



City of Grand Island

Tuesday, May 04, 2004

Study Session

Item -1

**Presentation by the Central District Health Department Relative to
Isolation/Quarantine Procedures and Recommending Ordinance**

Staff Contact: Health Department



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City of Grand Island - Mayor

Jay Vavricek
100 E. 1st
Grand Island, NE 68801

March 23, 2004

Dear Jay Vavricek,

Bio-terrorism, infectious diseases and other public health emergencies are complex health threats facing the nation's safety. Unlike an explosion, bio-terrorism and infectious diseases may be invisible, silent, and difficult to detect at first. Affected persons will begin to present at doctors offices, clinics, and hospital emergency rooms, days, and perhaps weeks after the exposure. As cases of unexplained or unexpected illness increase, Public Health officials will be called upon to investigate the illness, identify it, and implement control measures to reduce and prevent disease in the community.

Various state statutes exist to allow the State, counties and municipalities to exercise quarantine authority to prevent the introduction or spread of disease. These refer to a "board of health" that would be convened to deal with such issues. In order to strengthen our abilities to contain and prevent the spread of contagious disease within our jurisdiction, we need to work toward the establishment of local ordinances (and county resolutions) that pertain to quarantine, as well as other matters of public health.

The Central District Health Department Executive Director, Teresa Anderson, and I would like to meet with you during an upcoming Grand Island City Council meeting to present the attached proposed procedure. We would also like to further clarify "the Board of Health" that is referred to in the statutes.

Please contact me at (308) 379-1903 to let me know if it would be possible to meet during your next meeting, as well as the time and location of that meeting.

Sincerely,

Lisa Heineman
Emergency Response Coordinator
Central District Health Department

Why Quarantine Ordinance is Necessary

Rapid Containment of Communicable Disease is Essential to Minimize Spread

Examples:

Monkey Pox

E.Coli Outbreak (infected individuals self quarantine)

SARS

Smallpox “Ring Vaccination” vs. Mass Vaccination

Note: State has authority to implement quarantine regardless, this speeds up process.

Procedures Outline Critical Steps Necessary for an Effective Quarantine

Safety of quarantine personnel

Safety of case and due process

Outline Law enforcement, municipality and HD responsibilities

Ensure procedures are inline with State Recommendations

Clarification and Formalization of “Board Of Health” Responsibilities

Current Statutes refer to Board of Health typically as highest-ranking local elected official, highest ranking local law enforcement, local physician, and clerk.

Statutes allow local jurisdictions to define “Board of Health”

Statutes allow counties and cities to assign Board of Health responsibilities to District Health Department, this is not done automatically. (71-1635)

Statutes do not specifically give quarantine responsibility automatically to Health Districts for counties, cities less than 200K or villages

“PROPOSED”

Requested Ordinance to Clarify Statutory References to “Board of Health”

The city of Grand Island recognizes the Central District Health Department to be the “board of health” for Grand Island with respect to issues of isolation and quarantine in the City, to act in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Licensure and Finance and Support.

OR

Requested Ordinance for Quarantine / Isolation

The Central District Health Department (CDHD) Director may issue a written directive to temporarily isolate or quarantine an individual or groups of individuals, in an effort to prevent or limit the transmission of a contagious or potentially contagious disease to others. **Note:** If the top-ranking official for specific agency is unavailable, all decisions and authority follow chain of command in Local Emergency Operations Plan.

Notification - The CDHD Director shall notify the highest-ranking local elected official and highest ranking law enforcement official to initiate isolation of quarantine. Note that the state has overall authority to enact quarantine when not done so by lower political powers (Nebraska Statute 71-502).

Enforcement The highest-ranking law enforcement officer in the jurisdiction shall enforce the quarantine. The law enforcement officer may adopt any control measures which may seem advisable consistent with applicable law enforcement and crowd / riot control or emergency management guidelines.

Notice of Isolation or Quarantine A notice of isolation, printed in large letters, shall be placed upon, or near, any house in which any person or groups of persons may be afflicted or sick with any such disease upon which shall be printed a description of the limits of isolation. It shall be unlawful for any person to willfully enter such limits at such times, or to deface, alter, mutilate, destroy, or tear down, or remove the notice herein named without permission of the Health Director.

Expenses Expenses incurred in the enforcement of such rules and regulations shall be paid by the local jurisdiction within which the same occurred.

Hearing A hearing before the NHHSS Division of Licensure and Regulation may be held on any petition filed pursuant to this subsection within forty-eight (48) hours. A request for a hearing shall not stay or enjoin an isolation or quarantine order. In extraordinary circumstances the Central District Health Department may apply to continue the hearing date on a petition filed pursuant to this section for up to five (5) days. NHHSS may rule to continue or discontinue the quarantine order giving due regard to the rights of the affected individuals, the protection of the public’s health, the severity of the need for quarantine or isolation, and other evidence.

71-1626

Terms, defined.

For purposes of sections 71-1626 to 71-1636:

(1) **Core public health functions** means assessment, policy development, and **assurance designed to protect** and improve the health of persons within a geographically defined community by (a) emphasizing services to prevent illness, disease, and disability, (b) promoting effective coordination and use of community resources, and (c) extending health services into the community, including public health nursing, **disease prevention and control**, public health education, and environmental health services;

(2) County, **district**, or city-county **health department** means a state-approved local full-time public health service (a) utilizing local, state, federal, and other funds or any combination thereof, (b) employing qualified public health medical, nursing, environmental health, health education, and other essential personnel who work under the direction and supervision of a full-time qualified medical director or of a full-time qualified lay administrator, are well-trained in public health work, and are assisted at least part time by at least one medical consultant who shall be a licensed physician, and (c) conducted in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. The medical director or lay administrator shall be called the health director; and

(3) **Local public health department means a county, district, or city-county health department.**

Source:

Laws 1943, c. 152, § 1, p. 554; R.S.1943, § 71-1626;
Laws 1972, LB 1497, § 1; Laws 1994, LB 1223, § 34;
Laws 1996, LB 1044, § 568; Laws 2001, LB 692, § 2.

71-1627

Local public health department; health director; other personnel.

A local public health department shall have a health director at its head who is required to give his or her entire time to the duties of the office and such other necessary qualified full or part-time health officers, environmental health specialists, public health nurses, health educators, and clerical

assistants as may be necessary to carry on the activities pertinent to the health department.

Source:

Laws 1943, c. 152, § 2, p. 554; R.S.1943, § 71-1627;
Laws 1972, LB 1497, § 2; Laws 1994, LB 1223, § 35;
Laws 2001, LB 692, § 3.
71-1628
County board; powers.

The county board of any county may (1) make an agreement with the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support relative to the expenditure of local, state, federal, and other funds or any combination thereof, available for public health in such county; (2) after notice and public hearing, **establish and maintain a single full-time local health department for such county and any other counties which combine for that purpose** and, pursuant to such combination or agreement, such counties may cooperate with one another and the Department of Health and Human Services Regulation and Licensure and may contribute to a joint fund in carrying out the purpose and intent of sections 71-1626 to 71-1636. The duration and nature of such agreement shall be evidenced by the resolutions of the county boards of such counties, and such agreement shall be submitted to and approved by the Department of Health and Human Services Regulation and Licensure; or (3) cooperate with any city in the establishment and maintenance of a city-county health department as provided in section 71-1630. The duration and nature of such an agreement shall be evidenced by resolutions of the city council of the city and the county board participating, and such agreement shall be submitted to and approved by the Department of Health and Human Services Regulation and Licensure. A city-county health department shall be administered as provided in the agreement between the county and the city and shall be considered a state-approved, local, full-time public health service.

Source:

Laws 1943, c. 152, § 3, p. 554; R.S.1943, § 71-1628;
Laws 1949, c. 206, § 1(1), p. 591;
Laws 1972, LB 1497, § 3; Laws 1994, LB 1223, § 36;
Laws 1996, LB 1044, § 569; Laws 1997, LB 185, § 1.

71-1629

County or city-county health department; county board; powers; tax; election; when required.

(1) The county board of a county which has established a county or city-county health department may (a) incur the expenses necessary for the establishment and maintenance of such health department and (b) appropriate and use any unused funds in the general fund belonging to the county for the purposes set forth in sections 71-1626 to 71-1636.

(2) An annual tax to meet and pay the expenses necessary for the establishment and maintenance of a county or city-county health department may be levied and collected (a) by the county board of a county which has a population of thirty thousand inhabitants or more or (b) by the county board of a county which has a population of less than thirty thousand if the county board has put the proposition of having such a tax to the electors of the county and imposition of the tax has been approved by a majority of electors voting on the proposition. The election shall be called, proclaimed, held, conducted, and canvassed in the manner of general or special elections held for the submission of propositions to the voters of a county as provided in sections 23-126 and 23-128.

Source:

Laws 1943, c. 152, § 4, p. 556; R.S.1943, § 71-1629;

Laws 1949, c. 206, § 2(1), p. 593; Laws 1953, c. 287, § 68, p. 970;

Laws 1967, c. 449, § 1, p. 1393; Laws 1984, LB 783, § 1;

Laws 1994, LB 1223, § 38.

71-1630

Local boards of health; membership; terms; vacancies; duties.

(1) When a health department has been established by the county board of a county and approved by the Department of Health and Human Services Regulation and Licensure as a county health department, the county board of such county shall appoint a board of health which shall consist of the following members: (a) One member of the county board; (b) one dentist; (c) one physician; and (d) six public-spirited men or women interested in the health of the community. The physician and dentist shall each serve an initial term of three years. Three public-spirited men or women shall each serve an initial term of three years, and three public-spirited men or women shall

each serve an initial term of two years. After the initial terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired term of the member whose term is being filled by such appointment. A county association or society of dentists or physicians or its managing board may submit each year to the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(2) When a district health department has been established by a joint resolution of the county boards of each county in a district health department, the county boards of such district shall meet and establish a district board of health with due consideration for a fair and equitable representation from the entire area to be served. The district board of health shall consist of the following members: (a) One member of each county board in the district, (b) at least one physician, (c) at least one dentist, and (d) one or more public-spirited men or women interested in the health of the community from each county in the district. One-third of the members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired terms. A county association or society of dentists or physicians or its managing board may submit each year to the county boards a list of three persons of recognized ability in such profession. If such a list is submitted, the county boards, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(3) Except as provided in subsection (4) of this section, when the county board of any county and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services Regulation and Licensure, for maintaining a city-county health department, the city and county shall establish a city-county board of health. It shall consist of the following members selected by a majority vote of the city council and the county board, with due consideration to be given in an endeavor to secure a fair and equitable representation from the entire area to be served: (a) One representative of the county board, (b) one representative from the city council, (c) one physician, (d) one dentist, and (e) five public-spirited men or women, not employed in the health industry or in the health professions, who are interested in the health of the community. One-third of its

members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a period of three years. A county association or society of dentists or physicians or its managing board may submit each year to the city council and the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the city council and the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(4)(a) When the county board of any county having a population of more than two hundred thousand inhabitants and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services Regulation and Licensure, for maintaining a city-county health department on or after January 1, 1997, the city and county shall establish a city-county board of health. The board shall consist of the following members to be appointed by the mayor with the consent of the city council and county board: One representative of the county board, one representative from the city council, one physician, one dentist, and five public-spirited persons who are interested in the health of the community. Three of the members shall be appointed for terms of one year, three for terms of two years, and three for terms of three years. After the initial terms of office expire, each successor member shall be appointed for a term of three years. The physician and dentist members shall be appointed as provided in this subdivision. The mayor shall invite the local county association or society of dentists or physicians or its managing board to timely submit to the mayor a list of three persons of recognized ability in the profession. A list is timely submitted if it is submitted within sixty days after the mayor's invitation. If the list is not timely submitted, the mayor may consider the list timely submitted at any time prior to making an appointment, otherwise the mayor shall appoint a person of recognized ability in the profession. If the list is timely submitted, the mayor shall consider the names on the list and shall either appoint one of the persons on the list or invite a list of three new names using the process provided in this subdivision.

(b) The board of health shall, immediately after appointment, meet and organize by the election of one of its own members as president and one as vice president. The board members may elect such other officers as they deem necessary and may adopt and promulgate rules for the guidance of the board which are not inconsistent with law or the agreement creating the

board. If any board member resigns or ceases to meet the requirements for eligibility on the board, or if there is any other vacancy on the board, the mayor shall appoint another representative to serve for the member's unexpired term subject to consent by a majority vote of both the city council and the county board. Any appointment to fill a vacancy on the board shall be for the unexpired term of the member whose vacancy is being filled.

(c) The board of health shall have the following duties:

(i) Assessment of community health status and available resources for health matters, including collecting and analyzing relevant data and annually reporting and making recommendations on improving public health matters to the mayor, city council, and county board;

(ii) Policy development for proposals before the board of health, the city council, and the county board to support and improve public health, including appointing, with the approval of the mayor, city council, and county board, advisory committees to the board of health to facilitate community development functions and coalition building related to public health and adopting and approving official health department policies consistent with applicable law and approved by the affirmative vote of not less than five board members at a regular meeting of the board in the following areas:

(A) Community health services and health promotion and outreach, specifically including policies related to the following:

(I) Client services and fees;

(II) Standing orders, supervision, screening, and emergency and referral protocols and procedures;

(III) Monitoring and reporting; and

(IV) Communicable disease investigation, immunization, vaccination, testing, and prevention measures, including measures to arrest the progress of communicable diseases;

(B) Environmental health, specifically including policies related to the following:

(I) Permitting, inspection, and enforcement;

(II) Monitoring, sampling, and reporting;

(III) Technical assistance and plan review; and

(IV) Prevention measures;

(C) Investigating and controlling diseases and injury, specifically including policies related to the following:

(I) Permitting, inspection, and enforcement;

(II) Monitoring, sampling, and reporting;

(III) Technical assistance and plan review; and

- (IV) Prevention measures; and
- (D) Other health matters as may be requested by the city council or county board; and
- (iii) Assurance that needed services are available through public or private sources in the community, including:
 - (A) Acting in an advisory capacity to review and recommend changes to ordinances, resolutions, and resource allocations before the city council or county board related to health matters;
 - (B) Annually reviewing and recommending changes in the proposed budget for resource allocations related to the health department as provided in the city-county agreement; and
 - (C) Monitoring and reviewing the enforcement of laws and regulations of the board of health, city council, and county board related to public health in the community.
- (d) The mayor of the city shall appoint, with the approval of the board of health, city council, and county board, the health director of the health department. The health director shall be a member of the unclassified service of the city under the direction and supervision of the mayor. The health director shall be well-trained in public health work, but he or she need not be a graduate of an accredited medical school. If the health director is not a graduate of an accredited medical school, the health director shall be assisted at least part time by at least one medical consultant who is a licensed physician. The mayor shall submit the health department budget to the city council and county board. The mayor shall also provide budget information to the board of health with sufficient time to allow such board to consider such information. The mayor may enter into contracts and accept grants on behalf of the health department. The mayor may terminate the health director with approval of a majority vote of the city council, the county board, and the board of health. The health director shall:
 - (i) Provide administrative supervision of the health department;
 - (ii) Make all necessary sanitary and health investigations and inspections;
 - (iii) Investigate the existence of any contagious or infectious disease and adopt measures to arrest the progress of the disease;
 - (iv) Distribute free, as the local needs may require, all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or otherwise provided for public health purposes;
 - (v) Give professional advice and information to school authorities and other public agencies on all matters pertaining

to sanitation and public health;

(vi) Inform the board of health when the city council or county board is considering proposals related to health matters or has otherwise requested recommendations from the board of health;

(vii) Inform the board of health of developments in the field of public health and of any need for updating or adding to or deleting from the programs of the health department; and

(viii) Perform duties and functions as otherwise provided by law.

Source:

Laws 1943, c. 152, § 5, p. 557; R.S.1943, § 71-1630;

Laws 1969, c. 151, § 3, p. 711; Laws 1971, LB 43, § 2;

Laws 1972, LB 1497, § 4; Laws 1976, LB 716, § 1;

Laws 1978, LB 580, § 1; Laws 1979, LB 198, § 1;

Laws 1994, LB 1223, § 41; Laws 1996, LB 1044, § 570;

Laws 1997, LB 185, § 3.

71-1631

Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.

Except as provided in subsection (4) of section 71-1630 (Lisa's comments – this is for cities larger than 200,000), the board of health of each county, district, or city-county health department organized under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power set forth in this section. The board may elect such other officers as it may deem necessary and may adopt and promulgate such rules and regulations for its own guidance and for the government of such health department as may be necessary, not inconsistent with sections 71-1626 to 71-1636. The board of health shall, with the approval of the county board and the municipality, whenever a city is a party in such a city-county health department:

(1) Select the health director of such department who shall be (a) well-trained in public health work though he or she need not be a graduate of an accredited medical school, but if he or she is not such a graduate, he or she shall be assisted at least part time by at least one medical consultant who shall be a

licensed physician, (b) qualified in accordance with the state personnel system, and (c) approved by the Department of Health and Human Services Regulation and Licensure;

(2) Hold an annual meeting each year, at which meeting officers shall be elected for the ensuing year;

(3) Hold meetings quarterly each year;

(4) Hold special meetings upon a written request signed by two of its members and filed with the secretary;

(5) Provide suitable offices, facilities, and equipment for the health director and assistants and their pay and traveling expenses in the performance of their duties, with mileage to be computed at the rate provided in section 81-1176;

(6) Publish, on or soon after the second Tuesday in July of each year, in pamphlet form for free distribution, an annual report showing (a) the condition of its trust for each year, (b) the sums of money received from all sources, giving the name of any donor, (c) how all money has been expended and for what purpose, and (d) such other statistics and information with regard to the work of such health department as may be of general interest;

(7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services Regulation and Licensure;

(8) Make all necessary sanitary and health investigations and inspections;

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

(10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services Regulation and Licensure, to arrest the progress of the same;

(11) Distribute free as the local needs may require all

vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or purchased for public health purposes by the county board;

(12) Upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health;

(13) Fix the salaries of all employees, including the health director. Such city-county health department may also establish an independent pension plan, retirement plan, or health insurance plan or, by agreement with any participating city or county, provide for the coverage of officers and employees of such city-county health department under such city or county pension plan, retirement plan, or health insurance plan. Officers and employees of a county health department shall be eligible to participate in the county pension plan, retirement plan, or health insurance plan of such county;

(14) Establish fees for the costs of all services, including those services for which third-party payment is available; and

(15) In addition to powers conferred elsewhere in the laws of the state and notwithstanding any other law of the state, implement and enforce an air pollution control program under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with the state air pollution control regulations.

Source:

Laws 1943, c. 152, § 6, p. 558; R.S.1943, § 71-1631;
Laws 1953, c. 249, § 1, p. 852; Laws 1955, c. 275, § 1, p. 871;
Laws 1963, c. 401, § 1, p. 1286; Laws 1967, c. 449, § 3, p. 1394;
Laws 1969, c. 151, § 5, p. 713; Laws 1972, LB 1497, § 6;
Laws 1973, LB 285, § 1; Laws 1979, LB 198, § 2;
Laws 1981, LB 204, § 120; Laws 1992, LB 860, § 3;
Laws 1992, LB 1257, § 74; Laws 1993, LB 623, § 2;
Laws 1996, LB 1011, § 28; Laws 1996, LB 1044, § 571;
Laws 1997, LB 185, § 4.

71-1632

Health director; powers; duties.

Except as provided in subsection (4) of

section 71-1630, the health director of a county, district, or city-county health department shall have the power and duty to (1) be the executive officer of the local boards of health; (2) appoint, subject to any applicable county or city civil service laws, rules, or regulations, a properly functioning staff and other personnel as may be necessary, whose qualifications shall conform to the United States Public Health Standards and whose remuneration shall conform to an established compensation schedule set by such local board of health and which is reviewed and approved annually by such board; (3) review annually, with the local board of health, the proposed budget of the department; (4) organize, with the approval of the local board of health, a citizens' advisory health council that will aid in developing a public health program to meet the particular needs, hazards, and problems of the health district; and (5) organize, with the approval of the local board of health, a medical and dental advisory committee.

Source:

Laws 1943, c. 152, § 7, p. 560; R.S.1943, § 71-1632;

Laws 1969, c. 572, § 1, p. 2318; Laws 1969, c. 151, § 9, p. 717;

Laws 1975, LB 139, § 2; Laws 1979, LB 198, § 3; Laws 1984, LB 783, § 3;

Laws 1997, LB 185, § 5.

71-1633

Local boards of health; records required.

The health department of such county, district or city-county, as provided in sections 71-1626 to 71-1636, shall keep minutes of all the meetings of the health boards, and shall retain the records of everything pertaining to expenses, income, complaints, work done, meetings had, pamphlets printed and distributed, cases handled, and of any other matters pertaining to the work of the board of health.

Source:

Laws 1943, c. 152, § 8, p. 560.

71-1634

Health department; funds; how disbursed.

(1) No funds shall be disbursed except upon vouchers approved by the director of health and the president of the board of health of a county or district health department. In the absence of the health director, the president and the vice president or, in his or her absence, the secretary are authorized

to approve such vouchers before any funds are disbursed. In the absence of the president, the health director and the vice president or, in his or her absence, the secretary are authorized to approve such vouchers before any funds are disbursed. In the absence of both president and health director, the vice president and the secretary are authorized to approve such vouchers before any funds are disbursed.

(2) Funds of a city-county health department shall be disbursed as provided by the agreement between the county and the city.

Source:

Laws 1943, c. 152, § 9, p. 560; R.S.1943, § 71-1634;

Laws 1953, c. 249, § 2, p. 853; Laws 1967, c. 449, § 4, p. 1395;

Laws 1997, LB 185, § 6.

71-1635

Health department; establishment; other health agencies abolished; exception; city-county health department; control by department.

When the county board of any county or counties creates a health department as provided by sections 71-1626 to 71-1636, every other local, municipal, or county public health agency or department, except city or county hospitals, may be abolished, and such county or district health department may be given full control over all health matters in the county or counties, including all municipalities in the county in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. When a city has joined in the establishment of a city-county health department, such city-county health department may be given such control over all health matters in the city as may be provided by agreement between the county and the city with the approval of the Department of Health and Human Services Regulation and Licensure. If the health department in a county or city is changed, any lawful ordinance, resolution, regulation, policy, or procedure relating to any of the functions conferred by sections 71-1626 to 71-1636 of the former health department shall remain in full force and effect until it is repealed or replaced or until it conflicts with a subsequently enacted measure.

Source:

Laws 1943, c. 152, § 10, p. 560; R.S.1943, § 71-1635;
Laws 1967, c. 449, § 5, p. 1396; Laws 1996, LB 1044, § 572;
Laws 1997, LB 185, § 7.
71-1636

Act not applicable to school district; exception.

Any section, clause, phrase or requirement heretofore mentioned in sections 71-1626 to 71-1636 shall not apply to any school district in the State of Nebraska except that any school district, upon application to a county, district or city-county health department formed under said sections, may accept in whole or in part any of the provisions of said sections, by entering into an agreement for that purpose with such health district.

Source:

Laws 1943, c. 152, § 11, p. 560.

71-1630

Local boards of health; membership; terms; vacancies; duties.

(1) When a health department has been established by the county board of a county and approved by the Department of Health and Human Services Regulation and Licensure as a county health department, the county board of such county shall appoint a board of health which shall consist of the following members: (a) One member of the county board; (b) one dentist; (c) one physician; and (d) six public-spirited men or women interested in the health of the community. The physician and dentist shall each serve an initial term of three years. Three public-spirited men or women shall each serve an initial term of three years, and three public-spirited men or women shall each serve an initial term of two years. After the initial terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired term of the member whose term is being filled by such appointment. A county association or society of dentists or physicians or its managing board may submit each year to the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(2) When a district health department has been established by a joint resolution of the county boards of each county in a district health department, the county boards of such district shall meet and establish a district board of health with due consideration for a fair and equitable representation from the entire area to be served. The district board of health shall consist of the following members: (a) One member of each county board in the district, (b) at least one physician, (c) at least one dentist, and (d) one or more public-spirited men or women interested in the health of the community from each county in the district. One-third of the members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired terms. A county association or society of dentists or physicians or its managing board may submit each year to the county boards a list of three persons of recognized ability in such profession. If such a list is submitted, the county boards, in making an appointment for such profession, shall consider the names on the list and may

appoint one of the persons so named.

(3) Except as provided in subsection (4) of this section, **when the county board of any county and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services Regulation and Licensure, for maintaining a city-county health department, the city and county shall establish a city-county board of health.** It shall consist of the following members selected by a majority vote of the city council and the county board, with due consideration to be given in an endeavor to secure a fair and equitable representation from the entire area to be served: (a) One representative of the county board, (b) one representative from the city council, (c) one physician, (d) one dentist, and (e) five public-spirited men or women, not employed in the health industry or in the health professions, who are interested in the health of the community. One-third of its members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a period of three years. A county association or society of dentists or physicians or its managing board may submit each year to the city council and the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the city council and the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(4)(a) When the county board of any county having a population of more than two hundred thousand inhabitants and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services Regulation and Licensure, for maintaining a city-county health department on or after January 1, 1997, the city and county shall establish a city-county board of health. The board shall consist of the following members to be appointed by the mayor with the consent of the city council and county board: One representative of the county board, one representative from the city council, one physician, one dentist, and five public-spirited persons who are interested in the health of the community. Three of the members shall be appointed for terms of one year, three for terms of two years, and three for terms of three years. After the initial terms of office expire, each successor member shall be appointed for a term of three years. The physician and dentist members shall be appointed as provided in this subdivision. The mayor shall invite the local county association or society of dentists or physicians or its managing board to timely submit to the mayor a list of three persons of

recognized ability in the profession. A list is timely submitted if it is submitted within sixty days after the mayor's invitation. If the list is not timely submitted, the mayor may consider the list timely submitted at any time prior to making an appointment, otherwise the mayor shall appoint a person of recognized ability in the profession. If the list is timely submitted, the mayor shall consider the names on the list and shall either appoint one of the persons on the list or invite a list of three new names using the process provided in this subdivision.

(b) The board of health shall, immediately after appointment, meet and organize by the election of one of its own members as president and one as vice president. The board members may elect such other officers as they deem necessary and may adopt and promulgate rules for the guidance of the board which are not inconsistent with law or the agreement creating the board. If any board member resigns or ceases to meet the requirements for eligibility on the board, or if there is any other vacancy on the board, the mayor shall appoint another representative to serve for the member's unexpired term subject to consent by a majority vote of both the city council and the county board. Any appointment to fill a vacancy on the board shall be for the unexpired term of the member whose vacancy is being filled.

(c) The board of health shall have the following duties:

(i) Assessment of community health status and available resources for health matters, including collecting and analyzing relevant data and annually reporting and making recommendations on improving public health matters to the mayor, city council, and county board;

(ii) Policy development for proposals before the board of health, the city council, and the county board to support and improve public health, including appointing, with the approval of the mayor, city council, and county board, advisory committees to the board of health to facilitate community development functions and coalition building related to public health and adopting and approving official health department policies consistent with applicable law and approved by the affirmative vote of not less than five board members at a regular meeting of the board in the following areas:

(A) Community health services and health promotion and outreach, specifically including policies related to the following:

(I) Client services and fees;

(II) Standing orders, supervision, screening, and

emergency and referral protocols and procedures;

(III) Monitoring and reporting; and

(IV) Communicable disease investigation, immunization, vaccination, testing, and prevention measures, including measures to arrest the progress of communicable diseases;

(B) Environmental health, specifically including policies related to the following:

(I) Permitting, inspection, and enforcement;

(II) Monitoring, sampling, and reporting;

(III) Technical assistance and plan review; and

(IV) Prevention measures;

(C) Investigating and controlling diseases and injury, specifically including policies related to the following:

(I) Permitting, inspection, and enforcement;

(II) Monitoring, sampling, and reporting;

(III) Technical assistance and plan review; and

(IV) Prevention measures; and

(D) Other health matters as may be requested by the city council or county board; and

(iii) Assurance that needed services are available through public or private sources in the community, including:

(A) Acting in an advisory capacity to review and recommend changes to ordinances, resolutions, and resource allocations before the city council or county board related to health matters;

(B) Annually reviewing and recommending changes in the proposed budget for resource allocations related to the health department as provided in the city-county agreement; and

(C) Monitoring and reviewing the enforcement of laws and regulations of the board of health, city council, and county board related to public health in the community.

(d) The mayor of the city shall appoint, with the approval of the board of health, city council, and county board, the health director of the health department. The health director shall be a member of the unclassified service of the city under the direction and supervision of the mayor. The health director shall be well-trained in public health work, but he or she need not be a graduate of an accredited medical school. If the health director is not a graduate of an accredited medical school, the health director shall be assisted at least part time by at least one medical consultant who is a licensed physician. The mayor shall submit the health department budget to the city council and county board. The mayor shall also provide budget information to the board of health with sufficient time to allow such board to consider such information. The mayor may enter into contracts and accept grants on behalf of the health

department. The mayor may terminate the health director with approval of a majority vote of the city council, the county board, and the board of health. The health director shall:

- (i) Provide administrative supervision of the health department;
- (ii) Make all necessary sanitary and health investigations and inspections;
- (iii) Investigate the existence of any contagious or infectious disease and adopt measures to arrest the progress of the disease;
- (iv) Distribute free, as the local needs may require, all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or otherwise provided for public health purposes;
- (v) Give professional advice and information to school authorities and other public agencies on all matters pertaining to sanitation and public health;
- (vi) Inform the board of health when the city council or county board is considering proposals related to health matters or has otherwise requested recommendations from the board of health;
- (vii) Inform the board of health of developments in the field of public health and of any need for updating or adding to or deleting from the programs of the health department; and
- (viii) Perform duties and functions as otherwise provided by law.

Source:

Laws 1943, c. 152, § 5, p. 557; R.S.1943, § 71-1630;
Laws 1969, c. 151, § 3, p. 711; Laws 1971, LB 43, § 2;
Laws 1972, LB 1497, § 4; Laws 1976, LB 716, § 1;
Laws 1978, LB 580, § 1; Laws 1979, LB 198, § 1;
Laws 1994, LB 1223, § 41; Laws 1996, LB 1044, § 570;
Laws 1997, LB 185, § 3.

Health department; establishment; other health agencies abolished; exception; city-county health department; control by department.

When the county board of any county or counties creates a health department as provided by sections 71-1626 to 71-1636, every other local, municipal, or county public health agency or department, except city or county hospitals, may be abolished, and such county or district health department may be given full control over all health matters in the county or counties, including all municipalities in the county in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. When a city has joined in the establishment of a city-county health department, such city-county health department may be given such control over all health matters in the city as may be provided by agreement between the county and the city with the approval of the Department of Health and Human Services Regulation and Licensure. If the health department in a county or city is changed, any lawful ordinance, resolution, regulation, policy, or procedure relating to any of the functions conferred by sections 71-1626 to 71-1636 of the former health department shall remain in full force and effect until it is repealed or replaced or until it conflicts with a subsequently enacted measure.

SELECTED SECTIONS FROM SEARCH FOR “QUARANTINE”

Cities of the First Class (5001-100,000)

16-238. Spread of disease; regulation; board of health; creation; powers; duties.

A city of the first class may make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city. In cities with a commission form of government as provided in Chapter 19, article 4, and cities with a city manager plan of government as provided in Chapter 19, article 6, a **board of health** shall be created consisting of five members: **The mayor**, who shall be chairperson, **a physician**, who shall be medical adviser, the **chief of police**, who shall be secretary and quarantine officer, and two other members. In all other cities, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the chief of police, who shall be secretary and quarantine officer, the **president of the council**, and one other member. A majority of such board shall constitute a quorum and shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city and prevent nuisances and unsanitary conditions, enforce the same, and provide fines and punishments for the violation thereof.

Source: Laws 1901, c. 18, § 48, XLIV, p. 257; R.S. 1913, § 4854; Laws 1919, c. 37, § 1, p. 118; C.S. 1922, § 4022; C.S. 1929, § 16-239; R.S. 1943, § 16-238; Laws 1977, LB 190, § 1; Laws 1993, LB 119, § 1; Laws 1994, LB 1019, § 1.

16-314. Mayor; legislative recommendations; jurisdiction.

The mayor shall, from time to time, communicate to the city council such information and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, comfort, and general prosperity of the city, and may have such jurisdiction as may be invested in him by ordinance over all places within two miles of the corporate limits of the city, for the enforcement of health or quarantine ordinances and the regulation thereof.

Source: Laws 1901, c. 18, § 21, p. 235; Laws 1901, c. 19, § 2, p. 307; R.S. 1913, § 4880; C.S. 1922, § 4048; C.S. 1929, § 16-310.

Cities of the Second Class (801-5000)

17-114. Mayor; territorial jurisdiction.

The mayor shall have such jurisdiction as may be vested in him by ordinance, over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and

shall have jurisdiction in all matters vested in him by ordinance, excepting taxation, within one-half mile of the corporate limits of said city.

Source: Laws 1879, § 15, p. 196; R.S. 1913, § 5006; C.S. 1922, § 4175; C.S. 1929, § 17-114.

17-121. Health and sanitation; rules and regulations; board of health; members; powers.

(1) A city of the second class shall have power to make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city, to make quarantine laws for that purpose, and to enforce the same.

(2) In cities with a commission form of government as provided in Chapter 19, article 4, and cities with a city manager plan of government as provided in Chapter 19, article 6, a board of health shall be created consisting of five members: **The mayor**, who shall be chairperson, and four other members. One member shall be **a physician** or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the city manager has appointed a chief of police, **the chief of police** shall serve on the board as secretary and quarantine officer.

(3) In all other cities, a board of health shall be created consisting of four members: The mayor, who shall be chairperson, the **president of the city council**, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the mayor has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(4) A majority of such board shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such city, may enforce them, and may provide fines and punishments for the violation thereof. The board of health shall have power to and shall make all needful rules and regulations relating to matters of sanitation of such city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, waterclosets, cesspools, stables, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to the same or to matters of sanitation of such city. The board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of such city.

Source: Laws 1879, § 39, II, p. 201; Laws 1881, c. 24, § 1, p. 194; Laws 1895, c. 14, § 1, II, p. 109; R.S. 1913, § 5015;

I. Villages

17-208. Appointive officers; police officer; removal or disciplinary action; procedure; board of health; members; duties.

(1) The village board of trustees may appoint a village clerk, treasurer, attorney, overseer of the streets, and marshal. The village marshal, or any other police officer, may request a review by the village board of his or her removal or any other disciplinary action taken against him or her. After a hearing, the village board may uphold, reverse, or modify the removal or disciplinary action.

(2) The village board of trustees shall by ordinance adopt rules and regulations governing the removal or discipline of any police officer, including the village marshal. The ordinance shall include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the disciplinary action shall have the right at the hearing to be heard and to present evidence to the village board for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the village board shall vote to uphold, reverse, or modify the removal or disciplinary action. The failure of the village board to act within thirty days or the failure of a majority of the elected board members to vote to reverse or modify the removal or disciplinary action shall be construed as a vote to uphold the removal or disciplinary action. The decision of the village board shall be based upon its determination that, under the facts and evidence presented at the hearing, the challenged removal or disciplinary action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska.

Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(3) The village board of trustees shall also appoint a board of health consisting of three members: The **chairperson of the village board**, who shall be chairperson, and two other members. One member shall be a **physician** or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the village board of trustees has appointed a marshal, the **marshal** may be appointed to the board and serve as secretary and quarantine officer. A majority of the board of health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health

of the people of such village and prevent nuisances and unsanitary conditions. The board of health shall enforce the same and provide fines and punishments for violations. The appointees shall hold office for one year unless removed by the chairperson of the village board with the advice and consent of the trustees.

Source: Laws 1879, § 47, p. 204; Laws 1885, c. 18, § 1, p. 158; Laws 1895, c. 15, § 1, p. 110; Laws 1911, c. 20, § 1, p. 137; R.S. 1913, § 5058; Laws 1919, c. 165, § 1, p. 369; C.S. 1922, § 4230; C.S. 1929, § 17-208; R.S. 1943, § 17-208; Laws 1995, LB 346, § 2; Laws 1996, LB 1162, § 2.

II. Counties

71-501. Contagious diseases; county board of health; chairperson; salary; powers and duties.

The county boards of the counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in their respective counties. To that end a board of health shall be created, consisting of three members: The **sheriff**, who shall be chairperson and quarantine officer; a **physician** who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the board of county commissioners or supervisors; and the **county clerk**, who shall be 402) 694-4242. The county board may pay the chairperson of the board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. The board shall make rules and regulations to safeguard the health of the people and prevent nuisances and insanitary conditions and shall enforce the same throughout all the territory comprising such county, except incorporated cities and villages, and provide penalties for the violation thereof. If the board of health fails to enact rules and regulations as herein provided, it shall enforce the rules and regulations promulgated by the Department of Health and Human Services Regulation and Licensure.

Source: Laws 1901, c. 49, § 1, p. 403; Laws 1903, c. 62, § 1, p. 358; Laws 1911, c. 79, § 1, p. 328; Laws 1919, c. 55, § 1, p. 159; Laws 1919, c. 190, tit. VI, art. II, div. VIII, § 1, p. 779; Laws 1921, c. 71, § 1, p. 270; C.S. 1922, § 8222; C.S. 1929, § 71-2301; R.S. 1943, § 71-501; Laws 1951, c. 228, § 1, p. 829; Laws 1971, LB 43, § 1; Laws 1996, LB 1044, § 486; Laws 1997, LB 197, § 2; Laws 1999, LB 272, § 23.

DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION & LICENSURE

71-1631. Local boards of health; meetings; expenses; powers and duties; rules and regulations; pension and retirement plans.

Except as provided in subsection (4) of section 71-1630, the board of health of each county, district, or city-county health department organized under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power set forth in this section. The board may elect such other officers as it may deem necessary and may adopt and promulgate such rules and regulations for its own guidance and for the government of such health department as may be necessary, not inconsistent with sections 71-1626 to 71-1636. The board of health shall, with the approval of the county board and the municipality, whenever a city is a party in such a city-county health department:

...

(7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services Regulation and Licensure;

(8) Make all necessary sanitary and health investigations and inspections;

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

(10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services Regulation and Licensure, to arrest the progress of the same;

(11) Distribute free as the local needs may require all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or purchased for public health purposes by the county board;

(12) Upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health;

...

Source: Laws 1943, c. 152, § 6, p. 558; R.S. 1943, § 71-1631; Laws 1953, c. 249, § 1, p. 852; Laws 1955, c. 275, § 1, p. 871; Laws 1963, c. 401, § 1, p. 1286; Laws 1967, c. 449, § 3, p. 1394; Laws 1969, c. 151, § 5, p. 713; Laws 1972, LB

1497, § 6; Laws 1973, LB 285, § 1; Laws 1979, LB 198, § 2; Laws 1981, LB 204, § 120; Laws 1992, LB 860, § 3; Laws 1992, LB 1257, § 74; Laws 1993, LB 623, § 2; Laws 1996, LB 1011, § 28; Laws 1996, LB 1044, § 571; Laws 1997, LB 185, § 4.

71-502. Communicable diseases; rules and regulations; control; powers of Department of Health and Human Services Regulation and Licensure.

The Department of Health and Human Services Regulation and Licensure shall have supervision and control of all matters relating to necessary communicable disease control and shall adopt and promulgate such proper and reasonable general rules and regulations as will best serve to promote communicable disease control throughout the state and prevent the introduction or spread of disease. In addition to such general and standing rules and regulations, (1) in cases of **emergency** in which the health of the people of the entire state or any locality in the state is menaced by or exposed to any contagious, infectious, or epidemic disease, illness, or poisoning, (2) **when a local board of health having jurisdiction of a particular locality fails or refuses to act with sufficient promptitude and efficiency in any such emergency**, or (3) in localities in which no local board of health has been established, as provided by law, the department shall adopt, promulgate, and enforce **special communicable disease control rules and regulations such as the occasion and proper protection of the public health may require**. All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village, or county for and within which the same have been incurred. All officers and other persons shall obey and enforce such communicable disease control rules and regulations as may be adopted and promulgated by the department.

Source: Laws 1919, c. 190, tit. VI, art. II, div. VIII, § 2, p. 779; C.S. 1922, § 8223; C.S. 1929, § 71-2302; R.S. 1943, § 71-502; Laws 1977, LB 39, § 149; Laws 1986, LB 763, § 1; Laws 1988, LB 1012, § 3; Laws 1996, LB 1044, § 488.

Operative date January 1, 1997.

Sanitation and quarantine are placed under the former Department of Health. Petersen Baking Co. v. Bryan, 124 Neb. 464, 247 N.W. 39 (1933).

A physician, acting under orders of the state board of health to quarantine a disease in a county, may recover from the county actual expenses incurred and the value of services rendered. Shidler v. York County, 95 Neb. 652, 146 N.W. 949 (1914).

81-601. Department of Health and Human Services Regulation and Licensure; powers.

The Department of Health and Human Services Regulation and Licensure shall have general supervision and control over matters relating to public health and sanitation and shall provide for examination as provided in section 81-602 and have supervision over all matters of quarantine and quarantine regulations.

Source: Laws 1919, c. 190, tit. VI, art. I, § 1, p. 750; C.S. 1922, § 8159; C.S. 1929, § 81-5601; Laws 1933, c. 149, § 5, p. 575; Laws 1941, c. 141, § 8, p. 560; C.S.Supp., 1941, § 81-927; C.S.Supp., 1941, § 81-5601; R.S. 1943, § 81-601; Laws 1996, LB 1044, § 840.

Operative date January 1, 1997.

Under former act, orders of board of health were subject to judicial review. Mathews v. Hedlund, 82 Neb. 825, 119 N.W. 17 (1908); Munk v. Frink, 81 Neb. 631, 116 N.W. 525 (1908).