



Brenda Fitzgerald, MD, Commissioner | Nathan Deal, Governor

2 Peachtree Street NW, 15th Floor  
Atlanta, Georgia 30303-3142  
dph.ga.gov

26 July 2016

**NOTICE OF PROPOSED RULEMAKING**  
**Proposed New Public Health Regulation**  
**Chapter 511-1-4 “Administrative Review Proceedings”**

Please take note that the Department of Public Health proposes to enact Chapter 511-1-4 “Administrative Review Proceedings” pursuant to its authority under O.C.G.A. § 31-2A-6 and 31-5-6.

Code Section 31-5-6 authorizes the Department to “prescribe and make available for distribution rules of practice and procedure” to implement the provisions of Title 31 Chapter 5 which authorize the Department to hear petitions for review of final actions or orders from county boards of health or from agencies of the Department. These proposed regulations are intended to ensure the just, speedy, and inexpensive resolution of such petitions.

Interested persons may submit comments on these proposed revisions in writing addressed to:

Sidney R. Barrett, Jr.  
General Counsel  
Georgia Department of Public Health  
2 Peachtree Street, NW  
15<sup>th</sup> Floor  
Atlanta GA 30303

Comment may also be presented in person at a public meeting scheduled for 11:00 a.m., 26 August 2016, in room 15-460 at 2 Peachtree Street, NW, 15<sup>th</sup> Floor, Atlanta GA.



Sidney R. Barrett, Jr.  
General Counsel



**We Protect Lives.**

**RULES OF THE  
DEPARTMENT OF PUBLIC HEALTH  
CHAPTER 511-1-4  
Administrative Review Proceedings**

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**511-1-4-.01 Matters Eligible for Administrative Review.**

(1) This Chapter shall apply to all requests to the Department for administrative review of a final action or order from a division of the Department or from a County Board of Health. For purposes of this Chapter, an “action or order of a County Board of Health” shall include an action or decision made by a District Health Director or his or her delegate. This Chapter shall not apply to decisions of the WIC program that are subject to DPH Rule 511-8-1.

(2) An action or order may be considered “final” and eligible for review if no further review is required at the county or Department level, and the action or order is effective immediately or upon a date certain.

(3) A person or entity is entitled to seek administrative review if such person or entity is a party to a proceeding before the Department or a County Board of Health and is aggrieved by the final order or action in that proceeding. “Proceeding” shall include actions taken with regard to a license, permit, or certification issued by the Department or by a County Board of Health.

**Authority:** O.C.G.A. Sections 31-5-1 through 31-5-6.

**511-1-4-.02 Designation of Review Officer.**

The General Counsel of the Department shall serve as review officer to hear and decide all requests for administrative review, or shall designate another person within the Department to serve as review officer.

**Authority:** O.C.G.A. Sections 31-5-1 through 31-5-6.

### **511-1-4-.03 Procedure.**

- (1) A request for administrative review must be made in writing, addressed to the General Counsel in care of the Department, and received in the offices of the Department no later than thirty days after the date of the action or order for which review is sought. The request must include a copy of the action or order to be reviewed, and a statement of the reasons it should be overturned. If the request seeks review of an action or order of a County Board of Health, a copy of the request must be delivered to the District Health Director for that county at the same time it is sent to the Department.
- (2) Upon receiving a copy of the request for review, the affected division of the Department or the District Health Director shall transmit a copy of all documents pertaining to the action or order under review, with a copy to the appellant. Copies may be transmitted in electronic form.
- (3) No less than twenty days before the hearing, the review officer shall provide notice to both parties of the time, date, and place of the hearing. Notice shall be provided by certified mail, overnight delivery, or any other means to which the parties consent.
- (4) The hearing shall be conducted in person or, if the parties consent, by teleconference.
- (5) The purpose of the hearing is to give the parties an opportunity to argue their respective positions. No new testimony, documents, or other evidence will be introduced.
- (6) The review officer shall prepare and provide to the parties a written decision as soon as practicable, but in no event later than ninety days after the Department's receipt of the request for administrative review.

**Authority:** O.C.G.A. Sections 31-5-1 through 31-5-6.

### **511-1-4-.04 Standard of Review.**

Administrative review shall be limited to the written record and the issues raised by the appeal. An order, action, rule, regulation, or other decision of a County Board of Health or a division of the Department shall not be set aside on administrative review unless it is

- (1) contrary to law or to the rules and regulations of the Department;
- (2) unsupported by substantial evidence on the record as a whole; or
- (3) unreasonable.

**Authority:** O.C.G.A. Sections 31-5-1 through 31-5-6.