

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 768

An Act to amend and reenact §§ 32.1-35, 32.1-36, 32.1-38, 32.1-39, and 32.1-42 of the Code of Virginia, relating to reporting of certain conditions.

[H 664]

Approved April 7, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-35, 32.1-36, 32.1-38, 32.1-39, and 32.1-42 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-35. List and reports of diseases.

The Board shall promulgate from time to time a list of diseases, including diseases caused by exposure to any toxic substance as defined in § 32.1-239 *and including diseases that may be caused by exposure to an agent or substance that has the potential for use as a weapon*, which shall be required to be reported. The Board may classify such diseases and prescribe the manner and time of such reporting.

§ 32.1-36. Reports by physicians and laboratory directors.

A. Every physician practicing in this Commonwealth who shall diagnose or reasonably suspect that any patient of his has any disease required by the Board to be reported and every director of any laboratory doing business in this Commonwealth which performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as may be prescribed by regulations of the Board. *Any such report involving a disease that such physician or laboratory director has reason to believe may be caused by exposure to an agent or substance that has been or may be used as a weapon shall be reported directly to the Commissioner or his designee using an emergency response system maintained by the Department and operated twenty-four hours a day.*

B. Any physician who diagnoses a venereal disease in a child twelve years of age or under shall, in addition to the requirements of subsection A hereof, report the matter, in accordance with the provisions of § 63.1-248.3, unless the physician reasonably believes that the infection was acquired congenitally or by a means other than sexual abuse.

C. Any physician practicing in this Commonwealth shall report to the local health department the identity of any patient of his who has tested positive for exposure to human immunodeficiency virus as demonstrated by such test or tests as are approved by the Board for this purpose. However, there is no duty on the part of the physician to notify any third party other than the local health department of such test result, and a cause of action shall not arise from any failure to notify any other third party.

D. Upon investigation by the local health department of a patient reported pursuant to subsection A, the Commissioner may, to the extent permitted by law, disclose the patient's identity and disease to the patient's employer if the Commissioner determines that (i) the patient's employment responsibilities require contact with the public and (ii) the nature of the patient's disease and nature of contact with the public constitutes a threat to the public health.

The patient's identity and disease state shall be confidential as provided in §§ 32.1-36.1 and 32.1-41. Any unauthorized disclosure of reports made pursuant to this section shall be subject to the penalties of § 32.1-27.

E. Physicians and laboratory directors may voluntarily report additional information at the request of the Department of Health for special surveillance or other epidemiological studies.

§ 32.1-38. Immunity from liability.

Any person making a report or disclosure required or authorized by this chapter, including any voluntary reports submitted at the request of the Department of Health for special surveillance or other epidemiological studies, shall be immune from civil liability or criminal penalty connected therewith unless such person acted with gross negligence or malicious intent. Further, except for such reporting requirements as may be established in this chapter or by any regulation promulgated pursuant thereto, there shall be no duty on the part of any blood collection agency or tissue bank to notify any other person of any reported test results, and a cause of action shall not arise from any failure by such entities to notify others. Neither the Commissioner nor any local health director shall disclose to the public the name of any person reported or the name of any person making a report pursuant to this chapter. *No person making a report required or authorized by this chapter shall be responsible for recognizing agents or suspecting the presence of any conditions beyond the competence of a reasonable person practicing his profession; however, any such person shall be immune as provided in this section when making reports in good faith without gross negligence and within the usual scope of his practice.*

§ 32.1-39. Surveillance and investigation.

A. The Board shall provide for the surveillance of and investigation into all preventable diseases and epidemics in this Commonwealth and into the means for the prevention of such diseases and epidemics.

Surveillance and investigation may include contact tracing in accordance with the regulations of the Board. When any outbreak or unusual occurrence of a preventable disease shall be identified through reports required pursuant to Article 1 (§ 32.1-35 et seq.) of this chapter, the Commissioner or his designee shall investigate the disease in cooperation with the local health director or directors in the area of the disease. If in the judgment of the Commissioner the resources of the locality are insufficient to provide for adequate investigation, he may assume direct responsibility and exclusive control of the investigation, applying such resources as he may have at his disposal. The Board may issue emergency regulations and orders to accomplish the investigation.

B. When an investigation of any outbreak or occurrence of a disease identified through reports required pursuant to Article 1 (§ 32.1-35 et seq.) of this chapter indicates the reasonable possibility that the outbreak or occurrence was the result of exposure to an agent or substance used as a weapon, the Commissioner or his designee shall immediately report such finding to the Department of State Police for investigation. Reports, records, materials or other data reported to the Department of State Police pursuant to this section shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The Department of State Police, and any local law enforcement official, may release all or part of any report made or other information obtained pursuant to this section (i) where the release of such report or information may assist in the prevention of imminent harm to public health or safety, or (ii) where the release of such report or information, with patient identifying information removed, may be useful for education of the public on health, safety or homeland defense issues. Reports required by this section shall be maintained in the central repository established by the Department of State Police pursuant to the provisions of § 52-8.5. The Department of State Police shall immediately transmit the report to the local chief of police or sheriff with law-enforcement responsibilities both where the patient resides and where he sought the medical treatment that resulted in the report. In addition, the Department of State Police may transmit the report to federal and military law-enforcement authorities. The Department of State Police and local law-enforcement authorities shall immediately determine and implement the appropriate law-enforcement response to such reports, in accordance with their jurisdiction.

§ 32.1-42. Emergency rules and regulations.

The Board may promulgate regulations and orders to meet any emergency or to prevent a potential emergency caused by a disease dangerous to public health, *including procedures specifically responding to any disease listed pursuant to § 32.1-35 that is determined to be caused by an agent or substance used as a weapon.*