

Regulations for Disease Reporting and Control



Commonwealth of Virginia State Board of Health October 2016

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PART I.
DEFINITIONS

12 VAC 5-90-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Affected area" means any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with, or who are reasonably suspected to have been exposed to or infected with, a communicable disease of public health threat. "Affected area" shall include, but not be limited to, cities, counties, towns, and subsections of such areas, public and private property, buildings, and other structures.

"Arboviral infection" means a viral illness that is transmitted by a mosquito, tick, or other arthropod. This includes, but is not limited to, chikungunya (CHIK), dengue, eastern equine encephalitis (EEE), LaCrosse encephalitis (LAC), also known as California encephalitis, St. Louis encephalitis (SLE), West Nile virus (WNV), and Zika virus (Zika) infection.

"Board" means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

"CDC" means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

"Child care center" means a child day center, child day program, family day home, family day system, or registered family day home as defined by § 63.2-100 of the *Code of Virginia*, or a similar place providing day care of children by such other name as may be applied.

"Clinic" means any facility, freestanding or associated with a hospital, that provides preventive, diagnostic, therapeutic, rehabilitative, or palliative care or services to outpatients.

"Commissioner" means the State Health Commissioner or his duly designated officer or agent, unless stated in a provision of this chapter that it applies to the State Health Commissioner in his sole discretion.

"Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

"Communicable disease of public health significance" means an illness caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another. This includes but is not limited to infections caused by human immunodeficiency viruses, bloodborne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with this chapter, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or the tubercle bacilli, unless used as a bioterrorism weapon.

"Companion animal" means, consistent with the provisions of § 3.2-6500 of the *Code of Virginia*, any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this chapter.

"Condition" means any adverse health event, such as a disease, an infection, a syndrome, or as indicated by a procedure (including but not limited to the results of a physical exam, laboratory test, or imaging interpretation) suggesting that an exposure of public health importance has occurred.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

"Contact services" means a broad array of services that are offered to persons with infectious diseases and their contacts. Contact services include contact tracing, providing information about current infections, developing risk reduction plans to reduce the chances of future infections, and connecting to appropriate medical care and other services.

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Coronavirus infection, severe" means suspected or confirmed infection with severe acute respiratory syndrome (SARS)-associated coronavirus (SARS-CoV), Middle East respiratory syndrome (MERS)-associated coronavirus (MERS-CoV), or another coronavirus causing a severe acute illness.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy hazardous substances or organisms from a person, surface, or item to the point that such substances or organisms are no longer capable of causing adverse health effects and the surface or item is rendered safe for handling, use, or disposal.

"Department" means the State Department of Health, also referred to as the Virginia Department of Health (VDH).

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

"Ehrlichiosis/Anaplasmosis" means human infections caused by *Ehrlichia chaffeensis* (formerly included in the category "human monocytic ehrlichiosis" or "HME"), *Ehrlichia ewingii* or *Anaplasma phagocytophilum* (formerly included in the category "human granulocytic ehrlichiosis" or "HGE").

"Epidemic" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

"Essential needs" means basic human needs for sustenance including but not limited to food, water, clothing, and health care (e.g., medications, therapies, testing, and durable medical equipment).

"Exceptional circumstances" means the presence, as determined by the commissioner in his sole discretion, of one or more factors that may affect the ability of the department to effectively control a communicable disease of public health threat. Factors to be considered include but are not limited to: (i) characteristics or suspected characteristics of the disease-causing organism or suspected disease-causing organism such as virulence, routes of transmission, minimum infectious dose, rapidity of disease spread, the potential for extensive disease spread, and the existence and availability of demonstrated effective treatment; (ii) known or suspected risk factors for infection; (iii) the potential magnitude of the effect of the disease on the health and welfare of the public; and (iv) the extent of voluntary compliance with public health recommendations. The determination of exceptional circumstances by the commissioner may take into account the experience or results of investigation in Virginia, another state, or another country.

"Foodborne outbreak" means two or more cases of a similar illness acquired through the consumption of food contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxication, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium perfringens* food poisoning, hepatitis A, and Shiga toxin-producing *Escherichia coli* infection.

"Healthcare-associated infection" (also known as nosocomial infection) means a localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent or agents or its toxin or toxins that (i) occurs in a patient in a health care setting (e.g., a hospital or outpatient clinic), (ii) was not found to be present or incubating at the time of admission unless the infection was related to a previous admission to the same setting, and (iii) if the setting is a hospital, meets the criteria for a specific infection site as defined by CDC.

"Hepatitis C, acute" means the following clinical characteristics are met: (i) discrete onset of symptoms indicative of viral hepatitis and (ii) jaundice or elevated serum aminotransferase levels and the following laboratory criteria are met: (a) serum alanine aminotransferase levels (ALT) greater than 200 IU/L; (b) IgM anti-HAV negative (if done); (c) IgM anti-HBc negative (if done); and (d) hepatitis C virus antibody (anti-HCV) positive, HCV antigen positive, or HCV RNA positive by nucleic acid test.

"Hepatitis C, chronic" means that the laboratory criteria specified in clauses (b), (c) and (d) listed above for an acute case are met but clinical signs or symptoms of acute viral hepatitis are not present and serum

alanine aminotransferase (ALT) levels do not exceed 200 IU/L. This category will include cases that may be acutely infected but not symptomatic.

"Immunization" means a procedure that increases the protective response of an individual's immune system to specified pathogens.

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow specimen examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

"Individual" means a person or companion animal. When the context requires it, "person or persons" shall be deemed to include any individual.

"Infection" means the entry and multiplication or persistence of a disease-causing organism (prion, virus, bacteria, fungus, parasite, or ectoparasite) in the body of an individual. An infection may be inapparent (i.e., without recognizable signs or symptoms but identifiable by laboratory means) or manifest (clinically apparent).

"Influenza A, novel virus" means infection of a human with an influenza A virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9 subtypes or influenza H1 and H3 subtypes originating from a nonhuman species.

"Invasive" means the organism is affecting a normally sterile site, including but not limited to blood or cerebrospinal fluid.

"Investigation" means an inquiry into the incidence, prevalence, extent, source, mode of transmission, causation of, and other information pertinent to a disease occurrence.

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with, or are reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, complete" means the full-time confinement or restriction of movement of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease. Modified isolation is designed to meet particular situations and includes but is not limited to the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Isolation, protective" means the physical separation of a susceptible individual or individuals not infected with, or not reasonably suspected to be infected with, a communicable disease from an environment where transmission is occurring, or is reasonably suspected to be occurring, in order to prevent the individual or individuals from acquiring the communicable disease.

"Laboratory" as used herein means a clinical laboratory that examines materials derived from the human body for the purpose of providing information on the diagnosis, prevention, or treatment of disease.

"Laboratory director" means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

"Law-enforcement agency" means any sheriff's office, police department, adult or youth correctional officer, or other agency or department that employs persons who have law-enforcement authority that is under the direction and control of the Commonwealth or any local governing body. "Law-enforcement agency" shall include, by order of the Governor, the Virginia National Guard.

"Lead, reportable levels" means any detectable blood lead level in children 15 years of age and younger and levels greater than or equal to 5 µg/dL in a person older than 15 years of age.

"Least restrictive" means the minimal limitation of the freedom of movement and communication of an individual while under an order of isolation or an order of quarantine that also effectively protects

unexposed and susceptible individuals from disease transmission.

"Medical care facility" means any hospital or nursing home licensed in the Commonwealth, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia.

"Midwife" means any person who is licensed as a nurse midwife by the Virginia Boards of Nursing and Medicine or who is licensed by the Board of Medicine as a certified professional midwife.

"National Healthcare Safety Network" or "NHSN" means a surveillance system created by the CDC for accumulating, exchanging, and integrating relevant information on infectious adverse events associated with health care delivery.

"Nucleic acid detection" means laboratory testing of a clinical specimen to determine the presence of deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) specific for an infectious agent using any method, including hybridization, sequencing, or amplification such as polymerase chain reaction.

"Nurse" means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia Board of Nursing.

"Occupational outbreak" means a cluster of illness or disease that is indicative of a work-related exposure. Such conditions include but are not limited to silicosis, asbestosis, byssinosis, pneumoconiosis, and tuberculosis.

"Outbreak" means the occurrence of more cases of a disease than expected.

"Period of communicability" means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

"Physician" means any person licensed to practice medicine or osteopathy by the Virginia Board of Medicine.

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area or who are known to have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease and who do not yet show signs or symptoms of infection with the communicable disease in order to prevent or limit the transmission of the communicable disease of public health threat to unexposed and uninfected individuals.

"Quarantine, complete" means the full-time confinement or restriction of movement of an individual or individuals who do not have signs or symptoms of infection but may have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease of public health threat in order to prevent the transmission of the communicable disease of public health threat to uninfected individuals.

"Quarantine, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals who do not have signs or symptoms of the infection but have been

exposed to, or are reasonably suspected to have been exposed to, a communicable disease of public health threat. Modified quarantine may be designed to meet particular situations and includes but is not limited to limiting movement to the home, work, or one or more other locations, the prohibition or restriction from using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Reportable disease" means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment, as determined by the board.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth, (ii) any private or religious school that offers instruction at any level or grade from kindergarten through grade 12; and (iii) any private or religious nursery school or preschool, or any private or religious child care center required to be licensed by the Commonwealth.

"Serology" means the testing of blood, serum, or other body fluids for the presence of antibodies or other markers of an infection or disease process.

"Surveillance" means the ongoing systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice. A surveillance system includes the functional capacity for data analysis as well as the

timely dissemination of these data to persons who can undertake effective prevention and control activities.

"Susceptible individual" means a person or animal who is vulnerable to or potentially able to contract a disease or condition. Factors that affect an individual's susceptibility include but are not limited to physical characteristics, genetics, previous or chronic exposures, chronic conditions or infections, immunization history, or use of medications.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

"Tubercle bacilli" means disease-causing organisms belonging to the *Mycobacterium tuberculosis* complex and includes *Mycobacterium tuberculosis*, *Mycobacterium bovis*, and *Mycobacterium africanum* or other members as may be established by the commissioner.

"Tuberculin skin test (TST)" means a test for demonstrating infection with tubercle bacilli, performed according to the Mantoux method, in which 0.1 ml of 5 TU strength tuberculin purified protein derivative (PPD) is injected intradermally on the volar surface of the arm. Any reaction is

observed 48-72 hours after placement and palpable induration is measured across the diameter transverse to the long axis of the arm. The measurement of the indurated area is recorded in millimeters and the significance of the measured induration is based on existing national and department guidelines.

"Tuberculosis" means a disease caused by tubercle bacilli.

"Tuberculosis, active disease" (also "active tuberculosis disease" and "active TB disease"), as defined by § 32.1-49.1 of the *Code of Virginia*, means a disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or nucleic acid amplification, including preliminary identification by rapid methodologies; (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear, and where sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in Virginia; or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing, or suspected of containing, tubercle bacilli is unobtainable.

"Tuberculosis infection in children age <4 years" means a significant reaction resulting from a tuberculin skin test (TST) or other approved test for latent infection without clinical or radiographic evidence of active tuberculosis disease, in children from birth up to their fourth birthday.

"Vaccinia, disease or adverse event" means vaccinia infection or serious or unexpected events in persons who received the smallpox vaccine or their contacts, including but not limited to bacterial infections, eczema vaccinatum, erythema multiforme, generalized vaccinia, progressive vaccinia, inadvertent inoculation, post-vaccinial encephalopathy or encephalomyelitis, ocular vaccinia, and fetal vaccinia.

"Waterborne outbreak" means two or more cases of a similar illness acquired through the ingestion of or other exposure to water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to giardiasis, viral gastroenteritis, cryptosporidiosis, hepatitis A, cholera, and shigellosis. A single case of laboratory-confirmed primary amebic meningoencephalitis or of waterborne chemical poisoning is considered an outbreak.

PART II.

GENERAL INFORMATION

12 VAC 5-90-20. Authority.

Chapter 2 of Title 32.1 of the *Code of Virginia* deals with the reporting and control of diseases. Specifically, § 32.1-35 directs the Board of Health to promulgate regulations specifying which diseases occurring in the Commonwealth are to be reportable and the method by which they are to be reported. Further, § 32.1-42 of the *Code of Virginia* authorizes the board to promulgate regulations and orders to prevent a potential emergency caused by a disease dangerous to the public health. Section 32.1-12 of the *Code of Virginia* empowers the Board of Health to adopt such

regulations as are necessary to carry out provisions of laws of the Commonwealth administered by the Commissioner of the Department of Health.

12 VAC 5-90-30. Purpose.

This chapter is designed to provide for the uniform reporting of diseases of public health importance occurring within the Commonwealth in order that appropriate control measures may be instituted to reduce the occurrence of disease.

12 VAC 5-90-40. Administration.

A. The State Board of Health ("board") has the responsibility for promulgating regulations pertaining to the reporting and control of diseases of public health importance and to meet any emergency or to prevent a potential emergency caused by a disease dangerous to the public health including but not limited to specific procedures for responding to any disease listed pursuant to § 32.1-35 of the *Code of Virginia* that is determined to be caused by an agent or substance used as a weapon or any communicable disease of public health threat that is involved in an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of the *Code of Virginia*.

B. The State Health Commissioner ("commissioner") is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of and review by the board. The commissioner has the authority to require quarantine, isolation, immunization, decontamination, or treatment of any individual or group of individuals when he determines any such measure to be necessary to control the spread of any disease of public health importance and has the authority to issue

orders of isolation pursuant to Article 3.01 (§ 32.1-48.01 et seq.) of the *Code of Virginia* and orders of quarantine and orders of isolation under exceptional circumstances involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of the *Code of Virginia*.

C. The local health director is responsible for the surveillance and investigation of those diseases specified by this chapter which occur in his jurisdiction. He is further responsible for reporting all such surveillance and investigations to the Office of Epidemiology. In cooperation with the commissioner, he is responsible for instituting measures for disease control, which may include implementing the quarantine and isolation orders of the commissioner.

D. The Office of Epidemiology, an organizational part of the department, is responsible for the statewide surveillance of those diseases specified by this chapter, for defining and disseminating appropriate disease control protocols for an outbreak situation, for coordinating the investigation of those diseases with the local health director, and for providing direct assistance where necessary. The Director of the Office of Epidemiology acts as the commissioner's designee in reviewing reports and investigations of diseases and recommendations by local health directors for quarantine or isolation. However, authority to order quarantine or isolation resides solely with the commissioner.

E. All persons responsible for the administration of this chapter shall ensure that the anonymity of patients and practitioners is preserved, according to state and federal law including the provisions of §§ 32.1-38, 32.1-41, and 32.1-71 of the *Code of Virginia*.

12 VAC 5-90-70. Powers and Procedures of Chapter Not Exclusive.

The board reserves the right to authorize a procedure for enforcement of this chapter which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 (§ 32.1-35 et seq.) of Title 32.1 of the *Code of Virginia*.

PART III.

REPORTING OF DISEASE

12 VAC 5-90-80. Lists of diseases that shall be reported.

A. Reportable disease list.

The board declares suspected or confirmed cases of the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12VAC5-90-90. Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Acquired immunodeficiency syndrome (AIDS)

Amebiasis

*Anthrax

Arboviral infections (e.g., CHIK, dengue, EEE, LAC, SLE, WNV, Zika)

Babesiosis

*Botulism

*Brucellosis

Campylobacteriosis

Chancroid

Chickenpox (Varicella)

Chlamydia trachomatis infection

*Cholera

*Coronavirus infection, severe

Creutzfeldt-Jakob disease if <55 years of age

Cryptosporidiosis

Cyclosporiasis

*Diphtheria

*Disease caused by an agent that may have been used as a weapon

Ehrlichiosis/Anaplasmosis

Escherichia coli infection, Shiga toxin-producing

Giardiasis

Gonorrhea

Granuloma inguinale

**Haemophilus influenzae* infection, invasive

Hantavirus pulmonary syndrome

Hemolytic uremic syndrome (HUS)

*Hepatitis A

Hepatitis B (acute and chronic)

Hepatitis C (acute and chronic)

Hepatitis, other acute viral

Human immunodeficiency virus (HIV) infection

Influenza

*Influenza-associated deaths in children <18 years of age

Lead, reportable levels

Legionellosis

Leprosy (Hansen's disease)

Leptospirosis

Listeriosis

Lyme disease

Lymphogranuloma venereum

Malaria

*Measles (Rubeola)

*Meningococcal disease

Mumps

Ophthalmia neonatorum

*Outbreaks, all (including but not limited to foodborne, healthcare-associated, occupational, toxic substance-related, and waterborne)

*Pertussis

*Plague

*Poliovirus infection, including poliomyelitis

*Psittacosis
*Q fever
*Rabies, human and animal
Rabies treatment, post-exposure
*Rubella, including congenital rubella syndrome
Salmonellosis
Shigellosis
*Smallpox (Variola)
Spotted fever rickettsiosis
Staphylococcus aureus infection, vancomycin-intermediate or vancomycin-resistant
Streptococcal disease, Group A, invasive or toxic shock
Streptococcus pneumoniae infection, invasive, in children <5 years of age
Syphilis (report *primary and *secondary syphilis by rapid means)
Tetanus
Toxic substance-related illness
Trichinosis (Trichinellosis)
*Tuberculosis, active disease
Tuberculosis infection in children <4 years of age
*Tularemia
*Typhoid/Paratyphoid fever
*Unusual occurrence of disease of public health concern
*Vaccinia, disease or adverse event
*Vibrio infection
*Viral hemorrhagic fever
*Yellow fever
Yersiniosis

B. Conditions reportable by directors of laboratories.

Conditions identified by an asterisk (*) require immediate communication to the local health department by the most rapid

means available upon suspicion or confirmation, as defined in subsection C of this section. Other conditions should be reported within three days of suspected or confirmed diagnosis.

Amebiasis - by microscopic examination, culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Anthrax - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Arboviral infection - e.g., CHIK, dengue, EEE, LAC (also known as California encephalitis), SLE, WNV, Zika - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Babesiosis - by culture, antigen detection, nucleic acid detection, microscopic examination, or serologic results consistent with recent infection

*Botulism - by culture, nucleic acid detection, or identification of neurotoxin in a clinical specimen

*Brucellosis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Campylobacteriosis - by culture or culture-independent diagnostic test (CIDT) (i.e., antigen detection or nucleic acid detection). For CIDT, also submit all available culture results (positive or negative) associated with a positive result.

Chancroid - by culture, antigen detection, or nucleic acid detection

Chickenpox (Varicella) - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Chlamydia trachomatis infection - by culture, antigen detection, nucleic acid detection or, for lymphogranuloma venereum, serologic results consistent with recent infection

*Cholera - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Coronavirus infection, severe - by culture, nucleic acid detection, or serologic results consistent with recent infection

Creutzfeldt-Jakob disease if <55 years of age - by histopathology in patients under the age of 55 years

Cryptosporidiosis - by microscopic examination, antigen detection, or nucleic acid detection

Cyclosporiasis - by microscopic examination or nucleic acid detection

*Diphtheria - by culture or histopathology

Ehrlichiosis/Anaplasmosis - by culture, nucleic acid detection, microscopic examination, or serologic results consistent with recent infection

Escherichia coli infection, Shiga toxin-producing - by culture, Shiga toxin

detection (e.g., nucleic acid detection, EIA), or serologic results consistent with recent infection

Giardiasis - by microscopic examination, antigen detection, or nucleic acid detection

Gonorrhea - by microscopic examination of a urethral smear (males only) or endocervical smear (females only), culture, antigen detection, or nucleic acid detection. Include available antimicrobial susceptibility findings in report.

**Haemophilus influenzae* infection, invasive - by culture, antigen detection, or nucleic acid detection from a normally sterile site

Hantavirus pulmonary syndrome - by antigen detection (immuno-histochemistry), nucleic acid detection, or serologic results consistent with recent infection

*Hepatitis A - by detection of IgM antibodies

Hepatitis B (acute and chronic) - by detection of HBsAg, HBeAg, or IgM antibodies or nucleic acid detection. For any reportable hepatitis finding, submit all available results from the hepatitis panel.

Hepatitis C (acute and chronic) - by hepatitis C virus antibody (anti-HCV) positive, HCV antigen positive, or HCV RNA positive by nucleic acid test. For all hepatitis C patients, also report available results of serum alanine

aminotransferase (ALT) and all available results from the hepatitis panel.

Hepatitis, other acute viral – any finding indicative of acute infection with hepatitis D, E, or other cause of viral hepatitis. For any reportable hepatitis finding, submit all available results from the hepatitis panel.

Human immunodeficiency virus (HIV) infection - by culture, antigen detection, nucleic acid detection, or detection of antibody. For HIV-infected patients, report all results of CD4 and HIV viral load tests, including undetectable viral loads. For HIV-infected patients, report all HIV genetic nucleotide sequence data associated with HIV drug resistance tests by electronic submission. For children less than three years of age, report all tests regardless of the test findings (e.g., negative or positive).

Influenza - by culture, antigen detection by direct fluorescent antibody (DFA), or nucleic acid detection

Lead, reportable levels - by any detectable blood lead level in children ages 0-15 years or levels greater than or equal to 5 µg/dL in persons older than 15 years of age.

Legionellosis - by culture, antigen detection (including urinary antigen), nucleic acid detection, or serologic results consistent with recent infection

Leptospirosis - by culture, microscopic examination by dark field microscopy, nucleic acid detection, or serologic results consistent with recent infection

Listeriosis - by culture from a normally sterile site. If associated with miscarriage or stillbirth, by culture from placental or fetal tissue

Lyme disease - by culture, antigen detection, or detection of antibody confirmed with a supplemental test

Malaria - by microscopic examination, antigen detection, or nucleic acid detection

*Measles (Rubeola) - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Meningococcal disease - by culture, nucleic acid detection, or antigen detection from a normally sterile site

Mumps - by culture, nucleic acid detection, or serologic results consistent with recent infection

*Mycobacterial diseases - (See 12VAC5-90-225 B) Report any of the following:

1. Acid fast bacilli by microscopic examination;
2. Mycobacterial identification - preliminary and final identification by culture or nucleic acid detection;
3. Drug susceptibility test results for *M. tuberculosis*.

*Pertussis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Plague - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Poliovirus infection - by culture

*Psittacosis - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Q fever - by culture, antigen detection, nucleic acid detection, immunohistochemical methods, or serologic results consistent with recent infection

*Rabies, human and animal - by culture, antigen detection by direct fluorescent antibody test, nucleic acid detection, or, for humans only, serologic results consistent with recent infection

*Rubella - by culture, nucleic acid detection, or serologic results consistent with recent infection

Salmonellosis - by culture, antigen detection, or nucleic acid detection

Shigellosis - by culture, antigen detection, or nucleic acid detection

*Smallpox (Variola) - by culture or nucleic acid detection

Spotted fever rickettsiosis - by culture, antigen detection (including immunohistochemical staining), nucleic acid detection, or serologic results consistent with recent infection

Staphylococcus aureus infection, resistant, as defined below:

Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection - by antimicrobial susceptibility testing of a *Staphylococcus aureus* isolate, with a vancomycin susceptibility result of intermediate or resistant, cultured from a clinical specimen. Include available antimicrobial susceptibility findings in report.

Streptococcal disease, Group A, invasive or toxic shock - for invasive disease, by culture from a normally sterile site; for streptococcal toxic shock, by culture from any body site

Streptococcus pneumoniae infection, invasive, in children <5 years of age - by culture from a normally sterile site in a child under the age of five years

*Syphilis - by darkfield microscopy, antigen detection, nucleic acid detection, or serology by either treponemal or nontreponemal methods

Toxic substance-related illness - by blood or urine laboratory findings above the normal range, including but not limited to heavy metals, pesticides, and industrial-type solvents and gases. When applicable and available, report speciation of metals when blood or urine levels are elevated in order to differentiate the chemical species (elemental, organic, or inorganic).

Trichinosis (Trichinellosis) - by microscopic examination of a muscle biopsy or serologic results consistent with recent infection

*Tularemia - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

*Typhoid/Paratyphoid fever - by culture, antigen detection, or nucleic acid detection

*Vaccinia, disease or adverse event - by culture or nucleic acid detection

*Vibrio infection - isolation of any species of the family Vibrionaceae (other than toxigenic *Vibrio cholera* O1 or O139, which are reportable as cholera) from a clinical specimen by culture, antigen detection, or nucleic acid detection

*Viral hemorrhagic fever - by culture, antigen detection (including immuno-histochemical staining), nucleic acid detection, or serologic results consistent with recent infection

*Yellow fever - by culture, antigen detection, nucleic acid detection, or serologic results consistent with recent infection

Yersiniosis - by culture, nucleic acid detection, or serologic results consistent with recent infection

C. Reportable diseases requiring rapid communication.

Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature or their potential for greater harm, or both, require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed below, shall be made immediately by the most rapid

means available, preferably by telephone to the local health department. (These same diseases are also identified by an asterisk (*) in subsections A and B, where applicable, of this section.)

Anthrax

Botulism

Brucellosis

Cholera

Coronavirus infection, severe

Diphtheria

Disease caused by an agent that may have been used as a weapon

Haemophilus influenzae infection, invasive

Hepatitis A

Influenza-associated deaths in children <18 years of age

Influenza A, novel virus

Measles (Rubeola)

Meningococcal disease

Outbreaks, all

Pertussis

Plague

Poliovirus infection, including poliomyelitis

Psittacosis

Q fever

Rabies, human and animal

Rubella, including congenital rubella syndrome

Smallpox (Variola)

Syphilis, primary and secondary

Tuberculosis, active disease

Tularemia

Typhoid/Paratyphoid fever

Unusual occurrence of disease of public health concern

Vaccinia, disease or adverse event

Vibrio infection
Viral hemorrhagic fever
Yellow fever

D. Toxic substance-related illnesses.

All toxic substance-related illnesses, including pesticide and heavy metal poisoning or illness resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such illness is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such illness shall be made immediately by the most rapid means available, preferably by telephone.

E. Outbreaks.

The occurrence of outbreaks or clusters of any illness which may represent a group expression of an illness which may be of public health concern shall be reported to the local health department immediately by the most rapid means available, preferably by telephone.

F. Unusual or ill-defined diseases or emerging or reemerging pathogens.

Unusual or emerging conditions of public health concern shall be reported to the local health department immediately by the most rapid means available, preferably by telephone. In addition, the commissioner or his designee may establish surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate

action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

12 VAC 5-90-90. Those Required to Report.

A. Physicians.

Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease or condition shall report that person's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease diagnosed or suspected; the date of onset of illness; available laboratory tests and results; and the name, address, and telephone number of the physician and medical facility where the examination was made, except that influenza should be reported by number of cases only (and type of influenza, if available). Reports are to be made to the local health department serving the jurisdiction where the physician practices. A physician may designate someone to report on his behalf, but the physician remains responsible for ensuring that the appropriate report is made. Any physician, designee, or organization making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

Such reports shall be made on a Form Epi-1, a computer generated printout containing the data items requested on Form Epi-1, or a CDC or VDH surveillance form that provides the same information and shall be made within three days of the suspicion or confirmation of disease except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid

means available, preferably by telephone, to the local health department serving the jurisdiction in which the facility is located. Reporting may be done by means of secure electronic transmission upon agreement of the physician and the department.

Additional elements are required to be reported for individuals with confirmed or suspected active tuberculosis disease. Refer to Part X (12VAC5-90-225 et seq.) for details on these requirements.

B. Directors of laboratories.

Laboratory directors shall report any laboratory examination of any clinical specimen, whether performed in-house or referred to an out-of-state laboratory, which yields evidence, by the laboratory method(s) indicated or any other confirmatory test, of a disease listed in 12VAC5-90-80 B.

Each report shall give the source of the specimen and the laboratory method and result; the name, address, age, date of birth, race, sex, and pregnancy status for females (if known) of the person from whom the specimen was obtained; and the name, address, and telephone number of the physician at whose request and medical facility at which the examination was made. When the influenza virus is isolated, the type should be reported, if available. Reports shall be made within three days of identification of evidence of disease, except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid means available, preferably by telephone, to the local health department serving the jurisdiction in which the laboratory is located. Reports shall be made on Form Epi-1 or on the laboratory's own form if it includes the required information. Computer generated reports containing the

required information may be submitted. Reporting may be done by means of secure electronic transmission upon agreement of the laboratory director and the department. Reports of HIV genetic nucleotide sequence data associated with HIV drug resistance tests must be submitted electronically. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

A laboratory identifying evidence of any of the following conditions shall notify the local health department of the positive culture or other positive test result within the timeframes specified in 12VAC5-90-80 and submit the initial isolate or other initial specimen to the Division of Consolidated Laboratory Services within seven days of identification. All specimens must be identified with the patient and physician information required in this subsection.

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

E. coli infection, Shiga toxin-producing.
(Laboratories that use a Shiga toxin EIA methodology but do not perform simultaneous culture for Shiga toxin-producing *E. coli* should forward all positive stool specimens or positive enrichment broths to the Division of Consolidated Laboratory Services for confirmation and further characterization.)

Haemophilus influenzae infection, invasive

Influenza A, novel virus

Listeriosis

Meningococcal disease

Pertussis
Plague
Poliovirus infection
Q fever
Salmonellosis
Shigellosis
Streptococcal disease, Group A, invasive
Tuberculosis (A laboratory identifying *Mycobacterium tuberculosis* complex (see 12VAC5-90-225) shall submit a representative and viable sample of the initial culture to the Division of Consolidated Laboratory Services or other laboratory designated by the board to receive such specimen.)
Tularemia
Typhoid/Paratyphoid fever
Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection
Vibrio infection, including infections due to *Photobacterium damsela* and *Grimontia hollisae*
Yersiniosis
Other diseases as may be requested by the health department

When a clinical specimen yields evidence indicating the presence of a select agent or toxin as defined by federal regulations in 42 CFR Part 73, the person in charge of the laboratory shall contact the Division of Consolidated Laboratory Services and arrange to forward an isolate for confirmation. If a select agent or toxin has been confirmed in a clinical specimen, the laboratory director shall consult with Division of Consolidated Laboratory Services or CDC regarding isolate transport or destruction.

Laboratories operating within a medical care facility shall be considered to be in compliance with the requirement to notify the local health department when the director of that medical care facility assumes the reporting responsibility; however, laboratories are still required to submit isolates to the Division of Consolidated Laboratory Services or other designated laboratory as noted in this subsection.

C. Persons in charge of a medical care facility.

Any person in charge of a medical care facility shall make a report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in 12VAC5-90-80 A unless he has evidence that the occurrence has been reported by a physician. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*. The requirement to report shall include all inpatient, outpatient, and emergency care departments within the medical care facility. Such report shall contain the patient's name, address, age, date of birth, race, sex, and pregnancy status for females; name of disease being reported; available laboratory tests and results; the date of admission; hospital chart number; date expired (when applicable); and attending physician. Influenza should be reported by number of cases only (and type of influenza, if available). Reports shall be made within three days of the suspicion or confirmation of disease except that those identified in 12VAC5-90-80 C shall be reported immediately by the most rapid means available, preferably by telephone, to the local health department serving the jurisdiction in which the facility is located. Reports shall be made on Form Epi-1, a computer generated printout containing the

data items requested on Form Epi-1, or a CDC or VDH surveillance form that provides the same information. Reporting may be done by means of secure electronic transmission upon agreement of the medical care facility and the department.

A person in charge of a medical care facility may assume the reporting responsibility on behalf of the director of the laboratory operating within the facility.

D. Persons in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp.

Any person in charge of a residential or day program, service, or facility licensed or operated by any agency of the Commonwealth, or a school, child care center, or summer camp as defined in § 35.1-1 of the *Code of Virginia* shall report immediately to the local health department the presence or suspected presence in his program, service, facility, school, child care center, or summer camp of persons who have common symptoms suggesting an outbreak situation. Such persons may report additional information, including identifying and contact information for individuals with communicable diseases of public health concern or individuals who are involved in outbreaks that occur in their facilities, as necessary to facilitate public health investigation and disease control. Any person so reporting shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

E. Local health directors.

The local health director shall forward any report of a disease or report of evidence of a

disease which has been made on a resident of his jurisdiction to the Office of Epidemiology within three days of receipt. This report shall be submitted immediately by the most rapid means available if the disease is one requiring rapid communication, as required in 12VAC5-90-80 C. All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology, by either a paper report or entry into a shared secure electronic disease surveillance system, within three days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individuals residing in the latter's jurisdiction or to the Office of Epidemiology on individuals residing outside Virginia. The Office of Epidemiology shall be responsible for notifying other state health departments of reported illnesses in their residents and for notifying CDC as necessary and appropriate.

F. Persons in charge of hospitals, nursing facilities or nursing homes, assisted living facilities, and correctional facilities.

In accordance with § 32.1-37.1 of the *Code of Virginia*, any person in charge of a hospital, nursing facility or nursing home, assisted living facility, or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral services or his agent if the dead person was known to have had, immediately prior to death, an infectious disease which may be transmitted through exposure to any bodily fluids. These include any of the following infectious diseases:

Creutzfeldt-Jakob disease

Human immunodeficiency virus
infection

Hepatitis B
Hepatitis C
Rabies
Smallpox
Syphilis, infectious
Tuberculosis, active disease
Vaccinia, disease or adverse event
Viral hemorrhagic fever

G. Employees, conditional employees, and persons in charge of food establishments.

12VAC5-421-80 of the Food Regulations requires a food employee or conditional employee to notify the person in charge of the food establishment when diagnosed with certain diseases that are transmissible through food and requires the person in charge of the food establishment to notify the regulatory authority. Refer to 12VAC5-421-80 for further guidance and clarification regarding these reporting requirements.

PART IV.

CONTROL OF DISEASE

12 VAC 5-90-100. Methods.

The board and commissioner shall use appropriate disease control measures to manage the diseases listed in 12VAC5-90-80 A, including but not limited to those described in the "Methods of Control" sections of the 20th Edition of the Control of Communicable Diseases Manual (2015) published by the American Public Health Association. The board and commissioner reserve the right to use any legal means to control any disease which is a threat to the public health.

When notified about a disease specified in 12VAC5-90-80, the local health director or

his designee shall have the authority and responsibility to perform contact tracing/contact services for HIV infection, infectious syphilis, and active tuberculosis disease and may perform contact services for the other diseases if deemed necessary to protect the public health. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected individuals be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

The local health director or his designee shall review reports of diseases received from his jurisdiction and follow up such reports, when indicated, with an appropriate investigation in order to evaluate the severity of the problem. The local health director or his designee may recommend to any individual or group of individuals appropriate public health control measures, including but not limited to quarantine, isolation, immunization, decontamination, or treatment. He shall determine in consultation with the Office of Epidemiology and the commissioner if further investigation is required and if one or more forms of quarantine, isolation, or both will be necessary.

Complete isolation shall apply to situations where an individual is infected with a communicable disease of public health significance (including but not limited to active tuberculosis disease or HIV infection) and is engaging in behavior that places others at risk for infection with the communicable disease of public health significance, in accordance with the provisions of Article 3.01 (§ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia*.

Modified isolation shall apply to situations in which the local health director determines that modifications of activity are necessary to prevent disease transmission. Such situations shall include but are not limited to the temporary exclusion of a child with a communicable disease from school, the temporary exclusion of an individual with a communicable disease from food handling or patient care, the temporary prohibition or restriction of an individual with a communicable disease from using public transportation, the requirement that a person with a communicable disease use certain personal protective equipment, or restrictions of other activities that may pose a risk to the health of others.

Protective isolation shall apply to situations such as the exclusion, under § 32.1-47 of the *Code of Virginia*, of any unimmunized child from a school in which an outbreak, potential epidemic, or epidemic of a vaccine preventable disease has been identified.

To the extent permitted by the *Code of Virginia*, the local health director may be authorized as the commissioner's designee to implement the forms of isolation described in this section. When these forms of isolation are deemed to be insufficient, the local health director may use the provisions of Article 3.01 (§ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* for the control of communicable diseases of public health significance or, in consultation with the Office of Epidemiology, shall provide sufficient information to enable the commissioner to prepare an order or orders of isolation, quarantine, or both under Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* for the control of communicable diseases of public health threat.

12 VAC 5-90-103. Isolation for Communicable Disease of Public Health Threat.

A. Application.

The commissioner, in his sole discretion, may invoke the provisions of Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* and may declare the isolation of any individual or individuals upon a determination that:

1. Such individual or individuals are known to have been infected with or are reasonably suspected to have been infected with a communicable disease of public health threat;
2. Exceptional circumstances render the procedures of Article 3.01 (§ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* to be insufficient, or the individual or individuals have failed or refused to comply voluntarily with the control measures directed by the commissioner in response to a communicable disease of public health threat; and
3. Isolation is the necessary means to contain a communicable disease of public health threat, to ensure that such isolated individual or individuals receive appropriate medical treatment subject to the provisions of § 32.1-44 of the *Code of Virginia*, or to protect health care providers and others who may come into contact with such infected individual or individuals.

The commissioner, in his sole discretion, may also order the isolation of an affected area if, in addition to the above, the

Governor has declared a state of emergency for such affected area of the Commonwealth.

B. Documentation.

For isolation for a communicable disease of public health threat, information about the infection or suspected infection; the individual, individuals, and/or affected area; and the nature or suspected nature of the exposure shall be duly recorded by the local health department in consultation with the Office of Epidemiology. This information shall be sufficient to enable documenting a record of findings and to enable the commissioner to prepare the order of isolation, including the information required in § 32.1-48.12 of the *Code of Virginia*. In addition, sufficient information on individuals shall be maintained by the local health department to enable appropriate follow-up of individuals for health status evaluation and treatment as well as compliance with the order of isolation.

The commissioner shall ensure that the protected health information of any individual or individuals subject to the order of isolation is disclosed only in compliance with state and federal law.

C. Means of isolation.

The local health department shall assess the situation, and in consultation with the Office of Epidemiology, identify the least restrictive means of isolation that effectively protects unexposed and susceptible individuals. The place of isolation selected shall allow the most freedom of movement and communication with family members and other contacts without allowing disease transmission to other individuals and shall allow the appropriate level of medical care needed by isolated individuals to the extent practicable. The commissioner, in his sole

discretion, may order the isolated individual or individuals to remain in their residences, to remain in another place where they are present, or to report to a place or places designated by the commissioner for the duration of their isolation.

The commissioner's order of isolation shall be for a duration consistent with the known period of communicability of the communicable disease of public health threat or, if the course of the disease is unknown or uncertain, for a period anticipated as being consistent with the period of communicability of other similar infectious agents. In the situation where an area is under isolation, the duration of isolation shall take into account the transmission characteristics and known or suspected period of communicability.

D. Delivery.

The local health department shall deliver the order of isolation, or ensure its delivery by an appropriate party such as a law-enforcement officer or health department employee, to the affected individual or individuals in person to the extent practicable. If, in the opinion of the commissioner, the scope of the notification would exceed the capacity of the local health department to ensure individual notification in a timely manner, then print, radio, television, internet, and/or other available means shall be used to inform those affected.

E. Enforcement.

Upon finding that there is probable cause to believe that any individual or individuals who are subject to an order of isolation may fail or refuse to comply with such order, the commissioner in his sole discretion may include in the order a requirement that such individual or individuals are to be taken

immediately into custody by law-enforcement agencies and detained for the duration of the order of isolation or until the commissioner determines that the risk of noncompliance is no longer present. For any individual or individuals identified as, or for whom probable cause exists that he may be, in violation of any order of isolation, or for whom probable cause exists that he may fail or refuse to comply with any such order, the enforcement authority directed by the commissioner to law-enforcement agencies shall include but need not be limited to the power to detain or arrest.

Any individual or individuals so detained shall be held in the least restrictive environment that can provide any required health care or other services for such individual. The commissioner shall ensure that law-enforcement personnel responsible for enforcing an order or orders of isolation are informed of appropriate measures to take to protect themselves from contracting the disease of public health threat.

F. Health status monitoring.

The local health department shall monitor the health of those under isolation either by regular telephone calls, visits, self-reports, or by reports of caregivers or healthcare providers or by other means.

G. Essential needs.

Upon issuance of an order of isolation to an individual or individuals by the commissioner, the local health department shall manage the isolation, in conjunction with local emergency management resources, such that individual essential needs can be met to the extent practicable. Upon issuance of an order of isolation by the commissioner for an affected area, existing emergency protocols pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 of the *Code*

of Virginia shall be utilized for mobilizing appropriate resources to ensure essential needs are met.

H. Appeals.

Any individual or individuals subject to an order of isolation or a court-ordered confirmation or extension of any such order may file an appeal of the order of isolation in accordance with the provisions of § 32.1-48.13 of the *Code of Virginia*. An appeal shall not stay any order of isolation.

I. Release from isolation.

Once the commissioner determines that an individual or individuals no longer pose a threat to the public health, the order of isolation has expired, or the order of isolation has been vacated by the court, the individual or individuals under the order of isolation shall be released immediately. If the risk of an infected individual transmitting the communicable disease of public health threat to other individuals continues to exist, an order of isolation may be developed to extend the restriction prior to release from isolation.

J. Affected area.

If the criteria in subsection A of this section are met and an area is known or suspected to have been affected, then the commissioner shall notify the Governor of the situation and the need to order isolation for the affected area during the known or suspected time of exposure. In order for an affected area to be isolated, the Governor must declare a state of emergency for the affected area.

If an order of isolation is issued for an affected area during the known or suspected time of exposure, the commissioner shall cause the order of isolation to be

communicated to the individuals residing or located in the affected area. The use of multiple forms of communication, including but not limited to radio, television, internet, and/or other available means, may be required in order to reach the individuals who were in the affected area during the known or suspected time of exposure.

The provisions for documentation, means of isolation, enforcement, health status monitoring, essential needs, and release from isolation described above will apply to the isolation of affected areas. Appropriate management of a disease of public health threat for an affected area may require the coordinated use of local, regional, state, and national resources. In specifying one or more affected areas to be placed under isolation, the objective will be to protect as many people as possible using the least restrictive means. As a result, defining the precise boundaries and time frame of the exposure may not be possible, or may change as additional information becomes available. When this occurs, the commissioner shall ensure that the description of the affected area is in congruence with the Governor's declaration of emergency and shall ensure that the latest information is communicated to those in or exposed to the affected area.

12 VAC 5-90-107. Quarantine.

A. Application.

The commissioner, in his sole discretion, may invoke the provisions of Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* and may order a complete or modified quarantine of any individual or individuals upon a determination that:

1. Such individual or individuals are known to have been exposed to or

are reasonably suspected to have been exposed to a communicable disease of public health threat;

2. Exceptional circumstances render the procedures of Article 3.01 (§ 32.1-48.01 et seq.) of Chapter 2 of Title 32.1 of the *Code of Virginia* to be insufficient, or the individual or individuals have failed or refused to comply voluntarily with the control measures directed by the commissioner in response to a communicable disease of public health threat; and
3. Quarantine is the necessary means to contain a communicable disease of public health threat to which an individual or individuals have been or may have been exposed and thus may become infected.

The commissioner, in his sole discretion, may also order the quarantine of an affected area if, in addition to the above, the Governor has declared a state of emergency for such affected area of the Commonwealth.

B. Documentation.

For quarantine for a communicable disease of public health threat, information about the infection or suspected infection; the individual, individuals, and/or affected area; and the nature or suspected nature of the exposure shall be duly recorded by the local health department, in consultation with the Office of Epidemiology. This information shall be sufficient to enable documenting a record of findings and enable the commissioner to prepare a written order of quarantine, including the information required in § 32.1-48.09 of the *Code of Virginia*. In addition, sufficient information on individuals shall be maintained by the

local health department to enable appropriate follow-up of individuals for health status evaluation and treatment as well as compliance with the order of quarantine.

The commissioner shall ensure that the protected health information of any individual or individuals subject to the order of quarantine is disclosed only in compliance with state and federal law.

C. Means of quarantine.

The local health department shall assess the situation, and in consultation with the Office of Epidemiology, shall recommend to the commissioner the least restrictive means of quarantine that effectively protects unexposed and susceptible individuals. The place of quarantine selected shall allow the most freedom of movement and communication with family members and other contacts without allowing disease transmission to others.

The commissioner, in his sole discretion, may order the quarantined individual or individuals to remain in their residences, to remain in another place where they are present, or to report to a place or places designated by the commissioner for the duration of their quarantine.

The commissioner's order of quarantine shall be for a duration consistent with the known incubation period of the communicable disease of public health threat or, if the incubation period is unknown or uncertain, for a period anticipated as being consistent with the incubation period for other similar infectious agents. In the situation where an area is under quarantine, the duration of quarantine shall take into account the transmission characteristics and known or suspected incubation period.

D. Delivery.

The local health department shall deliver the order of quarantine, or ensure its delivery by an appropriate party such as a law-enforcement officer or health department employee, to the affected individual or individuals in person to the extent practicable. If, in the opinion of the commissioner, the scope of the notification would exceed the capacity of the local health department to ensure notification in a timely manner, then print, radio, television, internet, and/or other available means shall be used to inform those affected.

E. Enforcement.

Upon finding that there is probable cause to believe that any individual or individuals who are subject to an order of quarantine may fail or refuse to comply with such order, the commissioner in his sole discretion may include in the order a requirement that such individual or individuals to be taken immediately into custody by law-enforcement agencies and detained for the duration of the order of quarantine or until the commissioner determines that the risk of and from noncompliance is no longer present. For any individual or individuals identified as, or for whom probable cause exists that he may be, in violation of any order of quarantine, or for whom probable cause exists that he may fail or refuse to comply with any such order, the enforcement authority directed by the commissioner to law-enforcement agencies shall include but need not be limited to the power to detain or arrest.

Any individual or individuals so detained shall be held in the least restrictive environment that can provide any required health care or other services for such individual. The commissioner shall ensure

that law-enforcement personnel responsible for enforcing an order or orders of quarantine are informed of appropriate measures to take to protect themselves from contracting the disease of public health threat.

F. Health status monitoring.

The local health department shall monitor the health of those under quarantine either by regular telephone calls, visits, self-reports, or by reports of caregivers or healthcare providers or by other means. If an individual or individuals develop symptoms compatible with the communicable disease of public health threat, then 12 VAC 5-90-103 would apply to the individual or individuals.

G. Essential needs.

Upon issuance of an order of quarantine to an individual or individuals by the commissioner, the local health department shall manage the quarantine, in conjunction with local emergency management resources, such that individual essential needs can be met to the extent practicable. Upon issuance of an order of quarantine by the commissioner for an affected area, existing emergency protocols pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 of the *Code of Virginia* shall be utilized for mobilizing appropriate resources to ensure essential needs are met.

H. Appeals.

Any individual or individuals subject to an order of quarantine or a court-ordered confirmation or extension of any such order may file an appeal of the order of quarantine in accordance with the provisions of § 32.1-48.10 of the *Code of Virginia*. An appeal shall not stay any order of quarantine.

I. Release from quarantine.

Once the commissioner determines that an individual or individuals are no longer at risk of becoming infected and pose no risk of transmitting the communicable disease of public health threat to other individuals, the order of quarantine has expired, or the order of quarantine has been vacated by the court, the individuals under the order of quarantine shall be released immediately. If the risk of an individual becoming infected and transmitting the communicable disease of public health threat to other individuals continues to exist, an order of quarantine may be developed to extend the restriction prior to release from quarantine.

J. Affected area.

If the criteria in subsection A of this section are met and an area is known or suspected to have been affected, then the commissioner shall notify the Governor of the situation and the need to order quarantine for the affected area. In order for an affected area to be quarantined, the Governor must declare a state of emergency for the affected area.

If an order of quarantine is issued for an affected area, the commissioner shall cause the order of quarantine to be communicated to the individuals residing or located in the affected area. The use of multiple forms of communication, including but not limited to radio, television, internet, and/or other available means, may be required in order to reach the individuals who were in the affected area during the known or suspected time of exposure.

The provisions for documentation, means of quarantine, enforcement, health status monitoring, essential needs, and release from quarantine described above will apply to the quarantine of affected areas.

Appropriate management of a disease of public health threat for an affected area may require the coordinated use of local, regional, state, and national resources. In specifying one or more affected areas to be placed under quarantine, the objective will be to protect as many people as possible using the least restrictive means. As a result, defining the precise boundaries and time frame of the exposure may not be possible, or may change as additional information becomes available. When this occurs, the commissioner shall ensure that the description of the affected area is in congruence with the Governor's declaration of emergency and shall ensure that the latest information is communicated to those in or exposed to the affected area.

PART V.

IMMUNIZATION OF PERSONS LESS THAN 18 YEARS OF AGE

12VAC5-90-110. Dosage and age requirements for immunizations; obtaining immunizations.

A. Every person in Virginia less than 18 years of age shall be immunized in accordance with the most recent Immunization Schedule developed and published by the CDC, Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). Requirements for school and day care attendance are addressed in 12VAC5-110.

B. The required immunizations may be obtained from a physician, registered nurse, or other licensed professional as authorized by the *Code of Virginia*.

PART VI.

VENEREAL DISEASE

12 VAC 5-90-130. Prenatal Testing.

Every physician, physician assistant, or nurse practitioner attending a pregnant patient during gestation shall examine and test such patient for syphilis, hepatitis B surface antigen (HBsAg), and any other sexually transmitted disease as clinically indicated within fifteen days after beginning such attendance. A second prenatal test for syphilis and HBsAg shall be conducted at the beginning of the third trimester (28 weeks) for patients who are at higher risk for these diseases. Persons at higher risk for syphilis include those who have had multiple sexual partners within the previous year, those with any prior history of a sexually transmitted disease, and those living in communities and populations in which the prevalence of syphilis is high. Persons at higher risk for hepatitis B virus infection include injecting drug users and those with personal contact with a hepatitis B patient, multiple sexual partners, and/or occupational exposure to blood. If the patient first seeks care during the third trimester, only one test shall be required. As a routine component of prenatal care, every licensed practitioner who renders prenatal care, including any holder of a multistate licensure privilege to practice nursing, regardless of the site of such practice, shall inform every pregnant patient that human immunodeficiency virus (HIV) screening is recommended for all pregnant patients and that she will receive an HIV test as part of the routine panel of prenatal tests unless she declines (opt-out screening). The practitioner shall offer the pregnant patient oral or written information that includes an explanation of HIV infection, a description of interventions that can reduce HIV transmission from mother to infant, and the

meaning of positive and negative test results. The confidentiality provisions of § 32.1-36.1 of the *Code of Virginia*, and the test result disclosure conditions and appropriate counseling requirements of § 32.1-37.2 of the *Code of Virginia* shall apply to any HIV testing conducted pursuant to this section. The Centers for Disease Control and Prevention (CDC) recommends a second HIV test for patients who receive health care in jurisdictions with elevated incidence of HIV or AIDS among women aged 15 through 45 years, which includes Virginia. Practitioners should offer a second HIV test during the third trimester to all pregnant patients. Practitioners shall counsel all pregnant patients with HIV-positive test results about the dangers to the fetus and the advisability of receiving treatment in accordance with the then current CDC recommendations for HIV-positive pregnant patients. Any pregnant patient shall have the right to refuse testing for HIV infection and any recommended treatment. Documentation of such refusal shall be maintained in the patient's medical record.

PART VII.

PREVENTION OF BLINDNESS FROM OPHTHALMIA NEONATORUM

12 VAC 5-90-140. Procedure for Preventing Ophthalmia Neonatorum.

The physician, nurse or midwife in charge of the infant's care after delivery of a baby shall ensure that one of the following is administered in each eye of that newborn baby as soon as possible after birth: (i) two drops of a 1.0% silver nitrate solution; (ii) a 1-cm ribbon of 1.0% tetracycline ophthalmic ointment; or (iii) a 1-cm ribbon of 0.5% erythromycin ophthalmic ointment. This treatment shall be recorded in the medical record of the infant.

PART VIII.

CANCER REPORTING

12 VAC 5-90-150. Authority.

Article 9 (§ 32.1-70 et seq.) of Title 32.1 of the *Code of Virginia* authorizes the establishment of a statewide cancer registry.

12 VAC 5-90-160. Reportable Cancers and Tumors.

Clinically or pathologically diagnosed cancers, as defined in 12 VAC 5-90-10, and benign brain and central nervous system tumors shall be reported to the Virginia Cancer Registry in the department. Carcinoma *in situ* of the cervix is not reportable.

12 VAC 5-90-170. Those Required to Report.

Any person in charge of a medical care facility, clinic, or independent pathology laboratory which diagnoses or treats cancer patients is required to report. Physicians are required to report cases of cancer in those instances when it has been determined that a medical care facility, clinic, or in-state pathology laboratory has not reported. Any person making such report shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

12 VAC 5-90-180. Report Contents and Procedures.

Each report shall include the patient's name, address (including county or independent city of residence), age, date of birth, sex, date of diagnosis, date of admission or first contact, primary site of cancer, histology (including type, behavior, and grade), basis of diagnosis, social security number, race, ethnicity, marital status, usual occupation,

usual industry, sequence number, laterality, stage, treatment, recurrence information (when applicable), name of reporting facility, vital status, cause of death (when applicable), date of last contact, history of tobacco and alcohol use, and history of service in Vietnam and exposure to dioxin-containing compounds, when applicable.

Reporting shall be by electronic means where possible. Output file formats shall conform to the most recent version of the North American Association of Central Cancer Registries' standard data file layout. Facilities without electronic reporting means and physicians shall submit the required information on the Virginia Cancer Registry Reporting Form. A copy of the pathology report(s) should accompany each completed reporting form, when available. Medical care facilities and clinics reporting via the reporting form should also submit a copy of the admission form and discharge summary.

Reports shall be made within six months of the diagnosis of cancer and submitted to the Virginia Cancer Registry on a monthly basis. Cancer programs conducting annual follow-up on patients shall submit follow-up data monthly in an electronic format approved by the Virginia Cancer Registry.

PART IX.

PROTOCOL FOR IDENTIFICATION OF CHILDREN WITH ELEVATED BLOOD LEAD LEVELS

12VAC5-90-215. Schedule and criteria for and confirmation of blood lead testing and information to be provided.

A. Schedule for testing.

Every child shall be tested to determine the blood lead level at 12 months and 24 months of age if the health care provider determines

that the child meets any of the criteria listed in subsection B of this section. Children 25 months through 72 months of age who present for medical care and meet any of criteria of subsection B of this section shall also be tested if they have either not previously been tested for blood lead level or were previously tested but experienced a change since testing that has resulted in an increased risk of lead exposure based on the criteria listed in subsection B of this section.

B. Criteria for testing.

1. The child is eligible for or receiving benefits from Medicaid or the Special Supplemental Nutrition Program for Women, Infants and Children (WIC);
2. The child is living in or regularly visiting a house, apartment, dwelling, structure, or child care facility built before 1960;
3. The child is living in or regularly visiting a house, apartment, dwelling, structure, or child care facility built before 1978 that has (i) peeling or chipping paint or (ii) recent (within the last six months) ongoing or planned renovations;
4. The child is living in or regularly visiting a house, apartment, dwelling, or other structure in which one or more persons have blood lead testing yielding evidence of lead exposure;
5. The child is living with an adult whose job, hobby, or other activity involves exposure to lead;
6. The child is living near an active lead smelter, battery recycling plant, or other industry likely to release lead;
7. The child's parent, guardian, or other person standing in loco parentis requests

the child's blood be tested due to any suspected exposure; or

8. The child is a recent refugee or immigrant or is adopted from outside of the United States.

C. Exceptions.

A child who does not meet any of the schedule or criteria provided in subsection A or B of this section is considered to be at low risk, and testing is not required but may be conducted at the discretion of the health care provider. The testing requirement shall be waived if the parent, guardian, or other person standing in loco parentis of a child objects to the testing on the basis that the procedure conflicts with his religious tenets or practices.

D. Confirmation of blood lead levels.

Blood lead level testing shall be performed on venous or capillary blood. Tests of venous blood performed by a laboratory certified by the federal Centers for Medicare & Medicaid Services in accordance with 42 USC § 263a, the Clinical Laboratory Improvement Amendment of 1988 (CLIA-certified), are considered confirmatory. Tests of venous blood performed by any other laboratory and tests of capillary blood shall be confirmed by a repeat blood test, preferably venous, performed by a CLIA-certified laboratory. Such confirmatory testing shall be performed in accordance with the following schedule:

1. Within one to three months if the result of the capillary test is at or above the CDC's reference value and up to 9 micrograms of lead per deciliter of whole blood ($\mu\text{g}/\text{dL}$).
2. Within one week to one month if the result of the capillary test is 10-44 $\mu\text{g}/\text{dL}$.

The higher this test result, the more urgent the need for a confirmatory test.

3. Within 48 hours if the result of the capillary test is 45-59 $\mu\text{g}/\text{dL}$.
4. Within 24 hours if the result of the capillary test is 60-69 $\mu\text{g}/\text{dL}$.
5. Immediately as an emergency laboratory test if the result of the capillary test is 70 $\mu\text{g}/\text{dL}$ or higher.

E. Information to be provided.

As part of regular well-check visits for all children, the health care provider shall make available to parents, guardians, or other persons standing in loco parentis information on the dangers of lead poisoning, potential sources of lead and ways to prevent exposure, and a list of available lead-related resources. When blood lead level testing is performed, the health care provider shall share the child's blood lead level test result with the child's parent, guardian, or other person standing in loco parentis and report to the local health department in accordance with the requirements of 12VAC5-90-80.

PART X. TUBERCULOSIS CONTROL

12 VAC 5-90-225. Additional Data to be Reported Related to Persons with Active Tuberculosis Disease (Confirmed or Suspected).

A. Physicians and directors of medical care facilities are required to submit all of the following:

1. An initial report to be completed when there are reasonable grounds to suspect that a person has active TB

disease, but no later than when antituberculosis drug therapy is initiated. The reports must include the following: the affected person's name; age; date of birth; gender; address; pertinent clinical, radiographic, microbiologic and pathologic reports, whether pending or final; such other information as may be needed to locate the patient for follow-up; and name, address, and telephone number of the treating physician.

2. A secondary report to be completed simultaneously or within one to two weeks following the initial report. The report must include: the date and results of tuberculin skin test (TST); the date and results of the initial and any follow-up chest radiographs; the dates and results of bacteriologic or pathologic testing, the antituberculosis drug regimen, including names of the drugs, dosages and frequencies of administration, and start date; the date and results of drug susceptibility testing; HIV status; contact screening information; and name, address, and telephone number of treating physician.
3. Subsequent reports are to be made when updated information is available. Subsequent reports are required when: clinical status changes; the treatment regimen changes; treatment ceases for any reason; or there are any updates to laboratory results, treatment adherence, name, address, and telephone number of current provider, patient location or contact information, or other additional clinical information.
4. Physicians and/or directors of medical care facilities responsible

for the care of a patient with active tuberculosis disease are required to develop and maintain a written treatment plan. This plan must be in place no later than the time when antituberculosis drug therapy is initiated. Patient adherence to this treatment plan must be documented. The treatment plan and adherence record are subject to review by the local health director or his designee at any time during the course of treatment.

5. The treatment plan for the following categories of patients must be submitted to the local health director or his designee for approval no later than the time when antituberculosis drug therapy is started or modified:
 - a. For individuals who are inpatients or incarcerated, the responsible provider or facility must submit the treatment plan for approval prior to discharge or transfer.
 - b. Individuals, whether inpatient, incarcerated, or outpatients, who also have one of the following conditions:
 - (1) HIV infection
 - (2) Known or suspected active TB disease resistant to rifampin, rifabutin, rifapentine or other rifamycin with or without resistance to any other drug.
 - (3) A history of prior treated or untreated active TB disease, or a history of relapsed active TB disease.

- (4) A demonstrated history of nonadherence to any medical treatment regimen.

B. Laboratories are required to submit the following:

1. Results of smears that are positive for acid fast bacilli.
2. Results of cultures positive for any member of the *Mycobacterium tuberculosis* complex (i.e., *M. tuberculosis*, *M. bovis*, *M. africanum*) or any other mycobacteria.
3. Results of rapid methodologies, including acid hybridization or nucleic acid amplification, which are indicative of *M. tuberculosis* complex or any other mycobacteria.
4. Results of tests for antimicrobial susceptibility performed on cultures positive for tubercle bacilli.
5. Laboratories, whether testing is done in-house or referred to an out-of-state laboratory, shall submit a representative and viable sample of the initial culture positive for any member of the *M. tuberculosis* complex to the Virginia Division of Consolidated Laboratory Services or other laboratory designated by the board to receive such specimen.

PART XI.

HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING OF GAMETE DONORS

Note: The section of the *Code of Virginia* (§32.1-45.3) that authorized 12 VAC 5-90-230 through 12 VAC 5-90-270 was repealed effective January 1, 2015.

12 VAC 5-90-230. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Artificial insemination” means instrumental placement of semen into the vagina, cervical canal, or uterus of a recipient.

“Donor” means an individual who is unrelated by marriage to the recipient and who contributes sperm or ova used in the following procedures: treatment of infertility by artificial insemination; in vitro fertilization; gamete intrafallopian tube transfer; zygote intrafallopian tube transfer or any other gamete, zygote, or embryo transfer; or other intervening medical technology using sperm or ova.

“Embryo” means the product of a fertilized ovum prior to the eighth week of development inside a uterus.

“Gamete” means either sperm or ova.

“Gamete intrafallopian tube transfer” means placement of harvested ova and sperm into the fallopian tube or tubes of a recipient.

“**HIV-1**” means the retrovirus causing the human immunodeficiency virus infection, type 1.

“**HIV-2**” means the retrovirus causing the human immunodeficiency virus infection, type 2.

“**In vitro fertilization**” means placement of a zygote or embryo that has been fertilized outside the body into the uterus of a recipient.

“**Zygote**” means a fertilized ovum prior to cell cleavage.

“**Zygote intrafallopian tube transfer**” means placement of a zygote or zygotes into the fallopian tube or tubes of a recipient.

12 VAC 5-90-240. Excluding Donors with High Risk Factors.

A. Practitioners using gametes for the treatment of infertility by transfer of such gametes to a recipient shall interview all gamete donors at the time of donation in order to screen for high risk behavior indicating potential exposure to HIV-1 and HIV-2.

B. Any gamete donor reporting infection with HIV-1 or HIV-2 or any of the following risk factors shall be excluded from donating:

1. Men who have had sex with another man within the preceding five years.
2. Persons who have injected drugs for a non-medical reason in the preceding five years, including intravenous, intramuscular, and subcutaneous injections of recreational or illegal drugs.
3. Persons with hemophilia or related clotting disorders who have received human derived clotting factor concentrates.
4. Persons who have had sex in exchange for money or drugs in the preceding five years.
5. Persons who have had sex in the preceding 12 months with any person described in Sections 1 through 4 above or with any person suspected of being infected with HIV-1 or HIV-2.
6. Persons who have been exposed within the last 12 months to known or suspected HIV-1 or HIV-2 infected blood through percutaneous inoculation (e.g., needle stick) or through contact with an open wound, non-intact skin, or mucous membrane.
7. Current inmates of correctional systems (including jails and prisons), and individuals who have been incarcerated in jail or prison for more than 72 consecutive hours during the previous 12 months.
8. Persons who have had or have been treated for syphilis or gonorrhea during the preceding 12 months.
9. Persons who within 12 months of donation have undergone acupuncture, ear and/or body piercing or tattooing in which sterile procedures were not used, or where it is unknown if sterile procedures were used.
10. Persons who choose to defer from donation whether or not they report any of the above potential exposures to HIV-1 or HIV-2.

**12 VAC 5-90-250. Storage of Semen
Pending Negative HIV Tests.**

Semen specimens from donors shall be stored and withheld from use for at least 180 days following donation and used only if the donor tests negative for serum antibodies for HIV-1 and HIV-2 on enzyme-linked immunosorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at least 180 days after donation.

**12 VAC 5-90-260. Use of Ova After
Negative HIV Tests.**

Ova shall be used only if the donor tests negative for serum antibodies to HIV-1 and HIV-2 on enzyme-linked immunosorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at the initiation of the cycle during which the ova are harvested.

**12 VAC 5-90-270. Notifying Recipients of
Option to Delay Transfer.**

Practitioners using ova, embryos, or zygotes for the treatment of infertility or other medical technology involving the transfer of ova, embryos, or zygotes to a recipient shall notify these recipients of the option for having donor ova fertilized and the resultant zygotes frozen and then transferred to the recipient only if the ova donor is negative for serum antibodies for HIV-1 and HIV-2 on enzyme-linked immunosorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at least 180 days after donation.

PART XII.

**REPORTING OF DANGEROUS
MICROBES AND PATHOGENS**

**12VAC5-90-280. Reporting of dangerous
microbes and pathogens.**

A. Definitions.

The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Biologic agent" means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism; deterioration of food, water, equipment, supplies, or material of any kind; or deleterious alteration of the environment.

"CDC" means the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services.

"Diagnosis" means the analysis of specimens for the purpose of identifying or confirming the presence or characteristics of a select agent or toxin, provided that such analysis is directly related to protecting the public health or safety.

"Proficiency testing" means a sponsored, time-limited analytical trial whereby one or more analytes, previously confirmed by the sponsor, are submitted to the testing

laboratory for analysis and where final results are graded, scores are recorded and provided to participants, and scores for participants are evaluated.

"Responsible official" means any person in charge of directing or supervising a laboratory conducting business in the Commonwealth of Virginia. At colleges and universities, the responsible official shall be the president of the college or university or his designee. At private, state, or federal organizations, the responsible official shall be the laboratory director or a chief officer of the organization or his designee.

"Select agent or toxin" or "select agent and toxin" means all those biological agents or toxins as defined by federal regulations in 42 CFR Part 73, including Health and Human Services select agents and toxins and overlap select agents and toxins.

"Toxin" means the toxic material or product of plants, animals, microorganisms (including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa); or infectious substances; or a recombinant or synthesized molecule, whatever the origin and method of production; and includes any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or any poisonous isomer or biological product, homolog, or derivative of such a substance.

"Verification" means the process required to assure the accuracy, precision, and the analytical sensitivity and specificity of any procedure used for diagnosis.

B. Administration.

The dangerous microbes and pathogens will be known as "select agents and toxins." The select agent and toxin registry will be maintained by the Virginia Department of Health, Office of Epidemiology, Division of Surveillance and Investigation.

C. Reportable agents.

The board declares the select agents and toxins and overlap select agents and toxins outlined in 42 CFR Part 73 to be reportable and adopts it herein by reference including subsequent amendments and editions. The select agents and toxins are to be reportable by the persons enumerated in subsection F of this section.

D. Items to report.

Each report shall be made on a form determined by the department and shall contain the following: name, source and characterization information on select agents and toxins and quantities held; objectives of the work with the agent; location (including building and room) where each select agent or toxin is stored or used; identification information of persons with access to each agent; identification information of the person in charge of each of the agents; and the name, position and identification information of one responsible official as a single point of contact for the organization. The report shall also indicate whether the laboratory is registered with the CDC Select Agent Program and may contain additional information as required by 42 CFR Part 73 or the department.

E. Timing of reports.

Reports shall be made to the department within seven calendar days of submission of an application to the CDC Select Agent Program. By January 31 of every year, laboratories shall provide a written update to the department, which shall include a copy of the federal registration certificate received through the CDC Select Agent Program.

In the event that a select agent or toxin that has previously been reported to the department is destroyed, a copy of federal forms addressing the destruction of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event that a select agent or toxin, or a specimen or isolate from a specimen containing a select agent or toxin, has previously been reported to the department and is subsequently transferred to a facility eligible for receiving the items, a copy of federal forms addressing the transfer of the select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event of a suspected release, loss, or theft of any select agent or toxin, the responsible official at a laboratory shall make a report to the department immediately by the most rapid means available, preferably by telephone. The rapid report shall be followed up by a written report within seven calendar days and shall include the following information:

1. The name of the biologic agent and any identifying information (e.g., strain or other characterization information);
2. An estimate of the quantity released, lost, or stolen;
3. An estimate of the time during which the release, loss, or theft occurred; and
4. The location (building, room) from or in which the release, loss, or theft occurred. The report may contain additional information as required by 42 CFR Part 73 or the department.

The department shall be notified in writing of any change to information previously submitted to the department. If a new application or an amendment to an existing application is filed with the CDC Select Agent Program, a copy of the application or amendment shall be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

F. Those required to report.

The laboratory director shall be responsible for annual reporting of select agents and toxins to the Virginia Department of Health and for the reporting of any changes within the time periods as specified within these regulations. Such reports shall be made on forms to be determined by the department. Any person making such reports as authorized herein shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*.

G. Exemption from reporting.

A person who detects a select agent or toxin for the purpose of diagnosing a disease,

verification, or proficiency testing and either transfers the specimens or isolates containing the select agent or toxin to a facility eligible for receiving them or destroys them on site is not required to make a report except as required by 12VAC5-90-80 and 12VAC5-90-90. Proper destruction of the agent shall take place through autoclaving, incineration, or by a sterilization or neutralization process sufficient to cause inactivation. The transfer or destruction shall occur within seven calendar days after identification of a select agent or toxin used for diagnosis or testing and within 90 calendar days after receipt for proficiency testing.

Any additional exemptions from reporting under 42 CFR Part 73, including subsequent amendments and editions, are also exempt from reporting under this regulation; however, the department shall be notified of the exemption by submitting a copy of federal forms addressing the exemption within seven calendar days of submission to the CDC Select Agent Program.

H. Release of reported information.

Reports submitted to the select agent and toxin registry shall be confidential and shall not be a public record pursuant to the Freedom of Information Act, regardless of submitter. Release of information on select agents or toxins shall be made only by order of the State Health Commissioner to the CDC and state and federal law-enforcement agencies in any investigation involving the release, theft, or loss of a select agent or toxin required to be reported to the department under this regulation.

Part XIII.

REPORTING OF HEALTHCARE-ASSOCIATED INFECTIONS

12VAC5-90-370. Reporting of healthcare-associated infections.

A. Reportable infections.

Facilities that report data into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services Hospital Inpatient Quality Reporting Program shall share the data, through the NHSN, with the department.

B. Liability protection and data release.

Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the *Code of Virginia*. Infection rate data may be released to the public by the department upon request. Data shall be aggregated to ensure that no individual patient may be identified.

APPENDIX A

Selected Portions of the *Code of Virginia*
Related to the Reporting and Control of Disease
(Chapter 40 of Title 2.2, Chapter 1 and 2 of Title 32.1)

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HEALTH LAWS OF VIRGINIA

I. ADMINISTRATIVE PROCESS ACT [from Chapter 40 of Title 2.2]

ARTICLE 1. General Provisions.

§ 2.2-4002. Exemptions from chapter generally.

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

...

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

II. DISEASE PREVENTION AND CONTROL [from Chapter 2 of Title 32.1]

ARTICLE 1. Reporting of Diseases.

§ 32.1-35. List and reports of diseases and dangerous microbes and pathogens.

The Board shall promulgate from time to time a list of diseases, including diseases caused by exposure to any toxic substance as defined in § 32.1-239 and including diseases that may be caused by exposure to an agent or substance that has the potential for use as a weapon, that shall be required to be reported. The Board shall also promulgate from time to time a list of dangerous microbes and pathogens that shall be required to be reported by laboratories. The Board may classify such diseases, microbes and pathogens and prescribe the manner and time of such reporting.

(Code 1950, § 32-16; 1979, c. 711; 2002, cc. 100, 768.)

§ 32.1-35.1. Information on nosocomial infections.

Acute care hospitals shall report information about nosocomial infections to the Centers for Disease Control and Prevention's National Healthcare Safety Network. Such hospitals shall release their infection data to the Board of Health. The specific infections to be reported, the hospitals required to report, and patient populations to be included shall be prescribed by Board regulation. Such hospital infection rate data may be released to the public by the Board, upon request.

(2005, c. 444.)

§ 32.1-36. Reports by physicians and laboratory directors.

A. Every physician practicing in this Commonwealth who shall diagnose or reasonably suspect that any patient of his has any disease required by the Board to be reported and every director of any laboratory doing business in this Commonwealth that performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as

may be prescribed by regulations of the Board. Any such report involving a disease that such physician or laboratory director has reason to believe may be caused by exposure to an agent or substance that has been or may be used as a weapon shall be reported directly to the Commissioner or his designee using an emergency response system maintained by the Department and operated twenty-four hours a day.

- B. Any physician who diagnoses a venereal disease in a child twelve years of age or under shall, in addition to the requirements of subsection A hereof, report the matter, in accordance with the provisions of § 63.2-1509, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.
- C. Any physician practicing in this Commonwealth shall report to the local health department the identity of any patient of his who has tested positive for exposure to human immunodeficiency virus as demonstrated by such test or tests as are approved by the Board for this purpose. However, there is no duty on the part of the physician to notify any third party other than the local health department of such test result, and a cause of action shall not arise from any failure to notify any other third party.
- D. Upon investigation by the local health department of a patient reported pursuant to subsection A, the Commissioner may, to the extent permitted by law, disclose the patient's identity and disease to the patient's employer if the Commissioner determines that (i) the patient's employment responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitutes a threat to the public health.

The patient's identity and disease state shall be confidential as provided in §§ 32.1-36.1 and 32.1-41. Any unauthorized disclosure of reports made pursuant to this section shall be subject to the penalties of § 32.1-27.

- E. Physicians and laboratory directors may voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.
- F.
 - 1. Every laboratory located in this Commonwealth shall file a written report with the Department of its inventory of dangerous microbes and pathogens on an annual basis. The laboratory shall supplement this report upon any change in such inventory as prescribed by the Board or immediately if any microbes or pathogens cannot be accounted for within twenty-four hours.
 - 2. Except as provided in this subsection, a report submitted pursuant to this subsection shall be confidential and shall not be a public record pursuant to the Freedom of Information Act (§ 2.2-3700 et seq.). The Department shall cooperate with and may share information submitted to it pursuant to this subsection with the United States Centers for Disease Control and Prevention, and state and federal law-enforcement agencies in any investigation involving the release, theft or loss of a dangerous microbe or pathogen required to be reported under this subsection.
 - 3. Any unauthorized disclosure of reports made pursuant to this subsection shall be subject to the penalties of § 32.1-27.

(Code 1950, § 32-48; 1976, c. 628; 1979, c. 711; 1981, c. 282; 1988, c. 130; 1989, c. 613; 1995, c. 534; 1997, c. 271; 2002, cc. 100, 768.)

§ 32.1-36.1. Confidentiality of test for human immunodeficiency virus; civil penalty; individual action for damages or penalty.

- A. The results of every test to determine infection with human immunodeficiency virus shall be confidential. Such information may only be released to the following persons:
1. The subject of the test or his legally authorized representative.
 2. Any person designated in a release signed by the subject of the test or his legally authorized representative.
 3. The Department of Health.
 4. Health care providers for purposes of consultation or providing care and treatment to the person who was the subject of the test or providing care and treatment to a child of a woman who, at the time of such child's birth, was known to be infected with human immunodeficiency virus.
 5. Health care facility staff committees which monitor, evaluate, or review programs or services.
 6. Medical or epidemiological researchers for use as statistical data only.
 7. Any person allowed access to such information by a court order.
 8. Any facility which procures, processes, distributes or uses blood, other body fluids, tissues or organs.
 9. Any person authorized by law to receive such information.
 10. The parents or other legal custodian of the subject of the test if the subject is a minor.
 11. The spouse of the subject of the test.
 12. Departments of health located outside the Commonwealth by the Virginia Department of Health for the purposes of disease surveillance and investigation.
- B. In any action brought under this section, if the court finds that a person has willfully or through gross negligence made an unauthorized disclosure in violation of this section, the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$5,000 per violation.

- C. Any person who is the subject of an unauthorized disclosure pursuant to this section shall be entitled to initiate an action to recover actual damages, if any, or \$100, whichever is greater. In addition, such person may also be awarded reasonable attorney's fees and court costs.
- D. This section shall not be deemed to create any duty on the part of any person who receives such test results, where none exists otherwise, to release the results to a person listed herein as authorized to receive them.

(1989, c. 613; 1990, c. 777; 1993, cc. 97, 664.)

§ 32.1-37. Reports by persons other than physicians.

- A. The person in charge of any medical care facility shall immediately make or cause to be made a report of a disease required by the Board to be reported when such information is available to that person and that person has reason to believe that no physician has reported such disease as provided in § 32.1-36. Such report shall be made to the local health director according to the provisions of the Board.
- B. The person in charge of any residential or day program, service or facility licensed or operated by any agency of the Commonwealth, school or summer camp as defined in § 35.1-1 shall immediately make or cause to be made a report of an outbreak of disease as defined by the Board. Such report shall be made by rapid means to the local health director or to the Commissioner.
- C. The person in charge of any medical care facility, residential or day program, service or facility licensed or operated by any agency of the Commonwealth, school, or summer camp as defined in § 35.1-1 may also voluntarily report additional information, including individual cases of communicable diseases, at the request of the Department of Health for special surveillance or other epidemiological studies.

(Code 1950, § 32-49; 1979, c. 711; 1997, c. 271; 2008, cc. 367, 412.)

§ 32.1-37.1. Report of diseases infecting dead human bodies.

Upon transferring custody of any dead body to any person practicing funeral services or his agent, any hospital, nursing facility or nursing home, assisted living facility, or correctional facility shall, at the time of transfer, notify the person practicing funeral services or his agent if the individual was known to have had immediately prior to death an infectious disease which may be transmitted through exposure to any bodily fluids.

Any facility or members of its staff specified in this section shall not be liable for injury resulting from ordinary negligence in failing to identify, as herein prescribed, a dead body of a person known to have had an infectious disease immediately prior to death.

The Board of Health shall determine the infectious diseases for which notification is required pursuant to this section.

(1988, c. 836; 1993, cc. 957, 993.)

§ 32.1-37.2. Consent for testing for human immunodeficiency virus; condition on disclosure of test results; counseling required; exceptions.

- A. Prior to performing any test to determine infection with human immunodeficiency virus, a medical care provider shall inform the patient that the test is planned, provide information about the test, and advise the patient that he has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patient's medical file.
- B. Every person who has a confirmed positive test result for human immunodeficiency virus shall be afforded the opportunity for individual face-to-face disclosure of the test results and appropriate counseling. Appropriate counseling shall include, but not be limited to, the meaning of the test results, the need for additional testing, the etiology, prevention and effects of acquired immunodeficiency syndrome, the availability of appropriate health care, mental health care and social services, the need to notify any person who may have been exposed to the virus and the availability of assistance through the Department of Health in notifying such individuals.
- C. Opportunity for face-to-face disclosure of the test results and appropriate counseling shall not be required when the tests are conducted by blood collection agencies. However, all blood collection agencies shall notify the Board of Health of any positive tests.
- D. In the case of a person applying for accident and sickness or life insurance who is the subject of a test to determine infection for human immunodeficiency virus, insurers' practices including an explanation of the meaning of the test, the manner of obtaining consent, the method of disclosure of the test results and any counseling requirements shall be as set forth in the regulations of the State Corporation Commission.

(1989, c. 613; 2008, c. 641.)

§ 32.1-38. Immunity from liability.

Any person making a report or disclosure required or authorized by this chapter, including any voluntary reports submitted at the request of the Department of Health for special surveillance or other epidemiological studies, shall be immune from civil liability or criminal penalty connected therewith unless such person acted with gross negligence or malicious intent. Further, except for such reporting requirements as may be established in this chapter or by any regulation promulgated pursuant thereto, there shall be no duty on the part of any blood collection agency or tissue bank to notify any other person of any reported test results, and a cause of action shall not arise from any failure by such entities to notify others. Neither the Commissioner nor any local health director shall disclose to the public the name of any person reported or the name of any person making a report pursuant to this chapter. No person making a report required or authorized by this chapter shall be responsible for recognizing agents or suspecting the presence of any conditions beyond the competence of a reasonable person practicing his profession; however, any such person shall be immune as provided in this section when making reports in good faith without gross negligence and within the usual scope of his practice.

(Code 1950, § 32-48; 1976, c. 628; 1979, c. 711; 1988, c. 130; 1990, c. 777; 1997, c. 271; 2002, c. 768.)

ARTICLE 2. Investigation of Diseases.

§ 32.1-39. Surveillance and investigation.

- A. The Board shall provide for the surveillance of and investigation into all preventable diseases and epidemics in this Commonwealth and into the means for the prevention of such diseases and epidemics. Surveillance and investigation may include contact tracing in accordance with the regulations of the Board. When any outbreak or unusual occurrence of a preventable disease shall be identified through reports required pursuant to Article 1 (§ 32.1-35 et seq.) of this chapter, the Commissioner or his designee shall investigate the disease in cooperation with the local health director or directors in the area of the disease. If in the judgment of the Commissioner the resources of the locality are insufficient to provide for adequate investigation, he may assume direct responsibility and exclusive control of the investigation, applying such resources as he may have at his disposal. The Board may issue emergency regulations and orders to accomplish the investigation.
- B. When an investigation of any outbreak or occurrence of a disease identified through reports required pursuant to Article 1 (§ 32.1-35 et seq.) of this chapter indicates the reasonable possibility that the outbreak or occurrence was the result of exposure to an agent or substance used as a weapon, the Commissioner or his designee shall immediately report such finding to the Department of State Police for investigation. Reports, records, materials or other data reported to the Department of State Police pursuant to this section shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The Department of State Police, and any local law enforcement official, may release all or part of any report made or other information obtained pursuant to this section (i) where the release of such report or information may assist in the prevention of imminent harm to public health or safety, or (ii) where the release of such report or information, with patient identifying information removed, may be useful for education of the public on health, safety or homeland defense issues. Reports required by this section shall be maintained in the central repository established by the Department of State Police pursuant to the provisions of § 52-8.5. The Department of State Police shall immediately transmit the report to the local chief of police or sheriff with law-enforcement responsibilities both where the patient resides and where he sought the medical treatment that resulted in the report. In addition, the Department of State Police may transmit the report to federal and military law-enforcement authorities. The Department of State Police and local law-enforcement authorities shall immediately determine and implement the appropriate law-enforcement response to such reports, in accordance with their jurisdiction.

(Code 1950, §§ 32-10, 32-42; 1979, c. 711; 1989, c. 613; 2002, c. 768.)

§ 32.1-40. Authority of Commissioner to examine medical records.

Every practitioner of the healing arts and every person in charge of any medical care facility shall permit the Commissioner or his designee to examine and review any medical records which he has in his possession or to which he has access upon request of the Commissioner or his designee in the course of investigation, research or studies of diseases or deaths of public health importance. No such practitioner or person shall be liable in any action at law for permitting such examination and review.

(Code 1950, § 32-10.1; 1960, c. 507; 1979, c. 711.)

§ 32.1-41. Anonymity of patients and practitioners to be preserved in use of medical records.

The Commissioner or his designee shall preserve the anonymity of each patient and practitioner of the healing arts whose records are examined pursuant to § 32.1-40 except that the Commissioner, in his sole discretion, may divulge the identity of such patients and practitioners if pertinent to an investigation, research or study. Any person to whom such identities are divulged shall preserve their anonymity.

(Code 1950, §§ 32-10.2, 32-10.3; 1960, c. 507; 1979, c. 711.)

ARTICLE 3. Disease Control Measures.

§ 32.1-42. Emergency rules and regulations.

The Board of Health may promulgate regulations and orders to meet any emergency or to prevent a potential emergency caused by a disease dangerous to public health, including, but not limited to, procedures specifically responding to any disease listed pursuant to § 32.1-35 that is determined to be caused by an agent or substance used as a weapon or any communicable disease of public health threat that is involved in an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter.

(1979, c. 711; 2002, c. 768; 2004, cc. 773, 1021.)

§ 32.1-42.1. Administration and dispensing of necessary drugs and devices during a declared disaster or state of emergency.

The Commissioner, pursuant to § 54.1-3408, may authorize persons who are not authorized by law to administer or dispense drugs or devices to administer or dispense all necessary drugs or devices in accordance with protocols established by the Commissioner when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control and supervision of the Commissioner. For purposes of this section, "administer," "device," "dispense," and "drug" shall have the same meaning as provided in § 54.1-3401. The Commissioner shall develop protocols, in consultation with the Department of Health Professions, that address the required training of such persons and procedures for such persons to use in administering or dispensing drugs or devices.

(2003, c. 794; 2007, cc. 699, 783.)

§ 32.1-43. Authority of State Health Commissioner to require quarantine, etc.

The State Health Commissioner shall have the authority to require quarantine, isolation, immunization, decontamination, or treatment of any individual or group of individuals when he determines any such measure to be necessary to control the spread of any disease of public health importance and the authority to issue orders of isolation pursuant to Article 3.01 (§ 32.1-48.01 et seq.) of this chapter and orders of quarantine and orders of isolation under exceptional circumstances involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter.

(Code 1950, § 32-8; 1979, c. 711; 1990, c. 958; 2004, cc. 773, 1021.)

§ 32.1-44. Isolated or quarantined persons.

The provisions of this chapter shall be construed to allow any isolated or quarantined person to choose his own treatment, whenever practicable and in the best interest of the health and safety of the isolated or quarantined person and the public; however, the conditions of any order of isolation issued pursuant to Article 3.01 (§ 32.1-48.01 et seq.) of this chapter involving a communicable disease of public health significance and any order of quarantine or order of isolation involving any communicable disease of public health threat pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter shall remain in effect until the person or persons subject to such order of quarantine or order of isolation shall no longer constitute a threat to other persons.

(Code 1950, § 32-13; 1979, c. 711; 1990, c. 958; 2004, cc. 773, 1021.)

§ 32.1-45. Expense of treatment.

Except as specifically provided by law, the provisions of this chapter shall not be construed as relieving any individual of the expense, if any, of any treatment, including any person who is subject to an order of isolation issued pursuant to Article 3.01 (§ 32.1-48.01 et seq.) of this chapter or an order of quarantine or an order of isolation issued pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter.

(Code 1950, § 32-56; 1973, c. 401; 1979, c. 711; 1990, c. 958; 2004, cc. 773, 1021.)

§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.

- A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.
- B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.
- C. For the purposes of this section, "health care provider" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Behavioral Health and Developmental Services, Department of Rehabilitative Services, or the

Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.

- D. "Health care provider," as defined in subsection C, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.
- E. Whenever any law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider is directly exposed to body fluids of a person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed.
- F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer, salaried or volunteer firefighter, or salaried or volunteer emergency medical services provider shall also be deemed to have consented to the release of such test results to the person who was exposed.
- G. For the purposes of this section, "law-enforcement officer" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or department under the direction and control of the Commonwealth or any local governing body that employs persons who have law-enforcement authority.
- H. Whenever any school board employee is directly exposed to body fluids of any person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the school board employee who was exposed. If the person whose blood specimen is sought for testing is a minor, the parent, guardian, or person standing in loco parentis of such minor shall be notified prior to initiating such testing. In other than emergency situations, it shall be the responsibility of the

school board employee to inform the person of this provision prior to the contact that creates a risk of such exposure.

- I. Whenever any person is directly exposed to the body fluids of a school board employee in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board employee whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board employee shall also be deemed to have consented to the release of such test results to the person.
- J. For the purposes of this section, "school board employee" means a person who is both (i) acting in the course of employment at the time of such exposure and (ii) employed by any local school board in the Commonwealth.
- K. For purposes of this section, if the person whose blood specimen is sought for testing is a minor, and that minor refuses to provide such specimen, consent for obtaining such specimen shall be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to initiating such testing. If the parent or guardian or person standing in loco parentis withholds such consent, or is not reasonably available, the person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the juvenile and domestic relations district court in the county or city where the minor resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the minor to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section.
- L. Except as provided in subsection K, if the person whose blood specimen is sought for testing refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the county or city in which the person whose specimen is sought resides or resided, or, in the case of a nonresident, the county or city where the health care provider, law-enforcement agency or school board has its principal office or, in the case of a health care provider rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for an order requiring the person to provide a blood specimen or to submit to testing and to disclose the test results in accordance with this section. At any hearing before the court, the person whose specimen is sought or his counsel may appear. The court shall be advised by the Commissioner or his designee prior to entering any testing order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a licensed practitioner or trained counselor.

(1989, c. 613; 1993, c. 315; 1994, cc. 230, 236; 1997, c. 869; 2003, c. 1; 2008, cc. 191, 339; 2009, cc. 96, 478, 552, 813, 840; 2015, cc. 51, 502, 503.)

§ 32.1-45.2. Public safety employees; testing for blood-borne pathogens; procedure available for certain citizens; definitions.

- A. If, in the course of employment, an employee of a public safety agency is involved in a possible exposure prone incident, the employee shall immediately, or as soon thereafter as practicable, notify the agency of the incident in accordance with the agency's procedures for reporting workplace accidents.
- B. If, after reviewing the facts of the possible exposure prone incident with the employee and after medical consultation, the agency concludes that it is reasonable to believe that an exposure prone incident may have occurred, (i) the agency shall request the person whose body fluids were involved to submit to testing for hepatitis B or C virus and human immunodeficiency virus as provided in § 32.1-37.2 and to authorize disclosure of the test results or (ii) if the person is deceased, the agency shall request the custodian of the remains to preserve a specimen of blood and shall request the decedent's next of kin to consent, as provided in § 32.1-37.2, to such testing and to authorize disclosure of the test results.
- C. If a person is involved in a possible exposure prone incident involving the body fluids of an employee of a public safety agency, the person may request the agency to review the facts of the possible exposure prone incident for purposes of obtaining the employee's consent to test for hepatitis B or C virus and human immunodeficiency virus as provided in § 32.1-37.2 and to authorize disclosure of the test results. If, after reviewing the facts and after medical consultation, the agency concludes it is reasonable to believe an exposure prone incident involving the person and the employee may have occurred, (i) the agency shall request the employee whose body fluids were involved to give consent to submit to testing for hepatitis B or C virus and human immunodeficiency virus and to authorize disclosure of the test results or (ii) if the employee is deceased, the agency shall request the custodian of the remains to preserve a specimen of blood and shall request the decedent's next of kin to provide consent, as provided in § 32.1-37.2, to such testing and to authorize disclosure of the test results.
- D. If consent is refused under subsection B of this section, the public safety agency or the employee may petition the general district court of the city or county in which the person resides or resided, or in the case of a nonresident, the city or county of the public safety agency's principal office, to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.

If consent is refused under subsection C of this section, the person involved in the possible exposure prone incident may petition the general district court of the city or county of the public safety agency's principal office to determine whether an exposure prone incident has occurred and to order testing and disclosure of the test results.

- E. If the court finds by a preponderance of the evidence that an exposure prone incident has occurred, it shall order testing for hepatitis B or C virus and human immunodeficiency virus and disclosure of the test results. The court shall be advised by the Commissioner or his designee in making this finding. The hearing shall be held in camera as soon as practicable after the petition is filed. The record shall be sealed.

- F. A party may appeal an order of the general district court to the circuit court of the same jurisdiction within ten days from the date of the order. Any such appeal shall be de novo, in camera, and shall be heard as soon as possible by the circuit court. The circuit court shall be advised by the Commissioner or his designee. The record shall be sealed. The order of the circuit court shall be final and nonappealable.
- G. Disclosure of any test results provided by this section shall be made to the district health director of the jurisdiction in which the petition was brought or the district in which the person or employee was tested. The district health director or his designee shall inform the parties of the test results and counsel them in accordance with subsection B of § 32.1-37.2.
- H. The results of the tests shall be confidential as provided in § 32.1-36.1.
- I. No person known or suspected to be positive for infection with hepatitis B or C virus or human immunodeficiency virus shall be refused services for that reason by any public safety agency personnel.
- J. For the purpose of this section and for no other purpose, the term "employee" shall include: (i) any person providing assistance to a person employed by a public safety agency who is directly affected by a possible exposure prone incident as a result of the specific crime or specific circumstances involved in the assistance and (ii) any victim of or witness to a crime who is directly affected by a possible exposure prone incident as a result of the specific crime.
- K. This section shall not be deemed to create any duty on the part of any person where none exists otherwise, and a cause of action shall not arise from any failure to request consent or to consent to testing under this section. The remedies available under this section shall be exclusive.
- L. For the purposes of this section, the following terms shall apply:

"Exposure prone incident" means a direct exposure to body fluids of another person in a manner which may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit hepatitis B or C virus or human immunodeficiency virus and which occurred during the commission of a criminal act, during the performance of emergency procedures, care or assistance, or in the course of public safety or law-enforcement duties.

"Public safety agency" means any sheriff's office; any adult or youth correctional, law-enforcement, or fire safety organization; the Department of Forensic Science; or any agency or department that employs persons who have law-enforcement authority and which is under the direction and control of the Commonwealth or any local governing body.

(1992, c. 711; 1994, c. 146; 1997, cc. 722, 804; 2008, c. 641; 2014, c. 275.)

§ 32.1-45.3.

Repealed by Acts 2015, c. 301, cl. 1.

§ 32.1-46. Immunization of patients against certain diseases.

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized in accordance with the Immunization Schedule developed and published by the Centers for Disease Control and Prevention (CDC), Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP). The required immunizations for attendance at a public or private elementary, middle or secondary school, child care center, nursery school, family day care home or developmental center shall be those set forth in the State Board of Health Regulations for the Immunization of School Children. The Board's regulations shall at a minimum require:

1. A minimum of three properly spaced doses of hepatitis B vaccine (HepB).
2. A minimum of three or more properly spaced doses of diphtheria toxoid. One dose shall be administered on or after the fourth birthday.
3. A minimum of three or more properly spaced doses of tetanus toxoid. One dose shall be administered on or after the fourth birthday.
4. A minimum of three or more properly spaced doses of acellular pertussis vaccine. One dose shall be administered on or after the fourth birthday. A booster dose shall be administered prior to entry into the sixth grade.
5. Two or three primary doses of Haemophilus influenzae type b (Hib) vaccine, depending on the manufacturer, for children up to 60 months of age.
6. Two properly spaced doses of live attenuated measles (rubeola) vaccine. The first dose shall be administered at age 12 months or older.
7. One dose of live attenuated rubella vaccine shall be administered at age 12 months or older.
8. One dose of live attenuated mumps vaccine shall be administered at age 12 months or older.
9. All children born on and after January 1, 1997, shall be required to have one dose of varicella vaccine on or after 12 months.
10. Three or more properly spaced doses of oral polio vaccine (OPV) or inactivated polio vaccine (IPV). One dose shall be administered on or after the fourth birthday. A fourth dose shall be required if the three dose primary series consisted of a combination of OPV and IPV.
11. One to four doses, dependent on age at first dose, of properly spaced pneumococcal conjugate (PCV) vaccine for children up to 60 months of age.
12. Three doses of properly spaced human papillomavirus (HPV) vaccine for females. The first dose shall be administered before the child enters the sixth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician, physician assistant, nurse practitioner, registered nurse, or licensed practical nurse, or a pharmacist who administers pursuant to a valid prescription, or may present the child to the appropriate local health department, which shall administer the vaccines required by the State Board of Health Regulations for the Immunization of School Children without charge to the parent or person standing in loco parentis to the child if (i) the child is eligible for the Vaccines for Children Program or (ii) the child is eligible for coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), or 10 U.S.C. § 1071 et seq. (CHAMPUS). In all cases in which a child is covered by a health carrier, Medicare, Medicaid, CHIP, or CHAMPUS, the Department shall seek reimbursement from the health carrier, Medicare, Medicaid, CHIP, or CHAMPUS for all allowable costs associated with the provision of the vaccine. For the purposes of this section, the Department shall be deemed a participating provider with a managed care health insurance plan as defined in § 32.1-137.1.

- B. A physician, physician assistant, nurse practitioner, registered nurse, licensed practical nurse, pharmacist, or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate that shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.
- C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board.
- D. The provisions of this section shall not apply if:
 - 1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board;
 - 2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia, a licensed nurse practitioner, or a local health department that states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child; or
 - 3. Because the human papillomavirus is not communicable in a school setting, a parent or guardian, at the parent's or guardian's sole discretion, may elect for the parent's or guardian's child not to receive the human papillomavirus vaccine, after having reviewed materials describing the link between the human papillomavirus and cervical cancer approved for such use by the Board.
- E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, physician assistant, nurse practitioner, licensed institutional health care provider, local or district health department, the Virginia Immunization Information System, and the Department of Health may share immunization and patient locator information without parental authorization, including, but not limited to, the month, day, and

year of each administered immunization; the patient's name, address, telephone number, birth date, and social security number; and the parents' names. The immunization information; the patient's name, address, telephone number, birth date, and social security number; and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

- F. The State Board of Health shall review this section annually and make recommendations for revision by September 1 to the Governor, the General Assembly, and the Joint Commission on Health Care.

(Code 1950, § 32-57.1; 1968, c. 592; 1972, c. 558; 1979, c. 711; 1980, c. 410; 1989, c. 382; 1991, c. 133; 1992, cc. 127, 166; 1994, c. 62; 1995, cc. 729, 742; 1996, cc. 67, 533; 1999, cc. 632, 676, 738; 2000, c. 476; 2004, c. 855; 2005, cc. 643, 684; 2006, cc. 364, 396, 716; 2007, cc. 858, 922; 2011, c. 125; 2014, cc. 316, 344; 2016, c. 81.)

§ 32.1-46.01. Virginia Immunization Information System.

- A. The Board of Health shall establish the Virginia Immunization Information System (VIIS), a statewide immunization registry that consolidates patient immunization histories from birth to death into a complete, accurate, and definitive record that may be made available to participating health care providers throughout Virginia, to the extent funds are appropriated by the General Assembly or otherwise made available. The purposes of VIIS shall be to (i) protect the public health of all citizens of the Commonwealth, (ii) prevent under- and over-immunization of children, (iii) ensure up-to-date recommendations for immunization scheduling to health care providers and the Board, (iv) generate parental reminder and recall notices and manufacturer recalls, (v) develop immunization coverage reports, (vi) identify areas of under-immunized population, and (vii) provide, in the event of a public health emergency, a mechanism for tracking the distribution and administration of immunizations, immune globulins, or other preventive medications or emergency treatments.
- B. The Board of Health shall promulgate regulations to implement the VIIS that shall address:
1. Registration of voluntary participants, including, but not limited to, a list of those health care entities that are authorized to participate and any forms and agreements necessary for compliance with the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services;
 2. Procedures for confirming, continuing, and terminating participation and disciplining any participant for unauthorized use or disclosure of any VIIS data;
 3. Procedures, timelines, and formats for reporting of immunizations by participants;
 4. Procedures to provide for a secure system of data entry that may include encrypted online data entry or secure delivery of data files;

5. Procedures for incorporating the data reported on children's immunizations pursuant to subsection E of § 32.1-46;
6. The patient identifying data to be reported, including, but not limited to, the patient's name, date of birth, gender, telephone number, home address, birth place, and mother's maiden name;
7. The patient immunization information to be reported, including, but not necessarily limited to, the type of immunization administered (specified by current procedural terminology (CPT) code or Health Level 7 (HL7) code); date of administration; identity of administering person; lot number; and if present, any contraindications, or religious or medical exemptions;
8. Mechanisms for entering into data-sharing agreements with other state and regional immunization registries for the exchange, on a periodic nonemergency basis and in the event of a public health emergency, of patient immunization information, after receiving, in writing, satisfactory assurances for the preservation of confidentiality, a clear description of the data requested, specific details on the intended use of the data, and the identities of the persons with whom the data will be shared;
9. Procedures for the use of vital statistics data, including, but not necessarily limited to, the linking of birth certificates and death certificates;
10. Procedures for requesting immunization records that are in compliance with the requirements for disclosing health records set forth in § 32.1-127.1:03; such procedures shall address the approved uses for the requested data, to whom the data may be disclosed, and information on the provisions for disclosure of health records pursuant to § 32.1-127.1:03;
11. Procedures for releasing aggregate data, from which personal identifying data has been removed or redacted, to qualified persons for purposes of research, statistical analysis, and reporting; and
12. Procedures for the Commissioner of Health to access and release, as necessary, the data contained in VIIS in the event of an epidemic or an outbreak of any vaccine-preventable disease or the potential epidemic or epidemic of any disease of public health importance, public health significance, or public health threat for which a treatment or vaccine exists.

The Board's regulations shall also include any necessary definitions for the operation of VIIS; however, "health care entity," "health care plan," and "health care provider" shall be as defined in subsection B of § 32.1-127.1:03.

- C. The establishment and implementation of VIIS is hereby declared to be a necessary public health activity to ensure the integrity of the health care system in Virginia and to prevent serious harm and serious threats to the health and safety of individuals and the public. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the secure system established for VIIS without obtaining consent or authorization for such disclosure. Such

protected health information shall be used exclusively for the purposes established in this section.

- D. The Board and Commissioner of Health, any employees of the health department, any voluntary participant, and any person authorized to report or disclose immunization data hereunder shall be immune from civil liability in connection therewith unless such person acted with gross negligence or malicious intent.
- E. This section shall not diminish the responsibility of any physician or other person to maintain accurate patient immunization data or the responsibility of any parent, guardian, or person standing in loco parentis to cause a child to be immunized in accordance with the provisions of § 32.1-46. Further, this section shall not be construed to require the immunization of any person who objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, or any person for whom administration of immunizing agents would be detrimental to his health.
- F. The Commissioner may authorize linkages between VIIS and other secure electronic databases that contain health records reported to the Department of Health, subject to all state and federal privacy laws and regulations. These health records may include newborn screening results reported pursuant to § 32.1-65, newborn hearing screening results reported pursuant to § 32.1-64.1, and blood-lead level screening results reported pursuant to § 32.1-46.1. Health care providers authorized to use VIIS may view the health records of individuals to whom the providers are providing health care services.

(2005, cc. 643, 684; 2012, c. 147.)

§ 32.1-46.02. Administration of influenza vaccine to minors.

The Board shall, together with the Board of Nursing and by August 31, 2009, develop and issue guidelines for the administration of influenza vaccine to minors by licensed pharmacists, registered nurses, licensed practical nurses, or emergency medical services providers who hold an emergency medical technician intermediate or emergency medical technician paramedic certification issued by the Commissioner pursuant to § 54.1-3408. Such guidelines shall require the consent of the minor's parent, guardian, or person standing in loco parentis and shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention.

(2009, c. 110; 2010, cc. 179, 252; 2015, cc. 502, 503.)

§ 32.1-46.1. Board to establish protocol for identification of children with elevated blood-lead levels.

The Board shall promulgate regulations establishing a protocol for the identification of children at risk for elevated blood-lead levels which shall (i) require blood-lead level testing at appropriate ages and frequencies, when indicated, (ii) provide for criteria for determining low risk for elevated blood-lead levels and when such blood-lead level testing is not indicated, and (iii) require physicians to make available to parents information on the dangers of lead poisoning, along with a list of available resources, as part of regular well check visits for all children.

As deemed necessary by the Board, the protocol may also address follow-up testing for children with elevated blood-lead levels, dissemination of the protocol or other information to relevant health care professionals, appropriate information for parents, and other means of preventing lead poisoning among children. In promulgating such regulations, the Board shall consider the guidelines of the Centers for Disease Control and Prevention and may consider such other materials relating to lead poisoning prevention, testing, and treatment as it deems appropriate. The Board may also establish procedures governing how health care providers and laboratories report results to the Department of Health.

The Commissioner may authorize linkages between secure electronic data systems maintained by the Department of Health containing blood-lead level records and the Virginia Immunization Information System (VIIS) operated pursuant to § 32.1-46.01. The Commissioner may authorize health care providers authorized to view VIIS to view blood-lead level records of individuals to whom the providers are providing health care services. The records may be made available until the child reaches seven years of age, after which the records shall not be made available through a linkage to VIIS. Such linkages shall be subject to all applicable state and federal privacy laws and regulations.

(2000, c. 907; 2003, c. 463; 2007, c. 691; 2012, c. 147.)

§. 32.1-46.2. Certain testing or determination of low risk for elevated blood-lead levels required.

In accordance with the protocol required by § 32.1-46.1 and the regulations of the Board of Health promulgated thereto, the parent, guardian or other person standing in loco parentis of each child within the Commonwealth shall cause such child to be tested for elevated blood-lead levels or shall obtain a determination that the child is at low risk for elevated blood-lead levels.

The provisions of this section shall not apply to any child whose parent, guardian or other person having control or charge of such child shall object to such testing on the grounds that the procedure conflicts with his religious tenets or practices.

(2000, c. 907.)

§ 32.1-47. Exclusion from school of children not immunized.

Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease.

(1979, c. 711.)

§ 32.1-47.1. Vaccination of children; plan enhancements.

The Department shall include in its vaccination plans procedures to ensure the prompt vaccination of all persons of school age in the Commonwealth, without preference regarding the manner of compliance with the compulsory school attendance law set forth in § 22.1-254, upon declaration of a public health emergency involving a vaccine-preventable disease and consent of the parent or

guardian of the person of school age if such person is a minor or, if the person of school age is not a minor, of the person. Vaccination plans developed pursuant to this section shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention, and shall be subject to the same review and update requirements, process, and schedule as the State Emergency Operations Plan developed by the Department of Emergency Management pursuant to § 44-146.18.

(2010, c. 73.)

§ 32.1-48. Powers of Commissioner in epidemic.

- A. Nothing in this article shall preclude the Commissioner from requiring immediate immunization of all persons in case of an epidemic of any disease of public health importance for which a vaccine exists other than a person to whose health the administration of a vaccine would be detrimental as certified in writing by a physician licensed to practice medicine in this Commonwealth.
- B. In addition, the State Health Commissioner shall hold the powers conferred pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter to issue orders of quarantine or prepare orders of isolation for a communicable disease of public health threat.

(1979, c. 711; 2004, cc. 773, 1021.)

**ARTICLE 3.01. Isolation of Certain Persons with Communicable Diseases
of Public Health Significance.**

§ 32.1-48.01. Definitions.

As used in this article, unless the context requires a different meaning:

"Appropriate precautions" means those specific measures which have been demonstrated by current scientific evidence to assist in preventing transmission of a communicable disease of public health significance. Appropriate precautions will vary according to the disease.

"At-risk behavior" means engaging in acts which a person, who has been informed that he is infected with a communicable disease of public health significance, knows may infect other persons without taking appropriate precautions to protect the health of the other persons.

"Communicable disease of public health significance" means an illness of public health significance, as determined by the State Health Commissioner, caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another.

"Communicable disease of public health significance" shall include, but may not be limited to, infections caused by human immunodeficiency viruses, blood-borne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance. Further, "a communicable disease of public health significance" shall become a "communicable disease of public health threat" upon the finding of the State Health Commissioner of exceptional circumstances pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of this chapter.

(1990, c. 958; 2004, cc. 773, 1021.)

§ 32.1-48.02. Investigations of verified reports or medical evidence; counseling; outpatient and emergency treatment orders; custody upon emergency order; application of article.

- A. Upon receiving at least two verified reports or upon receiving medical evidence that any person who is reputed to know that he is infected with a communicable disease of public health significance is engaging in at-risk behavior, the Commissioner or his designee may conduct an investigation through an examination of the records of the Department and other medical records to determine the disease status of the individual and that there is cause to believe he is engaging in at-risk behavior.
- B. If the investigation indicates that the person has a communicable disease of public health significance caused by a non-airborne microorganism and that there is cause to believe he is engaging in at-risk behavior, the Commissioner or his designee may issue an order for such person to report to the local or district health department in the jurisdiction in which he resides to receive counseling on the etiology, effects and prevention of the specific disease of public health significance. The person conducting the counseling shall prepare and submit a report to the Commissioner or his designee on the counseling session or sessions in which he shall document that the person so counseled has been informed about the acts that constitute at-risk behavior, appropriate precautions, and the need to use appropriate precautions. The counselor shall also report any statements indicating the intentions or understanding of the person so counseled.
- C. If the investigation, described in subsection A, indicates that the person has a communicable disease of public health significance caused by an airborne microorganism, such as tubercle bacillus, that causes serious disease and can result in death and that the person has refused or failed to adhere to a prescribed course of treatment and, despite counseling, is engaging in conduct that places uninfected persons at risk of contracting such airborne communicable disease of public health significance, the Commissioner or his designee may issue an outpatient treatment order for such person to report to the local or district health department in the jurisdiction in which he resides to receive appropriate outpatient treatment and education concerning his disease.
- D. If the investigation, described in subsection A, indicates that the person has a communicable disease of public health significance caused by an airborne microorganism, such as tubercle bacillus, which causes serious disease and can result in death and, despite documented and appropriate counseling, is engaging in conduct that unreasonably places uninfected persons at risk of contracting such airborne communicable disease of public health significance, such as tuberculosis, and medical data demonstrate that he poses an imminent threat to the health of others, the Commissioner may issue an emergency order requiring such person to be taken immediately into custody and placed, for a period, not to exceed 48 hours, in the least restrictive, willing facility providing protection of the health of others and appropriate treatment to the person upon finding that at least one of the following conditions is met:
 - 1. The person has refused or failed to report to the local health department after having been ordered to do so pursuant to subsection C, for appropriate outpatient treatment and education concerning his disease;

2. The person has a documented history of failure to adhere to a prescribed course of treatment;
or
3. Documentation exists that the person has indicated that he will not comply with the prescribed treatment.

If the specified 48-hour period terminates on a Saturday, Sunday or legal holiday, such person may be detained until the next day which is not a Saturday, Sunday, or legal holiday. During this period, the Commissioner shall proceed in accordance with § 32.1-48.03.

- E. In order to implement an emergency order issued pursuant to subsection D of this section, all state and local law-enforcement officers are authorized to take custody of the subject of such emergency order immediately upon issuance of the emergency order by the Commissioner.
- F. The provisions of this article shall only apply to communicable diseases of public health significance and shall not apply to communicable diseases of public health threat.

(1990, c. 958; 1993, c. 705; 2001, c. 837; 2004, cc. 773, 1021.)

§ 32.1-48.03. Petition for hearing; temporary detention.

- A. Upon receiving a verified report or upon receiving medical evidence that any person who has been counseled pursuant to § 32.1-48.02 has continued to engage in at-risk behavior, the Commissioner or his designee may petition the general district court of the county or city in which such person resides to order the person to appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection with a communicable disease of public health significance.
- B. If such person cannot be conveniently brought before the court, the court may issue an order of temporary detention. The officer executing the order of temporary detention shall order such person to remain confined in his home or another's residence or in some convenient and willing institution or other willing place for a period not to exceed 48 hours prior to a hearing. An electronic device may be used to enforce such detention in the person's home or another's residence. The institution or other place of temporary detention shall not include a jail or other place of confinement for persons charged with criminal offenses.

If the specified 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, such person may be detained until the next day which is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

- C. Any person ordered to appear before the court pursuant to this section shall be informed of his right to be represented by counsel. The court shall provide the person with reasonable opportunity to employ counsel at his own expense, if so requested. If the person is not represented by counsel, the court shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of \$75 and his necessary expenses.

(1990, c. 958; 2001, c. 837; 2004, cc. 773, 1021.)

§ 32.1-48.04. Isolation hearing; conditions; order for isolation; right to appeal.

- A. The isolation hearing shall be held within 48 hours of the execution of any temporary detention order issued or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the isolation hearing shall be the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

Prior to the hearing, the court shall fully inform the person who is infected with the communicable disease of public health significance of the basis for his detention, if any, the basis upon which he may be isolated, and the right of appeal of its decision.

- B. An order for isolation in the person's home or another's residence or an institution or other place, including a jail when no other reasonable alternative is available, may be issued upon a finding by the court that the following conditions are met:

1. The person is infected with a communicable disease of public health significance.
2. The person is engaging in at-risk behavior.
3. The person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection with the communicable disease of public health significance.
4. There is no other reasonable alternative means of reducing the risk to public health.

- C. Any order for isolation in the person's home or another's residence or an institution or other place shall be valid for no more than 120 days, or for a shorter period of time if the Commissioner or his designee, or the court upon petition, determines that the person no longer poses a substantial threat to the health of others. Orders for isolation in the person's home or another's residence may be enforced through the use of electronic devices. Orders for isolation may include additional requirements such as participation in counseling or education programs. The court may, upon finding that the person no longer poses a substantial threat to the health of others, issue an order solely for participation in counseling or educational programs.

- D. Isolation orders shall not be renewed without affording the person all rights conferred in this article.

Any person under an isolation order pursuant to this section shall have the right to appeal such order to the circuit court in the jurisdiction in which he resides. Such appeal shall be filed within 30 days from the date of the order. Notwithstanding the provisions of § 19.2-241 relating to the time within which the court shall set criminal cases for trial, any appeal of an isolation order shall be given priority over all other pending matters before the court, except those matters under appeal pursuant to § 37.2-821, and shall be heard as soon possible by the court. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the appellate court.

The appeal shall be heard de novo. An order continuing the isolation shall only be entered if the conditions set forth in subsection B are met at the time the appeal is heard.

If the person under an isolation order is not represented by counsel, the judge shall appoint an attorney-at-law to represent him. Counsel so appointed shall be paid a fee of \$150 and his necessary expenses. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.

(1990, c. 958; 2001, c. 837; 2004, cc. 773, 1021.)

ARTICLE 3.02. Quarantine and Isolation of Persons with Communicable Diseases of Public Health Threat.

§ 32.1-48.05. Application of article; determination of exceptional circumstances; regulations; duties of the State Health Commissioner not be delegated.

- A. Upon a determination by the State Health Commissioner that exceptional circumstances exist relating to one or more persons in the Commonwealth who are known to have been exposed to or infected with or reasonably suspected to have been exposed to or infected with a communicable disease of public health threat and that such exceptional circumstances render the procedures of Article 3.01 (§ 32.1-48.01 et seq.) of this chapter to be insufficient control measures or that the individuals have failed or refused to comply voluntarily with the control measures directed by the State Health Commissioner in response to a communicable disease of public health threat, the State Health Commissioner may invoke the provisions of this article relating to quarantine and isolation.
- B. The Board of Health shall promulgate regulations for the implementation of this article that shall (i) address the circumstances that are subject to the application of Article 3.01 (§ 32.1-48.01 et seq.) of this chapter and the exceptional circumstances in which this article may be invoked by the State Health Commissioner; (ii) provide procedures to assure that any quarantine or isolation is implemented in the least restrictive environment; (iii) ensure that the essential needs of persons subject to an order of isolation issued pursuant to this article shall be met, including, but not limited to, food, water, and health care, e.g., medications, therapies, testing, and durable medical equipment; (iv) provide procedures for proper notice of orders of quarantine and orders of isolation; (v) provide procedures for the State Health Commissioner to issue an emergency detention order for persons for whom he has probable cause to believe that they may fail or refuse to comply with an order of quarantine or an order of isolation; and (vi) address any other issue or procedure covered herein that the Board deems to be properly the subject of regulation.
- C. The powers granted to the State Health Commissioner pursuant to this article shall not be delegated to or invoked by any local or district health department director. However, in the event the State Health Commissioner, duly appointed and confirmed pursuant to § 32.1-17, shall be unable to perform his duties pursuant to this article, any Deputy Commissioner, appointed by the State Health Commissioner and approved by the Board pursuant to § 32.1-22, shall be authorized to invoke the provisions of this article.

(2004, cc. 773, 1021.)

§ 32.1-48.06. Definitions.

As used in this article, unless the context requires a different meaning:

"Affected area" means any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with or who are reasonably suspected to have been exposed to or infected with a communicable disease of public health threat. "Affected area" shall include, but not limited to, cities, counties, towns, and subsections of such areas, public and private property, buildings, and other structures.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal. Further, whenever "person or persons" is used herein it shall be deemed, when the context requires it, to include any individual.

"Companion animal" means, consistent with the provisions of § 3.2-6500, any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purposes of this article.

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with or are reasonably suspected to be infected with a communicable disease of public health threat in order to prevent or limit the transmission of the communicable disease of public health threat to other uninfected and unexposed individuals.

"Law-enforcement agency" means any sheriff's office, police department, adult or youth correctional officer, or other agency or department that employs persons who have law-enforcement authority that is under the direction and control of the Commonwealth or any local governing body. "Law-enforcement agency" shall include, by order of the Governor, the Virginia National Guard.

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area, as defined herein, or who are known to have been exposed or may reasonably be suspected to have been exposed to a communicable disease of public health threat and who do not yet show signs or symptoms of infection with the communicable disease of public health threat in order to prevent or limit the transmission of the communicable disease of public health threat to other unexposed and uninfected individuals.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.07. Conditions for invoking the provisions of this article.

- A. Prior to issuing any order of quarantine or any order of isolation pursuant to this article, the State Health Commissioner shall ensure that:
1. Any quarantine or isolation is implemented in the least restrictive environment necessary to contain the communicable disease of public health threat;
 2. Any quarantined persons shall be confined separately from any isolated persons, to the maximum extent practicable;
 3. Upon determining that any quarantined person can be reasonably believed to have become infected with a communicable disease of public health threat, the infected person shall be promptly removed from quarantine and placed in isolation;
 4. The health and disease status of any quarantined and isolated persons shall be monitored regularly to determine if such persons require continued quarantine or isolation;
 5. Any quarantined or isolated persons shall be immediately released from quarantine or isolation upon a determination by the State Health Commissioner that such quarantined or isolated persons pose no risk of transmitting the communicable disease of public health threat to other persons; and
 6. The site of any quarantine or isolation shall be, to the extent practicable, safely and hygienically maintained with adequate food, clothing, health care, and other essential needs made available to the persons who are subject to any order of quarantine or isolation.
- B. All persons subject to an order of quarantine or an order of isolation shall comply with the order and the conditions governing their quarantine or isolation.
- C. In the case of any person who has been quarantined or isolated in a location other than a medical care facility, the State Health Commissioner shall authorize health care professionals to enter the premises of quarantine or isolation. No person, other than such authorized health care professionals, shall enter the premises of quarantine or isolation, unless authorized by the State Health Commissioner. Upon determining that any person, who has entered the premises of quarantine or isolation, poses a threat to public health and safety, the State Health Commissioner may quarantine or isolate such person.

(2004, cc. 773, 1021.)

§ 32.1-48.08. Declaration of quarantine.

- A. The State Health Commissioner may declare a quarantine of any person or persons or any affected area after he finds that the quarantine is the necessary means to contain a communicable disease of public health threat as defined in § 32.1-48.06 to which such person or persons or the people of an affected area have been or may have been exposed and thus may become infected.
- B. The State Health Commissioner shall record his findings and any information on which he has relied in making the finding required for quarantine pursuant to subsection A. The State Health

Commissioner's record of findings concerning any communicable disease of public health threat shall be confidential and shall not be disclosed in accordance with subdivision 17 of § 2.2-3705.5.

- C. The State Health Commissioner may order the quarantined person or persons to remain in their residences, to remain in another place where they are present, or to report to a place or places designated by the State Health Commissioner for the duration of their quarantine. An electronic device may be used to enforce any such quarantine. The Commissioner's order of quarantine shall be for a duration consistent with the known incubation period for such disease or, if the incubation period is unknown, for a period anticipated as being consistent with the incubation period for other similar infectious agents.

(2004, cc. 773, 1021.)

§ 32.1-48.09. Order of quarantine.

- A. The State Health Commissioner shall, prior to placing any person or persons under quarantine, issue an order of quarantine that shall: (i) identify the communicable disease of public health threat that is reasonably believed to be involved and the reasons why exceptional circumstances apply and the quarantine is the necessary means to contain the risks of transmission of the disease; (ii) contain sufficient information to provide reasonable notice to persons who are affected by the order of quarantine that they are subject to the order; (iii) specify the means by which the quarantine is to be implemented; (iv) establish clearly the geographic parameters of the quarantine, if involving an affected area; (v) specify the duration of the quarantine; (vi) provide sufficient directions for compliance with the quarantine to enable persons subject to the order to comply; (vii) provide timely opportunities, if not readily available under the circumstances, for the person or persons who are subject to the order to notify employers, next of kin or legally authorized representatives and the attorneys of their choice of the situation; (viii) specify the penalty or penalties that may be imposed for noncompliance with the order of quarantine pursuant to § 32.1-27; and (ix) include a copy of § 32.1-48.010 to inform any person or persons subject to an order of quarantine of the right to seek judicial review of the order.
- B. No affected area shall be the subject to an order of quarantine issued by the State Health Commissioner unless the Governor, pursuant to the authority vested in him pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44, has declared a state of emergency for such affected area of the Commonwealth.
- C. The order of quarantine shall be delivered to any person or persons affected by the quarantine, in so far as practicable. However, if, in the opinion of the State Health Commissioner, the number of quarantined persons is too great to make delivery of copies of the order of quarantine to each person possible in a timely manner, or if the order of quarantine designates an affected area instead of a specific person or persons, the State Health Commissioner shall cause the order of quarantine to be communicated to the persons residing or located in the affected area.
- D. The State Health Commissioner or his legal representative shall, as soon as practicable following the issuance of an order of quarantine, file a petition seeking an ex parte court review and confirmation of the quarantine.

- E. The petition shall be filed in the circuit court for the city or county in which the person or persons resides or, in the case of an affected area, in the circuit court of the affected jurisdiction or jurisdictions.

The petition shall include (i) a copy of the order of quarantine or all information contained in the State Health Commissioner's order of quarantine in some other format and (ii) a summary of the findings on which the Commissioner relied in deciding to issue the order of quarantine.

Upon receiving multiple orders of quarantine, the court may, on the motion of any party or on the court's own motion, consolidate the cases into a single proceeding for all orders when (i) there are common questions of law or fact relating to the individual claims or rights to be determined, (ii) the claims of the consolidated cases are substantially similar, and (iii) all parties to the orders will be adequately represented in the consolidation.

- F. Prior to the expiration of the original order of quarantine, the Commissioner may extend the duration of the original order upon finding that such an extension is necessary. The Commissioner, or his legal representative, shall, as soon as practicable following the extension of an order of quarantine, file a petition seeking court review and confirmation of the order to extend the duration of the quarantine.
- G. In reviewing the petition for review and confirmation of the order of quarantine or an extension of the order of quarantine, the court shall give due deference to the specialized expertise of the State Health Commissioner. The court shall grant the petition to extend the quarantine upon finding probable cause that quarantine was the necessary means to contain the disease of public health threat and is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.
- H. The State Health Commissioner may, if he reasonably believes that public disclosure of the information contained in the order of quarantine or the petition for court review and confirmation or extension of the order of quarantine will exacerbate the public health threat or compromise any current or future criminal investigation or compromise national security, file some or all of any petition relating to an order of quarantine under seal. After reviewing any information filed under seal by the State Health Commissioner, the court shall reseal the relevant materials to the extent necessary to protect public health and safety.
- I. The State Health Commissioner shall ensure that the protected health information of any person or persons subject to the order of quarantine shall only be disclosed in compliance with § 32.1-127.1:03 of this title and the regulations relating to privacy of health records promulgated by the federal Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.).
- J. Any law-enforcement officer, state or local health department employee, or any other person designated by a law-enforcement officer or state or local health department employee is empowered and authorized to deliver an order of quarantine.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.010. Appeal of any order of quarantine.

- A. Any person or persons subject to an order of quarantine or a court-ordered extension of any such order pursuant to this article may file an appeal of the order of quarantine as such order applies to such person or persons in the circuit court for the city or county in which the subject or subjects of the order reside or are located or the circuit court for the jurisdiction or jurisdictions for any affected area. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of quarantine is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.
- B. A hearing on the appeal of the order of quarantine shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

- C. Any person appealing an order of quarantine shall have the burden of proving that he is not properly the subject of the order of quarantine.
- D. The filing of an appeal shall not stay any order of quarantine.
- E. Upon receiving multiple appeals of an order of quarantine that applies to a group of persons or an affected area, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.
- F. The circuit court shall not conduct a de novo review of the order of quarantine; however, the court shall consider the existing record and such supplemental evidence as the court shall consider relevant. The court shall conduct the hearing on an appeal of an order of quarantine in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or upon the court's own motion.
- G. Upon completion of the hearing, the court may (i) vacate or modify the order of quarantine as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (ii) vacate or modify the order of quarantine as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (iii) confirm the order of quarantine as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the

order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of quarantine as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of quarantine as it applies to any person who has filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from quarantine unless such order to vacate the quarantine shall be stayed by the filing of an appeal to the Supreme Court of Virginia. Any party to the case may file an appeal of the circuit court decisions to the Supreme Court of Virginia. Parties to the case shall include any person who is subject to an order of quarantine and has filed an appeal of such order with the circuit court and the State Health Commissioner.

- H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of quarantine or any appeal of an order of quarantine by a person or persons who are subject to such order shall be appealable directly to the Supreme Court of Virginia, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.
- I. Appeals of any circuit court order relating to an order of quarantine shall not stay any order of quarantine.
- J. Persons requesting judicial review of any order of quarantine shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of quarantine reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.011. Isolation may be ordered under certain exceptional circumstances; Commissioner authorized to require hospitalization or other health care.

- A. Whenever the State Health Commissioner makes a determination of exceptional circumstances pursuant to § 32.1-48.05 and that the isolation procedures set forth in Article 3.01 (§ 32.1-48.01 et seq.) of this chapter are insufficient control measures to contain a communicable disease of public health threat, the isolation procedures herein may be invoked.
- B. The State Health Commissioner may order the isolation of a person or persons upon a finding that (i) such person or persons are infected with or may reasonably be suspected to be infected with a communicable disease of public health threat and (ii) isolation is necessary to protect the

public health, to ensure such isolated person or persons receive appropriate medical treatment, and to protect health care providers and others who may come into contact with such infected person or persons.

- C. The State Health Commissioner shall record his findings and any information on which he has relied in making the finding required for isolation pursuant to this section. The State Health Commissioner's record of findings concerning any communicable disease of public health threat that is involved in an order of isolation shall be confidential and shall not be disclosed in accordance with subdivision 17 of § 2.2-3705.5.
- D. The Commissioner may order the isolated person or persons to remain in their places of residence, to remain in another place where they are present, or to report to a place or facility designated by the Commissioner for the duration of their isolation. An electronic device may be used to enforce any such isolation. The Commissioner's order of isolation shall be for a duration consistent with the known course of such communicable disease of public health threat or, if the course of the disease is unknown or uncertain, for a period consistent with the probable course of the communicable disease of public health threat.
- E. To the extent that persons subject to an order of isolation pursuant to this article require hospitalization or other health care services, the State Health Commissioner shall be authorized to require that such services be provided.
- F. The State Health Commissioner shall also have the authority to monitor the medical condition of any person or persons subject to an order of isolation pursuant to this article through regular visits by public health nurses or such other means as the Commissioner shall determine to be necessary.

(2004, cc. 773, 1021.)

§ 32.1-48.012. Isolation order.

- A. The State Health Commissioner shall, prior to placing any person or persons in isolation, prepare a written order of isolation that shall: (i) identify the person or persons subject to such order of isolation; (ii) identify the site of isolation, which may, in the Commissioner's discretion, include the residence of any isolated individual; (iii) specify the date and time that isolation is to commence; (iv) identify the communicable disease of public health threat or the suspected communicable disease of public health threat with which the person or persons are known to be infected or reasonably suspected to be infected; (v) specify the bases for isolation, including why isolation is the necessary means to contain transmission of the disease, and any conditions of the isolation; (vi) provide timely opportunities, if not readily available under the circumstances, for the person or person who are subject to the order to notify employers, next of kin or legally authorized representatives and the attorneys of their choice of the situation; (vii) specify the penalty or penalties that may be imposed for noncompliance with order of isolation pursuant to § 32.1-27; and (viii) include a copy of § 32.1-48.013 to inform any person or persons subject to an order of isolation of the right to seek judicial review or the order.
- B. No affected area shall be the subject of an order of isolation prepared by the State Health Commissioner unless the Governor, pursuant to the authority vested in him pursuant to Chapter

3.2 (§ 44-146.13 et seq.) of Title 44, has declared a state of emergency for such affected area of the Commonwealth.

- C. The order of isolation shall be delivered to any person or persons affected by the isolation, in so far as practicable. However, if, in the opinion of the State Health Commissioner, the number of isolated persons is too great to make delivery of copies of the order of isolation to each person possible in a timely manner, or if the order of isolation designates an affected area instead of a specific person or persons, the State Health Commissioner shall cause the order of isolation to be communicated to the persons residing or located in the affected area.
- D. The State Health Commissioner shall, as soon as practicable following the issuance of an order of isolation, file a petition seeking an ex parte court order to review and confirm the isolation.
- E. The petition shall be filed in the circuit court for the city or county in which the person or persons resides or is located or, in the case of an affected area, in the circuit court of the affected jurisdiction or jurisdictions.

Upon receiving multiple orders of isolation, the court may, on the motion of any party or on the court's own motion, consolidate the cases into a single proceeding for all orders when (i) there are common questions of law or fact relating to the individual claims or rights to be determined, (ii) the claims of the cases are substantially similar, and (iii) all parties to the orders will be adequately represented in the consolidation.

- F. The petition shall include (i) a copy of the order of isolation or all information contained in the State Health Commissioner's order of isolation in some other format and (ii) a summary of the findings on which the Commissioner relied in determining that an order of isolation was required to contain the transmission of the communicable disease of public health threat.
- G. Prior to the expiration of the original order of isolation, the Commissioner may extend the duration of the original order upon finding that such an extension is necessary. The Commissioner, or his legal representative, shall, as soon as practicable following the extension of an order of isolation, file a petition seeking court review and confirmation of the order to extend the duration of the isolation.
- H. In reviewing any petition for review and confirmation or extension of the order of isolation, the court shall give due deference to the specialized expertise of the State Health Commissioner. The court shall grant the petition to confirm or extend the isolation upon finding probable cause that isolation was the necessary means and remains the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.
- I. The State Health Commissioner may, if he reasonably believes that public disclosure of the information contained in the order of isolation or the petition for review and confirmation or extension of the order of isolation will exacerbate the public health threat or compromise any current or future criminal investigation or compromise national security, file some or all of any petition to extend an order of isolation under seal. After reviewing any information filed under

seal by the State Health Commissioner, the court shall reseal the relevant materials to the extent necessary to protect public health and safety.

- J. The State Health Commissioner shall ensure that the protected health information of any person or persons subject to the order of isolation shall only be disclosed in compliance with the regulations relating to privacy of health records promulgated by the federal Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996.
- K. Any law-enforcement officer, state or local health department employee, or any other person designated by a law-enforcement officer or state or local health department employee is empowered and authorized to deliver an order of isolation.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.013. Appeal of any order of isolation.

- A. Any person or persons subject to an order of isolation or a court-ordered confirmation or extension of any such order pursuant to this article may file an appeal of the order of isolation in the circuit court for the city or county in which such person or persons reside or, in the case of an affected area, in the circuit court for any affected jurisdiction or jurisdictions. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of isolation is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.
- B. A hearing on the appeal of the order of isolation shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

- C. Any person appealing an order of isolation shall have the burden of proving that he is not properly the subject of the order of isolation.
- D. An appeal shall not stay any order of isolation.
- E. Upon receiving multiple appeals of an order of isolation, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.
- F. The circuit court shall not conduct a de novo review of the order of isolation; however, the court shall consider the existing record and such supplemental evidence as the court shall consider

relevant. The court shall conduct the hearing on an appeal of an order of isolation in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or the court's own motion.

- G. Upon completion of the hearing, the court may (i) vacate or modify the order of isolation as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (ii) vacate or modify the order of isolation as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (iii) confirm the order of isolation as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective infection control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of isolation as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of isolation as it applies to any person who has filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from isolation unless such order to vacate the isolation shall be stayed by the filing of an appeal to the Supreme Court of Virginia. Any party to the case may file an appeal of the circuit court decisions to the Supreme Court of Virginia. Parties to the case shall include any person who is subject to an order of isolation and has filed an appeal of such order with the circuit court and the State Health Commissioner.

- H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of isolation or any appeal of an order of isolation by a person or persons who are subject to such order shall be appealable directly to the Supreme Court of Virginia, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.
- I. Appeals of any circuit court order relating to an order of isolation shall not stay any order of isolation.
- J. Persons appealing any order of isolation shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of isolation reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.013:1. Electronic filings as protection from communicable disease.

Notwithstanding Rule 1:17 of the Supreme Court of Virginia, a court in its discretion may permit the electronic or facsimile filing of a petition, notice, brief, notice of appeal, or other legal document when such filing is necessary to expedite the proceedings or to protect the public, court officials, or others participating in the proceedings from exposure to a communicable disease.

(2007, cc.699, 783.)

§ 32.1-48.014. Enforcement of orders of quarantine or isolation; penalties.

- A. Any person who does not comply with a validly issued order of quarantine or order of isolation issued or prepared pursuant to this article shall be subject to the penalties provided in § 32.1-27, including, upon conviction, a Class 1 misdemeanor and payment of civil penalties.
- B. Any order of quarantine or isolation shall be enforced by law-enforcement agencies, as directed by the State Health Commissioner. Any enforcement authority directed to law-enforcement agencies by the Commissioner shall expressly include, but need not be limited to, the power to detain or arrest any person or persons identified as in violation of any order of quarantine or isolation, or for whom probable cause exists that he may fail or refuse to comply with any such order.

Any person or persons so detained shall be held in the least restrictive environment that can provide any required health care or other services for such person.

- C. Every attorney for the Commonwealth shall have the duty to prosecute, without delay, any violation of this chapter in accordance with the penalties set forth in § 32.1-27.
- D. Pursuant to 42 U.S.C. 264 et seq. and 42 C. F. R. Parts 70 and 71, and order of quarantine or isolation issued by the Director of the Centers for Disease Control and Prevention affecting the Commonwealth or the Metropolitan Washington Airports Authority may be enforced by local law-enforcement officers or officers of the Metropolitan Washington Airports Authority with jurisdiction over the facility involved in the quarantine or isolation order.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.015. Authorization to disclose health records.

- A. The provisions of this article are hereby declared to be necessary to prevent serious harm and serious threats to the health and safety of individuals and the public in Virginia for purposes of authorizing the State Health Commissioner or his designee to examine and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article and the regulations of the Department of Health and Human Services promulgated in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended. The State Health Commissioner shall authorize any designee in writing to so examine

and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article.

- B. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the State Health Commissioner or his designee without obtaining consent or authorization for such disclosure from the person who is the subject of the records. Such protected health information shall be used to facilitate the health care of any person or persons who are subject to an order of quarantine or an order of isolation. The State Health Commissioner or his designee shall only redisclose such protected health information in compliance with the aforementioned federal regulations. Further, the protected health information disclosed to the State Health Commissioner or his designee shall be held confidential and shall not be disclosed pursuant to the provisions of subdivision 17 of § 2.2-3705.5.
- C. Pursuant to subsection G of § 32.1-116.3, any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person (i) to be infected with any communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 shall inform such employee of a public safety agency of the potential risk of exposure to a communicable disease.

(2004, cc. 773, 1021; 2007, cc. 699, 783.)

§ 32.1-48.016. Immunity from liability.

Any person, including a person who serves in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT), who, in good faith and in the performance of his duties, acts in compliance with this article and the Board of Health's regulations shall not be liable for any civil damages for any act or omission resulting from such actions unless such act or omission was the result of gross negligence or willful misconduct.

(2004, cc. 773, 1021; 2005, c. 474.)

§ 32.1-48.017. Use of public or private property or facilities.

- A. Upon the declaration by the Governor of a state of emergency pursuant to § 44-146.17, the State Health Commissioner, acting in concert with the Governor, shall be authorized to require the use of any public or private property, building or facility to implement any order of quarantine or order of isolation. The State Health Commissioner and the Governor shall find, together, that the use of the property, building or facility is necessary and appropriate to enforce an order of quarantine or an order of isolation in the least restrictive environment.
- B. If the Commissioner and the Governor elect to use any public or private property, building or facility pursuant to this article and this section, the Commissioner shall make accommodations, in conjunction with the owner or operator of the property, building or facility, for persons who are employed in, using or occupying the property, building or facility and who are not covered by the relevant order of quarantine or order of isolation.

C. Owners or operators of any property, building or facility so commandeered shall be entitled to compensation.

(2004, cc. 773, 1021.)

ARTICLE 3.1. Control of Rabies.

§ 32.1-48.1. Regulation of State Health Commissioner declaring existence of rabies; display and publication.

Whenever the State Health Commissioner is informed that an outbreak of rabies has occurred in a county or city, he may, after consulting with the Commissioner of Agriculture and Consumer Services and the Executive Director of the Department of Game and Inland Fisheries, adopt a regulation declaring the existence of rabies in such county or city and containing such requirements as are hereinafter set forth. Such regulations shall be prominently displayed throughout the county or city and shall be published therein by signs or otherwise to call the attention of the public to the existence of such outbreak.

(1954, c. 339, § 29-213.1; 1987, c. 488.)

§ 32.1-48.2. Regulation of Commissioner requiring vaccination or inoculation of dogs.

When the State Health Commissioner has declared that an outbreak of rabies exists in a county or city, he may adopt a regulation requiring all dogs therein to be vaccinated or inoculated against rabies, with such exceptions as he deems appropriate. Such regulation shall set forth the persons by whom and the time within which such vaccination or inoculation may be required. The State Health Commissioner may establish such clinics and furnish other services and supplies as will enable the prompt vaccination or inoculation of all dogs in such county or city.

(1954, c. 339, § 29-213.2; 1987, c. 488.)

§ 32.1-48.3. Regulations of Commissioner covering local ordinances and requirements.

If the governing body of the county or city in which the outbreak exists does not adopt, under § 3.2-6522, subsection A of § 3.1-6525, §§ 3.2-6538, 3.2-6539, and 3.2-6546, and ordinances, regulations and measures to prohibit the running at large of dogs and to prevent the spread of rabies, the State Health Commissioner is authorized to adopt regulations providing for the matters contained in such sections and to enforce the same in the same manner as if they had been specifically adopted by the governing body of the county or city involved, and the provisions of such sections shall apply mutatis mutandis to the regulations adopted by the Commissioner hereunder.

(1954, c. 339, § 29-213.3; 1987, c. 488; 2001, c. 674.)

§ 32.1-48.4. Commissioner to cooperate with local governing bodies and agencies.

The Commissioner shall, insofar as practicable, cooperate with the local governing body and agencies of the county or city involved to the end that a joint program may be adopted and enforced for the reduction and elimination of rabies.

(1954, c. 339, § 29-213.4; 1987, c. 488.)

ARTICLE 4. Tuberculosis.

§ 32.1-49. Tuberculosis required to be reported.

The Board shall include tuberculosis in the list of diseases provided for in § 32.1-35 which are required to be reported.

(1979, c. 711.)

§ 32.1-49.1. Definitions.

"Active tuberculosis disease" means a communicable disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or other definitive diagnostic test as established by the Commissioner, (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear and sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in the Commonwealth, or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the Commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing or suspected to contain tubercle bacilli is unobtainable.

"Tubercle bacilli" means disease-causing organisms belonging to the *Mycobacterium tuberculosis* complex and includes *Mycobacterium tuberculosis*, *Mycobacterium bovis*, *Mycobacterium africanum* or other members as established by the Commissioner.

"Tuberculosis" means a disease caused by tubercle bacilli.

(2001, c. 459.)

§ 32.1-50. Examination of persons suspected of having active tuberculosis disease; reporting; report forms; report schedule; laboratory reports and required samples.

- A. Any local health director may request any person having or reasonably suspected of having active tuberculosis disease to be examined immediately for the purpose of ascertaining the presence or absence of the disease. Such examination may be made by any licensed physician or licensed nurse practitioner selected by such person at his own expense and approved by the local health director or by the local health director at no cost to such person.
- B. Each physician or nurse practitioner practicing in the Commonwealth who diagnoses or treats a person for active tuberculosis disease as defined in § 32.1-49.1 and each person in charge of a medical care facility providing inpatient or outpatient diagnosis or treatment for active tuberculosis disease shall report to the local health director within such time period and in such manner as may be prescribed by regulations of the Board. Such report, at a minimum, shall include an initial report when there are reasonable grounds to believe that a person has active tuberculosis disease, and a subsequent report when a person ceases treatment for tuberculosis

disease. Cessation of treatment may be inferred when the person (i) fails to keep a scheduled appointment, (ii) relocates without transferring care, or (iii) discontinues care either upon or against the advice of the treating physician or nurse practitioner.

- C. The initial disease report shall include the following: the affected person's name; date of birth; gender; address; pertinent clinical, radiographic, microbiologic, and pathologic reports, whether final or pending; such other information as is needed to locate the patient for follow-up; and any other information as prescribed by regulations of the Board.
- D. Subsequent reports shall be submitted within such time, at such frequency, and in such manner as may be prescribed by regulations of the Board and shall provide updated clinical status, bacteriologic and radiographic results, assessment of treatment adherence, name of current care provider, and any other information as prescribed by the Board.
- E. Every director of any laboratory doing business in the Commonwealth shall, according to the manner and schedule as determined by the Board, report any result diagnostic of or highly correlated with active tuberculosis disease, whether testing is done in-house or referred to an out-of-state laboratory, including cultures positive for tubercle bacilli and smears suggestive of tubercle bacilli, and shall report the results of tests for antimicrobial susceptibility performed on cultures positive for tubercle bacilli. Each director of any laboratory shall also submit a representative and viable sample of the initial culture to the Virginia Division of Consolidated Laboratory Services or other laboratory designated by the Board to receive such specimen in order to (i) ensure testing for antimicrobial susceptibility on each initial isolate from a person with active tuberculosis disease, and (ii) establish a library of such isolates for the purpose of disease strain analysis as indicated by epidemiological investigations.

(Code 1950, § 32-85.1; 1956, c. 482; 1979, c. 711; 2001, c. 459; 2004, c. 855; 2006, cc. 46, 396, 822.)

§ 32.1-50.1. Treatment plan; submission of plan and mediation of disagreements; determination of cure.

- A. Each physician practicing in the Commonwealth who assumes responsibility for the treatment of a person for active tuberculosis as defined in this article and each person in charge of a medical care facility providing inpatient or outpatient treatment to a person with active tuberculosis shall, with the assistance and acknowledgement of that person, develop, maintain, and update as indicated, an individualized written plan of treatment tailored to the person's medical and personal needs and identifying the method for effective treatment and prevention of transmission. At a minimum, the plan shall specifically include verified patient address, name of the medical provider who has assumed responsibility for treatment, planned course of anti-tuberculosis drug therapy, estimated date of treatment completion, and means of ensuring successful completion of that treatment.
- B. The written treatment plan shall upon request be submitted by the medical provider to the local health director in a manner determined by the Board and shall be subject to approval of the local health director. The Commissioner shall have the authority to settle, based on statewide standards, disagreements between the written plan so submitted and standards of care established by the local health director.

- C. Each treating physician or person in charge of a medical facility providing outpatient or inpatient care to a person with active tuberculosis disease shall maintain and submit to the local health director, upon his request, written documentation of that person's adherence to the treatment plan.
- D. Each person in charge of a medical care facility providing inpatient treatment to a person with active tuberculosis disease and each person in charge of a state correctional or local correctional or detention facility that has in its custody a person with active tuberculosis shall submit to the local health director, in the manner determined by the Board, the plan of treatment for such person as required in this article. The person in charge shall encourage the person to comply with such treatment plan; however, if such person with active tuberculosis indicates an unwillingness to comply with the treatment plan upon release, or exhibits behavior that indicates noncompliance, the person in charge, in conjunction with the local health director, may request the Commissioner to issue an emergency order requiring such person to be taken into custody pursuant to § 32.1-48.02 or other detention or custody options available pursuant to § 32.1-48.03 or § 32.1-48.04.
- E. Once established in a person, active tuberculosis disease shall be considered present until (i) the person has received a complete and adequate course of antituberculosis drug therapy as established by the Commissioner in accordance with guidelines developed by the American Thoracic Society and Centers for Disease Control and Prevention and (ii) three successive cultures of specimens of sputum or other bodily fluid or tissue collected at intervals of no less than one week, or other definitive diagnostic test as established by the Commissioner demonstrate no viable tubercle bacilli, or the Commissioner or his designee determines that the clinical, laboratory, or radiographic evidence leads to a diagnosis other than active tuberculosis disease.

(2001, c. 459.)

§ 32.1-50.2. Administration of tuberculin purified protein derivative by nurses; policies and guidelines.

The Department shall issue policies and guidelines governing the possession and administration of tuberculin purified protein derivative (PPD) by registered nurses and licensed practical nurses pursuant to § 54.1-3408.

(2003, c. 515.)

§§ 32.1-51. , 32.1-52.

Repealed by Acts 1990, c. 958.

§ 32.1-53. Facilities and contracts for treatment of tuberculosis patients.

The Board may construct and operate hospitals and other facilities for the diagnosis and treatment of tuberculosis or enter into contractual arrangements with medical schools and hospitals in the Commonwealth for the care and treatment of tuberculosis patients.

(Code 1950, § 32-312; 1979, c. 711.)

§ 32.1-54. Commissioner authorized to charge patients for care.

When a tuberculosis patient is admitted to a facility operated by the Board or under contract with the Board, the Commissioner shall determine whether such patient or any person legally liable for such patient's support is able to pay in whole or in part for such patient's care. In making such determination, the Commissioner shall consider whether such patient or other person can make such payment and meet his other financial responsibilities for the support of himself and his family. Such determination may be made from time to time according to the circumstances of each case. If the Commissioner determines that a patient or person legally liable for his support can pay for the cost of his care or a portion thereof, the Commissioner shall collect for the cost of such care the actual average per diem cost or such portion thereof as the Commissioner may determine the patient should pay. The Commissioner shall also collect any third-party payments as may be available for the care and treatment of such patient unless other contractual arrangements are made.

(Code 1950, § 32-312.1; 1954, c. 698; 1956, c. 499; 1979, c. 711.)

ARTICLE 5. Venereal Diseases.

§ 32.1-55. Definition.

As used in this article, "venereal disease" includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmittable disease determined by the Board to be dangerous to the public health.

(Code 1950, § 32-90; 1979, c. 711.)

§ 32.1-55.1. Anonymous testing sites for human immunodeficiency virus.

From such funds as are appropriated for this purpose, the Board of Health shall make available in all health services areas of the Commonwealth anonymous testing for infection with human immunodeficiency virus.

(1989, c. 613.)

§ 32.1-56. Information to be provided patients.

It shall be the duty of every physician or other person who examines or treats a person having a venereal disease to provide such person with information about the disease, including, as a minimum, the nature of the disease, methods of treatment, measures used in preventing the spread of such disease, and the necessity of tests to ensure that a cure has been accomplished.

(Code 1950, § 32-92; 1979, c. 711.)

§ 32.1-57. Examination, testing and treatment; failure to comply with order of examination.

- A. A local health director may require any person suspected of being infected with any venereal disease to submit to examination, testing and treatment if necessary.
- B. If any such person refuses to submit to an examination, testing or treatment or to continue treatment until found to be cured by proper test, the local health director may apply to the appropriate circuit court for an order compelling such examination, testing or treatment. Any person willfully failing to comply with such order shall be punishable as for contempt of court.

- C. If a person infected with venereal disease is required by the local health director to receive treatment therefor and such person receives such treatment from the local health department, no fee shall be charged.

(Code 1950, § 32-93; 1979, c. 711; 1988, c. 399.)

§ 32.1-58. Persons convicted of certain crimes to be examined, tested and treated.

Each person convicted of a violation of § 18.2-346 or § 18.2-361 shall be examined and tested for venereal disease and treated if necessary.

(Code 1950, § 32-94; 1979, c. 711.)

§ 32.1-59. Examination and treatment in certain institutions.

Every person admitted to any state correctional institution and every person admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services shall be examined and tested for venereal disease. If the person is found to be infected with a venereal disease, the person in charge of such institution or state hospital or training center shall promptly provide treatment and shall report such case as provided in § 32.1-37.

(Code 1950, § 32-104; 1979, c. 711; 2012, cc. 476, 507.)

§ 32.1-60. Prenatal tests required.

Every physician, physician assistant, or nurse practitioner attending a pregnant woman during gestation shall examine and test such woman for such venereal diseases as the Board may designate within 15 days after beginning such attendance. Every other person permitted by law to attend upon pregnant women but not permitted by law to make such examinations and tests, shall cause such examinations and tests to be made by a licensed physician, licensed nurse practitioner, or clinic. Serological tests required by this section may be performed by the Department of General Services, Division of Consolidated Laboratory Services (DCLS).

(Code 1950, § 32-104.1; 1950, p. 108; 1979, c. 711; 1980, c. 184; 1984, c. 140; 1993, c. 364; 2004, c. 855; 2006, c. 396)

ARTICLE 6. Prevention of Blindness from Ophthalmia Neonatorum.

§ 32.1-61. Definition.

As used in this article, "ophthalmia neonatorum" means any inflammation, swelling or unusual redness in one or both eyes of any infant, either apart from or together with any unnatural discharge from the eye or eyes of such infant, independent of the nature of the infection, if any, occurring at any time within two weeks after the birth of such infant.

(Code 1950, § 32-105; 1979, c. 711.)

§ 32.1-62. Procedure upon infant's birth.

In order to prevent ophthalmia neonatorum, the physician, nurse or midwife in charge of the delivery of a baby or, if none, the first attending physician shall, immediately after the baby's birth, perform upon such baby the procedure prescribed by the Board. Such action shall be duly recorded in the medical record of the baby.

(Code 1950, § 32-107; 1979, c. 711.)

§ 32.1-63. Duty of physician, midwife or nurse noting ophthalmia neonatorum.

It shall be the duty of any physician, midwife or nurse who notes ophthalmia neonatorum within two weeks after the birth of an infant to perform or cause to be performed such tests as are necessary to ascertain the cause of such inflammation and to institute or have instituted appropriate therapy. When the cause of such inflammation is ascertained to be gonococcus, such physician, nurse or midwife shall report the infection to the local health director or the Commissioner as provided in § 32.1-36.

(Code 1950, § 32-106; 1979, c. 711.)

§ 32.1-64. Duty of Board to provide for treatment.

The Board shall provide for the gratuitous distribution of the necessary treatment approved by it for ophthalmia neonatorum, together with proper directions for the use and administration thereof, to all physicians, midwives and hospitals requesting it. The Board shall provide free of charge in medically indigent cases the necessary treatment for ophthalmia neonatorum when the cause is ascertained to be gonococcus.

(Code 1950, § 32-109; 1979, c. 711.)

ARTICLE 9. Statewide Cancer Registry.

§ 32.1-70. Information from hospitals, clinics, certain laboratories and physicians supplied to Commissioner; statewide cancer registry.

- A. Each hospital, clinic and independent pathology laboratory shall make available to the Commissioner or his agents information on patients having malignant tumors or cancers. A physician shall report information on patients having cancers unless he has determined that a hospital, clinic or in-state pathology laboratory has reported the information. This reporting requirement shall not apply to basal and squamous cell carcinoma of the skin. Such information shall include the name, address, sex, race, diagnosis and any other pertinent identifying information regarding each such patient and shall include information regarding possible exposure to Agent Orange or other defoliants through their development, testing or use or through service in the Vietnam War. Each hospital, clinic, independent pathology laboratory, or physician shall provide other available clinical information as defined by the Board of Health.
- B. From such information the Commissioner shall establish and maintain a statewide cancer registry. The purpose of the statewide cancer registry shall include but not be limited to:
 - 1. Determining means of improving the diagnosis and treatment of cancer patients.

2. Determining the need for and means of providing better long-term, follow-up care of cancer patients.
- 2a. Conducting epidemiological analyses of the incidence, prevalence, survival, and risk factors associated with the occurrence of cancer in Virginia.
3. Collecting data to evaluate the possible carcinogenic effects of environmental hazards including exposure to dioxin and the defoliant, Agent Orange.
4. Improving rehabilitative programs for cancer patients.
5. Assisting in the training of hospital personnel.
6. Determining other needs of cancer patients and health personnel.

(Code 1950, § 32-388; 1950, p. 187; 1978, c. 792; 1979, c. 711; 1988, cc. 447, 459, 843; 1998, c. 315.)

§ 32.1-70.1.

Repealed by Acts 1998, c. 315.

§ 32.1-70.2. Collection of cancer case information by the Commissioner.

- A. Using such funds as may be appropriated therefor, the Commissioner or his designee may perform on-site data collection of the records of patients having malignant tumors or cancers at those consenting hospitals, clinics, independent pathology laboratories and physician offices required to report information of such patients pursuant to the reporting requirements of § 32.1-70, in order to ensure the completeness and accuracy of the statewide cancer registry.
- B. The selection criteria for determining which consenting hospitals, clinics, independent pathology laboratories and physician offices may be subject to on-site data collection under the provisions of this section shall include, but shall not be limited to: (i) expected annual number of cancer case reports, (ii) historical completeness and accuracy of reporting rates, and (iii) whether the facility maintains its own cancer registry.
- C. The Board of Health shall promulgate regulations necessary to implement the provisions of this section.

(2000, cc. 74, 139.)

§ 32.1-71. Confidential nature of information supplied; publication; reciprocal data-sharing agreements.

- A. The Commissioner and all persons to whom information is submitted in accordance with § 32.1-70 shall keep such information confidential. Except as authorized by the Commissioner in accordance with the provisions of § 32.1-41, no release of any such information shall be made except in the form of statistical or other studies which do not identify individual cases.

- B. The Commissioner may enter into reciprocal data-sharing agreements with other cancer registries for the exchange of information. Upon the provision of satisfactory assurances for the preservation of the confidentiality of such information, patient-identifying information may be exchanged with other cancer registries which have entered into reciprocal data-sharing agreements with the Commissioner.

(Code 1950, § 32-389; 1950, p. 187; 1979, c. 711; 1991, c. 319; 2000, cc. 74, 139.)

§ 32.1-71.01. Penalties for unauthorized use of statewide cancer registry.

In addition to the remedies provided in § 32.1-27, any person who uses, discloses or releases data maintained in the statewide cancer registry in violation of § 32.1-71 shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation, which shall be paid to the general fund.

(2000, cc. 74, 139.)

§ 32.1-71.02. Notification of cancer patients of statewide cancer registry reporting.

- A. Any physician diagnosing a malignant tumor or cancer shall, at such time and in such manner as considered appropriate by such physician, notify each patient whose name and record abstract is required to be reported to the statewide cancer registry pursuant to § 32.1-70 that personal identifying information about him has been included in the registry as required by law. Any physician required to so notify a patient that personal identifying information about him has been included in the cancer registry may, when, in the opinion of the physician, such notice would be injurious to the patient's health or well-being, provide the required notice to the patient's authorized representative or next of kin in lieu of notifying the patient.
- B. Upon request to the statewide cancer registry, the patient whose personal identifying information has been submitted to such registry shall have a right to know the identity of the reporter of his information to such registry.

(2000, c. 918; 2003, cc. 540, 548.)

§§ 32.1-71.1. through 32.1-71.4.

Repealed by Acts 1994, c. 109.

§ 32.1-72.

Repealed by Acts 1992, cc. 747 and 873.

III. PENALTIES

ARTICLE 4. Penalties. (from Chapter 1 of Title 32.1)

§ 32.1-27. Penalties, injunctions, civil penalties and charges for violations.

- A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.
- B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board or Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy or, pursuant to § 32.1-27.1, imposition of a civil penalty or appointment of a receiver.
- C. Without limiting the remedies which may be obtained in subsection B of this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation, which shall be paid to the general fund, except that civil penalties for environmental pollution shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § 32.1-171.2. Each day of violation shall constitute a separate offense.
- D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limits specified § 32.1-27.1 and subsection C of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under § 32.1-27.1 and subsection C of this section. When civil charges are based upon environmental pollution, the civil charges shall be paid into the state treasury and credited to the Water Supply Assistance Grant Fund created pursuant to § 32.1-171.2.

(Code 1950, §§ 32-6.4, 32-15; 1975, c. 564; 1976, c. 623; 1979, c. 711; 1980, c. 378; 1989, c. 618; 1999, c. 786; 2003, cc. 753, 762.)

ARTICLE 11. Penalties. (from Chapter 2 of Title 32.1)

§ 32.1-73. Failure to comply with provisions; grounds for revocation of license or permit.

The failure of any physician, nurse or midwife to comply with the provisions of § 32.1-60, § 32.1-62 or § 32.1-65 shall, in addition to any other penalty prescribed by law, constitute grounds for revocation of the license or permit of such physician, nurse or midwife by the board issuing such license or permit.

(1979, c. 711.)

§§ 32.1-73.1. through 32.1-73.4.

Repealed by Acts 2002, c. 60.

IV. COMMON LAW AND RULES OF CONSTRUCTION
[from Chapter 2.1 of Title 1]

ARTICLE 2. Rules of Construction and Definitions.

§ 1-207. Child; juvenile; minor; infant.

"Child," "juvenile," "minor," "infant," or any combination thereof means a person less than 18 years of age.

(1972, cc. 824, 825, § 1-13.42; 2005, c. 839.)

§ 1-230. Person.

"Person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

(Code 1919, § 5; Code 1950, § 1-13; 1950, p. 22, § 1-13.19; 1988, c. 36; 2005, c. 839.)

V. GENERAL PROVISIONS
[from Chapter 1 of Title 35.1]

§ 35.1-10. Measures to prevent transmission of disease.

Nothing in this title applicable to restaurants shall prevent the Commissioner from taking whatever action he deems necessary to control the spread of preventable diseases as set forth in Title 32.1, including but not limited to the exclusion of employees, the medical examination of any employee, the immediate closing of a hotel, restaurant, summer camp, or campground, and the taking of samples for testing.

(Code 1950, §§ 35-31, 35-40; 1971, Ex. Sess., c. 155; 1981, c. 468; 1993, c. 336.)

V. HEALTH AND CAMPUS SAFETY
[from Chapter 8 of Title 23.1]

ARTICLE 1. Student Health.

§ 23.1-800. Health histories and immunizations required; exemptions.

- A. No full-time student who enrolls for the first time in any baccalaureate public institution of higher education is eligible to register for his second semester or quarter unless he (i) has furnished, before the beginning of the second semester or quarter of enrollment, a health history consistent with guidelines adopted by each institution's board of visitors that includes documented evidence, provided by a licensed health professional or health facility, of the diseases for which the student has been immunized, the numbers of doses given, the date on which the immunization was administered, and any further immunizations indicated or (ii) objects to such health history requirement on religious grounds, in which case he is exempt from such requirement.
- B. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each student shall be immunized by vaccine against diphtheria, tetanus, poliomyelitis, measles (rubeola), German measles (rubella), and mumps according to the guidelines of the American College Health Association.
- C. Prior to enrollment for the first time in any baccalaureate public institution of higher education, each full-time student shall be vaccinated against meningococcal disease and hepatitis B unless the student or, if the student is a minor, the student's parent or legal guardian signs a written waiver stating that he has received and reviewed detailed information on the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine and has chosen not to be or not to have the student vaccinated.
- D. Any student is exempt from the immunization requirements set forth in subsections B and C who (i) objects on the grounds that administration of immunizing agents conflicts with his religious tenets or practices, unless the Board of Health has declared an emergency or epidemic of disease, or (ii) presents a statement from a licensed physician that states that his physical condition is such that administration of one or more of the required immunizing agents would be detrimental to his health.
- E. The Board and Commissioner of Health shall cooperate with any board of visitors seeking assistance in the implementation of this section.
- F. The Council shall, in cooperation with the Board and Commissioner of Health, encourage private institutions of higher education to develop a procedure for providing information about the risks associated with meningococcal disease and hepatitis B and the availability and effectiveness of any vaccine against meningococcal disease and hepatitis B.

(1986, c. 621, § 23-7.5; 1987, c. 366; 1990, c. 273; 2001, c. 340; 2005, c. 15; 2016, c. 588.)

APPENDIX B

Selected Portions of the *Code of Virginia*

Related to Rabies

(Chapter 65 of Title 3.2, Chapter 7 of Title 18.2, Chapter 2 of Title 32.1, and Chapter 38 of Title 54.1)

CONTENT

CODE SECTION

TITLE 3.2 - AGRICULTURE, HORTICULTURE AND FOOD

CHAPTER 65 - COMPREHENSIVE ANIMAL LAWS

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For full text of any of above see:

Table of Contents: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC> or

Searchable database: <http://leg1.state.va.us/000/src.htm>

Chapter 105. Rabies Regulations, available at
<http://law.lis.virginia.gov/admincode/title12/agency5/chapter105/>