

# **Valley County Board of Health**

## **By-Laws**

Adopted by the Valley County Board of Health on

March 9, 2021

**PURPOSE:**

The purpose of the Valley County Board of Health shall be:

- To carry out for the County of Valley and its political subdivisions, those responsibilities required, pursuant to Public Law, Section 50, MCA and related regulations, rules, and local regulations, of the Montana Department of Public Health and Human Services.
- To implement further related activities as may hereafter be legally required by federal, state, local authorities.
- The responsibilities of a health board director are varied. Directors may be required to make decisions about environmental public health matters, learn about and approve health education programs, decide what clinical services are needed and can be provided, work with community leaders, act as a liaison between the health department and the public, advise a governing body, e.g., county commissioners, county attorney, and city councils on effective public health policy, propose health-related ordinances or statutes, and approve financial budgets and expenditures.

**Valley County Health Department Director**

With input from the Valley County Board of Health, the Valley County Commissioners shall select and hire a Director who shall be the representative in the management of Valley County Board of Health. The Director shall be given the necessary authority and responsibility to operate the Valley County Board of Health in all its activities and departments, subject such policies as may be issued by Valley County or the Board of Health. The authority and responsibility of the Director may include (of which may not be all inclusive):

- Develops, recommends, coordinates and oversees hiring procurement process.
- Oversees compliance of ongoing operations
- Develops and recommends program goals and objectives
- Develops and manages the annual budgets through monitoring of expenditures and identifying revenue sources.
- Investigates complaints on performance issues
- Oversees equipment and supplies for compliance.
- Ensures compliance with established rules, ordinances and regulations; interacts with involved jurisdictions and boards to identify and resolve problems and seek appropriate solutions.
- Administers the statistical analyses of data to evaluate system effectiveness, prepares oral and written reports, coordinates communications on budget and audit reports.
- Participates in evaluating and analyzing quality assurance, evaluates data and makes recommendations.
- Answers questions and provides information to the public including letter writing, proposal development and formal presentations.
- Recommends, develops and implements program and policy changes.
- Prepares reports, proposals, and decision packages, including long term planning, project research, scoping and cost estimating, and overseeing project implementation from inception to completion.
- Prepares and submits grant proposals.
- Applies knowledge and expertise in program oversight including broad knowledge of up to date trends, technology, regulations and laws.
- Develops and presents related reports and proposal to the board, Valley County Commissioners, user agencies, and other interested stakeholders.
- Administers the program's budget, grants, and professional service contracts.

- Represents public health at meetings, serves on committees as requested.
- Provides information and assistance to other departments, outside agencies, and the public on assigned functions.
- Performs related duties as assigned.

### Valley County Health Department Sanitarian

- Must be licensed with the Montana Board of Sanitarians and meet renewal requirements of 15 contact hours of continuing education every two years.
- Licensed Food Establishment Programs - Facilities such as restaurants, convenience stores, bakeries, meat markets, deli shops, grocery stores and other businesses where food is provided to the public or manufactured to be sold to the public are regularly inspected as part of a program to monitor food safety procedures and compliance with current food safety regulations. This program may include education of food handlers, facility plan reviews, work with compliance plans, enforcement actions and other work.
- Licensed Public Accommodations Programs - Facilities such as hotels, motels, trailer courts, campgrounds, RV Parks, work camps, bed & breakfasts are routinely inspected for compliance with public accommodation regulations. This program also may include pool and spa inspections, facility plan reviews, work with compliance plans, enforcement actions and other work.
- Other Inspection Work - May include inspections of daycare facilities, temporary events, farmer's markets, school food programs, hospital & nursing home food programs, tattoo facilities, etc.
- Communicable Disease Prevention Program - Investigate possible food, waterborne and zoonotic illness incidents and provide guidance with response measures to control the incident. Education is provided to help keep such incidents from reoccurring. Work in this program often involves a lot of networking with other agencies and other public health professionals.
- Air Quality Programs - May involve monitoring of particulates and other constituents known to be air pollutants. May include Indoor Air Quality work. Additional work with public education on radon, molds, mildew, carbon monoxide etc.
- Onsite Wastewater Treatment Programs - Provides review, permitting and installation inspection of onsite wastewater systems in accordance with minimum state standards and local regulations. May include review of environmental assessments (site evaluations) of property. May include education of installers, site evaluators and the public on wastewater treatment topics including proper system operation, maintenance and troubleshooting of problems.
- Onsite Drinking Water Programs - Education and advice to the public regarding individual water supply well systems. May include lab related water testing and test interpretations.
- Sanitation in Subdivisions Programs - Provides review of environmental assessments (site evaluations) or property proposed to be subdivided. Also includes review of proposed drinking water supply systems, onsite wastewater treatment systems, stormwater drainage provisions and solid waste provisions.
- Environmental Health Complaints Program - Involves investigation and possible enforcement of complaints related to any of the programs noted above, and other general issues and complaints related to public and environmental health.

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**BUSINESS OFFICE:**

The Board of Health's principle office shall be located the Valley County Public Health Department in Glasgow.

**Article One: Creation**

The Valley County Board of Health (Health Board) is created pursuant to Section 50-2-106 of the Montana Codes Annotated (MCA).

**Article Two: Jurisdiction**

The Health Board has jurisdiction as provided by Montana law for county health boards in Valley County.

**Article Three: Powers and Duties of the Health Board**

Section 1. Statutory Powers and Duties. The following are based on Section 50-2-116 of the Montana Code Annotated:

**Part A. The Health Board shall:**

- Appoint a Health Officer who is a physician or person with a master's degree in public health or the equivalent and with appropriate experience, as determined by the Montana Department of Health and Environmental Sciences, and shall fix the salary;
- Elect a chair and other necessary officers;
- Adopt bylaws to govern meetings;
- Hold regular meetings quarterly and hold special meetings as necessary;

**Part B. Work in partnership with the Valley County Health Department and Health Officer to:**

- Identify, assess, prevent, and ameliorate conditions of public health importance through:
  - ◆ Epidemiological tracking and investigation;
  - ◆ Screening and testing;
  - ◆ Isolation and quarantine measures;
  - ◆ Diagnosis, treatment and case management;
  - ◆ Abatement of public health nuisances;
  - ◆ Inspections;
  - ◆ Collecting and maintaining health information;
  - ◆ Education and training of health professionals, or other public health measures as allowed by law;
- Protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
- Supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;
- Bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations; (Under provisions of 50-2-130 M.C.A.)
- Identify to the Montana Department of Public Health and Human Services an administrative liaison for public health. The liaison must be the highest ranking public health professional employed by the jurisdiction.
- Subject to provisions of 50-2-130: The local board may not adopt a rule that is more stringent than the comparable state regulations or guidelines that address the same

circumstances. The Board may adopt a rule that is more stringent than comparable state regulations or guidelines only if the local Board makes a written finding, after a public hearing and public comment and based on peer-reviewed scientific studies.

**Part C. The Health Board may:**

- Accept and spend funds received from a federal agency, the state, a school district, or other person or entities;
- Adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings and facilities;
- Adopt regulations that do not conflict with rules adopted by the department;
  - ◆ For the control of communicable diseases;
  - ◆ For the removal of filth that might cause disease or adversely affect public health;
  - ◆ Subject to the provisions of 50-2-130, MCA, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401, MCA.
  - ◆ Subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;
  - ◆ For the establishment of institutional controls that have been selected or approved by the :
    - United states environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or
    - Department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part7; and
      - To implement the public health laws; and
- Promote cooperation and formal collaborative agreements between other board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.
- A local board of health may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.

**Article Four: Board of Directors**

Section 1. Directors. The Health Board is composed of five directors as set forth by the Valley County Commissioners.

Section 2. Terms. Each director is appointed for three (3) years. Section 50-2-106(3), MCA. Directors are notified by the Commissioners of their appointment term which begins July 1 and ends in the three years on June 30. Directors will take their oath of office at the first meeting after they are appointed or reappointed. Directors serve at the pleasure of the Valley County Commissioners. Section 50-2-106(2), MCA. Valley County has set board term limits by resolution, dated May 6, 2009, to a maximum of two consecutive terms (6 years) on any board. A director can take one term off and then be appointed once

again for two terms. At the discretion of the Valley County Commissioners this term limit may be waived if there are no other qualified applicants.

Section 3. Attendance. As the proper functioning of the Health Board is seriously impaired by the absence of its directors, absenteeism is the responsibility of the Valley County Commissioners. If a director has three consecutive absences from regularly scheduled meetings during the year, the Commissioners shall be informed and a replacement requested. Attendance is allowed through phone or internet with the director verifying his/her identity. A director has full authority equal to attending in person.

Section 4. Advisory Members. The Health Board may appoint non-voting advisory members to serve at the pleasure of the Board.

Section 5. Vacancies. Vacancies for voting directors shall be filled by the Valley County Commissioners for the unexpired portion of the term.

Section 6. Compensation. Directors and advisory members are not compensated other than for necessary expenses which must be approved by the Health Board and Valley County Commissioners.

#### **Article Five: Officers**

Section 1. Elections. Officers shall be elected at the first regular meeting in each fiscal year, and shall serve until the first regular meeting in the following fiscal year. Officers of the Health Board elected to fill vacancies shall serve until the first regular meeting in the following fiscal year.

Section 2. Chair. The Health Board shall elect a Chair who shall conduct all meetings and business of the Board. Chair as authorized by the Board, may sign contracts or other instruments authorized by the Board, or by these bylaws. In general, the Chair shall perform all duties incident to the office of Chair and such other duties as may be prescribed by the Board from time to time.

Section 3. Vice Chair. The Health Board shall elect a Vice Chair who shall conduct all meetings and business of the Board in the Chair's absence and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair.

Section 4. Secretary. The Valley County Health Department shall provide a secretary for the Health Board and shall:

- Keep accurate minutes of the meetings of the Health Board;
- Oversee official board of health correspondence;
- Ensure all notices are duly given in accordance with these bylaws or required by law;
- Provide safekeeping of the board records;
- Maintain and provide to directors and to the public a register of the names and address, mailing, physical and electronic, of all board members and advisors

#### **Article Six: Meetings**

Section 1. Annual Organizational Meetings. An annual organizational meeting is held at the first regular meeting in each fiscal year to:

- Elect officers and appoint advisory members; and
  - New directors take oath of office
- Review the board objectives which guide the Board.

Section 2. Regular Meetings. The Health Board will meet once a quarter. One health department employee, the department director, sanitarian, and one county commissioner are requested to be at all regular meetings of the health board.

Section 3. Special Meetings. Special meetings shall be at the call of the Chair, at the request of the Health Officer, Health Director or Sanitarian, or at the request of three (3) directors. Meetings may be called for viewing places of potential health hazards.

Section 4. Quorum. Three voting directors constitute a quorum for all meetings. If any meeting is convened where there is not a quorum, the directors present may discuss routine matters but may not hear testimony or take formal action on any matter requiring motion and a vote.

Section 5. Manner of Action. An act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except where otherwise provided by law or by these by-laws. There is no proxy voting.

Section 6. Parliamentary Procedure. For all procedural matters not specifically covered in the Bylaws, the controlling parliamentary authority for the Health Board is Robert's Rules of Order, Newly Revised, 1990 Edition.

- The Chair, being a co-equal director of the Board, shall in addition to presiding, have a right to participate in debate, and shall vote on all motions, and not only where the vote of the chair would create or break a tie.
- A motion, once stated and seconded, limits the debate to points relevant to the motion. Prior to a formal motion being stated, general discussion of, and the presentation of information relevant to an agenda item being considered is in order.
- Before the consideration of any measure or the taking of any action, concerning which a public hearing has not been previously held, or will not be held, the Chair may allow members of the audience to be heard. No member of the audience may be heard during or after the Board discussion. The Chair may reasonably limit audience participation at any time.
- Reconsideration of any action of the Board may be allowed at any time, upon motion of any director of the Board, such motion being approved by at least three Board directors.
- Routine matters, such as setting meeting times and adjournment, setting future agenda items, or appointment of committees, may be by consensus rather than by motion and vote.

Section 7. Notice of Meetings. The Valley County Health Department Director shall notify all directors of all meetings either orally, in writing or electronically. No special meeting shall be held unless diligent efforts have been made to notify all directors.

Section 8. Open Meetings Requirements. All meetings of the Health Board are open to the public. Section 2-3-203(1) MCA. Meetings may be closed to the public when the discussion relates to a matter of individual privacy and then only where the Chair determines on the record that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting remains

open to the public. Section 2-3-203(2)(3), MCA. To comply with the spirit and intent of the open meeting and public participation laws, public notice of not less than two business days shall be given of all Board meetings, regular and special. Two business days' notice need not be given where the Board must deal with an emergency situation affecting public health, welfare, or safety, per Section 2-3-112(1) MCA.

Section 9. Agenda. Agenda items should be submitted to the Valley County Health Department director at least seven (7) days before a meeting. This rule may be suspended with the affirmative vote of a majority of the directors as the board deems necessary to deal promptly and effectively with unforeseen issues.

Section 10. Minutes. Minutes of all Health Board meetings shall be kept by the Valley County Health Department director, and shall be signed by the Chair after approval by the Board at the next meeting. Minutes of all open meetings, and portions of meetings that are open to the public, shall be kept available for inspection by the public.

For meetings closed to the public, the ~~The secretary~~ Director shall keep separate minutes of all discussions and votes held during executive sessions. ~~The minutes need not have detailed reports of discussions, but shall have all motions and a roll call vote. The votes need to be assigned to the board member in the event that there is a split vote.~~ The minutes should include member names present and absent, staff, and public present who commented at the meeting. No voting or motions may occur during a closed session. Minutes are then approved by the same process as above, sealed, retained in locked storage, and opened only under judge's order.

Section 11. Committees Special committees may be appointed by the Chair, with the concurrence of the Board, for such special tasks as circumstances warrant. Such special committees shall limit their activities to the accomplishment of the task for which appointed and shall have no power to act, except such as is specifically conferred by the action of the Board. Upon completion of the task for which appointed, the special committees shall stand discharged.

## **Article Seven: Hearings**

Section 1: Notice of Hearings. Notice of hearings shall be given to the public, Health Board members, staff and to the grievant, applicant or person appealing a department decision.

Section 2: Procedure for Hearings. The following procedures shall be followed for all quasi-judicial and quasi-legislative hearings:

- The Health Board Chair, or designee, shall preside.
- Hearings shall be recorded. Preservation of the recordings is the responsibility of the Health Department director. Recordings shall be preserved for three (3) years.
- All questions and comments must be directed through the Chair.
- Persons giving testimony must give their name, address, and who they represent.
- Before giving testimony on material facts, all witnesses shall be sworn by an officer authorized to administer oaths.
- Copies of prepared statements shall be given to the Chair and shall become part of the record. Statements received by may shall be read by the Chair and shall become a part of the record, if lengthy, they may be summarized by the Chair.
- Order of Presentation:
  - Staff Report including proof of notice and questions by Board;



- Comments by the petitioner and questions by the Board;
  - Written comments read by the Chair;
  - Public comments and questions by the Board;
  - Staff's comments;
  - Petitioner's rebuttal comments and questions by the Board;
  - Questions from Board to any person providing comments and close factual record;
  - Board deliberation and decision. A record of the vote of each member present and voting shall be entered as to the decision. The decision shall be reduced to writing and signed by the Chair. Board directors may attach or append comments or exhibits to the written decision. Copies of the decision and appendices shall be provided to the parties.
- The Chair shall determine the amount of time allotted to each segment. A list of the public wishing to comment shall be circulated before the Hearing and each commentator be allocated an equal share of the public comment time.
  - If the time has not expired prior to the closing public comment, the Chair shall make a final call for further comment. When the time limit is reached or when there is no response to the final call for public comment, the hearing will be closed to public comment and the matter will return to the Board for discussion and action. During the Board discussion, the Chair may direct questions to staff, petitioner, or members of the public.
  - The Chair shall ensure an orderly hearing and has the authority to terminate the hearing if the discussion becomes unruly or unmanageable.
  - Any party to a hearing may appear in person or by representative.

**Article Eight: Health Officer.** If a local health board does not appoint a health officer, the Montana Department of Public Health and Human Services may appoint a health officer 30 days after notification in writing has been given to the local health board. A health officer appointed by the department has the same authority as a health officer appointed by a local health board. Section 50-2-117(a)(b)

The Health Officer, under the direction and supervision of the Health Board, in order to carry out the purpose of the public health system, in collaboration with federal, state, and local partners, local health officers or their representatives shall: Section 50-2-118 (1-5), MCA.

- Make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the condition;
- Take steps to limit contact between people in order to protect the public health from imminent threats, including but not limited to ordering the closure of buildings or facilities where people congregate and canceling events.
- Report communicable diseases to the department as required by rule;
- Establish and maintain quarantine and isolation measures as adopted by the local board of health;
- Pursue action with the appropriate court if this chapter or rules adopted by the local board or the Montana Department of Public Health and Human Services under this chapter are violated.
- Present an orientation program for new board members, which shall include copies of the bylaws, relevant policies, and relevant laws.
- A state or local health officer may request a sheriff, constable, or other peace officer to assist the health officer in carrying out the provisions of this chapter. If the officer does not render the service, the officer is guilty of a misdemeanor and may be removed from office. Section 50-2-120, MCA.

- On written order of a local health officer, a diseased prisoner who is held in a jail and who is considered dangerous to the health of other prisoners may be removed to a hospital or other place of safety. If the prisoner was committed to jail by order of a court, the order for removal and treatment must be signed by the local health officer and filed with the court. When the prisoner recovers from the disease, the prisoner must be returned to the jail. A prisoner removed to a hospital or clinic for treatment may not be considered to have committed an escape. Section 50-2-121, MCA.
- Obstructing a local health officer in the performance of his/her duties is unlawful. Section 50-2-122, MCA. It is unlawful to:
  - Hinder a local health officer in the performance of duties under Montana law;
  - Remove or deface any placard or notice posted by the local health officer; or
  - Violate a quarantine or isolation regulation

**Article Nine: Nursing Services.** Section 50-2-119, MCA. A local board may employ a qualified nurse or nursing services to person under a physician's care who are confined to their homes. Before nursing services are provided, a physician must:

- Determine that the person needs the services of a visiting nurse;
- Direct the nurse to visit the person;
- Specify the type and duration of services to be performed by the nurse.
- Persons shall pay for the services at rates set by the local board. Local boards, on behalf of persons receiving services, may accept payment from persons or public agencies either directly from or by contact with the person, agency or insurance company. All payments shall be deposited in a special county fund and used to defray expenses of providing the service.

**Article Ten: Employees Subject to County Personnel Policies and Procedures**

Health Department employees are subject to the Valley County Personnel Policies and Procedures for administrative and employment purposes.

**Article Eleven: Legal Assistance**

The County Attorney represents the Health Board on matters relating to the functions, powers, and duties of the Health Board. Section 50-2-115, MCA. If a person refuses or neglects to comply with a written order of a state or local health officer within a reasonable time specified in the order, the state or local health officer may cause the order to be complied with and initiate an action to recover any expenses incurred from the person who refused or neglected to comply with the order. The action to recover expenses shall be brought in the name of the county. Section 50-2-123, MCA. Except as otherwise provided in the public health laws administered by the Montana Department of Public Health and Human Services, through the attorney general or appropriate county attorney, sue in district court to enjoin any violation of the public health laws, rules, or order adopted or issued under public health laws administered by the Montana Department of Public Health and Human Services. Section 50-1-103, M.C.A.

**Article Twelve: Indemnification of Directors**

Except as otherwise limited by Montana Codes Annotated, Valley County shall indemnify any director or officer or former director or officer of the health board against claims, liabilities, expenses, and costs

necessary incurred by the director or officer in the connection with the defense, compromise or settlement of any action, suit, or proceeding, civil or criminal, in which such director or officer is made a party by reason of being or having been such director or officer, except in connection with a proceeding by or in the right of the health board in which the director or officer was adjudged liable to the health board, or in connection with any other proceeding that charges improper personal benefit to the director or officer, whether or not involving action in the director's or officer's official capacity, in which the director or officer is adjudged liable on the basis that personal benefit was improperly received by the director or officer; provided that indemnification of a director or officer shall only be to the extent not otherwise compensated, indemnified or reimbursed by insurance.

**Article Thirteen: Exempt Activities Limitation**

Non-withstanding any other provision of these bylaws, no director, officer or representative of this health board shall take any action or carry on any activity by or on behalf of the health board not permitted to be taken or carried on by a health board under Montana law, regulations, policy as they now exist or as they hereafter may be amended.

**Article Fourteen: Conflict of Interest**

All Health Board members are required to disclose any outside activities or interests, including those arising prior to becoming a board member, that conflict or suggest a potential conflict with the best interests of the Valley County Board of Health. Board members so interested shall abstain from voting or acting upon those matters, contracts, or transactions, in which they have disclosed a conflict of interest, provided, however, that Board member's presence may be counted in determining whether a quorum is present.

**Article Fifteen: Annual Report**

An annual report of activities and accomplishments is required following the end of the fiscal year. The Health Board may request that the Valley County Health Department Director or designee prepare this report for approval of the Health Board. The report should be considered public record and be provided to the County Commissioners.

**Article Sixteen: Amendments to Bylaws**

The bylaws may be altered, amended or repealed and new bylaws may be adopted by a 2/3 majority vote of the Board of Directors present at any meeting if at least two weeks written notice is given to each member of the Board of Directors of the intention, at such meeting, to alter, amend or repeal or to adopt new bylaws. The Valley County Commissioners have to give approval to any alteration, amendment, repeal or new bylaw(s) prior to implementation.

**Article Seventeen: Approval and Adoption of Bylaws**

These bylaws were approved and adopted by the Valley County Health Board of Directors on March 9, 2021, effective upon adoption.

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Amber Swindler, Chairperson  
Valley County Board of Health

The changes to these bylaws were approved by the Valley County Commissioners on  

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(date).

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Paul Tweten, Chairman  
Valley County Commissioner

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Mary Armstrong  
Valley County Commissioner

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John Fahlgren  
Valley County Commissioner

