

NOTICE OF MEETING AND ACENDA  
SNOHOMISH DISTRICT BOARD OF HEALTH  
October 19, 1965  
Senior Activity Center  
2921 Rockefeller Avenue

AGENDA

1. Call to Order
2. Minutes of September 14 and 20, 1965
3. Auditing Committee
4. Old Business
5. New Business
  - A. Mrs. Beryl Manley
  - B. Appointment Approved
6. Reports
  - A. Health Officer
  - B. Sanitation
  - C. Vital Statistics
  - D. Financial
7. Authorization of Accounts
8. Adjournment

Clifford Anderson, M.D., M.P.H.  
District Health Officer

MINUTES  
SNOHOMISH DISTRICT BOARD OF HEALTH  
October 19, 1965

Present: Members, Mr. Kraetz and Mr. Wyatt. Also Dr. Anderson, Dr. Darrough, Dr. Millard, Miss Findlay, Mrs. Schultz, Mrs. Carleton, Mr. Stockton, Mrs. Manley, Mr. Ingram, and Mrs. Supper.

Inasmuch as a quorum could not be present at this time, it was agreed that the two members present act as the Auditing Committee and that the meeting be recessed until Thursday, October 21, 1965 at 10:30 a.m. in the County Commissioner's office.

Recess: The meeting recessed at 2:10 o'clock until Thursday, October 21, at 10:30 a.m.

Meeting cont'd 10/21/ Present: Members, Messrs. McCollum, Wyatt, Kraetz, Krekow, and Alexander. Also Mrs. Supper.

Authorization of Accounts: Moved by Mr. Kraetz, seconded by Mr. McCollum, and carried that accounts as presented for payment be approved.

Salaries - October, 1965	\$19,040.92
Maintenance & Operations - September 1965	3,225.92

Memorandum to Cities and Towns: The members present read the memorandum to all cities and towns in Snohomish County from Robert Schillberg, Prosecuting Attorney, and William F. Ingram, Attorney for Snohomish Health District regarding Public Health Services - Payment therefore, as attached, and directed that it be sent out to all cities and towns in Snohomish County by the Secretary to the Board of Health, together with the Attorney General's opinion referred to in said memorandum.

Reports: Vital Statistics - For August, 1965, as appended.

Financial - Revenues deposited as of September 30, 1965  
\$227,739.66.

Total spent up to August 31, 1965  
\$190,446.90.

Adjournment: The meeting adjourned at 10:40 a.m.



Chairman

M E M O R A N D U M

TO: All Cities and Towns in Snohomish County, Washington.  
FROM: Robert E. Schillberg, Prosecuting Attorney, Snohomish  
County, and  
William F. Ingram of Bell, Ingram & Smith, Attorney  
for Snohomish Health District.  
DATE: November 5, 1965.  
SUBJECT: Public Health Services - Payment Therefor.

The Snohomish Health Officer, Dr. Clifford Anderson, has advised the Snohomish Health District Board of Health that the demands upon public health services are to be greatly increased in the year 1966 and following. Federal legislation in the areas of Medicare and similar Federal programs will increase the requirements upon public health departments. Further, Doctor Anderson reported to the District Board of Health that already these increased demands in the present areas of tuberculosis and contagious disease control, public health nurses and sanitation have markedly increased the demands upon the Health District Office.

HISTORY: On January 1, 1959, by Resolution of the Snohomish County Commissioners, the Snohomish Health District was created. Prior to the effective date for the creation of the District, the City of Everett petitioned the County Commissioners for inclusion in such District if organized. Thereafter, an Agreement was entered into between the County of Snohomish, the City of Everett, and the newly created Snohomish Health District providing for the inclusion of the City of Everett in said District

This was necessary since under the laws (R.C.W. 70.46) any city in excess of a population of 20,000 had to indicate its consent to inclusion in the District. At that time, Everett was the only primary city as defined by the Health Code; since that time Edmonds has become a primary city and by legislative action of its City Council has elected to establish its own health district.

JURISDICTION OF HEALTH DISTRICT: In a county where a health district is created as in the County of Snohomish, said health district embraces all of the unincorporated territory in the county and all cities and towns therein, except primary cities (which are cities in excess of a population of 20,000 or more).

DUTY OF HEALTH DISTRICT TO RENDER HEALTH SERVICES: The Health District is under a duty to render health services to both the unincorporated areas of the County of Snohomish and to all cities and towns therein including the City of Everett. The Health District has a right to charge the cities and towns for the cost of services so rendered.

RIGHT OF HEALTH DISTRICT TO COLLECT FROM CITIES AND TOWNS FOR HEALTH SERVICES: The Snohomish District Board of Health, acting under the advice of the District Health Officer, may allocate fair and reasonable charges to the cities and towns to reimburse the Health District for the cost of health services rendered in said cities and towns, The Health District has the right to collect for such services rendered since January of 1959 and in the future.

EXISTING CITY HEALTH AGENCIES: Since 1893, under the provisions of the laws of our state (R.C.W. 70.04) every city

and town had to organize a Board of Health and designate a health officer. The health services which said city board of health must render would include all of those matters pertaining to contagious disease control, tuberculosis control, sanitation, public health nursing and vital statistics. Since 1959, the Snohomish Health District has been performing in the various cities and towns most of these functions. The Attorney General of the State of Washington has ruled that where a health district does exist it is the responsibility of the health district to perform such services and the health officers succeeds to the power of local health officers in this regard. R.C.W. 70.46.060, which may be quoted as follows, to-wit:

"The District Board of Health shall constitute the Board of Health for all the territory included in the Health District and shall supersede and exercise all the powers and perform all the duties by law vested in the County or City or Town Board of Health of any county, city or town included in the Health District except as herein otherwise provided."

BUDGETING PROCEDURES: In budgeting for the calendar year, 1967, all cities and towns must consider the cost of health services rendered to such city or town by the Snohomish Health District as well as the cost of such services to be rendered in the year 1966. Also, consideration must be given to services rendered in the intervening years since the formation of the district. Dr. Clifford Anderson and representatives of the health district will contact you in the next several months to review these matters. Arrangements must be made in the 1967 budget to allocate sufficient funds for the purposes described herein. Said money shall be received by the Health District and deposited in the Snohomish Health District Pooling Fund as provided in R.C.W. 70.46.080.

Enc: Attorney General's Opinion.

August 11, 1964

Honorable E. R. Whitmore, Jr.  
Prosecuting Attorney  
Chelan County  
Wenatchee, Washington

Dear Mr. Whitmore:

You have requested the advice of the Attorney General on several questions regarding health districts which we have paraphrased as follows:

1. May a health district organized under Chapter 70.46 RCW refuse to perform any public health service for a city and town within the district which fails to contribute its proportionate share of funds or any funds to the health district?
2. What remedies does the health district have against such a city or town within the district?
3. May a health district recover from a city or town within it, its proportionate share of funds which have not been paid for a two year period?

Before attempting to analyze the pertinent statutes, we should like to point out that the preservation of the public health is one of the mandatory duties devolving upon the state as a sovereign power.

"... In fact, among all of the objects sought to be secured by governmental laws, none is more important than the preservation of the public health; and an imperative obligation rests upon the state, through its proper instrumentalities or agencies, to take all necessary steps to promote this object. The enactment and enforcement of health measures find ample support in the police power which is inherent in the state and which the latter cannot surrender." [25 Am. Jur., Health § 3, p. 287]

In addition:

"The power to enact and enforce reasonable health regulations may lawfully be delegated by the legislature to municipal corporations.<sup>10</sup> The view has also been taken that a municipality has the right, in the exercise of its police power, to adopt such regulations as are reasonable

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and necessary for the protection of the health of its inhabitants.<sup>11</sup> Also, the state, acting through a board of health or by direct legislative action, may require municipalities to provide, maintain, and operate necessary health facilities to serve their own territory.<sup>12</sup> [25 Am. Jur., Health § 4, p. 288] (Footnotes omitted)

RCW 70.46.020 provides for the creation of a health district consisting of two or more counties by a resolution of the board of county commissioners for each county involved. It specifically provides in addition:

"... Such a district shall consist of all the area of the combined counties including all cities and towns except primary cities. The health board of such a district shall consist of two members of the board of county commissioners of each county member, appointed by the respective boards of county commissioners of each county included in the district, together with members selected by cities and towns included in said district, as hereinafter provided."

In addition, RCW 70.46.060 provides as follows:

"The district board of health shall constitute the board of health for all the territory included in the health district, and shall supersede and exercise all the powers and perform all the duties by law vested in the county or city or town board of health of any county, city or town included in the health district, except as herein otherwise provided."

In an Attorney General's Opinion to the Director of the State Department of Health issued on July 18, 1950, this office ruled that a district board of health exercised jurisdiction over all cities and towns except primary cities, and as a result, all city and town health boards are abolished and their functions are assumed by the district board. In addition, RCW 70.46.080 makes it mandatory that each health district shall establish a fund to be designated as the district health fund to

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be made up of all sums received by the district from any source and out of which shall be disbursed all sums expended by the district. It provides further specifically as follows:

"Each county, city or town which is included in the district shall contribute such sums towards the expense for maintaining and operating the district as shall be agreed upon between them. Payments into the fund of the district may be made by the county or city or town members during the first year of membership in said district from any funds of the respective county, city or town as would otherwise be available for expenditures for health facilities and services, and thereafter the members shall include items in their respective budgets for payments to finance the health district." (Emphasis supplied)

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The foregoing provision makes it mandatory upon each county, city or town included in the district to contribute money toward the expense of maintaining and operating the district. You will note that the foregoing paragraph requires the city, town or county to pay into the fund of the district during the first year of membership in said district, such fund as would otherwise be available for expenditure for health facilities and services. Thus, it would appear that inasmuch as every city and town has been required by law since 1893 to maintain a city health board and a city health officer within their jurisdiction, the funds which had been provided for such services should have been paid by the city and town where there was no agreement between such city and town and the district concerning the amount they were to contribute.

The failure of the city or town in question to comply with the mandatory provisions of Chapter 70.04 RCW does not have the effect of relieving the city or town of responsibility for making financial contributions toward the maintenance and operation of the health district. The underlined portion of the statute, in addition, imposes a mandatory duty upon each unit of government included within the health district to make provision in their respective budgets for payments to finance the health district. We note that RCW 70.40.060 referred to above authorizes the district board of health to perform all the duties vested in the county or city or town board of health. Thus, under RCW 70.04.060 relating to city health boards, it provides as follows:

"All expenses incurred in carrying out the provisions of this chapter, or any of them, shall be paid by the town, village or city



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by which, or on behalf of which, such expenses shall have been incurred."

In addition, RCW 70.06.030 provides specifically as follows:

"All expenses incurred in carrying out the provisions of this act, or any of them, shall be paid by the county or city by which or in behalf of which such expenses shall have been incurred."

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In an opinion written to the prosecuting attorney of Columbia County on September 28, 1926, the Attorney General ruled that under what is now RCW 70.06.020, a county health officer has jurisdiction over all cities and towns within the county except cities of the first class. Thus, the jurisdiction of the county health officer extended over a city of the third class and in the event the health officer of the city in question failed to perform his statutory duties, the county health officer had authority to carry out the duty in question, and to require that the city pay the expenses incurred by such action under RCW 70.06.030.

In the present instance, we think it is clear that the health district has the authority and duty to provide public health services within any city or town in the health district, even though the city and town in question has not agreed to contribute a specific amount toward the expense of maintaining and operating the district under RCW 70.46.030. It is our opinion that the health district is authorized to determine what expenses have been incurred by the district in carrying out its statutory duties and responsibilities within a particular city or town whether it has occurred within the last year or for several years preceding the current year, and to collect them.

We note further that RCW 70.46.090 specifically authorizes the withdrawal of a county or city from membership in the health district. The specific conditions are prescribed as follows:

"Any county or any city or town may withdraw from membership in said health district any time after it has been within the district for a period of two years, but no withdrawal shall be effective except at the end of the calendar year in which the county, city or town gives at least six months' notice of its intention to withdraw at the end of the calendar year. No withdrawal shall entitle any member to a refund

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of any moneys paid to the district nor relieve it of any obligations to pay to the district all sums for which it obligated itself for the year at the end of which the withdrawal is to be effective."

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This section would authorize any city, town or county presently a part of the health district to retire from membership in the district, if it has been within the district for two years, and six months notice of intention to withdraw at the end of a calendar year has been given. However, we think this section makes it clear that any withdrawal from the health district does not have the effect of wiping out the legal obligation of any county, city or town for previous obligations to contribute to the maintenance and operation of the public health district in question. Thus, this section would be of benefit to any county, city or town only after the specific provisions of the statute had been complied with.

We wish to call your attention to the fact that if any county, city or town does withdraw from membership in the health district under the provisions of RCW 70.46.090, it then becomes incumbent upon the city, county or town to comply with the provisions of RCW 70.06.020 or 70.04.030, which require the establishment of a local health board and the appointment of a local health officer. Any other interpretation of the pertinent chapters of Title 70 would result in a complete vacuum in the provision of public health services to a county, city or town which was a part of a health district and which refused to pay its proportionate share toward the expense of maintaining the health district in question.

In addition, we wish to call your attention to the provisions of RCW 43.20.010, which give great authority to the Director of Health to strictly enforce all laws for the protection of the public health, and all rules and regulations of the State Board of Health, and to supervise all measures taken by local health officers for the suppression and control of diseases. Among the specific powers and duties given to the Director of Health are the following:

- "(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;
- (2) Devote his time to the investigation of sanitary conditions and the prevalence of disease in the state;

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(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Investigate all epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(5) Supervise all measures taken by local health officers for the suppression and control of disease;

(6) Have the same authority as local health officers to quarantine and disinfect persons, articles of household goods, merchandise, buildings, or watercraft, except that he shall not exercise such authority unless the local health officer fails to do so, or when in an emergency the safety of the public health demands it. He may release any quarantine, whether ordered by himself or by a local health officer, when in his opinion it is no longer necessary;" [Emphasis supplied]

In addition, RCW 43.20.050 provides in pertinent part as follows:

"It may also make and enforce orders in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or when no local board has been established, and all expenses so incurred shall be paid by the county in which such services are rendered, out of the current expense fund of the county.

"All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce such quarantine and sanitary rules and regulations as may be adopted by the state board of health. In the event of failure or refusal on the part of any members of such boards or any other official

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or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction."

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You will note that the foregoing provision provides that the failure of any member of the local board of health or any other official or person to enforce the quarantine and sanitary rules and regulations of the State Board of Health, subjects the individual in question to a fine of not less than fifty dollars upon first conviction, and not less than one hundred dollars upon second conviction.

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The only other method which could be used by the city in providing public health services is found in chapter 17, Laws of 1963 (Chapter 70.09 RCW) which authorizes any municipal corporation to contract for health services. The provisions of that chapter are as follows:

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"As used in this chapter 'municipal corporation' means health districts, counties, cities, towns or other municipal corporations where the position of health officer has been created by the appropriate governing body of such municipality pursuant to law." [RCW 70.09.010]

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"In addition to powers already granted them, any municipal corporation, as that term is defined herein, may contract for either the sale or purchase of health services from any other municipal corporation: PROVIDED, That nothing herein should be construed as allowing any municipal corporation to abdicate its responsibility of creating and filling the position of health officer." [RCW 70.09.020]

"Whenever a contract for health services has been entered into under the authority of this chapter, such services shall be performed under the supervision of the health officer in the municipal corporation which is to receive the services." [RCW 70.09.030] (Emphasis supplied)

You will note that the foregoing chapter requires that even though a municipal corporation has entered into a contract for the purchase of health services, the municipal corporation, in this particular instance the city or town, is still required to carry out its responsibility to create and fill the position of health officer.

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There can be little doubt but that the provision of public health services is one of the mandatory functions of government, whether it be local, state or federal. Recent developments in the field of public health law have expanded the concept of services properly provided by public health agencies. In this state the most recent case decided by the state supreme court involving public health services is found in Kaul v. Chehalis, 45 Wn. (2d) 616, 277 P. (2d) 352 (1954). The majority opinion in that case upheld the authority of the City of Chehalis to add a source of fluoridation to its water supply. In that case, the court discussed at some length the exercise of police power by public health officers to enforce regulations necessary for the public health of the community, and quoted from the case of State v. Boren, 36 Wn. (2d) 522, 525, 219 P. (2d) 566 (1950) as follows:

"The state, under its police power, has the right, and it is its duty, to protect its people in their health and general welfare. The very existence of government, as well as the security of the social order, depends upon this right. This is especially true as to the health of the people, which affects every man, woman, and child within the state."

To summarize the foregoing analysis of your problem, a health district may not refuse to perform any public health services within a city or town in the district which fails to contribute its proportionate share of funds to the health district, unless that city or town has availed itself of the provisions of RCW 70.46.090 and withdrawn from membership in the health district. However, this would not relieve the city or town of its past financial obligation to contribute to the health district, and as we pointed out under RCW 70.06.090, all expenses incurred by the district in carrying out health services in the city shall be paid by the city on behalf of whom the expenses shall have been incurred.

In the absence of specific remedies in the various public health laws, it appears that if a city or town refuses to pay for the services which have been rendered to it by the health district, legal action would have to be instituted to collect the sums assessed against the city or town, inasmuch as the provision of public health services is a mandatory duty imposed upon local and state government.

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Insofar as we have been able to determine, there is no reason why a health district cannot recover from a city or town, the cost of the services which have been rendered to said city or town for a two year period.

We trust this information will be of assistance to you.

Very truly yours,

JOHN J. O'CONNELL  
Attorney General

Jane Dowdle Smith  
Assistant Attorney General

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BIRTHS AND DEATHS OCCURRING IN SNOHOMISH COUNTY  
AS OF September 30, 19 65

		Total to Date	Total for Month	Total County Res.	Total Non Res.
	BIRTHS	2,152	216	199	17
	FETAL DEATHS	24	2	2	
	DEATHS	1,123	105	95	10
"Motor vehicle"accidents		42	4	4	
Adult accidental deaths		45	1	1	
Infant accidental deaths		3			
All other infant deaths		46	5	5	
Suicide		19	2	1	1
Homicide		1	1	1	
Undetermined (of above)		1			
Infectious diseases		5	1		1
Malignant neoplasms		169	18	17	1
Cerebral vascular accident		165	19	17	2
Acute coronary		65	6	6	
All other deaths		562	48	43	5