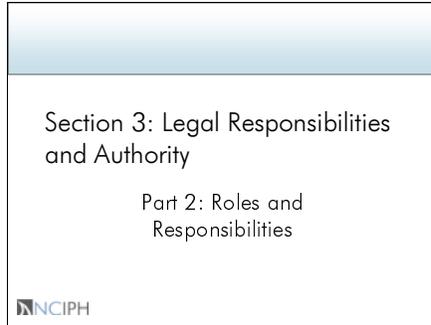


Slide 1

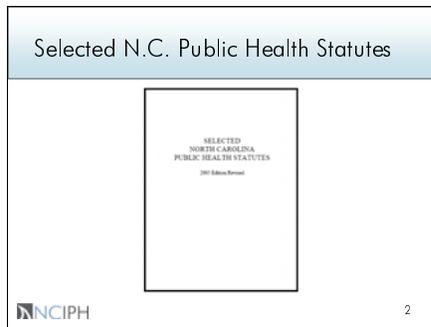


### Section 3: Legal Responsibilities and Authority, Part 2: Roles and Responsibilities

In Part 1 of Section 3, we focused on the sources of public health law in our state and the five ways local public health systems can be structured.

In Part 2, we will examine the roles and responsibilities of local health departments, health directors and boards of health as defined by public health law and the types of public health services that public health systems are required to provide.

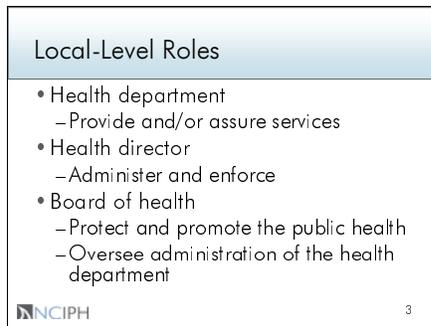
Slide 2



Keep your statute booklet handy because we will continue to refer to it throughout this section.

Once you complete this module, you will most certainly need to refer to the public health statutes during your tenure as a board member.

Slide 3



As we learned in Section 3, Part 1, there are five different ways in North Carolina that local health systems can be organized. Though there are some important differences between these types of local health systems, most share these three components:

- A local public health agency
- A health director, and
- A board of health

The roles of these three components are interrelated and supportive of each other.

The role of the local public health department is to provide and/or

assure services.

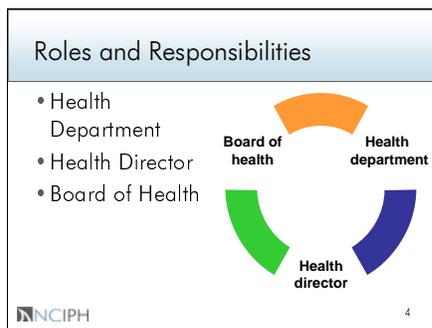
The health director's role is to administer the programs of the local health department and enforce the rules of the State and the local board of health.

The board's job is to protect and promote the public health and oversee administration of the local health department.

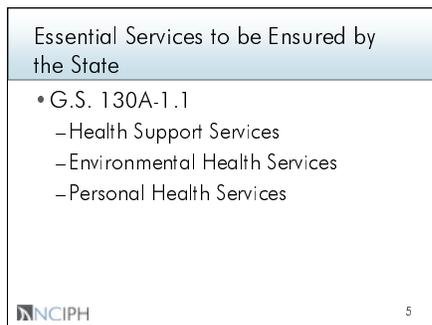
Now let's consider the mandated responsibilities of each of these local public health components.

Let's begin by looking at the role and responsibilities of the local health department.

Slide 4



Slide 5



The responsibilities of the health department are largely defined by the services the health department provides. G.S. 130A-1.1 lists the essential services to be ensured by the State. Although these services are to be ensured by the State, it is through the local public health systems that they are provided. The services fall into three main categories:

- Health Support Services
- Environmental Health Services and
- Personal Health Services

Slide 6

**Health Support Services**

- Assessment of health status and needs, and environmental risk
- Patient and community education



NCIPH 6

Health support services have to do with--

- Assessment of health status and needs, and environmental risk and
- Patient and community education

Slide 7

**Health Support Services**

- Public health laboratory services
- Registration of vital events



NCIPH 7

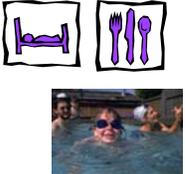
Some other examples of health support services are--

- Public health laboratory services and
- Registration of vital events, for example, birth and death certificates

Slide 8

**Environmental Health Services**

- Lodging and institutional sanitation
- Food safety and sanitation



NCIPH 8

Environmental health services are services having to do with inspections, such as inspections of lodging and institutional sanitation, and food safety and sanitation.

Slide 9

**Environmental Health Services**

- On-site domestic sewage disposal
- Safe drinking water
- Public health pest management



NCIPH 9

Environmental health services also cover on-site domestic sewage disposal, safe drinking water and public health pest management.

Slide 10

**Personal Health Services**

- Child health
- Chronic disease control
- Communicable disease control



NCIPH 10

Personal health services refer to child health services, chronic disease control and communicable disease control.

Slide 11

**Personal Health Services**

- Dental public health
- Family planning
- Health promotion and risk reduction
- Maternal health




NCIPH 11

Also included in personal health services are dental public health, family planning, health promotion and risk reduction and maternal health.

Slide 12

**Thirteen Mandated Services**

- Every local health department in North Carolina must provide or assure these 13 services

NCIPH 12

The Commission for Health Services has identified 13 mandated services that every local health department in North Carolina must provide or assure, as available in the local health department's jurisdiction. These may be found in the North Carolina Administrative Code 10A N.C.A.C. 46.0201.

Slide 13

**5 of the 13 Mandated Services**

- 10A N.C.A.C. 46.0201
  - Communicable disease control
  - Food, lodging and institutional sanitation
  - Individual on-site water supply
  - Sanitary sewage collection, treatment and disposal
  - Vital records registration

NCIPH 13

Five of the thirteen mandated services must be provided by the health department directly and thus cannot be contracted out. They are:

- Communicable disease control
- Food, lodging and institutional sanitation
- Individual on-site water supply and
- Sanitary sewage collection, treatment and disposal
- Vital records registration is the exception to the rule. In the case of vital records registration, the health director is the registrar, by statute, but this function is often performed by

Slide 14

8 Services the Health Department Must Provide or Assure

- Adult health
- Home health
- Dental health
- \*Grade A milk certification



NCIPH 14

another county agency. The remaining eight mandated services to be ensured by the local health departments may be provided directly through the local health department or the department may contract with another agency to provide the service or certify to the State's satisfaction that the services are available in the health department's jurisdiction from other providers.

- The services are:
- Adult health
  - Home health
  - Dental health
  - \*Grade "A" milk certification. Grade "A" milk certification is now provided by the State, but has been included here because it still appears on the list of 13.

Slide 15

8 Services the Health Department Must Provide or Assure

- Maternal health
- Child health
- Family planning
- Public health laboratory support



NCIPH 15

The other mandated services that a health department must either provide or assure in the local health department's jurisdiction are:

- Maternal health
- Child health
- Family planning
- Public health laboratory support

Slide 16

Services that Must be Free

- G.S. 130A-130
  - Sickle Cell Syndrome testing and counseling
- G.S. 130A-144(e)
  - Testing and treatment for TB and STDs

NCIPH 16

Another area mandated by law includes the services that must be rendered free of charge to the client. However, third-party insurers may be billed. These include:

- Sickle Cell Syndrome testing and counseling
- Testing and treatment for tuberculosis (TB) and Sexually Transmitted Diseases (STDs)

Slide 17

Services that Must be Free

- 10A N.C.A.C. 41A.0202(9)
  - HIV testing and counseling
- G.S. 130A-153(a)
  - Immunizations required by law and supplied by the state

NCIPH 17

- HIV testing and counseling, and
- Immunizations required by law and supplied by the state

Slide 18

Other Legal Duties of the Health Department

- Compliance with federal laws
  - HIPAA
  - Title VI

NCIPH 18

- Other legal duties of the health department include:  
Compliance with federal laws, such as:
- HIPAA. HIPAA is a federal law that created national standards to protect individuals’ medical records and other personal health information.
  - Title VI. Title VI is a federal law protecting persons from discrimination in programs that receive federal assistance.

Slide 19

Roles and Responsibilities

- Health Department
- Health Director
- Board of Health

NCIPH 19

Now that we’ve discussed the mandated responsibilities of the local health department, let’s focus on the responsibilities of the local health director.

Your health director is the administrative head of your health department.

Slide 20

Director's Powers & Duties	
<ul style="list-style-type: none"><li>• G.S. 130A-41<ul style="list-style-type: none"><li>- Investigate diseases</li><li>- May order quarantine or isolation</li><li>- Disseminate public health information and promotion</li><li>- Advise local officials</li></ul></li></ul>	20
	

All local health directors, public health authority directors and consolidated human services directors have the powers and duties described in G.S. 130A-41. These powers and duties are to:

- Investigate the causes of infectious, communicable, and other diseases and
- Exercise quarantine and isolation authority. Both the health director and the State Health Director can exercise a quarantine or isolation order.
- Disseminate public health information and promote the benefits of good health, and
- Advise local officials concerning public health matters

Slide 21

Director's Powers & Duties	
<ul style="list-style-type: none"><li>• G.S. 130A-41<ul style="list-style-type: none"><li>- Abate public health nuisances and imminent hazards</li><li>- Hire and fire health department staff</li><li>- Enter into contracts on behalf of health department</li></ul></li></ul>	21
	

- Abate public health nuisances and imminent hazards
- Hire and fire health department staff and
- Enter into contracts on behalf of the local health department. However, if the county has a policy requiring all contracts to be signed by the county manager, a county health director would have to abide by that policy.

It is important to note that a director of a Public Health Authority does not have the authority to enter into contracts and the director of a Consolidated Human Services agency needs the county manager's approval to appoint staff.

Slide 22

**Director's Powers & Duties**

- Administer programs as directed by board
- Enforce rules of board of health
- Enforce immunization requirements

NCIPH 22

Other duties and powers include:

- Administer programs as directed by the local board of health
- Enforce the rules of the local board of health
- Enforce the immunization requirements

Slide 23

**Director's Powers & Duties**

- Examine and investigate cases of venereal disease
- Examine and investigate cases of tuberculosis (TB)
- Examine, investigate and control rabies

NCIPH 23

- Examine and investigate cases of venereal diseases
- Examine and investigate cases of tuberculosis (TB), and
- Examine, investigate and control rabies

In addition to the powers enumerated in this statute, the director may also have additional powers that are delegated to him/her by the State Health Director, Department of Environment and Natural Resources or others.

Slide 24

**Roles and Responsibilities**

- Health Department
- Health Director
- Board of Health

NCIPH 24

Now we will focus on the roles and responsibilities of most concern to you, those of the local board of health.

Slide 25

**N.C. Public Health Statutes**

130A-34.1 Accreditation of local health departments; board established.....	25
130A-35 County board of health; appointment; term.....	28
130A-36 Creation of district health department.....	29
130A-37 District board of health.....	29
130A-38 Dissolution of a district health department.....	31
<b>130A-39 Powers and duties of a local board of health.....</b>	<b>32</b>
130A-40 Appointment or recall health director.....	33
130A-40.1 Pilot program for nurse as health director.....	33
130A-41 Powers and duties of local health director.....	34
130A-42 Personnel records of district health departments.....	35
<b>Chapter 130A. Public Health Law of North Carolina- Article 2, Part 1A</b>	
<b>Consolidated Human Services Agency</b>	
130A-43 Consolidated human services agency; board; director.....	36

NCIPH 25

First, turn to the table of contents page, page 3 in your booklet, to locate the page number for General Statute 130A-39, and then turn to that page.

Slide 26

Board Responsibilities and Authority

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

NCIPH 26

G.S. 130A-39 gives your board broad responsibility for your county or district’s public health. The statute states, “A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose”.

Slide 27

County Boards of Health

- G.S. 130A-35
  - Residents of county
  - 11 members
  - Appointed by county commissioners
  - Three year terms
  - Quorum = majority of members

NCIPH 27

Since the vast majority of North Carolina’s boards are for single county health departments, this presentation will focus primarily on how these boards are organized and governed.

General Statute 130A-35(a) defines your responsibilities. It states that a county board of health shall be the policymaking, rule-making and adjudicatory body for a county health department.

General Statute 130A-35, in your booklet, provides all the information you will need regarding the appointment, membership, terms, and quorum for a county board of health. For example:

- All members must be residents of the county.
- County boards of health are composed of 11 members who are appointed by the county board of commissioners.
- The term is three years.
- A majority of the members constitutes a quorum—this is the minimum number of board members that must be in attendance at a meeting for the board to conduct its business.

Slide 28

**Board Composition**

- Physician
- Dentist
- Optometrist
- Veterinarian
- Registered nurse
- Pharmacist
- County commissioner
- Professional engineer
- 3 representatives of general public

NCIPH 28

The composition of a county board of health should include members from the following professions: one licensed physician, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner, one professional engineer and three representatives of the general public.

Slide 29

**Board Composition**

- Professional position filled by member of general public
  - Serves only until professional becomes available, even if in middle of term
- If only one county resident is a qualified professional
  - Commissioners can appoint that person or a member of general public

NCIPH 29

If a board is unable to fill a position with one of these approved professions, that position should be filled by a member of the general public and that person should serve only until a professional becomes available for appointment, even if that happens in the middle of the term.

If there is only one county resident qualified and available to serve in one of the professional positions, the commissioners have the option to appoint either that person or a member of the general public.

Slide 30

**Other Types of Boards of Health**

- District Board of Health
  - G.S. 130A-37
- Consolidated Human Services Board
  - G.S. 130A-43
- Public Health Authority Board
  - G.S. 130A-45.1

NCIPH 30

If you serve on a board of health for a district health department, a consolidated human services agency or public health authority, refer to the public health statutes listed on this slide for information pertaining to the organization and governance of your type of board.

Slide 31

Board Membership Requirements
<ul style="list-style-type: none"><li>• Appointed by county commissioners</li><li>• Serve 3 year staggered term<ul style="list-style-type: none"><li>– Limited to 3 terms</li></ul></li><li>• Chairperson elected annually</li><li>• Health director serves as secretary to board</li></ul>
 31

Regardless of the type of board, there are some similarities between the board for a county health department and the boards for other types of local public health systems. For example, no matter what type of board, board members are—

- Appointed by the county commissioners.
- Serve a 3 year staggered term and are generally limited to 3 terms. If there is only one person in the county who represents one of the required professions, that person may be appointed to additional terms. Commissioner members, however, must step down if their elected term as a county commissioner ends before their term as a board member.
- Chairperson must be elected annually.

The health director is not an official member of the board but serves as secretary to the board.

Slide 32

Roles of Boards of Health
<ul style="list-style-type: none"><li>• Rule-making</li><li>• Adjudication</li><li>• Administration</li></ul>
 32

Also, regardless of the type of board, all boards of health have three major roles:

- Rule-making
- Adjudication and
- Administration

Slide 33

**Rule-making**

- G.S. 130A-39
  - May adopt a regulation for almost any activity
    - Cannot be overly broad
    - Must be linked to legitimate public health goals

 33

Let's begin looking at the three roles of boards of health by discussing the first role, rule-making. First, find G.S. 130A-39 in your booklet. This statute provides the authority to local boards of health for rule-making.

A board of health may adopt a rule if it is not overly broad in scope and its purposes and provisions are linked to legitimate public health goals. Rules must be grounded in science.

Slide 34

**Rule-making**

- Local rules regulate:
  - Septic tank installation
  - Wells
  - Roadside meat and fish sales
  - Temporary food and drink stands
  - Second-hand tobacco smoke exposure



 34

Local rules are made to regulate things such as:

- Septic tank installation
- Wells
- Roadside meat and fish sales
- Temporary food and drink stands
- Second-hand tobacco smoke exposure

Slide 35

**Rule-making**

- Statutory limitations
- Court-imposed limitations

 35

However, there are some limitations on a board's rule-making authority. These limitations either come from the statutes or from the courts.

Slide 36

Statutory Limitations on Rule-making

- G.S. 130A-39(b)
  - Local rules can be *more* stringent than state rules, but not *less* stringent
  - No local rules can be made on grading, operating, and permitting of food and lodging facilities

NCIPH 36

Statutory limitations on a board’s rule-making authority are described in G.S. 130A-39(b):

- First, if a state rule exists on the same subject, then the rules you make can be more stringent than state rules, but not less stringent. A more stringent rule must be necessary to protect the public health.
- You cannot make local rules for grading, operating, and permitting of food and lodging facilities.

Slide 37

Statutory Limitations on Rule-making

- G.S. 130A-39(b)
  - Local wastewater rules must:
    - Adopt state rules
    - Incorporate more stringent provisions
    - Seek approval from NC DENR

NCIPH 37

and your local wastewater rules must:

- Adopt state rules
- Incorporate more stringent provisions
- Seek approval from the N.C. Department of Environment and Natural Resources

Slide 38

Court-Imposed Limitations on Rule-making

*Peedin v. Roanoke Rapids*

- Board of health rules must:
  - Relate to health protection or promotion
  - Be reasonable in light of health risk
  - Not violate law or Constitution

NCIPH 38

The second type of limitation on a board’s rule-making authority comes from the courts. There are two major court cases that have an impact on your rule-making authority.

The first case is *Peedin v. Roanoke Rapids*, which dealt with rules related to smoking in public places. The court stated that local board of health rules must:

- Relate to health protection or promotion
- Be reasonable in light of health risk, and
- Not violate the law or Constitution

Slide 39

Court-Imposed Limitations on Rule-making
<p><i>Peedin v. Roanoke Rapids</i></p> <ul style="list-style-type: none"><li>• Board of health rules must:<ul style="list-style-type: none"><li>– Not be discriminatory</li><li>– Not make distinctions based on policy concerns traditionally reserved for legislative bodies</li></ul></li></ul>
 <span style="float: right;">39</span>

The court also stated that a local board of health acts within its authority when it enacts a rule that:

- Is not discriminatory and
- Does not make distinctions based upon policy concerns traditionally reserved for legislative bodies.

The Halifax County rules, described in *Peedin v. Roanoke Rapids*, failed the last part of the test. They had made a distinction concerning the application of the rule, between large and small restaurants. The court reasoned that in order to achieve the rules' stated purpose of minimizing the public's exposure to environmental tobacco smoke, the board was required to establish across the board requirements that "treat similarly situated patrons and employees of all restaurants equally."

The board of health may consider nothing but health when adopting rules. It may not consider issues such as economic hardship or difficulty of enforcement. These are policy-based distinctions that are traditionally reserved for the General Assembly or a board of county commissioners to decide.

Slide 40

Court-Imposed Limitations on Rule-making

*Craig v. Chatham County*

- Local rules are preempted if State has already provided “a complete and integrated regulatory scheme”
- Rules must be necessary to respond to a local concern

NCIPH 40

A second court case, *Craig v. Chatham County*, which concerned a swine farm, ruled that:

- Local rules are preempted if the State has already provided “a complete and integrated regulatory scheme” and
- The rules must be necessary to respond to a local concern. The statute already says that the rule must be necessary to protect the public’s health. The court added the geographic qualification when there are state rules already in place.

Slide 41

Court-Imposed Limitations on Rule-making

- “Rulemaking Authority of North Carolina Local Boards of Health”



NCIPH 41

To understand the issues concerning these two court cases, be sure to read the UNC Institute of Government publication titled, “The Rulemaking Authority of North Carolina Local Boards of Health” included in the packet of materials for this module.

Slide 42

Rule-making Procedure

- G.S. 130A-39(d)
  - 10-day notice of proposed rule
    - Filed in office of the county clerk
    - Published in newspaper with general circulation

NCIPH 42

The procedure for making rules is found in G.S. 130A-39(d). To summarize:

- The board must provide a 10-day notice of the proposed rule.
- The notice must be filed in the office of the county clerk. (A district health department, which covers more than one county, should file with the county clerk of each county). The rule must also be published in a newspaper with general circulation within the area of the board’s jurisdiction.

Slide 43

**Rule-making Procedure**

- G.S. 130A-39(d)
  - Contents of notice
    - Proposed effective date
    - Description of rule's subjects and issues
    - Statement that copies available at health department

NCIPH 43

The contents of the notice should contain:

- A description of the rule's subjects and issues
- The proposed effective date of the rule, and
- A statement that copies of the rule are available at the health department

Slide 44

**Discussion Questions**

1. Do you know if your board has made any rules? If so, what are they?
2. Are there issues that you think the board should discuss which might involve writing and adopting new rules into law?

NCIPH 44

Discussion Questions:

1. Do you know if your board has made any rules? If so, what are they?
2. Are there issues that you think the board should discuss which might involve writing and adopting new rules into law?

Slide 45

**Roles of Boards of Health**

- Rule-making
- Adjudication
- Administration

NCIPH 45

The second major role of the board of health is adjudication.

Adjudication refers to when the board holds a hearing.

Slide 46

**Adjudication**

- G.S. 130A-24

1. Board must hold a hearing
2. Rulings must be made in writing
3. A party dissatisfied with the board's ruling may appeal to district court



NCIPH 46

For example, if a citizen is unsatisfied with a decision or the interpretation of rules made by anyone in the health department, the citizen can bring it to the board of health for a hearing. G.S. 130A-24 describes this appeals procedure in detail.

Basically, an appeal involves the following process:

1. The board must hold a hearing
2. Rulings must be made in writing, and
3. If a party is dissatisfied with the board's ruling, s/he may appeal to district court.

If your board needs to hold a hearing, be sure to consult with your local counsel for assistance regarding procedures and to be sure that there is due process. Your board needs to have clear procedures, keep a verbatim transcript and follow the procedures in G.S. 130A-24.

Slide 47

**Roles of Boards of Health**

- Rule-making
- Adjudication
- Administration

NCIPH 47

The third role for the board is Administration.

Slide 48

**Administration**

- G.S. 130A-40
  - Appointment, evaluation and termination of health director (in consultation with county commissioners)



NCIPH 48

In fulfilling this role, the board of health is the policy-making body for the local health department.

Another major administrative responsibility is the appointment of the local health director. Refer to G.S. 130A-40 in your booklet for specifications about this selection process, including the education and experience required of the director.

The statute states that the appointment must include consultation with the county board (or boards) of commissioners and the State Health Director.

Boards of health are also responsible for evaluating and if necessary, terminating the local health director.

There is an exception here. The director of Consolidated Human Service Agency is hired and fired by the county manager and not the

Slide 49

Administration	
<ul style="list-style-type: none"><li>• G.S. 130A-39(g)<ul style="list-style-type: none"><li>– Imposing fees for services</li></ul></li><li>• Reviewing health department budget</li></ul>	
	49

board.

A third administrative duty, imposing fees for services, is described in G.S. 130A-39(g). The statute places limitations on regulatory fees—they must be approved by the county commissioners and the fees must be reasonable—that is, cost-based.

Finally, while it is not the job of the board to develop the health department budget, boards should review the budget. Since how the agency allocates money is perceived as a significant statement of policy, it is important that your board be aware of and in agreement with the budget.

Slide 50

Discussion Questions	
<ol style="list-style-type: none"><li>3. Is your health department providing the five mandated essential services?</li><li>4. Is your health department providing the other eight? If not, how are those services being assured?</li></ol>	
	50

Discussion Questions:

3. Is your health department providing the five mandated essential services?
4. Is your health department providing the other eight? If not, how are those services being assured? Contracting for their provision? Certifying they are otherwise available in the jurisdiction?

Slide 51

Discussion Questions	
<ol style="list-style-type: none"><li>5. Is your board complying with membership, terms and quorum specified in the general statutes regulating your type of board? If not, why not?</li></ol>	
	51

Discussion Questions:

5. Is your board complying with membership, terms and quorum specified in the general statutes regulating your type of board? If not, why not?

Slide 52

Discussion Questions

6. Describe some of the activities your board has engaged in related to each of these three roles:

- Rule-making
- Adjudication
- Administration

NCIPH 52

Discussion Questions:

6. Describe some of the activities your board has engaged in related to each of these three roles:

- Rule-making
- Adjudication and
- Administration

Slide 53

Summary

- Health department
- Health director
- Board of health



NCIPH 53

All types of local health systems in N.C. share three components:

- A health department
- A health director, and
- A board of health

These three components are interrelated and supportive of each other. It is critical that these components work together, in order to provide the essential services mandated by the State and to fulfill the rule-making, adjudication and administrative roles of the board.