

## **DHHS Directive Number II-22**

**Title:** Delegation of Authority to the Director, Division of Public Health/State Health Director  
**Effective Date:** November 3, 2008  
**Revision History:** March 6, 2007; January 1, 2002  
**Authority:** G.S. 143B-10; G.S. 130A-413; G.S. 130A-418; G.S. 130A-22; G.S. 130A-294; G.S. 130A-326; G.S. 130A-17 through 21, 21(a), 23 and 27; G.S. 130A-349; G.S. 143B-14(d); G.S. 143B-204; G.S. 143B-188; G.S. 143B-193; G.S. 143B-436 and 439; G.S. 162A-33; G.S. 90A-55.

### **Purpose**

The purpose of this directive is to delegate, clarify and specifically confirm certain authorities of the Secretary of the North Carolina Department of Health and Human Services (NC DHHS) to the Director of the Division of Public Health/State Health Director. These authorities are delegated under the supervision of the Assistant Secretary for Health Policy, and the Director shall report to the Secretary through the Assistant Secretary for Health Policy.

### **Delegation of Authority**

As provided in G.S. 143B-10(a), the Secretary of the DHHS delegates the following functions concerning management and administration to the Director of the Division of Public Health/State Health Director, subject to state and departmental policy:

1. The functions of management, related to the Division of Public Health, as defined in G.S. 143B-10, which include: planning, organizing, staffing, directing, coordinating, reporting and budgeting.
2. The State Health Director is delegated the functions of management, permit and rule-making authority (in coordination with the Office of the General Counsel)

where appropriate for the following:

- A. Human Tissue Donation Program (G.S. 130A-413);
  - B. The duties and functions of the State Registrar of Vital Statistics (G.S. 130A, Article 4);
  - C. Sickle Cell Program (G.S. 143B-193);
  - D. Final disposition or transportation of deceased migrant farm workers and their dependents (G.S. 130A-418);
  - E. Creation of Metropolitan Water Districts (G.S. 162A-33);
  - F. Establishment of Sanitary Districts (G.S. 130A, Article 2, Part 2); and
  - G. Nutrition and Dietary Services Program (G.S. 130A, Article 13).
3. The Director shall provide staff to the Commission for Health Services and shall be responsible for the implementation of the commission's actions which are the responsibility of DHHS, and shall have permit authority, where authorized, for all commission for DHHS rules.
  4. The State Health Director is delegated the management functions, as defined in G.S. 143B-14(d), for the following boards, commissions and advisory councils:
    - A. The Commission of Anatomy, which is established by G.S. 143B-204; and
    - B. The Council on Sickle Cell Syndrome, which is established by G.S. 143B-188.
  5. The State Health Director is delegated the authority to impose and recover administrative penalties under G.S. 130A-22 in public health programs including, but not limited to, the following:
    - A. Solid Waste Management (G.S. 130A, Article 9), the power to declare imminent hazards and exercise authority under G.S. 130A-294, is also delegated;
    - B. Safe Drinking Water (G.S. 130A, Article 10), the power to grant variances and exemptions, to issue imminent hazard orders, to develop and implement an emergency plan, to approve public water system plans and to exercise the powers under G.S. 130A-326 are also delegated; and
    - C. Sewage Collection Treatment and Disposal (G.S. 130A, Article 11).
  6. The State Health Director is delegated the authority given to the Secretary under G.S. 130A-17 to enter upon premises.
  7. The State Health Director is delegated the authority given to the Secretary under G.S. 130A-18 to institute an action for injunctive relief.

8. The State Health Director is delegated the authority given to the Secretary under G.S. 130A-19 and G.S. 130A-20 to abate public health nuisances and imminent hazards.
9. The State Health Director is delegated all embargo authority given to the Secretary under G.S. 130A-21, including any authority delegated to the Secretary by the Commissioner of Agriculture under G.S. 130A-21(a).
10. The State Health Director is delegated the authority given to the Secretary under G.S. 130A-23 to suspend and revoke permits and program participation.
11. The State Health Director is delegated the authority given to the Secretary under G.S. 130A-27 to institute an action to recover money, other property or interest in property or the monetary value of goods or services.
12. For all appeals concerning the interpretation and enforcement of rules adopted by the Commission for Health Services or the State Health Director, concerning the suspension or revocation of permits or program participation made by the Division of Public Health or an agent of the division and concerning the imposition of administrative penalties by the division or an agent of the division, the State Health Director is delegated the authority to appoint a hearing officer and to ensure that all applicable provisions of the Administrative Procedure Act and all applicable rules are complied with. The State Health Director is specifically delegated the authority to make final decisions in these appeals. However, if the initial decision which is the subject matter of the appeal was made by the State Health Director, then the Assistant Secretary for Health Policy shall appoint the hearing officer, insure that the law and rules are complied with, and shall made the final decision. This paragraph applies both to the contested case hearing proceedings and declaratory ruling proceedings.
13. The State Health Director is hereby appointed as the representative of the Secretary, or of the Assistant Secretary for Health Policy, as appropriate, and is authorized to designate a representative to serve in the State Health Director's place on the following commissions, boards, advisory councils, and advisory committees:
  - A. Member, NC State Board of Sanitarian Examiners (G.S. 90A-55); and
  - B. Member, NC Department of Agriculture Pesticide Board (G.S. 143B-436) and the Pesticide Advisory Committee (G.S. 143B-439).
14. The State Health Director is delegated the authority under G.S. 130A-4(b) to require local health departments to enforce rules of the Commission for Health Services under the State Health Director's supervision and to authorize local staff to enforce the specific rules.

15. The State Health Director shall be responsible for activities and actions necessary to prepare the state to respond to bioterrorism threats.
16. The State Health Director is delegated the authority to control outbreaks of vector-borne disease pursuant to G.S. 130A-349.
17. The Director shall be responsible for coordinating the division's monitoring functions with other divisions and local partners to ensure compliance with state and federal requirements.
18. The Director shall be responsible for ensuring that the division is familiar with and adheres to the department's policy and procedures manual.

This delegation of authority shall not deprive the Secretary from performing, in lieu of the Director of Public Health/State Health Director, any of the acts set forth above. This delegation of authority may be amended or withdrawn by the Secretary at any time and without notice. This delegation of authority shall not apply to any actions which by law, state policy or NC Governor's Executive Order, may only be executed by the Secretary.

APPROVED

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Dempsey Benton, Secretary  
Department of Health and Human Services