

SWNPHD Legal Training Pt. 3

Rachel Lookadoo, JD



Who am I?

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Agenda

- Clean Indoor Air Act
- Open Meetings Act
- Regulation of Local Public Health Departments
- Public Health Authority and Autonomy



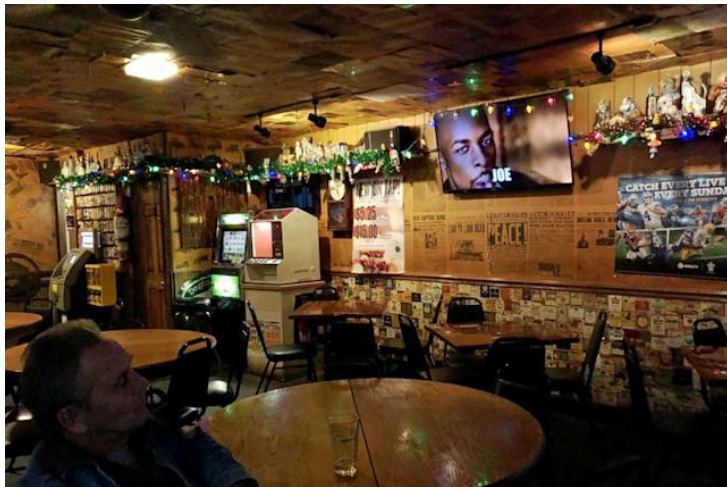
Clean Indoor Air Act



What type of smoking products are included in this law?



Who does this law apply to?



Any Exceptions?



How can businesses comply?



What are the penalties for violating the law?

- For either someone who smokes in a public place or a proprietor who fails to keep their business smoke-free:
 - Class V misdemeanor for first offense (\$100 max. fine)
 - Class IV misdemeanor for additional offenses (\$100 - \$500 fine)
 - Charges dismissed for smokers who complete a smoking cessation program



Questions on Clean Indoor Air Act?



Open Meetings Act



Who is a “public body” under the law?

- Governing bodies of all political subdivisions of the State,
- Governing bodies of all agencies of the executive department of state government created by law,
- All independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created pursuant to law,
- All study or advisory committees of the executive department of the state whether of continuing or limited existence,
- Advisory committees of the governing bodies of political subdivisions, of the governing bodies of agencies of the executive branch of state government, or of independent boards, commissions, etc., and
- “Instrumentalities exercising essentially public functions.”



Exceptions under the law



What is a meeting under the law?

“All regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body.”

Neb. Rev. Stat. §84-1409 (2)



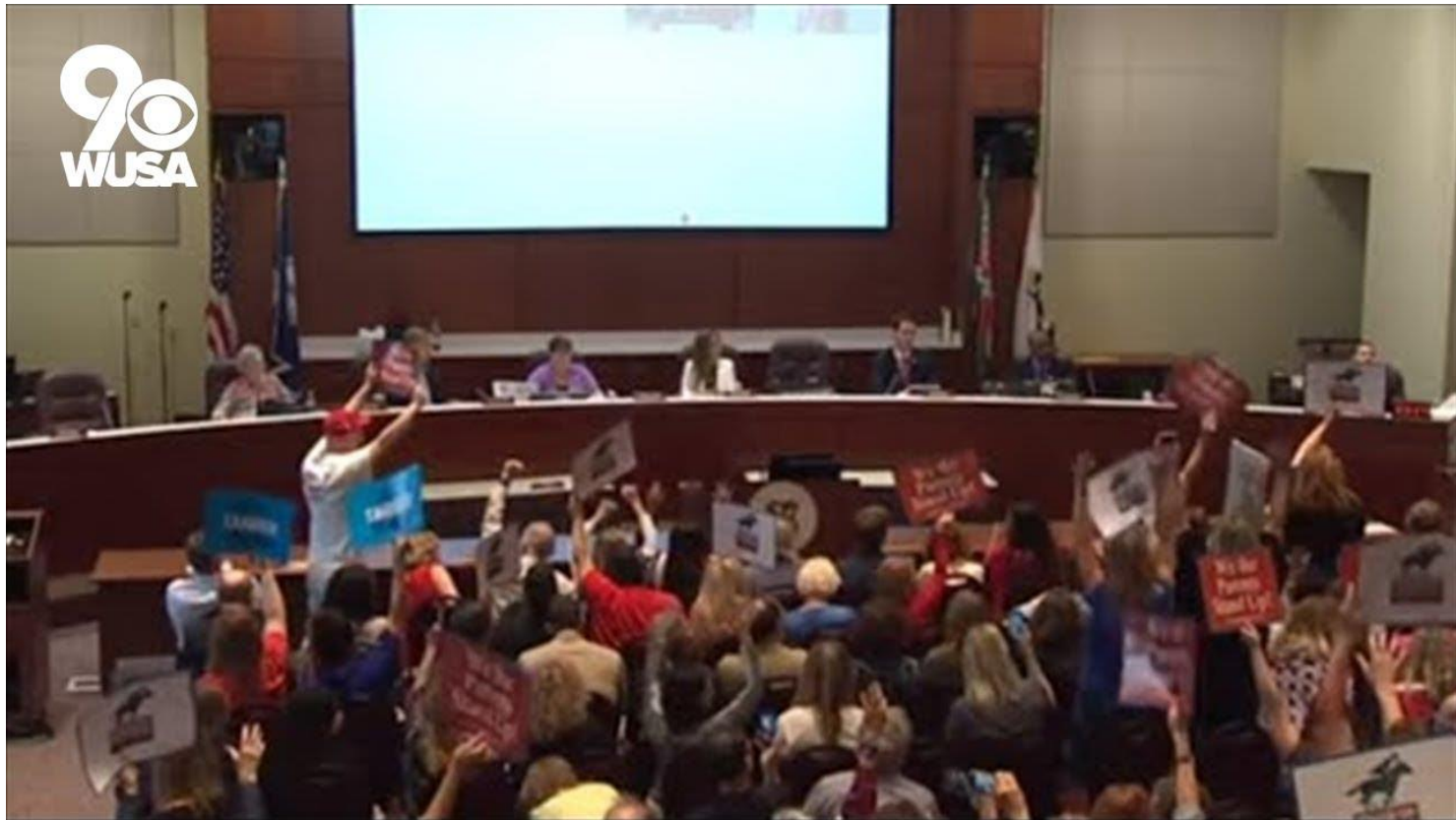
Notice and Agenda Requirements

The public body must:

1. Give advanced notice of the time/place of the meeting,
2. Transmit that notice to all members of the public body and to the broader public, and
3. Provide an agenda of the meeting with the public notice



Rights of the Public



Enforcement of the Act

- Any motion, rule, or formal action of a public body taken in violation of the open meetings law will be declared void.
- Any Nebraska citizen may file a lawsuit in the county where a public body exists to allege violation of the act.



Violation of the Act

- Any member of a public body who knowingly violates the act *or* attends a meeting knowing that it is in violation of the act, will be guilty of a Class IV misdemeanor (1st offense) and a Class III misdemeanor (subsequent offenses)



Questions on Open Meetings Act?



Regulation of Local Health Departments

Neb. Rev. Stat. 71-1629 – 71-1635

4 possible structures:

1. A health department established by a single County Board (“County Health Departments”), 2 of the 19 Local Public Health Departments: Douglas County Health Department and Dakota County Health Department
2. A health district formed by joint resolution of two or more counties in Nebraska (“District Health Departments”), 16 of the 19 Local Public Health Departments in Nebraska
3. When a county board, and the city council of any city within that county, have executed an agreement for maintaining a City-County Health Department. No current departments of this type.
4. When a county with a population of more than 200,000 and the city council of any city within that county, have executed an agreement for maintaining a City-County Health Department. Ex: Lincoln-Lancaster County Health Department



Powers of LHDs in Nebraska

- Select a health director
- Hold meetings
- Conduct necessary health investigations and inspections
- Enact rules and regulations and adopt DHMs *but* must have approval of Nebraska DHHS



Public Health Authority/Autonomy

ALERT

Bill would eliminate state veto power over local Nebraska pandemic prevention measures

Martha Stoddard, Paul Hammel | Jan 21, 2021 Updated Feb 27, 2021



Health care workers from Nebraska detail the fight against COVID in 2020.

LINCOLN — An Omaha lawmaker with a personal stake in fighting the coronavirus wants to give local health departments more power to take action against infectious diseases.

State Sen. Tony Vargas of Omaha lost his father to COVID-19 in April. Since then, the son of Peruvian immigrants has been doing what he can in the fight against the pandemic.

On Wednesday, he introduced Legislative Bill 637, which would free local health departments from having to seek state approval for directed health measures or rules and regulations to protect public health. The measure would allow the departments to impose mask mandates and strict limits on social



Vargas



Public Health Authority/Autonomy

Proposed Limits on
Public Health Authority:
Dangerous for Public Health

May 2021

 **The Network**
for Public Health Law

NACCHO
National Association of County & City Health Officials



GOVERNMENT AND POLITICS

North Dakota Senate approves ban on state-issued mask mandates

Last-second changes to the bill mean it would only prohibit state officials, including the governor and state health officer, from creating a mask requirement, but cities, counties, school boards and businesses would still be allowed to mandate mask use.

Written By: [Jeremy Turley](#) | 3:49 pm, Apr. 7, 2021



Ban the use of quarantine. In Montana, a new law prohibits local board of health emergency orders from separating those individuals who are not yet ill, but reasonably believed to be infected or exposed. Prohibition of quarantine orders undermines the basis of infection control and would make it impossible to stop outbreaks of deadly diseases that are spread by individuals who are not yet symptomatic.

Give unilateral power to legislatures to stop public health actions. In Ohio, a new law will allow the legislature alone to rescind any order or action by the state health department or director of health to control or spread the spread of contagious or infectious disease. The Governor, who vetoed the law, issued a statement saying that the law “strikes at the heart of local health departments’ ability to move quickly to protect the public from the most serious emergencies Ohio could face.” The Governor’s veto was overridden by the legislature and the law will take effect June 23, 2021.



PUBLIC HEALTH

When public health becomes public enemy

How anti-government extremists are robbing the West of the people who protect community health.



Questions?

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