



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the Colorado Board of Health

From: Kathleen Matthews, MPH, Office for Planning, Partnerships, and Improvement (OPPI) *KMM*

Through: Karin McGowan, Division Director, Community Relations Division (CRD) *KMM*

Date: June 1, 2015

Subject: Request for Rulemaking Hearing regarding Proposed Amendments to 6 CCR 1014-6, Minimum Qualifications for Public Health Director and Medical Officers

C.R.S. §25-1-503(1)(c) requires the State Board of Health to establish, by rule, the minimum qualification for county and district public health directors and medical officers. The regulation was intended to increase consistency of public health qualifications of public health directors across all local public health agencies and offer a process for those counties that may have difficulty recruiting or retaining a public health director whose education and experience meet the minimum qualifications.

No changes are being made to the required minimum qualifications for public health directors and medical officers. These minimum qualifications were developed with extensive research and involvement with stakeholders. There is no need to change these minimum qualifications that have been in place for over five years, but rather the process for engagement with the state Board of Health (SBOH) regarding this rule.

The Office of Planning and Partnerships (Office or Department) provides education about the minimum qualifications for public health directors and how hiring a qualified director brings added value to LPHAs, assists the local Boards of Health in determining whether a waiver or substitution was needed, provides technical assistance to local boards of health regarding the recruitment and retention of qualified public health directors, and supports new public health directors, that were hired with a waiver, to work toward meeting the minimum qualifications. The Office collects the information from the local boards of health for presentation to the SBOH.

The current version of the rule requires that if a local board of health has appointed a public health director who does not meet the minimum qualifications specified in Section 1.2. that the relevant information about the new director's education, experience, and other factors that the local Board of Health considered when hiring the new director, be submitted to the SBOH within 30 days of the waiver or substitution. The SBOH then reviews any substitution or waiver of minimum qualification within 90 days of receipt of that information.

The proposed amendments modify the process of how waivers and substitutions are communicated to and reviewed by the SBOH. Under the proposed rule, the local board of health rather than the SBOH are to consider factors such as resources, the relevance of experience and ability to recruit. The proposed language recognizes the current efforts by a local board of health when making hiring decisions and avoids an after-the-fact determination by the SBOH which has limited opportunity to improve practice. New proposed rule language formally encourages county or district boards of health using a substitution or waiver to assess competencies and address gaps by enabling organizational and individual training and development opportunities pursuant to 6 CCR 1014-9 section (3.1)(H)(2). This new proposed provision aligns with requirements for accreditation by the Public Health Accreditation Board. The proposed rule requires reporting and recognizes that the Department will aggregate and provide statewide minimum qualifications information.

Department staff will continue to collect and aggregate waiver and substitution information. Based upon feedback the Department received from the SBOH last fall, the Department will provide an annual update to the SBOH. This enables the Office to discuss workforce changes in LPHAs in a more efficient manner.

The rule amendments will take effect in November 2015. The Department remains committed to fully engaging its stakeholders during this rulemaking process. The Department has begun outreach to its stakeholders across the state and plans regular communication with stakeholders in the coming weeks.



STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

For Proposed Amendments to
6 CCR 1014-6, Minimum Qualifications for Public Health Directors and Medical Officers
June 1, 2015

Basis and Purpose

Local public health agencies (LPHA) allow the Colorado Department of Public Health and Environment to accomplish its mission and goals throughout the state, ensuring that programs and mandates are met and appropriate in the local context. The 2008 Public Health Act reorganized the Local Health Departments and Local Boards of Health with Nursing Services to create LPHAs. C.R.S. §25-1-503(1)(c) requires the State Board of Health (SBOH) to establish, by rule, the minimum qualifications for county and district public health directors and medical officers for LPHAs. These regulations were in place for the former local health departments, but needed to be expanded to all LPHAs to be consistent.

Minimum Qualifications for Public Health Directors and Medical Officers (6 CCR 1014-6) were passed into rule in 2009, requiring all LPHAs to hire directors who meet the defined set of minimum qualifications, or substitute education or experience to meet the minimum qualifications, or waive the minimum qualifications when unable to hire a director who meets the minimum qualifications. These minimum qualifications were developed using the existing rule, additional research into other states' practices, and much stakeholder input.

The waiver and substitution process recognizes that not all LPHAs can recruit a director who meets minimum qualifications and allows them to hire the best fit for their agency and community. When substituting education or experience, the local Board of Health is expected to consider (i) the relevance of the experience or education to the duties of the director and (ii) the resources and needs of the county or district when substituting education or experience. When waiving minimum qualifications, the local Board of Health must consider (i) the population of the jurisdiction for the county or district served and its ability to recruit a qualified candidate, (ii) whether the candidate for public health director will seek to obtain additional public health education and experience within five years of the waiver; and (iii) the county or district board of health has explored joining with a county or establishing a district public health agency with a qualified public health director.

The current version of this rule mandates that the SBOH review any substitution or waiver of minimum qualification within 90 days of receipt of that information. Substitutions and waivers are reviewed by the SBOH after the individual has been hired. Review of this practice and the rule, pursuant to Executive Order D 12-002, have given rise to a recommendation that the SBOH not receive individual waivers and substitutions but rather review statewide hiring and retention of public health directors. This allows the review of minimum qualifications to be similar to other SBOH reviews under the Public Health Act. The Department will continue to educate LPHAs as to the minimum qualifications for public health directors and how hiring a qualified director brings added value to LPHA, and provide resources and technical assistance, regarding the recruitment and retention of qualified public health directors, to local boards of health and connect new public health directors to resources and training.

No changes are being made to the minimum qualifications for public health directors and medical officers. Information will continue to be submitted to the Department within 30 days of an LPHA hiring a new director who does not meet minimum qualifications. The proposed changes recognize the factors a local board of health considers when hiring and removes the SBOH review within 90 days. Department staff will aggregate this information for an annual update to the SBOH. This allows the SBOH to assess the hiring and retention of public health directors statewide. The Department may also make this aggregate information publicly available in a report, or use this information in state workforce development plans.

New proposed rule language further encourages county or district boards of health to assess competencies and address gaps by enabling organizational and individual training and development opportunities per 6 CCR 1014-9 section (3.1)(H)(2). This new provision aligns with requirements for accreditation by the

Public Health Accreditation Board. In addition, the proposed rule requires reporting and recognizes that the Department will aggregate and provide statewide minimum qualifications information.

Specific Statutory Authority

These rules are promulgated pursuant to the following statutes:

§ 25-1-503(1)(c), C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

Yes, the bill number is
 No

Is this rulemaking due to a federal statutory or regulatory change?

Yes
 No

Does this rule incorporate materials by reference?

Yes
 No

Does this rule create or modify fines or fees?

Yes
 No

REGULATORY ANALYSIS
for Proposed Amendments to
6 CCR 1014-6, Minimum Qualifications for Public Health Directors and Medical Officers
June 1, 2015

1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The classes of persons who are affected by the proposed amendment to this rule concerning minimum qualifications for public health director include the local public health agencies throughout Colorado, their respective boards of health, persons seeking employment as a public health director, and the Department. State and local public health, as well as the state legislature, benefit from the continued efforts to develop a network of local public health directors who are qualified and capable of ensuring quality public health services delivered across the state while being good stewards of state funds, in turn benefiting all citizens of Colorado.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Local public health agencies, their respective boards of health, and persons seeking employment will benefit from the proposed amendments to the rule. The proposed rule recognizes the role of the local board of public health and eliminates after-the-fact and isolated reviews by the State Board of Health. The proposed rule does not change the minimum qualifications or the current reporting requirements. The proposed rule does not impact the Department's ability to provide education, technical assistance and support to local public health agencies. The State Board of Health will continue to review the minimum qualifications, hiring and retention of public health directions; however, this will occur in the form of an annual report and presentation.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department will bear the minimal costs of compliance with the proposed amendments to the rule. Staff will continue to compile submissions and provide technical assistance and education. Annual reporting is not required by the rule but is anticipated based upon prior direction received from the State Board of Health. There is no effect on state revenues.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

There are no benefits of inaction. C.R.S. §25-1-503(1)(c) requires the Colorado Board of Health to establish, by rule, the minimum qualification for county and district public health directors and medical officers. The proposed rule refines the engagement of the State Board of Health. The refinements enable more efficient use of State Board of Health while retaining the ability for the State Board of Health to assess the recruitment and hiring of public health directors across Colorado.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed amendments are necessary to bring efficiencies to a process. The proposed amendments are not intrusive as they recognize the role of local boards of health and only modify the manner in which the gather information is communicated.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The only alternative considered was leaving the rule as it was initially adopted. This was rejected because the proposed amendments meet the statutory requirement, and will more efficiently engage the State Board of Health regarding the qualifications of local public health directors.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

Documents and data used in this analysis included: 1) State statutes - Part 5 of Article 1 of Title 25 of the C.R.S.; 2) Results from a rule review (Executive Order D 12-002), and; 3) Internal data regarding the qualifications of public health directors across Colorado.

STAKEHOLDER Comment
for Proposed Amendments to
6 CCR 1014-6, Minimum Qualifications for Public Health Directors and Medical Officers
June 1, 2015

The following individuals and/or entities were included in the development of these proposed rules:

A stakeholder process was initiated in May 2015 through a presentation at the Colorado Association of Local Public Health Officials (CALPHO). The preliminary feedback gathered at that meeting was supportive. The Department remains committed to fully engaging its stakeholders during this rulemaking process and plans frequent outreach to and communication with stakeholders during the rulemaking period.

The following individuals and/or entities were notified that this rule-making was proposed for consideration by the Board of Health:

Stakeholders that were notified of this rule-making included local public health agencies, their respective boards of health, and county commissioners.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The Department's outreach to stakeholders is in the initial phases. The Department's efforts to gather feedback from stakeholders has focused on email communication, updates provided to and through local public health agencies, key professional organizations, and county commissioners through Colorado County Inc. (CCI). To date, the rule has not generated any controversy.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

There are no health equity or environmental justice impacts with the proposed amendments. The proposed amendments are focused on Department processes that will be equally and equitably applied to all LPHAs and their respective boards of health.

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2 State Board of Health, EFFECTIVE NOVEMBER 1, 2015.

3 MINIMUM QUALIFICATIONS FOR PUBLIC HEALTH DIRECTORS AND MEDICAL OFFICERS

4 **6 CCR 1014-6**

5
6 ***** [Indicates omission of unaffected rules]

7
8 1.3 REPORTING REQUIREMENTS:

9 WITHIN 30 DAYS OF APPOINTING A NEW DIRECTOR THE COUNTY OR DISTRICT BOARD
10 OF HEALTH WILL COMPLETE AND SUBMIT, ON A FORM PRESCRIBED BY THE
11 DEPARTMENT, THE QUALIFICATIONS FOR APPOINTED PUBLIC HEALTH DIRECTORS AND
12 MEDICAL OFFICERS TO THE DEPARTMENT.
13

14
15 ~~1.3~~ 1.4 Substitutions and Waivers:

16
17 (1) Substitutions

18 The county or district board of health, may substitute year for year professional public health work
19 experience for certain academic requirements or exceptional academic preparation for certain
20 experience requirements when a candidate is otherwise prepared to carry out the duties of a
21 public health director. Within 30 days of APPOINTING A NEW DIRECTOR ~~substituting the~~
22 ~~requirements~~, the county or district board of health shall submit the SUBSTITUTION AND THE
23 information upon which the substitution was allowed to the DEPARTMENT ~~state board of health~~
24 for review.
25

26 WHEN SUBSTITUTING EDUCATION OR EXPERIENCE TO MEET MINIMUM
27 QUALIFICATIONS, THE COUNTY OR DISTRICT BOARD OF HEALTH WILL CONSIDER:
28 (A) THE RELEVANCE OF THE EXPERIENCE OR EDUCATION TO THE DUTIES CONTAINED
29 ABOVE IN 1.1; AND
30 (B) THE RESOURCES AND NEEDS OF THE COUNTY OR DISTRICT.

31 ~~(a) The state board of health shall review the substitution within 90 days of receipt of the~~
32 ~~information. Beginning July 1, 2009, the state board of health shall consider the following:~~
33 (i) ~~The relevance of the experience or education to the duties contained above in 1.1;~~

34 (ii) ~~The resources and needs of the county or district.~~
35

36 ~~If the state board of health determines that the substitution of experience does not meet the criteria~~
37 ~~contained in (1) (a), the state board of health shall notify the county or district board of health and direct~~
38 ~~the department to work with the county or district board of health to develop a mutually agreed upon~~
39 ~~solution.~~
40

41 (2) Waivers

42 The county or district board of health may waive the minimum qualifications set forth in these
43 rules. Within 30 days OF APPOINTING THE NEW DIRECTOR ~~of allowing the waiver~~, the county
44 or district board of health shall submit waiver information ~~to the DEPARTMENT state board of~~
45 ~~health~~ for review.
46

47 WHEN WAIVING MINIMUM QUALIFICATIONS, THE COUNTY OR DISTRICT BOARD OF
48 HEALTH WILL CONSIDER:

- 49 (A) THE POPULATION OF THE JURISDICTION FOR THE COUNTY OR DISTRICT
50 SERVED AND ITS ABILITY TO RECRUIT A QUALIFIED CANDIDATE;
51
- 52 (B) WHETHER THE CANDIDATE FOR PUBLIC HEALTH DIRECTOR WILL SEEK TO
53 OBTAIN ADDITIONAL PUBLIC HEALTH EDUCATION AND EXPERIENCE WITHIN
54 FIVE YEARS OF THE WAIVER; AND
55
- 56 (C) THE COUNTY OR DISTRICT BOARD OF HEALTH HAS EXPLORED JOINING WITH A
57 COUNTY OR ESTABLISHING A DISTRICT PUBLIC HEALTH AGENCY WITH A
58 QUALIFIED PUBLIC HEALTH DIRECTOR.
59

60 ~~The state board of health shall review the waiver within 90 days of receipt of the waiver~~
61 ~~information. Beginning July 1, 2009, the state board of health shall consider the~~
62 ~~following:~~

- 63 ~~(i) The population of the jurisdiction for the county or district served and its ability to~~
64 ~~recruit a qualified candidate;~~
65 ~~(ii) Whether the candidate for public health director will seek to obtain additional~~
66 ~~public health education and experience within five years of the waiver; and~~
67 ~~(iii) The county or district board of health has explored joining with a county or~~
68 ~~establishing a district public health agency with a qualified public health director.~~

69 ~~If the state board of health determines that the waiver does not meet the criteria contained in~~
70 ~~(2)(a), the state board of health shall notify the county or district board of health and direct the~~
71 ~~department to work with the county or district board of health to develop a mutually agreed upon~~
72 ~~solution.~~

73
74 ~~(3) Substitutions and waivers made before July 1, 2008 and approved as appropriate by the state~~
75 ~~board of health under 6 CCR 1012-1 will remain in effect.~~

- 76
77 (3) WHEN USING A SUBSTITUTION OR WAIVER, THE COUNTY OR DISTRICT BOARD OF
78 HEALTH IS STRONGLY ENCOURAGED TO ASSESS COMPETENCIES AND ADDRESS GAPS
79 BY ENABLING ORGANIZATIONAL AND INDIVIDUAL TRAINING AND DEVELOPMENT
80 OPPORTUNITIES PURSUANT TO 6 CCR 1014-9 RULE (3.1)(H)(2).
81

82 1.5 STATEWIDE REPORTING

83 THE DEPARTMENT WILL MAKE AGGREGATE INFORMATION ABOUT THE QUALIFICATIONS OF
84 PUBLIC HEALTH DIRECTORS PUBLICLY AVAILABLE ON AN ANNUAL BASIS.
85