

## CHAPTER 250

### CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS

#### SUBCHAPTER 1

##### DEFINITIONS; RULES; PENALTIES; INSPECTIONS; GENERAL AUTHORITY

###### §801. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 487, §11 (NEW).]

**1. Commissioner.** "Commissioner" means the Commissioner of Health and Human Services. [PL 1989, c. 487, §11 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

**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. [PL 1989, c. 487, §11 (NEW).]

**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. [PL 1989, c. 487, §11 (NEW).]

**4. Department.** "Department" means the Department of Health and Human Services. [PL 1989, c. 487, §11 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

**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. [PL 2001, c. 694, Pt. B, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

**4-B. Environmental disease.** "Environmental disease" means any abnormal condition or disorder aggravated or caused by exposure to an environmental hazard. [PL 2005, c. 383, §2 (NEW).]

**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. [PL 2005, c. 383, §2 (NEW).]

**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. [PL 2005, c. 383, §2 (NEW).]

**4-E. Exposure.** "Exposure" means direct contact or interaction with an environmental hazard or toxic agent affecting or being taken into the body. [PL 2005, c. 383, §2 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**6. Local health officer.** "Local 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.

[PL 2007, c. 598, §9 (AMD).]

**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.

[PL 2023, c. 412, Pt. UU, §1 (AMD).]

**8. Occupational disease.** "Occupational disease" means any abnormal condition or disorder, including an occupational injury, caused by exposure to environmental factors associated with employment.

[PL 2023, c. 412, Pt. UU, §2 (AMD).]

**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.

[PL 2001, c. 694, Pt. B, §2 (NEW); PL 2005, c. 383, §24 (AFF).]

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

[PL 1989, c. 487, §11 (NEW).]

**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. [PL 2005, c. 383, §4 (AMD).]

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. [PL 1989, c. 487, §11 (NEW).]

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. [PL 2005, c. 383, §4 (AMD).]

[PL 2005, c. 383, §4 (AMD).]

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

[PL 2005, c. 383, §5 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2001, c. 694, §§B1,2 (AMD). PL 2001, c. 694, §B6 (AFF). PL 2003, c. 366, §1 (AFF). PL 2003, c. 689, §§B6,7 (REV). PL 2005, c. 383, §§2-5 (AMD). PL 2005, c. 383, §24 (AFF). PL 2007, c. 598, §9 (AMD). PL 2023, c. 412, Pt. UU, §§1, 2 (AMD).

#### §802. Authority of department

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

A. Designate and classify communicable, environmental and occupational diseases; [PL 2005, c. 383, §6 (AMD).]

B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of communicable, occupational and environmental diseases and the potential for epidemics; [PL 2005, c. 383, §6 (AMD).]

C. Investigate cases, epidemics and occurrences of communicable, environmental and occupational diseases; [PL 2021, c. 349, §2 (AMD).]

D. Establish procedures for the control, detection, prevention and treatment of communicable, environmental and occupational diseases, including public immunization, contact notification programs and closure of a business or entity when that business or entity directly and repeatedly violates public health control measures during an extreme public health emergency under section 820; and [PL 2021, c. 349, §3 (AMD).]

E. Impose administrative fines in accordance with section 804 and Title 5, chapter 375. [PL 2021, c. 349, §4 (NEW).]

[PL 2021, c. 349, §§2-4 (AMD).]

**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; [PL 1989, c. 487, §11 (NEW).]

B. Procedures for the disinfection, seizure or destruction of contaminated property; [PL 2021, c. 349, §5 (AMD).]

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; and [PL 2021, c. 349, §6 (AMD).]

D. Procedures for the imposition of sanctions, including license suspensions and administrative fines, to enforce orders issued to reduce potential exposure and risk to public health. Notwithstanding Title 5, section 10004, subsection 3, the department may directly and temporarily suspend a department-issued license for more than 30 days when further operation of the licensee's business would result in a serious and imminent risk to public health or safety. [PL 2021, c. 349, §7 (NEW).]

[PL 2021, c. 349, §§5-7 (AMD).]

**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. [PL 2001, c. 694, Pt. B, §3 (NEW); PL 2005, c. 383, §24 (AFF).]

**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. [PL 2005, c. 383, §8 (AMD); PL 2005, c. 383, §24 (AFF).]

**4. Immunization required.**  
[PL 2001, c. 185, §1 (RP).]

**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 persons with intellectual disabilities, multi-level health care facility, hospital or home health agency. [PL 2011, c. 542, Pt. A, §25 (AMD).]

B. "Disease" means one of those conditions enumerated in rules adopted by the department that may be preventable by an immunizing agent. [PL 2001, c. 185, §2 (NEW).]

C. "Employee" means any person who performs a service for wages or other remuneration for a designated health care facility. [PL 2001, c. 185, §2 (NEW).]

D. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease. [PL 2001, c. 185, §2 (NEW).]  
[PL 2011, c. 542, Pt. A, §25 (AMD).]

**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 written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more diseases may be medically inadvisable. [PL 2019, c. 154, §8 (AMD); PL 2019, c. 154, §12 (AFF).]

B. [PL 2019, c. 154, §9 (RP).]

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. [PL 2001, c. 185, §2 (NEW).]  
[PL 2019, c. 154, §§8, 9 (AMD); PL 2019, c. 154, §12 (AFF).]

**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.  
[PL 1999, c. 378, §2 (NEW).]

**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.  
[PL 2007, c. 240, Pt. UU, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 1999, c. 378, §§1,2 (AMD). PL 2001, c. 185, §§1,2 (AMD). PL 2001, c. 694, §§B3,4 (AMD). PL 2001, c. 694, §B6 (AFF). PL 2003, c. 366, §1 (AFF). PL 2005, c. 383, §§6-8 (AMD). PL 2005, c. 383, §24 (AFF). PL 2007, c. 240, Pt. UU, §1 (AMD).

PL 2011, c. 542, Pt. A, §25 (AMD). PL 2019, c. 154, §§8, 9 (AMD). PL 2019, c. 154, §12 (AFF). PL 2021, c. 349, §§2-7 (AMD).

### §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. [PL 2005, c. 383, §9 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §9 (AMD).

### §804. Penalties

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

[PL 2007, c. 598, §10 (AMD).]

**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 may not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act. 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 impose a fine, which may not be less than \$250 or greater than \$1,000 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. A fine may be imposed for each violation of the rules. If the imposition of a fine under this subsection does not result in compliance, 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 \$1,500, or both. Alternatively, the department may seek relief pursuant to section 810 or 812. The District Court has 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.

[PL 2021, c. 349, §8 (AMD).]

**3. License suspension.** A licensing agency under the department may immediately suspend a license pursuant to Title 5, section 10004, subsection 3 for a violation under this section. Notwithstanding Title 5, section 10004, subsection 3, a suspension under this subsection remains in effect until:

A. The licensing agency determines that the licensee's conduct no longer poses an imminent risk to public health or safety; or [PL 2021, c. 349, §9 (NEW).]

B. The District Court, after conducting a hearing at the licensee's request, finds that the licensee's conduct does not pose an imminent risk to public health or safety. The suspension remains in effect pending the District Court's review under this paragraph. [PL 2021, c. 349, §9 (NEW).]

[PL 2021, c. 349, §9 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2007, c. 598, §10 (AMD). PL 2021, c. 349, §§8, 9 (AMD).

### §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. [PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### **§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. [PL 2005, c. 383, §10 (AMD).]

**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. [PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §10 (AMD).

## SUBCHAPTER 2

### CONTROL MEASURES

#### **§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. [PL 1989, c. 487, §11 (NEW).]

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. [PL 2005, c. 383, §11 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §11 (AMD).

#### **§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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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. [PL 1989, c. 487, §11 (NEW).]

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. [PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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. [PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]



**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. [PL 1989, c. 487, §11 (NEW).]

B. The court may, in its discretion, receive the testimony of any other person and may subpoena any witness. [PL 1989, c. 487, §11 (NEW).]

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. [PL 1989, c. 487, §11 (NEW).]

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. [PL 1989, c. 487, §11 (NEW).]

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. [PL 1989, c. 487, §11 (NEW).]  
[PL 1989, c. 487, §11 (NEW).]

**7. Equitable relief.** The District Court shall have original jurisdiction to grant equitable relief in proceedings brought pursuant to this chapter.  
[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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; [PL 1989, c. 487, §11 (NEW).]

B. Participation in a counseling program designated or developed in accordance with rules adopted pursuant to section 802 or 807; [PL 1989, c. 487, §11 (NEW).]

C. Participation in a treatment program designated or developed in accordance with rules adopted pursuant to section 802 or 807; [PL 1989, c. 487, §11 (NEW).]

D. Appearance before designated health officials for purposes of monitoring measures set out in paragraph A, B or C; [PL 1989, c. 487, §11 (NEW).]

E. Part or full-time supervision or monitoring for a period and under conditions set by the court; [PL 1989, c. 487, §11 (NEW).]

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; [PL 1989, c. 487, §11 (NEW).]

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 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 persons with mental illness or a residential program for persons with intellectual disabilities 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 persons with mental illness or a residential program for persons with intellectual disabilities 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 [PL 2011, c. 542, Pt. A, §26 (AMD).]

H. Compliance with any combination of measures outlined in paragraphs A to G, or other measures considered just by the court. [PL 1989, c. 487, §11 (NEW).]

[PL 2011, c. 542, Pt. A, §26 (AMD).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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. [PL 1989, c. 487, §11 (NEW).]

B. The Supreme Judicial Court shall, by rule, provide for expedited appellate review of cases appealed under this chapter. [PL 1989, c. 487, §11 (NEW).]

[PL 1989, c. 487, §11 (NEW).]

## SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 383, §12 (AMD). PL 2011, c. 542, Pt. A, §26 (AMD).

## §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. [PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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: [PL 1989, c. 487, §11 (NEW).]

**1. Plan of treatment.** A plan of treatment within 10 days of the commencement of the commitment or supervision; and [PL 1989, c. 487, §11 (NEW).]

**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; [PL 1989, c. 487, §11 (NEW).]

B. The type of care or treatment the individual is receiving and what future care is necessary; [PL 1989, c. 487, §11 (NEW).]

C. Whether the individual has been cured or made noninfectious or otherwise has ceased to pose a threat to public health; [PL 1989, c. 487, §11 (NEW).]

D. Whether continued supervision or commitment is necessary; and [PL 1989, c. 487, §11 (NEW).]

E. Any other information the court considers necessary. [PL 1989, c. 487, §11 (NEW).]  
[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

**§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. [PL 2005, c. 383, §13 (AMD).]

**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. [PL 1989, c. 487, §11 (NEW).]

**SECTION HISTORY**

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §13 (AMD).

**§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. [PL 2003, c. 438, §1 (AMD).]

**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 [PL 2005, c. 630, §1 (NEW).]

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. [PL 2005, c. 630, §1 (NEW).]

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.

[PL 2005, c. 630, §1 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**3. For public institutions or employees.** Immunity for public institutions and employees shall be governed by Title 14, chapter 741.

[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2003, c. 438, §1 (AMD). PL 2005, c. 630, §1 (AMD).

#### §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. [PL 2007, c. 359, §1 (AMD).]

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. [PL 2007, c. 359, §1 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §14 (AMD). PL 2007, c. 359, §1 (AMD).

#### §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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

**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.

[PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW).

#### §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. [RR 1991, c. 1, §27 (COR).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). RR 1991, c. 1, §27 (COR).

### SUBCHAPTER 2-A

#### EXTREME PUBLIC HEALTH EMERGENCIES

#### §820. Extreme public health emergency

The provisions of this subchapter apply in the event of the declaration of an extreme public health emergency pursuant to section 802, subsection 2-A and Title 37-B, chapter 13, subchapter II. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

**1. Powers of the department.** Upon the declaration of an extreme public health emergency, the department has the following powers.

A. Upon request of the department, a health care provider, pharmacist, medical laboratory or veterinarian shall provide to the department health information directly related to a declared extreme public health emergency. [PL 2005, c. 383, §15 (AMD); PL 2005, c. 383, §24 (AFF).]

B. The department may take a person into custody and order prescribed care of that person as provided in this subsection.

(1) The department may act without a court order if:

(a) The department has reasonable cause to believe that the person has been exposed to or is at significant medical risk of transmitting a communicable disease that poses a serious and imminent risk to public health and safety;

(b) There are no less restrictive alternatives available to protect the public health and safety; and

(c) The delay involved in securing a court order would pose an imminent risk to the person or a significant medical risk of transmission of the disease.

- (2) The department may act pursuant to a court order obtained under subsection 2.
- (3) A person is exempt from examination, vaccination, medical care or treatment 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 examination, vaccination, medical care or treatment; or
  - (b) The person is at known risk of serious adverse medical reaction to the vaccination or medical care or treatment. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]
- C. The department may implement rules to address the risk or potential risk of a shortage of health care workers. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 383, §16 (NEW).]
- D. The department may implement rules to address the need for dispensing drugs in an emergency situation. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 383, §16 (NEW).]  
[PL 2005, c. 383, §§15, 16 (AMD); PL 2005, c. 383, §24 (AFF).]
- 2. Judicial review.** The following provisions apply to judicial review of the authority of the department under this subchapter.
- A. A hearing must be held before a judge of the District Court, a justice of the Superior Court or a justice of the Supreme Judicial Court as soon as reasonably possible but not later than 48 hours after the person is subject to prescribed care to determine whether the person must remain subject to prescribed care. A hearing under this paragraph may be waived in writing after notice of the effect of a waiver and an opportunity to consult with an attorney. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]
- B. Notice of the hearing must be served upon the person subject to prescribed care within a reasonable time before the hearing. The notice must specify: the time, date and place of the hearing; the grounds and underlying facts upon which the prescribed care is sought; the right to appear at the hearing, either in person, by electronic means or by representation, and to present and cross-examine witnesses; and the right to counsel. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]
- C. For a court to order prescribed care, the department must prove by clear and convincing evidence that:
- (1) The person has been exposed to or is at significant medical risk of transmitting a communicable disease that poses a serious imminent risk to public health or safety; and
  - (2) There are no less restrictive alternatives available to protect the public health and safety. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]
- D. Within 24 hours of completion of the hearing, the court shall enter a finding approving prescribed care and shall issue an order of prescribed care for a period not to exceed 30 days or shall dismiss the petition and order the person released from prescribed care immediately. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]
- E. If the department determines that it is necessary to continue an order obtained under this subsection, the department shall petition the court that issued the order. The court shall hold a hearing in accordance with paragraphs B, C and D and shall make such orders as the court determines necessary, except that an order may not exceed 30 days in duration without further review by the court. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

F. The court may order applications under this section to be joined. [PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]  
[PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

**3. Appeal.** A person aggrieved by a court order issued under subsection 2 may appeal from that order to the Supreme Judicial Court. The order remains in effect pending appeal. Any findings of fact may not be set aside unless clearly erroneous. Pursuant to order of court, appeals under this section may be joined. The Maine Rules of Civil Procedure apply to the conduct of the appeals, except as otherwise specified in this subsection.  
[PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

**4. Medical-legal advisory panel.**  
[PL 2005, c. 383, §17 (RP); PL 2005, c. 383, §24 (AFF).]

**5. Interpretation.** The provisions of sections 817, 818, 819 and 824 must be interpreted to apply to this subchapter to the extent not inconsistent with this subchapter.  
[PL 2001, c. 694, Pt. A, §1 (NEW); PL 2005, c. 383, §24 (AFF).]

#### SECTION HISTORY

PL 2001, c. 694, §A1 (NEW). PL 2001, c. 694, §B6 (AFF). PL 2003, c. 366, §1 (AFF). PL 2005, c. 383, §§15-17 (AMD). PL 2005, c. 383, §24 (AFF).

### SUBCHAPTER 3

#### REPORTING REQUIREMENTS

##### §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. [PL 2005, c. 383, §18 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §18 (AMD).

##### §822. Reporting

**1. Notification by physician.** Whenever a physician knows or has reason to believe that a person whom the physician examines or cares for has a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by 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.  
[PL 2019, c. 617, Pt. K, §1 (NEW).]

**2. Reporting by health care facilities.** The department may require a designated health care facility, as defined in section 802, subsection 4-A, paragraph A, to report information about its emergency management plans and operations. The department also may require a designated health care facility to report other information, including, but not limited to, daily reporting of the number of available beds within that facility providing residential or inpatient services and for the reporting to be done through an online database approved by the department. The department may adopt rules that



designate further information required for reporting emergency plans. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 617, Pt. K, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §18 (AMD). PL 2009, c. 299, Pt. A, §3 (AMD). PL 2019, c. 617, Pt. K, §1 (RPR).

#### §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. [PL 2005, c. 383, §18 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §18 (AMD).

#### §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. [PL 2005, c. 383, §19 (AMD).]

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. [PL 1989, c. 487, §11 (NEW).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §19 (AMD).

#### §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. [PL 2005, c. 383, §20 (AMD).]

#### SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2005, c. 383, §20 (AMD).

### SUBCHAPTER 4

## MANDATORY BLOOD-BORNE PATHOGEN TEST

### §831. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 368, §1 (NEW).]

**1. Bona fide occupational exposure.** "Bona fide occupational exposure" means skin, eye, mucous membrane or parenteral contact of a person with the potentially infectious blood or other body fluids of another person that results from the performance of duties by the exposed person in the course of employment.

[PL 1997, c. 368, §1 (NEW).]

**2. Blood-borne pathogen test.** "Blood-borne pathogen test" means a test that indicates the presence of a specific blood-borne transmissible infectious agent.

[PL 1997, c. 368, §1 (NEW).]

**3. Employer; employer of the person exposed.** "Employer" or "employer of the person exposed" includes a self-employed person who is exposed to the potentially infectious blood or other body fluids of another person.

[PL 1997, c. 368, §1 (NEW).]

**4. Informed consent.** "Informed consent" means consent that is:

A. Based on an actual understanding by the person to be tested:

- (1) That the test is being performed;
- (2) Of the nature of the test;
- (3) Of the persons to whom the results of that test may be disclosed;
- (4) Of the purpose for which the test results may be used; and
- (5) Of any reasonably foreseeable risks and benefits resulting from the test; and [PL 1997, c. 368, §1 (NEW).]

B. Wholly voluntary and free from express or implied coercion. [PL 1997, c. 368, §1 (NEW).]  
[PL 1997, c. 368, §1 (NEW).]

**5. Person.** "Person" means any natural person, firm, corporation, partnership or other organization, association or group.

[PL 1997, c. 368, §1 (NEW).]

### SECTION HISTORY

PL 1997, c. 368, §1 (NEW).

### §832. Judicial consent to blood-borne pathogen test

**1. Petition.** Any person who experiences a bona fide occupational exposure may petition the District Court with jurisdiction over the facility or other place where the exposure occurred to require the person whose blood or body fluid is the source of the exposure to submit to a blood-borne pathogen test and to require that the results of the test be provided to the petitioner as long as the following conditions have been met:

A. The exposure to blood or body fluids creates a significant risk of infection with a blood-borne pathogen, as defined by the Bureau of Health through the adoption of rules; [PL 1997, c. 368, §1 (NEW).]

B. The authorized representative of the employer of the person exposed has informed the person whose blood or body fluid is the source of the occupational exposure and has sought to obtain

written informed consent from the person whose blood or body fluid is the source of the exposure; and [PL 1997, c. 368, §1 (NEW).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested. [PL 1997, c. 368, §1 (NEW).]  
[PL 1997, c. 368, §1 (NEW).]

**2. Prehearing duties of the court.** Upon receipt by the District Court of the petition, the court shall:

A. Schedule an expedited hearing; [PL 2003, c. 88, §1 (AMD).]

B. Cause a written notice of the petition and hearing to be given, in accordance with the Maine Rules of Civil Procedure, to the patient who is the subject of the proceeding; [PL 1997, c. 368, §1 (NEW).]

C. Appoint counsel, if requested, for any indigent client not already represented; and [PL 1997, c. 368, §1 (NEW).]

D. Furnish counsel with copies of the petition. [PL 1997, c. 368, §1 (NEW).]  
[PL 2003, c. 88, §1 (AMD).]

**3. Hearing.** The hearing is governed as follows.

A. The hearing must be conducted in accordance with the Maine Rules of Evidence and in an informal manner consistent with orderly procedure. [PL 1997, c. 368, §1 (NEW).]

B. The hearing is confidential and must be electronically or stenographically recorded. [PL 1997, c. 368, §1 (NEW).]

C. The report of the hearing proceedings must be sealed. A report of the hearing proceedings may not be released to the public, except by permission of the person whose blood or body fluid is the source of the exposure or that person's counsel and with the approval of the court. [PL 1997, c. 368, §1 (NEW).]

D. The court may order a public hearing at the request of the person whose blood or body fluid is the source of the exposure or that person's counsel. [PL 1997, c. 368, §1 (NEW).]  
[PL 1997, c. 368, §1 (NEW).]

**4. Determination.** The court shall require the person whose blood or body fluid is the source of the exposure to obtain a blood-borne pathogen test and shall require that the results of the test be provided to the petitioner only if the petitioner proves by a preponderance of the evidence that:

A. The exposure to blood or body fluids of the person created a significant risk of infection with a blood-borne pathogen as defined by the Bureau of Health through the adoption of rules; [PL 1997, c. 368, §1 (NEW).]

B. An authorized representative of the employer of the person exposed has informed the patient of the occupational exposure and has sought to obtain written informed consent from the person whose blood or body fluid is the source of the exposure; and [PL 1997, c. 368, §1 (NEW).]

C. Written informed consent was not given by the person whose blood or body fluid is the source of the exposure and that person has refused to be tested. [PL 1997, c. 368, §1 (NEW).]  
[PL 1997, c. 368, §1 (NEW).]

**5. Consent.** The court may not order a person whose blood or body fluid is the source of the exposure to obtain a blood-borne pathogen test unless the employee exposed to the blood or body fluids of that person has consented to and obtained a blood-borne pathogen test immediately following that documented exposure.  
[PL 1997, c. 368, §1 (NEW).]

**6. Costs.** The employer of the person exposed is responsible for the petitioner's reasonable costs related to obtaining the results of a blood-borne pathogen test pursuant to this section, including the payment of the petitioner's attorney's fees. [PL 1997, c. 368, §1 (NEW).]

**7. Appeals.** A person required to undergo a blood-borne pathogen test may appeal the order to Superior Court. The appeal is limited to questions of law. Any findings of fact of the District Court may not be set aside unless clearly erroneous. [PL 1997, c. 368, §1 (NEW).]

**8. Subsequent testing.** Subsequent testing arising out of the same incident of occupational exposure must be conducted in accordance with this section. [PL 1997, c. 368, §1 (NEW).]

#### SECTION HISTORY

PL 1997, c. 368, §1 (NEW). PL 2003, c. 88, §1 (AMD).

#### §832-A. Emergency blood-borne pathogen testing

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Aggressive blood-borne pathogen" means a blood-borne pathogen whose pathology is such that a person who has been exposed to the pathogen must receive medical treatment to have a chance to effectively neutralize the pathogen. [PL 2017, c. 292, §1 (NEW).]

B. "Body fluids" means body fluids that are excreted or secreted from the body, including, but not limited to, urine, feces, blood or saliva. [PL 2017, c. 292, §1 (NEW).]

C. "Emergency medical care provider" includes hospital personnel assisting in an emergency and emergency medical services persons, defined in Title 32, section 83, subsection 12, but does not include a firefighter. [PL 2023, c. 455, §4 (AMD).]

D. "Firefighter" has the same meaning as in Title 17-A, section 752-E, subsection 2. [PL 2017, c. 292, §1 (NEW).]

E. "First responder" means a law enforcement officer, firefighter or emergency medical care provider. [PL 2017, c. 292, §1 (NEW).]

F. "Law enforcement officer" has the same meaning as in Title 17-A, section 2, subsection 17. [PL 2017, c. 292, §1 (NEW).]  
[PL 2023, c. 455, §4 (AMD).]

**2. Testing; expedited hearing.** When a first responder has been exposed to a person's body fluids in the course of the first responder's official duties, the first responder or the first responder's designee may ask the person whose body fluids were the source of exposure to the first responder to submit to a blood test. If the person refuses, the first responder may petition the court and, if there is reasonable cause to suspect that the person's body fluids might contain an aggressive blood-borne pathogen, the court may order that a hearing be held in accordance with the procedures set forth in section 832, except that:

A. Upon receipt by the District Court of the petition, the court shall schedule a hearing to be held within 72 hours of the filing of the petition; [PL 2017, c. 292, §1 (NEW).]

B. Any appeal of the District Court's decision must be filed no later than 24 hours following the court's decision; and [PL 2017, c. 292, §1 (NEW).]

C. Upon receipt by the Superior Court of an appeal under paragraph B, the court shall schedule a hearing to be held within 72 hours. [PL 2017, c. 292, §1 (NEW).]

[PL 2017, c. 292, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 292, §1 (NEW). PL 2023, c. 455, §4 (AMD).

**§833. Confidentiality**

No other disclosure of HIV test results may be made without written authorization from both the person tested and the person exposed. [PL 1997, c. 368, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 368, §1 (NEW).

**§834. Counseling for HIV**

**(REPEALED)**

SECTION HISTORY

PL 1997, c. 368, §1 (NEW). PL 2007, c. 93, §5 (RP).

**§835. Rulemaking**

Rules adopted by the Bureau of Health pursuant to this subchapter are routine technical rules under Title 5, chapter 375, subchapter II-A. [PL 1997, c. 368, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 368, §1 (NEW).

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