

Revised Constitution for terms of varying length, provided that in fixing such terms of varying length none shall be shorter than the regular term provided for the office, i.e., six years.¹⁰

FRANK J. KELLEY,
Attorney General.

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COUNTIES: District Health Department.

HEALTH, DEPT. OF: District – Withdrawal of county from district health department.

A county cannot withdraw from a district health department based solely on the action of that county's board of supervisors' resolution to withdraw.

No. 4179

August 14, 1963.

Mr. Farrell E. Elliott
Prosecuting Attorney
Chippewa County Court House
Sault Ste. Marie, Michigan

You have requested an opinion of the Attorney General on the following question:

May one county withdraw from a district health department solely on the action of that county's board of supervisors' resolution to withdraw?

The district health department is established under the authority of Act 306, P.A. 1927, as amended.¹

The question of dissolution of a district health department was answered by this office in its Opinion No. 984, dated June 28, 1949, O.A.G. 1949-50, p. 263, wherein it was stated:

"1. Since under the statute the district board of health in a multi-county health unit possesses the same powers over the district health department as are vested in the board of supervisors in a single health department, it is our opinion that the district health department may be discontinued by action of the district board of health."

In said opinion it was further stated:

"2. The statute provides no authority for one county to withdraw from a district health unit. If the desired result is to maintain a district health department which would not include the one county in question, this might be accomplished through the disbandment of the present district health department and the subsequent reorganization of a new health department comprised of the remaining counties."

I am in accord with the conclusions expressed in Opinion No. 984. It follows that action to disband a district health department or to permit the

¹⁰ Article VI, Section 12.

¹ As amended by Act 187, P.A. 1954, C.L.S. 1956 § 327.201-327.208a; M.S.A. 1956 Rev. Vol. § 14.161-14.169.

withdrawal of one county therefrom can only be taken by the district board of health and cannot be accomplished by action of the board of supervisors of the county wishing to withdraw. Your stated question is answered in the negative.

FRANK J. KELLEY,
Attorney General.

HEALTH, DEPARTMENT OF: Venereal Diseases.

Under Act 6, P.A. 1942 and Act 272, P.A. 1919, the State Commissioner of Health, with the concurrence of the State Council of Health, may promulgate regulations to authorize the examination and treatment of minors without the consent of the parent or guardian.

No. 4204

August 16, 1963.

J. K. Altland, M.D.
Acting Commissioner
Michigan Department of Health
Lansing 4, Michigan

You have called my attention to Act 6, P.A. 1942, Second Extra Session, M.S.A. § 14.345(1) et seq., and Act 272, P.A. 1919, as amended, M.S.A. § 14.341 et seq., which deal with venereal disease control, and ask the following questions:

"1. Venereal diseases under Michigan law (Act 6, P.A. 2nd extra session, 1942) defines venereal diseases and declares them to be infectious, communicable and dangerous to the public health. Would examination and/or treatment of venereal diseases in persons who are twenty-one years of age or under, without consent of the parent or guardian, be considered 'assault' under Michigan statutes?"

"2. Can minors be legally examined or treated in a health department clinic without consent of parent or guardian?"

a) Is this also true by a private practicing physician?"

b) If this is not now legally possible can this be accomplished by a rule and regulation promulgated by the commissioner of health with the concurrence of the State Council of Health under the authority of Act 146, P.A. 1919, as amended by Act 83, P.A. 1954?"

c) If this cannot be accomplished by this method, is new statutory authorization required?"

These acts which you cite are within the police power of the legislature to enact and, therefore, the enforcement of said acts would not be a violation of private rights if no discrimination were employed by the administrative agency. If in the judgment of the health officers it is necessary to protect the public health, an examination and treatment of persons under 20 years of age without parental consent could not be considered "assault."

In the case of *Rock v. Carney*, 216 Mich. 280, the court held that a doctor who made a physical examination on a minor girl to determine

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