



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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9/11/2017 9:41:06 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY	Health				
RULE TYPE	Procedural	AMENDMENT TO EXISTING RULE	No	TITLE-SERIES	64-108
RULE NAME	Local Board of Health Plans of Combination Procedure				

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Wednesday, October 11, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
Brian Skinner, Bureau for Public Health
WV Department of Health and Human Resources
350 Capitol Street Room 702
Charleston, WV 25301
Brian.J.Skinner@wv.gov

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 64-108



Rule Id: 16642



Document: 49867



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
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AGENCY	Health				
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RULE NAME	Local Board of Health Plans of Combination Procedure				

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

1.1. Scope. These rules include procedures for the approval by the Commissioner of the Bureau for Public Health of applications by two or more appointing authorities who are seeking to combine local boards of health. These rules provide procedures for submission, evaluation and approval of local board of health plans of combination.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY	Health				
RULE TYPE	Procedural	AMENDMENT TO EXISTING RULE	No	TITLE-SERIES	64-
RULE NAME	Local Board of Health Plans of Combination Procedure				108

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

PRIMARY CONTACT

Heather McDaniel
One Davis Square
Suite 100
Charleston, wv 25301

SECONDARY CONTACT

Cindy Dellinger
One Davis Square
Suite 100
Charleston, wv 25301

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY	Health				
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CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

These rules include procedures for the approval by the Commissioner of the Bureau for Public Health of applications by two or more appointing authorities who are seeking to combine local boards of health. These rules provide procedures for submission, evaluation and approval of local board of health plans of combination.

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Health**
RULE TYPE **Procedural** AMENDMENT TO EXISTING RULE No TITLE-SERIES **64-108**
RULE NAME **Local Board of Health Plans of Combination Procedure**

CITE AUTHORITY **W.Va. Code §§16-2-5 & 8.**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0		0
PERSONAL SERVICES			
CURRENT EXPENSES			
REPAIRS AND ALTERATIONS			
ASSETS			
OTHER			
ESTIMATED TOTAL REVENUES	0		0

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY	Health				
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RULE NAME	Local Board of Health Plans of Combination Procedure				

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY	Health				
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RULE NAME	Local Board of Health Plans of Combination Procedure				108

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY	Health				
RULE TYPE	Procedural	AMENDMENT TO EXISTING RULE	No	TITLE-SERIES	64-
RULE NAME	Local Board of Health Plans of Combination Procedure				108

CITE AUTHORITY W.Va. Code §§16-2-5 & 8.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

These rules include procedures for the approval by the Commissioner of the Bureau for Public Health of applications by two or more appointing authorities who are seeking to combine local boards of health. These rules provide procedures for submission, evaluation and approval of local board of health plans of combination.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Heather J Mcdaniel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 64-108



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TITLE 64
PROCEDURAL RULE
BUREAU FOR PUBLIC HEALTH

SERIES 108
LOCAL BOARD OF HEALTH PLANS OF COMBINATION PROCEDURE

§64-108-1. General

1.1. Scope. These rules include procedures for the approval by the Commissioner of the Bureau for Public Health of applications by two or more appointing authorities who are seeking to combine local boards of health. These rules provide procedures for submission, evaluation and approval of local board of health plans of combination.

1.2. Authority. *W.Va. Code §§16-2-5 & 8.*

1.3. Filing Date.

1.4. Effective Date.

1.5. Applicability. This rule series applies to appointing authorities who desire to combine, establish and maintain a combined local board of health.

1.6. Purpose. This procedure describes the method for submitting, evaluating and approving plans of combination submitted by appointing authorities.

§64-108-2. Definitions.

The following words and terms, when used in these rules, have the following meanings, unless the context clearly indicates otherwise:

2.1. “Applicants” means two or more appointing authorities seeking approval of a plan to combine local boards of health.

2.2. “Appointing Authority” means the county commission(s) and / or the governing body of a municipality.

2.3. “Basic Public Health Services” means those services that are necessary to protect the health of the public and that a local board of health must provide. The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion, and environmental health protection.

2.4. “Commissioner” means the Commissioner and State Health Officer of the West Virginia Bureau for Public Health.

2.5. “Center for Local Health” or “CLH” means the unit within the Bureau for Public Health responsible for oversight of the combination program.

2.6. “Director” means the Director of the Center for Local Health.

2.7. “Combined Local Board of Health” means one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties.

2.8. “Local Board of Health”, “local board”, or “board” means the board of health serving one or more counties or one or more municipalities or a combination thereof.

2.9. “Plan of Combination” or “Plan” means the document outlining the intent to combine local boards of health by two or more appointing authorities submitted to the Commissioner for approval.

§64-108-3. Application and Submission of Plans of Combination.

3.1. Appointing authorities for local boards of health may submit a plan of combination at any time.

3.2. Applications for combining local boards of health under these rules shall be made in the form and manner as the Commissioner may prescribe. The application must include the following information:

3.2.a. Completed Application on a form approved by the Commissioner;

3.2.b. Justification for combination.

3.2.c. A description of how basic public services will be maintained to the same standard throughout the combination process for all communities served.

3.2.d. A description of how basic public health services will be maintained to the same standard for all communities served once the combined board has been established.

3.2.e. A description of anticipated challenges and strategies to address the challenges.

3.2.f. Budget and budget narrative.

3.2.g. A list of the persons assisting in the transition to a combined board of health (including their names, titles, and organizational affiliation) and the available resources, in addition to a brief description of how they will be involved in the project. At a minimum, this must include:

3.2.g.1. Legal counsel

3.2.g.2. Liability insurance

3.2.g.3. Fiscal consultant

3.2.g.4. Appointing authority

3.2.g.5. Local board of health

3.2.h. Plan (goals, timeline, activities, responsibilities and milestones) that addresses the following:

3.2.h.1. Service Delivery

3.2.h.2. Personnel

3.2.h.3. Fiscal

3.2.h.4. Legal

3.2.h.5. Logistics

3.2.i. Evidence of engagement with all local boards of health in counties contiguous to the counties proposing to combine, for the purpose of determining whether the local boards of health in the contiguous counties are willing to join the application.

3.2.j. Evidence of public engagement, specifically at least two public meetings during which the public is encouraged and permitted to address the proposed application.

3.2.k. Signed agreement identifying the number of combined local board of health members to be selected by each participating county or municipality (W. Va. Code §16-2-8).

3.2.l. The plan of combination must be signed by the officers of each appointing authority.

3.3. Applications may be requested from the Director by email at dhhrbphclh@wv.gov or be found online at: <http://www.dhhr.wv.gov/localhealth/Pages/default.aspx>.

3.4. Only applications which are complete will be considered. In order to be considered complete, an application must include the information contained in subsection 3.2.

3.5. Applications may be submitted by one of the following methods:

3.5.a. Email using the following address: dhhrbphclh@wv.gov.

3.5.b. Facsimile using the following fax number: (304) 558-1437.

3.5.c. U.S. Mail at the following address: West Virginia Center for Local Health, 350 Capitol Street, Room 515, Charleston, West Virginia 25301

3.6. A determination on the plan of combination will be made within 30 days of receipt of a complete plan.

§64-108-4. Application Review.

4.1. Upon receipt of the application, the Director will review the application and supporting materials to ensure completeness.

4.2. Applications that are determined to be complete will be submitted to the Commissioner for review. Applicants will be notified if an application is determined to be incomplete along with a request to provide the incomplete information or documentation. An application that remains incomplete for 45 days will result in denial.

4.3. The Commissioner will evaluate applications using the following criteria:

4.3.a. Degree to which the service area meets or exceeds the minimum and maximum efficiency scale of 100,000 to 500,000 populations. Plans of combination should achieve a combined population base within the minimum and maximum efficiency scale of 100,000 to 500,000 population.

4.3.b. Contiguous counties and /or municipalities. Applicants seeking approval to combine must be contiguous.

4.3.c. Demonstrated commitment of appointing authorities. Signed resolutions of commitment to consolidate from each participating appointing authority (county commission and/or municipalities) and formation of a mechanism or body to provide oversight of planning process.

4.3.d. Evidence of public engagement. Agendas and summary of public comments from public hearings.

4.3.e. Evidence of engagement with contiguous local boards of health. Proximity of jurisdictions within the proposed consolidation impacts to surrounding jurisdictions. Applications for combination must include contiguous counties and an assessment of interest to consolidate must be conducted with all surrounding jurisdictions.

4.3.f. Evidence of a comprehensive work plan. A comprehensive Plan that guides the process of transitioning to and sustaining a combined board of health. The plan must demonstrate that the combination of the local boards of health will ensure the consistent performance of duties related to basic public health services and other health services and the enforcement of the laws of this state pertaining to public health.

4.4. Upon a review of the application and the supporting materials the Commissioner may approve, disapprove, or approve the application with conditions.

§64-108-5. Notices

5.1. Successful applicants will receive a Notice of Approval letter, signed by Commissioner, via e-mail.

5.2. The Commissioner may conditionally approve an application contingent upon the successful completion phases of the work plan, and in addition to any other requirement imposed by law or determined by the Commissioner to be reasonably necessary to fulfill the purposes of the plan, approval of the application may be subject to specific terms and conditions.

5.3. The final approval will not occur until the applicants demonstrate the likelihood of the Plan's success to the Commissioner's satisfaction, supported by such documentation as the Commissioner may reasonably require.

5.4. The Commissioner has the authority to make a final determination to approve a Plan to combine local boards of health.

5.5. All Plans to implement a combination of local boards of health must be completed within a reasonable period of time, to be determined by the Commissioner.

§64-108-6. Monitoring of the implementation of the plan.

The Commissioner may monitor the implementation of the Plan to ensure that the process of transitioning to a combined board of health, is proceeding satisfactorily and that duties related to basic public health services, other health services, and the enforcement of the laws of this state pertaining to public health are consistently performed.

§64-112-7. Appeals.

Applicants adversely affected by a determination of the Commissioner pursuant to these rules may request a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Bureau for Public Health rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, *W.Va. Code §§ 64-1-1 et seq.*