§ 361. Certain cities; commissioner of health and health officer; appointment and qualifications. 1. The commissioner of health in cities having a population of fifty thousand to one hundred seventy-five thousand shall be appointed by the mayor, and the health officer in cities having a population of less than fifty thousand shall be appointed by the same official or body who or which by charter is authorized to appoint the heads of city departments.

2. No person shall be eligible to appointment as commissioner of health or health officer unless he shall be a physician and surgeon duly licensed to practice under the laws of this state and who has practiced as such, or has been engaged in public health work for at least five years and who shall comply with the qualifications therefor prescribed by the public health council in the sanitary code, provided, however, that a physician who has received the degree of doctor of public health in a course in any institution of learning recognized by the University of the State of New York shall be eligible for appointment as health officer in cities having a population of less than fifty thousand.