

Berkshire Public Health Alliance



**BERKSHIRE REGIONAL PLANNING
COMMISSION
AND
BERKSHIRE COUNTY
BOARDS OF HEALTH ASSOCIATION**

**PITTSFIELD
May 12, 2011**

Welcome!

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- **Safety Briefing**
- **Introductions**

Meeting Notes

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- **Meeting Notes from April 28, 2011**

Today's Goals

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- **Working Group Agreement on Intermunicipal Agreement (IMA)**
- **Determine IMA implementation strategy and next steps**
- **Continued clarification of shared services / moving towards “business plan”**

“Homework” Results

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- **Municipal Reports**
- **Points of Contact (POC) and Alternate**
- **Core Duties Assessment Handout**

Host Fiscal Agency

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Must be a government body to manage grants, contracts, staff, benefits, insurance, office, etc. and retain governmental liability protections.

Options:

1. One town/city
 2. Berkshire Regional Planning Commission
- **Any Interest from Municipalities???**

Regional Coordination Elements

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1. Legal Agreement between communities

- **Must be signed by the CEO and the BOH Chair**
- **Enough Towns/Cities to be sustainable**

2. Regional Governing Board

- **Work together as a Regional Public Health Alliance**
- **Set Policy**
- **Regional Programs Oversight – Quality Assurance**

3. Fiscal Agent (must be a government agency)

- **One Town or BRPC**
- **Manage grants , programs and any staff**
- **File all required paperwork**

IMA – Parties – page 1

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THIS AGREEMENT dated as of this _____ day of _____, 2011 (the “Agreement”) is entered into by and between the municipalities of (*Insert Names of Communities*), *Massachusetts*, (*collectively the “Municipalities”*) and the *Berkshire Regional Planning Commission* (hereinafter “*BRPC*”) a governmental unit as defined under *M.G.L. c. 40, s.4A*.

IMA – Recitals - page 1

- WHEREAS, M.G.L. c. 40, s. 4A, as amended, authorizes the chief executive officer of a city or town to enter into agreements with one or more municipalities and other governmental units to jointly perform services and share costs which any one of them is authorized to perform;
- WHEREAS, Boards of Health of the Municipalities are mandated to prevent disease and enforce public health laws and regulations;
- WHEREAS, Boards of Health of the Municipalities desire to equitably, efficiently and consistently promote, protect, and preserve the Public Health;

IMA – Recitals – page 1

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- **WHEREAS, Boards of Health of the Municipalities, wish to improve public health capacity and access to trained and experienced public health professionals in order to improve services and meet community needs;**
- **WHEREAS, the Municipalities are seeking to create regional coordination within Berkshire County of public health services and programs; and**

IMA – Recitals – page 1

WHEREAS, each party to this Agreement has obtained authority to enter into this Agreement pursuant to G.L. c.40, s. 4A. The Municipalities have obtained authorization for this joint undertaking by vote of their Boards of Selectmen or City Council with the approval of the Mayor as attested to by certified copies thereof contained in Appendix A. In addition, the local Boards of Health have recommended approval of this Agreement.

IMA – Term – item 1 page 1

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1. Term. The term of this Agreement shall be five (5) years, commencing upon execution by the Parties. It shall renew automatically for up to a total term of twenty-five (25) years unless earlier terminated as set forth herein.

Governing Board Essentials

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1. Role of Governing Board is to set policy, programs, budgets, and recommend hiring/ firing.
2. Every LBOH has a voting representative plus another representative chosen by the community.
3. Meet Quarterly or as needed
4. Board makes its own rules in the form of operating regulations.

IMA – Governing Board– page 2 item 2

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2. Governing Board. There shall be a governing board (hereafter “the Board”), comprised of two representatives from each Municipality. One representative shall be a Board of Health member or Board of Health agent appointed by the Board of Health whose term shall be as determined by the municipality. The other representative shall be appointed by the Mayor in a City or Board of Selectmen in a town, whose term shall be as determined by the municipality.

IMA – Governing Board– page 2 item 2

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The Board shall direct the establishment of policies, programs and procedures and approve an annual operating budget and fee schedule. The Board shall advise the Host Agency on the services and programs the Board has determined should be provided under this Agreement and shall support as necessary the implementation of such services and programs. The Board shall, by majority vote of its member representatives, create and maintain rules and regulations that govern its operating practices.

IMA – Amendment – page 2 item 3

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3. Amendment. This Agreement may be amended only in writing when signed by all member Municipalities duly authorized thereunto.

IMA – Department– page 2 item 4

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4. Department. During the term of this Agreement, subject to funding, there shall be established a common health department known as the Berkshire Public Health Alliance (hereinafter the “Department”) which shall be administered and managed by a Host Agency as hereinafter provided. The Municipalities may share the services and the associated costs of services provided by the Department as agreed to by the Board, subject to appropriation by each Municipality. Where appropriate, staff members performing services for a municipality shall be appointed as a health agent of that municipality. Notwithstanding any provisions of this Agreement, each Municipality shall maintain its local Board of Health which shall retain its own legal authority and autonomy as provided by law.

IMA – Department Duties– page 2 item 5

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5. Department Duties. The Department may perform all the duties required of local boards of health under Massachusetts law and as agreed to by the Municipalities through the Board.

IMA – Host Agency– page 2 item 6

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6. Host Agency Duties. BRPC shall act as the Host Agency for the Department and shall provide staff, office space and equipment necessary for operations subject to availability of funds and annual vote of the Board to continue to engage BRPC as Host Agency. All staff shall be subject to the personnel policies and procedures of BRPC.

IMA – Host Agency Duties– page 2 item 6

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The Host Agency shall have the following duties and authority:

- Prepare a proposed budget for review and approval by the Board
- Apply for receive and manage grants subject to approval and acceptance by the Municipalities where required by law
- Enter into contracts for goods and services
- Create and manage programs and activities
- Receive gifts and donations

IMA – Host Agency Duties– page 3 item 6

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- Maintain accurate and comprehensive records of services performed
- Maintain records of costs incurred and reimbursements and contributions received
- Maintain a performance bond or insurance as required by law
- Perform annual audits
- Preparation of semi-annual financial statements and issuance of such statements to the Municipalities

IMA – Host Agency Duties– page 3 item 6

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In addition, the Host Agency may have the following duties and authority:

- Hire, manage and share staff, contractors, services, equipment and/or facilities
- Issue and collect fees, fines and bills on behalf of the Municipalities and Boards of Health

Prior to providing any services as Host Agent, BRPC shall provide the Board, for its approval, a schedule of fees and costs it shall be paid for services rendered.

IMA – Approvals– page 3 item 7

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7. Supermajority. A supermajority vote of two thirds (2/3) vote of the Board shall be required to approve the annual Department budget and all decisions or actions requiring the allocation or disbursement of funds.

IMA – Grants– page 3 item 8

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8. Grants. BRPC may apply on behalf of the Municipalities for grants to fund services of the Department. BRPC may also partner with a member Municipality or Non-Profit Organization to apply for grants on behalf of the Municipalities. The Municipalities shall cooperate with BRPC in completing any grant applications as necessary and shall seek to obtain authorization to be signatory where appropriate for any such grants. Each Municipality shall also cooperate in the implementation of grants accepted by the BRPC on behalf of the Municipalities to the extent allowed by law.

IMA – Fee Structure– page 3 item 9

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9. Fee Structure. Prior to the commencement of the first fiscal year of operations, the Board shall adopt a budget and each year thereafter which may include costs for administrative overhead and for the provision of direct services.

IMA – Fee Structure– page 3 item 9

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Commencing with the first fiscal year of operations the Board shall prepare a Public Health Services Fee Schedule. Each service fee shall include an allocation of costs for basic administration and overhead, if any. Each Municipality may choose an available shared service and shall be assessed a fee only for the actual services contracted for. Any such fees may be offset by grants or donations received by the Host Agency on behalf of the Municipalities. Assessments for fees that are not funded by grants, gifts or other Department or Municipal resources shall be presented to the Municipalities legislative bodies for appropriation.

IMA – Fee Structure– page 3 item 9

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Failure of any Municipality to appropriate funds for services contracted may invoke the terms of Section 13 – Municipal Withdrawal or Termination and the Municipality shall be held to its contractual obligations through the termination date defined herein.

IMA – Service Agreements– page 4 item 10

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10. Service Agreements. Member Municipalities may request at any time for the Board to consider offering a shared public health service. The Board shall consider such a request at its next meeting. If a majority of the Board approves the service, it shall authorize the Department to determine the staffing, facilities, equipment, costs and fees required to provide this service and present this information to the Board for consideration.

IMA – Employees– page 4 item 11

11. Employees. The Department shall provide the Staff with all benefits to which they are entitled under standard personnel practices and their respective collective bargaining agreement if applicable. An employee of any one Municipality, a party to this Agreement, who performs services, pursuant to this Agreement on behalf of another Municipality, a party to this Agreement, shall be deemed to remain an employee of their hiring unit and shall retain all accrued benefits and shall be subject to standard personnel practices of such unit.

IMA – Indemnification– page 4 item 12

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12. Indemnification. Each party to this Agreement shall be liable for the acts and omission of its own employees and not for the employees of any other party in the performance of their obligations under this Agreement to the extent provided by the Massachusetts Tort Claims Act, G.L. c. 258.

IMA – Indemnification– page 4 item 12

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Each party shall indemnify and hold harmless the other parties to this Agreement from and against any claim arising from or in connection with the performance of this Agreement, to the extent the indemnifier would otherwise be liable under a direct claim pursuant to G.L. c.258 including, without limitation, any claim of liability, loss, damages, costs and expenses for personal injury or damage to real or personal property by reason of any negligent act or omission or intentional misconduct. Such indemnification shall include, without limitation, current payment of all costs of defense as and when such costs become due and the amounts of any judgments, awards and/or settlement. By entering into this Agreement, none of the parties have waived any governmental immunity or limitation of damages, which may be extended to them by operation of law.

IMA – Withdrawal/Ter.– page 4 item 13

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13. Municipal Withdrawal or Termination. Any Municipality, by vote of its respective Chief Elected Official may withdraw from and terminate its participation in this Agreement upon the provision of at least one (1) years prior written notice to the other Municipalities and BRPC. No such termination shall affect any obligation of indemnification that may have arisen hereunder prior to such termination.

IMA – Withdrawal/Ter.– page 4 item 13

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The Municipalities shall equitably adjust any payments made or due relating to the unexpired portion of the Term following such termination. Upon such termination, the terminating Municipality shall be solely responsible for the provision of public health services for the benefit of that Municipality. Upon such termination, the Board shall prepare full statements of outstanding unpaid financial obligations under this Agreement and present the same to the terminating Municipality for payment within thirty (30) days thereafter. Termination or withdrawal by one or more of the Municipalities shall not invalidate this Agreement for the remaining Municipalities.

14. Host Agency Withdrawal or Termination. The Host Agency may withdraw and terminate its participation in this Agreement upon the provision of ~~(Insert Time)~~ **six months** prior written notice to the Board. The Host Agency shall continue to provide services until the date of termination and shall be paid for services rendered up until the date of termination. Upon termination the Host Agency shall deliver to the Board copies of all files and documents relating to the services provided by the Host Agency during the term of this Agreement.

IMA – Assignment page 5 item 15

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15. Assignment. None of the Municipalities or BRPC shall assign or transfer any of its rights or interests in or to this Agreement, or delegate any of its obligations hereunder, without the prior written consent of the other Municipalities and BRPC.

IMA – Severability page 5 item 16

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- **16. Severability.** If any provision of this Agreement is held by a court of appropriate jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, or affect the application of such provision to any other circumstances, and the remaining provisions hereof shall not be affected and shall remain in full force and effect.

IMA – Waiver page 5 item 17

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17. Waiver. The obligations and conditions set forth in this Agreement may be waived only by a writing signed by the Municipality waiving such obligation or condition. Forbearance by a Municipality shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that Municipality under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default.

IMA – Governing Law page 5 item 18

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18. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts.

IMA – Headings page 5 item 19

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19. Headings. The paragraph headings herein are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement.

IMA – Notices page 5 item 20

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20. Notices. Any notice permitted or required hereunder to be given or served on any Municipality shall be in writing signed in the name of or on behalf of the Municipality giving or serving the same. Notice shall be deemed to have been received at the time of actual receipt of any hand delivery or three (3) business days after the date of any properly addressed notice sent by mail as set forth below:

IMA – Signatures

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- **Boards of Selectmen**
- **Mayors (with City Council Approval)**

IMA – Next Steps

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- **Approval by Alliance Working Group**
- **Legal Council Approval from Interested Towns / Cities**
 - Letter to Boards of Selectmen / Mayors requesting Legal Council review
 - Legal Council review /comments by date certain
- **Final Agreement approved**
- **Meet with each LBOH and Selectmen to explain needs, strategy and sign Agreement**

Shared Services Update / Priorities:

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- Pool Inspector
- Housing Court
- Enforcement Officer
- Camp Inspector
- Public Health Nursing
- TB Follow Up and Monitoring
- Flu Clinics
- Temporary Food Event Inspector (esp. on weekends)
- 24/7 Hotline/Question Service
- Vacation Coverage
- Beavers
- Animal Inspector – Rabies
- Permitting – Web-based Service
- Title 5 Plan Review
- Title 5 Inspector/Perc Tests
- Emergency Response – Mutual Aid
- Outdoor Wood boilers
- Nuisances
- Small Transfer Stations - new
- Sharps/Medical Waste
- Collective Advocacy
- Wellness
- Training
- Regulations Information Sharing
- Chairperson Role and Responsibility Training

Meeting Schedule

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- Previously agreed to meeting schedule:
 - May 26th - need to re-schedule
 - June 9th
 - June 23 rd

This Week's Homework

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1. Assist with IMA Town / City Council review
2. Keep BOH and Chief Elected Officials (CEO) briefed on issues and questions
3. Shared services prioritization

For More Information

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For copies of the Assessment reports, additional information and all the handouts go to:

www.bcboha.org

Berkshire Public Health Alliance, on home page

Other Items?

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Questions?

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- **More Information:**

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