department of energy, planning and development pursuant to certificate of need shall remain in effect until amended or repealed by the rules of the commissioner of health.

History: 1979 c 323 s 3; 1981 c 356 s 171,248

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

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, 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.

Subd. 2. **Determination of applicability.** Any person directly affected by the proposed construction or modification may, at the time of submission of the notice to the health systems agency, request a written determination by the commissioner of health as to whether the construction or modification is subject to the provisions of sections 145.832 to 145.845 and whether a certificate of need must be obtained. Upon receipt of a request, the health systems agency shall within 30 days submit a recommendation to the commissioner of health as to whether a certificate of need is required. The applicant shall be notified by the commissioner of health of the determination in writing not later than 30 days after the receipt of the request from the health systems agency. No health systems agency shall be required to accept or act upon a certificate of need application if the notice required by this section has not been given. Nothing in this section shall be construed to limit in any way

the right to engage architectural, professional consultation, other predevelopment activities, or fund raising services except as provided by subdivision 1.

Subd. 3. Physicians; notice of acquisition of equipment. A licensed medical doctor, a group of licensed medical doctors, or a professional corporation of licensed medical doctors organized pursuant to chapter 319A, proposing to purchase, lease or otherwise acquire one or more items of diagnostic or therapeutic equipment which require a capital expenditure in excess of \$400,000 shall, prior to purchasing or acquiring the equipment, notify the health systems agency and the commissioner of health of the proposed acquisition or purchase.

The commissioner of health shall within 60 days of receipt of the notice determine whether or not the proposed acquisition or purchase is designed to circumvent the provisions of sections 145.832 to 145.845. A hearing shall be held if requested by the applicant or the health systems agency. The commissioner of health shall notify the applicant and the health systems agency in writing of its determination. If the commissioner of health determines that the proposed acquisition or purchase is not designed to circumvent the provisions of sections 145.832 to 145.845, no certificate of need shall be required of the applicant. If the commissioner of health determines that the proposed acquisition or purchase is designed to circumvent the provisions of sections 145.832 to 145.845, the applicant must obtain a certificate of need.

Subd. 4. Waivers. A proposed construction or modification may be granted a waiver from the requirements of section 145.834 by the commissioner of health if, based on the recommendation of the health systems agency, the commissioner determines that:

(a) The proposed capital expenditure is less than three percent of the annual operating budget of the facility applying for a waiver;

(b) The construction or modification is not related to direct patient care services, such as parking lots, sprinkler systems, heating or air conditioning equipment, fire doors, food service equipment, building maintenance, or other constructions or modifications of a like nature;

(c) The construction or modification is exclusively for ambulatory care services; or

(d) The construction or modification is for an experimental or demonstration project.

The commissioner of health, after consultation with the department of energy, planning and development and the health systems agencies, may by rule provide for the granting of waivers under other situations the commissioner of health deems appropriate and not inconsistent with sections 145.832 to 145.845 and 42 U.S.C., Section 300k, et seq.

Proposed criteria for waivers in clauses (c) and (d) of this section shall be published in the state register by June 1, 1982 and the public shall be given an opportunity to review and comment on the proposed criteria prior to implementation. The criteria are not subject to the requirements of sections 14.05 to 14.36, 14.44 and 14.45. The criteria shall be published in the state register and implemented by August 15, 1982.

The request for a waiver shall be submitted by the applicant to the health systems agency at the same time the applicant submits a notice of intent to the health systems agency pursuant to subdivision 1. Within 30 days of the request, the health systems agency shall submit its recommendation on the issue of the waiver to the commissioner of health, but the recommendation shall not be binding on the commissioner of health. The commissioner of health shall notify the applicant and the health systems agency of the decision to grant or deny the waiver within 30 days of receipt of the recommendation from the health systems agency.

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PROVISIONS RELATING TO PUBLIC HEALTH 145.836

Subd. 5. **Emergency waivers.** An emergency waiver may be granted by the commissioner to a requesting health care facility when damage from fire or other disaster necessitates repair. The commissioner of health and the health systems agencies shall establish procedures to expedite waivers under these conditions.

History: 1979 c 323 s 4; 1981 c 356 s 172,248; 1982 c 424 s 130; 1982 c 614 s 5,6

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

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.

Subd. 2. **Content of applications.** Each application for a certificate of need shall be submitted in a format prescribed by the commissioner of health and shall contain information concerning the following:

- (a) The geographic area to be served;
- (b) The population to be served;
- (c) The reasonably anticipated need for the facility or service to be provided by the proposed construction or modification and identification of the factors which create the need;
- (d) A description of the construction or modification, including:
 - (1) The capital budget contemplated;
 - (2) The estimated annual operating cost, including the anticipated salary cost and numbers of new staff necessitated by the construction or modification for at least the first five years;
 - (3) The anticipated effect of the construction or modification on the per day and per admission or per outpatient visit cost charges by an existing health care facility and the general financial solvency of the applicant; and
 - (4) The availability and manner of financing of the proposed construction or modification and the estimated date of commencement and completion of the construction or modification.
- (e) Alternatives which were considered and found not to be acceptable as a substitute for the proposed construction or modification;
- (f) So far as is known, existing institutions within the area to be served that offer, or propose to offer, the same or similar service, the extent of utilization of existing facilities or services; and the anticipated effect that the construction or modification will have on existing facilities and services;
- (g) The projected utilization of the proposed construction or modification for at least the first five years; and
- (h) The relationship of the proposed construction or modification to the health system plan and the annual implementation plan.

Subd. 3. **Application revision.** A proposed construction or modification may be revised by the health care facility, health systems agency or commissioner, during the review of the application, provided, that the revision is within the scope of the construction or modification initially proposed and that the revision is acceptable to the health systems agency and the health care facility.

History: 1979 c 323 s 5; 1981 c 356 s 173

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

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;

(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

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PROVISIONS RELATING TO PUBLIC HEALTH 145.838

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

Subd. 2. **Review procedures.** In reviewing complete applications, the health systems agency shall:

(1) Hold a public hearing;

(2) Provide notice of the public hearing by publication in a legal newspaper of general circulation in the area for two successive weeks at least ten days before the date of such hearing and notify affected persons which shall include at least the applicant and other persons subject to review, contiguous health systems agencies, the health care facilities located in the health service area and which provide institutional health services, and the rate review agency;

(3) Allow any interested person the opportunity to be heard, to be represented by counsel, to present oral and written evidence, and to confront and cross-examine opposing witnesses at the public hearing;

(4) Provide a transcript of the hearing at the expense of any individual requesting it, if the transcript is requested at least three days prior to the hearing;

(5) Make written findings of fact and recommendations concerning the application. The commissioner of health shall promulgate by rule the required findings of fact which shall address the criteria specified in subdivision 1, and the provisions of the National Health Planning and Resources Development Act, 42 U.S.C., Section 300k, et seq. The findings of fact and recommendations shall be available to any individual requesting them; and

(6) Follow any further procedure not inconsistent with sections 145.832 to 145.845 or sections 14.01 to 14.70, which it deems appropriate.

Within 60 days after the commissioner has determined the application to be complete, the health systems agency shall make its recommendation to the commissioner of health. The health systems agency shall either recommend that the commissioner of health issue, deny or issue with revisions a certificate of need for the proposed construction or modification. The reasons for the recommendation shall be set forth in detail.

Subd. 3. **Extension of review period.** Any of the time periods specified by sections 145.832 to 145.838 may be extended for a specific period of time upon mutual agreement among the commissioner of health, the health systems agency and the health care facility.

History: 1979 c 323 s 6; 1981 c 356 s 174; 1982 c 424 s 130

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.838 DETERMINATION.

Subdivision 1. Within 30 days after receiving the recommendation of the health systems agency, the commissioner of health shall review the recommendations and make one of the following decisions based upon the record developed by the health systems agency:

(a) Issue a certificate of need;

(b) Deny the certificate of need; or

(c) Remand the application to the health systems agency with comments and instructions for further consideration and recommendations. A remanded application shall be treated by the health systems agency as if it were a new application for a certificate of need.

Subd. 2. If the decision of the commissioner of health is contrary to the recommendation of the health systems agency, the commissioner of health shall delineate written findings as required in section 145.837, subdivision 2, and the

provisions of the National Health Planning and Resources Development Act, 42 U.S.C., Section 300k, et seq. and submit this to the health systems agency. Within 30 days of receipt of this decision, any person may make a written request to the commissioner of health to reconsider his decision. If the commissioner determines that good cause has been shown, a new public hearing shall be held. The commissioner shall determine whether the request:

(a) presents significant, relevant information not previously considered by the commissioner; or

(b) demonstrates that there have been significant changes in the factors, criteria or circumstances relied upon by the commissioner in reaching his decision; or

(c) demonstrates that the commissioner has materially failed to follow his rules in reaching his decision; or

(d) any such other bases for a public hearing as the commissioner determines constitutes good cause. The commissioner may by rule establish procedures for the reconsideration process.

Following disposition of the reconsideration request, the health systems agency or the group, organization, association or persons submitting the application may submit to the commissioner of health a request for review of his decision within 30 days of receipt of the reconsideration decision. The request for review shall state in detail why the commissioner's decision was not supported by the record as a whole and should be changed to be consistent with the recommendation of the health systems agency. The commissioner of health within ten days of receipt of the request for review shall serve a notice of and order of hearing upon the party requesting the review and the health systems agency and shall file the entire record with the hearing examiner assigned by the chief hearing examiner. The review shall be confined to the record, oral argument, and, if requested by the hearing examiner, written briefs. The hearing for oral argument shall be scheduled within 30 days of receipt by the commissioner of health of the request for review; provided, however, that if the hearing examiner requests the submission of written briefs, the hearing shall be continued until such briefs are submitted but the continuance shall be for no more than 30 days. The burden shall be on the party requesting the review to demonstrate that the commissioner's decision was not supported by the record as a whole. The decision of the hearing examiner shall be in writing and shall be rendered within 45 days after the conclusion of the hearing. The decision of the hearing examiner shall be the final administrative decision and subject to court appeal as provided for in this section.

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 14.63 to 14.70; 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.

Subd. 4. In order to effectively carry out the public policy of the certificate of need law as expressed in section 145.832, the commissioner of health shall not be prohibited from securing a review of any final order or judgment of the district court rendered pursuant to subdivision 3 but may appeal to the supreme court pursuant to section 14.70.

History: 1979 c 323 s 7; 1Sp1981 c 4 art 1 s 80; 1982 c 424 s 130

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.839 EXPIRATION OF CERTIFICATE.

A certificate of need shall expire if the construction or modification is not commenced within 18 months following the issuance of the certificate.

No certificate of need shall be renewed automatically after expiring before the commencement of the construction or modification. Upon expiration of the certificate, the facility or other person required to obtain a certificate of need pursuant to sections 145.832 to 145.845 shall present an updated application and the agency shall redetermine its recommendation.

History: 1979 c 323 s 8

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.84 PERIODIC REPORTS.

The commissioner of health shall, by rule, require health care facilities, upon completion of a construction or modification for which a certificate of need was issued, to furnish financial information which compares actual costs of the construction or modification with those estimated costs used in the application for a certificate.

History: 1979 c 323 s 9

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.841 EVASIONS.

No health care facility shall separate portions of a single proposed construction or modification into components in order to evade the cost limitations of section 145.833, subdivision 5.

History: 1979 c 323 s 10

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.842 ENFORCEMENT.

The district court in the county where an alleged violation occurs shall have jurisdiction to enjoin violations of sections 145.832 to 145.845. At the request of the commissioner of health, the attorney general may bring an action to enjoin an alleged violation. At the request of a health systems agency, the county attorney of the county where an alleged violation occurs may bring an action to enjoin the alleged violation. The commissioner of health shall not issue a license for any portion of a health care facility in violation of section 145.834 until a certificate of need has been issued. No health care facility in violation of section 145.834 shall be eligible to apply for or receive public funds under chapters 245 to 256B, or from any other source, until a certificate of need has been issued.

History: 1979 c 323 s 11

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.843 FACILITIES IN VIOLATION OF OTHER STATE LAW.

A health systems agency may recommend denial of a certificate of need and the commissioner of health may deny a certificate of need to a health care facility if proceedings pursuant to section 144.55 or 144A.11 have been initiated against a licensed health care facility. This section shall not apply to proposed construction or modification which is intended to correct the causes of the violations.

History: 1979 c 323 s 12

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

145.844 HEALTH MAINTENANCE ORGANIZATION.

Sections 145.832 to 145.843 shall apply to health maintenance organizations to the extent that federal law or regulation requires the application of state certificate of need laws to health maintenance organizations.

History: 1979 c 323 s 13

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12, effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

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;
- (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: 1979 c 323 s 14; 1981 c 356 s 175

NOTE: This section is repealed by Laws 1982, Chapter 614, Section 12 effective March 15, 1984. See Laws 1982, Chapter 614, Section 13.

**UNIFORM DUTIES TO
DISABLED PERSONS ACT**

145.851 DEFINITIONS.

In sections 145.851 to 145.858:

- (a) "disabled condition" means the condition of being unconscious, semiconscious, incoherent, or otherwise incapacitated to communicate;
- (b) "disabled person" means a person in a disabled condition;
- (c) "the emergency symbol" means the caduceus inscribed within a six-barred cross used by the American Medical Association to denote emergency information;
- (d) "identifying device" means an identifying bracelet, necklace, metal tag, or similar device bearing the emergency symbol and the information needed in an emergency;
- (e) "medical practitioner" means a person licensed or authorized to practice medicine, osteopathy, and the healing arts.

History: 1973 c 428 s 1

145.852 IDENTIFYING DEVICES FOR PERSONS HAVING CERTAIN CONDITIONS.

Subdivision 1. A person who suffers from epilepsy, diabetes, a cardiac condition, or any other type of illness that causes temporary blackouts, semiconscious periods, or complete unconsciousness, or who suffers from a condition requiring specific medication or medical treatment, is allergic to certain medications or items used in medical treatment, wears contact lenses, or is unable to communicate coherently or effectively in the English language, is authorized and encouraged to wear an identifying device.

Subd. 2. Any person may carry an identification card bearing his name, type of medical condition, physician's name, and other medical information.

Subd. 3. By wearing an identifying device a person gives his consent for any law enforcement officer or medical practitioner who finds him in a disabled condition to make a reasonable search of his clothing or other effects for an identification card of the type described in subdivision 2.

History: 1973 c 428 s 2

145.853 DUTY OF LAW ENFORCEMENT OFFICER.

Subdivision 1. A law enforcement officer shall make a diligent effort to determine whether any disabled person he finds is an epileptic or a diabetic, or suffers from some other type of illness that would cause the condition. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.

Subd. 2. In seeking to determine whether a disabled person suffers from an illness, a law enforcement officer shall make a reasonable search for an identifying device and an identification card of the type described in section 145.852, subdivision 2 and examine them for emergency information. The law enforcement officer may not search for an identifying device or an identification card in a manner or to an extent that would appear to a reasonable person in the circumstances to cause an unreasonable risk of worsening the disabled person's condition.

Subd. 3. A law enforcement officer who finds a disabled person without an identifying device or identification card is not relieved of his duty to that person to make a diligent effort to ascertain the existence of any illness causing the disabled condition.

Subd. 4. A cause of action against a law enforcement officer does not arise from his making a reasonable search of the disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

Subd. 5. A law enforcement officer who determines or has reason to believe that a disabled person is suffering from an illness causing his condition shall promptly notify the person's physician, if practicable. If the officer is unable to ascertain the physician's identity or to communicate with him, the officer shall make a reasonable effort to cause the disabled person to be transported immediately to a medical practitioner or to a facility where medical treatment is available. If the officer believes it unduly dangerous to move the disabled person, he shall make a reasonable effort to obtain the assistance of a medical practitioner.

History: 1973 c 428 s 3

145.854 DUTY OF MEDICAL PRACTITIONERS.

Subdivision 1. A medical practitioner, in discharging his duty to a disabled person whom he has undertaken to examine or treat, shall make a reasonable

search for an identifying device or identification card of the type described in section 145.852, subdivision 2 and examine them for emergency information.

Subd. 2. A cause of action against a medical practitioner does not arise from his making a reasonable search of a disabled person to locate an identifying device or identification card, even though the person is not wearing an identifying device or carrying an identification card.

History: 1973 c 428 s 4

145.855 DUTY OF OTHERS.

Subdivision 1. A person, other than a law enforcement officer or medical practitioner, who finds a disabled person shall make a reasonable effort to notify a law enforcement officer. If a law enforcement officer or medical practitioner is not present, a person who finds a disabled person may (1) make a reasonable search for an identifying device, and (2) if the identifying device is found may make a reasonable search for an identification card of the type described in section 145.852, subdivision 2. If a device or card is located, the person making the search shall attempt promptly to bring its contents to the attention of a law enforcement officer or medical practitioner.

Subd. 2. A cause of action does not arise from a reasonable search to locate an identifying device or identification card as authorized by subdivision 1.

History: 1973 c 428 s 5

145.856 FALSIFYING IDENTIFICATION OR MISREPRESENTING CONDITION; PENALTY.

A person who with intent to deceive provides, wears, uses, or possesses a false identifying device or identification card of the type described in section 145.852, subdivision 2 is guilty of a misdemeanor.

History: 1973 c 428 s 6

145.857 OTHER DUTIES.

The duties imposed by sections 145.851 to 145.858 are in addition to, and not in limitation of, other duties existing under the law of this state.

History: 1973 c 428 s 7

145.858 CITATION.

Sections 145.851 to 145.858 may be cited as the "Uniform Duties to Disabled Persons Act."

History: 1973 c 428 s 8

145.861 [Repealed, 1976 c 222 s 209]

145.862 [Repealed, 1976 c 222 s 209]

NOTE: Section 145.862 was also amended by Laws 1976, Chapter 2, Section 62, to read as follows:

"Sec. 62. Minnesota Statutes 1974, Section 145.862, Subdivision 4, is amended in line 3 by deleting '146.02' and '148.79'.

NOTE: Section 145.862 was also amended by Laws 1976, Chapter 173, Section 53, to read as follows:

"Sec. 53. Minnesota Statutes 1974, Section 145.862, Subdivision 4, is amended to read:

Subd. 4. "Existing state health licensing boards" means the existing professional health licensing boards provided for in Minnesota Statutes, Sections 146.02, 147.01, 148.02, 148.52, 148.79, 148.181, 148.296, 150A.02, 151.02, 153.02, 156.01, and section 19 of this act, as well as any other professional health licensing boards that may be created hereafter unless specifically exempted therefrom."

145.863 [Repealed, 1976 c 222 s 209]

145.864 [Repealed, 1976 c 222 s 209]

145.865 Subdivision 1. [Repealed, 1976 c 222 s 209]

Subd. 2. [Repealed, 1975 c 315 s 26]

Subd. 3. [Repealed, 1976 c 222 s 209]

145.866 [Repealed, 1976 c 222 s 209]

MATERNAL AND CHILD HEALTH

145.88 PURPOSE.

The legislature finds that it is in the public interest to assure:

(a) Statewide planning and coordination of maternal and child health services through the acquisition and analysis of population-based health data, provision of technical support and training, and coordination of the various public and private maternal and child health efforts; and

(b) Support for targeted maternal and child health services in communities with significant populations of high risk, low income families through a grants process.

Federal money received by the Minnesota department of health, pursuant to United States Code, Title 42, Sections 701 to 709, shall be expended to:

(1) assure access to quality maternal and child health services for mothers and children, especially those of low income and with limited availability to health services;

(2) reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;

(3) reduce the need for inpatient and long-term care services and to otherwise promote the health of mothers and children, especially by providing preventive and primary care services for low income mothers and children and prenatal, delivery and postpartum care for low income mothers;

(4) provide rehabilitative services for blind and disabled children under age 16 receiving benefits under Title XVI of the Social Security Act; and

(5) provide and locate medical, surgical, corrective and other service for children who are crippled or who are suffering from conditions that lead to crippling.

History: 1982 c 431 s 1

145.881 MATERNAL AND CHILD HEALTH ADVISORY TASK FORCE.

Subdivision 1. **Composition of task force.** The commissioner shall establish and appoint a maternal and child health advisory task force consisting of 15 members who will provide equal representation from:

(1) professionals with expertise in maternal and child health services;

(2) representatives of local health boards as defined in section 145.913; and

(3) consumer representatives interested in the health of mothers and children.

No members shall be employees of the state department of health. Task force members shall be appointed and removed and terms shall expire as provided in section 15.059, subdivision 6.

Subd. 2. **Duties.** The advisory task force shall meet on a regular basis to perform the following duties:

(a) Review and report on the health care needs of mothers and children throughout the state of Minnesota;

(b) Review and report on the type, frequency and impact of maternal and child health care services provided to mothers and children under existing maternal and child health care programs, including programs administered by the commissioner of health;

(c) Establish, review, and report to the commissioner a list of program guidelines and criteria which the advisory task force considers essential to providing an effective maternal and child health care program to low income, high risk patients and fulfilling the purposes defined in section 145.88;

(d) Review staff recommendations of the department of health regarding maternal and child health grant awards before the awards are made;

(e) Make recommendations to the commissioner for the use of other federal and state funds available to meet maternal and child health needs;

(f) Make recommendations to the commissioner of health on priorities for funding the following maternal and child health services: (1) prenatal, delivery and postpartum care, (2) comprehensive health care for children, especially from birth through five years of age, (3) adolescent health services, (4) family planning services, (5) preventive dental care, (6) special services for chronically ill and handicapped children and (7) any other services which promote the health of mothers and children; and

(g) Make recommendations to the commissioner of health on a process to distribute, award and administer the maternal and child health block grant funds after July 1, 1983 that will fulfill the purposes of section 145.88.

History: 1982 c 431 s 2

145.882 MATERNAL AND CHILD HEALTH BLOCK GRANT DISTRIBUTION.

The maternal and child health care block grant shall be distributed to the same recipients that received funds during the previous year until July 1, 1983. A reduction in federal funding shall be distributed to reflect a proportional reduction for each recipient.

History: 1982 c 431 s 3

145.891 CITATION.

Sections 145.891 to 145.897 shall be known as the "maternal and child nutrition act of 1975."

History: 1975 c 346 s 1

145.892 DEFINITIONS.

Subdivision 1. For purposes of sections 145.891 to 145.897, the terms defined in this section have the meanings given them.

Subd. 2. "Local health agency" means the county public health nursing service or any public or private nonprofit organization which enters into a contract with the commissioner of health pursuant to sections 145.891 to 145.897.

Subd. 3. "Pregnant woman" means an individual determined by a licensed physician, midwife, or appropriately trained registered nurse to have one or more fetuses in utero.

Subd. 4. "Lactating woman" means any breast feeding individual who presents competent evidence of having been delivered of a surviving child within the 12 months immediately preceding the filing of an application for nutritional supplements.

Subd. 5. "Infant" means an individual under one year of age.

Subd. 6. "Child" means an individual one to five years of age.

Subd. 7. "Nutritional risk" means individuals with any of the following characteristics:

(a) For pregnant and lactating women:

- (i) Known inadequate nutritional patterns;
- (ii) Anemia;
- (iii) History of prematurity or miscarriage; or
- (iv) Inadequate patterns of growth (underweight, obesity, or stunting).
- (b) For infants and children:
 - (i) Low birth weight;
 - (ii) Deficient patterns of growth;
 - (iii) Anemia; or
 - (iv) Known inadequate nutritional patterns.

Subd. 8. "Low birth weight" means a birth weight of less than 2,500 grams.

Subd. 9. "Nutritional supplements" means any food authorized by the commissioner to be made available under this program.

Subd. 10. "Commissioner" means the commissioner of health or his representative.

History: 1975 c 346 s 2; 1977 c 305 s 45; 1978 c 762 s 4

145.893 NUTRITIONAL SUPPLEMENT PROGRAM.

Subdivision 1. An eligible individual shall receive vouchers for the purchase of specified nutritional supplements in type and quantity approved by the commissioner. Alternate forms of delivery may be developed by the commissioner in appropriate cases.

Subd. 2. An individual shall be eligible for nutritional supplements who is not receiving a similar supplement under any federal, state, or local program and

- (a) Is pregnant or lactating; or
- (b) Is an infant or a child; and
- (c) Is eligible for or a recipient of any form of public assistance authorized by law and is certified by the local health agency to be a nutritional risk; or
- (d) Is certified by the local health agency to be a nutritional risk and is without sufficient resources to purchase necessary nutritional supplements.

Subd. 3. Eligibility for nutritional supplements shall cease upon certification by the local health agency that the individual is no longer a nutritional risk, but in no case later than:

- (a) For lactating women, 12 months after the birth of a surviving child; and
- (b) For children, at five years of age.

History: 1975 c 346 s 3; 1977 c 305 s 45; 1978 c 762 s 5

145.894 STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.

The commissioner of health shall:

- (a) Develop a comprehensive state plan for the delivery of nutritional supplements to pregnant and lactating women, infants, and children;
- (b) Contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;
- (c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites;
- (d) Develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;
- (e) Develop, analyze and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;

- (f) Apply for and administer any available federal or private funds;
- (g) Coordinate with the state and local public welfare agencies in identifying eligible individuals;
- (h) Promulgate all rules and regulations necessary to carry out the provisions of sections 145.891 to 145.897;
- (i) Report to the legislature by November 15 of every year on the expenditures and activities under sections 145.891 to 145.897 of the state and local health agencies for the preceding fiscal year.

History: 1975 c 346 s 4; 1977 c 305 s 45

145.895 DEPARTMENT OF PUBLIC WELFARE.

The commissioner of public welfare shall cooperate with the commissioner of health in identifying eligible individuals. The commissioner of public welfare shall provide a procedure for the notification of pregnant or lactating women, infants and children receiving any form of public assistance of eligibility for benefits under this program.

History: 1975 c 346 s 5; 1977 c 305 s 45

145.896 PROGRAM NOT A SUBSTITUTE OR REPLACEMENT.

This program shall not be a replacement or substitute for any other local, state, or federal program administered through the departments of health or public welfare, nor shall the value of the nutritional supplements be included in eligibility determination for other assistance programs.

History: 1975 c 346 s 6

145.897 VOUCHERS.

Vouchers issued pursuant to sections 145.891 to 145.897 shall be only for the purchase of those foods determined by the commissioner to be desirable nutritional supplements for pregnant and lactating women, infants and children. These foods shall include, but not be limited to, iron fortified infant formula, vegetable or fruit juices, cereal, milk, cheese, and eggs.

History: 1975 c 346 s 7; 1977 c 305 s 45

COMMUNITY HEALTH SERVICES

145.911 CITATION.

Subdivision 1. **Purpose.** The purpose of sections 145.911 to 145.922 is to develop and maintain an integrated system of community health services under local administration with a system of state guidelines and standards.

Subd. 2. **Citation.** Sections 145.911 to 145.922 may be cited as the "community health services act".

History: 1976 c 9 s 1

145.912 DEFINITIONS.

Subdivision 1. For the purposes of sections 145.911 to 145.922, the following terms shall have the meanings here given them.

Subd. 2. "Human services" means correctional, educational, employment, health, mental health, and social services.

Subd. 3. "Health services" means those personal health services provided to individuals by licensed health professionals engaged in private practice, institutional health services and community health services.

Subd. 4. "Institutional health services" means the services provided in hospitals, nursing homes and other licensed health facilities.

Subd. 5. "Community health services" means those services designed to protect and improve the people's health within a geographically defined community by emphasizing services to prevent illness, disease, and disability, by promoting effective coordination and use of community resources, and by extending health services into the community. These services include community nursing services, home health services, disease prevention and control services, family planning services, nutritional services, dental public health services, emergency medical services, health education, and environmental health services.

Subd. 6. "Community nursing services" means public health nursing services that emphasize prevention by providing family centered nursing, including prenatal, well child, crippled child, school health, family planning, and nutritional services as well as individual and family health appraisal, screening, follow up, and referral for personal health services.

Subd. 7. "Home health services" means home nursing, physical therapy, nutrition, occupational therapy, homemakers, and home health aide services, which are provided under medical supervision.

Subd. 8. "Disease prevention and control services" means epidemiology, immunization, case finding and follow up, continuing surveillance, detection, and prevention of communicable diseases and chronic diseases including referrals for personal health services.

Subd. 9. "Family planning services" means counseling by trained personnel regarding family planning; distribution of information relating to family planning, referral to licensed physicians or local health agencies for consultation, examination, medical treatment, genetic counseling, and prescriptions for the purpose of family planning; and the distribution of family planning products, such as charts, thermometers, drugs, medical preparations, and contraceptive devices. For purposes of sections 145.911 to 145.922, family planning shall mean voluntary action by individuals to prevent or aid conception but shall not include the performance, or make referrals for encouragement of voluntary termination of pregnancy.

Subd. 10. "Nutritional services" means those activities designed to provide information about food substances which will alleviate dietary deficiencies and resulting health complications.

Subd. 11. "Dental public health services" means those organized community activities that are intended to prevent dental disease and promote dental health, including information, education and demonstration of actions that individuals and families can take to prevent dental disease and maintain dental health.

Subd. 12. "Emergency medical services" means those services which provide rapid and effective medical treatment to persons beset by a life threatening situation, at the scene of the emergency, enroute to a treatment center, and in the emergency department of that treatment center.

Subd. 13. "Health education" means those activities which develop each individual's awareness and sense of responsibility for his own health, the health of the family, and the health of the community, including basic information concerning the availability of health services in the community.

Subd. 14. "Environmental health services" means those services designed to achieve an environment conducive to man's health, comfort, safety, and well being. These services include food protection, hazardous substances and product safety, water supply sanitation, septic tank and soil absorption type sewage disposal, water pollution control, occupational health and safety, radiation control, air pollution control, noise pollution control, vector control, institutional sanitation, recreational sanitation including swimming pool sanitation and safety, hous-

ing code enforcement for health and safety purposes unless the enforcement is performed by another city or county agency designated by the county board or city council, and general nuisance control.

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.

Subd. 16. "Taxable value" means the adjusted assessed valuation of a county which shall be certified annually to the state commissioner of health by the equalized assessment review committee.

Subd. 17. "Local expenditure" means the total annual expenditures financed from all sources by counties and other local units of government within a county for community health services. The county auditor shall annually certify to the state commissioner of health the total amount of such community health services expenditures on forms and in such detail as may be prescribed by the state commissioner of health.

Subd. 18. "Per capita income" means the average income of the residents of a particular jurisdiction as calculated by the most recent federal census.

Subd. 19. "County board" means a county board of commissioners.

Subd. 20. "Board of health" means a local board of health organized under the provisions of section 145.913.

History: 1976 c 9 s 2; 1977 c 305 s 45; 1981 c 356 s 176

145.913 LOCAL BOARD OF HEALTH; ORGANIZATION.

Subdivision 1. **Counties.** A county may by resolution organize a board of health under the provisions of this section exercising one of the following options, and assign the responsibilities of sections 145.911 to 145.922 accordingly:

(a) The county board of a county that has or hereafter establishes an operational human services board pursuant to chapter 402, or Laws 1974, Chapter 293, shall assign the responsibilities of sections 145.911 to 145.922 to the human services board.

(b) The county board may assume the responsibilities of the board of health pursuant to sections 145.911 to 145.922.

(c) The county board may assign the responsibilities of a board of health under sections 145.911 to 145.922 to the board of health of said county organized under sections 145.47 to 145.55, or Laws 1969, Chapter 235.

(d) The county board may organize a board of health and assign the responsibilities of sections 145.911 to 145.922 to such board of health. The board of health for a single county shall consist of five members appointed by the county board. When two or more counties combine to form a board of health, each county board shall appoint two members to the board of health, except that the county board having the largest population shall appoint three such members. At least two members of the board of health shall be providers of health services. The remaining members shall be laymen representative of the people in the community and shall include at least one person who is not a member of the county board. Continuity of membership shall be assured by having approximately one-third of the members terms expire each year. First appointments may be for less than three years, thereafter all terms shall be three years. No member shall serve more than three consecutive terms. The board shall elect a chairman and vice chairman with terms of one year.

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.

Subd. 2. Cities. A city, located in a county with a population of 300,000 or more persons, or any city which is located in three counties, may by resolution organize a board of health under the provisions of this section exercising one of the following options, and assign the responsibilities of sections 145.911 to 145.922 accordingly:

(a) The city council may assume the responsibilities of the board of health pursuant to sections 145.911 to 145.922.

(b) The city council may assign the responsibilities of the board of health to the board of health of said city organized under section 145.01.

(c) The city council may organize a board of health and assign the responsibilities of sections 145.911 to 145.922 to such board of health. The board of health for a single city shall consist of five members appointed by the city council. When two or more cities combine to form a board of health, each city council shall appoint two members to the board of health, except that the city council of the city having the largest population shall appoint three such members. At least two members of the board of health shall be providers of health services. The remaining members shall be laymen representative of the people in the community and shall include at least one person who is not a member of the city council. Continuity of membership shall be assured by having approximately one-third of the members' terms expire each year. First appointments may be for less than three years, thereafter all terms shall be three years. No member shall serve more than three consecutive terms. The board shall elect a chairman and a vice chairman with terms of one year.

Subd. 3. Advisory committee. In each case where a board of health has been assigned the responsibilities of sections 145.911 to 145.922 a single local community health services advisory committee shall be established by the participating county boards or city councils to advise, consult with, or make recommendations to the board of health on matters relating to the development, maintenance, funding, and evaluation of community health services. The committee shall consist of not less than nine members and no more than 21 members. The membership of the advisory committee shall be as follows: at least one-third providers of health services, including at least three licensed health professionals; and at least one-third consumers selected to represent consumers organizations or constituencies within the community, provided, however, that the advisory committee to a county board of health for a county with 300,000 or more persons shall be as follows: at least 51 percent local government officials and the remainder divided equally between providers of health services and consumers. Continuity of membership of each advisory committee shall be assured by having an approximately equal number of terms expire each year. First appointments may be for less than two years, thereafter all terms shall be two years and no member shall serve more than three consecutive terms. Notwithstanding any law to the contrary, members may receive a per diem and be reimbursed for travel and other necessary expenses while engaged in their official duties, as determined by the appointing authority. The committee shall elect officers including a chairman and vice-chairman with terms of one year. The committee shall meet at least three times a year and at the call of the chairman or a majority of the members.

History: 1976 c 9 s 3; 1980 c 614 s 92; 1981 c 360 art 2 s 6

145.914 LOCAL BOARD OF HEALTH; AUTHORITY.

Subdivision 1. **General duties.** The board of health shall have general authority and responsibility for the development and maintenance of an integrated system of community health services.

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.

Subd. 3. **Employees.** The board of health may employ administrators, officers, employees, and agents as necessary to carry out the provisions of sections 145.911 to 145.922. Employees of the board of health shall be subject to any personnel administration rules adopted by the county board or boards or the city council or councils unless by law the employees or a class of employees shall be within the scope of a state wide personnel administration system. All persons employed by a county, city or the state, whose functions and duties are assumed by the board of health shall become employees of the board of health without loss in benefits, salaries or rights.

Subd. 4. **Acquisition of property; acceptance of funds; collection of fees.** The board of health by any lawful means, including gifts, purchase, lease, or transfer of custodial control, may acquire and hold in the name of the county or city the lands, buildings, and equipment necessary and incident to the accomplishment of the purposes of sections 145.911 to 145.922 and accept gifts, grants, and subsidies from any lawful source, apply for and accept state and federal funds, request and accept local tax funds, establish and collect reasonable fees for community health services provided.

Subd. 5. **Contracts for services.** The board of health may contract for services from private firms, nonprofit corporations, primary and secondary schools, state and local governmental agencies, or other community agencies to avoid unnecessary duplication of services and realize cost advantages. The board of health may offer to contract to provide public health nursing and other school health services to the schools within its jurisdiction. The contracts shall be employed to improve efficiency and the quality and effectiveness of services and shall give preferential consideration to existing municipal programs. Contracts shall be awarded on the basis of cost benefit comparisons and considerations.

Subd. 6. **Coordination of services.** The board of health shall coordinate community health services with the delivery of personal health services, institution-

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al health services, and related human services in the community; ensure responsible medical consultation and direction by employing or contracting with a practicing licensed physician; and coordinate community health services with health related environmental control services in the community. The board of health shall coordinate local, state, and federal services and funding for community health services.

Subd. 7. Evaluation of health services. The board of health shall evaluate the effectiveness and efficiency of community health services systems and programs and as a condition of qualifying for the community health services subsidy, prepare the annual community health services plan and budget, as provided in section 145.92.

Subd. 8. Identification of needs; priorities. The board of health shall identify community health needs and set priorities among the needs for the broad range of community health services including the health needs of minorities and nonresidents, including tourists and migrants, and ensure that services are accessible to all persons on the basis of need and that no one is denied services because of race, color, sex, age, language, religion, nationality, economic status, political persuasion or place of residence.

Subd. 9. Recommended local legislation. The board of health shall recommend appropriate local legislation pertaining to community health services to the county board or city council and shall advise the state commissioner of health on matters relating to public health that require assistance from the state, or that may be of more than local interest.

Subd. 10. Annual report. The board of health shall publish for distribution an annual report of the activities of the board of health.

Subd. 11. Manpower shortages and other health care problems. When the board of health determines that there is an acute shortage of medical or other health manpower, or that there is a significant problem in providing access to health care in the area, the board of health shall address itself to the resolution of those problems. The solution may involve providing assistance to recruit medical or other health personnel to the area, or the development of suitable linkages between area medical and allied health personnel that will make more effective use of existing private, nonprofit and community resources and extend health care into the community.

History: 1976 c 9 s 4; 1977 c 305 s 45; 1981 c 360 art 2 s 7

145.915 DUTIES OF COUNTY BOARD.

Subdivision 1. A county board of any county having a board of health organized under sections 145.911 to 145.922 shall review and approve the community health services plan prior to the submission of the plan to the state commissioner of health. The plan submitted by the county board shall incorporate the plans developed by any city organized under the provisions of section 145.913 that has established eligibility under the provisions of section 145.917. Upon receipt of the community health services plan, or any proposed revision, from a city, the county board shall review and act on the plan or the proposed revision within 30 days. The county board may approve the plan as written or refer the plan back to the city with comments and instructions for further consideration. The city or the county may appeal to the state commissioner of health for resolution of differences regarding the community health services plan. A failure to act within the specified time shall constitute approval of the plan.

Subd. 2. A county board of any county having a board of health organized under sections 145.911 to 145.922 may by ordinance adopt and enforce minimum standards and regulations for the services comprehended under sections 145.911 to

145.922; provided, however, that no county regulations shall conflict with state legislation or with higher standards established either by regulation of an agency of state government or by the provisions of the charter or ordinances of any city organized under the provisions of sections 145.911 to 145.922.

History: 1976 c 9 s 5; 1977 c 305 s 45

145.916 BUDGET; FUNDS.

On or before July 1 of each year the board of health, if other than the county board, or the joint board of two or more county boards, or the city council or councils, shall submit to the county board or boards or the city council or councils an estimate of the amount needed by the board of health to perform its duties including costs of administration for the ensuing year. The proposed plan and budget shall set forth the expected source and amounts of funds which are expected to be available to the board of health and its proposed plan of expenditures to perform its duties and responsibilities. The county board or boards or the city council or councils shall consider the estimates of income and the plan for expenditures and as the estimates and plan are approved or approved as modified, shall levy a tax within the levy limits provided by law.

If two or more counties or cities have agreed as provided in section 471.59, to a joint or multi-county or multi-city or multi-city-county activity, the county boards or city councils party to the agreement shall determine the proportional financial responsibility of each county or city to support the programs and services of the board of health if the agreement had not provided for the division of costs or other arrangements pursuant to the agreement.

History: 1976 c 9 s 6

145.917 ELIGIBILITY; WITHDRAWAL.

Subdivision 1. **Eligibility of counties.** A county or two or more contiguous counties combined under the provisions of section 471.59, shall be eligible for the community health services subsidy provided in section 145.921 under the following conditions:

(a) There shall be an aggregate population of 30,000 or more persons in the county or multi-county area located within a region designated pursuant to sections 462.381 to 462.396, or chapter 473B. However, when three or more counties combine for the purposes of sections 145.911 to 145.922, the 30,000 minimum population shall not be required. When two or more counties combine for the purposes of sections 145.911 to 145.922, the state commissioner of health with the approval of the regional development commissions directly involved, may waive the requirements that all counties be within a single development region; provided, however, that if a single county has received an exemption for formation of a human services board pursuant to section 402.01, the population base of 30,000 is waived and such county shall be eligible for participation in sections 145.911 to 145.922;

(b) There shall be a board of health organized under the provisions of section 145.913;

(c) There shall be substantial compliance with the requirements of the state commissioner of health established under the provisions of section 145.918;

(d) There shall be local matching funds provided to support the community health services as provided in section 145.921;

(e) The plan developed under the provisions of section 145.92 shall be approved by both the county board and the state commissioner of health.

Failure of a county or group of counties to elect to come within the provisions of sections 145.911 to 145.921 shall not affect their eligibility for any other state subsidy.

Subd. 2. Eligibility of cities. A city having a city health department organized under the provisions of this chapter and located in a county having a population of 300,000 or more persons, or two or more contiguous cities combined under the provisions of section 471.59, having an aggregate population of 65,000 or more persons and located in a county having a population of 300,000 or more persons, shall be eligible for the community health services subsidy under the provisions of sections 145.911 to 145.922 if:

(a) There is a board of health organized under the provisions of section 145.913, subdivision 2;

(b) There is substantial compliance with the requirements established by the state commissioner of health under the provisions of section 145.918;

(c) There are local matching funds provided to support the community health services as provided in section 145.921;

(d) The plan developed under the provisions of section 145.92 shall be consistent with the plan developed by the county and shall be approved by both the city council and the county board.

The city's proportionate share of the community health services subsidy shall be determined by calculating the proportion of local expenditures for community health services within the county that were expended by the city. In a county which has, or hereafter establishes, an operational human services board pursuant to section 145.913, subdivision 1, the subsidy payment shall be made to the human services board pursuant to section 402.02, subdivision 4. The human services board shall assure that those cities which establish eligibility under this subdivision receive their proportional share of the subsidy by entering into a contract with the city under which the city shall provide community health services in return for their share of the subsidy.

Subd. 3. Eligibility of cities. A city located within three or more counties and any contiguous political subdivision or subdivisions shall have the authority to combine, for the purposes of sections 145.911 to 145.922, under the provisions of section 471.59, and shall be eligible for a proportional share of the subsidy provided in section 145.921 for the counties under the following conditions:

(a) There shall be an aggregate population of 40,000 or more persons;

(b) There is a board of health organized under the provisions of section 145.913;

(c) There is substantial compliance with the requirements established by the state commissioner of health under the provisions of section 145.918;

(d) There are local matching funds provided to support the community health services as provided in section 145.921;

(e) The plan developed under the provisions of section 145.92 shall be approved by the city council and the governing bodies of each of the political subdivisions and by the state commissioner of health.

The proportionate share of the subsidy for the city and any contiguous political subdivision combined with such city shall be determined by calculating the proportion of total county population that live in the city and the contiguous political subdivisions. When all three counties within which the city is located have combined under the provisions of sections 145.911 to 145.922, the subsidy payment shall be made to the multi-county board of health. The multi-county board of health shall enter into a purchase of service contract to provide a proportional share of the subsidy to the city and any contiguous political subdivisions that establish eligibility under the provisions of this subdivision.

Subd. 4. **Withdrawal.** Any participating county or city, may by resolution of its governing body, indicate its intention to withdraw from the subsidy program established by sections 145.911 to 145.922. Notification shall be given to the state commissioner of health and to each county or city in any multi-county or multi-city combination, at least one year before the beginning of the fiscal year in which it takes effect. When two or more counties or cities have combined for the purposes of sections 145.911 to 145.921, the withdrawal provision shall not be applicable during the first two years following the adoption of the initial agreement to combine. The withdrawal of a county or city from a group of two or more counties or cities combined for the purposes of sections 145.911 to 145.921 shall not affect the eligibility for the community health services subsidy of the remaining counties or cities for at least one year following the withdrawal.

History: 1976 c 9 s 7; 1977 c 305 s 45

145.918 DUTIES OF THE STATE COMMISSIONER OF HEALTH.

Subdivision 1. The state commissioner of health shall:

(a) Provide consultation and technical training to communities to assist them in the development and provision of services, encouraging multi-county configurations to ensure that a county will not be isolated geographically and thereby ineligible for the subsidy.

(b) Develop guidelines and recommended administrative procedures through a planning process with representation from local health boards. Adoption of these guidelines and administrative procedures by the board of health shall not be a prerequisite for plan approval.

(c) Promulgate regulations in accordance with chapter 14, for the purposes of establishing standards for:

(1) Training, credentialing, and experience requirements for key administrative personnel to ensure expertise in administration, planning, and in each services program included in the community health services plan;

(2) A uniform reporting system that will permit an assessment of the efficiency and effectiveness of service delivery programs; and

(3) A planning process that will encourage full community participation in the development of the community health services plan.

(d) Review and act on the community health services plan and any proposed revision within 60 days after receiving the plan or revision. The state commissioner of health may approve the plan as written or refer the plan back to the applicant with comments and instructions for further consideration. A failure to act within the specified time shall constitute approval of the plan.

(e) Provide application forms and instructions for preparation and submission of applications for the community health services subsidy, in accordance with the provisions of section 145.92.

Subd. 2. The commissioner of health may enter into an agreement as prescribed in section 145.55, with any county or city or group of counties or cities organized under the provisions of section 145.913 to perform all or part of the licensing, inspection, and enforcement duties authorized under the provisions of sections 144.075, 144.12, 144.71 to 144.76, 327.14 to 327.29 and chapter 157.

History: 1976 c 9 s 8; 1977 c 305 s 45; 1978 c 762 s 6; 1982 c 424 s 130

145.919 COMMUNITY HEALTH SERVICES ADVISORY COMMITTEE.

An advisory committee is established to advise, consult with, and make recommendations to the state commissioner of health on matters relating to the development, maintenance, funding and evaluation of community health services.

Each board of health meeting the eligibility requirements of section 145.917 may appoint a member to serve on the committee. The terms shall be two years and no member shall serve more than three consecutive terms. Continuity of membership shall be assured by having an approximately equal number of terms expire each year. Members may receive a per diem and shall be reimbursed for travel and other necessary expenses while engaged in their official duties. The committee shall meet at least quarterly and special meetings may be called by the chairman or a majority of the members.

History: 1976 c 9 s 9; 1977 c 305 s 45

145.92 COMMUNITY HEALTH SERVICE PLANS.

Subdivision 1. **Plan content.** The community health services plan shall be a written plan for the development, implementation, coordination, and operation of community health services that meet the priority needs of the community. Financial constraints and differing priorities may result in variations in levels of effort for different services. The plan shall include the following:

(a) A description of the process used to encourage full community participation in the development of the plan;

(b) An explanation of the extent to which the planning and service delivery systems have been integrated with the delivery of personal health services, institutional health services, health related environmental programs and services, and with related human services in the community. The plan shall include a statement of the priority needs of the community and an inventory of existing health related services in the community;

(c) Descriptions of each service program including each of the following: Community nursing services, home health services, disease prevention and control services including immunization, emergency medical services, health education, and environmental health services;

(d) The projected amount and sources of funding for carrying out the plan;

(e) A report and evaluation of the two preceding years' community health service programs.

Subd. 2. **Plan submission.** The application for a community health services subsidy and the plan and any proposed revision of the plan shall be submitted to the appropriate regional development commission or to the metropolitan council and to the state commissioner of health. The regional development commission or the metropolitan council shall review the plan to determine conformance with regional plans developed by the health systems agency under the provisions of the National Health Planning and Resource Development Act of 1974, and submit their findings and other comments and recommendations to the state commissioner of health within 40 days after receiving the plan.

History: 1976 c 9 s 10; 1977 c 305 s 45

145.921 COMMUNITY HEALTH SERVICES SUBSIDY.

Subdivision 1. **Payment.** When a city, county, or group of cities or counties meets the requirements prescribed in section 145.917, the state commissioner of health shall pay the amount of subsidy to the city or county in accordance with applicable rules and regulations from the funds appropriated for the purpose. The state commissioner of health may make an advancement of funds on a quarterly basis.

Subd. 2. **Formula.** To determine the amount to be paid participating cities and counties, the state commissioner of health shall apply the following formula using the most current data available:

(a) All counties will be ranked in accordance with a formula involving three factors:

- (1) Per capita income;
- (2) Per capita taxable value; and
- (3) Per capita local expenditure per 1,000 population for community health services.

(b) Each county is then ranked as follows:

(1) On the basis of per capita income the ranking is from the lowest to the highest;

(2) Per capita taxable value is ranked from lowest to highest;

(3) Per capita expenditure is ranked from highest to lowest.

(c) The ranking given each county on each of the foregoing three factors is then totaled and the counties ranked in numerical order according to score.

(d) The total score for each county thus determined is then divided into a median total score. The quotient thus obtained is then multiplied by \$2.25 times the county population. The resulting product is the amount of subsidy to which the county is eligible under this formula, provided that no city or county shall receive less than \$1.75 or more than \$2.75 per capita, provided that such computation shall not include additional subsidies granted pursuant to subdivisions 4 or 5.

Subd. 3. Local match. The amount of local matching funds required to receive the full subsidy shall be determined by multiplying the population by \$4.50 and subtracting the community health services subsidy allocated under the provisions of this section. The local matching funds may include local tax levies, gifts, fees for services and revenues from contracts. When the amount of local matching funds is less than the amount specified, the state formula subsidy shall be reduced proportionally. When a participating city or county fails to expend the full amount of the subsidy to which it would be entitled in any one year under the provisions of sections 145.911 to 145.922, the state commissioner of health may, at his discretion, retain the surplus, subject to disbursement in the following year to the city or county if it can demonstrate a need for and ability to expend the surplus for the purposes provided in section 145.918. A city organized under the provisions of sections 145.911 to 145.922 that levies a tax for provision of community health services shall be exempted from any county levy for the same services to the extent of the levy imposed by the city.

Subd. 4. Payment. A city, county, or group of cities or counties with an aggregate population of 50,000 or more persons which meet the eligibility requirements of section 145.915 shall be entitled to an additional annual payment of \$.25 per capita.

Each county that combines with another county or counties for the purposes of sections 145.911 to 145.921 shall be entitled to an additional annual payment of \$5,000.

Subd. 5. Planning grants. The state commissioner of health may provide grants to any county or group of counties showing intent to come within the provisions of sections 145.911 to 145.921 for the purpose of planning for the development, implementation, and operation of community health services. No single county shall receive more than \$25,000 to conduct the planning. The state commissioner of health shall specify the terms and conditions of grants.

History: 1976 c 9 s 11; 1977 c 305 s 45

145.922 SPECIAL GRANTS.

Subdivision 1. The state commissioner of health may make special grants to cities, counties, groups of cities or counties, or nonprofit corporations to establish,

operate or subsidize clinic facilities and services, including mobile clinics, to furnish health services for migrant agricultural workers and their families in areas of the state in which significant numbers of migrant workers are located. Applicants shall submit for approval a plan and budget for the use of the funds in the form and detail specified by the state commissioner of health. They shall maintain records, including records of expenditures to be audited, as the state commissioner of health specifies.

Subd. 2. The state commissioner of health may make special grants to local boards of health to establish, operate, or subsidize clinic facilities and services to furnish health services for American Indians who have no established county of residence. The community health services plan submitted by the local board of health must contain a proposal for the delivery of the services and documentation of input by affected segments of the community to the plan in order to qualify for a grant under this subdivision.

History: 1976 c 9 s 12; 1977 c 305 s 45; 1979 c 243 s 1

145.925 FAMILY PLANNING GRANTS.

Subdivision 1. The commissioner of health may make special grants to cities, counties, groups of cities or counties, or nonprofit corporations to provide pre-pregnancy family planning services.

Subd. 2. The commissioner shall not make special grants pursuant to this section to any nonprofit corporation which performs abortions. No state funds shall be used under contract from a grantee to any nonprofit corporation which performs abortions. This provision shall not apply to hospitals licensed pursuant to sections 144.50 to 144.56, or health maintenance organizations certified pursuant to chapter 62D.

Subd. 3. No funds provided by grants made pursuant to this section shall be used to support any family planning services for any unemancipated minor in any elementary or secondary school building.

Subd. 4. Except as provided in sections 144.341 and 144.342, any person employed to provide family planning services who is paid in whole or in part from funds provided under this section who advises an abortion or sterilization to any unemancipated minor shall, following such a recommendation, so notify the parent or guardian of the reasons for such an action.

Subd. 5. The commissioner of health shall promulgate rules for approval of plans and budgets of prospective grant recipients, for the submission of annual financial and statistical reports, and the maintenance of statements of source and application of funds by grant recipients. The commissioner of health may not require that any home rule charter or statutory city or county apply for or receive grants under this subdivision as a condition for the receipt of any state or federal funds unrelated to family planning services.

Subd. 6. The request of any person for family planning services or his or her refusal to accept any service shall in no way affect the right of the person to receive public assistance, public health services, or any other public service. Nothing in this section shall abridge the right of the individual to make decisions concerning family planning, nor shall any individual be required to state his or her reason for refusing any offer of family planning services.

Any employee of the agencies engaged in the administration of the provisions of this section may refuse to accept the duty of offering family planning services to the extent that the duty is contrary to his personal beliefs. A refusal shall not be grounds for dismissal, suspension, demotion, or any other discrimination in employment. The directors or supervisors of the agencies shall reassign the duties of employees in order to carry out the provisions of this section.

All information gathered by any agency, entity, or individual conducting programs in family planning is private data on individuals within the meaning of section 13.02, subdivision 12.

Subd. 7. A grant recipient shall inform any person requesting counselling on family planning methods or procedures of:

(1) Any methods or procedures which may be followed, including identification of any which are experimental or any which may pose a health hazard to the person;

(2) A description of any attendant discomforts or risks which might reasonably be expected;

(3) A fair explanation of the likely results, should a method fail;

(4) A description of any benefits which might reasonably be expected of any method;

(5) A disclosure of appropriate alternative methods or procedures;

(6) An offer to answer any inquiries concerning methods or procedures; and

(7) An instruction that the person is free either to decline commencement of any method or procedure or to withdraw consent to a method or procedure at any reasonable time.

Subd. 8. Any person who receives compensation for services under any program receiving financial assistance under this section, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening the person with the loss of or disqualification for the receipt of any benefit or service under a program receiving state or federal financial assistance shall be guilty of a misdemeanor.

History: 1978 c 775 s 1; 1981 c 311 s 39; 1982 c 545 s 24

POISON INFORMATION CENTER

145.93 MINNESOTA POISON INFORMATION CENTER; ESTABLISHMENT.

Subdivision 1. **Purpose.** The legislature finds that the needs of citizens of the state for information relating to the prompt identification and appropriate home management or referral of cases of human poisoning are best served by establishing a single poison information center, organized to provide statewide information and education services to the public and to health professionals.

Subd. 2. **Advisory council.** The commissioner of health shall appoint an advisory council to serve on a voluntary basis consisting of, but not limited to, the following: one nurse; one pharmacist; one physician each from the fields of toxicology, pediatric medicine, emergency medicine, and internal medicine; and one person who has no past or present material financial interest or professional involvement in the provision of poison information or treatment services. No more than three members may be residents of the metropolitan area, as defined in section 473.02, subdivision 5; no more than one may be a resident of any single county; and none may be affiliated in any way with the currently designated poison information center.

Subd. 3. **Grant award; designation; payments under grant.** Each year the commissioner shall give reasonable public notice of the availability of moneys appropriated pursuant to Laws 1980, Chapter 577, Section 2. After consulting with the advisory council, the commissioner shall select as grantee a nonprofit corporation or unit of government which applies for the moneys and best fulfills the criteria specified in subdivision 4. The grantee selected shall be designated the Minnesota poison information center. Moneys appropriated under Laws 1980, Chapter 577, Section 2 shall be paid to the grantee quarterly beginning on July 1.

Subd. 4. **Selection criteria.** In selecting a grantee under this section, the commissioner of health shall determine which applicant, if any, best fulfills the following criteria:

(a) Whether the applicant can demonstrate the ability to provide appropriate and adequate telephone poison information services to the general public and to health professionals 24 hours a day at no direct cost to users and in a manner that appropriately utilizes "911" emergency telephone services developed pursuant to chapter 403;

(b) Whether the applicant can demonstrate the ability to provide adequate medical direction as well as the toxicological and related professional and technical resources needed for poison information services;

(c) Whether the applicant can demonstrate the ability to provide appropriate public education and professional education services; and

(d) Whether the applicant can demonstrate the ability to provide poison information services in a financially sound and cost effective manner.

Subd. 5. **Interstate agreements.** The grantee may enter into agreements with comparable entities in other states to share data and technical resources. Agreements shall be in writing and shall be subject to the prior approval of the commissioner of health. The commissioner may approve the contracts only if they will provide for better public access to cost effective poison information services.

Subd. 6. **Reports; monitoring; termination.** The grantee selected shall report quarterly to the commissioner of health, on a form provided by the commissioner, information about programmatic and fiscal performance and status. All relevant records and the performance of the grantee shall be monitored by the commissioner for purposes of assuring that the grantee continues to fulfill the criteria specified in subdivision 3. Should the commissioner at any time find that a grantee is not continuing to fulfill the criteria specified in subdivision 3, he may terminate the grant upon 30 days notice.

History: 1980 c 577 s 1

145.95 MS1980 [Expired]

HILL-BURTON PROGRAM

145.97 HILL-BURTON PROGRAM; RULES.

The commissioner of health may promulgate temporary rules under sections 14.29 to 14.36 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; 1982 c 424 s 130

145.98 COUNCIL ON HEALTH PROMOTION AND WELLNESS.

Subdivision 1. **Creation; membership.** There is established in the executive branch a council on health promotion and wellness. Members of the council shall be appointed by the governor. They shall be experienced or interested in health promotion and wellness. There shall be 15 members with at least one member from each congressional district. The initial membership shall include all persons holding current membership on the governor's council on health promotion and

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wellness established by Executive Order No. 81-6. The chairperson shall be appointed by the governor from among the members. Members shall not receive per diem pay but may be reimbursed for travel and other expenses in the same manner and amount as state employees. Terms of office shall be governed by section 15.0575.

Subd. 2. **Duties.** The council shall prepare a written biennial report on the state of the state's health beginning with a report to the legislature and the governor in January, 1983. The council shall:

(a) Provide assistance to organizations, communities, and neighborhoods in their efforts to encourage individual, family, and community health promotion and wellness programs;

(b) Sponsor informational, educational, or research projects related to health and wellness which, when completed, would have a positive effect on the quality of life of Minnesota's citizens;

(c) Study laws, rules, or practices of state government that encourage or discourage healthy lifestyles and recommend changes in them; and

(d) Promote health and wellness among state employees, recognizing the leadership role of state government as the largest employer in Minnesota.

Subd. 3. **Powers.** The council may solicit, receive, and disburse funds made available for health promotion and wellness. Subject to approval by the council, the chairperson may appoint advisory committees composed of individuals who have interest or expertise in various health promotion and wellness fields. Subject to the availability of funds, the council may hire staff to assist in its work and contract with individuals and organizations to assist it in carrying out the duties of the council. The council shall assume the duties of the governor's council on health promotion and wellness established by Executive Order No. 81-6, and section 15.039 shall apply to this transfer of responsibilities.

Subd. 4. **Agency cooperation.** Subject to resource limitations, related state agencies shall cooperate with and assist the council in its work.

History: 1982 c 453 s 1