



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Health TITLE-SERIES: 64-73
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: BASIC PUBLIC HEALTH SERVICE STANDARDS
FOR LOCAL BOARDS OF HEALTH
CITE STATUTORY AUTHORITY: 16-1-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB2648

Section 64-5-1(c) Passed On 3/6/2023 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 1, 2023

This rule shall terminate and have no further force or effect from the following date:

August 01, 2028

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

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 provision of basic public health services by local boards of health.

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

1.3. Filing Date. -- March 30, 2023.

1.4. Effective Date. -- April 1, 2023.

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 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.

3.3. Department -- The state 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.

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

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

3.8. Local Health Officer -- A physician with a current license to practice medicine in West Virginia, or a licensed advanced practice registered nurse who has the ability to independently practice who shall

supervise and direct the activities of the local health department services, employees, and facilities who is appointed by the local board of health.

3.9. 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. Operation.

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. Basic public health service standards.

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

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. 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 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. 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 64CSR7, Reportable Diseases, Events and Conditions 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. 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;

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

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

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

5.1.3.b.3. Food Establishments, 64CSR17;

5.1.3.b.4. Child Care Centers, 64CSR21;

5.1.3.b.5. Recreational Water Facilities, 64CSR16;

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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.wvdhhr.org/phs/public-health-sanitation/>.

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/r/r4205.pdf> and in accordance with the West Virginia Vaccines for Children Program guidelines https://oeps.wv.gov/immunizations/Pages/vfc_manual.aspx.

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/icsresource/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-2-2-25.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. 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.

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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.

§64-73-9. Penalties.

In the event that the 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 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. 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.

§64-73-10. 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 64CSR1, Rules of Procedure for Contested Case Hearings and Declaratory Rulings.

§64-73-11. Severability.

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