



Department of Health and Social Services
William J. Streur, Commissioner

3601 C Street, Suite 540
Anchorage, Alaska 99503

<http://www.epi.Alaska.gov>

Division of Public Health
Ward Hurlburt, MD, MPH, CMO/Director

Local (907) 269-8000
24 Hour Emergency (800) 478-0084

Editor:
Joe McLaughlin, MD, MPH
Louisa Castrodale, DVM, MPH

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Public Health Legal Tools for Noncompliant Patients with Infectious Tuberculosis

Background

A number of public health legal tools can be employed to prevent the transmission of contagious diseases that pose a significant risk to the public's health. In Alaska, these tools are most commonly used to prevent noncompliant patients with infectious tuberculosis (TB) from spreading disease to the public. Federal travel restriction and intervention tools, federal isolation orders, and state medical officer orders can be used in such situations. Travel restriction tools are useful to consider in Alaska, as residents are heavily dependent on air travel. The purpose of this Bulletin is to increase health care provider awareness of these tools in order to help promote their use, when appropriate.

Federal Travel Restriction and Isolation Orders

Federal travel restriction and intervention tools can be used to prevent individuals who meet specific criteria (Box) from boarding commercial aircraft and to detect such persons at United States ports of entry.¹ Travel restrictions and interventions are facilitated through two public health tools: the Do Not Board (DNB) and Lookout (LO) lists.

Box. Criteria for Placement on the Federal Public Health Do Not Board and Lookout Lists

1. Contagious, likely contagious, or at risk of becoming contagious with a communicable disease that represents a public health risk;
2. Noncompliant with public health recommendations or unaware of diagnosis; and
3. At risk of traveling on a commercial flight or traveling internationally.

Do Not Board List

The DNB list, administered by the U.S. Transportation Security Administration, prevents an individual from boarding a commercial aircraft inbound to, outbound from, or within the United States.¹ This list is for air conveyances only and does not prevent passengers from boarding ships, buses, or trains. Individuals on the DNB list, a public health list, are not part of the No Fly list, which is used for law enforcement purposes.

Lookout List

Administered by the U.S. Customs and Border Protection (CBP), the LO list alerts CBP officers to notify public health authorities when an individual on the list attempts to enter the United States at a port of entry. U.S. Centers for Disease Control and Prevention (CDC) Quarantine Station staff then evaluate the individual and take any necessary public health action. DNB and LO actions are always issued together. Since 2007, over 200 persons have been placed on DNB/LO lists, and approximately 50 active cases are on the lists at any given time. Once an individual is no longer considered contagious (as determined by laboratory results and treatment criteria), he or she is promptly removed from the lists.

Federal Isolation Orders

A federal isolation order may be issued in rare circumstances when an international or interstate traveler poses a serious threat to the public's health. Once the individual is located, CDC makes every effort to coordinate the safe transfer of the individual to the appropriate health department. This involves careful multi-agency planning, often with assistance from law enforcement agencies, and cooperation of hospitals with which the CDC has established relationships for treating patients with quarantinable diseases. Federal isolation orders

are authorized by Executive Order for nine quarantinable diseases.²

Case Example

In 2011, a 49-year-old male from rural Alaska was hospitalized in Anchorage for active bilateral cavitary TB. The patient had been diagnosed with pulmonary TB in 1996, but avoided public health nurses and was lost to follow up before completing treatment. Sputum smears obtained during the patient's 2011 hospitalization were positive for acid-fast bacilli (AFB; 4+), culture-positive for *Mycobacterium tuberculosis*, and susceptible to first-line therapy. The patient was restarted on standard TB treatment. After hospital discharge, the patient repeatedly threatened to fly back home and discontinue treatment. Therefore, Alaska Section of Epidemiology (SOE) TB Program staff worked with the CDC Anchorage Quarantine Station to place this patient on the DNB/LO lists. During a conference call, it was determined that the patient met the DNB/LO list criteria. The patient was added to the DNB/LO lists within 24 hours and remained on the lists for 4 months, due to continued infectiousness. Subsequently, after receiving confirmation from SOE that the patient was no longer infectious, the patient was removed from the DNB/LO lists. Six weeks later, the patient completed treatment and returned home.

State Medical Officer Orders

A state medical officer may issue orders that require testing, examination, or screening of a nonconsenting individual if the individual has or may have been exposed to a contagious disease that poses a significant risk to the public (e.g., TB).^{3,4} The Department of Health and Social Services (DHSS) must obtain an ex parte order if the individual objects to the state medical officer's order.⁴ Further, while an individual has the right to refuse treatment, an individual who exercises this right may be responsible for paying all costs incurred by the state in seeking and implementing a quarantine or isolation order.⁴ DHSS may isolate or quarantine an individual or group of individuals if isolation or quarantine is the least restrictive alternative necessary to prevent the spread of a contagious or possibly contagious disease.⁴ This may include confinement to private homes or other private and public premises.⁴

Summary

Federal and state public health legal tools may be used with noncompliant TB patients under specific circumstances. These tools should be considered only when all other interventions have been unsuccessful.

Recommendations

1. Health care providers should be aware that federal and state public health legal interventions exist to assist in managing noncompliant TB patients.
2. Health care providers managing patients with infectious TB should ask them about future travel plans.
3. Health care providers should promptly inform SOE of any patient with infectious TB who is noncompliant with public health recommendations, and specify if there is a concern about travel (call 907-269-8000).

References

1. CDC. Federal air travel restrictions for public health purposes—United States, June 2007–June 2008. *MMWR* 2008;57:1009–12.
2. CDC. Legal authorities for isolation and quarantine. Available at: www.cdc.gov/quarantine/AboutLawsRegulationsQuarantineIsolation.html
3. Alaska DHSS. *Alaska Tuberculosis Program Manual*. 2011. Progressive Interventions: 10.38. Available at: http://www.epi.alaska.gov/pubs/webtb/TB_Manual.pdf
4. Alaska Statutes 18.15.375, 380, and 390.