

**OPINION**  
**45-134**

January 12, 1945            (OPINION)

HEALTH

RE: District Board - Rules and Regulations

This will acknowledge your letter of January 9, concerning the right of a district board of health to adopt rules and regulations involving its work.

I note from your letter that a district board of health unit exists in Burke, Ward and McLean Counties. I understand that it is the desire of this health unit to adopt rules and regulations for the purpose of preparing certain standards of sanitation and of safety in restaurants, beer parlors, soda fountains, dairies and pasteurization plants. You ask the specific question whether the Burke-Ward-McLean County Health Unit has such power.

Under section 23-0501 of the 1943 Revised Code, the local boards of health have the power to make such rules and regulations as are necessary and proper for the preservation of public health and safety. It is, of course, understood that such rules and regulations must not be inconsistent with the laws of the State of North Dakota. Under the laws dealing with health districts, sections 23-1401 to 23-1413 inclusive, under section 23-1406 in particular, "Each district board of health shall have and shall exercise all the powers and duties which now or hereafter may be given to a local board of health by the laws of the state insofar as the same are not inconsistent with this chapter." It would thus appear that the district board of health has the same power to make rules and regulations necessary and proper for the preservation of public health and safety, as the local boards of health in any county or city, township or village.

It is, therefore, the opinion of this office that the district board of health has the same power to make rules and regulations involving the public health of the district as the local board of health has under our law, as long as such rules and regulations are not inconsistent with the laws of the State of North Dakota and are not in conflict with other provisions of the statutes relating to district boards of health.

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