HEALTH, STATE BOARD OF: Anti-syphilitic treatments—
who may authorize to pregnant woman or to indigent
patients; cost thereof to be a valid claim against county,
city or town; public health.

November 21, 1933.

Dr. Verne K. Harvey, C. P. H., Director,
Division of Public Health,
Department of Commerce and Industry,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue
in response to the following inquiries:

"1. Can county, city and town health officers author-
ize adequate anti-syphilitic medical treatment during
the period of pregnancy to an expectant mother, who is
infected with syphilis?

"2. Would it be a valid claim against a taxing unit
and the city, town or county as the case may be, for
them to defray the cost of anti-syphilitic medical treat-
ments under our health law and quarantine law if the
city, town or county health officer would authorize the
necessary anti-syphilitic medical treatments to be ad-
ministered to indigent, congenital syphilitic patients of
pre-school and school age?"

I must respond to your first question in the affirmative.
Health authorities have only such powers as are conferred
upon them, either specifically or by implication,

Coal Creek Twp. Advisory Board v. Levandaw-
ski, 84 N. E. 346;

but since the powers and duties delegated to the boards of
health are granted to facilitate the important functions of
safeguarding the public health, they are to be given a liberal
construction.

Lake Erie, etc., R. Co. v. James, 10 Ind. App. 550,
35 N. E. 395, 38 N. E. 192.

Noting this rule of construction that is to be applied, your
attention is directed to the section of the statutes granting and
defining the powers and duties of the various health officers,
which are as follows:
"8168. DUTIES AND POWERS OF HEALTH OFFICERS.—11. It shall be the duty of the state health commissioner and of county health commissioners and city and town health officers, within their respective jurisdictions to enforce the health laws, ordinances, orders and rules of their own and superior boards of health; to collect, record and report the vital statistics of their respective jurisdictions, to keep full and permanent records of their public health work, minutes of all meetings of their respective boards, and to make a monthly report of the work done by them and their deputies to their respective boards; said report, after approval, to be made of permanent record. Reports of county health commissioners shall be made to the state board of health, and careful records of said reports shall be kept in county health record books.

"The state health commissioner, all county health commissioners, and all city and town health officers shall have power to make sanitary inspections and surveys of all public buildings and institutions, to enter upon and inspect private property, at proper times after formal notice, in regard to the possible presence, source and cause of disease, to establish quarantine and, in connection therewith, to order what is reasonable and necessary for prevention and suppression of disease, to close schools and churches and forbid public gatherings in order to prevent and stay epidemics, and in all reasonable and necessary ways to protect the public health." (Our italics.)

2 Burns Annotated Indiana Statutes (1926), Sec. 8168.

The venereal diseases, syphilis, gonorrhea and chancroid, under a ruling adopted by the Indiana state board of health on February 27, 1918, which became effective on April 1, 1918, were named as dangerous communicable diseases and brought under the provisions of chapter 84, Acts of 1903, and chapter 15, Acts of 1891. The rules and regulations of the division of public health (prior to 1933, known as the Indiana state board of health) and of the various boards of health have, within their respective jurisdictions, the force and effect of a law of the general assembly, and, like an ordinance or by-law
of a municipal corporation, they may be said to be in force by authority of the state.

Blue v. Beach, 155 Ind. 130, and cases there cited.

It would seem to be well within the power of the health officials, if they should determine that anti-syphilitic medical treatment should be administered to an expectant mother during the period of pregnancy because of the infection of such expectant mother with syphilis as a means of preventing the spread of the disease and to safeguard the public, to make an order and cause the treatment to be given at the expense of the proper county, city or town. Inasmuch as adequate medical treatment is about the only protective measure for the prevention and control of venereal diseases, and since the anti-syphilitic medical treatment forming the basis of this inquiry, is directed toward preventing the further transmission of syphilis to one who would, from birth, menace the health of the general public with a highly dangerous communicable disease, I am of the opinion that an order directing the administration of adequate medical treatment would come within the purview of being "reasonable and necessary for the prevention and suppression of disease" and would be a "reasonable and necessary way of protecting the public health."

From the standpoint of being analogous, it appears that laws authorizing health officers to require vaccination and revaccination, and providing penalties to all those who, being within the purview of the act, refuse or neglect to comply with such requirement, are in point. Such laws have been held to be valid.

Commonwealth v. Pear (Mass.), 66 N. E. 719;
Jacobson v. Commonwealth, 197 U. S. 11;

Since the theory of requiring vaccination is to prevent the spread of the disease, rather than the protection of the individual who may not desire it, and since the theory of ordering anti-syphilitic medical treatment in the instant case, is in order to prevent the communication of the disease rather than to directly cure the mother, the same principle may here be applied. The county, city and town health officers may legally authorize the treatment under consideration.
Likewise, I respond to your second inquiry in the affirmative. The pertinent provisions of the statutes are as follows.

"8169. EXPENSES, PAYMENT.—12. All expenses legally incurred for the work of protecting the public health outside the corporation of cities and towns shall be paid by the county treasurers out of the health appropriations made by county councils, upon warrants from county health commissioners, based upon sworn vouchers, said vouchers to have attached itemized bills for the amount for which they are drawn; and the expenses legally incurred for the protection of the public health inside the corporation of cities and towns shall be paid out of the treasuries of the cities and towns in which the work is done; and townships shall not be held for the payment of public health expenses; but the cost of the care of the paupers whether sick or well, shall be upon the townships."

2 Burns Annotated Indiana Statutes (1926), Sec. 8169.

Under the authority of Board of Commissioners of the County of Pike v. Kime, 66 Ind. App. 620, it seems that treatments may be administered at the expense of the county, city or town, upon order of the health officers, as a protection of the public health from the spread of contagious and infectious disease. The Appellate Court in that case said:

"The decision of the health commissioners with reference to the necessity for action and the means to be employed in the absence of connivance and fraud, is conclusive and final."

Board v. Kime, 66 Ind. App. 620, citing:
Morgan County v. Seaton, 122 Ind. 521, 525;

If, in the opinion of the health officials, the proper protection of the public health requires that persons infected with venereal diseases be given treatment to suppress and control the diseases, and to prevent their spread to others, it is certainly within their power to order the treatment given at the expense of the proper county, city or town. This rule applies regardless of the age of the infected person, and since it is done purely for the protection of the general public, without
regard to the indigency of the person treated. A claim covering the cost of necessary anti-syphilitic medical treatments authorized and ordered by a health officer for the prevention of the spread of syphilis and for the protection of the public from that disease, is; if properly drawn in all other respects, a valid claim against the city, town or county, as the case may be.

MOTOR VEHICLES, BUREAU OF: Bus fee: what rate applicable where operation is interstate but entire operation in Indiana wholly within limits of one city.

November 22, 1933.

Hon. Frank Finney, Commissioner,
Bureau of Motor Vehicles,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your request that an official opinion issue in response to the following question:

"What registration fee should the bureau of motor vehicles require from an applicant who is a carrier of persons for hire, operating interstate, with the corporate line of the Indiana terminus running coincident for a certain distance with the Indiana state boundary line over which coincident line the carrier passes in entering and leaving this state?"

The Supreme Court of the State of Minnesota in a decision handed down in 1926, dealt with an identical problem calling for the interpretation of certain sections of a motor vehicle law, which are strikingly similar to the pertinent provisions of chapter 213, of the Acts of 1925, (page 570) which is presently before us.

In *Wickman v. Holm*, 206 N. W. 705, the facts were as follows: the territory comprising the cities of Duluth, Minnesota and Superior, Wisconsin, is contiguous; the Saint Louis River forming the boundary line between the two cities as well as the boundary line between the two states. There is an interstate bridge over the river which connects the two cities, the southern approach to this bridge being in the city of Superior,