Governance Structures and Authorities

Public Health Powers and Duties of Local Government

- Boards of Health and Community Health Boards
- Summary of Powers and Duties: Boards of Health and CHBs

As stated earlier, the purpose of Minnesota’s community health services system is to “...develop and maintain an integrated system of community health services under local administration and within a system of state guidelines and standards.” (Minn. Stat. § 145A.09, subd. 1.) Under the Local Public Health Act, a community health board organizes to provide that local administration, and has the “…general responsibility for [the] development and maintenance of an integrated system of community health services...” (Minn. Stat. § 145A.10, subd. 1).

Boards of Health and Community Health Boards

The difference between a “board of health” and a “community health board” can be confusing. A good working definition: A community health board (CHB) has all the powers and duties of a board of health, but it has met additional qualifications that allow it to receive funding through the Local Public Health Act.

A CHB also preempts any other boards of health within its area unless those boards of health are authorized by a joint powers agreement or a delegation agreement. For instance, many community health boards are multi-county boards, formed through a joint powers agreement. In many instances, the individual counties that make up a multi-county community health board each have their own county board of health, authorized by agreement with the community health board.

The Local Public Health Act (Minn. Stat. § 145A.09) provides guidance on forming a CHB, including eligibility, population and boundaries requirements, and for withdrawal from a CHB. Please refer to the statute for specific requirements, or contact the MDH Office of Performance Improvement for assistance.

Difference between Governance Structure and Organizational Structure

**Governance structure** describes the way in which governing bodies are legally organized to do their work. Minnesota statutes and rules identify two options for counties and cities to organize themselves to do the work of public health:

- Community health boards (CHBs), or
- Human service boards (HSBs) organized under Minn. Stat. § 402

CHBs can be comprised of single counties, provided the county meets a minimum population requirement of 30,000 residents. CHBs can also be formed by multiple counties. Multi-county CHBs are formed through joint powers agreements, which allow the CHBs to work across political boundaries. A two-county CHB is possible if the counties share a border and have a combined population greater than 30,000. CHBs of three or more counties are possible if the counties are contiguous; there is no minimum population requirement for CHBs with three or more counties. County boards (and in a few cases, city councils) may appoint elected officials and citizen members to these governing structures.

**Organizational structure** is a term used to describe the way in which a local health department is organized within a city or county. Unlike governance structures, which are dictated by statute, organizational structures are locally determined. Public health in Minnesota operates under many different organizational structures. In some locations, public health exists as a standalone department; in others, it is organized alongside social services as part of a human services agency. There are also counties in Minnesota in which a hospital is contracted to provide public health services. Visit the MDH Office of Performance Improvement online for a current and comprehensive list of the state’s public health organizational and governance structures.
Governance Structure Changes (Changes to the CHB)

If a CHB (or one of its member counties) is considering merging (expanding), withdrawing, or dissolving, the CHB is advised to contact the MDH Office of Performance Improvement, which can discuss and customize resources for the CHB.

The Local Public Health Act contains a provision for counties to withdraw from a multi-county CHB (Minn. Stat. § 145A.09, subd. 7). The withdrawing party must notify the commissioner of health and the other counties in the CHB at least one year before the beginning of the calendar year in which the withdrawal takes effect (Minn. Stat. § 145A.03, subd. 3).

There will be financial consequences for the withdrawing party, and possibly for the remaining county or counties. For example, Local Public Health Act funding includes a multi-county incentive of $5,000 per county in a multi-county CHB, which would be lost if a county withdrew from the multi-county arrangement. Other funding formulas may also be affected.

Organizational Structure Changes

By recommendation of the State Community Health Services Advisory Committee (SCHSAC), the Annual Assurances & Agreements form now requires that CHBs notify MDH six months prior to any final board action on major governance or organizational structural changes within the CHB or its member counties. This notification should occur in writing to the MDH Office of Performance Improvement. While the decision to make an organizational change (within a city or county) ultimately lies with the board, this recommendation is meant to help ensure that local decisions regarding public health organizations are made in a well informed and deliberative manner, and with the benefit of timely advice and assistance from MDH.

County and City Powers

While community health boards and boards of health have broad powers related to public health, cities and counties also have powers relating to public health responsibilities. These powers are usually exercised by the county or city in concert with the general public health responsibilities of a CHB or board of health.

A county may adopt ordinances related to: actual or potential threats to the public health; animal control; control of unwholesome substances; regulation of sewage, garbage and other refuse; the cleaning and removal of obstructions from waters; regulation of offensive trades; the control of public health nuisances; and enforcing and administering powers delegated by agreement with the state commissioner of health (Minn. Stat. § 145A.05). There are specific requirements for adopting ordinances, so consult with your county attorney when developing ordinances. These ordinances cannot be in conflict with or less restrictive than standards in state law or rule. Cities may also adopt similar ordinances under the Specific Powers of the Council granted to statutory cities by Minn. Stat. § 412.221.

Under the authority of Minn. Stat. § 145A.11, a city council or county board that has formed or is part of a CHB must consider the income and expenditures required to meet locally identified priorities. Note: The ability to levy specific taxes for public health purposes (Minn. Stat. § 145A.08, subd. 3) is currently part of the encompassing “levy limit” of local governments.

A county board can review the community health plan and/or budget, or any revisions to the plan or budget. It may refer the plan or budget back to the CHB with comments and instructions for further consideration. A city council or county board that has formed or is part of a CHB may, by ordinance, adopt and enforce minimum standards for community health services. This authority is limited by state preemption. In some cases, local jurisdictions may pass ordinances that are more stringent than state law, but state law sets the minimum standard. (For example, all jurisdictions must comply with and enforce Minnesota’s Clean Indoor Air Act and the Freedom to Breathe Provisions. Local jurisdictions may choose to pass more stringent tobacco related ordinances, such as banning smoking in public parks or on patios.)

Township or city health boards, and the health officers appointed by them, do not have statutory power to enforce the provision of the Local Public Health Act. Cities and townships may still call some of their advisors “boards of health” or “health officers,” but their legal standing is either advisory, or that of an agent of the city council or town board enforcing validly enacted city or township ordinances on behalf of the city or the township. These ordinances are adopted under the general city or town
ordinance authority, not under the authority of the Local Public Health Act. These “boards of health” or “health officers” have only the authority of the city or town ordinance—they have no statutory public health authority.

Human Services Boards

A human services board (HSB) formed under Minn. Stat. § 402 is eligible to serve as the governance structure for public health. It is the only legal alternative to a community health board (CHB) under Minn. Stat. § 145A. As such, an HSB is eligible to receive funds through the Local Public Health Act (e.g., State General Funds, Title V, TANF).

An HSB is held to all other legal requirements of a CHB, including: conducting community health assessment and planning; working to achieve statewide health outcomes; considering the CDC’s 10 essential public health services; annual reporting; and appointing or employing a CHS Administrator and a Medical Consultant.

An HSB, under Minn. Stat. § 402 becomes the governing structure for social services, public health, and corrections. (Minn. Stat. § 402.02, subd. 1a).

HSBs of this type require an advisory committee, which with specific requirements for committee membership, including persons receiving services, providers and HSB members. The advisory committee gives the HSB advice on the development, implementation, and operation of programs and services overseen by the board, and makes an annual, formal recommendation on the budget.

It is not necessary to create the HSB governance structure for a county to organize their county functions within a human services agency. Only some of the counties in Minnesota who have combined public health with human services have formed HSBs.

It is important to keep in mind that simply merging a county health department and human services department does not mean that the county has formed a human services board. A human services board that is to function as the CHB must be organized according to the requirements listed in Minn. Stat. § 402. The law further requires the county or counties to combine the programs funded by MDH, the Department of Human Services, and the Department of Corrections into a human services agency.

If you have questions about the human services board structure, or if your county is contemplating forming a human services board, contact your MDH public health nurse consultant.

Summary of Powers and Duties: Boards of Health and Community Health Boards

To view a one-page summary of the powers and duties a CHB “must” and “may” carry out under statute, visit the Summary of Powers and Duties Contained in Minn. Stat. § 145A.03-145A.10.

Key Resources

- Local Public Health Authorities and Mandates (PDF: 302KB / 10 pages)
- Operational Definition of a Functional Local Health Department – National Association of County and City Health Officials (NACCHO)