

# APPOINTMENT OF TOWN HEALTH OFFICERS

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## PUBLIC HEALTH ISSUE

The purpose of appointing a health officer is to ensure that every municipality has a single official who understands state health laws and who is ready to investigate and remedy public health threats. In addition, State law requires that each municipality support a health officer in their job duties, job safety, and training to protect public health. The state health department and other entities described in this chapter also have a role to support local health officers.

## ROLE OF THE HEALTH OFFICER

- Shall fill out the “[Health Officer Nomination Form](#)” completely and accurately, including contact information in case of a public health emergency in your town;
- Shall work with town administrators/staff to submit the completed *Health Officer Nomination Form* to the DHHS Health Officer Liaison Unit;
- Shall complete the required “3 Hour Training Course” as outlined in RSA 128; and
- Shall help to convene the local board of health to meet at least once per year to review the state of local public health issues and ‘readiness’ to respond.

## ROLE OF OTHERS

- Town administrators/staff may assist the Health Officer in completing the Health Officer Nomination Form, including receiving signatures from the Board of Selectman;
- Town administrators/staff shall receive a background check on health officers;
- Town administrators/staff may submit the completed *Health Officer Nomination Form* ;
- The Local Board of Health shall meet at least once per year to review the state of local public health issues;
- DHHS Health Officer Liaison unit will provide a free course to satisfy the 3 hour training requirement of RSA 128 and ongoing technical assistance; and
- DHHS Health Officer Liaison unit will issue letters of appointment.

## LAWS AND REGULATIONS

- **RSA 128: Town Health Officers;**  
<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-X-128.htm>
- **RSA 31:105: Powers and Duties of Towns - Indemnifications for Damages;**  
<http://www.gencourt.state.nh.us/rsa/html/III/31/31-105.htm>

- **RSA 47:17 Power of City Councils -Bylaws and Ordinances;**  
<http://www.gencourt.state.nh.us/rsa/html/III/47/47-17.htm>

## **OVERVIEW OF HEALTH OFFICER APPOINTMENT REQUIREMENTS**

Note: Effective June 9, 2021, House Bill 79 brought numerous changes to RSA 128 Town Health Officer that impacted the appointment and training of local health officers as well as changes to the meeting and reporting requirements of local boards of health. The sections below describe these changes.

Appointing a health officer is a multi-step process. First, the municipal government body (i.e. Board of Selectmen, Town Council, etc.) must nominate an individual for appointment to the Commissioner of the Department of Health and Human Services (DHHS) via a standard form. Next, the Commissioner appoints the health officer based on that recommendation, adequate contact information, and a criminal background check. The Commissioner has the sole legal authority to appoint town health officers, rather than the town board of selectmen. Next, letters of appointment are issued by DHHS to the health officer. If the position is vacant and the DHHS requests that the town nominate a candidate, a recommendation must be submitted to the Commissioner within 15 days of notification by the Department. If a recommendation is not made, then the Commissioner may appoint a health officer to serve, such as an official from the town or a surrounding town. Finally, the appointed health officer must complete a 3-hour training in state health laws within a year. Once a health officer is appointed, you can prepare for the job by reading the Training Manual, obtaining personal protective equipment (PPE) if needed, and attending available training via DHHS or NH Health Officer's Association to better fulfill your duties. You can also make a list of the top public health threats in your community and work with town staff or the Board of Health to assess and resolve them.

In contrast, the DHHS is not involved in the appointment of city health officers. The requirements in RSA 128 does not apply to cities. However, the DHHS Health Officer Liaison Unit does provide technical assistance and training opportunities to city health officers.

### **Appointment (RSA 128:1)**

The town must complete the appropriate paperwork and send it to DHHS. As per state law, the selectmen shall nominate and the commissioner of DHHS shall then appoint a person and issue a certificate. The health officer must be a single 'person' and not a group, committee, or Board of Selectmen. The law requires that each health officer shall provide complete contact information so DHHS can reach you with updates, changes and in case of a local or state-wide emergency.

**Residence (RSA 128:2)**

The town can select a person from anywhere, yet they should be able to respond to inquiries and complete inspections within a reasonable timeframe. The law no longer requires residency in the state to serve as a health officer.

**Local Board of Health (128:3)**

The town must ensure that the local board of health meets at least once per year and collaborate to assess readiness to respond to public health issues. As per state law: “The health officer shall be the secretary and executive officer of, and with the selectman, shall constitute the local board of health for the town. The local board of health shall meet at least once every year, and as frequently as needed, to review the state of local public health issues and concerns and provide information, as requested, to Department of Health and Human Services on the readiness to address relevant public health threats.” The DHHS Health Officer Liaison Unit has sample templates local boards of health can use for this reporting on readiness. The Local Board of Health may also pass local health ordinances as allowed in RSA 147:1.

**Term of Office (128:4)**

The town needs to track the expiration date of health officers and send a new or renewed nomination form to DHHS at least a month before the appointment expires to ensure there is time to complete and send the paperwork back to the town. “The town health officer shall hold office for 3 years or until a successor is appointed. There is no limit on the number of times a health officer may be reappointed.

**Removal from Office (128:4)**

The town is in charge of hiring and removing any employees, including the health officer, yet the DHHS may also remove a health officer, if needed. Most human resource problems can be resolved without removal, and performance improvement should be the first course of action for a town or the DHHS to pursue. As per the law: “The Commissioner may remove the health officer for cause at any time after notice and hearing, and may fill the vacancy in such office by appointment as provided in RSA 128:1”.

If the selectmen would like to remove a health officer, they may request the health officer resign. If the health officer refuses to resign, the removal of the health officer may be managed as a local personnel matter, or, at the request of the town officials, may be brought for review to the Commissioner. The Commissioner has the authority to determine when there is adequate cause to remove the health officer.

### **Duties (128:5)**

The town should be aware of the specific health officer duties under the law. At a minimum, the health officer is expected to do at least five things: 1) they shall know and enforce the public health laws and rules, 2) shall make sanitary investigations, 3) may enter upon private property (within limits), 4) receive compensation, and 5) and may serve temporarily for other towns. The Town Health Officer's duties, powers, and authority is outlined in depth in the DHHS Health Officer Manual Chapter ["Role of the Health Officer"](#).

### **Compensation (128:5)**

The town should provide some type of pay that reflects the volume of work. As per the law: "Health officers shall receive for the health officer's services the compensation fixed by the selectmen or the town, except as otherwise provided."

### **Health Officer for Several Towns (RSA 128:5 –V) (RSA 128:6)**

An individual can serve as the health officer of more than one town. This individual must be recommended by the Board of Selectmen of each town and appointed by the DHHS as the health officer in each town. The health officer shall receive such compensation from each town.

Health officers may also serve temporarily (30 calendar days or fewer) at the request of the governing body of any other New Hampshire town. For those duties performed at the request of such town, all compensation, expenses and liability coverage shall be incumbent upon the requesting town.

### **Deputy Health Officers (RSA 128:6-a) (RSA 128:5-b)**

The town may nominate a deputy, with the approval of the Health Officer. The appointment of a deputy health officer, under RSA 128:6a, is subject to the approval of the Board of Selectmen and the Commissioner of the DHHS. Deputy health officers are empowered to enforce public health laws and make sanitary investigations as directed by the health officer or requested by the Commissioner or their designee. The term of the deputy health officer shall expire with that of the health officer or may be extended with the approval of the board of selectmen, in consultation with the commissioner of the DHHS or designee, until the health officer vacancy is filled. The deputy health officer shall receive such compensation from the town.

### **Where Statute Inapplicable (RSA 128:7)**

This law applies to towns, not cities. Approval of city Health Officer is covered under RSA 47. The governing body of a city has the sole authority to appoint a health officer. The NH DHHS is not involved in the appointment of city health officers. Cities have the authority to enact health codes; the governing body also has the authority to promulgate bylaws and ordinances (RSA 47:17). These bylaws and ordinances may be more stringent than those established by a state

statute, unless the state statute preempts local governments from adopting a different, more stringent standard. City ordinances may not be more lenient than a state statute.

### **Training and Qualifications (RSA 128:8)**

The town is responsible to ensure that each health officer understands the state health laws they may enforce. The law states: “Within one year of appointment every health officer shall complete a minimum of 3 hours of training on topics related to the specific state laws that provide authority to health officers. The training shall be administered at no cost by DHHS in collaboration with the New Hampshire health officers association (NHHOA). The curriculum shall cover, but not be limited to, duties and responsibilities of the health officer as required on rental housing standards pursuant to RSA 48-A:3, I(c), assessment and management of health nuisances pursuant to RSA 147, and duties pursuant to RSA 128:5. The required training may be taken in person, or through a remote learning platform.” DHHS Health Officer Liaison Unit will send out upcoming training dates and training reminders to health officers. Deputy health officers are also required to complete the training course. The law also states the town should cover reasonable costs associated with attending New Hampshire Health Officer Association trainings (RSA 129.1).

### **Background Check (RSA 128:9)**

As a prerequisite for nomination, the town is required to complete a criminal record history for the health officer or deputy. This criminal history record can be obtained from the NH Department of Safety, and must be kept on file at the town. The purpose of this requirement is to determine if there are any prior convictions that may disqualify such person or interfere with the performance his or her duties. The town does not need to share the records with DHHS. A records check can be requested here: <https://www.nhsp.dos.nh.gov/our-services/criminal-records/criminal-history-record-requests>

### **Administrative Rulemaking (RSA 128:10)**

In order to implement the sections outlined in this RSA, the DHHS may adopt administrative rules. These rules will help to clarify the provisions of this chapter and further describe how these laws are to be implemented in municipalities.

### **Reporting Requirement (RSA 128:11)**

The New Hampshire Health Officer Association is now required to report annually on November 1<sup>st</sup> of each calendar year to the joint legislative oversight committee on health and human services and the state health assessment and state health improvement plan advisory council. This report shall describe the readiness of municipal health officers to respond to potential public health threats in New Hampshire. While not required by law, local municipalities have the opportunity to complete and submit a local readiness report to DHHS describing the readiness of local public health officials to respond to local public health threats.

**Liability (RSA 31:105 Indemnifications for Damages)**

City and town health officers are immune from liability for civil damages for decisions made/actions taken while acting in official capacity, within the scope of their authority, and in good faith.

For more information:

N.H. Department of Health and Human Services, Division of Public Health Services  
Health Officer Liaison Program  
29 Hazen Drive  
Concord, NH 03301  
603-271-3468  
[Healthofficer@dhhs.nh.gov](mailto:Healthofficer@dhhs.nh.gov)  
<https://www.dhhs.nh.gov/programs-services/environmental-health-and-you/health-officer-liaison-program>