

Legal Aspects of Public Health Efforts

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September 15, 2023

TB Intensive
September 13 – 15, 2023
Richmond, TX

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Jacquelyn Johnson-Minter, MD, MBA, MPH has the following disclosures to make:

- No conflict of interests
- No relevant financial relationships with any commercial companies pertaining to this educational activity

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Legal Aspects of Tuberculosis Management

TB Intensive
Houston, Texas
September 13th – 15th 2023

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Objectives

- Explain the link between tuberculosis control and elimination
- Provide awareness of the legal foundations for Tuberculosis Prevention Measures
- Explain how the legal system can assist in efforts to mitigate transmission of tuberculosis
- Provide clarity on the Court Ordered Management and Do Not Board process

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TB Control → TB Elimination

TB Elimination – Defined as TB elimination is defined as achieving an incidence of less than 1 case of infectious TB per million population or a prevalence of latent TB infection of less than 1%.

The TB Elimination Phase = <20 cases per 100,000 population

The mission of the **CDC Division of Tuberculosis Elimination** (DTBE) is to promote health and quality of life by preventing, controlling, and eventually eliminating tuberculosis in the United States.

Simply put – without TB control measures, TB elimination is not possible.



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Legal Foundation for TB Prevention and Control Activities

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Texas Health and Safety Code – Chapter 81

Communicable Disease Prevention and Control Act

71st Legislature - Effective September. 1, 1989 (with amendments)

Outlines the responsibility of the State and Public



- The state has a duty to protect the public health.
- Each person shall act responsibly to prevent and control communicable disease.



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Texas Health and Safety Code – Chapter 81

Communicable Disease Prevention and Control Act

71st Legislature - Effective September. 1, 1989 (with amendments)

Definitions



Communicable disease

Means:
an illness that occurs through the transmission of an infectious agent or its toxic products from a reservoir to a susceptible host, either directly, as from an infected person or animal.... or indirectly through an intermediate plant or animal host, a vector, or the inanimate environment



Health authority

Means:
a physician appointed as a health authority under Chapter 121 (Local Public Health Reorganization Act) or the health authority's designee



Health professional

Means an individual whose:
(A) vocation or profession is directly or indirectly related to the maintenance of the health of another individual or of an animal; and
(B) duties require a specified amount of formal education and may require a special examination, certificate or license, or membership in a regional or national association.

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Texas Health and Safety Code – Chapter 81

Communicable Disease Prevention and Control Act

71st Legislature - Effective September. 1, 1989 (with amendments)



Control Measures include:

- | | |
|----------------------|--------------------------|
| (1) immunization; | (7) quarantine; |
| (2) detention; | (8) disinfestation; |
| (3) restriction; | (9) chemoprophylaxis; |
| (4) disinfection; | (10) preventive therapy; |
| (5) decontamination; | (11) prevention; |
| (6) isolation; | (12) education. |

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Legal Duty to Report

PERSONS REQUIRED TO REPORT. (a) A report under Subsection (b), (c), or (d) shall be made to the local health authority.

(b) A dentist or veterinarian licensed to practice in this state or a physician shall report, after the first professional encounter, a patient or animal examined that has or is suspected of having a reportable disease.



(c) A local school authority shall report a child attending school who is suspected of having a reportable disease. The executive commissioner by rule shall establish procedures to determine if a child should be suspected and reported and to exclude the child from school pending appropriate medical diagnosis or recovery.

Texas Health and Safety Code: Sec. 81.042.

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Information Required to Report

REPORTING PROCEDURES. (a) The executive commissioner shall prescribe the form and method of reporting under this chapter by electronic data transmission, through a health information exchange as defined by Section 182.151 if requested and authorized by the person required to report, or by other means.

(b) The executive commissioner may require the reports to contain any information relating to a case that is necessary for the purposes of this chapter, including:

- (1) the patient's name, address, age, sex, race, and occupation;
- (2) the date of onset of the disease or condition;
- (3) the probable source of infection; and
- (4) the name of the attending physician or dentist.



Texas Health and Safety Code: Sec. 81.044.

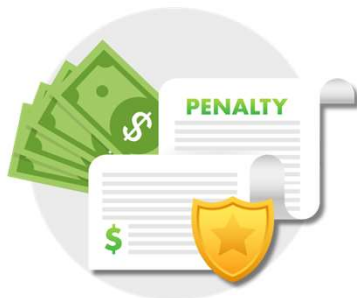
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Failure to Report

FAILURE TO REPORT; CRIMINAL PENALTY

- (a) A person commits an offense if the person knowingly fails to report a reportable disease or health condition under this subchapter.
- (b) An offense under this section is a Class B misdemeanor



FAILURE TO REPORT; CIVIL PENALTY

- (a) The department may impose a civil penalty of not more than \$1,000 on a health care facility for each failure to submit a report required under this subchapter.
- (b) The attorney general may bring an action to recover a civil penalty imposed under Subsection (a).

Texas Health and Safety Code: Sec. 81.049 and 81.0495

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Failure to Report

CONCEALING COMMUNICABLE DISEASE OR EXPOSURE TO COMMUNICABLE DISEASE; CRIMINAL PENALTY.

- A person commits an offense if the person knowingly conceals or attempts to conceal from the department, a health authority, or a peace officer, during the course of an investigation under this chapter, the fact that:



- (1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or
- (2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health.

- (b) An offense under this section is a Class B misdemeanor.

Texas Health and Safety Code: Sec. 81.066

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Legal Measures to Prevent TB Transmission

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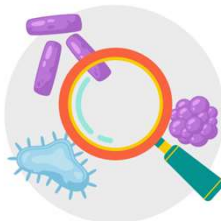
Texas Health and Safety Code – Chapter 81

Communicable Disease Prevention and Control Act

71st Legislature - Effective September. 1, 1989 (with amendments)

APPLICATION OF CONTROL MEASURES TO INDIVIDUAL.

(a) Any person, including a physician, who examines or treats an individual who has a communicable disease shall instruct the individual about:



1) measures for preventing reinfection and spread of the disease; and



2) the necessity for treatment until the individual is cured or free from the infection.

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Legal Process begins at Initial Report

- Established that reporting is required by state statute
- Established that health professionals and the public are required to participate in efforts to control the transmission of tuberculosis

Signed documentation on patient intake:

- L 36 – General Consent
- L 30 – Release of Information
- TB 410 – Order to Implement and Carry Out Measures for a Person with Tuberculosis



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Texas DSHS TB- 410...

Texas Department of State Health Services Order to Implement and Carry Out Measures For a Client with Tuberculosis

To: (Name) _____

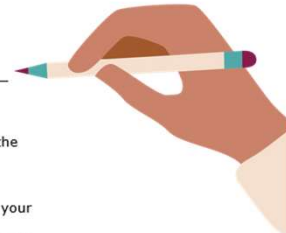
(Address) _____

(Phone #) _____

I have reasonable cause to believe that your diagnosis, based on information available at this time, is **(probably/ definitely)** TUBERCULOSIS, which is a serious communicable disease. By the authority given to me by the State of Texas, Health and Safety Code, section 81.083, I hereby order you to do the following:

1. Keep all appointments with clinical staff as instructed.
2. Follow all medical instructions from your physician or clinic staff regarding treatment for your tuberculosis.
3. Come to the Public Health Department Clinic or be at an agreed location and time for taking Directly Observed Therapy (DOT).
4. Do not return to work or school until authorized by your clinic physician.
5. Do not allow anyone other than those living with you or health department staff into your home until authorized.
6. Do not leave your home except as authorized by your clinic physician.
7. Special Orders - see reverse side.

YOU MUST UNDERSTAND, INITIAL AND FOLLOW THE INSTRUCTIONS ON THE BACK OF THIS ORDER.



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Court Ordered Management

"If you fail to follow these orders, court proceedings may be initiated against you as dictated by State law. After a hearing, the court may order you to be hospitalized at the Texas Center for Infectious Diseases in San Antonio or another facility. The Court also has the option to order you to go to treatment at a health clinic. The court proceedings could also include having you placed in the custody of the County Sheriff until the hearing."

- Rarely Used
- Not an immediate process – though expedited in the legal system
- Begin by going to the DSHS Website and downloading the forms
 - Work with your Health Authority
 - Contact your County Attorney
 - Contact DSHS Legal



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Court Ordered Management

EXEMPTION FROM MEDICAL TREATMENT.

a) This chapter does not authorize or require the medical treatment of an individual who chooses treatment by prayer or spiritual means as part of the tenets and practices of a recognized church of which the individual is an adherent or member



b) However, the individual may be isolated or quarantined in an appropriate facility and shall obey the rules, orders, and instructions of the department or health authority while in isolation or quarantine.



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Federal Travel Restrictions

Isolation and Quarantine – tools used to mitigate the transmission of disease



Isolation– Ill and Infectious– separates people who are sick with a communicable disease from people who are not sick.



Quarantine– well and watching– separates people who have been exposed to a communicable disease from others while they are monitored for symptoms to appear

Federal isolation and quarantine are authorized for these communicable diseases

- Cholera
- Diphtheria
- **Infectious tuberculosis**
- Plague
- Smallpox
- Yellow fever
- Viral hemorrhagic fevers
- Severe acute respiratory syndromes
- Flu that can cause a pandemic
- Measles



Federal isolation and quarantine are authorized by Executive Order of the President. The President can revise this list by Executive Order.

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Do Not Board

CDC established the **Do Not Board** list in June 2007,

- in collaboration with the Department of Homeland Security,
- to prevent commercial air travel by people who are contagious with certain diseases of public health concern

Aviation and Transportation Security Act (49 U.S.C. 114)

- Established the authority for TSA to mitigate threats to aviation and security, including denying access to persons who pose a public health threat
- Rarely Used

Expedited process coordinated with State and Federal partners

- Local HD will contact State TB Program and present case for adding to DNB list
- State will arrange for discussion with CDC
- A determination will be made

Works in conjunction with a **Public Health Lookout List** - managed by Customs and Border Protection and prevents people from crossing the US border.

<https://www.cdc.gov/quarantine/do-not-board-faq.html>



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Questions?

Sources for this presentation include:
CDC, DSHS and Texas Health & Safety Code

REMINDER

The information provided in this presentation is current as of September 15th 2023.
As more information is provided by CDC and DSHS, this presentation may include outdated information.

Disclaimer: This information does not constitute medical advice or a doctor-patient relationship

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