

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Acting Director of the Department of Health, pursuant to the authority set forth in section 3(a) of the Preventive Health Services Amendments Act of 1985 ("Act"), effective February 21, 1986, D.C. Law 6-83, D.C. Official Code § 7-131(a) (2001) and Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendment to Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (DCMR) (Public Health and Medicine)(August 1986). The Acting Director took final action to adopt these rules on April 30, 2008. These rules require health care providers to report cases of novel influenza A by phone within two hours and in writing within 24 hours. A Notice of Proposed Rulemaking was published March 28, 2008, at 55 DCR 3314. No comments were received in response to the notice of proposed rulemaking, and no changes have been made since publication. These final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 2 of Title 22 DCMR (Public Health & Medicine) (August 1986) is amended as follows:

Section 201.1 is amended as follows:

Paragraphs (p) and (q) are amended to read as follows:

(p) Yellow fever;

(q) Novel influenza A; and

A new paragraph (r) is added to read as follows:

(r) An unusual occurrence of any disease.

Section 299.1 is amended by adding the following new definition to read as follows:

Novel influenza A—a virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9. Influenza H1 and H3 subtypes originating from non-human species or from genetic reassortment between animal and human viruses are also novel subtypes.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department of Health, pursuant to the authority set forth in section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408, ch. 691; D.C. Official Code § 7-131) (2001), and section 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (DCMR) (Public Health and Medicine)(August 1986). The Acting Director took final action to adopt the final rules on April 30, 2008. A notice of proposed rulemaking was published in the *D.C. Register* December 14, 2007, at 54 DCR 12020. In response to the notice of proposed rulemaking, the Acting Director received two comments, and, as a result of the comments, several changes were made to the proposed rule. A second Notice of Proposed Rulemaking was published March 28, 2008, at 55 DCR 3315. No additional comments were received since the second publication, and no changes have been made. The final rules make technical amendments, require testing of pregnant women for the Hepatitis B virus, and require vaccination of newborns for the Hepatitis B virus. These final rules will become effective upon publication of this notice in the *D.C. Register*.

Chapter 2 of Title 22 of the District of Columbia Municipal Regulations (Public Health & Medicine) (August 1986) is amended as follows:

Section 202.2 is amended to read as follows:

202.2 In the report required in section 202.1, the physician, veterinarian, or other person in charge of the case shall include a statement of the person's instructions concerning isolation, restriction of movement, and quarantine; provided, that the statement may be limited to stating that the instructions were in accordance with the provisions of this chapter and with the latest edition of "Control of Communicable Disease in Man", published by the American Public Health Association; or, if not, the instructions shall be set forth in detail.

Section 202.8 is amended to read as follows:

202.8 Meeting the requirements of this section and observance of the provisions of the latest edition of "Control of Communicable Disease in Man", published by the American Public Health Association, shall be *prima facie* evidence that the control and management of a carrier, contact, or infected person or animal has been in accordance with good medical and public health practice.

Section 206.2 is amended to read as follows:

206.2 Physicians and others licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 *et seq.*), in charge of an AIDS diagnosis, shall report the AIDS diagnosis to the Director within forty-eight (48) hours of diagnosis and furnish information the Director deems necessary to complete a confidential case report. Additionally, physicians and others licensed under the District of Columbia Health Occupations Revision Act of 1985 shall report a HIV positive test result to the Director or his or her designee. The physician or provider, laboratory, blood bank, or other entity or facility that provides HIV testing shall report all cases of HIV infection to the Director or his or her designee.

A new section 207 is added to read as follows:

207 HEPATITIS B TESTING AND VACCINATION

207.1 A provider that attends to, treats, or examines a pregnant woman or provides perinatal treatment shall:

- (a) Take a blood sample during the first prenatal visit and submit the sample to a laboratory approved by the Department for testing for Hepatitis B Surface Antigen (HBsAg);
- (b) Take a blood sample at the time of delivery if the woman has not had prior perinatal services or no documentation of HBsAg status, and submit the sample to a laboratory approved by the Department for testing HBsAg;
- (c) Maintain a record of the woman's Hepatitis B status in her patient file; and
- (d) Make a report according to the requirements of section 201.5.

207.2 A provider that delivers a newborn shall:

- (a) Document the mother's Hepatitis B status in the newborn's records;
- (b) Immunize the newborn for the Hepatitis B virus; and
- (c) Make a report according to the requirements of section 207.7.

207.3 A newborn whose mother tests positive for HBsAg shall:

- (a) Receive Hepatitis B immunoglobulin (HBIG) and Hepatitis B vaccine within twelve (12) hours of birth according to the recommendations of the Advisory Committee on Immunization Practices (ACIP);

- (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135; and
- (c) Receive post-vaccination testing for the presence of HBsAg and Hepatitis B Surface Antibody (HBsAb) three (3) months after the last dose of Hepatitis B vaccine but not earlier than nine (9) months of age and no later than nineteen (19) months of age.

207.4

A newborn whose mother's HBsAg status is unknown shall:

- (a) Receive Hepatitis B vaccine without HBIG within twelve (12) hours of birth;
- (b) Receive HBIG as soon as possible but no later than seven (7) days after birth if the newborn's mother tests positive for HBsAg;
- (c) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135; and
- (d) Receive post-vaccination testing for the presence of HBsAg and Hepatitis B Surface Antibody (HBsAb) three (3) months after the last dose of Hepatitis B vaccine but not earlier than nine (9) months of age and no later than nineteen (19) months of age.

207.5

A full-term medically stable newborn weighing two thousand grams (2000g) or more born to a mother who is HBsAg-negative shall:

- (a) Receive Hepatitis B vaccine before hospital discharge; and
- (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135.

207.6

A pre-term newborn weighing less than two thousand grams (2000g) born to a mother who is HBsAg-negative shall:

- (a) Receive the first dose of Hepatitis B vaccine one (1) month after birth or at hospital discharge; and
- (b) Receive a complete Hepatitis B series according to the schedule found at 22 DCMR § 135.

207.7

In addition to the reporting requirements of section 201.5, a provider shall also report the following in the manner and form the Director requires:

- (a) The date and time that Hepatitis B vaccine was administered;

- (c) The date and time that Hepatitis B immunoglobulin was administered;
- (d) The manufacturer of the vaccine; and
- (e) The vaccine lot number.

207.8 A newborn's parent or legal guardian shall be deemed to have consented to Hepatitis B vaccination, unless the newborn's parent or legal guardian submits a signed request for exemption that states the reasons for the exemption. A newborn may be exempted from vaccination if:

- (a) The newborn's mother tested negative for HBsAg;
- (b) The newborn's parent or legal guardian objects in good faith and in writing that immunization would violate his or her religious beliefs; or
- (c) The newborn's parent or legal guardian provides the written certification of a physician that immunization is medically inadvisable.

207.9 Information disclosed to the Department pursuant to this section shall be kept confidential and shall not be disclosed to a third party, except as provided in this subsection. The Department may use and disclose information received pursuant to this section as follows:

- (a) The Director may use patient-specific immunization information:
 - (1) To produce aggregate immunization coverage reports and to track Hepatitis B levels;
 - (2) To ensure that newborns receive Hepatitis B immunization;
 - (3) To conduct follow-up on infants born to HBsAg positive mothers; and
 - (4) For statistical and public health purposes.
- (b) Except as provided in subsection (a), the Director may disclose a person's individually identifiable information to a third party only with written consent of the person, or the person's parent or guardian if the person is under eighteen (18) years of age or an unemancipated adult.

Section 210.8 is amended to read as follows:

210.8 The Director shall issue a Removal and Detention Order and take whatever further proceedings may be required by sections 1 through 14 of the Act (D.C. Official Code §§ 7-131 through 7-144) (2001), whenever the Director has probable cause to believe that any person is affected with, or is a carrier of, a communicable disease, and whenever the Director has probable cause to believe that that person is likely to be dangerous to the life or health of any other person because of the following reasons:

- (a) Improper facilities or the lack of facilities for isolation; or
- (b) Because of the person's non-cooperation or carelessness, including his or her refusal to submit to examination or refusal to be properly treated or cared for, the person is likely to be a danger to public health.

Section 299.1 is amended as follows:

Repeal the definitions for "Commission" and "Commissioner"

Amend the definition for the term "Act" to read as follows:

Act—an Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408 ch. 691; D.C. Official Code § 7-131 *et seq.* (2001)), as amended.

Amend the definition for the term "Health care provider" to read as follows:

Health care provider or provider—a health care clinic, a physician, a health maintenance organization, a nurse, a hospital, a charitable organization that provides medical care or advice, or any other entity that provides medical care or advice.

Add the following new definitions:

ACIP—the Advisory Committee on Immunization Practices of the CDC.

CDC—the Centers for Disease Control and Prevention of the federal government.

HBIG—hepatitis B immunoglobulin.

HBsAg—a serological laboratory test marker indicating infection with the Hepatitis B virus.

HBsAb—a serological laboratory test marker indicating immunity to Hepatitis B infection.

Newborn—an infant born in the District who is under 4 weeks of age.

Perinatal—the period before, during, and after the time of birth from the twenty-eighth (28th) week of gestation through the first seven (7) days after delivery.