



IOWA PUBLIC HEALTH LEADERSHIP ACADEMY

Iowa Public Health Leadership Academy Session 3 Summary

Session 3 of the Public Health Leadership Academy focused on public health law in Iowa and gave specific examples of situations where Boards have dealt with legal matters. Two speakers presented: Michael Bennet (Assistant Iowa Attorney General – PATC Division) and Denise Hill (Associate Professor of Law at Drake University). Two local public health examples on specific topics were presented as well. These included an environmental health legal issue (Septic system waivers in Hancock County), health concerns regarding animals (Dangerous Dog Ordinance in Cerro Gordo County) and communicable disease (Voluntary Exclusion in Woodbury County/Siouxland District Health Department).

Public Health Law in Iowa

- Board of Health Governance – Michael Bennett:
 - o Overview of:
 - Home Rule powers, County powers - Iowa Code 331.301
 - **Board of Health:** duties, employment and enforcement powers, their semi-autonomous/independent role
 - Purpose of boards and commissions
 - Division of power between Boards of Health and Boards of Supervisors
 - Process for removing a board/commission member
 - o Relationship building between Boards of Health and Boards of Supervisors
 - Having a Board of Supervisor serve on the Board of Health (Iowa Code 331.216)
 - Communication suggestions:
 - Keep board advised of actions and reasoning behind actions.
 - Educate on scope of services and duties you are performing.
 - Be receptive to advice and concerns on front end.
 - Educate on need for specialized skill sets for personnel and market rates in your area for these skills.
 - Consider conforming to general county employment /operational standards where feasible.
 - Local example: Warren County, IA Board of Health vs. Board of Supervisors (654 N.W.2d 210 (Iowa 2002))
- Public Health Law Tool Box – Denise Hill:
 - o Overview of public health law
 - Definition
 - Sources of Law (US/State Constitution, US/State Legislature, Executive, Judicial Branches and Administrative Agencies)
 - State Authority – Iowa Code 137.6
 - o Tools of public health law
 - Statutory Law
 - Administrative Rules/Regulations
 - Power of the Purse Strings/Contracts
 - Case Law
 - Education & Advocacy
 - Licensure
 - Enforcement:
 - Inspection
 - Injunction/Court Orders
 - Civil Sanctions
 - Criminal Sanctions
 - Other (Isolation, Quarantine, Nuisance abatement)
 - o Key relationships in public health law
 - Governor/Legislature
 - Iowa Department of Public Health
 - Healthcare providers
 - District/County/City officials

- Board of Health
- When a board should consult legal counsel:
 - To educate the board on an issue
 - When a contract is involved
 - There's a potential liability
 - There's resistance/not voluntary cooperation
 - To apply for/respond to court action
 - Actions interferes with individual liberty/bodily integrity
 - Inspections/seizure may need to occur
 - Verify the law permits planned action
 - Scope of agency's power is not clear
 - There are questions about the type of process
 - Advice on unique legal provisions
 - Administrative Procedures Act
 - Surveillance, Privacy, Open Records/Meetings
 - When Boards are unsure

Local Public Health Legal Examples

- Environmental Health: Septic System Residential Waivers in Hancock County – Steve Anderson
- Animals: Dangerous Dog Ordinance in Cerro Gordo County – Brian Hanft
- Communicable Disease: Voluntary Exclusion Order from Siouxland District Health Department – Erin Barkema

Additional Questions from Participants: The following questions were posed by participants throughout the session, and answers from panelists/presenters are described below:

- Are Boards of Health in a Health System just an advisory board with little authority?
 - Answer: Boards of Health in these systems still have authority in those tax allocations, determining if you're going to hire staff and have a county health department or if you're going to contract with a health system or hospital. When you do contract with a Public Health agency, you're advisory in the sense that you don't oversee the personnel or policies for those agencies, but you still have all the authority that have been given to Boards of Health in other aspects.
- If counties share a position, and the employee's time is split 50/50 between each department, how do you recommend the Board of Health and Supervisors handle that type of shared of employment situation? Would you recommend an MOU or a 28 E?
 - Answer: Talk to your county attorney because they're your legal advisors. There may be facts or circumstances that are important that we don't know from just this general question. 28 E is an agreement between different governmental agencies. The way it's defined is that these public agencies are political subdivisions of the state or other governmental units. But, most of the time you seen those when dealing with another governmental entity like a city and county, or two different counties or a state and a county.



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