

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
BOARD OF HEALTH**

**NOTICE OF ADOPTION OF A RESOLUTION  
TO REPEAL AND REENACT ARTICLE 11 OF THE NEW YORK CITY HEALTH  
CODE**

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, notice of intention to repeal and reenact Article 11 (Reportable Diseases and Conditions) of the New York City Health Code (the “Health Code”) was published in the City Record on June 20, 2008, and a public hearing was held July 22, 2008. No testimony was given, and one written comment was received. Minor changes have been made to the resolution since it was published for public comment and are explained in the Statement of Basis and Purpose below. At a meeting on September 17, 2008, the Board of Health adopted the following resolution.

**STATUTORY AUTHORITY**

These amendments to the New York City Health Code (“Health Code” or “Code”) are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (“DOHMH” or “Department”) with jurisdiction to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the “Board”) to amend the Health Code and to include in the Health Code all matters to which the DOHMH’s authority extends. Section 1043 of the Charter grants the DOHMH rulemaking powers.

**STATEMENT OF BASIS AND PURPOSE**

**INTRODUCTION**

The DOHMH proposed to repeal and reenact Article 11 pursuant to a comprehensive review and revision of the Health Code. Several of the proposed changes are not substantive but the text has been reorganized for clarity and consistency. The revisions reflect current thinking about public health, public health law and the efficacious control of communicable diseases and conditions of public health interest. The revisions also reflect the current practices of the DOHMH, enforcement needs within the Department, advances in science and technology and the continuing concerns regarding new or re-emerging pathogens and potential bioterrorism. Because some of the provisions of Article 11 are substantively connected to provisions of Article 13 (clinical laboratories), the resolution to repeal and reenact Article 11 has been changed to specify that it shall be effective as of February 1, 2009, by which time it is expected that the revisions to Article 13 will also be effective. As a result of this assessment of the Health Code, Article 11 was repealed and re-enacted as set forth in the resolution below. The substance of the salient changes is as follows:

## Section 11.01

The DOHMH proposes to modernize certain of the definitions in existing §11.01. The significant changes are described below.

- “Case” is redefined to simplify and make clear that a person with a disease or condition which is reportable pursuant to this Code or any other law, based on clinical, laboratory, and/or epidemiological evidence or other recognized public health criteria, will be recognized as a case. The resolution has been changed to indicate that a “case” may also be an instance of such a disease or condition occurring in an individual.

- The resolution has been changed with regard to the definition of “clinical laboratory” to clarify that the definition applies to the term “laboratory” and that these terms include a blood bank.

- The definition of “child” is added to clarify that a person under the age of 18 will be recognized as a child, in accordance with New York State Law.

- A new term, “condition of public health interest”, is added in recognition of the fact that Article 11 requires the reporting, and provides authority for the control, of more than communicable diseases.

- A definition of “contagious disease” is added and would specify that it is a communicable disease which is directly or indirectly transmissible from one individual to another.

- The definition of “directly observed therapy”, heretofore applicable specifically to tuberculosis as set forth in former § 11.47, is moved to this general definition section. The definition has general applicability both to tuberculosis treatment as well as to any other contagious disease situation as may become necessary.

- The definition of “exclude” is modified to clarify that it applies to attendance at a day care, school, child care setting, worksite or other place specified in the Code or as may be directed by the Department.

- The definition of “household contact” is revised to clarify that a person who has significant exposure to an infected person based on residence in the same household or residential premises so as to have the potential to acquire the infection will be considered a “household contact”.

- A definition of “quarantine” is added to acknowledge that it is an available and effective method of contagious disease control, especially in light of the potential for pandemic influenza, bioterrorism and other potentially new or re-emerging contagious diseases.

- A definition of “suspect case” is added to clarify who will be considered a suspect case by the DOHMH.

#### Subdivision (a) of §11.03

The list of reportable diseases and conditions of public health interest is amended to ensure that it is consistent with New York State’s list of reportable diseases. It should be noted that the list of diseases and conditions which are reportable pursuant to the Health Code is not intended to in any way limit or impact what is reportable to the State Health Department pursuant to state law or regulation. Several new diseases or conditions, including drownings, Lymphocytic choriomeningitis virus, and Ricin poisoning would be added to the list of reportable conditions in New York City. In addition, the disease formerly identified as Ehrlichiosis has been reclassified into two new diseases, Human Granulocytic Anaplasmosis and Human Monocytic Ehrlichiosis. The resolution has been revised to incorporate technical changes, add clarifying language or correct unintended errors. Accordingly, the words “genitourinary and perinatal” have been deleted from the listing for *Chlamydia trachomatis* infections; the word “virus” has been added to the listing for Herpes simplex; the listing for “Poisoning by drugs or other toxic agents” has been modified to make clear that the poisonings which are required to be reported are not limited to lead, carbon monoxide and pesticide poisonings; the listing for Syphilis has been clarified to indicate that “all stages, including congenital” are reportable; and the listing for Urethritis was eliminated because it had been repealed previously by the Board of Health. Furthermore, the resolution has been changed to indicate that food poisoning occurring in two or more people, as opposed to three or more, is a reportable event in order to comport with CDC recommendations.

#### Subdivision (b) of §11.03

A new paragraph (b)(1) specifies which of the diseases and conditions set forth in subdivision (a) must be reported to the Department by telephone immediately, both when they are suspected and when they are confirmed. The resolution has been changed to conform the listings for “Influenza” and “Meningococcal” in (b)(1) to the exact wording and spelling set forth in subdivision (a). A new paragraph (b)(2) mandates that all of the other diseases and conditions set forth in subdivision (a) be reported within 24 hours of a confirmed diagnosis.

#### Subdivision (c) of § 11.03

This subdivision (c) is the successor provision to former subdivision (b) and requires that outbreaks or suspected outbreaks of any disease or condition, unusual manifestations of disease or conditions, or unusual diseases -- regardless of whether they are listed in subdivisions (a) or (b) -- be reported to the Department immediately by telephone.

#### Subdivision (d) of §11.03

Subdivision (d) is added to clarify and reaffirm the Department’s authority to conduct syndromic surveillance activities. In connection with this revision, a clarifying note has been added to §11.03 defining “syndromic surveillance.” The Department already conducts such

activities under its existing duty to exercise due diligence to ascertain the existence of outbreaks. This provision enhances that authority.

### Subdivision (e) of §11.03

A new subdivision (e), derived in part from the current §11.03(b), elaborates upon the Department's broad authority to conduct epidemiological investigations to help control the spread of disease and to prevent and mitigate morbidity or mortality. In the course of conducting an investigation to verify diagnosis, or identify additional cases, contacts or carriers, or in attempting to ascertain the sources or causes of infection, injury or illness, the Department may require additional information beyond that which is routinely reported, and may collect or require the submission of clinical and environmental specimens, including isolates from clinical laboratories, for examination.

### Section 11.05

Section 11.05 is revised to require additional groups of persons to submit the reports required by §11.03 (including dentists, licensed chiropractors, doctors of osteopathy, physician's assistants, nurse practitioners, persons in charge of hospitals, clinics and laboratories or their designees). By broadening the scope of persons reporting the Department would obtain a more comprehensive monitoring of reportable diseases and conditions. The resolution was changed to cross-reference Article 13 with regard to reporting by clinical laboratories.

### Sections 11.07 and 11.09

These sections, providing for the reporting, respectively, of immunizations and blood lead test results and for the establishment of immunization and children's blood lead test registries, are substantially the same as their existing Health Code sections 11.04 and 11.06.

### Section 11.11

Section 11.11 (former §11.07) provides for the strict confidentiality of epidemiological and surveillance information which is reported to the Department or which is obtained or generated by DOHMH in the course of its investigations. Subdivision (a) specifies that the disclosure of such information, including an individual's medical or identifying information, cannot be compelled, and that dissemination of such information must be as aggregated statistical data. The resolution has been changed to clarify that such information may be made available to the State Department of Health pursuant to the State Sanitary Code. The resolution has also been changed to delete, as unnecessary, the sentence specifying that such records shall not be deemed public records under the New York State Freedom of Information Law because it did not increase or diminish the confidentiality provided for by this section.

Subdivision (b) allows, to the extent permissible under applicable law, persons who are the subject of epidemiological reports and records to consent to the disclosure of information that is limited to their own patient information.

Subdivision (c), similar to former §11.07(c), allows for the disclosure of minimally necessary identifiable information, notwithstanding subdivisions (a) and (b), when the Department determines that such is necessary for the protection of public health.

Subdivision (d), substantially similar to former §11.07(d), provides for the confidentiality of the immunization and children's lead registries established by sections 11.07 and 11.09, respectively. The resolution has been changed, at paragraph (1) of subdivision (d), to delete language which limited the sharing of children's blood lead registry information with treating providers or public health agencies to only "test results and the dates of such testing". Programmatically, at times it may be necessary to share other information from said registry with a treating provider or a public health agency.

### Section 11.13

Section 11.09 is replaced by a new §11.13, which requires physicians to advise not only cases, carriers and contacts, but to also advise a suspect case, of the applicable precautionary requirements necessary to prevent the spread of disease. It would include a reference to quarantine as a possible preventive and protective measure, should such be directed by the DOHMH in a particular case.

### Section 11.15

Sections 11.15 and 11.17, which generally relate to exclusion and isolation, respectively, replace a number of disease-specific sections of the former Article 11.

Subdivision (a) of §11.15 requires the persons in charge of institutions to exclude from attendance certain individuals, such as cases, contacts or carriers of specified diseases, who may be food handlers or children under the age of six in a child care setting. These individuals would be excluded until the Department determines that they no longer present a risk to others.

Subdivision (b) makes it a violation of the Code for the owner or person in charge of the institutions specified in §11.15 to knowingly or negligently permit an individual to work in or attend such a place when required to be isolated or excluded pursuant to Article 11.

Subdivision (c) provides general authority for the Department to issue exclusion orders when necessary to protect the public health. Individuals excluded pursuant to such orders would be provided with an opportunity to be heard in accordance with §11.23(k) of this article.

### Section 11.17

Subdivision (a) requires hospitals, clinics, nursing homes or other medical facilities to isolate, in accordance with recognized infection control principles and State Department of Health regulations or guidance, cases, carriers and suspected cases and carriers of listed contagious diseases or of other contagious diseases, which in the opinion of the Commissioner present an imminent and significant threat to the public health. The resolution has been changed to make reference to the State Department of Health regulations or guidelines.

Subdivision (b) requires the person in charge of a shelter, correctional facility or other places providing medical care on site, but which do not have the capability to implement appropriate isolation precautions, to isolate such cases or carriers of contagious disease as directed by the Department until the individual can be transported to an appropriate healthcare facility. The resolution has been changed to delete reference to attending physicians in hospitals, clinics or nursing homes because such facilities are adequately regulated by the State Department of Health in regard to operational standards for isolation.

Subdivision (c) requires institutions such as schools and congregate child care settings to similarly isolate such cases and carriers as directed by the Department until the individual can be safely transported to an appropriate facility.

Subdivision (d) authorizes the Department to issue home isolation or quarantine orders to suspect or confirmed cases, carriers or contacts of contagious disease who are not hospitalized. Such persons would have an opportunity to be heard in accordance with §11.23(k) of this Article.

#### Section 11.19

Section 11.19 is substantially the same as former §11.49, except that the requirements now apply to both typhoid and paratyphoid fever. It updates the exclusion and control measures applicable to typhoid and paratyphoid fever to reflect more modern terminology and medical practice.

#### Section 11.21

This renumbered §11.21, providing for the reporting, examination, exclusion, removal and detention of cases and suspected cases of tuberculosis, is substantively the same as former §11.47 of this Article. Subdivision (a) is revised to require the submission of the telephone contact number of the case so as to enable communicating with or contacting the case as may be necessary.

In addition, the definition of "directly observed therapy" is moved to the general definition section (§11.01) of Article 11 and generalized to apply to both tuberculosis and other diseases as may be necessary.

#### Section 11.23

This new section is derived from former §11.55. The section clarifies that the Commissioner may issue removal and detention orders for individuals or for a group who may present a danger to others because they are or may be infected with a contagious disease, and provides for necessary flexibility with regard to the implementation of such authority.

With respect to subdivision (k) of §11.23, the resolution has been changed to also address the prevention of illnesses other than contagious diseases, such as the danger to others that may

be posed by persons who have been exposed to radiation or chemicals. Included in subdivision (k) are references to the Commissioner's ability to order (1) exclusion; (2) home isolation or quarantine; (3) testing or medical examination of a person who may have been exposed to, infected by or contaminated with a contagious disease or dangerous amounts of radioactive materials or toxic chemicals that may pose a significant risk or danger to others; (4) a person who has been exposed to a contagious disease that poses a significant risk or danger to others to complete an appropriate, prescribed course of preventive medication or vaccination or through directly observed therapy to treat the disease, and follow infection control provisions for the disease, as may be necessary to control the spread of disease; or (5) an individual who has been contaminated with dangerous amounts of radioactive materials or toxic chemicals to undergo decontamination procedures. The Commissioner's right to order a prescribed course of preventive medication, vaccination or directly observed therapy does not mean or suggest that there would be forcible administration of medication against a person's will; a court order would be obtained as necessary. Persons who are the subject of such non-custodial orders would be afforded an opportunity to be heard.

#### Section 11.25

Section 11.25 is substantially similar to former §11.64 but now includes Rocky Mountain spotted fever and tuberculosis as reportable diseases in animals and it allows for the possibility of reporting by telephone. The resolution has been changed to include salmonellosis as a reportable disease in animals. The resolution has also been changed to prohibit animals infected with any disease which is transmissible to humans and a threat to the public's health from being brought into or kept in the City.

#### Section 11.27

Section 11.27 is substantially similar to former §11.65 but it includes a new subdivision (h) that allows the Commissioner to modify the application of its provisions in specific instances of undue or unreasonable hardship. With respect to paragraph 2 of subdivision (d) of this section, the resolution has been changed to delete the reference to animals "over four months of age" because there is now at least one vaccine that can be administered as early as eight weeks of age. Such an animal would be considered "actively vaccinated" as defined by this section and therefore the reference to "over four months of age" is unnecessary.

#### Section 11.29

Section 11.29 is substantially similar to former §11.66 but changes the age at which a dog or a cat must be vaccinated from three to four months of age.

#### Section 11.31

New §11.31 is substantially similar to former §11.67 but also provides that no person shall intentionally or negligently cause or promote the spread of disease by failing to observe disease control measures including but not limited to isolation, exclusion or treatment.

**RESOLVED**, that, effective February 1, 2009, the Introductory Notes to Title II, the list of section headings for Article 11, the Introductory Notes to Article 11 and Article 11 of the New York City Health Code be and the same hereby are repealed and reenacted, to be printed together with explanatory notes, to read as follows:

## **Title II**

### Control of Disease

#### Introductory Notes:

Title II of the New York City Health Code provides for the reporting and control of communicable diseases and other conditions. Although advances in the prevention and treatment of infectious diseases now permit the Department of Health and Mental Hygiene ("DOHMH" or "Department") to focus more attention on other areas, the control of communicable diseases remains one of its core functions. Many of the provisions in other titles of this Code reflect the policies and principles established in Title II.

Reporting of cases is the first step in the public health control of communicable disease or conditions of public health interest. Initial reporting can lead to potentially valuable public health responses: (1) the Department's laboratory facilities may be made available to confirm the diagnosis of a disease, test specimens collected from close contacts to screen for the causative organism, provide additional information of public health importance such as molecular and seroepidemiologic characteristics and antibiotic susceptibilities of the causative organism, and conduct repeat testing to determine whether persistent evidence of infection indicates that the patient has developed a carrier state; (2) epidemiologic investigations can be conducted to determine the manner of transmission and the source of infection or illness, identify others at risk who may need treatment and take measures to prevent further spread or additional cases; and (3) statistical information can be compiled and analyzed to monitor the incidence and prevalence of diseases on a city-wide basis, identify potential outbreaks and to determine the need for and assess the effectiveness of public health measures to prevent or control the disease or condition.

Article 11, "Reportable Diseases and Conditions", not only contains the basic reporting requirements but also addresses the control measures that may need to be put in place with regard to suspect and confirmed cases, contacts and carriers of certain reportable diseases. The

public health control measures that may be utilized include exclusion of suspect or confirmed cases, carriers or their contacts from childcare, school, work or other settings where transmission may occur; isolation of cases; screening, prophylaxis and quarantine of contacts; and supervision of convalescent and chronic carriers. The article also addresses infection control measures required in clinics treating communicable diseases; control of animals infected with communicable diseases; and a general provision prohibiting persons from intentionally or negligently spreading disease.

Article 13 regulates the public health aspects of reporting by clinical laboratories and laboratory examinations for tuberculosis.

Article 15 provides controls designed to prevent the spread of disease by persons handling pathogenic organisms.

## **Article 11**

### **Reportable Diseases and Conditions**

#### **§11.01 Definitions.**

#### **§11.03 Diseases and conditions of public health interest that are reportable.**

#### **§11.05 Reports.**

#### **§11.07 Immunization registry.**

#### **§11.09 Blood Lead Reporting and Children's Blood Lead Registry.**

#### **§11.11 Confidentiality of reports and records.**

#### **§11.13 Duty of physician to advise case, carrier, suspect case and contact.**

#### **§11.15 Control measures; duty to exclude; exclusion orders.**

#### **§11.17 Control measures; duty to isolate, and isolation, quarantine, and examination orders.**

#### **§11.19 Typhoid and paratyphoid fever; exclusion.**

#### **§11.21 Tuberculosis; reporting, examination, exclusion, removal and detention.**

#### **§11.23 Removal and detention of cases, contacts and carriers who are or may be a danger to public health; other orders.**

#### **§11.25 Reports and control of animal diseases communicable to humans.**

#### **§11.27 Control of animals affected with rabies.**

**§11.29 Rabies: compulsory vaccination.**

**§11.31 Acts likely to spread disease prohibited.**

*Introductory Notes:*

As part of a comprehensive review of the Health Code to provide adequate legal tools to address the City's public health needs, Article 11, which covers the subject matter of diseases and conditions in humans and diseases in animals that are communicable to humans, was repealed and reenacted on September 17, 2008 to improve the reporting and control of communicable diseases and other conditions of public health interest that may affect the public health of the City. To that end, Article 11 has been revised to recognize and reflect changes and advancements in science and technology, emerging pathogens and contemporary concepts in public health.

**§11.01 Definitions.**

When used in this article:

(a) "Carrier" means an individual who, without showing any evidence of clinical disease, harbors and is capable of transmitting an infectious agent and may be a potential source of infection to others.

(b) "Case" means, depending on the context, (1) an individual who, based on clinical, laboratory and/or epidemiologic evidence or other recognized public health criteria, has a disease or condition of public health interest that is reportable to the Department pursuant to this article or any other applicable law or regulation, or (2) an instance of such a reportable disease or condition occurring in an individual.

(c) "Child" means a person under the age of 18 years.

(d) "Clinical laboratory" or "laboratory" means a facility, including a blood bank, regulated pursuant to Public Health Law, Title V, Article 5, holding a permit issued by the New York State Department of Health, and operating in the City or testing a specimen from a City resident.

(e) "Communicable disease" means an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from

an infected individual or via an animal, vector or the inanimate environment to a susceptible animal or human host.

(f) "Condition of public health interest" or "condition" means a disease, illness, syndrome or injury, or other threat to health that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community.

(g) "Contact" means an individual who has been identified as having been exposed, or potentially exposed, to a contagious or possibly contagious disease through such close, prolonged or repeated association with another individual or animal that, in the opinion of the Department, there is a risk of such individual contracting the contagious disease. A contact can be a household or non-household contact.

(h) "Contagious disease" means a communicable disease that is transmissible from one individual to another individual by direct or indirect contact.

(i) "Directly observed therapy" means a course of treatment, or preventive treatment, for a contagious disease in which the prescribed medication is administered to the person or taken by the person under direct observation as specified by the Department.

(j) "Epidemiological and surveillance reports and records" shall mean the reports of diseases and conditions of public health interest required to be reported to the Department that are received by the Department, and records of the case and contact investigations conducted and maintained by the Department related to such reports. Epidemiological and surveillance reports and records shall not include information contained in the immunization registry nor in the children's blood lead registry created pursuant to §§11.07 and 11.09 of this Code, respectively.

(k) "Exclude" means to keep from attendance at a day care or other childcare setting, school, worksite, shelter, or other place as specified in this Code or as may be directed by the Department.

(l) "Food handler" or "food worker" means a person who works in any place where food or drink is prepared, manufactured, handled, bottled, packed, stored, offered for sale, sold or provided free of charge, whose duties or the circumstances under which the food handler works, in the opinion of the Department, involve a risk that the food handler or food worker may cause the spread of disease.

(m) "Household contact" means an individual who has been or may have been exposed to another individual or animal with a contagious disease, based on residence in the same

household or residential premises, sufficient to, in the opinion of the Department, put such individual at risk for acquiring the contagious disease.

(n) "Individual" means a natural human being.

(o) "Isolate" or "isolation" means the physical separation of persons who have a contagious disease or are suspected of having a contagious disease from other persons who do not have such contagious disease.

(p) "Outbreak" means an increased incidence of a disease or condition of public health interest above the expected or baseline level for that disease or condition.

(q) "Quarantine" means the physical confinement, separation, detention, or restriction of activities, including entry or exit to or from premises or other places, of individuals who have been or are suspected of having been exposed to a contagious disease or possibly contagious disease, from other persons who have not been exposed to that contagious disease.

(r) "Suspect case" means an individual with clinical, laboratory or epidemiologic evidence suggesting the existence of a disease or condition that is reportable to the Department pursuant to this article or any other applicable law or regulation, but which has not yet been confirmed.

### **§11.03 Diseases and conditions of public health interest that are reportable.**

(a) Cases and carriers affected with any of the following diseases and conditions of public health interest, and persons who at the time of their death were apparently so affected, shall be reported to the Department as specified in this article:

Amebiasis

Anaplasmosis (Human granulocytic anaplasmosis)

Animal bite, or exposure to rabies

Anthrax

Arboviral infections, acute (including but not limited to the following viruses:

Chikungunya virus, dengue, Eastern equine encephalitis virus, Jamestown

Canyon virus, Japanese encephalitis virus, La Crosse virus, Powassan virus, Rift

Valley fever virus, St. Louis encephalitis virus, Western or Venezuelan equine

encephalitis virus, West Nile virus and yellow fever)

Babesiosis

Botulism (including infant, foodborne and wound botulism)

Brucellosis (undulant fever)

Campylobacteriosis

Chancroid

*Chlamydia trachomatis* infections

Cholera

Creutzfeldt-Jakob Disease

Cryptosporidiosis

Cyclosporiasis

Diphtheria

Drownings, defined as the process of experiencing respiratory impairment from submersion/immersion in liquid whether resulting in death or not

Ehrlichiosis (Human monocytic ehrlichiosis)

Encephalitis

*Escherichia coli* 0157:H7 infections

Falls from windows in multiple dwellings by children sixteen (16) years of age and under

Food poisoning occurring in a group of two or more individuals, including clusters of diarrhea or other gastrointestinal symptoms; or sore throat which appear to be due to exposure to the same consumption of spoiled, contaminated or poisonous food, or to having eaten at a common restaurant or other setting where such food was served. Also includes one or more suspected cases of neurologic symptoms consistent with foodborne toxin-mediated, including but not limited to botulism, scombroid or ciguatera fish poisoning, or neurotoxic or paralytic shellfish poisoning.

Giardiasis

Glanders

Gonococcal infection (gonorrhea)

Granuloma inguinale

Hantavirus disease

Hemolytic uremic syndrome

*Hemophilus influenzae* (invasive disease)

Hepatitis A; B; C; D (“Delta Hepatitis”); E; and other suspected infectious viral  
hepatitides

Herpes simplex virus, neonatal infections (in infants 60 days or younger)

Hospital associated infections as defined in Title 10 New York Codes, Rules and  
Regulations (NYCRR) Section 2.2 (New York State Sanitary Code) or its  
successor law, rule or regulation

Influenza, novel strain with pandemic potential

Influenza, laboratory-confirmed (only required through the Department’s electronic  
reporting mechanism set forth in §13.03(c) of this Code)

Influenza-related deaths of a child less than 18 years of age

Kawasaki syndrome

Legionellosis

Leprosy

Leptospirosis

Listeriosis

Lyme disease

Lymphocytic choriomeningitis virus

Lymphogranuloma venereum

Malaria

Measles (rubeola)

Melioidosis

Meningitis, including aseptic, viral and other bacterial causes (specify type)

Meningococcal, invasive disease

Monkeypox

Mumps

Norovirus, laboratory-confirmed (only required through the Department’s electronic  
reporting mechanism set forth in §13.03(c) of this Code)

Pertussis (Whooping cough)

Plague

Poisoning by drugs or other toxic agents, including but not limited to lead poisoning  
consisting of a blood lead level of 10 micrograms per deciliter or higher (*see also*

§11.09(a) of this Code); 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; or

(2) Clinical laboratory findings of blood cholinesterase levels below the normal range; or

(3) Clinical laboratory findings or pesticide levels in human tissue above the normal range.

Poliomyelitis

Psittacosis

Q fever

Rabies

Respiratory syncytial virus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Ricin poisoning

Rickettsialpox

Rocky Mountain spotted fever

Rotavirus, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Rubella (German measles)

Rubella syndrome, congenital

Salmonellosis

Severe Acute Respiratory Syndrome (SARS)

Shiga toxin producing *Escherichia coli* (STEC) (which includes but is not limited to *E. coli* O157:H7)

Shigellosis

Smallpox (variola)

Staphylococcal enterotoxin B poisoning

Staphylococcus aureus, methicillin-resistant, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Staphylococcus aureus, vancomycin intermediate and resistant (VISA and VRSA)

Streptococcus, Group A (invasive infections)

Streptococcus, Group B (invasive infections)

Streptococcus pneumoniae invasive disease

Syphilis, all stages, including congenital

Tetanus

Toxic shock syndrome

Trachoma

Transmissible spongiform encephalopathy

Trichinosis

Tuberculosis, as demonstrated by:

- (1) Positive culture for *Mycobacterium tuberculosis* complex; or
- (2) Positive DNA probe, polymerase chain reaction (PCR), or other technique for identifying *Mycobacterium tuberculosis* from a clinical or pathology specimen; or
- (3) Positive smear for acid-fast bacillus, with final culture results pending or not available, on either a microbiology or a pathology specimen; or
- (4) Clinically suspected pulmonary or extrapulmonary (meningeal, bone, kidney, etc.) tuberculosis, such that the physician or other health care professional attending the case has initiated or intends to initiate isolation or treatment for tuberculosis, or to continue or resume treatment for previously incompletely treated disease, or, if the patient is not available, that the physician or other health care professional would initiate isolation or treatment if the patient were available; or
- (5) Biopsy, pathology, or autopsy findings in lung, lymph nodes or other tissue specimens, consistent with active tuberculosis disease including, but not limited to presence of acid-fast bacilli, caseating and non-caseating granulomas, caseous matter, tubercles and fibre-caseous lesions; or

(6) Positive reaction to the purified protein derivative (PPD) Mantoux test or other recognized diagnostic test in a child less than five years of age, regardless of whether such child has had a BCG vaccination.

Tularemia

Typhoid fever

Vaccinia disease, defined as

- (1) Persons with vaccinia infection due to contact transmission; and
- (2) Persons with the following complications from smallpox vaccination: eczema vaccinatum, erythema multiforme major or Stevens-Johnson syndrome, fetal vaccinia, generalized vaccinia, inadvertent inoculation, myocarditis or pericarditis, ocular vaccinia, post-vaccinial encephalitis or encephalomyelitis, progressive vaccinia, pyogenic infection of the vaccination site, and any other serious adverse events (i.e., those resulting in hospitalization, permanent disability, life-threatening illness or death)

Varicella, laboratory-confirmed (only required through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code)

Vibrio species, non-cholera (including *parahaemolyticus* and *vulnificus*)

Viral hemorrhagic fever

Yersiniosis

(b)(1) Suspected and confirmed cases or carriers of the following diseases or conditions of public health interest, and cases of persons who at the time of death were apparently so affected, shall be immediately reported to the Department by telephone and immediately in writing by submission of a report form via facsimile, mail or in an electronic transmission format acceptable to the Department, unless the Department determines that a written report is unnecessary.

Animal bites, from vector species at higher risk for rabies (including raccoons, skunks, foxes and bats) or any other animal with illness suggestive of rabies

Anthrax

Acute arboviral infections, as defined in subdivision (a) of this section (other than dengue)

Botulism

Brucellosis

Carbon monoxide poisoning

Cholera

Diphtheria

Food poisoning, as defined in subdivision (a) of this section

Glanders

Hantavirus

Hepatitis A in a food handler, or in an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or any other congregate setting with children under the age of six, or in a health care practitioner in a hospital or medical facility who provides oral care, or in an inmate of a correctional facility, or in a resident of a homeless facility or any other congregate residential setting

Influenza, novel strain with pandemic potential

Measles

Melioidosis

Meningococcal, invasive disease

Monkeypox

Plague

Poliomyelitis

Q fever

Rabies

Ricin

Rubella (German measles)

SARS

Smallpox

Staphylococcal enterotoxin B poisoning

*Staphylococcus aureus*, vancomycin intermediate and resistant (VISA and VRSA)

Tularemia

Vaccinia disease

Viral hemorrhagic fever

Any enteric disease (amebiasis, campylobacteriosis, cryptosporidiosis, *E. coli* 0157: H7 and other shiga toxin producing *Escherichia coli* (STEC) infections, giardiasis, salmonellosis, shigellosis, typhoid fever or yersiniosis) occurring in a food handler, or in an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or any other congregate setting with children under six, or in a health care practitioner in a hospital or medical facility who provides oral care, or in an inmate of a correctional facility, or in a resident of a homeless facility or any other congregate residential setting.

(2) All other diseases or conditions of public health interest that are required to be reported in subdivision (a) shall be reported to the Department within 24 hours of a diagnosis confirmed by laboratory or clinical criteria, by telephone, or in writing by submission of the appropriate Departmental report form via facsimile, mail or in an electronic transmission format acceptable to and approved by the Department.

(c)(1) An outbreak or suspected outbreak of any disease, condition of public health interest or syndrome of known or unknown etiology, that may be a danger to public health and occurs in three or more persons, or (2) any unusual manifestation of a disease or condition of public health interest in an individual or (3) an unusual disease defined as a newly apparent or emerging disease or a syndrome of uncertain etiology that could possibly be communicable, shall be reported to the Department immediately by telephone and in writing by submission of a report form via facsimile, mail or in an electronic transmission format acceptable to the Department within 24 hours after diagnosis unless the Department determines that a written report is unnecessary. An outbreak may be detected based on clinical, laboratory or epidemiologic evidence.

(d) Authority for syndromic surveillance. To ascertain the existence or monitor the progress of an outbreak, or the occurrence of unusual manifestations of disease, or of unusual diseases or conditions of public health interest, the Department may require reports by emergency departments, urgent care facilities, hospitals and clinics, and health information organizations which are comprised of such health care providers, as such terms are defined in Article 28 of the New York State Public Health Law or regulation promulgated thereunder, of all patient visits during each 24-hour period. Such reports shall be made electronically and in a

form, manner and frequency as may be specified by the Department. Reports required by this subdivision may include age, gender, date and time of visit, zip code of residence, chief complaint, diagnosis or diagnosis code, disposition, radiographic results, laboratory results and a unique identification number adequate to access the patient's medical record if deemed necessary by the Department to investigate a suspected outbreak. In the event of a suspected or confirmed outbreak, and upon request by the Department, the identity of a patient shall be promptly reported to the Department.

(e) Upon receipt of a report submitted pursuant to this section or any other provision of this article or other applicable law, the Department may conduct such surveillance, epidemiologic and laboratory investigation activities as it shall deem necessary to verify the diagnosis, ascertain the source or cause of infection, injury or illness, identify additional cases, contacts, carriers or others at risk, and implement public health measures to control the disease or condition and prevent additional morbidity or mortality. Such investigations may include, but are not limited to, collecting or requiring collection of such clinical or environmental specimens for laboratory examination as the Department considers necessary, including the collection of specimens or isolates from clinical laboratories for testing by the Department or as designated by the Department. When deemed necessary for the protection of public health, the Department may require any person required to submit a report pursuant to this article or other applicable law, or an agent of such person, to provide reasonably necessary additional information not otherwise required to be reported by this Code, including but not limited to information on household contact and non-household contact names and contact information, clinical signs and symptoms, treatment, including records of treatment, laboratory, radiological, or other diagnostic procedures as specified by the Commissioner.

Notes:

This section is derived from its predecessor §11.03. In addition to provisions addressing reportable diseases and conditions, § 11.03 provides for additional methods of detection and monitoring of outbreaks, including, as necessary, syndromic surveillance pursuant to subdivision (d). "Syndromic surveillance" is the systematic ongoing collection, collation, analysis and interpretation in near real-time of existing health data essential for the planning, implementation and evaluation of public health practice and emergency response. Syndromic surveillance applies to surveillance using health-related data that provides information on clinical syndromes, such as fever, rash, gastrointestinal illness, and respiratory conditions that may precede a definitive clinical or laboratory

diagnosis. If a particular clinical syndrome is increasing citywide or clustering in a specific geographic area, this may signal a sufficient probability of an outbreak to warrant further public health response. If an outbreak is suspected, syndromic surveillance data may be utilized to determine whether an outbreak may be occurring. If so, further epidemiologic investigation may be conducted to identify suspect cases and to determine the cause, sources of exposures, and recommend necessary interventions on the part of the health officer.

### **§11.05 Reports.**

(a) Reports required by §11.03 shall be made by a physician; dentist; licensed chiropractor; doctor of osteopathy; physician's assistant; nurse practitioner; a person in charge of a hospital, clinic, or other institution providing care or treatment; a clinical laboratory in accordance with Article 13 of this Code; or such persons' designees unless otherwise specified. Individual cases of those diseases that subdivision (a) of §11.03 indicates are to be reported only through the Department's electronic reporting mechanism set forth in §13.03(c) of this Code, shall be reported by clinical laboratories only and no additional reporting pursuant to said subdivision (a) shall be required of others specified herein, unless an outbreak is suspected or confirmed.

(b) Reports required by §11.03 shall contain all the information concerning the disease or condition of public health interest and all the information concerning the case, carrier or suspect case required by the Department for the protection of public health. Reports shall be made on forms furnished by the Department and shall contain all the information required by such forms.

(c) In addition to any other requirement to report set forth in this Code, when no physician or other person specified in subdivision (a) is in attendance, it shall be the duty of the head of a private household or of the person in charge of any institution, including but not limited to a day care or other congregate care setting with children under the age of six, school, college, university, hotel, shelter, correctional facility or camp, having knowledge of an individual likely to be affected with a disease or condition reportable under §11.03 of this Code, to report the name and address of such individual to the Department,

### **§11.07 Immunization Registry.**

(a)(1) All immunizations administered to any individual age eighteen and under shall be reported to the Department, within 14 days of such immunization, by any person authorized by law to administer an immunization, or a person in charge of a hospital, clinic or other institution

where such immunization is administered. Upon application of a person required to report pursuant to this section, the Department in its discretion and when deemed necessary may extend the period of time within which such a person shall report immunizations. Any person required to report pursuant to this section shall also report to the Department any occurrences or matters which are reportable to the Secretary of Health and Human Services pursuant to the Vaccine Adverse Event Reporting System established by 42 U.S.C. Section 300aa-25(b) or any successor statute and any rules adopted pursuant thereto. The reporting of such occurrences or matters to the Department shall be made at the same time as made to the Secretary of Health and Human Services.

(2) Reports submitted to the Department pursuant to this section shall contain the name, address, and any other information required by the Department for the proper identification of the individual, demographic and epidemiological information and the immunization record, including past immunizations administered to the individual, in the possession of the person required to report pursuant to this section. Such reports shall be made in an electronic transmission format acceptable to the Department or, with the specific approval of the Department, in writing on a form prescribed by the Department via facsimile or by mail.

(3) Reports of an immunization administered to any individual age nineteen and above may be submitted to the Department provided that the person administering the immunization or the person in charge of the hospital, clinic or other institution where the immunization is administered, has obtained written consent to report such immunization from the person to whom such immunization information relates

(b) All records of immunization created or received by the Department shall be maintained in an immunization registry and shall be subject to the confidentiality provisions of §11.11(d) of this Code.

### **§11.09 Blood Lead Reporting and Children's Blood Lead Registry.**

(a) In addition to the reports of lead poisoning made pursuant to §11.03 of this Code, results of blood lead analyses which are less than 10 micrograms per deciliter for any resident of the City of New York shall be reported as follows:

(1) Except as provided in paragraph (2), clinical laboratories shall report blood lead test results which are less than 10 micrograms per deciliter to the Department.

(2) A clinical laboratory which reports blood lead test results less than 10 micrograms per deciliter electronically to the New York State Department of Health shall not be required to make any additional report to the Department of such test results.

(3) A person or entity who orders or performs blood lead tests but does not submit the specimen to a clinical laboratory for analysis shall report results of less than 10 micrograms per deciliter to the Department.

(4) Results required to be reported pursuant to this section shall be submitted to the Department in an electronic transmission format acceptable to the Department or in writing via facsimile or by mail, within five (5) business days after such results are known by such person or entity. Reports required pursuant to this section shall contain all the information required by the Department for the protection of public health, and shall be made on forms furnished by the Department or shall contain all the information required by such forms.

(b) Children's blood lead registry. All records of blood lead tests created or received by the Department pursuant to §11.03 and this section for children shall be maintained in a registry in accordance with and subject to the limitations on disclosure of §11.11(d) of the Code.

Notes:

This section is derived from its predecessor §11.06, which was originally adopted to clarify requirements for directly reporting blood lead test results under 10 mcg/dL and to establish a children's blood lead registry. Results of tests showing a blood level of 10 mcg/dL or greater must be reported to the Department pursuant to §11.03(a) of the Health Code by the persons and entities indicated in §11.05 of such Code. The additional reporting requirement in §11.09 is intended to ensure that the Department receives reports of blood lead analyses showing blood lead levels of less than 10 mcg/dL performed by or on behalf of health care providers in their office practices, or by clinical laboratories which do not report these test results electronically to the New York State Department of Health. The test results in the children's blood lead registry will be accessible to children's health care providers in accordance with §11.11(d) of the Health Code.

**§11.11 Confidentiality of reports and records.**

(a)(1) Epidemiological and surveillance reports and records of cases, contacts, carriers, suspect cases or suspect contacts of diseases and conditions of public health interest that are reported to the Department, including but not limited to additional information it may obtain,

develop or prepare in the course of an epidemiological investigation, shall be confidential and shall not be subject to inspection by persons other than authorized personnel or agents of the Department or by the State Department of Health pursuant to the State Sanitary Code. The disclosure of such reports, records or information shall not be compelled. No individual's medical or individually identifiable information shall be disclosed from any epidemiological report or record, and no disclosure thereof may be compelled, regarding any individual who is the subject of, or identified in, such a report, or regarding an individual or entity that has made such a report. .

(2) Epidemiological or surveillance information that is disseminated as aggregated statistical data shall be prepared as determined by the Department in a manner that does not reasonably enable re-identification of any person whose personal health or individually identifiable information is contained in such data.

(b) Notwithstanding subdivision (a) hereof, to the extent permissible under applicable law and in accordance with the provisions of §3.25 of this Code, the person to whom any such epidemiological and surveillance report or record relates, or in the case of a minor or incompetent such person's parent, legal guardian or custodial guardian, may sign a written consent authorizing the Commissioner to disclose such person's own patient information or records of diagnosis or treatment. The consensual disclosure of such information shall only be made to the person to whom the information relates, or to such person's current treating medical provider, or to a court upon receipt of such a written consent and a court order from that court. A disclosure pursuant to this subdivision shall not include the identity of persons who reported the case, investigative or epidemiological information related to the case or the identities and epidemiologic, surveillance and laboratory information on the person's contacts or other suspect or confirmed cases, contacts or carriers associated with the same epidemiologic investigation.

(c) Subdivisions (a) and (b) of this section shall not prevent the Commissioner or authorized personnel of the Department from furnishing what the Department determines to be appropriate information to a physician or institution providing examination or treatment to a person suspected of or affected with a disease or condition of public health interest, to an agency approved by the Department for prevention, treatment or social service, or to any person when necessary for the protection of public health. Only the minimum information necessary for the intended purpose shall be disclosed. A person, institution or agency to whom such information is

furnished or to whom access to records has been given shall not divulge any part thereof so as to disclose the identity of the person to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of a case or carrier or for the protection of the health of others.

(d)(1) Information contained in the immunization registry created pursuant to §11.07 of this Article and the children's blood lead registry established pursuant to §11.09 of this Article shall be confidential and not subject to inspection by persons other than authorized personnel or agents of the Department and persons or agencies authorized herein. The Department may disclose information contained in said immunization registry in accordance with the provisions of §2168 of the New York State Public Health Law, and the regulations promulgated pursuant thereto. Information contained in the children's blood lead registry may be disclosed and the Department may permit access to such information by a person, authorized by law to administer or order a blood test, who is treating or testing the individual to whom said information relates, or to a public health agency for the protection of health. The Department may also disclose what it considers appropriate and necessary information from such immunization or children's blood lead registries to a person or agency concerned with immunization or blood lead testing of children authorized by the Department when (i) such person or agency provides sufficient identifying information satisfactory to the Department to identify the individual to whom such information relates and (ii) such disclosure is in the best interests of such individual and, in the case of a child, his or her family, or will contribute to the protection of the public health. Notwithstanding the foregoing, the person to whom any immunization or blood lead test record relates, or his or her custodial parent, guardian, or other person in parental or custodial relation to such person, may, by signing a written consent, authorize the Commissioner to disclose such record.

(2) A person, institution or agency to whom such immunization or blood lead registry information is furnished or to whom access to records or information has been given, shall not divulge any part thereof so as to disclose the identity of the person to whom such information or record relates, except insofar as such disclosure is necessary for the protection of the health of the person or other person.

**§11.13 Duty of physician to advise case, suspect case, carrier, suspect carrier and contact.**

A physician who attends a case, carrier or suspect case shall inform the case, carrier or suspect case and the case, carrier or suspect case's contacts of the applicable requirements of isolation, exclusion, quarantine, screening, treatment or prophylactic measures and other precautions necessary to prevent the spread of disease.

**§11.15 Control measures; duty to exclude; exclusion orders.**

(a) Any individual required to be isolated pursuant to provisions of this Article, and certain cases, suspect cases, contacts and carriers, as indicated in this subdivision, shall be excluded by the operator, employer or person in charge of the applicable institution, facility or place as set forth in this subdivision.

(1) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the patient has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Campylobacteriosis

Cholera

*E. coli* 0157:H7 and other Shiga toxin producing *Escherichia coli* (STEC) infections

Salmonellosis (other than typhoid)

Shigellosis

Yersiniosis

(2) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until three negative stool samples, taken not less than 24 hours apart

and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided, however, that, if the patient has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Amebiasis

Cryptosporidiosis

Giardiasis

(3) A case or household contact of Hepatitis A who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until determined by the Department to no longer be a risk to others.

(b) An owner or person in charge of a work place, school, day care, camp or other congregate setting with children under the age of six, shelter or other congregate residential setting, or any other institution, facility or place specified in this section or this article, shall not knowingly or negligently permit a case, suspect case, contact or carrier to work in or attend such place when required by this article to be isolated or excluded.

(c) The Department may, in accordance with the provisions of subdivision (k) of § 11.23 of this Article, order any case, contact, or carrier, or suspected case contact or carrier of a contagious disease to be excluded from any setting when necessary for the protection of public health.

### **§11.17 Control measures; duty to isolate; and isolation, quarantine and examination orders.**

(a) In a hospital, clinic, nursing home or other medical facility a case, carrier, suspect case or suspect carrier of diphtheria, rubella (German measles), influenza with pandemic potential, invasive meningococcal disease, measles, monkeypox, mumps, pertussis, poliomyelitis, pneumonic form of plague, SARS, vancomycin intermediate or resistant *Staphylococcus aureus* (VISA/VRSA), smallpox, tuberculosis (active), vaccinia disease, viral hemorrhagic fever or any other contagious disease that in the opinion of the Commissioner may pose an imminent and significant threat to the public health, shall be isolated in a manner

consistent with recognized infection control principles and isolation procedures in accordance with State Department of Health regulations or guidelines.

(b) Whenever the person in charge of a shelter, group residence, correctional facility, or other place providing medical care on site is not capable of implementing appropriate isolation precautions for the specific disease, upon discovering a case, carrier, suspect case or suspect carrier of a contagious disease of the kind as set forth in subdivision (a), such person in charge shall mask such individual, if indicated, and shall isolate the individual by placing him or her in a single room as instructed by the Department until such time as the individual can be transported to an appropriate healthcare facility that is capable of implementing appropriate isolation precautions for the specific disease.

(c) The person in charge of a school, day care facility, camp or other congregate care setting with children under the age of six, homeless shelter, correctional facility, group residence or other congregate residential setting providing care or shelter shall, upon discovering a case, carrier, suspect case or suspect carrier of a contagious disease set forth in subdivision (a) shall mask such person, if indicated, and isolate the individual by placing him or her in a single room as instructed by the Department until the person can be safely transferred to an appropriate medical facility for evaluation.

(d) A case, contact, carrier or suspect case, contact or carrier of a contagious disease set forth in subdivision (a) who is not hospitalized may, in accordance with the provisions of subdivision (k) of §11.23 of this Article, be ordered by the Department to remain in isolation or quarantine at home or other residence of his or her choosing that is acceptable to the Department, under such conditions and for such duration as the Department may specify to prevent transmission of the disease to others.

#### **§11.19 Typhoid and paratyphoid fever; exclusion.**

(a) A case of typhoid or paratyphoid fever who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; a health care practitioner in a hospital or medical facility who provides oral care; a resident of a congregate homeless facility or shelter or any other congregate residential setting; or any other person who in the opinion of the Department represents a risk to the health of the public,

shall be excluded until the end of the febrile period and until four stool specimens are submitted to the Department, found to be free of typhoid and paratyphoid bacteria, and until released from exclusion by the Department. Stool specimens shall be submitted as specified herein. The initial two specimens shall be taken no less than 48 hours after the cessation of antibiotic therapy and 24 hours apart. A second set of two specimens shall be taken thirty (30) days later, and no less than 24 hours apart. The case shall be instructed not to prepare food for other members of the household or others, nurse the sick, or care for children until it is determined that the patient is non-infectious and a non-carrier as per subdivision (c) of this section. Members of the household shall be advised by the physician in attendance of precautions to be taken to prevent further spread of the disease and shall be informed as to the appropriate specific preventive measures.

(b) A household contact who is a food handler; an enrollee or attendee under the age of six or staff member of a school, day care facility or other congregate care setting with children under the age of six; a health care practitioner in a hospital or medical facility who provides oral care; or any other person who in the opinion of the Department represents a risk to the health of the public, shall be excluded until two successive stool specimens, taken no less than 24 hours apart are examined by the Department and found free of typhoid and paratyphoid bacilli.

(c) If the initial four stool specimens obtained pursuant to subdivision (a) of this section are negative for typhoid and paratyphoid bacteria, no further stool specimens shall be required, and the case shall be released from exclusion. If any of the four stool specimens obtained pursuant to subdivision (a) of this section are positive for typhoid or paratyphoid bacteria, then the case shall be recommended for further treatment which may include a longer course of an antibiotic to which the bacterial isolate is sensitive or surgery to remove the nidus of infection (e.g., the gallbladder). After completion of this treatment, such a case of typhoid or paratyphoid fever shall continue to submit to the Department two stool specimens taken no less than 48 hours after repeat antibiotic treatment or gallbladder removal and then one specimen taken no less than 30 days apart for three successive months. If all five stools are free of typhoid and paratyphoid bacilli, he or she shall be considered non-infectious and a non-carrier. If any of the stool specimens submitted contains typhoid or paratyphoid bacilli, he or she shall be considered to be a typhoid or paratyphoid carrier and, the convalescent typhoid or paratyphoid carrier shall comply with paragraphs (d)(1) through (6) of this section.

(d) A chronic typhoid or paratyphoid carrier is a person who has not shown clinical evidence of typhoid or paratyphoid fever within a period of 12 months, or who has never shown clinical evidence of typhoid or paratyphoid fever, but who continues to harbor typhoid bacilli, as determined by examination by the Department pursuant to subdivision (c) of this section. A household contact who tests positive for typhoid or paratyphoid bacilli, however, shall not be considered a chronic typhoid or paratyphoid carrier if the household contact no longer lives in the same household as the case or carrier and if, after two months of ceasing to live in the same household, the contact tests negative for typhoid and paratyphoid bacilli on two successive stool specimens taken no less than 48 hours after completion of an appropriate course of therapy with an antibiotic to which the bacterial isolate was sensitive and no less than 24 hours apart. A chronic typhoid carrier shall:

(1) Submit specimens of his or her stool or urine whenever the Department requires;

(2) Report his or her address, occupation and place of employment, in person or in writing, whenever the Department requires;

(3) Promptly notify the Department of any temporary or permanent change of address or place of employment;

(4) Refrain from cooking or handling any food, drink or eating utensils to be eaten or used by others, and refrain from nursing the sick or from caring for children;

(5) Clean toilet seats used by him or her immediately after use; and

(6) Thoroughly wash his or her hands with soap and water after using the toilet.

(e) Supervision by the Department of a chronic typhoid or paratyphoid carrier shall end:

(1) In the instance of a chronic carrier who underwent surgery to remove a nidus of typhoid or paratyphoid infection, or who has completed an appropriate course of therapy to eradicate the carrier state with an antibiotic to which the bacterial isolate was sensitive, when two successive stool specimens, taken no less than 48 hours after surgery or completion of antibiotic treatment, followed by three successive stool specimens taken no less than 30 days apart, are examined by the Department and found free of typhoid and paratyphoid bacilli; or

(2) In the instance of a chronic carrier who has not undergone surgery to remove a nidus of typhoid or paratyphoid infection, or who has not completed an appropriate course of therapy to eradicate the carrier state with an antibiotic to which the bacterial isolate was sensitive, when

six successive stool specimens, taken no less than 30 days apart, are examined by the Department and found free of typhoid and paratyphoid bacilli; or

(3) In the instance of a carrier other than the fecal type, when evidence is furnished which satisfies the Department that he or she is no longer a carrier.

**§11.21 Tuberculosis; reporting, examination, exclusion, removal and detention.**

(a) A physician who attends a case of active tuberculosis, or the person in charge of a hospital, dispensary or clinic giving out-patient treatment to such a case, shall report to the Department at such times that the Department requires. The report shall state whether the case is still under treatment, the address of the case, the telephone contact number(s) of the case, the stage, clinical status and treatment of the disease and the dates and results of sputum and X-ray examinations and any other information required by the Department. The physician who attends the case or the person in charge of a hospital, dispensary or clinic giving out-patient care to such a case shall report promptly to the Department when the case ceases to receive treatment and the reason for the cessation of treatment.

(b) A physician who attends a case of active tuberculosis shall examine or cause all household contacts to be examined or shall refer them to the Department for examination. The physician shall promptly notify the Department of such referral. When required by the Department, non-household contacts and household contacts not examined by a physician shall submit to examination by the Department. An examination required by this section shall include such tests as may be necessary to diagnose the presence of tuberculosis, including but not limited to tuberculin tests, serologic tests for tuberculosis infection, and where indicated, laboratory examinations, and x-rays. If any suspicious abnormality is found, steps satisfactory to the Department shall be taken to refer the person promptly to a physician or appropriate medical facility for further investigation and, if necessary, treatment. Contacts shall be re-examined at such times and in such manner as the Department may require. When requested by the Department, a physician shall report the results of any examination of a contact.

(c) A person with active tuberculosis that is infectious shall be excluded from attendance at the workplace or school. Such person may also be excluded from such other premises or facilities as the Department determines cannot be maintained in a manner adequate to protect others against spread of the disease.

(d) Where the Commissioner determines that the public health or the health of any other person is endangered by a case of tuberculosis or a suspect case of tuberculosis, the Commissioner may issue any orders he or she deems necessary to protect the public health or the health of any other person, and may make application to a court for enforcement of such orders. In any court proceeding for enforcement, the Commissioner shall demonstrate the particularized circumstances constituting the necessity for an order. Such orders may include, but shall not be limited to:

(1) An order authorizing the removal to and/or detention in a hospital or other treatment facility for appropriate examination for tuberculosis of a person who has active tuberculosis or who is suspected of having active tuberculosis and who is unable or unwilling voluntarily to submit to such examination by a physician or by the Department;

(2) An order requiring a person who has active tuberculosis to complete an appropriate prescribed course of medication for tuberculosis and, if necessary, to follow required contagion precautions for tuberculosis;

(3) An order requiring a person who has active tuberculosis and who is unable or unwilling otherwise to complete an appropriate prescribed course of medication for tuberculosis to follow a course of directly observed therapy;

(4) An order for the removal to and/or detention in a hospital or other treatment facility of a person (i) who has active tuberculosis that is infectious or who presents a substantial likelihood of having active tuberculosis that is infectious, based upon epidemiologic evidence, clinical evidence, x-ray readings or laboratory test results; and (ii) where the Department finds, based on recognized infection control principles, that there is a substantial likelihood such person may transmit to others tuberculosis because of his or her inadequate separation from others; and

(5) An order for the removal to and/or detention in a hospital or other treatment facility of a person (i) who has active tuberculosis, or who has been reported to the Department as having active tuberculosis with no subsequent report to the Department of the completion of an appropriate prescribed course of medication for tuberculosis; and (ii) where there is a substantial likelihood, based on such person's past or present behavior, that he or she can not be relied upon to participate in and/or to complete an appropriate prescribed course of medication for tuberculosis and/or, if necessary, to follow required contagion precautions for tuberculosis. Such behavior may include, but is not limited to, refusal or failure to take medication for tuberculosis,

or refusal or failure to keep appointments for treatment of tuberculosis, or refusal or failure to complete treatment for tuberculosis, or disregard for contagion precautions for tuberculosis.

(e) The Commissioner may remove to or detain in a hospital or other place for examination or treatment a person who is the subject of an order of removal or detention issued pursuant to subdivision (d) of this section without prior court order; provided however that when a person detained pursuant to subdivision (d) of this section has requested release, the Commissioner shall make an application for a court order authorizing such detention within three (3) business days after such request by the end of the first business day following such Saturday, Sunday or legal holiday, which application shall include a request for an expedited hearing. After any such request for release, detention shall not continue for more than five (5) business days in the absence of a court order authorizing detention. Notwithstanding the foregoing provisions, in no event shall any person be detained for more than sixty (60) days without a court order authorizing such detention. The Commissioner shall seek further court review of such detention within ninety (90) days following the initial court order authorizing detention and thereafter within ninety (90) days of each subsequent court review. In any court proceeding to enforce a Commissioner's order for the removal or detention of a person issued pursuant to this subsection or for review of the continued detention of a person, the Commissioner shall prove the particularized circumstances constituting the necessity for such detention by clear and convincing evidence. Any person who is subject to a detention order shall have the right to be represented by counsel and upon the request of such person, counsel shall be provided.

(f)(1) An order of the Commissioner issued pursuant to subdivision (d) of this section shall set forth:

(i) the legal authority pursuant to which the order is issued, including the particular sections of this Article or other law or regulation;

(ii) an individualized assessment of the person's circumstances and/or behavior constituting the basis for the issuance of such orders; and

(iii) the less restrictive treatment alternatives that were attempted and were unsuccessful and/or the less restrictive treatment alternatives that were considered and rejected, and the reasons such alternatives were rejected.

(2) In addition, an order for the removal and detention of a person shall:

(i) include the purpose of the detention;

(ii) advise the person being detained that he or she has the right to request release from detention by contacting a person designated on the Commissioner's order at a telephone number stated on such order, and that the detention shall not continued for more than five (5) business days after such request in the absence of a court order authorizing such detention;

(iii) advise the person being detained that, whether or not he or she requests release from detention, the Commissioner must obtain a court order authorizing detention within sixty (60) days following the commencement of detention and thereafter must further seek court review of the detention within ninety (90) days of such court order and within ninety (90) days of each subsequent court review;

(iv) advise the person being detained that he or she has the right to arrange to be represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, that such counsel will be notified that the person has requested legal representation;

(v) be accompanied by a separate notice which shall include but not be limited to the following additional information: (A) that the person being detained has the right to request release from detention by contacting a person designated on the Commissioner's order at a telephone number stated on such order, and that the detention shall not continue for more than five (5) business days after such request in the absence of a court order authorizing such detention; (B) that he or she has the right to arrange to be advised and represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, that such counsel will be notified that the person has requested legal representation; and (C) that he or she may supply the addresses and/or telephone numbers of friends and/or relatives to receive notification of the person's detention, and that the Department shall, at the patient's request, provide notice to a reasonable number of such people that the person is being detained.

(g) Notwithstanding any inconsistent provision of this section:

(1) A person who is detained solely pursuant to paragraph one of subdivision (d) of this section shall not continue to be detained beyond the minimum period of time required, with the exercise of all due diligence, to make a medical determination of whether a person who is suspected of having tuberculosis has active tuberculosis or whether a person who has active tuberculosis is infectious. Further detention of such person shall be authorized only upon the issuance of a Commissioner's order pursuant to paragraph four or paragraph five of subdivision (d) of this section.

(2) A person who is detained pursuant to this section solely for the reasons described in paragraph four of subdivision (d) of this section shall not continue to be detained after he or she ceases to be infectious or after the Department ascertains that changed circumstances exist that permit him or her to be adequately separated from others so as to prevent transmission of tuberculosis after his or her release from such place of detention as designated by the Commissioner pursuant to this section.

(3) A person who is detained pursuant to this section for the reasons described in paragraph five of subdivision (d) of this section shall not continue to be detained after he or she has completed an appropriate prescribed course of medication.

(h) Where necessary, language interpreters and person skilled in communicating with vision and hearing impaired individuals shall be provided in accordance with applicable law.

(i) The provisions of this section shall not be construed to permit or require the forcible administration of any medication without a prior court order.

(j) For the purposes of this section, a person has active tuberculosis when (A) a sputum smear or culture taken from a pulmonary or laryngeal source has tested positive for tuberculosis and the person has not completed an appropriate prescribed course of medication for tuberculosis, or (B) a smear or culture from an extra-pulmonary source has tested positive for tuberculosis and there is clinical evidence or clinical suspicion of pulmonary tuberculosis disease and the person has not completed an appropriate prescribed course of medication for tuberculosis. A person also has active tuberculosis when, in those cases where sputum smears or cultures are unobtainable, the radiographic evidence, in addition to current clinical evidence and/or laboratory tests, is sufficient to establish a medical diagnosis of pulmonary tuberculosis for which treatment is indicated. A person who has active tuberculosis shall be considered infectious until three consecutive sputum smears from a pulmonary or laryngeal source collected on separate days at medically appropriate intervals have tested negative for tuberculosis and the clinical symptoms of tuberculosis have resolved or significantly improved.

Notes:

This section is derived without substantive change from its predecessor §11.47 of the Code. This section details the compulsory measures available to the Department to control the spread of tuberculosis and infection of new cases; to articulate the standards by which the Department will be guided in exercising compulsory measures; to ensure that the framework in which the Department acts is governed and guided by sound principles of procedural

due process; and to modernize the medical elements and terminology for evaluation of patients for tuberculosis. To that end, the Board has adopted the following, continuing resolution:

**Resolution and Finding of the Board of Health of the Department of Health of the City of New York:** Whereas the Board of Health recognizes that the City of New York is in the midst of an epidemic of tuberculosis; that this epidemic is characterized by strains of tuberculosis resistant to therapeutic drugs; and that tuberculosis is an airborne disease contracted from prolonged exposure to persons who have active infectious pulmonary tuberculosis; and whereas, the Board of Health further recognizes that the failure of a tuberculosis patient to complete an effective course of therapy creates the likelihood of relapse into infectiousness and, in addition, facilitates the development of drug resistance strains of tuberculosis and the infection of previously uninfected persons with multi-drug resistant tuberculosis; now, therefore, be it resolved, that the Board of Health finds that the potential reactivation of tuberculosis and the development and spread of drug resistant tuberculosis caused by the failure of tuberculosis patients, whether or not infectious, to complete a course of anti-tuberculosis therapy create a significant threat to the public health. Transmitted to the City Council March 25, 1993.

Courts have upheld the Department's authority to detain a person who was shown by clear and convincing evidence to be unable to comply with prescribed course of treatment for tuberculosis. *See Best v. St. Vincent's Hospital*, 2003 U.S. Dist. LEXIS 11354 (S.D.N.Y. 2003), *complaint dsmd. at Best v. Bellevue*, 2003 U.S. Dist. LEXIS 13188 (S.D.N.Y. 2003); *City of New York v. Doe*, 205 A.D.2d 469; 614 N.Y.S.2d 8 (1<sup>st</sup> Dept. 1994); *In the Matter of City of New York v. Antoinette R.*, 165 Misc. 2d 1014; 630 N.Y.S.2d 1008 (Sup. Ct. Qns. Cty. 1995).

**§11.23 Removal and detention of cases, contacts and carriers who are or may be a danger to public health; other orders.**

(a) Upon determining by clear and convincing evidence that the health of others is or may be endangered by a case, contact or carrier, or suspected case, contact or carrier of a contagious disease that, in the opinion of the Commissioner, may pose an imminent and significant threat to the public health resulting in severe morbidity or high mortality, the Commissioner may order the removal and/or detention of such a person or of a group of such persons by issuing a single order, identifying such persons either by name or by a reasonably specific description of the individuals or group being detained. Such person or group of persons shall be detained in a medical facility or other appropriate facility or premises designated by the Commissioner and complying with subdivision (d) of this section.

(b) A person or group removed or detained by order of the Commissioner pursuant to subdivision (a) of this section shall be detained for such period and in such manner as the Department may direct in accordance with this section.

(c) Notwithstanding any inconsistent provision of this section:

(1) A confirmed case or a carrier who is detained pursuant to subdivision (a) of this section shall not continue to be detained after the Department determines that such person is no longer contagious.

(2) A suspected case or suspected carrier who is detained pursuant to subdivision (a) of this section shall not continue to be detained after the Department determines, with the exercise of due diligence, that such person is not infected with or has not been exposed to such a disease, or if infected with or exposed to such a disease, no longer is or will become contagious.

(3) A person who is detained pursuant to subdivision (a) of this section as a contact of a confirmed case or a carrier shall not continue to be detained after the Department determines that the person is not infected with the disease or that such contact no longer presents a potential danger to the health of others.

(4) A person who is detained pursuant to subdivision (a) of this section as a contact of a suspected case shall not continue to be detained:

(i) after the Department determines, with the exercise of due diligence, that the suspected case was not infected with such a disease, or was not contagious at the time the contact was exposed to such individual; or

(ii) after the Department determines that the contact no longer presents a potential danger to the health of others.

(d) A person who is detained pursuant to subdivision (a) of this section shall, as is appropriate to the circumstances:

(1) have his or her medical condition and needs assessed and addressed on a regular basis, and

(2) be detained in a manner that is consistent with recognized isolation and infection control principles in order to minimize the likelihood of transmission of infection to such person and to others.

(e) When a person or group is ordered to be detained pursuant to subdivision (a) of this section for a period not exceeding three (3) business days, such person or member of such group shall, upon request, be afforded an opportunity to be heard. If a person or group detained pursuant to subdivision (a) and this subdivision needs to be detained beyond three (3) business days, they shall be provided with an additional Commissioner's order pursuant to subdivisions (f) and (g) of this section.

(f) When a person or group is ordered to be detained pursuant to subdivision (a) of this section for a period exceeding three (3) business days, and such person or member of such group requests release, the Commissioner shall make an application for a court order authorizing such detention within three (3) business days after such request by the end of the first business day following such Saturday, Sunday, or legal holiday, which application shall include a request for an expedited hearing. After any such request for release, detention shall not continue for more than five (5) business days in the absence of a court order authorizing detention. Notwithstanding the foregoing provisions, in no event shall any person be detained for more than sixty (60) days without a court order authorizing such detention. The Commissioner shall seek further court review of such detention within ninety (90) days following the initial court order authorizing detention and thereafter within ninety (90) days of each subsequent court review. In any court proceeding to enforce a Commissioner's order for the removal or detention of a person or group issued pursuant to this subdivision or for review of the continued detention of a person or group, the Commissioner shall prove the particularized circumstances constituting the necessity for such detention by clear and convincing evidence.

(g)(1) A copy of any detention order of the Commissioner issued pursuant to subdivision (a) of this section shall be given to each detained individual; however, if the order applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the detention premises. Any detention order of the Commissioner issued pursuant to subdivision (a) of this section shall set forth:

(i) the purpose of the detention and the legal authority under which the order is issued, including the particular sections of this article or other law or regulation;

(ii) a description of the circumstances and/or behavior of the detained person or group constituting the basis for the issuance of the order;

(iii) the less restrictive alternatives that were attempted and were unsuccessful and/or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected;

(iv) a notice advising the person or group being detained that they have a right to request release from detention, and including instructions on how such request shall be made;

(v) a notice advising the person or group being detained that they have a right to be represented by legal counsel and that upon request of such person or group access to counsel will be facilitated to the extent feasible under the circumstances; and

(vi) a notice advising the person or group being detained that they may supply the addresses and/or telephone numbers of friends and/or relatives to receive notification of the person's detention, and that the Department shall, at the detained person's request and to the extent feasible, provide notice to a reasonable number of such people that the person is being detained.

(2) In addition, an order issued pursuant to subdivisions (a) and (f) of this section, requiring the detention of a person or group for a period exceeding three (3) business days, shall:

(i) advise the person or group being detained that the detention shall not continue for more than five (5) business days after a request for release has been made in the absence of a court order authorizing such detention;

(ii) advise the person or group being detained that, whether or not they request release from detention, the Commissioner must obtain a court order authorizing detention within sixty (60) days following the commencement of detention and thereafter must further seek court review of the detention within ninety (90) days of such court order and within ninety (90) days of each subsequent court review; and

(iii) advise the person or group being detained that they have the right to request that legal counsel be provided, that upon such request counsel shall be provided if and to the extent

possible under the circumstances, and that if counsel is so provided, that such counsel will be notified that the person or group has requested legal representation.

(h) A person who is detained in a medical facility, or other appropriate facility or premises, shall not conduct himself or herself in a disorderly manner, and shall not leave or attempt to leave such facility or premises until he or she is discharged pursuant to this section.

(i) Where necessary and feasible under the circumstances, language interpreters and persons skilled in communicating with vision and hearing impaired individuals shall be provided.

(j) The provisions of this section shall not apply to the issuance of orders pursuant to §11.21 of this article.

(k) In addition to the removal or detention orders referred to in subdivision (a) of this section, and without affecting or limiting any other authority that the Commissioner may otherwise have, the Commissioner may, in his or her discretion, issue and seek enforcement of any other orders that he or she determines are necessary or appropriate to prevent dissemination or transmission of contagious diseases or other illnesses that may pose a threat to the public health including, but not limited to, orders requiring any person or persons who are not in the custody of the Department to be excluded; to remain isolated or quarantined at home or at a premises of such person's choice that is acceptable to the Department and under such conditions and for such period as will prevent transmission of the contagious disease or other illness; to require the testing or medical examination of persons who may have been exposed to or infected by a contagious disease or who may have been exposed to or contaminated with dangerous amounts of radioactive materials or toxic chemicals; to require an individual who has been exposed to or infected by a contagious disease to complete an appropriate, prescribed course of treatment, preventive medication or vaccination, including directly observed therapy to treat the disease and follow infection control provisions for the disease; or to require an individual who has been contaminated with dangerous amounts of radioactive materials or toxic chemicals such that said individual may present a danger to others, to undergo decontamination procedures deemed necessary by the Department. Such person or persons shall, upon request, be afforded an opportunity to be heard, but the provisions of subdivisions (a) through (j) of this section shall not otherwise apply.

(l) The provisions of this section shall not be construed to permit or require the forcible administration of any medication without a prior court order.

Notes:

This section is derived from its predecessor §11.55 of the Code. It authorizes the removal and detention of an individual who is a confirmed case, a contact or a carrier, or of a suspect case or suspected contact of a suspect case of any contagious disease that, in the opinion of the Commissioner, may pose an imminent and significant threat to the public health. This section now contemplates the removal and detention of a group of such individuals, and provides greater flexibility with regard to its implementation. The detention of persons for the control of contagious diseases, other than tuberculosis, is an extremely rare event. However, with the concern over new and re-emerging diseases, as well as with bioterrorism and pandemic influenza, it is a contingency for which public health officials must be prepared. This section also clarifies the Commissioner's power to issue and seek enforcement of orders, other than orders referred to in subdivision (a) of this section, to control the spread of disease, including non-custodial orders requiring a person or persons to remain at home or other mutually agreed upon premises or to be decontaminated when contaminated with dangerous amounts of radioactive materials or toxic chemicals. In addition, the other provisions of the section do not apply to such non-custodial orders.

**§11.25 Reports and control of animal diseases communicable to humans.**

(a) Diseases reportable.

(1) Animals infected with or suspected of having any of the following diseases shall be reported to the Department immediately both by telephone and in writing within 24 hours of diagnosis by submission of a report form via facsimile, mail or electronic transmission acceptable to the Department unless the Department determines that a written report is unnecessary:

Anthrax

Brucellosis

Glanders

Influenza caused by novel influenza viral strain with pandemic potential

Monkeypox

Plague

Q Fever

Severe Acute Respiratory Syndrome (SARS)

Tularemia

(2) Animals infected with any of the diseases set forth in this paragraph shall be reported to the Department within 24 hours of confirmed diagnosis by telephone or in writing by submission of a report form via facsimile, mail or in an electronic transmission acceptable to the Department:

Arboviral Encephalitis, acute, (including but not limited to the following viruses:

Eastern equine encephalitis virus, Jamestown Canyon virus, La Crosse virus, Powassan virus, Rift Valley fever, St. Louis encephalitis virus, Western equine encephalitis virus, West Nile virus and yellow fever)

Avian Chlamydiosis (Psittacosis)

Leptospirosis

Rocky Mountain spotted fever

Salmonellosis

Tuberculosis

(3) Rabies. An animal infected with or suspected of having rabies, or an animal capable of contracting rabies which has been bitten by, exposed to, or has been kept together with a rabid animal, shall be reported to the Department immediately by telephone and the report shall be confirmed in writing, either by mail, facsimile or electronic transmission acceptable to the Department, within 24 hours after diagnosis unless the Department determines that a written report is unnecessary.

(4) An outbreak or suspected outbreak of any disease, condition or syndrome, of known or unknown etiology, that may be a danger to public health and that occurs in three or more animals, or (b) any unusual manifestation of a disease in an individual animal, shall be reported to the Department immediately by telephone, and confirmed in writing, either by mail, facsimile or electronic transmission acceptable to the Department, within 24 hours after diagnosis unless the Department determines that a written report is not necessary.

(b) Reports.

(1) Reports required by this section shall be made by a veterinarian or veterinary technician, a person in charge of an animal hospital, rehabilitation facility, animal shelter, zoological park, other institution or facility providing or responsible for animal care or treatment, a veterinary diagnostic laboratory, or such persons' designees.

(2) In addition to the institutions and persons required to report the diseases specified in this section, every person having knowledge of the existence of an animal exhibiting clinical signs suggestive of rabies or knowledge of an animal which has died or is suspected of having died of rabies, or which was killed because it was suspected of being rabid, shall immediately report to the Department by telephone the existence of the animal, the current location of the animal or where it was kept or seen, the owner's name, if known, and such other information as may be required by the Department.

(3) Reports required by this section shall contain all the information concerning the disease, and all information regarding the infected animal and its owner, required by the Department for the protection of public health. Information shall include, but not be limited to, name of the disease, type of animal involved, location of the animal and the name, telephone number and address of the owner. Such reports shall be prepared using forms furnished by the Department and contain all the information required by such forms.

(c) Infected and exposed animals prohibited. No person shall bring into the City, or keep, or cause or allow to be kept an animal infected with or exposed to any of the diseases listed in this section, or any other diseases which are transmissible from an animal to a human and are a threat to the public's health as determined by the Department, other than for the purpose of receiving care by a licensed veterinarian or animal hospital, unless such animal is used for scientific research in a laboratory approved pursuant to §504 of the New York State Public Health Law.

(d) Investigation and management.

(1) Upon receiving a report required by this section, the Department shall make such investigation as the Department considers necessary for the purpose of verifying diagnosis, ascertaining source of infection and discovering other animals and humans exposed to the animal which is the subject of the report. The Department may collect or require to be collected for laboratory examination such specimens as the Department considers to be necessary to assist in diagnosis or ascertaining the source of infection, and shall order the owner or other person harboring or having control of the animal to take such measures as may be necessary to prevent further spread of the disease and to reduce morbidity and mortality in animals and humans.

(2) An animal infected with or suspected of having any disease listed in this section may be seized or impounded by the Department, a peace officer or other authorized person or agency

and be ordered held or isolated at the owner's expense under such conditions as may be specified by the Department. Where the Department has determined that an animal presents an imminent and substantial threat to the public health, such animal may be humanely destroyed immediately upon the order of the Commissioner, sent for necropsy and pathologic examination, and its body, and any specimens derived from it, shall be disposed of in a manner approved by the Department.

(e) Confidentiality of reports and records. Reports and records on animals affected with or suspected of having any disease required to be reported to the Department in accordance with this section shall not be subject to inspection by persons other than authorized personnel of the Department. The owner of the animal to whom any such record relates or the owner's legal representative may, however, by signing a written consent, authorize disclosure of the record to identified individuals or entities. This section shall not prevent authorized personnel of the Department from furnishing appropriate information to a veterinarian, physician or institution providing examination or treatment to a person or animal suspected of or infected with a disease, to an agency approved by the Department for prevention or treatment, or to any person when necessary for the protection of public health and safety. A person, institution or agency to whom such information is furnished or to whom access to records has been given shall not divulge any part thereof so as to disclose the identity of the person or institution to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of persons or animals or for the protection of human and animal health.

### **§11.27 Control of animals affected with rabies.**

(a) Definitions. As used in this article with regard to animals:

(1) "Actively vaccinated" or "currently vaccinated" animal shall mean an animal which has received a rabies vaccine approved by the United States Department of Agriculture (U.S.D.A.) for interstate sale and use in a particular animal species and administered according to the manufacturer's instructions by or under the direct supervision of a duly licensed veterinarian. Active vaccination may be the result of primary and/or revaccinations administered in accordance with the vaccine manufacturer's recommended revaccination schedule.

(2) "Primary" vaccination shall mean the first administration of an approved rabies vaccine.

(3) “Revaccination” or “booster vaccination” shall mean a vaccination administered no later than one year after the primary vaccination and revaccinations administered at intervals thereafter, in accordance with the recommendations of the manufacturer of a U.S.D.A. approved rabies vaccine intended to maintain active immunization.

(4) “Exposure” to rabies shall mean introduction of the rabies virus into the body of a human or animal by a skin-piercing bite or by scratch, abrasion, open wound, or contamination of mucous membranes with saliva, or other potentially infectious material from a rabid animal, or as otherwise defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule.

(5) “Isolate” or “isolation” shall mean the physical separation of animals which have, or are suspected of having, a zoonotic disease communicable to humans from humans or other animals which do not have that disease.

(b) Reports by owners, exposed persons and others. When a person, or an animal capable of contracting rabies, is bitten by a dog, cat or other animal capable of transmitting rabies, or is otherwise exposed to the rabies virus, such person, his or her parent or guardian if he or she is a minor; the person who owns, possesses or controls the biting animal; the person who owns, possesses or controls the animal bitten or exposed to the rabies virus; and any other person having knowledge of the bite or other exposure shall immediately notify the Department by telephone.

(c) Surrender of suspected rabid animals. An animal which, upon examination by a licensed veterinarian, is found to be rabid or is suspected of being rabid, or the body of an animal that died or is suspected of having died of rabies or which was killed because it was suspected of being rabid, shall be surrendered to the Department by the person who owns, possesses or controls it.

(d) Management of exposed animals. A dog, cat, domestic livestock as defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule, or other animal capable of contracting rabies, which has been bitten by, has been exposed to or has been kept together with a known or suspected rabid animal, and where the animal which inflicted the bite or is the source of exposure is not available for observation or testing, shall be managed as follows:

(1) Unvaccinated animals. An animal which is not currently vaccinated as defined herein shall be kept isolated, at the owner's expense, in a manner prescribed by the Department in

a veterinary hospital or other place approved by the Department, under daily veterinary supervision, for a period of 6 months, and shall be vaccinated against rabies upon entry into isolation or one month prior to release, or shall be surrendered to the Department and destroyed with the owner's consent or by order of the Commissioner.

(2) Actively vaccinated animals. An animal which is actively vaccinated against rabies as defined herein shall be immediately revaccinated and shall be closely observed by its owner for a period of forty-five (45) days, and while in public, prevented from having physical contact with other animals or persons.

(e) Management of biting animals. The person who owns, possesses or controls a dog, cat, a ferret permissible under this Code, or domestic livestock as defined in the New York State Sanitary Code, 10 N.Y.C.R.R. §2.14, or successor rule, that has bitten or may have otherwise exposed another animal or a person to rabies shall closely observe the animal in his or her custody for a period of ten (10) days, and a person who owns, possesses or controls any other biting animal capable of transmitting rabies shall follow the directions of the Department with regard to observation or with regard to surrendering the biting animal for humane destruction and testing. During such period of observation, if any, a report must be made to the Department as specified herein:

(1) If the animal dies during this period, the owner shall immediately telephone the Department and immediately cause the animal's remains to be delivered to the Department's Public Health Laboratory, or other facility designated by the Department, for rabies examination.

(2) If the animal exhibits symptoms of illness or distress during this period, the owner shall immediately telephone the Department and follow the Department's instructions to either:

(i) transport the animal to the Department or place designated by it; or

(ii) transport the animal to a private licensed veterinarian, who shall immediately report his or her findings to the Department by telephone, and confirm such findings in writing to the Department within 24 hours.

(3) If the animal escapes custody during this period, the owner shall immediately telephone the Department.

(4) If the animal appears normal and healthy on the final day of the observation period required by this subdivision, the owner shall immediately telephone the Department and return

the Department-supplied postcard stating that the animal is alive and presents no indication of disease.

(f) Management of unowned biting animals. If no owner can be identified for a biting dog, cat, ferret or domestic livestock capable of transmitting rabies, such animal may be held at a place designated by the Department for ten (10) days, or may be ordered humanely destroyed after being held for two days. Any other biting animals capable of transmitting rabies whose owners cannot be identified may be immediately humanely destroyed. The remains of animals humanely destroyed pursuant to this subdivision prior to expiration of the ten-day observation period specified herein shall be transported to the Department's Public Health Laboratory, or other facility designated by the Department, for rabies examination.

(g) Impoundment. When the Commissioner determines that the potential for rabies epizootic exists in any area, the Commissioner may declare that a dog, cat or other animal capable of transmitting rabies that has bitten a human being or any dog found unrestrained or restrained by a chain or leash exceeding six feet in length on any street or in any public park or place or on any open, unfenced area or lot abutting upon a street, public park or place within such area shall be impounded by the Department, a police officer or other authorized person or agency and managed in accordance with subsection (d) of this section.

(h) When the strict application of any provision of this section presents undue, unusual or unreasonable hardships the Commissioner may, in a specific instance and in his or her discretion, modify the application of such provision consistent with the general purpose and intent of this section and upon such conditions as in his or her opinion are necessary to protect the public health.

### **§11.29 Rabies: compulsory vaccination.**

(a) Any person who owns or harbors in New York City a dog or cat four months of age or older, other than a dog or cat exempt from vaccination requirements pursuant to subdivision (d) of this section, shall have such animal actively vaccinated against rabies, as defined in §11.27 of this Article.

(b) The veterinarian either administering the vaccine or responsible for supervising the vaccination shall give to the dog or cat's owner a rabies vaccination certificate. Within five days of performing a vaccination, the veterinarian shall report such vaccination to the Department by

forwarding to the Department a completed form designed by the Commissioner via facsimile, mail or electronic transmission acceptable to the Department. In the case of a dog or cat whose health would be adversely affected as a result of a vaccination, the veterinarian shall give to the dog or cat's owner a signed and dated statement indicating this. In addition, the veterinarian shall, on a form prescribed by the Commissioner, report this information to the Department via facsimile, mail or electronic submission acceptable to the Department within five days of having determined that the administration of a vaccine would adversely affect the health of the dog or cat.

(c) The rabies vaccination certificate and the form prescribed by the Commissioner to be forwarded to the Department shall be dated and signed by the veterinarian and shall include the following information: a description of the dog or cat, its age, color, sex, and breed; the dog's license number; the name and address of the owner; whether the dog or cat was vaccinated or exempted from vaccination by reason of the adverse effect such vaccination would have on the health of such dog or cat, and, if vaccinated, the type of vaccine injected, its duration of immunity, the amount and manner of injection, the name of the manufacturer, and the lot number and expiration date of the vaccine. The vaccination certificate shall be effective for the duration of immunity. Upon the expiration of the certificate, the owner shall have his or her dog or cat revaccinated in accordance with this section.

(d) Active vaccination against rabies shall not be required for dogs or cats actually confined to the premises of incorporated societies, devoted to the care or hospital treatment of lost, strayed or homeless animals, or confined to the premises of public or private hospitals devoted to the treatment of sick animals, or confined for the purposes of research to the premises of colleges or other educational or research institutions, or for dogs or cats actually confined to the premises of a person, firm or corporation actually engaged in the business of breeding or raising dogs or cats for profit and are so licensed as a class A dealer under the Federal Laboratory Animal Welfare Act or if such vaccination would adversely affect the health of the dog or cat as determined by a duly licensed veterinarian.

### **§11.31 Acts likely to spread disease prohibited.**

(a) No person shall intentionally or negligently cause or promote the spread of disease:

(1) By failure to observe, or by improper observance of, applicable requirements of isolation, quarantine, exclusion, treatment or other preventive measures, or by failing to take other precautions in caring for cases or carriers, or suspect cases or carriers of a contagious disease; or

(2) By unnecessarily exposing himself or herself to other persons, knowing himself or herself to be a case or carrier, or suspect case or carrier of a contagious disease; or,

(3) By unnecessarily exposing a person in his or her charge or under his or her care, knowing such person to be a case or carrier or suspect case or carrier of a contagious disease, to other persons; or,

(4) By unnecessarily exposing a person in his or her charge or under his or her care to another person who is known to be a case or carrier, or suspect case or carrier of a contagious disease; or,

(5) By unnecessarily exposing the remains of a person in his or her charge or under his or her care, knowing such person to have been a case or carrier or suspect case or carrier of a contagious disease at the time of his or her death, to other persons.

(b) Nothing contained in this section shall prevent the exposure of a child to specific contagious diseases under such conditions and safeguards as the Department may specify, when there is adequate medical reason for such exposure.