

THE HOUSE OF REPRESENTATIVES
Tuesday, February 24, 2009

House Bill No. 2251

HOUSE BILL NO. 2251 - By: TERRILL of the House.

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

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

- 1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-106, as amended by
2 Section 1, Chapter 456, O.S.L. 2004 (63 O.S. Supp. 2008, Section 1-106), is amended to
3 read as follows:
- 4 Section 1-106. A. The State Commissioner of Health shall serve at the pleasure of
5 the State Board of Health, and shall have skill and experience in public health duties
6 and sanitary sciences and shall meet at least one of the following qualifications:
- 7 1. Possession of a Doctor of Medicine Degree and a license to practice medicine in
8 this state;
- 9 2. Possession of an Osteopathic Medicine Degree and a license to practice medicine
10 in this state;

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

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

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

7 1. Have general supervision of the health of the citizens of the state; make
8 investigations, inquiries, and studies concerning the causes of disease and injury, and
9 especially of epidemics, and the causes of mortality, and the effects of localities,
10 employment, conditions and circumstances on the public health; investigate conditions as
11 to health, sanitation, and safety of schools, prisons, public institutions, mines, public
12 conveyances, camps, places of group abode, and all buildings and places of public resort,
13 and recommend, prescribe, and enforce such measures of health, sanitation, and safety
14 for them as the Commissioner deems advisable; take ~~such~~ measures as deemed necessary
15 by the Commissioner to control or suppress, or to prevent the occurrence or spread of,
16 any communicable, contagious, or infectious disease, and provide for the segregation and
17 isolation of persons having or suspected of having any such disease; designate places of
18 quarantine or isolation; advise state and local governments on matters pertaining to
19 health, sanitation, and safety; and abate any nuisance affecting injuriously the health of
20 the public or any community. Any health information or data acquired by the
21 Commissioner from any public agency, which information or data is otherwise

1 confidential by state or federal law, shall remain confidential notwithstanding the
2 acquisition of this information by the Commissioner.

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

9 3. Appoint an Assistant State Commissioner of Health and fix the qualifications,
10 duties, and compensation of the Assistant State Commissioner of Health; and employ,
11 appoint, and contract with, and fix the qualifications, duties, and compensation of, ~~such~~
12 other assistants, doctors, engineers, attorneys, sanitarians, nurses, laboratory personnel,
13 administrative, clerical, and technical help, investigators, aides, and other personnel and
14 help, either on a full-time, part-time, fee, or contractual basis, ~~as shall be~~ deemed by the
15 Commissioner necessary, expedient, convenient, or appropriate to the performance or
16 carrying out of any of the purposes, objectives, or provisions of this Code, or to assist the
17 Commissioner in the performance of official duties and functions.

18 4. Cause investigations, inquiries, and inspections to be made, and hold hearings
19 and issue orders pursuant to the provisions of the Administrative Procedures Act, to
20 enforce and make effective the provisions of this Code, and all rules and standards
21 adopted by the State Board of Health pursuant to law and the Commissioner or the

1 representative of the Commissioner shall have the right of access to any premises for
2 such purpose at any reasonable time, upon presentation of identification.

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

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

9 7. Issue subpoenas for the attendance of witnesses and the production of books and
10 records ~~at any~~ for the purposes of any investigation or hearing to be conducted by the
11 Commissioner or the State Board of Health; and if a person disobeys any ~~such~~ subpoena,
12 or refuses to give evidence before, or to allow books and records to be examined by, the
13 Commissioner or the Board after ~~such~~ the person is directed to do so, the Commissioner
14 may file a contempt proceeding in the district court of the county in which the premises
15 involved are situated, or, if no premises are involved, of the county in which ~~such~~ the
16 person resides or has a principal place of business, and a judge ~~of such court~~, after a trial
17 de novo, may punish the offending person for contempt.

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

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

4 10. Revoke or cancel, or suspend for any period up to one (1) year, any license or
5 permit issued ~~under or~~ pursuant to this Code, or by the Commissioner, when the
6 Commissioner determines that ~~ground therefor as prescribed by this Code exists~~ grounds
7 exist, or that the holder of ~~such~~ the license or permit has violated any law, ~~or~~ any of the
8 provisions of this Code, or any rules or standards of the State Board of Health filed with
9 the Secretary of State, ~~but the~~. The Commissioner shall first afford the holder an
10 opportunity to show cause why the license or permit should not be revoked, canceled, or
11 suspended, with notice of ~~such~~ the opportunity ~~to be~~ given by certified United States
12 Mail to the holder of the license or permit at the last-known address of ~~such~~ the holder.

13 11. Accept, use, disburse, and administer grants, allotments, gifts, devises,
14 bequests, appropriations, and other monies and property offered or given to the State
15 Department of Health, or any component or agency thereof, by any agency of the federal
16 government, or any corporation or individual.

17 12. Be the official agency of the State of Oklahoma in all matters relating to public
18 health which require or authorize cooperation of the State of Oklahoma with the federal
19 government or any agency thereof; coordinate the activities of the State Department of
20 Health with those of the federal government or any department or agency thereof, and
21 with other states, on matters pertaining to public health, and enter into agreements for
22 such purpose, and may accept, use, disburse, and administer, for the office of the

1 Commissioner or for the State Department of Health, for any purpose designated and on
2 the terms and conditions thereof, grants of money, personnel, and property from the
3 federal government or any department or agency thereof, or from any state or state
4 agency, or from any other source, to promote and carry on in this state any program
5 relating to the public health or the control of disease, and enter into agreements for such
6 purposes.

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

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

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

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

19 C. This account shall be used by the Commissioner or legal counsel from the State
20 Department of Health for necessary expenses relative to any pending investigation or
21 litigation within the official responsibility of the Commissioner. The Commissioner shall
22 have the authority to designate the source of monies appropriated to or received by the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 agency to be deposited in the Legal Expense Operating Account unless such monies are
2 otherwise directed by law.

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

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-23-09 - DO
5 PASS.