

Iowa Tuberculosis and Communicable Disease Investigation Citations

Iowa Code 139 A Citations

139A.12 County liability for care, provisions, and medical attendance.

The local board shall provide proper care, provisions, and medical attendance for any person removed and isolated or quarantined in a separate house or hospital for detention and treatment, and the care, provisions, and medical attendance shall be paid for by the county in which the infected person has a legal settlement, if the patient or legal guardian is unable to pay.
2000 Acts, ch [1066, 12](#).

139A.15 Filing of bills

All bills incurred under this chapter in establishing, maintaining, and terminating isolation and quarantine, in providing a necessary house or hospital for isolation or quarantine, and in making terminal cleanings, shall be filed with the local board. The local board at its next regular meeting or special meeting called for this purpose shall examine and audit the bills and, if found correct, approve and certify the bills to the county board of supervisors for payment.
2000 Acts, ch [1066, §15](#)

139A.18 Reimbursement from county.

If any person receives services or supplies under this chapter who does not have a legal settlement in the county in which the bills were incurred and paid, the amount paid shall be certified to the board of supervisors of the county in which the person claims settlement or owns property, and the board of supervisors of that county shall reimburse the county from which the claim is certified, in the full amount originally paid.
2000 Acts, ch [1066, §18](#) See [§252.24](#)

Iowa Administrative Code 641.1

641—1.1 (139A) Definitions. For the purpose of these rules, the following definitions shall apply:

“Infectious tuberculosis” means pulmonary or laryngeal tuberculosis as evidenced by:

1. Isolation of *M. tuberculosis* complex (positive culture) from a clinical specimen or positive nucleic acid amplification test, or
2. Both radiographic evidence of tuberculosis, such as an abnormal chest X-ray, and clinical evidence, such as a positive skin test or whole blood assay test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with infectious tuberculosis that lead a physician to diagnose infectious tuberculosis according to currently acceptable standards of medical practice and to initiate treatment for tuberculosis.

641—1.7 (135,139A) Investigation of reportable diseases. A health care provider and a public, private, or hospital clinical laboratory shall assist in a disease investigation conducted by the department, a local board, or a local department.

1.7(1) A health care provider and a clinical laboratory shall provide the department, local board, or local department with all information necessary to conduct the investigation, including but not limited to medical records; exposure histories; medical histories; contact information; and test results necessary to the investigation, including positive, pending, and negative test results.

641—1.9 (135,139A) Quarantine and isolation.

1.9(1) Examination, testing, and treatment of quarantinable diseases.

a. A health care provider who attends an individual with a suspected or active quarantinable disease shall make all reasonable efforts in accordance with guidance from a local health department or the department to examine or cause all household and other known contacts of the individual to be examined by a physician. The physician shall promptly report to the department the results of such examination. If the individual refuses or is unable to undergo examination, the health care provider shall promptly report such information to the department.

b. When required by the department, all contacts not examined by a physician, including all adult and minor contacts, shall submit to a diagnostic test or tests. If any suspicious abnormality is found, steps satisfactory to the department shall be taken to refer the individual promptly to a physician or appropriate medical facility for further evaluation and, if necessary, treatment. The referring health care provider or facility shall notify the receiving health care provider or facility of the suspicious abnormality. When requested by the department, a physician shall report the results of the examination of a contact to the case or suspected case or incident.

c. Upon order of the department or local board of health, an individual with a suspected or active quarantinable disease shall not attend the workplace or school and shall not be present at other public places until the individual receives the approval of the department or a local board of health to engage in such activity. Upon order of the department or local board of health, employers, schools and other public places shall exclude an individual with a suspected or active quarantinable disease. An individual may also be excluded from other premises or facilities if the department or a local board of health determines the premises or facilities cannot be maintained in a manner adequate to protect others against the spread of the disease.

d. A person diagnosed with or clinically suspected of having infectious tuberculosis shall complete voluntary treatment until, in the opinion of the attending physician or the state public health medical director and epidemiologist, the person's tuberculosis is cured or such person is no longer a threat to public health. If such person refuses to complete the course of voluntary treatment, the department or local board of health may issue an order compelling mandatory treatment. Such order shall include the identity of the person subject to the mandatory treatment order, a description of the treatment ordered, the medical basis upon which the treatment is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory treatment order may be subject to the penalties provided in Iowa Code section 135.38 or 137.21 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

e. A person diagnosed with extrapulmonary tuberculosis or clinically suspected of having infectious tuberculosis who fails to comply with a physician's recommendation for diagnostic testing may be ordered to undergo diagnostic testing by the department or local board of health. Such order shall include the identity of the person subject to mandatory diagnostic testing, a description of the diagnostic testing ordered, the medical basis upon which the diagnostic testing is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory diagnostic testing order may be subject to the penalties provided in Iowa Code section 135.38 or 137.21 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

1.9(2) General provisions.

a. Voluntary confinement. Prior to instituting mandatory isolation or quarantine pursuant to this rule, the department or a local board of health may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.

b. Quarantine and isolation. The department and local boards of health are authorized to impose and enforce quarantine and isolation restrictions. Quarantine and isolation shall rarely be imposed by the department or by local boards of health. If a quarantinable disease occurs in Iowa, individuals with a suspected or active quarantinable disease and contacts to the case may be quarantined or isolated as the particular situation requires. Any quarantine or isolation imposed by the department or a local board of health shall be established and enforced in accordance with this rule.

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1.9(3) *Conditions and principles.* The department and local boards of health shall adhere to all of the following conditions and principles when isolating or quarantining individuals or a group of individuals:

- a.** The isolation or quarantine shall be by the least restrictive means necessary to prevent the spread of a communicable or possibly communicable disease to others and may include, but not be limited to, confinement to private homes, other private premises, or public premises.
- b.** Isolated individuals shall be confined separately from quarantined individuals.
- c.** The health status of isolated or quarantined individuals shall be monitored regularly to determine if the individuals require further or continued isolation or quarantine.
- d.** If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable or possibly communicable disease, the individual shall be promptly removed to isolation.
- e.** Isolated or quarantined individuals shall be immediately released when the department or local board of health determines that the individuals pose no substantial risk of transmitting a communicable or possibly communicable disease.
- f.** The needs of isolated or quarantined individuals shall be addressed in a systematic and competent fashion including, but not limited to, providing adequate food; clothing; shelter; means of communicating with those in and outside of isolation or quarantine; medication; and competent medical care.
- g.** The premises used for isolation or quarantine shall be maintained in a safe and hygienic manner and shall be designed to minimize the likelihood of further transmission of infection or other harm to isolated or quarantined individuals.
- h.** To the extent possible, cultural and religious beliefs shall be considered in addressing the needs of individuals in isolation or quarantine premises and in establishing and maintaining the premises.

1.9(4) *Isolation and quarantine premises.*

- a.** Sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.
- b.** An individual subject to isolation or quarantine shall obey the rules and orders of the department or the local board of health and shall not go beyond the isolation or quarantine premises.
- c.** The department or a local board of health may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.
- d.** No individual, other than an individual authorized by the department or a local board of health, shall enter isolation or quarantine premises. If the department has requested the assistance of law enforcement in enforcing the isolation or quarantine, the department shall provide law enforcement personnel with a list of individuals authorized to enter the isolation or quarantine premises.
- e.** Any individual entering an isolation or quarantine premises with or without authorization of the department or a local board of health may be isolated or quarantined pursuant to this rule.

1.9(5) *Isolation and quarantine by local boards of health.*

- a.** A local board of health may:
 - (1) Isolate individuals who are presumably (or actually) infected with a quarantinable disease;
 - (2) Quarantine individuals who have been exposed to a quarantinable disease;
 - (3) Establish and maintain places of isolation and quarantine; and
 - (4) Adopt emergency rules and issue orders as necessary to establish, maintain, and enforce isolation or quarantine.
- b.** Isolation and quarantine undertaken by a local board of health shall be accomplished according to the rules and regulations of the local board of health so long as such rules are not inconsistent with this chapter.

1.9(6) *Isolation and quarantine by the Iowa department of public health.*

- a. Authority.**
 - (1) The department, through the director, the department's medical director, or the director's or medical director's designee, may:

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1. Isolate individuals or groups of individuals who are presumably or actually infected with a quarantinable disease; and
2. Quarantine individuals or groups of individuals who have been exposed to a quarantinable disease, including individuals who are unable or unwilling to undergo examination, testing, vaccination, or treatment, pursuant to Iowa Code section 135.144(9).

(2) The department may:

1. Establish and maintain places of isolation and quarantine; and
2. Adopt emergency rules and issue orders as necessary to establish, maintain, and enforce isolation or quarantine.

(3) Isolation and quarantine undertaken by the department, including isolation and quarantine undertaken by the department in the event of a public health disaster, shall be established pursuant to paragraph 1.9(6) "b" or "c."

b. Temporary isolation and quarantine without notice. The department may temporarily isolate or quarantine an individual or groups of individuals through an oral order, without notice, only if delay in imposing the isolation or quarantine would significantly jeopardize the department's ability to prevent or limit the transmission of a communicable or possibly communicable disease to others. If the department imposes temporary isolation or quarantine of an individual or groups of individuals through an oral order, the department shall issue a written order as soon as is reasonably possible and in all cases within 24 hours of issuance of the oral order if continued isolation or quarantine is necessary to prevent or limit the transmission of a communicable or possibly communicable disease.

c. Written order. The department may isolate or quarantine an individual or groups of individuals through a written order issued pursuant to this rule.

(1) The written order shall include all of the following:

1. The identity of the individual, individuals, or groups of individuals subject to isolation or quarantine.
2. The premises subject to isolation or quarantine.
3. The date and time at which isolation or quarantine commences.
4. The suspected communicable disease.
5. A description of the less restrictive alternatives that were attempted and were unsuccessful, or the less restrictive alternatives that were considered and rejected, and the reasons such alternatives were rejected.
6. A statement of compliance with the conditions and principles for isolation and quarantine specified in subrule 1.9(3).
7. The legal authority under which the order is requested.
8. The medical basis upon which isolation or quarantine is justified.
9. A statement advising the individual, individuals, or groups of individuals of the right to appeal the written order pursuant to subrule 1.9(7) and the rights of individuals and groups of individuals subject to quarantine and isolation as listed in subrule 1.9(8).
10. A copy of this chapter and the relevant definitions.

(2) A copy of the written order shall be provided to the individual to be isolated or quarantined within 24 hours of issuance of the order in accordance with any applicable process authorized by the Iowa Rules of Civil Procedure. If the order applies to a group or groups of individuals and it is impractical to provide individual copies, the order may be posted in a conspicuous place in the isolation or quarantine premises.

1.9(7) Appeal from order imposing isolation or quarantine.

a. Contested case. The subject of a department order imposing isolation or quarantine may appeal a written order and has the right to a contested case hearing regarding such appeal. The subject of a department order imposing isolation or quarantine may appeal the order by submitting a written appeal within ten days of receipt of the written order. The appeal shall be addressed to the Department of Public Health, Division of Epidemiology, Emergency Medical Services, and Disaster Operations, Lucas State Office Building, Des Moines, Iowa 50319-0075. Unless stayed by order of the director or a district court, the written order for quarantine or isolation shall remain in force and effect until the appeal is finally determined and disposed of upon its merits.

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b. Presiding officer. The presiding officer in a contested case shall be the director or the director's designee. The director or the director's designee may be assisted by an administrative law judge in conducting the contested case hearing. The decision of the director or the director's designee shall be the department's final decision and is subject to judicial review in accordance with the provisions of Iowa Code chapter 17A.

c. Proceeding. The contested case hearing shall be conducted in accordance with the provisions contained at 641—Chapter 173. The hearing shall be held as soon as is practicable, and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the department may apply to continue the hearing date for up to ten additional days on a petition filed pursuant to this rule. The presiding officer may use discretion in granting a continuance giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence.

d. Judicial review. The aggrieved party to the final decision of the department may petition for judicial review of that action pursuant to Iowa Code chapter 17A. Petitions for judicial review shall be filed within 30 days after the decision becomes final.

e. Immediate judicial review of department order. The department acknowledges that in certain circumstances the subject or subjects of a department order may desire immediate judicial review of a department order in lieu of proceeding with the contested case process. The department recognizes that the procedural step of pursuing exhaustion of administrative remedies may be inadequate for purposes of Iowa Code section 17A.19, and the department may consent to immediate jurisdiction of the district court when requested by the subject or subjects of a department order and justice so requires. Unless stayed by order of the director or a district court, the written order for quarantine or isolation shall remain in force and effect until the judicial review is finally determined and disposed of upon its merits.

1.9(8) Rights of individuals and groups of individuals subject to isolation or quarantine. Any individual or group of individuals subject to isolation or quarantine shall have the following rights:

- a.** The right to be represented by legal counsel.
- b.** The right to be provided with prior notice of the date, time, and location of any hearing.
- c.** The right to participate in any hearing. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease.
- d.** The right to respond and present evidence and argument on the individual's own behalf in any hearing.
- e.** The right to cross-examine witnesses who testify against the individual.
- f.** The right to view and copy all records in the possession of the department which relate to the subject of the written order.

1.9(9) Consolidation of claims. In any proceeding brought pursuant to this rule, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence, the department or a court may order the consolidation of individual claims into group claims, if all of the following conditions exist:

- a.** The number of individuals involved or to be affected is so large that individual participation is impractical.
- b.** There are questions of law or fact common to the individual claims or rights to be determined.
- c.** The group claims or rights to be determined are typical of the affected individuals' claims or rights.
- d.** The entire group will be adequately represented in the consolidation.

1.9(10) Implementation and enforcement of isolation and quarantine.

a. Jurisdictional issues. The department has primary jurisdiction to isolate or quarantine individuals or groups of individuals if the communicable disease outbreak has affected more than one county or has multicounty, statewide, or interstate public health implications. When imposing isolation or quarantine, the department shall coordinate with the local health department as appropriate. If isolation or quarantine is imposed by the department, a local board of health or local health department may not alter, amend, modify, or rescind the isolation or quarantine order.

b. Assistance of local boards of health and local health departments. If isolation or quarantine is imposed by the department, the local boards of health and the local health departments in the affected areas shall assist in the implementation of the isolation or quarantine order.

c. Assistance of law enforcement. Pursuant to Iowa Code section 135.35, all peace officers of the state shall enforce and execute a lawful department order for isolation or quarantine within their respective jurisdictions. The department shall take all reasonable measures to minimize the risk of exposure to peace officers and others assisting with enforcement of an isolation or quarantine order.

d. Penalty. Pursuant to Iowa Code section 135.38, any individual who knowingly violates a lawful department order for isolation or quarantine, whether written or oral, shall be guilty of a simple misdemeanor. The court-ordered sentence may include a fine of up to \$500 and imprisonment not to exceed 30 days.

e. Enforcement action. The department may file a civil action in Polk County district court or in the district court for the county in which the individual resides or is located to enforce a department order for isolation or quarantine. Such action shall be filed in accordance with the Iowa Rules of Civil Procedure.

641—1.12 (135,137,139A) Quarantine and isolation—model rule for local boards.

“*Quarantinable disease*” means any communicable disease which presents a risk of serious harm to public health and which may require isolation or quarantine to prevent its spread. “Quarantinable disease” includes but is not limited to cholera; diphtheria; **infectious tuberculosis**; plague; smallpox; yellow fever; viral hemorrhagic fevers, including Lassa, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named; novel influenza; and severe acute respiratory syndrome (SARS).

Code Citations related to local boards of health providing food, utilities, rent etc. for patients under long-term home isolation.

1.12(4)

Conditions and principles.

The board shall adhere to all of the following conditions and principles when isolating or quarantining individuals or a group of individuals:

- a. The isolation or quarantine shall be by the least restrictive means necessary to prevent the spread of a communicable or possibly communicable disease to others and may include, but is not limited to, confinement to private homes, other private premises, or public premises.
- b. Isolated individuals shall be confined separately from quarantined individuals.
- c. The health status of isolated or quarantined individuals shall be monitored regularly to determine if the individuals require further or continued isolation or quarantine.
- d. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a communicable or possibly communicable disease, the individual shall be promptly removed to isolation.
- e. Isolated or quarantined individuals shall be immediately released when the board determines that the individuals pose no substantial risk of transmitting a communicable or possibly communicable disease.
- f. The needs of isolated or quarantined individuals shall be addressed in a systematic and competent fashion including, but not limited to, providing adequate food; clothing; shelter; means of communicating with those in and outside of isolation or quarantine; medication; and competent medical care.

HIPAA Compliance:

IDPH and the Health Insurance Portability and Accountability Act (HIPAA)

The effect of HIPAA privacy provisions on the release of protected health information to the Iowa Department of Public Health

The Iowa Department of Public Health (IDPH), in conjunction with the Attorney General's Office, has completed a comprehensive review of its programs and has determined that neither the agency as a whole, nor any of its programs, are covered entities under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). However, both the EPSDT Program and Enhanced Services for Maternal Health Program are actually a part of the Medicaid Program of the Iowa Department of Human Services and, as such these programs, will be business associates of the Iowa Department of Human Services and, therefore, subject to many HIPAA provisions. Because IDPH is not a covered entity, many agencies and facilities in Iowa that are covered entities have questioned whether they can continue to disclose the protected health information of their patients or clients to the IDPH as they have in the past. The short answer is YES, such disclosures may continue to occur under HIPAA.

First, HIPAA recognizes that if there is a statute or administrative rule that requires a specific disclosure of protected health information, a covered entity must obey that law. (Section 164.512). Therefore, if there is another federal or state statute or administrative rule which requires a covered entity to disclose protected health information to the IDPH, the covered entity should follow that requirement. Many disclosures of PHI to IDPH are required by state laws, including Iowa Code chapters 135, 136A, 136B, 136C, 139A, 141A, 144, 147A, and 272C and the administrative rules that implement these chapters. These disclosures are legally required and must continue to be made as mandated by state law.

Second, HIPAA allows a covered entity to disclose protected health information to public health authorities for public health activities. (Section 164.512). HIPAA defines a public health authority as "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." (Section 164.501). The IDPH has such a mandate and, therefore, is a public health authority under HIPAA.

The IDPH, in conjunction with the Iowa Attorney General's Office, has reviewed its programs and determined that protected health information being received by the Department from covered entities in Iowa is disclosed for public health activities. The disclosure of such information to IDPH is, therefore, unaffected by HIPAA and should continue in accordance with past practices. Because IDPH is a public health authority that is authorized to receive PHI under this provision, covered entities are not required to enter into a business associate agreement with IDPH in order for the exchange of protected health information to take place.

Third, in some instances, the IDPH is a health oversight agency as defined by HIPAA. Under HIPAA, a "health oversight agency" is "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 authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant."

HIPAA permits a covered entity to 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:

- The health care system (e.g. *State insurance commissions, state health professional licensure agencies, Offices of Inspectors General of federal agencies, the Department of Justice, state Medicaid fraud control units, Defense Criminal Investigative Services, the Pension and Welfare Benefit Administration, the HHS Office for Civil Rights, the FDA, data analysis to detect health care fraud*);

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- Government benefit programs for which health information is relevant to beneficiary eligibility (e.g. SSA and Dept. of Education);
- Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards (e.g. Occupational Health and Safety Administration and the EPA; the FDA's oversight of food, drugs, biologics, devices, and other products pursuant to the Food, Drug, and Cosmetic Act and the Public Health Service Act); or
- Entities subject to civil rights laws for which health information is necessary for determining compliance (the U.S. Department of Justice's civil rights enforcement activities, enforcement of the Civil Rights of Institutionalized Persons Act, the Americans with Disabilities Act, the EEOC's civil rights enforcement activities under titles I and V of the ADA). (Section 164.512(d)).

"Overseeing the health care system," encompasses activities such as oversight of health care plans, oversight of health benefit plans; oversight of health care providers; oversight of health care and health care delivery; oversight activities that involve resolution of consumer complaints; oversight of pharmaceutical, medical products and devices, and dietary supplements; and a health oversight agency's analysis of trends in health care costs, quality, health care delivery, access to care, and health insurance coverage for health oversight purposes.

Health oversight agencies may provide more than one type of health oversight. Such entities are considered health oversight agencies under the rule for any and all of the health oversight functions that they perform. The disclosure of protected health information to IDPH for these purposes is unaffected by HIPAA and should continue in accordance with past practices.

Finally, local public health departments and local contractors which are covered entities may release protected health information to IDPH under the above-cited legal authority applicable to all covered entities. For example, certain statutes and rules require local public health departments and local contractors to disclose protected health information to IDPH. Further, as a health oversight agency a local health department is permitted, and in most cases required, to disclose protected health information to IDPH. Disclosures of PHI by local public health departments and local contractors to IDPH do not require business associate agreements and are not prohibited or otherwise affected by HIPAA.

Please call Janet Hoffman, Assistant Attorney General, (515) 281-8330 should you have additional questions regarding these issues.