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65-201. County, city-county and multicounty units; local health officers; appointment, tenure, removal; laws applicable; review, amendment or revocation of local health officer orders; limitation on certain orders; approval by board of county commissioners required; civil action for relief from orders.

(a) The board of county commissioners of each county shall act as the county board of health for the county. Each county board shall appoint a person licensed to practice medicine and surgery, preference being given to persons who have training in public health, who shall serve as the local health officer and who shall act in an advisory capacity to the county board of health. The appointing authority of city-county, county or multicounty health units with less than 100,000 population may appoint a qualified local health program administrator as the local health officer if a person licensed to practice medicine and surgery or person licensed to practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The local health officer or local health program administrator shall hold office at the pleasure of the board.

(b) (1) Except as provided in paragraph (2), any order issued by the local health officer, including orders issued as a result of an executive order of the governor, may be reviewed, amended or revoked by the board of county commissioners of the county affected by such order at a meeting of the board. Any order reviewed or amended by the board shall include an expiration date set by the board and may be amended or revoked at an earlier date by a majority vote of the board.

(2) If a local health officer determines it is necessary to issue an order mandating the wearing of face masks, limiting the size of gatherings of individuals, curtailing the operation of business, controlling the movement of the population of the county or limiting religious gatherings, the local health officer shall propose such an order to the board of county commissioners. At the next regularly scheduled meeting of the board or at a special meeting of the board, the board shall review such proposed order and may take any action related to the proposed order the board determines is necessary. The order shall become effective if approved by the board or, if the board is unable to meet, if approved by the chairperson of the board or the vice chairperson of the board in the chairperson's absence or disability.

(c) The board of county commissioners in any county having a population of less than 15,000 may contract with the governing body of any hospital located in such county for the purpose of authorizing such governing body of the hospital to supply services to a county board of health.

(d) (1) Any party aggrieved by an order issued pursuant to subsection (b)(2) may file a civil action in the district court of the county in which the order was issued within 30 days after such order is issued. Notwithstanding any order issued pursuant to K.S.A. [20-172](#)(a), and amendments thereto, the court shall conduct a hearing within 72 hours after receipt of a petition in any such action. The court shall grant the request for relief unless the court finds such order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve such purpose. The court shall issue an order on such petition within seven days after the hearing is conducted. If the court does not issue an order on such petition within seven days, the relief requested in the petition shall be granted.

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(2) Relief under this section shall not include a stay or injunction concerning the contested action that applies beyond the county in which the action was taken.

(3) The supreme court may adopt emergency rules of procedure to facilitate the efficient adjudication of any hearing requested under this subsection, including, but not limited to, rules for consolidation of similar hearings.

History: L. 1885, ch. 129, § 7; R.S. 1923, 65-201; L. 1973, ch. 246, § 1; L. 1976, ch. 264, § 1; L. 2020, ch. 1, § 37 (Special Session); L. 2021, ch. 7, § 12; March 25.

Law Review and Bar Journal References:

"Anthrax, Small Pox and Flu, Oh My! the Law of Infectious Disease Control in Kansas," Robert W. Parnacott, 78 J.K.B.A. No. 9, 24 (2009).

Attorney General's Opinions:

Local boards of health - joint board; use of funds. 84-3.

Petitions; county-wide initiating; no constitutional or statutory basis. 84-100.

Joint city-county board of health; agreement; ability of city to fund county board of health. 92-62.

Absent home rule power, multi-county joint board of health has no power to assess fees. 1999-63.

CASE ANNOTATIONS

1. Health officer may contract for medical attendance; liability of county. Hawthorne v. Cherokee County, 79 Kan. 295, 297, 99 P. 598.

2. Whether city-county board of health has the capacity to sue or be sued examined. Lindenman v. Umscheid, 255 Kan. 610, 630, 875 P.2d 964 (1994).

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