
State Boards of Health: Governance and Politics

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Introduction

The governance structures of state public health systems vary as much as the states themselves, including the existence and role of state boards of health. Understanding these differences is essential to a complete understanding of the governmental public health enterprise. State boards of health are obvious vehicles for public health policy development in some states, where they work closely with or oversee state health agencies. In other states they do not exist or serve only in a non-binding advisory capacity.

In this article, we distinguish and identify state boards of health and state public health advisory boards, examine state boards of health in practice, and discuss their role in advocacy and policy development in the context of state politics. We used a set of mixed qualitative methods, including a literature review, online research of state statutes establishing state board of health authorities, and key informant interviews. Informants were five current and former state board of health members, four current and for-

mer state health officers, and nine state health agency senior policy staff, spanning 13 states.

A Brief History of Boards of Health

According to George Rosen, prior to the formation of local boards of health in England, public health protection responsibilities fell to local infrastructure commissions. Following a typhus fever epidemic in 1784, Thomas Percival led a group of physicians that ultimately established the Manchester Board of Health in England during the winter of 1795-1796. The board “recommended legislation to regulate the hours and conditions of work in factories, as well as needed measures to prevent or reduce the spread of disease.”¹

By 1800, several major American cities established local health councils to enforce isolation and quarantine rules.² In 1850, Lemuel Shattuck, the father of vital statistics, urged centralized coordination of public health protection activities (e.g. isolation, quarantine and investigation), which had been, until that time, handled on a part-time basis by local officials.³

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In his report to the Massachusetts state legislature, Shattuck outlined the need for reform of sanitary laws, delineation of local board of health responsibilities, and the establishment of a centralized General Board of Health with powers over state public health, modeled similarly to the state board of education.⁴ Nineteen years later, Massachusetts established its board of health in 1869, and a number of states adopted Shattuck's model by the end of the 19th century.³

The United States established a national board of health in 1879, to administer quarantines and provide professional public health advice to the federal government. This board was abolished in 1883 and its responsibilities transferred to the entities we know today as the office of the Surgeon General and the Public Health Service.⁵ While state boards of health continued to form, this evolution at the national level preceded a similar shift at the state level over the next 100 years, with the formation of state health agencies overseen by a health officer.

The seminal 1988 Institute of Medicine report on the future of public health described a “gradual disappearance” of state boards of health over the course of 25 years to half the previous number,⁶ a phenomenon attributed to gubernatorial political interests.⁷ The report recommended that state statutes should “clearly delineate the basic authority and responsibility entrusted to public health agencies, boards, and officials at the state and local levels and the relationships between them.”⁶ It further recommended that “each state [should] have a state health council that reports regularly on the health of the state’s residents, makes health policy recommendations to the governor and legislature, promulgates public health regulations, reviews the work of the state health department, and recommends candidates for director of the department.”⁸

Identifying State Boards of Health

The Centers for Disease Control and Prevention, the Association of State and Territorial Health Officials, the National Association of Local Boards of Health, the Washington State Board of Health, and independent scholars previously defined criteria for what constitutes a state board of health and subsequently counted those meeting the varied criteria. For purposes of this article, we distinguish two types of boards, as follows:

State Board of Health — A panel with one or more of the following statutory public health governance authorities: (1) Quasi-legislative: adoption or rejection of rules or regulations; (2) Quasi-judicial: enforcement of rules or regulations through hearings and appeals; or (3) Agency Oversight: authority to appoint or remove the state health officer, or make

binding agency personnel, fiscal, or organizational policy decisions.

State Public Health Advisory Board — Advises a public health agency concerning agency management or rulemaking in a non-binding manner.

As indicated in Figure 1 and Table 1, 23 states have boards of health. Among them, only boards in Georgia, Illinois, and Maryland do not have explicit statutory authority to adopt rules. Instead, Georgia’s Board of Community Health has broad oversight authority.⁹ The Illinois State Board of Health reviews rules with a requirement that the state health agency report to the board if it does not adopt rules in accordance with the board’s rule review.¹⁰ Maryland’s Board of Review of the Department of Health & Mental Hygiene has the quasi-judicial authority to hear appeals of state health agency rule enforcement decisions.¹¹ Additionally, Alabama has the only state board of health with an entire membership comprised of non-gubernatorial appointed members because the Medical Association of the State of Alabama *is* the board pursuant to state statute and a State Committee of Public Health functions on behalf of the board.¹²

State Public Health Advisory Boards

As noted in Figure 1, nine states have state public health advisory boards, established by statute to advise the state health agency, state health officer, governor and/or legislature on matters of public health policy or agency management. The scope of advisory responsibility varies greatly by state. Advisory boards lack statutory authority to promulgate or enforce rules or regulations, oversee the agency or appoint and remove the state health officer. Interestingly, advisory boards in Missouri and Hawaii retain the title “board of health” because statutory changes have eroded authority while leaving the entities’ names intact.¹³

State Boards of Health in Practice

Some state boards of health have standing subcommittees for adjudicating enforcement actions or nominating officers, while others are established for special purposes. A few state health agencies involve their boards of health in the review and decision process for grants administered by the agency, some via subcommittees that review grant proposals.

Only eight state boards of health retain a quasi-judicial function. Some boards are “the court of first resort,” hearing matters petitioned directly by citizens or regulated entities. In other states, the board serves as an appellate body for disputed agency decisions. Additionally, at least one board selects only a certain number of appeals in a given year.

Table 1

State Boards of Health and Their Statutory Authorities

State	Title	Adopt Rules	Reject Rules Only	Enforce Rules	Oversee Agency	Appoint SHO	Members Appointed by
AL	State Board of Health	•		•	•	•	State Medical Society
AR	State Board of Health	•		•			Governor
CO	State Board of Health	•					Governor
GA*	Board of Community Health				•		Governor
ID	Board of Health & Welfare	•		•	•		Governor
IL	State Board of Health		•				Governor
IN	Executive Board	•					Governor
IA	State Board of Health	•					Governor
MD	Board of Review of the Dept. of Health & Mental Hygiene			•			Governor
MA	Public Health Council	•					Governor and Others**
MS	State Board of Health	•		•	•	•	Governor
NE	State Board of Health	•					Governor
NV	State Board of Health	•		•			Governor
NJ	Public Health Council	•					Governor
NY	State Public Health Council	•					Governor
NC	Commission for Public Health	•					Governor and State Medical Society
ND	State Health Council	•		•			Governor
OH	Public Health Council	•					Governor
OK	State Board of Health	•			•	•	Governor
SC	State Board of Health & Environment	•		•	•	•	Governor
VT	State Board of Health	•					Governor
VA	State Board of Health	•					Governor
WA	State Board of Health	•					Governor

* GA has both a state board of health and state public health advisory board.

** Secretaries of Elder Affairs and Veterans' Services.

The state health officers, agency staff, and board of health members interviewed were forthcoming concerning state board of health-state health agency relationships and offered advice for how to best work with and engage boards. In states where a board oversight role existed, agency informants emphasized “having an attuned board can make or break your agency” and “it does you no favors to ostracize friends of the governor.” Where an oversight role did not exist, minimal interaction occurred between agency staff and board members outside of regular meetings.

State health officers suggested agencies educate boards about public health, the board’s statutory governance roles, the state’s real and sought after health outcomes, and the agency’s mission and programs. Some state health officers and agency policy staff indicated that state boards should be apprised of the agency’s legislative priorities and legislation that would impact the agency or public health. Likewise, if major issues (such as critical media) are anticipated, members should be informed far in advance. One respondent described a practice of e-mailing regular

updates and reporting at board meetings on pending public health legislation.

Board Legislative Advocacy and the Atmosphere of State Politics

Some agency senior policy staff indicated the involvement of state boards of health in approving or setting the agency’s public health legislative agenda, with varying involvement of individual board members in subsequent advocacy. It is not uncommon for agencies to engage board members in letter writing or phone efforts to educate legislators about issues affecting the agency or public health. This form of advocacy was considered generally more acceptable than other more overt activities.

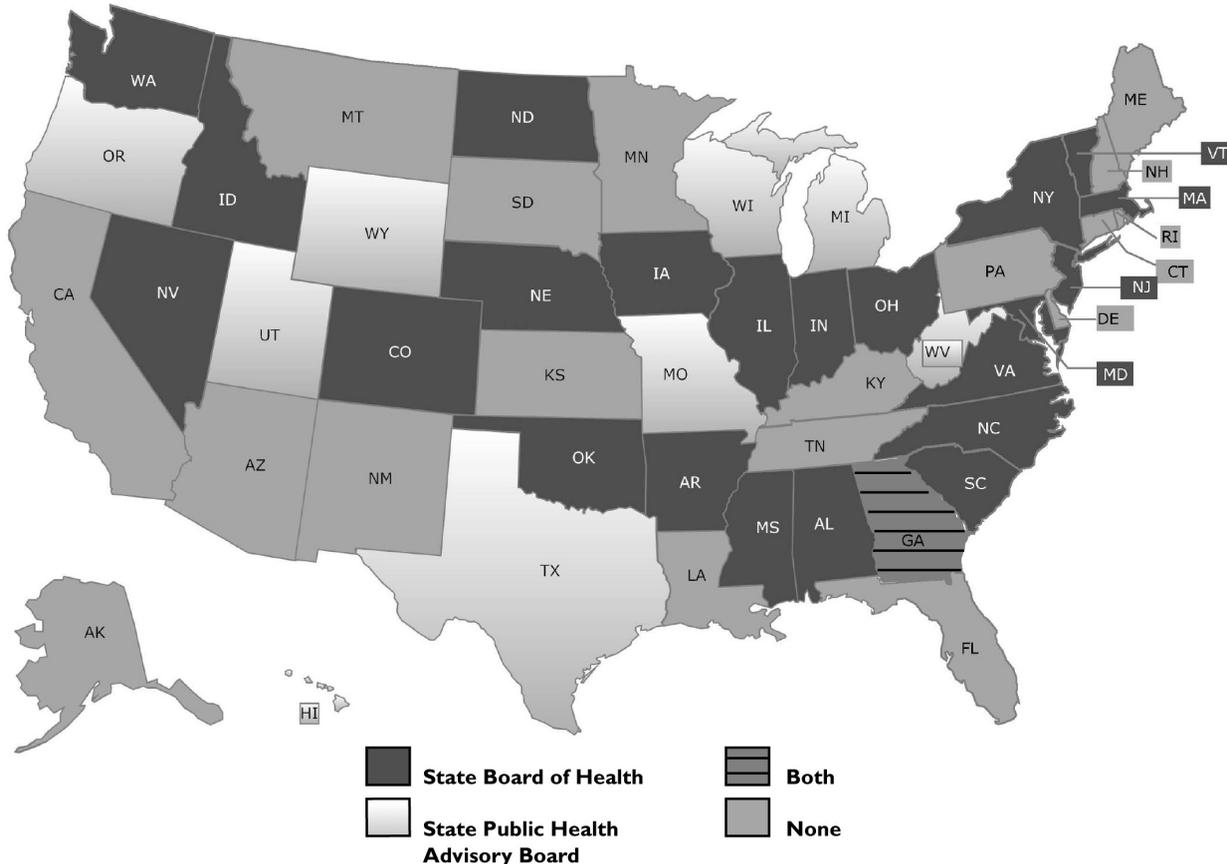
Additionally, some board members interact with state legislators to discuss specific public health legislation, providing expert input to bill sponsors. In some states, members with particular expertise are often called upon by legislators to testify or advise the governor directly on policy issues. Furthermore, state board of health members are naturally active and visible within their respective communities of practice and

commonly advocate apart from the agency concerning public health issues of their own interest. Some agency interviewees indicated that a board member advocacy role is not possible because of their state’s political framework, which often involves a chain of command with the governor’s office concerning legislative advocacy.

Regardless of involvement in legislative advocacy, a state board member position is an inherently political one. Interestingly, two states have statutory provisions which seek to achieve political balance in state board of health membership. For example, Colorado mandates no more than five members of the same political party,¹⁴ and Missouri stipulates that only four members may be from the same political party.¹⁵

In 2002, Joanna Dearlove and Stanton Glantz stated that state and local boards of health are “designed to be insulated from the political pressures experienced by legislators, and often the regulations they issue must be based solely on health considerations.”¹⁶ However, some findings indicate that boards are no less subject to attempts to influence policy decisions, as evidenced by the tobacco industry’s efforts to thwart tobacco con-

Figure 1
State Boards of Health and Public Health Advisory Boards



trol rules.¹⁷ When direct tactics failed, the same interests sought legislative intervention to weaken the policymaking ability of boards or “litigation or the threat of litigation to overturn the regulation or intimidate the board of health into repealing it.”¹⁸ Regardless, the authors suggested that public health advocates “should persuade health boards not to consider any testimony relating to topics outside of health.”¹⁹

Conclusion

While attempting to raise meaningful considerations for state board of health stakeholders, we present important implications for those interested in public health law or policy changes across the states, including federal agencies with expectations of state health agencies. The varying presence and authorities of state boards enhances the complexity of state health policy. Our goal is to stimulate discussion and encourage further exploration of the role of state boards of health in public health governance, including factors contributing to their decline and the presence and impact of political influence. Perhaps most importantly, further exploration is needed to understand the real and potential impact of state boards of health on population health outcomes.

Note

Richard Hughes is employed full-time by Merck & Co., Inc. effective September 1, 2010. Merck is the primary source of his personal income.

Acknowledgements

The authors would like to acknowledge: Katie Sellers, Dr.P.H., Senior Director of Survey Research, Association of State and Ter-

ritorial Health Officials (ASTHO); Lacy Fehrenbach, M.P.H., Chief of Member Services, ASTHO; Rick Hogan, J.D., M.P.H., General Counsel, Arkansas Department of Health; and Aileen Orfino, M.P.H., Badria Albader, M.D., and other students of the Management Approaches to Public Health course at George Washington University.

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12. Ala. Code §§ 22-2-1, 22-2-6 (West 2010).
13. Mo. Ann. Stat. § 191.400(1) (West 2010); Haw. Rev. Stat. § 26-13(b) (West 2010).
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17. *Id.*, at 257-258.
18. *Id.*, at 258-260.
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