

# Town Health Officer Presentation

## HEALTH ORDERS

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# Presentation Outline:

- UNDERSTANDING THE POWERS OF A TOWN HEALTH OFFICER
- ELEMENTS OF AN INVESTIGATION REPORT
- WRITING A HEALTH ORDER AND AN EMERGENCY HEALTH ORDER
- GROUP EXERCISE

# DUTIES OF A LOCAL HEALTH OFFICER

18 V.S.A. § 602a.

- May conduct an investigation upon receiving information regarding a potential public health hazard.
- Enforce the provisions of Title 18, VDH rules and permits
- Prevent, remove, or destroy any public health hazard or mitigate any significant public health risk.

# INVESTIGATION REPORTS (Supporting Evidence)

- An Investigative Report is the story.
- One way to include all the important information is to use the five W's.
- Who, Where, When, Why and What

# INVESTIGATION REPORTS

- WHO –
  - All the individuals you spoke with.
  - Any individual present during the investigation.
- WHEN –
  - The date you were called.
    - The date you conducted the investigation.
- WHERE –
  - The address where the investigation was conducted.

# INVESTIGATION REPORTS- CONTINUED

- WHY –
  - You were called to investigate. Include the information that you were given which prompted the investigation.
- WHAT –
  - did you observe? Include photographs,
  - were there violations? Include the rules that were violated.
  - needs to be done to correct the violations?

# Voluntary Compliance

## 18 V.S.A. § 124

- When appropriate a Town Health Officer may make efforts to secure voluntary compliance.
- If voluntary compliance is the option you choose make sure that you follow through to determine the individual has complied with your requests.

# HEALTH ORDERS

## 18 V.S.A. § 126

- MAY BE ISSUED FOR THE FOLLOWING REASONS.
  - Prevent, remove or destroy any public health hazard;
  - Mitigate a significant public health risk;
  - Correct any statute or rule violation;
  - Correct any violation of a permit restriction or requirement.



# WHAT NEEDS TO BE DONE PRIOR TO ISSUING A HEALTH ORDER

- A complete investigation
- A Notice of intent
- Serving the Individual with the notice of intent together with supporting evidence (investigative report) and a statement of procedural rights
- Hearing in front of the Select board or Local Board of Health

# WRITTEN NOTICE OF INTENT

- INFORMS THE INDIVIDUAL THAT YOU ARE SEEKING A HEALTH ORDER
  - Include the individual's name and address who you are seeking the Health Order against
  - Include the statutory reference 18 V.S.A. 126 or 127
  - Include information as to why you are seeking the health order. (investigative report)
  - Include the date when you will be seeking the health order
  - Inform the individual that he/she is able to request a hearing to rebut the allegations

# STATEMENT OF PROCEDURAL RIGHTS

- Needs to include the following:
  - Statutory Provisions either 18 V.S.A. § 126 or if an emergency health order 18 V.S.A. § 127
  - The right to request a hearing to rebut the allegations requesting the Order.
  - The right to appeal any act, decision or order of the Selectboard or Local Board of Health

# Proc. Rights continued

- The right to appeal to the State Board of Health within 30 days of the Selectboard's or Local Board of Health's act, decision or order.
- The right to appeal to the State Board of Health is subject to the Administrative Procedure Act, relating to contested cases.
- A hearing in front of the State Board of Health is de novo and allows them to present evidence to the Board.

# Proc. Rights continued

- If the State Board of Health finds against them, they have the right to appeal to the Vermont Supreme Court.
- If they failed to comply with the Order they may be subject to further legal action including civil enforcement of the order in superior court and criminal penalties.

# SERVICE OF NOTICE OF INTENT

- Any questions you may have on service please contact your town attorney
- V.R.C.P. 4 requires the following for service;
  - Service of the notice of intent, supporting evidence and the statement of procedural rights to:
    - The individual or
    - **Leave a copy at the individual's dwelling house** with an individual of suitable age and discretion who resides there; or
    - **On individual's agent authorized by appointment or by law.**

# Hearing on Health Order

## 18 V.S.A. 126

- A hearing is held if the individual served the notice of intent requests a hearing
- The hearing is held by the Selectboard
- The individual who was served the notice of intent has the opportunity to rebut the allegations made and demonstrate that no health order should be issued.
- Selectboard issues the health order
- Health Order is in effect upon being issued by the Board.

# EMERGENCY HEALTH ORDERS

- May be issued by the Town Health Officer without a prior hearing only when necessary to prevent, remove or destroy an imminent and substantial significant public health hazard or to mitigate an imminent and substantial significant public health risk.



# ISSUING AN EMERGENCY HEALTH ORDER

- Conduct an investigation
- May issue the emergency health order only after preparation of a written statement of reasons stating the need for an emergency health order together with the supporting evidence and a statement of procedural rights. 18 V.S.A. § 127 (b).
- The Order, statement of reasons and statement of procedural rights shall be made available to the individual as soon as possible.
- Order is in effect upon actual notice to the individual.

# Hearing on the Emergency Health Order 18 V.S.A. § 127

- Individual shall be given the opportunity for a hearing within five business days.
- If individual is in full compliance with the Order, he/she may request and shall be granted, an extension of the hearing date.
- Hearing shall be in front of the Selectboard.

# Hearing on the Emergency Health Order

- At the hearing the individual has the opportunity to rebut the allegations in the Order
- After the hearing the Selectboard or the Local Board of Health shall issue a health order affirming, modifying or terminating the emergency health order

# Actions may request as part of Health Order 18 V.S.A. § 126(d)

- prohibition of transportation, sale, distribution, or supplying of water, food, or any other materials or services;
- the repair, installation, construction, operation, or implementation of purification equipment or methods;
- testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the public health hazard or public health risk.

## Actions may request as part of Health Order 18 V.S.A. § 126(d)

- the impounding, destruction or removal of any public health hazard
- the quarantine or isolation of any area, persons, animals or materials
- the closing of, and the prohibition of assemblage in any food or lodging establishment, church, school, or any other place of assemblage

## Actions may request as part of Health Order 18 V.S.A. § 126 (d)

- the cessation of any acts, discharges or processes, contributing to a public health hazard or a public health risk;
- the giving of notice to potential users, including travelers of the goods or services, of the nature, extent and possible health effects of the public health hazard or public health risk and precautions to be taken by such users;
- any other affirmative acts or prohibitions necessary to mitigate a significant public health risk.

# NONCOMPLIANCE WITH A HEALTH ORDER

- Contact your town attorney to discuss civil enforcement pursuant to 18 V.S.A. § 130.
- Your town attorney may file a civil enforcement action with the superior court of your county requesting that the order be enforced.
- Criminal penalties are also available if the individual is not abiding by the health order. 18 V.S.A. § 131.

# Questions????

