

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box
FILED
Jul 31 4 52 PM '95
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Health TITLE NUMBER: 64

CITE AUTHORITY W. Va. Code § 16-1-7

AMENDMENT TO AN EXISTING RULE: YES___ NO X

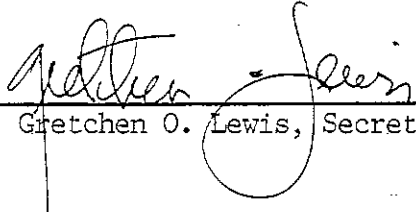
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 73

TITLE OF RULE BEING PROPOSED: Standards for Local Boards of Health

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Gretchen O. Lewis, Secretary

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Standards for Local Boards of Health

Type of Rule: Legislative Interpretive Procedural

Agency: Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					

2. Explanation of above estimates.

There should be no additional cost associated with the implementation of this rule.

3. Objectives of this rule:

- A. To set minimum standards for local boards of health, and;
- B. To authorize the Department to withhold state funds if a local board of health fails to comply with the minimum standards.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There should be no economic impact on State government. The purpose of the rule is to bring more accountability to local boards of health in order to receive state aid.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.


For most local boards of health, there will be no economic impact because they are already meeting these basic standards. However, for a few, there may be some cost associated with compliance.

C. Economic Impact on Citizens/Public at Large.

The long-term anticipated impact is improved health status for West Virginia residents as a result of better standards of care.

Date: June 27, 1995

Signature of Agency Head or Authorized Representative


Gretchen O. Lewis, Secretary
Department of Health and Human Resources

DATE: July 27, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Division of Health

LEGISLATIVE RULE TITLE: Standards for Local Boards of Health

1. Authorizing statute(s) citation W. Va. Code § 16-3C-8

2. a. Date filed in State Register with Notice of Hearing:

June 30, 1995

b. What other notice, including advertising, did you give of the hearing?

Copies were sent to local boards of health and the local health association.

c. Date of hearing(s): Comment period 6-28-95 to 7-28-95

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

f. Name and phone number of agency person to contact for additional information:

Kay Howard 558-3223

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ N/A _____

b. Date of hearing: _____ N/A _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

ABSTRACT - PROPOSED RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

STANDARDS FOR LOCAL BOARDS OF HEALTH
64 CSR 73

Summary: This proposed new legislative rule sets forth standards for local boards of health. The purpose of the rule is to establish accountability for local boards of health in order to receive state aid funds.

The rule specifies application of the rule to all local boards of health which serve one or more counties, one or more municipalities, or a combination thereof and defines terms. It establishes minimum standards for plans of operation, administration, fiscal reporting, quality assurance, and the provision of public health services and programs. It also establishes reporting requirements and standards for the physical facilities. Administrative due process and severability are included.

Because this is a new rule and process, the standards established are very basic. Depending on the outcome of the process established by this new rule, the Department may need to revise and adjust the rule in the future.

For most local boards of health, there will be no economic impact because they are already meeting these basic standards. However, for a few, there may be some cost associated with compliance. The Department does not anticipate needing new funds to administer the rule.

For further information contact: Chris Gordon, Assistant Director, Office of Community and Rural Health, telephone (304) 558-0580, Bureau for Public Health, Department of Health and Human Resources, State Capitol Complex, Building 3, Room 518, Charleston, West Virginia, 25305; or the Office of Regulatory Development, Bureau of Operations, Department of Health and Human Resources, State Capitol Complex, Building 3, Room 265, Charleston, West Virginia, 25305, telephone (304) 558-3223.

Copies of the proposed rule may be purchased from the Administrative Law Division of the Office of the Secretary of State, State Capitol Complex, Building 1, Suite 157K, Charleston, WV 25305-0771, phone (304) 558-6000.

6/26/95

**PROPOSED RULE - TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

SERIES 73

STANDARDS FOR LOCAL BOARDS OF HEALTH

**For Filing with the Legislative
Rule-Making Review Committee**

**PROPOSED RULE
WEST VIRGINIA ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
STANDARDS FOR LOCAL BOARDS OF HEALTH
64 CSR 73**

TABLE OF CONTENTS

§64-73-1. General	1
§64-73-2. Application and Enforcement	1
§64-67-3. Definitions	1
§64-73-4. Organization	2
§64-73-5. Health Services and Programs	2
§64-73-6. Reports and Records	3
§64-73-7. General Administration of the Local Health Department	3
§64-73-8. Financial Management	4
§64-73-9. Physical Facilities	5
§64-73-10. Program Plan	5
§64-73-11. Evaluation	6
§64-73-12. Penalties	6
§64-73-13. Administrative Due Process	6
§64-73-14. Severability	6

PROPOSED RULE

TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
SERIES 73
STANDARDS FOR LOCAL BOARDS OF HEALTH

FILED

JUL 31 4 53 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§64-73-1. General.

1.1. **Scope** - This legislative rule 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.

1.2. **Authority** - W. Va. Code §16-1-7.

1.3. **Filing Date** -

1.4. **Effective Date** -

§64-73-2. Application and Enforcement.

2.1. **Application** - This rule applies to local boards of health.

2.2. **Enforcement** - This rule is enforced by the director of the division of health.

§64-67-3. Definitions.

3.1. **Board** - Local board of health.

3.2. **Department** - The state department of health and human resources.

3.3. **Director** - The director¹ of the division of health and his or her designee.

3.4. **Division of Health or Division** - The division of health of the department of health and human resources.

3.5. **Fiscal Year** - The twelve (12) month period beginning the first day of July and ending the thirtieth day of the following June.

3.6. **Local Board of Health** - A board of health serving one (1) or more counties, one (1) or more municipalities, or a combination thereof.

¹ The Department of Health and Human Resources (DHHR) was created by the Legislature's reorganization of the executive branch of State government in 1989, and the Department of Health was renamed the Division of Health and made a part of the DHHR (W. Va. Code §5F-1-1 et seq.). Administratively within the DHHR the Bureau of Public Health through its Commissioner carries out the public health function of the Division of Health.

64 CSR 73

3.7. **Local Health Department** - The staff of the local board of health.

3.8. **Local Health Officer** - Individual physician with a current license to practice in West Virginia, who is knowledgeable of sanitary laws, and who shall supervise and direct the activities of county or municipal health services, employees and facilities.

3.9. **Patient or Client Encounter** - A one-to-one contact, in person or by phone, between an individual and a staff member of the local health department. The term "patient or client encounter" does not include a one-to-one contact for the purposes of short, simple inquiries, or the dissemination of general information to groups.

3.10. **State Aid Funds** - Funds appropriated annually by the legislature to provide financial aid to local boards of health.

§64-73-4. Organization.

4.1. A local board of health shall be organized in accordance with Chapter 16 of the W. Va. Code.

4.2. A local board of health shall meet no less than four (4) times a year.

4.3. The board shall comply with the requirements of W. Va. Code §6-9A-1 through §6-9A-6 regarding open governmental proceedings.

4.4. The by-laws of the board shall at a minimum include attendance requirements and scope of responsibility.

§64-73-5. Health Services and Programs.

5.1. The board shall provide the following public health services and programs:

5.1.1. Evaluation of community health needs;

5.1.2. Prevention and control of epidemics, and investigation and containment of diseases and injuries;

5.1.3. Assurance of a safe and healthy environment, and maintenance of clean and safe air, water, food and facilities;

5.1.4. Promotion of healthy lifestyles, including the provision of health education to individuals and communities;

5.1.5. Targeted outreach and formation of partnerships; and

5.1.6. Initiation/participation in mobilization of the community for actions to improve the health and well-being of the population served.

64 CSR 73

5.2. The board shall administer public health sanitation rules as specified by the director with regard to:

- 5.2.1. Public drinking water sanitation;
- 5.2.2. Sewage and wastewater sanitation;
- 5.2.3. Food and milk sanitation;
- 5.2.4. Housing and institutional sanitation;
- 5.2.5. Recreational sanitation; and
- 5.2.6. General sanitation.

5.3. The board of health shall assure a program of immunizations according to the Standards for Immunization Practices.

5.4. The board shall, as resources permit, provide health programs in addition to the minimum requirements.

5.4.1. The board shall conduct preventive health programs designed to promote healthy behaviors.

5.4.2. The board may provide individual health care services.

5.4.2.a. The board shall maintain and conform to written policies and procedures governing patient or client referral, release of information, confidentiality, and the consent for staff to provide services to patients or clients.

5.4.2.b. Patient or client care protocols, including standing orders and medical directives shall be approved annually by the health officer.

5.5. The board may charge fees for permits and services as authorized.

§64-73-6. Reports and Records.

The board shall in a timely manner submit reports and records in compliance with applicable state and federal rules and regulations and departmental policies.

§64-73-7. General Administration of the Local Health Department.

7.1. Staff.

7.1.1. The board may employ or contract for staff to carry out its duties and responsibilities.

64 CSR 73

7.1.2. The board shall have a written organizational chart for the local health department which indicates lines of authority and responsibility.

7.1.3. The board shall review the organizational chart annually and shall document the review in minutes of an official board meeting.

7.1.4. The board shall employ an administrator or designate a staff member or shall contract for an administrator to manage day-to-day operations.

7.1.5. Staff and consultants of the board and of any contractors providing services for the board shall be in compliance with applicable W. Va. licensure requirements.

7.1.6. The board shall have liability insurance which includes all staff, board members, and contracted services.

7.2. Policies and Procedures.

All administrative policies, procedures, rules, and instructions specifying the operations and activities of the local department staff, including patient- or client-related activities shall be written and readily available to relevant staff.

7.3. Personnel Management.

7.3.1. The board shall keep a confidential personnel record shall be kept for each staff member.

7.3.2. The board shall review and reapprove or revise functional job descriptions, including those performed through contract, at least every two (2) years.

7.4. Staff Development.

7.4.1. The board shall provide an orientation program for all new staff which shall include, at a minimum, introduction and discussion of all policies relating to the job, behavior expected, patient confidentiality, and individualized on-the-job training in specific functions.

7.4.2. The board shall provide training for staff who assume new functions or increased responsibilities or who experience other changes in their job responsibilities.

7.4.3. The board shall provide in-service and continuing education related to current responsibilities to staff on an ongoing basis.

§64-73-8. Financial Management.

8.1. The board shall identify in writing staff or contract staff who have the authority to:

64 CSR 73

8.1.1. Handle cash;

8.1.2. Sign checks in accordance with §16-2A-6; and

8.1.3. Approve or disapprove of expenditures.

8.2. The board should maintain a cash reserve equal to at least the past three (3) months' operating expenditures of the local department.

8.3. The board shall establish a written schedule and procedures for reimbursement of employee travel and other expenditures.

8.4. Contracts, memoranda, or other forms of agreement between the board and other parties shall be in writing.

8.5. The board shall establish a procedure to monitor program costs, revenues, and expenditures.

8.6. No later than thirty (30) days prior to the first day of July, the board shall develop a budget for the coming fiscal year. The document shall identify and provide details of the operating expenses needed for each individual program and other activities.

§64-73-9. Physical Facilities.

9.1. The board shall provide facilities and equipment for the local department.

9.2. The board should be able to provide evidence that the buildings and grounds of the local department are in compliance with federal and state laws and regulations.

9.3. The buildings and grounds of the local health department shall have one (1) or more outside signs which clearly identify the department.

9.4. The physical arrangements of the building shall promote protection of patient and client privacy.

9.5. The board shall establish a policy prohibiting smoking or the use of smokeless tobacco in the local health department.

§64-73-10. Program Plan.

10.1. Program Plan.

10.1.1. The plan shall be submitted on forms supplied or approved by the director which shall include:

10.1.1.a. A comparison of current year activities (year-to-date) and projections

64 CSR 73

for the coming year.

- 10.1.1.b. A brief general mission statement;
- 10.1.1.c. An overall general five (5) year plan;
- 10.1.1.d. Short-term goals for each program; and
- 10.1.1.e. The budget document.

10.1.2. The plan shall be submitted to the division no later than thirty (30) days prior to the first day of July.

10.2. Planning Process.

10.2.1. The board shall conduct an ongoing planning process.

10.2.2. The board shall provide opportunities for and document citizen and staff participation in planning, developing, and implementing programs.

§64-73-11. Evaluation.

The director shall approve or disapprove the board's program plan based on compliance with this rule.

§64-73-12. Penalties.

In the event that the director determines that a local board of health is not in compliance with this rule, the director may withhold state aid funds until such time as the board submits an acceptable plan to correct deficiencies in the program plan.

§64-73-13. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule who desire a contested case hearing to determine any rights, duties, interests, or privileges, shall do so in a manner prescribed in Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

§64-73-14. Severability.

The provisions of this rule are severable. If any provisions of this rule are held invalid, the remaining provisions remain in effect.

**Discussion of Public Comments Received
Concerning the Proposed Rule
Standards for Local Boards of Health, 64 CSR 73**

A public comment period on the proposed rule, **Standards for Local Boards of Health, 64 CSR 73**, was held beginning June 28, 1995 and ending July 28, 1995.

One local board requested that language be added to allow local boards of health to provide services through a contract arrangement rather than directly employed staff. The Department agrees and has added clarifying text to 7.1.1, 7.1.4, 7.1.5, 7.3.2, and 8.1. This type of arrangement is legal and acceptable.

The Department has added text to Subsection 5.2 to clarify that the administration of public health laws and rules by local boards is carried out under the supervision of the Director of Health, and has deleted the footnote which was confusing, since it provided only a limited listing of affected rules.

Commenters - Standards for Local Boards of Health, 64 CSR 73

Monroe Health Center - Shirley C. Neel, Administrator



RECEIVED

MONROE HEALTH CENTER JUL 19 1995

P.O. Box 590
Union, WV 24983-0590
304-772-3064

REGULATORY DEVELOPMENT

July 17, 1995

Ms. Kay Howard
Regulatory Development
Department of Health & Human Resources
Capitol Complex, Bldg. 3, Room 265
Charleston, WV 25305

Dear Ms. Howard:

On behalf of the Monroe Health Center Board of Trustees, I wish to comment on the proposed changes of rule for Standards for local boards of health. My specific comments are listed below:

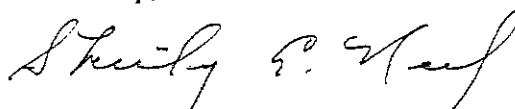
1. Page 4 of the rules, item 7.1.1 - I am recommending that this rule be modified to read, "The board may employ staff or contract for staff to carry out its' duties and responsibilities."
2. Page 4 of the rules, item 7.1.4 - I am recommending the rule be modified to read, "The board may employ or contract for staff to administer the public health program."
3. Page 4 of the rules, item 7.3.2 - I am recommending that this rule be modified to read, "the board shall review and re-approve or revise functional job descriptions of the staff or contracted administrator/staff at least every two (2) years."
4. Page 5 of the rules, item 8.1 - I am recommending that this rule be modified to read, "the board shall identify in writing staff or contracted staff to: 8.1.1 Handle Cash; 8.1.2 Sign checks in accordance with 16-2A-6; and, 8.1.3 Approve or disapprove expenditures."

The rationale for these recommended changes are due to the contractual arrangement between the Monroe County Board of Health and the Monroe Health Center (a primary care center) for the delivery of public health programs.

This board relationship has been on-going since 1987. The decision by these two boards to integrate the delivery of public health and primary care services has proven to be a cost effective and a more efficient way of providing public health programs.

Thank you for considering these recommendations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shirley C. Neel".

Shirley C. Neel
Administrator

SCN:map