

**Local Health Officer Statutory Summary for Discussion of Revisions**  
**Maine CDC July, 2007**

**Review of LHO Duties (“Shalls”):**

- Keeping a Record (§454)
- Assisting in Reporting, Prevention, and Suppression of Diseases and Conditions Dangerous to Health (§454)
- Reporting Facts on Communicable Diseases, including reporting notifiable communicable diseases (§454)
- Receiving and Evaluating Complaints of Nuisances with a potential public health threat (§454)
- Applying for inspection warrant from district court if entry to a suspicious premises is refused (§454)
- Consulting with Commissioner or Designee when reasonable cause in suspecting communicable disease (§454)
- Ordering the Suppression or removal of public health threats (§454)
- Enforcing Rules of the Department (§802 & §804) regarding infectious disease control
- Removing of undomesticated animal or wolf hybrid with suspect rabies and having exposed (§1313-A)
- Notifying the Chief Administrator/Superintendent of a school that a student poses a health danger to others (Title 20-A, §6353)
- Directing the removal of a diseased jail inmate and notifying clerk of courts (Title 30-A, §1560)

**Review of LHO Authorities (“Mays”):**

- Enter a premises where nuisances or condition posing a ph threat are known or believed to exist (§454 and §803)
- Provide vaccine clinics (§459)
- Notify owners to clean unfit premises (§461)
- Call for assistance from law enforcement (§462)
- Order immediate killing of certain animals suspected of rabies (§1313-A)
- Order removal of nuisances, including carcasses (§1561 and §1562)
- Establish temporary health care facilities in the event of an outbreak or public health danger, with the approval of and supervision by Maine DHHS (§1762)
- Nominate a public guardian or conservator (Title 18-A, §5-604)
- Apply to admit a person to a mental hospital (Title 34-B, §3863)

**Review of Secondary LHO Duties/Authorities:**

- Landowners refusing aerial spraying for browntail moth control shall remove browntail moths from their property in a time and manner satisfactory to the LHO (§1444)
- DHHS and DEP shall notify and utilize the services of the LHO in collecting and evaluating info related to ground water contamination (§2608)

- Burial structures must be built so they may be examined by LHO (Title 13, §1343)
- Upon a complaint by a LHO (or others) the Superior Court can require the removal of out of state waste from the state (Title 17, §2253)
- Dumping (that results in offal, filth, or noisome substance) in a public dumping ground cannot be made in a manner except as prescribed by the LHO (Title 30-A, §3352)
- Funeral directors must have burial preparation room that is satisfactory to LHO (Title 32, §1501)
- Waste disposal facility citizen advisory committee must have membership that includes a LHO (Title 38, §2171)

**ABRIDGED STATUTORY SOURCES**

**TITLE 22 GENERAL POWERS AND DUTIES [OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES]**

**Part 2: State and Local Health Agencies**

**Chapter 153: Local Health Officers**

**§451 In Effect Until July, 2007**

***§451. Appointment***

*Every municipality in the State shall employ an official who shall be known as the local **health officer** who shall be appointed by the municipal officers of such municipality. The local **health officer** shall be appointed for a term of 3 years and until his successor is appointed, provided that on expiration of the term of office the municipal officers shall appoint a successor within 30 days of such resignation or expiration. The municipal officers or clerk of all municipalities shall within 10 days notify the department in writing of the appointment of a **health officer**, stating the **health officer's** name, age, address and the dates of appointment and beginning of 3-year term. The **health officer** in towns or plantations contiguous to unorganized territory shall perform the duties of **health officer** in such territory. [1981, c. 703, Pt. A, § 7 (amd).]*

*In the event of incapacity or absence of the local **health officer** , the municipal officers shall appoint a person to act as **health officer** during such incapacity or absence. Failing such appointment, the chairman of the municipal officers shall perform the duties of local **health officer** until the regular **health officer** is returned to duty or appointment of another person has been made.*

*In municipalities with a manager form of government, when the charter so provides, the appointments provided for in this section may be made by the said manager and the duty prescribed for the chairman of the municipal officers during incapacity or absence of the **health officer** shall be performed by the manager.*

*In no case shall a person be appointed to hold office as a local **health officer** or as a member of the local board of health who shall have any pecuniary interest, directly or indirectly, in any private sewer corporation over which said officer or board has general supervision.*

***Health officers** may be employed to devote a part or all of their time to the duties of the office. The offices of the local **health officer** and town or school physician shall be combined when, in the opinion of the municipal officers, the health needs of the people would be better served. [1989, c. 487, §3.] Section History:*

*PL 1981, Ch. 703, §A7 (AMD). PL 1989, Ch. 487, §3 (AMD).*

**§451 In Effect July, 2007**

**§451 Appointment**

The following provisions govern the appointment and employment of local health officers.

**1. Role of municipality.** Every municipality in the State shall employ a local health officer who is appointed by the municipal officers of that municipality. A person may be appointed and employed as a local health officer by more than one municipality.

**2. Qualifications.** The local health officer must be qualified by *education, training or experience in the field of public health or a combination as determined by standards adopted by department rule no later than June 1, 2008. A person who is employed as a local health officer who is not qualified by education, training or experience must meet qualification standards adopted by department rule no later than June 1, 2009. On or after June 1, 2009, a person may not be appointed and employed as a local health officer unless that person is first qualified pursuant to the standards set by department rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.*

**3. Duration of appointment; notification.** A local health officer is appointed for a term of 3 years and until that officer's successor is appointed. The municipal officers shall appoint a successor within 30 days of any resignation or expiration of term. The municipal officers or clerk of each municipality shall within 10 days notify the department in writing of the appointment of a local health officer. Notification to the department must include the local health officer's name, age and address and the dates of the appointment and the beginning of the 3-year term. A local health officer in a town or plantation contiguous to unorganized territory shall perform the duties of a local health officer in that territory.

**4. Incapacity or absence.** In the event of incapacity or absence of the local health officer, the municipal officers shall appoint a person to act as local health officer during that incapacity or absence. The chair of the municipal officers shall perform the duties of a local health officer until the regular local health officer is returned to duty or another person has been appointed and employed. In a municipality with a manager form of government, when the charter so provides, the appointments provided for in this subsection may be made by the manager and the duties prescribed for the chair of the municipal officers during incapacity or absence of the local health officer are performed by the manager.

**5. Conflict of interest.** A person may not be appointed to hold office as a local health officer or to serve as a member of the local board of health under section 453 if that person has a pecuniary interest, directly or indirectly, in any corporation or other entity over which that officer or board has general supervision.

**6. Duties.** Local health officers may be employed on a part-time or full-time basis. The offices of local health officer and town or school physician may be combined when, in the opinion of the municipal officers, the health needs of the public would be better served.

### **§453. Local board of health**

Any municipality may appoint, in addition to the local **health officer**, a board of health consisting of 3 members besides the local **health officer**, one of whom shall be a physician if available in the community, and one a woman. When first appointed members of the board shall be appointed one for one year, one for 2 years and one for 3 years. Subsequent appointments shall be for 3-year terms.

The local **health officer** shall be secretary ex officio of said board and keep a record of all proceedings.

The local board of health shall constitute an *advisory* body to the local **health officer**.

### **§454. Duties**

1. Reporting; action on complaints. In a book kept for that purpose, the local **health officer** shall *make and keep a record* of all the proceedings, transactions, doings, orders and regulations of that local **health officer**. The local **health officer** shall *assist in the reporting, prevention and suppression of diseases and conditions dangerous to health*, and that local **health officer** is *subject to the supervision and direction of the department*. [1997, c. 387, §1 (new); 2003, c. 689, Pt. B, §7 (rev).]

The local **health officer** shall *report* promptly to the Commissioner of Health and Human Services, or the commissioner's designee, *facts that relate to communicable diseases*

occurring within the limits of the **health officer's** jurisdiction, and shall report to the commissioner, or the commissioner's designee, *every case of communicable disease as the rules of the department require*. Those diseases that the rules of the department may require to be reported are known, under the terms of this Title, as notifiable diseases. [1997, c. 387, §1 (new); 2003, c. 689, Pt. B, §7 (rev).]

The local **health officer** shall *receive and evaluate complaints made by any of the inhabitants concerning nuisances posing a potential public health threat* within the limits of the **health officer's** jurisdiction. With the consent of the owner, agent or occupant, the local **health officer** may enter upon or within any place or premises where nuisances or conditions posing a public health threat are known or believed to exist, and personally, or by appointed agents, inspect and examine the same. If entry is refused, the municipal **health officer** *shall apply for an inspection warrant from the District Court*, pursuant to Title 4, section 179, prior to conducting the inspection. When the local **health officer** has reasonable cause to suspect the presence of a communicable disease, the local **health officer** shall *consult with the commissioner, or a designee*. The **health officer** shall then *order the suppression and removal of nuisances and conditions posing a public health threat* found to exist within the limits of the **health officer's** jurisdiction. For purposes of this section, "*public health threat*" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease. [1997, c. 387, §1 (new); 2003, c. 689, Pt. B, §7 (rev).]

2. Departmental intervention. If the local **health officer**, or individual designated as the local **health officer** pursuant to section 451, fails to perform the duties of the local **health officer** as those duties are described under this section, the department may intervene to perform those duties. [1997, c. 387, §1.] PL 1987, Ch. 600, § (AMD). PL 1989, Ch. 487, §4 (AMD). PL 1997, Ch. 387, §1 (RPR). PL 2003, Ch. 689, §B7 (REV). §455. Reports (REPEALED)

**§459. Providing for free vaccinations**

The local **health officer** of each municipality may provide for free vaccinations with suitable material, as defined by the Department of Health and Human Services. Vaccinations and inoculations shall be done under the care of skilled, practicing physicians and under those circumstances and restrictions as the **health officer** may adopt therefor, not contrary to law or in violation of any regulations of the department. [1989, c. 487, §6 (amd); 2003, c. 689, Pt. B, §6 (rev).]

The **health officer** is authorized and empowered to arrange with any available, skilled, practicing physician for the purpose of carrying out this section, and when he deems it necessary for the proper discharge of his duties as outlined in section 454, anything in any city charter to the contrary notwithstanding.

The municipal officers of municipalities may approve and shall pay any reasonable bills or charges incident to the foregoing when approved by the local **health officer**. [1989, c. 487, §7 (amd).]

Nothing in this section is to be interpreted so as to relieve the local **health officer** or any selectman of the duty imposed by section 457.

PL 1975, Ch. 293, §4 (AMD). PL 1981, Ch. 470, §A61 (AMD). PL 1989, Ch. 487, §6,7 (AMD). PL 2003, Ch. 689, §B6 (REV).

**§461. Notice to owner to clean premises; expenses on refusal**

The local **health officer**, when satisfied upon due examination, that a cellar, room, tenement or building in the town, occupied as a dwelling place, has become, by reason of want of cleanliness or other cause, unfit

for such purpose and a cause of sickness to the occupants or the public, may issue, in consultation with the department, a notice in writing to such occupants, or the owner or the owner's agent, or any one of them, requiring the premises to be put into a proper condition as to cleanliness, or, if they see fit, requiring the occupants to quit the premises within such time as the local **health officer** may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, the local **health officer** may cause the premises to be properly cleansed at the expense of the owner, or may close the premises, and the same shall not be again occupied as a dwelling place until put in a proper sanitary condition. If the owner thereafter occupies or knowingly permits the same to be occupied without putting the same in proper sanitary condition, the owner shall forfeit not less than \$10 nor more than \$50 for each day that the premises remain unfit following written notification that the premises are unfit. [1989, c. 487, §9 (amd).] PL 1989, Ch. 487, §9 (AMD).

#### **§462. Assistance if obstructed in duty**

Any **health officer** or other person employed by the local **health officer** may, when obstructed in the performance of the person's duty, call for assistance from a law enforcement officer. [1989, c. 487, §10 (amd).] PL 1989, Ch. 487, §10 (AMD).

### **Chapter 101: General Provisions (of DHHS)**

#### **§251. Information for department on request**

In order to afford the department better advantages for obtaining knowledge important to be incorporated with that collected through special investigations and from other sources, all officers of the State, the physicians of all incorporated companies and the president or agent of any company chartered, organized or transacting business under the laws of this State, as far as practicable, shall furnish to the department any information bearing upon public health which may be requested by said department for the purpose of enabling it better to perform its duties of collecting and distributing useful knowledge on this subject.

#### **§252. Penalties**

Whoever willfully violates any provision of section 451, 454, 456, 461 or 462, or of rules adopted pursuant to those sections, or neglects or refuses to obey any order or direction of any local **health officer** authorized by those provisions, the penalty for which is not specifically provided, or willfully interferes with any person or thing to prevent the execution of those sections or of the rules, is guilty of a Class E crime. The District Court shall have jurisdiction of all offenses under these sections. [1989, c. 487, §2 (amd).] PL 1979, Ch. 127, §141 (AMD). PL 1989, Ch. 487, §2 (AMD).

### **Chapter 250: Control of Communicable Diseases**

#### **§801. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 487, §11.]

1. Commissioner. "Commissioner" means the Commissioner of Health and Human Services. [1989, c. 487, §11 (new); 2003, c. 689, Pt. B, §7 (rev).]
2. Communicable disease. "Communicable disease" means an illness or condition due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host. [1989, c. 487, §11.]
- 4-A. Extreme public health emergency. "Extreme public health emergency" means the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of the State. [2001, c. 694, Pt. B, §1 (new); §6 (aff); 2003, c. 366, §1 (aff).]
6. Municipal **health officer**. "Municipal **health officer**" means a person who is a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce this chapter. [1989, c. 487, §11.]

7. *Notifiable disease.* "Notifiable disease" means any communicable disease or occupational disease the occurrence or suspected occurrence of which is required to be reported to the department pursuant to sections 821 to 825 or section 1493. [1989, c. 487, §11.]

8. Occupational disease. "Occupational disease" shall have the meaning set forth in section 1491. [1989, c. 487, §11.]

8-A. Prescribed care. "Prescribed care" means isolation, quarantine, examination, vaccination, medical care or treatment ordered by the department or a court pursuant to section 820. [2001, c. 694, Pt. B, §2 (new); §6 (aff); 2003, c. 366, §1 (aff).]

10. Public health threat. "Public health threat" means any condition or behavior which can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease. [1989, c. 487, §11.]

A. A condition poses a public health threat if an infectious agent is present in the environment under circumstances which would place persons at significant risk of becoming infected with a communicable disease. [1989, c. 487, §11.]

B. Behavior by an infected person poses a public health threat if:

- (1) The infected person engages in behavior that has been demonstrated epidemiologically to create a significant risk of transmission of a communicable disease;
- (2) The infected person's past behavior indicates a serious and present danger that the infected person will engage in behavior that creates a significant risk of transmission of a communicable disease to another;
- (3) The infected person fails or refuses to cooperate with a departmental contact notification program; or
- (4) The infected person fails or refuses to comply with any part of either a cease and desist order or a court order issued to the infected person to prevent transmission of a communicable disease to another. [1989, c. 487, §11.]

C. Behavior described in paragraph B, subparagraphs (1) and (2), shall not be considered a public health threat if the infected person demonstrates that any other person placed at significant risk of becoming infected with a communicable disease was informed of the risk and consented to it.

[1989, c. 487, §11.] PL 1989, Ch. 487, §11 (NEW). PL 2001, Ch. 694, §B1,2 (AMD). PL 2001, Ch. 694, §B6 (AFF). PL 2003, Ch. 366, §1 (AFF). PL 2003, Ch. 689, §B6,7 (REV)

## **§802. Authority of department**

1. Authority. To carry out this chapter, the department may: [1989, c. 487, §11.]

A. Designate and classify communicable and occupational diseases;

[1989, c. 487, §11.]

B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of communicable diseases, occupational diseases and the potential for epidemics;

[1989, c. 487, §11.]

C. Investigate cases, epidemics and occurrences of communicable and occupational diseases; and

[1989, c. 487, §11.]

D. Establish procedures for the control, detection, prevention and treatment of communicable and occupational diseases, including public immunization and contact notification programs.

[1989, c. 487, §11.]

2. Health emergency. In the event of an actual or threatened epidemic or outbreak of a communicable or occupational disease, the department may declare that a health emergency exists and may adopt emergency rules for the protection of the public health relating to: [1989, c. 487, §11.]

A. Procedures for the isolation and placement of infected persons for purposes of care and treatment or infection control;

[1989, c. 487, §11.]

B. Procedures for the disinfection, seizure or destruction of contaminated property; and

[1989, c. 487, §11.]

C. The establishment of temporary facilities for the care and treatment of infected persons which shall be subject to the supervision and regulations of the department and to the limitations set forth in section 807.

[1989, c. 487, §11.]

2-A. Declaration of extreme public health emergency by Governor. The Governor may declare an extreme public health emergency pursuant to this chapter and Title 37-B, chapter 13, subchapter II. [2001, c. 694,

Pt. B, §3 (new); §6 (aff); 2003, c. 366, §1 (aff).]

B. "Disease" means one of those conditions enumerated in rules adopted by the department that may be preventable by an immunizing agent. [2001, c. 185, §2.]

D. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease. [2001, c. 185, §2.]

**§803. Inspection**

If the department has reasonable grounds to believe that there exists, on public or private property, any communicable disease which presents a public health threat, a duly authorized agent of the department may enter any place, building, vessel, aircraft or common carrier with the permission of the owner, agent or occupant where the communicable disease is reasonably believed to exist and may inspect and examine the same. If entry is refused, that agent shall apply for an inspection warrant from the District Court pursuant to Title 4, section 179, prior to conducting the inspection. [1989, c. 487, §11.] PL 1989, Ch. 487, §11 (NEW).

**§804. Penalties**

1. Rules enforced. All agents of the department, municipal **health officers**, sheriffs, state and local law enforcement officers and other officials designated by the department shall enforce the rules of the department made pursuant to section 802 to the extent that enforcement is authorized in those rules. [1989, c. 487, §11.]

**Subchapter 5: Rabies or Hydrophobia**

**§1311. Killing or impounding of dogs**

The department may, in the case of an emergency or threatened epidemic of rabies or hydrophobia when in its opinion the health and safety of the people in a community are endangered, issue orders to the mayor of any city or the municipal officers of any town or plantation to have killed any dogs found loose in violation of quarantine regulations and impounded for a period of 72 hours without being claimed by their owner. The mayor of any city or the municipal officers of any town or plantation shall forthwith direct that such dogs be killed by a police officer or constable.

**§1313. Procedures for the transportation, quarantine, euthanasia and testing of animals suspected of having rabies**

1. Establishment of procedures. The commissioner, in consultation with the Commissioner of Agriculture, Food and Rural Resources and the Commissioner of Inland Fisheries and Wildlife shall adopt rules, in accordance with the Maine Administrative Procedure Act, establishing procedures for responding to a report of an animal suspected of having rabies. The procedures must include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies and, when that animal has bitten a person, provisions for the notification of the animal control officer in the locality where the bite occurred. The procedures may differ based on the perceived public health threat determined in part by consideration of the following factors: [1999, c. 350, §3 (amd).]

A. Whether the animal is a domesticated animal for which a known effective vaccine exists and, if so, can the animal's vaccination status be verified; and [1993, c. 468, §23.]

B. Whether the animal has bitten a person or exhibited other aggressive behavior. [1993, c. 468, §23.]

2. Role of animal control officer; game warden. An animal control officer appointed in accordance with Title 7, section 3947, receiving a report of an animal suspected of having rabies shall ensure that the procedures established pursuant to this section and section 1313-A are carried out. If the animal is an undomesticated animal, a game warden shall assist the animal control officer. [1993, c. 468, §23.]

3. Costs associated with transportation, quarantine, testing and euthanasia. The Department of Inland Fisheries and Wildlife shall provide for or pay all necessary costs for transportation and euthanasia of an undomesticated animal suspected of having rabies. The owner of a domesticated animal suspected of having rabies shall pay all costs for transportation, quarantine, euthanasia and testing of the animal. If a domesticated animal is a stray or the owner is unknown, the municipality in which the animal was apprehended is responsible for transportation, quarantine, euthanasia and testing costs. Cost of testing animals judged by the department to have created a public health risk of rabies must be borne by the department, through its General Fund appropriations. [1999, c. 731, Pt. Q, §1 (amd).] PL 1993, Ch. 468,

§23 (NEW). PL 1999, Ch. 350, §3 (AMD). PL 1999, Ch. 731, §Q1 (AMD).

**§1313-A. Provisions for immediate destruction of certain animals**

If an undomesticated animal or a wolf hybrid suspected of having rabies bites or otherwise exposes to rabies a person or a domestic animal, an animal control officer, a **local health officer** or a game warden must immediately remove the undomesticated animal or wolf hybrid or cause the undomesticated animal or wolf hybrid to be removed and euthanized for testing. When in the judgment of the animal control officer, **local health officer**, game warden or law enforcement officer the animal poses an immediate threat to a person or domestic animal, the animal control officer, **local health officer**, game warden or law enforcement officer may immediately kill or order killed that animal without destroying the head. The Department of Inland Fisheries and Wildlife shall arrange for the transportation of the head to the State Health and Environmental Testing Laboratory; except that the animal control officer shall make the arrangements if the animal is a wolf hybrid. [1997, c. 704, §11 (amd).]

The Department of Inland Fisheries and Wildlife shall pay transportation and testing costs for undomesticated animals. The owner of a domesticated ferret, domesticated wolf or domesticated wolf hybrid shall pay transportation and testing costs for that animal. [1993, c. 468, §23.]

PL 1993, Ch. 468, §23 (NEW). PL 1997, Ch. 704, §11 (AMD).

**§1313-B. Civil violation, court authorization for removal and other remedies**

1. Violation. A person who violates a rule established under this chapter commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged for each offense. In addition, the court may include an order of restitution as part of the sentencing for costs including removing, controlling and confining the animal. [1997, c. 704, §12.]

2. Court authorization for removal. When home quarantine procedures, as described on the official notice of quarantine, have been violated, or in the case of a wolf hybrid, when the owner fails to bring the animal to a veterinarian for euthanasia and testing or to turn the animal over to authorities as required by rules established pursuant to this chapter, an animal control officer, person acting in that capacity or law enforcement officer may apply to the District Court or Superior Court for authorization to take possession of the animal for placement, at the owner's expense, in a veterinary hospital, boarding kennel or other suitable location for the remainder of the quarantine period or, in the case of a wolf hybrid, removal for euthanasia. At the end of the quarantine period for domestic animals, or if the animal shows signs of rabies, the person in possession of the animal must report to the court, and the court shall either dissolve the possession order or order the animal euthanized and tested for rabies. [1997, c. 704, §12.]

3. Other remedies. In addition to filing a civil action to enforce this section: [1997, c. 704, §12.]

A. The municipality may record a lien against the property of the owner or keeper of an animal if the person fails or refuses to comply with an order to confine or quarantine the animal; [1997, c. 704, §12.]

B. The municipal officers or their designated agent, such as the animal control officer, shall serve written notice on the owner or keeper of the animal that specifies the action necessary to comply with the order and the time limit for compliance; [1997, c. 704, §12.]

C. If the owner or keeper of the animal fails to comply within the time stated, the animal control officer must apply to District Court or Superior Court for an order to seize the animal and make arrangements for quarantine or euthanasia at the owner's or keeper's expense; and [1997, c. 704, §12.]

D. If the owner or keeper of the animal fails to pay the costs of confinement or quarantine within 30 days after written demand from the municipal officers, the municipal assessors may file a record of lien against the property of the owner or keeper of the animal. [1997, c. 704, §12.] PL 1997, Ch. 704, §12 (NEW).

**§1444. Control of browntail moths**

1. Declaration of public health nuisance. The Director of the Bureau of Health may declare that an infestation of browntail moths is a public health nuisance. The declaration may be made on the director's own initiative or on petition to the director by municipal officers in a municipality affected by the infestation. [1997, c. 215, §1.]



3. Refusal to consent; cost of extermination. After the declaration of the Director of the Bureau of Health and a written declaration by the municipal officers of their intent to conduct aerial spraying, any landowner who refuses to consent to aerial spraying shall remove any browntail moth infestation from that landowner's property at that landowner's expense in a time and manner satisfactory to the local **health officer**. Regardless of whether the nonconsenting landowner's property has an infestation of moths, the nonconsenting landowner is also liable for the additional expenses actually incurred by neighboring consenting landowners or the municipality when neighboring consenting landowners or the municipality uses a method of removal other than aerial spraying due to lack of consent. In such cases, consenting landowners shall remove any browntail moth infestation from their own property at their own initial expense in a time and manner satisfactory to the local **health officer**.

## **Chapter 263: Offenses Against Public Health**

### **Subchapter 1: Nuisances**

#### **§1561. Removal of private nuisance**

When any source of filth whether or not the cause of sickness is found on private property and deemed to be potentially injurious to health, the owner or occupant thereof shall, within 24 hours after notice from the local **health officer**, at his own expense, remove or discontinue it. If he neglects or unreasonably delays to do so, he forfeits not exceeding \$300. Said local **health officer** shall cause said nuisance to be removed or discontinued, and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it. [1973, c. 430 (amd).]

#### **§1562. Depositing of dead animal where nuisance**

Whoever personally or through the agency of another leaves or deposits the carcass of a dead horse, cow, sheep, hog or of any domestic animals or domestic fowl or parts thereof in any place where it may cause a nuisance shall, upon receiving a notice to that effect from the local **health officer**, promptly remove, bury or otherwise dispose of such carcass. If he fails to do so within such time as may be prescribed by the local **health officer**, and in such manner as may be satisfactory to such **health officer**, he shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 3 months.

## **Chapter 403: Town Hospitals**

### **§1762. Temporary facilities**

Notwithstanding the provisions of section 1761, in the event of an outbreak of any disease or health problem dangerous to the public health, the municipal officers or local **health officer**, with the approval of the department, may establish temporary health care facilities, subject to the supervision of the department. [1977, c. 696, § 187 (reen).]

## **Chapter 601: Water For Human Consumption**

### **§2601-A. Scope**

This chapter establishes a system designed to help ensure public health; to allow the State, municipalities and public water systems to identify significant public water supplies and strive for a higher degree of protection around source water areas or areas that are used as public drinking water supplies; and to allow the State, municipalities and water systems to pursue watershed or wellhead protection activities around significant public water supplies. [1999, c. 761, §1.]

#### **§2608. Information on private water supply contamination; interagency cooperation**

1. Information on private water supply contamination. The department shall provide information and consultation to citizens who: [1983, c. 837, §2.]

A. Make reports of potential contamination of private water supplies; and [1983, c. 837, §2.]

B. Request information on potential ground water contamination at or near the site of a private water supply. [1983, c. 837, §2.]

2. Interagency cooperation. The department shall coordinate with the Department of Environmental Protection for the purposes of: [1983, c. 837, §2.]

- A. Assessing the public health implications of reports or requests made by citizens in subsection 1; and [1983, c. 837, §2.]
  - B. Determining the appropriate response to those reports or requests, including, but not limited to, on-site investigation, well water testing and ground water monitoring. [1983, c. 837, §2.]
  - 3. Cooperation with local **health officer**. The department and the Department of Environmental Protection, to the extent possible, shall notify and utilize the services of local **health officers** in collecting and evaluating information relating to actual or potential ground water contamination. [1983, c. 837, §2.]
- §2615. Notification of noncompliance to regulatory agencies and users**
- 1. Notification. A public water system shall notify the public of the nature and extent of possible health effects as soon as practicable, but not later than the time period established under subsection 4, if the system: [2001, c. 574, §14 (amd).]
    - A. Is not in compliance with a state drinking water rule; [1995, c. 622, §5 (rpr).]
    - B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules; [1995, c. 622, §5 (rpr).]
    - C. Is subject to a variance or an exemption granted under section 2613; or [1995, c. 622, §5 (rpr).]
    - D. Is not in compliance with the terms of a variance or an exemption granted under section 2613. [1995, c. 622, §5 (rpr).]
    - E. Public notification under this section must be provided concurrently to the system's local **health officer** and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws. [2001, c. 574, §14 (amd).]

**TITLE 4 DISTRICT COURT**

**§165. District Court; jurisdiction over crimes and juvenile offenses**

1. Crimes; under one year imprisonment. The District Court has jurisdiction and, except as provided in Title 29-A, section 2602, concurrent jurisdiction with the Superior Court of all crimes, including violation of any statute or a bylaw of a town, village corporation or local **health officer** and breach of the peace, for which the maximum term of imprisonment to which the defendant may be sentenced upon conviction of that crime is less than one year. [1999, c. 731, Pt. ZZZ, §6 (new); §42 (aff).]

**TITLE 13 CORPORATIONS**

**§1343. Type of construction; examinations**

Any such community mausoleum or other burial structure shall be constructed of such materials and workmanship as will insure its durability and permanency as well as the safety, convenience, comfort and health of the community in which it is located, as dictated and determined at the time by modern mausoleum construction and engineering science, and all crypts or catacombs placed in a mausoleum, vault or other burial structure as described in section 1342 shall be so constructed that all parts thereof may be readily examined by the Bureau of Health or any other **health officer**. Such crypts or catacombs, when used for the permanent interment of a deceased body or bodies, shall be so hermetically sealed that no offensive odor or effluvia may escape therefrom.

**TITLE 17 NUISANCES**

**§2253. Out-of-state waste matter**

As used in this section, "waste matter" means garbage, refuse, solid or liquid waste, ashes, rubbish, industrial and commercial waste, and all other refuse of every description, whether loose, in containers, compacted, baled, bundled or otherwise. [1969, c. 570.]

No person, firm, corporation or other legal entity shall deposit, or cause or permit to be deposited, any

waste matter in any structure or on any land within the State, which waste matter originated outside the State. [1969, c. 570.]

Nothing in this section shall be construed to prohibit the transportation of waste matter into the State for use as a raw material for the production of new commodities which are not waste matter as defined, or for use to produce energy for use or sale. [1975, c. 739, § 2 (amd).]

Whoever shall violate this section shall be punished by a fine of not less than \$200 nor more than \$2,000 for each violation. Each day that such violation continues or exists shall constitute a separate offense. [1969, c. 570.]

The Superior Court, upon complaint of the Attorney General, the municipal officers of any municipality, or any local or state **health officer**, shall have jurisdiction to restrain or enjoin violations of this section, and to enter decrees requiring the removal from the State of waste matter deposited in violation of this section. In any such civil proceeding, neither an allegation nor proof of unavoidable or substantial and irreparable injury shall be required to obtain a temporary restraining order or injunction, nor shall bond be required of the plaintiff; and the burden of proof shall be on the defendant to show that the waste matter involved originated within the State. [1969, c. 570.]

## **TITLE 18-A PROBATE COURT**

### **§5604. Nomination of public guardian or conservator**

(a) Any person who is eligible to petition for appointment of a guardian under section 5-303, subsection (a), including the commissioner of any state department, the head of any state institution, the overseers of the poor, and the welfare director or **health officer** of any municipality may nominate the public guardian. [1979, c. 540, §1.]

(b) Any person who is eligible to petition for appointment of a conservator under section 5-404, subsection (a), including the commissioner of any state department, the head of any state institution, the overseer of the poor, and the welfare director or **health officer** of any municipality may nominate the public conservator. [1979, c. 540, § 1.]

(c) Except as supplemented by section 5-605, the proceedings for determining the appointment of a public guardian or conservator shall be governed by the provisions of this Article for the appointment of guardians and conservators generally. [1979, c. 540, § 1.]

Section History: PL 1979, Ch. 540, §1 (NEW).

## **TITLE 20-A EDUCATION**

### **Chapter 223: Health, Nutrition and Safety**

#### **§6353. Definitions**

6. Public health official. "Public health official" means a **local health officer**, the Director of the Bureau of Health, Department of Health and Human Services, or any designated employee or agent of the Department of Health and Human Services. [1983, c. 661, §8 (new); 2003, c. 689, Pt. B, §6 (rev).]

#### **§6356. Exclusion from school** *(from public or private elementary or secondary schools)*

1. Public health official action. When a **public health official** has reason to believe that the continued presence in a school of a child who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the superintendent of the school. The superintendent shall cause the child to be excluded from school during the period of danger or until the child receives the necessary immunizing agent. [1983, c. 661, § 8.]

#### **§6359. Immunization of students** *(from public or private, post-secondary school in the State including, but not limited to colleges, universities, community colleges and schools for the health professions)*

[1985, c. 771, §§2, 7.]

F. "Public health official" means the Director of the Bureau of Health or any designated employee or agent of the Department of Health and Human Services.

[1991, c. 146, §1 (amd); 2003, c. 689, Pt. B, §6 (rev).]

2. Immunization. Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease as specified by rule. [2001, c. 326, §5 (amd); 2003, c. 689, Pt. B, §6 (rev).]

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services. [2001, c. 326, §5 (amd); 2003, c. 689, Pt. B, §6 (rev).]

4. Exclusion from school. When a **public health official** has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the chief administrative officer of the school. The chief administrative officer shall cause the student to be excluded from school during the period of danger or until the student receives the necessary immunizing agent. [1985, c. 771, §§2, 7.]

**TITLE 30-A MUNICIPALITIES AND COUNTIES**

**Chapter 13: County Jails and Jailers**

**§1560. Removal for disease**

The removal of prisoners afflicted with dangerous diseases is governed as follows. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

1. Removal. If a prisoner in a jail is afflicted with a disease which the local **health officer**, by medical advice, considers dangerous to the safety and health of other prisoners or of the inhabitants of the municipality, the local **health officer** shall, by written order, direct the person's removal to some place of safety, to be securely kept and provided for until the officer's further order. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

2. Return. Upon recovering from the disease, the prisoner shall be returned to the place of confinement. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

4. Notice. If the diseased person was committed to the place of confinement by an order of court or judicial process, the local **health officer** shall send the following to the office of the clerk of court from which the order or process was issued:

A. The order for the diseased person's removal or a copy of the order attested by the local **health officer** ; and [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

B. A statement describing the actions taken under the order. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).] [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

Section History: PL 1987, Ch. 737, §A2,C106 (NEW). PL 1989, Ch. 6, § (AMD). PL 1989, Ch. 9, §2 (AMD). PL 1989, Ch. 104, §C8,10 (AMD).

**Chapter 159: Public Dumps**

**§3352. Prohibited dumping**

1. Prohibited dumping. Notwithstanding Title 17-A, section 4-A, whoever personally or through the agency of another leaves or deposits any offal, filth or other noisome substance in any public dumping ground, except in the manner prescribed by the local **health officer** , is guilty of a Class E crime and shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 3 months. [1987, c. 737, Pt. A, §2 and Pt. C, §106 (new); 1989, c. 6 (amd); c. 9, §2 (amd); c. 104, Pt. C, §§8, 10 (amd).]

**TITLE 32 PROFESSIONS AND OCCUPATIONS**

**Chapter 21: Funeral Directors and Embalmers**

**§1501. Licenses; qualifications; requirements**

A funeral establishment, in which the preparation of dead bodies takes place, must contain a preparation room equipped with tile, cement or composition floor, necessary drainage or proper disposal of waste satisfactory to the local **health officer**, ventilation and necessary instruments and supplies for the preparation and embalming of dead human bodies for burial, transportation or other disposition. [1989, c. 450, §22 (amd).]

The board may adopt such rules and classifications as may be reasonable, sufficient and proper to define what shall be deemed the proper drainage and ventilation and what instruments are necessary and suitable in a funeral establishment. [1989, c. 450, §22 (amd).]

**TITLE 34-B MENTAL HEALTH**

**§3863. Emergency procedure**

A person may be admitted to a mental hospital on an emergency basis according to the following procedures. [1983, c. 459, §7.]

1. Application. Any **health officer**, law enforcement officer or other person may make a written application to admit a person to a mental hospital, subject to the prohibitions and penalties of section 3805, stating:

A. His belief that the person is mentally ill and, because of his illness, poses a likelihood of serious harm; and [1983, c. 459, §7.]

B. The grounds for this belief. [1983, c. 459, §7.] [1983, c. 459, §7.]

**TITLE 38 ENVIRONMENTAL PROTECTION**

**§2171. Citizen advisory committee**

The municipal officers of each municipality identified by the Facility Siting Board as a potential site for a waste disposal facility and each contiguous municipality that may be affected by the construction or operation of that facility shall jointly establish a single citizen advisory committee within 60 days of notification pursuant to section 2155. [1993, c. 310, Pt. B, §3 (amd).]

Membership. The committee must be comprised of citizens from each affected municipality, appointed by the municipal officers, including, but not limited to: a municipal **health officer**; a municipal officer; and at least 3 additional residents of the municipality, including abutting property owners and residents potentially affected by pollution from the facility. In addition, each committee may include members representing any of the following interests: environmental and community groups; labor groups; professionals with expertise relating to landfills or incinerators; experts in the areas of chemistry, epidemiology, hydrogeology and biology; and legal experts. [1993, c. 310, Pt. B, §4 (amd).]