WEST VIRGINIA CODE: §16-2-11

§16-2-11. Local board of health; powers and duties.

(a) A local board of health created, established, and operated pursuant to the provisions of this article shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

(A) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

(B) Environmental health protection including the promoting and maintaining of clean and safe air, water, food, and facilities, and the administering of public health laws as specified by the commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

(C) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other communicable and reportable diseases;

(D) Immunizations; and

(E) Threat preparedness.

(2) Provide equipment and facilities for the local health department that are in compliance with federal and state law;

(3) Permit the commissioner to act by and through it, as needed. The commissioner may enforce all public health laws of this state, the rules and orders of the secretary, any county commission orders or municipal ordinances of the board's service area relating to public health, and the rules and orders of the local board within the service area of a local board. The commissioner may enforce these laws, rules, and orders when, in the opinion of the commissioner, a public health emergency exists or when the local board fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health. The expenses incurred shall be charged against the counties or municipalities concerned;

(4) Deposit all moneys and collected fees into an account designated for local board of health purposes. The moneys for a municipal board of health shall be deposited with the municipal

WV Legislature

treasury in the service area. The moneys for a county board of health shall be deposited with the county treasury in the service area. The moneys for a combined local board of health shall be deposited in an account as designated in the plan of combination: *Provided*, That nothing contained in this subsection is intended to conflict with the provisions of §16-1-1 *et seq*. of this code;

(5) Submit vouchers or other instruments approved by the board and signed by the local health officer or designated representative to the county or municipal treasurer for payment of necessary and reasonable expenditures from the county or municipal public health funds: *Provided*, That a combined local board of health shall draw upon its public health funds account in the manner designated in the plan of combination;

(6) Participate in audits, be in compliance with tax procedures required by the state, and annually develop a budget for the next fiscal year;

(7) Perform public health duties assigned by order of a county commission or by municipal ordinance consistent with state public health laws;

(8) Enforce the public health laws of this state and any other laws of this state applicable to the local board; and

(9) Create by rule a fee schedule, as approved by the appointing authority, for those environmental services it provides that are not established by state code.

(b) A local board of health may:

(1) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical, or other persons, to serve as needed and at the will and pleasure of the local board of health. Staff and any contractors providing services to the board shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the board shall be covered by the rules of the Division of Personnel under §29-10-6 of this code. However, any local board of health may, in the alternative and with the consent and approval of the appointing authority, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the appointing authority, adopting and making applicable to the local health department all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;

(3) (A) Adopt and promulgate and from time to time amend local health department rules consistent with state rules, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation, and spread of disease.

WV Legislature

(B) The commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state rules.

(C) When local health department rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization's web page setting forth a notice of proposed action, including the text of the new local health department rule or the amendment and the date, time, and place for receipt of public comment.

(D) All local health department rules shall be approved, disapproved, or amended and approved by the county commission or appointing authority within 30 days of approval from the local board of health, and any local health department rule on which the appointing authority has taken no action within 30 days shall be void: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(E) All local health department rules of a combined local board of health shall be approved, disapproved, or amended and approved by each appointing authority within 30 days of approval from the combined local board of health. If one appointing authority approves and another other does not approve a local health department rule from a combined local board health department, the local health department rule is only in effect in the jurisdiction of the appointing authority which approved the local health department rule: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(F) An approved local health department rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality, or both, and shall be kept by the clerk or recording officer in a separate book as public records.

(G) A local health department rule currently in effect on March 4, 2021, is not subject to approval, unless amended, from the county commission or appointing authority.

(H) If there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before a local health department rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the local health department rules are effective, and any rule on which the appointing authority has taken no action within 30 days shall be void;

(4) Accept, receive, and receipt for money or property from any federal, state, or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

WV Legislature

(5) Assess, charge, and collect fees for permits and licenses for the provision of public health services: *Provided*, That permits and licenses required for agricultural activities may not be assessed, charged, or collected: *Provided, however*, That a local board of health may assess, charge, and collect all of the expenses of inspection of the physical plant and facilities of any distributor, producer, or pasteurizer of milk whose milk distribution, production, or pasteurization facilities are located outside this state but who sells or distributes in the state, or transports, causes, or permits to be transported into this state, milk or milk products for resale, use or consumption in the state and in the service area of the local board of health. A local board of health may not assess, charge, and collect the expenses of inspection if the physical plant and facilities are regularly inspected by another agency of this state or its governmental subdivisions or by an agency of another state or its governmental subdivisions certified as an approved inspection agency by the commissioner. No more than one local board of health may act as the regular inspection agency of the physical plant and facilities; when two or more include an inspection of the physical plant and facilities in a regular schedule, the commissioner shall designate one as the regular inspection agency;

(6) A local health department may bill health care service fees to a payor which includes, but is not limited to, Medicaid, a Medicaid Managed Care Organization, and the Public Employees Insurance Agency for medical services provided: *Provided further*, That health care service fees billed by a local health department are not subject to commissioner approval and may be at the payor's maximum allowable rate;

(7) Contract for payment with any municipality, county, or board of education, for the provision of local health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: *Provided*, That this subsection is not intended to conflict with the provisions of §17C-15-46 of this code: *Provided, however*, That any local board of health offering a child safety car seat program or employee or agent of a local board of health is immune from civil or criminal liability in any action relating to the improper use, malfunction, or inadequate maintenance of the child safety car seat and in any action relating to the improper placement, maintenance, or securing of a child in a child safety car seat.

(c) The local boards of health are charged with protecting the health and safety, as well as promoting the interests of the citizens of West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

(d) If the Governor declares a statewide public health emergency, the state health officer may develop emergency policies and guidelines that each of the local health departments

WV Legislature

responding to the emergency must comply with in response to the public health emergency.

WV Legislature