

Section 4**Appointment and Duties**

In this section, we will cover:

Part I

- Appointment of the LHO
- Qualifications and Training of the Local Health Officer
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Part II

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint -Steps to follow
- Diagram of the Local Health Officer Complaint Flow Chart
- Best Practices of the Local Health Officer
- Sample Knowledge Check #2

Section 4 should take approximately 60 minutes to read process and complete a short knowledge check

Section 4 Part I**4.1 Appointment of an LHO**

Your town has appointed you as the local health officer because you possess the qualities necessary to perform the tasks that will arise while you are the LHO. The basis for this appointment is found in **Title 22 M.R.S.A. §451**. [The words town and municipality are used interchangeably.]

Title 22 M.R.S.A. §451-1 authorizes every municipality in the State to employ a local health officer, who must be appointed by that municipality's *municipal officers*. A person may be appointed and employed as the local health officer by more than one municipality.

Within ten days of the appointment of a Local Health Officer, the municipal official who is the municipality's registered *Local Health Officer Registration & Information System* (LHORIS) account holder must update the municipality's LHORIS (online) account. By updating the LHORIS account, the municipality fulfills the notification requirement to the State of Maine (22 M.R.S §451(3)). Municipalities should also use the LHORIS system to remove persons no longer serving as an LHO.

4.2 Qualifications of Local Health Officers

The Rule states that the local health officer must be qualified by education, training, and experience in the field of public health or a combination as determined by standards established by these rules. 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 six months after appointment. However, a person can be appointed and serve as a local health officer *if granted a waiver* under Section 7, by the Department.

Rules Governing Qualifications of Local Health Officers - [Maine CDC Rules \(10-144 CMR Ch. 294\)](#)

4.2.1 Training & Training Attendance

The Maine CDC will provide the required six-hour training at no cost to the town or the current or proposed LHO. LHOs must complete at least one six-hour training every three years to meet the required LHO qualifications.

Definitions:

Municipal official: is defined as any elected or appointed member of a municipal government. [Title 30-A §2001(11)]

Municipal officers: is defined as (A) the selectmen or councilors of a town; or (B) the mayor and aldermen or councilors of a city. [Title 30-A §2001(10) (a) & (b)]

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. [22 MRSA §451(4)]

4.3 Statutory Duties

Your duties may be termed mandatory or implied. Therefore, it is important for you to know what you are legally required to do, and what actions are not authorized. The LHO's duties are outlined in Title 22 M.R.S.A. §454-A. The LHO has four primary functions:

- Overall health resource to the community
- Mediator-problem solver
- Investigator-Enforcer
- Report to:
 - Board of Selectman/City Council Board of Selectman/City Council on community's public health status;
 - Maine CDC/DHHS on any perceived local public health threats.



Duties Defined: *(two categories)*

1. **Mandatory duties** involve a legal duty to conduct or perform a specific task (i.e. you are obligated to act). Another legal term used is "shall" or "must," which means you have to perform certain tasks. Implied duties often support the mandatory duties, but in some cases, they may not be related.
2. **Implied duties or "authorized duties"** means you may, or are permitted to, carry out a particular act. Implied duties improve the quality of life and help keep the community functioning at the best possible level. In most cases, these duties depend on individual initiative. They improve the situation and motivate LHOs to carry out a duty because they want to, not because they are required to do so.

Statutory Duties

Title 22 M.R.S.A. §454-A lists the specific (statutory) duties the LHO is required to assume.

2. Duties within Jurisdictional Limits. A local health officer shall:

- A. Make and keep a record of all the proceedings, transactions, ordinances, orders and rules acted upon by the local health officer;
- B. Report to the commissioner or the commissioner's designee facts that relate to communicable diseases and cases of communicable disease as required by department rules;
- C. During a declared health emergency, as defined in section 802, subsections 2 and 2-A, report to the commissioner or the commissioner's designee facts regarding potential notifiable diseases and cases that directly relate to the declared health emergency, as the rules of the department require;
- D. Receive and examine the nature of complaints made by members of the public concerning conditions posing a public health threat or a potential public health threat;
- E. With the consent of the owner, agent or occupant, enter, inspect and examine any place or premises where filth, whether or not the cause of sickness, or conditions posing a public health threat are known or believed to exist. An agent with special expertise, appointed by the local health officer, may inspect and examine the place or premises. If entry is refused, the local health officer shall apply for an inspection warrant from the District Court, pursuant to Title 4, section 179, prior to conducting the inspection;
- F. After consulting with the commissioner or the commissioner's designee, order the suppression and removal of nuisances and conditions suspected of posing or found to pose a public health threat;
- G. Act as a resource for connecting residents with the public health services and resources provided by the Maine CDC; and

H. Enforce public health safety laws, including:

1. Laws pertaining to the exclusion of students from school under Title 20-A M.R.S.A., section 6356;
2. Laws pertaining to control of brown tail moths under section 1444;
3. Laws pertaining to the removal of a private nuisance or nuisance of a dead animal under sections 1561 and 1562;
4. Laws pertaining to the establishment of temporary health care facilities under section 1762; and
5. Laws pertaining to prohibited dumping under Title 30-A, section 3352.

4.3.1 Reporting

Maine law requires all local health care providers/personnel, including LHOs, to report



diseases, conditions, or public health threats believed to be of public health importance. In accordance with [Title 22 M.R.S.A. §801-825](#)

Maine CDC rules and procedures to provide a uniform system of reporting, recording, and collecting information concerning

notifiable diseases and conditions.

NOTE: Excerpt: 2-A-7. Health Officers: Local Health Officers shall report any pertinent information related to any case, suspect case, carrier, or death from any disease entities or conditions listed in part 2-I and the information specified in part 2-B. [10-144, Chapter 258: Rules for the Control of Notifiable Conditions](#)

For purposes of this subsection, “**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.*

However, if you have any questions about the reporting of health threats, contact your DHHS [District Public Health Liaison](#) or the Maine CDC, Division of Local Public Health at (207)287-4397.

4.4 Examples of Likely Complaints

In **Title 22 M.R.S.A. §454 A (H)**, especially subsections 1-5, are public health safety laws



you are required to enforce. The wide range of complaints you receive will require solutions ranging from informal to challenging. At the easy or informal level is an ordinance giving the municipality the authority to fix the problem then place a formal lien on the property. On the challenging or difficult level

is an uncompromising property owner who will not act on (or fix) a problem. In a situation such as this, your last resort is for the town to file a claim/complaint in court against the owner. Going to court is the least desirable action to resolve a problem, simply because this process requires the use of a town's resources, which includes money and time. On other occasions, you may come across a problem that may have no legal solution.

The following are **examples of complaints** an LHO may be asked to address:



- **Protect occupants in a “dangerous building:”**
This is covered in Title 17 M.R.S.A. §2851 - Dangerous buildings. The statute authorizes the town to obtain a court order to require either abatement or demolition of the property. <http://www.mainelegislature.org/legis/statutes/17/title17sec2851.html>

- **Public health threat:** Inspect and examine any place or premises where filth or a public health threat may exist. This is covered under Title 22 M.R.S.A. §461 - Notice to owner to clean premises; expenses on refusal. The law authorizes the LHO to have the premises cleaned at the expense of the owner, or may close the premises. <http://janus.state.me.us/legis/statutes/22/title22sec461.html>

- **Removal of filth on property:** This is covered by [Title 22 M.R.S.A. §1561](#) - Removal of private nuisance. This law authorizes the LHO, at the expense of the owner or occupant, to remove or discontinue the nuisance. If the owner or occupant or the person who caused it delays correction, that person is assessed \$300, in addition to having to repay the municipality for all expenses for the removal or discontinuance of the nuisance.

- **Removal of dead animals:** (domesticated - such as cow, horse, fox, rat, etc., includes fowl). This is covered under Title 22 M.R.S.A. §1562 - Depositing of Dead Animal Where Nuisance. Unless there is a municipal ordinance, the only remedy is going to District court where the offender must be fined \$10 to \$100, or face imprisonment for not more than 3 months. **NOTE:** Undomesticated animals suspected of having rabies are dealt with by the Department of Inland Fisheries and Wildlife, unless the animal is a wolf hybrid, in which case the Animal Control Officer is responsible. Maine law, Title 22 M.R.S.A. §1313-A is the associated law. <http://janus.state.me.us/legis/statutes/22/title22sec1562.pdf> (new window)

- **Unlawful dumping:** This is covered under Title 30-A M.R.S.A. §3352 - Prohibited dumping. Similar to the previous example, unless there is a municipal ordinance, the only remedy is going to District court where the offender must be fined \$10 to \$100. The municipality can recover all costs. <http://janus.state.me.us/legis/statutes/30-A/title30-Asec3352.html> (new window)

- **Malfunctioning sewage system:** This is covered by Title 30-A M.R.S.A. §3428 - Malfunctioning domestic wastewater disposal units; abatement of nuisance. Municipal Officials (generally the Local Plumbing Inspector with the assistance of the LHO) can either issue an abatement order or apply for a court order to require the owner to reimburse the town for repairs to the system. <http://janus.state.me.us/legis/statutes/30-A/title30-Asec3428.pdf> (new window)



- **Landlord tenant issues:** These issues are covered by Title 14 M.R.S.A. §6021 which contains an “implied warranty” and “covenant of habitability”. Remedies to these problems may sometimes be expedited by resolving it similarly to one of the other complaints already discussed, such as the dangerous building.

<http://janus.state.me.us/legis/statutes/14/title14sec6021.html> (new window)

As you can tell from these examples, the LHO investigates all types of complaints and may enforce, as appropriate, his or her town's ordinances or state law. However, when exercising this authority the LHO/town must follow the "due process" procedures and notice requirements.

Due process means the government must act fairly and in accord with established rules using fair procedures. The 5th Amendment of the U.S. Constitution says that the government must use fair procedures. Fair procedures however, mean little if used to administer unfair laws. The states have the power to protect and promote the public health, safety, morals, and general well-being of all people. This power is called the **police power**, and the states may not use their police power to violate a person's due process rights.

4.5 Limits to Duties under Title 22 M.R.S.A. §454-A

Under Title 22 M.R.S.A. §454-A, the LHO is "**authorized**" or permitted to carry out a particular task, or take action to fix a problem. Title 22 M.R.S.A. §454-A sets the limits of your authority, and the extent of your authority to act in resolving public health threats and nuisances. The actual language states that your authority extends to complaints, nuisances, and threats that can result in any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.

Other municipal officials, such as, animal control officers, local plumbing inspectors, and code enforcement officers have responsibilities and duties similar to yours. You may oftentimes call one of these three positions to assist you. When you receive a complaint, the general duties of an LHO imply you are responsible for assessing the situation and taking appropriate steps to correct the problem. However, you are not necessarily responsible for determining the remedy on your own.

The LHO considering action must ask the question based on law: ***Is this a situation “that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease”?***

In Section 4 Part I we covered:

- Appointment & Qualifications of the LHO
- Qualifications and Training
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Section 4 Part II

In this section we will cover:

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint - Steps to follow
- Diagram of the Local Health Officer Complaint Flow Chart
- Best Practices
- Sample Knowledge Check #2



4.6 Prepare for the Work Ahead

As an LHO, you act as a mediator, a problem solver, an enforcer, an investigator and a reporter. For this reason, you will receive calls from people who have no idea who to ask for assistance regarding public health matters. Perhaps most importantly, you are a reporter. You report on the public health status of the community, and you report to Maine CDC/DHHS on any perceived local public health threats. It is beneficial that the community knows you as the LHO. A notice in the local paper, or the “Know Your LHO” poster help get the word out – as do introductions at annual municipal meetings or at city council meetings. *“Know your LHO” poster – Appendix – 4F*

When you receive requests for help, it is important to use standard problem solving techniques and to be consistent in how you perform your job. To aid you along these lines, there is a resource chart on the next page showing who might assist with a specific problem. There is also a decision-making flow chart to help guide you through the process – it is a two-page document coming right after the resource chart.



You cannot be all things to all people – but you can provide assistance and refer problems if you cannot resolve them personally.

4.7 Handling Specific LHO Situations

All complaints can be resolved by following the logical steps outlined in the Standard LHO Complaint Flow Chart. The suggested timeframes are only examples. In very serious situations, the town may decide to go to court immediately and seek an *injunction*. In less serious situations, you may give the alleged offender five days to give you a rough plan of how he/she might correct the problem, with a 30- day follow up after that. The length of time you may ask for corrective action varies and relates directly to how complex and how urgent the matter is. *Standard Local health Officer Complaint Flow Chart Diagram - Appendix-4-G*

Abbreviations (used in the chart below) :

- **LPI:** Local Plumbing Inspector
- **CEO:** Code Enforcement Officer
- **ACO:** Animal Control Officer
- **IFW:** Department of Inland Fisheries and Wildlife Professional
- **PR:** Professional resource
- **MHB:** Manufacturing Housing Board
- **DHHS:** Department of Health and Human Services Personnel

Chart: Handling Specific LHO Situations

Abbreviations:

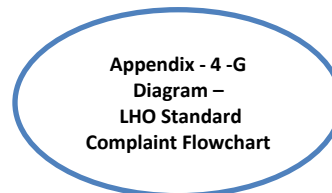
- **LPI/CEO:** Local Plumbing Inspector or Code Enforcement Officer
- **ACO:** Animal Control Officer
- **IFW:** Department of Inland Fisheries and Wildlife Professional Resource:
- **PR** Third party contractor
- **MHB** Manufacturing Housing Board
- **DHHS:** Department of Health and Human Services personnel

Problem	Title & Section Reference	LHO	LPI or CEO	A C O	IFW	P R	M H B	D H H S
Landlord tenant issues - implied warranty and covenant of habitability	T14 §6021	Lead	Assist					
Environmental Lead hazards	T22 Ch252	Assist						Lead
Dangerous buildings	T17 §2851	Assist	Lead					
Unclean premises	T22 §1561	Lead	Assist					
Removal of private nuisances that could be injurious to health	T 22 § 461	Lead	Assist					
Removal of private nuisances	T22 §1561	Lead	Assist					
Removal of dead animal	T22 §1562	Assist	Assist	Lead	Assist			
Reporting adult abuse	T22 §3477	Assist						Lead
Reporting child abuse	T22 §4011	Assist						Lead
Bathing beaches	T 22 § 461	Lead	Assist					
Malfunctioning sewage disposal systems	T30-A §3428	Assist	Lead					
Automobile junkyards	T30-A §3751	Assist	Lead					
Cemeteries	T13 §1343	Lead	Assist					
Mobile home parks and Manufactured Housing Communities	T10 §9003	Assist				Lead	Lead	

This table is meant for general guidance. Please check with your town attorney for specific guidance

Steps to Follow When Processing Reported Complaints and Situations

- 1. Document**
- 2. Verify**
- 3. Meet**
- 4. Follow Up**
- 5. Get Support**
- 6. Check Status**
- 7. Second Request to Resolve the Problem**
- 8. Town decides on next plan of action**



STEPS TO FOLLOW WHEN PROCESSING REPORTED COMPLAINTS AND SITUATIONS

1. Document - Take notes of the call in a notebook that the town keeps for complaints. Often times you can return to these notes and save time. If the complaint is about a third party, make sure you obtain all contact information, including the name of the landlord, eating place, etc. Give the caller a date and time you anticipate following up by making an on-site visit. In many situations, you can ask the caller to obtain further information. For example, maybe the landlord, neighbor, or whomever the complaint is about has not been contacted. This is an important first step.

2. Verify - Visit the property of complaint to confirm the complaint. It is best to have someone accompany the LHO, someone who may also have a special skill to reinforce those of the LHO. For example, code enforcement officers or the local fire chiefs are good to have onsite, as they are familiar with the National Fire

Protection Association (NFPA) Life Safety Code. Remember to take many photographs to document the situation – the more, the better.

3. Meet - Discuss the problem with the owner or owner's representative. Since you will need to follow-up with a letter, you have to document what is being said during the meeting. Ask probing questions to obtain information or intent that you can restate in the letter. It would be preferable to include the complainant in the meeting. However, that decision is up to the LHO. Tell the owners you will be following up with a letter and will expect him/her to respond within a short time period as to what his/her intentions are.

4. Follow up - Call the owner after five days and ask what they are going to do. Do not accept a vague response as a solution. You must receive sufficient supporting statements from the owner so you have a good idea whether the owner will comply with the request to fix the problem. This is done by asking in-depth questions such as who, what, when, where, and why? Again, take notes of all answers. Tell the owner you will expect action within 30 days or less, depending upon the severity of the situation.

5. Support - Communicate with the town officials on the problem, the owner's response, and the actions needed to fix the problem. You must make sure you have the backing of the Board of Selectmen/Town Council/Mayor/City Manager. Eventually, an elected official will have to take responsibility for giving the LHO the authority to take further action.

6. Check Status - At the appointed time, contact the owner and determine the status of his or her corrective action. If you return to the site to inspect the

repairs, you should typically plan on someone (CEO, LPI, etc.) being at the site with you to confirm the conversations during the meeting, and to make observations regarding the problem. Make sure that the owner understands that the town will proceed with legal action if the problem is not satisfactorily resolved.

7. Second Request to Resolve the Problem – If, after the owner has had the opportunity to fix the problem, and on your second visit to the site, the problem has not been resolved in the approved and agreed way, it may be time to establish a Second Request to Resolve the Problem action. Prepare a letter to the owner stating that because the repairs were not completed within the time you both agreed on, you will have to take further action. This action may involve putting a lien on the property, going to court, or committing the town to cleaning up the area and billing the owner. This may include all three actions.

8. Town’s Decision: If all else fails, the town would have to consider alternative course of action. Prepare to go to District court to enforce the statute or ordinance – only if authorized by the Town Council. If there is nothing that you can do based on current law or ordinances, suggest to the complainant that he or she could consult a private attorney.

Use the State as a Resource

If the State has a specific program that deals with the problem, contact the State. Examples of relevant State programs include drinking water, restaurant inspection, emergency response, and school health. Should the services of Maine CDC’s on- call Epidemiologist be needed, you can call: 1 - 800 - 821 – 5821, 24 hours a day. If you are unable to locate the resource you need, contact the Division of Local Public at (207) 287-4397. The LHO website resources list can be found at-

<http://www.maine.gov/dhhs/mecdc/local-public-health/lho/resources.shtml> (new window)

4.9 LHO Consultation Best Practices**LHO Consultation Best Practices****I. Fact-Finding**

1. Emphasis is placed on gathering facts; not to place blame, or determine the cause of the problem
2. Inspect the problem site to verify the complaint, if warranted
3. Take notes as you speak with the complainant or the property owner
4. Take photographs of the problem.
5. Interview the complainant and the property owner as soon as possible. Record (take notes) on the condition of the affected area(s). Document the location of injured employee, witnesses, machinery, equipment, energy sources, and hazardous materials.
6. Ask *who, what, when, where, why, and how* during investigations.
7. Remain completely objective during interviews and in documentation – no opinions, just the facts.
8. Keep complete and accurate notes.

II. Interviews

1. Verify the statements made by the complainant.
2. Introduce yourself and whoever accompanies you to the site. Explain the purpose of the investigation and put each witness at ease.
3. Let each the complainant speak freely and take notes without distracting the person.
4. Record the exact words used by the complainant (caller) to describe each observation/problem.
5. Take the same steps (1-4) when speaking with the property owner.
6. Verify contact information for both parties. (page 1 of 2)

LHO Consultation Best Practices (cont'd)**III. Investigation Reporting**

1. Provide complete, thorough information about the problem (*who, what, where, when, why, and how it will be resolved*).
2. Describe the Problem/issue. Document all conversations. Identify the extent of the problem.
3. Provide short-term and long-term corrective actions that prevent or eliminate the identified hazardous/problematic conditions.
4. Describe the corrective actions recommended, the persons who are accountable for each corrective action, and the approximate time frame for correction.

V. Corrective Actions

1. Recommend immediate corrective actions to eliminate or reduce hazardous conditions.
2. Request the property owner develop an action plan for corrective action
3. Estimate the time to implement the corrective action.
4. Monitor implementation of the action plan to ensure appropriate corrective action is taken. (page 2 of 2)

Sample Knowledge Check # 2

True/False

A LHO is required, by law, to inspect and investigate all complaints brought to his or her attention.

A) True
 B) False

Question 1 of 4

True/False

In rental housing, tenants are protected under an implied warranty” and a “covenant of habitability.”

A) True
 B) False

Question 2 of 4

Matching - Choose the right answer for each

Who would you collaborate with in the public health situations related to the following?

A) Reporting child abuse A)

B) Bathing beaches B)

C) Mobile home parks C)

D) Dangerous buildings D)

Question 3 of 4

True/False

The Department of Inland Fish and Wildlife deals with undomesticated animals suspected of having rabies unless the animal is a wolf hybrid.

A) True

B) False

Question 4 of 4

I Am a New LHO

In Section 4 Part I & II, we covered:

Part I

- Appointment & Qualifications of the LHO
- Qualifications and Training
- Statutory Duties
- Examples of Likely Complaints
- Limits of Duties

Part II

- Prepare for the Work Ahead
- Handling Specific Local Health Officer Situations
- Standard Local Health Officer Complaint [Steps to follow in processing complains]
- Diagram of the Local Health Officer Complaint Flow Chart
- What Highly Successful Local Health Officers Do
- Consultation Best Practices doe the Local Health Officer
- Sample Knowledge Check #2

You can review the frequently asked questions from this section.

If you have reached a level of comfort with the material presented so far then you are ready to move on to the next section.