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Maine Revised Statutes Annotated by LexisNexis(R)

*** THIS DOCUMENT IS CURRENT WITH EMERGENCY LEGISLATION THROUGH CHAPTER 700 ***
*** OF THE SECOND REGULAR SESSION OF THE 123RD LEGISLATURE ***
*** CURRENT WITH CHS. 470-560 OF THE SECOND REGULAR SESSION OF THE 123RD LEGISLATURE ***
*** MAY 1, 2008 ANNOTATION SERVICE ***

TITLE 22. HEALTH AND WELFARE
SUBTITLE 2. HEALTH
PART 3. PUBLIC HEALTH
CHAPTER 250. CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS
SUBCHAPTER 1. DEFINITIONS; RULES; PENALTIES; INSPECTIONS; GENERAL AUTHORITY

GO TO MAINE REVISED STATUTES ARCHIVE DIRECTORY

22 M.R.S. § 801 (2008)

Legislative Alert: LEXSEE 2007 Me. ALS 598 -- See section 9.

§ 801. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. COMMISSIONER. "Commissioner" means the Commissioner of Health and Human Services.
2. COMMUNICABLE DISEASE. "Communicable disease" means an illness or condition due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host.
3. CONTACT NOTIFICATION PROGRAM. "Contact notification program" means a program coordinated by the department to encourage any person infected with a communicable disease to identify others who may be at risk as a result of contact with the infected person; or to permit the department to notify those persons who may be at risk to inform them of the risk if the infected person refuses to cooperate.
4. DEPARTMENT. "Department" means the Department of Health and Human Services.
 - 4-A. EXTREME PUBLIC HEALTH EMERGENCY. "Extreme public health emergency" means the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of the State.
 - 4-B. ENVIRONMENTAL DISEASE. "Environmental disease" means any abnormal condition or disorder aggravated or caused by exposure to an environmental hazard.
 - 4-C. ENVIRONMENTAL HAZARD. "Environmental hazard" means chemicals, physical agents, biomechanical stressors and biological toxins that are present in the environment and that have an adverse effect on human health.
 - 4-D. ENVIRONMENTALLY RELATED HEALTH EFFECTS. "Environmentally related health effects" means chronic diseases, birth defects, developmental disabilities and other noninfectious health effects that may be related to exposure to environmental hazards.

22 M.R.S. § 801

4-E. EXPOSURE. "Exposure" means direct contact or interaction with an environmental hazard or toxic agent affecting or being taken into the body.

5. INFECTED PERSON. "Infected person" means a person who is diagnosed as having a communicable disease or who, after appropriate medical evaluation or testing, is determined to harbor an infectious agent.

6. MUNICIPAL HEALTH OFFICER. "Municipal health officer" means a person who is a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce this chapter.

7. NOTIFIABLE DISEASE OR CONDITION. "Notifiable disease or condition" means any communicable disease, occupational disease or environmental disease, the occurrence or suspected occurrence of which is required to be reported to the department pursuant to sections 821 to 825 or section 1493.

8. OCCUPATIONAL DISEASE. "Occupational disease" shall have the meaning set forth in section 1491.

8-A. PRESCRIBED CARE. "Prescribed care" means isolation, quarantine, examination, vaccination, medical care or treatment ordered by the department or a court pursuant to section 820.

9. PROPERTY. "Property" means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.

10. PUBLIC HEALTH THREAT. "Public health threat" means any condition or behavior that can reasonably be expected to place others at significant risk of exposure to a toxic agent or environmental hazard or infection with a notifiable disease or condition.

A. A condition poses a public health threat if an infectious or toxic agent or environmental hazard is present in the environment under circumstances that would place persons at significant risk of an adverse effect on a person's health from exposure to or infection with a notifiable disease or condition.

B. Behavior by an infected person poses a public health threat if:

- 1) The infected person engages in behavior that has been demonstrated epidemiologically to create a significant risk of transmission of a communicable disease;
- 2) The infected person's past behavior indicates a serious and present danger that the infected person will engage in behavior that creates a significant risk of transmission of a communicable disease to another;
- 3) The infected person fails or refuses to cooperate with a departmental contact notification program; or
- 4) The infected person fails or refuses to comply with any part of either a cease and desist order or a court order issued to the infected person to prevent transmission of a communicable disease to another.

C. Behavior described in paragraph B, subparagraphs (1) and (2) may not be considered a public health threat if the infected person demonstrates that any other person placed at significant risk of becoming infected with a communicable disease was informed of the risk and consented to it.

11. TOXIC AGENT. "Toxic agent" means a chemical or physical substance that, under certain circumstances of exposure, may cause harmful effects to living organisms.

HISTORY: 2005 ch. 383, §§ 2, 3, 4, 5 (AMD).

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22 M.R.S. § 802 (2008)

§ 802. Authority of department

1. **AUTHORITY.** To carry out this chapter, the department may:

- A. Designate and classify communicable, environmental and occupational diseases;
- B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of communicable, occupational and environmental diseases and the potential for epidemics;
- C. Investigate cases, epidemics and occurrences of communicable, environmental and occupational diseases; and
- D. Establish procedures for the control, detection, prevention and treatment of communicable, environmental and occupational diseases, including public immunization and contact notification programs.

2. **HEALTH EMERGENCY.** In the event of an actual or threatened epidemic or public health threat, the department may declare that a health emergency exists and may adopt emergency rules for the protection of the public health relating to:

- A. Procedures for the isolation and placement of infected persons for purposes of care and treatment or infection control;
- B. Procedures for the disinfection, seizure or destruction of contaminated property; and
- C. The establishment of temporary facilities for the care and treatment of infected or exposed persons, which are subject to the supervision and regulations of the department and to the limitations set forth in section 807.

2-A. DECLARATION OF EXTREME PUBLIC HEALTH EMERGENCY BY GOVERNOR. The Governor may declare an extreme public health emergency pursuant to this chapter and Title 37-B, chapter 13, subchapter II.

3. RULES. The department shall adopt rules to carry out its duties as specified in this chapter. The application of rules adopted pursuant to *Title 5, section 8052* to implement section 820 must be limited to periods of an extreme public health emergency. Rules adopted pursuant to this subsection, unless otherwise indicated, are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

4. REPEALED. Laws 2001, c. 185, § 1.

4-A. DEFINITIONS. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Designated health care facility" means a licensed nursing facility, residential care facility, intermediate care facility for the mentally retarded, multi-level health care facility, hospital or home health agency.

B. "Disease" means one of those conditions enumerated in rules adopted by the department that may be preventable by an immunizing agent.

C. "Employee" means any person who performs a service for wages or other remuneration for a designated health care facility.

D. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease.

4-B. EXEMPTIONS TO IMMUNIZATION. Employees are exempt from immunization otherwise required by this subchapter or by rules adopted by the department pursuant to this section under the following circumstances.

A. A medical exemption is available to an employee who provides a physician's written statement that immunization against one or more diseases may be medically inadvisable.

B. A religious or philosophical exemption is available to an employee who states in writing a sincere religious or philosophical belief that is contrary to the immunization requirement of this subchapter.

C. An exemption is available to an individual who declines hepatitis B vaccine, as provided for by the relevant law and regulations of the federal Department of Labor, Occupational Health and Safety Administration.

5. IMMUNIZATION REQUIREMENTS FOR NURSING FACILITY STAFF. A nursing facility or licensed assisted living facility shall adopt a facility policy that recommends and offers annual immunizations against influenza to all personnel who provide direct care to residents of the facility.

6. ACCEPTANCE OF FUNDS. The department is authorized to accept any public or private funds that may be available to create a supply or stockpile of antiviral medications, influenza vaccines or other items necessary in the event of a severe outbreak of influenza or an outbreak of another infectious disease.

HISTORY: 2005 ch. 383, §§ 6, 7, 8 (AMD); 2007 ch. 240, part UU, § 1 (AMD).

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22 M.R.S. § 803 (2008)

§ 803. Inspection

If the department has reasonable grounds to believe that there exists a public health threat, either on public or private property, a duly authorized agent of the department may enter any place, building, vessel, aircraft or common carrier with the permission of the owner, agent or occupant where the public health threat is reasonably believed to exist and may inspect and examine the same. If entry is refused, that agent shall apply for an inspection warrant from the District Court pursuant to *Title 4, section 179*, prior to conducting the inspection.

HISTORY: 2005 ch. 383, § 9 (AMD).

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22 M.R.S. § 804 (2008)

Legislative Alert: LEXSEE 2007 Me. ALS 598 -- See section 10.

§ 804. Penalties

1. **RULES ENFORCED.** All agents of the department, municipal health officers, sheriffs, state and local law enforcement officers and other officials designated by the department shall enforce the rules of the department made pursuant to section 802 to the extent that enforcement is authorized in those rules.

2. **REFUSAL TO OBEY RULES.** Any person who neglects, violates or refuses to obey the rules or who willfully obstructs or hinders the execution of the rules, may be ordered by the department, in writing, to cease and desist. This order shall not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act, Title 5, chapter 375. In the case of any person who refuses to obey a cease and desist order issued to enforce the rules adopted pursuant to section 802, the department may bring an action in District Court to obtain an injunction enforcing the cease and desist order or to request a civil fine not to exceed \$ 500, or both. Alternatively, the department may seek relief pursuant to section 810 or 812. The District Court shall have jurisdiction to determine the validity of the cease and desist order whenever an action for injunctive relief or civil penalty is brought before it under this subsection.

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22 M.R.S. § 805 (2008)

§ 805. Court orders

Upon complaint made to any judge of the District Court, the judge may issue any order enforcing a subpoena, warrant or prior order necessary for the proper enforcement of this chapter and of the rules promulgated pursuant to this chapter.

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22 M.R.S. § 806 (2008)

§ 806. Exclusion from school

1. **DISMISSAL.** In the event of an actual or threatened outbreak of a communicable disease or other public health threat, the department may order that any person attending or working in a school or day care facility be excluded until the department determines that a public health threat no longer exists.

2. **EXCLUSION.** The department may exclude any infected person from attending or working in a school or day care facility if that infected person poses a public health threat. An individual excluded pursuant to this subsection shall be permitted to return to the school or day care facility after the department, in consultation with the physician responsible for the individual's care, determines that return is permissible and will not pose a threat to the public health. The department shall notify the superintendent or day care facility administrator of that determination.

HISTORY: 2005 ch. 383, § 10 (AMD).

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22 M.R.S. § 807 (2008)

§ 807. Control of communicable diseases

The department may establish procedures for agents of the department to use in the detection, contacting, education, counseling and treatment of individuals having or reasonably believed to have a communicable disease. The procedures shall be adopted in accordance with the requirements of this chapter and with the rules adopted under section 802.

For purposes of carrying out this chapter, the department may designate facilities and private homes for the confinement and treatment of infected persons posing a public health threat. The department may designate any such facility in any hospital or other public or private institution, other than a jail or correctional facility. Designated institutions must have necessary clinic, hospital or confinement facilities as may be required by the department. The department may enter into arrangements for the conduct of these facilities with public officials or persons, associations or corporations in charge of or maintaining and operating these institutions.

HISTORY: 2005 ch. 383, § 11 (AMD).

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22 M.R.S. § 808 (2008)

§ 808. Investigations

1. INVESTIGATIVE TEAM. The department shall establish an investigative team and procedures for the detection and treatment of individuals known or reasonably believed to pose a public health threat, as defined in section 801. Team members designated by the department shall have access to medical and laboratory records relevant to the investigation of the public health threat, according to the procedure set forth in subsection 2. Team members shall also have access to medical and laboratory records in the possession of the department when relevant to the investigation of the public health threat. Team members designated by the department shall follow the procedures developed by the department for detection and treatment pursuant to this subsection.

2. SUBPOENAS. After notice to the subject of the information or records, the department, with the approval of the Attorney General, may issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are relevant to an investigation of a report of a public health threat. Approval of the Attorney General may be given when there is clear evidence of substantial public health need for the information sought. The department may apply to the District Court to enforce a subpoena. A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department.

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22 M.R.S. § 809 (2008)

§ 809. Examination

If, based on epidemiologic evidence or medical evaluation, the department finds probable cause to believe that an individual has a communicable disease and that the individual is unwilling to submit to a physical examination, which may include x-ray studies or other diagnostic studies, as requested by the department, or that the individual refuses to make the results of that examination available to the department, the department may petition the District Court of the district in which the individual resides or is found for an order directing that examination, or the release of the results, under conditions to prevent the conveyance of the disease or infectious agent to other individuals. The petition shall be accompanied by an affidavit or affidavits based upon the investigation of the department supporting the allegations in the petition.

If, following a hearing as provided in section 811, the District Court finds by a preponderance of the evidence that there is probable cause to believe that an individual has a communicable disease, and that the individual has willfully refused the department's request, the District Court shall order the examination of the individual.

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22 M.R.S. § 810 (2008)

§ 810. Emergency temporary custody

Upon the department's submission of an affidavit showing by clear and convincing evidence that the person or property which is the subject of the petition requires immediate custody in order to avoid a clear and immediate public health threat, a judge of the District Court or justice of the Superior Court may grant temporary custody of the subject of the petition to the department and may order specific emergency care, treatment or evaluation.

1. **ORDERS; EX PARTE PROCEEDINGS.** Orders under this section may be issued in an ex parte proceeding upon an affidavit which sets forth specific facts of the reasons that prior notice cannot or should not be given, upon which facts the order is sought. An ex parte order may not include orders for emergency care, treatment or evaluation unless the court finds by clear and convincing evidence that such care, treatment or evaluation is immediately necessary. An ex parte order must be served on the subject of the petition immediately upon apprehension.

2. **HEARING WITHIN TIME CERTAIN.** Unless waived in writing by the individual, after opportunity to consult with an attorney, a hearing shall be held within 72 hours of apprehension, exclusive of Saturdays, Sundays and legal holidays, to determine whether the individual shall remain in the department's custody.

3. **NOTICE OF HEARING.** Notice of the hearing must be served upon the individual held under this section at least 24 hours before the hearing and the notice must specify: the time, date and place of the hearing; the grounds and underlying fact upon which the emergency hold is sought; the individual's right to appear at the hearing and to present and cross-examine witnesses; and the individual's right to counsel pursuant to section 811.

4. **DURATION.** In no event may the emergency hold continue longer than 5 days following the hearing, unless a petition for court ordered commitment is filed under section 812, subsection 1, paragraph F; if a petition is filed, the limitations imposed by the court under this subsection may continue until a hearing on the petition for commitment is held; that hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays.

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22 M.R.S. § 811 (2008)

§ 811. Court procedures

1. SUBJECT OF PETITION. As used in this section or in section 810, "subject of the petition" means the person or the property upon which a public health measure is sought to be imposed pursuant to section 812.

2. FILING OF PETITION. Proceedings for imposing a public health measure shall be initiated by the department filing a petition in the District Court for the district in which the subject of the petition is located. The petition shall name as the respondent the person who is the subject of the petition or the person who possesses the property which is the subject of the petition. The petition shall contain a summary statement of the facts which the petitioner believes constitute the grounds for granting relief pursuant to this chapter.

3. RECEIPT OF PETITION. Upon the receipt of a petition filed pursuant to this section or section 809, the District Court shall fix a date of hearing. Pending hearing on the petition, the court may make such orders as it deems necessary to protect other individuals from the dangers of infection.

4. NOTICE OF HEARING; WAIVER. Notice of the petition and the time and place of the hearing as well as the opportunity to be represented by counsel as set forth in subsection 6, paragraph C shall be served personally, not less than 3 days before the hearing, on the subject of the petition. The subject of the petition may waive notice of hearing, after opportunity to consult with an attorney, and upon filing of the waiver in writing, the District Court may hear the petition immediately. The hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays, unless waived in writing by the subject of the petition.

5. NOTICE TO FACILITY. Whenever a petition requests that an individual be ordered to be tested in or committed to a hospital, notice of the petition and the time and place of the hearing shall be sent to the hospital which is to be requested to provide the proposed care and treatment. No hospital may be required to provide care and treatment to or to admit the individual named in the petition without the consent of the hospital.

6. HEARINGS. Hearings under this chapter shall be governed by the Maine Rules of Civil Procedure and the Maine Rules of Evidence.

A. The subject of the petition, the petitioner and all other persons to whom notice is required to be sent shall be afforded an opportunity to appear at the hearing to testify and to present and

cross-examine witnesses.

B. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness.

C. The subject of the petition shall be afforded an opportunity to be represented by counsel and, if the subject is indigent and requests counsel, the court shall appoint counsel.

D. An electronic recording shall be made of the proceedings and all hearings under this section. The record and all notes, exhibits and other evidence shall be confidential.

E. The hearing shall be confidential and no report of the proceedings may be released to the public, except by permission of the subject of the petition or the subject's counsel and with approval of the presiding District Court judge, except that the court may order a public hearing on the request of the subject of the petition or the subject's counsel.

7. **EQUITABLE RELIEF.** The District Court shall have original jurisdiction to grant equitable relief in proceedings brought pursuant to this chapter.

LexisNexis (R) Notes:

LAW REVIEWS

1. *14 Maine Bar J. 138*, FEATURE: FREEDOM OF ACCESS LAW: IT'S NOT EASY KEEPING SECRETS, Sigmund D. Schutz, Esquire, April, 1999, Copyright (c) 1999 by Maine State Bar Association Maine Bar Journal

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22 M.R.S. § 812 (2008)

§ 812. Public health measures

1. COURT ORDER. If, based upon clear and convincing evidence, the court finds that a public health threat exists, the court shall issue the requested order for treatment or such other order as may direct the least restrictive measures necessary to effectively protect the public health. These measures include, but are not limited to:

- A. Participation in an education program designated or developed in accordance with rules adopted pursuant to section 802 or 807;
- B. Participation in a counseling program designated or developed in accordance with rules adopted pursuant to section 802 or 807;
- C. Participation in a treatment program designated or developed in accordance with rules adopted pursuant to section 802 or 807;
- D. Appearance before designated health officials for purposes of monitoring measures set out in paragraph A, B or C;
- E. Part or full-time supervision or monitoring for a period and under conditions set by the court;
- F. Commitment to a facility that will provide appropriate diagnosis, care, treatment or isolation of the individual without undue risk to the public health, for a period not to exceed 30 days and under conditions set by the court;
- G. Undergoing a comprehensive medical assessment by the State Forensic Service. The court, in selecting the examination site, shall consider proximity to the court, availability of an examiner and the need to protect the public health. No person may be presented for examination under this subsection without arrangements for examination having first been made by the court, clerk of the court or the petitioner with the State Forensic Service. The opinion

22 M.R.S. § 812

of the State Forensic Service must be reported to the court forthwith following the examination.

The court shall order the individual to be further examined by a psychiatrist, neurologist and any additional expert if, based on the report of the State Forensic Service, it appears that:

- 1) The individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; or
- 2) Further observation or examination is required.

If, based on the examinations, the department determines that admission to an appropriate institution for the mentally ill or mentally retarded is necessary, it shall petition for involuntary hospitalization pursuant to Title 34-B, chapter 3. If the District Court orders the involuntary hospitalization of the individual pursuant to Title 34-B, chapter 3, the petition brought pursuant to section 811 must be dismissed without prejudice. If it is determined that admission to an appropriate institution for the mentally ill or the mentally retarded is not necessary, the head of the institution where the examinations have taken place shall notify the commissioner or the commissioner's designee, prior to discharging the respondent.

In no event may the period of examination pursuant to this subsection exceed 60 days without further order by the court, which may extend commitment for further observation or examination for an additional 60 days, provided that the court finds facts sufficient to show that the individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; and

H. Compliance with any combination of measures outlined in paragraphs A to G, or other measures considered just by the court.

2. TIME LIMITS. Orders issued pursuant to subsection 1, paragraphs A to E shall not exceed 180 days without further review as provided by section 813, subsection 1. If commitment pursuant to subsection 1, paragraph F, is sought by the department beyond the original 30 days, the department shall file a motion for review pursuant to section 813, subsection 2.

3. APPEALS. Orders issued pursuant to this chapter may be appealed to the Superior Court.

A. The order of the District Court shall remain in effect pending appeal, unless stayed by the Superior Court.

B. The Supreme Judicial Court shall, by rule, provide for expedited appellate review of cases appealed under this chapter.

HISTORY: 2005 ch. 383, § 12 (AMD).

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22 M.R.S. § 813 (2008)

§ 813. Review

1. TREATMENT ORDERS. If the department determines that it is necessary to continue a treatment order issued pursuant to section 812, subsection 1, paragraphs A to E, it shall petition the District Court which ordered the disposition for review of the original order. The court shall hold a hearing in accordance with section 811 and if the court finds that a public health threat would continue in the absence of a public health measure, it shall make additional orders that it deems necessary, provided that no treatment order exceeds 180 days in duration without further review by the court.

2. COMMITMENT ORDERS. If the department determines that it is necessary to continue a commitment order issued pursuant to section 812, subsection 1, paragraph F, beyond the original 30 days, it shall petition the District Court which ordered the disposition for review of the original order. The court shall hold a hearing in accordance with section 811 and if the court finds that a public health threat would continue in the absence of a public health measure and that commitment is the least restrictive measure necessary to effectively protect the public health, it shall make such additional orders as it deems necessary, provided that no order of commitment exceeds 90 days without further review by the court.

The committed patient may request the appointment of a medical review board. Upon motion of the patient, the committing court shall appoint a medical review board to determine whether the patient's medical status permits termination of the commitment. The medical review board shall consist of 3 physicians appointed by the court who shall have training and experience in the treatment of the communicable disease. Upon the request of the patient, the court shall appoint as one member of the board a physician who has training and experience in the treatment of communicable diseases who is selected by the patient. Upon receipt of the findings of the medical review board and any other evidence, the court, after a hearing pursuant to this subsection, may continue or terminate the commitment.

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22 M.R.S. § 814 (2008)

§ 814. Court orders; additional requirements

If commitment or a supervised living arrangement is ordered, the court shall require the head of the institutional facility or the person in charge of supervision to submit:

1. PLAN OF TREATMENT. A plan of treatment within 10 days of the commencement of the commitment or supervision; and
2. WRITTEN REPORT. A written report, with a copy to both the department and the individual, at least 20 days, but not more than 25 days, from the start of the commitment or supervision, setting forth the following:
 - A. The types of support or therapy groups, if any, which the individual is attending and how often the individual attends;
 - B. The type of care or treatment the individual is receiving and what future care is necessary;
 - C. Whether the individual has been cured or made noninfectious or otherwise has ceased to pose a threat to public health;
 - D. Whether continued supervision or commitment is necessary; and
 - E. Any other information the court considers necessary.

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22 M.R.S. § 815 (2008)

§ 815. Privileged or confidential communications

1. **PRIVILEGES ABROGATED.** Subject to the limitations imposed by United States Code, Title 42, Sections 290dd-3 and 290ee-3, the physician-patient and psychotherapist-patient privileges under the Maine Rules of Evidence and those confidential communications described under *Title 5, section 19203, Title 24-A, section 4224, Title 32, section 7005* and *Title 34-B, section 1207* are abrogated to the extent necessary to permit reporting to the Bureau of Health any incidents of notifiable disease or condition; cooperating with the Bureau of Health or an intervention team appointed by the Bureau of Health in investigating a case of a notifiable disease or condition or suspected epidemic, or taking preventive action in such a case; or giving evidence in a proceeding pursuant to this chapter. Information released to the bureau pursuant to this section must be kept confidential and may not be disclosed by the bureau except as provided in section 824 and *Title 5, section 19203*, subsection 8.

2. **LIMITATION.** Statements made to a licensed mental health or medical professional in the course of counseling, diagnosis, therapy, treatment or evaluation when the privilege is abrogated under this section may not be used against the client in a criminal proceeding.

HISTORY: 2005 ch. 383, § 13 (AMD).

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22 M.R.S. § 816 (2008)

§ 816. Immunity

1. FOR PRIVATE INSTITUTIONS. Any private institution, its employees or agents are immune from civil liability to the extent provided in Title 14, chapter 741, as if that institution were a state agency and its employees and agents were state employees, for any acts taken to provide for the confinement or restraint of a person committed pursuant to this chapter or for participating in reporting under this chapter, or for engaging in any prescribed care within the meaning of this chapter in support of the State's response to a declared extreme public health emergency in accordance with the provisions of this chapter and Title 37-B, chapter 13, subchapter 2.

1-A. HEALTH CARE WORKFORCE. A private institution is immune from civil penalties and liability for any actions arising from allegations of inadequate investigation prior to that institution's hiring or engagement of a licensed health care worker, including but not limited to allegations of negligent hiring, credentialing or privileging, for services provided within the scope of that health care worker's licensure in response to an extreme public health emergency as defined in section 801, subsection 4-A or a disaster as defined in *Title 37-B, section 703*, subsection 2 as long as the private institution hires or engages the services of the licensed health care worker in accordance with this subsection. When hiring or engaging the services of a health care worker:

A. The private institution shall first make a reasonable attempt to contact the appropriate occupational or professional licensing board within or affiliated with the Department of Professional and Financial Regulation for any available information about that health care worker; and

B. A private institution may rely on:

1) Information available from the occupational and professional licensing boards within or affiliated with the Department of Professional and Financial Regulation regarding appropriate screening of the worker, such as background investigation, primary source verification or credentialing;

2) The representation of a volunteer health care worker registry that is operated or certified in accordance with federal or state

requirements regarding appropriate screening of the worker that is registered on that registry, such as background investigation, primary source verification or credentialing;

3) The representation of the employing or privileging entity regarding appropriate screening of the worker that, at the time of hiring or engagement, is employed or privileged by any entity in any state, such as background investigation, primary source verification, credentialing or privileging; or

4) The representation of a retired or unemployed worker's most recent employer or privileging entity if that employment or privileging occurred within the previous 24 months.

A private institution that complies with this subsection may hire or engage the services of a licensed health care worker and is deemed in compliance with all state licensing standards. The private institution shall initiate the standard preemployment screening process within 48 hours of the official termination of the extreme public health emergency as defined in section 801, subsection 4-A or disaster as defined in *Title 37-B, section 703*, subsection 2.

2. REPORTING AND PROCEEDINGS. Any person participating in reporting under this chapter or participating in a related communicable disease investigation or proceeding, including, but not limited to, any person serving on or assisting a multidisciplinary intervention team or other investigating or treatment team, is immune from civil liability for the act of reporting or participating in the investigation or proceeding in good faith. Good faith does not include instances when a false report is made and the reporting person knows or should know the report is false.

3. FOR PUBLIC INSTITUTIONS OR EMPLOYEES. Immunity for public institutions and employees shall be governed by Title 14, chapter 741.

HISTORY: 2005 ch. 630, § 1 (AMD).

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22 M.R.S. § 817 (2008)

§ 817. Discharge

An individual committed to a hospital, facility or private home pursuant to section 812 or section 813 or subject to a prescribed care order of the department or a court pursuant to section 820 may be discharged when the physician responsible for that individual's treatment and the department determine that the individual may be discharged without danger to other individuals. The department shall immediately report the discharge, with a full statement of the reasons for the discharge, to the court that ordered the commitment.

If an individual committed to a hospital, facility or private home pursuant to section 812 or section 813 or subject to a prescribed care order of the department or a court pursuant to section 820 violates the commitment prior to discharge in accordance with this section, the hospital or physician responsible for treatment shall immediately report this to the department. An arrest warrant must be issued upon application by the department to the District Court or Superior Court.

HISTORY: 2005 ch. 383, § 14 (AMD).

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22 M.R.S. § 818 (2008)

§ 818. Liability for expenses

1. **FINANCIAL LIABILITY; INDIVIDUAL.** An individual is financially liable for any care provided pursuant to this subchapter to the individual to the extent that the individual has public or private insurance or otherwise has the ability to pay for that care. An individual shall not be denied the care because of inability to pay for that care.
2. **LIABILITY.** The State shall pay, on certification by the commissioner, the expenses for care of an individual receiving care under this chapter who is not a resident of a municipality in this State.
3. **SUBROGATION.** The State shall be subrogated to the rights of recovery which the individual may have against a liable 3rd party for the cost of care provided for the individual under this subchapter to the extent that the State has spent money for that care.

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22 M.R.S. § 819 (2008)

§ 819. Exercise of rights

Any individual subject to a court order issued pursuant to section 812, subsection 1, paragraph F or G shall have the rights set forth in *Title 34-B, section 3803*, unless the exercise of any of those rights poses a threat to the health or safety of other individuals. Any restriction imposed upon the exercise of an individual's rights as stated in *Title 34-B, section 3803*, and the reasons for that restriction, shall be made a part of the clinical record of that individual.

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22 M.R.S. § 821 (2008)

§ 821. Authority of department

The department shall adopt rules pursuant to section 802 and establish procedures to carry out the rules to provide a uniform system of reporting, recording and collecting information and maintaining confidentiality concerning communicable diseases, environmental or occupational diseases or exposure to toxic agents. The department may designate any communicable disease, environmental disease, occupational disease or exposure to a toxic agent as a notifiable disease or condition. Any notifiable disease or condition must be reported to the department in accordance with this subchapter and the rules established by the department.

HISTORY: 2005 ch. 383, § 18 (AMD).

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22 M.R.S. § 822 (2008)

§ 822. Reporting

Whenever any physician knows or has reason to believe that any person whom the physician examines or cares for has or is afflicted with any disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports.

HISTORY: 2005 ch. 383, § 18 (AMD).

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22 M.R.S. § 823 (2008)

§ 823. Time requirements

The reporting of a notifiable disease or condition must be made by telephone to the department immediately upon determination that a person has that disease and must be followed by a written report mailed to the department within 48 hours.

HISTORY: 2005 ch. 383, § 18 (AMD).

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22 M.R.S. § 824 (2008)

§ 824. Confidentiality

Any person who receives information pursuant to this chapter shall treat as confidential the names of individuals having or suspected of having a notifiable disease or condition, as well as any other information that may identify those individuals. This information may be released to the department for adult or child protection purposes in accordance with chapters 958-A and 1071, or to other public health officials, agents or agencies or to officials of a school where a child is enrolled, for public health purposes, but that release of information must be made in accordance with Title 5, chapter 501, where applicable. In the event of an actual or threatened epidemic or outbreak or public health threat or emergency, as declared by the Director of the Bureau of Health, the information may also be released to private health care providers and health and human services agencies for the purpose of carrying out public health functions as authorized by this chapter. Information not reasonably required for the purposes of this section may not be released. All information submitted pursuant to this chapter that does not name or otherwise identify individuals having or suspected of having a notifiable disease or condition may be made available to the public at the sole discretion of the department.

Any person receiving a disclosure of identifying information pursuant to this chapter may not further disclose this information without the consent of the infected person.

HISTORY: 2005 ch. 383, § 19 (AMD).

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22 *M.R.S.* § 825 (2008)

§ 825. Penalties

Any person who knowingly and willfully fails to comply with reporting requirements for notifiable diseases or conditions commits a civil violation for which a fine of not more than \$ 250 may be adjudged. A person who knowingly or recklessly makes a false report under section 822 or who knowingly violates section 824 is civilly liable for actual damages suffered by a person reported upon and for punitive damages and commits a civil violation for which a fine of not more than \$ 500 may be adjudged.

HISTORY: 2005 ch. 383, § 20 (AMD).

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CODE OF MAINE RULES
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*** THIS DOCUMENT REFLECTS CHANGES CURRENT THROUGH NOVEMBER 11, 2008 ***

AGENCY 10. DEPARTMENT OF HEALTH AND HUMAN SERVICES
SUB-AGENCY 144. GENERAL
CHAPTER 258. CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS

CMR 10-144-258 (2008)

10 144 258. CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS

SUMMARY: These rules repeal and replace the Department's existing Rules for the Control of Notifiable Conditions, 10-144 CMR Ch. 258, which govern the reporting of certain diseases, clusters of unusual cases of a disease or outbreaks of a disease, epidemics, and extreme public health emergencies. Amendments were made in order to add new notifiable disease entities to the list of notifiable conditions, and to update existing rules to reflect recent developments in disease investigation and interventions. Pursuant to 22 *M.R.S.A.* §820 and 37-B *M.R.S.A.* §742, the Department has adopted a new section in these rules to become operational only in the event of an extreme public health emergency as declared by the Governor.

Section 1. Definitions.

A. Blood Bank/Blood Center: A medical facility designed, equipped and staffed to produce, process, store or distribute human whole blood or blood derivatives for transfusion purposes.

B. Case: A person infected with a particular infectious agent or having a particular disease as diagnosed by a health care provider.

C. Carrier: A person identified as harboring a specific infectious agent and who serves as a potential source of infection.

D. Child Care Facility: Any home, institution or facility licensed by the Department to provide childcare.

E. Commissioner: The Commissioner of the Department of Health and Human Services, State of Maine.

F. Confinement: Involuntary isolation of a non-compliant individual by judicial order, for a period of time and in such places and under such conditions as to prevent the transmission of the infection to others, to assure that the individual may receive a complete course of treatment, and to limit activities that may place others at risk of acquiring infection.

G. Communicable Disease: An illness or condition due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host.

H. Contact: An individual who has been exposed to an infectious person in a manner, which is likely, given the specific organism involved, to cause infection.

I. Correctional Facility: Penal, jail and/or correctional institution administered by the Department of Corrections, State of Maine, or by a county.

J. Day Care Facility: Childcare facility licensed by the Department of Health and Human Services.

K. Department: The State of Maine, Department of Health and Human Services.

L. Director: Director of the Maine Center for Disease Control and Prevention, Department of Health and Human Services and Maine 's Chief Health Officer.

M. Division: The Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Infectious Disease.

N. Division Director: The Director of the Division of Infectious Disease.

O. Educational Institution: Any institution, public or private, directed to the education and training of students, including, but not limited to, primary, secondary and post-secondary schools.

P. Emerging Disease or Condition: Infections or conditions that have newly appeared in a population or have existed but are rapidly increasing in incidence or geographic range.

Q. Environmental Disease: Any abnormal condition or disorder aggravated or caused by exposure to an environmental hazard.

R. Environmental Hazard: Chemicals, physical agents and biomechanical stressors and biological toxins that are present in the environment and that have an adverse effect on human health.

S. Environmentally Related Health Effects: Chronic Diseases, birth defects, developmental disabilities and other noninfectious health effects that may be related to exposure to environmental hazards.

T. Exposure: Direct contact or interaction with an environmental, biological hazard, infectious agent or toxic agent affecting or being taken into the body.

U. Extreme Public Health Emergency: A state of emergency declared by the Governor of the State of Maine pursuant to *22 M.R.S.A. §802(2-A)* and *37-B M.R.S.A. §742* based upon the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent or environmental hazard that poses an imminent threat of substantial harm to the population of the State.

V. Health Care Facility: A nursing facility, residential care facility, intermediate care facility for the mentally retarded, multi-level health care facility, hospital, or home health agency licensed by the department.

W. Health Care Provider: A nurse practitioner, physician or physician assistant licensed by the State of Maine

X. Health Emergency: Public health threat or emerging disease or condition posing a significant public health threat declared by the Director of the Maine CDC.

Y. Health Officer: A local or municipal health officer appointed either pursuant to *22 M.R.S.A., Section 451* or who is authorized by the Department to enforce the public health functions of this chapter.

Z. Hospital: A hospital licensed by the Department.

AA. Incubation Period: The period of time that is generally agreed to be the longest time between exposure to an infectious agent and the onset of infection and/or symptoms.

BB. Infectious Person: A person who is diagnosed as having a communicable disease and who, after appropriate medical evaluation or testing, is determined to be a potential source of infection to others, given conditions necessary for transmission of the disease.

CC. Infection Control Practitioner: Any person designated by a hospital, nursing home, medical clinic or any other health care facility as having responsibility for prevention, detection, reporting, and control of infections within the facility.

DD. Intervention: Public health action taken after receipt and evaluation of information of reported or suspect cases.

EE. Invasive: Isolation of a specific organism from a normally sterile site (e.g., blood or cerebrospinal fluid [CSF] or, less commonly, joint, pleural, or pericardial fluid).

FF. Investigation: A systematic inquiry or examination of potential disease-causing agents or disease incidence.

GG. Isolation: The separation, for the period of communicability, of an infectious person or animal from others in places and under conditions to prevent or limit the direct or indirect transmission of the infectious agent to those who are susceptible or who may spread the agent to others.

HH. Maine CDC: The Department of Health and Human Services, Maine Center for Disease Control and Prevention.

II. Medical Laboratory: Any certified facility, within Maine or out-of-state, that receives, forwards or analyzes specimens of material from the human body, or referred cultures of specimens from the human body.

JJ. Non-Compliant Person: An individual who does not comply with prescribed care.

KK. Notifiable Disease or Condition: Any communicable, occupational or environmental disease, the occurrence or suspected occurrence of which is required to be reported to the Department pursuant to Title 22, Chapter 250, Sections 821-825, or Chapter 259-A, Section 1493.

LL. Nurse Practitioner: An individual who is licensed as a registered professional nurse and approved to practice as an advanced practice registered nurse by the Maine State Board of Nursing.

MM. Nursing Home: A nursing home licensed by the Department.

NN. Outbreak or Epidemic: A situation in which cases of a notifiable disease or condition are observed in excess of what is expected, compared to the usual frequency of the disease or condition in the same area, among a specified population, during a similar period of time. A single case of a disease long absent from a population is also reportable and may require immediate investigation.

OO. Pharmacist: A pharmacist licensed in the State of Maine by the Board of Registration in Pharmacy.

PP. Physician: A physician registered and licensed in the State of Maine by either the Board of Licensure in Medicine or by the Board of Osteopathic Licensure.

QQ. Physician Assistant: A physician assistant licensed in the State of Maine by either the Board of Licensure in Medicine or by the Board of Osteopathic Licensure.

RR. Prescribed Care: Isolation, quarantine, examination, vaccination, medical care or treatment ordered by the Department or a court.

SS. Public Health Laboratory: The Department of Health and Human Services, Maine Center for Disease Control and Prevention, Health and Environmental Testing Laboratory.

TT. Public Health Threat: Any condition or behavior that can reasonably be expected to place others at significant risk of exposure to a toxic agent or environmental hazard or infection with a communicable disease or condition.

UU. Public Health Worker: State public health employees or designated contractors of the Maine CDC, including but not limited to, epidemiologists, disease intervention specialists, public health educators, public health nurses, municipal public health officials, or other public health professionals.

VV. Quarantine: The limitation, by the Department, of freedom of movement of individuals or contacts who have been exposed to a communicable disease or condition, for a period of time equal to the longest incubation period of the disease or condition to which they have been exposed, for the purpose of preventing exposure of other individuals.

WW. Sexually Transmitted Infection (STI): Diseases that are transmitted primarily by sexual contact and that the Department, by rule, may designate and require to be reported.

XX. State Epidemiologist: Chief medical epidemiologist of the State of Maine, as designated by the Director of the Maine Center for Disease Control and Prevention.

YY. Surveillance: The systematic ongoing collection, collation and analysis of data for public health purposes and the timely dissemination of public health information for assessment and public health response as necessary.

ZZ. Toxic Agent: A chemical or physical substance that, under certain circumstances or exposure, may cause harmful effects to living organisms.

AAA. Veterinarian: A person licensed in the State of Maine by the Board of Veterinary Medicine.

BBB. Zoonotic Disease: A disease or condition that may cause serious illness, disability or death, the infectious agent of which may be passed or carried, directly or indirectly, from an animal to a person.

Section 2. Notifiable Diseases and Conditions.

The Department may designate any communicable, occupational or environmental disease or condition as a notifiable disease or condition and establish requirements for reporting of diseases and conditions in order to measure the public health impact, to provide immediate intervention as needed, and to limit the potential for the spread of communicable, zoonotic, occupational or environmental diseases and conditions or widespread exposure to a toxic agent or environmental hazard. Maine law requires that health care providers report diseases and conditions deemed to be of public health importance in accordance with these rules. In accordance with 22 M.R.S.A., sections 801-825, the Department hereby adopts the following rules and procedures providing for a uniform system of reporting, recording and collecting information concerning notifiable diseases and conditions.

A. Who Must Report

All entities hereinafter described who attend a case, suspect case, or death from any of the recognized or strongly suspected diseases or conditions listed in part 2-I of these rules.

1. Health Care Providers

When attending a case or death from any of the diseases or conditions listed in part 2-I, the health care provider shall report to the Department, unless previously reported, the information outlined in part 2-B.

2. Medical Laboratories

All medical laboratories, including blood donor centers/blood banks, must report all diseases, conditions or test results listed in part 2-I, submitted from a Maine health care facility or health care provider, must provide to the Department the results of microbiologic cultures, examinations, immunologic assays for the presence of antigens and antibodies, and any other laboratory tests that are indicative of the presence of any of the diseases or conditions in part 2-I regardless of the clinical significance of the test, and the information specified in part 2-B, as known. The medical laboratory must forward to the Public Health Laboratory all clinical isolates as specified in part 2-I.

3. Health Care Facilities

Hospitals, nursing homes, medical clinics, or other health care facilities must require that all individual health care providers report as specified in part 2-A, or the health care facility must designate an infection control practitioner or other person as responsible to report to the Department, knowledge of a case, suspect case, carrier, or death from any of the notifiable diseases or conditions in part 2-I and the information specified in part 2-B.

4. Day Care Facilities

Administrators or owners of licensed Day Care Facilities must report any case or suspected case of any of the notifiable diseases or conditions listed in part 2-I and the information specified in part 2-B.

5. Correctional Facilities

Administrators of the Medical Department of a Correctional Facility must report any case or suspected case of any of the notifiable diseases or conditions listed in part 2-I and the information specified in part 2-B.

6. Educational Institutions

Subject to the provisions of *20 U.S.C. §1232g*, administrators or the Medical Department of an Educational Institution must report any case or suspected case of any of the notifiable diseases or conditions listed in part 2-I and the information specified in part 2-B.

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.

8. Veterinarians and Veterinary Medical Laboratories

In addition to the requirements of sections 2.A.1-7, the Department requires veterinarians and veterinary medical laboratories to report the clinical diagnosis of disease in animals and reports of laboratory tests on animals in the event:

- a. The disease is common to both animals and humans;
- b. The disease may be transmitted directly or indirectly to and between humans and animals;
- c. The persons who are afflicted with the disease are likely to suffer complications, disability, or death as a result;
- d. Investigation-based veterinarian and veterinary medical laboratory reports will assist in the prevention and control of disease among humans; or
- e. Conditions associated with an outbreak, epidemic, potential epidemic or the imminent threat of widespread exposure to a highly infectious or toxic agent or environmental hazard that poses an imminent threat of substantial harm to population of the State.

9. Others

In the event of the declaration of an extreme public health emergency, other entities and individuals may be required to report specific information to the Maine CDC when an Extreme Public Health Emergency or a health emergency has been declared. The professionals who must so report will be specified by the Director of the Maine CDC or the State Epidemiologist after the extreme public health emergency or health emergency has been declared.

B. What to Report

1. Health Care Providers Medical Laboratories Health Care Facilities Day Care Facilities Educational Institutions Correctional Facilities

Reports must contain as much of the following information as is known:

- a. Disease (recognition, strong suspicion, death or positive diagnostic laboratory findings);
- b. Date of the first onset of symptoms;
- c. Patient name;
- d. Patient birth date;
- e. Patient race;
- f. Patient ethnicity;
- g. Patient sex;
- h. Parent or Guardian name residence address, city, county and zip code;
- i. Parent or Guardian telephone number;
- j. Patient occupation;
- k. Patient residence address, city, county and zip code;
- l. Patient phone number;
- m. Patient place of work, school or childcare.
- n. Date of report;
- o. Health care provider name, address and phone number;
- p. Name of health care facility (if any);
- q. Name of person reporting;
- r. All diagnostic laboratory findings and dates of tests relevant to the notifiable disease or condition, regardless of clinical significance;
- s. Name and locating information of contacts;
- t. Other information pertinent to the case as requested by the Department.

2. Health Officers

Any information that is relayed by health care providers, hospital administrators or persons in charge of public or private institutions.

3. Veterinarians and Veterinary Medical Laboratories

- a. Disease or condition (recognition, strong suspicion or death);
- b. Date of first symptoms;
- c. Name of veterinarian/laboratory reporting;
- d. Diagnostic laboratory findings and dates of tests;
- e. Other information pertinent to the case as requested by the Department.
- f. If animal species, specify.

4. Others

Any new information required to be reported in the context of an Extreme Public Health Emergency, or health emergency will be specified at that time by the Director of the Maine CDC or the State Epidemiologist.

C. When to Report

Category I (see part 2-I) diseases require immediate reporting. All Category II (see part 2-I) diseases require reporting as soon as possible, but no later than forty-eight (48) hours from the diagnosis or positive laboratory test result. When a potential outbreak, including those involving exposure to a communicable disease, toxic agent, environmental hazard, or a potential epidemic is identified, notification to the Department should be made in as expeditious a manner as possible.

D. Where to Report

All reports shall be made to the Maine Center for Disease Control and Prevention. These reports may be made to the Department by telephone or by fax transmission. Although fax or telephone should be the primary method of reporting, written reports may be sent to the Division of Infectious Disease, Maine Center for Disease Control and Prevention, 11 SHS, Augusta, ME 04333-0011. Standard forms for the reporting of notifiable diseases and conditions are currently available upon request for disease reporting, however, other forms of written reports are acceptable.

E. How to Report

Category I reports must be reported by telephone or fax. Category II reports may be reported by any mode of communication.

F. Why Report

Reporting of notifiable diseases and conditions is required by entities listed in Part A under 22 M.R.S.A., Chapter 250, §802 and §822. The Department has authority to implement rules to establish reporting requirements to require other professionals to report (22 M.R.S.A., Chapter 250, §802). Failure to report could result in preventable morbidity or mortality. Further penalties as specified under the Department's authority (22 M.R.S.A., Chapter 250, §825) could be imposed when delayed or non-reporting leads to extensive public health interventions or investigations that would not otherwise have been necessary.

The primary objectives of disease and condition surveillance are:

1. To determine the incidence and prevalence of notifiable diseases and conditions within the state;
2. To evaluate risks of transmission or exposure;
3. To intervene rapidly when appropriate to control the spread of the disease or limit exposure;
4. When appropriate, to increase understanding of the distribution and determinants of the disease or condition in the state's population; and
5. To assist in the development of targeted education efforts, preventive measures and public policy or legislation.

G. Confidentiality

1. Relationship to Federal Law

The Health Information Portability and Accountability Act of 1996 [P.L. 104-91] and its implementing regulations authorize covered entities to make disclosures of protected health information to public health authorities such as the Maine Center for Disease Control and Prevention for the purpose of preventing or controlling communicable, occupational or environmental disease. See *45 CFR §164.512(b)*. Moreover, such disclosure is authorized by Maine law, i.e. *22 M.R.S.A. §1711-C (6) (E)*. Consequently, entities subject to these Rules may disclose individually identifiable health information to the Department for the purpose of disease control and prevention.

2. Release of Information for Public Health Purposes

The name and related information which may identify individuals reported to the Department shall remain confidential and may be released only to other public health and school officials or agencies for public health purposes, or to the Department for adult or child protection purposes in accordance with 22 M.R.S.A., Chapters 958-A and 1071. In the event of an actual or threatened epidemic, outbreak or public health threat or emergency, as declared by the

Director of the Maine Center for Disease Control and Prevention, or an extreme public health emergency, the information may also be released to private health care providers and health and human services agencies for the purpose of carrying out public health responsibilities of the Department pursuant to these rules and Title 22, Chapter 250. Any other information, not reasonably related to public health responsibilities of the Department, may not be disclosed. By law, no person, official or institution complying with reporting requirements shall be held liable for any civil damage as a result of such act. No person may disclose the results of an HIV test except as permitted in 5 *M.R.S.A., Section 19203*.

3. Releasing of Health Information to the General Public

Data released to the public, the media, or other agencies may not contain potentially identifying information, unless otherwise specified in these rules. All information submitted to the Department pursuant to these rules which does not contain individually identifiable health information may be disclosed in accordance with 22 *M.R.S.A. §824*.

4. Liability Protection

Pursuant to 22 *M.R.S.A. §816*, any person reporting pursuant to these rules or participating in a related notifiable disease or condition investigation or proceeding, including, but not limited to, any person serving on or assisting a multidisciplinary intervention team or other investigating or treatment team, is immune from civil liability for the act of reporting or participating in the investigation or proceeding in good faith. Good faith does not include instances when a false report is made and the reporting person knows or should know the report is false.

H. Access to Hospital and Provider Records

The Department shall have access to health records containing or related to health information, or abstracts of these records, for the purpose of investigating cases, outbreaks, epidemics, exposures, or potential epidemics or exposures of notifiable conditions and diseases.

I. Notifiable Diseases and Conditions List

While the Maine Center for Disease Control and Prevention encourages the immediate reporting of all notifiable diseases and conditions, this rule has specific requirements for reporting of all diseases or conditions and requirements for laboratory submissions or clinical isolates as shown by the symbols below:

* Category I Diseases must be reported immediately

** Category II Diseases must be reported in 48 hours

Directors of laboratories are to submit clinical cultures, including cultures of these organisms, to the Maine Health and Environmental Testing Laboratory for confirmation, typing and/or antibiotic sensitivity:

Notifiable Diseases and Conditions

Display Table

All cases with clinical signs, symptoms or known exposure consistent with diagnosis of carbon monoxide poisoning, and/or: a carboxyhemoglobin (COHb) level equal to or above 5%

Section 3. Laboratory Examinations.

In keeping with scientific progress, or the needs of specific cases, the Department may specify from time to time those methods which are acceptable for the collection, handling, preservation and examination of specimens for the finding and control of cases of notifiable diseases and conditions. Specimens submitted in order to determine eligibility for release from isolation or quarantine requirements, and also specimens arranged for by a representative of the Department as part of the investigation of a case or outbreak of a notifiable disease or condition, shall be submitted to the Public Health Laboratory or another laboratory specially certified for that purpose by the Public Health Laboratory.

A laboratory so designated shall promptly report to the Department the result of examination of all such specimens, and shall promptly forward to the Public Health Laboratory all positive cultures/serum or suspicious cultures from such specimens for confirmation.

Medical laboratories shall submit isolates of selected organisms to the Public Health Laboratory, as specified in Section 2-I, so that further evaluation of such isolates can be performed.

Section 4. Usual Reporting of Outbreaks/Unusual Case Incidence.

Any pattern of cases or increased incidence of cases or illness beyond the expected number of cases in a given period, or cases or illness regardless of apparent agent which may indicate a newly recognized infectious agent, or an outbreak or related public health hazard (including suspected or confirmed outbreaks of food borne, waterborne, respiratory, and exposure to toxic agents or environmental hazards), must be reported immediately by telephone to the Department.

In the event that the Maine Center for Disease Control and Prevention determines that an outbreak, exposure or unusual disease condition has occurred, it may request providers who care for cases to report specified information to the Department as set forth in Section 2-B.

Section 5. Duties of Local Health Officers.

It shall be the duty of local health officers to require that all state laws, rules of the Department and local health ordinances be strictly enforced in their respective communities, subject to the direction and supervision of the Department. The local health officer shall receive and examine the nature of complaints made by any of the inhabitants concerning conditions posing a public health threat or a potential public health threat within the limits of his or her jurisdiction.

Section 6. Duties of Health Care Providers and Attendants.

Health care providers and persons attending a case of a notifiable disease or condition shall arrange for such precautionary measures, consistent with the rules of the Department, including examination and isolation of the case when necessary, as are required to prevent the spread of infection to other members of the household or to the community. Proper isolation or other precautionary measures may be instituted by the Department or by the local health officer after consultation with the Department. Notifiable disease or condition cases shall receive immediate treatment according to the most recently established guidelines as promulgated by the appropriate professional organization and as are generally perceived to represent the current standard of care.

Non-compliant persons shall be reported to the Department for necessary interventions.

Section 7. Exposures that Create a Significant Risk of HIV Transmission.

For purposes of 5 M.R.S.A., *Section 19203-C*, a significant risk of HIV infection shall be defined as an exposure to any of the following potentially infectious body tissues or body fluids: blood, semen, vaginal fluid, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, or amniotic fluid, which results from:

- A. Sexual intercourse, including vaginal, oral or anal contact;
- B. Mucous membrane contact (splash to the eye or mouth);
- C. Parenteral inoculation (needle stick or cut); or
- D. Cutaneous exposure involving large amounts or prolonged contact on nonintact skin.

Section 8. Immunization.

Title 22 M.R.S.A., Sections 1061-1063, gives the Department power to offer immunization to the public for protection in case of an epidemic or threatened epidemic as ordered by the Commissioner. Section 1063 states, in part:

Notwithstanding any inconsistent provision of any law, no person who works as a volunteer in a public immunization program set up by the Department, without expectation or receipt of monetary compensation for any aspect of such program, shall be liable:

- (1) for damages or injuries alleged to have been sustained by a person immunized under the program; nor
- (2) for damages for the death of a person immunized under the program, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence of the volunteer.

Mass immunization clinics may be offered by the Department for protection in case of an epidemic or threatened epidemic.

Section 9. Duties of the Department for Disease Investigation and Intervention.

A. The Department's Division of Infectious Disease shall routinely make current information available to practicing health care providers regarding the distribution of notifiable diseases and conditions in Maine and the prevention and control of notifiable conditions. In addition, the Division shall use all reasonable means to:

7 Confirm, in a timely manner, any case or suspected case of a notifiable disease or condition;

7 Ascertain, so far as possible, all sources of infection and exposures to the infection;

7 Identify exposures to environmental hazards;

7 Institute control measures for notifiable diseases and conditions consistent with the currently accepted standards as found in the Control of Communicable Diseases Manual 18th Edition, published in 2004, which is the official report of the American Public Health Association, unless specified otherwise by the State Epidemiologist. Copies of the manual may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001-3710;

7 Determine whether isolation and/or quarantine measures may be necessary.

B. The scope and extent of the duties for disease investigation and intervention may vary depending upon the circumstances of the cases, falling into one of four (4) broad categories:

7 Routine cases

7 Non-compliant persons

7 Outbreaks or epidemics

7 Extreme public health emergencies.

C. Routine Case Investigation and Intervention

1. Provider and Public Health

All persons diagnosed with notifiable diseases and conditions, or who have recently been exposed to such conditions or diseases, shall be instructed by the health care provider in regard to precautions to be taken to prevent spread of the condition or disease. The Division shall make current information available to practicing health care providers regarding the prevention and control of notifiable conditions or diseases. The Division shall be available to consult with health care providers regarding appropriate treatment and notification.

2. Interviews

In order to assure rapid and timely implementation of control measures, including contact notification and referral services, the Division may interview all persons either treated for or recently exposed to notifiable conditions or diseases, their health providers, and such other persons as the Division determines may have relevant information relating to the onset or contraction of such conditions or diseases at the direction of the Director of the Maine CDC, the Division Director or the State Epidemiologist. Cases of notifiable diseases or conditions, as determined by the Director of the Maine CDC, the Division Director, State Epidemiologist, or designee, may require further interview:

a. when specific public health disease intervention strategies are required;

b. when the case is part of an ongoing cluster of outbreak disease or exposure to toxic agents or environmental hazards investigation; or

c. when the epidemiology of the disease or condition is not clearly understood or defined.

When practical, the Division shall contact and inform the health care provider of plans to interview the case in order to foster communication and collaboration in disease control efforts.

3. Interventions

Public health workers will recommend or take actions that they deem necessary to implement interventions with each case and that are consistent with currently accepted standards as found for the notifiable condition or disease in the 18th Edition published in 2004 of Control of Communicable Diseases Manual, published by the American Public Health Association, unless specified otherwise by the State Epidemiologist. Copies of the manual may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001-3710.

D. Non-Compliant Persons

1. Background

Nothing in any of these rules shall be construed to deny persons the right to rely solely upon exercise of their moral, philosophical, religious or other personal reasons to prevent or cure disease, if that reliance is based upon sincere religious or conscientious objection to standard treatment and/or public health interventions and if alternative public health measures, even if more restrictive, are available to address the public health threat posed by the infectiousness. If such persons endanger the public through their infectiousness or through their behaviors while infected, the Department may use public health disease control methods, up to and including involuntary confinement, isolation and medical treatment, as necessary to protect the public, as authorized by 22 M.R.S.A., sections 807 et seq. and in these rules.

2. Treatment

Treatment of those persons who have either contracted or been exposed to a notifiable disease or condition or that poses a public health threat, may be imposed on an involuntary basis pursuant to 22 M.R.S.A. §810 and §812 in the event such persons refuse appropriate countermeasures or public health interventions as indicated above in C. 3 or conduct themselves in a manner which constitutes a public health threat. Persons who have either contracted or been exposed to notifiable diseases and conditions who knowingly expose others to the danger thereof, are to be considered as acting in a manner that is a public health threat. These persons are considered non-compliant.

Either the Department, acting through its Commissioner, or his or her designee, the Governor, or a court of competent jurisdiction may subject a non-compliant person to involuntary medical treatment and other public health measures, in accordance with applicable law.

Treatment shall be in accord with the most current treatment recommendations/standards of care for the notifiable disease or condition. In imposing treatment and related public health disease control measures on an individual, the least restrictive measures shall be utilized to assure effective medical treatment of the disease or condition and to limit the spread of the notifiable disease or condition or other infectious disease, which pose a threat to public health. The Department shall adopt step-wise medical treatment and public health disease control strategies as described in this rule whenever practical and as long as doing so does not unreasonably increase the threat to the public health.

3. Investigation

The process of requiring medical treatment and related public health disease control measures shall be initiated when a complaint is made to the Director of the Division of Infectious Disease by a person with sufficient reason and evidence to believe that a person who has either contracted or been exposed to notifiable diseases or conditions is knowingly engaged in behavior likely to transmit that condition. Anonymous complaints or complaints based only on second-hand information will be investigated at the discretion of the Division Director or designee in consultation with the State Epidemiologist and/or knowledgeable public health program managers or staff.

Each complaint shall, whenever possible, identify the reporter and the subject of the complaint, be signed by the individual making the complaint, and must include:

- a. Locating information for the individual making the complaint;
- b. Locating information for the individual against whom the complaint is made; and
- c. Specific allegations of non-compliant behavior

Investigations shall be conducted in a systematic fashion utilizing appropriate public health workers from the Division with expertise in the notifiable disease or condition. They shall be conducted under the direction of the Division Director and concluded within fifteen (15) working days of the complaint being received.

Each investigation shall establish and document whether the alleged non-compliant person is infected with the notifiable disease or condition and whether the alleged non-compliant person is engaging knowingly in behavior that exposes others to infection with the notifiable disease or condition. If the public health worker is unable to establish that the person is infected or that the alleged behavior exposing others to infection is occurring, the investigation shall cease immediately and records pertaining to it shall be delivered to the Division Director, who shall retain them and have them destroyed at the end of three (3) years.

If there is credible evidence to substantiate the allegation of infection or exposure and non-compliance, the public health worker shall make all reasonable attempts to locate the subject of the complaint to conduct a personal interview to assess the individual's current understanding of the exposure to infection with the notifiable disease or condition, its

treatment, and the behaviors that are placing others at risk of infection. The interview shall establish and document whether the person:

- a. Knows that (s)he is infected or has been exposed;
- b. Has received appropriate education and counseling about the infection or exposure;
- c. Understands the modes of transmission of the notifiable disease or condition and methods to prevent transmission; and
- d. Is engaging in non-compliant behavior.

The complete documentation of the investigation, findings and recommendations shall be given to the Division Director.

4. Other Step-Wise Interventions

For each complaint that results in a substantiated case of non-compliance, the Division Director shall establish a Standing Committee which (s)he shall chair for the coordination of step-wise measures. The Standing Committee shall include as many as possible of the following:

- § The non-compliant person's health care provider;
- § Professional staff from other health or social service agencies serving the non-compliant person;
- § A representative from the Office of the Attorney General;
- § The Director of the Maine Center for Disease Control and Prevention or designee;
- § The Division Director
- § The public health worker investigating the case;
- § The State Epidemiologist or designee; and
- § The Division program manager with expertise in the particular notifiable disease or condition.

The step-wise measures, which may be imposed, include:

- a. Face-to-face counseling by a public health educator, epidemiologist, public health nurse, disease intervention specialist or other public health professional regarding the infected individual's notifiable disease or condition, its cause and treatment and the necessity for disease control measures.
- b. Recommended measures individualized into a documented plan for the infected individual, including such supported services as:
 - 1) direct observation of the individual taking required medications on a daily basis;
 - 2) transportation to treatment facilities;
 - 3) individual or group supportive counseling or therapy; and
 - 4) financial support for shelter and food for the duration of medical treatment.
- c. A Cease and Desist Order, signed by the Commissioner, directing the infected individual to comply with medical treatment and specifying public health disease control measures to be followed.
- d. The Standing Committee may, at its discretion, not seek a Department Cease and Desist Order and instead directly request the Office of the Attorney General to pursue commitment procedures under 22 M.R.S.A., Chapters 810 or 812.

In taking the step of seeking confinement, isolation, quarantine and treatment, the Standing Committee should base its actions on one or more of the following factors:

1. whether, based on laboratory tests or clinical signs and symptoms, the individual has a great likelihood of active disease that is extremely contagious;
2. the risk of infecting others, taking into consideration the individual's housing and employment situation;

e. Court-Ordered Confinement, Quarantine, Isolation and Treatment

Upon receipt of information that a Cease and Desist Order has been violated, the Department may contact the Office of the Attorney General to pursue a civil fine and/or injunctive relief pursuant to 22 M.R.S.A., *Section 804(2)*, or civil commitment or other relief under 22 M.R.S.A., *Sections 810* or *812*.

H. Investigation and Intervention of Outbreaks or Epidemics

1. Control Measures

In the event of an outbreak or epidemic of a notifiable disease or condition or of a potential epidemic, the Department shall institute public health disease control measures consistent with national standards as published in the 18th Edition published in 2004 Control of Communicable Diseases Manual, published by the American Public Health Association. Copies of the manual may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001-3710. Individuals who are alleged to be non-compliant with these public health disease control measures or prescribed medical treatment shall be treated in the manner prescribed in Section 9-D (above) as expeditiously as possible.

2. Common Source of An Outbreak or Epidemic

Any public or private enterprise, utility, lodging area, food market, or other entity which provides food or water which is likely to be or has been determined by either laboratory or epidemiological methods to be a source of outbreak or epidemic may be ordered by the Department to end the use or distribution of said food or water until the source of contamination is found and corrected and the food or water has been proven safe for consumption.

3. Vaccine-Preventable Outbreaks or Epidemics

In the event of an outbreak or epidemic or of a potential epidemic of a vaccine-preventable disease in a licensed child care facility or a school, the Department shall order the superintendent of that district or the administrator of the child care facility to exclude all children from school or the center who have not already experienced the illness or who are not immunized against the epidemic disease. If an epidemic of a vaccine-preventable disease in a child care center or school district continues in spite of exclusion of un-immunized children, or if such exclusion is not possible, the Department itself may dismiss school in that district or exclude susceptible pupils, as authorized in 22 M.R.S.A., *Section 806*.

Section 10. Extreme Public Health Emergency: Definition and Control Measures.

A. Applicability

The rules specified in this Section shall only be applicable in the event of a declared extreme public health emergency and only then for the duration of the declared extreme public health emergency.

B. Reporting Requirements

In addition to those individuals and entities required to report notifiable diseases and conditions on a routine basis as outlined in Section 2, others may be required to report specific information as specified by the State Epidemiologist or the Director of the Maine Center for Disease Control and Prevention pursuant to *Title 22 M.R.S.A. §820(1)(A)*.

C. Control Measures

In the event of a declared extreme public health emergency, the Department shall take all necessary steps to institute medical treatment and public health control measures for the benefit of the population that either has been exposed to or is at significant risk of exposure to, a notifiable disease or condition or other highly infectious or toxic agent or environmental hazard that poses an imminent threat of substantial harm to the population of Maine.

These measures shall be consistent with the national standards for the infectious agent as established by the 18th Edition published in 2004 Control of Communicable Diseases Manual, published by the American Public Health Association. Copies of the manual may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001-3710. In addition to exercising the powers and responsibilities granted the Department pursuant to Title 22, Section 820, the Department may undertake the following public health measures during a period of declared extreme public health emergency:

1. Management of Persons

For the duration of the declared extreme public health emergency, the Department shall assure that all necessary steps are taken to protect the public health and safety, including:

a. Identification of exposed persons, using all reasonable means to confirm in a timely manner any case or suspected case or a notifiable disease or condition and shall ascertain, so far as possible, all sources of infection and exposures to the infection.

b. Tracking and follow-up of persons who are infected or exposed, consistent with the standards referenced above or those established for the declared extreme public health emergency by the Director of the Maine Center for Disease Control and Prevention or designee.

c. Mandatory medical examination of infected or exposed persons, making or causing all needed examinations, including laboratory testing.

d. Mandatory medical treatment, including vaccination or treatment with such medications as are warranted by the standards established above.

e. Isolation of cases and quarantine of exposed individuals, as indicated, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary. Standards for isolation and quarantine shall be the same as those specified in these rules under Section 9, Duties of the Department for Disease Investigation and Intervention, D. Non-Compliant Persons, (4) Other Step-Wise Interventions, and E. Investigation and Intervention of Outbreaks or Epidemics, and Section 10 (C. 2) Isolation and Quarantine.

f. Individuals who do not comply voluntarily with these public health disease control measures or prescribed medical treatments and who are deemed by the Department to be exposed to or at serious risk of transmitting a notifiable disease or condition that poses a serious and imminent risk to public health and safety, shall be taken into custody and prescribed care consistent with these standards or standards established by the Control of Communicable Diseases Manual 18th Edition, published in 2004, which is the official report of the American Public Health Association. Copies of the manual may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001-3710;

g. A person is exempt from such prescribed care if alternative public health measures are available, even if those measures are more restrictive, and if:

- a. the person demonstrates a sincere religious or conscientious objection to the care; or
- a. the person is at known risk of serious adverse medical reaction to the care.

2. Isolation and Quarantine

a. Isolation and quarantine must:

i. Be implemented through the least restrictive means necessary to prevent the spread of an infectious or possibly infectious disease to others and may include confinement to private homes, facilities and public premises;

ii. Provide that isolated individuals be confined separately from quarantined individuals;

iii. Include regular monitoring to determine if the individual or group of individuals continues to require isolation or quarantine;

iv. Require that, if a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with the infectious disease of concern, that individual shall immediately be removed from quarantine and put in isolation;

v. Require that the premises used for quarantine and isolation shall be maintained in a safe and hygienic manner, be designed to minimize the likelihood of further transmission of infection or other harms to individuals quarantined or isolated and not be situated in a physically remote location;

vi. To the extent possible without jeopardizing the public health, family members and members of households shall be kept together, and guardians shall stay with their minor wards;

vii. Be immediately terminated when an individual no longer poses a substantial risk of transmitting an infectious or possibly infectious disease or condition to others;

viii. Provide for meeting the basic living needs of individuals who are isolated or quarantined, including provision of competent medical care, adequate food, clothing, shelter and means of communication between those in isolation or quarantine and those outside these settings;

ix. Provide accommodation of non-English speaking individuals, and to the extent possible, for the practice of cultural and religious beliefs;

x. Provide access to legal services, counseling and other social services; and

xi. Provide to the extent possible without jeopardizing the public health, all access to a means of work or financial support.

b. The Department may authorize physicians, health care workers and others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals. An individual entering isolation or quarantine premises with or without authorization from the Department may be isolated or quarantined where needed to protect the public health.

3. Control of Property

To the extent authorized by the Governor in accordance with his or her authority pursuant to *37-B M.R.S.A.*, §§ 741 and 742, and in conformity with the process for obtaining or acquiring property or taking other necessary action to abate, clean up or mitigate whatever danger was presented by the declared extreme public health emergency pursuant to *37-B M.R.S.A.*, §§ 742 and 821, and only for the duration of the declared extreme public health emergency, the Department shall assure that necessary steps are taken to protect the public health and safety by exercising the following powers as necessary:

a. Accessing Suspicious Premises: Any agent of the Department may enter any building, vessel or conveyance to inspect it and remove from it any person, animal or material affected or appearing to be affected by a notifiable disease or condition.

b. Closure of Facilities: The Department may close schools and forbid public gatherings in schools, places of worship and all other places in order to control spread of notifiable diseases or conditions.

c. Temporary Use of Health Care Facilities and Ability to Transfer Patients: The Department may provide those sick with a notifiable disease or condition with medical aid and temporary hospital accommodation, taking control of the facilities deemed needed and transferring patients as deemed necessary.

d. Temporary Use of Hotel and Motel Rooms and Other Facilities: The Department may provide those sick with a notifiable disease or condition or those exposed to a notifiable disease or condition with shelter and care, including the distribution of medications, medical examinations and vaccination clinics, in hotels, motels and other facilities as deemed necessary and may procure needed facilities for these purposes during the extreme public health emergency.

e. Procurement of Medicines and Vaccines, Supplies and Equipment: The Department may procure, store or distribute antitoxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents or medical supplies that the Department determines are advisable to control the extreme public health emergency.

f. Decontamination of Buildings: The Department may issue orders for the quarantine and disinfection of localities and things infected or suspected of being infected by a notifiable disease or condition, and for the sanitary care of jails, state prisons, mental health institutions, schools, hotels, motels, health facilities, public buildings and other premises deemed necessary to control the extreme public health emergency.

g. Seizure and Destruction of Contaminated Articles: The Department may take and destroy private property, including animals, for the purpose of controlling the extreme public health emergency.

h. Disposal of Human and Animal Remains: The Department may issue orders regarding the safe disposal of human and animal remains for the purpose of controlling the extreme public health emergency.

STATUTORY AUTHORITY: *5 M.R.S.A.* §§ 19201 et seq.; *22 M.R.S.A.* §§ 3, 7, 42(1), 802, 807, 1491

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