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ISOLATION AND QUARANTINE FOR INFECTIOUS DISEASES

This memorandum lists current Kansas statutes and administrative rules and regulations regarding isolation and quarantine of individuals with infectious diseases. Most are quoted in their entirety; any omissions are indicated.

Statutes

KSA 65-101. Health supervision; investigation of causes of disease, sickness and death; sanitation inspections; prevention of spread of disease; outreach services; rules and regulations; injunction. (a) The secretary of health and environment shall exercise general supervision of the health of the people of the state and may: . . .

(5) take action to prevent the introduction of infectious or contagious disease into this state and to prevent the spread of infectious or contagious disease within this state;

(b) The secretary of health and environment may adopt rules and regulations necessary to carry out the provisions of paragraphs (1) through (6), inclusive, of subsection (a). In addition to other remedies provided by law, the secretary is authorized to apply to the district court, and such court shall have jurisdiction upon a hearing and for cause shown to grant a temporary or permanent injunction to compel compliance with such rules and regulations.

History: L. 1885, ch. 129, § 4; L. 1907, ch. 379, § 1; R.S. 1923, 65-101; L. 1974, ch. 352, § 1; L. 1981, ch. 240, § 1; L. 1989, ch. 184, § 1; July 1.

KSA 65-126. Quarantine of city, township or county. Whenever the county or joint board of health or the local health officer neglects to properly isolate and quarantine infectious or contagious diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread thereof, the secretary of health and environment may quarantine any area in which any of these diseases may show a tendency to become epidemic.

History: L. 1901, ch. 285, § 10; R.S. 1923, 65-126; L. 1953, ch. 283, § 5; L. 1974, ch. 352, § 10; L. 1976, ch. 262, § 5; July 1.

KSA 65-128. Rules and regulations of secretary to prevent spread and dissemination of diseases; testing and quarantine; protection of providers and recipients of services. (a) For the protection of the public health and for the control of infectious or contagious diseases,

the secretary of health and environment by rules and regulations shall designate such diseases as are infectious or contagious in their nature.

(b) The secretary of health and environment is authorized to issue such orders and adopt rules and regulations as may be medically necessary and reasonable to prevent the spread and dissemination of diseases injurious to the public health, including, but not limited to, providing for the testing for such diseases and the isolation and quarantine of persons afflicted with or exposed to such diseases.

(c) [rules and regulations related to occupational exposure] . . .

History: L. 1917, ch. 205, § 1; R.S. 1923, 65-128; L. 1953, ch. 283, § 6; L. 1965, ch. 506, § 25; L. 1974, ch. 352, § 11; L. 1976, ch. 262, § 7; L. 1988, ch. 232, § 9; L. 2013, ch. 112, § 2; July 1.

KSA 65-129. Penalties for unlawful acts. Any person violating, refusing or neglecting to obey any of the rules and regulations adopted by the secretary of health and environment for the prevention, suppression and control of infectious or contagious diseases, or who leaves any isolation area of a hospital or other quarantined area without the consent of the local health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of infectious or contagious disease shall be guilty of a class C misdemeanor.

History: L. 1917, ch. 205, § 2; R.S. 1923, 65-129; L. 1974, ch. 352, § 12; L. 1976, ch. 262, § 8; July 1.

KSA 65-129b. Infections or contagious diseases; authority of local health officer or secretary; evaluation or treatment orders, isolation or quarantine orders; enforcement.

(a) Notwithstanding the provisions of K.S.A. 65-119, 65-122, 65-123, 65-126 and 65-128, and amendments thereto, and any rules or regulations adopted thereunder, in investigating actual or potential exposures to an infectious or contagious disease that is potentially life-threatening, the local health officer or the secretary:

- (1) (A) May issue an order requiring an individual who the local health officer or the secretary has reason to believe has been exposed to an infectious or contagious disease to seek appropriate and necessary evaluation and treatment;
- (B) when the local health officer or the secretary determines that it is medically necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease, may order an individual or group of individuals to go to and remain in places of isolation or quarantine until the local health officer or the secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public;
- (C) if a competent individual of 18 years of age or older or an emancipated minor refuses vaccination, medical examination, treatment or testing under this section, may require the individual to go to and remain in a place of isolation or quarantine until the local health officer or the secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public; and

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- (D) if, on behalf of a minor child or ward, a parent or guardian refuses vaccination, medical examination, treatment or testing under this section, may require the minor child or ward to go to and remain in a place of isolation or quarantine and must allow the parent or guardian to accompany the minor child or ward until the local health officer or the secretary determines that the minor child or ward no longer poses a substantial risk of transmitting the disease or condition to the public; and
- (2) May order any sheriff, deputy sheriff or other law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order issued under this section.

History: L. 2005, ch. 122, § 2; Apr. 21.

KSA 65-129c. Same; orders for isolation or quarantine; form and content; notice; hearing in district court; application and effect; procedure; orders for relief; emergency rules of procedure. (a) If the local health officer or the secretary requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under KSA 2013 Supp. 65-129b, and amendments thereto, the local health officer or the secretary shall issue an order to the individual or group of individuals.

(b) The order shall specify:

- (1) The identity of the individual or group of individuals subject to isolation or quarantine;
- (2) the premises subject to isolation or quarantine;
- (3) the date and time at which isolation or quarantine commences;
- (4) the suspected infectious or contagious disease causing the outbreak or disease, if known;
- (5) the basis upon which isolation or quarantine is justified; and
- (6) the availability of a hearing to contest the order.

(c) (1) Except as provided in paragraph (2) of subsection (c), the order shall be in writing and given to the individual or group of individuals prior to the individual or group of individuals being required to go to and remain in places of isolation and quarantine.

(2) (A) If the local health officer or the secretary determines that the notice required under paragraph (1) of subsection (c) is impractical because of the number of individuals or geographical areas affected, the local health officer or the secretary shall ensure that the affected individuals are fully informed of the order using the best possible means available.

(B) If the order applies to a group of individuals and it is impractical to provide written individual copies under paragraph (1) of subsection (c), the written order may be posted in a conspicuous place in the isolation or quarantine premises.

(d) (1) An individual or group of individuals isolated or quarantined under this section may request a hearing in district court contesting the isolation or quarantine, as provided in article 15 of chapter 60 of the Kansas Statutes Annotated, but the provisions of this section shall apply to any order issued under KSA 2013 Supp. 65-129a to 65-129d, inclusive, and amendments thereto, notwithstanding any conflicting provisions contained in that article.

- (2) A request for a hearing may not stay or enjoin an isolation or quarantine order.
- (3) Upon receipt of a request under this subsection (d), the court shall conduct a hearing within 72 hours after receipt of the request.
- (4) (A) In any proceedings brought for relief under this subsection (d), the court may extend the time for a hearing upon a showing by the local health officer or the secretary or other designated official that extraordinary circumstances exist that justify the extension.

(B) In granting or denying an extension, the court shall consider the rights of the affected individual, the protection of the public health, the severity of the health emergency and the availability, if necessary, of witnesses and evidence.

(C) (i) The court shall grant the request for relief unless the court determines that the isolation or quarantine order is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease.

(ii) If feasible, in making a determination under this paragraph (C), the court may consider the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.
- (5) An order of the court authorizing the isolation or quarantine issued under this section shall:
 - (A) Identify the isolated or quarantined individual or group of individuals by name or shared characteristics;
 - (B) specify factual findings warranting isolation or quarantine; and
 - (C) except as provided in paragraph (2) of subsection (c), be in writing and given to the individual or group of individuals.
- (6) If the court determines that the notice required in paragraph (C) of subsection (d)(5) is impractical because of the number of individuals or geographical areas affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.
- (7) An order of the court authorizing isolation or quarantine shall be effective for a period not to exceed 30 days. The court shall base its decision on the standards provided under this section.
- (8) In the event that an individual cannot personally appear before the court, proceedings may be conducted:
 - (A) By an individual's authorized representative; and
 - (B) through any means that allows other individuals to fully participate.

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- (9) In any proceedings brought under this section, the court may order the consolidation of individual claims into group claims where:
- (A) The number of individuals involved or affected is so large as to render individual participation impractical;
 - (B) there are questions of law or fact common to the individual claims or rights to be determined;
 - (C) the group claims or rights to be determined are typical of the affected individual's claims or rights; and
 - (D) the entire group will be adequately represented in the consolidation.
- (10) The court shall appoint counsel to represent individuals or a group of individuals who are not otherwise represented by counsel.
- (11) The supreme court of Kansas may develop emergency rules of procedure to facilitate the efficient adjudication of any proceedings brought under this section.

History: L. 2005, ch. 122, § 3; Apr. 21.

Administrative Rules and Regulations

KAR 28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious or contagious disease; examination of persons; collection of specimens. (a) When the conditions of isolation and quarantine are not otherwise specified by regulation, the isolation and quarantine of persons afflicted with or exposed to infectious or contagious diseases shall be ordered and enforced by the local health officer or the secretary of health and environment to preserve the public health, safety, or welfare. The conditions of isolation or quarantine so ordered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine is ordered and may include consideration of the following factors:

- (1) The incubation period;
 - (2) the communicable period;
 - (3) the mode of transmission; and
 - (4) susceptibility.
- (b) Isolation or quarantine, or both, shall be ordered in conjunction with investigation of infectious or contagious disease cases and outbreaks for examining persons reasonably suspected of having these diseases and for obtaining specimens from these persons for laboratory evidence suggestive of infectious or contagious disease. (Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended July 20, 2007.)

KAR 28-1-6. Requirements for isolation and quarantine of specific infectious and contagious diseases. (a) Any of the requirements specified in this regulation for isolation and quarantine may be altered by the secretary of health and environment or the local health officer if the secretary or local health officer determines that an alteration is necessary for the greater

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protection of public health, safety, or welfare. The requirements for isolation or quarantine, or both, so altered shall be based on current medical knowledge of the infectious agent of the disease for which isolation or quarantine, or both, are ordered and may include consideration of the following factors: (1) The incubation period; (2) the communicable period; (3) the mode of transmission; and (4) susceptibility. . . .

The rule and regulation specifies requirements such as isolation for six days for chickenpox and five days following initiation of antibiotic therapy for pertussis. It addresses 23 named diseases – amebiasis, chickenpox (varicella), cholera, diphtheria, hepatitis A, meningitis caused by *Haemophilus influenzae*, meningococcal meningitis, mumps, pediculosis (headlice), pertussis (whooping cough), plague (pneumonic), poliomyelitis, rubella (German measles), rubeola (measles), salmonellosis (nontyphoidal), scabies, shiga toxin-producing *Escherichia coli*, shigellosis, staphylococcal disease, streptococcal disease, tinea capitis and corporis (ringworm), active tuberculosis, and typhoid fever – plus the category of sexually transmitted diseases.

(Authorized by K.S.A. 65-101 and 65-128; implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1986; amended Sept. 5, 1997; amended July 16, 1999; amended July 20, 2007.)

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