



Welcome to ...
Public Health INsights & INnovation

Enforcing Public Health Laws

Join via: <https://connect.iu.edu/ph-insights-innovation/>

Presenters:



Mindy Waldron, REHS
Administrator
Allen County Health Department



Ross D. Silverman, JD, MPH
Professor
IU Richard M. Fairbanks School of Public Health

Objective:

Participants will be able to understand approaches to effectively enforcing and promoting public health related regulations, executive orders, statutes, and other types of public health laws.

National Public Health Accreditation Board Standards and Measures, Version 1.5
<http://www.phaboard.org/wp-content/uploads/SM-Version-1.5-Board-adopted-FINAL-01-24-2014.docx.pdf>

Public Health Accreditation Domain 6: Enforcing Public Health Laws

DOMAIN 6 INCLUDES THREE STANDARDS:

- 6.1: Review Existing Laws and Work with Governing Entities and Elected/Appointed Officials to Update as Needed Standard
- 6.2: Educate Individuals and Organizations on the Meaning, Purpose, and Benefit of Public Health Laws and How to Comply Standard
- 6.3: Conduct and Monitor Public Health Enforcement Activities and Coordinate Notification of Violations among Appropriate Agencies

The Law and Local Health Department Accreditation

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Public Health Accreditation Board Standards and Measures:

Domain 6: Public Health Laws

Enforce public health laws

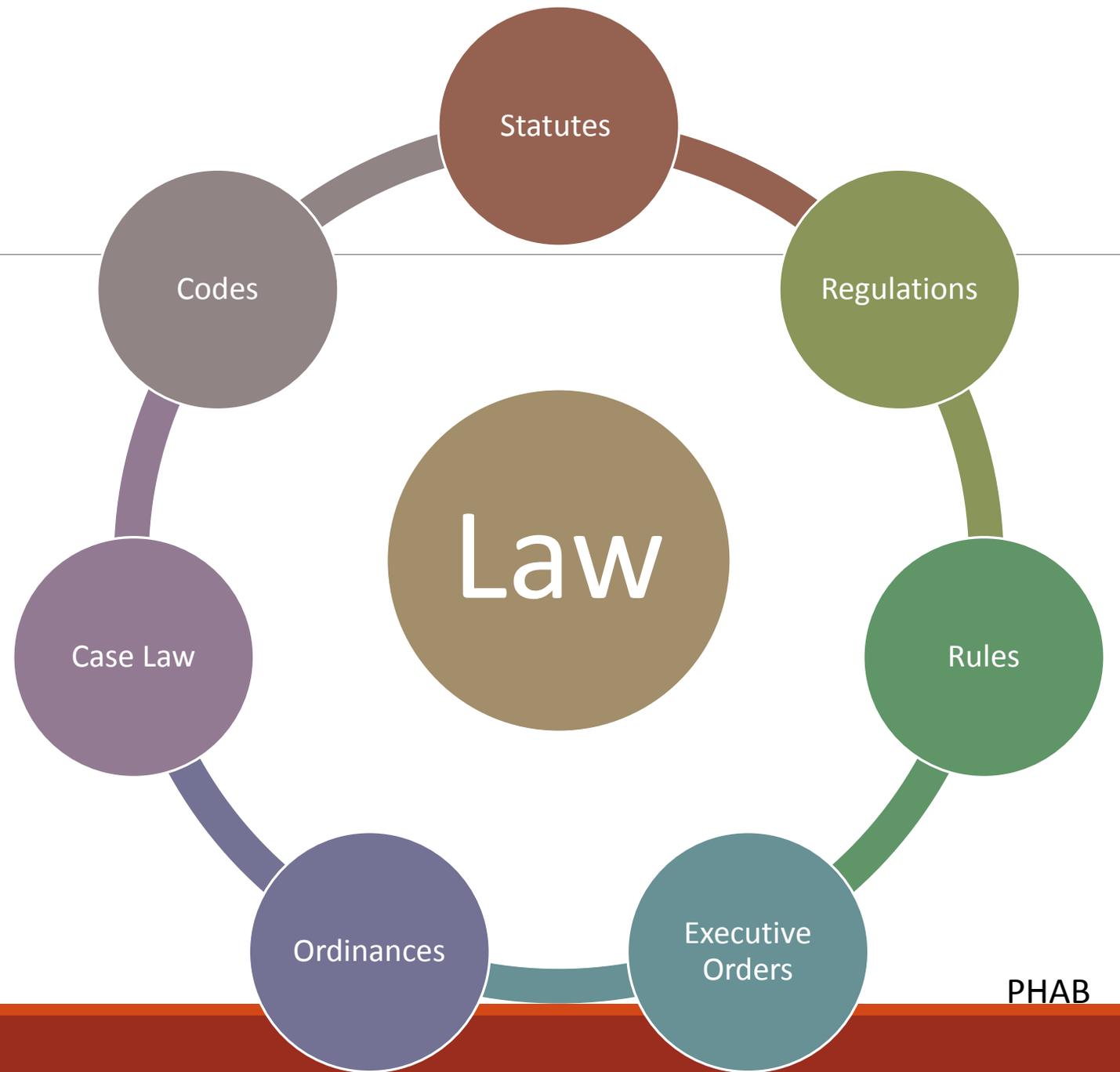
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Standard 6.2: Educate Individuals and Organizations On the Meaning, Purpose, and Benefit of Public Health Laws and How to Comply

Standard 6.3: Conduct and Monitor Public Health Enforcement Activities and Coordinate Notification of Violations among Appropriate Agencies



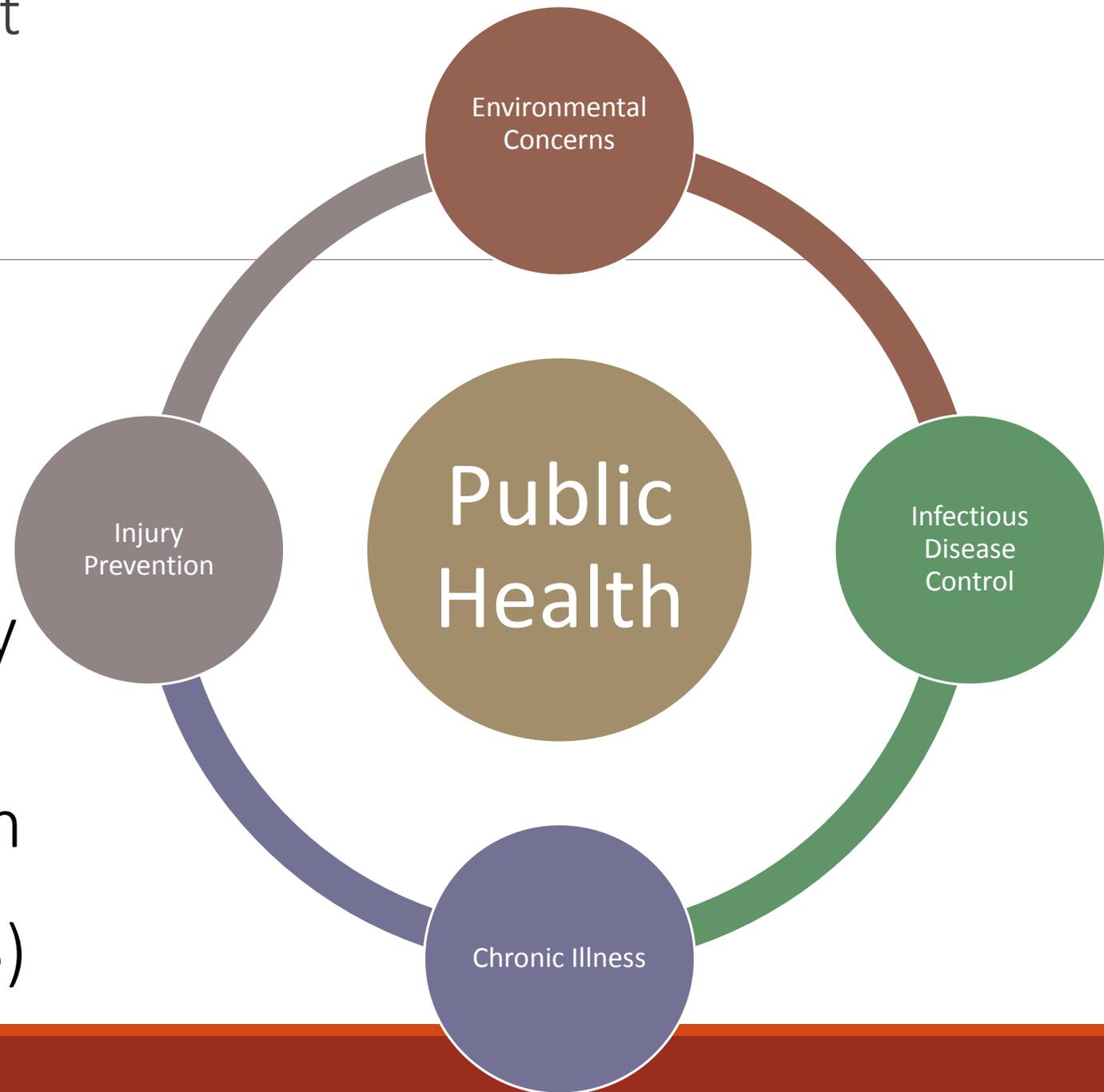
What we're talking about when we're talking about "law"





What we're talking about when we're talking about "public health"

May not have enforcement responsibilities, but do have responsibility to be active in education and in encouraging adoption of sound public health policies (PHAB)



Standard 6.1:

Review existing laws & work with governing entities & elected/appointed officials to update as needed

Keep laws current with evidence-based public health knowledge, practices, & emerging concerns

Ensure local health departments have legal capacity to review & assess laws



Standard 6.1 (cont'd)

6.1.1. Review of public health laws *or laws with public health implications* to see if they need revision

1. Health department must document its evaluation of its laws for their public health implications
 - “This is a program review and does not require the review by a lawyer”
 - a. Consider “evidence-based practices, promising practices, or practice-based evidence.” If law has effect on health equity, must also consider.
 - b. Use model public health laws, checklists, templates, and/or exercises in reviewing law
 - c. Solicit input from key stakeholders on proposed and/or reviewed laws
 - d. *Collaborate with other levels of health departments when laws impact them*
2. *Access to legal counsel documented via, e.g., MOU, contract, statement by government attorney’s office that they provide counsel to dep’t.*

6.1.2. Feedback to governing entity &/or elected/appointed officials concerning needed updates/amendments to current laws or new laws

Standard 6.2:

Educate individuals and organizations on the meaning, purpose, and benefit of public health laws & how to comply.

Outreach could include schools, civic organizations, human service organizations, medical community.

Education efforts need to be culturally and linguistically appropriate to audience.

Sounds simple enough, but what this is really...

6.2.1 Staff education on public health law

How well is department maintaining up to date knowledge of its employees on how laws support public health practice & ensuring consistent application of laws?

Documentation of:

1. Staff training in laws supporting public health interventions & practice
2. Efforts to ensure consistent application of public health laws (e.g., consistent application of food safety laws, clean indoor air laws, etc.)

6.2.2 Make sure public health laws & permit/license application requirements are accessible to the public

6.2.3 Info or education provided to regulated entities regarding how to maintain compliance with public health laws (e.g., provision of info to schools on immunization requirements, reporting of records)



Standard 6.3

Conduct and monitor public health enforcement activities and coordinate notification of violations among appropriate agencies

Measure 6.3.1 Written procedures & protocols for conducting enforcement actions (standardized steps, criteria, & actions)

1. Document authority to conduct enforcement activities
2. Procedures, protocols, processes (eg decision trees) for achieving compliance or enforcement actions

Measure 6.3.2 Inspection activities of regulated entities conducted & monitored according to mandated **frequency** &/or a risk analysis method that guides frequency/scheduling of inspections

1. Show protocol/algorithm for scheduling inspections of regulated industries
2. Show doing the inspections

Standard 6.3 (cont'd)

6.3.3 Enforcement activity/complaint follow up procedures & protocols followed for both routine & emergency situations

1. Document actions taken in response to complaints
2. Communications with regulated industries re: complaint/compliance plan

6.3.4 Patterns or trends ID'd in compliance from enforcement activities & complaints

1. Annual reports from enforcement programs summarizing complaints, enforcement activities, or compliance
2. Formal feedback on evaluation/enforcement process improvement received

Section 6.3 (cont'd – last one, I promise)

Measure 6.3.5 Coordinated notification of violations to the public (as req'd) & coordinated sharing of info among appropriate agencies re enforcement, follow-up, trends & patterns

1. Document communication protocol for interagency notifications
2. Protocol for notification of public of enforcement activities
3. Notifications of enforcement actions & other sharing of info (e.g. post on website, minutes from public meeting, press release, emails showing you're sharing info on enforcement activities)

NACCHO Domain 6 Documentation Examples

<http://www.naccho.org/topics/infrastructure/accreditation/domain-6-examples.cfm>

To follow up further:

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Indiana University McKinney School of Law

Indianapolis, IN

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The Practice of Public Health Law in Indiana

Presented by
Mindy Waldron, BS, REHS, CFSP
Administrator, Fort Wayne-Allen County
Department of Health

The Practice of Public Health Law in Indiana

IC 16-20
ARTICLE 20. LOCAL HEALTH DEPARTMENTS
IC 16-20-1
Chapter 1. Powers and Duties of Local Health Departments

Let's talk about:

- **HOW TO REVIEW THE LAWS -- WHAT are we tasked with doing and how do we familiarize ourselves with the rules? (PHAB Standard 6.1)**
- **HOW do we educate others on what we are required to do and how they can assist/comply? (PHAB Standard 6.2)**
- **HOW do we educate the legislature or other elected officials when a change in law/ordinance is needed? (PHAB Standard 6.1)**
- **HOW do we achieve compliance (what does effective enforcement look like)? (PHAB Standard 6.3)**

What are we tasked with doing exactly??

Federal Rules: Rules that are put forth by the Federal Government. (EX: HIPAA or VGBA for Pools) – Usually “trump” state/local rules

State Statutes: A written law enacted by a legislative body. (“The Law”). They outline authorities.

State Administrative Rules: Rules that are promulgated by an entity that have the force and effect of law. Usually they elaborate on the statutes which give the authority for them. (“The Food Code” or “The Onsite Sewage System Rule”)

Local Ordinances: A local “law” enacted by a municipal entity or the executive body of a locality.

WHERE DO I FIND ALL THE RULES FOR WHICH
WE ARE RESPONSIBLE??



INDIANA State Statutes:

<https://iga.in.gov/legislative/laws/2014/ic/>

State Administrative Rules:

<http://www.in.gov/legislative/iac/>

Local Ordinances:

**Each City/County has their own set of ordinances on
a variety of subjects**

State Statutes

The screenshot shows the Indiana General Assembly website for the 2015 Session. The search interface is highlighted with a black oval. The search bar contains the text "16 20 1" and a search icon. Below the search bar, there are two red arrows pointing to the search input field and the search button. The main content area displays a list of titles, with a red arrow pointing to "TITLE 16. HEALTH".

Indiana General Assembly
2015 Session

Information - Session - Committees - Legislation - Laws

Constitution **Indiana Code** Noncode Statutes Acts Historical Tables

Select a Title...

Current 2014 Code ▾

Current Indiana Code as of the 2014 Regular Session and Technical Session

View Reference Material ▾

Indiana Code

- TITLE 1. GENERAL PROVISIONS
- TITLE 2. GENERAL ASSEMBLY
- TITLE 3. ELECTIONS
- TITLE 4. STATE OFFICES AND ADMINISTRATION
- TITLE 5. STATE AND LOCAL ADMINISTRATION
- TITLE 6. TAXATION
- TITLE 7.1. ALCOHOL AND TOBACCO
- TITLE 8. UTILITIES AND TRANSPORTATION
- TITLE 9. MOTOR VEHICLES
- TITLE 10. PUBLIC SAFETY
- TITLE 11. CORRECTIONS
- TITLE 12. HUMAN SERVICES
- TITLE 13. ENVIRONMENT
- TITLE 14. NATURAL AND CULTURAL RESOURCES
- TITLE 15. AGRICULTURE AND ANIMALS
- TITLE 16. HEALTH
- TITLE 17. REPEALED
- TITLE 18. REPEALED
- TITLE 19. REPEALED
- TITLE 20. EDUCATION
- TITLE 21. HIGHER EDUCATION
- TITLE 22. LABOR AND SAFETY
- TITLE 23. BUSINESS AND OTHER ASSOCIATIONS
- TITLE 24. TRADE REGULATION
- TITLE 25. PROFESSIONS AND OCCUPATIONS
- TITLE 26. COMMERCIAL LAW
- TITLE 27. INSURANCE
- TITLE 28. FINANCIAL INSTITUTIONS
- TITLE 29. PROBATE
- TITLE 30. TRUSTS AND FIDUCIARIES
- TITLE 31. FAMILY LAW AND JUVENILE LAW
- TITLE 32. PROPERTY
- TITLE 33. COURTS AND COURT OFFICERS
- TITLE 34. CIVIL LAW AND PROCEDURE
- TITLE 35. CRIMINAL LAW AND PROCEDURE
- TITLE 36. LOCAL GOVERNMENT

ADMINISTRATIVE CODE

INDIANA GENERAL ASSEMBLY

? User's Guide
to the
-IR- Database

[Indiana General Assembly](#)

[Administrative Rules
Drafting Manual](#)

[Emergency Authority List](#)

Indiana Register

[Current IR](#)
[Archive](#)

**Indiana Administrative
Code**

[Latest Update](#)
[Archive](#)

IR and IAC Search

Enter search terms

All Registers

Latest Update IAC

[Advanced Search](#)

Register DIN

-IR- Database: Indiana Administrative Code

Indiana Administrative Code

Latest Update: April 22, 2015

Rules filed before March 28, 2015.

[\(Certificate of Authenticity\)](#)

TITLE 10 OFFICE OF ATTORNEY GENERAL FOR THE STATE

TITLE 11 CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL

TITLE 15 STATE ELECTION BOARD

TITLE 16 OFFICE OF THE LIEUTENANT GOVERNOR

TITLE 17 OFFICE OF COMMUNITY AND RURAL AFFAIRS

TITLE 18 INDIANA ELECTION COMMISSION

TITLE 20 STATE BOARD OF ACCOUNTS

TITLE 25 INDIANA DEPARTMENT OF ADMINISTRATION

TITLE 30 STATE PERSONNEL BOARD

TITLE 31 STATE PERSONNEL DEPARTMENT

TITLE 33 STATE EMPLOYEES' APPEALS COMMISSION

TITLE 35 BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM

TITLE 40 STATE ETHICS COMMISSION

TITLE 42 OFFICE OF THE INSPECTOR GENERAL

TITLE 45 DEPARTMENT OF STATE REVENUE

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

TITLE 52 INDIANA BOARD OF TAX REVIEW

TITLE 55 INDIANA ECONOMIC DEVELOPMENT CORPORATION

TITLE 58 ENTERPRISE ZONE BOARD

TITLE 60 OVERSIGHT COMMITTEE ON PUBLIC RECORDS

TITLE 62 OFFICE OF THE PUBLIC ACCESS COUNSELOR

TITLE 65 STATE LOTTERY COMMISSION

TITLE 68 INDIANA GAMING COMMISSION

Example: 06 - 121

IAC Cite

- IAC -

Enter Title and Article (optional)
example: 45 - IAC - 1

Indiana Code Cite

- - -

Enter Title, Article*, Chapter*, and
Section*
* = optional
example: 4 - 22 - 8 - 2



IN GENERAL, WHAT RULES ARE LHDs IN INDIANA RESPONSIBLE FOR ENFORCING?

	<u>STATUTES</u>	<u>ADMIN. RULES:</u>	<u>ALLEN COUNTY LOCAL ORD:</u>
• Vital Records	Yes	Yes	Yes
• Control of Disease	Yes	Yes	Yes
• Food Protection	Yes	Yes	Yes
• Pollution Control	Yes	Yes	Yes
• Childhood Lead Poisoning	Yes	Yes	Yes
• Railroad Camp Cars	Yes	Yes	Yes
• Meth Labs	No	No	Yes
• Swimming Pools	No	Yes	Yes
• Tattoos/Body Piercing	No	Yes	Yes

How do we educate others on what we are tasked with doing?

- **Meetings with community/elected officials**
- **Health Board Meetings**
- **Presentations at schools, social service agencies, Lion's Club-type entities, neighborhood association meetings, and to other county/city government offices**
- **Health Fairs, your website, education documents**
- **Annual Reports or other reports you distribute.**



Annual Report | 2014

FORT WAYNE-ALLEN COUNTY DEPARTMENT OF HEALTH



f Health

ervice



Administrator

Environmental
Director

How do we educate others on what we

Office Locations



Administrative Office
200 E. Berry St., Suite 360
Fort Wayne, IN 46802
(260) 449.7561

Vector Control & Environmental Services
2242 Carroll Road
Fort Wayne, IN 46818
(260) 449.7459

Medical Annex
4813 New Haven Ave.
Fort Wayne, IN 46803
(260) 449.7504



Deborah McMahan, MD
Health Commissioner

Mindy Waldron, BS, REHS, CFSP
Administrator

Visit us at Allencountyhealth.com



Deborah McMahan, MD
Health Commissioner

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Administrator

Main Office
200 E. Berry St., Suite 360
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260-449-7561

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Vector Control and Environmental Services
2242 Carroll Road
Fort Wayne, IN 46818
260-449-7459

National HIV Testing Day

What: Free oral HIV testing with results in twenty minutes.

When: Friday, June 27, 10 a.m. - 2p.m.

Where: Walgreens, 118 E. Creighton Ave. (Corner of Creighton Ave. & Calhoun Street).

Why: National Day of HIV Testing. 1 in 6 Americans do not know they are HIV infected because they have not tested.

Fort Wayne-Allen County Department of Health NEWS RELEASE

Contact: John Silcox, (260) 449-7395, john.silcox@allencounty.us

For Immediate Release

Free HIV testing offered on June 27
Residents urged to "Take the test, take control"

FORT WAYNE, Ind. (June 24, 2014) – June 27 is National HIV Testing Day and the Fort Wayne-Allen County Department of Health and Walgreens will be teaming up to offer free and confidential HIV testing.

Rapid HIV testing will be available Friday from **10 a.m. to 2 p.m. at Walgreens, 118 E. Creighton Ave.** No appointment is necessary and results can be given in 20 minutes.

National HIV Testing Day was launched in 1995 and is an annual campaign to encourage people of all ages to "Take the Test, Take Control." Nearly 1.1 million people are living with HIV in the U.S., and one in six people do not know they are infected. Getting tested is the first step to finding out if you have HIV.

"Everyone should know their HIV status," says HIV/STD Prevention Director Kathy Thomson. "And getting tested is easier than ever. Just a quick swab of the mouth and you have the results in 20 minutes."

The Department of Health also offers HIV testing at other sites on an ongoing basis and for a fee at its clinic at 4813 New Haven Ave. To make an appointment, call (260) 449-7504.

To find other testing locations near you, visit www.hivtest.cdc.gov or text your zip code to KNOWIT (566948).

###

Designed by Eric Curtis, Andler Cancer Center

bed bugs birth certificates birth records body art career data death certificates death records disease diseases doctors drowning emergency

RETAIL FOOD

Establishments

Retail food establishments can include restaurants, bars, school cafeterias, bakeries, grocery

Piercing

Establishments

Tattoo and body piercing artists

Establishments

Hotels, motels and other extended stay facilities are licensed and inspected to

How do we educate the Legislature and others when change is needed to a law?

- **Start Local:**

- Your Board Members, Your Elected Officials (Mayor, Commissioners, County Council, etc.)
- Your Health Officer, your staff

- **Then reach out to colleagues to build support**

- Local Health Department Mgr's Association (LHDMA)
- Indiana State Department of Health (ISDH)
- Indiana Environmental Health Association (IEHA)
- Indiana Public Health Association (IPHA)
- Association of Indiana Counties (AIC)

Also, IVCA,
IVRA, etc!

- **Research Best practices on the issue at hand**

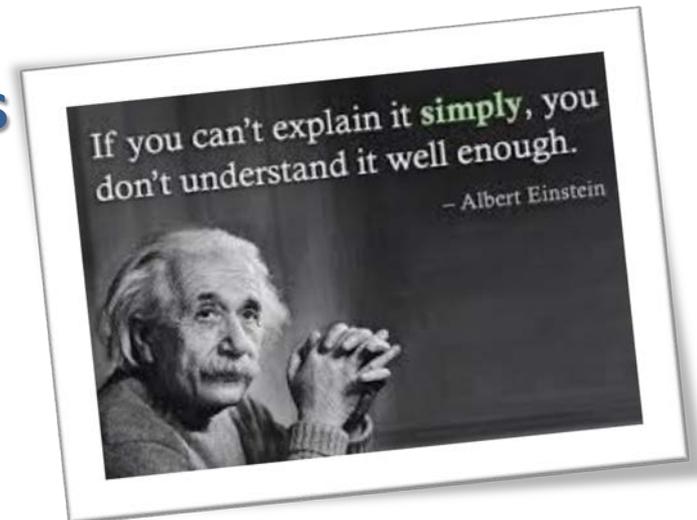
- NACCHO, Other LHDs in other states, web research, etc.

How do we educate the Legislature and others when change is needed to a law?

- **If a change does seem needed/warranted:**
 - **Develop some draft language that outlines the problem & suggested amendment language**
 - **Reach out to legislators in your region to find some one supportive who may author a bill and promote your change request**
 - **Educate as many legislators as possible on the needed change (YOU HAVE TO CALL & EMAIL THEM!)**
 - **Be prepared to testify at the State House**
 - **Actively pay attention to the Legislative Session!**

How do we educate the Legislature and others when change is needed to a law?

- **SOME “MUST DOs” for success:**
 - Have concrete **examples** of why the change is needed (“Poster Child Story”) – make it matter!
 - Gather pertinent **data** that supports your need for change
 - Explain things in **simple** terms and in ways legislators can relate to (must be **relevant!**)



How do we educate the Legislature and others when change is needed to a law?

- **SOME “MUST Dos” for success:** *(cont’d)*
 - Be prepared for change and ready for compromise – as long as it meets your end goal, be open to other ideas
 - Seek support as needed (colleagues, a subject matter expert, other practitioners, etc.)
 - **STAY ON TOP OF WHAT IS GOING ON DURING THE LEGISLATIVE SESSION!**

**.....AND MOST IMPORTANTLY –
Realize it may take several
attempts/years to be successful!**



How did LHDs achieve success recently on a legislative issue??

- **Realized a change was needed** (“Log Cabin Rule” on septic systems)
- **Gathered support over time** (LHDs, ISDH, AIC, Local Officials, Legislators, Industry, Legal folks, other Assn’s)
- **Worked to develop acceptable language changes**
- **Testified at State House for 2 years.** 
- **Spoke to local elected officials who finally made it part of their legislative platform.** 
- **Continued to work with ISDH and they finally made it part of their legislative platform (AND IT PASSED!)** 

What does proactive and successful ENFORCEMENT look like for LHDs?

1. Clear understanding of your responsibilities

- Which Statutes/Admin Rules apply to your county?
- What local ordinances are in effect in your county?
 - Are local ordinances up-to-date? Enforceable?
- Do you understand how to apply all of the above?
- For instance, have you thought through what things like “sanitary”, “clean”, “nuisance”, “Imminent health hazard” mean and how to legally ensure you have the ability to require something?
- **CONSISTENCY IS KEY...and having defined rules and guidelines internally will assist in communication.**

What does proactive and successful ENFORCEMENT look like for LHDs?

2. Clear understanding of your abilities & authorities

– What “powers of enforcement” do you have in your county? **DON'T GUESS OR ASSUME! Be prepared.**

- Fines? Closure? Ability to Condemn? ^{Post} ~~uninhabitable~~ Revocation of permit?
- Orders? Developed and easy to use?
- Letters? Process to ensure Due Notice and Proof of Delivery?
- Administrative Hearings? Designated Hearing Officer? Appeals? Process for all of these? “NO TRESPASSING?”
- *County Attorney* / Prosecutor / Court processes?



ENSURE YOU FILL YOUR ENFORCEMENT TOOLBOX WITH THINGS YOU CAN USE AND KNOW HOW TO USE THEM!



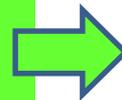
What does proactive and successful
ENFORCEMENT look like for LHDs?

COUNTY ATTORNEY?

- What is your relationship?
- How often are they available to you?
- Do they agree with your methods of inspection, enforcement, etc.? You must follow their lead!
- What role will he/she play?
- If not working well, do you have other options?



It is critical that you are
all on the same page!



What does proactive and successful
ENFORCEMENT look like for LHDs?

HEALTH OFFICER'S ROLE?

- Have their finger on the pulse of what is occurring “under their name” (orders, suits, etc.)**
- May need to testify or present on some issues in court or to others**
- In general, most local public health activities are carried out in the name of the Health Officer as “their designee” or “authorized representative”. This means they are ultimately responsible – so ensuring support of your processes is critical (especially if challenged or appealed)!**



Fort Wayne-Allen County Department of Health

Public Health Hazards Ordinance Procedures

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General Procedures

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8	Abandoned or Junk Vehicles
9	High Weeds/Grass Complaints
10	Mobile Home Park Complaints

Drug Labs

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EXAMPLE

ve and successful ook like for LHDs?

Complaint Investigation

When a complaint is received regarding conditions on the inside or outside of a property and permission is needed from the property owner or tenant to inspect the following procedure shall be conducted to ensure the complaint is properly and consistently investigated.

- When a person calls to report a complaint regarding conditions inside or outside of a property, the recipient of the complaint should try to obtain as much information as possible (i.e. if there is an odor emitting from a house, what time is the odor the worst; when does it appear the occupant is at home, etc.)
- The inspector should attempt the initial visit to the property within 2 business days to provide notice to the property owner or tenant regarding conducting an inspection in response to the complaint.
- **Warning Notice/Letters (for violations with 30 day correction time frame)**
 - If the property owner/occupant refuses to sign the warning notice acknowledging the ordinance violation, the inspector should write "Refused to sign" in the property owner/occupant signature field and give the yellow copy to the property owner/occupant.
 - A follow-up inspection is to occur 7 days later to see if the owner/occupant corrected the violation.
 - If corrected, case closed.
 - If not corrected within 7 days, a warning letter will need to be mailed certified and first class to the property owner/occupant. The correction date is to be adjusted for the 7 additional days. *[If certified/first class mailed notice is returned undeliverable, then then a letter (in a baggie) is to be left in the door. A picture of the letter in the baggie is to be taken. An affidavit is to be completed for leaving a letter in the door. The inspector is to return the next business day to see if the letter has been removed from the door.]*
 - A follow-up inspection is to occur 30 days later to see if the owner/occupant corrected the violation. If not, a second warning letter is mailed certified and first class.
 - Another 30 day follow-up inspection is to occur. If not corrected, a 3rd and final warning letter is mailed certified and first class.
 - If not corrected, the division director is to discuss the case with the Department Administrator. If necessary, a hearing letter is to be mailed certified and first class to the owner/occupant.
 - If the property owner/occupant is not home, the inspector is to write "Not home" in the property owner/occupant signature field and leave the yellow copy in the door.
 - A follow-up inspection is to occur 7 days later to see if owner/occupant

- Amend at any time new
- ENSURE they are followe

What does proactive and successful
ENFORCEMENT look like for LHDs?

IN OTHER WORDS....

Ordinances and Laws

These state **WHAT** must or must not be done



SOPs & Guidelines

These state **HOW** to go about enforcing the
above and define what to do to make the case
“stick”! Gives staff a process day-to-day.

== Strong Enforcement Program

What does proactive and successful ENFORCEMENT look like for LHDs?

Lucky the Lead-Free Lemur's
Coloring Book



VACCINATION CONSENT FORM
SENTIMIENTO PARA VACUNA

Lucky's Lesson:
Handwashing



Vector Control & Environmental Services Division • 2242 Carroll Rd. • Fort Wayne, IN 46818
Phone: (260) 449-7459 • Fax: (260) 449-7460 • www.allencountyhealth.com

WARNING NOTICE

Date: _____
Violator Name: _____
Time: _____
Address: _____

**YOU ARE IN VIOLATION OF ALLEN COUNTY CODE TITLE 10, ARTICLE 12
AND HAVE BEEN PROVIDED A DEADLINE TO CORRECT THIS VIOLATION.
IF NOT CORRECTED BY DATE GIVEN, LEGAL ACTION WILL BE PURSUED.**

Violation: _____
Corrected by: _____
Code Section(s): _____

Violation: _____
Furniture, etc.
Waste, Animal waste/improper disposal
in proper containers with tight-fitting lids.
Refuse, animal/human waste, and large
debris that clutter the home and attract pests.

PURSUANT TO ALLEN COUNTY CODE, TITLE 10, ARTICLE 2
(Allen County Food & Beverage Ordinance), THIS

STOP WORK ORDER

IS HEREBY ISSUED BY THE FORT-WAYNE ALLEN COUNTY DEPARTMENT OF HEALTH FOR THE PROPERTY LOCATED AT:

FOR VIOLATION OF ALLEN COUNTY CODE, TITLE 10, ARTICLE 2 WHICH STATES:

10.2.2.2: "Plans: No construction, renovation, or alteration shall begin without the construction, renovation or alteration plans being first submitted to the...

**It is critical to be able to demonstrate that you have properly informed what the rules are, how to comply, what will occur if they do not –
AND ENSURE IT WAS UNDERSTOOD!**

What does proactive and successful ENFORCEMENT look like for LHDs?

5. Training on the need for & skill of good documentation (“If it isn’t documented, it didn’t happen!”)



- **DOCUMENT EVERYTHING!**
- You must be able to “paint a picture” of any case by referring to all of its documented steps and dates.
 - Info on complaint received
 - Inspection documents
 - Orders issued
 - Warning Letters sent (documenting receipt is key!)
 - Any communications/calls and discussions with property owner
 - Hearing outcomes and expectations....and FOLLOW-UP on them!
 - PICTURES! PICTURES! PICTURES!

I always say “How would I convince a Judge to uphold my order”?

SO WHICH IS MORE CONVINCING?

Judge/Atty/Commissioner: “Well how bad could that food establishment really be? The property owner says he cleaned it up! Is anyone really going to become ill?”

YOU: “Oh yes, Mr. Judge....it’s just terrible. There are pests and trash everywhere. The food temp’s are very unsafe. It’s real bad!”

THIS DOES NOTHING TO PUT THE TRUE SCOPE OF THE PROBLEM IN VIEW FOR THE JUDGE/Atty/Comm TO MAKE A THOUGHTFUL DECISION?

I always say “How would I convince a Judge to uphold my order”?

SO WHICH IS MORE CONVINCING?

Judge/Atty/Commissioner: “Well how bad could that food establishment really be? The property owner says he cleaned it up! Is anyone really going to become ill?”

YOU: “Let me show you!”



August 13, 2015

The following
report

Allen County Health Department

inspection



EXAMPLE OF ENFORCEMENT PROCESS

RULES PROVIDED upon **Food Establishment** Opening

INSPECTIONS (routine OR complaints)

In Compliance



Not in Compliance

Follow-up Inspection(s)

Not in Compliance

Mandatory Discussion Meeting

Action Plan Required

Re-Inspection

Not in Compliance

Mandatory Education Prog. (\$)

Action Plan Required

Re-Inspection

Not in Compliance

Administrative Hearing for possible penalties

Orders Issued

Re-Inspection

Not in Compliance

Administrative Hearing for possible permit suspension or revocation

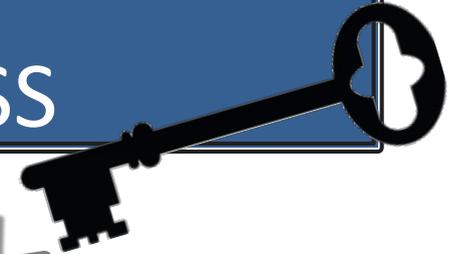
Orders Issued

Re-Inspection, OR Permit Suspended/ Revoked & Facility Closed

NOTES:

- **Housing & Septic complaints sometimes involve admin hearings, sometimes directly to court**
- **Idea is to work with them and try to gain compliance at each step to avoid the next step!**

“KEYS” to SUCCESSFUL ENFORCEMENT PROCESS



- Documentation and Due Process
- Consistency
- Follow
- Inform on what
is rec standing,
clarity timeline, and the
consequences of not complying.
- Having your process laid out in advance with approval.

And did I mention
Documentation is
important?? 😊

TEMPLATES

Hearing Letter

Hearing Agenda

Hearing Process

Hearing Outcome Letter



200 E. Berry St. • Suite 360 • Fort Wayne, IN 46802

Phone: (260) 449-1

DATE

NAME
ADDRESS
ADDRESS

RE: ESTABLISHMENT NAME & LOCATION

Dear _____ -

The Fort Wayne-Allen County Department of Health is stated in the Health Code (Allen County Code, Title 10, Article 2) defines a food service establishment as any place where food is prepared, served, or otherwise consumed, or otherwise consumed.

(410 IAC 7-24) defines a food service establishment as any place where food is prepared, served, or otherwise consumed, or otherwise consumed.

Due to the willful violation of the Health Code, you were notified to appear for an administrative hearing on _____, Allen County Code, Title 10, Article 2 (Schedule of Civil Penalties), which will be represented by legal counsel. The hearing will be held at the Fort Wayne-Allen County Department of Health, 200 E. Berry Street, 3rd Floor, Room 340, Fort Wayne, Indiana at _____ a.m. on _____. Room 340 is located directly across from the elevators on the 3rd floor on the south side of the atrium. We expect the meeting to start promptly at 9:00 a.m. and thank you in advance for arriving on time.

The hearing will be held at the Fort Wayne-Allen County Department of Health, 200 E. Berry Street, 3rd Floor, Room 340, Fort Wayne, Indiana at _____ a.m. on _____. Room 340 is located directly across from the elevators on the 3rd floor on the south side of the atrium. We expect the meeting to start promptly at 9:00 a.m. and thank you in advance for arriving on time.

Thank you in advance for your cooperation.

Sincerely,

Director, Food & Consumer Services
Fort Wayne-Allen County Department of Health
PHONE: _____

cc: Mindy Waldron, Deputy Director
[file](#)

DATE

OWNER
ESTAB NAME
ESTAB ADDRESS

Dear _____ -

As you are aware, an administrative hearing was held on _____ concerning the history of noncompliance and reoccurring violations of 410 IAC 7-24 (Indiana State Food Protection Rule) that have been observed during routine health inspections performed at your facility, _____, located at the above-mentioned address. The purpose of this letter is to provide written verification of the results of the hearing.

(1) In lieu of closure, it was ordered that all outstanding violations be corrected within ten (10) days which is on or before _____.

(2) One of the findings was that the staff and management have not fully read the state rules and are therefore unable to apply the principles of safe food handling. The person in charge, _____, was ordered to fully read and apply the regulations set forth in 410 IAC 7-24 (Indiana State Food Protection Rule) within ten (10) days as well. A copy of the Rule was issued to you onsite at the conclusion of the hearing.

(3) A follow-up inspection will be conducted within thirty (30) days of the administrative hearing to ensure all outstanding violations have been corrected and that the person in charge properly displays the required knowledge of safe food handling practices.

(4) You are required to attend an administrative hearing follow-up meeting to discuss the corrective actions taken by you and your employees to ensure that all violations *remain* corrected. The meeting will be held at the Fort Wayne-Allen County Department of Health, 200 E. Berry Street, 3rd Floor, Room 340, Fort Wayne, Indiana at _____ a.m. on _____. Room 340 is located directly across from the elevators on the 3rd floor on the south side of the atrium. We expect the meeting to start promptly at 9:00 a.m. and thank you in advance for arriving on time.

(5) A fine of one thousand nine hundred dollars (\$1900) was assessed. At your request, the Fort Wayne-Allen County Department of Health has agreed to reduce the fine to one thousand dollars (\$1000).

INSTRUCTIONS TO ADMINISTRATIVE HEARING PARTICIPANTS

Attendance today. Today is _____, and we are here for an administrative hearing for: _____

_____. Our records show _____ the owner of this facility. Is that correct?

The hearing will be held at the Fort Wayne-Allen County Department of Health, 200 E. Berry Street, 3rd Floor, Room 340, Fort Wayne, Indiana at _____ a.m. on _____. Room 340 is located directly across from the elevators on the 3rd floor on the south side of the atrium. We expect the meeting to start promptly at 9:00 a.m. and thank you in advance for arriving on time.

As part of the formal process, it's important to understand how this will be conducted and the next steps.

I am the Deputy Health Commissioner for Allen County and as the hearing officer for these proceedings today. This is a formal process and the formal rules of evidence apply. However, everyone is to be treated with respect for all participants as they are presenting their case. Questions will be allowed and I will guide how the process will proceed and so forth. If this cannot be accomplished in a timely manner, we will include the hearing and move to the judgment phase.

The hearing will be held at the Fort Wayne-Allen County Department of Health, 200 E. Berry Street, 3rd Floor, Room 340, Fort Wayne, Indiana at _____ a.m. on _____. Room 340 is located directly across from the elevators on the 3rd floor on the south side of the atrium. We expect the meeting to start promptly at 9:00 a.m. and thank you in advance for arriving on time.

If you considering taking enforcement actions, know your local options for enforcement in advance!

- **Speak with your County Attorney;**
- **Review your local ordinances;**
- **Review pertinent statutes:**
 - **RE: Involvement of Prosecuting Attorney for County**
 - **Obtaining Inspection Warrants if needed**
 - **Fines/Penalties (as each rule is different)**

HOW DO WE KNOW WE ARE SUCCESSFUL?

- **Measuring the success of enforcement isn't an exact science, so you have to consider several things (among others):**
 - **Did a judge agree and grant your enforcement request?** ✓
 - **If dealing w/ a licensed facility for which you provide inspections routinely, are inspections improving?** ✓
 - **When you go inspect, do you get a feeling of better understanding?** ✓
 - **Are you hearing that word has spread to others on an enforcement action you recently took?** ✓
 - **Are other external indicators seemingly improving over time (water tests, amount of complaints received, etc.?)** ✓

LESSONS LEARNED (sort of random!)

- **Developing an effective enforcement process for septic system compliance is the most difficult (DOABLE, but difficult)! WHY?**
 - **\$\$\$\$!!!**
 - **Everyone knows an elected official willing to ask you to leave them alone**
 - **For the most part, no one really cares about properly disposing of sewage! 😊**
 - **AND...every single situation is different.**

In all of these cases –
it is what it is, we cannot
control it, and we simply
must work within the confines
of what Indiana Public Health
Laws and local rules
allow or work to change
them over time!

LESSONS LEARNED (sort of random!)

- **Don't ever take the word of another person if you are the person responsible for making a decision on closure, orders, suing, etc. DO YOUR OWN RESEARCH, look at pictures, visit the site, and ensure everything has been documented appropriately! (Civil liberties)**
- **Data speaks volumes. Compile it!**
- **Speak in general terms in orders, don't use "lingo" and you must be extremely CLEAR!**
- **Don't get discouraged! It takes time to develop successful local enforcement procedures!**

It took me 25 years, but we now have:

- **A process of enforcement for:**
 - **General nuisance issues not covered in the statutes**
 - **Septic System and Sewer Issues (all sorts – and all the way through the court system w/ 4 successful suits)**
 - **Food Establishments issues such as:**
 - **Recurrent pest problems (decision-making tool)**
 - **Certified Food handler violations (fining decision tool)**
 - **How to move a problematic food est. through enforcement**
 - **Administrative hearings with fines/penalties/closure**
 - **😊 I even now have cell phone #'s for 1 judge in case I have after hours non-compliant TB isolation patients requiring court-ordered steps 24/7!**

At the end of the day....

- **Enforcement of Indiana public health laws is difficult at best as they are not written in the most enforceable manner (some lack penalties for non-compliance).**
- **Enforcement really happens at the local level, so get to know your local “system” and ensure you have support.**
- **DO YOUR BEST, BE CONSISTENT, and reach out to others for advice! GOOD LUCK!**



Any Questions?

Thank you!



Domain 6: Enforcing Public Health Laws

6.1: Review Existing Laws and Work with Governing Entities and Elected/Appointed Officials to Update as Needed Standard

6.2: Educate Individuals and Organizations on the Meaning, Purpose, and Benefit of Public Health Laws and How to Comply Standard

6.3: Conduct and Monitor Public Health Enforcement Activities and Coordinate Notification of Violations among Appropriate Agencies



Evaluation: <http://survey.constantcontact.com/survey/a07ebj1olwyied6tbr9/start>

Resources

Title	Description	Link
Public Health Quality Improvement Exchange (PHQIE)	Shared resources for creating a culture of quality improvement	https://www.phqix.org/
Public Health Accreditation Board (PHAB)	Tools, resources, information, research on voluntary public health accreditation	http://www.phaboard.org/
Association of State and Territorial Health Officials (ASTHO)	Library of sample documentation per domain	http://www.astho.org/accreditation-library/
The Community Guide PHAB Crosswalk (CG)	Crosswalk of PHAB 1.5	http://www.thecommunityguide.org/us/es/Community%20Guide-PHAB%20Crosswalk%20Version%201.pdf



Thank you for attending...

Public Health INsights & INnovation

Save the Date!

Please join us on **October 30** for
*Promote Strategies to Improve Access to
Health Care* with **Eric Coulter** and **Joan
Duwve**.