

and such parties shall be liable for all damage done by such fire.

§ 5. All acts in conflict with this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after its passage.

Approved, February 21, 1879.

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## Insane.

### CHAPTER 23.

AN ACT establishing the Dakota Hospital for the Insane, providing for the Government of the same, and for the care of the Insane, and for the Organization of a Board of Commissioners of Insanity in each Organized County of this Territory.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. **WHERE LOCATED.]** The Dakota Hospital for the Insane until otherwise provided by law, is hereby established on the southeast quarter of section number thirty-six (36), in township number ninety-four (94), north of range number fifty-six (56) west, in the county of Yankton, near the city of Yankton, and shall be under the charge of a board of trustees, to consist of three residents of this Territory.

§ 2. **TRUSTEES, HOW APPOINTED.]** The governor shall, by and with the advice and consent of the council, appoint said trustees, whose term of office shall be for two years and until their successors are appointed and qualified.

§ 3. **OATH OF TRUSTEES.** The trustees so appointed before entering upon their duties shall take and subscribe an oath to support, protect and defend the constitution of the United States, and the act organizing the Territory of Dakota, and to faithfully, honestly and impartially discharge the duties of trustee of the Dakota Hospital for the Insane, which oath shall be filed with the secretary of the territory.

§ 4. PAY OF TRUSTEES.] The trustees shall be paid their actual and necessary expenses incurred in the discharge of their official duties, and no more, out of the territorial treasury, out of moneys appropriated for the purpose, by an order drawn by the secretary of the board and countersigned by the president and audited by the territorial auditor.

§ 5. ANNUAL AND SPECIAL MEETING OF TRUSTEES.] The board of trustees shall hold an annual meeting upon the first Wednesday, of December, each year at the hospital, at which meeting they shall choose one of their number secretary, who shall hold such office one year and until his successor is elected and qualified. The board may hold such additional sessions as may be deemed necessary, on the call of the president.

§ 6. TRUSTEES TO INSPECT HOSPITAL AND MAKE REPORTS.] The board of trustees or a majority thereof, shall inspect the hospital at each of their regular meetings; and the board or a committee thereof may visit and inspect the hospital at any time. The board shall make a record of their proceedings in books kept for the purpose, and at the annual meetings preceding the regular sessions of the Legislative Assembly, they shall make a report of the condition and wants of the hospital, which shall be accompanied by full and accurate reports of its superintendent and steward, and an account of all moneys received and disbursed, which report shall be, by the governor, transmitted to the Legislative Assembly.

§ 7. POWERS AND DUTIES OF TRUSTEES.] The board of trustees shall have the general control and management of the hospital; shall make all by-laws necessary for the government of the same not inconsistent with the laws of the Territory, and conduct the affairs of the institution with the laws and by-laws for the government of the same. They shall appoint a medical superintendent, and upon the recommendation of such superintendent, a steward shall be appointed, 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 said institution. The board of trustees shall from time to time fix the salaries and wages of the resident officers and other employes of the hospital, and certify the same to the territorial auditor, and may remove any resident officer or employe of such institution.

§ 8. MAY TAKE AND HOLD LANDS, ETC.] The board of trustees may take in the name of the Territory 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.

§ 9. SHALL NOT BE PARTY TO CONTRACT.] No trustee or officer of the hospital shall be either directly or indirectly interested in any contract for the purchase of building material, supplies or any other article for the use of the institution.

§ 10. TRUSTEE NOT ELIGIBLE TO OTHER OFFICE.] No trustee shall be eligible to the office of steward or superintendent of the hospital during the term for which he was appointed.

§ 11. STEWARD'S BOND AND DUTIES.] The steward shall execute a bond to the Territory of Dakota for the use of the hospital in such sum as may be fixed by the board, to be approved by the board, conditioned that he will faithfully perform the duties of his office and pay over and account for all moneys that shall come into his hands, which bond shall be filed with the secretary of this territory. Upon authority granted by the board he may draw from the territorial treasury, upon his order, approved by the superintendent and president of the board, and under the seal of the hospital, from time to time, from the appropriations made by the Legislative Assembly for that purpose, such sums as may be requisite to meet the current expenses of the hospital. Upon the presentation of such order to the territorial auditor he shall draw a warrant upon the territorial treasury for the amount therein specified. No part of the money drawn for current expenses shall be used in making improvements. Money appropriated for the purpose of building or other improvements shall in like manner be drawn from the territorial treasury by the steward of the hospital: *Provided*, That an itemized account shall be presented and filed with said auditor before auditing any account under this act.

§ 12. SUPERINTENDENT—HIS DUTIES AND POWERS.] The superintendent of the hospital shall be a physician of acknowledged skill and ability in his position. He shall be the chief executive officer of the hospital, and shall hold his office during the pleasure of the board of trustees. He shall have the entire control of the medical, moral and dietetic treatment of

the patients, and he shall see that the several resident officers and employes of the institution faithfully and diligently discharge their respective duties, and may at any time discharge any of them from service.

§ 13. STEWARD—HIS DUTIES.] The steward shall, under the direction of the trustees, make all purchases for the hospital where and in such manner as can be made on the best terms, keep the accounts, pay all employes and have personal superintendence of the farm. He shall take duplicate vouchers for all purchases made and for all wages paid by him, which he shall submit to the trustees at their regular meetings, for their examination and approval. Such settlement of accounts shall be made by the board of trustees in open session, and shall not be intrusted to a committee. The trustees shall, after examining and approving such vouchers, file one set with the auditor of this Territory. The books and papers of the steward shall be open at all times to the inspection of any one of the trustees, territorial officers, or members of the Legislative Assembly.

§ 14. HOSPITAL SEAL.] The board of trustees shall provide a seal, upon which shall be inscribed the name of the hospital, to-wit: "The Dakota Hospital for the Insane," with the name of the Territory, with such other words and devices as they may deem appropriate.

§ 15. TRUSTEES TO ADVERTISE FOR SUPPLIES QUARTERLY.] The board of trustees shall advertise quarterly for proposals for all supplies necessary for the patients and employes of the hospital, and shall award the contract to the lowest responsible bidder, reserving the right to reject any and all bids. The party to whom such contract shall be awarded shall give a bond, approved by the board of trustees, to the Territory of Dakota, for the use of the hospital, conditioned for the faithful performance of such contract.

§ 16. COUNTY COMMISSIONERS OF INSANITY. HOW APPOINTED.] In each organized county of this Territory 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 judge of probate shall be a member of said board and its chairman. The other two members shall be appointed by the board of county commissioners,

one of whom shall be a respectable practising physician, and the other a respectable practising attorney; and appointments shall be made of persons residing as near as may be to the county seat. Immediately on the taking effect of this act these appointments shall be made as provided in this section. One of these commissioners shall be appointed for one year; the other 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 shall be appointed and qualify. In case of the temporary absence or inability to act of two of the commissioners, the judge of probate shall call to his aid a respectable practising 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.

§ 17. OATH OF COMMISSIONERS—ORGANIZATION AND MEETINGS.] 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 States and the Organic act of the Territory of Dakota, and to faithfully discharge their duties according to law as such commissioners, which obligation shall be filed with the clerk of said board who shall enter a memorandum thereof on the records. On organizing they shall choose one of their number clerk of said board. They shall hold their meetings for business at the office of the judge of probate, unless for good reasons they shall fix on some other place. If they deem it necessary or advisable, they may hold sessions at such regular times as they may fix. They shall also meet on notice from the chairman of the board.

§ 18. DUTIES OF CHAIRMAN—BOOKS TO BE KEPT—NOTICES, ETC.] The chairman of the board 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 official seal as judge of probate. 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 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.

§ 19. POWERS OF COMMISSIONERS. MAY ISSUE SUBPOENAS, ETC.] 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.

§ 20. ADMISSION TO HOSPITAL. INFORMATION TO BE FILED.] Application 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 on 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 where it is believed to be, if the informant is advised on the subject.

§ 21. SAME. PROCEEDINGS OF COMMISSIONERS.] 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 in the county, or if they shall be of opinion from such preliminary inquiries as they shall 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 advantages, 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 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 practising physician of the county to visit or see such person and make a personal examination touching the truth of the allegation 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 own 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 be the fact, and if otherwise, not insane; and in connection with his examination the said physician shall endeavor to obtain from the relative 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.

§ 22. SAME. HOW PATIENT TO BE SENT TO HOSPITAL.] On the return of the physician's certificate the commissioners shall, as soon as practicable conclude their investigations, 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 discharge if in custody. If they find such person insane, and a fit subject for treatment and custody 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. Such warrant and duplicate, with the find-

ing and certificate 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 cost and expenses indorsed thereon. If neither the sheriff nor 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 intimate 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 no fees.

§ 23. CARE OF PATIENTS TO BE IMPARTIAL, EXCEPT IN CERTAIN CASES.] All patients in the hospital shall be regarded as standing on 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 pay the expenses 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.

§ 24. RELATIVES OF PATIENT MAY PAY EXPENSES.] The relatives or friends of any patient in the hospital shall have the privi-

lege 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.

§ 25. DISPOSITION OF INSANE PERSON WHEN ACCOMMODATIONS OF HOSPITAL ARE INSUFFICIENT.] If in the case of any persons 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, and they cannot with safety be allowed to go at liberty, the commissioners shall require that such patient 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 public or private patients. Those shall be treated as private patients whose relatives 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 commissioners of the county, or overseers of the poor, at the expense of the county, and they may accordingly issue their warrants to such commissioners of the county, or overseers of the poor, who shall forthwith comply with the same. If there is no poor house for the reception of such patients, or if no more suitable place can be found, they may be confined in the county jail in charge of the sheriff. Or said commissioners in their discretion may require that such patients be taken to the asylum of any state that may be designated by the governor who is hereby authorized and empowered to make the best terms he can with the authorities of any asylum in any state for the admission of such patient or patients.

§ 26. INSANE PERSONS MAY BE CARED FOR BY COUNTY.] On application to the commissioners on 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 provisions 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 care, protection and restraint as in the case of other applications.

§ 27. COMMISSIONERS SHALL PROVIDE FOR INSANE PERSON SUFFERING FOR PROPER CARE.] 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 person as provided in other cases.

§ 28. INSANE, NOT TO BE RESTRAINED OF LIBERTY EXCEPT BY PROPER AUTHORITY.] No person supposed to be insane shall be restrained of his or her liberty by any other person otherwise than in pursuance of authority obtained as herein required, excepting to such extent and such brief period as may be necessary for the safety of persons and property, until such authority can be obtained.

§ 29. PENALTY FOR CRUELTY TO INSANE.] 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 to an action for damages.

§ 30. INSANE WHO HAVE BEEN UNDER COUNTY CARE, MAY BE TRANSFERRED.] Insane persons who shall 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.

§ 31. QUESTIONS TO BE ANSWERED ON APPLICATION FOR ADMISSION TO HOSPITAL.] In each case of application for admission to the hospital, correct answers to the following interrogations, so far as they can be obtained, shall accompany the physi-

cian'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:

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

2d. Where was the patient born?

3d. Where is his or her place of residence?

4th. What has been the patient's occupation?

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

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

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

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

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

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

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

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

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

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

15th. Has the patient been subject to any bodily disease, epilepsy, suppressed eruptions, discharges of sores, or ever had an injury of the head?

16th. Was the patient ever addicted to intemperance in any form?

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

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

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

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

§ 32. PREFERENCE TO BE GIVEN IN RECEIVING PATIENTS.] 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:

1st. Recent cases, *i. e.*, cases of less than one year's duration.

2d. Chronic cases, *i. e.*, when the disease is of more than one year's duration, presenting the most favorable prospects for recovery, shall be next preferred.

3d. Those for whom application has been longest on file, other things being equal, shall be next preferred.

4th. When cases are equally meritorious in all other respects, the indigent are to be preferred.

§ 33. PROCEEDINGS TO RELEASE PATIENT ALLEGED TO BE NOT INSANE.] On a statement in writing, verified by affidavit, addressed to the judge of probate of the county in which the hospital is situated, or of the county in which any certain persons confined in the hospital has his or her 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 an attorney. 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 deem it prudent and advisable they may disclose to the party the object of their visit, and in the presence of such party make further investigation of the matter. They shall forthwith report to the judge of probate, making the appointment, the result of their examinations and inquiries. Such report shall be accompanied by a statement of the case and signed by the superintendent. If no such report and statement, and the

hearing of the testimony, if any is offered, the judge of probate 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. The finding and order of the judge of probate, with the report and other papers, shall be filed in his office and entered on his records, and shall forthwith notify the superintendent of his finding and order, 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 said judge of probate, and paid by the Territory 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.

§ 34. SAME. SUCH PROCEEDING NOT TO BE REPEATED OFTENER THAN ONCE IN SIX MONTHS.] 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 case of any patient within six months of the time of his or her admission.

§ 35. INSANE PERSON ENTITLED TO HABEAS CORPUS.] 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 or court shall decide that the person is insane, such decision shall be no bar to the issuing of the writ the second time, whenever it shall be alleged that such person has been restored to reason.

§ 36. PROCEEDINGS WHERE PATIENT ESCAPES FROM HOSPITAL.] 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 be found, he shall cause notice of such escape to be forthwith given to the commissioners of insanity of the county where the patient belongs; and if such patient is found in the county, the commissioners shall cause him or her 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.

§ 37. DISCHARGE OF PATIENT WHEN CURED, OR WHEN INCURABLE.] 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 (\$20), which shall be charged with the other expenses, in the hospital, of such patient. The relatives of any patient not susceptible of cure by medical 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.

§ 38. DISCHARGE OF PATIENT BEFORE CURE.] On application of the relatives 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 insanity 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*, That no patient who may be under charge or conviction of homicide shall be discharged without the order of the board of trustees.

§ 39. DISCHARGE OF PATIENTS WITHOUT APPLICATION.] 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 insanity 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.

§ 40. LIABILITY OF ESTATES OF INSANE PERSONS FOR THEIR SUPPORT, ETC.] 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 commissioners of the several counties 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 the Territory

stating the sums charged in such cases, shall be presumptive evidence of the correctness of the sum so stated. If the board of county commissioners, in the case of any insane person who has been supported at the expense of the county, shall deem it a hardship to compel the relatives of such person to bear the burden of his or her support, they may relieve the relatives from any part or all of such burden, as may seem to them reasonable and just.

§ 41. SALARY AND FEES—HOW AND BY WHOM PAID.] The commissioners of insanity shall be allowed at the rate of two dollars per day each for all the time actually employed in the duties of their office. The judge of probate, in addition to what he is entitled to as commissioner of insanity, 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 such notice or process, given or issued under seal, as herein required. The examining physician shall be entitled to five dollars for each case examined, and mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for his personal service in conveying a patient to the hospital and returning therefrom, at the rate of three dollars per day for the time necessary and actually employed, and mileage the same as allowed in other cases, and for other service the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the district court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner, except those of sheriff, which shall be paid out of the territorial treasury in the usual manner. Whenever the commissioners of insanity 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 necessary assistance, including the compensation allowed the sheriff, and on such estimate, certified by the clerk of the commissioners of insanity, the auditor of the Territory shall audit the account and shall issue his order on the treasury of the territory in favor of the sheriff or other

person entrusted with the execution of such warrant. The sheriff or other person executing such warrant shall accompany said statement with a statement of the expenses incurred, and the excess or deficiency may by said auditor be deducted from or added to his compensation, as the case may be. If the funds are not so advanced, such expenses shall be certified and paid in the manner above prescribed on the admission of such person or persons into the hospital. When the commissioners of insanity order the return of a patient, compensation and expenses shall in like manner be allowed and paid out of the territorial treasury.

§ 42. PENALTY WHEN OFFICER OR PERSON NEGLECTS DUTY.] Any officer required as herein to perform an 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.

§ 43. SUPERINTENDENT OF HOSPITAL NOT RESPONSIBLE FOR RECEPTION OF PATIENT. WHEN.] 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 persons in the hospital: *Provided*, Such detention shall be otherwise in accordance with the laws and by-laws regulating its management.

§ 44. HOSPITAL SEAL TO BE AFFIXED.] The superintendent shall affix the seal of the hospital to any notice, order of discharge, report or other paper required to be given or issued by him.

§ 45. TERMS "INSANE" AND "IDIOT" DEFINED.] The term "insane" as used in this act includes any species of insanity or mental derangement. The term "idiot" is restricted to persons supposed to be naturally without mind. No idiot shall be admitted into the hospital for insane.

§ 46. TRUSTEES TO FURNISH BLANKS.] The trustees of the hospital shall provide for furnishing the commissioners of insanity 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.

§ 47. PENALTY FOR USING CERTAIN LANDS AS BURYING GROUND.] That it shall be unlawful for any person or persons to use any portion of section 36, township 94, range 56, as a burying ground, or to bury any dead body thereon, and any person or persons violating or causing any other person to violate the provisions of this section shall be guilty of a misdemeanor.

§ 48. EXPENDITURES BEYOND APPROPRIATION FORBIDDEN.] That nothing in this act shall be construed to authorize the board of trustees to expend money under this bill unless an appropriation shall have been made therefor.

§ 49. All acts and parts of acts inconsistent with the above shall be and the same are hereby repealed.

§ 50. That this act shall take effect and be in force from and after its passage and approval.

Approved, February 15, 1879.

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## CHAPTER 24.

AN ACT to amend "An Act establishing the Dakota Hospital for the Insane," approved February 15, 1879.

*Be it enacted by the Legislative Assembly of Dakota Territory:*

§ 1. AMENDING SECTION SEVEN OF AN ACT ESTABLISHING INSANE HOSPITAL.] That section 7 of the act establishing the Dakota Hospital for the Insane, be amended by striking out the words where they occur therein, "and upon recommendation of such superintendent," and the words, "shall be appointed," where they occur therein.

§ 2. DUTY OF SUPERINTENDENT OF HOSPITAL FOR INSANE.] That section 12 shall be amended so as to read as follows: "§ 12.

The superintendent of the hospital shall be a physician of skill and ability in his profession. He shall be the chief executive of the hospital and shall hold his office during the pleasure of the board of trustees. He shall have the entire control of the medical, moral and dietetic treatment of the patients, and he shall report any neglect of duty on the part of the steward or employes of the institution to the board of trustees."

§ 3. This act shall take effect from and after its passage and approval.

Approved, February 22, 1879.

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## CHAPTER 25.

AN ACT making an Appropriation to Reimburse the Governor of this Territory for money expended in constructing a Hospital for the Insane.

*Be it enacted by the Legislative Assembly of the Territory of Dakota:*

§ 1. APPROPRIATION TO REIMBURSE WILLIAM A. HOWARD.] There is hereby appropriated the sum of two thousand three hundred and eighty-six dollars and thirty cents to be paid to William A. Howard, governor of this territory, for money advanced by him in the erection of the Hospital for the Insane of this Territory.

§ 2. AUDITOR DIRECTED TO ISSUE WARRANTS. HOW PAYABLE.] The territorial auditor is hereby directed to issue to Governor Howard three territorial warrants in payment of the sum appropriated in the first section of this act; one for the sum of thirteen hundred and thirty-seven dollars and ten cents, payable in one year, and one for the sum of one thousand dollars payable in two years from the first day of February (1879), eighteen hundred and seventy nine, both bearing interest at the rate of ten per cent. per annum, which interest

shall be paid annually; and one for the sum of forty-nine dollars and twenty cents in payment and liquidation of the interest from the date of advances made by the governor, to the first day of February, eighteen hundred and seventy-nine, from which last date interest shall be calculated on the warrants herein provided to be issued in settlement of his claim.

§ 3. This act shall take effect and be in force from and after its passage and approval.

Approved, February 10, 1879.

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## Intoxicating Liquors.

### CHAPTER 26.

AN ACT to Regulate the Sale of Intoxicating Liquors.

*Be it enacted by the Legislative Assembly of the Territory of Dakota :*

§ 1. SELLING LIQUOR WITHOUT LICENSE UNLAWFUL.] It shall be unlawful for any person, by himself, by agent or otherwise, to sell in any quantities intoxicating liquors to be drunk in, upon, or about the premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building or premises, or other place of popular resort connected with said premises where sold, or to sell such intoxicating liquors for any purpose in any quantities less than five gallons, without first having obtained a license and given a bond as hereinafter provided.

§ 2. LICENSE, HOW GRANTED AND FOR WHAT TIME.] All applications for a license to sell intoxicating liquors shall be made to the board of county commissioners, and shall be granted by said board if they deem it expedient, and the applicant a proper person to engage in the same; and no license shall