

N.C. Local Health Departments, Directors, & Boards

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Image Source: iStockphotos.com

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NC law requires counties to provide public health services



**"A county shall provide public health services."**  
G.S. 130A-34

Image source: pixabay.com

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Every county has:

- |                         |  |
|-------------------------|--|
| Local health department | • A single-county or multi-county agency that provides public health services (AKA local public health agency)   |
| Local board of health   | • A board empowered to exercise the legal powers and duties of a board of health (AKA governing board)   |
| Local health director   | • An employee and officer of the department who meets certain education & experience criteria and who is authorized to carry out powers and duties prescribed by law |

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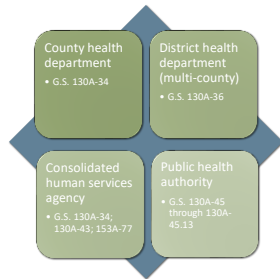
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NC law establishes four types of local health department



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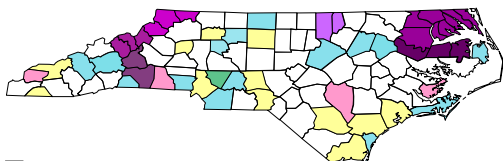
The department type determines the type of board of health (BOH)

Department type	BOH type	N.C. laws
County health department	County board of health (appointed), or	G.S. 130A-35
	Board of county commissioners serves as board of health and appoints an advisory committee	G.S. 153A-77(a)
District (multi-county) health department	District board of health (appointed)	G.S. 130A-37
Consolidated human services agency	Consolidated human services (CHS) board (appointed), or	G.S. 153A-77(c)
	Board of county commissioners serves as CHS board and appoints an advisory committee	G.S. 153A-77(a)
Public health authority	Public health authority board	G.S. 130A-45.1

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#### Types of Local Public Health Agencies & Boards

March 2022



- County health department with county board of health (47)
- County health department governed by board of county commissioners (Graham, Cleveland, Sampson, Pamlico) (4)
- District health department with district board of health (6 districts delineated by different shades of purple) (Forsyth, Mitchell, Avery, Rutherford, McDowell, Watauga, Ashe, Allegheny, Granville, Vance, Hertford, Bertie, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Martin, Tyrrell, Washington) (23)
- Consolidated human services agency with consolidated human services board (Wayne, Brunswick, Polk, Gaston, Davis, Union, Forsyth, Stanly, Rockingham, Wake, Nash, Edgecombe, New Hanover, Carteret, Dare) (25)
- Consolidated human services agency governed by board of county commissioners (Cay, Swain, Alexander, Yadkin, Mecklenburg [no advisory committee], Guilford, Montgomery, Richmond, Bladen, Brunswick, Pender, Onslow) (12)
- Public health authority with hospital board of health to act as board of health (Cabarrus) (2)

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Local Health Department Services

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## Essential Public Health Services in NC law

NC law incorporates the pre-2020 essential public health services in two ways:

- Each local health department is responsible for assuring these essential services.  
G.S. 130A-1.1.
- NC local health department accreditation criteria are based on these essential services.  
G.S. 130A-34.1.



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## Mandated services

### Provide

- On-site water supply
- Sanitary sewage collection, treatment, & disposal
- Food, lodging, & institutional sanitation
- Communicable disease control
- Vital records registration (public health-specific responsibilities)

### Provide or assure

- Child health
- Maternal health
- Family planning
- Dental public health
- Home health
- Adult health
- Public health laboratory

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### Examples of Health Department Services, Programs & Activities



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### Who appoints the local health director?

County health department	• County board of health
District health department	• District board of health
Consolidated human services agency	• County manager appoints CHS director with advice and consent of CHS board; CHS director appoints health director with county manager's approval
Public health authority	• Public health authority board

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## What education & experience is required to be a local health director?

A local health director must have a medical doctorate or one of the following combinations of education and experience:

- Master's in public health administration and one year experience in health programs or services;
- Master's in other public health discipline and three years' experience in health programs/services;
- Master's in public administration and two years' experience in health programs/services;
- Master's in field related to public health and three years' experience in health programs/services; or
- Bachelor's in public health administration or public administration and three years' experience in health programs/services.



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## Local health director powers and duties

### G.S. 130A-41 (LHD powers & duties)

- Administer public health programs
- Hire/dismiss employees\*
- Enforce local public health rules
- Investigate & control communicable diseases
- Isolation & quarantine authority
- Enforce immunization laws
- Investigate & control rabies
- Abate public health nuisances & imminent hazards
- Disseminate public health information and promote health
- Advise local officials
- Enter contracts\*

### Elsewhere in G.S. 130A

- Rabies vaccination clinic
- Embargo authority
- Access to records
- Etc.

### Elsewhere in G.S.

- Approve jail medical plan
- Relocation of graves
- Etc.

### Regulations and other

- Compliance, budget, etc.

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N.C. Boards of Health

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County BOH (11 members)	CHS board (up to 25 members)	District BOH (15-18 members)	PHA Board (7-11 members)
<ul style="list-style-type: none"> <li>County commissioner</li> <li>Physician</li> <li>Dentist</li> <li>Optometrist</li> <li>Veterinarian</li> <li>Registered nurse</li> <li>Pharmacist</li> <li>Professional engineer</li> <li>3 general public</li> </ul>	<ul style="list-style-type: none"> <li>County commissioner</li> <li>2 physicians (1 must be a psychiatrist)</li> <li>Dentist</li> <li>Optometrist</li> <li>Veterinarian</li> <li>Registered nurse</li> <li>Pharmacist</li> <li>Engineer</li> <li>Psychologist</li> <li>Social worker</li> <li>4 consumers of human services</li> <li>General public members</li> </ul>	<ul style="list-style-type: none"> <li>County commissioner from each county</li> <li>Physician</li> <li>Dentist</li> <li>Optometrist</li> <li>Veterinarian</li> <li>Registered nurse</li> <li>Pharmacist</li> <li>Professional engineer</li> </ul>	<ul style="list-style-type: none"> <li>County commissioner</li> <li>Physician</li> <li>Dentist</li> <li>Any 2 of the following:               <ul style="list-style-type: none"> <li>Optometrist</li> <li>Veterinarian</li> <li>Nurse</li> <li>Pharmacist</li> <li>Engineer</li> <li>Accountant</li> </ul> </li> <li>Hospital administrator</li> <li>General public members</li> </ul>

If board of county commissioners assumes role of county BOH or CHS board, the elected commissioners serve as the board and appoint an advisory committee, which must include the same members as a county BOH.

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## NC law prescribes a board of health's role and gives it its powers and duties



Image source: commons.wikimedia.org

Role: Protect and promote the public health

Powers and duties include:

- Adopt local public health rules (AKA board of health rules)
- Adjudicate disputes regarding local public health rules
- Make policy for local public health agency
- Impose local public health fees
- Satisfy state accreditation requirements for BOHs
- Appoint the local health director, unless the agency is a CHSA

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## Advisory committee on health

When a board of county commissioners (BOCC) assumes the powers and duties of a board of health, or of a consolidated human services board that includes public health, the BOCC must appoint an advisory committee on health.



Image source: Pexels.com

Advisory committee membership must include:


- County commissioner
- Physician
- Dentist
- Optometrist
- Veterinarian
- Registered nurse
- Pharmacist
- Professional engineer
- Three members of general public

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Division of duties between a board of county commissioners that has assumed BOH powers/duties and the advisory committee on health

BOARD OF COMMISSIONERS	ADVISORY COMMITTEE
<ul style="list-style-type: none"> <li>Make policy for local health department</li> <li>Adopt local public health rules</li> <li>Adjudicate disputes about local rules</li> <li>Impose local public health fees</li> <li>Non-delegable activities of boards of health that are required by the North Carolina Local Health Department Accreditation Standards</li> </ul>	<ul style="list-style-type: none"> <li>Advise on public health matters</li> <li>Carry out activities that may be delegated to advisory committees under the North Carolina Local Health Department Accreditation Standards</li> </ul>

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**Board of Health Rulemaking Authority**

Training series on board of health rulemaking authority, supported and hosted by the NC Institute for Public Health and available at <https://sph.unc.edu/nciph/nciph-boh-rulemaking-authority/>

### Rulemaking

What is a board of health rule? How does it differ from other local actions, such as county ordinances or departmental policies?

What may a board of health rule address?

What are the limitations on board of health rulemaking?

What is the procedure for adopting, amending, or repealing a public health rule?

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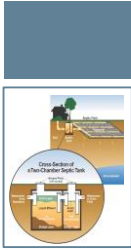
NC local boards of health adopt rules that are necessary to protect & promote public health

"A local board of health shall have the responsibility to protect and promote the public health. The board of health shall have the authority to adopt rules necessary for that purpose."  
G.S. 130A-39



Image Source: Shutterstock.com

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## What is a BOH rule and what can it do?

In order to protect or promote the health of the public, a BOH rule may:

- Prohibit people from taking certain actions, or
- Require people to take certain actions.

A BOH rule is an *administrative* action that is authorized by state law and subject to limits imposed by state laws.

Image Sources: [complianceinc.com](https://www.complianceinc.com) & [site.extension.uga.edu](https://www.extension.uga.edu)

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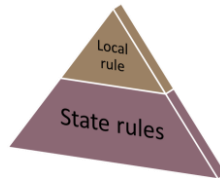
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## A local rule may be more stringent than state public health rules if necessary to protect public health

### General Rule

A BOH may adopt a rule in an area already regulated by the Commission for Public Health or the Environmental Management Commission if:

- The local rule is more stringent than the state rules; and
- The BOH determines that a more stringent local rule is required to protect public health.



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## Additional limitations for local BOH rules that address certain topics

Food & lodging sanitation	Private drinking water wells	On-site wastewater	Smoking
<ul style="list-style-type: none"> <li>Local rules generally not allowed</li> </ul>	<ul style="list-style-type: none"> <li>Local rules must adopt and supplement state rules</li> </ul>	<ul style="list-style-type: none"> <li>Local rules must adopt and supplement state rules</li> <li>State must approve local rules</li> </ul>	<ul style="list-style-type: none"> <li>Local rules may regulate smoking in specified places</li> <li>Board of county commissioners must approve local rules</li> </ul>

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## Notice of rulemaking

A board of health must provide the public at least 10 days' notice of the board's intent to adopt, amend, or repeal a board of health rule.

Ten days before proposed rulemaking action:

Give the county clerk a copy of the new rule, the amended rule, or the resolution to repeal a rule;

Publish a notice in a newspaper with general circulation in the jurisdiction that states the substance of the proposed action and the proposed effective date, and that tells the public that copies are available at the health department.

Make copies available at the health department.

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Type of enforcement action	Consequence	Local rules that may be enforced this way
Civil	Injunction (court order)	Any local BOH rule
Criminal	Misdemeanor	Any local BOH rule except rules regulating smoking in public places
	Infraction	Only local BOH rules regulating smoking in public places
Administrative penalty	Monetary fine	Only local BOH rules addressing on-site wastewater

## Local BOH rules have the "force of law"

BOH rules may be legally enforced against those who do not comply using public health remedies that are prescribed in law.



Image Source: iadaily.com

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## Local Board of Health Adjudications

**Jurisdiction:** Local boards of health hear appeals of only two types of actions:

- The enforcement of local board of health rules
- The imposition of administrative penalties (fines) by the local health director

**Timelines:** The timeline starts running when the health department employee or health director takes the action that prompts the appeal.

- **30 days to appeal:** The aggrieved person has 30 calendar days to give notice of appeal. The notice must be in writing and include certain information.

- **5 days to provide notice and information to the board:** The local health director then must transmit the notice of appeal to the board of health along with additional relevant materials within 5 working days.

- **15 days to hearing, with 10 days' notice of hearing:** The board must hold a hearing within 15 days of receipt of the notice, and it must give the aggrieved person at least 10 days' notice of the date, time, and place of the hearing.

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## Local Board of Health Adjudications

### Hearing and Decision:

- The board must hold the hearing and then reach a decision based on the evidence presented.
- The board's decision may affirm, modify, or reverse the health department's action.
- The board must issue a written decision with a concise statement of the reasons for the decision.

### Legal Assistance:

- The health director should notify the department's attorney immediately when notice of appeal is received.
- The board of health should work with the attorney in conducting the hearing and preparing the written decision.

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## Acknowledgment

Many of the slides in this presentation were adapted from a training developed in collaboration with the NC Institute for Public Health at the UNC Gillings School of Public Health and supported with funding from the Division of Public Health, N.C. Department of Health and Human Services.

I am grateful to the NC Institute for Public Health for its expert design support.

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## For more information

Jill D. Moore, Ch. 38: Public Health, in *County and Municipal Government in North Carolina*, 2d ed. Frayda S. Bluestein, ed. (UNC School of Government, 2014).

Jill D. Moore, Local Boards of Health in North Carolina: Overview of Membership Requirements and Legal Authorities (2018), available at <https://www.sog.unc.edu/resources/microsites/north-carolina-public-health-law/boards-health-north-carolina>.

NC Institute for Public Health, Board of Health Rulemaking Authority Training Series, available at <https://sph.unc.edu/nciph/nciph-boh-rulemaking-authority/>.

UNC School of Government online resources:

- Human services website: [humanservices.sog.unc.edu](https://humanservices.sog.unc.edu)
- NC public health law website: [ncphlaw.unc.edu](https://ncphlaw.unc.edu)
- Coates' Canons local government law blog: [canons.sog.unc.edu](https://canons.sog.unc.edu)

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