

Isolation and Quarantine

What is the key difference between isolation and quarantine?

Isolation limits the freedom of movement or action of a person or animal who *is infected with* (or is reasonably suspected of being infected with) a communicable disease or condition. G.S. 130A-2(3a). Quarantine limits the freedom of movement or action of a person or animal who *has been exposed* (or is reasonably suspected of having been exposed) to a communicable disease or condition. Under North Carolina law, quarantine also can be used in two additional circumstances: (1) to limit access by a person or animal to an area or facility that may be contaminated with an infectious agent; or (2) to limit the freedom of movement or action of unimmunized persons in an outbreak. G.S. 130A-2(7a).

What is the difference between an order limiting freedom of movement and an order limiting freedom of action?

An order limiting freedom of movement essentially prohibits an individual from going somewhere. It may confine the person to a particular place, such as his home or a health care facility. Or it may prohibit the person from entering a particular place—for example, it may prevent a person from returning to school or work during the period of communicability. In contrast, an order limiting freedom of action limits specific behaviors, but not the ability to move freely in society. For example, a person who is required to refrain from sexual activity during the course of treatment for gonorrhea has had his or her freedom of action restricted.

In North Carolina, who has the authority to order isolation or quarantine?

Either the state health director or a local health director may order isolation or quarantine. G.S. 130A-45.

Are there any limitations on what can be included in an isolation or quarantine order?

Yes. The Commission for Health Services has imposed restrictions on isolation and quarantine orders “for communicable diseases and conditions for which control measures have been established.” 10A N.C.A.C. 41A.0201(d). The diseases and conditions with specific control measures in the N.C.A.C. are HIV, Hepatitis B, sexually transmitted diseases, and tuberculosis. For those diseases and conditions, isolation and quarantine orders may be no more restrictive than the control measures in the N.C.A.C. They may not embrace control measures that appear in other sources, such as the APHA Manual.

For all other communicable diseases and conditions, isolation or quarantine orders should be consistent with the control measures for those diseases that are established in CDC guidelines or the APHA’s Manual and with the principles described under question 17, above.

Can isolation or quarantine be ordered if the communicable disease or condition is not reportable in North Carolina?

Yes. As question 31 suggests, in NC, isolation and quarantine orders are essentially just orders requiring individuals to comply with control measures. As question 18 states, health directors can impose control measures for diseases or conditions that are not reportable.

How is isolation or quarantine ordered? What should be in the order?

There is no North Carolina statute or rule that sets forth specific steps to follow in ordering isolation or quarantine, but considering all the various laws together, we can reach a few conclusions:

- Although the law does not specifically state that an isolation or quarantine order must be in writing, it should be. An individual who is isolated or quarantined has a right to have notice that he or she is being isolated or quarantined, and the clearest and most direct way to do this is to put it in writing. The written order will also be an important piece of evidence if you must go to court to enforce, defend, or extend the order.
- The order should include:
 - The name of the person who is subject to the order,
 - The identity of the health department and the health director issuing the order,
 - A statement of the control measures the person is subject to,
 - A statement that the control measures have been explained to the person,
 - A statement of the penalties that may be imposed if the person fails to comply with the order,*
 - The health director's signature, and
 - The date and time the order was issued.
- If the order limits the person's freedom of movement, a new law requires the health director to give reasonable notice to the person that he or she has a right to have a court review the order. GS 130A-145(d) (as amended by SL 2004-80 (S 582)). A local health director could satisfy this requirement by putting a statement in the order.

* An order issued to a person with HIV, hepatitis B, an STD, or tuberculosis *must* state the penalties for failure to comply with the order. 10A N.C.A.C. 41A.0201(d). Although there is no statute or rule imposing this requirement on isolation or quarantine orders issued to persons with other illnesses, the best practice would be to do so.

How long can a person be isolated or quarantined?

The basic limitation on the duration of an isolation or quarantine order is contained in G.S. 130A-145(a), which states that isolation and quarantine may be ordered only when *and for so long* as the public health is endangered. The period of time is therefore likely to vary depending upon the communicable disease or condition and possibly other circumstances. For example, an order directing a person with HIV to refrain from donating blood could endure for years, but an order directing a person with gonorrhea to refrain from sexual intercourse would apply only until treatment was completed and any lesions healed. Note that both of those examples involve orders limiting freedom of action.

Orders limiting freedom of movement or access to persons or animals whose movement has been limited are treated differently. A new law limits these orders to 30 days. G.S. 130A-145(d) (as amended by SL 2004-80 (S 582)).

What if you need to restrict a person’s freedom of movement for more than 30 days? Can that be done?

Yes, but you have to go to court. If the 30-day period is inadequate to protect the public health, the local health director or state health director must seek an order extending the time period from the superior court. If the court determines by a preponderance of the evidence that the limitation of freedom of movement is reasonably necessary to prevent or limit the conveyance of any communicable disease or condition except tuberculosis, the court shall continue the limitation for a period of up to 30 days. (If the person whose freedom of movement has been limited has tuberculosis, the court shall continue the limitation for up to one year.) Note that the burden of producing sufficient evidence to support the order will be on the health director. When necessary, the state health director or local health director may return to court and ask the court to continue the limitation for additional periods of up to 30 days each (up to one year for persons with tuberculosis). G.S. 130A-145(d) (as amended by SL 2004-80 (S 582)).

Ordinarily, this action is instituted in the superior court in the county in which the limitation on freedom of movement was imposed. However, if the individual who is the subject of the order has sought review of the order in Wake county superior court (see the next question), then you have to go to court in Wake county.

Can a person object to being isolated or quarantined?

Yes, by asking a court to review the order. A person who is substantially affected by an order limiting freedom of movement may institute an action in superior court seeking review of the limitation, and the court must respond by conducting a hearing within 72 hours (excluding Saturdays and Sundays). The person is entitled to an attorney and will receive appointed representation if he or she is indigent. The court must reduce the limitation if it determines by the preponderance of the evidence that the limitation is not reasonably necessary to prevent or limit the conveyance of the communicable disease or condition to others. In this case, the burden of producing sufficient evidence to show that the limitation is not reasonably necessary is on the substantially affected person. The person has a choice of where to institute this action: either in the superior court of the county where the limitation is imposed, or in the Wake county superior court. G.S. 130A-145(d).

What about a person who is subject to a limitation on freedom of action? Such an individual has a right to due process, which includes the opportunity for his or her objections to the order to be heard. However, our law does not spell out how a person subject to this kind of limitation can exercise this right. Most likely, the person would file an action in superior court seeking a declaratory judgment about the validity of the order, or an injunction barring enforcement of the order.

How is isolation or quarantine enforced?

Any violation of the state’s public health laws or rules is a misdemeanor. G.S. 130A-25(a). Thus, a person can be criminally prosecuted for violating quarantine or isolation orders. Because the arrest and detention of such a person creates public health concerns, North Carolina’s criminal procedure laws allow for arrests and detentions that minimize the exposure of others to the arrested person.

A law enforcement officer who arrests an individual for violating an order limiting freedom of movement or access may detain the person in an area designated by the state health director or a local health director, until the individual’s first appearance before a judicial official. G.S. 15A-401(b)(4). In other words, the person need not be taken to the magistrate’s office or jail if the state health director or local health director orders the person detained in a different place. At the first appearance, the judicial official must consider whether the person poses a threat to the health and safety of others. G.S. 15A-534.5. If the judicial official determines by clear and convincing evidence that the person does pose a threat, the official must deny pretrial release and order the person to be confined in an area the official designates after receiving recommendations from the state health director or local health director. The burden to produce sufficient evidence to support the determination that the person poses a threat is on the health director.

Isolation and quarantine orders may also be enforced through a civil action. G.S. 130A-18 provides that, if a person violates any of the public health laws and rules, a local health director can request an injunction from the superior court in the county in which the violation occurred.

Is an isolation or quarantine order issued by a local health director “portable”? That is, can it follow a person from one local health department’s jurisdiction to another?

G.S. 130A-145 authorizes local health directors to issue isolation or quarantine orders. Although it does not specifically state that local health directors may issue these orders only in their own jurisdictions, that is undoubtedly the case. Since a local health director could not issue an isolation order outside of his or her own jurisdiction, then the order is probably not valid outside the local health director’s jurisdiction. *This does not mean that a person who is subject to an order is relieved of the obligation to comply with the terms of the order—the control measures—when he or she crosses the county line.* G.S. 130A-144(f) requires all persons to comply with communicable disease control measures adopted by the Commission for Health Services. This law applies throughout the state. So, if a person is diagnosed with HIV in Orange County and told of the control measures while there, he is still obligated to comply with those control measures when he moves to Chatham County. Furthermore, if he violates control measures while in Chatham County, an Orange County isolation order could be used as evidence that he knew he had HIV and was subject to control measures. Thus, for practical purposes, whether the order is valid outside the jurisdiction in which it is issued may not matter much.

Suppose the local health director is out of town. Can anyone issue an isolation or quarantine order in the local health director’s absence?

Yes. The local health director may delegate the authority to issue the order to a staff member. G.S. 130A-6 provides that any public official granted authority under G.S. Chapter 130A may delegate that authority to another person.