

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; 35.6×43.2 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.

### § 34.5

*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

### 42 CFR Ch. I (10–1–02 Edition)

the medical notification form and shall report his findings to the consular or INS officer.

[56 FR 25003, May 31, 1991]

#### § 34.5 Postponement of medical examination.

Whenever, upon an examination, the medical examiner is unable to determine the physical or mental condition of an alien, completion of the medical examination shall be postponed for such observation and further examination of the alien as may be reasonably necessary to determine his/her physical or mental condition. The examination shall be postponed for aliens who have an acute infectious disease until the condition is resolved. The alien shall be referred for medical care as necessary.

[56 FR 25003, May 31, 1991]

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

Aliens arriving at a port of the United States shall be subject to the applicable provisions of 42 CFR part 71, Foreign Quarantine, with respect to examination and quarantine measures.

[56 FR 25003, May 31, 1991]

#### § 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