

Title 22, 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 or section 1493.

[PL 2005, c. 383, §3 (AMD).]

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

[PL 1989, c. 487, §11 (NEW).]

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).

§802. Authority of department

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

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; and [PL 2005, c. 383, §6 (AMD).]

D. Establish procedures for the control, detection, prevention and treatment of communicable, environmental and occupational diseases, including public immunization and contact notification programs. [PL 2005, c. 383, §6 (AMD).]

[PL 2005, c. 383, §6 (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; and [PL 1989, c. 487, §11 (NEW).]

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. [PL 2005, c. 383, §7 (AMD).]

[PL 2005, c. 383, §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. **(TEXT EFFECTIVE UNTIL 9/1/21)** 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. [PL 2001, c. 185, §2 (NEW).]

A. **(TEXT EFFECTIVE 9/1/21)** 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 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).

§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 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.

[PL 1989, c. 487, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 487, §11 (NEW). PL 2007, c. 598, §10 (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).