

It seems that the board has recognized a duty owing from the husband to his wife, which the state will assist him in discharging if he is disabled or destitute. When the marital relations are severed by divorce this duty ceases to exist. This was doubtless the reason which prompted the adoption of the rule.

HEALTH, STATE BOARD OF: County health officers, salary of part time officers.

July 16, 1937.

Hon. Verne K. Harvey, M. D.,
 Director Indiana State Board of Health,
 State House Annex,
 Indianapolis, Indiana.

Dear Sir:

Receipt is acknowledged, under date of July 8, 1937, of a request for an official opinion upon the following facts as set out in your request, which letter is as follows:

"May I have an official opinion from you on the following facts, to wit: The county health officer of Vanderburgh County is now receiving approximately \$1,500.00 per year. Chapter 217 of the Acts of 1935, attention being directed to section 1, would change this salary from \$1,500.00 per year to approximately \$360.00 per year, starting January 1, 1938.

"Does this Act provide any means whereby there may be added to the estimated \$360.00 per year a sufficient amount to put the salary back to approximately \$1,500.00 per year for that local health officer? Your attention is directed to section 10 of the Act, wherein the local health officer of the county may receive gifts, etc. Can this section be so interpreted that the county council can vote an additional sum to the estimated \$360.00 to bring it up to the present salary of \$1,500.00 per year? Health officers serving under this arrangement devote part-time to the office unless otherwise specified in chapter 217 of the Acts of 1935."

Section 217 of the Acts of 1935, as approved March 11, 1935, section 12 of the Act, provides in part as follows:

“Section 12. All laws and parts of laws in conflict with any of the provisions of this Act are hereby repealed. * * *”

Section 1, the same being section 35-118, Burns Indiana Statutes Annotated of 1933, provides for the appointment by the Board of County Commissioners, with the approval of the State Board of Health, of a county health officer. The section further provides as to the salary of the officer in the following words:

“The county health officer shall receive an annual salary of three cents per capita, based on the population of the county, less the population of any city or cities located therein and having separate health officers, except that in no case shall he receive less than \$200.00 or more than \$1,800.00 per year. The salary and the actual necessary operating expenses of the county health officer shall be paid out of the treasury of the county.”

Sections 2, 3 and 4 pertain to appointment of city health officers. Since you are not interested in city health officers, no discussion is made of these sections (35-119, 35-120 and 35-121, Burns Indiana Statutes Annotated of 1933.)

Section 35-127, same being section 10 of chapter 217 of the 1935 Act, provides as follows:

“Upon the approval of the county commissioners of the county or the Common Council of a city, the health officer may receive gifts, donations, or other financial assistance from private individuals, corporations, or the state or federal government, provided the conditions under which the grant is made are fully understood and have the approval of the State Board of Health.”

From a careful examination of all the sections of this Act of the legislature, my conclusion is that the salary prescribed for a county health officer, as set out in section 1, pertains only to a part-time official; further, that section 10 of the Act, same being 35-127 of Burns Indiana Statutes of 1933, can not be so interpreted that the county council may vote an additional sum of money to that prescribed by section 1 of the Act, even though the language used includes the “state or

federal government." This does not, however, mean that gifts, donations or financial assistance from private individuals, etc., may not be given to the health officer, that any additional sum of money to that prescribed by section 1 of the Act would not be in the nature of a salary but, as set out in section 10 of the Act, rather would be a gift, and it is extremely doubtful that an additional appropriation by a county council could in any way be interpreted as a gift, rather than a salary.

Your attention is called to section 5 of the Act, same being section 35-122 of Burns Indiana Statutes Annotated of 1933, wherein provision is made for a full-time health officer. It is my opinion, after studying this section in connection with the other sections of the Act, that the legislature did not intend to confine the salary of a full-time health officer to that prescribed by section 1 of the Act. The section in part reads as follows:

"The county commissioners of any county, or the Common Council of any city shall have the power and authority to provide for a full-time county or city health officer, and *for the expenses of his office*, and for that purpose the County Council or Common Council, as the case may be, shall annually make the *necessary appropriations in the same manner as appropriations are made for other county or city offices.*"

Your attention, by the language of this Act, is directed to other laws pertaining to appropriations for other county and city offices. You will there find that a specific sum is provided for salary and another sum for office expense, supplies, etc.

I conclude that chapter 217 of the Acts of 1935 provides no means whereby there may be added to the estimated \$360.00 per year a sufficient amount to bring the salary back to approximately \$1,500.00 per year for the local health officer of Vanderburgh County; that section 10 of the Act does not give authority to the County Council of the county to vote an additional sum of money for salary; that a part-time health official may receive additional remuneration in the way of gifts, etc., but that the County Council is not within the law in voting an additional sum to that provided in section 1 for a part-time official in any county coming under the provisions of chapter 217 of the Acts of 1935.