ISOLATION AND QUARANTINE: LEGAL PREPAREDNESS FOR PUBLIC HEALTH EMERGENCIES

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Police Powers

- Inherent, sovereign power of the state
- Means to establish civil self-protection laws
- Long-standing, well-settled principle of law
Police Powers

- Promote the public health, safety, morals, and the general well-being of the community
- Control, regulate, or prohibit non-criminal behavior
- Must respect individual rights
Isolation and Quarantine

- Police power functions

- Derived from the state’s right to take action affecting individuals for the benefit of society

- Protect the public by preventing exposure to people who have or may have a contagious disease
Isolation and Quarantine

- **Isolation**
  - Separates sick people with a contagious disease from people who are not sick

- **Quarantine**
  - Separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick
Isolation and Quarantine Laws

- State and local governments are responsible for maintaining public health and preventing the spread of disease within state borders.

- Isolation and Quarantine are legal authorities that the state and local health departments may use to prevent the spread of communicable diseases.
Isolation and Quarantine Laws

- Three types of isolation and quarantine laws
  - General (multiple communicable diseases)
  - Disease specific (tuberculosis)
  - State of emergency (state declaration)

-Outlined in statute

- Due process protected
After an investigation, if it is determined that a disease exists within the jurisdiction, the county health department may adopt isolation and quarantine measures consistent with ADHS rules and A.R.S. §§ 36-788 and 36-789 to prevent the spread of the disease.

The county health department shall immediately notify ADHS of the existence and nature of the disease and measures taken concerning it.
General Laws

- A.A.C. Title 9, Chapter 6
  - Reporting requirements
  - Isolation and quarantine requirements
  - Case control, contact control, environmental control, and outbreak control requirements

- A.A.C. § R9-6-303
  - Outlines the steps that a county health department must follow when adopting isolation and quarantine measures
General Laws

- A.A.C. §§ R9-6-305 to R9-6-393
  - Provide case control, contact control, environmental control, and outbreak control requirements for a variety of diseases

- A.A.C. § R9-6-390 - Viral Hemorrhagic Fever
  - Case control and contact control measures
  - Contact control measures authorize a county health department, in consultation with ADHS, to quarantine individuals as necessary
A.R.S. §§ 36-711 to 36-738 – Tuberculosis
- Outlines the steps that must be taken when implementing isolation or quarantine measures

A.A.C. § R9-6-380 – Tuberculosis
- Specifies case control and contract control measures to be taken
Emergency Laws

- Types of Declarations
  - State of Emergency
  - State of War Emergency
  - Local Emergency

- Public Health Authority during State of Emergency or State of War Emergency
Emergency Declarations

- A.R.S. Title 26, Chapter 2, Article 1 (Emergency Management)

- Emergency beyond control of single county, city, or town
  - Governor declares state of emergency

- US attacked or Feds advise attack is imminent
  - Governor declares state of war emergency

- Within county, city, or town but outside assistance required
  - Mayor or Chairman of the Board of Supervisors declares local emergency
Emergency Declarations

  - Duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by
    - Air pollution
    - Fire
    - Flood or floodwater
    - Storm
    - Epidemic
    - Riot
    - Earthquake
    - Other causes
  - Beyond the control of any single county, city or town, and which require the combined efforts of the state and the political subdivision
Emergency Declarations

  - The condition which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent
Emergency Declarations

- A.R.S. § 26-301 – Local Emergency
  - The existence of conditions of disaster or of extreme peril to the safety of persons or property within the territorial limits of a county, city or town, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of such political subdivision as determined by its governing body and which require the combined efforts of other political subdivisions.
Emergency Declarations

- A.R.S. Title 36, Chapter 6, Article 9 (Public Health Control)

Declared state of emergency or state of war emergency with occurrence of or imminent threat of illness

Arizona Department of Health Services coordinates public health emergency response
Emergency Declarations

- A.R.S. § 36-787 – Public Health Emergency
  - Declared emergency
  - Occurrence or imminent threat of an illness or health condition that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability
    - Bioterrorism
    - Biological toxin
    - Epidemic/pandemic disease
    - Highly fatal infectious agent
  - ADHS coordinates all matters pertaining to a public health emergency
Emergency Powers

- Public Health Emergency with occurrence or imminent threat of a highly contagious and highly fatal disease
  - Governor, in consultation with ADHS Director, may:
    - Mandate treatment or vaccination of persons who are diagnosed with illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed
    - Isolate and quarantine persons
Police Powers vs. Civil Rights

- Must protect population *and* respect individual rights and freedoms
  - Tension created because police powers tend to restrict personal liberty and autonomy

- Due process helps to balance community interests with individual rights
Protecting Civil Rights

- Legal interventions (isolation and quarantine) should be utilized only as a last resort

- Legal interventions must be the least restrictive available

- Individuals must be given due process
Due Process

- Right to Notice
- Right to a Speedy Hearing
- Right to Appointed Counsel
- Opportunity to present evidence and cross-examine witnesses
- State’s burden—preponderance of the evidence
- Hearing record is made and retained

- All documents including warning notices and written directives should be in a language the individual understands
Isolation and Quarantine Process

- Process is the same for all three types of isolation and quarantine laws

- Process is specified in statute and rule:
  - A.R.S. § 36-789
  - A.R.S. §§ 36-725 to 36-727 (Tuberculosis)
  - A.A.C. § R9-6-303
Isolation and Quarantine Process

**Written Directive Issued**
Health department may immediately issue a written directive ordering compliance with isolation or quarantine requirements.

10 days

**Petition for Court Order Filed**
Health department must petition for court order accompanied by a sworn affidavit attesting to the facts and other material information.

24 hours

**Notice of Petition Served**
Health department must serve the individual(s) named in the petition.

5 days
Isolation and Quarantine Process

**Court Hearing**

Court must hold a hearing on the petition. The hearing may be continued for 10 days under extraordinary circumstances.

**Court Order**

A court order for isolation or quarantine is effective for up to 30 days. If needed, the health department may move to extend the order for an additional 30 days.
Isolation and Quarantine Duties

- Premises is safe and hygienic
- Further transmission of disease or other harm is minimized
- Adequate food, clothing, medication and other necessities is made available
- Competent medical care is available
- Means of communicating with those inside and outside the premises are made available
Ethical Considerations

- Fairness
- Duty to care
- Transparency
- Consistency
- Proportionality
- Accountability
Thank You

- Questions?

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