

cation is made for hospital treatment at public expense under ch. 142, the county judge is required to appoint the physician to examine the patient. 31 Atty. Gen. 38.

142.04 History: Spl. S. 1920 c. 17; 1921 c. 471; Stats. 1921 s. 1417a-4; 1923 c. 448 s. 13; Stats. 1923 s. 142.04; 1931 c. 80 s. 2; 1933 c. 140 s. 4; 1939 c. 232; 1951 c. 55; 1959 c. 620; 1969 c. 276 s. 589 (1) (d), (3) (b); 1969 c. 366 s. 117 (1) (c).

A resolution of the county board that the county judge stay within his quota for general hospitals is in conflict with 142.04, Stats. 1933, as the board may not restrict or enlarge the duties of the judge. The word "hospitals" includes both private and county hospitals. 24 Atty. Gen. 155.

The county judge may authorize necessary glasses for indigent patients. 25 Atty. Gen. 429.

An order of a county judge certifying an indigent patient for treatment at a local hospital constitutes a finding that expense to the county will be less than if the patient is sent to Wisconsin general hospital. After treatment the judge must determine and certify to the county treasurer the correct and reasonable charges therefor. 27 Atty. Gen. 143.

No provision exists for a finding by the county judge with respect to the question as to whether the county has a hospital within the meaning of this section. 30 Atty. Gen. 98.

142.05 History: Spl. S. 1920 c. 17; Stats. 1921 s. 1417a-5; 1923 c. 448 s. 13; Stats. 1923 s. 142.05; 1927 c. 186; 1931 c. 80 s. 2; 1939 c. 230; 1951 c. 55; 1959 c. 525, 620; 1961 c. 330; 1969 c. 276 s. 589 (1) (d), (3) (b); 1969 c. 366 s. 117 (1) (c).

A nurse transporting a patient at the request of a county judge may be held liable for negligence in an accident occurring during such transportation. Liability insurance may not protect the nurse if mileage paid for transporting the patient is construed as transportation for hire within the terms of most liability insurance contracts. The county would not be liable, as it is acting in performance of an essential governmental function. 27 Atty. Gen. 339.

142.06 History: Spl. S. 1920 c. 17; Stats. 1921 s. 1417a-10; 1923 c. 448 s. 13; Stats. 1923 s. 142.06; 1931 c. 80 s. 2; 1959 c. 620.

142.07 History: Spl. S. 1920 c. 17; 1921 c. 471; Stats. 1921 s. 1417a-6, 1417a-7; 1923 c. 448 s. 13; Stats. 1923 s. 142.07; 1927 c. 186; 1927 c. 537 s. 1; 1927 c. 541 s. 23; 1933 c. 140 s. 4; 1935 c. 535; 1939 c. 142, 232; 1943 c. 132; 1945 c. 321; 1951 c. 55; 1959 c. 620; 1959 c. 659 s. 83; 1969 c. 154; 1969 c. 276 ss. 589 (1) (d), (3) (b), 603 (2).

The county judge may not authorize payment for care at Wisconsin general hospital unless application is made prior to admission, except where emergency makes it impossible. 53 Atty. Gen. 74.

142.08 History: Spl. S. 1920 c. 17; Stats. 1921 s. 1417a-8, 1417a-9; 1923 c. 448 s. 13; Stats. 1923 s. 142.08; 1927 c. 537 s. 1; 1929 c. 289; 1929 c. 466 s. 3; 1931 c. 80; 1933 c. 140 s. 4; 1939 c. 232; 1947 c. 268 s. 46; 1947 c. 472; 1951 c. 55; 1951 c. 319 s. 214; 1959 c. 228 s. 66;

1959 c. 620; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 154 ss. 327m, 377; 1969 c. 276 ss. 589 (1) (d), (3) (b), 603 (2).

Comment of Interim Committee, 1947: This amendment is to harmonize 142.08 (1) and 46.10 (7). * * * See 24 Atty. Gen. 797. * * * [Bill 394-S]

When a county judge, under ch. 142, Stats. 1931, orders treatment at home, the cost thereof is to be paid by the county. 21 Atty. Gen. 240.

Claims against a county arising under 142.04 or 142.08, Stats. 1931, are payable by the county treasurer upon certificate of the county judge. 22 Atty. Gen. 408.

Where an application for hospitalization of an indigent person is made under ch. 142, the expense thereof is not chargeable to the town of such person's legal residence but is paid one-half by the state and one-half by the county. 23 Atty. Gen. 439.

Collection from relatives on cases at the Wisconsin orthopedic hospital is governed by 142.08 (1m) rather than by 46.10 (7), Stats. 1939, and the Wisconsin state department of public welfare is not authorized to make collection under 142.08 (1m). 29 Atty. Gen. 98.

See note to 46.10, citing 30 Atty. Gen. 329.

Neither expenses incurred by a physician under 142.03, Stats. 1941, expenses of conveyance to or from a hospital under 142.05 and 142.06, nor expenses to a county judge as fees under 253.15 can be recovered by a county under 142.08. 32 Atty. Gen. 57.

142.09 History: 1929 c. 63; Stats. 1929 s. 142.09; 1955 c. 601; 1969 c. 276 s. 591 (2).

142.10 History: 1929 c. 146; Stats. 1929 s. 142.10; 1939 c. 330; 1943 c. 508; 1955 c. 601; 1957 c. 507; 1959 c. 620; 1963 c. 224, 459; 1969 c. 154; 1969 c. 276 ss. 591 (2), 603 (2).

CHAPTER 143.

Communicable Diseases.

143.01 History: 1923 c. 448 s. 14; Stats. 1923 s. 143.01; 1949 c. 529; 1969 c. 366 s. 117 (1) (a).

143.02 History: 1876 c. 366 s. 10; R. S. 1878 s. 1408; 1887 c. 452 s. 1 to 4; Ann. Stats. 1889 s. 1408, 1409a to 1409d; Stats. 1898 s. 1408; 1923 c. 448 s. 14; Stats. 1923 s. 143.02; 1957 c. 426; 1969 c. 366 s. 117 (1) (a).

On exercises of police power see notes to sec. 1, art. I; and on delegation of power see notes to sec. 1, art. IV.

The statutes relating to the performance of functions by the state board of health do not confer power to require vaccination as a condition precedent to the right to attend school, and the state board of health cannot make a rule to that effect. State ex rel. Adams v. Burdge, 95 W 390, 70 NW 347. See also: 5 Atty. Gen. 642; 38 Atty. Gen. 220; and 44 Atty. Gen. 19.

143.03 History: 1883 c. 167; 1887 c. 291; Ann. Stats. 1889 s. 940a sub. 2; Stats. 1898 s. 1412; 1905 c. 192; 1907 c. 93; 1909 c. 279; Stats. 1911 s. 1412, 1416-3, 1416-18; 1913 c. 226; 1921 c. 223; 1923 c. 448 s. 14; Stats. 1923 s. 143.03; 1927 c. 425 s. 104; 1969 c. 366 s. 117 (1) (a), (b).

A town health officer is not empowered by ch. 167, Laws 1883, to maintain an action in his official capacity to restrain a city from maintaining a hospital for contagious diseases in his town. *Buckstaff v. Oshkosh*, 92 W 520, 66 NW 707.

Sec. 1412, Stats. 1898, does not authorize the health officer of a town to employ a physician for the treatment of smallpox patients without the approval of the board of health. *Collier v. Scott*, 124 W 400, 103 NW 909.

The health officers are not required to give professional care to indigent persons suffering from contagious disease; if such services are given, they are compensated for by the salary of the health officers. The local board of health is not liable for the compensation of the attending physician of indigent persons suffering from contagious disease. 1910 Atty. Gen. 555.

In general and unless authority is derived therefor under some valid municipal ordinance, local health officers are not authorized by law to make physical examinations of school children or to enforce the same against the wishes of the children and their parents. 5 Atty. Gen. 642.

A local board of health, in an emergency, may issue an order against employment of unvaccinated persons. 14 Atty. Gen. 300.

143.04 History: Stats. 1921 s. 1411r sub. 8, 1412a, 1412c, 1412m—1 part, 1412m—2 subs. 2, 3, 4, 1412m—3 part, 1416—1, 1416—2, 1416—3 part, 1416—12 sub. 2; 1923 c. 448 s. 15; Stats. 1923 s. 143.04; 1937 c. 136; 1945 c. 335; 1949 c. 529; 1969 c. 276 s. 603 (5); 1969 c. 366 ss. 79, 117 (1) (a), (b), (f).

143.05 History: Stats. 1921 s. 1407a—6 sub. 2, 1411—5, 1412m—1 part, 1414m, 1416—15, 1416—15a, 1416—16, 1416—17, 1417; 1923 c. 448 s. 16; Stats. 1923 s. 143.05; 1927 c. 23, 201; 1935 c. 416; 1945 c. 335; 1949 c. 529; 1965 c. 39; 1969 c. 366 ss. 80, 117 (1) (a), (b).

A county is not liable, to a person keeping a boarding house, for the use of the property while the place is quarantined on account of a nonresident of the county being there sick with smallpox. *Martin v. Fond du Lac County*, 127 W 586, 106 NW 1095.

A county which has adopted the county system of poor relief is chargeable with the maintenance of an indigent family quarantined by the order of the local health board. 1910 Atty. Gen. 564; 5 Atty. Gen. 780.

Only licensed physicians may visit quarantined places to treat patients therein. The health officer only is vested with authority to declare a quarantine. When the home of a physician is quarantined he may treat members of his family, but must remain at home, or else live away from home and conduct himself as any other physician is required to do. 7 Atty. Gen. 68.

The board of health is not required to give written notice to persons occupying quarantined premises. 11 Atty. Gen. 376.

In a county under the county system for care of the poor, the cost of antitoxin for an indigent person, furnished by a local board of health, is to be paid by the county and not by the local municipality. 13 Atty. Gen. 1.

A health officer is not qualified to diagnose communicable disease merely by reason of his

being a health officer. Whether a health officer may testify as to medical matters depends upon whether he can qualify as an expert. 13 Atty. Gen. 397.

A Christian Science healer is not a physician or clergyman within meaning of 143.05 (3), Stats. 1927, so as to authorize him to visit a quarantined place without a written permit of a health officer. 17 Atty. Gen. 157.

The cost of quarantine for contagious disease is to be paid by the municipality in which the patient resides. 5 Atty. Gen. 780; 18 Atty. Gen. 415.

In the case of an indigent confined in a municipal isolation hospital the expense growing out of the care of the patient is chargeable to the county where the county has adopted a system for care of indigents; expense incident to establishing, maintaining and releasing from quarantine is chargeable to the municipality. 18 Atty. Gen. 470.

In indigent cases of communicable diseases where quarantine is ordered, the cost of immunizing a patient must be borne by the town, village or city, and other expenses incurred for the benefit of the patient must be borne by the municipality liable for the support of the poor. 21 Atty. Gen. 303.

Loss of profits or extra expense incurred by individuals because of quarantine are not compensable. 25 Atty. Gen. 514.

143.05 (10), Stats. 1937, provides the procedure for indigent transient quarantine cases. 27 Atty. Gen. 532.

A local board of health may not establish quarantines without the consent of the state board of health. The same is true as to the powers of a city health commissioner to establish quarantines insofar as he has under 141.02 (2), Stats. 1945, the powers and duties of a local board of health and local health officers. Under that subsection a city health commissioner may submit to the common council for approval a rule or regulation providing for a special quarantine. 34 Atty. Gen. 206.

143.06 History: 1905 c. 192; 1907 c. 93; 1911 c. 69; 1911 c. 663 s. 173, 174; Stats. 1911 s. 1416—4, 1416—5 to 1416—11; 1913 c. 308; 1923 c. 448 s. 17; Stats. 1923 s. 143.06; 1929 c. 223; 1945 c. 248; 1969 c. 276 s. 603 (5); 1969 c. 336 s. 176; 1969 c. 366 s. 117 (1) (b).

143.07 History: 1917 c. 235; Stats. 1917 s. 1417m; Spl. S. 1918 c. 9; 1919 c. 331; 1921 c. 152; 1921 c. 422 s. 47; 1923 c. 109, 112, 250; 1923 c. 448 s. 18; 1923 c. 449 s. 11, 12, 13, 24; Stats. 1923 s. 143.07; 1927 c. 78, 142; 1931 c. 67 s. 168; 1937 c. 361; 1943 c. 93 s. 1; 1945 c. 325; 1953 c. 54; 1957 c. 546; 1969 c. 276 s. 603 (5); 1969 c. 336 s. 176; 1969 c. 366 ss. 81, 117 (1) (a).

The county must pay for the care and treatment of an indigent person afflicted with a venereal disease. 8 Atty. Gen. 559.

Rules and regulations of the state board of health made under sec. 1417m, Stats. 1919, are reasonable and will protect a physician reporting persons afflicted who refuse treatment. 8 Atty. Gen. 561.

Administrative officers must comply with a commitment to the hospital for the insane until it is set aside by a court in a proper proceeding. 10 Atty. Gen. 1078.

The procedure is civil as distinguished from criminal. Under it a person afflicted with a

venereal disease, who refuses to take treatment, may be committed to a public institution for treatment. 11 Atty. Gen. 644.

Information obtained by a physician who is a local health officer in his capacity as such officer in making examination under 143.07 (2) is not privileged under 325.21, there being no relationship of physician and patient. 28 Atty. Gen. 307.

In compelling physical examination under 143.07 (2), a local health officer who is a physician should obtain authorization from the state board of health or a state health officer. What constitutes "reasonably suspected case" under this section depends upon facts and circumstances, the statute permitting exercise of discretion in absence of malicious, arbitrary or unreasonable action. 28 Atty. Gen. 307.

143.075 History: 1907 c. 156; 1909 c. 41; Stats. 1911 s. 4590n; 1925 c. 4; Stats. 1925 s. 351.39; 1955 c. 696 s. 293; Stats. 1955 s. 143.075.

143.08 History: 1923 c. 112; 1923 c. 449 s. 24; Stats. 1923 s. 143.08; 1969 c. 366 s. 117 (1) (a).

143.085 History: 1947 c. 574; Stats. 1947 s. 143.085.

143.09 History: 1917 c. 235; Stats. 1917 s. 1417m sub. 11; Spl. S. 1918 c. 9; 1919 c. 331; 1921 c. 152; 1921 c. 422 s. 47; 1923 c. 448 s. 18; 1923 c. 449 s. 13; Stats. 1923 s. 143.09; 1947 c. 574.

143.10 History: 1881 c. 168 s. 4; Ann. Stats. 1889 s. 4608d; Stats. 1898 s. 4608d; 1907 c. 209; 1925 c. 4; Stats. 1925 s. 352.48; 1927 c. 473 s. 57; Stats. 1927 s. 143.10.

On civil liability for causing exposure to an infectious or contagious disease see *Kliegel v. Aitken*, 94 W 432, 69 NW 67.

143.11 History: R. S. 1858 c. 30 s. 3; R. S. 1878 s. 4608; Stats. 1898 s. 4608; 1925 c. 4; Stats. 1925 s. 352.47; 1927 c. 473 s. 56; Stats. 1927 s. 143.11; 1949 c. 265; 1969 c. 366.

Where a resolution of a local board of health provided that its violation shall be punished under this section, such violation was a misdemeanor. *Stoltman v. Lake*, 124 W 462, 102 NW 920.

143.12 History: 1911 c. 44; Stats. 1911 s. 1408a to 1408d; 1917 c. 53, 97; 1917 c. 578 s. 2; 1917 c. 671 s. 38; 1917 c. 677 s. 10; Stats. 1917 s. 40.70; 1927 c. 425 s. 105; Stats. 1927 s. 143.12; 1969 c. 366 s. 117 (1) (a), (b).

143.13 History: 1907 c. 113; Stats. 1911 s. 1413L to 1413n; 1917 c. 578 s. 2; Stats. 1917 s. 40.71; 1921 c. 372; 1927 c. 425 s. 106; Stats. 1927 s. 143.13; 1935 c. 98; 1969 c. 366 s. 117 (1) (b).

See note to 143.02, citing *State ex rel. Adams v. Burdige*, 95 W 390, 70 NW 347.

A local board of health may prohibit attendance of children at private and parochial schools unless vaccinated, during an epidemic of smallpox. 4 Atty. Gen. 383.

The city, not the county, must provide free vaccination of pupils in the county training school, if smallpox is present in the city when the order of the local board of health is made. 12 Atty. Gen. 65.

143.14 History: 1935 c. 129; Stats. 1935 s. 143.14; 1969 c. 336 s. 176; 1969 c. 366 s. 117 (1) (a).

143.15 History: 1951 c. 418; Stats. 1951 s. 143.15; 1969 c. 366 s. 117 (1) (a).

143.16 History: 1957 c. 393; Stats. 1957 s. 143.16; 1959 c. 176; 1961 c. 416; 1969 c. 366 s. 117 (1) (a).

Neither teachers nor employes, full time or part time, employed by local boards of vocational and adult education under 41.15 (6) and 41.17 (1) are required to take periodic health examination under the provisions of ch. 393, Laws 1957, which repealed and recreated 40.30 (10m) (a) and created 143.16, Stats. 1957. 46 Atty. Gen. 253.

143.17 History: 1961 c. 416; Stats. 1961 s. 143.17; 1963 c. 79; 1969 c. 276 ss. 602 (1), 603 (1); 1969 c. 366 s. 117 (1) (a).

CHAPTER 144.

Water, Ice, Sewage and Refuse.

144.01 History: 1919 c. 447 s. 2; Stats. 1919 s. 1407m—1 (1); 1923 c. 448 s. 19; Stats. 1923 s. 144.01; 1927 c. 264 ss. 2, 3; Stats. 1927 s. 144.01, 144.51; 1949 c. 603; 1963 c. 306; 1965 c. 614 ss. 33, 34, 43, 44, 57 (5); Stats. 1965 s. 144.01; 1969 c. 276.

144.02 History: 1913 c. 568 s. 1, 2; 1913 c. 773 s. 81; Stats. 1913 s. 1407m; 1923 c. 448 s. 19; Stats. 1923 s. 144.02; 1965 c. 614 ss. 35, 57 (1).

144.023 History: 1965 c. 614; Stats. 1965 s. 144.023; 1967 c. 211 s. 18; 1969 c. 276.

144.025 History: 1965 c. 614; Stats. 1965 s. 144.025; 1967 c. 226, 260; 1969 c. 276 ss. 460, 461, 588 (6); 1969 c. 366 s. 117 (2) (a).

Editor's Note: Ch. 614, Laws 1965, repealed various provisions of ch. 144, Stats. 1965, which conferred authority and imposed duties upon the state board of health and the committee on water pollution in relation to the control of pollution of the public waters of the state.

On exercises of police power see notes to sec. 1, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; on municipal home rule see notes to sec. 3, art. XI; and on navigable waters, harbors and navigation see notes to various sections of ch. 30.

While plans and specifications approved by the state board of health included the location of the sewage disposal plant of the defendant village, and the matter of location may have been within the scope of the board's approval, it was not within the competency of the board to foreclose a judicial determination of whether by reason of location the plant would be a nuisance per se. *Hasslinger v. Hartland*, 234 W 201, 290 NW 647.

Under ch. 144, Stats. 1937, the state board of health and the state committee on water pollution may order that the municipality prescribe its own plan for abating the water pollution evil complained of, but where there is an entire lack of co-operation and an active opposition on the part of the municipality the