

§ 130A-45.3. Powers and duties of authority board.

(a) A public health authority shall have all the powers necessary or convenient to carry out the purposes of this Part, including the following powers to:

- (1) Protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.
- (2) Construct, equip, operate, and maintain public health facilities.
- (3) Use property owned or controlled by the authority.
- (4) Acquire real or personal property, including existing public health facilities, by purchase, grant, gift, devise, lease or, with the permission of the county commissioners, condemnation.
- (5) Establish a fee schedule for services received from public health facilities and make services available regardless of ability to pay.
- (6) Appoint a public health authority director to serve at the pleasure of the authority board.
- (7) Establish a salary plan which shall set the salaries for employees of the area authority.
- (8) To adopt and enforce a professional reimbursement policy which may include the following provisions: (i) require that fees for the provision of services received directly under the supervision of the public health authority shall be paid to the authority, (ii) prohibit employees of the public health authority from providing services on a private basis which require the use of the resources and facilities of the public health authority, and (iii) provide that employees may not accept dual compensation and dual employment unless they have the written permission of the public health authority director.
- (9) Delegate to its agents or employees any powers or duties as it may deem appropriate.
- (10) Employ its own counsel and legal staff.
- (11) Adopt, amend, and repeal bylaws for the conduct of its business.
- (12) Enter into contracts for necessary supplies, equipment, or services for the operation of its business.
- (13) Act as an agent for the federal, State, or local government in connection with the acquisition, construction, operation, or management of a public health facility, or any part thereof.
- (14) Insure the property or the operations of the authority against risks as the authority may deem advisable.
- (15) Sue and be sued.
- (16) Accept donations or money, personal property, or real estate for the benefit of the authority and to take title to the same from any person, firm, corporation, or society.
- (17) Appoint advisory boards, committees, and councils composed of qualified and interested residents of the authority service area to study, interpret, and advise the public health authority board.
- (18) To purchase or finance real or personal property in the manner provided for cities and counties under G.S. 160A-20.

(b) A public health authority shall have the power to establish and operate health care networks and may contract with or enter into any arrangement with other public health authorities or local health departments of this or other states, federal, or other public agencies, or with any person, private organization, or nonprofit corporation or association for the

provision of public health services, including managed health care activities; provided, however, that for the purposes of this subsection only, a public health authority shall be permitted to and shall comply with the requirements of Article 67 of Chapter 58 of the General Statutes to the extent that such requirements apply to the activities undertaken by the public health authority pursuant to this subsection. The public health authority may pay for or contribute its share of the cost of any such contract or arrangement from revenues available for these purposes, including revenues arising from the provision of public health services.

(c) A public health authority may lease any public health facility, or part, to a nonprofit association on terms and conditions consistent with the purposes of this Part. The authority will determine the length of the lease. No lease executed under this subsection shall be deemed to convey a freehold interest.

(d) A public health authority shall neither sell nor convey any rights of ownership the county has in any public health facility, including the buildings, land, and equipment associated with the facility, to any corporation or other business entity operated for profit, except that nothing herein shall prohibit the sale of surplus buildings, surplus land, or surplus equipment by an authority to any corporation or other business entity operated for profit. For purposes of this subsection, "surplus" means any building, land, or equipment which is not required for use in the delivery of public health care services by a public health facility at the time of the sale or conveyance of ownership rights.

(e) A public health authority may lease any public health facility, or part, to any corporation, foreign or domestic, authorized to do business in North Carolina on terms and conditions consistent with the purposes of this Part and with G.S. 160A-272.

(f) A public health authority may exercise any or all of the powers conferred upon it by this Part, either generally or with respect to any specific public health facility or facilities, through or by designated agents, including any corporation or corporations which are or shall be formed under the laws of this State.

(g) An authority may contract to insure itself and any of its board members, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the authority or of any of its board members, agents, or employees when acting within the scope of their authority and the course of their employment. The board shall determine what liabilities and what members, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the authority's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. Participation in a local government risk pool pursuant to Article 23 of Chapter 58 of the General Statutes shall be deemed to be the purchase of insurance for the purposes of this section. By entering into an insurance contract with the authority, an insurer waives any defense based upon the governmental immunity of the authority.

(h) If an authority has waived its governmental immunity pursuant to subsection (g) of this section, any person, or in the event of death, their personal representative, sustaining damages as a result of an act or omission of the authority or any of its board members, agents, or employees, occurring in the exercise of a governmental function, may sue the authority for recovery of damages. To the extent of the coverage of insurance purchased pursuant to subsection (g) of this section, governmental immunity may not be a defense to the action. Otherwise, however, the authority has all defenses available to private litigants in any action brought pursuant to this section without restriction, limitation, or other effect, whether the defense arises from common law or by virtue of a statute.

Despite the purchase of insurance as authorized by subsection (g) of this section, the liability of an authority for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motion, argument, testimony, or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them. (1997-502, s. 1; 2007-229, s. 2.)