

CONTROL MEASURES AND NC COMMUNICABLE DISEASE LAW

JILL MOORE, UNC SCHOOL OF GOVERNMENT

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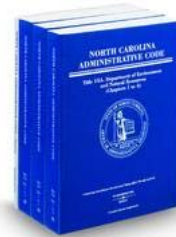
WHAT ARE COMMUNICABLE DISEASE CONTROL MEASURES?

- “Communicable disease control measures” – methods/steps/actions intended to control the spread of communicable disease
- Wide range: treatment, tests, requirements to take certain actions, requirements to refrain from taking other actions
- May be compelled (police power)
- Must be reasonably related to preventing the spread of disease



WHERE DO NC CONTROL MEASURES COME FROM?

- The Commission for Public Health adopts statewide rules establishing control measures. The rules are published in the NC Administrative Code.
- Control measures vary by disease/condition.
- The Commission specifies the control measures for some diseases/conditions, including HIV.
- The HIV control measures were updated effective January 1.
- Citation for the HIV control measures: 10A NCAC 41A .0202.



WHO MUST COMPLY WITH CONTROL MEASURES?



- All persons must comply with communicable disease control measures established by the Commission for Public Health. GS 130A-144(f).

WHAT HAPPENS WHEN SOMEONE FAILS TO COMPLY?

General Principles – All CDs

- Seek voluntary compliance—educate, persuade.
- May use isolation or quarantine authority if needed to protect the public health.
 - If appropriate to the disease/condition, may restrict *freedom of movement* – ability to move freely in society.
 - If restrictions on movement not appropriate to disease/condition, may restrict only *freedom of action* – require or prohibit particular actions or behaviors.
- May use public health legal remedies to enforce the law.

Isolation and HIV

An isolation order for a person with HIV:

- Directs person to comply with control measures established in 10A NCAC 41A .0201
- May also require person to comply with a plan designed to address matters that may be making HIV control compliance difficult, such as substance use – see 10A NCAC 41A .0211
- Must not require physical isolation – isolation orders for HIV address freedom of action, not freedom of movement

WHAT ARE THE LEGAL REMEDIES?

Misdemeanor (Criminal Remedy)

- A person who violates communicable disease statutes or rules may be charged with a Class 1 misdemeanor.
- A magistrate must determine that there is probable cause that a crime has occurred. The district attorney prosecutes the case in District Court.
- There are special sentencing rules for communicable disease law violations:
 - Person may be sentenced for up to two years.
 - May be released earlier if judge determines person is no longer a danger to public health.
- G.S. 130A-25

Injunction (Civil Remedy)

- A local health director may seek an injunction in Superior Court in the county in which a communicable disease law violation occurs.
- It is essential to engage the health department's attorney in this process, to evaluate whether it is the appropriate course of action in the particular case, and to prepare the documents and take the steps required to get the matter before the court.
- G.S. 130A-18

CAN CONTROL MEASURES CHANGE OVER TIME?



- Absolutely!
- Control measures are founded in science. They can and do change as understanding of a disease or condition develops, or as new treatments or control strategies are developed.
- Change is a legal imperative as well as a scientific one, because control measures must be rationally related to protecting health.