

LEGAL UPDATE FOR HEALTH OFFICERS

NH Health Officers' Association

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Guiding Principle: Municipal officials must find authority in a statute to act.

“Towns only have such powers as are expressly granted to them by the legislature and such as are necessarily implied or incidental thereto.” *Girard v. Allenstown*, 121 N.H. 268 (1981).

Towns and cities in New Hampshire only have authority to act if the legislature gives it to them through a statute. Why? Because our state Constitution does not give any authority directly to towns and cities. The legislature has to grant power to towns and cities to act, and the legislature may withdraw this power at any time by repealing or amending a statute.

Before acting, town and city officials must find a statute that authorizes or necessarily implies the authorization for that action. It is not enough to say “no statute says we can’t do this” or “our municipal voters authorized it.”

Examples: enacting local health regulations or housing standards, removing a nuisance, entering private property, imposing fines...these all require authority in a statute.

I. MUNICIPAL MECHANISMS TO ADDRESS LEAD POISONING PREVENTION

A. Housing Standards – RSA 48-A

Automatic minimum housing standards in RSA 48-A:14 apply only to rental housing and do **not** specifically address lead.

However, towns and cities have the option to adopt a local ordinance to set minimum standards for housing under RSA 48-A:2. **A town/city could choose to include in this ordinance some minimum standards regarding lead (pipes, paint)**. It would, however, need to be part of an overall local housing code, which means that all the formalities must be met. A local minimum housing standards ordinance must meet all of the following:

- Must be adopted by the “legislative body” – usually meaning town meeting, city council, town council (Board of Selectmen does not have authority). This means, in a town with town meeting, there is generally one opportunity per year to adopt this kind of ordinance.

If a health officer would like to suggest this to the Board of Selectmen to put on the warrant for town meeting, they need to be aware of the schedule for that.

- Must delegate enforcement authority to a particular body or officer. RSA 48-A:3, I. There are several options for this (a special board of 3 or 5 members, or trained enforcement officer, or other officer), and some restrictions for who can and cannot serve in those positions.
- Must provide that the enforcement authority may determine a dwelling is unfit for human habitation if he/she finds that “conditions exist in such dwelling which are *unusually, abnormally, or unreasonably dangerous or injurious to the health or safety* of the occupants of such dwelling, the occupants of neighboring dwellings, or other residents” of the town/city. These conditions include: defects which increase beyond normal the hazards of fire, accident or other calamities; lack of reasonable adequate ventilation, light or sanitary facilities; dilapidation; disrepair; dangerous structural defects; uncleanliness; over-crowding; inadequate ingress and egress, inadequate drainage; or any violation of other health, fire or safety regulations. RSA 48-:7.
- Housing may be inspected, but only “in such a manner as to cause the least possible inconvenience to the persons in possession,” RSA 48-A:8. Absolutely must have either consent or an administrative inspection warrant (RSA 595-B).
- Local ordinance can be more strict than state minimum standards, but not less. RSA 48-A:13.
- May NOT impose any additional ordinances, codes or restrictions specifically on vacation rentals or short-term rentals (i.e., offered for a fee for less than 30 days).
- Must include provisions for complaints, inspections, hearings, orders (to repair, to vacate, to demolish dwelling), and appeals to the governing body. RSA 48-A:3, II, III, and IV.
- If the owner fails to obey an order issued by the enforcement board/officer, the town files a petition in superior court. RSA 48-A:4. After a hearing, the court will either order the owner (or, if they refuse, the town/city) to undertake remediation, or vacate the town’s order and award costs and attorneys’ fees to the owner. RSA 48-A:5. The municipal expense of repair/demolition becomes a lien against the property (but subordinate to existing liens). RSA 48-A:6. This lien can be foreclosed upon by the town/city after obtaining a court order. Unpaid fines imposed by a court are treated the same way. RSA 48-A:6-a.

Examples of how a local ordinance could address lead:

- Require landlords to obtain a permit or certificate of compliance with minimum standards ordinance at certain times (such as every __ years, at change of occupancy, at transfer of ownership, new units created in building constructed before 1978, etc.).
- Require a pre-certificate inspection

- Prohibit unencapsulated, loose or flaking lead-containing materials (interior and exterior)
- Address lead water pipes from the curb cut into the building
- Possible self-inspection requirement
- Require landlord to register – RSA 540:1-b, certain residential landlords are required to file a statement with town/city clerk providing name, address and telephone number of a person in the state acting as the landlord’s agent. This includes landlords of 4+ single family rental houses, or of rental units in owner-occupied building with 5+ units, or of rental units in building that is not owner-occupied. Incorporate this requirement into the housing standards ordinance.

B. Building Codes – RSA 674:51

Local building codes may be adopted to address the “construction, remodeling and maintenance” of all structures within the town/city. A building code is required to provide for a building inspector with the authority to issue building permits and perform inspections “as may be necessary to assure compliance”. As with housing standards, a local building code must include all of the formalities, and must be adopted by vote of the legislative body (town meeting/city council) just like a zoning ordinance.

Examples of how a building code could address lead issues:

- Require RRP-certified contractors for all work on pre-1978 structures
- Require RRP certification number of all contractors who will work on the project as part of the application for a building permit if the structure is pre-1978

C. State Lead Paint Poisoning Prevention and Control program – RSA 130-A

Role of health officers in this state program to address lead in housing and child care facilities:

- NH DHHS is required to provide training for health officers regarding the control of lead in owner- and renter-occupied housing
- DHHS may ask health officers to assist in its investigations of lead poisoning in children
- DHHS provides health officers with the results of inspections when lead is found

Local option: Board of Selectmen/City Council may choose to adopt enforcement of Chapter 130-A: “May assume full and sole legal authority to enforce the provisions of this chapter by any means lawfully delegated” by any statute, except licensure and certification (which remains with the State only). RSA 130-A:11, II.

- Inspections and investigations of lead poisoning
- Enforcement of required abatement of lead hazards
- **Even where town/city does not adopt enforcement, a health officer may request approval from DHHS to carry out investigations where a child has tested positive for lead**

Note: Still need consent or an administrative inspection warrant to enter private property for these inspections.

II. ROLE OF HEALTH OFFICER re: COMMUNICABLE DISEASES – RSA 141-C

“Communicable Disease”: illness due to a microorganism, virus, infectious substance, engineered biological product, which may be transmitted directly or indirectly to any person from an infected person, animal, or insect, or through an intermediate host, vector or inanimate environment. RSA 130-C:2, VI.

Duties of Health Officer

- As part of local board of health, report incidents of communicable diseases to DHHS. Admin. Rules He-P 301.03.
- When requested, meet with DHHS to consult on matters relating to public health and the prevention and control of communicable diseases. RSA 141-C:5.
- When requested, assist DHHS with the investigation of incidents of communicable diseases. RSA 141-C:9.
- When requested, assist DHHS in establishing and maintaining isolation and quarantine; enforce state rules regarding isolation and quarantine. RSA 141-C:5.

Reporting Incidents/Cases of Communicable Disease:

- Local boards of health (i.e., Health Officer and Board of Selectmen) are required to report to DHHS any suspected or actual cases they know about. He-P 301.03(e)
- Report includes full name, age, date of birth, sex, race, ethnicity, address, telephone number, occupation and place of occupation; name of disease or incident; date of onset; name of original reporting source; and name, affiliation and contact information of the person making the report.
- 603-271-4496 (M-F 8:00 a.m. – 4:00 p.m.), 603-271-5300 (night and weekends)
- List of diseases that must be reported to DHHS: Admin Rules He-P 301.02 (see attached)

Assisting with DHHS Investigations: RSA 141-C:9

- Obtaining additional information and periodic reports from reporting officials
- Interviewing reporting officials, their patients, and other people affected by or having information about the disease
- Inspections of buildings and conveyances (bus, boat, vehicle, etc.) and their contents
- Sample collection and analysis
- Scope of authority for health officer in this area is only as requested by DHHS
- No independent authority to enter private property without consent or a warrant

“Protected Health Information” (PHI): any information, whether in oral, written, electronic or visual or any other form, that relates to an individual’s mental or physical health status, condition, treatment, service, products purchased or provision of care, and that reveals the identity of that individual, or where there is a reasonable basis to believe such information could be used (either alone or with other information which is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

- While acting as an agent of DHHS to assist, health officers may obtain PHI.
- Health Officers in this capacity are required to maintain the confidentiality of that information just as DHHS is. RSA 141-C:10.

- May release PHI or disclose it to others only with informed written consent of the individual
- If no written consent, PHI disclosed only to authorized person with legitimate need for the information, and then only to the extent necessary for that person to provide care and treatment to the subject, or to investigate disease transmission in that particular case, or to control the spread of the disease to the public. If no written consent, this limited disclosure must be on the condition of confidentiality.
- DHHS (and its agents) have an obligation to collect only the minimum amount of information necessary to carry out their duties.

Assisting with Isolation and Quarantine:

“Isolation”: Separating an infected person from others during the time when they are contagious, in a place and manner intended to prevent or limit the direct or indirect transmission of the disease from those who are susceptible or who may spread the illness to others. See RSA 141-C:2, XII.

“Quarantine”: As to people – restricting the activities of people who have been exposed but are not yet sick, during its communicability, to prevent transmission during the incubation period if infection should occur. As to property – detention of a conveyance, commodity, baggage or cargo in a separate place for such time as may be necessary and during which decontamination may be carried out. See RSA 141-C:2, XIII.

DHHS decides who is isolated/quarantined, how, where, length of time, testing, treatment, etc. Any orders the department issues must be in writing. RSA 141-C:12. A health officer assisting will be subject to the direction of DHHS and expected to carry out the decisions DHHS makes.

- DHHS can order isolation or quarantine, but is supposed to order only the “least restrictive means necessary” to protect the public health. Generally, a person can choose where they want to be isolated or quarantined, unless it is impractical or unlikely to adequately protect the public health. RSA 141-C:11.
- DHHS can also order a person to be tested or treated. A person who refuses testing or treatment because of their religious beliefs cannot be forced to comply, but can still be held in isolation or quarantine over their objection to prevent spreading of the disease. RSA 141-C:16.
- What if someone breaks out of isolation or quarantine? DHHS can petition the superior court for an order to respond to it. RSA 141-C:13.
- What if someone invades isolation or quarantine? DHHS can order that person to be confined in isolation or quarantine also until the danger has passed. RSA 141-C:14.
- What if a person refuses to comply with a DHHS order to submit to isolation or quarantine? DHHS can issue a complaint (sworn before justice of the peace) stating the reasons behind the order and the place the person is required to go, and any law enforcement officer presented with the complaint is required to take the person into custody and transport them to the place of isolation/quarantine. RSA 141-C:12.
- Person who is issued an order requiring they submit to isolation, quarantine, testing or treatment can contest it in superior court. RSA 141-C:14-a. These people have due

process rights which health officers should be aware of because they may be helping carry out the DHHS order.

- When an order is delivered, the person must be told (verbally and in writing) that they have the right to contest the order, and be given a copy of the form to file with the superior court.
- HOWEVER – if the person completes the form and gives it to the law enforcement officer or other person who is serving them, this is considered “filing” with the superior court, and the officer is required to take the form to the court immediately.
- Court will usually hold a hearing and issue a decision within 48 hours of the time the form is filed.
- In the interim, the person can be held in isolation/quarantine but may not be tested or treated over their objection.

Other things DHHS can do:

- Exclude unvaccinated children from school during an outbreak. RSA 141-C:20-d
- Close buildings and/or cancel events to prevent spread of disease – but only with the written approval of the governor. RSA 141-C:16-a and :16-b.

III. INDOOR SMOKING ACT – RSA 155:64-:78

Regulates smoking in public and private enclosed spaces. Recently updated to include e-cigarettes and vaping:

As of July 2019, “smoking” now means: having in one's possession a lighted cigarette, cigar, or pipe, or any device designed to produce the effect of smoking, including devices as defined in RSA 126-K:2, II-a (any product composed of a mouthpiece, a heating element, a battery, and electronic circuits designed or used to deliver any aerosolized or vaporized substance including, but not limited to, nicotine or cannabis. Device may include, but is not limited to, hookah, e-cigarette, e-cigar, e-pipe, vape pen, e-hookah.).

Where is smoking prohibited? RSA 155:66

- Public schools at any time
- Licensed child care agencies during business hours (not including foster family homes)
- Hospitals and other acute care facilities
- Grocery stores by customers
- Elevators, tramways, gondolas, and other similar public conveyances
- Public conveyances (bus, train, etc.)
- Restaurants
- Cocktail lounges
- Enclosed places owned and operated by social, religious or fraternal organizations at times when they are open to the general public.

What about public buildings? RSA 155:66

Smoking **may** be permitted (but doesn't have to be) in enclosed places of public access and publicly-owned buildings and offices, including workplaces (except for those in the above list), but only in **effectively segregated smoking-permitted areas** designated by the person in charge. If smoking cannot be effectively segregated, then it is totally prohibited. And, of course, a public facility may be declared entirely non-smoking.

Smoking does not have to be allowed anywhere in workplaces or places of public access.

The person in charge of these buildings/enclosed places is required to adopt written policies regarding whether smoking is entirely prohibited, or if smoking-permitted areas are designated, the policy states where those areas are and that smoking is limited to those areas. Policies and orientation regarding smoking policies must be available to all employees. RSA 155:68. In addition, when smoking areas are designated, procedures must be in place to review and arbitrate complaints, to inform people in the building of the policies and address those who do not comply, to address special considerations for medically proven sensitivity to tobacco smoke. RSA 155:69.

Signs are required to be placed appropriately in all of these buildings informing people of the smoking policies (i.e., non-smoking facility or smoking only in designated areas, etc.). RSA 155:70. External signs are required near all major entrances. Internal signs are only required if smoking is allowed in designated areas, and are then required in common use areas. DHHS rules are very specific about what signs must say, required sizes, and where they must be posted.

DHHS rules He-P 1900 address procedures and requirements for all of this, as well as the criteria for smoking-permitted areas to ensure that they are **effectively segregated**. The law does not require any specific ventilation systems, but such systems are likely required to meet the requirements for effective segregation, i.e. smoke does not cause harm or unreasonably intrude into the area occupied by people who are not smoking. RSA 155:65, V.

Where Does the Act NOT Prohibit Smoking? RSA 155:67

- Public conveyances rented for private purposes.
- Buildings owned and operated by social, fraternal, or religious organizations at times when they are used only by members and guests, or when rented for private functions where the general public is not welcome and the function sponsor controls arrangements.
- Guest rooms of hotels, motels and resorts.
- Halls, ballrooms, dining rooms and conference rooms of private hotels, motels, restaurants, resorts, and publicly accessible areas, when rented or leased for private functions from which the public is excluded and arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the facility.
- College dorm rooms.
- Resident rooms in public housing facilities.
- Resident rooms in facilities such as nursing homes, sheltered care facilities, and residential treatment and rehabilitation facilities, and prisons and detention facilities.
- Health care facilities, except for hospitals and other acute care facilities.

- Patients with extraordinary medical conditions, psychiatric disorders, or patients in an alcohol and drug withdrawal program, provided that the patient's physician has written a prescription or an order allowing the patient to smoke.

Complaints – A Two-Step Process:

Step 1: If an employee or a user of a facility believes that the Indoor Smoking Act is not being complied with, the first step is to register a complaint with the “person in charge” of that facility. (This is not necessarily the owner, but the person who is in charge of running the facility day to day.) The person in charge has ONE MONTH to resolve the complaint. RSA 155:73.

Step 2: If the complaint isn't resolved within one calendar month, then the employee/user can file a complaint with the DHHS Tobacco Prevention and Cessation Program (“TCPC”). Procedures are found in He-P 1903.02:

- Complete and submit the “Indoor Smoking Act Complaint Form” by fax, email or US mail, to TCPC. If the complainant has a copy of the policy/procedures regarding smoking for that particular facility, it should be included with the complaint form.
- TCPC will issue a letter to the person in charge of the facility.
- The person in charge of the facility then has 10 business days to respond to TCPC by filing the official response form, along with a copy of the policy/procedure for the facility.
- If no response is received, or if the complaint can't be resolved on the basis of the information received, TCPC will schedule an on-site inspection.
- If the complaint involves a designated smoking area, the department will evaluate whether it is “effectively segregated” from the rest of the facility.
- If the complaint involves allegations of smoking in a non-smoking facility, the department will test whether smoking has been or is occurring.
- If the department determines a violation has occurred, it will instruct the person in charge to correct the noncompliance.
- The complainant will also get written notice, either that there was no violation or that there was, and what corrective steps were ordered.

Confidentiality: RSA 155:74 – The name of any person registering a complaint regarding noncompliance with this law may not be disclosed, whether in writing, over the telephone, or during a meeting, **unless** the complainant has given TCPC specific written approval to do so. Written complaints are “governmental records” under RSA 91-A, but the name of the complainant must be redacted from the form before disclosing it.

What is the Health Officer's Role?

- If contacted by a citizen with questions about this law or a complaint about a possible violation, the Health Officer should refer that person to TCPC.
- Health Officer may also initiate complaints with TPCP.
- Be sure to contact TCPC before conducting any on-site inspection.
- If other local officials are not familiar with the Indoor Smoking Act, the Health Officer might assist in educating them.

Enforcement and Penalties:

- The person in charge can call law enforcement directly if any person refuses to stop smoking in a non-smoking area. RSA 155:76, I.
- Person who smokes in an enclosed public place where smoking is prohibited is guilty of a violation and subject to a fine of at least \$100. (This is prosecuted by local law enforcement in court.) RSA 155:76, II.
- A person in charge who violates the statute or DHHS rules is subject to administrative fines imposed by DHHS of up to \$100/day for a first offense, up to \$200/day for each subsequent offense. RSA 155:78.

IV. BED BUGS – RSA 48-A:14 and RSA 540-A

A. HOUSING STANDARDS– RSA Chapter 48-A:

RSA 48-A:14, I-a: Minimum standards apply to **rental housing** in towns and cities without any additional local ordinance. Landlord may not maintain rented premises in any of a list of conditions, including:

I-a. The premises are infested by bed bugs and the landlord is not conducting a periodic inspection and remediation program. In this paragraph "remediation" means action taken by the landlord that substantially reduces the presence of bed bugs in a dwelling unit for a period of at least 60 days.

So – if a landlord is renting a unit that has bed bugs and is not conducting period inspection and remediation that actually does “substantially reduce” the presence of bed bugs for at least 60 days at a time, they are in violation and the town/city can bring an enforcement action in either district division or superior court.

Local ordinances: Statute provides that municipality (town meeting/town or city council) may adopt local ordinance to set minimum housing standards. RSA 48-A:2.

- Local ordinance can be more strict than state minimum standards (but not less strict). RSA 48-A:13.
- May NOT impose any additional ordinances, codes, or restrictions specifically on dwellings used as a vacation rental or short-term rental. RSA 48-A:2.
 - Defined as “any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, or owner occupied residential home, that is offered for a fee and for less than 30 consecutive days.” Only includes residential uses, not commercial purposes. RSA 48-A:1, V.
 - So, a local housing standards ordinance cannot impose any greater standards on short-term or vacation rentals regarding bed bugs than are already in the minimum standards.

- However – nothing in RSA 48-A says that the minimum standards don't apply to short-term rental property, just that a town or city can't put additional restrictions or requirements on those properties. Therefore, the bed bug provision may be enforceable against a landlord renting short-term rental property.

B. PROHIBITED PRACTICES (landlord/tenant) – RSA Chapter 540-A

- Landlord's Responsibilities:
 - If tenant reports infestation of insects (including bed bugs) or rodents in the tenant's unit, the landlord is required to investigate within 7 days of receiving notice of the alleged infestation. Notice can come from the tenant or from a municipal health or housing authority. Landlord is also required to take "reasonable measures to remediate an infestation". RSA 540-A:3, V-a.
 - Landlord may not enter the unit without prior consent of the tenant, except to make "emergency repairs." RSA 540-A:3, IV. This includes, but is not limited to, entry by the landlord to evaluate, formulate a plan for remediation of, or engage in emergency remediation of an infestation of rodents or insects, including bed bugs; provided that this entry by the landlord took place within 72 hours of the time that the landlord first received notice of the infestation. RSA 540-A:3, IV-a.
 - At least 48 hours' written notice to a tenant of the need to investigate whether bed bugs are present if there is a report of an infestation in an adjacent unit. RSA 540-A:3, V-b(b).
 - At least 72 hours' notice and instructions regarding preparation by tenant for remediation activities. RSA 540-A:3, V-c.
- Tenant's Responsibilities:
 - Required to permit landlord to enter the unit make "emergency repairs", RSA 540-A:3, V-b(a).
 - If landlord has received notice that bed bugs are present in a dwelling unit adjacent to the tenant's unit, or directly above or below the tenant's unit, and if the landlord has provided the tenant with 48 hours' written notice, the tenant is required to permit landlord to enter to evaluate whether bed bugs are present in the tenant's unit. RSA 540-A:3, V-b(b).
 - Comply with reasonable written instructions from landlord or pest control operator to prepare the unit for remediation of bed bug infestation. Instructions must be given to an adult member of the tenant's household in a way that the tenant has a reasonable opportunity to comply, and in all cases at least 72 hours in advance. RSA 540-A:3, V-c.

- Health Officer's Role:
 - If a tenant contacts the Health Officer with a report about bed bugs, the Health Officer can give notice to the landlord of the infestation, which triggers the landlord's obligations to investigate and remediate under RSA 540-A:3, V-a.
 - Report of bed bugs should trigger inspection and monitoring by health officer re: minimum housing standards under RSA 48-A:14, I-a.
 - Refer tenants to Legal Aid or the Landlord/Tenant section of the NH Court System's website

RSA 540-A:4 – landlord or tenant can file action in the district division of circuit court for violations of these provisions.

He-P 301.02 Reportable Diseases.

(a) Health care providers shall report to the department diagnosis, suspicion of diagnosis, or suspected incident involving the following, in accordance with He-P 301.03, in the following time frames:

(1) Within 24 hours following diagnosis or suspicion of diagnosis or suspected incident of:

- a. Anthrax;
- b. Arboviral infection; including but not limited to West Nile Virus, Eastern Equine Encephalitis Virus, Dengue, Chikungunya virus, Powassan virus, Zika virus and St. Louis Encephalitis;
- c. Botulism;
- d. Brucellosis;
- e. Cholera;
- f. Creutzfeld-Jacob disease
- g. Diphtheria;
- h. Haemophilus influenzae, invasive disease;
- i. Hantavirus Pulmonary Syndrome;
- j. Hepatitis, viral: A;
- k. Measles;
- l. Neisseria meningitidis, invasive disease;
- m. Mumps;
- n. Pertussis;
- o. Psittacosis;
- p. Plague;
- q. Poliomyelitis;
- r. Rabies in Humans or Animals;
- s. Rubella, including Congenital Rubella Syndrome;
- t. Tuberculosis Disease;
- u. Tularemia;
- v. Typhoid Fever;
- w. Typhus;
- x. Vibrio species including V. cholerae; and
- y. Any suspect outbreak, cluster of illness, unusual occurrence of communicable disease, or other incident that may pose a threat to the public's health.

(2) Within 72 hours following diagnosis or suspicion of diagnosis of:

- a. Acquired Immune Deficiency Syndrome (AIDS);
- b. Acute flaccid myelitis;
- c. Anaplasmosis;
- d. Babesiosis;
- e. Campylobacteriosis;
- f. Chlamydia;
- g. Coccidioidomycosis;
- h. Cyclospora infection;

- i. Cryptosporidiosis;
 - j. Ehrlichiosis;
 - k. Enterobacteriaceae species demonstrating resistance to carbapenem or production of a carbapenemase;
 - l. Escherichia coli O157 infection and other shiga toxin producing E. coli;
 - m. Giardiasis;
 - n. Gonorrhea;
 - o. Hepatitis, viral, newly diagnosed infections only: B, C;
 - p. Hepatitis, viral: positive B surface antigen in a pregnant woman;
 - q. HIV, including HIV exposure in infants;
 - r. Legionellosis;
 - s. Leprosy, Hansen's Disease;
 - t. Leptospirosis;
 - u. Listeriosis;
 - v. Lyme Disease;
 - w. Malaria;
 - x. Pneumococcal disease, invasive;
 - y. Psittacosis;
 - z. Rocky Mountain Spotted Fever;
 - ab. Salmonellosis;
 - ac. Shigellosis;
 - ad. Syphilis, including Congenital Syphilis Syndrome;
 - ae. Tetanus;
 - af. Toxic-Shock Syndrome (TSS), Streptococcal or Staphylococcal;
 - ag. Trichinosis;
 - ah. Varicella; and
 - ai. Yersiniosis.
- (b) Laboratories shall report to the department any laboratory test indicative of or highly correlated with infection of the following microorganisms in accordance with He-P 301.03(h):

(1) Within 24 hours:

- a. Arboviral infection, including but not limited to West Nile Virus, Eastern Equine Encephalitis Virus, Dengue, Chikungunya virus, Powassan virus, Zika virus and St. Louis Encephalitis;
- b. Bacillus anthracis;
- c. Bordetella pertussis;
- d. Clostridium botulinum;
- e. Corynebacterium diphtheriae;
- f. Francisella tularensis;
- g. Haemophilus influenzae, sterile site;
- h. Hantavirus;
- i. Hepatitis, viral: A, E;
- j. Mumps;
- k. Mycobacterium tuberculosis: isolation of the organism or detection of its DNA;
- l. Neisseria meningitidis, sterile site;
- m. Polio;

- n. Rabies;
- o. Rubella;
- p. Rubeola;
- q. *Salmonella typhi*;
- r. Vancomycin resistant *Staphylococcus aureus* (VRSA);
- s. *Vibrio* species including *V. cholerae*; and
- t. *Yersinia pestis*.

(2) Within 72 hours:

- a. *Anaplasmosis phagocytophilum*;
- b. *Babesia microti*;
- c. *Borrelia burgdorferi*;
- d. *Brucella* species;
- e. *Campylobacter* species;
- f. *Chlamidophila psittaci*;
- g. *Chlamydia trachomatis*;
- h. *Clostridium tetani*;
- i. *Coccidioides immitis*;
- j. *Cryptosporidium parvum*;
- k. *Cyclospora cayetanensis*;
- l. *Ehrlichia* species;
- m. Enterobacteriaceae species demonstrating resistance to carbapenem or production of a carbapenemase;
- n. *Escherichia coli* O157 and other shiga toxin producing *E. coli*;
- o. *Giardia* species;
- p. Hepatitis, viral: positive B surface antigen in a pregnant woman;
- q. HIV, including HIV exposure in infants;
- r. *Legionella pneumophila*;
- s. *Leptospira* species;
- t. *Listeria monocytogenes*;
- u. *Mycobacterium leprae*;
- v. *Mycobacterium tuberculosis*: blood assays only;
- w. *Neisseria gonorrhoeae*;
- x. *Plasmodium* species;
- y. *Rickettsia prowazekii*;
- z. *Rickettsia rickettsii*;
- aa. *Salmonella* species other than *Salmonella typhi*;
- ab. *Shigella* species;
- ac. *Streptococcus pneumoniae*, sterile site;
- ad. *Treponema pallidum*;
- ae. *Trichinella spiralis*; and
- af. *Yersinia enterocolitica*.