

to emergency measures necessary to relieve pain.

(Sec. 610(b), 58 Stat. 714, as amended; 33 U.S.C. 763c)

## PART 34—MEDICAL EXAMINATION OF ALIENS

Sec.

34.1 Applicability.

34.2 Definitions.

34.3 Scope of examinations.

34.4 Medical notifications.

34.5 Postponement of medical examination.

34.6 Applicability of foreign quarantine regulations.

34.7 Medical and other care; death.

34.8 Reexamination; convening of review boards; expert witnesses; reports.

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### § 34.1 Applicability.

The provisions of this part shall apply to the medical examination of:

(a) Aliens applying for a visa at an embassy or consulate of the United States;

(b) Aliens arriving in the United States;

(c) Aliens required by DHS to have a medical examination in connection with the determination of their admissibility into the United States; and

(d) Aliens applying for adjustment of status.

### § 34.2 Definitions.

As used in this part, terms shall have the following meanings:

(a) *CDC*. Centers for Disease Control and Prevention, Department of Health and Human Services, or an authorized representative acting on its behalf.

(b) *Communicable disease of public health significance*. Any of the following diseases:

(1) Communicable diseases as listed in a Presidential Executive Order, as provided under Section 361(b) of the Public Health Service Act. The current revised list of quarantinable communicable diseases is available at <http://www.cdc.gov> and <http://www.archives.gov/federal-register>.

(2) Communicable diseases that may pose a public health emergency of

international concern if it meets one or more of the factors listed in § 34.3(d) and for which the Director has determined a threat exists for importation into the United States, and such disease may potentially affect the health of the American public. The determination will be made consistent with criteria established in Annex 2 of the International Health Regulations (<http://www.who.int/csr/ihr/en/>), as adopted by the Fifty-Eighth World Health Assembly in 2005, and as entered into effect in the United States in July 2007, subject to the U.S. Government's reservation and understandings:

(i) Any of the communicable diseases for which a single case requires notification to the World Health Organization (WHO) as an event that may constitute a public health emergency of international concern, or

(ii) Any other communicable disease the occurrence of which requires notification to the WHO as an event that may constitute a public health emergency of international concern. HHS/CDC's determinations will be announced by notice in the FEDERAL REGISTER.

(3) Gonorrhea.

(4) Hansen's disease, infectious.

(5) Syphilis, infectious.

(6) Tuberculosis, active.

(c) *Civil surgeon*. A physician designated by DHS to conduct medical examinations of aliens in the United States who are applying for adjustment of status to permanent residence or who are required by DHS to have a medical examination.

(d) *Class A medical notification*. Medical notification of:

(1) A communicable disease of public health significance;

(2) A failure to present documentation of having received vaccination against "vaccine-preventable diseases" for an alien who seeks admission as an immigrant, or who seeks adjustment of status to one lawfully admitted for permanent residence, which shall include at least the following diseases: Mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, *Haemophilus influenzae* type B and hepatitis B, and any other vaccinations recommended by the Advisory Committee for Immunization Practices (ACIP) for

which HHS/CDC determines, by applying criteria published in the FEDERAL REGISTER, there is a public health need at the time of immigration or adjustment of status. Provided, however, that in no case shall a Class A medical notification be issued for an adopted child who is 10 years of age or younger if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the vaccination requirement and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in the requirement.

(3)(i) A current physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;

(ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior; or

(4) Drug abuse or addiction.

(e) *Class B medical notification.* Medical notification of a physical or mental health condition, disease, or disability serious in degree or permanent in nature.

(f) *DHS.* U.S. Department of Homeland Security.

(g) *Director.* The Director of the Centers for Disease Control and Prevention or a designee as approved by the Director or Secretary of Health and Human Services.

(h) *Drug abuse.* "Current substance use disorder or substance-induced disorder, mild" as defined in the most recent edition of the Diagnostic and Statistical Manual for Mental Disorders (DSM) as published by the American Psychiatric Association, or by another authoritative source as determined by the Director, of a substance listed in Section 202 of the Controlled Substances Act, as amended (21 U.S.C. 802).

(i) *Drug addiction.* "Current substance use disorder or substance-induced disorder, moderate or severe" as defined

in the most recent edition of the Diagnostic and Statistical Manual for Mental Disorders (DSM), as published by the American Psychiatric Association, or by another authoritative source as determined by the Director, of a substance listed in Section 202 of the Controlled Substances Act, as amended (21 U.S.C. 802).

(j) *Medical examiner.* A panel physician, civil surgeon, or other physician designated by the Director to perform medical examinations of aliens.

(k) *Medical hold document.* A document issued to DHS by a quarantine officer of HHS at a port of entry which defers the inspection for admission until the cause of the medical hold is resolved.

(1) *Medical notification.* A medical examination document issued to a U.S. consular authority or DHS by a medical examiner, certifying the presence or absence of:

(1) A communicable disease of public health significance;

(2) Documentation of having received vaccination against "vaccine-preventable diseases" for an alien who seeks admission as an immigrant, or who seeks adjustment of status to one lawfully admitted for permanent residence, which shall include at least the following diseases: Mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, *Haemophilus influenza* type B and hepatitis B, and any other vaccinations recommended by the Advisory Committee for Immunization Practices (ACIP) for which HHS/CDC determines, based upon criteria published in the FEDERAL REGISTER, there is a public health need at the time of immigration or adjustment of status. Provided, however, that in no case shall a Class A medical notification be issued for an adopted child who is 10 years of age or younger if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the vaccination requirement and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will

### § 34.3

### 42 CFR Ch. I (10–1–20 Edition)

receive the vaccinations identified in the requirement;

(3)(i) A current physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;

(ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior;

(4) Drug abuse or addiction; or

(5) Any other physical or mental condition, disease, or disability serious in degree or permanent in nature.

(m) *Medical officer.* A physician or other medical professional assigned by the Director to conduct physical and mental examinations of aliens on behalf of HHS/CDC.

(n) *Mental disorder.* A currently accepted psychiatric diagnosis, as defined by the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or by another authoritative source as determined by the Director.

(o) *Panel physician.* A physician selected by a United States embassy or consulate to conduct medical examinations of aliens applying for visas.

(p) *Physical disorder.* A currently accepted medical diagnosis, as defined by the current edition of the Manual of the International Classification of Diseases, Injuries, and Causes of Death published by the World Health Organization or by another authoritative source as determined by the Director.

#### § 34.3 Scope of examinations.

(a) *General.* In performing examinations, medical examiners shall consider those matters that relate to the following:

(1) Communicable disease of public health significance;

(2) Documentation of having received vaccination against “vaccine-preventable diseases” for an alien who seeks admission as an immigrant, or who seeks adjustment of status to one lawfully admitted for permanent residence, which shall include at least the following diseases: Mumps, measles,

rubella, polio, tetanus and diphtheria toxoids, pertussis, *Haemophilus influenza* type B and hepatitis B, and any other vaccinations recommended by the Advisory Committee for Immunization Practices (ACIP) for which HHS/CDC determines there is a public health need at the time of immigration or adjustment of status.

Provided, however, that in no case shall a Class A medical notification be issued for an adopted child who is 10 years of age or younger if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the vaccination requirement and will ensure that, within 30 days of the child’s admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in the requirement;

(3)(i) A current physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others;

(ii) A history of a physical or mental disorder and behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or lead to other harmful behavior;

(4) Drug abuse or drug addiction; and

(5) Any other physical or mental health condition, disease, or disability serious in degree or permanent in nature.

(b) *Scope of all medical examinations.*

(1) All medical examinations will include the following:

(i) A general physical examination and medical history, evaluation for tuberculosis, and serologic testing for syphilis.

(ii) A physical examination and medical history for diseases specified in §§ 34.2(b)(1), and 34.2(b)(4) through 34.2(b)(10).

(2) For the examining physician to reach a determination and conclusion about the presence or absence of a physical or mental abnormality, disease, or disability, the scope of the examination shall include any laboratory