

**CHAPTER 140-10
DIVISION OF PUBLIC HEALTH**

**SUBCHAPTER 140-10.1
AMERICANS WITH DISABILITIES ACT AND REHABILITATION ACT GRIEVANCE
PROCEDURE**

Part 001	General Provisions	Act of 1990		
§ 140-10.1-001	Compliance with § 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities		Part 100	Grievance Procedure
			§ 140-10.1-101	Grievance Procedure

Subchapter Authority: 1 CMC §§ 2603 and 2605.

Subchapter History: Amdts Adopted 20 Com. Reg. 16305 (Dec. 15, 1998); Amdts Adopted 18 Com. Reg. 14468 (Nov. 15, 1996); Adopted 17 Com. Reg. 13554 (July 15, 1995).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 §§ 105 and 305:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

...

Section 305. Department of Public Health.

(a) Board of Public Health and Environmental Quality. The Board of Public Health and Environmental Quality is abolished and its functions transferred to the Secretary of Public Health.

(b) Federally-Mandated Councils. The State Planning Council on Development Disabilities and the State Rehabilitation Advisory Council are allocated to the Department of Public Health for the purposes of administration and coordination.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.1-001 Compliance with § 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990

(a) It is the policy of the Department of Public Health to comply with the requirements of § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and regulations promulgated thereunder at 45 CFR part 84, and title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134, and regulations promulgated thereunder at 28 CFR part 35. These regulations provide, in part, that “[n]o qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance,” and that “[n]o qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any public entity.” See 45 CFR § 84.4(a), and 28 CFR § 35.130(a), respectively.

(b) If any individual has reason to believe that the Department of Public Health is not complying with the requirements of § 504 of the Rehabilitation Act of 1973 or title II of the Americans with Disabilities Act of 1990, and their respective regulations, he or she may file a grievance pursuant to the procedure set forth below. Any person wishing to examine the above referenced statutes and regulations may contact Ms. Terri Tripp, Deputy Secretary for Hospital Administration, at the Commonwealth Health Center (phone: 234-8950). Ms. Tripp is one of the individuals designated to coordinate the efforts of the Department of Public Health in complying with the regulations implementing § 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16305 (Dec. 15, 1998); Amdts Adopted 18 Com. Reg. 14468 (Nov. 15, 1996); Adopted 17 Com. Reg. 13554 (July 15, 1995).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The 1996 and 1998 amendments republished the grievance procedure in its entirety. The 1996 and 1998 amendments amended subsection (b). The Commission corrected the citation to title II of the Americans with Disabilities Act pursuant to 1 CMC § 3806(g).

Part 100 - Grievance Procedure

§ 140-10.1-101 Grievance Procedure

(a) Any person who believes he or she has been subjected to discrimination on the basis of disability (the “complainant”), in contradiction of the policies stated above, may file a grievance under the procedure in this part. It is against the law for the Department of Public Health to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

(b) The complainant must submit his or her grievance to Ms. Terri Tripp* (the “compliance coordinator”), within 30 days from the date the complainant becomes aware of the alleged discriminatory action.

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- (c) The grievance must be in writing, contain the name and address of the complainant, provide a complete description of the problem or action alleged to be discriminatory, including any documents to support the claim, and state the remedy or relief sought by the complainant. The complainant should also state in the grievance whether he or she would like to present evidence at a hearing.
- (d) If the complainant has requested a hearing, the compliance coordinator shall schedule a hearing within ten days from the date the grievance is submitted by the complainant. The compliance coordinator and two other Department of Public Health administrators shall preside at the hearing. The complainant may then present evidence through oral testimony, witnesses, and exhibits. The complainant shall have the right to be represented by a person of his or her choice at the hearing.
- (e) The compliance coordinator, or his or her designee, shall conduct an investigation of the grievance to determine its validity. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the grievance. The compliance coordinator shall maintain the files and records of the Department of Public Health relating to such grievances.
- (f) The compliance coordinator shall issue a written decision on the grievance no later than thirty days from the date the written grievance is submitted, or if a hearing is requested, thirty days from the date the hearing is held.
- (g) The complainant may appeal the decision of the compliance coordinator by filing an appeal with the Deputy Attorney General for Administration, Office of the Attorney General, Administration Building, Second Floor, Capitol Hill, within 15 days of receiving the compliance coordinator's decision. The person hearing the appeal shall be impartial as demonstrated by the absence of prior involvement in substantive aspects of the filed grievance.
- (h) The Deputy Attorney General for Administration shall issue a written decision in response to the appeal no later than thirty days from receipt of the appeal.
- (i) The availability and use of this grievance procedure does not preclude a person from filing a complaint of discrimination on the basis of disability or any action prohibited by the regulations implementing § 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990 with the U.S. Department of Health and Human Services, Office for Civil Rights, 50 United Nations Plaza, Room 322, San Francisco, California, 94102; telephone number (415) 556-8586 - Voice and TDD; FAX (415) 556-5165.
- (j) The compliance coordinator shall be responsible for ensuring that arrangements are made to enable disabled persons to participate in or make use of this grievance process on the same basis as non-disabled individuals. Such arrangements may include, but are not limited to, the provision of interpreters for the deaf, providing taped cassettes of material for the blind, and assuring a barrier-free location for the proceedings.

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* So in original.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 20 Com. Reg. 16305 (Dec. 15, 1998); Amdts Adopted 18 Com. Reg. 14468 (Nov. 15, 1996); Adopted 17 Com. Reg. 13554 (July 15, 1995).

Commission Comment: The 1996 and 1998 grievance procedure amendments amended subsection (b).

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-10.2

ALIEN EMPLOYEE SCREENING REQUIREMENTS RULES AND REGULATIONS

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TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Subchapter Authority: 1 CMC §§ 2603 and 2605.

Subchapter History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21* Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Amdts Adopted 20 Com. Reg. 15955 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15842 (Feb. 15, 1998) (effective for 120 days from Feb. 13, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 15, 1996).

*Commonwealth Register volume 21, number 2, pages 16459-16571 are mislabeled as volume 20.

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(a) and (b) authorizes the Department to maintain and improve health conditions and minimize and control communicable disease in the CNMI. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 105 and 305:

Section 105. Department of Public Health. The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

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Section 305. Department of Public Health.

(a) Board of Public Health and Environmental Quality. The Board of Public Health and Environmental Quality is abolished and its functions transferred to the Secretary of Public Health.

(b) Federally-Mandated Councils. The State Planning Council on Development Disabilities and the State Rehabilitation Advisory Council are allocated to the Department of Public Health for the purposes of administration and coordination.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Section 702 of the Consolidated Natural Resources Act of 2008 (Pub. L. No. 110-229, codified at 48 U.S.C. § 1806) removed the CNMI's authority to create and manage its own immigration laws. On March 22, 2010, the Governor signed PL 17-1, removing all references to immigration and deportation functions from the Commonwealth Code. To the extent these regulations conflict with Pub. L. No. 110-229 or PL 17-1, they are superseded.

Public Law 16-51 (effective Jan. 15, 2010), the "Commonwealth Healthcare Corporation Act of 2008," codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.2-001 Purpose and Findings

(a) The purpose of the rules and regulations in this subchapter is to establish procedures and protocols for the issuance of health certificates to all alien employees. Upon adoption of these rules and regulations, all alien employees, and their family members entering the CNMI, will be required to obtain a general physical examination and health screenings for specified communicable diseases before a health certificate is issued to them. These new requirements are intended not only to maintain the health of all alien employees who enter and reside in the CNMI to provide employee services to employers pursuant to the provisions of the Nonresident Worker

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Act, 3 CMC §§ 4411, et seq., but also to ensure the health of CNMI residents by preventing the spread of certain infectious and communicable diseases. It is the intent of the Division of Public Health to provide minimum requirements for the protection of life, health, safety, and welfare of CNMI residents by instituting these rules and regulations.

(b) The Division of Public Health has determined that many alien employees and their families are coming from countries that have endemic communicable diseases that could ultimately become a public health concern for the residents of the CNMI. Furthermore, the Division of Public Health has found that diseases transmitted by alien employees frequently originate from an infected employee who shows little outward appearance of being ill. As a result, a wide range of communicable diseases and infections may be unknowingly transmitted by infected personnel to other employees and the general public. The Division of Public Health has thus concluded that an effective means of controlling the spread of specific communicable diseases is to screen the alien employees and their families for these diseases upon their entry into the CNMI, and every year subsequent.

(c) The health screening of the alien employees will not only be beneficial to these workers and the residents of the CNMI, but will also be advantageous to employers. By overseeing compliance with the health screenings of alien employees required by the rules and regulations in this subchapter, the employer can minimize the high costs of medical treatment here in the CNMI, and avoid the added cost of deportation in the event the alien employee is later found to have a communicable disease. Also relevant to employers is that alien employees afflicted with communicable diseases are less productive. By ensuring that alien employees obtain the required health screenings, employers can assure the relative health of the alien employees they employ.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 2001 amendments readopted and republished the Alien Employee Screening Requirements Rules and Regulations in their entirety. The Commission, therefore, cites the 2001 amendments in the history sections throughout this subchapter.

§ 140-10.2-005 Definitions

As used throughout the rules and regulations in this subchapter, the following terms shall have the meanings set forth below:

(a) “Adequate” means the Secretary’s determination that a recommended action will sufficiently fulfill the requirements for a proposed objective.

(b) “Alien employee” means any foreign national, other than those citizens from United States Compact of Free Association Nations, who has entered the CNMI for the purpose of providing services or labor in exchange for remuneration by an employer.

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- (c) “Communicable disease” means a disease caused by an infectious agent or the toxic product of an infectious agent and which can be transmitted directly or indirectly from one individual to another.
- (d) “Department” means the Department of Public Health, a department within the executive branch of the CNMI government.
- (e) “Dependent” means the alien employee’s spouse, children under the age of 21, or parents who are not United States citizens.
- (f) “Deportation” means the return of an alien to his or her country of origin as provided by the Commonwealth Entry and Deportation Act of 1983, specifically 3 CMC § 4341.
- (g) “Division” means the Division of Public Health, a division within the Department of Public Health.
- (h) “Duly authorized representative” means the Deputy Secretary of Public Health Administration, the Medical Director of Public Health, the Sanitation Services Officer, or Sanitarian, as appointed by the Secretary.
- (i) “Employer” means any individual, partnership, association, corporation, or other legal entity which hires, employs, or otherwise engages for compensation any individual to perform services or labor within the Commonwealth, including any branch, agency, or instrumentality of the Commonwealth, but does not include the United States government.
- (j) “Health certificate” means an authorization issued by the Secretary to an alien employee certifying that the alien employee has been examined and found to be in good health, and free of specified communicable diseases.
- (k) “HIV” means the human immunodeficiency virus which infects humans principally through sexual intercourse, the exchange of bodily fluids, including blood and blood products, or the sharing of needles among intravenous drug users, and which may eventually lead to the development of acquired immuno-deficiency syndrome (AIDS).
- (l) “Person-in-charge” means the individual present in a place of employment who is the apparent supervisor of the business establishment and the supervisor of the alien employees at the time of inspection, or in the event no designated supervisor is present, then any employee working at the place of employment.
- (m) “Physical examination” means a medical examination performed by a physician.
- (n) “Physically fit and in good health” means a condition of sufficient physical and mental health to enable the individual to perform the work he or she is being hired to do without compromising his or her health.

- (o) “Physician” means a CNMI licensed physician.
- (p) “Secretary” means the Secretary of the Department of Public Health, or a duly authorized representative.
- (q) Syphilis means a sexually transmitted disease caused by the organism *Treponema pallidum*, and screened by means of a rapid plasma reagin (RPR) test.
- (r) Tuberculosis means a potentially communicable disease caused by the organism *Mycobacterium tuberculosis*, which may be diagnosed based on clinical, laboratory, radiological, and tuberculin skin testing. Active tuberculosis is considered communicable and highly contagious.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 20 Com. Reg. 15955 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15842 (Feb. 15, 1998) (effective for 120 days from Feb. 13, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The 1998 amendments deleted former subsections (a) and (m), re-designated the remaining subsections accordingly and amended subsection (r). The 2001 amendments added a new subsection (n).

The Commission inserted quotation marks around terms defined.

Part 100 - Physical Examination

§ 140-10.2-101 Period for Obtaining Physical Examination

Within ten days after authorized entry into the CNMI for employment, an alien employee shall schedule an appointment for a physical examination as required by the Nonresident Worker Act, 3 CMC § 4438(b) to establish that he or she is physically fit and in good health. A record of the physical examination shall be completed by the physician on a physical examination form approved by the Division. Yearly physical examinations for alien employees shall be performed at least forty-five days prior to the annual renewal of the employment contract, or forty-five days prior to the anniversary of the entry date into the CNMI, whichever date is first.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-105 Filing of Physical Examination Forms

The physician performing the alien employee’s physical examination shall provide the Division with a copy of the completed physical examination form for the alien employee in a sealed envelope marked “confidential” within forty-five days from the date of the alien employee’s initial physical examination, and forty-five days from the date of each annual physical examination thereafter.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21 Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-110 Cost of Physical Examination

The cost of the alien employee's physical examination shall be the financial responsibility of the alien employee's employer.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Part 200 - Screening for Communicable Disease

§ 140-10.2-201 Introduction

All alien employees entering the CNMI shall be screened for specified communicable diseases which can not only jeopardize the health and life of the alien employees, but also threaten the resident CNMI population and tourists visiting the CNMI. Screenings shall be limited to those communicable diseases which can be easily tested and monitored, including tuberculosis, HIV, syphilis, and any other communicable disease specified by the Secretary through health advisories as being a potential risk to the CNMI community.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: This section was originally the introduction to part IV, codified at part 200. The Commission created the section title.

§ 140-10.2-205 Procedures for Screening

Concurrent with the performance of the physical examination, the alien employee shall obtain health screening tests for the communicable diseases specified in the rules and regulations in this subchapter, and any others required by the Secretary through health advisories. All chest radiographs required by these rules and regulations shall be read by a physician, or may be sent to the center for tuberculosis and lung disease at the Commonwealth Health Center for reading.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-210 Filing of Screening Test Results with the Division

The alien employee's physician shall provide the Division with a copy of all screening test results required by this part 200 and by the Secretary's health advisories within forty-five days from the date of the alien employee's initial physical examination, and forty-five days from the date of each annual physical examination thereafter. The screening test results shall be included in the sealed envelope marked "confidential" containing the physical examination form.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21 Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-215 Cost of Screening Tests

The cost of the alien employee's screening tests for the communicable diseases set forth in the rules and regulations in this subchapter, and any other tests required by the Secretary through health advisories shall be the financial responsibility of the alien employee's employer.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-220 Required Screening Tests for Communicable Diseases

At a minimum, all alien employees shall obtain screening tests for the following communicable diseases:

(a) Tuberculosis Screening. Every alien employee shall obtain a single view PA chest radiograph upon entry into the CNMI, and then annually thereafter. The yearly test shall be performed at least forty-five days prior to the annual renewal of the employment contract, or forty-five days prior to the anniversary of the entry date into the CNMI, whichever date is first.

(b) HIV Screening. Every alien employee shall obtain an HIV antibody test first upon entry into the CNMI, and then annually thereafter. The yearly test shall be performed at least forty-five days prior to the annual renewal of the employment contract, or forty-five days prior to the anniversary of the entry date into the CNMI, whichever date is first.

(c) Syphilis Screening. Every alien employee shall obtain a rapid plasma reagin (RPR) test first upon entry into the CNMI, and then annually thereafter. The yearly test shall be performed at least forty-five days prior to the annual renewal of the employment contract, or forty-five days prior to the anniversary of the entry date into the CNMI, whichever date is first.

(d) Other Communicable Diseases. All alien employees who contract other infectious or communicable diseases should be seen promptly by a physician. Any physician who diagnoses an alien employee as having a communicable disease shall immediately report the alien

employee to the Division.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 20 Com. Reg. 15955 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15842 (Feb. 15, 1998) (effective for 120 days from Feb. 13, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The 1998 amendments amended subsection (a).

Part 300 - Issuance of Health Certificates

§ 140-10.2-301 Alien Employee Health Certificates

Within ten working days of receiving the alien employee's physical examination form, the Division shall determine whether the alien employee qualifies to receive a health certificate. If the alien employee has been found to be physically fit and in good health, and free from communicable diseases covered by the rules and regulations in this subchapter, the Secretary shall issue the alien employee a health certificate. The health certificate shall be valid for a period of one year from the date of issue.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-305 Suspension of Issuance of Health Certificate for Alien Employees Found to Have a Communicable Disease

Alien employees who test positive for a communicable disease covered by the rules and regulations in this subchapter shall be issued a health certificate subject to the recommendations of the Division.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-310 Cost of Health Certificates

The cost of an alien employee health certificate shall be twenty dollars, payable to the Department upon issuance of the health certificate. The employer of the alien employee shall be responsible for the cost of the health certificate.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-315 Employer to Maintain Files

The employer shall maintain the health certificates of all its alien employees in their respective employment files at all times. The employer shall be prepared to show these health certificates to a duly authorized representative, upon request during an inspection.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Part 400 - Division Record Keeping and Tracking Measures

§ 140-10.2-401 Public Health Notification Form

A “public health notification form” shall be completed in triplicate by every alien employee and every dependent entering the CNMI. The original public health notification form shall be given to the alien employee. One copy of the public health notification form shall be provided to the Division of Labor, Department of Labor and Immigration, and the second copy shall be provided to the Division.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-405 Database Records

The information contained on the public health notification form shall be used by the Division to develop an alien employee health database. The database shall be used to track all alien employees and dependents for compliance with the health screening requirements established in the rules and regulations in this subchapter. All public health notification forms shall be submitted to the Division within ten days of entry.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-410 Notice of Noncompliance

If a review of the Division’s database indicates that an alien employee has not been issued a health certificate within ninety days from the alien employee’s date of entry into the CNMI, Division staff shall send written notice to the alien employee of noncompliance with the rules and regulations in this subchapter. The alien employee shall have twenty days from the date of the notice to come into compliance with the requirements of these rules and regulations. Failure to respond to the Division’s notice shall subject the alien employee to penalties as set forth in § 140-10.2-705 of this subchapter. This section shall not apply to those alien employees who

have not been issued health certificates because they are undergoing treatment for a communicable disease, and who remain fully compliant with the Division's prescribed treatment regimen for the duration of treatment. An alien employee undergoing treatment shall be issued a letter by the Division setting forth the date treatment is anticipated to be completed and when a health certificate can be issued.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21 Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-415 Inspections by Duly Authorized Representatives

From time to time an employer's place of employment may be inspected by a duly authorized representative of the Department. Upon request by the duly authorized representative, the employer or person-in-charge shall grant the duly authorized representative access to the alien employees' employment files for purposes of inspecting the health certificates. Any alien employee who does not have a valid health certificate in his or her employment file shall be reported to the Division.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Part 500 - Alien Employees with Positive Test Results

§ 140-10.2-501 Handling of Alien Employees with Positive Test Results

(a) If an alien employee is found to have a communicable disease covered by the rules and regulations in this subchapter, the Division shall establish a treatment regimen for the alien employee to the extent treatment is available within the CNMI. If the alien employee fails to comply with the Division's treatment regimen, the Department shall prepare a written advisory to the Department of Labor and Immigration recommending that such alien employee be immediately deported back to his or her country of origin. The costs associated with the alien employee's deportation shall be the financial responsibility of the employer.

(b) Positive test results for tuberculosis, HIV, and syphilis shall be handled by the Division as follows:

(1) Tuberculosis. Alien employees found to have tuberculosis shall be required to comply with the Center for Tuberculosis and Lung Disease protocol for treating tuberculosis for the duration of their stay in the CNMI. Any alien employee diagnosed with tuberculosis who does not comply with prescribed treatment and therapy for tuberculosis, or who fails to comply with recommendations made by the Division may be referred by the Division to the Department of Labor and Immigration for deportation.

(2) HIV. Alien employees who test positive for HIV shall comply with the Division's protocol for HIV patients.

(3) Syphilis. Alien employees who test positive for syphilis shall be required to report to the Division for treatment. Any alien employee diagnosed with syphilis who does not comply with prescribed treatment and therapy for syphilis may be referred by the Division to the Department of Labor and Immigration for Deportation.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 20 Com. Reg. 15955 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15842 (Feb. 15, 1998) (effective for 120 days from Feb. 13, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The 1998 amendments amended subsection (b)(1).

With respect to the references to the Department of Labor and Immigration, see Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returning the immigration functions of the executive branch to the Office of the Attorney General and renaming the Department of Labor. See also NMIAC chapter 80-10.1.

§ 140-10.2-505 Procedure When Infection Is Suspected

When the Secretary has probable cause to suspect disease transmission by an alien employee, the Secretary may require a medical history, physical examination, and any necessary screening tests required to confirm that the suspected alien employee has a communicable disease. If the alien employee is confirmed to have a communicable disease, the Secretary may require any or all of the following measures:

- (a) Restriction of the alien employee’s services to an area of the establishment where there would be no danger of him or her transmitting the disease;
- (b) Adequate physical examinations and health screenings of other employees working in the same establishment as the alien employee pursuant to the Rules and Regulations Governing Communicable Diseases [NMIAC, title 140, subchapter 10.3];
- (c) The immediate exclusion of the alien employee from employment pursuant to the Rules and Regulations Governing Communicable Diseases [NMIAC, title 140, subchapter 10.3];
- (d) The immediate closing of the place of employment concerned until, in the opinion of the Secretary, no further danger of disease outbreak exists pursuant to the Rules and Regulations Governing Communicable Diseases [NMIAC, title 140, subchapter 10.3];
- (e) Confinement of the alien employee in the Commonwealth Health Center or his or her home pursuant to the Rules and Regulations Governing Communicable Diseases [NMIAC, title 140, subchapter 10.3];
- (f) Referral of the alien employee to the Department of Labor and Immigration for immediate deportation back to his or her country of origin.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: With respect to the reference to the Department of Labor and Immigration, see Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returning the immigration functions of the executive branch to the Office of the Attorney General and renaming the Department of Labor. See also NMIAC chapter 80-10.1.

Part 600 - Screening Required for Dependents

§ 140-10.2-601 Physical Examinations and Screening Tests Required for Dependents

Within ten days after the dependents’ authorized entry into the CNMI, the accountable alien employee shall schedule appointments for physical examinations for the dependents as required by the Nonresident Worker Act, 3 CMC § 4438(b) and part 100 of this subchapter, and screening tests for communicable diseases as set forth in part 200 of this subchapter.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-605 Exceptions for Dependents Age Twelve or Younger

Notwithstanding § 140-10.2-601, dependents age twelve or younger shall only be required to obtain:

- (a) A physical examination;
- (b) A Mantoux tuberculin skin test using derivative (PPD), which if found positive (greater than or equal to 10 millimeters induration) when read within seventy-two hours after the test is performed, then tuberculosis screening as set forth in § 140-10.2-220(a) of this subchapter will be required; and
- (c) Those childhood vaccinations required by Department advisories for which the dependent does not have adequate documentation demonstrating that such vaccination was provided in his or her country of origin. The alien employee shall be responsible for submitting all vaccination documentation for his or her dependents age fifteen or younger to the Division for inspection.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The 2001 amendments amended the opening sentence and subsection (b).

§ 140-10.2-610 Filing of Dependents' Physical Examination Forms and Screening Test Results

The physician performing the physical examination shall provide the Division with copies of the completed physical examination forms and all screening test results for each of the alien employee's dependents in the CNMI in a sealed envelope marked "confidential" within forty-five days from the date of the dependents' initial physical examination, and then for physical examinations yearly thereafter.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-615 Issuance of Health Certificates to Dependents

Health certificates shall be issued by the Secretary to dependents as provided in §§ 140-10.2-301 and 140-10.2-305 of this subchapter. It shall be the responsibility of the alien employee to maintain the health certificates for his or her dependents.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-620 Cost of Dependents' Physical Examinations, Screening Tests, and Health Certificate

The cost of the physical examinations, screening tests, and health certificates for dependents shall be the responsibility of either the alien employee or the employer, as agreed to between them.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-625 Notice of Noncompliance

If a review of the Division's database indicates that a dependent of an alien employee has not been issued a health certificate within ninety days from the dependent's date of entry into the CNMI, Division staff shall send written notice to the dependent and alien employee of noncompliance with the rules and regulations in this subchapter. The Dependent shall have twenty days from the date of the notice to come into compliance with the requirements of these rules and regulations. Failure to respond to the Division's notice shall subject the dependent and the alien employee to penalties as set forth in § 140-10.2-705 of this subchapter. This section shall not apply to those dependents who have not been issued health certificates because they are undergoing treatment for a communicable disease, and who remain fully compliant with the

Division's prescribed treatment regimen for the duration of treatment. A dependent undergoing treatment shall be issued a letter by the Division setting forth the date treatment is anticipated to be completed and when a health certificate can be issued.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-630 Positive Test Results

Dependents with positive test results who fail to comply with the treatment recommendations of the Division or the Center for Tuberculosis and Lung Disease shall be subject to deportation as provided in § 140-10.2-501 of this subchapter. However, the costs associated with the dependent's deportation shall be the financial responsibility of the alien employee.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Part 700 - Miscellaneous Provisions

§ 140-10.2-701 Application of These Rules and Regulations to Alien Employees and Their Dependents Currently Residing in the CNMI

Upon the effective date of the rules and regulations in this subchapter, all alien employees and their dependents currently residing in the CNMI shall have ninety days to obtain a health certificate in order to be in compliance with the requirements of these rules and regulations. Those alien employees and their dependents who have already had a physical examination or screening tests required by these rules and regulations in the CNMI for the year shall not be required to obtain new ones, but the alien employee shall be required to bring the results of the physical examination and/or screening test results to the Division for entry into the database and for issuance of the health certificate.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21 Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

§ 140-10.2-705 Penalties for Violations of These Rules and Regulations

(a) Penalties for Alien Employees. Alien employees who are found to be in violation of the rules and regulations in this subchapter shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for deportation back to their country of origin. The costs associated with deportation shall be the financial responsibility of the employer.

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(b) Penalties for Dependents. Dependents age eighteen or older who are found to be in violation of the rules and regulations in this subchapter shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for deportation back to their country of origin. Dependents under age eighteen who are found to be in violation of these rules and regulations shall be reported to the Division of Immigration, Department of Labor and Immigration and recommended for deportation back to their country of origin along with an adult dependent, or if there is no adult dependent legally responsible for the minor in the CNMI, then with the alien employee. The costs associated with deportation shall be the financial responsibility of the dependent or the alien employee.

(c) Penalties for Other Violations. Any person found by the Department to have obtained a health certificate by fraudulent means; forged or altered information on a physical examination form or screening test; refused or failed to comply with any order issued by the Secretary or duly authorized representative pursuant to these rules and regulations, or violated these rules and regulations in any other manner, shall be liable for a civil penalty of up to \$1,000.00 for each violation of the rules and regulations.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Amdts Adopted 21 Com. Reg. 16559 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16395 (Dec. 15, 1998); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

Commission Comment: The 1999 amendments deleted former subsection (b) and re-designated the remaining subsections accordingly.

With respect to the references to the Department of Labor and Immigration and the Division of Immigration, see Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returning the immigration functions of the executive branch to the Office of the Attorney General and renaming the Department of Labor. See also NMIAC chapter 80-10.1.

§ 140-10.2-710 Severability

If any provision of the rules and regulations in this subchapter or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these rules and regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected hereby.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17706 (Feb. 23, 2001); Amdts Proposed 22 Com. Reg. 17591 (Dec. 20, 2000); Adopted 19 Com. Reg. 15167 (Feb. 15, 1997); Proposed 18 Com. Reg. 14183 (July 17, 1996).

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**SUBCHAPTER 140-10.3
COMMUNICABLE DISEASES RULES AND REGULATIONS**

Part 001	General Provisions	§ 140-10.3-320	Director of Public
§ 140-10.3-001	Definitions		Safety
Part 100	Duty to Report	§ 140-10.3-325	Disinfection of
§ 140-10.3-101	Duty to Report		Premises
§ 140-10.3-105	Dispensaries, Hospitals, Private Clinics, Etc.	§ 140-10.3-330	Destruction of
§ 140-10.3-110	Laboratories		Property
§ 140-10.3-115	Keeper of Boarding or Lodging Houses, Government Departments and Other Working Institutions	§ 140-10.3-335	Compensation
§ 140-10.3-120	Master of Vessel Captain of Aircraft	§ 140-10.3-340	Closing of Schools
Part 200	Investigation	§ 140-10.3-345	Disposal of Bodies
§ 140-10.3-201	Investigation	§ 140-10.3-350	Responsibility of
§ 140-10.3-205	Access to Records, Reports, Etc.		Person in Charge of Minor
Part 300	Isolation and Quarantine; Other Requirements	§ 140-10.3-355	Willful Exposure
§ 140-10.3-301	Isolation and Quarantine; Regulations	§ 140-10.3-360	Concealing Disease
§ 140-10.3-305	Same; Authority of Director	§ 140-10.3-365	Vaccination and
§ 140-10.3-310	Placarding		Immunization
§ 140-10.3-315	Violation of Isolation or Quarantine	§ 140-10.3-370	Prenatal Test
		§ 140-10.3-375	Report as to Prenatal Test
		§ 140-10.3-380	Prevention of
			Blindness at Childbirth
		§ 140-10.3-385	Immunization Audit
		§ 140-10.3-390	Same; Confidentiality
		§ 140-10.3-395	Autopsy
		Part 400	Penalties; Miscellaneous
			Provisions
		§ 140-10.3-401	Penalty

Subchapter Authority: 1 CMC § 2605; 3 CMC § 2148.

Subchapter History: Amdts Adopted 25 Com. Reg. 21447 (Oct. 15, 2003); Amdts Emergency and Proposed 25 Com. Reg. 20248 (July 15, 2003) (effective for 120 days from June 25, 2003); Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(b) grants the Department the power and duty to minimize and control communicable disease. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction, including quarantine of communicable disease and inspection. 1 CMC § 2605(n).

3 CMC § 2148 provides that persons suffering from contagious diseases, and persons exposed to such diseases, may be isolated and quarantined in accordance with regulations issued pursuant to Commonwealth Code, title 3, division 2.

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Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.3-001 Definitions

As used in this subchapter:

(a) “Communicable disease” includes any of the following diseases or conditions which are dangerous to public health:

- (1) Acquired immune deficiency syndrome (AIDS);
- (2) Amebiasis (amoebic dysentery);
- (3) Anthrax;
- (4) Brucellosis (undulant fever);
- (5) Chancroid;
- (6) Chickenpox;
- (7) Cholera;
- (8) Cholangiohepatitis (liver-fluke);
- (9) Conjunctivitis, acute infectious (pink eye);
- (10) Dengue;
- (11) Diarrhea of newborn (epidemic infantile);
- (12) Diphtheria;
- (13) Encephalitis, primary (infectious);
- (14) Erysipelas;
- (15) Favus;
- (16) Filariasis;
- (17) Fish (ciguatera) poisoning;
- (18) Food poisoning (bacterial);
- (19) Glanders (farcy);
- (20) Gonorrhea;
- (21) Gonorrheal ophthalmia;
- (22) Granuloma inguinale;
- (23) Hemophilus influenza B.;
- (24) Hepatitis A (infectious);
- (25) HIV-seropositive condition;
- (26) Hepatitis B (serum);

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- (27) Hepatitis C (serum);
- (28) Hookworm disease;
- (29) Impetigo contagious (in institution);
- (30) Influenza;
- (31) Japanese encephalitis;
- (32) Kerato-conjunctivitis (infectious);
- (33) Leprosy (Hansen's disease);
- (34) Leptospirosis (Wells disease or hemorrhagic jaundice);
- (35) Malaria;
- (36) Measles (rubella);
- (37) Melioidosis;
- (38) Meningitis, aseptic;
- (39) Meningitis, cerebrospinal (meningococcal);
- (40) Meningitis, other infectious;
- (41) Mononucleosis, infectious;
- (42) Mumps;
- (43) Paratyphoid fever;
- (44) Pertussis (whooping cough);
- (45) Plague;
- (46) Poliomyelitis, acute anterior (infantile paralysis);
- (47) Psittacosis-ornithosis;
- (48) Puerperal septicemia;
- (49) Rabies;
- (50) Relapsing fever;
- (51) Rheumatic fever (active);
- (52) Rickettsial disease;
- (53) Ringworm of the scalp (tinea capitis);
- (54) Rubella (German measles);
- (55) Salmonellosis;
- (56) Scabies;
- (57) Scarlet fever;
- (58) Septic sore throat (streptococcus);
- (59) Shigellosis (bacillary dysentery);
- (60) Smallpox;
- (61) Syphilis;
- (62) Tetanus;
- (63) Trachoma;
- (64) Trichinosis;
- (65) Tuberculosis (pulmonary);
- (66) Tuberculosis (other than pulmonary);
- (67) Tularemia;
- (68) Typhoid fever;
- (69) Typhus fever;
- (70) Yaws;
- (71) Yellow fever;
- (72) SARS (severe acute respiratory syndrome);

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(73) Any other disease deemed by the Secretary to be dangerous to the public health.

(b) “Isolation” means the separation of persons suffering from a communicable disease or carriers of such a disease from other persons for the period of communicability in such places and under such conditions as will prevent the transmission of the causative agent; and

(c) “Quarantine” means the limitation of freedom of movement of those who have been exposed to a communicable disease, whether a person or animal, for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contacts with those not so exposed.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 25 Com. Reg. 21447 (Oct. 15, 2003); Amdts Emergency and Proposed 25 Com. Reg. 20248 (July 15, 2003) (effective for 120 days from June 25, 2003); Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The 2003 amendments added a new subsection (a)(72) and re-designated and amended (a)(73). In subsection (a)(3), the Commission corrected the spelling of “anthrax.” In subsections (a)(1) and (a)(19), the Commission inserted the final semi-colons. In subsections (a)(25) and (a)(58), the Commission changed the final periods to semi-colons. In subsection (a)(73), the Commission changed the final semi-colon to a period in order to ensure consistent punctuation in this section.

Part 100 - Duty to Report

§ 140-10.3-101 Duty to Report

Any person licensed or registered to practice any healing art under § 7 of PL 3-30 who has knowledge of or suspects the presence of any communicable disease or any other disease dangerous to the public health, shall report the same to the Director within forty-eight hours after diagnosis, unless a different time is prescribed by regulation, together with the name, age and sex of the person afflicted, the house or other place in which such person may be found, and such other information as may be required by regulation.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-105 Dispensaries, Hospitals, Private Clinics, Etc.

The superintendent, chief medical officer, nurse in charge or other person in charge of any hospital, clinic, dispensary, infirmary, medical aid station or other establishment providing medical care, either to the general public or otherwise, who has knowledge or suspected knowledge of the presence of any communicable disease or any other disease dangerous to the public health shall report the same to the Director in accordance with § 140-10.3-101. When the patient is hospitalized, the person in charge of the hospital in which he is hospitalized shall make

the report.

Modified, 1 CMC § 3806(c).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-110 Laboratories

The Director, administrator, chief officer or other person in charge of any laboratory, public or private, performing any tests or examinations upon persons or their blood, urine, feces, or any other body products shall, upon identification or suspected identification of an etiologic agent, antigen, antibody, or any other substance or combination of substances generally accepted as being diagnostic of the presence of a communicable disease, report same to the Director in accordance with § 140-10.3-101.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission deleted the repeated word “shall.” The Commission inserted commas after the words “feces” and “antibody” pursuant to 1 CMC § 3806(g).

§ 140-10.3-115 Keeper of Boarding or Lodging Houses, Government Departments and Other Working Institutions

Any owner, keeper, or other person in charge of the operation of a hotel, boarding house, or dormitory government departments and other working institutions shall immediately report to the Director the presence therein of any person he has reason to believe to be sick of, or to have died of any contagious, infectious, communicable, or other disease dangerous to the public health.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted commas after the words “keeper,” “house,” and “communicable” pursuant to 1 CMC § 3806(g).

§ 140-10.3-120 Master of Vessel Captain of Aircraft

Any master of a vessel or captain of an aircraft, or ships shall immediately report to the Director or his representative the presence aboard such vessel or aircraft of any person he has reason to believe to be sick or to have died of any communicable disease.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Part 200 - Investigation

§ 140-10.3-201 Investigation

When a complaint is made or a reasonable belief exists that a communicable disease or other disease dangerous to the public health prevails in any house or elsewhere which has not been reported, the Director shall make an inspection for the purpose of discovering whether any such disease exists.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-205 Access to Records, Reports, Etc.

When the Director has reason to believe that a communicable disease exists but that full and complete information as required by § 140-10.3-101 of this subchapter has not been provided, the Director or his representative may examine any and all records or reports deemed necessary to fully investigate the disease.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Part 300 - Isolation and Quarantine; Other Requirements

§ 140-10.3-301 Isolation and Quarantine; Regulations

Isolation and quarantine shall be imposed in accordance with regulations. Such regulations shall designate the disease for which isolation or quarantine is necessary, and such other requirements concerning diagnosis, treatment, release and other pertinent matters as may be necessary.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-305 Same; Authority of Director

(a) Notwithstanding § 140-10.3-301, when a person has or is suspected of having or is suspected of being a carrier of any communicable disease or any other disease dangerous to the public health, the Director may impose isolation on such person and may impose quarantine on anyone who has had contact with such person. The extent and duration of isolation and quarantine imposed in a given case and release therefrom shall be within the discretion of the Director depending upon the disease. The Director may, in his discretion, determine the persons subject to isolation and quarantine, specify the places or areas to which or in which they are

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restricted in their movements, prescribe other conditions and requirements to be observed, decide the duration of isolation and quarantine and release therefrom and issue other necessary instructions. He shall insure that provisions are made for medical observation of such persons as frequently as necessary during isolation and quarantine. He may, in his discretion, terminate isolation and quarantine or amend the degree thereof and other restrictions imposed in connection therewith at any time.

(b) When a person has or is suspected of having or is suspected of being a carrier of any communicable disease or any other disease dangerous to the public health, the Director may, in his discretion and for the safety of the public, remove such person, with or without his consent, to a licensed hospital or other designated premises for the purpose of isolation and treatment until the disease is no longer communicable by such person. If the Director should determine that removal of such person is not practicable, such person may be allowed to remain where he is and the Director may take such measures as he may deem advisable to provide for his care for the public health by way of isolation and quarantine.

Modified, 1 CMC § 3806(c).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-310 Placarding

When a person has been isolated or quarantine and is restricted thereby to his residence or other building, the Director may place in a conspicuous position on the exterior of the premises when such person is isolated or quarantine a placard having printed on it in large letter the name of the disease and warning all unauthorized persons to remain off the premises. Such placard shall be in English and Chamorro and in any other languages the Director deems appropriate. No person shall remove, deface, or destroy such placard until authorized by the Director. Except as authorized by the Director or regulation, no person shall enter or leave any premises which has been placarded.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted a comma after the word “deface” pursuant to 1 CMC § 3806(g).

§ 140-10.3-315 Violation of Isolation or Quarantine

No person who has been isolated or quarantined shall leave the premises or area to which he has been restricted without the written permission of the Director until he has been released from such isolation or quarantine.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-320 Director of Public Safety

Upon the request of the Director, it shall be the duty of the Director of Public Safety to act and assist in the enforcement of isolation and quarantine, using such force as may be reasonably necessary.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-325 Disinfection of Premises

The Director may, if he deems it advisable, order the premises and content thereof in which any person has been ill or has died of a communicable disease or any other room, building, premises or area, any contents thereof, which may be infective by contact with any communicable disease, to be disinfected and purified in such manner as he may direct. It shall be the duty of the owner or occupant or such premises to comply with any such order.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-330 Destruction of Property

The Director may destroy any infective clothing, bedding or to* other article which cannot be made safe by disinfection. He shall furnish to the owner thereof a receipt showing the number, character, condition and estimated value of the article so destroyed. A copy of such receipt shall be retained by the Director.

* So in original.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-335 Compensation

Upon the presentation of the original receipt for articles destroyed under § 140-10.3-330 and approval by the Attorney General, the Director shall pay to the owner of such property, out of such appropriations of the Department of Public Health and Environmental Services as may be available, the value of such destroyed articles.

Modified, 1 CMC § 3806(c).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

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Commission Comment: With respect to the reference to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994). See also the general commission comment to this chapter.

§ 140-10.3-340 Closing of Schools

During an epidemic or threatening epidemic or when a dangerous communicable disease is unusually prevalent, the Director may close any public or private school and prohibit any public or private gathering for such time as may be necessary in the interests of the public health.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-345 Disposal of Bodies

The Director, in his discretion, may require that the body of a person, who has died of a communicable disease or any other disease dangerous to the public health, be buried or cremated immediately or within such period of time and in conformity with such procedures for the protection of the public health, as he may designate.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-350 Responsibility of Person in Charge of Minor

Where any person suffering from a communicable disease is required to remain isolated or quarantine or to do or refrain from doing any act or thing whereby spread of the disease may be enhanced and such person because of his tender age or of physical or mental disability is unable to comprehend or comply with such requirements, it shall be the duty of the parent, guardian, or other person, including any attendant having such patient under his care, custody, or control to comply or cause compliance with the isolation or quarantine so imposed and pertinent provisions of this subchapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted commas after the words “guardian” and “custody” pursuant to 1 CMC § 3806(g).

§ 140-10.3-355 Willful Exposure

No person having a communicable disease or any other disease dangerous to the public health or being in charge of any other person afflicted with such a disease, shall willfully expose himself or such person in any public place, street, or highway except as may be authorized by the

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Director.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted a comma after the word “street” pursuant to 1 CMC § 3806(g).

§ 140-10.3-360 Concealing Disease

No person shall conceal any person having any communicable disease or any other disease dangerous to the public health, including any sexual transmitted disease. No parent, guardian, or other person having custody or care of a minor child shall conceal the fact of a minor child having any such disease.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted a comma after the word “guardian” pursuant to 1 CMC § 3806(g).

§ 140-10.3-365 Vaccination and Immunization

No child shall be enrolled in any public or private school within the Commonwealth unless evidence is presented to the enrolling officer that the child has had all such vaccinations or immunizations, including but not limited to diphtheria, pertussis, tetanus, polio, measles (rubeola), mumps and rubella (German measles, hepatitis B) or against other communicable disease as the Director shall, by regulation, require, except that exemption may be granted upon certification by a parent or legal guardian that such vaccination or immunization would be against their religious belief or a child that has been certified by a licensed medical doctor that said child shall be exempt from this section where medical contraindication to receiving a specific vaccine exists. The Director may require vaccination and immunization of any person or persons suspected as carriers of a communicable disease upon entering or leaving the Commonwealth which the Director believes may present a risk to the public health of the Commonwealth. The Director, in case of an epidemic or to control a possible epidemic of a communicable disease, may direct that the general population be vaccinated and immunized against said disease.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-370 Prenatal Test

Any licensed or registered physician attending a pregnant woman for condition relating to her pregnancy during this period of gestation or at delivery shall take or cause to be taken a sample of the blood of such woman and submit such sample to the Department of Public Health and

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Environmental Services laboratory or other laboratory approved by the Director for a standard serologic test for syphilis. Any other person permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall cause a sample of blood of every pregnant woman attended by him to be taken by a duly licensed or registered physician or at the Department of Public Health and Environmental Services laboratory approved by the Director for a standard serologic test for syphilis. Such samples of blood shall be taken at the time of the first visit of the pregnant woman or within fourteen days thereafter. Every pregnant woman shall permit such samples of her blood to be taken as provided in this section.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: With respect to the reference to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994). See also the general commission comment to this chapter.

§ 140-10.3-375 Report as to Prenatal Test

In reporting any birth or stillbirth, any physician or other person required to make such reports shall state in a report accompanying the certificate whether, according to his knowledge or information, a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which the birth or date when the specimen was taken. The Director is authorized to investigate the circumstances surrounding the birth of any baby on whose mother no serologic test, as required by the provision of this subchapter, appears to have been taken.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-380 Prevention of Blindness at Childbirth

Any physician, midwife, or any other person in attendance at childbirth immediately after birth shall administer (1%) silver nitrate solution to both eyes of the newborn child. Preparations other than one percent silver nitrate may be used only on approval of the Director and subject to such conditions and restrictions as the Director may impose.

Modified, 1 CMC § 3806(e).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission inserted a comma after the word “midwife” pursuant to 1 CMC § 3806(g).

§ 140-10.3-385 Immunization Audit

Annually, the Director shall conduct an immunization audit. The sample audits shall be private clinic records and private physicians' record to determine if:

- (a) One consolidated immunization records is posted on the inside front cover of the patient's medical record if the patient is under the age of eighteen, and
- (b) That the record of any child found to be deficient in immunizations indicates:
 - (1) That progress towards immunization is being made;
 - (2) A record of scheduled return appointment for the child; or
 - (3) A reason for the lack of immunization.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

§ 140-10.3-390 Same; Confidentiality

The immunization audit shall be done by the Director who may delegate his duty to the Immunization Coordinator of the Division of Public Health. The Director shall be responsible for assuring the confidentiality of individual patient record is preserved. The Department of Public Health and Environmental Services shall be responsible for compiling statistics of the audit.

Modified, 1 CMC § 3806(g).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Commission Comment: The Commission deleted the word "a" before "statistics of the audit."

With respect to the reference to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994). See also the general commission comment to this chapter.

§ 140-10.3-395 Autopsy

The Director may order an autopsy to determine if the deceased died of a communicable disease or whenever, in his discretion, the public interest justifies it.

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

Part 400 - Penalties; Miscellaneous Provisions

§ 140-10.3-401 Penalty

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A person who violates any of the provisions of this subchapter or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for not more than one year, or both.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 15 Com. Reg. 11091 (Nov. 15, 1993); Emergency and Adopted 15 Com. Reg. 11074 (Nov. 15, 1993) (effective for 120 days from Oct. 26, 1993); Adopted 15 Com. Reg. 10706 (June 15, 1993); Proposed 13 Com. Reg. 7858 (Sept. 15, 1991).

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SUBCHAPTER 140-10.4 INTERMENTS AND DEAD BODIES REGULATIONS

Part 001 General Provisions § 140-10.4-001 Authority

Commonwealth Health Center Morgue § 140-10.4-101 Bodies Abandoned in the Commonwealth Health Center Morgue

Part 100 Bodies Abandoned in the

Subchapter Authority: 1 CMC 2605(f).

Subchapter History: Adopted 17 Com. Reg. 13388 (May 15, 1995); Proposed 17 Com. Reg. 13019 (Mar. 15, 1995); Emergency and Proposed 17 Com. Reg. 12696 (Jan. 15, 1995) (effective for 120 days from Jan. 6, 1995).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2605(f) directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction, including interments and dead bodies.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.4-001 Authority

The Department of Public Health is authorized to implement the regulations governing interments and dead bodies codified in this subchapter pursuant to 1 CMC § 2605(f).

Modified, 1 CMC § 3806(d), (g).

History: Adopted 17 Com. Reg. 13388 (May 15, 1995); Proposed 17 Com. Reg. 13019 (Mar. 15, 1995); Emergency and Proposed 17 Com. Reg. 12696 (Jan. 15, 1995) (effective for 120 days from Jan. 6, 1995).

Commission Comment: The Commission inserted the final period.

Part 100 - Bodies Abandoned in the Commonwealth Health Center Morgue

§ 140-10.4-101 Bodies Abandoned in the Commonwealth Health Center Morgue

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- (a) Upon the death of an individual within the CNMI, Commonwealth Health Center staff will attempt to locate family members or friends to advise them about the death, and to request that they take possession of the body.
- (b) If Commonwealth Health Center staff are unable to locate the decedent's family members or friends within the period of two weeks, the Commonwealth Health Center shall place a public notice in a newspaper of general circulation announcing the person's death, and that the body is being held at the Commonwealth Health Center morgue.
- (c) If, after one week following the announcement in the newspaper, the body remains unclaimed, the Department of Public Health shall have the power to supervise and conduct a burial of the decedent within the CNMI.
- (d) In those instances where the Commonwealth Health Center staff have made significant efforts to locate family members and friends of the decedent, but have been unsuccessful in locating such individuals, and maintaining the remains of the decedent in the Commonwealth Health Center morgue poses an immediate threat of communicable disease, the Commonwealth Health Center may dispense with the requirement of public notice and may supervise and conduct a burial of the decedent after the body has remained unclaimed in the morgue for a period of two weeks.

History: Adopted 17 Com. Reg. 13388 (May 15, 1995); Proposed 17 Com. Reg. 13019 (Mar. 15, 1995); Emergency and Proposed 17 Com. Reg. 12696 (Jan. 15, 1995) (effective for 120 days from Jan. 6, 1995).

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**SUBCHAPTER 140-10.5
LIVING WILL POLICY RULES AND REGULATIONS**

Part 001 General Provisions

§ 140-10.5-001 Policy
§ 140-10.5-005 Findings and
Declarations

Care Provider Unwilling to Comply with the
Living Will Policy; Transfer of Patient

§ 140-10.5-130 Health Care Provider
Acting in Good Faith

§ 140-10.5-135 Health Care Provider
Not Acting in Good Faith

Part 100 Living Will Policy

§ 140-10.5-101 Preparing a Living
Will

§ 140-10.5-140 Policy Consistent
with Other Rights and Laws

§ 140-10.5-105 Operative Effect of a
Living Will

§ 140-10.5-145 Living Will Presumed
to Be in Compliance with Policy and Valid

§ 140-10.5-110 Revocation of a
Living Will

§ 140-10.5-150 Instruments Executed
in Other States

§ 140-10.5-115 Recording the Living
Will in the Medical Record

§ 140-10.5-155 Instruments Executed
in the CNMI Prior to Adoption of this Policy

§ 140-10.5-120 Patient’s Right to
Self-determination; Pregnant Patients

Exhibit A Living Will

§ 140-10.5-125 Physician or Health

Subchapter Authority: 1 CMC § 2605.

Subchapter History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.5-001 Policy

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The rules and regulations in this subchapter shall be referred to as the “Living Will Policy.”

Modified, 1 CMC § 3806(d), (f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-005 Findings and Declarations

(a) An adult person has the fundamental right to control the decisions about his or her own medical care, including the decision to have life-sustaining treatment started, withheld or withdrawn in instances where the person is afflicted with a terminal condition or is in a permanent unconscious condition.

(b) Prolonging the process of dying for a person afflicted with a terminal condition or in a permanent unconscious condition, when continued medical treatment will not improve the prognosis for recovery, may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person. It is therefore the objective of this policy to protect individual autonomy by allowing persons to make decisions about their treatment and their death.

(c) In recognition of the dignity and privacy that a person has a right to expect, this policy is aimed at upholding the right of an adult person to make a declaration instructing his or her physician regarding life sustaining treatment, including the right to initiate, maintain, or withdraw such treatment, in the event of a terminal condition or permanent unconscious condition, or in the event that the person is unable to make those decisions for himself or herself.

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Part 100 - Living Will Policy

§ 140-10.5-101 Preparing a Living Will

(a) A person who is 18 years or older, and who is of sound mind, may state verbally or in writing his or her wishes regarding life sustaining treatment, including the withdrawal or maintenance of such treatment, as provided in this policy. Persons are encouraged to document their decisions in writing.

(b) A person’s verbal statements regarding life sustaining treatment must be made to a family member or friend, and witnessed by at least one other individual.

(c) A form for a written living will is attached to this policy as exhibit A. The living will forms can be found throughout the Commonwealth Health Center, including the Hospital Administrator’s office.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-105 Operative Effect of a Living Will

(a) A living will becomes operative when:

- (1) It is communicated to the attending physician by the patient or the patient's family members or friends to whom the patient has communicated his or her desires; and
- (2) The patient is diagnosed and certified in writing by the attending physician, and a second physician who has personally examined the patient, and both concur that the patient is:
 - (i) Close to death, and that starting or maintaining life support would postpone death;
 - (ii) Unconscious, and it is very unlikely that the patient will become conscious again; or
 - (iii) In an advanced state of a progressive illness that will be fatal, and that the patient is consistently and permanently unable to communicate by any means, swallow food and water safely, care for himself or herself, recognize family members or other people close to the patient, and it is very unlikely that the patient's condition will significantly improve; and
- (3) The patient is no longer able to make decisions regarding administration of life-sustaining treatment.

(b) When the living will becomes operative, the attending physician and other health care providers must act in accordance with its provisions, or comply with the transfer requirements set forth in § 140-10.5-125.

(c) This policy does not affect the responsibility of the attending physician or other health care provider to provide treatment for a patient's comfort care or alleviation of pain.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

§ 140-10.5-110 Revocation of a Living Will

(a) A person may revoke a living will at any time and in any manner, without regard to his or her mental or physical condition. A revocation of the living will is effective when the person's intent to revoke is communicated to the attending physician or other health care provider by the person, or by a witness to the person's act of revocation.

(b) The attending physician or other health care provider must indicate the person's revocation of the living will in such person's medical record.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 140-10.5-115 Recording the Living Will in the Medical Record

When a patient's attending physician determines that the patient is in a condition described in § 140-10.5-105, the attending physician who knows of a living will must record the living will and the terms of the living will in the patient's medical record. The medical record of a patient with a living will will contain a sticker on the outside folder indicating that a living will is included inside the medical record. A person who has signed a living will is encouraged to give a copy of the living will to their family members, close friends, or health care provider.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-120 Patient's Right to Self-determination; Pregnant Patients

(a) A person who is 18 years or older, and who is of sound mind, may make decisions regarding life-sustaining treatment as long as he or she is able to do so, regardless of whether he or she has signed a living will.

(b) If the patient is pregnant and that diagnosis is known to the attending physician, the living will shall have no force or effect during the course of the pregnancy, unless the patient has explicitly specified in writing that the living will should remain in effect in instances of pregnancy.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 140-10.5-125 Physician or Health Care Provider Unwilling to Comply with the Living Will Policy; Transfer of Patient

An attending physician or other health care provider who is unwilling to comply with the living will policy shall take all reasonable steps as promptly as practicable to transfer care of the patient to another physician or health care provider who is willing to comply with the terms of the patient's living will.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-130 Health Care Provider Acting in Good Faith

(a) The Department of Public Health will not subject a physician or other health care provider to disciplinary action for unprofessional conduct for acting on the terms of a patient's living will when the physician or other health care provider clearly demonstrates that he or she

had no knowledge of the revocation of the living will.

(b) A physician or other health care provider whose action under this policy is in accord with reasonable medical standards will not be subject to disciplinary action for unprofessional conduct, administrative sanction, or other punishment by the Department of Public Health if the physician or health provider believes in good faith that his or her actions were consistent with this policy and the desires of the patient as expressed in the patient's living will.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). In subsection (a), the Commission inserted the first word "The."

§ 140-10.5-135 Health Care Provider Not Acting in Good Faith

It is the Department of Public Health's expectation that all employees will comply with this policy. The Department of Public Health will subject any physician or health care provider to disciplinary action who willfully fails to record the terms of a living will in a person's medical record. Furthermore, any individual who willfully:

- (a) Conceals, cancels, or obliterates the living will of another individual without that individual's consent; or
- (b) Falsifies or forges a revocation of the living will of another individual, will be reported to the Office of the Attorney General for prosecution.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-140 Policy Consistent with Other Rights and Laws

- (a) This policy does not affect the right of a person to make decisions regarding the use of life-sustaining treatment, as long as the person is able to do so, or impair or supersede a right or responsibility that a person has to effect the withholding or withdrawal of medical care.
- (b) This policy does not require any physician or other health care provider to take any action contrary to reasonable medical standards.
- (c) This policy does not condone, authorize, or approve mercy killing or assisted suicide, or permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-145 Living Will Presumed to Be in Compliance with Policy and Valid

In the absence of any knowledge to the contrary, a physician or other health care provider may presume that a living will complies with the policy in this subchapter and is valid.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-150 Instruments Executed in Other States

An instrument governing the withholding or withdrawal of life-sustaining treatment executed in another jurisdiction in compliance with the laws of that jurisdiction is valid for the purposes of the policy in this subchapter.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

§ 140-10.5-155 Instruments Executed in the CNMI Prior to Adoption of this Policy

An instrument governing the withholding or withdrawal of life-sustaining treatment executed in the CNMI prior to the adoption of the policy in this subchapter is valid for the purposes of this subchapter.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

**Exhibit A
Living Will**

HEALTH CARE INSTRUCTIONS:

I, _____, hereby set forth my desires about my health care in the event my doctor and another doctor who has personal knowledge about my care confirm that I am in a medical condition described below:

1. If I am close to death and life support would postpone the moment of my death:

A. Initial One

_____ I want to receive artificially administered nutrition and water.

_____ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

_____ I want other life support that may apply: _____

_____ I want NO life support.

2. If I am unconscious and it is very unlikely that I will ever become conscious again:

A. Initial One

_____ I want to receive artificially administered nutrition and water.

_____ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

_____ I want other life support that may apply: _____

_____ I want NO life support.

3. If I have a progressive illness that will be fatal and is in an advanced state, and I am consistently and permanently unable to communicate by any means, swallow food and water safely, care for myself, and recognize my family and other people, and it is very unlikely that my condition will significantly improve:

A. Initial One

_____ I want to receive artificially administered nutrition and water.

_____ I DO NOT want to receive artificially administered nutrition and water.

B. Initial One

_____ I want other life support that may apply: _____

_____ I want NO life support.

4. Additional Conditions and Instructions: (Insert description of what you want done.)

I hereby declare that Living Will was voluntarily prepared by me and that I have independently made the choices specified above on my own after significant thought and consideration.

Signature

Date

Declaration of Witnesses

We the witnesses to this Living Will hereby declare that the person signing the living will: (a) is personally known to us or has provided proof of identity; (b) signed the Living Will, or instructed another to sign the Living Will on their behalf, in our presence; and (c) appears to be of sound mind and not under duress, fraud, or undue influence:

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Witnessed By:

Signature of Witness Date

Printed Name of Witness

Signature of Witness Date

Printed Name of Witness

NOTE: Witnesses must not be related to (by blood, marriage, or adoption) the person signing this Living Will, and must not be entitled to any portion of the person's estate upon such person's death.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15161 (Feb. 15, 1997); Proposed 18 Com. Reg. 14804 (Dec. 15, 1996).

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SUBCHAPTER 140-10.6 MAINTENANCE AND RELEASE OF PATIENT HEALTH CARE INFORMATION RULES AND REGULATIONS

Part 001	General Provisions	§ 140-10.6-120	Disclosure Without Patient's Authorization
§ 140-10.6-001	Definitions	§ 140-10.6-125	Patient's Examination and Copying; Requirements
Part 100	Maintenance and Release of Patient Health Care Information; Requirements	§ 140-10.6-130	Patient's Request; Denial of Examination and Copying
§ 140-10.6-101	Disclosure by Department of Public Health; Restrictions on Disclosure of Medical Records for Mental Health Treatment, Alcohol and Substance Abuse Treatment, and HIV Testing	§ 140-10.6-135	Correction or Amendment of Medical Record
§ 140-10.6-105	Patient Authorization of Disclosure	§ 140-10.6-140	Consent by Others; Health Care Representatives
§ 140-10.6-110	Patient's Revocation of Authorization for Disclosure	§ 140-10.6-145	Personal Representative of Deceased Patient
§ 140-10.6-115	Discovery Request or Compulsory Process	§ 140-10.6-150	Safeguards for Security of Health Care Information
		§ 140-10.6-155	Retention of Medical Records
		§ 140-10.6-160	Severability

Subchapter Authority: 1 CMC §§ 2603 and 2605.

Subchapter History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the "Commonwealth Healthcare Corporation Act of 2008," codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

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§ 140-10.6-001 Definitions

(a) “Audit” means an assessment, evaluation, determination, or investigation of the Department of Public Health by a person not employed by or affiliated with the Department of Public Health to determine compliance with:

- (1) Statutory, regulatory, fiscal, medical, or scientific standards;
- (2) A private or public program of payments to the Department of Public Health; or
- (3) Requirements for licensing, accreditation, or certification.

(b) “Department of Public Health” includes the Commonwealth Health Center, the Tinian Health Center, the Rota Health Center, the Division of Public Health, and the Community Guidance Center.

(c) “Directory information” means information disclosing the presence, and for the purpose of identification, the name, residence, sex, and the general health condition of a particular patient who is an in-patient or who is currently receiving emergency health care at the Commonwealth Health Center.

(d) “General health condition” means the patient’s health status described in terms of “critical,” “poor,” “fair,” “good,” “excellent,” or terms denoting similar conditions.

(e) “Health care” means any care, service, or procedure provided by the Department of Public Health:

- (1) To diagnose, treat, or maintain a patient’s physical, psychological or mental condition; or
- (2) That affects the structure or any function of the human body.

(f) “Health care information” means information whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of a patient and directly relates to the patient’s health care.

(g) “Health care provider” means a person who is licensed, certified, or otherwise authorized by the laws of the CNMI to provide health care in the ordinary course of business or practice of a profession.

(h) “Institutional review board” means a board, committee, or other group formally designated by an institution or authorized under federal or CNMI law to review, approve the initiation of, or conduct periodic review of research programs to ensure the protection of the rights and welfare of human research subjects.

(i) “Legally authorized representative” means

- (1) A parent or legal guardian if the patient is a minor;
- (2) A legal guardian if the patient has been adjudicated incompetent to manage the patient’s personal affairs;
- (3) An agent of the patient authorized under a durable power of attorney for health care;
- (4) A guardian ad litem appointed for the patient;
- (5) An administrator for the estate of the patient or a personal representative designated by

the patient if the patient is deceased.

(j) “Maintain” as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(k) “Medical records” means all records pertaining to the history, diagnosis, treatment, or prognosis of a patient.

(l) “Patient” means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(m) “Person” means an individual, corporation, business, trust, estate, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(n) “Third party payor” means an insurer authorized to transact business in the CNMI, including a health care service contractor or health maintenance organization, or employee welfare benefit plan, or a state or federal health benefit plan.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

Part 100 - Maintenance and Release of Patient Health Care Information; Requirements

§ 140-10.6-101 Disclosure by Department of Public Health; Restrictions on Disclosure of Medical Records for Mental Health Treatment, Alcohol and Substance Abuse Treatment, and HIV Testing

(a) Except as authorized in § 140-10.6-115, “Discovery Request or Compulsory Process” or § 140-10.6-120, “Disclosure Without Patient’s Authorization” the Department of Public Health, or an agent or employee of the Department of Public Health, shall not disclose health care information about a patient to any other person without the patient’s written authorization. A disclosure made under a patient’s written authorization must conform to the specifics of that authorization. The Department of Public Health shall chart all disclosures of health care information, except to third party payors, and such chartings shall become part of the health care information.

(b) Notwithstanding § 140-10.6-115, “Discovery Request or Compulsory Process” or § 140-10.6-120, “Disclosure Without Patient’s Authorization,” the Department of Public Health shall not disclose medical records for mental health treatment, alcohol and substance abuse treatment, and HIV testing to any person other than the patient without receiving proof that the requesting party has complied with the following procedures:

(1) For records pertaining to any mental health treatment, care, or counseling, the person requesting the medical records shall:

(i) Obtain the patient’s written consent for release of the records; or

(ii) Obtain a court order for the release of the records, after the court has afforded the patient

the opportunity to object to the release of such records as required by the Patient's Rights Act at 3 CMC § 2561.

(iii) These restrictions on the release of mental health records shall not apply to the patient's attorney.

(2) For records pertaining to any alcohol and substance abuse treatment, care, or counseling, the person requesting the medical records must comply with the requirements established under the federal requirements for confidentiality of patient records, codified at 42 U.S.C. § 290ee-3 and § 290dd-3, and regulations promulgated thereunder at 42 CFR § 2.1 - § 2.67.

(3) For records pertaining to HIV testing and diagnosis of AIDS, disclosure shall not be made without either the patient's written consent or a court order, except with respect to disclosures to Department of Public Health employees on an as needed basis.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

Commission Comment: The final paragraph of subsection (b)(1) was not designated. The Commission designated it subsection (b)(1)(iii).

§ 140-10.6-105 Patient Authorization of Disclosure

(a) A patient, or a patient's legally authorized representative, may authorize the Department of Public Health to disclose the patient's health care information. The Department of Public Health shall honor an authorization and, if requested, provide a copy of the recorded health information unless the Department of Public Health denies the patient access to health information under § 140-10.6-130 "Patient Request - Denial of Examination and Copying."

(b) The Department of Public Health may charge a reasonable fee for providing the health care information and shall not be required to honor an authorization until the fee is paid.

(c) To be valid, a disclosure authorization to the Department of Public Health shall:

(1) Be in writing, dated, and signed by the patient, or the patient's legally authorized representative;

(2) Identify the nature of the information to be disclosed;

(3) Identify the name, address, and institutional affiliation of the person to whom the information is to be disclosed;

(4) Identify the patient.

(d) The Department of Public Health shall retain each authorization in conjunction with any health care information from which disclosures are made. This requirement shall not apply to disclosures to third party payors.

(e) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or to provide information to third party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than six months after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-110 Patient's Revocation of Authorization for Disclosure

A patient, or patient's legally authorized representative, may revoke in writing a disclosure authorization to the Department of Public Health at any time unless disclosure is required to effectuate payments for health care that has been provided, or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the Department of Public Health for disclosures made in good-faith reliance on an authorization if the Department of Public Health had no actual notice of the revocation of the authorization. A revocation is valid only if it is in writing, dated with a date that is later than the date on the original authorization, and signed by the patient or the patient's legally authorized representative. The Department of Public Health shall retain each revocation in the patient's medical record.

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-115 Discovery Request or Compulsory Process

(a) Before service of a discovery request or compulsory process demand on the Department of Public Health for health care information, an attorney shall provide advance written notice to the patient or the patient's attorney through service of process indicating what health care information is sought, and stating that the patient may obtain a protective order to prevent the Department of Public Health from complying. Thereafter the discovery request or compulsory process demand may be served on the Department of Public Health with a copy of the written notice provided to the patient or patient's attorney attached. The date by which the Department of Public Health must comply with the discovery request or compulsory process demand must allow the patient adequate time to seek a protective order, but in no event be less than fourteen days from the date of service or delivery to the Department of Public Health.

(b) Without the written consent of the patient, the Department of Public Health shall not disclose the health care information sought under subsection (a) of this section if the requestor has not complied with the requirements of such subsection, except upon the order of a court with competent jurisdiction. If the requirements of subsection (a) have been satisfied, and in the absence of a protective order issued by a court of competent jurisdiction forbidding compliance, the Department of Public Health shall disclose the information in accordance with the regulations in this subchapter. The discovery request or compulsory process demand, and any protective order or other related court documents shall be made a part of the patient medical record.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-120 Disclosure Without Patient's Authorization

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(a) The Department of Public Health may disclose health care information about a patient without the patient's authorization to the extent that a recipient needs to know the information, if the disclosure is:

(1) To a person who the Department of Public Health reasonably believes is providing health care to the patient at the time the request for disclosure is made;

(2) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial or actuarial services to the Department of Public Health, or for assisting the Department of Public Health in the delivery of health care and the Department of Public Health reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(3) To any other health care provider reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(4) To any medical or law enforcement personnel if the Department of Public Health reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this section on the part of the Department of Public Health or its agents or employees to so disclose;

(5) Oral, and made by the patient's treating physician, nurse, or other health care provider to immediate family members of the patient, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the Department of Public Health in writing not to make the disclosure;

(6) To a hospital or treatment facility that is the successor in interest to the Department of Public Health for the purpose of maintaining the health care information;

(7) For use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosures of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from re-disclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project;

(8) To a person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

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- (9) To the Division of Youth Services, Department of Community and Cultural Affairs, pursuant to the terms of the Multi-disciplinary Response Team memorandum of understanding signed by the Department of Public Health to assist in addressing issues regarding sexual abuse and assault;
- (10) To provide directory information, unless the patient has instructed the Commonwealth Health Center not to make the disclosure;
- (11) In cases reported by fire, police, or other public authorities, a report may be provided to them as to the name, residence, sex, age, occupation and general health condition and whether the patient was conscious when admitted;
- (12) To the administrator or designated personal representative of the patient if the patient is deceased;
- (13) To other professionals and personnel under a health care provider's direction who participate in the diagnosis, evaluation, or treatment of the patient.

(b) The Department of Public Health may disclose health care information about a patient without a patient's authorization in a judicial or administrative proceeding:

- (1) When the proceedings are brought by the patient against a Department of Public Health health care provider, including but not limited to malpractice proceedings, and in any criminal or license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claims or defense of a Department of Public Health health care provider;
- (2) When the purpose of the proceedings is to substantiate and collect on a claim for health care services rendered to the patient after a reasonable attempt has been made to collect from the patient;
- (3) In any civil litigation or administrative proceeding against the CNMI government brought by the patient or someone on his behalf if the patient is attempting to recover monetary damages for any physical or mental condition including death of the patient, if the medical records are relevant;
- (4) In any disciplinary investigation or proceeding of a health care provider conducted under or pursuant to the Medical Practice Act, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are examined, except for those patients covered under any of the subsections in this section or those patients who have submitted written consent to the release of their medical records;
- (5) In any criminal investigation of a health care provider in which the Medical Profession Licensing Board is participating or assisting in the investigation or proceeding by providing certain medical records obtained from the health care provider, provided that the Medical Profession Licensing Board shall protect the identity of any patient whose medical records are provided in the investigation or proceeding except for those patients covered under any of the subsections in this section or those patients who have submitted written consent to the release of their medical records. This subsection does not authorize the release of any confidential information for the purpose of instigating or substantiating criminal charges against a patient;
- (6) In an involuntary civil commitment proceeding, proceeding for court-ordered treatment, or probable cause hearing under the Involuntary Civil Commitment Act of 1994, 3 CMC §§ 2501-2522 or the Patients Rights Act, 3 CMC §§ 2551-2564.

(c) The Department of Public Health shall disclose health care information about a patient

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without a patient's authorization if the disclosure is:

- (1) To federal or CNMI public health authorities, when needed to determine compliance with CNMI or federal licensure, certification, or registration rules or laws, or when needed to protect the public health;
- (2) To CNMI law enforcement authorities when necessary to assess whether a patient's death was the result of a criminal act and whether an autopsy is required;
- (3) Pursuant to compulsory process in accordance with § 140-10.6-115.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-125 Patient's Examination and Copying; Requirements

(a) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, the Department of Public Health, as promptly as required under the circumstances, but no later than fifteen working days after receiving the request shall:

- (1) Make the information available for examination during regular business hours and provide a copy, if requested, to the patient;
- (2) Inform the patient if the information does not exist or cannot be found;
- (3) Inform the patient and provide the name and address, if known, of the health care provider who maintains the record, if the Department of Public Health does not maintain a record of the information;
- (4) If the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than twenty-one working days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or
- (5) Deny the request, in whole or in part, under § 140-10.6-130 and inform the patient.

(b) Upon request, the Department of Public Health shall provide an explanation of any code or abbreviation used in the health care information. However, if a record of the particular health care information requested is not maintained by the Department of Public Health in the requested form, the Department of Public Health is not required to create a new record or reformulate an existing record to make the health care information available in the requested form. The Department of Public Health may charge a reasonable fee for providing the health care information and is not required to permit examination or copying until the fee is paid.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-130 Patient's Request; Denial of Examination and Copying

(a) The Department of Public Health may deny access to health care information by a patient if the Department of Public Health reasonably concludes that:

- (1) Knowledge of the health care information would be injurious to the health of the patient;

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- (2) Knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate;
- (3) Knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;
- (4) The health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes;
- (5) Access to the health care information is otherwise prohibited by law.

(b) If the Department of Public Health denies a request for examination and copying under this section, it shall, to the extent possible, segregate health care information for which access has been denied under subsection (a) of this section from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

(c) If the Department of Public Health denies a patient's request for examination and copying, in whole or in part, under subsection (a)(1) or (a)(3) of this section, it shall permit examination and copying of the medical record by a health care provider not employed by the Department of Public Health, selected by the patient, who is licensed, certified, registered, or otherwise authorized under the laws of the CNMI to treat the patient for the same condition that was treated by the Department of Public Health staff. At the time the patient's request for health care information is denied, the Department of Public Health shall inform the patient of the patient's right to select another health care provider under this subsection. The patient shall be responsible for arranging for compensation of the other health care provider so selected.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

Commission Comment: In subsection (a)(2), the Commission changed the final period to a semi-colon.

§ 140-10.6-135 Correction or Amendment of Medical Record

(a) For purposes of accuracy or completeness, a patient may request in writing that the Department of Public Health correct or amend its medical record of the patient's health care information to which a patient has access under § 140-10.6-125.

(b) As promptly as required under the circumstances, but no later than ten days after receiving a request from a patient to correct or amend its medical record of the patient's health care information, the Department of Public Health shall:

- (1) Make the requested correction or amendment and inform the patient of the action;
- (2) Inform the patient if the medical record no longer exists or cannot be found;
- (3) Inform the patient and provide the patient with the name and address if known, of the person who maintains the medical record, if the Department of Public Health does not maintain the medical record;
- (4) If the medical record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing, the earliest date, not later than twenty-one days after receiving the request, when the correction or amendment will be

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made or when the request will otherwise be disposed of; or

(5) Inform the patient in writing of the health care provider's refusal to correct or amend the medical record as requested and the patient's right to add a statement of disagreement.

(c) In making a correction or amendment, the Department of Public Health shall:

(1) Add the amending information as a part of the medical record; and

(2) Mark the challenged entries as corrected or amended entries and indicate the place in the medical record where the corrected or amended information is located, in a manner practicable under the circumstances.

(d) If the health care provider refuses to make the patient's proposed correction or amendment, the Department of Public Health shall:

(1) Permit the patient to file as a part of the medical record of the patient's health care information a concise statement of the correction or amendment requested and the reasons therefore; and

(2) Mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the medical record where the statement of disagreement is located, in a manner practicable under the circumstances.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-140 Consent by Others; Health Care Representatives

(a) A person authorized to consent to health care for another may exercise the rights of that person under the regulations in this subchapter to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental consent under federal or CNMI law, only the minor may exercise the rights of a patient under these regulations as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, the Department of Public Health may rely on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

(1) The parents are married, unmarried, or separated at the time of the representation;

(2) The consenting parent is, or is not, a custodial parent of the minor;

(3) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered in a child custody dispute.

(b) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-145 Personal Representative of Deceased Patient

A designated personal representative of a deceased patient may exercise all of the deceased patient's rights under the regulations in this subchapter. If there is no designated personal representative, or upon discharge of the designated personal representative, a deceased patient's rights under these regulations may be exercised by the next of kin of the deceased patient in the following order: spouse, children over age 18, parents, siblings.

Modified, 1 CMC § 3806(d).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-150 Safeguards for Security of Health Care Information

The Department of Public Health shall adopt and implement reasonable safeguards for the security of all health care information it maintains.

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-155 Retention of Medical Records

The Department of Public Health shall retain medical records for a minimum of seven years after the date of the last entry on the record. In the case of minor children, the Department of Public Health shall retain the medical records for a minimum of seven years after the date the child reaches 18 years of age unless there are entries on the medical records after the child reaches 18 years of age. X-ray films shall be retained for a minimum of five years.

Modified, 1 CMC § 3806(e).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

§ 140-10.6-160 Severability

If any provision of the rules and regulations in this subchapter or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these rules and regulations or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected hereby.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 22 Com. Reg. 17546 (Oct. 20, 2000); Proposed 22 Com. Reg. 17211 (May 19, 2000).

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-10.7 MEDICAL REFERRAL PROGRAM RULES AND REGULATIONS

Subchapter Authority: 1 CMC § 2605.

Subchapter History: Amdts Adopted 35 Com. Reg. 34128 (Aug. 28, 2013) (repealing and re-enacting this subchapter at chapter 75-50); Amdts Proposed 35 Com. Reg. 33549 (June 28, 2013); Amdts Adopted 33 Com. Reg. 31503 (Apr. 21, 2011) (repealing and re-enacting this subchapter); Amdts Proposed 33 Com. Reg. 31291 (Jan. 24, 2011); Emergency 33 Com. Reg. 31225 (Jan. 24, 2011); Amdts Adopted 32 Com. Reg. 30092 (Apr. 19, 2010)*; Amdts Proposed 32 Com. Reg. 30062 (Feb. 19, 2010)*; Amdts Adopted 29 Com. Reg. 26511 (Apr 16, 2007); Amdts Proposed 28 Com. Reg. 26211 (Oct. 30, 2006); Amdts Emergency and Proposed 28 Com. Reg. 26308 (Nov. 30, 2006) (effective for 120 days from November 13, 2006);* Amdts Emergency and Proposed 27 Com. Reg. 25187 (Nov. 25, 2005) (effective for 120 days from November 23, 2005);* Amdts Emergency and Proposed 27 Com. Reg. 24705 (Aug. 22, 2005) (effective for 120 days from Aug. 19, 2005);* Amdts Adopted 27 Com. Reg. 24681 (July 20, 2005); Amdts Emergency and Proposed 27 Com. Reg. 24099 (Mar. 17, 2005) (effective for 120 days from March 14, 2005); Amdts Emergency and Proposed 26 Com. Reg. 22836 (Sept. 24, 2004) (effective for 120 days from Sept. 21, 2004);* Amdts Adopted 26 Com. Reg. 22867 (July 26, 2004); Amdts Emergency and Proposed 26 Com. Reg. 22500 (May 24, 2004) (effective for 120 days from Apr. 27, 2004); Amdts Adopted 26 Com. Reg. 21894 (Feb. 23, 2004); Amdts Emergency and Proposed 26 Com. Reg. 21531 (Jan. 22, 2004) (effective for 120 days from Jan. 14, 2004); Amdts Adopted 24 Com. Reg. 19032 (Feb. 28, 2002); Amdts Proposed 23 Com. Reg. 18351 (Sept. 24, 2001); Amdts Adopted 22 Com. Reg. 17349 (July 20, 2000); Amdts Proposed 22 Com. Reg. 17229 (May 19, 2000); Amdts Adopted 20 Com. Reg. 15958 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15851 (Feb. 15, 1998) (effective for 120 days from Feb. 13, 1998); Adopted 18 Com. Reg. 14218 (July 15, 1996); Proposed 18 Com. Reg. 14039 (Apr. 15, 1996).

*As of August 31, 2007, a notice of permanent adoption had not been published.

*As of December 2005, notices of permanent adoption had not been published.

*The February 2010 Notice of Proposed Regulations contained only a summary of the proposals to amend the regulations. It did not contain any actual amendments. See 32 Com. Reg. 30062 (Feb. 19, 2010). Despite this, a Notice of Adoption for these non-existent amendments was published in April of 2010. See 32 Com. Reg. 30092.

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

PL 16-51 transferred the Medical Referral Program from the Department of Public Health to the Commonwealth Healthcare Corporation. Executive Order No. 2013-09 (effective May 2, 2013) transferred the Medical Referral

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Program from the Commonwealth Healthcare Corporation to the Office of the Governor. See 35 Com. Reg. 33542. Section 1.1 of the 2013 amended regulations (codified at section 75-50-005) specified that these new regulations were to be codified at subchapter 140-10.7. However, because this office is now under the supervision of the Office of the Governor, the Commission has moved these regulations to Chapter 75-50.

[See chapter 75-50.]

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

**SUBCHAPTER 140-10.8
SCHEDULE OF MEDICAL AND OTHER RELATED FEES**

Part 001	General	Provisions	§ 140-10.8-325	Others
[Reserved]			§ 140-10.8-330	Refundable Deposits
			§ 140-10.8-335	Anesthesia Services
Part 100	CHCC	Chargemaster /	§ 140-10.8-340	Incinerator Fee
CHCC Hospital and Health and Vital			§ 140-10.8-345	Alien Health
Statistics Office Fees			§ 140-10.8-350	Screening Diagnostic Tests
§ 140-10.8-101	CHCC	Chargemaster		Handling or
/ CHCC Hospital and Health and Vital				Conveyance
Statistics Office Fees			§ 140-10.8-355	Collection Litigation
				Fee
Part 200	Bureau of Dental Health		§ 140-10.8-360	Penalty Fee
Services; Dental Fees			§ 140-10.8-365	Forensic Services Fee
§ 140-10.8-201	Dental	Bureau Fees	§ 140-10.8-370	Transitional Living
				Center Fee
Part 300	Other Fees		§ 140-10.8-375	Regulation 24 Fees
§ 140-10.8-301	Room and Board			
§ 140-10.8-305	Supplies		Part 400	Business Health Permits;
§ 140-10.8-310	Special Physical		Sanitation Services	
Examinations				
§ 140-10.8-315	Certificates		Part 500	Behavioral Health Services
§ 140-10.8-320	Burial Plot		Fee Schedules	

Subchapter Authority: 1 CMC §§ 2603(f) and 2605(j).

Subchapter History: Amdts Adopted 39 Com. Reg. 40413 (Dec. 28, 2017); Amdts Proposed 39 Com. Reg. 40290 (Oct. 28, 2017); Amdts Adopted 39 Com. Reg. 40222 (Oct. 28, 2017); Amdts Proposed 39 Com. Reg. 39410 (Mar. 28, 2017); Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 36 Com. Reg. 35137 (July 28, 2014); Amdts Adopted 33 Com. Reg. 32154 (Dec. 29, 2011); Amdts Proposed 33 Com. Reg. 31985 (Oct. 26, 2011); Amdts Adopted 27 Com. Reg. 25393 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25239 (Nov. 25, 2005); Amdts Adopted 26 Com. Reg. 21895 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21659 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20080 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19495 (Aug. 21, 2002); Amdts Proposed 23 Com. Reg. 18240 (Aug. 16, 2001);* Amdts Proposed 22 Com. Reg. 17094 (Apr. 20, 2000);* Amdts Proposed 21 Com. Reg. 16899 (Aug. 23, 1999);* Amdts Proposed 21 Com. Reg. 16594 (Mar. 18, 1999);* Amdts Adopted 21 Com. Reg. 16627 (Mar. 18, 1999); Amdts Proposed 21 Com. Reg. 16421 (Jan. 18, 1999); Amdts Adopted 21 Com. Reg. 16444 (Jan. 18, 1999); Amdts Proposed 20 Com. Reg. 16302 (Nov. 15, 1998); Amdts Adopted 20 Com. Reg. 16300 (Nov. 15, 1998); Amdts Proposed 20 Com. Reg. 16097 (Aug. 15, 1998); Amdts Adopted 20 Com. Reg. 16101 (Aug. 15, 1998); Amdts Proposed 20 Com. Reg. 15922 (June 15, 1998); Amdts Adopted 20 Com. Reg. 15961 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15878 (Mar. 16, 1998) (effective for 120 days from Mar. 16, 1998); Amdts Adopted 20 Com. Reg. 15953 (June 15, 1998); Amdts Proposed 20 Com. Reg. 15861 (Feb. 15, 1998); Amdts Adopted 19 Com. Reg. 15733 (Oct. 15, 1997); Amdts Proposed 19 Com. Reg. 15391 (June 15, 1997); Amdts Adopted 19 Com. Reg. 15420 (July 15, 1997); Amdts Proposed 19 Com. Reg. 15360 (May 15, 1997); Amdts Adopted 19 Com. Reg. 15418 (July 15, 1997); Amdts Proposed 19 Com. Reg. 15367 (May 15, 1997); Amdts Adopted 19 Com. Reg. 14888 (Jan. 15, 1997); Amdts Proposed 18 Com. Reg. 14383 (Oct. 15, 1996); Amdts Adopted 18 Com. Reg. 14203 and 14209 (July 15, 1996); Amdts Proposed 18 Com. Reg. 14156 (June 15, 1996); Amdts Adopted 18 Com. Reg. 13931 (Jan. 15, 1996); Amdts Proposed 17 Com. Reg. 13915 (Dec. 15, 1995); Amdts Adopted 17 Com. Reg. 13922 (Dec. 15, 1995); Amdts

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Proposed 17 Com. Reg. 13816 (Nov. 15, 1995); Amdts Adopted 17 Com. Reg. 13717 (Sept. 15, 1995); Amdts Proposed 17 Com. Reg. 13657 (Aug. 16, 1995); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

*Notices of adoption for the March 1999, August 1999, April 2000 and August 2001 proposed amendments have not been published.

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction, including hospitals and clinics. See 1 CMC § 2605(j).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Department of Public Health (DPH) promulgated a Revised Schedule of Medical and Other Related Fees in 1995. The history sections in this subchapter date from that promulgation. Prior to 1995, the history of medical services and other fees schedule is as follows: Amdts Adopted 14 Com. Reg. 9169 (Mar. 15, 1992) (superseding all previously established hospital fees); Amdts Proposed 14 Com. Reg. 8666 (Jan. 15, 1992); Certified 14 Com. Reg. 8654 (Jan. 15, 1992) (increased public health fees); Amdts Adopted 11 Com. Reg. 6046 (Feb. 15, 1989) (increased public health fees); Amdts Adopted 11 Com. Reg. 6050 (Feb. 15, 1989) (professional service fees); Amdts Proposed 10 Com. Reg. 5605 (Aug. 15, 1988); Amdts Adopted 8 Com. Reg. 4693 (Oct. 22, 1986) (medical service fees); Amdts Proposed 8 Com. Reg. 4636 (Sept. 15, 1986); Amdts Adopted 6 Com. Reg. 3221 (Nov. 15, 1984); Amdts Proposed 6 Com. Reg. 3132 (Aug. 15, 1984); Adopted 3 Com. Reg. 1237 (May 20, 1981) (dental fees); Proposed 3 Com. Reg. 1155 (Mar. 30, 1981); Adopted 2 Com. Reg. 915 (Nov. 17, 1980) (medical fees); Proposed 2 Com. Reg. 842 (July 9, 1980).

On September 15, 1996, DPH published a public notice that, effective October 1, 1996, the Rota Health Center and Tinian Health Center would comply with the Department of Public Health's Schedule of Medical and Other Related Fees. See 18 Com. Reg. 14356 (Sept. 15, 1996).

Public Law 16-51 (effective Jan. 15, 2010), the "Commonwealth Healthcare Corporation Act of 2008," codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

[Reserved.]

Part 100 - CHCC Chargemaster / CHCC Hospital and Health and Vital Statistics Office Fees

§ 140-10.8-101 CHCC Chargemaster / CHCC Hospital and Health and Vital Statistics Office Fees

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

[See Commission Comment for attachment]

History: Amdts Adopted 39 Com. Reg. 40222 (Oct. 28, 2017); Amdts Proposed 39 Com. Reg. 39410 (Mar. 28, 2017); Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 36 Com. Reg. 35137 (July 28, 2014); Amdts Adopted 27 Com. Reg. 25393 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25239 (Nov. 25, 2005); Amdts Adopted 26 Com. Reg. 21895 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21659 (Jan. 22, 2004); Amdts Proposed 22 Com. Reg. 17094 (Apr. 20, 2000); Amdts Proposed 21 Com. Reg. 16899 (Aug. 23, 1999); Amdts Proposed 21 Com. Reg. 16594 (Mar. 18, 1999); Amdts Adopted 21 Com. Reg. 16627 (Mar. 18, 1999); Amdts Proposed 21 Com. Reg. 16421 (Jan. 18, 1999); Amdts Adopted 21 Com. Reg. 16444 (Jan. 18, 1999); Amdts Proposed 20 Com. Reg. 16302 (Nov. 15, 1998); Amdts Adopted 20 Com. Reg. 16300 (Nov. 15, 1998); Amdts Proposed 20 Com. Reg. 16097 (Aug. 15, 1998); Amdts Adopted 20 Com. Reg. 16101 (Aug. 15, 1998); Amdts Proposed 20 Com. Reg. 15922 (June 15, 1998); Amdts Adopted 20 Com. Reg. 15953 (June 15, 1998); Amdts Proposed 20 Com. Reg. 15861 (Feb. 15, 1998); Amdts Adopted 19 Com. Reg. 15733 (Oct. 15, 1997); Amdts Proposed 19 Com. Reg. 15391 (June 15, 1997); Amdts Adopted 19 Com. Reg. 15420 (July 15, 1997); Amdts Proposed 19 Com. Reg. 15360 (May 15, 1997); Amdts Adopted 19 Com. Reg. 15418 (July 15, 1997); Amdts Proposed 19 Com. Reg. 15367 (May 15, 1997); Amdts Adopted 19 Com. Reg. 14888 (Jan. 15, 1997); Amdts Proposed 18 Com. Reg. 14383 (Oct. 15, 1996); Amdts Adopted 18 Com. Reg. 14203 (July 15, 1996); Amdts Proposed 18 Com. Reg. 14156 (June 15, 1996); Amdts Adopted 18 Com. Reg. 13931 (Jan. 15, 1996); Amdts Proposed 17 Com. Reg. 13915 (Dec. 15, 1995); Amdts Adopted 17 Com. Reg. 13922 (Dec. 15, 1995); Amdts Proposed 17 Com. Reg. 13816 (Nov. 15, 1995); Amdts Adopted 17 Com. Reg. 13717 (Sept. 15, 1995); Amdts Proposed 17 Com. Reg. 13657 (Aug. 16, 1995); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: [Historical comments removed.]

Link: [\[CHCC Chargemaster / CHCC Hospital and Health and Vital Statistics Office Fees\]](#)

At 39 Com. Reg. 39410 (Mar. 28, 2017) the Commonwealth Healthcare Corporation (CHCC) proposed “CHCC Hospital and Health and Vital Statistics Office Fees” to “provide the rate of fees for the CHCC, primarily the hospital and clinics, and also for the Health and Vital Statistics Office.”

At 39 Com. Reg. 40222 (Oct. 28, 2017) CHCC adopted those regulations, titling the adoption notice as “Amendment to Fees, CHCC Chargemaster and Amendments.”

While the October 2017 adopted fees appear to replace those fees previously located here in Part 100, the October adoption also includes fees located elsewhere in this subchapter (e.g., Room & Board fees which are found in Part 300). Neither the March proposal nor October adoption of these regulations specified a location for codification or indicated whether the adoption was an amendment or replacement for any section. The Commission placed the full adoption here, as a replacement to Part 100.

Part 200 - Bureau of Dental Health Services;

§ 140-10.8-201 Dental Bureau Fees

DESCRIPTION	ADA CODE	CHARGE
DIAGNOSTIC		
Exam, Periodic	0120	\$20
Emergency Exam	0140	\$30
Oral Exam	0150	\$50
Re-Evaluation (limited)	0170	\$10
PREVENTATIVE		

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Intraoral-Complete Series (full mouth)	0210	\$90
Intraoral-Periapical First Film	0220	\$20
Intraoral-Periapical Ea. Addtl. Film	0230	\$15
Bitewings-Two Films	0272	\$30
Bitewings-Four Films	0274	\$45
Panoramic Films	0330	\$80
Oral Prophylaxis, Permanent Teeth	1110	\$60
Oral Prophylaxis, Calculus & Stains (Permanent)	1110	\$80
Child Prophylaxis, Primary Teeth	1120	\$45
Child Prophylaxis with Flouride	1201	\$60
Sealant Pemanent Molar, per tooth	1351	\$40
Sealant Repair, per tooth	1353	\$20
Flouride Varnish	1206	\$35
Flouride Topical (not fluoride varnish)	1208	\$35
Diamide Silver Flouride (per tooth)	1354	\$35
Space Maintainer, Unilateral	1510	\$325
Space Maintainer, Bilateral	1515	\$425
Oral Health Instructions	1330	\$20
RESTORATIONS		
Amalgam, 1 Surface Deciduous	2140	\$70
Amalgam, 2 Surface Deciduous	2150	\$85
Amalgam, 3 Surface Deciduous	2160	\$105
Amalgam, 4 or more Surface Deciduous	2161	\$125
Amalgam, 1 Surface, Permanent	2140	\$80
Amalgam, 2 Surface, Permanent	2150	\$100
Amalgam, 3 Surface, Permanent	2160	\$120
Amalgam, 4 or more Surface, Permanent	2161	\$145
Composite, 1 Surface, anterior/posterior	2330/2391	\$100
Composite, 2 Surface, anterior/posterior	2331/2392	\$120
Composite, 3 Surface, anterior/posterior	2332/2393	\$150
Composite, 4 Surface, anterior/posterior	2335/2394	\$190
Crown-Stainless, primary tooth (per tooth)	2930	\$265
Crown-Stainless, permanent tooth (per tooth)	2931	\$280
Prefabricator Resin Crown	2932	\$250
Temporary Restoration (per tooth)	2940	\$50
Temporary Restoration, w/pulp cap	3110	\$70
ENDODONTICS		
Pulpotomy	3220	\$125
Root Canal Therapy Anterior	3310	\$450
Root Canal Therapy Bicuspид	3320	\$600
Root Canal Therapy Molar	3330	\$700
PERIODONTICS		
Root Planning & Curettage w/perio per quadrant	4341	\$75
Scaling, Gingival Inflammation – Generalized	4910	\$60

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Scaling, Per Quadrant	4342	\$45
Gingivectomy (Quadrants)	4210	\$75
Gingivectomy (per tooth)	4211	\$20
PROSTHETIC		
Denture – Complete Upper	5110	\$800
Denture – Complete Lower	5120	\$800
Denture – Immediate Upper	5130	\$800
Denture – Immediate Lower	5140	\$800
Denture Partial (one tooth)	5211	\$200
Maxillary Partial Denture (addtl. per tooth)	5211	\$50
Mandibular Partial Denture (addtl. per tooth)	5212	\$50
Adjust Full Denture, Upper	5410	\$50
Adjust Full Denture, Lower	5411	\$50
Adjust Partial Denture, Upper	5421	\$50
Adjust Partial Denture, Lower	5422	\$50
Denture Repair Simple – Acrylic	5610	\$150
Denture Repair w/Impression	5620	\$200
Denture Reline – Full Upper	5730	\$200
Denture Reline – Full Lower	5731	\$200
Denture Reline Partial – Upper	5740	\$250
Denture Reline Partial – Lower	5741	\$250
Clasp Wire (per clasp)	5660	\$20
Recement Bridge	6930	\$50
Recement Crown	2920	\$50
ORAL SURGERY		
Extraction, Deciduous (per tooth)	7140	\$75
Extraction, Simple Permanent (per tooth)	7140	\$85
Surgical Extraction, Erupted Tooth (per tooth)	7210	\$150
Surgical Extraction, Soft Tissue Impaction (per tooth)	7220	\$175
Surgical Extraction, Bony Impaction (per tooth)	7230	\$265
Surgical Extraction Impaction Sect. (per tooth)	7240	\$275
Removal Residual Roots, unexposed	7250	\$120
Removal Residual Roots, exposed	7250	\$85
Removal of Exostosis (upper or lower)	7471	\$100
Incision and Drainage of Abscess	7510	\$50
Unspecified Oral Surgery Procedure	7999	\$50
Biopsy (Hard Tissue)	7285	\$300
Biopsy (Soft Tissue)	7286	\$300
MISCELLANEOUS SERVICES		
Application of Desensitizing Medication	9910	\$25
Palliative Treatment of Dental Pain	9110	\$25
Unspecified Adjunctive Procedure	9999	\$25
Refuse Tx	9991	

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History: Amdts Adopted 39 Com. Reg. 40413 (Dec. 28, 2017); Amdts Proposed 39 Com. Reg. 40290 (Oct. 28, 2017); Amdts Adopted 25 Com. Reg. 20080 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19495 (Aug. 21, 2002).

Part 300 - Other Fees

§ 140-10.8-301 Room and Board

CODE	DESCRIPTION	RATE
N/A	Room & Board ICU, per day	\$4,000
N/A	Room & Board Nursery, per day	\$710
N/A	Room & Board NICU, per day	\$2,550
N/A	Room & Board Telemetry, per day	\$2,000
N/A	Room & Board Private, per day (ISOLATION ROOM)	\$2,800
N/A	Room & Board Semi-Private, per day	\$2,550
N/A	Delivery Room, per day	\$990
N/A	Observation Bed, Labor Room, NO Delivery, per day	\$500
N/A	Observation Services at L&D, NO Delivery, per day	\$500
N/A	L&D Mid-level Professional Services, per hour, when not included with Obstetrical Care Charges (Private Attending Physician)	\$100
360	Operation Room (15 MIN)	\$2,500
370	Anesthesia, per 15 min. increment	\$200
710	Recovery Room, 1st hour	\$300
N/A	Recovery Room, 15-min	\$200
N/A	Observation Bed, per hour	\$100
N/A	ENBALMING SUPPLIES	\$400

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40413 (Dec. 28, 2017); Amdts Proposed 39 Com. Reg. 40290 (Oct. 28, 2017); Amdts Adopted 19 Com. Reg. 14888 (Jan. 15, 1997); Amdts Proposed 18 Com. Reg. 14383 (Oct. 15, 1996); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: The January 1997 amendments added new lines 2 and 13. This section was suspended by emergency regulation from October 2007 through February 2008. See 29 Com. Reg. 26891 (Oct. 17, 2007).

§ 140-10.8-305 Supplies

Supplies Fee	(\$)
Pharmaceutical supplies	Actual + overhead
Medical supplies	Actual + overhead
Minimum fees:	
Pharmaceutical supplies	3.00
Medical supplies	3.00
Embalming supplies	Actual + overhead
Durable medical equipments	Actual + overhead

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Modified, 1 CMC § 3806(f).

History: Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: This section was suspended by emergency regulation from October 2007 through February 2008. See 29 Com. Reg. 26891 (Oct. 17, 2007).

§ 140-10.8-310 Special Physical Examinations

Special Physical Examinations Fee	(\$)
Foodhandler	110.00
Pre-employment	140.00
Student P.E.	140.00
Pre-marital	110.00
Permanent resident	200.00

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

§ 140-10.8-315 Certificates

Certificates Fee	(\$)
Immunization certificate for school enrollment	2.50
Immunization history (update)	2.50
Birth certificate	10.00
Amendment fee for birth certificate (per amendment)	10.00

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 21 Com. Reg. 16444 (Jan. 18, 1999); Amdts Proposed 20 Com. Reg. 16302 (Nov. 15, 1998); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: The 1999 amendments added the final line. This section was amended by emergency regulation from October 2007 through February 2008. See 29 Com. Reg. 26891 (Oct. 17, 2007).

The Commission corrected the spelling of “enrollment.”

§ 140-10.8-320 Burial Plot

Burial plot Fee	(\$)
Adult size (15 years and over)	150.00
Child size (below 15 years)	75.00

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

§ 140-10.8-325 Others

Others Fee	(\$)
Reproduction of medical records (photocopy, etc.) per sheet	.25
Change to: first page	1.00
Each additional page	.25
Oxygen refill – large	50.00
Oxygen refill – small	30.00

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 21 Com. Reg. 16899 (Aug. 23, 1999); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: The notice of adoption for the 1995 schedule of fees changed the proposed language of the first line in this table.

The August 1999 amendments proposed to add a new fee to the table in this section for refill of smallest oxygen tanks. A notice of adoption was never published and, therefore, the Commission has not incorporated the proposed changes. This section was amended by emergency regulation from October 2007 through February 2008. See 29 Com. Reg. 26891 (Oct. 17, 2007).

§ 140-10.8-330 Refundable Deposits

Refundable deposits	Fee (\$)
Oxygen tank – large	120.00
Oxygen tank – small	90.00
Oxygen regulator – large	110.00
Oxygen regulator – small	85.00

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

§ 140-10.8-335 Anesthesia Services

Anesthesia fee - per unit value⁺ \$25.00

⁺ Calculations of total anesthesia value and fees:

Basic value + time value = total anesthesia value

Total anesthesia value x proposed fee = anesthesia fee

Time value is computed by allowing 1.0 unit for each 15 minutes of anesthesia of time.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

§ 140-10.8-340 Incinerator Fee

Incinerator fee - minimum charge of two hours per use \$50.00

Note: Outside items for incineration will only be accepted when CHC workload permits

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 17 Com. Reg. 13922 (Dec. 15, 1995); Amdts Proposed 17 Com. Reg. 13816 (Nov. 15, 1995).

§ 140-10.8-345 Alien Health Screening Diagnostic Tests

Chest x-ray PA only, without radiologist interpretation	\$30.00
Laboratory testing for RPR and HIV	\$40.00

(Diagnostic testing for alien health screening is for physician use only. Fees for all tests must be paid up-front, prior to service being provided.)

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 15961 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15878 (Mar. 16, 1998) (effective for 120 days from Mar. 16, 1998).

§ 140-10.8-350 Handling or Conveyance

Handling and/or conveyance of specimen from Rota and Tinian to CHC	\$3.00
Handling and/or conveyance of specimen from Rota and Tinian to CHC (stat request)	12.00

History: Amdts Adopted 20 Com. Reg. 16101 (Aug. 15, 1998); Amdts Proposed 20 Com. Reg. 15922 (June 15, 1998).

§ 140-10.8-355 Collection Litigation Fee

Collection litigation fee 40.00

Note: If DPH must file a lawsuit with the Superior Court to collect for payment of medical bills, an extra fee shall be assessed.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 20 Com. Reg. 16300 (Nov. 15, 1998); Amdts Proposed 20 Com. Reg. 16097 (Aug. 15, 1998).

Commission Comment: The Commission inserted the final period.

§ 140-10.8-360 Penalty Fee

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Penalty fee 10% of principal amount

(CHC will assess an additional fee of 10% on the unpaid bills referred to the outside collection agency. Fee will be collected from the patient or responsible payer of the bills.)

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 21 Com. Reg. 16627 (Mar. 18, 1999); Amdts Proposed 21 Com. Reg. 16421 (Jan. 18, 1999).

Commission Comment: The Commission inserted the final period.

The April 2000 amendments proposed to add a new fee entitled “Use of Equipment.” See 22 Com. Reg. at 17098 (Apr. 20, 2000). The August 2001 amendments proposed to add a new fee entitled “Childhood Immunization Administration Fee.” See 23 Com. Reg. at 18243 (Aug. 16, 2001). Notices of adoption were never published and, therefore, the Commission has not incorporated the proposed changes.

§ 140-10.8-365 Forensic Services Fee

Forensic services, per hour \$ 250.00

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 27 Com. Reg. 25393 (Dec. 30, 2005); Amdts Proposed 27 Com. Reg. 25239 (Nov. 25, 2005); Amdts Adopted 26 Com. Reg. 21895 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21659 (Jan. 22, 2004).

§ 140-10.8-370 Transitional Living Center Fee

Daily occupancy rate at the Transitional Living Center⁺ \$100.00

⁺ (This amount does not include medication costs, clothing, personal care items, recreational costs, and other items for which the patient remains separately responsible.)

History: Amdts Adopted 26 Com. Reg. 21895 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21659 (Jan. 22, 2004).

§ 140-10.8-375 Regulation 24 Fees

(a) No certification shall be issued until the fee for such certification is received unless specific approval has been obtained from the Chief Executive Officer or otherwise provided for by statute or regulation.

(b) Fees for services:

- (1) For issuing a certified copy of birth certificate – \$25
- (2) For issuing a certified copy of a death certificate – \$20
- (3) For mailing an Off-island request via US Postal Service – \$5
- (4) The replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, [change to acquired sex] or court order – \$15
- (5) For submitting an application to amend a vital – \$15
- (6) Additional charges for expedited certification services that require special attention –

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\$350

- (7) Additional charges for expedited correction and amendment services – \$10
- (8) For issuance of a certification letter when no vital record is found – \$10
- (9) For issuance of a certification letter of authenticity of vital record – \$10
- (10) For issuance of a Quarantine Permit† – \$10
- (11) For issuance of a Removal of Human Remains Permit† – \$10
- (12) For issuance of a Burial Transit Permit† – \$10

(c) A fee may be charged for special services not specified above. The fee shall be the actual cost for providing the service as determined by the State Registrar.

(d) Fees collected under this section will be deposited into designated account at the Commonwealth Healthcare Corporation.

† Permits issued for the removal of human remains from the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40413 (Dec. 28, 2017); Proposed 39 Com. Reg. 40290 (Oct. 28, 2017).

Part 400 - Business Health Permits; Sanitation Services

	Type of Establishment	Fee
101	Eating/drinking establishment	
101.1	Rest./fast foods	45.00
101.2	Snack bars	45.00
101.3	Café/coffee shops	45.00
101.4	Canteen	45.00
102	Catering services	
102.1	Kitchenettes	70.00
102.2	Luncheonettes	45.00
102.3	Cafeteria	70.00
103	Drinking est.	
103.1	Bars	60.00
103.2	Karaoke lounge	60.00
103.3	Nightclubs	60.00
103.4	Taverns	60.00
103.5	Refreshment stands	45.00
104	Retail food stores	
104.1	Mom & pop stores	45.00
104.2	Convenient stores	70.00
104.3	Markets	70.00
104.4	Mini marts	45.00
104.5	Sale of cosm. (gift shop)	45.00

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104.6	Sale of ref. (gift shop)	45.00
104.7	Manufactured foods	45.00
104.8	Processed foods	45.00
105	Roadside vendors	
105.1	Produce vendors	45.00
105.2	Fish vendors	45.00
105.3	Fish & produce vendors	45.00
106	Room accommodation	
106.1	Hotels – small (1-50 rms)	70.00
106.2	Hotels – medium (51-100 rooms)	80.00
106.3	Hotels – large (100 & above)	115.00
106.4	Motels	70.00
106.5	Apartments	70.00
106.6	Staff housing – small (1-10 rms)	70.00
106.7	Staff housing – medium (11-20 rms)	80.00
106.8	Staff housing – large (21 & above)	115.00
106.9	Boarding house	70.00
106.10	Room rentals	70.00
107	Barbecue house or stands	
107.1	Outdoor BBQ stands	45.00
108	Food processing/manufacturing of foods	
108.1	Meat proc'g./pack'g fac,	45.00
108.2	Water/ice proc'g plant	70.00
108.3	Bakery shop	45.00
		70.00
109	Wholesale	
109.1	General merchandise	70.00
109.2	Storage facility (dry/cold)	70.00
110	Shops & clinics	
110.1	Barber shop	45.00
110.2	Beauty shop	45.00
110.3	Barber/beauty shop	45.00
110.4	Massage parlor	45.00
110.5	Optical clinics	70.00
110.6	Facial/manicure/pedicure	70.00
110.7	Dental clinic	70.00
110.8	Sanitariums	70.00
110.9	Health clinics	70.00
110.10	Sauna/Jacuzzi	70.00
110.11	Laundry room	45.00
110.12	Laundromat	45.00
111	Recreational facility	60.00
112	Educational institutions	
112.1	Schools	115.00

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112.2	Daycare center	115.00
113	Transportation	
113.1	Delivery vehicle	45.00
113.2	Snack mobile	45.00
119	Penalties	
119.1	F/up inspection due to non-compliance of deficiencies	20.00
119.2	Resuming ceased operations w/o prior notice	300.00
119.03	Expired business permits	50.00
120	Others	
120.1	Duplicate permit	25.00
120.2	Ship clearance	75.00
120.3	Deratting certificate	100.00

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 17 Com. Reg. 13717 (Sept. 15, 1995); Amdts Proposed 17 Com. Reg. 13657 (Aug. 16, 1995); Amdts Adopted 17 Com. Reg. 13293 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12752 (Feb. 15, 1995).

Commission Comment: The notice of adoption for the April 1995 amendments deleted proposed line 120.2 and added new lines 120.2 and 120.3. The September 1995 amendments added new lines 101.4, 102.3, 110.11 and 110.12 and amended lines 101, 102, 106, 106.2, 106.3, 106.7, 106.8, 108 and 108.3.

In line 110.112, the Commission corrected the spelling of “laundromat.” In line 113, the Commission changed “113.2” to “113.1.”

A similar table is found at Appendix A to subchapter 140-20.1. It is unclear whether the Department intended to replace this table with the one found at Appendix A.

Part 500 Behavioral Health Services Fee Schedules

Procedure Code	Procedure Code Description	MD, Psychiatrist Rate	Doctoral Level Rate	Master’s Degree Level Rate	Bachelor’s Degree Level Rate
90801	Individual psychological diagnostic assessment and evaluation on face to face (60-90 minutes) and reporting	247.80	247.80		
90804	Individual psychotherapy, insight oriented, behavior modifying and/or supportive 20-30 minutes face to face w/patient		68.36		
90805	With medical evaluation and management services	115.47			
90806	Individual psychotherapy, insight oriented, behavior modifying and/or supportive,		84.06		

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Procedure Code	Procedure Code Description	MD, Psychiatrist Rate	Doctoral Level Rate	Master's Degree Level Rate	Bachelor's Degree Level Rate
	45-50 minutes face to face w/patient				
90807	With medical evaluation and management services	135.90			
90808	Individual psychotherapy, insight oriented, behavior modifying and/or supportive, 60-90 minutes face to face w/patient		107.61		
90809	With medical evaluation and management services	149.32			
96101	Psychological testing includes psychodiagnostic assessment of intellectual abilities, emotionality, personality, and psychopathology on face to face 60-90 minutes w/patient		186.76		
99211	Medication Management (Prescription filling only)	50.28			
99212	Medication Management	73.33			
99244	Psychiatric diagnostic assessment and evaluation face to face w/patient	156.74			
H0001	Alcohol and/or drug assessment			63.70	
H0005	Alcohol and/or drug services; per individual on group counseling 60-90 minutes			35.00	35.00
H0015	Individual substance abuse intensive outpatient treatment per day			115.00	115.00
H0022	Alcohol and/or drug intervention service			68.36	68.36
H0046	Individual mental health counseling services, NEC 45-50 minutes face to face w/patient			68.36	68.36
H2027	Alcohol/drug psychoeducational service on group (60-90 minutes) per individual			25.00	25.00

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Procedure Code	Procedure Code Description	MD, Psychiatrist Rate	Doctoral Level Rate	Master's Degree Level Rate	Bachelor's Degree Level Rate
H2035	Individual alcohol and/or drug counseling 45-50 minutes			99.40	99.40
S9445	Violence prevention class (anger management), patient education, NEC per session (60-90 minutes per individual)			25.00	25.00
S9446	Life skills class is group patient education, NEC per session per individual			35.00	35.00
S9454	Stress management class individual per 60-90 minutes class session			25.00	25.00
S9484	Crisis mental health intervention services (per 15 minutes)	55.00	35.00	35.00	35.00
T1023	Intake and Assessment per encounter face to face w/patient		115.36	115.36	115.36

History: Adopted 33 Com. Reg. 32154 (Dec. 29, 2011); Proposed 33 Com. Reg. 31985 (Oct. 26, 2011).

Commission Comment: The Commission corrected the spelling of “Master’s” and “Bachelors” in the table headings pursuant to 1 CMC § 3806(g). The Commission inserted a close parenthesis at the end of the description of code S9445 pursuant to 1 CMC § 3806(g).

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SUBCHAPTER 140-10.9 SLIDING FEE SCALE PROGRAM REGULATIONS

Part 001	General Provisions	§ 140-10.9-110	Procedures	for
§ 140-10.9-001	Purpose		Verifying Validity and Eligibility	
		§ 140-10.9-115	Procedures	for
Part 100	Sliding Fee Scale Program		Processing Applications	
§ 140-10.9-101	Medical Coverage	§ 140-10.9-120	Department of Public Health	1996 Sliding Fee Scale Table
and Exclusions				
§ 140-10.9-105	Eligibility Criteria			

Subchapter Authority: 1 CMC §§ 2603(f) and 2605(j).

Subchapter History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction, including hospitals and clinics. See 1 CMC § 2605(j).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.9-001 Purpose

(a) It is the intent of the Department of Public Health to provide quality medical care to the residents of the Commonwealth of the Northern Mariana Islands regardless of their ability to pay. Therefore, the Department of Public Health hereby establishes the Regulations for a Sliding Fee Scale Program codified in this subchapter to assist patients whose extenuating circumstances make it difficult to pay medical services rendered at the Commonwealth Health Center, Rota Health Center, and Tinian Health Center.

(b) The sliding fee scale is a schedule of discounts that allows for differing abilities of patients to pay for medical services. The ability to pay for services is determined by the patient’s

income and family size. (See § 140-10.9-120 for the sliding fee scale table.) The patient whose family income from all sources falls within the income levels and family sizes set forth in the tables is entitled to a discount on his or her medical charges. The patient will be billed his or her portion of medical charges after the appropriate discount rate, which ranges from 75%, 50%, and 25%, is deducted from the patient's share of the medical bill.

(c) It shall be the responsibility of the recipient of medical services, or his or her representative, to request and substantiate eligibility to qualify under the sliding fee scale program. The sliding fee scale program is intended to be the last resort for the payment of medical services for patients who cannot themselves pay for medical services because of inadequate income and who are not covered by medical insurance or other responsible third party payor.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

Part 100 - Sliding Fee Scale Program

§ 140-10.9-101 Medical Coverage and Exclusions

(a) Sliding fee scale discounts shall apply towards bills for medical services (outpatient, inpatient, and emergency department), ancillary services, dental services, and prescription drugs considered medically necessary for the treatment or diagnosis of a disease, injury, or condition for which the patient is personally liable to pay.

(b) The sliding fee scale shall not apply to the following services:

- (1) Cosmetic surgery;
- (2) Personal comforts and conveniences;
- (3) Non-emergency use of the Emergency Department;
- (4) Fertility procedures;
- (5) Over-the-counter drugs and supplies;
- (6) More than one routine or annual physical examination per year;
- (7) Medical services or supplies provided free of charge under Public Health Programs;
- (8) Substance abuse treatment on an outpatient basis;
- (9) Morgue;
- (10) Prosthetic devices and durable medical equipment; and
- (11) Any services or items which are not medically required for the diagnosis or treatment of a disease, injury, or condition.

(c) The sliding fee scale program is intended to be the last resort for the payment of medical services for patients who cannot themselves pay for medical services because of inadequate income and who are not covered by medical insurance or other responsible third party payor.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

§ 140-10.9-105 Eligibility Criteria

To be eligible for consideration for participation in the sliding fee scale program, the applicant must satisfy the following eligibility requirements:

(a) Residency Requirements

(1) The patient must be a United States citizen residing in the Commonwealth of the Northern Mariana Islands, or other individual who has established legal residence in the CNMI. For purposes of the regulations in this subchapter, “residence” shall mean “the place where a person maintains an abode, with the intention of remaining permanently, or for an indefinite period of time.” It shall be the responsibility of the patient, or patient representative, to demonstrate residence in the CNMI as required by these regulations.

(2) In determining the residence of the patients, the Business Office staff shall consider the patient’s overall situation in the CNMI, including the following:

- (i) The number of days spent in the CNMI each year;
- (ii) Employment within the CNMI;
- (iii) Whether the patient maintains an abode in the CNMI;
- (iv) Enrollment in a CNMI school;
- (v) Possession of a valid CNMI driver’s license;
- (vi) Current postal address within the CNMI;
- (vii) Filing of personal income tax returns with the Department of Finance for prior years;
- (viii) Enrollment in other CNMI welfare programs such as the Medicaid program, Food Stamps, or Low Income Housing Energy Assistance Program; and
- (ix) Any other evidence considered as indicative of residency within the CNMI such as rental receipts, bank account statements, Social Security number, telephone number, cable TV subscription, etc.

(b) Income Limitations

(1) In order to qualify under the program, the total income from all sources of the applicant and dependent family members shall not exceed the established sliding fee scale standards set forth in the sliding fee scale tables.

(2) For purposes of the regulations in this chapter, total income from all sources shall include, but not be limited to, annual gross wages and salaries and other sources of income such as public assistance supplementary payments, Social Security, unemployment and workmen’s compensation, alimony, child support, all forms of pensions, income from dividends, interests, rents, royalties, income from estates or trusts, etc.

(3) “Dependent family members” for purposes of these regulations is defined as those person(s) who are members of the applicant’s household for at least one year and who fall within

the following categories:

- (i) Spouse (including common-law);
- (ii) Children including natural children, step children, legally adopted children, children under legal guardianship;
- (iii) Father and mother;
- (iv) Father-in-law and mother-in-law;
- (v) Grandparents and grandparents of spouse; and
- (vi) Grandchildren.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

Commission Comment: The original paragraphs of subsections (a) and (b) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (b)(1) through (b)(3).

In subsection (a)(1), the Commission corrected the spelling of “responsibility.”

§ 140-10.9-110 Procedures for Verifying Validity and Eligibility

The applicant’s percentage of sliding fee scale discount is based on the supporting income documents and family size. The patient or patient representative shall have the burden of providing verifiable documentation to support eligibility to qualify under the sliding fee scale program. To apply, the applicant must:

- (a) Complete the sliding fee scale discount application form available at the Business Office registration desks.
- (b) Provide proof of identification (birth certificate, certificate of identity, marriage license, alien registration card, entry permit, passport, etc.)
- (c) Provide employment verification and proof of current income including, at minimum, the last three pay check stubs and previous year’s tax returns filed with the Division of Revenue and Taxation.
- (d) Provide proof of residency.
- (e) Submit copy of Social Security card of applicant and each dependent family member.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

§ 140-10.9-115 Procedures for Processing Applications

The staff of the Department of Public Health shall follow the procedures set forth below:

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- (a) Advise indigent patients of possible qualification for Medicaid program or sliding fee scale program. The applicant must be screened for and agree to apply for Medicaid, if potentially eligible, prior to being considered for eligibility in the sliding fee scale program.
- (b) Advise applicants to submit and complete documents required in § 140-10.9-110 within five working days from date of service.
- (c) Process the application and determine eligibility in the program within fifteen working days from the date all required supporting documents are received.
- (d) Notify applicant by letter of the approval or denial of application. If approved, advise applicant of the total percentage of discount allowed and the percentage of his or her liability. Advise applicant that his or her share of medical charges must be paid after each encounter. Failure of the applicant to pay for his or her share of medical bills may result in reverting his or her account to a 100% pay status. If approved, coverage under the program will be effective from the date the application was submitted.
- (e) Issue a program card to the qualified applicant, listing all eligible family members.
- (f) Advise applicant that changes of circumstances must be immediately reported and that a redetermination of qualifications shall be made where necessary. Eligibility is for one year and the account will be reviewed and redetermined annually.
- (g) As a condition for eligibility, applicant and/or eligible members of the family may be required to authorize release of information from their employers or other agencies/institutions for purposes of verifying the validity of supporting documents submitted.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

§ 140-10.9-120 Department of Public Health 1996 Sliding Fee Scale Table

Annual Income Level¹

Family Unit Size	Discount 75% ⁺	Discount 50%	Discount 25%
1	0 to 8,910	8,911 to 11,138	11,139 to 13,365
2	0 to 11,920	11,921 to 14,900	14,901 to 17,880
3	0 to 14,930	14,931 to 18,663	18,664 to 22,395
4	0 to 17,940	17,941 to 22,425	22,426 to 26,910
5	0 to 20,950	20,951 to 26,188	26,189 to 31,425
6	0 to 23,960	23,961 to 29,950	29,951 to 35,940
7	0 to 26,970	26,971 to 33,713	33,714 to 40,455
8	0 to 29,980	29,981 to 37,475	37,476 to 44,970

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9	0 to 32,990	32,991 to 41,238	41,239 to 49,485
10	0 to 36,000	36,001 to 45,000	45,001 to 54,000
11	0 to 39,010	39,011 to 48,763	48,764 to 58,515
12	0 to 42,020	42,021 to 52,525	52,526 to 63,030
13	0 to 45,030	45,031 to 56,288	56,289 to 67,545
14	0 to 48,040	48,041 to 60,050	60,051 to 72,060
15	0 to 51,050	51,051 to 63,813	63,814 to 76,575

⁺ For family units of more than 15 members, add \$3,010 for each additional member.

¹ The maximum annual income levels used in the tables are based on the 1996 Hawaii Poverty Guidelines published in the Federal Register dated March 4, 1996.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 15210 (Mar. 15, 1997) (effective June 1, 1997); Proposed 18 Com. Reg. 14375 (Oct. 15, 1996).

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SUBCHAPTER 140-10.10 TRANSITIONAL LIVING CENTER; ABILITY TO PAY RULES AND REGULATIONS

Part 001	General Provisions	Determination of Ability to Pay
§ 140-10.10-001	Introduction	§ 140-10.10-105 Process of
§ 140-10.10-005	Definitions	Determining Ability to Pay and Adjusted Charge
Part 100	Ability to Pay	§ 140-10.10-110 Modifications
Determination		§ 140-10.10-115 Calculation of Ability
§ 140-10.10-101	Factors Affecting the	to Pay

Subchapter Authority: 1 CMC §§ 2603 and 2605.

Subchapter History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

§ 140-10.10-001 Introduction

The rules and regulations in this subchapter are intended to provide the method used to assess charges at the Transitional Living Center under the supervision of the Department of Public Health for the care, support, maintenance, or treatment of mentally ill persons. No person shall be denied admission because of inability to pay.

Modified, 1 CMC § 3806(d).

History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

§ 140-10.10-005 Definitions

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

- (a) “Ability to pay” is the amount of the legally responsible person’s income and assets available to pay for the individual cost of care, support, maintenance, and treatment at the Transitional Living Center.
- (b) “Adjusted assets” is the balance of the assets of the legally responsible person(s) after allowed asset deductions.
- (c) “Adjusted charge” is the charge for hospital care, support, maintenance and treatment, up to but not exceeding the ability to pay of the responsible person(s).
- (d) “Adjusted income” is the balance of the total gross monthly income of the legally responsible person(s) after allowed income deductions.
- (e) “Allowed asset deduction” is: the Supplemental Security Income (SSI) asset allowance for each legally responsible resident, spouse, and other minor dependent; the equity in one home where the resident, the resident’s spouse, and/or the resident’s minor dependent(s) reside.
- (f) “Allowed income deduction” includes withholding taxes, mandatory retirement deductions, health insurance premiums, and child support and/or alimony payments.
- (g) “Net taxable income” refers to the calculation on the CNMI income tax form, and reportable under CNMI law, which is used as the base against which CNMI tax liability is determined.
- (h) “Cost of care” refers to the full daily rate multiplied by the number of days of care provided.
- (i) “Department” refers to the CNMI Department of Public Health.
- (j) “Dependent” is an individual who qualifies as a dependent under CNMI tax laws.
- (k) “Secretary” refers to the Secretary of the CNMI Department of Public Health.
- (l) “Full rate” refers to the institution’s daily rate, which is determined periodically, based on the cost for care, support, maintenance, treatment and education of residents, as approved by the Secretary.
- (m) “Insurance and other benefits” includes all insurance, Medicare, Medicaid, and any other resources covering the cost of care, support, maintenance, or treatment.
- (n) “Legally responsible person(s)” is the resident (through his fiduciary, if applicable), spouse, and parent(s) of children under 18 years of age, as applicable.
- (o) “Resident” refers to any person admitted to the Transitional Living Center.

(p) “Personal needs allowance” refers to the uniform dollar amount determined by the Department to be available to each resident receiving income from a benefit or employment, which may be used for items not provided by the Transitional Living Center. The personal needs allowance shall be \$50.00 per month.

(q) “SSI asset allowance” refers to the maximum dollar amount of assets that an individual is allowed to retain and still qualify for the Supplemental Security Income (SSI) program.

Modified, 1 CMC § 3806(f).

History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (q).

Part 100 - Ability to Pay Determination

§ 140-10.10-101 Factors Affecting the Determination of Ability to Pay

The following factors are considered in the determination of the ability to pay:

- (a) The assets of the resident;
- (b) The income of the resident;
- (c) Whether the resident has support obligations for a spouse or minor children;
- (d) Whether any other person or entity is or should be responsible to support the resident.

Modified, 1 CMC § 3806(f).

History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

§ 140-10.10-105 Process of Determining Ability to Pay and Adjusted Charge

(a) **Insurance and Other Benefits.** Insurance and other benefits shall be applied first to the cost of care. Insurance and other benefits for any resident shall be billed at the cost of care. A legally responsible person who fails to cooperate in making existing insurance and other benefits available for payment will nevertheless be considered as having benefits available for payment and will be charged accordingly.

(b) **Determination of Adjusted Charge.** The adjusted charge shall be the balance of the cost of care after insurance and other benefits have been deducted.

(c) If the legally responsible person(s) does not cooperate in making insurance and other benefits available, the legally responsible person(s) will be billed for the amount equal to the dollar value of the insurance or benefits in addition to the lesser of the balance of the cost of care or the ability to pay.

(d) If the dollar value of insurance and other benefits cannot be determined, the legally responsible person(s) will be billed the full cost of care.

History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

§ 140-10.10-110 Modifications

(a) A legally responsible person whose income is substantially reduced as a result of changed financial circumstances after the ability to pay has been determined; may request a re-determination and provide evidence of financial change so that a new ability to pay may be determined based on current income and assets.

(b) Should there be an increase in income, assets, insurance, or other benefits; this information must be reported to the Transitional Living Center within 30 calendar days of the changed financial circumstances so that an appropriate redetermination of the ability to pay can be made.

History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

Commission Comment: The Commission inserted a comma after the word “insurance” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 140-10.10-115 Calculation of Ability to Pay

(a) The ability to pay of the legally responsible person(s) is the sum of:

- (1) The monthly adjusted income; and
- (2) The monthly adjusted assets.

(b) The monthly adjusted income considered available to pay for care, support, maintenance and treatment is:

- (1) Gross monthly income minus
- (2) Withholding taxes, mandatory retirement deductions, health insurance premiums, and child support and/or alimony payments.

(c) The monthly adjusted assets considered available to pay for care, support, maintenance and treatment is: one percent of all assets.

(d) However, the following assets shall not be counted in the determination of monthly adjusted assets:

- (1) The Supplemental Security Income (SSI) asset allowance for each legally responsible resident, spouse, and other minor dependent; and
- (2) The equity in one home where the resident, the resident’s spouse, and/or the resident’s minor dependent(s) reside.

Modified, 1 CMC § 3806(e), (f), (g).

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History: Adopted 25 Com. Reg. 21053 (Aug. 22, 2003); Proposed 25 Com. Reg. 20623 (July 15, 2003).

Commission Comment: In subsection (d), the Commission corrected the spelling of the word “of.”

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-10.11 MEDICAL MALPRACTICE COVERAGE RULES AND REGULATIONS

Part 001	General	Provisions	§ 140-10.11-115	Compliance Review
[Reserved]			§ 140-10.11-120	Report of Claims
			§ 140-10.11-125	Additional
Part 100	Medical	Malpractice		Requirements
Liability Coverage				
§ 140-10.11-101	Coverage Mandatory		Appendix A	Medical Physician's
§ 140-10.11-105	Proof of Coverage		Indemnity Bond	
§ 140-10.11-110	Privileges Prohibited			
Without Coverage			Appendix B	Irrevocable Letter of Credit

Subchapter Authority: 1 CMC § 2605.

Subchapter History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

Commission Comment: PL 1-8, tit. 1, ch. 12, codified as amended at 1 CMC §§ 2601-2633, created the Department of Public Health and Environmental Services within the Commonwealth government. See 1 CMC § 2601. 1 CMC § 2603(f) grants the Department the power and duty to administer all government-owned health care facilities. 1 CMC § 2605 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 105:

Section 105. Department of Public Health.

The Department of Public Health and Environmental Services is re-designated the Department of Public Health.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Public Law 16-51 (effective Jan. 15, 2010), the “Commonwealth Healthcare Corporation Act of 2008,” codified at 3 CMC § 2801 et seq., established the Commonwealth Healthcare Corporation, which assumed the duties of the Department of Public Health as of January 15, 2011.

Part 001 - General Provisions

[Reserved.]

Part 100 - Medical Malpractice Liability Coverage

§ 140-10.11-101 Coverage Mandatory

Malpractice liability coverage is a mandatory requirement for medical staff membership at the Commonwealth Health Center.

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Modified, 1 CMC § 3806(f).

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

Commission Comment: The Commission created the section titles in this part.

§ 140-10.11-105 Proof of Coverage

Each physician shall provide proof to the Secretary of Public Health (“the Secretary”) that he/she has met this requirement by any one of the following means:

- (a) Indemnification by the CNMI for its government employee staff;
- (b) Proof of private medical malpractice liability insurance (occurrence type) coverage of at least \$100,000; or
- (c) Proof of other security acceptable to the Secretary and the Attorney General, in favor of the CNMI Department of Public Health (for indemnification against any financial loss, costs, expenses, or damages as a result of or related to the physician providing services), of not less than \$100,000. Possible alternative security vehicles may include:
 - (1) Surety bond;
 - (2) Letter of credit from a FDIC insured banking institution;
 - (3) Pledge of collateral;
 - (4) Escrow account with a FDIC insured banking institution.

Modified, 1 CMC § 3806(f).

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

§ 140-10.11-110 Privileges Prohibited Without Coverage

No physician shall be granted privileges at the Commonwealth Health Center until these requirements have been completed.

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

§ 140-10.11-115 Compliance Review

The Secretary shall, on an ongoing basis, review compliance. Those practitioners with privileges at CHC who do not have proof in their CHC physician files of current medical malpractice coverage as defined above will have 30 days to come into compliance with this requirement. Any practitioner who fails to comply with this requirement within the 30 day time period will have his or her hospital privileges immediately suspended, and then the case shall be referred to the Medical Executive Committee for further action, including permanent termination of privileges.

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

§ 140-10.11-120 Report of Claims

All physicians with privileges at DPH government facilities must promptly report (in writing) to the DPH administration any claims, or lawsuits filed, relating to his or her delivery of medical services. When hospital privileges end for any private physician, release of the alternative financial products described above shall not be unreasonably delayed or denied, so long as there are no pending claims, or lawsuits, known to the physician or to the DPH administration relating to that physician for services performed at a CNMI government facility.

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

§ 140-10.11-125 Additional Requirements

The regulations in this chapter shall not supplant or affect any separate, additional requirements imposed on physicians by the Medical Professional Licensing Board.

Modified, 1 CMC § 3806(d).

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

**Appendix A
Medical Physician's Indemnity Bond
(Specimen)**

Bond No. _____

Premium: _____

Issue Date: _____

KNOW ALL MEN BY THESE PRESENTS: That we, (name of medical company), as Principal, both for itself and its member(s) _____ (insert names of members of the LLC) _____ and (name of bonding company), a corporation organized under the laws of the Commonwealth of the Northern Mariana Islands and authorized to execute bonds and undertakings, as Surety, are held firmly bound unto the COMMONWEALTH HEALTH CENTER, the DEPARTMENT OF PUBLIC HEALTH, GOVERNMENT of the COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, and their officers, employees and agents, hereinafter collectively called the Obligee, in an amount not to exceed the principal sum of \$(state amount here) for the payment whereof well and truly to be made, said Principal and Surety bond them, themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Obligee has agreed to authorize and provide Medical Staff Membership and Privileges of the Commonwealth Health Center or its associate facilities to Principal;

WHEREAS, a condition of such agreement addendum thereto is that the Principal shall provide Medical Malpractice Liability Insurance and in lieu of such insurance coverage, Principal has agreed to provide a good sufficient indemnity bond in the amount stated above to indemnify the Obligee against any financial loss, costs, expenses, or damages, including, but not limited to malpractice claims, or any and all damage or loss occasioned to Obligee as a resulted* or related to Principal's provision of services, medical or otherwise, at Commonwealth Health Center or its associate facilities;

*So in original.

NOW THEREFORE, the conditions of this obligation are that the Surety shall indemnify the Obligee against failure of the Principal to faithfully defend and pay all sums of money for any and all claims, losses, costs, or injury arising out of or in relation to the provision of any services, medical or otherwise, performed at or in connection with the Commonwealth Health Center and related facilities, including but not limited to malpractice claims or damage of loss of its property;

First: That at the earliest practical moment, and in any event not later than ninety (90) days after the failure of the Principal to pay to the Obligee any sums owed pursuant to a separate indemnification agreement between Principal and Obligee for any act or acts that would cause a claim to be made under the terms of this Bond, the Obligee shall give the Surety written notice thereof, which notice shall be made to the following address:

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(list address of bonding company)

And within 90 days after such failure of the Principal, the Obligee shall file with the Surety affirmative proof of loss and shall upon request of the Surety render every assistance, not pecuniary, to facilitate the investigation and adjustment of any loss.

Second: Any suit or action to recover against the Surety on account of loss hereunder shall be brought before the expiration of 24 months from demand of Obligee against the Principal for payment of such loss but shall not be instituted before the expiration of three (3) months from the filing of proof as aforesaid.

Third: This Bond may be cancelled either by the Surety or this Obligee by written notice served upon the other, or sent by registered mail specifying therein the effective date of such cancellation, provided, however, that this notice is served or sent by the Surety, such effective date shall not be less than sixty (60) days after such service or after the date born by the sender's registry receipt. Notwithstanding a termination by either party, this Bond shall remain effective for any claim, loss or liability which may arise out of or be related to the Principal's actions during the time period in which the Bond was effective plus an additional twenty-four (24) months.

Fourth: The terms of this Bond shall be from ____ day of ____, 20__ to and including the ____ day of _____ 20__.

PRINCIPAL:
By:

SURETY:
By:

ACKNOWLEDGMENTS

COMMONWEALTH OF THE _____)
NORTHERN MARIANA ISLANDS) SS.
MUNICIPALITY OF SAIPAN _____)

On this ____ day of _____, 20__, before me, a Notary Public in and for the Commonwealth of the Northern Mariana Islands, Municipality of Saipan personally appeared _____ known to me to be persons whose names are subscribed as the authorized representatives of _____ and _____ and acknowledged to me that they executed the foregoing instrument on behalf of said corporation for the purposes and consideration contained therein.

Notary Public

Modified, 1 CMC § 3806(g).

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).

Commission Comment: The Commission corrected the spelling of "Marianas" and "Acknowledgments."

**Appendix B
Irrevocable Letter of Credit
(Specimen)**

To: Commonwealth of the Northern Mariana Islands Department of Public Health (DPH)
Commonwealth Health Center and related facilities
And their respective employees, assigns, and agents

REFERENCE:

Name of Company or Person authorized by DPH:\

Company ID # as assigned by the DPH:

Irrevocable Letter of Credit Number:

Effective Date:

Expiration Date:

Sir/Madam:

You have requested of [Name of Lending Institution] (the “Lender”) that we establish an irrevocable letter of credit which will remain available on behalf of [Applicant] (the “Company”) who has applied to the Department of Public Health (the “DPH”) for authority to provide medical and related services at the Commonwealth Health Center and its related facilities. The purpose of this letter of credit is to secure payment of any monetary sanction, cost, liability, or expense which may be imposed against the Company, its representatives, successors or assigns, for any loss, cost, expense, damage, or liability arising out of the Company’s activities or services, medical or otherwise, at or in connection with the grant of permission by DPH to the Company to provide services at the Commonwealth Health Center or any of its related facilities.

We hereby establish and issue, in favor of the DPH, an irrevocable letter of credit in the amount of _____ thousand dollars (\$_____), lawful money of the United States of America. The DPH may draw upon this letter of credit, at any time and from time to time, by delivering a Letter of Credit Notice, substantially in the form set forth below (a “Notice”), which Notice shall specify the amount (the “Draw Amount”) to be drawn and the bank account (the “Bank Account”) to which the Draw Amount should be delivered and shall be signed by an official designated and duly authorized by the DPH, to Lender at the address listed below, or to such other address as the Lender shall notify the DPH in writing by certified mail. Promptly after the delivery of each Notice, the Lender hereby covenants and agrees to deliver, by wire transfer of immediately available funds, the Draw Amount to the Bank Account.

This letter of credit shall be deemed automatically renewed without amendment for successive one-year periods and may be canceled by the Lender by giving thirty (30) days advance written notice by certified mail of such cancellation to the DPH and the Company, it being understood that the Lender shall not be relieved of liability that may have accrued under this letter of credit prior to the date of cancellation.

The Lender hereby represents and warrants that it is qualified and authorized to issue this letter of credit and is a bank regulated by the Federal Deposit Corporation of the United States.

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Except as otherwise expressly stated, this letter of credit is subject to the Uniform Customs and Practice for Documentary Credit (1993 Revision) International Chamber of Commerce Publication No. 500, or any revisions thereto.

Yours Very Truly,
[Name of Lending Institution]
Name:
Title:
Address of Lender:

APPROVAL AND INDORSEMENT

This is to certify that I have examined the foregoing letter of credit and found the same to be sufficient and in conformity to law and that the same has been filed with the Department of Public Health, Commonwealth of the Northern Mariana Islands, this day of _____, 20__.

Name:
Title:

FORM OF LETTER OF CREDIT NOTICE

[Name of Lender]
[Address]

Re: Irrevocable Letter of Credit No. []

Dear Sir or Madam:

You are hereby notified, and the undersigned hereby certifies, that the undersigned is an official designated and duly authorized by the DPH to deliver this notice and that a monetary sanction in the amount of \$ (the “Draw Amount”) has been imposed against [Applicant], its representatives, successors or assigns, arising out of or related to [Applicant]’s services or activities at the Commonwealth Health Center or its related facilities. Pursuant to that certain Irrevocable Letter of Credit referenced above, we hereby request that you deliver payment of the Draw Amount to the bank account listed below by wire transfer of immediately available funds:

Name of Bank Account:
Account Number:
ABA Routing Number:
Reference:
Name of Contact:
Telephone Number:
Facsimile Number:

Please confirm receipt of this Notice and the Federal Reserve wire confirmation number of the delivery of the Draw Amount by sending a facsimile to the person at the number listed above.

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Sincerely,

DEPARTMENT OF PUBLIC HEALTH, CNMI

Name:

Title:

History: Adopted 27 Com. Reg. 24946 (Sept. 22, 2005); Proposed 27 Com. Reg. 24600 (June 20, 2005).