

CHAPTER 23-07 REPORTABLE DISEASES

23-07-01. Department - Collection of public health information.

The department of health and human services shall designate the diseases or conditions that must be reported. Such diseases or conditions may include contagious, infectious, sexually transmitted, or chronic diseases or any illness or injury which may have a significant impact on public health. The department of health and human services shall maintain a uniform statewide population-based registry system for the collection of data pertaining to the incidence, prevalence, risk factors, management, survival, mortality, and geographic distribution of cancer and reportable benign tumors.

23-07-01.1. Reporting of physical or mental disorders.

The department of health and human services shall define disorders characterized by lapses of consciousness, gross physical or mental impairments for the purposes of the reports hereinafter referred to:

1. A physician or other health care provider may report immediately to the department of transportation in writing, the name, date of birth, and address of every individual fourteen years of age or over coming before them for examination, attendance, care, or treatment if there is reasonable cause to believe that the individual due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments, and the report is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or the public.
2. Such reports as required in this section are for the information of the director of the department of transportation in determining the eligibility of any person to operate a motor vehicle on the highways of this state and must be kept confidential and not divulged to any person or used as evidence in any trial, except that the reports may be admitted in proceedings under section 39-06-33.
3. The physician-patient privilege provided for by rules 501 and 503 of the North Dakota Rules of Evidence may not be asserted to exclude evidence regarding the mental or physical incapacity of a person to safely operate a motor vehicle in the reports as required under the provisions of this section.
4. Any physician or other medical professional who fails to make a report or who in good faith makes a report, gives an opinion or recommendation pursuant to this section, or participates in any proceeding founded upon this section is immune from any liability, civil or criminal, that might otherwise be incurred, as a result of such report, except for perjury.

23-07-01.2. Rules.

The department may adopt rules under chapter 28-32 for the efficient enforcement of this chapter.

23-07-02. Who to report reportable diseases.

Except as otherwise provided by section 23-07-02.1, the following persons or their designees shall report to the department of health and human services any reportable disease coming to their knowledge:

1. All health care providers, including physicians, physician assistants, nurse practitioners, nurses, dentists, medical examiners or coroners, pharmacists, emergency medical service providers, and local health officers.
2. The director, principal manager, or chief executive officer of:
 - a. Health care institutions, including hospitals, medical centers, clinics, long-term care facilities, assisted living facilities, or other institutional facilities;
 - b. Medical or diagnostic laboratories;
 - c. Blood bank collection or storage centers;

- d. Public and private elementary and secondary schools;
 - e. Public and private universities and colleges;
 - f. Health or correctional institutions operated or regulated by municipal, county or multicounty, state, or federal governments;
 - g. Funeral establishments and mortuaries; and
 - h. Child care facilities or camps.
3. The state veterinarian, if the disease may be transmitted directly or indirectly to or between humans and animals.
 4. A person having knowledge that a person or persons are suspected of having a reportable disease may notify the department and provide all information known to the person reporting concerning the reportable disease or condition of the person or persons.

If the person reporting is the attending physician or the physician's designee, the physician or the physician's designee shall report not less than twice a week, in the form and manner directed by the department of health and human services, the condition of the person afflicted and the state of the disease. A person making a report in good faith is immune from liability for any damages which may be caused by that act.

23-07-02.1. Reports of human immunodeficiency virus infection - Penalty.

Every attending physician treating an individual known by the physician to have a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, shall make a report on that individual to the department of health and human services. A person treating an individual known to have human immunodeficiency virus infection in a hospital, a clinic, a sanitarium, the physical custody of the department of corrections and rehabilitation, a regional or local correctional facility or juvenile detention center, the North Dakota youth correctional center, or other private or public institution shall make a report on that individual to the facility administrator or the facility administrator's designee. Further disclosure of information on any individual known to have human immunodeficiency virus infection may only be provided to medical personnel providing direct care to the individual or as otherwise authorized by law. The designated official shall, if satisfied that the report is valid, make a report to the department on each individual having a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, unless the diagnosed individual's attending physician has made such a report. The reports required under this section must contain the name, date of birth, sex, and address of the individual reported on and the name and address of the physician or designated official making the report. Failure by a facility to designate an official to whom reports must be made is an infraction. Any person who in good faith complies with this section is immune from civil and criminal liability for any action taken in compliance with this section.

23-07-02.2. Confidentiality of reports.

A report required by section 23-07-02.1 and held by the department of health and human services is confidential information. The information may not be disclosed, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except that:

1. Disclosure may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified;
2. Disclosure may be made of medical or epidemiological information to the extent necessary to enforce section 23-07-02.1 and this section and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials; or
3. Disclosure may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any individual.

No officer or employee of the department of health and human services may be examined in any judicial, executive, legislative, or other proceeding regarding the existence or content of any individual's report retained by the department under section 23-07-02.1.

23-07-02.3. Emergency reporting.

1. The state health officer may issue a temporary order for emergency reporting of disease conditions or information if the state health officer finds probable cause to believe there is a threat caused by an imminent or emerging condition affecting the public health, including actual or threatened terrorism.
2. The state health officer may designate who must report, what conditions or information must be reported, what information must be contained in the report, the methods and frequency of reporting, and may make any other pertinent requirement.
3. The temporary order may be issued and is effective without regard to chapter 28-32 for a period of ninety days, unless earlier revoked by the state health officer. Emergency rulemaking must be initiated under chapter 28-32 within ninety days of the order or the order expires. The temporary order and any emergency rulemaking under this section are effective without the necessity of approval from the department of health and human services.
4. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the state health officer shall consider whether to issue a temporary order or the health council shall consider whether to adopt rules or emergency rules to include this infectious disease as a reportable disease or condition or as a post-mortem communicable disease.

23-07-03. Report of cases of sexually transmitted disease.

The superintendent of a hospital, dispensary, or charitable or penal institution, in which there is a case of sexually transmitted disease, or the superintendent's designee, shall report such case to the nearest health officer having jurisdiction. The report must be made in the form and manner directed by the department of health and human services.

23-07-04. Report of reportable disease by township board of health.

Repealed by S.L. 1999, ch. 242, § 7.

23-07-05. Local health officers to report reportable disease to department of health and human services.

At such time as may be required by the department of health and human services, each local health officer shall submit to such department, on blanks furnished by the department for that purpose, a summarized report of the reportable diseases reported to the health officer during the week. When no cases have been reported during the week, the report must be made with the notation "No cases reported".

23-07-06. Contagious or infectious diseases - Power of local board of health to quarantine.

Whenever a local board of health knows that a case of a contagious or infectious disease exists within its jurisdiction, the board immediately shall examine the facts of the case and may adopt such quarantine and sanitary measures as in its judgment tend to prevent the spread of such disease. The board immediately may cause any person infected with such disease to be removed to a separate house if, in the opinion of the health officer, such person can be removed without danger to that person's health. If the infected person cannot be removed without danger to that person's health, the local board shall make such quarantine regulations as it deems proper with reference to the house within which such infected person is, and may cause the persons in the neighborhood to be removed, and may take such other measures as it deems necessary for the safety of the inhabitants within its jurisdiction. Quarantine measures adopted under this section must be in compliance with chapter 23-07.6.

23-07-07. Sexually transmitted diseases - Additional powers and duties of health officers.

The state health officer, and each district, county, and city health officer within the officer's jurisdiction, when necessary for the protection of public health, shall:

1. Make examination of any person reasonably suspected of being infected with a sexually transmitted disease and detain that person until the results of the examination are known.
2. Require any person infected with a sexually transmitted disease to report for treatment to a reputable physician and to continue such treatment until cured or, if incurable, continue indefinitely such treatment as recommended by the physician.
3. Investigate sources of infection of sexually transmitted diseases.
4. Cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution, including providing proper officials with all relevant information available concerning individuals who are infected with the human immunodeficiency virus and who are engaged in prostitution.

23-07-07.1. Blood sample of pregnant woman must be submitted for serological test for syphilis.

Repealed by S.L. 1991, ch. 263, § 1.

23-07-07.2. Definitions.

Repealed by S.L. 1991, ch. 263, § 1.

23-07-07.3. Certificates reporting births and stillbirths to state whether blood test made.

Repealed by S.L. 1991, ch. 263, § 1.

23-07-07.4. Penalty.

Repealed by S.L. 1991, ch. 263, § 1.

23-07-07.5. Testing of inmates and convicted individuals for exposure to the human immunodeficiency virus - Reporting - Liability.

1. The following individuals must be examined or tested for the presence of antibodies to or antigens of the human immunodeficiency virus:
 - a. Every individual convicted of a crime who is imprisoned for fifteen days or more in a grade one or grade two jail, a regional correctional facility, or the state penitentiary;
 - b. Every individual, whether imprisoned or not, who is convicted of a sexual offense under chapter 12.1-20, except for those convicted of violating sections 12.1-20-12.1 and 12.1-20-13; and
 - c. Every individual, whether imprisoned or not, who is convicted of an offense involving the use of a controlled substance, as defined in chapter 19-03.1, and the offense involved the use of paraphernalia, including any type of syringe or hypodermic needle, that creates an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus.
2. The results of any positive or reactive test must be reported to the department of health and human services in the manner prescribed by the department and to the individual tested. Subsection 1 does not require the testing of an individual before sentencing or the testing of an individual held in a jail or correctional facility awaiting transfer to the state penitentiary.
3. A licensed physician, nurse, technician, or employee of a hospital or clinic who draws blood from any person for the purpose of conducting a test required by this section is not liable in any civil action for damages arising out of such action except for an act or omission that constitutes gross negligence.

23-07-07.6. Report of testing result of imprisoned individuals.

1. Notwithstanding any other provision of law, the department of health and human services or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure.
2. For purposes of this section, "significant exposure" means:
 - a. Contact of broken skin or mucous membrane with a patient's or other individual's blood or bodily fluids other than tears or perspiration;
 - b. The occurrence of a needle stick or scalpel or instrument wound in the process of caring for a patient; or
 - c. Exposure that occurs by any other method of transmission defined by the department of health and human services as a significant exposure.

23-07-08. Persons in prison examined and treated for sexually transmitted diseases.

Every person convicted of a crime who is imprisoned fifteen days or more in a state, county, or city prison must be examined for sexually transmitted disease and, if infected, must be treated therefor by the health officer within whose jurisdiction the person is imprisoned.

23-07-09. Sexually transmitted diseases - Persons isolated in prison - Exceptions.

The prison authorities of any state, county, or city prison shall make available to the health officers such portion of the prison as may be necessary for a clinic or hospital wherein the following persons may be isolated and treated:

1. Persons who are imprisoned in the prison and who are infected with a sexually transmitted disease.
2. Persons who are suffering with a sexually transmitted disease at the time of the expiration of their term of imprisonment.
3. Persons isolated or quarantined by the health officer when no other suitable place for isolation or quarantine is available.

In lieu of such isolation, any of such persons, in the discretion of the health officer, may be required to report for treatment to a licensed physician. This section may not be construed to interfere with the service of any sentence imposed by a court as punishment for the commission of crime.

23-07-10. Preventing infant blindness - Duty of physician or midwife.

All physicians, midwives, or other persons in professional attendance upon a birth always shall examine the eyes of the infant carefully. If there is the least reason to suspect the presence of a disease of the eyes, such person shall apply such prophylactic treatment as may be recognized as efficient in medical science.

23-07-11. Duty of parent to report to health officer.

If one or both eyes of an infant becomes inflamed, swollen, or reddened, or shows any unnatural discharge or secretion at any time within two weeks after birth, and if no legally qualified physician is in attendance upon the infant at that time, the parents of the child, or in their absence, whoever is caring for said infant, shall report the fact in writing, within six hours after discovery, to the health officer having jurisdiction. Such report need not be made from a recognized hospital.

23-07-12. Health officer to place reported infant in charge of physician.

Upon receipt of a report as provided for in section 23-07-11, the health officer shall direct the parents or whoever has charge of the infant suffering from inflammation, swelling, redness, or unnatural secretion or discharge of the eyes, to place it immediately in charge of a legally qualified physician.

23-07-12.1. Limitations on requirements to wear a mask.

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

23-07-13. Contagious or infectious diseases - Local board may establish temporary hospital.

Each local board of health may provide such temporary hospital or place of reception for persons afflicted with any contagious or infectious disease as it judges best for their accommodation and the safety of the inhabitants. It may provide a means of transportation to such hospital for persons suffering from any such disease. All such hospitals, and all private houses or other places in which exists any contagious or infectious disease, during the existence of such disease, are under the control and subject to the regulations of the local board of health.

23-07-14. Contagious or infectious diseases - Local board may destroy or disinfect infected clothing.

Any local board of health may cause to be destroyed any bed, bedding, clothing, carpets, or other articles which have been exposed to infection from a contagious or infectious disease and may allow reasonable compensation for the same. The board also may provide a proper place with all necessary apparatus and attendants for the disinfection of such articles and may cause all such articles to be conveyed to such place to be disinfected.

23-07-15. Removal of individual with reportable disease or condition - Removal of body of individual who died of reportable disease or condition - Prohibited - Declaration of emergency or disaster - Rulemaking authority.

1. Unless the person has a permit from the local board of health or department of health and human services, a person may not remove or cause to be removed from without this state into this state, from one building to another within this state, or from or to any railroad car or motor vehicle, an individual with a reportable disease or condition, or the body of an individual who died of a reportable disease or condition.
2. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the health council shall consider whether to adopt rules or emergency rules directing the department of health and human services to notify emergency medical services personnel of the presence of a reportable disease or condition and any person taking possession of a dead body of a post-mortem communicable disease. Notwithstanding state laws to the contrary, rules adopted under this section may provide for the disclosure of personally identifiable information.

23-07-16. Child having contagious or infectious disease prohibited from attending school - Exception.

Except as provided by section 23-07-16.1, no principal, superintendent, or teacher of any school, and no parent or guardian of any minor child, may permit any child having any significant contagious or infectious disease, or any child residing in any house in which any such disease exists or has recently existed, to attend any public or private school until permitted to do so under the regulations of the local board of health.

23-07-16.1. School district to adopt policy relating to significant contagious diseases.

Each school district shall adopt a policy governing the disposition of children attending school within the school district, employees of the school district, or independent contractors under contract with the school district who are diagnosed as having a significant contagious disease. The state department of health shall, with advice from the superintendent of public instruction, adopt rules establishing guidelines for the policy. The guidelines may include methods and procedures relating to a determination of whether and under what conditions a child with a significant contagious disease may not continue attending school or whether and

under what conditions an employee or an independent contractor with a significant contagious disease may not continue in a work assignment.

23-07-17. Vaccination or inoculation not required for admission to any school or for the exercise of a right.

Repealed by S.L. 1975, ch. 224, § 2.

23-07-17.1. Inoculation required before admission to school.

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the department of health and human services that the child has received age-appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotavirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.
2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the department of health and human services stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.
4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.
5. The immunizations required, and the procedure for their administration, as prescribed by the department of health and human services, must conform to recognized standard medical practices in the state. The department of health and human services shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the department of health and human services.
7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

23-07-18. Physician to report death from contagious or infectious disease to local board of health.

Each practicing physician in this state shall report to the local board of health within the jurisdiction of which the death occurred, in writing, the death of any of the physician's patients who has died of any contagious or infectious disease. The report must be made within twenty-four hours after such death and must state the specific name and character of the disease.

23-07-19. Appropriation made on report showing action necessary to prevent spread of tuberculosis.

If any society or association organized and existing for the purpose of controlling the spread of tuberculosis in this state considers it necessary to secure the services of a visiting nurse or nurses, or to disinfect any building, room, residence, hotel, or other place infected with tuberculosis, the society shall report such fact to the president of the county board of health and to the board of county commissioners. The report must recommend the course of action advisable to be adopted by the board of county commissioners in relation thereto and in accordance with the provisions of this chapter, and such board, at its next meeting, shall consider such report and recommendation and act on the same. The board may audit and allow bills for services rendered in carrying into effect any action taken by it under the provisions of this section.

23-07-20. Board of county commissioners may appropriate money to prevent the spread of tuberculosis.

The board of county commissioners of any county in this state may appropriate county money and levy taxes within the county levy limitations for the purpose of paying for the services of visiting nurses or other necessary medical attention or advice in preventing the spread of tuberculosis in the county, or for the purpose of disinfecting any building, room, residence, hotel, or other place in such county infected with tuberculosis, and may cooperate with neighboring counties to establish homes or hospitals for incurable tuberculosis patients.

23-07-20.1. Disclosure of records.

To protect the integrity of disease control records, to ensure their proper use, and to ensure efficient and proper administration of the department's disease control function, it is unlawful for any person to permit inspection of or to disclose information contained in disease control records, including results of laboratory tests, or to copy or issue a copy of all or part of any such record except as authorized by rules.

23-07-21. Penalties.

Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the department of health and human services, or any order issued by any state, district, county, or municipal health officer;
2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or
3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.