

## Communicable Disease and Venereal Disease Provisions

### 18 V.S.A. § 1001. Reports to Commissioner of Health

(a) When a physician, health care provider, nurse practitioner, nurse, physician assistant, or school health official has reason to believe that a person is sick or has died of a diagnosed or suspected disease, identified by the Department of Health as a reportable disease and dangerous to the public health, or if a laboratory director has evidence of such sickness or disease, he or she shall transmit within 24 hours a report thereof and identify the name and address of the patient and the name of the patient's physician to the Commissioner of Health or designee. In the case of the human immunodeficiency virus (HIV), "reason to believe" shall mean personal knowledge of a positive HIV test result. The Commissioner, with the approval of the secretary of human services, shall by rule establish a list of those diseases dangerous to the public health that shall be reportable. Nonmedical community-based organizations shall be exempt from this reporting requirement. All information collected pursuant to this section and in support of investigations and studies undertaken by the commissioner for the purpose of determining the nature or cause of any disease outbreak shall be privileged and confidential. The Health Department shall, by rule, require that any person required to report under this section has in place a procedure that ensures confidentiality. In addition, in relation to the reporting of HIV and the acquired immune deficiency syndrome (AIDS), the Health Department shall, by rule:

(1) develop procedures, in collaboration with individuals living with HIV or AIDS and with representatives of the Vermont AIDS service organizations, to ensure confidentiality of all information collected pursuant to this section; and

(2) develop procedures for backing up encrypted, individually identifying information, including procedures for storage, location, and transfer of data.

(b)(1) Public health records that relate to HIV or AIDS that contain any personally identifying information, or any information that may indirectly identify a person and was developed or acquired by state or local public health agencies, shall be confidential and shall only be disclosed following notice to the individual subject of the public health record or the individual's legal representative and pursuant to a written authorization voluntarily executed by the individual or the individual's legal representative. Except as provided in subdivision (2) of this subsection, notice and authorization is required prior to all disclosures, including disclosures to other states, the federal government, and other programs, departments, or agencies of state government.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, disclosure without notification shall be permitted to other states' infectious disease surveillance programs for the sole purpose of comparing the details of case reports identified as possibly duplicative, provided such information shall be shared using the least identifying information first so that the individual's name shall be used only as a last resort.

(c) A disclosure made pursuant to subsection (b) of this section shall include only the information necessary for the purpose for which the disclosure is made. The disclosure shall be made only on agreement that the information shall remain confidential and shall not be further

disclosed without additional notice to the individual and written authorization by the individual subject as required by subsection (b) of this section.

(d) A confidential public health record, including any information obtained pursuant to this section, shall not be:

- (1) Disclosed or discoverable in any civil, criminal, administrative, or other proceeding.
- (2) Used to determine issues relating to employment or insurance for any individual.
- (3) Used for any purpose other than public health surveillance, and epidemiological follow-up.

(e) Any person who:

(1) willfully or maliciously discloses the content of any confidential public health record without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$25,000.00, costs and attorney's fees as determined by the court, compensatory and punitive damages, or equitable relief, including restraint of prohibited acts, costs, reasonable attorney's fees, and other appropriate relief.

(2) negligently discloses the content of any confidential public health record without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section shall be subject to a civil penalty in an amount not to exceed \$2,500.00 plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the confidential information.

(3) willfully, maliciously, or negligently discloses the results of an HIV test to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply without written authorization or other than as authorized by law or in violation of subsection (b), (c), or (d) of this section and that results in economic, bodily, or psychological harm to the subject of the test is guilty of a misdemeanor, punishable by imprisonment for a period not to exceed one year or a fine not to exceed \$25,000.00, or both.

(4) commits any act described in subdivision (1), (2), or (3) of this subsection shall be liable to the subject for all actual damages, including damages for any economic, bodily, or psychological harm that is a proximate result of the act. Each disclosure made in violation of this chapter is a separate and actionable offense. Nothing in this section shall limit or expand the right of an injured subject to recover damages under any other applicable law.

(f) Except as provided in subdivision (a)(2) of this section, the Health Department is prohibited from collecting, processing, or storing any individually identifying information concerning HIV/AIDS on any networked computer or server, or any laptop computer or other portable electronic device. On rare occasion, not as common practice, the Department may accept HIV/AIDS individually identifying information electronically. Once that information is

collected, the Department shall, in a timely manner, transfer the information in compliance with this subsection.

(g) Health care providers must, prior to performing an HIV test, inform the individual to be tested that a positive result will require reporting of the result and the individual's name to the Department, and that there are testing sites that provide anonymous testing that are not required to report positive results. The Department shall develop and make widely available a model notification form.

(h) Nothing in this section shall affect the ongoing availability of anonymous testing for HIV. Anonymous HIV testing results shall not be required to be reported under this section.

(i) No later than November 1, 2007, the Health Department shall conduct an information and security audit in relation to the information collected pursuant to this section, including evaluation of the systems and procedures it developed to implement this section and an examination of the adequacy of penalties for disclosure by state personnel. No later than January 15, 2008, the Department shall report to the Senate Committee on Health and Welfare and the House Committee on Human Services concerning options available, and the costs those options would be expected to entail, for maximizing protection of the information collected pursuant to this section. That report shall also include the Department's recommendations on whether the General Assembly should impose or enhance criminal penalties on health care providers for unauthorized disclosures of medical information. The Department shall solicit input from AIDS service organizations and the community advisory group regarding the success of the Department's security measures and their examination of the adequacy of penalties as they apply to HIV/AIDS and include this input in the report to the Legislature.

(j) No later than January 1, 2008, the Department shall plan and commence a public campaign designed to educate the general public about the value of obtaining an HIV test.

(k) The Commissioner shall maintain a separate database of reports received pursuant to subsection 1141(i) of this title for the purpose of tracking the number of tests performed pursuant to subchapter 5 of chapter 21 of this title and such other information as the Department of Health determines to be necessary and appropriate. The database shall not include any information that personally identifies a patient.

### *Sub-Chapter 3: Venereal Diseases*

#### **§ 1091. Venereal diseases; definitions**

In this subchapter, unless the context requires otherwise:

(1) "Authoritative source" means a physician licensed in the state, superintendent of a state institution or private hospital, medical officers of the armed forces of the state or United States, state and territorial health officers, and personnel of the health department designated by the board of health.

(2) "Venereal disease" means syphilis, gonorrhea, and any other sexually transmitted disease which the department finds to be of significance and amenable to control. (Amended 1967, No. 7, § 1; 1979, No. 60, § 6.)

### **§ 1091a. Venereal diseases, control**

Venereal diseases are contagious, infectious, communicable, and dangerous to public health. Protection of the public requires the identification and treatment of persons infected by those diseases. (Added 1967, No. 7, § 2.)

### **§ 1092. Treatments, refusal, penalty**

A physician or other person, except persons who merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery, provided however, that sanitary laws, rules, and regulations are complied with, who knows or has reason to believe that a person whom he or she treats or prescribes for, or to whom he or she sells patent or proprietary medicine purporting to cure or alleviate the symptoms of gonorrhea or syphilis, has one of these diseases, shall immediately report the name, nationality, race, marital state, address, age, and sex of such person, and, if obtainable, the date and source of contracting the same, to the commissioner on forms furnished for that purpose. Such persons so reported shall submit to regular treatment prescribed by a physician until discharged by the physician. A person who wilfully refuses to regularly submit to prescribed treatment shall be reported at once to the state's attorney for immediate prosecution. Such wilful refusal shall be punishable by a fine of not more than \$100.00 or three months' imprisonment or both.

### **§ 1093. Examination and report**

Whenever the board shall receive information from an authoritative source to the effect that a person is suspected of being infected with an infectious venereal disease and is likely to infect or to be the source of infection of another person, such board shall cause a medical examination to be made of such person, for the purpose of ascertaining whether or not such person is in fact infected with such disease in a communicable stage, and such person shall submit to such examination and permit specimens of blood or bodily discharges to be taken for laboratory examinations as may be necessary to establish the presence or absence of such disease or infection, and such person may be detained until the results of such examinations are known. The required examination shall be made by a physician licensed to practice in this state, or a licensed physician designated by the person to be examined. Such licensed physician making such examination shall report thereon to the board and to the person examined. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961; 1973, No. 89, § 9.)

### **§ 1094. Restraining order**

Such suspected person may by petition directed to a justice of the supreme court or a superior judge pray for an order restraining the making of such examination and no examination shall then be made except upon order of such justice or judge and such petition and order shall not be

a matter of public record. Before such examination, each suspected person shall be informed of this right and be given an opportunity to avail himself thereof.

**§ 1095. Treatment of partner of patient diagnosed with a sexually transmitted disease**

(a) As used in this section:

(1) "Expedited partner treatment" means the practice of treating the sexual partner or partners of a patient diagnosed with a sexually transmitted disease for the sexually transmitted disease by providing a prescription or medication to the patient for the sexual partner or partners without the prescribing or dispensing health care professional examining the sexual partner or partners.

(2) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or a nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

Subsection (b) effective until March 1, 2014; see also subsection (b) effective March 1, 2014 and note set out below.

(b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of chlamydia or gonorrhea and for any other sexually transmitted disease designated by the Commissioner by rule.

Subsection (b) effective March 1, 2014; see also subsection (b) effective until March 1, 2014 set out above and note set out below.

(b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of a sexually transmitted disease designated by the Commissioner by rule.

(c) A health care professional who prescribes or dispenses prescription drugs for a patient's sexual partner or partners without an examination pursuant to subsection (b) of this section shall do so in accordance with guidance published by the Commissioner and shall include with each prescription and medication dispensed a letter that:

(1) cautions the sexual partner not to take the medication if he or she is allergic to the medication prescribed or dispensed; and

(2) recommends that the sexual partner visit a health care professional for evaluation.

Subsection (d) effective until March 1, 2014; see also subsection (d) effective March 1, 2014 and note set out below.

(d) The Commissioner may establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for additional sexually transmitted diseases provided that expedited partner treatment for those additional diseases conforms to the best practice recommendations of the Centers for Disease Control and Prevention.

Subsection (d) effective March 1, 2014; see also subsection (d) effective until March 1, 2014 set out above and note set out below.

(d) The Commissioner shall establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for any sexually transmitted diseases provided that expedited partner treatment for those diseases conforms to the best practice recommendations of the Centers for Disease Control and Prevention. (Added 2013, No. 42, § 1; amended 2013, No. 42, § 2, eff. March 1, 2014.)

### **§ 1096. Penalty**

A person who violates a provision of sections 1092-1095 of this title, for which no other penalty is provided, shall be fined not more than \$500.00 or imprisoned for not more than six months or both.

### **§ 1097. Educational campaign**

The board shall conduct an educational campaign of methods for the prevention and treatment and care of persons suffering from venereal diseases. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

### **§ 1098. Examination and treatment by board**

The board shall provide at the expense of the state, facilities for the free laboratory examination of material from suspected cases of venereal disease, and shall furnish hospitalization and other accredited specific treatment at cost or free to such clinical patients as the board shall deem entitled to such aid. Payment for diagnosis and treatment shall not be furnished until the report required by section 1093 of this title has been made. The board shall include, in bulletins or circulars distributed by it, information concerning such diseases. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961; 1973, No. 89, § 10.)

### **§ 1099. Reports and records confidential**

All information and reports in connection with persons suffering from venereal diseases shall be regarded as absolutely confidential and for the sole use of the board in the performance of its duties hereunder, and such records shall not be accessible to the public nor shall such records be deemed public records; and such board shall not disclose the names or addresses of persons so reported or treated except to a prosecuting officer or in court in connection with a prosecution under section 1105 or 1106 of this title. The foregoing shall not constitute a restriction on the board in the performance of its duties in controlling the above communicable diseases. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

**§ 1100. Rules and regulations**

The board shall make and enforce such rules and regulations for the quarantining and treatment of cases of venereal disease reported to it as may be deemed necessary for the protection of the public. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

**§ 1101. Reports by public institutions**

The superintendent or other officer in charge of public institutions such as hospitals, dispensaries, clinics, homes, asylums, charitable and correctional institutions shall report promptly to the board the name, sex, age, nationality, race, marital state, and address of every patient under observation suffering from venereal diseases in any form, stating the name, character, stage, and duration of the infection, and, if obtainable, the date and source of contracting the same. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

**§ 1102. Taking blood samples**

A practitioner of medicine and surgery or osteopathy attending a pregnant woman shall take samples of blood of such woman, if possible prior to the third month of gestation, and submit same to a laboratory approved by the board for a standard serological test for syphilis. Every other person permitted by law to take blood tests shall similarly cause a sample of blood of a pregnant woman attended by him or her to be taken by a duly licensed practitioner of medicine and surgery or osteopathy and submit it to a laboratory approved by the board for a standard serological test for syphilis. (Amended 1959, No. 19, eff. March 5, 1959; 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

**§ 1103. Birth certificate; serological test**

A person required by section 5071 of this title to file a certificate of birth shall state on the certificate whether a blood test for syphilis has been made upon a sample of blood taken from the woman who bore the child named in the certificate and if so shall state the date on which the test was made. In case no such blood test has been made such fact shall be stated in the certificate with the reason why such test has not been made. In no event shall the birth certificate state the result of the serological test for syphilis made pursuant to the provisions of this section and section 1102 of this title.

**§ 1104. Serological test, definition**

A standard serological test shall be a test for syphilis approved by the board and shall be performed on request by the state laboratory or at a laboratory approved for this purpose by the board. (Amended 1959, No. 329 (Adj. Sess.), § 27, eff. March 1, 1961.)

**§ 1105. Marrying when infected with venereal disease**

A person, having been told by a physician that he or she was infected with gonorrhea or syphilis in a stage which is or may become communicable to a marital partner, or knowing that

he or she is so infected, who marries, without assurance and certification from a legally qualified practitioner of medicine and surgery or osteopathy that he or she is free from such disease in a stage which is or may become communicable to the marital partner shall be imprisoned not less than two years or fined not less than \$500.00, or both.

**§ 1106. Sexual intercourse when infected with venereal disease**

A person who has sexual intercourse while knowingly infected with gonorrhea or syphilis in a communicable stage shall be imprisoned not more than two years or fined not more than \$500.00, or both.