

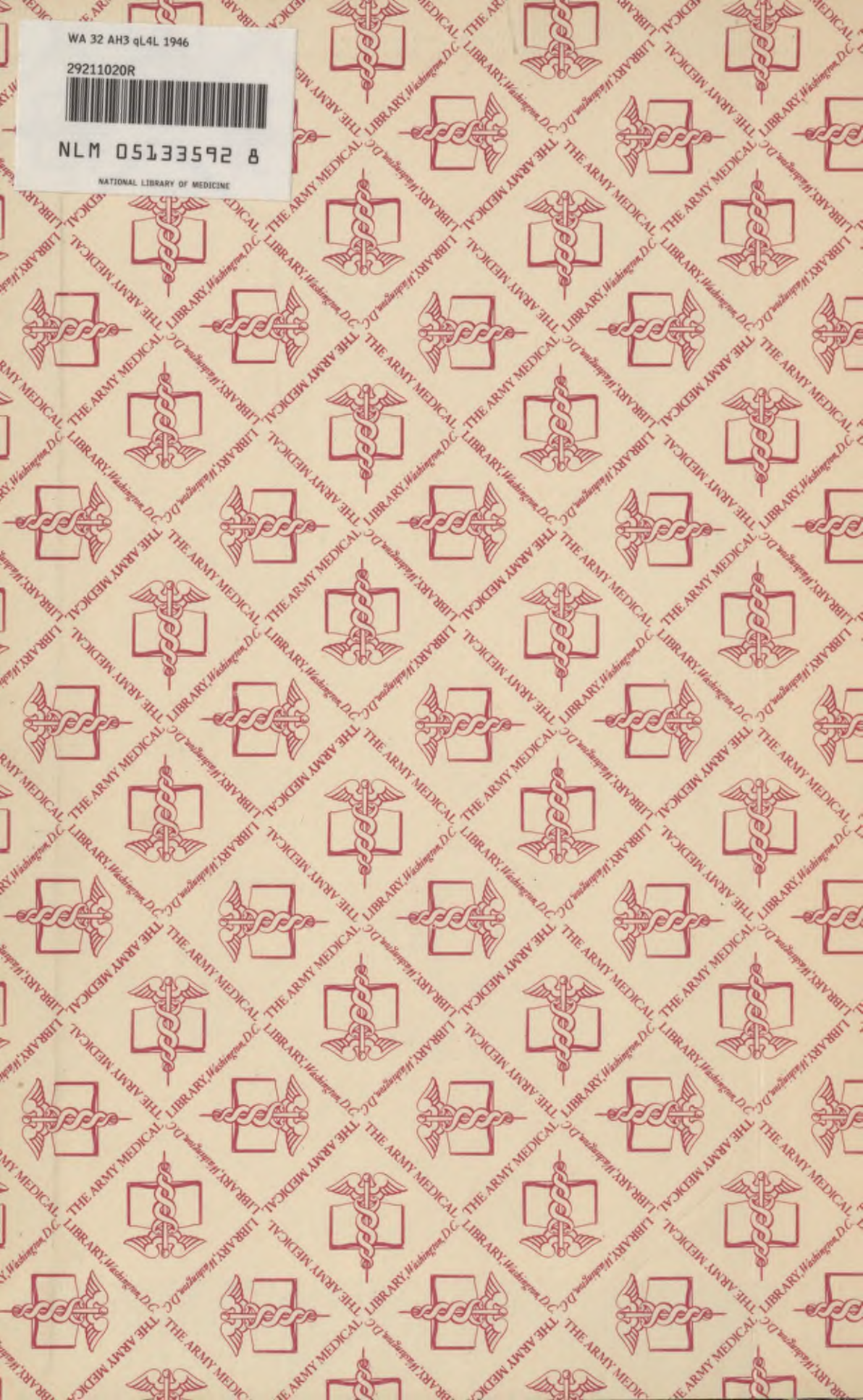
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Hawaii (Ter.) Laws, statutes, etc.

LAWS OF HAWAII

Relating to

PUBLIC HEALTH



Reprinted from
Revised Laws of Hawaii, 1945
and
Session Laws of Hawaii, 1945

350

BOARD OF HEALTH
Territory of Hawaii
1946

LAW OF HAWAII
BOARD OF HEALTH
PUBLIC HEALTH

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PUBLIC HEALTH LAWS

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Sec. 1076. Dairy cattle; tuberculin tests; penalty. All dairy cattle within the Territory shall be tuberculin tested by the territorial veterinarian, his assistant or deputy, as often as in their judgment such testing is necessary in order to prevent, suppress and eradicate bovine tuberculosis; all cattle so tested shall be marked by said veterinarian, or said assistant or deputy, with some distinguishing mark; and said veterinarian, and his duly authorized agents, may, for the purpose of making such tests, go upon any property where such cattle are kept. If, upon making such tests, it is determined that any cattle of any herd show tubercular reaction, said veterinarian or his assistants may declare the region upon which said cattle are found to be a quarantine zone, and no cattle shall be permitted to leave such region except for shipment to a slaughterhouse, there to be disposed of as provided by law; **provided**, however, that in the event the owner or owners of such cattle can show to the satisfaction of said veterinarian that they have under their control an area of land, or a paddock, wherein the tubercular cattle can be properly isolated, then said veterinarian may place a quarantine only upon said area where such cattle shall be isolated, such quarantine to last for such period of time as may, under the circumstances in a particular case, be deemed, by the board of commissioners of agriculture and forestry, necessary.

At any time before the end of the quarantine period declared by said veterinarian, the owner or owners of such cattle may apply to the board of commissioners of agriculture and forestry to have such quarantine lifted, and said board is authorized, after a test showing a negative reaction to bovine tuberculosis by said herd, to declare such quarantine lifted from the premises of such applicants.

Whenever any tubercular cattle are found in any slaughterhouse in the Territory, the veterinarian or his assistants may go upon the ranch of the origin of such cattle and, after making such tuberculin test of the cattle as the case shall warrant, shall place such region under quarantine, as hereinabove provided; and any owner of tubercular cattle sending such cattle to a slaughterhouse shall keep a record, which shall be available to the veterinarian and his agents, of all such tubercular cattle so shipped to slaughterhouses, and where shipped; and the owners or operators of said slaughterhouses shall also keep a record of all tubercular cattle received, stating their place of origin and time of receiving same, which said records shall be at all times available to the veterinarian and his agents.

Any person violating the provisions of this subtitle shall be deemed guilty of committing a misdemeanor, and upon conviction therefor shall be liable to imprisonment for any period not over six months, or to a fine not over two hundred dollars. [L. 1923, c. 24, s. 1; R. L. 1925, s. 626; am. L. 1925, c. 5, s. 1; am. L. 1932, 2d., c. 39, s. 1; am. L. 1933, c. 57, s. 1; R. L. 1935, s. 222; am. L. 1939, c. 111, s. 1.]

Charges, appeals, ss. 1864-5.

Sec. 1077. Branding of tuberculous cattle. All cattle found to be tuberculous either upon physical examination or by means of the tuberculin test shall be branded upon the left cheek with the registered brand "T." [L. 1923, c. 124, s. 2; R. L. 1925, s. 627; am. L. 1932, 2d., c. 39, s. 2; R. L. 1935, s. 223.]

Sec. 1078. Disposal of tuberculous animals. The owner of all cattle reacting to the tuberculin test shall, subject to the provisions of section 1076, cause them to be segregated immediately and, within a reasonable time thereafter, to be delivered for slaughter at such time and place as may be designated by the territorial veterinarian, his assistant or deputy. Such slaughter shall be under the direct supervision of the territorial veterinarian, his assistant or deputy, and in accordance with the meat inspection regulations of the federal bureau of animal industry. [L. 1923, c. 124, s. 3; R. L. 1925, s. 628; am. L. 1927, c. 215, s. 1; R. L. 1935, s. 224; am. L. 1939, c. 111, s. 2.]

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CHAPTER 35. BOARD OF HEALTH.

Sec. 2001. Board of health; members; qualifications; tenure; president; acting president. There shall be a board of health for the Territory (hereinafter referred to as the board) consisting of nine members (including the president), of whom eight shall be appointive members and one shall be the attorney general of the Territory, ex officio. At least two, and not more than three of the appointive members shall be physicians who are licensed to practice as doctors of medicine in the Territory. The president and other appointive members shall be appointed for terms of four years, and may be removed, by the governor in the manner prescribed by section 80 of the Hawaiian Organic Act. All of the members of the board shall serve without pay, except the president, whose salary shall be fixed by or pursuant to law, but the members shall be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The president shall be the presiding officer of the board. During the temporary absence from the Territory or the illness of the president, the governor shall designate one of the members of the board as acting president; provided that, in case of the absence from any meeting of the president or an acting president, any member may be chosen by the board to preside at such meeting. [P. C. 1869, c. 59, ss. 1, 31; am. L. 1876, c. 11, s. 2; am. L. 1893-4, c. 18, s. 1; am. L. 1903, c. 57, s. 1; am. L. 1911, c. 132, s. 1; R. L. 1925, s. 909; am. L. 1925, c. 34; s. 1; R. L. 1935, s. 900; am. L. 1937, c. 122, s. 1; am. L. 1943, c. 43, s. 1.]

1943 reorganization of board, see L. 1943, c. 43, s. 4, omitted.

See Org. Act, s. 97, continuing Hawaiian health laws subject to federal quarantine laws. For animal and plant quarantine, see ss. 1006, 1052, 1055-1066, c. 21, ss. 1351-1365; bovine tuberculosis, ss. 1076-1081; food inspection and eggs, c. 20. Bonds, ss. 433, 497.

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Sec. 2002. Quorum. Five members of the board shall constitute a quorum for the exercise of the powers or authority conferred upon it by the concurrence of a majority of the members present, but in no event less than four members shall be necessary to make any action of the board valid. [L. 1937, c. 122, pt. of s. 2; am. L. 1943, c. 43, pt. of s. 1 (3).]

See quorum generally, s. 482.

Sec. 2003. General office; meetings. The board shall maintain its general office in Honolulu and such other offices throughout the Territory as it, in its discretion, may deem to be necessary for the proper performance of its functions. The board shall hold at least one regular meeting in each calendar month in Honolulu; provided, however, that the board may hold one of such monthly meetings in each calendar year on each of the islands of Hawaii, Maui and Kauai.

The board in its discretion shall hold such other meetings at its general office in Honolulu and at other places from time to time where the convenience of the members so requires or where necessary for the proper performance of its functions. All meetings of the board shall be public. [L. 1937, c. 122, pt. of s. 2; am. L. 1941, c. 16, s. 1.]

Sec. 2004. President is executive officer; powers. The president shall act as executive officer of the board, with all the powers and duties necessary for carrying on the executive work of the board. He shall have control, management and direction of all officers and employees serving under him and shall have full power and authority of action, including the appointment, suspension or dismissal of such officers and employees, subject to ratification by the board at regular or special meetings; provided, however, that all appointments, suspensions or dismissals shall be made pursuant to any applicable civil service and personnel classification laws then in effect. The president shall have full power, and it shall be his duty, to administer and enforce all regulations and directions of the board, and the powers and functions which, under the laws of the Territory, are delegated to the board. [L. 1937, c. 122, pt. of s. 2; am. L. 1943, c. 43, s. 1 (4).]

Sec. 2005. Signing of vouchers and routine reports, etc., by authorized subordinate. The president of the board of health, with the approval of the board, may, in writing, designate a qualified subordinate to sign vouchers, make routine reports, and perform such other routine business duties, subject to the direction of the president, as the board may authorize, for whose acts the president shall be responsible. [L. 1943, c. 43, s. 1 (8).]

L. 1943, ss. 2, 3, 4, re transition to "president", omitted.

Sec. 2006. Secretary of the board. The board shall appoint a secretary who shall receive such compensation for his services as shall be provided by the legislature. He shall perform such duties as may be prescribed by law or by the board or by the president of the board. [L. 1937, c. 122, pt. of s. 2; am. L. 1943, c. 43, s. 1 (5).]

Sec. 2007. General powers of the board. The board shall have general charge, oversight and care of the health and lives of the people of the Territory. It shall have authority in matters of quarantine and other health matters and may declare and enforce quarantine when none exists and modify or release quarantine when it is established. It shall be the duty of all county health authorities, sheriffs and police officers and all other officers and employees of the Territory, and every county thereof, to enforce the rules and regulations of the board. All such powers in health matters as have been or may be conferred upon any county shall be concurrent with those of the board. It shall make, through its president, an annual report to the governor, showing in detail all its expenditures and transactions, and such other information regarding the public health as it may deem of special interest.

The board through its secretary shall keep a regular record of its proceedings. The board shall also, during the prevalence of any severe pestilence or epidemic, publish a weekly report of the public health. [L. 1937, c. 122, pt. of s. 2.]

Sec. 2008. Political activities prohibited. No officer or employee appointed under or by authority of the board shall, aside from exercising the right to vote, support, advocate or aid in the election or defeat of any candidate for public office. Any such officer or employee violating the provision of this section shall be summarily dismissed from his office or employment. [L. 1937, c. 122, pt. of s. 2.]

Sec. 2009. Disbursement of moneys. For the purpose of carrying into effect the laws relating to the public health, the board is invested with full power to apportion and disburse all sums of money that shall be appropriated by the legislature for the preservation of the public health. The board shall

observe the strictest economy in the expenditure of all public moneys placed under its control. [P. C. 1869, c. 59, s. 30; am. L. 1876, c. 11, s. 4; R. L. 1925, s. 910; R. L. 1935, s. 901.]

Sec. 2010. Agents. There shall be appointed by the president of the board of health, subject to confirmation by the board, a suitable number of agents in such localities as may be necessary, whose duty it shall be to carry into effect all regulations for the public health; and such agents shall be held accountable for moneys received and disbursed by them on account of public health, and also for the manner in which they may discharge their several duties. [P. C. 1869, c. 59, s. 3; am. L. 1925, c. 34, s. 2; R. L. 1935, s. 902; am. L. 1937, c. 122, s. 3; am. L. 1943, c. 43, s. 1 (6).]

Sec. 2011. Seal, rules and regulations. The board may adopt a seal and may adopt such rules and regulations as it may consider expedient for the conduct of its business. The board may amend or revise such rules and regulations from time to time. [R. L. 1935, pt. of s. 904, as am. L. 1937, c. 122, s. 4; am. L. 1941, c. 18, s. 1.]

See ss. 466-476, rules and regulations. For the balance of s. 904, R. L. 1935, see s. 2015.

Sec. 2012. Publication; validation of existing rules and regulations. All rules and regulations made by the board shall be published in a newspaper of general circulation in the Territory and, upon such publication, shall constitute legal notice thereof to all persons and shall have the force and effect of law. All rules and regulations made prior to May 1, 1939, by the board of health, which, had the provisions of this section been in effect at that time, would have been valid, are hereby approved, ratified and confirmed. This section shall not invalidate any rule or regulation made prior to May 1, 1939, which, under the general law then in effect, would otherwise be valid. [P. C. 1869, c. 59, s. 7; R. L. 1925, s. 913; R. L. 1935, s. 905; am. L. 1939, c. 136, s. 1.]

EXCHANGE PERSONNEL.

Sec. 2013. Definitions. Wherever used in this subtitle, unless the text clearly otherwise indicates:

"Hawaii personnel" means public health nurses, sanitary officers, and medical officers.

"State" means any state or another territory of the United States, or county or municipality of any such state or territory.

"Health department" means the board of health, department of health, president of the board of health or other public authority authorized by law to administer or administering the public health laws of any state. [L. 1941, c. 83, pt. of s. 1; am. L. 1943, c. 43, s. 1 (7).]

Sec. 2014. Contract for exchange of Hawaii personnel. The board of health is hereby authorized to contract with any state, or the health department of any state having the power to so contract, for the exchange of Hawaii personnel for personnel of the health department of any such state. Any such exchange shall be made under rules and regulations prescribed by the board of health with the approval of the governor, in no case shall be for a period exceeding one year, and in all cases shall be subject to the following provisions:

1. That each person exchanged by the health department of any state shall possess qualifications equal to the qualifications of the person exchanged for him from Hawaii.

2. That the person exchanged from Hawaii shall have served for not less than three years prior to beginning of the exchange period in the Hawaii personnel.

3. That in the selection of Hawaii personnel for exchange, preference shall be given to persons born in the Territory.

4. That each person exchanged by the health department of any state shall hold in the health department of such state a position the same as or equivalent to the position held by the person exchanged for him from Hawaii.

5. That the person exchanged from Hawaii shall be paid his regular salary out of the funds appropriated therefor, but nothing in addition thereto.

6. That the Territory shall not pay any traveling or other expenses of the Hawaii personnel or of the personnel of the health department of any state coming to Hawaii under any such contract of exchange. This prohibition shall be construed to include all travel, transportation, board, lodging or other such expenses incidental to or arising out of any such exchange.

7. That the Territory shall not pay any compensation to the person coming to Hawaii under any such contract of exchange; provided, however, that in any case where the person so exchanged from Hawaii becomes incapacitated, or, for any reason, leaves the exchange position permanently, the board of health may pay the visiting exchange person an amount not to exceed the salary rating of the person so exchanged from Hawaii, such an arrangement to continue until the end of the period of exchange or until such time as some adjustment satisfactory to the board of health is made.

8. That any provision of law to the contrary notwithstanding, the territorial requirements in respect to civil service, citizenship or residence shall not apply to any person coming to Hawaii under any such contract of exchange.

9. That section 455 shall not apply to Hawaii personnel exchanged under this section.

The board of health, with the approval of the governor, is hereby authorized to make such rules and regulations as it may deem necessary concerning the powers, rights, functions, conduct, duties and liabilities of, exercised by or imposed upon any person coming to Hawaii under any such contract of exchange. [L. 1941, c. 83, pt. of s. 1.]

HEALTH REGULATIONS; PENALTY.

Sec. 2015. Subjects of, generally. The board, with the approval of the governor, may make such regulations as it shall deem necessary for the public health and safety respecting:

1. Nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth, causes of sickness or disease, within the respective districts of the Territory, and on board of any vessel;

2. Adulteration and misbranding of food or drugs;

3. Location, air space, ventilation, sanitation, drainage and sewage disposal of buildings, courts, areas and alleys;

4. Privy vaults and cesspools;

5. Fish and fishing;

6. Interments and dead bodies;

7. Disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial or the opening, removing or disturbing after due interment of any receptacle, coffin or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;

8. Cemeteries and burying grounds;

9. Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided, however, that nothing in this chapter contained shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary manner. [L. 1933, c. 73, s. 1; R. L. 1935, s. 1130.]

10. Bakeries, poi shops, abattoirs, stables, fish, meat or vegetable stores or markets;

11. Hotels, lodging houses, tenements, hospitals, children's boarding homes, maternity homes, convalescent homes;

12. Laboratories;

13. Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;

14. Milk;

15. Poisonous drugs;

16. Pig and duck ranches. [P. C. 1869, c. 59, ss. 4-6; am. L. 1905, c. 42, s. 1; am. L. 1911, c. 132, s. 2; am. L. 1913, c. 63, s. 1; am. L. 1919, c. 235, s. 1; R. L. 1925, s. 912; R. L. 1935, pt. of ss. 904 and 1130; am. L. 1937, c. 122, s. 4; am. L. 1937, c. 197, s. 1; am. L. 1941, c. 18, s. 1.]

See ss. 2709-2710, approval of location, certain businesses. R. L. 1935, ss. 921, 1131, 1132, omitted in view of penalty provided in this c. For county licenses see: butcher, slaughter of beef and pork, ss. 7040 ff.; food products, s.

7073; laundries, ss. 7075, 7121; lodging houses, hotels, restaurants, ss. 7077 ff.; milk, ss. 7085 ff.; peddlers, ss. 7102 ff., 7116, cc. 141, 151; poisonous drugs, ss. 7105 ff.; tobacco, s. 7128. Fish and fishing, see c. 19.

Sec. 2016. Barbers and hairdressers, regulation of. The board of health shall have within its discretion power to prescribe rules and regulations for establishing sanitary conditions under which the business of barbers and hairdressers may be carried on. [L. 1907, c. 70, s. 1; R. L. 1925, s. 1020; R. L. 1935, s. 920; am. L. 1943, c. 43, s. 5 (a).]

Sec. 2017. Regulation of certain occupations. (a) The board of health, with the approval of the governor, shall have power to prescribe such rules or regulations as it shall deem necessary for the public health or safety respecting:

(1) The occupations or practices of midwives, laboratory technicians, physiotherapists, chiropodists, and itinerant vendors of medicines or drugs or devices; (2) the health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued; (3) the health, habits, character, practices, standards or conduct of persons holding such certificates or permits; or (4) the grounds or causes for revoking or suspending such certificates or permits. Such rules or regulations shall have the force and effect of law.

(b) **Certificates or permits.** It shall be unlawful for any person to engage in or attempt to engage in or to follow any of the occupations or practices referred to in this section, unless he shall first obtain and hold a valid unrevoked certificate of registration or permit under such rules or regulations as the board of health shall prescribe.

(c) **Revocation of certificates or permits.** The board of health may revoke any certificate of registration or permit issued under the provisions of this section or heretofore issued upon proof to its satisfaction of a violation of any rule or regulation of the board on the part of any person holding a certificate or permit; provided, however, that no such certificate or permit shall be revoked except upon due notice to the person holding the same and he shall be given an opportunity to be heard and present evidence in his own defense. [L. 1941, c. 87, ss. 1, 2, 3.]

Beauty culture, c. 36; eggs, ss. 1303-1310; note; poisons, cc. 49, 56, and ss. 7105 ff.; narcotics, c. 49. Regulation void when? 21 H. 56; 1316, and ss. 7073 ff.; laundries, s. 2015 and cited, 21 H. 411.

Sec. 2018. Sanitation; drainage, water systems, sewage, etc. To the extent and insofar as their sanitary or physical condition affect or may affect the public health, safety or welfare, and except as may be otherwise provided by the Organic Act, the board of health of the Territory shall have the power to regulate, supervise and control all waters within the Territory, drainage, drainage waters, drainage ditches and systems, water supplies, water systems or plants, sewage outfall areas, sewage or refuse systems or plants, sewage or refuse disposal, or the disposal of any sewage, garbage, feculent matter, offal, filth, refuse or any animal, mineral or vegetable matter or substance, offensive, injurious or dangerous to health.

No person, firm, corporation, public utility, county or other public body or commission or board shall establish, extend, or alter any system of drainage, sewage or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of oceanographical currents depended upon for dilution until it shall have the same approved in writing by the board of health. For the proper exercise and execution of the foregoing powers the board of health may consult with and advise any such owner or applicant, having or proposing to have or to alter or to extend any water supply, drainage or sewage system or plant to the end that the health, safety and welfare of the public would be protected. It may also consult with and advise any person, firm, corporation, public utility or other public body, commission or board engaged in or intending to be engaged in any business or undertaking whose sewage or drainage may tend to pollute water or whose operations may in any way affect the health, safety or welfare of the public. It may conduct such experiments or make such investigations as it may deem necessary to the proper determination of the purity and potability of water and for the prevention of the pollution of the same, or to effect the proper disposal of sewage, drainage and waste. It may require a complete and detailed plan, description and history of the existing works, system or plant and of any proposed addition to, modification or alteration of any such works, system or plant, which plan shall be in such form and contain such information as the board may prescribe and shall be furnished at the cost and expense of such owner or applicant. The board may also require a report, in such form and containing such information as the board may prescribe, on the condi-

tion and operation of such works, system or plant, which report shall be made by some competent person acceptable to the board and at the expense of such owner or applicant; provided, however, that the provisions of this section shall not be deemed to apply to or affect any person, firm, corporation, public utility, county or other public body or commission or board engaged strictly in the production and distribution of domestic water in the establishing, operation, extension, modification or alteration of any water system or water plant for which there is regularly employed a sanitary engineer duly licensed under the provisions of chapter 146.

The board of health shall have the power, subject to the approval of the governor, to adopt, promulgate and enforce rules and regulations for the execution of its powers and duties under this section. [L. 1939, c. 103, ss. 1, 2.]

See drainage, ss. 2716-2730; nuisances, ss. 2701-2730.

Sec. 2019. Vessels to carry diseased persons; penalty. Vessels, regardless of tonnage, and other common carriers, shall be permitted or required to carry persons suffering from leprosy or other contagious diseases under such restrictions and provisions as may be prescribed by the board of health. Apartments on steamers or on other common carriers occupied by cases of leprosy or other diseases shall be disinfected in a manner prescribed or approved by the board.

The master or owner of any such vessel knowingly violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not to exceed two hundred dollars. [L. 1893-4, c. 30, ss. 1, 2; am. L. 1903, c. 8, s. 2; am. L. 1909, c. 132, s. 1; R. L. 1925, ss. 1208, 1209; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; am. L. 1933-4, c. 30, s. 1; R. L. 1935, s. 903.]

See c. 43, re lepers.

Sec. 2020. Penalty. Every person who shall violate any regulation of the board of health, after the same shall have been published, as provided in section 2012, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment. [P. C. 1869, c. 59, s. 8; R. L. 1925, s. 914; R. L. 1935, s. 906; am. L. 1943, c. 18, s. 1.]

The foregoing s. fully covers s. 4 of L. 1941, c. 87, and ss. 921, 1131, 1132, R. L. 1935, which are omitted from this revision.

CHAPTER 36. BEAUTY CULTURE, REGULATION OF.

Sec. 2031. Certificate of registration. It shall be unlawful for any person to engage in and to follow or to attempt to engage in and to follow the occupation of a hairdresser, cosmetician and cosmetologist except in a hairdressing or cosmetician and cosmetologist establishment or school, and unless he shall have first obtained a certificate of registration as provided by this chapter; provided, however, that operators duly registered under this chapter and hired or employed in a hairdressing, cosmetician or cosmetologist establishment may practice outside of such establishment under the direction and control of an owner or manager thereof. [L. 1929, c. 145, s. 1; R. L. 1935, s. 930.]

Sec. 2032. Classifications. The following classifications of practices shall be adopted and understood to define practitioners within the meaning of this chapter:

Class A—Any person who engages for compensation in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any person by any means, shall be construed to be practicing the occupation of a hairdresser.

Class B—Any person who, with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation, in any one or any combination of the following practices: massaging, cleansing, stimulating; manipulating, exercising, beautifying, or similar work, the scalp, face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair,

by the use of electricity or otherwise, about the body of any person, shall be construed to be practicing the occupation of a cosmetician or cosmetologist;

Provided, that nothing in this chapter shall be construed as applicable to barbers in the ordinary practice of their vocation, which shall include, but without limitation upon the generality of the foregoing, haircutting, shaving, facial or scalp massage, either by hand or by electrical or mechanical apparatus or appliances, singeing and dyeing of hair, mustache or beard, the application and use of lotions, hair oils, cosmetics, tonics and creams and shampooing. [L. 1929, c. 145, s. 2; R. L. 1935, s. 931.]

Sec. 2033. Definitions. For the purpose of this chapter:

1. An apprentice or student is a person who is engaged in learning or acquiring within a hairdressing, cosmetician or cosmetologist establishment or school and while so learning assists in any of the practices of the classified occupations within this chapter; under the immediate direction and supervision of a registered operator or instructor;

2. An operator is a person, not an apprentice, who engages in and follows any of the practices of the classified occupations named within this chapter;

3. A hairdressing or cosmetician and cosmetologist shop shall be construed to mean any premises occupied and used for the purpose of practicing the occupations of a hairdresser, cosmetician and cosmetologist; **provided**, that when any such shop is conducted in any building used for residential or sleeping purposes, a room shall be set aside for the practice of the foregoing occupations and shall not be used for any other purpose.

4. Board shall refer to the board of hairdressers, cosmeticians and cosmetologists. [L. 1929, c. 145, ss. 3, 30; R. L. 1935, s. 932.]

Sec. 2034. Creation of territorial board. There is created a territorial board of hairdressers, cosmeticians and cosmetologists consisting of three members, one of whom shall be a hairdresser, one a cosmetician and the third a cosmetologist. The governor shall appoint the members of the board in the manner prescribed in section 80 of the Organic Act. The members must have had at least three years practical experience in their respective occupations, shall be citizens of the Territory and shall not be members of, nor affiliated with any school teaching any of the classified occupations, nor shall they teach any of the classified occupations named in this chapter, while in office, nor shall any two members of the board be graduates of the same school of hairdressers, cosmeticians and cosmetologists or practitioners of the same system or method. Each member of the board shall serve a term of two years, and until his successor is appointed and qualified, except in the case of the first board whose members shall serve one, two and three years, respectively, and shall take the oath provided for public officers. Vacancies shall be filled by the governor for the unexpired portion of the term. [L. 1929, c. 145, s. 4; R. L. 1935, s. 933.]

Sec. 2035. Organization of board. The board shall have a president, secretary and treasurer who shall be elected annually from among its members. The office of secretary and treasurer may be filled by the same member, as the board may determine. The president and secretary shall have the power to administer oaths. [L. 1929, c. 145, s. 6; R. L. 1935, s. 934.]

Sec. 2036. Salary of secretary. The secretary of the board shall receive an annual salary, not to exceed one hundred and twenty dollars, to be fixed by the board, and his necessary expenses actually incurred in the performance of official duties. [L. 1929, c. 145, s. 7; R. L. 1935, s. 935.]

Sec. 2037. Bond of treasurer. The treasurer of the board shall give a corporate surety bond payable to the board, in the sum of three thousand dollars, approved by the board, conditioned for the faithful performance of the duties of his office. Such bond shall have the approval of the board and have the oath of office endorsed thereon, and shall be deposited with the president of the board, and kept in his office. [L. 1929, c. 145, s. 8; R. L. 1935, s. 936.]

Sec. 2038. Meetings, quorum, seal. The board shall meet in Honolulu on the second Tuesday in January and July, of each year, and at such other times and places as the board may direct. The majority members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts. [L. 1929, c. 145, s. 9; R. L. 1935, s. 937.]

Sec. 2039. Records of board. The board shall keep a record of its proceedings. It shall keep a register of applicants for certificates, showing the name of the applicant, the name and location of his place of occupation or business, and whether the applicant was granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained, and shall constitute public records. [L. 1929, c. 145, s. 10; R. L. 1935, s. 938.]

Sec. 2040. Application for examination. Each person, who desires to practice any of the occupations designated to be within the meaning of this chapter shall file with the secretary of the board a written application, under oath, on a form prescribed and supplied by the board, and shall submit satisfactory proof of the required age, educational qualifications, and of good moral character, and shall deposit with the secretary the required fees. [L. 1929, c. 145, s. 11; R. L. 1935, s. 939.]

Sec. 2041. Requisites for admission to examination and registration. The secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

1. **Apprentices or students** shall, while learning or acquiring any of the practices of the classified occupations, be at least sixteen years of age, of good moral character and have an education equivalent to the completion of the first year of high school;

2. **Operators** may be registered in any of the practices or the classifications under this chapter upon the payment of the examination fee of ten dollars for each of the practices or the classifications or any one or any combination of the practices or the classifications as application is therefor made, providing they are of good moral character and have an education equivalent to the completion of the first year of high school and shall have served the required time, as determined by the board for any one or combination of the practices, but not less than six months for each of the classifications, under the supervision of a registered operator or instructor, as an apprentice, or shall have had the required training in a registered school, but not less than six hundred hours for each of the two of the classifications as defined in this chapter, and shall have passed an examination to the satisfaction of the board; **provided**, that the applicants for the examination to practice for the removal of superfluous hair, by the use of electricity, and commonly known and defined as the practice of electrolysis, shall have an additional training under the supervision of a registered operator or instructor of at least six hundred hours including such other reasonable studies as the board may prescribe;

3. **Instructors** in a school may be registered as such upon the payment of a fee of ten dollars and upon complying with all other requirements applicable to them and referring to operators. Instructors duly registered under any limited medical practice act, need not be holders of operators' certificates. [L. 1929, c. 145, s. 12; R. L. 1935, s. 940.]

See ss. 1899-1901, technical schools.

Sec. 2042. Admission to examination. If the board finds that the applicant has obtained the credentials necessary for admission to the examination, the board shall admit such applicant to examination, or registration. [L. 1929, c. 145, s. 13; R. L. 1935, s. 941.]

Sec. 2043. Examination. The examination of applicants for certificates to practice shall be conducted under rules prescribed by the board, and shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method, and such examinations shall be consistent with the practical and theoretical requirements of the classified occupations. [L. 1929, c. 145, s. 14; R. L. 1935, s. 942.]

Sec. 2044. Certificates. If an applicant for examination for operator passes the examination in any one or any combination of the practices or either or both of the classifications to the satisfaction of the board, and has paid the fee required, or any instructor pays the required fee and complies with the requirements pertaining to him, the board shall issue a certificate to that effect, signed by the president and secretary and attested by its seal. Such certificate shall be evidence that the person to whom it is issued is entitled to follow the practices stipulated therein as prescribed in this chapter. Such certificates shall be conspicuously displayed in his principal office, place of business or employment. [L. 1929, c. 145, s. 15; R. L. 1935, s. 943.]

Sec. 2045. Assistants to the board. The board may call to its aid any person of established reputation and known ability in the practices as provided for in this chapter, for the purpose of conducting examinations, inspections and investigations of any or all persons affected by this chapter. Such person shall not be connected with any school, teaching any of the occupations named in this chapter. [L. 1929, c. 145, s. 16; R. L. 1935, s. 944.]

Sec. 2046. When board may dispense with examination. The board may dispense with examinations of applicants and may grant certificates of registration under the respective sections upon the payment of the required fees; **provided** that such applicant has complied with the requirements of another state, territory, the district of Columbia, or foreign country, state or province wherein the requirements of the place of registration are substantially equal to the requirements then in force in the Territory; **provided** further, that if the applicant has been actively engaged in the practice of any of the occupations named in this chapter in any state, territory or country for a continuous period of three years immediately preceding the date of the application or the date of applicant's departure from such state, territory or country, and the applicant is a person of good moral character then and in such case the board shall issue to such applicant a temporary license effective until the date of his examination at the first examination given subsequent to the issuance of the temporary license, authorizing the applicant to engage in the practice of any of the occupations named in this chapter. [L. 1929, c. 145, s. 17; am. L. 1931, c. 255, s. 1; R. L. 1935, s. 945.]

Sec. 2047. Exemptions. All persons who are engaged in the actual and continuous practice or any of the practices of the classified occupations named in this chapter prior to July 1, 1929, shall be entitled to a certificate to practice without an examination and shall be exempted from the provisions of this chapter. [L. 1929, c. 145, s. 18; R. L. 1935, s. 946.]

Sec. 2048. Powers and duties of the board. The board shall have the power to revoke and suspend certificates, upon proof of violation of the rules and regulations established by the board governing the classified practices under this chapter;

The board may refuse to grant a certificate to a person guilty of fraud in passing the examination or at any time guilty of a felony or gross immorality, grossly unprofessional or dishonest conduct or to one addicted to liquor or drug habits to such a degree as to render him unfit to practice in any of the occupations classified under this chapter, or to one advertising by means of knowingly false or deceptive statements, or for the failure to display the certificates as provided in this chapter;

The board shall have the power to require the attendance of witnesses and the production of such books, records and papers as either may desire at any hearing of any matter which the board has authority to investigate, and for the purpose may require the secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers directed to the sheriff or chief of police, or any police officer of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the sheriff or police officer and witnesses shall be the same as that allowed in criminal cases. Fees and mileage shall be paid from the fund in the territorial treasury for the use of the board in the same manner as other expenses of the board are paid. [L. 1929, c. 145, s. 19; R. L. 1935, s. 947.]

Sec. 2049. Board of health; powers. The territorial board of health shall prescribe such sanitary rules as it may deem necessary, with particular reference to the precautions necessary to be employed to prevent the creating and spreading of infectious and contagious diseases. [L. 1929, c. 145, s. 20; R. L. 1935, s. 948.]

Sec. 2050. Hearing may be held by any member. Any investigation, inquiry or hearing, which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board, and the finding or order of such member or members shall be deemed to be the finding or order of the board when approved and confirmed by it. [L. 1929, c. 145, s. 21; R. L. 1935, s. 949.]

Sec. 2051. Appeal from actions of the board. An appeal may be taken from an action of the board refusing to grant or suspending or revoking a cer-

tificate for the causes mentioned in the preceding section to the circuit court of the circuit in which the person who has been refused a certificate or whose certificate has been suspended or revoked resides. The judgment of the circuit court may be reviewed by the supreme court upon proceedings in error. [L. 1929, c. 145, s. 22; R. L. 1935, s. 950.]

Sec. 2052. Fees. The fees for examination and certificate shall be paid in advance to the treasurer of the board, and by him paid into the territorial treasury to the credit of a fund for the use of the board. On failure to pass an examination, the fees shall not be returned to the applicant, but within one year after such failure, he may again be examined without the payment of an additional fee. All such fees so deposited are appropriated for the use of the board and shall be disbursed by the treasurer upon warrants issued by the auditor, based upon vouchers approved by the board. [L. 1929, c. 145, s. 23; R. L. 1935, s. 951.]

Sec. 2053. Registered schools. It shall be competent for any person to apply to the board for a certificate of registration as a school of any of the practices of the classified occupations, upon the payment of a reasonable annual registering fee as determined annually by the board for each of the classified occupations or any of the practices thereof.

No school for hairdressers, or cosmeticians or cosmetologists shall be granted a certificate of registration unless it shall attach to its staff a regularly licensed physician and employ and maintain a sufficient number of competent instructors, registered as such, who shall hold an operator's license as uniformly prescribed by the board and shall require a course of training not less than six hundred hours for each of the two classified occupations, or a proportioned number of hours as approved by the board, for any of the practices of the classified occupations, to include both practical demonstrations, written and oral tests, and include practical instructions in sanitation, sterilization, and the use of antiseptics consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this chapter.

No school shall operate unless a proper certificate of registration first has been obtained. Nothing contained in this section shall prohibit registered operators within a hairdressing, cosmetician and cosmetologist establishment from teaching any of the practices of the classified occupations in their regular course of business; **provided**, the owners or managers thereof do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one and the same time, more than one apprentice to three or less operators, regularly employed within their business. [L. 1929, c. 145, s. 5; R. L. 1935, s. 952.]

See ss. 1899-1901, technical schools.

Sec. 2054. To whom provisions in this chapter shall not apply. Nothing in this chapter shall prohibit service in case of emergency, or domestic administration, without compensation or services by persons authorized under the laws of the Territory to practice medicine, surgery, dentistry, or chiropody, or services by barbers lawfully carrying on their particular profession or business. [L. 1929, c. 145, s. 24; R. L. 1935, s. 953.]

Sec. 2055. Display of certificate. Every holder of a certificate granted by the board shall display it in a conspicuous place in his principal office, place of business or employment. [L. 1929, c. 145, s. 25; R. L. 1935, s. 954.]

Sec. 2056. Renewal of certificates. The holder of a certificate issued by the board who continues in active practice, shall annually, on or before December 1, renew his certificate and pay the renewal fee. A certificate which has not been renewed during the month of November in any year shall expire December 31 in that year. The holder of the expired certificate may have, within three years of the date of expiration, the certificate restored upon due application therefor and payment of the required fees. [L. 1929, c. 145, s. 26; R. L. 1935, s. 955.]

Sec. 2057. Duration of certificates; renewal fees. No certificate shall be issued for a longer period than one year, and all certificates shall expire December 31, next succeeding, unless renewed for the next year upon the payment of the following fees: for renewal of certificate for operator, two dollars; for renewal of certificate for instructor, two dollars. [L. 1929, c. 145, s. 27; R. L. 1935, s. 956.]

Sec. 2058. Penalty. Any person who shall practice any of the occupations, maintain a school or act in any capacity wherein a certificate is required, without a certificate as provided in this chapter, shall be guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars, or shall be imprisoned for no more than ninety days, or both. Each and every day of violation shall be construed a separate offense. All fines and penalties shall be paid into the treasury within ten days after payment thereof, and shall inure to the benefit of the board. [L. 1929, c. 145, s. 28; R. L. 1935, s. 957.]

Special fund, s. 2052.

Sec. 2059. Secretary to aid prosecutions. It shall be the duty of the secretary of the board under the direction thereof to aid prosecuting officers in the prosecution of persons charged with violations of any of the provisions of this chapter. [L. 1929, c. 145, s. 29; am. L. 1931, c. 25, s. 1; R. L. 1935, s. 958.]

CHAPTER 37.

CHIROPRACTIC.

Sec. 2071. License to practice. It shall be unlawful for any person to practice chiropractic without a license so to do. Any person wishing to practice chiropractic shall make application to the board fifteen days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Each application must be accompanied by a license fee of twenty-five dollars and a certificate showing good moral character of the applicant.

Except in the cases herein otherwise prescribed, each applicant shall have resided within the Territory for a period of one year at some time prior to the date of making application, and shall be a graduate of an incorporated chiropractic school or college which teaches a course of not less than thirty-six hundred, fifty-minute hours, of which six hundred hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors. The course shall extend over a period of four school terms of at least eight months each, and the applicant must give satisfactory proof of having attended not less than ninety percent of said thirty-six hundred hours, and have satisfactorily passed the following subjects: anatomy, physiology, bacteriology, hygiene and sanitation, pathology, diagnosis or analysis, chiropractic orthopedy, obstetrics, symptomatology, chemistry and elementary toxicology, gynecology, chiropractic analysis and the principles and practice of chiropractic, and shall present to the board, at the time of making such application, a diploma from a high school, or proof, satisfactory to the board, of education equivalent in training power to a high school course. Chiropractors licensed under the provisions of this chapter shall be allowed to provide themselves with such assistants as they may deem necessary. [L. 1925, c. 99, s. 5; am. L. 1927, c. 254, s. 1; R. L. 1935, s. 960; am. L. 1939, c. 186, s. 1.]

See s. 2078, "chiropractic" defined.

Sec. 2072. Board of examiners. A board is created to be known as the "Territorial Board of Chiropractic Examiners," which shall consist of three members, who shall be appointed by the governor, in the manner prescribed in section 80 of the Organic Act. Each member of the board must have pursued a resident course in a regularly incorporated chiropractic school or college and must be a graduate thereof and hold a diploma therefrom.

Each member of the board shall be a licensee hereunder. No two persons shall serve simultaneously as members of the board, whose first diplomas were issued by the same school or college of chiropractic, provided sufficient schools be represented among the chiropractors practicing in the Territory. And no person connected with any chiropractic school or college shall be eligible to appointment as a member of the board. Each member of the board, except the secretary, shall serve without pay; provided, however, that the actual and necessary traveling expenses of the members of the board incurred in connection with the performance of official duties shall be paid by the board of health, upon proper vouchers approved by the board. [L. 1925, c. 99, s. 1; R. L. 1935, s. 961.]

Sec. 2073. Members' tenure, removal. Of the members of the board first appointed, one shall be appointed for a term of one year, one for two years and one for three years. Thereafter, each appointment of the members of the

board shall be for a term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his successor has been appointed and qualified. The governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of such member. [L. 1925, c. 99, s. 2; R. L. 1935, s. 962.]

Sec. 2074. Election of officers; quorum; records; report. The board shall elect a president, vice-president and secretary from the members of the board. Elections of officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of a majority of the board to carry any motion or resolution, to adopt any rule, or to recommend the issuance of any license provided for in this chapter. The secretary shall keep a record of the proceedings of the board, which shall at all times during business hours be open to the public for inspection. He shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and shall deposit all funds received into the treasury of the Territory as government realizations, and on the first day of December of each year he shall file with the governor a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year. [L. 1925, c. 99, s. 3; R. L. 1935, s. 963.]

Sec. 2075. Board's powers. The board shall have power: to adopt a seal, which shall be affixed to all official acts of the board; to adopt from time to time such rules and regulations as the board may deem proper and necessary for the performance of its work, copies of such rules and regulations to be filed with the board of health of the Territory for public inspection; to examine applicants and to recommend the issuance of licenses and to order the revocation of licenses to practice chiropractic, as herein provided; to summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits; to do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed. [L. 1925, c. 99, s. 4; R. L. 1935, s. 964.]

See ss. 466-476, rules and regulations.

Sec. 2076. Examinations. The board shall meet as a board of examiners on the first Tuesday following the second Monday of April and October of each year, and at such other times and places as may be found necessary for the performance of their duties. The office of the board shall be in Honolulu.

Each applicant shall be designated by a number instead of the name, so that his identity will not be disclosed to the examiners until the papers are graded.

All examinations shall be in writing, except in cases herein otherwise prescribed, and shall be practical in character, as taught in chiropractic schools or colleges, and designed to ascertain the fitness of the applicant to practice chiropractic. The examinations shall be in the subjects enumerated in section 2071. A license shall be granted to any applicant who shall make a general average of seventy-five per centum, and not fall below sixty per centum in more than two subjects or branches of the examination. Any applicant failing to make the required grade, may be reexamined at the next regular examination on all of the subjects mentioned in section 2071, upon payment of a fee of twenty-five dollars. For each year of actual practice since graduation the applicant shall be given a credit of one per centum on the general average. [L. 1925, c. 99, s. 6; R. L. 1935, s. 965.]

Sec. 2077. License form, authority under. One form of license shall be issued by the board of health, upon the recommendation of the board, which shall be designated "License to Practice Chiropractic" and which shall authorize the holder thereof to practice chiropractic as hereinafter defined and also to use all necessary mechanical, hygienic and sanitary measures incident to the care of the body, but shall not authorize the administration of drugs or medicine now or hereafter included in materia medica, or the performance of any surgical operation or the practice of osteopathy, dentistry or optometry. [L. 1925, c. 99, s. 7; R. L. 1935, s. 966.]

Sec. 2078. Chiropractic defined. Chiropractic is defined to be the science of palpating and adjusting the articulations of the human spinal column by hand only; provided that the practice of chiropractic as contemplated and set forth in this chapter shall not be construed to exclude the use of any method

or means, or any agent, either tangible or intangible, for the treatment of disease in the human subject; subject, however, to the restrictions contained in this chapter; and **provided** further, that the practice of chiropractic as contemplated and set forth in this chapter shall not be construed to include the practice of lomilomi or massage. [L. 1925, c. 99, s. 8; R. L. 1935, s. 967.]

Advertising, see 294 U. S. 608.

Sec. 2079. License refusal, revocation, reissuance. The board shall refuse to recommend, or may order the revocation of, a license to practice chiropractic, or may cause a licensee's name to be removed from all records of licensed practitioners of chiropractic, upon any of the following grounds:

The employment of fraud, deception or untruthful statements in applying for a license or in passing an examination as provided in this chapter; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; the conviction of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him for the performance of his professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly or indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he is employed, or in whose service he is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or all advertising of his chiropractic business in which untruthful and improbable statements are made; or being employed by, or being in the service of any person, company or association so advertising.

Any person who is a licensee, or who is an applicant for a license to practice chiropractic, against whom any of the foregoing grounds for ordering a revocation or refusing to recommend a license is presented to the board with a view of having the board order such revocation or refuse to recommend the granting of a license, shall be furnished with a copy of the complaint, and shall have a hearing before the board in person or by an attorney, and witnesses may be examined by the board respecting the guilt or innocence of the accused.

The secretary in all cases where a revocation is ordered shall enter on his register such fact, and shall certify such fact under the seal of the board to the board of health; and the president of the board of health must thereupon write upon the margin or across the face of his register of the certificate of such person the following: "This certificate was revoked on the.....day of.....," giving the day, month and year of such revocation in accordance with the certification to him by the secretary. The record of such revocation so made by the president of the board of health shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of the board in the matter of the revocation.

At any time after two years following the revocation or cancelation of a license or registration under this section, the board may, by a majority vote, recommend the reissuance of a license to the person affected, restoring him to, or conferring on him all the rights and privileges granted by his original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the sum of twenty-five dollars upon the issuance of the recommendation for a new license. [L. 1925, c. 99, s. 10; R. L. 1935, s. 968.]

Sec. 2080. Board of health records. The board of health of the Territory shall keep for public inspection, in a book provided for that purpose, a complete list and description of the licenses recorded. When any such license is issued, there shall be stamped upon the face thereof a memorandum of the date of issuance. [L. 1925, c. 99, s. 11; R. L. 1935, s. 969.]

Sec. 2081. Licensees, duties. Chiropractic licensees shall observe and be subject to all territorial and municipal regulations relating to all matters pertaining to public health and shall execute all necessary death certificates, and may execute disability and health certificates so long as the same are confined to physical conditions and ailments which they are by law authorized to treat, which certificates shall be accepted by all officials, authorities and boards operating within the Territory who are officially concerned with the matters or

subject covered by said certificates. [L. 1925, c. 99, s. 12; R. L. 1935, s. 970; am. L. 1939, c. 186, s. 2.]

Sec. 2082. Disposition of fees. All moneys received by the board under this chapter shall be paid into the territorial treasury as government realizations. [L. 1925, c. 99, s. 13; R. L. 1935, s. 971.]

Sec. 2083. Violations, penalty. Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell, or fraudulently obtain a license to practice chiropractic, whether recorded or not, or who shall use the title "chiropractor" or "D. C.," or any word or title to induce, or tending to induce belief that he is engaged in the practice of chiropractic, without first complying with the provisions of this chapter; or any licensee under this chapter who uses the word "doctor" or the prefix "Dr." without the word "chiropractor" or "D. C." immediately following his name, or the use of the letters "M. D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the word "osteopath," or the letters "D. O.," or any other letters, prefixes or suffixes, the use of which would indicate that he was practicing a profession for which he held no license from the Territory, or any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than two hundred dollars, or by imprisonment for not less than thirty days nor more than ninety days, or both. [L. 1925, c. 99, s. 14; R. L. 1935, s. 972.]

Sec. 2084. Prosecutions. It shall be the duty of the attorney general to prosecute all persons charged with the violation of any of the provisions of this chapter. It shall be the duty of the secretary of the board, under the direction of the board, to aid attorneys in the enforcement of this chapter. [L. 1925, c. 99, s. 15; R. L. 1935, s. 973.]

CHAPTER 38.

CRIPPLED CHILDREN.

Sec. 2101. Declaration of policy. It is hereby declared to be the public policy of the Territory to develop, extend and improve, especially in rural areas, services for locating children who are crippled or who are suffering from conditions which lead to crippling and to provide for medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and after-care for such children. [L. 1939, c. 179, s. 1.]

Sec. 2102. Board of health to administer chapter. The board of health of the Territory is designated as the agency of the Territory to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling. [L. 1939, c. 179, s. 2.]

Sec. 2103. Powers, duties and activities of the board of health. The board of health shall have, among other powers necessary to carry out the purposes of this chapter, the power:

(a) to establish and administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, which shall provide for developing, extending, and improving services, especially in rural areas, for locating such children, and for providing for medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and after-care; extend and improve any such services including those in existence on the effective date of this chapter; cooperate with medical, health, nursing and welfare groups and organizations and with any agency of the Territory charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; cooperate with the department of public instruction for the education of such children;

(b) to formulate and administer a detailed plan or plans for the purposes specified in sections 2101 and 2103 (a); and make such rules and regulations as may be necessary or desirable for the administration of such plan and the provisions of this chapter. Any such plan shall include provisions for:

(1) Financial participation by the Territory in the funds appropriated by the Congress of the United States under Title V of the Social Security Act (49 Stat. 631-633 (1935), 42 U. S. C. Secs. 711-715);

(2) Administration of the plan by the board of health;

(3) Such methods of administration (other than those relating to selection, tenure of office and compensation of personnel) as are necessary for the efficient operation of the plan;

(4) Maintenance of records and preparation of reports of services rendered as shall be directed by the Secretary of labor of the United States;

(5) Carrying out the purposes specified in sections 2101 and 2103 (a);

(6) Cooperation with medical, health, nursing and welfare groups and organizations and with any agency in the Territory charged with administering territorial laws providing for vocational rehabilitation of physically handicapped children;

(c) to cooperate with the federal government through its appropriate agency or instrumentality in developing, extending and improving such services and receive and expend all funds made available to the board of health by the federal government, the Territory, or its political subdivisions, or from any other sources, including private donations, for such purposes. [L. 1939, c. 179, s. 3.]

Sec. 2104. Organization. The board of health shall create and maintain a bureau to be known as the Bureau of Crippled Children. The president of said board, with the consent of said board, shall appoint a director of the bureau. The president of said board and the director shall have the immediate control and management of the bureau of crippled children subject to the supervision, control, management and jurisdiction of the said board. The president of said board is authorized to appoint or employ, with the approval of the said board, all personnel, including specialists in all fields or classifications, as are necessary to carry out the purposes of this chapter. Where not otherwise fixed by law the salaries or compensation of all appointees or employees shall be fixed by the board. [L. 1939, c. 179, s. 4; am. L. 1943, c. 43, s. 3.]

Last sentence modified and sentence which formerly preceded it omitted, to conform to civil service and classification laws, cc. 2, 3.

Sec. 2105. Funds. The treasurer of the Territory shall be the custodian of all moneys appropriated for or received by the board of health from any sources whatsoever for the purposes of this chapter and shall deposit such moneys in the bureau of crippled children fund. All expenditures and withdrawals from the bureau of crippled children fund shall be upon warrants issued by the auditor of the Territory upon vouchers properly approved by the president of the board of health. [L. 1939, c. 179, pt. of ss. 5, 6.]

Provisions transferring funds omitted, functus.

See s. 1720, aid by dep't public instruction; c. 85, part II, child welfare.

Sec. 2106. Application of chapter. The services provided by this chapter shall be for the benefit of and apply only to persons not over 21 years of age, who or whose estate, or whose parents or guardians are without sufficient means to pay for such services. The board of health shall have the final administrative authority in determining the acceptance of cases for the care and services provided in this chapter. [L. 1939, c. 179, s. 7.]

L. 1939, c. 179, s. 8, re repeal of inconsistent laws, omitted.

CHAPTER 39.

DENTISTRY.

	Secs.		Secs.
General Provisions	2151-2154	Licenses	2159-2164
Board of Examiners	2155-2158	Prohibited Acts	2165-2169

Sec. 2151. Dentistry defined; exempted practices. A person practices dentistry, within the meaning of this chapter, who represents himself as being able to diagnose, treat, remove stains and concretions from teeth, operate, or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw, and who offers or undertakes by any means or methods to diagnose, treat, remove stains or concretions from teeth, operate, or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or to take impressions of the teeth or jaws; or who owns, maintains, or operates an office for the

practice of dentistry; or who engages in any of the practices included in the curricula of recognized and approved dental schools or colleges. The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby he represents himself to be a dentist, shall be prima facie evidence that such person is engaged in the practice of dentistry.

The following practices, acts, and operations, however, are exempt from the operation of this chapter:

(a) The rendering of dental relief in emergency cases in the practice of his profession by a physician or surgeon, licensed as such and registered under the laws of this Territory, unless he undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace in the human mouth lost or missing teeth;

(b) The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Public Health Service, or the United States Veterans Bureau;

(c) The practice of dentistry by licensed dentists of other states or countries at meetings of the dental society of Hawaii or component parts thereof, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians;

(d) The use of roentgen and other rays for making radiograms or similar records of dental or oral tissues;

(e) The making of artificial restorations, substitutes, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues, or parts, upon orders, prescriptions, casts, models, or from impressions furnished by a licensed and registered dentist. [L. 1903, c. 40, s. 1; am. L. 1917, c. 136, s. 1; R. L. 1925, s. 1065; R. L. 1935, s. 980; am. L. 1937, c. 220, s. 1.]

Sec. 2152. Practice without license prohibited. No person shall practice dentistry or dental surgery in the Territory, either gratuitously or for pay, or shall offer to so practice or shall advertise or announce himself, either publicly or privately as prepared or qualified to so practice, or to append the letters "D. D. S.", "D. M. D.", "L. D. S.", or any other dental degree to his name with intent thereby to imply that he is a practitioner of dentistry or a dental surgeon, without having a valid, unrevoked license from the board of dental examiners. [L. 1903, c. 40, s. 2; am. L. 1917, c. 136, s. 2; R. L. 1925, s. 1066; R. L. 1935, s. 981.]

Sec. 2153. Practice by unlicensed employee prohibited; penalty. Except as provided in section 2183, no person who manages or conducts as manager, proprietor, conductor or otherwise a place where dental operations are performed, shall employ any person as operator in dental surgery or as a practitioner, or cause to permit any person to so act, who is not duly licensed to practice dentistry; **provided**, however, that nothing in this chapter shall prohibit any unlicensed person from performing merely mechanical work upon inert matter in a dental laboratory.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished, for the first offense, by a fine not exceeding one hundred dollars, and for the second offense shall in addition to such fine forfeit his license to practice dentistry. [L. 1917, c. 136, s. 3; am. imp. L. 1920, c. 7, s. 3; R. L. 1925, s. 1067; R. L. 1935, s. 982.]

Sec. 2154. Fraudulent advertising; penalty. It shall be unlawful for any person to publish, directly or indirectly, or circulate, any fraudulent, false or misleading statements as to the skill or method of practice of any person or operator; or in any way to advertise to practice dentistry without causing pain; or to advertise in any manner with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, material, medicine, method or system which is either falsely advertised or misnamed; or to advertise free dental services or examinations as an inducement to secure dental patronage; or to advertise any amount as a price or fee for the service or services of any person engaged as principal or agent in the practice of dentistry, or for any material or materials whatsoever used or to be used; or to employ "cappers" or "steerers" to obtain patronage or to exhibit or use specimens of dental work, posters, or any other

media calling attention of the public to any person engaged in the practice of dentistry; or to give a public demonstration of skill or methods or practicing dentistry upon or along the streets or highways, or any place other than his office where he is known to be regularly engaged in the practice of his profession; and any person committing an offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this chapter, **provided**, that any person licensed under this chapter may announce, by way of a professional card, only his name, title, degree, office location, office hours, phone number, and residence address and phone number, and if he limits his practice to a specialty he may announce it, but such card shall not be greater in size than three and one-half inches by two inches, and such information may be inserted in public print when not more than one column in width and two inches in depth; or announce his change of place of business, absence from, or return to business in the same manner; or issue appointment cards to his patients, when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on the professional card; or display the name of the licensee, on the premises where engaged in the profession, upon the windows thereof and by a door plate or name or office directory when the information is limited to that of the professional card. [L. 1917, c. 136, s. 4; R. L. 1925, s. 1068; R. L. 1935, s. 983; am. L. 1937, c. 220, s. 2.]

See 294 U. S. 608.

BOARD OF EXAMINERS.

Sec. 2155. Appointment; tenure. The governor shall appoint, in the manner prescribed in section 80 of the Organic Act, and for neglect of duty, incompetency or dishonorable conduct, may remove the board of dental examiners, which shall consist of five practicing dentists, who shall have been engaged in the continuous practice of dentistry in the Territory for a period of five years preceding their several appointments, and none of whom shall be in any way connected with, or interested financially in, any dental supply company. The members of the board shall hold office for the term of three years and until their successors are appointed. [L. 1903, c. 40, s. 3; am. L. 1917, c. 136, s. 5; R. L. 1925, s. 1069; R. L. 1935, s. 984; am. L. 1937, c. 220, s. 3; am. L. 1943, c. 40, s. 1.]

Sec. 2156. Officers, meetings, quorum. The board shall elect one of its members president, and one secretary and treasurer thereof. The board shall meet in July of each year, and at such other times as shall be necessary, due notice of the times and places of which meetings shall be given by publication in some newspaper of general circulation in the Territory. A majority of the board shall constitute a quorum. [L. 1903, c. 40, s. 4; R. L. 1925, s. 1070; R. L. 1935, s. 985.]

Sec. 2157. Expenses; special fund. All expenses of the board, including the expenses of the enforcement of the provisions of this chapter, shall be paid from the fees received by the board. All moneys received by the board shall be held in the treasury of the Territory as a special fund for such purposes. And to provide additional moneys for such special fund, every person holding a license to practice dentistry in the Territory shall pay to the board, on or before January 1 of each year, an annual registration fee in the sum of two dollars. The failure, neglect or refusal of any duly licensed dentist or doctor of dental surgery to pay such annual tax during the time his license shall remain in force, shall constitute a forfeiture of his license. Such license may be restored upon written application therefor and the payment to the board of the sum of twenty-five dollars. [L. 1903, c. 40, s. 13; am. L. 1917, c. 136, s. 6; R. L. 1925, s. 1071; am. L. 1933, c. 52, s. 1; R. L. 1935, s. 986.]

Sec. 2158. Report. The secretary of the board shall make a report of its proceedings to the governor, with an account of all moneys received and expended by the board, on or before January 15 of each year. [L. 1903, c. 40, s. 14; R. L. 1925, s. 1072; R. L. 1935, s. 987.]

LICENSES.

Sec. 2159. Application, examination, time; fee; temporary license. Any person of the age of twenty-one years or more, who is a citizen of the United States, and has been a resident of the Territory for at least one year, and who is of good moral character, shall be eligible to take an examination before the board of examiners upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of twenty-five dollars, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least sixty days prior to the date selected by the board for such examination the following credentials:

1. A diploma or certificate of graduation from an American dental college recognized and approved by the board;

2. A diploma or other proper certificate from an accredited high school certifying that such applicant has had scholastic preparation or training equivalent in all respects to that usually demanded for graduation by high schools giving a four-year course of instruction in the state or territory in which such high school is located. No such certificate shall be accepted by the board unless it shall be signed by the superintendent of public instruction, or similar corresponding officer, having jurisdiction over such high school; **provided**, however, that an applicant who has been a duly licensed and active practitioner of dentistry in some other state of the United States for a period of five years or more may file such license, or proper evidence thereof, in lieu of the high school certificate referred to;

3. A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of dental examiners, and the secretary of the state dental association of that state;

4. A recent unmounted photograph of the applicant.

The theoretical examination administered all applicants shall be in the English language and shall include questions on the following subjects:

Anatomy, histology, physiology, anaesthesia, materia medica, pathology, bacteriology, therapeutics, oral surgery, chemistry, metallurgy, operative dentistry, prosthetic dentistry and orthodontia.

The requirements for the practical examination in operative and prosthetic dentistry shall be decided upon and announced to the applicant on the day selected for beginning the theoretical examination.

All instruments, materials and patients must be supplied by the applicant. An engine and chair shall be furnished by the board.

Two examinations shall be held each year, in July and December; **provided**, however, that the board may issue without examination to any person qualified to be examined as herein set forth a temporary license to practice dentistry under the employ and supervision of the department of public instruction, of the board of health, or of a legally incorporated eleemosynary dental infirmary or dispensary; such temporary license shall remain in force only while the person to whom such license is issued shall be in the employ and under the supervision of the department of public instruction, board of health, or such eleemosynary dental infirmary or dispensary and such temporary license shall be automatically canceled when such person shall have been examined by the territorial board of examiners and it shall, further, be subject to revocation by the board at any time. [L. 1903, c. 40, s. 5; am. L. 1920, c. 40, s. 5; am. L. 1921, c. 32, s. 2; am. L. 1923, c. 218, s. 1; R. L. 1925, s. 1073; am. L. 1927, c. 150, s. 1; R. L. 1935, s. 988; am. L. 1937, c. 220, s. 4.]

Board has quasi-judicial powers, decisions as to qualifications cannot be controlled by mandamus, unless evidence admits of but one conclusion, that candidate passed required grade, 25 H. 445, 452. See, 31 H. 625, 52 F. 2d 411. Cited: 29 H. 422.

Sec. 2160. Certificate, evidence. All certificates of license issued by the board shall be signed by each member thereof, sealed and attested by the secretary, and shall be presumptive evidence of the right of the holder to practice dentistry; and no person shall practice dentistry without first having procured such a certificate, except as hereinbefore provided. Any person practicing dentistry and not having at the time a valid and uncanceled license shall be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof, shall be punished as in this chapter provided. [L. 1903, c. 40, s. 7; R. L. 1925, s. 1075; R. L. 1935, s. 989.]

Sec. 2161. Registration necessary in certain counties. No person shall practice dentistry within the counties of Hawaii, Maui or Kauai without first registering in the office of the county treasurer in the county wherein the person proposes to practice dentistry, in a book kept by the treasurer for such purpose and called a register of dentists, his name, age, office address, the date

and number of his license to practice dentistry in the Territory and the date of such registration, which registration he shall be entitled to make only upon showing the county treasurer his license or a copy thereof certified by the secretary of the board of dental examiners, and upon making and filing an affidavit stating his name, age, office address, the number of his license and the date of its issuance, that he is the person named in the license. The county treasurer shall preserve such affidavit and shall issue to every licensee duly registering and making such affidavit, a certificate of registration in his county which shall include a transcript of the registration.

The county treasurer's fees for taking such registration and affidavit and issuing such certificate of registration shall be two dollars and fifty cents, such fee to be a county realization.

Any person failing to register shall be punished as in this chapter provided. [L. 1925, c. 9, s. 1; R. L. 1935, s. 990.]

Sec. 2162. No corporation to practice dentistry; penalty. No corporation shall practice dentistry or engage therein, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentist or dental surgeon or equivalent title, or furnish dental advice for any compensation, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists or dental surgeons, or solicit through itself, or its agents, officers, employees, directors or trustees, dental patronage for any dentist or dental surgeon employed by any corporation; **provided**, that nothing contained in this section shall prohibit a corporation from employing a dentist or dentists to render free dental services to its employees, nor shall it apply to corporations or associations in which the dental services were originated and are being conducted upon a purely charitable basis for the worthy poor, nor shall it apply to corporations or associations furnishing information or clerical services which can be furnished by persons not licensed to practice dentistry, to any person lawfully engaged in the practice of dentistry, when such dentist assumes full responsibility for such information and services. Any corporation violating the provisions of this section is guilty of a misdemeanor, and shall be fined not less than two hundred dollars or more than five hundred dollars for each offense, and each day's violation shall be considered a separate offense.

Every association of persons engaged in the practice of dentistry under the name of an association or other title, shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the names of each and every person employed by the association in the practice of dentistry; and every person so employed by any association shall cause his name to be so displayed. Any person employed by such association whose name shall not be displayed as above provided shall be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof, shall be punished as in this chapter provided; and the association, and the persons comprising the same, shall, for failure to display the aforesaid names, be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof, shall be punished as in this chapter provided. [L. 1903, c. 40, s. 11; R. L. 1925, s. 1076; R. L. 1935, s. 991; am. L. 1937, c. 220, s. 5.]

Sec. 2163. Duty to furnish names, etc. It shall be the duty of every person or association practicing dentistry in the Territory, upon demand in writing by the secretary of the board, to furnish within fifteen days after such demand, to the board, through its secretary, a true statement of the name and address of each person practicing dentistry or assisting in the practice thereof, in the office of such person or association, together with a statement showing under what license or authority the person or association is practicing; and any person or association failing so to do, or making any false statement concerning or touching anything covered by this section shall be guilty of a failure to comply with the provisions of this chapter, and upon conviction thereof, shall be punished as in this chapter provided. [L. 1903, c. 40, s. 12; R. L. 1925, s. 1077; R. L. 1935, s. 992; am. L. 1937, c. 220, s. 6.]

Sec. 2164. Grounds for refusal or revocation of license. The board of examiners shall refuse to issue a license where the applicant fails to meet all the requirements imposed by this chapter upon applicants, or has previously violated any of the provisions of this chapter, and may revoke any license issued for any of the following reasons:

1. Fraud in procuring license;
2. Habitual intoxication or addiction to the use of drugs;
3. Wilful or repeated violations of the rules of the department of public health;
4. Acceptance of a fee for service as a witness, without the knowledge of the court, in addition to the fee allowed by the court;
5. Division of fees or agreeing to split or divide the fees received for dental services with any person for bringing or referring a patient;
6. Assisting in the care or treatment of a patient, without the knowledge of said patient or his legal representative;
7. Employing, procuring, inducing, aiding or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry;
8. Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage;
9. Professional connection or association with, or lending his name to another for, the illegal practice of dentistry by another, or professional connection or association with any person, firm, or corporation holding himself, themselves, or itself out in any manner contrary to this chapter;
10. By false or fraudulent representations, obtaining or seeking to obtain practice or money or any other thing of value;
11. Practicing, either in the Territory or elsewhere, under a name other than his own;
12. Any other improper, unprofessional, or dishonorable conduct in the practice of dentistry;
13. Conviction of a felony.

The board, when written charges have been filed with it, shall fix a time and place for the examination of a person so charged and shall give written notice to the said person of the time and place and furnish him with a copy of the charges, at least ten days prior to the date fixed for the hearing. [L. 1937, c. 220, s. 8.]

See s. 2167.

PROHIBITED ACTS.

Sec. 2165. Using assumed name or degree prohibited. Nothing in this chapter shall be construed to permit the performance of dental operations by an unlicensed person under cover of the name of a registered and licensed practitioner, and no person shall practice dentistry under an assumed name, title or degree. Any person practicing dentistry under a false or assumed name, or who shall assume the degree of "Doctor of Dental Surgery" or "Doctor of Dental Medicine" or shall append the letters "D. D. S.", or "D. M. D." to his name, the same not having been duly conferred on him by some college or school legally empowered to confer the same; or shall assume any title or append any letters to his name with intent to represent falsely that he has received a dental degree or license, shall be guilty of a failure to comply with the provisions of this chapter and upon conviction thereof, shall be punished as in this chapter provided. [L. 1903, c. 40, s. 9; R. L. 1925, s. 1078; R. L. 1935, s. 993.]

Sec. 2166. Practicing for advertising purposes, penalty. Any person who shall extract teeth or perform any other operation pertaining to dentistry for the purpose of advertising, exhibiting or selling any medicine, instrument or business of any description, whether the extraction or operation be for pay or not, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not more than two hundred dollars. [L. 1903, c. 40, s. 10; R. L. 1925, s. 1079; R. L. 1935, s. 994.]

Sec. 2167. Conviction of felony, effect. Upon presentation to the board of a certified copy of a final judgment of a court of record showing that a practitioner of dentistry has been convicted of a felony, that fact shall be noted on the record of licenses, and the record of the licensee shall be marked "canceled." Any person whose license shall be so canceled shall be deemed an unlicensed person, and as such shall be subject to the penalties prescribed for other unlicensed persons who practice dentistry in the Territory. [L. 1903, c. 40, s. 8; R. L. 1925, s. 1080; R. L. 1935, s. 995.]

Sec. 2168. Violating provisions; penalties. Any person who shall violate, or fail to comply with, any of the provisions of this chapter, penalty for which is not otherwise provided, shall be guilty of a misdemeanor and upon conviction

tion thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, and each day's violation or failure to comply with the provisions hereof shall be deemed a separate offense.

Upon any subsequent conviction under this section, the person so convicted shall be punished by a fine of not more than one thousand dollars and by imprisonment for not more than one year.

All tools, implements, medicines and drugs used by any person in the practice of dentistry without a license, shall be seized by the officers of the law, and upon conviction of such person of any violation of this chapter, such tools, implements, medicines and drugs shall be declared forfeited to the Territory by the court and ordered destroyed. [L. 1903, c. 40, s. 15; am. L. 1917, c. 136, s. 8; am. L. 1919, c. 52, s. 1; R. L. 1925, s. 1081; am. L. 1929, c. 159, s. 1; R. L. 1935, s. 996; am. L. 1935, c. 87, s. 1.]

Sec. 2169. Prosecuting officers, duty. On notice from any member of the board, it shall be the duty of the several prosecuting officers of the Territory to institute prosecutions for offenses under this chapter. [L. 1903, c. 40, s. 16; R. L. 1925, s. 1082; R. L. 1935, s. 997.]

CHAPTER 40. DENTAL HYGIENISTS.

Sec. 2181. Who may become dental hygienists. Any person of good moral character being eighteen years of age or over and holding or having a diploma or a proper certificate of graduation from an accredited high school employing at least a four year course of instruction and likewise holding and having a diploma or proper certificate of graduation from an American training school for dental hygienists requiring at least a two year course, accredited and recognized by the board of dental examiners, may, upon written application made to and filed with the secretary of the board at least thirty days prior to the date selected by the board for the examination, be examined by such board for qualification as a dental hygienist.

The application for examination shall be accompanied by the applicant's certificate of graduation as aforesaid, and at the time of filing the same, such applicant shall pay to the board an examination fee of fifteen dollars, which fee, together with all other fees or charges in this chapter provided, shall be held by the treasurer of the board as a special fund to carry out the provisions thereof.

Two examinations shall be held in each year, one in July and one in December. Such examinations shall be conducted in the English language and shall cover subjects considered essential by the board for a dental hygienist and shall likewise include a practical examination on the removal of deposits or stains from the exposed surfaces of the teeth. The board shall furnish a chair and engine, but the applicant shall supply all necessary instruments, materials and patients for such examination.

If the applicant, in the opinion of the board, successfully passes such examination, he shall be registered and receive a certificate of ability to practice as a dental hygienist in the Territory. Every registered dental hygienist, before entering practice, shall pay the board one dollar as a registration fee, and secure from it an annual license to practice. Before May 1 in each year, every registered dental hygienist desiring to begin or continue to practice in the Territory shall pay to the board a fee of one dollar for the annual registration thereof. The failure, neglect or refusal of any such duly licensed dental hygienist to pay such annual registration fee shall constitute a forfeiture of such license, but such license may be restored upon written application therefor and the payment to the board of the sum of fifteen dollars.

It shall be the duty of every dental hygienist practicing dental hygiene in the Territory, to furnish the board with his place of employment and the name of the dentist or institution by whom he is employed.

No person shall practice dental hygiene, either gratuitously or for pay, or shall offer or attempt so to practice, or shall advertise or announce himself publicly or privately as prepared or qualified so to practice, without having a license as in this section provided, nor shall any licensed dental hygienist prac-

tice except under the supervision of a licensed dentist as in this chapter provided. [L. 1920, c. 7, s. 1; am. L. 1923, c. 136, s. 1; R. L. 1925, s. 1083; am. L. 1927, c. 149, s. 1; am. L. 1931, c. 158, s. 1; R. L. 1935, s. 1000; am. L. 1941, c. 6, s. 1.]

Sec. 2182. Temporary license. The board may issue, without examination, to any person qualified as aforesaid to be examined, a temporary license to practice as a dental hygienist under the employ of the department of public instruction, or the board of health or any legally incorporated eleemosynary dispensary or infirmary, private school or welfare center; such temporary license shall be in force only while such dental hygienist is in the employ of the department of public instruction, board of health or legally incorporated eleemosynary dispensary or infirmary, private school or welfare center, and shall automatically be canceled when such dental hygienist shall have been examined by the board, and shall be subject to revocation by the board at any time. [L. 1920, c. 7, s. 2; R. L. 1925, s. 1084; am. L. 1925, c. 33, pt. of s. 1; am. L. 1927, c. 149, s. 2; R. L. 1935, s. 1001.]

Sec. 2183. Employment of and practice by dental hygienists. Any licensed dentist, legally incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, the department of public instruction, or the board of health, may employ licensed dental hygienists. A dental hygienist may clean teeth, performing only such operations on the teeth as are cleansing, and may use such mouth washes as are approved by the board of dental examiners, but shall not perform any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth. He may operate in the office of any licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school or welfare center, or in any building owned or occupied by the Territory, but only under the aforesaid employment and under the direct or general supervision of a licensed dentist. [L. 1920, c. 7, s. 3; R. L. 1925, s. 1085; am. L. 1925, s. 33, pt. of s. 1; R. L. 1935, s. 1002.]

Sec. 2184. Revocation of dentist's license. The board of dental examiners may revoke the license of any dentist who shall permit any dental hygienist employed by or working under his supervision to perform any dental operation other than that permitted under the provisions of this chapter; **provided**, before any license shall be revoked the holder thereof shall be notified in writing of the grounds for revocation and shall be given an opportunity to present evidence and be heard by the board. [L. 1931, c. 158, s. 2; R. L. 1935, s. 1003.]

Sec. 2185. Dental hygiene school. Any legally incorporated eleemosynary dental dispensary or infirmary, maintaining proper standards and equipment, may establish for students a school of dental hygiene, providing courses of study in oral hygiene. All such students, upon entrance, shall be required to present satisfactory evidence of graduation from a high school or its equivalent in education. They may be graduated in not less than two years as dental hygienists, but shall not practice until licensed as aforesaid. [L. 1920, c. 7, s. 4; R. L. 1925, s. 1086; R. L. 1935, s. 1004; am. L. 1941, c. 6, s. 2.]

Sec. 2186. Violating provisions, penalty. Any person who shall violate any of the provisions of this chapter, or who shall fail to comply with any of the requirements or provisions of this chapter, penalty for which is not otherwise provided, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, and each day's violation or failure to comply with the provisions hereof, shall be deemed a separate offense. [L. 1920, c. 7, s. 5; R. L. 1925, s. 1087; R. L. 1935, s. 1005.]

Sec. 2187. Suspension or revocation of license. The board of dental examiners may, upon hearing and after ten days' notice, suspend or revoke with power to reinstate, the license of any licensed dental hygienist who, in its opinion, has violated any of the provisions of this chapter or who, in its opinion, is guilty of professional misbehavior, or is not of good moral character. [L. 1920, c. 7, s. 6; R. L. 1925, s. 1088; R. L. 1935, s. 1006.]

CHAPTER 41. FOOD, DRUGS AND COSMETICS.

	Secs.	Secs.	
Part I. Hawaii Food, Drug and Cosmetic Act	2201-2231	Cold Storage and Labeling, Foods, Fishes	2232-2241
Part II. Miscellaneous	2232-2245	Poi, Manufacture of	2243-2245

PART I. HAWAII FOOD, DRUG AND COSMETIC ACT.*

Sec. 2201. Definitions. For the purposes of this part:

- (a) "Board" means the board of health of the Territory.
- (b) "Commissioner" means the food commissioner as hereinafter provided for.
- (c) "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21, U. S. C. 301 et seq.; 52 Sts. at L. 1040 et seq.)
- (d) "Food" means (1) articles used for food or drink for man or animals, (2) chewing gum, and (3) articles used for components of any such article.
- (e) "Drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) articles (other than food) intended to affect the structure or any function of the body of man or animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.
- (f) "Device", except when used (e. g. as an identification device in labeling) in sections 2203 (l), 2206 (j), 2210 (f), 2215 (c) and 2218 (c), means instruments, apparatus and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or (2) to affect the structure or any function of the body of man or animals.
- (g) "Cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and (2) articles intended for use as a component of any such articles, except that such term shall not include soap, intended for cleansing purposes only.
- (h) "Official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them. [L. 1941, c. 318, pt. of s. 2.]

Words (e.g. as an identification device in labeling) added in first sentence of paragraph (f) for clarity.

Sec. 2202. Same; label, etc. The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this part that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Immediate container" does not include package liners.

"Labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article. [L. 1941, c. 318, pt. of s. 2.]

Sec. 2203. Same; misbranding or misleading advertisement. 1. If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

*R. L. 1935, ss. 1050-1062 repealed by L. 1941, c. 318, s. 26. L. 1941, c. 318, s. 1, naming the act, omitted. For food inspection and eggs, see c. 20. Pharmacists, c. 55.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics. [L. 1941, c. 318, pt. of s. 2.]

Sec. 2204. Same; antiseptic, germicide; new drug; contamination. 1. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

2. "New drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

3. "Contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations. [L. 1941, c. 318, pt. of s. 2.]

Sec. 2205. Same; "selling" includes what. The provisions of part I regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such article in the conduct of any food, drug or cosmetic establishment. [L. 1941, c. 318, pt. of s. 2.]

Sec. 2206. Prohibited acts. The following acts and the causing thereof within the Territory by any person are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of sections 2211, 2212 or 2216.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections 2222 or 2224-2228.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the Territory from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of sections 2226-2228.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations prescribed under the provisions of part I.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 2216, or that such drug complies with the provisions of such section.

(1) The using by any person to his own advantage, or revealing other than to the board or its officers or employees, or to the courts when relevant in any judicial proceeding under part I, any information acquired under author-

ity of sections 2211, 2212, 2216 or 2224, concerning any method or process which as a trade secret is entitled to protection. [L. 1941, c. 318, s. 3.]

Sec. 2207. Remedies for violation of law. In addition to the remedies hereinafter provided the commissioner is hereby authorized to apply to a circuit judge sitting in equity for, and such judge shall have jurisdiction upon hearing and for cause shown, to grant, a temporary or permanent injunction restraining any person from violating any provision of section 2206; irrespective of whether or not there exists an adequate remedy at law. [L. 1941, c. 318, s. 4.]

Sec. 2208. Regulations to be prescribed. Whenever in the judgment of the board such action will promote honesty and fair dealing in the interest of consumers, the board shall prescribe regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so prescribed shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act. [L. 1941, c. 318, s. 5.]

Sec. 2209. Foods deemed to be adulterated when. A food shall be deemed to be adulterated:

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 2213; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) If it is confectionery and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per centum, harmless natural gum, and pectin; **provided**, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of one per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances.

(d) If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the federal act. [L. 1941, c. 318, s. 6.]

Sec. 2210. Foods deemed misbranded when. A food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accu-

rate statement of the quantity of the contents in terms of weight, measure, or numerical count; **provided**, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(f) If any word, statement, or other information required by or under authority of part I to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by regulations as provided by section 2208, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) If it purports to be or is represented as: (1) a food for which a standard of quality has been prescribed by regulations as provided by section 2208 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 2208, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) If it is not subject to the provisions of paragraph (g) of this section, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; **provided**, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations prescribed by the board; and, **provided**, further, that the requirements of said clause (2) shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations prescribed by the board.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the board determines to be, and by regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; **provided**, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations prescribed by the board; and, **provided**, further, that the provisions of this paragraph and paragraphs (g) and (i) of this section with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. [L. 1941, c. 318, s. 7.]

Sec. 2211. Regulations to prevent contamination; emergency permits to manufacturers, processors and packers. Whenever the board finds after investigation that the distribution in the Territory of any class of food may, by reason of contamination with micro-organisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall prescribe regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer

holds a permit issued by the board as provided by such regulations. [L. 1941, c. 318, pt. of s. 8.]

Sec. 2212. Suspension and reinstatement of permits. The board is authorized to suspend immediately upon notice any permit issued under authority of section 2211 if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the board shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

Any officer or employee duly designated by the board shall have access to any factory or establishment, the operator of which holds a permit from the board for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator. [L. 1941, c. 318, pt. of s. 8.]

Sec. 2213. Adding of poisonous or deleterious substances, regulation of. Any poisonous or deleterious substance added to any food except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 2209 (a); but when such substance is so required or cannot be so avoided, the board shall prescribe regulations limiting the quantity therein or thereon to such extent as the board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 2209 (a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) section 2209 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food, the board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. [L. 1941, c. 318, s. 9.]

Sec. 2214. Drugs or devices deemed adulterated when. A drug or device shall be deemed to be adulterated:

(a) (1) If it consists in whole or in part of any filthy, putrid or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the federal Act.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not those of the United States Pharmacopoeia.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor. [L. 1941, c. 318, s. 10.]

Sec. 2215. Drugs or devices deemed misbranded when; prescriptions excepted, when. A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; **provided**, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this part I to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyete, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the board after investigation found to be, and by regulations under this part I, designated as, habit-forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May Be Habit-Forming".

(e) If it is a drug and is not designated solely by a name recognized in an official compendium, unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosines, mercury, ouabain, strophanthin, strychnine, thyroïd, or any derivative or preparation of any such substances, contained therein; **provided**, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations prescribed by the board.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods of duration of administration or application, in such manner and form, as are necessary for the protection of users; **provided**, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the board shall prescribe regulations exempting such drug or device from such requirements.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; **provided**, that the method of packing may be modified with the consent of the board. Whenever a drug is recognized in both the United States Pharmacopoeia and Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling, unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not those of the United States Pharmacopoeia.

(h) If it has been found by the board to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the board shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the board shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is a drug sold at retail for use by man, and contains any quantity of aminopyrine, barbituric acid, cinchophen, dinitrophenol, or sulfanilamide, or their derivatives, or any other drug which has been found by the board to be dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof, and so designated by the board in a regulation adopted; unless it is sold on a written prescription signed by a member of the medical, osteopathic, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, osteopathic, dental or veterinary profession.

(l) A drug sold on a written prescription signed by a member of the medical, osteopathic, dental or veterinary profession (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if:

(1) Such member of the medical, osteopathic, dental or veterinary profession is licensed by law to administer such drug, and

(2) Such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, osteopathic, dental or veterinary profession. [L. 1941, c. 318, s. 11.]

Sec. 2216. New drugs, regulation of sale, etc.; exceptions. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under section 505 of the federal Act, or (2) when not subject to the federal Act, unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the board an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the board may require; and (f) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a) (2) shall become effective on the sixtieth day after the filing thereof, except that if the board finds after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, it shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) This section shall not apply:

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs, provided the drug is plainly labeled "For investigational use only"; or

(2) to a drug sold in the Territory at any time prior to the enactment of this part I or introduced into inter-state commerce at any time prior to the enactment of the federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U. S. C., Title 42, Chap. 4.)

(d) An order refusing to permit an application under this section to become effective may be revoked by the board. [L. 1941, c. 318, s. 12.]

Sec. 2217. Cosmetics deemed adulterated when. A cosmetic shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual; provided, that this provision shall not apply to coal-tar

hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the federal Act. [L. 1941, c. 318, s. 13.]

Sec. 2218. Cosmetics deemed misbranded when. A cosmetic shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; **provided**, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this part I to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading. [L. 1941, c. 318, s. 14.]

Sec. 2219. False advertising; exceptions. (a) An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purpose of this part I the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not in violation of subsection (a) shall be deemed to be false under this subsection if it is disseminated only to members of the medical, osteopathic, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public-health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices; **provided**, that whenever the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the board may deem necessary in the interests of public health; **provided**, that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious. [L. 1941, c. 318, s. 15.]

Sec. 2220. Rules and regulations, approval of governor. (a) The board shall have the power, with the approval of the governor, to adopt, prescribe and enforce such rules or regulations as it may deem necessary for the efficient enforcement of this part I. The board is hereby authorized to make the rules or regulations prescribed under this part I conform in so far as practicable with those promulgated under the federal Act.

(b) Hearings authorized or required by this part I shall be conducted by the board or such officer, agent, or employee as the board may designate for the purpose.

(c) Before prescribing any regulation contemplated by sections 2208, 2210 (j), 2211-2212, 2215 (d), (f), (g), (h) and (k); or 2219 (b), the board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so prescribed shall, after being approved by the governor, become effective upon publication as provided by law. Such a regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice or hearing. [L. 1941, c. 318, s. 16.]

See ss. 466-476, rules and regulations.

Sec. 2221. Food commissioner, deputies, appointment of. In order to assist in carrying out the provisions of this part I, the board shall appoint a duly qualified food commissioner or analyst, who shall receive such salary as the legislature shall from time to time appropriate, and who shall furnish a good and sufficient bond of not less than two thousand dollars for the proper and unprejudiced performance of his duties, and who shall be provided by the board with the necessary apparatus, together with a proper office and laboratory for work. The board may also appoint deputy commissioners or analysts. [L. 1941, c. 318, s. 17.]

Civil service, c. 2; classification, c. 3; loyalty oath, c. 13.

Sec. 2222. Duties of commissioner. It shall be the duty of the commissioner to inquire carefully into the quality of any food, drug, device, or cosmetic manufactured, sold, or kept or exhibited or offered for sale by any person; and he may in a lawful manner procure samples thereof, submit the same to careful examination, and report the result of such analysis of all or any such food, drugs, devices, or cosmetics as are adulterated, impure or unwholesome, in contravention of the laws of the Territory, to the board; and it shall be the duty of the commissioner to make complaint with the necessary evidence through the proper authorities, against such person; **provided**, however, that nothing in this part I shall be construed as requiring the commissioner to report for the institution of proceedings under this part I, minor violations of this part I, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

The commissioner shall investigate complaints on the information of any person who shall lay before him satisfactory evidence of the same. [L. 1941, c. 318, s. 18.]

Sec. 2223. Deputy commissioners' duties. The deputy commissioners or analysts shall perform such duties as the commissioner or analyst or the board may from time to time prescribe. [L. 1941, c. 318, s. 19.]

Sec. 2224. Inspection powers of commissioner. The commissioner or any of his deputies shall have free access at all reasonable hours to any factory, warehouse, or establishment in which food, drugs, devices or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such food, drugs, devices or cosmetics in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this part I are being violated, and

(2) to secure samples or specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample. It shall be the duty of the commissioner to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this part I is being violated. [L. 1941, c. 318, s. 20.]

Sec. 2225. Furnishing of samples to commissioner required. If any person manufacturing, keeping for sale, exhibiting for sale, or offering for sale any food, drug, device, or cosmetic included in the provisions of this part I, shall refuse to furnish the duly appointed commissioner, or any of his deputies, upon demand, either personal or in writing, a sample sufficient for the analysis of such food, drug, device, or cosmetic, which is in his possession, the commissioner or any of his deputies tendering the market price therefor, such refusal shall be prima facie evidence that such food, drug, device, or cosmetic

so manufactured, kept for sale, exhibited for sale, or offered for sale is adulterated within the meaning of this part I. [L. 1941, c. 318, s. 21.]

Sec. 2226. Commissioner's right of inspection and seizure; hearings. The commissioner or any of his deputies shall have the power in the performance of their duties to enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, storage-room, drug store or laboratory, or any place where they have probable cause to believe that food, drugs, devices, or cosmetics are made, prepared, sold, or kept, exhibited or offered for sale, and to open any cask, tub, bottle, case or package containing or supposed to contain any such food, drug, device, or cosmetic, and examine or cause to be examined the contents thereof. In case any food, drug, device, or cosmetic is found to be adulterated or misbranded within the meaning of this part I and the owner or person in charge thereof refuses to comply with the instructions of the commissioner or any of his deputies for the proper disposal thereof, such food, drug, device, or cosmetic shall be liable to seizure. The commissioner or any of his deputies shall affix to such article or articles a tag or other appropriate marking, giving notice that such article is, or is suspected of being adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the commissioner or any of his deputies or by the court or judge having jurisdiction over such matters. Upon the request of the commissioner or any of his deputies, made to such court, the court shall order and direct that such food, drug, device, or cosmetic be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine as to whether or not it is adulterated or misbranded. [L. 1941, c. 318, pt. of s. 22.]

Sec. 2227. Disposal of questioned articles; court orders; expenses; bond. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of the commissioner or any of his deputies; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; **provided**, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of the commissioner or any of his deputies. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the commissioner or any of his deputies that the article is no longer in violation of this part I, and that the expenses of such supervision have been paid. [L. 1941, c. 318, pt. of s. 22.]

Sec. 2228. Perishables destroyed when. Whenever the commissioner or any of his deputies shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the commissioner or any of his deputies, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food. [L. 1941, c. 318, pt. of s. 22.]

Sec. 2229. Reports of commissioner. The commissioner shall make a monthly report in writing to the board containing the results of inspection and analysis in detail, and upon request of the board he shall furnish for publication a popular explanation of the same covering any month or period, together with any such other information as may come to him in his official capacity relating to the adulteration of food, drugs, devices, or cosmetics, so far as the same may be deemed by the board to be of benefit and advantage to the public. [L. 1941, c. 318, s. 23.]

Sec. 2230. Duties of county attorneys, public prosecutor. It shall be the duty of each county attorney, or the public prosecutor of the city and county of Honolulu, to whom the board, or the commissioner or any of his deputies

reports any violation of this part I, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this part I is reported to any such attorney or prosecutor for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the board or the commissioner either orally or in writing, in person or by attorney, with regard to such contemplated proceeding. [L. 1941, c. 318, s. 24.]

Sec. 2231. Penalty; exceptions. (a) Any person who violates any of the provisions of section 2206 shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding two hundred, nor less than ten dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 2206 (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Territory from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this part I, designating this part I.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the board to furnish the board the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the Territory who caused him to disseminate such advertisement. [L. 1941, c. 318, s. 25.]

L. 1941, c. 318, s. 27, saving clause, omitted.

PART II. MISCELLANEOUS.

COLD STORAGE AND LABELING, FOOD, FISHES.

Sec. 2232. Definitions. "Cold storage" as used in sections 2232-2239 shall mean a place artificially cooled in a temperature of forty degrees Fahrenheit or below but shall not include such a place in a private home, hotel, restaurant, or exclusively retail establishment not storing articles of food for other persons. "Cold stored" as used in said sections shall mean the keeping of articles of food in cold storage for a period exceeding thirty days from the date of placing them in any cold storage or refrigerating warehouse. "Storer" shall mean the person who offers articles of food for cold storage. "Operator" shall mean any person operating a cold storage. [L. 1925, c. 194, s. 1; R. L. 1935, s. 1063.]

Sec. 2233. Board of health regulations. Every cold storage, or refrigerating warehouse wherein are stored articles of food, shall be properly located, constructed, equipped for the business of cold storage and kept in a sanitary condition as prescribed by the territorial board of health regulations. [L. 1925, c. 194, s. 2; R. L. 1935, s. 1064.]

Sec. 2234. Records, food to be marked. It shall be the duty of every operator or storer to keep an accurate record of the receipts and the withdrawals with reference to cold storage of all articles of food within his possession and control. Every operator shall also keep an accurate record of storer's having exclusive possession of a portion of his cold storage.

All articles of food when deposited in cold storage shall be marked plainly on or in connection with the containers in which they are packed or on the individual article, with the date of receipt, and, when removed from cold storage, shall be marked with the date of withdrawal, in accordance with such forms as may be prescribed by the board of health.

The board or its agents shall have free access to these records at any time. [L. 1925, c. 194, ss. 3, 5; R. L. 1935, s. 1065.]

Sec. 2235. Bad food; bait. No storer or operator shall place in cold storage any article of food if diseased, tainted or deteriorated so as to injure its keeping qualities or if not properly slaughtered, handled and prepared for storage; provided, however, that the provisions of this section shall not apply to bait to be used for fishing purposes. All such bait shall be stored in rooms specially set aside for such purposes. [L. 1925, c. 194, s. 4; R. L. 1935, s. 1066.]

Sec. 2236. Length of storage time. No person having control as storer shall keep in cold storage any articles of food for a longer period than twelve calendar months, except with the consent of the board of health, as hereinafter provided. The board shall, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which storage is allowed shall be specified in the order granting permission. [L. 1925, c. 194, s. 6; R. L. 1935, s. 1067.]

Sec. 2237. Restorage prohibited. It shall be unlawful for any storer or operator to return to cold storage any article of food that has once been released from such storage and placed on the market for sale to consumers, but nothing in this section shall be construed to prevent the transfer of goods from one cold storage or refrigerating warehouse to another; provided, that such transfer is not made for the purpose of evading any provision of sections 2232 to 2238. [L. 1925, c. 194, s. 7; R. L. 1935, s. 1068.]

Sec. 2238. Cold stored goods to be labeled; sales of. It shall be unlawful to sell, or to offer for sale uncooked articles of food, which have been cold stored without notifying persons purchasing, or intending to purchase, the same that they have been kept in cold storage by the display, in the conspicuous place and upon the articles of food of a sign marked, "These are cold stored goods," in large, plain type; and it shall be unlawful to represent or advertise as fresh goods, articles of food which have been placed in cold storage. [L. 1925, c. 194, s. 8; R. L. 1935, s. 1069.]

Sec. 2239. Penalty. Any person violating any of the provisions of sections 2232 to 2238 shall upon conviction be punished by a fine of not less than ten dollars nor more than two hundred dollars for each offense. [L. 1925, c. 194, s. 9; R. L. 1935, s. 1070.]

Sec. 2240. What fish and when same may be put in cold storage for future sale. All catches of the following food fishes, such as weke, ahuluhulu, kumu, uhu, opelu, oama, manini, moi, amaama, papiopio, ulua, awa, akule, oio, nehu, maomao, iao, omaka, lauhau, laenihi, puhikii, akilolo, hahalalu, iheihe, opae, piha, laipala, aholehole, uiui, malolo, kole, paoo, puihi, auau, ohua aliko, ohua palemo, alaihi, upapalu, uu, ahaaha, puili, alalauwa, aweoweo, mai-koiko, kala, aloiloi, maiii, aalaheo, pakii, oopu nopili, oopu nakea, mamamo, oopukai, hinalea, hinana, gold-fish, cat-fish and mud-fish, and all other smaller fishes of any species caught after twelve o'clock noon of any calendar day, shall be marketed as soon as brought to shore. Any fishes which cannot be marketed or which remain unsold in the market at the close of the market in the evening may be placed in cold storage or ice house for future sale; provided, that no fishes shall be so placed in cold storage which have been caught more than twelve hours, unless the fishes were artificially chilled as soon as caught, or which have been bruised, torn or otherwise rendered liable to spoil. [L. 1921, c. 38, s. 1; R. L. 1925, s. 4260; R. L. 1935, s. 1071.]

Sec. 2241. Causing preventable deterioration of; penalty. Any person who by interference, intimidation, or carelessness, causes or permits preventable deterioration or waste in connection with the marketing of such fishes or their preservation, or who prevents or attempts to prevent lawful cold storage of such fishes, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than two hundred dollars, or by imprisonment for a term not exceeding three months, or by both fine and imprisonment. [L. 1921, c. 38, s. 2; R. L. 1925, s. 4261; R. L. 1935, s. 1072.]

POI, MANUFACTURE OF.

Sec. 2242. Only in buildings authorized. No shop or building for the manufacture or sale of poi or paiai shall be erected, maintained, used or operated except as hereinafter provided. [L. 1911, c. 101, s. 1; R. L. 1925, s. 1011; R. L. 1935, s. 1080.]

Sec. 2243. Erection and location of buildings, conditions. Every such shop or building shall be laid with cement floors, with cement side walls to a height of at least two feet and draining to a trap connected with a cesspool, sewer, or such other means for the proper disposal of drainage, as may be approved by the territorial board of health. No such shop or building shall be maintained, used

or operated in any place where there is not available an adequate supply of pure water, or which is incapable of proper drainage, or which is so situated that the poi or paiai manufactured thereat might, in the opinion of the board, be contaminated or infected by reason of proximity to any stable, laundry, abattoir or other place at which any business or process is carried on or condition maintained which, in such opinion, might be a source of such contamination or infection; nor, while any such shop or building is being so used, shall any such stable, laundry, abattoir or other place be permitted to be established in such proximity thereto as to be, in the opinion of the board, a source of contamination or infection to the poi or paiai manufactured thereat. No such shop or building shall be maintained, used or operated for any other purpose than the manufacture of poi or paiai; nor unless only pure water shall be used thereat and proper drainage maintained therefor; nor unless it shall be kept so screened as to prevent flies and insects from entering therein; nor unless all implements, tools, machinery, containers, and all other utensils used for or in connection with the manufacture, distribution or storage of poi or paiai shall be sterilized each time before being so used; nor if any person or individual is employed or engaged in or about such shop or building who is afflicted with any contagious or infectious disease or any disease which, in the opinion of the board, may contaminate or infect the poi or paiai. [L. 1911, c. 101, s. 2; R. L. 1925, s. 1012; R. L. 1935, s. 1081.]

Sec. 2244. Closing unauthorized buildings. The board is authorized to direct the cancelation of any permit for a shop or building where poi or paiai is manufactured for sale, issued by any county officer, or otherwise, and to close and keep closed any such shop or building which in any respect fails to meet the requirements and conditions of this subtitle. [L. 1911, c. 101, s. 3; R. L. 1925, s. 1013; R. L. 1935, s. 1082.]

Sec. 2245. Penalty. Any person who violates any provision of this subtitle shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars, nor more than two hundred dollars, or by imprisonment for not more than sixty days, or by both fine and imprisonment. [L. 1911, c. 101, s. 4; R. L. 1925, s. 1014; R. L. 1935, s. 1083.]

CHAPTER 42. INFECTIOUS AND COMMUNICABLE DISEASES.

	Secs.		Secs.
Reports, etc.	2301-2306	Tuberculosis	2316-2330
Quarantine	2307-2309	Vaccination	2331-2340
Syphilis, Congenital, Reports	2310-2315	Regulations, Violations	2341-2342

Sec. 2301. Physicians to report. It shall be the duty of every physician and every chiropractor having a patient infected with cerebro-spinal meningitis, cholera asiatic, conjunctivitis follicular, diphtheria, dysentery amoebic, enteric (or typhoid) fever, paratyphoid, leprosy, measles, dengue, paralysis infantile, pertussis, plague, scarlet fever (or scarlatina), tetanus, trachoma, tuberculosis, typhus fever, varicella, variola, varioloid, yellow fever, or any other infectious or communicable or other disease dangerous to the public health, to give immediate notice thereof to the board of health, or its nearest agent, in writing, and in like manner to report to the board, or its agent, every case of death which takes place in his practice from any such disease; **provided**, however, that whenever a physician has a patient infected with variola, varioloid, scarlet fever, diphtheria, plague, cholera, yellow fever, typhus fever, cerebro-spinal meningitis or amoebic dysentery, such physician, in addition to the notice in writing required to be given as above, shall immediately notify the board, or its nearest agent, either by telephone or by direct oral communication. Every physician who shall refuse or neglect to give such notice, or make such report, shall be deemed guilty of a misdemeanor punishable as provided in section 2342. [P. C. 1869, c. 59, s. 24; am. L. 1911, c. 125, s. 1; am. L. 1919, c. 22, s. 1; R. L. 1925, s. 932; pt. of s. 1022; R. L. 1935, s. 1090; am. L. 1943, c. 43, s. 5 (b).]

See s. 2513, duty to report firearm and knife wounds.

Sec. 2302. Others to report. It shall be the duty of every householder, keeper of a boarding or lodging house, or master of a vessel, to report immediately to the board, or its nearest agent, any person in or about his house, or vessel, whom they shall have reason to believe to be sick, or to have died, of any infectious, communicable or other disease dangerous to the public health; and all police officers who are aware of any person suffering from any infectious, communicable or other disease dangerous to the public health, shall immediately report the same to the board, or its nearest agent. Any such householder, keeper of a boarding or lodging house, master of a vessel, or police officer who shall refuse or neglect to so report immediately to the board, or its nearest agent, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars for each offense. [P. C. 1869, c. 59, s. 25; am. L. 1911, c. 125, s. 2; R. L. 1925, s. 933; R. L. 1935, s. 1091.]

Sec. 2303. Identity of patients safeguarded. Reports to the board provided for by this chapter shall not be made public so as to disclose the identity of the persons to whom they relate except insofar as may be necessary to safeguard the public health against those who disobey the rules and regulations relating to these diseases or to secure conformity to the laws of the Territory. [L. 1927, c. 117, s. 1; R. L. 1935, s. 1092.]

Sec. 2304. Diseases declared infectious and communicable. Cerebro-spinal meningitis, cholera asiatic, conjunctivitis follicular, diphtheria, dysentery amoebic, enteric (or typhoid) fever, fever paratyphoid, leprosy, measles, dengue, paralysis infantile, pertussis, plague, scarlet fever (or scarlatina), tetanus, trachoma, tuberculosis, typhus fever, varicella, variola, varioloid, yellow fever, are declared to be infectious and communicable diseases dangerous to the public health, but this enumeration shall not be held to exclude any other disease that is infectious, communicable, or dangerous to the public health, though not specifically named herein. [L. 1911, c. 125, s. 3; R. L. 1925, s. 934; R. L. 1935, s. 1093.]

Sec. 2305. Antitoxins. The board is authorized and directed to purchase from time to time, and to keep a sufficient supply of cerebro-spinal meningitis, diphtheria and tetanus antitoxins on hand and available for free administration to persons unable to pay for same in the various counties.

Such antitoxins shall be administered free of charge to any person infected with cerebro-spinal meningitis, diphtheria or tetanus and who is at the time unable to pay for the same, by any physician of the board or of such counties, or such antitoxin may be furnished free of charge by such officials to the attending physician to be used by him in injecting such infected persons; provided, however, the person so benefited, or his estate or personal representatives, if subsequently able to do so, shall be required to pay for any such antitoxin furnished without charge as herein provided. [L. 1931, c. 197, s. 1; R. L. 1935, s. 1094.]

Sec. 2306. Epidemic control fund. Such appropriations as may be provided for the purpose of controlling, suppressing, or preventing the spread of any communicable or preventable disease in the Territory or in any county thereof shall be immediately deposited in the treasury in a special fund to be known as the "epidemic control fund."

Whenever the president of the board of health shall certify that any communicable or preventable disease is present to such an extent that the usual facilities and personnel of the board of health are not adequate to properly control, suppress, or prevent the spread of such diseases, withdrawals may be made from the epidemic control fund by the board of health, with the approval of the governor, for use, in whatever manner the board may deem necessary, in controlling, suppressing or preventing the spread of any such disease. All such withdrawals shall be upon warrants of the auditor of the Territory on vouchers properly approved by the president of the board of health. [L. 1941, c. 121, ss. 1, 2; am. L. 1943, c. 43, s. 2.]

First sentence rewritten, omitting 1941 appropriation.

QUARANTINE.

Sec. 2307. Removal and quarantine. When any person shall be infected or suspected of being infected with any infectious, communicable or other disease dangerous to the public health, the board or its agent, may, for the safety of the public, remove such sick or infected person to a separate house or hospital, and provide him with medical care and other necessaries, which shall be at the expense of the person himself, his parents or guardian, if able to meet such expense, other-

wise at the expense of the county in which the person is ill or infected. The board of supervisors of any such county is hereby authorized and directed to pay such expenses upon certification by the board of health or its agent that a person has been so removed and that expense has been incurred under this section. [P. C. 1869, c. 59, s. 26; am. L. 1911, c. 125, s. 4; R. L. 1925, s. 935; R. L. 1935, s. 1095; am. L. 1941, c. 262, s. 1.]

Sec. 2308. Quarantine without removal; duty of police officers to assist in removals. If the board or its agent should determine that removal of the person infected or suspected of being infected would directly and seriously aggravate the disease so as to endanger his life, the board, or its agent may make provision for him, as directed in the last preceding section, in the house in which he may be; and, in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they shall judge necessary for the public health and safety. The board or its agent, in effecting any removal under this or section 2307 may require any sheriff, deputy sheriff, chief of police, or police officer to aid and assist it, and such force as is reasonably necessary to effect any such removal may be used.

It shall be the duty of every sheriff, deputy sheriff, chief of police or police officer who is so required to aid and assist the board or its agent to immediately aid and assist it. [P. C. 1869, c. 59, s. 27; R. L. 1935, s. 1096; am. L. 1941, c. 262, s. 2.]

Sec. 2309. Master of vessel liable for expense. In case any moneys are expended by the board for any sick person brought into the Territory in any vessel from abroad, it shall be the duty of the board, or its agent, to demand the same from the master of the vessel in which such sick person was brought. The master of such vessel shall be liable for the amount of the moneys thus expended. [P. C. 1869, c. 59, s. 30; R. L. 1925, s. 937; R. L. 1935, s. 1097.]

See 5 H. 109.

SYPHILIS, CONGENITAL, REPORTS OF.

Sec. 2310. Blood samples of pregnant women required. Every physician attending a pregnant woman in the Territory for conditions relating to her pregnancy during the period of gestation or at delivery, shall, in the case of every woman so attended, take or cause to be taken a sample of the blood of such woman, and shall submit such sample to an approved laboratory for a standard serologic test for syphilis. Every other person permitted by law to attend pregnant women in the Territory, but not permitted by law to take blood samples, shall cause a sample of the blood of every pregnant woman attended by him to be taken by a duly licensed physician and shall have such sample submitted to an approved laboratory for a standard serologic test for syphilis. Such samples of blood shall be taken at the time of the first visit to the pregnant woman or within fourteen days thereafter. Every pregnant woman shall permit such sample of her blood to be taken by a licensed physician as hereinabove provided. [L. 1943, c. 219, s. 1.]

Sec. 2311. Serologic tests; reports. For the purposes of this subtitle a standard serologic test shall be a test for syphilis approved by the board of health of the Territory, and shall be made at a laboratory approved to make such tests by the board of health. Such laboratory tests as are required by this subtitle shall be made on request without charge at the board of health laboratories. The board of health shall issue a "laboratory report form" to be distributed upon application to all laboratories approved to make tests called for in this section. Any laboratory making any such tests shall prepare the report thereof in triplicate. The original of such report shall be transmitted by the laboratory making such test to the certifying physician. The duplicate and triplicate copies of such reports shall be forwarded at weekly intervals to the board of health. The triplicate shall be retained by the laboratory in its files and shall be open at any time for inspection by any authorized representative of the board of health. [L. 1943, c. 219, s. 2.]

Sec. 2312. Reports of blood tests. In reporting a birth and stillbirth, every physician or other person required to make such reports shall state, in a report accompanying the certificate, whether, according to his knowledge or information, a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which the birth or stillbirth certificate is filed and the approximate date when the specimen was taken. The board of health is

authorized to investigate the circumstances surrounding the birth of any baby on whose mother no serologic test, as required by this subtitle, appears to have been taken. Failure on the part of any physician or other person permitted by law to attend pregnant women to comply with this subtitle shall be considered a misdemeanor. [L. 1943, c. 219, s. 3.]

Sec. 2313. Reports confidential; penalty. Any information secured from the tests or the reports in this subtitle required to be made by persons having access to such tests or reports shall be used only in connection with their professional duties or within the scope and course of their employment, but not otherwise, and except to the extent required in connection with enforcement of the laws and ordinances of the Territory, and its political subdivisions, and valid rules and regulations adopted thereunder, which are for the protection of the public health, shall not be divulged to others than the doctor and other person permitted by law to attend and attending a pregnant woman, laboratory technicians, or the board of health and its duly authorized representatives. Any person violating the provisions of this section shall be punished by a fine of five hundred dollars, or by imprisonment of not more than ninety days, or by both such fine and imprisonment. [L. 1943, c. 219, s. 4.]

Sec. 2314. Rules and regulations. The board of health shall have the power, subject to the approval of the governor, to adopt, promulgate and enforce rules and regulations for the more effective enforcement of the provisions of this subtitle. [L. 1943, c. 219, s. 5.]

ss. 466-476, rules.

Sec. 2315. Penalty. Any physician or other person permitted by law to attend pregnant women, and any other person, who violates any provision of this subtitle or any rule or regulation of the board of health adopted pursuant to this subtitle, shall be guilty of a misdemeanor, punishable as provided by section 2020. [L. 1943, c. 219, s. 6.]

L. 1943, c. 219, s. 7, saving clause, omitted.

TUBERCULOSIS.

Sec. 2316. Cuspidors. Any person who may be the proprietor or manager of a store, factory, shop, office, hotel, theatre, or any other kind of a building, wherein business with the public is conducted, shall provide cuspidors or spittoons within such place of business in sufficient number, and shall keep the same disinfected and in a sanitary condition to meet the approval of the board of health. [L. 1911, c. 118, s. 1; R. L. 1925, s. 938; R. L. 1935, s. 1098.]

Sec. 2317. Spitting prohibited. No person shall spit or expectorate upon any railway passenger coach, street car, sidewalk, or any building, mentioned in section 3116, or any part thereof. [L. 1911, c. 118, s. 2; R. L. 1925, s. 939; R. L. 1935, s. 1099.]

Sec. 2318. Railways provide cuspidors. Any person who may be the proprietor or manager, or any corporation which may be the owner, of any steam railway passenger coach operated in the Territory, shall provide cuspidors or spittoons within such coach in sufficient number and shall keep the same disinfected and in a sanitary condition to meet the approval of the board. [L. 1911, c. 118, s. 3; R. L. 1925, s. 940; R. L. 1935, s. 1100.]

Sec. 2319. Common drinking cup prohibited. The use of a common drinking cup is prohibited in all public places within the Territory. [L. 1911, c. 118, s. 4; R. L. 1925, s. 941; R. L. 1935, s. 1101.]

Sec. 2320. Posting notices required. The proprietors, managers and owners hereinbefore mentioned shall keep a copy of sections 2316-2319 conspicuously posted in each department of such place of business, and in any street car or steam railway passenger coach, and, on application, the board shall furnish the proprietors or managers with a printed copy of sections 2316-2319. [L. 1911, c. 118, s. 5; R. L. 1925, s. 942; R. L. 1935, s. 1102.]

Sec. 2321. School teachers. No person who shall have contracted tuberculosis shall, while afflicted with such disease, be allowed to teach in any public or private school. [L. 1911, c. 118, s. 6; R. L. 1925, s. 943; R. L. 1935, s. 1103.]

Sec. 2322. Reports by physicians and others. It shall be the duty of every physician to report in writing the name, age, sex, nationality, occupation, place

where last employed, if known, and address of every person known by such physician to have tuberculosis, to the board, or its nearest agent, within twenty-four hours after such fact comes to the knowledge of the physician. It shall also be the duty of the superintendent in charge of any hospital, dispensary, asylum or other similar private or public institution to report in like manner the name, age, sex, nationality, occupation, place where last employed, if known, and previous address of every patient having tuberculosis who comes into his care or under his observation, within twenty-four hours thereafter. [L. 1911, c. 118, s. 7; R. L. 1925, s. 944; R. L. 1935, s. 1104.]

Sec. 2323. Examination of sputum. It shall be the duty of the bacteriologist of the board, when so requested by any physician, or by the authorities of any hospital or dispensary, to make, or cause to be made, a microscopical examination of the sputum forwarded to the bacteriologist as that of a person having symptoms of tuberculosis, which shall be forwarded to such officer accompanied by a blank giving name, age, sex, nationality, occupation, place where last employed, if known, and address of the person whose sputum it is. It shall be the duty of the bacteriologist promptly to make a report of the results of such examination, free of charge, to the physician or person upon whose application the same is made. [L. 1911, c. 118, s. 8; R. L. 1925, s. 945; R. L. 1935, s. 1105.]

Sec. 2324. Protection of record; penalty. It shall be the duty of the board to cause all reports made in accordance with the provisions of section 2322, and also all results of examinations showing the presence of the bacilli of tuberculosis, made in accordance with the provisions of section 2323, to be recorded in a register. Such register shall remain in the care, custody and control of the board. The board may, in its discretion, disclose the contents of any such report or record to relatives or officials of social and welfare organizations in the Territory; provided, however, such information disclosed to such officials shall not be divulged by them so as to disclose the identity of any person to whom it relates.

Any person who violates any provisions of this section shall, upon conviction thereof, be liable to a fine not to exceed one thousand dollars. [L. 1911, c. 118, s. 9; R. L. 1925, s. 946; am. L. 1929, c. 202, s. 1; R. L. 1935, s. 1106.]

Sec. 2325. Disinfection of premises. In case of the vacation of any apartment or premises by the death or removal therefrom of a person having tuberculosis, it shall be the duty of the attending physician, or if there be no such physician, or if such physician be absent, of the owner, lessee, occupant, or other person having charge of the apartments or premises, to notify the board or its nearest agent of the death or removal within twenty-four hours thereafter, and such apartments or premises so vacated shall not again be occupied until duly disinfected, cleansed or renovated as hereinafter provided. [L. 1911, c. 118, s. 10; R. L. 1925, s. 947; R. L. 1935, s. 1107.]

Sec. 2326. Board or agents to direct disinfection, cleansing, or renovation, and prohibit occupancy. When notified of a vacation of any apartments or premises as provided in section 2325, the board shall, within twenty-four hours thereafter, cause one of its agents to visit the apartments or premises, and shall order and direct that, except for purposes of cleansing or disinfection, no infected article shall be removed therefrom until properly and suitably cleansed or disinfected, and the board or its agent shall determine the manner in which such apartments or premises shall be disinfected, cleansed or renovated in order that they may be rendered safe and suitable for occupancy. If the board or its agent determines that disinfection is sufficient to render them safe and suitable for occupancy, such apartments or premises, together with all infected articles therein, shall immediately be disinfected by the board or its agent at public expense, or, if the owner prefers, by the owner at his expense, to the satisfaction of the board or its agent.

Should the board or its agent determine that such apartments or premises are in need of thorough cleansing and renovation, the board or its agent shall cause a notice in writing to this effect to be served upon the owner or agent of the apartments or premises, to renovate and cleanse the same at his own expense, within such reasonable time as the board may deem proper. A duplicate of the notice so served shall be left with one or more of the tenants or occupants, if any, of the apartments or premises. If the owner resides without the Territory or cannot be reached speedily, notice left at the apartments or posted on the premises shall be deemed sufficient. If the owner thus notified shall not comply with such notification or order of the board or its agent within the time specified, the board or its agent shall proceed to renovate and cleanse the same and shall have a right

to recover by action the expenses incurred by it in such renovation and cleansing from the owner, tenants or occupants of such apartments or premises who, after notice as aforesaid, shall have failed to renovate and cleanse the same in the manner and within the time specified in such notice. The board or its agent may cause a placard in words and form, substantially as follows, to be placed upon the door of the infected apartment or premises:

"Tuberculosis is a communicable disease. These apartments have been occupied by a consumptive and may be infected. They must not be occupied until the order of the board of health or its agent directing their disinfection or renovation has been complied with. This notice must not be removed under the penalty of the law, except by the agents of the board of health." [L. 1911, c. 118, s. 11; R. L. 1925, s. 948; R. L. 1935, s. 1108.]

Sec. 2327. Prohibiting carelessness of persons having tuberculosis; penalties. Any person having tuberculosis who shall dispose of his sputum, saliva or other bodily secretion or excretion so as to cause offense or danger to any person occupying the same room or apartment, house, or part of a house, shall, on complaint of any person subjected to such offense or danger, be deemed guilty of a misdemeanor, and any person subjected to an offense may make complaint in person or in writing to the board or its nearest agent. It shall be the duty of the board or its agent on receiving such complaint to investigate, and if it appears that the offense complained of is such as to cause offense or danger to any person occupying the same room, apartment, house, or part of a house, the board or agent shall serve notice upon the person so complained of, reciting the alleged cause of offense or danger and requiring him to dispose of his sputum, saliva or other bodily secretion or excretion in such manner as to remove all reasonable cause of offense or danger.

Any person failing or refusing to comply with orders or regulations of the board or its agent, requiring him to cease to commit such offense, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than five dollars, and upon a second conviction for a violation of the provisions of this section, such person, upon petition of the board, may be committed, after due notice and a full hearing, by any court having jurisdiction to hear such cases, to any hospital for the care of persons suffering from tuberculosis or to any other place or institution where proper care will be provided and where the necessary precautions will be taken to prevent the spread of tuberculosis. After commitment, such person may be discharged by the court upon the recommendation of the board.

Any person so committed to a hospital or institution who fails to remain there, or who neglects or refuses to obey the rules and regulations of such hospital or institution, may, if necessary for the safety of others, be isolated or separated from other persons and restrained from leaving the hospital or institution. [L. 1911, c. 118, s. 12; am. L. 1915, c. 98, s. 1; R. L. 1925, s. 949; R. L. 1935, s. 1109.]

Sec. 2328. Physicians; precautions; instructions. It shall be the duty of a physician attending a patient having tuberculosis to take all proper precautions and to give proper instructions to provide for the safety of all individuals occupying the same house or apartment. [L. 1911, c. 118, s. 13; R. L. 1925, s. 950; R. L. 1935, s. 1110.]

Sec. 2329. Physicians to make statement of procedure and precautions. It shall be the duty of the board to transmit to a physician reporting a case of tuberculosis, as provided in section 2322, a printed statement and report, in a form approved by the board, naming such procedure and precautions as in the opinion of the board are necessary or desirable to be taken on the premises of a tuberculosis patient. It shall be the duty of the board to keep on hand an ample supply of such statements and reports and to furnish the same in sufficient numbers to all physicians. Upon the receipt of such statement and report, the physician shall carry into effect all such procedures and precautions as are therein prescribed, and shall thereupon sign and date the same and return it to the board or its nearest agent. [L. 1911, c. 118, s. 14; R. L. 1925, s. 951; R. L. 1935, s. 1111.]

Sec. 2330. Reporting recovery of patient. Upon the recovery of any person having tuberculosis, it shall be the duty of the attending physician to make a report of this fact to the board or its agent, who shall record the same, and shall relieve such person from further liability to any requirement imposed by this chapter [L. 1911, c. 118, s. 15; R. L. 1925, s. 952; R. L. 1935, s. 1112.]

VACCINATION.

Sec. 2331. Vaccinating officers. The board of health shall appoint a suitable person to be vaccinating officer in each of the taxation divisions of the Territory, who shall receive such salary as may, from time to time, be appropriated by the legislature, and shall be removable from office at the pleasure of the board. [P. C. 1869, c. 59, s. 32; R. L. 1925, s. 955; R. L. 1935, s. 1115.]

Sec. 2332. Notice of time, place. Each vaccinating officer shall appoint at least three convenient places in each school district throughout his division, for the performance of vaccination; and, from time to time, give public notice of the time when he will attend at such places, to vaccinate all persons not already successfully vaccinated who may then and there appear; and also of the time when he will attend at such place, to inspect the progress of such vaccination in the persons so vaccinated. [P. C. 1869, c. 59, s. 33; R. L. 1925, s. 956; R. L. 1935, s. 1116.]

Sec. 2333. Officers attend every six months. The vaccinating officers shall visit the several stations appointed by them, at least once in every six months, and oftener, if required so to do by the board. [P. C. 1869, c. 59, s. 38; R. L. 1925, s. 957; R. L. 1935, s. 1117.]

Sec. 2334. Record, report. The several vaccinating officers shall keep a faithful record of their transactions, and make an annual report of the same to the board. [P. C. 1869, c. 59, s. 40; R. L. 1925, s. 958; R. L. 1935, s. 1118.]

Sec. 2335. Children when. The father or mother of every child shall within six months after the birth of such child, or, in the event of the death, illness, or absence of the father or mother, then the guardian, nurse, or person having charge of such child, shall, within six months after its birth, or at the earliest opportunity after, take such child to the vaccinating officer, for the purpose of being vaccinated. [P. C. 1869, c. 59, s. 34; R. L. 1925, s. 959; R. L. 1935, s. 1119.]

Sec. 2336. Examined as to result. Upon the eighth day, following the day on which any child has been vaccinated, the father, mother, guardian, or other person having charge of the child, shall again take such child to the vaccinating officer, that he may ascertain by inspection the result of such operation. [P. C. 1869, c. 59, s. 35; R. L. 1925, s. 960; R. L. 1935, s. 1120.]

Sec. 2337. Certificate. If the vaccination is found to be successful, the officer shall deliver to the father, mother, or other person having charge of the child, free of charge, a certificate that the child has been successfully vaccinated, and shall note the same in a book to be kept by such officer for that purpose. [P. C. 1869, c. 59, s. 36; R. L. 1925, s. 961; R. L. 1935, s. 1121.]

Sec. 2338. Postponement when. On the presentation of any child to be vaccinated, should the officer deem the child to be in an unfit state to be vaccinated, he may postpone the operation and give due notice to the parents, or person having charge of such child, to reproduce the same for vaccination at a future time. [P. C. 1869, c. 59, s. 37; R. L. 1925, s. 962; R. L. 1935, s. 1122.]

Sec. 2339. Vaccination by physicians; penalty for parents. The vaccination of children required by law may be performed by the officers appointed for such purpose by the board, or by duly licensed physicians, at the option of the parents or guardians of such children. Every parent or guardian having the charge of any child who shall fail to cause such child to be properly and successfully vaccinated within the age prescribed by statute, shall be liable to a fine of five dollars. [L. 1892, c. 67, s. 1; R. L. 1925, s. 963; R. L. 1935, s. 1123.]

Sec. 2340. Manner of vaccination; penalty. No child shall be vaccinated except after an opportunity has been given to the parent or guardian to be present at such vaccination, unless such parent or guardian shall have consented in writing to such vaccination, and then only by a duly licensed and authorized physician who shall use for such vaccination bovine virus only, obtained from standard manufacturers; such vaccination shall be only by means of scarifier and points put up in hermetically sealed tubes or other antiseptic receptacles; each receptacle shall be opened immediately before a scarifier or point is to be used, in the presence of the person to be vaccinated, and no scarifier or point shall be used for the vaccination of more than one person.

Any person violating any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 2020. [L. 1892, c. 67, s. 3; am. L. 1909, c. 63, s. 1; R. L. 1925, s. 964; R. L. 1935, s. 1124.]

REGULATIONS; VIOLATIONS.

Sec. 2341. Regulations. For the purpose of carrying out the provisions of this chapter, the board, with the consent of the governor, may make such regulations as it shall deem necessary which, when published in accordance with section 2012, shall have the force of law and shall be deemed notice to all persons. [L. 1911, c. 118, s. 17; R. L. 1925, s. 954; R. L. 1935, s. 1114.]

Sec. 2342. Penalty. Any person violating any of the provisions of this chapter, or any rule or regulation of the board of health relating thereto, shall be deemed guilty of a misdemeanor. Except as herein otherwise provided the punishment therefor shall be the same as provided by section 2020. [L. 1911, c. 118, s. 16; R. L. 1925, s. 953; R. L. 1935, s. 1113; am. L. 1943, c. 43, s. 5 (b, 2).]

CHAPTER 43. LEPERS; HOSPITALS AND SETTLEMENT.

	Secs.		Secs.
Hospital Authority, etc.	2401-2434	Government of the County of	
Non-Leprous Children of Lepers	2435-2436	KALAWAO	2438-2442
Damien Memorial	2437		

Sec. 2401. Hospital. There shall be established at and on such place on the island of Oahu, as the governor shall direct, a hospital for the care of persons affected with leprosy, there to receive such treatment as shall be provided or approved by the board of hospitals and settlement. [L. 1909, c. 81, s. 1; R. L. 1925, s. 1183; am. L. 1931, c. 139, s. 5; am. imp. L. 1933, c. 118, s. 2; R. L. 1935, s. 1140.]

Sec. 2402. Board of hospitals and settlement. A board of hospitals and settlement is created to consist of five members, at least two of whom shall be physicians, registered as such in the Territory, and three other persons, who shall be appointed, and may be removed, by the governor in manner provided by section 80 of the Organic Act. One of the members shall be designated by the governor as chairman of the board. The term of office of the members of the board shall be four years from and after the date of their respective appointments. Each member of the board must at the time of his appointment be an elector of the Territory and must have been such at least five years next preceding his appointment. The members of the board shall serve without pay. The term "board" whenever used in this chapter shall mean and refer to the board of hospitals and settlements. [L. 1931, c. 139, s. 1; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1141.]

Sec. 2403. Organization and meetings. The board shall hold regular public meetings at a designated time and place. The board may adopt such rules and regulations as it may consider necessary for the conduct of its business and the regulation of the matters herein committed to its charge, which rules and regulations when approved and published as provided by section 2425 shall have the force and effect of law. A majority of the board shall constitute a quorum for the transaction of business; provided that the affirmative vote of at least three members of the board shall be necessary to validate any action of the board.

All rules and regulations of the board of health relating to matters covered by this chapter shall, until modified, or repealed by the board of hospitals and settlement, remain in full force and effect. [L. 1931, c. 139, s. 2; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1142.]

See ss. 466-476, rules and regulations.

Sec. 2404. General superintendent. The board shall appoint a superintendent who shall have such authority as the board may delegate to him and shall have full power to administer the affairs of the hospitals and settlement subject to the direction and approval of the board. He shall be known as the superintendent of hospitals and settlement and shall serve at the pleasure of the board.

The superintendent shall, subject to the control of the board, have power to appoint and discharge other employees, subordinates and assistants as may be necessary for the proper conduct of the business and duties committed to the board. [L. 1931, c. 139, s. 3; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1143.]

Sec. 2405. Officers and employees; sickness and accident; expense. In case any officer or employee of the board becomes ill or is injured at the settlement at Kalaupapa and, in the opinion of the board or its agents, suitable medical, hospital, nursing or other services or facilities are not there available, the board may incur and pay the reasonable and necessary expenses of removing and transporting any such officer or employee to such place within the Territory as such hospital facilities or treatment can be secured. [L. 1941, c. 108, s. 1.]

See vacations, s. 551.

Sec. 2406. Appropriations, how spent. All moneys at any time appropriated for the upkeep, support, maintenance and conduct of any leper hospital, settlement or receiving station, shall be expended under the supervision and authority and by the order of the board, upon vouchers signed by the chairman. [L. 1931, c. 139, s. 4; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1144.]

Sec. 2407. Treatment and care of persons affected with leprosy. At every hospital, settlement and station maintained for the treatment and care of persons affected with leprosy, there shall be exercised every reasonable effort to effect a cure of such persons, and all such persons shall be cared for as well as circumstances will permit, and given such liberties as may be deemed compatible with public safety. Whenever deemed necessary by the board, such treatment shall be compulsory only in those cases where, in the opinion of the physicians and the superintendent, such treatment is necessary to save life or prevent obvious physical suffering, and the board may take such measures as may be necessary to enforce the provisions of this section.

All such persons shall be treated by physicians selected and designated by the board, but if deemed compatible with public safety, the board may, within its discretion, and under such conditions as it may prescribe, permit such treatment to be administered by other physicians selected and employed by such persons. Any person may at any time secure, free of charge, the examination provided for under section 2410, for the purpose of determining whether or not he is a leper, and in case he is found not to be a leper, the board, upon request, shall furnish him with a certificate setting forth such fact, the date of the examination, and the names of the physicians making such examination. [L. 1909, c. 81, s. 2; R. L. 1925, s. 1184; am. L. 1929, c. 147, s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1145.]

See s. 2019, transportation of patients.

Sec. 2408. Treatment and care of pregnant mothers affected with leprosy; disposition of children. Any woman in confinement at any place maintained for the treatment or care of lepers who shall become pregnant shall be immediately subjected to such necessary examination and care as the board may prescribe, and within a reasonable time of the possible delivery of child, the mother shall be put under such hospital care and attention as may be necessary to assure a healthy birth. Any child so born shall be immediately put under such care as will eliminate, as far as possible, its contracting the disease of leprosy, and shall at all future times be prohibited from entering any place devoted to the care and treatment of leprosy, except under such conditions as the board may prescribe, and unless such child shall become affected with leprosy. [L. 1929, c. 147, s. 2; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1146.]

Non-leprous children, s. 2435.

Sec. 2409. Notification. Every person who knows or has reason to believe, that he, or any other person not already under the care or control of the board, is a leper, shall forthwith report to the board or its authorized agent, or to the board of health or its authorized agent, that fact and such information relating thereto as he may have or the board or the board of health may require. Upon any report being made by any person that he knows or has reason to believe, that he, or any other person, not already under the care and control of the board, is a leper, the board or the board of health, receiving such report, shall immediately transmit to the other, a copy of all data and information secured by said board or board of health receiving such report. [L. 1909, c. 81, s. 3; R. L. 1925, s. 1185; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1147; am. L. 1939, c. 164, s. 1.]

Provision as to June 1, 1939 report to board of health deleted, functus.

Sec. 2410. Examination. Any person so reported, or otherwise believed to be a leper, may be examined at any time and place and by any physician or physi-

cians that may be agreed upon by him and the board of hospitals and settlement or its agent.

The board of hospitals and settlement or its agent may, however, instead, require such person to appear at a designated time and place not less than five days thereafter and then and there to submit to an examination by a board consisting of a physician selected by the patient, one skilled in the diagnosis of leprosy selected by the board of hospitals and settlement, or its agent, and a third physician skilled in the diagnosis of leprosy who shall be selected for his special fitness, to be recommended by the territorial medical association. In the event of the failure of any one of these to designate or recommend a physician, or, in the temporary absence of a physician designated or recommended, the two physicians selected shall select the third physician, and in the event of their failure to agree, the third physician shall be designated by the magistrate of the district. Such boards shall examine patients for the purpose of making a diagnosis to determine eligibility for temporary release or discharge, and shall make recommendations to the board of hospitals and settlement as to commitment to a hospital or transfer to the leper settlement, as to temporary release, or discharge, as will best promote public health.

Physicians designated by the board of hospitals and settlement, and those recommended by the territorial medical association, may be appointed to serve in certain areas and for certain periods or for certain specified cases of leprosy or of persons suspected of having leprosy.

The decision and recommendation of a majority of any board of physicians so appointed shall be accepted as the findings of the board.

If such person so examined is under the age of sixteen years, his parent or guardian, or next friend, may exercise such preference and thereafter represent such person as far as may be for the purposes of this section.

If, upon such examination, such person is found not to be a leper, the board shall furnish him a certificate setting forth such fact, the date of examination, and the names of the physicians making the examination. [L. 1909, c. 81, s. 4; R. L. 1925, s. 1186; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1148.]

Waiver, 31 H. 212.

Sec. 2411. Transfer to hospital. If upon such examination such person is found by such physicians or a majority of them to be a leper, he may be transferred by the board or its agent to such hospital. If he shall refuse or fail to appear and submit to any such examination at the time and place designated or agreed, he may be arrested and taken to such hospital upon a warrant issued by any circuit judge or district magistrate upon a sworn complaint setting forth the necessary facts and shall there be examined as near as may be as provided in section 2410. All lepers at such hospital shall remain in the custody of the board and its agent until lawfully discharged or removed by its direction or permission. [L. 1909, c. 81, s. 5; R. L. 1925, s. 1187; R. L. 1935, s. 1149.]

Segregation of lepers legal, 5 H. 162, 19 H. 218, 2 U. S. D. C. Haw. 227.

Sec. 2412. Removal to settlement. Any leper may be removed from such hospital or any other place to the settlement at Molokai at any time with his consent; but no leper shall be so removed until he has been at such hospital for at least six months unless, in the opinion of at least three licensed physicians, he cannot be materially benefited by further treatment there; **provided**, that any leper whose custody it has been necessary to obtain by arrest or who is unwilling to receive such treatment or to submit to such rules and regulations as the board may approve or prescribe may be so removed at any time. When so removed he shall remain in the custody or control of the board until lawfully discharged. [L. 1909, c. 81, s. 6; R. L. 1925, s. 1188; R. L. 1935, s. 1150.]

Sec. 2413. Discharge. Any person detained as a leper whether at the hospital or at the settlement at Molokai, or temporarily released under the provisions of section 2416, shall be released whenever the board shall be satisfied in any way that he is not a leper. Upon the request of any such person at any time not less than six months after any previous examination, he shall be examined by three licensed physicians, to be chosen in the manner provided in section 2410. Upon decision by a majority of the examining physicians that he is not a leper, he shall be discharged. [L. 1909, c. 81, s. 7; R. L. 1925, s. 1189; R. L. 1935, s. 1151; am. L. 1935, c. 37, s. 1.]

Sec. 2414. Expenses; rules. The board shall bear all expenses of travel and other necessary expenses incurred under sections 2401-2415; and may prescribe all

rules, regulations and forms and perform all acts necessary and proper for carrying out their provisions. [L. 1909, c. 81, s. 8; R. L. 1925, s. 1190; R. L. 1935, s. 1152.]

Sec. 2415. Penalty. Any physician or police or other officer who shall violate the provisions of section 2409 shall be liable to a penalty of not more than one hundred dollars and in addition thereto to forfeiture of his license to practice, or to removal from office as the case may be. [L. 1909, c. 81, s. 9; R. L. 1925, s. 1191; R. L. 1935, s. 1153.]

Sec. 2416. Temporary release. The board shall have full authority, when, in its opinion, it shall deem such course advisable, to permit or direct any person detained at the Kalihi hospital or at the settlement at Molokai to go therefrom to such other place or places and for such time or times as the board may designate, but no such direction or permission shall be construed as a discharge of such person under the provisions of sections 2401-2415. All such persons shall have all the rights and privileges, and be subject to all the obligations of said sections except only as otherwise expressly provided herein.

The board is authorized to make such provision as may be necessary from time to time for the treatment of persons temporarily released, for the periodical examination of any such person, for return to a hospital, and to declare temporary release at an end if the person so temporarily released fails or refuses to comply with such requirements and the leper officer or any police officer, when requested by the chairman of the board, shall forthwith return such leper to the receiving hospital. [L. 1911, c. 113, s. 1; R. L. 1925, s. 1192; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1154.]

Sec. 2417. Aid to indigents discharged. Immediately upon the release of any person from the Kalihi receiving hospital and the settlement at Kalaupapa, Molokai, who, in the opinion of the board, is indigent, the board shall give to such person a certificate showing such indigency. Upon presentation of such certificate to the auditor of the Territory, he shall immediately draw a warrant in favor of the holder thereof in the sum of sixty dollars, and shall further pay by warrant to such holder, the sum of thirty dollars thereafter for the three months immediately following. The payments shall be made out of such funds as shall be available from time to time for such purpose. [L. 1931, c. 179, ss. 1-3; am. imp. L. 1933, c. 118, s. 1; R. L. 1935, s. 1155.]

Sec. 2418. Concealing lepers, penalty. Whoever shall knowingly detain or harbor upon premises subject to his control, or shall in any manner conceal or secrete, or assist in concealing or secreting, any person affected with leprosy, with the intent that such person be not discovered by or delivered to the board or its agents; or who shall support or assist in supporting any person having leprosy living in concealment, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be liable to a fine of not more than one hundred dollars. [L. 1888, c. 74, s. 1; am. L. 1892, c. 66, s. 1; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1193; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1156.]

Sec. 2419. Deputy sheriffs or police officer to report lepers. It shall be the duty of every deputy sheriff or police officer having reason to believe that any person within his county or district is affected with leprosy, to report the same forthwith to the agent of the board of health in such district, if any, otherwise to the nearest agent of the board of health. [L. 1888, c. 74, s. 2; am. L. 1892, c. 66, s. 2; R. L. 1925, s. 1194; R. L. 1935, s. 1157; am. L. 1939, c. 104, s. 7; L. 1943, c. 62, s. 21 and c. 64, s. 22.]

Sec. 2420. Penalty. Any deputy sheriff or police officer who shall wilfully fail to comply with the provisions of section 2419 shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in a sum not less than ten dollars, nor more than two hundred dollars, and shall be dismissed from office. [L. 1888, c. 74, s. 3; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1195; R. L. 1935, s. 1158.]

Sec. 2421. Hospitals. The board is authorized to make arrangements for the establishment of hospitals on each island where leprous patients in the incipient stages may be treated in order to attempt a cure; and the board and its agents shall have full power to discharge all such patients as it shall deem cured, and to send to a place of isolation as provided by law, all such patients as shall be considered incurable or capable of spreading the disease of leprosy. [P. C. 1869, c. 62, s. 4; am. L. 1884, c. 24, s. 1; R. L. 1925, s. 1196; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1159.]

Sec. 2422. Permits to treat lepers. The board may permit any person to engage in the treatment of lepers or of persons supposed to have leprosy. Such permits shall be under such conditions and regulations as the board shall prescribe, and be revocable at the pleasure of the board. [L. 1892, c. 54, s. 1; R. L. 1925, s. 1197; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1160.]

Sec. 2423. Labor of patients by consent. The board or its agents, with consent of patients, may require such reasonable amount of labor or service as may be approved of by the attending physician. [P. C. 1869, c. 62, s. 5; R. L. 1925, s. 1198; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1161.]

Lepers are exempt from taxes on real property if exemption claimed: ss. 5147, 5150; gross income tax exemption, s. 5459.

Sec. 2424. Labor of patients at Kalihi Hospital. All outside labor, including yard work, at Kalihi receiving hospital, may be performed by patients at said hospital, as far as such patient-labor is available, and all such patient-laborers shall receive such reasonable compensation for their services as may be set by the board or its duly authorized agents. [L. 1937, c. 108, s. 1.]

Sec. 2425. Regulations. It shall be lawful for the board, through its chairman, to make and promulgate such rules and regulations as may be from time to time necessary for the government and control of the lepers placed under their charge, and such rules and regulations shall have the same force and effect as a statute law of the Territory; provided, always, that the sanction of the governor be given thereto, and that they be published in two newspapers, published in Honolulu, one in the Hawaiian, the other in the English language. [L. 1870, c. 33, pt. of s. 1; R. L. 1925, s. 1199; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1162.]

See ss. 466-476, rules and regulations.

Sec. 2426. Accounts, reports. The board shall keep an accurate and detailed account of all sums of money expended by it. And the board shall report to the legislature at its regular sessions, such expenditures in detail, together with such information regarding the disease of leprosy as it may deem to be of interest to the public. [P. C. 1869, c. 62, s. 7; R. L. 1925, s. 1200; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1163.]

Sec. 2427. Who allowed at settlement. No person, not being a leper, shall be allowed to visit or remain upon any land, place or inclosure set apart by the board for the isolation and confinement of lepers, without the written permission of the chairman of the board, or some officer authorized thereto by the board, under any circumstances whatever, and any person found upon such land, place or inclosure without a written permission, shall, upon conviction thereof, be fined in a sum not less than ten nor more than one hundred dollars for such offense. [L. 1870, c. 33, pt. of s. 1; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1201; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1164.]

Sec. 2428. Revolving fund for Kalaupapa store. To enable the board to operate and maintain the Kalaupapa store, situated at Kalaupapa, Molokai, the sum of ten thousand dollars is appropriated as a special fund to be deposited in the territorial treasury and to be a continual deposit, subject to the control of the board through its chairman, to be used from time to time in operating and maintaining the Kalaupapa store. All moneys withdrawn from such fund for such purposes shall be reimbursed or restored thereto, so far as may be, out of any moneys received or collected from the sales made in the Kalaupapa store and shall then be available for further use. [L. 1915, c. 15, s. 1; R. L. 1925, s. 1202; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1165.]

Additional sums were appropriated. L. 1925, c. 39, s. 1 (\$5,000.00); L. 1929, c. 231, s. 1 (\$10,000.00).

Sec. 2429. Kalaupapa store prices; penalty. It shall be unlawful for the board or its agents to sell or offer for sale any merchandise at the Kalaupapa store at prices exceeding the actual cost thereof, free on board steamer at Honolulu. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a fine of twenty-five dollars and in addition thereto shall, in the discretion of the board, be subject to removal from office. [L. 1927, c. 245, ss. 1, 2; am. imp. L. 1931, c. 139, s. 5; am. imp. L. 1933, c. 118, s. 1; R. L. 1935, s. 1166.]

Sec. 2430. Making or taking pictures without permit, prohibited; penalty. No person shall make or take any picture of any kind whatsoever at the settlement at Kalaupapa, county of Kalawao, or at the Kalihi hospital, Kapiolani girls' home or the Kalihi boys' home, city and county of Honolulu, unless he shall first have received a written permit, revocable at any time, from the board so to do, and then only for scientific purposes; **provided**, however, no picture of any kind whatsoever taken at the places hereinbefore mentioned prior to April 27, 1925, shall be exhibited to any person whomsoever, without the written approval, revocable at any time, of the board, which approval shall be given out for exhibitions for scientific purposes, without fee or compensation, and upon written application stating the specific time, place and nature of the occasion of such desired exhibition; **provided**, however, that nothing herein contained shall prevent the making or taking of photographs of persons confined in one or more of the institutions named in this section at the request of any person confined therein; but no such photograph shall be exhibited or displayed at any place other than within such institutions.

Any person violating any of the provisions of the preceding paragraph, or assisting or countenancing a violation thereof, shall be punished by a fine not exceeding five hundred dollars or by imprisonment for a term not exceeding six months, or by both fine and imprisonment. [L. 1923, c. 78, ss. 1, 2; R. L. 1925, s. 1203; am. L. 1925, c. 98, s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1167.]

Sec. 2431. Control of kokuas and voluntary helpers. Voluntary helpers or kokuas living with lepers segregated by the board are hereby placed under the control of the board and may be prevented by it from intermingling with those free from the disease. [L. 1888, c. 61, s. 1; R. L. 1925, s. 1204; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1168.]

Sec. 2432. Regulations. The board, with the consent of the governor, is empowered to make and promulgate such rules and regulations in regard to such helpers or kokuas for their care, discipline and maintenance as may be deemed necessary, which rules and regulations shall have the force and effect of law when promulgated. [L. 1888, c. 61, s. 2; R. L. 1925, s. 1205; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1169.]

Sec. 2433. Duties. Every kokua who has heretofore received permission, or who may hereafter get permission to go to the settlement, according to law, shall perform the duties of kokua to his leper friends as provided in section 2434, and in no other way. [L. 1890, c. 79, s. 1; R. L. 1925, s. 1206; R. L. 1935, s. 1170.]

Sec. 2434. Same. The duties to be performed by the kokuas of the lepers shall be that they must take care of the lepers they are there to assist and procure and prepare in a suitable manner all food and other supplies that are furnished by the Territory to the lepers, and attend to the clothing and other things that would contribute to the comfort of the lepers whose kokuas they are. The superintendent of the settlement, upon approval by the board, may require of any kokua reasonable services pertaining to patients other than those whom such kokua is there to assist, for which services they shall be paid such wages as are deemed fair and just by the board, such wages to be not less than one dollar per diem. The superintendent may, with the approval of the board, expel from the settlement any kokua refusing to render such service. [L. 1890, c. 79, s. 2; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1207; am. L. 1929, c. 149, pt. of s. 1; am. L. 1931, c. 139, s. 5; am. L. 1933, c. 118, s. 1; R. L. 1935, s. 1171.]

NON-LEPROUS CHILDREN OF LEPEERS.

Sec. 2435. Board to control homes. The home for non-leprous female children, known as the Kapiolani Girls' Home, Honolulu, and the home for non-leprous male children, known as the Kalihi Boys' Home, Honolulu, are placed under the care and control of the board of hospitals and settlement. [L. 1931, c. 214, s. 1; am. L. 1933, c. 118, s. 2; R. L. 1935, s. 1172.]

Sec. 2436. Wards of the Territory. All non-leprous children born to parents one or both of whom are leprous are declared wards of the Territory and placed in the care, custody and control of the board during minority; **provided**, that the board shall permit any child born to parents, only one of whom is leprous, to reside with its non-leprous parent, provided such parent is capable of caring for, educating and maintaining such child; **provided**, further, that the board may allow any non-leprous child to reside with such suitable family or person, as may

be for the best interest of such minor and the public welfare; and **provided**, further, that the board may allow any suitable person to adopt any non-leprous child; but if one or both of such child's parents are living, the board shall first secure his or their written consent. Any non-leprous child, whether he resides with his non-leprous parent or with a suitable family or person, or with his adopted parent or parents shall be subject to medical examination from time to time as the board may deem necessary.

The board shall have power to allow any such minor to engage in such pursuits, under the direction and orders of individuals, and upon such terms as to remuneration for such employment, as the board may deem proper, and the earnings of such minor shall be deposited by the board in a bank in trust for such minor during his minority. This paragraph shall not apply to any such minor permitted to reside with his non-leprous parent, or who has been adopted and is residing with his adopted parent or parents. [L. 1931, c. 214, s. 2; am. L. 1933, c. 118, s. 2; R. L. 1935, s. 1173, am. L. 1941, c. 84, s. 1.]

See 32 H. 731.

DAMIEN MEMORIAL.

Sec. 2437. Chapel declared public memorial. The Father Damien Memorial Chapel at Kalawao, Molokai, and the premises and graveyard thereof are hereby declared to be a public memorial to Father Damien. [L. 1935, c. 38, s. 1.]

ss. 2, 3 of L. 1935, c. 38, re appropriations, omitted.

GOVERNMENT OF THE COUNTY OF KALAWAO.

Sec. 2438. Governed by board of hospitals and settlement. The county of Kalawao shall be under the jurisdiction and control of the board of hospitals and settlement and be governed by the laws, rules and regulations relating to the board and the care and segregation of lepers, except as herein limited. [L. 1905, c. 39, s. 2; R. L. 1925, s. 1577; am. L. 1931, c. 138, s. 1; am. imp. L. 1933, c. 118, ss. 1, 2; R. L. 1935, s. 2928.]

Liquor, c. 137; real property taxes, s. 5102; fuel tax, s. 5404; s. 9631, in first judicial circuit.

Sec. 2439. Sheriff, appointment, removal. There shall be no county officer in the county other than a sheriff, who shall be a resident of and be appointed in the county by the board of hospitals and settlement and who shall hold office at the pleasure of the board or until his successor is appointed by the board. [L. 1905, c. 39, s. 3; am. L. 1911, c. 134, s. 1; R. L. 1925, s. 1578; am. L. 1931, c. 138, s. 1; am. imp. L. 1933, c. 118, ss. 1, 2; R. L. 1935, s. 2929.]

Sec. 2440. Sheriff, salary. The salary of the sheriff shall be fixed and paid by the board of hospitals and settlement out of the appropriation allowed by the legislature for the care and segregation of lepers. [L. 1905, c. 39, s. 4; R. L. 1925, s. 1579; am. L. 1931, c. 138, s. 1; am. imp. L. 1933, c. 118, ss. 1, 2; R. L. 1935, s. 2930.]

Sec. 2441. Sheriff, duties. The sheriff of the county of Kalawao shall preserve the public peace and shall arrest and take before the magistrate for examination all persons who attempt to commit or who have committed a public offense and prosecute the same to the best of his ability. [L. 1905, c. 39, s. 5; R. L. 1925, s. 1580; R. L. 1935, s. 2931.]

Sec. 2442. Sheriff, powers. The sheriff shall have power to appoint and dismiss and reappoint at his discretion five policemen for the county who, for the services rendered as policemen, shall receive such pay as the board of hospitals and settlement shall determine and which pay shall be taken out of and from the appropriation made by the legislature for the care and segregation of lepers, and he shall have such other powers and duties within the county of Kalawao and appropriate thereto as are prescribed by law for the chiefs of police or police officers of the several counties respectively. [L. 1905, c. 39, s. 6; R. L. 1925, s. 1581; am. L. 1931, c. 138, s. 1; am. imp. L. 1933, c. 118, ss. 1, 2; R. L. 1935, s. 2932.]

s. modified in view of changes in county police.

CHAPTER 44. MATTRESSES, MANUFACTURE, ETC.
AND SALE OF.

Sec. 2471. Definition. The term "mattress" as used in this chapter shall be construed to mean any quilted pad, comforter, mattress, mattress-pad, bunk quilt or cushion, stuffed or filled with wool, hair, or other soft material to be used on a couch or other bed for sleeping or reclining purposes. [L. 1927, c. 234, s. 1; R. L. 1935, s. 1190.]

Sec. 2472. Materials. No person, by himself or by his agents, servants, or employees, shall employ or use in the making, re-making or renovating of any mattress, any material of any kind that has been used in or has formed a part of, any mattress used in or about any public or private hospital, or institution for the treatment of persons suffering from disease, or for or about any person having any infectious or contagious disease; any material known as "shoddy," and made in whole or in part from old worn clothing, carpets or other fabrics, or materials previously used, or any other fabrics, or materials from which shoddy is constructed; or any material, not otherwise prohibited by this chapter, of which prior use has been made, unless all of such materials have been thoroughly sterilized, and disinfected by a reasonable process, approved by the territorial board of health. [L. 1927, c. 234, s. 2; R. L. 1935, s. 1191.]

Sec. 2473. Tag, statement, form. No person, by himself or his agents, servants, or employees, shall, directly or indirectly, at wholesale or retail, or otherwise, sell, offer for sale, deliver or consign, or have in his possession with intent to sell, deliver or consign, any mattress that shall not have plainly and indelibly stamped or printed thereon, or upon a muslin or linen tag, not smaller than three inches square, securely sewed to the covering thereof a statement, in the English language, setting forth the kind or kinds of materials used in filling the mattress, and whether the materials are in whole, or in part, new or old, or second-hand, or shoddy, and the name and address of the manufacturer or vendor thereof, or both; also the quantity of such materials used, expressed in terms of avoirdupois weight; also size of same, expressed in linear measure, clearly indicating the length and breadth thereof, except that tags attached to comforters need state only the percentage of new material and shoddy material, and that no sizes be marked on same; **provided**, however, that this chapter shall not apply to the sale or other disposal by the owner thereof, of any mattress constituting a part of his household furniture.

The statement shall be in the following form:

Materials Used In Fillings

Percentage of kinds of materials.....Gross weight
of materials, including cover.....pounds.....Size.....
Vendor..... Address.....

[L. 1927, c. 234, ss. 3, 11; R. L. 1935, s. 1192.]

Sec. 2474. Statement, contents, use. Whenever the word "felt," as applied to cotton, is used in the statement concerning materials, it shall be indicated in the statement whether the felt is "felted cotton" or "felted linters." This requirement shall not apply to comforters. It shall be unlawful to use in the statement concerning any mattress the word "floss" or words of like import, if there has been used in filling the mattress any materials which are not termed as "kapok." It shall be unlawful to use in the statement concerning any mattress the word "hair" unless the mattress is entirely manufactured of animals' hair. It shall be unlawful to use in the description in the statement any misleading term or designation, or term or designation likely to mislead. [L. 1927, c. 234, ss. 4-7; R. L. 1935, s. 1193.]

Sec. 2475. Tag or stamp. Any mattress made from more than one new material shall have stamped upon the tag attached thereto the percentage of each material so used. This requirement shall not apply to comforters. Any mattress made from any material of which prior use has been made shall have stamped or printed upon the tag attached thereto, in type not smaller than twenty-point, the words "second-hand material." Any mattress made from material known as "shoddy" shall have stamped or printed upon the tag attached thereto, in type not smaller than twenty-point, the words "shoddy material." [L. 1927, c. 234, ss. 8-10; R. L. 1935, s. 1194.]

Sec. 2476. Penalty. Any person who shall remove, deface, alter, or in any manner attempt the same, or shall cause to be removed, defaced, or altered, any mark or statement placed upon any mattress under the provisions of this chapter shall be guilty of the violation of this chapter.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars, and not to exceed one hundred dollars, for each offense, or by imprisonment for not less than three months, and not exceeding six months, or by both fine and imprisonment. [L. 1927, c. 234, ss. 12, 13; R. L. 1935, s. 1195.]

CHAPTER 45. MEDICINE AND SURGERY.

Sec. 2501. License required. Except as otherwise provided by law, no person shall practice medicine or surgery in the Territory either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "Dr." to his name, with the intent thereby to imply that he is a practitioner of medicine or surgery, without having a valid unrevoked license, obtained from the board of health of the Territory, in form and manner substantially as hereinafter set forth. Such license shall only be granted upon the written recommendation of the board of medical examiners; **provided**, that nothing herein contained shall apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; **provided** also, that nothing herein contained shall prohibit service in the case of emergency or the domestic administration of family remedies; **provided**, further, that nothing herein contained shall apply to any commissioned medical officer in the United States army, navy, marine corps or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this Territory if such practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; **provided**, however, that such practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the Territory; and **provided** further, that the laws and regulations relating to contagious diseases are not violated. [L. 1896, c. 60, s. 1; am. L. 1905, c. 48, s. 1; am. L. 1909, c. 124, s. 1; am. L. 1919, c. 22, s. 1; am. L. 1920, c. 37, s. 2; am. L. 1921, c. 14; R. L. 1925, s. 1022; am. L. 1925, c. 26, s. 1; R. L. 1935, s. 1200; am. L. 1939, c. 183, s. 1.]

Prior to enactment of this chapter, both license and certificate from board of health were necessary, 4 H. 9; treasurer could not revoke licenses issued on recommendation of board of health, 15 H. 273.

As to pleading and proof in prosecution for practicing medicine without license, 21 H. 465. L. 1905, c. 48, requiring applicant to pay fee held invalid, 17 H. 389. See, 25 H. 445, 452; 29 H. 422.

Sec. 2502. Practice of medicine defined. For the purposes of this chapter the practice of medicine shall be held to include the use of drugs and medicines, water, electricity, hypnotism, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject; **provided**, however, that nothing herein contained shall be held to forbid any person from the practice of any method, or the application of any remedial agent or measure under the direction or with the approval of a licensed physician; and **provided** further, that when a duly licensed physician pronounces a person affected with any disease hopeless and beyond recovery and shall give a written certificate to that effect to the person affected or his attendant nothing herein contained shall be held or construed to forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of such affected person.

The provisions of this section shall not be construed to amend or repeal the law respecting the treatment of those affected with leprosy. [L. 1896, c. 60, s. 2; am. L. 1909, c. 133, s. 1; R. L. 1925, s. 1023; R. L. 1935, s. 1201.]

Sec. 2503. Board of medical examiners; qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery except upon the written report of a board of medical examiners, to be appointed and constituted as in this chapter provided, setting forth that the

applicant named therein has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for such examination he shall have furnished proof satisfactory to the board of examiners that he:

(a) (1) is a citizen of the United States; or (2), if not a citizen of the United States, had on May 6, 1939 been a bona fide resident of the Territory for a period of ten years and who, on said date was attending or had attended or graduated from a recognized medical school or college approved by the American Medical Association or by the State in which said medical school or college is situated and who on said date intended to practice medicine and surgery in Hawaii and who has applied for examination prior to January 1, 1944;

(b) has been a resident of the Territory for at least one year;

(c) is of good moral character;

(d) is a graduate of a medical school or college classified as class "A" in the classification of the American Medical Association, or, in lieu thereof, has actively practiced, either in some other jurisdiction or in the United States army or navy or public health service (United States), as a licensed physician of medicine or surgery for ten out of the eleven years immediately preceding, or is a graduate of a medical school or college as described above in paragraph (a) (2);

(e) has served an internship of at least one year in a hospital, certified or approved by the American Medical Association council on medical education and hospitals for the training of internes and resident physicians certified or approved by the state in which is situated the medical school or college from which the applicant graduated as set forth above in paragraph (a) (2);

(f) has visited the Kalihi receiving hospital for lepers and is possessed of a written statement from the senior medical officer at said hospital that the applicant is familiar with the general clinical manifestations of leprosy.

Diplomates of the national board of medical examiners who meet the requirements of paragraphs (a), (b), (c) and (d) above shall be licensed without the necessity of any further examination.

The governor, upon the recommendation of the board of medical examiners, where in their opinion a public emergency precludes obtaining an adequate number of physicians or surgeons who have the residence qualifications required by this section, may waive said residential requirement in each instance during the period of emergency. [L. 1896, c. 60, s. 3; am. L. 1920, c. 37, s. 1; R. L. 1925, s. 1024; am. L. 1925, c. 26, s. 2; R. L. 1935, s. 1203; am. L. 1939, c. 183, s. 1; am. L. 1941, c. 181, s. 1; am. L. Sp. 1941, c. 40, ss. 1, 2, 3.]

Sec. 2504. Appointment, removal, qualifications. For the purpose of carrying out the provisions of this chapter the governor is authorized and directed to appoint in the manner prescribed in section 80 of the Organic Act, a board of medical examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery, and to report the result of such examination to the board of health.

The board of medical examiners shall consist of three persons, all of whom shall be licensed physicians or surgeons under the laws of the Territory. The appointments, unless to fill out unexpired terms, shall be for three years, subject, however, to removal by the governor in the manner prescribed in section 80 of the Organic Act. The members of the board shall serve without pay. [L. 1896, c. 60, s. 4; R. L. 1925, s. 1025; R. L. 1935, s. 1204.]

Sec. 2505. Fees; special fund; expenses. No applicant shall be examined under this chapter until he has paid to the board of examiners a fee of twenty-five dollars. Every person holding a license under this chapter shall re-register with the board of examiners each year, not later than January 31st and for such re-registration shall pay a fee of two dollars. Failure so to do shall constitute a forfeiture of license, which may be restored only upon written application therefor and the payment to said board of a fee of twenty-five dollars. All of said fees shall be paid into the territorial treasury and there be deposited into a special fund for the payment, on vouchers approved by the chairman or acting chairman of said board, of the expenses of said board in conducting examinations, which shall be held semi-annually, and in otherwise enforcing the provisions of this chapter. [L. 1896, c. 60, s. 5; L. 1920, c. 37, s. 2; am. L. 1921, c. 14, ss. 5, 10; R. L. 1925, s. 1026; am. L. 1925, c. 26, s. 3; am. imp. L. 1925, cc. 27, 29; R. L. 1935, s. 1205; am. L. 1939, c. 183, pt. of s. 1.]

Sec. 2506. Form of license. The form of license to practice medicine and surgery shall be substantially as follows:

Territory of Hawaii, Board of Health.

License to Practice Medicine and Surgery.

....., a native of....., age years, having been duly examined by the board of medical examiners, and having been recommended by the board of health as possessed of the necessary qualifications, is hereby licensed to practice medicine and surgery in the Territory of Hawaii.

This license is granted and accepted on the express condition that it may be revoked at any time for any of the causes enumerated in section 2507, Revised Laws of Hawaii 1945, which cause or causes shall have been proven to the satisfaction of the board of health.

Given under the seal of the board of health this.....day of....., A. D.....

(Signed) BOARD OF HEALTH,

By.....
Its President.

[L. 1896, c. 60, s. 9; R. L. 1925, s. 1027; am. L. 1925, c. 26, s. 4; R. L. 1935, s. 1206; am. L. 1939, c. 183, pt. of s. 1.]

Sec. 2507. Revocation and restoration of licenses. Licenses to practice medicine and surgery may be revoked by the board of health at any time for any of the following causes:

1. Procuring or aiding or abetting in procuring a criminal abortion;
2. Employing what are popularly known as "cappers" or "steerers";
3. Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
4. Wilfully betraying a professional secret;
5. All advertising of one's medical business in which untruthful and improbable statements are made;
6. All advertising of any medicine, or of any means, whereby the monthly periods of women can be regulated, or the menses reestablished if suppressed;
7. Conviction, whether on a plea of nolo contendere and whether sentence or the imposition or execution of sentence has been suspended or not, of a felony or of a misdemeanor involving moral turpitude;
8. Habitual intemperance;
9. Habitual use of habit forming drugs, such as opium, or any of its derivatives, morphine, heroin, cocaine, etc.;
10. Procuring a license through fraud, misrepresentation, or deceit;
11. Professional misconduct, gross carelessness and manifest incapacity; any one or more of said causes having been proven to the satisfaction of the board of health.

In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of such revocation, in writing, by the board of health. Licenses to practice medicine and surgery may not be restored by the board of health without the approval of the board of medical examiners. [L. 1896, c. 60, s. 7; am. L. 1917, c. 116, s. 1; R. L. 1925, s. 1029; am. L. 1925, c. 26, s. 5; R. L. 1935, s. 1208; am. L. 1939, c. 183, pt. of s. 1; am. L. 1941, c. 4, s. 2.]

False statement as to insurance as ground for revocation, s. 8550.

Constitutionality, 31 H. 625, aff. 52 F. 2d 411. Advertising, 294 U. S. 608.

Sec. 2508. Notice, hearing. In any hearing before the board of health for the revocation of a license to practice medicine and surgery for any of the causes enumerated in section 2507, the person charged shall be notified in writing of the charge or charges that have been made, and of the time and place when and where evidence in support of the same will be heard, and shall have the opportunity to present evidence and be heard in his own defense. [L. 1896, c. 60, s. 8; R. L. 1925, s. 1030; R. L. 1935, s. 1209; am. L. 1939, c. 183, pt. of s. 1.]

Sec. 2509. Board of health, power to subpoena in certain cases. In all such cases, the board of health is vested with the power to subpoena and examine witnesses under oath on such matters as relate to the charge made. The circuit court of the circuit in which the hearing is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses so subpoenaed. [L. 1917, c. 61, s. 1; R. L. 1925, s. 1031; R. L. 1935, s. 1210.]

Sec. 2510. Recalcitrant witnesses; contempt. If any person called before the board as a witness, under subpoena or otherwise, shall, except as privileged by the laws of the Territory, refuse to answer any question or questions material to the matter pending before the board asked him by the board or any of its members, or shall disobey any order of the circuit court relating to the matter pending, the board, by its president, shall report the matter in writing to any circuit judge of the circuit in which the hearing is held, and the witness shall be cited to appear before the circuit judge and be required to show cause why he should not be punished for contempt of court, as provided by chapter 244, and be subject to all penalties in said chapter contained. [L. 1917, c. 61, s. 2; R. L. 1925, s. 1032; R. L. 1935, s. 1211.]

Sec. 2511. Perjury. False swearing before the board of health shall be punished as perjury, and whenever the board is satisfied that a witness has sworn falsely in any such hearing before the board, it shall report the same to the prosecuting officer of the respective county in which the hearing is held, who shall prosecute the witness for perjury. [L. 1917, c. 61, s. 3; R. L. 1925, s. 1033; am. imp. L. 1932, 1st, c. 13, pt. of s. 1; R. L. 1935, s. 1212.]

See c. 272, perjury.

Sec. 2512. Penalty. Any person who shall violate any of the provisions of this chapter, or who shall offer or in any way attempt to engage in the practice of medicine as defined in section 2502 and shall fail to comply with any of the requirements or provisions of this chapter, penalty for which violation or failure to comply is not otherwise provided for, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or six months' imprisonment, and each day's violation or failure to comply shall be deemed a separate offense.

All tools, implements, medicine and drugs used in the practice of medicine by any person convicted of practicing medicine without a license shall be declared forfeited to the Territory by the court and ordered destroyed. [L. 1896, c. 60, s. 6; R. L. 1925, s. 1028; am. L. 1929, c. 109, s. 1; R. L. 1935, s. 1207.]

The words "or who" in 3rd line changed to "and", to make sense.

REPORTS OF WOUNDS.

Sec. 2513. Duty of physician, surgeon, hospital, clinics, etc., to report wounds caused by knife or firearms; penalty. It shall be the duty of every physician and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn or other injury received from or caused by the discharge of a gun, pistol or other firearm, or, whenever such case is treated in a hospital, clinic or other institution, the duty of the manager, superintendent or person in charge thereof to report such case to the chief of police of the county within which the person was attended or treated, giving the name of the injured person and the nature of the injury.

The provisions of this section shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or of the Territory while engaged in the actual performance of duty.

Any person who shall fail to make the report called for herein within twenty-four hours after such attendance or treatment shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars. [L. 1933-34, c. 27, ss. 1, 2; R. L. 1935, s. 1202; am. L. 1943, c. 23, s. 1.]

First par. rewritten to omit reference to county sheriffs in view of changes in county police systems.

CHAPTER 46. MEDICINAL USE OF HAWAIIAN HERBS AND PLANTS.

Sec. 2531. Permit issued by president of board of health. The president of the board of health is authorized and empowered to issue a permit to any person applying for the same to administer and use medicines made from Hawaiian herbs and plants grown in the Territory. [L. 1919, c. 193, s. 1; R. L. 1925, s. 1053; R. L. 1935, s. 1220.]

Sec. 2532. Application. Any person desiring to obtain such a permit shall file with the president of the board his application, verified by oath, containing the following statement: (1) name and address of applicant; (2) nationality of

applicant; (3) experience of applicant in the use of such medicines, giving names thereof and purposes for which used. [L. 1919, c. 193, s. 2; R. L. 1925, s. 1054; R. L. 1935, s. 1221.]

Sec. 2533. Affidavits to accompany application. Such application shall be accompanied by the affidavits of three disinterested persons showing that such persons are acquainted with the applicant and that the applicant is, in their opinion, qualified to administer and use such medicines, and of good moral character, giving full and detailed reasons for such opinion. [L. 1919, c. 193, s. 3; R. L. 1925, s. 1055; R. L. 1935, s. 1222.]

Sec. 2534. Permit granted when. Upon the filing of such application accompanied by such affidavits, the president may issue to the applicant the permit above described under such rules as may be prescribed by the board. [L. 1919, c. 193, s. 4; R. L. 1925, s. 1056; R. L. 1935, s. 1223.]

CHAPTER 47. MENTAL HYGIENE BUREAU.

Sec. 2551. Bureau; director and assistants. There is hereby created under the board of health of the Territory a bureau of mental hygiene which shall be in charge of a director who shall be appointed in the manner provided by section 2004, who shall be a duly licensed doctor of medicine of the Territory, and certified as a psychiatrist by the American Board of Psychiatry and Neurology, Inc., and who shall receive as compensation such amount as his position is entitled to under the operation of chapter 3.

There shall also be appointed by the board of health, a secretary of the bureau and such other professional and non-professional assistants to the director as the board of health shall deem necessary and for which appropriations are available. [L. 1939, c. 257, pt. of s. 1.]

Provisions as to compensation revised to conform to classification law. See ss. 1959-1961, University of Hawaii clinic.

Sec. 2552. Functions of the bureau; charges for services; detention of patients. The powers, duties and functions of the bureau shall be in accordance with rules promulgated by the board of health, as follows:

(1) To foster and promote a general educational program to acquaint the public with the principles of mental hygiene, and for the prevention of mental illness;

(2) To cooperate, within limits fixed by such rules, with all territorial and county institutions and officials in matters relating to psychiatric problems including (a) consultations, (b) case work in connection with paroled and discharged patients from such institutions when requested by the superintendent or person in charge of any such institution;

(3) To record and compile histories, statistics and other information relating to the work of the bureau; **provided**, that nothing herein contained shall be deemed to supersede the provisions of section 9840 relating to privileged communications;

(4) To conduct an in-patient and out-patient mental hygiene clinic for the examination, study, diagnosis, and treatment of cases of mental illness, and in such connection: (a) to make such arrangements as may be necessary within available appropriations and subject to the provisions of this chapter to maintain such clinic on the island of Oahu at or in conjunction with any private hospital approved by the board of health; (b) within available appropriations to extend the services of such clinic to other islands as needed by means of visits, resident workers, and other supplementary services, and to make necessary arrangements for needed facilities therefor with any hospital approved by the board of health; (c) to determine through the director which cases are appropriate for treatment by the clinic; (d) to make reasonable charges for professional and other personal services rendered to patients, but in making such charges the financial circumstances of the patient shall be taken into consideration; **provided**, that no such charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or deprive his dependents of necessary support; (e) to furnish medicines and other supplies with or without expense to any patient as deemed appropriate by the director, but charges for services, medicines and other supplies furnished by any

hospital shall be paid by the patient to the hospital, except that in the case of any indigent such charges shall be paid by the county in which he resides.

When any in-patient mental hygiene clinic is conducted, any person who is admitted thereto for examination, study, diagnosis and treatment may be detained therein until he is discharged, or until he is committed or admitted to the territorial hospital as in chapter 69 provided; but when any such person so admitted for examination, study, diagnosis and treatment, or any other person on his behalf, shall object to his detention therein and shall make written demand on the director for his release, he shall be released unless in the opinion of the director he is insane, and in any event he shall be released after such demand unless within forty-eight hours (Sundays and holidays excluded) from the time of receipt of such demand an application has been made by the director for an order of commitment to the territorial hospital, or an order of temporary commitment to a county detention ward as in chapter 69 provided or to the mental hygiene clinic as the magistrate or judge may decide. [L. 1939, c. 257, pt. of s. 1; am. L. 1941, c. 325, s. 8.]

Sec. 2553. Clinic collections territorial realizations. All monies collected by the mental hygiene clinic for services rendered and for medicines and other supplies furnished to patients shall be territorial realizations. [L. 1939, c. 257, pt. of s. 1.]

Appropriation, s. 2, omitted.

CHAPTER 48. MENTAL INSTITUTIONS, PRIVATE.

Sec. 2581. Private institutions to be licensed. No person, association, or corporation shall establish, maintain, or operate an institution for the care or custody and treatment of persons with mental disorders, or of mental defectives or other incompetent persons, for compensation or hire, without first obtaining a license therefor from the board of health. Such license, if issued, may be for a definite period and shall be subject to revocation as hereinafter provided.

Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the buildings and the use intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the board may require. The board shall not grant any such license without first having made, or caused to be made, an examination of the premises proposed to be licensed, nor unless the board is satisfied that they are substantially as described, and are otherwise fit and suitable for the purpose for which they are designed to be used, and that such license should be granted.

If the institution is to treat persons with mental disorders, it must be constantly in the charge of a duly licensed physician of the Territory to be designated "medical director", who shall have had two years' actual experience as a member of the medical staff of an institution for the care and treatment of persons with mental disorders; the appointment of such medical director, and of all assistant physicians, must be approved in writing by the commissioner of public health. Every such institution shall employ as head nurse, a graduate of a training school of a hospital for mental disorders or a graduate of a general hospital training school who has had experience in the institutional care of persons with mental disorders; the appointment of such head nurse shall be subject to the approval of the president of the board of health. The nursing force in every such institution shall be adequate to care for the patients under treatment therein in accordance with modern standards; such nursing force shall be increased, whenever deemed inadequate by the board.

The board, or its agents, may, at any and all times, examine and ascertain whether or not a licensed institution is conducted in compliance with the license therefor, and the laws and rules applicable thereto, and, after due notice to the institution and opportunity for it to be heard, a record having been made of the proceedings upon such hearing, the board may, if the interests of the public or of the inmates of the institution so demand, for just and reasonable cause then appearing and to be stated in its order, amend or revoke any such license, by an order to take effect within such time after the service thereof upon the licensee as the board shall determine.

This action shall not apply to a general hospital making provision in a pavilion or special wards for the care, nursing and observation or temporary detention of persons alleged to be suffering from mental disorders, or of mental defectives or other incompetent persons, pending examination for commitment to the territorial hospital or an institution licensed as herein provided. [L. 1939, c. 250, pt. of s. 1.]

Sec. 2582. Chapter 69 applicable to certain institutions. The provisions of chapter 69 with respect to persons with mental disorders, and their commitment, admission, detention, discharge and parole, and appeals to the psychiatric commission, shall be applicable, insofar as the same may be appropriate, to any such licensed institution for the care and treatment of persons with mental disorders, to the same extent, as nearly as may be, as in the case of the territorial hospital and persons committed or admitted thereto. Wherever in chapter 69, provision is made for commitment or admission to the territorial hospital, such provision shall be deemed to authorize such commitment or admission to any such licensed institution in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to the territorial hospital; provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the patient and by the medical director of such licensed institution. The medical director of such licensed institution shall have the same authority with respect to the parole and discharge of patients committed or admitted to his institution, as the medical director of the territorial hospital with respect to patients committed or admitted thereto, subject, however, to the approval of the president of the board of health. It is provided, however, that this chapter shall not be deemed to authorize the commitment of any person charged with or convicted of crime to any such licensed institution. [L. 1939, c. 250, pt. of s. 1.]

Sec. 2583. Chapter 70 applicable to certain institutions. The provisions of chapter 70 with respect to feeble-minded persons and their commission, admission, detention, discharge and parole, shall be applicable, insofar as the same may be appropriate, to any licensed institution for the care of such feeble-minded persons, to the same extent, as nearly as may be, as in the case of Waimano Home and persons committed or admitted thereto. Wherever in chapter 70, provision is made for commitment or admission to Waimano Home, such provision shall be deemed to authorize such commitment or admission to any licensed institution mentioned in this section, in the same manner, and with the same effect, and subject to the same conditions, as nearly as may be, as in the case of persons committed or admitted to Waimano Home, provided that such commitment or admission is consented to in writing by the guardian or relative having the custody of the person concerned and by the superintendent of such licensed institution. The superintendent of such institution may, with the approval of the director of institutions, parole or discharge any inmate, if it appears that such inmate will be properly cared for or that his detention is no longer necessary for his own welfare or the safety of the public. [L. 1939, c. 250, pt. of s. 1.]

Note: "board of commissioners of Waimano Home" changed to read "director of institutions" to conform to L. 1941, c. 5. Error in referring to commitments to territorial hospital corrected so as to refer to Waimano Home.

Sec. 2584. Rules. The board of health may adopt rules for the conduct of such licensed institutions which shall be, as nearly as may be, similar to applicable rules governing corresponding territorial institutions, but which may require the approval of the president of the board of health to any specified action by such institution. Such rules shall, among other things, require reports concerning patients or inmates of such institutions to be made to the president of the board of health at such times and in such manner as set forth in said rules. [L. 1939, c. 250, pt. of s. 1.]

Note: "commissioner of public" changed to "president of the board of" to conform to L. 1943, c. 43.

Sec. 2585. Penalty. Any person, association or corporation which shall establish, maintain or operate an institution for the custody and treatment of persons with mental disorders, or of mental defectives or other incompetent persons, for compensation or hire, without holding a valid unrevoked license therefor under this chapter, and any officer of any association or corporation who participates as such in any such violation of this chapter, shall be guilty of a misdemeanor, punishable by fine of not more than one thousand dollars, or, in the case of an individual by imprisonment for not more than six months or by both such fine and imprisonment. [L. 1939, c. 250, pt. of s. 1.]

CHAPTER 49. NARCOTIC DRUGS, UNIFORM ACT.

Sec. 2601. Definitions. Whenever used in this chapter unless the context otherwise requires:

"Apothecary" means a licensed pharmacist or druggist as defined by the laws of the Territory.

"Authorized" means authorized by federal or territorial law.

"Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation thereof.

"Dentist" means a person authorized by law to practice dentistry in the Territory.

"Dispense" includes distribute, leave with, give away, dispose of and deliver.

"Habit-forming drugs" means coca leaves and opium.

"Hospital" means a hospital approved by the board of health of the Territory as proper to be entrusted with the custody and professional use of narcotic drugs under the direction of a physician.

"Laboratory" means a laboratory approved by the board of health of the Territory as proper to be entrusted with the custody of narcotic drugs and the use of them for scientific and clinical purposes and for purposes of instruction.

"Manufacturer" means a person who by compounding, mixing (cultivating and growth), or other process, produces or prepares habit-forming drugs for sale on written orders, and does not include an apothecary who compounds habit-forming drugs to be sold or dispensed on prescription.

"Opium" includes morphine, codeine, diacetylmorphine and heroin, and any compound, manufacture, salt, derivative, mixture or preparation thereof, but does not include apomorphine or any of its salts.

"Person" includes any corporation, association, copartnership, or one or more individuals.

"Physician" means a person authorized by law to practice medicine in the Territory and any other person authorized by law to treat the sick and injured and to use narcotic drugs in connection with such treatment.

"Practitioner" means a person having control of habit-forming drugs under the provisions of paragraphs c, d, and e of sub-section 1 of section 2605.

"Sale" includes barter, exchange or giving away, or offering therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

"The federal narcotic Act" means the Act of Congress, entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations and for other purposes," approved December seventeenth, nineteenth hundred and fourteen, and Acts amendatory thereof.

"Veterinarian" means a person authorized by law to practice veterinary medicine in the Territory.

"Wholesaler" means a person who supplies habit-forming drugs on written orders.

"Written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under authority of the federal narcotic Act, or on an official form provided for that purpose by the board of health of the Territory. [L. 1931, c. 152, s. 1; R. L. 1935, s. 1270.]

For construction and interpretation of this chapter, see L. 1931, c. 152, ss. 23, 24. See also Food, Drug and Cosmetic Act, part 12, c. 41; Nuisances, c. 51; Pharmacists, c. 55.

Sec. 2602. Acts dangerous to public health. Any unauthorized production, manufacture, possession, control, sale, prescribing, administering, dispensing or compounding of habit-forming drugs is declared to be dangerous to the public health and a menace to the public welfare. [L. 1931, c. 152, s. 2; R. L. 1935, s. 1271.]

Sec. 2603. Acts prohibited. It shall be unlawful for any person to produce, manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound any habit-forming drug, except as provided in this chapter. [L. 1931, c. 152, s. 3; R. L. 1935, s. 1272.]

Sec. 2604. Production and manufacture authorized. No person shall produce or manufacture habit-forming drugs unless he has been authorized so to do by the board of health of the Territory. Licenses issued by the board shall be issued under regulations promulgated by the board with the approval of the governor, to restrict production and manufacture to medical and scientific pur-

poses, and shall be renewable annually on January 1. [L. 1931, c. 152, s. 4; R. L. 1935, s. 1273.]

Sec. 2605. Sale on written orders. 1. **By whom and to whom sold.** A manufacturer, wholesaler, or apothecary may sell or distribute habit-forming drugs only to any of the following persons upon written orders: (a) to a manufacturer, wholesaler or apothecary; (b) to a physician, dentist or veterinarian; (c) to a public or private hospital; (d) to a person in charge of a laboratory where habit-forming drugs are used for scientific or medical research, but only for use in such laboratory; (e) to a person in the employ of the United States or of the Territory or any political subdivision thereof, purchasing or receiving the drug by reason of his official duties; (f) to a captain or proper officer of a ship upon which no regular physician is employed, for the actual medical needs of the officers, passengers and crew when not in port; **provided**, however, that both parties to the transaction in each of the above cases are registered under the federal narcotic Act, if required by such Act to be registered.

2. **Use of written orders.** A written order for the supply of any habit-forming drug shall be signed in duplicate by the person giving it or by his duly authorized agent, one duplicate of which shall be presented to the person who sells or distributes such habit-forming drugs and in the event of his acceptance of such order, each party shall preserve his duplicate of such order for a period of two years in such a way as to be readily accessible for inspection and it shall be subject to inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed a compliance with this sub-section if the person giving the order shall have complied with the provisions of the federal narcotic Act respecting the requirements governing order blanks under said Act.

3. **Possession lawful.** Possession of or control of habit-forming drugs obtained as provided in this section, shall be lawful if in the regular course of business, occupation, profession, employment or duty of the possessor.

4. This section shall not apply to the supplying of habit-forming drugs on prescriptions or to the administering and dispensing of such drugs by physicians, dentists and veterinarians. [L. 1931, c. 152, s. 5; R. L. 1935, s. 1274.]

Sec. 2606. Prescriptions. An apothecary may sell or dispense narcotic or habit-forming drugs to any individual upon a prescription written with ink or indelible pencil or typewritten, issued in duplicate and signed by a physician, dentist or veterinarian, dated and signed on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which the drug is dispensed, and the name, address, and registry number under the federal narcotic Act of the person prescribing, if he is required by it to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is dispensed. Individual prescriptions for narcotics and habit-forming drugs so issued shall be submitted to the apothecary in duplicate. The apothecary, upon filling the prescription, shall write the date of filling and his own signature on the face of the original and duplicate prescription, and shall also note thereon the action taken by him. The apothecary shall within seven days after filling the prescription forward the duplicate thereof to such public officer or employee engaged in the enforcement of the federal narcotic Act as the president of the board of health may designate; and shall retain the original thereof on file for a period of two years after filling the same. All records so filed shall be accessible for inspection at all times by any public officer or employee engaged in the enforcement of this chapter. No prescription shall be filled later than the third day next following the day of its issue. No prescription for narcotics or habit-forming drugs shall be refilled. [L. 1931, c. 152, s. 6; R. L. 1935, s. 1275; am. L. 1943, c. 25, s. 1.]

Sec. 2607. Professional use of habit-forming drugs by:

1. **Physicians.** A physician, in good faith and in the course of his professional practice only, may prescribe, administer or dispense habit-forming drugs, and he may cause the same to be administered by a nurse or intern under his direction and supervision.

2. **Dentists.** A dentist, in good faith and in the course of his professional practice only, may prescribe, administer, or dispense habit-forming drugs, or he may cause the same to be administered by a nurse or intern under his direction and supervision.

3. **Veterinarians.** A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer or dispense habit-forming drugs.

4. Any person who has obtained from a physician, dentist or veterinarian any habit-forming drug for administration to a patient during the absence of such attending physician, dentist or veterinarian shall immediately return to such physician, dentist or veterinarian any unused portion of such drug, when it is no longer required by the patient. [L. 1931, c. 152, s. 7; R. L. 1935, s. 1276.]

See 315 U. S. 257; 119 F. 2d. 399.

Sec. 2608. Preparations exempted. This chapter shall not apply to the sale at retail, administering, dispensing and prescribing of any medical preparation which contains not more than two grains of opium, nor more than one-quarter of a grain of morphine, nor more than one grain of codeine, nor more than one-eighth of a grain of heroin, or quantities of any salt or derivative of any of them of no greater pharmacologic potency, in one fluid ounce, or, if in a solid or semi-solid preparation, in one avoirdupois ounce; nor to liniments, ointments and other preparations susceptible of external use only, except liniments, ointments and other preparations which contain cocaine or any salt or derivative thereof; **provided**, that the quantity of any such preparation dispensed or prescribed during any consecutive twenty-four hours, to any one purchaser or for the use of any one person or animal shall not, with knowledge of the physician, dentist or veterinarian or pharmacist selling, administering, dispensing or prescribing the same, contain in the aggregate more than four grains of opium, or more than one-half grain of morphine, or more than one-eighth grain of heroin, or more than two grains of codeine, or a quantity of any salt or derivative of any of them of any greater pharmacologic potency; **provided**, further, that the preparation sold, administered, dispensed or prescribed contains in addition to the habit-forming drug in it, some drug or drugs adapted in quantity and quality to prevent the use of the preparation for the gratification of narcotic addiction; **provided**, further, that the purchaser is personally known to the physician, dentist, veterinarian or pharmacist selling, administering, dispensing or prescribing such preparation, or duly vouched for to him; and **provided**, further, that such preparation is sold, administered, dispensed or prescribed in good faith, as a medicine to relieve or cure some known physical or mental suffering, disease or injury, and not for the purpose of evading the provisions of this chapter. [L. 1931, c. 152, s. 8; R. L. 1935, s. 1277.]

Sec. 2609. Record to be kept by: 1. **Physicians, dentists, veterinarians and practitioners.** Every physician, dentist, veterinarian and practitioner shall keep a record of all habit-forming drugs received and administered, dispensed or used by him, showing the amount received and administered, dispensed or used; **provided** that it shall be deemed a sufficient compliance with this sub-section if a physician or dentist who uses small quantities of solutions or other preparations of habit-forming drugs for local application keep a record of the quantity, character and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

2. **Producers, manufacturers and wholesalers.** Producers, manufacturers and wholesalers shall keep records of all habit-forming drugs produced, received and disposed of by them.

3. **Apothecaries.** Apothecaries shall keep a record of the habit-forming drugs received and disposed of by them.

4. **Manufacturers of and dealers in exempted preparations and remedies.** Every manufacturer of exempted preparations or remedies shall keep a record of the amount of habit-forming drugs received and of all sales of exempted preparations or remedies, and every dealer therein shall keep a record of all receipts and sales of preparations and remedies exempted hereunder.

5. **Form and preservation.** The form of record shall be prescribed by the board of health of the Territory. The record of drugs received shall contain the date, the name of the person from whom received, and kind and quantity of drugs. The record of drugs sold, administered or dispensed, shall contain the date, name of the person for whom, or owner of the animal for which, sold, administered or dispensed, and kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of transaction recorded. A record required by or under the federal narcotic Act containing substantially the same information shall be a compliance with this section. [L. 1931, c. 152, s. 9; R. L. 1935, s. 1278.]

Records to be kept by physicians, 315 U. S. 257, rev'g 119 F. 2d, 399.

Sec. 2610. Labels. Whenever a producer, manufacturer or wholesaler of habit-forming drugs, or an apothecary, sells or dispenses any such drug to a producer, manufacturer or wholesaler thereof, or to an apothecary, physician, dentist, veterinarian or practitioner, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor or dispenser and the amount, quantity, kind and form of narcotic drug contained therein. Whenever an apothecary shall sell or dispense any habit-forming drug on a prescription issued by a physician, dentist or veterinarian, he shall affix to the bottle or other container in which said drug is sold or dispensed his name, address and registry number, the serial number of the prescription, the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal, the name, address and registry number of the physician, dentist or veterinarian by whom the prescription is written, and such directions as may be stated on the prescription. No person shall alter, deface or remove any label so affixed, except for the purpose of replacing it by his own lawful authorized label. [L. 1931, c. 152, s. 10; R. L. 1935, s. 1279.]

Sec. 2611. Authorized possession of drugs by individual. A person to whom or for whose use any habit-forming drug has been sold or dispensed by an apothecary, physician, dentist or practitioner, or the owner of an animal for which any such drug has been prescribed or dispensed by a veterinarian, may lawfully possess it in the container delivered to him by the person selling or dispensing the same. [L. 1931, c. 152, s. 11; R. L. 1935, s. 1280.]

Sec. 2612. Cannabis indica, cannabis americana and cannabis sativa. No person shall plant, cultivate, produce, manufacture, possess, have under his control, sell, prescribe, administer, dispense or compound cannabis indica, cannabis americana or cannabis sativa, or any preparation or derivative thereof, or offer the same for sale, administering, dispensing or compounding; **provided**, that nothing in this section shall apply to the planting, cultivation, production, manufacture, possession, control and sale for medicinal and scientific purposes, by producers, manufacturers, wholesalers and apothecaries, or to the administering, dispensing, prescribing, compounding and use, for medicinal and scientific purposes, by physicians, dentists, veterinarians and practitioners; and **provided**, further, that this section shall not apply to preparations produced, manufactured, possessed, controlled, sold, prescribed, administered, dispensed, compounded, or used in good faith for medicinal and scientific purposes, which do not contain more than one-half grain of the extract of cannabis indica, cannabis americana or cannabis sativa, or of any other derivative or preparation of cannabis indica, cannabis americana or cannabis sativa of any greater pharmacologic potency, in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations containing cannabis indica, cannabis americana or cannabis sativa or derivatives thereof, which are prepared for external use and susceptible of such use alone. [L. 1931, c. 152, s. 12; R. L. 1935, s. 1281.]

Sec. 2613. Exemption from restrictions. 1. **Common carriers, employees, public officers.** The provisions of this chapter restricting the possession or having control of habit-forming drugs shall not apply to common carriers or warehousemen or their employees engaged in lawful transportation or storage of such drugs, nor to public officers or employees while engaged in the performance of their official duties requiring possession or control of habit-forming drugs, nor to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in the performance of their official duties.

2. **Foreign commerce.** This chapter shall not apply to acts done or to habit-forming drugs possessed in the course of foreign commerce. [L. 1931, c. 152, s. 13; R. L. 1935, s. 1282.]

Sec. 2614. Common nuisances; penalties. Any store, shop, warehouse, building, vehicle, steamboat, vessel, or any place whatever, which is resorted to by drug addicts for the purpose of using habit-forming drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance. Whoever keeps or maintains such a common nuisance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars or by imprisonment not exceeding one year or by both fine and imprisonment; and whoever shall resort to or frequent any such place as described

above, for the purpose of using any narcotic habit-forming drugs, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment not exceeding one year or by both fine and imprisonment. [L. 1931, c. 152, s. 14; R. L. 1935, s. 1283.]

See c. 51, common nuisances.

Sec. 2615. Drugs delivered to officials, etc. All habit-forming drugs, rightful possession of which is not claimed, or the title to which cannot be ascertained, and which have come into the hands of a peace officer, shall be disposed of as follows:

1. Upon the direction of the magistrate by whom the forfeiture shall have been ordered, the drugs shall be destroyed. A record of the place where the drugs were seized and of the drugs so destroyed shall be kept, and a return of the destruction shall be made to the magistrate by the officer who destroys them.

2. Upon written application therefor the drugs may be ordered by the magistrate to be delivered to the board of health of the Territory.

3. All drugs in the final possession of the board of health may be disposed of or destroyed under its direction. [L. 1931, c. 152, s. 15; R. L. 1935, s. 1284.]

Sec. 2616. Notice of conviction to be sent to licensing board. On the conviction of any physician, dentist, veterinarian, practitioner, apothecary, manufacturer, wholesaler or producer, of the wilful violation of any of the provisions of this chapter, a copy of the sentence and of the opinion of the court or magistrate, if any be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed to practice his profession or to carry on his business. [L. 1931, c. 152, s. 16; R. L. 1935, s. 1285.]

Sec. 2617. Records confidential. Prescriptions, orders and records required by this chapter shall be open for inspection only to federal, territorial, county and municipal officers whose duty it is to enforce the laws of the Territory or the federal narcotic Act. No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer, to which prosecutions or proceeding the person to whom such prescriptions, orders or records relate is a party. [L. 1931, c. 152, s. 17; R. L. 1935, s. 1286.]

Sec. 2618. Fraud or deceit. No person shall obtain or attempt to obtain habit-forming drugs, or to procure the administration of habit-forming drugs, by fraud, deceit, misrepresentation or subterfuge; or by the forgery or alteration of a prescription or written order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address. Information communicated to a physician in an effort unlawfully to procure habit-forming drugs, or the administration of such drugs, shall not be deemed a privileged communication. No person shall wilfully make a false statement in any prescription, order, report or record required by this chapter. No person shall, for the purpose of obtaining a habit-forming drug, falsely assume the title of or represent himself to be a producer, manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or practitioner, or make or utter any false or forged order or prescription. No person shall affix any false or forged label to a package or receptacle containing habit-forming drugs. [L. 1931, c. 152, s. 18; R. L. 1935, s. 1287.]

Sec. 2619. Exceptions and exemptions not required to be negated. In any complaint, information, indictment and in any action or proceeding brought for the enforcement of any of the provisions of this chapter, it shall not be necessary to negative an exception or exemption, and the burden of offering proof of any such exception or exemption shall be upon the defendant. [L. 1931, c. 152, s. 19; R. L. 1935, s. 1288.]

Sec. 2620. Enforcement. This chapter shall be enforced by the board of health of the Territory. [L. 1931, c. 152, s. 20; R. L. 1935, s. 1289.]

Sec. 2621. Penalties. Any person violating any provision of this chapter, upon conviction (unless some other specific penalty is provided by this chapter for the offense of which he is convicted), shall be punished, for the first offense, by a fine not exceeding one thousand dollars, or by imprisonment for a period not exceeding one year, or by both fine and imprisonment, and for any subsequent offense, by a fine not exceeding two thousand dollars, or by imprisonment for a period not exceeding one year, or by both fine and imprisonment. [L. 1931, c. 152, s. 21; R. L. 1935, s. 1290.]

Sec. 2622. **Acquittal or conviction under federal narcotic Act.** No person shall be prosecuted for a violation of any of the provisions of this chapter if such person shall have been prosecuted and duly acquitted or convicted under the federal narcotic Act for the same, or substantially the same act or omissions which, it is alleged, constitute a violation of this chapter. [L. 1931, c. 152, s. 22; R. L. 1935, s. 1291.]

CHAPTER 50.

NATUREOPATHY.

Sec. 2651. **Defined.** For the purpose of this chapter the practice of natureopathy shall be held to mean the scientific application of air, light, sunshine, water, earth, cold and heat, electricity, hygiene and dietetics, bio-chemic system, psychotherapy, mechanical movements, manipulations and appliances, applied specifically to eliminate toxic conditions from the human body and to promote the quality, quantity and flow of the vital fluids without the use of drugs, aiding nature with natural and congenial agents or means either tangible or intangible to restore and maintain normal functioning; provided, however, that the practice of natureopathy shall not include the Hawaiian art of lomilomi or massage. [L. 1925, c. 77, pt. of s. 1; R. L. 1935, s. 1300.]

Sec. 2652. **Application for examination; fee.** Any person desiring to practice natureopathy shall apply in writing to the territorial board of examiners in natureopathy, to be appointed and constituted as in this chapter provided, upon a blank form prepared and furnished by said board and shall include in such application such facts concerning the applicant as said board shall require. Each application shall be filed by the applicant and sworn to before an officer authorized to administer oaths. At the time of said application each applicant shall pay an examination fee of ten dollars to the board of health which shall not be refunded if such applicant shall fail to pass the examination. Except as otherwise provided by law, no person shall be licensed to practice natureopathy except upon the written certificate of the territorial board of examiners in natureopathy, to be appointed and constituted as in this chapter provided, setting forth that the applicant named therein has been duly examined and has passed such examination. [L. 1925, c. 77, pt. of s. 1; R. L. 1935, s. 1301; am. L. 1937, c. 221, s. 1.]

Alternate spelling ("naturopathy") deleted throughout.

Sec. 2653. **Qualifications of applicants.** Each applicant shall be a graduate of a high school. Each applicant shall, in addition, be a graduate of a school, university, or college of natureopathy which requires a course of resident instruction of at least four years of nine months each of actual attendance, and includes in its course of study the subjects hereinafter listed for the minimum hours hereinafter listed:

Subject	Hours
Anatomy	650
Histology and embryology	130
Chemistry and toxicology	250
Physiology	300
Bacteriology	130
Hygiene and sanitation	130
Pathology	350
Diagnosis or analysis	600
Natureopathic theory and practice	800
Obstetrics and gynecology	260
Jurisprudence	50
Clinical practice	400
Biochemistry and dietetics	240
Therapeutics	130

4,520

Each applicant shall have attended at such school, university, or college for at least ninety per cent of the hours required. [L. 1925, c. 77, pt. of s. 1; R. L. 1935, s. 1302; am. L. 1935, c. 221, s. 2.]

Sec. 2654. **Territorial board of examiners in natureopathy.** The governor shall appoint in the manner prescribed by section 80 of the Organic Act, the territorial board of examiners in natureopathy, consisting of three members who

shall be appointed for a term of four years from the dates of their respective appointments. Upon the expiration of the term of any member, the governor shall fill the vacancy by appointment for the term of four years. Upon the death, resignation or removal of any member, the governor shall fill the vacancy by appointment for the unexpired portion of the term, if practicable, within thirty days after such vacancy occurs. Each member shall serve until his successor is appointed and qualified. All members of said board shall, before appointment, have been licensed to practice natureopathy in the Territory under the laws thereof in force at the date of the issuance of said license. [L. 1937, c. 221, s. 3.]

Sec. 2655. Organization of the board. The territorial board of examiners in natureopathy shall meet and organize as soon as possible after appointment. Said board shall have the power to elect a president, a vice-president, and a secretary who shall each serve one year or until a successor is elected. Said board shall have authority to make such rules as it deems expedient to carry the provisions of this chapter into effect. Two members of said board shall constitute a quorum for the transaction of business. Said board shall serve without pay, provided, however, that the expenses of conducting examinations shall be paid out of the office expenses of the board of health upon vouchers signed by a majority of the territorial board of examiners in natureopathy. [L. 1937, c. 221, s. 4.]

See s. 482, quorum.

Sec. 2656. Examinations. The territorial board of examiners in natureopathy shall conduct examinations at such times and places as it deems best, in the following subjects:

Anatomy

Histology and embryology

Chemistry and toxicology

Physiology

Bacteriology

Hygiene and sanitation

Pathology

Diagnosis or analysis including clinical, physical, x-ray, symptomatology, dermatology, mental diseases

Natureopathic theory and practice

Obstetrics and gynecology

Jurisprudence

Clinical practice

Biochemistry

Therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopaedics,

and such other subjects as the board may require. The examination shall be conducted in writing, but it may be supplemented by oral examinations, and by demonstrations or other practical tests as the board may require. If the applicant receives a general average of seventy-five per centum and does not fall below sixty per centum in more than two branches of the examination, he shall be considered as having passed the examination. The territorial board of examiners in natureopathy shall certify in writing to the territorial board of health the names of applicants who have passed such examination. [L. 1937, c. 221, s. 5.]

Sec. 2657. Licenses. Licenses to practice natureopathy shall be issued by the board of health in such form as the board of health shall determine to those who qualify according to the provisions of this chapter and pay a license fee of fifteen dollars to the board of health. Natureopathic physicians licensed under this chapter shall observe and be subject to all territorial and municipal regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons and practitioners of other schools of medicine. [L. 1925, c. 77, pt. of s. 1; R. L. 1935, s. 1303; am. L. 1937, c. 221, s. 6.]

Sec. 2658. Penalty. Any person except a licensed natureopath who shall practice or attempt to practice natureopathy, or any person who shall buy, sell or fraudulently obtain any diploma or license to practice natureopathy whether recorded or not, or any person who shall use the title "natureopath," "naturopath" or "N. D." or any word or title to induce the belief that he is engaged in the practice of natureopathy without complying with the provisions of this chapter, or any person who shall violate any of the provisions of this chapter, shall, upon conviction thereof, be fined not more than two hundred dollars, or be imprisoned for a period not more than one year or both. [L. 1925, c. 77, pt. of s. 1; R. L. 1935, s. 1304.]

	Secs.		Secs.
Abatement of Nuisances	2701-2708	Dwelling Houses	2711-2715
Approval of Location of Certain Businesses	2709-2710	Sanitary Condition of Land	2716-2730

ABATEMENT OF NUISANCES.

Sec. 2701. Removal, prevention. The board of health and its agents shall examine into all nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth and all causes of sickness or disease, on shore, and in any vessel, which may be known to them or brought to their attention, which in their opinion are dangerous or injurious to health, and into any and all conditions created or existing which cause or tend to cause sickness or disease or to be dangerous or injurious to health, and shall cause the same to be abated, destroyed, removed or prevented. [P. C. 1869, c. 59, s. 9; am. L. 1911, c. 111, s. 1; am. L. 1915, c. 96, s. 1; R. L. 1925, s. 923; R. L. 1935, s. 1310.]

See ss. 2614, 4024, drug addicts.

Does not authorize board to destroy what is not a nuisance or to declare that to be which is not in fact a nuisance, 14 H. 533, 537. Courts will re-

view board's actions when taken without notice to owner, 22 H. 327, 345. Dumping of garbage at sea, see, 283 U. S. 473. Cited: 19 H. 628. See 33 H. 428.

Sec. 2702. Ordering owner to remove. Whenever any such nuisance, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, source of filth, or cause of sickness or disease, shall be found on private property, the board shall cause notice to be given to the owner to remove and abate the same at his own expense within such reasonable time as the board may deem proper. A duplicate of the notice so given shall be left with one or more of the tenants or occupants of the premises. If the premises be unoccupied, notice shall be mailed to the last known place of residence of the owner if residing in the Territory. If the owner resides out of the Territory or cannot be reached with notice speedily, notice left at the house or posted on the premises shall be deemed sufficient. If the owner thus notified shall not comply with such notification or order of the board, or its agent, within the time specified, the board or its agent, may apply to the district court of the district in which the property is situated for an order authorizing the board to execute and carry out the provisions of the notice or for an order to abate such nuisance and remove, destroy or prevent the cause of such foul or noxious odors, gases or vapors, water in which mosquito larvae exist, source of filth, or cause of sickness or disease, or other thing detrimental to public health.

The board shall have a right to recover by appropriate proceedings the expenses incurred by it in such abatement, removal, destruction or prevention, from any person who shall have caused or allowed such nuisances, source of foul or noxious odors, gases or vapors, water in which mosquito larvae breed, source of filth, or cause of sickness or disease, or other thing detrimental to the public health, and from any owner, tenant, or occupant of the premises, who, after notice as aforesaid, shall have failed to abate, remove, destroy or prevent such nuisance, source of foul or noxious odors, gases or vapors, water in which mosquito larvae exist, source of filth, or cause of sickness or disease, or other thing detrimental to the public health within the time specified in such notice. In no case shall the board or any officer or agent thereof be liable for costs in any action or proceeding that may be commenced in pursuance of this chapter. [P. C. 1869, c. 59, s. 10; am. L. 1911, c. 111, s. 2; am. L. 1919, c. 80, s. 1; R. L. 1925, s. 924; R. L. 1935, s. 1311.]

See s. 2716 ff., sanitary condition of land. "Breed" changed to "exist".

Sec. 2703. Special fund. To enable the board to carry out the provisions of this chapter, the sum of one thousand dollars is appropriated as a special fund to be deposited in the territorial treasury and to be a continual deposit, subject to the control of the board through its president, to be used from time to time in removing any such nuisance, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth, or cause of sickness or disease as contemplated or required by this chapter. All moneys withdrawn from such fund for such purposes shall be reimbursed or restored thereto, so far as may be out of any moneys repaid or collected under the provisions of this chapter and shall then be available for further use. [L. 1915, c. 96, s. 2; R. L. 1925, s. 925; R. L. 1935, s. 1312.]

Sec. 2704. Nuisance on public property. Whenever any such nuisance, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, source of filth, cause of sickness or disease, shall be found on public property or on a

public highway, street, lane, alley, or other public place, notice shall be given by the board, or its agent, to the person officially in charge thereof, and such person shall be notified to abate, destroy, remove or prevent the same; and in case of failure to comply with such notice, the mode of procedure shall be the same as hereinbefore provided in case of private persons in section 2702. [L. 1911, c. 111, s. 3; R. L. 1925, s. 926; R. L. 1935, s. 1313.]

Sec. 2705. Entering lands, buildings, etc. Whenever any member of the board, or its agent, shall deem it necessary for the preservation of the lives or health of the public to enter any land, building or vessel for the purpose of examining into, abating, destroying, removing or preventing any nuisance, source of foul or noxious odors, gases or vapors, water in which mosquito larvae exist, source of filth, or cause of sickness or disease, or other thing detrimental to the public health, and shall be refused such entry, such member or agent may make complaint to the district magistrate in whose district such nuisance, source, place, or cause is, and such district magistrate may thereupon issue a warrant, directed to any sheriff or police officer of the district, commanding him to take sufficient aid, and, being accompanied by such member of the board or agent, between the hours of sunrise and sunset, to repair to the place described in the complaint, and to abate, destroy, remove or prevent, under the directions of such member or agent, such nuisance, source or cause. [P. C. 1869, c. 59, s. 13; am. L. 1911, c. 111, s. 4; R. L. 1925, s. 927; R. L. 1935, s. 1314.]

See 4 H. 335.

Sec. 2706. Prisoners to assist. For the purpose of removing nuisances, and causes of sickness, the board may require the warden and sheriffs or chiefs of police to cause the prisoners under their charge to aid in such work. [P. C. 1869, c. 59, s. 28; R. L. 1925, s. 928; am. imp. L. 1932, 1st, c. 17, s. 2; R. L. 1935, s. 1315.]

Sec. 2707. Who to report nuisances. It shall be the duty of the high sheriff and all officers of police, and physicians, to report to the board, or its nearest authorized agent, the existence of any nuisance injurious to the public health, of which any of them may be cognizant, as soon as possible after it shall come to their knowledge. [P. C. 1869, c. 59, s. 22; R. L. 1925, s. 929; R. L. 1935, s. 1316.]

Sec. 2708. Court may order removal; penalty. Any person who shall violate any of the provisions of this subtitle, or who shall violate any order made by the board in pursuance of the provisions of this subtitle, shall, upon conviction, be fined not more than one hundred dollars, and the court may, in its discretion, order the defendant, under the supervision of the board or its agent, to carry out at his own expense the provision or order violated, and no appeal shall suspend or affect such order pending the appeal. [L. 1892, c. 59, s. 12; am. L. 1911, c. 111, s. 5; R. L. 1925, s. 930; R. L. 1935, s. 1317.]

APPROVAL OF LOCATION, CERTAIN BUSINESSES.

Sec. 2709. Location of slaughter houses. No slaughter house shall be maintained in any part of the Territory, in any place where the board shall forbid the maintenance of the same. [L. 1868, c. 27, s. 1; R. L. 1925, s. 931; R. L. 1935, s. 1318.]

See also ss. 7040 ff., on slaughter licenses; s. 2015, regulations. Zoning in Honolulu, ss. 6644 ff.

Sec. 2710. Certificate as to building. No permit or license shall be issued by any county officer for the erection, maintenance, use or operation of any building for which a permit or license may be issued by such county officer under the provisions of chapters 122, 124-127, or under the provisions of any ordinance made in pursuance of any of said chapters, nor for the erection, maintenance, use or operation of any bakery, laundry, poi shop, abattoir, stable, fish, meat or vegetable store or market, hotel, tenement, lodging house or any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on, for which a permit or license may be issued by such county officer, except upon a certificate of the board of health, which certificate shall be furnished free of charge, setting forth that an agent of the board has examined the place, land and building on, in or to which it is proposed to erect, move, maintain, use or operate such building, bakery, laundry, poi shop, abattoir, stable, fish, meat or vegetable store or market, hotel, tenement, lodging house, or place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on, and that such place, land or building is in a fit and sanitary condition suitable for the purpose for which the premises are intended to be used; that facilities have been provided therein and thereon for proper

drainage and sewage disposal; that provision has been made in the plans and specifications of proposed buildings, or of alterations of existing buildings, for proper ventilation and air space and for water and sewage disposal, and that the location is at the time a proper one for the nature of the business to be there carried on without danger to public health. No such permit shall be issued except upon a condition, which shall be embodied in the permit and which shall be binding upon the licensee, that such place, land or building shall be kept and maintained by the licensee in good sanitary condition in accordance with general health laws, regulations and orders of the board of health during the term of the license. The board is authorized to direct the cancelation of any such permit or license issued by any county officer, in case any such place, land or building fails at any time and in any respect to meet the requirements of the general health laws, regulations and orders of the board. [L. 1911, c. 132, s. 3; am. L. 1913, c. 80, s. 1; R. L. 1925, s. 969; R. L. 1935, s. 1319.]

DWELLING HOUSES.

Sec. 2711. Repairs. Air space. Every house or tenement used or occupied as a dwelling for lodgers or laborers shall be kept by its owner in good repair, with the roof water-tight, and shall have the capacity of not less than three hundred cubic feet of space for each adult, or nine hundred cubic feet for one man and woman and two children. [L. 1880, c. 3, s. 1; R. L. 1925, s. 970; R. L. 1935, s. 1320.]

See building ordinances of the counties.

Sec. 2712. Grounds. Closets. The yard and grounds about all dwellings shall be well drained and kept free from rubbish of every description, with a closet, or privy, also to be kept in repair by the lodging-house keeper or employer of laborers, for every six adults. [L. 1880, c. 3, s. 2; R. L. 1925, s. 971; R. L. 1935, s. 1321.]

Sec. 2713. Entry by health officers. Every owner or keeper and every other person having the care or management of a lodging-house or of a dwelling for laborers, shall at all times when required by the board of health or its agents give free access to such house or any part thereof. [L. 1880, c. 3, s. 3; R. L. 1925, s. 972; R. L. 1935, s. 1322.]

Sec. 2714. Penalty. Every lodging-house keeper or employer of laborers who shall fail to comply with the provisions of this subtitle shall pay a fine not exceeding fifty dollars. [L. 1880, c. 3, s. 4; R. L. 1925, s. 973; R. L. 1935, s. 1323.]

Sec. 2715. Filth, penalty. Every person who shall keep his dwelling in so filthy a state as to be a nuisance or injurious to health, or who shall refuse or neglect to remove any nuisance or substance he may have caused or placed in the vicinity of the dwelling he occupies or any other dwelling, or shall commit any nuisance in any stream or thoroughfare, shall, on conviction, pay a fine not exceeding three dollars, or be imprisoned for any term not exceeding thirty days. [L. 1880, c. 3, s. 5; R. L. 1925, s. 974; R. L. 1935, s. 1324.]

SANITARY CONDITION OF LAND.

Sec. 2716. Insanitary conditions to be reported. Whenever in the opinion of the board of health any tract or parcel of land situated in the Territory, shall be deleterious to the public health in consequence of being low, and at times covered or partly covered by water, or of being situated between high and low water mark, or of being improperly drained, or incapable by reasonable expenditure of effectual drainage, or for other reason in an insanitary or dangerous condition, it shall be the duty of the board to report such fact to the superintendent of public works, together with a brief recommendation of the operation deemed advisable to improve such land. [L. 1896, c. 61, s. 1; am. L. 1911, c. 112, s. 1; R. L. 1925, s. 975; R. L. 1935, s. 1325.]

For acts relating to Waikiki reclamation, some of which refer to this c. see L. 1917, cc. 102, 231; L. 1918, c. 14; L. 1921, cc. 220, 221; L. 1923, cc. 248, 254. See also ss. 2015, 2018.

This subtitle does not make approval of board

or its officers a prerequisite to granting of building permit, 13 H. 239. Does not contravene 5th or 7th Am. Const., 21 H. 314. Refers to improved lands as well as unimproved, 22 H. 327. Lien, 31 H. 446. See 31 H. 199.

Sec. 2717. Maps and plans. If the board shall in any case recommend a system of drainage or of filling and drainage, the superintendent shall, upon receipt of such notice, prepare a map of the land so reported upon by the board and to be so drained, or filled and drained, which land shall constitute a drainage district; such map shall show the district to be so drained, or filled and drained, the location and the size of each parcel or lot therein, a list of all known owners

and occupants of such lots, the lots or parcels either within or without such drainage district through which rights of way for drains or ditches for draining the district are necessary, the amount of land necessary to be taken for such drains or ditches and for the banks thereof, a description of the same, an estimate of the value of the lands so sought to be taken for rights of way, and of the damages sustained by any person by reason of such appropriation irrespective of any benefit to be derived by such land owners by reason of the construction of such improvements, which estimates shall be made respectively as to each person through whose land the rights of way are sought to be appropriated; such map shall also show the extent and location of the proposed drains or ditches, the width, depth and slope of the sides thereof, an estimate of the total cost of the system of drainage in and for the district, including therein among other things the cost of acquiring the necessary rights of way as aforesaid and of making ditches; estimates of the cost, respectively, of the filling of each lot or parcel of land in the district; and the estimate of the cost to be apportioned to and assessed against each lot or parcel of land in the district for the drainage as aforesaid of such lot or parcel, the apportionment to be as hereinafter required.

If the board shall recommend only that the land be filled, such map shall, so far as practicable, show the present heights of each parcel, the height to be filled to, the approximate amount of fill required for each parcel and the estimated cost thereof.

The superintendent may, in his discretion, embody any of the information herein required in a statement to accompany the appropriate map instead of placing the same upon the map. [L. 1915, c. 190, s. 1; R. L. 1925, s. 976; R. L. 1935, s. 1326.]

Cited: 31 H. 446.

Sec. 2718. Notice to owners to improve. It shall be the duty of the superintendent upon the receipt of such notice to cause a copy of the same to be served in the manner prescribed in section 2719 upon the owner or occupant of such land. The superintendent shall also notify each owner or occupant that a detailed statement and map or plan of the proposed improvement is on file in his office accessible to such owner or occupant. The superintendent shall at the same time and in the same manner serve notice that, in case of failure to begin work upon such improvements within twenty days, or such further time in special cases as to the superintendent may seem reasonable, and to complete such work within a reasonable time in such notice designated, such work or so much thereof as may remain undone will be done by the Territory at the cost of the lands benefited thereby. [L. 1896, c. 61, s. 2; am. L. 1911, c. 112, s. 2; am. L. 1915, c. 190, s. 2; R. L. 1925, s. 977; R. L. 1935, s. 1327.]

"Owner" defined, sufficiency of notice, 22 H. 327, 335, 342. See 31 H. 199.

Sec. 2719. Service of notice. Service of such notice upon an owner in person, if within the Territory, or upon his agent if without the Territory, or upon the occupant of such land if the owner is unknown, or upon the guardian if the owner is a minor or person under guardianship, or by mail or personal delivery to the owner if without the Territory, shall be deemed good and sufficient service. If such land is unoccupied and the owner or his place of residence is unknown, or if he is without the Territory and his address is unknown and he has no known agent within the Territory, or if he is under age or incompetent, having no guardian in the Territory, such notice shall be published for five consecutive days in some newspaper of general circulation published in the county where the land is situated. The notice in all cases may be general in terms and addressed to all persons whom it may concern. [L. 1896, c. 61, s. 3; am. L. 1911, c. 112, s. 3; R. L. 1925, s. 978; R. L. 1935, s. 1328.]

Lien attaches, when, 31 H. 446.

Sec. 2720. Appeal. During the period of twenty days, or such further time in special cases as is specified in the notice given pursuant to the provisions of section 2718, any owner or occupant of land sought to be improved, his attorney or agent, may file an appeal from the decision of the board condemning the land as deleterious to the public health or from its decision or the order of the superintendent as to the nature and extent of the improvements to be made, including the size, character and location of any drains or ditches, and within twenty days after written demand by the superintendent on the owner or occupant of any land in a drainage district improved by drainage under this chapter, for the payment of the cost of any such drainage, such owner or occupant, his attorney or agent, may file an appeal from the order of the superintendent apportioning

the cost of such drainage to be borne by his land. All appeals shall be filed with the superintendent and the superintendent shall transmit them to the circuit court of the circuit wherein the land is situated. [L. 1896, c. 61, s. 4; am. L. 1911, c. 112, s. 4; am. L. 1915, c. 190, s. 3; R. L. 1925, s. 979; R. L. 1935, s. 1329.]

Effect of appeal not taken, 22 H. 327, 342, 344.

Sec. 2721. Hearing, decision. The court shall, upon receiving any such appeal from the superintendent, appoint three disinterested persons who shall sit as a board to hear and determine such appeals. They shall have power to determine whether or not the land is deleterious to the public health and whether the improvements of the nature designated in such notice are required, and if such improvements are not required, what, if any, improvements are required in order to render such lands sanitary; such board shall also have power upon any such appeals to determine the amount to be in conformity with the provisions of section 2725, apportioned to and assessed against each lot or parcel for such drains or ditches and for the lands acquired therefor and for all other cost, if any, of such drainage system, and whether or not any lands are improperly included in or excluded from the drainage district. The decision of a majority of the board as to the necessity and nature and extent of the improvements and as to the apportionment of the cost of any drainage system shall be final and conclusive upon all parties in interest. The board shall appoint a time and place for hearing, first giving reasonable notice thereof to the president of the board of health, the superintendent of public works, and the owner or occupant of the land in question. Service of such notice shall be as provided in section 2719. As compensation for their services each member of the board shall be entitled to receive five dollars for each day of actual service. [L. 1896, c. 61, s. 5; am. L. 1911, c. 112, s. 5; am. L. 1915, c. 190, s. 4; R. L. 1925, s. 980; R. L. 1935, s. 1330.]

Finality of judgment is not invalid because of no recourse to courts, but may be attacked on ground that there are no facts supporting it, 22 H. 327, 346. See 31 H. 199.

Sec. 2722. Plans, etc. The superintendent shall transmit to the board with each appeal the appropriate map or plan (or a copy thereof) of the lands to be improved prepared in accordance with the requirements of section 2717, and shall also transmit to the board with each appeal a statement of the matters and things required by section 2717 to be noted upon or to accompany the map. [L. 1911, c. 112, s. 6; am. L. 1915, c. 190, s. 5; R. L. 1925, s. 981; R. L. 1939, s. 1331.]

Sec. 2723. Entry upon and acquisition of land. The superintendent shall have power to enter upon all lands on the routes of such proposed drains or ditches for the purpose of examining, surveying and laying out the route thereof, and upon all lands proposed to be included in any such drainage district for the purpose of determining whether the same or any portion thereof shall be included in such district, and to institute and conduct proceedings for the condemnation of all lands declared by him when his order is not appealed from or by the aforesaid board on appeal, to be necessary for rights of way for such drains or ditches. In acquiring any such lands the method pursued shall be as prescribed in chapter 8; provided, however, that in acquiring by condemnation proceedings any land situated within such drainage district the award of compensation therefor shall be without deduction for any benefits accruing to the remainder of the lot or parcel by reason of the construction of such improvement.

Any lands acquired by condemnation as aforesaid for rights of way for drains or ditches shall be paid for out of any funds available for the improvement of any lands under this chapter. [L. 1915, c. 190, s. 6; R. L. 1925, s. 982; R. L. 1935, s. 1332.]

Sec. 2724. Superintendent to make improvements, when. The board shall transmit a copy of its decision to the superintendent and to the other persons affected thereby, so far as practicable, and in case the owner of the land shall not within ten days after the receipt of such decision begin work upon such improvements, or in case the work shall not be completed within such additional time as shall have been specified as provided in section 2718, the superintendent may proceed to make or complete such improvement according to the decision of the board. In case no appeal shall be taken from the decision of the board of health as above provided, or work shall not be begun and completed within the times prescribed as aforesaid, the superintendent may proceed to make or complete the improvements. [L. 1896, c. 61, s. 6; am. L. 1911, c. 112, s. 7; R. L. 1925, s. 983; R. L. 1935, s. 1333.]

Owner may object to methods under proper circumstances and extra cost must be assumed by him, 22 H. 327, 351. See 33 H. 199.

Sec. 2725. Cost of improvement; how apportioned. The cost of the improvements made or completed by the superintendent shall be apportioned as follows: 1. The cost of filling any lot or parcel shall be borne by such lot or parcel; 2. The cost of any drainage system including the cost of drains or ditches, damages for property taken for the same and other expenses, if any, shall be apportioned among all the lots or parcels in the drainage district in proportion to their respective areas. [L. 1915, c. 190, s. 7; R. L. 1925, s. 984; R. L. 1935, s. 1334.]

Sec. 2726. Lien. The cost of the improvements made or completed by the superintendent as determined and apportioned pursuant to the provisions of this chapter shall constitute a lien upon the land improved, which lien shall have priority over all other liens. [L. 1896, c. 61, s. 7; am. L. 1911, c. 112, s. 8; am. L. 1915, c. 190, s. 8; R. L. 1925, s. 985; R. L. 1935, s. 1335.]

Lien attaches to interest of him who as owner is in control of land, 22 H. 327, 338; 31 H. 446.

Sec. 2727. Notice and recording of lien. Whenever work or improvement is done or completed by the superintendent, he shall record in the office of the registrar of conveyances a notice of the cost of the work so done or completed and a brief description of the land on which the same is a charge, together with the name of the last known owner, and shall also serve a copy of such notice upon such owner in the manner provided in section 2719. [L. 1896, c. 61, s. 8; am. L. 1911, c. 112, s. 9; R. L. 1925, s. 986; R. L. 1935, s. 1336.]

Cited: 31 H. 446.

Sec. 2728. Foreclosure. Such lien may be foreclosed at any time after six months and within five years from the date of the recording required by the preceding section by suit in equity or without suit by public sale by the superintendent in the name of the Territory. Foreclosure by public sale shall be preceded by the publication of a notice, setting forth the time and place of such sale, the amount of the lien, and a brief description of the land, for at least six times, in a weekly paper published in the county where the land is situated. The land shall be offered for sale at public auction at an upset price equal to the amount of the lien, and the cost of all advertising and other costs incurred, and if no higher price is bid, shall be declared sold to the Territory, which in such case shall be deemed to be the purchaser at the upset price. Such sale shall be effectual to convey the title to the purchaser, and a conveyance of the land to the purchaser may be executed in the name of the Territory by the superintendent. Only the balance of the purchase price, after deducting the amount of the lien and costs, or, in case there is no balance or an insufficient balance, only an amount equal to the value of the land as last previously assessed for taxation, shall be subject to claims against the Territory. In case the Territory shall be the purchaser as aforesaid, the amount of such assessed value shall be payable out of any funds provided therefor, and the land may be sold at any time thereafter at public auction, after due notice, at an upset price equal to the value of the land as determined by three disinterested appraisers appointed by the superintendent, and the proceeds of such sale turned into the fund provided therefor. In case of uncertainty as to the person to whom such balance or assessed value should be paid or its apportionment among two or more persons, it may be deposited in the circuit court for the benefit of whom it may concern. [L. 1896, c. 61, s. 9; am. L. 1911, c. 112, s. 10; am. L. 1915, c. 149, s. 1; R. L. 1925, s. 987; R. L. 1935, s. 1337.]

Sec. 2729. Payment presumed when. All such liens shall be presumed to have been satisfied at the expiration of six years from the date of record. [L. 1896, c. 61, s. 10; am. L. 1915, c. 149, s. 2; R. L. 1925, s. 988; R. L. 1935, s. 1338.]

Sec. 2730. Amount paid owner. Whenever property shall be improved under this chapter and the superintendent shall sell the property so improved to satisfy the lien established in consequence of such improvement, the owner shall be paid out of the proceeds of such sale an amount not less than the assessed value of the property before its improvement. [L. 1911, c. 29, s. 2; R. L. 1925, s. 991; R. L. 1935, s. 1339.]

Sec. 2771. Board of registration, appointment, tenure. The governor shall appoint a board to consist of five members for the registration of nurses, four of whom shall be nurses of at least five years' experience and holding diplomas from different training schools for nurses giving at least a two years' course in the theory and practice of nursing in a hospital and one of whom shall be a physician on the consulting staff of a hospital maintaining a training school for nurses.

Commencing from July 1, 1917, one member shall be appointed to hold office for one year, one for two years, one for three years, one for four years and one for five years. Upon the expiration of the respective terms of the members, their respective successors shall be appointed for a term of five years. Upon a vacancy occurring in the board, a member shall be appointed to fill such vacancy for the remainder of the unexpired term. [L. 1917, c. 163, s. 1; R. L. 1925, s. 1102; am. L. 1931, c. 186, s. 1; R. L. 1935, s. 1350.]

See R. L. 1925, Vol. II, for L. 1919, c. 61, nurses' training school, Queen's Hospital.

Sec. 2772. Organization, meetings. The members of the board shall meet annually on the second Tuesday of July in each year and shall elect a chairman and a secretary who shall hold their respective offices for the term of one year. The board shall hold regular meetings in each year, on the second Tuesday of January, April, July and October, and it may hold such additional meetings at such times as it may determine. [L. 1917, c. 163, s. 2; R. L. 1925, s. 1103; am. L. 1931, c. 186, s. 2; R. L. 1935, s. 1351.]

Sec. 2773. Registration, revocation and suspension of certificates. Application for registration shall be made upon blanks to be furnished by the board and shall be signed and sworn to by the applicant. Each applicant for registration who shall furnish satisfactory proof that he is at least twenty years of age, is in good physical condition, is free from any contagious or communicable disease and is of good moral character shall, upon payment of a fee of five dollars, be examined by the board. Upon such examination and upon being found qualified such applicant shall be registered with the right to use the title "registered nurse," and shall receive a certificate thereof from the board, signed by the chairman and secretary. The board shall have power to waive the examination of any applicant, otherwise qualified, upon satisfactory proof to it that the applicant has been graduated from a training school for nurses of recognized standing. Any person who fails to pass an examination shall be entitled to be re-examined at the next regular examination, without the payment of an additional fee.

The board after hearing may, by a vote of a majority of its members, revoke any certificate issued by it and cancel the registration of any nurse or suspend such certificate for any of the following causes:

1. Wilfully betraying a professional secret;
2. Conviction of any offense involving moral turpitude;
3. Habitual intemperance;
4. Habitual use of habit-forming drugs, such as opium or any of its derivatives, morphine, heroin or cocaine;
5. Gross carelessness and manifest incapacity;
6. When afflicted with a contagious or communicable disease.

In case any license is revoked or suspended for any of the causes named, the holder thereof shall be immediately notified in writing by the board of such revocation or suspension.

Every registered nurse shall, between July 1 and September 1 of each year, renew his certificate by registering with the board and by paying a renewal fee of one dollar. Every certificate that is not so renewed shall expire on September 1, and shall not be renewed except upon the payment of the lapsed fee.

All expenses of the board shall be paid from the fees received by the board under the provisions of this chapter, and no salary or other expenses shall be paid out of the treasury of the Territory and all moneys received by the board shall be held by the treasurer as a special fund for meeting the expenses of the board. [L. 1917, c. 163, s. 3; R. L. 1925, s. 1104; am. L. 1925, c. 225, s. 1; am. L. 1931, c. 186, s. 3; R. L. 1935, s. 1352.]

Sec. 2774. Examinations. Examinations shall be in part in writing and in part in practical work, and shall include the principles and methods of nursing. Due credit shall be given for examinations in special branches. [L. 1917, c. 163, s. 4; R. L. 1925, s. 1105; R. L. 1935, s. 1353.]

Sec. 2775. Persons eligible for examination, etc. No person shall be eligible for examination or for registration as a registered nurse, who shall not furnish satisfactory evidence of having been graduated from an accredited training school for nurses. An accredited training school for nurses is defined to be a school for the training of nurses attached to or operated in connection with a hospital or hospitals giving a general training and a systematic, theoretical and practical course of instruction covering a period of at least three years. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this chapter, relative to qualifying. [L. 1917, c. 163, s. 5; am. L. 1919, c. 14, s. 1; R. L. 1925, s. 1106; R. L. 1935, s. 1354.]

Sec. 2776. Exemption from examination. The board shall have power to register from time to time and upon payment of the fee, without examination, persons who have been registered as professional nurses elsewhere under laws which, in the opinion of the board, maintain a standard substantially similar to that of this chapter, and who furnish satisfactory evidence of good moral character and of good physical condition and freedom from contagious or communicable disease.

The board of examiners shall file with the board of health of the Territory, monthly, a complete list of all nurses registered with the board. [L. 1917, c. 163, s. 6; R. L. 1925, s. 1107; am. L. 1925, c. 225, s. 2; R. L. 1935, s. 1355.]

Sec. 2777. Duties of board. The board shall investigate all complaints of the violations of the provisions of this chapter, and report the same to the proper prosecuting officer. [L. 1917, c. 163, s. 7; R. L. 1925, s. 1108; R. L. 1935, s. 1356.]

Sec. 2778. Same; reports. The board shall keep a record of the names of all persons registered hereunder, and of all moneys received and disbursed by it. The board shall annually on or before July 1, make a report to the governor of the condition of professional nursing in the Territory, of all its official acts during the preceding year, and of its receipts and disbursements. [L. 1917, c. 163, s. 8; R. L. 1925, s. 1109; R. L. 1935, s. 1357.]

Sec. 2779. Gratuitous nursing. The provisions of this chapter shall not be held to apply to gratuitous nursing of the sick by friends, or members of the family, or any person nursing the sick for hire who does not assume to be a registered nurse. [L. 1917, c. 163, s. 9; R. L. 1925, s. 1110; R. L. 1935, s. 1358.]

Sec. 2780. Penalty. Any person who engages in professional nursing in the Territory and thereby assumes to act as a registered nurse, without possessing a certificate of registration in good standing shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars. [L. 1925, c. 225, s. 3; R. L. 1935, s. 1359.]

Sec. 2781. Rules and regulations. The board may make such rules and regulations with reference to procedure hereunder as they may deem wise; not, however, inconsistent with the terms hereof or the laws of the Territory. [L. 1917, c. 163, s. 10; R. L. 1925, s. 1111; R. L. 1935, s. 1360.]

CHAPTER 53.

OPTOMETRY.

Sec. 2801. Optometry; practice of, defined. The practice of optometry is defined to be the employment of any means, other than the use of drugs, for the measurement of the powers of vision and the adaptation of lenses for the aid thereof. [L. 1917, c. 187, s. 1; R. L. 1925, s. 1112; R. L. 1935, s. 1370.]

Sec. 2802. Board of examiners; members, appointment, qualifications, tenure. A board to be known as the board of examiners in optometry, for the Territory is established. The board shall consist of three members who shall possess sufficient knowledge of theoretical and practical optics to practice optometry and who shall have been residents of the Territory actually engaged in the practice of optometry for at least one year. The term of office of each member of the board shall be three years, or until his successor is appointed and qualified, and vacancies shall be filled for the unexpired term only; but in

the original appointment of the members of the board, one shall be appointed for the term of one year, one for the term of two years, and one for three years, from July 1, 1917. The board shall be appointed by the governor in accordance with the provisions of section 80 of the Organic Act. Only licensed optometrists shall be eligible to appointment. No member of the board shall be a stockholder, member of the faculty or on a board of trustees of any school of optometry. [L. 1917, c. 187, s. 2; R. L. 1925, s. 1113; R. L. 1935, s. 1371.]

Sec. 2803. Organization; meetings; rules and regulations. The members of the board shall qualify by taking oath of office before a notary public, or other officer empowered to administer oaths. At the first meeting of the board after each annual appointment, the board shall elect a president, vice-president and secretary-treasurer. Examinations shall be held by the board at least once a year with such additional examinations as the board desires to hold. The time and place of any examination shall be fixed by the board at least thirty days prior to the date that it is to be held. One examination shall be held during the third week of July of each year. The board shall prescribe rules, regulations and by-laws, in harmony with the provisions of this chapter, for its own proceedings and government and for the examination of applicants for the practice of optometry. Such rules and regulations shall be published and furnished free of charge to and for the use and convenience of applicants for examinations; provided, however, that no examination of applicants shall be held except by the full board. [L. 1917, c. 187, s. 3; R. L. 1925, s. 1114; R. L. 1935, s. 1372; am. L. 1941, c. 195, pt. of s. 1.]

See ss. 466-476, rules and regulations.

Sec. 2804. Records. The board shall preserve a record of all its proceedings in a book kept for that purpose, showing name, age, place and duration of residence of each applicant, the time spent in schools of optometry, and in the study and practice of same, and the year and school from which degrees were granted. Such register shall also show whether applicants were rejected or licensed, and, if rejected, the reasons therefor. [L. 1917, c. 187, s. 4; R. L. 1925, s. 1115; R. L. 1935, s. 1373.]

Sec. 2805. Examination; certificate of registration. Every person desiring to commence or to continue the practice of optometry shall, upon presentation of satisfactory evidence, verified by oath, that he is more than twenty-one years of age, is a citizen of the United States, has been a resident of the Territory for at least one year, and has a preliminary education equivalent to at least two years in a public high school, take an examination before said board of examiners in optometry upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of twenty dollars, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least sixty days prior to the date selected by the board for such examination, the following credentials:

1. A diploma or certificate of graduation from an American optometric college or school recognized and approved by the board;

2. A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of optometric examiners, and the secretary of the state optometric association of that state;

3. A recent unmounted photograph of the applicant.

Every candidate who shall pass an examination satisfactory to the board, or who has received a certificate of exemption therefrom, shall be registered as possessing the qualifications required by this chapter, and shall receive from said board a proper certificate of such registration. Before any certificate is issued it shall be numbered and recorded in a book kept by the secretary of the board of examiners in optometry, and on forms prepared by said board, accompanied by the necessary fee. Such applicants shall be given due notice of the date and place of examination. In case any applicant, because of his failure to pass examination, be refused a license, he or she shall within a year be permitted to take a second examination without additional fee.

Each registered optometrist shall pay an annual license fee of one dollar between the first day of January and the first day of February of each year to the treasurer of the board of examiners for a renewal of his registration

certificate. [L. 1917, c. 187, s. 5; R. L. 1925, s. 1116; R. L. 1935, s. 1374; am. L. 1941, c. 195, pt. of s. 1.]

Proviso for exemption from examination omitted as functus.

Sec. 2806. Expenses; appeal from decision refusing certificates. All expenses of the board shall be paid from the fees received by the board, and no salary or other expenses shall be paid out of the treasury of the Territory, and all moneys received by the board shall be held by the treasurer as a special fund for meeting the expenses of the board. An appeal to any circuit court may be taken from any decision of the board by any applicant who is refused a certificate. [L. 1917, c. 187, s. 6; R. L. 1925, s. 1117; R. L. 1935, s. 1375.]

Sec. 2807. Reports. The secretary of the board shall make a report of its proceedings to the governor, with an account of all moneys received and expended by the board on or before January 1 of each year. [L. 1917, c. 187, s. 7; R. L. 1925, s. 1118; R. L. 1935, s. 1376.]

Sec. 2808. Conduct of examinations; authentication of certificates. Examinations may be conducted in writing or in such manner as the board may determine. All certificates shall be attested by an official seal and signed by all members of the board. [L. 1917, c. 187, s. 8; R. L. 1925, s. 1119; R. L. 1935, s. 1377.]

Sec. 2809. Refusal to permit examination or issue certificates; grounds for. The board may refuse to admit persons to its examinations or to issue the certificates for any of the following causes:

1. The presentation to the board of any certificate or testimony which was illegally or fraudulently obtained, or when fraud or deceit has been practiced in passing an examination.

2. Conviction of a crime of the grade of a felony, or one which involves moral turpitude.

3. Other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public; or for habits of intemperance or drug addiction, calculated to destroy the accuracy of the work of an optometrist.

4. Advertising at a stipulated price, or any variation of such a price or as being free, any of the following:

The examination or treatment of the eyes, the furnishing of optometric services; or the furnishing of a lens, lenses, glasses, or the frames or fittings thereof.

5. Directly or indirectly accepting employment to practice optometry from any person not having a valid, unrevoked certificate of registration as an optometrist or from any company or corporation. [L. 1917, c. 187, s. 9; R. L. 1925, s. 1120; R. L. 1935, s. 1378; am. L. 1941, c. 195, pt. of s. 1.]

Sec. 2810. Revocation of certificate. The right to practice optometry may be revoked by the board upon proof of the violation of the law in any respect in regard thereto; or for any cause for which the board is authorized to refuse to admit persons to its examinations, as provided in section 2809. [L. 1917, c. 187, s. 10; R. L. 1925, s. 1121; R. L. 1935, s. 1379.]

Sec. 2811. Penalty. Any person practicing optometry in violation of the provisions of this chapter, shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars, or be imprisoned for a term not less than two months nor exceeding six months, or both, and each day of such violation shall constitute a separate offense. [L. 1917, c. 187, s. 11; R. L. 1925, s. 1122; R. L. 1935, s. 1380.]

Sec. 2812. Exceptions. Nothing in this chapter shall be construed to apply to duly licensed physicians authorized to practice medicine under the laws of the Territory, nor to the commissioned officers of the United States army medical corps on duty in the Territory. [L. 1917, c. 187, s. 12; R. L. 1925, s. 1123; R. L. 1935, s. 1381.]

Sec. 2851. License to practice. No person shall practice as an osteopathic physician or surgeon either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "Dr." or the letters "D. O." to his name, with the intent thereby to imply that he is a practitioner as an osteopathic physician or osteopathic physician and surgeon, without having a valid unrevoked license, obtained from the board of health of the Territory, in form and manner substantially as hereinafter set forth. [L. 1921, c. 14, s. 1; R. L. 1925, s. 1035; am. L. 1925, c. 27, s. 1; R. L. 1935, s. 1390.]

Sec. 2852. Former license. Any license issued prior to March 14, 1921, under the laws of the Territory to any graduate of a legally chartered college of osteopathy in good standing, authorizing its holder to practice osteopathy, shall in no wise be affected by the provisions of this chapter, except that revocation thereof may be had in accordance with the provisions of this chapter. [L. 1921, c. 14, s. 2; R. L. 1925, s. 1036; R. L. 1935, s. 1391.]

Sec. 2853. Board of osteopathic examiners. No person shall be licensed by the board of health to practice as an osteopathic physician or as an osteopathic physician and surgeon except upon the written report of the board of osteopathic examiners, setting forth that the applicant named therein has been duly examined and found to be possessed of the necessary qualifications, or found to be otherwise qualified as herein provided. [L. 1921, c. 14, s. 3; R. L. 1925, s. 1037; am. L. 1925, c. 27, s. 2; R. L. 1935, s. 1392.]

Sec. 2854. Appointment, removal and qualifications of board of osteopathic examiners. For the purpose of carrying out the provisions of this chapter, the governor is authorized and directed to appoint and may remove, in the manner prescribed in section 80 of the Organic Act, a board of osteopathic examiners, whose duty it shall be to examine all applicants for licenses to practice as osteopathic physicians, or as osteopathic physicians and surgeons, and to report the result of such examinations to the board of health.

The board of osteopathic examiners shall consist of three persons, all of whom shall be osteopathic physicians licensed under the laws of the Territory. The appointments, unless to fill out unexpired terms, shall be for three years; provided, however, that of the first three members of the board of osteopathic examiners one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years. In case of any vacancy occurring, for whatever cause, prior to the expiration of the term of any such appointee, the successor shall be appointed for the remainder of such term. The members of the board shall serve without pay.

The board of osteopathic examiners may make and adopt, subject to the approval of the governor, all necessary rules and regulations relating to the enforcement of this chapter and not inconsistent with the provisions hereof. Examinations shall be held quarterly at a time and place to be fixed by the board, of which examination all applicants shall be notified in writing; provided, however, that the expenses incident to the conducting of the examinations shall be paid out of the office expenses of the board of health upon vouchers made by a majority of the board of osteopathic examiners and approved by the president of the board of health. [L. 1921, c. 14, s. 4; R. L. 1925, s. 1038; am. L. 1925, c. 27, s. 3; R. L. 1935, s. 1393.]

See ss. 466-476, rules and regulations.

Sec. 2855. Examination fee. No applicant for a license to practice as an osteopathic physician or as an osteopathic physician and surgeon shall be examined until he shall have paid to the board of health a fee of twenty-five dollars. [L. 1921, c. 14, s. 5; R. L. 1925, s. 1039; am. L. 1925, c. 27, s. 4; R. L. 1935, s. 1394.]

Sec. 2856. Application for examination. Each applicant for examination shall comply with the following requirements:

1. Make application for examination on blank forms prepared and furnished by the board of osteopathic examiners;
2. Submit evidence verified on oath and satisfactory to the board that applicant is twenty-one years of age or over and has had the preliminary and professional education required by this chapter;
3. Designate on his application whether he desires to practice as an osteo-

pathic physician, or as an osteopathic physician and surgeon. [L. 1921, c. 14, s. 6; R. L. 1925, s. 1040; R. L. 1935, s. 1395.]

Sec. 2857. Professional education. Standards of professional education required by this chapter are fixed as follows:

The applicant shall be a graduate of a professional school or college of osteopathy which requires as a prerequisite to graduation a four years' course of nine months each, covering the standard American Osteopathic Association curriculum, as defined in section 2858, and giving instruction in all the subjects necessary to educate a thoroughly competent general osteopathic practitioner, including obstetrics, minor surgery with emphasis on fractures and dislocations; and embodying necessary instruction in anesthetics, antiseptics, germicides and parasiticides, narcotics and antidotes, and to teach principles of surgery and surgical diagnosis leading to the degree of osteopathic physician, or doctor of osteopathy.

To practice as an osteopathic physician and surgeon the applicant, in addition to the foregoing requirements, shall submit satisfactory evidence to the board of osteopathic examiners:

1. That he has been engaged in the active practice of his profession as a duly licensed osteopathic physician for at least two years immediately prior to the date of his entrance to training for the degree of an osteopathic physician and surgeon; and in addition thereto, has

2. Either completed a two years' post graduate course in a reputable professional school or college of osteopathy involving a thorough and intensive study in the subject of surgery; or

3. Has completed a one year post graduate course in a reputable school or college of osteopathic surgery as in paragraph 2, and, in addition thereto, a one year course of training as a surgical assistant in a hospital having at least twenty-five beds for patients and equipped for doing major surgical work. [L. 1921, c. 14, s. 7; R. L. 1925, s. 1041; R. L. 1935, s. 1396.]

Sec. 2858. Colleges of osteopathy defined. The term "professional school or college of osteopathy in good standing" shall be defined as follows: A legally chartered osteopathic school or college requiring for admission to its course of study a preliminary education equal to the requirements for graduation of an accredited high school, and which shall further require before granting the degree of doctor of osteopathy, an actual attendance at such osteopathic school or college of at least thirty-six months, or four terms of nine months each, its course of study to include the subjects and the minimum hours taught in each thereof as follows:

Anatomy (descriptive, regional, applied, surgical and dissective).....	600
Embryology	70
Chemistry (advanced to include organic and physiological chemistry, and toxicology)	300
Histology	180
Physiology	300
Pathology	240
Bacteriology	150
Hygiene	60
Hydrotherapy	16
X-Radiance and electrical diagnosis	36
Dietetics	32
Osteopathy (a) principles of osteopathy; (b) osteopathic technique; (c) practice of osteopathy, to include diseases of nervous system, alimentary tract, heart and vascular system, genito-urinary diseases, ductless glands and metabolism, respiratory tract, bone and joint diseases and corrective gymnastics, acute and infectious diseases, pediatrics, dermatology, syphilis, psychiatry, diagnosis (physical, laboratory and differential), clinical practice, case recording.....	1466
Minor surgery, with emphasis on fractures and dislocations, principles of surgery, and surgical diagnosis, orthopedics, orificial and chemical....	400
Eye, ear, nose and throat.....	180
Gynecology	160
Obstetrics	200
Professional ethics and efficiency.....	16
Jurisprudence	16
Total	4422

The number of hours herein prescribed for the study of any subject may be reduced not more than thirty per centum, but the total number of hours prescribed shall not be reduced. The foregoing requirements shall be published in each catalogue of such osteopathic school or college. [L. 1921, c. 14, s. 8; R. L. 1925, s. 1042; R. L. 1935, s. 1397.]

Sec. 2859. Osteopathic physician and surgeon distinguished. The examination of those who desire to practice as osteopathic physicians shall embrace those general subjects and topics, a knowledge of which is commonly and generally required of candidates for a degree of doctor of osteopathy by reputable osteopathic colleges in the United States.

With respect to the subject-matter of surgery, the examination of those who desire to practice as osteopathic physicians and surgeons shall be of such a character as to test thoroughly the qualifications of the applicant as a practitioner of surgery. [L. 1921, c. 14, s. 9; R. L. 1925, s. 1043; R. L. 1935, s. 1398.]

Sec. 2860. License issued. Each applicant who successfully passes the examination shall be entitled to a license. The following kinds of license shall be issued:

1. To practice as an osteopathic physician in accordance with the teachings of legally chartered colleges of osteopathy in good standing, with the following rights, among others, to wit: to practice obstetrics; to practice surgery, other than major surgery; and to administer anesthetics, antiseptics, germicides, parasiticides, narcotics and antidotes;

2. To practice as an osteopathic physician and surgeon. This license confers unlimited surgical rights, as well as the right to practice in all other respects as an osteopathic physician. [L. 1921, c. 14, s. 10; R. L. 1925, s. 1044; R. L. 1935, s. 1399.]

Sec. 2861. Foreign license. The board of osteopathic examiners, may, in its discretion, report favorably and require the issuance of a license, without examination, to a practitioner who has been licensed in any country, state, territory or province, upon the following conditions:

1. That the applicant is of good moral character;

2. That the applicant shall designate in his application whether he desires to practice as an osteopathic physician, or as an osteopathic physician and surgeon;

3. That the requirements for a license in the country, state, territory or province in which the applicant is licensed, are deemed by the board of osteopathic examiners to have been practically equivalent to the requirements for a license in force in the Territory at the date of such license;

4. That the applicant shall have practiced his profession as an osteopathic physician for three years prior to the date of his application.

The board of osteopathic examiners may also, in its discretion, report favorably and require the issuance of a license, without examination, to an osteopathic physician who is a graduate of an osteopathic college in good standing and who has passed an examination for admission into the medical corps of the United States army, United States navy, or the United States public health service. [L. 1921, c. 14, s. 11; R. L. 1925, s. 1045; R. L. 1935, s. 1400.]

Sec. 2862. Display license. Every holder of a license shall display it in a conspicuous place in his principal place of business or employment. [L. 1921, c. 14, s. 12; R. L. 1925, s. 1046; R. L. 1935, s. 1401.]

Sec. 2863. Privileges and obligations. Osteopathic physicians and osteopathic physicians and surgeons shall observe and be subject to all territorial and municipal regulations relative to reporting births and deaths and all matters pertaining to the public health, with equal rights and obligations as physicians of other schools of medicine.

In public institutions osteopathic physicians and osteopathic physicians and surgeons licensed hereunder shall have the same privileges and the same rights to practice their profession in the treatment of cases and the same right to hold office as are accorded to physicians and surgeons of other schools. [L. 1921, c. 14, s. 13; R. L. 1925, s. 1047; R. L. 1935, s. 1402.]

See s. 2513, duty to report knife and firearm wounds. See advertising, 294 U. S. 608.

Sec. 2864. Refusal and revocation of license. The board of osteopathic examiners may either refuse to recommend the issuance of a license or may suspend or revoke any license for any one or any combination of the following causes:

1. Conviction of a felony, as shown by a certified copy of the record of the court of conviction;
2. The obtaining of or an attempt to obtain a license, or practice in the profession, or money, or any other thing of value, by fraudulent misrepresentation;
3. Gross malpractice;
4. Continued practice by a person knowingly having an infectious or contagious disease;
5. Advertising by means of knowingly false or deceptive statements;
6. Advertising, practicing or attempting to practice under a name other than one's own;
7. Habitual drunkenness, or habitual addiction to the use of morphine, cocaine, or other habit-forming drug.

The board of osteopathic examiners may neither refuse to recommend the issuance of a license, nor refuse to recommend the renewal of a license, nor suspend, nor revoke any license, however, for any of these causes, unless the person accused has been given at least twenty days' notice, in writing, of the charge against him and a public hearing by the board.

The board of osteopathic examiners shall have the power to compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

The circuit court of the circuit in which the hearing is held shall have power to enforce, by proper proceeding, the attendance and testimony of witnesses so subpoenaed and the production of books and papers so ordered. [L. 1921, c. 14, s. 14; R. L. 1925, s. 1048; am. L. 1925, c. 27, s. 5; R. L. 1935, s. 1403.]

Sec. 2865. Penalties. Each of the following acts constitutes a misdemeanor, punishable upon conviction by a fine of not more than two hundred and fifty dollars:

1. The practice of osteopathy or an attempt to practice osteopathy without a license;
2. The obtaining of, or an attempt to obtain a license, or practice in the profession, or money, or any other thing of value by fraudulent misrepresentation;
3. The making of any wilfully false oath or affirmation whenever an oath or affirmation is required by this chapter;
4. Advertising, practicing, or attempting to practice under a name other than one's own;
5. The violation of any of the provisions of this chapter. [L. 1921, c. 14, s. 15; R. L. 1925, s. 1049; R. L. 1935, s. 1404.]

Sec. 2866. Records. The board of osteopathic examiners shall keep a record which shall be open to public inspection at all reasonable times, of its proceedings relating to the issuance, refusal, renewal, suspension and revocation of licenses to practice osteopathy or osteopathy and surgery. This record shall also contain the name, known place of business and residence, and the date and number of the license of every registered osteopath. [L. 1921, c. 14, s. 16; R. L. 1925, s. 1050; R. L. 1935, s. 1405.]

CHAPTER 55. PHARMACISTS AND PHARMACY.

Sec. 2901. License required. It shall be unlawful for any person not licensed as a pharmacist to conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business for the retailing, compounding or dispensing of any drugs, chemicals or poisons, or for any person not licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any drug, chemical or poison upon the prescription of a physician, or otherwise, or to compound physicians' prescriptions except as an aid to or under the immediate supervision of a person licensed as a pharmacist, and it shall be unlawful for any owner or manager of a pharmacy, or drug store, or other place of business, to cause or permit any person other than a licensed pharmacist or assistant pharmacist to compound, dispense or

sell, at retail, any drug, medicine or poison, except as an aid to or under the immediate supervision of a person licensed as a pharmacist or assistant pharmacist, or a duly licensed physician.

It shall also be unlawful for any person not licensed as a pharmacist to conduct, manage, have or maintain any store, shop, or other place of business having over, upon or connected therewith any sign containing any of the words or names "Drug Store, Pharmacy, Drugs and Medicines, Drugs or Medicines," in any language, or to advertise in any language that such person is conducting, managing, having or maintaining any store, shop or other place as a pharmacy or drug store, or where drugs and medicines, or drugs or medicines are sold or compounded, unless a licensed pharmacist is in charge.

Provided, however, that nothing in this section shall be construed to interfere with any legally licensed practitioner of medicine or dentistry in the compounding of his own prescriptions, or to prevent him from supplying his patients such medicines as he may deem proper, nor with the selling of non-poisonous domestic remedies, nor with the selling of patent or proprietary preparations which do not contain poisonous ingredients; **provided**, further, (1) that nothing in this chapter shall prohibit the sale, distribution or compounding of poisons for the destruction of weeds by persons other than licensed pharmacists; and (2) that such poisonous household remedies and rodent or insect destroyers, as the board of health shall find, and by rule and regulation define, to be in such common use and the poisonous qualities thereof to be so well known, that the sale, distribution or compounding thereof may be so authorized without substantial danger to the public, may be sold, distributed or compounded by persons other than licensed pharmacists under such restrictions as the board of health shall by rule and regulation prescribe. [L. 1903, c. 70, s. 1; am. L. 1923, c. 237, s. 1; R. L. 1925, s. 1090; am. L. 1933, c. 34, s. 1; R. L. 1935, s. 1410.]

Food, Drugs, etc., c. 41.

Sec. 2902. Penalty. Whoever, not being licensed as a pharmacist, shall conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business for the retailing, compounding or dispensing of drugs, chemicals or poisons, or who, being the owner or manager of a pharmacy, drug or chemical store, apothecary shop, or other place of business, shall cause or permit any one not licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any drug, medicine or poison except as an aid to or under the immediate supervision of a duly licensed pharmacist, assistant pharmacist or physician, contrary to section 2901, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars, or be imprisoned for not more than three months; but nothing in this section shall prevent any licensed merchant from selling proprietary remedies. [L. 1903, c. 70, s. 14; R. L. 1925, s. 1091; R. L. 1935, s. 1411.]

Sec. 2903. Same. Whoever, not being licensed as a pharmacist or assistant pharmacist, shall compound, dispense or sell at retail any drug, chemical or poison, upon any physician's prescription or otherwise, or shall compound any physician's prescription except as an aid to or under the immediate supervision of a person licensed as a pharmacist under this chapter, contrary to the provisions of section 2901, or whoever shall violate any other of the provisions of section 2901, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than two hundred and fifty dollars or be imprisoned not more than two months. [L. 1903, c. 70, s. 15; am. L. 1923, c. 237, s. 2; R. L. 1925, s. 1092; R. L. 1935, s. 1412.]

Sec. 2904. Board, appointment, removal. There shall be appointed, subject to removal, by the governor, in the manner provided in section 80 of the Organic Act, a board of pharmacy, which shall consist of three members, one of whom shall be designated by the governor as chairman, all of whom shall be competent licensed pharmacists and residents of the Territory, and who shall hold office for two years, except in the case of appointments made to fill out unexpired terms. The members of the board shall serve without pay. [L. 1903, c. 70, s. 2; am. L. 1917, c. 17, s. 1; am. L. 1923, c. 237, s. 3; R. L. 1925, s. 1093; R. L. 1935, s. 1413.]

Sec. 2905. Meetings, quorum. The board shall hold at least two meetings in each year, and such additional meetings as may be necessary for the examination of applicants for licenses under this chapter. All such meetings

shall be held in Honolulu. The majority of the board shall constitute a quorum. [L. 1903, c. 70, s. 4; am. 1923, c. 237, s. 4; R. L. 1925, s. 1094; R. L. 1935, s. 1414.]

Sec. 2906. Application, fee. Every person who shall desire to be licensed as a pharmacist or assistant pharmacist shall file with the chairman of the board, a written application fully verified by oath, setting forth the name, age and nationality of the applicant, the place or places at which, and the time spent by the applicant in the study of the science and art of pharmacy, and the experience in the compounding of physician's prescriptions which the applicant has had under the direction of a licensed pharmacist. Such applicant shall, at the time of filing the application, pay to the chairman of the board a fee of fifteen dollars, which in no case shall be refunded. [L. 1903, c. 70, s. 9; am. L. 1923, c. 237, s. 5; R. L. 1925, s. 1095; R. L. 1935, s. 1415.]

Sec. 2907. Examinations. The board shall fix the times and places for examination of applicants, which shall be at least twice a year, and shall examine in open meeting every applicant for a license as pharmacist or assistant pharmacist. [L. 1903, c. 70, s. 3; am. L. 1923, c. 237, s. 6; R. L. 1925, s. 1096; R. L. 1935, s. 1416.]

Sec. 2908. Qualifications of applicants. In order to be licensed as a pharmacist an applicant shall not be less than twenty-one years of age and he shall present to the board satisfactory evidence that he is a graduate of a reputable school or college of pharmacy or that he has had four years' experience in pharmacy and shall also pass a satisfactory examination before the board.

In order to be licensed as an assistant pharmacist an applicant shall not be less than eighteen years of age and shall have had not less than two years' experience in pharmacy under the instruction of a licensed pharmacist, and shall pass a satisfactory examination before the board; provided, however, that in the case of an applicant who has attended a reputable school or college of pharmacy the actual time of attendance at such school or college of pharmacy may be deducted from the time of experience required of an assistant pharmacist, but in no case shall less than two years' experience be required for registration as a licensed pharmacist. [L. 1903, c. 70, s. 6; am. L. 1909, c. 125, s. 1; R. L. 1925, s. 1097; R. L. 1935, s. 1417.]

Sec. 2909. Issuance of license, temporary license, fee. The board shall issue a license to practice as a pharmacist or as an assistant pharmacist to any applicant of good moral character, who has complied with the requirements of section 2908, and may issue licenses to practice as pharmacists or assistant pharmacists, without examination, to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in any state or territory; provided that the applicant shall present satisfactory evidence of the same qualifications as are required from licensees under this chapter, and that any such applicant was registered or licensed by examination in such state or territory, and that the standard of competence required in such state or territory is not lower than that required in this Territory; provided also that the board is satisfied that the laws of such state or territory accord similar recognition to the licensees of this Territory.

The board may examine any applicant orally and in writing, and issue a temporary license to practice pharmacy, which shall be good for a period not to exceed six months from its date. The issuance of such a temporary license shall not entitle the holder thereof to a permanent license, and no permanent license shall be issued to such holder until he passes a satisfactory examination by the board. Only one temporary license shall be issued to the same applicant, and no temporary license shall be granted to any person whose application has been denied by the board. For the issuance of any such license the board shall receive the sum of five dollars.

The board shall not issue any license to any applicant who has been convicted of a felony, or who is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practice pharmacy, or who fails to pass a satisfactory examination, or whose license has previously been revoked.

All licenses, except temporary licenses, issued by the board shall remain in force for a period of one year from the date thereof, unless revoked; and within thirty days after the expiration thereof the licensee must cause the

same to be renewed. The fee for each renewal shall be two dollars and shall be paid before the same is renewed.

Any license issued by the board shall authorize the licensee to practice as a pharmacist or as an assistant pharmacist, as the case may be, in any part of the Territory.

All fees collected under this chapter shall be deposited by the board with the territorial treasurer, and shall be by him held as a special fund for meeting the expenses of the board and shall be disbursed on warrants of the auditor upon vouchers approved by the chairman of the board. [L. 1903, c. 70, s. 7; am. L. 1923, c. 237 s. 7; R. L. 1925, s. 1098; R. L. 1935, s. 1418.]

Sec. 2910. Revocation. The board may revoke any license issued under the provisions of this chapter upon proof to its satisfaction of alleged professional misconduct, gross carelessness or manifest incapacity on the part of the licensee; provided, however, that no such license shall be revoked except upon due notice to the licensee of the charge against him and an opportunity to be heard in defense. The action of the board shall be final and not subject to appeal or review. [L. 1903, c. 70, s. 12; R. L. 1925, s. 1099; R. L. 1935, s. 1419.]

Sec. 2911. Law as to poisonous drugs not affected hereby. Nothing in this chapter contained shall be construed to repeal or conflict with any law requiring the payment of a license fee for the sale of poisonous drugs. [L. 1903, c. 70, s. 13; R. L. 1925, s. 1100; R. L. 1935, s. 1420.]

See ss. 7105-06, sale of poisonous drugs; c. 56, sale of poisons; c. 49, narcotic drug act; food, drugs, etc., c. 41.

Sec. 2912. Enforcement. The board shall be authorized to call upon the board of health, any sheriff, or any police officer of any county for assistance in any inspections under this chapter or in enforcing any of the provisions thereof. [L. 1923, c. 237, s. 8; R. L. 1925, s. 1101; R. L. 1935, s. 1421.]

Revised as to "sheriff" to conform to new county police systems.

CHAPTER 56.

POISONS, SALE OF

Sec. 2951. Poison defined. "Poison" means any substance, which when applied to or introduced into the blood or tissues of man or animal, is capable of causing death, or any drug, chemical medicine or preparation whatsoever which, according to standard works on medicine, toxicology or materia medica tend to be destructive to human life when administered in quantities of sixty grains or less, or any mixture or compound or preparation containing in sixty grains or less a sufficient quantity of any such drug, chemical or preparation as to make the same tend to be destructive to human life if sixty grains or less thereof be taken internally. [P. C. 1869, c. 88, s. 2; R. L. 1925, s. 1005; am. L. 1931, c. 224, pt. of s. 1; R. L. 1935, s. 1431.]

Food, Drugs, etc., c. 41.

Sec. 2952. Sale of poisons. The board of health of the Territory is authorized and directed to make rules and regulations, and to amend the same from time to time in its discretion, subject to the approval of the governor, concerning the sale or other disposal of poisons and containers in which poisons have been confined. [P. C. 1869, c. 88, s. 1; am. L. 1872, c. 16, s. 1; R. L. 1925, s. 1004; am. L. 1931, c. 224, pt. of s. 1; R. L. 1935, s. 1430.]

See 11530, poisonous drinks; license, ss. 7105-07.

Sec. 2953. Penalty for violations. Any person who shall violate any such rule or regulation of the board of health, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than one month or not more than six months, or by both fine and imprisonment. [L. 1872, c. 16, s. 2; R. L. 1925, s. 1006; am. L. 1931, c. 224, pt. of s. 1; R. L. 1935, s. 1432.]

Sec. 2954. Wood alcohol containers; penalty. All bottles and other containers in which wood alcohol or methyl alcohol is offered for sale or sold, or in which any liquid which contains wood or methyl alcohol is offered for sale or sold, shall be plainly labelled as follows: "Poison: Laau Make." Any person who

shall violate the provisions of this section shall be guilty of a misdemeanor and punishable by imprisonment for not more than one year or by fine of not less than one hundred dollars nor more than one thousand dollars, or by both fine and imprisonment. [L. 1919, c. 132, s. 1; R. L. 1925, s. 1008; R. L. 1935, s. 1433.]

Sec. 2955. Record of prescriptions. Every licensed physician, druggist, or apothecary, who shall compound, sell, or deliver any prescription containing any poisonous drug, or substance deleterious to human life, to be used as medicine, shall enter upon his books the prescription written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered; and no such prescription shall be compounded, sold or delivered, unless the name of the person compounding, selling or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved; and the books and prescriptions shall be subject at all times to the inspection of the board of health or its agent. [P. C. 1869, c. 88, s. 4; R. L. 1925, s. 1009; R. L. 1935, s. 1434.]

See 3 H. 462, 7 H. 49, 53.

Sec. 2956. Penalty. Any person violating the provisions of this chapter except where punishment is otherwise specifically provided shall be fined a sum not exceeding one thousand dollars for each offense. [P. C. 1869, c. 88, s. 5; am. L. 1919, c. 132, s. 1; R. L. 1925, s. 1010; R. L. 1935, s. 1435.]

CHAPTER 57. RADIUM FOR MEDICAL AND SURGICAL PURPOSES.

Sec. 3001. Purchase of radium. The board of health is authorized to purchase radium to be used for medical and surgical purposes, out of any moneys appropriated therefor; provided, however, that the radium so purchased shall be such as shall be approved by the bureau of standards at Washington, D. C., and provided, further, that the purchase may be made without regard to the provisions of section 351. [L. 1921, c. 125, s. 1; R. L. 1925, s. 965; R. L. 1935, s. 1440.]

Amount of original appropriation omitted.

Sec. 3002. Rules and regulations. The board is authorized to prescribe such rules, regulations and terms relating to the use of the radium for surgical and medical purposes, as it may deem proper and necessary, subject to the provisions of section 3004. [L. 1921, c. 125, s. 2; R. L. 1925, s. 966; R. L. 1935, s. 1441; am. imp. L. 1935, J. R. 2.]

Provisions as to charges, use by indigents, deleted; superseded by s. 3004. See ss. 466-476, rules and regulations.

Sec. 3003. Under care and control of board of health. The board shall be responsible for the care, control and safe-keeping of the radium so purchased, and all expenses incurred in connection therewith, including all insurance premiums, may be paid out of the moneys received from time to time for the use of the radium. [L. 1921, c. 125, s. 3; R. L. 1925, s. 967; R. L. 1935, s. 1442.]

s. 1443, R. L. 1935, re insurance, omitted, functus.

Sec. 3004. Charges by board of health. The charges to be made for the use of radium belonging to the Territory and in control of the board of health shall be as follows:

- (a) Minimum charge three dollars;
- (b) Maximum charge twenty-five dollars;
- (c) The fee between the minimum and maximum to be at the rate of one cent per mg. per hour;
- (d) Patients requiring serial treatments shall be charged twenty-five dollars for such series;
- (e) No charge shall be made for the use of such radium by persons financially unable to pay for such use if the physician taking out the radium reports that the person is indigent and unable to pay.

Each bill furnished by the board of health to a physician for radium rental shall, before being returned to the board of health with payment, be signed by the person on whom the radium was used, or by such person's agent.

Before any radium is given to a physician for use on a patient unable to pay therefor the doctor obtaining the same shall be required to certify in writing over his signature that he is making no charge to the patient for his services in applying the radium. [L. 1935, J. R. 2.]

CHAPTER 58. UNDERTAKERS, EMBALMERS, FUNERAL DIRECTORS.

Sec. 3051. Licensed by board of health. The board of health of the Territory shall have power, upon the payment to it of an examination fee of ten dollars, to examine, or cause to be examined by not less than two practicing embalmers, undertakers and funeral directors, any resident of the Territory over twenty years of age, of good moral character, who shall have had not less than five years practical experience under the supervision of a registered embalmer or undertaker in the Territory, or who shall have had not less than two years of such practical experience and shall have completed a high school course requiring four years to complete or their equivalent educational training, or who shall have been a resident of the Territory for not less than one year, and shall be a graduate of a recognized school of embalming, or shall have been a resident of the Territory for not less than one year, and shall hold a state license for embalming. All examinations shall be conducted in writing and supplemented by practical demonstrations and shall be upon such subjects as the board may by regulation prescribe. Every such person who shall pass the examination shall be given a license as an embalmer. [L. 1933, c. 36, s. 1; R. L. 1935, s. 1450; am. L. 1943, c. 57, pt. of s. 1.]

Sec. 3052. Rules and regulations. The board shall have power to prescribe such rules and regulations as it shall deem reasonable and proper relating to the practice of embalming, to the business of an undertaker, or to the sanitary condition of places where such business or practice is conducted. [L. 1937, c. 174, s. 1; am. L. 1943, c. 57, pt. of s. 1.]

See ss. 466-476, rules and regulations.

Sec. 3053. Renewal of license. Each licensed embalmer or licensed undertaker or funeral director shall, between July 1 and 10 of each year, renew his license by registering with the board, and by paying a renewal fee of five dollars. Every license that is not so renewed shall expire on August 1 and shall not be renewed except upon the payment of twenty-five dollars. [L. 1933, c. 36, s. 2; R. L. 1935, s. 1451.]

Sec. 3054. Registration of apprentices. Any person at least eighteen years of age, of good moral character, may qualify as an apprentice under a regularly licensed embalmer. He must register with the board, and, upon the payment of a fee of one dollar, a certificate of apprenticeship shall be issued him.

On or between July 1 and 10 of each year, he shall renew his certificate of registration and pay a renewal fee of one dollar. If the renewal fee is not paid within thirty days from the date due, a penalty fee of five dollars for delinquency shall attach and become a part of the total fee due the board for such renewal. The applicant shall also file an affidavit of three citizens who have known him during the past two years, certifying to his moral character. [L. 1933, c. 36, s. 3; R. L. 1935, s. 1452; am. L. 1943, c. 57, pt. of s. 1.]

See c. 72, apprentices.

Sec. 3055. Expenses of board. All expenses of the board in connection with such examination and registration shall be paid from fees received by it under the provisions of this chapter, all of which fees shall be held by the treasurer as a special fund for those purposes. [L. 1933, c. 36, s. 4; R. L. 1935, s. 1453.]

Sec. 3056. Revocation of license. Any such license may be revoked by the board upon proof to its satisfaction of violation of any rule or regulation of the board in any respect in regard thereto. Every person so charged shall be notified in writing of the charges that have been made and of the time and place when and where evidence in support of the same will be heard and shall have the opportunity to present evidence and be heard in his own defense. [L. 1933, c. 36, s. 5; R. L. 1935, s. 1454.]

Sec. 3057. Powers of board to subpoena witnesses, etc. The board shall have power to subpoena and examine witnesses under oath upon all such charges as may be preferred before it, and the circuit court of the circuit in which the hearing is held shall enforce by proper proceedings the attendance and testimony of witnesses so subpoenaed. [L. 1933, c. 36, s. 6; R. L. 1935, s. 1455.]

Sec. 3058. Penalty. Any person who shall practice as an embalmer or undertaker without being registered with the board as herein provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred and fifty dollars or imprisoned for a period of not less than thirty days nor more than ninety days, or by both fine and imprisonment. [L. 1933, c. 36, s. 7; R. L. 1935, s. 1456.]

CHAPTER 59. VETERINARY MEDICINE, SURGERY AND DENTISTRY.

Sec. 3071. License required. No person shall practice veterinary medicine, surgery or dentistry, either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself publicly or privately, as prepared or qualified to so practice, without having first obtained from the board of health, a license in form and style substantially as in this chapter set forth; provided, however, that nothing in this chapter shall be construed to prevent the medical, surgical or dental treatment of stock by the owners or the regular employees of owners, or by neighbors who do not assume to be practitioners of veterinary medicine, surgery or dentistry, or by members of the medical profession, in cases of emergency; and provided, further, that this chapter shall not apply to commissioned veterinary surgeons of the United States army. [L. 1911, c. 71, s. 1; R. L. 1925, s. 1057; am. L. 1925, c. 62, s. 1; R. L. 1935, s. 1460.]

Prior act (c. 40, L. 1905) unconstitutional, 19 H. 99.

Sec. 3072. Applicant examined. No applicant shall be given such a license by the board of health except upon the written report of the board of veterinary examiners, setting forth that the applicant named has been duly examined and found to be possessed of the necessary qualifications. [L. 1911, c. 71, s. 2; R. L. 1925, s. 1058; am. L. 1925, c. 62, s. 2; R. L. 1935, s. 1461.]

Sec. 3073. Examiners. The governor is authorized and directed to appoint and may remove in the manner prescribed in section 80 of the Organic Act, a board of veterinary examiners, whose duty it shall be to examine all applicants for license to practice veterinary medicine, surgery and dentistry, and to report the result of such examination to the board of health.

The board of veterinary examiners shall consist of three persons, all of whom shall be veterinaries licensed under the laws of the Territory. The appointments, unless to fill an unexpired term, shall be for three years. The members of the board shall serve without pay. [L. 1911, c. 71, s. 3; R. L. 1925, s. 1059; am. L. 1925, c. 62, s. 3; R. L. 1935, s. 1462.]

Sec. 3074. Fee for license. No applicant for a license to practice veterinary medicine, surgery and dentistry shall be examined unless he shall have paid to the board of health a fee of ten dollars. [L. 1911, c. 71, s. 4; R. L. 1925, s. 1060; am. L. 1925, c. 62, s. 4; R. L. 1935, s. 1463.]

Sec. 3075. Form of license. The form of license to practice veterinary medicine, surgery and dentistry shall be substantially as follows:

Territory of Hawaii, Board of Health.

License to Practice Veterinary Medicine, Surgery and Dentistry.

..... native of age years, having been duly examined by the board of veterinary examiners and having been recommended by them as possessed of the necessary qualifications, is hereby licensed to practice veterinary medicine, surgery and dentistry in the Territory of Hawaii.

This license is granted and accepted on the express condition that it may be revoked at any time for professional misconduct, gross carelessness or manifest incapacity; such misconduct, gross carelessness or manifest incapacity having been proven to the satisfaction of the board of veterinary examiners and by that body reported to the board of health.

Given under the seal of the board of health, this day of, 19....

.....
President, Board of Health.

[L. 1911, c. 71, s. 5; R. L. 1925, s. 1061; am. L. 1925, c. 62, s. 5; R. L. 1935, s. 1464.]

Sec. 3076. Penalty. Any person who shall practice veterinary medicine, surgery or dentistry, or who shall offer or attempt to so practice, or shall advertise or announce himself either publicly or privately as prepared or qualified to so practice, contrary to the provisions of section 3071, shall be guilty of a misdemeanor and shall be liable, on conviction, to a fine of not more than two hundred and fifty dollars. [L. 1911, c. 71, s. 6; R. L. 1925, s. 1062; R. L. 1935, s. 1465.]

Sec. 3077. Revocation of license. Licenses to practice veterinary medicine, surgery and dentistry may be revoked by the board of health at any time for professional misconduct, gross carelessness or manifest incapacity, such misconduct, gross carelessness or manifest incapacity having been proven to the satisfaction of the board of veterinary examiners, and by that body reported, in writing, to the board of health. In case any license is revoked for any of the causes named in this section, the holder thereof shall be duly notified of such revocation, in writing, by the board of health. [L. 1911, c. 71, s. 7; R. L. 1925, s. 1063; am. imp. L. 1925, c. 62; R. L. 1935, s. 1466.]

Sec. 3078. Licensee entitled to hearing. In case of an alleged misconduct, carelessness or incapacity on the part of any holder of a license to practice veterinary medicine, surgery and dentistry, the person so charged shall be notified in writing, of the charge or charges that have been made and of the time and place when and where evidence in support of the same will be heard, and shall have the opportunity to present evidence and be heard in his own defense. [L. 1911, c. 71, s. 8; R. L. 1925, s. 1064; R. L. 1935, s. 1467.]

CHAPTER 60. VITAL STATISTICS, BUREAU OF:
BIRTHS, DEATHS, MARRIAGES.

	Secs.		Secs.
Bureau, etc.	3101-3102	Reports to Registrars	3120-3126
Registrars and Records	3103-3119	Regulations; Penalty	3127-3128

Sec. 3101. Board, registrar, registrar general, defined. Wherever used in this chapter: "board" shall mean the board of health of the Territory, unless the context shall indicate some other meaning; "registrar" shall mean the registrars of births, deaths and marriages, who shall be appointed by the board; and "registrar general" shall mean the registrar general of births, deaths and marriages, who shall be appointed by the board and whose principal office shall be kept in the city and county of Honolulu. [L. 1896, c. 50, s. 2; am. L. 1913, c. 86, s. 1; R. L. 1925, s. 1211; R. L. 1935, s. 1470.]

Sec. 3102. Bureau of vital statistics; director and assistants. There shall be a bureau in and maintained by the board of health called the bureau of vital statistics. The director of the bureau of vital statistics shall be the registrar general and the office of the registrar general shall be the office of the bureau and it shall be equipped with a fire-proof vault and filing cases for the permanent and safe preservation of all records provided for and made under this chapter. All official records made and returned under this chapter shall be filed and preserved at the office of the bureau by the said director.

The director of the bureau shall have general supervision over the bureau. He shall be a competent statistician and shall not engage in any other occupation or business. It shall be his duty to prepare all forms and blanks and the necessary detailed instructions for uniformly carrying out the provisions and objects of this chapter and he shall procure the full and prompt registration of all births, deaths or marriages as provided by this chapter. He shall exercise such other powers and perform such other duties as may from time to time be delegated to or required of him by the board.

Statistics in respect to births, marriages, deaths, burials, cremations and such other comparative statistics and information as may be deemed of value to scientists, the medical profession, the general public and an aid in the maintenance of good health conditions shall be compiled by the registrar general and may be published by the board in such manner and at such times as the board may deem proper.

The board shall appoint a deputy statistical clerk, who shall be a competent statistician, and shall perform such acts and duties as shall from time to time be required by the director of the bureau or the board. The compensation of the deputy statistical clerk shall be fixed by the board.

The board may appoint and fix the compensation of such other clerical assistants as may be necessary to carry out the provisions of this chapter and to preserve old records made and returned under this chapter. [L. 1937, c. 86, s. 1.]

REGISTRARS AND RECORDS.

Sec. 3103. Appointment of registrars. The board is directed to appoint a registrar of births, deaths and marriages in and for each judicial district in the Territory. The board may, in its discretion, subdivide any district, if the public convenience requires it, and appoint a registrar for each of such subdivisions. [L. 1896, c. 50, s. 3; R. L. 1925, s. 1212; R. L. 1935, s. 1471.]

Sec. 3104. Appointment of deputy registrars. The board is directed to appoint one or more deputy registrars of births, deaths, and marriages in and for each judicial district in the Territory and in each subdivision of a district in which a registrar is appointed. A deputy registrar, under the supervision of the registrar, shall have all the duties and powers of a registrar. [L. 1943, c. 37, s. 1.]

Sec. 3105. No pay when. If any physician, sheriff, deputy sheriff, police officer, magistrate or assessor is appointed a registrar, it shall become a part of his official duties to perform the duties of registrar without further compensation. [L. 1896, c. 50, s. 21; R. L. 1925, s. 1213; R. L. 1935, s. 1472.]

"Police officer" added to conform to county police changes.

Sec. 3106. Records kept. It shall be the duty of each registrar, except the registrar for the Honolulu district on duty in the office of the registrar general, to keep in proper books used solely for such purpose a full and complete record of all the births, deaths and marriages which take place in the district of which he is the registrar. [L. 1896, c. 50, s. 4; R. L. 1925, s. 1214; am. L. 1933, c. 29, s. 1; R. L. 1935, s. 1473.]

Sec. 3107. Births and deaths. Each registrar shall enter in his record, in respect of each birth and death in his district all the facts required to be contained in the certificate of birth provided in section 3120, if it be a birth, and all the facts required to be contained in the certificate of death provided in section 3123, if it be a death. [L. 1896, c. 50, s. 6; R. L. 1925, s. 1216; R. L. 1935, s. 1474; am. L. 1939, c. 151, s. 1.]

Sec. 3108. Marriages. Each registrar shall enter in his record, in respect of each marriage occurring in his district, all the facts required to be contained in the certificate of marriage provided in section 3125. [L. 1896, c. 50, s. 7; R. L. 1925, s. 1217; R. L. 1935, s. 1475; am. L. 1939, c. 151, s. 2.]

Sec. 3109. Records sent to registrar general. It shall be the duty of each registrar to transmit to the registrar general between the first and fifth days of each month, and in such form and manner as the registrar general may require, all original certificates of births, deaths and marriages registered by each such registrar during the preceding month. If there are no such registrations, each registrar shall so report the fact to the registrar general in such form and manner as the registrar general may require. [L. 1896, c. 50, s. 9; am. L. 1909, c. 131, s. 1; am. L. 1913, c. 86, s. 2; R. L. 1925, s. 1218; am. L. 1931, c. 67, s. 1; R. L. 1935, s. 1476.]

Sec. 3110. Board to furnish blanks, etc. The board shall cause all blanks and record books which may be necessary or proper for carrying out the objects of this chapter to be prepared, and shall furnish the same to the registrars and other officers in this chapter provided for, free of charge. [L. 1896, c. 50, s. 10; R. L. 1925, s. 1219; R. L. 1935, s. 1477.]

Sec. 3111. Filing records. It shall be the duty of the registrar general to file the records of births, deaths and marriages received from the several registrars, and as soon as practicable, bind the same in compact form in the manner hereinafter provided. The records of births, deaths and marriages shall each be kept and bound separately in chronological order. [L. 1896, c. 50, s. 17; am. L. 1909, c. 131, s. 2; am. L. 1913, c. 86, s. 3; am. L. 1919, c. 68, s. 1; R. L. 1925, s. 1220; R. L. 1935, s. 1478.]

Sec. 3112. Record in case of adoption, etc. In case of the adoption of any person, the registrar general, upon receipt of a certified copy of the adoption decree shall prepare a supplementary birth record in the new name of the adopted person, and seal and file the original record of birth with the certified copy of the adoption decree attached thereto. Upon receipt of a certified copy of a court order of annulment of adoption, the registrar general shall restore the original record to its original place in the files. In the case of the legitimation of any child by subsequent marriage of its parents, the registrar general, upon receipt of a certified copy of the marriage certificate of the parents, together with a statement of the husband acknowledging paternity, shall prepare a new record of birth in the new name of the child so legitimated. The evidence upon which the new record was made, and the original record, shall be sealed and filed.

The sealed records made in accordance with the provisions hereinabove contained may be opened only upon order of a court of competent jurisdiction. [L. 1943, c. 217, s. 2.]

Sec. 3113. Photostatic or typewritten copies of records. The registrar general is authorized and directed to prepare typewritten or photostatic copies of such records, record books, certificates and other documents on file in his office, which by reason of age, usage or otherwise are in such condition that they can no longer be conveniently consulted or used without danger of serious injury or destruction thereof, and to certify to the correctness of such copies. Such typewritten or photostatic copies shall be competent evidence in all courts of the Territory with like force and effect as the original. [L. 1933, c. 186, pt. of s. 1; R. L. 1935, s. 1479.]

Sec. 3114. Records; inspection; certificates. Except as the board may otherwise provide under section 3127, all records by this chapter directed to be kept shall, during business hours, be open to the inspection of the public. If the board shall, by rule or regulation prescribed under section 3127, close such records to the inspection by the public, then, upon request, the board or registrar general shall furnish to any person requesting information a certificate as to the existence or non-existence of any record of the birth, death or marriage of any person and if a record exists, permit any person making the request to examine such record. No charge shall be made for any such certificate, but if a search of the records is made, fees shall be charged as in section 3118 provided. The certificate shall be prima facie evidence in any court of the fact or facts therein contained. [L. 1896, c. 50, s. 18; R. L. 1925, s. 1221; R. L. 1935, s. 1480; am. L. 1941, c. 45, s. 1.]

Sec. 3115. Reports to county clerks. The registrar general shall within ten days after the end of each month deliver, or forward by mail, to the county clerk of each county a list of the names of all citizens of twenty-one years of age or over whose deaths have been recorded in the bureau of vital statistics during such month. Such list shall set forth such portion of the information contained in the death record of each citizen whose death is so reported as will be of assistance to the county clerk in his identification. [L. 1933, c. 67, pt. of s. 2; R. L. 1935, s. 1481.]

See s. 183, duty of clerk to correct register.

Sec. 3116. Certified copies of records of birth, stillbirth, marriage and death; certifications of birth; evidence; fee. Subject to the provisions of section 3121, and subject to the conditions and exceptions hereinafter provided, the registrar general shall furnish to any person applying for the same a certified copy of the record of any birth, stillbirth, marriage or death contained in any of the records kept under or by virtue of this chapter; **provided, however:**

(a) That a certified copy of the record of birth shall be issued only upon order of a court of competent jurisdiction, or upon a specific request for such certified copy by the person, if of legal age, or by a parent or other lawful representative of the person, to whose birth the record relates, except that the registrar general may issue a certified copy of a birth record or certification of birth as may be necessary for official use upon the request of a department, agency or officer of any territorial, state or federal government or subdivision thereof; and

(b) That in all other proper cases of requests for certification as to the birth record of any person, the registrar general shall issue a certification of birth, which shall contain only the name, sex, date of birth and place of birth of the person to whom it relates and none of the other data on the record of birth; **provided, further,** that the registrar general may inquire as to the reason for any such request, and may refuse such request if certification does not appear to be necessary or required for a proper purpose.

Such certified copy of a record of birth, stillbirth, marriage or death, or certification of birth, when properly certified by the registrar general, shall be prima facie evidence of the facts therein stated, in all courts, and places, and in all actions, proceedings or applications, judicial, administrative or otherwise; and any such certification of birth shall be accepted with the same force and effect with respect to the facts therein stated as the original birth record or a certified copy thereof.

For any such certified copy the sum of one dollar shall be charged and paid and accounted for to the treasury of the Territory; **provided, however,** that the registrar general shall furnish free of charge a certified copy of any of said records to any department, agency, or officer of any territorial, state or federal government or subdivision thereof, or to representatives of the consular corps, or to any domestic or foreign corporation, association or organization not operated for profit which engages in public charity; **provided, further,** that the registrar general upon application of the parent or guardian of any child, shall certify, free of charge, whenever the same is required for the admission of any child to a public or private school or for the purpose of securing employment for such child, as to the name, date and place of birth of such child as shown upon the aforesaid records kept under or by virtue of this chapter; **provided, further,** that the director of the census of the United States or any of his assistants, acting in their official capacity, may obtain, free of

charge, transcripts of the said records of births, stillbirths and deaths. [L. 1896, c. 50, s. 19; am. L. 1913, c. 86, s. 4; R. L. 1925, s. 1222; am. L. 1929, c. 107, s. 1; am. L. 1932, 2d, c. 10, s. 1; R. L. 1935, s. 1482; am. L. 1943, c. 217, s. 1.]

See s. 12912, Hawaiian birth certificates; s. 9901, birth certificates U. S. Departments. Death, 32 H. 387, 391.

Sec. 3117. Fee for amending certified copies. The registrar general shall charge a fee of twenty-five cents for amending any certified copy of births, deaths or marriages, which fees shall be deposited monthly with the territorial treasurer as government realizations. [L. 1933, c. 186, pt. of s. 1; R. L. 1935, s. 1483.]

Sec. 3118. Fee for inspecting records. The registrar general shall charge a fee of fifty cents per hour or fractional part of an hour of time of search of records made at the request of any person desiring information contained in the office of the registrar general, which fees shall be deposited monthly with the territorial treasurer as government realizations; **provided**, however, that no charge shall be made for searching such records for any municipal, state, territorial or federal office, representative of any consular corps, or any social or welfare society. [L. 1933, c. 186, pt. of s. 1; R. L. 1935, s. 1484.]

Sec. 3119. Registrar to investigate, prosecute. It shall be the duty of each registrar in and for his district, not only to compile the information furnished to him by the persons who by this chapter are directed to furnish him with information, but himself to investigate and procure and record the information directed to be recorded. It shall also be the duty of each registrar to prosecute or cause to be prosecuted any person who shall violate or fail to observe or perform any of the requirements of this chapter, or any of the rules and regulations made and published by the board under or by virtue of this chapter. [L. 1896, c. 50, s. 8; R. L. 1925, s. 1223; R. L. 1935, s. 1485.]

REPORTS TO REGISTRARS.

Sec. 3120. Registration of births by physician, midwife, parent, etc., within ten days. Within ten days after the date of each birth, there shall be filed with the registrar of births, deaths and marriages of the district in which the birth occurred, a certificate of such birth, which certificate shall be upon the standard form of the bureau of the census approved by the American Public Health Association, with a view to procuring a full and accurate report with respect to each item of information as hereinafter provided.

In each case where a physician or midwife was in attendance upon the birth of any child, or was called upon in connection with the birth, it shall be the duty of the physician or, if unattended by a physician, of every midwife, to file in accordance herewith the certificate herein contemplated.

In each case where there was no physician or midwife in attendance upon the birth, it shall be the duty of the father or, if the father be absent from the Territory at the time of the birth, or not living, or, if the child be illegitimate, then it shall be the duty of the mother of such child, or householder, manager or superintendent of a public or private institution, each in the order of responsibility, within ten days after the date of such birth, to report to the local registrar the fact of such birth.

The certificate of birth shall contain the following items, which are declared necessary for the legal, social and sanitary purposes subserved by registration records:

The place and date of birth, full name of child, if named; the sex, whether twin, triplet or other plural birth, and the number of each child in order of birth; whether legitimate or illegitimate; the full names of the parents, their residence, color or race, age, birthplace and occupation; the number of children born to the mother and the number stillborn, or any other information which may be required to make the certificate complete; the certification of attending physician or midwife as to attendance at birth, including the statement of the date and hour of birth and whether the child was born alive or stillborn, and, if stillborn, the cause of the stillbirth. [L. 1896, c. 50, s. 12; R. L. 1925, s. 1224; am. L. 1931, c. 67, s. 2; R. L. 1935, s. 1486.]

Father or mother must report names of children within three months after birth; s. 12388; see s. 12280, legitimation.

Sec. 3121. Late registration. At any time within one year after the date of birth, if it shall appear to the registrar or the registrar general that any birth occurring in the Territory was not registered within thirty days of the date of such birth, the registrar or registrar general shall require the applicant, or person making application for the registration or a certified copy of a record of birth, to cause the physician or midwife in attendance upon the birth, who failed or neglected to file a certificate thereof, to file at once with the local registrar a certificate of such birth, in as complete form as the lapse of time will permit, and to pay a fee of five dollars, which shall be transmitted to the registrar general by the local registrar and accounted for together with the regular fee required for a certified copy of the certificate of birth thus filed. With such certificate there shall be filed not less than two affidavits by credible witnesses as to the correctness of the statements set forth in any such birth certificate.

If the physician or midwife responsible for the certificate be deceased or cannot be located or, if the birth was unattended by physician or midwife, then the father or mother, householder, manager or superintendent of a public or private institution, or other person having knowledge of the facts, may file such certificate of birth with the registrar general, together with not less than two affidavits as to the correctness of the statements made in any such certificate, and the registrar general shall file the same without payment of the registration fee and shall issue a certified copy of such certificate upon application and payment of the fee prescribed for a certified copy of a record of birth, death or marriage.

The registrar or the registrar general shall not receive or permit to be filed or registered any certificate of birth or affidavits not offered for such receipt, filing and registration within one year after the date of birth.

The registrar general shall not furnish a certified copy of any late registration birth record registered prior to July 1, 1931. [L. 1931, c. 67, pt. of s. 3; R. L. 1935, s. 1487; am. L. 1937, c. 77, s. 1.]

Sec. 3122. Records to be kept by hospitals. Superintendents, doctors, managers or other persons in charge of hospitals or lying-in institutions, public or private, to which women resort for confinement, shall keep records containing all the data required by the form of birth certificate herein provided for, and in addition shall keep such other records or data as may be required by law or the circumstances of the case.

All hospitals, lying-in institutions, physicians and midwives shall register with the secretary of the board of health. [L. 1931, c. 67, pt. of s. 3; R. L. 1935, s. 1488.]

Gun shot and knife wounds, reports, s. 2513.

Sec. 3123. Deaths, reported by. It shall be the duty of every owner or, if the building or premise is leased or occupied or in charge of another, of the lessee or occupier or person in control or in charge of any such building or premises, in or upon which the death of any person shall take place, to report such death immediately to the registrar of the district in which the death took place. The report shall include, so far as the same are known to such person or persons, all of the facts required to be contained in the certificate of death hereinafter provided.

It shall be the duty of every physician or surgeon who shall attend, or be called upon in connection with the death of any person, to report such death immediately to the registrar of the district in which the death took place. The report shall include all of the facts required to be contained in the certificate of death hereinafter provided.

There shall be a standard certificate of death, the form and contents of which shall be prescribed by the board, and it shall be the duty of the registrar to make out said certificate when the report of death is from a source other than an attending physician or surgeon; and when the report of death is by an attending physician or surgeon said certificate shall be made out and signed by such physician or surgeon. [L. 1896, c. 50, s. 13; R. L. 1925, s. 1225; am. L. 1929, c. 107, s. 2; R. L. 1935, s. 1489; am. L. 1939, c. 151, s. 3.]

Sec. 3124. Report of death; by others when. It shall be the duty of every minister who shall officiate at the burial of any deceased person, of every undertaker or other person who shall have charge of the burial of a deceased person, of every superintendent, physician, surgeon, manager, or other person

in control or in charge of any hospital, of every midwife, of every public health officer, and of every relative of any deceased person, to give to the registrar of the district in which a death has taken place, all information or knowledge he may have concerning said deceased, whenever the registrar, or the registrar general shall request and in such manner and on such form or forms as the board may prescribe. [L. 1896, c. 50, s. 14; R. L. 1925, s. 1226; R. L. 1935, s. 1490; am. L. 1939, c. 151, s. 4.]

Sec. 3125. Marriages, reported by. It shall be the duty of every person legally authorized to perform the marriage ceremony to immediately report every marriage ceremony, performed by him, to the registrar of the district in which such marriage takes place, setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the board. [L. 1896, c. 50, s. 15; R. L. 1925, s. 1227; R. L. 1935, s. 1491; am. L. 1939, c. 151, s. 5.]

Sec. 3126. Issuance of licenses, reported by. It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the registrar of the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the board may prescribe. [L. 1896, c. 50, s. 16; R. L. 1925, s. 1228; R. L. 1935, s. 1492; am. L. 1939, c. 151, s. 6.]

REGULATIONS; PENALTY.

Sec. 3127. Regulations by board. The board shall have the full supervision of the carrying out of this chapter, and shall have the right to direct any or all of the registrars or other officers in this chapter provided for to keep other records and statistics than those in this chapter provided for; and shall also have the right and authority to make all rules and regulations which, in the discretion of the board, are necessary for more effectually securing the registration of full and accurate information concerning births, deaths and marriages. The board may also make reasonable rules and regulations with reference to the custody, preservation, and disposition, and the use, inspection, examination and publicity of the records, record books, certificates and other documents by this chapter or by the board directed to be kept, and of copies thereof, as it may deem necessary for the preservation and protection of such records, record books, certificates and other documents, and the copies thereof, or as it may deem proper and in the public interest; **provided**, however, that no rule or regulation shall in anywise affect the issuing and furnishing of certified copies and other certificates as provided for in this chapter. Such rules and regulations shall, after approval by the governor, have the force and effect of and shall be law. [L. 1896, c. 50, s. 11; R. L. 1935, s. 1493; am. L. 1941, c. 45, s. 2.]

See ss. 466-476, rules and regulations.

Sec. 3128. Penalty. Any person who shall violate, or who shall fail to observe or perform, any of the requirements of this chapter or any requirement of any rule or regulation made and published by the board under or by virtue of this chapter, or who shall knowingly make a false statement of any fact to be recorded as in this chapter provided, shall, upon conviction thereof, be fined a sum not to exceed fifty dollars. [L. 1896, c. 50, s. 20; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1230; am. L. 1929, c. 107, s. 3; R. L. 1935, s. 1494.]

INSTITUTIONS AND COMMITMENTS.

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	3901-3971		4024-4026
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	3901-3905		4027-4032
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	3935-3943		4061-4076
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			4061-4073
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			4074-4076

CHAPTER 64. INSTITUTIONS, DEPARTMENT OF, GENERALLY.

Sec. 3801. Department of institutions; director. There is hereby created a department of institutions of the Territory, the head of which department shall be known as the director of institutions. The director shall be appointed in the manner prescribed by the first paragraph of section 80 of the Organic Act, shall hold office for a term of four years and until his successor is appointed and qualified, unless sooner removed, and may be removed by the governor for cause. [L. 1939, c. 203, pt. of s. 1.]

Sec. 3802. Definitions. Wherever used in this chapter or in any of chapters 67-70, unless the context clearly otherwise indicates:

"Director" means the director of institutions appointed pursuant to this chapter.

"Department" means the department of institutions.

"Institutions" means Waimano Home, the Territorial Hospital, Waialeale Training School for Boys, Kawaihoa Training School for Girls, Oahu Prison and other territorial prisons, and all other territorial institutions which are now or may hereafter be placed under the administration of the department of institutions. [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.1; am. L. 1941, c. 5, s. 1.]

Sec. 3803. Boards abolished; functions transferred; general powers, duties of director. The board of commissioners for Waimano Home, and the board of industrial schools, provided for, respectively, by chapters 32 and 132, Revised Laws of Hawaii, 1935, are hereby abolished.

Subject to the civil service law, chapter 2, and to any special provisions of law applicable to any such institution, the director may appoint an assistant for, and to be in immediate supervision of, each institution heretofore under the jurisdiction of the board of commissioners for Waimano Home, the board of industrial schools or the board of prison directors, and the territorial hospital respectively, together with such other assistants, and such clerical, stenographic and other help as may be necessary for the proper performance of the duties of the department.

Compensation of all said appointees of the director shall be as fixed by law. The director shall require such of the aforesaid appointees as he deems necessary to furnish bond in such amounts as he may prescribe.

Except as otherwise provided by this title all rights, powers, functions, duties and liabilities of, or held, possessed or exercised by, or imposed upon (a) any of the boards mentioned in this section, except the board of commissioners for Waimano Home, with relation to the institutions, persons, and any matters, under their jurisdiction, or (b) the board of health of the Territory with relation to the territorial hospital and any matters covered by chapter 41, Revised Laws of Hawaii 1935, prior to July 1, 1939, are hereby transferred to the director, who shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said respective institutions, persons and matters, as were, prior to July 1, 1939, held, possessed or exercised by, or imposed upon, the said respective boards with respect to said institutions, persons and matters under their respective jurisdictions.

Except as otherwise provided by statute, all rights, powers, functions, duties and liabilities of, or held, possessed or exercised by, or imposed upon the board of commissioners for Waimano Home with relation to the institution, persons, and any matters, under its jurisdiction, prior to July 1, 1941, are hereby transferred to the director, who shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said institution, persons and matters as were, prior to July 1, 1941, held, possessed or exercised by, or imposed upon, the said board of commissioners for Waimano Home with respect to said institution, persons and matters under its jurisdiction. [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.2; am. L. 1941, c. 5, s. 2.]

cc. 32, 41, 132, R. L. 1935 are now cc. 70, 69, 67 respectively of this revision.

Sec. 3804. Advisory board. There is hereby created an advisory board on institutions to consist of five members, to be appointed and removable by the governor in the manner prescribed by the first paragraph of section 80 of the Organic Act and to serve without pay. The members shall hold office for one year or until their successors are appointed and qualified. Any vacancy shall be filled by appointment for the unexpired term involved.

The advisory board shall hold such meetings as required on call of the director who shall preside. [L. 1939, c. 203, pt. of s. 1.]

Sec. 3805. Rules, forms; approval by governor. Whenever in this chapter or in any of said chapters 67-70, the director is authorized to promulgate rules, or to prescribe forms, the same shall, in order to be effective, be approved by the governor. [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.4; am. L. 1941, c. 5, s. 3.]

See ss. 466-476, rules and regulations, generally.

Sec. 3806. Reports. The director shall file with the governor a written report or reports at such times, at least once in each year, and in such form, as shall be requested by the governor, covering the condition and activities of his department and of each division thereof and institution thereunder. [L. 1939, c. 203, pt. of s. 1.]

Sec. 3807. Exchange of physicians; contract; temporary permits to practice medicine. The director of institutions is hereby authorized to contract for the exchange of physicians of any hospital or institution under his jurisdiction with physicians of like qualifications of any similar hospital or institution of any state or territory. Physicians of any such hospital or institution of the Territory so exchanged shall be paid their regular salaries out of the funds appropriated for that purpose. No such contract shall be valid unless approved by the governor.

Notwithstanding the requirements of chapter 45, the board of health is hereby authorized to grant without examination, upon the written recommendation of the board of medical examiners, a temporary permit to practice medicine and surgery for the sole purpose of authorizing the visiting exchange physician to practice in such hospital or institution of the Territory only and such permit shall be revoked upon termination of the contract.

The requirements of citizenship and residence and the provisions of chapter 2, are hereby expressly waived as to physicians coming to the Territory under this section.

All physicians so exchanged by the director of institutions shall furnish their own transportation to and from the state or territory involved in the exchange. [L. 1941, c. 40, s. 1.]

Sec. 3808. Farm colony plan for institutions; improvements, repairs, etc. The institutions and establishments under the administration and control of the director shall, as far as practicable, be conducted upon the "farm colony plan." The director, as provided from time to time by law, shall have power to erect suitable cottages or dormitories, dining halls and kitchens, school rooms, work shops, barns, outhouses and such other buildings as shall be found necessary or advisable, and to make such alterations, repairs, renovations, reconstruction and other improvements as may be necessary or advisable, and within the scope of available appropriations therefor. [L. 1943, c. 125, s. 1.]

See s. 3902, certain buildings.

CHAPTER 65.

DEPORTATION.

FROM TERRITORIAL HOSPITAL.

Sec. 3821. Cooperation, U. S. immigration. It shall be the duty of the director of institutions of the Territory to cooperate with the United States bureau of immigration in arranging for the deportation of all alien public charges who are now confined in or may be hereafter admitted or committed to the territorial hospital. [L. 1927, c. 235, s. 1; R. L. 1935, s. 1010; am. L. 1939, c. 203, s. 3.]

Sec. 3822. Non-resident public charges. The director of institutions shall also return all non-resident public charges, who are now confined in or who may be hereafter admitted or committed to the hospital, to the states in which they may have a legal residence. For the purpose of facilitating the return of such persons, the director of institutions may enter into reciprocal agreements with the proper boards, commissions, or officers of other states for the mutual exchange of such public charges now confined in or hereafter admitted or committed to the hospital whose legal residence is in another state, and he is authorized and empowered to file written permission for the return of any residents of the Territory now confined in a public institution in another state, corresponding to any institution coming within the definition of state hospitals for the insane, or in which they were under detention, not having been lawfully discharged therefrom. [L. 1927, c. 235, s. 2; R. L. 1935, s. 1011; am. L. 1939, c. 203, s. 3.]

Sec. 3823. Resident defined. A person shall be deemed to be a resident of the Territory within the meaning of this chapter who shall have lived continuously in the Territory for a period of one year and who has not acquired a residence in another state by living continuously therein for at least one year subsequent to his residence in the Territory; **provided**, however, that the time spent in a public institution or on parole therefrom shall not be counted in determining the matter of residence in this or another state. In determining the residence of a minor inmate of the hospital, due consideration shall be given to the residence of the parents of the inmate, and if either one or both parents of the minor inmate are residents of the Territory the inmate shall also be deemed a resident of the Territory. [L. 1927, c. 235, s. 3; R. L. 1935, s. 1012.]

Sec. 3824. Expenses. All expenses incurred in returning such persons to another state shall be paid by the Territory, but the expense of returning residents of the Territory shall be borne by the state making the return.

The cost and expense incurred in effecting the transportation of such persons shall be paid from the funds appropriated for that purpose, or if no funds be available, then from the money appropriated for the care of the insane, or incompetent and delinquent, as may be necessary, upon vouchers approved by the director of institutions. [L. 1927, c. 235, ss. 4, 5; R. L. 1935, s. 1013; am. L. 1939, c. 203, s. 3.]

FROM ANY INSTITUTION.

Sec. 3825. Aliens and Filipinos. The official or board in charge of any institution of the Territory in which any alien, including Filipino, may be maintained or confined, is authorized and empowered, notwithstanding any law to the contrary, to release any alien, including Filipino, from such institution for the purpose of returning or being returned to his native land, such release to be conditioned upon the person so released remaining away from the Territory. [L. 1933, J. R. 3; R. L. 1935, s. 1014.]

See c. 68, prisoners, parole of prisoners.

CHAPTER 66. EXTRADITION: FEEBLE-MINDED
OR INSANE.

UNIFORM ACT FOR THE EXTRADITION OF PERSONS OF UNSOUND MIND.*

Sec. 3831. Definitions. Whenever used in this chapter: "flight" and "fled" shall mean any voluntary or involuntary departure from the jurisdiction of the court where the proceedings hereinafter mentioned may have been instituted and are still pending, with the effect of avoiding, impeding or delaying the action of the court in which such proceedings may have been instituted or be pending, or any such departure from the state where the person demanded then was, if he then was under detention by law as a person of unsound mind and subject to detention. "State" shall include states, territories, districts and insular and other possessions of the United States. As applied to a request to return any person within the purview of this chapter to or from the District of Columbia, the words "executive authority," "governor" and "chief magistrate," respectively, shall include a justice of the supreme court of the District of Columbia and other authority. [L. 1927, c. 214, s. 2; R. L. 1935, s. 1020.]

Sec. 3832. Persons subject to the chapter. A person alleged to be of unsound mind found in the Territory, who has fled from another state, in which at the time of his flight:

1. He was under detention by law in a hospital, asylum or other institution for the insane as a person of unsound mind; or

2. He had been theretofore determined by legal proceedings to be of unsound mind, the finding being unreversed and in full force and effect, and the control of his person having been acquired by a court of competent jurisdiction of the state from which he fled; or

3. He was subject to detention in such state, being then his legal domicile, personal service of process having been made, based on legal proceedings there pending to have him declared of unsound mind: shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed thereto. [L. 1927, c. 214, s. 3; R. L. 1935, s. 1021.]

Sec. 3833. Procedure. Whenever the executive authority of any state demands of the executive authority of the Territory, any fugitive within the purview of section 3832 and produces a copy of the commitment, decree or other judicial process and proceedings, certified as authentic by the governor or chief magistrate of the state whence the person so charged has fled, with an affidavit made before a proper officer showing the person to be such a fugitive, it shall be the duty of the executive authority of the Territory to cause him to be apprehended and secured, if found in the Territory, and to cause immediate notice of the apprehension to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the apprehension, the fugitive may be discharged. All costs and expenses incurred in the apprehending, securing, maintaining and transmitting such fugitive to the state making such demand, shall be paid by such state. Any agent so appointed who receives the fugitive into his custody shall be empowered to transmit him to the state from which he has fled. The executive authority of the Territory is vested with the power, on the application of any person interested, to demand the return to the Territory of any fugitive within the purview of this chapter. [L. 1927, c. 214, s. 4; R. L. 1935, s. 1022.]

Sec. 3834. Limitation. Any proceedings under this chapter shall be begun within one year after the flight referred to in this chapter. [L. 1927, c. 214, s. 5; R. L. 1935, s. 1023.]

* From District of Columbia for offenses committed in the Territory, 45 Sts. at L. 440, c. 398. Extradition of persons charged with crimes see c. 225.

CHAPTER 67. INDUSTRIAL AND REFORMATORY SCHOOLS.

	Secs.		Secs.
General Provisions	3841-3848	Abduction, Desertion	3864-3866
Commitments, Etc.	3849-3858	Discharge, Transfer, Etc.	3867-3870
Labor by Children; Funds	3859-3863		

Sec. 3841. Definitions. Wherever used in this chapter, unless the context otherwise clearly indicates:

"Director" means the director of institutions, provided for in chapter 64, insofar as matters within the purview of this chapter are concerned.

"Department" means the department of institutions, insofar as matters within the purview of this chapter are concerned. [L. 1939, c. 203, pt. of s. 5.]

The above replaces s. 4570, R. L. 1935.

Sec. 3842. Establishment and supervision of industrial and reformatory schools. It shall be lawful for the director to institute and establish industrial and reformatory schools in any part of the Territory when the same shall be deemed necessary and when funds shall be available by legislative appropriation for that object. All such schools shall be conducted under the direction and supervision of the director who shall have the entire management and control of all public industrial and reformatory schools in the Territory and like management and control of all places of detention which may be used in connection with any of such schools. [L. 1870, c. 41, s. 3; am. L. 1915, c. 81, ss. 5, 6; R. L. 1925, s. 356; R. L. 1935, s. 4574; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3843. Names of schools. The school at Waialea, in the district of Koolauloa, city and county of Honolulu, and the school at Kawailoa, in the district of Koolaupoko, city and county of Honolulu, are to be known, respectively, as the Waialea Training School for Boys and the Kawailoa Training School for Girls. All rights intended to be secured to these schools, and each of them, as to the use of land, appropriations, etc., shall be unaffected by their designation as herein provided. [L. 1929, c. 186, s. 1; am. L. 1931, c. 108, s. 1; R. L. 1935, s. 4575.]

Sec. 3844. Rules and regulations. The director shall have full authority to prescribe rules and regulations not contrary to law for the government, discipline and care of all industrial and reformatory schools continued, established or instituted under this chapter. He shall also have power to make rules and regulations not contrary to law providing the method by which all the funds appropriated for such schools shall be expended and providing for the management and control of the schools and places of detention; and shall likewise have power to adopt such other rules and regulations not contrary to law as may be necessary to carry out the purposes of this chapter. [L. 1870, c. 41, s. 17; am. L. 1915, c. 81, s. 7; R. L. 1925, s. 357; R. L. 1935, s. 4576; am. L. 1939, c. 203, pt. of s. 5.]

See, rules, generally, ss. 466-476.

Sec. 3845. Appropriations made out of general revenues. All appropriations for the director and for institutions under the control of the director, shall be made from and out of any available moneys received from the general revenues of the Territory and not out of the special fund for the maintenance of public schools. [L. 1917, c. 70, ss. 1, 2; R. L. 1925, s. 358; am. L. 1931, c. 109, s. 1; R. L. 1935, s. 4577; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3846. Records. The director shall cause to be kept in every industrial and reformatory school a journal, in which shall be regularly entered the reception, discharge, release, escape or death of each of the inmates, together with all the particulars relating to such as shall be apprenticed, adopted or put out to work. An exact account shall also be kept by the principal of each of the schools, of all moneys and other avails received for work performed by the children, as well as of the expenditure of such moneys and avails as shall be authorized from time to time by the director. [L. 1870, c. 41, s. 18; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 359; R. L. 1935, s. 4578; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3847. Object. The only object of the industrial and reformatory schools shall be the detention, management, education, employment, reformation and maintenance of such children as shall be committed thereto, who shall be surrendered to the director as guardian thereof, for the term of their minority, or who shall be received at such schools as by law provided. [L. 1870,

c. 41, s. 4; am. L. 1911, c. 150, s. 4; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 361; R. L. 1935, s. 4580; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3848. Guardianship of the person of inmates. Notwithstanding any law to the contrary, the director shall be the guardian of the person of every child committed to or received at the industrial and reformatory schools for the period such child shall remain under his jurisdiction. He shall have all the powers and duties of a natural guardian of the person of such child, provided, however, that he shall not be liable in damages for the tortious acts committed by such child. [L. 1941, c. 31, s. 1.]

COMMITMENTS, ETC.

Sec. 3849. Period committed. All boys and girls committed to the Waialeale Training School for Boys or the Kawailoa Training School for Girls shall be committed for the period of their minority unless sooner paroled by the director. [L. 1935, c. 35, s. 2; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3850. Offenders under eighteen years. The district magistrates, circuit courts and circuit judges may commit all offenders, under eighteen years of age, duly convicted before them, to industrial and reformatory schools for the term of their minority, in all cases where such district magistrates, circuit courts or circuit judges shall deem such sentence to be more suitable than the punishment otherwise authorized by law. Persons so committed may be discharged, released, or paroled by the director of institutions. [L. 1870, c. 41, s. 5; am. L. 1903, c. 7, s. 1; am. L. 1907, c. 30, s. 1; R. L. 1925, s. 362; R. L. 1935, s. 4581; am. L. 1941, c. 141, s. 1.]

Sec. 3851. Idle or dissolute children under eighteen. The district magistrates, circuit courts and circuit judges, on the representation of any member of the department, the attorney general or his authorized deputy, the high sheriff or his deputy, or the sheriff or deputy sheriff of the city and county, or a chief of police of the other counties, shall have power to hear and determine any case, and to sentence for any term within their minority to some industrial and reformatory school, any child under eighteen years of age, who lives an idle or dissolute life, whose parents are dead, or, if living, from drunkenness or other vices or causes, shall neglect to provide suitable employment for, or exercise salutary control over, such child. [L. 1870, c. 41, s. 6; am. L. 1903, c. 7, s. 2; am. L. 1911, c. 150, s. 5; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 363; R. L. 1935, s. 4582; am. L. 1939, c. 203, pt. of s. 5; am. L. 1939, c. 104, s. 7; am. L. 1943, cc. 62, 64.]

See s. 6808.

Sec. 3852. Surrender of child to director. The director or his agents, if authorized by the director, shall have power to accept from the parents or guardian of any child, the surrender of such child for the term of his minority, to be entered at some industrial and reformatory school; and all the rights of parents or guardians, to keep, control, educate, employ, indenture or discharge such child, shall vest solely in the director. [L. 1870, c. 41, s. 7; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 364; R. L. 1935, s. 4583; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3853. Fees charged when. It shall be lawful for the director in his discretion, to receive into such industrial and reformatory schools the children under eighteen years of age of parents, guardians or adoptive parents, who shall desire the same; and the director is authorized to charge fees, or remit the same in special cases, for the children so admitted, as in the judgment of the director shall deem proper. [L. 1870, c. 41, s. 8; am. L. 1911, c. 150, s. 5; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 365; R. L. 1935, s. 4584; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3854. Commitments directed, how. All commitments to industrial and reformatory schools shall be directed to the director or his authorized agents in the respective districts, but the juvenile probation officer or any other person, other than a police officer or sheriff, designated by the committing court or judge, shall be charged by such commitments with the execution of all orders for the custody and safe-keeping of the children committed to the industrial and reformatory schools, until delivered over to the principal of the school to which such children shall have been committed, and all expenses attending the conveyance of such children to their place of destination shall

be defrayed from the funds available for such purposes which are under the control of the committing district magistrate, circuit court or circuit judge. [L. 1870, c. 41, s. 15; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 366; R. L. 1935, s. 4585; am. L. 1939, c. 133, s. 1; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3855. Duties of principals. The principals of such schools shall receive and detain at such industrial and reformatory schools all children who shall be committed thereto, or placed therein, as provided in sections 3850-3853, and they shall be charged with the detention and custody of all children so committed or admitted, and with the execution of all orders, as well as process of court, respecting such children. [L. 1870, c. 41, s. 9; R. L. 1925, s. 367; R. L. 1935, s. 4586.]

Sec. 3856. Monitors; appointment; compensation. The director is authorized to establish and maintain a monitor system at any industrial and reformatory school and he may appoint as monitors children admitted or committed to such schools whose qualifications and behavior, in his opinion, merit or justify such appointments. Their duties shall be such as are from time to time prescribed by the director and shall relate to the discipline, supervision or education of other children in such schools; **provided**, however, that the director and other officers or employees of the department shall continue to be responsible for the faithful performance of the respective duties of their offices or employments; **provided**, further, that the director and such officers or employees shall be responsible and liable on their respective official bonds for all acts done or performed by such monitors in the same manner and to the same extent as if no such appointments were made; and, **provided**, further, that all duties of such monitors shall be performed on the premises of such schools and be subject to the direction and control of the officers or employees at such schools. Subject to the provisions of section 1634 and any other applicable provisions of law, moneys appropriated for any such school for personal services may be used and expended to pay such monitors for their services such sums of money as the director may determine; **provided**, however, that the amount paid to any monitor in any month shall not exceed the sum of ten dollars. Such monitors shall not be deemed to be persons in the public service of the Territory, or territorial employees within the meaning of that term as used in any territorial statute. [L. 1941, c. 56, s. 1.]

Sec. 3857. Parole to parents. Whenever the parents of any child who shall have been committed or surrendered to any industrial and reformatory school and who shall have then served not less than one year in such school, shall make application in writing to the director, it shall be lawful for the director, in his discretion, to parole such child to its parents, such parole to be granted and continued in force only when it shall be apparent to the director that such action is for the best interests of such child and the community at large. [L. 1925, c. 81, s. 3; R. L. 1935, s. 4592; am. L. 1937, c. 98, s. 1; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3858. Home placements. The director, or his agents, if authorized by the director, shall have the discretionary power to place any child, who shall be committed or surrendered to the director under this chapter, in suitable homes for the purpose of securing to such child the benefits of schooling and a normal home life. Any action taken under this section shall be in the nature of a parole, and shall be revocable at any time at the discretion of the director. Funds appropriated under the item "Home Placements" and any other funds obtained for home placements may be used by the director to effectuate the purpose of this section. [L. 1937, c. 182, s. 1; am. L. 1939, c. 203, pt. of s. 5.]

LABOR BY CHILDREN; FUNDS.

Sec. 3859. Labor by pupils of schools. The director shall have power to allow the pupils of the schools within his jurisdiction to engage in industrial, agricultural and mechanical pursuits under the direction and orders of individuals, partnerships or corporations doing business in the vicinity of such schools, or any of them, upon such terms as to remuneration for such employment as the director shall deem proper; **provided**, however, that such employment shall in no case of a pupil under fifteen years of age be allowed to interfere with the academic studies of the pupils so employed; and **provided** further, that such employment of a pupil under fifteen years of age shall always be under the direct supervision of the superintendent or teacher of

the school to which the pupil so employed shall belong. [L. 1919, c. 76, s. 1; R. L. 1925, s. 369; am. L. 1925, c. 81, s. 1; R. L. 1935, s. 4588; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3860. Net proceeds of labor. All moneys, the net proceeds of the labor of pupils provided for under section 3859, shall be deposited by the director in a special fund to the credit of the school by the pupils of which such earnings are made, or be deposited in a bank in trust for such pupil during his minority.

The director shall open an account with each individual pupil of such school on the books of the school, and shall credit each such account with such portion of the special fund to be distributed as the director shall deem fair and just, considering all the circumstances of the case including services rendered either to the school or in the industrial, agricultural or mechanical pursuits referred to in section 3859, the conduct of the pupil and the length of time such pupil shall have been an inmate of such school.

At any time during the residence of a pupil at the school, the superintendent may, for good cause to be noted by him in writing in the record of the pupil, allow the pupil to draw the whole or any part of the money then standing to his credit in his account, the receipt for any such money withdrawn to be countersigned by the superintendent. On the discharge of any pupil, the whole of the money then standing to the credit of such pupil on the books of the school shall be paid to him.

It shall be the duty of the director, during the month of January of each year, to file with the governor a complete statement of the receipts and expenditures of the special fund. [L. 1919, c. 76, s. 1; R. L. 1925, s. 370; R. L. 1935, s. 4589; am. L. 1939, c. 203, pt. of s. 5.]

See ss. 4121-4122, and c. 72, labor by minors.

Sec. 3861. Disposition of funds. All moneys arising from agricultural and industrial pursuits at the boys' and girls' industrial schools, respectively, except such moneys as, under the rules of said schools, go to the pupils earning the same, shall, upon receipt thereof, be paid into the territorial treasury for any use of those several schools, respectively, in addition to the specific appropriations, to be expended by the director. [L. 1909, c. 65, s. 1; am. L. 1911, c. 37, s. 1; am. L. 1923, c. 34, s. 1; am. imp. L. 1923, c. 253; R. L. 1925, s. 368; R. L. 1935, s. 4587; am. L. 1939, c. 203, pt. of s. 5.]

See s. 3808, farm colony plan.

Sec. 3862. Apprenticed, when. It shall be lawful for the director, or his agents, if authorized by the director, to bind out as apprentices, with their consent, all children over ten years of age, who shall be committed or surrendered for their minority, and who shall have been admitted at any industrial and reformatory school, to such useful trades, employments, or occupations as shall be suitable to their years and capacity, and as in the judgment of the director will tend to the future benefit and advantage of such children. [L. 1870, c. 41, s. 10; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 371; R. L. 1935, s. 4590; am. L. 1939, c. 203, pt. of s. 5.]

See c. 72, apprenticeship.

Sec. 3863. Put out to labor, when; earnings. Whenever it is found that apprenticeships cannot be obtained, or suitable employment be provided, at any industrial and reformatory school, for children over fifteen years of age, who shall have been committed or surrendered thereto for their minority, or sentenced for a shorter time, for any crime or misdemeanor, the director, or his agents, if authorized by the director, shall have authority to put them out to labor to families, or other suitable persons upon such terms and conditions as in the opinion of the director shall be deemed proper. Such action shall be in the nature of a parole, and shall be revocable at any time at the discretion of the director. It shall be the duty of the director to investigate and determine the advisability of such action in each case upon the written application of any parent or friend of any such child over fifteen years of age, and he may act without such written application in his own discretion. Where a child is so put out to labor, the director shall arrange to and receive at least one-half of the child's net earnings which shall be deposited by the director in a bank in trust for the child during its minority; provided, however, that if a child so put out to labor shall, with the prior written approval of the director, voluntarily contribute a portion of its earnings to a purpose for its own best interest or its relatives' welfare then the director may arrange

to and receive only one-half of the child's net earnings less the amount of such contributions. The term "net earnings" shall mean the total amount received less necessary living expenses. The necessary living expenses shall be determined by the director in each case.

When the director shall decide that an emergency exists and that it is for the child's best interest, or his relatives' welfare, he may, at the child's request, withdraw sums from any amounts so deposited in trust and permit the child to expend them subject to such directions as he may impose. Further, when any child shall incur any lawful obligation which the director deems unusual and which he may decide should immediately be paid, he may withdraw sums and discharge the obligation. [L. 1870, c. 41, s. 11; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 372; am. L. 1925, c. 81, s. 2; R. L. 1935, s. 4591; am. L. 1939, c. 203, pt. of s. 5; am. L. 1941, c. 17, s. 1.]

See ss. 4121, 4122, child labor.

ABDUCTION, DESERTION.

Sec. 3864. Abduction, penalty. Any person who shall secretly or illegally abduct, or who shall be accessory to the secret or illegal abduction of any child from an industrial and reformatory school, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding one year. [L. 1870, c. 41, s. 13; am. L. 1903, c. 8, s. 1; R. L. 1925, s. 373; R. L. 1935, s. 4593.]

On abduction, see s. 11650.

Sec. 3865. Enticing, etc., penalty. Any person who shall knowingly or intentionally entice away any child from any industrial and reformatory school, or who shall knowingly harbor or secrete any child who shall have been enticed away, or who shall have deserted from any such school, or who shall have left or forsaken his guardian, employer or the person with whom the child shall have been placed or stationed by the director of institutions without the permission of such guardian, employer or person, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment. [L. 1870, c. 41, s. 14; am. L. 1903, c. 8, s. 1; R. L. 1925, s. 374; R. L. 1935, s. 4594; am. L. 1941, c. 106, s. 1.]

Sec. 3866. High sheriff and police officers to assist. It shall be incumbent on the high sheriff of the Territory, or any of his deputies, the sheriff of the city and county, and his deputies, and all police officers, to assist as far as in their power lies in the apprehension and recovery of deserters from any industrial and reformatory school, when requested to do so by the director, his agents, or the principal of any such school; and likewise to assist as far as possible in enforcing order and maintaining discipline therein should circumstances at any time arise necessitating the exercise of such authority. [L. 1870, c. 41, s. 16; am. L. 1921, c. 57, s. 1; R. L. 1925, s. 375; R. L. 1935, s. 4595; am. L. 1939, c. 203, pt. of s. 5.]

See s. 6808.

DISCHARGE, TRANSFER, ETC.

Sec. 3867. Discharge, by whom. The director shall have power, for good reasons shown to his satisfaction, to discharge or temporarily release any child committed to or admitted at any industrial and reformatory school, upon such terms and conditions as shall be approved by the director. [L. 1870, c. 41, s. 12; am. L. 1911, c. 150, s. 6; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 376; R. L. 1935, s. 4596; am. L. 1939, c. 203, pt. of s. 5.]

Sec. 3868. Transfer to jail. Whenever it shall be found that the continued detention or custody of any inmate of any industrial and reformatory school at such school shall be subversive of the order and discipline of the school, or injurious in any way to the other inmates of the institution, it shall be lawful for any district magistrate, on representation to that effect being made by the director, his authorized agents, or the principal teacher of any such school, to hear and determine any such case, and if proved to his satisfaction, the magistrate is authorized, in the place of further detention or custody at such school, to order that such minor, if he be of the age of fourteen years or more, be imprisoned, at some public jail for any term not exceeding the unexpired residue of the time for which such inmate shall have been last committed to such industrial and reformatory school. [L. 1882, c. 30, s. 1; am. L. 1911, c. 150, s. 7; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 377; R. L. 1935, s. 4597; am. L. 1939, c. 203, pt. of s. 5.]

See c. 133, juvenile courts.

Sec. 3869. Transfer back or discharge. If at any time after the commitment or transfer, as in section 3868 authorized, of any inmate of an industrial and reformatory school to a public jail, it shall be found that such minor by his conduct gives reasonable proof of reformation, or for other good reason that shall be made to appear, it shall be lawful for any district magistrate, after receiving satisfactory evidence thereof, to order the discharge of such minor from jail, or to return him to the custody of the director at some industrial and reformatory school, whenever requested so to do by the director or his authorized agents. [L. 1882, c. 30, s. 2; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 378; R. L. 1935, s. 4598; am. L. 1939, c. 203, pt. of s. 5.]

See c. 133, juvenile courts.

Sec. 3870. Costs. All costs incurred under the provisions of sections 3868 and 3869, shall be paid by the director out of any funds appropriated for industrial and reformatory schools. [L. 1882, c. 30, s. 3; am. L. 1915, c. 81, s. 6; R. L. 1925, s. 379; R. L. 1935, s. 4599; am. imp. L. 1939, c. 203, pt. of s. 1.]

CHAPTER 68. PRISONS, JAILS, ADMINISTRATION; PRISONERS.

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Sec. 3901. Director defined; may delegate powers. Wherever used in this chapter "director" means the director of institutions provided for in chapter 64, insofar as matters within the purview of this chapter are concerned; provided that the signing or approval of vouchers and other routine matters may by him be delegated to any authorized subordinate. [L. 1939, c. 203, pt. of s. 6.]

Sec. 3902. Erection. The superintendent of public works, with the approval of the governor, shall have the power to erect such suitable prisons, jails, station houses, and houses of correction, as may be necessary for the safe keeping, correcting, governing and employing of all persons duly committed thereto. [C. C. 1859, s. 206; R. L. 1925, s. 1513; R. L. 1935, s. 6400.]

Control over prisoners, 6 H. 732, 738. See s. 3808, certain buildings.

Sec. 3903. Prisoners other than felons. No person committed or held for trial or to secure his attendance as a witness or upon civil process or for contempt or upon conviction of a misdemeanor or otherwise by authority of law, except upon conviction of a felony, shall be imprisoned in Oahu prison or subjected to any infamous punishment. [L. 1905, c. 59, s. 1; R. L. 1925, s. 1521; R. L. 1935, s. 6402.]

Sec. 3904. Witnesses as prisoners. All prisoners confined only in order to secure their attendance as witnesses shall be under no other restriction than what is necessary to prevent their escape from prison. Every such prisoner shall be immediately liberated on his giving security for his appearance to testify, as required by law. [C. C. 1859, s. 213; R. L. 1925, s. 1522; R. L. 1935, s. 6403.]

See s. 10745, et. seq., commitment and bail of witnesses.

Sec. 3905. Felons not to be confined in Honolulu jail. No person convicted of a felony or suffering infamous punishment shall be sentenced to be confined or shall be confined within the Honolulu jail. No person confined therein shall be subject or compelled to perform labor during the term of his imprisonment. [L. 1905, c. 58, s. 2; R. L. 1925, s. 1850; R. L. 1935, s. 6404.]

See s. 3911, labor by prisoners in county jails.

COUNTY JAILS; PRISON INSPECTORS.

Sec. 3906. Jailors, appointment, etc. Except as may be otherwise provided by law, the respective chiefs of police of the counties, excepting the city and county of Honolulu and there the sheriff, shall appoint all jailors

in their respective counties. Said officers of each county shall be responsible for the safe keeping of all prisoners and persons who may be confined in or committed to any county jail within his county. [C. C. 1859, s. 207; am. L. 1909, c. 102, s. 1; R. L. 1925, s. 1514; am. L. 1931, c. 125, s. 1; am. L. 1932, 1st, c. 17, s. 6; R. L. 1935, s. 6401.]

Transfer of prisoners to territorial hospital, s. 3930.
s. rewritten in view of changes in county police systems.
Right of jailor to use force, 1 H. 150. Whipping, 31 H. 982; 32 H. 27. Before local government, high sheriff responsible for safekeeping of all prisoners, 15 H. 276. Cited: 30 H. 27.

Sec. 3907. Prison inspectors, appointment, tenure. The governor shall appoint, in the manner prescribed by section 80 of the Organic Act, a board of prison inspectors for each judicial circuit other than the first judicial circuit. Each board shall consist of three members who shall be appointed for terms of two years and shall be residents of the judicial circuit for which they are appointed. [L. 1905, c. 41, s. 1; am. L. 1911, c. 14, s. 1; R. L. 1925, s. 1541; am. L. 1931, c. 128, s. 1; R. L. 1935, s. 6406.]

Jails, 1st circuit, s. 3921.

Sec. 3908. Service without pay; expenses. All members of each board shall serve without pay but their reasonable traveling and other expenses shall be paid by the respective counties in which such boards function. [L. 1905, c. 41, s. 2; am. L. 1919, c. 164, s. 1; R. L. 1925, s. 1542; am. L. 1931, c. 128, s. 2; R. L. 1935, s. 6407.]

Sec. 3909. Duties; visitation of prisons, etc. It shall be the duty of each board and all its members in addition to any other duties provided by law to visit all county jails within the judicial circuit for which they are appointed at least once in every four months and to inquire into the management and conduct of the same, the care and maintenance of prisoners, the records of prisoners, the manner in which the officers and employees connected with such jails perform their official duties and the sanitary condition of such jails. [L. 1905, c. 41, s. 3; R. L. 1925, s. 1543; am. L. 1931, c. 128, s. 3; R. L. 1935, s. 6408.]

Other duties, ss. 3921, 3922, 3955.

Sec. 3910. Powers, discipline, rules, punishments, commutations. Each board shall have power to supervise the discipline and government of all county jails within the judicial circuit for which the board is appointed; to provide such rules and regulations not contrary to law as in the opinion of the majority of the board are advisable for the discipline and government of the jails; to prescribe, subject to the provisions of law, the punishment to be inflicted upon prisoners for breach of prison rules and other misconduct; to decide who are entitled to the commutation of sentence provided by law for good behavior and who shall be deprived of commutation in whole or in part and to restore to any prisoner in whole or in part the commutation which the prisoner may have lost; to classify the prisoners, designating the grade to which each shall belong, the privileges not inconsistent with law which they shall have and the garb which they shall wear. [L. 1905, c. 41, s. 4; am. L. 1923, c. 220, s. 1; R. L. 1925, s. 1544; am. L. 1931, c. 128, s. 4; R. L. 1935, s. 6409.]

See s. 3959, ff., parole of prisoners. Whipping, 31 H. 982; 32 H. 27.

Sec. 3911. Prisoners in county jails not to labor except for government; exceptions. Penalty. Prisoners who are serving sentence in any county jail shall not be employed outside of the premises of such institution in any labor except for the Territory or a political or other subdivision thereof; provided, however, that charitable institutions may have the use and employment of such prisoners as the sheriff of the city and county or the chief of police of the other counties shall deem it advisable to so allow.

Any sheriff or other official violating any of the provisions of this section shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred nor more than one thousand dollars. [L. 1913, c. 29, ss. 1, 2; R. L. 1925, s. 2188; R. L. 1935, s. 6433; am. L. 1939, c. 104, s. 7; am. L. 1943, cc. 62, 64.]

See s. 3905, labor not compulsory. Commutation for labor performed, ss. 3951-3952.

Sec. 3912. Access to prisons and records; institution of inquiries. Each board and every member thereof shall at all times have free access to all county jails within the judicial circuit for which the board is appointed and to all records and books kept in connection therewith and may institute inquiries about any prisoner confined therein, and it is made the duty of all circuit judges, district magistrates, sheriffs, prosecuting officers, police officers and

other court and prison officials and employees to furnish, when called on by the board, all information that may be possessed concerning such prisoner.

In all investigations made by the board and in all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the board or any member thereof or of any subpoena issued by it or him or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the board or a member thereof, to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the county, except where the fees and expenses are incurred in the course of investigations held at the direction and in behalf of the director, in which case such fees and expenses shall be paid by the Territory out of any appropriations available for the expenses of the director.

Each board shall also perform such other acts and duties as may be lawfully required by the director and, in connection with such acts and duties, shall be vested with all the powers of the director insofar as shall be necessary to the due performance of such acts and duties. [L. 1905, c. 41, s. 6; R. L. 1925, s. 1546; am. L. 1931, c. 128, s. 5; R. L. 1935, s. 6411; am. L. 1939, c. 203, pt. of s. 6.]

Duties in behalf of director, ss. 3921, 3922.

Sec. 3913. Officers, meetings, records, reports. Each board shall organize by electing one member as chairman and another as secretary. Each board shall hold a regular meeting at least once in every month, and special meetings shall be held whenever called by any member. A record of all meetings and proceedings of each board shall be kept, and a detailed report of the work of each board shall be sent to the governor every three months. At all meetings of such boards a majority shall constitute a quorum. [L. 1905, c. 41, s. 7; R. L. 1925, s. 1547; R. L. 1935, s. 6412.]

BOARD OF PAROLES AND PARDONS; AND ADMINISTRATION OF PRISONS.

Sec. 3914. Appointment of board; tenure. The governor shall appoint, in the manner prescribed by section 80 of the Organic Act, a board to be known as the board of paroles and pardons; to consist of five members who shall be appointed for terms of four years and one of whom shall be designated by the appointing power as chairman; **provided**, however, that the first five members appointed hereunder shall be appointed for the following terms, commencing July 1, 1931: two for a term of one year; one for a term of two years; one for a term of three years; one for a term of four years. Thereafter all appointments shall be made for terms of four years, commencing from the date of expiration of the last preceding term. Any vacancy shall be filled by appointment for the remainder of the unexpired term. [L. 1931, c. 129, pt. of s. 1; R. L. 1935, s. 6413; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3915. Acting chairman, meetings, records, reports, clerical assistance. In case of the temporary absence or illness of the chairman, an acting chairman may be appointed in the manner provided by section 479. In case of the absence from any meeting of the chairman or acting chairman, the members present may elect any member to act as chairman at such meeting. The board shall hold a regular meeting at least once in every month. A record of all meetings and proceedings of the board shall be kept, and a detailed report of its work shall be sent to the governor every three months. In all matters the board shall act by a majority of its members. The board shall appoint its own administrative secretary and such other clerical assistants as may be necessary within the limits of available appropriations, subject to any applicable salary classification and civil service schedules, laws and regulations. [L. 1931, c. 129, pt. of s. 1; R. L. 1935, s. 6414; am. L. 1939, c. 203, pt. of s. 6; am. L. 1941, c. 146, s. 1.]

Note: s. 2 of L. 1941, c. 146, putting existing employees under Civil Service, omitted.

Sec. 3916. Service of board members without pay; expenses. The members of the board shall serve without pay, but their necessary expenses for traveling and incidentals shall be paid from the appropriation for prisons or the support

of prisoners, on vouchers approved by the director. [L. 1931, c. 129, pt. of s. 1; R. L. 1935, s. 6415; am. L. 1939, c. 203, s. 6, par. 4.]

Sec. 3917. Powers of director; warden; rules; clerical and other assistants. The director, through the warden, shall have the entire government, control and supervision of all territorial prisons and prison camps and of the administration thereof. The director shall have power to make and from time to time alter or amend rules relating to the conduct and management of such institutions and the care, control, treatment and discipline of prisoners, which rules must be approved by the governor, but shall not require publication in order to be valid and binding upon all inmates, officers and employees of such institutions, and which rules shall be printed from time to time.

The warden, subject to the approval of the director, where required by such rules, and subject to such rules, shall have power, and it shall be his duty to enforce such rules; to prescribe the punishments to be imposed upon prisoners for any breach of prison rules or other misconduct; to decide what prisoners shall be entitled to the commutation of sentence authorized by law for good behavior and who shall forfeit or be deprived of such commutation in whole or in part, and to restore to any prisoner all or any commutation which the prisoner may have lost; to classify and grade the prisoners, designating the privileges which they shall have and the garb which they shall wear.

The warden may employ a secretary and such clerical and other office employees, at such salaries, as may be authorized by such rules of the director for such institutions, within the limits of the funds available by law therefor, subject to any applicable salary classification and civil service schedules, laws and regulations that may be in effect from time to time. [L. 1931, c. 129, pt. of s. 1; am. L. 1932, 1st, c. 17, s. 1; R. L. 1935, s. 6416; am. L. 1939, c. 203, s. 6, par. 5.]

See s. 3901, director's delegation of routine matters.

Sec. 3918. Warden: appointment, removal; general power. The director shall appoint a warden who except as herein otherwise provided shall be exempt from civil service. Such appointment shall, for a period of six months, be probationary and during such time he shall serve at the pleasure of the director. Unless sooner removed by the director such appointment shall at the end of six months become permanent subject to the removal by the director for cause only. The warden when removed for cause may appeal to the territorial civil service commission within ten days after such action is taken. Upon such appeal both the warden and the director whose action of removal for cause is reviewed shall have the right to be heard publicly and to present evidence. When the findings of the commission deems that the cause for removal is unwarranted the director shall reinstate the warden and approve the payment of salary lost since removal.

The territorial civil service commission is hereby empowered and authorized to review the appeal of the warden when removed for cause, all territorial laws or parts of laws to the contrary notwithstanding.

The warden, under the control and supervision and subject to the rules of the director, shall have the immediate charge and direction of all territorial prisons and prison camps and the administration thereof. The warden shall be responsible for the safe keeping of all prisoners and persons who may be committed to such prisons and for the enforcement of proper order and discipline among and concerning prisoners and prison officers and employees. [L. 1941, c. 177, s. 1.]

This section supersedes the first paragraph of s. 6420, R. L. 1935.

Sec. 3919. Warden's special powers and duties; deputies, etc.; bond. The warden, with the approval of the director, shall appoint and fix the compensation of one or more deputy wardens and such other officers and employees as may be necessary for the efficient performance of all duties required of him, all of whom shall serve at his pleasure.

The warden shall: (1) See to it that the duties of all officers and employees are efficiently and faithfully performed; (2) keep himself fully informed at all times concerning the health, care and treatment of prisoners, the sanitary and other conditions affecting the prisons and camps, and all other matters within his jurisdiction; (3) cause each territorial prison to be kept in a clean, healthful and sanitary condition; (4) inquire into and deal justly with all complaints made by prisoners relating to their food, clothing, accommodations or

treatment; (5) attend to the purchasing of all supplies, materials and equipment necessary for the proper maintenance and operation of the institution and its adjuncts, and for the care and maintenance of prisoners, and see to the proper care, use and disposition thereof, conformably with law; (6) keep all books, accounts and records and make such reports as may be required of him by law and by the orders of the director.

The warden may impose such punishments of prisoners for breaches of prison rules or other misconduct as may be authorized by the rules of the director.

The warden shall execute a bond to the Territory, with sufficient surety or sureties, to be approved by the treasurer of the Territory, in the penal sum of twenty thousand dollars, conditioned for the faithful performance of his duties and for the proper handling and accounting for and disposition of all moneys, supplies and other property which shall be received by him as such warden, conformably with law, which bond shall be filed in the office of the treasurer of the Territory. The treasurer may at any time require the warden to execute a new bond whenever for any reason satisfactory to the treasurer any prior bond shall become unsatisfactory. [C. C. 1859, s. 211; R. L. 1925, s. 1519; am. L. 1931, c. 125, s. 5; am. L. 1932, 1st, c. 17, s. 2; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, pt. of s. 6420; am. L. 1939, c. 203, pt. of s. 6; am. L. 1941, c. 177, s. 1.]

Sec. 3920. Pay of employees. The pay of all officers and employees of territorial prisons shall be determined and regulated by the rules of the director, except as otherwise provided by law. [C. C. 1859, s. 220; R. L. 1925, s. 1515; am. L. 1931, c. 125, s. 2; R. L. 1935, s. 6421; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3921. Duties of director; visitation of prisons, etc. It shall be the duty of the director to visit all territorial prisons and prison camps within the Territory and all jails within the first judicial circuit at least once in every four months and to inquire into the management and conduct of the same, the care and maintenance of prisoners, the records of prisoners, the manner in which the officers and employees connected with such prisons and jails perform their official duties and the sanitary condition of such prisons and jails; provided, however, that the director may delegate to the board of prison inspectors of any other judicial circuit the duty of visiting territorial prison camps in such circuit and require reports thereon. [L. 1931, c. 129, pt. of s. 1; R. L. 1935, s. 6417; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3922. Access to prisons and records; instituting of inquiries and securing of information. The board and every member thereof and the director shall at all times have free access to all prisons and jails throughout the Territory, to all other institutions wherein persons convicted of crime shall be confined and to all records and books kept in connection therewith, and may institute inquiries about any prisoners whether confined or out on parole. The board and the director may also require the board of prison inspectors of any judicial circuit to make, within such circuit, any inspections, inquiries or investigations which the board of paroles and pardons or the director is authorized to make and it shall be the duty of such board of prison inspectors to make such inspections, inquiries or investigations and to report its findings or any other information requested to the board of paroles and pardons or the director.

It is made the duty of all circuit judges, district magistrates, prosecuting officers, sheriffs, police officers and other court and prison officials and employees to furnish, when called upon by the board or director, all information that may be possessed concerning any prisoner.

Upon the refusal of any person in charge of any such jail, prison or institution to give free access thereto or to any records or books kept in connection therewith, or of any such officer, magistrate, sheriff, official or employee to furnish such information or of any board of prison inspectors to make such inspections, inquiries or investigations when so requested by the board of paroles and pardons or director, the board or director may make informal application in writing to any circuit judge at chambers, reciting the facts and requesting an order directing the person concerned to give such access, furnish such information or make such inspections, inquiries or investigations and such judge, after such reasonable notice to such person as he shall direct, shall proceed to hear such application and shall have power to make such

order as may appear proper. In case of the refusal of a circuit judge to furnish information as in this section required, the board or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit judge at chambers hereinabove provided for. The circuit judges and the supreme court are given jurisdiction and all powers necessary for the purposes of this section.

In all investigations made by the board or director and in all proceedings before it or him, the board and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. In case of disobedience by any person of any order of the board or any member thereof or the director or of any subpoena issued by it or him or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, it shall be the duty of any circuit judge, on application by the board or a member thereof or the director to compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the Territory on vouchers approved by the director out of any appropriation or funds available for the expenses of the territorial prisons. [L. 1931, c. 129, pt. of s. 1; am. L. 1932, 1st, c. 17, s. 3; R. L. 1935, s. 6418; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3923. Prison records. When any prisoner shall be received into the territorial prison the warden shall cause to be entered in a register the date of admission, the name, age, sex, nativity, nationality and such other facts as can be ascertained of the parentage, education, occupation and early social influences bearing upon the constitution and acquired defects and tendencies of the prisoner. The warden shall also cause to be entered in the register from time to time all facts relating to the commutation, as required by section 3956, parole, pardon, discharge, escape and death of any prisoner and also all punishments that are inflicted for breach of prison discipline, as they occur, and all other occurrences of note concerning the prisoner. [C. C. 1859, s. 208; R. L. 1925, s. 1516; am. L. 1931, c. 125, s. 3; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, s. 6422.]

Sec. 3924. Records, etc., delivered to successor. The warden of Oahu prison shall file all warrants, mittimus, processes and other official papers, or the attested copies of them, by which any prisoner shall have been committed, paroled, liberated or retaken, and they shall be safely kept in a suitable box or safe. Upon the death, resignation or removal from office of the warden, they shall be delivered, together with all other official records, papers and journals, to his successor or to any other officer or person duly appointed to receive them. In default of such delivery, the warden, if living may be held liable for embezzlement, as provided by section 11242, and shall also be civilly liable in damages to any person who shall be injured by such non-delivery. If the warden shall be dead, such civil liability shall attach to his personal representatives and the sureties upon his official bond, jointly and severally. In addition to the civil liability as aforesaid, the warden or his personal representatives and sureties on his official bond shall forfeit and pay for each such default in delivery the sum of two hundred dollars, to be recovered for the use of the treasury. [L. 1888, c. 8, s. 16; R. L. 1925, s. 1508; am. L. 1932, 1st, c. 17, s. 5; R. L. 1935, s. 6423.]

Sec. 3925. Examination by physician. The physician of the territorial prison shall carefully examine the prisoner when received and shall enter in a register to be kept by him, the name, nationality, weight and stature and a statement of his physical condition. [C. C. 1859, s. 210; R. L. 1925, s. 1518; am. L. 1931, c. 125, s. 4; R. L. 1935, s. 6424.]

Sec. 3926. Bibles, etc., for prisoners. The warden shall provide for each prisoner, who may be able and desirous to read, a copy of the Bible or of the New Testament, to be used by the prisoner at proper seasons; and any minister of the Gospel disposed to aid in reforming the prisoners, and instructing them in their moral and religious duties, shall have access to them at seasonable times when not required to be employed in labor. [C. C. 1859, s. 212; R. L. 1925, s. 1520; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, s. 6405.]

Sec. 3927. Cash and clothing furnished discharged prisoner, when. Upon the discharge of any prisoner who has undergone a sentence of one year or more at hard labor in the territorial prison, in case such person has not funds sufficient for present purposes, he shall be furnished by the warden with five dollars in money, and clothes costing not more than ten dollars. The expenditures so made by the warden shall be included by him among the accounts for cost and maintenance of prisoners. [L. 1911, c. 36, s. 1; R. L. 1925, s. 1557; R. L. 1935, s. 6450.]

PRISON CAMPS; TRANSFERS.

Sec. 3928. Territorial prison camps; transfer thereto and imprisonment therein. The two territorial prison camps heretofore established and maintained in the county of Maui and the county of Hawaii shall be continued as territorial prison camps and shall be deemed to be and constitute a part of Oahu prison. Any person convicted of a felony and sentenced to imprisonment in Oahu prison may, upon order of the warden with the approval of the director, be transferred to, or returned to Oahu prison from, any of such prison camps, and imprisonment in any such prison camp shall be and constitute imprisonment in Oahu prison; provided, however, that no such person shall be transferred to any such prison camp who has been sentenced to suffer the punishment of death and no such sentence shall be executed in any such camp. The director, with the prior approval of the governor, may from time to time move and change the location of said prison camps anywhere within the limits of the county wherein said camps are now situate. Nothing in this section shall be construed to prohibit the transfer of prisoners from Oahu prison as herein defined, to the territorial hospital or other territorial institutions as provided for by law.

Any appropriation now or hereafter made for Oahu prison may be transferred, with the prior approval of the governor, to and for the use of any of said prison camps, and any appropriation now or hereafter made for any of said prison camps may be transferred, with the prior approval of the governor, to and for the use of Oahu prison. [L. 1941, c. 14, s. 1.]

See L. 1941, J. R. 5, re number of prisoners at Olinda (40) and at Waiakoa (80).

Sec. 3929. Feeble-minded felons. If any person convicted of a felony and incarcerated in a territorial prison is found by a court of competent jurisdiction to be feeble-minded and a menace to himself or to others, on the evidence of a qualified physician or psychologist or on other evidence, he shall be committed by such court to the territorial hospital to be detained therein until discharged according to the manner prescribed by law for the discharge of an insane person from said hospital. In case said discharge occurs before the expiration of the maximum term of imprisonment imposed upon such person, then he shall be returned to the territorial prison to serve the remainder of such term, or such portion thereof as may be determined upon by the board of paroles and pardons pursuant to law. [L. 1935, c. 199, s. 1; am. L. 1939, c. 203, s. 6 (2).]

Sec. 3930. Transfer of prisoner to territorial hospital. Upon receiving an application made by the director, which application shall be accompanied by a certificate of the prison's physician, the governor may direct the warden or other official having custody of any prisoner convicted of a felony and incarcerated in a territorial prison to cause such prisoner to be removed to the territorial hospital for treatment or observation, there to be kept until, in the judgment of the medical director of the hospital, the prisoner shall be restored to sanity, or until the purposes of the observation or treatment shall have been completed, or until the maximum sentence, (without deduction for good time or commutation of sentence) shall have been served. Any such prisoner who may be discharged before the expiration of the maximum term of imprisonment shall be returned to the territorial prison to serve the remainder of his term, or such portion thereof as may be determined upon by the board of paroles and pardons pursuant to law.

The governor likewise may direct that a prisoner convicted of a misdemeanor be removed to the territorial hospital for like purposes, and all of the provisions of the first sentence of the foregoing paragraph shall apply in such cases, except that the application must be made by the officer having custody of the prisoner and must be accompanied by a certificate of the jail physician or of a psychiatrist of the bureau of mental hygiene or the territorial hospital, provided that if the prisoner previously has been committed to the

hospital as a drug or liquor addict the application must be accompanied by the certificate of the medical director of the hospital. If the prisoner be discharged before the expiration of his term of imprisonment he shall be returned to the jail from which he was removed to serve the remainder of his term. [L. 1937, c. 38, s. 1; am. L. 1939, c. 175, pt. of s. 6; am. L. 1943, c. 169, s. 1.]

Sec. 3931. Transfer to settlement at Kalaupapa, Molokai. Upon receiving an application made by the director of institutions, which application shall be accompanied by a certificate of the board of hospitals and settlement that the prisoner has been declared a leper in the manner provided for in section 3170, the governor may direct the warden or other official having custody of any prisoner convicted of a felony and incarcerated in a territorial prison to cause such prisoner to be removed, notwithstanding any other provision of the law to the contrary, directly to the settlement at Kalaupapa for care and treatment, there to be kept until discharged under the provisions of chapter 43, or until the maximum sentence (without deduction for good time or commutation of sentence) shall have been served. After the maximum sentence has been served any such person shall become subject to the provisions of section 3176.

Any prisoner who may be discharged before the expiration of the maximum term of imprisonment shall be returned to the territorial prison to serve the remainder of his term, or such portion thereof as may be determined by the board of paroles and pardons pursuant to law. [L. 1941, c. 11, s. 1.]

LABOR BY FELONS.

Sec. 3932. On public works, etc. All prisoners sentenced to imprisonment at hard labor shall be constantly employed for the public benefit, on public roads or other public works or otherwise, as the warden, with the approval and subject to the control of the director, may deem best. The director and warden shall cooperate, as far as practicable in their discretion, with the superintendent of public works in placing such prisoners at his disposal to be employed by him on public work or otherwise as the superintendent may lawfully direct. The warden may, with the approval of the director, detail for labor on any public road or other public work, upon application for that purpose from any board of supervisors, as many available prisoners as such board of supervisors may deem necessary for such work, such prisoners to be under the care of their usual overseers and subject to such board of supervisors only as far as regards the mode of their employment. [C. C. 1859, s. 215; R. L. 1925, s. 1523; am. L. 1931, c. 125, s. 6; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, s. 6436; am. L. 1939, c. 203, pt. of s. 6.]

L. 1927, c. 62; L. 1931, c. 84; L. 1933, c. 61, prisoners detailed to combat gorse plant pest (common furz). See s. 3936, pay of prisoners. Labor by misdemeanants, ss. 3951 ff. Also, see ss. 3905, 3911. See, 8 H. 129.

Sec. 3933. Labor only for government; exceptions. Prisoners shall not be employed in any labor except for the Territory or a political or other subdivision thereof; provided, that charitable institutions may have the use and employment of such prisoners as the warden, with the approval of the director, may deem it advisable so to allow.

The warden or other person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred nor more than one thousand dollars. [C. C. 1859, s. 216; am. L. 1913, c. 53, s. 1; R. L. 1925, s. 1527; am. L. 1931, c. 125, s. 9; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, s. 6435; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3934. Female prisoners. Female prisoners shall be kept entirely separate from the male prisoners and shall be employed in making mats, in sewing, in washing the clothes of the prisoners and in such other suitable occupations as the warden, subject to the rules of the director, shall direct. [C. C. 1859, s. 217; R. L. 1925, s. 1528; am. L. 1931, c. 125, s. 10; am. L. 1932, 1st, c. 17, s. 7; R. L. 1935, s. 6434; am. L. 1939, c. 203, pt. of s. 6.]

Cited: 30 H. 477.

PRISONERS' COMPENSATION; FUNDS.

Sec. 3935. Director to fix compensation. The director is empowered by rule to classify, grade and fix payments to be made to prisoners who may be confined in the territorial prisons. [L. 1917, c. 181, s. 1; am. L. 1931, c. 110, s. 1; R. L. 1935, s. 6425; am. L. 1939, c. 203, s. 6, par. 7.]

Sec. 3936. Compensation for labor by prisoners. Every prisoner who may be employed on or in such work as the warden of the prison, pursuant to the provisions of law, shall prescribe, may be allowed such graduated sums of money as the director by rule may determine; provided, however, that payments shall in no case exceed the sum of twenty-five cents per day. [L. 1917, c. 181, s. 2; R. L. 1925, s. 1568; am. L. 1931, c. 110, s. 2; R. L. 1935, s. 6426; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3937. Payroll. All claims arising under the above authorization shall be presented monthly on payrolls, properly certified by the warden, and paid by the auditor of the Territory by warrant to the warden as trustee. [L. 1917, c. 181, s. 3; R. L. 1925, s. 1569; am. L. 1931, c. 110, s. 3; R. L. 1935, s. 6427.]

Sec. 3938. Custody of moneys; accounts with prisoners, etc. All sums collected as above shall be deposited by the warden in a bank to the credit of "The Prisoners' Compensation Fund", and all interest paid thereon by the bank may be expended by the warden for the purchase of articles for the recreation and entertainment of the prisoners. The warden shall maintain individual ledger accounts with each prisoner and shall issue to each prisoner a pass book showing credits and debits as they are made from time to time. [L. 1917, c. 181, s. 4; R. L. 1925, s. 1570; am. L. 1931, c. 110, s. 4; R. L. 1935, s. 6428.]

Sec. 3939. Withdrawals; forfeitures; etc. The warden may, in his discretion, allow any prisoner under his direction to draw from money to his credit account in the hands of the warden, to such amount and for such purposes as he may deem proper, and it shall be the duty of the warden upon the parole or discharge of a prisoner to pay to him any money to which he may be entitled under the provisions of this subtitle; provided, however, that if any prisoner be of bad conduct, break the rules and regulations, or in any way does not conform to the discipline of the prison, the warden may, in his discretion, subject to the approval of the director, declare forfeited the whole or any portion of the money standing and held for him and to his credit, and all sums so forfeited shall be deposited with the treasurer of the Territory as a territorial realization. All sums not claimed by a prisoner within thirty days after parole or discharge and all sums standing in the name of any deceased prisoner shall be deposited with the treasurer of the Territory as a territorial realization. [L. 1917, c. 181, s. 5; R. L. 1925, s. 1571; am. L. 1931, c. 110, s. 5; R. L. 1935, s. 6429; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3940. To what prisoners subtitle not applicable. The provisions of this subtitle shall not apply to any prisoner who may be held in prison until and after he has served at least three months of the term of his sentence. [L. 1917, c. 181, s. 6; R. L. 1925, s. 1572; R. L. 1935, s. 6430.]

Sec. 3941. Earnings exempt from garnishment, etc. No moneys earned by such prisoner and held by the warden shall, to any amount whatsoever, be subject to garnishment, levy or any like process of attachment for any cause or claim against the prisoner. [L. 1917, c. 181, s. 7; R. L. 1925, s. 1573; R. L. 1935, s. 6431.]

Sec. 3942. Reports by warden. The warden shall, on December 31 and June 30 of each year, make full and complete reports to the director of all payments made to each prisoner, the amounts held to his credit and such other matters pertaining to the provisions of this subtitle as the board may direct. [L. 1917, c. 181, s. 8; R. L. 1925, s. 1574; am. L. 1931, c. 110, s. 6; R. L. 1935, s. 6432; am. L. 1939, c. 203, pt. of s. 6.]

Sec. 3943. Special fund; proceeds of agricultural and industrial pursuits. All moneys arising from agricultural or industrial pursuits or activities conducted at any territorial prison (which term as used in this section shall include prison camps), and all moneys arising from the sale of produce from any public lands of the Territory which have been duly set apart by executive order for use by any such prison or from the sale of produce of animal husbandry conducted by any such prison shall, upon receipt thereof, be paid into the territorial treasury into a special fund to be known as the territorial prison special fund. Moneys in said fund shall be expendable by the director for any of the purposes of any such prison. [L. 1943, c. 94, s. 1.]

PROPERTY OF PRISONERS, GUARDIANS.

Sec. 3944. Disposition subject to action for damages. No disposition of any estate, either by will or otherwise, after the arrest for crime of which the prisoner was convicted, whether the sentence is for life or otherwise, shall have any advantage or preference over the claim of any person entitled to damages for a private injury committed by the criminal, unless such disposition was made for a valuable and equivalent consideration, to a person ignorant of the arrest. [C. C. 1859, s. 223; R. L. 1925, s. 1530; R. L. 1935, s. 6438.]

Sec. 3945. Guardians of prisoners, when. Whenever a person is sentenced to imprisonment for any felony for a term exceeding one year, any judge having probate powers may, upon application, appoint a guardian to have the care and management of such convict's estate, real and personal, during the term of his imprisonment or until he shall be finally discharged from such sentence. The letters of guardianship shall be revoked by the pardon or final discharge of the convict, but such revocation shall not invalidate legal acts done by the guardian. [C. C. 1859, s. 224; R. L. 1925, s. 1531; am. L. 1933, c. 49, s. 2; R. L. 1935, s. 6439.]

See c. 305, appointment, powers, etc., of guardians.

Sec. 3946. Powers and duties. Every guardian so appointed for any convict shall pay all the just debts due from the convict out of his personal estate, if sufficient, and if not, out of his real estate, upon obtaining license for the sale thereof from the judge; he shall also settle all accounts of the convict, and demand, sue for, and receive all debts due to him, and may, with the approbation of the judge, compound for the same and give a discharge to the debtor; and he shall appear for and represent his ward, in all legal suits and proceedings, except when another person is appointed for that purpose.

Such guardian shall have all the rights and duties, as well as the responsibilities, respecting the management and disposal of the convict's estate, as appertain to the guardian of a minor, or insane person. He shall manage the estate frugally and without waste, and apply the profits thereof, so far as may be necessary, for the comfortable and suitable maintenance of the convict's family, if there be any, and if the profits shall be insufficient for that purpose, he may sell the real estate and apply the proceeds thereto, upon obtaining the license of the judge. [C. C. 1859, ss. 225, 226; R. L. 1925, ss. 1532, 1533; R. L. 1935, s. 6440.]

Sec. 3947. Removal of guardian. Such guardian may be removed, and another guardian appointed in his place, whenever the judge shall think there is just cause for removal. [C. C. 1859, s. 227; R. L. 1925, s. 1534; R. L. 1935, s. 6441.]

Sec. 3948. Compensation, expenses. Every such guardian shall have such compensation for his services as the judge before whom his accounts are settled shall consider just and proper, and he shall also be allowed the amount of his reasonable expenses. [C. C. 1859, s. 228; R. L. 1925, s. 1535; R. L. 1935, s. 6442.]

Sec. 3949. Property given to convicts. All property given or in any manner whatsoever accruing to a convict, shall vest in his guardian, if he be sentenced for a term of years, to be disposed of in like manner with his other property; or if he be sentenced for life, shall vest in his heirs. [C. C. 1859, s. 229; R. L. 1925, s. 1536; R. L. 1935, s. 6443.]

COMMUTATION OF PUNISHMENT.

Sec. 3950. Commutation of punishment; felons. Every person who is convicted of any felony under any law of the Territory and is confined in execution of the judgment or sentence upon any such conviction in any prison or jail in the Territory for a term other than for life, whose record shows continued good behavior or meritorious conduct, may be allowed a deduction from the term of his sentence to be estimated as follows, beginning on the first day of his arrival at such prison or jail: Upon a sentence of not less than six months nor more than one year, five days for each month; upon a sentence for more than one year and less than three years, six days for each month; upon a sentence of not less than three years and less than five years, seven days for each month; upon a sentence of not less than five years and less than ten years, eight days for each month; upon a sentence of ten years or more, ten days for each month. When a prisoner has two or more consecutive sentences the aggregate of his several sentences shall be the basis upon which his deduction shall

be estimated; and when a prisoner has two or more sentences running concurrently the sentence last to expire shall be the basis upon which his deduction shall be based. [L. 1915, c. 165, s. 1; R. L. 1925, s. 1550; am. L. 1933, c. 4, s. 1; R. L. 1935, s. 6444.]

Sec. 3951. Same; misdemeanants performing labor. Every person who is convicted of any misdemeanor under any law of the Territory, or of any political subdivision thereof, and is confined in execution of the judgment or sentence upon any such conviction in any prison or jail in the Territory for any definite term, may be allowed a deduction from his term of sentence if, upon his request in writing, he shall perform service or labor upon any public work, the same to be estimated at the rate of one day for each five days in which such service or labor is performed. In reckoning the number of days in which such service or labor is performed Sunday shall be included. [L. 1915, c. 165, s. 2; R. L. 1925, s. 1551; R. L. 1935, s. 6445.]

Sec. 3952. Request for labor by misdemeanants. Whenever a prisoner convicted of a misdemeanor shall make the request referred to in the foregoing section, it shall be the duty of the officer under whose control or in whose custody he may be to place the prisoner upon such public work as may be designated or determined upon by the board of supervisors or by the chairman and executive officer or mayor thereof respectively, of the county where the prisoner is confined. [L. 1915, c. 165, s. 3; am. L. 1917, c. 137, s. 1; R. L. 1925, s. 1552; R. L. 1935, s. 6446.]

Labor, see ss. 3905, 3911.

Sec. 3953. When fine not paid. Any prisoner sentenced to pay a fine and who is confined because of his failure to pay his fine, according to law, may be allowed a commutation at the rate provided for prisoners sentenced to hard labor, such commutation to be allowed for the time actually served in prison. [L. 1888, c. 9, s. 2; R. L. 1925, s. 1553; R. L. 1935, s. 6447.]

Sec. 3954. Forfeited and regained. Any prisoner may, for misconduct or other sufficient cause before his discharge, forfeit the whole or a part of the commutation which he has been allowed. For subsequent good conduct, meritorious behavior or other sufficient reasons, the whole or a part of the commutation so forfeited may be again allowed to such prisoner. Every prisoner whose commutation shall be so forfeited or restored, in whole or in part, shall be immediately notified thereof in writing by the authority taking such action. [L. 1888, c. 9, s. 3; R. L. 1925, s. 1554; am. L. 1931, c. 127, s. 1; R. L. 1935, s. 6448.]

Sec. 3955. In discretion of director or prison inspectors. The granting, withholding, forfeiting and restoring of the commutation provided for by this subtitle shall be discretionary with the director as to prisoners confined in any territorial prison or in any jail in the first judicial circuit and with the board of prison inspectors of each judicial circuit, other than the first circuit, as to prisoners confined in any county jail within such circuit. [L. 1888, c. 9, s. 4; am. L. 1905, c. 50, s. 2; R. L. 1925, s. 1555; am. L. 1931, c. 127, s. 2; R. L. 1935, s. 6449; am. by imp. L. 1939, c. 203.]

"Prison directors" changed to "director", for first circuit, see s. 3917.

Sec. 3956. Records. A record shall be kept and preserved in a suitable book at each prison or jail, to be styled the commutation book, in which shall be entered the name of every prisoner under sentence who is confined in such prison. In such book shall be entered upon a separate page the name of each prisoner, under which shall be entered a careful record of his conduct and of the commutation which has been granted, withheld, forfeited or restored to, from or by him, with reasons for such granting, withholding, forfeiting or restoring of the commutation. Such records or true copies of them shall be shown to the governor when considering petitions for executive clemency. [L. 1888, c. 9, s. 6; am. imp. L. 1915, c. 165; R. L. 1925, s. 1558; R. L. 1935, s. 6451.]

See s. 3923, prison records.

Sec. 3957. Application to prisoners sentenced before April 26, 1915. The deduction of sentence provided by this chapter shall be allowed prisoners sentenced before April 26, 1915, but shall be allowed only from such date. The deduction of sentence lawfully allowed any prisoner before April 26, 1915, shall be noted upon the record of such prisoner and added to the deduction of sentence allowed him under the provisions of this subtitle. [L. 1915, c. 165, s. 4; R. L. 1925, s. 1559; R. L. 1935, s. 6452.]

See R. L. 1915, s. 1492, deductions after April 24, 1905, allowed prisoners previously sentenced.

PAROLE OF FELONS.

Sec. 3958. Prisoners paroled. Any prisoner confined in any territorial prison in execution of any sentence imposed upon him, except in cases where the death penalty has been imposed, shall be subject to parole in manner and form as set forth in this subtitle. [L. 1917, c. 103, s. 1; R. L. 1925, s. 1560; am. L. 1931, c. 126, s. 1; R. L. 1935, s. 6453.]

While on parole, prisoner still in legal custody, deemed serving sentence imposed, 24 H. 247. Cited: 26 H. 764.

Sec. 3959. Paroles; rules and regulations. The board of paroles and pardons, with the approval of the governor, shall have power to establish rules and regulations, not inconsistent with the provisions of this subtitle, under which any such prisoner may be paroled but remain, while on parole, in the legal custody and under the control of the board, and subject, at any time until the expiration of the term for which he was sentenced, to be taken back within the enclosure of the prison. Such rules and regulations shall become effective and shall have the force and effect of law upon approval of the governor and publication thereof as required by law; and full power, subject to the provisions of this subtitle, to enforce such rules and regulations, to grant, with the approval of the governor, and to revoke paroles, and to retake and reimprison any paroled prisoner under the board's control, is conferred upon the board, the written order of which, certified by the chairman, shall be a sufficient warrant for all officers named therein to authorize any such officers to return to actual custody any paroled prisoner; and it is made the duty of the warden of Oahu prison, the sheriff or chief of police of each county and all police officers of the Territory or of any county and all prison officers to execute any such order in like manner as ordinary criminal process.

If any prisoner so paroled shall leave the Territory without permission from the board, he shall be deemed to be an escaped prisoner, and may be arrested as such. [L. 1917, c. 103, s. 2; R. L. 1925, s. 1561; am. L. 1931, c. 126, s. 2; am. L. 1932, 1st, c. 17, s. 8; R. L. 1935, s. 6454; am. L. 1939, c. 203, pt. of s. 6.]

"or chief of police" added to conform to establishment of such office in the counties.

Sec. 3960. Terms and conditions of parole; revocation. Every parole granted under this subtitle to any prisoner shall be subject to the express condition, to be set forth in the official written notification of parole to the prisoner, but to be binding upon him in any event, that all or any portion of his credits earned or to be earned may be forfeited by order of the board in the event that such prisoner shall break his parole or violate any law of the Territory or rule or regulation of the board or any of the terms or conditions of his parole. No parole shall be revoked and no credits forfeited without cause, which cause must be stated in the order revoking the parole or forfeiting the credits, after notice to the paroled prisoner of his alleged offense and an opportunity to be heard.

The board may at any time order the arrest and temporary return to custody of any paroled prisoner, as provided in section 3959, for the purpose of ascertaining whether or not there is sufficient cause to warrant his reimprisonment or the revoking of his parole or other action provided for by this subtitle.

Any paroled prisoner retaken and reimprisoned as provided in this chapter shall be confined according to his sentence for the unexpired portion of his term and the time during which he has been out on parole shall not be counted as any such unexpired portion of his term, but successive paroles may, in the discretion of the board and with the approval of the governor, be granted to such prisoner during the life and in respect of such sentence. [L. 1917, c. 103, s. 3; R. L. 1925, s. 1562; am. L. 1931, c. 126, s. 3; R. L. 1935, s. 6455.]

Sec. 3961. When; how initiated and granted. Paroles may be granted at any time after the prisoner shall have served the minimum term of imprisonment fixed according to law; provided, that where a fine or fine and costs have also been imposed, which have not been paid, and if the prisoner has been imprisoned for at least thirty days, the board, upon being satisfied that the prisoner could qualify as a poor convict as defined in section 10873, and upon such prisoner taking oath before any officer authorized to administer oaths in the form prescribed by said section, may nevertheless parole said prisoner without payment of said fine or fine and costs, either with or without the condition that while on such parole he make payment of such fine or fine and costs, as the board deems proper under the circumstances. The proceedings to obtain parole may be initiated by the written recommendation of the

warden of the territorial prison to the board of paroles and pardons or may be initiated by the board without any such recommendation.

The board shall act by a majority of all its members in respect of all proceedings touching the parole of prisoners. The board shall in each case present to the governor a brief history of the case, together with all pertinent facts touching the prisoner's antecedents and other matters which may have a bearing upon the question.

The governor shall have an absolute and uncontrolled discretion in approving or disapproving all proposed paroles. [L. 1931, c. 126, s. 4; R. L. 1935, s. 6456; am. L. 1939, c. 203, pt. of s. 6; am. L. 1943, c. 207, s. 2.]

Sec. 3962. No parole when. No parole shall be granted unless it shall appear to the board that there is a reasonable probability that the prisoner concerned will live and remain at liberty without violating the law and that his release is not incompatible with the welfare and safety of society. [L. 1917, c. 103, s. 4; R. L. 1925, s. 1563; am. L. 1931, c. 126, s. 5; R. L. 1935, s. 6457.]

Sec. 3963. Final discharge. Whenever, in its opinion, any paroled prisoner has given such evidence as is deemed reliable and trustworthy that he will remain at liberty without violating the law and that his final release is not incompatible with the welfare of society, the board may, subject to the approval of the governor, grant the prisoner a written discharge from further liability under his sentence. [L. 1917, c. 103, s. 7; R. L. 1925, s. 1566; am. L. 1931, c. 126, s. 7; R. L. 1935, s. 6458.]

Sec. 3964. Parole officer and assistant parole officers. The board of paroles and pardons is authorized to appoint and remove at pleasure a parole officer and such assistant parole officers as may be necessary, who shall receive such compensation as shall be provided by law. The duties of such parole officer shall be as follows:

(a) To keep a record of all paroled prisoners; to add from time to time thereafter information concerning the employment and wages of each paroled prisoner, together with the name of his employer and such details concerning his health, conduct and environment as may come to the attention of the parole officer either from reports made to him or through his own personal investigation; (b) to receive reports from paroled prisoners as may be required by the rules and regulations of the board and to check such reports by personal investigations and by conferences with the employers of such prisoners and such other persons as can give information concerning the habits, work and environment of such prisoners; (c) to investigate and keep informed upon the habits, work, wages and environment of such prisoners, if any there be, as are not required to report to such parole officer; (d) to make such other investigations, secure such other information and data, perform such other duties and make such other reports, in addition to those which may be required by law, as may be required by the board; (e) to make a report once in each month to the board, together with such additional reports as the circumstances shall call for, concerning the prisoners on parole and their conduct and environment; and (f) as far as practicable, to assist in obtaining suitable employment for paroled prisoners and otherwise assist in rehabilitation of such paroled prisoners.

Each assistant parole officer shall have such of the powers and duties of the parole officer hereinabove provided for as shall be prescribed by the board. [L. 1931, c. 126, s. 8; R. L. 1935, s. 6459; am. L. 1939, c. 203, pt. of s. 6.]

See s. 3969, bureau of crime statistics.

PARDONS.

Sec. 3965. Reference to board. Each board of prison inspectors and the board of paroles and pardons shall consider every application for pardon which may be referred to it by the governor and shall furnish the governor, as soon as may be after such reference, all information possible concerning the s. 1545; L. 1931, c. 129, pt. of s. 1; R. L. 1935, ss. 6410, 6419.]

prisoner, together with a recommendation as to the granting or refusing of such pardon. [L. 1905, c. 41, s. 5; am. imp. L. 1911, c. 5, s. 2; R. L. 1925,

This section combines ss. 6410, 6419, R. L. 1935, hence rewritten. See s. 3955, commutation discretionary.

PRISON VISITORS.

Sec. 3966. What officials may visit. The governor, attorney general, treasurer, superintendent of public works, the judges of the supreme and circuit

courts and members of the legislature, and members of the boards of supervisors shall be allowed at suitable hours freely to visit any territorial prison or county jail. [P. C. 1869, c. 82, s. 2; R. L. 1925, s. 1548; am. L. 1931, c. 128, s. 6; R. L. 1935, s. 6460.]

Sec. 3967. Others by permission. None but official visitors named in section 3966 and any others specifically authorized by law shall be allowed to visit any prison or jail or to have any oral or written communication with the prisoners, unless with the written permission of the warden or the director as to territorial prisons, or the written permission of the sheriff or the director as to city and county jails in the first judicial circuit, or of such other officers as shall be authorized by the director to grant such permission, or the written permission of the chief of police of the other counties or a member of the board of prison inspectors or such other officers as shall be authorized by such board to grant such permission, as to county jails in other judicial circuits; nor shall any visitor deliver to or receive from any prisoner any letter or message, or supply any prisoner with any article, except with such permission and through one of the officers designated in this section, under penalty of a fine of not less than five nor more than two hundred dollars. [P. C. 1869, c. 82, s. 3; R. L. 1925, s. 1549; am. L. 1931, c. 128, s. 7; am. imp. L. 1932, 1st, c. 17, s. 2; R. L. 1935, s. 6461; am. L. 1939, c. 203, pt. of s. 6.]

Reference to "chief of police of other counties" added in view of changes in county police systems.

STATISTICS FOR IDENTIFICATION OF CRIMINALS AND SUSPECTS.

Sec. 3968. Wardens and police heads to use identification systems. The warden of the territorial prison and the chiefs of police of the several counties are empowered and directed to employ and put into force and effect such systems of identification of prisoners and persons suspected of crime or of criminal intent and for the recording and compilation of crime statistics as the director of institutions shall from time to time prescribe. [L. 1917, c. 177, s. 1; R. L. 1925, s. 1537; am. L. 1931, c. 129, s. 3; am. imp. L. 1932, 1st, c. 1, s. 1; R. L. 1935, s. 6462; am. L. 1939, c. 203, pt. of s. 6; am. L. 1941, c. 63, s. 1.]

Sec. 3969. Bureau of crime statistics and identification; powers and functions. The director is authorized and directed to organize and maintain a bureau to be known as the bureau of crime statistics and identification, which shall be operated under the direction and control of the director. The director, through the bureau, shall select and enforce systems of identification of prisoners and persons suspected of crime or of criminal intent and for the recording and compilation of statistics relating to crime. The director shall establish systems of identification and provide for the collection of data and statistics relating to crime in manner as nearly as practicable according to the methods generally used in prisons and places of detention throughout the United States. The director shall appoint an executive officer who shall act as chief of the bureau, receiving such salary for his services as shall be authorized by law, and who, under the direction and control of the director, shall instruct such employees of the prisons and places of detention, sheriffs, and others charged with the preservation of the peace and well being of society as the director may deem necessary or proper, in such systems of identification and collection and compilation of crime statistics as the director may direct. Such executive officer shall be a citizen of the United States and shall have resided in the Territory for at least three years prior to his appointment.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of such systems of identification and statistics in their respective jurisdictions; provided that all such expenses in connection with prison matters exclusively within the control of the Territory shall be borne by the Territory.

Such systems shall be uniform throughout the Territory, shall be continuous in operation and shall be maintained as far as possible in such manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of such statistics.

The chief of the bureau shall also perform such other duties as shall be required by the director.

The director, through the bureau, shall keep a uniform record of the work of the courts, prosecuting officers, the police and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form

suitable (a) for the study of the causes and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law and (b) for the examination of the records of the operations of such officers and the results thereof.

The chief of the bureau, with the approval of the director, shall have power to prescribe and establish and to change, from time to time, forms to be followed in keeping records and in making reports to the bureau. It shall be the duty of all courts and the judges and other officers thereof and of all prosecuting officers, chiefs of police, sheriffs and other agencies and officers for the prevention or detection of crime and for the enforcement of law to use such forms, keep such records and make such reports to the bureau as may be so required.

All fingerprints and photographs of persons against whom no charges of crime are preferred or against whom charges of crime are preferred and no convictions secured shall, when so requested in writing by such persons and within sixty days after such written request, be delivered to such persons or destroyed, unless it shall have been ascertained, from federal records or otherwise, that the person concerned has a record of prior conviction or is a fugitive from justice.

Any person having the custody and control of such fingerprints and photographs who knowingly violates the provisions of the preceding paragraph shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or by both fine and imprisonment. [L. 1917, c. 178, s. 1; R. L. 1925, s. 1539; am. L. 1931, c. 129, s. 4; am. L. 1932, 1st, c. 17, s. 9; am. L. 1933, c. 170, s. 1; R. L. 1935, s. 6463; am. L. 1939, c. 203, pt. of s. 6; am. L. 1941, c. 32, s. 1.]

See s. 3964, parole officers; c. 135, firearms.

Reference to "chiefs of police" in 6th par. added.

Sec. 3970. Reports to county clerk. Whenever and as often as the bureau of crime statistics and identification of the Territory shall receive any record of the conviction of any citizen of eighteen years of age or over in the United States district court for the district of Hawaii of any crime punishable by imprisonment for more than one year, whether such penalty is imposed or not, the director of the bureau shall within ten days make and transmit a certificate of such information to the clerk of each county with a sufficient identifying description of such citizen. [L. 1933, c. 67, pt. of s. 2; R. L. 1935, s. 6464; am. L. 1941, c. 32, s. 2.]

See s. 183, duty of clerk to correct register.

Sec. 3971. Wardens and police heads to furnish records, etc. The warden of the territorial prison and the chiefs of police of the several counties are charged and ordered and compelled to furnish to each municipal subdivision, and to the Territory, copies, duplicates and records taken by them, or under their direction, of such matters and things as are contemplated and included in sections 3968-3971. [L. 1917, c. 178, s. 3; R. L. 1925, s. 1540; am. imp. L. 1932, 1st, c. 1, s. 1; R. L. 1935, s. 6465; am. L. 1939, c. 104, s. 7; am. L. 1943, c. 62, s. 21 and c. 64, s. 22.]

CHAPTER 69.

TERRITORIAL HOSPITAL

	Secs.		Secs.
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Sec. 4001. Definitions. Wherever used in this chapter "director" means the director of institutions; "commission" means the psychiatric commission created by this chapter; "hospital" means the territorial hospital; "medical director" means the medical director of the hospital or any duly appointed medical officer of the hospital officially acting in his stead. Wherever used in this chapter or in the printed forms prepared by the director for the commitment of patients or for statistical reports, the words "mentally ill", "mentally sick", "mental diseases", "mental disorder", or "mental illness", or any of them, shall have equal significance with the words "insane", "insanity" and "lunacy", or any of them. [L. 1939, c. 203, pt. of s. 4.]

Sec. 4002. Hospital. There shall be, in the city and county of Honolulu, a suitable institution to be known as the Territorial Hospital, for the reception, treatment, and detention of persons committed thereto as insane, and of persons requiring treatment and care for mental diseases not amounting to insanity, who may be committed or admitted thereto. [L. 1925, c. 114, s. 1; R. L. 1935, s. 1230; am. L. 1939, c. 203, pt. of s. 4.]

Other provisions for mental care: bureau of mental hygiene, c. 47; psychopathic clinic, university, s. 1959; Waimano Home, c. 70; private institutions, c. 48; county detention wards, s. 4022.

Sec. 4003. Commitments and discharges under this chapter. No person shall be committed to the hospital or be discharged therefrom except as provided in this chapter or in sections 10826-10829. [L. 1925, c. 114, s. 34; R. L. 1935, s. 1264; am. L. 1939, c. 203, pt. of s. 4.]

Reference to ss. 10826-10829 inserted to conform to transfer of provisions for commitment of insane defendants, ss. 10826, 10829, and to refer to other provisions of same nature.

Sec. 4004. Control and supervision. The hospital shall be under the control of the director who shall appoint as the medical director of the hospital a person with the qualifications hereinafter provided. Subject to the control of the director the medical director shall have complete supervision of the hospital and the care and treatment of the patients. With the approval of the director the medical director shall appoint such other members of the medical staff as appropriations therefor may permit. [L. 1925, c. 114, s. 2; R. L. 1935, s. 1231; am. L. 1939, c. 203, pt. of s. 4.]

Rules for conduct of hospital, s. 4007; safekeeping of inmates, s. 4008.

Sec. 4005. Qualifications of medical director. The qualifications of the medical director shall be as follows: He shall be a duly licensed physician of the Territory, who shall have had at least ten years' experience in the actual practice of his profession, and, immediately preceding his appointment, at least five years of practical experience in the care and treatment of persons afflicted with mental diseases, at least two years of which shall have been as a member of the medical staff of an institution for their care and treatment. The director of institutions may prescribe additional qualifications for the medical director. [L. 1939, c. 203, pt. of s. 4.]

Sec. 4006. Other employees. All employees of the hospital, other than the members of the medical staff, shall be appointed by the director. [L. 1925, c. 114, s. 4; R. L. 1935, s. 1233; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4007. Rules for conduct of hospital. The director shall have power and authority to make rules, and from time to time to amend the same, subject to the approval of the governor, for and concerning all matters whatsoever affecting the proper conduct and administration of the hospital. Copies of such rules shall be printed and distributed to the members of the medical staff and the employees of the hospital. [L. 1939, c. 203, pt. of s. 4.]

Sec. 4008. Custody of inmates, apprehension of escapees, etc. The medical director shall be responsible for the safekeeping of all persons who may be committed to or received by the hospital under this chapter and for the enforcement of proper order among and concerning such persons and hospital officers and employees.

Any inmate of the hospital committed to or received by the hospital under the provisions of this chapter who shall escape or leave the hospital without permission or authority of the medical director may be apprehended and returned to the custody of the medical director by any sheriff, deputy sheriff, police officer or employee of said hospital without any warrant or further proceeding. [L. 1943, c. 122, s. 1.]

Sec. 4009. Director to visit hospital; report to governor. It shall be the duty of the director to visit the hospital from time to time and submit semi-annually a report to the governor of the condition of the same and the number of patients therein, and the medical director, the members of the medical staff, and all employees of the hospital shall admit the director at any hour of the day or night to visit the hospital, and afford him every opportunity to make a thorough inspection and examination of the hospital and of any person detained therein. [L. 1925, c. 114, s. 33; R. L. 1935, s. 1263; am. L. 1939, c. 203, pt. of s. 4.]

TREATMENT; EXPENSE.

Sec. 4010. Special wards. There shall be such special or separate wards of the hospital, of such number and at such locations, either at the main institution or elsewhere in Honolulu, as the director shall order, including wards for the reception and care of persons suffering from any mental disease or disorder of an acute and presumably curable character, or whose recovery or improvement would in the judgment of the medical director be facilitated by their detention separate and apart from other inmates of the institution, and special wards in which patients may be separately maintained and treated with suitable reference to their station in life and means or ability to pay the cost thereof, and special and separate detention wards for the reception and treatment of persons addicted to the excessive use of drugs or liquor. [L. 1925, c. 114, s. 3; R. L. 1935, s. 1232; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4011. Examination and treatment of patients. It shall be the duty of the medical director, or any assistant under his supervision and direction, to keep a record of the name, age, sex, nationality, and other descriptive data of every patient, and to carefully examine the patients of the hospital, and to inquire into and make a record of all procurable data relating to the antecedents, character, family, history, health, environment and habits of each patient, and the predisposing and exciting causes of such patient's mental disorder, and also to record a diagnosis of the mental disorder of each patient and the treatment prescribed therefor, and periodically to make re-examination and review the records of each patient and record all observations, and in suitable cases to discharge or parole patients. [L. 1925, c. 114, s. 5; R. L. 1935, s. 1234; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4012. Private physician. Every person received as a patient may be allowed to have treatment by a private physician who shall for such purpose be deemed a consulting physician and have such rights and privileges as shall be authorized by the medical director. [L. 1925, c. 114, s. 29; R. L. 1935, s. 1258; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4013. Inmates' liability for expense. Every person not indigent committed or admitted to the hospital or any ward thereof, and any property of his estate not exempt from execution, shall be liable for the expenses attending his reception, maintenance and care; and the attorney general, whenever requested by the director shall take such steps as may be appropriate, by suit if necessary, to compel the payment thereof and secure payment by the attachment or other sequestration of any property of such person not exempt from execution. [L. 1925, c. 114, s. 6; R. L. 1935, s. 1235; am. L. 1939, c. 203, pt. of s. 4.]

Indigent insane, 33 H. 273.

Sec. 4014. Voluntary contributions. The medical director shall have authority to accept voluntary contributions for, and on behalf of, any patient, and shall cause a detailed account to be kept of all expenditures on behalf of such patient for whom any contribution is made, which account shall be open to inspection by any donor at any time. Any donor may at any time demand the then unexpended balance in such donor contribution, which shall be paid to such donor immediately. In case any patient in whose behalf contributions have been made shall die or be discharged, and no demand is made by the donor within one year for any unexpended balance,

such unexpended balance shall be then deposited with the treasurer of the Territory for credit to the general fund of the Territory. [L. 1927, c. 99, s. 1; am. L. 1929, c. 8, s. 1; am. L. 1931, c. 167, s. 1; R. L. 1935, s. 1259; am. L. 1939, c. 203, pt. of s. 4.]

COMMITMENT OF INSANE PERSONS.

Sec. 4015. Regular commitment; application for order; certificate. Any person alleged to be insane, and who is not in confinement on a criminal charge, may be committed to the hospital upon an order made by any district magistrate or circuit judge, adjudging such person to be insane, and made pursuant to an application for such order.

Any person with whom an alleged insane person may reside or at whose house he may be, or the father or mother, husband or wife, brother or sister, or the adult child of any such person, or the nearest relative or friend available, or the guardian of such person, or an officer of any well recognized charitable institution, agency or home, or any public welfare officer, or any officer of the Territory or a political subdivision thereof, or any physician, may apply for an order of commitment by presenting a verified application containing a statement of the facts upon which the allegation of insanity is based, and the reasons for which the application for the order is made. Such application shall be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is insane, and may be presented to such magistrate or judge for disposition in the manner hereinafter provided. The director of institutions shall prescribe and furnish blank forms for petitions, applications, certificates, and the notice provided for in section 4016, to all district magistrates, circuit judges and government physicians for the use of any person applying for an order of commitment. [L. 1925, c. 114, s. 7; R. L. 1935, s. 1236; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 1.]

Sec. 4016. Service of notice. Except as hereinafter provided, notice of such application shall be personally served upon such person at least one day before the presentation of such application to the magistrate or judge. Notwithstanding the foregoing provision, if the magistrate or judge to whom application is made be satisfied, from any statement contained in the application or certificate, or from inquiry, that personal service of the notice on the alleged insane person would be ineffective or be detrimental to the mental health of such person, he may, in his discretion, dispense therewith, and he shall dispense therewith if the physician signing the certificate states in writing, under oath, that personal service upon the alleged insane person would, in his opinion, be ineffective or be detrimental to the mental health of such person. However, whether such personal service upon such alleged insane person is dispensed with or not, if the application be made by a person other than the husband, wife, father, mother, or other nearest relative of such alleged insane person, such notice shall be served upon either the husband, wife, father, mother, or brother or sister of such alleged insane person, if there be any such relative known to be within the Territory where the proceeding is pending, and, if not, upon a person in the said Territory with whom he is known to permanently reside or live, and, if there be no such person or persons, such service may be dispensed with altogether. [L. 1925, c. 114, s. 7; R. L. 1935, s. 1236; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 1.]

As to notice and opportunity to defend, validity of former act under Org. Act, s. 81 and constitutionality, 19 H. 346, 3 U. S. D. C. Haw. 404.

Sec. 4017. Determination of insanity; order of commitment. The magistrate or judge to whom such application is made shall, if no written demand is made for a hearing by or on behalf of the alleged insane person, proceed forthwith to determine the question of insanity, and, if satisfied from all the statements contained in the verified application and certificate that the alleged person is insane, shall immediately issue an order of commitment of such person to the hospital. If, however, it appears that such insane person is harmless and any of his relatives or the guardian of his person are willing and able properly to care for him, at some place other than such hospital, upon the written consent of any such relative or guardian, the magistrate or judge may order that he be placed in the care and custody of such relative or guardian. Such magistrate or judge may, in his discretion, require other proof in addition to the application and certificate as aforesaid.

However, upon the written demand of such alleged insane person, or of any relative or near friend in his behalf, the magistrate or judge shall, or he may upon his own motion, issue an order directing the hearing of such application before him at a time not more than five days from the date of such order, and not more than two days from said date if such person is being held in temporary detention, as provided in section 4021, a certified copy of which order shall be served upon the parties interested in the application and upon such other persons as the magistrate or judge, in his discretion, may designate. Upon such date, or upon such other day to which the proceedings may be adjourned, the magistrate or judge shall hear the testimony introduced by the parties and examine the alleged insane person if deemed advisable in or out of court, and render a decision in writing as to such person's insanity. If it be found that such person is insane the magistrate or judge shall forthwith issue his order committing him to the hospital, or make such other order as is hereinabove provided. If such magistrate or judge shall refuse to issue an order of commitment he shall state his reasons in writing for such refusal.

The magistrate or judge shall, before issuing an order for commitment, make special inquiry of the financial condition of the insane person, which information shall be incorporated in the order for commitment. [L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 2.]

R. L. 1935, ss. 1245, 1246, commitment of insane defendants, have been placed in c. 233, ss. 10829, 10826.

Sec. 4018. Appeal from order of commitment. Any person who has been adjudged insane, or any relative or next friend of such person on his behalf, may appeal to the psychiatric commission from any order of commitment as aforesaid by filing notice of such appeal in the court of commitment within ten days from the date of the decision, and shall within fifteen days serve a copy of such notice on the chairman of the psychiatric commission, and no costs shall be charged to the appellant. No appeal so taken shall operate as a stay of the order of commitment. [L. 1925, c. 114, s. 13; R. L. 1935, s. 1244; am. L. 1939, c. 203; pt. of s. 4.]

Sec. 4019. Conveying patients to hospital. The judge or magistrate by whom any person is committed to the hospital may appoint a proper person to convey the patient to the hospital. If the patient be a woman the committing judge or magistrate must, unless she is accompanied by her father, husband, brother or son, appoint a woman of reputable character and mature age to accompany her thereto.

Where the patient is committed elsewhere than on the island of Oahu, the cost of conveying him to the emergency hospital in Honolulu, together with the proper expenses of the person accompanying him, shall be borne by the county from which he is committed.

It shall be the duty of the department of institutions to convey from the emergency hospital all such persons delivered thereto as aforesaid to the territorial hospital, and to convey from whatever point where they may be to the territorial hospital all persons committed thereto on the island of Oahu. [L. 1925, c. 114, s. 12; R. L. 1935, s. 1241; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 278, s. 1.]

Sec. 4020. Reception at the hospital. The medical director of the hospital shall be furnished with certified copies of every application, certificate, and order of commitment, and he shall at once make provision for the reception of such person at the hospital. He may refuse to receive any person committed if the application, certificate and order of commitment do not comply with the provisions of this chapter, or if in his judgment such person is not insane within the meaning of this chapter, or if received such person may be discharged by the medical director. [L. 1939, c. 203, pt. of s. 4.]

COUNTY DETENTION WARDS; TEMPORARY COMMITMENTS.

Sec. 4021. County detention wards. The board of supervisors of each county shall provide and maintain or arrange for and designate, at or in conjunction with any hospital or otherwise, a temporary ward or wards in such county, approved by the president of the board of health, other than in a prison or jail, for the temporary reception and detention of any person (a) committed thereto for observation and examination as to his mental con-

dition as hereinafter provided, or (b) alleged to be insane pending the disposition of an application for an order of commitment, in cases where the physician making the certificate also certifies that such detention is necessary for the health or safety of such person or the safety of the community, (c) adjudged to be insane and who is awaiting transfer to the hospital. No person suffering from mental disorder, whether adjudged to be insane or not, shall be taken to or held in any prison or jail, unless such person shall be held in or committed to prison or jail under a warrant for or upon conviction of a criminal offense. The cost of maintenance and care of persons temporarily detained shall be borne by the county concerned. [L. 1925, c. 114, s. 9; R. L. 1935, s. 1238; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4022. Confinement in county detention ward; temporary commitment thereto. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be taken into custody by any police officer or any officer or employee of the Territory or a political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, and confined in the county detention ward for observation and examination as to his mental condition.

It shall be the duty of any government physician to whom a report is made, by a person eligible to make application for an order of commitment under section 4015, that a person in said physician's district is apparently insane, and it shall be lawful for any other duly licensed physician to whom such report is made, to forthwith examine such apparently insane person. If in his opinion such person is in immediate need of care and treatment or observation and examination for the purpose of ascertaining his mental condition, or if such person resists or refuses to submit to such examination, such physician shall make a certificate to that effect, and as soon thereafter as practicable such physician or person eligible as aforesaid shall apply to the district magistrate of the district in which such apparently insane person is found or the judge of the circuit in which such district is situated and a warrant shall issue authorizing and directing the county sheriff or deputy or chief of police or any officer or employee of the Territory or political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, to take such apparently insane person into custody, and he may be confined in the county detention ward for observation and examination as to his mental condition.

Unless an application for an order of commitment as provided in section 4015, or an application for an order of temporary commitment for observation and examination, is made prior to the expiration of forty-eight hours (Sundays and holidays excluded) from the time any written demand for release is made by him or any other person on his behalf, such person so confined shall be entitled to be released.

An application for an order of temporary commitment may be made by the physician in charge of such ward and shall be accompanied by his certificate, and thereupon the magistrate or judge, if satisfied from all the statements contained in the application and the certificate that such person is in immediate need of care and treatment or observation and examination for the purpose of ascertaining his mental condition, may commit such apparently insane person temporarily to any such ward for an indefinite period, not to exceed thirty days, for care and treatment or observation and examination as to his mental condition. Unless during such period of temporary commitment, an application for an order of commitment of such apparently insane person to the hospital is made pursuant to section 4015, or such person is otherwise admitted to the hospital, he shall be entitled to be released. Nothing in this section contained shall be deemed to prohibit the filing at any time of an application for commitment pursuant to section 4015, or the admission to the hospital of such apparently insane person in any other manner provided by this chapter, or the discharge of the person so confined at any time when in the opinion of the physician in charge of such ward such person is not insane or not in need of further care or treatment or observation and examination. The expenses of any such temporary commitment and detention shall be paid by the county of which such apparently insane person is a resident if not otherwise paid by him or on his behalf. [E. 1925, c. 114, s. 10; R. L. 1935, s. 1239; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 4.]

EMERGENCY ADMISSION TO INSTITUTION.

Sec. 4023. Emergency admission on incomplete court commitment. Notwithstanding the requirements of this chapter pertaining to regular commitments, in a case where the condition of a person is such that it would be for his benefit to receive immediate care and treatment, or where there is no other proper place available for his care and treatment, or if he is dangerously insane so as to render it necessary for public safety that he be immediately confined, he shall be forthwith received by the hospital or a licensed private institution authorized by law to care for the insane. In such case such insane person shall be so received by said hospital or institution upon a certificate, executed by two duly licensed physicians of the Territory who shall have been in the actual practice of their profession for at least two years, after the examination and upon a petition as provided in section 4015. By virtue of such certificate and such petition such insane person may be retained in such hospital or institution for a period not to exceed ten days, from and inclusive of the date of the certificate. Prior to the expiration of such time an order for his commitment must be obtained in the manner provided by section 4015, unless he be discharged, or admitted under the provisions of sections 4033 and 4034. The certificates executed by such qualified physicians must contain adequate reasons why the insane person should be immediately received in the hospital or institution for the insane for treatment. The medical director, or the superintendent or person in charge of such private institution, may refuse to receive such insane person upon such certificate and petition, if in his judgment the reasons stated in the certificate are not sufficient or the condition of the patient is not of such character as to make it necessary that the patient should receive immediate treatment. [L. 1939, c. 203, pt. of s. 4.]

COMMITMENT OF ADDICTS.

Sec. 4024. Drug and liquor addicts. Any person alleged to be addicted to the excessive use of drugs or liquor, and who is not in confinement on a criminal charge, may be committed to the hospital upon an order made by any district magistrate of any district in the circuit where such person may be, or the circuit judge of said circuit, adjudging such person to be an addict as aforesaid, and made pursuant to an application for such order.

Any person with whom any person alleged to be a patient addicted to the excessive use of drugs or liquor may reside or at whose house he may be, or the father or mother, husband or wife, brother or sister, or the adult child of any such person, or the nearest relative or friend available, or the guardian of such person, or an officer of any well recognized charitable institution, agency or home, or any public welfare officer, or any county sheriff or deputy, or the chief of police, may apply for an order of commitment by presenting a verified application containing a statement of the facts upon which the allegation that such person is addicted to the excessive use of drugs or liquor is based and the reasons for which the application for the order is made. Such application shall be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is addicted to the excessive use of drugs or liquor, and in need of care and treatment, or that it is dangerous to himself or to others for such person to be at large by reason of periodical, frequent or constant drunkenness, induced by the use of alcoholic or other intoxicating liquors, or of opium, morphine or other narcotic or intoxicating or stupefying substance. Such certificate shall further show that the condition of the alleged patient is such that his detention, care and treatment in the hospital would be to his benefit, and that the physician making the certificate has made a personal examination of the patient within ten days prior to the application for the order of commitment. When any such application shall be filed, the magistrate or judge shall set a date for hearing thereon and shall cause notice of such application and date for hearing to be personally served upon such person. At the hearing it shall be the duty of the magistrate or judge to examine any such person and such person shall have the right to be heard personally or by counsel, and to produce and have subpoenaed witnesses on his behalf. However, if from any such certificate or certificates

it shall appear that there is danger to himself or to others in such person's continuing to be at large, or if it shall appear from any application filed unaccompanied by any certificate, wherein good cause appears why a certificate has not been obtained (which application unaccompanied by any certificate is hereby authorized), that such danger exists, or if it shall otherwise appear necessary, the magistrate or judge may issue a warrant authorizing and directing the county sheriff or deputy or chief of police or any officer or employee of the Territory or political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, to take such person into custody, and he may be confined in the county detention ward or such other place as the magistrate or judge may direct for observation and examination subject to all applicable provisions of section 4022, or until a hearing as aforesaid may be had.

Any person believing himself to be a patient addicted to the excessive use of drugs or liquor and in need of care and treatment may make a verified application on his own behalf for an order of commitment, such application to be accompanied by the certificate of one or more duly licensed physicians of the Territory, who shall have been in the actual practice of their profession for at least two years, stating that in his or their professional opinion such person is a patient addicted to the excessive use of drugs or liquor, and in need of care and treatment, and that his condition is such that his detention, care and treatment in the hospital would be to his benefit, and that the physician making the certificate has made a personal examination of the patient within ten days prior to the application for the order of commitment. In such case the magistrate or judge may in his discretion require that the person making application on his own behalf be brought before him for examination.

The magistrate or judge shall render and file his decision in writing, including a statement of the facts as found by him and the reasons therefor, and if the decision is for commitment shall forthwith forward a certified copy thereof to the medical director. The magistrate or judge shall, before issuing an order for commitment, make special inquiry of the financial condition of the person, which information shall be incorporated in the order for commitment. [L. 1925, c. 114, s. 16; am. imp. L. 1932, 1st, c. 1, s. 1; R. L. 1935, c. 1247; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 7; am. L. 1943, c. 115, pt. of s. 1.]

Sec. 4025. Order of commitment. If it shall be determined by the magistrate or judge that the person alleged or believed by himself to be a patient addicted to the excessive use of drugs or liquor, is in need of care and treatment and that his condition is such that his detention, care and treatment in the hospital would be to his benefit, such person shall be committed to the hospital as a patient. The term of the detention shall be for an indeterminate period, and until such person shall be discharged therefrom as hereinafter provided. The director shall prescribe and furnish blank forms for applications and certificates to all district magistrates, circuit judges, and government physicians for the use of any person applying for an order of commitment. [L. 1925, c. 114, s. 17; R. L. 1935, s. 1248; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4026. Appeal of addict from order of commitment. The patient alleged to be addicted to the excessive use of drugs or liquor or any relative or next friend on his behalf may appeal to the psychiatric commission from any order of commitment as aforesaid in the same manner and subject to the same conditions as provided by section 4018. [L. 1925, c. 114, s. 18; R. L. 1935, s. 1249; am. L. 1939, c. 203, pt. of s. 4.]

PSYCHIATRIC COMMISSION; PROCEDURE.

Sec. 4027. Psychiatric commission. There is hereby created a psychiatric commission consisting of two duly licensed physicians of the Territory, who shall have had at least five years' experience in the actual practice of their profession, at least two years of which shall have been devoted to a substantial degree to the care and treatment of persons afflicted with mental diseases, and one attorney admitted to practice in all courts of the Territory. The members of the commission shall be appointed and may be removed by the governor in the manner provided in section 80 of the Organic Act. One member of the commission shall be appointed for a term to expire January 1, 1940, one

for a term to expire January 1, 1941, and one for a term to expire January 1, 1942. Upon the expiration of the term of each commissioner his successor shall be appointed for a term to expire three years from the expiration date of the preceding term. Any vacancy in the commission occurring otherwise than by expiration of a term of office shall be filled for the remainder of such unexpired term. One of the members so appointed shall be designated by the governor as the chairman of the commission. The president of the board of public health shall, upon the request of the governor, certify to the qualifications of the medical members of the commission. [L. 1925, c. 114, s. 19; am. L. 1933, c. 43, s. 1; R. L. 1935, s. 1242; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4028. Temporary assistants. Officers and employees of the department of institutions may be temporarily detailed by the director to assist the commission as required, and in such event shall serve without additional compensation, but no such officer or employee shall be deprived of his regular compensation because of such service with the commission. [L. 1939, c. 203, pt. of s. 4.]

Sec. 4029. Hearing of appeals. It shall be the duty of the psychiatric commission to hear and determine all cases brought before it on appeal. And upon such appeal the appellant shall have the right to be represented by counsel and to produce witnesses on his own behalf. If in any case of a commitment for alleged insanity it shall appear to the commission that the alleged insane person is sane, the former adjudication of insanity of such person shall be vacated and set aside and he shall be discharged from the hospital; and if it shall appear to the satisfaction of the commission that such person is insane and that he is in need of care and treatment, the commission shall dismiss the appeal and remand the person to the custody of the medical director. On any appeal by a person committed because of excessive use of drugs or intoxicating liquor the commitment may likewise be vacated or sustained as the commission shall determine. On any appeal the decision of the commission thereon shall be final. [L. 1925, c. 114, s. 21; R. L. 1935, s. 1250; am. L. 1939, c. 203, pt. of s. 4.]

Provisions for appeal: ss. 4018, 4026, 4037, 4039, 4071.

Sec. 4030. Evidence and decision to be filed. The commission shall cause to be reduced to writing the substance of the evidence taken upon the hearing of any appeal under sections 4018, 4026 or 4039, and where such appeal is denied the commission shall state its reasons in writing for such denial, all to be filed with the hospital. [L. 1925, c. 114, s. 24; R. L. 1935, s. 1253; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4031. Powers of commission. The commission and each member thereof shall have power to administer oaths, to punish for contempts, to grant adjournments, to subpoena and compel the attendance of witnesses and the production of books and papers, and generally to exercise the same authority with regard to their special jurisdiction as is by law conferred upon circuit judges at chambers. Orders made and process issued by the commission may be signed for the commission by the chairman. [L. 1925, c. 114, s. 25; R. L. 1935, c. 1254; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4032. Compensation of commissioners; expenses. The members of the commission shall be paid twenty dollars per day or portion thereof of actual service, but no such compensation paid to any member shall exceed one hundred dollars in any calendar month. All necessary expenses and compensation of the commission shall be paid out of any available funds appropriated for the use of the department of institutions in connection with the operation and maintenance of the hospital. [L. 1925, c. 114, s. 26; am. L. 1933, c. 43, s. 2; R. L. 1935, s. 1255; am. L. 1939, c. 203, pt. of s. 4.]

ADMISSIONS WITHOUT COMMITMENT.

Sec. 4033. Admission of insane person on certificate of physician. The medical director may receive and retain as a patient at the hospital any person suitable for care and treatment, who does not object thereto, on a verified application addressed to the medical director, and made by a person who would be eligible to make an application for an order of commitment under section 4015, and accompanied by a certificate of a duly licensed

physician of the Territory qualified to execute a certificate under said section 4015, stating that in his opinion such person is insane, such certificate to be dated not more than ten days before the date of admission. A patient so received at the hospital shall not be detained therein more than thirty days after he, or any relative or next friend on his behalf, shall make written request to the medical director for discharge. No such patient shall be further detained unless committed in accordance with the provisions of this chapter for regular commitments. [L. 1925, c. 114, s. 11; R. L. 1935, s. 1240; am. L. 1939, c. 203, pt. of s. 1; am. L. 1941, c. 325, s. 5.]

See s. 4023, emergency admission on incomplete court commitment.

Sec. 4034. Voluntary admission, mental cases, addicts. The medical director may in his discretion receive in the hospital for observation, care and treatment, any person who is suffering from any mental or nervous disorder, or affection, without such person being legally committed to the institution, when application therefor shall be made by such person or, if a minor, by his parent or legal guardian; **provided**, that no person against whom any criminal charge is pending shall be eligible for admission as a voluntary patient unless under bond or bail in connection therewith.

The medical director may also receive for care and treatment any person addicted to the excessive use of drugs or liquor, without such person being legally committed to the hospital, when application therefor shall be made by such person; **provided**, however, that no such person shall be received for less than a six months' period. Any person voluntarily admitted who shall leave the hospital without the written consent of the medical director shall not again be entitled to admission to the hospital except in the discretion of the medical director. [L. 1925, c. 114, s. 27; R. L. 1935, s. 1256; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4035. Further requirements for voluntary admission. In any application for voluntary admission the applicant shall agree that while remaining in the hospital he will be subject to and will abide by all the rules of the hospital and such regulations applicable to or concerning his conduct, care and treatment as shall from time to time be prescribed by the medical director; and that he will be subject to dismissal or expulsion for any failure therein. A person, other than a drug or liquor addict, thus received shall not be detained in the hospital more than fifteen days after he, or, if a minor, his parent or legal guardian, shall make written request for release. No such person shall be further detained unless committed in accordance with the provisions for regular commitment as in this chapter provided. Any person previously an inmate of the hospital for alcoholism or drug addiction may be denied the right of voluntary admission under this section. [L. 1925, c. 114, s. 28; R. L. 1935, s. 1257; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4036. Presumption. No presumption of insanity or legal incompetency shall exist with respect to any patient by reason of his voluntary admission to the hospital under the provisions of this chapter. [L. 1925, c. 114, s. 31; R. L. 1935, s. 1261; am. L. 1939, c. 203, pt. of s. 4.]

Sec. 4037. Admission or exclusion; appeal. No person shall be entitled, as of right, to be admitted to the hospital or to remain therein. If the medical director shall decline to admit or retain any person, or shall order the removal of, or expel any person from, the hospital, any party feeling aggrieved thereby may appeal within five days to the psychiatric commission, which shall have full power to hear and finally determine any such issue. No costs shall be charged to the appellant. [L. 1925, c. 114, s. 32; am. imp. L. 1933, c. 43, s. 2; R. L. 1935, s. 1262; am. L. 1939, c. 203, pt. of s. 4.]

DISCHARGE AND PAROLE.

Sec. 4038. By medical director. Any person committed to the hospital as an insane person may be discharged at any time by the medical director if he shall be satisfied that such person is of sound mind or is not dangerous to public safety. The medical director may at any time and in his discretion discharge any person committed to the hospital as a person addicted to the excessive use of drugs or intoxicating liquor. An application for the discharge or parole of any person committed to the hospital may be made to the medical director by any such person or any relative or next friend of such person on his behalf; **provided**, that no such application may be made

by or on behalf of any person who was committed to the hospital for addiction to the excessive use of drugs or liquor, unless at least six months have expired from the date of such commitment. Upon the filing of such application the medical director shall examine such person, or cause him to be examined by a member of the medical staff of the hospital who shall report his findings to the medical director. The decision on every application shall be made by the medical director, either from the examination made by him, or from the findings reported to him, and a record of every examination and decision shall be kept by him. When the medical director has so examined the patient and denied the application for discharge or parole of such patient he may, in his discretion, decline to make or cause a re-examination of such patient to be made within six months thereafter. Any such discharge of a person who was committed to the hospital as an insane person shall be prima facie evidence of the sanity of such person when so discharged.

The medical director may, under such restrictions and conditions and for such time as he may deem proper consistently with the safety of the public, permit any inmate of the hospital temporarily to leave the institution upon parole, in charge of his guardian, relatives, friends, or alone. In every case, such person shall be subject always to recall by the medical director at any time, or may be returned to the hospital at any time by his guardian, or other person in whose care he may have been paroled. The original order of commitment of every such person shall remain in force and effect, except only as temporarily suspended by the terms of the parole, until the person shall be officially discharged. Upon any failure or refusal of any person so admitted to parole to conform to the terms of the parole, or to return to the hospital upon the expiration of the period of the parole, or to return upon recall by the medical director at any time before he shall have been officially discharged from the hospital, it shall be the duty of any sheriff, deputy sheriff or police officer, upon the written direction of the medical director, to forthwith arrest such person without other or further warrant or proceedings and return him to the custody of the medical director of the hospital. Nothing in this section contained shall be construed to permit the parole of persons against whom criminal proceedings may be pending, or who have been committed to the hospital under section 10829 or held in detention under section 10826. [L. 1925, c. 114, s. 2; am. L. 1927, c. 56, s. 1; am. imp. L. 1933, c. 43, s. 2; R. L. 1935, s. 1251; am. L. 1939, c. 203, pt. of s. 4.]

Discharge of patient admitted without commitment, ss. 4033, 4035; safekeeping of inmates, apprehension, s. 4008.

Sec. 4039. Appeal from the decision of the medical director. Any patient who has been so examined, or the person who made the application on his behalf, may appeal from the decision of the medical director denying discharge or parole to the psychiatric commission by giving to the medical director notice of appeal within ten days from the date of the decision. The commission shall examine or cause such examination to be made of the patient as may be necessary to determine whether the decision of the medical director was correct and proper in the premises. Any decision appealed from may be modified or reversed by the commission, and the medical director shall comply with the terms thereof. No costs shall be charged to the appellant. On any appeal the decision of the commission thereon shall be final. [L. 1939, c. 203, pt. of s. 4.]

Appeal from order for removal of patient, s. 4037.

TRANSFERS.

Sec. 4040. Transfer to Waimano Home. The governor may order any patient who has been committed to the hospital as an insane person to be transferred to Waimano Home upon the application of the medical director for such transfer, such application to be accompanied by the certificate of the medical director that in his opinion, based on psychological examination, such patient is feeble-minded and not insane. [L. 1939, c. 203, pt. of s. 4; am. L. 1943, c. 204, s. 2.]

Transfers from prisons, ss. 3929, 3930.

GUARDIANSHIP; FUNDS.

Sec. 4041. Procedure in regard to service of legal process and papers upon patients. Neither the medical director nor anyone connected with the hospital shall accept service of process or legal papers. When a legal process or paper is served on a patient in the hospital it shall be filed with records of the patient and thereupon the medical director shall inform the court out of which the process issued, in writing, of the date of service and the mental and physical condition of the patient. [L. 1939, c. 203, pt. of s. 4.]

Sec. 4042. Guardianship for insane patient. Whenever it shall appear that any person committed to the hospital has property or interest in property of any description situate in the Territory, and no guardian shall have been previously appointed, the medical director may make application to the circuit court of the first judicial circuit for the appointment of a suitable person as special guardian of the estate of such person until he is discharged from the hospital or a guardian is appointed under chapter 305. Such special guardian may be the business manager or any other suitable employee of the hospital, approved by the medical director. A guardian appointed under this section shall have all the powers and duties of regularly appointed guardians, but he shall not be required to give special bond as such guardian, or entitled to receive any compensation as such guardian from the estate of such person. He shall conserve the estate of the person, and, upon prior application to and issuance of an order therefor by, the court in a proper case, shall make such payments out of such person's estate as may be so ordered for the maintenance and care of such person. He may in his discretion, any other provision of this chapter notwithstanding, withdraw and pay over to the patient upon discharge a sum not exceeding fifty dollars. The guardian shall be discharged after accounting to the court without advertising but after audit by the territorial auditor, upon the death or discharge of the patient from the hospital, and the payment or delivery of the patient's property remaining in his hands to the proper person entitled thereto. [L. 1939, c. 203, pt. of s. 4; am. L. 1943, c. 115, pt. of s. 1.]

See s. 12508, definitions.

Adjudication of insanity cannot have effect of making deed by insane person void unless adjudication shall have been made after notice given and guardian shall have been appointed, 16 H. 294, 301.

Sec. 4043. Custody of money belonging to patients. Whenever small amounts of cash belonging to a patient shall come into the hands of the medical director he may, instead of seeking the appointment of a guardian as in this chapter provided, deposit said moneys in the bank and may from time to time apply the same or any part thereof as he shall determine for the benefit of the patient, **provided**, however, that as long as no such guardian shall have been appointed he shall not apply said moneys or any part thereof for the maintenance of the patient in the hospital. [L. 1943, c. 115, pt. of s. 1.]

Expense of care, contributions, ss. 4013, 4014.

Sec. 4044. Special fund; proceeds of agricultural and industrial pursuits. All moneys arising from agricultural or industrial pursuits or activities at the hospital, and all moneys arising from the sale of produce from any public lands of the Territory which have been duly set apart by executive order for use by the hospital or from the sale of produce of animal husbandry conducted by said hospital shall, upon receipt thereof, be paid into the territorial treasury into a special fund to be known as the territorial hospital revolving fund. Moneys in said fund shall be expendable by the director for any of the purposes of said hospital. [L. 1943, c. 176, s. 1.]

See s. 3808, farm colony plan.

Sec. 4061. Home for feeble-minded. The territorial institution for the feeble-minded shall be known as "Waimano Home". All rights intended to be secured to the home for feeble-minded as to the use of land, appropriations, etc., shall be unaffected by the designation of the home as the "Waimano Home". [L. 1919, c. 102, s. 1; am. L. 1923, c. 94, s. 1; R. L. 1925, s. 1172; R. L. 1935, s. 1030; am. L. 1939, c. 203, pt. of 3-a; am. L. 1941, c. 5, pt. of s. 4.]

See 35 H. 203.

Sec. 4062. Home conducted by director of institutions. The home for the feeble-minded shall be under the administration and control of the director of institutions, hereinafter in this chapter designated as the "director", as provided in chapter 64. [L. 1919, c. 102, s. 2; R. L. 1925, s. 1173; R. L. 1935, s. 1031; am. L. 1939, c. 203, s. 3-a; am. L. 1941, c. 5, pt. of s. 4; am. L. 1943, c. 125, s. 2.]

Sec. 4063. Same; rules and regulations. The director shall have authority to prescribe all rules and regulations for the management of the institution, to appoint a superintendent, who shall be qualified to assume the care and instruction of the feeble-minded, and all other officers, teachers, attendants, and other employees, to fix their salaries, to remove them for proper cause, and to perform such other acts as are necessary for the proper conduct and maintenance of the home. [L. 1919, c. 102, s. 3; R. L. 1925, s. 1174; R. L. 1935, s. 1032; am. L. 1941, c. 5, pt. of s. 4.]

Salaries, see classification law, c. 3.

Sec. 4064. Feeble-minded persons, who are. The following persons are held to be feeble-minded: Those who are incapable of self-support and self-management in the community, and who cannot attain to such self-support and self-management, by reason of deficient mental development as demonstrated by standard psychological tests, and who require supervision, control and care for their own welfare, or the welfare of others, or for the welfare of the community. [L. 1919, c. 102, s. 4; R. L. 1925, s. 1175; R. L. 1935, s. 1033; am. L. 1943, c. 204, pt. of s. 1.]

See note to s. 4002.

Sec. 4065. Feeble-minded and epileptic persons entitled to admission. Any feeble-minded or epileptic person residing in the Territory is entitled to admission to the home for the feeble-minded, subject to the provisions of section 4068, and to such reasonable rules and regulations as may be made by the board. [L. 1919, c. 102, s. 5; R. L. 1925, s. 1176; R. L. 1935, s. 1034.]

Sec. 4066. Commitment of feeble-minded person; application for order; certificate; forms. Any person found by a court of competent jurisdiction to be feeble-minded may be committed to Waimano Home.

Any relative of an alleged feeble-minded person, or the guardian of such person, or an officer of any well recognized charitable, corrective or educational institution, social agency or home, or any public welfare or probation officer may apply to such court for an order of commitment by presenting a verified application containing a statement of facts upon which the allegations of feeble-mindedness are based and the reasons for which the application for the order is made.

Such application shall be accompanied by a signed certificate of a psychiatrist or other physician duly qualified by special professional training and experience in the diagnosis of feeble-mindedness, or of a psychologist in the psychological clinic of the Territory, or of a psychologist certified by said psychological clinic to be qualified in the diagnosis of feeble-mindedness, which certificate shall state that he has duly examined the alleged feeble-minded person, and the results of such examination, and his professional opinion that such person is feeble-minded.

Such certificate shall be in such form as shall be prescribed by the director of institutions, who shall furnish the same to any person on request.

Any relative of an alleged feeble-minded person, or guardian of such person, shall have the right of appeal as in civil cases from the finding of the court referred to in this section. [L. 1919, c. 102, s. 7; R. L. 1925, s. 1177; R. L. 1935, s. 1035; am. L. 1943, c. 204, pt. of s. 1, s. 3.]

Transfer from territorial hospital, s. 4040.

Psychological clinic, s. 1959.

Sec. 4067. Commitment of epileptics. Upon application to a court having jurisdiction to commit feeble-minded persons, made by any relative of an alleged epileptic person, or by an officer of any well recognized charitable, corrective or educational institution, social agency or home, or any public welfare or probation officer, supported by the certificate of a qualified physician stating that he has duly examined such alleged epileptic and the results of such examination, and his professional opinion that such person is afflicted with epilepsy to such degree and of such a character as to warrant his commitment and confinement, such court may commit such epileptic to Waimano Home if it finds him to be so afflicted with such epilepsy as to require for his own welfare, or the welfare of others, or for the welfare of the community, that he be so committed.

The procedure with respect to such commitment shall be the same, as nearly as may be, as that in cases of commitment of feeble-minded persons. [L. 1943, c. 204, pt. of s. 1.]

Sec. 4068. Liability for expense of support of persons committed. A parent, guardian, or person liable for the support of any person committed to the home, as provided by sections 4066 and 4067, must pay such sums as are ordered to be paid by the court at the time of commitment or at subsequent times. [L. 1919, c. 102, s. 7; R. L. 1925, s. 1178; R. L. 1935, s. 1036.]

Corrected to refer to s. 4067, enacted in 1943, as well as 4066.

Sec. 4069. Admission without commitment. The director shall have authority to enter into agreements with the parents or guardians of feeble-minded persons not committed to the home by a court, to assume the care, custody, and training of such feeble-minded persons at the home, and to fix the rate that the parents or guardians shall pay for such care and training. [L. 1919, c. 102, s. 8; R. L. 1925, s. 1179; R. L. 1935, s. 1037; am. L. 1941, c. 5, pt. of s. 4.]

Sec. 4070. Parole. The superintendent of the home may, when authorized by the director, parole or discharge any inmate, if it appears that such inmate will be properly cared for or that his detention is no longer necessary for his own welfare or the safety of the public. [L. 1919, c. 102, s. 9; R. L. 1925, s. 1180; R. L. 1935, s. 1038; am. L. 1941, c. 5, pt. of s. 4.]

Earnings of paroled patients, s. 4075.

Sec. 4071. Unlawful detention; appeals. It shall be unlawful to detain any person at the home, whether lawfully committed thereto or not, who is not a feeble-minded person as defined in section 4064, and, without prejudice to his other remedies, any person detained at the home shall, upon application being made by a sheriff, deputy sheriff, police officer, or by a relative or next friend of such person, and notice given to the superintendent of the home, or upon application by the superintendent, be entitled to a hearing by the psychiatric commission provided for by chapter 69, and, if a majority of the commission shall be satisfied on the basis of further psychological examination that such person is not feeble-minded as defined in section 4064, they shall so adjudge and such decision shall be certified to the superintendent of the home and such person shall be forthwith released from detention; **provided**, that nothing in this section contained shall be deemed to prohibit the commitment of such person to the territorial hospital, in the event that he be found insane within the provisions of chapter 69; and **provided**, further, that if an appeal in behalf of such person is determined adversely to such person he shall not be entitled to again appeal until after one year following the denial of such previous appeal. [L. 1929, c. 211, s. 1; R. L. 1935, s. 1039; am. L. 1939, c. 203, pt. of s. 3-a; am. L. 1941, c. 5, pt. of s. 4; am. L. 1943, c. 204, pt. of s. 4.]

Sec. 4072. Feeble-minded, dependent, or delinquent children or feeble-minded children convicted of crime subject to commitment. The case of a dependent or delinquent child before a juvenile court may be adjourned if it appears to the court on the testimony of a qualified physician or psychologist or other evidence that the child is feeble-minded, and the court may commit the child to the home for the feeble-minded.

On the conviction of a person of a crime, misdemeanor, or on a child being found liable to be sent to an industrial school or other institution, the court, if satisfied on the evidence of a qualified physician or psychologist or on other

evidence that the person or child is feeble-minded, may suspend sentence and commit such person or child to the home for the feeble-minded. [L. 1919, c. 102, s. 10; R. L. 1925, s. 1181; R. L. 1935, s. 1040.]

Sec. 4073. Enticing, secreting, etc., penalty. Any person who shall knowingly or intentionally entice away any person committed or admitted to the Waimano Home, or who shall knowingly harbor or secrete any such person who shall have deserted or been enticed away from the home, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year. [L. 1929, c. 10, s. 1; R. L. 1935, s. 1042.]

GUARDIANSHIP; FUNDS.

Sec. 4074. Guardianship of the person of inmates. Notwithstanding any law to the contrary, the director shall be the guardian of the person of every person committed to, or received at, the home for the period such person shall remain under his jurisdiction. He shall have all the powers and duties of a natural guardian of such person and in addition thereto all the powers and duties of a guardian of the person duly appointed by a court of competent jurisdiction; **provided**, however, that he shall not be liable in damages for any tortious act committed by such person. In case any person committed to said home or entering said home by agreement without commitment, shall have a guardian of the person already appointed by any court of competent jurisdiction, such guardianship of the person shall be terminated or suspended during the period such person shall remain under the jurisdiction of the director as an inmate of said home, and it shall be the duty of such guardian before entering into any agreement with the director concerning such admission without commitment, or within ten days after such admission, to report such fact to the court which shall enter an order in conformity with this section. [L. 1943, c. 53, s. 1.]

Sec. 4075. Earnings of patients. Where an inmate (hereinafter referred to as a "patient") of the home is paroled the director shall arrange to receive, and shall collect, at least one-half of the patient's net earnings which shall be deposited by the director in a bank in trust for the patient; **provided**, however, that if such patient shall, with the prior written approval of the director, voluntarily contribute a portion of his earnings to a purpose for his own best interest or his relatives' welfare then the director may arrange to receive and collect only one-half of the patient's net earnings less the amount of such contributions. The term "net earnings" shall mean the total amount received less necessary living expenses. The necessary living expenses shall be determined by the director in each case.

When the director shall decide that an emergency exists and that it is for the patient's best interests, or his relatives' welfare, he may, at the patient's request, withdraw sums from any amounts so deposited in trust and permit the patient to expend them subject to such directions as he may impose. Also, when any patient shall incur any lawful obligation which the director deems unusual and which he may decide should immediately be paid, he may make withdrawals and discharge the obligation. [L. 1943, c. 208, s. 1.]

Note: s. 2 of L. 1943, c. 208, ratifying prior acts, omitted.

Sec. 4076. Disposition of proceeds of agricultural and industrial pursuits. All moneys arising from agricultural or industrial pursuits at the home and all moneys arising from the sale of produce from any public lands of the Territory which have been duly set apart by executive order for use by the home shall, upon receipt thereof, be paid into the territorial treasury, and equal amounts are appropriated out of the moneys in the treasury for the use of the director to be expended by him as provided in section 4062, in the care, maintenance and operation of the home. [L. 1920, c. 6, s. 1; R. L. 1925, s. 1182; R. L. 1935, s. 1041; am. L. 1941, c. 5, pt. of s. 4.]

See s. 3808, farm colony plan, containing provisions which were in s. 4062 before 1943 amendment of that s.

PUBLIC WELFARE.

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CHAPTER 84. PUBLIC WELFARE, DEPARTMENT OF, GENERALLY.

Sec. 4801. Creation of department; director. There is hereby created in the territorial government a department of public welfare, to be under the direction and control of a director of public welfare hereinafter referred to as the "director", who shall be appointed in the manner prescribed by the first paragraph of section 80 of the Organic Act, shall hold office for a term of four years and until his successor is appointed and qualified, unless sooner removed, and who may be removed by the governor for cause. He shall receive such salary as is fixed by the governor (subject to any classification law that may be in effect from time to time), and shall furnish bond in such amount as may be required by the governor. [L. 1941, c. 296, s. 1 (1).]

This chapter and chapter 85 are a complete revision of c. 259A and c. 259A1, added to Title XXVI, R. L. 1935 by L. 1939, c. 238, ss. 1, 2. The 1939 act had amended and replaced L. 1937, c. 242. The 1937 act repealed parts 1 and 2 of c. 259, R. L. 1935, and superseded portions of L. 1933, c. 209, c. IV, appendix, R. L. 1935.

The 1933 act was completely revised by L. 1941, c. 213, and became c. 69A, R. L. 1935, containing tax provisions and also ss. 4811-4813. The tax act is now c. 98, and the three cited sections were transferred to this chapter by L. 1943, c. 101.

Sec. 4802. Director; responsibilities and meetings. The director shall be responsible for the conduct or supervision of all activities and for the formulation and adoption of all policies, rules and regulations for the administration of this chapter and chapter 85. [L. 1941, c. 296, s. 1 (2).]

Sec. 4803. Appointment of personnel. The director shall appoint such personnel in conformity with law as he deems necessary. All employees of the department except the director, shall be appointed subject to any civil service law relating to territorial employees now in effect or hereafter enacted; in the event there be no civil service law in effect, then in accordance with a merit system meeting applicable federal requirement; **provided**, that in the event of any conflict between applicable mandatory federal requirements and any territorial civil service law or regulations, the former requirements shall prevail. [L. 1941, c. 296, s. 1 (3).]

Civil service, c. 2; classification, c. 3; loyalty law, c. 13.

Sec. 4804. Compensation of employees; bonds. The compensation of all personnel in the department shall be fixed by the director pursuant and subject to the personnel administration system now in effect for the department as the same may be changed by or pursuant to any applicable classification law which may be in effect from time to time. The director shall require such of his appointees as he deems necessary to furnish bond in such amounts as he may prescribe. [L. 1941, c. 296, s. 1 (4).]

Sec. 4805. Advisory board; appointment; removal; qualifications. There is hereby created a public welfare advisory board, hereinafter referred to as the "board", to consist of five members to be appointed and be removable by the governor in the manner provided by section 80 of the Organic Act, one of whom shall be designated in the appointment as chairman. Each member shall be appointed for a term of three years, except that any appointment to fill a vacancy shall be made for the remainder of the unexpired term; **provided**, that the members first appointed hereunder shall be appointed for terms to expire respectively, two on July 1, 1942, two on July 1, 1943, and the fifth on July 1,

1944. The governor may remove any member for cause. The members shall serve without pay, but shall be entitled to the actual and necessary expenses incurred by them in discharging their official duties.

Appointees to the board shall be selected on the basis of a past record of interest in and understanding of public welfare. No person shall be eligible for membership to the board who occupies any elective or salaried appointive position under any of the federal, territorial or county governments, and no member shall, during his term of office, serve as an officer or committee member of any political party organization, or present himself as a candidate for election to any public office. [L. 1941, c. 296, s. 1 (5).]

Sec. 4806. Meetings; report of director. The board shall meet in regular session at least once each month. At each such meeting the director shall make a report covering the activities of the department. Special meetings may be called at the discretion of the chairman, or the director, or upon the request of three or more members. Any matter whatsoever relating to the department may be considered by the board at any meeting, general or special. In the absence of the chairman, the members may designate any present member as acting chairman of the meeting. [L. 1941, c. 296, s. 1 (6).]

Sec. 4807. County agents. The director, pursuant to section 4803, shall appoint one agent each for the city and county of Honolulu and the counties of Hawaii, Maui and Kauai. Such county agent shall maintain his office at the county seat of the county for which he is appointed and shall be directly responsible to such persons as the director shall designate in conformity with law and federal requirements. [L. 1941, c. 296, s. 1 (7).]

Sec. 4808. Fair hearing. An applicant or recipient, deeming himself aggrieved, shall be entitled to appeal to the director in the manner prescribed by departmental regulations and shall be afforded reasonable notice and opportunity for a fair hearing. [L. 1941, c. 296, s. 1 (8).]

Sec. 4809. Attendance and testimony of witnesses; immunities. In all hearings or investigations conducted by the director or any of his duly authorized subordinates with respect to all matters cognizable by any of them, each of said officers shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence and examining or causing to be examined witnesses as are possessed by a circuit judge at chambers and may take depositions and certify to official acts. The circuit court of any circuit upon application by any of such officers shall have power to enforce by proper proceedings the attendance and testimony of any witnesses so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit court. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of the department.

No person shall be excused from attending or testifying or producing books, papers, correspondence, memoranda and other records before the director or his duly authorized subordinate or in obedience to the subpoena of any of them in any case or proceeding before them on the ground that the testimony and evidence, documentary or otherwise, required by such officer may tend to incriminate the witness or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he is compelled after having claimed his privilege against self-incrimination to testify and produce evidence, documentary or otherwise, except that such individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. [L. 1941, c. 296, s. 1 (9).]

Sec. 4810. Reports. The director shall file with the governor a written report or reports at such times, at least once in each year, and in such form as shall be requested by the governor covering the condition and activities of the department and of each division thereof. [L. 1941, c. 296, s. 1 (10).]

Sec. 4811. Public welfare fund, advances and transfers. Any moneys in the public welfare fund, created by chapter 98, shall be available for expenditure by the department pursuant to this chapter and chapter 85, for any of the purposes herein or therein set forth; provided that the total of all expenditures from said fund for any six-month period (January 1 to June 30, or July 1 to

December 31) shall not exceed one million dollars, unless such excess expenditure shall be expressly authorized by the governor.

In the event that at any time there shall be insufficient moneys in the public welfare fund to meet the current needs of the department, the territorial treasurer, with the approval of the governor, may make temporary advances from time to time to said fund from the general fund of the Territory, to be reimbursed to said general fund thereafter when moneys therefor are available in the public welfare fund, such temporary advances, however, not to exceed at any time such total amount as shall be estimated to be repayable out of the public welfare fund from collections for the next ensuing three months following the month in which the last of such advances was made; provided that, in the event the governor shall find that an emergency exists necessitating such action in order to meet the needs of the department during any six-month period, the treasurer, with the approval of the governor, shall be authorized to make non-refundable transfers from the general fund to the public welfare fund in amounts not to exceed, in the aggregate, fifty thousand dollars for any such six-month period. [L. 1933, c. 209, s. 17; R. L. 1935, Chap. IV, Appendix, s. 17; am. L. 1935, c. 135, pt. of s. 1; am. L. 1941, c. 213, s. 1 (11); am. L. 1943, c. 101, pt. of ss. 1, 2.]

Revolving fund, s. 4824.

Sec. 4812. Increase or decrease of rate. On or before the 15th day of June and December in each year, the tax commissioner shall prepare an estimate of the probable receipts from the tax accruals to the public welfare fund for the six-month period commencing on the first day of the following month, and if the estimated receipts for such six-month period, together with any unexpended surplus of such tax collections which will be available for expenditure during said six-month period, shall be less than one million dollars, the tax commissioner shall, with the approval of the governor, (who, before giving such approval, shall satisfy himself that such increase is necessary to safeguard the public welfare program under all of the circumstances, taking into consideration the non-refundable transfer of fifty thousand dollars from the general fund for said six-month period authorized by section 4811), increase the rate of the tax accruals to the public welfare fund to six-tenths of one per centum, and such rate shall thereupon continue until and unless reduced in accordance with this chapter. If such estimated receipts, together with such surplus, if any, shall exceed one million dollars for such six-month period, then the tax commissioner, with the approval of the governor, shall reduce said rate to five-tenths of one per centum, and such rate shall thereupon continue until and unless increased in accordance with this chapter. [L. 1941, c. 213, pt. of s. 1 (18); am. L. 1943, c. 101, pt. of ss. 1, 2.]

Sec. 4813. Additional funds. The department may accept and deposit with the treasurer of the Territory any additional funds which may be provided by the United States government, the Territory or any county or any other source, either to supplement the fund provided by taxation under chapter 98 or for use in carrying out the purposes of this chapter and chapter 85, or for costs of administration, or for any of said purposes, in each case upon such terms and conditions as the department, in its discretion, may approve.

Donations or portions thereof or grants in aid, or portions thereof, made by the government of the United States may be deposited by said department in the public welfare fund hereinabove created, provided that such action with reference to federal funds be approved by the social security board. [L. 1933, c. 209, s. 22; R. L. 1935, Chap. IV, Appendix, s. 22; am. L. 1941, c. 213, s. 1 (19); am. L. 1943, c. 101, pt. of s. 2.]

Donations and grants, see also ss. 4822, 4823, 4862.

CHAPTER 85. DEPARTMENT OF PUBLIC WELFARE:
SPECIFIC FUNCTIONS.

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PART I: GENERAL PROVISIONS.

DEFINITIONS; FUNDS; RECORDS.

Sec. 4821. **Definitions.** Unless the context clearly requires a different meaning, when used in this chapter:

"Department" means the department of public welfare.

"Director" means the director of said department.

"Public assistance" shall mean money payments to, or for the benefit of, aged persons, blind persons, dependent children, and other persons whom the department has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

"General assistance" shall mean that portion of public assistance including money payments to or for the benefit of persons other than the aged, blind, and dependent children whom the department has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

"Applicant" shall mean the person for whose use and benefit application for public assistance is made.

"Recipient" shall mean the person for whose use and benefit a grant of public assistance is made.

"Dependent child" shall mean any minor under eighteen years of age who, for any reason, is destitute or homeless or abandoned or dependent upon the public for support or who has no proper parental care or guardianship, or whose home, by reason of cruelty, neglect or depravity on the part of his parents, guardian or other person in whose care he may be, is an unfit place for such child, and shall also mean any minor under twelve years of age who might if over twelve years of age be adjudged a delinquent child. [L. 1941, c. 296, pt. of s. 1.]

For chapter history see note to s. 4801.

Sec. 4822. **Appropriations; expenditures; donations.** Moneys provided by the legislature for expenditure by the department shall be expended upon vouchers approved by the director or his duly authorized subordinates.

All contributions or donations of money to the department shall be paid into the territorial treasury to be expended according to law and for purposes in accordance with the terms and conditions of such contributions or donations, and all such moneys are hereby appropriated for such purposes; **provided**, however, that no such contributions or donations shall be accepted by the department except for expenditures within the purposes of this chapter. The department is authorized to accept donations other than money, provided such donations may be used within the purposes of this chapter, and if accepted, may pay for the storage, handling and distribution of same; **provided**, however, that any capital expenditures in connection with such storage, handling and distribution shall be approved by the governor. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4823. **Authority re acceptance of grants-in-aid or outright grants.** The department shall have authority to accept, at any time, grants-in-aid or outright grants from the federal government or any department thereof for general assistance, medical assistance, care of transients and other non-residents, and to cooperate with the federal government in connection therewith. [L. 1941, c. 296, pt. of s. 1.]

See also ss. 4813, 4862 re donations.

Sec. 4824. **Revolving fund.** The treasurer is hereby authorized and directed to set up, out of any moneys (other than moneys expressly appropriated for conservation of sight and work with the blind) heretofore or hereafter appropriated for the purposes of this chapter, a revolving fund not to exceed in amount the sum of ten thousand dollars. This fund may be used by the department for workshop purposes or home labor purposes for the blind or others who, in the opinion of the department, will be benefited by such experience, and all moneys in said fund may be expended for materials, machinery and other facilities and for the erection, operation and conduct of such workshops,

and for the payment of such compensation, as the department may authorize. All proceeds derived from sale of products of such workshops or such home labor shall be deposited in said fund. The provisions of this section shall be subject to any federal policies, rules or regulations, which may be applicable in order to obtain federal aid or the cooperation of any federal agency concerned. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4825. Protection of records; divulging confidential information prohibited. It shall be the duty of the department and its agents to keep such case records as may be necessary or proper in accordance with the provisions of this chapter. All applications and records concerning any applicant or recipient shall be confidential and shall be open to inspection only (a) by persons duly authorized by the Territory or the United States in connection with their official duties, when such official duties are directly connected with the administration of old age assistance, aid to dependent children, aid to the blind or other forms of public assistance, of the class to which such applications or records relate, or (b) by employees, acting within the scope and course of their employment, of such recognized social welfare organizations as may be approved by the department, and there is hereby conferred upon the department and its agents the authority and duty to determine whether or not such inspection is in connection with such official duties or within the scope and course of such employment. The department shall promulgate and enforce such rules as may be necessary to prevent improper acquisition or use of such confidential information. Any information secured pursuant to this section by such officials or employees may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of public records. The use of the records, papers, files and other communications of the department or its agents by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished. [L. 1941, c. 296, pt. of s. 1; am. L. 1943, c. 113, s. 1.]

Sec. 4826. Penalty. Any person, including any person acquiring information through inspection permitted him or another under the preceding section, who, knowing such information to have been acquired from the confidential records or files of the department, divulges the same except as authorized in the preceding section or by other provisions of law, or who aids or abets in the inspection of such applications or records by any person unauthorized to inspect the same under the provisions of this chapter or other provisions of law, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars.* [L. 1941, c. 296, pt. of s. 1.]

ACTIVITIES.

Sec. 4827. Duties generally. Except as otherwise provided by law, the department shall:

(1) Supervise the administration of all public assistance, including general assistance, old age assistance, aid to dependent children, and aid to the blind;

(2) Place, or coordinate in the placing of, dependent children in suitable institutions or private homes, as provided by this chapter, and accept from the police and other agencies, for temporary care and custody, any dependent child until suitable investigation and satisfactory placement can be made;

(3) Have authority to establish, maintain and operate receiving homes for the temporary care and custody of dependent children until suitable disposition of them can be effected;

(4) Administer child welfare activities as provided for in part II of this chapter;

(5) Administer work with and for the blind, including the registry of blind, medical care, vocational guidance, training placement in employment and other services, including the conduct of activities for sight conservation and prevention of blindness;

(6) Cooperate with the federal government in carrying out the purposes of the social security Act, and in other matters of mutual concern pertaining to public welfare and public assistance, including the making of such reports, the adoption of such methods of administration and the making of such rules and regulations as may be found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare and assistance, or as may be neces-

sary or desirable for the receipt of financial assistance from the federal government;

(7) Carry on research and compile statistics relative to public and private welfare activities throughout the Territory, including those dealing with dependence, defectiveness, delinquency and related problems; and develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;

(8) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting, and conduct such other activities, as may be necessary or proper to carry out the provisions of this chapter, which rules, when approved by the governor, shall have the force and effect of law;

(9) Supervise or administer any other activities authorized or required by this chapter and any other activities placed under the jurisdiction of the department by any other law;

(10) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 4836 as it shall deem advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of such funds, which rules, when approved by the governor, shall have the force and effect of law. [L. 1941, c. 296, pt. of s. 1; am. L. 1943, c. 213, pt. of s. 1.]

Social security act, 42 U. S. C. A. c. 7. Workshops, home labor, ss. 4824, 4860.

Sec. 4828. Medical and dental care; hospitalization; burial of indigent dead. The department is authorized to furnish or pay the cost of medical care (which term, as used in this section, shall include, in addition to all other kinds of medical care, surgical care, maternity care and eye care, including optical appliances, as well as materials, supplies and other appliances used in the care, treatment and rehabilitation of patients), hospitalization, and dental care (including supplies, materials and appliances) to such needy persons, including the aged, blind, dependent children, and any others, who for any reason satisfactory to the department are unable to procure or provide sufficient medical care, hospitalization or dental care for themselves. The department is also authorized to bear the cost of the burial of indigent persons up to, but not exceeding the sum of fifty dollars. Any moneys expended under this section shall be deemed to be in addition to and not in lieu of any moneys now or hereafter appropriated or made available by or under any other provision of law, federal or territorial, for any of the same or similar purposes. [L. 1943, c. 36, s. 1.]

L. 1943, c. 36, s. 2, omitted, covered by s. 4811.

Sec. 4829. Commitments directed to the department. If in any proceeding before a juvenile court, as provided for in chapter 300, a child is adjudged and determined to be a dependent within the meaning of this chapter and the court or the judge thereof finds that such child should be removed from its own home, such child shall be committed to the department to provide for and supervise the care and maintenance of such dependent child. The department shall have the authority to place a child so committed to it in a proper institution or private home, and shall cooperate with public or private authorities, in the placing of such child in a proper institution or suitable private home. Any dependent child, under the age of twelve years, who might, if over twelve years of age, be adjudged a delinquent child, may, in the discretion of the court or a judge thereof, be retained under the court's supervision. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4830. Authority over and investigation of organizations and institutions caring for dependent children. No organization or institution shall be allowed the care and custody of a dependent child, unless such organization or institution meets with the standards of conditions, management and competence to care for and train children set by the department. It shall be the duty of the department to prepare a statement of such standards of conditions, management and competence.

Upon approval of such organization or institutions, the department or its authorized agents shall issue a certificate of approval which shall continue in force for one year, unless sooner revoked for cause. Such certificate shall be renewed by the department or its authorized agents, after annual investigation, if such investigation shall disclose such organization or institution continues

to meet with the standards set by the department. The certificate of approval shall be a permit to operate the organization or institution, and no person or organization shall operate or maintain such organization or institution without such certificate.

Any organization, institution or foster home, to whose care or custody dependent children are entrusted, shall be subject to investigation at any time, in such manner, place and form as prescribed by the department or its authorized agents. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4831. Prevention and treatment of conditions giving rise to need. The department is hereby authorized to carry on or administer or cooperate with other public or private agencies in work or activities for the purpose of preventing or treating conditions giving rise to the need for public assistance in any case in which such work or activities may prevent, shorten, or eliminate the need of public assistance. Such work or activities, if any, shall be taken into consideration in deciding upon or deferring action upon any application for public assistance. [L. 1941, c. 296, pt. of s. 1.]

Workshops, home labor, ss. 4824, 4860. Work with the blind, part III of this c.

Sec. 4832. Residence and reciprocal arrangements. The director is hereby authorized to negotiate with proper authorities and agencies of states or other political subdivisions or dependencies of the United States, or of any foreign government, outside the Territory relative to the return of needy persons to their places of residence. In each instance, the legal settlement law of such political subdivision shall be considered the legal settlement law of the Territory in so far as the particular dependent child, or aged, blind or other needy person, involved in the negotiation is concerned, any other provision of this chapter to the contrary notwithstanding. Such law shall apply to the needy person only so long as negotiations are under way for his return to his place of residence. The director shall notify the proper authorities in each of the forty-eight states, the territories of Alaska and Puerto Rico, the District of Columbia, and other dependencies of the United States, of the provisions of this section. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4833. Transportation. The director may, in his discretion, authorize the payment of the cost of transporting any person who has insufficient income to provide a subsistence compatible with decency and health from the Territory, or from one of its subdivisions to another. Removal of such a person from the Territory shall be contingent upon the written approval of the agency authorized to grant permission for the return of a needy person to his place of residence outside the Territory. The cost of such transportation shall not exceed the minimum fare to such point by the least expensive means of transportation available. The director may also furnish such person with sufficient assistance to maintain him with the necessities of life while on his journey. [L. 1941, c. 296, pt. of s. 1.]

GENERAL PROVISIONS AS TO PUBLIC ASSISTANCE.

Sec. 4834. Applications, manner, form, conditions. Applications for public assistance under this chapter shall be made to the department by the applicant, or by someone acting in his behalf, in the manner, place and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a subsistence compatible with decency and health or, with the exception of dependent children placed by the department in a charitable institution for care and maintenance, who is an inmate of any public institution of a charitable, custodial, correctional or curative character, but an inmate of such an institution may apply for assistance to begin after his discharge from such institution. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4835. Relief limited. During the continuance of public assistance under the provisions of this chapter, no recipient shall receive any other public assistance from the Territory or any county, except for necessary medical, dental, and surgical care, or in such amounts as are necessary to supplement the public assistance granted pursuant to this chapter, where the amounts of such other public assistance from the Territory or any county have been taken into consideration in deciding upon any application for public assistance. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4836. Assignment of persons in need of public assistance to work on public projects. The department, as far as permissible under the then existing federal laws, may assign persons in need of public assistance to work on territorial, county or other public projects whether or not such projects are conducted in cooperation with any federal agency for the relief of unemployment.

The amount of assistance to be paid to such persons shall be fixed by the department, taking into consideration the work performed, and may exceed the amount or value of the grant of public assistance, which would have been made had no such assignment to a work project been made, but in no event shall such additional assistance, granted because of assignment to a work project, exceed the amount necessary to provide for extra expenses, incurred by the recipient for food, clothing, transportation and incidentals. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4837. Application of chapter 77 to persons in need of public assistance assigned to work projects. Chapter 77 shall apply to recipients of public assistance assigned to work on public projects pursuant to section 4836, who shall be deemed employees for the purposes of said chapter 77, and an award may be made against the Territory or a county or other public body, as the case may be, according to the project upon which the person injured was engaged at the time of the injury. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4838. Assistance payments inalienable. All assistance payments and all compensation paid by the department to blind persons and other persons for work performed in their homes or in workshops shall be inalienable by any assignment, sale, attachment, garnishment, execution or otherwise. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4839. Assistance improperly obtained, inquiry, suspension. If at any time the department has reason to believe that any public assistance has been improperly obtained, it may cause special inquiry to be made by the county attorney and may suspend payment of such assistance pending the inquiry. If, on inquiry, and after the recipient has had reasonable notice and an opportunity for a fair hearing, it appears that the assistance was improperly obtained, it shall be cancelled and the person whose assistance has been cancelled shall be disqualified from making new application for such period as may be determined by the department. If it appears that the assistance was properly obtained, the suspended payment shall be payable in due course. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4840. Cancellation or revision. If, at any time during the currency or continuance of public assistance, the recipient, or any person legally liable for the support of the recipient becomes possessed of any property or income in addition to that available at the time the grant was made, the department may, for such cause or for any other like cause, either cancel the assistance or change the amount thereof. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4841. Assistance payments subject to change or repeal. All public assistance granted under the provisions of this chapter shall be deemed to be granted and held subject to the provisions of any amending or repealing act that may hereafter be passed and no recipient under this chapter shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by any such amending or repealing act. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4842. Recovery from estate. If a recipient under this chapter dies leaving an estate, the department may file a claim against such estate for the amount of public assistance granted under the provisions of this chapter, and such claim shall be allowed.

Upon the recovery of any claim as provided in this section, the amount so recovered shall be paid into the treasury of the Territory, and if the amount for which claim was made was paid in part from federal funds, the proper portion thereof shall be paid by the treasurer of the Territory into the treasury of the United States, and the treasurer shall thereupon report such payment to the department. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4843. Frauds, etc., penalty. Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains or attempts to obtain, or aids or abets any other person to obtain public assistance to which he is not justly entitled, or a larger amount of assistance

than that to which he is justly entitled; or payment of any forfeited installment grant; or who aids and abets in the buying or in any way disposing of the property of a public assistance recipient without the consent of the department, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned for not more than one year or both. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4844. Incompetency of recipient. If the recipient is found incapable of taking care of his money or himself, the department may direct its assistance to be paid to a legal guardian or any other reputable person for his benefit or may suspend assistance for such period as it deems fit. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4845. Legal representative. The attorney general and the county attorneys shall act as legal representatives of the department when so requested. [L. 1941, c. 296, pt. of s. 1.]

PART II: PUBLIC ASSISTANCE TO:

THE AGED, THE BLIND, DEPENDENT CHILDREN AND WELFARE SERVICES.

Sec. 4846. Public assistance. The department shall administer in the several counties public assistance to the aged, the blind, and dependent children, and shall administer within the Territory child welfare services referred to in section 4852. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4847. Aged persons. A person shall be eligible for old age assistance who:

(1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;

(2) Resides in the Territory and has so resided for not less than one year immediately preceding the date of the application, except where a longer period is required by and for the purposes of section 4832; and

(3) Is sixty-five years of age or more; **provided** that, in the event that the minimum age for determining eligibility for old age assistance under the federal laws shall be reduced, the minimum age prescribed by this paragraph shall thereby automatically be reduced to conform to said federal minimum, but in no case below sixty years. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4848. Blind persons. A person shall be eligible for public assistance who:

(1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;

(2) Has resided in the Territory for at least one year immediately preceding application for assistance, except where a longer period is required by and for the purposes of section 4832; and

(3) Has vision in the better eye, with corrective glasses, of less than twenty two-hundredths or a disqualifying field defect sufficient to incapacitate him for self-support. [L. 1941, c. 296, pt. of s. 1.]

Blind persons, see also part III. Examination of blind, 4853.

Sec. 4849. Dependent children. A dependent child shall be eligible for public assistance who:

(1) Is in need, and has not sufficient income or other resources to provide care and support compatible with decency and health;

(2) Has not attained the age of eighteen years;

(3) Is deprived of parental support or suitable care by reason of the death, continued absence from home, physical or mental incapacity, or cruelty, neglect or depravity on the part of a parent;

(4) Is living in a home with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle or aunt, in a place of residence maintained by such relative as his own home; or is living in a family home or institution conforming to the standards fixed by the department; and

(5) Has resided in the Territory for one year immediately preceding application for assistance, or was born within one year immediately preceding application of a mother who resided within the Territory for one year immediately preceding such birth; **provided**, however, that the department may give temporary assistance to a dependent child irrespective of length of residence until suitable investigation and satisfactory placement can be made. [L. 1941, c. 296, pt. of s. 1; am. L. 1943, c. 213, s. 1 (b).]

Crippled children, see c. 38; custody of delinquent children, s. 12327.

Sec. 4850. Determination of amount of assistance. The amount of public assistance granted, including funds received from the federal government, shall not exceed in the case of any applicant an amount in excess of that determined upon investigation or by the decision of the department to be compatible with maintaining decency and health, and in the case of an aged or blind person shall not exceed forty dollars per month. In granting public assistance to an aged or blind person the department may take into consideration part or all of the needs of such person's dependents, provided they are eligible for public assistance, but such aged or blind person nevertheless shall not be the recipient of a grant in excess of forty dollars per month; in the event that such grant has taken into consideration only part of the needs of such dependents such grant shall be without prejudice to a separate grant of assistance to such dependents or any of them, as may be proper upon consideration of their remaining needs and in compliance with the provisions of this chapter. Where a dependent child is the applicant and the recipient of a grant, even though his assistance is paid to such aged or blind person for his benefit, the grant to such dependent child shall not be included in applying the limitation of forty dollars per month hereinbefore provided. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4851. Home conditions, right of removal. A determination by the department that the home where a dependent child lives is no longer a suitable or proper place for the rearing of said child shall constitute good reason for the revocation of a grant of public assistance and such other provisions shall be made for the care of the child as may be deemed necessary. [L. 1941, c. 296, pt. of s. 1.]

Custody of delinquent children, s. 12327.

Sec. 4852. Federal assistance for child welfare services. For the purpose of qualifying for federal assistance in the allotment of funds for child welfare services in the Territory as contemplated in Part 3 of Title V of the social security Act, the department shall cooperate with the children's bureau of the United States department of labor, and shall make such rules and regulations and establish such methods of administration and shall make such reports as may be required by virtue of any law or regulation of the United States or any properly constituted authority thereunder under which the Territory may become entitled to financial assistance from the United States government for child welfare service. The treasurer of the Territory shall be the custodian of funds received for such services from the federal government. [L. 1941, c. 296, pt. of s. 1.]

The cited federal provision is 42 U. S. C. A. s. 721.

Sec. 4853. Examination of blind. The department shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or a qualified physician designated by it to make such examinations. The examining person shall certify to the department the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the department. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4854. Aged and blind assistance not to be paid to same persons. Public assistance shall not be granted to a blind person with respect to any period in which he is receiving public assistance as an aged person. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4855. Report to auditor. On or before February 15 of each year, the department shall make a report of the preceding year to the territorial auditor stating the total number of recipients, the amounts disbursed for the several categories of assistance, the total number of applications, the number of persons granted assistance, the number denied, the number having assistance cancelled during the year, and giving such other information as the territorial auditor may deem advisable. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4856. Territorial reimbursement. The department shall comply with all federal requirements pertaining to methods and standards of administration and shall make such rules and regulations and follow such procedure as may be required for the receipt from the federal government of grants or grants-in-aid for public assistance and such administrative costs as are provided in connection therewith. [L. 1941, c. 296, pt. of s. 1.]

PART III: CONSERVATION OF SIGHT AND WORK
WITH THE BLIND.

Sec. 4857. Registration of blind. It shall be the duty of the department to cause to be maintained a complete register of the blind in the Territory which shall describe the condition, causes of blindness, capacity for education and industrial training and such other facts as may seem to it to be of value regarding each blind person, together with recommendations for rehabilitation and relief.

It shall register cases of persons whose eyesight is seriously defective or who are likely to become visually handicapped or blind, and take such measures in cooperation with other authorities, as it may deem advisable for the prevention of blindness or conservation of eyesight, and in appropriate cases provide for or secure the vocational guidance of persons having seriously defective sight. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4858. Cause and prevention of blindness, examinations. It shall be the duty of the department to make investigation of the causes of blindness, to learn what proportion of the cases are preventible and to inaugurate and cooperate in any such preventive measures as may seem advisable for the Territory. It may arrange for the examination of the eyes of the individual blind or partially-sighted persons and may provide or secure medical and surgical treatment of such persons whenever, in its judgment, the sight of such persons may be benefited thereby. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4859. Agencies for information and industrial aid. The department shall maintain or cause to be maintained one or more agencies for employment information and industrial aid, the object of which shall be to aid the blind and those with seriously defective eyesight in finding employment and shall provide instruction for such persons in trades and occupations which may be followed in their homes, and shall assist such persons in whatever manner it may deem advisable in disposing of the products of their home industry. [L. 1941, c. 296, pt. of s. 1.]

Vocational rehabilitation, see ss. 1894-1898; permits for use of buildings by blind, s. 465.

Sec. 4860. Workshops. The department may also, whenever it deems proper, aid individual blind persons or groups of blind persons to become self-supporting by employing them in workshops operated exclusively for the blind or in their own homes at such compensation as the department may determine their services shall warrant, and by furnishing them with materials, machinery and other facilities. No blind person as so employed shall be deemed an employee of the Territory or of the department within the meaning of this or any other chapter, or any act. [L. 1941, c. 296, pt. of s. 1.]

Revolving fund, s. 4824.

Sec. 4861. Visiting the blind; home teaching. The department may take whatever measures it deems necessary to ameliorate the condition of the blind by promoting visits among them, providing instruction in their homes, and circulating reading matter among them for their education and recreation. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4862. Sight conservation and prevention of blindness. The department shall take such measures in cooperation with the department of public instruction and other public and private authorities as it may deem advisable for the education of children in the conservation of eyesight and the prevention of blindness, and may recommend for sight-saving classes, or for the territorial school for the blind, children certified by any reputable oculist as fit subjects for instruction therein.

It shall conduct or supervise such vision-testing activities in public and private schools as it deems advisable and as meets the approval of the school authorities to determine those children who have defective vision and shall make recommendations for the conservation or correction of their vision, and shall cooperate with school authorities to secure proper lighting and in such other measures as it may deem advisable to remedy conditions which may be conducive to or cause weakening of eyesight.

It shall cause to be conducted classes and lectures in sight conservation and prevention of blindness for teachers and public health nurses and others engaged in like work, and cooperate with public and private organizations and societies in an effort to educate the public in the importance of sight conservation, and may sponsor illustrated exhibits and lectures to officials and employees of

private industrial organizations or public bodies with a view to emphasizing the importance of proper care of the eyes and the adoption of safety measures to reduce accidents resulting in eye injuries, and may take such action as may be necessary or proper to secure scientific illumination in public and private buildings.

It may also accept and expend or distribute donations, eye glasses and other services for sight conservation and for assistance to the blind; **provided**, however, that any donations of money so received shall be deposited in the territorial treasury and disbursed therefrom for said purposes pursuant to this chapter. [L. 1941, c. 296, pt. of s. 1.]

Donations, see also ss. 4813, 4822. Territorial school for blind, attendance at, when required, s. 1830 (11).

PART IV:

GENERAL ASSISTANCE.

Sec. 4863. Persons not otherwise provided for. The department shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for any reasons satisfactory to the department are unable to procure or provide sufficient support for themselves or those dependent upon them. The department shall cooperate with the various charitable organizations to avoid duplications. [L. 1941, c. 296, pt. of s. 1.]

Workshops, home labor, s. 4824. Return to place of residence, transportation costs, ss. 4832, 4833.

Sec. 4864. Applications. Applications for general assistance shall be made by applicant or by someone acting in his behalf in the manner, place and form prescribed by the department. [L. 1941, c. 296, pt. of s. 1.]

Sec. 4865. Amount of grants. Upon receipt of an application for general assistance, the department shall investigate and prepare a complete record of the circumstances of the applicant and his dependents, if any. The amount or value of such assistance shall not exceed such minimum as in the judgment of the department will provide for the minimum needs (including food, shelter, clothing, utilities and incidentals) compatible with the maintenance of decency and health of such applicant and his dependents. [L. 1941, c. 296, pt. of s. 1.]

L. 1941, c. 296, ss. 2, 3, conforming other laws to this chapter, transition provisions, omitted. See chapter note following s. 4801.

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**CHAPTER 122. GENERAL PROVISIONS AFFECTING
HAWAII, KAUAI, MAUI.**

Sec. 6201. County Boundaries. There shall be four counties in the Territory, exclusive of the city and county of Honolulu:

1. **Hawaii.** The island of Hawaii and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, shall be the county of Hawaii, with its county seat at Hilo.

2. **Maui.** The islands of Maui, Molokai, Lanai and Kahoolawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island of Molokai known as Kalaupapa, Kalawao and Waikolu and commonly known and designated as the leper settlement, shall be the county of Maui, with its county seat at Wailuku.

3. **Kauai.** The islands of Kauai and Niihau and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, shall be the county of Kauai, with its county seat at Lihue.

4. **Kalawao.** All that portion of the island of Molokai known as Kalaupapa, Kalawao and Waikolu, and commonly known or designated as the leper settlement, shall not be or form a portion of the county of Maui, but is constituted a county in itself, and as such shall have only the powers especially conferred and given by sections 2438-2442 and shall be known as the county of Kalawao and, except as provided in those sections, none of the provisions of this chapter or any other chapter relating to counties shall be deemed to refer to or shall be applicable to the county of Kalawao. Hence the term "county" as used in this chapter shall include only the counties of **Hawaii, Kauai and Maui.** [L. 1905, c. 39, s. 1; am. imp. L. 1907, c. 118, s. 1; R. L. 1925, s. 1575; R. L. 1935, s. 2800.]

See s. 151, districts. See, 16 H. 769.

The exclusion of the "city and county of Honolulu" from the "counties" mentioned, also last sentence, added in view of s. 19.

CHAPTER 133.

COUNTY LICENSES.

BUTCHER; BEEF, PORK.

Sec. 7040. Fee to slaughter and sell; records; penalty. The annual fee for a license (a) to slaughter cattle and sell beef, or (b) to slaughter swine and sell pork, shall be ten dollars for each in each taxation district.

Subject to the provisions of this section, any person may slaughter up to twelve head of cattle per year and sell such beef, or slaughter up to twelve swine per year and sell the pork, without a license therefor, **provided** such cattle or swine are of his own raising, and slaughtered on his own premises; but such person must comply with any county ordinances relating thereto and must comply with such rules and regulations of the board of health as may apply.

Any person so slaughtering and selling beef without a license shall keep a full and accurate record concerning every animal killed, covering all the particulars mentioned in section 7041.

No person, who is not licensed to slaughter cattle and sell beef, shall slaughter any cattle for the purpose of selling the beef thereof, unless such person shall first have signed an application therefor and obtained thereon the written approval of a police officer, any agent of the board of health or any territorial veterinarian. Each such officer is authorized to approve any such application upon being satisfied that all of the items of information required by section 7041 are correctly set forth in such application, except that such information may be anticipatory as to acts not yet consummated. All such applications shall be made in triplicate, one to be retained by the applicant, and two to be retained by the approving officer, who shall promptly file one of such copies in the office of the sheriff or chief of police of the county.

It shall be unlawful for any such person to set forth in any such application any material statement which is false in any particular, or to butcher any cattle for the purpose of selling the meat therefrom without first receiving such permit; **provided** that where, due to some unanticipated emergency, it is necessary to slaughter any animal, as, for instance, where an animal is accidentally injured and must be killed, it shall not be necessary to secure such permit before killing such animal, but all of the facts and circumstances shall be reported, by the owner or other person responsible for such killing, to a police officer, agent of the board of health or territorial veterinarian, within twenty-four hours thereafter.

Any person violating any provision of this section or of this subtitle shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars, or imprisonment of not more than one year, or both. [L. 1896, c. 64, s. 49; am. L. 1915, c. 26, s. 1; am. L. 1917, c. 158, s. 1; R. L. 1925, s. 1995; am. L. 1932, 2d, c. 66, s. 2; R. L. 1935, s. 2436; am. L. 1941, c. 208, s. 1.]

See s. 2709, slaughter houses; c. 264, Hides and Beef, records.

Sec. 7041. Bond; records. Upon granting a license to slaughter cattle and sell beef, the treasurer shall exact from the licensee a bond in the penal sum of five hundred dollars, with good and sufficient surety, to be approved by the treasurer, conditioned that the licensee will keep a full and accurate record concerning every animal which he may purchase, kill or sell; and that he will at all times during regular business hours keep such record open for the inspection of all who may desire to examine the same. Such record shall contain: 1. the sex of the animal; 2. the brand or brands on the animal, stating the position on the animal, of such brand; 3. the principal color or colors of the animal; 4. the name of the person or persons who sold the animal to him; 5. the date when the animal was sold to him; 6. the date when the animal was delivered to him; 7. the date when the animal was killed. [L. 1896, c. 64, s. 51; R. L. 1925, s. 1996; am. L. 1932, 2d, c. 66, s. 3; R. L. 1935, s. 2437.]

See s. 497, justification of sureties.

Sec. 7042. Suit on bond; cancelation of license. The treasurer, or with his written consent, any person owning any animal purchased, sold or killed by any licensed butcher, concerning which a record as prescribed by section 7041 has not been kept, may prosecute such licensed butcher under his bond and recover thereon, for the benefit of the treasury, the sum of not less than five dollars nor more than fifty dollars for each item by said section required to be entered in such record which is omitted therefrom, or which is entered therein incorrectly;

and the license of such butcher may, in the discretion of any judge or court, be canceled. [L. 1896, c. 64, s. 52; R. L. 1925, s. 1997; R. L. 1935, s. 2438.]

Sec. 7043. Fee to sell beef or pork. The annual fee for a license to sell beef or to sell pork shall be five dollars for each in each taxation district. [L. 1896, c. 64, s. 50; am. L. 1898, c. 38, s. 1; am. L. 1907, c. 14, s. 1; R. L. 1925, s. 1998; am. L. 1932, 2d, c. 66, s. 4; R. L. 1935, s. 2439.]

CHAUFFEURS, see Motor Vehicles, etc., c. 138.

CHIROPRACTORS, c. 37.

CLEANERS, see Laundries, ss. 7075 ff.; ss. 7121 ff.; s. 2015.

FOOD PRODUCTS.

Sec. 7073. Conditions of license; fee; not applicable to poi. No person shall manufacture, compound or otherwise prepare any confections, cakes, bread stuffs or other food products intended for sale and for human consumption in any shop or premises without first obtaining from the treasurer of the county where such shop, building or other premises are located, a license. No such license shall be granted to any person by the treasurer until he shall have first received a certificate from the board of health stating that, after an examination made, it appears that such shop, building or other premises are in a sanitary and fit condition for the manufacture, compounding or otherwise preparing such food products; and when issued the license shall contain, among other things, a condition that the shop, building and premises shall be kept in a good sanitary condition in accordance with law and with the orders of the agent of the board of health, and that the agents of the board of health may have at all times access thereto for the purposes of inspection. The annual fee for such a license shall be the sum of ten dollars.

Nothing in this section and the following section shall be construed to include the manufacture and sale of poi or paiai. [L. 1911, c. 117, ss. 1, 3, 4; R. L. 1925, ss. 2040, 2042, 2043; R. L. 1935, s. 2471.]

"Under 'ejusdem generis,' 'other food products' are limited to those like those expressly mentioned, do not include sugar, 23 H. 1, 3. See 'Peddlers,' etc., ss. 7102 ff.; inspection service, c. 20; Food and Drugs, c. 41.

Sec. 7074. Penalty. Any person who shall have, keep or maintain any such shop, building or other premises, or shall manufacture, compound or otherwise prepare upon any such shop, building or other premises any confection, cake, bread stuff, or other food products without first obtaining a license under 7073, or who, holding a license, shall violate or fail to observe any of the requirements or conditions of said section, or of his license shall, upon conviction, be fined not less than ten or more than one hundred dollars, and the court having jurisdiction thereof may cancel his license. [L. 1911, c. 117, s. 2; R. L. 1925, s. 2041; R. L. 1935, s. 2472.]

FOREIGN LANGUAGES, cc. 31, 147.

FUNERAL DIRECTORS, c. 58.

GARNISHMENT, cc. 212-213.

GASOLINE, etc., cc. 88, 100, 136.

GENERAL EXCISE TAX, etc., cc. 101; 98, 99, 105.

HERBS, Hawaiian, c. 46.

HOTELS, etc., see ss. 7077 ff.; cc. 169, 247.

HUNTING LICENSES, see ss. 7064 ff.

INSURANCE, c. 161.

INTEREST, cc. 167, 170, 171.

INTOXICATING LIQUOR, see c. 137.

JUNK DEALERS, see ss. 7113 ff.

LABOR, cc. 71-77.

LANDLORD, cc. 216, 252.

LAUNDRY, ETC.

Sec. 7075. Conditions, fee. The treasurer may issue to any person, a license to maintain and operate a laundry, dyeing or cleaning or dyeing and cleaning works upon such conditions as to location and otherwise as shall be set forth in the license. No license shall be issued except upon a certificate of the board of health setting forth that the location at which it is proposed to operate such laundry, dyeing or cleaning or dyeing and cleaning works is suitable for the purpose. The annual fee for a license for either a laundry, dyeing or cleaning or dyeing and cleaning works shall be ten dollars; **provided,** however, that the provisions of this section shall not apply to laundries operated for profit, where not more than two persons are engaged, including the proprietor of such laundry, and conducted in compliance with the rules and regulations of the board of health; **provided,** further, that this section shall not apply to laundries conducted in compliance with the rules and regulations of the board of health by persons in their own homes for members of their household only. [L. 1907, c. 96, pt. of s. 1; am. L. 1915, c. 107, s. 1; R. L. 1925, s. 2050; am. L. 1932, 2d, c. 66, s. 7; R. L. 1935, s. 2473.]

See s. 2015, regulation by board of health. Requirement of certificate constitutional, 19 H. 628.

STEAM LAUNDRIES, see ss. 7121 ff.

Sec. 7076. Identification marks, registration of. Every person holding a license under the provisions of section 7075 to maintain and operate a laundry, dyeing or cleaning or dyeing and cleaning works, shall have an identification mark with which all clothes passing through such laundry, dyeing or cleaning or dyeing and cleaning works shall be marked, and which shall be registered with the sheriff or the chief of police, as the case may be, of the county in which such license is issued. The license of any person who fails to comply with the foregoing provision may be suspended by the officer issuing the same for such period as such officer may determine but not exceeding six months; **provided**, however, that this section shall not be applicable in the case of laundries operated exclusively by members of one family nor to bulk laundry of uniforms of members of the armed forces of the United States. [L. 1943, c. 188, s. 1.]

LIENS, c. 169.

LIQUOR, cc. 104, 137.

LOANS, cc. 170-171.

LODGING OR TENEMENT HOUSES, HOTELS, BOARDING HOUSES AND RESTAURANTS.

Sec. 7077. Fee, lodging or tenement house. The annual fee for a license to keep a lodging or tenement house shall be two dollars. [L. 1896, c. 64, s. 68; R. L. 1925, s. 2052; R. L. 1935, s. 2474.]

Sec. 7078. Fee, hotel and boarding houses. The annual fee for a license to keep a hotel and boarding house shall be ten dollars. A hotel or boarding house, under this section, shall mean a building or buildings having at least ten rooms for the accommodation of guests. [L. 1896, c. 64, s. 69; am. L. 1911, c. 18, s. 1; am. L. 1915, c. 71, s. 1; R. L. 1925, s. 2053; am. L. 1932, 2d, c. 66, s. 8; R. L. 1935, s. 2475.]

See Liens, Liability, etc., ss. 8761 ff.

Sec. 7079. Fee for restaurant. The annual fee for a license to keep a restaurant shall be ten dollars. A restaurant, under this section, shall mean a building in which meals are furnished as the principal business for pay. No bedrooms or sleeping accommodations for hire shall be allowed on the premises of such restaurant. [L. 1915, c. 71, s. 2; R. L. 1925, s. 2054; am. L. 1932, 2d, c. 66, s. 9; R. L. 1935, s. 2476.]

Sec. 7080. Certificate, board of health. No license shall be issued for a lodging or tenement house, hotel, boarding house or restaurant, until the applicant shall secure from the board of health and present to the treasurer a certificate setting forth that an agent of the board has examined the house or houses, proposed to be used for such purposes, with a description thereof sufficient to identify and locate the same; and that the same are in good sanitary condition and suitable to be used for such purposes; and, if the application is for a license for a lodging or tenement house, hotel or boarding house, stating the number of persons who, by law, can be lodged therein. [L. 1896, c. 64, s. 70; am. L. 1898, c. 38, s. 1; R. L. 1925, s. 2055; R. L. 1935, s. 2477.]

See s. 2015. No discretionary power to refuse a license, 11 H. 57, 67. See 12 H. 164.

Sec. 7081. Conditions of license. A lodging or tenement house, hotel, boarding house, or restaurant license shall be issued upon the following express conditions, which shall be incorporated in the license, viz.:

1. That the licensee shall not keep a noisy or disorderly house;
2. That no prostitute shall be allowed to reside therein or resort thereto;
3. That no intoxicating liquor shall be furnished or sold therein, except as authorized by law;
4. That no more persons shall at any time be lodged therein than are permitted by the license;
5. That the buildings and premises licensed shall be kept in good sanitary condition, in accordance with law and with the orders of the agent of the board of health;
6. That the police and agents of the board of health shall at all times have access thereto for purposes of inspection;
7. That no gaming shall be allowed therein. [L. 1896, c. 64, s. 71; R. L. 1925, s. 2056; R. L. 1935, s. 2478.]

Building does not lose character as restaurant because portion occupied as dwelling, 11 H. 363, 365. "Furnish" may include gifts, 11 H. 363, 365. Subdivision 3 constitutional, 11 H. 363, 368.

Sec. 7082. Penalty. Any person who shall keep a lodging or tenement house, hotel, boarding house or restaurant without a license under this subtitle, or who, holding a license, shall violate or fail to observe any of the requirements or conditions of this chapter or of his license, shall be fined not less than ten nor more than one hundred dollars, and the court may cancel his license. [L. 1896, c. 64, s. 72; R. L. 1925, s. 2057; R. L. 1935, s. 2479.]

Sec. 7083. No fee for private boarders. Nothing in this chapter contained shall be construed to prevent a private family from incidentally taking not more than seven boarders or lodgers without taking out a license thereunder. [L. 1896, c. 64, s. 73; am. L. 1898, c. 38, s. 1; R. L. 1925, s. 2058; R. L. 1935, s. 2480.]

Sec. 7084. Hotels without licenses, when. The treasurer may also, in his discretion, permit hotels at which both meals and lodgings are furnished, at points other than in Honolulu, where they are a public convenience, to be carried on without a license under this chapter. [L. 1896, c. 64, s. 74; R. L. 1925, s. 2059; R. L. 1935, s. 2481.]

MATTRESSES, manufacture of, c. 44.

MEDICINE & SURGERY, c. 45.

MENTAL INST., cc. 43, 48, 69, 70.

MILK.

Sec. 7085. Fee. The annual fee for a license to sell milk shall be two dollars and fifty cents; **provided**, however, that any person having no more than two milch cows may sell the milk from such cows without a license therefor; but such person must comply with all county ordinances relating thereto; and **provided** also such person must comply with such rules and regulations of the board of health as apply. [L. 1896, c. 64, s. 80; am. L. 1898, c. 57, s. 1; am. L. 1915, c. 45, s. 1; R. L. 1925, s. 2062; R. L. 1935, s. 2482.]

See s. 2015, Bd. of Health.

Sec. 7086. Selling adulterated milk; penalty. Any person who shall sell, or offer for sale, any milk which has been adulterated by the addition of water or other substance; or from which the cream has been skimmed or separated, unless the same is specifically and openly stated to be skimmed milk, shall be fined not more than fifty dollars. [L. 1896, c. 64, s. 81; R. L. 1925, s. 2063; R. L. 1935, s. 2483.]

Sec. 7087. Bottled milk; capping; penalty. No person shall sell or offer for sale, milk in bottles, whether graded or ungraded, unless said bottle shall be tightly capped with a cap bearing legibly stamped, printed or written thereon the name of the person bottling said milk and the grade of said milk if the same is graded, or the word "ungraded," if said milk is ungraded. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars. [L. 1935, c. 123, s. 1.]

See s. 9294, protection of trademarks, etc.

Sec. 7088. Inspection, testing, confiscation. Any police officer or agent of the board of health shall have power to inspect and test any milk sold or offered for sale, and to confiscate any adulterated milk which he may find. [L. 1896, c. 64, s. 82; R. L. 1925, s. 2064; R. L. 1935, s. 2484.]

MONEY LENDERS, see cc. 170, 171.

MORTICIANS, c. 58.

MOTOR VEHICLES, CHAUFFEURS, etc., see c. 138.

MOTOR VEHICLES, DEALERS, etc., see c. 139.

MOTOR VEHICLES, Weight Tax, etc., see ss. 5704 ff.

MUTUAL BEN. SOC., c. 162.

NARCOTICS, c. 49; also, cc. 41, 55, 56.

NATURBOPATHY, c. 50.

NEGOT. INST., c. 173.

NEWSPAPERS, regulation of, see c. 147.

PEDDLERS.

Sec. 7102. Fees; exceptions. The fee for license to peddle merchandise shall be as follows:

The fee for an annual license shall be seventy-five dollars and the fee for a quarterly or three months' license or period less than three months shall be thirty dollars; **provided**, that no license shall be required of persons peddling fish, fresh fruit, leis, flowers or vegetables, nor of any person who is a citizen of the Territory and who has reached the age of seventy years.

A license to peddle merchandise shall authorize the holder thereof to peddle

only in the county which is named in the license. [L. 1907, c. 96, pt. of s. 1; am. L. 1917, c. 122, s. 1; am. L. 1923, c. 111, s. 1; R. L. 1925, s. 2077; R. L. 1935, s. 2498; am. L. 1935, c. 182, s. 1; am. L. 1939, c. 109, s. 1.]

Sec. 7103. Itinerant vendors of medicines; penalty. It shall be unlawful to vend, by peddling or itinerant sale, any remedies or medicines without first obtaining a written permit from the board of health and securing the necessary license. Any person who shall violate the provisions of this section shall, upon conviction, be punished by a fine of not more than five hundred dollars, or by imprisonment for a term of not more than one year, or by both fine and imprisonment. [L. 1921, c. 132, ss. 1, 3; R. L. 1925, s. 2078; R. L. 1935, s. 2499.]

See s. 7116 and c. 151, solicitors; c. 141, itinerant vendors. See s. 6809, Honolulu chief of police.

POISONOUS DRUGS.

Sec. 7105. Fees; permit. The annual fee for a license to sell poisonous drugs generally shall be twenty-five dollars. The annual fee for a license to sell poisonous household remedies, rodent, insect, or weed destroyers authorized to be sold under section 2901, shall be two dollars.

No such license shall be issued unless the applicant presents a permit therefor from the board of health. [L. 1896, c. 64, s. 86; R. L. 1925, s. 2081; am. L. 1933, c. 119, s. 1; R. L. 1935, s. 2501; am. L. 1939, c. 107, s. 1.]

For Food and Drugs, see c. 41; Narcotics, see c. 49; Poisons, see c. 56; Pharmacists, see c. 55.
4 U. S. D. C. Haw. 607, 615. Original packages of opium, 19 H. 565. Cited: 17 H. 567; 20 H. 669; 21 H. 516; 22 H. 31; 22 H. 597; 26 H. 331.

Sec. 7106. Penalty. Any person who shall sell or furnish any poisonous drugs without a license so to do; or who shall violate any of the terms of this subtitle for which a penalty is not specifically provided shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned not exceeding six months. [L. 1896, c. 64, s. 88; R. L. 1925, s. 2083; R. L. 1935, s. 2502.]

Sec. 7107. Sale, etc., by board of health. Nothing in this subtitle contained shall be construed to prevent the Territory or the board of health from using or distributing any drugs, or medicine. [L. 1896, c. 64, s. 89; R. L. 1925, s. 2084; R. L. 1935, s. 2503.]

STEAM LAUNDRIES, HONOLULU.

Sec. 7121. Issued by treasurer. The treasurer may issue to any person a license to erect, maintain and operate a steam laundry within the district of Honolulu, upon such conditions as to location and otherwise as shall be set forth in the license. [L. 1898, c. 33, s. 1; R. L. 1925, s. 2094; R. L. 1935, s. 2517.]

Sec. 7122. Certificate, board of health. Such license shall not be issued except upon the certificate of the board of health, setting forth that an agent of the board has examined the location at which it is proposed to operate the steam laundry, and that the same is suitable for the purpose. [L. 1898, c. 33, s. 2; R. L. 1925, s. 2095; R. L. 1935, s. 2518.]

See s. 2015; ss. 7075 ff.

Sec. 7123. Fee. The annual fee for such license shall be twenty-five dollars. [L. 1898, c. 33, s. 3; R. L. 1925, s. 2096; R. L. 1935, s. 2519.]

Cited: 240 Fed. 97.

Sec. 7124. Regulations. Steam laundries shall be subject to such regulations as to sanitation as may be prescribed from time to time by the board of health. [L. 1898, c. 33, s. 4; R. L. 1925, s. 2097; am. L. 1932, 2d, c. 66; s. 14; R. L. 1935, s. 2520.]

See s. 2015, laundry; and ss. 7075 ff

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CHAPTER 134.

DOGS.

Sec. 7161. Seizure and disposal of diseased dogs; penalty. Any police officer may seize and (after notice to the owner, if he can be found) may kill any dog running at large which is so obviously diseased as to be a menace to the health of persons or animals.

Any owner of any dog so diseased, who recovers such dog from such police officer, after notice as aforesaid, and does not forthwith furnish suitable medical treatment and care for, or destroy, such diseased dog, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of five dollars. [L. 1937, c. 217, ss. 1, 2.]

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CHAPTER 179. BOTTLES AND SIPHONS.

Sec. 9294. Registration of name, title, or other mark or device on bottles, siphons, tins, kegs, or other containers. Any person engaged in manufacturing, bottling, selling or distributing soda water, mineral or aerated water, porter, ale, beer, cider, ginger ale, milk, cream, or other beverages or mixtures in bottles, siphons, tins, kegs, or other containers with his name, title, or other mark or device branded, stamped, engraved, or etched, blown, impressed, or otherwise produced in or on such bottles, siphons, tins, kegs, or other containers used by him, may file in the office of the treasurer of the Territory a description of the name, title, or other mark or device so used by him, and cause such description to be printed at least once in each week for two weeks successively in a newspaper published in the English language in the county where such manufacturing, bottling, selling, or distributing takes place or in some paper of general circulation published in the English language in Honolulu; whereupon, such name, title, or other mark or device shall be deemed registered. [L. 1907, c. 101, s. 1; R. L. 1925, s. 3601; R. L. 1935, s. 7457; am. L. 1941, c. 92, s. 1.]

Sec. 9295. Unlawful traffic in bottles, etc., registered under section 9294; penalty. It shall be unlawful for any person, other than the owner, to sell, buy, distribute, or otherwise dispose of or traffic in any bottles, siphons, tins, kegs, or other containers marked or distinguished with any name, title, or other mark or device of which a description shall have been filed and published as provided in section 9294, without the written consent of the person whose name, title, or other mark or device is in or on such bottles, siphons, tins, kegs, or other containers. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three days, or by both fine and imprisonment. [L. 1907, c. 101, s. 2; R. L. 1925, s. 3602; R. L. 1935, s. 7458; am. L. 1941, c. 92, s. 2.]

Sec. 9296. Unlawful use of milk bottles, etc.; penalty. It shall be unlawful for any person to use in the sale, offer for sale, exchange or delivery of milk or cream or their products, or any other products, any bottle, jar, can, or other container upon which is branded, stamped, engraved, or etched, blown, impressed, or otherwise produced the name, title, or other mark or device of another person without the permission or consent of such other person. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment for not more than three days, or by both fine and imprisonment. [L. 1923, c. 168, ss. 1-2; R. L. 1925, s. 3603; R. L. 1935, s. 7459; am. L. 1941, c. 89, s. 1.]

CHAPTER 235.

INQUESTS, CORONERS.

Sec. 10901. Who are coroners. The chief of police or his authorized subordinate of the counties of Hawaii, Maui and Kauai, and the sheriff of the city and county of Honolulu, shall, ex officio, be the coroner for his respective county. [L. 1935, c. 90, s. 1; am. L. 1939, c. 104, s. 7; am. L. 1943, c. 62, s. 21 and c. 64, s. 22.]

This chapter supersedes c. 162, ss. 5570-5582, R. L. 1935.

Sec. 10902. Appointment of deputies. The coroner may appoint as many deputy coroners as he may deem necessary to aid him in the discharge of his duties as coroner from amongst the subordinates in his department. [L. 1935, c. 90, s. 2.]

Sec. 10903. Duties. As soon as any coroner or deputy coroner shall have notice of the death of any person within his jurisdiction supposed to have come to death by poisoning, violence or in any suspicious manner, he shall forthwith inquire into and make a complete investigation of the cause of such death. [L. 1935, c. 90, s. 3.]

Sec. 10904. Testimony under oath reduced to writing. The testimony of all witnesses examined by any coroner or deputy coroner pertaining to the death of any person wherein a coroner's investigation is required, shall be taken under oath, reduced to writing by the coroner, or deputy coroner or by some other person by his direction, and subscribed to by witnesses. [L. 1935, c. 90, s. 4.]

Sec. 10905. Form of oath. The coroner or deputy coroner is herewith empowered to administer an oath to the witnesses as follows:

"You solemnly swear that the evidence you shall give to this inquest concerning the death of the person (giving the name of the person dead if possible) which is now under investigation, shall be the truth, the whole truth and nothing but the truth: SO HELP YOU GOD." [L. 1935, c. 90, s. 5.]

Sec. 10906. Subpoenas; penalty for failure to comply. The coroner or any deputy coroner may issue subpoenas for the attendance of any witnesses that he may deem necessary to interrogate in the death then under investigation, returnable forthwith or at such place and time as he shall therein direct.

Any person who fails to comply with the requirements of such a subpoena shall be guilty of a misdemeanor and upon conviction before any district court having jurisdiction in the matter, shall be fined not exceeding twenty-five dollars. [L. 1935, c. 90, s. 6.]

Sec. 10907. Form for reduced testimony. The coroner or deputy coroner shall reduce his findings to writing in the following form:

"TERRITORY OF HAWAII

County (or City and County) of.....

CORONER'S INQUEST

An inquisition taken at.....county (or city and county) of.....on the..... day of..... in the year 19....before.....coroner of said county upon the body of.....there lying dead, resulted as follows:

That the deceased was named.....; and a native of.....; was aged about.....; that he came to h.....death, on the.....day of..... 19...., from.....

IN WITNESS WHEREOF, the said coroner has hereunto set his hand on this.....day of.....19...." [L. 1935, c. 90, s. 7.]

Sec. 10908. Duty to forward copy to county or prosecuting attorney. Every coroner, or deputy coroner, shall, without delay, forward to the county attorney in the case of coroners for the counties of Hawaii, Maui and Kauai, and the prosecuting attorney in the case of the coroner for the city and county of Honolulu, a true and correct copy of the inquisition. [L. 1935, c. 90, s. 8.]

Sec. 10909. Decent burial. When any coroner or deputy coroner shall take an inquest upon the dead body of a stranger or indigent person or, being called for that purpose, shall not think it necessary, on view of the body, that any inquest should be taken, he shall cause the body to be decently buried. [L. 1935, c. 90, s. 9.]

Sec. 10910. Witness fees and mileage; expenses. Every witness attending upon any coroner's inquest shall be paid one dollar for each day's actual attendance, and traveling expenses at the rate of ten cents a mile each way. The fees and mileage of witnesses and all reasonable expenses of the inquisition shall be paid by the county in which the same is held. [L. 1935, c. 90, s. 10.]

Sec. 10911. Removal of corpse. No corpse or remains of any dead human body appearing to have come to death by poisoning, violence, or in any suspicious manner, shall be moved or disturbed from its place of death or disposed of by any person including the coroner or his deputies, the chief of police, or any police officer without first receiving the authority of both the coroner or his deputy and the police officer in charge.

The removal of such body or bodies shall be the duty of the coroner. [L. 1941, c. 288, pt. of s. 1.]

Sec. 10912. Disposition of personal effects. The clothing and personal property found on any human body appearing to have come to death by poisoning, violence, or in any suspicious manner may be recovered and held as evidence by any police officer, pending the investigation of the facts and the final disposition of any trial which may arise out of such death. [L. 1941, c. 288, pt. of s. 1.]

Sec. 10913. Autopsies to be performed. The coroner shall have a complete autopsy performed of the remains of any human body appearing to have come to death by poisoning, violence, or in any suspicious manner. Such autopsies shall be performed by the city and county physician or his assistant in the city and county of Honolulu and in other counties by any government physician designated by the coroner. Such physician may request the services of a recognized pathologist to assist in the performance of any autopsy. If the coroner is of the opinion that a further or additional investigation as to the cause of death shall be made he shall have authority to have the same made, the expenses of which shall be paid by the county concerned. [L. 1941, c. 288, pt. of s. 1; am. L. 1943, c. 209, s. 1.]

Sec. 10914. Notice to next of kin, expense. It shall be the duty of the coroner called to investigate the death of any person to notify the next of kin, if known, of such death by telephone, letter, cable or radiogram, as each case may necessitate. The treasurer of the county in which such death occurs is hereby authorized to make the disbursement necessary to defray the expenses involved in such notification. [L. 1943, c. 209, s. 2.]

CHAPTER 242.

COMMON NUISANCE.

Sec. 11100. Defined. The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing or promoting, maintaining or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public; or is a public outrage against common decency or common morality; or tends plainly and directly to the corruption of the morals, honesty and good habits of the people; the same being without authority or justification by law:

As, for example: carrying on a trade, manufacture or business in places so situated that others indiscriminately, who reside in the vicinity, or pass in a highway or public place, or resort to a school house, meeting house or any other place of legal and usual resort or assembly, are liable to be thereby injured, annoyed, disturbed or endangered by deleterious exhalations, noisome vapors, hideous, alarming or disgusting sights, intolerable noise, or otherwise;

Spreading or endangering the spreading of smallpox, or other infectious disease; carrying an infected person, or causing him to pass through a frequented street; opening a hospital or pest house so as to endanger neighbors or the passersby in a frequented street, or otherwise;

Making or storing gunpowder in or near a populous or public or frequented place, without authority therefor, or otherwise making or storing the same contrary to law;

Blasting with excessive charge of giant powder or other explosives;

Making loud and troublesome noises by night;

Keeping animals that disturb the neighborhood by night;

Permitting ferocious or dangerous animals to go abroad;

Keeping a bawdy house;

Open lewdness or lascivious behavior, or indecent exposure;

Keeping a common gambling house;

Keeping a disorderly house to the public disturbance and annoyance;

Selling, dealing in, having in possession or using sneezing powder or any similar substance other than snuff. [P. C. 1869, c. 36, s. 1; am. L. 1913, c. 104, s. 1; R. L. 1925, s. 4413; R. L. 1935, s. 5700.]

See c. 51, Nuisances, Board of Health; destroying notices, cc. 248, 249; disorderly house, c. 252.

See s. 10403, termination of lease.

6 H. 740. Indecent exposure in public place, where it may be seen by others if they pass by,

is common nuisance, even though actually seen by one person only, 14 H. 304. Cattle on public highway, 21 H. 50. Question of fact not of law, 22 H. 327, 346. Obscenity, 34 F. 2d 86. See, 33 H. 428.

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**CHAPTER 248. DESTROYING OR DEFACING
 OFFICIAL NOTICES.**

Sec. 11175. Penalty. Any person who shall maliciously destroy or deface any notice put up in compliance with any statute, order of court, or order of the board of health, before the expiration of the period of the notice, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not to exceed one hundred dollars. [L. 1913, c. 94, s. 1; R. L. 1925, s. 4432; R. L. 1935, s. 5775.]

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CHAPTER 251. DISINTERMENT OF HUMAN BODIES.

Sec. 11200. Without permit of registrar general, prohibited. Application. No corpse, nor the remains of any dead human body, exclusive of ashes, shall be exposed, disturbed or removed from its place of burial, nor shall the receptacle, container or coffin holding the remains or corpse be opened, removed or disturbed after due interment, except upon written application made to the registrar general of births, deaths and marriages for a permit therefor and upon the issuance and according to the terms of a permit granted therefor by the said registrar general. After any removal or disturbance the grave shall be filled at once and restored to its former condition. [L. 1921, c. 111, s. 1; R. L. 1925, s. 4493; R. L. 1935, s. 5800; am. L. 1937, c. 195, s. 1.]

Sec. 11201. Fee. A fee of five dollars shall be charged by the registrar general for the issuing of such permit, the fee to be paid and accounted for to the treasury of the Territory; **provided**, however, that subject to the provisions of section 11200, the registrar general shall issue a permit, free of charge, to any municipal, territorial or federal officer, acting in his official capacity, or to representatives of the consular corps, or to any domestic or foreign corporation, association or organization not operated for profit which engages in public charity. [L. 1921, c. 111, s. 2; R. L. 1925, s. 4494; R. L. 1935, s. 5801; am. L. 1937, c. 195, s. 2.]

Sec. 11202. Penalty. The right of human sepulture is sacred, and shall not be disturbed except as provided by law. If any person, not having any legal right to do so, shall wilfully dig up, disinter, disturb, scatter, remove or convey away any human body, or the remains or bones, or any of the remains or bones thereof, from any cemetery, burial place, mausoleum, cave or vault, where the same has been legally interred or deposited, or shall wilfully break, disturb, scatter or remove the coffin, casket or burial clothes in which the body or remains shall have been interred or deposited, either in whole or in part, whether the cemetery, burial place, mausoleum, cave or vault be public or private property, or shall knowingly aid in any act as aforesaid, the person so offending, and all persons accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than two years, or by a fine not exceeding one thousand dollars. [P. C. 1869, c. 61; s. 1; am. L. 1909, c. 26, s. 1; R. L. 1925, s. 4495; R. L. 1935, s. 5802.]

Revised Laws of Hawaii, 1945

CHAPTER 263.

GROSS CHEAT.

UNWHOLESOME OR ADULTERATED FOOD.

Sec. 11363. Unwholesome provisions. Whoever shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions for the food of man, without making the same fully known to the buyer, is guilty of a gross cheat. [P. C. 1869, c. 21, s. 4; R. L. 1925, s. 4249; R. L. 1935, s. 5963.]

See c. 41, pure food and drug act, and c. 20.

Sec. 11364. Adulterating food, etc. Whoever shall knowingly compound, prepare, or adulterate any substance intended for food, drink, or medicine for man, with any ingredient or matter so as to render such food, drink, or medicine injurious to health; or knowingly procure such substance to be compounded, prepared, or adulterated, is guilty of a gross cheat. [P. C. 1869, c. 21, s. 5; R. L. 1925, s. 4250; R. L. 1935, s. 5964.]

See cc. 20, 41.

OLEOMARGARINE.

Sec. 11369. Sale of, as butter; penalty. Whoever knowingly sells to any person or offers for sale any butter manufactured from or by the use of oleomargarine, so called, unless the package containing the same shall be distinctly marked "oleomargarine," shall be deemed guilty of a misdemeanor and punished by a fine of not more than two hundred dollars or imprisoned not more than twenty days or both. [L. 1892, c. 84, s. 1; R. L. 1925, s. 4253; R. L. 1935, s. 5968.]

See cc. 20, 41, food and drugs.

Sec. 11370. Other semblances of butter; penalty. Whoever knowingly sells or offers for sale any substance purporting to be, or having the semblance of butter, which substance is not wholly made from pure cream or pure milk, unless the same is sold or offered for sale under its true and appropriate name, and unless, in case of a sale, each package, roll or parcel thereof, and each vessel containing one or more packages of the same, has distinctly and durably painted, stamped or marked thereon the true and appropriate name of the substance, in ordinary bold face capital letters, or unless, in case of a sale, there is delivered with each package, roll or parcel so sold, a label on which is plainly and legibly printed the true and appropriate name of the substance, shall be guilty of a misdemeanor and punished by imprisonment of not more than thirty days or a fine not to exceed two hundred and fifty dollars or both; but nothing contained in this section shall be construed to prevent the use of harmless coloring matter in the manufacture of butter. [L. 1892, c. 84, s. 2; am. L. 1903, c. 66, s. 1; R. L. 1925, s. 4254; R. L. 1935, s. 5969.]

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CHAPTER 274. POISONOUS DRINKS.

Sec. 11530. Methyl alcohol; penalty. No person shall knowingly have in possession, sell, or offer for sale any drink which contains methyl alcohol (commonly called wood alcohol) or any preparation or mixture of any kind whatsoever, containing methyl alcohol, which shall be intended for internal use by man. Any person violating the provisions of this section shall be guilty of a felony and be punished by imprisonment at hard labor not more than ten years. [L. 1925, c. 188, ss. 1, 2; R. L. 1935, s. 6130.]

See cc. 41, 55, 56 and ss. 7105 ff.

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CHAPTER 288. WATER, FURNISHING POTABLE.

Sec. 11781. Certificate. No water shall be furnished for potable purposes by any person or organization of any kind, county, municipal or territorial department, whether for pay or without pay, except after a certificate first obtained of the territorial board of health setting forth that the board has examined the potability of the water intended to be furnished, the source of its supply, the system of its distribution, and that the water, source and system of distribution are reasonably free from contamination and pollution and that the water at the time is in the opinion of the board suitable for potable purposes without danger to public health. [L. 1913, c. 103, s. 1; R. L. 1925, s. 4429; R. L. 1935, s. 6320.]

Sec. 11782. Notice to cease furnishing. No person or organization of any kind, county, municipal or territorial department shall continue to furnish water for potable purposes after written notice from the board of health that the water, the source of supply or system of distribution is not free from contamination or pollution, and that the water is in the opinion of the board unsuitable for potable purposes and dangerous to public health. [L. 1913, c. 103, s. 2; R. L. 1925, s. 4430; R. L. 1935, s. 6321.]

Sec. 11783. Penalty. Any person or organization of any kind who shall furnish or continue to furnish water for potable purposes contrary to the provisions of this chapter shall upon conviction be punished by a fine of not more than one hundred dollars. [L. 1913, c. 103, s. 3; R. L. 1925, s. 4431; R. L. 1935, s. 6322.]

WEAPONS. See s. 10834; also, cc. 135, Firearms; 239, Assaults; 241, Burglary; 254, Duelling; 265, Homicide; 273, Picketing; 277, Riots; 278, Robbery; 286, Trespass.

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CHAPTER 289. WEIGHT OF BREAD.

Sec. 11791. Weight of loaf; penalty for selling under weight. A loaf of bread for sale shall be one pound in weight. Bread, unless chiefly composed of rye or maize, shall not be manufactured for sale or sold except in the following net weights twelve hours after baking: three-quarters pound; one pound; one and a half pounds; two pounds or other pound weights.

Variations at the rate of one ounce per pound over and one ounce per pound under the above specified weights are permitted in individual loaves, but the average weight of not less than twenty-five loaves of any one unit of any one kind shall be not less than the weight prescribed by this chapter.

Twin or multiple loaves may be sold, **provided** they conform to the above weight requirements.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and punished by a fine of not more than twenty-five dollars for each offense. [L. 1919, c. 176, ss, 1-2; R. L. 1925, s. 4259; R. L. 1935, s. 6330.]

WRECKS, ESTRAYS, larceny of, s. 11434.

Revised Laws of Hawaii, 1945

CHAPTER 270.

MALICIOUS INJURY.

SCATTERING POISON.

Sec. 11492. Prohibition of scattering poison in certain places; penalty. Whoever wantonly or maliciously or for the purpose of revenge or with intent to destroy the life of any domestic animal or fowl scatters, throws, drops or deposits, or causes to be scattered, thrown, dropped or deposited any deadly poison, poisoned meat or poisoned food of any kind, or any vessel or container which shall have contained any deadly poison, poisoned meat or poisoned food of any kind, on any highway, street, road, alley or lane; or wantonly or maliciously or for the purpose of revenge scatters, throws, drops or deposits, or causes to be scattered, thrown, dropped or deposited any deadly poison, poisoned meat or poisoned food of any kind, or any vessel or container which shall have contained any deadly poison, poisoned meat or poisoned food of any kind in and about any yard, inclosure, pasture or field, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than one hundred nor more than five hundred dollars, or by imprisonment for not more than one year, or by both fine and imprisonment. [L. 1917. c. 23, s. 1; R. L. 1925, s. 4303; R. L. 1935, s. 6092.]

CHAPTER 301. MARRIAGE; MARRIED WOMEN; NAMES.

	Secs.		Secs.
Requisites; Domicile	12351-12354	Married Women: Property, Contracts, Suits	12365-12376
Marriage Licenses	12355-12359	When Deserted by Husband	12377-12380
Marriage Ceremony	12360-12361	Insurance of Husband's Life	12381-12383
Marriage Records	12362-12364	Names	12384-12388

Sec. 12351. Requisites of valid contract performed where. In order to make valid the marriage contract, it shall be necessary that the respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as of the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate; that the male at the time of contracting the marriage shall be at least eighteen years of age and the female at least sixteen years of age; that the man shall not at the time have any lawful wife living and that the woman shall not at the time have any lawful husband living; that neither of the parties shall be impotent or physically incapable of entering into the marriage state; that consent of neither party to the marriage shall have been obtained by force, duress or fraud; that neither of the parties shall be a leper or afflicted with any loathsome disease concealed from, and unknown to, the other party; and it shall in no case be lawful for any persons to marry in the Territory without a license for that purpose duly obtained from the agent appointed to grant marriage licenses; **provided**, however, that with the written approval of the circuit judge having jurisdiction over juvenile cases in the circuit within which she shall reside, it shall be lawful for a female under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject, however to the provisions of section 12352. The marriage ceremony shall be performed only in the judicial district in which the license is issued. [L. 1872, c. 23, s. 1; am. L. 1903, c. 28, s. 1; am. L. 1907, c. 42, s. 1; am. L. 1913, c. 8, s. 1; R. L. 1925, s. 2943; R. L. 1935, s. 4630; am. L. 1935, c. 185, s. 1; am. L. 1937, c. 59, s. 1; am. L. 1939, c. 122, s. 1.]

See s. 151, judicial districts.

Proof of marriage without record in civil cases, 1 H. 83; 4 H. 548; 26 H. 81. Presumption, 29 H. 716; 34 H. 161; 35 H. 756. Marriage by girl under fourteen only voidable, 6 H. 289. Statute as to Chinese being already married held void, 3 H. 631. If record of marriage introduced, not necessary to prove that license had been granted or that agent had authority

to grant same, 10 H. 440; or that celebrant had authority to solemnize, 10 H. 442. No marriage without mutual consent, 8 H. 77; 12 H. 329. License presumed from fact of marriage, 16 H. 377; 16 H. 502. Corroboration, 25 H. 392, 394. License is prerequisite to a valid marriage, 25 H. 397, followed in, 295 Fed. 636. Property accumulated, 29 H. 770, rev. 27 F. 2d 582. Cited: 26 H. 89, 96; 28 H. 581.

Sec. 12352. Consent of parent or guardian. Whenever any person who is under the age of twenty is to be married, the written consent, under oath, of his or her parents, or guardian or other person in whose care and custody he or she may be, shall accompany the application for a license to marry. [C. C. 1859, s. 1291; R. L. 1925, s. 2944; am. L. 1929, c. 104, s. 1; R. L. 1935, s. 4631.]

See s. 12202, annulment, nonage.

Marriage by female over fifteen but under eighteen years of age without consent of parent voidable; the words "having the care and gov-

ernment of such party" modify the words "other person", 26 H. 89. Consent of parties, 28 H. 581.

Sec. 12353. Contracted without the Territory. Marriages legal in the country where contracted shall be held legal in the courts of the Territory. [C. C. 1859, s. 1290; R. L. 1925, s. 2945; R. L. 1935, s. 4632.]

If legal where entered into, legal everywhere unless odious by common consent of civilized nations, 3 H. 489; 12 H. 329. Presumption, 29 H. 716.

Sec. 12354. Effect of marriage on woman's domicile. The domicile of any woman whose domicile at the time of marriage was in the Territory shall not be held to be changed by reason of marriage to a man whose domicile is in some foreign state, district, territory or country, unless such woman after marriage shall have assumed the actual domicile of her husband. [L. 1931, c. 51, s. 1; R. L. 1935, s. 4633.]

MARRIAGE LICENSES.

Sec. 12355. Agent to grant; fee. The board of health shall appoint, and at its pleasure remove, one or more suitable persons as agents in each judicial circuit, whose special duty shall be to grant marriage licenses, pursuant to the

provisions of this chapter. Upon the filing of an application for a license to marry, the agent shall collect from the parties making the application the sum of two dollars. Of this amount, the agent shall remit to the treasurer of the Territory, as a general realization, the sum of one dollar, and shall retain, as and for his compensation, the remaining one dollar. Every agent is authorized to administer the oaths required to be taken by this chapter. [P. C. 1869, c. 55, s. 14; am. L. 1905, c. 11, s. 1; am. L. 1917, c. 189, s. 1; am. L. 1921, c. 121, s. 1; R. L. 1925, s. 2946; am. L. 1929, c. 104, s. 2; am. L. 1932, 2d, c. 34, s. 1; R. L. 1935, s. 4634; am. L. 1937, c. 122, s. 7.]

Duties of license agents: ss. 3126, 3128.

Sec. 12356. Application; license; limitations. In order to secure a license to marry, the persons applying therefor shall appear personally before an agent authorized to grant marriage licenses and shall file with him an application in writing. Such application shall be accompanied by a statement signed and sworn to by each of the persons, setting forth: his or her full name, age, race, residence, occupation, if any; also their relationship, if any; the full names of parents, and whether living or dead; whether previously married and the manner of the dissolution of such prior marriage or marriages. The agent shall indorse on the application, over his signature, the date of the filing thereof.

At least three days shall elapse between the day of the filing of the application and the day of the issuance of the license; **provided**, however, that the district magistrate of the judicial district in which the application for the license is made may, upon the sworn petition of the persons making such application, setting forth sufficient reasons therefor, direct in writing that such license be issued forthwith, if satisfied that the same is advisable. Every license shall bear on its face the date of the issuance thereof. In case a license to marry is not called for within fifteen days after the date of the filing of the application therefor, such application shall become null and void and no license shall be issued thereon after the expiration of such period. Every license shall be of full force and effect for a period of thirty days commencing from and including the date of the issuance thereof. Upon the expiration of such period, such license shall become null and void and no marriage ceremony shall be performed thereon.

All applications and licenses shall be made and issued upon forms to be furnished by the board of health. [L. 1929, c. 104, s. 3; R. L. 1935, s. 4635.]

Sec. 12357. Of divorced person. Upon the application of any divorced person to any officer authorized to grant marriage licenses for a license to marry again, such officer shall, before granting such person a license to marry, require to be produced before him the original certificate of such person's divorce, or a duly certified copy thereof. [L. 1866, p. 3; repealed L. 1870, c. 10, s. 1; re-enacted L. 1874, c. 51, s. 2; am. L. 1903, c. 22, s. 2; R. L. 1925, s. 2947; R. L. 1935, s. 4636.]

Sec. 12358. Persons under age. Whenever any person who is under the age of twenty, whose parents are dead, applies for a license to marry, he or she shall set forth, in the statement accompanying the application, the name of his or her guardian or of any other person in whose care and custody he or she may be. [L. 1917, c. 189, s. 2; R. L. 1925, s. 2948; am. L. 1929, c. 104, s. 4; R. L. 1935, s. 4637.]

Sec. 12359. Applicant apparently under age. If any applicant for a license to marry appears to any agent to be under the age of twenty years, the agent shall, before granting a license to marry, require the production of a certificate of birth or other satisfactory proof showing the age of the applicant. [L. 1931, c. 65, s. 3; R. L. 1935, s. 4638.]

MARRIAGE CEREMONY.

Sec. 12360. License to solemnize. It shall not be lawful for any minister of religion of any sect whatsoever, or any other person, to perform the marriage ceremony within the Territory, without first obtaining from the president of the board of health a license to celebrate marriage. [C. C. 1859, s. 1283; R. L. 1925, s. 2949; am. L. 1929, c. 104, s. 5; R. L. 1935, s. 4639.]

Sec. 12361. By whom solemnized. The marriage rite may be performed and solemnized by any person duly authorized by law, upon presentation to

him of a license to marry, as prescribed by this chapter; who may be at liberty to receive the price to be stipulated by the parties, or the gratification tendered to him. [C. C. 1859, s. 1285; R. L. 1925, s. 2950; am. L. 1929, c. 104, s. 6; R. L. 1935, s. 4640.]

On duties of performers of marriage ceremony, see ss. 3125 ff. See also, limitations in ss. 12351, 12356; false personation, s. 11280.

If record introduced, not necessary to prove that celebrant had authority to solemnize, 10

H. 442. In adultery, testimony of clergyman that he was authorized to solemnize and that he performed marriage is admissible, 10 H. 440. No ceremony necessary, 16 H. 377, rev., 25 H. 397.

MARRIAGE RECORDS.

Sec. 12362. Record of solemnization; certificate to contracting parties; penalty. It shall be the duty of every person authorized to solemnize marriage to make and preserve a record of every marriage by him solemnized, comprising the names of the man and woman married, their place of residence, and the date of their marriage, and to deliver a certificate of the record of such marriage, signed by him, to the person married. The certificate shall be prima facie evidence of the fact of marriage in any proceeding in any court.

Every person authorized to solemnize marriage, who shall neglect to keep a record of any marriage by him solemnized, or to deliver a certificate thereof to the parties married, shall be subject, upon due proof of such neglect, to a fine of fifty dollars. [L. 1864, p. 21; am. L. 1903, c. 8, s. 2; am. L. 1911, c. 23, s. 1; R. L. 1925, s. 2951; R. L. 1935, s. 4641.]

Certificate inadmissible unless it purports to be copy of record, 1 H. 139. Record competent evidence to prove marriage, 10 H. 442. See 25 H. 392, 395.

Sec. 12363. Certificate to applicant; penalty. It shall be the duty of every person authorized to solemnize marriage, to deliver to any person requesting the same, a written certificate of the record of any marriage by him solemnized, upon being paid or tendered the sum of fifty cents.

Any person authorized to solemnize marriage who shall refuse, upon being paid or tendered the sum of fifty cents, to deliver to any person requesting the same, a certificate of the record of any marriage by him solemnized, shall upon due proof of such refusal, be subject to a fine of fifty dollars. [L. 1864, pp. 21, 22; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 2952; R. L. 1935, s. 4642.]

Sec. 12364. Delivery of records to board of health; penalty. Whenever any agent authorized to grant marriage licenses ceases to be such, or is directed to do so by the president of the board of health, or leaves the Territory, he shall deliver to the board all his records of marriage licenses, or upon the death of any such agent such records shall be delivered to the board by his executor, administrator or other legal representative.

Whenever any person holding a license to perform the marriage ceremony is directed to do so by the president of the board, or whenever such license is canceled or otherwise terminated or upon the departure from the Territory of any such person, he shall deliver to the board all his records of marriages, or upon the death of any such person such records shall be delivered to the board by his executor, administrator or other legal representative.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a fine not exceeding five hundred dollars. [L. 1864, p. 22; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 2953; am. L. 1929, c. 104, s. 7; am. L. 1931, c. 65, s. 2; R. L. 1935, s. 4643.]

NAMES.

Sec. 12384. Married women. Every married woman shall adopt her husband's name as a family name. [L. 1860, p. 32, s. 1; R. L. 1925, s. 3119; R. L. 1935, s. 4663.]

Sec. 12385. Legitimate children. All children born in wedlock shall have their father's name as a family name. They shall, besides, have a Christian name suitable to their sex. [L. 1860, c. 32, s. 2; R. L. 1925, s. 3120; R. L. 1935, s. 4664.]

Sec. 12386. Illegitimate children. All illegitimate children shall have their mother's name as a family name. They shall, besides, have a Christian name suitable to their sex. [L. 1860, p. 32, s. 3; R. L. 1925, s. 3121; R. L. 1935, s. 4665.]

Sec. 12387. How changed. It shall not be lawful to change any name adopted or conferred under this chapter, except upon a decree of the governor,

which decree shall be founded upon a petition executed by the person desirous of changing his name or in case of a minor by the parents or by such parent who has custody of the minor, or by the guardian, and shall be published once a week in each of three consecutive weeks in some newspaper of general circulation in the Territory in such decree mentioned, and the petitioner shall deposit in the office of the governor an affidavit executed by an officer of the newspaper publishing such decree, the affidavit to show that the decree has been published as provided herein; and shall have attached thereto a clipping showing the decree as published; **provided**, however, that nothing in this chapter contained shall prevent any court or judge of competent jurisdiction from embodying in a decree of adoption a provision for change of name of the person adopted, or from embodying in a decree of divorce a provision that a married woman may upon such divorce resume the use of her maiden name, or the name of a former husband.

The change of name provided for herein by decree of the governor shall be effective upon the date of the signing of the decree. In all cases of change of name, whether by judicial decree as aforesaid or by decree of the governor such decree shall be recorded in the bureau of conveyances and in cases of a decree of the governor a receipt showing such recording shall be filed with the governor of the Territory. All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed. [L. 1860, p. 32, s. 6; am. L. 1872, c. 30, s. 1; am. L. 1907, c. 75, s. 1; R. L. 1925, s. 3122; R. L. 1935, s. 4666; am. L. 1935, c. 93, s. 1.]

Sec. 12388. Report to registrar of births. The father or mother of any child shall report the name or names of the child to the registrar of births for the district in which the child was born, within three months after the birth of the child. [L. 1860, p. 32, s. 7; R. L. 1925, s. 3123; R. L. 1935, s. 4667.]

See s. 3120, registration of births.

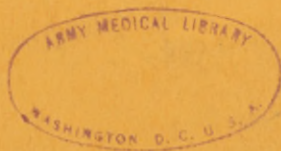
LAWS OF HAWAII

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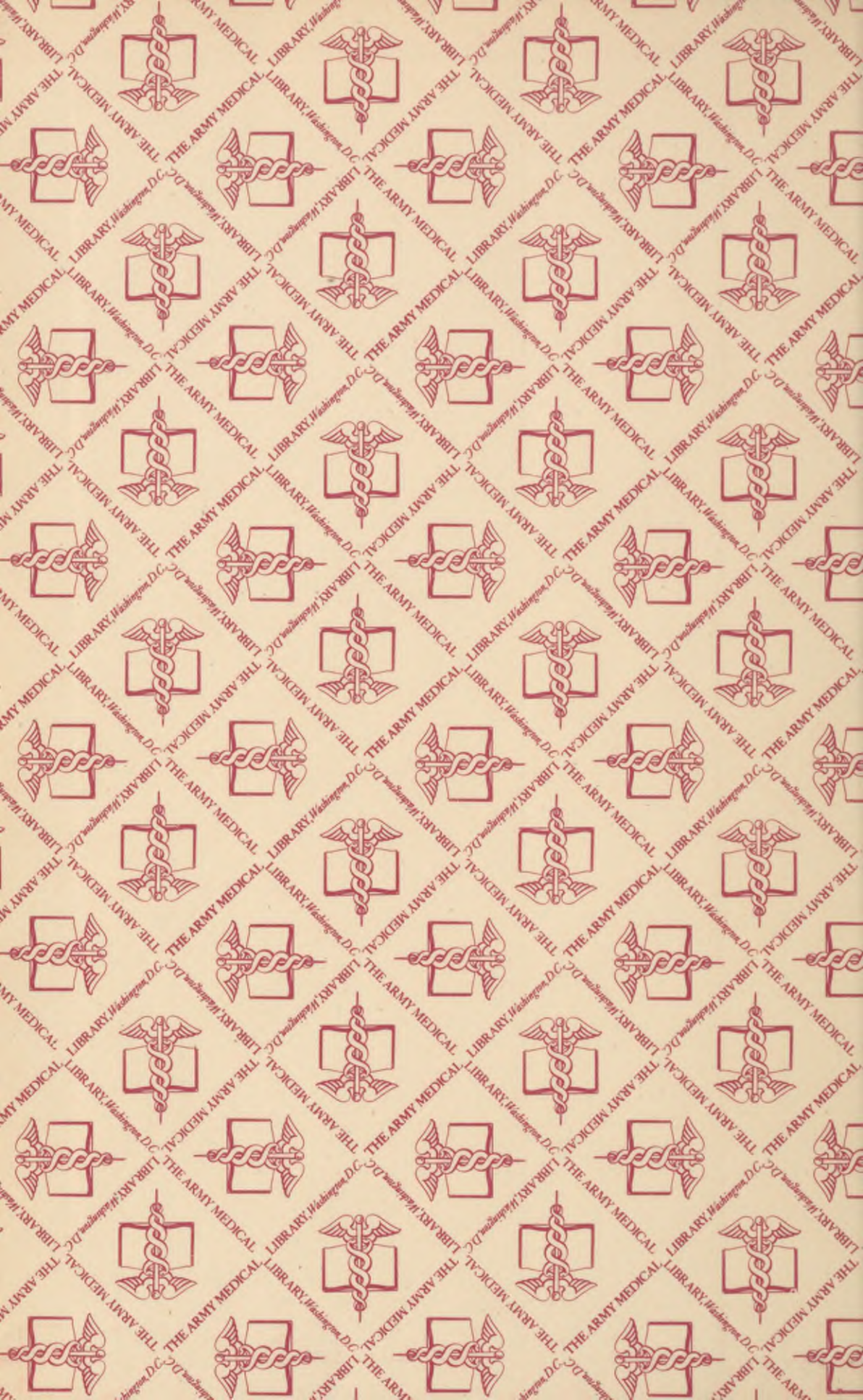
PUBLIC HEALTH



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Revised Laws of Hawaii, 1945
and
Session Laws of Hawaii, 1945



BOARD OF HEALTH
Territory of Hawaii
1946



Hawaii (Ter.) laws statutes, etc
Amendments

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ACT 18

An Act Relating to Public Health, Providing for a Bureau of Industrial Hygiene, Defining Its Powers and Duties, Amending Section 2015 of the Revised Laws of Hawaii 1945, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Bureau of Industrial Hygiene. There shall be a bureau of industrial hygiene in the board of health of the Territory of Hawaii.

Section 2. Enforcement, powers, and duties of the bureau. It shall be the duty of the bureau of industrial hygiene to enforce the rules and regulations of the board of health relating to or affecting industrial hygiene, and the bureau shall have the power and it shall be its duty to detect, prevent and control: (1) conditions and exposures affecting health which are associated with conditions of employment, (2) atmospheric pollution, (3) improper fumigation, (4) inadequate and improper ventilation, (5) sources of ionizing radiation, and (6) other similar conditions.

Further, the bureau may conduct research and investigations, and disseminate knowledge and information to the public, concerning conditions in places of employment (and areas and places adversely affected by such places of employment) which may be responsible for the development of occupational diseases, afflictions and poor health, and concerning all other matters which are the subject of its duties.

Section 3. Section 2015 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by changing the period at the end of subparagraph 20 thereof to a semicolon and adding a new subparagraph thereto to be numbered and to read as follows: "21. Sources of ionizing radiation."

Section 4. This Act shall take effect upon its approval.

(Approved May 2, 1951.) H.B. 476, Act 18.

ACT 28

An Act Relating to Public Health, to be known as the Bureau of Industrial Hygiene, and to amend the Laws of Hawaii 1915, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF HAWAII:

SECTION 1. The Bureau of Industrial Hygiene, which shall be a bureau of the Department of Health, shall be organized as follows:

SECTION 2. The Bureau of Industrial Hygiene shall consist of a Director, who shall be appointed by the Governor, and a Board of Industrial Hygiene, which shall be composed of the Director and such other persons as the Governor may see fit to appoint. The Board shall have the honor and respect of the office of public health, and shall be authorized to make and enforce such rules and regulations as may be necessary for the proper administration of the Bureau, and to cause to be made such surveys of working conditions and other matters as may be deemed necessary.

SECTION 3. The Bureau of Industrial Hygiene shall have the honor and respect of the office of public health, and shall be authorized to make and enforce such rules and regulations as may be necessary for the proper administration of the Bureau, and to cause to be made such surveys of working conditions and other matters as may be deemed necessary.

SECTION 4. The Bureau of Industrial Hygiene shall have the honor and respect of the office of public health, and shall be authorized to make and enforce such rules and regulations as may be necessary for the proper administration of the Bureau, and to cause to be made such surveys of working conditions and other matters as may be deemed necessary.

SECTION 5. The Bureau of Industrial Hygiene shall have the honor and respect of the office of public health, and shall be authorized to make and enforce such rules and regulations as may be necessary for the proper administration of the Bureau, and to cause to be made such surveys of working conditions and other matters as may be deemed necessary.

ACT 24

An Act Relating to Non-Diseased Children of Hansen's Disease Patients, Transferring the Care, Control and Custody of Such Children from the Board of Health to the Department of Public Welfare.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2436** of the Revised Laws of Hawaii 1945, as amended by Act 53 Series (A-72) of the Session Laws of Hawaii 1949, is hereby repealed.

Section 2. Chapter 85 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new section thereto to be numbered and to read as follows:

"Sec. 4829.01. Care, control and custody of non-diseased children of parents suffering from Hansen's disease. All non-diseased children of parents, one or both of whom are suffering from Hansen's disease are declared wards of the Territory and placed in the care, custody and control of the department during minority; provided, that the department shall permit any child born to parents, one of whom is non-diseased, to reside with its non-diseased parent, provided such parent is capable of caring for, educating and maintaining such child; provided, further, that the department may allow any non-diseased child to reside with such suitable family or person, as may be for the best interest of such minor and the public welfare; and provided, further, that the department may allow any suitable person to adopt any non-diseased child; but if one or both of such child's parents are living, the department shall first secure his or their written consent. Any non-diseased child, whether he resides with his non-diseased parent or with a suitable family or person, or with his adopted parent or parents shall be subject to medical examination from time to time as the board of health may deem necessary."

Section 3. In the event of passage of this Act, any amounts appropriated for the board of health for the 1951-1953 biennium which have been budgeted for the care, custody and control of such non-diseased children, shall be transferred to the department of public welfare.

Section 4. This Act shall take effect July 1, 1951.

(Approved May 4, 1951.) S.B. 171, Act 24.

ACT 29

An Act Combining the Puumaile and Hilo Memorial Hospitals; Creating the "Managing Committee, Puumaile and Hilo Memorial Hospital"; Conferring Powers and Imposing Duties Upon said Managing Committee, and Upon the County Attorney of the County of Hawaii; and Repealing Sections 6382, 6383, 6384 and 6385 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Establishment of the Puumaile and Hilo Memorial Hospital. The Puumaile Hospital and the Hilo Memorial Hospital in the county of Hawaii are hereby combined into a single organization to be known as the "Puumaile and Hilo Memorial Hospital".

Section 2. Managing committee, Puumaile and Hilo Memorial Hospital; establishment thereof. There is hereby established a board to be known as the "Managing Committee, Puumaile and Hilo Memorial Hospital", located in the county of Hawaii, consisting of seven members.

Section 3. Managing committee; appointment, terms, powers and duties. The chairman and executive officer of the board of supervisors of the county of Hawaii, with the approval of the board of supervisors, shall appoint the board to be known as the "Managing Committee, Puumaile and Hilo Memorial Hospital", hereinafter referred to as the "managing committee"; said managing committee shall consist of seven members, who shall serve without pay, but who shall be reimbursed for any traveling expenses incurred in the performance of their duties; the members of the said managing committee shall hold office for a term of four years, provided, however, that on the first appointment of the managing committee three members shall be appointed for a term of two years, two for a term of three years, and the remaining two members for a term of four years; thereafter all appointments shall be for four years, and any vacancy shall be filled by appointment for the remainder of the unexpired term. The managing committee shall select its own chairman from the members thereof and may establish rules and regulations for the conduct of its business and of the business of the Puumaile and Hilo Memorial Hospital. The managing committee shall have the full management and control of said hospital, and any and all units or divisions thereof, the improvements thereto and the maintenance and equipment thereof.

The managing committee shall have the full control of the expenditures of all moneys collected or made available by law or otherwise for the improvement, maintenance, equipment and operation of the Puumaile and Hilo Memorial Hospital. All such moneys shall be retained in and paid out of a special fund established for the purposes herein enumerated, which fund shall be and remain apart from the general fund or any other funds of the county of Hawaii. The managing committee shall make regular reports, as required by the board of supervisors of the county of Hawaii, as to the conduct, management and condi-

tion of said hospital. The managing committee may employ, and subject to the provisions of chapters 2 and 3, shall fix and pay the salaries and wages of doctors, nurses and other employees as it may deem necessary for the conduct of said hospital. All moneys collected or acquired by or made available for the use of the managing committee, and placed in the special fund created by this Act, shall be paid out on warrants drawn by the auditor of the county of Hawaii, upon claims and vouchers duly examined, approved and directed to be paid by the managing committee.

The county attorney of the county of Hawaii shall be and act as the legal adviser of the managing committee; the said county attorney's duties in this respect, shall include the handling of collections of delinquent accounts or other moneys found to be owing to the managing committee or to the said Puumaile and Hilo Memorial Hospital.

The managing committee shall appoint a superintendent of said hospital, to serve at the pleasure of the managing committee and who shall, subject to the direction and control of the managing committee, have the supervision and management of said hospital.

Section 4. Transfer of personnel. The superintendent of the Puumaile and Hilo Memorial Hospital is hereby authorized to transfer, according to their length of service, from Puumaile and Hilo Memorial Hospitals, to the Puumaile and Hilo Memorial Hospital, such employees whose employment is covered by chapters 2 and 3, Revised Laws of Hawaii 1945, as amended, as he may deem necessary, whose principal duties have been the performance of any function which has, or may at any time be, assigned to the Puumaile and Hilo Memorial Hospital in accordance with this Act. No such employee shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges by reason of such transfer, subject, however, thereafter to any changes in status made pursuant to chapter 2.

Any permanent employee whose principal duties have been the performance of any function which has been transferred to the Puumaile and Hilo Memorial Hospital, as the case may be, under this Act, shall, for each day following the termination of his services, receive termination pay, payable on a monthly basis in an amount according to one day's base pay for the position he held at the time of severance, provided, however, (1) that said termination pay shall not exceed a total amount equal to eighteen days' base pay, and, in addition, six days' base pay for each credited year of service with the Puumaile and Hilo Memorial Hospitals; (2) that such termination pay shall not accrue on or after any day on which such employee is reemployed by any territorial agency or in any public or private service; and, (3) that such termination pay shall not accrue following the date on which such employee refuses to accept an appointment to a position of equivalent classification in the civil service of the territory or its political subdivisions. Any such employee shall have top priority in transfer or reemployment to any position in any other territorial or county agency for which he qualifies and he shall be first employed by such agency in the event of any such opening or vacancy in that agency.

Claims for such termination pay shall be made to and approved

by the director of the territorial civil service commission upon such forms and with such supporting information as he may prescribe. Warrants in payment of such approved pay shall be drawn by the managing committee of the Puumaile and Hilo Memorial Hospitals and shall be paid out of the general revenues of the territory and there is hereby appropriated out of such general revenues sufficient moneys for this purpose.

Section 5. Repeal of other laws. **Sections 6382, 6383, 6384 and 6385** of the Revised Laws of Hawaii 1945, are hereby repealed.

Section 6. This Act shall take effect on January 1, 1952.

(Approved May 4, 1951.) **H.B. 169, Act 29.**

ACT 31

An Act to Amend Act 80 of the Session Laws of Hawaii 1949, Relating to Meetings of the Board of Health.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The quoted matter in subparagraph (1) of section 1 of Act 80, Session Laws of Hawaii 1949, is hereby amended to read as follows:

“The board shall hold at least three meetings a year at Kalaupapa and at Hale Mohalu, respectively, and at two of such meetings at each place the board may designate one or more of its members to hold the same. The patients shall be given an opportunity to be present and to be heard at such meetings.”

Section 2. This Act shall take effect upon its approval.

(Approved May 4, 1951.) S.B. 238, Act 31.

ACT 34

An Act to Create a Bureau of Nutrition of the Board of Health and to Provide for Its Duties.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Bureau of Nutrition. There shall be a bureau of nutrition in the board of health of the Territory of Hawaii. The bureau shall be empowered to:

(a) conduct staff education in nutrition for the personnel of the board of health;

(b) cooperate in training staffs of schools, welfare agencies, and other persons who deal with problems involving food and nutrition;

(c) cooperate in the solution of nutrition problems of other agencies, such as schools, boarding homes and institutions;

(d) stimulate interest in good nutrition and improved food practices in the territory through talks, literature, radio, newspapers, movies and exhibits;

(e) evaluate, prepare, and distribute nutrition education materials;

(f) give direct service on personal nutrition problems to members of the public through individual consultation, group conferences and correspondence;

(g) assist organizations in coordinating and planning nutrition education programs;

(h) conduct research in food habits and nutritional status; and

(i) conduct such other activities in the field of nutrition as the president of the board of health shall direct.

Section 2. This Act shall take effect upon its approval.

(Approved May 4, 1951.) H.B. 125, Act 34.

ACT 42

An Act Relating to Public Health; Establishing the Division of Preventive Medicine, and Defining the Powers Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added a new chapter to the Revised Laws of Hawaii 1945 to read as follows:

"CHAPTER 56.01. PREVENTIVE MEDICINE.

Sec. 2957. Division; director and assistants. There is hereby created under the board of health of the territory a division of preventive medicine which shall be in the charge of a director who shall be appointed in the manner provided by section 2004, who shall be a duly licensed physician of the territory, and who shall receive as compensation such amount as his position is entitled to under the operation of chapter 3. There shall also be appointed by the board of health a secretary of the division and such other professional and non-professional assistants to the director as the board of health shall deem necessary and for which appropriations are available.

Sec. 2958. Functions of the division. The powers, duties and functions of the division shall be, in accordance with rules promulgated by the board of health, as follows:

(1) To supervise and coordinate the activities of the board of health in the fields of preventive medicine, including the activities of the bureau of cancer control, the bureau of crippled children, the bureau of epidemiology, the bureau of geriatrics, the bureau of laboratories, the bureau of maternal and child health, the bureau of mental hygiene, the bureau of nutrition, the bureau of tuberculosis and the bureau of venereal diseases;

(2) To formulate and put into effect throughout the territory an educational program for the purposes of preventing disease and alleviating old age;

(3) To engage in the collection and analysis of statistical information pertinent to any of its activities;

(4) To cooperate with and propose methods and programs to other governmental agencies relating to the fields of preventive medicine; and

(5) To perform such other appropriate functions as may be assigned to it from time to time by the board of health."

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1951.) **H.B. 437, Act 42.**

ACT 62

An Act Amending Act 327 of the Session Laws of Hawaii 1949, Requiring the Furnishing of Statistics in Connection with Divorces and Annulments of Marriage and the Filing Thereof in the Bureau of Vital Statistics.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 327 (Series A-92) of the Session Laws of Hawaii 1949 is hereby amended by adding thereto a new section, to be numbered section 31-A, and to read as follows:

Sec. 31-A. Registration of divorces and annulments. Before any decree of divorce or annulment of marriage is signed, the person applying therefor shall prepare a certificate, on a form to be approved by the board, and file the same with the clerk of the court. The same shall contain such items of information as are recommended by the National Office of Vital Statistics and approved by the board. Within ten days after the final decree of divorce or annulment of marriage is granted, the clerk of the court shall endorse upon the certificate the date of the decree and shall forward the certificate to the registrar general."

Section 2. This Act shall take effect July 1, 1951.

(Approved May 10, 1951.) **H.B. 545, Act 62.**

ACT 64

An Act to Amend Section 2015 of the Revised Laws of Hawaii 1945, as Amended by Act 116 (A-42) of the Session Laws of 1945 and Act 71 (A-59) of the Session Laws of 1949, Relating to the Authority of the Board of Health to Make Regulations for the Public Health and Safety.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2015** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new paragraph at the end thereof to read as follows:

“The board may require such certificates, permits or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section.”

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1951.) H.B. 899, Act 64.

ACT 64

An Act to Amend Chapter 60 of the Revised Laws of Hawaii 1945 to Include a New Section Thereof to Require, Under Certain Conditions, the Registration of Lost or Abandoned Children and to Provide, with Certain Exceptions, for a Birth Record of Such Children.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 60 of the Revised Laws of Hawaii 1945 is hereby amended to include a new section to be numbered section §120.01 and to read as follows:

"Sec. 3120.01. Registration of abandoned or lost children.

Any person who shall find an abandoned or lost child and shall not thereupon within forty-eight hours return such child to its parent, parents, or guardian shall within ten days of the date of finding such child file with the registrar of the judicial district in which he shall have found such a child a certificate, on a form which shall be prescribed by the board, stating the sex, race, estimated date of birth, and place of finding of such child, the name, if any, of, or assigned to, such child, and the names, if known, of the parent, parents, or guardian of such child. On being filed under this section the certificate shall be the birth record of such child, unless, however, it shall appear that a birth certificate for such child has been filed under section 3120 or that some other lawful birth record for such child exists."

Section 2. This Act shall take effect upon its approval.

(Approved April 28, 1945.) H.B. 512, Act 64.

ACT 66

An Act to Amend Section 2317 of the Revised Laws of Hawaii 1945, Relating to Spitting in Certain Places.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2317 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2317. Spitting prohibited. No person shall spit or expectorate upon any railway passenger coach or other public conveyance, sidewalk, or any building mentioned in section 2316, except in a spittoon or cuspidor provided for such purpose."

Section 2. This Act shall take effect upon its approval.
(Approved April 28, 1945.) **H.B. 598, Act 66.**

ACT 73

An Act Providing for the Establishment of the Kauai Veterans Memorial Hospital at Waimea, Kauai.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There shall be established at Waimea, Kauai, a hospital to be known as the Kauai Veterans Memorial Hospital.

Section 2. The chairman and executive officer of the board of supervisors shall, with the approval of the board appoint a board to be known as the managing committee of the Kauai Veterans Memorial Hospital, consisting of not less than five nor more than seven members, who shall serve without pay, and who shall hold office for a term of four years; provided, however, that on the first appointment of the committee three members shall be appointed for a term of four years and the remaining members for two years; that thereafter all appointments shall be for four years, and that any vacancy shall be filled for the remainder of the unexpired term. The committee shall select its own chairman from the members thereof and may establish rules and regulations for the conduct of its business and of the business of the hospital. The committee shall have power to acquire land, construct buildings, and purchase supplies and equipment for the hospital. The committee shall have the full management and control of the hospital, the improvements there-to and the maintenance and equipment thereof, and the full control of the expenditure of all moneys made available by law or otherwise for the improvement, maintenance, operation and equipment of the hospital. The committee shall make regular reports, as required by the board of supervisors, of the conduct, management and condition of the Veterans Memorial Hospital.

The committee may employ and, except as otherwise provided by law, shall fix the pay, salaries and wages of doctors, nurses, and other employees as it may deem necessary for the conduct of the hospital.

All moneys appropriated or made available by law for the use of the committee for the hospital shall be placed in the special fund for the hospital established by this Act, and shall be expended under the direction of the committee.

The county attorney shall be and act as the legal adviser of the managing committee, and shall handle all legal matters concerning or affecting the hospital including the collections of delinquent accounts.

The auditor of the county of Kauai shall make an annual examination of the accounts and financial status of the committee. A copy of said audit report shall be filed with the board of supervisors.

Section 3. Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of the Congress of the United States to be expended in connection with or for the construction of the project or works authorized by this Act, whether or not any provision in this Act specifically provides for expenditure thereof in connection with federal funds, the proper ter-

ritorial or county officers, or both, charged with the expenditure of appropriated funds made available by law for use by the committee for the purposes of this Act shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer the funds appropriated or made available by law to such other officer, officers or agency of the territory or county (who are hereby given power to expend the same pursuant to this Act) for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such acts of said Congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such project or works.

Section 4. This Act shall take effect upon its approval.

(Approved May 17, 1951.) H.B. 167, Act 73.

ACT 92

An Act Amending the "Territorial Public Health Statistics Act", Enacted By Act 327 of the Session Laws of Hawaii 1949.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2 of the "Territorial Public Health Statistics Act" enacted by Act 327 of the Session Laws of Hawaii 1949, and being **section 3100.02** of the Revised Laws of Hawaii 1945, is hereby amended by amending subparagraphs (a), (b) and (c) thereof, respectively, to read as follows:

"(a) 'Public health statistics' includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, morbidity, marital status, and data incidental thereto."

"(b) Live birth is the complete expulsion or extraction from its mother of a product of conception that did, after complete expulsion or extraction from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle, whether or not the umbilical cord was cut or the placenta attached."

"(c) Fetal death is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, that did not, after complete separation from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle."

Section 2. Section 12 of the "Territorial Public Health Statistics Act", being **section 3100.12** of the Revised Laws of Hawaii 1945, is hereby amended by deleting the word "stillbirths" wherever the same appears therein and substituting therefore the words "fetal deaths".

Section 3. Section 13 of the "Territorial Public Health Statistics Act", being **section 3100.13** of the Revised Laws of Hawaii 1945, is hereby amended by deleting therefrom the word "stillbirth" wherever the same appears therein, and substituting therefor the words "fetal death".

Section 4. Section 27 of the "Territorial Public Health Statistics Act", being **section 3100.27** of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"(Sec. 3100.27). Section 27. Permit for removal, burial or other disposition of body. When a death or fetal death occurs or a dead body is found, the body shall not be disposed of or removed from the registration district until a permit has been issued by the local registrar, except that if the dead fetus is less than sixteen (16) weeks of gestation, no permit shall be required."

Section 5. Sections 28 and 29 of the "Territorial Public Health Statistics Act", being sections 3100.28 and 3100.29 of the Revised Laws of Hawaii 1945, are hereby amended by deleting therefrom the word "stillbirth" wherever the same appears therein, and substituting therefor the words "fetal death".

Section 6. This Act shall take effect upon its approval.

(Approved May 18, 1951.) S.B. 102, Act 92.

ACT 101

An Act to Require the Enrichment of Bread and Flour by the Addition of Certain Vitamins and Minerals and to Prescribe the Methods of Enrichment; and to Fix Penalties for Violation of the Same.

Be it Enacted by the Legislature of the Territory of Hawaii:

WHEREAS there exists a widespread deficiency of certain ingredients in foods necessary to the health and well-being of the people, it is necessary and advisable to protect so far as may be possible the health of the people of this Territory against such deficiency by providing for the addition of such necessary ingredients, normally present in wheat, to certain kinds of flour and bread. In the accomplishment of such purposes, it is necessary and advisable to promote uniformity in the laws applicable to both interstate and intrastate sales of such foods, and to that end to conform to the definitions and standards of identity and the labeling requirements for such foods now or hereafter promulgated by federal authorities pursuant to the provisions of the Federal Food, Drug and Cosmetic Act.

Section 1. When used in this Act, unless the context otherwise requires:

(a) The term "flour" includes and shall be limited to the foods defined as (1) flour, white flour, wheat flour, plain flour, (2) bromated flour, (3) self-rising flour, self-rising white flour, self-rising wheat flour, and (4) phosphated flour, phosphated white flour and phosphated wheat flour, in the definitions and standards of identity promulgated by the Federal Security Agency under date of May 26, 1941 (Volume 6, Federal Register, pages 2574 to 2582 inclusive), or as they may be amended, but does not include special flours not used for bread, roll, bun or biscuit baking, such as specialty cake, pancake and pastry flours.

(b) The term "enriched" as applied to flour (as above defined), means the addition to flour of the vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of identity of enriched flour, or enriched bromated flour, or enriched self-rising flour, as the case may be, as fixed and established by order of the Federal Security Agency on July 1, 1943 (Volume 8, Federal Register, pages 9115-9116), or as the same may be from time to time amended or modified.

(c) "White bread" means any bread, whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including, but not restricted to, Vienna bread, French bread, and Italian bread.

(d) "Rolls" includes plain white rolls and buns of the semi-bread dough type, such as soft rolls, hamburger, hot dog, Parker House, etc., hard rolls, such as Vienna, Kaiser, etc., all made without fillings or icings, but shall not include yeast-raised

sweet rolls or sweet buns, cinnamon rolls or buns, butterfly rolls, etc.

(e) The term "the board" means the board of health of the Territory of Hawaii.

(f) The terms "commissioner" and "deputy commissioners" mean the food commissioner and deputy food commissioners appointed under Chapter 41, Revised Laws of Hawaii 1945.

(g) The term "person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or an unincorporated organization to the extent engaged in the commercial manufacture or sale of flour, white bread or rolls.

Section 2. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale in this Territory, for human consumption therein, any flour (as defined in Section 1) unless the same shall be enriched (as above defined); provided, however, that the terms of this section shall not apply to flour sold to bakers or other commercial secondary processors if, prior to or simultaneously with delivery, the purchaser furnishes to the seller a certificate of intent in such form as the board of health shall by regulation prescribe certifying that such flour shall be used only in the manufacture, mixing or compounding of flour or white bread or rolls enriched to meet the requirements of this Act or of products other than flour or white bread or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate of intent to use the flour so purchased in any manner other than as stated in such certificate.

Section 3. It shall be unlawful for any person to manufacture, bake, sell or offer for sale, in this Territory, for human consumption therein, any white bread or rolls unless the same conforms to the definition and standard of identity then in effect for enriched bread, and enriched rolls or enriched buns, as fixed and established by order of the Federal Security Agency, or other appropriate federal agency or officer, pursuant to the provisions of the Federal Food, Drug and Cosmetic Act: provided, however, that if during any period after the effective date of this Act no such order of any such federal agency or officer fixing and establishing a definition and standard of identity for enriched bread, and enriched rolls or enriched buns, shall be in effect, it shall be unlawful for any person during any such period to manufacture, bake, sell or offer for sale in this Territory, for human consumption, any white bread or rolls unless the same conforms to the proposed definition and standard of identity for enriched bread and enriched rolls or enriched buns issued pursuant to the provisions of the Federal Food, Drug and Cosmetic Act under date of August 3, 1943 (Volume 6, Federal Register, pages 10780 to 10788 inclusive).

Section 4. It shall be unlawful to sell or offer for sale, in this Territory, for human consumption therein, any flour or wrapped white bread or rolls meeting the requirements of Sections 2 and 3 of this Act which fail to conform to the labeling

ACT 102

An Act to Amend Section 2552 of the Revised Laws of Hawaii 1945, Relating to the Bureau of Mental Hygiene of the Board of Health.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2552** of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By substituting for the words "private hospital" in the fifth line of the paragraph marked (4) in said section 2552 the phrase "individuals, hospitals, and institutions, whether governmental, charitable, or private,"; and

(b) By substituting for the word "hospital" in the ninth line of said paragraph marked (4) in said section 2552 the phrase "individuals, hospitals, and institutions, whether governmental, charitable, or private,".

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) **S.B. 245, Act 102.**

requirements of the Federal Food, Drug and Cosmetic Act, and the regulations promulgated thereunder, with respect to such product when introduced in interstate commerce; provided, this section shall not apply to white bread or rolls which bear no labeling of any kind and which are sold directly to the consumer by the manufacturer thereof.

Section 5. (a) The board, the commissioner and deputy commissioners shall have the power and authority, and shall be charged with the duty of enforcing the provisions of this Act, and shall have, in connection therewith, all the powers and duties conferred and imposed upon them by and pursuant to Chapter 41, Revised Laws of Hawaii 1945, and any amendments thereto.

(b) In the event of findings by the board or the commissioner that there is an existing or imminent shortage of any ingredient required by Sections 2 or 3 of this Act, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this Act, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from the labeling requirements of this Act until the further order of the board or the commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the board or the commissioner on its or his own motion may, and upon receiving the sworn statements of ten (10) or more persons subject to this Act that they believe such a shortage exists or is imminent shall, within twenty (20) days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The commissioner shall publish notice of any such hearing at least ten (10) days prior thereto.

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, after at least ten (10) days' notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than thirty (30) days after publication thereof, revoking such previous order; provided, however, that undisposed flour stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date, for sale in this Territory may thereafter be lawfully sold or disposed of.

(c) All orders, rules, and regulations adopted by the board,

and all orders of the commissioner pursuant to this Act shall be published in the manner prescribed by Section 2012, Revised Laws of Hawaii 1945, and, within the limits specified by this Act, shall become effective upon such date as the board or the commissioner shall fix.

(d) For the purposes of this Act, the commissioner and any of his deputies are authorized to take samples for analysis and to conduct examinations and investigations, and they shall have free access at all reasonable hours and the right to enter in and upon any factory, mill, warehouse, shop, or establishment where flour, white bread or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.

(e) If any person manufacturing, processing, packing, keeping for sale, exhibiting for sale, or offering for sale, any flour, white bread or rolls included within the provisions of this Act shall refuse to furnish the commissioner or any of his deputies, upon demand, either personal or in writing, a sufficient sample for the analysis of any such flour, white bread or rolls, which is or are in his possession, the commissioner or any of his deputies tendering the market price therefor, such refusal shall be prima facie evidence that such flour, white bread or rolls is or are not enriched as required by this Act.

Section 6. Any person who violates any of the provisions of this Act or the orders, rules, or regulations of the board under authority thereof, or the orders of the commissioner under Section 5 (b) hereof, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than five hundred dollars, or to imprisonment for not more than one hundred days, or both such fine and imprisonment, for each and any offense.

Section 7. The sum of \$5,000.00, or so much thereof as may be necessary for the purposes of this Act, is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated.

Section 8. This Act shall take effect upon its approval, but the Governor is authorized, by public proclamation, to suspend its operation for such period as he shall deem proper during the continuance of the present war.

(Approved May 8, 1945.) S.B. 224, Act 101.

ACT 103

An Act Relating to Nurses, and Amending Chapter 52 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 52 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2770. Definitions. A person practices nursing within the meaning of this chapter who for compensation (a) performs any service requiring the application of principles of the biological, physical and social sciences in the attendance on and care of a sick, invalid, or disabled human being hereinafter called 'patient', such as responsible supervision of a patient, requiring skill in observation of symptoms and reactions and the accurate recording of the facts, and carrying out of treatments and medications as prescribed by a licensed physician, and the application of such procedures in such attendance and care as involve understanding of cause and effect of disease and treatment in order to safeguard life and health of a patient and others, which shall constitute 'the theory and practice of nursing' as used in this chapter; or (b) performs such duties as are required in the physical care of a patient and in carrying out of medical orders as prescribed by a licensed physician, requiring an understanding of methods of easing and caring for the patient, but not requiring the scientific understanding and trained skill outlined in (a), which shall constitute 'practical nursing' within the meaning of this chapter.

'Board' when used in this chapter shall mean the board for the licensing of nurses.

'An accredited training school for nurses' within the meaning of this chapter shall constitute one which has been investigated and approved by the board.

Sec. 2771. Board of licensing, appointment, tenure. The governor shall appoint a board to consist of five members for the licensing of nurses, four of whom shall be nurses of at least five years' experience and holding diplomas from different training schools for nurses giving at least a two years' course in the theory and practice of nursing in a hospital and one of whom shall be a physician on the consulting staff of a hospital maintaining a training school for nurses.

Commencing from July 1, 1917, one member shall be appointed to hold office for one year, one for two years, one for three years, one for four years and one for five years. Upon the expiration of the respective terms of the members, their respective successors shall be appointed for a term of five years. Upon a vacancy occurring in the board, a member shall be appointed to fill such vacancy for the remainder of the unexpired term.

Sec. 2772. Organization, meetings. The members of the board shall meet annually on the second Tuesday of July in each year and shall elect a chairman and a secretary who shall hold their respective offices for the term of one year. The board shall hold regular meetings in each year, on the second Tuesday of January, April, July and October, and it may hold such additional meetings at such times as it may determine.

Sec. 2773. Licensing; revocation and suspension of certificates.

In order to safeguard life and health, no person shall practice or offer to practice nursing in the Territory of Hawaii for compensation unless licensed or excepted from licensing under this chapter. To receive a license, the applicant shall be required to submit satisfactory proof that he is qualified so to practice. Application for licensing shall be made upon blanks to be furnished by the board and shall be signed and sworn to by the applicant. Each applicant for licensing who shall furnish satisfactory proof that he is at least twenty years of age, is in good physical condition, and in good mental health, is free from any contagious or communicable disease and is of good moral character and mental health shall, upon payment of a fee of five dollars, be examined by the board. Upon such examination and (a) upon being found qualified in the theory and practice of nursing such applicant shall be licensed as a registered nurse with the right to use the title 'registered nurse', and the initials 'R. N.' and shall receive a certificate of such licensing from the board, signed by the chairman and secretary, or (b) upon being found qualified in practical nursing, such applicant shall be licensed as a practical nurse with the right to use the title 'practical nurse', and shall receive a certificate of such licensing from the board, signed by the chairman and secretary.

The board shall have the power to waive the examination of any applicant, otherwise qualified, upon satisfactory proof that the applicant has been registered as a nurse in another jurisdiction and has been graduated from a training school for nurses accredited by the League of Nursing Education.

The board after hearing may, by a vote of a majority of its members, revoke any certificate issued by it and cancel the license of any nurse or suspend such certificate for any of the following causes:

1. Wilful betrayal of a professional secret;
2. Conviction of any offense involving moral turpitude;
3. Habitual intemperance;
4. Habitual use of habit-forming drugs, such as opium, or any of its derivatives, morphine, heroin or cocaine;
5. Gross carelessness or manifest incapacity;
6. Affliction with a contagious or communicable disease.

In case any license is revoked or suspended for any of the causes named, the holder thereof shall be immediately notified in writing by the board of such revocation or suspension.

Every licensed nurse shall, between July 1 and September 1 of each year, renew his certificate by registering with the board and by paying a renewal fee of one dollar. Every certificate that is not so renewed shall expire on September 1, and shall not be renewed except upon the payment of the lapsed fee.

All expenses of the board shall be paid from the fees received by the board under the provisions of this chapter, and no salary or other expenses shall be paid out of the treasury of the Territory and all moneys received by the board shall be held by the treasurer as a special fund for meeting the expenses of the board.

Sec. 2774. Examinations. Examinations for registered nurse shall be in part in writing and in part in practical work, and shall include the theory and practice of nursing. Due credit shall be given for examinations in special branches. Examina-

ACT 105

An Act Relating to Reports of Serologic Tests for Syphilis, and Amending Section 2311 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2311** of the Revised Laws of Hawaii 1945 is hereby amended by amending the penultimate sentence thereof to read as follows:

“The duplicate copy of such report shall be forwarded to the board of health.”

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) **S.B. 288, Act 105.**

tions for practical nurse may be in part in writing, but shall, in the main, be in practical work.

Sec. 2775. Persons eligible for examination, etc. No person shall be eligible for examination or for licensing as a registered nurse, who shall not furnish satisfactory evidence of having been graduated from an accredited training school for nurses. All applicants for examination must furnish satisfactory evidence of good moral character and of having complied with the provisions of this chapter, relative to qualifications.

Sec. 2776. Exemption from examination. The board shall have power to license from time to time and upon payment of the fee, without examination, (a) as a registered nurse, a person who has been licensed or registered as a registered nurse elsewhere under laws which, in the opinion of the board, maintain a standard substantially similar to that established under this chapter for registered nurses, and who otherwise meets the standards established by the board, and (b) as a practical nurse, a person who has been licensed elsewhere under laws which in the opinion of the board maintain a standard substantially similar to that established under this chapter and who otherwise meets the standards established by the board.

The board shall also have power, in cases of emergency affecting the health and safety of the community (the existence of which such board shall be entitled, in their discretion, to determine), to waive in writing the requirements of qualifications and examinations established by this chapter, either as to individuals or generally, for a specific time fixed in such waiver.

The board of examiners shall file with the board of health of the Territory, monthly, a complete list of all nurses licensed by the board.

Sec. 2777. Powers and duties of board. The board shall examine and approve curricula and standards for schools and courses preparing persons for licensing under this Act. It shall provide for surveys of such schools and courses at such time as it may deem necessary or desirable. It shall examine applications for license for practical nurses and determine therefrom and by investigation and examination the individuals' fitness to be entrusted with the care of the sick. It shall examine, license and renew the certificate of license of duly qualified applicants. It shall have power to make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the rules and regulations prescribed thereunder, and in the course of such investigations before the board, each member of the board shall have power to administer oaths.

In all investigations made by the board and in all proceedings before it, the board shall have the same powers respecting compelling the attendance of witnesses and the production of documentary evidence and examining witnesses as are possessed by circuit judges at chambers. All subpoenas shall be signed by the chairman of the board.

If any person subpoenaed as a witness to attend before the board, or to produce any books, papers, or records called for by the process of the board, shall fail or refuse to respond thereto, or refuse to answer questions propounded by any member of the board, material to the matter pending before the board, it shall be the duty of any circuit judge, on application by the board, or any member thereof, to compel obedience

to any process of the board and to require any witness to answer questions put to him as aforesaid, and to punish as a contempt of court any refusal to comply with the court's order unless good cause is shown therefor. False swearing by any witness before the board shall constitute perjury and shall be punished as such.

Sec. 2778. Same; reports. The board shall keep a record of the names of all persons registered hereunder, and of all moneys received and disbursed by it. The board shall annually on or before July 1, make a report to the governor of the condition of nursing in the Territory, of all its official acts during the preceding year, and of its receipts and disbursements.

Sec. 2779. Exceptions. The provisions of this chapter shall not be construed as prohibiting gratuitous nursing by friends or members of the family, or as prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, as long as such persons do not practice nursing within the meaning of this Act, or as prohibiting nursing assistance in the case of an emergency; nor shall it be construed as prohibiting the practice of nursing by students enrolled in accredited schools of nursing or accredited courses for the training of attendants in the course and scope of their duties, nor by graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following such graduation; nor shall it be construed as prohibiting the practice of nursing in the Territory by any nurse duly licensed or registered in another jurisdiction whose engagement requires him to accompany and care for a patient temporarily residing in the Territory during the period and in the discharge of one such engagement, not to exceed six months in length, provided such person does not represent or hold himself out as a nurse licensed to practice in the Territory, nor shall it be construed as prohibiting the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his official duties.

Sec. 2780. Penalty. It shall be unlawful for any person to practice, or to offer to practice, nursing in this Territory or to use any title, sign, card, or any device to indicate that such a person is practicing nursing unless such person has been duly licensed and registered under the provisions of this chapter, for the type of nursing, i. e., as a registered nurse or as a practical nurse, which such person practices or offers to practice or uses such device to indicate such practice, or is excepted from the requirement of licensing under the provisions of this chapter. Any person violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars.

Sec. 2781. Rules and regulations; powers. The board is authorized to adopt and, from time to time, revise such rules and regulations not inconsistent with the law of the Territory, as may be necessary or desirable to enable it to carry into effect the provisions of this Act."

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 248, Act 103.

ACT 106

An Act to Amend Section 2581 of the Revised Laws of Hawaii 1945 Relating to Private Institutions for the Custody and Treatment of Persons with Mental Disorders, Mental Defectives and Other Incompetent Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2581** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the phrase "the commissioner of public health" in the twenty-first line thereof the phrase "the president of the board of health".

Section 2. This Act shall take effect upon its approval.
(Approved May 8, 1945.) **S.B. 292, Act 106.**

ACT 116

An Act to Amend Chapter 35 of the Revised Laws of Hawaii 1945, Relating to the Board of Health and Its Powers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 35 of the Revised Laws of Hawaii 1945 is hereby amended as follows:

a. By amending **section 2012** thereof:

(1) By inserting immediately after the comma immediately after the word "publication" in the third line of said section the word "which";

(2) By substituting a comma for the word "and" immediately following the word "persons" in the fourth line.

b. By amending **section 2015** thereof:

(1) By substituting for the words "mosquito larvae exist" in the fifth line of said section the words "mosquitoes breed or may breed";

(2) By amending the paragraph numbered 3 in said section to read as follows:

"3. Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, water courses, areas, and alleys;"

(3) By substituting for the term "Poisonous drugs" in the paragraph numbered 15 in said section the term "Poisons";

(4) Substituting a semi-colon for the period at the end of the paragraph numbered 16 in said section;

(5) By adding to, and at the end of, said section **2015** new paragraphs to be numbered and to read as follows:

"17. Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;

"18. Restaurants, food shops and stores, lunch wagons, lunch counters, soda fountains, vehicles used for the sale or distribution of food, and other places and things in or on which food, whether cooked or uncooked, is sold or offered for sale, or distributed or offered for distribution."

c. By amending **section 2017** thereof:

(1) By substituting for the phrase "midwives, laboratory technicians" in the fifth line of said section the phrase "midwives, masseurs, masseuses, laboratory directors, laboratory technicians";

(2) By substituting for the word "revoke" in the eighteenth line of said section the words "revoke or suspend";

(3) By substituting for the word "revoked" in the twenty-third line of said section the words "revoked or suspended".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1945.) S.B. 289, Act 116.

ACT 129

An Act Creating a Division of Hospitals and Medical Care in the Department of Health, Defining Its Powers, Duties and Functions, Providing for a Territorial Advisory Commission and County Advisory Health Committees, Providing for the Medical Care of Indigents and the Medically Indigent, Amending Sections 6233 and 6521 of the Revised Laws of Hawaii 1945, as Amended, and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Definitions. Whenever in this chapter the following words and equivalent expressions appear they shall have the following meanings, respectively:

"Board" means the board of health of the Territory of Hawaii.

"Commission" means the territorial advisory commission for hospitals and medical care created by this Act.

"County advisory group" means the local advisory health committee in each of the several counties.

"Indigent" means a person without adequate and proper means of subsistence, for the support of whom the department of public welfare is liable or responsible.

"Medically indigent" means a person otherwise able to subsist himself or herself, but who in the emergency of sickness is not able to care for the extra expenses necessary to maintain or restore health.

"Medical care" means all kinds of medical care, dental care, and maternity care, including surgical and medical care, eye care, (which includes optical appliances), materials, supplies and all other appliances used in the care, treatment and rehabilitation of patients, and hospitalization.

Section 2. Division of hospitals and medical care; establishment. There is hereby established in and under the board of health of the Territory of Hawaii, a division of hospitals and medical care. The said division shall be administered as directed by the board of health.

Section 3. Territorial advisory commission for hospitals and medical care. There is hereby created a territorial advisory commission for hospitals and medical care to consist of ten members who shall be appointed by the governor in the manner provided by section 80 of the Organic Act, and an eleventh member who shall be the person then holding the position of director of public welfare of the territory. The majority of the membership of the commission shall consist of doctors of medicine, hospital administrators, and representatives from allied professions; there shall be at least one representative from each of the county advisory groups; at least four of the total membership of the eleven members of the commission shall be doctors of medicine licensed to practice in the Territory of Hawaii.

The term of office of the appointive members of the commission shall be four years from and after the date of their re-

spective appointments; provided, that upon the first appointments four of said members shall be appointed for terms ending June 30, 1953, and three for terms ending June 30, 1954. Any vacancy occurring on said commission shall be filled by appointment, provided the one appointed to fill such vacancy on the commission shall serve only for the unexpired term of the person whom he succeeds.

Section 4. County advisory health committees; powers and duties. There shall be a county advisory health committee in each of the several counties of the territory. Each county advisory group shall be composed of not less than five nor more than seven members. The county health officer or his agent in each of the counties shall be a member of the county advisory group. The remaining members of the county advisory group in the city and county of Honolulu shall be appointed by the mayor, and in each of the other counties shall be appointed by the chairman of the board of supervisors.

The county advisory group in each county shall act as advisors to the board of supervisors in matters concerned with medical care of the indigent and medically indigent, and the costs thereof shall be borne as described in section 9 of this Act.

Section 5. Division of hospitals and medical care; powers and duties. The division of hospitals and medical care in the department of health shall perform all of the duties heretofore performed by such other bureaus or officers or employees within the board of health who have had charge of the administration of rules and regulations for the operation and maintenance of hospitals in the territory, and who have had administrative charge of duties of the department concerned with the medical care of the indigent and medically indigent in the territory. The division of hospitals and medical care shall include among its functions and duties the supervision of government physicians in the territory.

Section 6. Advisory commission for hospitals and medical care; powers and duties. The commission shall study conditions and the program and procedure existing in the territory for medical care of the indigent and medically indigent; the commission shall study and consider problems relating to hospital construction in the territory, hospital subsidies, inspections of hospitals and licensing of hospitals. The commission shall act as advisors to the board of health in regard to all matters concerning hospitals and medical care of the indigent and medically indigent.

Section 7. Medical care of indigent persons. All persons classed as indigents and receiving assistance from the department of public welfare shall be eligible for all types of medical care; the department of public welfare shall maintain current eligible lists of such persons.

Section 8. Counties to make determination of medically indigent. The determination of persons as medically indigent shall be the responsibility of the respective counties; each of the boards of supervisors shall employ qualified personnel to aid in the determination of who are medically indigent persons, and may receive assistance and advice concerning such determina-

tion from the department of public welfare and the county advisory group.

Section 9. Costs of medical care of indigent and medically indigent. The costs of medical care for the indigent and medically indigent persons in the Territory of Hawaii shall be paid by the territory.

The board of health shall approve semi-annual advances to each of the several counties, on the 1st day of July and 2nd day of January of each year, of sums estimated by each of the several counties as that needed for the costs of medical care. At the end of each semi-annual period the board of supervisors of each of the counties will certify to the board of health the amounts expended for medical care as provided in this Act. In the event the board of health shall determine that any sum or sums were paid by any county without authority or proper determination under this Act, said sum or sums shall constitute a deduction from the amount which would otherwise be advanced to the county for the semi-annual period next ensuing following the determination of such unauthorized expenditure.

All hospital charges for the care of indigent and medically indigent patients shall be paid by the respective boards of supervisors to the respective hospitals, without respect to whether such hospitals are publicly or privately owned or operated; payments to hospitals under this paragraph are to be based upon a flexible cost formula to be established by the board of health.

Section 10. Commission to replace hospital advisory council. All of the powers and functions now provided to be exercised and performed by the hospital advisory council established by executive order of the governor of Hawaii, dated March 14, 1948, shall devolve upon and be exercised and performed by the territorial advisory commission for hospitals and medical care.

Section 11. Board to make rules and regulations. The board of health shall make and publish rules and regulations to carry into effect and administer the provisions of this Act.

Section 12. All laws or parts of laws inconsistent herewith are hereby amended to conform to the provisions of this Act.

Section 13. There is hereby appropriated from the general funds of the Territory of Hawaii not otherwise appropriated the sum of fifty thousand dollars (\$50,000.00) to be expended by authority of the division of hospitals and medical care of the board of health for the administration of the provisions of this Act.

Section 14. There is hereby appropriated from the general funds of the territory not otherwise appropriated the sum of two million six hundred twenty-five thousand dollars (\$2,625,000.00) to be expended by the board of health for the costs of medical care for the indigent and medically indigent as provided in section 9 of this Act; provided, that as of the effective date of this Act, any funds appropriated to the department of public welfare, for contributions to costs of hospital and medical care, by House Bill No. 48 of the Twenty-sixth Legislature, if the same is enacted into law, shall lapse; and provided, further,

that any portion of the funds appropriated by this Act may, with the approval of the governor, be transferred to the department of public welfare for expenditure by that department in accordance with the requirements of federal laws or federal rules and regulations under which federal matching funds may be claimed by the territory.

Section 15. (a) **Section 6233** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting and repealing subsections 15 and 16 thereof.

(b) **Section 6521** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting and repealing subsections 40 and 41 thereof.

Section 16. This Act shall take effect on July 1, 1951.

(Approved May 21, 1951.) **H.B. 168, Act 129.**

ACT 132

An Act Relating to Certificates of Hawaiian Birth and Amending Section 12910 of the Revised Laws of Hawaii 1945.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 12910** of the Revised Laws of Hawaii 1945 is hereby amended by amending the first sentence thereof to read as follows:

“The secretary of the territory may, whenever satisfied that any person was born within the Territory of Hawaii, cause to be issued to such person a certificate showing such fact; provided, that such person has attained the age of one year.”

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1951.) **H.B. 494, Act 132.**

ACT 136

An Act to Amend Chapter 301 of the Revised Laws of Hawaii 1945, by Adding Thereto a New Section, Numbered 12356.01, Requiring, Subject to Certain Exceptions, a Premarital Examination, and Providing Penalties for Violation Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 301 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section, to be numbered 12356.01, reading as follows:

"Sec. 12356.01. Premarital examination requirement. (a) Except as in this section otherwise provided, no application for a marriage license shall be accepted by a marriage license agent unless accompanied by a physician's statement, signed by a licensed physician or by a commissioned medical officer of the United States army, navy, or public health service, that the applicant for such license has on a day named in such statement, which day shall be within a period of thirty days immediately prior to the first day on which such license may be issued, been given an examination for syphilis, including a serological test, and is not, in the opinion of such physician, infected with syphilis or, if so infected, is not, in his opinion, in a stage of syphilis which is, or may become, communicable.

(b) On the joint petition under oath of both parties desiring a marriage license and for sufficient cause satisfactorily proved to him by affidavit or otherwise, a circuit judge, if satisfied that the public health and welfare will not be injuriously affected thereby, may in his discretion make an order dispensing with compliance with the provisions of paragraph (a) as to either or both of the parties or extending for such parties by not more than sixty days to a day named in the order the period of thirty days mentioned in paragraph (a). The circuit judge shall, in his decision on such petition, state his findings of fact in support of the order. The order shall become effective according to its tenor when a certified copy of the order shall have been filed with the marriage license agent.

(c) The serological test shall be a serological test for syphilis approved by the board of health and performed in a laboratory of, or for such test approved by, the board of health. On request of a licensed physician the board of health shall perform such test without charge.

(d) After the completion of the serological test but prior to the issuance of the physician's statement, a written report of the test showing its result shall be transmitted to the physician by the director of the laboratory; one copy of the report shall be filed with the board of health by such director and another shall for one year be held on file at the laboratory for inspection by any authorized agent of the board of health. No physician's statement shall be effective under paragraph (a) unless accompanied on the same sheet by a statement signed by the laboratory director or his authorized subordinate of the name and completion date, but not the result, of the test and the name and address of the person whose blood was tested, and by a statement signed by the applicant that he is such person.

(e) No information secured from any examination, test, re-

port, statement or circuit judge's order or decision made under this section shall be divulged by any person except in the performance of his official duties or his professional or other employment, as contemplated by law, or in compliance with a court order, or except as to his own condition.

(f) Nothing in this section shall impair or affect any law or any ordinance, rule, or regulation made by authority of law, relative to the reporting of cases of syphilis discovered by physicians.

(g) Any person who shall by fraud or wilful misrepresentation circumvent or defeat, or attempt to circumvent or defeat, any purpose or provision of this section, or who, being a marriage license agent, shall accept any marriage license application in violation of this section, or shall with knowledge that any statement accompanying the application for such a license contains any false statement issue a marriage license, or who shall violate paragraph (e) of this section, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or by both such fine and such imprisonment.

(h) The board of health is hereby authorized to prescribe the form of the statements and the report mentioned in paragraph (d) of this section.

(i) All costs of examinations, tests and statements required by this Act shall be paid by the board of health from any moneys that may be appropriated for the expenses of said board."

Section 2. This Act shall take effect on July 1, 1945.

(Approved May 11, 1945.) **H.B. 511, Act 136.**

ACT 139

An Act to Amend Chapter 56, Sections 2951 and 2952, of the Revised Laws of Hawaii 1945, Relating to Definition of "Poison" and the Regulation of Poisons and Poison Containers.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 56 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By amending section 2951 thereof to read as follows:

"**Sec. 2951. Definition of poison.** The meaning of the term 'poison', as used in this chapter, in chapter 55, and in the laws relating to the board of health, shall include any chemical, drug, or preparation which has properties which are commonly considered poisonous or which is capable of affecting the human organism in such a way and to such an extent that its possession, sale, transfer, use or storage shall be found by the board of health in its rules and regulations to require regulation for the public health and safety."

(b) By substituting for the phrase "the sale or other disposal of poisons and containers in which poisons have been confined" in **section 2952** thereof the phrase "poisons and poison containers".

Section 2. This Act shall take effect upon its approval.
(Approved May 11, 1945.) **H.B. 637, Act 139.**

ACT 140

An Act to Amend Section 2016 of the Revised Laws of Hawaii 1945 Authorizing the Board of Health to Prescribe Rules and Regulations Relating to Barbers, Hairdressers, Cosmeticians, Cosmetologists, Beauticians, and Tattoo Artists, and the Carrying on of Their Occupations.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2016 of the Revised Laws of Hawaii 1945 is hereby amended to read:

"Sec. 2016. Barbers, hairdressers, cosmeticians, cosmetologists, beauticians and tattoo artists. The board of health, with the approval of the governor, shall be authorized to prescribe rules and regulations which it shall deem necessary for the public health and safety relative to barbers, hairdressers, cosmeticians, cosmetologists, beauticians, and tattoo artists, and the carrying on of their occupations."

Section 2. This Act shall take effect upon its approval.
(Approved May 11, 1945.) **H.B. 639, Act 140.**

ACT 110

An Act to Amend Section 2010 of the Revised Laws of Hawaii 1955 Authorizing the Board of Health to Issue Rules and Regulations Relating to Barber, Hairstyler, Cosmetologist, Beautician and Tattoo Artists and the Carrying on of Their Occupations

As amended by the Legislature of the Territory of Hawaii

Section 1. Section 2010 of the Revised Laws of Hawaii 1955 is hereby amended to read:

"Sec. 2010 - Barber, hairstyler, cosmetician, cosmetologist, beautician and tattoo artist. The board of health with the approval of the governor shall be authorized to issue rules and regulations which it shall deem necessary for the public health and safety relative to barber, hairstyler, cosmetician, cosmetologist, beautician, and tattoo artist, and the carrying on of their occupations.

Section 2. This Act shall take effect upon its approval.

(Approved May 11, 1957, H.R. 600, H.R. 100)

ACT 145

An Act Defining the Crime of Providing
Minors With Habit-Forming Drugs and Setting Forth
the Penalty Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Any person selling or giving any habit-forming drug or marijuana to any person under the age of eighteen years, or inducing any person under the age of eighteen years to buy, receive, take, inject, or smoke any habit-forming drug or marijuana, except as permitted by chapter 49 of the Revised Laws of Hawaii 1945, as amended, shall, upon conviction therefor, be punished by imprisonment at hard labor for not more than twenty years.

Section 2. For the purposes of this Act, "habit-forming drug" shall have the meaning set forth in section 2601 of the Revised Laws of Hawaii 1945, as amended by Act 9 (Series A-84) of the Session Laws of Hawaii 1949.

Section 3. This Act shall take effect upon its approval.

(Approved May 23, 1951.) **H.B. 528, Act 145.**

ACT 154

An Act Making an Appropriation of \$15,000 to Set Up a Revolving Fund to be Used and Expended By, or Under the Direction of, the President of the Board of Health for Rodent Control.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of fifteen thousand dollars is hereby appropriated out of the moneys in the treasury received from general revenues as a revolving fund to be expended by the president of the board of health or under his direction for the purchase of rat proofing materials and supplies, such as sheet metal, wire cloth, nails, fine wire, traps, poison, gas, and tools, which shall be sold by him or under his direction at cost to persons requiring them in order to make their premises rat proof or to prevent rats from going into or out of their premises. All moneys received from the sale of such materials shall be paid into the fund and shall by him or under his direction be used for the purchase of other such materials which shall be sold as herein provided.

Section 2. This Act shall be effective upon its approval.
(Approved May 14, 1945.) **H.B. 514, Act 154.**

ACT 155

An Act to Amend Chapter 55 of the Revised Laws of Hawaii 1945, by Amending Sections 2901 and 2902 Thereof, Repealing Section 2903 Thereof, Making Unlawful and Subject to Penalties Certain Acts of Persons Not Licensed as Pharmacists or Assistant Pharmacists and the Permitting or Causing of Such Acts by Certain Other Persons, and Authorizing Enforcement of Section 2901.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 55 of the Revised Laws of Hawaii 1945 is hereby amended:

(a) By amending section 2901 thereof to read as follows:

"Sec. 2901. License required. (a) It shall be unlawful (1) for any person not licensed as a pharmacist to conduct or manage any pharmacy, drug store, apothecary shop, or other place of business, for the compounding, dispensing or selling at retail of any drug, pharmaceutical, or medicine, or for the filling of any prescription, (2) for any person not licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any drug, pharmaceutical, or medicine, or to fill any prescription, except under the immediate supervision of a person licensed as a pharmacist, and (3) for any person not licensed as a pharmacist to conduct, manage or keep open for business at retail any store, shop, or other place of business which has over, upon or connected therewith any sign containing any of the words or names 'Apothecary Shop', 'Drug Store', 'Pharmacy', 'Drugs', 'Drug Sundries', 'Drug Preparations', 'Drug Supplies', 'Pharmaceuticals', 'Pharmacy Supplies', 'Medicines', or the like, in any language, or which is advertised in any language as a pharmacy, drug store, apothecary shop, or other place of business for the compounding, dispensing or selling at retail of any drug, pharmaceutical, or medicine, or for the filling of any prescription.

(b) It shall be unlawful for any owner, manager, or employee of any pharmacy, drug or chemical store, apothecary shop, or other place of business to cause or permit any person subject therein to his direction to violate any provision of this section.

(c) This section shall not make it unlawful (1) for any licensed practitioner of medicine, dentistry, osteopathy, or veterinary to compound, dispense, sell, or deliver any medicines in the course of the treatment of his patients or (2) for any person to sell or deliver or offer to sell or deliver (a) any household remedies which the board of health may by rule or regulation adopted with the approval of the governor find to be in such common use and of such commonly known properties that they may without jeopardizing the public health, safety or welfare be sold by such person under such reasonable conditions as may be required by such rule or regulation or (b) any patent or proprietary drug, pharmaceutical, or medicine which is not a poison."

(b) By amending section 2902 thereof to read as follows:

"Sec. 2902. Penalty; enforcement. Whoever shall be guilty of any act or omission which is unlawful under section 2901

shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year or by both such fine and such imprisonment. The board of health, the board of pharmacy, and any law enforcement officer of the Territory or of any county shall be authorized to enforce section 2901."

(c) By repealing **section 2903** thereof.

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1945.) **H.B. 638, Act 155.**

ACT 157

An Act Amending Chapter 43 of the Revised Laws of Hawaii 1945, as Amended, Relating to Hansen's Disease and the Powers and Duties of the Board of Health.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2401 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 2401. Establishment of hospitals, etc.; treatment and care of persons affected with Hansen's disease. The board of health, subject to the approval of the governor, shall establish such hospitals, settlements and places as it shall deem necessary for the care, treatment and segregation of persons affected with Hansen's disease.

At every such hospital, settlement and place there shall be exercised every reasonable effort to effect a cure of such persons, and all such persons shall be cared for as well as circumstances will permit, and given such liberties as may be deemed compatible with public safety and in the light of advances in medical science and in accordance with accepted practices elsewhere. Such treatment shall be compulsory only in those cases where, in the opinion of the board, such treatment is necessary to save life or prevent obvious physical suffering, and the board may take such measures as may be necessary to enforce the provisions of this section."

Section 2. **Section 2401.02** of the Revised Laws of Hawaii 1945, as enacted by Act 392 of the Session Laws of Hawaii 1949, is hereby amended in the following respects:

1. By substituting for the words "the hospital" in the eleventh line thereof the words "any such hospital, settlement or place for the care and treatment of persons affected with Hansen's disease"; and

2. By substituting for the words "the hospital" in the thirteenth and twenty-first lines thereof the words "such hospital, settlement or place".

Section 3. **Section 2403** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By deleting from the title thereof the words "and rules"; and

2. By deleting therefrom the last two sentences.

Section 4. **Section 2409** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By deleting the phrase "or to the board of health or its authorized agent," in the third and fourth lines thereof;

2. By deleting the words "or the board of health" in the fifth line thereof; and

3. By deleting the last sentence thereof.

Section 5. **Section 2410** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By substituting for the words "hospitals and settlement" in the third, fifth, ninth, eighteenth and twenty-first lines thereof the word "health"; and

2. By adding a comma immediately following the word "hospital" in the eighteenth line and by substituting for the words "or transfer to the settlement," in the eighteenth and nineteenth lines the words "settlement or place for the care and treatment of persons affected with Hansen's disease,".

Section 6. **Section 2411** of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By substituting for the phrase "such hospital" in the third line thereof the phrase "any such hospital, settlement or place for the care and treatment of persons affected with Hansen's disease"; and

2. By substituting for the word "hospital" in the fifth and eighth lines thereof the words "hospital, settlement or place".

Section 7. **Section 2412** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By substituting for the words "such hospital or any other place" in the first and second lines thereof the words "any such hospital, settlement or place for the care and treatment of persons affected with Hansen's disease"; and

2. By substituting for the word "hospital" in the third line thereof the words "hospital, settlement or place".

Section 8. **Section 2413** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting for the phrase "whether at the hospital or at the settlement at Molokai," in the first and second lines thereof the phrase "at any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease,".

Section 9. **Section 2416** of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By substituting for the words "the Kalihi hospital or at the settlement at Molokai" in the third line thereof the words "any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease";

2. By adding immediately following the word "times" in the fourth line thereof the phrase "and subject to such conditions"; and

3. By substituting for the word "hospital" in the eleventh line thereof the words "hospital, settlement or place".

Section 10. **Section 2417** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the phrase "the Kalihi receiving hospital and the settlement at Kalaupapa, Molokai," in the first sentence of said section, the phrase "any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease,".

Section 11. **Section 2424** of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

1. By deleting from the subtitle thereof the words "at Kalihi Hospital";

2. By deleting the words "at Kalihi receiving hospital," in the second line thereof; and

3. By substituting for the words "said hospital," in the second and third lines thereof the words "any such hospital, settlement or place,".

Section 12. **Section 2424.01** of the Revised Laws of Hawaii 1945, as enacted by Act 229 of the Session Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By substituting for the word "station" in the third and seventh lines thereof the word "place"; and

2. By substituting for the words "hospitals and settlement," in the sixth line thereof the word "health,".

Section 13. **Section 2425** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 2425. Board to make rules and regulations. The board of health, with the approval of the governor, may adopt such rules and regulations as it may consider necessary for the conduct of all matters pertaining to Hansen's disease, the treatment thereof, the care, custody, control and segregation of all persons affected with such disease, the care, discipline and maintenance of voluntary helpers, or kokuas, and the full and complete governance of the county of Kalawao, except as limited by such provisions as may elsewhere be contained in this chapter. Such rules and regulations when published in accordance with the provisions of section 466, as amended, shall have the force and effect of law."

Section 14. **Section 2430** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting for the phrase "the settlement at Kalaupapa, county of Kalawao, or at the Kalihi hospital, city and county of Honolulu," in the first sentence thereof the phrase "any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease,".

Section 15. **Section 2438** of the Revised Laws of Hawaii 1945, as amended, is further amended by substituting for the words "hospitals and settlement" in the subtitle and in the second and third lines thereof the word "health".

Section 16. **Section 2439** of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the words "hospitals and settlement" in the third line thereof the word "health".

Section 17. **Section 2440** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting for the words "hospitals and settlement" in the second line thereof the word "health".

Section 18. **Section 2442** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting for the words "hospitals and settlement" in the third and fourth lines thereof the word "health".

Section 19. Chapter 43 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new section to be numbered 2443 and to read as follows:

"Sec. 2443. Penalty. Any person violating any of the provisions of this chapter, or any rule or regulation of

the board of health relating thereto, shall be deemed guilty of a misdemeanor. Except as herein otherwise provided, the punishment therefor shall be the same as provided by section 2020."

Section 20. Sections 2407, as amended, 2421, as amended, and 2432 of the Revised Laws of Hawaii 1945 are hereby repealed.

Section 21. The provisions of this Act shall not be construed as amending, modifying or repealing existing rules and regulations of the board of health relating to Hansen's disease.

Section 22. This Act shall take effect ten days after promulgation as required by section 2 of the Revised Laws of Hawaii 1945.

(Approved May 23, 1951.) S.B. 495, Act 157.

ACT 171

An Act to Amend Chapter 42 of the Revised Laws of Hawaii 1945, Relating to Infectious and Communicable Diseases by Requiring Immunization Against Certain Epidemic Diseases.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 42 of the Revised Laws of Hawaii 1945 is hereby amended by amending sections 2331 to 2338 thereof, inclusive, and the headnote thereto, to read as follows:

"VACCINATION AND IMMUNIZATION

Sec. 2331. Vaccination against smallpox. Every person residing within the Territory or remaining in the Territory for a period of more than ninety (90) days who is over the age of six months and not successfully vaccinated against smallpox shall be successfully vaccinated against the same. Such vaccination shall be effected within one month after the same shall be required hereunder. Such vaccination shall not be considered successful unless upon examination or the presentation of satisfactory evidence a licensed physician or authorized representative of the board of health shall certify that an immune, accelerated or primary reaction resulted therefrom.

Sec. 2332. Vaccination against typhoid and paratyphoid fevers. Every person residing within the Territory or remaining in the Territory for a period of more than ninety (90) days who is over the age of three years and not vaccinated against typhoid and paratyphoid fevers shall be so vaccinated. A course of doses for the purpose of effecting such vaccination shall be begun within one month after the same shall be required hereunder. Such vaccination shall consist of three doses of combined typhoid-paratyphoid vaccine administered not less than five days apart nor more than fifteen days apart. Children under fifty pounds in weight shall receive one-half the normal adult dosage.

Sec. 2333. Immunization against diphtheria. Every person residing within the Territory or remaining in the Territory for a period of more than ninety (90) days who is over the age of nine months and under the age of ten years and not immunized against diphtheria shall be so immunized. A course of doses shall be instituted for the purpose of effecting such immunization within one month after the same shall be required hereunder. Such immunization shall consist of two doses of diphtheria toxoid administered not less than four weeks apart nor more than eight weeks apart.

Sec. 2334. Performance of vaccination and immunization. Any vaccination or immunization required by sections 2331, 2332 or 2333 may be performed by a licensed physician or by an authorized representative of the board of health. Upon satisfactory completion of any vaccination or immunization, a certificate shall be signed and issued by the physician or by a representative of the board of health, as the case may be, to the person vaccinated or immunized, or to his parent or guardian, setting forth the name and address of such person, the serial number of the Territory of Hawaii identification certificate issued to such person, the date of such vaccination or immunization and, in the case of any smallpox vaccination, the result thereof. Such person shall promptly thereafter present his Ter-

ritory of Hawaii identification certificate to an authorized representative of the board of health, who shall affix thereto a stamp setting forth the performance of such vaccination or immunization.

Sec. 2335. Exemptions. In the event that any licensed physician or an authorized representative of the board of health shall certify that by reason of existing illness, infirmity, age or other stated cause the health of any person required hereby to be vaccinated or immunized would be endangered by such vaccination or immunization such person shall be exempt from such vaccination or immunization. The Territory of Hawaii identification certificate of any person so exempted shall be promptly presented by such person to an authorized representative of the board of health who shall affix to it a stamp showing such exemption.

Sec. 2336. Duplicate identification certificates. In the event that a duplicate Territory of Hawaii identification certificate shall be issued to any person he shall promptly present the same to an authorized representative of the board of health who shall affix thereto a stamp or stamps showing the vaccination, immunization or exemption of such person.

Sec. 2337. Forms and procedures. The board of health shall prescribe forms and procedures for effectuating the provisions of this subtitle; may establish immunization stations at convenient locations throughout the Territory for the purpose of performing vaccinations and immunizations, and of affixing to registration certificates the required stamps; and shall maintain roster stations at each of the cities of Honolulu, Hilo, Wailuku, Lihue, and Kaunakakai, at each of which stations shall be maintained a complete roster of all vaccinations and immunizations performed upon the island where such station is located.

Sec. 2338. [Duty of adult, or of parent or guardian.] It shall be the duty of every person required to be vaccinated or immunized, or to do any other act, unless a minor or incompetent, to cause such vaccination or immunization or other act to be performed. If such person shall be a minor or incompetent, it shall be the duty of his parent or guardian having his care, custody and control to cause such vaccination or immunization or other act to be performed."

Section 2. Said chapter 42 is hereby further amended by repealing sections 2339 and 2340 thereof.

Section 3. This Act shall take effect upon its approval.
(Approved May 15, 1945.) **H.B. 473, Act 171.**

ACT 173

An Act to Amend Section 2503 of the Revised Laws of Hawaii 1945 Relating to the Board of Medical Examiners and the Qualifications for Examination for License to Practice Medicine.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2503 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2503. Board of medical examiners; qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery except upon the written report of a board of medical examiners, to be appointed and constituted as in this chapter provided, setting forth that the applicant named therein has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for such examination he shall have furnished proof satisfactory to the board of examiners that he:

(a) (1) is a citizen of the United States; or (2) if not a citizen of the United States, has declared his intention to become a citizen of the United States, as provided by law;

(b) has been a resident of the territory for at least one year; except that a person who has changed his residence to the territory shall have been continuously physically present in the territory for at least nine months of his legal residence in the territory;

(c) is of good moral character;

(d) is a graduate of a medical school or college approved by the council on medical education and hospitals of the American medical association, or in lieu thereof has actively practiced, either in some other jurisdiction, or in the United States army or navy or public health service, as a licensed physician of medicine or surgery for ten out of the eleven years immediately preceding the date of application to take such examination;

(e) has served an internship of at least one year either in a hospital which has been certified or approved for the training of interns and resident physicians by the American Medical Association Council on medical education and hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board of medical examiners to possess standards substantially the equivalent of those required for such American Medical Association approval;

(f) has visited a territorial institution devoted to the care of patients suffering from Hansen's disease and is possessed of a written statement from the physician in charge that he is familiar with the general clinical manifestations of Hansen's disease.

Diplomates of the National Board of Medical Examiners who meet the requirements of subparagraphs (a), (b), (c),

(d), (e) and (f) above, shall be licensed without the necessity of any further examination.

The governor, upon the recommendation of the board of medical examiners, where in their opinion a public emergency precludes obtaining an adequate number of physicians or surgeons who have the residence qualifications required by this section, may waive said residential requirement in each instance during the period of emergency."

Section 2. If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 3. This Act shall take effect upon approval.

(Approved May 26, 1951.) **H.B. 166, Act 173.**

ACT 174

An Act Establishing a School of Nursing at the University of Hawaii, Defining its Functions, and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 34 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto the following:

"SCHOOL OF NURSING

Sec. 1977. Creation of school of nursing. There is hereby created as a department of the University of Hawaii a school of nursing with such management, faculty and other personnel as the board of regents may designate.

Sec. 1978. Functions. The school of nursing shall conduct a complete course in nursing leading to the conferring of an appropriate bachelor's degree upon graduation therefrom and sufficient to qualify its graduates as registered nurses. The curriculum of the school of nursing shall be such as the board of regents may approve and may include subjects outside of the field of nursing as may be deemed consonant with the requirements of a university education and clinical training and practice in hospitals, hospital schools of nursing, and similar instructions.

Sec. 1979. Power to contract. The board of regents is authorized and empowered to enter into contracts with any hospital, hospital school of nursing, or similar institution, in the territory, for the purpose of arranging for clinical training and practice therein for students of the school of nursing."

Section 2. There is appropriated from the general revenues of the territory not otherwise appropriated the sum of \$25,000.00 for the biennium beginning July 1, 1951, and ending June 30, 1953, to be expended by the board of regents of the University of Hawaii for the operation of the school of nursing established by section 1, including professional and other personal services, administrative expenses, supplies and equipment, modifications of existing university facilities to accommodate the school of nursing, and expenses incident to any contract entered into under the provisions of section 1979 as enacted by section 1 hereof.

Section 3. This Act shall take effect upon its approval.

(Approved May 26, 1951.) H.B. 482, Act 174.

ACT 181

To Amend Section 2015 of the Revised Laws of Hawaii 1945, Relating to the Authority of the Board of Health to Make Regulations for the Public Health and Safety.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2015** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding to said section the following paragraph:

"21. Medical examination, vaccination, revaccination and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the board, there is danger of an epidemic from any communicable disease."

Section 2. This Act shall take effect ten days after promulgation as required by section 2 of the Revised Laws of Hawaii 1945.

(Approved May 28, 1951.) S.B. 193, Act 181.

ACT 182

An Act Amending Act 251 of the Session Laws of Hawaii 1941, as Amended, Relating to the County of Kauai Bonds for Public Improvements.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 251 of the Session Laws of Hawaii 1941, as amended, is hereby further amended in the following particulars:

(1) By substituting for the words and figures reading:

“Waialua bridge 50,000.00”

the following words and figures:

“Health centers at Kapaa and Waimea, including the construction of plant, furnishings and facilities 50,000.00”.

(2) By adding at the end of said section 1 the following:

“The expenditure of the amount provided for health centers at Kapaa and Waimea shall be made by the board of supervisors upon plans approved by the territorial board of health.”

Section 2. This Act shall take effect ten days after promulgation as required by section 2 of the Revised Laws of Hawaii 1945.

(Approved May 28, 1951.) **S.B. 196, Act 182.**

ACT 191

An Act to Amend Section 2305 of the Revised Laws of Hawaii 1945, Relating to the Board of Health, the Physicians of the Board of Health, and the Physicians of the Counties, and to Antitoxins, Antiserums, Vaccines, Biologics, and Drugs, and to the Purchasing and Keeping on Hand Thereof by the Board of Health, the Administration and Furnishing Thereof by the Board of Health or by Physicians of the Board of Health or of the Counties to Certain Persons and the Requirement of Payment Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2305 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 2305. Antitoxins, antiserums, vaccines, biologics and drugs. The board is authorized and directed to purchase from time to time out of moneys which may be available to it therefor, and to keep on hand and available for administration under this section in the various counties to persons unable to pay for them antitoxins, antiserums, vaccines and other biologics and drugs of types and in a supply sufficient for the public health, welfare, and safety.

Such antitoxins, antiserums, vaccines, biologics, and drugs shall by any physician of the board or of any such county be administered free of charge to any person who is in need of them and is unable to pay for them or shall be furnished free of charge to the attending physician of such person for use in the treatment of such person; **provided**, however, that the person so benefited, or his estate or personal representatives, if subsequently able to do so, may be required by the board to pay for any such antitoxin, antiserum, vaccine, biologic, or drug furnished free of charge to or for him under this chapter."

Section 2. This Act shall take effect upon its approval.
(Approved May 17, 1945.) **S.B. 255, Act 191.**

ACT 201

An Act Relating to the Practice of Osteopathy in the Territory and the Powers and Duties of the Board of Osteopathic Examiners, and Amending Chapter 54 of the Revised Laws of Hawaii 1945, as Amended, Relating to Osteopathy.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 54 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. Delete from the third paragraph of section 2854 all that follows in the paragraph after the word "writing" and substitute a period for the deleted matter.

2. Amend section 2855, as amended, to read as follows:

"Sec. 2855. Fees; fund. (a) License fee. No applicant for a license to practice as an osteopathic physician or as an osteopathic physician and surgeon shall be examined until he shall have paid to the board of osteopathic examiners a fee of twenty-five dollars.

(b) Renewal fees. The provisions of section 2852 and of any other provisions of chapter 54, as amended, to the contrary notwithstanding, there shall be paid to the board of osteopathic examiners by every person licensed to practice as an osteopathic physician or an osteopathic physician and surgeon every year between the first and last days of the month of June, a renewal fee in the amount of, (1) in the cases of those who are residents of the Territory, five dollars, and (2) in cases of those who are not residents of the Territory, two dollars. Failure of any licensee to pay any renewal fee shall work a forfeiture of his license. Licenses forfeited by the provisions of this section shall be reissued upon payment of a penalty of five dollars and all fees which the licensee would have paid if he had continuously renewed his license.

(c) Funds. All fees collected by the board of osteopathic examiners shall be deposited with the territorial treasurer and shall be held in a special fund, and may be expended by the board for all proper purposes in connection with the administration and enforcement of the provisions of this chapter. Disbursements shall be made on warrants of the auditor based upon vouchers approved by the president of the board of osteopathic examiners."

3. Delete from the third line of **section 2859**, as amended, the parenthesis and the letter b appearing after the figures 2856.

Section 2. This Act shall take effect ten days after promulgation as required by section 2 of the Revised Laws of Hawaii 1945.

(Approved May 28, 1951.) S.B. 450, Act 201.

ACT 209

An Act Relating to Agents and Inspectors of
the Board of Health, and Making an Appropriation.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2010 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 2010. Agents and inspectors.** There shall be appointed by the president of the board of health, subject to confirmation by the board, a suitable number of agents and inspectors in such localities as may be necessary, whose duty it shall be to carry into effect all laws and regulations for the public health, and such ordinances relating to public health as the board may direct."

Section 2. There are hereby appropriated for the biennial period ending June 30, 1947 out of the general fund of the Territory the following sums, or so much thereof as may be necessary, to supplement the appropriations made for the division of pure food and drugs of the board of health by the general appropriation act for said biennial period, and to be subject to the provisions of said general appropriation act, to wit:

Division of pure food and drugs.....	\$69,480.00
A. Personal services, for new positions for food inspection and related services per- formed by the city and county of Honolulu during the biennial period 1943-1945	54,240.00
B. Other current expenses	3,240.00
C. Equipment	12,000.00

Section 3. This Act shall take effect on July 1, 1945.
(Approved May 17, 1945.) H.B. 331, Act 209.

ACT 219

An Act Relating to the Temporary Care and Custody of Mentally Ill Persons and to the Procedure With Respect to the Custody and Care of Such Persons.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4021** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto at the end thereof an additional sentence reading as follows:

“So long as any county shall fail to provide and maintain, or to arrange for and designate, a temporary ward or wards in such county having the qualifications required by this section, then, until such designation shall be made, such person may be ordered to be, and may be temporarily, received and hospitalized in any hospital in such county duly licensed for the care of the mentally ill, and in such case, such licensed hospital shall be deemed, so far as concerns the temporary reception and hospitalization of such person, to be a ‘county detention ward’ within the meaning and for the purposes of this chapter.”

Section 2. All laws or parts of laws inconsistent with this Act are amended to conform to this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 28, 1951.) **S.B. 576, Act 219.**

ACT 289

An Act Relating to Federal Surplus Property and Aid Available to the Territory, Charging the Director of the Bureau of the Budget and the Attorney General With Certain Duties and Authority in Respect Thereof and Making an Appropriation Therefor.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. "Aid" or "federal aid" as used herein shall mean supplies, allowance of damages to territorial or county property by federal agencies, grants in aid, allocation of federal funds, to be matched by territorial funds, or otherwise, the furnishing of equipment and supplies and all other aids, grants, furnishings, assistance, advancements and reimbursements that may be provided by federal legislation, present or future, and which may be available to the Territory or its political subdivisions.

Section 2. The attorney general and the director of the bureau of the budget are hereby charged with the duty of promptly initiating the necessary action to take advantage of or to secure any federal aid which may be available to the Territory or its political subdivisions.

Section 3. The director of the bureau of the budget is authorized to apply for, receive and distribute to eligible tax-supported or tax-exempt health or educational agencies, institutions and organizations surplus property available under the Federal Property and Administrative Services Act of 1949 as amended, and other federal acts making surplus federal property available for health or educational purposes and to account for such property as required by the law and the rules, regulations and policies adopted pursuant thereto under which such property is received; provided, however, that the director of the bureau of the budget shall consult with duly authorized representatives of the board of health and the department of public instruction in determining whether application shall be made for such surplus property and the manner in which such surplus property shall be distributed for health and educational purposes.

Section 4. The director shall prescribe the form and manner in which health and educational agencies, institutions and organizations may apply and receive and shall account for surplus property available under section 3 of this Act.

Section 5. There is hereby created in the territorial treasury a fund to be known as the Surplus Federal Property Revolving Fund, which shall be maintained in an amount adequate to defray the costs of procuring, storing, handling and disposing of surplus property donated to the Territory under the provisions of the Federal Property and Administrative Services Act of 1949 as amended, or other federal acts making available surplus federal property for health or educational purposes.

Section 6. There is hereby appropriated from the general revenues of the Territory of Hawaii to the Surplus Federal Property Revolving Fund the sum of \$150,000.00, to be expended by the director of the bureau of the budget for the administration of the powers and duties imposed upon the director of the bureau by sections 3, 4 and 5 of this Act.

Section 7. This Act shall take effect upon its approval.

(Approved June 9, 1951.) S.B. 510, Act 289.

ACT 292

An Act Relating to the Board of Health and Amending Section 2001 of the Revised Laws of Hawaii 1945, as Amended.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2001 of the Revised Laws of Hawaii 1945, as amended by Act 208 (Series A-58) of the Session Laws of Hawaii 1945, is hereby further amended to read as follows:

"Sec. 2001. Board of health; members; qualifications; tenure; president; acting president. There shall be a board of health for the territory (hereinafter referred to as the board) consisting of eleven members (including the president), of whom ten shall be appointive members and one shall be the attorney general of the Territory of Hawaii, ex officio. At least two but not more than three of the appointive members shall be persons who are licensed to practice as doctors of medicine in the territory. At least one but not more than two of the appointive members shall be persons who are licensed to practice as dentists or dental surgeons in the territory. At least three of the appointive members shall be residents of a county other than the city and county of Honolulu, that is, one from each of the counties of Hawaii, Kauai and Maui. The president shall be a person who (1) has been or is eligible to be certified by the American Board of Preventive Medicine and Public Health, Incorporated, or (2) is (a) licensed to practice as a doctor of medicine or osteopathy in the territory and has successfully completed at least one year of graduate study leading to a degree in public health, and (b) has had, during the ten years next preceding his consideration for appointment, at least six years of practical experience in public health work, including supervision or administration of such work, in communities of not less than 50,000 population, or in the United States Public Health Service as a commissioned medical officer. The president and other appointive members shall be appointed for terms of four years, and may be removed, by the governor in the manner prescribed by section 80 of the Hawaiian Organic Act. All of the members of the board shall serve without pay, except the president, whose salary shall be fixed by or pursuant to law, but the members shall be reimbursed for their reasonable traveling and other expenses incurred in the discharge of their duties. The president shall be the presiding officer of the board. During the temporary absence from the territory or the illness of the president, the governor shall designate one of the members of the board as acting president; provided that, in case of the absence from any meeting of the president or an acting president, any member may be chosen by the board to preside at such meeting."

Section 2. This Act shall take effect upon its approval.

(Approved June 9, 1951.) H.B. 661, Act 292.

ACT 299

An Act Relating to Governmental Office Buildings in the County of Hawaii and Providing for the Construction and Financing Thereof.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioner of public lands is hereby requested to sell in accordance with the provisions of section 73 of the Hawaiian Organic Act all of the real property owned by the Territory of Hawaii in the city of Hilo now occupied or used by the territory or the county of Hawaii for the housing of governmental offices, being specifically the board of health site, tax office site, former Hilo Tribune Herald site, the old county library site, the survey and board of health site, and county offices site, as soon as and to the extent that the same is made available to the commissioner from time to time for sale.

Section 2. The moneys derived from such sale or sales are hereby appropriated to the territorial superintendent of public works for construction of a territorial office building and the acquisition by purchase or condemnation of the following lands: the area bounded by Kinoole Street, Wailuku Drive, Ululani Street and Waianuenue Street. The proceeds of such sales shall be paid over by the commissioner of public lands to the territorial treasurer for the uses and purposes of the superintendent of public works as herein set forth.

Section 3. This Act shall take effect upon its approval.

(Approved June 9, 1951.) H.B. 1096, Act 299.

ACT 305

An Act Authorizing the President of the Board
of Health to Appoint Field Nutritionist for Rural Oahu.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The president of the board of health is hereby authorized to appoint a field nutritionist for rural Oahu and to establish, or arrange for the establishing of, a suitable office therefor.

Section 2. This Act shall take effect upon its approval.

(Approved June 12, 1951.) H.B. 752, Act 305.

ACT 315

An Act Establishing a "Scholarship Fund for Graduate Nurses", Making an Appropriation Therefor, and Prescribing Powers and Duties of the Board for the Licensing of Nurses.

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of \$10,000.00, which sum is to be known as the "Scholarship Fund for Graduate Nurses", and to be expended by the board for the licensing of nurses for the Territory of Hawaii, pursuant to the provisions of this Act.

Section 2. Moneys in the fund established by this Act are to be expended for the awarding of scholarships to nurses who are graduates of accredited schools of nursing, and who are local born residents, and who are eligible for matriculation at an accredited college or university for a program of study and training leading to a baccalaureate or higher degree.

Section 3. The board for the licensing of nurses shall, before making an award of any scholarship, enter into a contract with any person receiving such scholarship assistance, under the terms of which contract the person so receiving assistance shall agree to accept a supervisory, teaching or administrative position in the field of nursing in the Territory for a period of not less than two years following the completion of the program of study and training.

Section 4. The scholarship fund hereby created shall be set apart as a separate account under the administration of the board for the licensing of nurses for the territory of Hawaii.

Section 5. The amount, number and type of scholarships granted from this fund shall be determined by the board of licensing of nurses, upon the basis of the qualifications of the individuals making application for scholarship assistance, and on the basis of the need for nursing services within the territory.

Section 6. This Act shall take effect on July 1, 1951.

(Approved June 13, 1951.) **H.B. 485, Act 315.**

J. R. 32

Joint Resolution Authorizing the Department of Health to Cooperate With the Department of Public Instruction in Providing Physiotherapy and Occupational Therapy for Exceptional Children.

WHEREAS, by the passage of Act 29 of the Session Laws of Hawaii 1949 the legislature clearly indicated its desire to provide special facilities and services on behalf of children who deviate from the so-called normal person in physical, mental, social, or emotional characteristics or abilities, described in said Act as "exceptional children"; and

WHEREAS, to date sufficient funds have not been provided for the work necessary to be done; and

WHEREAS, physiotherapy and occupational therapy are important in the proper training and development of exceptional children; and

WHEREAS, the physiotherapist and the occupational therapist heretofore provided through the generosity of the Sultan School for Crippled Children are no longer available; and

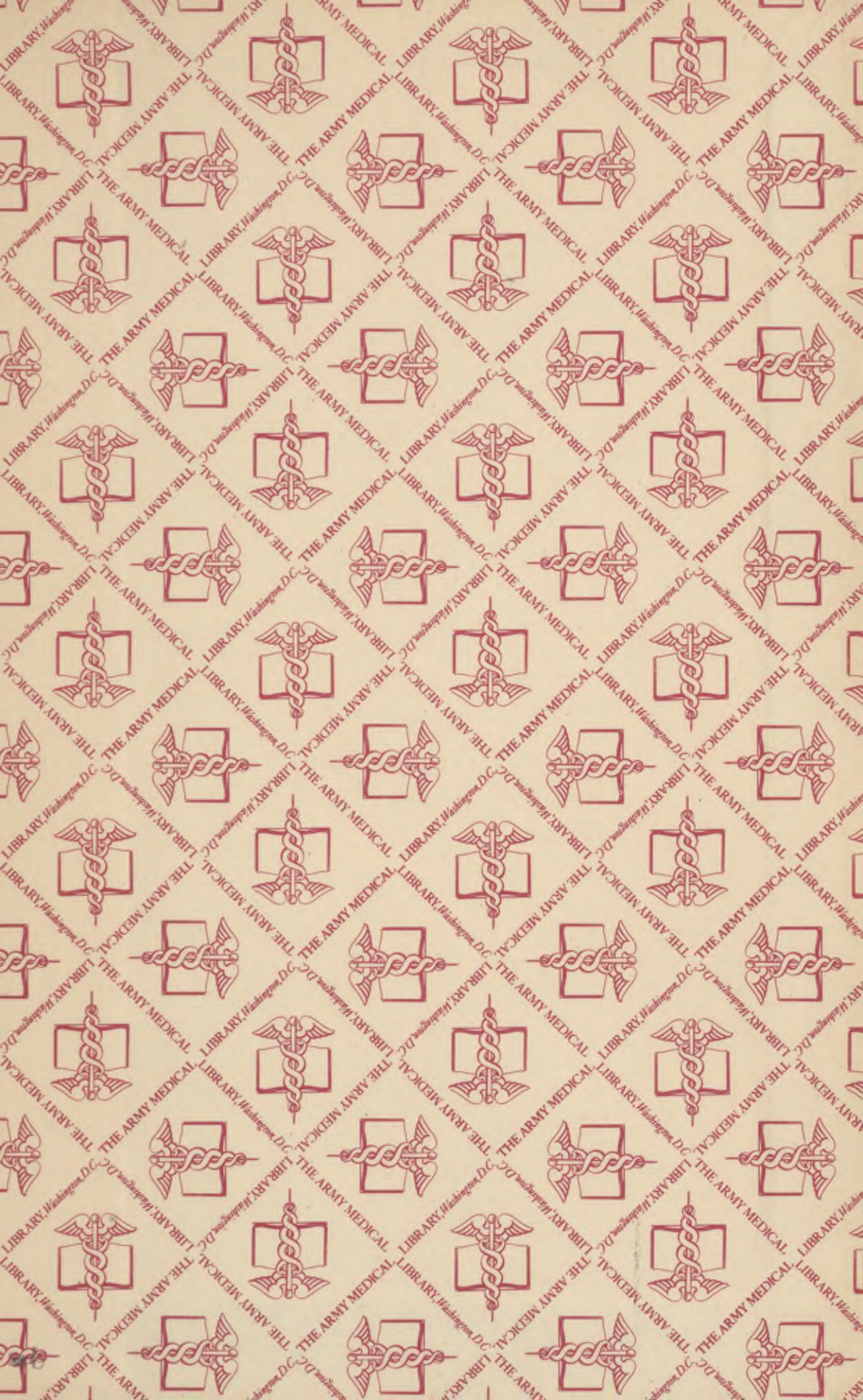
WHEREAS, it is desirable that their work be continued now, therefore,

Be it Enacted by the Legislature of the Territory of Hawaii:

Section 1. The department of health is authorized, in cooperation with the department of public instruction, to provide one physiotherapist and one occupational therapist for those exceptional children in the primary and elementary grades within the schools of the city and county of Honolulu needing such services, and, in that connection, to accept funds from private sources and to divert any funds appropriated to the department whenever in the opinion of the department such funds can be used to better advantage by being so diverted.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 28, 1951.) S.J.R. 49, J.R. 32.



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