

*Georgia Department of Public Health*

# **GUIDE TO SERVICE ON THE COUNTY BOARD OF HEALTH**

Georgia Department of Public Health  
Office of General Counsel

[Revised February 2018]

# ***Introduction***

We hope you will find this guide to be useful in serving your county on the County Board of Health. It is designed to be a general overview and reference for you, so you may find the same information repeated in different sections.

For over a century, responsibility for Georgia's public health functions has been shared by state and local governments. The principal actors are the **Georgia Department of Public Health (DPH)**, the 159 **County Boards of Health**, and the eighteen **District Health Directors**. DPH and the County Boards of Health and the District Health Directors are best thought of as a partnership – not a partnership in the legal sense, but in the ordinary sense of people working together to accomplish a common goal.

DPH has responsibility for framing and implementing a statewide public health policy, operating statewide programs such as the State Health Laboratories and disease surveillance, and establishing standards for numerous matters from reportable diseases to restaurant inspections.

The County Boards of Health have responsibility for assessing local needs, advocating for county public health programs, approving and presenting the health budget to the county commission, and providing policy guidance to the District Health Director.

The District Health Directors serve as the chief executive officers of the county health departments, handling the day to day operation of the county health departments in their districts. Although they report to the county board of health and to DPH, District Health Directors operate with broad discretion in the management of county health departments.

The keys to success in achieving the goals of public health are cooperation among these public health partners, mutual support, open communications, and respect for the unique role that each partner plays in serving the people of Georgia.

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# ***I. What is Public Health?***

Public health has been defined as "the science and art of preventing disease, prolonging life and promoting health through the organized efforts and informed choices of society, organizations, public and private, communities and individuals."<sup>1</sup> The Institute of Medicine of the National Academies puts it this way: "What we as a society do collectively to assure the conditions in which people can be healthy."

Public health is a special part of the American health system. Most of the health care industry is designed to deliver health services upon request to an individual that seeks out treatment. The aim of public health is a little different. Although public health uses many of the same people and tools used by the healthcare industry – doctors, nurses, dentists, examination rooms, testing laboratories, needles and medicines – it seeks to protect and promote the health of groups of people. Those groups may be as small as the customers of a single restaurant, or as large as the residents of an entire continent.

Public health has three goals. The first is to prevent disease and injury by preventing the rise of conditions which are conducive to disease and injury. This is done through a variety of means, including inspections of food services, hotels, and sewage systems, disease surveillance, and immunization programs. The second is to promote good health, through means such as public education, nutrition counseling, health screenings, and targeted health care services. The third is to prepare for and respond to disasters and emergencies, as directed by the Governor and in conjunction with other responders, such as police, firefighters, emergency medical technicians and ambulance services, hospitals, and the National Guard.

DPH defines its mission this way:

***"To prevent disease, injury, and disability;  
to promote health and well being;  
to prepare for and respond to disasters."***

In order to fulfill that very broad mission, DPH works very closely through its partners in public health, the 159 County Boards of Health and the eighteen District Health Directors.

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<sup>1</sup> Winslow, "The Untilled Fields of Public Health", *Science* (9 January 1920)

## ***II. Public Health Administration in Georgia***

### ***Georgia’s “hybrid” public health system.***

Unlike some other states, which have a centralized public health system controlled by a single state agency, Georgia employs a “hybrid” system of public health administration using both a state public health department and separate county health departments. Although DPH has some oversight responsibilities toward the county boards of health, they are separate legal entities.<sup>2</sup> Not surprisingly, there is much overlap between the operations of DPH and those of the county health departments. As the Attorney General has noted, “both the state and county have very broad duties and responsibilities in the area of public health and insofar as the positions taken by the county and state are not inconsistent, it is evident that they can both function in the same areas.”<sup>3</sup>

Georgia’s 159 county health departments are organized into eighteen Health Districts.<sup>4</sup> Some Health Districts consist of a single county, while others include more than a dozen counties. The purpose of organizing county health departments into a Health District is to achieve economy by avoiding duplication of effort – it allows the county health departments to share a common chief executive officer and a central administrative staff.

The key link between DPH and the county boards of health is the District Health Director. The District Health Director is a licensed physician appointed by the DPH Commissioner and approved by the County Board of Health to serve as the CEO of the county health department. The DHDs and their District staffs manage the county health department staff, handle budgeting and billing, coordinate services and programs, provide professional management and supervision, report to the Commissioner and the Board, and execute the public health component of the State’s emergency plans.

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<sup>2</sup> 1974 Op. Att’y Gen. No. 74-19. *Accord, Ga. Dept. of Human Resources v. Demory*, 138 Ga. App. 888 (1976); *Aldridge v. Georgia Hospitality & Travel Assoc.*, 251 Ga. 234, 237 (1983).

<sup>3</sup> 1974 Op. Att’y Gen. No. 74-19.

<sup>4</sup> See Appendix A for a map of Georgia’s eighteen Health Districts.

## ***Funding of public health in Georgia.***

Public health in Georgia receives its funding from multiple sources. This makes budgeting a challenge, since each of those income streams is subject to fluctuation.

DPH receives most of its funding from two sources: annual appropriations from the Georgia General Assembly, and grants from various Federal agencies for specific health-related purposes. Those agencies include the U. S. Departments of Agriculture, Homeland Security, Health and Human Services, and the Centers for Disease Control and Prevention. At present, federal grants provide the majority of DPH's funding.

County health departments are typically funded through four sources:

- *“Grant in Aid”*. Each year, DPH makes available “grant in aid” funds to each county. These funds combine state appropriations and federal grant funds. Although some grant in aid funds may be used for any public health purpose (“general grant in aid”) the rest are earmarked for specific programs (“programmatically grant in aid.”) In Appendix E, you will find a list of public health services funded by grant in aid from the FY2012 contract.
- *Program income*. Your health department charges for many of the services that it provides, such as restaurant inspection fees and patient care. Payment for services may come directly from the business or citizen served, or from private medical insurance or Medicaid. In a few cases, fees generated by grant-funded programs must be used to supplement the budget for that particular program, and cannot be diverted to unrelated expenses or other programs.
- *County appropriations*. Each County Commission is authorized to fund the county health department with county tax revenues.<sup>5</sup> The Commission will decide the level of county funding after receiving a certified budget from your Board.
- *Other grants*. In addition to receiving state and federal grant monies from DPH through the annual “grant in aid” contract, each county is free to pursue public health grants from other state, federal, or private sector sources. This allows you to implement programs that are needed in your community, but which may not be funded by other sources.

As you will see, one of the Board's most important responsibilities is reviewing and certifying the proposed budget for your county health department to the County Commission, and recommending an appropriate level of county funding for your health department.

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<sup>5</sup> O.C.G.A. § 31-3-14.

## ***The Department of Public Health***

The statutory duty of the Department of Public Health is to “safeguard and promote the health of the people of this state.”<sup>6</sup> In order to carry out that broad mandate, DPH has been given the following statutory powers:

- To provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;
- To correct physical, chemical, and biological conditions that, if left to run their course, could be injurious to health;
- To regulate and require the use of sanitary facilities at construction sites and places of public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;
- To isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish quarantine, surveillance, or isolation of persons and animals exposed to a disease communicable to man;
- To procure and distribute medicines and to purchase services from clinics, laboratories, hospitals, and other health facilities and, when authorized by law, to acquire and operate such facilities;
- To cooperate with agencies and departments of the federal government and of the state by supplying consultant services in medical and hospital programs and in the health aspects of civil defense, emergency preparedness, and emergency response;
- To prevent, detect, and relieve physical defects and deformities;
- To promote the prevention, early detection, and control of problems affecting the dental and oral health of the citizens of Georgia;
- To contract with county boards of health to assist in the performance of services and, in the event of grave emergencies of more than local peril, to employ whatever means may be at its disposal to overcome such emergencies;
- To contract and execute releases for assistance in the performance of DPH's functions and the exercise of its powers and to supply services which are within its purview to perform;
- To enter into or upon public or private property at reasonable times to determine the presence of disease and conditions deleterious to health or to determine compliance with health laws and rules, regulations, and standards thereunder;
- To establish a schedule of fees for laboratory services;

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<sup>6</sup> O.C.G.A. § 31-2A-4.

- To issue permits for public gatherings of 5,000 or more;<sup>7</sup>
- To issue certificates of authority for midwives;<sup>8</sup> and
- To exchange data with the Department of Community Health for purposes of health improvement and fraud prevention.<sup>9</sup>

DPH maintains the State’s central database of reportable diseases, operates the State Public Health Laboratories and Vital Records service, and provides oversight and support of programs offered at the county level, such as WIC.

In addition, DPH has limited but significant oversight powers over county boards of health. These include the following:

- Persons affected by an order or action arising from a proceeding before a county board of health may appeal to DPH;<sup>10</sup>
- The rules and regulations of a county board of health cannot conflict with DPH’s rules and regulations;<sup>11</sup>
- The county board of health is required to coordinate with DPH to develop programs, activities, and facilities responsive to needs;<sup>12</sup>
- The county board of health is required to secure compliance with rules and regulations of DPH within the county;<sup>13</sup>
- A county board of health must obtain the approval of DPH before signing any contract for the provision of public health services.<sup>14</sup>
- A county board of health acts pursuant to the “supervision and direction” of DPH in many specific regulatory areas, including tourist accommodations,<sup>15</sup> tattoo studios,<sup>16</sup> midwives,<sup>17</sup> and food service establishments.<sup>18</sup>

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<sup>7</sup> O.C.G.A. § 31-27-2.

<sup>8</sup> O.C.G.A. § 31-26-2(a)

<sup>9</sup> O.C.G.A. § 31-2A-4.

<sup>10</sup> O.C.G.A. §§ 31-5-3 and 26-2-376(appeal from county health department actions against food service permit holders.)

<sup>11</sup> O.C.G.A. § 31-3-4(a)(4).

<sup>12</sup> O.C.G.A. § 31-3-5(a)(2).

<sup>13</sup> O.C.G.A. § 31-3-5(a)(3).

<sup>14</sup> O.C.G.A. §§ 31-3-4(a)(7) and 31-3-13. In order to promote efficiency, DPH has a formal policy of requiring its approval only for contracts of \$250,000 or more.

<sup>15</sup> O.C.G.A. § 31-28-1 *et seq.*



## ***The County Board of Health and the County Health Department***

The County Board of Health has the following statutory responsibilities:

- To determine the health needs and resources of the county by research and by collection, analysis, and evaluation of data pertaining to the health of the community;
- To develop, in cooperation with DPH, programs, activities and facilities responsive to the needs of the county;
- To secure compliance with the rules and regulations of the department that have local application; and
- To enforce all laws pertaining to health unless the responsibility for the enforcement of such laws is that of another county or state agency.<sup>19</sup>

Your county health department is staffed by county board of health employees who act under the supervision of a District Health Director.

In this Guide, we will use “the Board” to refer to the seven persons appointed to serve on the County Board of Health, and we will use the “county health department” to refer to the full-time county board of health employees who provide public health services.

### ***The Health Districts***

Each of Georgia’s 159 county health departments has been assigned to one of eighteen Health Districts. Health Districts are proposed by the Commissioner of Public Health and approved by the County Boards of Health and the County Commissions of the affected counties.<sup>20</sup> As a member of the Board of Health, you may be called upon to review and vote upon a proposed change in Health District boundaries.

It is important to remember that your county health department does not cease to be a separate entity by reason of being organized into a Health District.

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<sup>16</sup> O.C.G.A. § 31-40-1 *et seq*

<sup>17</sup> O.C.G.A. § 31-26-2 (DPH may “designate” a county board of health to issue or take action against midwife certificate of authority.)

<sup>18</sup> O.C.G.A. § 26-2-372, -375 (county board of health acts as the “agent of the department” with regard to food service establishments.)

<sup>19</sup> O.C.G.A. § 31-3-5(a).

<sup>20</sup> O.C.G.A. § 31-3-15.

Rather, the Health District is simply a way to achieve efficiency and economy by allowing several county health departments to share a common administrative structure.

### ***The District Health Director***

The District Health Director serves by law as the chief executive officer of the county board of health.<sup>21</sup> District Health Directors are appointed by the Commissioner of Public Health, subject to approval of all the county boards of health for the counties in the Health District. Although the District Health Directors are employees of DPH, it is their statutory duty to

“perform the functions and exercise the powers set forth in this Chapter [O.C.G.A. §§ 31-3-1 through 16, creating the county board of health] except the power to adopt bylaws and to adopt rules and regulations ... The director shall devote his entire time to the service of the county board of health and to the multiple county districts, where created, and shall be vigilant in procuring compliance with its rules and regulations and with Georgia health laws and rules and regulations adopted thereunder that have application within the county and district. He shall make reports to the county board of health ... in such manner and form and with such frequency as required by it and shall also report to [DPH] in such manner, detail, and form as the department may specify.”<sup>22</sup>

District Health Directors are required by law to be physicians licensed in the State of Georgia. However, the job requires many skills in addition to practicing medicine, and Directors often have advanced training and education in public health. The District Health Director must organize and supervise the staffs of the county health departments in her district, oversee billing and collections, provide professional supervision to the nursing staff and other health care professionals, prepare and administer budgets, handle personnel issues, and report to both DPH and the county board of health (or, in multiple-county health districts, multiple county boards of health), all while planning and administering dozens of public health programs. It is one of the toughest jobs in government.

In order to carry out this extraordinarily difficult job, the law gives the District Health Director wide discretion. For example, the District Health Director, and

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<sup>21</sup> O.C.G.A. §§ 31-3-11(a), -12, -15. See *also* Op. Att’y Gen. 2001-5 (term “chief executive officer” as used in statute denotes “the person who has the responsibility for day-to-day operations of the agency or organization.”)

<sup>22</sup> O.C.G.A. § 31-3-12.

not DPH, exercises control over county board of health employees.<sup>23</sup> The laws give DPH no say over the District Health Director's administration of the county health department budget; that is a matter for the DHD and the County Board of Health. Likewise, the law gives the District Health Director the right of approval over the scope of services, operating details, contracts, and fees approved by the County Board of Health.<sup>24</sup>

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<sup>23</sup> Op. Att'y Gen. Nos. 74-19, 74-89. *C.f.* Op. Att'y Gen. No. 78-22 ("Generally speaking, employees of the county boards of health are county employees unless a statute specifically provides otherwise.") *See also* O.C.G.A. § 31-3-11(b)(DPH District Environmental Director can "recommend personnel actions" against county environmental health employees, but presumably cannot take such actions.)

<sup>24</sup> O.C.G.A. § 31-3-4(6).

### ***III. Public Health Administration At The County Level***

#### ***The public health staff***

Your county health department has a variety of professionals, specialists, and administrative staff working under the supervision of the District Health Director. Counties and Health Districts with ample resources may have more people, and a greater variety of specialties, than other counties and Districts. Here is a list of the types of employees that may be found in a county health department:

- Nurses (advanced practice registered nurse, registered nurse, and practical nurse)
- Dentists and dental hygienists
- Environmental health specialist (restaurants, tourist accommodations, septic fields, public swimming pools)
- Nutritionists
- Communicable disease investigators
- Sexually transmitted disease (STD) specialists
- Social workers
- Epidemiologists
- Laboratory staff
- Health educators
- Administrative support staff

In addition, the Health District has a central administrative staff that serves each county health department within the district. The size and composition of the District staff will vary from one District to another. You may find people performing one or more of the following functions in the District offices:

- District administrator
- District human resources director
- District finance director
- District health director
- District nursing director
- District environmental health director
- District epidemiologist
- District director of emergency preparedness and response
- Public information officer
- District director of health planning and performance measurement
- District director of health promotion and disease prevention

- Administrative assistants

There is sometimes confusion about who public health employees work for – do they work for the county, the health district, or the State? The answer is that a public health worker will be employed *either* by the state health department *or* by a county health department.<sup>25</sup> One reason for confusion is that county public health employees are specially permitted by state law to participate in the State Health Benefits Plan, state retirement plan, workers compensation and unemployment compensation benefits, and are covered by the State’s insurance programs.<sup>26</sup> However, the state Attorney General has recognized the distinction between county and state public health workers, ruling that even though county public health workers may be funded indirectly by grant in aid funds, they are county employees and subject only to the authority of the District Health Director, whereas state public health employees are subject to the authority of DPH.<sup>27</sup>

### ***Public health services***

Your county health department provides a very wide variety of services to the people of your community. Some are required by statute, some are required by the terms of state or federal grants, and others may be chosen by the County Board of Health or upon the initiative of your District Health Director.

Here is a list of *population-based services* that may be offered by your health department, and a list of *personal or preventive services*:

#### *Population-Based Services*

Child fatality review  
 Child abuse prevention  
 Teen pregnancy prevention  
 Mosquito and rabies control  
 Child care day center audits  
 Immunization audits (schools)  
 Emergency preparedness planning

#### *Personal/Preventive Services*

Immunization  
 International travel clinic  
 Tuberculosis treatment and control  
 HIV/AIDS prevention and care  
 STD counseling and treatment  
 Lead screening and prevention  
 Dental treatment and education

<sup>25</sup> The Health Districts are not legal entities, so it is not possible for anyone to be an employee of a “health district.” Public health workers either work for the state or for the county board of health.

<sup>26</sup> O.C.G.A. §§ 45-9-1 (county public health employees covered by state liability insurance policy), 45-9-110(d)(unemployment compensation benefits insurance), 45-18-1(2)(H and I)(health insurance); 34-9-1(2)(workers compensation insurance); 45-20-2(6) and 47-2-1(16)(retirement plan.)

<sup>27</sup> Op. Att’y Gen. Nos. 74-19, 74-89. C.f. Op. Att’y Gen. No. 78-22 (“Generally speaking, employees of the county boards of health are county employees unless a statute specifically provides otherwise.”) See also O.C.G.A. § 31-3-11(b)(the DPH District Environmental Director can “recommend personnel actions” against county environmental health employees, but presumably cannot take such actions.)

Maternal/Child Health Block Grant	Nutrition counseling
Needs Assessment	Lactation counseling and support
School-based oral health education	WIC
Registration of vital records (birth and death events)	“Babies Can’t Wait” program
Investigation of environmental health hazards	Health Check Outreach and Screening for Medicaid Eligible (EPSDT)
Restaurant inspection and permits	“Children First” program
Septic system inspection and permits	1 <sup>st</sup> Care (High Risk Infant Follow-up)
Inspection of tourist accommodations, public swimming pools	Universal Newborn Hearing Screening
Health and safety programs for water wells, tattoo parlors, indoor air quality, lead poisoning, chemical hazards and pollution	Women’s health services
	Children’s health services
	Breast, cervical, and colorectal cancer prevention and screening program
	Infectious disease response and control
	Laboratory testing

In Appendix E, you will find a list of public health services funded by grant in aid from the FY2012 contract.

### ***The role of the Board of Health***

The primary role of the Board is to assess the needs of the community and provide general policy guidance, while leaving the day-to-day management and operational control of the county health department to the District Health Director.

In addition, here are some specific functions that your Board will carry out:

- The Board certifies the county health department budget each year to the County Commission, including its recommendation for a specific amount of county revenues to fund the department.<sup>28</sup>
- The Board votes on the DPH Commissioner’s appointment for District Health Director.<sup>29</sup>
- The Board votes on any proposal by the DPH Commissioner which would change the boundaries of the Health District in which your county is grouped.<sup>30</sup>

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<sup>28</sup> O.C.G.A. § 31-3-14.

<sup>29</sup> O.C.G.A. §§ 31-3-15. Once the appointment is approved, the DPH Commissioner retains the authority to remove a District Health Director. *Kautz v. Powell*, 297 Ga. 283 (2015)(citing the “universally accepted rule that, where the tenure of the office is not prescribed by law, the power of removal from office is an incident to the power to appoint.”)

<sup>30</sup> O.C.G.A. §§ 31-3-15. Such proposals also must be approved by the County Commission. *Id.*

- The Board may adopt public health rules and regulations for the county, provided those rules and regulations are not in conflict with those of DPH.<sup>31</sup>

### ***The county public health budget***

County health departments are typically funded through four sources:

- *“Grant in Aid”*. Each year, DPH makes available “grant in aid” funds to each county. These funds combine state appropriations and federal grant funds. Although some grant in aid funds may be used for any public health purpose (“general grant in aid”) the rest are earmarked for specific programs (“programmatic grant in aid.”) Grant in aid will require “matching funds” from your county.
- *Program income*. Your county health department charges for many of the services that it provides. In some cases, fees generated by grant-funded programs must be used to supplement the budget for that particular program, and cannot be diverted to unrelated expenses or other programs. Public health services are often offered on a sliding fee scale, because no person may be denied a public health service on the basis of that person’s inability to pay.<sup>32</sup>
- *Other grants*. In addition to receiving state and federal grant monies from DPH through the annual “grant in aid” contract, each county is free to pursue public health grants from other state, federal, or private sector sources. This allows you to implement programs that are needed in your community, but which may not be funded by other sources.
- *County appropriations*. Each County Commission is authorized to fund the county health department with county tax revenues.<sup>33</sup>

The law calls on the County Board of Health to make a recommendation each year to the County Commission regarding the appropriate level of county funding for your health department. The District Health Director will prepare a proposed budget for your county health department, including a recommended amount to be provided by county revenues.

It is the Board’s responsibility to determine the final budget, and to decide how much in county funding should be recommended to the County Commission. The Board will “certify” a proposed health department budget to the County Commission. If the Commission deems the Board’s certified budget to be unreasonable, it may return the budget to the Board with its objections. If the

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<sup>31</sup> O.C.G.A. § 31-3-4(a)(4).

<sup>32</sup> O.C.G.A. § 31-3-4(a)(6).

<sup>33</sup> O.C.G.A. § 31-3-14.

Commission approves the budget, then it will appropriate sufficient county revenues to fund the county's share of the budget.<sup>34</sup>

Once the budget has been approved, county health departments will submit monthly budget reports of income and expenditures to the state. DPH has established guidelines and formats for these reports so that income and expenditures compared to budget are being reported on a consistent basis throughout the state.

### ***The role of the County Commission***

The County Commission has four primary responsibilities toward the county health department:

- It is obligated by statute to provide the county health department with "quarters and equipment sufficient for its operation."<sup>35</sup>
- It appoints four of the seven members of the Board of Health.<sup>36</sup>
- It approves fee schedules for environmental services, such as fees for inspections of restaurants, tourist accommodations, and septic systems.<sup>37</sup>
- Finally, the County Commission reviews the county health department budget certified to it each year by the County Board of Health and decides what amount of county funding will go to the county health department.<sup>38</sup>
- **Note:** County Health Department employees are not County Commission employees. The County Commission has no executive authority over the County Board of Health and funds must be kept separately.

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<sup>34</sup> O.C.G.A. § 31-3-14.

<sup>35</sup> O.C.G.A. § 31-3-9.

<sup>36</sup> O.C.G.A. § 31-3-2.

<sup>37</sup> O.C.G.A. § 31-3-4(a)(6).

<sup>38</sup> O.C.G.A. § 31-3-14.



## ***IV. Service on the County Board of Health***

### ***The members of the Board***

Each County Board of Health has seven members, who must be at least 21 years old and a county resident.<sup>39</sup> The law sets out the requirements for each of those seven positions, and who appoints those members. The seven positions are:

*[Positions 1 through 4 are appointed by the county's chief executive officer]*

**Position 1:** The CEO of the county's governing authority, or another elected member of the county governing authority that is designated by the CEO.<sup>40</sup>

Term expires when member leaves elected office or when CEO assigns a replacement.

**Position 2:** A licensed physician actively practicing in the county. In a county with less than four physicians, or no physician practicing in the county who is willing and able to serve, a licensed nurse or dentist or another person having familiarity and concern for medical services in the county may be selected.

Term expires upon completion of the six year term; will be less than six years if appointed mid-term.

**Position 3:** A consumer or an advocate for consumers of health services.

Term expires upon completion of the six year term; will be less than six years if appointed mid-term.

**Position 4:** A consumer who will represent the needy, underprivileged or elderly.

Term expires upon completion of the six year term; will be less than six years if appointed mid-term.

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<sup>39</sup> O.C.G.A. §§ 31-3-2, 45-2-1.

<sup>40</sup> Op. Att'y Gen. No. 80-25.

*[Position 5 comes from the county school system]*

**Position 5:** The superintendent of schools or a designated employee of the school system.

Term expires when the superintendent or the appointing superintendent leaves office.

*[Positions 6 and 7 come from the largest city in the county.]*

**Position 6:** The chief executive officer of the governing authority of the largest city in the county, or another elected member of that authority.<sup>41</sup>

Term expires when leaving elected office or when the CEO appoints a replacement.

**Position 7:** A consumer or a licensed nurse interested in promoting public health, appointed by the governing authority of the largest city in the county.

Term expires upon completion of the six year term; will be less than six years if appointed mid-term.

Regardless of how they are appointed, the seven members of the Board are equals. Each has one vote, and no single member of the Board has any more authority than the others.

When a Board member's term expires, that Board member will continue to hold office and may continue to participate and vote on Board matters until a successor is sworn in.<sup>42</sup>

### ***Management of the Board***

The law does not dictate how a County Board of Health should organize itself or conduct its business, but says only that the Board "shall establish and adopt by-laws for its own governance," and shall meet at least once a quarter.<sup>43</sup> Most Boards choose to elect a Chair, Vice-Chair, and Secretary.

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<sup>41</sup> Op. Att'y Gen. No. U86-5.

<sup>42</sup> O.C.G.A. § 45-2-4; Op. Att'y Gen. No. 75-15.

<sup>43</sup> O.C.G.A. § 31-3-4(a)(1).

Should the Board require legal advice, the law permits it to seek the services of the county attorney or, budget permitting, to employ counsel of its choosing.<sup>44</sup>

### ***Individual responsibilities***

The first thing you will do upon being appointed to the Board is to take the oath of office.<sup>45</sup>

As an officer of county government, you will assume certain ethical obligations as well. The two key statutes outlining your ethical obligations are reprinted in full in Appendix B. All of the duties imposed by those statutes are important. However, there is one in particular that you should look out for: the obligation to refrain from participating in an official action on a matter in which you have a direct or indirect financial interest. If a matter comes before your Board that might have an impact on your financial interests, you must be sure to avoid any participation, whether through discussion or voting. If you are not sure whether you have a direct or indirect interest in a particular matter, then the best thing to do is to seek the help of the District Health Director, who can arrange for legal advice. Nothing could erode the public's trust in the Board faster than the perception that Board members benefit personally from their official actions.

### ***Meetings and Records***

Your Board is required by law to meet at least once a quarter.<sup>46</sup> Meetings of the Board are subject to Georgia's **Open Meetings Act**.<sup>47</sup> The legal requirements of that Act are quite detailed, but your county attorney and the state Attorney General can provide guidance concerning the specific steps to follow in conducting an "open meeting." Here are a few key points to remember:

- Notice of the date, time, and place of the meeting must be posted in advance.

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<sup>44</sup> O.C.G.A. § 31-3-10.

<sup>45</sup> Att'y Gen. Op. 1963-65 at p. 432 (oath of office prescribed by O.C.G.A. § 45-3-1 and loyalty oath prescribed by O.C.G.A. § 45-3-11 are required for members of county boards of health.) This language will suffice for both: "I swear to faithfully discharge my duties as a member of the \_\_\_\_ County Board of Health according to law; that I am a resident of \_\_\_\_ County and qualified to hold this office according to the Constitution and the laws of Georgia; that I am not the holder of any unaccounted for public money due this State or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other State, or any foreign state which I am by the laws of the State of Georgia prohibited from holding; and that I will support the Constitution of the United States and the Constitution of Georgia."

<sup>46</sup> O.C.G.A. § 31-3-4(a)(1).

<sup>47</sup> O.C.G.A. §§ 50-14-1 through 6.

- The agenda for the meeting must be posted within the two weeks prior to the meeting.
- The meeting must be open to the public, and members of the public must be allowed to film or record the meeting if they so desire.
- All discussions and votes must take place in open session unless exempted by law. No portion of a meeting should ever be closed to the public except in strict accordance with the Open Meetings Act. This should be done only upon legal advice.
- Minutes of the meeting must be prepared and posted within two days.

In addition, documents pertaining to the business of the County Board of Health or the county health department are subject to Georgia's **Open Records Act**.<sup>48</sup> Like the Open Meetings Act, the legal requirements of the Open Records Act are quite detailed, but your county attorney and the state Attorney General can provide guidance. The key point to remember is that a public record must be copied or produced for inspection upon request by any person, regardless of the reason for making the request. An Open Records Act request may be made verbally, electronically, or in writing. The documents must be provided within three days if possible, and if not, then a written response must be made within three days explaining when the documents will be available. There are exceptions to the Open Records Act, but you should never refuse to disclose a document except upon legal advice.

### ***Key functions of the Board***

Your Board is one of the three key players in the administration of public health in Georgia, with general responsibility for setting health policies and priorities for the county health department. Although the law delegates most of the county's public health functions and powers to the District Health Director,<sup>49</sup> your board of health is responsible for exercising these functions:

- The Board certifies the county health department budget each year to the County Commission. The District Health Director will prepare a proposed budget, but the Board has the final say on what will be recommended to the County, including the amount of county revenues that will be requested.<sup>50</sup>
- The Board votes on the DPH Commissioner's appointment for District Health Director.<sup>51</sup> In addition, members of the Board may be asked to serve on search committees or interview teams.

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<sup>48</sup> O.C.G.A. §§ 50-18-70 through 77.

<sup>49</sup> O.C.G.A. § 31-3-12.

<sup>50</sup> O.C.G.A. § 31-3-14.

<sup>51</sup> O.C.G.A. § 31-3-15.

- The Board votes on any proposal by the DPH Commissioner which would change the boundaries of the Health District in which your county is grouped. Such proposals also must be approved by the County Commission.<sup>52</sup>
- The Board approves “policies and directives” which the District Health Director will implement.<sup>53</sup>
- The Board may adopt public health rules and regulations for the county, provided those rules and regulations are not in conflict with those of DPH.<sup>54</sup>

In addition, County Boards of Health play an important role in ways that are not spelled out in the statute books. For example:

- Board members function as the eyes and ears of the community. They advise the District Health Director on the specific public health needs of the community, and may suggest ideas for programs and services to meet those needs.
- Board members serve as links to local government and community resources. Public health works best in cooperation with local partners, such as hospitals, health care providers, businesses, and civic leaders.
- Board members serve as advocates for public health in their community.

### ***Working With Your District Health Director***

It is essential for the Board to develop a good working relationship with the District Health Director, who is tasked by law to serve as the Chief Executive Officer of the county health department. The District Health Director is your key source of information about the workings of the county health department. By law, the District Health Director reports to both the Commissioner of Public Health and to each County Board of Health in his health district.<sup>55</sup> The duty to serve multiple masters makes the District Health Director’s job one of the toughest in government. As such, it is important for both DPH and the Board to respect the Director’s managerial discretion, and to avoid any temptation to micromanage the operations of the health department.

It may sometimes be difficult to know whether a particular issue falls within the purview of the Board or that of the District Health Director. Understanding the

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<sup>52</sup> O.C.G.A. § 31-3-15.

<sup>53</sup> O.C.G.A. § 31-3-12.

<sup>54</sup> O.C.G.A. § 31-3-4(a)(4).

<sup>55</sup> O.C.G.A. § 31-3-12.

relationship of the Board to the District Health Director is critical to the success of your county's public health program.

The law delegates the functions and powers of the county health department to the District Health Directors, and gives them them right of approval over “the scope of services, operating details, contracts, and fees approved by the county board of health.”<sup>56</sup> However, the law also obligates them to exercise those functions and powers “subject to the policies and directives of the multiple county districts served.”<sup>57</sup> The result is a balancing act: the law calls on the District Health Director to carry out your policy decisions, but it also calls on your Board to take into account the fact that the Director may be subject to policy directives from other Boards in your Health District, and has to manage the day to day operations of one or more county health departments with limited personnel and financial resources. This will not always be easy. Ideally, the District Health Director will defer to the Board's policy choices, and the Board will defer to the District Health Director's need for managerial discretion.

Personnel issues may find their way to the Board. If an employee of the county health department approaches you with complaints about disciplinary actions, promotions, salary, or even perceived wrongdoing by public employees, then you should discuss it with the District Health Director before bringing it up with the full Board. In general, the Board should be wary of being dragged into personnel disputes. One way of avoiding this situation is to ask, “Is this issue related to policy, agency direction or planning, or rules and regulations?” If not, it is likely an issue best left to the District Health Director and staff to resolve.

The District Health Director and the District staff will be your main source of information about the operations of your county health department - its budget, income and expenses, organization, personnel issues, services offered, and people served. If your health district comprises multiple counties, please bear in mind that the District Health Director and District staff also receives inquiries from other Boards, and must divert resources from their daily duties to respond. Please be patient when requesting information and reports!

### ***Compensation and liability***

The law provides that a Board member may be paid no more than \$25 per meeting, “provided funds therefor have been established by budget and are available from funds allocated to that purpose.”<sup>58</sup>

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<sup>56</sup> O.C.G.A. § 31-3-4(6).

<sup>57</sup> O.C.G.A. § 31-3-12.

<sup>58</sup> O.C.G.A. § 31-3-7.

You clearly will not get rich from your service on the Board, but the law does provide you with significant protection from liability for actions taken within the scope of your authority as a member of the Board.<sup>59</sup> Individual members of a County Board of Health are specifically covered under the State's general liability insurance policy for "damages arising out of the performance of their duties or in any way connected therewith."<sup>60</sup> In the unlikely event that you are named as a party to a lawsuit involving your actions as a Board member, please contact your District Health Director, who will notify the responsible agencies to arrange for your defense.<sup>61</sup>

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<sup>59</sup> See *Gilbert v. Richardson*, 264 Ga. 744 (1994)(county officials entitled to "official immunity" for discretionary acts taken within the scope of their official duties).

<sup>60</sup> O.C.G.A. § 45-9-1. The Georgia Department of Administrative Services (DOAS) serves as the State's risk management agency, and procures its general liability insurance. DOAS has advised that the County Board of Health itself, as a legal entity separate and apart from its individual members, is *not* covered by the State's liability insurance. In addition, DOAS has cautioned Board members in the past that actions taken outside the scope of their authority, including interference in individual personnel matters, may result in denial of coverage.

<sup>61</sup> The Georgia Department of Law oversees legal defense of cases brought against State officers or agencies, including employees and members of the County Boards of Health. O.C.G.A. § 45-9-1.

## ***V. Appendices***

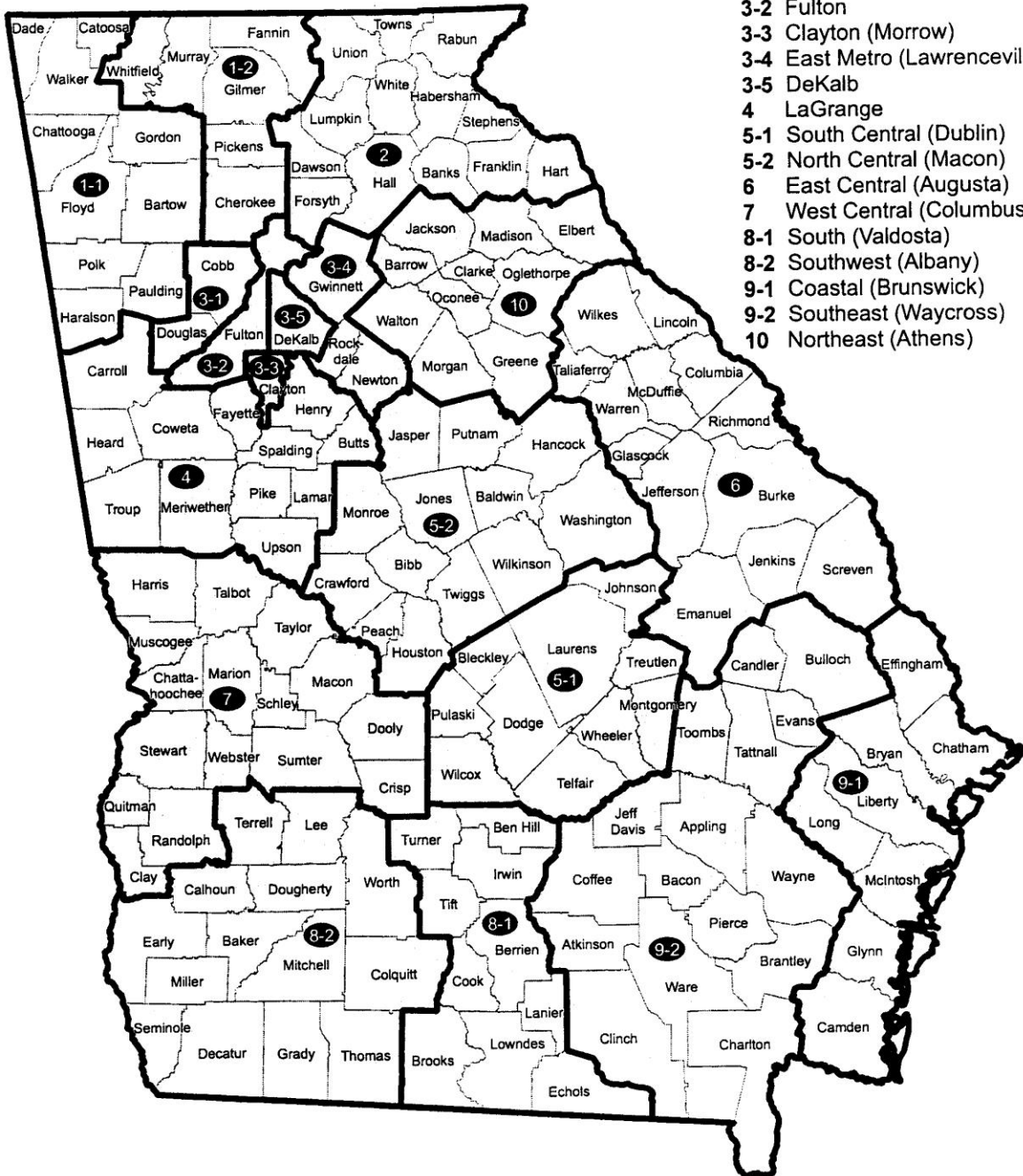
- A. Map of Georgia's Public Health Districts***
- B. Georgia Ethics Statutes***
- C. Chronology of public health in Georgia***
- D. Sample Board of Health By-Laws***



# APPENDIX A: GEORGIA PUBLIC HEALTH DISTRICTS

## GEORGIA Public Health Districts

- 1-1 Northwest (Rome)
- 1-2 North Georgia (Dalton)
- 2 North (Gainesville)
- 3-1 Cobb-Douglas
- 3-2 Fulton
- 3-3 Clayton (Morrow)
- 3-4 East Metro (Lawrenceville)
- 3-5 DeKalb
- 4 LaGrange
- 5-1 South Central (Dublin)
- 5-2 North Central (Macon)
- 6 East Central (Augusta)
- 7 West Central (Columbus)
- 8-1 South (Valdosta)
- 8-2 Southwest (Albany)
- 9-1 Coastal (Brunswick)
- 9-2 Southeast (Waycross)
- 10 Northeast (Athens)



## ***APPENDIX B: GEORGIA ETHICS STATUTES***

### **O.C.G.A. § 45-10-1: Establishment and text of code of ethics for government service generally**

There is established for and within the state and for and in all governments therein a code of ethics for government service which shall read as follows:

#### **CODE OF ETHICS FOR GOVERNMENT SERVICE**

Any person in government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department.

II. Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.

VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

### **O.C.G.A. § 45-10-3: Code of ethics for members of boards, commissions, and authorities**

Notwithstanding any provisions of law to the contrary, each member of all boards, commissions, and authorities created by general statute shall:

(1) Uphold the Constitution, laws, and regulations of the United States, the

State of Georgia, and all governments therein and never be a party to their evasion;

(2) Never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration;

(3) Not engage in any business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties;

(4) Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit;

(5) Expose corruption wherever discovered;

(6) Never solicit, accept, or agree to accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person, association, or corporation under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the member's official duties;

(7) Never accept any economic opportunity under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties;

(8) Never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust; and

(9) Never take any official action with regard to any matter under circumstances in which he knows or should know that he has a direct or indirect monetary interest in the subject matter of such matter or in the outcome of such official action.

## **Appendix C: A Timeline of Public Health In Georgia**

- 1760 The colony of Georgia passes a strict quarantine law in response to smallpox outbreaks. It is the first public health law in Georgia.<sup>62</sup>
- 1786 The position of Health Officer for the Port of Savannah is created.<sup>63</sup>
- 1804 Savannah establishes a Board of Health.<sup>64</sup>
- 1875 The General Assembly creates the first **State Board of Health** “for the protection of life and health and to prevent the spread of disease,” and appropriates a budget of \$1500.<sup>65</sup>
- The Board is tasked “to make inquiries in respect to the causes of diseases, and especially epidemics, and investigate the sources of mortality, and the effects of localities, employments, and other conditions upon the public health.”
  - Nine physicians are to be given the position of “Sanitary Commissioner,” one for each Congressional District.
  - The Board is given no specific enforcement authority, but is to “advise and co-operate” with local health officers, collect information, and make reports as requested by state and local officials.
  - The Act of 1875 also calls on the Board to supervise the collection of records of birth, marriage, and death.
- 1876 Only twenty-one counties have organized Boards of Health. Due to this lack of interest by county governments, the State Board of Health recommends that the Board be given power of appointment and supervisory authority over county health boards.<sup>66</sup>
- 1877 No funds are appropriated for the State Board of Health, and it ceases to function.<sup>67</sup>
- 1888 Savannah employs the state’s first full-time health officer.<sup>68</sup>
- 1898 Savannah employs the state’s first public health nurse.<sup>69</sup>

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<sup>62</sup> T. F. Abercrombie, M.D., *History of Public Health in Georgia, 1733 – 1950* (1950) at p. 23.

<sup>63</sup> Abercrombie at pp. 28, 43.

<sup>64</sup> *Id.*

<sup>65</sup> *Ga. Laws 1875*, p. 32; Abercrombie at p. 38.

<sup>66</sup> *Id.* at p. 45.

<sup>67</sup> *Id.* at pp.43-46.

<sup>68</sup> *Id.* at p.46.

- 1901 The City of Atlanta establishes its own health department.<sup>70</sup>
- 1903 The General Assembly again creates a State Board of Health with “supervision of all matters relating to the life and health of the people of the State.”<sup>71</sup> Physicians are to constitute a majority of the Board.
- The Board is given “supreme authority in matters of quarantine,” and the duty “to take prompt action to control and suppress” the outbreak of disease.
  - The Board is authorized to issue “reasonable orders and regulations to prevent the spread of contagious or infectious diseases,” and to fine local officials who do not obey those orders and regulations.<sup>72</sup>
  - The Board is tasked to “act in harmony with local boards of health,” and prohibited from “superced[ing] municipal boards of health” or “violating any of the provisions [of the Code] relating to the duty of local boards of health.”
  - Responsibility for a statewide registry of vital statistics is again placed with the Board of Health.
  - Only \$3000 is appropriated for its first year, barely enough for one fulltime employee. An office in the basement of the Capitol is secured after “months of rather delicate negotiation.”<sup>73</sup>
- 1905 The Board opens a “bacteriological laboratory” in the Capitol basement.<sup>74</sup>
- 1914 The General Assembly passes the **Ellis Health Law**.<sup>75</sup> The major features of the new law are:
- A “County Board of Health” is created for each county, to have “supervision over all matters relating to health and sanitation in their respective counties, with authority to declare and enforce quarantine.”
    - The CBOH only becomes active if two successive county grand juries call for it, and may be eliminated if two successive grand juries so recommend.

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<sup>69</sup> *The History of Public Health Nursing in Georgia 1898 – 2002* (2005) at p. 31.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at pp. 54-55; *Ga. Laws 1903*, p. 72.

<sup>72</sup> *Id.* at pp. 54-55. Interestingly, such fines were to be paid into the treasury of the local government.

<sup>73</sup> *Abercrombie* at p. 59.

<sup>74</sup> *Abercrombie* at p. 58.

<sup>75</sup> *Ga. Laws 1914*, p. 124.

- CBOH authorized to “employ visiting nurses to aid in examination of school children and to instruct parents in matters pertaining to their children.”
- Each county constitutes a separate “health district” unless the Board of Health approves, after consent of all counties involved, the creation of a multicounty health district.
- Each health district is run by a “District Commissioner”
  - The District Commissioner is a physician appointed by the CBOH from a list provided by the Secretary of the Board of Health, who is authorized to administer examinations to determine suitable candidates.
  - Though the county is required to pay the District Commissioner and provide “suitable quarters” for him, the District Commissioner is an “officer of the State” and may be suspended by the Board of Health.
    - The District Commissioner is to report monthly to the State Board of Health on all work done.
  - The District Commissioner has “supreme authority on all matters affecting the public health of his district, not inconsistent with the authority granted to the State Board of Health.”
    - The Ellis Health Law prescribes two full pages of duties to the District Commissioner, beginning with the duty “to be vigilant in the work of disease prevention, and the conservation of public health, and to enforce all health laws of the State and health ordinances of their respective localities, together with the rules and orders of the State Board of Health.”

1922            The State Board of Health hires its first public health nurse, who is assigned to a “healthmobile” for expectant mothers and young children. The next year, the Board hires its first African-American public health nurse, who advises midwives in the Atlanta area.<sup>76</sup>

1931            The State Board of Health is abolished and replaced by a Department of Public Health pursuant to the Executive Reorganization Act of 1931.

1933            The State Board of Health is recreated to oversee the Department of Public Health. Public health nurse positions are discontinued

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<sup>76</sup> Abercrombie at p. 107.

due to lack of funding. The Department's nurses are re-hired by the Georgia Relief Commission.<sup>77</sup>

- 1937 Federal Social Security funds become available to the State to distribute as grants-in-aid to county boards of health.<sup>78</sup> These monies are also used to hire an obstetrician and pediatrician, and to expand maternal and child clinics, dental and venereal disease programs, and county nursing services.<sup>79</sup>
- 1940 Fifty-five Georgia counties have a fulltime health service; 121 counties have a fulltime public health nurse.<sup>80</sup>
- 1964 The **1964 Health Code** is enacted to consolidate and modernize the Ellis Health Law.<sup>81</sup> This Code is the basis for today's public health laws.
- The powers and duties of DPH, the CBOHs, and the District Health Directors are allocated in a manner still in effect today.
  - DPH is given limited but significant oversight over CBOHs, including
    - CBOH must obtain DPH approval for all CBOH contracts;
    - Orders or actions of a CBOH may be appealed to DPH;
    - The rules and regulations of a CBOH cannot conflict with DPH's rules and regulations;
    - CBOH is required to keep DPH informed of the names, addresses, and terms of its members;
    - CBOH is required to coordinate with DPH to develop programs, activities, and facilities responsive to local needs; and
    - CBOH is required to secure compliance with rules and regulations of DPH within the county.
- 1972 As part of a major reorganization of state government, the functions of the Department of Health are transferred to the Division of Public Health of the newly created Department of Human Resources.<sup>82</sup>
- 2009 The Division of Public Health is transferred to the Department of Community Health.<sup>83</sup>

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<sup>77</sup> *The History of Public Health Nursing in Georgia* at pp. 33-34.

<sup>78</sup> Abercrombie at p.155.

<sup>79</sup> *Id.* at p. 164.

<sup>80</sup> *Id.* at pp. 155-156; *The History of Public Health Nursing in Georgia* at p. 35.

<sup>81</sup> *Ga. Laws 1964*, p. 499.

<sup>82</sup> *Ga. Laws 1972*, p. 1071.

2011 Governor Nathan Deal signs House Bill 214, which re-establishes the Department of Public Health as a separate state agency to be headed by a Commissioner of Public Health.<sup>84</sup>

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<sup>83</sup> *Ga. Laws 2009.*

<sup>84</sup> *Ga. Laws 2011.*



# **APPENDIX D: SAMPLE COUNTY BOARD OF HEALTH BY-LAWS**

## **BY-LAWS of the \_\_\_\_\_ COUNTY BOARD OF HEALTH**

### **ARTICLE I**

**NAME:** This Board is a creation of Chapter 31-3 of the Official Code of Georgia, which establishes a county board of health in each and every county of the State. This Board shall be known as the \_\_\_\_\_ County Board of Health.

### **ARTICLE II**

**FUNCTIONS AND POWERS:** The functions and powers of this Board of Health are those given it by Sections 31-3-4 and 31-3-5 of the Official Code of Georgia.

### **ARTICLE III**

**MEMBERSHIP:** This Board of Health shall be composed of seven members as provided in Section 31-3-2 of the Official Code of Georgia. Composition of the Board, appointments, and terms of members, notification of vacancies, appointment and qualification of members to fill vacancies shall all be according to said Code Section and these By-Laws.

### **ARTICLE IV**

**TITLES OF OFFICERS:** The officers of this Board of Health shall be the Chair, Vice-Chair, and Secretary.

**ELECTION OF OFFICERS:** Officers shall be elected annually and at the first regular meeting of the Board of each year and hold office until a successor is elected.

**DUTIES OF THE OFFICERS:** The Chair shall call and preside at all meetings of this Board of Health and shall be a member *ex-officio* of any or all committees of the Board which might be appointed. The Vice-Chair, in the absence of the Chair, shall assume the duties of the Chair and have all this authority.

### **ARTICLE V**

**CHIEF EXECUTIVE OFFICER:** The District Health Director of Public Health District \_\_\_\_\_ shall serve as the Chief Executive Officer of this Board of Health as provided in Sections 31-3-12 and 31-3-15 of the Official Code of Georgia.

**FUNCTIONS AND POWERS:** The District Health Director, as Chief Executive Officer of this Board of Health, shall in the name of said Board of Health perform the functions and exercise the powers set forth in Chapter 31-3 of the Official Code of Georgia, except the power to adopt By-Laws and adopt rules.

### **ARTICLE VI**

**REGULAR MEETINGS:** Regular meetings shall be held no less frequently than quarterly.

**SPECIAL MEETINGS:** Special meetings may be called by the Chair at the request of any member of the Board or as deemed necessary by the Chair. No business shall be transacted at a special meeting except that stated in the notice calling the meeting. Notice of any special meeting shall be given at least five days before the time set for the meeting;

provided, however, that a meeting called to respond to a public health emergency may be held as soon as a quorum of member is assembled.

**QUORUM:** The Chair or Vice-Chair, and at least three other members of the Board, shall constitute a quorum for the conduct of business.

**AMENDMENTS:** These By-Laws may be amended after notice at any regular meeting of the Board. Such notice shall be referred to a special committee which shall report at the next regular meeting and shall require a majority vote of those present for adoption. Amendments so made shall be effective when approved by the Board.

**PARLIAMENTARY AUTHORITY:** The rules contained in the current edition of *Robert's Rule of Order* shall govern in all cases to which they are applicable.

**ADOPTION:** These By-Laws shall be adopted at any regular meeting of the Board and shall replace any previous By-Laws. They shall become effective when approved by the Board.

Adopted by the \_\_\_\_\_ County Board of Health this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
CHAIR, \_\_\_\_\_ County Board of Health