



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

July 22, 2008

ATTN: Rena Bryant
NYC Board of Health
125 Worth Street, CN-31
New York, NY 10013

Dear Ms. Bryant,

The New York State Department of Health (NYSDOH) has reviewed the proposed amendments to the New York City Health Code and submits the comments outlined below.

Section 11.03 Subdivision (a)

This section requires that food poisoning occurring in a group of three or more individuals be reported to the New York City Department of Health and Mental Hygiene (NYC DOHMH). The NYSDOH recommends using the Centers for Disease Control and Prevention's definition of a foodborne disease outbreak - two or more people who develop symptoms after eating a common food.

Section 11.03 Subdivision (b)

A new paragraph (b)(1) specifies which of the diseases and conditions set forth in subdivision (a) must be reported to the NYC DOHMH by telephone immediately, both when they are suspected and when they are confirmed. There are several diseases that the State includes as immediately reportable by telephone which the proposed NYC Health Code does not, including *Haemophilus influenzae* invasive disease, syphilis, tuberculosis and typhoid fever. The NYC DOHMH should consider requiring these to be reported immediately to be consistent with state reporting requirements.

Section 11.05

This section exempts physicians and other providers from reporting individual cases of laboratory-confirmed cases of influenza, individual cases of laboratory-confirmed influenza are to be reported only through the NYC DOHMH's electronic reporting mechanism. Please note that the NYSDOH requires hospitals to report each week on the Healthcare Emergency Response Data System (HERDS) the number of newly identified hospitalized laboratory-confirmed influenza cases by age group.

Section 11.07

The New York State Immunization Information System (NYSIIS) and Citywide Immunization Registry (CIR) have the authority to collect and store information on adults age 19 years and older, with the patient's written consent. NYSDOH has an official consent form to be used for this purpose. It is the responsibility of the provider to collect the appropriate consent using the NYSDOH form to allow them to enter an adult patient's information into NYSIIS. Once consented, the provider must mark the record as "consented" in the NYSIIS application or check the consent flag that exists in both the HL7 and flat file for data exchange.

In order for NYSIIS to exchange information on patients 19 years and older with the CIR, providers would need to be able to specify that the proper consent was obtained and the CIR would need to be capable of collecting and storing the "consent" field. Currently, the NYSDOH consent form is the only approved form for such a purpose. The content of that form ensures that the Department is provided sufficient information to elicit an informed consent from the potential participant. If the NYC health code is being changed to specify that consent is needed to collect this information, it would be beneficial to NYSIIS and CIR if it is further specified that the NYSDOH consent form would be used or, alternatively, that the NYC DOHMH consent form be approved by NYSDOH for use in NYSIIS.

Section 11.11

The New York State Sanitary Code applies in New York City by virtue of Public Health Law Section 228 and requires local health officers to report disease outbreaks to the NYSDOH. Section 11.11 should be amended to reflect this and the fact of routine transmission of epidemiological information from the NYC DOHMH to the NYSDOH. Subdivision (a)(1) states that what appear to be public records under Article 6 of the Public Officers Law are not public records. We seek to confirm the City's authority to do this.

Section 11.11(d)(1)

The NYSDOH has confidentiality concerns with section 11.11(d)(1) and believes that it may be inconsistent with Public Health Law. NYC's current and proposed health code grant access to children's lead test results to entities other than health care providers for purposes other than those set forth in the Public Health Law. Thus, there are concerns as to whether the confidentiality of children's lead test results is being maintained.

Section 11.27, Subsection (d), Number 1

Similar to NYC's current health code, this subsection requires that dogs and cats undergoing 6-month quarantine after a potential rabies exposure be "under daily veterinary supervision." In comparison, New York State Public Health Law title IV, section 2140 subsection 8 specifies conditions for rabies quarantine, and only requires that the animal be maintained under such conditions, verified by a local health department (excluding New York City), as necessary to ensure that the animal cannot escape and has minimal contact with people and other animals.

While NYC is exempt from the specifics of PHL section 2140, the NYSDOH Zoonoses Program has concerns about the requirement in the current and proposed NYC Health Code for daily veterinary supervision of animals under rabies quarantine, for the following reasons:

- It is very rare to receive reports of quarantined animals developing rabies. Most animals at high risk for developing rabies (e.g., unvaccinated pets with known bites from known rabid animals) are euthanized rather than quarantined. If an animal does develop rabies in quarantine, provisions are in place by local health departments for prompt veterinary examination of the suspected rabid animal. There is no reason to believe that a stricter measure is necessary in NYC, where there is much less animal rabies activity than in most of the rest of the state.
- The *National Compendium of Animal Rabies Control* recommends 6-month quarantine be conducted in "an enclosure that precludes direct contact with people and other animals." There is no mention of daily veterinary supervision, as this is not thought to be an integral part of reducing potential exposures to the quarantined animal. We are unaware of any other jurisdiction in the United States that has such a restrictive requirement for 6-month rabies quarantine.
- Experience in the rest of NYS demonstrates that the majority of domestic animals that develop rabies were not reported as having had any known or recognized rabies exposure, and therefore were not in quarantine. Having such strict requirements for quarantine may result in owners being reluctant to report any potential exposures for fear of the impact on the owner and the animal.
- Six-month quarantine in a facility is a significant financial burden to animal owners and can result in the owner choosing to destroy the animal rather than undergo the expense and distress of the quarantine. Strict daily veterinary supervision makes the quarantine even more burdensome, and may

result in more animals being destroyed rather than quarantined. Given the aforementioned low prevalence of rabies in NYC and the very low number of documented incidents where animals developed rabies while under quarantine, it seems difficult to justify the destruction of these animals for the protection of public health.

For the reasons outlined above, the NYSDOH Zoonoses Program believes the language in proposed section 11.27(d) 1 would be more than sufficient and more effective if the words "under daily veterinary supervision" were removed.

Section 11.27, Subsection (d), Number 2

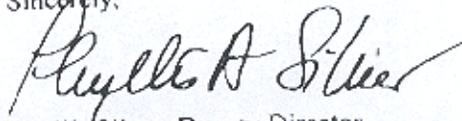
This subsection refers to a 45-day observation period for animals exposed to rabies that are over 4 months of age and are actively vaccinated. The NYSDOH Zoonoses Program recommends deleting the words "over four months of age" because there is currently at least one vaccine available for cats (Purevax) that is labeled for use as early as 8 weeks of age. Because the requirement in this section refers specifically to "actively vaccinated" animals, the "over four months of age" qualifier is unnecessary and may be confusing.

General Comment

Several sections of the proposed code make reference to or impact facilities established under Public Health Law Article 28 (e.g., section 11.15, section 11.17). Public Health Law Section 2812 provides that, notwithstanding any local laws, the city may not enact and enforce regulations and standards for hospitals, except for those maintained and operated by the New York City Health and Hospitals Corporation. We believe further discussion about these sections and your intent regarding them is required.

Thank you for the opportunity to comment on the proposed amendments. If you have any questions about these comments, please contact Joan Cleary-Miron, Assistant Director of the Bureau of Communicable Disease Control, or Dr. Barbara Wallace, Director of the Bureau of Communicable Disease Control, at 518-473-4436.

Sincerely,



Phyllis Silver, Deputy Director
Office of Public Health



STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

September 4, 2008

ATTN: Rena Bryant
NYC Board of Health
125 Worth Street, CN-31
New York, NY 10013

Dear Ms. Bryant:

I am following up on correspondence to you dated July 22, 2008 from Phyllis Silver, Deputy Director of the Office of Public Health, commenting upon proposed amendments to Article 11 of the New York City Health Code. We have had several conversations about our concerns with staff from the New York City Department of Health and Mental Hygiene (NYCDOHMH) about the amendments and they have addressed the majority of our concerns in the resolution and its supporting documents. In particular, our comments about Sections 11.03(a) and (b), 11.05, 11.11, 11.11(d)(1), 11.27(d)(1) and (2), and jurisdiction in Public Health Law Article 28 facilities have been addressed.

We continue to disagree about section 11.07 regarding the New York State Immunization Information System (NYSIIS) and the Citywide Immunization Registry. Both registries have authority to collect and store immunization information for adults 19 years of age and older with the patient's written consent. Written consent is required by PHL § 2169(3). We agree that New York State statute and regulation do not currently require use of a state approved consent form. However, we continue to believe that New York City Code should reflect the requirement for consent and that a state approved form or one mutually agreed to by New York City and NYSDOH should be used to obtain it. A code requirement for consent will help assure that records exchanged with NYSIIS are collected in compliance with State law.

I appreciate the effort NYCDOHMH staff have made to address our issues.

Very truly yours,

Guthrie Birkhead, M.D., M.P.H
Director
Office of Public Health

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