TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 164

TUBERCULOSIS

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ATTACHMENT O

Hawaii Administrative Rules

Title 11

Department of Health

Chapter 164

Tuberculosis

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Historical note: Chapter 164 of Title 11, Hawaii Administrative Rules, is based substantially on Public Health Regulations Chapter 23, Tuberculosis, Department of Health, State of Hawaii [Eff: 06/11/60; am 04/16/64; 07/30/72, 07/31/73, 04/16/74; R 11/5/81]

§11-164-1 **Purpose.** The purpose of this chapter is to establish minimum requirements for the control of tuberculosis in the State. [Eff: 11/5/81; am and comp 10/23/97; comp 8/27/01] (Auth: HRS §§321-1, 321-9, 321-10, 325-13) (Imp: HRS §325-13)

§11-164-2 **Definitions.** As used in this chapter:

"Certificate of TB examination" means a certificate issued by the department stating that the holder is free of communicable tuberculosis or a statement by a practitioner on a form approved by the department stating that the practitioner has examined an individual on a particular date and found the person to be free of communicable tuberculosis. A certificate issued by a practitioner must also include the dates of administration and reading of the Mantoux tuberculin test, the transverse diameter of induration in millimeters, the date, location, and name of reader of the chest x-ray, and the signature or unique stamp of the practitioner.

"Communicable tuberculosis" means tuberculosis at a stage and in a form considered by the department to represent a risk of being transmitted to other individuals.

"Course of study" means a sequence of classes leading to a certificate, diploma, degree, or other recognition of educational accomplishment."

"Department" means the director of health or the director's duly authorized representative.

"Enrolls" means registering or signing up for classes in a public or private school.

"Food establishment" means an operation that prepares, packages, serves, vends, or otherwise provides food or beverage for human consumption. "Food establishment" does not mean an establishment that offers only prepackaged foods that are not potentially hazardous; a produce stand that only offers whole, uncut, fresh fruits and vegetables; or a kitchen in a private home.

"Foodhandler" means any person who, in the storage, manufacture, preparation, handling, sale, or serving of food or beverage, handles it in such a manner that some portion of his or her clothing or body might come in contact with the food or beverage or with utensils used in connection with the food or beverage.

"Foodhandling" means engaging in the activities of a foodhandler in a food establishment as defined above.

"Hospital" means any institution currently licensed as such by the State of Hawaii.

"Mantoux tuberculin test" means an intradermal injection of five tuberculin units of Purified Protein Derivative in 0.1 cc of sterile diluent, followed within forty-eight to seventy-two hours by recording of the palpable induration, with a positive reaction being 10 mm or greater in its transverse diameter.

"Physician" means a person licensed to practice medicine or osteopathic medicine in any of the states or territories of the United States. Licensure or accreditation in chiropractic, homeopathy, naturopathy, acupuncture, or herbal healing do not qualify a person as a physician in this chapter.

"Practitioner" means a physician, advanced practice registered nurse, or physician assistant licensed to practice in any of the states or territories of the United States.

"Post-secondary school" means any adult education school, business school, trade school, community college, college, or university enrolling or registering students above the age of compulsory school attendance.

"School" means any child care center, preschool, day care center, day nursery, Head Start program, group child care home, kindergarten, elementary, intermediate, middle or secondary school, but excludes after-school programs, family child care, parent cooperatives, play groups, respite programs, and drop-in child care centers.

"Tuberculosis" means pulmonary or extra-pulmonary infection by *Mycobacterium tuberculosis* complex which is demonstrable in secretions

or tissues, or with changing chest x-ray or other evidence of clinical activity. It includes pleurisy with effusion with no demonstrable non-tuberculous etiology. [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 321-10, 325-13) (Imp: HRS §321-9)

§11-164-3 **Reports to the department.** (a) Any practitioner making a diagnosis of tuberculosis shall report this diagnosis to the department on the form prescribed by the department within twenty-four hours after the diagnosis is made and shall, upon request, provide to the department x-ray films and medical information related to the case.

(b) Every practitioner responsible for the clinical management or radiographic interpretation of a case of tuberculosis disease shall, upon request, provide to the department x-ray films and medical information related to the case. [Eff: 11/5/81; comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 325-13, 325-71) (Imp: HRS §§ 325-2, 325-71)

§11-164-4 **Content of report.** (a) The report to be submitted to the department shall include:

(1) The patient's name, address, age, race or ethnicity, marital status, sex, occupation, place of birth and length of residence in the State;

(2) The major site of disease, whether pulmonary, pleural, or extra-pulmonary, including site;

(3) Result of tuberculin test, including material used and technique, date, and the size of transverse induration in millimeters;

(4) Radiographic status, whether stable, improving, worsening, or not determined;

(5) Bacteriological status by smear and culture, including dates of positive, negative, or pending tests;

(6) Status of chemotherapy for tuberculosis, including drugs given and dates;

(7) Additional information as may be required by the department for epidemiologic purposes; and

(8) The result of the latest HIV test known to the practitioner.

(b) If any of the information listed in subsection (a) is unknown to the practitioner at the time of the report, the practitioner shall submit the required report with the information available at the time. [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 325-13, 325-101) (Imp: HRS §§325-71, 325-101)

§11-164-5 **Examination - tuberculosis cases, suspects, and persons exposed to tuberculosis.** Any person who:

(1) Is known to have tuberculosis;

(2) Is reported to the department as having tuberculosis;

(3) Is reasonably believed by the department to have tuberculosis; or

(4) Is reasonably believed by the department to have been exposed to communicable tuberculosis

may be required by the department to be examined or tested by a health department tuberculosis clinic, or any hospital or practitioner approved by the department, for the purpose of assessing the extent and progress of tuberculosis infection, if any, in the person. [Eff: 11/5/81; comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 321-10, 325-13) (Imp: HRS §§321-1, 325-13, 325-76)

§11-164-6 **School personnel, students.** (a) At the time of beginning employment or volunteer service of more than fifteen days, every teacher or other person having contact with students, either acting as a volunteer for more than fifteen days or employed in or by any school, including bus drivers having regular contact with children, shall be required to present to the principal or administrator of such school a certificate of TB examination issued within twelve months prior to starting employment or volunteer service stating that such teacher or person is free of communicable tuberculosis. The examination for tuberculosis shall include a tuberculin test, and if the test shows a positive reaction, a chest x-ray. A chest x-ray consistent with tuberculosis shall require further examination or treatment as deemed necessary by the department to exclude communicable tuberculosis prior to the issuance of a certificate.

(b) Any person over compulsory school attendance age who enrolls in a post-secondary school in Hawaii for a course of study longer than six months shall be required to present to the principal or administrator of such school a certificate of TB examination issued within twelve months prior to first entry into a post-secondary school in Hawaii indicating that he or she is free of tuberculosis in a communicable form. The examination for tuberculosis shall include a tuberculin test, and if the test shows a positive reaction, a chest x-ray. When a student subsequently re-enrolls or enrolls in another post-secondary school in Hawaii, a copy of the original certificate shall meet this requirement for certification. A chest x-ray consistent with tuberculosis shall require further examination or treatment as deemed necessary by the department to exclude communicable tuberculosis prior to the issuance of a certificate.

(c) Requirements for examination for tuberculosis of children of compulsory school attendance age or younger entering school in Hawaii for the first time are specified in chapter 11-157, "Examination and Immunization." [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§302A-1162, 321-9, 321-10, 321-11, 325-13) (Imp: HRS §§302A-1162, 321-1, 325-13)

§11-164-7 **Foodhandlers.** No person shall engage in foodhandling and no person shall employ another as a foodhandler in a food establishment until the foodhandler has complied with all other rules of the department and has obtained a certificate of TB examination indicating that such foodhandler has been examined and found to be free from communicable tuberculosis. Persons engaged in foodhandling only at

carnivals, fairs, and other temporary activities lasting less than fifteen days shall be exempt from this requirement. The examination for tuberculosis shall include a Mantoux tuberculin test and if the test shows a positive reaction, a chest x-ray. A chest x-ray consistent with tuberculosis shall require further examination or treatment as deemed necessary by the department to exclude communicable tuberculosis prior to the issuance of a certificate. A certificate issued to fulfill this requirement shall not expire and may be used to fulfill this requirement for subsequent employment as a foodhandler. [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 321-11, 321-31, 325-13) (Imp: HRS §§321-1, 321-11, 321-31, 325-13, 325-76)

§11-164-8 **Release of information.** Any practitioner or hospital treating a patient for tuberculosis shall furnish the department on request any additional information relative to such patient's case as is necessary in the opinion of the department for the protection and safety of the public and for adequate epidemiologic study of the case. [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-1, 321-311.5, 325-4, 325-13)

§11-164-9 REPEALED. [R 8/27/01]

§11-164-10 **Health care facilities.** Requirements for examination for tuberculosis of employees, patients and other individuals working or residing in healthcare facilities regulated by the department shall be as provided in Exhibit A, "Tuberculosis Examination Procedures For All Health Care, Domiciliary Care, Day Care, and Residential Facilities and Programs Licensed under Title 11, Chapters 85-105, by the Department of Health, August, 2001," which is located at the end of this chapter and made a part of this chapter. [Eff: 11/5/81; am and comp 10/23/97; am and comp 8/27/01] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-1, 321-11)

§11-164-11 **Penalty.** Any person who violates any provision of this chapter shall be fined not more than $500 or imprisoned for not more than one year or both. [Eff: 11/5/81; am and comp 10/23/97; comp 8/27/01] (Auth: HRS §§321-9, 321-10, 325-13, 321-18) (Imp: HRS §§325-13, 321-18)

§11-164-12 **Severability.** If any provision of this chapter, or application of any provision of this chapter to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby." [Eff: 11/5/81; am and comp 10/23/97; comp 8/27/01] (Auth: HRS §§321-9, 325-13) (Imp: HRS §§321-9, 325-13)

Exhibit A

Tuberculosis Examination Procedures For All Health Care, Domiciliary Care, Adult Day Care, and Residential Facilities and Programs Licensed under Title 11, Chapters 85-105, by the Department of Health August, 2001.

1. All residents, employees, contract workers, and volunteers working more than 10 hours per week are required to have an Entry TB Evaluation (as described in #2 below) within 1 year prior to starting work and Annual Tuberculosis Re-evaluations (as described in #3), except that:

   A. Employees who work exclusively in buildings in which no patient care activities take place are exempt from this requirement.

   B. Patients of acute inpatient facilities are exempt from this requirement.

   C. Infants under the age of 12 months are exempt from this requirement.

2. The **Entry TB Evaluation** shall be based on the ***two step*** Mantoux tuberculin skin test supplemented by a standard chest x-ray as needed.

   A. If an initial skin test is negative (< 10 mm in transverse diameter), a second tuberculin skin test shall be administered 1 week to 3 weeks later.

   B. If the initial skin test or the second skin test is positive, a standard chest x-ray with appropriate medical examination shall be administered to exclude tuberculosis disease and to evaluate the individual for possible TB preventive therapy.

   C. If there is documentary evidence of a negative tuberculin skin test performed within the previous 12 months, or documentary evidence of a prior negative two-step test, a single negative skin test administered for the Entry TB Evaluation shall not require a second, follow-up skin test.

   D. If there is medical record documentation of a previous positive tuberculin skin test, no additional skin test is required.

      (1) ***If*** there is documentary evidence of a clear standard chest x-ray and medical examination which has excluded communicable TB within the past year, screening for symptoms consistent with TB (as described in 3 C below) may be performed in lieu of an additional chest x-ray.

      (2) Otherwise, a standard chest x-ray with appropriate medical examination shall be administered to exclude tuberculosis disease and to evaluate the individual for possible TB preventive therapy.

3. **Annual Tuberculosis Re-evaluations** shall be administered within 335-395 days following the immediately previous Tuberculosis evaluation.

   A. All individuals who have not previously tested positive shall be administered a single tuberculin skin test.

   B. If a person who last tested negative becomes positive, a standard chest x-ray with appropriate medical examination shall be administered to exclude tuberculosis disease and to evaluate the individual for possible TB preventive therapy. ***The occurrence of a positive skin test in an individual who has tested negative at an immediately previous examination shall be reported to the Department of Health within 7 days***.

   C. All individuals who previously tested positive and were found to be free of active TB based on a standard chest x-ray and appropriate medical examination shall be screened for symptoms consistent with pulmonary TB at the time of the Annual TB Re-evaluation. Symptoms consistent with pulmonary TB include:

      (1) Cough ≥ three weeks' duration, ***and***

      (2) at least one of the following:

         (a) Fever,

         (b) Night sweats,

         (c) Unintentional weight loss > 10% of body weight,

         (d) Hemoptysis, or

         (e) Malaise/fatigue.

   D. If symptoms consistent with pulmonary TB are present, a standard chest x-ray is required.

4. **Illness after scheduled Evaluations**

Any patient, employee, or volunteer experiencing the symptoms consistent with pulmonary TB listed above at any time shall receive a medical evaluation including skin test and/or x-ray as medically indicated within 7 days.

5. **Urgent/unexpected placement into long term care.**

Patients requiring urgent or unexpected placement or transfer into a long term care or intermediate term care facility may obtain an immediate TB clearance by demonstrating that a chest x-ray taken within the preceding 30 days of placement or transfer indicates radiographic freedom from active pulmonary tuberculosis. However, these patients must still obtain a ***two step*** Mantoux tuberculin skin test within three weeks of placement or transfer into the long term care or intermediate term care facility.

Amendments to and compilation of chapter **164**, title **11**, Hawaii Administrative Rules, on the Summary Page dated August 6, **2001** were adopted on August 6, **2001** following a public hearing held May 25, **2001** on Oahu, after public notice was given in The Honolulu Star-Bulletin on April 18, **2001**, The Hawaii Tribune Herald, The Maui News, and the Garden Isle News on April **20**, **2001**, and Midweek on April **23**, **2001**.

Chapter **11-164**, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

BRUCE S. ANDERSON, Ph.D., M.P.H.
Director of Health

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Dated: August 15, 2001

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Filed

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APPROVED AS TO FORM:

Deputy Attorney General