

Summary of West Virginia Legislation Pertaining to Local Health Districts

Legislation governing the provision of public health services in West Virginia is provided in Article 1 “State Public Health System” Section 16-1 of the West Virginia Code and Article 2 “Local Boards of Health” Section 16-2. This legislation is supplemented by two Legislative Rules¹ promulgated by the Division of Health within the Department of Health and Human Services. Because of the interaction between the legislation and the Rules, what follows is a summary organized by topics rather than by provision.

Definition of Services to be Provided

The Code provides the following definition of “essential public health services” as “The core public health activities necessary to promote health and prevent disease, injury and disability for the citizens of the state.”² It proceeds to list the services to be provided. In 1994 the U.S. Center for Disease Control (CDC) issued its list of “Essential Public Health Services”³ which closely correspond with the West Virginia Code. In order to make these standards operational for local health districts NACCHO issued its own Standards.⁴ The comparison between the West Virginia Code and the NACCHO standards is provided in Appendix A.

Article 2 concerning Local Boards of Health provides a less comprehensive definition of “basic public health services” as “The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion and environmental health protection.”⁵ That section further deals with the definition of what is considered to be basic public health services limiting them to communicable and reportable disease prevention and control, community health promotion and environmental health protection.⁶ These three “must” be offered by every local board of health.

Each of the above basic areas of health services is further delineated.

- Communicable and reportable disease prevention and control includes “disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention control of rabies, sexually transmitted diseases, vaccine

¹ Title 64, Series 73 “Standards for Local Boards of Health” and Series 67 “Distribution of State Aid Funds to Local Boards of health.”

² 16-1-2(h).

³ Office of the Director, National Public Health Performance Standards Program, (1994). “The Essential Public Health Services.” Center for Disease Control and Prevention, U.S. Department of Health and Human Services, Washington, D.C.

⁴ National Association of County and City Health Officials (NACCHO) (November, 2005) *Operational Definition of a Functional Local Health Department*.

⁵ 16-1-2(a)

⁶ 16-2-2(a)

- preventable diseases, HIVAIDS, tuberculosis and other communicable and reportable diseases.”^{7 8 9}
- Community health promotion includes “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.”¹⁰
 - Environmental health protection services include “protecting the community from environmental health risks including inspection of housing, institutions, recreational facilities, sewage and wastewater facilities, inspection and sampling of drinking water facilities, and response to disease outbreaks or disasters.”^{11 12}

While including much of the NACCHO standards, the required services to be provided by a local health district in the Code fall short of the full range of NACCHO definitions. When the Code discusses the rule giving authority to the Secretary of Department of Health and Human Services, it directs the Secretary to establish rules regarding¹³

- Land usage endangering the public health
- Sanitary conditions at all institutions and schools
- Occupational and industrial health hazards
- Safe drinking water

Enforcement of the rules devolves to the LBHs.¹⁴

The Code does provide for “primary care services” which “**may**” be provided by a local health district if the local board has determined “an unmet need for primary care services exists.”¹⁵ These can include “clinical and categorical programs.”¹⁶ Also included on the list of services a local health district may offer are “enhanced public health services” focusing on “health promotion activities to address a major health problem in a community [that] are targeted to a particular population and assist individuals in this population to access the health care system, such as lead and radon abatement for indoor air quality and positive pregnancy tracking.”¹⁷ If all WV LBHs were capable of providing these two services, the LBHs would come closer in adhering to the NACCHO standards.

⁷ 16-2-2(f)

⁸ 16-2-11(a)(1)(iii)

⁹ 16-2-11(1)(i)

¹⁰ 16-2-2(g)

¹¹ 16-2-2(k)

¹² 16-2-11(1)(ii)

¹³ 16-1-4(a)(b)(c)(d)

¹⁴ 16-2-11(10)

¹⁵ 16-2-2a author’s emphasis

¹⁶ 16-2-11(10)(b)(1)

¹⁷ 16-2-2(1)

Funding

The Code and Regulations provide for different sources of funding of the LBHs. These amounts, as estimated for FY 2005, are given in Appendix B. Total anticipated expenditures from all sources are nearly \$42 million. Significant variations exist in the ways the local LBHs obtain funding. The largest single source comes from state support funds (see below) followed by clinical reimbursements, state grants and monies for Threat Preparedness.

Local funding. The Commissioner of Health may authorize the LBHs to charge “reasonable fees for the provision of services”¹⁸ by LBHs. Those fees are not to be charged to anyone unable to pay if those services are provided to others with the capacity to pay. LBHs may collect fees if approved by the Commissioner for some of the services they perform such as fees for permits, licenses and certain inspections.¹⁹ Only 10 counties do not charge for some services. In some counties, the County Commissions do not allow the LBHs to charge for services under threat of losing its county support.

LBHs may be reimbursed for services provided to other entities including school boards. The major source of reimbursements for LBHs is Medicare and Medicaid. State wide, these fees and reimbursements amount for \$29 million or 69 percent of total LBH reimbursements for 2007.

LBHs may also receive funding from the general fund of either a county or municipality,²⁰ but there is no obligation for the bodies to provide any specific level of monetary support. Counties or municipalities “may levy a county or municipal tax to provide funds for the local board of health” but the rate may not exceed three cents on each 100 dollars of assessed valuation.²¹ Use of this option is limited since the LBH levy must be included in the maximum levy rate that the county or city can use. For local governments already at the maximum allowable levy rates, use of this provision is not an option. All but 17 counties make some appropriation to their LBHs, as do 16 cities.

If a county or municipality enacts an excess levy as provided in Article 10-1 of the State Constitution, that money is available to support the LBH. Only eight counties have availed themselves of excess levies and most are constrained by the necessity of receiving 60 percent approval from the voters.

State Funding. In addition to these options the LBHs receive funding from the Legislature using a simple formula²² and the amount to be distributed to each LBH is set by the Legislature in its annual budget. A per capita dollar figure is calculated by dividing the amount of available state money by the total state population and then

¹⁸ 16-1-11(a)

¹⁹ 16-2-11(10)(b)(5) and (6)

²⁰ 16-2-14

²¹ All property in West Virginia is to be assessed at 60 percent of its appraised (market) value although almost all counties fall short of this standard. The three cent tax on a home of \$60,000 appraised valuation would amount to \$108. ($\$60,000 \times 0.60 \times 0.003$)64-67-4.2

²² 64-67-4.2

multiplying the population of each county or municipality by that per-capita amount.²³ For combined county or county/city LBHs, the combined population is used for the allocation.

By mutual agreement, although it is not in law or regulation, currently each LBH receives at least \$50,000. If its population is greater than 50,000 it receives a distribution based on its population. No LBH receives less than what it received in 2005. The \$12.5 million distributed averages 30 percent of the total anticipated revenues for LBHs.

It is worth noting, “All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for the provision of basic public health services.”²⁴ It is not clear to which definition of “basic health services” this has reference. As defined in Article 2, basic health services are limited to “communicable and reportable disease prevention and control, community health promotion and environmental health protection.”²⁵ Would it allow a more expanded application to cover “essential public health services” as defined in Article 1?²⁶

The State also provides a variety of specific grants to the LBHs. Some of these are “pass throughs” of federal funding which the State receives for programs and services provided by the LBHs.²⁷ Others are categorical grants for specific services for which the State wants additional emphasis. Others are competitive grants which are distributed on the merit of applications.

²³ 64-67-4.3.1 and 4.3.2

²⁴ 16-2-11(c)

²⁵ 16-2-2(a)

²⁶ 16-1-2(h)

²⁷ 16-1-12(a)

TABLE A

Comparison of WV Code and the NACCHO Standards

	West Virginia Code (WV Legislature §16-1-2.)	NACCHO Definition and Standards
1	Monitoring health status to identify community health problems;	Monitor health status and understand health issues facing the community.
2	Diagnosing and investigating health problems and health hazards in the community;	Protect people from health problems and health hazards.
3	Informing, educating and empowering people about health issues;	Give people information they need to make healthy choices.
4	Mobilizing community partnerships to identify and solve health problems;	Engage the community to identify and solve health problems.
5	Developing policies and plans that support individual and community health efforts;	Develop public health policies and plans.
6	Enforcing laws and rules that protect health and ensure safety;	Enforce public health laws and regulations.
7	Uniting people with needed personal health services and assuring the provision of health care when it is otherwise not available;	Help people receive health services.
8	Promoting a competent public health and personal health care workforce;	Maintain a competent public health workforce.
9	Evaluating the effectiveness, accessibility and quality of personal and population-based health services; and	Evaluate and improve programs and interventions.
10	Researching for new insights and innovative solutions to health problems;	Contribute to and apply the evidence base of public health.

Appendix B

Health Care Expenditure Effectiveness: Comparison Between West Virginia and Surrounding States

Federal Health Care Expenditure for West Virginia and Surrounding States							
FY 2005 CDC Funds for State/Local Health Departments, Universities & Other Public/Private Agencies (Selected Categories)							
Health Care Programs	WV	KY	MD	OH	PA	VA	U.S. Total
Bioterrorism Preparedness	\$7,498,508	\$12,236,859	\$16,385,722	\$30,088,326	\$32,220,372	\$20,974,500	\$888,771,465
Cancer Prevention	\$5,657,025	\$4,357,524	\$7,309,294	\$6,577,763	\$4,063,653	\$4,346,450	\$247,463,555
Chronic Disease Prevention/ Health Promotion	\$9,193,460	\$8,147,507	\$8,554,289	\$4,450,364	\$11,660,808	\$5,349,155	\$403,073,975
Diabetes Control	\$911,751	\$591,417.00	\$633,490.00	\$840,923.00	\$2,495,082.00	\$370,658.00	\$71,819,204.00
Environmental Health	\$524,047	\$0	\$2,807,723	\$806,093	\$2,845,750	\$2,361,752	\$78,861,197
HIV Prevention	\$1,298,096	\$3,378,780	\$39,182,557	\$5,769,278	\$16,465,555	\$8,006,186	\$679,215,664
Immunization	\$8,033,299	\$15,769,342	\$27,405,233	\$40,548,818	\$41,124,181	\$26,845,578	\$1,548,716,412
Infectious Diseases	\$949,573	\$1,280,465	\$2,302,709	\$4,119,669	\$1,854,110	\$2,065,207	\$78,625,037
Preventive Health & Health Services Block Grant	\$1,095,303	\$1,637,511	\$2,299,500	\$5,530,333	\$5,825,919	\$2,486,452	\$121,883,488
Tobacco	\$0	\$0	\$497,050	\$0	\$703,860	\$0	\$3,408,840
CDC Total	\$46,572,442	\$52,309,583	\$241,125,012	\$135,849,476	\$551,955,617	\$285,682,326	\$6,220,838,698
CDC Per Capita	\$25.63	\$12.53	\$43.06	\$11.85	\$44.41	\$37.75	\$20.99
CDC Per Capita Funding Ranking	13	47	3	49	2	4	-
FY 2005 HRSA Funds for State/Local Health Departments, Universities & Other Public/Private Agencies (Selected Categories)							
Bioterrorism Preparedness	\$3,245,672	\$6,745,252	\$8,855,085	\$17,843,984	\$19,254,011	\$11,701,905	\$470,755,000
Bureau of Primary Health Care	\$23,995,227	\$21,109,167	\$19,757,017	\$39,964,114	\$46,709,449	\$27,491,653	\$1,464,957,902
Health Professions	\$3,469,515	\$8,677,937	\$8,587,090	\$13,223,995	\$13,824,270	\$9,230,683	\$420,395,465
Maternal Child Health Block Grant	\$6,685,824	\$11,890,984	\$12,327,972	\$23,195,606	\$25,502,552	\$12,942,168	\$564,587,592
Ryan White CARE Act (Title I and II)	\$2,095,875	\$7,181,728	\$55,235,216	\$20,486,176	\$64,190,252	\$26,053,787	\$1,604,720,682
HRSA Total:	\$39,492,113	\$55,605,068	\$104,762,380	\$114,713,875	\$169,480,534	\$87,420,196	\$4,525,416,641
FY 2005 Total Federal Health Care Expenditures							
Grand Total*:	\$86,064,555	\$107,914,651	\$345,887,392	\$250,563,351	\$721,436,151	\$373,102,522	\$10,746,255,339

*The Grand Total is calculated by adding the CDC Total and the HRSA Total.

Federal Health Care Expenditure for West Virginia and Surrounding States

FY 2005 CDC Funds for State/Local Health Departments, Universities & Other Public/Private Agencies (Selected Categories)							
	WV Per Capita	KY Per Capita	MD Per Capita	PA Per Capita	VA Per Capita	OH Per Capita	U.S. Per Capita*
Bioterrorism Preparedness	\$4.12	\$2.91	\$2.92	\$2.59	\$1.69	\$2.62	\$2.97
Cancer Prevention	\$3.11	\$1.04	\$1.30	\$0.33	\$0.35	\$0.57	\$0.83
Chronic Disease Prevention/ Health Promotion	\$5.06	\$1.94	\$1.52	\$0.94	\$0.43	\$0.39	\$1.35
Diabetes Control	\$0.50	\$0.14	\$0.11	\$0.20	\$0.03	\$0.07	\$0.24
Environmental Health	\$0.29	\$0.00	\$0.50	\$0.23	\$0.19	\$0.07	\$0.26
HIV Prevention	\$0.71	\$0.80	\$6.98	\$1.32	\$0.64	\$0.50	\$2.27
Immunization	\$4.42	\$3.75	\$4.88	\$3.31	\$2.16	\$3.53	\$5.17
Infectious Diseases	\$0.52	\$0.30	\$0.41	\$0.15	\$0.17	\$0.36	\$0.26
Preventive Health & Health Services Block Grant	\$0.60	\$0.39	\$0.41	\$0.47	\$0.20	\$0.48	\$0.41
Tobacco	\$0.00	\$0.00	\$0.09	\$0.06	\$0.00	\$0.00	\$0.01
CDC Per Capita	\$25.63	\$12.53	\$43.06	\$44.41	\$37.75	\$11.84	\$20.99
FY 2005 HRSA Funds for State/Local Health Departments, Universities & Other Public/Private Agencies (Selected Categories)							
Bioterrorism Preparedness	\$1.78	\$1.60	\$1.58	\$1.55	\$0.94	\$1.55	\$1.57
Bureau of Primary Health Care	\$13.20	\$5.02	\$3.52	\$3.75	\$2.21	\$3.48	\$4.89
Health Professions	\$1.91	\$2.06	\$1.53	\$1.11	\$0.74	\$1.15	\$1.40
Maternal Child Health Block Grant	\$3.68	\$2.83	\$2.20	\$2.05	\$1.04	\$2.02	\$1.89
Ryan White CARE Act (Title I and II)	\$1.15	\$1.71	\$9.84	\$5.16	\$2.09	\$1.78	\$5.36
HRSA Per Capita	\$21.72	\$13.22	\$18.66	\$13.62	\$7.03	\$9.99	\$15.12
Total Per Capita:	\$47.33	\$25.66	\$61.59	\$20.14	\$94.39	\$32.51	\$35.89

*The U.S. Per Capita is calculated by dividing the U.S.Total by the estimated U.S. population in 2006.