

**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**NOTICE OF ADOPTION OF AN AMENDMENT TO
SECTION 11.03 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, a Notice of Intention to amend was published in the City Record on December 16, 2005. A public hearing was held on January 19, 2006. There was no oral testimony. Four written comments in support of the amendment were received. No changes have been made to the amendment. The Board of Health at its March 16, 2006 meeting adopted the following resolution.

STATUTORY AUTHORITY

This amendment to the New York City Health Code (“Health Code”) is promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (“Charter”). Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene (“Department”) jurisdiction to regulate matters affecting health in the City of New York. Specifically, Section 556 (c)(2) of the Charter authorizes the Department to supervise the reporting and control of communicable and chronic diseases and conditions hazardous to life and health. (*See also* Section 580 (3)(a) of the NYS Public Health Law regarding the Department’s authority regarding clinical laboratories). Sections 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department’s authority extends. Section 1043 of the Charter grants rule making powers to the Department.

STATEMENT OF BASIS AND PURPOSE

Section 11.03 of the Health Code identifies the various diseases and conditions, which are required to be reported to the Department. Section 11.03 (a) of the Health Code is being amended to designate as a reportable disease “herpes infections in infants aged 60 days or younger (neonatal).” Neonatal herpes is a serious, potentially life-threatening condition, and local data are needed to provide reliable measures of the incidence of this disease.

Neonatal herpes (herpes infection in the newborn period) is the most serious outcome of maternal genital herpes infection. Its complications include neurologic devastation of the infant, and neonatal death. In addition to its serious outcomes, neonatal herpes is also one of the most common among all congenital and perinatal infections. Estimates of the incidence of neonatal herpes vary widely across regions of the US, from approximately 1/1,500 to 1/3,200 live births each year. Given the number of live births in the United States each year, these rates correspond to approximately 1300 to 2800 cases per year nationwide, making neonatal herpes more common than other reportable congenital and perinatal infections including congenital syphilis, rubella syndrome, perinatal HIV infection and gonococcal ophthalmia. Neonatal herpes is currently a reportable condition in seven states (Connecticut, Florida, Louisiana, Massachusetts, Nebraska, South Dakota and Washington).

Local data are needed regarding the incidence of neonatal herpes to:

1) Identify missed opportunities for prevention, and permit systematic assessment of gaps in provider knowledge.

There is an increasing potential to prevent neonatal herpes. Type-specific serologic tests for herpes are commercially available, amplification tests such as PCR have increased the sensitivity of diagnostic testing, antiviral therapy can be used to reduce viral shedding; and Cesarean delivery of infants born to mothers presenting with genital lesions can reduce the likelihood of perinatal transmission.

For infected infants, early institution of antiviral therapy is critical to prevent disseminated disease, and death, yet multi-center studies of neonatal herpes show that delays in instituting appropriate therapy persist. Such delays are likely due to provider failure to include neonatal herpes in the differential diagnosis for a febrile neonate, or failure to recognize clinical signs.

By making neonatal herpes infections reportable, the Department will be able to investigate cases of neonatal herpes to determine whether gaps in provider recognition of cases, or knowledge of prevention or treatment strategies could have contributed to the outcome of neonatal herpes, and to address gaps in knowledge with provider education and training. Making neonatal herpes reportable may be expected to increase awareness of the condition among both providers and the public, and has been strongly advocated in the peer-reviewed public health literature.¹

2) Prepare for the availability of a herpes vaccine and monitoring the effectiveness of vaccine use.

A vaccine for herpes simplex type 2 is currently in phase III trials and will likely be available for use in the next 8-10 years. Measures of the burden of neonatal disease are needed to establish a baseline from which to monitor the population impact of herpes vaccines. A failure of vaccine to impact upon neonatal herpes infection rates would suggest that an appropriate target group(s) was not being vaccinated, and would permit re-targeting of vaccination strategies.

3) Provide a reliable and accurate means to measure of disease burden.

Currently available approaches to quantifying neonatal herpes are inadequate. Though neonatal herpes is usually - but not exclusively - managed on an in-patient basis, there is no ICD-9 code specific to neonatal herpes so it is not possible to accurately measure the burden of disease using hospital discharge data. While estimates of disease incidence from other regions of the US are useful, local data are paramount because neonatal herpes incidence is likely proportional to genital herpes in women of child-bearing age, and the epidemiology of genital herpes may be expected to differ from region to region as herpes simplex type 1 and type 2 seropositivity varies between different population subgroups in the US defined by race/ethnicity and age.

4) Identify outbreaks of disease

¹ Handsfield HH, Waldo AB, Brown ZA, Corey L., Drucker JL, Ebel CW, Leone PA, Stanberry LR, Whitley RJ. Neonatal Herpes Should be a Reportable Disease. Sex Transm. Dis. 2005 Sept;32 (9):521-5. Review.

The Department has recently been involved in the investigation of multiple cases of post-natally acquired neonatal herpes, associated with out-of-hospital circumcisions. These cases, not congenitally or perinatally acquired, came to the Department's attention because hospitals and providers considered these instances reportable as 'unusual manifestations of disease.' Making neonatal herpes reportable would ensure that such instances are reported, and thus enable the Department to identify outbreaks of this disease in a timely fashion, identify the source, and intervene to prevent subsequent cases.

No oral testimony was received at a public hearing on this proposal, but four written comments supported the proposal. Although one comment suggested that the age of infants for whom reporting is required be extended to one year of age, the Department is requiring only reporting for infants 60 days or younger, as occurrence in this age group is of the greatest concern.

STATEMENT PURSUANT TO SECTION 1042-REGULATORY AGENDA

This proposal was not included in the fiscal year 2005 New York City Department of Health and Mental Hygiene Regulatory Agenda as this action is the result of recent analysis by the Department.

The proposal is as follows:

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

RESOLVED, that subsection (a) of Section 11.03 of the New York City Health Code as last amended on the fourteenth of December two thousand five, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§11.03. **Diseases and conditions reportable.**

(a) Cases and carriers affected with any of the following diseases and conditions, and persons who at the time of their death were apparently so affected, shall be reported to the Department:

* * *

Hemolytic uremic syndrome

Herpes infection in infants aged 60 days or younger ("neonatal")

Kawasaki syndrome

* * *

Notes: Subdivision (a) was amended on March 16, 2006 to require reporting of "Herpes infection in infants aged 60 days or younger (neonatal)," a serious, potentially life-threatening

condition, for which local data, whether based on clinical diagnosis or laboratory test reports, are needed to establish reliable measures of incidence.