

HEALTH AND SAFETY CODE CHAPTER 88. REPORTS OF CHILDHOOD LEAD
POISONING

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES

CHAPTER 88. REPORTS OF CHILDHOOD LEAD POISONING

Sec. 88.001. DEFINITIONS. In this chapter:

(1) "Child care" includes a school, preschool, kindergarten, nursery school, or other similar activity that provides care or instruction for young children.

(2) "Child care facility" means a public place or a residence in which a person furnishes child care.

(3) "Health authority" means a physician appointed as such under Chapter 121.

(4) "Health professional" means an individual whose:

(A) vocation or profession is directly or indirectly related to the maintenance of health in another individual; and

(B) duties require a specified amount of formal education and may require a special examination, certificate or license, or membership in a regional or national association.

(5) "Lead" includes metallic lead and materials containing metallic lead with a potential for release in sufficient concentrations to pose a threat to public health.

(6) "Blood lead levels of concern" means the presence of blood lead concentrations suspected to be associated with mental and physical disorders due to absorption, ingestion, or inhalation of lead as specified in the most recent criteria issued by the United States Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention of the United States Public Health Service.

(7) "Lead poisoning" means the presence of a confirmed venous blood level established by board rule in the range specified for medical evaluation and possible pharmacologic treatment in the most recent criteria issued by the United States Department of Health and Human Services, United States Public Health Service,

Centers for Disease Control and Prevention of the United States Public Health Service.

(8) "Local health department" means a department created under Chapter 121.

(9) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(10) "Public health district" means a district created under Chapter 121.

(11) "Regional director" means a physician appointed by the board as the chief administrative officer of a public health region under Chapter 121.

(12) "Board" means the Texas Board of Health.

(13) "Child-occupied facility" means a building or part of a building, including a day-care center, preschool, or kindergarten classroom, that is visited regularly by the same child, six years of age or younger, at least two days in any calendar week if the visits are for at least:

(A) three hours each day; and

(B) 60 hours each year.

(14) "Lead hazard" means an item, surface coating, or environmental media that contains or is contaminated with lead and, when ingested or inhaled, may cause exposures that contribute to blood lead levels in children, including:

(A) an accessible painted surface or coating;

(B) an article for residential or consumer use;

(C) accessible soil and dust, including attic dust; and

(D) food, water, or remedies.

(15) "Certified lead risk assessor" means a person who has been certified by the department to conduct lead risk assessments, inspections, and lead-hazard screens, as defined by department rule.

(16) "Environmental lead investigation" means an investigation performed by a certified lead risk assessor of the home environment of, or other premises frequented by, a child who has a confirmed blood lead level warranting such an investigation, under the most recent criteria issued by the Centers for Disease

Control and Prevention of the United States Public Health Service.
Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.
Amended by Acts 2003, 78th Leg., ch. 740, Sec. 3, eff. Sept. 1,
2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 398, Sec. 1, eff. September 1,
2007.

Sec. 88.002. CONFIDENTIALITY. (a) Except as specifically authorized by this chapter, reports, records, and information furnished to a health authority, a regional director, or the department that relate to cases or suspected cases of children with blood lead levels of concern or lead poisoning are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of childhood lead poisoning and children with blood lead levels of concern are not public information under the open records law, Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by this chapter.

(c) Medical, epidemiologic, or toxicologic information may be released:

(1) for statistical purposes if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information;

(3) to medical personnel, appropriate state agencies, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with this chapter and related rules;

(4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, except that the information must be limited to the information requested by the agency; or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the child identified in the information.

(d) The commissioner, a regional director or other department employee, a health authority or employee of a public health district, a health authority or employee of a county or municipal health department, or a public official of a county or municipality may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of or reports or information about a child identified, examined, or treated for lead poisoning or about a child possessing blood lead levels of concern by the department, a public health district, a local health department, or a health authority without the consent of the child's parents, managing conservator, guardian, or other person authorized by law to give consent.

Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.

Sec. 88.0025. CHILDHOOD LEAD POISONING PREVENTION. The board may implement policies and procedures to promote the elimination of childhood lead poisoning within the state. The board may adopt measures to:

(1) significantly reduce the incidence of childhood lead poisoning throughout the state;

(2) improve public awareness of lead safety issues and educate both property owners and tenants about practices that can reduce the incidence of lead poisoning; and

(3) encourage the testing of children likely to suffer the consequences of lead poisoning so that prompt diagnosis and treatment and the prevention of harm are possible.

Added by Acts 2003, 78th Leg., ch. 740, Sec. 4, eff. Sept. 1, 2003.

Sec. 88.003. REPORTABLE HEALTH CONDITION. (a) Childhood blood lead levels of concern are reportable.

(b) The board by rule may designate:

(1) blood lead concentrations in children that must be reported; and

(2) the ages of children for whom the reporting requirements apply.

(c) The board may adopt rules that establish a registry of children with blood lead levels of concern and lead poisoning.

Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.

Sec. 88.004. PERSONS REQUIRED TO REPORT. (a) A person required to report childhood blood lead levels of concern shall report to the department in the manner specified by board rule. Except as provided by this section, a person required by this section to report must make the report immediately after the person gains knowledge of the case or suspected case of a child with a blood lead level of concern.

(b) A physician shall report a case or suspected case of childhood lead poisoning or of a child with a blood lead level of concern after the physician's first examination of a child for whom reporting is required by board rule.

(c) A person in charge of an independent clinical laboratory, a hospital or clinic laboratory, or other facility in which a laboratory examination of a specimen derived from the human body yields evidence of a child with a blood lead level of concern shall report the findings to the department as required by board rule.

(d) If a report is not made as required by Subsection (b) or (c), the following persons shall report a case or suspected case of a child with lead poisoning or a blood lead level of concern and all information known concerning the child:

- (1) the administrator of a hospital licensed under Chapter 241;
- (2) a professional registered nurse;
- (3) an administrator or director of a public or private child care facility;
- (4) an administrator of a home health agency;
- (5) an administrator or health official of a public or private institution of higher education;
- (6) a superintendent, manager, or health official of a public or private camp, home, or institution;
- (7) a parent, managing conservator, or guardian; and
- (8) a health professional.

Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.

Sec. 88.005. REPORTING PROCEDURES. (a) The board shall prescribe the form and method of reporting under this chapter, including a report in writing, by telephone, or by electronic data transmission.

(b) Board rules may require the reports to contain any information relating to a case that is necessary for the purposes of this chapter, including:

- (1) the child's name, address, age, sex, and race;
- (2) the child's blood lead concentration;
- (3) the procedure used to determine the child's blood lead concentration; and
- (4) the name of the attending physician.

(c) The commissioner may authorize an alternate routing of information in particular cases if the commissioner determines that the customary reporting procedure would cause the information to be unduly delayed.

Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.

Sec. 88.006. REPORTS OF HOSPITALIZATION; DEATH. (a) A physician who attends a child during the child's hospitalization shall immediately notify the department if the physician knows or suspects that the child has lead poisoning or a blood lead level of concern and the physician believes the lead poisoning or blood lead level of concern resulted from the child's exposure to a dangerous level of lead that may be a threat to the public health.

(b) A physician who attends a child during the child's last illness shall immediately notify the department if the physician:

- (1) knows or suspects that the child died of lead poisoning; and
- (2) believes the lead poisoning resulted from the child's exposure to a dangerous level of lead that may be a threat to the public health.

(c) An attending physician, health authority, or regional director, with the consent of the child's survivors, may request an autopsy if the physician, health authority, or regional director needs further information concerning the cause of death in order to protect the public health. The health authority or regional

director may order the autopsy to determine the cause of death if the child's survivors do not consent to the autopsy. The autopsy results shall be reported to the department.

(d) A justice of the peace acting as coroner or a medical examiner in the course of an inquest under Chapter 49, Code of Criminal Procedure, who finds that a child's cause of death was lead poisoning that resulted from exposure to a dangerous level of lead that the justice of the peace or medical examiner believes may be a threat to the public health shall immediately notify the health authority or the regional director in the jurisdiction in which the finding is made.

Added by Acts 1995, 74th Leg., ch. 965, Sec. 52, eff. Jan. 1, 1996.

Sec. 88.007. DEPARTMENT RULES FOR FOLLOW-UP CARE; COORDINATION OF CARE. (a) The department may adopt rules establishing standards for follow-up care provided to children with a confirmed blood lead level of concern.

(b) Rules adopted under this section must meet any federal requirements for coordinated follow-up care for children with confirmed blood lead levels of concern and may include, in a manner consistent with current federal guidelines:

(1) an environmental lead investigation of all or parts of a child's home environment, child-care facility, or child-occupied facility that may be a source of a lead hazard causing or contributing to the child's lead exposure; and

(2) guidance to parents, guardians, and consulting physicians on how to eliminate or control lead exposures that may be contributing to the child's blood lead level.

Added by Acts 2007, 80th Leg., R.S., Ch. 398, Sec. 2, eff. September 1, 2007.

Sec. 88.008. ENVIRONMENTAL LEAD INVESTIGATIONS. (a) On receiving a report of a child with a confirmed blood lead level warranting an environmental lead investigation, the department or its authorized agent may conduct an environmental lead investigation of:

(1) the home environment in which the child resides,

if the department or the department's authorized agent obtains the written consent of an adult occupant;

(2) any child-care facility with which the child has regular contact and that may be contributing to the child's blood lead level, if the department or the department's authorized agent obtains the written consent of the owner, operator, or principal of the facility; and

(3) any child-occupied facility with which the child has regular contact and that may be contributing to the child's blood lead level, if the department or the department's authorized agent obtains the written consent of:

(A) the owner, operator, or principal of the facility; or

(B) an adult occupant of the facility if the facility is subject to a lease agreement.

(b) Notwithstanding the consent requirements under Subsection (a), consent for an investigation is not required to be in writing for an investigation related to a report of a child with a blood lead level of 45 micrograms per deciliter or more if a good faith attempt to contact the persons authorized to provide written consent under Subsection (a) has been unsuccessful.

Added by Acts 2007, 80th Leg., R.S., Ch. 398, Sec. 2, eff. September 1, 2007.

Sec. 88.009. ENVIRONMENTAL LEAD INVESTIGATION PROCEDURES. The department may adopt rules establishing procedures for environmental lead investigations of dwellings and other premises subject to this chapter. The rules must meet, but may not exceed, any requirements established under regulations adopted by the federal Environmental Protection Agency under Subchapter IV, Toxic Substances Control Act (15 U.S.C. Section 2681 et seq.).

Added by Acts 2007, 80th Leg., R.S., Ch. 398, Sec. 2, eff. September 1, 2007.