

Kentucky's Tuberculosis Control Law

A manual for local health departments
and health-care providers



*We're on the right track,
and we're still in the running!*

**KENTUCKY TUBERCULOSIS CONTROL PROGRAM
CABINET FOR HEALTH SERVICES
DEPARTMENT FOR PUBLIC HEALTH**

Useful definitions, to help you understand the Kentucky Tuberculosis Control Law:

“**Active tuberculosis**” means (A) a specimen has been taken from a pulmonary, laryngeal or other airway source, has tested positive for tuberculosis and the person tested has not subsequently completed a standard recommended course of medication for tuberculosis, (B) a specimen from an extrapulmonary source has tested positive for tuberculosis and there is clinical evidence or clinical suspicion of pulmonary tuberculosis and the person tested has not subsequently completed a standard recommended course of medication for tuberculosis, or (C) where sputum smears or cultures are unobtainable, radiographic evidence, in addition to current clinical or laboratory evidence, is sufficient to establish a medical diagnosis of pulmonary tuberculosis for which treatment is indicated and the person diagnosed has not subsequently completed a standard recommended course of medication for tuberculosis.

“**Infectious tuberculosis**” means tuberculosis disease in a communicable or infectious stage as determined by chest radiograph, the bacteriologic examination of body tissues or secretions, or other diagnostic procedures. A person is considered infectious to others until such time as sputum smears from a pulmonary, laryngeal or other airway source collected on three consecutive days have tested negative for tuberculosis and the person shows significant clinical improvement, such as the resolution of cough or fever.

“**Nonadherent**” means not taking tuberculosis medications as prescribed or not following the recommendations of the attending physician or health officer for the management of tuberculosis.

“**Enablers**” means anything that helps the patient to more readily complete therapy including, but not limited to, assistance with transportation.

“**Incentive**” means anything that motivates the patient to adhere to treatment including, but not limited to, food or coupons.

“**Directly observed therapy**” means a course of treatment for tuberculosis in which the prescribed antituberculosis medication is administered to the person or ingested by the person under direct observation, as specified by the local director of health.

About this book

Kentucky's Tuberculosis Control Law (KRS 215.520-215.600) was passed in 1996 to help control the spread of tuberculosis and to prevent the development of multidrug-resistant tuberculosis. This book helps explain the application of this law by local health departments and health-care providers.

This book is divided into sections. Each section discusses authorities available to local health directors under the Tuberculosis Control Law. And within each section, the book uses icons to help guide readers.

“It is your right to die from TB, but it is not your right to infect someone else.”

**-- Dr. Karen L. Smith, M.D., MPH
TB Controller
Santa Clara Co. Public Health
San Jose, CA**

Laws can be changed and/or amended at any time. This book should not take the place of legal advice. If you have any questions concerning this law, you should seek the advice of an attorney.

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Developed by:



State of Kentucky
Department for Public Health
Tuberculosis Control Program

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Icons When you see this icon, the book will discuss:



Purpose The purpose of the authority granted local health directors under the law



Conditions Conditions that must be met before an authority is exercised



Required Elements Elements that must accompany a notice, order or petition



Legal Rights Rights of people subject to a notice or order



Summary Summary of the process of exercising an authority

Answers to page 25 quiz:

1. False 2. True 3. False 4. True 5. True
6. False 7. False 8. False 9. False 10. True

Introduction to the Tuberculosis (TB) Control Law



The need for the TB Control Law

The TB Control Law was developed to meet the need for more comprehensive and specific TB control measures to:

- help ensure that potentially infectious TB cases are made noninfectious as quickly as possible
- help ensure that TB cases complete a prescribed regimen
- prevent the emergence and spread of multidrug-resistant TB (MDR-TB).

Behind this law is the recognition that these goals could be reached if health authorities could:

- provide resources to TB patients to help keep them on their treatment regimen
- have the authority to restrict the movements of persons with TB when those persons can't or won't follow public health and physician directives.

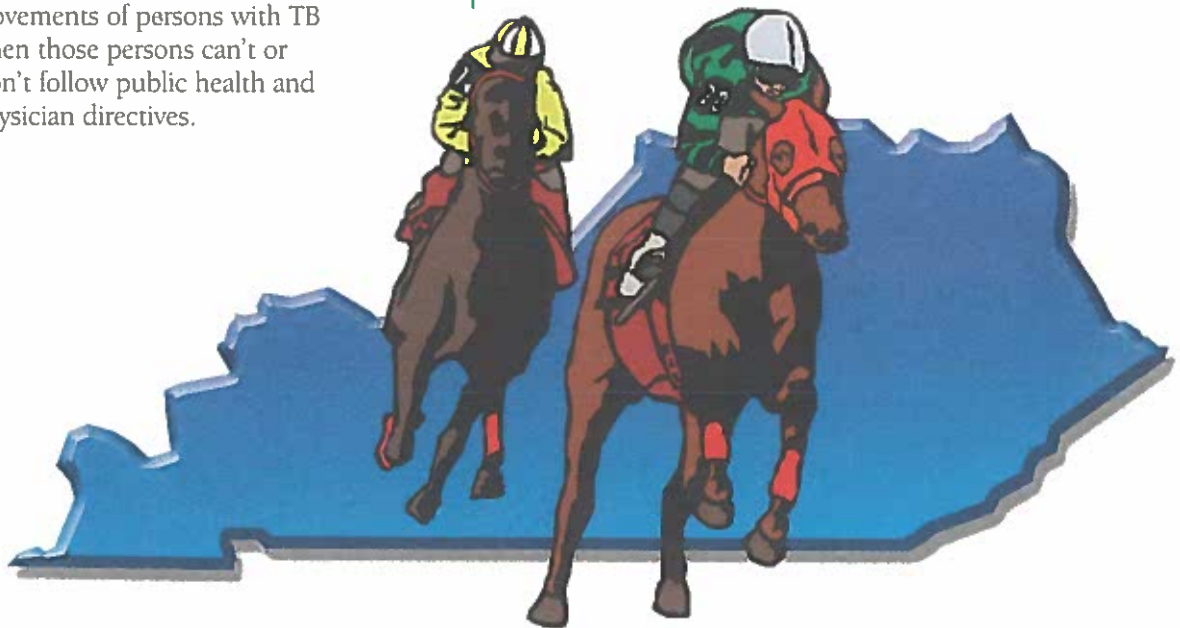
Benefits of the law

With this law, many TB cases can now be more effectively managed from the outset. Local health departments will no longer have to spend large amounts of time trying to get noncooperative persons quarantined. Instead, they can first turn to less severe and less expensive means of encouraging therapy, such as directly observed therapy (DOT). With the law, the use of hospitalization or quarantine as a principal control measure should be much lower.

Protecting public health and civil liberties

This law represents the joint efforts of the state of Kentucky Department for Public Health (DPH) and the legislators as representing the Commonwealth. Local health departments need the authority to be able to effectively control the spread of TB.

Much of the law is based on model TB control legislation developed by the Centers for Disease Control and Prevention in response to the national emergence of MDR-TB.



Readers can view the complete Kentucky Tuberculosis Control Law by visiting the State of Kentucky Web site at www.state.ky.us.

Features and definitions of the TB Control Law

[KRS 215.511]



Defining and treating TB

The TB Control Law provides a useful definition of active TB. And, it requires collaboration between health-care providers and public health officials for the effective treatment of TB cases.

- The law provides a definition of active TB and minimizes the risk of relapse and development of MDR-TB.
- The law **requires** the local health department to help develop and **approve** a treatment plan. The local health department must also help **develop and approve a treatment plan** after a patient is diagnosed with TB.

These measures help ensure that people who need help with treatment issues get it early – reducing the risk of inadequate treatment and the development of MDR-TB.

Progressive authority

The TB Control Law gives the local health department authority to deal with TB patients who are at high risk of developing drug resistance due to their failure to take prescribed medicine. This allows the department to:

- issue a notice for examination
- issue a notice for treatment
- issue a notice for DOT
- issue an emergency quarantine order
- petition the court system for a judicial quarantine order.

Assurances for people with TB

Under the TB Control Law,

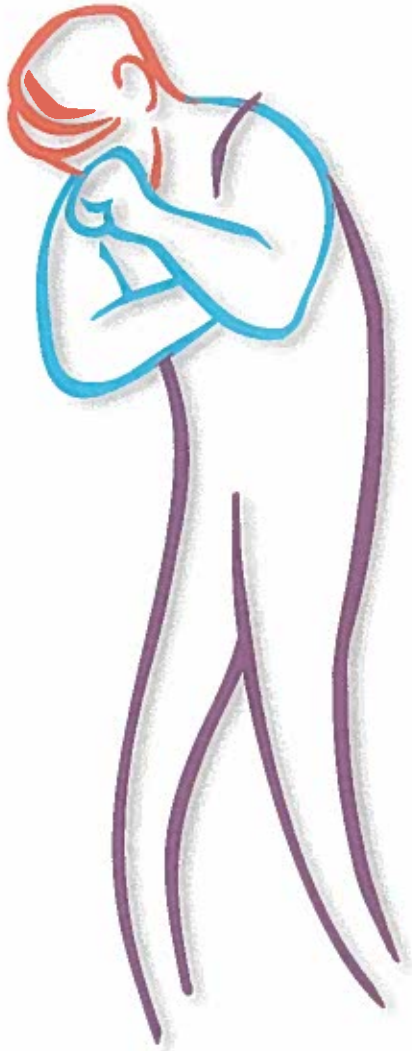
- A person will not be forced to swallow medication.
- All notices and orders will be in a language the person can understand.
- A person subject to a district court order has the right to appeal to circuit court.
- Any action (for example, a notice for treatment, examination or DOT) will be supported by proper documentation.
- All orders, applications and petitions of local health departments shall be kept confidential.
- A person who cannot afford legal counsel will have it provided for him or her by the court system.

Using this manual

For each activity (for example, issuing notices for treatment or DOT), there are certain conditions that must be met. Please see the “Conditions” section on each page for a list of the conditions for each type of action. In all cases, be sure to **collect documentation that all conditions for an action have been met.**

1 Issuing a Notice for Examination

[KRS 215.550]



Purpose

If a local health department determines that the public health is endangered by a person having active TB, the local health department may issue a notice for examination or treatment.



Conditions

Before issuing a notice for examination or treatment to a person, the local health department must be able to document that:

- the person has active TB
- efforts have been made to educate and counsel the person about the need for further examination/treatment
- in spite of the efforts to educate and counsel the person, he or she is unable or unwilling to have an exam and/or treatment for TB.



Required elements of a notice for examination/treatment

The notice must have all of the following:

- the name of the person receiving the notice
- the basis for the local health department's judgment that the person has TB
- documentation that efforts have been made to educate and counsel the person about the need for a further exam and/or treatment, and about the medical and legal consequences of failing to agree to be examined or treated
- the basis for the local health department's judgment that the person is unable or unwilling to have a TB exam
- the period of time the notice is in effect -- which can't exceed the minimum time needed to make further medical determination of the person's condition
- where, when and by whom the examination or treatment will be provided.

Failure to Comply

[KRS 215.560]



Administrative section [215.560 (1)]

Whenever a person has reasonable cause to suspect that an individual with active tuberculosis has knowingly failed to comply with the provisions of KRS 215.520 to 215.600, the person may file an affidavit with the local health department serving the jurisdiction where the individual resides or where the alleged violation occurred. The affiant shall state the details of the violation as completely and accurately as possible and the local health department shall, with the assistance of the cabinet, if necessary, conduct an appropriate investigation and, if indicated, shall order the violator in writing to submit to the needed precautions, including quarantine, in order to isolate and restrict activities, examination, or treatment. If the local health department determines in the course of providing services that a violation has occurred, it may issue an order regardless of the presence of an affidavit.



Summary of the process for issuing a notice for examination:

1. Determine whether the conditions on page 6 have been met.
2. Write a notice that includes the “required elements” listed on page 6. (See Notice for TB Examination form, page 19.)
3. Consult the local county attorney to decide who should deliver the notice.
4. Deliver the notice.
5. If you are seeking a quarantine order from the court, immediately petition the court for a hearing to enforce the notice for examination.

2

Recalcitrant tuberculosis patient control

[KRS 215.540]



Purpose*

If a local health department determines that the public health is endangered by a person who has active TB and who is unwilling or unable to receive treatment, the local health department may issue a notice to complete treatment.



Conditions

Before issuing a notice to complete treatment, the local health department must be able to document that:

- the person has active TB
- efforts have been made to educate and counsel the person of the need to complete treatment
- the person has been offered locally available incentives to complete treatment -- and reasonable enablers (assistance) needed to complete treatment (for example, transportation)
- in spite of the education, incentives and enablers, the person is unwilling or unable to stay on a prescribed course of medication.*

*The General Assembly hereby recognizes and declares that persons with active tuberculosis have a legal duty and responsibility to the public to take reasonable precautions to prevent the spread of the disease.

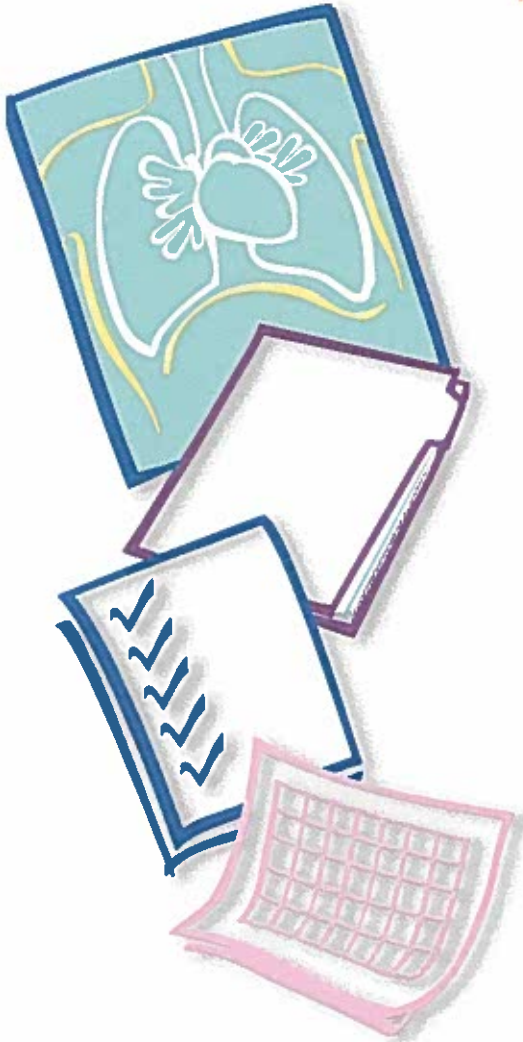


Required elements for a notice to complete treatment

The notice must have all of the following:

- the name of the person receiving the notice
- the basis for the local health department's judgment that the person has active TB and is unwilling or unable to adhere to treatment
- documentation that efforts have been made to educate and counsel the person about the need to complete prescribed treatment, and about the medical and legal consequences of failing to do so
- a description of the incentives and enablers offered to the person
- the period of time that the notice is in effect -- which can't extend beyond the end of the prescribed treatment.

There are **no provisions or requirements for a quarantine order or hearing for a notice to complete treatment.**



Summary of the process for issuing a notice to complete treatment:

1. Determine whether the conditions on page 8 have been met.
2. Write a notice that includes the "required elements" listed above. (See Notice for TB Treatment form, page 20.)
3. Consult the local counsel to determine who should deliver the notice.
4. Deliver the notice.

3 Issuing a notice for directly observed therapy (DOT)

[KRS 215.550 (1) (2) (3)]



Purpose

If a local health department determines that the public health is endangered by a person who has active TB and who is unwilling or unable to receive treatment, the local health department may issue a notice for DOT.

Conditions

Before issuing a notice for DOT, the local health department must be able to document that:

- the person has active TB
- efforts have been made to educate and counsel the person of the need to complete treatment
- the person has been offered locally available incentives to complete treatment – and reasonable enablers (such as transportation) needed to complete treatment
- the person has not been adhering to treatment
- in spite of education, incentives and enablers, the person is unwilling or unable to stay on a prescribed course of medication.

Responsibilities of persons diagnosed with active tuberculosis:

1. A person diagnosed with active tuberculosis which can be communicated from person to person shall have a legal responsibility to take reasonable precautions to prevent the transmission of the infection to others.
2. No person diagnosed as having active tuberculosis for which further examination or treatment is determined to be necessary shall, when informed of the need for examination or treatment, refuse to submit to the examination or treatment upon the reasonable request of the cabinet or a local health department.
3. A person diagnosed with active tuberculosis shall take all precautions, as prescribed by the cabinet or a local health department, for the prevention of transmission of that infection. The precautions shall be the least restrictive to the person which are possible without sacrificing the efficacy of protection.

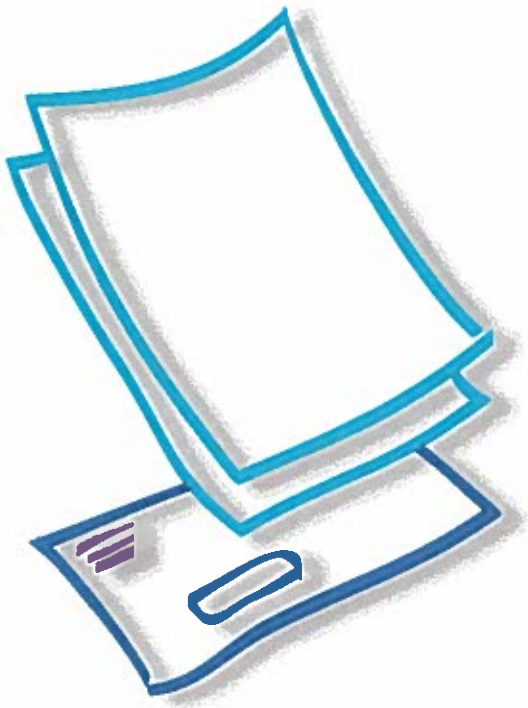


Required elements for a notice for DOT

The notice must have all of the following:

- the name of the person receiving the notice
- the basis for the local health department's judgment that the person has active TB and is unwilling or unable to adhere to treatment
- documentation that efforts have been made to educate and counsel the person about the need to complete prescribed treatment, and about the medical consequences of failing to do so
- a description of the incentives and enablers offered to the person
- the period of time that the notice is in effect -- which can't extend beyond the end of the prescribed treatment.

There are no legal provisions or requirements for a quarantine order or hearing for a notice for DOT.



Summary of the process for issuing a notice for DOT:

1. Determine whether the conditions on page 10 have been met.
2. Write a notice that includes the "required elements" listed above. (See Notice to Complete Directly Observed Therapy form, page 21.)
3. Consult the local counsel to determine who should deliver the notice.
4. Ensure that proposed DOT is given in a manner that minimizes the time and financial burden on the person.
5. Deliver the notice.

4 Issuing an emergency quarantine order



Purpose

If a local health department determines that the public health is endangered by a person who has active TB, who is unwilling or unable to receive treatment, and who is unwilling or unable to avoid exposing others to possible TB infection, the local health department may issue an emergency quarantine order. With this order, the person with TB can be detained for up to 14 days in a hospital or other appropriate setting.



Conditions

Before issuing an emergency quarantine order, the local health department must document that:

- the person has active and infectious TB
- the person's behavior creates a real risk that others may become infected
- efforts have been made to educate and counsel the person of the need to complete treatment and to avoid exposing others
- the person has been offered locally available incentives and enablers to complete treatment
- the person is unwilling or unable to receive treatment in spite of education, incentives and enablers
- the person continues to behave in ways that put others at risk in spite of education, incentives and enablers
- emergency quarantine is the least restrictive way to protect public health.



Required elements for an emergency quarantine order

The emergency quarantine order must have all of the following:

- the name of the person to be confined
- the basis for the local health department's judgment that the person
 - has active TB
 - is likely to be infectious
 - is unable or unwilling to adhere to prescribed treatment
 - poses a real and immediate threat of infecting others
 - is unwilling or unable to avoid behaving in ways that place others at risk
- documentation that efforts have been made to educate and counsel the person about the need to complete prescribed treatment, and about the medical and legal consequences of failing to do so
- a description of the incentives and enablers offered to the person
- the basis for the local health department's judgment that emergency quarantine is the least restrictive alternative available to protect public health
- the period of time that the order is in effect
- the place where the person will be confined (must be approved by the State Tuberculosis Control Program).

Quarantine order

The local health department can issue a quarantine order without application to district court. (The local health department can direct a police officer -- or other designated person -- to immediately deliver the person with TB for quarantine. The local health department will notify the police officer of necessary infection control procedures.)

Issuing an emergency quarantine order

continued



Legal rights of the person being committed

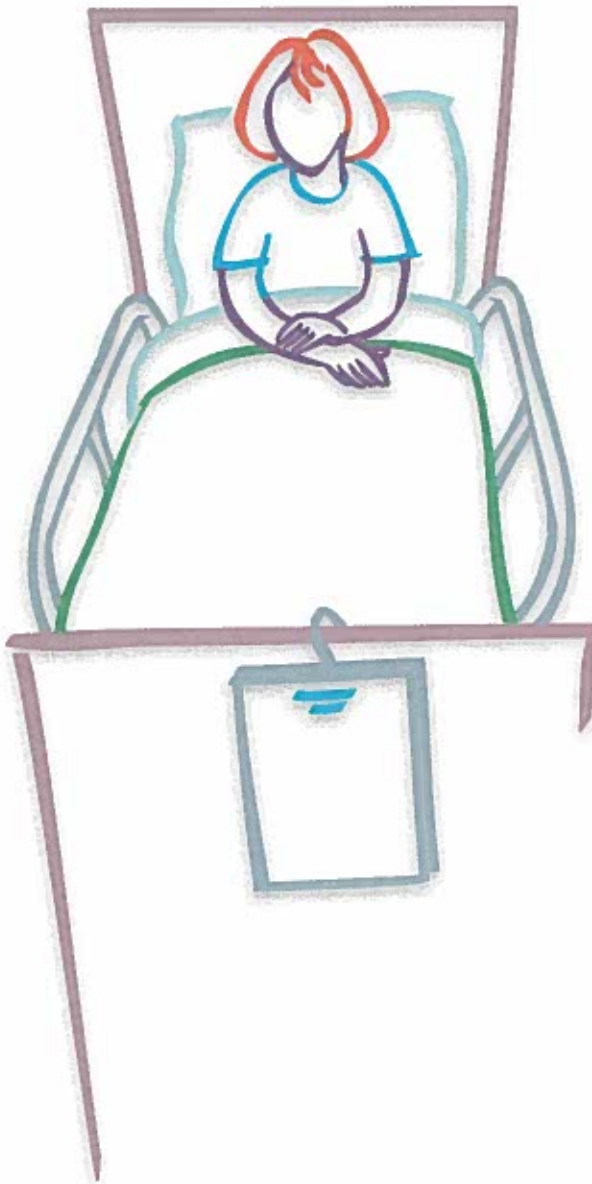
All orders, petitions and applications for hearings must be hand-delivered to the person as quickly as possible. In addition, the local health department will inform the person of his or her legal rights. These include:

- the right to be present at the hearing before the district court or to have a representative present
- the right to have legal counsel or, if unable to afford or obtain counsel, the right to have counsel appointed for him or her by the court system
- the right to cross-examine witnesses
- the right to appeal an order of the district court to the circuit court
- the right to apply to the district court to terminate or modify an order
- the right to have proceedings of the district court recorded and transcribed if the person appeals or files for a writ of habeas corpus
- the right to have the proceedings of the district court be confidential (unless the person requests disclosure or the court orders it after showing good cause).



Summary of the process for issuing an emergency quarantine order:

1. Determine whether the conditions on page 12 have been met.
2. Write a notice that includes the “required elements” listed on page 13. (See Emergency Quarantine Order form, page 22.)
3. Consult the local county attorney to determine who should deliver the order.
4. Immediately petition the district court for a decision on the order’s continuance. (See Petition for Hearing to Quarantine form, page 23.)
5. Notify the state’s Tuberculosis Control Program, Department for Public Health, that an emergency quarantine order has been issued.



5 Petitioning district court

[KRS 215.560 (1) (2)]



Administrative and judicial action

1. Whenever a person has reasonable cause to suspect that an individual with active tuberculosis has knowingly failed to comply with the provisions of KRS 215.520 to 215.600, the person may file an affidavit with the local health department serving the jurisdiction where the individual resides or where the alleged violation occurred. The affiant shall state the details of the violation as completely and accurately as possible and the local health department shall, with the assistance of the cabinet, if necessary, conduct an appropriate investigation and, if indicated, shall order the violator in writing to submit to the needed precautions, including quarantine, in order to isolate and restrict activities, examination, or treatment. If the local health department determines in the course of providing services that a violation has occurred, it may issue an order regardless of the presence of an affidavit.
2. If a person refuses to comply with an order of a local health department pursuant to subsection (1) of this section, the health department shall, if the public health need for intervention still exists, file a verified petition for relief with the District Court in the county of its principal office. The health department shall include all pertinent details in its petition. The defendant shall have the right to be represented by counsel and the case shall be handled in the same manner as a civil case in every other regard. If the court finds from a preponderance of the evidence or upon admission by the defendant that the defendant is in violation of provisions in KRS 215.520 to 215.600, the court shall enter an order that the appropriate precautions, examinations, or treatment be carried out.



Purpose

If a local health department determines that the public health is endangered by a person who has active TB, who is unwilling or unable to receive treatment, and who is unwilling or unable to avoid exposing others to possible TB infection, the local health department may petition district court for a judicial quarantine order. The purpose of this order is to make possible the completion of needed TB treatment.

Conditions

Before seeking a judicial quarantine order, the local health department must document that:

- the person has active TB
- efforts have been made to educate and counsel the person of the need to complete treatment
- the person has been offered locally available incentives and enablers to complete treatment
- the person is unwilling or unable to receive treatment in spite of education, incentives and enablers
- the person has persistently failed to adhere to prescribed treatment
- quarantine for purposes of completing treatment is needed to assure treatment, prevent disease transmission and prevent the development of MDR-TB organisms
- quarantine is the least restrictive way to protect public health.

Petitioning district court

continued



Required elements for a petition for quarantine

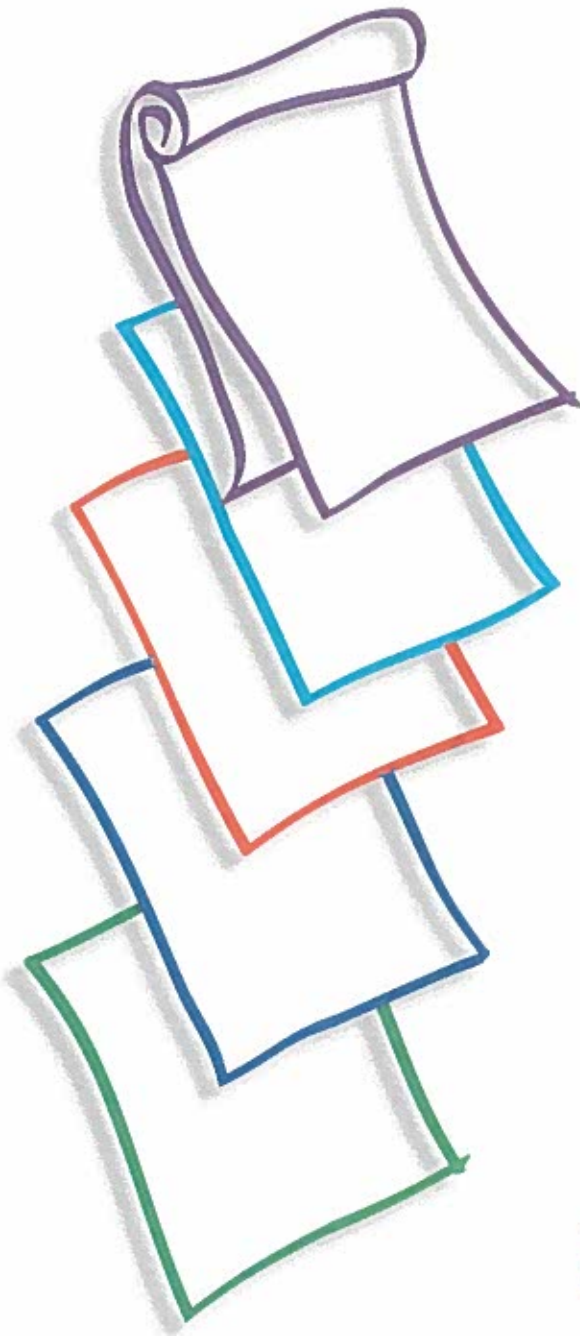
The petition must have all of the following:

- the name of the person
- a citation of the statute authority under which the petition is filed with the court
- the basis for the local health department's judgment that the person
 - has active TB
 - is unable or unwilling to adhere to prescribed treatment
 - has persistently failed to adhere to prescribed treatment
- documentation that efforts have been made to educate and counsel the person about the need to complete prescribed treatment, and about the medical and legal consequences of failing to do so
- a description of the incentives and enablers offered to the person
- the basis for the local health department's judgment that quarantine is needed to assure treatment, prevent disease transmission and prevent the development of MDR-TB organisms
- the basis for the local health department's judgment that quarantine is the least restrictive alternative available to protect public health
- the place where the person will be quarantined
- a demand for relief from the court by which the court orders the recalcitrant to submit to treatment by the local health department or in accordance with its orders, together with a request for all other relief to which the agency is justly entitled.



Quarantine order

A judicial order can only be obtained by application to the court system.





Legal rights of the person who is subject to a petition for judicial order

All orders, petitions and applications for hearings must be hand-delivered to the person as quickly as possible. In addition, the local health department will inform the person of his or her legal rights. These include:

- the right to be present at the hearing before the court or to have a representative present
- the right to have legal counsel or, if unable to afford or obtain counsel, the right to have counsel appointed for him or her by the court
- the right to cross-examine witnesses
- the right to appeal an order of the court to the circuit court
- the right to apply to the court to terminate or modify an order
- the right to have proceedings of the court recorded and transcribed if the person appeals or files for a writ of habeas corpus
- the right to have the proceedings of the court be confidential (unless the person requests disclosure or the court orders it after showing good cause).

The court has the right to appoint and hear additional expert witnesses.



Summary of the process for making a petition for judicial quarantine:

1. Determine whether the conditions on page 15 have been met.
2. If you have not already done so (see page 14 for the process for issuing an emergency quarantine order), petition district court for a hearing to quarantine. Make sure the petition contains all the "required elements" listed on page 16. (See Petition for Hearing to Quarantine form, page 23.)
3. Notify the state's Tuberculosis Control Program, Department for Public Health, that a petition for judicial quarantine has been made.

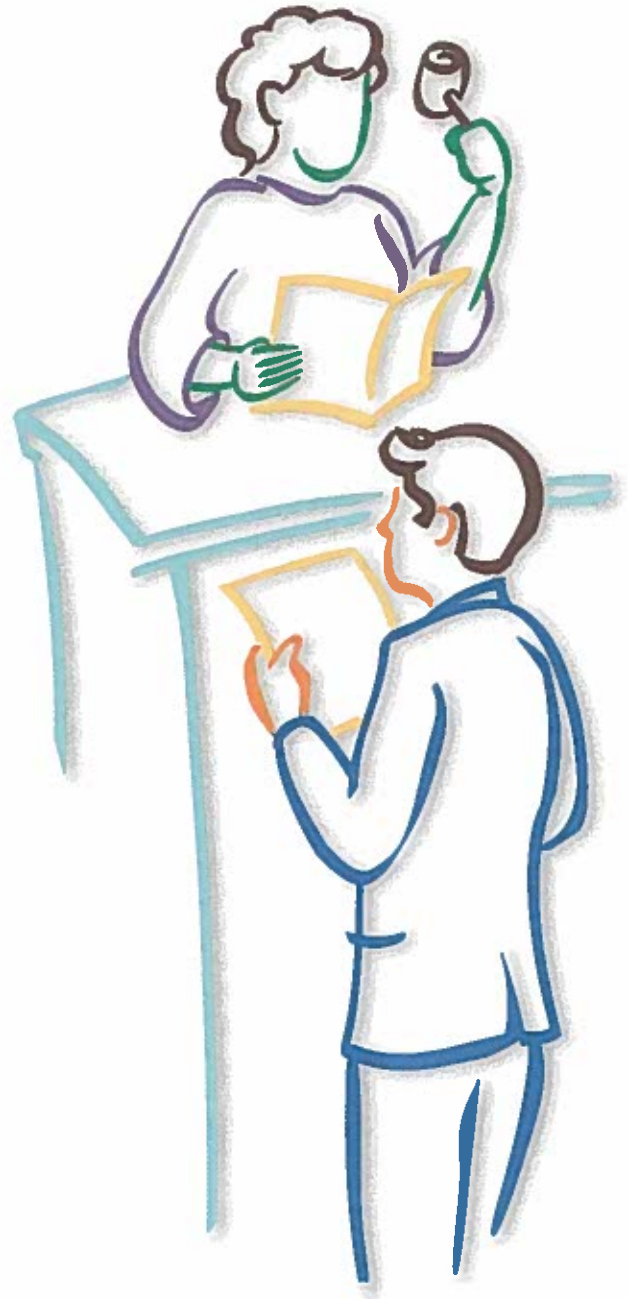
Violation of court order

[KRS 215.570 (1) (2)]

Penalties

The following are penalties for violation of a court order:

1. If the court, subsequent to an order of the court as described in KRS 215.560(2), finds a person in violation of that order, the defendant shall be guilty of a misdemeanor and shall be subject to the penalties set forth in subsection (2) of this section. If, however, a course of treatment for active tuberculosis in an inpatient facility or less restrictive treatment alternative is available and is recommended by the cabinet, the court may prescribe a course of treatment in lieu of penalties, and place the defendant on probation. Failure to enter the facility as prescribed, departure from the facility against medical advice, or failure to adhere to a less restrictive treatment alternative shall be grounds for immediate revocation of probation.
2. A person who is found to be in violation of an order issued by the court under KRS 215.560(2) shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or shall be imprisoned for not less than six (6) nor more than twelve (12) months, or both.



Notice for TB Examination

COUNTY/DISTRICT _____

NOTICE OF THE LOCAL HEALTH DEPARTMENT TO COMPLETE TB EXAMINATION

CONFIDENTIAL

[Patient name]
[Street address]
[City/town], KY [ZIP code]
c/o [Hospital]
[Street address]
[City/town], KY [ZIP code]

Mr./Mrs./Ms. [patient name]:

Please take notice that I have been informed by [doctor's name/other] that you, [patient name] of [city/town], Kentucky [ZIP code], are diagnosed as having [active pulmonary tuberculosis] as confirmed by [medical information such as positive sputum smear/date, abnormal bilateral cavitory X-ray/date]. The [city/town/district] Health Department has been cooperating with your physician since your diagnosis to develop and continue a treatment plan for your disease. You have been educated/counseled about the medical need to be examined by [insert doctor's name/other and documentation of efforts made to educate/counsel the person about the need for examination] and about the medical consequences of not being examined, and you have been [unwilling/unable] to be examined. [Insert documentation of the person's unwillingness or inability to be examined here and medical/public health opinion of the individual's likely medical condition as a result.] Therefore, you may pose a substantial risk to the public health of others. [Insert period of time the notice is to be effective, which should not be an excessive time period.]

Therefore, this letter is a notice to inform you to be examined and of the legal consequences of your continued failure to comply with this notice to be examined. If you continue to refuse to be examined, you will be issued an Emergency Quarantine Order, confining you to [hospital]. Further, during that period a hearing will be held in district court to determine whether you should continue quarantine.

Dated at [city/town], Kentucky on [date]

[Local health department representative]
[Title]
[City/town]

cc: County Attorney
State TB Control Program
File

Notice for TB Treatment

COUNTY/DISTRICT _____ NOTICE OF THE LOCAL HEALTH DEPARTMENT FOR TREATMENT CONFIDENTIAL

[Patient name]
[Street address]
[City/town], KY [ZIP code]
c/o [Hospital]
[Street address]
[City/town], KY [ZIP code]

Mr./Mrs./Ms. [patient name]:

Please take notice that I have been informed by [doctor's name/other] that you, [patient name] of [city/town], Kentucky [ZIP code], are diagnosed as having active pulmonary tuberculosis as confirmed by [insert factual basis here: medical information such as positive sputum smear/date, abnormal bilateral cavitory X-ray/date]. The [city/town] Health Department has been cooperating with your physician since your diagnosis to develop and continue a treatment plan for your disease. You were informed [how, when, where and by whom] of the medical consequences of not taking your medication. These consequences are: [enumerate]. However, you have indicated to [doctor's name/other] that you are [unable/unwilling] to adhere to your prescribed treatment plan. Therefore, you pose a substantial risk to the public health of others.

Continued refusal to comply with the prescribed course of treatment will result in you remaining in a continued infectious state. Your doctor will counsel you as to the need to continue and complete treatment, and in conjunction with the [city/town] Health Department, will offer you such enablers and incentives as are reasonably appropriate to facilitate completion of treatment.

Therefore, this letter is a notice to inform you first that you must complete prescribed treatment [through (date) as prescribed by physician], and to inform you of the legal consequences of your failure to comply with prescribed treatment. If you continue to refuse treatment, you will be issued an Emergency Quarantine Order, confining you to [hospital/home]. Further, during that period a hearing will be held before circuit court to determine whether you should continue to be quarantined for a period not to exceed _____.

Dated at [city/town], Kentucky on [date]

[Local health department representative]
[Title]
[City/town]

cc: County Attorney
State TB Control Program
File

Notice to Complete Directly Observed Therapy

COUNTY/DISTRICT _____

NOTICE OF THE LOCAL HEALTH DEPARTMENT
TO COMPLETE DIRECTLY OBSERVED THERAPY

CONFIDENTIAL

[Patient name]
[Street address]
[City/town], KY [ZIP code]
c/o [Hospital]
[Street address]
[City/town], KY [ZIP code]

Mr./Mrs./Ms. [patient name]:

Please take notice that I have been informed by [doctor's name/other] that you, [patient name] of [city/town], Kentucky [ZIP code], are diagnosed as having [active pulmonary or laryngeal tuberculosis] as confirmed by [insert factual basis here: medical information such as positive sputum smear/culture/dates, X-ray results/dates]. The [city/town] Health Department has been cooperating with your physician since your diagnosis to develop and continue a treatment plan for your disease. However, you have indicated to [doctor's name/other] that you are [unable/unwilling] to adhere to your prescribed treatment plan by [insert documentation of the person's unwillingness or inability to continue treatment here and medical/public health opinion of the individual's likely medical condition as a result]. You have been educated/counseled about the need to complete treatment. [Insert doctor's name/other and documentation of efforts made to educate/counsel the person about the medical and public health need to complete treatment; describe any previous notices to complete treatment and results and note enablers/incentives that may have already been provided.]

Continued refusal to comply with the prescribed course of treatment will result in you ["remaining in a continued infectious state" or "developing drug resistance"]. Your [doctor/other] will continue to counsel you as to the need to continue and complete treatment, and in conjunction with the [city/town] Health Department, will offer you such enablers and incentives [describe specific enablers/incentives here] as are reasonably appropriate to facilitate completion of treatment.

Therefore, this letter is a notice to inform you to complete directly observed therapy by [insert specific reasonable instructions here conducive to the needs of the patient]; and to inform you of the legal consequences of your continued failure to adhere to the prescribed treatment. If you continue to refuse treatment, you may be issued an Emergency Quarantine Order, confining you to [hospital/home] for a period of 14 days. Further, during that period a hearing will be held before district court to determine whether you should continue to be quarantined for a period longer than 14 days.

Dated at [city/town], Kentucky on [date]

[Local health department representative]
[Title]
[City/town]

cc: County Attorney
State TB Control Program
File

Emergency Quarantine Order

COUNTY/DISTRICT _____

NOTICE OF THE LOCAL HEALTH DEPARTMENT FOR THE EMERGENCY QUARANTINE OF [PATIENT NAME] AT [HOSPITAL]

CONFIDENTIAL

[Patient name]
[Street address]
[City/town], KY [ZIP code]
c/o [Hospital]
[Street address]
[City/town], KY [ZIP code]

Mr./Mrs./Ms. [patient name]:

Please take notice that I have been informed by [physician name] that you, [patient name] of [street address, town, Kentucky ZIP], are diagnosed as having [insert diagnosis and factual basis for diagnosis here: medical information such as positive sputum smear/culture/dates, X-ray results/dates] and that you have indicated verbally and by your own actions to [doctor's name/other] that you are unwilling to adhere to your prescribed treatment plan by [insert documentation of the person's unwillingness or inability to adhere to their prescribed treatment plan here and medical/public health opinion of the individual's likely medical condition as a result]. Therefore, you pose a substantial risk to the public health of others.

The [health department's name] has been cooperating with your physician(s) since your diagnosis to develop and continue a treatment plan for your disease. You have been educated/counseled about the need to continue and complete treatment. [Insert doctor's name /others' name(s) and their documentation of efforts made to educate/counsel the person about the medical and public health need to complete treatment, and describe here any previous notices issued to the patient to complete treatment and/or be examined, and the results, such as: "You have continued to refuse to comply/adhere and/or failed to cooperate with a written notice (describe notice) issued and served on (date). That/those notice(s) informed you of the medical and legal consequences of continued failure to comply/adhere with (specified activity, such as prescribed treatment or examination) "] Additionally, you have been offered such enablers and incentives as are reasonably necessary to facilitate completion of treatment. [Note here any enablers or incentives that may have already been provided.]

In light of the fact that: you have [active] TB disease that is likely infectious; you have been [educated/counseled] about the need to complete treatment but you have ["been unable/unwilling to adhere to your treatment regimen" or "refused TB treatment"]; locally available [incentives/enablers (may)] have been offered; you pose a substantial and imminent likelihood of transmitting tuberculosis to others; and you have been educated/counseled re: the need to avoid exposing others. Accordingly, as you are unwilling or unable to behave so as not to expose others to risk of tuberculosis infection, emergency quarantine is the least restrictive alternative to protect the public health.

THEREFORE, pursuant to the KRS 215.520 - 215.600, effective July 15, 1996, YOU ARE HEREBY ORDERED TO BE QUARANTINED at [hospital/facility name, hospital/facility address, Kentucky ZIP] for 14 days from [starting date] to [ending date] where you will be evaluated and treated. Your quarantine is necessary to protect and preserve the public health. Failure to comply with this order will result in my taking further action for enforcement through district court.

FURTHER, please take notice that [city/town] will seek your continued quarantine until it is determined that you no longer pose a substantial public health threat.

Under KRS 215.560, you are hereby informed that:

- (1) You or your representative has a right to be present at the hearing;
- (2) You have a right to counsel and, if you are indigent or otherwise unable to pay for or to obtain counsel, you have the right to have counsel appointed to represent you;
- (3) The court shall have a right to appoint and hear additional expert witnesses;
- (4) You have a right to be present and to cross-examine witnesses testifying at the hearing;
- (5) The proceedings before the court shall be recorded and shall be transcribed if you appeal or file a writ of habeas corpus;
- (6) The proceedings before the court shall be confidential and shall not be disclosed unless you or your legal representative requests, or the court so orders for good cause shown;
- (7) You have a right to appeal an order of the court to the circuit court; and
- (8) You have a right to apply to the court to terminate or modify an order it has made under subsection KRS 215.570 (1) (2).

Dated at [city/town], Kentucky on [date]

[City/town] Health Department Representative [name, title]

cc: County Attorney
State TB Control Program
File

Petition for Order of District Court to Submit to Treatment

COMMONWEALTH OF KENTUCKY

_____ District Court

Action 200__-C- _____

_____ Health Department

vs
John Doe

Petitioner
Petition for Order of District Court to Submit to Treatment
Respondent

The _____ Health Department, through counsel, for its petition for relief states as follows:

1. This action is brought pursuant to KRS 215.560 (2).
2. The _____ health department serves the public health needs of the people of [county name] County, Kentucky, including administration of the Kentucky Tuberculosis Law.
3. [Name of respondent] is a resident of [city/town] in [county name] County, Kentucky.
4. Based upon information made available to the _____ Health Department that the respondent suffers from active tuberculosis and has not submitted to treatment, the health department issued an order for the respondent to submit to [treatment or quarantine] for the purpose of treating the respondent's active tuberculosis. The order of the health department is attached as Exhibit ___ and incorporated by reference.
5. Efforts have been made by the Petitioner to educate and counsel the respondent upon the need to submit for treatment of the respondent's condition. The affidavit of _____, a _____ for the petitioner, attached hereto and incorporated by reference, sets forth the efforts of the Petitioner to educate, counsel, and incentivize compliance with the lawful order for submission for treatment.
6. Despite the best efforts of the Petitioner to obtain compliance with its lawful order, the respondent has failed to submit to treatment of his condition.
7. The treatment proposed by the Petitioner is the least restrictive alternative available to protect the public health.
8. Failure to submit to treatment as directed by the lawful order of the Petitioner will result in the potential exposure of uninfected citizens of the Commonwealth to active tuberculosis.

WHEREFORE, the Petitioner demands the following relief:

1. An Order of the Court directing the respondent [respondent name] to comply with the lawful order of the Petitioner to submit to [treatment or quarantine] in accordance with the requirements of the Petitioner relating to the control of infectious disease.
2. Its costs herein expended and all other relief to which it is justly entitled.

County Attorney

[Street address]

[Telephone Number]

I have read the above petition and attached documentation, and believe the contents thereof to be true to the best of my knowledge and belief.

Affiant

Subscribed and sworn to before me on this the ___ day of _____, 200 __, in _____, Kentucky.

Notary Public

State-at-Large

My Commission Expires:

Thinking ahead

How would you respond to the following situations?
Discuss your ideas with your supervisor and/or co-workers.

Mrs. R. has come to visit her husband, who is in a TB isolation room. She refuses to wear a personal respirator. Her reasoning is that she was already exposed to her husband's TB at home.

You hear a co-worker tell another that it's too much trouble to put on a "hot and ugly" respirator. After all, he only plans to be in an isolation room for "just a few minutes."

Mr. C. is in TB isolation. He has diabetes as well as TB. He needs an injection of insulin 20 minutes before lunch. When you arrive outside the room with the insulin, you notice that your respirator looks damaged. If you take the time to get a replacement, Mr. C.'s insulin shot will be late.

You see a member of the housekeeping staff about to enter a TB isolation room. She's not wearing a respirator. When you point this out, she replies, "I don't need one. The patient was transferred to another facility two hours ago."

The examples on these pages are hypothetical. Any similarities to situations in real organizations that exist now or existed in the past are coincidental.

Self-assessment quiz

Use this quiz to help you see which TB precaution topics you know well—and which ones you may need to review.

	True	False
1. TB infection is the same as TB disease.	<input type="checkbox"/>	<input type="checkbox"/>
2. Close contacts of people with TB are at risk for infection.	<input type="checkbox"/>	<input type="checkbox"/>
3. A person with latent TB can pass TB germs to others.	<input type="checkbox"/>	<input type="checkbox"/>
4. Airborne precautions must be used with patients known or suspected to have TB disease.	<input type="checkbox"/>	<input type="checkbox"/>
5. You should check the respirator fit every time you put a respirator on.	<input type="checkbox"/>	<input type="checkbox"/>
6. Airborne precautions take the place of standard precautions.	<input type="checkbox"/>	<input type="checkbox"/>
7. A surgical mask is one type of personal respirator.	<input type="checkbox"/>	<input type="checkbox"/>
8. A TB isolation room should be equipped with positive air pressure.	<input type="checkbox"/>	<input type="checkbox"/>
9. Patients suspected of having TB disease should not begin treatment until culture results are known.	<input type="checkbox"/>	<input type="checkbox"/>
10. Treatment of TB disease that is not drug-resistant can take 6-12 months.	<input type="checkbox"/>	<input type="checkbox"/>

Answers are on page 3.

I have read the manual, "Kentucky's Tuberculosis Control Law."

Employee's signature

Date

Instructor/supervisor's signature

Date

Quick Reference

Issuing a notice for examination					Conditions under which notices/orders/petitions occur
Issuing a notice for treatment					
Issuing a notice for DOT					
Issuing an emergency quarantine order					
Petitioning district court for judicial order					
◆	◆	◆		◆	1. The person has active TB disease.
			◆		2. The person has active TB disease (likely infectious).
◆					3. The person has been educated/counseled about the need to be examined.
	◆	◆	◆	◆	4. The person has been educated/counseled about the need to complete treatment.
	◆	◆	◆	◆	5. Locally available incentives/enablers have been offered.
◆					6. The person has been unable/unwilling to be examined.
	◆	◆	◆	◆	7. The person has been unable/unwilling to adhere to a treatment regimen.
				◆	8. The person has demonstrated a pattern of persistent nonadherence to treatment.
			◆		9. The person poses substantial/imminent likelihood of transmitting TB to others.
			◆		10. The person has been educated/counseled regarding the need to avoid exposing others and about contagion precautions.
			◆		11. The person has been unable/unwilling to behave so as not to expose others to the risk of infection.
			◆		12. Emergency quarantine is the least restrictive alternative to protect the public health.
				◆	13. Quarantine for completing treatment is necessary to prevent drug resistance to TB from developing.
				◆	14. Quarantine for treatment is the least restrictive course to protect the public health (all else has failed).
					Elements of notices, orders, petitions
◆	◆	◆	◆	◆	1. The name of the person who is subject of the notice/petition and who has active TB.
◆	◆	◆	◆	◆	2. The factual basis for the LHD's judgment that the person has active TB.
◆					3. Documentation of efforts made to educate/counsel the person about the need for examination.
	◆	◆	◆	◆	4. Documentation of efforts made to educate/counsel the person about the need to complete treatment.
◆					5. Documentation of efforts made to educate/counsel the person about the medical/legal consequences of failing to agree to an examination.
	◆	◆	◆	◆	6. Documentation of efforts made to educate/counsel the person about the medical/legal consequences of failing to complete the prescribed treatment.
	◆	◆	◆	◆	7. Description of incentives and enablers that have been provided to the person.
◆					8. Factual basis for the LHD's judgment that the person is unable/unwilling to be examined.
	◆	◆	◆	◆	9. Factual basis for the LHD's judgment that the person is unable/unwilling to adhere to treatment.
◆					10. Period of time the notice is to be effective (not past "due diligence" diagnosis period).
	◆	◆			11. Period of time the notice is to be effective (not beyond the prescribed period of treatment).



Issuing a notice for examination

Issuing a notice for treatment

Issuing a notice for DOT

Issuing an emergency quarantine order

Petitioning court for judicial quarantine/order

Elements of notices, orders, petitions

			◆		13. Period of time the notice is to remain in effect.
			◆		14. Factual basis for the LHD's judgment that the person is infectious or is likely to be infectious.
			◆		15. Factual basis for the LHD's judgment that the person is likely to transmit TB to others.
			◆		16. Factual basis for the LHD's judgment that the person is unable/unwilling not to expose others.
				◆	17. Factual basis for the LHD's judgment that the person has been persistently nonadherent to treatment .
				◆	18. Factual basis for the LHD's judgment that quarantine is necessary to prevent multidrug- resistant TB.
			◆		19. Factual basis for the LHD's judgment that quarantine is the least restrictive alternative (all else has failed).
				◆	20. Factual basis for the LHD's judgment that quarantine for treatment is the least restrictive alternative .
			◆	◆	21. Place of quarantine , approved by DPH.
◆			◆	◆	Quarantine orders: The LHD may petition court for a quarantine order for a notice for examination. The LHD is authorized to issue a quarantine order but must obtain a judicial order for a longer period .
Y	N	N	Y*	N/A	Hearing required (Y/N)? *Immediately following emergency quarantine.
Process					
◆	◆	◆	◆	◆	1. Evaluate whether "conditions" (above) have been met for the specific action.
◆	◆	◆			2. Write notice including "elements" (above) for the specific activity (see forms).
			◆	◆	3. Write order/petition to court including "elements" (above) for emergency/judicial order.
◆	◆	◆	◆		4. Consult the local county attorney to determine how the notice/order should be delivered, who should deliver it.
◆					5. Seek enforcement order from the court (optional). Court holds hearing.
◆	◆	◆	◆		6. Deliver notice/order .
			◆		7. Immediately petition court for a decision on the order's continuance.
			◆		8. District court schedules hearing as needed by either party.
			◆	◆	9. District court renders a decision on need for further quarantine or its discontinuance.
			◆	◆	10. The court schedules a hearing.
			◆	◆	11. The court renders a decision.



Legal rights of the individual: The person who **is** the subject of a judicial order has the following rights: (1) the right to be present at the hearing or have his/her representative present; (2) the **right** to counsel and, if indigent or otherwise unable to pay for or to obtain counsel, the right to have counsel appointed to represent him/her; (3) the right to be present and to cross-examine witnesses testifying at the hearing; (4) the right to appeal an order of the court to the **circuit** court; (5) the right to apply to the district court to terminate or modify an order the court has made; (6) that the proceedings before the **court** shall be recorded and shall be transcribed if he/she appeals or files a writ of habeas corpus; and (7) that the proceedings before the court **shall** be confidential and shall not be disclosed unless he/she or his/her legal representative requests, or the court so orders for good **cause** shown. The court shall have the right to appoint and hear additional expert witnesses at the expense of the petitioner.



For More Information, Please Contact the Following:

For medical/consultation

State of Kentucky Department for Public Health
Tuberculosis Control Program
275 East Main Street

MS: HS 2E-B
Frankfort, KY 40621
(502) 564-4276
(502) 564-3772 [fax]
<http://chfs.ky.gov/dph/epi/tb.htm>

For more copies of this manual and other TB education material

Kentucky Tuberculosis Control Program
275 East Main Street

MS: HS 2E-B
Frankfort, KY 40621
(502) 564-4276
(502) 564-3772 [fax]
<http://chfs.ky.gov/dph/epi/tb.htm>

Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30333
U.S.A.
(800) 311-3435
www.cdc.gov