

Public Health Authorities

Every county in North Carolina is required by law to provide public health services. In 1997, the General Assembly enacted a law (G.S. Chapter 130A, Article 2, Part 1A) that permits counties to meet this obligation by forming public health authorities. A public health authority (PHA) may be formed by a single county or by two or more counties jointly.

Creating a Public Health Authority

A PHA is created by a joint resolution of the board of commissioners and local board of health, or if it is a multi-county authority, by a joint resolution of all the affected counties' boards of commissioners and boards of health. A county may join an existing PHA upon a joint resolution of the boards of commissioners and local boards of health of the affected counties. In each case, the resolution must find that it is in the interest of the public health and welfare to create a PHA to provide public health services.

Before adopting the resolution, the commissioners must hold a public hearing. Notice of the hearing must be published at least ten days before the hearing.

Public Health Authority Board

A PHA is governed by a public health authority board, which replaces the local board of health and assumes its powers, duties, and functions. The board is the policy-making, rule-making, and adjudicatory body for the PHA.

Membership

Typically, a single-county PHA board is composed of 7 to 9 members and a multi-county board is composed of 8 to 11 members. However, a PHA board that intends to pursue federally qualified health center status (or look-alike status) may have no fewer than 9 and no more than 25 members. The board of commissioners of a single-county PHA is appointed by the county's board of commissioners. For a multi-county PHA, the chairs of the boards of commissioners of each county in the PHA appoint one commissioner to serve on the board. Those commissioners then select the remaining members of the board.

The members of the board must include a physician, a dentist, a county commissioner from each county in the authority, a member of the administrative staff of a hospital serving the authority's service area, a member of the general public, and two licensed or registered professionals from any of the following professions: optometry, veterinary science, nursing, pharmacy, engineering, or accounting. Board members serve 3-year terms (initial appointments may be made for periods of less than three years to achieve a staggered term structure). The board members elect a chair annually. The PHA board appoints a PHA director, who serves at the pleasure of the board.

PHA Board Powers and Duties

Protection of public health: The PHA board has the duty to protect and promote the public health, and may adopt rules necessary to meet that duty.

Board operations: The board may adopt, amend, and repeal bylaws for the conduct of its business. It may appoint advisory boards, committees, and councils to advise the board. The board may sue and be sued. It may insure its property or operations against risks, and it may insure itself, its board members, agents, or employees against liability. It may employ its own counsel and legal staff.

Management and administration: The board is responsible for appointing a PHA director, who serves at the pleasure of the board. The board has the following powers related to financing the PHA: establishing a fee schedule for services, setting the salaries of PHA employees, and adopting and enforcing a professional reimbursement policy. The board has the authority to enter into contracts for necessary supplies, equipment, or services for the operation of its business. The board may establish and operate health care networks. It may also contract with other public health agencies or with any person, private organization, or nonprofit corporation or association for the provision of public health services.

Acquisition and use of property: The board may: construct, equip, operate, and maintain public health facilities; use property owned or controlled by the authority; acquire real or personal property; act as an agent for the federal, state, or local government in connection with the acquisition, construction, operation, or management of a public health facility; accept and take title to donations of money, personal property, or real estate for the benefit of the authority; lease a public health facility to a nonprofit association on terms and conditions consistent with the Public Health Authorities Act; lease a public health facility to any corporation on terms and conditions consistent with G.S. 160A-272; and sell surplus buildings, land, or equipment to any corporation or other business entity operated for profit. With the permission of the county commissioners, the board may acquire property by condemnation.

Delegation of powers and duties: The PHA board may make appropriate delegations of the board's powers and duties to its agents or employees.

Public Health Authority Director

The PHA board appoints a PHA director after consulting with the boards of commissioners of all counties in the authority. The PHA director serves as secretary to the board and performs duties prescribed by and under the supervision of the board. The director must be employed full-time in the field of public health.

The PHA director has the same statutory powers and duties as a local health director for a county or district health department, with one exception: the PHA director does not have the authority to enter contracts. By statute, that authority is given to the PHA board (which may delegate the authority to the director if it chooses).

Dissolving a Public Health Authority

A PHA may be dissolved if the county commissioners determine that the PHA is not operating in the best health interests of the county. For multi-county PHAs, all of the boards of commissioners served by the PHA must reach this determination for the PHA to be completely dissolved. However, a single county may withdraw from a multi-county PHA (leaving the rest of the PHA intact) if the withdrawing county's commissioners determine that the PHA is not operating in the best interest of the county. Dissolution of a PHA or withdrawal from a PHA becomes effective at the end of the fiscal year in which the decision to dissolve or withdraw is made.

Comparison of Powers and Duties—Local Boards of Health and Public Health Authority Boards

	Local Board of Health	Public Health Authority Board
Serve as policy-making, rule-making, and adjudicatory body for public health	yes	yes
Protect and promote public health, and adopt rules necessary to that purpose	yes	yes
Appoint a director after consultation with county commissioners	yes	yes
Impose fees for services	subject to BOCC approval ^a	yes
Employ legal counsel and staff	district=yes county=no	yes
Enter contracts	no ^b	yes
Set salaries of employees and professional reimbursement policies	district-limited ^c county=no	yes
Construct, equip, operate, and maintain public health facilities	no	yes
Lease public health facilities	no	yes
Sell surplus buildings, land, and equipment	no	yes
Acquire property by purchase, grant, gift, devise, or lease, or, with permission of county commissioners, condemnation	no	yes
Establish and operate health care networks and contract for the provision of public health services ^d	no	yes

^a Fees imposed by a local board of health must be based upon a plan recommended by the health director and approved by the county commissioners. PHA boards are not required to base the fees on a plan recommended by the PHA director, nor are they obliged to obtain the county commissioners' approval. G.S. 130A-39(g) authorizes local boards of health to impose fees "except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State." G.S. 130A-45.3(a)(5), which authorizes PHAs to impose fees, contains no similar limitation. It seems reasonable, however, to assume that PHAs would be similarly limited.

^b County and district boards of health do not have the authority to enter contracts. Instead, the local health director is authorized to enter contracts on behalf of the local health department. However, the local health director's authority may not be construed to abrogate the authority of the county commissioners.

^c The salaries of county health department employees are set by county administration. The salaries of district health department employees are based on a plan that the district board of health adopts, but the plan must be approved by the Office of State Personnel.

^d The term "network" is not defined by the statute. The statute states that this authority extends to managed health care activities, provided the public health authority board complies with the requirements of G.S. Chapter 58, Article 67 (governing health maintenance organizations) to the extent that those requirements apply.