



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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10/24/2017 2:13:18 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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 § 16-2-5 and §16-2-8

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§29A-3-8 Upon adoption of the rule, including any amendment, the agency shall file the text of the adopted legislative exempt, procedural or interpretive rule with its notice of adoption in the State Register and the rule is effective on the date specified in the rule or thirty days after the filing, whichever is later or as specified in this code.

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS

Saturday, November 25, 2017

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: 49958

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. This rule includes 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. This rule provides 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 – October 24, 2017.

1.4. Effective Date – November 25, 2017.

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 manner of submission, evaluation and approval of plans of combination submitted by appointing authorities.

§64-108-2. Definitions.

The following words and terms, when used in this rule, 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) or the governing body, or both, 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 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 within the Bureau for Public Health.

2.7. "Combined Local Board of Health" 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 this rule 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 the combination;

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

3.2.d. A description of how basic public health services will be maintained to prescribed standards 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. A 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; and

3.2.g.5. Local board of health.

3.2.h. Plan (including goals, timeline(s), 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; and

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; and

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).

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

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

3.5. Only applications which are complete will be considered. To be considered complete, an application must include the information contained in subsection 3.2.

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

3.6.a. Website <http://www.dhhr.wv.gov/localhealth/Pages/default.aspx>;

3.6.b. Email using the following address: dhhrbphclh@wv.gov;

3.6.c. Facsimile using the following fax number: (304) 558-1437; and

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

3.7. 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 a denial of the application.

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.* While a minimum population of 100,000 is not a requirement necessary for the approval of an application, plans of combination should strive to achieve a combined population base within the minimum and maximum efficiency scale of 100,000 to 500,000 population. The commissioner acknowledges that in many parts of the state a minimum efficiency of a service population of 100,000 is unachievable. The intent of this criteria is only to maximize the potential for achieving cost efficiency in service delivery, 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;

4.3.b. *Contiguous counties or municipalities, or both.* Applicants seeking approval to combine must be contiguous. These criteria are intended to exploit the geographic proximity of local boards of health and transportation corridors, thus ensuring as much as possible a cultural fit, which in addition to other factors related to the contiguousness of the combining boards of health, strengthen the qualitative aspects of basic public health services;

4.3.c. *Demonstrated commitment of appointing authorities.* Signed resolutions of commitment to consolidate from each participating appointing authority (county commission or municipalities, or both) 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. This criterion is intended to exploit the geographic proximity of local boards of health and transportation corridors, thus ensuring as much as possible a cultural fit, which in addition to other factors related to the contiguousness of the combining boards of health, strengthen the qualitative aspects of basic public health services; and

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 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 and 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.*