

July 10, 2023

Dear Town Health Officers:

Governor Scott signed into law Act 53 (2023), which amends Title 18 of the Vermont Statutes to repeal the state Board of Health. All matters that would have previously gone to the state Board of Health will now be sent to the Superior Court of the county in which the person resides or maintains a place of business. This change affects the appeal rights provided to a person or party against whom a health order or emergency health order has been issued pursuant to 18 V.S.A. §126 or 127.

Effective immediately, if a town health officer is issuing a notice of intent to seek a health order pursuant to 18 V.S.A. §126, or if a town health officer is issuing an emergency health order pursuant to 18 V.S.A. §127 must be accompanied by a statement of procedural rights that describes the new appeals process.

The Health Department has provided suggested statements of procedural rights for health orders and emergency health orders in the enclosed templates, but, as always, the Department encourages town health officers and local boards of health to contact their town attorneys with legal questions.

The Town Health Officer Manual will be updated to reflect these changes, and the templates will be posted on the Town Health Officer webpage.

Thank you for the important work you do. Town health officers serve an important role in investigating and mitigating potential or existing public health hazards in their town.

Please do not hesitate to contact the Department of Health with questions or for technical support. You can reach the Environmental Health Division at 800-439-8550 or ahs.vdhtho@vermont.gov.

Sincerely,



Meg McCarthy
Environmental Health Division
Vermont Department of Health



STATEMENT OF PROCEDURAL RIGHTS
Emergency Health Order

Pursuant to 18 V.S.A. §§ 126 and 127, you are hereby notified of your rights.

1. You shall be given the opportunity for a hearing on this emergency health order within five (5) days from receipt of the order. Please notify the [Insert Town/City] Board of Health within five days to request a hearing.
2. You have the right to appeal any act, decision, or order of the [Insert Town/City] Board of Health to the Civil Division of Superior Court in the county where you live or work. Contact information for the Superior Court in each county is available at <https://www.vermontjudiciary.org/court-locations>.
3. Your appeal to Superior Court must be made within 30 days of the act, decision, or order.
4. The Superior Court will consider the matter de novo (anew) and all persons, parties, and interests, as determined by court rule, may appear and be heard. You have the right to bring an attorney and witnesses. An appeal to Superior Court will not stay the effectiveness of the order unless the Court rules otherwise.
5. You may appeal the decision of the Superior Court to the Vermont Supreme Court.
6. Failure to comply with the provisions of the Health Order issued by the [Insert Town/City] Board of Health or the Emergency Health Order of the health officer may subject you to further legal action including civil enforcement of the order in the Superior Court.

STATEMENT OF PROCEDURAL RIGHTS
Health Order

Pursuant to 18 V.S.A. § 126, you are hereby notified of your rights.

1. You have a right to a hearing pursuant to 18 V.S.A. §126. A hearing will be scheduled upon request. Please notify the [Insert Town/City] Board of Health within fifteen days to request a hearing. If [Insert Town/City] does not hear from you within fifteen days, [Insert Town/City] will treat your lack of response as waiving your right to a hearing and the Health Order will be issued.
2. If you request a hearing, you will be given an opportunity to rebut the violations set forth in this Notice of Intent and demonstrate that the Health Order should not be issued. You have the right to bring an attorney and witnesses if you choose.
3. You have the right to appeal any act, decision, or order of the [Insert Town/City] Board of Health to the Civil Division of Superior Court in the county where you live or work. Contact information for the Superior Court in each county is available at <https://www.vermontjudiciary.org/court-locations>.
4. Your appeal to the Superior Court must be made within 30 days of the act, decision, or order.
5. The Superior Court will consider the matter de novo (anew) and all persons, parties, and interests, as determined by court rule, may appear and be heard. You have the right to bring an attorney and witnesses. An appeal to Superior Court will not stay the effectiveness of the order unless the Court rules otherwise.
6. You may appeal the decision of the Superior Court to the Vermont Supreme Court.
7. Failure to comply with the provisions of the Health Order issued by the [Insert Town/City] Board of Health may subject you to further legal action including civil enforcement of the order in the Superior Court.