

# Legal Brief

## Reportable Diseases and Events

This Legal Brief was drafted for general informational purposes only. It is not meant to be a comprehensive guide, nor should it be construed as legal advice. The information in this brief is current as of July 1, 2016; readers should consult the most recent versions of referenced statutes, regulations, and cases to ensure there have been no material changes.

### Summary

*A physician attending a person diagnosed with or suspected of having a communicable/reportable disease or condition must report the disease or condition to the South Dakota Department of Health (SDDOH). Category I diseases and conditions are reportable immediately by telephone. Category II diseases and conditions are reportable by telephone, mail, courier, facsimile, or electronically within three (3) days after recognition or strong suspicion of disease.*

*In addition to communicable diseases, physicians are required to report information regarding the performance of abortion, auditory or visual impairment, cancer, child abuse, elder abuse, fetal alcohol syndrome, incidents of fetal death, gunshot wounds, certain metabolic disorders, ophthalmia neonatorum, patient drug diversion, syphilis, tuberculosis, and certain venereal diseases. It is also recommended, but not required, that a physician who is a party to a practice agreement with a physician assistant notify the Board of Medical Examiners if the agreement is terminated.*

*This legal brief includes information on state quarantine measures and reports of diseases or information which must be made by a physician because of his/her status as a physician. Other statutes requiring reports are not discussed in this brief, such as where the report is an expected part of a position or office held (e.g., county or municipal jail physicians, court appointed physicians in juvenile matters, court appointed physicians in commitment proceedings).*

### Discussion

#### Reporting Diseases

##### **Making a Report – ARSD 44:20:02**

A physician must make a report if a patient is diagnosed with or is suspected of having a reportable disease or condition. The physician or authorized designee shall make a report to the South Dakota Department of Health (SDDOH). The physician is not relieved of the reporting responsibility by appointing a designee to make the report; accordingly, the physician should put safeguards in place to ensure the necessary reporting is taking place.

Category I diseases and conditions are reportable immediately by telephone. Category II diseases and conditions are reportable by telephone, mail, courier, facsimile, or electronically within three (3) days after recognition or strong suspicion of disease.

The director, principal manager, or chief executive officer of a hospital, laboratory, or institution who has knowledge that a person employed, attended, or served by the hospital, laboratory, or institution has been diagnosed with or is suspected of being a carrier of any of a reportable diseases or condition shall, or an authorized designee shall, make a report.

The types of facilities covered by this reporting requirement are: (1) health care facilities; (2) medical laboratories; (3) diagnostic laboratories; (4) blood bank, collection, or storage centers; (5) public and private elementary and secondary schools; (6) public and private universities and colleges; (7) health and correctional institutions operated or regulated by municipal, county, state, or federal governments; (8) funeral establishments and mortuaries; (9) child-care facilities; and (10) food service, lodging, and campground establishments.

The appointment of a designee does not relieve that person or organization of the reporting responsibility. The reporting of a reportable disease or condition by an executive of a hospital, laboratory, or other institution is in addition to, and not a substitute for, the reporting required of the attending physician.

Telephone reports can be made at 1.800.592.1804 by leaving a message on SDDOH's automatic answering-recording device. Alternatively, the person reporting may telephone 1.800.592.1861 and provide the required information to an authorized SDDOH representative.

For reports made by mail or courier, place the report in a sealed envelope addressed to the South Dakota Department of Health, Attention: Office of Disease Prevention, 615 East 4th Street, Pierre, SD, 57501. Write "Confidential Disease or Condition Report" on the outside of the envelope.

The telephone number for facsimile reports is 605.773.5509.

To make an electronic report, navigate to [www.state.sd.us/DOH/diseasereport](http://www.state.sd.us/DOH/diseasereport).

### **Report Contents – ARSD 44:20:02**

A report must include as much of the following information as is known to the person making the report:

1. The disease or condition diagnosed or suspected;
2. The case's or carrier's name, age, date of birth, sex, race, address, and occupation;
3. The date of onset or diagnosis of illness and whether the person is hospitalized and, if so, where;
4. Any pertinent laboratory results;
5. Public health measures taken;
6. The name and address of the attending physician; and
7. The name and telephone number of the person making the report.

If the reportable disease or condition is part of an epidemic or outbreak, the report must include additional information including:

1. The diagnosis or principal symptoms;
2. The approximate number of cases;
3. The place or community within which the cases occurred or are occurring; and
4. The name and telephone number of the reporting physician or person.

In addition, the SDDOH may request the attending physician or a designee to complete a surveillance form provided by the department.

## List of Reportable Diseases or Conditions – ARSD 44:20:01

### Category I

Category I reportable diseases and conditions have a potential for epidemic spread or require rapid application of public health measures to prevent a serious threat to public health or safety. Category I reportable diseases and conditions include:

1. Anthrax (*Bacillus anthracis*);
2. Botulism (*Clostridium botulinum*);
3. Brucellosis (*Brucella spp*);
4. Diphtheria (*Corynebacterium diphtheriae*);
5. Epidemics or outbreaks of:
  - a. Acute upper respiratory illness;
  - b. Diarrheal disease;
  - c. Foodborne diseases;
  - d. Illnesses in child care settings;
  - e. Nosocomial diseases;
  - f. Rash illness;
  - g. Waterborne diseases;
6. *Escherichia coli* Shiga toxin-producing (STEC), such as *E. coli* 0157:H7;
7. Measles;
8. Meningococcal disease, invasive (*Neisseria meningitidis*);
9. New strains of Influenza A, (such as A/H5N1);
10. Plague (*Yersinia pestis*);
11. Poliomyelitis, paralytic and non-paralytic;
12. Rabies, human and animal;
13. Rubella and congenital rubella syndrome;
14. Severe acute respiratory syndrome, SARS (*coronavirus*);
15. Smallpox (*Variola*);
16. Syndromes suggestive of bioterrorism and other public health threats;
17. Tularemia (*Francisella tularensis*);
18. Viral hemorrhagic fever (filoviruses or arenaviruses);
19. Yellow fever (flavivirus); and
20. Unexplained illnesses or deaths of humans or animals.

### Category II

Category II reportable diseases and conditions include:

1. Anaplasmosis (*Anaplasma phagocytophilum*);
2. Arboviral encephalitis, meningitis or infection (*Eastern equine, Western equine, California serogroup, St Louis, Japanese, Powassan, West Nile virus, Chikungunya, Colorado tick fever, Zika virus*);
3. Babesiosis (*Babesia spp*);
4. Campylobacteriosis (*Campylobacter spp.*);
5. Chancroid (*Haemophilus ducreyi*);
6. Carbon monoxide poisoning;
7. Chicken pox/Varicella (*herpesvirus*);
8. Chlamydia infections (*Chlamydia trachomatis*);
9. Cholera (*Vibrio cholerae*);
10. Cryptosporidiosis (*Cryptosporidium parvum*);
11. Coccidioidomycosis (*Coccidioides spp*);
12. Cyclospora (*Cyclospora cayetanensis*);
13. Dengue viral infection (*flaviviruses*);

14. Drug resistant organisms:
  - a. Vancomycin-resistant *Staphylococcus aureus* (VRSA);
  - b. Methicillin-resistant *Staphylococcus aureus* (MRSA), invasive;
  - c. Carbapenem-resistant Entrobacteriaceae (CRE);
15. Ehrlichiosis (*Ehrlichia spp.*);
16. Giardiasis (*Giardia lamblia*);
17. Gonorrhea (*Neisseria gonorrhoeae*);
18. *Haemophilus influenzae* type b disease, invasive;
19. Hantavirus pulmonary syndrome (*Hantaviruses*);
20. Hemolytic uremic syndrome;
21. Hepatitis, acute, viral types including A, B, C;
22. Hepatitis B infection, perinatal;
23. Hepatitis B and C, chronic;
24. Human immunodeficiency virus (HIV) infection; including:
  - a. AIDS (Stage III infection);
  - b. CD4 counts in HIV infection persons;
  - c. HIV viral loads; and
  - d. Pregnancy in HIV infected females;
25. Influenza:
  - a. Laboratory confirmed cases;
  - b. Influenza-associated deaths;
  - c. Influenza-associated hospitalizations; and
  - d. Weekly reports of number of rapid antigen influenza positive tests and total number tested;
26. Lead, elevated blood levels in children and adults;
27. Legionellosis (*Legionella spp.*);
28. Leprosy/Hansen's disease (*Mycobacterium leprae*);
29. Leptospirosis (*Leptospira*);
30. Listeriosis (*Listeria monocytogenes*);
31. Lyme disease (*Borrelia burgdorferi*);
32. Malaria (*Plasmodium spp.*);
33. Mumps;
34. Pertussis (*Bordetella pertussis*);
35. Pesticide-related illness and injury, acute;
36. Psittacosis (*Chlamydia psittaci*);
37. Q fever (*Coxiella burnetii*);
38. Salmonellosis (*Salmonella spp.*);
39. Shigellosis (*Shigella spp.*);
40. Silicosis;
41. Spotted Fever Rickettsiosis (*Rickettsia sppi*);
42. *Streptococcus pneumoniae*, invasive;
43. Syphilis (*Treponema pallidum*), including primary, secondary, latent, early latent, late latent, neurosyphilis, non-neurological, stillbirth, and congenital;
44. Tetanus (*Clostridium tetani*);
45. Toxic shock syndrome (Streptococcal and non-Streptococcal);
46. Transmissible spongiform encephalopathies, such as Creutzfeldt-Jakob disease;
47. Trichinosis (*Trichinella spiralis*);
48. Tuberculosis (*Mycobacterium tuberculosis* or *Mycobacterium bovis*): Latent infection in a high risk person
49. Typhoid (*Salmonella typhi*); and
50. Vibriosis (Vibrionacea [other than toxigenic *Vibrio cholera* O1 or O139, which are reportable as cholera]).

Additionally, any vaccine adverse event must be reported the same as a Category II reportable disease and condition.

## Submitting Microbiological Isolates

South Dakota law also requires that certain microbiological isolates be submitted to the South Dakota Department of Health (SDDOH). Call 605.773.3368 before submitting.

The following are required by law to be submitted:

1. Anthrax (*Bacillus anthracis*);
2. Brucellosis (*Brucella* spp.);
3. Diphtheria (*Corynebacterium diphtheria*);
4. *Haemophilus influenzae* type b, invasive;
5. Novel influenza A;
6. Listeriosis (*Listeria monocytogenes*);
7. Meningococcal disease, invasive (*Neisseria meningitidis*);
8. Plague (*Yersinia pestis*);
9. Salmonellosis (*Salmonella* spp.);
10. Shiga toxin-producing *Escherichia coli* (STEC);
11. Shigellosis (*Shigella* spp.);
12. Tuberculosis (*Mycobacterium tuberculosis* and *Mycobacterium bovis*);
13. Tularemia (*Francisella tularensis*);
14. Typhoid (*Salmonella typhi*);
15. Vancomycin-intermediate *Staphylococcus aureus* (VISA);
16. Vancomycin-resistant *Staphylococcus aureus* (VRSA); and
17. Smallpox (*Variola*).

## South Dakota Department of Health Quarantine Measures

As provided in SDCL 34-22-1, whenever necessary, the SDDOH may establish and enforce system of quarantine against the introduction into the state of any communicable a common carrier doing business across the state's borders. Any member, officer, or agent of the department may board any conveyance used by a common carrier to inspect conveyance. If the conveyance is found infected, contaminated, or otherwise containing any disease-causing agent, the department may detain the conveyance, and isolate and quarantine any or all persons found in the conveyance, including luggage, until all danger of disease is removed.

Pursuant to SDCL 34-22-9, the SDDOH is required to establish and direct the operations of a state-wide system for communicable disease prevention, control, and treatment. SDDOH may promulgate rules, pursuant to chapter 1-26, to:

1. Conduct communicable disease surveillance which includes detection, assessment, and analysis;
2. Prescribe criteria for communicable disease case definitions;
3. Prescribe procedures for communicable disease case and contact notification, referral, and management;
4. Prescribe methods and procedures for the prevention and control of communicable disease;
5. Prescribe methods and procedures for the control of communicable disease patients and carriers, including the monitoring, quarantine, and isolation of any patient or carrier;
6. Prescribe medical and post-treatment supervision measures for communicable disease patients and carriers;
7. Prescribe methods and procedures for the prevention and control of occupationally-related communicable diseases; and
8. Prescribe procedures for infection prevention measures for communicable disease control and prevention.

SDDOH has the authority to consult with physicians, hospitals, institutions, and individuals engaged in diagnosing and treating any person diagnosed with or reasonably suspected of being exposed to a communicable disease.

No provision within the State's quarantine measures may be construed to bar the freedom of any person to seek diagnosis or treatment, or both, by a physician or in an institution of the person's choice, at the person's own expense, or under entitlement by the federal government, medical or hospital insurance contracts, workers' compensation, retirement plans, or the medical care and disability provisions of programs under the supervision of the Department of Social Services. However, all cases of suspected or confirmed tuberculosis or other communicable diseases in the state shall be under the surveillance of the SDDOH.

Further, any person in the state reasonably suspected of having active tuberculosis, middle east respiratory syndrome (MERS), severe acute respiratory syndrome (SARS), smallpox, or viral hemorrhagic fevers, or any disease or condition which is the subject of a declared public health emergency pursuant to § 34-22-42, shall accept necessary diagnosis or treatment, or both.

Any person who intentionally refuses to accept diagnosis or treatment, or both, or who fails to follow the reasonable and necessary directives of the department issued for the protection of other persons, is guilty of a Class 1 misdemeanor.

Any person who intentionally exposes himself or herself or another person infected with any communicable disease is guilty of a Class 2 misdemeanor.

Pursuant to SDCL 34-22-25, any health officer or physician who has information that any person, including a patient, is by the person's conduct or mode of living, endangering the health or well-being of the person's family or other persons because of communicable diseases, shall report the information to the SDDOH. The report shall state the name and address of the person and shall include a summary of the pertinent information available to and known by the health officer or physician.

### **Other Reportable Events**

#### **Abortion**

By January 15 of each year, physicians must report the number of abortions performed during the prior year. The physician must also report the method used, reason for the abortion, and how the procedure was paid for, along with other information contained on a form provided by the SDDOH. SDCL 34-23A-34.

By February 28 of each year, physicians must make a report pertaining to the informed consent required before performance of an abortion. The report must include information pertaining to the number of women to whom the physician provided the information, how they were informed, the number of women who asked for information from the SDDOH, how many proceeded with the procedure, and how many abortions were performed without twenty-four (24) hours notice due to medical emergencies. Physicians must make the report on a form provided by the SDDOH. SDCL 34-23A-38

Also by February 28 of each year, physicians must report the number of unemancipated minor and legally-incompetent patients who sought abortions in the previous year. The report shall include whether notice was given to the parent or guardian and the number performed without notice but with judicial consent. The report shall be made on the form provided by SDDOH. SDCL 34-23A-40.

Because these reports fall into the category of public health activities, the physician may file such reports without fear of violating the HIPAA-mandated federal privacy rules.

See the *The Performance of Abortion* legal brief for specific details regarding regulation of the procedure.

### **Auditory or Visual Impairment**

Any physician or other certified person having cause to suspect severe auditory impairment or severe visual impairment in any child must provide the name and address of any such child and his parents to SDDOH on forms provided by the Department unless the physician has cause to believe that such condition has already been reported. SDCL 34-24-26.

### **Cancer**

Any hospital, physician, physician assistant, nurse practitioner, or nurse midwife, pathology laboratory, or free-standing radiology center that detects, diagnoses, or treats a cancer case in South Dakota shall make a report to SDDOH. SDCL 1-43-14. Any person who in good faith complies with the cancer reporting requirements is immune from civil and criminal liability for doing so. The report should be made to the South Dakota Cancer Registry at 1.800.738.2301.

### **Child Abuse**

The HIPAA mandated privacy rules specifically authorize child abuse or neglect reports to the extent permitted and required by applicable state law. 45 CFR §160.203. If the suspected abuse or neglect is discovered in the physician's clinic, the physician is obligated to immediately make an oral report to the state's attorney, the South Dakota Department of Social Services (SDDSS), or to law enforcement personnel. SDCL 26-8A-3, 26-8A-8.

If the suspected abuse or neglect is discovered in a hospital setting, the physician must report the discovery to the person in charge of the institution or that person's designee. The person in charge must then report the discovery to the state's attorney, SDDSS, or law enforcement and provide complete copies of all medical examination, treatment, and hospital records regarding the child. SDCL §26-8A-6.

If the suspected abuse or neglect is discovered in a school setting, the physician must make a report to the school principal or school superintendent or designee, who in turn must make a report to the state's attorney, SDDSS, or law enforcement. SDCL 26-8A-7.

Any person receiving a report of suspected child abuse or child neglect shall keep the report confidential unless otherwise directed by law. SDCL 26-8A-8. SDSMA recommends that the physician also keep the report confidential.

Further, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report that information to the medical examiner or coroner. SDCL 26-8A-4.

The physician-patient privilege of confidentiality does not exist in any judicial proceeding involving an alleged abuse or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect. SDCL §26-8A-15.

Any person, required to report, who knowingly and intentionally fails to make the required report and submit the required records, is guilty of a Class 1 misdemeanor punishable by up to one (1) year in the county jail, a fine of two thousand dollars (\$2,000.00), or both.

See the *Reporting Child Abuse* legal brief for more information.

### **Elder Abuse**

For the purposes of these requirements, a person is an "elder" or "elderly" if they are sixty-five (65) years of age or older. Health care professionals who suspect abuse or neglect of an elderly or disabled adult are required to make an oral or written report of the abuse or neglect within twenty-four (24) hours. The report shall be made to the state's attorney of the county in which the elder or disabled adult resides, to the South Dakota Department of Social Services (SDDSS), or to a law enforcement officer. SDCL § 22-46-9.

The staff of any medical facility, nursing facility, assisted living center, adult day care center, or community support provider, and residential care givers, individuals providing homemaker services, or victim advocates must also provide notice of suspected abuse or neglect of an elderly or disabled adult within twenty-four (24) hours. These individuals must notify the person in charge of the institution where the elderly or disabled adult resides or is present, or the person in charge of the entity providing the service to the elderly or disabled adult. The person in charge of the entity providing care shall then notify the state's attorney of the county in which the elder or disabled adult resides, to the SDDSS, or to a law enforcement officer. SDCL § 22-46-9 and SDCL §22-46-10. The HIPAA mandated privacy rules specifically authorize reports of abuse to the extent permitted and required by applicable state law. 45 C.F.R. § 164.512.

Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor, punishable by up to one (1) year in the county jail, a fine of two thousand dollars (\$2,000.00), or both. SDCL §22-46-9.

See the *Elder Abuse* legal brief for more information.

### **Fetal Alcohol Syndrome (FAS)**

A physician or any other trained professional qualified to act as a diagnosing physician who attends a person who is suffering from FAS must make a report of a diagnosis or suspicion of FAS to the SDDOH. A designee may be appointed to make the report, but such designation does not relieve the physician from the obligation to make the report. ARSD 44:65:02:01.

The director, principal manager, or chief executive officer of a hospital or institution who has knowledge that a person attended or served by the hospital or institution is suspected of having FAS must also make a report to the SDDOH. Authorization of a designee to make the report does not relieve the responsible person from reporting obligations. This report is in addition to, and not a substitute for, reporting by the diagnosing physician. This requirement applies to all health care facilities and to any health or correctional institution operated by a municipal, county, or state government. ARSD 44:65:02:02.

It must be noted that reporting the suspicion or diagnosis of FAS as described above does not relieve the physician of the obligation to also report FAS as child abuse.

For diagnosed cases of FAS, the report to SDDOH must include:

1. The patient's name, social security number, age, sex, race, and address;
2. The patient's surveillance case category as defined in § 44:65:02:03;
3. The name and address of the diagnosing physician; and
4. The name and telephone number of the person making the report.

For suspected cases of FAS, the report must include:

1. The patient's name, social security number, age, sex, race, and address;
2. The name and address of the attending or referring physician;
3. The name and address of the person to whom the case is being referred; and
4. The name and telephone number of the person making the report.

Reports may be made by telephone, mail, courier or in person, or by facsimile in the following ways:

Telephone reports may be made by calling 1.800.592.1804 and leaving a message on SDDOH's automatic answering recording device. Alternatively, the person reporting may telephone 1.800.592.1861 or 605.773.3361 and provide the required information to an authorized SDDOH representative.

Reports made by U.S. Mail or by courier must be placed in a sealed envelope addressed to the South Dakota Department of Health, Attention: Office of Data Statistics and Vital Records, 600 East Capitol Avenue, Pierre, SD, 57501. Write or type "Confidential Medical Report" on the outside of the envelope.

For reports made by facsimile machine, dial 605.773.5683.

### **Fetal Death**

A report must be made in the case of fetal death. The report is required when the fetus has attained a gestational age of twenty (20) completed weeks and the death is not caused from an abortion. The physician in attendance must make the report to the SDDOH within seven (7) days of delivery. If a fetal death occurs without medical attendance or after delivery, the coroner shall complete the report within twenty-four (24) hours after taking charge of the case. SDCL 34-25-32.1 and 32.2.

### **Gunshot Wounds**

Any person treating any gunshot wound, powder burn, or any other injury arising from or caused by the discharge of a firearm must, as soon as possible, report the treatment by any available means to the sheriff of the county in which the wound is treated. SDCL 23-13-10.

Such reports are specifically authorized by the federal privacy rules. Persons reporting gunshot wounds are immune from civil or criminal liability by reason of the report. SDCL 23-13-12.

The failure to make such a report is a Class 1 misdemeanor, punishable by a one thousand dollar (\$1,000.00) fine, one (1) year in the county jail, or both. SDCL 23-13-14.

### **Impaired Drivers**

Physicians may, but are not required to, report impaired drivers to the South Dakota Department of Public Safety (SDDPS) if they believe such reporting is necessary to prevent or lessen a serious imminent threat to a person or the public. The SDSMA recommends that physicians, in making evaluations concerning impaired drivers, consider the following factors:

1. That the physician must be able to identify and document physical or mental impairments that clearly relate to the patient's ability to drive.
2. The driver must pose a clear risk to public safety.

If a physician makes the determination that reporting is necessary to ensure the public safety and the safety of their patient, this decision must be based upon a good faith belief of the physician upon careful review of the patient's physical and mental abilities. If a physician keeps these factors in mind in determining whether reporting is necessary, it will mitigate the danger that a patient could successfully take action against a physician for reporting to the SDDPS. Also, it must be kept in mind that the physician's role is to report medical conditions that would impair safe driving as dictated by the physician's own view on standards of medical practice. The ultimate determination of the inability to drive safely should be made by the SDDPS. Physicians must protect patient confidentiality by ensuring that only the minimal amount of information is reported and that reasonable security measures are used in handling that information.

The physician may also submit a "Driver Evaluation Request" when the physician in good faith believes that a patient's ability to drive is impaired. The SDDPS will then, if it deems it appropriate, undertake an evaluation.

To make a report, contact the South Dakota Department of Public Safety at 118 West Capitol Avenue, Pierre, SD, 57501 or 605.773.6883.

Further information, including links to other resources, is available at:  
[http://dps.sd.gov/licensing/driver\\_licensing/for\\_physicians.aspx](http://dps.sd.gov/licensing/driver_licensing/for_physicians.aspx)

See the *Reporting Impaired Drivers* legal brief for more information.

### **Metabolic Disorders in Infants**

All infants must be screened for metabolic disease. Results from such tests must be sent to the SDDOH by physicians, public health nurses and hospitals on forms prescribed by the Department. SDCL 34-24-23.

### **Patient Drug Use and Diversion**

Under South Dakota law, patient information is generally considered confidential. This general standard of confidentiality includes alcohol or drug addiction. SDCL 19-13-7.

However, a physician may disclose otherwise protected information if the physician reasonably believes actions by the patient are likely to result in imminent death or substantial bodily harm to another. SDCL 19-2-12.

If a physician has unprivileged knowledge of the commitment of a felony including felony drug crimes, the physician is required to report it. Failure to report such unprivileged knowledge of a felony or concealing the felony is a Class 1 misdemeanor. See SDCL 22-11-12.

See the *Patient Drug Use and Diversion* legal brief for more information.

### **Termination of a Physician's Assistant - ARSD 20:52:01**

A licensed physician assistant must have a practice agreement with a supervising physician. The practice agreement shall be submitted on a form approved by the Board of Medical Examiners. A physician assistant shall notify the board, in writing, of the termination of a practice agreement. A physician assistant may not practice without a practice agreement approved by the board.

If the practice agreement also requires the supervising physician to report its termination to the Board, the physician must of course do so. Even if not required, SDSMA recommends that the supervising physician do so in order to help make it clear that the physician is no longer supervising, or otherwise responsible for, the actions of the physician assistant. It is recommended that the report be made by phone (605.367.7781), followed up by a written report to 101 North Main Avenue, Suite 301, Sioux Falls, SD, 57104.

### **Syphilis**

In reporting every birth and still birth, physicians must state on the birth certificate or fetal death certificate whether a blood test for syphilis has been made during the pregnancy upon the blood of the mother and, if made, the date when such test was made, and if not made, the reason why such test was not made. The certificate may not state the result of the test. SDCL 34-23-12.

### **Tuberculosis**

Any hospital or private bacteriologic laboratory receiving a specimen or culture to grow or isolate mycobacterium tuberculosis must report to the SDDOH the name of the patient from whom the specimen was collected, the name of

the physician in charge of the patient, and the results of the culture whether it be positive or negative.

The report must be made within seven (7) days after results of the culture have been determined and in no event later than eight (8) weeks from receipt of the specimen. The federal government and its agencies are exempted from this reporting requirement. SDCL 34-22-22.

Any health officer or physician having information that a person by his conduct or mode of living may endanger the health or well being of his family or other persons because of tuberculosis must report this to the South Dakota Department of Health. The report must state the name and address of the person and a summary of the pertinent information available to and known by the health officer or physician. SDCL 34-22-25.

### Venereal Disease

A physician who makes a diagnosis or treats a case of venereal disease and any superintendent or manager of a hospital, dispensary, or charitable or penal institution in which there is a case of venereal disease shall make a report of such case to the health authorities in such form and manner as directed by the SDDOH.

The identity of any individual related to an investigation conducted pursuant to a report of a venereal disease must be maintained in strictest confidence within the venereal disease control system, and any information obtained from that individual may not be disclosed in any action in any court or before any tribunal, board, or agency. SDCL 34-23-2.

See the *Venereal Disease* legal brief for more information.

### Conclusion

*Physicians and medical facilities have a variety of reporting requirements. In many cases, state law dictates how and when such a report must be made. In most cases, the physician remains obligated to make the report despite designation of another person to make such report. Reports mandated by state law are allowable under the HIPPA mandated federal medical privacy requirements.*



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