

North Carolina Communicable Disease Law: Isolation & Quarantine

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Isolation and quarantine are legal tools the public health system uses to control the spread of communicable diseases and conditions. The use of these tools in North Carolina is not extraordinary. Isolation and quarantine are used on a regular basis to control the spread of endemic diseases such as tuberculosis, as well as to cope with more unusual outbreaks, such as the rubella outbreak the state experienced in 1996^[1] or the pertussis (whooping cough) outbreaks that occasionally affect North Carolina schools. On rare occasions, the isolation and quarantine authority have been used to control a more unusual event, such as the SARS case the state experienced in 2003. Public health officials need to be aware of their authority to isolate and quarantine, and know how to exercise it within the limits of the law.

Definitions of Terms

The terms isolation and quarantine are often used in conjunction, and they do have common elements. Both are communicable disease control measures—that is, means of preventing or containing the spread of disease. In general, medical and public health professionals use the term “isolation” to refer to disease control measures applied to people who are infected with a disease, while “quarantine” refers to control measures applied to people who appear well but may nevertheless pose a risk of disease to others—usually because they have been exposed to an ill person.

North Carolina’s legal definitions of isolation and quarantine include but go beyond these general definitions. In North Carolina, “isolation authority” is the authority to limit the freedom of movement or freedom of action of a person or animal who has (or is suspected of having) a communicable disease or condition.^[2] The definition of “quarantine authority” has three parts. It most often refers to the authority to limit the freedom of movement or action of a person or animal that has been exposed (or is suspected of having been exposed) to a communicable disease or condition. However, it also means the authority to limit access by any person or animal to an area or facility that is contaminated with an infectious agent. Finally, quarantine authority may be used to limit the freedom of movement or action of unimmunized persons during an outbreak.^[3] For example, in the event of a measles outbreak, quarantine authority could be used to require children who are exempt from the state’s immunization requirements to stay home from school.^[4]

Both the isolation and quarantine authorities permit the limitation of a person’s *freedom of movement* or *freedom of action*. The definition of quarantine also authorizes limits on *freedom of access*. No law defines these terms, but several other laws make important distinctions between orders that limit freedom of action and orders that limit freedom of movement or access. For example, G.S.

130A-145, the main isolation and quarantine statute, provides specific procedures for a person to obtain judicial review of an isolation or quarantine order—but only if it is an order limiting freedom of movement or access. It is therefore important to understand how the limitations differ.

- 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.
- 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.
- An order limiting *freedom of access* prohibits a person from obtaining access to a certain place. For example, a quarantine order could be issued to prohibit a person from entering an area where infected people are being treated during an outbreak.

The use of these terms in North Carolina’s statutory definitions also means that, in this state, an isolation or quarantine order does not necessarily require a person to be physically separated from the public. Rather, it directs the individual to comply with communicable disease control measures, which vary by disease and which may constitute limitations on freedom of movement, action, or access. For example, the control measures for a person with rubella (“German measles”) require the person to be isolated for seven days after the onset of the rash.^[5] In contrast, the control measures for a person with HIV do not require physical separation from society but instead affect the individual’s behavior.^[6] Among other things, a person with HIV must notify sexual partners of his HIV status and must refrain from donating blood or sharing needles.^[7] However, an order directing a person to comply with control measures for either condition is called an “isolation order.” Similarly, an order directing a person who has been exposed to a communicable disease but is not yet sick is called a “quarantine order,” whether it requires the person’s physical separation from the public, or simply directs the person to take (or refrain from taking) specific actions.

Ordering Isolation or Quarantine

Authority to Order Isolation or Quarantine

North Carolina law permits either the state health director or a local health director to order isolation or quarantine.^[8] This authority may be delegated to another public official or employee.^[9] Isolation or quarantine orders are permitted only (1) when and for so long as the public health is endangered, (2) when all other reasonable means for correcting the problem have been exhausted, and (3) when no less restrictive alternative exists.^[10]

There is no law in North Carolina that interprets the terms “all other reasonable means” or “less restrictive alternative.” The plain words of the statute make clear that, if there are reasonable means of controlling the public health threat short of issuing an isolation or quarantine order, those means should

be tried first. But what constitutes “reasonable” means? The word “reasonable” could be interpreted to mean at least a couple of different things. It almost certainly should be interpreted to mean that the only other methods that must be tried are those that are likely to be effective at controlling the public health threat. (It may be in some cases that there are no other means believed to be effective.) It could also be interpreted to mean that public health need not try means that might be effective but that are unduly expensive or burdensome compared to isolation or quarantine.

Assuming other reasonable means have been exhausted, when is isolation or quarantine the least restrictive alternative? There is no case law on this in North Carolina, but the issue has been addressed by the courts of other states. Some conclusions those courts have reached include:

- Isolation or quarantine limiting freedom of movement should not be ordered if there is something else, such as directly observed therapy, that could protect the public health as effectively.[\[11\]](#)
- Isolation or quarantine restricting freedom of movement may be ordered when a person demonstrates unwillingness or inability to comply with less restrictive measures.[\[12\]](#)
- Isolation or quarantine should not be ordered unless the person poses an actual danger to others.[\[13\]](#)

If a North Carolina court were called upon to determine when isolation or quarantine is the least restrictive alternative, it is likely the court would consider other states’ conclusions in evaluating North Carolina law, but it may or may not reach the same conclusions.

Individuals in North Carolina are legally obliged to comply with communicable disease control measures regardless of whether an isolation or quarantine order has been issued to them.[\[14\]](#) Failure to comply is a misdemeanor.[\[15\]](#) Still, health directors often issue isolation or quarantine orders to ensure that a person who is subject to communicable disease control measures is aware of the measures and of the legal obligation to comply. It is also common for a health director to issue an isolation or quarantine order to an individual who is not complying with control measures, as part of an effort to gain compliance.

The authority to order isolation or quarantine is not limited to reportable diseases or conditions. However, for the isolation or quarantine authority to be available, the illness must satisfy the statutory definition of *communicable disease* or *communicable condition*.

How Isolation or Quarantine is Ordered

There is no North Carolina statute or rule that sets forth specific steps to follow in ordering isolation or quarantine of a person, but considering all the various laws together, it is possible to reach a few conclusions about how to proceed.

1. A local health director or the state health director should ensure that he or she is authorized to exercise isolation or quarantine authority in the particular situation. Specifically:

- If the person is to be isolated, he or she must be infected or reasonably suspected of being infected with a communicable disease or condition.
 - If the person is to be quarantined, he or she must have been exposed or reasonably suspected of having been exposed, to a communicable disease or condition.[\[16\]](#)
 - The public health must be endangered as a result.
 - All other reasonable means for controlling the disease must have been exhausted, and
 - There must be no less restrictive means to protect the public health.
2. The local or state health director must determine which communicable disease control measures the recipient of the order will be subject to.
 - Control measures for HIV, hepatitis B, sexually transmitted diseases, tuberculosis, smallpox/vaccinia disease, SARS, and hepatitis C are published in the North Carolina Administrative Code.[\[17\]](#)
 - Control measures for other diseases are derived from recommendations and guidelines issued by the Centers for Disease Control and Prevention (CDC). If there are no CDC guidelines on point, control measures are derived from the American Public Health Association's *Control of Communicable Diseases Manual*. A public health official may also devise control measures if necessary, in accordance with principles set out in a state rule.[\[18\]](#)
 3. The local or state health director must communicate to the person that he or she is being placed under an isolation or quarantine order. Although the law does not state that an isolation or quarantine order must be in writing, it would be unwise to rely solely on an oral order. However, it may be reasonable in some circumstances to issue an oral order and then follow it with a written order as soon as practicable.
 4. The order should include:
 - The name of the person who is subject to the order.
 - The names of the health department and the health director issuing the order.
 - A statement of the required communicable disease control measures.
 - A statement that the control measures have been explained to the person.
 - If the order limits the person's freedom of movement or freedom of access, a statement that the person has a right to have a court review the order.
 - A statement describing the penalties that may be imposed if the person fails to comply with the order.[\[19\]](#)
 - The signature of the health director or official with delegated authority who issued the order.
 - The date and time the order was issued.

The North Carolina Division of Public Health often provides template isolation and quarantine orders during an outbreak. For example, during the SARS outbreak of 2003, the Division sent template orders

to all local health directors by e-mail. Template orders that may be used in the event of a flu pandemic have been developed and are available on the Internet.[\[20\]](#)

Duration of Isolation or Quarantine Orders

Public Health Official's Order

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.

There is no maximum time limit for orders limiting *freedom of action*, other than the statute's requirement that the orders end when the public health is no longer endangered. So, for example, an order directing a person with HIV to refrain from donating blood could be in place for years.[\[21\]](#) On the other hand, an order directing a person with a suspected low-risk exposure to the Ebola virus to participate in symptom monitoring would last only for the incubation period of the virus, which is presently recognized to be 21 days following the last exposure.[\[22\]](#)

Orders limiting *freedom of movement* or *freedom of access* are subject to a statutory maximum period of 30 days.[\[23\]](#) This is *in addition to* the requirement that the order last only for so long as the public health is endangered. As previously noted, an order limiting freedom of movement or access might be for less than 30 days—if, for example, it was a quarantine order issued to a person with an incubation period of 21 days—but it may never exceed 30 days, even if the person is still a threat to the public health at the end of that period.

Petitions to Extend an Order beyond 30 Days

In some instances, the state or a local health director may determine that a person's freedom of movement must be restricted for more than 30 days in order to protect the public health. However, the health director does not have the authority to extend the initial order or issue a second order to the same individual for the same communicable disease event. Instead, the director may petition a superior court to extend the order. 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 already sought review of the order in Wake county superior court (see the next section on due process rights), then the action must be instituted in Wake county.[\[24\]](#)

The public health official has the burden of producing sufficient evidence to support the extension. 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 spread of the disease or condition, the court shall continue the limitation for a period of up to 30 days for any communicable disease or condition but tuberculosis. For tuberculosis, the court may extend the order for up to one year.

When necessary, the state health director or local health director may return to court and ask the court to continue a limitation for additional periods of up to 30 days each (or up to one year each if the person has tuberculosis).

Due Process Rights of Isolated or Quarantined Persons

North Carolina law explains specifically how a person who is substantially affected by a limitation on freedom of movement or access may obtain a review of the order.^[25] The person 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. If he or she is indigent, a court-appointed attorney must be provided.

The court must terminate or reduce the limitation if it determines by the preponderance of the evidence that the limitation is not reasonably necessary to prevent or limit the spread of the disease or condition. The burden of producing sufficient evidence to show that the limitation is not reasonably necessary is on the person affected by the order. The person has a choice of where to file this action: either in the superior court of the county where the limitation is imposed, or in the Wake county superior court. 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, North Carolina law does not spell out how a person subject to this kind of limitation may 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.

Communicable Disease Outbreaks Caused by Terrorism

It is possible that a communicable disease outbreak could be caused by an act of bioterrorism. If this were to occur, all the usual communicable disease laws would still apply, including the authority to order isolation or quarantine. However, some additional legal authorities become effective when the state health director reasonably suspects that a public health threat may exist and may have been caused by a terrorist incident using nuclear, biological, or chemical agents.^[26] These additional authorities may be exercised only by the *state* health director. The additional authorities that are most likely to apply in a communicable disease outbreak that may have been caused by terrorism are:

- The state health director may require any person or animal to submit to examinations and tests to determine possible exposure to nuclear, biological, or chemical agents.
- The state health director may limit the freedom of movement or action of a person or animal that is contaminated with, or reasonably suspected of being contaminated with, a nuclear, biological, or chemical agent that may be conveyed to others. This sounds like isolation or quarantine authority, but it is different because it applies to persons or animals who are *contaminated* rather than persons who are infected or exposed to a communicable disease.^[27]
- The state health director may limit access by any person or animal to an area or facility that is housing persons or animals whose freedom of movement or action has been limited because they

are contaminated with a nuclear, biological or chemical agent. The director may also limit access by any person or animal to an area or facility that is contaminated with such an agent.

All of these authorities may be exercised only when and for so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. There is a 30-day limitation on the period of time a person's freedom of movement or access may be limited that parallels the 30-day limitation on isolation or quarantine orders limiting freedom of movement or access. A person who is substantially affected by the state health director's order may institute an action for review of the order in superior court. If the state health director determines that additional time is needed, the director may institute an action in superior court for an additional 30-day period (and additional 30-day extensions may be sought as needed).

Notes

[1] See Centers for Disease Control and Prevention, *Rubella and Congenital Rubella Syndrome—United States, 1994-1997*, 46 Morbidity and Mortality Weekly Report 350 (April 25, 1997).

[2] N.C. Gen. Stat. § 130A-2(3a) (hereinafter G.S.).

[3] G.S. 130A-2(7a). The term “quarantine” is also used to describe the local health director's authority to declare an area “under quarantine against rabies” when there is a rabies outbreak extensive enough to endanger the lives of humans. G.S. 130A-194. This bulletin does not address rabies quarantines. For information about rabies quarantines, see Aimee N. Wall, *An Overview of North Carolina's Rabies Control Laws*, Local Government Law Bulletin No. 125 (Oct. 2011), at <http://sogpubs.unc.edu/electronicversions/pdfs/lglb125.pdf>.

[4] All children in North Carolina are required to be immunized against certain diseases, including measles. G.S. 130A-152. The complete list of required immunizations is in the North Carolina Administrative Code. N.C. Admin. Code, tit. 10A, ch. 41A, § .0401 (hereinafter N.C.A.C.). Children who have not received the immunizations may not attend public or private day care centers or schools. G.S. 130A-155. However, a child may be exempt from the requirements if an immunization is medically contraindicated, G.S. 130A-156, 10A N.C.A.C. 41A.0404, or if the child's parent has a bona fide religious objection to immunization, G.S. 130A-157, 10A N.C.A.C. 41A.0403.

[5] Centers for Disease Control and Prevention, *Manual for Surveillance of the Vaccine-Preventable Diseases*, Chapter 14: Rubella (2012). Available at <http://www.cdc.gov/vaccines/pubs/surv-manual/chpt14-rubella.html>.

[6] North Carolina law specifically prohibits public health officials from requiring a person with HIV to remain at home or otherwise be physically separated from the general public. 10A N.C.A.C. 41A.0201(d) provides that isolation or quarantine orders for HIV may be no more restrictive than the control measures established in the North Carolina Administrative Code. The control measures for HIV do not include physical isolation. See 10A N.C.A.C. 41A.0202.

[7] 10A N.C.A.C. 41A.0202.

[8] G.S. 130A-145(a).

[9] G.S. 130A-6. The statute states that a public official granted authority under G.S. Chapter 130A may delegate that authority to “another person authorized by the public official.” Because isolation and quarantine are exercises of the state’s police power, such a delegation should be made to another public official, not to a private person or entity. As part of their planning for responding to public health emergencies, local health directors in North Carolina have been strongly encouraged to designate health department staff members who are authorized to exercise the isolation or quarantine authority in the event the health director is unavailable.

[10] G.S. 130A-145(a).

[11] See, e.g., *City of Newark v. J.S.*, 652 A.2d 265 (N.J. 1993).

[12] See, e.g., *City of New York City v. Doe*, 614 N.Y.S.2d 8 (App. Div. 1994) (confinement in hospital for treatment of tuberculosis upheld when the evidence showed that the patient had a history of refusing to cooperate with directly observed therapy).

[13] See *City of Newark v. J.S.*, 652 A.2d 265 (N.J. 1993). This is consistent with G.S. 130A-145(a), which states that isolation or quarantine authority may be exercised only when and so long as the public health is endangered.

[14] G.S. 130A-144(f).

[15] G.S. 130A-25.

[16] This applies to the most typical situation in which isolation or quarantine is ordered, but quarantine may also be ordered in two additional circumstances: to limit access to an area or facility that may be contaminated by an infectious agent, or to limit the freedom of movement of unimmunized persons in an outbreak. See G.S. 130A-2(7a).

[17] 10A N.C.A.C. 41A .0202 (HIV), .0203 (hepatitis B), .0204 (sexually transmitted diseases), .0205 (tuberculosis), .0208 (smallpox and vaccinia disease), .0213 (SARS), .0214 (hepatitis C).

[18] 10 N.C.A.C. 41A.0201(a).

[19] 10A N.C.A.C. 41A.0201(d).

[20] The documents are part of the North Carolina Pandemic Influenza Plan. The plan is available at <http://epi.publichealth.nc.gov/cd/flu/plan.html>. The model orders are in Appendix L.

[21] 10A N.C.A.C. 41A.0202(a)(3) establishes this control measure.

[22] See http://www.apha.org/~media/files/pdf/pubs/ccdm_ebola.ashx.

[23] G.S. 130A-145(d).

[24] G.S. 130A-145(d).

[25] G.S. 130A-145(d). The statute does not define the term “substantially affected person.” It seems clear that the person who is the subject of the order would be a substantially affected person, but whether the term might include others is an open question.

[26] G.S. 130A-475.

[27] The distinction may not matter much in practice when the agent is one that causes communicable disease, such as anthrax spores. A person who is contaminated with such an agent probably has also been exposed to communicable disease, so quarantine authority would also apply.

North Carolina Statutes and Rules

Statutes

- [G.S. 130A-2](#) Definitions.
- [G.S. 130A-6](#) Delegation of authority.
- [G.S. 130A-25](#) Misdemeanor.
- [G.S. 130A-144](#) Investigation and control measures.
- [G.S. 130A-145](#) Quarantine and isolation authority.
- [G.S. 130A-475](#) Suspected terrorist attack.

Rules

- [10A N.C.A.C. 41A .0201](#) Control Measures – General