

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #6

**FILED**

APR 22 1 14 PM '96

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Division of Health TITLE NUMBER: 64

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

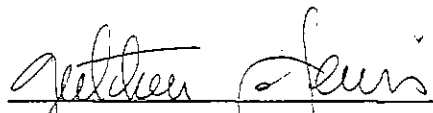
TITLE OF RULE BEING PROPOSED: Standards for Local Boards of Health

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB 4225

SECTION §64-5-1(b), PASSED ON 3-8-96

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: 4-22-96

  
\_\_\_\_\_  
Authorized Signature



KEN HECHLER  
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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

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Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

March 12, 1996

Kay Howard  
Health  
Regulatory Development  
Bldg 3 Rm 265  
Charleston, WV 25305

**HB 4225** authorizing, **Title 64, Series 73, Standards for Local Boards of Health** passed the Legislature on **March 8, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **HB 4225** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **HB 4225 Section 64-5-1(b)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,  
Administrative Law Division

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
RULE PROMULGATION HISTORY ABSTRACT**

**Rule Title:** Standards for Local Boards of Health

**Series Number:** 73

**Amendment of Existing Rule:**  **New Rule:**

**Responsible Agency:** Division of Health, Department of Health and Human Resources

**Date Filed for Public Hearing or Comment Period:** 6-30-95

**Date of Public Hearing (if any):** n/a

**Date Public Comment Period Ended:** 7-28-95

**Date Agency-Approved Rule Filed with the  
Legislative Rule-Making Review Committee:** 7-31-95

**Date of Filing of Modified Rule as Approved by  
the Legislative Rule-Making Review Committee:** 12-6-95

**Date of Final Filing:** 4-22-96

**Effective Date:** 4-22-96

**Authorized by:** HB 4225 Section 64-5-1(b) (With amendments? Yes  No )  
**Passed:** 3-8-96

**Dates Emergency Rule in Effect (if any):** n/a

TITLE 64  
WEST VIRGINIA ADMINISTRATIVE RULES  
DIVISION OF HEALTH

SERIES 73

STANDARDS FOR LOCAL BOARDS OF HEALTH

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Final Rule  
Effective April 22, 1996

**WEST VIRGINIA ADMINISTRATIVE RULES  
DIVISION OF HEALTH  
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. Penalties	6
§64-73-12. Administrative Due Process	6
§64-73-13. Severability	6

TITLE 64  
WEST VIRGINIA ADMINISTRATIVE RULES  
DIVISION OF HEALTH  
SERIES 73  
STANDARDS FOR LOCAL BOARDS OF HEALTH

FILED

APR 22 1 14 PM '96

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** - April 22, 1996.

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

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

3.2. **Director** - The director<sup>1</sup> of the division of health and his or her designee.

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

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

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

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

3.7. **Local Health Officer** - An individual physician with a current license to practice in

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<sup>1</sup> 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.

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.

3.8. **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 in a county having a population greater than thirty thousand (30,000) shall meet no less than six (6) times a year. A local board of health in a county having a population less than thirty thousand (30,000) 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 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.

**§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 the health needs of the community it serves using generally accepted professional health needs assessment techniques;

5.1.2. Efforts to prevent and control epidemics, and investigation and containment of diseases and injuries through compliance with the requirements of W. Va. Division of Health Administrative Rules, 64 CSR 7, Reportable Diseases, regarding disease surveillance and epidemiological reporting;

5.1.3. Promotion of 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. 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 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.

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.

#### **§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 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**

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 (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 participate in audits of and shall be in compliance with procedures

## 64 CSR 73

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 §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 (3) 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 thirty (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 (1) 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 (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 annually 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.

## 10.3. Evaluation

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

### §64-73-11. 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.

### §64-73-12. 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, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

### §64-73-13. Severability.

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

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SENATE BILL NO. 183

(By Senators Ross, Anderson, Boley,  
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred  
to the Committee on

HEALTH AND HUMAN RESOURCES

THE JUDICIARY

64-13

A BILL to amend and reenact section one, article five,  
chapter sixty-four of the code of West Virginia, one  
thousand nine hundred thirty-one, as amended, relating  
to authorizing the division of health to promulgate  
legislative rules relating to standards for local  
boards of health.

Be it enacted by the Legislature of West Virginia:

That section one, article five, chapter sixty-four of  
the code of West Virginia, one thousand nine hundred  
thirty-one, as amended, be amended and reenacted, to read  
as follows:

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND  
HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. State board of health; division of health.

(a) The legislative rules filed in the state register

1 on the fifteenth day of August, one thousand nine hundred  
2 ninety-four, authorized under the authority of section  
3 seven, article one, chapter sixteen, of this code, modified  
4 by the division of health to meet the objections of the  
5 legislative rule-making review committee and refiled in the  
6 state register on the twentieth day of October, one  
7 thousand nine hundred ninety-four, relating to the division  
8 of health (wastewater treatment works and operators, 64 CSR  
9 5), are authorized.

10 (b) The legislative rules filed in the state register  
11 on the thirty-first day of July, one thousand nine hundred  
12 ninety-five, authorized under the authority of section  
13 seven, article one, chapter sixteen, of this code, modified  
14 by the division of health to meet the objections of the  
15 legislative rule-making review committee and refiled in the  
16 state register on the sixth day of December, one thousand  
17 nine hundred ninety-five, relating to the division of  
18 health (standards for local boards of health, 64 CSR 73),  
19 are authorized.

20

21 NOTE: The purpose of this bill is to authorize the  
22 Division of Health to promulgate legislative rules relating  
23 to standards for local boards of health.

24

25 Strike-throughs indicate language that would be  
26 stricken from the present law, and underscoring indicates  
27 new language that would be added.

4253

H. B. 4253

(By Delegates Douglas, Gallagher, Faircloth, Compton,  
Linch and Riggs)

(Introduced January 29, 1996; referred to the  
Committee on ~~Health and Human Resources then the~~  
Judiciary)

64-73

A BILL to amend and reenact section one, article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of health to promulgate legislative rules relating to standards for local boards of health.

Be it enacted by the Legislature of West Virginia:

That section one, article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. State board of health; division of health.

(a) The legislative rules filed in the state register

4253

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27 new language that would be added.



RECEIVED

JUN 25 1996

REGULATORY DEVELOPMENT

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Director, Administrative Law

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

(Plus all the volunteer  
help we can get)

AUG 9 2 10 PM '96

FILED

TO: KAY HOWARD

AGENCY: DIVISION OF HEALTH

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 24, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 73 TITLE: 64 DIVISION OF HEALTH

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Kay Howard

TITLE OF PERSON SIGNING: Director, Office of Regulatory Development

DATE: August 9, 1996

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.