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TO: Brenda Dobson, Division Director
FROM: Heather Adams, Assistant Attorney General
DATE: September 11, 2018
RE: County Boards of Health: Budget and Personnel

You have asked for guidance regarding the role of county boards of health and county boards of supervisors with respect to budget and personnel issues within the county.

Legal Authority of County Boards of Health.

A county board of health has jurisdiction over all public health matters within the county. Iowa Code § 137.103. Iowa Code chapter 137 authorizes local boards of health to perform a broad range of public health duties, including enforcing state laws and the rules and orders of the Iowa Department of Public Health; promulgating and enforcing such regulations as may be necessary for the protection and improvement of the public health; providing population-based and personal health services; and providing environmental health services. Iowa Code § 137.104. In addition to chapter 137, local boards of health are authorized or required to perform over one hundred other public health functions, ranging from duties related to dogs running at large to private water supplies. *See* Legal Authority of Local Boards of Health Outline, attached.

Legal Authority of County Boards of Supervisors.

A county board of supervisors has three main roles relative to a county board of health: making appointments, approving regulations, and adopting its budget. The county board of supervisors appoints all members of the county board of health. Iowa Code § 137.105(1). The county board of supervisors is responsible for approving all regulations adopted by the board of health. Iowa Code § 137.104(1)(b). The county board of

supervisors is also responsible for reviewing the board of health's budget estimate and adopting its budget. Iowa Code §§ 331.433, 331.434.

Public Health Personnel.

To carry out the various public health functions included in Iowa law, county boards of health are authorized to directly employ staff. Specifically, a county board of health is authorized to “employ persons as necessary for the efficient discharge of its duties” as well as to engage in joint operations and contract with other counties and other public, private, and nonprofit agencies. Iowa Code § 137.104(1)(c) & 137.104(2)(c). A county board of health – not a county board of supervisors - is responsible for hiring and firing public health employees and for making other employment related decisions regarding these staff. *See Warren County Board of Health v. Warren County Board of Supervisors*, 654 N.W.2d 910 (Iowa 2002).

You have asked specifically about the authority of county boards of health related to the performance of providing public health services such as environmental health services and public health nursing. Local boards of health have the legal duty and authority to perform public health services, and it is my understanding that boards have chosen to provide these services within counties through a variety of means, including:

- 1) Many local boards of health provide these public health services through direct employment of staff, such as an environmental health specialist or sanitarian, who is hired and supervised directly by the local board of health.
- 2) In some counties the local board of health subcontracts with another county, agency, or entity for the performance of these public health services.
- 3) In some counties the local board of health shares a position with the county board of supervisors, so that a certain percentage of the person's duties constitute public health activities and a certain percentage constitute the performance of other county services like planning and zoning.
- 4) In some counties the county board of supervisors directly employs staff such as an environmental health specialist or sanitarian to provide these services.

In sum, local boards of health are responsible for providing a broad range of public services. The boards may provide such services by directly employing staff such as an environmental health specialist or sanitarian; or they may through contract, 28E, or other legal arrangement ensure such services are provided by another governmental entity or other organization.

If a local board of health elects not to directly employ staff but instead to arrange for such services to be provided through an agreement with another entity, I would strongly encourage the local board of health to seek assistance from their county attorney or other designated legal counsel in reviewing the agreement to ensure that they have adequately addressed all relevant legal issues including supervision of the employee, delegation of legal authority, scope of duties, funding, personnel qualifications, and budget issues. *See Warren County Bd. of Health vs. Warren County Bd. of Supervisors*, 654 N.W.2d 910 (Iowa 2002).

Finally, if a local board of health chooses to follow county-wide employee policies, the board should expressly indicate that it has made this determination, either through adoption of a policy, statement in minutes, or other public expression of intention to be bound by such policies.

Public Health Budget.

A county board of health must prepare, approve, and submit a budget estimate on or before January 15th of each year. The budget estimate must be itemized in the detail required by the board of supervisors and show the proposed expenditures and estimate of revenues of the county board of health for the next fiscal year. A county board of supervisors is responsible for approving the annual budget of the county board of health. Iowa Code §§ 331.433, 331.434. Once approved, the board of supervisors does not have the authority to refuse payment of a claim from the board of health or line item veto a specific claim if the claim does not exceed the approved budget and is for a legitimate purpose. *See* 1990 Iowa Op. Atty. Gen. 65, 1990 WL 484873.