

701.

DISTRICT BOARD OF HEALTH—MUST EMPLOY REGISTERED NURSES
—EXCEPTION NOTED.

SYLLABUS:

In appointing public health nurses under the provisions of Section 1261-22, General Code, a district board of health is subject to the same limitations in making the selection as are set forth in Section 4411, General Code, relative to the appointment of public health nurses by a municipal board of health, and accordingly must employ registered nurses, unless registered nurses are not available, in which event, other suitable persons may be so appointed.

DR. H. M. PLATTER, *Secretary, The State Medical Board, Columbus, Ohio.*

GENTLEMEN :—Your communication of recent date reads as follows :

“The State Medical Board directed me at a meeting held July 2nd, 1929, to transmit to you the enclosed communication from the Ohio State Nurses Association dealing with the employment of nurses by boards of health.

For your information, the State Medical Board examines and licenses nurses who are graduates of accredited schools of nursing and awards to successful entrants to the examination the title registered nurse ‘R. N.’. The employment of nurses in public health positions is not within the province of this department but would fall within that of the State Department of Health or the various constituent local health organizations.

As I interpret the communication, the Association desires to know whether any one except an Ohio registered nurse may be hired and legally serve as a public health nurse unless she holds Ohio registration.”

The letter of the Ohio State Nurses’ Association enclosed with your communication raises the question of whether or not public health nurses, appointed under the provisions of Section 1261-22, General Code, by a district board of health, are required to be registered nurses.

Section 1261-22, in so far as pertinent, is as follows :

“In any general health district the district board of health may upon the recommendation of the health commissioner appoint for whole or part time service a public health nurse and a clerk and such additional public health nurses, physicians and other persons, as may be necessary for the proper conduct of its work. Such number of public health nurses may be employed as is necessary to provide adequate public health nursing services to all parts of the district. The district health commissioner and other employes of the district board of health may be removed for cause by a majority of the board.

* * * ”

This section is part of an act providing for the creation of municipal and general health districts for the purpose of local health administration.

Section 1261-30 of the General Code, being part of the same act, provides as follows :

“The district board of health hereby created shall exercise all the powers and perform all the duties now conferred and imposed by law upon the board

of health of a municipality, and all such powers, duties, procedure and penalties for violation of the sanitary regulations of a board of health shall be construed to have been transferred to the district board of health by this act (G. C. Sections 1261-16 to 1261-43 and Sections 1245, et seq.). The district board of health shall exercise such further powers and perform such other duties as are herein conferred or imposed."

The reference herein to the board of health of a municipality is to Sections 4404, et seq., of the General Code. Section 4411 provides in part as follows:

"The board may also appoint as many persons for sanitary duty as in its opinion the public health and sanitary conditions of the corporation require, and such persons shall have general police powers and be known as sanitary police. The board may also appoint as many persons for public health nurse duty as in its opinion the public health and sanitary conditions of the corporation require, and such persons shall be registered nurses and shall be known as public health nurses; provided, however, that where registered nurses are not available the board may appoint other suitable persons as public health nurses. * * * ."

Although there is no reference in Section 1261-22, supra, as to whether public health nurses appointed by a district board of health must be registered nurses or graduate nurses, or other suitable persons whom the district board of health may consider qualified to serve in such capacity, Section 4411, supra, expressly provides that public health nurses appointed by the board of health of a municipality "shall be registered nurses and shall be known as public health nurses; provided, however, that where registered nurses are not available, the board may appoint other suitable persons as public health nurses."

It seems manifest, under the provisions of Section 1261-30, supra, by which a district board of health shall exercise all powers and perform all duties as imposed by law upon the board of health of a municipality, that the duty imposed upon a municipal board of health in appointing public health nurses to appoint registered nurses, unless registered nurses are not available, is also applicable to district boards of health in appointing public health nurses. It is noted that except in instances when registered nurses are not available, public health nurses are defined in Section 4411 as registered nurses. Section 4411 was enacted prior to Section 1261-22. The reference then in Section 1261-22 to "public health nurses" is undoubtedly to such nurses as previously defined by the Legislature.

Specifically answering your question, I am of the opinion that in appointing public health nurses under the provisions of Section 1261-22, General Code, a district board of health is subject to the same limitations in making the selection as are set forth in Section 4411, General Code, relative to the appointment of public health nurses by a municipal board of health, and accordingly must employ registered nurses, unless registered nurses are not available, in which event, other suitable persons may be so appointed.

Respectfully,

GILBERT BETTMAN,

Attorney General.