

**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. WSR 95-04-035, § 246-170-051, filed 1/24/95, effective 1/24/95.]