

CHAPTER 108.

GENERAL INSURANCE LAW AMENDED.

APRIL 12. AN ACT to Amend Section Forty, of Chapter One Hundred and Thirty-Eight of the Acts of the 12th General Assembly, to regulate Insurance Companies.

1868, ch. 18c. SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That section forty, of chapter one hundred and thirty-eight of the acts of the Twelfth General Assembly, be and the same is hereby so amended in the third line of said section that the word "two" shall read "seven," and that in the sixth and seventh lines of said section the words "and occupied" be and the same are hereby stricken out, and the words "except the secretary" be inserted immediately after the word "employees" in said section.

700 persons may organize to insure their own property or lives. Property need not be occupied by owner. May pay sec'y.

Approved, April 12, 1870.

CHAPTER 109.

CARE OF THE INSANE.

APRIL 12. AN ACT for the Government of Hospitals for the Insane, Defining the Legal Relations of Insane Persons, and Providing for their Care and Protection.

Hospitals for the Insane at Mount Pleasant and Independence.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That the Hospital for the Insane, located at Mount Pleasant, in Henry county, shall hereafter be known by the name of the Iowa Hospital for the Insane at Mount Pleasant; and the Hospital for the Insane, located at Independence, in Buchanan county, shall be known by the name of the Iowa Hospital for the Insane at Independence. Each of said Hospitals shall be under the charge of seven Trustees, as herein provided, four of whom shall constitute a quorum for the transaction of business; the Governor of the State shall be *ex officio* a member of the board.

Each under ch'rg of Trustees; Governor one.

Present Trustees to continue in office.

SEC. 2. The present Trustees of the Mount Pleasant Hospital shall hold their offices for the periods for which they have been respectively appointed; that is to say,

Luke Palmer and Andrew W. McClure, until the 4th day of July, 1870; Maturin L. Fisher and Benjamin Crabb, until the 4th day of July, 1872; and Micajah T. Williams, George Acheson, and Martin L. Edwards, until the 4th day of July, 1874; and Luke Palmer and Andrew W. McClure, aforesaid, are hereby appointed their own successors, respectively, for six years from the 4th day of July, 1870. The Trustees of the Independence Hospital shall be Maturin L. Fisher and Dr. John F. Ely, who shall hold their offices until the 4th day of July, 1872; T. W. Fawcett and G. W. Bemis, who shall hold their offices until the 4th day of July, 1874; and E. G. Morgan, J. M. Boggs, and Dr. C. C. Parker, who shall hold their offices until the 4th day of July, 1876. The first two shall serve for two years, the second two for four years, and the last three for six years, from the 4th day of July, 1870. In all cases, when the term of [a] Trustee expires, his successor shall be appointed by the General Assembly for six years; and the incumbent shall hold office until his successor is appointed and qualified. All vacancies occurring shall be filled by the Governor until the meeting of the General Assembly.

Two reappointed.

Trustees of Hospital at Independence; classified.

General Assembly to elect.

Vacancies provided for.

SEC. 3. The Trustees, before entering upon the duties of their office, shall take and subscribe an oath or affirmation to support the constitution of the United States, and of this State, and also faithfully to discharge the duties required of them by law, and the by-laws that may be established. They shall be paid their actual and necessary expenses and three dollars per day during the time they are actually engaged in the discharge of their official duties; such payment to be made out of the State treasury, out of any moneys not otherwise appropriated, by an order drawn by the secretary of the Board, and approved by the superintendent. The Board of Trustees shall hold an annual meeting upon the first Wednesday of December of each year, at the Hospital, when they shall choose one of their number president, and another secretary, and shall also choose a treasurer, for the year then ensuing, and until their successors are elected and qualified. They shall also hold quarterly meetings on the first Wednesday[s] in March, June, and September, excepting as provided in the next section.

Oath of office.

Compensation.

Annual meeting officers of Board.

Quarterly meetings.

SEC. 4. The first meeting of the Trustees of the Independence Hospital, shall be held on the call of the Commissioners charged with superintending the construction of the building. The Commissioners shall fix the time of

First meeting of Trustees of Independence hospital to be called by the Commissioners.

such meeting at such period as will allow the Trustees time to organize, choose a superintendent and other resident officers, and make needful preparation for the reception of patients, by the time the building shall be so far advanced as to admit of such occupancy; and they shall notify each of the Trustees of the time so fixed.

SEC. 5. It shall be the duty of the Board of Trustees, or a majority thereof, to inspect the Hospital under their charge at each quarterly meeting; and a committee of the Board may visit the Hospital monthly. The Trustees shall make a record of all their proceedings in books kept for the purpose; and at the annual meeting preceding the regular sessions of the General Assembly they shall make a report to the Governor of the condition and wants of the Hospital, which shall be accompanied by full and accurate reports of its superintendent and treasurer, and an account of all moneys received and disbursed.

SEC. 6. The Trustees shall have the general control and management of the Hospital under their charge; they shall have full power to make all by-laws necessary for the government of the same, not inconsistent with the laws and constitution of the State, and to conduct the affairs of the institution in accordance with the laws and by-laws regulating the same. They shall appoint a Medical Superintendent, an Assistant Physician or Physicians, a Steward, and a Matron, who shall reside in the Hospital and be styled resident officers of the same, and be governed and subject to all the laws and by-laws for the government of the said institution: *Provided, however,* that the Trustees, may, in their discretions, dispense with a steward, and in such case cause the duties of a steward to be performed by the other officers, under such rules and regulations as the Board may adopt. They may also, in their discretion, and upon the nomination of the superintendent, appoint a chaplain and prescribe his duties. The Board of Trustees shall, from time to time, fix the salaries and wages of the officers and other employees of the Hospital, and certify the same to the Auditor of State; and they may remove any officer or any other employee of such institution: *Provided,* that the salary of the superintendent shall not be more than fifteen hundred dollars per annum; the salary of the assistant physician shall not be more than six hundred dollars per annum; the salary of the steward shall not be more than seven hundred dollars per annum; the salary of the matron shall not be more than three hundred dollars per annum.

SEC. 7. The Board of Trustees may take, in the name

Board of Trustees to inspect.

Monthly visit.

Trustees to keep record and make report.

Powers of the Trustees.

Officers of Hospital.

Salaries and wages.

Removal.

proviso: salaries limited.

of the State, and hold, in trust, for the Hospital, any land conveyed or devised, and any money or other personal property given or bequeathed, to be applied for any purpose connected with the institution.

Trustees may take and hold property in trust.

SEC. 8. No Trustee, or any officer of the Hospital, shall be either directly or indirectly interested in the purchase of building material, or any article of furniture or supply for the use of the institution.

Trustees nor officers to be interested in contracts.

SEC. 9. No member of the Board of Trustees shall be eligible to the office of superintendent of the Hospital during the term for which he was appointed, nor within one year after his term shall have expired.

Trustees not eligible to office of superintendent.

SEC. 10. The treasurer shall execute a bond to the State of Iowa for the use of the Hospital (naming which) in a sum, and with such securities, as the Board of Trustees shall approve, conditioned that he will faithfully perform the duties of his office, and pay over and account for all money that shall come into his hands. He shall receive such compensation as the Board shall fix, not exceeding one-half of one per cent. on all moneys received and paid out by him. Upon authority granted by the Board he shall have power to draw from the State treasury out of money not otherwise appropriated, upon his order, approved by the superintendent and not less than two of the Trustees, and under seal of the Hospital, a sufficient amount, from time to time, for the purpose of defraying any deficiencies that may arise in the current expenses of the Hospital. Upon the presentation of such order to the Auditor of State, it shall be the duty of the Auditor to draw a warrant on the Treasurer of State for the amount therein specified.

Trustees' bond.

His compensation.

Moneys, how drawn from State treasury.

Duty of Auditor.

SEC. 11. The superintendent of the Hospital shall be a physician of acknowledged skill and ability in his profession. He shall be the chief executive officer of the Hospital, and shall hold his office for six years unless sooner removed as above provided. Before entering on the duties of his office, he shall take and subscribe an oath or affirmation, faithfully and diligently to discharge the duties required of him by law. He shall have the entire control of the medical, moral, and dietetic treatment of the patients, and he shall see that the several officers of the institution faithfully and diligently discharge their respective duties. He shall employ attendants, nurses, servants, and such other persons as he may deem necessary for the efficient and economical administration of the affairs of the Hospital, assign them their respective places

Qualifications, term of office, and powers of superintendent.

and duties, and may at any time discharge any of them from service.

SEC. 12. The superintendent, or the steward and matron, under his direction, and not otherwise, shall make all purchases for the Hospital, where and in such manner as they can be made on the best terms, keep the accounts, pay employees, and have a personal superintendence of the farm, grounds, and all the property of the Hospital.

SEC. 13. The superintendent shall provide an official seal upon which shall be inscribed the statute name of the Hospital under his charge, and the name of the State.

SEC. 14. The assistant physicians shall be medical men of such character and qualifications as to be able to perform the ordinary duties of the superintendent during his necessary absence or inability to act.

SEC. 15. In each organized county of the State there shall be a board of commissioners, consisting of three persons, to be styled Commissioners of Insanity, two of whom shall constitute a quorum. The clerk of the circuit court shall be *ex-officio* a member of such board and clerk of the same. The other members shall be appointed by the judge of said court. One of them shall be a respectable practicing physician, and the other a respectable practicing lawyer; and the appointment shall be made of persons residing as convenient as may be to the county-seat. Such appointment may be made during the session of the court or in vacation; and if made in vacation, it shall be by written order, signed by the judge and recorded by the clerk of the court. Immediately on the taking effect of this act, the judge shall make the first appointment. He shall then appoint one for one year, and the other for two years; as their respective terms expire their successors shall be appointed for two years. The appointment of successors may be made at any time within three months prior to the expiration of the term of the incumbent, who shall hold his office until his successor is appointed and qualified. In the temporary absence or inability to act of two of the commissioners, the judge of the circuit court, if present, may act in the room of one of such commissioners; or the commissioner present may call to his aid a respectable practicing physician or lawyer, who, after qualifying as in other cases, may act in the same capacity. The record, in such cases, must show the fact of such absence.

SEC. 16. Before entering upon the duties of their office, the persons so appointed shall take and subscribe an oath or affirmation to support the constitution of the United

Superintendent to make purchases and superintend property.

Seal.

Qualifications of assistant physicians.

County board of commissioners of insanity; clerk of court to be a member and clerk.

Circuit judge to appoint.

Term.

Temporary vacancy.

Oath.

States and of the State of Iowa, and to faithfully discharge their duties according to law, as such commissioners; which obligation shall be filed with the clerk of said court, who shall enter a memorandum thereof on the records. They shall organize by choosing one of their number president. They shall hold their meetings for business at the office of the clerk of said court, unless, for good reasons, they shall fix on some other place. If they deem necessary or advisable, they may hold sessions at such regular times as they may fix. They shall also meet on notice from the clerk.

SEC. 17. The term "clerk," as herein used, means clerk of said board of commissioners, unless otherwise expressed. The said clerk shall sign and give or issue all notices, appointments, warrants, subpoenas, or other process required to be given or issued by the commissioners, affixing thereto his seal as clerk of said court. He shall file and carefully preserve in his office all papers connected with any inquest by the commissioners, and properly belonging to his office, with all notices, reports, and other communications. He shall keep separate books in which to minute the proceedings of the board; and his entries therein shall be sufficiently full to show, with the papers filed, a complete record of their findings, orders, and transactions. The notices, reports, and communications, herein required to be given or made, may be sent by mail, unless otherwise expressed or implied; and the fact and date of such sending, and of their reception, must be noted on the proper record.

SEC. 18. The said commissioners shall have cognizance of all applications for admission to the Hospital, or for the safe keeping otherwise, of insane persons within their respective counties, excepting in cases otherwise specially provided for. For the purpose of discharging the duties required of them, they shall have power to issue subpoenas and compel obedience thereto, to administer oaths, and do any act of a court necessary and proper in the premises.

SEC. 19. Applications for admission to the Hospital must be made in writing, in the nature of an information, verified by affidavit. Such information must allege that the person in whose behalf the application is made, is believed by the informant to be insane, and a fit subject for custody and treatment in the Hospital; that such person is found in the county, and has a legal settlement therein, if such is known to be the fact; and, if such settlement is not in the county, where it is, if known; or

President.

Meaning of term "clerk"; his duties.

Jurisdiction and powers of county commissioners.

Applicants for admission.

Information.

where it is believed to be, if the informant is advised on the subject.

Commissioners to investigate.

SEC. 20. On the filing of an information as above provided, the commissioners shall at once take steps to investigate the grounds of the information. For this purpose, they may require that the person for whom such admission is sought be brought before them, and that the examination be had in his or her presence; and they may issue their warrant therefor, and provide for the suitable custody of such person until their investigation shall be concluded. Such warrant may be executed by the sheriff, or any constable of the county; or, if they shall be of opinion, from such preliminary inquiries as they may make—and in making which they shall take the testimony of the informant, if they deem necessary or desirable, and of other witnesses, if offered,—that such course would probably be injurious to such person, or attended with no advantage, they may dispense with such presence. In their examination they shall hear testimony for and against such application, if any is offered. Any citizen of the county, or any relative of the person alleged to be insane, may appear and resist the application, and the parties

Warrant.

Examined physician.

by may appear by counsel, if they elect. The commissioners, whether they decide to dispense with the presence before them of such person or not, shall appoint some regular practicing physician of the county to visit or see such person, and make a personal examination touching the truth of the allegations in the information, and touching the actual condition of such person, and forthwith report to them thereon. Such physician may, or may not, be of their own number; and the physician so appointed and acting shall certify, under his hand, that he has, in pursuance of his appointment, made a careful personal examination as required; and that, on such examination, he finds the person in question insane, if such is the fact, and if otherwise, not insane; and in connection with his examination, the said physician shall endeavor to obtain from the relatives of the person in question, or from others who know the facts, correct answers, so far as may be, to the interrogatories hereinafter required to be propounded in such cases, which interrogations and answers shall be attached to his certificate.

Certificate physician.

Finding of commissioners.

SEC. 21. On the return of the physician's certificate, the commissioners shall, as soon as practicable, conclude their investigation; and, having done so, they shall find whether the person alleged to be insane, is insane; whether, if insane, a fit subject for treatment and custody

in the Hospital; whether the legal settlement of such person is in their county, and if not in their county, where it is, if ascertained. If they find such person is not insane, they shall order his or her immediate discharge, if in custody. If they find such person insane, and a fit subject for custody and treatment in the Hospital, they shall forthwith issue their warrant and a duplicate thereof, stating such finding, with the settlement of the person, if found; and if not found, their information, if any, in regard thereto, authorizing the superintendent of the Hospital to receive and keep such person as a patient therein. Said warrant and duplicate, with the certificate and finding of the physician, shall be delivered to the sheriff of the county, who shall execute the same by conveying such person to the Hospital, and delivering him or her, with such duplicate, and physician's certificate, and finding, to the superintendent thereof. The superintendent, over his official signature, shall acknowledge such delivery on the original warrant, which the sheriff shall return to the clerk of the commissioners, with his costs and expenses indorsed thereon. If neither the sheriff, or his deputy is at hand, or, if both are otherwise engaged, the commissioners may appoint some other suitable person to execute the warrant in his stead, who shall take and subscribe an oath or affirmation faithfully to discharge his duty, and shall be entitled to the same fees as the sheriff. The sheriff, or any other person so appointed, may take to his aid such assistance as he may need to execute such warrant; but no female person shall thus be taken to the Hospital without the attendance of some other female, or some relative of such person. The superintendent, in his acknowledgment of delivery, must state whether there was any such person in attendance, and give the name or names, if any. It is, however, hereby provided, that if any relative or immediate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of taking and executing such warrant, in preference to the sheriff, or any other person, and without taking such oath or affirmation; and for so doing he shall be entitled to his necessary expenses, but to no fees. The requirements of this and the preceding section are modified by the provisions of the next section.

Discharge of same.

Warrant for commitment of insane.

Sheriff to execute warrant.

Superintendent to acknowledge.

Commissioners to appoint officer temporarily.

Female person, how taken.

Relative or friend may execute warrant.

SEC. 22. If the commissioners find that the person so committed to the Hospital has, or probably has, a legal settlement in some [other] county in the State, they shall immediately notify the commissioners of such county of such finding and commitment; and the commissioners so

When legal settlement is in different county, proceedings.

notified shall thereupon inquire and ascertain, if possible, whether the person in question has a legal settlement in their county, and shall immediately notify the superintendent of the Hospital, and the commissioners of the county from which such person was committed, of the result of such inquiry. If the legal settlement of a person so committed cannot for a time be ascertained, and is afterwards found, the notices so required shall then be given.

SEC. 23. When the superintendent of the Hospital has been duly notified, as herein required, that a patient sent to the Hospital from one county has a legal settlement in another county of the State, he shall thereafter hold and treat such patient as from the latter county; and such holding shall apply to expenses already incurred in behalf of such patient, and remaining unadjusted.

SEC. 24. Expenses incurred as herein provided by one county, on account of an insane person whose legal settlement is in another county of the State, shall be refunded, with lawful interest thereon, by the county of such settlement; and shall be presented to the board of supervisors of the county sought to be charged, which shall be allowed and paid the same as other claims.

SEC. 25. Patients in the Hospital having no legal settlement in the State, or whose legal settlement cannot be ascertained, shall be supported at the expense of the State. This provision shall apply to all such patients now in the Hospital, touching expenses already incurred and remaining unpaid, if any such there be; and the Trustees may authorize the superintendent to remove any such patient, at the expense of the State, if they see proper.

SEC. 26. All patients in the Hospital shall be regarded as standing upon an equal footing; and the several patients, according to their different conditions of mind and body, and their respective needs, shall be provided for and treated with equal care: *Provided*, that if the relatives or immediate friends of any patient shall desire it, and shall pay the expense thereof, such patient may have special care, and may be provided with a special attendant, as may be agreed upon with the superintendent. In such cases, the charges for such special care and attendance shall be paid quarterly in advance.

SEC. 27. The relatives or friends of any patient in the Hospital shall have the privilege of paying any portion or all of the expenses of such patient therein; and the Superintendent shall cause the account of such patient to be credited with any sums so paid.

Same.

Expenses in such cases.

What patients to be supported at expense of State.

Removal at do.

Treatment and care of patients.

Special care, when, and how paid for.

Relatives or friends may pay expenses.]

SEC. 28. If, in the case of any person[s] found to be insane and fit subjects for custody and treatment in the Hospital, as above provided, it shall be shown, to the satisfaction of the commissioners, that they cannot at once be admitted therein, for want of room, or for any other cause, and that they cannot with safety be allowed to go at liberty, the commissioners shall require that such patients shall be suitably provided for, otherwise, until such admission can be had, or until the occasion therefor no longer exists. Such patients may be cared for either as private or as public patients. Those shall be treated as private patients whose relations or friends will obligate themselves to take care of and provide for them, without public charge. In the case of any one treated as a private patient, the commissioners shall appoint some suitable person a special custodian, who shall have authority, and whose duty it shall be, in all suitable ways to restrain, protect, and care for such patient, in such manner as to best secure his or her safety and comfort, and in such manner as to best protect the persons and property of others. In the case of public patients, the commissioners shall require that they be, in like manner restrained, protected, and cared for, by the directors of the poor-house, or the overseers of the poor, at the expense of the county, and they may accordingly issue their warrant to such directors or overseers, who shall forthwith comply with the same. If there is no poorhouse for the reception of such patients, or if no more suitable place can be found, they may be confined in the jail of the county in charge of the sheriff.

Provision for patients when they cannot be admitted to Hospital.

Special custodian for private patient.

Public patients.

SEC. 29. On application to the commissioners in behalf of persons alleged to be insane, and whose admission to the Hospital is not sought, made substantially in the manner above prescribed, and asking that provision be made for their care as insane—either public or private—within the county, and on proof of their insanity, and need of care as above pointed out, the commissioners may provide for their restraint, protection, and care, as in the case of other applications.

When admission to Hospital is not sought.

SEC. 30. On information laid before the commissioners of any county that a certain insane person in the county is suffering for want of proper care, they shall forthwith inquire into the matter, and, if they find the information well founded, they shall make all needful provision for the care of such persons, as provided in other cases.

Insane suffering for want of care, inquiry.

SEC. 31. No person supposed to be insane shall be restrained of his liberty by any other person, otherwise than

No restraint without authority, except, etc.

in pursuance of authority obtained as herein required, excepting to such extent and for such brief period as may be necessary for the safety of person and property until such authority can be obtained.

Cruel treatment
a misdemeanor
and cause for ac-
tion.

SEC. 32. Any person having care of an insane person and restraining such person, either with or without authority, who shall treat such person with wanton severity, harshness, or cruelty, or shall in any way abuse such person, shall be guilty of a misdemeanor, besides being liable in an action for damages.

Outside patients,
how admitted to
Hospital.

SEC. 33. Insane persons who have been under care, either as public or private patients, outside of the Hospital, by authority of the commissioners of any county, may, on application to that effect, be transferred to the Hospital, whenever they can be admitted thereto, on the warrant of such commissioners. Such admission may be had without another inquest, at any time within six months after the inquest already had unless the commissioners shall deem further inquest advisable

Answers to ques-
tions to accom-
pany physician's
certificate.

SEC. 34. In each case of application for admission to the Hospital, correct answers to the following interrogatories, so far as they can be obtained, shall accompany the physician's certificate; and if on further examination, after the answers are stated, any of them are found to be erroneous, the commissioners shall cause them to be corrected:

Interrogatories.

1. What is the patient's name and age? Married or single? If any children, how many? Age of youngest child?

2. Where was the patient born?

3. Where is his (or her) place of residence?

4. What has been the patient's occupation?

5. Is this the first attack? If not, when did others occur, and what was their duration?

6. When were the first symptoms of this attack manifested, and in what way?

7. Does the disease appear to be increasing, decreasing, or stationary?

8. Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?

9. On what subjects or in what way is derangement now manifested? State fully.

10. Has the patient shown any disposition to injure others?

11. Has suicide ever been attempted? If so, in what way? Is the propensity now active?

12. Is there a disposition to filthy habits, destruction of clothing, breaking glass, &c?

13. What relatives, including grand parents and cousins, have been insane?

14. Did the patient manifest any peculiarities of temper, habits, disposition, or pursuits, before the accession of the disease?—any predominant passion, religious impressions, etc.?

15. Was the patient ever addicted to intemperance in any form?

16. Has the patient been subject to any bodily disease: epilepsy, suppressed eruptions, discharges of sores, or ever had any injury of the head?

17. Has restraint or confinement been employed? If so, what kind, and how long?

18. What is supposed to be the cause of the disease?

19. What treatment has been pursued for the relief of the patient? Mention particulars, and the effects.

20. State any other matter supposed to have a bearing on the case.

SEC. 35. If at any time it may become necessary, for want of room or other cause, to discriminate in the general reception of patients into the Hospital, a selection shall be made as follows: 1.—Recent cases, *i. e.*, cases of less than one year's duration, shall have preference over all others. 2.—Chronic cases, *i. e.*, where the disease is of more than one year's duration, presenting the most favorable prospects of recovery, shall be next preferred. 3.—Those for whom application has been longer on file, other things being equal, shall be next preferred. And, 4.—Where cases are equally meritorious, in all other respects, the indigent shall have the preference.

Order of preference if Hospital is crowded.

SEC. 36. On a statement in writing, verified by affidavit, addressed to a judge of the district or circuit court of the county in which the Hospital is situated, or of the county in which any certain person confined in the Hospital has his legal settlement, alleging that such person is not insane, and is unjustly deprived of his or her liberty, such judge shall appoint a commission of not more than three persons, in his discretion to inquire into the merits of the case, one of whom shall be a physician, and if two or more are appointed, another shall be a lawyer. Without first summoning the party to meet them, they shall proceed to the Hospital and have a personal interview with such person, so managed as to prevent him or her, if possible, from suspecting its object; and they shall make any inquiries and examinations they may deem necessary and proper, of the officers and records of the Hospital, touching the merits of the case. If they shall judge it pru-

Proceedings where person in Hospital is not insane.

Commission.

Personal interview.

dent and advisable they may disclose to the party the object of their visit, and either in the presence of such party, or otherwise, make further investigation of the matter. They shall forthwith report, to the judge making the appointment, the result of their examination and inquiries. Such report shall be accompanied by a statement of the case, made and signed by the superintendent. If, on such report and statement and the hearing of the testimony, if any is offered, the judge shall find the person not insane, he shall order his or her discharge. If, on the contrary, he shall so state, and authorize his or her continued detention.

Report. The finding and order of the judge, with the report and other papers, shall be filed in the office of the clerk of the court over which such judge presides, who shall enter a memorandum thereof on his record, and forthwith notify the superintendent of the Hospital of the finding and order of the judge, and the superintendent shall carry out the order. The commissioners appointed, as provided in this section, shall be entitled to their necessary expenses and a reasonable compensation, to be allowed by the judge, and paid by the State out of any funds not otherwise appropriated: *Provided*, that the applicant shall pay the same, if the judge shall find that the application was made without probable grounds, and shall so order.

Statement by superintendent.

Finding and order of judge.

Pay of commission.

Proviso.

Frequency of commission. SEC. 37. The commission so provided for shall not be repeated oftener than once in six months, in regard to the same party; nor shall such commission be appointed in the case of any patient within six months of the time of his or her admission.

Habeas corpus. SEC. 38. All persons confined as insane shall be entitled to the benefit of the writ of *habeas corpus*, and the question of insanity shall be decided at the hearing, and, if the judge shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person has been restored to reason.

Superintendent's duty in case of escape. SEC. 39. If any patient shall escape from the Hospital, the superintendent shall cause immediate search to be made for such patient; and, if the patient cannot soon be found, he shall cause notice of such escape to be forthwith given to the commissioners of the county where the patient belongs; and, if such patient is found in their county, the commissioners shall cause him to be returned, and shall issue their warrant therefor, as in other cases, unless the patient shall be discharged, or unless, for good reasons, they shall provide for his or her care otherwise, of which they shall notify the superintendent.

Escaped patient to be returned.

SEC. 40. Any patient who is cured shall be immediately discharged by the superintendent. Upon such discharge, the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing, and a sum of money not exceeding twenty dollars, which shall be charged with the other expenses in the Hospital of such patient. The relatives of any patient not susceptible of cure by remedial treatment in the Hospital and not dangerous to be at large, shall have the right to take charge of and remove such patient, on consent of the Board of Trustees: *Provided*, that in the interim of the meetings of the board the consent of two of the Trustees shall be sufficient.

Patients cured to be discharged & furnished what.

Relatives may take charge of harmless incurables, when.

SEC. 41. On the application of the relations or immediate friends of any patient in the Hospital, who is not cured, and who cannot be safely allowed to go at liberty, the commissioners of the county where such patient belongs, on making provision for the care of such patient within the county, as in other cases, may authorize his or her discharge therefrom: *Provided*, no patient who may be under charge or conviction of homicide, shall be discharged without the order of the Board of Trustees.

Discharge of uncured patients on application of friends;

except those under charge of homicide.

SEC. 42. The Board of Trustees shall order the discharge or removal from the Hospital of incurable and harmless patients whenever it is necessary to make room for recent cases: *Provided*, that in the interim between the meetings of the Board, the superintendent, in conjunction with two Trustees, shall possess and exercise the power granted in this section.

Removal of harmless incurables.

SEC. 43. When patients are discharged from the Hospital by the authorities thereof, without application therefor, notice of the order of discharge shall at once be sent to the commissioners of the county where they belong; and the commissioners shall forthwith cause them to be removed, and shall at once provide for their care in the county as in other cases, unless such patients are discharged as cured.

Notice of discharge of patients when not applied for.

Care of same.

SEC. 44. The Trustees shall, from time to time, fix the sum to be paid per week for the board and care of patients, and to arrive at such sum, shall estimate the total outlay for the support of the Hospital, ascertaining such outlay as far as possible from the sums actually paid per annum; and the weekly sum so fixed, shall be the sum said Hospital shall be entitled to demand for the keeping of any patient; and the certificate of the superintendent, attested by the seal of the Hospital, shall be evidence, in all places, of the amount due as fixed.

Trustees to fix price for attention to insane.

SEC. 45. The superintendent shall certify to the Auditor of State on the first days of January, April, July, and October, the amount (not previously certified by him) due to said Hospital, from the several counties having patients chargeable thereto; and said Auditor shall pass the same to the credit of the Hospital. The Auditor shall, thereupon, notify the county auditor of each county, so owing, of the amount thereof, and charge the same to said county; and the board of supervisors shall add such amount to the next State tax, to be levied in said county, and pay the amount so levied into the State treasury.

Settlement with debtor counties.

Auditor's duty.

Board of supervisors to levy tax.

SEC. 46. The provisions herein made for the support of the insane at public charge, shall not be construed to release the estates of such persons nor their relatives, from liability for their support; and the auditors of the several counties, subject to the direction of the board of supervisors, are authorized and empowered to collect from the property of such patients, or from any person or persons legally bound for their support, any sums paid by the county in their behalf, as herein provided; and the certificate from the superintendent, and the notice from the Auditor of State, stating the sums charged in such cases shall be presumptive evidence of the correctness of the sums so stated. If the board of county supervisors, in the case of any insane patient who has been supported at the expense of the county, shall deem it a hardship to compel the relatives of such patient to bear the burden of his or her support, they may relieve such relatives from any part or all of such burden, as may seem to them reasonable and just.

Estates of patients not released for liability for expenses.

Relatives may be relieved.

Discharge of patients within the county.

SEC. 47. Whenever it shall be shown, to the satisfaction of the commissioners of insanity of any county, that cause no longer exists for the care, within the county, of any particular person as an insane patient in their county as herein provided, they shall order the immediate discharge of such person.

Compensation of commissioners.

Compensation of clerk.

SEC. 48. The commissioners of insanity shall be allowed at the rate of three dollars per diem each for all the time actually employed in the duties of their office. They shall also be allowed their necessary and actual expenses, not including charges for board. The clerk, in addition to what he is entitled to as commissioner, shall be allowed one half as much more, for making the required record entries in all cases of inquest, and of meetings of the board for any purpose, and for the filing of any papers required to be filed. He shall also be allowed twenty-five cents for each notice or process given or issued

under seal as herein required. The examining physician shall be entitled to the same compensation as a commissioner, and to mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for his personal services in conveying a patient to the Hospital and returning therefrom at the rate of three dollars per day for the time necessarily and actually employed; and mileage the same as is allowed him in other cases, and for other services the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the circuit court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner. Whenever the commissioners issue their warrant for the admission of a person to the Hospital, and funds to pay the expenses thereof are needed in advance, they shall estimate the probable expense of conveying such person to the Hospital, including the necessary assistance, and not including the compensation allowed the sheriff; and on such estimate, certified by the clerk, the auditor of the county shall issue his order on the treasury of the county in favor of the sheriff or other person intrusted with the execution of such warrant; the sheriff, or other person executing such warrant, shall accompany his return with a statement of the expenses incurred; and the excess or deficiency may be deducted from or added to his compensation, as the case may be. If funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed on the return of the warrant. When the commissioners order the return of a patient, compensation and expenses shall be in like manner allowed.

Compensation of examining physician.

Compensation of sheriff.

Fees of witnesses.

How paid.

Funds to pay expenses.

SEC. 49. Any officer required as herein to perform any act, and any person accepting an appointment under the provisions of this act, and willfully refusing or neglecting to perform his duty, as herein prescribed, shall be guilty of a misdemeanor, besides being liable to an action for damages.

Refusal or neglect to do duty a misdemeanor and cause of action for damages.

SEC. 50. When, in the case of any proceeding in court, it would otherwise be necessary to serve personally any person who is a patient in the Hospital, with a notice or process of any kind, and when, in the opinion of the superintendent, such personal services would injuriously affect such patient, the superintendent shall acknowledge service of the same in behalf of the patient, setting forth in connection such opinion, by indorsement to that effect upon the notice or other process, or a copy thereof, and the same shall stand in lieu of personal service.

Service of process of court on patient in Hospital.

SEC. 51. The warrant of the commissioners of insanity, authorizing the admission of any person to the Hospital as a patient, accompanied by a physician's certificate, as herein provided, shall operate to shield the superintendent and other officers of the Hospital against all liability to prosecution of any kind, on account of the reception and detention of such person in the Hospital: *Provided*, such detention shall be otherwise in accordance with the laws and by-laws regulating its management.

Superintendent and other officers shielded from prosecution.

Proviso.

SEC. 52. When the superintendent of the Hospital, in obedience to a subpoena, attends any court out of the county in which the Hospital is situated as a witness for either party, in the case of a person on trial for a criminal offense, and the question of the sanity of such person is raised, he shall be allowed, on such account, his necessary and actual expenses, and such *per diem* as is allowed to other witnesses, and such expenses and *per diem* shall be paid by the State. When compelled so to attend in civil cases, he shall be entitled to the same compensation, to be paid by the party requiring his attendance.

Pay of superintendent when required as witness

SEC. 53. The Superintendent shall affix the seal of the Hospital to any notice, order of discharge, report, or other paper required to be given by him, or issued.

Papers to bear seal.

SEC. 54. The term "insane," as used in this act, includes every species of insanity or mental derangement. The term "idiot" is restricted to persons foolish from birth, one supposed to be naturally without mind. No idiot shall be admitted into the Hospital.

Definition of terms "insane" and "idiot"

SEC. 55. The Trustees of the Hospital shall provide for furnishing the commissioners of the counties entitled to send patients to the Hospital with such blanks for warrants, certificates, etc., as will enable them with regularity and facility to comply with the provisions of the law; and, also, with copies of the by-laws of the Hospital, when printed.

Trustees to furnish commissioners blanks, and copies of by-laws.

SEC. 56. As soon as may be after the appointment of a superintendent of the Independence Hospital, the superintendents of the two Hospitals and the Governor of the State shall meet and adopt such regulations as they may deem expedient in regard to what patients or class of patients shall be admitted to and provided for in the respective Hospitals; or from what portions of the State patients, or certain classes of patients, may be sent to each or either Hospital; and they may change such regulations from time to time as they may deem best; and they shall make such publication of these regulations as they may deem necessary for the information of those interested. The regula-

Governor and superintendents to adopt regulations as to patients for the respective Hospitals

tions so adopted shall be conformed to by the parties interested.

SEC. 57. Sections 42, 43, 44, 45, 46, 47, 48, 49, and 50, of chapter 141, of the laws of the Seventh General Assembly, are hereby revived, and declared to be in full force and effect, so far as they do not conflict with the provisions of this act. 1858: ch. 141, certain sections of, revived.

SEC. 58. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed. Repeal.

Approved, April 12, 1870.

CHAPTER 110.

NEW CAPITOL BUILDING.

AN ACT to Provide a State Capitol.

APRIL 18.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That there is hereby established a Board of Commissioners, consisting of the Governor, who shall be *ex-officio* president of the Board, and six other commissioners who shall be chosen by the Senate and House of Representatives in joint convention, and whose terms of office shall continue for two years from the date of their election and until their successors shall be elected and qualified, unless sooner removed from office as hereinafter provided; which Board shall be charged with the execution of the provisions of this act, and each member of which, excepting the Governor, shall give bonds to the State in the sum of fifty thousand dollars for the honest and faithful performance of his duties as such commissioner; and the majority of said Board shall constitute a quorum for the transaction of business; and said bonds shall be deposited with, and kept by, the Secretary of State. Each commissioner shall also keep and sign the oath prescribed by section 2180 of the Revision of 1860, which shall be filed with and kept by the Auditor of State. In addition to the Commissioners provided for in this act, Gen. G. M. Dodge, of Pottawattamie county, and Hon. James F. Wilson, of Jefferson county, are hereby appointed commissioners from the State at large, who shall hold their office for the term of two years, and until their successors

Board of commissioners established; Governor president.

How composed: election.

Duty.

Bond.

Quorum.

Bonds filed.

Oath of Office.

Rev., §2180.

Two commissioners appointed; duties and requirements.