



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Health

RULE TYPE: Legislative

TITLE-SERIES: 64-73

RULE NAME: BASIC PUBLIC HEALTH SERVICE
STANDARDS FOR LOCAL BOARDS OF
HEALTH

CITE AUTHORITY: 16-1-6(b)(9)

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

April L Robertson -- 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 64
LEGISLATIVE RULE

DIVISION-DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH

SERIES 73
BASIC PUBLIC HEALTH SERVICE STANDARDS FOR LOCAL BOARDS OF HEALTH

§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~~ basic public health services and programs by local boards of health.

1.2 Authority. -- W. Va. Code §16-1-6(b)(9).

1.3. Filing Date. -- ~~April 22, 1996.~~

1.4. Effective Date. -- ~~April 22, 1996.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2028.

§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~~ Commissioner of the Bureau for Public Health and the Center for Local Public Health as set forth in W. Va. Code §16-1-6 (b).

§64-73-3. Definitions.

3.1. Bureau -- Bureau for Public Health in the Department of Health and Human Resources.

3.2. Commissioner -- The Commissioner of the Bureau or his or her designee.

~~3.1-3.3.~~ Department -- The state department of health and human resources.

~~3.2. Director -- The director¹ of the division of health and his or her designee.~~

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.~~

~~3.3. Division of Health or Division -- The division of health of the department of health and human resources.~~

3.4. Fiscal Year -- The 12-month period beginning the first day of July and ending the 30th day of the following June.

3.5. Immediate Jeopardy -- A situation in which entity noncompliance has placed the health and safety of those in its care at risk for serious injury, serious harm, serious impairment, or death.

~~3.56. Local Board of Health or Board -- A board of health serving one or more counties, one or more municipalities, or a combination thereof.~~

~~3.67. Local Health Department -- The staff of the local board of health.~~

~~3.78. Local Health Officer -- An individual~~A physician with a current license to practice medicine in West Virginia, who is knowledgeable of sanitary laws, and who shall or a licensed advanced practice registered nurse who has the ability to independently practice who shall supervise and direct the activities of county or municipal the local health department services, employees, and facilities who is appointed by the local board of health.

~~3.89. Plan of Correction -- A written description of the actions the local board of health intends to take to correct and prevent the reoccurrence of violations of a rule or policy identified by the Performance-Based Evaluation Team during a performance review.~~

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

3.11. West Virginia Public Health Advisory Committee -- Committee established for purposes of bi-directional communication, collaboration, and input into the design and implementation of a performance-based evaluation system, input into the development of tools for assessment of local health performance, and input into training necessary for local boards of health and staff.

§64-73-4. Organization-Operation.

~~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 in a county having a population greater than 30,000 shall meet no less than six times a year. A local board of health in a county having a population less than 30,000 shall meet no less than four 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 for board members, the number, duties, tenure and qualifications of members, a description of the process for filling vacancies on the board, requirements for written minutes and records of board actions, and a description of the duties and election process for officers. A quorum of the board for transacting business is a simple majority of the constituent membership of the board.~~

4.1 The Bureau shall distribute and monitor state aid funds to the Local Boards of Health in accordance with W. Va. Code §16-1-4, W. Va. Code §16-1-6(b), and 64CSR67.

4.2. Contracts, memoranda, or other forms of agreement between the board and other parties to support the provision of basic public health services shall be in writing unless resources need to be deployed to respond to an imminent and urgent public health threat, and in that case, within 45 days.

4.3. The board shall ensure that any additional non-basic public health services, including primary care and other health services, that are initiated or implemented are well coordinated with basic public health services and are supported by plans that include sources of funding other than state aid.

4.4. The board shall ensure adequate staff to carry out basic public health services and appoint a local health officer and administrator to oversee and maintain continuity of staff to support the provision of basic public health services and daily operations.

4.5. The board shall have liability insurance at least equivalent to that available to local boards through the Board of Risk and Insurance Management, which includes all staff, board members, and contracted services.

4.6. Patient or client care protocols, including standing orders and medical directives, shall be approved annually by the local health officer and available within the local health department.

4.7 The board shall maintain records of necessary licensure, certifications and/or registration for personnel.

§64-73-5. Health Services and Programs-Basic public health service standards.

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

5.1.1. Community health promotion services standards.

5.1.1.a. The board shall target outreach to create and maintain relationships with diverse partners, which may include but is not limited to, health-related and community-based organizations, community groups representing populations experiencing health inequity, private businesses, health care organizations, and government leaders;

5.1.1.b. ~~Evaluation of~~ At least every five years, the board shall conduct or participate in an evaluation of the health needs of the community it serves using generally accepted needs ~~professional health~~ assessment techniques and publicly report the results;

5.1.1.c. Every five years, in collaboration with community partners identified in paragraph 5.1.1.a., the board shall initiate or participate in the mobilization of the community to identify and report publicly the health priorities arising from the health assessment, including the analysis of health disparities and social determinants of health; and

5.1.1.d. The board shall establish an annual plan to address the priority health needs that define a role for the local health department in the programmatic or policy activities.

5.1.2. Communicable and reportable disease service standards.

5.1.2.a. ~~Efforts to prevent and control epidemics, and investigation and containment of diseases and injuries~~ The board shall report, investigate, and control certain diseases and conditions, unusual health events, and clusters or outbreaks of disease through compliance with the requirements of

W. Va. Division of Health Administrative Rules, 64CSR7, Reportable Diseases, Events and Conditions, regarding disease surveillance and epidemiological reporting and shall provide the following additional services:

5.1.2. a.1. Identify and maintain a current directory of local jurisdiction reporting sources;

5.1.2.a.2. Ensure reporting sources are provided with a 24-hour emergency contact number for reporting disease conditions, unusual health events, and outbreaks of disease;

5.1.2.a.3. Report and investigate within the timeframes for each respective condition and in accordance with 64CSR7 and submit for review infections disease case reports within one month of notification to the Bureau;

5.1.2.a.4. Complete and submit all required outbreak reports to the Bureau within three months of the outbreak closing;

5.1.2.a.5. Ensure appropriate staff maintain entry and access to training resources for the statewide disease surveillance system for investigation of reportable diseases and conditions, as well as ensure staff who leave the local health department are deprovisioned;

5.1.2.a.6. Maintain unexpired laboratory specimen collection supplies to meet routine surveillance and outbreak needs of clinical and environmental specimens for reportable conditions;

5.1.2.a.7. Develop and maintain means to communicate health advisories sent by the Bureau among public health partners in local jurisdictions;

5.1.2.a.8. Assist in the recruitment of an influenza sentinel provider;

5.1.2.a.9. Assure HIV education, counseling and testing, including anonymous testing, is available for at-risk county residents;

5.1.2.a.10. Provide HIV risk assessment and counseling for clinic populations (e.g., family planning, tuberculosis, sexually transmitted disease);

5.1.2.a.11. Assure that clinical sexually transmitted infections and tuberculosis services such as screening, diagnosis, and treatment, are readily available to all county residents; and

5.1.2.a.12. Implement a mechanism to educate private health care providers on reporting and management of sexually transmitted infections.

5.1.2.b. The board shall investigate and control tuberculosis through compliance with the requirements of 64CSR76, Tuberculosis Testing, Control, Treatment and Commitment, and the ensure following additional services:

5.1.2.b.1. Designate a nurse to manage all tuberculosis cases;

5.1.2.b.2. Initiate an epidemiological investigation within three days of notification of active disease or notification that any child has a positive tuberculin skin test reaction, regardless of whether active disease is present;

5.1.2.b.3. Offer screening and necessary follow-up examination to all close contacts of infectious tuberculosis cases;

5.1.2.b.4. Collect appropriate specimens for submission to the Office of Laboratory Services on the initial isolate from all the tuberculosis cases reported in the county, including those diagnosed by private providers;

5.1.2.b.5. Offer recommended tuberculosis preventative therapy to all infected contacts as indicated;

5.1.2.b.6. Assure that healthcare professionals seeing tuberculosis patients have current treatment guidelines and set up coordination between the private provider and the state tuberculosis control program for all active tuberculosis cases.

5.1.2.b.7. Provide directly observed therapy (DOT) for all active tuberculosis cases and provide DOT for latent tuberculosis cases as directed by state tuberculosis control program; and

5.1.2.b.8. Offer screening services for tuberculosis infections to residents who fall into high-risk groups. Institutions are responsible for their own screening programs.

5.1.3. Environmental health protection standards.

~~5.1.3.a. Promotion of~~ The local board shall promote a safe and healthy environment, and maintenance of clean and safe air, water, food, and facilities through a program of routine public health environmental education and control;

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

~~5.1.5. Targeted outreach and the formation of partnerships with other community organizations; and~~

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

~~5.2.-~~ 5.1.3.b. The board shall administer public health sanitation rules as specified by the ~~director~~ Commissioner with regard to:

~~5.2.1.-~~ 5.1.3.b.1. Public drinking water sanitation, W. Va. Code §16-2-11(a)(1)(B);

~~5.2.2.-~~ 5.1.3.b.2. Sewage and wastewater sanitation Sewer Systems, Sewage Treatment Systems, and Sewage Tank Cleaners, 64CSR9 and Sewage Treatment and Collection System Design Standards, 64CSR47;

~~5.2.3.-~~ 5.1.3.b.3. Food and milk sanitation Establishments, 64CSR17;

~~5.2.4.-~~ 5.1.3.b.4. Housing and institutional sanitation; Child Care Centers, 64CSR21;

~~5.2.5.-~~ 5.1.3.b.5. Recreational sanitation; and Water Facilities, 64CSR16;

~~5.2.6.-~~ 5.1.3.b.6. General Sanitation, 64CSR18;

5.1.3.b.7. Water Well Regulations, 64CSR19, and Water Well Design Standards, 64CSR46;

5.1.3.b.8. Manufactured Home Communities, 64CSR40;

5.1.3.b.9. Body Piercing Studio Business, 64CSR80;

5.1.3.b.10. Tattoo studio business sanitation, W. Va. Code §16-38-2;

5.1.3.b.11. Nuisances affecting public health, W. Va. Code §16-3-6;

5.1.3.b.12. Fees for Permits, 64CSR30;

5.1.3.b.13. Local disaster sanitation; and

5.1.3.b.14. Environmental health investigation related to disease control.

5.1.3.c. The board shall report environmental health data electronically in a format or system specified by the Bureau <https://oehs.wv.dhhr.org/phs/public-health-sanitation/>.

~~5.3.~~ 5.1.4. Immunization service standards.

5.1.4.a. The board of health shall implement a program of immunizations according to the Standards for Pediatric Immunization Practices, as published by the U. S. Centers for Disease Control and Prevention (CDC) <https://www.cdc.gov/mmwr/pdf/rr/rr4205.pdf> and in accordance with the West Virginia Vaccines for Children Program guidelines https://oeps.wv.gov/immunizations/Pages/vfc_manual.aspx.

~~5.4. The board shall conduct preventive health programs designed to promote healthy behaviors.~~

~~5.5. The board may provide individual health care services.~~

~~5.6. The board shall maintain and conform to its 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 which shall be consistent with applicable federal and State laws, rules and regulations.~~

~~5.7. Patient or client care protocols, including standing orders and medical directives shall be approved annually by the local health officer.~~

~~5.8. The board may charge fees for permits and services as authorized by the director, the State legislature and applicable State law and rules.~~

5.1.4.b. The board shall ensure all federally funded or federally supplied vaccines, adult or pediatric, are administered in accordance with guidelines established by the DHHR Division of Immunization Services Program Guidelines (*See <https://oeps.wv.gov/immunizations/Pages/default.aspx#provider>*).

5.1.4.c. All vaccine adverse events should be reported to the Vaccine Adverse Event Reporting System (VAERS) and the West Virginia Poison Control Center.

5.1.5. Threat preparedness standards.

5.1.5.a. The board of health shall implement and maintain a threat preparedness program that ensures the delivery of core public health activities during local or statewide public health emergency response events, or both, and includes the following:

5.1.5.a.1. Maintain a public health all-hazards emergency operations plan that is updated and renewed annually;

5.1.5.a.2. Ensure a continuity of operations plan is in place and can be implemented, including a plan of succession, that is reviewed and updated annually;

5.1.5.a.3. Maintain and implement a process for urgent 24-hour communications with response partners; and

5.1.5.a.4. Conduct operations in accordance with applicable federal incident command principles (See <https://training.fema.gov/emiweb/is/icaresource/assets/ics%20review%20document.pdf>), including conducting and participating in exercises and the use of “after action reports” (See <https://www.fema.gov/sites/default/files/2020-04/Homeland-Security-Exercise-and-Evaluation-Program-Doctrine-2020-Revision-2-2-23.pdf>).

§64-73-6. Reports and Records.

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

6.2. The board shall develop a data retention policy for medical records, laboratory results, and case reports.

~~§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 within funding available.~~

~~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 West Virginia licensure requirements.~~

~~7.1.6. The board shall have liability insurance at least equivalent to that available to local boards through the State board of risk management which includes all staff, board members, and contracted services.~~

~~7.2. Policies and Procedures~~

~~7.2.1. All administrative policies, procedures, rules, and instructions specifying the operations and activities of the 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 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 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 participate in audits of and shall be in compliance with procedures required by the State tax commissioner. The board shall include a copy of the most recent audit report with the annual submission of the program plan required by Section 10.1.2 of this rule.~~

~~8.2. The board shall identify in writing staff or contract staff who have the authority to:~~

~~8.2.1. Handle cash;~~

~~8.2.2. Sign checks in accordance with W. Va. Code §16-2A-6; and~~

~~8.2.3. Approve or disapprove of expenditures.~~

~~8.3. The board should maintain a cash reserve equal to at least the past three months' operating expenditures of the local health department.~~

~~8.4. The board shall establish a written schedule and procedures for reimbursement of employee travel and other expenditures.~~

~~8.5. Contracts, memoranda, or other forms of agreement between the board and other parties shall be in writing.~~

~~8.6. The board shall establish a procedure to monitor program costs, revenues, and expenditures.~~

~~8.7. No later than 30 days prior to the first day of July, the board shall develop a budget for the coming fiscal year. The budget 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 health department.~~

~~9.2. The board should be able to provide evidence that the buildings and grounds of the local health 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 or more outside signs which clearly identify the department.~~

~~9.4. The board shall promote the protection of patient or 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 for the coming year;~~

~~10.1.1.b. A brief general mission statement;~~

~~10.1.1.c. An overall general five-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 annually to the division no later than 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.~~

~~10.3. Evaluation.~~

~~10.3.1. The director shall approve or disapprove the board's program plan based on compliance with this rule.~~

§64-73-7. Performance-based evaluation, site visits, and plans of correction.

7.1. The Center for Local Public Health shall:

7.1.1. Develop and facilitate bi-directional relationship with Local Health Departments. This bi directional relationship shall include the West Virginia Public Health Advisory Committee that will meet at least six times per year and shall be tasked to provide the following:

7.1.1.a. Establish, review, and revise the instrument used to evaluate the provision of basic public health services annually and in accordance with the provisions of this rule;

7.1.1.b. Develop, maintain, and update a tool for conducting an annual assessment and an annual inventory of local public health services.

7.1.1.c. Maintain at least quarterly training curriculum for local boards of health and local health department staff.

7.2. The board shall perform an annual self-assessment, on a form or system provided by the Commissioner, of all basic public health services to ensure compliance with applicable statutes and rules.

7.3. The board shall design and implement a plan to address areas where compliance with the standards outlined in this Rule are not met.

7.4. A performance-based evaluation team will be appointed by the Commissioner and will consist of a representative of each of the Office of Epidemiology and Prevention Services, the Office of Environmental Health Services, the Office of Administration/Finance, and the Center for Threat Preparedness.

7.4.1. The team shall perform an on-site review, at a minimum of every four years or upon complaint or for good cause, of all local health department basic public health service programs and records for conformance with this rule.

7.4.2. The team shall provide a draft report of the findings to the Commissioner and the local board of health within 15 business days of completion of the on-site review.

7.4.3. Within 15 business days of receipt of the report, the local board of health shall submit a written plan of correction to the Commissioner and the appointing authority for the local board of health addressing all deficiencies that are violations of this Rule. The plan of correction shall specify:

7.4.3.a. Any action taken or procedures proposed to correct the deficiencies and prevent their recurrence;

7.4.3.b. The date of completion of each action taken or to be taken; and

7.4.3.c. The signature of the local health officer, or his or her designee, or other executive officer of the local board of health.

7.4.4. The local board of health shall immediately correct all violations that result in immediate jeopardy to the health or safety of any individual.

7.4.5. The proposed plan of correction shall be approved, modified, or rejected by the Commissioner within 15 business days. The Commissioner shall state the reason for modification or rejection of a proposed plan of correction.

7.4.6. The local board of health shall submit a revised plan of correction to the Commissioner and the appointing authority for the local board of health within 15 business days of receipt of a rejection by

the Commissioner. The revised plan of correction shall be approved, modified, or rejected by the Commissioner within 15 business days.

7.4.7. Informal Dispute Resolution.

7.4.7.a. Documentation for an informal dispute resolution shall be submitted with, but separate from, the plan of correction for existing deficiencies.

7.4.7.b. The request for an informal dispute resolution shall be submitted at the time the plan of correction is submitted for existing deficiencies.

7.4.7.c. The Commissioner shall write a policy and procedures addressing the manner in which an informal dispute resolution shall be conducted.

7.4.7.d. All communications during an informal dispute resolution are, and shall remain, confidential.

§64-73-8. Membership and duties of the West Virginia Public Health Advisory Committee.

8.1. The West Virginia Public Health Advisory Committee shall be comprised of the following nine members, appointed by the Commissioner as follows:

8.1.1. The West Virginia Association of Local Health Departments shall submit to the Commissioner a list of up to eight names, which are to include administrators and health officers, of which five in total shall be appointed.

8.1.2. The County Commissioner's Association of West Virginia and the West Virginia Association of Counties shall each submit to the Commissioner a list of five names, of which three in total will be selected.

8.1.3 The President of the WVALHD.

8.2. The members of the Committee shall vote on a Chairperson for the Advisory Committee who shall serve a two-year term and be responsible for submitting all meeting notes to the Bureau.

8.3. Committee members shall serve two-year terms, not to exceed four consecutive terms.

8.4. The Committee shall:

8.4.1. Act in an advisory capacity to the Commissioner.

8.4.2. Collaborate with the Bureau to design and implement a performance-based evaluation system based on standards outlined in this Rule.

8.4.3. Collaborate with the Bureau to design and develop tools for assessment of local health board performance.

8.4.4. Provide input on training for local health and State appointees as determined by the Commissioner.

8.4.5. Hold no less than six meetings per year.

§64-73-~~119~~. Penalties.

In the event that the ~~director~~ Commissioner determines that a local board of health is not in compliance with this rule and upon written notice to the local board of health, the ~~director~~ Commissioner may withhold state aid funds until such time as the board submits an acceptable plan to correct deficiencies that is approved by the Commissioner, the board of health and the appointing authority in the program plan. If such withholding of funds would impair the provision of public health service(s) for a county or service area, the Commissioner shall arrange for those service(s) to be provided to the county or service area.

§64-73-~~1210~~. Administrative Due Process.

Those local boards of health 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 ~~W. Va. Division of Health Administrative Rules, 64CSR1, Rules of Procedure for Contested Case Hearings and Declaratory Rulings.~~

§64-73-~~1311~~. Severability.

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