

VI. Non-adherence

A. Closure of Patient Record for Non-Adherence of treatment of LTBI.

1. Contact patient by telephone within 14 days of failure to pick up medication.
2. If unable to reach by phone or no response to call, send a letter identifying the benefits of LTBI treatment and symptoms of tuberculosis disease; advise patient to contact you within two weeks (give date) or record will be closed.
3. If no response to letter or patient refuses treatment, close patient's record to follow-up.

B. Patient Non-Adherence When Treating for Active Tuberculosis.

1. Evaluate for barriers to adherence at initial patient contact. The following factors should be taken into consideration:
 - Lack of social or family support;
 - Alcohol abuse;
 - Substance abuse;
 - Homelessness;
 - History of non-adherence in other health care situations; and
 - Mental and/or emotional instability.
2. Evaluate for non-adherence during the treatment phase, such as:
 - Refusing medication;
 - Taking medication inconsistently;
 - Failing to keep DOT appointments; and
 - Missing clinic appointments.
3. If the patient does not abide by the TB Treatment Agreement (see sample agreement in chapter IV) **or** has missed a total of two weeks treatment during the initial phase or three weeks of treatment during the continuation phase, then an Isolation Order should be issued by the Health Director.
4. Isolation Orders
 - a. **"Isolation"** means the authority to limit the freedom of movement **or actions** of a person with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person to other persons who are susceptible or who may spread the agent to others.
 - b. An Isolation Order may:
 - require the person to comply with control measures, i.e., treatment orders, diagnostic tests, laboratory tests, etc.;
 - If the order includes the requirement to remain in the home until the TB nurse advises that they are no longer infectious, then the initial order is limited to 30 days. The order can be

extended by the court for up to one calendar year at a time if the court determines that such extension is reasonably necessary based on a petition to the court by the health director or designee. The extension should be sought at least three working days before the previous order expires. **(see GS 130A-145(d), amended June 2004).**

5. If the patient is infectious and you need to limit his/her freedom of movement, you must use the isolation order that limits freedom of movement template (found below and in the NCEDSS print templates). If the patient is not consistently adhering to the medication regimen, but is not infectious, and can move about freely, you must use the Compliance Order template (found below and in NCEDSS print templates).
6. The intent of the Isolation Order and Compliance Order is to ensure that the patient has been fully informed of the legal requirements for treating disease and understands legal action can be taken if there is any non-adherence from that date forward. Do not issue an Isolation Order or Compliance Order and then fail to follow up with legal action if it becomes necessary.
7. An Isolation or Compliance Order does not have to be issued before taking out a warrant for the arrest of a health law violator.
8. If there is reason to believe that the patient may board an airplane while infectious, contact N.C. TB Control with assistance is having the patient's name added to the Do Not Board list.

C. N.C. Public Health Laws and TB

See Chapter XIV for complete language found in the General Statutes (G.S.) and Communicable Disease rules.

1. General Statute 130A-144
 - a. Provides the authority for the local health director to investigate all cases of communicable diseases or conditions;
 - b. Calls for the adoption of rules that prescribe control measures for communicable diseases and conditions; and
 - c. Requires that all persons comply with control measures, including submission to examinations and tests.
2. General Statute 130A-145 gives quarantine and isolation authority to the State Health Director and local health directors.
3. General Statute 130A-25 states it is a misdemeanor to violate G.S. 130A-144(f) or G.S. 130-145 and specifically states that a person convicted of violating either of these General Statutes shall be sentenced for no more than two years and may not be released prior to the two years unless the

District Court determines that release would not endanger the public health.

4. Communicable Disease rules found in 10A NCAC 41A .0205 Control Measures -Tuberculosis provide requirements for the control of tuberculosis, including American Thoracic Society references for the diagnosis and treatment of TB.

D. Sample Compliance Order for TB Control
(Health Department Letterhead)

COMPLIANCE ORDER FOR TB CONTROL

I, _____, Health Director of the _____ County Health Department, pursuant to authority vested in me by General Statute 130A-145, issue this Compliance Order for TB Control to _____ (patient name)

DOB: _____

You are suspected of having or confirmed to have tuberculosis disease based on diagnostic evaluation that may include history of present illness, tuberculin skin testing or interferon gamma release assay testing, radiographic findings or laboratory findings.

You have been properly informed and counseled by _____ RN, TB Control Nurse with the _____ County Health Department regarding the control measures for tuberculosis disease. Failure to comply with the prescribed control measures will violate N.C. General Statute 130A-144.

You are ordered to comply with the following control measures:

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If you fail to comply with this Compliance Order for TB Control, you will be subject to prosecution for a misdemeanor offense pursuant to N.C. General Statute 130A-25 (a) and (b), punishable by up to two (2) years imprisonment, as determined in accordance with N.C. General Statute 130A-25 (c).

If you move to a new address or leave this county, you are required to notify this Health Department.

The staff of this Health Department remains available to provide assistance and counseling to you concerning your tuberculosis disease and compliance with Compliance Order for TB Control.

Health Director

Date

Issued by: _____

I have received the original copy of this order:

Patient

I witnessed this issuance: _____

E. Sample Compliance Order for TB Control (Spanish)

(Health Department Letterhead)

Orden de el cumplimiento el Control de la Tuberculosis

Compliance Order for TB Control

Yo, _____, el director de salud del condado de _____ de acuerdo a la autoridad depositada en mí por los *Estatutos Generales de Carolina del Norte* (130A145), expido esta *Orden de el cumplimiento a* _____ (patient name)

Fecha de Nacimiento: _____

Se sospecha o se ha confirmado que usted padece de tuberculosis basándonos en un diagnóstico que puede incluir su historia clínica, la prueba de tuberculina, radiografías o pruebas de laboratorio.

Usted ha sido informado y aconsejado por (name) _____

(title) _____ (agencia) _____ respecto a las medidas de control que se necesitan tomar para el control de la tuberculosis. El no cumplir con las medidas de control violará as leyes de los *Estatutos Generales de Carolina del Norte* (130A-144) I

Se le ordena a usted el cumplir con las siguientes medidas de control:

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Si usted no acata esta *Orden de el* para el control de la tuberculosis, usted pudiera ser acusado de un crimen menor, de acuerdo a los *Estatutos Generales de Carolina del Norte (130A-25)*, y podría ser condenado a encarcelamiento hasta por dos años.

Si usted se cambia de dirección o se va de este condado, NOTIFIQUE de este cambio al Departamento de Salud.

El personal de este Departamento de Salud está disponible para ayudarle y aconsejarle en todo lo relacionado con la tuberculosis, y cómo cumplir adecuadamente con esta *Orden de el cumplimiento*.

Director de Salud	Fecha
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Expedida por: _____

	Fecha
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Recibí el original de esta orden: _____

Paciente	Fecha
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F. Sample Isolation Order to Limit Freedom of Movement and Access

(Health Department Letterhead)

TB ISOLATION ORDER TO LIMIT FREEDOM OF MOVEMENT AND ACCESS

I, _____, Health Director of the _____ County Health Department, pursuant to authority vested in me by N.C. General Statute 130A-145, issue this Isolation Order to _____ (patient name).

DOB: _____

You are reasonably suspected of having or confirmed to have tuberculosis disease based on diagnostic evaluation that may include history of present illness, tuberculin skin testing or interferon gamma release assay testing, radiographic findings or laboratory findings.

You have been properly informed and counseled by (name) _____, (title) _____, (agency) _____, regarding the control measures for tuberculosis disease. Failure to comply with the prescribed measures will violate N.C. General Statute 130A-144.

You are ordered to comply with the following control measures:

- You must remain in your home, and not allow access by anyone other than those who reside in the household and your health care providers, until the Health Department advises you that you are no longer infectious and are no longer restricted to the house. **(This statement can be modified if needed to address specific circumstances.)**
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If you fail to comply with this TB Isolation Order to Limit Freedom of Movement and Access, you will be subject to prosecution for a misdemeanor offense pursuant to N.C. General Statute

130A-25 (a) and (b), punishable by up to two (2) years imprisonment, as determined in accordance with N.C. General Statute 130A-25 (c).

If you move to a new address or leave this county, you are required to notify this Health Department.

The staff of this Health Department remains available to provide assistance and counseling to you concerning your tuberculosis disease and compliance with this TB Isolation Order to Limit Freedom of Movement and Access.

Pursuant to N.C. General Statute 130A-145 (d), you may petition the superior court for review of this TB Isolation Order to Limit Freedom of Movement and Access. N.C. General Statute 130A-145 (d) states in part: "Any person substantially affected by that limitation may institute in superior court in Wake County or in the county in which the limitation is imposed an action to review that limitation. The official who exercises the quarantine or isolation authority shall give the persons known by the official to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services."

The authority of this TB Isolation Order to Limit Freedom of Movement and Access to limit your freedom of movement and access expires in 30 days unless extended or modified by a court pursuant to G.S. 130-145.

Health Director Date

Issued by: _____
Date

I have received the original copy of this order: _____
Patient Date

- G. Sample Isolation Order to Limit Freedom of Movement and Access (Spanish)
(Health Department Letterhead)

TUBERCULOSIS

Orden de Aislamiento para Limitar Libertad de Movimiento y Acceso

TB Isolation to Limit Freedom of Movement and Access

Yo, _____, el director de salud del condado de _____ de acuerdo a la autoridad depositada en mí por los *Estatutos Generales de Carolina del Norte* (130A145), expido esta *Orden de Aislamiento* a _____ (patient name)

Fecha de Nacimiento: _____

Se sospecha o se ha confirmado que usted padece de tuberculosis basándonos en un diagnóstico que puede incluir su historia clínica, la prueba de tuberculina, radiografías o pruebas de laboratorio.

Usted ha sido informado y aconsejado por (name) _____

(title) _____ (agency) _____ respecto a las medidas de control que se necesitan tomar para el control de la tuberculosis. El no cumplir con las medidas de control prescritas violará las leyes de *Estatutos Generales de Carolina del Norte* (130A-144)

Se le ordena a usted el cumplir con las siguientes medidas de control:

- Usted debe permanecer en su hogar y no permitir acceso a otras personas, a excepción de aquellas que viven en su hogar y a las personas que le proporcionan los servicios de salud, hasta que el *Departamento de Salud* le informe que ya no hay peligro de infección y que no tiene que estar aislado en su casa.
(This statement can be modified if needed to address specific circumstances)

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Si usted no acata esta *Orden de Aislamiento para limitar su libertad de movimiento y acceso*, usted pudiera ser acusado de un crimen menor, de acuerdo a los *Estatutos Generales de*

Carolina del Norte (130A-25), y podría ser condenado a encarcelamiento hasta por dos años, tal como está determinado por los *Estatutos Generales de Carolina del Norte* (130ª-25).

Si usted se cambia de dirección o se va de este condado, se requiere que NOTIFIQUE de este cambio al Departamento de Salud.

El personal de este Departamento de Salud está disponible para ayudarle y aconsejarle en todo lo relacionado con la tuberculosis, y cómo cumplir adecuadamente con esta *Orden de Aislamiento*.

De acuerdo a los *Estatutos Generales de Carolina del Norte*, usted puede pedir a una corte superior una revisión de esta *Orden de Aislamiento para Limitar Libertad de Movimiento y Acceso*. Los *Estatutos Generales de Carolina del Norte* dicen que: "Cualquier persona que es afectada substancialmente por la limitación, puede pedir a la corte superior del condado de Wake, o en el condado donde la limitación es ordenada, que se revise la limitación impuesta. El oficial que ordenó el aislamiento o cuarentena deberá dar a las personas afectadas un aviso de cómo pueden pedir esta revisión. Si alguna persona pide una audiencia, la audiencia deberá tener lugar dentro de un periodo de 72 horas (excluyendo sábados y domingos). La persona sustancialmente afectada por la limitación, tiene derecho a ser representada por algún abogado de su elección, o si la persona es indigente, la persona pudiera ser representada por un abogado de oficio, tal como lo establece el Artículo 36 del Capítulo 7ª de los *Estatutos Generales* y las reglas adoptadas por la *Oficina de Servicios de Defensa del Indigente*".

La validez de esta *Orden de Aislamiento para Limitar Libertad de Movimiento y Acceso*, expira en un periodo de 30 días, a menos que sea extendida o modificada por la corte, de acuerdo a los *Estatutos Generales* (130-145).

Director de Salud

Fecha

Expedido por: _____

Fecha

Recibí el original de esta orden: _____

Paciente

Fecha

H. Incarceration Procedure

- a. The health director issues a written Isolation Order (**see sample order above**) as soon as non-compliance is exhibited. The Isolation Order must specify the following:
 - Current disease status;
 - Required control measures and exactly how the patient is to comply with these measures;
 - Statutory authority for the Isolation Order and required control measures; and
 - Statutory basis and legal steps to be taken if patient fails to comply with the Isolation Order.
- b. The health director or designee should confer with the county attorney, judge, district attorney, and public defender regarding legal steps if the Isolation Order is violated.
- c. To assure immediate sentencing, a public defender must be assigned to the Health Law Violator (HLV) as soon as the HLV arrest warrant is issued.
- d. A HLV sent to the Department of Public Safety (DPS) prior to sentencing (due to the local jail being unable to house an infectious TB patient in isolation) is considered a "safe keeper" until trial and sentencing. The county will be charged a per diem fee for each day the HLV remains in safe-keeper status. Central Prison and N.C. Correctional Institution for Women in Raleigh are the facilities used for safe keepers if the sheriff does not believe the jail can adequately provide for the HLV.
- e. If the patient cannot be located to issue an Isolation Order, an arrest warrant should be initiated.

I. Arrest Procedure:

- a. The health director, his/her designee and/or the county attorney requests magistrate to swear out arrest warrant.
- b. Sheriff's department arrests HLV.
- c. If convicted, the HLV is sentenced "**for duration of tuberculosis disease treatment or up to two (2) years**" as determined in accordance with GS 130A-25(c).
- d. The local sheriff's department notifies the Department of Public Safety (DPS) of the impending arrival of the HLV:
 - Advise DPS that this is a high priority transfer, the person to be transferred is a HLV and cannot go by inmate transfer van.

- Advise DPS if masks are needed when transferring HLV to prison.
 - After contacting Transfer Coordinator, contact the Infection Control Coordinator for the N.C. Division of Prisons (919-838-3865) and provide the same information.
- e. The local health department should contact the Infection Control or TB nurse at the receiving facility and arrange to fax all pertinent medical information before the HLV arrives and then send copies of medical information and chest X-rays with the HLV.

J. DPS Medical Management

- a. **Male** non-infectious HLVs needing minimum security may be sent to any prison facility.
Male infectious HLV's are sent to Central Prison in Raleigh. For patient information, contact the Infection Control Nurse at

919-733-0800
- b. **Female** HLVs are sent to N.C. Correctional Institution for Women (NCCIW). For patient information, contact Infection Control Nurse at:

N.C. Correctional Center for Women
1034 Bragg Street
Raleigh N.C. 27610
(919) 733-4340 Ext. 323
- c. Obtain copies of TB infection or disease treatment medical records for **released** inmates by sending a Release of Information to:

Medical Records Manager, DOP Health Services
2405 Alwin Ct, Raleigh, N.C. 27699-4268
Telephone: (919) 715-1570 or 919-715-1584
Fax: 919-715-1581

K. DPS Health Law Violator Release from Prison Procedure:

- a. The prison unit attending physician and the State TB Nurse consultant will examine the patient's record to determine that treatment has been completed prior to issuance of a release letter.
- b. Upon determining that TB treatment has completed, the prison unit physician will send a letter (addressed to the county Health Director), to N.C. TB Control for the state TB Medical Director's signature. The letter will state the completion date and recommendation for release. A Community TB Referral (DC516), copies of all TB drugs received, most recent lab work, and end of treatment chest film (If applicable) will be attached to the letter to document treatment received.

L. NC TB Control Health Law Violator Release Letter Procedure

- a. Upon receipt of the letter and accompanying documentation from the prison unit physician, the State Health Director through N.C. TB Control will submit a letter concurring with the attending physician's recommendations for release.
- b. Both letters will be sent to the county health director from N.C. TB Control.

M. Local Health Department Health Law Violator Release from Prison Procedure

- a. Upon receipt of the letters and the accompanying documentation from the prison's attending physician, the county health director will review the case with the local TB clinician. The Community TB Referral (DC 516) and copies of all TB drugs received, most recent lab work, and end of treatment chest film (if applicable) will be attached to the letter documenting the completed treatment regimen.
- b. The health director will prepare a similar letter addressed to the district court judge and advise the county attorney and district attorney of release request. All three letters will be hand-carried to district court to request release of the HLV (See sample letter X 1. at the end of this chapter.).
- c. The district court judge will review the case and make a determination regarding an order for the HLV release.
- d. The court order for release is sent to the N.C. DOC Department of Combined Records:
Manager, Combined Records
2020 Yonkers Road
4226 Mail Service Center
Raleigh, NC 27699-4226
Phone: 919-716-3200 Fax 919-716-39