

Chapter 246-170 WAC

TUBERCULOSIS—PREVENTION, TREATMENT, AND CONTROL

WAC

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filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
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 Program review. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-090, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-100, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-170-001 Purpose. [Statutory Authority: RCW 70.33.020. 92-02-018 (Order 224), § 246-170-001, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-001, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-010, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-010 Definitions. [Statutory Authority: RCW 70.33.020. 92-02-018 (Order 224), § 246-170-010, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-010, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-020, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-020 Responsibility of local health officers. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-020, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-030, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-030 Local health department responsibilities. [Statutory Authority: RCW 70.33.020. 92-02-018 (Order 224), § 246-170-030, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-030, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-040, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-040 Inpatient services. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-040, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-050, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-050 Infection control. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-050, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-060, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-060 Clinical services. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-060, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-070, filed 8/23/73.] Repealed by 95-04-035, filed 1/24/95, effective 1/24/95. Statutory Authority: ESB 6158 and chapter 70.28 RCW.
 246-170-070 Home treatment. [Statutory Authority: RCW 43.70.040. 91-02-049 (Order 121), recodified as § 246-170-070, filed 12/27/90, effective 1/31/91; Order 848, § 248-99-080, filed 8/23/73.] Repealed by 95-04-035,

WAC 246-170-002 Findings and purpose. (1) The board of health finds that:

(a) Pulmonary tuberculosis is a life-threatening airborne disease that can be casually transmitted without significant interaction with an infectious person. Tuberculosis has reemerged as an epidemic disease nationally, and though Washington state is not in an epidemic yet, the increasing number of cases in Washington state each year clearly demonstrate that absent timely and effective public health intervention in individual cases, the residents of the state of Washington are at risk of being infected by tuberculosis.

(b) In order to limit the spread of tuberculosis, it is essential that individuals who have the disease are diagnosed and treated before they infect others. Diagnosis requires a variety of methodologies including skin tests, X rays, and laboratory analysis of sputum samples.

(c) A person with infectious tuberculosis who does not voluntarily submit to appropriate testing, treatment, or infection control methods poses an unreasonable risk of spreading the disease to those who come into the infectious person's proximity.

(d) Although the recommended course of treatment for tuberculosis varies somewhat from one individual to another, at a minimum, effective treatment requires a long-term regimen of multiple drug therapy. Some drugs are effective with some individuals but not others. The development of the appropriate course of treatment for any one individual may require trying different combinations of drugs and repeated drug susceptibility testing. The course of treatment may require as long as several years to complete.

(e) A person who begins a course of treatment for tuberculosis and fails to follow the recommended course through to completion is highly likely to relapse at some point into infectious tuberculosis. The person will most likely then be infected with what is known as multiple drug resistant tuberculosis, which is more virulent, more difficult to treat, and more likely to result in fatality. A person who is infectious with multiple drug resistant tuberculosis poses a significant

risk of transmitting multiple drug resistant tuberculosis to other persons, unless appropriate treatment and infection control methods are followed.

(f) Multiple drug resistant tuberculosis is a significant element in the epidemic that is being encountered nationwide, and effective public health interventions are necessary to prevent that epidemic from developing in or spreading to Washington state.

(2) The following rules are adopted for the purpose of establishing standards necessary to protect the public health by:

(a) Assuring the diagnosis, treatment, and prevention of tuberculosis; and

(b) Assuring that the highest priority is given to providing appropriate individualized preventive and curative treatment in the least restrictive setting.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-002, filed 1/24/95, effective 1/24/95.]

WAC 246-170-011 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"Case management" means a comprehensive, ongoing identification of needs, including the need for any medical, social, educational, or other support services; the development and implementation of a detailed plan of services and related activities; use of community linkages; and advocacy for the client performed in a prescribed, accountable manner.

"Confirmed" or "confirmed case" means an individual who has a positive bacteriologic culture for *Mycobacterium tuberculosis* complex or a suspected case that shows response to an appropriate course of treatment.

"Department" means the department of health.

"Detention" or "detain" means the act of restricting an individual's movement by confining the person.

"Directly observed therapy (DOT)" and "directly observed preventive therapy (DOPT)" mean providing oral medications to patients and observing ingestion of medications by patients.

"Infected" means an individual who has tubercle bacilli as identified by a positive tuberculin skin test, but is not capable of transmitting the organism to another person.

"Infectious" means the stage of disease in which an individual transmits viable tuberculosis organisms into the air.

"Inpatient" means health care furnished to an individual who has been admitted to a hospital.

"Outpatient" means health care furnished to an individual who is not an inpatient.

"Personal protective equipment" means respirators and other equipment as required by the department of labor and industries.

"Prevention" means the interventions that interrupt the spread of tuberculosis, either within an individual, within the population, or both.

"Preventive therapy" means either treatment to prevent infection in an uninfected person or treatment to prevent disease in an infected person.

"Primary health care provider" means the person who assumes the day-to-day medical care of a tuberculosis patient.

"Suspected case" means an individual with signs or symptoms suggestive of tuberculosis disease prior to confirmation.

"Treatment" means a course of long-term multiple drug or other appropriate therapy prescribed for an individual with suspected or confirmed disease in accordance with accepted medical practice and current applicable national and state guidelines, and may include preventive therapy.

"Tuberculin skin test" means the introduction of purified protein derivative (PPD) by the Mantoux method.

"Tuberculosis community health worker" means an unlicensed person trained to perform tuberculin skin testing, directly observed therapy, and directly observed preventive therapy and working pursuant to chapter 70.28 RCW as part of a program established by a state or local health officer to control tuberculosis.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-011, filed 1/24/95, effective 1/24/95.]

WAC 246-170-021 Responsibility of local health officers. Each county, city-county and district health officer is responsible for the control of tuberculosis within a jurisdiction. Each health officer shall act as or shall designate a physician to act as tuberculosis control officer. This individual shall coordinate all aspects of the prevention, treatment, and control program.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-021, filed 1/24/95, effective 1/24/95.]

WAC 246-170-031 Local health department responsibilities. (1) Each local health department shall assure the provision of a comprehensive program for the prevention, treatment, and control of tuberculosis. Services shall include:

(a) Prevention and screening, with emphasis on screening of high risk populations;

(b) Diagnosis and monitoring, including laboratory and radiology;

(c) Individualized treatment planning consistent with American Thoracic Society/Centers for Disease Control and Prevention statements based on the least restrictive measures necessary to assure appropriate treatment; and

(d) Case management.

(2) In the absence of third party reimbursement, the local health department shall assure the provision of inpatient or outpatient care, including DOT/DOPT and case management.

(3) Each local health department shall maintain a register of all diagnosed or suspected cases of tuberculosis. In addition, each local health department shall also maintain a register of individuals to whom that health department is providing preventive therapy. Quarterly status reports on suspected and diagnosed cases shall be furnished to the department of health tuberculosis control program.

(4) A physician knowledgeable in the diagnosis and treatment of tuberculosis approved by the department shall be available to provide review of diagnoses, plans of management and, if appropriate, discharge from inpatient facilities.

(5) Sufficient nursing, clerical, and other appropriate personnel shall be provided to furnish supervision of preventive and outpatient treatment, surveillance, suspect evaluation, epidemiologic investigation, and contact workup.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-031, filed 1/24/95, effective 1/24/95.]

WAC 246-170-035 Tuberculin skin testing and medication administration training. The department shall make available a course to be used by the state tuberculosis control program or local health departments to train tuberculosis community health workers.

This course shall include, but not be limited to:

- (1) Tuberculosis infection and disease, including prevention, transmission, pathogenesis, diagnosis and treatment;
- (2) The administration, reading, and interpretation of the Mantoux tuberculin skin test;
- (3) The performance of oral directly observed therapy and directly observed preventive therapy;
- (4) Adverse reactions to tuberculosis medications and how to monitor patients for adverse reactions;
- (5) Appropriate referral mechanisms for positive skin tests, adverse reactions, or other medical needs;
- (6) Personal health and safety requirements including the use of personal protective equipment.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 94-20-080, § 246-170-035, filed 10/4/94, effective 11/4/94.]

WAC 246-170-041 Inpatient services requirements.

(1) Inpatient services to infectious or suspected cases shall be provided in hospitals or hospital units of correctional facilities. These facilities shall meet infection control program requirements pursuant to WAC 246-318-035, and shall provide:

- (a) A single-patient room consistent with the guidelines set forth in the *1994 CDC Guidelines For Preventing the Transmission of Tuberculosis in Health Care Facilities*, or as hereafter amended. Copies of these guidelines are available from the Washington state department of health, TB control program;
- (b) Medical, nursing, laboratory, radiology, pharmacy, patient education, and social services;
- (c) Discharge conferences involving at least the current primary provider, a local health department representative, and transferring and receiving facility representatives.

(2) Suspected and infectious cases may be housed and treated in other settings not meeting the requirements of this section only as approved by the local health officer.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-041, filed 1/24/95, effective 1/24/95.]

WAC 246-170-051 Procedures for involuntary testing, treatment, and detention. (1) A local health officer shall make reasonable efforts to obtain voluntary compliance with requests for examination, testing, and treatment prior to initiating the procedures for involuntary detention.

(2) If the local health officer has reason to believe that:

- (a) A person is a suspected case, and that the person has failed to comply with a documented request from a health care practitioner or the local health officer to submit to examination and testing;
- (b) A person with confirmed tuberculosis is failing to comply with an individual treatment plan approved by the local health officer;

(c) A person who is either a suspected or confirmed case and is failing to comply with infection control directives issued by the local health officer; or

(d) A person is a suspected or confirmed case of tuberculosis based upon generally accepted standards of medical and public health science. A local health officer shall investigate and evaluate the factual basis supporting his or her "reason to believe";

then the health officer may detain the person, cause the person to be detained by written order, or petition the superior court *ex parte* for an order to take the person into emergency detention for testing or treatment, or both. The period of detention shall not exceed seventy-two hours, excluding weekends and holidays.

(3) At the time of detention the person detained shall be given the following written notice:

NOTICE: You have the right to a superior court hearing within seventy-two hours of detention, excluding holidays and weekends. You have the right to legal counsel. If you are unable to afford legal counsel, then counsel will be appointed for you at government expense and you should request the appointment of counsel at this time. If you currently have legal counsel, then you have an opportunity to contact that counsel for assistance.

You have a right to contest the facts alleged against you, to cross-examine witnesses, and to present evidence and witnesses on your behalf.

You have a right to appeal any decision made by the court.

You may be given appropriate TB medications only on your informed consent, or pursuant to a court order.

(4) If a person is involuntarily detained under this section, within one judicial day of initial detention, the local health officer shall file with the superior court in the county of detention a petition for detention. A petition filed under this section shall specify:

(a) The basis for the local health officer's belief that the respondent is either a suspected or confirmed case; including the name, address and phone numbers of whom the health officer expects to testify in support of the petition for detention and identification of any and all medical tests and records relied upon by the local health officer;

(b) The specific actions taken by the local health officer to obtain voluntary compliance by the respondent with recommended examination and testing or treatment, as the case may be;

(c) The nature and duration of further detention or other court-ordered action that the local health officer believes is necessary in order to assure that the respondent is appropriately tested or treated;

(d) The basis for believing that further detention or other court-ordered action is necessary to protect the public health; and

(e) Other information the local health officer believes is pertinent to the proper resolution of the petition.

(5) Service on respondent. The health officer shall serve a copy of the petition on the individual named therein at the time of the detention. If the person informs the health officer that he or she is represented by legal counsel, service on such counsel shall be made by delivering a copy of the petition to

the attorney's office no later than the time of filing the petition with the superior court.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-051, filed 1/24/95, effective 1/24/95.]

WAC 246-170-055 Due process proceedings. (1) A hearing on the petition for detention filed under WAC 246-170-051 shall be conducted in superior court within seventy-two hours after initial detention, excluding weekends and holidays. The local health officer shall have the burden of proving the allegations set forth in the petition by a preponderance of the evidence. The person named in the petition shall have the right to cross-examine witnesses, present evidence, and be represented by an attorney at any hearing held on the petition. If the person is indigent and requests appointment of legal counsel, legal counsel shall be appointed at public expense at least twenty-four hours prior to the superior court hearing.

(2) At the conclusion of the hearing, the court shall consider the evidence, the action taken by the health officer to secure voluntary compliance by the patient, and the purpose and intent of the public health laws, including this chapter, and may take one of the following actions:

(a) If the court finds that the respondent is a suspected case, the court may enter an order requiring that the person be subjected to further examination, testing, and treatment as specified in the court's order. If the court finds that further detention of the respondent is necessary in order to assure that the examination, testing, and treatment occurs, or to protect the public health the court may order that the respondent be detained for an additional period not to exceed forty-five days. The results of testing conducted under this chapter shall be provided to the court and the person detained or his or her legal counsel as soon as they are available to the local health officer. The court may then conduct an additional hearing to determine whether the person is a confirmed case and, if so, whether further measures are necessary to protect the public health pursuant to (b) or (c) of this subsection.

(b) If the court finds that the person is a confirmed case, that further measures less restrictive than detention of the respondent are necessary to assure that appropriate treatment is implemented and that imposition of less restrictive measures will be sufficient to protect the public health, the court may enter an order setting forth such measures and ordering the respondent to comply with the measures.

(c) If the court finds that the person is a confirmed case, that further detention of the respondent is necessary to protect the public health, and that imposition of less restrictive measures will not be sufficient to protect the public health, the court may order that the respondent be detained and treated for an additional period not to exceed forty-five days.

(d) If the court finds that there is insufficient evidence to support the petition for detention, then the court shall immediately release the person detained.

(3) A person detained under this chapter may be released prior to the expiration of the court-ordered detention if the health officer or the court finds that less restrictive measures are sufficient to protect the public health. The court may impose such conditions on the release of the person as the court finds are necessary to protect the public health. A person detained under this chapter may also petition the court for

release based upon new evidence or a change in circumstances.

(4) The court may extend a period of court-ordered detention for additional periods not to exceed one hundred eighty days each following a hearing as described in WAC 246-170-051 and this section, if the court finds that the requirements of subsection (2)(a), (b), or (c) of this section have been met and if the court finds that further detention is necessary to assure that appropriate treatment is implemented, and that imposition of less restrictive measures are not sufficient to protect the public health. As an alternative to extending the period of detention, if the court finds after hearing that further measures less restrictive than detention are necessary to assure that appropriate treatment is continued, and that imposition of less restrictive measures will be sufficient to protect the public health, the court may enter an order setting forth the measures and ordering the respondent to comply.

(5) In the event that a person has been released from detention prior to completion of the prescribed course of treatment and fails to comply with the prescribed course of treatment, the health officer where that individual is found may detain that person, and any court having jurisdiction of the person may order the person detained for an additional period or periods, not to exceed one hundred eighty days each, as the court finds necessary to protect the public health.

(6) If a person has been detained in a county other than the county in which the court that originally ordered the detention is located, venue of the proceedings may remain in the original county, or may be transferred to the county of detention. Change in venue may be sought either by the local health officer in the original county or in the county of detention, or by the person detained. Except as otherwise agreed between the original health officer and the health officer in the county of detention, the original health officer retains jurisdiction over the detained person, including financial responsibility for costs incurred in implementing and continuing the detention.

(7) Court orders entered under this chapter shall be entered only after a hearing at which the respondent is accorded the same rights as at the initial hearing on the petition for detention.

(8)(a) When a court order for detention is issued, the transporting law enforcement agency and the receiving facility shall be informed of the infectious TB status of the person for disease control and the protection of the health of the staff, other offenders and the public. Such information shall be made available prior to the transport.

(b) Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it except as authorized by state law."

(c) Transporting agencies and/or receiving facilities shall establish and implement policies and procedures that maintain confidentiality related to the detained person's medical information as defined in this subsection and state law.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-055, filed 1/24/95, effective 1/24/95.]

WAC 246-170-061 Initiation of testing or treatment.

If a person has been detained under WAC 246-170-051 or 246-170-055, the health officer may begin testing or treatment, with informed consent, or pursuant to a court order as appropriate, pending the hearing required under WAC 246-170-055.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-061, filed 1/24/95, effective 1/24/95.]

WAC 246-170-065 Persons already detained, confined, or committed.

(1) The provisions of WAC 246-170-051 through 246-170-061 do not apply to persons who have been lawfully detained, confined, or committed to the custody of a penal institution, a mental health facility, or another public or private institution. The person in charge of such facility or his or her designee shall report to the local health officer the names of persons in custody who are either a suspected or confirmed case. The report shall include information indicating the date upon which the person is to be released from the facility, if known, and if no specific release date has been determined, the earliest date upon which release is likely to occur. A person in custody may be ordered to undergo examination and testing or treatment, as appropriate, by the person in charge of the facility or designee, subject to such constitutional or other requirements as may be applicable.

(2) The person in charge of a custodial facility shall notify the local health officer and the department of the release of a person who is at the time of release reasonably believed to be either a suspected or confirmed case. The notice shall be given to the local health officer where the facility is located and to the local health officer having jurisdiction over the place to which the person is being released, if known. The notice shall be given as early as is practical, but in no event later than the time of the actual release.

[Statutory Authority: ESB 6158 and chapter 70.28 RCW. 95-04-035, § 246-170-065, filed 1/24/95, effective 1/24/95.]