

Legal Authority of Local Health Officers

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- ❑ To promote the physical and mental health of all of its citizens and to prevent disease, injury, and disability whenever possible. *W.Va. Code § 16-1-1*
- ❑ State's responsibility to assist in the provision of *essential public health services*
- ❑ Established a state public health system to work in conjunction with local boards of health to provide *basic public health services* that encourage healthy people in healthy communities.

❑ *West Virginia Code, Chapter 16, Article 2. Local Public Health.*

Establishes uniform provisions applicable to all local boards of health, whatever organizational form is elected, to ensure the *consistent* performance of duties relating to *basic public health services* and other health services and the enforcement of the laws of this state pertaining to public health.

❑ *W. Va. Code R. 64-73-1 et seq. (Standards for Local Boards of Health).*

Establishes standards for the plans of operation, administration, fiscal reporting, quality assurance, and provision of public health services and programs by local boards of health.

- ❑ *W. Va. Code R. 64-67-1 et seq.* (Distribution of State Funds for Support of Local Boards of Health).

Establishes a formula for the Commissioner to use in distributing State funds to support local boards of health.

- ❑ *Local Boards of Health Performance Standards*

Establishes objective standards such as rules or guidelines against which a local health department's level of performance can be measured;

- ❑ *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Title 2 Subtitle A Chapter II Part 200).

Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities.

Local Boards of Health

- ❑ Enforce the public health laws of this state and any other laws of this state applicable to the local board. *W.Va. Code § 16-2-11(a)(10)*
- ❑ Provide the *basic public health services* and programs in accordance with *state public health performance-based standards. W.Va. Code § 16-2-11 (a)(1)*
- ❑ Appoint a full-time or part-time local health officer. *W.Va. Code § 16-2-11(a)(2)*

Qualifications

Physician, currently licensed in this state; and

Knowledgeable in the science of public health.

W.Va. Code § 16-2-12.

Appointment

- Duty of local board of health to appoint
- Will and pleasure
- Approval by the Commissioner
- One year term
- Eligible for reappointment at compensation determined by the local board of health

W.Va. Code § § 16-2-11 & 12.

May be removed by the Commissioner if *fails or refuses* to:

- Carry out the lawful orders or rules of the Secretary in the event the Commissioner determines a public health emergency exists; or
- Enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health.

Upon removal, a successor local health officer shall immediately be appointed by the local board.

Powers and duties - Generally

- Executive officer of the local board
- Directs the activities of the local health department services, staff and facilities.
- Administers public health law

Additional local health officer powers and duties

- Attend local board meetings as a nonvoting member.
- Serve as secretary at all board meetings and responsible for maintaining the board's offices, meeting minutes and records;
- Supervise and direct the activities of the local board's health services, employees and facilities;
- Ensure that procedures are established for the receipt of communicable or reportable disease reports from local physicians and other reporting sources and for the transmittal of the reports to the Commissioner;

Additional local health officer powers and duties

- Perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area;
- Determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the local board of health; and
- Sign vouchers or other instruments for the approval by the board to the county or municipal treasurer for payment of necessary and reasonable expenditures from the county or municipal public health funds.

All of which may be delegated with the approval of the board

Obstruction of Health Officer

- Any person who willfully obstructs any local health officer, public health nurse, sanitarian or any other person charged with the enforcement of any public health law, in the performance of that person's legal duties in enforcing the law, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50 and not more than \$500. *W.Va. Code § 16-2-15*

Summary

- Physician, licensed in state and has knowledge of public health
- Appointed by local board with approval of Commissioner
- Removable by Commissioner
- Executive Office of local board
- Responsible for directing activities of local health department
- Administers public health laws of the state

Legislative Update

2nd Session of the 82nd Legislature

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2016 Session – An Overview

The second session of the 82nd Legislature concluded at midnight on March 12, 2016. A total of 1,896 bills were introduced between the two chambers this session, of which 276 bills completed legislative action -- 139 originated in the House and 137 originated in the Senate.

Links to Legislation

A full list of completed legislation may be found on the West Virginia Legislature's website at the following link:

http://www.legis.state.wv.us/Bill_Status/Bills_all_pass.cfm?year=2016&sessiontype=RS&btype=bill

A total of 169 resolutions were adopted this session. To see a full list of approved resolutions, use the following link:

http://www.legis.state.wv.us/Bill_Status/res_all_pass.cfm?year=2016&sessiontype=rs&btype=res

S.B. 123 - Treatment for sexually transmitted diseases.

Authorizes health care professionals who make a clinical diagnosis of a sexually transmitted disease to provide expedited partner therapy (EPT). Effective May 25, 2016.

S.B. 195 - Authorizing DHHR to promulgate legislative rules.

- Emergency Medical Services. (64 CSR 46) Amendments to the current rule
- Fees for Services. (64 CSR 51) Amendments to the current rule.
- Infectious Medical Waste. (64 CSR 56) Amendments to the current rule.
- Tuberculosis Testing, Control, Treatment and Commitment. (64 CSR 76). Amendments to the current rule.
- Aids-Related Medical Testing and Confidentiality. (64 CSR 64) Amendments to the current rule.
- Farmers Market Vendors (64 CSR 102). New rule.
- Certification of Opioid Overdose Prevention and Treatment Training Programs. (64 CSR 104) New rule.

S.B. 387 - Shared animal ownership agreements to consume raw milk. Permits written shared animal ownership agreements to consume raw milk where the owner of a milk producing animal sells a percentage ownership interest in the animal and the other party to the agreement is entitled to receive a fair share of the animal's raw milk production. Effective May 23, 2016.

S.B. 404 - Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases. Authorizes the state Bureau for Public Health and local health departments to bill patients, either directly or through their medical health insurance providers, for the reasonable costs of HIV and STD testing. Effective June 10, 2016.

S.B. 431 - Authorizing pharmacists and pharmacy interns dispense opioid antagonists. Amends the Access to Opioid Antagonists Act to authorize pharmacists and pharmacy interns to dispense opioid antagonists without a prescription. Effective June 10, 2016.

S.B. 545 - Relating to asbestos abatement on oil and gas pipeline. Creates an exception to the provisions of current law related to asbestos abatement, removal, enclosure or encapsulation, for intact oil and gas pipeline asphaltic wrap that contain asbestos fibers encapsulated or coated by bituminous or resinous compounds. Effective June 8, 2016.

Public Health Related Legislation

S.B. 619 - 2016 Regulatory Reform Act. Amends the executive agency rule-making provisions of the State's Administrative Procedures Act. The bill completed legislative action on March 12, 2016, and is awaiting the signature of the Governor.

S.B. 625 - Revising exceptions from FOIA provided for in Aboveground Storage Tank Act. Amends current law applicable to source water protection plans required of public water utilities, to clarify that the utilities may disclose to the public, information in the plans related to potential sources of significant contamination, to the extent they are in the public domain through a state or federal agency. Effective June 9, 2016.

H.B. 2122 - Making it illegal for first responders to photograph a corpse; Jonathan's Law. Creates two new criminal offenses both related to photographing, filming, videotaping, recording or otherwise reproducing images of human corpse or a person being provided medical care or assistance at a motor vehicle accident or other emergency situation by a first responder. Effective June 9, 2016.

H.B. 4388 - Relating to stroke centers. Provides for the designation of comprehensive, primary and acute stroke-ready hospitals. Effective June 10, 2016.

H.B. 4659 - Authorizing local health departments to bill health insurance plans for services. Provides an exception from the current requirement that fees for services charged by local health departments must be first subject to public comment and approval of the local board of health before being submitted and approved by the Commissioner.

The bill permits local health departments to bill health care service fees to a payor including, Medicaid, a Medicaid Managed Care Organization and the Public Employees Insurance Agency, for medical services at the payor's maximum allowable rate without first seeking the approval of the Commissioner. Effective June 10, 2016.

The Budget

- The Governor introduced his budget during his State of the State speech in January.
- Used no money from the State's Rainy Day Fund, funded PEIA and raised several taxes, including taxes on tobacco and tobacco-related products and a telecommunication tax increase, as well as other revenue-generating measures.
- Included a 24% reduction in State Aid for Local Health.

The Budget

S.B. 269 was the Senate's budget bill. It uses no money from the State's Rainy Day Fund, provides additional funding to PEIA, raises the tobacco tax, raises the gas tax and eliminates subsidies to greyhound racing, as well as other revenue-enhancing measures, and does not make further cuts to state agencies. The bill passed the Senate 29-5 on March 10.

H.B. 4017 was the House's budget bill. It balances the budget by using additional money from the State's Rainy Day Fund, sweeping several agency revenue accounts for extra funding, and making some minor increases in cuts to state agencies. However, higher education institutions are not included in those further cuts. It contains no additional tax increases, while providing some additional funding to PEIA.

The two bills were merged into one measure – **S.B. 269**.

The Budget

- Because of the disagreements between the two chambers, the President of the Senate and the Speaker of the House appointed budget conferees to negotiate a final bill.
- The conferees met on Monday, March 14.
- Final agreement was not reached by Tuesday, March 15.
- The Legislature adjourned and will wait for the Governor to call them back into special session.
- The new fiscal year begins on July 1, 2016

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