



**INVOLUNTARY CONFINEMENT  
BENCH BOOK**

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## INTRODUCTION

This Bench Book is intended to protect the health and safety of southern Nevada communities and visitors by improving legal preparedness for both public health emergencies and more routine public health cases. While it would be impractical to address each and every aspect of the legal system potentially impacted by public health concerns, this Bench Book will serve as a readily accessible legal reference for judges, staff, and related parties to use in a court room, providing, for example, procedural frameworks, statutory text, summaries, relevant case law, and model orders.

This Bench Book specifically focuses on the procedural aspects of involuntary confinement as related to Tuberculosis. However, the procedures outlined in this Bench Book may be used in any other case that requires involuntary confinement for a communicable disease, as defined in NRS 441A.040.<sup>1</sup> Further, while this Bench Book specifically refers to isolation as defined in NRS 441A.065, the same procedures can be used for quarantine as defined in NRS 441A.115.

### **Tuberculosis**

Tuberculosis (“TB”) is caused by a bacterial organism which can affect any part of the body; but, is most often found in the lungs. TB is transmitted from person to person in airborne aerosolized droplets produced by persons with pulmonary or respiratory tract tuberculosis during forceful expiratory efforts, such as coughing, singing or sneezing. The risk of exposure and subsequent infection is linked with the intimacy and duration of the contact, the ventilation in the shared environment, and the degree of

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<sup>1</sup> The communicable diseases include, but are not limited to, Ebola, SARS, MSRA, Measles, Pertussis, Cholera, Smallpox, Yellow Fever, as well as sexually transmitted diseases.

contagiousness of the affected individual. The period of communicability lasts as long as viable TB germs are discharged in the respiratory secretions. Effective antibiotic treatment usually eliminates communicability within 2-6 weeks. However, untreated or inadequately treated patients can have viable TB organisms in the respiratory secretions intermittently for years. Therefore, the goal of public health programs is to treat those with TB until they are cured. Accordingly, infection control measures are fundamental to reducing the spread of communicable diseases such as TB.

Transmission of TB from person to person can occur in many locations such as home, work, school, and healthcare facilities. It is impossible to prevent all exposure. However, the goal is to reduce the amount of transmission.

### **Infection Control Measures**

There are three types of infection control measures—administrative, environmental, and personal respiratory protection. Administrative controls are primarily early identification isolation and appropriate treatment of infectious patients, i.e. treat to cure. Environmental controls are focused on preventing the spread and reducing the concentration of infectious droplet nuclei in the air. Personal respiratory protection may provide additional protection for healthcare workers in high-risk settings such as isolation rooms and cough-inducing or aerosol-generating suites.

This Bench Book is focused primarily on the administrative controls. The most effective means of reducing disease transmission of TB is to rapidly identify patients who have pulmonary TB, isolate or restrict activities of patients with or suspected to have infectious TB, and treat such patients with antibiotics until they are cured.

## **Isolation**

Isolation is a historically recognized public health technique used to contain the spread of infectious diseases.<sup>2</sup> Isolation requires the separation of infected persons from the public. This separation is achieved by confinement of the infected person to treatment facilities, residences and/or other locations, depending upon the nature of the implicated disease and the available facilities. In most cases, individuals will voluntarily undertake isolation procedures at the request of the state or the local health department, and the court will not be required to intervene. However, when individuals refuse to undertake isolation or quarantine procedures or become noncompliant with procedures already in place, the court's assistance may be required.

Isolation or quarantine must be instituted by the least restrictive means necessary to prevent the spread of a disease to others.<sup>3</sup> Moreover, isolated individuals must be released as soon as practicable when the local health officer determines that they pose no substantial risk of constituting a serious or imminent threat to others.

Treating TB requires prolonged administration of antibiotics, in some cases for as long as two years. Experience has shown that some patients do not continue to take their antibiotics regularly, often missing doses or stopping treatment altogether. Patient compliance in taking antibiotics is of the highest importance to prevent disease recurrence and the emergence of antibiotic-resistant TB germs. Patients who start and stop and restart and stop antibiotic treatment are at the highest risk for developing drug-resistant strains of TB.

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<sup>2</sup> See, e.g., *Compagnie Francaise de Navigation á Vapeur v. State Board of Health*, 186 U.S. 380 (1902) (recognizing power of states to institute quarantine to protect their citizens from infectious diseases).

<sup>3</sup> NRS 441A.120.

Because of the seriousness of the emergence of drug-resistant TB organisms, the standard of care is to monitor all patients with directly observed therapy or DOT. Patients are treated using DOT until medically cured. Non-compliant patients may require prolonged isolation under judicial order to achieve this result. To the greatest possible extent, cultural and religious beliefs should be considered in addressing the needs of individuals and establishing and maintaining isolation processes.

### **Due Process Concerns**

It is well settled that the judiciary is both an enforcer of governmental health policies and an arbiter of the conflicts between individual liberties and public interests that arise from governmental public health action.<sup>4</sup> Isolation represents a substantial intrusion on a person's privacy and liberty rights, especially because it may restrict how that person spends the final days or hours of his/her life. Thus, even in a public health emergency, the requirements of procedural due process are, to some extent, applicable.<sup>5</sup>

Notwithstanding the above, isolation laws have limits. For example, they cannot be imposed in a discriminatory manner.<sup>6</sup> Additionally, the law requires that some process be afforded to allegedly ill persons subject to isolation. For example, the West Virginia Supreme Court held that, under the statute permitting the confinement of a TB patient, the person being confined must be afforded adequate notice of the underlying basis of commitment, the right to counsel, the right to be present, the right to cross-examine and to present witnesses, the standard of proof of "clear, cogent and convincing

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<sup>4</sup> See *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).

<sup>5</sup> *Zinerman v. Burch*, 494 U.S. 113 (1990) (discussing the requirements of procedural due process).

<sup>6</sup> *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (striking down an ordinance targeting Chinese laundries).

evidence” and the right to a verbatim transcript of the proceeding for appeal purposes.<sup>7</sup> Likewise, Nevada statutes provide a right to refuse medical treatment. However, that right may be outweighed when an individual with a communicable disease poses a significant risk to the health of others and there are no lesser restrictive means of protecting the public’s health. In those circumstances, the court may compel an individual to submit to involuntary treatment.<sup>8</sup>

### **Ebola and the Rule of Law**

In the spring of 2014, reports of fever in central West Africa were confirmed as Ebola. Hundreds of U.S. healthcare workers voluntarily went to West Africa in support of outbreak response activities. However, several healthcare workers came home with Ebola.

The sheer virulence of the disease led to a heightened global awareness, fear, and anxiety and created the perfect storm for Kaci Hickox, a nurse who volunteered in Sierra Leone with Doctors Without Borders. On October 24, 2014, Kaci Hickox returned to the U.S. after thirty days of treating Ebola patients in Sierra Leone. At the Newark, New Jersey airport, she was detained and questioned for several hours before being moved to an isolation tent behind Newark University Hospital. Despite testing negative twice and being asymptomatic (other than a raised temperature taken by a forehead scanner), Ms. Hickox was held for eighty hours by the state of New Jersey. Upon her release and return to her home in Maine, the Maine Department of Health and Human Services petitioned

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<sup>7</sup> See *Greene v. Edwards*, 263 S.E. 2d 661 (W.Va. 1980).

<sup>8</sup> See *Jacobsen v. Massachusetts*, 197 U.S. 11 (1905) (compulsory Small Pox vaccination); *Reynolds v. McNichols*, 488 F.2d 1378 (10th Cir. 1973) (compulsory treatment for Venereal Disease); *City of New York v. Antoinette R.*, 630 NYS 2d 1008 (NY Sup. Ct. 1995) (compulsory treatment for Tuberculosis).

the district court for a mandatory quarantine order.<sup>9</sup> Ms. Hickox argued that the mandatory quarantine was not a sound public health decision and violated her due process rights.<sup>10</sup> The Maine court agreed with her, denied quarantine, but ordered self-directed active monitoring, as outlined in the Centers for Disease Control and Prevention (CDC) guidelines.<sup>11</sup>

Ebola was as much an epidemiological outbreak as it was an educational crisis. With the combination of the right resources, the right protocols, and the right political will, Ebola, ultimately, was defeated – patients’ survived and health care workers remained safe. Whether or not you agree with the Maine court’s decision, despite the palpable fear and anxiety generated by this devastating disease, by seeking to balance communicable disease laws with Ms. Hickox’ liberty interests, the Maine court’s ruling demonstrated real time application of the balancing act known as the rule of law, i.e., the principle that all persons will be equally subject to laws while protecting their fundamental rights.

### **Use of Force**

The Nevada Attorney General issued an opinion on August 8, 2006 regarding the acceptable degree of force a police officer may use when taking a person into custody pursuant to an order for involuntary isolation or quarantine.<sup>12</sup> The Attorney General opined that the use of force must be reasonable given the totality of the circumstances. Deadly force may only be used when an officer has probable cause to believe that a

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<sup>9</sup>No. CV-2014-36 (D. Maine Oct. 31, 2014 (order pending hearing), available at: [http://courts.maine.gov/news\\_reference/high\\_profile/hickox/order\\_pending\\_hearing.pdf](http://courts.maine.gov/news_reference/high_profile/hickox/order_pending_hearing.pdf) (last visited June 26, 2017)

<sup>10</sup>*Id.*

<sup>11</sup>*Id.*

<sup>12</sup> See copy of Nevada Attorney General opinion in Appendix B

person has committed a felony which involves the infliction of serious bodily harm or the use of deadly force or that the person poses a threat of serious bodily harm to the officer or to others. In issuing this opinion, the Attorney General relied upon the United States Supreme Court Case of *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1984) (relating to the reasonableness of the use of force) and NRS 171.1455 (limiting the use of deadly force). The entire opinion is included in this Bench Book as Appendix B.

### **HIPAA Concerns**

45 CFR §164.512(b)(1)(i) provides an exception for protected health information (PHI) to be disclosed for "public health activities" including for the "purpose of preventing or controlling disease." Additionally, 45 CFR §164.512(b)(1)(iv) allows PHI to be disclosed to a person who may be at risk of contracting or spreading a disease (i.e., the transporting officer).

45 CFR §164.512(f)(1)(ii)(C) allows PHI to be disclosed to law enforcement pursuant to an administrative request or similar process authorized under law, so long as the information is relevant and material, is limited in scope to the extent necessary, and de-identified information (removing all identifiable information) could not have been used.

Building on the above, a Ninth Circuit case discusses 45 CFR §164.512(b) as it relates to a prison's right to know a prisoner's medical status so that the guards can protect themselves and other inmates against possible infection.<sup>13</sup> As indicated by the Circuit Court, "loss of privacy is an inherent incident of confinement."<sup>14</sup>

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<sup>13</sup> See *Seaton v. Mayberg*, 610 F.3d 530, 535 (9th Cir. 2010).

<sup>14</sup> *Id.* at 534.

Based upon the exceptions noted within HIPAA regulations and supporting case law, HIPAA does not preclude disclosure of identifying information of a potentially infected person, such disclosure falls within several exceptions, including, but not limited to the “public health” exception.

For additional information regarding HIPAA protections and exceptions, please see Appendix C.

## PROCESS FOR INVOLUNTARY CONFINEMENT

### I. ACTIONS PRIOR TO COURT INTERVENTION

#### A. Health District Authority

For purposes of examination and testing, the Health District can issue an Order for Emergency Isolation and/or Quarantine whenever it has a good faith basis, based upon personal observation or other credible information, that the patient has either been infected with or exposed to a communicable disease.<sup>1</sup>

Emergency Orders are used when there is an urgent need to protect the public health from a person who is infectious and refuses to cooperate with public health measures. For example, the Health District would issue an Emergency Order to prevent an infectious patient from fleeing the jurisdiction, boarding an aircraft, or otherwise participating in uncontrolled contact with the general population.

A sample Order is included in this Bench Book as **Form 3-A**.

#### B. Enforceability of the Order

Such an Order is legally enforceable by law enforcement without court intervention.<sup>2</sup> Moreover, the Health District may request law enforcement to transport/detain the patient.<sup>3</sup> Although the Health District may not compel local law enforcement to provide transportation when it issues an order for isolation in its capacity as Clark County's Health Authority, according to a 2006 Nevada Attorney General Opinion, a "peace officer who is directed by the health authority to enforce an emergency order of the health authority is authorized, pursuant to NRS 439.560, to comply."<sup>4</sup>

The Order is valid for 72 hours, unless the Health District files a written petition with the Family Division of the District Court for involuntary court-ordered isolation.<sup>5</sup> The filing of such a petition extends the enforceability of the Order up to and including the time that the petition can be heard.<sup>6</sup>

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<sup>1</sup> NRS 441A.560.

<sup>2</sup> NRS 441A.560; NRS 439.560.

<sup>3</sup> NRS 441A.560; NRS 439.560.

<sup>4</sup> See, Appendix B, 8/8/2006 AGO

<sup>5</sup> NRS 441A.550.

<sup>6</sup> NRS 441A.550.

## II. COURT INTERVENTION

The Health District has the authority and reserves the right to issue Orders for Involuntary Confinement. Generally, the Health District does not exercise this right and chooses to seek court intervention. First, the Health District seeks to work with the clients to education and obtain voluntary compliance. If that avenue is not successful, the CHO or CMO will issue a letter requesting compliance for testing, treatment, or voluntary confinement.<sup>7</sup> If such letters are unsuccessful, the Health District will seek court intervention via Petition for Emergency Isolation<sup>8</sup> or Petition for Involuntary Court-Ordered Isolation.<sup>9</sup>

It is important to note that using this stepped-approach is appropriate only when available evidence demonstrates that the risk of disease transmission is low and that the patient is likely to cooperate in minimizing the chance of exposing others.

### A. Petition and Order for Emergency Isolation and Examination

A Petition for Emergency Isolation must be supported by a certificate of a health authority, physician, physician's assistant or registered nurse, stating that (1) he/she has examined the patient or investigated the potential for infection or exposure, (2) he/she has concluded that the patient has been infected with or exposed to a communicable disease, and (3) as a result of the disease, the patient is likely to be an immediate threat to the public health.<sup>10</sup> Further, the statements in the certificate must be based on personal observation, examination or an epidemiological investigation.<sup>11</sup>

A sample Petition and accompanying Certificate is included in this Bench Book as **Forms 3-B and 3-C**.

In granting such an Order, the Family Division of the District Court must find **probable cause** to believe that the patient has been infected with or exposed to a communicable disease.<sup>12</sup> Such an Order is valid only for the time deemed necessary to allow the Health District to examine the patient and to file a Petition for Court-Ordered Involuntary Isolation.<sup>13</sup> The Health District must file a Petition for Involuntary Court-Ordered Isolation within 72 hours of the patient being confined.<sup>14</sup>

A sample Order is included in this Bench Book as **Form 3-D**.

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<sup>7</sup> See, the Health District Policies, included in Section 5 of this Bench Book.

<sup>8</sup> NRS 441A.560(b). This step is taken if the patient's communicable disease status is unknown to the Health District.

<sup>9</sup> NRS 441A.600. This step is taken if the patient's communicable disease status has been confirmed.

<sup>10</sup> NRS 441A.570.

<sup>11</sup> NRS 441A.580.

<sup>12</sup> NRS. 441A.560(2)(b).

<sup>13</sup> NRS 441A.560(2)(a).

<sup>14</sup> NRS 441A.550.

## **B. Enforcing the Order for Emergency Isolation and Examination**

### **1. Collecting the patient**

the Health District may, pursuant to its own order and without warrant, transport the patient or may arrange for transportation by (1) the local law enforcement agency, (2) a system of nonemergency transportation authorized by the Nevada Transportation Authority, or (3) an ambulance service if medically necessary.<sup>15</sup>

If the patient is cooperative, the Health District will generally provide for the transportation. However, if the patient is uncooperative, the Health District will seek the assistance of law enforcement to provide the transportation.

### **2. Confining the patient**

TB patients who have pulmonary tuberculosis and who are contagious must be confined in a negative pressure room in an appropriate facility to enable appropriate medical care and to protect providers and other patients from becoming infected with TB.

An adequate facility must meet the requirements set forth by the CDC in the following publication:

“CDC Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings,” December 30, 2005. MMWR 2005; 54 (No. RR-17; <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm>)

### **3. Releasing the patient**

The Emergency Isolation Order is only valid for 72 hours. A patient must be released, unless a Petition for Involuntary Court-Ordered Isolation is filed with the Family Division of the District Court.<sup>16</sup> Once a Petition is filed, the patient may be released from isolation or quarantine before the time set for the hearing only if deemed appropriate by the Health District. If the patient is released before the hearing, the Court may dismiss the petition without prejudice upon notice of such release from the Health District.<sup>17</sup>

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<sup>15</sup> NRS 441A.560.

<sup>16</sup> NRS 441A.550.

<sup>17</sup> NRS 441A.620.

### C. Petition and Order for Court-Ordered Isolation

A Petition for Court-Ordered Isolation must be supported by the following:

- (1) a certificate of a health authority (such as the Health District), physician, physician's assistant or registered nurse, stating that
  - (a) it has examined the patient or investigated the potential for infection or exposure
  - (b) it has concluded that the patient has been infected with or exposed to a communicable disease, and
  - (c) as a result of the disease, the patient is likely to be an immediate threat to the public health;<sup>18</sup>

OR

- that
- (2) a sworn, written statement by the health authority, such as the Health District, stating
    - (a) it has observed or investigated the patient
    - (b) it has a reasonable factual and medical basis to believe the patient has been infected with or exposed to a communicable disease
    - (c) because of the risks of the disease, the person is likely to be an immediate threat to public health
    - (d) the patient has refused to submit to testing/treatment.<sup>19</sup>

If the Petition for Court-Ordered Isolation is filed AFTER emergency isolation, the Petition must also include the following:

- (1) a Certified Copy of the Application for Emergency Isolation, and
- (2) a sworn statement of the health authority, such as the Health District, that:
  - (a) it has examined the patient;
  - (b) there is a reasonable degree of certainty that the patient is capable or likely to become capable of transmitting the disease;
  - (c) as a result of the disease, the patient is likely to be an immediate threat to the public health;
  - (d) in the opinion of the health authority, involuntary isolation is necessary to prevent the person from immediately threatening the health of the public.<sup>20</sup>

A sample Petition, accompanying Certificate/Affidavit and Confidential List of Exhibits in support of the Petition is included in this Bench Book as **Forms 3-E, 3-F and 3-G**.

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<sup>18</sup> NRS 441A.600(1).

<sup>19</sup> NRS 441A.600(2).

<sup>20</sup> NRS 441A.610.

#### **D. Confidentiality**

All personal information regarding a suspected or confirmed communicable disease patient is confidential.<sup>21</sup> Thus, the Petition for Involuntary Court-Ordered Isolation must be accompanied with an Ex Parte Motion to Seal.

A sample Ex Parte Motion to Seal is included in this Bench Book as **Form 3-H**.

#### **E. Hearing**

The court shall set a hearing within 5 judicial days of receiving the Petition for Involuntary Court-Ordered Isolation.<sup>22</sup> The patient, his/her attorney, if known, the petitioner, and the administrative office of the facility in which the patient is confined shall be notified of the date, place and time of the hearing.<sup>23</sup>

A sample Notice of Hearing is included in this Bench Book as **Form 3-J**.

#### **F. Court-Ordered Examination**

Upon receiving the Petition, the Court shall order 2 physicians to examine the patient to assess the patient's communicable disease status.<sup>24</sup> The physicians will submit a written summary of their findings to the court at least 24 hours prior to the hearing.<sup>25</sup>

A sample Order for Examination is included in this Bench Book as **Form 3-K**.

#### **G. Involuntary Court-Ordered Isolation**

In granting a Petition for Involuntary Court-Ordered Isolation, the Family Division of the District Court must find **clear and convincing evidence** that the patient has been infected with or exposed to a communicable disease and poses an immediate threat to public health.<sup>26</sup> The Order must include a clinical abstract, including history of illness, diagnosis, treatment, and names of relatives or correspondents.<sup>27</sup>

A sample Order is included in this Bench Book as **Form 3-L**.

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<sup>21</sup> NRS 441A.220.

<sup>22</sup> NRS 441A.620.

<sup>23</sup> NRS 441A.620.

<sup>24</sup> NRS 441A.630.

<sup>25</sup> NRS 441A.630.

<sup>26</sup> NRS 441A.700.

<sup>27</sup> NRS 441A.710.

## 1. Collecting the patient

The Health District may transport the patient or may arrange for transportation by (1) the local law enforcement agency, (2) a system of nonemergency transportation authorized by the Nevada Transportation Authority, or (3) an ambulance service if medically necessary.<sup>28</sup>

## 2. Confining the patient

TB patients who have infectious pulmonary disease must be confined in a negative air pressure room while receiving appropriate medical treatment to prevent the spread of the disease. The patient may need to continue to be isolated or quarantined under judicial order for a prolonged period until antibiotic treatment has cured him of the disease.

An adequate facility must meet the requirements set forth by the CDC in the following publication:

“CDC Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings,” December 30, 2005. MMWR 2005; 54 (No. RR-17; <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm>)

## H. Release of Patient

An Order for Involuntary Isolation **automatically** expires at the end of 30 days, if not sooner terminated by the Health District.<sup>29</sup> Prior to the expiration of the isolation period, the Health District may petition the court for additional periods, each of which not exceeding 120 days.<sup>30</sup> The Health District may continue to petition for additional periods in order to treat to cure. The petition must set forth specific reasons why further isolation is necessary.<sup>31</sup>

A sample Petition and Order to Extend Isolation are included in this Bench Book as **Forms 3-M and 3-N.**

The Health District will make recommendations for treatment and/or release based upon the least restrictive alternative available to protect public health. Upon release from a medical facility, the patient may be released to his/her private residence with various restrictions deemed appropriate by the Health District, up to and including home confinement and/or GPS monitoring. Throughout the patient’s treatment, the isolation will become less restrictive as the patient becomes less contagious.

After the court orders Involuntary Isolation, the patient may be conditionally released to his/her private residence only if deemed appropriate by the Health District. Under these

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<sup>28</sup> NRS 441A.560.

<sup>29</sup> NRS.441A.700.

<sup>30</sup> NRS 441A.700.

<sup>31</sup> NRS 441A.700.

circumstances, the patient is still under the court-ordered isolation.<sup>32</sup> Violation of the Health District or court-ordered restrictions is a misdemeanor.<sup>33</sup>

### **I. Status Checks**

The court should schedule a status check after 30 days of the initial isolation and then every 120 days, to coincide with the Petition for Extending Isolation, until the patient is cleared.

### **III. RIGHTS OF THE PATIENT**

An involuntarily isolated patient has the following rights:

- 1) To make a reasonable number of telephone calls and to possess and use a cellular phone or any other means of communication while isolated;<sup>34</sup>
- 2) To refuse treatment, unless the court orders such treatment;<sup>35</sup>
  - a) a minor may not refuse treatment,<sup>36</sup>
- 3) To immediately challenge his/her detention;<sup>37</sup>
- 4) To counsel, and the right to have counsel appointed (the public defender), if he/she cannot afford counsel;<sup>38</sup>
- 5) To appear at the proceedings for involuntary court-ordered isolation via telephonic or video conferencing, but does not have the right to appear in person;<sup>39</sup>
- 6) To give testimony on his/her behalf;<sup>40</sup> and
- 7) To have his/her spouse informed of the isolation within 24 hours.<sup>41</sup>

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<sup>32</sup> NRS 441A.700 (specifically recognizing isolation/quarantine at a private residence).

<sup>33</sup> NRS 441A.910.

<sup>34</sup> NRS 441A.520.

<sup>35</sup> NRS 441A.530; *see also, Jacobson v. Massachusetts*, 197 U.S. 11 (1905); *McKay v. Bergstedt*, 106 Nev. 808 (1990).

<sup>36</sup> NRS 441A.310.

<sup>37</sup> NRS 441A.540, NRS 441A.550

<sup>38</sup> NRS 441A.660.

<sup>39</sup> NRS 441A.680.

<sup>40</sup> NRS 441A.680.

<sup>41</sup> NRS 441A.520, NRS 441A.590.

EXHIBIT A

1 Joseph P. Iser, MD, DrPH, MSc  
2 Chief Health Officer  
3 Southern Nevada Health District  
4 PO Box 3902  
5 Las Vegas, Nevada 89107  
6 (702) 759-1202

7 **EMERGENCY DETENTION ORDER**

8 \_\_\_\_\_, you are hereby ordered to detention at \_\_\_\_\_  
9 \_\_\_\_\_, pursuant to NRS 441A.560. Your isolation or  
10 quarantine commences on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

11 This Order will remain in effect until \_\_\_\_\_ at \_\_\_\_\_  
12 a.m./p.m. unless otherwise rescinded, but not to exceed ten (10) days.

13 Suspected communicable disease or infectious agent, if known: \_\_\_\_\_

14 Measures taken by the local Health Officer to seek voluntary compliance or basis on  
15 which local health officer determined that seeking voluntary compliance would create risk of  
16 serious harm: \_\_\_\_\_

17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 Medical basis on which decision to isolate or quarantine is justified: \_\_\_\_\_

20 \_\_\_\_\_  
21 Special instructions: \_\_\_\_\_

22 \_\_\_\_\_  
23 Failure to comply with Emergency Detention Order is a misdemeanor pursuant NRS  
24 441A.910.

25 It is very important for the protection of your own health and that of others that you abide  
26 by this Emergency Detention Order. If you have any questions about this Order or need  
27 assistance in complying, please call 702-759-1000.

1           If isolation or quarantine is necessary beyond the ten (10) day period allowed under this  
2 Order, the Health Officer may petition the District Court for an Order to Continue Isolation or  
3 Quarantine for a period up to thirty (30) days.

4  
5 Chief Health Officer/Chief Medical Officer  
6

7  
8  
9 **IMPORTANT NOTICE**

10           You have the right to petition the District Court for release from isolation or quarantine in  
11 accordance with NRS 441A.540 and NRS 441A.550. You have a right to legal counsel. If you  
12 are unable to afford legal counsel, then counsel will be appointed for you at government expense  
13 and you should request the appointment of counsel at this time. If you currently have legal  
14 counsel, then you have an opportunity to contact that counsel for assistance.

EXHIBIT B

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Defendant.

Case No.:

Dept. No.:

**PETITION FOR EMERGENCY ISOLATION**

COMES NOW, JOSEPH P. ISER, MD, DrPH, MSc and the SOUTHERN NEVADA HEALTH DISTRICT (“SNHD”), the health authority for Clark County, Nevada, by and through his Attorney, \_\_\_\_\_, and sets forth the following in support of his request for emergency isolation of \_\_\_\_\_, including compliance with the prescribed plan of treatment, and alleges as follows:

1. JOSEPH P. ISER, MD, DrPH, MSc is the Chief Health Officer for SNHD, a public entity created pursuant to Nevada Revised Statutes (NRS) Chapter 439 which has jurisdiction over all public health matters in Clark County, Nevada, and consisting of a district health officer and district board of health. Dr. Iser and SNHD are the health authority for Clark County, Nevada pursuant to NRS 441A.050.

1           2.       \_\_\_\_\_, date of birth \_\_\_\_\_, is located at  
2 \_\_\_\_\_, and:

3           a.       Has been examined or had the circumstances of his/her possible exposure to a  
4 communicable disease investigated by \_\_\_\_\_,

5           b.       Is infected with or exposed to Tuberculosis, a communicable disease as defined  
6 by NRS 441A.040, and

7           c.       Is likely to be contagious or become contagious and an immediate threat to the  
8 health of the public.

9           WHEREFORE, JOSEPH P. ISER, MD, Dr.PH, MSc, Chief Health Officer of SNHD, the  
10 health authority for Clark County, Nevada, requests entry of Orders as follows:  
11

12           1.       For the emergency isolation of \_\_\_\_\_ at \_\_\_\_\_  
13 \_\_\_\_\_ or any other appropriate medical facility, once \_\_\_\_\_ has been located.

14           2.       For any peace officer or health authority in Clark County, Nevada, or any other  
15 location within the State of Nevada, to take \_\_\_\_\_ into custody and to  
16 transport him/her to allow the health authority to isolate and detain in a public or private medical  
17 facility, residence or other safe location under emergency isolation.

18           3.       Alternatively for emergency isolation of \_\_\_\_\_ at a residence  
19 or other safe location and to be fitted by an ankle monitoring GPS device, to maintain such  
20 device by charging a minimum of two hours each day, not leave said residence or other safe  
21 location unless permitted or directed by the health authority, and to wear a mask or other  
22 personal protective equipment as directed by the health authority.

23           4.       Ordering \_\_\_\_\_ to not travel until further order by this  
24 Court.

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1           5.     Ordering \_\_\_\_\_ to cooperate and comply with the  
2 prescribed treatment plan during such involuntary isolation.

3           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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1 2. I have investigated the circumstances of potential infection or exposure regarding \_\_\_\_\_  
2 \_\_\_\_\_, Web TB# \_\_\_\_\_. I am familiar with the facts and circumstances  
3 contained herein based on information and belief.

4 3. STATE FACTS AND CIRCUMSTANCES OF INVESTIGATION: \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

7 4. Based on the above facts and circumstances, I have concluded that \_\_\_\_\_  
8 \_\_\_\_\_, Web TB # \_\_\_\_\_ is infected with or has been exposed to a communicable  
9 disease, namely, Tuberculosis, as defined by NRS 441A.040.

10 5. As a result of the above \_\_\_\_\_, Web TB # \_\_\_\_\_, is likely to be contagious or  
11 become contagious and is an immediate threat to the health of the public.

12 6. I have read the above and it is true.

13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

14  
15  
16 \_\_\_\_\_  
17 \_\_\_\_\_, Registered Nurse

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19  
20 SUBSCRIBED and SWORN to before me  
21 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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24 \_\_\_\_\_  
25 Notary Public in and for said County  
26 and State

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EXHIBIT D

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Defendant.

Case No.:

Dept. No.:

**ORDER FOR EMERGENCY ISOLATION**

The above entitled matter having come before the Court pursuant to PETITION FOR EMERGENCY ISOLATION by Joseph P. Iser, MD, DrPH, MSc, the Southern Nevada Health District (“SNHD”), the health authority for Clark County, Nevada, and this Court having reviewed all papers and pleadings on file, and this Court finding that there exists probable cause to believe that \_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_, has been infected with or exposed to a communicable disease, to wit: Tuberculosis, and that because of the risk of that disease, \_\_\_\_\_ is likely to be an immediate threat to the health of the public, and good cause appearing, therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that any peace officer or health authority in Clark County, Nevada, or any other location within the State of Nevada, shall take \_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_, into emergency

1 isolation to allow the health authority to investigate, file and prosecute its Petition for  
2 Involuntary Court-Ordered Isolation of \_\_\_\_\_, and for the provision of consensual  
3 medical treatment.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
5 shall cooperate and comply with the prescribed treatment plan during such emergency isolation,  
6 to complete Directly Observed Therapy and to follow instructions for such Directly Observed  
7 Therapy (DOT).

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED for \_\_\_\_\_  
9 to wear a GPS device for the purpose of location and monitoring to provide DOT therapy until  
10 completion, maintain the device and keep it fully charged.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Sheriff of Clark  
12 County, Nevada, or any other law enforcement agency within Clark County, Nevada, in  
13 accordance with this Court's Order stated above or SNHD employee, shall transport \_\_\_\_\_  
14 \_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_, to the University Medical Center.  
15 SNHD shall place a brace or GPS device on his person, or post a security officer where he shall  
16 be detained in isolation for the purposes specified above.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this EMERGENCY  
18 ORDER FOR ISOLATION is effective immediately, and shall remain in full force and effect  
19 until \_\_\_\_\_ has been detained as ordered above for a time period of 72 hours  
20 or until further Order of this court, whichever occurs first.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon \_\_\_\_\_  
\_\_\_\_\_ being detained at the University Medical Center, and having a brace or GPS device  
placed on him, or posting a security officer, this Court, and Petitioner Joseph P. Iser, MD, DrPH,  
MSc, Chief Health Officer of SNHD shall be so advised.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

EXHIBIT E

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_  
Web TB # \_\_\_\_\_  
  
Defendant.

Case No.:  
Dept. No.:

**PETITION FOR INVOLUNTARY COURT-ORDERED ISOLATION**

COMES NOW, Joseph P. Iser, MD, DrPH, MSc and the SOUTHERN NEVADA HEALTH DISTRICT (“SNHD”), the health authority for Clark County, Nevada, by and through his Attorney, \_\_\_\_\_, and sets forth the following in support of his request for involuntary court-ordered isolation of \_\_\_\_\_, including compliance with the prescribed plan of treatment, and alleges as follows:

1. Joseph P. Iser, MD, DrPH, MSc, is the Chief Health Officer for SNHD, a public entity created pursuant to Nevada Revised Statutes (NRS) Chapter 439, which has jurisdiction over all public health matters in Clark County, Nevada, and consisting of a district health officer and district board of health. Dr. Iser and SNHD are the health authority for Clark County, Nevada pursuant to NRS 441A.050.

1           2.       \_\_\_\_\_, date of birth \_\_\_\_\_, is located at  
2 \_\_\_\_\_, and:

3           a.       Is infected with Tuberculosis or exposed to, a communicable disease as defined  
4 by NRS 441A.040,

5           b.       Has a history of non compliance and unwillingness to complete prescribed  
6 treatment known to control or resolve the transmission of said communicable disease, and

7           c.       Is likely to be contagious or become contagious and an immediate threat to the  
8 health of the public.

9  
10          3.       In accordance with NRS 441A.600, accompanying this Petition is the Certificate  
11 of Registered Nurse (\_\_\_\_\_), Certificate of Disease Investigation and Intervention  
12 Specialist (\_\_\_\_\_), Southern Nevada Health District, Tuberculosis Clinic and letter  
13 from \_\_\_\_\_, MD, stating:

14          a.       that \_\_\_\_\_ has been infected with Tuberculosis, a  
15 communicable disease,

16          b.       that \_\_\_\_\_ has been infected with Tuberculosis, a  
17 communicable disease, and further, may have single-drug resistance to Tuberculosis, and

18          c.       that because of the risks of Tuberculosis and his history of non compliance and  
19 unwillingness to complete prescribed treatment to control or resolve transmission of said  
20 communicable disease, \_\_\_\_\_ is likely to be an immediate and serious  
21 threat to the health of the public.

22  
23          WHEREFORE, Joseph P. Iser, MD, DrPH, MSc and SNHD, the health authority for  
24 Clark County, Nevada, requests entry of Orders as follows:

25          1.       For the involuntary court-ordered isolation of \_\_\_\_\_ at \_\_\_\_\_  
26 \_\_\_\_\_ or any other appropriate medical facility, once \_\_\_\_\_  
27 \_\_\_\_\_ has been located.

1           2.       For any peace officer or health authority in Clark County, Nevada, or any other  
2 location within the State of Nevada, to take \_\_\_\_\_, into custody and to  
3 transport him/her to allow the health authority to isolate and detain in a public or private medical  
4 facility, residence or other safe location under involuntary court-ordered isolation.

5           3.       Alternatively for involuntary isolation of \_\_\_\_\_, at a residence  
6 or other safe location and to be fitted by an ankle monitoring GPS device, to maintain such  
7 device by charging a minimum of two hours each day, not leave said residence or other safe  
8 location unless permitted or directed by the health authority, and to wear a mask or other  
9 personal protective equipment as directed by the health authority.

10          4.       Ordering \_\_\_\_\_ to not travel until treatment has been  
11 completed.

12          5.       Ordering \_\_\_\_\_ to cooperate and comply with the  
13 prescribed treatment plan during such involuntary isolation.  
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15           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

EXHIBIT F

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Defendant.

Case No.:

Dept. No.:

**CONFIDENTIAL LIST OF EXHIBITS**

\_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_  
\_\_\_\_\_, is currently hospitalized at \_\_\_\_\_, Las Vegas, Nevada  
and is being treated for Tuberculosis, but has a history of non-compliance.

The Southern Nevada Health District (“SNHD”) and Dr. Joseph P. Iser, Chief Health Officer for SNHD, hereby files its CONFIDENTIAL LIST OF EXHIBITS attached hereto referenced in the Certificate of Registered Nurse (\_\_\_\_\_), Certificate of Disease Investigation and Intervention Specialist (\_\_\_\_\_) and PETITION FOR INVOLUNTARY COURT-ORDERED ISOLATION.

...  
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1 ...

2 Said records involve confidential medical information, protected by NRS 441A.220, and  
3 privacy issues. These should not be placed into public record in order to maintain patient  
4 confidentiality.

5 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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**EXHIBIT LIST OF 'S CASE**

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**EXHIBIT 1** Certificate of Registered Nurse – \_\_\_\_\_

**EXHIBIT 2** Certificate of Registered Nurse – \_\_\_\_\_

**EXHIBIT 3** Certificate of Disease Investigation and  
Intervention Specialist – \_\_\_\_\_

**EXHIBIT 4** Physician’s Assessment from \_\_\_\_\_  
from \_\_\_\_\_ dated \_\_\_\_\_

**EXHIBIT 5** Administrative Order of Chief Health Officer  
dated \_\_\_\_\_

**EXHIBIT 6** Nevada State Health Laboratory – Mycobacteriology  
Reports

**EXHIBIT 7** Diagnostic Imaging Radiology Report

**EXHIBIT 8** Hospital Laboratory Summary Report  
of Quantiferon TB Test

**EXHIBIT 9** Southern Nevada Health District’s (SNHD)  
Tuberculosis Program Bacteriology Log

**EXHIBIT 10** SNHD TB Treatment & Control Clinic  
Case Conference Worksheet

**EXHIBIT 11** Physician’s Statement from \_\_\_\_\_, MD  
dated \_\_\_\_\_

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**EXHIBIT 12** Hospital Summaries from \_\_\_\_\_

**EXHIBIT 13** Cure TB Binational Tuberculosis Referral Form  
dated \_\_\_\_\_

**EXHIBIT 14** \_\_\_\_\_ Laboratory Summary Report  
of Sputums

**EXHIBIT 15** Do Not Board Notification Letter from CDC  
\_\_\_\_\_ dated \_\_\_\_\_

**EXHIBIT 16** Order to Comply with Therapy in Spanish/English  
signed by \_\_\_\_\_ on \_\_\_\_\_

**EXHIBIT 17** Picture of \_\_\_\_\_



1 2. I have investigated the circumstances of potential infection or exposure regarding \_\_\_\_\_  
2 \_\_\_\_\_, Web TB \_\_\_\_\_. I am familiar with the facts and circumstances  
3 contained herein based on information and belief.

4 3. STATE FACTS AND CIRCUMSTANCES OF INVESTIGATION: \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_

7 4. Based on the above facts and circumstances, I have concluded that \_\_\_\_\_  
8 \_\_\_\_\_, Web TB #\_\_\_\_\_ is infected with or has been exposed to a communicable  
9 disease, namely, Tuberculosis, as defined by NRS 441A.040.

10 5. As a result of the above \_\_\_\_\_, Web TB #\_\_\_\_\_, is likely to be contagious or  
11 become contagious and is an immediate threat to the health of the public.

12 6. I have read the above and it is true.

13 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

16 \_\_\_\_\_  
17 JOSEPH P. ISER, MD, DrPH, MSc

18  
19 SUBSCRIBED and SWORN to before me  
20 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 Notary Public in and for said County  
24 and State

EXHIBIT H

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Case No.:

Dept. No.:

Defendant.

**EX PARTE MOTION TO SEAL**

COMES NOW, JOSEPH P. ISER, MD, DrPH, MSc and the SOUTHERN NEVADA HEALTH DISTRICT (“SNHD”), the Health Authority for Clark County, Nevada, by and through his attorneys, \_\_\_\_\_, and files this Ex Parte Motion seeking an order to seal the records in this case. This motion is based on the Memorandum of Points and Authorities attached hereto, all pleadings and papers on file herein, and any other arguments that may be presented at hearing.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Petitioner respectfully requests the Court to seal all records in this case. Under SRCR  
3 3(4), documents can be sealed or redacted when justified by “compelling privacy . . . interests  
4 that outweigh the public interest in access to the court record,” as exists under the following  
5 circumstances:

- 6 (a) The sealing or redaction is permitted or required by federal or state law;  
7  
8 (b) The sealing or redaction furthers an order entered under NRCP 12(f) or  
9 JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP 26(c);  
10  
11 (c) The sealing or redaction furthers an order entered in accordance with federal  
12 or state laws that serve to protect the public health and safety;  
13  
14 (d) The redaction includes only restricted personal information contained in the  
15 court record;  
16  
17 (e) The sealing or redaction is of the confidential terms of a settlement agreement  
18 of the parties;  
19  
20 (f) The sealing or redaction includes medical, mental health, or tax records;  
21  
22 (g) The sealing or redaction is necessary to protect intellectual proprietary or  
23 property interests such as trade secrets as defined in NRS 600A.030(5); or  
24  
25 (h) The sealing or redaction is justified or required by another identified  
26 compelling circumstance.  
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19 The circumstances in this case justify sealing the records. Specifically, the records in this  
20 case include medical records, as well as personal information. Moreover, pursuant to NRS  
21 441A.220, all personal information of the patient must remain confidential to protect the  
22 patient’s identity. Accordingly, Petitioner respectfully requests that all records in this case be  
23 sealed.

24 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

EXHIBIT I

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_  
Web TB # \_\_\_\_\_  
  
Defendant.

Case No.:  
Dept. No.:

**ORDER TO SEAL**

The above entitled matter having come before the Court pursuant to the EX PARTE MOTION TO SEAL by Dr. JOSEPH P. ISER, MD, DrPH, MSc and the Southern Nevada Health District (“SNHD”) the health authority for Clark County, Nevada, and this Court having reviewed all papers and pleadings on file, and good cause appearing, therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that all records in this case be sealed.

DATED: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

EXHIBIT J

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of

Web TB #

Defendant.

Case No.:

Dept. No.:

**ORDER TO DETAIN AND NOTICE OF HEARING**

Based upon this Court receiving PETITION FOR INVOLUNTARY COURT ORDERED ISOLATION filed pursuant to Nevada Revised Statutes (NRS) 441A.600, and pursuant to NRS 441A.620, and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that hearing on PETITION FOR INVOLUNTARY COURT-ORDERED ISOLATION is set for the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m./p.m., in Dept. \_\_\_\_\_ Courtroom \_\_\_\_\_ of the Family Court, 601 North Pecos Road, Las Vegas, Nevada 89101.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based upon the above-  
2 referenced Petition, \_\_\_\_\_, if present in the courtroom, being likely to pose an  
3 immediate threat to the health of the judge or the staff or officers of the Court,  
4 \_\_\_\_\_ does not have a right to be physically present, and is ordered not to be  
5 physically present, in the courtroom at hearing set herein.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_ has  
7 the right, for said hearing, to be present by live telephone conferencing or videoconferencing and  
8 to testify in his own behalf, to the extent that the court determines he is able to do so without  
9 endangering the health of others.

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Notice shall be  
11 given to \_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_, the subject of  
12 said Petition, his attorney if known, and the administrative office of any public or private  
13 medical facility in which \_\_\_\_\_ is admitted or detained.

14  
15 IT IS FURTHER ORDERED that \_\_\_\_\_ shall continue to be detained  
16 at University Medical Center or other SNHD approved location until the date and time of  
17 hearing.

18 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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21 \_\_\_\_\_  
22 DISTRICT COURT JUDGE  
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**RECEIPT OF COPY**

RECEIPT OF COPY of the foregoing ORDER TO DETAIN AND NOTICE OF HEARING is hereby acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Clark County Public Defender  
Juvenile Division  
601 N. Pecos  
Las Vegas, NV 89101-2610  
Attorney for \_\_\_\_\_,  
Defendant

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_  
Web TB # \_\_\_\_\_  
  
Defendant.

Case No.:  
Dept. No.:

**ORDER FOR EXAMINATION**

Based upon this Court receiving PETITION FOR INVOLUNTARY COURT ORDERED ISOLATION filed on or about \_\_\_\_\_ pursuant to Nevada Revised Statutes (NRS) 441A.600, and in accordance with NRS 441A.630, and good cause appearing therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that two physicians herein shall promptly either examine \_\_\_\_\_, or assess the likelihood that \_\_\_\_\_ alleged to have been infected with or exposed to Tuberculosis, a communicable disease, has been so infected. Said physicians are:

\_\_\_\_\_  
\_\_\_\_\_

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each physician who  
2 examines or assesses \_\_\_\_\_ pursuant to this Order and NRS  
3 441A.630(1) shall, not later than 24 hours before the hearing set pursuant to NRS 441A.620 on  
4 \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in Department \_\_\_\_\_ - Courtroom \_\_\_\_\_  
5 of the Family Court, 601 North Pecos Road, Las Vegas, Nevada 89101, submit to the court in  
6 writing a summary of his findings and evaluation regarding \_\_\_\_\_, the  
7 person alleged to have been infected with or exposed to Tuberculosis, a communicable disease.  
8 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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12 DISTRICT COURT JUDGE  
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EXHIBIT L

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Defendant.

Case No.:

Dept. No.:

**ORDER FOR ISOLATION**

The above entitled matter having come before the Court on \_\_\_\_\_,  
pursuant to PETITION FOR INVOLUNTARY COURT ORDERED-ISOLATION,  
\_\_\_\_\_, appearing on behalf of Petitioner JOSEPH P. ISER, MD, Dr.PH, MSc,  
Chief Health Officer of the Southern Nevada Health District (hereinafter "SNHD") and  
\_\_\_\_\_, appearing on behalf of \_\_\_\_\_, and this Court having  
reviewed all papers and pleadings on file, including Certificate of Registered Nurse (\_\_\_\_\_  
\_\_\_\_\_), Certificate of Registered Nurse (\_\_\_\_\_) and Certificate of Disease  
Investigation and Intervention Specialist (\_\_\_\_\_) filed with said PETITION FOR  
INVOLUNTARY COURT ORDERED ISOLATION, and this Court finding that there exists  
clear and convincing evidence that \_\_\_\_\_, date of birth \_\_\_\_\_, Web

1 TB # \_\_\_\_\_, has been infected with a communicable disease, to wit: Tuberculosis, and that  
2 because of the risk of that disease, \_\_\_\_\_ is likely to be an immediate threat to  
3 the health of the public, and good cause appearing, therefore;

4 IT IS ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_ shall  
5 remain at \_\_\_\_\_ until \_\_\_\_\_;

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
7 may be released to \_\_\_\_\_;

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
9 is required to take all medications as ordered by any medical personnel treating \_\_\_\_\_;

10 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
11 is not to have contact with anyone but his doctor, other medical staff or \_\_\_\_\_;

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
13 may be released from house arrest at \_\_\_\_\_ once he is cleared by the  
14 Southern Nevada Health District;

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event that \_\_\_\_\_  
16 \_\_\_\_\_ fails to comply with any of the terms of this Order, the Southern Nevada  
17 Health District is authorized to place \_\_\_\_\_ in custody and take all necessary  
18 means to secure his treatment;

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
20 is ordered to have on his person at all times a GPS device provided by the Southern Nevada  
21 Health District;

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
23 is ordered to keep the GPS device charged at all times;

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
25 is ordered to stay away from children until he has received clearance regarding his treatment;

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_  
2 is ordered to refrain from the use of alcohol or drugs as ingestion of those substances may  
3 complicate his treatment; and

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a status check is set  
5 for \_\_\_\_\_, at \_\_\_\_\_, in order to evaluate whether \_\_\_\_\_  
6 has complied with treatment and will be medically cleared by the Southern Nevada Health  
7 District.

8 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_

Web TB # \_\_\_\_\_

Defendant.

Case No.:

Dept. No.:

**PETITION TO EXTEND INVOLUNTARY COURT-ORDERED ISOLATION**

COMES NOW, JOSEPH P. ISER, MD, DrPH, MSc, and the SOUTHERN NEVADA HEALTH DISTRICT (“SNHD”), the health authority for Clark County, Nevada, by and through his Attorney, \_\_\_\_\_, and sets forth the following in support of his request to extend the involuntary court-ordered isolation of \_\_\_\_\_, including compliance with the prescribed plan of treatment, and alleges as follows:

1. JOSEPH P. ISER, MD, DrPH, MSc is the Chief Health Officer for SNHD, a public entity created pursuant to Nevada Revised Statutes (NRS) Chapter 439, which has jurisdiction over all public health matters in Clark County, Nevada, and consisting of a district health officer and district board of health. Dr. Iser and SNHD are the health authority for Clark County, Nevada pursuant to NRS 441A.050.

1           2.       \_\_\_\_\_, date of birth \_\_\_\_\_, was involuntarily  
2 isolated pursuant to this Court's order on \_\_\_\_\_ and is currently isolated at \_\_\_\_\_  
3 \_\_\_\_\_, and:

4           a.       Is infected with Tuberculosis or exposed to, a communicable disease as defined  
5 by NRS 441A.040,

6           b.       Has a history of non compliance and unwillingness to complete prescribed  
7 treatment known to control or resolve the transmission of said communicable disease, and

8           c.       Is likely to be contagious or and an immediate threat to the health of the public.

9  
10           WHEREFORE, JOSEPH P. ISER, MD, DrPH, MSc and SNHD, the health authority for  
11 Clark County, Nevada, requests entry of Orders as follows:

12           1.       To extend the involuntary court-ordered isolation of \_\_\_\_\_  
13 at \_\_\_\_\_ with all terms of the current isolation to be continued for  
14 120 days or until \_\_\_\_\_ is no longer infectious.

15           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

EXHIBIT N

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_  
Web TB # \_\_\_\_\_  
  
Defendant.

Case No.:  
Dept. No.:

**ORDER TO EXTEND ISOLATION**

The above entitled matter having come before the Court on \_\_\_\_\_, pursuant to  
PETITION TO EXTEND INVOLUNTARY COURT ORDERED-ISOLATION,  
\_\_\_\_\_, appearing on behalf of Petitioner Joseph P. Iser, MD, DrPH, MSc, Chief  
Health Officer of the Southern Nevada Health District (hereinafter "SNHD") and  
\_\_\_\_\_, appearing on behalf of \_\_\_\_\_, and this Court having  
reviewed all papers and pleadings on file, and this Court finding that there exists clear and  
convincing evidence that \_\_\_\_\_, date of birth \_\_\_\_\_, Web TB # \_\_\_\_\_  
\_\_\_\_\_, has been infected with a communicable disease, to wit: Tuberculosis, and that because  
of the risk of that disease, \_\_\_\_\_ is likely to be an immediate threat to the  
health of the public, and good cause appearing, therefore;

1 IT IS ORDERED, ADJUDGED AND DECREED that \_\_\_\_\_ shall  
2 remain at \_\_\_\_\_ until \_\_\_\_\_ under all terms of the involuntary  
3 isolation previously ordered by this Court;

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a status check is set  
5 for \_\_\_\_\_, at \_\_\_\_\_, in order to evaluate whether \_\_\_\_\_  
6 has complied with treatment and will be medically cleared by the Southern Nevada Health  
7 District.

8 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_,  
Web TB # \_\_\_\_\_,

Case No.:

Dept. No.:

**Date of Hearing:**

**Time of Hearing:**

**ORDER FOR DISMISSAL**

This matter having come on for hearing on \_\_\_\_\_, \_\_\_\_\_, appearing on behalf of Petitioner Joseph P. Iser, MD, DrPH, MSc, Chief Health Officer of the Southern Nevada Health District (hereinafter "SNHD") and \_\_\_\_\_, appearing on behalf of \_\_\_\_\_, and the Court having considered representations of counsel, and the papers and pleadings on file herein, and for good cause appearing, the Court hereby finds and orders as follows:

....  
....  
....

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the above-captioned  
2 matter is DISMISSED WITHOUT PREJUDICE.

3 IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_,  
Web TB # \_\_\_\_\_,

Case No.:

Dept. No.:

**NOTICE OF ENTRY OF ORDER OF DISMISSAL**

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order for Dismissal was filed in the above-captioned matter on \_\_\_\_\_, a copy of which is attached hereto.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.



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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of \_\_\_\_\_  
Web TB # \_\_\_\_\_  
  
Defendant.

Case No.:  
Dept. No.:

**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR EMERGENCY ISOLATION**

COMES NOW, Joseph P. Iser, MD, DrPH, MSc, the health authority for Clark County, Nevada, by and through his attorneys, \_\_\_\_\_, and sets forth the following in support of his request for court ordered quarantine of \_\_\_\_\_, including compliance with the prescribed plan of treatment, and alleges as follows:

1. Joseph P. Iser, MD, DrPH, MSc is the Chief Health Officer for the Southern Nevada Health District (SNHD), a public entity created pursuant to Nevada Revised Statutes (NRS) Chapter 439 which has jurisdiction over all public health matters in Clark County, Nevada, and consisting of a district health officer and district board of health. Dr. Iser is the Health Authority for Clark County, Nevada pursuant to NRS 441A.050.

1           2. \_\_\_\_\_, date of birth \_\_\_\_\_, is currently  
2 hospitalized at \_\_\_\_\_, Las Vegas, Nevada. Please refer to the Certificate  
3 of Registered Nurse (\_\_\_\_\_), Certificate of Disease Investigation and Intervention  
4 Specialist (\_\_\_\_\_), and the Confidential List of Exhibits.

5           The purpose of quarantine or isolation is to limit the transmission of communicable  
6 disease to persons who are not infected and have not been exposed to a communicable disease.  
7 NRS 441A.065, NRS 44A.115.

8           A person or group of persons alleged to have been infected with or exposed to a  
9 communicable disease may be detained under emergency isolation or quarantine for testing,  
10 examination, observation, and the provision of or arrangement for consensual treatment upon the  
11 following:

- 12 1) Application to the health authority;
- 13 2) Order of a health authority; or
- 14 3) Voluntary consent of the person, parent of a minor child, or legal guardian. NRS  
15 441A.550(1)

16 Quarantine: The physical separation and confinement of a person or group of persons exposed  
17 or reasonably believed by a health authority to be exposed to a communicable disease who do  
18 not show any signs or symptoms of being infected with the communicable disease from persons  
19 who are not infected and have not been exposed to the communicable disease. NRS 441A.115

20 The power and duties of the Chief Health Officer are set out as follows:

21 **NRS 441A.160 Powers and duties of health authority.**

- 22 1. A health authority who knows, suspects or is informed of the existence within  
23 his jurisdiction of any communicable disease shall immediately investigate the  
24 matter and all circumstances connected with it, and shall take such measures for  
25 the prevention, suppression and control of the disease as are required by the  
26 regulations of the Board or a local board of health.
- 27 2. A health authority may:

1 (a) Enter private property at reasonable hours to investigate any case or  
2 suspected case of a communicable disease.

3 (b) Order any person whom he reasonably suspects has a communicable  
4 disease in an infectious state to submit to any medical examination or test which  
5 he believes is necessary to verify the presence of the disease. The order must be in  
6 writing and specify the name of the person to be examined and the time and place  
7 of the examination and testing, and may include such terms and conditions as the  
8 health authority believes are necessary to protect the public health.

9 (c) **Except as otherwise provided in subsection 5 and NRS 441A.210,**  
10 **issue an order requiring the isolation, quarantine or treatment of any person**  
11 **or group of persons if he believes that such action is necessary to protect the**  
12 **public health. The order must be in writing and specify the person or group**  
13 **of persons to be isolated or quarantined, the time during which the order is**  
14 **effective, the place of isolation or quarantine and other terms and conditions**  
15 **which the health authority believes are necessary to protect the public health,**  
16 **except that no isolation or quarantine may take place if the health authority**  
17 **determines that such action may endanger the life of a person who is isolated**  
18 **or quarantined.**

19 3. Each order issued pursuant to this section must be served upon each person  
20 named in the order by delivering a copy to him.

21 4. If a health authority issues an order to isolate or quarantine a person with a  
22 communicable or infectious disease in a medical facility, the health authority must  
23 isolate or quarantine the person in the manner set forth in NRS 441A.510 to  
24 441A.720, inclusive.

25 5. Except as otherwise provided in NRS 441A.310 and 441A.380, a health  
26 authority may not issue an order requiring the involuntary treatment of a person  
27 without a court order requiring the person to submit to treatment.

28 Furthermore, the duties of the Health Authority are established as follows:

**NRS 441A.340 Duties of health authority.** The health authority shall control, prevent the  
spread of, and ensure the treatment and cure of tuberculosis.

The procedure for an involuntary court ordered quarantine are stated as follows:

**NRS 441A.600 Petition: Filing; certificate or statement of alleged infection  
with or exposure to communicable disease.** A proceeding for an involuntary  
court-ordered isolation or quarantine of any person in this State may be  
commenced by a health authority filing a petition with the clerk of the district  
court of the county where the person is to be isolated or quarantined. The petition  
may be pled in the alternative for both isolation and quarantine, if required by  
developing or changing facts, and must be accompanied:

1. By a certificate of a health authority or a physician, a physician assistant  
licensed pursuant to chapter 630 or 633 of NRS or a registered nurse stating that

1 he has examined the person alleged to have been infected with or exposed to a  
2 communicable disease or has investigated the circumstances of potential infection  
3 or exposure regarding the person alleged to have been infected with or exposed to  
4 a communicable disease and has concluded that the person has been infected with  
or exposed to a communicable disease, and that because of the risks of that  
disease, the person is likely to be an immediate threat to the health of the public;  
or

5 2. By a sworn written statement by the health authority that:

6 (a) The health authority has, based upon its personal observation of the person alleged to  
7 have been infected with or exposed to a communicable disease, or its epidemiological  
8 investigation of the circumstances of potential infection or exposure regarding the person alleged  
9 to have been infected with or exposed to a communicable disease, a reasonable factual and  
10 medical basis to believe that the person has been infected with or exposed to a communicable  
11 disease and, that because of the risks of that disease, the person is likely to be an immediate  
12 threat to the health of the public; and

13 (b) The person alleged to have been infected with or exposed to a communicable disease  
14 has refused to submit to voluntary isolation or quarantine, examination, testing, or treatment  
15 known to control or resolve the transmission of the communicable disease.

16 (Added to NRS by 2003, 2200; A 2007, 1859)

17  
18 Who can authorize an emergency order of quarantine or isolation? The health authority  
19 or the District Court. NRS 441A.560

20 Health authority includes:

- 21
- 22 1. Officers and agents of the Health Division;
  - 23 2. Officers and agents of the health district; or
  - 24 3. District health officer in a district or his designee, or, if none, the State Health  
25 Officer of his designee. NRS 441A.050

26 An application to a health authority for an order of emergency isolation or quarantine can be  
27 made only by the following:

- 28 4. Another health authority;

- 1           5.     A physician;
- 2           6.     A licensed physician assistant;
- 3           7.     A registered nurse; or
- 4           8.     A medical facility. NRS 441A.560(1)

5           The SNHD and Dr. Iser have met the criteria by submitting affidavits and exhibits.

6           For the Court's convenience and review, the provisions dealing with communicable  
7 diseases, NRS 441A.010 *et. seq.* are attached hereto. The provisions dealing with Tuberculosis  
8 are contained in NRS 441A.340 *et. seq.* are likewise attached hereto. The provisions concerning  
9 isolation and quarantine of persons are contained in NRS 441A.500 and NRS 441A.540 *et. seq.*  
10 are attached.

11           SNHD and Dr. Iser respectfully request that this Court grant the Petition and enter an  
12 order of quarantine, treatment and confinement.

13           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



SOUTHERN NEVADA HEALTH DISTRICT  
DIVISION POLICY AND PROCEDURE

<b>DIVISION:</b> Clinical Services (CS)/Community Health (CH)	<b>NUMBER:</b> CS-TB-001-A
<b>PROGRAM:</b> Tuberculosis Prevention	
<b>TITLE:</b> Tuberculosis (TB) Prevention Isolation and Quarantine	<b>EFFECTIVE DATE:</b> 06/08/2017
<b>APPROVED BY:</b> 	<b>ORIGINATION DATE :</b> 09/16/2010
<b>CLINICAL SERVICES DIVISION DIRECTOR</b> 	<b>LAST REVISION:</b> 04/18/2017
<b>COMMUNITY HEALTH DIVISION DIRECTOR</b>	

**I. PURPOSE**

To protect the health of individuals and the community by implementing procedures to reduce or prevent the potential spread of Tuberculosis (TB) by physical separation, education, testing, medication and, if necessary, legal action.

**II. SCOPE**

Applies to all SNHD staff conducting TB prevention services to include Clinical Services and Community Health personnel.

**III. POLICY/PROTOCOL**

SNHD is committed to protecting the health of residents and visitors to Clark County by conducting TB surveillance and implementing the appropriate control measures to prevent TB from spreading. The goal of this policy is to provide guidance to SNHD staff regarding isolation and quarantine procedures to provide our community with the best available protection from TB.

**IV. PROCEDURE**

- A. TB Prevention Staff (Disease Intervention Investigative Specialist (DIIS) and clinical staff):
  1. Educate client upon contact regarding TB infection and the requirements to adhere to testing and treatment.
    - a. If the client is diagnosed with active TB disease at the beginning of treatment, then initiate a Contract Agreement to Treatment.
    - b. If the client has a known history of noncompliance, then discuss with him/her the obligations to comply with medical treatment and document the discussion in the client's medical record/surveillance record. Provide the client with health education on compliance and document.
  2. Inform lead and/or supervisor of this investigation.

- B. Lead and/or Supervisor-Coordinate actions with colleagues in both CH/CS Divisions:
1. If the client's nonadherence continues, then discuss the client case with the CH/CS Managers.
- C. CH/CS Division Managers:
1. Coordinate employee's intervention efforts that offer the client the least restrictive treatment option available while reinforcing the necessity for compliance to protect the general public. Document plan/ strategies in the medical /surveillance records.
- D. Director of Clinical Services Division/Chief Medical Officer:
1. If non adherence continues, then issue a letter from Chief Health Officer/Chief Medical Officer "and document the issuance in the client's medical record. Consult with Legal on customized content of individual letter, example posted in attachments.
  2. Staff hand delivers or mails the non compliance letter and provides the client a time period in order to comply with the requirements of the letter. If delivering the letter in person, staff will don the appropriate PPE.
  3. The letter may inform the client that failure to comply may result in:
    - a. Removal from school attendance;
    - b. Non-clearance for work;
    - c. Lost incentives;
    - d. Notification to airlines of "no fly" status; and/or
    - e. Involuntary Isolation or Quarantine.
  4. If nonadherence continues, DIIS and or Lead staff will notify management of nonadherence. Director or designee will consult with Legal regarding court ordered treatment or involuntary isolation or quarantine.
- E. After Division Director and or designees consultation with Legal determines court intervention is necessary, TB Staff, DIIS and/or lead staff will:
1. Prepare a statement, which will be made into an written affidavit which must include the following statements:
    - a. State of facts of the investigation;
    - b. Personal knowledge of client's condition or circumstances'
    - c. The ways that the client has failed to submit to treatment;
    - d. Belief that the client poses a public health threat;
    - e. Terms required to minimize the likelihood of transmission from client; and
  2. Provide the following documents to Legal Counsel:
    - a. Completed statement;
    - b. Copies of hospital/medical records; and
    - c. Physician(s) written statement, which will be made into an affidavit;
  3. Coordinate with local police for service of Court Order. Coordinate with ambulance services/fire department for transport, if needed. Coordinate with receiving hospital, if needed.
  4. Prepare Notice of Rights and provide to client.



**V. REFERENCES**

NRS Chapter 441A  
SNHD Involuntary Confinement Bench Book

**VI. ATTACHMENTS**

1. CMO letter Example



ATTACHMENT 1

Chief Medical Officer Letter (Example only):

XXX, X, XXX

Parent's/Client's name

Street address

City, NV zip code

Re: Warning Notice for Testing Nonadherence

As you know, you/your child, \_\_\_\_\_, has been exposed or have to an individual with active, pulmonary tuberculosis. On XXX, X, XXXX, a chest x-ray referral was provided. As of XXX, X, XXX7, you have not cooperated with this requirement.

As of XXXX XX, XXXX, staff efforts to contact you regarding this follow up included both phone calls and a home visit. You have been educated about Tuberculosis infection and have been made aware of the consequences to your child/yourself if you do not follow the plan for evaluation and/or treatment. Our clinic staff has determined that additional screening is required and the child must be taken for a chest x-ray.

Public health regulations in the state of Nevada (Nevada Administrative Code 441A.365) require a person identified as a contact to an active tuberculosis patient to submit to a complete medical evaluation, which may include a tuberculin skin test, blood assay for tuberculosis, and /or a chest x-ray as necessary. Please consider this letter a warning that if you fail to comply with the chest x-ray referral for \_\_\_\_\_, you may be subject to further legal action that will include a written order to comply with Tuberculosis evaluation.

In order to avoid further legal actions against you and/or your child, please contact the Health District's TB Surveillance Office at 702-759-1015 within one (1) business day of receiving this letter to make arrangements for you or/your child's x-ray. Please be assured, our staff will help you in any reasonable way to ensure complete screening.

Your cooperation in this matter is appreciated.

Sincerely,  
Southern Nevada Health District

By: \_\_\_\_\_  
Fermin Leguen, MD, MPH  
Chief Medical Officer & Director of Clinical Services

## APPENDIX A

### CHAPTER 441A - INFECTIOUS DISEASES; TOXIC AGENTS

#### GENERAL PROVISIONS

<b><u>NRS 441A.010</u></b>	<b>Definitions.</b>
<b><u>NRS 441A.020</u></b>	<b>“Board” defined.</b>
<b><u>NRS 441A.030</u></b>	<b>“Child care facility” defined.</b>
<b><u>NRS 441A.040</u></b>	<b>“Communicable disease” defined.</b>
<b><u>NRS 441A.050</u></b>	<b>“Health authority” defined.</b>
<b><u>NRS 441A.063</u></b>	<b>“Infectious disease” defined.</b>
<b><u>NRS 441A.065</u></b>	<b>“Isolation” defined.</b>
<b><u>NRS 441A.070</u></b>	<b>“Laboratory director” defined.</b>
<b><u>NRS 441A.080</u></b>	<b>“Medical facility” defined.</b>
<b><u>NRS 441A.090</u></b>	<b>“Medical laboratory” defined.</b>
<b><u>NRS 441A.100</u></b>	<b>“Physician” defined.</b>
<b><u>NRS 441A.110</u></b>	<b>“Provider of health care” defined.</b>
<b><u>NRS 441A.115</u></b>	<b>“Quarantine” defined.</b>
<b><u>NRS 441A.120</u></b>	<b>Regulations of State Board of Health; performance of duties set forth in regulations.</b>
<b><u>NRS 441A.125</u></b>	<b>Use of syndromic reporting and active surveillance to monitor public health; regulations.</b>
<b><u>NRS 441A.130</u></b>	<b>Chief Medical Officer to inform local health officers of regulations and procedures.</b>
<b><u>NRS 441A.140</u></b>	<b>Authority of Division of Public and Behavioral Health to receive and use financial aid.</b>

#### REPORTING OF OCCURRENCES; INVESTIGATIONS; ACTIONS TO PROTECT PUBLIC HEALTH AND SAFETY

<b><u>NRS 441A.150</u></b>	<b>Reporting occurrences of communicable diseases to health authority.</b>
<b><u>NRS 441A.160</u></b>	<b>Investigation: Powers of health authority to conduct investigation of communicable disease; order to require person to submit to examination; order of isolation, quarantine or treatment.</b>
<b><u>NRS 441A.163</u></b>	<b>Investigation: Powers of health authority to conduct investigation of infectious disease or exposure to biological, radiological or chemical agent; reports; regulations.</b>
<b><u>NRS 441A.165</u></b>	<b>Investigation: Powers of health authority to access medical records, laboratory records and other information in possession of health care provider or medical facility; payment of certain costs related to investigation.</b>
<b><u>NRS 441A.166</u></b>	<b>Investigation: Subpoena to compel production of medical records, laboratory records and other information; court order directing witness to appear for failure to produce.</b>
<b><u>NRS 441A.167</u></b>	<b>Investigation: Law enforcement agencies and political subdivisions authorized to share certain information and medical records with state and local health authorities.</b>
<b><u>NRS 441A.169</u></b>	<b>Investigation: Powers of health authority to issue cease and desist order to health care provider or medical facility; injunction.</b>

<u>NRS 441A.170</u>	Weekly reports to Chief Medical Officer.
<u>NRS 441A.180</u>	Contagious person to prevent exposure to others; warning by health authority; penalty.
<u>NRS 441A.190</u>	Control of disease within schools, child care facilities, medical facilities and correctional facilities.
<u>NRS 441A.195</u>	Testing of person or decedent who may have exposed law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner, person employed by or volunteering for agency of criminal justice or certain other public employees or volunteers to communicable disease.
<u>NRS 441A.200</u>	Right to receive treatment from physician or clinic of choice; Board may prescribe method of treatment.
<u>NRS 441A.210</u>	Rights and duties of person who depends exclusively on prayer for healing.
<u>NRS 441A.220</u>	Confidentiality of information; permissible disclosure.
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### TUBERCULOSIS

<u>NRS 441A.340</u>	Duties of health authority.
<u>NRS 441A.350</u>	Establishment and support of clinics.
<u>NRS 441A.360</u>	Provision of medical supplies and financial aid for treatment of indigent patients.
<u>NRS 441A.370</u>	Contracts with hospitals, clinics and other institutions for examination and care of patients.
<u>NRS 441A.380</u>	Treatment of patient for condition related to or as necessary for control of tuberculosis.
<u>NRS 441A.390</u>	Contracts with private physicians to provide outpatient care in rural areas.
<u>NRS 441A.400</u>	Inspection of records of facility where patients are treated.

### ISOLATION AND QUARANTINE OF PERSON OR GROUP OF PERSONS

#### GENERAL PROVISIONS

<u>NRS 441A.510</u>	Manner of isolating, quarantining or treating by health authority; duty to inform person of rights.
<u>NRS 441A.520</u>	Right of person isolated or quarantined to make and receive telephone calls and to possess cellular phone; duty to notify spouse or legal guardian under certain circumstances.
<u>NRS 441A.530</u>	Right to refuse treatment and not submit to involuntary treatment; exception.

#### EMERGENCY ISOLATION OR QUARANTINE

<u>NRS 441A.540</u>	Restrictions on change of status from voluntary isolation or quarantine to emergency isolation or quarantine; rights of person whose status is changed.
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- NRS 441A.550** Detention for testing, examination, observation and consensual medical treatment; limitation on time; rights of person detained; extension of time.
- NRS 441A.560** Procedure for isolation or quarantine.
- NRS 441A.570** Certificate of another health authority or physician, licensed physician assistant or registered nurse required.
- NRS 441A.580** Requirements for and limitations on applications and certificates.
- NRS 441A.590** Additional notice to spouse or legal guardian.

#### INVOLUNTARY COURT-ORDERED ISOLATION OR QUARANTINE

- NRS 441A.600** Petition: Filing; certificate or statement of alleged infection with or exposure to communicable disease.
- NRS 441A.610** Additional requirements for petition that is filed after emergency isolation or quarantine.
- NRS 441A.620** Hearing on petition; notice; release of person before hearing.
- NRS 441A.630** Examination or assessment of person alleged to be infected with or exposed to communicable disease; protective custody pending hearing; written summary of findings and evaluation concerning person alleged to be infected with or exposed to communicable disease.
- NRS 441A.640** Evaluation teams: Establishment; composition; fees.
- NRS 441A.650** Proceedings held in county where persons to conduct examination are available; expense of proceedings paid by county.
- NRS 441A.660** Right to counsel; compensation of counsel; recess; duties of district attorney.
- NRS 441A.670** Testimony.
- NRS 441A.680** Right of person alleged to be infected with or exposed to communicable disease to be present by telephonic conferencing or videoconferencing and to testify.
- NRS 441A.690** Fees and mileage for witnesses.
- NRS 441A.700** Findings and order; expiration and renewal of isolation or quarantine; alternative courses of treatment.
- NRS 441A.710** Clinical abstract to accompany order.
- NRS 441A.720** Transportation to public or private medical facility, residence or other safe location.

#### ENFORCEMENT

- NRS 441A.900** Injunction: Grounds; responsibility for prosecution; authority of court.
- NRS 441A.910** Criminal penalty for violation of chapter.
- NRS 441A.920** Criminal penalty and administrative fine for failure to comply with regulations or requirements of chapter.
- NRS 441A.930** District attorney to prosecute violators.

## GENERAL PROVISIONS

**NRS 441A.010 Definitions.** As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 441A.020 to 441A.115, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1989, 294; A 2003, 2206; 2009, 557)

**NRS 441A.020 “Board” defined.** “Board” means the State Board of Health.

(Added to NRS by 1989, 294)

**NRS 441A.030 “Child care facility” defined.**

1. “Child care facility” means:

(a) An establishment operated and maintained for the purpose of furnishing care on a temporary or permanent basis, during the day or overnight, to five or more children under 18 years of age, if compensation is received for the care of any of those children;

(b) An on-site child care facility as defined in NRS 432A.0275;

(c) A child care institution as defined in NRS 432A.0245; or

(d) An outdoor youth program as defined in NRS 432A.028.

2. “Child care facility” does not include:

(a) The home of a natural parent or guardian, foster home as defined in NRS 424.014 or maternity home;

(b) A home in which the only children received, cared for and maintained are related within the third degree of consanguinity or affinity by blood, adoption or marriage to the person operating the facility; or

(c) A home in which a person provides care for the children of a friend or neighbor for not more than 4 weeks if the person who provides the care does not regularly engage in that activity.

(Added to NRS by 1989, 294; A 1991, 2310; 2011, 1998)

**NRS 441A.040 “Communicable disease” defined.** “Communicable disease” means a disease which is caused by a specific infectious agent or its toxic products, and which can be transmitted, either directly or indirectly, from a reservoir of infectious agents to a susceptible host organism.

(Added to NRS by 1989, 294)

**NRS 441A.050 “Health authority” defined.** “Health authority” means the district health officer in a district, or the district health officer’s designee, or, if none, the Chief Medical Officer, or the Chief Medical Officer’s designee.

(Added to NRS by 1989, 294)

**NRS 441A.063 “Infectious disease” defined.** “Infectious disease” means a disease which is caused by pathogenic microorganisms, including, without limitation, bacteria, viruses, parasites or fungi, which spread, either directly or indirectly, from one person to another. The term includes a communicable disease.

(Added to NRS by 2009, 554)

**NRS 441A.065 “Isolation” defined.** “Isolation” means the physical separation and confinement of a person or a group of persons infected or reasonably believed by a health authority to be infected with a communicable disease from persons who are not infected with and have not been exposed to the communicable disease, to limit the transmission of the

communicable disease to persons who are not infected with and have not been exposed to the communicable disease.

(Added to NRS by 2003, 2196)

**NRS 441A.070 “Laboratory director” defined.** “Laboratory director” has the meaning ascribed to it in NRS 652.050.

(Added to NRS by 1989, 294)

**NRS 441A.080 “Medical facility” defined.** “Medical facility” has the meaning ascribed to it in NRS 449.0151.

(Added to NRS by 1989, 294)

**NRS 441A.090 “Medical laboratory” defined.** “Medical laboratory” has the meaning ascribed to it in NRS 652.060.

(Added to NRS by 1989, 294)

**NRS 441A.100 “Physician” defined.** “Physician” is limited to a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

(Added to NRS by 1989, 294)

**NRS 441A.110 “Provider of health care” defined.** “Provider of health care” means a physician, nurse or veterinarian licensed in accordance with state law or a physician assistant licensed pursuant to chapter 630 or 633 of NRS.

(Added to NRS by 1989, 294; A 2001, 781; 2007, 1856)

**NRS 441A.115 “Quarantine” defined.** “Quarantine” means the physical separation and confinement of a person or a group of persons exposed to or reasonably believed by a health authority to have been exposed to a communicable disease who do not yet show any signs or symptoms of being infected with the communicable disease from persons who are not infected with and have not been exposed to the communicable disease, to limit the transmission of the communicable disease to persons who are not infected with and have not been exposed to the communicable disease.

(Added to NRS by 2003, 2196)

**NRS 441A.120 Regulations of State Board of Health; performance of duties set forth in regulations.**

1. The Board shall adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. The regulations must specify:

(a) The diseases which are known to be communicable.

(b) The communicable diseases which are known to be sexually transmitted.

(c) The procedures for investigating and reporting cases or suspected cases of communicable diseases, including the time within which these actions must be taken.

(d) For each communicable disease, the procedures for testing, treating, isolating and quarantining a person or group of persons who have been exposed to or have or are suspected of having the disease.

(e) A method for ensuring that any testing, treatment, isolation or quarantine of a person or a group of persons pursuant to this chapter is carried out in the least restrictive manner or environment that is appropriate and acceptable under current medical and public health practices.

2. The duties set forth in the regulations adopted by the Board pursuant to this section must be performed by:

(a) In a district in which there is a district health officer, the district health officer or the district health officer's designee; or

(b) In any other area of the State, the Chief Medical Officer or the Chief Medical Officer's designee.

(Added to NRS by 1989, 294; A 2003, 2206; 2011, 2506)

**NRS 441A.125 Use of syndromic reporting and active surveillance to monitor public health; regulations.**

1. The Board shall develop a system which provides for syndromic reporting and active surveillance to monitor public health in this state during major events or when determined appropriate and necessary by a health authority.

2. The Board shall adopt regulations concerning the system it develops pursuant to this section, including, without limitation:

(a) The manner in which and situations during which the system actively gathers information;

(b) The persons who are required to report information to the system; and

(c) The procedures for reporting required information to the system.

(Added to NRS by 2003, 2205)

**NRS 441A.130 Chief Medical Officer to inform local health officers of regulations and procedures.** The Chief Medical Officer shall inform each local health officer of the regulations adopted by the Board and the procedures established for investigating and reporting cases or suspected cases of infectious diseases and cases or suspected cases of exposure to biological, radiological or chemical agents pursuant to this chapter.

(Added to NRS by 1989, 295; A 2009, 557)

**NRS 441A.140 Authority of Division of Public and Behavioral Health to receive and use financial aid.** The Division of Public and Behavioral Health of the Department of Health and Human Services may receive any financial aid made available by any grant or other source and shall use the aid, in cooperation with the health authority, to carry out the provisions of this chapter.

(Added to NRS by 1989, 299; A 2013, 3047)

**REPORTING OF OCCURRENCES; INVESTIGATIONS; ACTIONS TO PROTECT PUBLIC HEALTH AND SAFETY**

**NRS 441A.150 Reporting occurrences of communicable diseases to health authority.**

1. A provider of health care who knows of, or provides services to, a person who has or is suspected of having a communicable disease shall report that fact to the health authority in the manner prescribed by the regulations of the Board. If no provider of health care is providing services, each person having knowledge that another person has a communicable disease shall report that fact to the health authority in the manner prescribed by the regulations of the Board.

2. A medical facility in which more than one provider of health care may know of, or provide services to, a person who has or is suspected of having a communicable disease shall establish administrative procedures to ensure that the health authority is notified.

3. A laboratory director shall, in the manner prescribed by the Board, notify the health authority of the identification by his or her medical laboratory of the presence of any

communicable disease in the jurisdiction of that health authority. The health authority shall not presume a diagnosis of a communicable disease on the basis of the notification received from the laboratory director.

4. If more than one medical laboratory is involved in testing a specimen, the laboratory that is responsible for reporting the results of the testing directly to the provider of health care for the patient shall also be responsible for reporting to the health authority.

(Added to NRS by 1989, 295)

**NRS 441A.160 Investigation: Powers of health authority to conduct investigation of communicable disease; order to require person to submit to examination; order of isolation, quarantine or treatment.**

1. A health authority who knows, suspects or is informed of the existence within the jurisdiction of the health authority of any communicable disease shall immediately investigate the matter and all circumstances connected with it, and shall take such measures for the prevention, suppression and control of the disease as are required by the regulations of the Board or a local board of health.

2. A health authority may:

(a) Enter private property at reasonable hours to investigate any case or suspected case of a communicable disease.

(b) Order any person whom the health authority reasonably suspects has a communicable disease in an infectious state to submit to any medical examination or test which the health authority believes is necessary to verify the presence of the disease. The order must be in writing and specify the name of the person to be examined and the time and place of the examination and testing, and may include such terms and conditions as the health authority believes are necessary to protect the public health.

(c) Except as otherwise provided in subsection 5 and NRS 441A.210, issue an order requiring the isolation, quarantine or treatment of any person or group of persons if the health authority believes that such action is necessary to protect the public health. The order must be in writing and specify the person or group of persons to be isolated or quarantined, the time during which the order is effective, the place of isolation or quarantine and other terms and conditions which the health authority believes are necessary to protect the public health, except that no isolation or quarantine may take place if the health authority determines that such action may endanger the life of a person who is isolated or quarantined.

3. Each order issued pursuant to this section must be served upon each person named in the order by delivering a copy to him or her.

4. If a health authority issues an order to isolate or quarantine a person with a communicable or infectious disease in a medical facility, the health authority must isolate or quarantine the person in the manner set forth in NRS 441A.510 to 441A.720, inclusive.

5. Except as otherwise provided in NRS 441A.310 and 441A.380, a health authority may not issue an order requiring the involuntary treatment of a person without a court order requiring the person to submit to treatment.

(Added to NRS by 1989, 295; A 2003, 2206; 2011, 2507)

**NRS 441A.163 Investigation: Powers of health authority to conduct investigation of infectious disease or exposure to biological, radiological or chemical agent; reports; regulations.**

1. Except as otherwise required pursuant to NRS 441A.160, a health authority may conduct an investigation of a case or suspected case of:

(a) An infectious disease within its jurisdiction; or

(b) Exposure to a biological, radiological or chemical agent within its jurisdiction, which significantly impairs the health, safety or welfare of the public within its jurisdiction.

2. Each health authority shall:

(a) Except as otherwise required pursuant to NRS 441A.170, report each week to the Chief Medical Officer the number and types of cases or suspected cases of infectious diseases or cases or suspected cases of exposure to biological, radiological or chemical agents which significantly impair the health, safety or welfare of the public reported to the health authority, and any other information required by the regulations of the Board.

(b) Report the results of an investigation conducted pursuant to subsection 1 to the Chief Medical Officer within 30 days after concluding the investigation.

3. The Board may adopt regulations to carry out the provisions of NRS 441A.163 to 441A.169, inclusive.

(Added to NRS by 2009, 554)

**NRS 441A.165 Investigation: Powers of health authority to access medical records, laboratory records and other information in possession of health care provider or medical facility; payment of certain costs related to investigation.**

1. A health authority which conducts an investigation pursuant to NRS 441A.160 or 441A.163 shall, for the protection of the health, safety and welfare of the public, have access to all medical records, laboratory records and reports, books and papers relevant to the investigation which are in the possession of a provider of health care or medical facility being investigated or which are otherwise necessary to carry out the investigation. The determination of what information is necessary to carry out the investigation is at the discretion of the health authority.

2. If a health authority conducts an investigation pursuant to NRS 441A.160 or 441A.163, the health authority may require a provider of health care or medical facility being investigated to pay a proportionate share of the actual cost of carrying out the investigation, including, without limitation, the cost of notifying and testing patients who may have contracted an infectious disease, been exposed to a biological, radiological or chemical agent or otherwise been harmed.

(Added to NRS by 2009, 555)

**NRS 441A.166 Investigation: Subpoena to compel production of medical records, laboratory records and other information; court order directing witness to appear for failure to produce.**

1. Upon petition by a health authority to the district court for the county in which an investigation is being conducted by the health authority pursuant to NRS 441A.160 or 441A.163, the court may issue a subpoena to compel the production of medical records, laboratory records and reports, books and papers as set forth in NRS 441A.165.

2. If a witness refuses to produce any medical records, laboratory records and reports, books or papers required by a subpoena issued by a court pursuant to subsection 1, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not produced the medical records, laboratory records and reports, books or papers before the health authority. A certified copy of the order must be served upon the witness. The court may enter an order that the witness appear before the health authority at the time and place fixed in the order and produce the required medical records, laboratory records and reports, books or papers, and upon failure to obey the order, the witness must be dealt with as for contempt of court.

(Added to NRS by 2009, 555)

**NRS 441A.167 Investigation: Law enforcement agencies and political subdivisions authorized to share certain information and medical records with state and local health authorities.**

1. A public agency, law enforcement agency or political subdivision of this State which has information that is relevant to an investigation relating to an infectious disease or exposure to a biological, radiological or chemical agent which significantly impairs the health, safety and welfare of the public shall share the information and any medical records and reports with the appropriate state and local health authorities if it is in the best interest of the public and as necessary to further the investigation of the requesting health authority.

2. The Board shall adopt regulations to carry out this section, including, without limitation:

(a) Identifying the public agencies and political subdivisions with which the information set forth in subsection 1 may be shared;

(b) Prescribing the circumstances and procedures by which the information may be shared with those identified public agencies and political subdivisions; and

(c) Ensuring the confidentiality of the information if it is protected health information.

(Added to NRS by 2009, 556)

**NRS 441A.169 Investigation: Powers of health authority to issue cease and desist order to health care provider or medical facility; injunction.**

1. During the course of or as a result of an investigation concerning the case or suspected case of an infectious disease or the case or suspected case of exposure to a biological, radiological or chemical agent pursuant to NRS 441A.160 or 441A.163, a health authority may, upon finding that a provider of health care or medical facility significantly contributed to a case of an infectious disease or to a case of exposure to a biological, radiological or chemical agent and that the public health imperatively requires:

(a) Issue a written order directing the provider of health care or medical facility to cease and desist any act or conduct which is harmful to the health, safety or welfare of the public; and

(b) Take any other action to reduce or eliminate the harm to the health, safety or welfare of the public.

2. A written order directing a provider of health care or medical facility to cease and desist issued pursuant to subsection 1 must contain a statement of the:

(a) Provision of law or regulation which the provider of health care or medical facility is violating; or

(b) Standard of care that the provider of health care or medical facility is violating which led to the case of the infectious disease or to the case of exposure to a biological, radiological or chemical agent.

3. An order to cease and desist must be served upon the person or an authorized representative of the facility directly or by certified or registered mail, return receipt requested. The order becomes effective upon service.

4. An order to cease and desist expires 30 days after the date of service unless the health authority institutes an action in a court of competent jurisdiction seeking an injunction.

5. Upon a showing by the health authority that a provider of health care or medical facility is committing or is about to commit an act which is harmful to the health, safety or welfare of the public, a court of competent jurisdiction may enjoin the provider of health care or medical facility from committing the act.

(Added to NRS by 2009, 556)

**NRS 441A.170 Weekly reports to Chief Medical Officer.** Each health authority shall report each week to the Chief Medical Officer the number and types of cases or suspected cases of communicable disease reported to the health authority, and any other information required by the regulations of the Board.

(Added to NRS by 1989, 299)

**NRS 441A.180 Contagious person to prevent exposure to others; warning by health authority; penalty.**

1. A person who has a communicable disease in an infectious state shall not conduct himself or herself in any manner likely to expose others to the disease or engage in any occupation in which it is likely that the disease will be transmitted to others.

2. A health authority who has reason to believe that a person is in violation of subsection 1 shall issue a warning to that person, in writing, informing the person of the behavior which constitutes the violation and of the precautions that the person must take to avoid exposing others to the disease. The warning must be served upon the person by delivering a copy to him or her.

3. A person who violates the provisions of subsection 1 after service upon him or her of a warning from a health authority is guilty of a misdemeanor.

(Added to NRS by 1989, 296)

**NRS 441A.190 Control of disease within schools, child care facilities, medical facilities and correctional facilities.**

1. Except as otherwise provided in this subsection, a health authority who knows of the presence of a communicable disease within a school, child care facility, medical facility or correctional facility shall notify the principal, director or other person in charge of the school, child care facility, medical facility or correctional facility of that fact and direct what action, if any, must be taken to prevent the spread of the disease. A health authority who knows of the presence of the human immunodeficiency virus within a school shall notify the superintendent of the school district of that fact and direct what action, if any, must be taken to prevent the spread of the virus.

2. Except as otherwise provided in this subsection, the principal, director or other person in charge of a school, child care facility, medical facility or correctional facility who knows of or suspects the presence of a communicable disease within the school, child care facility, medical facility or correctional facility, shall notify the health authority pursuant to the regulations of the Board. If a principal of a school knows of the presence of the human immunodeficiency virus within the school, the principal shall notify the superintendent of the school district of that fact. A superintendent of a school district who is notified of or knows of the presence of the human immunodeficiency virus within a school in the school district shall notify the health authority of that fact. The health authority shall investigate a report received pursuant to this subsection to determine whether a communicable disease or the human immunodeficiency virus is present and direct what action, if any, must be taken to prevent the spread of the disease or virus.

3. A parent, guardian or person having custody of a child who has a communicable disease shall not knowingly permit the child to attend school or a child care facility if the Board, by regulation, has determined that the disease requires exclusion from school or a child care facility.

(Added to NRS by 1989, 296; A 1991, 1340)

**NRS 441A.195 Testing of person or decedent who may have exposed law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner, person employed by or volunteering for agency of criminal justice or certain other public employees or volunteers to communicable disease.**

1. A law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees or volunteers, any other person who is employed by or is a volunteer for an agency of criminal justice or any other public employee or volunteer for a public agency who, in the course of his or her official duties, comes into contact with human blood or bodily fluids, or the employer of such a person or the public agency for which the person volunteers, may petition a court for an order requiring the testing of a person or decedent for exposure to a communicable disease if the person or decedent may have exposed the officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee or volunteer, other person employed by or volunteering for an agency of criminal justice or other public employee or volunteer for a public agency to a communicable disease.

2. When possible, before filing a petition pursuant to subsection 1, the person, employer or public agency for which the person volunteers, and who is petitioning shall submit information concerning the possible exposure to a communicable disease to the designated health care officer for the employer or public agency or, if there is no designated health care officer, the person designated by the employer or public agency to document and verify possible exposure to communicable diseases, for verification that there was substantial exposure. Each designated health care officer or person designated by an employer or public agency to document and verify possible exposure to communicable diseases shall establish guidelines based on current scientific information to determine substantial exposure.

3. A court shall promptly hear a petition filed pursuant to subsection 1 and determine whether there is probable cause to believe that a possible transfer of blood or other bodily fluids occurred between the person who filed the petition or on whose behalf the petition was filed and the person or decedent who possibly exposed him or her to a communicable disease. If the court determines that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred and, that a positive result from the test for the presence of a communicable disease would require the petitioner to seek medical intervention, the court shall:

(a) Order the person who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease to submit two appropriate specimens to a local hospital or medical laboratory for testing for exposure to a communicable disease; or

(b) Order that two appropriate specimens be taken from the decedent who possibly exposed the petitioner, or the person on whose behalf the petition was filed, to a communicable disease and be submitted to a local hospital or medical laboratory for testing for exposure to the communicable disease.

Ê The local hospital or medical laboratory shall perform the test in accordance with generally accepted medical practices and shall disclose the results of the test in the manner set forth in NRS 629.069.

4. If a judge or a justice of the peace enters an order pursuant to this section, the judge or justice of the peace may authorize the designated health care officer or the person designated by the employer or public agency to document and verify possible exposure to a communicable disease to sign the name of the judge or justice of the peace on a duplicate order. Such a duplicate order shall be deemed to be an order of the court. As soon as practicable after the duplicate order is signed, the duplicate order must be returned to the judge or justice of the peace who authorized the signing of it and must indicate on its face the judge or justice of the peace to whom it is to be returned. The judge or justice of the peace, upon receiving the returned order, shall endorse the order with his or her name and enter the date on which the order was returned. Any failure of the judge or justice of the peace to make such an endorsement and entry does not in and of itself invalidate the order.

5. Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any record of the proceedings to be sealed and to be opened for inspection only upon an order of the court for good cause shown.

6. A court may establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order pursuant to this section by electronic or telephonic means.

7. The employer of a person or the public agency for which the person volunteers, who files a petition or on whose behalf a petition is filed pursuant to this section or the insurer of the employer or public agency, shall pay the cost of performing the test pursuant to subsection 3.

8. As used in this section:

(a) “Agency of criminal justice” has the meaning ascribed to it in NRS 179A.030.

(b) “Emergency medical attendant” means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS.

(Added to NRS by 1999, 1122; A 2005, 328; 2007, 88; 2013, 595, 936)

**NRS 441A.200 Right to receive treatment from physician or clinic of choice; Board may prescribe method of treatment.** This chapter does not empower or authorize the health authority or any other person to interfere in any manner with the right of a person to receive approved treatment for a communicable disease from any physician, clinic or other person of his or her choice, but the Board has the power to prescribe the approved method of treatment to be used by the physician, clinic or other person.

(Added to NRS by 1989, 298)

**NRS 441A.210 Rights and duties of person who depends exclusively on prayer for healing.** A person who has a communicable disease and depends exclusively on prayer for healing in accordance with the tenets and precepts of any recognized religious sect, denomination or organization is not required to submit to any medical treatment required by the provisions of this chapter, but may be isolated or quarantined in the person’s home or other place of the person’s choice acceptable to the health authority, and shall comply with all applicable rules, regulations and orders issued by the health authority.

(Added to NRS by 1989, 298)

**NRS 441A.220 Confidentiality of information; permissible disclosure.** All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, or by any person who has a communicable disease, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except:

1. As otherwise provided in NRS 439.538.

2. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

3. In a prosecution for a violation of this chapter.

4. In a proceeding for an injunction brought pursuant to this chapter.

5. In reporting the actual or suspected abuse or neglect of a child or elderly person.

6. To any person who has a medical need to know the information for his or her own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.

7. If the person who is the subject of the information consents in writing to the disclosure.
8. Pursuant to subsection 4 of NRS 441A.320 or NRS 629.069.
9. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.
10. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.
11. If the disclosure is authorized or required by NRS 239.0115 or another specific statute.  
(Added to NRS by 1989, 299; A 1989, 1476; 1997, 1254; 1999, 1123, 2238, 2245; 2005, 329; 2007, 1277, 1977, 2109)

**NRS 441A.230 Disclosure of personal information prohibited without consent.** Except as otherwise provided in this chapter and NRS 439.538, a person shall not make public the name of, or other personal identifying information about, a person infected with a communicable disease who has been investigated by the health authority pursuant to this chapter without the consent of the person.

(Added to NRS by 1989, 300; A 2007, 1978)

## TUBERCULOSIS

**NRS 441A.340 Duties of health authority.** The health authority shall control, prevent the spread of, and ensure the treatment and cure of tuberculosis.

(Added to NRS by 1989, 297; A 2011, 2508)

**NRS 441A.350 Establishment and support of clinics.** The health authority may establish such clinics as it believes are necessary for the prevention and control of, and for the treatment and cure of, persons who have tuberculosis and provide those clinics with financial or other assistance within the limits of the available appropriations and any other resources.

(Added to NRS by 1989, 297; A 2011, 2508)

**NRS 441A.360 Provision of medical supplies and financial aid for treatment of indigent patients.** If a person in this state who has tuberculosis is, in the discretion of the health authority, unable to afford approved treatment for the disease, the health authority may provide medical supplies or direct financial aid, within the limits of the available appropriations and any other resources, to be used in the person's treatment, to any physician, clinic, dispensary or medical facility. A physician, clinic, dispensary or medical facility that accepts supplies or aid pursuant to this section shall comply with all conditions prescribed by the board relating to the use of the supplies or aid.

(Added to NRS by 1989, 298; A 2011, 2508)

**NRS 441A.370 Contracts with hospitals, clinics and other institutions for examination and care of patients.**

1. The health authority shall, by contract with hospitals, clinics or other institutions in the State, provide for:

(a) The diagnostic examination, including, without limitation, laboratory testing of persons who have tuberculosis; and

(b) Inpatient and outpatient care for persons who have tuberculosis.

2. If adequate facilities for examination and care are not available in the State, the health authority may contract with hospitals, clinics or other institutions in other states which do have adequate facilities.

(Added to NRS by 1989, 298; A 2011, 2509)

**NRS 441A.380 Treatment of patient for condition related to or as necessary for control of tuberculosis.** Except as otherwise provided in NRS 441A.210, a person who has tuberculosis and is confined to a hospital or other institution pursuant to the provisions of this chapter must be treated for tuberculosis and any related condition, and may be treated for any other condition which the health authority determines is detrimental to his or her health and the treatment of which is necessary for the effective control of tuberculosis.

(Added to NRS by 1989, 298; A 2011, 2509)

**NRS 441A.390 Contracts with private physicians to provide outpatient care in rural areas.** The health authority may contract with any private physician to provide outpatient care in those rural areas of the State where, in its determination, patients can best be treated in that manner.

(Added to NRS by 1989, 298; A 2011, 2509)

**NRS 441A.400 Inspection of records of facility where patients are treated.** The health authority may inspect and must be given access to all records of every institution and clinic, both public and private, where patients who have tuberculosis are treated at public expense.

(Added to NRS by 1989, 298; A 2011, 2509)

## **ISOLATION AND QUARANTINE OF PERSON OR GROUP OF PERSONS**

### **General Provisions**

**NRS 441A.510 Manner of isolating, quarantining or treating by health authority; duty to inform person of rights.**

1. If a health authority isolates, quarantines or treats a person or group of persons infected with, exposed to, or reasonably believed by a health authority to have been infected with or exposed to a communicable disease, the authority must isolate, quarantine or treat the person or group of persons in the manner set forth in NRS 441A.510 to 441A.720, inclusive.

2. A health authority shall provide each person whom it isolates or quarantines pursuant to NRS 441A.510 to 441A.720, inclusive, with a document informing the person of his or her rights. The Board shall adopt regulations:

(a) Setting forth the rights of a person who is isolated or quarantined that must be included in the document provided pursuant to this subsection; and

(b) Specifying the time and manner in which the document must be provided pursuant to this subsection.

(Added to NRS by 2003, 2196; A 2011, 2509)

**NRS 441A.520 Right of person isolated or quarantined to make and receive telephone calls and to possess cellular phone; duty to notify spouse or legal guardian under certain circumstances.**

1. A person who is isolated or quarantined pursuant to NRS 441A.510 to 441A.720, inclusive, has the right:

(a) To make a reasonable number of completed telephone calls from the place where the person is isolated or quarantined as soon as reasonably possible after his or her isolation or quarantine; and

(b) To possess and use a cellular phone or any other similar means of communication to make and receive calls in the place where the person is isolated or quarantined.

2. If a person who is isolated or quarantined pursuant to NRS 441A.510 to 441A.720, inclusive, is unconscious or otherwise unable to communicate because of mental or physical incapacity, the health authority that isolated or quarantined the person must notify the spouse or legal guardian of the person by telephone and certified mail. If a person described in this subsection is isolated or quarantined in a medical facility and the health authority did not provide the notice required by this subsection, the medical facility must provide the notice. If the case of a person described in this subsection is before a court and the health authority, and medical facility, if any, did not provide the notice required by this subsection, the court must provide the notice.

(Added to NRS by 2003, 2197; A 2011, 2509)

**NRS 441A.530 Right to refuse treatment and not submit to involuntary treatment; exception.** A person who is isolated or quarantined pursuant to NRS 441A.510 to 441A.720, inclusive, has the right to refuse treatment and may not be required to submit to involuntary treatment unless a court issues an order requiring the person to submit to treatment.

(Added to NRS by 2003, 2197; A 2011, 2510)

### **Emergency Isolation or Quarantine**

**NRS 441A.540 Restrictions on change of status from voluntary isolation or quarantine to emergency isolation or quarantine; rights of person whose status is changed.**

1. If a person infected with or exposed to a communicable disease is voluntarily isolated or quarantined in a public or private medical facility, the facility shall not change the status of the person to an emergency isolation or quarantine unless, before the change in status is made:

(a) The facility provides:

(1) An application to a health authority for an emergency isolation or quarantine pursuant to NRS 441A.560; and

(2) The certificate of a health authority, physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse to a health authority pursuant to NRS 441A.570; or

(b) The facility receives an order for isolation or quarantine issued by a health authority.

2. A person whose status is changed to an emergency isolation or quarantine pursuant to subsection 1:

(a) Must not be detained in excess of 48 hours after the change in status is made, unless within that period a written petition is filed by a health authority with the clerk of the district court pursuant to NRS 441A.600; and

(b) May, immediately after the person's status is changed, seek an injunction or other appropriate process in district court challenging his or her detention.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

4. Nothing in this section limits the actions that a public or private medical facility may take to prevent or limit the transmission of communicable diseases within the medical facility, including, without limitation, practices for the control of infections.

(Added to NRS by 2003, 2197; A 2007, 1856)

**NRS 441A.550 Detention for testing, examination, observation and consensual medical treatment; limitation on time; rights of person detained; extension of time.**

1. Any person or group of persons alleged to have been infected with or exposed to a communicable disease may be detained in a public or private medical facility, a residence or other safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment in the manner set forth in NRS 441A.510 to 441A.720, inclusive, and subject to the provisions of subsection 2:

(a) Upon application to a health authority pursuant to NRS 441A.560;

(b) Upon order of a health authority; or

(c) Upon voluntary consent of the person, parent of a minor person or legal guardian of the person.

2. Except as otherwise provided in subsection 3, 4 or 5, a person voluntarily or involuntarily isolated or quarantined under subsection 1 must be released within 72 hours, including weekends and holidays, from the time of the admission of the person to a medical facility or isolation or quarantine in a residence or other safe location, unless within that period:

(a) The additional voluntary consent of the person, the parent of a minor person or a legal guardian of the person is obtained;

(b) A written petition for an involuntary court-ordered isolation or quarantine is filed with the clerk of the district court pursuant to NRS 441A.600, including, without limitation, the documents required pursuant to NRS 441A.610; or

(c) The status of the person is changed to a voluntary isolation or quarantine.

3. A person who is involuntarily isolated or quarantined under subsection 1 may, immediately after the person is isolated or quarantined, seek an injunction or other appropriate process in district court challenging his or her detention.

4. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

5. During a state of emergency or declaration of disaster regarding public health proclaimed by the Governor or the Legislature pursuant to NRS 414.070, a health authority may, before the expiration of the period of 72 hours set forth in subsection 2, petition, with affidavits supporting its request, a district court for an order finding that a reasonably foreseeable immediate threat to the health of the public requires the 72-hour period of time to be extended for no longer than the court deems necessary for available governmental resources to investigate, file and prosecute the relevant written petitions for involuntary court-ordered isolation or quarantine pursuant to NRS 441A.510 to 441A.720, inclusive.

(Added to NRS by 2003, 2198; A 2011, 2510)

**NRS 441A.560 Procedure for isolation or quarantine.**

1. An application to a health authority for an order of emergency isolation or quarantine of a person or a group of persons alleged to have been infected with or exposed to a communicable disease may only be made by another health authority, a physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS, a registered nurse or a medical facility by submitting the certificate required by NRS 441A.570. Within its jurisdiction, upon application or on its own, subject to the provisions of NRS 441A.510 to 441A.720, inclusive, a health authority may:

(a) Pursuant to its own order and without a warrant:

(1) Take a person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease into custody in any safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment; and

(2) Transport the person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose, or arrange for the person or group of persons to be transported for that purpose by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

È only if the health authority acting in good faith has, based upon personal observation, its own epidemiological investigation or an epidemiological investigation by another health authority, a physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS or a registered nurse as stated in a certificate submitted pursuant to NRS 441A.570, if such a certificate was submitted, of the person or group of persons alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of members of the public who have not been infected with or exposed to the communicable disease.

(b) Petition a district court for an emergency order requiring:

(1) Any health authority or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease into custody to allow the health authority to investigate, file and prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons alleged to have been infected with or exposed to a communicable disease in the manner set forth in NRS 441A.510 to 441A.720, inclusive; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport, in accordance with such court order, the person or group of persons alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose.

2. The district court may issue an emergency order for isolation or quarantine pursuant to paragraph (b) of subsection 1:

(a) Only for the time deemed necessary by the court to allow a health authority to investigate, file and prosecute each petition for involuntary court-ordered isolation or quarantine pursuant to NRS 441A.510 to 441A.720, inclusive; and

(b) Only if it is satisfied that there is probable cause to believe that the person or group of persons alleged to have been infected with or exposed to a communicable disease has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public.

(Added to NRS by 2003, 2198; A 2007, 1857; 2011, 2511)

**NRS 441A.570 Certificate of another health authority or physician, licensed physician assistant or registered nurse required.** A health authority shall not accept an application for an emergency isolation or quarantine under NRS 441A.560 unless that application is accompanied by a certificate of another health authority or a physician, physician

assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse stating that he or she has examined the person or group of persons alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person or group of persons alleged to have been infected with or exposed to a communicable disease and that he or she has concluded that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public. The certificate required by this section may be obtained from a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who is employed by the public or private medical facility in which the person or group of persons is admitted or detained and from the facility from which the application is made.

(Added to NRS by 2003, 2200; A 2007, 1858)

**NRS 441A.580 Requirements for and limitations on applications and certificates.**

1. No application or certificate authorized under NRS 441A.560 or 441A.570 may be considered if made by a person on behalf of a medical facility or by a health authority, physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who is related by blood or marriage to the person alleged to have been infected with or exposed to a communicable disease, or who is financially interested, in a manner that would be prohibited pursuant to NRS 439B.425 if the application or certificate were deemed a referral, in a medical facility in which the person alleged to have been infected with or exposed to a communicable disease is to be detained.

2. No application or certificate of any health authority or person authorized under NRS 441A.560 or 441A.570 may be considered unless it is based on personal observation, examination or epidemiological investigation of the person or group of persons alleged to have been infected with or exposed to a communicable disease made by such health authority or person not more than 72 hours before the making of the application or certificate. The certificate must set forth in detail the facts and reasons on which the health authority or person who submitted the certificate pursuant to NRS 441A.570 based his or her opinions and conclusions.

(Added to NRS by 2003, 2200; A 2007, 1859)

**NRS 441A.590 Additional notice to spouse or legal guardian.** In addition to any notice required pursuant to NRS 441A.520, within 24 hours after a person's involuntary admission into a public or private medical facility under emergency isolation or quarantine, the administrative officer of the public or private medical facility shall reasonably attempt to ascertain the identification and location of the spouse or legal guardian of that person and, if reasonably possible, mail notice of the admission by certified mail to the spouse or legal guardian of that person.

(Added to NRS by 2003, 2200)

**Involuntary Court-Ordered Isolation or Quarantine**

**NRS 441A.600 Petition: Filing; certificate or statement of alleged infection with or exposure to communicable disease.** A proceeding for an involuntary court-ordered isolation or quarantine of any person in this State may be commenced by a health authority filing a petition with the clerk of the district court of the county where the person is to be isolated or quarantined. The petition may be pled in the alternative for both isolation and quarantine, if required by developing or changing facts, and must be accompanied:

1. By a certificate of a health authority or a physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS or a registered nurse stating that he or she has examined the person alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease and has concluded that the person has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; or

2. By a sworn written statement by the health authority that:

(a) The health authority has, based upon its personal observation of the person alleged to have been infected with or exposed to a communicable disease, or its epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person has been infected with or exposed to a communicable disease and, that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; and

(b) The person alleged to have been infected with or exposed to a communicable disease has refused to submit to voluntary isolation or quarantine, examination, testing, or treatment known to control or resolve the transmission of the communicable disease.

(Added to NRS by 2003, 2200; A 2007, 1859)

**NRS 441A.610 Additional requirements for petition that is filed after emergency isolation or quarantine.** In addition to the requirements of NRS 441A.600, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.540 or 441A.550 must include a certified copy of:

1. If an application for an order of emergency isolation or quarantine of the person was made pursuant to NRS 441A.560, the application for the emergency isolation or quarantine of the person made to the petitioning health authority pursuant to NRS 441A.560; and

2. A petition executed by a health authority, including, without limitation, a sworn statement that:

(a) The health authority or a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who submitted a certificate pursuant to NRS 441A.570, if such a certificate was submitted, has examined the person alleged to have been infected with or exposed to a communicable disease;

(b) In the opinion of the health authority, there is a reasonable degree of certainty that the person alleged to have been infected with or exposed to a communicable disease is currently capable of transmitting the disease, or is likely to become capable of transmitting the disease in the near future;

(c) Based on either the health authority's personal observation of the person alleged to have been infected with or exposed to the communicable disease or the health authority's epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to the communicable disease, and on other facts set forth in the petition, the person likely poses an immediate threat to the health of the public; and

(d) In the opinion of the health authority, involuntary isolation or quarantine of the person alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, residence or other safe location is necessary to prevent the person from immediately threatening the health of the public.

(Added to NRS by 2003, 2201; A 2007, 1859)

**NRS 441A.620 Hearing on petition; notice; release of person before hearing.**

1. Immediately after receiving any petition filed pursuant to NRS 441A.600 or 441A.610, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.
2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his or her attorney, if known, the petitioner and the administrative office of any public or private medical facility in which the subject of the petition is detained.
3. The provisions of this section do not preclude a health authority from ordering the release from isolation or quarantine of a person before the time set pursuant to this section for the hearing concerning the person, if appropriate.
4. After the filing of a petition pursuant to NRS 441A.600 or 441A.610 and before any court-ordered involuntary isolation or quarantine, a health authority shall file notice with the court of any order of the health authority issued after the petition was filed to release the person from emergency isolation or quarantine, upon which the court may dismiss the petition without prejudice.

(Added to NRS by 2003, 2202)

**NRS 441A.630 Examination or assessment of person alleged to be infected with or exposed to communicable disease; protective custody pending hearing; written summary of findings and evaluation concerning person alleged to be infected with or exposed to communicable disease.**

1. After the filing of a petition to commence proceedings for the involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.600 or 441A.610, the court shall promptly cause two or more physicians or physician assistants licensed pursuant to chapter 630 or 633 of NRS, at least one of whom must always be a physician, to either examine the person alleged to have been infected with or exposed to a communicable disease or assess the likelihood that the person alleged to have been infected with or exposed to a communicable disease has been so infected or exposed.
2. To conduct the examination or assessment of a person who is not being detained at a public or private medical facility, residence or other safe location under emergency isolation or quarantine pursuant to the emergency order of a health authority or court made pursuant to NRS 441A.550 or 441A.560, the court may order a peace officer to take the person into protective custody and transport the person to a public or private medical facility, residence or other safe location where the person may be detained until a hearing is held upon the petition.
3. If the person is being detained at his or her home or other place of residence under an emergency order of a health authority or court pursuant to NRS 441A.550 or 441A.560, the person may be allowed to remain in his or her home or other place of residence pending an ordered assessment, examination or examinations and to return to his or her home or other place of residence upon completion of the assessment, examination or examinations if such remaining or returning would not constitute an immediate threat to others residing in his or her home or place of residence.
4. Each physician and physician assistant licensed pursuant to chapter 630 or 633 of NRS who examines or assesses a person pursuant to subsection 1 shall, not later than 24 hours before the hearing set pursuant to NRS 441A.620, submit to the court in writing a summary of his or her

findings and evaluation regarding the person alleged to have been infected with or exposed to a communicable disease.

(Added to NRS by 2003, 2202; A 2007, 1860)

**NRS 441A.640 Evaluation teams: Establishment; composition; fees.**

1. The health authority shall establish such evaluation teams as are necessary to aid the courts under NRS 441A.630 and 441A.700.

2. Each team must be composed of at least two physicians, or at least one physician and one physician assistant licensed pursuant to chapter 630 or 633 of NRS.

3. Fees for the evaluations must be established and collected as set forth in NRS 441A.650.

(Added to NRS by 2003, 2203; A 2007, 1861; 2011, 2512)

**NRS 441A.650 Proceedings held in county where persons to conduct examination are available; expense of proceedings paid by county.**

1. In counties where the examining personnel required pursuant to NRS 441A.630 are not available, proceedings for involuntary court-ordered isolation or quarantine shall be conducted in the nearest county having such examining personnel available in order that there be minimum delay.

2. The entire expense of proceedings for involuntary court-ordered isolation or quarantine shall be paid by the county in which the application is filed.

(Added to NRS by 2003, 2203)

**NRS 441A.660 Right to counsel; compensation of counsel; recess; duties of district attorney.**

1. The person alleged to have been infected with or exposed to a communicable disease, or any relative or friend on behalf of the person, is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered isolation or quarantine, and if the person fails or refuses to obtain counsel, the court shall advise the person and his or her guardian or next of kin, if known, of the right to counsel and shall appoint counsel, who may be the public defender or his or her deputy.

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by the court to be fair and reasonable. Except as otherwise provided in this subsection, the compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county in which the application for involuntary court-ordered isolation or quarantine was filed. In any proceeding before the district court relating to involuntary court-ordered isolation or quarantine, if the person for whom counsel was appointed is challenging his or her isolation or quarantine or any condition of such isolation or quarantine and the person succeeds in his or her challenge, the compensation must be charged against the county in which the application for involuntary court-ordered isolation or quarantine was filed.

3. The court shall, at the request of counsel representing the person alleged to have been infected with or exposed to a communicable disease in proceedings before the court relating to involuntary court-ordered isolation or quarantine, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his or her case.

4. Each district attorney or his or her deputy shall appear and represent the State in all involuntary court-ordered isolation or quarantine proceedings in his or her county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary

court-ordered isolation or quarantine of a person to a medical facility, residence or other safe location in proceedings held pursuant to NRS 441A.600 or 441A.610.

(Added to NRS by 2003, 2203)

**NRS 441A.670 Testimony.** In proceedings for involuntary court-ordered isolation or quarantine, the court shall hear and consider all relevant testimony, including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to have been infected with or exposed to a communicable disease and the certificates, if any, of a health authority or a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse accompanying the petition.

(Added to NRS by 2003, 2203; A 2007, 1861)

**NRS 441A.680 Right of person alleged to be infected with or exposed to communicable disease to be present by telephonic conferencing or videoconferencing and to testify.**

1. In proceedings for an involuntary court-ordered isolation or quarantine, the person with respect to whom the proceedings are held has the right:

(a) To be present by live telephonic conferencing or videoconferencing; and

(b) To testify in his or her own behalf, to the extent that the court determines that the person is able to do so without endangering the health of others.

2. A person who is alleged to have been infected with or exposed to a communicable disease does not have the right to be physically present during the proceedings if such person, if present in the courtroom, would likely pose an immediate threat to the health of the judge or the staff or officers of the court.

(Added to NRS by 2003, 2204)

**NRS 441A.690 Fees and mileage for witnesses.** Witnesses subpoenaed under the provisions of NRS 441A.510 to 441A.720, inclusive, shall be paid the same fees and mileage as are paid to witnesses in the courts of the State of Nevada.

(Added to NRS by 2003, 2204; A 2011, 2512)

**NRS 441A.700 Findings and order; expiration and renewal of isolation or quarantine; alternative courses of treatment.**

1. If the district court finds, after proceedings for the involuntary court-ordered isolation or quarantine of a person to a public or private medical facility, residence or other safe location:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has been infected with or exposed to a communicable disease or is likely to be an immediate threat to the health of the public, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility, residence or other safe location.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has been infected with or exposed to a communicable disease and, because of that disease, is likely to be an immediate threat to the health of the public, the court may order the involuntary isolation or quarantine of the person and may order the most appropriate course of treatment after considering the rights of the person and the desires of the person concerning treatment and vaccination, including, without limitation, the tenets of the person's religion and the tenets of any group or organization of which the person is a member, the rights set forth in NRS 441A.210, the rights set forth in NRS 441A.520, the right to counsel set forth in NRS 441A.660, and the right of a person to challenge his or her isolation or quarantine or any condition of such isolation or quarantine. The order of the court must be interlocutory and must

not become final if, within 14 days after the court orders the involuntary isolation or quarantine, the person is unconditionally released by a health authority from the medical facility, residence or other safe location.

2. An involuntary isolation or quarantine pursuant to paragraph (b) of subsection 1 automatically expires at the end of 30 days if not terminated previously by a health authority. At the end of the court-ordered period of isolation or quarantine, the health authority may petition to renew the detention of the person for additional periods which each must not exceed the shorter of 120 days or either, if the person is isolated, the period of time which the health authority expects the person will be infectious with the communicable disease or, if the person is quarantined, the period of time which the health authority determines is necessary to determine whether the person has been infected with the communicable disease. For each renewal, the petition must set forth to the court specific reasons why further isolation or quarantine is appropriate and that the person likely poses an ongoing immediate threat to the health of the public. If the court finds in considering a petition for renewal that the person is noncompliant with a court-ordered measure to control or resolve the risk of transmitting the communicable disease, it may order the continued isolation and treatment of the person for any period of time the court deems necessary to resolve the immediate and ongoing risk of the person transmitting the disease.

3. Before issuing an order for involuntary isolation or quarantine or a renewal thereof, the court shall explore other alternative courses of isolation, quarantine and treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of communicable diseases, which the court believes may be in the best interests of the person.

(Added to NRS by 2003, 2204)

**NRS 441A.710 Clinical abstract to accompany order.** The order for involuntary court isolation or quarantine of any person to a medical facility, public or private, must be accompanied by a clinical abstract, including a history of illness, diagnosis and treatment, and the names of relatives or correspondents.

(Added to NRS by 2003, 2205)

**NRS 441A.720 Transportation to public or private medical facility, residence or other safe location.** When any involuntary court isolation or quarantine is ordered under the provisions of NRS 441A.510 to 441A.720, inclusive, the involuntarily isolated or quarantined person, together with the court orders, any certificates of the health authorities, physicians, physician assistants licensed pursuant to chapter 630 or 633 of NRS or registered nurses, the written summary of the evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the appropriate county who must be ordered to:

1. Transport the person; or

2. Arrange for the person to be transported by:

(a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(b) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

È to the appropriate public or private medical facility, residence or other safe location.

(Added to NRS by 2003, 2205; A 2007, 1861; 2011, 2512)

## ENFORCEMENT

**NRS 441A.900 Injunction: Grounds; responsibility for prosecution; authority of court.**

1. A person who refuses to:

(a) Comply with any regulation of the Board relating to the control of a communicable disease;

(b) Comply with any provision of this chapter;

(c) Submit to approved treatment or examination required or authorized by this chapter;

(d) Provide any information required by this chapter; or

(e) Perform any duty imposed by this chapter,

Ê may be enjoined by a court of competent jurisdiction.

2. An action for an injunction pursuant to this section must be prosecuted by the Attorney General, any district attorney or any private legal counsel retained by a local board of health in the name of and upon the complaint of the health authority.

3. The court in which an injunction is sought may make any order reasonably necessary to carry out the purpose or intent of any provision of this chapter or to compel compliance with any regulation of the Board or order of the health authority relating to the control of a communicable disease.

(Added to NRS by 1989, 299) — (Substituted in revision for NRS 441A.420)

**NRS 441A.910 Criminal penalty for violation of chapter.** Except as otherwise provided, every person who violates any provision of this chapter is guilty of a misdemeanor.

(Added to NRS by 1989, 300) — (Substituted in revision for NRS 441A.430)

**NRS 441A.920 Criminal penalty and administrative fine for failure to comply with regulations or requirements of chapter.** Every provider of health care, medical facility or medical laboratory that willfully fails, neglects or refuses to comply with any regulation of the Board relating to the reporting of a communicable disease or any requirement of this chapter is guilty of a misdemeanor and, in addition, may be subject to an administrative fine of \$1,000 for each violation, as determined by the Board.

(Added to NRS by 1989, 300) — (Substituted in revision for NRS 441A.440)

**NRS 441A.930 District attorney to prosecute violators.** The district attorney of the county in which any violation of this chapter occurs shall prosecute the person responsible for the violation.

(Added to NRS by 1989, 300) — (Substituted in revision for NRS 441A.450)

APPENDIX B

**ATTORNEY GENERAL  
NEVADA DEPARTMENT OF JUSTICE**

100 North Carson Street  
Carson City, Nevada 89701-4717

GEORGE J. CHANOS  
*Attorney General*



RANDAL R. MUNN  
*Assistant Attorney General*

August 8, 2006

Frank Siracusa, Chief  
Nevada Department of Public Safety  
Division of Emergency Management  
2525 South Carson Street  
Carson City, Nevada 89711

Dear Mr. Siracusa:

You have requested an opinion of this Office on the following questions concerning isolation and quarantine of persons infected with, or suspected of being infected with, a communicable disease.

QUESTION ONE

Who are the "officers and agents" of the Health Division (Division) authorized to carry out the duties of a health authority pursuant to NRS 441A.500 through 441A.720?

ANALYSIS

NRS 441A.510(1) provides:

If a health authority isolates, quarantines or treats a person or group of persons infected with, exposed to, or reasonably believed by a health authority to have been infected with or exposed to a communicable disease, the health authority must isolate, quarantine or treat the person or group of persons in the manner set forth in NRS 441A.500 to 441A.720, inclusive.

The term "health authority" is defined, in relevant part, in NRS 441A.500 as follows:

As used in NRS 441A.500 to 441A.720, inclusive, unless the context otherwise requires, "health authority" means:

1. The officers and agents of the Health Division . . . ;

The term "officer" is not defined in chapter 441A of NRS nor in Title 40 of NRS, which includes chapter 441A. However, a general definition is found at NRS 281.005, providing, in relevant part:

'[P]ublic officer' means a person elected or appointed to a position which:

- (a) is established by . . . a statute of this state . . . ; and
- (b) involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.

The meaning of "agent" is one "who has authority to act for another." *Daly v. Lahontan Mines Co.*, 39 Nev. 14, 22, 151 P.2d 514, 516 (1915). The use of the broad terms "officers" and "agents" in the definition of health authority gives the Division flexibility to select employees, independent contractors, or other agents the Division deems appropriate to act on behalf of the Division to perform the functions involved in either isolation or quarantine.

#### CONCLUSION TO QUESTION ONE

The Division has broad authority to select the appropriate Division officers or its agents to carry out the duties required of the health authority when isolation or quarantine is necessary. The officers or agents of the Division can include qualified employees, independent contractors, and other individuals authorized to represent the Division in this capacity.

#### QUESTION TWO

Does the State Health Officer have discretion to determine who will be his or her designee to serve as the "health authority" under NRS 441A.500(3)?

#### ANALYSIS

NRS 441A.500(3) provides a further definition of "health authority" as follows: "The district health officer in a district, or his designee, or, if none, the State Health Officer, or his designee."

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Nevada Department of Public Safety  
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According to the definition of health authority in NRS 441A.500 as stated in Question One above, the Division has the discretion to assign duties to appropriate officers or agents. This authority logically extends to the State Health Officer, who is clearly an “officer” of the Division and who has legislatively-sanctioned delegation authority over Division employees: See NRS 439.130, which provides that the State Health Officer has the power to “direct the work of subordinates and may authorize them to act in his place and stead.” We note that this broad authority to also select a designee is important to enable the “State Health Officer” to respond quickly to emergencies throughout the State in the event of his absence or unavailability.

### CONCLUSION TO QUESTION TWO

The State Health Officer has broad discretion to determine who he will designate to serve as his designee to act as a health authority for purposes of NRS 441A.500 through 441A.720 in the event of his absence or unavailability.

### QUESTION THREE

Where a health authority issues an order under NRS 441A.560(1)(a) requiring the taking into custody or transportation of a person, may the health authority direct a law enforcement agency to carry out that order?

### ANALYSIS

NRS 441A.560(1) provides in relevant part that under certain described conditions a health authority may:

- (a) Pursuant to its *own order* and without warrant:
  - (1) *Take a person or group of persons* alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease *into custody* in any safe location under emergency isolation or quarantine...
  - (2) *Transport the person or group of persons...*to a public or private medical facility, a residence or other safe location...or *arrange for the person or group of persons to be transported for that purpose by:*
    - (I) A local law enforcement agency...

[Emphasis added.]

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When the health authority issues an emergency order for isolation or quarantine under NRS 441A.560(1)(a), the health authority does not have any direct statutory authority to require a peace officer to enforce the emergency order.

NRS 441A.560(1)(a) only provides that the health authority may “arrange” with local law enforcement for the transportation of such persons.

There is another provision dealing with custody or the transport of persons suspected of being infected by or exposed to a communicable disease.

NRS 441A.560(1)(b) provides, in relevant part:

[A] health authority may:

- . . . .
- (b) *Petition a district court for an emergency order* requiring:
- (1) Any health officer or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease *into custody* to allow the health authority to investigate, file and prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons...; and
  - (2) Any agency, system or service described in subparagraph (2) of paragraph (a) *to transport, in accordance with such court order*, the person or group of persons...

[Emphasis added.]

Therefore, the health authority may obtain a court order which directs a peace officer<sup>1</sup> to take the subject person or persons “into custody” to allow the health authority to investigate and, if appropriate, petition the court for an order to isolate or quarantine the person. That order could also direct any agency listed in NRS 441A.560(1)(a)(2) to transport the person, including a “local law enforcement agency.”

NRS 441A.560(1)(a)(2)(I). The term “local law enforcement agency” has been defined in various parts of NRS as 1) the sheriff’s office of a county; 2) a metropolitan police department; or 3) a police department of an incorporated city. See, NRS 62A.200, NRS 179D.059, NRS 480.610(4)(a).

However, while NRS chapter 441A sets forth the specific procedures to ensure those suspected of a communicable disease are provided with adequate due process, the general authority of a health authority as set forth in NRS chapter 439, to investigate and enforce the Title 40 public health statutes, is not otherwise limited by NRS chapter

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1. Defined at NRS 289.010(3) as: “any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive.”

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441A. Therefore, the duties of law enforcement must also be construed in light of the underlying powers and duties of the various “health authorities” created in NRS chapter 439 to cause inappropriate circumstances, isolation and quarantine pursuant to NRS chapter 441A. NRS 439.560 provides, in relevant part:

*All health officers, local boards of health sheriffs, constables, policeman, marshals, all persons in charge of public buildings and institutions, and all other public officers and employees shall respect and enforce this chapter . . . and all lawful rules, orders and regulations adopted in pursuance thereof in every particular affecting their respective localities and duties. [Emphasis added.]*

### CONCLUSION TO QUESTION THREE

When the health authority issues an emergency order for isolation or quarantine under NRS 441A.560(1)(a), the health authority does not have any statutory authority to require a peace officer to enforce the emergency order. NRS 441A.560(1)(a) only provides that local law enforcement may be a source of transportation in the case of isolation or quarantine for the health authority. Under NRS 441A.560(1)(b), a health authority may petition the district court for an emergency order that requires a peace officer to enforce the order for custody and a local law enforcement agency to provide transportation. However, pursuant to NRS 439.560, a peace officer shall respect and enforce the lawful rules, orders and regulations of a health authority. Therefore, a peace officer who is directed by the health authority to enforce an emergency order of the health authority is authorized, pursuant to NRS 439.560, to comply. However, the health authority may only compel such compliance by obtaining a court order.

### QUESTION FOUR

What is the acceptable degree of force which may be used by a law enforcement officer when taking a person into custody pursuant to a court order for involuntary isolation or quarantine?

### ANALYSIS

NRS 441A.560(1)(b) provides that the health authority may petition a court for an emergency order “requiring” any health authority or “peace officer” to take a person into custody. Therefore, it is likely, but is not required, that enforcement of any order of isolation or quarantine by a peace officer would be done pursuant to a court order. Law enforcement could be called upon when the health authority is enforcing its own NRS 441A.560(1)(a) order for involuntary isolation or quarantine if the conduct of the affected person is criminal in nature. See NRS 439.560. NRS 441A.180 states that it

is a misdemeanor for any contagious person who has a communicable disease in an infectious state to conduct himself in any manner likely to expose others to the disease or engage in any occupation in which it is likely that the disease will be transmitted to others. See also NRS 441A.910 (misdemeanor to violate any provision of Chapter 441A of the Nevada Revised Statutes); See also NRS 439.580(2) (refusal or failure to obey lawful order, rule or regulation of the State Board of Health, or those of a local health authority which are approved by the State Board of Health, is a misdemeanor).

Chapter 441A of the Nevada Revised Statutes does not specifically address an acceptable level of force to be used by law enforcement for execution of a court order for involuntary isolation or quarantine. Any force used must be reasonable given the totality of the circumstances. *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1984). Further NRS 171.1455 limits the use of deadly force by an officer to circumstances where the officer has probable cause to believe that the person had committed a felony which involves the infliction of serious bodily harm or the use of deadly force or that the person posed a threat of serious bodily harm to the officer or to others.

#### CONCLUSION TO QUESTION FOUR

Chapter 441A of the Nevada Revised Statutes does not specify an acceptable level of force to be used by law enforcement to enforce a health authority emergency order, or court order for involuntary isolation or quarantine. Any use of force must be reasonable given the totality of the circumstances. Finally, NRS 171.1455 limits the use of deadly force by an officer to circumstances where the officer has probable cause to believe that the person had committed a felony which involves the infliction of serious bodily harm or the use of deadly force or that the person posed a threat of serious bodily harm to the officer or to others.

#### QUESTION FIVE

Pursuant to NRS 441A.550, if a health authority files a written petition with an appropriate district court to extend an initial 72-hour emergency detention, may the health authority continue to detain and isolate or quarantine a person or persons until the court rules upon the petition?

#### ANALYSIS

NRS 441A.550 provides:

1. Any person or group of persons alleged to have been infected with or exposed to a communicable disease may be detained in a public or private medical facility, a residence or other safe location under emergency isolation or quarantine for

testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment in the manner set forth in NRS 441A.500 to 441A.720, inclusive, and subject to the provisions of subsection 2:

(a) Upon application to a health authority pursuant to NRS 441A.560;

(b) Upon order of a health authority; or

(c) Upon voluntary consent of the person, parent of a minor person or legal guardian of the person.

2. Except as otherwise provided in subsection 3, 4 or 5, a person voluntarily or involuntarily isolated or quarantined under subsection 1 must be released within 72 hours, including weekends and holidays, from the time of his admission to a medical facility or isolation or quarantine in a residence or other safe location, unless within that period:

(a) The additional voluntary consent of the person, the parent of a minor person or a legal guardian of the person is obtained;

(b) A written petition for an involuntary court-ordered isolation or quarantine is filed with the clerk of the district court pursuant to NRS 441A.600, including, without limitation, the documents required pursuant to NRS 441A.610; or

(c) The status of the person is changed to a voluntary isolation or quarantine.

3. A person who is involuntarily isolated or quarantined under subsection 1 may, immediately after he is isolated or quarantined, seek an injunction or other appropriate process in district court challenging his detention.

4. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

5. During a state of emergency or declaration of disaster regarding public health proclaimed by the Governor or the Legislature pursuant to NRS 414.070, a health authority may, before the expiration of the period of 72 hours set forth in subsection 2, petition, with affidavits supporting its request, a district court for an order finding that a reasonably foreseeable immediate threat to the health of the public requires the 72-hour period of time to be extended for no longer than the court deems necessary for available governmental resources to investigate, file and prosecute the relevant written petitions for

involuntary court-ordered isolation or quarantine pursuant to NRS 441A.500 to 441A.720, inclusive.

Therefore, in the absence of consent, subsection 2 of the statute recognizes an extension of the 72-hour period under the conditions of a timely filed petition under NRS 441A.550(2)(b) or otherwise under subsection 5 (following a proclamation by the Governor). In the event of a declared public health emergency under NRS chapter 414, a district court may issue an emergency order of isolation or quarantine only for the time deemed necessary by the court to allow a health authority to investigate and file a petition for involuntary court-ordered isolation as set forth in NRS 441A.550(2). Finally, the statute recognizes in NRS 441A.550(3) that the person who is involuntarily isolated or quarantined may seek an injunction or other appropriate process in district court to challenge the isolation or quarantine.

#### CONCLUSION TO QUESTION FIVE

Pursuant to NRS 441A.550, if a health authority files a written petition with an appropriate district court to extend an initial 72-hour emergency detention, the health authority may continue to isolate or quarantine a person or persons until the court rules upon the petition. However, the person or persons may also seek an injunction to challenge the detention.

#### QUESTION SIX

When a person is detained pursuant to NRS 441A.540, must a health authority provide any other notices other than the notices required by NRS 441A.520(2) and NRS 441A.590?

#### ANALYSIS

As you recognized in your question, NRS 441A.520(2) requires the health authority to give the following notice:

If a person who is isolated or quarantined pursuant to NRS 441A.500 to 441A.720, inclusive, is unconscious or otherwise unable to communicate because of mental or physical incapacity, the health authority that isolated or quarantined the person must notify the spouse or legal guardian of the person by telephone and certified mail. If a person described in this subsection is isolated or quarantined in a medical facility and the health authority did not provide the notice required by this subsection, the medical facility must provide the notice. If the case

of a person described in this subsection is before a court and the health authority, and medical facility, if any, did not provide the notice required by this subsection, the court must provide the notice.

NRS 441A.590 requires that certain additional notice be given under certain circumstances:

In addition to any notice required pursuant to NRS 441A.520, within 24 hours after a person's involuntary admission into a public or private medical facility under emergency isolation or quarantine, the administrative officer of the public or private medical facility shall reasonably attempt to ascertain the identification and location of the spouse or legal guardian of that person and, if reasonably possible, mail notice of the admission by certified mail to the spouse or legal guardian of that person.

Therefore, NRS 441A.590 does not require any further notice by the health authority but does require the administrative officer of a public or private medical facility to make efforts to identify and locate the spouse or legal guardian of a person involuntarily isolated or quarantined at their facility.

In addition to these statutory provisions, NRS 441A.510(2) provides the following:

2. A health authority shall provide each person whom it isolates or quarantines pursuant to NRS 441A.500 to 441A.720, inclusive, with a document informing the person of his rights. The Board shall adopt regulations:
  - (a) Setting forth the rights of a person who is isolated or quarantined that must be included in the document provided pursuant to this subsection; and
  - (b) Specifying the time and manner in which the document must be provided pursuant to this subsection.

At the time of the writing of this opinion, the Health Division is developing regulations to present to the State Board of Health. These regulations will specify the time and manner of notice and rights of the individual to be included in the document. Finally, NRS 441A.180 also requires the health authority to give written warning to a person who has a communicable disease not to conduct himself in a manner likely to expose others to the disease as follows:

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Nevada Department of Public Safety  
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1. A person who has a communicable disease in an infectious state shall not conduct himself in any manner likely to expose others to the disease or engage in any occupation in which it is likely that the disease will be transmitted to others.

2. A health authority who has reason to believe that a person is in violation of subsection 1 shall issue a warning to him, in writing, informing him of the behavior which constitutes the violation and of the precautions that he must take to avoid exposing others to the disease. The warning must be served upon the person by delivering a copy to him.

3. A person who violates the provisions of subsection 1 after service upon him of a warning from a health authority is guilty of a misdemeanor.

#### CONCLUSION TO QUESTION SIX

In addition to the notice required in NRS 441A.520 and NRS 441A.590, the health authority must give written notice to the person being detained. According to NRS 441A.510(2), the State Board of Health must adopt regulations setting forth the rights of the person be included in a notice and specify the time and manner in which the document must be provided. In addition, under NRS 441A.180, the health authority must also give a written warning to a person who has a communicable disease in an infectious state if his or her conduct is likely to expose others to the disease or if the person is engaging in an occupation in which it is likely that the disease will be transmitted to others.

Sincere regards,

GEORGE J. CHANOS  
Attorney General

By: \_\_\_\_\_  
Linda C. Anderson  
Senior Deputy Attorney General  
(702) 486-3077

LCA:ct

## APPENDIX C

### ELECTRONIC CODE OF FEDERAL REGULATIONS

**e-CFR data is current as of March 23, 2017**

[Title 45](#) → [Subtitle A](#) → [Subchapter C](#) → [Part 164](#) → [Subpart E](#) → §164.512

Title 45: Public Welfare

[PART 164—SECURITY AND PRIVACY](#)

[Subpart E—Privacy of Individually Identifiable Health Information](#)

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#### **§164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.**

A covered entity may use or disclose protected health information without the written authorization of the individual, as described in §164.508, or the opportunity for the individual to agree or object as described in §164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) *Standard: Uses and disclosures required by law.* (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

(b) *Standard: Uses and disclosures for public health activities—(1) Permitted uses and disclosures.* A covered entity may use or disclose protected health information for the public health activities and purposes described in this paragraph to:

(i) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

(ii) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;

(iii) A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity. Such purposes include:

(A) To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;

(B) To track FDA-regulated products;

(C) To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback); or

(D) To conduct post marketing surveillance;

(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation; or

(v) An employer, about an individual who is a member of the workforce of the employer, if:

(A) The covered entity is a covered health care provider who provides health care to the individual at the request of the employer:

(1) To conduct an evaluation relating to medical surveillance of the workplace; or

(2) To evaluate whether the individual has a work-related illness or injury;

(B) The protected health information that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;

(C) The employer needs such findings in order to comply with its obligations, under 29 CFR parts 1904 through 1928, 30 CFR parts 50 through 90, or under state law having a similar purpose, to record such illness or injury or to carry out responsibilities for workplace medical surveillance; and

(D) The covered health care provider provides written notice to the individual that protected health information relating to the medical surveillance of the workplace and work-related illnesses and injuries is disclosed to the employer:

(1) By giving a copy of the notice to the individual at the time the health care is provided; or

(2) If the health care is provided on the work site of the employer, by posting the notice in a prominent place at the location where the health care is provided.

(vi) A school, about an individual who is a student or prospective student of the school, if:

(A) The protected health information that is disclosed is limited to proof of immunization;

(B) The school is required by State or other law to have such proof of immunization prior to admitting the individual; and

(C) The covered entity obtains and documents the agreement to the disclosure from either:

(1) A parent, guardian, or other person acting *in loco parentis* of the individual, if the individual is an unemancipated minor; or

(2) The individual, if the individual is an adult or emancipated minor.

(2) *Permitted uses.* If the covered entity also is a public health authority, the covered entity is permitted to use protected health information in all cases in which it is permitted to disclose such information for public health activities under paragraph (b)(1) of this section.

(c) *Standard: Disclosures about victims of abuse, neglect or domestic violence—(1) Permitted disclosures.* Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, a covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect, or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect, or domestic violence:

(i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law;

(ii) If the individual agrees to the disclosure; or

(iii) To the extent the disclosure is expressly authorized by statute or regulation and:

(A) The covered entity, in the exercise of professional judgment, believes the disclosure is necessary to prevent serious harm to the individual or other potential victims; or

(B) If the individual is unable to agree because of incapacity, a law enforcement or other public official authorized to receive the report represents that the protected health information for which disclosure is sought is not intended to be used against the individual and that an immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.

(2) *Informing the individual.* A covered entity that makes a disclosure permitted by paragraph (c)(1) of this section must promptly inform the individual that such a report has been or will be made, except if:

(i) The covered entity, in the exercise of professional judgment, believes informing the individual would place the individual at risk of serious harm; or

(ii) The covered entity would be informing a personal representative, and the covered entity reasonably believes the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person would not be in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(d) *Standard: Uses and disclosures for health oversight activities*—(1) *Permitted disclosures.* A covered entity may disclose protected health information to a health oversight agency for oversight activities authorized by law, including audits; civil, administrative, or criminal investigations; inspections; licensure or disciplinary actions; civil, administrative, or criminal proceedings or actions; or other activities necessary for appropriate oversight of:

(i) The health care system;

(ii) Government benefit programs for which health information is relevant to beneficiary eligibility;

(iii) Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or

(iv) Entities subject to civil rights laws for which health information is necessary for determining compliance.

(2) *Exception to health oversight activities.* For the purpose of the disclosures permitted by paragraph (d)(1) of this section, a health oversight activity does not include an investigation or other activity in which the individual is the subject of the investigation or activity and such investigation or other activity does not arise out of and is not directly related to:

(i) The receipt of health care;

(ii) A claim for public benefits related to health; or

(iii) Qualification for, or receipt of, public benefits or services when a patient's health is integral to the claim for public benefits or services.

(3) *Joint activities or investigations.* Notwithstanding paragraph (d)(2) of this section, if a health oversight activity or investigation is conducted in conjunction with an oversight activity or investigation relating to a claim for public benefits not related to health, the joint activity or investigation is considered a health oversight activity for purposes of paragraph (d) of this section.

(4) *Permitted uses.* If a covered entity also is a health oversight agency, the covered entity may use protected health information for health oversight activities as permitted by paragraph (d) of this section.

(e) *Standard: Disclosures for judicial and administrative proceedings*—(1) *Permitted disclosures.* A covered entity may disclose protected health information in the course of any judicial or administrative proceeding:

(i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order; or

(ii) In response to a subpoena, discovery request, or other lawful process, that is not accompanied by an order of a court or administrative tribunal, if:

(A) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iii) of this section, from the party seeking the information that reasonable efforts have been made by such party to ensure that the individual who is the subject of the protected health information that has been requested has been given notice of the request; or

(B) The covered entity receives satisfactory assurance, as described in paragraph (e)(1)(iv) of this section, from the party seeking the information that reasonable efforts have been made by such party to secure a qualified protective order that meets the requirements of paragraph (e)(1)(v) of this section.

(iii) For the purposes of paragraph (e)(1)(ii)(A) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The party requesting such information has made a good faith attempt to provide written notice to the individual (or, if the individual's location is unknown, to mail a notice to the individual's last known address);

(B) The notice included sufficient information about the litigation or proceeding in which the protected health information is requested to permit the individual to raise an objection to the court or administrative tribunal; and

(C) The time for the individual to raise objections to the court or administrative tribunal has elapsed, and:

(1) No objections were filed; or

(2) All objections filed by the individual have been resolved by the court or the administrative tribunal and the disclosures being sought are consistent with such resolution.

(iv) For the purposes of paragraph (e)(1)(ii)(B) of this section, a covered entity receives satisfactory assurances from a party seeking protected health information, if the covered entity receives from such party a written statement and accompanying documentation demonstrating that:

(A) The parties to the dispute giving rise to the request for information have agreed to a qualified protective order and have presented it to the court or administrative tribunal with jurisdiction over the dispute; or

(B) The party seeking the protected health information has requested a qualified protective order from such court or administrative tribunal.

(v) For purposes of paragraph (e)(1) of this section, a qualified protective order means, with respect to protected health information requested under paragraph (e)(1)(ii) of this section, an order of a court or of an administrative tribunal or a stipulation by the parties to the litigation or administrative proceeding that:

(A) Prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested; and

(B) Requires the return to the covered entity or destruction of the protected health information (including all copies made) at the end of the litigation or proceeding.

(vi) Notwithstanding paragraph (e)(1)(ii) of this section, a covered entity may disclose protected health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(v) of this section.

(2) *Other uses and disclosures under this section.* The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

(f) *Standard: Disclosures for law enforcement purposes.* A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) *Permitted disclosures: Pursuant to process and as otherwise required by law.* A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

(2) *Permitted disclosures: Limited information for identification and location purposes.* Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

- (A) Name and address;
- (B) Date and place of birth;
- (C) Social security number;
- (D) ABO blood type and rh factor;
- (E) Type of injury;
- (F) Date and time of treatment;
- (G) Date and time of death, if applicable; and

(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

(3) *Permitted disclosure: Victims of a crime.* Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

(A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the exercise of professional judgment.

(4) *Permitted disclosure: Decedents.* A covered entity may disclose protected health information about an individual who has died to a law enforcement official for the purpose of alerting law enforcement of the death of the individual if the covered entity has a suspicion that such death may have resulted from criminal conduct.

(5) *Permitted disclosure: Crime on premises.* A covered entity may disclose to a law enforcement official protected health information that the covered entity believes in good faith constitutes evidence of criminal conduct that occurred on the premises of the covered entity.

(6) *Permitted disclosure: Reporting crime in emergencies.* (i) A covered health care provider providing emergency health care in response to a medical emergency, other than such emergency on the premises of the covered health care provider, may disclose protected health information to a law enforcement official if such disclosure appears necessary to alert law enforcement to:

(A) The commission and nature of a crime;

(B) The location of such crime or of the victim(s) of such crime; and

(C) The identity, description, and location of the perpetrator of such crime.

(ii) If a covered health care provider believes that the medical emergency described in paragraph (f)(6)(i) of this section is the result of abuse, neglect, or domestic violence of the individual in need of emergency health care, paragraph (f)(6)(i) of this section does not apply and any disclosure to a law enforcement official for law enforcement purposes is subject to paragraph (c) of this section.

(g) *Standard: Uses and disclosures about decedents—(1) Coroners and medical examiners.* A covered entity may disclose protected health information to a coroner or medical examiner for the purpose of identifying a deceased person,

determining a cause of death, or other duties as authorized by law. A covered entity that also performs the duties of a coroner or medical examiner may use protected health information for the purposes described in this paragraph.

(2) *Funeral directors.* A covered entity may disclose protected health information to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary for funeral directors to carry out their duties, the covered entity may disclose the protected health information prior to, and in reasonable anticipation of, the individual's death.

(h) *Standard: Uses and disclosures for cadaveric organ, eye or tissue donation purposes.* A covered entity may use or disclose protected health information to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye or tissue donation and transplantation.

(i) *Standard: Uses and disclosures for research purposes—(1) Permitted uses and disclosures.* A covered entity may use or disclose protected health information for research, regardless of the source of funding of the research, provided that:

(i) *Board approval of a waiver of authorization.* The covered entity obtains documentation that an alteration to or waiver, in whole or in part, of the individual authorization required by §164.508 for use or disclosure of protected health information has been approved by either:

(A) An Institutional Review Board (IRB), established in accordance with 7 CFR 1c.107, 10 CFR 745.107, 14 CFR 1230.107, 15 CFR 27.107, 16 CFR 1028.107, 21 CFR 56.107, 22 CFR 225.107, 24 CFR 60.107, 28 CFR 46.107, 32 CFR 219.107, 34 CFR 97.107, 38 CFR 16.107, 40 CFR 26.107, 45 CFR 46.107, 45 CFR 690.107, or 49 CFR 11.107; or

(B) A privacy board that:

(1) Has members with varying backgrounds and appropriate professional competency as necessary to review the effect of the research protocol on the individual's privacy rights and related interests;

(2) Includes at least one member who is not affiliated with the covered entity, not affiliated with any entity conducting or sponsoring the research, and not related to any person who is affiliated with any of such entities; and

(3) Does not have any member participating in a review of any project in which the member has a conflict of interest.

(ii) *Reviews preparatory to research.* The covered entity obtains from the researcher representations that:

(A) Use or disclosure is sought solely to review protected health information as necessary to prepare a research protocol or for similar purposes preparatory to research;

(B) No protected health information is to be removed from the covered entity by the researcher in the course of the review; and

(C) The protected health information for which use or access is sought is necessary for the research purposes.

(iii) *Research on decedent's information.* The covered entity obtains from the researcher:

(A) Representation that the use or disclosure sought is solely for research on the protected health information of decedents;

(B) Documentation, at the request of the covered entity, of the death of such individuals; and

(C) Representation that the protected health information for which use or disclosure is sought is necessary for the research purposes.

(2) *Documentation of waiver approval.* For a use or disclosure to be permitted based on documentation of approval of an alteration or waiver, under paragraph (i)(1)(i) of this section, the documentation must include all of the following:

(i) *Identification and date of action.* A statement identifying the IRB or privacy board and the date on which the alteration or waiver of authorization was approved;

(ii) *Waiver criteria.* A statement that the IRB or privacy board has determined that the alteration or waiver, in whole or in part, of authorization satisfies the following criteria:

(A) The use or disclosure of protected health information involves no more than a minimal risk to the privacy of individuals, based on, at least, the presence of the following elements

(1) An adequate plan to protect the identifiers from improper use and disclosure;

(2) An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of the research, unless there is a health or research justification for retaining the identifiers or such retention is otherwise required by law; and

(3) Adequate written assurances that the protected health information will not be reused or disclosed to any other person or entity, except as required by law, for authorized oversight of the research study, or for other research for which the use or disclosure of protected health information would be permitted by this subpart;

(B) The research could not practicably be conducted without the waiver or alteration; and

(C) The research could not practicably be conducted without access to and use of the protected health information.

(iii) *Protected health information needed.* A brief description of the protected health information for which use or access has been determined to be necessary by the institutional review board or privacy board, pursuant to paragraph (i)(2)(ii)(C) of this section;

(iv) *Review and approval procedures.* A statement that the alteration or waiver of authorization has been reviewed and approved under either normal or expedited review procedures, as follows:

(A) An IRB must follow the requirements of the Common Rule, including the normal review procedures (7 CFR 1c.108(b), 10 CFR 745.108(b), 14 CFR 1230.108(b), 15 CFR 27.108(b), 16 CFR 1028.108(b), 21 CFR 56.108(b), 22 CFR 225.108(b), 24 CFR 60.108(b), 28 CFR 46.108(b), 32 CFR 219.108(b), 34 CFR 97.108(b), 38 CFR 16.108(b), 40 CFR 26.108(b), 45 CFR 46.108(b), 45 CFR 690.108(b), or 49 CFR 11.108(b)) or the expedited review procedures (7 CFR 1c.110, 10 CFR 745.110, 14 CFR 1230.110, 15 CFR 27.110, 16 CFR 1028.110, 21 CFR 56.110, 22 CFR 225.110, 24 CFR 60.110, 28 CFR 46.110, 32 CFR 219.110, 34 CFR 97.110, 38 CFR 16.110, 40 CFR 26.110, 45 CFR 46.110, 45 CFR 690.110, or 49 CFR 11.110);

(B) A privacy board must review the proposed research at convened meetings at which a majority of the privacy board members are present, including at least one member who satisfies the criterion stated in paragraph (i)(1)(i)(B)(2) of this section, and the alteration or waiver of authorization must be approved by the majority of the privacy board members present at the meeting, unless the privacy board elects to use an expedited review procedure in accordance with paragraph (i)(2)(iv)(C) of this section;

(C) A privacy board may use an expedited review procedure if the research involves no more than minimal risk to the privacy of the individuals who are the subject of the protected health information for which use or disclosure is being sought. If the privacy board elects to use an expedited review procedure, the review and approval of the alteration or waiver of authorization may be carried out by the chair of the privacy board, or by one or more members of the privacy board as designated by the chair; and

(v) *Required signature.* The documentation of the alteration or waiver of authorization must be signed by the chair or other member, as designated by the chair, of the IRB or the privacy board, as applicable.

(j) *Standard: Uses and disclosures to avert a serious threat to health or safety—(1) Permitted disclosures.* A covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure:

(i)(A) Is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) Is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat; or

(ii) Is necessary for law enforcement authorities to identify or apprehend an individual:

(A) Because of a statement by an individual admitting participation in a violent crime that the covered entity reasonably believes may have caused serious physical harm to the victim; or

(B) Where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody, as those terms are defined in §164.501.

(2) *Use or disclosure not permitted.* A use or disclosure pursuant to paragraph (j)(1)(ii)(A) of this section may not be made if the information described in paragraph (j)(1)(ii)(A) of this section is learned by the covered entity: 1

(i) In the course of treatment to affect the propensity to commit the criminal conduct that is the basis for the disclosure under paragraph (j)(1)(ii)(A) of this section, or counseling or therapy; or

(ii) Through a request by the individual to initiate or to be referred for the treatment, counseling, or therapy described in paragraph (j)(2)(i) of this section.

(3) *Limit on information that may be disclosed.* A disclosure made pursuant to paragraph (j)(1)(ii)(A) of this section shall contain only the statement described in paragraph (j)(1)(ii)(A) of this section and the protected health information described in paragraph (f)(2)(i) of this section.

(4) *Presumption of good faith belief.* A covered entity that uses or discloses protected health information pursuant to paragraph (j)(1) of this section is presumed to have acted in good faith with regard to a belief described in paragraph (j)(1)(i) or (ii) of this section, if the belief is based upon the covered entity's actual knowledge or in reliance on a credible representation by a person with apparent knowledge or authority.

(k) *Standard: Uses and disclosures for specialized government functions—(1) Military and veterans activities—(i) Armed Forces personnel.* A covered entity may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission, if the appropriate military authority has published by notice in the FEDERAL REGISTER the following information:

(A) Appropriate military command authorities; and

(B) The purposes for which the protected health information may be used or disclosed.

(ii) *Separation or discharge from military service.* A covered entity that is a component of the Departments of Defense or Homeland Security may disclose to the Department of Veterans Affairs (DVA) the protected health information of an individual who is a member of the Armed Forces upon the separation or discharge of the individual from military service for the purpose of a determination by DVA of the individual's eligibility for or entitlement to benefits under laws administered by the Secretary of Veterans Affairs.

(iii) *Veterans.* A covered entity that is a component of the Department of Veterans Affairs may use and disclose protected health information to components of the Department that determine eligibility for or entitlement to, or that provide, benefits under the laws administered by the Secretary of Veterans Affairs.

(iv) *Foreign military personnel.* A covered entity may use and disclose the protected health information of individuals who are foreign military personnel to their appropriate foreign military authority for the same purposes for which uses and disclosures are permitted for Armed Forces personnel under the notice published in the FEDERAL REGISTER pursuant to paragraph (k)(1)(i) of this section.

(2) *National security and intelligence activities.* A covered entity may disclose protected health information to authorized federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities authorized by the National Security Act (50 U.S.C. 401, *et seq.*) and implementing authority (e.g., Executive Order 12333).

(3) *Protective services for the President and others.* A covered entity may disclose protected health information to authorized Federal officials for the provision of protective services to the President or other persons authorized by 18 U.S.C. 3056 or to foreign heads of state or other persons authorized by 22 U.S.C. 2709(a)(3), or for the conduct of investigations authorized by 18 U.S.C. 871 and 879.

(4) *Medical suitability determinations.* A covered entity that is a component of the Department of State may use protected health information to make medical suitability determinations and may disclose whether or not the individual was determined to be medically suitable to the officials in the Department of State who need access to such information for the following purposes:

(i) For the purpose of a required security clearance conducted pursuant to Executive Orders 10450 and 12968;

(ii) As necessary to determine worldwide availability or availability for mandatory service abroad under sections 101(a)(4) and 504 of the Foreign Service Act; or

(iii) For a family to accompany a Foreign Service member abroad, consistent with section 101(b)(5) and 904 of the Foreign Service Act.

(5) *Correctional institutions and other law enforcement custodial situations—(i) Permitted disclosures.* A covered entity may disclose to a correctional institution or a law enforcement official having lawful custody of an inmate or other

individual protected health information about such inmate or individual, if the correctional institution or such law enforcement official represents that such protected health information is necessary for:

(A) The provision of health care to such individuals;

(B) The health and safety of such individual or other inmates;

(C) The health and safety of the officers or employees of or others at the correctional institution;

(D) The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;

(E) Law enforcement on the premises of the correctional institution; or

(F) The administration and maintenance of the safety, security, and good order of the correctional institution.

(ii) *Permitted uses.* A covered entity that is a correctional institution may use protected health information of individuals who are inmates for any purpose for which such protected health information may be disclosed.

(iii) *No application after release.* For the purposes of this provision, an individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in lawful custody.

(6) *Covered entities that are government programs providing public benefits.* (i) A health plan that is a government program providing public benefits may disclose protected health information relating to eligibility for or enrollment in the health plan to another agency administering a government program providing public benefits if the sharing of eligibility or enrollment information among such government agencies or the maintenance of such information in a single or combined data system accessible to all such government agencies is required or expressly authorized by statute or regulation.

(ii) A covered entity that is a government agency administering a government program providing public benefits may disclose protected health information relating to the program to another covered entity that is a government agency administering a government program providing public benefits if the programs serve the same or similar populations and the disclosure of protected health information is necessary to coordinate the covered functions of such programs or to improve administration and management relating to the covered functions of such programs.

(7) *National Instant Criminal Background Check System.* A covered entity may use or disclose protected health information for purposes of reporting to the National Instant Criminal Background Check System the identity of an individual who is prohibited from possessing a firearm under 18 U.S.C. 922(g)(4), provided the covered entity:

(i) Is a State agency or other entity that is, or contains an entity that is:

(A) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; or

(B) A court, board, commission, or other lawful authority that makes the commitment or adjudication that causes an individual to become subject to 18 U.S.C. 922(g)(4); and

(ii) Discloses the information only to:

(A) The National Instant Criminal Background Check System; or

(B) An entity designated by the State to report, or which collects information for purposes of reporting, on behalf of the State, to the National Instant Criminal Background Check System; and

(iii)(A) Discloses only the limited demographic and certain other information needed for purposes of reporting to the National Instant Criminal Background Check System; and

(B) Does not disclose diagnostic or clinical information for such purposes.

(l) *Standard: Disclosures for workers' compensation.* A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

[65 FR 82802, Dec. 28, 2000, as amended at 67 FR 53270, Aug. 14, 2002; 78 FR 5699, Jan. 25, 2013; 78 FR 34266, June 7, 2013; 81 FR 395, Jan. 6, 2016]

## FAQs About HIPAA Privacy Rule

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### Provisions Relevant to Public Health Practice

#### Introduction

Public health officials in state and local health departments, as well as their partners in the health care system, have asked for clarification regarding the Privacy Rule and its impact on public health practice. The attached document, "Health Insurance Portability and Accountability Act of 1996 (HIPAA)– Privacy Rule: Provisions relevant to public health practice," contains excerpts from the website of the [Office for Civil Rights \(OCR\)- HIPAA \(http://www.hhs.gov/ocr/hipaa\)](http://www.hhs.gov/ocr/hipaa) in the United States Department of Health and Human Services. Explanatory text from the OCR website is included, but the majority of the document consists of direct quotes from the Rule itself (with appropriate page references for the Federal Register). This compilation of excerpts highlights major provisions of the Rule that are relevant to public health practice.

#### What information is protected?

All medical records and other individually identifiable health information used or disclosed by a covered entity in any form, whether electronically, on paper, or orally, are covered by the final rule.

#### For what disclosures and uses must consent be obtained by a provider?

The Privacy Rule states that:

In general, "[a] covered health care provider [with a direct treatment relationship] must obtain the individual's consent,...prior to using or disclosing protected health information to carry out treatment, payment, or health care operations." (See section [§] 164.506, 65 Federal Register [F.R.] p. 82810, for complete requirements.)

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#### What about sharing protected health information (PHI) with public health authorities?

The Privacy Rule allows for the existing practice of sharing PHI with public health authorities that are authorized by law to collect or receive such information to aid them in their mission of protecting the health of the public.

This practice is described in the preamble to the actual Rule:

"The final rule continues to permit covered entities to disclose protected health information without individual authorization directly to public health authorities, such as the Food and Drug Administration, the Occupational Safety and Health Administration, the Centers for Disease Control and Prevention as well as state and local public health departments, for public health purposes as specified in the NPRM [Notice of Proposed Rulemaking for the Privacy Rule]." (65 F. R. p. 82526)

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#### Which provision of the Privacy Rule addresses the sharing of PHI with public health authorities?

Sharing of PHI with public health authorities is addressed in §164.512, "Uses and disclosures for which consent, an authorization, or an opportunity to agree or object is not required." §164.512(a) permits disclosures that are required by law, which may be applicable to certain public health activities. §164.512(b) explicitly permits disclosures to public health authorities for public health activities:

"(1) Permitted disclosures. A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph [§164.512(b)(1)] to:

(i) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions; or at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

(ii) A public health authority... authorized by law to receive reports of child abuse or neglect;

(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the necessary for the stated purpose(s); ..." (See §164.514(d)(3)(iii), 65 F. R. p. 82819 for complete requirements)

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#### How is a public health authority defined?

"Public health authority means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate." (§164.501, 65 F. R. p. 82805)

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#### How much information may be used, requested, or shared?

The Privacy Rule generally requires covered entities to take reasonable steps to limit the use or disclosure of, and requests for PHI to the minimum necessary to accomplish the intended purpose. (See §164.514(d) for specific requirements.)

“A covered entity may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when: (A) Making disclosures to public officials that are permitted under §164.512, if the public official represents that the information requested is the minimum necessary for the stated purpose(s); ...” (See §164.514(d)(3)(iii), 65 F. R. p. 82819 for complete requirements)

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### Who determines what is the minimum necessary PHI for sharing with public health authorities?

Generally, the covered entity is responsible for determining the minimum amount of information reasonably needed to fulfill a request. In certain circumstances, however, the Privacy Rule permits a covered entity to rely on the judgment of the party requesting the disclosure as to the minimum amount of information that is needed. Such reliance must be reasonable under the particular circumstances of the request. This reliance is permitted, for example, when the request is made by a public official or agency for a disclosure permitted under §164.512 of the rule. §164.514(d) of the Rule describes this concept of reasonable reliance:

“A covered entity may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when: (A) Making disclosures to public officials that are permitted under §164.512, if the public official represents that the information requested is the minimum necessary for the stated purpose(s); ...” (See §164.514(d)(3)(iii), 65 F. R. p. 82819 for complete requirements)

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### Will the Privacy Rule preserve existing, strong state confidentiality laws?

As required by the HIPAA law itself, state laws that provide greater privacy protection (which may be those covering mental health, HIV infection, and AIDS information) continue to apply. These confidentiality protections are cumulative; the final rule will set a national "floor" of privacy standards that protect all Americans, but in some states individuals enjoy additional protection. In circumstances where states have decided through law to require certain disclosures of health information, the final rule does not preempt these mandates.

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### Sources (available at [Office for Civil Rights - HIPAA \(http://www.hhs.gov/ocr/hipaa/\)](http://www.hhs.gov/ocr/hipaa/)):

- U.S. Department of Health and Human Services. 45 CFR Parts 160 and 164. Standards for privacy of individually identifiable health information; final rule. Federal Register 2000;65:82462–82829.
- Department of Health and Human Services Fact Sheet, “[Protecting the Privacy of Patients' Health Information \(http://www.hhs.gov/news/facts/privacy2007.html\)](http://www.hhs.gov/news/facts/privacy2007.html),” July 6, 2001. HHS's First Guidance for the Privacy Regulation, issued July 6, 2001
- [Disclosures for Public Health Activities \(http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/publichealth.html\)](http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/publichealth.html)
- [HIPAA Privacy Rule and Public Health \(http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm\)](http://www.cdc.gov/mmwr/preview/mmwrhtml/su5201a1.htm) - Guidance from CDC and the U.S. Department of Health and Human Services

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