

1 ENGROSSED HOUSE
2 BILL NO. 2251

By: Terrill of the House

3 and

4 Nichols of the Senate

5
6
7 An Act relating to public health and safety; amending
8 63 O.S. 2001, Section 1-106, as amended by Section 1,
9 Chapter 456, O.S.L. 2004 (63 O.S. Supp. 2008, Section
10 1-106), which relates to the State Commissioner of
11 Health; modifying purposes for which a subpoena may
12 be issued; creating the Legal Expense Operating
13 Account; providing certain limitation on deposits;
14 authorizing the State Department of Health to issue
15 vouchers; specifying purpose of account; providing
16 for certain authority over appropriations; providing
17 for codification; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-106, as
20 amended by Section 1, Chapter 456, O.S.L. 2004 (63 O.S. Supp. 2008,
21 Section 1-106), is amended to read as follows:

22 Section 1-106. A. The State Commissioner of Health shall serve
23 at the pleasure of the State Board of Health, and shall have skill
24 and experience in public health duties and sanitary sciences and
shall meet at least one of the following qualifications:

1. Possession of a Doctor of Medicine Degree and a license to
practice medicine in this state;

1 2. Possession of an Osteopathic Medicine Degree and a license
2 to practice medicine in this state;

3 3. Possession of a Doctoral degree in Public Health or Public
4 Health Administration; or

5 4. Possession of a Master of Science Degree and a minimum of
6 five (5) years of supervisory experience in the administration of
7 health services.

8 B. The Commissioner shall have the following powers and duties,
9 unless otherwise directed by the State Board of Health:

10 1. Have general supervision of the health of the citizens of
11 the state; make investigations, inquiries, and studies concerning
12 the causes of disease and injury, and especially of epidemics, and
13 the causes of mortality, and the effects of localities, employment,
14 conditions and circumstances on the public health; investigate
15 conditions as to health, sanitation, and safety of schools, prisons,
16 public institutions, mines, public conveyances, camps, places of
17 group abode, and all buildings and places of public resort, and
18 recommend, prescribe, and enforce such measures of health,
19 sanitation, and safety for them as the Commissioner deems advisable;
20 take ~~such~~ measures as deemed necessary by the Commissioner to
21 control or suppress, or to prevent the occurrence or spread of, any
22 communicable, contagious, or infectious disease, and provide for the
23 segregation and isolation of persons having or suspected of having
24 any such disease; designate places of quarantine or isolation;

1 advise state and local governments on matters pertaining to health,
2 sanitation, and safety; and abate any nuisance affecting injuriously
3 the health of the public or any community. Any health information
4 or data acquired by the Commissioner from any public agency, which
5 information or data is otherwise confidential by state or federal
6 law, shall remain confidential notwithstanding the acquisition of
7 this information by the Commissioner.

8 2. Be the executive officer and supervise the activities of the
9 State Department of Health, and act for the Department in all
10 matters except as may be otherwise provided in this Code; administer
11 oaths at any hearing or investigation conducted pursuant to this
12 Code; and enforce rules and standards adopted by the State Board of
13 Health. All rules adopted by the State Board of Health are subject
14 to the terms and conditions of the Administrative Procedures Act.

15 3. Appoint an Assistant State Commissioner of Health and fix
16 the qualifications, duties, and compensation of the Assistant State
17 Commissioner of Health; and employ, appoint, and contract with, and
18 fix the qualifications, duties, and compensation of, ~~such~~ other
19 assistants, doctors, engineers, attorneys, sanitarians, nurses,
20 laboratory personnel, administrative, clerical, and technical help,
21 investigators, aides, and other personnel and help, either on a
22 full-time, part-time, fee, or contractual basis, ~~as shall be deemed~~
23 by the Commissioner necessary, expedient, convenient, or appropriate
24 to the performance or carrying out of any of the purposes,

1 objectives, or provisions of this Code, or to assist the
2 Commissioner in the performance of official duties and functions.

3 4. Cause investigations, inquiries, and inspections to be made,
4 and hold hearings and issue orders pursuant to the provisions of the
5 Administrative Procedures Act, to enforce and make effective the
6 provisions of this Code, and all rules and standards adopted by the
7 State Board of Health pursuant to law and the Commissioner or the
8 representative of the Commissioner shall have the right of access to
9 any premises for such purpose at any reasonable time, upon
10 presentation of identification.

11 5. Authorize persons in the State Department of Health to
12 conduct investigations, inquiries, and hearings, and to perform
13 other acts that the Commissioner is authorized or required to
14 conduct or perform personally.

15 6. Except as otherwise provided by law, all civil and criminal
16 proceedings under this Code shall be initiated and prosecuted by the
17 district attorney where the violation takes place.

18 7. Issue subpoenas for the attendance of witnesses and the
19 production of books and records ~~at any~~ for the purposes of any
20 investigation or hearing to be conducted by the Commissioner or the
21 State Board of Health; and if a person disobeys any ~~such~~ subpoena,
22 or refuses to give evidence before, or to allow books and records to
23 be examined by, the Commissioner or the Board after ~~such~~ the person
24 is directed to do so, the Commissioner may file a contempt

1 proceeding in the district court of the county in which the premises
2 involved are situated, or, if no premises are involved, of the
3 county in which ~~such~~ the person resides or has a principal place of
4 business, and a judge ~~of such court~~, after a trial de novo, may
5 punish the offending person for contempt.

6 8. Unless otherwise required by the terms of a federal grant,
7 sell, exchange, or otherwise dispose of personal property that has
8 been acquired by the State Department of Health, or any of its
9 components, when ~~such~~ the property becomes obsolete or is no longer
10 needed; any money derived therefrom shall be deposited in the Public
11 Health Special Fund.

12 9. Sell films, educational materials, biological products, and
13 other items produced by the State Department of Health; and all
14 proceeds therefrom shall be deposited in the Public Health Special
15 Fund.

16 10. Revoke or cancel, or suspend for any period up to one (1)
17 year, any license or permit issued ~~under or~~ pursuant to this Code,
18 or by the Commissioner, when the Commissioner determines that ~~ground~~
19 ~~therefor as prescribed by this Code exists~~ grounds exist, or that
20 the holder of ~~such~~ the license or permit has violated any law, ~~or~~
21 any of the provisions of this Code, or any rules or standards of the
22 State Board of Health filed with the Secretary of State, ~~but the~~.
23 The Commissioner shall first afford the holder an opportunity to
24 show cause why the license or permit should not be revoked,

1 canceled, or suspended, with notice of ~~such~~ the opportunity ~~to be~~
2 given by certified United States Mail to the holder of the license
3 or permit at the last-known address of ~~such~~ the holder.

4 11. Accept, use, disburse, and administer grants, allotments,
5 gifts, devises, bequests, appropriations, and other monies and
6 property offered or given to the State Department of Health, or any
7 component or agency thereof, by any agency of the federal
8 government, or any corporation or individual.

9 12. Be the official agency of the State of Oklahoma in all
10 matters relating to public health which require or authorize
11 cooperation of the State of Oklahoma with the federal government or
12 any agency thereof; coordinate the activities of the State
13 Department of Health with those of the federal government or any
14 department or agency thereof, and with other states, on matters
15 pertaining to public health, and enter into agreements for such
16 purpose, and may accept, use, disburse, and administer, for the
17 office of the Commissioner or for the State Department of Health,
18 for any purpose designated and on the terms and conditions thereof,
19 grants of money, personnel, and property from the federal government
20 or any department or agency thereof, or from any state or state
21 agency, or from any other source, to promote and carry on in this
22 state any program relating to the public health or the control of
23 disease, and enter into agreements for such purposes.

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1 13. The State Commissioner of Health may appoint commissioned
2 peace officers, certified by the Council on Law Enforcement
3 Education and Training, to investigate violations of the Public
4 Health Code and to provide security to Department facilities.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1-107.4 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 A. There is created in the State Treasury an agency special
9 account, designated the Legal Expense Operating Account for the
10 State Department of Health, which shall be a continuing account, not
11 subject to fiscal year limitations. The balance on deposit in this
12 account shall not exceed the sum of Ten Thousand Dollars
13 (\$10,000.00).

14 B. The Department may issue vouchers against this account.
15 Vouchers shall be issued pursuant to the requirements of Section
16 7.5a of Title 62 of the Oklahoma Statutes.

17 C. This account shall be used by the Commissioner or legal
18 counsel from the State Department of Health for necessary expenses
19 relative to any pending investigation or litigation within the
20 official responsibility of the Commissioner. The Commissioner shall
21 have the authority to designate the source of monies appropriated to
22 or received by the agency to be deposited in the Legal Expense
23 Operating Account unless such monies are otherwise directed by law.

24 SECTION 3. This act shall become effective November 1, 2009.

