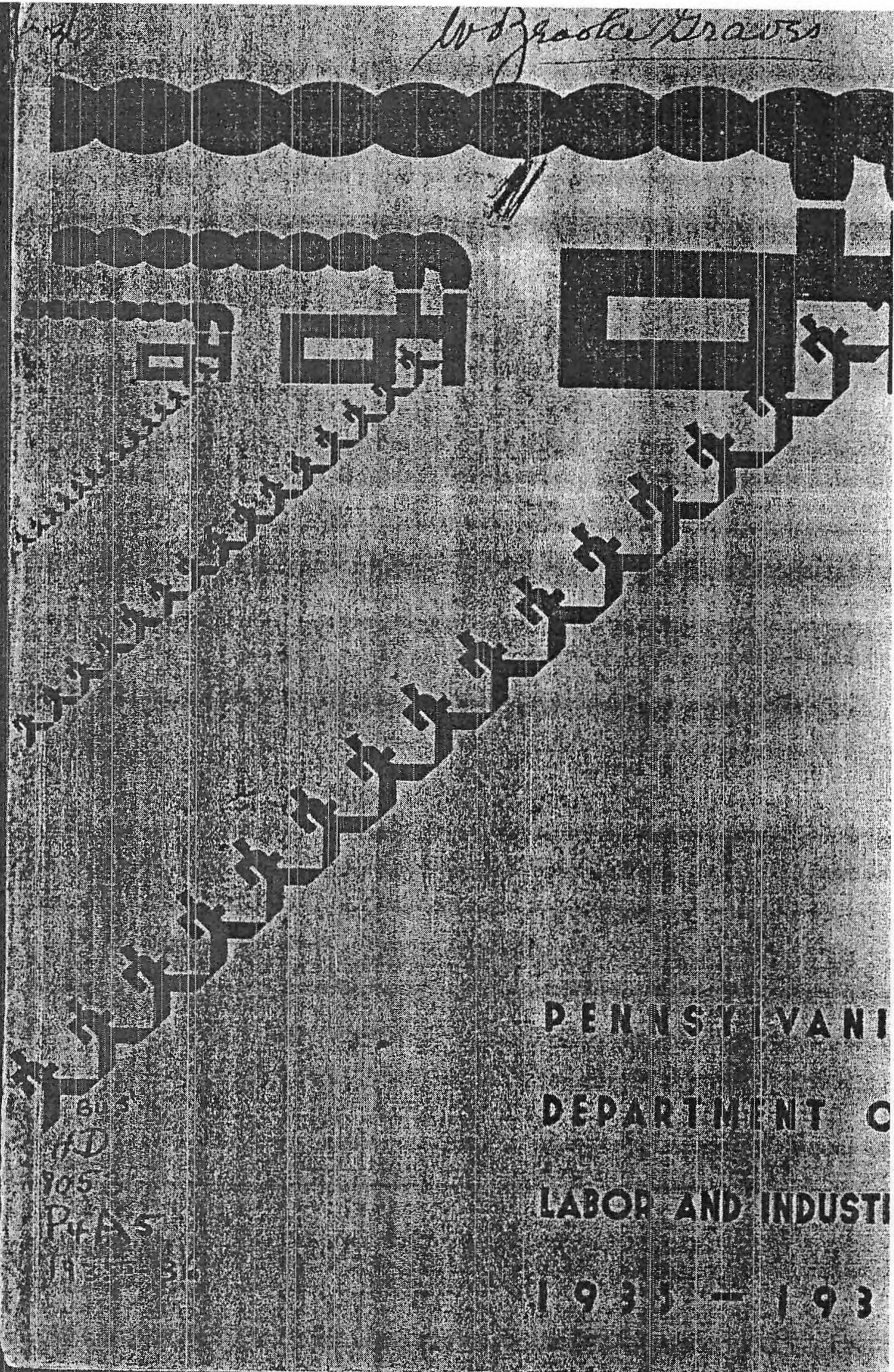


FILE NAME: Pennsylvania (PA)

DATE: 1935-1936

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DOCUMENT DESCRIPTION: PA Government Regulations - Occupational
Disease Compensation Act



W. J. Grocke, Treasurer

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PENNSYLVANIA
DEPARTMENT OF
LABOR AND INDUSTRY
1935 - 1936

1935-1936

ACT—CONTINUED)

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APPENDIX B

Disposition of Fines and Fees:

All fines and, except as otherwise provided, all fees shall be paid into the Second Injury Reserve Account of the State Workmen's Insurance Fund, to be used for the purposes of that Account.

Constitutional Provision:

Invalidation of any part of this Act shall not affect the remainder of the Act.

Previous Right of Action Not Impaired:

Any right of action accrued before this Act shall take effect shall not be affected nor impaired.

Repealer:

The Act of 1915 (P.L. 777), the Supplementary Act of 1925 (P.L. 714) and all other acts inconsistent with this Act are repealed.

Effective Date:

This Act shall become effective January 1, 1938, except that provision concerning the payment of administrative expenses by employers, which shall be effective as of June 1, 1937.

OCCUPATIONAL DISEASE COMPENSATION ACT²

Act No. 552

Purpose:

To supplement the Workmen's Compensation Act by including occupational diseases within the scope thereof.

Schedule of Occupational Diseases:

1. Poisoning in any occupation involving direct contact with, handling of, or exposure to the following substances or their preparations or compounds: lead, mercury, arsenic, or manganese; phosphorus, methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydro carbons; benzol, or nitro, amido or amino derivatives of benzol (dinitro-benzol, anilin and others); radium, or radioactive properties of substances or roentgen-ray; chromic acid, or bichromate of ammonium, potassium, or sodium or their preparations.

2. Caisson disease resulting from engaging in any occupation carried on in compressed air.

3. Epitheliomatous cancer or ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of these substances, in any occupation involving direct contact with, handling thereof, or exposure thereto.

4. Infection or inflammation of the skin, or other contact surfaces, due to oils, cutting compounds, lubricants, dust, liquids, fumes, gases, or vapor, in any occupation involving contact with, handling of or exposure to these substances.

5. Silicosis or anthraco-silicosis, and asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of silicon dioxide and asbestos, respectively.

6. Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, or skins, or bodies of animals either alive or dead.

Application of Workmen's Compensation Act:

The provisions of the Workmen's Compensation Act shall apply to this Act as far as consistent. In applying the Workmen's Compensation Act, the same shall include occupational disease and the resultant effects thereof, including death.

"Disabled" shall mean disabled from earning full wages and "disability," the state of being disabled. The date of injury or accident, as used in the Workmen's Compensation Act, shall under this Act be the date when disability occurs from occupational disease.

²Originally introduced as House Bill 1640 by Representatives Eugene A. Caputo of Beaver County and Arthur R. Schor of Philadelphia.

(OCCUPATIONAL DISEASE COMPENSATION ACT—CONTINUED)

The schedule of compensation provided in the Workmen's Compensation Act shall apply to this Act, except where otherwise specified in this Act, in all cases wherein the employer has accepted the compensation agreement system established by the Workmen's Compensation Act.

Provisions Relating to Rejection of Workmen's Compensation Schedule:

In any court action brought by an employee against his employer who has rejected the compensation agreement system it shall be prima facie evidence of the employer's negligence if the employee proves either that he had been discharged within one year after having been given a physical examination by the employer, or that he was unable to secure other employment, due to the presence of an occupational disease in any stage, within 6 months after being discharged by the employer.

It shall not be a defense of the employer that the injury was due to negligence of the employee or a fellow employee, or that the employee had assumed the risk of the employment, or that the employee was exposed to the disease hazard in any other employment more than 2 years prior to the court action.

The Statute of Limitations shall commence to run from the date of the last exposure to the disease hazards in the employment of the defendant.

Determination of Factors Entering Into Disability and Liability:

The employer in whose employment the employee was last exposed in a hazardous occupation and the insurance carrier of the employer at that time shall be liable for payments under this Act. The notice of injury and claim shall be sent to such employer.

If the employee, at or immediately before the date of disability, was employed in any hazardous employment as specified above, it shall be presumed, but not conclusively, that the occupational disease is due to the nature of that employment.

An employer shall be liable when disability shall be due to such hazardous employment and results within 2 years after the last exposure in such employment; or in case of resultant death, if it occurs within 5 years following disability.

In the case of such diseases as the Workmen's Compensation Board shall determine results in disability only after an exposure of 5 years or more, the compensation for any disability or death occurring from such diseases during the first 10 years of this Act, shall be paid jointly by the State and the employer, as follows:

1. During the first year, one-tenth of the compensation shall be paid by the employer, and nine-tenths by the State from the Second Injury Reserve Account in the State Workmen's Insurance Fund.
2. For each successive year, an additional one-tenth shall be paid by the employer, until beginning in the tenth year the employer shall pay the compensation in full.

The sum of \$100,000 is appropriated out of the General Fund to be paid into the Second Injury Reserve Account of the State Workmen's Insurance Fund for the above purpose. This shall be repaid as soon as practical.

Special Provisions for Certain Diseases:

Compensation for silicosis or anthraco-silicosis, or silicosis, anthraco-silicosis complicated by infection, and asbestosis, shall be paid only when the employee has had an aggregate employment of at least 2 years in the State, during the 8 years preceding the disability, in an occupation having a silica or asbestos hazard.

In regard to silicosis, anthraco-silicosis, and asbestosis, compensation shall be payable only for total disability or death caused primarily (as distinguished from a contributory or accelerating cause) by any of these diseases, or by any when accompanied by active pulmonary tuberculosis or streptococcal infection of the lung. Total liability of the employer unto the employee or his dependents shall not exceed \$1,600.

In cases involving claims for silicosis or anthraco-silicosis and wherein there are controverted medical issues, the Workmen's Compensation Board or Referee shall appoint a Medical Advisory Board composed of one or more medical experts to be selected from a panel to be submitted by the Secretary of Labor and Industry. This panel shall be made up of names selected from lists submitted by deans of all legally recognized medical schools in the State. The Workmen's Compensation Board or

ACT—CONTINUED)

Workmen's Compensation Act
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APPENDIX B

Referee shall order the claimant to be examined as the Medical Advisory Board may direct. The Medical Advisory Board shall then file a report with the Workmen's Compensation Board or Referee stating its opinion in the following matters:

1. Whether the disease is present and, in death cases, whether the disease was the cause.
2. The extent of injury, if the disease is present.

Within 20 days of the filing of the report, a copy thereof shall be sent to each of the parties involved.

Autopsies shall be ordered in the following cases:

1. When the Workmen's Compensation Board or Referee, upon the advice of the Medical Advisory Board, deems an autopsy necessary to determine the cause of death.
2. Upon application of the employer, when the Medical Advisory Board recom- mends an autopsy to determine the cause of death.

The findings of such autopsy shall be filed with the State Department of Health, copies thereof being filed with the Workmen's Compensation Board or Referee and becoming public records.

All reports of the Medical Advisory Board shall be considered as evidence to- gether with any other medical evidence offered in behalf of the parties: Members of the Board may be examined at any hearing provided a request for this to be done shall be filed by either party with the Referee or Workmen's Compensation Board within 10 days after notice of the filing of the report has been mailed to the parties.

If the claimant refuses to submit to any examination ordered by the Medical Advisory Board, or to permit any autopsy so ordered to be performed within 6 months after death, all proceedings shall be suspended and, in the latter case of refusal, the claim shall be disallowed.

Authorization of Physician's Entry:

The Workmen's Compensation Board or Referee may authorize the entry of any physician, surgeon or medical expert upon the premises of the defendant employer in order to ascertain the facts in any case arising under this Act.

Constitutional Provision:

The invalidation of any part of this Act shall not affect the remaining parts.

Effective Date:

This Act shall become effective January 1, 1938.

AMENDMENT TO ACCIDENT REPORT LAW³

Act No. 19

Purpose:

To amend the Act requiring employers to report industrial accidents, by requiring a report 15 days after injury, and 48 hours after death, instead of 30 days after be- ginning of disability, and by increasing penalties for non-compliance.

Requirement:

Within 15 days after the date of any injury received by an employee in the course of or resulting from his employment, and within 48 hours of the death of an employee occurring from such injury, the employer, whether a private employer or the Com- monwealth or any political subdivision, shall make a report of such injury or death directly to the Department. The report, made in such form as the Department shall prescribe, shall set forth the name, address and business of the employer; name, address, sex, age, nationality, wage or salary, and occupation of the employee; date, day of week, hour, place, cause and character of the injury or death; and in the case of an injury, the nature thereof, and the duration of the disability, or probable dis- ability, as far as it can be ascertained. The Department may require further report if necessary.

³Originally introduced as Senate Bill 36 by Senator John H. Dent of Westmoreland County.

Type of Document

☐ adv ☒ article ☐ letter from ☐ trade ☒ scientific journal

☐ published presentation from conference

☐ published government report

☐ government inspection results

☐ unpublished or internal report

☐ unpublished presentation from conference

☐ newspaper article

☐ letter ☐ memorandum

☐ industry warning labels

☐ industry sales literature

☐ meeting agenda minutes report

☐ legal _____

☐ with BC notes

☐ other

Additional Data on Medical Economics

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MEDICOLEGAL

Employer Must Pay for Medical Service Although Employee's Claim Is Disallowed.—The New York Appellate Division, Beckman vs. Claman, 280 N. Y. S. 75, holds that the fact that the claim of an employee under Workmen's Compensation Law was subsequently disallowed by the State Industrial Board because not filed within the statutory period does not relieve the employer of his obligation to pay a third person who furnishes medical service on the employer's authorization and without knowledge of any disallowance of the employee's claim.—*Medical Record*, Oct. 15, 1935.

Inadequate Damages.—The New York Appellate Division, Mathews vs. Brooklyn etc. Corp., 280 N. Y. S. 113, held that a verdict of \$200 to a woman injured in a car accident and \$125 to her husband for expenses and loss of services were inadequate where the wife's injuries were an inflammatory condition of the bursa of the right ankle, sprained ligaments, contusions of both legs and of the muscles of the lower part of the back and right side of head, resulting in severe headaches and necessitating confinement in bed for 3 weeks, and the husband's actual expenses were over \$250.—*Medical Record*, Oct. 15, 1935.

Surgeon's Authority to Authorize Operation at Employer's Expense.—In an action by a surgeon against an employer for services rendered to a person who had been employed for 12 years by the defendant and who, 5 days prior to the operation in question, had been laid off temporarily, the New York Appellate Division, Moss vs. McCarthy, 280 N. Y. S. 137, held that the evidence sustained a finding that the plaintiff called the surgeon, who was clothed with apparent authority to bind defendant for medical services rendered to employees of the defendant, and that the surgeon, with authority to act for the defendant, authorized the operation to be performed at the expense of defendant.—*Medical Record*, Oct. 15, 1935.

Mississippi's Strong Medicine.—Driven to drastic measures by the alarming increase in unjustified malpractice suits, the Central Medical Society of Mississippi has adopted a series of resolutions stating that to carry these suits through the courts often requires the collusion of members of the legal and medical professions; it speaks of them as legalized blackmail. In order to combat this increasing tendency, the organization has forbidden every member of the society to give evidence in malpractice action unless the testimony has been examined and proved by those designated in the society for the purpose. Through various steps all the evidence is investigated and then put up to impartial medical "consultants," who then express in writing their individual opinion as to the validity of the suit. The physician will be encouraged or forbidden to testify according to the opinion of these consultants, who are considered to be absolutely fair and impartial experts. If the physician testifies without paying proper attention to this decision, he will be expelled from the society for unprofessional conduct.—*N. Y. State J. M.*, Oct. 1, 1935.

Medical Textbooks in Evidence.—The knowledge and qualifications of a witness as a medical expert may be tested as against accepted authorities on the subject testified about. And the Texas Court of Civil Appeals, Hess vs. Millsap, 72 S. W. (2d) 923, holds that the same rule should apply to a picture as to the written text. In an action for burns allegedly caused by the negligent operation of roentgen rays, resulting in baldness, while the plaintiff was being treated for tinea, a picture from a medical textbook was allowed to be introduced in evidence to test the weight of the testimony of a physician, the witness on cross-examination describing the picture as showing "a moderate infection because the patient has hair scattered over his scalp."—*Medical Record*, Oct. 2, 1935.

HOSPITAL ACTIVITIES

Administrative Problems.—The depression years have been trying years for commissioners, trustees, superintendents, and administrative officers of hospitals. Trying in the sense that the hospital, despite a decrease in revenue, must remain open and be efficiently maintained, and an adequate personnel must be retained and paid a living wage.

All hospitals, large or small, have suffered, but the small hospital has possibly suffered the most. In some states federal aid has been possible. In Pennsylvania we have had to rely on the generosity of the commonwealth through its state-aided system.

Administratively, a hospital is not unlike running a machine. If the car is fairly modern, controlled by safe hands, and its mechanism kept in order, maintenance resolves itself into the cost of the operation, minor mechanical adjustments, tires, gas, and oil. In time, however, the machine collapses and accidents are prone to occur.

Many hospitals to-day are not new. The physical units are in need of repairs and adjustments. Maintenance allowance resolves itself into tires, tubes, and oil. Many are forced to use old tires with but one result, a blow-out, and a horrible catastrophe will ensue.

Particularly is this true in mental hospitals throughout the country which have not been fortunate enough to procure federal relief. Money for capital outlay is but a boy sent on a man's errand. Overcrowding and fire hazards exist, the tires and tubes figuratively speaking are worn to the thread.

The stage is all set for a catastrophe that will startle the civilized world, and beneath the smoldering embers one beholds the remains of what the world has been looking for—"the forgotten man." Fate and tragedy will have revealed him. Such possibilities make our administrative problems trying indeed.—*Mental Health Bulletin*, Oct. 15, 1935.

INDUSTRIAL MEDICINE

Lung Disease Increases With Asbestos Industry.—A serious public health problem, pulmonary asbestosis, has arisen in recent years as a result of the fourfold increase in the manufacture of asbestos products. The health hazards of the asbestos industry were pointed out to the American Public Health Association by Dr. J. Connolly, Huntersville, N. C.

Lack of protection from the inhalation of asbestos dust has been the cause of the disability of many work-

ers. Roentgen-ray films were made of 151 workers in asbestos mills; 52 films showed definite evidence of lung disease. Of the 151 workers, 86 had worked in the industry for periods varying from 4 to 20 years. In this group were found 51 of the positive cases of asbestosis, a percentage of 59.3. Only one case with positive roentgen-ray evidence of asbestosis had worked in the industry less than 4 years. The positive cases were 34.4 per cent of the total, 151. Five films of this series showed a healed tuberculosis with no asbestosis, and 3 showed a healed tuberculosis complicated by asbestosis. These workers had spent from 4 to 10 years in the industry. There was no evidence that their work tended to reactivate their tuberculosis lesions.

Asbestosis is a slowly progressive condition after it is once acquired, even though there has been cessation of exposure to the dust for extended periods.—*Science News Letter*, Oct. 19, 1935.

Propose an Institute of Industrial Medicine.—

A national institute of industrial medicine to protect the health of American workers was proposed to the American Public Health Association by Dr. Henry H. Kessler, medical director of the New Jersey Rehabilitation Commission. The working group must not be looked on as a special class, for today it forms the larger part of the entire population and, since the mechanization of agriculture, includes the farmers of the country. The average worker lives 6 or 8 years less than the average member of the population, Dr. Kessler pointed out in calling attention to the need for special means of protecting this important class.

The institute as outlined would have a fourfold function. It would promote research in industrial diseases, sponsor a campaign to teach the worker how to protect his own health, promulgate legislation for the protection of the worker, and develop standards of industrial health.

An important function of such an institute would be the creation of a panel of qualified medical and non-medical experts who could be called on in litigation over industrial diseases, compensation cases, and the like, thus correcting the present abuses in law cases involving occupational disease.

The proposed national institute of industrial medicine is in line with the present trend of governments assuming more and more responsibility for the protection of life and health of individual citizens.

The 2 chief occupational diseases are silicosis in the dusty trades and skin diseases from exposure to irritating chemicals in various industries.—*Science News Letter*, Oct. 19, 1935.

New Blood Test Reveals Approach of Lead Poisoning.—A test which shows the approach of lead poisoning before the disease has actually developed was reported by Drs. Carey P. McCord and F. R. Holden and Jan Johnston of the Industrial Health Conservancy Laboratories, Cincinnati, to the American Public Health Association.

The test is particularly valuable in protecting industrial workers who are exposed to lead in the course of their work. By means of the test, which is called the basophilic aggregation test, the physician can tell whether or not lead poisoning is the early prospective lot of the individual being examined.

"In this test," Dr. McCord explained, "counts are made of embryonic blood cells, which in normal persons rarely exceed 1 per cent of the total number of red cells in the blood but which in the case of lead poison-

ing may amount to much higher percentages, such as 4, 6, or 10 per cent."

An extensive lead poisoning epidemic which took place in the automobile industry in 1934 and 1935 provided an opportunity for evaluating the new diagnostic procedure. In this epidemic 8000 tests were made with results more than 95 per cent accurate.

The epidemic resulted from the use of metallic lead in automobile body production.

Lead in the form of dust and fumes was inhaled by exposed workers, with the result that many hundreds were injured by this industrial intoxication. The total number of persons either affected with clinical lead poisoning or who evinced evidences of lead absorption is not known for the entire industry, but it has been set approximately at 4000.

This epidemic of lead poisoning has led to many changes in manufacturing processes in order to obviate repetition of this occupational disease outbreak. Already in many automobile plants control appliances and practices have been installed sufficient to make unlikely any large number of poisoning cases.—*Science News Letter*, Oct. 19, 1935.

PHYSICAL THERAPY

Light Therapy and Roentgen Therapy in Tuberculosis.—Edgar Mayer, New York (*Journal A. M. A.*, Nov. 16, 1935), points out that light therapy, both natural and artificial, is of definite value in the treatment of some forms of tuberculosis. Natural heliotherapists, especially those working in high altitudes, emphasize solar radiation and aërotherapy. On the other hand, those in cloudy climates have stressed the use of artificial lights and still others, on occasion, the roentgen rays. Benefits are undoubtedly obtained by patients suffering from tuberculosis of the bones, articulations, peritoneum, intestine, lymph nodes, and larynx when the entire body is exposed to carefully graded doses of natural sunlight or to radiation emitted by certain artificial sources of light rays. The beneficial results of such irradiation are due not only to ultraviolet rays. The visible and infra-red rays, as well as the conditions of the atmosphere, play a certain part in the therapeutic effect. In tuberculosis of the skin, lupus vulgaris alone can be said to respond specifically to light. Scrofuloderma and erythema induratum react favorably at times to general and local exposure, although not as constantly. Lupus erythematosus does not respond to and may be aggravated by light. In tuberculosis of the bones and articulations, it is generally agreed that suitable, graded exposure to natural sunlight is most effective in aiding the healing accomplished by orthopedic and other measures. Exposure to artificial sources is a second choice. Pulmonary tuberculosis is not an indication for light therapy; stationary pleural tuberculosis has often been helped by this measure. Genito-urinary tuberculosis deserves a trial of such treatment in combination with other measures. Local exposure to ultraviolet rays of circumscribed tuberculous lesions of the urinary bladder has been shown to yield favorable results, but the method requires special applying devices and, above all, skillful treatment of the bladder lesion. Ocular tuberculosis and aural tuberculosis respond infrequently to light. Oral tuberculosis is most resistant. Fistulas are often resistant to such treatment. Postoperative sinuses, in contrast, are most responsive. Intestinal, peritoneal, and lymph node tuberculosis especially indicate light therapy and often are rapidly responsive. In tuber-