

**Partnership Agreement between _____ Community Health Board
and
Minnesota Department of Health**

1. Authority and Delegation

- 1.1 MDH, in order to ensure safe drinking water in all public water supplies, has the powers and duties set forth in the Safe Drinking Water Act, Minnesota Statutes, Sections 144.381-144.387 (the "Act"). The Act authorizes MDH to enter the premises of a public water supply to inspect facilities and records; to conduct sanitary surveys and annual site visits; to investigate the standards of operation and service delivered by public water supplies; and to implement and enforce the Act and the rules adopted thereunder, Minnesota Rules, Chapter 4720
- 1.2 Minnesota Statutes, Section 145A.07, Subdivision 1, authorizes MDH to enter into an agreement to delegate these duties to the Board. MDH delegates its authority to the Board according to this Agreement but nevertheless remains ultimately responsible for the performance of these duties under Minnesota Statutes, Section 145A.07, Subdivision 3(h).
- 1.3 The Board, having jurisdiction over _____, accepts this delegation and agrees to the terms of this Agreement regarding regulation of public noncommunity transient water systems ("TWS") at facilities licensed by the Board or MDH as: food, beverage, and lodging establishments; recreational camping areas; manufactured home parks, youth camps, and public pools, and enforcement of the applicable laws within its

PARTNERSHIP AGREEMENT

jurisdiction to prevent and abate public health risks.

2. **Scope**

2.1 **Delegated Responsibilities:** MDH delegates to the Board the regulation, inspection, and enforcement of the following regulated areas within the geographic jurisdiction of the Board:

- A. The Act, as defined in Minnesota Statutes, Sections 144.381-144.387.
- B. Noncommunity wellhead protection, as defined by Minnesota Rules, parts 4720.5100, 4720.5110, subpart 1, and 4720.5120.

2.2 **Responsibilities Not Delegated:** MDH retains exclusive authority for the following areas:

- A. Community, noncommunity, nontransient and transient water systems at non-licensed facilities.
- B. The authorities stated in the following statutes and rules are not delegated to the Board and are retained by MDH:
 - (1) Variances, as provided in Minnesota Rules, parts 4720.2700 and 4720.3970;
 - (2) Review of plans for new, altered, or extended TWS systems, as provided in Minnesota Statutes, Section 144.383, and Minnesota Rules, part 4720.0100; and
 - (3) Minnesota Rules, part 4720.4000 to 4720.4600 (water haulers), 4720.5130 to 4720.5590 (municipal wellhead protection) and 4720.9000 to 4720.9080 (drinking water revolving fund).
 - (4) Regulating the construction, repairing, and sealing of wells and borings under Minnesota Rules, Chapter 4725, and Minnesota statute, Chapter 103I.

3. **Terms of the Agreement**

3.1 MDH Responsibilities

PARTNERSHIP AGREEMENT

A. General

- (1) Beginning on _____, and through the duration of this Agreement, MDH will not enforce the statutes and rules delegated in Paragraph 2.1 as delegated to the Board under this Agreement, except as otherwise stated in this Agreement or at the request of the Board.
- (2) Beginning on _____, and through the duration of this Agreement, the Board must enforce the statutes and rules stated in Paragraph 1.1 as delegated to the Board under this Agreement except as otherwise stated in this Agreement.
- (3) MDH will evaluate the Board's compliance with this Agreement, as well as all programs created or established by the Board to carry out its responsibilities under this Agreement, to ensure such programs are adequate to assure that regulated parties comply with the standards and requirements established in the statutes and rules stated in paragraph 1.1.
- (4) MDH staff will advise the Board regarding the responsibilities delegated to the Board under this Agreement.
- (5) MDH will refer to the Board any complaints that MDH receives about matters delegated to the Board under this Agreement.

B. Waterborne Illness Investigation and Response

- (1) MDH will maintain an emergency communication system for notifying the Board and coordinating response activities when a water-borne outbreak has been identified.
- (2) MDH will lead epidemiological surveillance and investigations for all

PARTNERSHIP AGREEMENT

community and noncommunity water system-borne illnesses and will consult with the Board as necessary during investigations.

- (3) MDH will summarize and report the results of all water-borne epidemiological investigations.

C. Training and Technical Assistance

- (1) MDH will offer to the Board training and consultation for all responsibilities delegated to the Board under this Agreement.
- (2) Once a year, MDH shall conduct a training seminar or conference designed to provide the Board's regulatory staff with knowledge, information, and skills needed to carry out the Board's responsibilities under this Agreement. MDH shall provide the Board with reasonable advance notice of any training opportunities, formal or informal, that MDH offers during the duration of this Agreement.

D. Laboratory Analyses

MDH shall provide laboratory services for water samples collected by the Board under this Agreement. Notwithstanding MDH's responsibility, the Board has the option of submitting any or all samples to other laboratories certified by MDH Public Health Laboratory Certification Program. The Board must provide to MDH a copy of its quality management plan that demonstrates the sample collection, and reporting of results is no less stringent than MDH standard operating procedures. The Board will be responsible for all costs associated with the shipping, analysis and reporting of results including quality assurance results

E. Drinking Water Protection Databases

PARTNERSHIP AGREEMENT

MDH will provide access and training on MDH Drinking Water Protection databases to the Board. The Board must enter all required program information into the database.

3.2 Board's Responsibilities:

A. Regulatory Authority

- (1) The Board must have in place ordinances satisfactory to MDH that incorporate the requirements of the Act and Minnesota Rules, parts 4720.0010 to 4720.2300 and 4720.3800 to 4720.3965, for carrying out the responsibilities delegated to the Board under this Agreement. As stated in Minnesota Statutes, Section 145A.05, Subdivision 1, ordinances shall not conflict with or be less restrictive than the relevant Minnesota statute or rules.
- (2) The Board's ordinances must incorporate the requirements of the statutes and rules stated in Paragraph 1.1 for inspection and enforcement authority. As stated in Minnesota Statutes, Section 145A.05, Subdivision 1, ordinances may not conflict with or be less restrictive than the relevant Minnesota Statutes or Rules.
- (3) Ordinances must establish authority for enforcement and describe actions to ensure compliance.
- (4) The Board may not enact or amend any ordinance related to the statutes and rules stated in Paragraph 1.1 without MDH's prior review of and approval on the proposed ordinance language. Within 30 days of promulgating any new or amended ordinance that is within the scope of this Agreement, the Board will provide MDH with a copy of the new or amended ordinance.

PARTNERSHIP AGREEMENT

B. Trained Regulatory Staff

- (1) The Board will maintain qualified personnel to enforce the statutes, rules, and local ordinances encompassed in this Agreement or enter into an agreement with qualified staff as per (7) of this section.
- (2) The Board shall encourage that at least one person from its regulatory staff attend the annual MDH training seminar or conference designed to provide the Board with knowledge, information, and skills needed to carry out this Agreement.
- (3) Sanitary surveys, annual site visits, and technical assistance visits required in Minnesota Statutes 144.381 to 144.387, Minnesota Rules 4720 adopted thereunder, and primacy and policy recognized by the U.S. Environmental Protection Agency must be performed by an Environmental Health Specialist/Sanitarian who possess the qualifications stated in Minnesota Rules, parts 4695.2500 to 4695.2800. These qualifications include:
 - (a) Current registration with the State as an Environmental Health Specialist/Sanitarian; or
 - (b) Possession of a baccalaureate or post baccalaureate degree in environmental health, sanitary science, sanitary engineering, or other related environmental health field that includes at least 30 semester or 45 quarter hour credits in the physical or biological sciences; and registration as an Environmental Health Specialist/Sanitarian within 2 years from the date of appointment.
- (4) If the Board's inspection staff consists of one person, that person must be a

PARTNERSHIP AGREEMENT

Registered Environmental Health Specialist/Sanitarian in the state of Minnesota.

- (5) The Board will prepare and submit to MDH, a staffing plan to assure adequate program coverage. The staffing plan may include mutual aid agreements, cooperative agreements or other tools to address staffing shortages, or the need for additional staff during emergencies or special circumstances.
- (6) The Board will notify MDH in the event of unexpected staff changes leading to inadequate or unqualified staffing. MDH may perform a program evaluation under the following circumstances:
 - (a) If the Board has inadequate or unqualified staffing, the Board remains responsible for providing both routine and emergency services covered by this Agreement.
 - (b) If the Board has inadequate or unqualified staffing:
 - (i) Within 10 business days of the staff's departure, the Board must submit a written plan for providing routine and emergency services until qualified staff are hired. This plan must include the name, credentials, and contact information for staff performing delegated duties. MDH will provide written approval or rejection of the plan within 10 business days of receipt.
 - (ii) While the Board has inadequate or unqualified staffing, the Board must submit to MDH, on a monthly basis, a summary of all sampling and surveys conducted during the previous 30 days.
 - (iii) The Board will have 180 days from the time of the staff's departure

PARTNERSHIP AGREEMENT

to hire qualified staff. If qualified staff cannot be hired within 180 days, MDH may terminate this Agreement and immediately begin providing routine and emergency services in the Board's jurisdiction.

- (7) The Board may enter into agreements with other qualified persons to carry out its delegated duties under Minnesota Statutes, Section 145A.04, Subdivision 5, and Minnesota Statutes 145A.07, Subdivision 3(d). The Board must obtain written approval from MDH before entering into such an agreement.

C. Plan Review

If the Board learns that any owner or operator of a public water supply is planning to construct a new or alter an existing TWS water storage or treatment facility, the Board must direct the owner or operator of the TWS to submit plans to MDH for approval before the owner or operator may commence the construction or alteration. If the Board learns that an owner or operator has begun constructing or altering water storage or treatment of a TWS without MDH plan approval, the Board must direct the owner or operator to immediately suspend all construction or alteration activities and submit plans to MDH for approval. If a water storage or treatment facility is found after-the-fact, then as-built plans must be submitted to MDH. If approval is not granted the storage or treatment may require modification or removal.

D. Cost Borne by the Board

Except for specifically provided in this Agreement, the Board shall perform the inspection, enforcement, and other duties set forth in this Agreement at its own cost

PARTNERSHIP AGREEMENT

and expense. Nothing in this Agreement restricts the Board's authority to establish fees to recover the costs for such activities.

E. Uniform Inspection Program

- (1) The Board will conduct inspections, respond to complaints, and document any follow-up activities that correspond to the responsibilities delegated to it under this Agreement. The Board must:
 - (a) identify and address sanitary defects, deficiencies, significant deficiencies, recommendations, and wellhead protection measures;
 - (b) incorporate drinking water protection education into the inspection process.
- (2) The Board's inspection staff must maintain a file on each public water system.
- (3) For every licensed TWS, the Board must provide written notice of any corrections to their inventory on an approved change order form to MDH within 30 days of being aware of the change.
- (4) The Board agrees that MDH may accompany the Board's staff in their work, make independent assessments of sanitary defects or hazards, and perform program activities in consultation with the Board as circumstances warrant.

F. Illness Investigation and Response

- (1) If the Board learns of a possible waterborne outbreak they will notify MDH Acute Disease Investigation Control Section (1-877-FOOD ILL) immediately to initiate an appropriate outbreak response.
- (2) The Board will record and transmit all waterborne illness complaints to Acute Disease Investigation Control Section within one business day via fax, phone or

PARTNERSHIP AGREEMENT

an approved electronic method. The report must contain the contact information for the complainant and the TWS.

- (3) The Board will have qualified staff available for emergency coverage on a 24-hour a day basis and provide an after-hours contact number to MDH.

G. Compliance and Enforcement

- (1) The Board will seek compliance by using the enforcement tools specified in statute, rule, ordinance, and written policies and procedures. If the Board's initial enforcement actions fail to achieve compliance, the Board will exert its enforcement authority by taking one or more of the following actions:

- (a) Seeking injunctions under Minnesota Statutes, Section 145A.04, Subdivision 9;
- (b) Referring the matter to the Board's legal counsel to initiate criminal or administrative actions against noncompliant parties; and
- (c) Pursuing other enforcement mechanisms, such as license revocation.

- (2) The Board will document each violation it investigates including the date of discovery, nature of the violation, any enforcement action taken, and the resolution of the violation. The Board will retain this data according to the Board's record retention policy. Upon request, the Board must forward to MDH a written summary of the enforcement actions referenced in paragraph 3.2 E (1)(a & b), within 30 days of receiving the MDH request.

H. Industry and Community Relations

The Board is encouraged to actively participate in work groups, advisory boards, or committees that foster communication and information sharing to improve public

PARTNERSHIP AGREEMENT

health outcomes in the program areas that are stated in Paragraph 1.1.

I. Program Support, Resources, and Assessment

- (1) The Board will conduct a self-assessment using the materials known as the “DWP Program Evaluation Protocol and Tools” at least once every three years, and within one year before the regularly scheduled MDH program evaluation. The Board will provide MDH with the written results of the program self-assessment at least 30 days before the regularly scheduled MDH program evaluation conducted under Section 4 below.
- (2) The Board must make its program records available to MDH upon request.
- (3) The Board will cooperate with MDH to establish a compatible system that allows efficient sharing of electronic licensing and inspection data. The Board will maintain a current inventory and facility file of all TWS within its jurisdiction. Inventory changes must be submitted to MDH in accordance with MDH policy.

4. MDH Assessment of Board’s Performance

4.1 Program Evaluation

- A. MDH will evaluate the Board’s performance for compliance with this Agreement using the materials known as the “DWP Program Evaluation Protocol and Tools.” MDH will limit its evaluations to no more than one formal evaluation per year, and no less than one formal evaluation every five (5) years, except when the performance of the Board warrants more frequent evaluation.
- B. MDH will use the following criteria for evaluating the Board’s performance:
 - (1) Whether the Board has exercised the regulatory authority delegated to it under this Agreement by adopting ordinances covering the duties of licensing,

PARTNERSHIP AGREEMENT

inspection, reporting and enforcement of the statutes and rules stated in Paragraph 1.1.

- (2) Whether the Board has established a written procedure for enforcement for all TWS in the jurisdiction regulated by the statutes and rules stated in Paragraph 1.1.
 - (3) Whether the Board has inspected all such TWS according to requirements in statute, rule, or ordinance.
 - (4) Whether the Board has enforced the statutes, rules and ordinances to remove the risk to the public in a manner that corresponds to the circumstances of the risk involved. MDH will evaluate this factor according to the following criteria:
 - (a) Whether the Board has identified and documented violations of statutes, rules, and ordinances;
 - (b) Whether the Board has determined a reasonable and appropriate time period as defined by the Act, and MDH policy for a violator to regain compliance;
 - (c) Whether the Board has taken appropriate enforcement measures; and
 - (d) Whether compliance has been achieved.
- C. MDH will report its written evaluation findings to the Board within 60 days of completing the evaluation. MDH report will assess the Board's performance to be one of the following:
- (1) *Acceptable*, may take one of three forms: *Excellent*, *Acceptable*, or *Acceptable with Improvements Needed*, meaning the Board must make specific improvements that are enumerated in the report within a timeframe that is

PARTNERSHIP AGREEMENT

mutually agreed upon by the Board and MDH;

- (2) *Conditionally Acceptable*, meaning that immediate, priority improvements are required. The Board must submit a written plan of correction within 30 days. The plan must include a timetable for correction and must be approved by MDH. *Conditionally Acceptable* status may be resolved in one of two ways:
 - (a) The Board may be reassigned to *Acceptable* status if the Board makes needed improvements according to its written plan; or
 - (b) The Board may be reassigned to *Unacceptable* status if the Board fails to provide a written plan of correction, or fails to make corrections according to the written plan.
- (3) *Unacceptable*, meaning that the program evaluation has identified certain specified problems of a critical nature that make the program unacceptable. The Board must submit a written plan of correction within 30 days. The plan must include a timetable for correction and must be approved by MDH. *Unacceptable* status may be resolved in one of two ways:
 - (a) The Board may be reassigned to an *Acceptable* or *Conditionally Acceptable* status if the Board makes needed improvements according to its written plan; or
 - (b) The Board may be subject to *Termination* if the Board fails to provide a written plan of correction, or fails to make corrections according to the written plan.
- (4) *Termination*, meaning that the situation requires MDH to terminate the delegation immediately, and that all delegated duties immediately revert to

PARTNERSHIP AGREEMENT

MDH.

- D. If there are disputes concerning the evaluation findings that cannot be resolved through an informal process, the Board may appeal its position to the Commissioner of Health.
- E. While the Board's status is *Unacceptable*, MDH will conduct the Board's duties. Until the Board's status is no longer *Unacceptable*, the Board will pay service fees of \$100/hour per inspector to MDH for all duties that MDH conducts.

4.2 Termination

- A. MDH may terminate this Agreement for the following reasons:
 - (1) The Board is unable or unwilling to carry out the terms of this Agreement, including passing ordinances necessary for the Board to perform the duties delegated under this Agreement; or
 - (2) The Board fails to demonstrate that it has carried out inspection, reporting and enforcement activities under this Agreement; or
 - (3) MDH has evidence to establish that the Board's failure to act poses an immediate threat to public health.
- B. MDH will provide to the Board, in writing, the reasons for termination.

5. **Other Terms**

- 5.1 Voluntary Termination: Either party may voluntarily terminate this Agreement by written notice to the other no later than January 1 of the year before the calendar year in which the termination will be effective. If either party terminates this Agreement, a minimum of five (5) years must pass before the parties enter into a new delegation agreement.
- 5.2 Merger: The parties' entire Agreement is contained in this document. This Agreement

PARTNERSHIP AGREEMENT

supersedes any other agreements between the parties, either verbal or written, about the terms of this Agreement. MDH retains all functions and duties not included in this Agreement.

- 5.3 Amendment: The parties may amend this Agreement only by written agreement signed by the parties.
- 5.4 Liaison: Both MDH and the Board will assign a person to be a liaison with the other party.
- 5.5 Statutory or Rule Changes: Successor or amended statutes and rules apply to this Agreement and are automatically incorporated into this Agreement upon their effective date.
- 5.6 Exclusion: Actions under the Minnesota Emergency Management Act of 1996, Minnesota Statutes, Chapter 12, are excluded from this Agreement.
- 5.7 Severability: A determination that any provision of this Agreement is invalid, illegal, or unenforceable does not affect the enforceability of any other provision.
- 5.8 Each party will be responsible for its own acts and the results thereof to the extent authorized by law and will not be responsible for the acts of the other party and the results thereof. The State's liability will be governed by the Minnesota Tort Claims Act, Minnesota Statutes, Section 3.736, and other applicable law. The Board's liability will be governed by the Municipal Tort Claims Act, Minnesota Statutes, Chapter 466, and other applicable law.

PARTNERSHIP AGREEMENT

The parties' duly authorized officers have executed this Agreement on the date shown.

Minnesota Department of Health

Dated: _____ By: _____
Commissioner of Health

BOARD

Dated: _____ By: _____
Its: _____

Dated: _____ By: _____
Its: _____

Dated: _____ By: _____
Its: _____
