

## Rules cited in complaint against local health officials

### WAC 246-100-036

#### Responsibilities and duties—Local health officers.

(1) The local health officer shall establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity they deem necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

(2) Local health officers shall:

(a) Notify health care providers within the local health jurisdiction regarding requirements in this chapter;

(b) Ensure anonymous HIV testing is reasonably available;

(c) Make HIV testing, as defined in this chapter, available for voluntary, mandatory, and anonymous testing;

(d) Make information on anonymous HIV testing available;

(e) Use identifying information on persons diagnosed with HIV provided according to chapter [246-101](#) WAC only:

(i) For purposes of contacting the person diagnosed with HIV to provide test results; or

(ii) To contact persons who may have experienced exposure, including persons identified as sex or injection equipment-sharing partners and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed social and health care services and disease prevention, if the identity or identifying information of the persons living with HIV is not disclosed outside of the local health jurisdiction.

(3) Local health officers shall, when necessary, conduct investigations and institute disease control and contamination control measures, including medical examination, testing, counseling, treatment, vaccination, decontamination of persons or animals, isolation, quarantine, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with those indicated in the *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association, or other measures they deem necessary based on their professional judgment, current standards of practice, and the best available medical and scientific information.

(4) A local health jurisdiction should seek agreements as necessary with tribal governments and with federal authorities, with state agencies, and institutions of higher education that empower the local health officer to conduct investigations

and institute control measures in accordance with WAC [246-100-040](#) on tribal lands, federal enclaves and military bases, and the campuses of state institutions. State institutions include, but are not limited to, state-operated: Colleges and universities, schools, hospitals, prisons, group homes, juvenile rehabilitation facilities, and residential habilitation centers.

[Statutory Authority: RCW [43.20.050](#) and [70.24.130](#). WSR 22-06-061, § 246-100-036, filed 2/25/22, effective 3/28/22. Statutory Authority: RCW [43.20.050](#). WSR 15-05-014, § 246-100-036, filed 2/6/15, effective 3/9/15; WSR 03-17-022, § 246-100-036, filed 8/13/03, effective 9/13/03. Statutory Authority: RCW [43.20.050](#) (2)(d), [70.05.050](#), and [70.05.060](#). WSR 03-05-048, § 246-100-036, filed 2/13/03, effective 2/13/03. Statutory Authority: RCW [43.20.050](#). WSR 00-23-120, § 246-100-036, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW [70.24.125](#) and [70.24.130](#). WSR 99-17-077, § 246-100-036, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW [70.24.022](#), [70.24].340 and Public Law 104-146. WSR 97-15-099, § 246-100-036, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW [43.20.050](#) and [70.24.130](#). WSR 92-02-019 (Order 225B), § 246-100-036, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW [43.20.050](#). WSR 91-02-051 (Order 124B), recodified as § 246-100-036, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter [70.24](#) RCW. WSR 89-02-008 (Order 324), § 248-100-036, filed 12/27/88. Statutory Authority: RCW [43.20.050](#). WSR 88-07-063 (Order 308), § 248-100-036, filed 3/16/88.]

## **WAC 246-100-040**

### **Procedures for isolation or quarantine.**

(1) At his or her sole discretion, a local health officer may issue an emergency detention order causing a person or group of persons to be immediately detained for purposes of isolation or quarantine in accordance with subsection (3) of this section, or may petition the superior court *ex parte* for an order to take the person or group of persons into involuntary detention for purposes of isolation or quarantine in accordance with subsection (4) of this section, provided that he or she:

(a) Has first made reasonable efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities, or has determined in his or her professional judgment that seeking voluntary compliance would create a risk of serious harm; and

(b) Has reason to believe that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or chemical, biological, or radiological agent that could spread to or contaminate others if remedial action is not taken; and

(c) Has reason to believe that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for purposes of isolation or quarantine.

(2) A local health officer may invoke the powers of police officers, sheriffs, constables, and all other officers and employees of any political subdivisions within the jurisdiction of the health department to enforce immediately orders given to effectuate the purposes of this section in accordance with the provisions of RCW [43.20.050\(4\)](#) and [70.05.120](#).

(3) If a local health officer orders the immediate involuntary detention of a person or group of persons for purposes of isolation or quarantine:

(a) The emergency detention order shall be for a period not to exceed ten days.

(b) The local health officer shall issue a written emergency detention order as soon as reasonably possible and in all cases within twelve hours of detention that shall specify the following:

(i) The identity of all persons or groups subject to isolation or quarantine;

(ii) The premises subject to isolation or quarantine;

(iii) The date and time at which isolation or quarantine commences;

(iv) The suspected communicable disease or infectious agent if known;

(v) The measures taken by the local health officer to seek voluntary compliance or the basis on which the local health officer determined that seeking voluntary compliance would create a risk of serious harm; and

(vi) The medical basis on which isolation or quarantine is justified.

(c) The local health officer shall provide copies of the written emergency detention order to the person or group of persons detained or, if the order applies to a group and it is impractical to provide individual copies, post copies in a conspicuous place in the premises where isolation or quarantine has been imposed.

(d) Along with the written order, and by the same means of distribution, the local health officer shall provide the person or group of persons detained with the following written notice:

NOTICE: You have the right to petition the superior court for release from isolation or quarantine in accordance with WAC [246-100-055](#). You have a 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.

(4) If a local health officer petitions the superior court *ex parte* for an order authorizing involuntary detention of a person or group of persons for purposes of isolation or quarantine pursuant to this section:

(a) The petition shall specify:

(i) The identity of all persons or groups to be subject to isolation or quarantine;

(ii) The premises where isolation or quarantine will take place;

(iii) The date and time at which isolation or quarantine will commence;

(iv) The suspected communicable disease or infectious agent if known;

(v) The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known;

(vi) The measures taken by the local health officer to seek voluntary compliance or the basis on which the local health officer determined that seeking voluntary compliance would create a risk of serious harm;

(vii) The medical basis on which isolation or quarantine is justified.

(b) The petition shall be accompanied by the declaration of the local health officer attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

(c) Notice to the persons or groups identified in the petition shall be accomplished in accordance with the rules of civil procedure.

(d) The court shall hold a hearing on a petition filed pursuant to this section within seventy-two hours of filing, exclusive of Saturdays, Sundays, and holidays.

(e) The court shall issue the order if there is a reasonable basis to find that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others.

(f) A court order authorizing isolation or quarantine as a result of an *ex parte* hearing shall:

(i) Specify a maximum duration for isolation or quarantine not to exceed ten days;

(ii) Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;

(iii) Specify factual findings warranting isolation or quarantine pursuant to this section;

(iv) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section;

(v) Specify the premises where isolation or quarantine will take place; and

(vi) Be served on all affected persons or groups in accordance with the rules of civil procedure.

(5) A local health officer may petition the superior court for an order authorizing the continued isolation or quarantine of a person or group detained under subsections (3) or (4) of this section for a period up to thirty days.

(a) The petition shall specify:

(i) The identity of all persons or groups subject to isolation or quarantine;

(ii) The premises where isolation or quarantine is taking place;

(iii) The communicable disease or infectious agent if known;

(iv) The anticipated duration of isolation or quarantine based on the suspected communicable disease or infectious agent if known;

(v) The medical basis on which continued isolation or quarantine is justified.

(b) The petition shall be accompanied by the declaration of the local health officer attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

(c) The petition shall be accompanied by a statement of compliance with the conditions and principles for isolation and quarantine contained in WAC [246-100-045](#).

(d) Notice to the persons or groups identified in the petition shall be accomplished in accordance with the rules of civil procedure.

(e) The court shall hold a hearing on a petition filed pursuant to this subsection within seventy-two hours of filing, exclusive of Saturdays, Sundays, and holidays. In extraordinary circumstances and for good cause shown, the local health officer may apply to continue the hearing date for up to ten days, which continuance the court may grant at its discretion giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the public health threat, and the availability of necessary witnesses and evidence.

(f) The court shall grant the petition if it finds that there is clear, cogent, and convincing evidence that isolation or quarantine is necessary to prevent a serious and imminent risk to the health and safety of others.

(g) A court order authorizing continued isolation or quarantine as a result of a hearing shall:

(i) Specify a maximum duration for isolation or quarantine not to exceed thirty days;

(ii) Identify the isolated or quarantined persons or groups by name or shared or similar characteristics or circumstances;

(iii) Specify factual findings warranting isolation or quarantine pursuant to this section;

(iv) Include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this section;

(v) Specify the premises where isolation or quarantine will take place; and

(vi) Be served on all affected persons or groups in accordance with the rules of civil procedure.

(6) Prior to the expiration of a court order for continued detention issued pursuant to subsection (5) of this section, the local health officer may petition the superior court to continue isolation or quarantine provided:

(a) The court finds there is a reasonable basis to require continued isolation or quarantine to prevent a serious and imminent threat to the health and safety of others.

(b) The order shall be for a period not to exceed thirty days.

(7) State statutes, rules, and state and federal emergency declarations governing procedures for detention, examination, counseling, testing, treatment, vaccination, isolation, or quarantine for specified health emergencies or specified communicable diseases, including, but not limited to, tuberculosis and HIV, shall supersede this section.

[Statutory Authority: RCW [43.20.050](#) (2)(d), [70.05.050](#), and [70.05.060](#). WSR 03-05-048, § 246-100-040, filed 2/13/03, effective 2/13/03.]