

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Do Not Mark In This Box

FILED

JUL 1 4 00 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

Division of Health
AGENCY: Department of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY WV Code § 27-5-9(g)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Reportable Diseases, Events and Conditions

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 31, 1998 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Regulatory Development
Department of Health & Human Resources
Capitol Complex - Building 3, Room 265
Charleston, WV 25305
ATTN: Marsha Dadisman, Acting Director

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

By Virginia Tuchen
Joan E. Ohl, Secretary
Joan E. Ohl

\$7.80

BRIEF SUMMARY OF THE RULE

This rule addresses WV Code, Chapters 16-3-1, 16-4, and 16-3-5. It is entitled, Legislative Rule, Title 64, Series 7, and establishes procedures governing the reporting of certain diseases and conditions, unusual health events, and clusters or outbreaks of diseases to the division of health. It also establishes the responsibility of various individuals and facilities in controlling communicable diseases.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE

This rule has been totally restructured to reflect current format. There are four new sections included relating to confidentiality, administration of immunizations, designation of diseases as sexually transmittable, and responsibilities of managed care organizations. Passage of House Bill 4483 during the 1998 Legislative Session required rules to be filed to designate sexually transmitted diseases. Also, House Bill 4516 was passed on March 3, 1994, requiring, among other things, establishment of a Childhood Immunization Advisory Committee to track immunization compliance.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Reportable Diseases, Events and Conditions: 64 CSR 7

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: Bureau for Public Health (For the Division of Health)
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$0	\$0
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue				0	0

2. Explanation of above estimates.

There are not costs or revenues associated with this rule.

3. Objectives of this rule:

To establish procedures governing the reporting of certain diseases and conditions, unusual health events, and clusters or outbreaks of diseases to the division of health. It also establishes the responsibility of various individuals and facilities in controlling communicable diseases.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None anticipated.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

None anticipated.

C. Economic Impact on Citizens/Public at Large.

None anticipated.

Date:

Signature of Agency Head or Authorized Representative

By Virginia Tucker

Joan E. Ohl, Secretary
Department of Health and Human Resources

Joan E. Ohl

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 1, 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Department of Health and Human Resources

State Capitol Complex, Building 3, Room 265, Charleston, WV 25305

Telephone: (304) 558-3223

LEGISLATIVE RULE TITLE: Reportable Diseases, Events and conditions, 64 CSR 74

1. Authorizing statute(s) citation: WV Code Section 16-3-1

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 1, 1998

b. What other notice, including advertising, did you give of the hearing?

Copies of 64CSR7 will be distributed to all local health departments, the West Virginia Department of Education, West Virginia State Medical Association, West Virginia Society for Osteopathic Medicine, West Virginia Hospital Association, hospital and commercial laboratories and managed care organizations. A notification will be printed in the Division of Surveillance and Disease Control's Public Health newsletter.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 31, 1998

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached N/A No comments received N/A

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

N/A

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Marsha Dadisman, Acting Director

Regulatory Development/Department of Health and Human Resources

Building 3 Room 265, Capitol Complex

Charleston, West Virginia 25305

(304) 558-3223 FAX: (304) 558-1130 MDadisman@WVDHHR.ORG

g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Loretta Haddy

Director, Division of Surveillance and Disease Control

1422 Washington Street, East

Charleston, West Virginia 25301

Phone: (304) 558-5358 or 1-800-423-1271

3. If the statute under which you promulgated the submitted rules requires certain

findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

- d. Attach findings and determinations and reasons:

Attached N/A

**TITLE 64
WEST VIRGINIA DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
LEGISLATIVE RULE**

SERIES 7

REPORTABLE DISEASES, EVENTS AND CONDITIONS

TITLE 64
WEST VIRGINIA DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
LEGISLATIVE RULE
SERIES 7
REPORTABLE DISEASES, EVENTS AND CONDITIONS

Table of Contents

§64-7-1. General.	1
§64-7-2. Definitions.	1
§64-7-3. Selection, Categorization, and Required Reporting.	3
§64-7-4. Other Reportable Events: Birth Defects.	9
§64-7-5. Other Reportable Events: Potentially Rabid Animal Bites, Rabid Animals.	9
§64-7-6. Other Reportable Events: Administration of Immunizations.	10
§64-7-7. Deaths from Reportable Diseases and Conditions; Reportable Diseases and Conditions Diagnosed After Death.	11
§64-7-8. Persons, Facilities, and Laboratories Required to Report; Other Related Responsibilities.	11
§64-7-9. Responsibilities of Managed Care Organizations.	13
§64-7-10. Responsibilities of Local Health Officers.	14
§64-7-11. Management of Undiagnosed Diseases or Conditions Suggesting a Reportable Disease or Condition.	15
§64-7-12. Disputed Diagnoses of Reportable Diseases or Conditions.	15
§64-7-13. Designation of Diseases as Sexually Transmittable.	15
§64-7-14. Confidentiality.	15
§64-7-15. Isolation, Quarantine and Placarding.	17
§64-7-16. Exclusion from School Due to a Communicable Disease; Readmission.	17
§64-7-17. Examination and Training of Food Service Workers.	17
§64-7-18. Penalties.	18
§64-7-19. Administrative Due Process.	18
§64-7-20. Severability.	19

FILED

TITLE 64

WEST VIRGINIA DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
LEGISLATIVE RULE
SERIES 7
REPORTABLE DISEASES, EVENTS AND CONDITIONS

JUN 1 4 00 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§64-7-1. General.

1.1. Scope - This legislative rule establishes procedures governing the reporting of certain diseases and conditions, unusual health events, and clusters or outbreaks of diseases to the division of health. It also establishes the responsibility of various individuals and facilities in controlling communicable diseases.

1.2. Authority - W. Va. Code 16-3-1.

1.3. Filing Date -

1.4. Effective Date -

1.5. Repeal and Replacement of Former Rule - This rule repeals and replaces West Virginia Division of Health Legislative Rule, Reportable Diseases, 64 CSR 7, effective March 24, 1994.

1.6. Applicability - This rule applies to physicians and other licensed health practitioners; local health officers; other public health providers; private or public laboratories; all health care facilities; managed care organizations; any individual administering immunizations; administrators of schools, camps, and vessels; administrators of health care facilities operated by the department; the State registrar of vital statistics; county humane officers, dog wardens, sheriffs, pathologists, coroners, and medical examiners; and any other person investigating or treating disease, health conditions, or cause of death.

1.7. Enforcement - This rule is enforced by the director of the West Virginia division of health or his or her lawful designee.

§64-7-2. Definitions.

2.1. Communicable Disease - A disease caused by an infectious agent or its toxic products, which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, arthropod, environmental exposure or other source.

2.2. Department - The department of health and human resources.

2.3. Director - The director of the division of health¹ of the West Virginia department of health and human resources or his or her designee.

2.4. Division - The division of health of the West Virginia department of health and human resources.

2.5. Epidemiologic Information - Medical data or other information, interviews, investigative reports, other records and notes collected during the course of an epidemiologic investigation of a disease, condition, or outbreak.

2.6. Health care provider - Any physician, dentist, nurse, or other individual who provides medical, dental, nursing, or other health care services of any kind to individuals.

2.7. Health care facility - Any hospital, nursing home, clinic, cancer treatment center, laboratory, or other facility which provides health care or diagnostic services to individuals, whether public or privately owned.

2.8. Hospital - A facility licensed as a hospital under W. Va. Division of Health Legislative Rule, Hospital Licensure, 64 CSR 12.

2.9. Isolation - The separation of infected persons or animals from other persons or animals, under the necessary time frame and conditions to prevent the direct or indirect transmission of the infectious agent from the infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.

2.10. Laboratory - Any facility or place, however named, for the biologic, microbiologic, serologic, virologic, chemical, hematologic, immuno-hematologic, biophysical, cytologic, pathologic, or other examination of materials for the purpose of providing medical or epidemiologic information for the diagnosis, prevention or treatment of any disease, or the impairment of, or the assessment of the health of human beings. The term "laboratory" includes both public and private laboratories, free-standing laboratories, and hospital laboratories.

2.11. Local Board of Health - A board of health serving one (1) or more counties, one (1) or more municipalities, or a combination thereof.

2.12. Local Health Department - The staff of the local board of health.

2.13. Local Health Officer - The individual who fulfills the duties and responsibilities of the health officer for a county, municipal, or combined board of health, or his or her

¹ The Department of Health and Human Resources (DHHR) was created by the Legislature's reorganization of the executive branch of State government in 1989, and the Department of Health was renamed the Division of Health and made a part of the DHHR (W. Va. Code §5F-1-1 *et seq.*). Administratively within the DHHR, the Bureau for Public Health through its Commissioner carries out the public health functions of the Division of Health.

designee.

2.14. Managed Care Organization (MCO) - An entity that integrates financing and management with the delivery of health care services to an enrolled population. A MCO provides, offers or arranges for coverage of designated health services needed by members for a fixed, prepaid amount. There are three basic models of MCOs: group or network model, individual practice association, and staff model.

2.15. Medical Information - Data or other information regarding the history, examination, lab findings, diagnosis, treatment, or other clinical care for a person examined or treated for a suspected or actual disease.

2.16. Nursing Home - Any facility licensed as a nursing home under W. Va. Legislative Rule, Nursing Home Licensure, 64 CSR 13, or any extended care facility operated in conjunction with a hospital.

2.17. Physician - An individual licensed to practice medicine by either the board of medicine or the board of osteopathy.

2.18. Placarding - The posting on a home, building or other structure of a sign or notice warning of the presence of a communicable disease or other health hazard and the danger of said disease or hazard within or beyond the placarded home, building, or structure.

2.19. Quarantine - The limitation of freedom of movement of persons or animals in a time frame and manner to prevent contacts that could lead to spread of disease.

2.20. Reportable Disease or Condition - Any disease or condition required to be reported by this rule.

2.21. STD - Sexually transmitted disease.

§64-7-3. Selection, Categorization, and Required Reporting.

3.1. Selection and Categorization of Required Reportable Diseases and Conditions.

3.1.a. The director may, by order filed with the Secretary of State, add or delete a disease or condition in any category. The director shall select and categorize diseases and conditions for inclusion in this rule based on whether the disease or condition constitutes or has the potential to constitute a public health emergency, whether it requires public health follow up, or whether the collection of data or other information on the disease or condition can assist in either determining the need for or effectively implementing public health programs or other projects to protect and promote the health of the people of West Virginia.

3.1.b. In emergency situations (e.g., potential epidemics), the director may require same day reporting for diseases and conditions in any of the categories listed in this rule.

3.2. Reporting of Diseases and Conditions.

3.2.a. The director shall establish specific protocols² for reporting diseases and conditions. The protocols shall include any information to be reported beyond that listed in this rule and any additional information necessary regarding reporting or appropriate public health management.

3.2.b. The reports required by this rule may be made electronically in a manner approved by the director or on forms supplied by the director (see footnote 2).

3.3. Category I Reportable Diseases and Conditions.

3.3.a. Cases of Category I diseases or conditions listed in Sections 3.3.b and 3.3.c of this rule shall be reported by telephone to the local health department in the patient's county of residence within twenty-four (24) hours of diagnosis. The reports shall include the patient's name, address, date of birth, sex, and any other information requested by the director relevant to the purposes of this rule.

3.3.b. Category I.A diseases and conditions reportable by health care providers and health care facilities are:

- 3.3.b.1. Botulism;
- 3.3.b.2. Cholera;
- 3.3.b.3. Dengue Fever;
- 3.3.b.4. Diphtheria;
- 3.3.b.5. E. Coli O157:H7 Disease;
- 3.3.b.6. Foodborne Disease;
- 3.3.b.7. Gonococcal Disease* -- Conjunctivitis in the newborn, Drug-resistant disease, or Pelvic Inflammatory Disease;
- 3.3.b.8. *Haemophilus influenzae*, Invasive Disease;
- 3.3.b.9. Hemolytic Uremic Syndrome, postdiarrheal;
- 3.3.b.10. Hepatitis A, Acute;
- 3.3.b.11. Hepatitis B, Acute or perinatal;
- 3.3.b.12. Hepatitis D;
- 3.3.b.13. Meningococcal Disease, Invasive;
- 3.3.b.14. Outbreak or cluster of any illness or condition - suspect or

² Protocols can be found in the West Virginia Reportable Diseases Protocol Manual. This manual, standard disease report cards, and disease-specific supplemental forms necessary for the division or for the Centers for Disease Control and Prevention (CDC) can be obtained from the West Virginia Bureau for Public Health, Division of Surveillance and Disease Control through the local health department. Protocols and report forms are updated as necessary to accomplish the purposes of this rule.

confirmed;

- 3.3.b.15. Pertussis (Whooping Cough);
- 3.3.b.16. Plague;
- 3.3.b.17. Poliomyelitis;
- 3.3.b.18. Rabies in Animals or in Man;
- 3.3.b.19. Rubella (German Measles);
- 3.3.b.20. Rubeola (Measles);
- 3.3.b.21. Syphilis* -- Primary, Secondary, Early Latent (less than one (1) year), or Congenital;
- 3.3.b.22. Typhoid Fever;
- 3.3.b.23. Waterborne Disease; and
- 3.3.b.24. Yellow Fever.

3.3.c. Reports of Category I.A diseases and conditions marked with an asterisk (*) shall be made on the sexually transmitted disease report card (VD-91). Others should be submitted on standard reporting cards and supplemental forms. (See Footnote 2.)

3.3.d. Category I.B diseases and conditions reportable by laboratories are:

- 3.3.d.1. *Bordatella pertussis*, microbiologic evidence;
- 3.3.d.2. *Clostridium botulinum*, microbiologic or toxicologic evidence;
- 3.3.d.3. *Corynebacterium diphtheriae*, microbiologic or histopathologic evidence;
- 3.3.d.4. Dengue Fever, serologic evidence;
- 3.3.d.5. *E. Coli* O157:H7 from any site;
- 3.3.d.6. *E. Coli* O157:NM, Shiga-like toxin-producing, from any clinical specimen;
- 3.3.d.7. *Haemophilus influenzae* from any normally sterile body site;
- 3.3.d.8. Hepatitis A, positive IgM;
- 3.3.d.9. Hepatitis B, positive anti-HBc IgM or HBsAg;
- 3.3.d.10. Hepatitis D, positive serology;
- 3.3.d.11. *Neisseria gonorrhoeae* (drug resistant) from any site*;
- 3.3.d.12. *Neisseria gonorrhoeae* from female upper genital tract*;
- 3.3.d.13. *Neisseria gonorrhoeae* from the eye of a newborn*;
- 3.3.d.14. *Neisseria meningitidis* from a normally sterile site;
- 3.3.d.15. Outbreak or cluster of any illness or condition - suspect or confirmed;
- 3.3.d.16. Poliomyelitis, virologic or serologic evidence;
- 3.3.d.17. Rabies, animal or human;
- 3.3.d.18. Rubella, virologic or serologic evidence;
- 3.3.d.19. Rubeola, virologic or serologic evidence;
- 3.3.d.20. *Salmonella typhi* from any site;
- 3.3.d.21. *Treponema pallidum*, positive dark-field examination*;
- 3.3.d.22. *Vibrio cholerae*, microbiologic or serologic evidence;
- 3.3.d.23. Yellow Fever, virologic or serologic evidence;

- 3.3.d.24. *Yersinia pestis*, microbiologic or serologic evidence; and
- 3.3.d.25. Other laboratory evidence suggestive of any of the diseases or conditions listed in Category I.A.

3.3.e. Reports of category I.B diseases and conditions marked with an asterisk (*) shall be made on the appropriate sexually transmitted disease report form (VD-91). Others should be submitted on standard reporting cards and supplemental forms. (See Footnote 2.)

3.4. Category II Reportable Diseases and Conditions.

3.4.a. Cases of Category II diseases or conditions shall be reported to the local health department in the patient's county of residence within at most one (1) week of diagnosis. The reports shall include the patient's name, address, date of birth, sex, and any other information requested by the director relevant to the purposes of this rule.

3.4.b. Category II.A diseases reportable by health care providers and health care facilities are:

- 3.4.b.1. Amebiasis;
- 3.4.b.2. Anthrax;
- 3.4.b.3. Brucellosis;
- 3.4.b.4. Campylobacteriosis;
- 3.4.b.5. Chancroid*;
- 3.4.b.6. Chickenpox (numerical totals only);
- 3.4.b.7. Chlamydia trachomatis*;
- 3.4.b.8. Cryptosporidiosis;
- 3.4.b.9. Cyclospora;
- 3.4.b.10. Encephalitis, Arboviral;
- 3.4.b.11. Encephalitis, Other primary and unspecified;
- 3.4.b.12. Giardiasis;
- 3.4.b.13. Gonorrhea (except Category I diseases)*;
- 3.4.b.14. Hantavirus Disease;
- 3.4.b.15. Hepatitis C / Other non-A or non-B, acute;
- 3.4.b.16. Herpes, genital*;
- 3.4.b.17. Influenza-like Illness (numerical totals only);
- 3.4.b.18. Leptospirosis;
- 3.4.b.19. Listeria;
- 3.4.b.20. Lyme Disease;
- 3.4.b.21. Malaria;
- 3.4.b.22. Meningitis, Other Bacterial (cases not reported as other specific disease types);
- 3.4.b.23. Meningitis, Viral or Aseptic;
- 3.4.b.24. Mumps;
- 3.4.b.25. Psittacosis;
- 3.4.b.26. Rheumatic Fever;

- 3.4.b.27. Rocky Mountain Spotted Fever;
- 3.4.b.28. Rubella, Congenital Syndrome;
- 3.4.b.29. Salmonellosis (except Typhoid Fever);
- 3.4.b.30. Shigellosis;
- 3.4.b.31. Streptococcal Disease, Invasive Group A, (*Streptococcus pyogenes*);
- 3.4.b.32. Streptococcal Toxic Shock Syndrome;
- 3.4.b.33. *Streptococcus pneumoniae*, drug resistant invasive disease, (include antibiotic susceptibility patterns);
- 3.4.b.34. Syphilis (late latent)*;
- 3.4.b.35. Tetanus;
- 3.4.b.36. Trichinosis;
- 3.4.b.37. Tuberculosis (All Forms, include antibiotic susceptibility patterns)**;
- 3.4.b.38. Tularemia; and
- 3.4.b.39. Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance.

3.4.c. Reports of Category II.A diseases and conditions marked with an asterisk (*) shall be made on the sexually transmitted disease report card (VD-91).

3.4.d. Reports of Category II.A diseases and conditions marked with two (2) asterisks (**) shall be made on the tuberculosis report form.

3.4.e. Category II.B conditions reportable by laboratories are:

- 3.4.e.1. *Bacillus anthracis*;
- 3.4.e.2. *Borrelia burgdorferi* from culture, or diagnostic levels of IgG or IgM, (preferably followed by a western blot);
- 3.4.e.3. Brucellosis, microbiologic or serologic evidence;
- 3.4.e.4. *Campylobacter*;
- 3.4.e.5. *Chlamydia trachomatis* by culture, antigen, DNA probe methods, or other procedures declared reportable by the director of health*;
- 3.4.e.6. *Cryptosporidium*;
- 3.4.e.7. Encephalitis, virologic, serologic, or other evidence of arboviral or other encephalitides;
- 3.4.e.8. *Entamoeba histolytica*;
- 3.4.e.9. *Giardia lamblia*, microscopic or immunodiagnostic evidence;
- 3.4.e.10. Hantavirus infection, serologic, PCR, immunohistochemistry, or other evidence;
- 3.4.e.11. Hepatitis C, positive HCV antibody confirmed with approved supplemental test (e.g. RIBA);
- 3.4.e.12. *Herpes simplex virus**, isolation of herpes simplex virus from cervix, urethra or anogenital lesion, or demonstration of virus by antigen detection technique in clinical specimens from cervix, urethra or anogenital lesion, or demonstration of multinucleated giant cells on a Tzanck smear of scrapings from an

anogenital lesion;

- 3.4.e.13. Leptospirosis, virologic or serologic evidence;
- 3.4.e.14. Malaria organisms on smear of blood;
- 3.4.e.15. Meningitis, as indicated by bacterium in spinal fluid;
- 3.4.e.16. Meningitis, Viral, virologic or serologic evidence;
- 3.4.e.17. Mumps, virologic or serologic evidence;
- 3.4.e.18. *Mycobacterium tuberculosis* from any site (include drug susceptibility patterns)**
- 3.4.e.19. *Neisseria gonorrhoeae**, culture or other positive laboratory evidence, (from sites not mentioned under Category I);
- 3.4.e.20. Psittacosis, microbiologic or serologic evidence;
- 3.4.e.21. Rocky Mountain Spotted Fever, serologic evidence;
- 3.4.e.22. *Salmonella* (any species, excluding *Salmonella typhi*);
- 3.4.e.23. *Shigella* (any species);
- 3.4.e.24. *Streptococcus pyogenes* (Group A Streptococcus) from a normally sterile site;
- 3.4.e.25. *Streptococcus pneumoniae*, from a normally sterile site (include antibiotic susceptibility patterns on all isolates);
- 3.4.e.26. Syphilis*, serologic evidence;
- 3.4.e.27. Trichinosis, demonstration of cysts or serologic evidence;
- 3.4.e.28. Tularemia, culture, antigen or serologic evidence;
- 3.4.e.29. Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance; and
- 3.4.e.30. Other laboratory evidence suggestive of any of the diseases or conditions listed in Category II.A.

3.4.f. Reports of Category II.B diseases and conditions marked with an asterisk (*) shall be made on the sexually transmitted disease report card (VD-91).

3.4.g. Reports of Category II.B diseases and conditions marked with two (2) asterisks (**) shall be made on the tuberculosis report form.

3.5. Category III Diseases and Conditions.

3.5.a. Category III diseases and conditions shall be reported to the division within at most one (1) week of diagnosis unless otherwise indicated in a disease specific legislation (e.g., cancer). Reports shall include the patient's name, address, date of birth, sex, and any other information requested by the director relevant to the purposes of this rule.

3.5.b. Category III.A diseases and conditions reportable by health care providers and health care facilities are:

- 3.5.b.1. AIDS diagnosed from the presence of AIDS defining diseases or conditions (including previously reported HIV positive individuals);
- 3.5.b.2. Birth Defects, including Down's Syndrome;

- 3.5.b.3. Cancer³;
- 3.5.b.4. Hemophilia;
- 3.5.b.5. HIV (Human Immunodeficiency Virus)⁴;
- 3.5.b.6. Lead Poisoning (blood lead concentration equal to or greater than 10 micrograms per deciliter);
- 3.5.b.7. Occupational Illnesses; and
- 3.5.b.8. Traumatic Brain Injury.

3.5.c. Category III.B diseases and conditions reportable by laboratories are:

- 3.5.c.1. Lead poisoning (blood concentration greater than or equal to 10 micrograms per deciliter);
- 3.5.c.2. CD4+ T-lymphocyte counts of two hundred or less per cubic millimeter (200/mm³) or a percentage less than fourteen (14) percent;
- 3.5.c.3. Down's Syndrome chromosomal anomaly; and
- 3.5.c.4. HIV (Human Immunodeficiency Virus) Type 1 or 2, confirmed antibody or virus detection test (serology, culture, antigen, PCR, DNA, RNA probe, etc.).

§64-7-4. Other Reportable Events: Birth Defects.

4.1. The director shall arrange for the timely reporting of birth defects identified from birth certificates, health care facility medical records, or human genetic services providers. After case review, evaluation and referrals, reports will be consolidated in the Maternal and Child Health database. Appropriate report forms are provided for this reporting by the division.

§64-7-5. Other Reportable Events: Potentially Rabid Animal Bites, Rabid Animals.

5.1. If a person is bitten, scratched, or otherwise exposed (gets saliva, neural tissue, or other potentially infectious fluid into an open cut, wound, or mucous membrane) to an animal which has or is suspected of having rabies, then the incident, including the person's full name, date of birth, and address, shall be reported to the local health officer by the following individual:

5.1.a. The physician or other health care provider caring for or observing the person;

5.1.b. The person bitten, scratched, or otherwise exposed, if no physician or other health care provider is in attendance and the person bitten, scratched or otherwise exposed is an adult;

³ Reporting of cancer is further delineated in West Virginia Division of Health Administrative Rules Title 64, Series 68, Cancer Registry.

⁴ Reporting of HIV infection is further delineated in West Virginia Division of Health Legislative Rules Title 64, Series 64, AIDS Related Medical Testing and Confidentiality.

5.1.c. Whoever is caring for the person, if no physician or other health care provider is in attendance and the person bitten, scratched, or otherwise exposed is incapacitated; or

5.1.d. The parent or guardian, if no physician or other health care provider is in attendance and the person bitten, scratched or otherwise exposed is a child.

5.2. The local health officer shall report to the director the name, date of birth, address, circumstances of the exposure, and action taken for every person bitten, scratched, or otherwise exposed to an animal which has or is suspected of having rabies.

5.3. If the animal is a domestic dog or cat, the local health officer shall make a reasonable attempt to determine the animal's owner, and, if successful, shall direct the owner to confine the animal for a period of ten (10) days. The owner of the dog or cat, county humane officer, dog warden or sheriff shall notify the local health officer immediately if the animal shows symptoms compatible with rabies or dies, and the local health officer, county humane officer, dog warden or sheriff shall arrange for appropriate examination of the animal's brain.

5.4. If the local health officer cannot determine the owner of the domestic dog or cat, he or she shall direct the county humane officer, dog warden or sheriff to pick up the suspect dog or cat that has bitten a person and confine it in isolation for a period of ten (10) days. If the animal shows symptoms compatible with rabies or dies, the local health officer shall direct the county humane officer, dog warden, sheriff, or other designee to humanely destroy the animal and arrange for appropriate examination of the animal's brain.

5.5. If a person is reported bitten by any animal having or suspected of having rabies other than a domestic dog or cat, the local health officer, if necessary, shall direct the county humane officer, dog warden, sheriff, or other designee to have the animal humanely destroyed immediately and to arrange for appropriate examination of the animal's brain.

5.6. Any person who becomes aware of the existence of an animal apparently afflicted with rabies shall report the existence of the animal, the place where it was last seen, the owner's name, if known, and the symptoms suggesting rabies to the local health officer immediately.

§64-7-6. Other Reportable Events: Administration of Immunizations.

6.1. The director shall establish and maintain a centralized registry for tracking compliance with nationally recommended immunization schedules and for monitoring vaccine use.

6.2. Administration of each immunization against the following diseases shall be

reported: diphtheria, whooping cough, tetanus, polio, measles, mumps, rubella, hepatitis-B, *Haemophilus influenzae* type b disease, chicken pox, and any additional immunizations required by the director for public health purposes as published by order filed with the secretary of state.

6.3. Physicians and other health care providers, hospitals and other health care facilities, local health officers, and any other provider or facility administering immunizations shall report immunizations administered to the centralized immunization registry as required by this rule.

6.4. All immunizations administered to children of ages six (6) and under shall be reported to the immunization registry within one (1) week of the administration of the immunization.

6.5. Immunization reports shall contain the name of the child receiving the immunization, his or her address, date of birth, mother's maiden name, information on the immunization administered, and any other information required by the director for development, maintenance, and use of the immunization registry and vaccine tracking system.

§64-7-7. Deaths from Reportable Diseases and Conditions; Reportable Diseases and Conditions Diagnosed After Death.

7.1. Upon receipt of any death certificate showing a reportable disease or condition, the State registrar of vital statistics shall send a copy of the death certificate to the local health officer for the county in which the death occurred and to the county in which the decedent resided, with the exception of Category III diseases and conditions. These are reported directly to the division.

7.2. If a pathologist, coroner, medical examiner, physician, other health care provider, or other individual investigating the cause of death determines from the examination of a corpse or from a history of the events leading to death, that at the time of death, the decedent had a disease or condition required to be reported by this rule, he or she shall report the case promptly as required by this rule as if the diagnosis had been established prior to death.

§64-7-8. Persons, Facilities, and Laboratories Required to Report; Other Related Responsibilities.

8.1. Physicians and Other Health Care Providers; Hospitals and Other Health Care Facilities.

Any physician, other health care provider, hospital, or health care facility who suspects, diagnoses, or cares for a patient with a disease or condition listed in Categories I.A, II.A, III.A or elsewhere in this rule shall:

8.1.a. Report the disease or condition as required by this rule;

8.1.b. Assist public health officials in appropriate case and outbreak investigation and management and in any necessary contact investigation and management;

8.1.c. Make every effort to submit the specimens identified in protocols specified by the director (see footnote 2) to establish an accurate diagnosis of the disease or condition to a laboratory approved by the director;

8.1.d. If the disease or condition is communicable, advise, in consultation with State and local public health officials, the patient, and as necessary, members of the patient's household and other patient contacts regarding the precautions to be taken to prevent further spread of the disease. In cases of sexually transmitted diseases, HIV, and tuberculosis the division recommends that health care providers and health care facilities refer contact notification activities to the division for STD and HIV and local health departments for tuberculosis rather than attempt to accomplish the notification themselves;

8.1.e. Follow a method of control specified by the director in established protocols (see footnote 2) or by methods developed in consultation with the director; and

8.1.f. Assist the local health officer by promoting implementation of the control method for the disease or condition specified in the protocol with the patient, and, as applicable, members of the patient's household, facility staff, and other involved individuals.

8.2. Laboratories.

8.2.a. All laboratories, whether public, private or hospital-based, are responsible for reporting the diseases or conditions listed in Categories I.B, II.B, III.B and shall otherwise comply with the requirements of this rule.

8.2.b. The laboratory which receives a specimen yielding *Mycobacterium tuberculosis* is responsible for the submission of the first isolate to the Office of Laboratory Services (OLS), Division of Health. Additionally, any isolate of *M. tuberculosis* from a patient collected 90 days after the initial specimen must also be forwarded to OLS.

8.2.c. The laboratory must perform (or arrange for) drug susceptibility testing on the initial isolate from each patient from whom *M. tuberculosis* was isolated and report the results of that drug susceptibility testing to the local health department in the county where the patient resides, within one working day from the time the person/agency who submitted the specimen is notified.

8.2.d. If any subsequent culture of *M. tuberculosis* is found to have developed

new patterns of resistance, an additional culture or subculture of the resistant isolate must be submitted to the OLS.

8.2.e. Clinical laboratories that identify acid fast bacillus (AFB) on a smear from a patient must culture and identify the AFB, or refer to another laboratory for those purposes.

8.2.f. Clinical laboratories that isolate *Salmonella*, *Shigella*, or suspect or confirmed *E. coli* 0157:H7 from any patient specimen or *Neisseria meningitidis* or *Haemophilus influenzae* from a sterile site should submit the first isolate or a subculture of that isolate to the OLS.

8.2.g. Information that must be included in any of the specimens listed includes:

- 8.2.g.1. The name, address, and date of birth of the patient;
- 8.2.g.2. The specimen accession number or other unique identifier;
- 8.2.g.3. The date the specimen was obtained from the patient;
- 8.2.g.4. The source of the specimen;
- 8.2.g.5. The type of test performed;
- 8.2.g.6. The name, address, and telephone number of the submitting laboratory; and
- 8.2.g.7. The name, address, and telephone number of the physician or health care provider for whom the examination or test was performed.

8.3. Administrators of Schools, Camps, Vessels, and Department-Operated Health Care Facilities.

When no physician or other responsible health care provider is in attendance, the administrator of any school, camp, vessel or department-operated health care facility shall:

8.3.a. Report any reportable disease or condition occurring in the school, camp, vessel or department-operated health care facility as required by this rule;

8.3.b. Assist public health officials in appropriate case and outbreak investigation or management and in any necessary contact investigation and management;

8.3.c. Follow a method of control specified by the director in established protocols (see footnote 2) or by recommendations developed in consultation with the director;

8.3.d. If the disease or condition is communicable, advise, in consultation with State and local public health officials, the patient, and as necessary, members of the patient's household and other patient contacts regarding the precautions to be taken to prevent further spread of the disease. In cases of sexually transmitted diseases, HIV,

and tuberculosis the division recommends that health care providers and health care facilities refer contact notification activities to the division for STD and HIV and local health departments for tuberculosis rather than attempt to accomplish the notification themselves; and

8.3.e. Assist the local health officer by promoting implementation of the control method for the disease or condition specified in the protocol with the patient, and, as applicable, members of the patient's household, facility staff, and other involved individuals.

§64-7-9. Responsibilities of Managed Care Organizations.

9.1. Managed Care Organizations.

9.1.a. Managed Care Organizations shall notify any contracted providers, facilities, or laboratories serving residents of West Virginia of their legal responsibilities delineated in this rule and shall hold them accountable for compliance with these responsibilities.

9.1.b. Managed Care Organizations shall annually provide contracted healthcare providers, facilities, and laboratories serving residents of West Virginia with a list of currently reportable diseases and conditions⁵.

9.1.c. Managed Care Organizations shall work with public health officials to assure that policies or procedures developed by the Managed Care Organization support the capacity of enrolled providers, facilities, or laboratories to diagnose reportable diseases, undertake the responsibilities delineated in this rule, and assist in public health investigation/follow-up of reportable diseases or conditions.

§64-7-10. Responsibilities of Local Health Officers.

10.1. Local health officers shall comply with the requirements of this rule.

10.2. Local health officers shall maintain a record of the information they collect and the reports they make pursuant to this rule for at least three (3) years. They shall give the information and reports to their successor.

10.3. Upon receipt of a reportable disease or condition report, a local health officer shall:

10.3.a. As circumstances require, investigate the source of the disease or condition, identify contacts, and look for undetected and unreported cases. Implement the prevention and control methods specified by the protocols (see footnote 2) or

⁵Obtainable through the Division of Health.

developed in consultation with the director;

10.3.b. Act in accordance with the protocols established by the director (see footnote 2) or recommendations developed in consultation with the director.

10.3.c. Determine if required specimens have been collected and submitted; and if not, arrange for collection and submission of necessary specimens to investigate the case, determine the source of the infection, and identify infection of contacts, as necessary. Specimens shall be submitted to the division laboratory or other laboratory approved by the director;

10.3.d. Give the patient, those caring for the patient, household members, and other contacts instructions and advice necessary to prevent the spread of the disease or condition; and

10.3.e. Report any disease or condition listed in Category I, II, III, or elsewhere in this rule to the division within the time frame specified in each category.

10.4. If the report received is a death certificate listing a reportable disease or condition, the local health officer shall ascertain whether the disease or condition was reported according to the requirements of this rule prior to the individual's death. As with any other report, the local health officer shall investigate the source of the disease or condition, identify contacts, and look for undetected and unreported cases and implement prevention and control measures as circumstances require.

10.5. Whenever a local health officer knows of or suspects the existence of any reportable disease or condition, and either no licensed physician or other health care provider is in attendance, or the physician or other health care provider has failed or refused to comply with this rule, the local health officer shall investigate the alleged reportable disease or condition. If the investigation establishes the existence of a reportable disease or condition, the local health officer shall further investigate, manage, and report the disease or condition as required by this rule.

10.6. If the local health officer determines that a health care provider, health care facility, laboratory, or other individual named in this rule as responsible for reporting failed to report a reportable disease or condition, the local health officer shall notify the responsible individual or facility and shall request an explanation for the failure to report the disease as required by this rule.

10.7. The local health officer shall report to the director the name and address of the health care provider, health care facility, laboratory, or other responsible individual named in this rule and his or her reason for failure to comply with the requirements of this rule.

§64-7-11. Management of Undiagnosed Diseases or Conditions Suggesting a Reportable Disease or Condition.

11.1. When presenting symptoms of an undiagnosed disease or condition suggest a reportable disease or condition, the local health officer may initiate and enforce control methods appropriate for the suggested reportable disease or condition until a definitive diagnosis is established. If the disease diagnosed does not require the control measures initiated, then these measures shall be terminated at once.

§64-7-12. Disputed Diagnoses of Reportable Diseases or Conditions.

12.1. When doubt exists as to the diagnosis of a submitted reportable disease or condition, the local health officer may enforce the protocol and methods of control established by the director for the suspect disease or condition and shall simultaneously notify the director of the case. If the director judges it necessary, he or she will consult or assist with any investigation needed to make a final decision.

§64-7-13. Designation of Diseases as Sexually Transmittable.

13.1. As allowed under W. Va. Code §16-4-1 and for the purposes of treatment under W. Va. Code §16-4-10, the following diseases shall be designated as potentially sexually transmittable: chlamydia trachomatis, gonorrhea, herpes simplex virus type 2, syphilis (all stages), chancroid, lymphogranuloma venereum, human immunodeficiency virus, hepatitis B virus, and any other diseases the director deems sexually transmittable, by order filed with the Secretary of State. The director may, by order filed with the Secretary of State, also remove the designation of diseases he or she has, by order, previously designated.

§64-7-14. Confidentiality.

14.1. Any epidemiologic information collected and maintained pursuant to this rule by local health officers or the director which identifies an individual or facility as having or suspect for having a reportable disease or condition, or as having been identified in an epidemiologic investigation is confidential and exempt from disclosure as provided in W. Va. Code § 29B-1-1 et seq., the Freedom of Information Act.

14.2. In the case of an individual, the director or a local health officer may release confidential information identified in §14.1. of this rule to the following:

14.2.a. The patient;

14.2.b. The patient's legal representative whose authority encompasses the authority to access the patient's confidential information;

14.2.c. Individuals who maintain and operate the data and medical record systems used for the purposes of this rule, if the systems are protected from access by persons not otherwise authorized to receive the information;

14.2.d. The patient's physician or other medical care provider when the request

is for information concerning the patient's medical records and is, in the determination of the director or the local health officer, to be used solely for the purpose of medical evaluation or treatment of the patient;

14.2.e. Any individual with the written consent of the patient and of all other individuals identified, if applicable, in the information requested;

14.2.f. Staff of a federal, State, or local health department or other local agency with the responsibility for the control and treatment of disease, to the extent necessary for the agency to enforce specific relevant provisions of federal, State and local law, rules and regulations concerning the control and treatment of disease;

14.2.g. Medical personnel caring for a potentially exposed individual to the extent necessary to protect the health or life of the exposed individual;

14.2.h. The manager of a facility employing the case or suspect case if deemed absolutely necessary by the director for protection of the public's health under the following provisions:

14.2.h.1. Disclosed information is limited to the name of the individual, the name of the disease, laboratory test results associated with the reportable disease and steps the manager shall take to assure protection of the health of the public; and

14.2.h.2. The personal identity of the employee will be kept confidential by the manager of the licensed facility to whom a disclosure was made; and

14.2.i. For purposes of reports required under W. Va. Code § 49-6A-1 et seq., reports of children suspected to be abused or neglected. However, all records protected by W. Va. Code, §§16-4-10, 16-29-1, 16-3C-3, or any other applicable code section shall be kept confidential in accordance with those sections.

14.3. In the case of a facility, the director or a local health officer may release confidential information to the public when there is a clear and convincing need to protect the public's health as deemed necessary by the director.

§64-7-15. Isolation, Quarantine and Placarding.

15.1. The authority to implement and terminate quarantine or placarding to prevent spread of a communicable disease or to protect the public from other health hazards rests with the director. This authority extends to local health officers when following protocols established by the director for management of reportable diseases and conditions, or established following consultation with the director for these or other health risks.

15.2. When an individual or a group of individuals is suffering from a communicable disease in which isolation is required for the control of the disease, the local health

officer has the authority to initiate and to terminate the necessary isolation, unless the case is in a hospital, nursing home, or other institution. In these cases, the attending physician or other responsible health care provider within the institution shall assume responsibility for isolation and when it should be terminated.

15.3. No person shall interfere with or obstruct any local health officer in the posting of any placard used to prevent transmission of a communicable disease or exposure to other health hazard. In addition, no person shall conceal, mutilate or remove any such placard, except by permission of the local health officer.

15.4. In the event a placard is concealed, mutilated or torn down, the occupant or, if there is no occupant, the owner of the premises where the placard was posted shall notify the local health officer of the fact immediately upon discovery.

§64-7-16. Exclusion from School Due to a Communicable Disease; Readmission.

16.1. When a pupil or school personnel member suffers from a communicable disease potentially placing other students or school personnel at risk of disease, the individual may be excluded from school by the local health officer, the individual's physician, or the school administrator acting in accordance with jointly developed Department of Education and Department rules and communicable disease policies.

16.2. When a pupil or school personnel member has been excluded from school due to a communicable disease, the individual may return upon presentation of a certificate of health from a physician, local health officer or his authorized representative stating that such individual is no longer liable to transmit the disease to others. The return is subject to compliance with jointly developed Department and Department of Education rules and policies governing such cases.

§64-7-17. Examination and Training of Food Service Workers.

17.1. Food service management training or workers' training may be provided by the local health departments at the discretion of the local health officer.

17.2. Food service management training courses must satisfy the local health officer that the training of management personnel will result in suitable training for the other food service workers within that particular food service establishment.

17.3. For the protection of the public, the local health officer may advise a medical examination of a food service worker by a physician approved by the local health officer. In addition, the local health officer may exclude the individual from specific work activities until such exam is undertaken and the individual no longer presents a threat to public health.

17.4. The local health officer may require any laboratory examinations necessary to detect any condition in the food service worker or in the food service facility in which the

worker is working, whether or not for compensation, which might constitute a hazard to the public's health.

§64-7-18. Penalties.

18.1. Any physician or other licensed health practitioner; local health officer; other public health provider; private, public, or hospital laboratory; hospital or health care facility; managed care organization; individual administering immunizations; administrator of school, camp, or vessel; administrator of a health care facility operated by the department; the State registrar of vital statistics; county humane officer, dog warden, sheriff, pathologist, coroner, or medical examiner; and any other person investigating or treating disease, health conditions, or cause of death who fails to report a disease or condition as required by this rule or otherwise fails to act in accordance with this rule is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars (\$200) or be imprisoned for not more than thirty (30) days or both. Violations of each provision are considered a separate offense.

18.2. Any local health officer who fails or neglects to appropriately investigate cases or suspect cases of reportable diseases or other public health threats reported to him by any physician or other person, within a reasonable period of time after the receipt of the report, is guilty of neglect of duty and may, at the discretion of the Director, be removed from office in accordance with W. Va. Code §16-2A-8.

18.3. A local health officer who fails to make the immediate or weekly reports required by this rule in the manner specified by the director is guilty of neglect of duty and may at the discretion of the Director, be removed from his or her office according to the provisions of W. Va. Code §16-2A-8.

§64-7-19. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the division of health procedural rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.

§64-7-20. Severability.

The provisions of this rule are severable. If any provisions of this rule are held invalid, the remaining provisions remain in effect.