

**JOINT STATE
GOVERNMENT COMMISSION**
General Assembly of the Commonwealth of Pennsylvania

**PUBLIC HEALTH LAW IN PENNSYLVANIA:
DISEASE CONTROL MEASURES**

**REPORT OF THE ADVISORY COMMITTEE ON
PUBLIC HEALTH LAW**

NOVEMBER 2013



JOINT STATE GOVERNMENT COMMISSION
Serving the Pennsylvania General Assembly Since 1937

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459), as amended, and serves as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.

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To the Members of the General Assembly of Pennsylvania:

The Joint State Government Commission is pleased to present this report, *Public Health Law in Pennsylvania: Disease Control Measures*, which provides legislation proposed by the Advisory Committee on Public Health Law to replace and update the Disease Prevention and Control Law of 1955. Created by 2007 Senate Resolution No. 194, the Advisory Committee previously generated a report providing background information regarding characteristics of public health systems, public health authorities in Pennsylvania, the public health system in Pennsylvania, statutory and regulatory authority in Pennsylvania, searches of property, temporary closures and evacuations, habeas corpus, emergency management, municipal codes, and the need to update and codify Pennsylvania law. This latest report is the result of the work of the Subcommittee on Emergency and Disaster Preparedness and Response.

On behalf of the Joint State Government Commission, I would like to thank the members of the Advisory Committee, as well as the members of the legislative Task Force on Public Health Law, for their dedication to review, update, and codify public health law in the Commonwealth.

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

JOINT STATE GOVERNMENT COMMISSION

Created in 1937,¹ the Joint State Government Commission serves as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania. The Commission has the power to conduct investigations, study issues and gather information, as directed by resolution. In performing its duties, the Commission may call upon any department or agency of the Commonwealth of Pennsylvania for pertinent information and may designate individuals, other than members of the General Assembly, to act in advisory capacities. The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly.

The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff. Some projects involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. Certain projects have specific timelines for the publication of a report, as in the case of a discrete or timely topic; others projects, given their complex or considerable nature, are ongoing and involve the publication of periodic reports.

Most recently, the Commission has released reports concerning the following:

- Administrative Shortages in Public School Districts
- Adoption
- Assisted Reproductive Technologies
- Biomedical Research
- Cervical Cancer
- Child Protection
- Children and Youth Social Service Agency Delivery Systems
- Children of Incarcerated Parents
- Child Safety
- Clean and Green
- Common Interest Ownership Communities
- The Commonwealth Procurement Code

¹ Act of July 1, 1937 (P.L.2460, No.459), amended by the act of March 8, 1943 (P.L.13, No.4), the act of May 15, 1956 (P.L.1605, No.535), the act of December 8, 1959 (P.L.1740, No.646), and the act of November 20, 1969 (P.L.301, No.128).

- Community-Based Mental Retardation Services
- Consumer Credit
 - Motor Vehicle Sales Financing
 - Goods and Services Installment Sales
- Criminal Justice
- Decedents' Estates and the Probate, Estates and Fiduciaries Code
- Developments of Regional Significance and Impact
- Domestic Relations
 - Alimony
 - Custody
 - Divorce
 - Equitable Distribution
- Driver Distractions
- Earned Income Tax Credit and Tax Forgiveness
- Energy Policy
- Exotic Wildlife
- Geriatric and Seriously Ill Inmates
- Guardianships
- Health Care Decision-Making
- Human Trafficking
- Indigent Criminal Defendants
- Influenza Prevention and Control
- Information Disclosure of State-Related Universities
- Instructional Output and Faculty Salary Costs of State-Related and State-Owned Universities
- Intermediate Units
- The Kilbuck Township (Allegheny County) Landslide
- Medical Professional Liability
- Methadone Use and Abuse
- Minority Representation in the Jury Selection Process
- Part-Time Faculty at Institutions of Higher Education
- Powers of Attorney
- Primary Election Dates
- Public Health
- The Public Library Code
- School Nurses
- Statewide Retirement Systems: Funding and Benefit Structure
- Stroke Prevention and Treatment
- Student Drug and Alcohol Violations: Parental Notification and Access to Student Records
- Tobacco Settlement Funding
- The Vehicle Code
- Violent Interactive Video Games
- Waste Tire Recycling and Reuse

Current Commission projects involve the following:² administrative law, alternative dispute resolution, capital punishment, child abuse and neglect prevention, childhood obesity, constables, decedents' estates, the emergency medical services system, information disclosure of state-related universities, instructional output and faculty salary costs of state-related and state-owned universities, the long-term care services and support delivery system, mental health treatment of inmates and others, public health, real property, and violence prevention.

Each member of the General Assembly is a member of the Commission. However, a 14-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission.³ In addition, Representative Florindo J. Fabrizio and Senator John C. Rafferty, Jr., serve as the Chair and Vice-Chair of the Commission. The release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair and Vice-Chair, of all the findings, recommendations or conclusions contained in the report.

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² Not included in this list are “completed” projects in which a report has been published but subsequent action on the part of the Commission is required (*e.g.*, drafting legislation and statutory amendments, updating research, tracking legislation through the legislative process, attending hearings, and answering questions from legislators, legislative staff, interest groups and constituents).

³ The Executive Committee consists of seven members of the House of Representatives (the Speaker, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Majority Caucus Chair, and Minority Caucus Chair) and seven members of the Senate (the President Pro Tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Majority Caucus Chair, and Minority Caucus Chair).

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Senator Stewart J. Greenleaf

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INTRODUCTION

Authorization and Commission Process

This report is authorized by 2007 Senate Resolution No. 194, which states the following:

Pennsylvania's public health law is a patchwork of statutes mostly contained in Purdon's Title 35 (Health and Safety), but also scattered throughout other titles, old case law and State and local regulations; . . . [m]any of Pennsylvania's public health statutes date to the 1950s or earlier, such as the very significant act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955; and . . . Pennsylvania's public health case law dates primarily to the late 19th and early 20th centuries, predating contemporary constitutional due process standards.⁴

The resolution concludes that "Pennsylvania's public health law, including statutes, regulations and case law, should be reviewed so the law may be updated and codified to address modern public health issues. . . ."⁵

Accordingly, the resolution calls for "the Joint State Government Commission to establish a legislative task force with an advisory committee of experts to review, update and codify Pennsylvania's public health law[.]"⁶ The stated goal is for "the task force and advisory committee [to] report to the Senate with recommended legislation."⁷

Senator Edwin B. Erickson serves as the Chair of the established Task Force on Public Health Law. Current Task Force members include Senator James Ferlo, Senator Stewart J. Greenleaf and Senator Shirley M. Kitchen. On April 7, 2008, the Task Force held its organizational meeting to discuss the project generally and the prospective composition of the Advisory Committee.

⁴ *Infra* p. 158. The resolution is replicated in its entirety at *infra* pp. 158-160.

⁵ *Infra* p. 159.

⁶ *Infra* p. 159. Under the resolution, the task force would consist of two members appointed by the President Pro Tempore of the Senate and two members appointed by the Minority Leader of the Senate. *Infra* p. 159.

⁷ *Infra* pp. 159-160.

Subsequently, the Advisory Committee on Public Health Law was appointed, and Margaret A. Potter was selected as the Chair. The Advisory Committee, which represents a broad range of expertise and background in law, medicine and education, includes attorneys, judges, professors, graduate school deans, physicians, nurses, public health administrators, medical directors and officers, an epidemiologist, and representatives from the court system and the Pennsylvania Department of Health.⁸

On December 5, 2008, the Advisory Committee held its organizational meeting. The Advisory Committee formally met in person or conducted teleconferences on eleven other occasions.⁹

Following its June 2009 meeting, the Advisory Committee agreed to form the following five subcommittees to assist in reviewing specific topics and developing proposed legislation involving public health law:

- Behavioral Health
- Data
- Disease Prevention and Health Promotion
- Emergency and Disaster Preparedness and Response
- The Public Health System

The Advisory Committee also discussed other topic areas to be codified, including food and drug laws, safety of medical supplies and laboratories, occupational health, environmental health, consumer product safety, animal safety, safe and sanitary housing, and safety of public accommodations. However, the Advisory Committee agreed that formal subcommittees did not need to be appointed to review these topic areas and recommend statutory language. Instead, the staff of the Joint State Government Commission was directed to prepare the codification of current laws regarding these topic areas, for subsequent review and approval by the Advisory Committee.

With the ultimate goal of recommending the codification of all of Pennsylvania's public health laws, the Advisory Committee acknowledges that the codification process will necessarily unfold over multiple years. As each public health law topic area is completed through subcommittee or staff review and deliberation, the Advisory Committee as a whole will finalize the codification of each topic area, with ultimate consideration by the Task Force.¹⁰ It is anticipated that a separate report will be issued for each topic area.

⁸ Although an Advisory Committee member may represent a particular department, agency, association or group, such representation does not necessarily reflect the endorsement of the department, agency, association or group of all the findings and recommendations contained in this report.

⁹ June 11, 2009; October 1, 2009; November 4, 2010; July 24, 2012; August 17, 2012; September 5, 2012; December 12, 2012; January 9, 2013; February 13, 2013; February 27, 2013; and April 10, 2013.

¹⁰ In addition to following the progress of the public health law project, the principal role of the Task Force is to determine whether to authorize the publication of each Advisory Committee report and the introduction of any proposed legislation contained in the report.

In January 2013, the Joint State Government Commission published the first report of the Advisory Committee,¹¹ which contains the following:

- A summary of the matters discussed during each of the Advisory Committee meetings and teleconferences.
- A summary of the general progress of the Advisory Committee and its five subcommittees.
- The proposed general organization of Title 35 of the Pennsylvania Consolidated Statutes (35 Pa.C.S.), which concerns health and safety.
- Background information regarding characteristics of public health systems, public health authorities in Pennsylvania, the public health system in Pennsylvania, statutory and regulatory authority in Pennsylvania, searches of property, temporary closures and evacuations, habeas corpus, emergency management, municipal codes, and the need to update and codify Pennsylvania law.
- A discussion, as well as the text, of the Disease Prevention and Control Law of 1955 (DPCL)¹² and the Counterterrorism Planning, Preparedness and Response Act.¹³
- Various regulatory provisions from Title 28 of the Pennsylvania Code (Health and Safety).¹⁴
- A list of the reports and publications reviewed by the Advisory Committee during its deliberations, including the Turning Point Model State Public Health Act¹⁵ and the Model State Emergency Health Powers Act.¹⁶

¹¹ *Public Health Law in Pennsylvania: Report of the Advisory Committee on Public Health Law* (J. State Gov't Comm'n, Jan. 2013).

¹² Act of April 23, 1956 (1955 P.L.1510, No.500); 35 P.S. §§ 521.1-521.21 ("DPCL").

¹³ Act of December 16, 2002 (P.L.1967, No.227); 35 P.S. §§ 2140.101-2140.303.

¹⁴ Specifically, 28 Pa. Code §§ 15.1-15.32 (state aid to local health departments) & §§ 27.1-27.205 (communicable and noncommunicable diseases).

¹⁵ Pub. Health Statute Modernization Nat'l Excellence Collaborative, *Turning Point: Collaborating for a New Century in Public Health, Model State Public Health Act: A Tool for Assessing Public Health Laws* (Sept. 2003), available at http://www.turningpointprogram.org/Pages/pdfs/statute_mod/MSPHAfinal.pdf (last accessed Oct. 8, 2013). This collaborative is a national program supported by the Robert Wood Johnson and W.K. Kellogg Foundations.

¹⁶ The Ctrs. for Law & the Pub.'s Health, Georgetown and Johns Hopkins Univs., *Model State Emergency Health Powers Act* (as of Dec. 21, 2001), available at <http://www.publichealthlaw.net/ModelLaws/MSEHPA.php> (last accessed Oct. 8, 2013).

- Tables setting forth Pennsylvania’s public health laws, organized by the topics of behavioral health, data, disease prevention and health promotion, emergency and disaster preparedness and response, the public health system, environmental health, injury prevention and occupational health, and protection of the food supply.

The Advisory Committee completed first its review of the proposed legislation of the Subcommittee on Emergency and Disaster Preparedness and Response,¹⁷ regarding disease control measures. In order to improve public health law in Pennsylvania and create a statutory framework that is clearer, more concise and more consistent, the Advisory Committee recommends the codification of most of the provisions of the DPCL, with modernized language and using numerous concepts set forth in Turning Point.¹⁸

The Advisory Committee initially considered the inclusion of specific provisions regarding sexually transmitted infections in the statutory framework developed by the Subcommittee on Emergency and Disaster Preparedness and Response, based on the following applicable provisions of the DPCL: § 8 (venereal disease), § 9 (diagnosis and treatment of venereal disease), § 10 (sale of drugs for venereal diseases), § 13 (prenatal examination for syphilis), § 14 (diagnostic tests for venereal disease), and § 14.1 (treatment of minors).¹⁹

However, the Advisory Committee acknowledged that the topic of sexually transmitted infections should be more thoughtfully considered, to account as necessary for modern practices and Constitutional principles. As part of its further review, the Advisory Committee favored additional analysis of, among other things, the act of October 25, 2012 (P.L.1630, No.201), known as the HIV-Related Testing for Sex Offenders Act; the act of November 29, 1990 (P.L.585, No.148), known as the Confidentiality of HIV-Related Information Act; and § 3 of the act of February 13, 1970 (P.L.19, No.10), concerning the consent by a minor for medical and health services to determine the presence of or to treat pregnancy, venereal disease or a reportable disease. The Advisory Committee anticipates that the topic of sexually transmitted infections will be addressed in a separate report.

¹⁷ The Subcommittee consists of The Honorable John A. Bozza, Darren M. Breslin, Dr. Esther Chernak, The Honorable John M. Cleland, Margaret A. Potter (Chair of the Advisory Committee), Grace Schuyler, and Patricia Sweeney. Between August 2009 and May 2012, the Subcommittee conducted eight formal teleconferences, on August 14, 2009; August 28, 2009; January 27, 2010; March 9, 2010; April 29, 2010; January 26, 2012; March 29, 2012; and May 23, 2012.

¹⁸ Note that § 5-106(d) of Turning Point concerns types of screening programs (compulsory, condition and routine voluntary), while § 5-109 concerns vaccinations. Neither of these sections is incorporated into the proposed statutory framework contained in this report, since the Subcommittee on Disease Prevention and Health Promotion has been dealing with these concepts. In addition, this subchapter does not incorporate § 5-110 of Turning Point, which concerns licenses “to own or operate a place or business or engage in an activity that may be detrimental to the public’s health.” Licensing standards and enforcement are covered elsewhere in Pennsylvania law.

¹⁹ See 35 P.S. §§ 521.8, 521.9, 521.10, 521.13, 521.14 & 521.14a. Also see 28 Pa. Code §§ 27.84, 27.85, 27.89(a), 27.95 & 27.96.

Following its April 10, 2013 meeting, the Advisory Committee reached consensus²⁰ on the proposed legislation regarding disease control measures and a draft of this report, which was then formally presented to the Task Force.

In November 2013, the Task Force authorized the publication of this report and the introduction of the legislation contained in this report.²¹

Contents of Report

This report contains proposed legislation that amends 35 Pa.C.S. and concerns disease control measures.²²

The proposed legislation contains official comments, developed by the Joint State Government Commission and the Advisory Committee, which may be used in determining the intent of the General Assembly.²³

Notes follow several statutory provisions and set forth explanatory material or background information regarding the current law.

Transitional language -- provisions regarding applicability, repeals and the effective date of the proposed legislation -- follows the statutory recommendations.²⁴

This report also contains the following:

- A summary of the proposed legislation.²⁵
- A discussion of the proposed legislation.²⁶
- A source table for the proposed legislation.²⁷

²⁰ Consensus does not necessarily reflect unanimity among the Advisory Committee members on each individual legislative recommendation. However, it does reflect the views of a substantial majority of the Advisory Committee, gained after lengthy review and discussion.

²¹ Task Force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in this report.

²² *Infra* pp. 39-107. Proposed additions to the statutory language are underlined, and proposed deletions are bracketed.

²³ 1 Pa.C.S. § 1939 (“The comments or report of the commission . . . which drafted a statute may be consulted in the construction or application of the original provisions of the statute if such comments or report were published or otherwise generally available prior to the consideration of the statute by the General Assembly”).

²⁴ *Infra* pp. 107-108.

²⁵ *Infra* pp. 7-9.

²⁶ *Infra* pp. 11-38.

²⁷ *Infra* pp. 109-117.

- A disposition table that lists the location of the provisions of the DPCL that have been codified into 35 Pa.C.S.²⁸
- The DPCL.²⁹
- Health and safety regulations from Title 28 of the Pennsylvania Code.³⁰
- Select statutory and regulatory provisions, including those regarding The Administrative Code of 1929, the Local Health Administration Law, the seizure of certain clothing, the right to counsel, and the Public Defender Act.³¹
- An appendix containing 2007 Senate Resolution No. 194.³²

²⁸ *Infra* pp. 119-121. Several provisions from the DPCL are not codified in the proposed legislation, apart from those concerning sexually transmitted infections that are slated for subsequent review by the Advisory Committee. For example, *see* § 11(b) (use of county jails and other appropriate institutions to receive individuals, and the reimbursement of such institutions), § 17 (savings clause), § 18 (severability), § 19(a) (penalties for leaving an institution without the consent of the medical director), § 19(c) (delivery of intoxicating or narcotic substances to a patient), § 21 (specific repeals), and § 22 (general repealer); 35 P.S. §§ 521.11(b), 521.17, 521.18, 521.19(a), 521.19(c) & 521.21. In general, these provisions are either unnecessary or otherwise incorporated into other codified provisions.

²⁹ *Infra* pp. 123-134.

³⁰ *Infra* pp. 135-148.

³¹ *Infra* pp. 149-156.

³² *Infra* pp. 157-160.

SUMMARY OF PROPOSED LEGISLATION

The proposed legislation in this report replaces many provisions of the Disease Prevention and Control Law of 1955 and creates a new statutory framework regarding disease control measures for infectious and noninfectious diseases within Title 35 of the Pennsylvania Consolidated Statutes (Health and Safety).³³ The provisions recommended by the Advisory Committee include the following topics:³⁴

- Control measure requirements. (§ 1111)
- Powers and duties of the Department of Health regarding public health. (§ 1112)
- Powers and duties of local health authorities regarding public health. (§ 1113)
- Powers and duties of municipal health authorities regarding public health. (§ 1114)
- Powers and duties of the Advisory Health Board of the Department of Health. (§ 1115)
- Compilation of data, sources and use of information, and technology. (§ 1121)
- Reporting of certain diseases or disorders. (§ 1122)
- Authority and obligations of the Department of Health regarding epidemiologic investigations. (§ 1123)
- Counseling and referral services. (§ 1124)
- Public health nuisances. (§ 1125)
- Searches and inspections. (§ 1126)

³³ If this proposed legislation were enacted, Title 35 would contain Part II (Public Health), Subpart A (Disease Control Measures), and Chapter 11 (Infectious and Noninfectious Diseases).

³⁴ For a more detailed discussion of the proposed statutory provisions, *see* Discussion of Proposed Legislation, *infra* pp. 11-38.

- Participation in an action or control measure by an individual. (§ 1131)
- Medical examination, testing and other approved diagnostic procedures on an individual, including:
 - Authorization of the Department of Health or a local health authority.
 - Procedural requirements.
 - When an individual may be ordered to undergo diagnostic procedures.
 - The consequences of noncompliance with a governmental order.
 (§ 1132)
- Isolation or quarantine of an individual until it is determined that the individual does not have a contagious disease, including:
 - Where the isolation or quarantine may occur and under what conditions.
 - Temporary isolation or quarantine without a court order.
 - Isolation or quarantine with a court order.
 - Petitions.
 - Contents of a governmental or court order.
 - Conditions regarding an individual's isolation or quarantine.
 - Hearings.
 - Representation by legal counsel.
 - Court-ordered treatment or diagnostic procedures.
 - The transfer or relocation of an isolated or quarantined individual.
 - The release of an individual from isolation or quarantine.
 (§ 1133)
- Participation in an action or control measure by a person owning a subject animal. (§ 1142)
- Medical examination, testing and other approved diagnostic procedures on animals, including:
 - Authorization of the Department of Health or a local health authority.
 - Procedural requirements.
 - When an animal owner must submit the animal to diagnostic procedures.
 - The consequences of noncompliance with a governmental order.
 (§ 1143)

- Animal isolation or quarantine until it is determined that the animal is not infected with an infectious disease, including:
 - Where the animal isolation or quarantine may occur and under what conditions.
 - Temporary animal isolation or quarantine without a court order.
 - Animal isolation or quarantine with a court order.
 - Petitions.
 - Contents of a governmental or court order.
 - Conditions regarding animal isolation or quarantine.
 - Hearings.
 - Court-ordered treatment or diagnostic procedures on an animal.
 - The transfer or relocation of an isolated or quarantined animal.
 - The release of an animal from animal isolation or quarantine.
 (§ 1144)

- Apprehension of an isolated or quarantined individual who leaves a designated health care facility without the permission of the facility's medical director and in violation of a court order. (§ 1161)

- Penalties for violating the provisions of the statute. (§ 1162)

- Actions that can be taken against a person for violating the provisions of the statute. (§ 1163)

- Immunity from liability. (§ 1164)

- Effect on employment when an individual complies with an order of isolation or quarantine or with a control measure. (§ 1165)

DISCUSSION OF PROPOSED LEGISLATION

This report contains proposed legislation to replace many provisions of the Disease Prevention and Control Law of 1955 (DPCL) and create a new statutory framework regarding disease control measures for infectious and noninfectious diseases within Title 35 of the Pennsylvania Consolidated Statutes (Health and Safety).³⁵ The purpose of this codification is to update and modernize the statutory provisions in a clearer, more organized manner.

Statutory Framework

As set forth in this report, Title 35 would contain Part II (Public Health), Subpart A (Disease Control Measures), and Chapter 11 (Infectious and Noninfectious Diseases). Chapter 11 would contain six subchapters: General Provisions; Public Health Powers and Duties; General Public Health Procedures; Implementation of Control Measures; Transmission from Animals; and Enforcement, Liability and Immunity.

³⁵ The proposed provisions are based on the following, as specified in the Source Table, *infra* pp. 109-117:

- The DPCL, *supra* note 12.
- 28 Pa. Code §§ 27.1-27.205.
- Turning Point, *supra* note 15.
- The Model State Emergency Health Powers Act, *supra* note 16.
- 1 Pa.C.S. § 1991.
- 3 Pa.C.S. § 2328.
- 18 Pa.C.S. § 4957.
- 42 Pa.C.S. § 6337, which is part of the Juvenile Act (42 Pa.C.S. §§ 6301-6375).
- Section 2111(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929; 71 P.S. § 541(a).
- The act of August 9, 1955 (P.L.323, No.130), known as The County Code; 16 P.S. §§ 101-2399.73. *See* §§ 2196-2199.2; 16 P.S. §§ 2196-2199.2.
- The act of June 23, 1931 (P.L.932, No.317), reenacted and amended June 28, 1951 (P.L.662, No.164), known as The Third Class City Code; 53 P.S. §§ 35101-39701. *See* §§ 2320-2324; 53 P.S. §§ 37320-37324.
- The act of December 2, 1968 (P.L.1144, No.358), known as the Public Defender Act; 16 P.S. §§ 9960.1-9960.13. For purposes of delinquency proceedings, Rule 800 of the Pennsylvania Rules of Juvenile Court Procedure (Pa. R.J.C.P.) suspends the Public Defender Act, insofar as it is inconsistent with Pa. R.J.C.P. Rule Nos. 150 and 151, which require separate counsel when there is a conflict of interest.
- Sections 115 and 302(c) of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act; 50 P.S. §§ 7115 & 7302(c).
- Section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act; 35 P.S. §§ 448.101-448.904b.
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936), enacted Aug. 21, 1996. *See, e.g.*, 45 C.F.R. 160.103.

The proposed legislation contained in this report is organized as follows:

Subchapter A. General Provisions

- § 1101. Scope of chapter.
- § 1102. Definitions.
- § 1103. Existing rules and regulations.
 - (a) Effect.
 - (b) Repeal or amendment.
- § 1104. Advanced communication technologies.
 - (a) Departmental procedures.
 - (b) Confirmation of reports.
 - (c) Effect on other law.

Subchapter B. Public Health Powers and Duties

- § 1111. Control measure requirements.
- § 1112. Powers and duties of department regarding public health.
 - (a) General responsibility regarding public health.
 - (b) Specific responsibilities regarding local health authority.
 - (c) Specific responsibilities regarding public health.
 - (d) Remedial action for inadequate control measures.
- § 1113. Powers and duties of local health authorities regarding public health.
 - (a) General responsibility regarding public health.
 - (b) Services to protect public health.
- § 1114. Powers and duties of municipal health authorities regarding public health.
- § 1115. Powers and duties of board.
 - (a) Promulgation of regulations.
 - (b) Recommendations from department.
 - (c) Advice to department.
- § 1116. Municipal regulations.

Subchapter C. General Public Health Procedures

- § 1121. Data.
 - (a) Compilation of data.
 - (b) Sources and use of information.
 - (c) Confidentiality.
- § 1122. Reporting.
 - (a) List of reportable diseases and conditions.
 - (b) Who shall report.
 - (c) Who may report.
 - (d) Method of reporting.
 - (e) Reporting by local health authorities.
 - (f) Standards for reporting.
- § 1123. Epidemiologic investigation.
 - (a) Departmental authority.
 - (b) Departmental obligations.
 - (c) Testing for case in dispute.

(continued)

Subchapter C (continued)

- § 1124. Counseling and referral services.
 - (a) Counseling and referral services program.
 - (b) Notification process.
 - (c) Contents of notice.
 - (d) Training and evaluation.
- § 1125. Public health nuisances.
 - (a) Applicability.
 - (b) Prohibition.
 - (c) Identification.
 - (d) General authorization.
 - (e) Notice.
 - (f) Hearing.
 - (g) Appeal.
 - (h) Remedial action.
 - (i) Emergency circumstances.
 - (j) Failure to pay for remedial action.
 - (k) Occupancy.
- § 1126. Searches and inspections.
 - (a) General authority.
 - (b) Search warrant.
 - (c) Additional authority.

Subchapter D. Implementation of Control Measures

- § 1131. Participation in action or control measure.
 - (a) General rule.
 - (b) Effect on governmental authority.
- § 1132. Medical examination, testing or other approved diagnostic procedures.
 - (a) Authorization.
 - (b) Procedural requirements.
 - (c) Mandatory examination or testing.
 - (d) Noncompliance.
- § 1133. Isolation or quarantine.
 - (a) Authorization.
 - (b) Temporary isolation or quarantine without court order.
 - (c) Isolation or quarantine with court order.
 - (d) Legal counsel.
 - (e) Court order.
 - (f) Court-ordered treatment or diagnostic procedures.
 - (g) Transfer or relocation.
 - (h) Release.
 - (i) Definition.

Subchapter E. Transmission from Animals

- § 1141. Applicability.
- § 1142. Participation by animal owner.
 - (a) General rule.
 - (b) Effect on governmental authority.
- § 1143. Medical examination, testing or other approved diagnostic procedures on animals.
 - (a) Authorization.
 - (b) Procedural requirements.
 - (c) Mandatory examination or testing of animal.
 - (d) Noncompliance.
- § 1144. Animal isolation or quarantine.
 - (a) Authorization.
 - (b) Temporary animal isolation or quarantine without court order.
 - (c) Animal isolation or quarantine with court order.
 - (d) Court order.
 - (e) Court-ordered treatment or diagnostic procedures on animal.
 - (f) Transfer or relocation.
 - (g) Release.

Subchapter F. (Reserved)

Subchapter G. Enforcement, Liability and Immunity

- § 1161. Apprehension.
 - (a) Authorization to apprehend.
 - (b) Costs.
 - (c) Petition for reimbursement.
- § 1162. Penalties for violation of chapter.
 - (a) Offense defined.
 - (b) First offense.
 - (c) Subsequent offense.
 - (d) Separate offense.
- § 1163. Action for violation of chapter.
 - (a) Who may commence action.
 - (b) Where action may be commenced.
 - (c) Order.
 - (d) Use of damages awarded.
 - (e) Statute of limitations.
- § 1164. Immunity.
 - (a) Compliance with chapter.
 - (b) Act or omission by other entity.
 - (c) Good faith reporting.
- § 1165. Effect on employment.
 - (a) Compliance by employee.
 - (b) Offense by employer.
 - (c) Remedies.

Note: Subchapter F is reserved in anticipation of a subchapter regarding the testing and treatment of select individuals with a sexually transmitted infection.

General Provisions

Scope

Proposed Chapter 11 (Infectious and Noninfectious Diseases) applies to control measures taken by the Department of Health or a local health authority to protect the public health.³⁶

Definitions

The proposed chapter defines a number of terms:³⁷ advanced communication technologies, animal isolation, animal quarantine (which also defines modified animal quarantine, animal monitoring and animal segregation), bioterrorism, board, clinical laboratory, contagious disease, control measure, department, disease, epidemic, health care facility, health care practitioner, individually identifiable health information, infectious agent, infectious disease, isolation, local health authority, municipal health authority, municipality, outbreak, physician, public health, public health emergency, public health nuisance, quarantine (which also defines modified quarantine, monitoring and segregation), regulation, reportable disease or condition, surveillance, toxin, and vaccination.

The definitions of the terms board, department, isolation, municipality, quarantine, regulation, reportable disease, and surveillance are based on the definitions contained in § 2 of the DPCL. Other definitions are based on those contained in Title 28 of the Pennsylvania Code (Health and Safety), including those for the terms board, clinical laboratory, department, health care practitioner, infectious agent, isolation, local health authority, municipality, outbreak, physician, quarantine, and surveillance.

Several terms contained in the DPCL are replaced: infectious disease replaces communicable disease, and local health authority replaces local board or department of health. In addition, because of the reorganization and substantive changes contained in the proposed legislation, several terms from the DPCL are eliminated: carrier, HIV-related test, local health officer, regulation, and secretary.

This chapter does not make a distinction based on the type of municipality providing public health services. In addition, a municipal health authority may become a local health authority under the process set forth in the Local Health Administration Law.³⁸ If a municipality retains a board, agency, commission or office with public health responsibilities, instead of explicitly providing for a “local health authority” or

³⁶ Proposed § 1101; *infra* p. 41.

³⁷ Proposed § 1102; *infra* pp. 41-48.

³⁸ Act of August 24, 1951 (P.L.1304, No.315); 16 P.S. §§ 12001-12028.

“municipal health authority,” that board, agency, commission or office still falls within the applicable definitions and scope of this chapter.³⁹

Rules and Regulations

Each rule and regulation of the Department of Health that is not inconsistent with this chapter will remain in effect until its subsequent repeal or amendment, and the Department must immediately initiate the repeal or amendment of any rule or regulation that is inconsistent with this chapter.⁴⁰

The closest analog in the DPCL is the second sentence of § 16(c) (35 P.S. § 521.16(c)): “Local ordinances, rules or regulations relating to disease prevention and control, which are in effect on the effective date of this act, shall not be deemed to be repealed, unless they are less strict than the provisions of this act or the rules and regulations issued thereunder by the board.” The regulations do not include this provision.

Advanced Communication Technologies

The general provisions also include a section regarding advanced communication technologies for the transmission of reports, data, and other information under this chapter.⁴¹ Neither the DPCL nor its accompanying regulations contain a comparable provision regarding advanced communication technologies.

Public Health Powers and Duties

Control Measures

As specified in the proposed legislation, the Department of Health and a local health authority must (1) make reasonable efforts to establish and administer control measures that are based on modern and scientifically-sound principles and evidence, (2) design and implement well-targeted control measures that are warranted under the circumstances, (3) avoid compulsory actions that are overly broad or apply to more individuals than necessary, (4) employ the least restrictive alternative in taking control measures, and (5) respect the dignity of individuals and act in a nondiscriminatory manner.⁴² In addition, the Department of Health or a local health authority must employ a control measure that least infringes on the rights or interests of individuals, to the extent possible. Nevertheless, no mandate exists for the adoption of a control measure that is

³⁹ Comment to proposed § 1102; *infra* p. 53.

⁴⁰ Proposed § 1103; *infra* p. 53.

⁴¹ Proposed § 1104; *infra* p. 54.

⁴² Proposed § 1111; *infra* pp. 55-56.

less effective in protecting the public health.⁴³ The DPCL and the regulations do not contain a comparable provision regarding general standards for control measures.

Department of Health

The proposed legislation specifies that the Department of Health has the ultimate responsibility to protect the public health by controlling or mitigating the effects of an infectious or noninfectious disease, and in doing so, it may take any control measure for public health purposes.⁴⁴ The Department must assist a local health authority with its decision-making and fulfillment of responsibilities, determine the appropriateness of a local authority's response regarding control measures, and monitor a local health authority's compliance with the law. It may compel a local health authority to act or forbid a local health authority from acting.⁴⁵ The DPCL does explicitly prescribe the foregoing powers and duties, nor do the regulations under Title 28 of the Pennsylvania Code.

Additionally, the Department has other specific duties under proposed Chapter 11: to establish and administer control measures in municipalities not served by a local health authority, to consult and coordinate with other governmental entities, to collect and make use of specified data, to require and receive specified reports, to promulgate necessary rules and regulations, and to develop necessary forms.⁴⁶

The DPCL provides for the establishment and administration of control measures in municipalities not served by a local health authority,⁴⁷ for reports,⁴⁸ and for the development of forms,⁴⁹ but it does not contain explicit provisions regarding the consultation and coordination with other governmental entities, the collection and use of specified data, or the promulgation of rules and regulations.

The proposed legislation also includes provisions for remedial action regarding inadequate control measures.⁵⁰ Such provisions are based on § 3(c) of the DPCL (35 P.S. § 521.3(c)).

Proposed Chapter 11 is intended to clarify the lines of authority and responsibility for implementation of control measures within the Commonwealth. The specified powers and duties are subject to due process requirements and must be scientifically-based and reasonable under the circumstances; the least restrictive alternative must be used. The Department of Health may adopt regulations to prevent and control infectious

⁴³ Comment to proposed § 1111; *infra* p. 56.

⁴⁴ Proposed § 1112(a); *infra* p. 56.

⁴⁵ Proposed § 1112(b); *infra* pp. 56-57.

⁴⁶ Proposed § 1112(c); *infra* pp. 57-58.

⁴⁷ DPCL, *supra* note 12, § 3(b); 35 P.S. § 521.3(b).

⁴⁸ DPCL, *supra* note 12, § 4; 35 P.S. § 521.4.

⁴⁹ DPCL, *supra* note 12, § 4(d) (second sentence); 35 P.S. § 521.4(d) (second sentence).

⁵⁰ Proposed § 1112(d); *infra* p. 58.

and noninfectious diseases unless the content of the regulations would be prohibited by the laws of this Commonwealth.⁵¹

Control measures in municipalities that are served by a local health authority will be provided by the local health authority under the direct supervision of the Department of Health. Control measures in municipalities that are not served by a local health authority will be provided directly by the Department. In those municipalities that are not served by a local health authority but have a municipal health authority, control measures will be implemented by the Department. However, the municipal health authorities will retain their responsibilities with respect to other public health issues. The Department must promulgate regulations identifying those control measures for which municipal health authorities are equipped to assist in protecting the public health.⁵²

The Department of Health is authorized to establish mandatory screening programs for infectious and noninfectious diseases. It has the power and duty, among other things, to protect the health of the people of Pennsylvania and to determine and employ the most efficient and practical means for the prevention and suppression of disease.⁵³

Local Health Authorities

A local health authority has the responsibility to protect the public health (which includes public health in a school) by preventing, controlling or mitigating the effects of an infectious or noninfectious disease.⁵⁴ This provision is based on § 3(a) of the DPCL (35 P.S. § 521.3(a)).

Subject to regulations regarding performance standards and adequate funding, a local health authority must provide or assure the provision of specified administrative and supportive services, personal health services, and environmental health services.⁵⁵ Sections 15.11 through 15.14 of Title 28 of the Pennsylvania Code address these concepts.

The actions of a local health authority must be in accordance with the regulations of the Advisory Health Board of the Department of Health and subject to the supervision and guidance of the Department.⁵⁶

⁵¹ Comment to proposed § 1112; *infra* pp. 58-59.

⁵² *Id.* at 59.

⁵³ *Id.* See § 2102(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929; 71 P.S. § 532(a).

⁵⁴ Proposed § 1113(a); *infra* p. 59.

⁵⁵ Proposed § 1113(b); *infra* pp. 59-60.

⁵⁶ Comment to proposed § 1113; *infra* p. 60.

Municipal Health Authorities

Under proposed Chapter 11, a municipal health authority must assist the Department of Health in implementing any established control measure and must consult with and receive Departmental approval prior to taking certain actions regarding the protection of the public health.⁵⁷

The DPCL does not explicitly contain a provision regarding the assistance in implementing a control measure, but most of the municipal health authority provisions regarding consultation and approval are based on provisions of Title 28 of the Pennsylvania Code: consultation and approval generally,⁵⁸ requiring certain control measures,⁵⁹ taking an action in response to an individual refusing to submit to treatment,⁶⁰ releasing an individual from isolation or quarantine,⁶¹ and posting a sign or notice on a home or structure warning of the presence of a contagious disease within the structure and the danger of the disease.⁶² However, several provisions are not specifically addressed, such as issuing a warning regarding a disease and taking an action regarding control measures for animals.

Advisory Health Board

The Advisory Health Board recommends rules and regulations for the Department of Health regarding reportable diseases or conditions, control measures, and communication to patients and the public.⁶³ These provisions are based on § 16(a) of the DPCL (35 P.S. § 521.16(a)), with the addition of a paragraph regarding the designation of a statewide network of licensed clinical laboratories.

The Department must periodically review the promulgated regulations and recommend any necessary changes.⁶⁴ This duty is based on § 16(b) of the DPCL (35 P.S. § 521.16(b)).

Finally, the board must advise the Department on matters that the Department brings before it.⁶⁵ Although the DPCL and the regulations do not contain a comparable provision, the duty is found elsewhere in law.⁶⁶

⁵⁷ Proposed § 1114; *infra* pp. 60-61.

⁵⁸ 28 Pa. Code § 27.60(c).

⁵⁹ 28 Pa. Code §§ 27.81 (second sentence), 27.61(1) & 27.65(1).

⁶⁰ 28 Pa. Code § 27.87(a)(ii).

⁶¹ 28 Pa. Code § 27.68 (second sentence).

⁶² 28 Pa. Code § 27.66 (second sentence).

⁶³ Proposed § 1115(a); *infra* pp. 61-62.

⁶⁴ Proposed § 1115(b); *infra* p. 62.

⁶⁵ Proposed § 1115(c); *infra* p. 62.

⁶⁶ The Administrative Code of 1929, *supra* note 35, § 2111(a); 71 P.S. § 541(a).

Municipal Regulations

Proposed Chapter 11 provides that a municipality served by a local health authority may promulgate regulations regarding control measures and the protection of the public health only if the regulations are not inconsistent with the statute or the regulations promulgated under the statute.⁶⁷ This provision is based on the first sentence of § 16(c) of the DPCL (35 P.S. § 521.16(c), first sentence).

A municipality may not promulgate a regulation that is less strict than those provisions, and any municipal regulation that is stricter than those provisions must still act in concert with the intent of those provisions and must satisfy any other legal or Constitutional requirements.⁶⁸

General Public Health Procedures

Data

Proposed Chapter 11 addresses the compilation of data, sources and use of information, and confidentiality, consistent with the disclosures permitted under HIPAA⁶⁹ and subject to the Pennsylvania eHealth Information Technology Act.⁷⁰

For purposes of surveillance, the Department of Health may collect, analyze and maintain databases of information relating to risk factors, incidence rates and mortality rates for a reportable disease or condition, community indicators relevant to protect the public health, and other data relevant to protect the public health.⁷¹ The proposed chapter provides a non-exclusive list of sources where the Department may obtain the foregoing information.⁷²

In general, individually identifiable health information may only be acquired, used, disclosed, or stored consistent with applicable confidentiality laws, but other information may be acquired, used, disclosed, or stored for any purpose or in any manner. Neither the Department of Health nor a local health authority may disclose any specified report or record to an unauthorized person or agent unless the disclosure is necessary to carry out the purposes of the chapter (if the disclosure is not inconsistent with other law), authorized for research purposes (subject to strict supervision), or authorized to protect the public health in the case of a public health emergency.⁷³

⁶⁷ Proposed § 1116; *infra* p. 63.

⁶⁸ Comment to proposed § 1116; *infra* p. 63.

⁶⁹ *Supra* note 35. See 45 C.F.R. 164.512(b).

⁷⁰ Act of July 5, 2012 (P.L.1042, No.121). See Comment to proposed § 1121; *infra* p. 66.

⁷¹ Proposed § 1121(a); *infra* p. 64.

⁷² Proposed § 1121(b); *infra* pp. 64-65. Also see Comment to proposed § 1121; *infra* p. 66.

⁷³ Proposed § 1121(c); *infra* pp. 65-66.

The data provisions are not based on the DPCL provisions or the regulations, except those concerning the disclosure of information when necessary to carry out the purposes of the chapter or when authorized for research purposes.⁷⁴

Reporting

The proposed legislation mandates that the Department of Health establish and maintain (and revise as necessary) a list of reportable diseases or conditions; the Department must classify each such disease or condition according to its nature and the severity of its effect on the public health.⁷⁵ The DPCL and its regulations do not contain these provisions.

The proposed legislation also mandates who must make a prompt report of an infectious disease or, in the case of an animal, a disorder that could cause harm to another animal or an individual.⁷⁶ The DPCL and its regulations provide the basis for some of the persons listed: a health care practitioner who treats or examines an individual who has or is suspected of having an infectious disease;⁷⁷ a veterinarian who treats or examines an animal that is suffering from (or suspected of having) an infectious disease or harmful disorder;⁷⁸ an individual in charge of a health care facility or clinical laboratory (if a diagnosis or confirmation of an infectious disease occurs within the facility or laboratory);⁷⁹ and a health care practitioner, medical examiner, coroner, funeral director, or school authority with knowledge or suspicion of an infectious disease.⁸⁰

Unlike proposed Chapter 11, neither the DPCL nor the accompanying regulations list the following persons mandated to report an infectious disease or harmful condition: a livestock owner, veterinary diagnostic laboratory director, or other person having the care of an animal, if the animal has or is suspected of having the disease or condition.

However, in general, any person may report an infectious disease,⁸¹ but the DPCL and the regulations do not so specify.

The proposed legislation provides the method of reporting an infectious disease or disorder,⁸² which is based on § 4(a) and (b) of the DPCL (35 P.S. § 521.4(a) and (b)). Upon the receipt of a specified report, a local health authority must forward the report to the Department of Health,⁸³ which is based on § 4(c) of the DPCL (35 P.S. § 521.4(c)).

⁷⁴ DPCL, *supra* note 12, § 15; 35 P.S. § 521.15; 28 Pa. Code § 27.5a.

⁷⁵ Proposed § 1122(a); *infra* p. 66.

⁷⁶ Proposed § 1122(b); *infra* pp. 66-67.

⁷⁷ DPCL, *supra* note 12, § 4(a); 35 P.S. § 521.4(a).

⁷⁸ 28 Pa. Code § 27.24a.

⁷⁹ DPCL, *supra* note 12, § 4(b); 35 P.S. § 521.4(b).

⁸⁰ *Id.*

⁸¹ Proposed § 1122(c); *infra* p. 67.

⁸² Proposed § 1122(d); *infra* pp. 67-68.

⁸³ Proposed § 1122(e); *infra* p. 68.

Additionally, a person must exercise good faith in reporting an infectious disease or disorder, and a person required to make a report must use ordinary skill in determining the presence of a reportable disease or condition.⁸⁴ The DPCL and regulations do not contain these standards for reporting.

Investigations and Counseling/Referral Services

Proposed Chapter 11 outlines the authority and obligations of the Department of Health regarding epidemiologic investigations⁸⁵ and provides a statutory framework for counseling and referral services.⁸⁶ These topics are not contained in the DPCL or the regulations.

Public Health Nuisances

Although other laws of this Commonwealth govern circumstances that may constitute a public health nuisance,⁸⁷ proposed Chapter 11 provides a statutory framework regarding the topic. This framework is intended to protect against public health nuisances, where the community as a whole is, or potentially is, affected by a condition, usage, act, or failure to act. It is not intended to affect the applicability of or procedures under those other laws, regardless of their subject matter, nor is it intended to create a private or individual cause of action against a person. In consultation with the Department of Health, a municipal health authority may alert the public with regard to a public health nuisance or potential public health nuisance if probable cause exists to intervene.⁸⁸

The DPCL and the Title 28 regulations do not contain such provisions regarding public health nuisances, but other areas of the law do address the topic, such as The County Code and The Third Class City Code.⁸⁹

Under the proposed legislation, a person may not create, aggravate, or allow the existence of a public health nuisance.⁹⁰ The Department of Health or a local health authority may investigate any suspected public health nuisance or potential public health nuisance within its jurisdiction when it receives a complaint or there is probable cause to believe that a public health nuisance exists or is about to exist.⁹¹ The Department or local health authority (if probable cause exists) is authorized to order the public health nuisance or potential public health nuisance to be removed, abated, suspended, altered, or

⁸⁴ Proposed § 1122(f); *infra* p. 68.

⁸⁵ Proposed § 1123; *infra* pp. 68-70.

⁸⁶ Proposed § 1124; *infra* pp. 70-72.

⁸⁷ *See, e.g.*, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

⁸⁸ Proposed § 1125(a) & Comment to proposed § 1125; *infra* pp. 72 & 77.

⁸⁹ *Supra* note 35.

⁹⁰ Proposed § 1125(b); *infra* p. 72.

⁹¹ Proposed § 1125(c); *infra* p. 72.

otherwise prevented or avoided.⁹² However, proposed Chapter 11 is not intended to supersede any provision of the Emergency Management Services Code.⁹³

The public health nuisance provisions address notice of the order of the Department of Health or local health authority, a hearing and appeal regarding the nuisance or potential nuisance, remedial action by the responsible person or owner, emergency circumstances, and the failure of a responsible person or owner to pay for the remedial action.⁹⁴ An occupant or other person who caused or permitted the nuisance or potential nuisance is liable to the owner of the place where it exists for the amount paid by the owner or assessed against the property.⁹⁵

Searches and Inspections

In the performance of duties under proposed Chapter 11, an employee or agent of the Department of Health or a local health authority may under certain circumstances enter property at any reasonable time to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing.⁹⁶ If the employee or agent is denied entry to the property, the proposed statute provides a process for obtaining and using a search warrant.⁹⁷ Nevertheless, the provisions do not limit the authority of the Department or a local health authority to conduct a search or inspection of public water or food supplies, restaurants, places of lodging, or any other public or private place under existing Federal or State law.⁹⁸ Neither the DPCL nor the regulations contain such search and inspection provisions, although the Agriculture Code is instructive on the topic.⁹⁹

Implementation of Control Measures

Participation

If the Department of Health or a local health authority mandates an action or control measure under proposed Chapter 11, whenever practicable under the circumstances, the Department or local health authority must ensure that the subject individual is given the opportunity to participate voluntarily.¹⁰⁰ The Department or local

⁹² Proposed § 1125(d); *infra* p. 73.

⁹³ *See, e.g.*, 35 Pa.C.S. § 7301(f)(5), which provides that the Governor may direct and compel the evacuation of all or part of the population from a stricken or threatened area within Pennsylvania if the action is necessary for the preservation of life or other disaster mitigation, response or recovery. Comment to proposed § 1125; *infra* p. 77.

⁹⁴ Proposed § 1125(e), (f), (g), (h), (i) & (j); *infra* pp. 73-76.

⁹⁵ Proposed § 1125(k); *infra* p. 77.

⁹⁶ Proposed § 1126(a); *infra* pp. 77-78.

⁹⁷ Proposed § 1126(b); *infra* pp. 78-79.

⁹⁸ Proposed § 1126(c); *infra* p. 79.

⁹⁹ *See, e.g.*, 3 Pa.C.S. § 2328 (entry on premises).

¹⁰⁰ Proposed § 1131(a); *infra* p. 79.

health authority may petition the court to compel an individual to participate in any action or control measure in accordance with the proposed chapter; they may also employ public health interventions to eliminate the risk or danger to other individuals or the public health.¹⁰¹ The DPCL and the regulations do not contain specific provisions regarding participation in an action or control measure.

Diagnostic Procedures

Proposed Chapter 11 authorizes the Department of Health or a local health authority to establish and administer procedures regarding the use of approved diagnostic procedures on an individual to protect the public health.¹⁰² Procedural requirements regarding approved diagnostic procedures are set forth and include informed consent,¹⁰³ the availability of a valid and reliable method for the diagnostic procedure, the identification of the contagious disease that poses a threat to the individual or the public health, and communication of the results of the diagnostic procedure.¹⁰⁴ The foregoing provisions are not part of the DPCL or its accompanying regulations.

The proposed chapter specifies when the Department or local health authority is authorized to order an individual to undergo an approved diagnostic procedure to determine whether the individual has a contagious disease.¹⁰⁵ This provision is based on the first sentence of § 7 of the DPCL (35 P.S. § 521.7, first sentence) and on 28 Pa. Code § 27.81.

The subject individual may be taken by an authorized person, municipal police officer, or county sheriff to a health care facility for the diagnostic procedure,¹⁰⁶ but the DPCL and the regulations do not explicitly provide such.

The provisions of proposed Chapter 11 also address noncompliance with the order of the Department or local health authority,¹⁰⁷ which the DPCL and regulations cover.¹⁰⁸

¹⁰¹ Proposed § 1131(b); *infra* p. 80.

¹⁰² Proposed § 1132(a); *infra* p. 80.

¹⁰³ Consent is informed if the individual or individual's authorized representative has been given a description of the medical examination, test, or other approved diagnostic procedure, along with the risks and alternatives of the medical examination, test, or other approved diagnostic procedure, that a reasonably prudent patient would require to make an informed decision as to that medical examination, test, or other approved diagnostic procedure. An authorized representative would include the individual's guardian of the person, agent under a power of attorney, health care agent, or health care representative. Comment to proposed § 1132, *infra* p. 82.

¹⁰⁴ Proposed § 1132(b); *infra* pp. 80-81.

¹⁰⁵ Proposed § 1132(c)(1); *infra* p. 81.

¹⁰⁶ Proposed § 1132(c)(2); *infra* p. 81.

¹⁰⁷ Proposed § 1132(d); *infra* p. 82.

¹⁰⁸ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(a).

Isolation or Quarantine

Proposed Chapter 11 provides a statutory framework regarding isolation or quarantine. The Department of Health or a local health authority is authorized to isolate or quarantine an individual until it is determined that the individual does not have a contagious disease.¹⁰⁹ This concept is based on the provisions of the DPCL and the regulations.¹¹⁰

The isolation or quarantine may occur in an appropriate institution, regardless of whether the Department or local health authority receives a specified report, or if the individual refuses to submit to treatment approved by the Department or local health authority.¹¹¹ Again, the DPCL and its regulations address these concepts.¹¹²

The statutory framework provides for the temporary isolation or quarantine of an individual, *without* the need for a court order, if delay in imposing the isolation or quarantine would significantly jeopardize the ability of the Department or local health authority to prevent, control, or mitigate the effects of the contagious disease.¹¹³ The DPCL and Title 28 regulations do not contain a comparable provision.

The contents of the order of the Department or local health authority are specifically provided,¹¹⁴ but under current law, only 28 Pa. Code §§ 27.65 (in general terms) and 27.61(3) (regarding instructions or conditions for the care of an individual) address the topic.

A copy of the order must be given to the individual who is subject to the isolation or quarantine.¹¹⁵ The DPCL and the regulations do not explicitly so provide.

In general, the Department or local health authority must petition the court for a court order authorizing the isolation or quarantine of an individual who objects to, fails to comply with, or chooses no longer to voluntarily comply with the order. Such a petition must be filed within 24 hours of the objection, failure, or action.¹¹⁶ These provisions regarding a petition are based on the DPCL and the regulations.¹¹⁷

¹⁰⁹ Proposed § 1133(a) (first sentence); *infra* p. 82.

¹¹⁰ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(a).

¹¹¹ Proposed § 1133(a) (second sentence); *infra* p. 82.

¹¹² DPCL, *supra* note 12, § 11(a.1); 35 P.S. § 521.11(a.1); 28 Pa. Code §§ 27.61 (introduction), 27.61(3) & 27.87(a).

¹¹³ Proposed § 1133(b)(1); *infra* pp. 82-83.

¹¹⁴ Proposed § 1133(b)(2); *infra* p. 83.

¹¹⁵ Proposed § 1133(b)(3); *infra* p. 83.

¹¹⁶ Proposed § 1133(b)(4); *infra* pp. 83-84.

¹¹⁷ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(b) (first sentence).

Proposed Chapter 11 provides twelve principles with respect to an order of isolation or quarantine by the Department or local health authority, most of which are not based on the DPCL or Title 28 regulations, or other law. For example, an isolated individual must be confined separately from a quarantined individual,¹¹⁸ and any premises used for isolation or quarantine must be maintained in a safe and hygienic manner.¹¹⁹ The needs of an isolated or quarantined individual must be addressed in a systematic and competent fashion.¹²⁰ To the extent possible, cultural and religious beliefs must be respected in addressing the needs of an individual and establishing and maintaining isolation and quarantine premises.¹²¹ An isolated or quarantined individual must receive instruction about treatment and the prevention of reinfection and spread of the contagious disease,¹²² and the individual may be required to complete an appropriate prescribed course of medication or follow other control measures for the contagious disease.¹²³ A physician, health care worker, or other individual may, as necessary, obtain access to the individual, but that person entering isolation or quarantine premises may be isolated or quarantined if necessary to protect the public health.¹²⁴ Records must be kept regarding whether or not an isolated or quarantined individual voluntarily complied with the order,¹²⁵ which will be enforced in the same manner and have the same effect as a court order.¹²⁶

The principle that the health status of an isolated or quarantined individual must be monitored regularly¹²⁷ is based on 28 Pa. Code § 27.65.

The remaining two principles -- that under certain circumstances, appropriate entities or agencies must be notified that the individual has been isolated or quarantined¹²⁸ and that an individual must be informed of the reasons for the isolation or quarantine and of the right to communicate immediately with others (who should be kept informed of the individual's status)¹²⁹ -- are based on provisions from the Mental Health Procedures Act.¹³⁰

¹¹⁸ Proposed § 1133(b)(5)(i); *infra* p. 84.

¹¹⁹ Proposed § 1133(b)(5)(v); *infra* p. 85.

¹²⁰ Proposed § 1133(b)(5)(iii); *infra* p. 84.

¹²¹ Proposed § 1133(b)(5)(vi); *infra* p. 85.

¹²² Proposed § 1133(b)(5)(viii); *infra* pp. 85-86.

¹²³ Proposed § 1133(b)(5)(ix); *infra* p. 86.

¹²⁴ Proposed § 1133(b)(5)(x); *infra* p. 86.

¹²⁵ Proposed § 1133(b)(5)(xi); *infra* p. 86.

¹²⁶ Proposed § 1133(b)(5)(xii); *infra* p. 86.

¹²⁷ Proposed § 1133(b)(5)(ii); *infra* p. 84.

¹²⁸ Proposed § 1133(b)(5)(iv); *infra* p. 84. An appropriate entity or agency could include local law enforcement, the county children and youth social service agency or an adult protective services agency. Comment to proposed § 1133; *infra* p. 91.

¹²⁹ Proposed § 1133(b)(5)(vii); *infra* p. 85.

¹³⁰ *Supra* note 35, § 302(c); 50 P.S. § 7302(c).

Proposed Chapter 11 also provides a statutory framework regarding isolation or quarantine *with* a court order. In seeking a court order regarding an individual's isolation or quarantine, the Department or local health authority must petition the court of common pleas of the judicial district where the individual is present or resides.¹³¹ This particular provision is based on the DPCL,¹³² regulations,¹³³ and the Mental Health Procedures Act.¹³⁴

The contents of such a petition are specified in the proposed statute,¹³⁵ which requirements are based on several provisions of the DPCL and the regulations.¹³⁶

The proposed statute mandates that the court hold a hearing on the petition to determine whether the isolation or quarantine should continue and whether the individual has a valid reason for refusing or failing to undergo a medical examination, test, or other approved diagnostic procedure.¹³⁷ Several provisions of the DPCL and the regulations serve as the basis for this requirement.¹³⁸

In extraordinary circumstances and for good cause shown, a continuance of the hearing may be requested and granted, but the court must give due regard to the rights of each affected individual, the protection of the public health, the severity of the need for isolation or quarantine, and other relevant evidence.¹³⁹ Neither the DPCL nor the regulations contain an analogous provision.

The hearing is to be held without a jury and on the record, and the court may take testimony in person or by teleconference or videoconference.¹⁴⁰ The DPCL and the regulations only refer to the hearing being held without a jury;¹⁴¹ there is no reference to a hearing on the record or to how testimony is taken.

¹³¹ Proposed § 1133(c)(1); *infra* p. 86. The court of common pleas, not the Commonwealth Court, has original jurisdiction to consider the petition, and an appeal from an order regarding that petition is properly filed with the Superior Court, not the Commonwealth Court. The Pennsylvania Rules of Civil Procedure cover venue and change of venue (Pa. R.C.P. No. 1006) and service of process (Pa. R.C.P. 400, *et seq.*). Comment to proposed § 1133; *infra* p. 91.

¹³² DPCL, *supra* note 12, §§ 7 (second sentence) & 11(a.2) (first sentence); 35 P.S. §§ 521.7 (second sentence & 521.11(a.2) (first sentence).

¹³³ 28 Pa. Code §§ 27.82 (second sentence) & 27.87(b) (first sentence).

¹³⁴ *Supra* note 35, § 115; 50 P.S. § 7115.

¹³⁵ Proposed § 1133(c)(2); *infra* p. 87.

¹³⁶ DPCL, *supra* note 12, § 7 (first, second & fifth sentences); 35 P.S. § 521.7 (first, second & fifth sentences); 28 Pa. Code §§ 27.81, 27.82(a), 27.82(b) (second sentence) & 27.82(b)(3).

¹³⁷ Proposed § 1133(c)(3); *infra* p. 87.

¹³⁸ DPCL, *supra* note 12, §§ 7 (third & fourth sentences) & 11(a.2) (second sentence); 35 P.S. §§ 521.7 (third & fourth sentences) & 521.11(a.2) (second sentence); 28 Pa. Code §§ 27.82(b)(1)-(2) & 27.87(b).

¹³⁹ Proposed § 1133(c)(4); *infra* p. 87.

¹⁴⁰ Proposed § 1133(c)(5); *infra* p. 87.

¹⁴¹ DPCL, *supra* note 12, §§ 7 (third & fourth sentences) & 11(a.2) (second sentence); 35 P.S. §§ 521.7 (third & fourth sentences) & 521.11(a.2) (second sentence); 28 Pa. Code §§ 27.82(b)(1)-(2) & 27.87(b).

The Department or local health authority bears the burden of proof to show, by clear and convincing evidence, that the isolation or quarantine should continue and, if applicable, that the individual refused or failed to submit to the medical examination, test, or other approved diagnostic procedure. If that burden is met, the individual then bears the burden of proof to show, by clear and convincing evidence, that the individual has a valid reason for refusing to submit to the medical examination, test, or other approved diagnostic procedure.¹⁴² The DPCL and the regulations do not so specify.

Proposed Chapter 11 provides that an individual who is subject to a petition under this subsection is entitled to representation by legal counsel. Accordingly, the requirements regarding the appointment and payment of legal counsel are set forth.¹⁴³ This topic is not addressed in the DPCL or its regulations, but the Public Defender Act and the Juvenile Act offer guidance.¹⁴⁴

The court may grant the relief requested in the foregoing petition only on the basis of clear and convincing evidence,¹⁴⁵ which provision is based on the fourth sentence of § 7 of the DPCL (35 P.S. § 521.7, fourth sentence) and on 28 Pa. Code § 27.82(b)(2).

The order of the court may specify that the individual be committed to an appropriate institution in Pennsylvania,¹⁴⁶ which provision is also based on the DPCL and the regulations.¹⁴⁷

The proposed legislation sets forth who may perform the court-ordered treatment or medical examinations, tests, or other approved diagnostic procedures, along with who pays the costs of the diagnostic procedures and how the diagnostic procedures must be conducted. In addition, the results of such must be reported to the Department of Health or local health authority on forms furnished by the Department.¹⁴⁸ These provisions are based on the sixth and seventh sentences of § 7 of the DPCL (35 P.S. § 521.7, sixth and seventh sentences) and on 28 Pa. Code § 27.83. However, the DPCL and the regulations do not refer to “treatment.”

Proposed Chapter 11 also provides for the transfer or relocation of an individual. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious disease, the individual must promptly be transferred to isolation.¹⁴⁹ This provision is not grounded in the DPCL or the regulations.

¹⁴² Proposed § 1133(c)(6); *infra* p. 88.

¹⁴³ Proposed § 1133(d); *infra* p. 88.

¹⁴⁴ *Supra* note 35.

¹⁴⁵ Proposed § 1133(e)(1); *infra* p. 89.

¹⁴⁶ Proposed § 1133(e)(2); *infra* p. 89.

¹⁴⁷ DPCL, *supra* note 12, §§ 7 (eighth sentence) & 11(a.2) (third sentence); 35 P.S. §§ 521.7 (eighth sentence) & 521.11(a.2) (third sentence); 28 Pa. Code §§ 27.82(c) & 27.87(b) (second sentence).

¹⁴⁸ Proposed § 1133(f); *infra* p. 89.

¹⁴⁹ Proposed § 1133(g)(1); *infra* p. 90.

Under the proposed legislation, an isolated or quarantined individual may be moved from one location to another when approved by the Department or local health authority.¹⁵⁰ This provision is based on 28 Pa. Code § 27.1(ii).

An individual may be released from isolation or quarantine when the individual no longer presents a public health threat,¹⁵¹ which provision is based on the first sentence of 28 Pa. Code § 27.68.

In general, an isolated or quarantined individual (or counsel for that individual) may petition the court for an order to show cause why isolation or quarantine should be continued. The petition must be filed in the court of common pleas of the judicial district where the individual is present or resides. The proposed legislation specifies when the court must rule on the petition and the nature of the hearing on the petition.¹⁵² These provisions are not based on the DPCL or its accompanying regulations.

The term treatment is separately defined to account for reliance on prayer or spiritual means for healing.¹⁵³ This definition is based on § 11(a.3) of the DPCL (35 P.S. § 521.11(a.3)) and on 28 Pa. Code § 27.87(c).

If more than one local health authority is involved in a matter concerning the isolation or quarantine of an individual, the local health authorities involved must consult with and receive approval from the Department of Health prior to requiring the isolation or quarantine.¹⁵⁴

If there is a dispute among local health authorities, the Department, as the ultimate decision-maker, must resolve the dispute.¹⁵⁵

Isolation or quarantine may also apply to a group of individuals, and regulations would need to specify how the statutory requirements for isolation and quarantine under this chapter would apply to a group of individuals. For example, regulations could specify that if a written order of isolation or quarantine applies to a group of individuals and it is impractical to provide each group member with a copy of the order, the order must be posted in a conspicuous place at the location subject to the isolation or quarantine.¹⁵⁶

¹⁵⁰ Proposed § 1133(g)(2); *infra* p. 90.

¹⁵¹ Proposed § 1133(h)(1); *infra* p. 90.

¹⁵² Proposed § 1133(h)(2); *infra* p. 90.

¹⁵³ Proposed § 1133(i); *infra* p. 91.

¹⁵⁴ *See* 28 Pa. Code § 27.61(2). Comment to proposed § 1133; *infra* p. 91.

¹⁵⁵ Comment to proposed § 1133; *infra* p. 91.

¹⁵⁶ *Id.*

Transmission from Animals

Applicability

The proposed legislation states that the Domestic Animal Law¹⁵⁷ governs if there is a conflict between that law and proposed Chapter 11 or if proposed Chapter 11 does not address a situation or procedure involving the transmission of an infectious disease from animals to individuals.¹⁵⁸ These applicability provisions are not contained in the DPCL or the regulations.

Participation by Animal Owner

If the Department of Health or a local health authority mandates an action or control measure under proposed Chapter 11 regarding an animal, whenever practicable under the circumstances, the Department or local health authority must ensure that the person owning the animal is given the opportunity to participate voluntarily in the action or control measure.¹⁵⁹ The Department or local health authority may (1) petition the court to compel a person owning an animal of a defined class to participate in any action or control measure regarding the animal in accordance with the proposed chapter or (2) employ public health interventions to eliminate the risk or danger to individuals or the public health.¹⁶⁰ The foregoing provisions are not part of the DPCL or its accompanying regulations.

Diagnostic Procedures on Animals

Proposed Chapter 11 authorizes the Department of Health or a local health authority to establish and administer procedures regarding the use of approved diagnostic procedures on an animal to protect the public health.¹⁶¹ Procedural requirements regarding approved diagnostic procedures on an animal are set forth and include sharing information regarding the diagnostic procedure, the availability of a valid and reliable method for the diagnostic procedure, the identification of the infectious disease that poses a threat to an individual or the public health, and communication of the results of the diagnostic procedure.¹⁶² Neither the DPCL nor the regulations contain comparable provisions.

¹⁵⁷ The Domestic Animal Law is Chapter 23 (Domestic Animals) of Title 3 of the Pennsylvania Consolidated Statutes (the Agriculture Code).

¹⁵⁸ Proposed § 1141; *infra* p. 92.

¹⁵⁹ Proposed § 1142(a); *infra* p. 92.

¹⁶⁰ Proposed § 1142(b); *infra* pp. 92-93.

¹⁶¹ Proposed § 1143(a); *infra* p. 93.

¹⁶² Proposed § 1143(b); *infra* p. 93.

The proposed chapter specifies when the Department or local health authority is authorized to order an animal to be submitted to a medical examination, test, or other approved diagnostic procedure to determine whether the animal has an infectious disease.¹⁶³ This provision is based on the first sentence of § 7 of the DPCL (35 P.S. § 521.7, first sentence) and on 28 Pa. Code § 27.81.

The subject animal may be taken by an authorized person, municipal police officer, or county sheriff to a particular facility for the diagnostic procedure,¹⁶⁴ but the DPCL and the regulations do not explicitly provide such.

The provisions of proposed Chapter 11 also address noncompliance with the order of the Department or local health authority,¹⁶⁵ which the DPCL and regulations cover.¹⁶⁶

Animal Isolation or Quarantine

Proposed Chapter 11 provides a statutory framework regarding animal isolation or quarantine. The Department of Health or a local health authority is authorized to isolate or quarantine an animal or group of animals until it is determined that the animal or each animal in the group is not infected with an infectious disease.¹⁶⁷ This concept is based on the provisions of the DPCL and the regulations.¹⁶⁸

The animal isolation or quarantine may occur in an appropriate facility, regardless of whether the Department or local health authority receives a specified report, or if the person owning the animal or group of animals refuses to submit the animal to treatment approved by the Department or local health authority.¹⁶⁹ Again, the DPCL and regulations address these concepts.¹⁷⁰

The statutory framework provides for the temporary isolation or quarantine of an animal, *without* the need for a court order, if delay in imposing the animal isolation or quarantine would significantly jeopardize the ability of the Department or local health authority to prevent, control, or mitigate the effects of the infectious disease.¹⁷¹ The DPCL and Title 28 regulations do not contain comparable provisions.

¹⁶³ Proposed § 1143(c)(1); *infra* p. 94.

¹⁶⁴ Proposed § 1143(c)(2); *infra* p. 94.

¹⁶⁵ Proposed § 1143(d); *infra* p. 94.

¹⁶⁶ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(a).

¹⁶⁷ Proposed § 1144(a) (first sentence); *infra* p. 94.

¹⁶⁸ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(a).

¹⁶⁹ Proposed § 1144(a) (second sentence); *infra* pp. 94-95.

¹⁷⁰ DPCL, *supra* note 12, § 11(a.1); 35 P.S. § 521.11(a.1); 28 Pa. Code §§ 27.61 (introduction), 27.61(3) & 27.82(a).

¹⁷¹ Proposed § 1144(b)(1); *infra* p. 95.

The contents of the order of the Department or local health authority are specifically provided,¹⁷² but under current law, only 28 Pa. Code §§ 27.65 (in general terms) and 27.61(3) (regarding instructions or conditions for the care of an animal) address the topic.

A copy of the order must be given to the person owning the animal or group of animals subject to the animal isolation or quarantine.¹⁷³ The DPCL and the regulations do not explicitly so provide.

In general, the Department or local health authority must petition the court for a court order authorizing the continued animal isolation or quarantine if an owner of the animal or group of animals objects to, fails to comply with, or chooses no longer to voluntarily comply with the order. Such a petition must be filed within 24 hours of the owner's objection, failure, or action.¹⁷⁴ These provisions regarding a petition are based on the DPCL and the regulations.¹⁷⁵

Proposed Chapter 11 provides nine principles with respect to an order of animal isolation or quarantine by the Department or local health authority, most of which are not based on the DPCL or Title 28 regulations. For example, an isolated animal must be confined separately from a quarantined animal,¹⁷⁶ and any premises used for animal isolation or quarantine must be maintained in a safe and hygienic manner.¹⁷⁷ The needs of an isolated or quarantined animal must be addressed in a systematic and competent fashion.¹⁷⁸ The person owning the animal or group of animals must receive instruction about treatment and the prevention of reinfection and spread of the infectious disease,¹⁷⁹ and an animal may be required to complete an appropriate prescribed course of medication or follow other control measures for the infectious disease.¹⁸⁰ A veterinarian or other individual may, as necessary, obtain access to an isolated or quarantined animal, but that individual entering isolation or quarantine premises may be isolated or quarantined if necessary to protect the public health.¹⁸¹ Records must be kept regarding whether or not an owner of an animal or group of animals voluntarily complied with the order,¹⁸² which will be enforced in the same manner and have the same effect as a court order.¹⁸³

¹⁷² Proposed § 1144(b)(2); *infra* pp. 95-96.

¹⁷³ Proposed § 1144(b)(3); *infra* p. 96.

¹⁷⁴ Proposed § 1144(b)(4); *infra* p. 96.

¹⁷⁵ DPCL, *supra* note 12, § 7 (second sentence); 35 P.S. § 521.7 (second sentence); 28 Pa. Code § 27.82(b) (first sentence).

¹⁷⁶ Proposed § 1144(b)(5)(i); *infra* p. 96.

¹⁷⁷ Proposed § 1144(b)(5)(iv); *infra* p. 97.

¹⁷⁸ Proposed § 1144(b)(5)(iii); *infra* p. 97.

¹⁷⁹ Proposed § 1144(b)(5)(v); *infra* p. 97.

¹⁸⁰ Proposed § 1144(b)(5)(vi); *infra* p. 97.

¹⁸¹ Proposed § 1144(b)(5)(vii); *infra* p. 98.

¹⁸² Proposed § 1144(b)(5)(viii); *infra* p. 98.

¹⁸³ Proposed § 1144(b)(5)(ix); *infra* p. 98.

The principle that the health status of an isolated or quarantined animal must be monitored regularly¹⁸⁴ is based on 28 Pa. Code § 27.65.

Proposed Chapter 11 also provides a statutory framework regarding animal isolation or quarantine *with* a court order. In seeking a court order regarding animal isolation or quarantine, the Department or local health authority must petition the court of common pleas of the judicial district where the animal or group of animals is present.¹⁸⁵ This particular provision is based on the DPCL,¹⁸⁶ regulations,¹⁸⁷ and the Mental Health Procedures Act.¹⁸⁸

The contents of such a petition are specified in the proposed statute,¹⁸⁹ which requirements are based on several provisions of the DPCL and the regulations.¹⁹⁰

The proposed statute mandates that the court hold a hearing on the petition to determine whether the animal isolation or quarantine should continue and whether the person owning the animal or group of animals has a valid reason for refusing or failing to submit the animal or group of animals to a medical examination, test, or other approved diagnostic procedure.¹⁹¹ Several provisions of the DPCL and the regulations serve as the bases for this requirement.¹⁹²

In extraordinary circumstances and for good cause shown, a continuance of the hearing may be requested and granted, but the court must give due regard to the rights of each person owning the animal or group of animals, the protection of the public health, the severity of the need for animal isolation or quarantine, and other relevant evidence.¹⁹³ Neither the DPCL nor the regulations contain an analogous provision.

¹⁸⁴ Proposed § 1144(b)(5)(ii); *infra* p. 97.

¹⁸⁵ Proposed § 1144(c)(1); *infra* p. 98. The court of common pleas, not the Commonwealth Court, has original jurisdiction to consider the petition, and an appeal from an order regarding that petition is properly filed with the Superior Court, not the Commonwealth Court. The Pennsylvania Rules of Civil Procedure cover venue and change of venue (Pa. R.C.P. No. 1006) and service of process (Pa. R.C.P. 400, *et seq.*). Comment to proposed § 1144, *infra* p. 102.

¹⁸⁶ DPCL, *supra* note 12, §§ 7 (second sentence) & 11(a.2) (first sentence); 35 P.S. §§ 521.7 (second sentence & 521.11(a.2) (first sentence).

¹⁸⁷ 28 Pa. Code §§ 27.82 (second sentence) & 27.87(b) (first sentence).

¹⁸⁸ *Supra* note 35, § 115; 50 P.S. § 7115.

¹⁸⁹ Proposed § 1144(c)(2); *infra* pp. 98-99.

¹⁹⁰ DPCL, *supra* note 12, § 7 (first, second & fifth sentences); 35 P.S. § 521.7 (first, second & fifth sentences); 28 Pa. Code §§ 27.81, 27.82(a), 27.82(b) (second sentence) & 27.82(b)(3).

¹⁹¹ Proposed § 1144(c)(3); *infra* p. 99.

¹⁹² DPCL, *supra* note 12, §§ 7 (third & fourth sentences) & 11(a.2) (second sentence); 35 P.S. §§ 521.7 (third & fourth sentences) & 521.11(a.2) (second sentence); 28 Pa. Code §§ 27.82(b)(1)-(2) & 27.87(b).

¹⁹³ Proposed § 1144(c)(4); *infra* p. 99.

The hearing is to be held without a jury and on the record, and the court may take testimony in person or by teleconference or videoconference.¹⁹⁴ The DPCL and the regulations only refer to the hearing being held without a jury;¹⁹⁵ there is no reference to a hearing on the record or to how testimony is taken.

The Department or local health authority bears the burden of proof to show, by clear and convincing evidence, that the animal isolation or quarantine should continue and, if applicable, that the person owning the animal or group of animals refused or failed to submit the animal or group of animals to the medical examination, test, or other approved diagnostic procedure. If that burden is met, the person owning the animal or group of animals then bears the burden of proof to show, by clear and convincing evidence, that the person has a valid reason for refusing to submit the animal or group of animals to the medical examination, test, or other approved diagnostic procedure.¹⁹⁶ The DPCL and the regulations do not so specify.

The court may grant the relief requested in the foregoing petition only on the basis of clear and convincing evidence,¹⁹⁷ which provision is based on the fourth sentence of § 7 of the DPCL (35 P.S. § 521.7, fourth sentence) and on 28 Pa. Code § 27.82(b)(2).

The order of the court may specify that the animal or group of animals be committed to an appropriate facility in Pennsylvania,¹⁹⁸ which is also based on the DPCL and the regulations.¹⁹⁹

The proposed legislation sets forth who may perform the court-ordered treatment or medical examinations, tests, or other approved diagnostic procedures, along with who pays the costs of the diagnostic procedures and how the diagnostic procedures must be conducted. In addition, the results of such must be reported to the Department of Health or local health authority on forms furnished by the Department.²⁰⁰ These provisions are based on the sixth and seventh sentences of § 7 of the DPCL (35 P.S. § 521.7, sixth and seventh sentences) and on 28 Pa. Code § 27.83. However, the DPCL and the regulations do not refer to “treatment.”

Proposed Chapter 11 also provides for the transfer or relocation of an animal. If a quarantined animal subsequently becomes infected or is reasonably believed to have become infected with an infectious disease, the animal must promptly be transferred to isolation.²⁰¹ This provision is not grounded in the DPCL or the regulations.

¹⁹⁴ Proposed § 1144(c)(5); *infra* p. 99.

¹⁹⁵ DPCL, *supra* note 12, §§ 7 (third & fourth sentences) & 11(a.2) (second sentence); 35 P.S. §§ 521.7 (third & fourth sentences) & 521.11(a.2) (second sentence); 28 Pa. Code §§ 27.82(b)(1)-(2) & 27.87(b).

¹⁹⁶ Proposed § 1144(c)(6); *infra* pp. 99-100.

¹⁹⁷ Proposed § 1144(d)(1); *infra* p. 100.

¹⁹⁸ Proposed § 1144(d)(2); *infra* p. 100.

¹⁹⁹ DPCL, *supra* note 12, §§ 7 (eighth sentence) & 11(a.2) (third sentence); 35 P.S. §§ 521.7 (eighth sentence) & 521.11(a.2) (third sentence); 28 Pa. Code §§ 27.82(c) & 27.87(b) (second sentence).

²⁰⁰ Proposed § 1144(e); *infra* pp. 100-101.

²⁰¹ Proposed § 1144(f)(1); *infra* p. 101.

Under the proposed legislation, an isolated or quarantined animal may be moved from one location to another when approved by the Department or local health authority.²⁰² This provision is based on 28 Pa. Code § 27.1(ii).

An animal may be released from animal isolation or quarantine when the animal no longer presents a public health threat,²⁰³ which provision is based on the first sentence of 28 Pa. Code § 27.68.

In general, a person owning an isolated or quarantined animal or group of animals may petition the court for an order to show cause why animal isolation or quarantine should be continued. The petition must be filed in the court of common pleas of the judicial district where the animal or group of animals is present. The proposed legislation specifies when the court must rule on the petition and the nature of the hearing on the petition.²⁰⁴ These provisions are not based on the DPCL or its accompanying regulations.

If more than one local health authority is involved in a matter concerning the isolation or quarantine of an animal or group of animals, the local health authorities involved must consult with and receive approval from the Department of Health prior to requiring the animal isolation or quarantine.²⁰⁵

If there is a dispute among local health authorities, the Department, as the ultimate decision-maker, must resolve the dispute.²⁰⁶

Enforcement, Liability and Immunity

Apprehension

In a case where an isolated or quarantined individual leaves a health care facility without the permission of the facility's medical director and in violation of a court order, proposed Chapter 11 authorizes specified persons to apprehend and return the individual, with the costs of such to be borne by the entity that initially ordered the isolation or quarantine.²⁰⁷ The apprehension provisions are based on § 19(b) of the DPCL (35 P.S. § 521.19(b)).

²⁰² Proposed § 1144(f)(2); *infra* p. 101.

²⁰³ Proposed § 1144(g)(1); *infra* p. 101.

²⁰⁴ Proposed § 1144(g)(2); *infra* pp. 101-102.

²⁰⁵ See 28 Pa. Code § 27.61(2). Comment to proposed § 1144; *infra* p. 102.

²⁰⁶ Comment to proposed § 1144; *infra* p. 102.

²⁰⁷ Proposed § 1161; *infra* p. 103.

Penalties

The proposed legislation defines the offenses of violating an order or intentionally or knowingly violating (or obstructing the execution of) any provision of proposed Chapter 11 or any rule or regulation promulgated to implement the chapter.²⁰⁸ Actions constituting an offense concern, for example, the failure to report an individual or animal with a specified disease or condition, the improper release of confidential information, the failure to comply with a court order, the failure to provide or forward required information to the Department, providing a knowingly false report of a disease or condition, unlawfully entering another person's premises regarding public health nuisances, tampering with samples or test results, not using appropriate testing methods, and providing false samples for testing.²⁰⁹ A first offense is a misdemeanor of the third degree punishable by a fine not to exceed \$2,500 and/or imprisonment of up to one year.²¹⁰ These provisions are based on § 20(a) of the DPCL (35 P.S. § 521.20(a)).

The proposed legislation also lists the penalties for a second or subsequent offense under the chapter, which is classified as a misdemeanor of the second degree punishable by a fine not to exceed \$5,000 and/or imprisonment of up to two years.²¹¹ Each offense under proposed Chapter 11 constitutes a separate and actionable offense.²¹² Neither the DPCL nor the regulations contain provisions regarding a subsequent offense or a separate offense.

Actions

The proposed legislation sets forth who may commence an action for an offense under the chapter or to enforce compliance with the chapter,²¹³ which provision is based on § 20(b) of the DPCL (35 P.S. § 521.20(b)).

In addition, proposed Chapter 11 specifies where an action may be commenced²¹⁴ and the penalties or damages that the court may order.²¹⁵ These provisions are not contained in the DPCL or its accompanying regulations.

Any fine or monetary damages imposed under proposed Chapter 11 must be used for the purposes of preventing, controlling, and mitigating the effects of an infectious disease.²¹⁶ For a comparable provision regarding the payment and use of fines, *see* § 20(c) of the DPCL (35 P.S. § 521.20(c)).

²⁰⁸ Proposed § 1162(a); *infra* pp. 103-104.

²⁰⁹ Comment to proposed § 1162; *infra* p. 104.

²¹⁰ Proposed § 1162(b); *infra* p. 104.

²¹¹ Proposed § 1162(c); *infra* p. 104.

²¹² Proposed § 1162(d); *infra* p. 104.

²¹³ Proposed § 1163(a); *infra* pp. 104-105.

²¹⁴ Proposed § 1163(b); *infra* p. 105.

²¹⁵ Proposed § 1163(c); *infra* p. 105.

²¹⁶ Proposed § 1163(d); *infra* p. 105.

An action under proposed Chapter 11 is barred unless the action is commenced within three years after the cause of action accrues.²¹⁷ Neither the DPCL nor the regulations so provide.

Immunity

The proposed legislation provides for immunity for an employee or agent of the Department of Health, a municipality, a local health authority, or a municipal health authority, in the absence of gross negligence or intentional misconduct in complying or attempting to comply with any provision of proposed Chapter 11 or any rule or regulation promulgated to implement the chapter.²¹⁸ In general, nothing in the chapter imposes liability on the Department of Health, a municipality, a local health authority, or a municipal health authority for any act or omission of an independent contractor of, or other entity that provides services for or in conjunction with, the Department, municipality, local health authority, or municipal health authority.²¹⁹ A person making a good faith report of an infectious disease is not subject to civil or criminal liability for the reporting.²²⁰ The foregoing provisions are not part of the DPCL or the Title 28 regulations.

Effect on Employment

An individual's employer may not deprive the individual of employment, seniority position or benefits (or threaten or otherwise coerce the individual regarding these matters) as a result of the individual's compliance with a control measure under proposed Chapter 11. However, the employer does not need to compensate the individual for employment time lost because of any isolation or quarantine.²²¹ An employer violating this provision commits a summary offense.²²² The proposed legislation also specifies the remedies available if an employer violates proposed Chapter 11. Remedies may include the recovery of wages and benefits lost, reinstatement, and reasonable attorney fees.²²³ These provisions regarding the effect on employment are not found in the DPCL or the regulations, but § 4957 of Title 18 of the Pennsylvania Consolidated Statutes (regarding protection of employment of crime victims, family members of victims, and witnesses) is an analogous provision.

²¹⁷ Proposed § 1163(e); *infra* p. 105.

²¹⁸ Proposed § 1164(a); *infra* pp. 105-106.

²¹⁹ Proposed § 1164(b); *infra* p. 106.

²²⁰ Proposed § 1164(c); *infra* p. 106.

²²¹ Proposed § 1165(a); *infra* p. 106.

²²² Proposed § 1165(b); *infra* p. 106.

²²³ Proposed § 1165(c); *infra* pp. 106-107.

Transitional Language

The proposed legislation (proposed 35 Pa.C.S. Pt. II, Subpt. A, Ch. 11) requires certain transitional language -- provisions regarding applicability, repeals, and effective dates.

The amendment of 35 Pa.C.S. and any repeals, such as for certain provisions of the DPCL, should take effect in six months, to provide adequate notice to any department, agency, association, group, health care entity or practitioner, individual, or other interested person potentially affected by the legislation.²²⁴

²²⁴ *Infra* pp. 107-108.

PROPOSED LEGISLATION

Title 35 of the Pennsylvania Consolidated Statutes (Health and Safety) is amended as follows:

TITLE 35

HEALTH AND SAFETY

Part

- I. Public Health System (Reserved)
- II. Public Health
- III. Public Safety
- IV. Behavioral Health (Reserved)
- V. Emergency Management Services
- VI. Emergency Medical Services

PART I

PUBLIC HEALTH SYSTEM

(Reserved)

PART II

PUBLIC HEALTH

Subpart

- A. Disease Control Measures
- B. Health Promotion (Reserved)

SUBPART A

DISEASE CONTROL MEASURES

Chapter

11. Infectious and Noninfectious Diseases

CHAPTER 11

INFECTIOUS AND NONINFECTIOUS DISEASES

Subchapter

A. General Provisions

B. Public Health Powers and Duties

C. General Public Health Procedures

D. Implementation of Control Measures

E. Transmission from Animals

F. (Reserved)

G. Enforcement, Liability and Immunity

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

1101. Scope of chapter.

1102. Definitions.

1103. Existing rules and regulations.

1104. Advanced communication technologies.

§ 1101. Scope of chapter.

This chapter applies to any control measure taken by the Department of Health or a local health authority to protect the public health.

§ 1102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Advanced communication technologies.” The transfer of information, in whole or in part, by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

“Animal isolation.” The physical separation and limitation of freedom of movement of an animal infected, or reasonably believed to be infected, with an infectious disease, with signs and symptoms of the disease, to prevent or limit the transmission of the disease.

“Animal quarantine.” The physical separation or limitation of freedom of movement of an animal that has been exposed to or potentially exposed to an infectious disease, but does not show signs or symptoms of the disease, to prevent or limit the possibility of transmission of the disease. The term includes the following:

- (1) A modified animal quarantine, which is a selected and partial limitation of freedom of movement of the animal that is determined on the basis of differences in susceptibility or danger of infectious disease transmission and designed to meet particular situations.

(2) Animal monitoring, which is the close supervision of an animal exposed to or potentially exposed to an infectious disease without restricting the movement of the animal.

(3) Animal segregation, which is the separation for special control or observation of one or more animals to facilitate the control of an infectious disease.

“Bioterrorism.” The intentional use of a microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance or biological product, to cause death, disease or other biological malfunction in an individual, animal, plant or other living organism.

“Board.” The Advisory Health Board of the Department of Health.

“Clinical laboratory.” A laboratory for which a permit has been issued to operate as a clinical laboratory under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act.

“Contagious disease.” An infectious disease that can be transmitted from individual to individual.

“Control measure.” Any proactive or restrictive action to protect the public health by preventing, controlling or mitigating the effects of an infectious disease. The term includes, but is not limited to, any of the following:

(1) Isolation.

(2) Quarantine.

(3) Vaccination.

(4) Animal isolation.

(5) Animal quarantine.

(6) Medical examination.

(7) Medical testing.

(8) Medical treatment.

(9) Issuance of a warning to the public regarding an infectious disease.

(10) Posting a sign or notice regarding the presence of a contagious disease.

(11) The dissemination of public health law information.

(12) A program, procedure or practice created, administered or supervised by the Department of Health to protect the public health.

“Department.” The Department of Health of the Commonwealth.

“Disease.” Any deviation from or interruption of the normal structure or function of any body part, organ or system that is manifested by distinguishing signs and symptoms.

“Epidemic.” The occurrence in a community or region of a group of similar conditions that are in excess of normal expectancy and derived from a common or propagated source.

“Health care facility.” As defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

“Health care practitioner.” An individual who is authorized to practice some component of the healing arts by a license, permit, certificate or registration issued by a Commonwealth licensing agency or board.

“Individually identifiable health information.” Any information, whether oral, written, electronic, visual, pictorial, physical or in any other form, that relates to an

individual's past, present or future physical or mental health status, condition, treatment, service, products purchased or provision of care and:

(1) reveals the identity of the individual whose health care is the subject of the information; or

(2) serves as a reasonable basis to reveal the identity of the individual whose health care is the subject of the information, either alone or in conjunction with other information that is or reasonably should be known to be available.

“Infectious agent.” Any biological substance or organism or other pathogen such as a virus, bacterium, fungus, protozoan or parasite that is capable of being transmitted by invasion and multiplication in body tissues and causing disease.

“Infectious disease.” A disease that is caused by an infectious agent that may be transmittable from individual to individual, animal to individual or insect to individual or through any other mode of transmission. The term includes tuberculosis and a sexually transmitted infection.

“Isolation.” The physical separation and limitation of freedom of movement of an individual infected or reasonably believed to be infected with a contagious disease, with signs and symptoms of the disease, to prevent or limit the transmission of the disease to nonisolated individuals.

“Local health authority.” Either of the following:

(1) A county or joint-county department of health, created under the authority of the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law.

(2) A county or municipal department of health that is approved to receive grants under Section 25 of the Local Health Administration Law.

“Municipal health authority.”

(1) An entity:

(i) administering or performing public health functions on behalf of a municipality; and

(ii) established under any applicable law regarding the municipality’s public health functions.

(2) The term includes a local public health board, agency, commission, office and sanitary board.

(3) The term does not include a local health authority.

“Municipality.” A county, city, borough, incorporated town or township.

“Outbreak.” The sudden and rapid increase in the number of cases of an infectious disease in a population.

“Physician.” Either of the following:

(1) As defined in 1 Pa.C.S. § 1991 (related to definitions).

(2) An individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all its branches within the scope of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.

“Public health.” The health of individuals and groups of individuals within this Commonwealth, which the Department of Health or a local health authority has the authority to protect by preventing, controlling and mitigating the effects of a disease through population-based or individual efforts.

“Public health emergency.” An occurrence or imminent threat of a disease if both of the following apply:

(1) The occurrence or imminent threat is believed to be caused by any of the following:

(i) Bioterrorism.

(ii) The appearance of a novel or previously controlled or eradicated infectious agent or toxin or the occurrence of an existing contagious disease at an unprecedented magnitude or duration.

(iii) A natural disaster.

(iv) A chemical attack or accidental release.

(v) A nuclear attack or accident.

(2) The occurrence or imminent threat poses a high probability of any of the following harms in the affected population:

(i) A large number of deaths.

(ii) A large number of serious or long-term disabilities.

(iii) A significant risk of substantial future harm to a large number of individuals caused by widespread exposure to an infectious disease or toxin.

“Public health nuisance.” A condition, usage, act or failure to act that:

(1) exists in or about a building, structure, property, street or other way used or intended to be used by vehicular traffic or pedestrians or other place, whether public or private; and

(2) unreasonably interferes with the health or safety of an individual or the community by generating or spreading disease or otherwise injuriously affecting the public health.

“Quarantine.” The physical separation or limitation of freedom of movement of an individual who has been exposed to or potentially exposed to a contagious disease but does not show signs or symptoms of the disease, to prevent or limit the possibility of transmission of the disease to nonquarantined individuals. The term includes the following:

(1) A modified quarantine, which is a selected and partial limitation of freedom of movement of the individual that:

(i) Is determined on the basis of differences in susceptibility or danger of contagious disease transmission and designed to meet particular situations.

(ii) May include the exclusion of children from school or the prohibition or restriction of those exposed to a contagious disease from engaging in particular occupations or activities.

(2) Monitoring, which is the close supervision of an individual exposed to or potentially exposed to a contagious disease without restricting the movement of the individual.

(3) Segregation, which is the separation for special control or observation of one or more individuals from other individuals to facilitate the control of a contagious disease.

“Regulation.” Any of the following, pursuant to this chapter:

(1) A rule or regulation issued by the Advisory Health Board.

(2) An ordinance, rule or regulation enacted or issued by a municipality, county department of health or joint-county department of health.

“Reportable disease or condition.” Any of the following:

(1) An infectious disease or noninfectious disease as the Advisory Health Board prescribes.

(2) As determined by the Department of Health, a condition that may be a public health emergency.

(3) Any disease or disorder for which the department authorizes the reporting of data and information necessary to determine whether the department should establish and how the department should effectively administer a control measure designed to protect and promote the public health of individuals in this Commonwealth.

“Surveillance.” The continuing scrutiny of all aspects of occurrence and spread of disease that are pertinent to effective control.

“Toxin.” A chemical, radiological or biological agent that causes disease or some alteration of the normal structure and function of an individual or animal.

“Vaccination.” A suspension of attenuated or noninfectious microorganisms or derivative antigens administered to stimulate antibody production or cellular immunity against a pathogen for the purpose of preventing, ameliorating, or treating an infectious disease.

Note to § 1102

The definitions for the terms in this section are based on a variety of sources, including the following: § 2 of the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955 (“DPCL”) (35 P.S. § 521.2); 28 Pa. Code § 27.1; and § 1-102 of the Public Health Statute Modernization National Excellence Collaborative, *Turning Point: Collaborating for a New*

Century in Public Health, Model State Public Health Act: A Tool for Assessing Public Health Laws (Sept. 2003) (“Turning Point”).

Clinical Laboratory

The definition of “clinical laboratory” references the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act (35 P.S. §§ 2151-2165), which defines “clinical laboratory” in § 2 (35 P.S. § 2152) as follows:

any place, establishment or institution organized and operated primarily for the performance of all or any bacteriological, biochemical, microscopical, serological, or parasitological tests by the practical application of one or more of the fundamental sciences to material originating from the human body, by the use of specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health.

Health Care Facility

The definition of “health care facility” cross-references the following definition under § 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act:

“Health care facility.” For purposes of Chapter 7, any health care facility providing clinically related health services, including, but not limited to, a general or special hospital, including psychiatric hospitals, rehabilitation hospitals, ambulatory surgical facilities, long-term care nursing facilities, cancer treatment centers using radiation therapy on an ambulatory basis and inpatient drug and alcohol treatment facilities, both profit and nonprofit and including those operated by an agency or State or local government. The term shall also include a hospice. The term shall not include an office used primarily for the private or group practice by health care practitioners where no reviewable clinically related health service is offered, a facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination or a facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of the religious denominations conducting the facility.

This definition differs from that set forth in 28 Pa. Code § 27.1:

Health care facility—

(i) A chronic disease, or other type of hospital, a home health care agency, a hospice, a long-term care nursing facility, a cancer treatment center using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a birth center, and an inpatient drug and alcohol treatment facility, regardless of whether the health care facility is operated for profit, nonprofit or by an agency of the Commonwealth or local government.

(ii) The term does not include:

(A) An office used primarily for the private practice of a health care practitioner.

(B) A facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination.

(C) A facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of a religious denomination.

In addition, this definition does not reference an ambulatory service facility, defined under § 3 of act of July 8, 1986 (P.L.408, No.89), known as the Health Care Cost Containment Act, as follows:

A facility licensed in this Commonwealth, not part of a hospital, which provides medical, diagnostic or surgical treatment to patients not requiring hospitalization, including ambulatory surgical facilities, ambulatory imaging or diagnostic centers, birthing centers, freestanding emergency rooms and any other facilities providing ambulatory care which charge a separate facility charge. This term does not include the offices of private physicians or dentists, whether for individual or group practices.

Individually Identifiable Health Information

This definition is consistent with the definitions of “health information,” “individually identifiable health information,” and “protected health information” under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 C.F.R. 160.103, but it is modified slightly, given that the context is different from that of HIPAA. This definition is also consistent with § 1-102 of Turning Point (“identifiable health information”).

Infectious Disease

The term “infectious disease” replaces “communicable disease” from the DPCL.

Local Health Authority

The term “local health authority” replaces “local board or department of health” in the DPCL. Under 28 Pa. Code § 27.1, a local health authority includes a sanitary board, which is a board of health in a second class township. Although the DPCL does not include “a township of the second class” in its definition of “local board or department of health,” the statute and regulations cover municipalities, defined broadly as a “city, borough, incorporated town or township.” This chapter does not make a separate distinction for townships of the second class. If a township of the second class retains a “sanitary board” instead of a “local health authority” (whereby the entities are substantively the same, although the terminology differs), the “sanitary board” falls within the definition of “local health authority” and is included in the scope of this chapter.

Monitoring

The term “monitoring,” which is described in the definition of the term “quarantine,” is based on (1) the definition of “surveillance,” which is contained in the definition of “quarantine” in the DPCL and (2) the definition of “monitoring of contacts” in 28 Pa. Code § 27.1.

Municipal Health Authority

A “municipal health authority” includes any entity administering or performing public health functions on behalf of a municipality and established under any applicable law, including any county, township, borough, town or city code.

Physician

A “physician” is either an individual licensed in Pennsylvania within the scope of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, and its amendments, or as defined in 1 Pa.C.S. § 1991, replicated as follows:

- (1) When used in any statute finally enacted on or before April 6, 1951, an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in any or all of its branches;

(2) when used in any statute finally enacted on or after April 7, 1951 and on or before June 14, 1957, an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in any or in all of its branches within the scope of the act of June 3, 1911 (P.L.639, No.246) relating to medicine and surgery and its amendments, or in the practice of osteopathy or osteopathic surgery within the scope of the act of March 19, 1909 (P.L.46, No.29) and its amendments;

(3) when used in any statute finally enacted on or after June 15, 1957 and on or before July 19, 1974, an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all of its branches within the scope of the act of June 3, 1911 (P.L.639, No.246) relating to medicine and surgery and its amendments, or in the practice of osteopathy or osteopathic surgery within the scope of the act of March 19, 1909 (P.L.46, No.29) and its amendments;

(4) when used in any statute finally enacted on or after July 20, 1974 and on or before October 7, 1978, an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all its branches within the scope of the act of July 20, 1974 (P.L.551, No.190), known as the Medical Practice Act of 1974, and its amendments, or in the practice of osteopathy or osteopathic surgery within the scope of the prior provisions of the act of March 19, 1909 (P.L.46, No.29), referred to as the Osteopathic Practice Law, and its amendments; and

(5) when used in any statute finally enacted on or after October 5, 1978, an individual licensed under the laws of this Commonwealth to engage in the practice of medicine and surgery in all its branches within the scope of the act of July 20, 1974 (P.L.551, No.190), known as the Medical Practice Act of 1974, and its amendments, or in the practice of osteopathic medicine and surgery within the scope of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, and its amendments. To the extent that any statute imposes duties upon or grants powers to the State Board of Medical Education and Licensure relating to an individual licensed under the laws of this Commonwealth to engage in the practice of osteopathic medicine and surgery, such statute shall be construed to impose such duties upon and grant such power to the State Board of Osteopathic Medical Examiners, which board shall exercise such duties or powers in accordance with the Osteopathic Medical Practice Act.

The Medical Practice Act of 1985 repealed the act of July 20, 1974 (P.L. 551, No. 190), known as the Medical Practice Act of 1974.

Veterinarian

The term “veterinarian” is not defined in this chapter since the term is already defined in 1 Pa.C.S. § 1991 as “[a]n individual licensed under the laws of this Commonwealth to practice veterinary medicine and surgery.”

Comment to § 1102

This chapter does not make a distinction based on the type of municipality providing public health services.

A municipal health authority may become a local health authority under the process set forth in the Local Health Administration Law.

If a municipality retains a board, agency, commission or office with public health responsibilities, instead of explicitly providing for a “local health authority” or “municipal health authority,” that board, agency, commission or office still falls within the applicable definitions under this section and is included in the scope of this chapter.

§ 1103. Existing rules and regulations.

(a) Effect.--Each rule and regulation of the department regarding control measures in effect on (in preparing this act for printing in the Laws of Pennsylvania and the Pennsylvania Consolidated Statutes, the Legislative Reference Bureau shall insert here, in lieu of this statement, the effective date of this section), which is not inconsistent with this chapter, shall remain in effect after this date until repealed or amended.

(b) Repeal or amendment.--The department shall immediately initiate the repeal or amendment of any rule or regulation that is inconsistent with the provisions of this chapter.

§ 1104. Advanced communication technologies.

(a) Departmental procedures.--The department shall establish procedures for the secure and confidential use of advanced communication technologies for the transmission of reports, data and other information under this chapter.

(b) Confirmation of reports.--A confirmation by the department or a local health authority of the receipt of a report, data or other information submitted by advanced communication technologies shall relieve the person transmitting the report, data or other information of providing the information in another manner or format.

(c) Effect on other law.--

(1) Nothing in this chapter shall be construed to supersede the provisions of the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions Act.

(2) Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding the confidentiality of individually identifiable health information.

Comment to § 1104

The expectation and goal of this section is to require the department to develop a state-operated, web-based system to allow the secure submission of reports, data and other information and the electronic transmission of such information for assessment, investigation or research purposes.

SUBCHAPTER B

PUBLIC HEALTH POWERS AND DUTIES

Sec.

1111. Control measure requirements.

1112. Powers and duties of department regarding public health.

1113. Powers and duties of local health authorities regarding public health.

1114. Powers and duties of municipal health authorities regarding public health.

1115. Powers and duties of board.

1116. Municipal regulations.

§ 1111. Control measure requirements.

In acting under this chapter, the department or a local health authority shall make reasonable efforts to:

(1) Establish and administer control measures with procedures, practices and programs that:

(i) protect the public health as set forth in this chapter; and

(ii) are based on modern and scientifically-sound principles and evidence.

(2) Design and implement a well-targeted control measure that is warranted under the circumstances.

(3) Avoid compulsory actions that are overly broad or apply to more individuals than necessary to protect the public health.

(4) Employ the least restrictive alternative in taking any control measure, including the manner of the control measure.

(5) Respect the dignity of each individual under its jurisdiction and act in a nondiscriminatory manner regarding race, ethnicity, nationality, religious belief, sex, sexual orientation, disability status, citizenship or residency status.

Comment to § 1111

Paragraph (4) directs the department or local health authority to employ a control measure that least infringes on the rights or interests of individuals, to the extent possible. However, it is not intended to require the department or local health authority to adopt a control measure that is less effective in protecting the public health.

§ 1112. Powers and duties of department regarding public health.

(a) General responsibility regarding public health.--

(1) The department shall have the ultimate responsibility to protect the public health by preventing, controlling or mitigating the effects of an infectious disease or noninfectious disease.

(2) The department may take any reasonable control measure for public health purposes.

(b) Specific responsibilities regarding local health authority.--Subject to subsection

(d), the department:

(1) Shall assist a local health authority with decision-making and the fulfillment of responsibilities under this chapter. The assistance may include the coordination of actions by the local health authority to assure an effective and appropriate response under this chapter.

(2) Shall determine the appropriateness of a local health authority's response under this chapter and monitor a local health authority's compliance with this chapter and departmental regulations.

(3) May compel a local health authority to act or forbid a local health authority from acting.

(c) Specific responsibilities regarding public health.--The department shall:

(1) Establish and administer any control measure, including one that protects the public health in a public or private school, in any municipality that is not served by a local health authority.

(2) With respect to decisions regarding control measures, consult and coordinate with other departments and agencies within the Commonwealth, including, but not limited to, the following:

(i) The Department of Aging.

(ii) The Department of Agriculture.

(iii) The Department of Community and Economic Development.

(iv) The Department of Education.

(v) The Department of Environmental Protection.

(vi) The Department of Labor and Industry.

(vii) The Department of Public Welfare.

(viii) The Pennsylvania Emergency Management Agency.

(ix) The Health Care Cost Containment Council.

(x) The Insurance Department.

(3) Collect, analyze, maintain and use data as set forth in section 1121 (relating to data).

(4) Require and receive reports as set forth in section 1122 (relating to reporting).

(5) Promulgate rules and regulations to implement the provisions of this chapter.

(6) Develop forms necessary to implement this chapter.

(d) Remedial action for inadequate control measures.--

(1) If the department determines that a control measure administered by a local health authority is inadequate to protect the public health and the public health continues to be threatened, the department may appoint an agent of the department to supervise or administer the control measure until the department determines that:

(i) the threat to public health no longer exists; or

(ii) the local health authority is able to administer an adequate control measure to protect the public health.

(2) The department may require that any reasonable expenses that are incident to the administration of a local disease control program or a response to a condition under this subsection and are incurred by the department shall be paid to the Commonwealth by the local health authority or by the municipalities or counties that it serves.

Note to § 1112

Subsection (d)(2) provides that the department *may* require the local health authority or the served municipalities or counties to pay the stated reasonable expenses. The last sentence of § 3(c) of the DPCL, on which subsection (d)(2) is based, provides that the local board or department of health or the served municipalities or counties *shall* pay such reasonable expenses.

Comment to § 1112

This section is intended to clarify the lines of authority and responsibility for implementation of control measures within the Commonwealth.

The powers and duties under this section are subject to due process requirements and must be scientifically-based and reasonable under the circumstances. The least restrictive alternative must be used. The department may adopt regulations to prevent and control

infectious and noninfectious diseases unless the content of the regulations would be prohibited by the laws of this Commonwealth.

Control measures in municipalities that are served by a local health authority will be provided by the local health authority under the direct supervision of the department. Control measures in municipalities that are not served by a local health authority will be provided directly by the department. In those municipalities that are not served by a local health authority but have a municipal health authority, control measures will be implemented by the department. However, the municipal health authorities will retain their responsibilities with respect to other public health issues.

The department must promulgate regulations identifying those control measures for which municipal health authorities are equipped to assist in protecting the public health.

This section authorizes the department to establish mandatory screening programs for infectious and noninfectious diseases.

The Department of Health has the power and duty, among other things, to protect the health of the people of Pennsylvania and to determine and employ the most efficient and practical means for the prevention and suppression of disease. See § 2102(a) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929; 71 P.S. § 532(a).

§ 1113. Powers and duties of local health authorities regarding public health.

(a) General responsibility regarding public health.--A local health authority shall have the responsibility to protect the public health by preventing, controlling or mitigating the effects of an infectious disease or noninfectious disease, as set forth in this chapter. A control measure established or administered by a local health authority includes one that protects the public health in a public or private school.

(b) Services to protect public health.--Subject to regulations adopted by the board establishing performance standards and subject to adequate funding, a local health authority shall provide or assure the provision of the following:

(1) Administrative and supportive services, including administration and program direction, budgeting, accounting, personnel administration, public health education, public health statistics and public health laboratory services.

(2) Personal health services, including chronic disease services, infectious and noninfectious disease control, maternal and child health services and public health nursing services.

(3) Environmental health services, including the following:

(i) Protection of the food supply, the water supply and bathing places.

(ii) Control of water pollution and solid wastes.

(iii) Vector control.

(iv) Protection of the institutional environment, recreational environment and housing environment.

Comment to § 1113

The actions of a local health authority must be in accordance with the regulations of the Advisory Health Board of the Department of Health and subject to the supervision and guidance of the department.

§ 1114. Powers and duties of municipal health authorities regarding public health.

A municipal health authority shall:

(1) Assist the department in implementing any control measure established under section 1112(c)(1) (relating to powers and duties of department regarding public health).

(2) Consult with and receive approval from the department prior to taking any disease control measure, including the following:

(i) Requiring isolation, quarantine, medical examination, testing or other approved diagnostic procedures.

(ii) Taking any action in response to an individual who refuses to submit to treatment for a contagious disease.

(iii) Releasing an individual from isolation or quarantine.

(iv) Issuing a warning regarding an infectious disease or noninfectious disease.

(v) Posting a sign or notice on a home or other structure warning of the presence of a contagious disease within the structure and the danger from the disease.

(vi) Taking an action regarding an animal quarantine, an animal isolation or the release of an animal from an animal quarantine or animal isolation.

§ 1115. Powers and duties of board.

(a) Promulgation of regulations.--The board may recommend rules and regulations for the department regarding the following:

(1) A reportable disease or condition.

(2) Methods of reporting a reportable disease or condition, including, but not limited to, the following:

(i) The contents of a report.

(ii) Who shall report the disease or condition.

(iii) The local health authorities to whom the disease or condition is to be reported.

(iv) The time and manner in which to report the disease or condition.

(3) Infectious diseases that are subject to isolation, quarantine, animal isolation, animal quarantine or other control measure.

(4) The duration of the periods of isolation, quarantine, animal isolation, animal quarantine or other control measure.

(5) Enforcement of isolation, quarantine, animal isolation, animal quarantine or other control measure.

(6) The vaccination of individuals or animals.

(7) The prevention and control of contagious disease in public and private schools.

(8) The advertisement of treatment, prophylaxis, diagnosis and cure of sexually transmitted infections and the information that physicians must convey to individuals being treated for a sexually transmitted infection in a communicable stage.

(9) Designating a statewide network of licensed clinical laboratories under contract with the department to perform tests for a reportable disease or condition.

(10) Appropriate control measures regarding noninfectious diseases, consistent with this chapter.

(11) Any other matter that the board deems advisable to protect the public health or administer the provisions of this chapter.

(b) Recommendations from department.--The department shall periodically:

(1) Review the board's regulations promulgated under this chapter.

(2) Make recommendations for any changes to the regulations that the department deems advisable.

(c) Advice to department.--The board shall advise the department on matters that the department brings before it.

Note to § 1115

Section 2111 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929 (71 P.S. § 541) provides the following:

Section 2111. Advisory Health Board.--The Advisory Health Board shall have the power, and its duty shall be:

(a) To advise the Secretary of Health on such matters as he may bring before it;

(b) To make such reasonable rules and regulations, not contrary to law, as may be deemed by the board necessary for the prevention of disease, and for the protection of the lives and health of the people of the Commonwealth, and for the proper performance of the work of the Department of Health, and such rules and regulations, when made by the board, shall become the rules and regulations of the department;

*** * ***

(c.1) The Advisory Health Board shall make and from time to time revise a list of such communicable diseases against which children shall be required to be immunized as a condition of attendance at any public, private, or parochial school, including any kindergarten, in the Commonwealth. Such list shall be promulgated by the Secretary of Health along with such rules and regulations as may be necessary to insure that such immunization be timely, effective and properly verified;

(d) To prescribe minimum health activities and minimum standards of performance of health services for counties or other political subdivisions.

§ 1116. Municipal regulations.

A municipality served by a local health authority may promulgate regulations regarding control measures and the protection of the public health only if the regulations are not inconsistent with the provisions of this chapter or the regulations promulgated under this chapter.

Comment to § 1116

A municipality may not promulgate a regulation that is less strict than the provisions of this chapter or this chapter's accompanying regulations. Any municipal regulation that is stricter than this chapter or this chapter's accompanying regulations must still act in concert with the intent of this chapter and this chapter's regulations and must satisfy any other legal or Constitutional requirements.

SUBCHAPTER C

GENERAL PUBLIC HEALTH PROCEDURES

Sec.

1121. Data.

1122. Reporting.

1123. Epidemiologic investigation.

1124. Counseling and referral services.

1125. Public health nuisances.

1126. Searches and inspections.

§ 1121. Data.

(a) Compilation of data.--For purposes of surveillance, the department may collect, analyze and maintain databases of individually identifiable health information and other health information relating to:

(1) Risk factors identified for a reportable disease or condition.

(2) Incidence rates and mortality rates for a reportable disease or condition.

(3) Community indicators relevant to protect the public health.

(4) Any other data needed to accomplish its duties relative to protecting the public health.

(b) Sources and use of information.--

(1) The department may obtain and use information from any of the following:

(i) A Federal, tribal, state or local government agency.

(ii) A health care facility.

(iii) A health care practitioner.

(iv) A pharmacist.

(v) A private or public organization or entity.

(vi) Reports of hospital discharge data.

(vii) Death certificates.

(viii) Other vital statistics.

(ix) Environmental data.

(x) Public information.

(2) The department may request information from or inspect health care records maintained by a health care practitioner that identify patients or characteristics of patients with a reportable disease or condition.

(c) Confidentiality.--

(1) Except as provided in paragraph (3), individually identifiable health information may only be acquired, used, disclosed or stored consistent with Federal and State laws governing confidentiality of individually identifiable health information.

(2) Notwithstanding paragraph (3), health information that is not individually identifiable health information may be acquired, used, disclosed or stored for any purpose or in any manner.

(3) Neither the department nor a local health authority may disclose any report regarding a reportable disease or condition, any record maintained regarding such a report, any other record maintained under this chapter or any regulation promulgated under this chapter to any person who is not an authorized employee or agent of the department or a local health authority unless the disclosure is:

(i) necessary to carry out the purposes of this chapter, if the disclosure is not inconsistent with other law;

(ii) authorized by the department or local health authority for research purposes, subject to strict supervision by the department or local health authority to ensure that the use of the disclosed information is limited to the specific research purpose and will not involve the further disclosure of information that could be determined to be individually identifiable health information; or

(iii) authorized by the department or local health authority to protect the public health in the case of a public health emergency.

Comment to § 1121

The list under subsection (b)(1) is not intended to be exclusive.

This section is intended to be consistent with the disclosures permitted under the Health Insurance Portability and Accountability Act (45 C.F.R. 164.512(b)).

This section is subject to the act of July 5, 2012 (P.L.1042, No.121), known as the Pennsylvania eHealth Information Technology Act.

§ 1122. Reporting.

(a) List of reportable diseases and conditions.--The department shall establish and maintain a list of reportable diseases or conditions and shall:

(1) Classify each reportable disease or condition according to its nature and the severity of its effect on the public health.

(2) Revise, as necessary, the list of reportable diseases or conditions.

(b) Who shall report.--The following shall make a prompt report of an infectious disease or, in the case of an animal, a disorder that could cause harm to another animal or an individual:

(1) A health care practitioner who treats or examines an individual who has or is suspected of having an infectious disease.

(2) A veterinarian who treats or examines an animal that is suffering from, or suspected of having, an infectious disease or a disorder that could cause harm to another animal or an individual.

(3) An individual in charge of a health care facility or clinical laboratory, if there is a diagnosis or confirmation of an infectious disease within the facility or laboratory.

(4) If the following individuals have knowledge or suspicion of an infectious disease:

(i) A health care practitioner or other person licensed to practice in any health-related field under the jurisdiction of the Department of State of the Commonwealth.

(ii) A medical examiner, coroner or funeral director.

(iii) A school authority.

(5) A livestock owner, veterinary diagnostic laboratory director or other person having the care of an animal or group of animals, if the animal or group of animals has or is suspected of having an infectious disease or a disorder that could cause harm to another animal or an individual.

(c) Who may report.--Subject to subsection (b), any person may report an infectious disease.

(d) Method of reporting.--A report under subsection (b) or (c) shall be made in the manner prescribed by regulation of the board to either of the following:

(1) The local health authority serving the municipality where the disease occurs, the subject individual resides or the subject animal is present.

(2) The department, if the municipality is not served by a local health authority.

(e) Reporting by local health authorities.--Upon receipt of a report under subsection (b) or (c), a local health authority shall forward the report to the department.

(f) Standards for reporting.--

(1) A person shall exercise good faith in making a report under this section.

(2) A person required to make a report under subsection (b) shall use ordinary skill in determining the presence of a reportable disease or condition.

Note to § 1122

Current Department of Health regulations divide reportable diseases into various categories based upon a combination of factors, including the nature of the disease (type of communicable or non-communicable disease) and the nature of the reporter (health care practitioner, health care facility, veterinarian, clinical laboratory, or other institution) with most diseases reportable within either 24 hours after identification or 5 work days after identification.

§ 1123. Epidemiologic investigation.

(a) Departmental authority.--The department may:

(1) Investigate a disease through methods of epidemiological investigation,

which may include:

(i) Identifying an individual who has been or may have been exposed to or affected by the disease.

(ii) Interviewing and testing the individual under subparagraph (i).

(iii) Examining a facility or material that may pose a threat to the public health.

(2) With respect to a nonemergency outbreak or epidemic:

(i) Ascertain the existence of the outbreak or epidemic.

(ii) Investigate potential sources of exposure or infection.

(iii) Ensure proper control measures.

(iv) Define the distribution of the outbreak or epidemic.

(3) With respect to a public health emergency:

(i) Ascertain the existence of cases of an infectious disease that may be potential causes or indicators of the public health emergency.

(ii) Investigate all cases identified under subparagraph (i) for sources of exposure or infection.

(iii) Ensure proper control measures.

(iv) Define the distribution of the disease.

(b) Departmental obligations.--To fulfill the duties under subsection (a), the department shall:

(1) Identify all individuals who are believed to have been exposed and who may be a potential cause of the infectious disease, outbreak, epidemic or public health emergency.

(2) Counsel, interview and test the individuals as necessary to assist in the positive identification of those exposed or affected, and develop information relating to the source or spread of the infectious disease.

(3) Close, evacuate or decontaminate any facility or decontaminate or destroy any material or goods when it reasonably believes that the facility, material or goods may endanger investigators, other individuals or the public health.

(c) Testing for cases in dispute.--If the potential public health effects of a disease are unknown or in dispute, the department or a local health authority shall request the necessary testing through a clinical laboratory or other appropriate facility to attempt to resolve the uncertainty as to the public health effects.

§ 1124. Counseling and referral services.

(a) Counseling and referral services program.--The department may establish voluntary and confidential programs for counseling and referral services, which shall be available and easily accessible to any individual with, exposed to or potentially exposed to a contagious disease as determined by the department.

(b) Notification process.--If, during the course of counseling and referral services, an individual discloses the name of another individual with whom the individual has been in contact and who may have also been exposed to the contagious disease, the following apply:

(1) All information disclosed to a counseling and referral services counselor or health care practitioner in the context of the services shall be confidential. Contact names or contact data may be used only for purposes of surveillance, epidemiologic investigation, diagnosis, treatment and notification by the department.

(2) An individual with a contagious disease who voluntarily participates in a counseling and referral services program shall be notified that any identified contacts may be informed of their potential exposure to the contagious disease.

(3) A counseling and referral services counselor may notify a contact after obtaining the informed consent of the individual with the contagious disease who

voluntarily provided the contact's name, unless the counselor reasonably believes that the individual:

(i) does not plan to notify the contact, in which case the counselor may notify the contact without the individual's informed consent; or

(ii) is at a significant risk of harm should notification be made to the contact.

(4) Any disclosure of information about exposure to a contagious disease to a contact by a counseling and referral services counselor shall be made in person, if possible, and in a manner that attempts to protect the privacy of the individual with the contagious disease, as well as the contact.

(5) A counseling and referral services counselor may not disclose:

(i) the name or other individually identifiable health information of the individual who gave the contact's name; or

(ii) the date or period of the contact's exposure.

(6) A counseling and referral services program shall provide counseling, testing, diagnosis, treatment or referral services to an individual with a contagious disease regardless of whether the individual discloses the names of any contact.

(c) Contents of notice.--

(1) If not otherwise notified, a counseling and referral services counselor shall inform a contact of the following:

(i) The nature of the contagious disease.

(ii) Methods of transmission and prevention of the contagious disease.

(iii) Location information for testing or treatment sites, if available.

(iv) The existence of local support groups, mental health services and medical facilities.

(2) If an individual with a contagious disease chooses to notify a contact, a counseling and referral services counselor shall:

(i) Encourage the individual to provide the information set forth in paragraph (1).

(ii) Provide counseling to the individual.

(iii) Use reasonable efforts to verify that the individual actually notified the contact.

(d) Training and evaluation.--A counseling and referral services program shall routinely train and evaluate the performance of counselors and other program personnel to ensure that high quality services are being provided.

§ 1125. Public health nuisances.

(a) Applicability.--Subject to the other laws of this Commonwealth, this section shall govern public health nuisances.

(b) Prohibition.--A person may not create, aggravate or allow the existence of a public health nuisance.

(c) Identification.--The department or a local health authority may immediately and thoroughly investigate any suspected public health nuisance or potential public health nuisance within its jurisdiction when it receives a complaint of the existence of the public health nuisance or potential public health nuisance or there is probable cause to believe that a public health nuisance exists or is about to exist.

(d) General authorization.--If the department or a local health authority determines that there is probable cause that a public health nuisance exists or is about to exist, the department or local health authority may order the public health nuisance or potential public health nuisance to be removed, abated, suspended, altered or otherwise prevented or avoided.

(e) Notice.--Notice of the order under subsection (d) shall:

(1) Identify the department or local health authority issuing the order.

(2) At a minimum, contain the following:

(i) The place, manner, nature and condition of the public health nuisance or potential public health nuisance.

(ii) The name of the person or persons deemed responsible for the public health nuisance or potential public health nuisance.

(iii) The name of the owner or owners of the place where the public health nuisance or potential public health nuisance exists.

(iv) The number of days for compliance with the order.

(v) The remedy sought by the department or local health authority in the case of noncompliance with the order.

(vi) A statement that each listed person or owner may apply to the department or local health authority for a hearing within the time specified for compliance with the order and may request a stay of execution or modification or rescission of the order.

(vii) The signature and contact information of the official providing the notice.

(3) Be accompanied by the dated order of the department or local health authority.

(4) Be served on the person or persons deemed responsible for the public health nuisance or potential public health nuisance and the owner or owners of the place where the public health nuisance or potential public health nuisance exists. If the department or local health authority cannot locate any such person or owner through reasonable efforts, the notice and order shall be served by posting a copy of the notice and order conspicuously for at least ten days at the place where the public health nuisance or potential public health nuisance exists.

(f) Hearing.--

(1) A person or owner under subsection (e) may apply to the department or local health authority for a hearing within the time specified for compliance with the order and may request a stay of execution or modification or rescission of the order. If such an application is made, the department or local health authority shall schedule a hearing and promptly notify all interested parties of the time and place of the hearing.

(2) As a result of the hearing, the department or local health authority may rescind, modify or reaffirm its original order and direct the enforcement of the original, new or modified order.

(g) Appeal.--

(1) A person or owner requesting the hearing under subsection (f) shall be notified of the final order of the department or local health authority and may appeal the final order.

(2) An appeal under this subsection may operate as a supersedeas if the following occurs:

(i) Upon proper cause, the court so orders.

(ii) The person or owner appealing the final order posts bond, approved by the court, for the use of the department or local health authority, with sufficient surety to cover all the expenses and costs of enforcing the final order.

(h) Remedial action.--In the absence of sufficient legal cause, if a person or owner specified under this section refuses or neglects to comply with any order under this section within the specified time, the department or local health authority may cause the public health nuisance or potential public health nuisance to be removed, abated, suspended, altered or otherwise prevented or avoided at the expense of the person or owner. The proportional amount for which the person or owner is responsible shall include the cost and expense of any work, services and materials necessary for the removal, abatement, suspension, alteration, prevention or avoidance of the public health nuisance or potential public health nuisance.

(i) Emergency circumstances.--

(1) If a public health nuisance or potential public health nuisance is known by the department or local health authority, based on probable cause, and poses an immediate threat to an individual's health or safety or the public health, an employee of the department or local health authority may enter the place where the public health nuisance or potential public health nuisance exists without the consent of the owner or custodian of the place and without a search warrant in order to inspect,

investigate and evaluate the public health nuisance or potential public health nuisance.

(2) Notwithstanding the other provisions of this section, if the removal, abatement, suspension, alteration, prevention or avoidance of a public health nuisance or potential public health nuisance requires immediate action by the department or a local health authority, the department or local health authority may order remedial action, pay the costs of such remedial action and seek reimbursement for the proportional amount from the person or persons deemed responsible for the public health nuisance or potential public health nuisance and the owner or owners of the place where the public health nuisance or potential public health nuisance exists. The person or owner may petition the court and seek relief from the remedial action taken by the department or local health authority.

(j) Failure to pay for remedial action.--If a person deemed responsible for a public health nuisance or potential public health nuisance or an owner of the place where the public health nuisance or potential public health nuisance exists refuses to pay or reimburse any cost or expense incurred by the department or local health authority under this section, the cost or expense may be:

(1) assessed against the affected real property as a lien;

(2) collected from rents paid on the real property, pursuant to a court order obtained by the department or local health authority; or

(3) collected in the same manner as personal taxes assessed by the Commonwealth.

(k) Occupancy.--An occupant or other person who caused or permitted a public health nuisance or potential public health nuisance to exist is liable to the owner of the place where the public health nuisance or potential public health nuisance exists for the amount paid by the owner or assessed against the property.

Comment to § 1125

Other laws of this Commonwealth govern circumstances that may constitute a public health nuisance. *See, e.g.*, the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law. This section is not intended to affect the applicability of or procedures under those other laws, regardless of their subject matter.

This section is intended to protect against public health nuisances, where the community as a whole is, or potentially is, affected by a condition, usage, act or failure to act. It is not intended to create a private or individual cause of action against a person. In consultation with the Department of Health, a municipal health authority may alert the public with regard to a public health nuisance or potential public health nuisance if probable cause exists to intervene.

Subsection (d) is not intended to supersede any provision of the Emergency Management Services Code. *See, e.g.*, § 7301(f)(5), which provides that the Governor may direct and compel the evacuation of all or part of the population from a stricken or threatened area within Pennsylvania if the action is necessary for the preservation of life or other disaster mitigation, response or recovery.

§ 1126. Searches and inspections.

(a) General authority.--In the performance of duties under this chapter, an employee or agent of the department or a local health authority may enter the following at any reasonable time to inspect, investigate, evaluate, conduct tests or take specimens or samples for testing:

(1) Upon the consent of the owner or custodian, any property as may be reasonably necessary to determine compliance with the provisions of any law administered by the department or local health authority.

(2) Any public place as may be reasonably necessary to determine compliance with the provisions of any law administered by the department or local health authority.

(3) Consistent with the terms and conditions of a license, any property on which activity is conducted pursuant to the license, as may be reasonably necessary to determine compliance with the terms and conditions of the license.

(b) Search warrant.--

(1) In the performance of duties under this chapter, if an employee or agent of the department or local health authority is denied entry to a property, the employee or agent may, upon oath or affirmation, declare before a court of competent jurisdiction that:

(i) the inspection, investigation, evaluation, testing or taking of specimens or samples for testing is necessary to determine compliance with the provisions of any law administered by the department or local health authority or with the terms and conditions of a license; and

(ii) permission to enter the property has been refused or delayed.

(2) Upon review of a declaration under paragraph (1), the court may issue a search warrant for the property, directed to the proper officer, employee or agent of the department or local health authority. The search warrant shall describe the property that may be searched under authority of the search warrant.

(3) An officer, employee or agent of the department or local health authority armed with the search warrant shall have all the authority of a constable or other peace officer in the execution of the warrant. It shall be unlawful for any person to

refuse or delay admission to any property to any officer, employee or agent of the department or local health authority provided with a search warrant issued under this section.

(4) An officer, employee or agent of the department or local health authority shall take appropriate control measures to ensure that the public health is not adversely affected as the result of the entry upon the property.

(c) Additional authority.-- This section does not limit the authority of the department or a local health authority to conduct a search or inspection of public water or food supplies, restaurants, places of lodging or any other public or private place under existing Federal or State law.

SUBCHAPTER D

IMPLEMENTATION OF CONTROL MEASURES

Sec.

1131. Participation in action or control measure.

1132. Medical examination, testing and other approved diagnostic procedures.

1133. Isolation or quarantine.

§ 1131. Participation in action or control measure.

(a) General rule.--If the department or a local health authority mandates an action or control measure under this chapter, whenever practicable under the circumstances, the department or local health authority shall ensure that the individual subject to the action or control measure is given the opportunity to participate voluntarily in the action or control measure.

(b) Effect on governmental authority.--Notwithstanding subsection (a), the department or local health authority may:

(1) Petition the court to compel an individual to participate in any action or control measure in accordance with this chapter.

(2) Employ public health interventions to eliminate the risk or danger to other individuals or the public health.

§ 1132. Medical examination, testing and other approved diagnostic procedures.

(a) Authorization.--The department or a local health authority may establish and administer procedures regarding the medical examination of, testing of and use of other approved diagnostic procedures on an individual to protect the public health.

(b) Procedural requirements.--Except as otherwise provided in this chapter, in conducting a medical examination or test of or using another approved diagnostic procedure on an individual, the following shall apply:

(1) Except in an emergency, prior to the medical examination, test or other approved diagnostic procedure, the individual or the individual's authorized representative shall provide informed consent to the person conducting the medical examination or test or using the other approved diagnostic procedure. That person shall fully inform the individual or individual's authorized representative of the nature, scope, purpose, benefits, risks and possible results of the medical examination, test or other approved diagnostic procedure.

(2) A valid and reliable method for the medical examination, test or other approved diagnostic procedure shall be available.

(3) The medical examination, test or other approved diagnostic procedure shall be designed to identify the contagious disease that poses a threat to the individual or the public health.

(4) In conjunction with or directly after the dissemination of the results of the medical examination, test or other approved diagnostic procedure to the department or local health authority, the department or local health authority shall inform the individual or the individual's authorized representative of the results of the individual's medical examination, test or other approved diagnostic procedure. If appropriate, the department or local health authority shall inform the individual or the individual's authorized representative of counseling and referral services available under section 1124 (relating to counseling and referral services).

(c) Mandatory examination or testing.--

(1) The department or a local health authority may order an individual to undergo a medical examination, test or other approved diagnostic procedure to determine whether the individual has a contagious disease if the department or local health authority has reasonable grounds to suspect, but lacks confirmatory medical or laboratory evidence, that the individual has a contagious disease.

(2) In its order under paragraph (1), the department or local health authority may specify that the individual be taken by an authorized person, municipal police officer or county sheriff to a particular health care facility to undergo a medical examination, test or other approved diagnostic procedure.

(d) Noncompliance.--If an individual refuses or fails to comply with the order under subsection (c), the procedures under section 1133 (relating to isolation or quarantine) shall govern.

Comment to § 1132

An authorized representative under subsection (b) would include the individual's guardian of the person, agent under a power of attorney, health care agent or health care representative.

Consent is informed if the individual or individual's authorized representative has been given a description of the medical examination, test or other approved diagnostic procedure, along with the risks of and alternatives to the medical examination, test or other approved diagnostic procedure, that a reasonably prudent patient would require to make an informed decision as to that medical examination, test or other approved diagnostic procedure.

§ 1133. Isolation or quarantine.

(a) Authorization.--The department or a local health authority may isolate or quarantine an individual until it is determined that the individual does not have a contagious disease. The isolation or quarantine may occur:

(1) in an institution in this Commonwealth that is appropriate and suitable for the care of the individual in light of the contagious disease;

(2) whether or not the department or local health authority receives a report under section 1122 (relating to reporting); or

(3) if the individual refuses to submit to treatment approved by the department or local health authority.

(b) Temporary isolation or quarantine without court order.--

(1) The department or a local health authority may temporarily isolate or quarantine an individual through a written order if delay in imposing the isolation or

quarantine would significantly jeopardize the ability of the department or local health authority to prevent, control or mitigate the effects of the contagious disease.

(2) The order of the department or local health authority under this subsection shall specify the following:

(i) The identity of the individual subject to the isolation or quarantine.

(ii) The location subject to the isolation or quarantine, which may be a private home or other private or public premises.

(iii) The date and time at which the isolation or quarantine commences.

(iv) The suspected contagious disease that necessitates the isolation or quarantine.

(v) Appropriate instructions or conditions regarding the isolation or quarantine, including provisions for the medical observation of the individual as frequently as necessary during isolation or quarantine. The instructions or conditions shall be given to any person responsible for the care of the individual and to members of the individual's household.

(3) A copy of the order of the department or local health authority under this subsection shall be given to the individual who is subject to the isolation or quarantine.

(4) Subject to subsection (c), the department or local health authority shall petition the court for a court order authorizing the isolation or quarantine of an individual if the individual:

(i) objects to or fails to comply with the order of the department or local health authority, in which case the petition shall be filed within 24 hours of the individual's objection or failure to comply; or

(ii) chooses no longer to voluntarily comply with the order of the department or local health authority, in which case the petition shall be filed within 24 hours of the individual's failure to continue voluntary compliance with the order.

(5) If the department or local health authority orders the isolation or quarantine, the following shall apply:

(i) An isolated individual shall be confined separately from a quarantined individual.

(ii) The health status of an isolated or quarantined individual shall be monitored regularly to determine if the individual continues to require isolation or quarantine.

(iii) The needs of an isolated or quarantined individual shall be addressed in a systematic and competent fashion, including the provision of competent medical care and adequate food, clothing, shelter and communication with other isolated, quarantined, nonisolated or nonquarantined individuals.

(iv) If an individual is isolated or quarantined away from the individual's residence, the department or local health authority shall notify any appropriate entity or agency that the individual has been so isolated or quarantined and may need assistance to assure that the health and safety needs of the individual's dependents are met and that the individual's property and residence are secure.

(v) Any premises used for isolation or quarantine shall be maintained in a safe and hygienic manner and designed to minimize the likelihood of:

(A) further transmission of a contagious disease; or

(B) harm to any isolated or quarantined individual.

(vi) To the extent possible, cultural and religious beliefs shall be respected in addressing the needs of an individual and establishing and maintaining isolation and quarantine premises.

(vii) Upon arrival at an appropriate health care facility, an individual subject to the isolation or quarantine shall be:

(A) Informed of the reasons for the isolation or quarantine and the individual's right to communicate immediately with others. The individual shall be given reasonable use of communication devices.

(B) Requested to furnish the names of other individuals whom the individual wants to be notified of the isolation or quarantine and kept informed of the individual's status. The director of the health care facility shall give notice to the other individuals of the whereabouts and status of the individual, how and when contact may be made, and how to obtain information concerning the individual while in isolation or quarantine.

(viii) A person examining or treating an individual subject to the isolation or quarantine shall instruct the individual about the following:

(A) Measures for preventing reinfection and spread of the contagious disease.

(B) The need for treatment until the individual no longer has the contagious disease.

(ix) An individual subject to the isolation or quarantine may be required to:

(A) complete an appropriate prescribed course of medication, including through directly observed therapy, if appropriate, to treat the contagious disease; or

(B) follow other control measures for the contagious disease.

(x) The department or local health authority may authorize a physician, health care worker or other individual, as necessary, to have access to an isolated or quarantined individual. An individual entering isolation or quarantine premises with or without authorization of the department or local health authority may be isolated or quarantined if necessary to protect the public health.

(xi) The department or local health authority shall keep records of whether or not an individual subject to the order voluntarily complied with the order.

(xii) An order under this subsection shall be enforced in the same manner and have the same effect as a court order.

(c) Isolation or quarantine with court order.--

(1) Notwithstanding 42 Pa.C.S. §§ 761 (relating to original jurisdiction) and 762 (relating to appeals from courts of common pleas), in seeking a court order regarding the isolation or quarantine of an individual, the department or local health authority shall petition the court of common pleas of the judicial district where the individual is present or resides.

(2) A petition under this subsection shall contain the following:

(i) The information under subsection (b)(2).

(ii) The reason that continued isolation or quarantine is necessary.

(iii) If applicable, a request for the individual to undergo a medical examination, test or other approved diagnostic procedure.

(iv) A statement under oath from a health care practitioner specifying the reasons that the individual is suspected of having a contagious disease. The statement shall constitute prima facie evidence that the individual is suspected of having the disease.

(3) Except as provided in paragraph (4), within 24 hours after return of service of a copy of the petition under this subsection, the court shall hold a hearing on the petition to determine whether:

(i) the isolation or quarantine should continue; and

(ii) if applicable, the individual has a valid reason for refusing or failing to undergo a medical examination, test or other approved diagnostic procedure.

(4) In extraordinary circumstances and for good cause shown, the department or a local health authority may request a continuance of the hearing under this subsection for up to five days. The court may grant the continuance only after giving due regard to the rights of each affected individual, the protection of the public health, the severity of the need for isolation or quarantine and other relevant evidence.

(5) A hearing under this subsection shall be held without a jury and on the record. The court may take testimony in person or by teleconference or videoconference.

(6) The department or local health authority shall bear the burden of proof to show, by clear and convincing evidence, that the isolation or quarantine should continue and, if applicable, that the individual refused or failed to submit to the medical examination, test or other approved diagnostic procedure. If that burden is met, the individual shall then bear the burden of proof to show, by clear and convincing evidence, that the individual has a valid reason for refusing to submit to the medical examination, test or other approved diagnostic procedure.

(d) Legal counsel.--

(1) An individual who is subject to a petition under this section is entitled to representation by legal counsel. If the individual is without financial resources or otherwise unable to employ legal counsel, the court shall order that legal counsel be provided for the individual.

(2) If an individual appears without legal counsel at a hearing under this subsection, the court shall determine whether the individual knows of the right to be represented by legal counsel and to be provided with legal counsel, if applicable. The court may continue the hearing to enable the individual to obtain legal counsel.

(3) The department or local health authority shall provide adequate means of communication between the individual and the individual's legal counsel.

(4) If the court appoints legal counsel to represent an individual who is without financial resources or otherwise unable to employ legal counsel, the legal counsel shall be awarded reasonable compensation and reimbursement for expenses necessarily incurred, to be fixed by the court and paid by the county that has jurisdiction over the individual.

(e) Court order.--

(1) The court shall grant the relief requested in the petition under this subsection only based on clear and convincing evidence.

(2) The order of the court may specify that the individual be committed to an appropriate institution in this Commonwealth, including a hospital, suitable for the care and treatment of the individual in light of the contagious disease.

(f) Court-ordered treatment or diagnostic procedures.--

(1) The treatment or medical examination, test or other approved diagnostic procedure ordered by the court for an individual:

(i) May be performed by a health care practitioner or at an appropriate institution, including a hospital, that is chosen by the individual. If the individual chooses the health care practitioner or institution, the individual shall bear the costs associated with the treatment or medical examination, test or other approved diagnostic procedure. If the individual does not choose the health care practitioner or institution, the department or local health authority that filed the petition under this section shall bear the costs associated with the treatment or medical examination, test or other approved diagnostic procedure.

(ii) Shall include an appropriate physical examination and laboratory tests performed in a clinical laboratory approved by the department.

(iii) Shall be conducted in accordance with accepted professional practices.

(2) The results of the medical examination, test or other approved diagnostic procedure shall be reported to the department or local health authority on forms furnished by the department.

(g) Transfer or relocation.--

(1) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious disease, the individual shall promptly be transferred to isolation.

(2) An isolated or quarantined individual may be moved from one location to another when approved by the department or local health authority.

(h) Release.--

(1) If the department or local health authority determines that an individual who is isolated or quarantined under the direction of the department or local health authority no longer presents a public health threat, the department or local health authority shall order the individual released from isolation or quarantine.

(2) Notwithstanding 42 Pa.C.S. §§ 761 and 762:

(i) An isolated or quarantined individual or counsel for that individual may petition the court for an order to show cause why isolation or quarantine should be continued. The petition shall be filed in the court of common pleas of the judicial district where the individual is present or resides.

(ii) Within 48 hours after the filing of the petition and service to the department or local health authority, the court shall rule on the petition. The court may hold a hearing on the petition, which shall be held without a jury and on the record. The court may take testimony in person or by teleconference or videoconference.

(i) Definition.--As used in this section, the term “treatment” as approved by the department or local health authority shall include treatment by a duly accredited practitioner of a well-recognized church or religious denomination that relies on prayer or spiritual means alone for healing, if the treatment complies with all the requirements for sanitation, isolation and quarantine.

Note to § 1133

This section does not provide for a maximum length of time for the isolation or quarantine, nor does it provide for remedies for a breach of a condition concerning the isolation or quarantine. Turning Point, however, does contain such provisions at § 5-108(e)(4)(i) and (f)(1).

Comment to § 1133

An appropriate entity or agency under subsection (b)(5)(iv) could include local law enforcement, the county children and youth social service agency or an adult protective services agency.

Subsection (c) specifies that the court of common pleas, not the Commonwealth Court, has original jurisdiction to consider the petition, and an appeal from an order regarding that petition is properly filed with the Superior Court, not the Commonwealth Court. The Pennsylvania Rules of Civil Procedure cover venue and change of venue (Pa. R.C.P. No. 1006) and service of process (Pa. R.C.P. 400, *et seq.*).

If more than one local health authority is involved in a matter concerning the isolation or quarantine of an individual, the local health authorities involved must consult with and receive approval from the Department of Health prior to requiring the isolation. *See* 28 Pa. Code § 27.61(2). If there is a dispute among local health authorities, the department, as the ultimate decision-maker, must resolve the dispute.

Isolation or quarantine may also apply to a group of individuals, and regulations would need to specify how the statutory requirements for isolation and quarantine under this chapter would apply to a group of individuals. For example, regulations could specify that if a written order of isolation or quarantine applies to a group of individuals and it is impractical to provide each group member with a copy of the order, the order must be posted in a conspicuous place at the location subject to the isolation or quarantine.

SUBCHAPTER E

TRANSMISSION FROM ANIMALS

Sec.

1141. Applicability.

1142. Participation by animal owner.

1143. Medical examination, testing and other approved diagnostic procedures on animals.

1144. Animal isolation or quarantine.

§ 1141. Applicability.

The provisions of 3 Pa.C.S. Ch. 23 (relating to domestic animals) shall govern if this subchapter conflicts with 3 Pa.C.S. Ch. 23 or does not address a situation or procedure involving the transmission of an infectious disease from animals.

§ 1142. Participation by animal owner.

(a) General rule.--If the department or a local health authority mandates an action or control measure under this chapter regarding an animal, whenever practicable under the circumstances, the department or local health authority shall ensure that a person owning the animal is given the opportunity to participate voluntarily in the action or control measure.

(b) Effect on governmental authority.--Notwithstanding subsection (a), the department or local health authority may:

(1) Petition the court to compel a person owning an animal of a defined class to participate in any action or control measure regarding the animal in accordance with this chapter.

(2) Employ public health interventions to eliminate the risk or danger to individuals or the public health.

§ 1143. Medical examination, testing and other approved diagnostic procedures on animals.

(a) Authorization.--The department or a local health authority may establish and administer procedures regarding the medical examination of, testing of and use of other approved diagnostic procedures on an animal to protect the public health.

(b) Procedural requirements.--Except as otherwise provided in this chapter, in conducting a medical examination or test of, or using another approved diagnostic procedure on, an animal, the following shall apply:

(1) Except in an emergency, prior to the medical examination, test or other approved diagnostic procedure, the person owning the animal shall be fully informed of the nature, scope, purpose, benefits, risks and possible results of the medical examination, test or other approved diagnostic procedure.

(2) A valid and reliable method for the medical examination, test or other approved diagnostic procedure shall be available.

(3) The medical examination, test or other approved diagnostic procedure shall identify the infectious disease that poses a threat to an individual or the public health.

(4) In conjunction with or directly after the dissemination of the results of the medical examination, test or other approved diagnostic procedure to the department or local health authority, the department or local health authority shall inform the person owning the animal of the results of the animal's medical examination, test or other approved diagnostic procedure.

(c) Mandatory examination or testing of animal.--

(1) The department or a local health authority may order an animal to be submitted to a medical examination, test or other approved diagnostic procedure to determine whether the animal has an infectious disease if the department or local health authority has reasonable grounds to suspect, but lacks confirmatory medical or laboratory evidence, that the animal has an infectious disease.

(2) In its order under paragraph (1), the department or local health authority may specify that the animal be taken by an authorized person, municipal police officer or county sheriff to a particular facility for a medical examination, test or other approved diagnostic procedure.

(d) Noncompliance.--If a person owning the animal refuses or fails to comply with the order under subsection (c), the procedures under section 1144 (relating to animal isolation or quarantine) shall govern.

§ 1144. Animal isolation or quarantine.

(a) Authorization.--The department or a local health authority may isolate or quarantine an animal or group of animals until it is determined that the animal or each animal in the group is not infected with an infectious disease or that the disease is no longer transmissible to an individual. The animal isolation or animal quarantine may occur:

(1) in a facility in this Commonwealth that is appropriate and suitable for the care of the animal or group of animals in light of the infectious disease;

(2) whether or not the department or local health authority receives a report under section 1122 (relating to reporting); or

(3) if the person owning the animal or group of animals refuses to submit the animal to treatment approved by the department or local health authority.

(b) Temporary animal isolation or quarantine without court order.--

(1) The department or a local health authority may temporarily isolate or quarantine an animal or group of animals through a written order if delay in imposing the animal isolation or animal quarantine would significantly jeopardize the ability of the department or local health authority to prevent, control or mitigate the effects of the infectious disease.

(2) The order of the department or local health authority under this subsection shall specify the following:

(i) The animal or group of animals subject to the animal isolation or animal quarantine.

(ii) The location subject to the animal isolation or animal quarantine, which may be private or public premises.

(iii) The date and time at which the animal isolation or animal quarantine commences.

(iv) The suspected infectious disease that necessitates the animal isolation or animal quarantine.

(v) Appropriate instructions or conditions regarding the animal isolation or animal quarantine, including provisions for the medical observation of the animal or group of animals as frequently as necessary during animal isolation or animal quarantine. The instructions or conditions shall be given to any person

responsible for the care of the animal or group of animals and to the owner of the animal or group of animals.

(3) The following apply:

(i) Subject to subparagraph (ii), a copy of the order of the department or local health authority under this subsection shall be given to any person owning the animal or group of animals that is subject to the animal isolation or animal quarantine.

(ii) If the written order under this subsection applies to a group of persons owning the animal or group of animals and it is impractical to provide each group member with a copy of the order, the order may be posted in a conspicuous place at the location subject to the animal isolation or animal quarantine.

(4) Subject to subsection (c), the department or local health authority shall petition the court for a court order authorizing the animal isolation or animal quarantine if an owner of the animal or group of animals:

(i) objects to or fails to comply with the order of the department or local health authority, in which case the petition shall be filed within 24 hours of the owner's objection or failure to comply; or

(ii) chooses no longer to voluntarily comply with the order of the department or local health authority, in which case the petition shall be filed within 24 hours of the owner's failure to continue compliance with the order.

(5) If the department or local health authority orders the animal isolation or quarantine, the following shall apply:

(i) An isolated animal shall be confined separately from a quarantined animal.

(ii) The health status of an isolated or quarantined animal shall be monitored regularly to determine if the animal continues to require animal isolation or animal quarantine.

(iii) The needs of an isolated or quarantined animal shall be addressed in a systematic and competent fashion, including the provision of competent medical care and adequate food.

(iv) Any premises used for animal isolation or animal quarantine shall be maintained in a safe and hygienic manner and designed to minimize the likelihood of:

(A) transmission of an infectious disease to an individual; or

(B) harm to any isolated or quarantined animal.

(v) A person examining or treating an isolated or quarantined animal or group of animals shall instruct the person owning the animal or group of animals about the following:

(A) Measures for preventing reinfection and spread of the infectious disease.

(B) The need for treatment until the animal or group of animals no longer has the infectious disease.

(vi) An isolated or quarantined animal or group of animals may be required to:

(A) complete an appropriate prescribed course of medication to treat the infectious disease; or

(B) follow other control measures for the infectious disease.

(vii) The department or local health authority may authorize a veterinarian or other individual to access as necessary an isolated or quarantined animal or group of animals. An individual entering isolation or quarantine premises with or without authorization of the department or local health authority may be isolated or quarantined if necessary to protect the public health.

(viii) The department or local health authority shall keep records of whether or not an owner of an animal or group of animals subject to the order voluntarily complied with the order.

(ix) An order under this subsection shall be enforced in the same manner and have the same effect as a court order.

(c) Animal isolation or quarantine with court order.--

(1) Notwithstanding 42 Pa.C.S. §§ 761 (relating to original jurisdiction) and 762 (relating to appeals from courts of common pleas), in seeking a court order regarding animal isolation or animal quarantine of an animal or group of animals, the department or local health authority shall petition the court of common pleas of the judicial district where the animal or group of animals is present.

(2) A petition under this subsection shall contain the following:

(i) The information under subsection (b)(2).

(ii) The reason that continued animal isolation or animal quarantine is necessary.

(iii) If applicable, a request for any person owning the animal or group of animals to submit the animal or group of animals to a medical examination, test or other approved diagnostic procedure.

(iv) A statement under oath from a veterinarian specifying the reasons that the animal or group of animals is suspected of having an infectious disease. The statement shall constitute prima facie evidence that the animal or group of animals is suspected of having the disease.

(3) Except as provided in paragraph (4), within 24 hours after service of a copy of the petition under this subsection, the court shall hold a hearing on the petition to determine whether:

(i) the animal isolation or animal quarantine should continue; and

(ii) if applicable, any person owning the animal or group of animals has a valid reason for refusing or failing to submit the animal or group of animals to a medical examination, test or other approved diagnostic procedure.

(4) In extraordinary circumstances and for good cause shown, the department or a local health authority may request a continuance of the hearing under this subsection for up to five days. The court may grant the continuance only after giving due regard to the rights of each person owning the animal or group of animals, the protection of the public health, the severity of the need for animal isolation or animal quarantine and other relevant evidence.

(5) A hearing under this subsection shall be held without a jury and on the record. The court may take testimony in person or by teleconference or videoconference.

(6) The department or local health authority shall bear the burden of proof to show, by clear and convincing evidence, that the animal isolation or animal quarantine should continue and, if applicable, that any person owning the animal or group of animals refused or failed to submit the animal or group of animals to the

medical examination, test or other approved diagnostic procedure. If that burden is met, the person owning the animal or group of animals shall then bear the burden of proof to show, by clear and convincing evidence, that a valid reason exists for refusing to submit the animal or group of animals to the medical examination, test or other approved diagnostic procedure.

(d) Court order.--

(1) The court shall grant the relief requested in the petition under this subsection only based on clear and convincing evidence.

(2) The order of the court may specify that the animal or group of animals be committed to an appropriate facility in this Commonwealth, suitable for the care and treatment of the animal or group of animals in light of the infectious disease.

(e) Court-ordered treatment or diagnostic procedures on animal.--

(1) The treatment or medical examination, test or other approved diagnostic procedure ordered by the court on an animal or group of animals:

(i) May be performed by a veterinarian or at an appropriate facility, including an animal hospital, that is chosen by any person owning the animal or group of animals. If that person chooses the veterinarian or facility, that person shall bear the costs associated with the treatment or medical examination, test or other approved diagnostic procedure. If that person does not choose the veterinarian or facility, the department or local health authority that filed the petition under this section shall bear the costs associated with the treatment or medical examination, test or other approved diagnostic procedure.

(ii) Shall include an appropriate physical examination and laboratory tests performed in a clinical laboratory approved by the department.

(iii) Shall be conducted in accordance with accepted professional practices.

(2) The results of the medical examination, test or other approved diagnostic procedure shall be reported to the department or local health authority on forms furnished by the department.

(f) Transfer or relocation.--

(1) If a quarantined animal subsequently becomes infected or is reasonably believed to have become infected with an infectious disease, the animal shall promptly be transferred to isolation.

(2) An isolated or quarantined animal may be moved from one location to another when approved by the department or local health authority.

(g) Release.--

(1) If the department or local health authority determines that an animal that is isolated or quarantined under the direction of the department or local health authority no longer presents a public health threat, the department or local health authority shall order the animal released from animal isolation or animal quarantine.

(2) Notwithstanding 42 Pa.C.S. §§ 761 and 762:

(i) A person owning an isolated or quarantined animal or group of animals, or counsel for that person, may petition the court for an order to show cause why animal isolation or animal quarantine should be continued. The petition shall be filed in the court of common pleas of the judicial district where the animal or group of animals is present.

(ii) Within 48 hours after the filing of the petition and service to the department or local health authority, the court shall rule on the petition. The court may hold a hearing on the petition, which shall be held without a jury and on the record. The court may take testimony in person or by teleconference or videoconference.

Note to § 1144

This section does not provide for a maximum length of time for the animal isolation or animal quarantine, nor does it provide for remedies for a breach of a condition concerning the animal isolation or animal quarantine. Turning Point, however, does contain such provisions at § 5-108(e)(4)(i) and (f)(1).

Comment to § 1144

Subsection (c) specifies that the court of common pleas, not the Commonwealth Court, has original jurisdiction to consider the petition, and an appeal from an order regarding that petition is properly filed with the Superior Court, not the Commonwealth Court. The Pennsylvania Rules of Civil Procedure cover venue and change of venue (Pa. R.C.P. No. 1006) and service of process (Pa. R.C.P. 400, *et seq.*).

If more than one local health authority is involved in a matter concerning the isolation or quarantine of an animal or group of animals, the local health authorities involved must consult with and receive approval from the Department of Health prior to requiring the animal isolation or animal quarantine. *See* 28 Pa. Code § 27.61(2). If there is a dispute among local health authorities, the department, as the ultimate decision-maker, must resolve the dispute.

SUBCHAPTER F

(RESERVED)

SUBCHAPTER G
ENFORCEMENT, LIABILITY AND IMMUNITY

Sec.

1161. Apprehension.

1162. Penalties for violation of chapter.

1163. Action for violation of chapter.

1164. Immunity.

1165. Effect on employment.

§ 1161. Apprehension.

(a) Authorization to apprehend.--If an individual who is isolated or quarantined at a particular health care facility leaves the facility without the permission of the medical director of the facility and in violation of any court order, the individual may be apprehended and returned to the facility by a sheriff, constable, law enforcement officer or designated health officer.

(b) Costs.--The department or local health authority that initially ordered the isolation or quarantine of the individual shall bear the costs associated with the apprehension.

(c) Petition for reimbursement.--The department or local health authority may petition the court in a contempt proceeding against the individual for an order for reimbursement of the costs associated with the individual's apprehension.

§ 1162. Penalties for violation of chapter.

(a) Offense defined.--A person, including an employee or agent of the department or a local health authority, commits an offense if the person:

(1) intentionally or knowingly violates or obstructs the execution of any provision of this chapter or any rule or regulation promulgated to implement this chapter; or

(2) violates an order of the court, department or local health authority.

(b) First offense.--A first offense under this section is a misdemeanor of the third degree punishable by a fine not to exceed \$2,500 or imprisonment for a period not to exceed one year, or both.

(c) Subsequent offense.--A second or subsequent offense under this section is a misdemeanor of the second degree punishable by a fine not to exceed \$5,000 or imprisonment for a period not to exceed two years, or both.

(d) Separate offense.--Each offense under subsection (a) shall constitute a separate and actionable offense.

Comment to § 1162

The penalties under this section concern such actions as the failure to report an individual or animal with a specified disease, the improper release of confidential information, the failure to comply with a court order, the failure to provide or forward required information to the department, providing a knowingly false report of a disease, unlawfully entering another person's premises regarding public health nuisances, tampering with samples or test results, not using appropriate testing methods, and providing false samples for testing.

§ 1163. Action for violation of chapter.

(a) Who may commence action.--Any of the following may commence an action for an offense under section 1162 (relating to penalties for violation of chapter) or to enforce compliance with this chapter:

(1) The department.

(2) A local health authority, in consultation with the department.

(3) A district attorney or the Attorney General.

(4) Other appropriate State officials having jurisdiction regarding the matter.

(b) Where action may be commenced.--An action under this section may be commenced in the court of common pleas of the judicial district where the offense is alleged to have occurred.

(c) Order.--The court may order one or more of the following:

(1) A penalty set forth in section 1162.

(2) Compliance with this chapter by a person, including an employee or agent of the department or a local health authority.

(3) Appropriate monetary damages, including costs and attorney fees.

(4) Appropriate equitable relief, including an injunction to prevent noncompliance with this chapter.

(d) Use of damages awarded.--Any fine or monetary damages imposed under this section shall be paid to the plaintiff and used for the purposes of preventing, controlling and mitigating the effects of an infectious disease.

(e) Statute of limitations.--An action under this section is barred unless the action is commenced within three years after the cause of action accrues.

§ 1164. Immunity.

(a) Compliance with chapter.--In the absence of gross negligence or intentional misconduct in complying or attempting to comply with any provision of this chapter or any rule or regulation promulgated to implement this chapter, an employee or agent of

the department, a municipality, a local health authority or a municipal health authority shall not be subject to penalties or liable for damages under this chapter.

(b) Act or omission by other entity.--Except as otherwise provided by law, nothing in this chapter shall be construed to impose liability on the department, a municipality, a local health authority or a municipal health authority for any act or omission of an independent contractor of, or other entity that provides services for or in conjunction with, the department, municipality, local health authority or municipal health authority.

(c) Good faith reporting.--A person making a good faith report of an infectious disease under section 1122 (relating to reporting) shall not be subject to civil or criminal liability for the reporting.

§ 1165. Effect on employment.

(a) Compliance by employee.--As a result of an individual's compliance with an order of isolation or quarantine or with any other control measure under this chapter, the individual's employer may not deprive the individual of employment, seniority position or benefits, or threaten or otherwise coerce the individual with respect to these matters. Nothing in this subsection shall be construed to require the employer to compensate the individual for employment time lost because of any isolation or quarantine.

(b) Offense by employer.--An employer violating subsection (a) commits a summary offense.

(c) Remedies.--If an employer violates subsection (a), the individual may bring a civil action for recovery of wages and benefits lost as a result of the violation and for an order requiring the reinstatement of the individual. Damages recoverable may not exceed

wages and benefits actually lost. If the individual prevails, the individual shall be allowed reasonable attorney fees fixed by the court.

TRANSITIONAL LANGUAGE

Applicability

This act shall apply as follows:

(1) The addition of 35 Pa.C.S. Pt. II shall apply to any activity initiated by an entity subject to the provisions of that part on or after the effective date of that part, subject to the following:

(i) If the activity was initiated under the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955, but is not yet completed by the effective date of 35 Pa.C.S. Pt. II, the appropriate provision of the Disease Prevention and Control Law of 1955 shall govern.

(ii) If the activity is initiated after the effective date of 35 Pa.C.S. Pt. II and a related activity was initiated under the Disease Prevention and Control Law of 1955, 35 Pa.C.S. Pt. II shall govern the activity initiated after the effective date of 35 Pa.C.S. Pt. II.

(2) An activity initiated under the Disease Prevention and Control Law of 1955 shall continue and remain in full force and effect. Resolutions, orders, regulations, rules and decisions which were made under the Disease Prevention and Control Law of 1955 and which were in effect on the effective date of the amendment of 35 Pa.C.S. shall remain in full force and effect until revoked, vacated or modified under 35 Pa.C.S. Contracts, obligations and agreements entered into under the Disease Prevention and Control Law of

1955 are not affected nor impaired by the repeal of the Disease Prevention and Control Law of 1955.

Repeals

Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 35 Pa.C.S. Pt. II.

(2) Sections 3, 4, 5, 7, 11(a.1), (a.2), (a.3), 15, 16, 19(b) and 20 of the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955, are repealed.

(3) The act of May 5, 1897 (P.L.42, No.37), entitled “An act to regulate the employment and provide for the health and safety of persons employed where clothing, cigarettes, cigars and certain other articles are made or partially made, and that said articles be made under clean and healthful conditions,” is repealed insofar as it is inconsistent with this act.

(4) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Effective Date

This act shall take effect in six months.

SOURCE TABLE

This section of the report provides a source table for the proposed legislation, which contain the following abbreviations:

Abbreviation	Act or Code	Official Citation	Purdon's Citation
AC	§ 2111(a) of The Administrative Code of 1929	§ 2111(a) of the act of April 9, 1929 (P.L.177, No.175)	71 P.S. § 541(a)
DPCL	Disease Prevention and Control Law of 1955	Act of April 23, 1956 (1955 P.L.1510, No.500)	35 P.S. §§ 521.1-521.21
HCFA	§ 103 of the Health Care Facilities Act	§ 103 of the act of July 19, 1979 (P.L.130, No.48)	35 P.S. §§ 448.101-448.904b
HIPAA	Health Insurance Portability and Accountability Act of 1996	Pub. L. 104-191, 110 Stat. 136	
MHPA	§§ 115 & 302(c) of the Mental Health Procedures Act	§§ 115 & 302(c) of the act of July 9, 1976 (P.L.817, No.143)	50 P.S. §§ 7115 & 7302(c)
MSEHPA	Model State Emergency Health Powers Act ²²⁵		
TP	Turning Point Model State Public Health Act ²²⁶		
	The County Code	Act of August 9, 1955 (P.L.323, No.130)	16 P.S. §§ 101-2399.73
	The Third Class City Code	Act of June 23, 1931 (P.L.932, No.317)	53 P.S. §§ 35101-39701
	Public Defender Act	Act of December 2, 1968 (P.L.1144, No.358)	16 P.S. §§ 9960.1-9960.13

²²⁵ *Supra* note 16.

²²⁶ *Supra* note 15.

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1101					TP § 5-101(a)
1102	Advanced communication technologies				
	Bioterrorism				TP § 1-102(4); MSEHPA § 104(a)
	Board	2(a)	521.2(a)	27.1	
	Clinical laboratory			27.1	
	Contagious disease				TP § 1-102(9); MSEHPA § 104(c)
	Control measure				
	Department	2(d)	521.2(d)	27.1	
	Disease				
	Epidemic				TP § 1-102(17)
	Health care facility				HCFA § 103
	Health care practitioner			27.1	TP § 1-102(21) (health care provider); HIPAA (45 C.F.R. 160.103)
	Individually identifiable health information				TP § 1-102(24) (identifiable health information)
	Infectious agent			27.1	
	Infectious disease	<i>See 2(c)</i> (communicable disease)	<i>See 521.2(c)</i> (communicable disease)	<i>See 27.1</i> (communic. disease)	TP § 1-102(26); MSEHPA § 104(f)
	Isolation	2(e)	521.2(e)	27.1	TP § 1-102(30)
	Local health authority			27.1	
	Municipal health authority				
	Municipality	2(h)	521.2(h)	27.1	
	Outbreak			27.1	TP § 1-102(16) (disease outbreak)
	Physician			27.1	TP § 1-102(21) (health care provider) <i>Also see 1 Pa.C.S. § 1991</i>
	Public health				TP § 1-102(42)
	Public health emergency				TP § 1-102(45) MSEHPA § 104(m)
	Public health nuisance				TP § 1-102(36)
	Quarantine	2(i)	521.2(i)	27.1	TP § 1-102(53)
Regulation	2(j)	521.2(j)			
Reportable disease	2(k)	521.2(k)			
Surveillance	2(i)(2)	521.2(i)(2)	27.1 (surveillance of disease)		

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1102 (cont'd)	Toxin				TP § 1-102(60)
	Vaccination				TP § 1-102(66)
1103		See 16(c) (2 nd sentence)	See 521.16(c) (2 nd sentence)		
1104					TP § 5-103(e)
1111					TP § 5-101(b)(1)(6); Also see TP § 5-108(b)(1)
1112	(a)-(b)				
	(c)(1)	3(b)	521.3(b)		
	(c)(2)-(3)				
	(c)(4)	4	521.4		
	(c)(5)				
	(c)(6)	4(d) (2 nd sentence)	521.4(d) (2 nd sentence)		
	(d)(1)	3(c) (1 st sentence)	521.3(c) (1 st sentence)		
(d)(2)	3(c) (2 nd sentence)	521.3(c) (2 nd sentence)			
1113	(a)	3(a)	521.3(a)		
	(b)			15.11-15.14	
1114	(1)				
	(2) (introduction)			27.60(c)	
	(2)(i)			27.81 (2 nd sentence); 27.61(1); 27.65(1)	
	(2)(ii)			27.87(a)(ii)	
	(2)(iii)			27.68 (2 nd sentence)	
	(2)(iv)				
	(2)(v)			27.66 (2 nd sentence)	
1115	(a)(1)-(8)	16(a)(1)-(7) & (9)	521.16(a)(1)-(7) & (9)		
	(a)(9)				
	(a)(10)-(11)	16(a)(11)-(12)	521.16(a)(11)-(12)		
	(b)	16(b)	521.16(b)		
	(c)				AC § 2111(a) (71 P.S. § 541(a))
1116		16(c) (1 st sentence)	521.16(c) (1 st sentence)		
1121	(a)				TP § 5-102(a)
	(b)				TP § 5-102(b)
	(c)(1)-(2)				TP § 5-102(c)
	(c)(3)(i)-(ii)	15	521.15	27.5a	
(c)(3)(iii)					
1122	(a)				TP § 5-103(a)(2)-(3)
	(b)(1)	4(a)	521.4(a)		
	(b)(2)			27.24a	

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1122 (cont'd)	(b)(3)-(4)	4(b)	521.4(b)		TP § 5-103(b) (1 st sentence)
	(b)(5)				TP § 5-103(f)(3)
	(c)				TP § 5-103(b) (2 nd sentence)
	(d)	4(a)-(b)	521.4(a)-(b)		
	(e)	4(c)	521.4(c)		
	(f)(1)				
	(f)(2)				TP § 5-103(c) (1 st sentence)
1123	(a)(1)				TP § 5-104(a)
	(a)(2)				TP § 5-104(b)
	(a)(3)				TP § 5-104(c)
	(b)				TP § 5-104(d)
	(c)				TP § 5-103(c) (2 nd sentence)
1124	(a)				TP § 5-105(a)
	(b)(1)				TP § 5-105(b)(1)
	(b)(2)				TP § 5-105(b)(2)
	(b)(3)				TP § 5-105(b)(3)
	(b)(4)				TP § 5-105(b)(4) (1 st sentence)
	(b)(5)				TP § 5-105(b)(4) (2 nd sentence)
	(b)(6)				TP § 5-105(b)(5)
	(c)(1)				TP § 5-105(c) (1 st sentence)
	(c)(2)				TP § 5-105(c) (2 nd sentence)
	(d)				TP § 5-105(d)
1125	(a)				
	(b)				TP § 5-111(a); The County Code; The Third Class City Code
	(c)				TP § 5-111(b); The County Code; The Third Class City Code
	(d)				TP § 5-111(c) (introduction); The County Code; The Third Class City Code
	(e)(1)				
	(e)(2)(i)				TP § 5-111(c)(1); The County Code; The Third Class City Code
	(e)(2)(ii)-(iii)				

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1125 (cont'd)	(e)(2)(iv)				TP § 5-111(c)(2); The County Code; The Third Class City Code
	(e)(2)(v)				TP § 5-111(c)(3); The County Code; The Third Class City Code
	(e)(2)(vi)-(vii)				
	(e)(3)-(4)				
	(f)-(g)				
	(h)				TP § 5-111(c) (introduction); The County Code; The Third Class City Code
	(i)(1)				TP § 5-112(a)(3)
	(i)(2)				TP § 5-111(c)(4); The County Code; The Third Class City Code
	(j)				TP § 5-111(c)(5); The County Code; The Third Class City Code
	(k)				TP § 5-111(c)(6); The County Code; The Third Class City Code
1126	(a)(1)				TP § 5-112(a)(1)
	(a)(2)				TP § 5-112(a)(4)
	(a)(3)				TP § 5-112(b)
	(b)				TP § 5-112(a)(2); 3 Pa.C.S. § 2328
	(c)				TP § 5-112(c)
1131	(a)				TP § 5-101(c)(1)
	(b)(1)				TP § 5-101(c)(2)
	(b)(2)				TP § 5-101(c)(4)
1132	(a)				TP § 5-106(a)
	(b)(1) (1 st sentence)				TP § 5-106(b)(1)
	(b)(1) (2 nd sentence)				TP § 5-106(b)(4)
	(b)(2)				TP § 5-106(b)(2)
	(b)(3)				TP § 5-106(b)(3)
	(b)(4)				TP § 5-106(b)(5)
	(c)(1)	7 (1 st sentence)	521.7 (1 st sentence)	27.81	TP § 5-106(c)
	(c)(2)				
(d)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)		

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1133	(a) (1 st sentence)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)	TP § 5-108(a)
	(a) (2 nd sentence)	11(a.1)	521.11(a.1)	27.61 (introduction); 27.61(3); 27.87(a)	
	(b)(1)				TP § 5-108(d) (introduction)
	(b)(2) (generally)			27.65	TP § 5-108(d)(1)
	(b)(2)(ii)				TP § 5-108(b)(1)
	(b)(2)(v) (2 nd sentence)			27.61(3)	
	(b)(3)				TP § 5-108(d)(2)
	(b)(4)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(b) (1 st sentence)	TP § 5-108(d)(3)
	(b)(5)(i)				TP § 5-108(b)(1)-(2)
	(b)(5)(ii)			27.65	
	(b)(5)(iii)				TP § 5-108(b)(6)
	(b)(5)(iv)				MHPA § 302(c) (50 P.S. § 7302(c))
	(b)(5)(v)-(vi)				TP § 5-108(b)(7)-(8)
	(b)(5)(vii)				MHPA § 302(c) (50 P.S. § 7302(c))
	(b)(5)(viii)				TP § 5-107(a)
	(b)(5)(ix)				TP § 5-107(b)
	(b)(5)(x)				TP § 5-108(c)
	(b)(5)(xi) & (xii)				
	(c)(1)	7 (2 nd sentence); 11(a.2) (1 st sentence)	521.7 (2 nd sentence); 521.11(a.2) (1 st sentence)	27.82 (2 nd sentence); 27.87(b) (1 st sentence)	TP § 5-108(e) (introduction); MHPA § 115 (50 P.S. § 7115)
	(c)(2)(i)-(ii)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)	TP § 5-108(e)(1)
	(c)(2)(iii)	7 (1 st sentence)	521.7 (1 st sentence)	27.81	
	(c)(2)(iv) (1 st sentence)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(b) (2 nd sentence)	
(c)(2)(iv) (2 nd sentence)	7 (5 th sentence)	521.7 (5 th sentence)	27.82(b)(3)		
(c)(3)	7 (3 rd -4 th sentences); 11(a.2) (2 nd sentence)	521.7 (3 rd -4 th sentences); 521.11(a.2) (2 nd sentence)	27.82(b)(1)-(2); 27.87(b)	TP § 5-108(e)(2)	
(c)(4)				TP § 5-108(e)(3)	
(c)(5) ²²⁷	7 (3 rd -4 th sentences); 11(a.2) (2 nd sentence)	521.7 (3 rd -4 th sentences); 521.11(a.2) (2 nd sentence)	27.82(b)(1)-(2); 27.87(b)		

²²⁷ The references in the DPCL, current 35 P.S. and current 28 Pa. Code apply only with respect to the hearing being held without a jury. Other provisions in subsection (c)(5) are not contained in these referenced provisions.

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1133 (cont'd)	(c)(6)				
	(d)				TP § 5-108(f); 42 Pa.C.S. § 6337; Public Defender Act
	(e)(1)	7 (4 th sentence)	521.7 (4 th sentence)	27.82(b)(2)	TP § 5-108(e)(4) (introduction)
	(e)(2)	7 (8 th sentence); 11(a.2) (3 rd sentence)	521.7 (8 th sentence); 521.11(a.2) (3 rd sentence)	27.82(c); 27.87(b) (2 nd sentence)	
	(f)(1)(i) ²²⁸	7 (6 th sentence)	521.7 (6 th sentence)	27.83 (1 st sentence)	
	(f)(1)(ii)-(iii)	7 (7 th sentence)	521.7 (7 th sentence)	27.83 (2 nd sentence)	
	(f)(2)	7 (7 th sentence)	521.7 (7 th sentence)	27.83 (3 rd sentence)	
	(g)(1)				TP § 5-108(b)(4)
	(g)(2)			27.1(ii)	
	(h)(1)			27.68 (1 st sentence)	
	(h)(2)				TP § 5-108(f) (introduction)
	(i)	11(a.3)	521.11(a.3)	27.87(c)	
1141					
1142	(a)				TP § 5-101(c)(1)
	(b)				TP § 5-101(c)(4)
1143	(a)				TP § 5-106(a)
	(b)(1)				TP § 5-106(b)(4)
	(b)(2)				TP § 5-106(b)(2)
	(b)(3)				TP § 5-106(b)(3)
	(b)(4)				TP § 5-106(b)(5)
	(c)(1)	7 (1 st sentence)	521.7 (1 st sentence)	27.81	TP § 5-106(c)
	(c)(2)				
(d)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)		
1144	(a) (1 st sentence)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)	TP § 5-108(a)
	(a) (2 nd sentence)	11(a.1)	521.11(a.1)	27.61 (introduction); 27.61(3); 27.87(a)	
	(b)(1)				TP § 5-108(d) (introduction)
	(b)(2) (generally)			27.65	TP § 5-108(d)(1)
	(b)(2)(ii)				TP § 5-108(b)(1)

²²⁸ The references in the DPCL, current 35 P.S. and current 28 Pa. Code apply only with respect to a medical examination, test or other approved diagnostic procedure, without reference to “treatment.”

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1144 (cont'd)	(b)(2)(v) (2 nd sentence)			27.61(3)	
	(b)(3)				TP § 5-108(d)(2)
	(b)(4)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(b) (1 st sentence)	TP § 5-108(d)(3)
	(b)(5)(i)				TP § 5-108(b)(1)-(2)
	(b)(5)(ii)			27.65	
	(b)(5)(iii)				TP § 5-108(b)(6)
	(b)(5)(iv)				TP § 5-108(b)(7)
	(b)(5)(v)				TP § 5-107(a)
	(b)(5)(vi)				TP § 5-107(b)
	(b)(5)(vii)				TP § 5-108(c)
	(b)(5)(viii) & (ix)				
	(c)(1)	7 (2 nd sentence); 11(a.2) (1 st sentence)	521.7 (2 nd sentence); 521.11(a.2) (1 st sentence)	27.82 (2 nd sentence); 27.87(b) (1 st sentence)	TP § 5-108(e) (introduction); MHPA § 115 (50 P.S. § 7115)
	(c)(2)(i)-(ii)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(a)	TP § 5-108(e)(1)
	(c)(2)(iii)	7 (1 st sentence)	521.7 (1 st sentence)	27.81	
	(c)(2)(iv) (1 st sentence)	7 (2 nd sentence)	521.7 (2 nd sentence)	27.82(b) (2 nd sentence)	
	(c)(2)(iv) (2 nd sentence)	7 (5 th sentence)	521.7 (5 th sentence)	27.82(b)(3)	
	(c)(3)	7 (3 rd -4 th sentences); 11(a.2) (2 nd sentence)	521.7 (3 rd -4 th sentences); 521.11(a.2) (2 nd sentence)	27.82(b)(1)-(2); 27.87(b)	TP § 5-108(e)(2)
	(c)(4)				TP § 5-108(e)(3)
	(c)(5) ²²⁹	7 (3 rd -4 th sentences); 11(a.2) (2 nd sentence)	521.7 (3 rd -4 th sentences); 521.11(a.2) (2 nd sentence)	27.82(b)(1)-(2); 27.87(b)	
	(c)(6)				
	(d)(1)	7 (4 th sentence)	521.7 (4 th sentence)	27.82(b)(2)	TP § 5-108(e)(4) (introduction)
	(d)(2)	7 (8 th sentence); 11(a.2) (3 rd sentence)	521.7 (8 th sentence); 521.11(a.2) (3 rd sentence)	27.82(c); 27.87(b) (2 nd sentence)	
	(e)(1)(i) ²³⁰	7 (6 th sentence)	521.7 (6 th sentence)	27.83 (1 st sentence)	
	(e)(1)(ii)-(iii)	7 (7 th sentence)	521.7 (7 th sentence)	27.83 (2 nd sentence)	

²²⁹ The references in the DPCL, current 35 P.S. and current 28 Pa. Code apply only with respect to the hearing being held without a jury. Other provisions in subsection (c)(5) are not contained in these referenced provisions.

²³⁰ The references in the DPCL, current 35 P.S. and current 28 Pa. Code apply only with respect to a medical examination, test or other approved diagnostic procedure, without reference to “treatment.”

Proposed 35 Pa.C.S. Section	Specific Provision	DPCL Section	Current 35 P.S. Section	Current 28 Pa. Code Section	Other
1144 (cont'd)	(e)(2)	7 (7 th sentence)	521.7 (7 th sentence)	27.83 (3 rd sentence)	
	(f)(1)				TP § 5-108(b)(4)
	(f)(2)			27.1(ii)	
	(g)(1)			27.68 (1 st sentence)	
	(g)(2)				TP § 5-108(f) (introduction)
1161		19(b)	521.19(b)		
1162	(a)-(b)	20(a)	521.20(a)		TP § 8-104(a)-(b)
	(c)				TP § 8-104(c)
	(d)				TP § 8-104(e)
1163	(a)	20(b)	521.20(b)		TP § 8-106
	(b)				
	(c)				TP § 8-105
	(d)	<i>See 20(c)</i>	<i>See 521.20(c)</i>		
	(e)				TP § 8-104(d)
1164	(a)				TP § 8-107 (1 st sentence)
	(b)				TP § 8-107 (2 nd sentence)
	(c)				
1165					<i>See 18 Pa.C.S. § 4957</i>

DISPOSITION TABLE

The following table lists each provision of the Disease Prevention and Control Law of 1955 and its analogous provision in proposed Title 35 of the Pennsylvania Consolidated Statutes. A provision marked with an asterisk (*) is not included in the codification but will be subsequently reviewed by the Advisory Committee.

DPCL Section	Current 35 P.S. Section	Specific DPCL Provision	Proposed 35 Pa.C.S. Section
1	521.1		
2(a)	521.2(a)	Definition of board	1102 Definition of board
2(b)	521.2(b)	Definition of carrier	
2(c)	521.2(c)	Definition of communicable disease	1102 Definition of infectious disease
2(d)	521.2(d)	Definition of department	1102 Definition of department
2(d.1)	521.2(d.1)	Definition of HIV-related test	
2(e)	521.2(e)	Definition of isolation	1102 Definition of isolation
2(f)	521.2(f)	Definition of local board or department of health	1102 Definition of local health authority
2(g)	521.2(g)	Definition of local health officer	
2(h)	521.2(h)	Definition of municipality	1102 Definition of municipality
2(i)	521.2(i)	Definition of quarantine ²³¹	1102 Definition of quarantine
2(j)	521.2(j)	Definition of regulation	
2(k)	521.2(k)	Definition of reportable disease	1102 Definition of reportable disease or condition
2(l)	521.2(l)	Definition of secretary	
3(a)	521.3(a)		1113(a)
3(b)	521.3(b)		1112(c)(1)
3(c)	521.3(c)	1 st sentence	1112(d)(1)
		2 nd sentence	1112(d)(2)
4(a)	521.4(a)		1122(b)(1)
4(b)	521.4(b)		1122(b)(4) & (c)
4(c)	521.4(c)		1122(e)
4(d)	521.4(d)	1 st sentence	1122(b)(4)
		2 nd sentence	1112(c)(6)
5	521.5		See 1111

²³¹ The term “surveillance” in the definition of “quarantine” under the DPCL serves as the basis for the term “monitoring” in the definition of “quarantine” under proposed 35 Pa.C.S. § 1102.

DPCL Section	Current 35 P.S. Section	Specific DPCL Provision	Proposed 35 Pa.C.S. Section
6 ²³²	521.6		
7	521.7	1 st sentence	1132(c)(1) 1133(c)(2)(iii) 1143(c)(1) 1144(c)(2)(iii)
		2 nd sentence	1132(d) 1133(a) (1 st sentence) 1133(b)(4) 1133(c)(1) 1133(c)(2)(i)-(ii) 1143(d) 1144(a) (1 st sentence) 1144(b)(4) 1144(c)(1) 1144(c)(2)(i)-(ii) 1144(c)(2)(iv) (1 st sentence)
		3 rd sentence	1133(c)(3) 1133(c)(4) 1144(c)(3) 1144(c)(4)
		4 th sentence	1133(c)(3) 1133(c)(4) 1133(e)(1) 1144(c)(3) 1144(c)(4) 1144(d)(1)
		5 th sentence	1133(c)(2)(iv) (2 nd sentence) 1144(c)(2)(iv) (2 nd sentence)
		6 th sentence	1133(f)(1)(i) 1144(e)(1)(i)
		7 th sentence	1133(f)(1)(ii)-(iii) 1133(f)(2) 1144(e)(1)(ii)-(iii) 1144(e)(2)
		8 th sentence	1133(e)(2) 1144(d)(2)
8 *	521.8 *		
9 *	521.9 *		
10 *	521.10 *		
11(a) ²³³	521.11(a)		
11(a.1)	521.11(a.1)		1133(a) (2 nd sentence) 1144(a) (2 nd sentence)
11(a.2)	521.11(a.2)	1 st sentence	1133(c)(1) 1144(c)(1)
		2 nd sentence	1133(c)(3) 1133(c)(4) 1144(c)(3) 1144(c)(4)
		3 rd sentence	1133(e)(2) 1144(d)(2)

²³² Section 6 was previously repealed on July 5, 1957 (P.L.495, No.279).

²³³ Section 11(a) was deleted by amendment on Sept. 11, 1959 (P.L.866, No.344).

DPCL Section	Current 35 P.S. Section	Specific DPCL Provision	Proposed 35 Pa.C.S. Section
11(a.3)	521.11(a.3)		1133(j)
11(b)	521.11(b)		
11.1 ²³⁴	521.11a		
12 ²³⁵	521.12		
13 *	521.13 *		
14 *	521.14 *		
14.1 *	521.14a *		
15	521.15		1121(c)(3)(i)-(ii)
16(a)(1)-(9), (11) & (12) ²³⁶	521.16(a)(1)-(9), (11) & (12)		1115(a)(1)-(9), (11) & (12)
16(b)	521.16(b)		1115(b)
16(c)	521.16(c)	1 st sentence	1116
		2 nd sentence	See 1103
17	521.17		
18	521.18		
19(a)	521.19(a)		
19(b)	521.19(b)		1161
19(c)	521.19(c)		
20(a)	521.20(a)		1162
20(b)	521.20(b)		1163(a)
20(c)	521.20(c)		See 1163(d)
21			
22			

²³⁴ Section 11.1 was repealed on October 25, 2012 (P.L.1630, No.201) by the HIV-Related Testing for Sex Offenders Act.

²³⁵ Section 12 was repealed on June 25, 1997 (P.L.331, No.35).

²³⁶ Paragraph (10) was repealed on July 5, 1957 (P.L.495, No.279).

DISEASE PREVENTION AND CONTROL LAW OF 1955

AN ACT

Providing for the prevention and control of communicable and non-communicable diseases including venereal diseases, fixing responsibility for disease prevention and control, requiring reports of diseases, and authorizing treatment of venereal diseases, and providing for premarital and prenatal blood tests; amending, revising and consolidating the laws relating thereto; and repealing certain acts. (Title amended July 5, 1957, P.L.495, No.279)

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Section 20.	Penalties, Prosecutions and Disposition of Fines.
Section 21.	Specific Repeals.
Section 22.	General Repealer.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.

This act shall be known and may be cited as the “Disease Prevention and Control Law of 1955.”

Section 2. Definitions.

The following terms, whenever used in this act, have the meanings indicated in this section, except where the context indicates a clearly different meaning:

(a) Board. The State Advisory Health Board.

(b) Carrier. A person who, without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

(c) Communicable Disease. An illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a well person from an infected person, animal or arthropod, or through the agency of an intermediate host, vector of the inanimate environment.

(d) Department. The State Department of Health.

(d.1) HIV-related test. Any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection. ((d.1) added Sept. 29, 1994, P.L.516, No.75)

(e) Isolation. The separation for the period of communicability of infected persons or animals from other persons or animals in such places and under such conditions as will prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.

(f) Local board or department of health. The board of health or the department of public health of a city, borough, incorporated town or township of the first class, or a county department of health, or joint county department of health.

(g) Local health officer. The head of a local department of health.

(h) Municipality. A city, borough, incorporated town or township.

(i) Quarantine. The limitation of freedom of movement of persons or animals who have been exposed to a communicable disease for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent effective contact with those not so exposed. Quarantine may be complete, or, as defined below, it may be modified, or it may consist merely of surveillance or segregation.

(1) Modified quarantine is a selected, partial limitation of freedom of movement, determined on the basis of differences in susceptibility or danger of disease transmission, which is designed to meet particular situations. Modified quarantine includes, but is not limited to, the exclusion of children from school and the prohibition or the restriction of those exposed to a communicable disease from engaging in particular occupations.

(2) Surveillance is the close supervision of persons and animals exposed to a communicable disease without restricting their movement.

(3) Segregation is the separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease.

(j) Regulation. Any rule or regulation issued by the board, or any ordinance, rule or regulation enacted or issued by any municipality or county department of health, or joint county department of health, pursuant to this act.

(k) Reportable disease. (a) Any communicable disease declared reportable by regulation; (b) any unusual or group expression of illness which, in the opinion of the secretary, may be a public health emergency; and (c) such non-communicable diseases and conditions for which the secretary may authorize reporting to provide data and information which, in the opinion of the Advisory Health Board, are needed in order effectively to carry out those programs of the department designed to protect and promote the health of the people of the Commonwealth, or to determine the need for the establishment of such programs.

(l) Secretary. The State Secretary of Health.

Section 3. Responsibility for Disease Prevention and Control.

(a) Local boards and departments of health shall be primarily responsible for the prevention and control of communicable and non-communicable disease, including disease control in public and private schools, in accordance with the regulations of the board and subject to the supervision and guidance of the department.

(b) The department shall be responsible for the prevention and control of communicable and non-communicable disease in any municipality which is not served by a local board or department of health, including disease control in public and private schools.

(c) If the secretary finds that the disease control program carried out by any local board or department of health is so inadequate that it constitutes a menace to the health of the people within or without the municipalities served by the local board or department of health, he may appoint agents of the department to supervise or to carry out the disease control program of the particular local board or department of health until he determines that the menace to the health of the people no longer exists and that the local board or department of health is able to carry out an adequate disease control program. The secretary shall require that any reasonable expenses incident to the administration of a local disease control program under this subsection, which are incurred by the department, shall be paid to the State by the local board or department of health or by the municipalities or counties which it serves.

Section 4. Reports.

(a) Every physician who treats or examines any person who is suffering from or who is suspected of having a communicable disease, or any person who is or who is suspected of being a carrier, shall make a prompt report of the disease in the manner prescribed by regulation to the local board or department of health which serves the municipality where the disease occurs or where the carrier resides or to the department if so provided by regulation.

(b) The department or local boards or departments of health may require the heads of hospitals and other institutions, the directors of laboratories, school authorities, the

proprietors of hotels, roentgenologists, lodging houses, rooming houses or boarding houses, nurses, midwives, householders, and other persons having knowledge or suspicion of any communicable disease, to make a prompt report of the disease in a manner prescribed by regulation to the local board or department of health which serves the municipality where the disease occurs, or to the department if so provided by regulation.

(c) Local boards or departments of health shall make reports of the diseases reported to them to the department at such times and in such manner as shall be provided for by regulation.

(d) Every physician or every person in charge of any institution for the treatment of diseases shall be authorized, upon request of the secretary, to make reports of such diseases and conditions other than communicable diseases which in the opinion of the Advisory Health Board are needed to enable the secretary to determine and employ the most efficient and practical means to protect and to promote the health of the people by the prevention and control of such diseases and conditions other than communicable diseases. The reports shall be made upon forms prescribed by the secretary and shall be transmitted to the department or to local boards or departments of health as requested by the secretary.

Section 5. Control Measures.

Upon the receipt by a local board or department of health or by the department, as the case may be, of a report of a disease which is subject to isolation, quarantine, or any other control measure, the local board or department of health or the department shall carry out the appropriate control measures in such manner and in such place as is provided by rule or regulation.

Section 6. Financial Assistance to Typhoid Fever Carriers and to Persons Subject to Isolation and Quarantine. (6 repealed July 5, 1957, P.L.495, No.279)

Section 7. Examination and Diagnosis of Persons Suspected of Being Infected with Venereal Disease, Tuberculosis or any other Communicable Disease, or of Being a Carrier.

Whenever the secretary or a local qualified medical health officer has reasonable grounds to suspect any person of being infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, he shall require the person to undergo a medical examination and any other approved diagnostic procedure, to determine whether or not he is infected with a venereal disease, tuberculosis or any other communicable disease, or is a carrier. In the event that the person refuses to submit to the examination, the secretary or the local qualified medical health officer may (1) cause the person to be quarantined until it is determined that he is not infected with a venereal disease, tuberculosis or any other communicable disease, or of being a carrier, or (2) file a petition in the court of common pleas of the county in which the person is present, which petition shall have appended thereto a statement, under oath, by a physician duly licensed to practice in the Commonwealth, that such person is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is suspected of being a carrier. Upon filing of such petition, the court shall, within

twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to an examination to determine whether he or she is infected with venereal disease, tuberculosis or any other communicable disease, or that such person is a carrier. Upon a finding that the person has refused to submit to such examination and that there was no valid reason for such person so to do, the court shall forthwith order such person to submit to the examination. The certificate of the physician appended to the petition shall be received in evidence and shall constitute prima facie evidence that the person therein named is suspected of being infected with venereal disease, tuberculosis or any other communicable disease, or that such person is a carrier. The examination ordered by the court may be performed by a physician of his own choice at his own expense. The examination shall include physical and laboratory tests performed in a laboratory approved by the secretary, and shall be conducted in accordance with accepted professional practices, and the results thereof shall be reported to the local health board or health department on forms furnished by the Department of Health. Any person refusing to undergo an examination, as herein provided, may be committed by the court to an institution in this Commonwealth determined by the Secretary of Health to be suitable for the care of such cases.

(7 amended Sept. 11, 1959, P.L.865, No.343)

Section 8. Venereal Disease.

(a) Any person taken into custody and charged with any crime involving lewd conduct or a sex offense, or any person to whom the jurisdiction of a juvenile court attaches, may be examined for a venereal disease by a qualified physician appointed by the department or by the local board or department of health or appointed by the court having jurisdiction over the person so charged.

(b) Any person convicted of a crime or pending trial, who is confined in or committed to any State or local penal institution, reformatory or any other house of correction or detention, may be examined for venereal disease by a qualified physician appointed by the department or by the local board or department of health or by the attending physician of the institution, if any.

(c) Any such persons noted in paragraph (a) or (b) of this section found, upon such examination, to be infected with any venereal disease shall be given appropriate treatment by duly constituted health authorities or their deputies or by the attending physician of the institution, if any.

(8 amended Sept. 11, 1959, P.L.868, No.345)

Section 9. Diagnosis and Treatment of Venereal Disease.

(a) Except as provided in subsection (b) of this section, the department shall provide or designate adequate facilities for the free diagnosis, including blood and other tests, of venereal disease and for the free treatment of persons infected with venereal disease when necessary for the preservation of the public health.

(b) Upon approval of the department, any local board or department of health may undertake to share the expense of furnishing free diagnosis and free treatment of venereal disease, or the local board or department of health may take over, entirely or in part, the

furnishing of free diagnosis and free treatment of venereal disease with or without financial assistance from the department.

Section 10. Sale of Drugs for Venereal Diseases.

The sale of drugs or other remedies for the treatment of venereal disease is prohibited, except under prescription of physicians licensed to practice in this Commonwealth.

Section 11. Persons Refusing to Submit to Treatment for Venereal Diseases, Tuberculosis or Any Other Communicable Disease. (Hdg. amended Sept. 11, 1959, P.L.866, No.344)

(a) ((a) deleted by amendment Sept. 11, 1959, P.L.866, No.344)

(a.1) If the secretary or any local health officer finds that any person who is infected with venereal disease, tuberculosis or any other communicable disease in a communicable stage refuses to submit to treatment approved by the department or by a local board or department of health, the secretary or his representative or the local medical health officer may cause the person to be isolated in an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until the disease has been rendered non-communicable. ((a.1) added Sept. 11, 1959, P.L.866, No.344)

(a.2) The secretary or the local health officer may file a petition in the court of common pleas of the county in which the person is present to commit such person to an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until such time as the disease has been rendered non-communicable. Upon filing of such petition, the court shall, within twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to treatment. Upon a finding that the person has refused to submit to such treatment, the court shall forthwith order such person to be committed to an appropriate institution or hospital designated by the department or by the local board or department of health. ((a.2) added Sept. 11, 1959, P.L.866, No.344)

(a.3) For the purpose of this section, it is understood that treatment approved by the department or by a local board or department of health shall include treatment by a duly accredited practitioner of any well recognized church or religious denomination which relies on prayer or spiritual means alone for healing: Provided, however, That all requirements relating to sanitation, isolation or quarantine are complied with. ((a.3) added Sept. 11, 1959, P.L.866, No.344)

(b) Any county jail or other appropriate institution may receive persons who are isolated or quarantined by the department or by a local board or department of health by reason of a venereal disease for the purpose of safekeeping and treatment. The department or the local board or department of health shall reimburse any institution which accepts such persons at the rate of maintenance that prevails in such institution, and shall furnish the necessary medical treatment to the persons committed to such institution.

Section 11.1. Human Immunodeficiency Virus (HIV) Testing of Certain Convicted Offenders. (11.1 repealed Oct. 25, 2012, P.L.1630, No.201)

Section 12. Premarital Examination for Syphilis. (12 repealed June 25, 1997, P.L.331, No.35)

Section 13. Prenatal Examination for Syphilis.

(a) Every physician who attends, treats or examines any pregnant woman for conditions relating to pregnancy, during the period of gestation or at delivery, shall take or cause to be taken, unless the woman dissents, a sample of blood of such woman at the time of first examination, or within fifteen days thereof, and shall submit the sample to an approved laboratory for an approved serological test for syphilis. All other persons permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall, unless the woman dissents, likewise cause a sample of the blood of every such pregnant woman attended by them to be taken by a physician licensed to practice in this Commonwealth and submit it to an approved laboratory for an approved serological test. In the event of dissent, it shall be the duty of the physician to explain to the pregnant woman the desirability of such a test. The serological test required by this section shall be made, without charge by the department, upon the request of the physician submitting the sample, if he submits a certificate that the patient is unable to pay.

(b) In reporting every birth and fetal death, physicians and others required to make such reports shall state upon the certificate whether or not the blood test required by this section was made. If the test was made, the date of the test shall be given. If the test was not made, it shall be stated whether it was not made because, in the opinion of the physician, the test was not advisable or because the woman dissented.

Section 14. Diagnostic Tests for Venereal Diseases.

For the purpose of this act, a standard or approved test procedure for each of the venereal diseases shall be a test approved by the department, and if a laboratory test is part of the approved procedure, it shall be made in a laboratory approved to make such tests by the department.

Section 14.1. Treatment of Minors.

Any person under the age of twenty-one years infected with a venereal disease may be given appropriate treatment by a physician. If the minor consents to undergo treatment, approval or consent of his parents or persons in loco parentis shall not be necessary and the physician shall not be sued or held liable for properly administering appropriate treatment to the minor.

(14.1 added Dec. 1, 1971, P.L.590, No.156)

Section 15. Confidentiality of Reports and Records.

State and local health authorities may not disclose reports of diseases, any records maintained as a result of any action taken in consequence of such reports, or any other records maintained pursuant to this act or any regulations, to any person who is not a member of the department or of a local board or department of health, except where necessary to carry out the purposes of this act. State and local health authorities may

permit the use of data contained in disease reports and other records, maintained pursuant to this act, or any regulation, for research purposes, subject to strict supervision by the health authorities to insure that the use of the reports and records is limited to the specific research purposes.

Section 16. Rules and Regulations.

(a) The Board may issue rules and regulations with regard to the following:

(1) the communicable and non-communicable diseases, which are to be reportable;

(2) the methods of reporting of diseases, the contents of reports and the health authorities to whom diseases are to be reported;

(3) the communicable diseases which are to be subject to isolation, quarantine, or other control measures;

(4) the duration of the periods of isolation and quarantine;

(5) the enforcement of isolation quarantine and other control measures;

(6) the immunization and vaccination of persons and animals;

(7) the prevention and control of disease in public and private schools;

(8) the regulation of carriers;

(9) The advertisement of treatment, prophylaxis, diagnosis, and cure of venereal diseases and the information which physicians must convey to persons being treated for a venereal disease in a communicable stage;

(10) ((10) repealed July 5, 1957, P.L.495, No.279)

(11) the prevention and control of non-communicable diseases; and

(12) any other matters it may deem advisable for the prevention and control of disease and for carrying out the provisions and purposes of this act.

(b) The Secretary shall, from time to time, review the rules and regulations and make recommendations to the Board for any changes which he deems advisable.

(c) Municipalities which have boards or departments of health or county departments of health may enact ordinances or issue rules and regulations relating to disease prevention and control, which are not less strict than the provisions of this act or the rules and regulations issued thereunder by the board. Local ordinances, rules or regulations relating to disease prevention and control, which are in effect on the effective date of this act, shall not be deemed to be repealed, unless they are less strict than the provisions of this act or the rules and regulations issued thereunder by the board.

Section 17. Saving Clause.

The provisions of this act, so far as they are the same as those of acts repealed by this act, are intended as a continuation of such acts and not as new enactments. The provisions of this act shall not affect anything done or any right accrued, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense, under the authority of any act repealed by this act. All rules and regulations issued by the board pursuant to any act repealed by this act shall continue, until changed, with the same force and effect as if such acts had not been repealed.

Section 18. Severability.

If any provision of this act or the application of any provision to particular circumstances is held invalid, the remainder of the act or the application of such provision to other circumstances shall not be affected.

Section 19. Penalties, Prosecutions and Disposition of Fines.

(a) Any person afflicted with communicable tuberculosis, quarantined or caused to be quarantined in a State institution, who leaves without the consent of the medical director of the institution, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or undergo imprisonment for not less than thirty days nor more than six months, or both.

(b) Any person afflicted with communicable tuberculosis, quarantined or caused to be quarantined under the provisions of this act in a State institution, who leaves without the consent of the medical director of the institution may be apprehended and returned thereto by any sheriff, constable or police officer or any health officer, at the expense of the county.

(c) Whoever delivers, or causes to be delivered, any alcoholic or other intoxicating or narcotic substance to any patient in any State sanatoria used for the treatment of tuberculosis without the knowledge of the medical director thereof, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or to undergo imprisonment for not less than fifteen days nor more than three months, or both.

Section 20. Penalties, Prosecutions and Disposition of Fines.

(a) Any person who violates any of the provisions of this act or any regulation shall, for each offense, upon conviction thereof in a summary proceeding before any magistrate, alderman or justice of the peace in the county wherein the offense was committed, be sentenced to pay a fine of not less than twenty-five dollars (\$25) and not more than three hundred dollars (\$300), together with costs, and in default of payment of the fine and costs, to be imprisoned in the county jail for a period not to exceed thirty (30) days.

(b) Prosecutions may be instituted by the department, by a local board or department of health or by any person having knowledge of a violation of any provisions of this act or any regulation.

(c) Any fine imposed for a violation occurring in a municipality which has its own local board or department of health shall be paid to the municipality. Any fine imposed for a violation occurring in a municipality served by a county department of health shall be paid to the county wherein the offense was committed. All other fines shall be paid into the General Fund of the Commonwealth. This disposition of fines shall be controlling regardless of the party instituting the prosecution.

Section 21. Specific Repeals.

The following acts and all amendments thereto are hereby repealed absolutely:

(1) The act, approved the first day of April, one thousand eight hundred thirty-four (Pamphlet Laws 161), entitled “An act to protect the citizens of this Commonwealth from injuries arising from Mad Dogs running at large.”

(2) The act, approved the fifth day of June, one thousand nine hundred thirteen (Pamphlet Laws 443), entitled “An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants) by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof.”

(3) The act, approved the twenty-sixth day of April, one thousand nine hundred twenty-one (Pamphlet Laws 299), Act No. 150, entitled “An act requiring the examination and treatment for venereal diseases of prisoners convicted of crime or pending trial, and authorizing the State Department of Health to make suitable rules and regulations for its enforcement.”

(4) The act, approved the sixteenth day of May, one thousand nine hundred twenty-one (Pamphlet Laws 636), entitled “A supplement to an act, approved the twenty-second day of June, one thousand eight hundred and ninety-one (Pamphlet Laws three hundred and seventy-nine), entitled ‘An act to provide for the selection of a site and the erection of a State asylum for the chronic insane, to be called the State Asylum for the Chronic Insane of Pennsylvania, and making an appropriation therefor;’ providing for the quarantine, and for the reception, detention, care, and treatment, at said asylum, of persons suffering with syphilis, and for their commitment thereto; and providing for the payment of the cost of commitment, care, and maintenance of such persons, in the same manner as insane persons.”

(5) The act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled “An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties.”

(6) The act, approved the twenty-fourth day of March, one thousand nine hundred twenty-seven (Pamphlet Laws 60), entitled “An act to amend sections nine and ten of the act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties.’”

(7) The act, approved the twentieth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 751), entitled “An act to amend sections one, two, three and section nine, as amended, of the act, approved the twenty-eighth day of June, one thousand nine hundred twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection

therefrom; and prescribing penalties,' by eliminating lists of communicable diseases, and giving authority to the Department of Health to declare by regulation what diseases are communicable or communicable and quarantinable; shortening reports required of physicians in such cases; clarifying the duration of placarding; and empowering the Department of Health to obtain additional information from local health authorities."

(8) The act, approved the fifteenth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 363), entitled "An act to amend sections two, three, four and six of the act, approved the fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws 443), entitled 'An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants) by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof,' by imposing duties on public health nurses, social workers, county medical directors and physicians and increasing penalties for violation of said act."

(9) The act approved the twenty-fourth day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 808), entitled "An act for the prevention of congenital syphilis; providing for and regulating the taking of serological tests of certain women pregnant with child and requiring notation thereof on the birth and still-birth certificates of their children; imposing duties upon the Department of Health and upon physicians and other persons attending women pregnant with child and imposing penalties."

(10) The act approved the eleventh day of April, one thousand nine hundred forty-five (Pamphlet Laws 203), entitled "An act to provide assistance for typhoid fever carriers and persons having typhoid fever carriers in their households and imposing certain responsibilities upon the Secretary of Health, the Secretary of Public Assistance, and the Secretary of Welfare in connection therewith."

(11) The act, approved the sixteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 577), entitled "An act for the prevention, control and cure of venereal diseases by requiring certain persons to submit to physical examination and blood tests; providing for the treatment of certain persons; requiring reports to be made to the State Department of Health; imposing duties upon and authorizing and directing the Secretary of Health to make rules and regulations, and to disseminate certain information; regulating the advertisement and restricting the sale of certain drugs and remedies and imposing penalties."

(12) The act, approved the eighth day of May, one thousand nine hundred forty-seven (Pamphlet Laws 177), entitled "An act to amend section two of the act, approved the eleventh day of April, one thousand nine hundred forty-five (Pamphlet Laws 203), entitled 'An act to provide assistance for typhoid fever carriers and persons having typhoid fever carriers in their households and imposing certain responsibilities upon the Secretary of Health, the Secretary of Public Assistance, and the Secretary of Welfare, in connection therewith,' by fixing the date on which financial assistance shall begin."

(13) The act, approved the tenth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 491), entitled "An act to amend section five of the act, approved the sixteenth day of May, one thousand nine hundred forty-five (Pamphlet

Laws 577), entitled ‘An act for the prevention, control and cure of venereal diseases by requiring certain persons to submit to physical examination and blood tests; providing for the treatment of certain persons; requiring reports to be made to the State Department of Health; imposing duties upon and authorizing and directing the Secretary of Health to make rules and regulations, and to disseminate certain information; regulating the advertisement and restricting the sale of certain drugs and remedies and imposing penalties,’ authorizing county jails to receive persons under quarantine, and providing for reimbursement by the Commonwealth.”

(14) The act, approved the twenty-fourth day of August, one thousand nine hundred fifty-one (Pamphlet Laws 1333), entitled “An act to amend sections one, two, three and five of the act, approved the fifth day of June, one thousand nine hundred and thirteen (Pamphlet Laws 443), entitled ‘An act for the prevention of blindness, by requiring the reporting of cases of ophthalmia neonatorum (inflammation of the eyes of infants) by physicians, midwives and others, and requiring the reporting of results of treatment of each case of said disease, and fixing a penalty for violation thereof,’ by adding county departments of health or joint-county departments of health to the health authorities to which cases of ophthalmia neonatorum must be reported.”

(15) The act, approved the twenty-sixth day of September, one thousand nine hundred fifty-one (Pamphlet Laws 1499), entitled “An act to amend sections one and two, as amended, sections four, five, six, seven and eight, and sections nine and ten, as amended, of the act, approved the twenty-eighth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws 888), entitled ‘An act to safeguard human life and health throughout the Commonwealth by providing for the reporting, quarantining, and control of diseases declared communicable by this act or by regulation of the Department of Health; providing for the prevention of infection therefrom; and prescribing penalties,’ by changing the method of approval of communicable disease regulations by the advisory health board, and by adding counties which have established a county department of Health or joint-county department of health to the political subdivisions required or empowered to perform certain duties relating to the reporting, quarantining, and control of diseases declared communicable by law or regulation.”

Section 22. General Repealer.

All other acts and parts of acts inconsistent herewith are hereby repealed.

SELECT HEALTH AND SAFETY REGULATIONS: TITLE 28 OF THE PENNSYLVANIA CODE

Chapter 15. State Aid to Local Health Departments

§ 15.11. Minimum public health programs.

Local health departments²³⁷ shall provide public health programs in the following areas: administrative and supportive services; personal health services; and environmental health services.

§ 15.12. Administrative and supportive services.

Administrative and supportive services shall include, but need not be limited to, the following: administration and program direction; budget; accounting; personnel administration including merit system supervision; public health education, public health statistics, public health laboratory services. Administrative staff shall include a director and necessary professional, technical and clerical personnel.

§ 15.13. Personal health services.

Personal health services shall include, but need not be limited to the following: chronic disease; communicable disease control, including tuberculosis control and venereal disease control; maternal and child health services; and public health nursing services.

§ 15.14. Environmental health services.

Environmental health services shall include, but need not be limited to, the following: food protection, water supply, water pollution control, bathing places, vector control, solid wastes, institutional environment, recreational environment and housing environment.

²³⁷ A “local health department” is “[a] county health department created pursuant to the [Local Health Administration Law, *supra* note 49] or the health department or board of health of any municipality entitled to receive Commonwealth grants under the [Local Health Administration Law].” 28 Pa. Code § 15.1.

Chapter 27. Communicable and Noncommunicable Diseases

§ 27.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ACIP—The Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

AIDS (Acquired Immune Deficiency Syndrome)—As defined by the CDC case definition published in the CDC *Morbidity and Mortality Weekly Report* (MMWR). (The Department will publish in the Pennsylvania Bulletin a reference to a CDC update of the case definition within 30 days of its publication in the MMWR).

Act—The Disease Prevention and Control Law of 1955 (35 P.S. §§ 521.1—521.21).

Anonymous HIV Testing—HIV testing performed at a State-designated HIV testing site for an individual who chooses not to provide his name in giving consent for the testing.

Board—The Advisory Health Board of the Department.

CDC—Centers for Disease Control and Prevention.

Caregiver—The entity or individual responsible for the safe and healthful care or education of a child in a child care group setting.

Carrier—A person who, without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

Case—A person or animal that is determined to have or suspected of having a disease, infection or condition.

Case report form—The form designated by the Department for reporting a case or a carrier.

Central office—Department headquarters located in Harrisburg.

Child—A person under 18 years of age.

Child care group setting—The premises in which care is provided at any one time to four or more children, unrelated to the operator.

Clinical laboratory—A laboratory for which a permit has been issued to operate as a clinical laboratory under the Clinical Laboratory Act (35 P.S. §§ 2151—2165).

Communicable disease—An illness which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

Communicable period—The time during which an etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

Confidential HIV testing—HIV testing performed for an individual who, in giving his consent for the testing, provides his name and other personal or demographic identifiers.

Contact—A person or animal known to have had an association with an infected person or animal which presented an opportunity for acquiring the infection.

County morbidity reporting area—A county so designated by the Board wherein initial reports for communicable and noncommunicable diseases are to be reported to the State health center of the Department.

Department—The Department of Health of the Commonwealth.

District office—One of the district headquarters of the Department located within this Commonwealth.

FDA—Food and Drug Administration.

HIV services—The range of services, including prevention, counseling, testing, treatment, case management, support and referral services, which are provided to persons infected with or affected by HIV or AIDS, and are intended to alleviate physical and psychosocial problems created by these diseases and conditions.

Health care facility—

(i) A chronic disease, or other type of hospital, a home health care agency, a hospice, a long-term care nursing facility, a cancer treatment center using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a birth center, and an inpatient drug and alcohol treatment facility, regardless of whether the health care facility is operated for profit, nonprofit or by an agency of the Commonwealth or local government.

(ii) The term does not include:

(A) An office used primarily for the private practice of a health care practitioner.

(B) A facility providing treatment solely on the basis of prayer or spiritual means in accordance with the tenets of any church or religious denomination.

(C) A facility conducted by a religious organization for the purpose of providing health care services exclusively to clergy or other persons in a religious profession who are members of a religious denomination.

Health care practitioner—An individual who is authorized to practice some component of the healing arts by a license, permit, certificate or registration issued by a Commonwealth licensing agency or board.

Health care provider—An individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), the Commonwealth, or a political subdivision, or instrumentality (including a municipal corporation or authority) thereof, that operates a health care facility.

Household contact—A person living in the same residence as a case, including a spouse, child, parent, relation or other person, whether or not related to the case.

Infectious agent—Any organism, such as a virus, bacterium, fungus or parasite, that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease.

Isolation—The separation for the communicable period of an infected person or animal from other persons or animals, in such a manner as to prevent the direct or indirect transmission of the infectious agent from infected persons or animals to other persons or animals who are susceptible or who may spread the disease to others.

LMRO—Local morbidity reporting office—A district office of the Department or a local health department.

Local health authority—A county or municipal department of health, or board of health of a municipality that does not have a department of health. The term includes a sanitary board.

Local health department—Each county department of health under the Local Health Administration Law (16 P.S. §§ 12001—12028), and each department of health in a municipality approved for a Commonwealth grant to provide local health services under section 25 of the Local Health Administration Law (16 P.S. § 12025).

Local health officer—The person appointed by a local health authority to head the daily administration of duties imposed upon or permitted of local health authorities by State laws and regulations.

Medical record—An account compiled by physicians and other health professionals including a patient's medical history; present illness; findings on physical examination; details of treatment; reports of diagnostic tests; findings and

conclusions from special examinations; findings and diagnoses of consultants; diagnoses of the responsible physician; notes on treatment, including medication, surgical operations, radiation, and physical therapy; and progress notes by physicians, nurses and other health professionals.

Modified quarantine—A selected, partial limitation of freedom of movement determined on the basis of differences in susceptibility or danger of disease transmission which is designated to meet particular situations. The term includes the exclusion of children from school and the prohibition, or the restriction, of those exposed to a communicable disease from engaging in particular activities.

Monitoring of contacts—The close supervision of persons and animals exposed to a communicable disease without restricting their movement.

Municipality—A city, borough, incorporated town or township.

Operator—The legal entity that operates a child care group setting or a person designated by the legal entity to serve as the primary staff person at a child care group setting.

Outbreak—An unusual increase in the number of cases of a disease, infection or condition, whether reportable or not as a single case, above the number of cases that a person required to report would expect to see in a particular geographic area or among a subset of persons (defined by a specific demographic or other features).

Perinatal exposure of a newborn to HIV—The potential perinatal transmission of HIV to a newborn indicated by a positive HIV test result for the pregnant woman or mother of a newborn.

Physician—An individual licensed to practice medicine or osteopathic medicine within this Commonwealth.

Placarding—The posting on a home or other building of a sign or notice warning of the presence of communicable disease within the structure and the danger of infection therefrom.

Quarantine—

(i) The limitation of freedom of movement of a person or an animal that has been exposed to a communicable disease, for a period of time equal to the longest usual incubation period of the disease, or until judged noninfectious by a physician, in a manner designed to prevent the direct or indirect transmission of the infectious agent from the infected person or animal to other persons or animals.

(ii) The term does not exclude the movement of a person or animal from one location to another when approved by the Department or a local health authority

under § 27.67 (relating to the movement of persons and animals subject to isolation or quarantine by action of a local health authority or the Department).

Reportable disease, infection, or condition—A disease, infection, or condition, made reportable by § 27.2 (relating to specific identified reportable diseases, infections and conditions).

SHC—State Health Center—The official headquarters of the Department in a county, other than a district office.

Secretary—The Secretary of the Department.

Segregation—The separation for special control or observation of one or more persons or animals from other persons or animals to facilitate the control of a communicable disease.

Sexually transmitted disease—A disease which, except when transmitted perinatally, is transmitted almost exclusively through sexual contact.

State-designated anonymous HIV testing site—An HIV testing site supported by the Department either through direct funding or payment for testing, which provides anonymous and confidential testing and which agrees to adhere to the CDC's counseling and testing standards and guidelines issued by the Department.

Surveillance of disease—The continuing scrutiny of all aspects of occurrence and spread of disease that are pertinent to effective control.

Volunteer—A person who provides services to a school or child care group setting without receiving remuneration.

§ 27.4. Reporting cases.

(a) Except for reporting by a clinical laboratory, a case is to be reported to the LMRO serving the area in which a case is diagnosed or identified unless another provision of this chapter directs that a particular type of case is to be reported elsewhere. A clinical laboratory shall make reports to the appropriate office of the Department.

(b) Upon the Department's implementation of its electronic disease surveillance system for certain types of case reports, persons who make those reports shall do so electronically using an application and reporting format provided by the Department. At least 6 months in advance of requiring a type of case report to be reported electronically, the Department will publish a notice in the Pennsylvania Bulletin announcing when electronic reporting is to begin.

(c) This section does not prohibit a reporter from making an initial report of a case to the Department or an LMRO by telephone. The reporter will be instructed on how to make a complete case report at the time of the telephone call.

(d) Department offices to which this chapter requires specified case reports to be filed are as follows:

(1) Cancer Registry, Division of Health Statistics, Bureau of Health Statistics and Research.

(2) Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(3) HIV/AIDS Epidemiology Section, Division of Infectious Disease Epidemiology, Bureau of Epidemiology.

(4) Division of Newborn Disease Prevention and Identification, Bureau of Family Health.

(e) A case shall be reported using the appropriate case report format. Information solicited by the case report form shall be provided by the reporter, irrespective of whether the report is made by submitting the form directly in hard copy or by telecommunication or electronic submission. An appropriate case report form or format may be procured from the office to which the type of case is reportable.

§ 27.5a. Confidentiality of case reports.

Case reports submitted to the Department or to an LMRO are confidential. Neither the reports, nor any information contained in them which identifies or is perceived by the Department or the LMRO as capable of being used to identify a person named in a report, will be disclosed to any person who is not an authorized employe or agent of the Department or the LMRO, and who has a legitimate purpose to access case information, except for any of the following reasons:

(1) When disclosure is necessary to carry out a purpose of the act, as determined by the Department or LMRO, and disclosure would not violate another act or regulation.

(2) When disclosure is made for a research purpose for which access to the information has been granted by the Department or an LMRO. Access shall be granted only when disclosure would not violate another act or regulation. The research shall be subject to strict supervision by the LMRO to ensure that the use of information disclosed is limited to the specific research purpose and will not involve the further disclosure of information which identifies or is perceived as being able to be used to identify a person named in a report.

§ 27.24a. Reporting of cases by veterinarians.

A veterinarian is required to report a case, as specified in § 27.4 (relating to reporting cases), only if the veterinarian treats or examines an animal which the veterinarian suspects of having a disease set forth in § 27.35(a) (relating to reporting cases of disease in animals).

§ 27.60. Disease control measures.

(a) The Department or local health authority shall direct isolation of a person or an animal with a communicable disease or infection; surveillance, segregation, quarantine or modified quarantine of contacts of a person or an animal with a communicable disease or

infection; and any other disease control measure the Department or the local health authority considers to be appropriate for the surveillance of disease, when the disease control measure is necessary to protect the public from the spread of infectious agents.

(b) The Department and local health authority will determine the appropriate disease control measure based upon the disease or infection, the patient's circumstances, the type of facility available and any other available information relating to the patient and the disease or infection.

(c) If a local health authority is not an LMRO, it shall consult with and receive approval from the Department prior to taking any disease control measure.

§ 27.61. Isolation.

When the isolation of a person or animal that is suspected of harboring an infectious agent is appropriate, the Department or local health authority shall cause the isolation to be done promptly following receipt of the case report.

(1) If the local health authority is not an LMRO, the local health officer shall consult with and receive approval from the Department prior to requiring isolation.

(2) If more than one jurisdiction is involved, the local health officer shall cause a person or animal to be isolated only after consulting with and receiving approval from the Department.

(3) The Department or local health authority shall ensure that instructions are given to the case or persons responsible for the care of the case and to members of the household or appropriate living quarters, defining the area within which the case is to be isolated and identifying the measures to be taken to prevent the spread of disease.

§ 27.65. Quarantine.

If the disease is one which the Department, or a local health authority which is also an LMRO, determines to require the quarantine of contacts in addition to isolation of the case, the Department or local health officer of the LMRO shall determine which contacts shall be quarantined, specify the place to which they shall be quarantined, and issue appropriate instructions.

(1) When any other local health authority is involved, the local health officer shall quarantine contacts only after consulting with and receiving approval from the Department.

(2) The Department or local health officer shall ensure that provisions are made for the medical observation of the contacts as frequently as necessary during the quarantine period.

§ 27.66. Placarding.

Whenever the Department or a local health officer has reason to believe that a case, a contact or others will not fully comply with the isolation or quarantine as required for the protection of the public health and the Department or local health officer deems it necessary to use placards, placards may be utilized. Placards may be utilized by a local

health officer of a local health authority that is not an LMRO only if the specific use is approved by the Department.

§ 27.67. Movement of persons and animals subject to isolation or quarantine by action of a local health authority or the Department.

(a) A person or animal subject to isolation or quarantine by action of a local health authority or the Department may be removed to another location only with permission of the local health authority or the Department. If the local health authority is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to permitting removal. Permission for removal may be given by the Department if the local health officer is not available.

(b) Removal of a person or animal under isolation or quarantine by action of the Department or a local health authority, from the jurisdiction of the Department or a local health authority to the jurisdiction of the Department or another local health authority may occur only with permission of the Department, if it is involved, and with the permission of the local health authorities concerned. If both of the local health authorities involved are not LMROs, the local health authorities shall consult with and receive approval from the Department prior to permitting removal. Permission for removal may be given by the Department if a local health officer from whom permission would otherwise be required is not available.

(c) Interstate transportation to or from this Commonwealth of a person or animal under isolation or quarantine may be made only with permission of the Department.

(d) Transportation of a person or animal under isolation or quarantine shall be made by private conveyance or as otherwise ordered by the local health authority or the Department. If the local health authority is not an LMRO, it shall consult with the Department prior to issuing an order. The sender, the receiver and the transporter of the person or animal shall be responsible to take due care to prevent the spread of the disease.

(e) When a person or animal under isolation or quarantine is transported, isolation or quarantine shall be resumed for the period of time required for the specific disease immediately upon arrival of the person or animal at the point of destination.

§ 27.68. Release from isolation or quarantine.

The Department or a local health authority may order that a person or animal isolated or quarantined under the direction of the Department or to the appropriate health authority be released from isolation or quarantine when the Department or the local health authority determines that the person or animal no longer presents a public health threat. If the local health authority involved is not an LMRO, it shall consult with, and receive approval from, the Department prior to making the order.

§ 27.81. Examination of persons suspected of being infected.

Whenever the Department or a local health authority has reasonable grounds to suspect a person of being infected with an organism causing a sexually transmitted disease, tuberculosis or other communicable disease, or of being a carrier, but lacks

confirmatory medical or laboratory evidence, the Department or the local health authority may require the person to undergo a medical examination and any other approved diagnostic procedure to determine whether or not the person is infected or is a carrier. If the local health authority involved is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to requiring any medical examination or other approved diagnostic procedure.

§ 27.82. Refusal to submit to examination.

(a) If a person refuses to submit to the examination required in § 27.81 (relating to examination of persons suspected of being infected), the Department or the local health authority may direct the person to be quarantined until it is determined that the person does not pose a threat to the public health by reason of being infected with a disease causing organism or being a carrier.

(b) If the person refuses to abide by an order issued under subsection (a), the Department or local health authority may file a petition in the court of common pleas of the county in which the person is present. The petition shall have a statement attached, given under oath by a physician licensed to practice in this Commonwealth, that the person is suspected of being infected with an organism causing a sexually transmitted disease, tuberculosis or other communicable disease, or that the person is suspected of being a carrier.

(1) Upon the filing of the petition, the court shall, within 24 hours after service of a copy upon the respondent, hold a hearing without a jury to ascertain whether the person named in the petition has refused to submit to an examination to determine whether the person is infected with the suspected disease causing organism, or that the person is a carrier.

(2) Upon a finding that the person has refused to submit to an examination and that there is no valid reason for the person to do so, the court may forthwith order the person to submit to the examination.

(3) The certificate of the physician attached to the petition shall be received in evidence and shall constitute prima facie evidence that the person named is suspected of being infected with the disease causing organism, or that the person is a carrier.

(c) A person refusing to undergo an examination as required under subsections (a) and (b) may be committed by the court to an institution in this Commonwealth determined by the Department to be suitable for the care of persons infected with the suspected disease causing organism.

§ 27.83. Court ordered examinations.

The examination ordered by the court under § 27.82 (relating to refusal to submit to examination) may be performed by a physician chosen by the person at the person's own expense. The examination shall include an appropriate physical examination and laboratory tests performed in a clinical laboratory approved by the Department to conduct the tests, and shall be conducted in accordance with accepted professional practices. The results shall be reported to the local health authority or the Department on case report forms furnished by the Department.

§ 27.84. Examination for a sexually transmitted disease of persons detained by police authorities.

(a) A person taken into custody and charged with a crime involving lewd conduct or a sex offense, or a person to whom the jurisdiction of a juvenile court attaches may be examined for a sexually transmitted disease by a qualified physician appointed by the Department, by the local health authority or by the court having jurisdiction over the person so charged. If the person refuses to permit an examination or provide a specimen for laboratory tests as requested by the physician designated by the Department, a local health authority or a court, judicial action may be pursued by the Department or local health authority to secure an appropriate remedy.

(b) A person convicted of a crime or pending trial, who is confined in or committed to a State or local penal institution, reformatory or other house of correction or detention, may be examined for a sexually transmitted disease by a qualified physician appointed by the Department or by the local health authority. If the person refuses to permit an examination or provide a specimen for laboratory tests as requested by the physician, judicial action may be pursued by the Department or local health authority to secure an appropriate remedy.

(c) A person described in subsection (a) or (b) found, upon examination, to be infected with a sexually transmitted disease shall be given appropriate treatment by the local health authority, the Department or the attending physician of the institution.

§ 27.85. Diagnosis and treatment of a sexually transmitted disease.

(a) The Department will provide or designate adequate facilities for the free diagnosis and, where necessary for the preservation of public health, free treatment of persons infected with sexually transmitted diseases.

(b) Upon approval of the Department, a local health authority shall undertake to share the expense of furnishing free diagnosis and free treatment of a sexually transmitted disease, or shall furnish free diagnosis and free treatment of the sexually transmitted disease without financial assistance from the Department.

§ 27.87. Refusal to submit to treatment for communicable diseases.

(a) If the Department or a local health authority finds that a person who is infected with a sexually transmitted disease, tuberculosis or other communicable disease in a communicable stage refuses to submit to treatment approved by the Department or by a local health authority, the Department or the local health authority, if it determines the action advances public health interests, shall order the person to be isolated in an appropriate institution designated by the Department or by the local health authority for safekeeping and treatment until the disease has been rendered noncommunicable.

(i) If the disease is one which may be significantly reduced in its communicability following short-term therapy, but is likely to significantly increase in its communicability if that therapy is not continued, such as tuberculosis, the Department or local health authority may order the person to complete therapy which is designed to prevent the disease from reverting to a communicable stage, including

completion of an inpatient treatment regimen. See, also, § 27.161 (relating to special requirements for tuberculosis).

(ii) If the local health authority involved is not an LMRO, the local health authority shall consult with and receive approval from the Department prior to taking any action under this subsection.

(b) If a person refuses to comply with an order issued under subsection (a), the Department or local health authority may file a petition in the court of common pleas of the county in which the person is present to commit the person to an appropriate institution designated by the Department or by the local health authority for safekeeping and treatment as specified in subsection (a). Upon the filing of a petition, the court shall, within 24 hours after service of a copy upon the respondent, hold a hearing without a jury to ascertain whether the person named in the petition has refused to submit to treatment. Upon a finding that the person has refused to submit to treatment, the court shall issue an appropriate order.

(c) For the purpose of this section, treatment approved by the Department or by a local health authority may include treatment by an accredited practitioner of a well recognized church or religious denomination which relies on prayer or spiritual means alone for healing, if requirements relating to sanitation, isolation or quarantine are satisfied.

§ 27.88. Isolation and quarantine in appropriate institutions.

(a) When the Department or a local health authority orders a person with or suspected of having a sexually transmitted disease to be isolated or quarantined for the purpose of safekeeping and treatment, it may order that the isolation or quarantine take place in an institution where the person's movement is physically restricted.

(b) The Department or the local health authority shall reimburse an institution which accepts the person at the rate of maintenance that prevails in the institution, and shall furnish the necessary medical treatment to the person isolated or quarantined within the institution.

§ 27.89. Examinations for syphilis.

(a) Prenatal examination for syphilis.

(1) Blood sample.

(i) A physician who attends, treats or examines a pregnant woman for conditions relating to pregnancy during the period of gestation or delivery shall inform the woman that he intends to take or cause to be taken, unless the woman objects, a sample of her blood at the time of the first examination (including the initial visit when a pregnancy test is positive), or within 15 days after the first examination, and shall submit the sample to a clinical laboratory for an approved test for syphilis.

(ii) A physician shall similarly collect and have tested a sample of the pregnant woman's blood during the third trimester of her pregnancy, in those counties of this Commonwealth where the annual rate of infectious syphilis is at a

rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(iii) The Department will publish the list of those counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(iv) Other persons permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall, unless the woman objects, cause a blood sample to be taken and submitted to a clinical laboratory for an approved test for syphilis.

(v) If the pregnant woman objects, it shall be the duty of the person attending the pregnant woman and seeking to have the woman give a blood sample to explain to her the desirability of the test.

(2) Charge for test. The serological test required by paragraph (1) will be made without charge, by the Department, upon the request of the physician submitting the blood sample and the submission of a certificate by the physician that the patient is unable to pay.

(b) Examination for syphilis in mother of newborn. A test for syphilis shall be done, unless the mother objects, on the blood of the mother of every newborn delivered in those counties of this Commonwealth where the annual rate of infectious syphilis is at a rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(1) The Department will publish the list of counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(2) The results of the test shall be recorded both in the mother's medical record and in the newborn's medical record prior to discharge.

(c) Examination for syphilis in mother of stillborn.

(i) A test for syphilis shall be done, unless the mother objects, on the blood of the mother of every stillborn child delivered in those counties of this Commonwealth where the annual rate of infectious syphilis is at a rate of syphilis occurring in a given population for which the CDC has determined it is cost-effective to require special precautions.

(ii) The Department will publish the list of counties in which this rate is occurring in the Pennsylvania Bulletin as necessary.

(iii) The Department will be responsible for alerting physicians about this standard.

(iv) The blood shall be collected within 2 hours after delivery and the result entered into the mother's medical record prior to discharge. See also, § 27.95 (relating to reporting syphilis examination information for births and fetal deaths).

§ 27.95. Reporting syphilis examination information for births and fetal deaths.

In reporting a birth or fetal death, physicians and others required to make the reports shall state in the medical record whether or not the blood tests required by § 27.89(b) (relating to examinations for syphilis) were made. If a test was made, the date of the test shall be given, and if a test was not made, the reason the test was not made shall be given.

§ 27.96. Diagnostic tests for sexually transmitted diseases.

(a) When testing for a sexually transmitted disease is required by the act or this chapter, the test used shall be a test approved by the Food and Drug Administration, and if a laboratory test is part of the approved procedure, it shall be conducted in a clinical laboratory approved by the Department to perform the test.

(b) The diagnostic tests that have been approved to test for each sexually transmitted disease may be ascertained by contacting the Division of Clinical Microbiology, Bureau of Laboratories.

SELECT STATUTORY PROVISIONS

The Administrative Code of 1929

Section 2111.^[238] Advisory Health Board.--The Advisory Health Board shall have the power, and its duty shall be:

- (a) To advise the Secretary of Health on such matters as he may bring before it;
- (b) To make such reasonable rules and regulations, not contrary to law, as may be deemed by the board necessary for the prevention of disease, and for the protection of the lives and health of the people of the Commonwealth, and for the proper performance of the work of the Department of Health, and such rules and regulations, when made by the board, shall become the rules and regulations of the department;

* * *

(c.1) The Advisory Health Board shall make and from time to time revise a list of such communicable diseases against which children shall be required to be immunized as a condition of attendance at any public, private, or parochial school, including any kindergarten, in the Commonwealth. Such list shall be promulgated by the Secretary of Health along with such rules and regulations as may be necessary to insure that such immunization be timely, effective and properly verified; * * *

(d) To prescribe minimum health activities and minimum standards of performance of health services for counties or other political subdivisions.

²³⁸ Section 2111 of the act of April 9, 1929 (P.L.175, No.177); 71 P.S. § 541.

Local Health Administration Law

Section 12.^[239] Powers and Duties of the County Health Director.--(a) The health director shall be the administrator of the county department of health. He shall devote his entire time to his duties and shall not engage in any other occupation or business.

(b) The health director shall exercise the power to employ personnel conferred upon the county department of health. In exercising this power, the health director shall give preference to professional and technical personnel employed by municipal departments or boards of health at the time such departments or boards were dissolved in accordance with section 15 of this act, and to professional and technical personnel employed by the State Department of Health whose positions in the county or counties served by the county department of health may have been terminated as a result of the establishment of the county department of health, if such personnel meet the qualifications prescribed by the State Department of Health.

(c) The health director and his authorized subordinates may enter and inspect at reasonable times and in a reasonable manner any places or conditions whatsoever within the jurisdiction of the county department of health for the purpose of enforcing the health laws, rules and regulations of the Commonwealth and the county department of health, and for the purpose of examining for, and abating nuisances detrimental to the public health.

(d) Whenever the health director finds a nuisance detrimental to the public health, he shall cause such nuisance to be abated. Except in an emergency, the health director shall give notice in writing to the owner or his agent, or to the occupier of the premises where the nuisance or cause of the nuisance is located, or to the person known or suspected to have caused the nuisance. The notice shall contain a statement of the conditions constituting the nuisance and an order to abate the nuisance within a specified time. The time specified shall be reasonable. In the case the order of abatement is not obeyed, the health director shall abate the nuisance. The cost of abatement shall be recoverable from the owner of the premises where the nuisance or cause of the nuisance was located, or from any other person who may have caused the nuisance, in the same manner as debts of like character are now collected by law, or in the manner provided by law for the collection of municipal claims. Any legal action necessary to recover the cost of abatement shall be instituted by the county commissioners of the county in which the nuisance was located. In the case of a joint-county department of health, moneys so recovered shall be paid into the fund of the joint-county department of health, except that the portion which represents the costs of legal action shall be paid into the treasury of the county which instituted such legal action. In lieu of, or in addition to the above procedure, the county commissioners may, upon the advice of the health director, seek relief from a nuisance or threatened nuisance detrimental to the public health by instituting proceedings in a court of equity.

²³⁹ Section 12 of the act of August 24, 1951 (P.L.1304, No.315); 16 P.S. § 12012.

Seizure of Certain Clothing

Section 4.^[240] Seizure of clothing made in violation of act

And it shall also be lawful for the factory inspector or any of his deputies, and each and every one of them are hereby authorized and empowered to seize, take charge of, condemn and destroy any or all clothing found that is being made, or partially made, or manufactured in unhealthy or unsanitary places, or where there are contagious or infectious diseases, in violation of the provisions of this Act of Assembly.

²⁴⁰ Section 4 of the act of May 5, 1897 (P.L.42, No.37), an act “[t]o regulate the employment and provide for the health and safety of persons employed where clothing, cigarettes, cigars and certain other articles are made or partially made, and that said articles be made under clean and healthful conditions”; 43 P.S. § 9.

The Right to Counsel

§ 6337.^[241] Right to counsel.

Except as provided under this section and in section 6311 (relating to guardian ad litem for child in court proceedings), a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and if he is without financial resources or otherwise unable to employ counsel, to have the court provide counsel for him. If a party other than a child appears at a hearing without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if applicable. The court may continue the proceeding to enable a party to obtain counsel. Except as provided under section 6337.1 (relating to right to counsel for children in dependency and delinquency proceedings), counsel must be provided for a child. If the interests of two or more parties may conflict, separate counsel shall be provided for each of them.

Suspension by Court Rule

Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 800(5), amended December 30, 2005, insofar as it is inconsistent with Rule 152 relating to waiver of counsel.

Section 6337 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(4), adopted August 21, 2006, insofar as it is inconsistent with Rule 1152 relating to waiver of counsel.

²⁴¹ 42 Pa.C.S. § 6337. This provision is part of the Juvenile Act, 42 P.S. §§ 6301-6375.

Public Defender Act

Act of December 2, 1968 (P.L.1144, No.358)

AN ACT

To provide for the office of public defender, authorizing assistants and other personnel, and to provide adequate representation for persons who have been charged with an indictable offense or with being a juvenile delinquent, who for lack of sufficient funds are unable to obtain legal counsel.

Compiler's Note: Act 358 was suspended by Pennsylvania Rule of Juvenile Court Procedure No.800(4), amended December 30, 2005, insofar as it is inconsistent with Rules 150 and 151 relating to attorneys--appearances and withdrawals and assignment of counsel.

Compiler's Note: Act 358 was suspended by Pennsylvania Rule of Criminal Procedure No.1101, adopted March 1, 2000, insofar as it is inconsistent with Rule 122 relating to execution of arrest warrant.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.--This act shall be known and may be cited as the "Public Defender Act."

Section 2. Definitions.--As used in this act:

“Court” means the court of record which has obtained jurisdiction of a person charged with being a juvenile delinquent, or of a defendant charged with an indictable offense or will obtain jurisdiction of the defendant if he be held for the grand jury.

“County” means the county in which jurisdiction over the defendant lies or will lie.

Section 3. Public Defender; Establishment.--In each county except the County of Philadelphia, there shall be a public defender, appointed as herein provided. Two or more counties may cooperate in the appointment of a public defender, as provided in the intergovernmental cooperation provisions of the Constitution of Pennsylvania or as provided by law.

Section 4. Public Defender; Appointment.--The public defender shall be appointed by the Board of County Commissioners.

Section 5. Personnel of Office; Compensation; Qualification.--

(a) The public defender, with the approval of the appointive body, may provide for as many full or part time assistant public defenders, clerks, investigators, stenographers and other employes as he may deem necessary to enable him to carry out the duties of his office. The salary board shall fix the salary of the public defender and of the personnel authorized by this section.

(b) In lieu of, or in addition to assistant public defenders, the public defender may arrange for and make use of the services of attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth and the court of common pleas of the county or counties in which they may serve, when such attorneys volunteer to act as assistants, without compensation, to enable him to carry out the duties of his office.

(c) The public defender and assistant public defenders, if any, shall be attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth. Residency within a judicial district shall not be a requirement for the appointment of a public defender.

Section 6. Duties.--

(a) The public defender shall be responsible for furnishing legal counsel, in the following types of cases, to any person who, for lack of sufficient funds, is unable to obtain legal counsel:

- (1) Where a person is charged with juvenile delinquency;
- (2) Critical pretrial identification procedures;
- (3) Preliminary hearings;
- (4) State habeas corpus proceedings;
- (5) State trials, including pretrial and posttrial motions;
- (6) Superior Court appeals;
- (7) Pennsylvania Supreme Court appeals;
- (8) Postconviction hearings, including proceedings at the trial and appellate levels;
- (9) Criminal extradition proceedings;
- (10) Probation and parole proceedings and revocation thereof;

(11) In any other situations where representation is constitutionally required.

(b) The public defender, after being satisfied of the person's inability to procure sufficient funds to obtain legal counsel to represent him, shall provide such counsel. Every person who requests legal counsel shall sign an affidavit that he is unable to procure sufficient funds to obtain legal counsel to represent him and shall provide, under oath, such other information as may be required by the court, the public defender, or the Pennsylvania Rules of Criminal Procedure.

(c) The public defender, when appointed by the court, shall furnish legal counsel to persons who are or may be subject to commitment in a proceeding under the act of October 20, 1966 (3rd Sp. Sess., P.L.96, No.6), known as the "Mental Health and Mental Retardation Act of 1966."

(6 amended Dec. 10, 1974, P.L.830, No.277)

Section 7. Appointment of Other Attorneys by Court of Common Pleas.--For cause, the court of common pleas may, on its own motion or upon the application of the public defender, the defendant, or person charged with being a juvenile delinquent, appoint an attorney other than the public defender to represent the person charged at any stage of the proceedings. The attorney so appointed shall be awarded reasonable compensation, and reimbursement for expenses necessarily incurred, to be fixed by the judge of the court of common pleas sitting at the trial or hearing of the case and paid by the county.

Section 8. Penalties; Restitution.--

(a) False affidavits and false statements made by any person for the purpose of securing counsel or services under the provisions of this act shall subject the persons making such false affidavits or statements to the penalties prescribed by law for perjury.

(b) Any person who has been convicted of making a false affidavit or false statement for the purpose of securing counsel or services under this act shall make restitution as the court shall determine to the county and the Commonwealth of Pennsylvania of all moneys paid on the basis of the false affidavit or false statement.

Section 9. Facilities.--The board of commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of that office.

Section 10. Incompatible Offices.--No public defender shall be eligible to a seat in the Legislature or to any other public elected office for which compensation is provided, under the laws and Constitution of the Commonwealth, excepting an office or commission in the militia of the Commonwealth during his continuance in office.

Section 10.1. Expenses for Parole Proceedings.--The county which imposed the sentence from which the defendant was paroled shall be responsible for reimbursing the public defender's office of any other county for reasonable expenses incurred for representing that defendant in a parole revocation proceeding and appeals therefrom.

(10.1 added Dec. 23, 1981, P.L.590, No.172)

Section 11. Specific Repeals.--The following acts and parts of acts and all amendments thereto are repealed to the extent specified:

(1) The act of March 22, 1907 (P.L.31), entitled "An act to provide for the assignment of counsel in murder cases, and for the allowance of expenses and compensation in such cases," absolutely as to all counties except the County of Philadelphia.

(2) Subdivision (p) of Article XXI, act of July 28, 1953 (P.L.723), known as the "Second Class County Code," absolutely.

(3) Subdivision (r) of Article XIX, act of August 9, 1955 (P.L.323), known as "The County Code," absolutely.

(4) The act of November 16, 1959 (P.L.1505), entitled "An act to provide for the assignment of counsel in criminal cases in certain counties and for the allowance of compensation in such cases," absolutely.

Section 12. Other Repeals.--All acts and parts of acts, local, general or special are hereby repealed in so far as they are inconsistent herewith.

Section 13. Effective Date.--This act shall take effect January 1, 1969.

APPENDIX:
2007 SENATE RESOLUTION NO. 194

The text of the resolution begins on the next page.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 194 Session of
2007

INTRODUCED BY GREENLEAF, ERICKSON, PILEGGI, ORIE, COSTA,
TARTAGLIONE, MUSTO, WASHINGTON, O'PAKE, FONTANA, KITCHEN AND
BROWNE, OCTOBER 16, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, OCTOBER 16, 2007

A RESOLUTION

1 Directing the Joint State Government Commission to establish a
2 legislative task force with an advisory committee of experts
3 to review, update and codify Pennsylvania's public health
4 law.

5 WHEREAS, Pennsylvania's public health law is a patchwork of
6 statutes mostly contained in Purdon's Title 35 (Health and
7 Safety), but also scattered throughout other titles, old case
8 law and State and local regulations; and

9 WHEREAS, Many of Pennsylvania's public health statutes date
10 to the 1950s or earlier, such as the very significant act of
11 April 23, 1956 (1955 P.L.1510, No.500), known as the Disease
12 Prevention and Control Law of 1955; and

13 WHEREAS, Pennsylvania's public health case law dates
14 primarily to the late 19th and early 20th centuries, predating
15 contemporary constitutional due process standards; and

16 WHEREAS, The Administrative Office of Pennsylvania Courts and
17 the University of Pittsburgh Graduate School of Public Health
18 Center for Public Health Preparedness developed a Pennsylvania

1 Public Health Law Bench Book for judges, showing the need to
2 substantially upgrade Pennsylvania's public health law; and

3 WHEREAS, Increased global travel and emerging biological
4 threats have the potential for creating serious Statewide public
5 health concerns; and

6 WHEREAS, Pennsylvania's public health law, including
7 statutes, regulations and case law, should be reviewed so the
8 law may be updated and codified to address modern public health
9 issues; and

10 WHEREAS, The emergency management services provisions of 35
11 Pa.C.S. (relating to health and safety) are the only provisions
12 of the title that have been codified; and

13 WHEREAS, Codification is the process of revising and
14 restating statutes into a concise code of law that is clear,
15 consistent and organized; and

16 WHEREAS, The public health law provisions of 35 Pa.C.S.
17 should be codified so that they are consolidated with the
18 emergency management services provisions of the title; therefore
19 be it

20 RESOLVED, That the Senate direct the Joint State Government
21 Commission to establish a legislative task force with an
22 advisory committee of experts to review, update and codify
23 Pennsylvania's public health law; and be it further

24 RESOLVED, That a legislative task force be created consisting
25 of two members appointed by the President pro tempore of the
26 Senate and two members appointed by the Minority Leader of the
27 Senate; and be it further

28 RESOLVED, That the task force create an advisory committee
29 composed of experts on public health law; and be it further

30 RESOLVED, That the task force and advisory committee report

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1 to the Senate with recommended legislation.