HANDBOOK
Ohio County Commissioners
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CHAPTER 49

PUBLIC HEALTH

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49.01 INTRODUCTION

The organization of public health in Ohio is essentially the same as that set up by the Hughes and Griswold Acts in 1919. The townships and villages in each county are combined into a "general health district" (ORC 3709.01). Municipalities of more than 5,000 population are city health districts. The combination of a general health district and one or more city health districts within a specific geographical area is known as a combined general health district. Not only may city and general health districts combine, but as many as five contiguous general health districts may unite. In addition, health districts may contract with each other for services without formally combining.

The following sections involve a more detailed look at the way in which Ohio law addresses itself to each of these types of health organizations, as well as the various statutory procedures for the organization of their governing boards and professional staffs.

49.02 GENERAL HEALTH DISTRICTS

The townships and villages in each county form a general health district.

49.021 DISTRICT ADVISORY COUNCIL (ORC 3709.03)

The chief executive of each village, the chairman of each township's board of trustees, and the president of the board of county commissioners are members of the district advisory council.

They are required by law to meet annually, in March, and their statutory powers and duties include:

1. Selecting and appointing the five-member board of health. The board must be representative of the district served.

2. Making recommendations to the board of health or the health department.

3. Considering special reports from the board of health.

4. Authorizing the union of the general health district with a city district to form a new combined health district, as well as authorizing other contractual agreements.

49.022 BOARD OF HEALTH

The board of health consists of five members appointed to five year overlapping terms (ORC 3709.02). At least one member must be a physician. The board meets monthly. The board of health appoints the health commissioner who, unlike his counterpart in city health districts, must be a licensed physician, dentist, or veterinarian, or must hold a master's degree in public health, or in a related health field (ORC 3709.11). When the health commissioner is not a physician, the board must employ a licensed physician as a medical director.

The health commissioner, who is appointed for a period not exceeding two years, acts as secretary and executive officer of the board and carries out all orders of the board. He also makes recommendations to the board on the employment of all health department personnel. The board establishes salaries and job descriptions.

49.023 AUTHORITY AND DUTIES OF BOARD OF HEALTH

The board of health may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease and the prevention, abatement or suppression of nuisances. Table 49-1 at the end of this chapter details the major authorities.

The board of health also has rather broad powers regarding public health and the abatement of nuisances under Section 3707.01 of the Revised Code through direct order to citizens and private and public institutions, including enforcement through injunctive relief (ORC 3707.021).

49.024 OFFICE SPACE FOR GENERAL HEALTH DISTRICT

Pursuant to Section 3709.34 of the Revised Code, county commissioners are required to provide office space to a general health district which is suitable to allow the district to perform its functions (OAG 85-003). Provision of space includes utilities; including telephone service (OAG 037) and even mobile phone service if requested by the district (OAG 89-038).

49.03 FORMATION OF COMBINED GENERAL HEALTH DISTRICTS (ORC 3709.07)

Establishing a formal union between a general health district and one or more city health districts requires a majority vote of the district advisory council and the approval of the city council. This process may be initiated instead by petition of 3 percent of the electors in each existing district. The petitions are certified to the appropriate boards of county commissioners to be placed on the ballot at the next general election (ORC 3709.071). The districts must make a contract that apportions expenses, prescribes administrative responsibilities, and defines representation on the board of health. The contract may provide that district administration be turned over to:

1. The city board of health.

2. The city health department.

3. The board of health of the general health district.

4. A combined board of health.

If the contract calls for the city board of health or the city health department to take over the administration, representation is no problem because city boards of health or health departments are existing bodies, and it is not necessary to alter their make-up. If, however, either the existing general health district board of health or the new combined board is charged with the administration, the statute proposes two distinct representation schemes. In the case of the existing general health district board assuming control, the statute calls for a change in the district advisory council in order to provide representation to the combining cities.

If a new combined board of health is formed, representation for the combining cities may be provided in the contract. Appointment of a member to represent a city shall be made by the chief executive with the approval of the legislative authority of the city. A member designated to represent more than one city must be appointed by majority vote of the chief executives of said cities. Members designated to represent the balance of the district are appointed by the district advisory council.

49.031 OFFICE SPACE FOR COMBINED GENERAL HEALTH DISTRICT

While county commissioners <u>are</u> required to provide office space to a general health district pursuant to Section 3709.34 of the Revised Code, county commissioners <u>may</u>, but are <u>not required</u>, to furnish office space for a <u>combined</u> general health district. If office space is not furnished to a combined general health district, the expense of securing such space is an operating expense of the district. However, the district has no authority to borrow money or acquire real property other than by gift or devise (OAG 91-016).

49.04 UNION OF GENERAL HEALTH DISTRICTS (ORC 3709.10)

Establishing a formal union of two or more (up to five) contiguous general health districts requires a majority vote of all district advisory councils. A new board of health for the district must be elected. Each original general health district is entitled to at least one member. One county must be selected as the health district office; its county auditor and county treasurer serve respectively, as auditor and custodian of health funds of the new general health district. The members of the county budget commissions of all participating counties function as a joint board for considering and acting upon the health district's budget.

No combinations of general health districts have ever been effected under this provision. However, several general health districts operate with an informal cooperation arrangement and employ a common health commissioner and other personnel.

49.05 CONTRACTS FOR PUBLIC HEALTH SERVICES (ORC 3709.08)

A procedure which is more formal than cooperation but falls short of formal combination is the contractual agreement for public health services. In such an arrangement, one health district simply enters into a contract with another. At present, most agreements involve cities contracting with general health districts for services. This arrangement is popular in metropolitan areas where a combined board of health would be unwieldy if each city desired representation.

In addition to these agreements, provision is made for one general health district to contract with another, and for a general health district to contract with a city health district (ORC 3709.081).

49.06 CONTRACTS FOR SPECIFIED HEALTH SERVICES (ORC 3709.081)

Under Section 3709.081 of the Ohio Revised Code one district may elect to buy only a certain portion of its health services from another district. Therefore, there now exist several contracts between districts for home health care programs. Section 3709.81 of the Revised Code enables air pollution control programs under Chapter 3704 of the Revised Code to be set up across county lines. Thus far, these two programs have been the subjects for most specified health services contracts, but any of the programs of the health department could be contracted to another district under these provisions.

49.07 HEALTH DISTRICT FINANCING

County commissioners are involved only indirectly in health district financing. The only direct responsibility of the county commissioners is to provide office space to a general health district (see Section 49.031 of this chapter) (ORC 3709.34) and to approve and certify the necessity of special levies when requested by the board of health (ORC 3709.29).

Sources of funds for health districts include deductions from the property taxes distributed among the townships and municipalities; public health levies; state subsidies; contracts with other agencies, both public and private; grants from unofficial agencies; state and federal grants; and fees from licenses, permits and inspections.

The primary source of revenue in most general health districts is the assessment of the various townships and municipalities which comprise the district (ORC 3709.28). The board of health submits an itemized appropriation measure along with an itemized estimate of available funds to the county budget commission. This body is empowered to reduce any item, but can raise neither the aggregate nor any single item. The aggregate appropriation less the amounts available from other sources is then apportioned among the townships and municipalities by the county auditor on the basis of taxable valuations.

This is by far the most important source of revenue, supplying approximately 60 percent of the budgets of general health districts in recent years. This source of funds has been criticized because some districts have low tax valuations, which makes it difficult to obtain adequate funds.

Since 1976, county commissioners have been authorized to give financial assistance to city or county health departments. They are required to furnish suitable space including utility costs for the general health district department and may hire certain personnel, such as nuisance inspectors or solid waste sanitarians, and place them in the health department for supervision.

49.08 PUBLIC HEALTH LEVY

A second source of local tax money available to the general health district is the voted public health levy (ORC 3709.29). The general health district may ask for this special levy if the board of health certifies to the county commissioners that the amount forthcoming from the townships and municipalities from within the ten mill limitation will be insufficient. The county commissioners, constituting a special taxing authority, must then pass a resolution placing the levy on the ballot. Such a resolution must be filed with the board of elections 75 days prior to the scheduled election. The resolution must specify the rate and duration of the levy which is limited by the statute to a period of not longer than 10 years.

The public health levy does have certain advantages as a revenue source, since it provides a more dependable income. Nonetheless, there are problems. Where funds are available from a public health levy, county budget commissions have further reduced the amounts appropriated from among the townships and municipalities. A number of general health districts receive no funds from the townships and municipalities, and some receive only token amounts. Another problem is that in an area of low valuation, the levy does not generate a significant amount of money.

49.09 STATE SUBSIDY (ORC 3709.32)

State subsidies to local health departments are dependent on appropriations by the Ohio General Assembly to the state Health Department. The responsibility for allocation of the state subsidy funds is assigned to the Ohio Public Health Council, which establishes regulations under Section 3701.38 of the Revised Code dealing with the distribution of subsidies according to the population served by the health department (ORC 3709.32).

All eligible health departments receive an amount equal to that distributed in 1983 if they meet the following requirements:

1. Local funding amounts to at least $3 per capita.

2. The health district has not decreased local funds.

3. The local health department is in compliance with minimum standards pursuant to Section 3701.342 of the Revised Code.

4. All previous local and state health funds have been credited to the budget of the health department and properly expended.

Any state appropriations in excess of the 1983 appropriation will be used to:

1. Distribute proportionately to all health districts up to 30 cents per capita.

2. The excess above 30 cents per capita to be distributed to those districts meeting one or more of the optimal achievement standards set by the state department of health.

State subsidy funds must be withheld from any health district unless the public health council determines that the municipalities and townships have provided adequate local funding for services. A board or department which decreases its appropriation for public health services normally supported by local revenues risks loss of state subsidy funds (OAC 3701-36-27).

49.10 CONTRACTS WITH OTHER LOCAL AGENCIES

Sections 3313.72 and 3313.73 of the Revised Code provide for contracts between a board of education and a health district for provision of a school physician, dentist, or nurse. Section 307.153 provides for agreements between the county commissioners and the board of health where the board of health exercises some function for the county commissioners. Such an agreement must provide for any payment made in return for such services. Some counties feel that contracts with their health department to bring housing codes into effect for their area is an important function. For further information see chapter 90 "Housing Codes" in this handbook.

49.11 FEDERAL GRANTS

General health districts are empowered to participate in any federal program enacted by the Congress. Some federal funds flow through the state Health Department to the local departments. Some of the federal funds the Ohio Department of Health channels to local departments include maternal and child health, environmental health and preventive health grants. The state law simply allows the local departments to participate in these programs, and federal laws and regulations must be followed.

49.12 FEES (ORC 3709.09)

Am. Sub. HB 703 effective July 24, 1990 eliminated a number of statutory fees and gave health districts much broader authority under Section 3709.09 of the Revised Code to set fees locally. HB 703 required the state Public Health Council to establish fee categories and uniform methods for use in calculating the cost of providing services. Fees for services provided by the board of health which relate to food service operations, manufactured home parks, marinas, swimming pools, private water systems and maternity hospitals must be set in accordance with Public Health Council rules and uniform cost determination guidelines. All fees set by a board of health must be related to the cost of the service. At least 30 days prior to establishing such a fee, a board of health must notify any entity that would be affected by the proposed fee of the amount of the fee.

Table 49-2 at the end of this chapter lists the types of fees that may be charged and the section of the Ohio Revised Code which authorizes the fee.

In addition, Section 3705.24 of the Revised Code provides that the $5 fee for a certified copy of a birth, death, or stillbirth certificate, be deposited in the health fund of the general health district, if the registrar of vital statistics is a regular salaried employee. Fees for certifying the above are from 20 cents to $1 per record, based on the population of the registration district. If the local registrar is a salaried employee of the health district, these fees must be paid to the health district.

49.13 HEALTH DEPARTMENTS UNDER OPTIONAL FORMS OF COUNTY GOVERNMENT

In November, 1933, the Ohio Constitution was amended to permit counties to adopt an alternative form of government. Counties were empowered to frame and adopt a charter that would provide the form of government, and that might provide for the exercise of the powers vested in municipalities. In either case, public health organizations within the county could be affected.

Article X, Section 1 of the Ohio Constitution permits the General Assembly to "provide by general law alternative forms of county government." Chapter 302 of the Revised Code and some Sections of Chapter 301 address this issue. Among the specific powers granted to county commissioners under the alternative form, is the power to establish "a

department of health which shall exercise the powers and perform the duties of the general health district according to policies established by the board of county commissioners notwithstanding Chapter 3709 of the Revised Code...." (ORC 3709.282). County commissioners might therefore exercise considerable latitude in organizing public health administration.

The legislature has provided another method of health organization which might be used by a charter county (ORC 301.24). "The electors of any county may establish, by charter provision, a county department or agency for the administration of public health services." Such an agency would take over the powers and duties of the general health district. "All health districts shall succeed to the property, rights, and obligations of such district." For additional information on optional forms of county government refer to chapter 2 of this handbook.

TABLE 49-1

PRIMARY AUTHORITIES OF BOARDS' OF HEALTH

DESCRIPTION	ORC SECTION
Regulation of human, animal and household sanitary wastes	3709.21
Treatment of and quarantine from certain communicable diseases	3709.27
Operation of health clinics	3709.22
Operation of programs for prenatal and perinatal (maternal and child health) clinics	3709.18
Provision of public health nurses to schools	3709.22
Provision of home health services	3709.15
Regulation of food services	3732.01
Free distribution of antitoxins	3709.25
Inspection of county institutions	3709.26
Laboratory services	3709.23
Plumbing inspection	3703.01

TABLE 49-2

HEALTH DISTRICT FEES

TYPE OF FEE	ORC SECTION(S)
Food Service operation	3732.04
Vending machines	3732.01
Milk inspection and license	3707.374 3707.375
Home health services	3709.15
Solid waste disposal	3734.06 3734.08
Plumbing permit	3703.01 3703.07
Trailer park license	3733.04
Inspection of aerobic sewage system	3709.09