

DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-5
Hawaii Administrative Rules

(AUG 02 2021)

SUMMARY

1. Chapter 11-5, Hawaii Administrative Rules, entitled "Environmentally-related Illness and Injury Reporting", is amended and compiled to read as follows:

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 5

ENVIRONMENTALLY-RELATED ILLNESS AND INJURY REPORTING

§11-5-1	Purpose
§11-5-2	Definitions
§11-5-3	Reporting Requirements
§11-5-4	Reportable environmentally-related illnesses and injuries and condition for control
§11-5-5	Immunity from liability
§11-5-6	Penalty
§11-5-7	Severability

§11-5-1 Purpose. The purpose of this chapter is to state requirements for health care professionals and laboratory directors to report to the department any person afflicted with or tested under suspicion of a designated environmentally-related illness or injury. [Eff 10/4/90; am and comp AUG 02 2021]
(Auth: HRS §§321-1, 321-9, 321-317) (Imp: HRS §§321-1, 321-311, 321-314, 321-317)

§11-5-2 Definitions. As used in this chapter: "Case" refers to a person who has been diagnosed to have any of the conditions specified in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", located in section 11-5-4.

"Department" means the department of health of the State of Hawaii.

"Director" means the director of the department of health or his or her duly authorized agent.

"Environmentally-related illnesses and injuries" are those adverse health effects associated with exposure to any of the agents listed in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4. Illnesses and injuries resulting from occupational exposure to the agents listed in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4 would also be included under the same heading, "environmentally-related illnesses and injuries".

"Health care professional" means a physician as licensed under chapter 453, Hawaii Revised Statutes, or an osteopath as licensed under chapter 460, Hawaii Revised Statutes.

"Suspected" or "suspicion" means suspicion by a health care professional that the patient may have been exposed to any of the agents listed in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4, as indicated by the ordering of a laboratory test. [Eff 10/4/90; am and comp AUG 02 2021] (Auth: HRS §§321-1, 321-9, 321-317) (Imp: HRS §§321-1, 321-312, 321-313, 321-317)

§11-5-3 Reporting Requirements. (a) Report by physicians. Any health care professional who has primary responsibility for the treatment of an individual who is suffering from environmentally-related illness or injury shall report the occurrence of such illness to the department of health. Any health care professional diagnosing and reporting any such illness or injury shall do confirmatory laboratory testing whenever possible to ascertain the agent that caused the condition and the nature of the exposure. Health care professionals shall report diagnosed cases to the department as specified in Table 1, entitled "Reportable Environmentally-Related

Illnesses and Injuries (5/1/19)", in section 11-5-4. Health care professionals having laboratory data regarding an individual from the use of in-house laboratory services shall follow the reporting requirements listed in subsection (b).

(b) Report by laboratories. Every laboratory director having laboratory data regarding an individual affected by or suspected to be affected by an agent listed in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4 shall report such data to the department and attending physician. The report shall include the following information:

- (1) Patient's first, middle, and last name;
- (2) Patient's month, day, and year of birth;
- (3) Patient's gender;
- (4) Patient's race and ethnicity;
- (5) Patient's street address, apartment number, city, state, and zip code;
- (6) Patient's phone number;
- (7) Result of the laboratory analysis;
- (8) Month, date, and year the sample was collected;
- (9) Sample collection method (e.g., capillary or venous blood);
- (10) Name and address of the health care provider who ordered the laboratory analysis;
- (11) Name of the laboratory performing the analysis;
- (12) Month, date, and year the laboratory analysis was completed; and
- (13) Source of funding for the laboratory analysis.

(c) Reports provided to the department under subsections (a) and (b) shall be kept confidential, unless the department has received written consent from the patient or from the minor patient's parent or legal guardian requesting the release of information, and are not open for public inspection. [Eff 10/4/90; am and comp] (Auth: HRS §§321-1, 321-9, 321-317) (Imp: HRS §§321-1, 321-311, 321-312, 321-313, 321-314, 321-315, 321-317)

§11-5-4 Reportable environmentally-related illnesses and injuries and condition for control. The agents listed in Table 1, entitled "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4 are declared by the director to be potentially dangerous to public health. Any person afflicted with or tested under suspicion of a designated environmentally-related illness or injury listed in Table 1, "Reportable Environmentally-Related Illnesses and Injuries (5/1/19)", in section 11-5-4 shall be reported to the department as specified in this chapter to provide information to assist in prevention efforts.

Table 1. Reportable Environmentally-Related Illnesses and Injuries (5/1/19)

Condition	Agents	Method of Report Submission for Health Care Professionals	Method of Report Submission for Laboratory Directors
Heavy metal poisoning	arsenic cadmium lead mercury zinc	Telephone within one working day of laboratory confirmation	Electronic transmission or mail within one week of laboratory analysis
Pesticide poisoning	carbamates organophosphates	Telephone within one working day of diagnosis	Electronic transmission or mail within one week of laboratory analysis

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[Eff 10/4/90; am and comp] (Auth: HRS
 §§321-1, 321-9, 321-314, 321-317) (Imp: HRS
 §§321-311, 321-314, 321-317)

§11-5-5 Immunity from liability. In the event where confirmatory laboratory testing of the suspected agent is not possible or in cases of laboratory error, neither the reporting physician or laboratory director will be held legally liable for any error in reporting such a case, should the condition prove later to be due to another etiologic agent. Therefore, any health care professional or laboratory director who complies with this chapter shall not be held civilly or criminally liable for providing best obtainable information or diagnosis as required under this chapter. [Eff 10/4/90; am and comp AUG 02 2021] (Auth: HRS §§321-1, 321-9, 321-316, 321-317) (Imp: HRS §§321-316, 321-317)

§11-5-6 Penalty. Every person who willfully violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars. [Eff 10/4/90; am and comp AUG 02 2021] (Auth: HRS §§321-1, 321-9, 321-18, 321-317) (Imp: HRS §321-317)

§11-5-7 Severability. If any provision of this chapter, or its application to any person or circumstance, 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 10/4/90; comp AUG 02 2021] (Auth: HRS §§321-1, 321-9, 321-317) (Imp: HRS §321-317)

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 11-5, Hawaii Administrative Rules, on the Summary Page dated August 2, 2021, were adopted on August 2, 2021 following a public hearing held on September 18, 2019, at the Department of Health, 2385 Waimano Home Road #100, Pearl City, Hawaii, 96782, after public notices were published on August 14, 2019, in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Garden Island, and The Maui News.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.


BRUCE S. ANDERSON, Ph.D.
Director of Health

APPROVED:


DAVID Y. IGE
Governor of Hawaii

7/23/21

APPROVED AS TO FORM:


Deputy Attorney General

Filed

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