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1. HEALTH DISTRICT, CITY, GENERAL—EACH CONSTITUTE PRIMARY REGISTRATION OF VITAL STATISTICS—DIRECTOR OF HEALTH MAY ORDER SUCH PRIMARY REGISTRATION DISTRICTS COMBINED—SECTIONS 1261-16, 1261-20 G.C.
2. HEALTH, BOARD OF—COMBINED HEALTH DISTRICT—AUTHORIZED TO APPOINT LOCAL REGISTRAR OF VITAL STATISTICS IN EACH PRIMARY REGISTRATION DISTRICT—WITHIN GEOGRAPHICAL JURISDICTION OF COMBINED HEALTH DISTRICT—PROVISO, UNLESS DISTRICTS HAVE BEEN COMBINED BY ORDER OF DIRECTOR OF HEALTH—RECOMMENDATION OF HEALTH COMMISSIONER OF COMBINED DISTRICT.

SYLLABUS:

1. A city health district and a general health district created by Section 1261-16, General Code, each constitutes a primary registration district for the registration of vital statistics, even though the health districts have combined pursuant to the provisions of Section 1261-20, General Code, unless by order of the Director of Health such primary registration districts shall be combined.

2. The board of health of a combined health district is authorized to appoint, upon the recommendation of the health commissioner of the combined district, the local registrar of vital statistics in each primary registration district within the geographical jurisdiction of the combined health district, unless such primary registration districts have been combined by order of the Director of Health.

Columbus, Ohio, February 25, 1952

Hon. William G. Batchelder, Jr., Prosecuting Attorney
Medina County, Medina, Ohio

Dear Sir:

Your request for my opinion reads in part as follows:

"On January 4, 1939, the City Council of Wadsworth, Ohio, contracted with the District Advisory Council of Medina County, in accordance with Section 1261-20, G. C., for the administration of health affairs in the combined District, and provided that the administration of the combined Health District was to be taken over by the Board of Health of the Medina County General Health District. Ever since that date, that arrangement has continued.

"Since the passage of House Bill 42 by the General Assembly, at its last session, * * * the question has arisen as to whether Wadsworth City can continue to maintain its own Registrar for Vital Statistics. Wadsworth City has had a Registrar who was appointed on September 21, 1950, by the then Mayor of the City.
* * *

"The County Board of Health feels that H. B. 42 makes a primary registration district of Medina County in its entirety, including the city of Wadsworth. * * *"

This request presents essentially two questions:

1. In the event that a city health district has united with a general health district pursuant to the provisions of Section 1261-20, General Code, does each of the original districts constitute a primary registration district for the registration of vital statistics as defined in Section 1261-46, General Code, or does the new district created by the union constitute a single primary registration district, and
2. In the event that the original health districts retain their identity as separate primary registration districts, who is authorized to appoint the local registrar of vital statistics in each district?

Preliminary to answering either of these questions, I think I should point out that I have been unable to discover any decisions by the courts of Ohio bearing on these questions. We are, therefore, limited to an original consideration of the statutes bearing on the problem.

A consideration of the first question set forth above must of course start with Section 1261-46, General Code, which defines primary registration district. This section prior to its amendment by the Ninety-ninth General Assembly, read as follows:

“The state shall be divided into registration districts as follows: Each city, each incorporated village, and all the area of each township which is not included in an incorporated municipality, shall constitute a primary registration district, provided that the director of health may combine two or more primary registration districts, and may establish any state hospital, or other public institution, as a primary registration district.”

It is worth noting that this section provided for a multitude of small and independent primary registration districts, and that certainly there could be no question under that law but that the union of city and general health districts could in no way affect the existence of primary registration districts for the statute in no sense related the one to the other.

Your question, however, is raised by reason of the amendment of Section 1261-46, General Code, which on the surface at least, it would seem, relates the registration district to the health district. Section 1261-46, General Code, amended by the Ninety-ninth General Assembly, effective July 30, 1951, reads as follows:

“The state shall be divided into registration districts as follows: Each health district created by the provisions of Section 1261-16 of the General Code shall constitute a primary registration district, provided that the director of health may combine two or more primary registration districts, and may establish any state hospital, or other public institution, as a primary registration district.”

Each health district *created* by Section 1261-16, General Code, is automatically a primary registration district. The use of the term “created” is important for it limits our consideration of Section 1261-16, *supra*. We are not to consider health districts “referred to” by that section, nor districts which may be “authorized” by that and other sections. We are limited to those districts expressly “created” by Section 1261-16, General Code. What are those districts? Section 1261-16 reads as follows:

“For the purposes of local health administration the state shall be divided into health districts. Each city shall constitute a health district and for the purposes of this act (G. C. Sec. 1261-16 et seq.) shall be known as and hereinafter referred to as a city

health district. The townships and villages in each county shall be combined into a health district and for the purposes of this act shall be known as and hereinafter referred to as a general health district. As hereinafter provided for, there may be a union of two or more contiguous general health districts, not to exceed five, or a union of a general health district and a city health district located within such district."

It is apparent that two types of health districts are created by this section: A city health district and a general health district. Your question arises, however, in part from the last sentence of this section which authorizes a union of such districts as provided for by other sections of the General Code. As you have stated, your question also arises in part from the language of Section 1261-20, General Code, which does provide for such a union. This section, after providing for the procedure of union, reads as follows:

"* * * The combined health district hereinbefore provided for shall constitute a general health district, * * *"

In essence, the question is whether the language of Section 1261-20, General Code, which constitutes a combined district a general health district, makes that combined district such a district as is *created* by the provisions of Section 1261-16, General Code, so that such combined district constitutes a primary registration district. I have already indicated my conclusion on this question, which is that the definition of a primary registration district includes only the health district specifically *created* by Section 1261-16, General Code. That definition does not extend to the third sort of district, a united or combined district not *created* by the provisions of that section but only *authorized* there to the extent that it may be provided for in subsequent sections. Merely giving a combined district the same name as that given an original district does not make such district one of those originally *created* by the provisions of Section 1261-16, General Code.

This reasoning is, I think supported by additional considerations. Of most importance is the fact that, as pointed out supra, the previous Section 1261-46 left no question but that the legislative intent in amending Section 1261-46 was to eliminate the multitude of village and township registration districts. The effect intended clearly was that the primary registration districts should be made coextensive geographically with the

original health districts created by Section 1261-16, General Code. This is all the more clear when we consider that the union of the two health districts under consideration was accomplished by the contract of separate entities which at the time of contract could not have effected a combination of their registration district even had they desired so to do.

I think it wise to point out, however, that under the terms of Section 1261-46, General Code, these separate primary registration districts may be combined by order of the Director of Health, if in his opinion such action would be beneficial to the areas involved. Where there has been no union of a city and a general health district, the action of the Director of Health in combining the two primary registration districts obviously could not effect a union of the city and general health districts. By the same logic, I conclude that the union of a city and a general health district could not have the effect of uniting the two separately created primary registration districts, such union being authorized only by action of the Director of Health.

It is, therefore, my opinion that a city health district and a general health district created by Section 1261-16, General Code, each constitutes a primary registration district for the registration of vital statistics, even though the health districts have combined pursuant to the provisions of Section 1261-20, General Code, unless by order of the Director of Health such primary registration districts shall be combined.

Your second question as to the power of appointment of the registrar of a primary registration district where the health districts are combined is also clearly answered by the statutes. Section 1261-47, General Code, provides in part as follows :

“In a primary registration district the board of health of the health district, on the recommendation of the health commissioner, shall appoint the local registrar. * * *”

Inasmuch as there is only one board of health in the combined health district, there is no alternative but that that board is authorized to appoint the local registrar in each primary registration district within its geographical jurisdiction upon the recommendation of the health commissioner of the combined district. This is not a novel result for under Section 1261-47, General Code, prior to its amendment by the Ninety-ninth General Assembly, a similar procedure was followed. That section read as follows :

“In villages the village clerk, and in townships the township clerk, shall be the local registrar. In cities the board of health of the city health district, on the recommendation of the health commissioner, shall appoint the local registrar. * * *”

Under this statute, in the case of a combination of a city health district with a general health district, the city board of health became merged with the board of health of the general health district and that board undoubtedly was authorized to appoint the registrar in the city primary registration district. The same result would apply under Section 1261-47, General Code, as amended, and the result is in no sense illogical for the board of health of the combined district is representative of both the original general health district and the original city health district.

It is therefore my opinion that, pursuant to Section 1261-47, General Code, the board of health of a combined health district is authorized to appoint, upon the recommendation of the health commissioner of the combined district, the local registrar in each primary registration district within the geographical jurisdiction of the combined health district, unless such primary registration districts have been combined by order of the Director of Health.

Respectfully,

C. WILLIAM O'NEILL
Attorney General