

LEGISLATIVE BILL 55

Approved by the Governor March 20, 2003

Introduced by Byars, 30

AN ACT relating to public health; to amend sections 71-507, 71-510, and 71-511, Revised Statutes Supplement, 2002; to include public safety officials in disease exposure provisions; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-507, Revised Statutes Supplement, 2002, is amended to read:

71-507. For purposes of sections 71-507 to 71-513:

(1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;

(4) Emergency services provider means an out-of-hospital emergency care provider certified pursuant to the Emergency Medical Services Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, and a person rendering emergency care gratuitously as described in section 25-21,186;

(5) Funeral director means a person licensed under section 71-1302 or an employee of such a person with responsibility for transport or handling of a deceased human;

(6) Funeral establishment means a business licensed under section 71-1327;

(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) ~~(12)~~ Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a case-by-case basis;

~~(13)~~ (14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient

or individual to the emergency services provider or public safety official;
and

~~(14)~~ (15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 2. Section 71-510, Revised Statutes Supplement, 2002, is amended to read:

71-510. (1) The patient or individual shall be informed that he or she has the right to consent to the test for presence of an infectious disease or condition and that if the patient or individual refuses the test, such refusal will be communicated to the emergency services provider or public safety official.

(2) If the patient or individual is unconscious or incapable of signing an informed consent form, the consent may be obtained from the patient's or individual's next of kin or legal guardian.

(3) If an emergency services provider has a significant exposure which, in the opinion of the designated physician, could involve the transmission of hepatitis B, hepatitis C, or human immunodeficiency virus, the patient's attending physician shall initiate the necessary diagnostic blood tests of the patient. If the patient or patient's representative refuses to grant consent for such test and a sample of the patient's blood is available, the blood shall be tested for hepatitis B, hepatitis C, or human immunodeficiency virus. If the patient or patient's guardian refuses to grant consent and a sample of the patient's blood is not available, the patient's refusal shall be communicated to the designated physician who shall inform the emergency services provider. The emergency services provider may petition the district court for an order mandating that the test be performed.

(4) If a public safety official believes he or she has had a significant exposure while performing his or her duties, other than those as an emergency services provider, which, in the opinion of a physician, could involve exposure to an infectious disease or condition, the public safety official or the provider agency which employs or directs him or her may (a) request the individual who may have transmitted the infectious disease or condition to consent to having the necessary diagnostic blood tests performed or (b) if the individual refuses to consent to such tests, petition the district court for an order mandating that the necessary diagnostic blood tests of such individual be performed.

(5) If a patient or individual is deceased, no consent shall be required to test for the presence of an infectious disease or condition.

Sec. 3. Section 71-511, Revised Statutes Supplement, 2002, is amended to read:

71-511. (1) Information concerning any patient, individual, or test results obtained under sections 71-507 to 71-513 shall be maintained as confidential by the health care facility or alternate facility that received or tested the patient or individual, the designated physician, the patient's attending physician, the emergency services provider, the public safety official, and the provider agency except as provided by the Health Care Facility Licensure Act and sections 71-503.01 and 71-507 to 71-513 and the rules and regulations adopted and promulgated pursuant to such act and sections. Such information shall not be made public upon subpoena, search warrant, discovery proceedings, or otherwise except as provided by such act and sections.

(2) The information described in subsection (1) of this section may be released with the written consent of the patient or individual or, if the patient or individual is deceased or incapable of giving informed consent, with the written consent of his or her next of kin, legal guardian, or personal representative of his or her estate.

Sec. 4. Original sections 71-507, 71-510, and 71-511, Revised Statutes Supplement, 2002, are repealed.