

CHAPTER 250

HEALTH; ADMINISTRATION AND SUPERVISION

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250.01 Definitions. In chs. 250 to 255, unless the context requires otherwise:

(1) "Chief medical officer" means a physician who is appointed by the state health officer under s. 250.02 (2).

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

(3) "Local board of health" means the policy-making body for a local health department.

(4) "Local health department" means any of the following:

(a) In a county with a population of less than 500,000, any of the following:

1. A county health department established under s. 251.02 (1), including a county health department whose powers and duties are transferred to a county department of human services under s. 46.23 (3) (b) 1. c.

2. A city-county health department established under s. 251.02 (1).

3. A city health department that was established before January 1, 1994.

4. A village or town health department under s. 251.02 (3m).

(b) In a county with a population of 500,000 or more, a city health department or a village health department established under s. 251.02 (2).

(c) A multiple county health department established under s. 251.02 (3).

(5) "Local health officer" means the health officer who is in charge of a local health department.

(6) "Physician" has the meaning given in s. 448.01 (5).

(7) "Registered nurse" means a registered nurse who is licensed under s. 441.06 or permitted under s. 441.08.

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

(9) "State health officer" means the individual who is appointed by the secretary to develop public health policy for the state and direct state public health programs.

History: 1993 a. 27 ss. 162, 322, 449.

250.02 State health officials. (1) STATE HEALTH OFFICER; DUTIES. The secretary shall appoint a state health officer and may assign the state 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 are needed to carry out the duties of the state health officer and as provided by law. The state health officer shall appoint state epidemiologists for program areas of acute and communicable diseases, occupational and environmental diseases, maternal and child health and chronic diseases. Individuals appointed as state epidemiologists shall have advanced training and expertise in epidemiology in their program areas.

(2) **CHIEF MEDICAL OFFICERS; QUALIFICATIONS; DUTIES.** The state health officer shall appoint chief medical officers in the classified service to provide public health consultation to, and leadership for, state health programs. The chief medical officers shall

also serve as state epidemiologists under sub. (1), for acute and communicable diseases, occupational and environmental diseases, maternal and child health and chronic diseases. The chief medical officers shall be physicians who have training and expertise, as prescribed by the department, appropriate to their areas of assignment. The chief medical officers shall have all of the powers and duties that are designated to them by the state health officer to enforce the health laws of the state and to advise state and local officials as to health promotion, disease prevention and public health intervention strategies necessary to prevent morbidity and unnecessary mortality.

History: 1993 a. 27 ss. 163, 450; Stats. 1993 s. 250.02.

250.03 Public health system. (1) The department shall:

(a) Maintain a public health system in cooperation with local health departments; community organizations; and medical clinics that are operated by the governing bodies, or agencies of the governing bodies, of federally recognized American Indian tribes or bands located in this state.

(b) Serve as the state lead agency for public health.

(c) Assess the health needs in the state based on statewide data collection.

(d) Advise the legislature on the development of an adequate statutory base for health activities in the state.

(e) Establish statewide health objectives and delegate power to local health departments to achieve the objectives as the department considers appropriate.

(f) Support local public health service capacity building through grants, consultation and technical assistance.

(g) Develop policy and provide leadership in public health throughout the state that fosters local involvement and commitment, that emphasizes public health needs and that advocates for equitable distribution of public health resources and complementary private activities commensurate with public health needs.

(h) Distribute state and federal public health funds under its control in a manner that will promote the development and maintenance of an integrated system of community health services.

(i) Require, as a condition for distributing funds under par. (h) at the local level, that services at that level be coordinated.

(j) Advocate for the provision of reasonable and necessary public health services.

(2) The department may enter into agreements and provide consultation on matters relating to human health.

History: 1993 a. 27.

250.04 Powers and duties of the department. (1)

The department has general supervision throughout the state of the health of citizens and shall study especially the vital statistics of the state and use the analysis of the vital statistics for health planning. The department may, upon due notice, enter upon and inspect private property. The department has power to execute what is reasonable and necessary for the prevention and suppression of disease. The department may or, if required, shall advise public boards or officers in regard to heating and ventilation of any public building or institution. The department may investigate the

cause and circumstances of any special or unusual disease or mortality or inspect any public building and may do any act necessary for the investigation.

(2) (a) The department possesses all powers necessary to fulfill the duties prescribed in the statutes and to bring action in the courts for the enforcement of public health statutes and rules.

(b) If local health departments fail to enforce public health statutes or rules, the department may enforce those statutes and rules. If the department does this, the county, city or village for which the local health department has jurisdiction shall reimburse the department for expenses that the department incurs in enforcing communicable disease statutes and rules.

(3) (a) The department shall establish and maintain surveillance activities sufficient to detect any occurrence of acute, communicable or chronic diseases and threat of occupational or environmental hazards, injuries or changes in the health of mothers and children.

(b) 1. The department shall analyze occurrences, trends and patterns of acute, communicable or chronic diseases, maternal and child health, injuries and occupational and environmental hazards and distribute information based on the analyses.

2. The department shall, in cooperation with local health departments, maintain a public health data system.

3. 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 those public health problems. For the conduct of the 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 the 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. Individual questionnaires or surveys shall be treated as confidential patient health care records under ss. 146.81 to 146.835, but the information in those questionnaires and surveys may be released in statistical summaries.

4. The department may use hospital emergency room and inpatient health care records, abstracts of these records and information the state or federal government collects to correlate exposure to certain occupational and high risk 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 employees and employers about the health hazard.

(c) The department shall publish an annual maternal and child health report, including morbidity and mortality indicators for the state, regions of the state, counties, certain cities and subpopulations of the state.

(4) (a) The department shall administer programs for the control and prevention of public health problems.

(b) The department shall be responsible for follow-up investigations of unusual occurrences of acute, communicable and chronic diseases, occupational and environmental hazards, unusual injuries and unusual changes in maternal and child health.

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

(6) The department shall provide consultation, technical assistance and training regarding public health to local health departments, community organizations and others.

(7) The department may promulgate and enforce rules and issue and enforce orders governing the duties of all local health officers and local boards of health and relating to any subject matter under the department's supervision that are necessary to provide efficient administration and to protect health. Whoever violates a rule or order specified under this subsection shall be fined

not less than \$10 nor more than \$100 for each offense, unless a different penalty is provided.

(8) The department may administer oaths, certify to official acts, issue subpoenas and compel the attendance of witnesses and the production of papers, books, documents and testimony. Witness fees and mileage shall be paid from the appropriation under s. 20.435 (1) (a), but no witness subpoenaed at the instance of parties other than the department is entitled to payment of fees or mileage, unless the department certifies that his or her testimony was material.

(9) The department may establish, equip and operate a state branch laboratory of hygiene in a city accessible to physicians and local health officers in the northern part of the state to conduct 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, if suitable quarters for the laboratory are 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 of the cooperative laboratories shall be operated in the manner and under the conditions that the department establishes in rules that the department may promulgate.

(10) The department may investigate and supervise the sanitary conditions of all charitable, curative, reformatory and penal institutions, all detention homes for children and the hospitals and institutions that are organized for the purposes set forth in s. 58.01. The department may visit the jails, municipal prisons, houses of correction and all other places in which persons convicted or suspected of crime or mentally ill persons are confined and ascertain the sanitary conditions of those places.

(11) 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.

(12) The department is designated the state health planning and development agency.

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; 1987 a. 27 ss. 1786, 1787, 3200 (24); 1987 a. 399; 1989 a. 173, 264; 1991 a. 39, 178, 269; 1993 a. 16; 1993 a. 27 s. 170, 171, 173, 174, 176, 178, 179, 180, 183, 187, 250, 452 to 456; 1993 a. 209, 491

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)

Neither 140.05 or regulations adopted under (3) are safety statutes which create an independent basis for a negligence action. *Johnson v. City of Darlington*, 160 W (2d) 418, 466 NW (2d) 233 (Ct. App. 1991)

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

250.045 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; 1993 a 27 s 185; Stats 1993 s. 250.045

250.05 Sanitarians; qualifications, duties, registration. (1) DEFINITIONS In this section:

(a) "Municipality" means a county, city or village.

(b) "Sanitarian" means an individual who, through education, training or experience in the natural sciences and their application and through technical knowledge of prevention and control of preventable diseases, is capable of applying environmental control measures so as to protect human health, safety and welfare.

(2) REGISTRATION QUALIFICATIONS 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 natural sciences, the department may establish minimum standards and qualifications for the registration of sanitarians.

(3) SANITARIANS; EMPLOYMENT OR CONTRACTUAL SERVICES Any agency of the state may employ or contract for the services of sanitarians, registered under this section, who shall enforce the public health statutes or rules.

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

(6) FEES: RENEWAL OF REGISTRATION; DELINQUENCY AND REINSTATEMENT A fee fixed by rule of the department shall accompany the application under sub. (5) and, beginning January 1, 1988, a biennial fee of \$25 shall be paid by every registered sanitarian who desires to continue registration. The amounts of the fees may be adjusted by the department by rule. All certificates of registration shall expire on December 31 in each odd-numbered year. The department may renew registrations upon application made after January 1 of each even-numbered year if it is satisfied that the applicant has good cause for not making application in December of the immediately preceding year and upon payment of the biennial fee and any 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 REGISTRATION The department may, after a hearing held in conformance with ch. 227, revoke or suspend the registration of any sanitarian for practice of fraud or deceit in obtaining the registration 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; 1987 a. 27; 1993 a. 27 s. 223; Stats. 1993 s. 250.05

250.06 Public health nurses. (1) The qualifications of all public health nurses shall be prescribed by rules promulgated by the department. All public health nurses shall be registered nurses. Licensed practical nurses licensed under ch. 441 may be employed by local health departments under the supervision of a public health nurse to perform services for which licensed. Public health nurses shall work under the direction of the local board of health and the local health officer and shall conduct a generalized public health nursing program in cooperation with the department.

(3) The department shall examine the practice of public health nurses and make recommendations for the improvement and the development of public health nursing.

(6) This section shall not apply to school nurses, as defined in s. 115.001 (11), while acting in the employ of a public school.

History: 1971 c. 42; 1975 c. 115; 1977 c. 29 ss. 1157, 1157m, 1657 (18) (f); 1983 a. 189 s. 329 (17); 1985 a. 281; 1989 a. 56 s. 259; 1993 a. 27 ss. 272, 273, 275; Stats 1993 s. 250.06

250.07 Public health planning. The department shall:

(1) At least once every 10 years, develop a successor document to healthier people in Wisconsin, a public health agenda for the year 2000, published by the department in February 1990.

(2) Initiate, conduct and periodically evaluate a process for planning to use the resources of the state to meet the health needs of residents and, in conjunction with other state agencies, to implement the objectives that relate to state government in statutes or in public health rules promulgated by the department. The process shall involve representatives from public health organizations, governmental agencies and the general public.

(3) Provide technical assistance to local units of government for the development of local public health plans.

(4) Serve as the state lead agency in coordinating the activities within state government involving the collection, retrieval, analysis, reporting and publication of statistical information and other information related to health and health care.

History: 1993 a. 27

250.08 State public health funding program.

(1) DEFINITION. In this section, "primary health care services" means all of the following:

(a) Services of a physician and, if feasible, services of a physician assistant, as defined in s. 448.01 (6), a nurse practitioner, as defined in s. 632.895 (8) (a) 3., or a public health nurse under s. 250.06.

(b) Diagnostic laboratory and radiologic services, if the local health department provides laboratory and radiologic services.

(c) Preventive health services, including eye and ear examinations for children to determine the need for vision or hearing correction, perinatal services, well-child services and family planning services.

(d) Preventive dental services.

(e) Case management services.

(3) PRIMARY HEALTH CARE SERVICES GRANTS. From the appropriation under s. 20.435 (1) (cp), the department shall award up to \$750,000 in each fiscal year as grants to applying local health departments. Grants under this subsection shall be awarded, under procedures and criteria developed by the department, for the provision, primarily by nurse practitioners who meet the qualifications for certification as medical assistance providers by the department and by public health nurses, of primary health care services in, among other places, maternal and child health clinics and community health settings. Award of a grant to a local health department under this subsection is conditioned upon receipt by the department of an agreement by the county, city or village that has established the local health department to provide funds or in-kind services to match 25% of the amount of a grant awarded.

(5) MAINTENANCE-OF-EFFORT REQUIREMENTS. Funds awarded under sub. (3) may not be used to provide payment for administration of a local health department and may not be used to supplant any of the following, as of May 11, 1990:

(a) Any funds otherwise available to a local health department.

(b) Any services provided by a local health department under otherwise available funds.

(c) Any services provided by a local health department on behalf of another local health department.

(6) DISTRIBUTION OF FUNDS. (a) The department shall distribute state and federal funds under its control under this section in a manner that will promote the development and maintenance of integrated community health services.

(b) The department shall require the coordination of services at the local level when distributing state and federal funds under this section that are under the department's control.

History: 1989 a. 336; 1991 a. 39; 1993 a. 27 ss. 164 to 167, 169, 458; Stats 1993 s. 250.08; 1993 a. 105 s. 9; 1993 a. 490 s. 139

250.09 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 submit to the legislature in the manner provided under s. 13.172 (2) and to the governor a report on any pesticide matters the pesticide review board 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. The report may include the pesticide review board's 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; 1987 a. 186; 1993 a. 27 s. 247; Stats 1993 s. 250.09

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

250.10 Grant for dental services. From the appropriation under s. 20.435 (1) (de), the department shall provide funding in each fiscal year to the Marquette university school of dentistry for the provision of dental services by the Marquette university school of dentistry in clinics in the city of Milwaukee.

History: 1989 a. 336; 1991 a. 39; 1993 a. 16; 1993 a. 27 s. 258; Stats 1993 s. 250.10