

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 160

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-411, IDAHO CODE, TO
2 PROVIDE CERTAIN AUTHORITY TO THE BOARD OF TRUSTEES OF THE IDAHO DISTRICT
3 BOARDS OF HEALTH AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
4 39-416, IDAHO CODE, TO REVISE PROVISIONS REGARDING RULES, TO PROVIDE
5 FOR TRANSMISSION OF A CERTAIN REPORT TO THE DIRECTOR OF THE LEGISLATIVE
6 SERVICES OFFICE, AND TO PROVIDE FOR ANALYSIS OF A CERTAIN REPORT BY THE
7 LEGISLATIVE SERVICES OFFICE; AMENDING CHAPTER 4, TITLE 39, IDAHO CODE,
8 BY THE ADDITION OF A NEW SECTION 39-427, IDAHO CODE, TO DEFINE TERMS,
9 TO PROVIDE THAT INFORMED CONSENT FOR CERTAIN HEALTH CARE SERVICES MUST
10 INCLUDE REVIEW OF A RISK/BENEFIT FACT SHEET, TO PROVIDE FOR ADOPTION OF
11 RISK/BENEFIT FACT SHEETS AND ASSOCIATED ANALYSES, TO PROVIDE FOR ADOPT-
12 TION OF A MINORITY REPORT, TO PROVIDE FOR COLLABORATION AMONG CERTAIN
13 ENTITIES, AND TO PROVIDE THAT THE ADOPTION OR PUBLICATION OF CERTAIN
14 FACT SHEETS IS PROHIBITED; AND DECLARING AN EMERGENCY AND PROVIDING AN
15 EFFECTIVE DATE.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 39-411, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 39-411. COMPOSITION OF DISTRICT BOARD -- QUALIFICATIONS OF MEMBERS
21 -- APPOINTMENT AND REMOVAL -- TERMS -- SELECTION OF OFFICERS -- BOARD OF
22 TRUSTEES OF DISTRICT BOARDS OF HEALTH. (1) For those districts comprised of:

23 (a) Fewer than eight (8) counties, the district board of health shall
24 consist of seven (7) members to be appointed by the boards of county
25 commissioners within each district acting jointly, and each board of
26 county commissioners may appoint a board member.

27 (b) Eight (8) counties, the district board of health shall consist of
28 not fewer than eight (8) members ~~not~~ or more than nine (9) members, and
29 each board of county commissioners may appoint a board member.

30 (2) Each member of the district board of health shall be a citizen of the
31 United States, a resident of the state of Idaho and the public health dis-
32 trict for one (1) year immediately last past, and a qualified elector. One
33 (1) member of the district board, if available to serve, shall be a physi-
34 cian licensed by the Idaho state board of medicine. All members shall be cho-
35 sen with due regard to their knowledge and interest in public health and in
36 promoting the health of the citizens of the state and the public health dis-
37 trict. Representation shall be assured from rural as well as urban popula-
38 tion groups.

39 (3) All appointments to the district board shall be confirmed by a
40 majority vote of all the county commissioners of all the counties located
41 within the public health district. Any member of the district board may be

1 removed by majority vote of all the county commissioners of all the counties
2 located within the district.

3 (4) The members of the district board of health shall be appointed for a
4 term of five (5) years, subject to reappointment; and vacancies on the board
5 for an unexpired term shall be filled for the balance of the unexpired term.
6 Notwithstanding any provision of this section as to term of appointment, if
7 a board member is an appointee for a board of county commissioners, and if
8 that board member is an elected county commissioner and leaves office prior
9 to the expiration of the term on the district board of health, the board of
10 county commissioners may declare the position vacant and may appoint another
11 currently elected county commissioner to fill the unexpired portion of the
12 term of that board member.

13 (5) The members of the district board, each year, shall select a chair-
14 man, a vice chairman and a trustee. The trustee shall represent the district
15 board as a member of the board of trustees of the Idaho district boards of
16 health.

17 (6) The board of trustees of the Idaho district boards of health shall
18 have authority to ~~allocate~~:

19 (a) Allocate appropriations from the legislature to the health dis-
20 tricts. Such authority is limited to the development and administra-
21 tion of formulas for the allocation of legislative appropriations. Any
22 formula adopted by the board of trustees must be in use, without alter-
23 ation, for at least two (2) years; provided that during the two (2) year
24 period, the formula may be changed if an emergency occurs, the emer-
25 gency is declared and there is a unanimous vote of the board of trustees
26 to make the emergency formula change. All proceedings of the board
27 of trustees shall be subject to the provisions of chapter 2, title 74,
28 Idaho Code; and

29 (b) Adopt risk/benefit fact sheets and analyses pursuant to section
30 39-427, Idaho Code.

31 SECTION 2. That Section 39-416, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 39-416. RULES ADOPTED BY DISTRICT BOARD OR BOARD OF TRUSTEES -- PROCE-
34 DURE. (1) The district board or the board of trustees of the Idaho district
35 boards of health by the affirmative vote of a majority of its members may
36 adopt, amend, or rescind rules and standards as it deems deemed necessary to
37 carry out the purposes and provisions of this ~~act~~ chapter.

38 (2) Every rule or standard adopted, amended, or rescinded by the dis-
39 trict board or the board of trustees shall be done in a manner conforming to
40 the provisions of chapter 52, title 67, Idaho Code.

41 (3) At the same time that proposed rules are transmitted to the direc-
42 tor of legislative services, they shall be submitted for review and comment
43 to the board of county commissioners of each county within the public health
44 district's jurisdiction. Rules adopted by the board of trustees shall be
45 submitted to each board of county commissioners in the state. If the rules
46 relate to environmental protection or programs administered by the depart-
47 ment of environmental quality, the rules shall also be submitted for review
48 and comment to the state board of environmental quality. All other rules
49 that do not relate to environmental protection or programs administered by

1 the department of environmental quality shall be submitted for review and
 2 comment to the state board of health and welfare. The state board of health
 3 and welfare, or the state board of environmental quality, shall, within sev-
 4 enty-five (75) days of receipt of a district board's or board of trustee's
 5 proposed rules, disapprove of the adoption of the rules if, on the advice
 6 of the attorney general, such rules would be in conflict with state laws or
 7 rules. The state board of health and welfare, or the state board of environ-
 8 mental quality, shall immediately advise the district board as to the reason
 9 for the disapproval.

10 (4) This section does not apply to measures adopted for the internal op-
 11 eration of the district board or for federal programs where the regulations
 12 are established by the federal government but shall apply to all measures af-
 13 fecting the public at large or any identifiable segment thereof.

14 (5) Public health districts shall have all proposed rules regarding en-
 15 vironmental protection or programs administered by the department of envi-
 16 ronmental quality submitted for review and comment to the state board of en-
 17 vironmental quality and such rules must be approved by adoption of a concur-
 18 rent resolution by both houses of the legislature or such rules shall expire
 19 at the conclusion of a regular session of the legislature. It is the intent
 20 of the legislature that standards and rules relating to subsurface sewage
 21 systems, wastewater treatment, sewage systems and water quality be consis-
 22 tent statewide.

23 (6) If there is a minority report adopted pursuant to section
 24 39-427(5), Idaho Code, then such report shall be transmitted along with the
 25 proposed rule to the director of the legislative services office, and such
 26 office shall include comment on the minority report in the analysis provided
 27 pursuant to section 67-704, Idaho Code. All rules submitted to the legisla-
 28 ture by the board of trustees must be approved by concurrent resolution by
 29 both houses of the legislature, or such rules shall expire at the conclusion
 30 of the regular legislative session. It is the intent of the legislature
 31 that rules adopted pursuant to section 39-427, Idaho Code, be consistent
 32 statewide.

33 SECTION 3. That Chapter 4, Title 39, Idaho Code, be, and the same is
 34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 35 ignated as Section 39-427, Idaho Code, and to read as follows:

36 39-427. INFORMED CONSENT FOR PUBLIC HEALTH CARE SERVICES. (1) For pur-
 37 poses of this section:

38 (a) "Board of trustees" means the board of trustees of the Idaho dis-
 39 trict boards of health.

40 (b) "Health care services" means services for the diagnosis, preven-
 41 tion, treatment, cure, or relief of a health condition, illness, in-
 42 jury, or disease.

43 (2) Except as provided for new health care services as discussed in
 44 subsection (4) of this section, in order to provide informed consent to any
 45 health care services offered by a district health department, a person must
 46 first review and sign a risk/benefit fact sheet for each particular service
 47 that the person is considering. The risk/benefit fact sheet shall be written
 48 in plain language comprehensible to a layperson and shall include:

49 (a) A description of the service being offered;

1 (b) A description of the service's potential benefits;

2 (c) A description of the service's potential risks and possible side
3 effects;

4 (d) Disclosure, if applicable, that the service includes use of a med-
5 ical product, such as a drug or vaccine, that has not yet received full
6 approval from the federal food and drug administration;

7 (e) Disclosure, if applicable, that the service includes use of a medi-
8 cal product, treatment, or procedure that is considered novel, experi-
9 mental, or investigational;

10 (f) Disclosure that a more detailed analysis of the service is avail-
11 able upon request; and

12 (g) Other information deemed pertinent by the board of trustees.

13 (3) The board of trustees shall annually develop and, by administrative
14 rule, adopt a risk/benefit fact sheet for all existing health care services
15 offered by district health departments. The board of trustees shall also
16 prepare a detailed analysis of each service, including supporting documen-
17 tation for the risks and benefits included in the fact sheet associated with
18 such service, which analysis shall be made available upon request to a person
19 considering a service offered by a district health department.

20 (4) Whenever a new health care service is offered by district health
21 departments, which service has not in the past been offered, a risk/bene-
22 fit fact sheet and analysis must be adopted by the board of trustees and made
23 available to the public within thirty (30) days of the date that the health
24 care service is first offered. Prior to the availability of the risk/benefit
25 fact sheet and analysis for the service, a person may receive such service
26 without reviewing and signing a fact sheet as provided in subsection (2) of
27 this section.

28 (5) Prior to adoption of any risk/benefit fact sheet and analysis pur-
29 suant to subsection (3) of this section, the proposed fact sheet and analysis
30 must be approved by majority vote of each district board of health. If at
31 least twenty-five percent (25%) of the members of district boards of health
32 statewide vote against adopting a proposed risk/benefit fact sheet and anal-
33 ysis, then such dissenting members may adopt a minority report, provided
34 that the each dissenting member must concur with the minority report.

35 (6) The board of trustees shall collaborate with each public health
36 district and may collaborate with the state department of health and welfare
37 in developing the risk/benefit fact sheets and analyses described in this
38 section. However, a public health district or the state department of health
39 and welfare shall not adopt or publish its own risk/benefit fact sheets or
40 analyses regarding any health care service offered by the district health
41 departments.

42 SECTION 4. An emergency existing therefor, which emergency is hereby
43 declared to exist, this act shall be in full force and effect on and after
44 July 1, 2023.