

HEALTH: Persons violating rules promulgated in accordance with provisions of Art. I, Chap. 52, R. S. Mo. 1929, relating to the public health are guilty of a misdemeanor.

July 1, 1938.



Mr. Paul N. Chitwood,
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Dear Sir:

This will acknowledge your letter of recent date requesting an opinion from this office as to whether or not the Deputy Commissioner of Health appointed in accordance with the provisions of Section 9025 as amended, Laws of Missouri, 1933, at page 271, had authority under the provisions of the laws relating to public health vital statistics to make reasonable regulations for the prevention of smallpox, and prosecuting anyone for removing a quarantine card which has been placed upon the door of any person quarantined for smallpox.

At the outset we make the observation that your local deputy State Health Commissioner only was carrying into effect rules and regulations of the State Board of Health relative to communicable diseases.

Attention is directed to Sec. 9015, R. S. Mo. 1929, relating to the power and the duty of the State Board of Health with respect to the health of the public in this state. It reads as follows:

"It shall be the duty of the State Board of Health to safeguard the health of the people in this state, counties, cities, villages, and towns."

Under the provisions of Sec. 9016, R. S. Mo. 1929, the State Board of Health is given the authority to designate those diseases which are infectious, contagious, communicable or dangerous in their nature, as well as to promulgate rules and regulations to prevent the spread of such diseases. Said section reads as follows:

"The board shall designate those diseases which are infectious, contagious, communicable or dangerous in their nature and shall make and enforce adequate rules, regulations and procedures to prevent the spread of those diseases and to determine the prevalence of said diseases within the state."

Upon reference to the Missouri Public Health Manual, issued by the State Board of Health for the year 1935, at page 8, it is disclosed that the State Board of Health has designated diseases which are communicable and dangerous to the public health, among which the disease of smallpox is therein listed.

Under Section 4 of the Missouri Public Health Manual, page 13, relating to precautionary measures to be adopted, where a communicable disease exists in any community, it is provided on page 18 of said Manual that,

"Whenever communicable disease exists in any community, the health officer, in order to prevent the spread of such disease may order the closure of schools and other places of public assemblage for such time as may be necessary, and it shall be the duty of the school officers and other responsible persons to comply with such orders.* * *"

Under the same section of the Health Manual, it is further provided with respect to the quarantine of persons afflicted with a communicable disease, on page 18, that,

"Persons afflicted with communicable disease shall remain on the premises to which they have been confined until the restrictions have been terminated by the health officer or his permission given for their removal to another place."

These considerations of the rules and regulations promulgated by the State Board of Health would eliminate your observation that the local health officer of your community had promulgated the rules and regulations with respect to this communicable disease. Therefore, the local health officer was only enforcing such rules and regulations as had been promulgated by the State Board of Health.

It is provided under the provisions of Sec. 9030, R. S. Mo. 1929, as follows:

"Any person or persons violating, refusing or neglecting to obey the provisions of this article or any of the rules and regulations or procedures made by the state board of health in accordance with this article, or who shall leave any pest-house or isolation hospital, or quarantined house,

or place without the consent of the health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of contagious, infectious, or communicable disease, or who removes, destroys, obstructs from view, or tears down any quarantine card, cloth or notice posted by the attending physician or by the health officer, or by direction of a proper health officer, shall be guilty of a misdemeanor."

The statutes above considered are plain and unambiguous and no need for construction exists.

CONCLUSION

In view of the above, it is the opinion of this department that all persons who violated the rules and regulations above noticed, made by the State Board of Health, in accordance with the provisions of Chapter 52, Article I of the Revised Statutes of Missouri, 1929, which rules and regulations were sought to be enforced by the Deputy Health Commissioner, were guilty of a misdemeanor.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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RCS/LD