CHAPTER 140

HEALTH; ADMINISTRATION AND SUPERVISION

140.01 Definitions. As used in chs. 140 to 143, unless the context requires otherwise:

(1) "Department" means the department of health and social services.

(2) "Secretary" means the secretary of health and social services.

History: 1975 c. 39; 1977 c. 29; 1977 c. 203 s. 106; 1979 c. 221.

140.02 State health officer; duties. The secretary shall appoint a state health officer in the unclassified service and may assign the health officer such duties of the secretary or department as the secretary provides. The state health officer may appoint such advisory and examining bodies as provided by law.

History: 1973 c. 90; 1975 c. 39, 199.

140.05 Powers and duties. (1) The department shall have general supervision throughout the state of the health and life of citizens, and shall study especially the vital statistics of the state and endeavor to put the same to profitable use. It shall make sanitary investigations into the causes of disease, especially epidemics, the causes of mortality, and the effect on health of localities, employments, conditions, habits and circumstances, and make sanitary inspections and surveys in all parts of the state. It may, upon due notice, enter upon and inspect private property. It shall have power to execute what is reasonable and necessary for the prevention and suppression of disease. It shall voluntarily or when required, advise public boards or officers in regard to heating and ventilation of any public building or institution. It may investigate the cause and circumstances of any special or unusual disease or mortality, or inspect any public building; and shall have full authority to do any act necessary therefor. The department shall possess all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of health laws and health rules.

(2) The department shall disseminate such health information as it deems proper. It shall recommend from time to time works of hygiene for use in the public schools and shall cooperate with the several educational institutions and the school system of this state in disseminating information to the general public in all matters pertaining to health, and shall use the research facilities of the university of Wisconsin for the preservation and improvement of the public health under such rules and regulations as may be agreed upon with the board of regents of the university of Wisconsin system, and facilitate the special instruction of students in sanitation, hygiene and vital statistics in any school or department of the university of Wisconsin in manner not inconsistent with and not interfering with the orderly and efficient administration of the public health work.

(3) The department shall have power to make and enforce such rules, regulations and orders governing the duties of all health officers and health boards, and relating to any subject matter under its supervision, as shall be necessary to provide efficient administration and to protect health, and any person violating such rule, regulation or order shall be fined not less than $10 nor more than $100 for each offense, unless penalty be specially provided.

(4) The department may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and production of papers, books, documents and testimony. Witness fees and mileage shall be paid by the state and charged to the appropriation for the department, but no witness subpoenaed at the instance of parties other than the department shall be entitled to fees or mileage from the state, unless the department certifies that his testimony was material.

(5) The department shall keep a full and complete record of proceedings before it on any investigation, and have all testimony taken by its stenographer.

(9) The department may establish, equip and operate a state branch laboratory of hygiene in a city accessible to physicians and health officers in the northern part of the state for the conducting of bacteriological and chemical examinations of material from the various contagious and infectious diseases or material from suspected contagious and infectious diseases of persons and animals when public health is concerned; on condition that suitable quarters for such laboratory shall be offered to the state free of charge for rent, light, heat and janitor service. The department may also establish and aid in maintaining in conjunction with the cities of the state not more than 7 state cooperative laboratories. All such cooperative laboratories shall be operated in such manner and under such conditions as the department may determine in its rules and regulations governing the state public health laboratories.

(11) The department may collect information from hospitals and physicians relating to the incidence, causes and treatment of cancer. Any information collected is confidential and may not be released by the department except in statistical summaries. The department may, to the extent feasible, collect information related to the occupation of cancer patients in order to fulfill the purpose of sub. (14m).

(12) The department may make transcripts of its records for governmental agencies upon their request and payment of the fees mutually agreed upon.

(14) The department may conduct investigations, studies, experiments and research pertaining to any public health problems which are a cause or potential cause of morbidity or mortality and methods for the prevention or amelioration of such public health problems. For the conduct of such investigations, studies, experiments and research, the department may on behalf of the state accept funds from any public or private agency, organization or person. It may conduct such investigations, studies, experiments and research independently or by contract or in cooperation with any public or private agency, organization or person including any political subdivision of the state.

(14m) The department may use hospital inpatient health care records, abstracts of these records and information the state or federal government collects to correlate exposure to certain occupational environments with resulting acute or chronic health problems. If the department finds that an occupational health hazard exists, it shall disseminate its findings and promote efforts to educate employes and employers about the health hazard.

(15) Where the use of any pesticide results in a threat to the public health, the department of health and social services shall take all measures necessary to prevent morbidity or mortality.

(16) (a) The department shall carry out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough) and poliomyelitis, and protect against tetanus. Any person who immunizes a student under this subsection shall maintain records identifying the manufacturer and lot number of the vaccine used, the date of immunization and the name and title of the person who immunized the student. These records shall be available to the student or the student's parent, guardian or legal custodian upon request.

(b) Any student admitted to any elementary, middle, junior or senior high school or into any day care center or nursery school shall present written evidence to the school of having completed the first immunization for each vaccine required for the student's grade and being on schedule for the remainder of the basic and recall (booster) immunization series for the diseases identified in par. (a) or shall present a written waiver under par. (c). The student shall present the written evidence or written waiver within 30 school days after being admitted to school. This subsection does not require any female age 12 or over to be immunized against rubella.

(c) The immunization requirement is waived if the student, if an adult, or the student's parent, guardian or legal custodian submits a written statement to the school objecting to the immunization for reasons of health, religion or personal conviction. At the time any school notifies a student, parent, guardian or legal custodian of the immunization requirements, the school shall inform the person in writing of the person's right to a waiver under this paragraph.

(cm) The student, if an adult, or the student's parent, guardian or legal custodian shall keep the school informed of the student's compliance with the immunization schedule. Failure to comply with this requirement authorizes the school to notify the district attorney immediately to seek a court order under par. (d). If the student fails to complete the immunization series within one year after being admitted to the school under par. (b), the school shall notify the district attorney to seek a court order under par. (d).

(d) 1. By the 25th school day after the student is admitted to school, any school shall notify in writing any adult student or the parent, guardian or legal custodian of any minor student who has not met the immunization or waiver requirements of this subsection. The notification shall cite the terms of those requirements specified in this subsection and shall state that court action and forfeiture penalty could result due to noncompliance. Any school shall notify the district attorney of the county in which the student resides of any minor student who fails to present written evidence of completed immunizations or a written waiver under par. (c) within 30 school days after being admitted to school. The district attorney shall petition the court exercising jurisdiction under ch. 48 for an order directing that the student be in compliance with the requirements of this subsection. If the court grants the petition, the court may specify the date by which a written waiver shall be submitted under par. (c) or may specify the terms of the immunization schedule. The court may require an adult student or the parent, guardian or legal custodian of a minor student who refuses to submit a written waiver by the specified date or meet the terms of the immunization schedule to forfeit not more than $25 per day of violation.

2. A first time admittee into any elementary school, day care center or nursery school may be excluded by the school board for failing to satisfy the requirements of par. (b).

(e) If an emergency arises, consisting of a substantial outbreak as determined by the department by rule of one of the diseases listed under par. (a) at a school or in the municipality in which the school is located, the department may order the school to exclude students who are not immunized until the outbreak subsides.

(f) The department shall provide the vaccines without charge, if federal or state funds are available for the vaccines, upon request of the governing body of a county, city, village or town or of the school board. The department shall provide the necessary professional consultant services to carry out an immunization program in the requesting county, municipality or school district. Persons immunized may not be charged for vaccines furnished by the department.

(g) The department shall, by rule, prescribe the mechanisms for implementing and monitoring compliance with this subsection. The department shall prescribe, by rule, the form any person immunizing a student shall provide to the student under par. (a).

(17) (a) The department or a city or county granted agent status under s. 50.535 (2) shall issue permits to and regulate campgrounds and camping resorts, recreational and educational camps, mobile home parks and public swimming pools. No person, state or local government who has not been issued a permit under this subsection may conduct, maintain, manage or operate a campground and camping resort, recreational camp and educational camp, mobile home park or public swimming pool, as defined by departmental rule.

(b) A separate permit is required for each type of establishment and public swimming pool. No permit is transferable from one premise to another or from one person, state or local government to another.

(c) Anyone who violates this subsection or any rule of the department under this subsection shall be fined not less than $25 nor more than $250. Anyone who fails to comply with an

order of the department shall forfeit $10 for each day of noncompliance after the order is served upon or directed to him or her. The department may also, after a hearing under ch. 227, refuse to issue a permit or suspend or revoke a permit for violation of this subsection or any rule or order the department issues to implement this subsection.

(d) Permits issued under this subsection expire on June 30. Except as provided in s. 50.535 (2) (d) and (e):

1. An additional penalty fee of $10 is required for each permit if the annual renewal fee is not paid before the permit expires; and

2. The annual nonreturnable and nonprorated permit fees under this subsection are as follows: [See Figure 140.05 (17) (d) 2 following]

Figure 140.05 (17) (d) 2:

Establishment	Annual permit fee
Public swimming pool	$ 45
Recreational and educational camp	45
Campground, camping resort or mobile home park	
With 1 to 25 sites	18
With 26 to 50 sites	36
With 51 to 100 sites	54
Over 100 sites	72

(18) The department shall investigate any hospital which is found by a panel established under s. 655.02, 1983 stats., or by a court to have been responsible for negligent acts.

History: 1971 c. 100 s. 23; 1973 c. 90; 1975 c. 37, 39; 1975 c. 94 s. 91 (9); 1975 c. 292, 422; 1977 c. 29, 418; 1979 c. 221, 229, 334, 355; 1981 c. 20, 214, 257; 1983 a. 203; 1985 a. 340.

Hospital breached duty to permit only competent doctors to use its facilities. Johnson v. Misericordia Community Hosp. 99 W (2d) 708, 301 NW (2d) 156 (1981).

See note to Art. I, sec. 7, citing 63 Atty. Gen. 176.

140.053 Drugs; department order authority. (1) In this section, "drug" has the meaning given under s. 450.01 (10).

(2) Except in cases of emergency, or if consent to entry for inspection purposes has been granted, the department may enter only upon obtaining a special inspection warrant under s. 66.122 and at reasonable hours, any premises in the state where drugs are manufactured, processed, packaged or held for sale or any vehicle being used to transport or hold drugs. The department may inspect the premises or vehicle, secure samples or specimens of drugs, examine and copy relevant documents and records and obtain photographic or other evidence needed to carry out its authority under this section. The department shall pay or offer to pay the market value of any samples of drugs taken. The department shall examine the samples and specimens secured and shall conduct other inspections and examinations needed to determine whether the drugs constitute an immediate danger to health or the operations or methods of operation on the premises cause the drugs to create an immediate danger to health.

(3) (a) Whenever the department has reasonable cause to believe that drugs constitute an immediate danger to health or that the operations or methods of operation on the premises or vehicle where the drugs are manufactured, processed, packaged or held cause the drugs to create an immediate danger to health, the administrator of the division of the department responsible for public health may issue and cause to be delivered to the owner or custodian of the drugs, premises or vehicle a temporary order which prohibits the sale or movement of the drugs for any purpose or prohibits the operations or methods of operation which create the immediate danger, or both. The temporary order may be effective for a period of no longer than 14 days from the time of its delivery, but it may be reissued for one additional 14-day period if necessary to complete the analysis or examination of samples, specimens or other evidence.

(b) No drugs described in a temporary order issued and delivered under par. (a) may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the department until the order has terminated or the time period specified in par. (a) has run out, whichever is earlier. If the department, upon completed analysis and examination, determines that the drugs, operations or methods of operation do not create an immediate danger to health, the owner or custodian of the drugs, premises or vehicle shall be promptly notified, in writing, and the temporary order shall terminate upon receipt of the written notice.

(c) Where the analysis or examination shows that the drugs, operations or methods of operation constitute an immediate danger to health, the owner or custodian shall be notified within the effective period of the temporary order under par. (a). Upon receipt of the notice, no drugs described in the temporary order may be sold or moved and no operation or method of operation prohibited by the order may be resumed without the approval of the department pending the issuance of a final decision under sub. (4).

(4) A notice issued under sub. (3) (c) shall be accompanied by notice of a hearing as provided in s. 227.44. The hearing shall be held no later than 15 days after the service of the notice unless both parties agree, in writing, to a later date. A final decision shall be issued under s. 227.47 within 10 days of the hearing. If a finding is made that the drugs, operations or methods of operation constitute a danger to health, the decision may order the destruction of the drugs, the diversion of the drugs to uses which do not pose a danger to health, modification of the drugs so that they do not create a danger to health or changes in or the cessation of operations or methods of operation to remove the danger to health.

(5) (a) Any person who violates this section or an order issued under this section may be fined not more than $10,000 plus the retail value of any drugs moved, sold or disposed of in violation of this section or an order issued under this section or imprisoned not more than one year in the county jail or both.

(b) Any person who does either of the following may be fined not more than $5,000 or imprisoned not more than one year in the county jail or both:

1. Assaults, restrains, threatens, intimidates, impedes, interferes with or otherwise obstructs a department inspector, employe or agent in the performance of his or her duties under this section.

2. Gives false information to a department inspector, employe or agent with the intent to mislead the inspector, employe or agent in the performance of his or her duties under this section.

History: 1983 a. 271; 1985 a. 146 s. 8; 1985 a. 182 s. 57.

140.055 Sanitary supervision of county institutions. (1) The department shall investigate and supervise the sanitary conditions of all the charitable, curative, reformatory and penal institutions of every county and other municipality, all detention homes for children and all industrial schools, hospitals, asylums and institutions, organized for the purposes set forth in s. 58.01.

(2) The department shall annually and oftener, if necessary, and whenever required by the governor, visit the jails, municipal prisons, houses of correction and all other places in which persons convicted or suspected of crime or insane

persons are confined and ascertain the sanitary conditions thereof.

(3) Section 46.16 (8) and (9) shall apply to such investigations and visitations except that the expenses thereof shall be charged to the appropriation made to the department.

140.08 Local and state conferences. (1) The department may call a biennial state conference of health officers, and may call local conferences.

(2) Local health officers shall attend such conferences, but need not attend more than one state and one local conference a year.

(3) The expense of attendance of local health officers shall be paid by the municipality, upon certificate of the department, but only for one state and one local conference a year.

History: 1979 c. 34.

140.09 County, city-county and multiple county health departments. (1) DEFINITIONS. As used in this section:

(a) "County health department" and "county board of health" refer to a single county health department or board of health, a multiple county health department or board of health, or a city-county health department or board of health.

(b) "County health officer" refers to the position of a health officer either in a county health department, multiple county health department or city-county health department.

(c) "Health department" means a full-time health department unless otherwise specified and refers to one whose personnel, other than consultants and clinicians, devote their full time to health department duties.

(2) POWER OF COUNTY BOARD. Any county board may organize a single county department of health, or a city-county department of health or may join with one or more adjacent counties to organize a multiple county department of health. But no more than 3 counties shall join in one such department without prior approval of the department of health and social services.

(3) COUNTY BOARD OF HEALTH. (a) 1. Except as provided under subd. 2, each single county health department shall be managed by a board of health, consisting of not less than 6 nor more than 8 members, appointed by the chairperson of the county board with the approval of the county board. One member shall be a member of the county board. Two members shall be physicians, practicing in the county, and shall be selected from a list of 5 physicians submitted by the county medical society. One member shall be a dentist, practicing in the county, and shall be selected from a list of 3 dentists submitted by the county dental society. If the county medical or dental society fails to submit such list within 60 days after request by the county board chairperson, the county board may appoint 2 physicians and one dentist of its choice. One member shall be a registered nurse with experience in community health practice. The remaining members shall be residents of the county who are known to have a broad social viewpoint and a serious interest in the health protection of their community. The first appointee will serve one year, the 2nd for 2 years, the 3rd for 3 years, the 4th for 4 years, the 5th for 5 years, the 6th for one year, the 7th, if any, for 2 years, the 8th, if any, for 3 years, and their successors shall each serve for 5 years. Terms shall begin on anniversary dates of the organization of the board of health.

2. In any county with a single county health department and a county executive or county administrator, the county executive or county administrator shall appoint the members of the board of health, subject to confirmation by the county board. A member of a board appointed under this subdivision may be removed by the county executive or county administrator for cause.

(b) 1. Except as provided under subd. 2 and sub. (4) (b) 2, each multiple county health department shall be managed by a board of health consisting of 4 members appointed from each county by the chairperson of the respective county board with the approval of the county board. One shall be a member of the county board. One shall be a physician practicing in the county selected from a list of 3 physicians submitted by the county medical society. One shall be a dentist practicing in the county selected from a list of 3 dentists submitted by the county dental society. The 4th member shall be a registered nurse with experience in community health practice. The term of office will be for 5 years except that the first appointee of each county board will be for 2 years, the 2nd for 3 years, the 3rd for 4 years and the 4th for 5 years. Terms shall begin on the anniversary dates of the organizations of the board of health.

2. In any county which is a member of a multiple county health department and which has a county executive or county administrator, the county executive or county administrator shall appoint the members of the board of health from his or her respective county, subject to confirmation by the county board. A member of a board appointed under this subdivision may be removed by the county executive or county administrator for cause.

(c) 1. Except as provided under subd. 2, a county board and a city council for a city located in a county may organize a joint city-county department of health. Such city-county health department shall be managed by a board of health consisting of 8 members. One member shall be a member of the city council and shall be appointed by the mayor or city manager with the approval of the council. One member shall be a member of the county board and shall be appointed by the chairperson of the county board with the approval of the board. Two members shall be physicians practicing in the county selected from a list of 5 physicians furnished by the county medical society. One such physician shall be appointed by the chairperson of the county board with the approval of the board and one by the mayor or city manager with approval of the council. One member shall be a dentist practicing in the county and shall be appointed by the chairperson of the county board with approval of the board from a list of 3 dentists submitted by the county dental society. One member shall be a registered nurse with experience in community health practice. Two members shall be residents of the county and shall be persons of ability and known to have a broad social viewpoint and a serious interest in the health protection of the community. The chairperson of the county board, with the approval of the county board, shall appoint one such member and the mayor or city manager, with the approval of the council, shall appoint the other. The first member appointed shall hold office for one year, the 2nd member for 2 years, the 3rd member for 3 years, the 4th member for 4 years, the 5th member for 5 years, the 6th member for one year, the 7th member for 2 years and the 8th member for 3 years. Their successors shall each hold office for 5 years. Terms shall begin on anniversary dates of the organization of the board of health.

2. In any county which is a member of a joint city-county department of health and which has a county executive, the county executive shall appoint the members of the board of health which the county board chairperson appoints under subd. 1, subject to confirmation by the county board. A member of a board appointed under this subdivision may be removed by the county executive for cause.

(4) HEALTH OFFICER, ELIGIBILITY, DUTIES. (a) Except as provided under par. (b), the board of health shall appoint a county health officer who shall be a licensed physician

especially trained in public health administration, or in lieu thereof shall be a person, other than a physician, with training or experience in public health administration, and in either case, except in counties covered by ss. 63.01 to 63.17, said health officer shall meet training and experience requirements established by the department; provided that if the appointee is not a physician, the local board of health shall arrange for and provide in addition, such service of a licensed physician as may be necessary on either a part-time or full-time basis and provide reasonable compensation therefor. The health officer shall be appointed for a term agreed upon by the board and shall be subject to removal by a two-thirds vote of the board. The county department of health shall be under the immediate direction of the county health officer, who shall give his entire time to the work.

(b) 1. In any county with a county executive or a county administrator which has a single county health department, the county executive or county administrator shall appoint and supervise the county health officer. The appointment is subject to confirmation by the county board unless the county board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure established under s. 59.07 (20) or ch. 63. Such county health officer is subject only to the supervision of the county executive or the county administrator. In a county with such a county health officer, the board of health shall be ony a policy-making body determining the broad outlines and principles governing the administration of the health department.

2. Notwithstanding sub. (3) (a) 1, a county health officer appointed under subd. 1 shall exercise any administrative power or duty specified for the board of health under this section and ss. 101.01 (1) (f), 101.02 (7) (a), 120.13 (11), 141.10 (1) and (4), 146.13 (1) and 146.14 (3).

(5) ORGANIZATION OF BOARD OF HEALTH. The board of health of each county, multiple county or city-county unit shall immediately after appointment meet and organize by the election of one of its members as president and one as secretary, to hold office for a term of one year. The county board may determine appropriate compensation or reimbursement for expenses of board of health members.

(6) BOARD'S POWERS. The county board of health when established in any county shall have all the powers and authority now vested in local boards of health and local health officers and shall have authority to enforce such rules and regulations as may be adopted by the department under the laws of the state. It may adopt such rules for its own guidance and for the government of the health department as may be deemed necessary to protect and improve public health, not inconsistent with state law nor with rules and regulations of the department. The county board of supervisors shall determine compensation of county health department employes and the board of health shall determine the salaries for the employes of multiple county health departments and joint city-county departments of health.

(7) DUTIES OF THE COUNTY HEALTH OFFICER. The county health officer shall have charge of the county department of health and perform the duties prescribed by the county board of health. He shall enforce this section and the regulations of the department of health and social services and local boards of health and have supervisory power over all officers or employes of the county health department. He shall submit to the board of health, county board of supervisors and city council an annual report of the administration of his department.

(8) LOCAL EMPLOYES. The county health officer shall appoint, subject to the approval of the county board of health, all necessary subordinate personnel except that in any county with a county executive or a county administrator, any appointment by the county health officer is not subject to the approval of the county board of health.

(9) PUBLICATION AND EFFECTIVE DATE OF REGULATIONS. The orders and regulations of the county board of health shall be published as a class 1 notice, under ch. 985, and shall take effect immediately after publication.

(10) LOCAL BOARDS AND OFFICERS ABOLISHED. Whenever a county board provides for a county department of health, the boards of health and health officers in all towns, cities and villages within such county shall be abolished, except as provided in sub. (11).

(11) JURISDICTION OF COUNTY; LOCAL OPTION. The jurisdiction of the county department of health shall extend to all towns, villages and cities within the county, other than those having a full-time health department. Towns, cities and villages having full-time health departments may by vote of their governing bodies determine to come under such jurisdiction. No part of any expense incurred under this subsection shall be levied against any property within any city, village or town which has a full-time health department and which has not determined to come under the jurisdiction of the county department.

(12) OFFICES, APPROPRIATIONS. Whenever provision is made for a single county department of health, the county is empowered to provide office facilities and appropriate funds necessary for the maintenance of the work. The board of health of such department shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year.

(13) GIFTS; COUNTY COOPERATING. The county board of health may receive gifts and donations for the purpose of carrying out the provisions of this section.

(14) JOINT HEALTH DEPARTMENTS, HOW FINANCED. The board of health of every multiple county health department and of every city-county health department created under this section shall annually prepare a budget of its proposed expenditures for the ensuing fiscal year and determine the proportionate cost to each participating county and city on the basis of equalized valuation. A certified copy of such budget, which shall include a statement of the amount required from each county and city, shall be delivered to the county board of each participating county and to the mayor or city manager of each participating city. The appropriation to be made by each participating county and municipality shall be determined by the governing body thereof. No part of the cost apportioned to the county shall be levied against any property within such city.

(15) JOINT HEALTH DEPARTMENT FUNDS. In the treasurer's office of the county wherein is located the principal office of each multiple county or city-county health department, or in the office of the city treasurer of a participating city, as determined by the board of health, there shall be created a joint health department fund. The treasurer of each county and city participating in such health department shall annually pay or cause to be paid into said fund the share of such county or city. This fund shall be expended by the treasurer in whose office said fund is kept in the manner prescribed by the county board of health pursuant to properly authenticated vouchers of such health department signed by the county health officer.

(16) COUNTY NURSES. When a county health department is established county nurses shall be transferred to the jurisdiction of the county health department and county health committees or commissions shall cease functioning.

(17) WITHDRAWAL OF COUNTIES AND CITIES. After establishment of a multiple county health department any participat-

ing county may withdraw by giving written notice to its board of health and the county board of supervisors of all other participating counties. Such notice shall be given at least one year prior to commencement of the fiscal year at which it takes effect. Cities having full-time health departments prior to their decision to participate in a city-county health department may withdraw therefrom in the same manner. Whenever any county or city shall withdraw from any health department established under this section all provisions of law relating to local boards of health and health officers shall immediately become applicable within such county or city.

History: 1971 c. 164; 1975 c. 234; 1977 c. 331; 1981 c. 291; 1983 a. 117; 1983 a. 192 s. 303 (1), (2); 1985 a. 29, 332.

140.10 Local health department; evidence. The reports and employes of a city, county, city-county or multicounty health department are subject to s. 970.03 (12) (b).

History: 1979 c. 221; 1985 a. 267 s. 3.

140.42 Abortion refused; no liability; no discrimination. **(1)** No hospital shall be required to admit any patient or to allow the use of the hospital facilities for the purpose of performing a sterilization procedure or removing a human embryo or fetus. A physician or any other person who is a member of or associated with the staff of a hospital, or any employe of a hospital in which such a procedure has been authorized, who shall state in writing his objection to the performance of or providing assistance to such a procedure on moral or religious grounds shall not be required to participate in such medical procedure, and the refusal of any such person to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person.

(2) No hospital or employe of any hospital shall be liable for any civil damages resulting from a refusal to perform sterilization procedures or remove a human embryo or fetus from a person, if such refusal is based on religious or moral precepts.

(3) No hospital, school or employer may discriminate against any person with regard to admission, hiring or firing, tenure, term, condition or privilege of employment, student status or staff status on the ground that the person refuses to recommend, aid or perform procedures for sterilization or the removal of a human embryo or fetus, if the refusal is based on religious or moral precepts.

(4) The receipt of any grant, contract, loan or loan guarantee under any state or federal law does not authorize any court or any public official or other public authority to require:

(a) Such individual to perform or assist in the performance of any sterilization procedure or removal of a human embryo or fetus if his performance or assistance in the performance of such a procedure would be contrary to his religious beliefs or moral convictions; or

(b) Such entity to:

1. Make its facilities available for the performance of any sterilization procedure or removal of a human embryo or fetus if the performance of such a procedure in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or

2. Provide any personnel for the performance or assistance in the performance of any sterilization procedure or assistance if the performance or assistance in the performance of such procedure or the removal of a human embryo or fetus by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

History: 1973 c. 159; 1973 c. 336 s. 54; 1979 c. 34.

140.45 Sanitarians; qualifications, duties, registration. (1) DEFINITIONS. When used in this section:

(a) "Municipality" is a county, city, village or town.

(b) "Sanitarian" is a person trained in the field of sanitary science and technology who is qualified to carry out educational and inspectional duties or to enforce the law in the field of sanitation.

(2) REGISTRATION. In order to safeguard life, health and property, to promote public welfare and to establish the status of those persons whose duties in environmental sanitation call for knowledge of the physical, the biological and social sciences, the department may establish minimum qualifications for the registration of sanitarians.

(3) PUBLIC BODIES MAY EMPLOY SANITARIANS. Any pertinent agency of the state and any municipality may employ, on a full-time basis, one or more sanitarians, registered as provided in this section, who shall enforce laws and rules (as defined in s. 227.01 (13)) of the state and municipalities, relative to environmental sanitation.

(5) CERTIFICATION OF REGISTRATION. The department, upon application on forms prescribed by it and payment of the prescribed fee, shall certify as a registered sanitarian any person who has satisfied it by satisfactory evidence that standards and qualifications of the department, as established by rule, have been met.

(6) FEES: RENEWAL OF CERTIFICATE; DELINQUENCY AND REINSTATEMENT. Fees fixed by rule of the department shall accompany the application under sub. (5) and an annual fee shall be paid by every registered sanitarian who desires to continue registration. All certificates of registration shall expire on December 31 in each year. The department may renew certificates upon application made after January 1 if it is satisfied that the applicant has good cause for not making application within the month of December and upon payment of the annual and additional fees prescribed by the department.

(7) RECIPROCITY. The department may by rule set standards for sanitarians registered in other states to practice as registered sanitarians in this state.

(8) REVOCATION OF CERTIFICATE. The department may, after a hearing held in conformance with ch. 227, revoke or suspend the certification of any sanitarian for practice of fraud or deceit in obtaining the certificate or any gross professional negligence, incompetence or misconduct.

(9) PENALTY. No person not registered under this section may claim to be a registered sanitarian nor append to his or her name the initials "R.S.". Any person violating this subsection may be fined not more than $100 or imprisoned not more than 6 months.

History: 1975 c. 414 s. 28; 1977 c. 29, 418; 1983 a. 189; 1985 a. 182 s. 57.

140.50 Radiation protection act. Sections 140.50 to 140.60 shall be known as the radiation protection act.

140.51 Public policy. Since radiations and their sources can be instrumental in the improvement of the health and welfare of the public if properly utilized, and may be destructive or detrimental to life or health if carelessly or excessively employed or may detrimentally affect the environment of the state if improperly utilized, it is hereby declared to be the public policy of this state to encourage the constructive uses of radiation and to prohibit and prevent exposure to radiation in amounts which are or may be detrimental to health. It is further the policy to advise, consult and cooperate with the department of industry, labor and human relations and other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries; and, in general, to conform as nearly

as possible to nationally accepted standards in the promulgation and enforcement of rules.

History: 1985 a. 29.

140.52 Definitions. As used in ss. 140.50 to 140.60:

(3) "By-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(3g) "Ionizing radiation" as used in this chapter refers to electromagnetic radiations such as X-rays and gamma rays, or particulate radiations such as electrons or beta particles, protons, neutrons, alpha particles, usually of high energy, but in any case it includes all radiations capable of producing ions directly or indirectly in their passage through matter.

(3p) "Nonionizing radiation" means electromagnetic radiation, other than ionizing radiation, and any sonic, ultrasonic or infrasonic wave.

(4) "Nuclear facility" means any reactor plant, any equipment or device used for the separation of the isotopes of uranium or plutonium, the processing or utilizing of radioactive material or handling, processing or packaging waste; any premise, structure, excavation or place of storage or disposition of waste or by-product material; or any equipment used for or in connection with the transportation of such material.

(4p) "Radiation" means both ionizing and nonionizing radiation.

(6) "Radiation installation" is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed of or used for any purpose.

(7) "Radiation machine" is any device that produces radiation when in use.

(8) "Radioactive material" includes any solid, liquid or gaseous substance which emits ionizing radiation spontaneously.

(9) "Radiation source" means a radiation machine or radioactive material as defined herein.

(10) "Source material" means any material except special nuclear material, which contains by weight 0.05 per cent or more of uranium, thorium, or any combination thereof.

(11) "Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the nuclear regulatory commission determines to be special nuclear material; or any material artificially enriched by any of the foregoing. Special nuclear material does not include source material.

(12) "X-ray tube" means any electron tube which is designed for the conversion of electrical energy into X-ray energy.

History: 1977 c. 29; 1985 a. 29.

140.53 Powers and duties. (1) The department and the department of industry, labor and human relations shall:

(a) Formulate, adopt and enforce, amend and repeal rules, including registration of sources of ionizing radiation, as may be necessary to prohibit and prevent unnecessary radiation. Such rules may incorporate by reference the recommended standards of nationally recognized bodies in the field of radiation protection and other fields of atomic energy, under the procedure established by s. 227.21 (2).

(b) Administer ss. 140.50 to 140.60 and the rules promulgated thereunder.

(c) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration.

(d) Advise, consult and co-operate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions and industries.

(e) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it deems necessary or advisable for the discharge of its duties under ss. 140.50 to 140.60.

(f) Collect and disseminate health education information relating to radiation protection as it deems proper.

(g) Review and approve plans and specifications for radiation sources submitted pursuant to rules promulgated under ss. 140.50 to 140.60; and inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard.

(2) The department and the department of industry, labor and human relations may:

(a) Enter, at all reasonable times, any private or public property for the purpose of investigating conditions relating to radiation control.

(b) Accept and utilize grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out its functions under ss. 140.50 to 140.60 such studies, investigations, training and demonstration may be conducted independently, by contract, or in co-operation with any person or any public or private agency, including any political subdivision of the state.

History: 1985 a. 29; 1985 a. 182 s. 57.

140.54 Registration of ionizing radiation installations. (1) APPLICATION. Every site in this state having an ionizing radiation installation, not exempted by this section or the rules of the department shall be registered by the department by January 1, 1964, by the person in control of an installation, including installations in sites that are administered by a state agency or in an institution under the jurisdiction of a state agency, and no such ionizing radiation installation may be operated thereafter unless the site has been duly registered by January 1 of each year and a notice of the registration is possessed by the person in control. Every site having an ionizing radiation installation established in this state after July 20, 1985, shall be registered prior to its operation. The application for registration shall be made on forms provided by the department which shall be devised to obtain any information that is considered necessary for evaluation of hazards. Multiple radiation sources at a single radiation installation and under the control of one person shall be listed on a single registration form. Registration fees shall be levied in accordance with sub. (3). Registration alone shall not imply approval of manufacture, storage, use, handling, operation or disposal of the radiation installation or radioactive materials, but shall serve merely to inform the department of the location and character of radiation sources. The department shall furnish the department of industry, labor and human relations with a copy of each amended and new registration. Persons engaged in manufacturing, demonstration, sale, testing or repair of radiation sources shall not be required to list such sources on the registration form.

(2) AMENDED REGISTRATION. If the person in control increases the number of sources, source strength, rated output or energy of radiation produced in any installation, he or she shall notify the department of the increase prior to operation on the revised basis. The department shall record the change in the registration. If the person in control transfers control of the radiation installation to another person the registration

also transfers to the other person, who shall notify the department of the transfer within 15 days. The department shall record the change in the registration. If any installation is discontinued, the person in control shall notify the department within 30 days of the discontinuance.

(3) FEES. (a) An annual registration fee under pars. (b) to (f) shall be levied for each site registration under this section. An additional penalty fee of $10, regardless of the number of X-ray tubes, shall be required for each registration whenever the annual fee for renewal is not paid prior to expiration of the registration. No additional fee may be required for recording changes in the registration information.

(b) For a medical site having an ionizing radiation installation serving physicians and clinics, osteopaths and clinics, and hospitals that possesses radioactive materials in any quantity, the fee shall be at least $25 for each site and at least $30 for each X-ray tube.

(c) For a chiropractic, podiatric or veterinary site having an ionizing radiation installation, the fee shall be at least $25 for each site and at least $30 for each X-ray tube.

(d) Before January 1, 1986, for a dental site having an ionizing radiation installation, the fee shall be at least $25 for each site and at least $15 for each X-ray tube. X-ray tube fees due on and after January 1, 1986, shall be at least $20.

(f) For an industrial, school, research project or other site having an ionizing radiation installation and radioactive materials in any quantity, the fee shall be at least $25 for each site and at least $30 for each X-ray tube.

(g) Except as set forth under par. (h), the fees under this subsection shall be as stated unless the department promulgates rules to increase the annual registration fee after January 1, 1986, for a site having an ionizing radiation installation or for an X-ray tube.

(4) EXEMPTIONS. The department shall exempt from registration any source licensed by the nuclear regulatory commission and may exempt from registration any source of radiation installation which the department finds to be without undue radiation hazard as determined by standards established by the national committee on radiation protection and measurements or any comparable nationally recognized agency established for the purpose of recommending standards for radiation protection, and after the initial registration may exempt from subsequent annual radiation requirements any source of radiation devoted primarily to industrial purposes.

History: 1977 c. 29; 1979 c. 221; 1985 a. 29.

140.56 Radiation protection council. (1) The radiation protection council shall provide the department with technical advice and assistance in the administration of ss. 140.50 to 140.60 and in the development of rules.

(2) The department, on the recommendation of the council, shall promulgate a radiation protection code. Other departments and agencies of state government and local governmental units may adopt the identical code, but no other rule, code or ordinance relating to this subject may be promulgated or enacted except as provided under ss. 144.83 (4) (i), 144.833 and 166.03 (2) (b) 6.

(3) The council shall monitor the development and implementation of private and local, state and federal government radiation-related policies and programs which may affect the health or well-being of the citizens of the state. These policies and programs include those involving ionizing radiation from X-rays or radioactive materials; nonionizing radiation such as lasers and microwaves, radioactive waste handling and disposal, the transportation of radioactive materials, radioactive air and water pollutants, radiation emergency response planning, the contamination of drinking water supplies by radioactive materials and the environmental monitoring of radioactive materials. As a result of monitoring these policies and programs, the council may:

(a) Comment on reports, programs and regulations.

(b) Recommend new departmental programs, including educational programs or changes in existing programs to the secretary.

(c) Recommend new programs or changes in existing programs in other state agencies. These recommendations shall be transmitted to the secretary who shall forward them to the appropriate agencies.

(d) Recommend that the department of justice intervene in a federal proceeding under s. 165.25 (1). This recommendation shall be transmitted to the secretary who shall forward it to the attorney general.

(e) Recommend to the legislature, examining boards or other appropriate bodies methods for minimizing diagnostic radiologic exposure, including methods to minimize unnecessary screening procedures, duplicative procedures, improper radiographic field size and retakes.

(f) Recommend to the secretary methods to improve inspection and examination of X-ray apparatus.

(4) The council shall upon request provide other state agencies or local governments with technical assistance on radiation-related policies and programs.

(5) The council may request other state agencies to send designees to attend meetings or to give advice on matters related to radiation protection concerns which are the responsibility or under the jurisdiction of those agencies.

(6) The council may recommend cooperation and coordination of programs related to radiation protection concerns. These recommendations shall be transmitted to the secretary who shall forward them to the appropriate agencies.

(7) All written recommendations, comments or proposed rules prepared by the council under this section shall be accompanied by any written comments prepared by any council member.

History: 1979 c. 320; 1981 c. 86; 1983 a. 27 s. 2202 (38); 1985 a. 29 s. 3202 (1).

140.58 Enforcement. (1) NOTIFICATION OF VIOLATION AND ORDER OF ABATEMENT. Whenever the department or department of industry, labor and human relations finds, upon inspection and examination, that a source of radiation as constructed, operated or maintained results in a violation of ss. 140.50 to 140.60 or of any rules promulgated thereunder, it shall notify the person in control that is causing, allowing or permitting such violation as to the nature thereof and order that, prior to a specified time such person in control shall cease and abate causing, allowing or permitting such violation and take such action as may be necessary to have the source of radiation constructed, operated, or maintained in compliance with ss. 140.50 to 140.60 and rules promulgated thereunder.

(2) ORDERS. The department or department of industry, labor and human relations shall issue and enforce such orders or modifications of previously issued orders as may be required in connection with proceedings under ss. 140.50 to 140.60. Such orders shall be subject to review by the department upon petition of the persons affected. Whenever the department or department of industry, labor and human relations finds that a condition exists which constitutes an immediate threat to health due to violation of ss. 140.50 to 140.60 or any rule or order promulgated thereunder it may issue an order reciting the existence of such threat and the findings pertaining thereto. The department or department

of industry, labor and human relations may summarily cause the abatement of such violation.

(3) RULES. The department shall enforce the rules pertaining to ionizing radiation in establishments principally engaged in furnishing medical, surgical, chiropractic and other health services to persons and animals. The department of industry, labor and human relations shall enforce the rules pertaining to ionizing radiation in industrial establishments. The department shall notify the department of industry, labor and human relations and deliver to it a copy of each new registration and at such time a decision shall be made as to which state agency shall enforce the rules pertaining to ionizing radiation. The department and the department of industry, labor and human relations are directed to consult with the radiation protection council in case of jurisdictional problems.

(4) ENFORCEMENT. All orders issued pursuant to ss. 140.50 to 140.60 shall be enforced by the attorney general. The circuit court of Dane county shall have jurisdiction to enforce such orders by injunctional and other appropriate relief.

140.59 Impounding materials. The department or department of industry, labor and human relations may impound or order the sequestration of sources of radiation in the possession of any person who is not equipped to observe or who fails to observe such safety standards to protect health as may have been established by rule.

History: 1985 a. 29.

140.595 Exceptions. (1) Nothing in ss. 140.50 to 140.60 shall be interpreted as limiting intentional exposure of persons to radiation for the purpose of analysis, diagnosis, therapy, and medical, chiropractic or dental research as authorized by law.

(2) Sections 140.50 to 140.60 shall not apply to on site activities of any nuclear reactor plant licensed or operated by the nuclear regulatory commission.

History: 1977 c. 29.

140.60 Penalties. Any person who violates any provision of ss. 140.50 to 140.60 or any rule or order of the department, or department of industry, labor and human relations issued pursuant thereto shall forfeit and pay into the state treasury not less than $10 nor more than $500. Each day of continued violation after notice of the fact that a violation is being committed shall be considered a separate offense. Should injury or death of an employe ensue, due to a failure of an employer to observe or enforce any rule issued under ss. 140.50 to 140.60, compensation and death benefits shall be increased by 15 per cent as provided in s. 102.57.

140.61 Radiation monitoring of nuclear power plants. The department shall take environmental samples to test for radiation emission in any area of the state within 20 miles of a nuclear power plant. The department shall charge the owners of each nuclear power plant in the state an annual fee of $30,000 per plant, commencing in fiscal year 1983-84, to finance radiation monitoring under this section. The department may change this annual fee by rule.

History: 1979 c. 221; 1983 a. 27.

140.65 Title. Sections 140.65 to 140.76 may be cited as the "Wisconsin Mental Retardation Facilities and Community Mental Health Centers Construction Act".

140.66 Definitions. As used in ss. 140.65 to 140.76 unless the context requires otherwise:

(1) "Community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

(2) "Facility for the mentally retarded" means a facility specially designed for the diagnosis, treatment, education, training or custodial care of the mentally retarded; including facilities for training specialists and sheltered workshops for the mentally retarded, but only if such workshops are part of facilities which provide or will provide comprehensive services for the mentally retarded.

(3) "The federal act" means the mental retardation facilities and community mental health centers construction act of 1963 (P.L. 88-164), as now and hereafter amended.

(4) "Nonprofit facility for the mentally retarded", and "nonprofit community mental health center" mean, respectively, a facility for the mentally retarded, and a community mental health center which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) "The secretary" means the secretary of the U.S. department of health and human services or a delegate to administer the federal act.

History: 1979 c. 177; 1981 c. 314; 1983 a. 189.

140.67 Construction of mental retardation facilities and community mental health centers. (2) The department shall constitute the sole agency of the state for the purpose of:

(a) Making inventories of existing facilities, surveying the need for construction for facilities for the mentally retarded and community mental health centers, and developing programs of construction, and

(b) Developing and administering a state plan for the construction of public and other nonprofit facilities for the mentally retarded, and a state plan for the construction of public and other nonprofit community mental health centers.

(3) The department, in carrying out the purposes of ss. 140.65 to 140.76, may:

(a) Require such reports, make such inspections and investigations and prescribe such rules as it deems necessary;

(b) Provide such methods of administration, appoint personnel, and take such other action as necessary to comply with the requirements of the federal act and regulations thereunder;

(c) Procure the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(d) To the extent that it considers desirable to effectuate the purposes of ss. 140.65 to 140.76, enter into agreements for the utilization of facilities and services of other departments, agencies and institutions, public or private;

(e) Accept on behalf of the state and deposit with the state treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of ss. 140.65 to 140.76, and to expend the same for such purposes;

(f) Do all other things on behalf of the state necessary to obtain full benefits under the federal act as now and hereafter amended.

History: 1979 c. 89.

140.69 Construction programs. The department is directed to develop construction programs for facilities for the mentally retarded and community mental health centers for the mentally ill, which shall be based respectively on state-wide inventories of existing facilities for the mentally retarded and

the mentally ill and surveys of need, and which shall provide in accordance with regulations prescribed under the federal act, for facilities which will provide adequate services for the mentally retarded and adequate community mental health services for the people residing in this state and for furnishing needed services to persons unable to pay therefor.

140.70 State plans. The department shall prepare and submit to the secretary, state plans which shall include the programs for construction of facilities developed under ss. 140.65 to 140.76 and which shall provide for the establishment, administration and operation of such construction activities in accordance with the requirements of the federal act and regulations thereunder. The department shall from time to time, but not less often than annually, review the state plans and submit to the secretary any modifications thereof which it considers necessary and may submit to the secretary such modifications of the state plan not inconsistent with the requirements of the federal act, as it deems advisable.

History: 1979 c. 89.

140.71 Standards for maintenance and operation. The department shall by regulation prescribe, and shall be authorized to enforce, standards for the maintenance and operation of facilities for the mentally retarded, and community mental health centers which receive federal aid for construction under the state plans.

140.72 Priority of projects. The state plans shall set forth the relative need and feasibility for the several projects included in the construction programs determined in accordance with the regulations prescribed pursuant to the federal act, and shall provide for the construction insofar as financial resources are available therefor in the order of such relative need and feasibility.

140.73 Applications. Applications for mental retardation facility or community mental health center construction projects for which federal funds are requested shall be submitted to the department by the state, a political subdivision thereof or by a public or other nonprofit agency. Each application for a construction project shall conform to federal and state requirements.

140.74 Hearing; forwarding of applications. The department shall afford to every applicant for a construction project an opportunity for a fair hearing. If the department, after affording reasonable opportunity for development and submission of applications, finds that a project application complies with the requirements of ss. 140.65 to 140.76 and is otherwise in conformity with the state plan, it shall approve such application and shall recommend and forward it to the secretary.

History: 1979 c. 89.

140.75 Inspection of projects. From time to time the department or its duly authorized agents shall inspect each construction project approved by the secretary, and if the inspection so warrants, the department shall certify to the secretary that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an instalment of federal funds is due to the applicant.

140.76 Mental retardation facilities and community mental health centers construction funds. The department may receive federal funds in behalf of, and transmit them to, such applicants. In the general fund there is hereby established, separate and apart from all public moneys of this state, a mental retardation facilities construction fund and a community mental health centers construction fund. Money received from the federal government for a construction project under ss. 140.65 to 140.76 approved by the secretary shall be deposited to the credit of the appropriate fund and shall be used solely for payments to applicants for work performed, or purchases made, in carrying out approved project.

History: 1979 c. 89.

140.77 Pesticide review board. (1) The pesticide review board created by s. 15.195 (1) shall collect, analyze and interpret information, and make recommendations to and coordinate the regulatory and informational responsibilities of the state agencies, on matters relating to the use of pesticides, particularly recommendations for limiting pesticide use to those materials and amounts of pesticides found necessary and effective in the control of pests and which are not unduly hazardous to persons, animals or plants. Pesticide rules authorized by ss. 29.29 (4) and 94.69, except pesticide rules issued under s. 94.705 (2) and pesticide rules to protect groundwater promulgated to comply with ch. 160, are not effective until approved by the review board.

(2) The pesticide review board shall appoint a council not to exceed 6 members of technical or professional experts composed of one representative each from the department of agriculture, trade and consumer protection, department of health and social services, department of natural resources, college of agricultural and life sciences of the university of Wisconsin, water resources center of the university of Wisconsin, school of natural resources of the university of Wisconsin, and in addition 3 public members appointed by the governor and confirmed by the senate for staggered 3-year terms who shall be technical or professional experts in the use of pesticides, one of whom shall be a representative of the pesticide industry, one of whom shall be a representative of the agricultural industry and one of whom shall be a person of broad knowledge and experience in the conservation and wise use of natural resources. The council shall generally assist the review board and shall assist particularly in obtaining scientific data and coordinating pesticide regulatory, enforcement, research and educational functions of the state.

(3) The pesticide review board shall report to the governor and the legislature any pesticide matters it finds are of vital concern for the protection of the health and well-being of people or for the protection of fish, wildlife, plants, soil, air and water from pesticide pollution. Such report may include its recommendations for legislative or other governmental action.

History: 1975 c. 94 s. 91 (10); 1977 c. 29 s. 1650m (4); 1977 c. 106; 1983 a. 410.

Cross Reference: See 134.67 for prohibition of use of DDT and exceptions to the prohibition.

140.81 Drug dependence program. (1) In this section:

(a) "Drug" means a controlled substance, as defined in s. 161.01 (4).

(b) "Drug abuse" means the use of a drug in such a manner as to endanger the public health, safety or welfare.

(c) "Drug dependence" means a condition arising from the periodic or continuous use of a drug which may result in psychic or physical dependence which would affect or potentially affect the public health, safety or welfare.

(2) A drug dependence and drug abuse program is established in the department. The secretary may develop and carry out programs concerned with education about and prevention of drug dependence and drug abuse, and programs concerned with treatment and rehabilitation of drug

dependent persons and persons who abuse drugs. The secretary shall appoint a drug dependence program coordinator to handle liaison with other departments and agencies, including the state council on alcohol and other drug abuse. These programs may include, but are not limited to:

(a) Education regarding use of drugs and the prevention of drug dependence and drug abuse.

(b) Diagnosis, treatment and rehabilitation of patients who are drug dependent persons or persons who abuse drugs.

(c) Development of standards and provision of consultation for local drug dependence and drug abuse programs.

(d) Evaluation of programs conducted pursuant to the authority of this subsection as to their effectiveness and relationship to the public health, safety and welfare and the development of improved techniques for the prevention and treatment of drug dependence and drug abuse.

(e) Promotion and establishment of cooperative relationship with public and private agencies which have a responsibility for the prevention and treatment of drug dependence and drug abuse.

(3) The department may accept, receive, administer and expend any money, material or other gifts or grants of any description for purposes related to those set forth in this section. Moneys and grants received under this section shall be deposited with the state treasurer and shall be credited to the department under s. 20.435 (2) (i) and expended by the department or the state council on alcohol and other drug abuse for the purposes specified.

History: 1971 c. 219; 1975 c. 370; 1979 c. 221; 1983 a. 189.

140.82 Health planning. (1) The department is designated the state health planning and development agency as provided under 42 USC 300k to 300n-5, in effect on April 30, 1980, and shall:

(a) Initiate, conduct and periodically evaluate a process for planning to use the resources of the state and meet the health needs of its residents and to implement in conjunction with other state agencies those parts of the state health plan and plans of the health systems agencies that relate to state government.

(b) Prepare, review at least triennially and revise as necessary a preliminary state health plan that identifies health service and resource goals and priorities. The department shall develop the plan from the plans of the health systems agencies in the state as required under 42 USC 300k to 300n-5, in effect on April 30, 1980. The department shall submit the preliminary plan to the health policy council for review under s. 14.25 (1) (f). In addition to coordinating the preparation of health-related federal plans, the department shall coordinate the preparation of public and private state health and health-related plans.

(c) Receive and administer federal funds for state health planning and development.

(d) Receive and administer state funds for state health planning and development.

(e) Designate and provide for the development and organization of health systems agencies under 42 USC 300k to 300n-5, in effect on April 30, 1980.

(f) Ensure the development of appropriate substate health plans by providing technical assistance, preparing plan guidelines and other directives as necessary.

(g) Provide information and technical assistance to the office of the governor and the legislature and public and private organizations as necessary to implement the state health plan.

(h) Contract with substate health planning and development agencies and other organizations to do analyses and studies required to formulate state health policy.

(i) Serve as the single state agency for federally assisted health facility modernization and construction and administer the regulation of health care institutions. If the department acts under this paragraph, it shall consider recommendations from health systems agencies as required under 42 USC 300m-2 (a) (4), in effect on April 30, 1980.

(j) Coordinate the activities within state government for the collection, retrieval, analysis, reporting and publication of statistical and other information related to health and health care.

(k) Periodically review all institutional and home health services offered in the state for which the state plan establishes goals and publicize its findings, after considering recommendations concerning the appropriateness of the services from health systems agencies under 42 USC 300k to 300n-5, in effect on April 30, 1980. In reviewing the appropriateness of a health service under this paragraph, the department shall at least consider the need for the service, its accessibility, availability, financial viability and cost effectiveness and the quality of service provided.

(l) Prepare an inventory of the health care facilities other than federal health care facilities located in the state. The department shall report the inventory to the health systems agencies within the state to assist the agencies in performing their functions, as required under 42 USC 300L-2, in effect on April 30, 1980.

(m) Assist the health policy council in the performance of its functions under s. 14.25.

(2) Every department, independent agency and statutory council, and their officers and employes, shall cooperate with the department in matters relating to these functions.

(3) Each individual and institutional provider of health services licensed or approved by the state and doing business in the state shall make statistical and other reports of information related to health and health care to the department.

History: 1973 c. 90; 1975 c. 39; 1977 c. 29 ss. 1154, 1155, 1156, 1649; 1977 c. 203; 1979 c. 221.

140.83 Emergency service classification. (1) DEFINITION. In this section "health systems agency" means a governmental agency or a private nonprofit corporation which meets the requirements under 42 USC 300k to 300n-5, in effect on April 30, 1980, and which has been designated by the state health planning and development agency a health systems agency under s. 140.82.

(2) REGIONAL PLANS FOR EMERGENCY MEDICAL SERVICES. Each health systems agency shall develop a plan for the provision of emergency medical services within the area.

(3) STATE RESPONSIBILITY. The department shall:

(a) Provide technical assistance to the health systems agencies in the development of emergency medical service plans.

(b) Coordinate the activities of agencies and organizations providing training for the delivery of emergency medical services.

(c) Assist the development of training for emergency medical technicians—advanced (paramedics).

(d) Assess the emergency medical resources and services of the state and encourage the allocation of resources to areas of identified need.

(e) Assist hospitals in planning for appropriate and efficient handling of the critically ill and injured.

History: 1973 c. 321; 1975 c. 413 s. 4; 1977 c. 29 ss. 606g, 606r, 1156m; 1979 c. 221.

140.84 Joint alcohol and drug abuse prevention plan. The department in cooperation with the department of public instruction shall prepare, and the secretary and the superintendent of public instruction shall approve, a coordinated

plan for the development, testing and implementation of cooperative and integrated school-community alcohol and drug abuse prevention, intervention, treatment and rehabilitation services. The approved plan shall be submitted to the legislature not later than February 1, 1981, and the department and the department of public instruction shall report to the legislature on the implementation of the plan in each calendar year after calendar year 1981.

History: 1979 c. 331.

140.85 Community-based residential facility licensing fees. (1) DEFINITION. In this section, "community-based residential facility" has the meaning specified in s. 50.01 (1).

(2) FEES. The annual fee for a community-based residential facility shall be based on the number of residents for which the facility is licensed as follows:

Number of residents	Annual license fee
21-25	$125
26-50	$250
51-100	$375
101-150	$500
151-200	$625
201-250	$750
251-300	$875
301 & Over	$1,000

(a) Such fees shall be paid to the department by the community-based residential facility on or before October 1 for the ensuing year. A new community-based residential facility shall pay the fees under this subsection no later than 30 days before the opening of the facility.

(b) Any community-based residential facility that fails to submit the annual fee prior to October 1, or 30 days prior to the opening of a new community-based residential facility subject to this section shall pay an additional fee of $10 per day for every day after the deadline.

(3) EXEMPTION. Community-based residential facilities licensed for 20 or fewer residents are exempt from this section.

History: 1973 c. 90, 243, 333; 1975 c. 413 s. 18; 1975 c. 430 ss. 73, 80; 1977 c. 26, 418; 1979 c. 221; 1983 a. 27.

Duty of a private hospital to render emergency treatment. 1974 WLR 279.

140.86 Licensing and approval fees for inpatient health care facilities. (1) DEFINITION. In this section, "inpatient health care facility" means any hospital, nursing home, county home, county mental hospital, tuberculosis sanatorium or other place licensed or approved by the department under ss. 49.14, 49.16, 49.171, 50.02, 50.03, 50.35, 51.08, 51.09, 58.06, 149.01 and 149.02, but does not include community-based residential facilities.

(2) FEES. (a) The annual fee for any inpatient health care facility except a nursing home is $8 per bed, based on the number of beds for which the facility is licensed. The annual fee for any nursing home is $6 per bed, based on the number of beds for which the nursing home is licensed. This fee shall be paid to the department on or before October 1 for the ensuing year. Each new inpatient health care facility shall pay this fee no later than 30 days before it opens.

(b) Any inpatient health care facility that fails to pay its fee on or before the date specified in par. (a) shall pay an additional fee of $10 per day for every day after the deadline.

(c) Of the fees collected under par. (a), $544,800 in the fiscal year ending June 30, 1985, $435,200 in the fiscal year ending June 30, 1986, and $305,300 annually thereafter shall be deposited in the general fund and the balance of fee revenue deposited in the appropriation under s. 20.435 (1) (gm) for health planning and cost containment activities.

(3) EXEMPTION. The inpatient health care facilities under ss. 45.365, 48.62, 51.05, 51.06 and 149.06, and ch. 142 are exempt from this section.

History: 1983 a. 27, 192; 1985 a. 29.