



OREGON
ISOLATION AND QUARANTINE
BENCH BOOK



DEVELOPED BY

OREGON DEPARTMENT OF JUSTICE
AND
OREGON DEPARTMENT OF HUMAN SERVICES
PUBLIC HEALTH DIVISION

2010

OREGON ISOLATION AND QUARANTINE BENCH BOOK

TABLE OF CONTENTS

Introduction and Acknowledgments	iii
Emergency Quarantine or Isolation Process	iv
Non-Emergency Quarantine or Isolation Process	v
Sec. 1.00 Non-Emergency Quarantine or Isolation	1
1.10 Filing a Petition	1
1.20 Service and Notice	2
1.30 Right to Counsel; Appointment of Counsel	3
1.40 The Hearing	3
1.50 The Order	4
1.60 Length of Detention	5
1.70 Service of the Order	5
1.80 Assistance from Law Enforcement	5
Sec. 2.00 Emergency Quarantine or Isolation	6
2.10 Filing a Petition	6
2.20 The Ex Parte Order	7
2.30 Service and Notice	7
2.40 Right to Counsel; Appointment of Counsel	7
2.50 Length of Detention	8
2.60 Assistance from Law Enforcement	8
Sec. 3.00 Group Quarantine or Isolation	9
Sec. 4.00 Petition to Continue Quarantine or Isolation	10
Sec. 5.00 Conditions and Principles of Confinement	11
5.10 Conditions and Principles of Confinement	11
5.20 Isolation or Detention in a Health Care Facility	12
5.30 Entry onto Isolation or Quarantine Premises	13
Sec. 6.00 Right to Request Release	14
6.10 Deadline for Ruling on an Application	14
6.20 Basis for Granting an Application	14
6.30 Effect of Granting an Application on the Underlying Order	14
6.40 A Show Cause Hearing	14
6.50 Remedy	15
Sec. 7.00 Right to Request Review of Conditions of Detention	16

7.10	Request for a Hearing	16
7.20	Threshold for Holding a Hearing	16
7.30	The Hearing	16
7.40	Remedy	17
Sec. 8.00	Isolating Property	18
8.10	Filing a Petition	18
8.20	Service and Notice	19
8.30	The Hearing	19
8.40	The Order	19
Sec. 9.00	Definitions	20
Sec. 10.00	Confidentiality	22
10.10	HIPAA	22
10.20	State Law	22
Sec. 11.00	Primer on Communicable Diseases	24
11.10	Tuberculosis	25
11.10a	How TB is Spread	25
11.10b	Latent TB Infection	25
11.10c	Active TB Disease	26
11.10d	TB Diagnosis	27
11.10e	TB Treatment	27
11.10f	Drug Resistant TB	27
11.10g	Voluntary Treatment TB	28
11.20	SARS	28
Sec. 12.00	Infection Control	29
Sec. 13.00	Case Study	31
Sec. 14.00	Public Health Law	38
14.10	Public Health Law	38
14.20	Oregon Case Law	39
Sec. 15.00	Applicable State Law	41
Sec. 16.00	Forms	51
	Forms A.1. to A.4.: Emergency Isolation or Quarantine	51
	Forms B.1. to B.4.: Emergency Group Isolation or Quarantine	59
	Forms C.1. to C.3.: Non-Emergency Isolation or Quarantine	67
	Forms D.1. to D.3.: Non-Emergency Group Isolation or Quarantine	74
	Form E.1. to E.3.: Notice of Rights/Waiver of Counsel/Waiver of Hearing	81
	Form F.1. to F.3.: Rescheduling Hearing	88
	Form G.1. to G.3: Isolating Property	92

INTRODUCTION AND ACKNOWLEDGEMENTS

This Bench Book is intended to serve as a guide through the isolation and quarantine processes that can be utilized during a public health emergency, or in more routine public health cases. In addition the Bench Book provides important information about public health law, communicable disease, and infection control.

In an effort to increase the state's legal preparedness for public health emergencies, in 2007 the state Public Health Director, with assistance from other stakeholders and the Oregon Department of Justice, helped to modernize Oregon's public health emergency preparedness laws. Oregon Laws 2007, Chapter 445. Part of this modernization was a re-write of the isolation and quarantine laws which clarified the procedures for isolation and quarantine, and ensured that proper due process protections were in place. The global epidemic of Severe Acute Respiratory Syndrome (SARS) and the current H1N1 flu pandemic make it clear that attorneys and judges need to understand the isolation and quarantine process.

Sincere thanks go to Shannon O'Fallon, Senior Assistant Attorney General with the Oregon Department of Justice for writing this Bench Book. Ms. O'Fallon advises the state Public Health Division and was very involved in the drafting of the new isolation and quarantine laws. In addition, Ms. O'Fallon had a great deal of assistance from the following individuals who took the time to review and comment on drafts of the Bench Book: Doug Bray, Court Administrator, Multnomah County Court, Lindi Baker, Presiding Judge, Josephine County Circuit Court, Andrea Meyer, Oregon chapter of the ACLU, Paul Levy, general counsel, Oregon Public Defense Services, Jacquie Weber, Multnomah County Counsel, Vance Croney, Benton County Counsel, Paul Cieslak, MD, Acute and Communicable Disease Prevention section manager, Oregon Public Health, Lindi Baker, Presiding Judge, Josephine County Circuit Court, and Paul Lewis, MD, Deputy Tri-County Health Officer, Clackamas, Washington and Multnomah Counties. This Bench Book would not have been possible without their help.

We welcome feedback on this Bench Book. Comments may be directed to:

Oregon Department of Justice
Attn: Public Health Division contact counsel
1515 SW 5th Ave., Ste 410
Portland, OR 97201

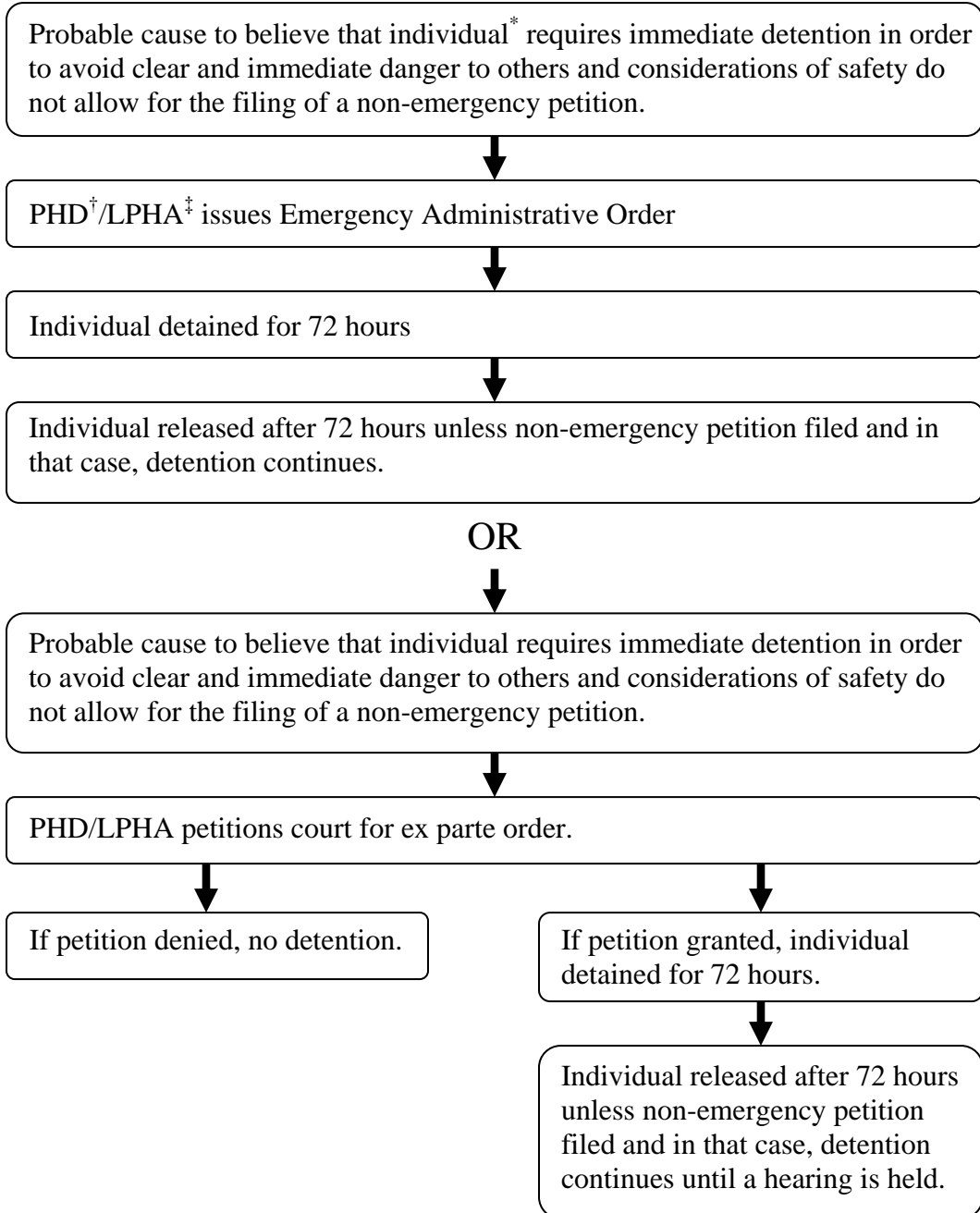


Attorney General John Kroger



Dr. Mel Kohn

EMERGENCY QUARANTINE OR ISOLATION PROCESS



* Could be an individual or a group of individuals.

† State Public Health Director

‡ Local Public Health Administrator

NON-EMERGENCY QUARANTINE OR ISOLATION PROCESS

Reasonable belief that an individual[§] is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that poses a serious risk to the health and safety of others.

PHD ^{**}/LPHA ^{††} files petition with court for quarantine/isolation order

Individual served with Notice of Rights by PHD/LPHA

Counsel appointed for individual

Hearing within 72 hours, exclusive of Saturdays, Sundays and legal holidays. ^{‡‡}

If petition denied, no detention.

If petition granted, detention for up to 60 days unless substantial medical evidence that condition is spread by airborne transmission and cannot be rendered noninfectious within 60 days or may recur after 60 days, in which case, can detain for up to 180 days.

Individual must be released as soon as practicable when no longer a danger to the public.

PHD/LPHA can petition to continue quarantine/isolation prior to expiration of order. Same process as above. ^{§§}

[§] Could be individual or a group of individuals.

^{***} State Public Health Director

^{††} Local Public Health Authority

^{‡‡} In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the PHD/LPHA may ask the court to continue the hearing date for up to 10 days. A hearing may also be waived with the consent of the affected persons.

^{§§} In no case may an individual be in quarantine or isolation longer than 180 days unless, following a hearing, a court finds that extraordinary circumstances exist and that the individual continues to pose a serious threat to the health and safety of others if detention is not continued.

(This page intentionally left blank.)

SECTION 1.00
NON-EMERGENCY QUARANTINE OR ISOLATION PROCESS

Summary

The state public health director (PHD) or local public health administrator (LPHA) may petition the court for an order to isolate or quarantine a person if there is a reasonable belief that the person has been exposed to or has a communicable disease, or has been exposed to or is contaminated with a toxic substance, and that person poses a serious risk to the health and safety of others if not confined. The petition must show that voluntary efforts were made or explain why voluntary efforts could not be made, and that confinement is the least restrictive alternative.
ORS 433.123.

Isolation is the physical separation and confinement of a person who is infected or believed to be infected with a communicable disease.

Quarantine is the physical separation and confinement of a person who may have been exposed to a communicable disease and who does not yet show signs or symptoms of a disease.

1.10 Filing a petition¹

The PHD or LPHA may file a petition for isolation or quarantine, or petition for continued isolation or quarantine for a person subject to an emergency administrative order or an ex parte order for isolation or quarantine. The petition will be filed in circuit court and may be filed under seal to protect the respondent's confidentiality.² The filing of a petition extends the period of confinement for an individual who has been confined pursuant to an emergency ex parte quarantine or isolation order.³ Such a petition must:

- Identify the person or group of persons subject to isolation or quarantine;
- Describe:
 - The reasonable efforts made to obtain voluntary compliance including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities; or
 - Why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

¹ See Sec. 16.00, Form C.1.

² The statutes are silent as to what court has jurisdiction. ORS 433.121, 433.123. However, justice courts do not have the statutory authority to hear these matters, nor do county or municipal courts. It is possible that a petition that seeks to isolate or quarantine a minor will be filed as a juvenile court matter, but the juvenile court does not automatically have jurisdiction because the respondent is a minor.

³ See Sec. 2.00.

- Describe the suspected communicable disease or toxic substance, if known, and why there is a reasonable belief that a person has a disease, has been exposed to one, or may be or is contaminated with a toxic substance;
- Describe the medical basis for which isolation or quarantine is justified;
- Explain why the person or group of persons would pose a serious and imminent risk to the health and safety of others if not confined isolated or quarantined;
- Explain why isolation or quarantine is the least restrictive means available to prevent a risk to the health and safety of others;
- The time and date at which the isolation or quarantine commences;
- How long the isolation or quarantine is expected to last based on the suspected communicable disease or toxic substance;
- Where the person or persons will be confined, if known; and
- A statement of compliance with the conditions and principles for isolation and quarantine specified in ORS 433.128.⁴

The petition should be supported by at least one affidavit⁵ describing, in more detail, the information contained in the petition.

1.20 Service and Notice

The petitioner is required to personally serve a copy of the petition and a notice of rights⁶ on a person who is the subject of a petition.

The owner or operator of the facility or premises where the isolation or quarantine will take place has no legal right to notice of the proceeding. However, under ORS 433.128(11), prior to confining a person in a health care facility the Public Health Director or the local public health administrator must provide to the managers of the health care facility notice of the intention to seek a court order to place a person in the facility and the managers of the health care facility must be consulted regarding how to best meet the conditions and principles of isolation or quarantine. As a practical matter, state and local public health officials work with hospitals and other

Note: If personal service to individuals within a group is impracticable, the notice and order can be posted in a conspicuous place where it can be viewed by those confined, or the information in the notice and order can be communicated in some other meaningful way. *See* Sec. 3.00.

⁴ See Section 5.00, for description of conditions for isolation and quarantine.

⁵ See Section 16.00, Form C.2.

⁶ See Section 16.00, Form E.

places of confinement, such as a hotel, when deciding where a person will be isolated or quarantined. During a large scale public health emergency however, the cooperative nature of this process could change. Under ORS 433.150, a city or municipality may establish a quarantine hospital in an emergency.

1.30 Right to Counsel; Appointment of Counsel

A person who is the subject of an isolation or quarantine order has a right to be represented by counsel. If a person cannot afford counsel, the court must appoint counsel at the state's expense. The court must appoint legal counsel unless counsel is "expressly, knowingly and intelligently refused." ORS 433.466. The court should question the respondent about his or her decision to waive counsel just as the court would do in a criminal case. Given that hearings on these matters must be held within 72 hours of the filing of a petition, the court should, if possible, appoint counsel upon receipt of a petition and require a person subject to confinement to fill out an affidavit of eligibility after the fact. The appointment of counsel should continue until the person is released from confinement.

1.40 The Hearing

A hearing on a petition must be held within **72 hours** of the filing of a petition, exclusive of Saturdays, Sundays and legal holidays. ORS 433.123(6). The petitioner is responsible for tracking the 72 hour deadline.

1.41 Extension of 72 Hour Time Limit

In extraordinary circumstances and for good cause shown, or with the consent of the affected persons, the petitioner may apply to have the hearing continued for up to 10 days. The court may grant the continuance in its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence. ORS 433.123(6)(b).⁷

1.42 Waiver of Hearing

A hearing can be waived by consent of the affected persons.

1.43 Conduct of Hearing

The petitioner should have witnesses available to testify, including any person who submitted an affidavit supporting the petition.

The physician-patient privilege, nurse-patient privilege, and psychotherapist-patient privilege do not apply to quarantine or isolation proceedings. ORS 433.123(6)(d). Evidence presented during a hearing that would otherwise be privileged may be disclosed only to the court, the parties and their legal counsel, or persons authorized by the court, but not to the

⁷ See Sec. 16.00, Form F.1 to F.3.

public. *Id.* Otherwise, the rules of evidence and other state and local court rules apply to these hearings, just as they would in any other civil matter.

A hearing on a petition for isolation or quarantine will necessitate discussion of confidential medical information. For that reason, the court should close the hearing to protect the confidentiality of the person who is the subject of the petition, whether or not the petitioner asks for the hearing to be closed.

It may be unadvisable for the person who is the subject of a petition to personally appear in court because of the nature of the communicable disease or toxic substance.⁸ In such cases, it is permissible to allow the person to appear by phone or by some other means such as video conference that allows the person to participate. Alternatively, the proceeding may be conducted by legal counsel. ORS 433.123(7).

1.50 The Order⁹

The court shall grant the petition if the court finds, by clear and convincing evidence, that isolation or quarantine is necessary to prevent a serious risk to the health and safety of others. In lieu of or in addition to isolation or quarantine, the court may order the imposition of other public health measures¹⁰ appropriate to the public health threat presented. In fact, it is likely that a petitioner will request that the court order treatment and testing in cases where a person has a diagnosed communicable disease or is contaminated with a toxic substance.

Note: Health care professionals and medical professionals will not force treatment or testing on an unwilling individual as long as that individual has the capacity to make health care decisions. However, a person who is subject to an isolation or quarantine order and noncompliant with treatment recommendations may need to remain confined for a longer period of time, or could be held in contempt of court for refusing to comply with a court order for treatment or testing.

A court order must specify:

- The person or group of persons subject to the order;
- The maximum duration of isolation or quarantine;
- The factual findings warranting the imposition of isolation, quarantine or other public health measure; and
- Any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of ORS 433.128.

⁸ See Sec. 12.00, Infection Control.

⁹ See Sec. 16.00, Form C.3.

¹⁰ A public health measure is defined as "a test, medical examination, treatment, isolation, quarantine or other measure imposed on an individual or group of individuals in order to prevent the spread of or exposure to a communicable disease, toxic substance or transmissible agent." ORS 431.260(9).

If a petition requests quarantine but isolation is necessary because the person who is the subject of the petition has subsequently been determined to have a communicable disease, the court could either require that a new petition be filed, or the court could address the issue in the order and permit isolation.

An isolation or quarantine order is effective anywhere in the state, and the court that issues the order retains jurisdiction unless venue is changed.

1.60 Length of Detention

The maximum duration for isolation or quarantine is 60 days unless:

- There is substantial medical evidence indicating that the condition that is the basis of the detention is spread by airborne transmission and cannot be rendered noninfectious within 60 days; or
- The condition may recur after 60 days.

If either of these criteria apply the court can order isolation or quarantine for up to 180 days. ORS 433.123(8)(a).

1.70 Service of the Order

The petitioner is required to personally serve a copy of the order in accordance with ORS 433.123(3). ORS 433.128(8)(e).

1.80 Assistance from law enforcement

Under ORS 433.156, all state and local law enforcement authorities are required to cooperate with an officer authorized to impose isolation or quarantine, in the enforcement of an isolation or quarantine order. The state or county may request that the court order state or local law enforcement to assist public health officials in enforcing a court's order for isolation or quarantine.

SECTION 2.00 EMERGENCY QUARANTINE OR ISOLATION PROCESS

Summary

The state public health director (PHD) or a local public health administrator (LPHA) may petition the circuit court for an ex parte order to isolate or quarantine a person or group of persons if:

(1) There is probable cause to believe that a person or group of persons requires immediate confinement in order to avoid a clear and immediate danger to others;

(2) The person or group of persons has or is suspected to have a communicable disease or has been exposed to or is contaminated with a toxic substance; and

(3) Considerations of safety do not allow initiation of the petition process set out in ORS 433.123.

Note: In lieu of requesting an ex parte order, the PHD or LPHA may also issue an emergency administrative order detaining a person or group of persons.

ORS 433.121.

2.10 Filing a Petition¹⁹

A petition for an ex parte order must:

- Identify the person or group of persons subject to isolation or quarantine;
- Describe:
 - The reasonable efforts made to obtain voluntary compliance including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities; or
 - Why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;
- Describe the suspected communicable disease or toxic substance, if known, and why there is a reasonable belief that a person has a disease, has been exposed to one, or may be or is contaminated with a toxic substance;
- Describe the medical basis for which isolation or quarantine is justified;
- Explain why the person or group of persons would pose a serious and imminent risk to the health and safety of others if not confined;

¹⁹ See Sec. 16.00, Form A.1 and A.2.

- Explain why isolation or quarantine is the least restrictive means available to prevent a risk to the health and safety of others;
- The time and date at which the isolation or quarantine commences;
- How long the isolation or quarantine is expected to last based on the suspected communicable disease or toxic substance;
- Where the person or persons will be confined, if known; and
- A statement of compliance with the conditions and principles for isolation and quarantine specified in ORS 433.128.

The petition will be supported by at least one affidavit²⁰ describing, in more detail, the information contained in the petition. The petition and accompanying paperwork will be presented to a judge with or without prior notice to other parties, depending on local court rules. The petitioner may also present a motion to seal the petition and affidavit in order to protect the respondent's confidentiality.

2.20 The Ex Parte Order²¹

A judge should grant the petition for an ex parte order if:

- (1) There is reasonable cause to believe that a person or group of persons requires immediate detention in order to avoid a clear and immediate danger to others; and
- (2) Considerations of safety do not permit the petition process in ORS 433.123.

An order must include all of the same information that is required to be in a petition for an ex parte order. *See* section 2.10 above. The petitioner will provide the court with a draft order.

2.30 Service and Notice

The petitioner is required to serve a copy of the petition, ex parte order, and a notice of rights,²² within 12 hours of the issuance of an ex parte order.²³

2.40 Right to counsel; Appointment of Counsel

A person who is the subject of an isolation or quarantine order has a right to be represented by counsel. If a person cannot afford counsel, the court must appoint counsel at

²⁰ *See* Sec. 16.00, Form A.3.

²¹ *See* Sec. 16.00, Form A.4.

²² *See* Sec. 16.00, Form E.

²³ If personal service to individuals within a group is impracticable, the notice and order can be posted in a conspicuous place where it can be viewed by those confined, or the information in the notice and order can be communicated in some other meaningful way. *See* Sec. 3.00.

the state's expense. The court must appoint legal counsel unless counsel is "expressly, knowingly and intelligently refused." ORS 433.466. Given that hearings on these matters must be held within a short period of time, it would be extremely helpful for the court to appoint counsel upon issuing an order, and require a person subject to confinement to fill out an affidavit of eligibility after the fact. The appointment of counsel should continue until the person is released from confinement.

2.50 Length of Detention

A person subject to an ex parte order for isolation or quarantine may not be confined longer than 72 hours **unless a petition is filed under ORS 433.123**. Such a petition must be filed immediately after the issuance of an order and the filing of a petition extends the isolation or quarantine order until the court holds a hearing on the petition. ORS 433.123(5). The petitioner is responsible for keeping track of the 72 hour time frame and should document when confinement began.²⁴ The petitioner must release the respondent after 72 hours or sooner if no petition is filed under ORS 433.123.

2.60 Assistance from Law Enforcement

Under ORS 433.156, all state and local law enforcement authorities are required to cooperate with an officer authorized to impose isolation or quarantine, in the enforcement of an isolation or quarantine order. The state or county may request that the court order state or local law enforcement to assist public health officials in locating, confining, and enforcing the court's order.

²⁴ ORS 433.121(4) provides that a person "may not be detained for longer than 72 hours . . ." Therefore, the 72 hours begins to run upon detention, not upon the issuance of an ex parte order.

SECTION 3.00 GROUP ISOLATION OR QUARANTINE

It is possible that in certain rare circumstances a large group of people would need to be isolated or quarantined. For example, an airplane coming from Asia with hundreds of people on board could arrive in Oregon with a person exhibiting symptoms consistent with SARS. Prior to permitting passengers on the plane to disembark, public health authorities would want to screen passengers for the disease, or monitor passengers for a number of days to determine whether they contracted the disease. If passengers were not cooperative, or the nature of the disease posed such a threat to the public that considerations of safety would not allow for voluntary measures to be taken, a court order would likely be sought.

The petition process is essentially the same as that described in sections 1.00 and 2.00, however, the petitioner might not have access to individual names at the time the petition is filed and instead would have to describe the group sought to be confined, rather than list individual names.²⁵ The petitioner will and should work as quickly as possible to identify all the individuals within a group.

Service on a group of persons can be posted in a conspicuous place where it can be viewed or communicated some other meaningful way, if personal service on a group of persons is impracticable. ORS 433.121(3), 433.123(3). A petitioner may request, and the court may order a particular method of service that meets the intent of the statute when personal service is impracticable.

If multiple petitions are received by the court, petitions can be consolidated when:

- The number of persons involved or to be affected is so large that individual participation is impracticable;
- There are questions of law or fact common to the individual petitions or rights to be determined;
- The group petitioner rights to be determined are typical of the affected persons' petitions or rights; and
- The entire group will be adequately represented in the consolidation.

ORS 433.136.

Appointment of counsel for a group of individuals will present both practical and ethical problems. If the group is very large, it may be difficult to find enough attorneys to appoint. If enough attorneys are not appointed, the attorneys that are appointed may be faced with conflict of interest issues between clients.²⁶ For this latter problem the individuals could be divided into groups with similar interests, i.e. those that have symptoms or those that do not.

²⁵ See Sec. 16.00, Forms B.1 to B.4 and D.1 to D.3.

²⁶ See Oregon Rules of Professional Responsibility 1.7.

SECTION 4.00
PETITION TO CONTINUE ISOLATION OR QUARANTINE

The Public Health Director (PHD) or Local Public Health Administrator (LPHA) may, prior to the expiration of a court order for isolation or quarantine, petition the court to continue isolation or quarantine. The process for such a petition is the same as the process described in Section 1.00.

A person may not be held in isolation or quarantine for longer than 180 days total, unless, after a hearing, the court finds that:

- Extraordinary circumstances exist; and
- The person or group of persons subject to isolation or quarantine will continue to pose a serious threat to the health and safety of others if detention is not continued.

SECTION 5.00 CONDITIONS AND PRINCIPLES OF CONFINEMENT

5.10 Conditions and Principles of Confinement.

When isolating or quarantining a person or group of persons the following conditions and principles must be adhered to:

- Isolation or quarantine must be by the least restrictive means necessary to prevent the spread of a communicable disease or possibly communicable disease to others or to limit exposure to or contamination with a toxic substance by others, and may include, but is not limited to, confinement to private homes or other public or private premises.
- Confinement may not be in a prison, jail or other facility where those charged with a crime or a violation of a municipal ordinance are incarcerated unless:
 - The person or group of persons represents an immediate and serious physical threat to the staff or physical facilities of a hospital or other facility in which the person or group of persons has been confined; or
 - A person has been found in contempt of court because of failure to obey a court order.²⁷
- Isolated persons must be confined separately from quarantined persons. If a facility is not capable of separating isolated persons from quarantined persons, either the isolated persons or the quarantined persons must be moved to a separate facility.
- The health status of an isolated or quarantined person must be monitored regularly to determine if the person requires continued isolation or quarantine.
- A quarantined person who subsequently becomes infected or is reasonably believed to have become infected with a communicable disease or possibly communicable disease that the Public Health Director or the local public health administrator believes poses a significant threat to the health and safety of other quarantined persons must be promptly placed in isolation.
- An isolated or quarantined person must be released as soon as practicable when the Public Health Director or local public health administrator determines that the person has been successfully decontaminated or that the person no longer poses a substantial risk of transmitting a communicable disease or possibly communicable disease that would constitute a serious or imminent threat to the health and safety of others.

²⁷ The statute does not specify whether a person can be confined in a jail after being held in contempt for failure to obey any court order, or can be confined in jail only after being held in contempt for failure to obey a court order for isolation or quarantine. ORS 433.128(2)(b). Presumably it is the latter.

- The needs of a person who is isolated or quarantined must be addressed to the greatest extent practicable in a systematic and competent fashion, including, but not limited to, providing adequate food, medication, competent medical care, clothing, shelter and means of communication with other persons who are in isolation or quarantine and persons who are not under isolation or quarantine.
- Premises used for isolation or quarantine must, to the extent practicable, be maintained in a safe and hygienic manner to lessen the likelihood of further transmission of a communicable disease or possibly communicable disease or of further harm to persons who are isolated and quarantined.
- Cultural and religious beliefs should be considered to the extent practicable in addressing the needs of persons who are isolated or quarantined and in establishing and maintaining premises used for isolation or quarantine.
- Isolation or quarantine shall not abridge the right of any person to rely exclusively on spiritual means to treat a communicable disease or possibly communicable disease in accordance with religious or other spiritual tenets and practices.²⁸
- Adequate means of communication between a person or a group of persons who is isolated or quarantined and legal counsel for the person or group of persons must be provided.

ORS 433.128. It is the responsibility of the petitioner to ensure that the conditions and principles of confinement are being met.

5.20 Isolation or Detention in a Health Care Facility

If the PHD or LPHA wants to confine someone in a health care facility, the managers of the health care facility must be given notice of the intention to seek authorization from the court to place a person or group of persons in isolation or quarantine in the facility and must consult with the managers of the health care facility regarding how to best meet the requirements of this section. ORS 433.128(11).

If a health care facility is used as a confinement premises the PHD and LPHA must consult with the managers of the health care facility regarding how best to deal with implementing the restrictions on access. However, the restrictions on access do not prohibit a physician or other health care worker in a health care facility from having access to a

²⁸ Nothing in ORS 433.126 to 433.138, 433.142 and 433.466 "prohibits a person who relies exclusively on spiritual means to treat a communicable disease or possibly communicable disease and who is infected with a communicable disease or has been exposed to a toxic substance from being isolated or quarantined in a private place of the person's own choice, provided the private place is approved by the Public Health Director or the local public health administrator and the person who is isolated or quarantined complies with all laws, rules, and regulations governing control, sanitation, isolation and quarantine." ORS 433.128(10)(b).

person who is confined if the infection control procedures and other precautions determined necessary by the PHD are adhered to. ORS 433.131.

5.30 Entry onto Isolation or Quarantine Premises

Entry onto premises where someone is isolated or quarantined must necessarily be limited in order to protect the public's health. ORS 433.131.

The PHD or LPHA may authorize physicians, other health care workers or other persons access to a premises being used for confinement as necessary to meet the needs of isolated or quarantined persons. Only an authorized person may enter a premises used for confinement. ORS 433.131(1)(a); *but see* Sec. 5.20.

An authorized person entering a premises used for isolation or quarantine shall be provided with infection control training and can be required to wear personal protective equipment or to receive vaccinations. ORS 433.131(1)(c).

If an unauthorized person enters a premises used for confinement and becomes exposed to disease or contamination, they can become subject to isolation or quarantine. ORS 433.131(1)(d).

SECTION 6.00 RIGHT TO REQUEST RELEASE

Summary

A person or group of persons subject to an order for isolation or quarantine may apply to the court for an order to show cause why the individual or group should not be released. ORS 433.133. Such an application should be made to the court that ordered the confinement, even if the person or group of persons is confined in a different county, unless there has been a change of venue.

6.10 Deadline for Ruling on an Application

The court must rule on an application to show cause within 48 hours of the filing of the application. ORS 433.133(1)(b).

6.20 Basis for Granting an Application

The court must grant the application if there is a reasonable basis to support the allegations in the application. ORS 433.133(1)(c).

6.30 Effect of Granting an Application on the Underlying Order

The granting of the application does not stay or enjoin the isolation or quarantine order. ORS 433.133(1)(d).

6.40 A Show Cause Hearing

If the court grants an application, the court must require the Public Health Director (PHD) or Local Public Health Administrator (LPHA)²⁹ to appear and show cause within 5 days of the filing of the application. ORS 433.133(1)(c). In extraordinary circumstances and for good cause shown, or with consent of the petitioner, the PHD or LPHA may move the court to extend the time for a hearing. *Id.*, at (3). The request for an extension may be granted in the court's discretion giving due regard to the rights of the affected persons, the protection of the public health, the severity of the emergency and the availability of necessary witnesses and evidence. The court should specify, in the order granting an extension of time, when the hearing will be held.

If a person or group of persons confined cannot personally appear in court because such an appearance would pose a serious risk of harm to others, the court proceeding may be

²⁹ ORS 433.133(1)(c) and (d) erroneously refer to only the Oregon Health Authority (OHA) having to appear and show cause why a person or group of persons should be confined. As is clear in ORS 433.121 and 433.123, either the PHD or LPHA may seek an order for isolation or quarantine. It would be nonsensical to order OHA to appear and show cause when it was a LPHA that sought confinement. OHA often has no involvement in decisions by a local public health department to seek an isolation or quarantine order.

conducted by legal counsel and be held at a location or via any means that allows all parties to fully participate.

The law is otherwise silent as to the details of this hearing, but presumably the PHD or LPHA would have to again present evidence as to the need for quarantine or isolation.

6.50 Remedy

If the court finds, by clear and convincing evidence that a person or group of persons no longer poses a serious risk to the health and safety of others, the court may order their release.

SECTION 7.00

RIGHT TO REQUEST REVIEW OF CONDITIONS OF DETENTION

Summary

As described above in section 5.00, the Public Health Director (PHD) or Local Public Health Administrator (LPHA) must adhere to certain conditions and principles of detention. It is important to note that not all of these conditions and principles are absolutes. For example, the needs of a person subject to an order of isolation or quarantine must be addressed *to the greatest extent practicable*.

7.10 Request for a Hearing

If a person subject to an isolation or quarantine order believes that the conditions and principles of confinement in ORS 433.128 are not being followed, a hearing may be requested whereby the court is asked to provide a remedy. A hearing request does not stay or enjoin the order for isolation or quarantine. ORS 433.133(2). A request for a hearing should be made to the court that ordered the confinement, even if the person or group of persons is confined in a different county.

7.20 Threshold for Holding a Hearing

The court must hold a hearing if there is a reasonable basis to believe there has been a breach of the conditions of isolation or quarantine. ORS 433.133(2)(b).

7.30 The Hearing

If a hearing request alleges extraordinary circumstances justifying immediate relief, the court shall hold a hearing as soon as practicable. ORS 433.133(2)(d). Otherwise, the court shall hold a hearing within 5 days from receipt of the request. *Id.*, at (2)(e).

In extraordinary circumstances and for good cause shown, or with consent of the petitioner, the PHD or LPHA may move the court to extend the time for a hearing. *Id.*, at (3). The request for an extension may be granted in the court's discretion giving due regard to the rights of the affected persons, the protection of the public health, the severity of the emergency and the availability of necessary witnesses and evidence.

If a person or group of persons confined cannot personally appear in court because such an appearance would pose a serious risk of harm to others, the court proceeding may be conducted by legal counsel and be held at a location or via any means that allows all parties to fully participate.

7.40 Remedy

If the court finds, by clear and convincing evidence, that a person or group of persons is not being held in accordance with the conditions of isolation or quarantine required by ORS 433.128 the court may order an appropriate remedy to ensure compliance with the conditions and principles of isolation or quarantine.

SECTION 8.00 ISOLATING PROPERTY

Summary

The Public Health Director (PHD) or Local Public Health Administrator (LPHA) may petition the court to isolate³⁰ property if there is reason to believe the property is contaminated with a toxic substance that poses a serious risk to the health and safety of others. ORS 433.142.

8.10 Filing a Petition³¹

A petition to isolate property must:

- Describe the property subject to isolation;
- Identify the owner or custodian of the property;
- Describe
 - Reasonable efforts made to obtain voluntary compliance from the owner or custodian of the property with public health measures necessary to isolate the property; or
 - Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others
- Describe the suspected toxic substance and the health effects of exposure to that substance;
- Provide information supporting the reasonable belief of the PHD or LPHA that the toxic substance poses a serious risk to the health and safety of others if the property is not isolated.
- Explain why isolation of the property is the least restrictive means available to prevent a serious risk to the health and safety of others; and
- Explain whether the property subject to isolation can be decontaminated or whether the property must be destroyed.

ORS 433.142(3).

³⁰ For purposes of this section, "to isolate property" means to restrict access to property in a manner that reduces or prevents exposure to a toxic substance by persons." ORS 433.142(1).

³¹ See Sec. 16.00, Form G.1.

8.20 Service and Notice

The petition must be personally served on the owner or custodian of the property. ORS 433.142(4).

8.30 The Hearing

The court must hold a hearing within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays. ORS 433.142(5)(a).

In extraordinary circumstances and for good cause shown, or with the consent of the affected persons, the petitioner may apply to have the hearing continued for up to 10 days. ORS 433.142(5)(b). The court may grant the request for a continuance at its discretion giving due regard to the rights of the affected owner or custodian of the property, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence. *Id.*

A hearing may be waived by the owner or custodian of the property. *Id.*, at (5)(c).

8.40 The Order

If the court finds there is clear and convincing evidence that isolation of property contaminated with a toxic substance is necessary to prevent a serious risk to the health and safety of others, the court shall grant the petition. ORS 433.142(6). An order authorizing isolation shall be in effect until the toxic substance no longer poses a serious risk to the health and safety of others. *Id.*

The court order³² must:

- Identify the property to be isolated;
- Specify factual findings warranting isolation, including a description of the toxic substance believed to be contaminating the property;
- Include any conditions necessary to ensure that isolation is carried out within the stated purposes and restrictions of this section; and
- Describe the remedial actions necessary to neutralize or remove the contamination.

ORS 433.142 (7).

³² See Sec. 16.00, Form G.3.

SECTION 9.00 DEFINITIONS

- ◆ “**Communicable disease**” means a disease or condition, the infectious agent of which may be transmitted by any means from one person or from an animal to another person, that may result in illness, death or severe disability.
- ◆ “**Condition of public health importance**” means a disease, syndrome, symptom, injury or other threat to public health that is identifiable on an individual or community level.
- ◆ “**Disease outbreak**” means a significant or notable increase in the number of cases of a disease or other condition of public health importance.
- ◆ “**Epidemic**” means the occurrence in a community or region of a group of similar conditions of public health importance that are in excess of normal expectancy and derived from a common or propagated source.
- ◆ “**Isolation**” means the physical separation and confinement of a person or group of persons who are infected or reasonably believed to be infected with a communicable disease or possibly communicable disease from nonisolated persons to prevent or limit the transmission of the disease to nonisolated persons.
- ◆ “**Local public health administrator**” means the public health administrator of a county or health district appointed under ORS 431.418 or the authorized representative of that public health administrator.
- ◆ “**Local public health authority**” means a county government, or a health district created under ORS 431.414 or a person or agency a county or health district has contracted with to act as the local public health authority.
- ◆ “**Public health law**” means any statute, rule or local ordinance that has the purpose of promoting or protecting the public health and that establishes the authority of the Oregon Health Authority, the Public Health Director, the Public Health Officer, a local public health authority or local public health administrator to enforce the statute, rule or local ordinance.
- ◆ “**Public health measure**” means a test, medical examination, treatment, isolation, quarantine or other measure imposed on an individual or group of individuals in order to prevent the spread of or exposure to a communicable disease, toxic substance or transmissible agent.
- ◆ “**Quarantine**” means the physical separation and confinement of a person or group of persons who have been or may have been exposed to a communicable disease or possibly communicable disease and who do not show signs or symptoms of a communicable disease, from persons who have not been exposed to a communicable disease or possibly communicable disease, to prevent or limit the transmission of the disease to other persons.
- ◆ “**Reportable disease**” means a disease or condition, the reporting of which enables a public health authority to take action to protect or to benefit the public health.
- ◆ “**Specimen**” means blood, sputum, urine, stool or other bodily fluids and wastes, tissues, and cultures necessary to perform required tests.

- ◆ “**Test**” means any diagnostic or investigative analyses or medical procedures that determine the presence or absence of, or exposure to, a condition of potential public health importance, or its precursor in an individual.
- ◆ “**Toxic substance**” means a substance that may cause illness, disability or death to persons who are exposed to it.

ORS 431.260; ORS 433.001.

SECTION 10.00 CONFIDENTIALITY

Summary

A petitioner will likely ask the court to place petitions, affidavits, and other information related to an isolation or quarantine proceeding, under seal, in order to protect the confidentiality of the person who is the subject of a petition. A petitioner should use initials in the caption of a petition to ensure that on court calendars and in OJIN, the person who is the subject of a petition cannot be identified. In addition, the court should restrict who is allowed in the courtroom during a hearing as confidential medical information will be discussed. That said, federal and state confidentiality laws do not prohibit state and local public health authorities from including confidential medical information in a petition for isolation and quarantine and supporting affidavits.

10.10 HIPAA

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains provisions intended to protect the privacy of certain individually identifiable health information (referred to as “protected health information” (PHI)). *See* 42 U.S.C. § 1320d-2 (2005). Generally, HIPAA limits the ability of certain entities to use and disclose an individual’s PHI without notifying and/or obtaining authorization from that individual. It is important to note that HIPAA contains numerous exceptions to this general rule. One of the most significant of these exceptions involves uses and disclosures of PHI by public health authorities, for public health activities.

The state public health division and local public health departments are public health authorities within the meaning of HIPAA and as such may disclose protected health information for public health activities and purposes, including controlling disease, without a written authorization from an individual. 45 CFR § 164.501, 164.512(b)(1)(i).

10.20 State Law

In general, Oregon law provides for the confidential treatment of an individual’s medical information. *See* generally ORS 179.505³³ (disclosure of written accounts by health care services), 192.518 to 192.520 (protected health information), ORS 192.502(2) (personal privacy exemption under the public records act). However, of particular importance are the provisions of Oregon law regarding the confidential nature of communicable disease information.

³³ ORS 179.505 prohibits the disclosure of written accounts containing individually identifiable health information, but this provision does not apply to isolation and quarantine proceedings because state and federal law (as specified above) permits the release of such information in order to control communicable disease. *See* ORS 179.505(2).

Under ORS 433.004 and its implementing rules, OAR 333, Divisions 17 and 18, certain individuals and entities are required to report reportable disease information to state and local public health authorities. Reportable diseases include but are not limited to: botulism, diphtheria, Severe Acute Respiratory Syndrome (SARS), measles, rabies pertussis, hepatitis, and tuberculosis. OAR 333-018-0015. Information concerning an individual who is the subject of a reportable disease report and information concerning the investigation of a reportable disease, is confidential and exempt from disclosure under the public records law. ORS 433.008(1)(a). In addition, a state or local health official or employee may not be examined in any administrative or judicial proceeding about the existence or contents of a reportable disease report or other information received by the state or local public health authority in the course of an investigation of a reportable disease or disease outbreak. *Id.*, at (1)(b).

However, state and local health officials may release reportable disease information as required for the administration or enforcement of public health laws. The necessity of filing an isolation or quarantine petition would fall within this exception to the confidentiality provisions. In addition, ORS 433.008 provides that state or local health officials may release information without an individual's consent under certain circumstances:

(2) The [Oregon Health Authority] or a local public health administrator may release information obtained during an investigation of a reportable disease or disease outbreak to:

(a) State, local or federal agencies authorized to receive the information under state or federal law;

(b) Health care providers if necessary for the evaluation or treatment of a reportable disease;

(c) Law enforcement officials to the extent necessary to carry out the authority granted to the Public Health Director and local public health administrators under ORS 433.121, 433.128, 433.131, 433.138 and 433.142;

(d) A person who may have been exposed to a communicable disease;

(e) A person with information necessary to assist the authority or local public health administrator in identifying an individual who may have been exposed to a communicable disease; and

(f) The individual who is the subject of the information or the legal representative of that individual.

(3) The authority or local public health administrator may release individually identifiable information under subsection (2)(d) or (e) of this section only if there is clear and convincing evidence that the release is necessary to avoid an immediate danger to other individuals or to the public.

(4) The authority or local public health administrator may release only the minimum amount of information necessary to carry out the purpose of the release pursuant to subsection (2) of this section.

SECTION 11.00 PRIMER ON COMMUNICABLE DISEASES

Summary

Communicable diseases are those caused by organisms (bacteria, viruses, fungi, parasites) that can be contracted from other humans, animals, arthropods,³⁴ or the environment. Following exposure to the organism, disease occurs after a variable period of time known as the “incubation period.” The period of time during which a person is “shedding” the organism and therefore capable of passing the infection to others is known as the “period of communicability” or the “contagious” period. The contagious period may occur before, during and after the onset of illness, and it may overlap with the incubation period so that a person exposed to a disease may be capable of transmitting the infection even before he or she becomes ill.

Infectious organisms may be transmitted by a variety of routes, depending on the organism and the part of the body infected: (1) By consuming contaminated food or water; (2) Through insect or arachnid bites;³⁵ (3) Through contaminated inanimate objects (e.g., doorknobs, blankets); or (4) Directly from one person to another by various methods (e.g. handshakes, exchange of bodily fluids). ***The most contagious illnesses are spread from person to person via contaminated respiratory droplets, (the “airborne” route) microscopic infectious particles that remain suspended in the air for long periods of time, the mere inhalation of which can lead to illness.*** A person with a disease that is spread through airborne transmission is capable of infecting dozens of other persons. Diseases transmitted through the airborne route are measles, chickenpox, tuberculosis, and the pneumonic form of plague. Some diseases – like smallpox and Severe Acute Respiratory Syndrome (SARS) are usually transmitted through respiratory droplets, but in some cases can also be transmitted through the airborne route.

Isolation of persons with communicable diseases that can be spread from person to person is generally called for during the period of communicability. *Quarantine* — the segregation of well persons who have merely been exposed to communicable diseases — is not done routinely. However, quarantine might be appropriate if the illness is particularly dire, contagious before symptoms begin, and not controllable by other means like vaccine or antibiotics (e.g., a case of influenza caused by a new and virulent strain).

³⁴ Arthropods are the largest phylum of animals and include the insects, arachnids, crustaceans, and others. Arthropods are characterized by the possession of a segmented body with appendages on each segment. They have a dorsal heart and a ventral nervous system.

³⁵ Insects or arachnids may transmit disease in ways other than bites, but bites are the most common form of transmission.

11.10 Tuberculosis³⁶

TB is a disease caused by bacteria called *Mycobacterium tuberculosis*. The bacteria usually attack the lungs, but TB bacteria can attack any part of the body such as the kidney, spine, and brain. If not treated properly, TB disease can be fatal. TB disease was once the leading cause of death in the United States.

TB is a reportable disease under state law. ORS 433.004; OAR 333-019-0015(4)(c).

11.10a How TB is spread

TB is spread through the air from one person to another. The bacteria are put into the air when a person with active TB disease of the lungs or throat coughs or sneezes. People nearby may breathe in these bacteria and become infected. When a person breathes in TB bacteria, the bacteria can settle in the lungs and begin to grow. From there, they can move through the blood to other parts of the body, such as the kidney, spine, and brain. TB in the lungs or throat can be infectious. This means that the bacteria can be spread to other people. TB in other parts of the body, such as the kidney or spine, is usually not infectious.

People with active TB disease are most likely to spread it to people they spend time with every day. This includes family members, friends, and coworkers.

11.10b Latent TB infection

Not everyone infected with TB bacteria becomes sick. People who are not sick have what is called latent TB infection. People who have latent TB infection do not feel sick, do not have any symptoms, and cannot spread TB to others. However, some people with latent TB infection go on to get TB disease.

For most people who breathe in TB bacteria and become infected, their immune system is able to fight the bacteria to stop them from growing. The bacteria become inactive, but they remain alive in the body and can become active later. This is called latent TB infection. People with latent TB infection:

- ◆ Have no symptoms
- ◆ Do not feel sick
- ◆ Cannot spread TB to others
- ◆ Usually have a positive skin test reaction or QuantiFERON-TB Gold test (QFT-G)
- ◆ May develop active TB disease if they do not receive treatment for latent TB infection

³⁶ Much of the information about TB was taken from the Centers for Disease Control and Prevention, Division of Tuberculosis Elimination, website: <http://www.cdc.gov/tb>, and the Public Health Division, TB Program website: <http://www.oregon.gov/DHS/ph/tb/index.shtml>.

Many people who have latent TB infection never develop active TB disease. In these people, the TB bacteria remain inactive for a lifetime without causing disease. But in other people, especially people who have weak immune systems, the bacteria become active and cause TB disease.

11.10c Active TB disease

TB bacteria become active if the immune system cannot stop them from growing. The active bacteria begin to multiply in the body and cause active TB disease. The bacteria attack the body and destroy tissue. If this occurs in the lungs, the bacteria can actually create a hole in the lung. Some people develop active TB disease soon after becoming infected, before their immune system can fight the TB bacteria. Other people may get sick later, when their immune system becomes weak for another reason.

Babies and young children often have weak immune systems. People infected with HIV, the virus that causes AIDS, have very weak immune systems. Other people can have weak immune systems, too, especially people with any of these conditions:

- ◆ Substance abuse
- ◆ Diabetes mellitus
- ◆ Silicosis
- ◆ Cancer of the head or neck
- ◆ Leukemia or Hodgkin's disease
- ◆ Severe kidney disease
- ◆ Low body weight
- ◆ Certain medical treatments (such as corticosteroid treatment or organ transplants)
- ◆ Specialized treatment for rheumatoid arthritis or Crohn's disease

Symptoms of TB depend on where in the body the TB bacteria are growing. TB bacteria usually grow in the lungs. TB in the lungs may cause symptoms such as

- ◆ A bad cough that lasts 3 weeks or longer
- ◆ Pain in the chest
- ◆ Coughing up blood or sputum (phlegm from deep inside the lungs)

Other symptoms of active TB disease are

- ◆ Weakness or fatigue
- ◆ Weight loss
- ◆ No appetite
- ◆ Chills
- ◆ Fever
- ◆ Sweating at night

11.10d TB Diagnosis

A positive tuberculin skin test or QuantiFERON-TB test only tells that a person has been infected with TB germs. It does not tell whether or not the person has progressed to TB disease. Other tests, such as a chest x-ray and a sample of sputum, are needed to see whether the person has TB disease.

11.10e TB Treatment

TB disease can be cured by taking several drugs for 6 to 12 months. It is very important that people who have TB disease finish the medicine, and take the drugs exactly as prescribed. If they stop taking the drugs too soon, they can become sick again; if they do not take the drugs correctly, the germs that are still alive may become resistant to those drugs. TB that is resistant to drugs is harder and more expensive to treat.

The initial recommended treatment for TB disease includes 4 medications taken simultaneously:

- ◆ Isoniazid (INH)
- ◆ Rifampin (RIF)
- ◆ Pyrazinamide (PZA)
- ◆ Ethambutol (EMB) or streptomycin (SM)

Directly observed therapy (DOT) is the preferred method of ensuring that patients adhere to therapy. DOT means that a health care worker or another designated person watches the patient swallow each dose of TB medication. DOT can significantly reduce the frequency of the development of drug resistance and of treatment failure or relapse after the end of treatment.

11.10f Drug resistant TB

Multidrug-resistant tuberculosis (MDR TB) is TB that is resistant to at least two of the best anti-TB drugs, isoniazid and rifampin. These drugs are considered first-line drugs and are used to treat all persons with TB disease.

Extensively drug resistant TB (XDR TB) is a relatively rare type of MDR TB. XDR TB is defined as TB which is resistant to isoniazid and rifampin, plus resistant to any fluoroquinolone and at least one of three injectable second-line drugs (i.e., amikacin, kanamycin, or capreomycin). Because XDR TB is resistant to first-line and secondline drugs, patients are left with treatment options that are much less effective. XDR TB is of special concern for persons with HIV infection or other conditions that can weaken the immune system. These persons are more likely to develop TB disease once they are infected, and also have a higher risk of death once they develop TB.

11.10g Voluntary Treatment of TB

People with active TB are generally treated on a voluntary basis. Directly observed therapy (*see* section 11.10e) is used with all patients. A home isolation agreement may be used to ensure that a patient stays home to prevent others from becoming infected. Incentives may also be used to ensure compliance with the treatment regime such as paying for a hotel room, arranging for food to be brought to the person's residence, and transportation to medical appointments. However, not all people are compliant with the treatment regime which puts others at risk of getting TB, and increases the chances of MDR TB or XDR TB.

11.20 SARS³⁷

SARS, or severe acute respiratory syndrome, was first reported in Asia in February 2003. Over the next few months, the illness spread to more than two dozen countries in North America, South America, Europe, and Asia before the SARS global outbreak of 2003 was contained. A total of 8,098 people worldwide became sick, and 774 died. SARS begins with a high fever, and other symptoms may include headache, overall feeling of discomfort, and body aches. Most patients develop pneumonia. SARS spreads by close person-to-person contact, most probably through respiratory droplets produced when an infected person coughs or sneezes.

When SARS was recognized in Toronto, many measures were used to contain the spread of the disease, most of them voluntary. Sick people that did not need hospitalization were asked to remain home and avoid contact with others until 10 days after resolution of the fever. People who had been exposed to a person with SARS were also asked to remain home for a period of time to see if they contracted the disease. In total, perhaps as many as 20,000 people were isolated. Mass gatherings were cancelled, schools were closed, and travel advisories were issued. However, not everyone was cooperative, and approximately 30 quarantine orders were issued.

The SARS epidemic illustrates that while voluntary measures work, and are the first option, with a highly contagious disease, mechanisms must be in place for the issuance of court orders for quarantine or isolation, if they are needed.

³⁷ Much of the information in this section was taken from the CDC website, www.cdc.gov/ncidod/sars/index.htm.

SECTION 12.00 INFECTION CONTROL

ORS 433.123(7) contemplates that it may not be safe for a person who is the subject of an isolation or quarantine petition to personally appear in court. In such cases, the court hearing may be conducted by the respondent's legal counsel, and the respondent may participate by other means, such as telephonic participation, or video conference.

However, if, for some reason, an infectious person or person suspected to be infectious is in the courtroom or courthouse, there are standard precautions that can be taken:

- Stay more than 3 feet from the infectious person
- Hand Hygiene (handwashing):
 - Wet your hands with clean running water and apply soap. Use warm water if it is available.
 - Rub hands together to make a lather and scrub all surfaces.
 - Continue rubbing hands for 20 seconds.
 - Rinse hands well under running water.
 - Dry your hands using a paper towel or air dryer. If possible, use your paper towel to turn off the faucet.
 - If soap and water are not available, use alcohol-based gel to clean hands.
 - When using an alcohol-based hand sanitizer:
 - Apply product to the palm of one hand.
 - Rub hands together.
 - Rub the product over all surfaces of hands and fingers until hands are dry.
- Avoid touching face
- Respiratory Protection: A personal protective device worn on the face that covers at least the nose and mouth and is used to reduce the wearer's risk of inhaling hazardous airborne particles. *See table for types of diseases where respiratory protection would be indicated.*
 - Surgical masks do not effectively filter small particles from the air but are recommended by the Centers for Disease Control for illnesses spread over short distances by respiratory droplets.
 - "N95" respirators are a common type of inexpensive, disposable particulate respirators and they should be "fit tested" in order to operate properly.
 - Powered air-purifying respirators (PAPR) prevent exposure to airborne pathogens by providing a clean air supply to the wearer through a battery powered filter.
- Gloves and gowns
 - Staff in the same room as an infectious person may need to wear gloves and a gown.
 - Any equipment or furniture used by the infectious person should be wiped down with disinfectant following its use.

- Wash hands after taking off gloves.

The table below contains additional information about certain diseases, how they are spread, and what administrative, environmental, and personal measures can be taken to control the spread of disease.

Courtroom Infection Control

Disease, Suspected or Proven	How it is spread	Reduce spread	Treatment if exposed	Personal Protective Equipment
Measles	Airborne, potentially over long distances	Isolation	Vaccination within 72 hours of exposure	Respirator (fit-tested N-95 mask or powered air purifying respirator) those in close contact; regular surgical mask for patient
SARS	Respiratory droplets; within 3 feet of patient	Isolation	None	Surgical mask for patient and those in close contact
Novel Influenza, suspect pandemic influenza	Respiratory droplets; within 3 feet of patient	Isolation	For people at increased risk of complications from flu, antiviral prophylaxis may be indicated	Surgical mask for patient and those in close contact
Contagious pulmonary or laryngeal tuberculosis	Airborne spread from patient cough, potentially over distances > 3 feet and for hours after patient has left the area	Isolation	Seek medical advice and treatment	Respirator (fit-tested N-95 mask or powered air purifying respirator) for those in close contact; surgical mask for patient

**SECTION 13.00
CASE STUDY**

Summary

What follows is an example of a standard petition that could get filed with an Oregon court, based on a hypothetical fact pattern, along with a supporting affidavit and a court order.

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

Multnomah County Public Health)	
Administrator,)	
	)	Case No. _____
Petitioner,)	
	)	PETITION FOR ISOLATION,
v.	)	REQUEST FOR HEARING, AND
	)	REQUEST FOR APPOINTMENT
Jane Doe,	)	OF COUNSEL
)	
Respondent.)	
_____)	

1. Pursuant to ORS 433.123, the Local County Health Administrator (LPHA) has the authority to petition the court to isolate or quarantine a person that poses a public health threat. This petition is supported by the attached affidavit of Dr. Smith.
2. The Respondent, Jane Doe, has been diagnosed with active tuberculosis (TB). This disease is a respiratory illness. It is transmitted when an infectious person expels airborne droplets that are inhaled into the lungs of an exposed person. TB is a communicable disease and a reportable disease under Oregon law. ORS 433.004; OAR 333-018-0015.
3. Reasonable efforts were made to obtain voluntary compliance but Ms. Doe has been uncooperative.
4. Isolation is necessary because Ms. Doe has a communicable disease, must undergo six to nine months of treatment, has been uncooperative with treatment and if not treated will spread the disease to others.
5. The respondent's isolation should begin upon entry of an order by this court.

6. The isolation premises will be a local hotel and confinement will be in accordance with the conditions and principles in ORS 433.128.

7. Respondent should be isolated for 180 days. TB is spread by airborne transmission and while Ms. Doe may become noninfectious within 180 days, if she stops treatment her disease will recur. Ms. Doe requires at least six months of treatment and in order for that treatment to be effective, it must continue unabated.

8. Petitioner requests that the court order that the Respondent:

a. Be isolated for 180 days;

b. Be required to comply with treatment protocols, including directly observed therapy, and taking daily doses of prescribed medication;

c. Submit to appropriate laboratory tests on a weekly basis or as otherwise deemed appropriate by a treating physician; and

d. Cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician.

9. The respondent has the right to be represented by counsel and petitioner requests that in the interest of time, counsel be appointed for the respondent. ORS 433.466.

10. Respondent will be served with this petition and a notice explaining the respondent's legal rights, including right to counsel, in accordance with ORS 433.126.

Therefore, petitioner requests that the court hold a hearing within 72 hours, exclusive of Saturdays, Sundays, and legal holidays, in accordance with ORS 433.123(6), appoint counsel for respondent, and order the respondent to comply with the terms listed in paragraph 8 above.

DATED this ____ day of _____, ____.

Respectfully submitted,

Counsel for the LPHA

isolation will not be necessary. Masks worn over the mouth are not an option because they do not effectively capture the infectious droplets. In addition, masks are uncomfortable and our experience is that people cannot be depended on to wear them. Infectiousness is determined by sputum smear examinations that look at the bacteria count. As is explained below, because of Ms. Doe's behavior, isolation is the only option available at this time, if the public's health is to be protected.

6. Ms. Doe's treatment was initiated at the local hospital and was continued at the local public health department at no cost to her. In addition, as Ms. Doe was homeless, two months of housing were arranged for her. Directly observed therapy was used with Ms. Doe, which means a public health nurse would observe Ms. Doe take her medication most days of the week. Ms. Doe, who suffers from an addiction to methamphetamine, had a relapse after one month of treatment. For a few weeks, Ms. Doe could not be found. When she finally was found, she agreed to a period of drug treatment, and complied with TB treatment for approximately four months. In June, Ms. Doe stopped TB treatment, dropped out of drug treatment, and could not be located.

In August, Ms. Doe was admitted to a local hospital because she was coughing up blood as a result of her TB. She again agreed to comply with treatment recommendations. Because she had started and stopped treatment, she had become resistant to two of the first line TB drugs. Ms. Doe complied with treatment recommendations for three months and her TB disease was under control, when she again relapsed, started taking methamphetamine, and wound up in jail with a drug offense. Ms. Doe had been in jail for three weeks when she was transported from jail to the hospital because of fever, weakness, and coughing. I was again notified of her condition, and measures were taken to ensure she would not infect anyone at the jail. A public health nurse visited her in jail and she was started on medication again.

Ms. Doe is scheduled to be released from jail on February 1st. Given her history of non-compliance and drug relapse, I believe that an isolation order is necessary to ensure an entire course of treatment is completed. Ms. Doe has likely infected numerous people during the time periods she discontinued treatment and relapsed.

7. Ms. Doe will be housed at a local hotel that has an agreement with the county to accept people with TB and the configuration of the room is such that she cannot infect others while at the hotel. The state will ensure that security is posted outside the room to prevent Ms. Doe from leaving. County public health staff will monitor Ms. Doe's health and ensure she is taking her medication. County staff will also arrange for food and ensure that other daily living essentials are provided. Ms. Doe has not expressed any cultural or religious beliefs that need to be met.

8. Ms. Doe should be confined for up to 180 days. She is resistant to at least two of the first line TB drugs which means her treatment will last longer, and it is not known how long it will be until she is non-infectious. Even if she becomes non-infectious, if she stops treatment the disease is likely to recur, she will become infectious again, and treatment will

have to be started over. Given her history, there is simply no other option at this point but to isolate Ms. Doe and ensure that she complies with the necessary treatment regime.

9. Ms. Doe will need to take at least four medications every day for the first few months, and continue with some of these medications for six to nine months. She will be subject to directly observed therapy, and weekly testing will occur for the first few months to determine whether she is infectious. In addition, she will need to be monitored for side effects of the medication.

DATED this ____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

Multnomah County Public Health)
 Administrator,)
)
 Petitioner,)
)
)
 v.)
)
 Jane Doe,)
)
 Respondent.)
 _____)

Case No. _____

ORDER GRANTING PETITION
FOR ISOLATION

Having reviewed the Petition, the Affidavit of Dr. Smith, and evidence and testimony provided at the hearing. The Court finds that there is clear and convincing evidence that isolation of the respondent, Jane Doe, is necessary to prevent a serious risk to the health and safety of others based on the following facts:

1. TB is a respiratory illness that is transmitted when an infectious person expels airborne droplets that are inhaled into the lungs of an exposed person. These droplets can stay in the air for several hours, depending on the environment. TB disease can be cured by taking several drugs for 6 to 12 months. If TB treatment is not completed a person can become sick again; if a person does not take the drugs correctly, the germs that are still alive may become resistant to those drugs. TB that is resistant to drugs is harder and more expensive to treat.

2. A person with active TB must be isolated from others to prevent the disease from spreading. Once a person is no longer infectious, while treatment will continue, isolation will not be necessary. For active TB patients, isolation is the only method that will ensure others are not infected.

3. Ms. Doe was diagnosed with TB approximately a year ago. She has, at varying points, been extremely ill with the disease. Ms. Doe suffers from drug addiction and because of this has started and stopped TB treatment at least three times. She is currently in jail as a result of her drug addiction.

4. Local public health officials have offered no cost treatment, drug treatment, and housing in order to encourage Ms. Doe to complete treatment. These measures have failed and there is no reason to believe Ms. Doe will comply with the TB treatment regime for the next six to nine months once she is out of jail.

5. Isolation for at least 180 days is necessary because TB is spread through airborne transmission and while it can be rendered noninfectious within 60 days, it can recur after 60 days. Ms. Doe is resistant to at least two of the first line TB drugs which means her treatment will last longer, and it is not known how long it will be until she is non-infectious. Even when she becomes non-infectious, if she stops treatment the disease is likely to recur, she will become infectious again, and treatment will have to be started over. Isolation for this period is the least restrictive alternative given the voluntary measures that have been attempted.

6. Ms. Doe will need to take at least four medications every day for the first few months, and continue with some of these medications for six to nine months. She will be subject to directly observed therapy, and weekly testing will occur for the first few months to determine whether she is infectious. In addition, she will need to be monitored for side effects of the medication.

Therefore, the court ORDERS THAT the respondent:

1. Be confined for a period not to exceed 180 days;
2. Be required to comply with treatment protocols, including directly observed therapy and daily medication;
3. Submit to appropriate laboratory tests on a weekly basis or as otherwise deemed appropriate by the respondent's treating physician; and
4. Cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by her treating physician.

The petitioner shall ensure the respondent is provided with a copy of this order.

The sheriff's office shall assist in detaining the respondent in accordance with ORS 433.156 as necessary.

Failure to obey this order shall subject the respondent to contempt proceedings under ORS 33.015 to 33.155.

DATED this ____ day of _____, _____.

Circuit Court Judge

SECTION 14.00 PUBLIC HEALTH LAW

14.10 Public Health Law

Police power gives the government the right to protect the public's safety, health and morals by restraining and regulating the use of liberty and property. *See Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996). To justify using police power, a state must be acting in the public's interest in general (as opposed to a particular class of people) and be using means that are reasonably necessary to accomplish its goal and are not unduly oppressive. *See Lawton v. Steele*, 152 U.S. 133, 137 (1894).

The seminal case upholding the exercise of police power to protect the public's health is *Jacobson v. Massachusetts*, 197 U.S. 11 (1905). In that case, the United States Supreme Court reviewed a Massachusetts law requiring smallpox vaccinations. The Court found that

The authority of the State to enact this statute is to be referred to what is commonly called the police power -- a power which the State did not surrender when becoming a member of the Union under the Constitution. Although this court has refrained from any attempt to define the limits of that power, yet it has distinctly recognized the authority of a State to enact quarantine laws and "health laws of every description;" indeed, all laws that relate to matters completely within its territory and which do not by their necessary operation affect the people of other States. According to settled principles the police power of a State must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety. *Gibbons v. Ogden*, 9 Wheat. 1, 203; *Railroad Company v. Husen*, 95 U.S. 465, 470; *Beer Company v. Massachusetts*, 97 U.S. 25; *New Orleans Gas Co. v. Louisiana Light Co.*, 115 U.S. 650, 661; *Lawton v. Steele*, 152 U.S. 133.

* * *

The defendant insists that his liberty is invaded when the State subjects him to fine or imprisonment for neglecting or refusing to submit to vaccination; that a compulsory vaccination law is unreasonable, arbitrary and oppressive, and, therefore, hostile to the inherent right of every freeman to care for his own body and health in such way as to him seems best; and that the execution of such a law against one who objects to vaccination, no matter for what reason, is nothing short of an assault upon his person. But the liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis organized society could not exist with safety to its members. Society

based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy. Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own, whether in respect of his person or his property, regardless of the injury that may be done to others. This court has more than once recognized it as a fundamental principle that "persons and property are subjected to all kinds of restraints and burdens, in order to secure the general comfort, health, and prosperity of the State; of the perfect right of the legislature to do which no question ever was, or upon acknowledged general principles ever can be made, so far as natural persons are concerned." *Railroad Co. v. Husen*, 95 U.S. 465, 471; *Missouri, Kansas & Texas Ry. Co. v. Haber*, 169 U.S. 613, 628, 629; *Thorpe v. Rutland & Burlington R.R.*, 27 Vermont, 140, 148. In *Crowley v. Christensen*, 137 U.S. 86, 89, we said: "The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law."

Id., at 24-27

In *Compagnie Francaise de Navigation a Vapeur v. State Bd. Of Health*, 186 U.S. 380, 387 (1902), the Supreme Court recognized the well-established principle that States have the authority to enact public health laws, including those involving quarantine. "[U]ntil Congress has exercised its power on the subject, such state quarantine laws and state laws for the purpose of preventing, eradicating, or controlling the spread of contagious or infectious diseases, are not repugnant to the Constitution of the United States . . .". See also *Gibbons v. Ogden*, 22 US 1 (1824)(state authority to compel isolation and quarantine derives from the police power).

The right of a government to seek to isolate or quarantine an individual in order to protect the public's health is clear. How that isolation or quarantine takes place and the due process considerations required, vary among the states. However, in drafting Oregon's new law, care was taken to balance the need to protect the public's health against the individual's right to liberty. See *Greene v. Edward*, 263 SE 2d 661 (1980)(persons with infectious disease are entitled to the same procedural safeguards as persons with mental illness).

14.20 Oregon Case Law

There is a dearth of case law in Oregon concerning public health law, however the Oregon Supreme Court did rule on the constitutionality of a City of Bend ordinance to fluoridate the water. *Baer v. City of Bend*, 206 Ore. 221; 292 P.2d 134 (1956). The ordinance was challenged on a number of grounds, but the central argument was that the measure was a violation of the due process clause of the Fourteenth Amendment and would

encroach on the First Amendment freedom of religion. *Id.*, at 223. The City's ordinance required the introduction of fluoride into the community drinking water system when needed to reduce tooth decay among children. *Id.* The record reflected that there was no benefit to adults from the fluoridation but neither was there evidence that it was harmful to anyone. *Id.* The Court recognized that the city ordinance was a valid exercise of police power: "'According to settled principles the police power of a State must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and public safety.'" *Jacobson v. Massachusetts*, 197 US 11, 25, 49 L.Ed. 643, 25 S.Ct. 358. *See also, State v. Muller*, 48 Or. 252, 255, 85 P. 855, 120 Am St. Rep. 805, aff. 208 U.S. 412, 52 L.Ed. 551, 28 S.Ct. 324 (other citations omitted).

In addressing the constitutional issues, the court found that:

[Constitutional liberties] are not held absolutely but only subject to reasonable restraint imposed for the general welfare. * * * It cannot be successfully contended that the exercise of the police power for the protection of public health -- is restricted to situations of overriding public necessity or emergency of infectious or contagious disease, for, as the Supreme Court of Ohio said in *Kraus v. City of Cleveland*, [163 Ohio St. 559, 562, 127 N.E.2d 609], "laws relating to child labor, [and] minimum wages for women and minors * * * have all been upheld on the basis of the police power in relation to public health. Regulations relating to the control of venereal disease, blood tests for marriage licenses, * * * pasteurization of milk, chlorination of water and vaccination have all been upheld valid based on police power exercised in regard to public health."

Id., at 227 to 229. The court concluded that the City's ordinance was a valid exercise of police power and that "it was adopted for the accomplishment of an end, concededly legitimate, by means which it would be extravagant to pronounce unreasonable or arbitrary." *Id.*, at 236.

There are a number of Oregon Attorney General opinions that address the breadth and limitations of the state's public health powers. In 1953, the Attorney General recognized the authority of the state board of health to confine a person to a hospital when that action is necessary to protect the public's health. 26 Op. Atty Gen. Ore 78 (March 6, 1953). In 1960, the Attorney General opined that the state could not compel a patient to accept a particular mode of treatment, even if the person was confined in a state tuberculosis hospital, as long as the person was capable of making their own health care decisions. 30 Op. Atty Gen. Ore. 58 (September 6, 1960). *See also* 40 Op. Atty Gen. Ore. 180 (December 19, 1979)(a patient, fully competent, can claim a qualified right to refuse treatment on constitutional grounds where there is no danger to public health, welfare, or morals); ORS 127.507 (Capable adults may make their own health care decisions).

SECTION 15.00
APPLICABLE STATE LAW

Isolation and Quarantine Laws

433.121 Emergency administrative order for isolation or quarantine; contents; ex parte court order. (1) The Public Health Director or a local public health administrator may issue an emergency administrative order causing a person or group of persons to be placed in isolation or quarantine if the Public Health Director or the local public health administrator has probable cause to believe that a person or group of persons requires immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of the petition process set out in ORS 433.123. An administrative order issued under this section must:

- (a) Identify the person or group of persons subject to isolation or quarantine;
- (b) Identify the premises where isolation or quarantine will take place, if known;
- (c)(A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine, and inspection and closure of facilities; or
(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;
- (d) Describe the suspected communicable disease or toxic substance, if known, that is the basis for the issuance of the emergency administrative order and the anticipated duration of isolation or quarantine based on the suspected communicable disease or toxic substance;
- (e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;
- (f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator 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;
- (g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a risk to the health and safety of others;
- (h) Establish the time and date at which the isolation or quarantine commences; and
- (i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

(2) In lieu of issuing an emergency administrative order under subsection (1) of this section, the Public Health Director or a local public health administrator may petition the court for a written ex parte order. The petition to the court and the court's order must include the information described in subsection (1) of this section.

(3) Within 12 hours of the issuance of an order under subsection (1) or (2) of this section, the person or group of persons detained or sought for detention must be personally served with the written notice required by ORS 433.126 and with a copy of any order issued under subsection (1) or (2) of this section. If copies of the notice and order cannot be personally

served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the notice and order in a conspicuous place where the notice and order can be viewed by those detained or may find other means to meaningfully communicate the information in the notice and order to those detained.

(4) A person or group of persons detained pursuant to an order issued under subsection (1) or (2) of this section may not be detained for longer than 72 hours unless a petition is filed under ORS 433.123.

(5) If the detention of a person or group of persons for longer than 72 hours is deemed necessary, immediately following the issuance of an order under subsection (1) or (2) of this section, the Public Health Director or the local public health administrator must petition the court in accordance with ORS 433.123.

(6) A person or group of persons detained under subsection (1) or (2) of this section has the right to be represented by legal counsel in accordance with ORS 433.466. [2007 c.445 §8]

433.123 Petition for court order for isolation or quarantine; contents; hearing on petition; contents of order; duration of isolation or quarantine. (1) The Public Health Director or a local public health administrator may petition the court for an order authorizing:

(a) The isolation or quarantine of a person or group of persons; or
(b) The continued isolation or quarantine of a person or group of persons detained under ORS 433.121.

(2) A petition filed under subsections (1) and (9) of this section must:

(a) Identify the person or group of persons subject to isolation or quarantine;
(b) Identify the premises where isolation or quarantine will take place, if known;
(c)(A) Describe the reasonable efforts made to obtain voluntary compliance with a request for an emergency public health action, including requests for testing or medical examination, treatment, counseling, vaccination, decontamination of persons or animals, isolation, quarantine and inspection and closure of facilities; or
(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;
(d) Describe the suspected communicable disease or toxic substance, if known, and the anticipated duration of isolation or quarantine based on the suspected communicable disease, infectious agent or toxic substance;

(e) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a communicable disease or toxic substance that could spread to or contaminate others if remedial action is not taken;

(f) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the person or group of persons would pose a serious risk to the health and safety of others if not detained for purposes of isolation or quarantine;

(g) Describe the medical basis for which isolation or quarantine is justified and explain why isolation or quarantine is the least restrictive means available to prevent a serious risk to the health and safety of others;

(h) Establish the time and date on which the isolation or quarantine commences; and

(i) Contain a statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

(3) The person or group of persons detained or sought for detention must be personally

served with a copy of the petition filed with the court under subsection (1) of this section and with the written notice required by ORS 433.126. If copies of the petition and notice cannot be personally served in a timely manner to a group of persons because the number of persons in the group makes personal service impracticable, the Public Health Director or the local public health administrator may post the petition and notice in a conspicuous place where the petition and notice can be viewed by those detained or may find other means to meaningfully communicate the information in the petition and notice to those detained.

(4) A person or group of persons subject to a petition filed under subsection (1) or (9) of this section has the right to be represented by legal counsel in accordance with ORS 433.466.

(5) The filing of a petition under subsection (1) of this section to continue isolation or quarantine for a person or group of persons detained under an emergency administrative order issued under ORS 433.121 extends the isolation or quarantine order until the court holds a hearing pursuant to subsection (6) of this section.

(6)(a) The court shall hold a hearing on a petition filed under subsection (1) of this section within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected persons.

(d) The provisions of ORS 40.230, 40.235 and 40.240 do not apply to a hearing held under this subsection. Any evidence presented at the hearing that would be privileged and not subject to disclosure except as required by this paragraph shall be disclosed only to the court, the parties and their legal counsel or persons authorized by the court and may not be disclosed to the public.

(7) If a person or group of persons who is the subject of a petition filed under subsection (1) or (9) of this section cannot personally appear before the court because personal appearance poses a risk of serious harm to others, the court proceeding may be conducted by legal counsel for the person or group of persons and be held at a location or via any means that allows all parties to fully participate.

(8) The court shall grant the petition if, by clear and convincing evidence, the court finds that isolation or quarantine is necessary to prevent a serious risk to the health and safety of others. In lieu of or in addition to isolation or quarantine, the court may order the imposition of other public health measures appropriate to the public health threat presented. The court order must:

(a) Specify the maximum duration for the isolation or quarantine, which may not exceed 60 days unless there is substantial medical evidence indicating that the condition that is the basis of the public health threat is spread by airborne transmission and cannot be rendered noninfectious within 60 days or may recur after 60 days, in which case the maximum duration of the isolation or quarantine may not exceed a period of 180 days;

(b) Identify the person or group of persons subject to the order by name or shared or similar characteristics or circumstances;

(c) Specify the factual findings warranting imposition of isolation, quarantine or another

public health measure;

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

(e) Be served on all affected persons or groups in accordance with subsection (3) of this section.

(9) Prior to the expiration of a court order issued under subsection (8) or (10) of this section, the Public Health Director or the local public health administrator may petition the court to continue isolation or quarantine. A petition filed under this subsection must comply with the requirements of subsections (2) to (8) of this section.

(10)(a) The court will hold a hearing on a petition filed under subsection (9) of this section within 72 hours of filing, exclusive of Saturdays, Sundays and legal holidays.

(b) In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days. The court may grant a continuance at its discretion, giving due regard to the rights of the affected persons, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) The hearing required under this subsection may be waived by consent of the affected parties.

(d) The court may continue the isolation or quarantine order if the court finds there is clear and convincing evidence that continued isolation or quarantine is necessary to prevent a serious threat to the health and safety of others. In lieu of or in addition to continued isolation or quarantine, the court may order the imposition of a public health measure appropriate to the public health threat presented.

(e) An order issued under this subsection must comply with the requirements of subsection (8) of this section.

(11) An order issued under subsection (10) of this section shall be for a period not to exceed 60 days and shall be served on all affected parties in accordance with subsection (3) of this section.

(12) In no case may a person or group of persons be in quarantine or isolation for longer than 180 days unless, following a hearing, a court finds that extraordinary circumstances exist and that the person or group of persons subject to isolation or quarantine continues to pose a serious threat to the health and safety of others if detention is not continued.

(13) Failure to obey a court order issued under this section shall subject the person in violation of the order to contempt proceedings under ORS 33.015 to 33.155. [2007 c.445 §9]

433.126 Notice to persons subject to order; rules. (1) The Public Health Director or the local public health administrator shall provide the person or group of persons detained or sought for detention under ORS 433.121 or 433.123 with a written notice informing the person or group of persons of:

(a) The right to legal counsel, including how to request and communicate with counsel;

(b) The right to petition the court for release from isolation or quarantine and the procedures for filing a petition;

(c) The conditions of and principles of isolation and quarantine specified in ORS 433.128;

(d) The right to petition the court for a remedy regarding a breach of the conditions of isolation or quarantine imposed on the person or group of persons and the procedures for filing a petition; and

(e) The sanctions that may be imposed for violating an order issued under ORS 433.121 or 433.123.

(2) The Public Health Director or the local public health administrator must ensure, to the extent practicable, that the person or group of persons receives the notice required under this section in a language and in a manner the person or group of persons can understand.

(3) The Public Health Director may adopt rules prescribing the form of notice required by this section. [2007 c.445 §10]

433.128 Conditions of and principles for isolation or quarantine; notice to manager of health care facility. When isolating or quarantining a person or group of persons in accordance with ORS 433.121 or 433.123, the Public Health Director or the local public health administrator shall adhere to the following conditions and principles:

(1) Isolation or quarantine must be by the least restrictive means necessary to prevent the spread of a communicable disease or possibly communicable disease to others or to limit exposure to or contamination with a toxic substance by others, and may include, but is not limited to, confinement to private homes or other public or private premises.

(2) Confinement may not be in a prison, jail or other facility where those charged with a crime or a violation of a municipal ordinance are incarcerated unless:

(a) The person or group of persons represents an immediate and serious physical threat to the staff or physical facilities of a hospital or other facility in which the person or group of persons has been confined; or

(b) A person has been found in contempt of court because of failure to obey a court order.

(3) Isolated persons must be confined separately from quarantined persons. If a facility is not capable of separating isolated persons from quarantined persons, either the isolated persons or the quarantined persons must be moved to a separate facility.

(4) The health status of an isolated or quarantined person must be monitored regularly to determine if the person requires continued isolation or quarantine.

(5) A quarantined person who subsequently becomes infected or is reasonably believed to have become infected with a communicable disease or possibly communicable disease that the Public Health Director or the local public health administrator believes poses a significant threat to the health and safety of other quarantined persons must be promptly placed in isolation.

(6) An isolated or quarantined person must be released as soon as practicable when the Public Health Director or local public health administrator determines that the person has been successfully decontaminated or that the person no longer poses a substantial risk of transmitting a communicable disease or possibly communicable disease that would constitute a serious or imminent threat to the health and safety of others.

(7) The needs of a person who is isolated or quarantined must be addressed to the greatest extent practicable in a systematic and competent fashion, including, but not limited to, providing adequate food, medication, competent medical care, clothing, shelter and means of communication with other persons who are in isolation or quarantine and persons who are not under isolation or quarantine.

(8) Premises used for isolation or quarantine must, to the extent practicable, be maintained in a safe and hygienic manner to lessen the likelihood of further transmission of a communicable disease or possibly communicable disease or of further harm to persons who are isolated and quarantined.

(9) Cultural and religious beliefs should be considered to the extent practicable in

addressing the needs of persons who are isolated or quarantined and in establishing and maintaining premises used for isolation or quarantine.

(10)(a) Isolation or quarantine shall not abridge the right of any person to rely exclusively on spiritual means to treat a communicable disease or possibly communicable disease in accordance with religious or other spiritual tenets and practices.

(b) Nothing in ORS 433.126 to 433.138, 433.142 and 433.466 prohibits a person who relies exclusively on spiritual means to treat a communicable disease or possibly communicable disease and who is infected with a communicable disease or has been exposed to a toxic substance from being isolated or quarantined in a private place of the person's own choice, provided the private place is approved by the Public Health Director or the local health administrator and the person who is isolated or quarantined complies with all laws, rules and regulations governing control, sanitation, isolation and quarantine.

(11) Prior to placing a person or group of persons subject to isolation or quarantine in a health care facility as defined in ORS 442.015, the Public Health Director or the local public health administrator must provide to the managers of the health care facility notice of the intention to seek authorization from the court to place a person or group of persons in isolation or quarantine in the facility and must consult with the managers of the health care facility regarding how to best meet the requirements of this section.

(12) The Public Health Director or local public health administrator shall provide adequate means of communication between a person or a group of persons who is isolated or quarantined and legal counsel for the person or group of persons. [2007 c.445 §12]

433.131 Entry into premises used for isolation or quarantine; rules. (1) Entry into premises used for isolation or quarantine shall be allowed under the following conditions:

(a) The Public Health Director or the local public health administrator may authorize physicians or other health care workers or other persons access to persons or groups of persons who are in isolation or quarantine pursuant to ORS 433.121 or 433.123 as necessary to meet the needs of isolated or quarantined persons;

(b) Only persons authorized by the Public Health Director or the local public health administrator may enter premises used for isolation or quarantine;

(c) An authorized person entering premises used for isolation or quarantine shall be provided with infection control training and may be required to wear personal protective equipment or to receive vaccinations as determined by the Public Health Director or the local public health administrator; and

(d) A person entering premises used for isolation or quarantine with or without authorization of the Public Health Director or the local public health administrator may become subject to isolation or quarantine.

(2) Persons subject to isolation or quarantine and other persons entering premises used for isolation or quarantine are subject to rules and orders adopted by the Public Health Director or the local public health administrator. Failure to comply with rules and orders adopted by the Public Health Director or the local public health administrator is a Class D violation.

(3) If a health care facility as defined in ORS 442.015 is used as a premises for isolation or quarantine, the Public Health Director or the local public health administrator must consult with the managers of the health care facility regarding how best to meet the requirements of this section.

(4) Nothing in this section prohibits a physician or other health care worker in a health care facility from having access to a person or a group of persons who is in isolation or

quarantine pursuant to ORS 433.121 or 433.123 if the infection control procedures and other precautions determined necessary by the Public Health Director are adhered to by the facility and the physician or other health care worker seeking access to the isolated or quarantined person. [2007 c.445 §13]

433.133 Court hearing and order for release from isolation or quarantine or for remedy for breach of required conditions of isolation or quarantine. (1)(a) Any person or group of persons who is isolated or quarantined pursuant to ORS 433.121 or 433.123 may apply to the court for an order to show cause why the individual or group should not be released.

(b) The court shall rule on the application to show cause within 48 hours of the filing of the application.

(c) The court must grant the application if there is a reasonable basis to support the allegations in the application, and the court shall schedule a hearing on the order requiring the Oregon Health Authority to appear and to show cause within five working days of the filing of the application.

(d) The issuance of an order to show cause and ordering the authority to appear and show cause does not stay or enjoin an isolation or quarantine order.

(2)(a) A person or group of persons who is isolated or quarantined may request a hearing in the court for remedies regarding breaches of the conditions of isolation or quarantine required by ORS 433.128.

(b) The court must hold a hearing if there is a reasonable basis to believe there has been a breach of the conditions of isolation or quarantine required by ORS 433.128.

(c) A request for a hearing shall not stay or enjoin an order for isolation or quarantine.

(d) Upon receipt of a request under this subsection alleging extraordinary circumstances justifying the immediate granting of relief, the court shall hold a hearing on the matters alleged as soon as practicable.

(e) If a hearing is not granted under paragraph (c) of this subsection, the court shall hold a hearing on the matters alleged within five days from receipt of the request.

(3) In any proceedings brought for relief under this section, in extraordinary circumstances and for good cause shown, or with consent of the petitioner or petitioners the Public Health Director or local public health administrator may move the court to extend the time for a hearing. The court in its discretion may grant the extension giving due regard to the rights of the affected persons, the protection of the public health, the severity of the emergency and the availability of necessary witnesses and evidence.

(4) If a person or group of persons who is detained cannot personally appear before the court because such an appearance poses a risk of serious harm to others, the court proceeding may be conducted by legal counsel for the person or group of persons and be held at a location or via any means that allows all parties to fully participate.

(5) If the court finds, by clear and convincing evidence, that a person or group of persons no longer poses a serious risk to the health and safety to others, the court may order the release of that person or group of persons from isolation or quarantine.

(6) If the court finds by clear and convincing evidence that a person or group of persons is not being held in accordance with the conditions of isolation or quarantine required by ORS 433.128, the court may order an appropriate remedy to ensure compliance with ORS 433.128. [2007 c.445 §14; 2009 c.595 §644]

433.136 Consolidation of proceedings regarding isolation or quarantine. Upon receiving multiple petitions under ORS 433.123, 433.133 or 433.142, to promote the fair and efficient operation of justice and having given due regard to the rights of affected persons, the severity of the threat to the public health, and the availability of necessary witnesses and evidence, a court may order the consolidation of the proceedings when:

- (1) The number of persons involved or to be affected is so large that individual participation is rendered impracticable;
- (2) There are questions of law or fact common to the individual petitions or rights to be determined;
- (3) The group petitioner rights to be determined are typical of the affected persons' petitions or rights; and
- (4) The entire group will be adequately represented in the consolidation. [2007 c.445 §15]

433.138 Assistance of law enforcement officials in enforcing orders. State and local law enforcement officials, to the extent resources are available, must assist the Public Health Director or the local public health administrator in enforcing orders issued under ORS 433.121, 433.123 and 433.142. [2007 c.445 §16]

433.140 Payment of isolation or quarantine expenses; assistance. (1) The expenses incurred under ORS 433.128, when properly certified by the local public health administrator, shall be paid by the person who is isolated or quarantined, when the person is able to pay the expenses.

(2) The Oregon Health Authority may provide general assistance, including medical care for the person who is isolated or quarantined, on the basis of need, provided that no payment shall be made for the care of any such person in or under the care of any public institution or public agency or municipality. [Amended by 1971 c.779 §64; 2007 c.445 §29; 2009 c.595 §645]

433.142 Petition for isolation of contaminated property; contents; hearing; court order. (1) As used in this section, "to isolate property" means to restrict access to property in a manner that reduces or prevents exposure to a toxic substance by persons.

(2) The Public Health Director or a local public health administrator may petition the court to isolate property if there is reason to believe the property is contaminated with a toxic substance that poses a serious risk to the health and safety of others.

(3) The petition must:

(a) Describe the property subject to isolation;

(b)(A) Describe the reasonable efforts made to obtain voluntary compliance from the owner or custodian of the property with public health measures necessary to isolate the property; or

(B) Explain why reasonable efforts to obtain voluntary compliance are not possible and why the pursuit of these efforts creates a risk of serious harm to others;

(c) Describe the suspected toxic substance and the health effects of exposure to the toxic substance;

(d) Provide information supporting the reasonable belief of the Public Health Director or the local public health administrator that the toxic substance could spread to or contaminate others if remedial action is not taken;

(e) Provide information supporting the reasonable belief of the Public Health Director or

the local public health administrator that the toxic substance poses a serious risk to the health and safety of others if the property is not isolated;

(f) Explain why isolation of the property is the least restrictive means available to prevent a serious risk to the health and safety of others; and

(g) Explain whether the property subject to isolation can be decontaminated or whether the property must be destroyed.

(4) The petition must be personally served on the owner or custodian of the property.

(5)(a) The court must hold a hearing within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.

(b) For good cause shown, or with consent of the affected owner or custodian of the property, the Public Health Director or the local public health administrator may apply to continue the hearing date for up to 10 days, which continuance the court may grant at its discretion giving due regard to the rights of the affected owner or custodian of the property, the protection of the public health, the severity of the public health threat and the availability of necessary witnesses and evidence.

(c) A hearing may be waived by the owner or custodian of the property.

(6) The court shall grant the petition if, by clear and convincing evidence, the court finds that isolation of property contaminated with a toxic substance is necessary to prevent a serious risk to the health and safety of others. An order authorizing isolation shall be in effect until the toxic substance no longer poses a serious risk to the health and safety of others.

(7) The court order must:

(a) Identify the property to be isolated;

(b) Specify factual findings warranting isolation, including a description of the toxic substance believed to be contaminating the property;

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

(d) Describe the remedial actions necessary to neutralize or remove the contamination.

[2007 c.445 §17]

433.466 Right to legal counsel by persons subject to public health measure. (1) A person or group of persons subject to isolation or quarantine or other public health measure pursuant to ORS 433.121 or 433.123 has the right to be represented by legal counsel if the person or group of persons so elects. If the person or group of persons requests legal counsel and cannot afford counsel, the court shall appoint legal counsel. If no request for legal counsel is made, the court must appoint legal counsel unless counsel is expressly, knowingly and intelligently refused by the person or the group of persons. The person or the group of persons may request legal counsel at any time during the period of imposition of the isolation, quarantine or other public health measure.

(2) If a person is unable to afford legal counsel, the public defense services executive director shall determine and pay, as provided in ORS 135.055, the reasonable expenses of the person and compensation for legal counsel appointed to represent the person. [2007 c.445 §11]

Other Public Health Laws

ORS 431.110 General powers of Oregon Health Authority.

ORS 431.262	Authority of Oregon Health Authority and local public health administrators to enforce public health laws; authorized actions; rules; penalties.
ORS 431.264	Authority of Public Health Director to take public health actions; authorized actions; rules.
ORS 433.004	Reportable diseases; duty to report; effect of failure to report; rules.
ORS 433.006	Investigation and control measures.
ORS 433.035	Testing or examination of persons with certain diseases or conditions; order for medication or treatment.
ORS 433.150	Quarantine hospital; seizure, control of and compensation for emergency hospital.
ORS 433.156	Enforcement of isolation or quarantine by law enforcement authorities.
ORS 433.216	Detaining conveyance for inspection or investigation.
ORS 433.220	Measures taken on discovery of disease or toxic substance; rules; jurisdiction over emergency.
ORS 433.255	Persons with or exposed to restrictable disease excluded from school or children's facility.
ORS 433.441	Proclamation of public health emergency
ORS 433.443	Authority of Public Health Director during public health emergency; penalties, access to and use of individually identifiable health information

**SECTION 16.00
FORMS**

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	PETITIONER'S MOTION FOR
	)	EX PARTE ORDER FOR
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____,)	
)	
Respondent.)	
_____)	

Petitioner, Local Public Health Administrator (LPHA) for _____ County, moves the court for an *ex parte* order [isolating/quarantining] the respondent in accordance with ORS 433.121(2), as the respondent poses a clear and immediate danger to others, and requests that the court appoint counsel for the respondent.

POINTS AND AUTHORITIES

In support of the foregoing Motion for Ex Parte Order for [Isolation/Quarantine], petitioner relies on the Emergency Petition for Ex Parte Order for [Isolation/Quarantine], Affidavit of _____, and ORS 431.110, 431.262 and 433.121.

DATED this ____ day of _____, _____.

Respectfully submitted,

*
Of Attorneys for _____ County

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
 FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	EMERGENCY PETITION FOR EX
	)	PARTE ORDER FOR
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____ ,)	
)	
Respondent.)	
_____))	

1. Pursuant to ORS 431.110, 431.262 and 433.121, the Local Public Health Administrator (LPHA) for _____ County, petitions the court for an ex parte order to [isolate/quarantine] the Respondent, _____, a person who poses a public health threat. This petition is supported by the Affidavit of _____, attached.

2. Petitioner has probable cause to believe that the Respondent [is suspected to be infected with _____/has been diagnosed with _____/is suspected to be contaminated with _____/has been exposed to _____]. This [disease/toxic substance] is [put in facts about what the disease or toxic substance is and the public health threat it presents.]

3. Immediate detention is required in order to avoid a clear and immediate danger to others and considerations of safety do not allow initiation of the petition process in ORS 433.123, because [fill in the facts that make this an emergency].

4. [Reasonable efforts were made to obtain voluntary compliance, including [put in facts, including any requests for testing, medical examination, treatment, etc/Reasonable efforts to obtain voluntary compliance were not possible and would have created a serious risk of serious harm to others because _____.]

5. [Isolation/quarantine] is necessary because [explain the medical justification and why it is the least restrictive means].

6. The Respondent's detention should begin upon entry of an order by this court.

7. The isolation/quarantine premises will be _____ [if known, if not, explain how you will figure it out] and confinement will be in accordance with the conditions and principles in ORS 433.128.

8. Petitioner requests that the court order that the Respondent:
- a. Be confined to _____;
 - b. Be required to comply with treatment protocols, including _____;
 - c. Submit to appropriate laboratory tests as deemed appropriate by a treating physician;
 - d. Cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and
 - e. Be appointed counsel.

DATED this ____ day of _____, _____.

Respectfully submitted,

*

Of Attorneys for _____ County

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

_____ County,)
)
 Petitioner,)
)
)
)
)
)
 v.)
)
)
 _____,)
)
 Respondent.)
 _____)

Case No. _____

AFFIDAVIT OF _____ IN
SUPPORT OF EMERGENCY
PETITION FOR EX PARTE
ORDER FOR
[ISOLATION/QUARANTINE]

STATE OF OREGON)
)
County of _____)

I, _____ being first duly sworn, depose and say:

1. I am the _____ [title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [Put in facts about how you first became aware of the Respondent, why you have reasonable cause to believe the respondent requires immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of the regular petition process]
4. [Explain what the communicable disease or toxic substance is that the respondent has, may have, or has been exposed to, why it poses a substantial public health threat, how you cure it and prevent its spread].
5. [Explain why isolation/quarantine is necessary to prevent a serious risk to the health and safety of others, or why other public health measures are appropriate to the public health threat presented].
6. [Explain the reasonable efforts made to obtain voluntary compliance, or why efforts to obtain voluntary compliance were not possible and why pursuit of these efforts creates a serious risk of harm to others].

7. [Explain the conditions of confinement, including:
 - a. Where confinement will occur or how a place for confinement will be found;
 - b. Who will monitor the respondent's medical condition and how often it will be monitored;
 - c. If the respondent is going to be confined with other people, how they will be protected from exposure or infection;
 - d. How the respondent's basic needs will be met (i.e. food, medication, etc.); and
 - e. How the respondent's cultural and religious beliefs will be met, if applicable.]

8. [Explain the length of confinement, why this amount of time is necessary, and why it is the least restrictive alternative, including whether you intend to file a petition to detain the respondent for a longer period of time].

DATED this ____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
)	
Petitioner,	)	Case No. _____
)	
	)	EX PARTE ORDER FOR
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____,)	
)	
Respondent.)	
_____)	

Having reviewed the Petitioner's Motion for ex parte [isolation/quarantine] order, Emergency Petition for Ex Parte Order, Affidavit of _____, and being fully advised,

THE COURT FINDS:

1. There is probable cause to believe that the respondent, _____, requires immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of a petition under ORS 433.123;
2. [insert information from paragraph 2 of affidavit (information about disease and the public health threat posed)];
3. [insert information from paragraph 3 of affidavit (information about why its an emergency)];
4. [insert information from paragraph 4 of affidavit (reasonable efforts or why no efforts made)];
5. [insert information from paragraph 5 of affidavit (why detention necessary, medical justification, and why it is the least restrictive means)];

6. [insert information from paragraph 8 (what and why treatment, exams, etc. will be needed during confinement)].

Therefore, the court ORDERS that:

1. Respondent shall be detained for a period not to exceed 72 hours at _____;
2. Respondent is required to comply with treatment protocols, including _____;
3. Respondent shall submit to appropriate laboratory tests as deemed appropriate by a treating physician;
4. Respondent shall cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and
5. The [Sheriff's office/State Police] shall assist in detaining the respondent in accordance with ORS 433.156 as necessary.

Failure to obey this order shall subject the respondent to contempt proceedings under ORS 33.015 to 33.155.

DATED this ____ day of _____, _____.

*

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

OR

I was unable to individually personally serve [describe the group of persons sought for detention] because [insert facts that made it impracticable] and therefore I [insert facts of how the documents were presented to the group, i.e. posting, etc].

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	PETITIONER'S MOTION FOR
	)	EX PARTE ORDER FOR GROUP
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____,)	
)	
Respondents.)	
_____)	

Petitioner, Local Public Health Administrator (LPHA) for _____ County, moves the court for an *ex parte* order [isolating/quarantining] the Respondents in accordance with ORS 433.121, as the respondents pose a clear and immediate danger to others, and requests that the court appoint counsel for the Respondents.

POINTS AND AUTHORITIES

In support of the foregoing Motion for an Ex Parte Order for [Isolation/Quarantine], petitioner relies on the Emergency Petition for Ex Parte Order for Group [Isolation/Quarantine], Affidavit of _____, and ORS 431.110, 431.262 and 433.121.

DATED this ____ day of _____, _____.

Respectfully submitted,

*
Of Attorneys for _____ County,

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	EMERGENCY PETITION FOR
	)	EX PARTE ORDER FOR GROUP
	)	[ISOLATION/QUARANTINE]
v.)	
_____,)	
)	
Respondents.)	
_____)	

1. Pursuant to ORS 431.110, 431.262 and 433.121, the Local Public Health Administrator (LPHA) for _____ County, petitions the court for an ex parte order [isolating/quarantining] the Respondents, _____, [if you know individual names, list them or perhaps include the list in an attachment, if you don't know, provide a description of the group, i.e., passengers aboard the cruise ship "Unlucky" docked/anchored at pier 1] a group of persons who pose a public health threat. This petition is supported by the attached affidavit of _____.

2. Petitioner has probable cause to believe that the Respondents, [are suspected to be infected with _____/have been diagnosed with _____/are suspected to be contaminated with _____/have been exposed to _____]. This [disease/toxic substance] is [put in facts about what the disease or toxic substance is and the public health threat it presents.]

3. Immediate detention is required in order to avoid a clear and immediate danger to others and considerations of safety do not allow initiation of the petition process in Oregon Laws 2007, chapter 445, section 8, because [fill in the facts that make this an emergency].

4. [Reasonable efforts were made to obtain voluntary compliance, including [put in facts, including any requests for testing, medical examination, treatment, etc/Reasonable efforts to obtain voluntary compliance were not possible and would have created a serious risk of serious harm to others because _____.]

5. [Isolation/quarantine] is necessary because [explain the medical justification and why it is the least restrictive means].

6. The respondent's detention should begin upon entry of an order by this court.

7. The Isolation/quarantine premises will be _____ [if known, if not, explain how you will figure it out] and confinement will be in accordance with the conditions and principles in ORS 433.128.

8. Petitioner requests that the court order that the respondents:

- a. Be confine to _____;
- b. Be required to comply with treatment protocols, including _____;
- c. Submit to appropriate laboratory tests as deemed appropriate by a treating physician;
- d. Cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and
- e. Be appointed counsel.

DATED this _____ day of _____, _____.

Respectfully submitted,

*

Of Attorneys for _____ County,

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	AFFIDAVIT OF _____ IN
v.	)	SUPPORT OF EMERGENCY
	)	PETITION FOR EX PARTE
	)	ORDER FOR GROUP
_____	)	[ISOLATION/QUARANTINE]
)	
Respondents.)	
_____)	

STATE OF OREGON)
)
County of _____)

I, _____ being first duly sworn, depose and say:

1. I am the _____ [title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [Put in facts about how you first became aware of the Respondents, why you have reasonable cause to believe the Respondents require immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of the regular petition process]
4. [Explain what the communicable disease or toxic substance is that the respondents have, may have, or have been exposed to, why it poses a substantial public health threat, how you cure it and prevent its spread].
5. [Explain why isolation/quarantine is necessary to prevent a serious risk to the health and safety of others, or why other public health measures are appropriate to the public health threat presented].
6. [Explain the reasonable efforts made to obtain voluntary compliance, or why efforts to obtain voluntary compliance were not possible and why pursuit of these efforts creates a serious risk of harm to others].
7. [Explain the conditions of confinement, including:
 - a. Where confinement will occur or how a place for confinement will be found;

- b. Who will monitor the Respondents' medical condition and how often it will be monitored;
- c. If the Respondents are going to be confined with other people, how they will be protected from exposure or infection;
- d. How the Respondents' basic needs will be met (i.e. food, medication, etc.); and
- e. How the Respondents' cultural and religious beliefs will be met, if applicable.]

8. [Explain the length of confinement, why this amount of time is necessary, and why it is the least restrictive alternative, including whether you intend to file a petition to detain the respondents for a longer period of time].

DATED this ____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	EX PARTE ORDER FOR GROUP
v.	)	[ISOLATION/QUARANTINE]
)	
_____,)	
)	
Respondents.)	
_____)	

Having reviewed the Petitioner's Motion for Ex Parte [isolation/quarantine] order, Emergency Petition for Ex Parte Order, and Affidavit of _____, and being fully advised,

THE COURT FINDS:

1. There is probable cause to believe that the Respondents, _____, require immediate detention in order to avoid a clear and immediate danger to others and that considerations of safety do not allow initiation of a petition under ORS 433.123;
2. [insert information from paragraph 2 of affidavit (information about disease and the public health threat posed)];
3. [insert information from paragraph 3 of affidavit (information about why its an emergency)];
4. [insert information from paragraph 4 of affidavit (reasonable efforts or why no efforts made)];
5. [insert information from paragraph 5 of affidavit (why detention necessary, medical justification, and why its the least restrictive means)];

6. [insert information from paragraph 8 (what and why treatment, exams, etc. will be needed during confinement)].

Therefore, the court ORDERS that:

1. Respondents shall be detained for a period not to exceed 72 hours, at _____;
2. Respondents are required to comply with treatment protocols, including _____;
3. Respondents shall submit to appropriate laboratory tests as deemed appropriate by a treating physician; and
4. Respondents shall cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and
5. The [Sheriff's Office/State Police] shall assist in detaining the Respondents in accordance with ORS 433.156 as necessary.

Failure to obey this order shall subject the Respondents to contempt proceedings under ORS 33.015 to 33.155.

DATED this ____ day of _____, _____.

*

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

OR

I was unable to individually personally serve [describe the group of persons sought for detention] because [insert facts that made it impracticable] and therefore I [insert facts of how the documents were presented to the group, i.e. posting, etc].

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	PETITION FOR
v.	)	[ISOLATION/QUARANTINE],
	)	REQUEST FOR HEARING, AND
_____ ,	)	REQUEST FOR APPOINTMENT
	)	OF COUNSEL
Respondent.)	
_____)	

1. Pursuant to ORS 431.110, 431.262 and 433.123, the Local Public Health Administrator (LPHA) for _____ County, petitions the court to [isolate/quarantine] the Respondent, _____, a person who poses a public health threat. This petition is supported by the attached affidavit of _____.

2. The Respondent, [is suspected to be infected with _____/has been diagnosed with _____/is suspected to be contaminated with _____/has been exposed to _____]. This [disease/toxic substance] is [put in facts about what the disease or toxic substance is and the public health threat it presents].

*. [Optional] Respondent has been detained pursuant to [an administrative order/ex parte order] that was issued on _____. Exhibit ____.

3. [Reasonable efforts were made to obtain voluntary compliance/ Reasonable efforts to obtain voluntary compliance were not possible and would have created a serious risk of serious harm to others because _____].

4. [Isolation/quarantine] is necessary because [explain the medical justification and why it is the least restrictive means].

5. The Respondent's detention began on [_____/should begin upon entry of an order by this court].

6. The isolation/quarantine premises will be _____ [if known, if not, explain how it will be figured out] and confinement will be in accordance with the conditions and principles in ORS 433.128.

7. Respondent should be [isolated/quarantined] for 60 days [or for ____ days (not longer than 180 days) because there is substantial medical evidence that the condition

the respondent suffers from is spread by airborne transmission and cannot be rendered noninfectious within 60 days or the condition may recur after 60 days]. *See* ORS 433.123(8).

8. Petitioner requests that the court order that the Respondent:

a. Be isolated/quarantined for ____ days;

b. Be required to comply with treatment protocols, including _____;

c. Submit to appropriate laboratory tests on a [weekly/monthly] basis or as otherwise deemed appropriate by a treating physician;

d. Cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and

e. Appoint counsel for Respondent.

9. Under ORS 433.123(6)(a), the court is required to hold a hearing on this petition within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays, and legal holidays.

DATED this ____ day of _____, ____.

Respectfully submitted,

*

Of Attorneys for _____ County

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
 FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	AFFIDAVIT OF _____ IN
v.	)	SUPPORT OF PETITION FOR
	)	[ISOLATION/QUARANTINE]
_____,)	
)	
Respondent.)	
_____)	

STATE OF OREGON)
)
 County of _____)

I, _____ being first duly sworn, depose and say:

1. I am the _____ [title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [Put in facts about how you first became aware of the Respondent, why it is believed that she or he has a communicable disease or is contaminated with a toxic substance, or why it is believed the person has been exposed to communicable disease or toxic substance.]
4. [Explain what the communicable disease or toxic substance is, why it poses a substantial public health threat, how you cure it and prevent its spread].
5. [Explain why isolation/quarantine is necessary to prevent a serious risk to the health and safety of others, or why other public health measures are appropriate to the public health threat presented].
6. [Explain the reasonable efforts made to obtain voluntary compliance, or why efforts to obtain voluntary compliance were not possible and why pursuit of these efforts creates a serious risk of harm to others].
7. [Explain the conditions of confinement, including:
 - a. Where confinement will occur or how a place for confinement will be found;

b. Who will monitor the respondent's medical condition and how often it will be monitored;

c. If the respondent is going to be confined with other people, how they will be protected from exposure or infection;

d. How the respondent's basic needs will be met (i.e. food, medication, etc.); and

e. How the respondent's cultural and religious beliefs will be met, if applicable.]

8. [Explain the length of confinement, why this amount of time is necessary, and why it is the least restrictive alternative].

9. [Explain what testing, treatment, examinations will be needed during the confinement and why].

DATED this ____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	ORDER GRANTING PETITION
	)	FOR [ISOLATION/QUARANTINE]
v.)	
)	
_____,)	
)	
Respondent.)	
_____)	

Having reviewed the Petition, Affidavit of _____, and evidence and testimony provided at the hearing held on _____, and being fully advised,

THE COURT FINDS:

1. There is clear and convincing evidence that [isolation/quarantine/specify other public health measure] of the Respondent, _____, is necessary to prevent a serious risk to the health and safety of others based on the following facts:
2. [insert information from paragraph 3 of affidavit (information about disease), or updated information presented at the hearing];
3. [insert information from paragraph 4 (information about public health threat) or updated information presented at the hearing];
4. [insert information from paragraph 5 (facts about why public health measure warranted) or updated information presented at the hearing];
5. [insert information from paragraph 6 (efforts to obtain voluntary compliance or why not possible) or updated information presented at the hearing];

6. [insert information from paragraph 8 (length of confinement and why this least restrictive alternative) or updated information presented at the hearing]; and

7. [insert information from paragraph 9 (what and why treatment, exams, etc. will be needed during confinement)].

Therefore, THE COURT ORDERS that:

1. Respondent shall be detained for a period not to exceed _____;

2. Respondent is required to comply with treatment protocols, including _____;

3. Respondent shall submit to appropriate laboratory tests on a [weekly/monthly basis] or as otherwise deemed appropriate by the respondent's treating physician;

4. Respondent shall cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by his treating physician; and

5. The [Sheriff's office/State Police] shall assist in detaining the respondent in accordance with ORS 433.156 as necessary.

Failure to obey this order shall subject the respondent to contempt proceedings under ORS 33.015 to 33.155.

DATED this _____ day of _____, _____.

*

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

OR

I was unable to individually personally serve [describe the group of persons sought for detention] because [insert facts that made it impracticable] and therefore I [insert facts of how the documents were presented to the group, i.e. posting, etc].

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
 FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	PETITION FOR GROUP
	)	[ISOLATION/QUARANTINE],
v.	)	REQUEST FOR HEARING,
	)	AND REQUEST FOR
_____ ,	)	APPOINTMENT
	)	OF COUNSEL
Respondents.)	
_____)	

1. Pursuant to ORS 431.110, 431.262 and 433.123, the Local Public Health Administrator (LPHA) for _____ County, petitions the court to [isolate/quarantine] the Respondents, _____, [if you know individual names, list them and perhaps include the list in an attachment, if you don't know, provide a description of the group, i.e., passengers aboard the cruise ship "Unlucky" docked/anchored at _____] a group of persons that pose a public health threat. This petition is supported by the attached affidavit of _____.

2. Respondents [are suspected to be infected with _____/are suspected to be contaminated with _____/have been exposed to _____]. This [disease/toxic substance] is [put in facts about what the disease or toxic substance is and the public health threat it presents].

*. [Optional] Respondents have been detained pursuant to [an administrative order/ex parte order] that was issued on _____. Exhibit ____.

3. [Reasonable efforts were made to obtain voluntary compliance/ Reasonable efforts to obtain voluntary compliance were not possible and would have created a serious risk of serious harm to others because _____].

4. [Isolation/quarantine] is necessary because [explain the medical justification and why it is the least restrictive means].

5. The respondents' detention began on [_____/should begin upon entry of an order by this court].

6. The isolation/quarantine premises will be _____ [if known, if not, explain how it will be figured out] and confinement will be in accordance with the conditions and principles in ORS 433.128.

7. Respondents should be [isolated/quarantined] for 60 days [or for ____ days (not longer than 180 days) because there is substantial medical evidence that the condition the respondents suffer from is spread by airborne transmission and cannot be rendered noninfectious within 60 days or the condition may recur after 60 days]. See ORS 433.123(8).

8. Petitioner requests that the court:

a. Isolate/quarantine the Respondents for ____ days;

b. Require Respondents to comply with treatment protocols, including _____;

c. Require Respondents to submit to appropriate laboratory tests on a [weekly/monthly] basis or as otherwise deemed appropriate by a treating physician;

d. Require Respondents to cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and

e. Appoint counsel for Respondents.

9. Under ORS 433.123(6)(a), the court is required to hold a hearing on this petition within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays, and legal holidays.

DATED this ____ day of _____, _____.

Respectfully submitted,

*

Of Attorneys for _____ County

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	AFFIDAVIT OF _____
v.	)	IN SUPPORT OF GROUP
	)	[ISOLATION/QUARANTINE]
_____,)	
)	
Respondents.)	
_____)	

STATE OF OREGON)
)
County of _____)

I, _____ being first duly sworn, depose and say:

1. I am the _____ [title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [Put in facts about how you first became aware of the Respondents, why it is believed that they have a communicable disease or are contaminated with a toxic substance, or why it is believed they have been exposed to a communicable disease or toxic substance.]
4. [Explain what the communicable disease or toxic substance is, why it poses a substantial public health threat, how you cure it and prevent its spread].
5. [Explain why isolation/quarantine is necessary to prevent a serious risk to the health and safety of others, or why other public health measures are appropriate to the public health threat presented].
6. [Explain the reasonable efforts made to obtain voluntary compliance, or why efforts to obtain voluntary compliance were not possible and why pursuit of these efforts creates a serious risk of harm to others].
7. [Explain the conditions of confinement, including:
 - a. Where confinement will occur or how a place for confinement will be found;

b. Who will monitor the respondents' medical condition and how often it will be monitored;

c. If the respondents are going to be confined with other people, how they will be protected from exposure or infection;

d. How the respondents' basic needs will be met (i.e. food, medication, etc.); and

e. How the respondents' cultural and religious beliefs will be met, if applicable.]

8. [Explain the length of confinement, why this amount of time is necessary, and why it is the least restrictive alternative].

9. [Explain what testing, treatment, examinations will be needed during the confinement and why].

DATED this ____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	ORDER GRANTING PETITION
	)	FOR GROUP
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____ ,)	
)	
Respondents.)	
_____))	

Having reviewed the Petition, Affidavit of _____, and evidence and testimony provided at the hearing held on _____, and being fully advised,

THE COURT FINDS:

1. There is clear and convincing evidence that [isolating/quarantining/specify other public health measure] Respondents, _____, is necessary to prevent a serious risk to the health and safety of others.

2. [insert information from paragraph 3 of affidavit (information about disease), or updated information presented at the hearing];

3. [insert information from paragraph 4 (information about public health threat) or updated information presented at the hearing];

4. [insert information from paragraph 5 (facts about why public health measure warranted) or updated information presented at the hearing];

5. [insert information from paragraph 6 (efforts to obtain voluntary compliance or why not possible) or updated information presented at the hearing];

6. [insert information from paragraph 8 (length of confinement and why this least restrictive alternative) or updated information presented at the hearing]; and

7. [insert information from paragraph 9 (what and why treatment, exams, etc. will be needed during confinement)].

Therefore, the court ORDERS that:

1. Respondents shall be detained for a period not to exceed _____;

2. Respondents shall be required to comply with treatment protocols, including _____;

3. Respondents shall submit to appropriate laboratory tests on a [weekly/monthly basis] or as otherwise deemed appropriate by a treating physician;

4. Respondents shall cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by a treating physician; and

5. The [Sheriff's Office/State Police] shall assist in detaining the respondents in accordance with ORS 433.156 as necessary.

Failure to obey this order shall subject the respondents to contempt proceedings under ORS 33.015 to 33.155.

DATED this _____ day of _____, _____.

*

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

OR

I was unable to individually personally serve [describe the group of persons sought for detention] because [insert facts that made it impracticable] and therefore I [insert facts of how the documents were presented to the group, i.e. posting, etc].

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
)	
v.	)	NOTICE OF RIGHTS
)	
_____,)	
)	
Respondent.)	
_____)	

To: [Respondent's name and address]

The [Local Public Health Administrator (LPHA) for _____ County has issued an Emergency Order/filed a petition alleging that you have/have been exposed to/are contaminated with _____ and that you must be [isolated/quarantined/subject to some other public health measure] in order to prevent a serious risk to the health and safety of others.] OR [The court has issued an Order detaining you for 72 hours because you have/have been exposed to/are contaminated with _____.] A copy of the [order/petition] and supporting documentation is attached to this Notice.

Definition of "Isolation" and "Quarantine"

Isolation is the separation of a person with an infectious illness from healthy people, and the restriction of a person's movement to stop the spread of that illness. Isolation allows for the focused delivery of specialized health care to people who are ill, and it protects healthy people from getting sick. *See* ORS 433.001(5).

Quarantine is the separation and restriction of movement of a person who, while not yet sick, has been exposed to an infectious agent and therefore may become infectious. Quarantine of an exposed person is a public health strategy, like isolation, that is intended to stop the spread of infectious disease. *See* ORS 433.001(10).

Right to an Attorney

You have the right to be represented by an attorney at any time during this action. If you cannot afford an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at the state's expense. To request appointment of an attorney to represent you at state expense, call the court at the following number: _____. If you wish to be represented by an attorney and can afford to hire one, please retain one as soon as possible to represent you in this proceeding. If you can afford an attorney but do not have one, you may wish to contact the Oregon State Bar lawyer referral

service by calling 503-684-3763 or 800-452-7636. If you do not want to have an attorney represent you, you can fill out the attached form and return it to the court at the address indicated.

Court Hearing

If you are held longer than 72 hours the court will hold a hearing to determine if there is clear and convincing evidence that isolation or quarantine is necessary to prevent a serious risk to the health and safety of others. Instead of isolation or quarantine, or in addition to isolation or quarantine, the court may order other public health measures such as medical treatment.

You have the right to participate in this hearing and present evidence. Your attorney can attend this hearing on your behalf or steps will be taken to allow you to meaningfully participate.

You may waive your right to a hearing. If you want to waive your right to a hearing, fill out the attached form and return it to the court at the address indicated.

Petition for Release

If the court has ordered you to be isolated or quarantined and you believe that you should be released, you or an attorney acting on your behalf can ask the court to release you by filing a petition. You can call your attorney to help you with the petition, or if you do not have an attorney, you can ask the court to appoint one for you to help with the petition. If you do not want to be represented by an attorney, you can prepare and file the petition yourself.

The petition must be filed with the court and must contain the caption used at the very beginning of this document where it lists "petitioner" and "respondent," and the case number. In the petition you need to explain why you believe you do not have _____ or are not contaminated with _____, why you do not present a serious risk to the health and safety of others, or how you will comply with voluntary measures in a manner that protects the public's health and safety. You should include, with the petition, any information that supports your arguments about why you should be released.

The court will then decide if the state has shown by clear and convincing evidence that isolation or quarantine is necessary to prevent a serious health risk to the health and safety of others and issue an order denying or granting your release.

Conditions of Confinement

Oregon law provides that if you are subject to an order of isolation or quarantine certain conditions and principles must be adhered to. If at any time you believe these conditions or principles are not being followed, you can petition the court for a hearing, either through your attorney (and if you do not yet have one, you can request one if you

cannot afford one) or on your own. You will need to use the caption (on the first page of this document) and the case number.

The conditions and principles of confinement are as follows:

(1) The state or county must use the least restrictive means necessary to isolate or quarantine you.

(2) Your health status must be monitored regularly to determine if you require continued isolation or quarantine.

(3) You must be released as soon as practicable when it is determined that you are no longer contaminated or no longer pose a substantial risk of transmitting a communicable disease to others.

(4) Your needs must be addressed to the greatest extent practicable in a systematic and competent fashion, including, but not limited to, providing adequate food, medication, competent medical care, clothing, shelter and means of communication with other persons who are in isolation or quarantine and persons who are not under isolation or quarantine, such as your attorney.

(5) The place used for isolation or quarantine must, to the extent practicable, be maintained in a safe and hygienic manner to lessen the likelihood of further transmission of a communicable disease or possibly communicable disease or of further harm to you.

(6) Your cultural and religious beliefs will be considered to the extent practicable in addressing your needs.

(7) If you are subject to an order of quarantine but not isolation, you may not be confined with isolated persons. You may be isolated if the state or county reasonably believes that you have become infected with a communicable disease and you pose a significant threat to the health and safety of others.

(8) You may not be confined in jail unless you present an immediate and serious physical threat to the staff or property of a hospital or other facility in which you have been confined, or you have been found in contempt of court because of your failure to obey a court order.

ORS 433.128.

In addition, nothing in the law governing isolation and quarantine prohibits a person who relies exclusively on spiritual means to treat a communicable disease or possibly communicable disease and who is infected with a communicable disease or has been exposed to a toxic substance from being isolated or quarantined in a private place of the person's own choice, provided the private place is approved by the Public Health Director or the local health administrator and the person who is isolated or quarantined complies with all laws, rules and regulations governing control, sanitation, isolation and quarantine.

Penalties for Failure to Comply With an Emergency Administrative Order or Court Order

If you fail to comply with the specific terms of an emergency administrative order for isolation or quarantine you may be subject to civil penalties of up to \$500 a day. ORS 431.262(1)(d).

If you fail to obey an order issued by the judge at any time in this case, you may be subject to contempt proceedings under ORS 33.015 to 33.155, which could result in your being put in jail. ORS 433.123(13).

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
)	
v.	)	WAIVER OF COUNSEL
)	
_____,)	
)	
Respondent.)	
_____)	

I, the Respondent, _____, have reviewed and understand the Notice of Rights provided to me by the Local Public Health Administrator (LPHA).

I understand that I have the right to an attorney, and that if I cannot afford one, the court would appoint an attorney for me at state expense. By signing this document I expressly, knowingly, and intelligently refuse to have an attorney represent me. I understand that the court may wish to contact me to discuss the waiver of my right to an attorney. The court can call me at _____.

I also understand that at any time after signing the Waiver of Counsel form I can request, in writing to the court, that an attorney be appointed to help me with any issues that arise during my confinement. If I make such a request in writing it will void this waiver.

Date: _____

Signature of Respondent

FILE THIS FORM WITH:

_____ Circuit Court
 _____ [Address]
 _____ [Phone No]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
)	
v.	)	WAIVER OF HEARING
)	
_____,)	
)	
Respondent.)	
_____)	

I, the Respondent, _____, have reviewed and understand the Notice of Rights provided to me by the Local Public Health Administrator (LPHA).

I understand that I have the right to a hearing to contest the petition for isolation or quarantine filed by the LPHA. By signing this document I expressly, knowingly, and intelligently waive my right to a hearing. I understand that the court may wish to contact me to discuss the waiver of my right to a hearing. The court can call me at

_____.

Date: _____

Signature of Respondent

FILE THIS FORM WITH:

_____ Circuit Court

_____ [Address]

_____ [Phone No]

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

OR

I was unable to individually personally serve [describe the group of persons sought for detention] because [insert facts that made it impracticable] and therefore I [insert facts of how the documents were presented to the group, i.e. posting, etc].

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	MOTION TO RESCHEDULE
	)	HEARING
)	
v.)	
)	
_____ ,)	
)	
Respondent.)	
_____)	

Petitioner, Local Public Health Administrator (LPHA) for _____ County,
 moves the court for an order rescheduling the hearing set for _____ to
 _____. [optional: Counsel for the respondent consents to the continuance.]

POINTS AND AUTHORITIES

In support of this Motion petitioner relies on the Affidavit of _____, and
 ORS 433.123(6)(b).

DATED this ____ day of _____, _____.

Respectfully submitted,

 *
 Of Attorneys for _____ County

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)
)
Petitioner,)
)
)
)
)
v.)
)
)
_____,)
)
Respondent.)
_____)

Case No. _____

AFFIDAVIT IN SUPPORT OF
MOTION TO RESCHEDULE
HEARING

STATE OF OREGON)
)
County of _____)

I, _____ being first sworn, depose and say:

1. I am _____.
2. [Fill in facts re: extraordinary circumstances for continuance, good cause for continuance, or that respondent has agree to continuance and why].
3. [Explain when hearing should be scheduled - can't be more than 10 days].

DATED this _____ day of _____, ____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, ____.

Notary Public for Oregon
My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ County,)	
	)	Case No. _____
Petitioner,)	
	)	ORDER RESCHEDULING
	)	HEARING
)	
v.)	
)	
_____ ,)	
)	
Respondent.)	
_____)	

Having reviewed petitioner's Motion to Reschedule Hearing, and the supporting affidavit, the court GRANTS the motion.

IT IS HEREBY ORDERED that the hearing now scheduled for _____ is continued until _____, _____, at _____.

DATED this _____ day of _____, _____

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I [personally served/mailed] [list the documents] on _____, at:

[list address/place where service occurred]

[Name of person completing service]

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

In the Matter of: [property address or description],
Contaminated Property

Oregon Health Authority,
Public Health Division,
Petitioner.

_____)

Case No. _____

PETITION TO ISOLATE PROPERTY

1. Pursuant to ORS 431.262 and 433.142, the Oregon Health Authority, Public Health Director, petitions the court to isolate _____ [describe property] hereinafter "the property" that is [believed to be/is] contaminated with a toxic substance that poses a serious risk to the health and safety of others. This petition is supported by the attached affidavit of _____.

2. [Describe property, if necessary].

3. Identify owner or custodian of property.

4. The property is suspected to be contaminated with _____/is contaminated with] _____, a toxic substance as that is defined in ORS 431.260 and ORS 433.001. This toxic substance _____ [put in facts about the health effects of the toxic substance].

5. The property is [suspected to be contaminated/known to be contaminated] because _____ [put in facts that support the reasonable belief that property is contaminated, e.g. testing].

6. The toxic substance poses a serious risk to the health and safety of others because _____.

7. [Reasonable efforts were made to obtain voluntary compliance/ Reasonable efforts to obtain voluntary compliance were not possible and would have created a serious risk of serious harm to others because _____].

8. Isolation is necessary because [explain the medical justification and why it is the least restrictive means].

9. The property can be decontaminated by _____/OR The toxic substance can be neutralized by _____/ OR The property cannot be decontaminated and must be destroyed because _____.

10. Petitioner requests that the court order:

a. The property be isolated until _____;

b. The property owner be required to _____[set out remedial actions necessary to neutralize or remove the toxic substance]; and

c. [Add any other conditions necessary ensure that isolation is carried out in a manner that protects the public's health e.g. no entry unless authorized].

11. Under ORS 433.142, the court is required to hold a hearing on this petition within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays, and legal holidays.

DATED this _____ day of _____, _____.

Respectfully submitted,

*

Attorney General

*

Of Attorneys for
Oregon Health Authority
State of Oregon, Defendant

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

In the Matter of: [property address or description],
Contaminated Property
Oregon Health Authority,
Public Health Division,
Petitioner.

Case No. _____

AFFIDAVIT IN SUPPORT OF
PETITION TO ISOLATE PROPERTY

STATE OF OREGON)
County of _____)

I, _____ being first duly sworn, depose and say:

1. I am the _____ [title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [Put in facts about the property, who the owner or custodian of the property is, how you first became aware of the property and why it is believed that it is contaminated with a toxic substance.]
4. [Explain what the toxic substance is and its health effects if exposed].
5. [Explain why isolation is necessary to prevent a serious risk to the health and safety of others and why isolation is the least restrictive alternative].
6. [Explain the reasonable efforts made to obtain voluntary compliance, or why efforts to obtain voluntary compliance were not possible and why pursuit of these efforts creates a serious risk of harm to others].
7. [Explain how the property can be contaminated or neutralized, or whether it has to be destroyed and why].
8. [Explain any conditions necessary to ensure that isolation is carried out in a manner that protects the public's health].

DATED this _____ day of _____, _____.

Affiant

SUBSCRIBED AND SWORN before me this ____ day of _____, _____.

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of: [property address or description],)	
Contaminated Property	)	Case No. _____
)	
Oregon Health Authority,)	
Public Health Division,	)	ORDER ISOLATING
	)	PROPERTY
Petitioner.)	
)	
_____)	

Having reviewed the Petition, Affidavit of _____, and evidence and testimony provided at the hearing held on _____, and being fully advised,

THE COURT FINDS:

1. There is clear and convincing evidence that isolation of _____, is necessary to prevent a serious risk to the health and safety of others based on the following facts:

2. [insert information from paragraph 3 of affidavit (information about who owns the property, why property is believed to be contaminated/or how it is known to be contaminated)];

3. [insert information from paragraph 4 (information about toxic substance and its health effects) or updated information presented at the hearing];

4. [insert information from paragraph 5 (facts about why isolation warranted) or updated information presented at the hearing];

5. [insert information from paragraph 6 (efforts to obtain voluntary compliance or why not possible) or updated information presented at the hearing]; and

6. [insert information from paragraph 7 (how to decontaminate, neutralize or destroy property) or updated information presented at the hearing].

Therefore, THE COURT ORDERS that:

1. The property shall be isolated until petitioner notifies the court, in writing, that the toxic substance no longer poses a serious risk to the health and safety of others;

2. The property owner is required to _____[insert conditions necessary to ensure that isolation is carried out in a manner that protects the public's health];

3. The property owner shall _____ [set out remedial actions necessary to neutralize or remove the contamination or procedures for destruction of the property].

Failure to obey this order shall subject the respondent to contempt proceedings under ORS 33.015 to 33.155.

DATED this ____ day of _____, _____.

*

Circuit Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, _____, I personally served [list the documents] on _____, at:

[list address/place where service occurred]

[Name of person completing service]