

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 337

H. P. 267

House of Representatives, February 9, 1977

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hobbins of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Communicable Diseases.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA c. 251, sub-cc I and II, as amended, are repealed.

Sec. 2. 22 MRSA c. 251, sub-cc I-A and II-A are enacted to read:

SUBCHAPTER I-A
GENERAL PROVISIONS

Article 1. Definitions; Rules; Penalties;
Inspections; General Authority

§ 1011. Definitions

As used in this chapter, unless the context otherwise requires, the following words and terms shall have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Human Services.

2. Communicable disease. "Communicable disease" means an illness due to a specific infectious agent or its toxic products which result from transmission of that agent or its products to a susceptible host, directly or indirectly.

3. Dangerous communicable disease. "Dangerous communicable disease" means a communicable disease which is so designated by the department because of serious threat to the public health and shall include tuberculosis and venereal disease.

4. Department. "Department" means the Department of Human Services.

5. Infected person. "Infected person" means a person who is diagnosed to have a communicable disease or who suffers from a designated serious health condition.

6. Municipal health officer. "Municipal health officer" means a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce of this chapter.

7. Notifiable. "Notifiable" means any communicable disease, dangerous communicable disease or serious health condition so designated that its occurrence or suspected occurrence is required to be reported to the department to pursuant to Article 3.

8. Serious health condition. "Serious health condition" means any non-communicable disease, disability, or health problem which is so designated by the department because of its threat to the public health.

9. Venereal disease. "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted diseases which the department by rule may designate and require to be reported.

§ 1012. Authority of department

1. Authority. The department is authorized to promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter, which may include but shall not be limited to rules and regulations to:

A. Designate and classify communicable, dangerous communicable, chronic and other noncommunicable diseases, serious health conditions and disabilities;

B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of diseases, disabilities, serious health conditions and the potential for epidemics;

C. Investigate cases and epidemics and unusual occurrences of diseases and situations with potential for causing diseases; and

D. Establish procedures for the control, detection, prevention and treatment of communicable diseases and other serious health conditions.

2. Health emergency. In the event of an actual or threatened epidemic or outbreak of a communicable disease or other serious health condition the department may declare that a health emergency exists and may promulgate emergency rules and regulations for the protection of the public health. Such rules and regulations may include but shall not be limited to:

A. Procedures for placing infected persons in quarantine or for removing them to a place where care and treatment may be provided;

B. Procedures for the disinfection, seizure, destruction of contaminated property; and

C. The establishment of temporary facilities for the care and treatment of infected persons which shall be subject to the supervision and regulations of the department.

§ 1013. Inspection

The department shall establish such systems of inspection as in its judgment may be necessary to determine the actual or threatened presence of a communicable disease or serious health condition. A duly authorized agent of the department or a municipal health official may enter upon or within any place, building, vessel, or other common carrier where the actual or threatened presence of a contagious disease or serious health condition is known or believed to exist and inspect and examine the same. All owners, agents or occupants shall permit such entry.

§ 1014. Penalties

1. Rules enforced. All agents of the department, municipal health officers, sheriffs, police officers and other officials shall enforce the rules and regulations of the department made pursuant to sections 1012 and 1013. Any official who shall neglect or refuse to enforce the rules and regulations or who shall willfully obstruct or hinder the execution thereof, shall be subject to a civil fine.

2. Refusal to obey rules. All persons shall obey said rules and regulations made pursuant to section 1012. Any person who shall neglect, violate, or refuse to obey said rules and regulations or who shall willfully obstruct or hinder the execution thereof shall be ordered by the department in writing to cease and desist. Any person who refuses to obey a cease and desist order shall be guilty of a Class E crime.

§ 1015. Court orders

Upon complaint made to any Judge of the District Court or Justice of the Superior Court, such judge or justice may issue any order or warrant necessary for the proper enforcement of the rules and regulations promulgated pursuant to this chapter.

§ 1016. Exclusion from school

In the event of an actual or threatened outbreak of a communicable disease, the department is authorized to order the dismissal of any school or may exclude any pupil, teacher or other employee of a school from attending that school if such person has been exposed to a communicable disease.

Article 2. Dangerous Communicable Diseases

§ 1019. Control of dangerous communicable diseases

The department may establish procedures for agents of the department and municipal health officers relating to the discovery and care of individuals having or suspected of having a dangerous communicable disease. The procedures shall be promulgated in accordance with section 1012 and shall be reasonably related to the control and elimination of dangerous communicable diseases.

§ 1020. Examination or isolation

If a departmental or municipal health officer has reasonable grounds to believe that an individual has a dangerous communicable disease and the individual is unwilling to submit to an examination, which may include x-Ray studies, blood samples or the collection of specimens for laboratory study, as requested by the health officer, or refuses to make the results of such examination or studies available to that official, the department or the municipal health officer may petition the District Court of the district in which the individual resides or is found for an order directing isolation or examination, or both, in a place and under conditions to prevent the conveyance of the disease or infectious agent to other individuals.

§ 1021. Court procedures

1. Receipt of petition. Upon receipt of a petition filed pursuant to section 1020, the District Court shall fix a date for hearing.

2. Notice of hearing; waiver. Notice of the petition and the time and place of the hearing shall be served personally, not less than 3 days before the hearing on the individual suspected of having a dangerous communicable disease. The individual and petitioner may waive notice of hearing, and upon filing of the waiver in writing, the District Court may hear the petition immediately.

3. Examination ordered. If upon hearing, it appears that the suspicion of the petitioner is valid, the District Court shall order the examination or isolation, or both, of the suspected individual. The order may require the treatment of the individual or the commitment of the individual to a health care facility, pursuant to section 1023.

§ 1022. Treatment or confinement

When the departmental or a municipal health officer knows that an individual having a dangerous communicable disease has failed or refused to comply with a rule or proper order of a local health department or is unable or unwilling to conduct himself or herself and to live in a manner so as not to expose members of his family or household, or other individuals with whom he may be associated or in contact to the danger of infection, the health officer immediately shall investigate the circumstances. Upon finding that the individual is a menace to other individuals, and is unwilling voluntarily to enter a facility or submit to care, the health officer shall petition the District Court of the district in which the individual resides or is found for an order directing the admission of the individual to a health care facility or submission to care.

§ 1023. Court procedures

1. Receipt of petition. Upon the receipt of a petition, filed pursuant to section 1022, the District Court shall fix a date for hearing.

2. Notice of hearing; waiver. Notice of the petition and the time and place of the hearing shall be served personally, not less than 3 days before

the hearing, on the individual and the petitioner. The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the District Court may hear the petition immediately.

3. Examination ordered. If, upon hearing, it appears that the complaint of the petitioner is valid and that the infected person is a source of danger to other individuals, the District Court shall order the individual committed to a health care facility or to submit to care.

4. District Court order. The District Court order shall provide that the department may change the place of confinement or care for reasonable cause. If the infected person applies for review within 30 days of the change, the District Court making the order shall review the change.

§ 1024. Regulations of health care facility

An individual committed to a health care facility under this subchapter shall obey the regulations of the facility. The chief administrative officer of the facility may place an individual who neglects or refuses to obey the regulations apart from other patients, and may take measures necessary to insure the continued presence of the individual in the facility for the protection of the individual or the protection of the community from infection by the individual.

§ 1025. Discharge of committed person

1. Discharge. The chief administrative officer of the facility to which the individual is committed, upon signing and placing in the permanent records of the facility a statement that in the chief administrative officer's judgment the individual may be discharged without danger to other individuals, or for any other reason stated in full which the chief administrative officer deems adequate and sufficient, may discharge the individual. The chief administrative officer immediately shall report the discharge with a full statement of the reasons therefor to the District Court making the order and to the department and municipal health officer.

§ 1026. Medical review board

A patient committed under sections 1021 or 1022 may appeal through the committing court for a medical review board recommendation as to whether or not the patient's medical status permits termination of the commitment. The medical review board shall consist of 3 physicians appointed by the District Court from a list of physicians submitted by the department. These physicians shall have training and experience in the treatment of dangerous communicable diseases. However, upon the request of the patient, the court shall appoint as one member of the board a physician who has training and experience in the treatment of communicable diseases who is selected by the patient. Upon receipt of the findings of the medical review board, the court, after hearing, may continue or terminate the commitment.

§ 1027. Liability for expenses

1. Financial liability; individual. An individual is financially liable for any care provided pursuant to this subchapter to the individual to the ex-

tent that the individual has public or private insurance or otherwise has the ability to pay for such care. An individual shall not be denied the care because of inability to pay for that care.

2. Liability; municipality. The municipality in which an individual receiving care under this subchapter resides is chargeable with the expense of the care not covered by subsection 1.

3. Liability; State. The State shall pay, on certification by the commissioner, the expenses for care of an individual receiving care under this Part who is not a resident of a municipality in this State.

4. State and municipality. The State and a municipality shall be subrogated to the rights of recovery which the individual may have against a liable 3rd party for the cost of care provided for the individual under this subchapter to the extent that the State or municipality has spent moneys for that care.

Article 3. Uniform Reporting of Diseases

§ 1029. Authority of the department

The department shall promulgate rules and regulations and establish procedures to provide for a uniform system of reporting, recording and collecting information concerning communicable diseases and health hazards. Any dangerous communicable disease and any other communicable disease or serious health condition designated by the department as notifiable shall be reported to the department in accordance with this article and the rules and regulations established by the department.

§ 1030. Reporting

Whenever any physician knows or has reason to believe that any person whom he or she examines or cares for has or is inflicted with any communicable disease or serious health condition designated as notifiable, such physician shall notify the department and make such report as may be required by the rules and regulations of the department. Reports shall be in the form and content prescribed by the department and the department shall provide forms for making required reports.

§ 1031. Time requirements

The reporting of a dangerous communicable disease shall be made by telephone to the department or a designated health officer immediately upon determination that a person has such disease, and shall be followed by a written report to the department within 48 hours.

The reporting of notifiable communicable diseases or health hazards shall be made in writing to the department within one month after determination that a person has said disease or serious health condition.

§ 1032. Confidentiality

All information and reports submitted pursuant to this article shall be confidential and may be released only to other public health officials or

agencies for a public health purpose. Information may be released for bona fide research purposes, provided that information identifying individuals who are subjects of such reports shall not be made available to the researcher.

§ 1033. Immunity

Any person, official or institution who complies with the reporting requirements of this article shall not be held liable for any civil damage as a result of such acts.

§ 1034. Penalties

Any person who knowingly and willfully violates any provision of this article shall be subject to a civil fine.

SUBCHAPTER II-A
IMMUNIZATION

§ 1061. Definitions

1. Clinic. "Clinic", as used in this chapter, shall mean any place, establishment or institution which operates for the purpose of dispensing immunizing agents to persons who are not confined in said place.

2. Immunizing agent. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease.

§ 1062. Distribution of immunizing agents

The department shall have authority to manufacture, purchase or receive by gift, and dispense immunizing agents and other pharmaceuticals for use in the prevention and control of diseases and disabilities. The department shall provide and distribute immunizing agents throughout the State when necessary to protect the public health and may distribute immunizing agents outside the State if the immunizing agents are not required for the immediate needs or programs of this State.

§ 1063. Clinics

1. Immunization treatments. The department shall offer immunization treatments to the public for protection in case of an epidemic or threatened epidemic of disease as ordered by the commissioner.

2. Free immunization clinics. The department may conduct free immunization clinics for the public subject to whatever guidelines and regulations the department deems necessary. The department shall notify the public of the free immunization clinics, publicize the time and place of the clinic and require that a record be kept of those immunized.

3. Municipal immunization programs. The department shall cooperate with the local health officer of a municipality offering immunization to or conducting free clinics for persons within its jurisdiction. Municipal immunization programs shall be subject to whatever guidelines and regulations the department deems necessary.

§ 1064. Administration of immunizing agents

A health professional other than a physician may administer an immunizing agent when authorized by the department and when the immunizing agent is administered under the direction of a physician.

Sec. 3. 22 MRSA § 1094, 1st ¶, is repealed and the following enacted in its place:

Venereal disease, as defined in section 1011, is declared to be a dangerous communicable disease and subject to the reporting procedures and requirements of subchapter I-A article 3.

Sec. 4. 22 MRSA § 1094, 2nd and 3rd ¶¶, are repealed.

Sec. 5. 22 MRSA § 1095 is repealed and the following enacted in its place:

§ 1095. Examination requested

The Bureau of Health is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever the bureau or a municipal health officer has cause to believe that any person is infected with venereal disease so as to expose others to the dangers thereof, the bureau, through its agent or the municipal health officer, shall request the person to submit to examination or treatment. If the person refuses to cooperate and comply with the request or refuses to make the results of the examination available to the departmental or municipal health officer, the person shall be subject to the procedures and requirements of subchapter I-A, article 2.

Sec. 6. 22 MRSA § 1096 and 1097 are repealed.

Sec. 7. 22 MRSA §§ 1271-1277 are repealed.

Sec. 8. 22 MRSA c. 259 is repealed.

STATEMENT OF FACT

This bill replaces the existing communicable disease laws which, for the most part, are outdated and inconsistent with contemporary public health and medical knowledge and practice. It also clarifies the existing disease reporting requirements and defines the department's authority to conduct immunization programs.