

1 ENGROSSED HOUSE
2 BILL NO. 2504

By: Kannady of the House

and

Rosino of the Senate

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5
6 An Act relating to health; amending 63 O.S. 2011,
7 Section 1-106, which relates to the State
8 Commissioner of Health; modifying qualifications;
9 amending 63 O.S. 2011, Section 1-210, as last amended
10 by Section 1, Chapter 43, O.S.L. 2020 (63 O.S. Supp.
11 2020, Section 1-210), which relates to city-county
12 boards of health; amending appointing authorities;
13 modifying terms of service; amending 63 O.S. 2011,
14 Section 1-213, which relates to health rules
15 promulgated by certain boards of county
16 commissioners; modifying approval process; limiting
17 scope of rules; amending 63 O.S. 2011, Section 1-214,
18 which relates to agreements and medical directors of
19 city-county health departments; requiring advice of
20 the State Commissioner of Health in certain
21 situations; modifying the appointing, supervision,
22 and removal process for directors of city-county
23 health departments; and providing an effective date.
24

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-106, is
amended to read as follows:

Section 1-106. A. The State Commissioner of Health shall serve
at the pleasure of the State Board of Health, and shall have skill
and experience in public health duties and sanitary sciences and
shall meet at least one of the following qualifications:

1 1. Possession of a Doctor of Medicine Degree and a license to
2 practice medicine in this state;

3 2. Possession of an Osteopathic Medicine Degree and a license
4 to practice medicine in this state;

5 3. Possession of a Doctoral degree in Public Health or Public
6 Health Administration; or

7 4. Possession of a Master of Science Degree or master's degree
8 in public health and a minimum of five (5) years of supervisory
9 experience in the administration of health services.

10 B. The Commissioner shall have the following powers and duties,
11 unless otherwise directed by the State Board of Health:

12 1. Have general supervision of the health of the citizens of
13 the state; make investigations, inquiries and studies concerning the
14 causes of disease and injury, and especially of epidemics, and the
15 causes of mortality, and the effects of localities, employment,
16 conditions and circumstances on the public health; investigate
17 conditions as to health, sanitation and safety of schools, prisons,
18 public institutions, mines, public conveyances, camps, places of
19 group abode, and all buildings and places of public resort, and
20 recommend, prescribe and enforce such measures of health, sanitation
21 and safety for them as the Commissioner deems advisable; take such
22 measures as deemed necessary by the Commissioner to control or
23 suppress, or to prevent the occurrence or spread of, any
24 communicable, contagious or infectious disease, and provide for the

1 segregation and isolation of persons having or suspected of having
2 any such disease; designate places of quarantine or isolation;
3 advise state and local governments on matters pertaining to health,
4 sanitation and safety; and abate any nuisance affecting injuriously
5 the health of the public or any community. Any health information
6 or data acquired by the Commissioner from any public agency, which
7 information or data is otherwise confidential by state or federal
8 law, shall remain confidential notwithstanding the acquisition of
9 this information by the Commissioner.

10 2. Be the executive officer and supervise the activities of the
11 State Department of Health, and act for the Department in all
12 matters except as may be otherwise provided in this Code; administer
13 oaths at any hearing or investigation conducted pursuant to this
14 Code; and enforce rules and standards adopted by the State Board of
15 Health. All rules adopted by the State Board of Health are subject
16 to the terms and conditions of the Administrative Procedures Act.

17 3. Appoint an Assistant State Commissioner of Health and fix
18 the qualifications, duties and compensation of the Assistant State
19 Commissioner of Health; and employ, appoint and contract with, and
20 fix the qualifications, duties and compensation of, such other
21 assistants, doctors, engineers, attorneys, sanitarians, nurses,
22 laboratory personnel, administrative, clerical and technical help,
23 investigators, aides and other personnel and help, either on a full-
24 time, part-time, fee or contractual basis, as shall be deemed by the

1 Commissioner necessary, expedient, convenient or appropriate to the
2 performance or carrying out of any of the purposes, objectives or
3 provisions of this Code, or to assist the Commissioner in the
4 performance of official duties and functions.

5 4. Cause investigations, inquiries and inspections to be made,
6 and hold hearings and issue orders pursuant to the provisions of the
7 Administrative Procedures Act, to enforce and make effective the
8 provisions of this Code, and all rules and standards adopted by the
9 State Board of Health pursuant to law and the Commissioner or the
10 representative of the Commissioner shall have the right of access to
11 any premises for such purpose at any reasonable time, upon
12 presentation of identification.

13 5. Authorize persons in the State Department of Health to
14 conduct investigations, inquiries and hearings, and to perform other
15 acts that the Commissioner is authorized or required to conduct or
16 perform personally.

17 6. Except as otherwise provided by law, all civil and criminal
18 proceedings under this Code shall be initiated and prosecuted by the
19 district attorney where the violation takes place.

20 7. Issue subpoenas for the attendance of witnesses and the
21 production of books and records at any hearing to be conducted by
22 the Commissioner or the State Board of Health; and if a person
23 disobeys any such subpoena, or refuses to give evidence before, or
24 to allow books and records to be examined by, the Commissioner or

1 the Board after such person is directed to do so, the Commissioner
2 may file a contempt proceeding in the district court of the county
3 in which the premises involved are situated, or, if no premises are
4 involved, of the county in which such person resides or has a
5 principal place of business, and a judge of such court, after a
6 trial de novo, may punish the offending person for contempt.

7 8. Unless otherwise required by the terms of a federal grant,
8 sell, exchange or otherwise dispose of personal property that has
9 been acquired by the State Department of Health, or any of its
10 components, when such property becomes obsolete or is no longer
11 needed; any money derived therefrom shall be deposited in the Public
12 Health Special Fund.

13 9. Sell films, educational materials, biological products and
14 other items produced by the State Department of Health; and all
15 proceeds therefrom shall be deposited in the Public Health Special
16 Fund.

17 10. Revoke or cancel, or suspend for any period up to one (1)
18 year, any license or permit issued under or pursuant to this Code,
19 or by the Commissioner, when the Commissioner determines that ground
20 therefor as prescribed by this Code exists, or that the holder of
21 such license or permit has violated any law, or any of the
22 provisions of this Code, or any rules or standards of the State
23 Board of Health filed with the Secretary of State, but the
24 Commissioner shall first afford the holder an opportunity to show

1 cause why the license or permit should not be revoked, canceled or
2 suspended, notice of such opportunity to be given by certified
3 United States Mail to the holder of the license or permit at the
4 last-known address of such holder.

5 11. Accept, use, disburse and administer grants, allotments,
6 gifts, devises, bequests, appropriations and other monies and
7 property offered or given to the State Department of Health, or any
8 component or agency thereof, by any agency of the federal
9 government, or any corporation or individual.

10 12. Be the official agency of the State of Oklahoma in all
11 matters relating to public health which require or authorize
12 cooperation of the State of Oklahoma with the federal government or
13 any agency thereof; coordinate the activities of the State
14 Department of Health with those of the federal government or any
15 department or agency thereof, and with other states, on matters
16 pertaining to public health, and enter into agreements for such
17 purpose, and may accept, use, disburse and administer, for the
18 office of the Commissioner or for the State Department of Health,
19 for any purpose designated and on the terms and conditions thereof,
20 grants of money, personnel and property from the federal government
21 or any department or agency thereof, or from any state or state
22 agency, or from any other source, to promote and carry on in this
23 state any program relating to the public health or the control of
24 disease, and enter into agreements for such purposes.

1 13. The State Commissioner of Health may appoint commissioned
2 peace officers, certified by the Council on Law Enforcement
3 Education and Training, to investigate violations of the Public
4 Health Code and to provide security to Department facilities.

5 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-210, as
6 last amended by Section 1, Chapter 43, O.S.L. 2020 (63 O.S. Supp.
7 2020, Section 1-210), is amended to read as follows:

8 Section 1-210. A. There is hereby created in any county of
9 this state with a population of more than five hundred thousand
10 (500,000), according to the latest Federal Decennial Census, a city-
11 county board of health composed of nine (9) members.

12 B. The membership of the board shall be composed of ~~five~~ four
13 members appointed by the city council of such city, or city
14 commission, whichever applies, ~~and~~ four members appointed by the
15 board of county commissioners of such county, and one member
16 appointed by the State Commissioner of Health. The member appointed
17 by the State Commissioner of Health shall be a resident of the
18 largest city in the county where the city-county board of health is
19 located. Each member shall serve a term of six (6) years, except,
20 that of the members initially appointed by the city council, or city
21 commission, whichever applies, one member initially appointed shall
22 serve a term of two (2) years, one member initially appointed shall
23 serve a term of three (3) years, one member initially appointed
24 shall serve a term of four (4) years, and one member initially

1 appointed shall serve a term of five (5) years, ~~and one member~~
2 ~~initially appointed shall serve a term of six (6) years;~~ provided,
3 however, that in any such city having a city board of health created
4 under its charter provisions, the members of such city board of
5 health and the tenure of the city board of health members of the
6 city-county board of health shall be coterminous with the city board
7 of health. Of the members initially appointed by the board of
8 county commissioners, one member initially appointed shall serve a
9 term of two (2) years, one member initially appointed shall serve a
10 term of three (3) years, one member initially appointed shall serve
11 a term of ~~five (5)~~ four (4) years, and one member initially
12 appointed shall serve a term of ~~six (6)~~ five (5) years. The member
13 initially appointed by the State Commissioner of Health shall serve
14 a term of three (3) years. The appointing authority shall appoint
15 new members as the terms of office of its initial appointees expire.
16 Wherever a city-county board of health is now in existence, the
17 current board members shall be retained, until the termination of
18 their present appointment, ~~by the appointing authorities.~~

19 C. A county board of health in any county of this state with a
20 population of more than two hundred twenty-five thousand (225,000),
21 but not more than five hundred thousand (500,000), according to the
22 latest Federal Decennial Census, may create a city-county board of
23 health as provided in this section composed of members as provided
24 by Section 1-201 of this title.

1 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-213, is
2 amended to read as follows:

3 Section 1-213. A. The board of county commissioners in any
4 county that qualifies under Section ~~210 of this article~~ 1-210 of
5 this title is hereby authorized and empowered to make and enforce
6 all reasonable rules and regulations with regard to the preservation
7 and promotion of public health; provided, that any such rules or
8 regulations shall have first been recommended or approved by a
9 simple majority vote of the members of the city-county board of
10 health, and further provided that such rules and regulations shall
11 not be ~~inconsistent with~~ more stringent than state laws or rules and
12 regulations of the State Board of Health. Such rules and
13 regulations shall be operative throughout the county, except within
14 the limits of incorporated cities and towns. Any such rules adopted
15 by county commissioners relating to an establishment where food or
16 drink is offered for sale or sold shall not be more stringent than
17 the rules for such establishments adopted by the State Board of
18 Health; provided, that rules adopted prior to May 31, 2008, which
19 directly relate to training and permit requirements for food
20 managers and food handlers and fees related to such establishments
21 shall, in addition to the license fee required by the State Board of
22 Health, be exempt from the provisions of this subsection.

23 B. The board of county commissioners is also authorized to
24 provide for the levying and collection of fees for services

1 performed by such city-county health department outside the
2 boundaries of incorporated cities and towns within such county. Any
3 person who violates any rule or regulation made by such board of
4 county commissioners under the authority of this section shall be
5 guilty of a misdemeanor.

6 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-214, is
7 amended to read as follows:

8 Section 1-214. A. The board of county commissioners of any
9 county and the governing body of any city which qualify under
10 Section 1-210 of this title shall enter into an agreement providing
11 for the creation of a city-county health department, and such
12 contracting bodies shall by agreement provide for the method of
13 operation thereof, ~~the selection of a director of such department,~~
14 and the proportionate share of personnel and/or money that each
15 shall contribute for the operation and support of such department.

16 B. Unless an agreement made pursuant to subsection A of this
17 section specifically provides otherwise, any judgment against the
18 city-county health department or the city-county board of health
19 shall be treated as a judgment against the county and may be paid
20 from a sinking fund established pursuant to Section 28 of Article X
21 of the Oklahoma Constitution in the manner that other judgments
22 against the county are paid.

23 C. Unless an agreement made pursuant to subsection A of this
24 section specifically provides otherwise, a city-county health

1 department shall have the power to own, acquire, lease, or dispose
2 of real property in the performance of local public health
3 functions, duties, and responsibilities.

4 D. 1. The qualifications of the director shall be determined
5 by the city-county board of health, with the advice of the State
6 Commissioner of Health, and subject to approval by a simple majority
7 of the governing body of the city and the board of county
8 commissioners of the county. The director shall perform his or her
9 duties in consultation with the State Commissioner of Health or his
10 or her designee in order to ensure administrative alignment. The
11 director, with the approval of the city-county board of health, the
12 board of county commissioners of the county, and the governing body
13 of the city, or the city manager in cities having a managerial form
14 of government, shall appoint other personnel of the department.

15 2. In the case of a vacancy in the position of director of a
16 city-county health department, the city-county board of health may
17 appoint an interim director for a period not to exceed six (6)
18 months. Within five (5) months of the vacancy, the city-county
19 board of health shall submit to the State Commissioner of Health,
20 the mayor of the largest city in the county, and the chair of the
21 board of county commissioners a list of three candidates for
22 permanent appointment. The State Commissioner of Health, the mayor,
23 and the chair of the board of county commissioners shall select and
24 appoint a director from among the list provided within one (1) month

1 of receipt of the list. The candidate selected shall be
2 communicated to the city-county board of health by a written letter,
3 signed by at least two of the appointing officials, one of whom must
4 be the State Commissioner of Health. In the event that a candidate
5 has not been selected and appointed at the end of six (6) months of
6 vacancy, the State Commissioner of Health shall select and appoint a
7 director for the city-county health department from among the list
8 of candidates provided by the board.

9 3. The State Commissioner of Health may request the removal of
10 a director of a city-county health department by submitting such
11 request in writing to the city-county board of health. The board
12 shall consider a removal request within two (2) months of its
13 receipt. If the board determines by a two-thirds (2/3) vote that
14 removal is warranted, then the director shall be removed.

15 E. The employees of a city-county health department shall
16 possess minimum qualifications as set forth in a system of personnel
17 administration delineating job specifications and a compensation
18 plan adopted by the city-county board of health, and approved by the
19 State Commissioner of Health, the board of county commissioners and
20 the governing body of the city. By March 1, 1991, the city-county
21 health department shall establish a personnel, merit and promotion
22 system which shall be approved by the Commissioner of Public Health.
23 The employees shall also be eligible for membership in any life or
24 health insurance plan of the county and the county retirement

1 program, subject to the same conditions or restrictions that apply
2 to county employees. Any state employees officed or located at or
3 assigned to a city-county health department shall be subject to the
4 state system of personnel administration and shall be eligible for
5 membership in the state employees insurance and retirement programs.

6 F. Such city-county health department shall, under the
7 supervision of the director, enforce and administer all municipal
8 and county ordinances, rules and regulations, and all state laws,
9 and rules and regulations of the State Board of Health pertaining to
10 public health matters in the jurisdiction where it is created, or in
11 any area where it has jurisdiction to operate by agreement.

12 G. A city-county health department may perform any and all
13 health-related services, within the scope of practice, as prescribed
14 by law, by the city-county board of health, or by standards of care
15 for medical services. When a city-county health department provides
16 a health-related service to any person covered by an applicable
17 health insurance plan, the city-county health department may submit
18 a claim for said service to the appropriate insurance company,
19 health maintenance organization or preferred provider organization.
20 Upon receipt of the claim, said insurance company, health
21 maintenance organization or preferred provider organization shall
22 reimburse the city-county health department for the service provided
23 in accordance with the standard and customary rate schedule
24 established by the plan. All health insurance plans, doing business

