

## Appendix A

### United States Codes, Code of Federal Regulations and Technical Instructions

This appendix contains those sections of the United States Codes (USC) and Code of Federal Regulations (CFR) applicable to the health affairs of International Military Students (IMs) and authorized family members.

#### A-1 Title 8 USC Aliens and Nationality

##### Section 1182 Inadmissible Aliens

###### (a) Classes of aliens ineligible for visas or admission

Except as otherwise provided in this chapter, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

###### (1) Health-related grounds

###### (A) In general

Any alien –

- (i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome,
- (ii) Not Applicable
- (iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General) -
  - (I) to have a 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, or
  - (II) to have had a physical or mental disorder and a history of 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 to lead to other harmful behavior, or
- (iv) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict, is inadmissible.

##### Section 1611, Aliens who are not qualified aliens ineligible for Federal public benefits

###### (a) In general

Notwithstanding any other provision of law and except as provided in subsection (b) of this section, an alien who is not a qualified alien (as defined in section 1641 of this title) is not eligible for any Federal public benefit (as defined in subsection (c) of this section).

###### (b) Exceptions

(1) Subsection (a) of this section shall not apply with respect to the following Federal public benefits:

(A) Medical assistance under title XIX of the Social Security Act (42 USC 1396 et seq.) (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act (42 USC 1396b(v)(3))) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the State plan approved

under such title (other than the requirement of the receipt of aid or assistance under title IV of such Act (42 USC 601 et seq.), supplemental security income benefits under title XVI of such Act 42 USC 1381 et seq.), or a State supplementary payment).

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Public health assistance (not including any assistance under title XIX of the Social Security Act (42 USC 1396 et seq.)) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(2) Subsection (a) of this section shall not apply to any benefit payable under title II of the Social Security Act (42 USC 401 et seq.) to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act (42 USC 433), to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act (42 USC 402(t)), or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before August 1996.

(c) "Federal public benefit" defined

(1) Except as provided in paragraph (2), for purposes of this chapter the term "Federal public benefit" means -

- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and
- (B) any retirement, welfare, health, disability, public or assisted housing, post secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply -

- (A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States, or to a citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect.

## Section 1641, Definitions

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act (8 USC 1101(a)).

(b) Qualified alien

For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is -

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (8 USC 1101 et seq.),
- (2) an alien who is granted asylum under section 208 of such Act (8 USC 1158),
- (3) a refugee who is admitted to the United States under section 207 of such Act (8 USC 1157),
- (4) an alien who is paroled into the United States under section 212(d)(5) of such Act (8 USC 1182(d)(5)) for a period of at least 1 year,
- (5) an alien whose deportation is being withheld under section 243(h) of such Act (8 USC 1253) (as in effect immediately before the effective date of section 307 of division C of Public Law 104-

- 208) or section 241(b)(3) of such Act (8 USC 1231(b)(3)) (as amended by section 305(a) of division C of Public Law 104-208),
- (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act (8 USC 153(a)(7)) as in effect prior to April 1, 1980; [1] or
  - (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).
- (c) Treatment of certain battered aliens as qualified aliens  
For purposes of this chapter, the term "qualified alien" includes -
- (1) an alien who -
    - (A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
  - (2) an alien -
    - (A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
    - (B) who meets the requirement of subparagraph (B) of paragraph (1); or
  - (3) an alien child who -
    - (A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
    - (B) who meets the requirement of subparagraph (B) of paragraph (1). This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty. After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section 1631(f) of this title, concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

## **A-2 Title 10 USC Armed Forces**

### **Section 1072 Definitions**

- (2) The term "dependent", with respect to a member..... of a uniformed service, means –
- (A) the spouse;
  - (B) Not Applicable
  - (C) Not Applicable
  - (D) a child who –
    - (i) has not attained the age of 21;

- (ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, ....in fact dependent on the member .... for over one-half of the child's support; or
- (ii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member ...under clause (i) or (ii) and is ...in fact dependent on the member ..for over one-half of the child's support;
- (E) a parent or parent-in-law who is in fact dependent on him for over one-half of his support and residing in his household;

- (6) The term "child", with respect to a member ...of a uniformed service, means the following:
- (A) An unmarried legitimate child.
  - (B) An unmarried adopted child.
  - (C) An unmarried stepchild.
  - (D) An unmarried person -
    - (i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and
    - (ii) who otherwise meets the requirements specified in paragraph (2)(D).

**Section 1076 Medical and dental care for dependents: general rule**

- (a)
- (1) A dependent described in paragraph (2) is entitled, upon request, to the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.
  - (2) A dependent referred to in paragraph (1) is a dependent of a member of a uniformed service described in one of the following subparagraphs:
    - (A) A member who is on active duty for a period of more than 30 days....
- (c) A determination by the medical or dental officer in charge, or the contract surgeon in charge, or his designee, as to the availability of space and facilities and to the capabilities of the medical and dental staff is conclusive. Care under this section may not be permitted to interfere with the primary mission of those facilities.
- (d) To utilize more effectively the medical and dental facilities of the uniformed services, the administering Secretaries shall prescribe joint regulations to assure that dependents entitled to medical or dental care under this section will not be denied equal opportunity for that care because the facility concerned is that of a uniformed service other than that of the member.

**Section 1077 Medical care for dependents: authorized care in facilities of uniformed services**

- (a) Only the following types of health care may be provided under section 1076 of this title:
- (1) Hospitalization.
  - (2) Outpatient care.
  - (3) Drugs.
  - (4) Treatment of medical and surgical conditions.
  - (5) Treatment of nervous, mental, and chronic conditions.
  - (6) Treatment of contagious diseases.
  - (7) Physical examinations, including eye examinations, and immunizations.
  - (8) Maternity and infant care, including well-baby care that includes one screening of an infant for the level of lead in the blood of the infant.
  - (9) Diagnostic tests and services, including laboratory and X-ray examinations.

- (10) Dental care.
- (11) Ambulance service and home calls when medically necessary.
- (12) Durable equipment, such as wheelchairs, iron lungs, and hospital beds may be provided on a loan basis.
- (13) Primary and preventive health care services for women (as defined in section 1074d(b) of this title).
- (14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.

(b) The following types of health care may not be provided under section 1076 of this title:

- (1) Domiciliary or custodial care.
- (2) Hearing aids, orthopedic footwear, and spectacles, except that, outside of the United States and at stations inside the United States where adequate civilian facilities are unavailable, such items may be sold to dependents at cost to the United States.
- (3) The elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

**Section 2549 Provision of medical care to foreign military and Diplomatic personnel: reimbursement required: waiver for provision of reciprocal services.**

- (a) Reimbursement Required - Except as provided in subsection (b), whenever the Secretary of Defense provides medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents, the Secretary shall require that the United States be reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which charges were made for the provision of such care.
- (b) Waiver When Reciprocal Services Provided United States Military Personnel - Notwithstanding subsection (a), the Secretary of Defense may provide inpatient medical care in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel and their dependents in that foreign country.

**A-3 Title 22 USC Foreign Relations and Intercourse, Section 2395 General Authorities**

- (a) Manner of furnishing assistance; emphasis on loans  
Except as otherwise specifically provided in this chapter, assistance under this chapter may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this chapter, and shall emphasize loans rather than grants wherever possible.
- (b) Authority of the President  
The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of this chapter.
- (c) Utilization of services and facilities of voluntary, nonprofit organizations  
It is the sense of Congress that the President, in furthering the purposes of this chapter, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.
- (d) Acceptance of gifts, devises, bequests, grants, etc.

The President may accept and use in furtherance of the purposes of this chapter, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e) Health and accident insurance for foreign participants and foreign employees

(1) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their place of employment abroad for purposes of training or other official duties.

(f) Admission of alien participants

Alien participants in any program of furnishing technical information and assistance under this chapter may be admitted to the United States if otherwise qualified as nonimmigrants under section 1101(a)(15) of title 8, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

**A-3 Title 8 CFR Aliens and Nationality, Part 212 Documentary Requirements: Nonimmigrants: Waivers; Admission of Certain INA**

**8 CFR Ch. 1 (1-1-99 Edition)  
Immigration and Naturalization Service, Justice**

**212.4 Applications for the exercise of discretion under section 212(d)(1) and 212(d)(3).**

(a) Applications under section 212(d)(3)(A)-(I) General. District directors and officers in charge outside the United States in the districts of Bangkok, Thailand; Mexico City, Mexico; and Rome, Italy are authorized to act upon recommendations made by consular officers for the exercise of discretion under section 212(d)(3)(A) of the Act. The District Director, Washington, DC, has jurisdiction in such cases recommended to the Service at the seat-of-government level by the Department of State. When a consular officer or other State Department official recommends that the benefits of section 212(d)(3)(A) of the Act be accorded an alien, neither an application nor fee shall be required. The recommendation shall specify:

- (i) The reasons for inadmissibility and each section of law under which the alien is inadmissible
- (ii) Each intended date of arrival;
- (iii) The length of each proposed stay in the United States;
- (iv) The purpose of each stay;
- (v) The number of entries which the alien intends to make; and
- (vi) The justification for exercising the authority contained in section 212(d)(3) of the Act.

If the alien desires to make multiple entries and the consular officer or other State Department official believes that the circumstances justify the issuance of a visa valid for multiple entries rather than for a specified number of entries, and recommends that the alien be accorded an authorization valid for multiple entries, the information required by items (ii) and (iii) shall be furnished only with respect to the initial entry. Item (ii) does not apply to a bona fide crewman. The consular officer or other State Department official shall be notified of the decision on his recommendation. No appeal by the alien shall lie from an adverse decision made by a Service officer on the recommendation of a consular officer or other State Department official.

(2) *Authority of consular officers to approve section 212(d)(3)(A) recommendations pertaining to aliens inadmissible under section 212(a)(28)(C).* In certain categories of visa cases defined by the Secretary of State, United States consular officers assigned to visa-issuing posts abroad may, on behalf of the Attorney General pursuant to section 212(d)(3)(A) of the Act, approve a recommendation by another consular officer that an alien be admitted temporarily despite visa ineligibility solely because the alien is of the class of aliens defined at section 212 (a) (28) (C) of the Act, as a result of presumed or actual membership in, or affiliation with, an organization described in that section. Authorizations for temporary admission granted by consular officers shall be subject to the terms specified in §212.4(c) of

this chapter. Any recommendation which is not clearly approvable shall, and any recommendation may, be presented to the appropriate official of the Immigration and Naturalization Service for a determination.

(b) Applications under section 212(d)(3)(B). An application for the exercise of discretion under section 212(d)(3)(B) of the Act shall be submitted on Form I-192 to the district director in charge of the applicant's intended port of entry prior to the applicant's arrival in the United States. (For Department of State procedure when a visa is required, see 22 CFR 41.95 and paragraph (a) of this section.) ..... When the application is made because the applicant may be inadmissible due to disease, mental or physical defect, or disability of any kind, the application shall describe the disease, defect, or disability. If the purpose of seeking admission to the United States is for treatment, there shall be attached to the application statements in writing to establish that satisfactory treatment cannot be obtained outside the United States; that arrangements have been completed for treatment, and where and from whom treatment will be received; what financial arrangements for payment of expenses incurred in connection with the treatment have been made, and that a bond -will be available if required. ....

(c) *Terms of authorization.* Each authorization under section 212(d)(3) (A) or (B) of the Act shall specify:

- (1) Each section of law under which the alien is inadmissible;
- (2) The intended date of each arrival;
- (3) The length of each stay authorized in the United States;
- (4) The purpose of each stay;
- (5) The number of entries for which the authorization is valid;
- (6) The dates on or between which each application for admission at ports of entry in the United States is valid; and

(7) The justification for exercising the authority contained in section 212(d)(3) of the Act. If the consular officer has recommended under section 212(d)(3)(A), or an applicant under section 212(d)(3)(B) seeks, the issuance of an authorization valid for multiple entries rather than for a specified number of entries, and it is determined that the circumstances justify the issuance of the authorization valid for multiple entries, the information required by items (2) and (3) shall be specified only with respect to the initial entry. ....

[29 FR 15252, Nov. 13, 1964, as amended at 30 FR 12330, Sept. 28, 1965; 31 F'R 10413, Aug. 3, 1966; 32 FR 15469, Nov. 7, 1967; 35 FR 3065, Feb. 17, 1970; 35 FR 7637, May 16, 1970; 40 FR 30470, July 21, 1975; 51 FR 32295, Sept. 10, 1986; 53 FR 40867, Oct. 19, 1988; 60 FR 44264, Aug. 25, 1995; 60 FR 52248, Oct. 5, 1995]

#### **A-4 Title 21 CFR Food and Drugs**

##### **Part 1240 Control of Communicable Disease, Subpart C, Restrictions of Travel**

Section 1240.40 All communicable diseases. - A person who has a communicable disease in the communicable period shall not travel from one State or possession to another without a permit from the health officer of the State, possession, or locality of destination, if such permit is required under the law applicable to the place of destination. Stopovers other than those necessary for transportation connections shall be considered as places of destination.

Section 1240.45 Report of disease. - The master of any vessel or person in charge of any conveyance engaged in interstate traffic, on which a case or suspected case of a communicable disease develops shall, as soon as practicable, notify the local health authority at the next port of call, station, or stop, and shall take such measures to prevent the spread of the disease as the local health authority directs.

Section 1240.50 Certain communicable diseases; special requirements. - The following provisions are applicable with respect to any person who is in the communicable period of cholera, plague, smallpox, typhus or yellow fever, or who, having been exposed to any such disease, is in the incubation period thereof:

- (a) Requirements relating to travelers.

- (1) No such person shall travel from one State or possession to another, or on a conveyance engaged in interstate traffic, without a written permit of the Surgeon General or his authorized representative.
  - (2) Application for a permit may be made directly to the Surgeon General or to his representative authorized to issue permits.
  - (3) Upon receipt of an application, the Surgeon General or his authorized representative shall, taking into consideration the risk of introduction, transmission, or spread of the disease from one State or possession to another, reject it, or issue a permit which may be conditioned upon compliance with such precautionary measures as he shall prescribe.
  - (4) A person to whom a permit has been issued shall retain it in his possession throughout the course of his authorized travel and comply with all conditions prescribed therein, including presentation of the permit to the operators of conveyances as required by its terms.
- (b) Requirements relating to operation of conveyances.
- (1) The operator of any conveyance engaged in interstate traffic shall not knowingly (i) accept for transportation any person who fails to present a permit as required by paragraph (a) of this section, or (ii) transport any person in violation of conditions prescribed in his permit.
  - (2) Whenever a person subject to the provisions of this section is transported on a conveyance engaged in interstate traffic, the operator thereof shall take such measures to prevent the spread of disease, including submission of the conveyance to inspection, disinfection and the like, as an officer of the Public Health Service designated by the Surgeon General for such purposes deems reasonably necessary and directs.

Section 1240.54 Apprehension and detention of persons with specific diseases. - Regulations prescribed in parts 1240 and 1250 are not applicable to the apprehension, detention, or conditional release of individuals except for the purpose of preventing the introduction, transmission, or spread of the following diseases: Anthrax, chancroid, cholera, dengue, diphtheria, granuloma inguinale, infectious encephalitis, favus, gonorrhoea, leprosy, lymphogranuloma venereum, meningococcus meningitis, plague, poliomyelitis, psittacosis, relapsing fever, ringworm of the scalp, scarlet fever, streptococci sore throat, smallpox, syphilis, trachoma, tuberculosis, typhoid fever, typhus, and yellow fever.

Section 1240.55 Responsibility with respect to minors, wards, and patients. - A parent, guardian, physician, nurse, or other such person shall not transport, or procure or furnish transportation for any minor child or ward, patient or other such person who is in the communicable period of a communicable disease, except in accordance with provisions of this subpart.

**A-5 Title 32 CFR Civilian Health and Medical Program of the Uniformed Services, Extracts of Parts 199.3 Eligibility and 199.4 Basic Program**

**Office of the Secretary of Defense**

**§ 199.3 32 CFR Ch. 1 (7-1-98 Edition)**

**§ 199.3 Eligibility.**

- (a) *General.* This section sets forth those persons who, by the provisions of 10 USC, chapter 55, and the NATO Status of Forces Agreement, are eligible for CHAMPUS benefits. For additional statements concerning the special requirements of the Program for Persons with Disabilities (PPPWD), refer to § 199.5. A determination that a person is eligible does not entitle such a person automatically to CHAMPUS payments. Other sections of this part set forth additional requirements that must be met before any CHAMPUS benefits may be extended. Additionally, the use of CHAMPUS may be denied if a Uniformed Services medical facility capable of providing the needed care is available.
- (b) *Persons eligible-*
  - (1) *Retiree.* A member or former member of a Uniformed Service who is entitled to retired, retainer, or equivalent pay based on duty in a Uniformed Service.
  - (2) *Dependent.* A person who bears one of the following relationships to an active duty member (under a call or order that does not specify a period of 30 days or less), to a retiree, to a NATO

member who is stationed in or passing through the United States on official business, or to a deceased person who, at the time of death, was an active duty member or a retiree.

NOTE: According to section 767 of the Department of Defense Appropriation Act, 1981, (Pub. L. 96-527), from December 15, 1980, through September 30, 1981, spouses and children of NATO members are eligible only for outpatient CHAMPUS benefits while officially accompanying the NATO member who is stationed in or passing through the United States on official business. Availability of benefits after September 30, 1981, will depend on the language of future appropriation acts.

(B) MCO in P1750 series, Uniformed Services Identification and Privilege Card (DD Form 1173).

(v) *Air Force*. AFR 30-20, "Issue and Control of Identification Cards."

(vi) *U.S. Public Health Service*. CC29.2, Personnel Instruction I and 2.

(vii) *Coast Guard*. Personnel Manual (CG 207, Chapter 13, Section E, and Chapter 18, Section C.

(viii) *NOAA*. No published regulations. Identification cards are issued by Headquarters, NOAA, or the applications are verified by Headquarters, NOAA, and presented to any Uniformed Service facility for issuance of a card.

(g) *Evidence of eligibility required*. Eligibility for CHAMPUS benefits will be verified through the DEERS (DoD 1341.1-M7).

(1) *Acceptable evidence of eligibility-(i) DEERS*. Eligibility information established and maintained in the DEERS files is acceptable evidence of eligibility.

(ii) *Identification cards or devices*. When the DEERS file is not accessible immediately, acceptable preliminary evidence of eligibility includes valid identification cards or devices officially prescribed and issued by the appropriate Uniformed Service. Dependents identification cards must confirm CHAMPUS eligibility.

(2) Responsibility for obtaining evidence of eligibility. It is the responsibility of the CHAMPUS beneficiary, or parent, or legal representative, when appropriate, to provide the necessary evidence required for entry into the DEERS file to establish CHAMPUS eligibility, and to ensure that all changes in status that may affect eligibility be reported immediately to the appropriate Uniformed Service for action. Ineligibility for CHAMPUS benefits may be presumed in the absence of prescribed eligibility evidence in the DEERS file or in the absence of a valid identification card or device.

[51 FR 24008, July 1, 1986, as amended at 52 FR 27991, July 27, 1987; 53 FR 17191, May 16, 1988; 55 FR 27634, July 5, 1990; 62 FR 35092, June 30, 1997]

#### **199.4 Basic program benefits.**

(a) *General*. The CHAMPUS Basic Program is essentially a supplemental program to the Uniformed Services direct medical care system. The Basic Program is similar to private insurance programs, and is designed to provide financial assistance to CHAMPUS beneficiaries for certain prescribed medical care obtained from civilian sources.

(1)(i) *Scope of benefits*. Subject to all applicable definitions, conditions, limitations, or exclusions specified in this part, the CHAMPUS Basic Program will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury, including maternity care and well-baby care. Benefits include specified medical services and supplies provided to eligible beneficiaries from authorized civilian sources such as hospitals, other authorized institutional providers, physicians, other authorized individual professional providers, and professional ambulance service, prescription drugs, authorized medical supplies, and rental or purchase of durable medical equipment.

(ii) *Impact of TRICARE program*. The basic program benefits set forth in this section are applicable to the basic CHAMPUS program. In areas in which the TRICARE program is implemented, certain provisions of § 199.17 will apply instead of the provisions of this section. In those areas, the provisions of § 199.17 will take precedence over any provisions of this section with which they conflict.

(2) *Persons eligible for Basic Program benefits.* Persons eligible to receive the Basic Program benefits are set forth in § 199.3 of this part. Any person determined to be an eligible CHAMPUS beneficiary is eligible for Basic Program benefits.

## **A-6 Title 42 CFR Public Health, Part 34 Medical Examination of Aliens, Part 71 Foreign Quarantine**

### **Public Health Service, HHS, PART 34-MEDICAL EXAMINATION OF ALIENS**

AUTHORITY: 42 USC 216, 249, 252; 8 USC 1182, 1224, 1226; sec. 601 of Pub. L. 101-649.

#### **§ 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 the INS to have a medical examination in connection with determination of their admissibility into the United States; and
- (d) Aliens applying for adjustment status.

[56 FR 25001, May 31, 19911

#### **§ 34.2 Definitions.**

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

(a) *CDC.* Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services.

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

- (1) *Chancroid.*
- (2) *Gonorrhea.*
- (3) *Granuloma inguinale.*
- (4) *Human immunodeficiency virus (HIV) infection.*
- (5) *Leprosy, infectious.*
- (6) *Lymphogranuloma venereum.*
- (7) *Syphilis, infectious stage.*
- (8) *Tuberculosis, active.*

#### **34.3 Scope of examinations.**

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

- (1) A communicable disease of public health significance;
- (2) (i) A 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;
- (3) Drug abuse or addiction; and
- (4) Any other physical abnormality, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal well-being.

The scope of the examination shall include any laboratory or additional studies that are deemed necessary, either as a result of the physical examination or pertinent information elicited from the alien's medical history, for the examining physician to reach a conclusion about the presence or absence of a physical or mental abnormality, disease, or disability.

(b) *Persons subject to requirement for chest X-ray examination and serologic testing.* (1) Except as provided in paragraph (b)(1)(v) of this section, a chest X-ray examination, serologic testing for syphilis

and serologic testing for HIV of persons 15 years of age and older shall be required as part of the examination of:

- (i) Applicants for immigrant visas;
- (ii) Students, exchange visitors, and other applicants for a nonimmigrant visa who are required by a consular authority to have a medical examination;
- (iii) Aliens outside the United States who apply for refugee status;
- (iv) Applicants in the United States who apply for adjustment of status under the immigration statute and regulations;

(v) *Exceptions.* Neither a chest X-ray examination nor serologic testing for syphilis and HIV shall be required if the alien is under the age of 15. Provided, a tuberculin skin test shall be required if there is evidence of contact with a person known to have tuberculosis or other reason to suspect tuberculosis, and a chest X-ray examination shall be required in the event of a positive tuberculin reaction, and serologic testing where there is reason to suspect infection with syphilis or HIV. Additional exceptions to the requirement for a chest X-ray examination may be authorized for good cause upon application approved by the Director.

(2) *Tuberculin skin test examination.* (i) All aliens 2 years of age or older in the United States who apply for adjustment of status to permanent residents, under the immigration laws and regulations, or other aliens in the United States who are required by the INS to have a medical examination in connection with a determination of their admissibility, shall be required to have a tuberculin skin test. Exceptions to this requirement may be authorized for good cause upon application approved by the Director. In the event of a positive tuberculin reaction a chest X-ray examination shall be required. If the chest radiograph is consistent with tuberculosis, the alien shall be referred to the local health authority for evaluation. Evidence of this evaluation shall be provided to the civil surgeon before a medical notification may be issued.

(ii) Aliens less than 2 years old shall be required to have a tuberculin skin test if there is evidence of contact with a person known to have tuberculosis or other reason to suspect tuberculosis. In the event of a positive tuberculin reaction, a chest X-ray examination shall be required. If the chest radiograph is consistent with tuberculosis, the alien shall be referred to the local health authority for evaluation. Evidence of this evaluation shall be provided to the civil surgeon before a medical notification may be issued.

(3) *Sputum smear examination.* All aliens subject to the chest X-ray examination requirement and for whom the radiograph shows an abnormality consistent with pulmonary tuberculosis shall be required to have a sputum smear examination for acid-fast bacilli.

(4) *How and where performed.* All chest X-ray films used in medical examinations performed under the regulations in this part shall be large enough to encompass the entire chest (approximately 14 by 17 inches; 35.6x43.2 cm.). Serologic testing for HIV shall be a sensitive and specific test, confirmed when positive by a test such as the Western blot test or an equally reliable test. For aliens examined abroad, the serologic testing for HIV must be completed abroad, except that the Attorney General after consultation with the Secretary of State and the Secretary of Health and Human Services may in emergency circumstances permit serologic testing of refugees for HIV to be completed in the United States.

(5) *Chest X-ray, laboratory, and treatment reports.* The chest X-ray reading and serologic test results for syphilis and HIV shall be included in the medical notification. When the medical examiner's conclusions are based on a study of more than one chest X-ray film, the medical notification shall include at least a summary statement of findings of the earlier films, followed by a complete reading of the last film, and dates and details of any laboratory tests and treatment for tuberculosis.

(c) *Procedure for transmitting records.* For aliens issued immigrant visas, the medical notification and chest X-ray film, if any, shall be placed in a separate envelope which shall be sealed and attached to the alien's visa in such a manner as to be readily detached at the U.S. port of entry. When more than one chest X-ray film is used as a basis for the examiner's conclusions, all films shall be included.

(d) *Failure to present records.* When a determination of admissibility is to be made at the U.S. port of entry, a medical hold document shall be issued pending completion of any necessary examination procedures. A medical hold document may be issued for aliens who:

- (1) Are not in possession of a valid medical notification, if required;
- (2) Have a medical notification which is incomplete;
- (3) Have a medical notification which is not written in English;

(4) Are suspected to have an excludable medical condition.

(e) The Attorney General, after consultation with the Secretary of State and the Secretary of Health and Human Services, may in emergency circumstances permit the medical examination of refugees to be completed in the United States.

(f) All medical examinations shall be carried out in accordance with such technical instructions for physicians conducting the medical examination of aliens as may be issued by the Director. Copies of such technical instructions are available upon request to the Director, Division of Quarantine, Mailstop E03, CDC, Atlanta GA 30333.

[56 FR 25002, May 31, 1991]

#### **34.4 Medical notifications.**

(a) Medical examiners shall issue medical notifications of their findings of the presence or absence of Class A or Class B medical conditions. The presence of such condition must have been clearly established.

(b) *Class A medical notifications.* (1) The medical examiner shall report his/ her findings to the consular officer or the INS by Class A medical notification which lists the specific condition for which the alien may be excluded, if an alien is found to have:

(i) A communicable disease of public health significance;

(ii)(A) A 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; or

(B) 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;

(iii) Drug abuse or addition. *Provided, however,* That a Class A medical notification of a physical or mental disorder, and behavior associated with that disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, shall in no case be issued with respect to an alien having only mental shortcomings due to ignorance, or suffering only from a condition attributable to remediable physical causes or of a temporary nature, caused by a toxin, medically prescribed drug, or disease.

(2) The medical notification shall state the nature and extent of the abnormality; the degree to which the alien is incapable of normal physical activity; and the extent to which the condition is remediable. The medical examiner shall indicate the likelihood, that because of the condition, the applicant will require extensive medical care or institutionalization.

(c) *Class B medical notifications.* (1) If an alien is found to have a physical or mental abnormality, disease, or disability serious in degree or permanent in nature amounting to a substantial departure from normal well-being, the medical examiner shall report his/her findings to the consular or INS officer by Class B medical notification which lists the specific conditions found by the medical examiner. Provided, however, that a Class B medical notification shall in no case be issued with respect to an alien having only mental shortcomings due to ignorance, or suffering only from a condition attributable to remediable physical causes or of a temporary nature, caused by a toxin, medically prescribed drug, or disease.

(2) The medical notification shall state the nature and extent of the abnormality, the degree to which the alien is incapable of normal physical activity, and the extent to which the condition is remediable. The medical examiner shall indicate the likelihood, that because of the condition, the applicant will require extensive medical care or institutionalization.

(d) *Other medical notifications.* If as a result of the medical examination, the medical examiner does not find a Class A or Class B condition in an alien, the medical examiner shall so indicate on the medical notification form and shall report his findings to the consular or INS officer.

#### **§ 34.6 Applicability of Foreign Quarantine Regulations.**

Aliens arriving at a port of the United States shall be subject to the applicable provisions of 12 CFR part 71, Foreign Quarantine, with respect to examination and quarantine measures.

#### **34.7 Medical and other care; death.**

(a) An alien detained by or in the custody of the INS may be provided medical, surgical, psychiatric, or dental care by the Public Health Service through interagency agreements under which the INS shall reimburse the Public Health Service. Aliens found to be in need of emergency care in the course of medical examination shall be treated to the extent deemed practical by the attending physician and if considered to be in need of further care, may be referred to the INS along with the physician's recommendations concerning such further care.

(b) In case of the death of an alien, the body shall be delivered to the consular or immigration authority concerned. If such death occurs in the United States, or in a territory or possession thereof, public burial shall be provided upon request of the INS and subject to its agreement to pay the burial expenses. Autopsies shall not be performed unless approved by the INS.

[56 FR 25003, May 31, 1991]

## **Public Health Service, HHS, PART 71 Foreign Quarantine**

### **Subpart C-Notice of Communicable Disease Prior to Arrival**

#### **§ 71.21 Radio report of death or illness.**

(a) The master of a ship destined for a U.S. port shall report immediately to the quarantine station at or nearest the port at which the ship will arrive, the occurrence, on board, of any death or any ill person among passengers or crew (including those who have disembarked or have been removed) during the 15-day period preceding the date of expected arrival or during the period since departure from a U.S. port (whichever period of time is shorter).

(b) The commander of an aircraft destined for a U.S. airport shall report immediately to the quarantine station at or nearest the airport at which the aircraft will arrive, the occurrence, on board, of any death or ill person among passengers or crew.

(c) In addition to paragraph (a) of this section, the master of a ship carrying 13 or more passengers must report by radio 24 hours before arrival the number of cases (including zero) of diarrhea in passengers and crew recorded in the ship's medical log during the current cruise. All cases of diarrhea that occur after the 24 hour report must also be reported not less than 4 hours before arrival.

### **Subpart D-Health Measures at U.S. Ports: Communicable Diseases**

#### **§ 71.31 General provisions.**

(a) Upon arrival at a U.S. port, a carrier will not undergo inspection unless the Director determines that a failure to inspect will present a threat of introduction of communicable diseases into the United States, as may exist when the carrier has on board individual(s) reportable in accordance with §71.21 or meets the circumstances described in §71.42. Carriers not subject to inspection under this section will be subject to sanitary inspection under §71.41 of this part.

(b) The Director may require detention of a carrier until the completion of the measures outlined in this part that are necessary to prevent the introduction or spread of a communicable disease. The Director may issue a controlled free pratique to the carrier stipulating what measures are to be met, but such issuance does not prevent the periodic boarding of a carrier and the inspection of persons and records to verify that the conditions have been met for granting the pratique.

#### **§ 71.32 Persons, carriers, and things.**

(a) Whenever the Director has reason to believe that any arriving person is infected with or has been exposed to any of the communicable diseases listed in paragraph (b) of this section, he/ she may detain, isolate, or place the person under surveillance and may order disinfection or disinfestation as he/she considers necessary to prevent the introduction, transmission, or spread of the listed communicable diseases.

(b) The communicable diseases authorizing the application of sanitary, detention, and/or isolation measures under paragraph (a) of this section are: cholera or suspected cholera, diphtheria, infectious

tuberculosis, plague, suspected smallpox, yellow fever, or suspected viral hemorrhagic fevers (Lassa, Marburg, Ebola, Congo-Crimean, and others not yet isolated or named).

(c) Whenever the Director has reason to believe that any arriving carrier or article or thing on board the carrier is or may be infected or contaminated with a communicable disease, he/she may require detention, disinsection, disinfection, disinfestation, fumigation, or other related measures respecting the carrier or article or thing as he/ she considers necessary to prevent the introduction, transmission, or spread of communicable diseases.

### **71.33 Persons: Isolation and surveillance.**

(a) Persons held in isolation under this subpart may be held in facilities suitable for isolation and treatment.

(b) The Director may require isolation where surveillance is authorized in this subpart whenever the Director considers the risk of transmission of infection to be exceptionally serious.

(c) Every person who is placed under surveillance by authority of this subpart shall, during the period of surveillance:

(1) Give information relative to his/ her health and his/her intended destination and report, in person or by telephone, to the local health officer having jurisdiction over the areas to be visited, and report for medical examinations as may be required;

(2) Upon arrival at any address other than that stated as the intended destination when placed under surveillance, or prior to departure from the United States, inform, in person or by telephone, the health officer serving the health jurisdiction from which he/ she is departing.

(d) From time to time the Director may, in accordance with section 322 of the Public Health Service Act, enter into agreements with public or private medical or hospital facilities for providing care and treatment for persons detained under this part.

(Approved by the Office of Management and Budget under control number 0920-0134)

[50 FR 1519, Jan. 11, 1985; 50 FR 3910, Jan. 29, 1985]

## **Public Health Service, HHS**

### **§71.34 Carriers of U.S. military services.**

(a) Carriers belonging to or operated by the military services of the United States may be exempted from inspection if the Director is satisfied that they have complied with regulations of the military services which also meet the requirements of the regulations in this part. (For applicable regulations of the military services, see Army Regulation No. 40-12, Air Force Regulation No. 161-4, Secretary of the Navy Instruction 6210.2, and Coast Guard Commandant Instruction 6210.2).

(b) Notwithstanding exemption from inspection of carriers under this section, animals or articles on board shall be required to comply with the applicable requirements of subpart F of this part.

### **71.35 Report of death or illness on carrier during stay in port.**

The master of any carrier at a U.S. port shall report immediately to the quarantine station at or nearest the port the occurrence, on board, of any death or any ill person among passengers or crew.

(Approved by the Office of Management and Budget under control number 0920-0134)

## **A-7 Center for Disease Control Technical Instruction for Physical Examination**

This Technical Instruction provides instructions to physicians examining non-immigrant visa applicants outside the United States. It implements 8 USC 1182 and 42 CFR 34.

# Center for Disease Control Technical Instruction for Physical Examination

This Technical Instruction provides instructions to physicians examining non-immigrant visa applicants outside the United States. It implements 8 USC 1182 and 42 CFR 34.

## MEDICAL HISTORY AND PHYSICAL EXAMINATION

### A. SCOPE OF THE EXAMINATION

The purpose of the visa medical examination is to determine whether the alien has 1) a physical or mental disorder (including a communicable disease of public health significance or drug abuse/addiction) that renders him or her ineligible for a visa (Class A condition); or 2) a physical or mental disorder that, although not constituting a specific excludable condition, represents a departure from normal health or well-being that is significant enough to possibly interfere with the person's ability to care for himself or herself, or to attend school or work, or that may require extensive medical treatment or institutionalization in the future (Class B condition).

#### 1. The visa medical examination requires

- a. a medical history, obtained by the panel physician or a member of the physician's professional staff, from the applicant (preferably) or a family member, which includes
  - 1) a review of all hospitalizations
  - 2) a review of all institutionalization's for chronic conditions (physical or mental)
  - 3) a review of all illnesses or disabilities resulting in a substantial departure from a normal state of well-being or level of functioning
  - 4) specific questions about psychoactive drug and alcohol use, history of harmful behavior, and history of psychiatric illness not documented in the medical records reviewed and
  - 5) a review of chest radiographs and treatment records if the alien has a history suggestive of tuberculosis
- b. a review of any other records that are available to the physician (e.g., police, military, school, or employment) and that may help to determine a history of harmful behavior related to a physical or mental disorder and to determine whether illnesses or disabilities are present that result in a substantial departure from a normal state of well-being or level of functioning.
- c. a review of systems sufficient to assist in determining the presence and the severity of Class A or Class B conditions. The physician should ask specifically about symptoms that suggest cardiovascular, pulmonary, musculoskeletal, and neuropsychiatric disorders. Symptoms suggestive of infection with any of the excludable communicable diseases (tuberculosis, HIV infection, syphilis, chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum and Hansen's disease) should also be sought.
- d. a physical examination, including an evaluation of mental status, sufficient to permit a determination of the presence and the severity of Class A and Class B conditions. The physical examination is to include

- 1) a mental status examination which includes, at a minimum, assessment of intelligence, thought, cognition (comprehension), judgment, affect (and mood), and behavior
- 2) a physical examination that includes, at a minimum, examination of the eyes, ears, nose and throat, extremities, heart, lungs, abdomen, lymph nodes, skin and external genitalia
- 3) all diagnostic tests required for the diagnosis of the diseases identified as communicable diseases of public health significance and other tests identified as necessary to confirm a suspected diagnosis of any other Class A or Class B condition

### C. REFERRAL FOR FURTHER EVALUATION

In some instances the panel physician may be unable to make a definitive diagnosis or to determine whether a disease or disorder is a Class A or a Class B condition. In such instances, the panel physician must refer the alien for a medical or mental health evaluation that will provide sufficient information to resolve the uncertainties of either diagnosis or Class A or Class B designation. The panel physician remains responsible for completing and forwarding the medical report form to the consular officer. The report of the consulting physician, as received by the panel physician, must be included with the medical report form.

### D. THE MEDICAL REPORT FORM

1. The medical report form is to be completed in English, typed or printed legibly, dated, and signed by the panel physician. Follow instructions of the consular officer regarding the number of copies of the medical form to be prepared and forwarded.
2. The results of required tests for tuberculosis must be entered in the appropriate spaces on the medical report form. Mark the box "not done", if these tests are not required.
3. Findings of physical and mental disorders should be entered in the "Remarks" section of the medical report form. The panel physician must include a statement of likely degree of disability and the need for extensive medical care or institutionalization for any Class B conditions identified during the examination.
4. Findings of drug abuse or addiction should be indicated in the "Remarks" section of the medical report form. The panel physician should indicate the specific drug that is/was being used and the last time it was used if the patient has discontinued its use.

NOTE: If an alien has been referred for further evaluation under the provisions of IIIA, B, C, or D, the medical report must not be completed and submitted to the consular officer until a definitive diagnosis (or a short list of likely diagnoses) and the presence or absence of a Class A or Class B condition has been established.

## III. REQUIRED EVALUATIONS

### A. COMMUNICABLE DISEASES OF PUBLIC HEALTH SIGNIFICANCE

#### 1. Infectious Tuberculosis

- a. overview - The panel physician, using a chest radiograph (or tuberculin skin test for persons under 15 years of age) will determine whether the applicant is infected with Mycobacterium tuberculosis, and if evidence of tuberculosis is found, whether the applicant is

likely to transmit the infection to others. It is the likelihood of transmission rather than the presence of disease that determines whether an applicant is excludable.

b. Definitions

- 1) active tuberculosis - clinical, laboratory or radiologic evidence of a current disease process caused by *M. tuberculosis* (pulmonary or extrapulmonary). For purposes of this examination, only active tuberculosis that is in an infectious state (smear positive) is excludable.
- 2) infectious tuberculosis - tuberculosis that can be readily transmitted to others, as evidenced by an abnormal chest radiograph consistent with pulmonary tuberculosis and a sputum smear that is positive for acid-fast bacilli.
- 3) tuberculosis, noninfectious - presence of an abnormal chest radiograph consistent with pulmonary tuberculosis, and sputum smears, obtained on 3 consecutive days, that are negative for acid-fast bacilli, or evidence of extrapulmonary tuberculosis.

c. Required evaluation for tuberculosis (Table 1)

d. Reporting results of examination for tuberculosis (Table 2)

**Table 1  
Required Evaluation for Tuberculosis**

<b>Procedure</b>	<b>Required for</b>	<b>Minimum requirement</b>
Review of History	All applicants	- Inquire about history of TB. - If applicant has a history of TB, obtain treatment records.
Chest radiograph possible.  enough to	All applicants 15 years of age or older  Applicants less than 15 or 36 years of age whose skin test is positive (see below)	- obtain old chest radiographs, if  - Chest x-ray film must be large  -include entire chest (usually 14" X 17" X 43 em)(Photofluorograms are not  - Date of examination and applicant-s name must be on film. - Use lead shielding for women of childbearing age. - Pregnant women who are asymptomatic- may request that no chest radiograph be taken. Note this request on medical report form and advise applicant to obtain skin test after arrival in U.S. - When reading radiographs: - review all available radiographs; - describe radiographic abnormalities by location, and appearance; - indicate whether or not there has been any change over time (stable, worsening, improving); - state whether the abnormal findings are

		compatible with TB or another condition (see-avDendix B).
Tuberculin skin test (erythema)	Applicants less than 15 years of age who are suspected of having TB or who have a history of contact with known TB case	<ul style="list-style-type: none"> <li>- Read at 48 - 72 hours.</li> <li>- Record mm induration on medical report form.</li> <li>- For this examination, any reaction or induration) is a positive test.</li> </ul>
Sputum smear examination doctor's permitted).	Any applicant with a chest radiograph suggestive of clinically active pulmonary TB	<ul style="list-style-type: none"> <li>- A chest radiograph in required for all applicants with positive skin tests.</li> <li>- Examine smears obtained on 3 consecutive days.</li> <li>- Collect sputum in a laboratory or a office, under direct supervision (no self collection of sputum is permitted).</li> <li>- Examine sputum smear in accordance with recommended procedures (see appendix C).</li> </ul>

\* Pregnant women with symptoms suggestive of active TB must receive a chest radiograph. If the radiograph is compatible with active tuberculosis, sputum smears must be obtained.

\*\* Applicants whose chest radiographs show only calcified granuloma, calcified primary complex, calcified lymph node, or fibrosis, scarring or pleural thickening, with no radiologic or clinical evidence of active tuberculosis are not required to have sputum smears.

**Table 2  
Reporting Results of Evaluation for Tuberculosis\***

<b>Test Results</b>	<b>Record on Medical Report Form</b>
Normal chest radiograph - (i.e., no parenchymal, pleural, or other intrathoracic abnormality)	Normal
Abnormal chest radiograph or series of chest radiographs suggestive of current pulmonary tuberculosis and One or more positive sputum smear examinations for acid-fast bacilli	Class A - Tuberculosis, infectious  (Start recommended treatment [appendix D] or refer for treatment.)
Abnormal chest radiograph or series of chest Radiographs suggestive of active tuberculosis, and History of one or more sputum smears positive for acid-fast bacilli and Currently on recommended treatment and Sputum smears are negative for acid-fast bacilli on 3consecutive days	Class A - Tuberculosis, Infectious, -Noncommunicable for travel purposes"  (Continue recommended treatment and provide medication sufficient for travel plus 30 days.)
Abnormal chest radiograph or series of chest radiographs suggestive of active tuberculosis and	Class B1 - Tuberculosis, clinically active, not infectious

Sputum smears are negative for acid-fast bacilli on 3 consecutive days

(Start recommended treatment if applicant is symptomatic [appendix D1 or refer for further evaluation.]) (Provide medication for travel plus 30 days.)

Radiographic or other evidence of extrapulmonary tuberculosis, clinically active

Class B1 - Extrapulmonary tuberculosis, clinically active, not infectious (Start recommended treatment if clinically indicated [appendix D1 or refer for evaluation.]) (Provide medication for travel plus 30 days.)

Abnormal chest radiograph or series of chest radiographs, suggestive of tuberculosis, (e.g., not clinically active fibrosis, scarring, pleural thickening, diaphragmatic *tenting*, blunting of costophrenic angles). (Sputum smears are not required.)

Class B2 - Tuberculosis, not clinically active.

Abnormal chest radiograph or series of chest radiographs. Only abnormality is calcified hilar lymph node, calcified primary complex, or calcified granuloma

Class B3 - Consistent with tuberculosis, old or healed.

(Sputum smears are not required.)

Abnormal chest radiograph not consistent with tuberculosis

Class B - other chest condition

\*Applicants who have completed a recommended course of antituberculous therapy and whose chest radiographs are stable should be reported as Class B2 - tuberculosis, treatment completed.

## 2. Human Immunodeficiency Virus (HIV) Infection

### a. Required Evaluation

All applicants 15 years of age or older must be tested for evidence of HIV infection.

Applicants under the age of 15 must be tested if there is reason to suspect HIV infection, (e.g., a child with hemophilia, or a child whose mother or father are HIV-positive.)

### b. Tests for HIV Infection

Any accepted HIV antibody screening test (e.g., ELISA test or equivalent) may be used. If the initial test is positive or indeterminate, it should be repeated on the same serum specimen, and if still positive or indeterminate, a confirmatory test (Western Blot or equivalent) should be done on the same specimen before results are reported.

If the result of the Western blot is indeterminate or equivocal, another specimen, drawn at least 30 days later, should be retested. If the result of the second test is indeterminate the specimen should be sent to the nearest reference laboratory. The medical report should not be completed until the results from the reference laboratory are obtained.

The panel physician is responsible for identifying a qualified laboratory to perform HIV testing for those applicants he/she medically examines. The criteria that should be considered by the panel physician in selecting a laboratory to perform HIV testing procedures are listed in appendix E.

All HIV tests are to be done using materials (test kits or reagents) licensed by the U.S. Food and Drug Administration or by the equivalent licensing office in other countries.

HIV antibody tests are done on serum. Instructions for obtaining and transporting specimens to the laboratory are contained in appendix E.

c. Pre- and Post-test Counseling for HIV Infection

Before performing a blood test for HIV antibody, the applicant should be told the following:

"A blood test for antibody to the human immunodeficiency virus (HIV) is required as a part of your medical examination. HIV is the virus that causes the acquired immune deficiency syndrome (AIDS). AIDS is the name given to a group of illnesses that may occur in persons infected with HIV. Infection with HIV causes a defect in a person's natural immunity against disease. This defect leaves infected people vulnerable to serious illnesses that would not usually be a threat to anyone whose immune system was intact. This test is not to diagnose AIDS but to detect antibodies to the virus.

The results of your test will be provided to a consular officer. Also, it may be necessary to report results to the health authorities in this country.

A positive test result will mean that you may not be eligible to receive a visa. A positive test result could also have other local consequences on your day-to-day activities in this country."

The panel physician should advise an applicant who has tested positive for HIV infection (a positive test is considered to be a repeatedly positive antibody screening test such as an ELISA supported by a positive test result in a supplemental test such as the Western blot test or an equally reliable test) to return to his/her office to discuss the results of the tests and to provide initial counseling to the applicant.

The panel physician must provide basic information to those applicants who are HIV-positive and refer them for counseling and early medical intervention if these services are available. Important points the panel physician should cover include information about the test and the prognosis, and ways the person can protect others and him/herself.

d. Reporting Results of Tests for HIV Infection

Laboratories should report test results as negative, positive, or indeterminate. If a laboratory is screening for both HIV-1 and HIV-2, both results should be reviewed and reported.

Results of HIV tests are to be recorded on the medical report form as follows:

Report from Laboratory	Record on Medical Report Form
Screening test (ELISA or equivalent) negative	HIV negative
Screening test repeatedly indeterminate or positive and confirmatory test positive	HIV positive - Class A condition
Screening test repeatedly	HIV negative

indeterminate or positive  
and confirmatory test negative  
Screening test repeatedly  
indeterminate or positive  
and confirmatory test  
indeterminate

Do not complete medical  
report form  
Repeat test in 30 days

Note to examining physician: If local laws/regulations require reporting of HIV-positive cases in your country, you must advise the applicant and ensure that case reports are filed with the appropriate public health authority.

### 3. Syphilis

#### a. Required Evaluation

All applicants 15 years of age or older must be tested for evidence of syphilis.

Applicants under the age of 15 must be tested if there is reason to suspect infection with syphilis.

#### b. Tests for Syphilis

A Venereal Disease Research Laboratory (VDRL) or rapid plasma reagin (RPR) or equivalent test may be used for screening. Positive results on screening tests should be confirmed using a fluorescent treponemal antibody absorbed (FTS-ABS), TPHA, or other confirmatory test.

#### c. Reporting Results

The applicant must be treated using a standard treatment regimen (appendix F) before the medical report form is completed. Mark the results of testing and write medication, dose, and date of treatment on the medical report form.

Once the recommended treatment is completed, syphilis is no longer a Class A condition. It would be a Class B condition only if the applicant has some residual disability (e.g., an individual treated for neurosyphilis who has a residual neurologic abnormality).

### 4. Other sexually transmitted diseases (chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum)

#### a. Required Evaluation

The medical history and physical examination must include a search for symptoms or lesions consistent with chancroid, gonorrhea, granuloma inguinale, or lymphogranuloma venereum. Further testing should be done as necessary to confirm a suspected diagnosis.

#### b. Reporting Results

The applicant must be treated using a standard treatment regimen (appendix G) before the medical report form is completed. Mark the results of testing and write medication, dose, and date of treatment on the medical report form.

Once the recommended treatment is completed, chancroid, gonorrhea, granuloma inguinale, and lymphogranuloma venereum are neither Class A nor Class B conditions.

### 5. Hansen's Disease (Leprosy)

#### a. Required Evaluation

The medical history and physical examination must include a search for symptoms or lesions consistent with Hansen's disease. Further testing should be done as necessary to confirm the diagnosis.

b. Reporting Results

1) Lepromatous or borderline (dimorphous) form, confirmed by appropriate laboratory tests -Report as Class A condition on the medical report form.

The applicant should be started on recommended therapy (appendix H).

Once the applicant has completed 6 months of recommended therapy, with satisfactory clinical response, he/she may be considered to have a Class B condition. Details of treatment should be noted on the medical report form and the applicant should be provided with medication for use during travel (enough for at least 30 days of treatment).

2) Indeterminate or tuberculoid form - Report as a Class B condition on the medical report form.

The applicant should be started on recommended therapy (appendix H). Details of treatment should be noted on the medical report form and the applicant should be provided with medication for use during travel (enough for at least 30 days of treatment).

B. PHYSICAL AND MENTAL DISORDERS WITH ASSOCIATED HARMFUL BEHAVIOR

1. Overview - The panel physician, using the applicant's medical, social, and psychiatric history and an appropriate physical and mental status examination, will determine whether the applicant has

- a. a physical or mental disorder with associated harmful behavior; or
- b. a history of a physical or mental disorder with associated harmful behavior such that the same or a different harmful behavior is likely to occur in the future.

2. Definitions

a. physical disorder - a currently accepted physical diagnosis, as evidenced by inclusion in the current *Manual of the International Classification of Diseases, injuries, and Causes of Death* (ICD-9 or subsequent revision), published by the World Health organization

b. mental disorder - a currently accepted psychiatric disorder, as evidenced by inclusion in the current *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III-R or subsequent revision), published by the American Psychiatric Association

c. harmful behavior - for purposes of this examination, a dangerous action or series of actions by the alien that has resulted in injury (psychological or physical) to the alien or another person, or that has threatened the health or safety of the alien or another person, or that has resulted in property damage

3. Required Evaluation - To evaluate an alien for evidence of harmful behavior or for physical and mental conditions that may result in harmful behavior, the examining physician must

- a. review the medical history, especially for evidence of hospitalization or institutionalization for psychiatric illness. Determine whether there is a history of harmful behavior, a diagnosis of a physical or mental disorder with which harmful behavior may be

associated (Table 3) or in which harmful behavior is an element of the diagnostic criteria (Table 4), evidence of nonmedical use of psychoactive substances, or evidence of alcohol abuse or dependence.

**Table 3**

**Mental Disorders - Major Diagnostic Categories**

Mental retardation	Personality disorders
Autistic disorders	Adult antisocial behavior
Organic mental disorders (dementias)	Conduct disorders
Schizophrenic, paranoid, and other psychotic disorders	Adjustment disorders
Delusional disorders	Sexual disorders
Mood disorders	Impulse control disorders
Dissociative disorders	Psychoactive substance use disorders other medical disorders
Anxiety-related disorders	Other medical disorders
Somatoform disorders	

(based on Diagnostic and Statistical Manual of Mental Disorders (DSM-III-R))

**Table 4**

**Mental Disorders for which Harmful Behavior Is an Element of the Diagnostic Criteria**

<b>Medical Condition</b>	<b>Associated Behavior Pattern</b>
(1) Antisocial personality disorder the	Harmful behavior necessary to establish diagnosis
(2) Impulse control disorders not elsewhere the classified	Harmful behavior necessary to establish diagnosis
pathological gambling	
kleptomania	
pyromania	
intermittent explosive disorder	
impulse control disorder not otherwise specified	
(3) Paraphilias which involve behaviors that harm the or intimidate others	Harmful behavior necessary to establish diagnosis
exhibitionism	

pedophilia  
 sexual masochism  
 sexual sadism  
 zoophilia  
 voyeurism  
 some atypical paraphilias (e.g., frotteurism,  
 telephone scatologia)

- |   |  |
|---|--|
| (4) Conduct disorders<br>solitary aggressive type<br>oppositional defiant disorder<br>other types<br>setting)   | Behavior necessary to establish the diagnosis<br><br>If history of serious violation of rights of others or property (e.g., stealing, fire   |
| (5) Hood disorders<br>assaulted<br>when<br>bipolar disorders<br>depressive disorders  | E.g., in the course of the illness has<br><br>others when manic or attempted suicide<br><br>depressed<br>E.g., in the course of the illness has attempted suicide; has harmed or neglected children when depressed   |
| (6) Schizophrenic disorders<br>Paranoid disorders<br>harmed<br>Psychotic disorders not elsewhere classified   | E.g., in the course of the illness has engaged in<br>thievery or destruction of property;<br><br>children  |
| (7) Alcohol dependence (alcoholism) or<br>Alcohol abuse   | Behavior necessary to establish the diagnosis  |
| (8) Psychoactive substance disorders (drug abuse)   | Behavior necessary to establish the diagnosis  |
| (9) Other physical or mental disorders which, in relation to the symptoms of the disorder or its treatment, limit physical attentional or cognitive capacity to perform certain tasks or are otherwise associated with behaviors not controllable by the person (e.g., partial complex seizure disorders) | E.g., in the course of the illness has assaulted others; has engaged in tanks in which the limitation in capacity has resulted in harm to others, self, or property (e.g., person with transient ischemic attacks or arrhythmia with consistent loss of consciousness has continued to drive a motor vehicle until involved in a serious or fatal accident). |

b. review other records (e.g., police, military, school or employment). Determine whether there is a history of harmful behavior related to a physical or mental disorder and whether there is evidence of the nonmedical use of psychoactive substances or evidence of alcohol abuse or dependence

c. interview the alien and, when practical and clinically relevant, the alien's family. Inquire specifically about psychiatric illnesses, psychoactive drug and alcohol abuse, and history of associated harmful behavior, as this information may not be included in medical records

d. perform a physical examination that includes an assessment of mental status. The mental status examination must include an evaluation of the applicant's intelligence, thinking, cognition (comprehension), judgment, affect (and mood), and behavior

1. Reporting results of the evaluation for mental and physical disorders with harmful behavior (Table 5).

a. After completing this portion of the visa examination, the panel physician must summarize the results of the evaluation for mental and physical conditions with associated harmful behavior (Table 5) and complete the appropriate section of the medical report form. Diagnoses should conform to the current ICD or DSM classifications. If additional information regarding treatment or prognosis is available, attach additional reports to the medical report form.

b. For all Class B conditions, the physician is to determine whether the mental or physical disorder is likely to result in the applicant's being unable to care for himself or herself, or that the applicant will require extensive medical care or institutionalization; the physician then completes the last section of the medical report form.

a. If the applicant is referred for further evaluation, the medical report should not be completed until the consultant's report is available. A copy of the consultant's report should be attached to the medical report form.

**Table 5**

**Reporting Results of the Evaluation for Mental and Physical Disorders with Associated Harmful Behavior\***

Findings Form	Record on Medical Report
No current evidence of physical or mental Disorder	No Class A or Class B condition
No history of physical or mental disorder and no history of harmful behavior	No Class A or Class E condition
Mental shortcomings due solely to lack of education and no harmful behavior	(Treat underlying condition or refer for treatment; complete medical report form reevaluation.)
Mental condition, with or without harmful behavior, attributable to remediable physical after causes; or temporary--caused by a toxin, medically prescribed drug, or	No Class A or Class B condition (Report diagnosis and reason(s) for harmful behavior will not recur.)
History of physical or mental disorder and history of associated harmful behavior that judging Physical or mental disorder not currently present and harmful behavior not likely to recur **	Class A condition (Report diagnosis and description of harmful behavior.)
Current evidence of a physical or mental disorder and associated harmful behavior or history of associated harmful behavior	Class A condition
History of physical or mental disorder and history of associated harmful behavior, and harmful behavior likely to recur	(Report diagnosis, description of harmful behavior, and reason(s) for judging that harmful behavior is likely to recur.)
Current evidence of a physical or mental disorder but no history of associated harmful behavior	Class B condition (Report diagnosis.)
History of physical or mental disorder and history of associated harmful behavior	Class B condition

Physical or mental condition controlled by medication or in remission.\*\*\* No currently associated harmful behavior, and behavior judged not likely to recur.\*\*\*\*

(Report diagnosis, description of harmful behavior and reason(s) for judging that behavior is not likely to recur.)

\*Includes alcohol abuse/dependence, which, under the new law, is to be considered as any other mental or physical disorder with associated harmful behavior.

\*\*e.g., an otherwise normal person with a history of a physical or mental disorder and associated harmful behavior that is unlikely to recur (e.g., suicide attempt during reactive depression over the death of a spouse, and the person is no longer considered a suicidal risk).

an alien with a history of harmful behavior due to a disorder or condition that continues but that has been managed with medication (e.g., person who has a manic-depressive illness that is treated with lithium) or that is in remission.

\*\*\*\*The behavior can be judged not likely to recur if the alien is able to demonstrate that the disorder is in remission, remission being defined as no pattern of the behavioral element of the disorder for the past 2 years (5 years in the case of antisocial personality disorder, impulse control disorders not otherwise classified, paraphilias that involve behaviors that threaten others, and conduct disorders); or the alien's condition is controlled by medication and the alien certifies in writing that he or she will continue medication or other treatment to control the disorder and prevent harmful behavior.

### C. PSYCHOACTIVE SUBSTANCE ABUSE

1. overview - The physician will, by interviewing and examining the applicant and by reviewing records, determine whether the applicant is currently engaging in or has a history of engaging in the nonmedical use of any psychoactive substance.

#### Definitions

a. Psychoactive substance abuse/dependence - as used here, includes 2 groups:

1) Nonmedical users of drugs listed in section 202 of the Controlled Substances Act (appendix A). Nonmedical use of any drug listed in section 202 of the Controlled Substances Act is illegal and qualifies as a Class A condition, whether or not harmful behavior is documented.

2) Nonmedical users of drugs not listed in section 202 of the Controlled Substances Act, abusers of alcohol, inhalants, or other psychoactive agents with resultant harmful or dysfunctional behavior patterns (see current Diagnostic and Statistical Manual of Mental Disorders) or physical disorders (see current Manual of the International Classification of Diseases, Injuries, and Causes of Death). Determination of Class A or Class B status is the same as that of any other mental or physical condition.

b. Remission - no nonmedical use of a drug listed in section 202 of the Controlled Substances Act for 3 or more years, or no nonmedical use of any other psychoactive substance for 2 or more years.

c. Nonmedical use - is considered to be more than experimentation with the substance (e.g., a single use of marijuana or other non-prescribed psychoactive substances, such as amphetamines or barbiturates). When a clinical question is raised as to whether the use was experimental or part of a pattern of abuse, a physician with experience in the medical evaluation of substance abusers should be consulted to assist in making this determination.

3. Required Evaluation - The record review and physical examination of each alien must include an inquiry for evidence of current or past psychoactive substance abuse, including alcohol

abuse/dependence. If a history or physical evidence of psychoactive substance use is elicited, the physician must attempt to

- a. identify the psychoactive substance(s)
- b. determine whether the psychoactive substance is being prescribed by a physician as part of the management of a diagnosed physical or mental disorder
- c. determine whether the psychoactive substance is listed in section 202 of the Controlled Substances Act (appendix A). Classes of commonly abused drugs listed in section 202 are
  - amphetamines and related substances
  - cannabinoids
  - cocaine and related substances
  - hallucinogens
  - opioids and related substances
  - phencyclidine (PCP) and related substances
  - sedative, hypnotic, or anxiolytic substances (tranquilizers)
- d. If it is determined that the applicant is using or has used a psychoactive substance, the physician must
  - 1) determine whether the applicant is currently using or has used the psychoactive substance in the last 3 years (for substances listed in section 202 of the Controlled Substances Act), or in the last 2 years (for other psychoactive substances)
  - 2) determine whether there is a history or current evidence of harmful behavior, dysfunctional behavior, or physical disease related to the psychoactive substance use

4. Reporting of Results (Table 6)

**Table 6  
Reporting Results of Evaluation for Psychoactive Substance Abuse**

<b>Findings Report Form</b>	<b>Record on Medical</b>
Current nonmedical use or use within the last 3 years of a substance listed in section 202 of the controlled Substances Act	Class A condition
History of nonmedical use of a substance listed in section 202 of the Controlled Substances Act	List substance(s) used. Class B condition
	Note whether dysfunctional behavior or associated physical disorder is present.
Current abuse or abuse within the last 2 years of a psychoactive substance other than those listed in section 202 of the Controlled Substances Act	Class A condition
History of abuse of a psychoactive substance other than those listed in section 202 of the Controlled Substances act	List substance(s) used. Class B condition
No use in the last 2 Years present.	Note whether dysfunctional behavior or associated physical disorder is present.

**D. OTHER PHYSICAL OR MENTAL ABNORMALITY, DISEASE, OR DISABILITY**

- 1. Required Evaluation - After completing the required evaluations for communicable diseases of public health significance, for physical and mental disorders that may result in harmful behavior, and for

psychoactive substance abuse, the physician must consider any other findings in the history or physical examination that constitute a substantial departure from normal health or well-being, and must complete any diagnostic procedures necessary to determine

- a. the likely diagnosis
- b. whether the disorder will affect the alien's ability to care for himself or herself, attend school, hold a job, or engage in other age appropriate activities
- c. whether rehabilitation or special training will be required
- d. whether the applicant is likely to require extensive medical care or institutionalization after arrival in the United States.

2. Reporting of Results - The panel physician should provide additional information about each of the Class B conditions in the "Remarks" section of the medical report form. For each condition identified, the panel physician should

- a. estimate the severity of impairment as mild, moderate, or severe
- b. if possible, estimate the likely outcome of rehabilitation as minimal, partial, or full recovery of function
- c. predict the need for hospital or institutional care beyond that expected for a person of the applicant's age (i.e., normal need for increased medical care in the elderly should not be considered)

If the panel physician identifies a physical or mental abnormality but is unable to make a diagnosis, assess the potential for harmful behavior, estimate the severity of impairment, or determine the potential for rehabilitation, the applicant should be referred for diagnostic evaluation. Completion of the medical report should be deferred until the evaluation is complete.