

**MANUAL FOR THE USE OF  
THE BOARDS OF HEALTH  
AND OVERSEERS OF THE  
POOR OF MASSACHUSETTS**

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Manual for the Use of the Boards of Health and Overseers of the Poor of Massachusetts by  
Various

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MANUAL  
FOR THE USE OF THE  
BOARDS OF HEALTH  
AND  
OVERSEERS OF THE POOR  
OF  
MASSACHUSETTS.

CONTAINING THE STATUTES RELATING TO HEALTH, LUNACY,  
AND PUBLIC CHARITY, AND CERTAIN DECISIONS OF THE  
SUPREME JUDICIAL COURT OF MASSACHUSETTS  
RELATING TO THE SAME.

PREPARED BY DIRECTION OF THE  
STATE BOARD OF HEALTH, LUNACY, AND CHARITY.  
JUNE, 1882.

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## INTRODUCTION.

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THE State Board of Health, Lunacy, and Charity, established in May, 1879, takes the place of two long existing Boards, — the State Board of Health, created in 1869, and the Board of State Charities, created in 1863 to succeed the Alien Commission, which had been established in 1852. The duties of a Lunacy Commission, now performed by the new Board, had been in part assigned to the Board of Charities since 1864, and in part performed by a special commission appointed in 1874 for one year.

The Massachusetts Board of State Charities consisted of seven members, and was the oldest organization of the kind in the United States. It was created by chapter 240, Acts of 1863, and organized on the 7th of October in that year, with Otis Norcross of Boston as Chairman, Dr. H. B. Wheelwright of Taunton as General Agent, and F. B. Sanborn of Concord as Secretary. Mr. Norcross resigned his place on the Board in September of the following year, and Dr. Nathan Allen of Lowell was chosen as his successor in the chairmanship, retaining the position till October, 1865, when Dr. Samuel G. Howe of Boston was elected. Dr. Howe was Chairman by successive annual elections till October, 1874, when he declined further service. Moses Kimball of Boston was elected to the position, but declined to accept it, and thereupon F. B. Sanborn was chosen Chairman. He retired in September, 1876, and was succeeded by Edward Earle of Worcester, who died in May, 1877. Dr. Allen was then re-elected Chairman, and served in that capacity till the Board ceased to exist June 30, 1879.

The first General Agent of the Board of Charities was Dr. Wheelwright, then of Taunton, who had been Chairman of the Alien Commission from 1858 to 1863. He acted as General Agent of the Board till October, 1868, when he retired, and Stephen C. Wrightington of Fall River was appointed to the position, which he retained until the office ceased to exist, when he became Superintendent of In-door Poor under the present Board. Dr. Wheelwright, from 1869 to July, 1879, was Agent for the Sick State

Poor, and is now Superintendent of Out-door Poor under the present Board. Mr. Sanborn remained Secretary of the Board of Charities until October, 1868, when he resigned, and was succeeded by Julius L. Clarke of Newton who resigned in 1869. Edward L. Pierce of Milton was then appointed, and remained in office till March, 1874. During the absence of Mr. Pierce in Europe, from May to November, 1873, and after his resignation, Mr. Sanborn was chosen Acting Secretary, and held the place until Sidney Andrews of Brookline, having been appointed as Mr. Pierce's successor in May, 1874, took charge of the office in July of the same year. Mr. Andrews continued Secretary until the Board was abolished in June, 1879. The Visiting Agent of the Board from 1866 to 1869 was Gordon M. Fisk of Palmer, and from 1869 to July, 1879, Gardiner Tufts of Lynn. The office was then abolished, and its duties imposed upon the new Board.

The State Board of Health was established June 21, 1869, and the seven members of the Board were appointed July 31, 1869. The first meeting was held Sept. 15, 1869. At a subsequent meeting, Sept. 22, the organization was completed by the choice of Dr. H. I. Bowditch as Chairman, and Dr. George Derby as Secretary. Dr. Derby died June 20, 1874. Dr. F. W. Draper was elected Secretary *pro tempore* June 22, 1874, and served until Sept. 2, 1874, when he was succeeded by Dr. C. F. Folsom, who was the first Secretary of the present Board. He was succeeded in 1881 by Mr. C. F. Donnelly, who is now Secretary.

The State Board of Health, Lunacy, and Charity first met for organization in June, 1879, and entered fully upon its duties July 1, 1879. Its present members, committees, and officers will be found printed by name on page 6. Its By-Laws are given at the end of the Statutes and Decisions in this Manual, where also will be found a fuller statement of the duties of such committees and officers, and certain instructions and blank forms used in the transaction of business by the Board and its Departments.

The first Chairman of the present Board was Hon. Moses Kimball of Boston, who resigned Oct. 27, 1880, and was succeeded by the present Chairman. The first Secretary of the present Board, Dr. Folsom, performed for a year the duties of Health Officer; after which for six months he was Secretary without other duties; in January, 1881, he resigned and was succeeded as Secretary by Mr. C. F. Donnelly of Boston; in whose occasional absence the duties of Secretary have been performed by Dr. Ezra Parmenter of Cambridge. Dr. H. P. Walcott of Cambridge entered upon his duties as Health Officer, July 1, 1880. The other Department officers have served since July 1, 1879.

In regard to the statutes here printed, it may be said that the Health Laws have been compiled by Mr. George F. Piper according to a method approved by the Health Committee, but somewhat different from that adopted by the Committees on Lunacy and on Charities. In the Health Department the decisions are referred to in immediate connection with the clauses to which they relate; while in the Lunacy and Charity Departments it has been found more convenient to cite the decisions and opinions relating to one subject in a body by themselves. For a like reason, the formal titles of the Health sections of the statutes are omitted, while they are inserted before the other statutes. The laws passed in 1882 appear by themselves after the citations from the Public Statutes of 1881, relating to each subject.

In respect to the decisions of the Supreme Court cited in this Manual, it is to be noticed that they are binding as interpretations of the law, while the *opinions* of law-officers cited may be equally good interpretations, but have no binding force until they have been affirmed by the courts.



MEMBERS, COMMITTEES, AND OFFICERS

OF THE

State Board of Health, Lunacy, and Charity,

JULY, 1882.

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THOMAS TALBOT, <i>Chairman</i> . . . . .	NORTH BILLERICA.
CHARLES F. DONNELLY, <i>Secretary</i> . . . . .	BOSTON.
R. T. DAVIS, M.D. . . . .	FALL RIVER.
EZRA PARMENTER, M.D. . . . .	EAST CAMBRIDGE.
EDWARD HITCHCOCK, M.D. . . . .	AMHERST.
CLARA T. LEONARD . . . . .	SPRINGFIELD.
GEORGE P. CARTER. . . . .	CAMBRIDGEPORT.
ALFRED HOSMER, M.D. . . . .	WATERTOWN.
JOHN C. HOADLEY . . . . .	LAWRENCE.

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COMMITTEES OF THE BOARD.

- On Health.* — Dr. HOSMER, Mr. TALBOT, Dr. DAVIS, Mr. HOADLEY, and Mr. CARTER.
- On Lunacy.* — Dr. HITCHCOCK, Dr. HOSMER, Dr. PARMENTER, and Mrs. LEONARD.
- On Charities.* — Dr. PARMENTER, Mr. DONNELLY, Mr. HOADLEY, Mr. CARTER, and Mrs. LEONARD.

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DEPARTMENT OFFICERS.

- Health Officer;* HENRY P. WALCOTT, M.D., Cambridge.
- Inspector of Charities,* F. B. SANBORN, Concord.
- Superintendent of In-Door Poor,* S. C. WRIGHTINGTON, Fall River.
- Superintendent of Out-Door Poor,* HENRY B. WHEELWRIGHT, Newburyport.

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*The Offices of the Board are at the State House, Boston.*

## PART FIRST.

# THE HEALTH LAWS.

### STATE BOARD.

1. The state board of health, lunacy, and charity shall consist of nine persons. The present members thereof shall continue to hold their offices during the terms for which they were appointed. Two members of the board shall retire each year, in the order of their appointment, except every fifth year, when one shall retire. The appointments or re-appointments to fill vacancies occurring from expiration of terms of office shall be for five years; and all vacancies which may occur from that cause or otherwise shall be filled by the governor, with the advice and consent of the council.

Public Statutes,  
c. 79, § 1.

The state board of health, lunacy, and charity was originally established by chap. 291, Acts of 1879.

2. The state board of health, lunacy, and charity shall take cognizance of the interests of health and life among the citizens of the commonwealth. It shall make sanitary investigations and inquiries in respect to the causes of disease, and especially of epidemics and the sources of mortality and the effects of localities, employments, conditions, and circumstances, on the public health; and shall gather such information in respect to those matters as it may deem proper for diffusion among the people. It shall advise the government in regard to the location of any public institutions.

Certain general powers and duties of the state board of health, lunacy, and charity.  
Public Statutes,  
c. 80, § 1.

The state board of health was originally established by chap. 420, Acts of 1860.

Its powers were subsequently enlarged by chap. 167, Acts 1871, and chap. 183, Acts 1878.

By chap. 291, Acts 1879, it was abolished, and its powers transferred to the state board of health, lunacy, and charity.

3. If small-pox or any other contagious or infectious disease dangerous to the public health exists, or is likely to exist, in any place within the state, the state board shall investigate the same, and the means of preventing the spread thereof, and shall consult

Further duties in case of contagious diseases.  
Public Statutes,  
c. 80, § 2.

thereon with the local authorities, and shall have co-ordinate powers as a board of health, in every place, with the board of health or health officer thereof, or with the mayor and aldermen or the selectmen, if no such board or officer exists in such place.

TOWN AND CITY BOARDS OF HEALTH.

Towns may choose board of health, etc., or selectmen, to act. Public Statutes, c. 80, § 2.

4. A town, respecting which no provision is made by special law for choosing a board of health, may, at its annual meeting or at a meeting legally warned for the purpose, choose a board of health by ballot, to consist of not less than three nor more than nine persons; or may choose a health officer. If no such board or officer is chosen, the selectmen shall be the board of health.

City council may appoint such board; or shall itself act. Public Statutes, c. 80, § 4.

5. Except where different provision is made by law, the city council of a city may appoint a board of health; may constitute either branch of such council, or a joint or separate committee of their body, a board of health, either for general or special purposes; and may prescribe the manner in which the powers and duties of the board shall be exercised and carried into effect. In default of the appointment of a board with full powers, the city council shall have the powers and perform the duties prescribed to boards of health in towns.

Where, by an ordinance of a city, two members of the board of mayor and aldermen, and three members of the common council, were constituted the board of health, and no provision as to the mode of appointment was made by the ordinance, or by the joint rules and orders of the city council, but the orders of each branch provided that all committees should be appointed by the mayor and the president of the common council respectively, it was held that the members of the joint committee, constituted by the ordinance a board of health, were duly appointed by the presiding officers of each branch, and that the board so constituted and appointed was legally organized.

*Taunton v. Taylor*, 110 Mass. 254.

Where the city council constitutes the board of health, the power to make regulations as it judges necessary for the public health and safety respecting nuisances, sources of filth, and causes of sickness, may as well be exercised by an ordinance as by any other form of regulation.

*Commonwealth v. Patch*, 97 Mass. 224.

In default of the appointment of a board of health, and where the city council constitutes the board of health, an ordinance which prohibits the keeping or maintaining swine within certain districts of the city, under a penalty not exceeding twenty dollars for each offence, is valid as a health regulation.

*Commonwealth v. Patch*, 97 Mass. 221.

It is a matter of considerable doubt whether the prohibition of offensive trades is the proper subject of an ordinance or by-law, because that matter is specially provided for by statute, and to prohibit their exercise in any particular locality in a town or city by a by-law or ordinance would interfere with the right of appeal to a jury which the statutes secure.

*Commonwealth v. Patch*, 97 Mass. 223.