

DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BOARD OF HEALTH

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NOTICE OF ADOPTION TO AMEND SUBSECTIONS (a) and (c) OF SECTION 11.03 OF  
ARTICLE 11 OF THE  
NEW YORK CITY HEALTH CODE

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In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, a notice of public hearing and a Notice of Intention to amend subsections (a) and (c) of Section 11.03 of Article 11 of the New York City Health Code were printed in the City Record on July 23, 2004. A public hearing was held on August 23, 2004. No written comments were received and no one testified at the public hearing. The Board of Health at its September 14, 2004 meeting adopted the following:

STATUTORY AUTHORITY

These amendments to the New York City Health Code (AHealth Code@) are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (ACharter@). Section 556 of the Charter grants the Department of Health and Mental Hygiene (the ADepartment@) jurisdiction to regulate matters affecting health in the City of New York. Section 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the Department of Health rule making powers.

STATEMENT OF BASIS AND PURPOSE

Unintentional carbon monoxide poisonings may result from malfunctioning gas or fuel-burning equipment in homes (for example, furnace, oil burner, stove or hot water heater). Recently, carbon monoxide leaked from a building's heating system in the Murray Hill section of Manhattan, leading to two deaths and two critical cases of carbon monoxide poisoning.

The New York City Department of Health and Mental Hygiene currently requires that poisonings by drugs or other toxic agents be reported to the Department within 24 hours. [Health Code Section 11.03(a)]. Although not specifically identified in Section 11.03, carbon monoxide poisoning is currently required to be reported to the Department as a poisoning. The Department believes providers would be more aware of the requirement that carbon monoxide poisoning must be reported if carbon monoxide poisoning is specifically defined and identified in the Health Code as a reportable condition. Of course, the Department also intends to educate providers that carbon monoxide poisoning is reportable to the Department. Improvement in reporting carbon monoxide poisoning to the Department (to the Poison Control Center) by health care providers such as emergency room staff and laboratories, is critical in order to activate Fire Department emergency

response and improve community safety. For these reasons, it is proposed that Section 11.03(a) be amended to specifically refer to and define carbon monoxide poisoning.

The Health Code is amended to require reporting of all carboxyhemoglobin greater than 10% for the following reason. There is a difference between the usual COHb levels of smokers and non-smokers. Smokers generally have a COHb level of about 5-10%, whereas non-smokers normally have less than 3% COHb. Setting the level to accommodate both groups at, for example, 15% would not be protective of non-smokers. However, an appropriate level for non-smokers, 3.5%, would result in too many false positives. Having two different levels for the two different populations would also be problematic because it would rely on self-reporting of smoking status and may differ by the magnitude and duration of a person's tobacco use as well as complicating the reporting requirements medical personnel. A level of 10% COHb has been determined by the Department to be the action level because it is protective and should at the same time keep false positives to a minimum.

Section 11.03(c) of the Health Code is amended to require immediate telephone reporting of carbon monoxide poisoning to the Department. Similar to diseases such as acute arboviral infections, anthrax, botulism and plague, where immediate telephone reporting to the Department is required, immediate telephone reporting of carbon monoxide poisoning should benefit the public by enabling the swift investigation and appropriate preventative action, including rapid referral by the Department to the Fire Department. Prompt identification of poisoned individuals and immediate reporting should result in immediate deployment and investigation by the New York City Fire Department to prevent any additional carbon monoxide exposure-related illnesses and /or deaths in the affected building or area.

#### STATEMENT PURSUANT TO SECTION 1042- REGULATORY AGENDA

This rule was not included in the Regulatory Agenda because it is the result of recent analysis by the Department as to what steps can be taken to attempt to prevent additional deaths and injuries as a results of carbon monoxide poisoning.

The adopted rule is as follows:

Note- matter in brackets [] to be deleted  
matter underlined is new

RESOLVED, that the forty -fourth unnumbered paragraph of subsection (a) of Section 11.03 of the New York City Health Code as last amended by resolution, on the twenty -first day of March, two thousand and one, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

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Poisoning by drugs or other toxic agents, including lead poisoning to be defined as a blood level of 10 micrograms per deciliter or higher; carbon monoxide poisoning defined as clinical signs and symptoms of carbon monoxide poisoning and/or a carboxyhemoglobin level above 10%; and including confirmed or suspected pesticide poisoning as demonstrated by:

1. Clinical symptoms and signs consistent with a diagnosis of pesticide poisoning;
2. Clinical laboratory finding of blood cholinesterase levels below the normal range; or
3. Clinical laboratory findings or pesticide levels in human tissue above the normal range.

Notes: Subsection (a) of Section 11.03 of the New York City Health Code was amended on September 14, 2004 to specify that carbon monoxide poisoning as defined is reportable to the Department.

RESOLVED, that subsection (c) of Section 11.03 of the New York City Health Code as last amended by resolution, on the thirteenth day of June, two thousand and one, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

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(c) Case of acute arboviral infections, animal bites, anthrax, botulism, brucellosis, carbon monoxide poisoning, cholera, diphtheria, measles, poliomye[t]litis, hantavirus, plague, Q fever, rabies, smallpox, tularemia, yellow fever, and cases of food poisoning which occur in a group of three or more, shall, in lieu of the manner and time of reporting specified in subsection (a), be immediately reported by telephone.

Notes: Subsection (c) of Section 11.03 of the New York City Health Code was amended on September 14, 2004 to require that carbon monoxide poisoning be reported to the Department immediately by telephone.

A TRUE COPY  
RENA BRYANT  
SECRETARY TO THE BOARD OF HEALTH

