

## **Title 26A. Local Health Authorities**

### **Chapter 1 Local Health Departments**

#### **Part 1 Local Health Department Act**

##### **26A-1-102 Definitions.**

As used in this part:

- (1) "Board" means a local board of health established under Section 26A-1-109.
- (2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.
- (3) "County health department" means a local health department that serves a county and municipalities located within that county.
- (4) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- (5) "Local food" means the same as that term is defined in Section 4-1-109.
- (6) "Local health department" means:
  - (a) a single county local health department;
  - (b) a multicounty local health department;
  - (c) a united local health department; or
  - (d) a multicounty united local health department.
- (7) "Mental health authority" means a local mental health authority created in Section 17-43-301.
- (8) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.
- (9) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.
- (10)
  - (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:
    - (i) applies to all or substantially all:
      - (A) individuals or a certain group of individuals; or
      - (B) public places or certain types of public places; and
    - (ii) for the protection of the public health and in response to the declared public health emergency:
      - (A) establishes, maintains, or enforces isolation or quarantine;
      - (B) establishes, maintains, or enforces a stay-at-home order;
      - (C) exercises physical control over property or individuals;
      - (D) requires an individual to perform a certain action or engage in a certain behavior; or
      - (E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.
  - (b) "Order of constraint" includes a stay-at-home order.
- (11) "Public health emergency" means the same as that term is defined in Section 26B-7-301.

- (12) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.
- (13) "Stay-at-home order" means an order of constraint that:
  - (a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and
  - (b) may include exceptions for certain essential tasks.
- (14) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.
- (15) "United local health department":
  - (a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and
  - (b) includes a multicounty united local health department.

Amended by Chapter 152, 2024 General Session

**26A-1-103 County health departments.**

The governing body of each county shall create and maintain a local health department which includes and serves all incorporated and unincorporated areas in the county.

Amended by Chapter 249, 2002 General Session

**26A-1-105 Multicounty local health departments.**

- (1) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a local health department that does not combine the substance abuse authority and the mental health authority with the local health department.
- (2) Any municipalities within counties comprising a multicounty local health department under Subsection (1) shall be served by the multicounty local health department.

Amended by Chapter 113, 2016 General Session

**26A-1-105.5 United local health department -- Multicounty united local health department -- Election by county governing body -- Appointment of director.**

- (1) A county governing body may elect to:
  - (a) form a united local health department for the purpose of combining into a single entity the duties of:
    - (i) the local health department;
    - (ii) the mental health authority; and
    - (iii) the substance abuse authority; and
  - (b) provide for the coordination of services for the populations served by the entities described in Subsection (1)(a).
- (2)
  - (a) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a multicounty united local health department.

- (b) Any municipalities within counties comprising a multicounty united local health department under Subsection (2)(a) shall be served by the multicounty united local health department.
- (3) A united local health department created under this section shall administer the programs and services of each entity listed in Subsections (1)(a) in accordance with:
  - (a) this chapter;
  - (b) Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities; and
  - (c) Title 17, Chapter 43, Part 3, Local Mental Health Authorities.
- (4)
  - (a) Notwithstanding Section 26A-1-110:
    - (i) the county governing body shall, in consultation with the board, appoint an executive director for a united local health department and determine the executive director's compensation; and
    - (ii) the county governing bodies of a multicounty united local health department shall, in consultation with the board, appoint an executive director for the multicounty local health department and determine the executive director's compensation.
  - (b) An executive director appointed under Subsection (4)(a):
    - (i) shall serve as the local health officer; and
    - (ii) may be removed for cause under Section 26A-1-111.
- (5) The treasurer of a united local health department may establish and maintain funds in addition to the local health department fund established under Section 26A-1-119, if the additional fund is necessary to:
  - (a) provide substance abuse authority services or mental health authority services; and
  - (b) comply with federal regulation or federal statute.

Enacted by Chapter 113, 2016 General Session

**26A-1-106 Assistance in establishing local departments -- Monitoring and standards of performance -- Responsibilities.**

- (1)
  - (a) By request of county governing bodies, the department may assist in the establishment of a local health department.
  - (b) The department shall monitor the effort of the local health department to protect and promote the health of the public.
  - (c) The department shall establish by rule minimum performance standards for basic programs of public health administration, personal health, laboratory services, health resources, and other preventive health programs not in conflict with state law as it finds necessary or desirable for the protection of the public health.
  - (d) The department may by contract provide:
    - (i) funds to assist a local health department if local resources are inadequate; and
    - (ii) assistance to achieve the purposes of this part.
- (2) Regulations or standards relating to public health or environmental health services adopted or established by a local health department may not be less restrictive than department rules.
- (3) Local health departments are responsible within their boundaries for providing, directly or indirectly, basic public health services that include:
  - (a) public health administration and support services;
  - (b) maternal and child health;
  - (c) communicable disease control, surveillance, and epidemiology;
  - (d) food protection;

- (e) solid waste management;
  - (f) waste water management; and
  - (g) safe drinking water management.
- (4) The Department of Environmental Quality shall establish by rule minimum performance standards, including standards for inspection and enforcement, for basic programs of environmental health, not inconsistent with law, as necessary or desirable for the protection of public health.

Amended by Chapter 249, 2002 General Session

**26A-1-108 Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.**

- (1)
- (a) Except as provided in Subsection (1)(b), a local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.
  - (b) Notwithstanding Subsection (1)(a), a local health department's jurisdiction or authority to issue an order of constraint pursuant to a declared public health emergency does not apply to any facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.
- (2)
- (a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.
  - (b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Amended by Chapter 425, 2024 General Session

**26A-1-109 Local boards of health -- Membership -- Organization -- Meetings.**

- (1) A local health department shall have a board of health with at least three members.
- (a)
- (i) Board members shall be appointed pursuant to county ordinance or interlocal agreement by the counties creating the local health department.
  - (ii) The board may include representatives from the municipalities included within the area served by the local health department.
- (b) The board shall be nonpartisan.
- (c) An employee of the local health department may not be a board member.
- (2)
- (a) As possible, of the initial board:
    - (i) 1/3 shall serve a term of one year;
    - (ii) 1/3 shall serve a term of two years; and
    - (iii) 1/3 shall serve a term of three years.
  - (b) All subsequent appointments shall be for terms of three years and shall be made, as possible, so 1/3 of the terms of office of those serving on the board expire each year. Members appointed to fill vacancies shall hold office until expiration of the terms of their predecessors.
  - (c) Board members may be removed by the appointing county for cause prior to the expiration of the member's term. Any board member removed pursuant to this Subsection (2) may

request and receive a hearing before the county legislative body prior to the effective date of the removal.

- (3)
  - (a) All members of the board shall reside within the boundaries of the area served by the local health department.
  - (b) A majority of the members may not:
    - (i) be primarily engaged in providing health care to individuals or in the administration of facilities or institutions in which health care is provided;
    - (ii) hold a fiduciary position or have a fiduciary interest in any entity involved in the provision of health care;
    - (iii) receive either directly or through a spouse more than 1/10 of the member's gross income from any entity or activity relating to health care; and
    - (iv) be members of one type of business or profession.
- (4)
  - (a) The board shall at its organizational meeting elect from its members a chairman and a vice chairman and secretary.
  - (b) The health officer of the local health department appointed pursuant to Section 26A-1-110 or Section 26A-1-105.5 may serve as secretary to the board.
- (5)
  - (a)
    - (i) Regular meetings of the board shall be held not less than once every three months.
    - (ii) Special meetings may be called by the chairman, the health officer, or a majority of the members at any time on three days' notice by mail, or in case of emergency, as soon as possible after the members of the board have been notified.
  - (b) A board may adopt and amend bylaws for the transaction of its business. A majority of the board members constitute a quorum.
  - (c) Members serve without compensation, but shall be reimbursed for actual and necessary traveling and subsistence expenses when absent from their place of residence in attendance at authorized meetings.
  - (d) All meetings are presumed to have been called and held in accordance with this section and all orders and proceedings are presumed to be authorized unless the contrary is proved.
- (6) The board shall annually report the operations of the local health department and the board to the local governing bodies of the municipalities and counties served by the local health department.
- (7) The board shall annually send a copy of the local health department's approved budget to the department and all local governing bodies of the municipalities and counties served by the local health department. The report shall be submitted no later than 30 days after the beginning of the local health department's fiscal year.
- (8) The board shall determine the general public health policies to be followed in administration of the local health department and may adopt and enforce public health rules, regulations, and standards necessary to implement the board's public health policies. The board shall adopt written procedures to carry out the provisions of this section.

Amended by Chapter 113, 2016 General Session

**26A-1-110 Local health officer -- Powers and duties -- Vacancy.**

- (1) Except as provided in Section 26A-1-105.5, the board shall appoint a local health officer and determine the officer's compensation:

- (a) subject to ratification by the county executive of the county or counties in the local health department; and
  - (b) as provided by:
    - (i) ordinance adopted by a county creating a county health department; or
    - (ii) the interlocal agreement pursuant to which a multicounty health department is created.
- (2) The local health officer shall:
- (a) have the qualifications of training and experience for that office equivalent to those approved by the department for local health officers;
  - (b) be the administrative and executive officer of the local health department and devote full time to the duties of the office;
  - (c) if provisions have been made with the department, act as the local registrar of vital statistics within the local health department's boundaries without additional compensation or payment of fees provided by law;
  - (d)
    - (i) prior to the beginning of each fiscal year, prepare an annual budget approved by the board and present it:
      - (A) to the county legislative body if the local health department is a county health department; or
      - (B) to the entity designated in the interlocal agreement creating the local health department if the local health department is a multicounty health department; and
    - (ii) obtain final approval of the annual budget from the governing bodies designated in Subsection (2)(d)(i)(A) or (B) after the governing body either:
      - (A) reviews and approves the budget; or
      - (B) amends and approves the budget; and
  - (e) prepare an annual report and provide it to the department and all counties in the local health department.
- (3) The report under Subsection (2)(e) shall contain a copy of the independent financial audit required under Section 26A-1-115, a description of the population served by the local health department, and other information as requested by the board or the county or counties creating the local health department.
- (4) In the absence or disability of the local health officer, or if there is a vacancy in that office, the board shall appoint an acting health officer for a temporary period not to exceed one year. The appointment shall be ratified by the county executive of the county or counties in the local health department.

Amended by Chapter 113, 2016 General Session

**26A-1-111 Removal of local health officer.**

- (1) The local health officer may be removed for cause in accordance with this section by:
  - (a) the board, if the local health officer is appointed for a single county local health department;
  - (b) a majority of the counties in the local health department if:
    - (i) the local health department is:
      - (A) a multicounty local health department created under Section 26A-1-105; or
      - (B) a multicounty united local health department created under Section 26A-1-105.5; and
    - (ii) the county executives rescind or withdraw, in writing, the ratification of the local health officer; or

- (c) the county governing body, if the local health department is a united local health department for a single county, and the county governing body rescinds or withdraws, in writing, the ratification of the local health officer.
- (2)
  - (a) A hearing shall be granted, if requested by the local health officer, prior to removal of the local health officer.
  - (b) If a hearing is requested, it shall be conducted by a five-member panel with:
    - (i) two elected members from the county or counties in the local health department, selected by the county executives;
    - (ii) two members of the board of the local health department who are not elected officials of the counties in the local health department, selected by the board; and
    - (iii) one member selected by the members appointed under Subsections (2)(b)(i) and (ii), however, the member appointed under this Subsection (2)(b)(iii) may not be an elected official of the counties in the local health department and may not be a member of the board of the local health department.
  - (c)
    - (i) The hearing panel shall report its decision regarding termination to the board and to the counties in the local health department.
    - (ii) The counties and board receiving the report shall vote on whether to retain or terminate the local health officer.
    - (iii) The health officer is terminated if:
      - (A) the board votes to terminate; or
      - (B) a majority of the counties in the local health department vote to terminate.

Amended by Chapter 113, 2016 General Session

**26A-1-112 Appointment of personnel.**

- (1) All local health department personnel shall be hired by the local health officer or the local health officer's designee in accordance with the merit system, personnel policies, and compensation plans approved by the board and ratified pursuant to Subsection (2). The personnel shall have qualifications for their positions equivalent to those approved for comparable positions in the Departments of Health and Human Services and Environmental Quality.
- (2) The merit system, personnel policies, and compensation plans approved under Subsection (1) shall be ratified by all the counties participating in the local health department.
- (3) Subject to the local merit system, employees of the local health department may be removed by the local health officer for cause. A hearing shall be granted if requested by the employee.

Amended by Chapter 240, 2024 General Session

**26A-1-113 Right of entry to regulated premises by representatives for inspection.**

- (1) Upon presenting proper identification, authorized representatives of local health departments may enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances as adopted by the Departments of Health and Human Services and Environmental Quality, local boards of health, county or municipal governing bodies, or administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act.
- (2) Section 58-56-9 does not apply to health inspectors acting under this section.

(3) This section does not authorize local health departments to inspect private dwellings.

Amended by Chapter 240, 2024 General Session

***Effective until 7/1/2024***

**26A-1-114 Powers and duties of departments.**

- (1) Subject to Subsections (7), (8), and (11), a local health department may:
- (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;
  - (b) establish, maintain, and enforce isolation and quarantine, over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;
  - (c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;
  - (d) establish and operate reasonable health programs or measures not in conflict with state law which:
    - (i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or
    - (ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;
  - (e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;
  - (f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;
  - (g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;
  - (h) pursuant to county ordinance or interlocal agreement:
    - (i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;
    - (ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and
    - (iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;
  - (i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:
    - (i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and
    - (ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;
  - (j) investigate the causes of morbidity and mortality;
  - (k) issue notices and orders necessary to carry out this part;



- (l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;
  - (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;
  - (n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
  - (o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;
  - (p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities; and
  - (q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.
- (2) The local health department shall:
- (a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;
  - (b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;
  - (c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and
  - (d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:
    - (i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;
    - (ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;
    - (iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and
    - (iv) is reviewed and updated annually.
- (3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:
- (a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;
  - (b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and
  - (c)
    - (i) make regular inspections of the health-related condition of all school buildings and premises;

- (ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and
  - (iii) provide a copy of the report to the department at the time the report is made.
- (4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.
- (5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.
- (6) This part does not authorize a local health department to:
  - (a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling; or
  - (b) control the production, processing, distribution, or sale price of local food in response to a public health emergency.
- (7)
  - (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.
  - (b) The local health department:
    - (i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;
    - (ii) may provide the notice required by Subsection (7)(a) in electronic format; and
    - (iii) shall provide the notice in written form, if practicable.
  - (c)
    - (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.
    - (ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.
    - (iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.
  - (d)
    - (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.
    - (ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.
- (8)
  - (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

- (i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;
  - (ii) 30 days after the date on which the local health department declared the public health emergency; or
  - (iii) the day on which the public health emergency is terminated by majority vote of the county governing body.
- (b)
- (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.
  - (ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.
- (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.
- (d)
- (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.
  - (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).
- (e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.
- (f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.
- (9)
- (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:
    - (i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;
    - (ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and
    - (iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.
  - (b)
    - (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant

county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

- (ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.
  - (iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.
- (c)
- (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.
  - (ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.
- (10)
- (a) During a public health emergency declared as described in this title:
    - (i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and
    - (ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:
      - (A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or
      - (B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.
  - (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).
  - (c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:
    - (i) is in furtherance of a compelling government interest; and
    - (ii) is the least restrictive means of furthering that compelling government interest.
  - (d) Notwithstanding Subsections (10)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.
- (11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.
- (12) A local health department may not:
- (a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or
  - (b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:
    - (i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

- (ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Amended by Chapter 152, 2024 General Session

Amended by Chapter 283, 2024 General Session

Amended by Chapter 425, 2024 General Session

**Effective 7/1/2024**

**26A-1-114 Powers and duties of departments.**

- (1) Subject to Subsections (7), (8), and (11), a local health department may:
  - (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;
  - (b) establish, maintain, and enforce isolation and quarantine, over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;
  - (c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;
  - (d) establish and operate reasonable health programs or measures not in conflict with state law which:
    - (i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or
    - (ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;
  - (e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;
  - (f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;
  - (g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;
  - (h) pursuant to county ordinance or interlocal agreement:
    - (i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;
    - (ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and
    - (iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;
  - (i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:
    - (i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

- (ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;
  - (j) investigate the causes of morbidity and mortality;
  - (k) issue notices and orders necessary to carry out this part;
  - (l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;
  - (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;
  - (n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
  - (o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;
  - (p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities; and
  - (q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.
- (2) The local health department shall:
- (a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;
  - (b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;
  - (c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws;
  - (d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:
    - (i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;
    - (ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;
    - (iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and
    - (iv) is reviewed and updated annually; and
  - (e) investigate a report made in accordance with Section 59-14-810 to determine whether a product is sold in violation of law.
- (3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:
- (a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

- (b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and
- (c)
  - (i) make regular inspections of the health-related condition of all school buildings and premises;
  - (ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and
  - (iii) provide a copy of the report to the department at the time the report is made.
- (4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.
- (5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.
- (6) This part does not authorize a local health department to:
  - (a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling; or
  - (b) control the production, processing distribution, or sale price of local food in response to a public health emergency.
- (7)
  - (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.
  - (b) The local health department:
    - (i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;
    - (ii) may provide the notice required by Subsection (7)(a) in electronic format; and
    - (iii) shall provide the notice in written form, if practicable.
  - (c)
    - (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.
    - (ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.
    - (iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.
  - (d)
    - (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

- (ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.
- (8)
- (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:
    - (i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;
    - (ii) 30 days after the date on which the local health department declared the public health emergency; or
    - (iii) the day on which the public health emergency is terminated by majority vote of the county governing body.
  - (b)
    - (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.
    - (ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.
  - (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.
  - (d)
    - (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.
    - (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).
  - (e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.
  - (f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.
- (9)
- (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:
    - (i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;
    - (ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and



- (iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.
- (b)
  - (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.
  - (ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.
  - (iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.
- (c)
  - (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.
  - (ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.
- (10)
  - (a) During a public health emergency declared as described in this title:
    - (i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and
    - (ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:
      - (A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or
      - (B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.
  - (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).
  - (c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:
    - (i) is in furtherance of a compelling government interest; and
    - (ii) is the least restrictive means of furthering that compelling government interest.
  - (d) Notwithstanding Subsections (10)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.
- (11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including capitol hill, as defined in Section 63O-1-101.
- (12) A local health department may not:

- (a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or
- (b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:
  - (i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or
  - (ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Amended by Chapter 259, 2024 General Session

**26A-1-115 Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.**

- (1)
  - (a) The cost of establishing and maintaining a multicounty local health department may be apportioned among the participating counties on the basis of population in proportion to the total population of all counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties.
  - (b) Costs of establishing and maintaining a county health department shall be a charge of the county creating the local health department.
  - (c) Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and maintain local health departments.
  - (d) As used in this Subsection (1), "population" means population estimates prepared by the Utah Population Committee.
- (2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.
- (3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.
- (4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.
- (5) Department rules shall require that contract funds be used for public health services and not replace other funds used for local public health services.
- (6)
  - (a)
    - (i) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments.
    - (ii) Counties shall have no legal obligation to match state funds at percentages in excess of those established by the department and shall suffer no penalty or reduction in state funding for failing to exceed the required funding match.
  - (b) By October 1 of each year, the local health departments, shall submit a collective written report to the Social Services Appropriations Subcommittee describing, for the preceding five fiscal years, each county's annual per capita contribution to a local health department that is used to meet the minimum performance standards described in Section 26A-1-106.
  - (c) A county may submit an additional written report separate from the report described in Subsection (6)(b) to the Social Services Appropriations Subcommittee outlining a county's

contribution to public and community health in the county through other methods that are additional to the annual per capita contribution described in Subsection (6)(b).

- (7)
  - (a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.
  - (b) The local health department shall provide a copy of the audit report to the department and the local governing bodies of counties participating in the local health department.

Amended by Chapter 250, 2024 General Session

**26A-1-116 Allocation of state funds to local health departments -- Formula.**

- (1)
  - (a) On or before July 1, 2024, each of the following shall establish in rule a formula for allocating state funds by contract to local health departments:
    - (i) the department; and
    - (ii) the Department of Environmental Quality.
  - (b) This formula shall provide for allocation of funds based on need.
  - (c) Determination of need shall be based on population unless the department making the rule establishes by valid and accepted data that other defined factors are relevant and reliable indicators of need.
  - (d) The formula shall include a differential to compensate for additional costs of providing services in rural areas.
- (2)
  - (a) Except as provided in Subsection (2)(b), the formulas apply to all state funds appropriated by the Legislature to any of the following for local health department use:
    - (i) the department; or
    - (ii) the Department of Environmental Quality.
  - (b) The formulas do not apply to funds a local health department receives from:
    - (i) sources other than the department or the Department of Environmental Quality; or
    - (ii) the department or the Department of Environmental Quality:
      - (A) to operate a specific program within the local health department's boundaries which program is available to all residents of the state;
      - (B) to meet a need that exists only within the local health department's boundaries; and
      - (C) to engage in research projects.

Amended by Chapter 272, 2023 General Session

Amended by Chapter 327, 2023 General Session

**26A-1-117 Funding of departments -- Tax levies.**

- (1) Counties involved in the establishment and operation of local health departments shall fund the local health departments with appropriations from the General Fund, from the levy of a tax, or in part by an appropriation and in part by a levy under Section 17-53-221.
- (2) A local health department may be funded as provided by law from:
  - (a) local, state, and federal funds within local levy ceilings;
  - (b) a separate ceiling exempt tax under Section 59-2-911, which may not exceed .0004 per dollar of taxable value of taxable property; or

(c) in part by each.

- (3) Local funds from either tax source shall be appropriated by the local governing authorities of the counties participating in the local health department.

Amended by Chapter 249, 2002 General Session

**26A-1-118 Treasurer of local department -- Bond.**

- (1) The county treasurer shall serve as treasurer of a local health department.
- (2) Unless another county treasurer is designated pursuant to the interlocal agreement creating the multicounty local health department or the multicounty united local health department, the county treasurer of the county in which the headquarters of the multicounty local health department or the multicounty united local health department is located shall serve as treasurer of the multicounty local health department.
- (3) The official bond of a county treasurer shall cover the duties as treasurer of a local health department.

Amended by Chapter 113, 2016 General Session

**26A-1-119 Local health department fund -- Sources -- Uses.**

- (1) Except as provided in Section 26A-1-105.5, the treasurer of a local health department shall, as part of the department organization, create a local health department fund to which shall be credited any money appropriated or otherwise made available by participating counties or other local political subdivisions, and any money received from the state, federal government, or from surpluses, grants, fees, or donations for local health purposes.
- (2)
  - (a) Money credited to the fund shall be placed in a restricted account and expended only for maintenance and operation of the local health department.
  - (b) Claims or demands against the fund shall be allowed on certification by the health officer or other employee of the local health department designated by the health officer.

Amended by Chapter 113, 2016 General Session

**26A-1-120 County attorney or district attorney to represent and advise department, board, officers, and employees.**

- (1) Except as otherwise provided in this section, the county attorney of the county in which the headquarters of the local health department is located shall serve as legal advisor to the local health department in all civil matters involving the local health department.
- (2) The county attorney of the county where a civil claim arises shall bring any action requested by a local health department to abate a condition that exists in violation of, or to restrain or enjoin any action which is in violation of the public health laws and rules of the Departments of Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary matters.
- (3)
  - (a) The district attorney or county attorney having criminal jurisdiction shall prosecute criminal violations of the public health laws and rules of the Departments of Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws and rules pertaining to health and sanitary matters.

- (b) Violations of local ordinances relating to public health matters shall be prosecuted by the prosecuting attorney of the jurisdiction enacting the ordinance.
- (4) The county attorney of a county where an action arises shall, if requested by the county attorney designated in Subsection (1):
  - (a) act as legal adviser to the local health department and the board with respect to the action; and
  - (b) defend all actions and proceedings brought in that county against the local health department, the board, or the officers and employees of the local health department.

Amended by Chapter 240, 2024 General Session

**26A-1-121 Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Administrative and judicial review of actions.**

- (1)
  - (a) Subject to Subsection (1)(g), the board may make standards and regulations:
    - (i) not in conflict with rules of the department or the Department of Environmental Quality; and
    - (ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.
  - (b) The standards and regulations under Subsection (1)(a):
    - (i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter;
    - (ii) except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
    - (iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those established by federal law, state statute, or administrative rule adopted by the department if the standard or regulation is:
      - (A) in effect on February 1, 2022; and
      - (B) not modified or amended after February 1, 2022.
  - (c) The board shall provide public hearings prior to the adoption of any regulation or standard.
  - (d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).
  - (e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.
  - (f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.
  - (g)
    - (i) During a declared public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:
      - (A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;
      - (B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

- (C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.
- (ii)
  - (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.
  - (B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.
- (h)
  - (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.
  - (ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.
  - (iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.
- (i)
  - (i) During a public health emergency declared as described in this title:
    - (A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and
    - (B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.
  - (ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).
  - (iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:
    - (A) is in furtherance of a compelling government interest; and
    - (B) is the least restrictive means of furthering that compelling government interest.
  - (iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.
- (j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated

by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

- (2)
- (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.
  - (b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.
  - (c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the department or the Department of Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.
  - (d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.
  - (e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.
  - (f) The appellant and the board are parties to the appeal.
  - (g) The department and the Department of Environmental Quality may become a party by intervention as in a civil action upon showing cause.
  - (h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.
- (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:
- (a) emergency rules made in accordance with Section 63G-3-304; or
  - (b) items not regulated under federal law, state statute, or state administrative rule.

Amended by Chapter 327, 2023 General Session

**26A-1-122 Counties joining existing department -- Abolition of department -- Withdrawal of county from department.**

- (1) If additional or adjacent counties join an existing local health department, provisions shall be made for the appointment and terms of new board members in accordance with the applicable provisions of this part.
- (2)
  - (a) A local health department established under this part may not be abolished until it has been in existence at least two years.
  - (b) A participating county may not withdraw from a local health department until the county has participated in maintenance of the local health department for at least two years. The effective date of any withdrawal shall be December 31. Ninety days prior written notice of the withdrawal shall be given to the board.
- (3) If a local health department is abolished, the participating counties shall establish local health departments under Section 26A-1-103, 26A-1-105, or 26A-1-106 at least 30 days prior to abolishment.

Amended by Chapter 249, 2002 General Session

**26A-1-123 Unlawful acts -- Criminal and civil liability.**

- (1) It is unlawful for any person, association, or corporation, and the officers of the association or corporation to:
  - (a) violate state laws or any lawful notice, order, standard, rule, or regulation issued under state laws or local ordinances regarding public health or sanitation;
  - (b) violate, disobey, or disregard any notice or order issued by a local health department pursuant to any state or federal law, federal regulation, local ordinance, rule, standard, or regulation relating to public health or sanitation;
  - (c) fail to make or file reports required by law relating to the existence of disease or other facts and statistics relating to the public health;
  - (d) willfully and falsely make or alter any certificate or certified copy issued under public health laws;
  - (e) fail to remove or abate from private property under the control of the person, association, or corporation at their own expense, within a reasonable time not to exceed 30 days after issuance of an order to remove or abate, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the boundaries of the local health department whether the person, association, or corporation is the owner, tenant, or occupant of the private property; or
  - (f) pay, give, present, or otherwise convey to any local health officer or employee of a local health department or any member of a local board of health any gift, remuneration, or other consideration, directly or indirectly, which the officer or employee is prohibited from receiving by this section.
- (2) Removal or abatement under Subsection (1)(e) shall be ordered by the local health department and accomplished within a reasonable time determined by the local health department, but not exceeding 30 days after issuance of an order to remove or abate.
- (3) It is unlawful for any local health officer or employee of any local health department or member of any local board of health to accept any gift, remuneration, or other consideration, directly or indirectly, for the performance of the duties imposed upon the officer, employee, or member by or on behalf of the health department or by this part.
- (4) It is unlawful for any local health officer or employee of a local health department, during the hours of the officer's or employee's regular employment by the local health department, to perform any work, labor, or services other than duties assigned to the officer or employee by or on behalf of the local health department.
- (5)
  - (a) Any person, association, corporation, or the officers of the association or corporation who violates any provision of this section is:
    - (i) on the first violation guilty of a class B misdemeanor; and
    - (ii) on a subsequent similar violation within two years, guilty of a class A misdemeanor.
  - (b) In addition any person, association, corporation, or the officers of the association or corporation, are liable for any expense incurred in removing or abating any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation.
- (6) Conviction under this section or any other public health law does not relieve the person convicted from civil liability for any act that was also a violation of the public health laws.
- (7) Each day of violation of this section is a separate violation.

Amended by Chapter 112, 1991 General Session



Renumbered and Amended by Chapter 269, 1991 General Session

**26A-1-124 Religious exemptions.**

This part does not authorize a local health department to impose on any person any mode of treatment inconsistent with the creed or tenets of any religious denomination of which the person is an adherent, provided the person complies with sanitary and quarantine laws, rules, and regulations.

Renumbered and Amended by Chapter 269, 1991 General Session

**26A-1-125 Existing local health departments required to conform to statutory amendments.**

Each county or municipality operating or participating in the operation of a local health department in existence as of January 1, 2002, shall, no later than June 30, 2003, amend its local ordinances, policies, or interlocal agreements relating to the organization and operation of the local health department to conform to the statutory amendments to Title 26A, Local Health Authorities, during the 2002 General Session.

Enacted by Chapter 249, 2002 General Session

**26A-1-126 Medical reserve corps.**

- (1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.
- (2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the president of the United States or other federal official requesting public health related activities.
- (3)
  - (a) A local health department may train health care professionals who participate in a medical reserve corps to respond to an emergency or declaration for public health related activities pursuant to Subsection (2).
  - (b) When an emergency or request for public health related activities has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency or declaration for public health related activities.
- (4) For purposes of this section, a medical reserve corps may include persons who:
  - (a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;
  - (b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and
  - (c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.
- (5)
  - (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declaration under Subsection (2).
  - (b) A person operating as a member of an activated medical reserve corps or training as a member of a medical reserve corps under this section:
    - (i) shall be volunteering for and supervised by the local health department;

- (ii) shall comply with the provisions of this section;
  - (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and
  - (iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency or declaration for public health related activities pursuant to Subsection (2).
- (6) The local department of health may access the Division of Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.
- (7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Professional Licensing.

Amended by Chapter 327, 2023 General Session

**26A-1-127 Surge capacity, surveillance, and community outreach plan.**

- (1) In addition to the duties listed in Section 26A-1-114, a local health department shall develop and implement a locally appropriate plan, in coordination with appropriate local, state, and federal partners, to:
- (a) investigate disease outbreaks;
  - (b) expand outreach and education efforts to employers, schools, and community organizations; and
  - (c) expand local capacity to respond to disasters or disease outbreaks.
- (2) The plan required by Subsection (1) shall include as a minimum, details on how the local health department will maintain, train, and strengthen:
- (a) the Medical Reserve Corps authorized by Section 26A-1-126;
  - (b) disease surveillance systems;
  - (c) disease outbreak management systems to respond to communicable and food borne illness; and
  - (d) emergency preparation and response plans to address infrastructure capacity and outreach and training to community partners.

Enacted by Chapter 178, 2007 General Session

**26A-1-128 Tobacco, electronic cigarette, and nicotine product permits -- Enforcement.**

A local health department:

- (1) shall enforce the requirements of Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;
- (2) may enforce licensing requirements for entities that hold a business license to sell a tobacco product, an electronic cigarette product, or a nicotine product under Section 10-8-41.6 or Section 17-50-333; and
- (3) may recommend to a municipality or county that the business license of a retail tobacco specialty business be suspended or revoked for a violation of Section 10-8-41.6, Section 17-50-333, or Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products.

Amended by Chapter 327, 2023 General Session

***Effective until 7/1/2024***

**26A-1-129 Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.**

- (1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.
- (2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.
- (3)
  - (a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:
    - (i) a coalition of community organizations that is focused on substance abuse prevention;
    - (ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or
    - (iii) a local education agency as defined in Section 53E-1-102.
  - (b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:
    - (i) by addressing one or more risk or protective factors identified in the Utah Student Health and Risk Prevention Statewide Survey; and
    - (ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:
      - (A) providing information;
      - (B) enhancing individual skills;
      - (C) providing support to activities that reduce risk or enhance protections;
      - (D) enhancing access or reducing barriers systems, processes, or programs;
      - (E) changing consequences by addressing incentives or disincentives;
      - (F) changing the physical design or structure of an environment to reduce risk or enhance protections; or
      - (G) supporting modifications or changing policies.
  - (c) The grant program shall provide funding for a program or purpose that is:
    - (i) evidence-based; or
    - (ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.
- (4)
  - (a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.
  - (b) The application described in Subsection (4)(a) shall:
    - (i) provide a summary of how the applicant intends to expend grant funds; and
    - (ii) describe how the applicant will meet the requirements described in Subsection (3).
  - (c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.
- (5)
  - (a) A local health department shall:
    - (i) on or before June 30 of each year:
      - (A) review each grant application the local health department receives for the grant program; and
      - (B) select recipients for a grant under the grant program; and
    - (ii) before July 15 of each year, disperse grant funds to each selected recipient.

- (b) A local health department may not award a single grant under this section in an amount that exceeds \$100,000.
- (6)
- (a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:
    - (i) provides an accounting for the expenditure of grant funds;
    - (ii) describes measurable outcomes as a result of the expenditures;
    - (iii) describes the impact and effectiveness of programs and activities funded through the grant; and
    - (iv) indicates the amount of grant funds remaining on the date that the report is submitted.
  - (b)
    - (i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.
    - (ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).
- (7)
- (a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.
  - (b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:
    - (i) the use of funds appropriated to the grant program;
    - (ii) the impact and effectiveness of programs and activities that the grant program funds during the previous fiscal year; and
    - (iii) any recommendations for legislation.
  - (c) The report described in this Subsection (7) may be combined with the report described in Subsection 26B-1-428(4)(a).

Amended by Chapter 250, 2024 General Session

***Effective 7/1/2024***

**26A-1-129 Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.**

- (1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.
  - (2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.
- (3)
- (a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:
    - (i) a coalition of community organizations that is focused on substance abuse prevention;
    - (ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or
    - (iii) a local education agency as defined in Section 53E-1-102.
  - (b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

- (i) by addressing one or more risk or protective factors; and
  - (ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:
    - (A) providing information;
    - (B) enhancing individual skills;
    - (C) providing support to activities that reduce risk or enhance protections;
    - (D) enhancing access or reducing barriers systems, processes, or programs;
    - (E) changing consequences by addressing incentives or disincentives;
    - (F) changing the physical design or structure of an environment to reduce risk or enhance protections; or
    - (G) supporting modifications or changing policies.
  - (c) The grant program shall provide funding for a program or purpose that is:
    - (i) evidence-based; or
    - (ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.
- (4)
- (a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.
  - (b) The application described in Subsection (4)(a) shall:
    - (i) provide a summary of how the applicant intends to expend grant funds; and
    - (ii) describe how the applicant will meet the requirements described in Subsection (3).
  - (c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.
- (5)
- (a) A local health department shall:
    - (i) on or before June 30 of each year:
      - (A) review each grant application the local health department receives for the grant program; and
      - (B) select recipients for a grant under the grant program; and
    - (ii) before July 15 of each year, disperse grant funds to each selected recipient.
  - (b) A local health department may not award a single grant under this section in an amount that exceeds \$100,000.
- (6)
- (a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:
    - (i) provides an accounting for the expenditure of grant funds;
    - (ii) describes measurable outcomes as a result of the expenditures;
    - (iii) describes the impact and effectiveness of programs and activities funded through the grant; and
    - (iv) indicates the amount of grant funds remaining on the date that the report is submitted.
  - (b)
    - (i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.
    - (ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).

- (7)
- (a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.
  - (b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:
    - (i) the use of funds appropriated to the grant program;
    - (ii) the impact and effectiveness of programs and activities that the grant program funds during the previous fiscal year; and
    - (iii) any recommendations for legislation.
  - (c) The report described in this Subsection (7) may be combined with the report described in Subsection 26B-1-428(4)(a).

Amended by Chapter 23, 2024 General Session

***Effective 7/1/2024***

**26A-1-131 Electronic cigarette registry enforcement.**

- (1)
- (a) A local health department may examine the books, papers, and records of a retailer in this state, for the purpose of determining compliance with Section 59-14-810.
  - (b) A local health department may make the inspections and examinations at any time during ordinary business hours, and may inspect the premises and all desks, safes, vaults, and other fixtures and furniture contained in or upon the premises for the purpose of ascertaining whether an electronic cigarette product is held or possessed in violation of Section 59-14-810.
  - (c) Unannounced follow-up examinations of all retailers are required within 30 days after any violation of Section 59-14-810.
  - (d) A local health department shall publish the results of all examinations at least annually and shall make the results available to the public on request.
  - (e) Any electronic cigarette product offered for sale in violation of Section 59-14-810 is declared to be a contraband good and shall be immediately embargoed by a local health department.
  - (f) An electronic cigarette product described in Subsection (1)(e) may be embargoed without a warrant by:
    - (i) a local health department; or
    - (ii) a law enforcement agency of this state if directed by a local health department with jurisdiction over where the product is found.
  - (g) The cost of embargoing shall be borne by the retailer.
  - (h) In an action brought under this section, a local health department may recover reasonable expenses incurred in investigating and preparing the case and attorney fees.
  - (i) A retailer shall remove any embargoed electronic cigarette product from the retailer's active inventory and work with the wholesaler or distributor to return or dispose the electronic cigarette product.
- (2)
- (a) A local health department shall disclose to the attorney general any information received under this section which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this section or Section 59-14-810.
  - (b) A local health department and the attorney general shall share with each other information received under this section and Section 59-14-810 or corresponding laws of other states.

- (c) A local health department shall provide any necessary information to the State Tax Commission regarding violations of Section 59-14-810.
- (3) A monetary penalty assessed to a retailer by a local health department under this section shall be doubled if the retailer fails to provide documentation establishing a clear chain of custody back to the manufacturer.

Enacted by Chapter 470, 2024 General Session