

XV. PUBLIC HEALTH LAW AND TB

MODULE OUTLINE

1. Standards of Public Health Practice
2. Principles
3. Terminology
4. Disease Control Health Threat Procedures
 - a. Assessment of potential threat to public health
 - b. Application of public health law
 - c. Overview of Step 1: "Health Directive"

1. STANDARDS OF PUBLIC HEALTH PRACTICE

- XV-1. Regional TB program health officer is notified immediately when a patient violates an order of respiratory isolation.
- XV-2. All TB program staff members with direct knowledge of the case confer in a timely manner to document specific patient behaviors that present a threat to public health.
- XV-3. Each Health Directive is hand-delivered with a copy of the "Patient Bill of Rights."
- XV-4. The regional/metro TB program provides a copy of each Health Directive to the TTBE Central Office (C.O.) within one (1) week of delivery to the patient.

2. PRINCIPLES

- a. TB is a disease of public health significance because it can be transmitted through the air to other persons.
- b. Both suspected and confirmed cases of active disease due to *Mycobacterium tuberculosis* complex are considered "Category 1B" reportable conditions in Tennessee.
 - "Category 1B: Requires immediate telephonic notification (next business day), followed by a written report using the PH-1600 within 1 week."
 - Suspected and confirmed cases of active TB disease must be reported by any physician or laboratory with knowledge of these conditions. *Rules of Tennessee Department of Health, Chapter 1200-14-01.02 and 1200-14-01.06*
 - For a complete list, refer to **Reportable Diseases and Events Matrix and List:** <http://health.state.tn.us/ReportableDiseases/Default.aspx>
 - To access the reporting form, refer to <http://health.state.tn.us/Downloads/ph-1600.pdf>
- c. All reasonable alternative actions must be expended prior to the use of public health law to secure the compliance of an individual with suspected or confirmed TB disease in order to protect the public health.
- d. Public health legal action which limits the movement of an individual must utilize the least restrictive environment to protect the public health.

- e. The rights of the individual patient must be respected while ensuring the protection of the public from TB. **Refer to *Rules of Tennessee Department of Health, Chapter 1200-14-04.08***

3. Terminology

The documents listed below are important references, and include the “Patient Bill of Rights” (pp. 7-8):

- *Rules of the Tennessee Department of Health, Chapter 1200-14-4: Disease Control Health Threat Procedures - English*
- Rules of the Tennessee Department of Health, Chapter 1200-14-4: Disease Control Health Threat Procedures – Spanish translation

4. DISEASE CONTROL HEALTH THREAT PROCEDURES

When a patient with suspected or confirmed TB disease fails to cooperate with the treatment plan (particularly, failure to maintain respiratory isolation) and presents a potential threat to the public health, TB program staff should follow these procedures:

a. Assessment of potential threat to public health

(1) All TB program staff members with direct knowledge of the case, including the treating physician, should confer in a timely manner to determine and document specifically which behaviors of the patient that may present a threat to public health (**Standard of Public Health Practice XV-2**). Such behaviors may include but are not limited to:

- Failure to maintain respiratory isolation (critically important).
- Missed doses of anti-TB medication (e.g., during the treatment initiation phase, two or more daily doses missed in one week; two or more biweekly doses missed overall)
- Failure to routinely be present for DOT at the agreed time and place
- Refusal to take all medicines as prescribed
- Failure to be present for scheduled clinic appointments
- Failure to cooperate with X-ray or laboratory test procedures
- Threatening behavior toward public health staff that jeopardizes ongoing treatment efforts
- Continued substance or alcohol abuse that jeopardizes full drug absorption and/or results in missed DOT

(1) TB staff should notify regional health officer immediately if a patient with suspected or confirmed TB disease that is considered infectious violates an order of respiratory isolation. (**Standard of Public Health Practice XV-1**)

(2) TB staff should use appropriate incentives and/or enablers in a timely manner to secure patient’s full adherence to the treatment plan.

- (3) TB staff should report immediately to regional health officer if a patient repeats behaviors posing a public health threat after all other interventions have been attempted and documented

b. Application of Public Health Law

The following procedures are based upon the comprehensive “*Rules of the Tennessee Department of Health, Chapter 1200-14-4: Disease Control Health Threat Procedures,*” as well as recommendations of the TTBEF Medical Director and Deputy General Counsel of TDH.

There are three progressive public health legal steps which may be taken by a regional health officer if necessary to secure the cooperation of the patient in order to protect the public health:

Step 1: “Health Directive”



Step 2: “Temporary Hold in Emergency Situation”



Step 3: “Order for Public Health Measure”

c. Overview of Step 1: “Health Directive”

- Definition: “a written statement (or, in compelling circumstances, an oral statement followed by a written statement [within 3 days]), based on clinical or epidemiological evidence of the kind relied upon by competent medical experts, issued by the Commissioner or health officer, requiring a person to cooperate with health authorities’ efforts to prevent or control transmission of a disease that poses a health threat to others.”
- Prior to issuing a health directive, “the Commissioner or health officer should review the written medical and other records pertinent to the matter, along with any measures that have been taken, and make findings using clinical or epidemiological evidence of the kind relied upon by competent medical experts. These findings should be included in the health directive itself.”
 - The regional health officer should alert the attorney representing the jurisdiction to the need for issuing a health directive since such action may lead to further legal actions in order to protect the public health.
 - The regional health officer may also consult with the TTBEF Medical Director regarding the rationale for issuing a health directive and the conditions specified to secure cooperation of the patient.
- Content of a health directive
 - (1) “A health directive shall be individual and specific and shall not be issued to a class of persons.”
 - (2) “Health directives and public health measures should be written in non-technical, patient-appropriate language and should include the reasons

for the health directive or public health measure (including a statement of actions the Department has taken prior to the directive or court order, tests and/or treatments expected, anticipated duration of the directive/ public health measure, and rights of review or appeal as set out in these Rules.”

- (3) Include specific dates and locations of the patient’s behaviors with an explanation of why, in the judgment of the health officer, such behaviors pose a threat to public health.
- (4) “A health directive may include, but is not necessarily limited to, participation in education and counseling, medical tests and examinations to verify carrier status, participation in treatment programs, isolation and/or quarantine, or preventing or restricting access to premises upon which a person, cause or source of a disease may be found, for a period of time as may be necessary to confirm or establish a diagnosis, to determine the cause or source of a disease, and/or to prevent the spread of a disease. In no case may a person be isolated, held or detained, pursuant to these Rules, in a correctional facility.”

- Confidentiality—Medical information contained in a health directive is considered confidential as described in the Rules.
- Delivery of a health directive—A written health directive should be addressed to the physical address of the named patient, hand-delivered by a public health staff person only to the patient, its contents explained to the patient, allowing opportunity for the patient to ask for clarification of the health directive’s contents. The regional/metro TB program provides a copy of each Health Directive to the TTBEF Central Office (C.O.) within one (1) weeks of delivery to the patient (**Standard of Public Health Practice XV-4**).
- Patient Bill of Rights— Each Health Directive is hand-delivered with a copy of the “Patient Bill of Rights” (**Standard of Public Health Practice XV-3**).
- Failure of patient to meet conditions of a health directive—If, in the judgment of the regional health officer, the patient fails to meet any directives delivered to the patient and continues to be a threat to the public health, the regional health officer is authorized to proceed with a “Petition for Temporary Hold in Emergency Situation” (Step 2) to the General Sessions Court of the county of residence of the patient (This action is taken in close collaboration with the legal representative of the public health jurisdiction). If the petition is granted and the patient is civilly detained in order to protect the public health, the patient is entitled to a timely hearing with legal representation present, in General Sessions Court.
- Following detention—The regional health officer, with the assistance of the legal representative of the public health jurisdiction, may file a “Petition for a Public Health Measure” to be considered by the Court during the hearing. If granted by the Court, an “Order for Public Health Measure (step 3) generally commits the patient to the custody of the Commissioner of Health for a period not to exceed six (6) months.