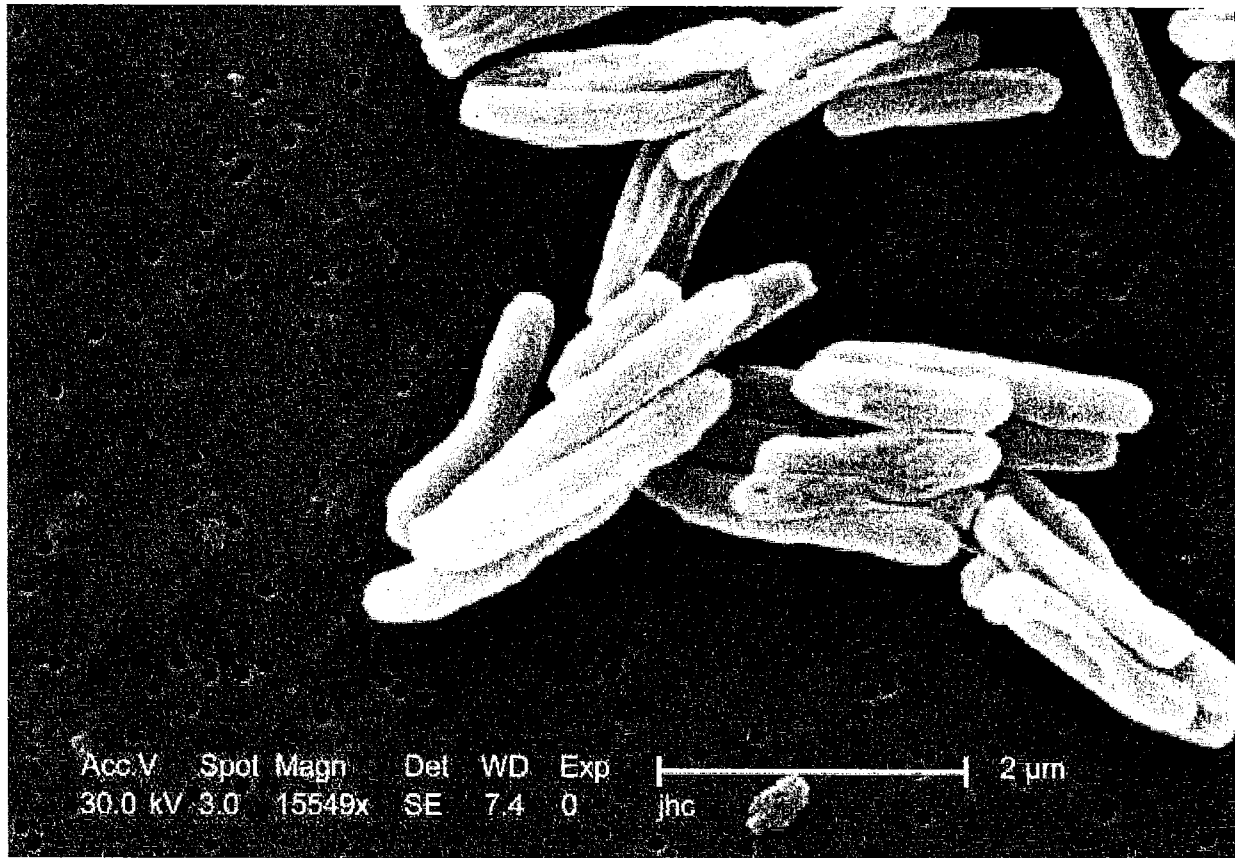


OREGON ISOLATION AND QUARANTINE MANUAL

Includes instructions for issuing
administrative orders for testing,
examination and treatment



Mycobacterium tuberculosis
Photo Content Provided by: CDC/ Dr. Ray Butler

2019

» Oregon Isolation and Quarantine Bench Book

2019 (2nd. Ed.)



Oregon
Health
Authority

PUBLIC HEALTH DIVISION
Health Security, Preparedness and
Response Program

Developed by:

Oregon Department of Justice
and
Oregon Health Authority
Public Health Division

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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. Slight modifications to the law have been made in the intervening years.

This Bench Book was researched and written by Shannon O'Fallon, Senior Assistant Attorney General with the Oregon Department of Justice. The first edition (2010) was written and produced with a great deal of assistance from the Multnomah and Josephine County Courts, the Oregon chapter of the ACLU, Oregon Public Defense Services, Multnomah and Benton County Counsel, Local Health Officer for Clackamas, Washington and Multnomah Counties, and the state Public Health Division.

This second edition was written and produced with assistance from Richard Leman, MD, Chief Medical Officer for Health Security, Preparedness and Response, Oregon Public Health and Heidi Behm, RN, MPH, Tuberculosis Controller/Nurse Consultant, Oregon Public Health.

This Bench Book would not have been possible without the generous help of those who provided content and served as reviewers and editors.

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

Oregon Department of Justice

Attn: Public Health Division contact counsel
100 SW Market St.
Portland, OR 97201

Emergency quarantine or isolation process

Probable cause to believe that individual* requires immediate detention in order to avoid clear and immediate danger to others and considerations of safety do not allow for the filing of a non-emergency petition.

PHD†/LPHA‡ issues Emergency Administrative Order

Individual detained for 72 hours

Individual released after 72 hours unless non-emergency petition filed and in that case, detention continues.

OR

Probable cause to believe that individual requires immediate detention in order to avoid clear and immediate danger to others and considerations of safety do not allow for the filing of a non-emergency petition.

PHD/LPHA petitions court for ex parte order.

If petition denied, no detention.

If petition granted, individual detained for 72 hours.

Individual released after 72 hours unless non-emergency petition filed and in that case, detention continues until a hearing is held.

* 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

OR

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.

* Could be an individual or a group of individuals.

† State Public Health Director

‡ Local Public Health Administrator

§ 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.

PHD/LPHA can petition to continue quarantine/isolation prior to expiration of order. Same process as above.||

Section 1: 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.¹

Filing a petition²

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. 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 and the court must issue an order continuing the isolation or quarantine.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;

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 See ORS 433.123

² See Sec. 16.00. Form C.1.

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.

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, 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.⁷ As a practical matter, state and local public health officials work with hospitals and other 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

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.

⁷ ORS 433.128(11),

cooperative nature of this process could change. In addition, a city or municipality may establish a quarantine hospital in an emergency.⁸

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."⁹ 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.

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.¹⁰ The petitioner is responsible for tracking the 72 hour deadline.

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.¹¹

Waiver of Hearing

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

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

⁸ ORS 433.150,

⁹ ORS 433.466

¹⁰ ORS 433.123(6)

¹¹ ORS 433.123(6)(b) See Sec. 16.00, Form F.1 to F.3.

privilege do not apply to quarantine or isolation proceedings.¹² 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 public.¹³ 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 may wish to restrict who is present in the courtroom 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.¹⁴ The petitioner may request that the person who is the subject of the petition be excluded from the courtroom or the court can unilaterally decide to exclude the person if a personal appearance would pose a serious risk of harm to others.¹⁵ In such situations the court proceeding must be conducted by legal counsel for the person or the hearing must be held at a location or by any means that allows the parties to fully participate.¹⁶

The Order¹⁷

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 measures¹⁸ 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.

¹² ORS 433.123(6)(d)

¹³ Id.

¹⁴ See Sec. 12.00, Infection Control.

¹⁵ ORS 433.123(7).

¹⁶ ORS 433.123(7).

¹⁷ See Sec. 16.00, Form C.3.

¹⁸ 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 431A.005

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.

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.

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.¹⁹

Service of the Order

The petitioner is required to personally serve a copy of the order in accordance with ORS 433.123(3).²⁰

Assistance from law enforcement

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.²¹ 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.

¹⁹ ORS 433.123(8)(a)

²⁰ ORS 433.128(8)(e)

²¹ ORS 433.156.

Section 2: 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 433.123.²²

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.

Filing a petition²³

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;

²² ORS 433.121

²³ 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 should be supported by at least one affidavit²⁴ 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.

The Ex Parte Order²⁵

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.

Service and Notice

The petitioner is required to make reasonable efforts to serve the respondent with the petition prior to it being filed. However, the petitioner is not required to provide prior notice of an ex parte proceeding at which the petition will be considered by the court.²⁶

The petitioner is required to serve a copy of the petition, ex parte order, and a notice of rights,²⁷ within 12 hours of the issuance of an ex parte order.²⁸

²⁴ See Sec. 16.00, Form A.3.

²⁵ See Sec. 16.00, Form A.4.

²⁶ See ORS 433.121(2)(c).

²⁷ See Sec. 16.00, Form E.

²⁸ 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.

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."²⁹ 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.

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.³⁰ The petitioner is responsible for keeping track of the 72 hour time frame and should document when confinement began.³¹ The petitioner must release the respondent after 72 hours or sooner if no petition is filed under ORS 433.123.

Assistance from Law Enforcement

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.³² 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.

29 ORS 433.466

30 ORS 433.123(5)

31 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.

32 ORS 433.156.

Section 3: Group isolation or quarantine

Summary

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.³³ 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.³⁴ 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.³⁵

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

³³ See Sec. 16.00, Forms B.1 to B.4 and D.1 to D.3.

³⁴ ORS 433.121(3) and ORS 433.123(3)

³⁵ ORS 433.136

attorneys to appoint. If enough attorneys are not appointed, the attorneys that are appointed may be faced with conflict of interest issues between clients.³⁶ 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.

³⁶ See Oregon Rules of Professional Responsibility 1.7.

Section 4: 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: Conditions and principles of confinement

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.³⁷
- ❑ 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

³⁷ 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.

imminent threat to the health and safety of others.

- ❑ 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.³⁸
- ❑ 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.

It is the responsibility of the petitioner to ensure that the conditions and principles of confinement are being met.³⁹

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.⁴⁰

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

³⁸ 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).

³⁹ ORS 433.128

⁴⁰ ORS 433.128(11)

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 person who is confined if the infection control procedures and other precautions determined necessary by the PHD are adhered to.⁴¹

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.⁴²

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.⁴³

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.⁴⁴

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.⁴⁵

41 ORS 433.131

42 Id.

43 ORS 433.131(1)(a) see Sec. 5.20

44 ORS 433.131(1)(c)

45 ORS 433.131(1)(c)

Section 6: 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.⁴⁶ 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.

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.⁴⁷

Basis for Granting an Application

The court must grant the application if there is a reasonable basis to support the allegations in the application.⁴⁸

Effect of Granting an Application on the Underlying Order

The granting of the application does not stay or enjoin the isolation or quarantine order.⁴⁹

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) to appear and show cause within 5 days of the filing of the application.⁵⁰ 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.⁵¹ The request for an extension may

⁴⁶ ORS 433.133

⁴⁷ ORS 433.133(1)(b)

⁴⁸ ORS 433.133(1)(c)

⁴⁹ ORS 433.133(1)(d)

⁵⁰ *Id.* at 55

⁵¹ *Id.* at 3

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 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.

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: Right to request review of conditions of detention

Summary

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.⁵²

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.⁵³ 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.

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.⁵⁴

The Hearing

If a hearing request alleges extraordinary circumstances justifying immediate relief, the court shall hold a hearing as soon as practicable.⁵⁵ Otherwise, the court shall hold a hearing within 5 days from receipt of the request.⁵⁶

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.⁵⁷ The request for an extension may be granted in the court's discretion

⁵² See Sec. 5.00

⁵³ ORS 433.133(2).

⁵⁴ ORS 433.133(2)(b).

⁵⁵ ORS 433.133(2)(d).

⁵⁶ *Id.*, at (2)(e).

⁵⁷ *Id.*, at (3).

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.⁵⁸

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.

⁵⁸ ORS 433.133(4).

Section 8: Isolating property

Summary

The Public Health Director (PHD) or Local Public Health Administrator (LPHA) may petition the court to isolate⁵⁹ 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.⁶⁰

Filing a Petition⁶¹

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.⁶²

⁵⁹ 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).

⁶⁰ ORS 433.142.

⁶¹ See Sec. 16.00. Form G.1.

⁶² ORS 433.142(3)

Service and Notice

The petition must be personally served on the owner or custodian of the property.⁶³

The Hearing

The court must hold a hearing within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays.⁶⁴

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 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.⁶⁵

A hearing may be waived by the owner or custodian of the property.⁶⁶

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. 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.⁶⁷

The court order⁶⁸ 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.⁶⁹

63 ORS 433.142(4)

64 Id. at (5)(a)

65 Id. at (5)(b)

66 Id. at (5)(c)

67 Id. at (6)

68 See Sec. 16.00, Form G.3.

69 Id. at (7)

Section 9: 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” a local public health administrator as defined in ORS 431.003 or the authorized representative of a local public health administrator.

“ local public health authority” means:

- c. A county government;
- d. A health district formed under ORS 431.443; or
- e. An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010 (5).

“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.

“Simultaneous electronic transmission” means transmission by television, telephone or any other electronic or digital means if the form of transmission allows:

- a. The court and the person making the appearance to communicate with each other during the proceeding; and
- b. A person who is represented by legal counsel to consult privately with the person’s attorney during the proceeding.

“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.⁷⁰

70 ORS 431.003; ORS 433.001

Section 10: Confidentiality

Summary

The court is required to restrict disclosure of the records related to isolation and quarantine proceedings.⁷¹ However, a petitioner may also ask the court to place petitions, affidavits, and other information related to an isolation or quarantine proceeding, under seal, in order to ensure that the confidentiality of the person who is the subject of a petition is protected. A petitioner should use initials in the caption of a petition to ensure that on court calendars and in on-line court databases 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.

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)).⁷² 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 is not a covered entity under HIPAA, but local public health departments likely are covered entities within the meaning of HIPAA. However, covered entities are permitted under HIPAA, to disclose PHI for public health activities and purposes, including controlling disease, without a written authorization from an individual.⁷³

⁷¹ See Sec. 10.30 and ORS 433.137.

⁷² See 42 U.S.C. § 1320d-2 (2005).

⁷³ 45 CFR § 164.501, 164.512(b)(1)(i).

State Law

In general, Oregon law provides for the confidential treatment of an individual's medical information. See generally ORS 179.505⁷⁴ (disclosure of written accounts by health care services), 192.553 to 192.581 (protected health information), ORS 192.533(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.

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.⁷⁵ 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.⁷⁶ 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.⁷⁷

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;

⁷⁴ See generally ORS 179.505 (disclosure of written accounts by health care services), 192.553 to 192.581 (protected health information), ORS 192.533(2) (personal privacy exemption under the public records act). 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).

⁷⁵ OAR 333-018-0015.

⁷⁶ ORS 433.008(1)(a)

⁷⁷ *Id.* at (1)(b)

- 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.

Confidentiality Court Proceedings

The court is required to restrict disclosure of records of isolation and quarantine proceedings and thus it is likely the petitioner will request that the court seal the records to avoid inadvertent disclosure. However, regardless of whether the documents are placed under seal, the court may only release information related to an isolation or quarantine proceeding:

- Upon request of a person who is the subject of the proceeding or to that person's attorney or other legal representative;
- To the state Public Health Director or local public health administrator; or
- Pursuant to a court order if the court finds that the petitioner's interest in public disclosure outweighs the privacy interests on the individual who is the subject of the petition.⁷⁸

⁷⁸ ORS 433.137.

Section 11: Primer on communicable diseases

Summary

Communicable diseases are those caused by organisms (bacteria, viruses, fungi, parasites, and worms) that can be contracted from other humans, animals, arthropods (insects, ticks, or lice),⁷⁹ 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 contagious 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, tick or louse bites;⁸⁰ (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 aerosol, (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 typically transmitted through the airborne route are measles, chickenpox, and tuberculosis. Some diseases – like smallpox, influenza, and the pneumonic form of are usually transmitted through heavier 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

⁷⁹ 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 central nervous system.

⁸⁰ Insects or arachnids may transmit disease in ways other than bites, but bites are the most common form of transmission.

by other means like vaccine or antibiotics (e.g., a case of influenza caused by a new and virulent strain).

Tuberculosis⁸¹

Tuberculosis (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.⁸²

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

Latent TB infection

Not everyone infected with TB bacteria becomes sick. People who are not sick have latent TB infection (LTBI). During latent TB infection, the individual's immune system fights the bacteria to stop them from growing. 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. People with latent TB infection can develop TB disease at any time in their life, but the highest risk is within two years after being exposed to TB disease.

People with latent TB infection:

- Have no symptoms
- Do not feel sick
- Cannot spread TB to others

⁸¹ 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://healthoregon.org/tb>

⁸² See ORS 433.004; OAR 333-019-0015(4)(c).

- Usually have a positive skin test reaction, QuantiFERON test (QFT-G) or TSPOT test
- May develop TB disease if they do not receive treatment for latent TB infection

TB disease

TB bacteria become active if the immune system cannot stop them from growing. The bacteria multiply in the body and cause TB disease. The bacteria attack the body and destroy tissue. Some people develop TB disease soon after becoming infected, before their immune system can fight the TB bacteria. Other people may get sick later.

Babies, young children, people living with AIDs and other people with certain medical conditions are particularly susceptible to TB due to weakened immune systems.

Symptoms of TB disease 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 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

TB Diagnosis

A positive tuberculin skin test, QuantiFERON or TSPOT test only indicates that a person has been infected with TB germs. Other tests, such as a chest x-ray and analysis of sputum samples, are needed to determine if the person has TB disease.

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 difficult to treat.

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

- Isoniazid (INH)
- Rifampin (RIF)
- Pyrazinamide (PZA)
- Ethambutol (EMB)

Directly observed therapy (DOT) is used to ensure patients adhere to therapy. During DOT 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.

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.

Extensively drug resistant TB (XDR TB) is a 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 second-line drugs, patients are left with treatment options that are much less effective.

Voluntary Treatment of TB

People with TB disease are generally treated on a voluntary basis. Directly observed therapy is used with all patients.⁸³ A home isolation is used to ensure a patient stays home to prevent others from becoming infected. Incentives may also be used to ensure adherence with treatment 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 adherent with treatment which puts others at risk of getting TB and increases the potential of MDR TB or XDR TB developing.

Other Quarantinable Diseases⁸⁴

Besides active tuberculosis, the federal Centers for Disease Control and Prevention (CDC) [includes] cholera, diphtheria, plague, smallpox, yellow fever, and infectious viral hemorrhagic fevers such as Ebola as diseases for which quarantine is authorized at the federal level. In addition, new strains of influenza with the

⁸³ See Sec. 11.10e.

⁸⁴ For a list of quarantinable diseases, see: <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>

potential to cause a pandemic (i.e., a worldwide epidemic) are included on the list. Finally, newly emerging infections that are high virulent and potentially very infectious may be added from time to time. An example is 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 before the initial outbreak was contained. No vaccine for it was available, and 8,098 people worldwide contracted the illness, 774 of whom died.

When SARS was recognized in Toronto, many measures were used to contain the spread of the disease, most of them voluntary. Sick people who did not need hospitalization were asked to remain home and to 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 or asked to quarantine themselves voluntarily. Mass gatherings were cancelled, schools were closed, and travel advisories were issued. However, not everyone cooperated, and approximately 30 quarantine orders were issued.

The SARS epidemic illustrates that although 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.

Section 12: 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 appear in court in person. 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, the following standard precautions can be taken:

- Stay more than 6 feet from the infectious person and have that person wear a mask
- 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 and Prevention for illnesses spread over short distances by respiratory droplets.

- "N95" respirators are a common type of inexpensive, disposable particulate respirators; but they need to 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.
 - Staff should wash their 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.

Table 1. 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 6 feet of patient	Isolation	None	Surgical mask for patient and those in close contact
Novel Influenza, suspect pandemic influenza	Respiratory droplets within 6 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 > 6 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: 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

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. _____

AFFIDAVIT OF DR. SMITH IN
SUPPORT OF PETITION FOR
ISOLATION

STATE OF OREGON)
)
 County of Multnomah)

I, Dr. Smith, being first duly sworn, depose and say:

1. I am a licensed physician in the State of Oregon, and the Tuberculosis Control Officer (TCO) for Multnomah County. I have been the TCO for five years.

2. In my role as the TCO, I am familiar with the facts of this case.

3. Under the state's disease reporting rules, Jane Doe was reported to the state by a local physician who had seen her in the emergency department. She was very ill with a fever, having chest pain and coughing. A chest x-ray was taken which indicated Ms. Doe had active tuberculosis (TB). Ms. Doe was sent to our local public health department who sent a sputum sample to the state public health lab where the active TB was confirmed.

4. 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. 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.

5. 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. 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: _____

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: Public health law

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).

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: Applicable state law

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)(a) 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 circuit court for a written ex parte order.
- (b) The petition to the court and the court's order must include the information described in subsection (1) of this section.
 - (c) The Public Health Director or local public health administrator:
 - (A) Shall make reasonable efforts to serve the person or group of persons subject to isolation or quarantine with the petition before the petition is filed; and

(B) Is not required to provide prior notice of an ex parte proceeding at which the petition is being considered by the court.

(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 shall post the notice and order in a conspicuous place where the notice and order can be viewed by those detained or shall 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 circuit 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; 2011 c.721 §2]

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 circuit 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 shall post the petition and notice in a conspicuous place where the petition and notice can be viewed by those detained or 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) Upon 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 or ex parte order issued under ORS 433.121, the court shall issue an order extending 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) The Public Health Director or local public health administrator may request that a person or group of persons who is the subject of a petition filed under subsection (1) or (9) of this section not personally appear before the court because personal appearance would pose a risk of serious harm to others. If the court grants the director's or local public health administrator's request or if the court determines that personal appearance by the person or group of persons who is the subject of the petition poses a risk of serious harm to others, the court proceeding must be conducted by legal counsel for the person or group of persons or

must be held at a location, or by any means, including simultaneous electronic transmission, 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 circuit 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 shall 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 must be for a period not to exceed 60 days and must 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 subjects the person in violation of the order to contempt proceedings under ORS 33.015 to 33.155. [2007 c.445 §9; 2011 c.721 §3]

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 circuit 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; 2011 c.721 §4]

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 public 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 circuit 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; 2011 c.721 §5; 2015 c.736 §79]

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 circuit 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 shall 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 Public Health Director or local public health administrator 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 director or local public health administrator 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 circuit court for remedies regarding breaches of the conditions of isolation or quarantine required by ORS 433.128.

(b) The court shall 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 does 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 (d) 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 by any means, including simultaneous electronic transmission, 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; 2011 c.721 §6]

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 and medical assistance 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, except as provided in ORS 411.439 and 411.447, or public agency or municipality.
[Amended by 1971 c.779 §64; 2007 c.445 §29; 2009 c.595 §645; 2015 c.836 §4]

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 circuit 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 shall 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 remains 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; 2011 c.721 §7]

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 431A.010	Authority of Oregon Health Authority and local public health administrators to enforce public health laws; authorized actions; rules; penalties.
ORS 431A.015	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: Forms

Form A.1

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

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

Case No. _____

PETITIONER'S MOTION FOR
EX PARTE ORDER FOR
[ISOLATION/QUARANTINE]

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.A.010 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,)
)
 Petitioner,)
)
 v.)
)
 _____,)
)
 Respondent.)
 _____)

Case No. _____

EMERGENCY PETITION FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]

1. Pursuant to ORS 431.110, 431A.010 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,)
)
)
 v.)
)
 _____,)
)
 Respondent.)
 _____)

Case No. _____

EX PARTE ORDER FOR [ISOLATION/QUARANTINE]

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, 431A.010 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, 431A.010 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
	)	[ISOLATION/QUARANTINE]
v.)	
)	
_____ ,)	
)	
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 it's 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, 431A.010 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,)
)
 Petitioner,)
)
 v.)
)
 _____,)
)
 Respondent.)
 _____)

Case No. _____

AFFIDAVIT OF _____ IN
SUPPORT OF PETITION 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 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],
	)	REQUEST FOR HEARING,
v.	)	AND REQUEST FOR
	)	APPOINTMENT
_____ ,	)	OF COUNSEL
)	
Respondents.)	
_____)	

1. Pursuant to ORS 431.110, 431A.010 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,)
)
 Petitioner,)
)
 v.)
)
 _____,)
)
 Respondents.)
 _____)

Case No. _____
 AFFIDAVIT OF _____
 IN SUPPORT OF GROUP
 [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 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,)
)
 Petitioner,)
)
 v.)
)
 _____,)
)
 Respondents.)
 _____)

Case No. _____

ORDER GRANTING PETITION
FOR GROUP
[ISOLATION/QUARANTINE]

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.

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.

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 431A.010 (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,)
)
 Petitioner,)
)
 v.)
)
 _____,)
)
 Respondent.)
 _____)

Case No. _____

MOTION TO RESCHEDULE HEARING

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

Case No. _____
ORDER RESCHEDULING
HEARING

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 431A.010 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 431A.010 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
Oregon Health Authority,
Public Health Division,
Petitioner.

Case No. _____

ORDER ISOLATING
PROPERTY

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]

SECTION 8.00
FORMS

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>PETITIONER'S MOTON FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]</p>
---	---

Petitioner, Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director, (PHD), 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, 431A.010 and 433.121.

DATED this _____ day of _____, _____.

Respectfully submitted,

 *
 Of Attorneys for _____
 County/State

PETITIONER'S MOTON FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>EMERGENCY PETITION FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]</p>
--	---

1. Pursuant to ORS 431.110, 431A.010 and 433.121, the Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director (PHD), 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.

EMERGENCY PETITION FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]

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/State

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>AFFIDAVIT OF _____ IN SUPPORT OF EMERGENCY PETITION FOR EX PARTE ORDER FOR [ISOLATION/QUARANTINE]</p>
--	--

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 reasonable efforts to serve person with petition].

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

8. [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.]

9. [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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>EX PARTE ORDER FOR [ISOLATION/QUARANTINE]</p>
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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 paragraphs 3 and 4 of affidavit (information about disease and the public health threat posed)];
3. [insert information from paragraph 5 of affidavit (information about why its an emergency)];
4. [insert information from paragraph 6 of affidavit (reasonable efforts or why no efforts made)];

5. [insert information from paragraph 8 of affidavit (conditions of confinement)];

6. [insert information from paragraph 9 of affidavit (length of confinement, why least restrictive means, whether a regulation petition will be filed)].

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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>PETITIONER'S MOTON FOR EX PARTE ORDER FOR GROUP [ISOLATION/QUARANTINE]</p>
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Petitioner, Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director (PHD), 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, 431A.010 and 433.121.

DATED this ____ day of _____, _____.

Respectfully submitted,

 *
 Of Attorneys for _____
 County/State,

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>[Insert initials of person(s) to be detained],</p> <p style="text-align: center;">Respondent.</p>	<p>Case No. _____</p> <p style="text-align: center;">EMERGENCY PETITION FOR EX PARTE ORDER FOR GROUP [ISOLATION/QUARANTINE]</p>
--	---

1. Pursuant to ORS 431.110, 431A.010 and 433.121, the Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director (PHD), 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 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.

EMERGENCY PETITION FOR EX PARETE ORDER FOR GROUP
[ISOLATION/QUARANTINE]

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. [Explain reasonable efforts to serve copy of petition prior to filing].

9. 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/State

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>AFFIDAVIT OF _____ IN SUPPORT OF EMERGENCY PETITION FOR EX PARTE ORDER FOR GROUP [ISOLATION/QUARANTINE]</p>
--	--

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:

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

- 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.);
- 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].

9. [Explain reasonable efforts to serve copy of petition prior to filing].

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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>EX PARTE ORDER FOR GROUP [ISOLATION/QUARANTINE]</p>
--	--

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 paragraphs 3 and 4 of affidavit (information about disease and the public health threat posed)];
3. [insert information from paragraph 5 of affidavit (information about why its an emergency)];
4. [insert information from paragraph 6 of affidavit (reasonable efforts or why no efforts made)];
5. [insert information from paragraph 7 of affidavit (conditions of confinement)];
6. [insert information from paragraph 8 of affidavit (length of confinement, why least restrictive means, whether a regulation petition will be filed)].

EX PARTE ORDER FOR GROUP [ISOLATION/QUARANTINE]

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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>PETITION FOR [ISOLATION/QUARANTINE], REQUEST FOR HEARING, AND REQUEST FOR APPOINTMENT OF COUNSEL</p>
--	---

1. Pursuant to ORS 431.110, 431A.010 and 433.123, the Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director (PHD), 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].

PETITION FOR [ISOLATION/QUARANTINE], REQUEST FOR HEARING, AND REQUEST FOR APPOINTMENT OF COUNSEL

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/State

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>AFFIDAVIT OF _____ IN SUPPORT OF PETITION FOR [ISOLATION/QUARANTINE]</p>
--	---

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].

AFFIDAVIT IN SUPPORT OF PETITION FOR [ISOLATION/QUARANTINE]

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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>ORDER CONTINUING [ISOLATION/QUARANTINE]</p>
--	---

Respondent was detained pursuant to an emergency [administrative/ex parte] order issued on [insert date]. Petitioner has filed a petition for continued [isolation/quarantine] in accordance with ORS 433.123. Therefore, IT IS HEREBY ORDERED, that under ORS 433.123(5), Respondent's detention is extended and will continue until the court holds a hearing on the petition.

DATED THIS _____ day of _____, _____.

 *
 Circuit Court Judge

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>ORDER GRANTING PETITION FOR [ISOLATION/QUARANTINE]</p>
--	---

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 of affidavit (information about public health threat) or updated information presented at the hearing];

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

ORDER GRANTING PETITION FOR [ISOLATION/QUARANTINE]

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

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

7. [insert information from paragraph 9 of affidavit (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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>PETITION FOR GROUP [ISOLATION/QUARANTINE], REQUEST FOR HEARING, AND REQUEST FOR APPOINTMENT OF COUNSEL</p>
--	---

1. Pursuant to ORS 431.110, 431A.010 and 433.123, the Local Public Health Administrator (LPHA) for _____ County/Oregon Health Authority, Public Health Director (PHD), 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].

PETITION FOR GROUP [ISOLATION/QUARANTINE], REQUEST FOR HEARING, AND REQUEST FOR APPOINTMENT OF COUNSEL

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/State

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>AFFIDAVIT OF _____ IN SUPPORT OF PETITION FOR GROUP [ISOLATION/QUARANTINE]</p>
--	---

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 _____

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondents.</p>	<p>Case No. _____</p> <p>ORDER CONTINUING [ISOLATION/QUARANTINE]</p>
---	--

Respondents were detained pursuant to an emergency [administrative/ex parte] order issued on [insert date]. Petitioner has filed a petition for continued [isolation/quarantine] in accordance with ORS 433.123. Therefore, IT IS HEREBY ORDERED, that under ORS 433.123(5), Respondents' detention is extended and will continue until the court holds a hearing on the petition.

DATED THIS _____ day of _____, _____.

*
Circuit Court Judge

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

<p>[LPHA/Oregon Health Authority, Public Health Director],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondents.</p>	<p>Case No. _____</p> <p>ORDER GRANTING PETITION FOR GROUP [ISOLATION/QUARANTINE]</p>
---	---

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

ORDER GRANTING PETITION FOR GROUP [ISOLATION/QUARANTINE]

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

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

7. [insert information from paragraph 9 of affidavit (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 _____

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>NOTICE OF RIGHTS</p>
---	---

To: [Respondent's name and address]

Petitioner 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.

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.

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 (OSB) lawyer referral service by calling 503-620-0222 or 800-452-8260, or by visiting OSB's website at <https://www.osbar.org/public/ris/lrsform.html>. 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 petitioner 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 petitioner 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 431A.010(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 _____

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>[Insert initials of person(s) to be detained],</p> <p style="text-align: center;">Respondent.</p>	<p>Case No. _____</p> <p style="text-align: center;">WAIVER OF COUNSEL</p>
---	--

I, the Respondent, _____, have reviewed and understand the Notice of Rights provided to me by the petitioner.

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 _____.

Date: _____

 Signature of Respondent

FILE THIS FORM WITH:

_____ Circuit Court

_____ [Address]

_____ [Phone No]

WAIVER OF COUNSEL

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

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>WAIVER OF HEARING</p>
---	--

I, the Respondent, _____, have reviewed and understand the Notice of Rights provided to me by the petitioner.

I understand that I have the right to a hearing to contest the petition for isolation or quarantine filed by the petitioner. 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]

WAIVER OF HEARING

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 _____

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>MOTION TO RESCHEDULE HEARING</p>
---	---

Petitioner moves the court for an order rescheduling the hearing set for _____ to _____. [optional: Counsel for the respondent consents to the continuance/objects 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 _____

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

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>AFFIDAVIT IN SUPPORT OF MOTION TO RESCHEDULE HEARING</p>
---	---

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].
4. [Explain any communication between you and respondent or respondent's attorney about the motion]

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 _____

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority] Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained], Respondent.</p>	<p>Case No. _____</p> <p>ORDER RESCHEDULING HEARING</p>
---	---

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]

_____ COUNTY/
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
FOR THE STATE OF OREGON

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority]</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>No. _____</p> <p>EMERGENCY ORDER FOR [ISOLATION/QUARANTINE]</p>
---	--

To: [Insert Name of Respondent and address, if possible]

Pursuant to ORS 433.121(1), the Petitioner has determined that there is probable cause to believe that you require immediate [isolation/quarantine] in order to avoid a clear and immediate danger to others. The Petitioner is issuing this emergency order because considerations of safety do not allow for the filing of a petition for [isolation/quarantine] with the court.

This order is based on the following facts:

[Insert, in separate paragraphs, facts that tell the respondent's story, in chronological order, detailing:

- ◆ 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;

- ◆ A description of 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;
- ◆ A description of the medical basis for which isolation or quarantine is justified;
- ◆ Why the person would pose a serious and imminent risk to the health and safety of others if not detained isolated or quarantined;
- ◆ An explanation of 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 will be detained, if known; and
- ◆ A statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

Therefore, IT IS ORDERED THAT:

1. You shall be detained at _____ until _____ [not to exceed 72 hours from the time the Respondent is placed in [isolation/quarantine]];
2. You are required to comply with treatment protocols, including _____;
3. You are required to submit to appropriate laboratory tests, including _____; and
4. You shall cooperate with physical examinations and other diagnostic and treatment modalities as deemed appropriate by his treating physician.

Pursuant to ORS 433.156, state and local law enforcement authorities shall cooperate with the Local Public Health Administrator in enforcing this order.

If [isolation/quarantine] beyond the 72 hours is needed the petitioner will file a petition in circuit court seeking to continue the [isolation/quarantine] and the court will hold a hearing on the petition.

Failure to comply with this order may subject you to civil penalties of up to \$500 a day. ORS 431A.010(1)(d).

A Notice of Rights is attached to this order.

DATED this _____ day of _____, _____.

*

Local Public Health Administrator/Public
Health Director

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]

_____ COUNTY/
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
FOR THE STATE OF OREGON

<p>[Oregon Health Authority, Public Health Director/ Local Public Health Authority] Petitioner,</p> <p style="text-align: center;">v.</p> <p>[Insert initials of person(s) to be detained], Respondents.</p>	<p>Case No. _____</p> <p>EMERGENCY ORDER FOR GROUP [ISOLATION/QUARANTINE]</p>
--	--

To: [Insert Name of Respondents and addresses, if possible]

Pursuant to ORS 433.121(1), the Petitioner has determined that there is probable cause to believe that you require immediate [isolation/quarantine] in order to avoid a clear and immediate danger to others. The LPHA is issuing this order because considerations of safety do not allow the filing of a petition for [isolation/quarantine] with the court.

This order is based on the following facts:

[Insert, in separate paragraphs, facts that tell the respondents' story, in chronological order, detailing:

- ◆ 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;
- ◆ A description of 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;

EMERGENCY ORDER FOR GROUP [ISOLATION/QUARANTINE]

- ◆ A description of the medical basis for which isolation or quarantine is justified;
- ◆ Why the group of persons would pose a serious and imminent risk to the health and safety of others if not detained isolated or quarantined;
- ◆ An explanation of 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 persons will be detained, if known; and
- ◆ A statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

Therefore, IT IS ORDERED that:

1. You shall be detained at _____, until _____ [not to exceed 72 hours from the time the respondents are placed in [isolation/quarantine];

2. You are required to comply with treatment protocols, including _____;

3. You are required to submit to appropriate laboratory tests, including _____; and

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

Pursuant to ORS 433.156, state and local law enforcement authorities shall cooperate with the Petitioner in enforcing this order.

If [isolation/quarantine] beyond the 72 hours is needed the Petitioner will file a petition in circuit court seeking to continue the [isolation/quarantine] and the court will hold a hearing on the petition.

Failure to comply with this order may subject you to civil penalties of up to \$500 a day. ORS 431A.010(1)(d).

A Notice of Rights is attached to this order.

DATED this _____ day of _____, _____.

*

Local Public Health Administrator/State
Public Health Director

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]

_____ COUNTY/
 OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
 FOR THE STATE OF OREGON

In the Matter of: [Insert name of person(s) to be detained], Respondent.	ORDER REQUIRING [TESTING/MEDICAL EXAMINATION]
--	--

To: [Respondent's name and address]

Under ORS 433.035 the Local Public Health Administrator (LPHA) for _____ County / State Public Health Director (PHD) may require a person who may have, or may have been exposed to a [communicable, reportable disease/a new or uncommon disease of public health significance/condition that is the basis of a state of public health emergency declared by the Governor] to undergo [testing/a medical examination] to establish the existence or absence of the disease.

The LPHA/PHD believes that you [may have/have been exposed to] _____. _____ is a [virus/bacteria/other] that is spread through _____. The symptoms of _____ are _____. Without treatment you may _____. You are believed [to have/to have been exposed to] _____ based on the following facts:

1. [fill in as many facts as possible]
2. _____

Attempts have been made to get you to voluntarily submit to treatment, including [fill in all facts of attempts for voluntary compliance]

[Testing/a medical examination may/will] determine whether you have the disease and if you do have the disease, [there is treatment that can cure the disease/there are control measures that will stop the spread of the disease to others].

To comply with this order contact _____ within ___ days to make an appointment to see _____. A written report will be provided to you with the results of the [testing/medical examination].

ORDER REQUIRING [TESTING/MEDICAL EXAMINATION]

If you refuse to comply with this order the LPHA/PHD or the court may issue an emergency order requiring you to be [isolated/quarantined] or a petition may be filed in circuit court seeking an order for [isolation/quarantine]. ORS 433.121 to 433.123.

Failure to comply with this order may subject you to civil penalties of up to \$500 a day. ORS 431A.010(1)(d).

Dated: _____

Local Public Health
Administrator/Public Health Director

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]

_____ COUNTY
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIRECTOR
FOR THE STATE OF OREGON

<p>In the Matter of:</p> <p>[Insert name of person(s) to be detained],</p> <p>Respondent.</p>	<p>ORDER REQUIRING TREATMENT</p>
---	----------------------------------

To: [Respondent's name and address]

Under ORS 433.035 the Local Public Health Administrator (LPHA) for _____ County / Public Health Director (PHD) may require a person with a communicable disease complete an appropriate prescribed course of medication/other treatment, including directly observed therapy if appropriate, and to follow infection control provisions for the disease.

You have been diagnosed with _____. Without treatment you will _____.

To comply with this order you must:

- 1.
- 2.
- 3.

If you refuse to comply with this order the LPHA/ PHD may issue an emergency order requiring you to be [isolated/quarantined] or may file a petition in circuit court seeking the imposition of a public health measure, including isolation or quarantine under ORS 433.121 to 433.123.

Failure to comply with this order may subject you to civil penalties of up to \$500 a day. ORS 431A.010(1)(d).

Dated: _____

Local Public Health Administrator/Public Health Director

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]

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

<p>In the Matter of: [property address or description], Contaminated Property _____ County</p>	<p>Case No. _____ PETITION TO ISOLATE PROPERTY</p>
---	---

1. Pursuant to ORS 431A.010 and 433.142, the Local Public Health Administrator (LPHA) for _____ County / Oregon Health Authority, Public Health Director (PHD) 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. The property is suspected to be contaminated with _____/is contaminated with] _____], a toxic substance as that is defined in ORS 431A.005 and ORS 433.001. This toxic substance _____ [put in facts about the health effects of the toxic substance].

4. 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].

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

6. [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 _____].

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

8. 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 _____.

9. 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].

10. 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,

*

Of Attorneys for _____
LPHA/PHD

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF _____

<p>In the Matter of: [property address or description], Contaminated Property</p> <p>_____ County</p>	<p>Case No. _____</p> <p>AFFIDAVIT IN SUPPORT OF PETITION TO ISOLATE PROPERTY</p>
---	---

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, 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 _____

<p>In the Matter of: [property address or description], Contaminated Property _____ County</p>	<p>Case No. _____ ORDER TO ISOLATE PROPERTY</p>
--	--

Having reviewed the Petition filed by Petitioner [LPHA/PHD], 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 why property is believed to be contaminated/or how it is known to be contaminated)];

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

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

ORDER TO ISOLATE PROPERTY

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

6. [insert information from paragraphs 7 and 8 of affidavit (how to decontaminate, neutralize or destroy property, conditions of isolation to protect public health) 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]

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

<p>[Name of County or State],</p> <p>Petitioner,</p> <p>v.</p> <p>[Insert initials of person(s) to be detained],</p> <p>Respondent.</p>	<p>Case No. _____</p> <p>MOTION TO SEAL</p>
---	---

Pursuant to ORS 433.137 Petitioner moves the Court for an order sealing all records and documents submitted in this matter unless and until the court orders records to be released. This Motion is supported by the attached Affidavit of Counsel.

Pursuant to [local rule #], I did/did not confer with respondent about this motion.

DATED this ____ day of _____, _____

[signature line of attorney]

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

<p>[Name of County or State], Petitioner, v. [Insert initials of person(s) to be detained], Respondent.</p>	<p>Case No. _____ AFFIDAVIT OF COUNSEL IN SUPPORT OF PETITIONER'S MOTION TO SEAL</p>
---	---

STATE OF OREGON)
)
County of _____)

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

1. I am the [insert title, job description, qualifications].
2. ORS 433.137 requires that the court cause to be recorded in the court records:
 - a. A full account of proceedings at hearings conducted pursuant to ORS 433.121, 433.123, 433.133 and 433.136;
 - b. The petitions, affidavits, judgments and orders of the court; and
 - c. A copy of the orders issued.
3. However, the information listed in paragraph two may only be released in limited circumstances.
4. In order to avoid inadvertent disclosure of protected information, petitioner requests that the court seal the records and recordings in this case and only permit their release:
 - a. To the respondent or the legal representative or attorney of the respondent;

- b. To the state Public Health Director or a local public health administrator;
- or
- c. Pursuant to a court order issued in accordance with ORS 433.137.

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 _____

[Name of County/State], Petitioner, v. [Insert initials of person(s) to be detained], Respondent.	Case No. _____ ORDER SEALING RECORDS
---	--

Having reviewed the Petitioner's Motion to Seal and ORS 433.137, and being fully advised, the Court grants the Petitioner's motion and makes the following ORDER:

1. The full account of proceedings at hearings conducted in this matter, petitions, affidavits, judgments and orders of the court, ARE SEALED.
2. The records and recordings placed under seal may only be released:
 - a. To the respondent or the legal representative or attorney of the respondent;
 - b. To the state Public Health Director or a local public health administrator;
or
 - c. Pursuant to a court order issued in accordance with ORS 433.137.

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 _____

[Name of County or State],	Case No. _____
Petitioner,	PETITIONER'S MOTION TO EXCLUDE PETITIONER FROM PERSONAL COURT APPEARANCE
v.	
[Insert initials of person(s) to be detained],	
Respondent.	

Petitioner, [local public health or state public health director], moves the court to issue an order excluding respondent from personally appearing at the hearing scheduled for _____, pursuant to ORS 433.123(7), because such an appearance would pose a risk of serious harm to others.

POINTS AND AUTHORITIES

In support of the foregoing motion petitioner relies on the attached affidavit of _____.

DATED this _____ day of _____, _____.

[signature line for attorney]

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

[Name of County/State], Petitioner, v. [Insert initials of person(s) to be detained], Respondent.	Case No. _____ AFFIDAVIT IN SUPPORT OF PETITIONER'S MOTION TO EXCLUDE PETITIONER FROM PERSONAL COURT APPEARANCE
---	---

STATE OF OREGON)
)
County of _____)

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

1. I am the [insert title, job description, qualifications].
2. In my role as _____, I am familiar with the facts of this case.
3. [put in facts that support the motion to exclude the petitioner from the courtroom]

DATED this _____ day of _____, _____.

Affiant

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

Notary Public for Oregon

My Commission Expires: _____

AFFIDAVIT IN SUPPORT OF PETITIONER'S MOTION TO EXCLUDE PETITIONER
FROM PERSONAL COURT APPEARANCE

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

[Name of County/State], Petitioner, v. [Insert initials of person(s) to be detained], Respondent.	Case No. _____ ORDER EXCLUDING PETITIONER FROM PERSONAL COURT APPEARANCE
---	---

Having reviewed the Petitioner's Motion to Exclude Petitioner from Personal Court Appearance, the Affidavit of _____, ORS 433.123(7), and being fully advised,

THE COURT FINDS:

1. Respondent's personal appearance in court would pose a risk of serious harm to others and therefore respondent may not appear at the court hearing scheduled for _____.

2. Respondent may participate by phone or by any simultaneous electronic transmission.

DATED this _____ day of _____, _____.

*

Circuit Court Judge

ORDER EXCLUDING PETITIONER FROM PERSONAL COURT APPEARANCE

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]

SECTION 9.00
PERTINENT STATE STATUTES

431.110 General powers and duties of Oregon Health Authority. The Oregon Health Authority shall:

- (1) Have direct supervision of all matters relating to the preservation of life and health of the people of this state.
- (2) Ensure the statewide and local application of the foundational capabilities established under ORS 431.131 and described in ORS 431.132, 431.133, 431.134, 431.135, 431.136, 431.137 and 431.138.
- (3) At the state level of governance, administer the foundational programs established under ORS 431.141 and described in ORS 431.142, 431.143, 431.144 and 431.145.
- (4) At the local level of governance, oversee and provide support for the implementation of the foundational programs established under ORS 431.141 and described in ORS 431.142, 431.143, 431.144 and 431.145.
- (5) Conduct sanitary surveys about and investigations on the causes and prevention of diseases.
- (6) Investigate, conduct hearings and issue findings in connection with annexations proposed by cities as provided in ORS 222.840 to 222.915 and 431.705 to 431.760.
- (7) Have full power in the control of all communicable diseases.
- (8) Have the authority to send a representative of the authority to any part of the state.
- (9) From time to time, publish and distribute to the public information related to the functions and duties of the authority. [Amended by 1955 c.105 §1; 1967 c.624 §18; 1971 c.650 §9; 1977 c.582 §8; 1987 c.414 §83; 1989 c.834 §18; 1991 c.122 §11; 2001 c.900 §254; 2009 c.595 §534; 2013 c.61 §2; 2015 c.736 §3]

431A.005 Definitions. As used in ORS 431A.005 to 431A.020:

- (1) “Children’s facility” has the meaning given that term in ORS 433.235.
- (2) “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.
- (3) “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.
- (4) “Disease outbreak” means a significant or notable increase in the number of cases of a disease or other condition of public health importance.
- (5) “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.
- (6) “Local public health administrator” means a local public health administrator as defined in ORS 431.003 or the authorized representative of a local public health administrator.
- (7) “Local public health authority” has the meaning given that term in ORS 431.003.
- (8) “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.

(9) "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.

(10) "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.

(11) "School" has the meaning given that term in ORS 433.235.

(12) "Specimen" means blood, sputum, urine, stool or other bodily fluids and wastes, tissues, and cultures necessary to perform required tests.

(13) "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.

(14) "Toxic substance" means a substance that may cause illness, disability or death to persons who are exposed to it. [Formerly 431.260]

431A.010 Power of Oregon Health Authority and local public health administrators to enforce public health laws; authorized actions; rules; penalties.

(1) The Oregon Health Authority and local public health administrators shall have the power to enforce public health laws. The enforcement powers authorized by this section include, but are not limited to, the authority to:

(a) Investigate possible violations of public health laws;

(b) Issue subpoenas requiring testimony or the production of physical or other evidence;

(c) Issue administrative orders to enforce compliance with public health laws;

(d) Issue a notice of violation of a public health law and impose a civil penalty as established by rule not to exceed \$500 a day per violation;

(e) Enter private property at any reasonable time with consent of the owner or custodian of the property to inspect, investigate, evaluate or conduct tests, or take specimens or samples for testing, as may be reasonably necessary to determine compliance with any public health law;

(f) Enter a public place to inspect, investigate, evaluate, conduct tests, or take specimens or samples for testing as may be reasonably necessary to determine compliance with the provisions of any public health law;

(g) Seek an administrative warrant from an appropriate court authorizing the inspection, investigation, evaluation or testing, or taking of specimens or samples for testing, if denied entry to property;

(h) Restrict access to contaminated property;

(i) Require removal or abatement of a toxic substance on any property and prescribe the proper measures for the removal or abatement;

(j) Maintain a civil action to enforce compliance with public health laws, including a petition to a court for an order imposing a public health measure appropriate to the public health threat presented;

(k) Refer any possible criminal violations of public health laws to a district attorney or other appropriate law enforcement official; and

(L) Request the Attorney General to assist in the enforcement of the public health laws.

(2) Any administrative actions undertaken by the state under this section shall comply with the provisions of ORS chapter 183.

(3) State and local law enforcement officials, to the extent resources are available, must assist the Oregon Health Authority and local public health administrators in ensuring compliance with administrative or judicial orders issued pursuant to this section.

(4) Nothing in this section shall be construed to limit any other enforcement authority granted by law to a local public health authority or to the state. [Formerly 431.262]

431A.015 Authority of Public Health Director to take public health actions; authorized actions; rules. (1) Unless the Governor has declared a public health emergency under ORS 433.441, the Public Health Director may, upon approval of the Governor or the designee of the Governor, take the public health actions described in subsection (2) of this section if the Public Health Director determines that:

(a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance has affected more than one county;

(B) There is an immediate need for a consistent response from the state in order to adequately protect the public health;

(C) The resources of the local public health authority or authorities are likely to be quickly overwhelmed or unable to effectively manage the required response; and

(D) There is a significant risk to the public health; or

(b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition of public health importance is reported in Oregon and is an issue of significant regional or national concern or is an issue for which there is significant involvement from federal authorities requiring state-federal coordination.

(2) The Public Health Director, after making the determinations required under subsection (1) of this section, may take the following public health actions:

(a) Coordinate the public health response across jurisdictions.

(b) Prescribe measures for the:

(A) Identification, assessment and control of the communicable disease or reportable disease, disease outbreak, epidemic or other condition of public health importance; and

(B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(c) After consultation with appropriate medical experts, create and require the use of diagnostic and treatment guidelines and provide notice of those guidelines to health care providers, institutions and facilities.

(d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent the introduction or spread of a communicable disease or reportable disease, unless:

(A) The person has a medical diagnosis for which a vaccination is contraindicated; or

(B) The person has a religious or conscientious objection to the required treatments or prophylactic measures.

(e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or school under the jurisdiction of the board. The authority granted to the Public

Health Director under this paragraph supersedes the authority granted to the district school board under ORS 332.075 to the extent the authority granted to the board is inconsistent with the authority granted to the director.

- (f) Issue guidelines for private businesses regarding appropriate work restrictions.
- (g) Organize public information activities regarding the public health response to circumstances described in subsection (1) of this section.
- (h) Adopt reporting requirements for, and provide notice of those reporting requirements to, health care providers, institutions and facilities for the purpose of obtaining information directly related to the public health threat presented.
- (i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

(3) The authority granted to the Public Health Director under this section is not intended to override the general authority provided to a local public health authority except as already permitted by law, or under the circumstances described in subsection (1) of this section.

(4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may amend the temporary rules adopted under this subsection as often as is necessary to respond to the public health threat.

(5) If it is necessary for the authority to purchase antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal protective equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.

(6) If property is taken under the authority granted to the Public Health Director under subsection (2) of this section, the owner of the property is entitled to reasonable compensation from the state. [Formerly 431.264]

433.001 Definitions for ORS 433.001 to 433.045 and 433.110 to 433.770. As used in ORS 433.001 to 433.045 and 433.110 to 433.770 unless the context requires otherwise:

- (1) “Communicable disease” has the meaning given that term in ORS 431A.005.
- (2) “Control” means a person without a reportable disease about whom information is collected for purposes of comparison to a person or persons with the reportable disease.
- (3) “Disease outbreak” has the meaning given that term in ORS 431A.005.
- (4) “Epidemic” has the meaning given that term in ORS 431A.005.
- (5) “Health care provider” has the meaning given that term in ORS 433.443.
- (6) “Individually identifiable health information” has the meaning given that term in ORS 433.443.
- (7) “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.
- (8) “Local public health administrator” has the meaning given that term in ORS 431.003.
- (9) “Property” means animals, inanimate objects, vessels, public conveyances,

buildings and all other real or personal property.

(10) "Public health measure" has the meaning given that term in ORS 431A.005.

(11) "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.

(12) "Reportable disease" has the meaning given that term in ORS 431A.005.

(13) "Simultaneous electronic transmission" means transmission by television, telephone or any other electronic or digital means if the form of transmission allows:

(a) The court and the person making the appearance to communicate with each other during the proceeding; and

(b) A person who is represented by legal counsel to consult privately with the person's attorney during the proceeding.

(14) "Toxic substance" has the meaning given that term in ORS 431A.005. [1973 c.259 §2; 1987 c.600 §1; 2001 c.900 §155; 2007 c.445 §6; 2009 c.268 §1; 2009 c.595 §624; 2011 c.721 §1; 2015 c.736 §76]

433.004 Reportable diseases; duty to report; investigation; effect of failure to report; rules. (1) The Oregon Health Authority shall by rule:

(a) Specify reportable diseases;

(b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;

(c) Prescribe the procedures and forms for making such reports and transmitting the reports to the authority; and

(d) Prescribe measures and methods for investigating the source and controlling reportable diseases.

(2) Persons required under the rules to report reportable diseases shall do so by reporting to the local public health administrator. The local public health administrator shall transmit such reports to the authority.

(3) The authority or local public health administrator may investigate a case of a reportable disease, disease outbreak or epidemic. The investigation may include, but is not limited to:

(a) Interviews of:

(A) The subject of a reportable disease report;

(B) Controls;

(C) Health care providers; or

(D) Employees of a health care facility.

(b) Requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to:

(A) Permit inspection of the information by the authority or local public health administrator; and

(B) Release the information to the authority or local public health administrator.

(c) Inspection, sampling and testing of real or personal property with consent of the owner or custodian of the property or with an administrative warrant.

(4)(a) The authority shall establish by rule the manner in which information may be requested and obtained under subsection (3) of this section.

(b) Information requested may include, but is not limited to, individually identifiable health information related to:

(A) The case;

(B) An individual who may be the potential source of exposure or infection;

(C) An individual who has been or may have been exposed to or affected by the disease;

(D) Policies, practices, systems or structures that may have affected the likelihood of disease transmission; and

(E) Factors that may influence an individual's susceptibility to the disease or likelihood of being diagnosed with the disease.

(5) In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of a licensee or certificate holder to report when required to do so under subsection (2) or (3) of this section shall be cause for the exercise of any of the agency's disciplinary powers.

(6) Any person making a report or providing information under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report or providing information under this section. [1987 c.600 §3; 2007 c.445 §6a; 2009 c.268 §2; 2009 c.828 §17]

433.006 Investigation and control measures. In response to each report of a reportable disease, the local public health administrator shall assure that investigations and control measures, as prescribed by Oregon Health Authority rule, shall be conducted. [1987 c.600 §4; 2009 c.595 §626]

433.035 Testing or examination of persons with certain diseases or conditions; order for medication or treatment. (1)(a) The Public Health Director or a local public health administrator may require testing or medical examination of any person who may have, or may have been exposed to, a communicable disease identified by rule of the Oregon Health Authority to be a reportable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency declared by the Governor as authorized by ORS 433.441. The Public Health Director or the local public health administrator must issue a written order for testing or medical examination pursuant to this section.

(b) A written order must:

(A) Include findings stating the communicable disease that the Public Health Director or the local public health administrator believes the person has and the reasons for that belief.

(B) State whether medical or laboratory confirmation of the disease is feasible and possible and whether such confirmation would enable control measures to be taken to minimize infection of others with the disease.

(C) Include a statement that the person may refuse to submit to the testing or medical examination and that if the testing or examination is refused, the Public Health Director or the local public health administrator may seek the imposition of a public health measure, including isolation or quarantine pursuant to ORS 433.121 or 433.123.

(2) When a person is directed to submit to a test or examination under this section and the person agrees to do so, the person shall submit to any testing or examination as may be necessary to establish the presence or absence of the communicable disease for which the testing or examination was directed. The examination shall be carried out by the local health officer or a physician licensed by the Oregon Medical Board or the Oregon Board of Naturopathic Medicine. A written report of the results of the test or examination shall be provided to the person ordering the test or examination, and upon request, to the person tested or examined. Laboratory examinations, if any, shall be carried out by the laboratory of the authority whenever the examinations are within the scope of the tests conducted by the laboratory. If treatment is needed, the person or the parent or guardian of the person shall be liable for the costs of treatment based on the examination carried out under this section, if the person liable is able to pay the treatment costs. Cost of any examination performed by a physician in private practice shall be paid from public funds available to the local public health administrator, if any, or from county funds available for general governmental expenses in the county that the local public health administrator serves or in the county where the person tested or examined resides if the local public health administrator serves more than one county or the test or examination was ordered by the Public Health Director or local public health administrator.

(3) If a person has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency, the Public Health Director or the local public health administrator may issue an order requiring the person to complete an appropriate prescribed course of medication or other treatment for the communicable disease, including directly observed therapy if appropriate, and to follow infection control provisions for the disease. The order shall also include statements that the person may refuse the medication or other treatment and that the person's failure to comply with the order issued under this subsection may result in the Public Health Director or the local public health administrator seeking the imposition of a public health measure, including isolation or quarantine as authorized by ORS 433.121 and 433.123.

(4) The Public Health Director or the local public health administrator must make every effort to obtain voluntary compliance from a person for any testing, medical examination and treatment required under this section.

(5) Any action taken by the Public Health Director or the local public health administrator under this section to compel testing, medical examination or treatment of a person who has a communicable disease, a new or uncommon disease of potential public health significance, or a condition that is the basis of a state of public health emergency must be the least restrictive alternative available to accomplish the results necessary to minimize the transmission of the disease to others. [1967 c.617 §1 (enacted in lieu of 434.060); 1973 c.259 §7; 1979 c.731 §6; 1987 c.600 §6; 1989 c.224 §87; 2003 c.14 §244; 2003 c.555 §9; 2007 c.445 §18; 2009 c.43 §4; 2009 c.595 §631]

433.110 Duties of physicians and nurses in controlling communicable disease.

Every physician or nurse attending a person affected with any communicable disease shall use all precautionary measures to prevent the spread of the disease as the Oregon Health Authority may prescribe by rule. [Amended by 1973 c.259 §10; 2005 c.471 §3; 2009 c.595 §643]

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)(a) 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 circuit court for a written ex parte order.

(b) The petition to the court and the court's order must include the information described in subsection (1) of this section.

(c) The Public Health Director or local public health administrator:

(A) Shall make reasonable efforts to serve the person or group of persons subject to isolation or quarantine with the petition before the petition is filed; and

(B) Is not required to provide prior notice of an ex parte proceeding at which the petition is being considered by the court.

(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 shall post the notice and order in a conspicuous place where the notice and order can be viewed by those detained or shall 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 circuit 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; 2011 c. 721 §2]

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 circuit 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 shall post the petition and notice in a conspicuous place where the petition and notice can be viewed by those detained or shall 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) Upon 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 or ex parte order issued under ORS 433.121, the court shall issue an order extending 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) The Public Health Director or local public health administrator may request that a person or group of persons who is the subject of a petition filed under subsection (1) or (9) of this section not personally appear before the court because personal appearance

would pose a risk of serious harm to others. If the court grants the director's or local public health administrator's request or if the court determines that personal appearance by the person or group of persons who is the subject of the petition poses a risk of serious harm to others, the court proceeding must be conducted by legal counsel for the person or group of persons or must be held at a location, or by any means, including simultaneous electronic transmission, 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 circuit 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 shall 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 must be for a period not to exceed 60 days and must 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 subjects the person in violation of the order to contempt proceedings under ORS 33.015 to 33.155. [2007 c.445 §9; 2011 c.721 §3]

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 circuit 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; ; 2011 c.721 §4]

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 circuit 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; 2011 c.721 §5]

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 circuit 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 shall 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 Public Health Director or local public health administrator 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 director or local public health administrator 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 circuit court for remedies regarding breaches of the conditions of isolation or quarantine required by ORS 433.128.

(b) The court shall 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 does 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 (d) 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 by any means, including simultaneous electronic transmission, 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; 2011 c.721 §6]

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]

433.137 Court records; disclosure. (1) The circuit court shall cause to be recorded in the court records:

(a) A full account of proceedings at hearings conducted pursuant to ORS 433.121, 433.123, 433.133 and 433.136;

(b) The petitions, affidavits, judgments and orders of the court; and

(c) A copy of the orders issued.

(2) Any portion of the account of the proceedings, the transcript of testimony, the petition, any affidavit, judgment, order of the court, recording of the proceeding or any other court record may be disclosed only:

(a) Upon request of a person subject to the proceedings or the legal representative or attorney of the person;

(b) To the Public Health Director or a local public health administrator; or

(c) Pursuant to court order, when the court finds that the petitioner's interest in public disclosure outweighs the privacy interests of the individual who is the subject of the petition. [2011 c.712 §9]

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 and medical assistance 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, except as provided in ORS 411.439 and 411.447, or public agency or municipality. [Amended by 1971 c.779 §64; 2007 c.445 §29; 2009 c.595 §645; 2015 c.836 §4]

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 circuit 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 shall 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 remains 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; 2011 c.721 §7]

433.150 Quarantine hospital; seizure, control of and compensation for emergency hospital. (1) Any city or municipality may establish a quarantine hospital within or without its own limits, but if within its own limits, consent of the municipality within which it is proposed to establish such hospital shall be first obtained. Such consent shall not be necessary if the hospital is more than 800 feet from any occupied house or public highway.

(2) When a great emergency exists the board of health may seize and occupy temporarily for such quarantine hospital any suitable vacant house or building within its

jurisdiction and the board of health of any city or municipality having a quarantine hospital shall have control over the same. However, in case of use of such house or premises, due compensation shall be tendered for their use.

433.156 Enforcement of isolation or quarantine by law enforcement authorities. All state and local law enforcement authorities shall cooperate with any officer authorized to impose isolation or quarantine in the enforcement thereof. [1973 c.259 §14 (enacted in lieu of 433.155); 2007 c.445 §18a]

433.216 Detaining conveyance for inspection or investigation. If the Public Health Director finds that there is an imminent risk of the introduction into the state by means of any public or private conveyance of any dangerous communicable disease or toxic substance which presents a substantial threat to public health, the director may detain such conveyance for inspection or investigation. [1973 c.259 §16 (enacted in lieu of 433.215); 1987 c.600 §13; 2007 c.445 §19]

433.220 Measures taken on discovery of disease or toxic substance; rules; jurisdiction over emergency. (1) If upon inspection pursuant to ORS 433.216, there is discovered among the passengers or goods being transported by any public or private conveyance the existence of any communicable disease or toxic substance that presents a substantial threat to public health, the Public Health Director, under rules of the Oregon Health Authority, may:

- (a) Issue an order for testing, medical examination or treatment under ORS 433.035.
 - (b) Isolate or quarantine such persons or goods in accordance with ORS 433.121, 433.123 or 433.142.
 - (c) Require the passengers and persons conveying materials to follow the authority's rules for the control of the specific communicable disease or prevention of harm to the public health from the toxic substance.
 - (d) Offer free immunization in those diseases to which such prophylactic treatment is applicable to all persons exposed in any conveyance.
- (2) Should any question arise as to the existence of any emergency, the Public Health Director shall have final jurisdiction. [Amended by 1973 c.259 §17; 1987 c.600 §14; 2007 c.445 §20; 2009 c.595 §646]

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]

Oregon Health Authority

PUBLIC HEALTH DIVISION

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You can get this document in other languages, large print, braille or a format you prefer. Contact Health Security, Preparedness and Response at 971-673-1315 or email Health.Security@state.or.us. We accept all relay calls or you can dial 711.

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INTRODUCTION

During the 2007 legislative session the Oregon Legislature modernized the state's isolation and quarantine laws. These forms and instructions were developed in consultation with county attorneys in Multnomah, Washington, Malheur and Benton counties, some of whom have actual experience with seeking court orders for isolation and quarantine, local public health administrators, and state Public Health Division staff.

Using the template forms provided will help ensure compliance with Oregon's isolation and quarantine laws and establish a uniformity of practice around the state for isolation or quarantine proceedings. There is a companion Bench Book for judges that can be found at: http://www.doj.state.or.us/legal_resources_index.shtml.

The template forms can also be found on the Oregon Health Authority's website, at:

<https://public.health.oregon.gov/DiseasesConditions/CommunicableDisease/EmergingInfections/Pages/index.aspx>

If you have specific questions about how and whether to issue or seek an order for isolation or quarantine please contact your attorney.

I welcome feedback on this manual and its contents.

Sincerely,



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**SECTION 1.00
GLOSSARY¹**

- ◆ "**Administrative order**" means a directive, issued by a state or local agency official authorized to issue such orders, and directed to an individual or other entity.
- ◆ "**Affidavit**" means a written declaration of facts, made voluntarily, with the signature of the person making the written declaration, verified by a notary public. *See, e.g.* Form A.3.
- ◆ "**Clear and convincing evidence**" means that the evidence is fully intelligible and free from confusion and the truth of the facts asserted is highly probable.
- ◆ "**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.
- ◆ "**Emergency administrative order (EAO)**" means an administrative order, issued by the state Public Health Director or Local Public Health administrator directing a person or group of persons to be isolated or quarantined, without the opportunity for a hearing, when immediate detention is necessary to avoid a clear and immediate danger to the public and there is not time to petition the court and wait for the court to hold a hearing and issue an order. *See, e.g.* Form G.1.
- ◆ "**Epidemic**" means the occurrence in a community or region of a group of similar conditions of public health importance in excess of normal expectancy and derived from a common or propagated source.
- ◆ "**Ex parte order**" means an order, issued by a judge, based on one party's request without hearing from the other side.
- ◆ "**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 non-isolated persons to prevent or limit the transmission of the disease to non-isolated persons.
- ◆ "**Local public health administrator (LPHA)**" means an individual appointed under ORS 431.418 to supervise the public health programs and public health activities of a local health department.
- ◆ "**Local public health authority**" means:

¹ Most of these definitions are taken from ORS 431.003, 431A.005, 433.001, and 433.442. Some terms are not defined in statute but were included in an attempt to explain particular legal concepts. The meanings of the terms that are not defined in statute are intended only to apply to the proceedings described in this manual, and not necessarily in any broader context. For example, "emergency administrative order" has a broader meaning than the one given in this document, but for purposes of the isolation and quarantine laws, it has a very specific meaning.

- A county government;
 - A health district formed under ORS 431.443; or
 - An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010(5).
- ◆ **"Probable cause"** means a reasonable ground for belief in the existence of facts warranting the action taken.
 - ◆ **"Property"** means animals, inanimate objects, vessels, public conveyances, buildings and all other real or personal property.
 - ◆ **"Public Health Director (PHD)"** means the person appointed by the Director of the Oregon Health Authority under ORS 431.035.
 - ◆ **"Public health emergency"** means an occurrence or imminent threat of an illness or health condition that:
 - (a) Is believed to be caused by any of the following:
 - (A) Bioterrorism;
 - (B) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin that may be highly contagious;
 - (C) An epidemic of communicable disease; or
 - (D) A natural disaster, a chemical attack or accidental chemical release or a nuclear attack or nuclear accident; and
 - (b) Poses a high probability of any of the following harms:
 - (A) A large number of deaths in the affected population;
 - (B) A large number of serious or long-term disabilities in the affected population; or
 - (C) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of persons in the affected population.
 - ◆ **"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.

SECTION 2.00
THE DIFFERENCE BETWEEN EMERGENCY AND NON-EMERGENCY
ISOLATION OR QUARANTINE

Oregon's isolation and quarantine laws are found at ORS 433.121 to 433.138, and 433.466. *See* Section 9.00.

You can seek to isolate or quarantine someone on an emergency or non-emergency basis. The term emergency, in this context, has nothing to do with a Governor's declaration of emergency or a declaration of a public health emergency under ORS 401 or 433. Rather, it refers to the immediacy of the need to confine a person who has a communicable disease or who is contaminated with a toxic substance.

An emergency order should be issued or sought if a person with a communicable disease poses an *immediate and clear danger to others* and there is no time to provide a person with hearing rights, prior to isolation or quarantine being imposed.

A *non-emergency* order should be sought if a person's confinement is necessary to prevent a *serious risk to the health and safety of others*, and there is time to first file a petition with the court and go through a court hearing on the petition prior to an individual being confined.

The differences between emergency or non-emergency isolation or quarantine are the standards for issuing such an order, timing, and duration of the order:

	EMERGENCY	NON-EMERGENCY
Person 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 not taken.		
Standard	Probable cause to believe that immediate detention of a person is required in order to avoid a clear and immediate danger to others.	Reasonable belief that there will be serious risk to the health and safety of others if person not detained.
Timing	Considerations of safety do not allow the filing of a non-emergency petition prior to confinement.	File petition with the court, court holds hearing, court rules on petition and if granted, person detained.
Duration	Not longer than 72 hours.	Between 60 and 180 days. <i>See</i> ORS 433.123(12).

**SECTION 3.00
INSTRUCTIONS AND PROCEDURES FOR
EMERGENCY ISOLATION/QUARANTINE**

Emergency isolation or quarantine can be accomplished in one of two ways:

- (1) An emergency administrative order (EAO) can be issued; or
- (2) You can petition the court for an ex parte order.²

The decision to issue an EAO or seek an ex parte order will depend on the facts. You cannot issue both an EAO and seek an ex parte order. If enforcement of the detention is likely to be difficult, you should probably try to get an ex parte court order because it will be easier to enforce, and to get law enforcement to enforce, a court order. **You should consult with legal counsel before undertaking either process.** The state Public Health Director (PHD) must be represented by the Attorney General's Office in court proceedings but a local public health administrator (LPHA) may be permitted to appear in court without an attorney. See Section 8.00 for appropriate forms.

I. Emergency Administrative Order

A. Who can issue an EAO?

The PHD or an LPHA can issue an EAO. This is not a court order, it is an administrative order, and you do not need a judge for an emergency administrative order. You do need a judge for an ex parte court order. See paragraph II below.

B. Trigger for issuing an emergency administrative order.

An emergency administrative order may be issued directing a person or group of persons to be isolated or quarantined if the PHD or LPHA:

(1) Has probable cause to believe that a person or group of persons requires immediate detention in order to avoid a clear and immediate danger; and

(2) Considerations of safety do not allow initiation of a "regular" petition process.

**Example of facts that
would support an
emergency isolation or
quarantine order:**

A person has been exposed to or has SARS, smallpox, pneumonic plague, or another serious infectious disease that is difficult to prevent after exposure, difficult to treat, has a short incubation period, or is contagious, and the person is uncooperative and expressing a desire to get on a bus, train, or plane and go elsewhere.

² An ex parte order in this context is when only the state or LPHA appears before the judge asking for an isolation/quarantine order and the person sought to be detained does not have an opportunity to be heard prior to the order being issued. See Sec. 1.00, Glossary.

C. Writing the EAO.

The EAO must be in writing and must contain the following information:

- ◆ Identification of the person or group of persons who will be subject to the order;³
- ◆ A description of:
 - 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;
- ◆ A description of 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;
- ◆ A description of the medical basis for which isolation or quarantine is justified;
- ◆ Why the person or group of persons would pose a serious and imminent risk to the health and safety of others if not isolated or quarantined;
- ◆ An explanation of 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;⁴
- ◆ 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 detained, if known; and
- ◆ A statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

³ If it is a group of people and you do not know who they are, give a description like "passengers aboard the cruise ship 'Flying Dutchman' docked at pier no. 8."

⁴ This will be whenever you want it to be.

D. Serving the EAO and Notice of Rights.

The administrative order and notice of rights must be personally served⁵ on the persons or group of persons detained or sought for detention, and a certificate of service should be filled out by whoever completes service. If individuals within a group of persons sought for detention cannot be personally served, you may post the notice and order in a conspicuous place where it can be viewed by those detained, or you may find some other means to meaningfully communicate the information in the notice and order.⁶

E. Length of detention.

A person detained may not be held for more than 72 hours unless a non-emergency petition is filed. If a non-emergency petition is filed, it extends the detention until the court holds a hearing.

F. Conditions of detention.

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

(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

⁵ In *Business & Prof. Adj Co. v. Baker*, 62 Ore. App. 237, 659 P.2d 1025 (1983), the Oregon Court of Appeals held that personal service was adequate under the Oregon Rules of Civil Procedure, notwithstanding the lack of a face-to-face encounter between the process server and the defendant, when the former recognized the latter's voice through a closed door, informed the defendant standing behind the door that he was being served and wedged the papers securely in the area of the door. *Id.* at 240. Try to get the sheriff's office to assist in serving the paperwork.

⁶ For example, you could read the order and notice aloud over a loudspeaker or use some other means of media (as long as it is targeted at the correct audience and confidentiality is maintained) to communicate the information.

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.

* * *

(12) [A]dequate 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. If a person who is confined has resources to provide for his or her own needs, the PHD or LPHA does not necessarily need to use its resources instead, but you should ensure that the person's needs are being met one way or the other. If you have

questions about abiding by these conditions and principles you should talk to your legal counsel.

If the PHD or LPHA wants to detain 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).

G. Entry onto detention premises.

The PHD or LPHA may authorize physicians, other health care workers or other persons access to a premises being used for detention as necessary to meet the needs of isolated or quarantined persons.

Only an authorized person may enter a premises used for detention, with the exception of physicians and other health care workers in a health care facility who are following the proper infection control procedures. (See below).

An authorized person entering a premises used for isolation or quarantine must be provided with infection control training and can be required to wear personal protective equipment or receive vaccinations.

If an unauthorized person enters a premises used for detention and becomes exposed to disease or contamination, that person can become subject to isolation or quarantine.

If a health care facility is used as a detention 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 person who is detained if the infection control procedures and other precautions determined necessary by the PHD or LPHA are adhered to.

II. Ex Parte Order

A. Who can seek an ex parte court order?

The PHD or LPHA.

B. Trigger for seeking an ex parte order.

The same as for an EAO.

C. Petition for an ex parte order.

The petition for an ex parte order must have the same information required to be included in an EAO. *See* paragraph I(C) above. The petition must be supported by an affidavit from at least one person with personal knowledge and expertise in the matter.

D. Finding a judge.

In all counties there is a judge who is assigned to hear ex parte matters. This judge will change depending on whether the order is sought during business hours during the work week, or after hours or on a weekend or holiday. The procedure for finding a judge to hear your petition changes from county to county. *See* Court Contact Information.

E. Notice of the Ex Parte Proceeding

You need to make reasonable efforts to serve the person or group of persons you are seeking to detain prior to filing a petition for an ex parte order. However, you are not required to provide prior notice of an ex parte proceeding where the petition will be considered by the court. ORS 433.121(2)(c).

F. The court order.

The court must issue an order with findings of fact that track the information in the petition. To the extent it is practical anyone submitting a supporting affidavit should appear before the court in case additional questions arise. A draft order should be provided to the judge. If the person sought for detention is likely to be hard to track down, the court should be asked to include a provision requiring law enforcement to assist in the detention. In addition, try to get the court to appoint counsel.

G. Service of petition, order and notice of rights.

A copy of all documents filed with the court, a copy of the order, and a notice of rights must be personally served as described in paragraph I(D) above.

H. Length of and conditions of detention; entry onto detention premises.

The same provisions apply to the length of detention, conditions of detention and entry onto detention premises, whether an EAO or an ex parte order is issued.

I. Confidentiality/Motion to seal records.

In order to protect the confidentiality of the person or group of persons you are seeking to detain you should use initials instead of the respondent's full name in the court caption so that the court does not list the person's name in court calendar documents or in

OJIN.⁷ In addition, if, during the ex parte proceeding there are people in the courtroom present for other matters, you should ask the judge to hear the matter in chambers or ask that the other people in the courtroom step out during the ex parte hearing. In making these requests you should tell the judge that the case involves the discussion of private, confidential medical matters.

ORS 433.137 requires the court to seal the records and recordings of court proceedings for isolation or quarantine. You should file a motion to seal with the court to ensure that the court system does not inadvertently disclose confidential records. *See* Sec. 8.00 for the appropriate forms.

III. Continuing an EAO or ex parte order

If you wish to detain a person longer than 72 hours, immediately following the issuance of an EAO or ex parte order, the PHD or LPHA must petition the court in accordance with the non-emergency petition process. *See* Section 4.00, Instructions and Procedures For Non-Emergency Isolation/Quarantine.

⁷ OJIN is the Oregon Judicial Information Network that provides on-line access to court case information from all 36 counties in the State.

**SECTION 4.00
INSTRUCTIONS AND PROCEDURES FOR
NON-EMERGENCY ISOLATION/QUARANTINE**

The statutory provisions governing a non-emergency petition for isolation or quarantine are found at ORS 433.123 to 433.138. *You should consult with your legal counsel prior to filing a petition.*

In order to isolate or quarantine a person⁸ or continue the isolation or quarantine of a person that is confined under an emergency isolation or quarantine order, the PHD or LPHA must file a petition in circuit court and a hearing must be held within 72 hours (unless good cause is shown for an extension of time or the parties stipulate to an extension). The appropriate forms can be found in Section 8.00.

A petition for isolation or quarantine may be filed if:

- (1) A person or persons "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";
- (2) There is a reasonable belief 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;
- (3) Voluntary efforts have been made to prevent detention, or such efforts are not possible; and
- (4) Isolation or quarantine is the least restrictive means of protecting the public.

ORS 433.123.

The PHD must be represented by the Attorney General's Office in court proceedings but a LPHA may be permitted to appear in court without an attorney.

I. The petition process.

A. Drafting the petition and supporting documents.

The PHD or LPHA must draft a petition with at least one supporting affidavit. The petition and the affidavit must have the following information:

⁸ Please note that the law allows you to isolate or quarantine a group of people. The reference to a single person is done for ease of reading and brevity. To the extent there are statutory requirements that are particular to a group of people, those requirements will be noted in the instructions and the forms.

- ◆ The name of the persons or persons subject to the order ⁹;
- ◆ A description of:
 - 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;
- ◆ A description of 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;
- ◆ A description of the medical basis for which isolation or quarantine is justified;
- ◆ Why the person or group of persons would pose a serious and imminent risk to the health and safety of others if not isolated or quarantined;
- ◆ An explanation of 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 detained, if known; and
- ◆ A statement of compliance with the conditions of and principles for isolation and quarantine specified in ORS 433.128.

Note: The court can order, in addition to, or in lieu of isolation or quarantine, other public health measures. If you want the court to consider a public health measure that may accomplish your objective and make isolation or quarantine unnecessary, state this clearly in your petition, and draft the court order to reflect your objective.

⁹ If it is a group of people and you do not know who they are, give a description like "passengers aboard the cruise ship 'Ebola Gay' docked at pier no. 2."

B. Filing the Petition

The petition and supporting documentation must be filed at the county courthouse. The filing clerk will assign the matter a case number. Ask the clerk for a file copy (for you) and a certified copy of the petition that will be served on the person that is the subject of the petition. *See* paragraph C, below.

Given that the hearing must be held within 72 hours, try to contact the calendaring clerk about getting a hearing scheduled at the same time you file the petition. Alternatively, take the petition to a judge during "ex parte"¹⁰ and ask the judge to set a hearing date.

If a person or group of persons are already detained under an emergency isolation or quarantine administrative or ex parte order, the filing of a non-emergency isolation or quarantine petition continues the detention until a court holds a hearing. The court must issue an order extending the emergency isolation or quarantine order when the petition is filed and you should include an order for the court to sign. *See* Section 8.00; ORS 433.123(5).

C. Serving the Petition, Supporting Documentation, and Notice of Rights.

The certified copy of the petition, supporting affidavits, and anything else that will be filed along with the petition must be personally served¹¹ on the persons or group of persons detained or sought for detention. The person who does the service must complete the certificate of service and the completed certificate of service must be filed with the court. You may wish to contact the sheriff's office for assistance in serving the paperwork. If individuals within a group cannot be personally served, it is permissible to post the petition, affidavit, and notice in a conspicuous place where it can be viewed by those detained. If posting is not possible, find some other means to meaningfully communicate the information in the notice and order.¹² It is important that the certificate of service explain how service was completed, if personal service was not possible. ***Once service is completed, the certificate of service must be filed with the court.***

¹⁰ Ask your lawyer about what "ex parte" is, in this context.

¹¹ In *Business & Prof. Adj. Co. v. Baker*, 62 Ore. App. 237, 659 P.2d 1025 (1983), the Oregon Court of Appeals held that personal service was adequate under the Oregon Rules of Civil Procedure, notwithstanding the lack of a face-to-face encounter between the process server and the defendant, when the former recognized the latter's voice through a closed door, informed the defendant standing behind the door that he was being served and wedged the papers securely in the area of the door. *Id.* at 240. Try to get the sheriff's office to assist in serving the paperwork.

¹² For example, you could read the order and notice aloud over of loudspeaker or use some other means of media (as long as it targeted at the correct audience and confidentiality is maintained) to communicate the information.

D. The hearing.

As stated above, the statute requires the court to hold a hearing within 72 hours, not including Saturday, Sundays and legal holidays. In extraordinary circumstances and for good cause shown, or with consent of the affected persons, the PHD or LPHA may apply to continue the hearing date for up to 10 days. ORS 433.123(6)(b).

A person who is the subject of the petition may also waive the right to a hearing.

You may request that the person who is the subject of the petition be excluded from the courtroom if you think a personal appearance would pose a serious risk of harm to others. ORS 433.123(7). *See* Section 8.00 for the appropriate forms. In such situations the court proceeding must be conducted by legal counsel for the person or the hearing must be held at a location or by any means that allows the parties to fully participate.

At the hearing evidence should be presented that supports the petition. Usually this will mean that the attorney who represents the PHD or LPHA will call witnesses and ask them questions under oath. Anyone who submitted an affidavit should be prepared to testify. If anything has changed since the petition was filed, that information should be presented to the court. Any witness who testifies may be cross-examined by the opposing party. A witness should be prepared to defend his or her decisions and be able to explain the basis of those decisions. The judge will likely want to know the details of the detention should it be ordered.

E. The standard of proof.

The court must 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.

F. The court order.

The court must issue a written, detailed order that specifies the length of isolation or quarantine, the person or group of persons subject to detention, the factual findings warranting the detention, and the court may include conditions for the detention. Instead 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. ORS 433.123(8). The order must be served on all affected persons or groups.

G. 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
- ◆ 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).

H. Conditions of detention.

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

(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.

* * *

(12) [A]dequate 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.

If the PHD or LPHA wants to detain 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).

I. Entry onto detention premises.

The PHD or LPHA may authorize physicians, other health care workers or other persons access to a premises being used for detention as necessary to meet the needs of isolated or quarantined persons.

Only an authorized person may enter a premises used for detention, with the exception of physicians and other health care workers in a health care facility who are following the proper infection control procedures. (See below).

An authorized person entering 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.

If an unauthorized person enters a premises used for detention and becomes exposed to disease or contamination, they can become subject to isolation or quarantine.

If a health care facility is used as a detention 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 person who is detained if the infection control procedures and other precautions determined necessary by the PHD or LPHA are adhered to.

J. Confidentiality/Motion to seal records.

In order to protect the confidentiality of the person or group of persons you are seeking to detain you should use initials instead of the respondent's full name in the court caption so that the court does not list the person's name in court calendar documents or in OJIN.¹³ In addition, if, during the court hearing there are people in the courtroom present for other matters, you should ask the judge to request that the other people in the courtroom step out during the hearing. In making this request you should tell the judge that the case involves the discussion of private, confidential medical matters.

ORS 433.137 requires the court to seal the records and recordings of court proceedings for isolation or quarantine. You should file a motion to seal with the court to ensure that the court system does not inadvertently disclose confidential records. See Sec. 8.00 for the appropriate forms.

K. Continuing isolation or quarantine.

If the PHD or LPHA wishes to continue the court ordered isolation or quarantine, a petition must be filed, and the process must be followed as described above, prior to the expiration of the previous court order. ORS 433.123(9). Obviously the basis for the continued need for isolation or quarantine will need to be explained in the petition.

¹³ OJIN is the Oregon Judicial Information Network that provides on-line access to court case information from all 36 counties in the State.

L. Enforcement.

A person who fails to comply with the court's order shall be subject to contempt proceedings under ORS 33.015 to 33.155.

II. **Case Study**

What follows is an example, based on a hypothetical fact pattern, of a non-emergency petition, affidavit, and 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
J.D.,	)	OF COUNSEL
)	
Respondent.)	
_____)	

1. Pursuant to ORS 433.123, the Local County Health Administrator (LPHA) has the authority to petition the court to isolate 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 the 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 immediately. ORS 433.123(4).
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

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

Multnomah County Public Health)
Administrator,)
)
Petitioner,)
)
v.)
)
J.D.,)
)
Respondent.)
_____)

Case No. _____

AFFIDAVIT OF DR. SMITH IN
SUPPORT OF PETITION FOR
ISOLATION

STATE OF OREGON)
)
County of Multnomah)

I, Dr. Smith, being first duly sworn, depose and say:

1. I am a licensed physician in the State of Oregon, and the Tuberculosis Control Officer (TCO) for Multnomah County. I have been the TCO for five years.
2. In my role as the TCO I am familiar with the facts of this case.
3. Under the state's disease reporting rules, Jane Doe was reported to the state by a local physician who had seen her in the emergency department. She was very ill with a fever, having chest pain and coughing. A chest x-ray was taken which indicated Ms. Doe had active tuberculosis (TB). Ms. Doe was sent to our local public health department who sent a sputum sample to the state public health lab where the active TB was confirmed.
4. 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. 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.

5. 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. 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,)	
	)	Case No. _____
Petitioner,)	
	)	ORDER GRANTING PETITION
	)	FOR ISOLATION
v.)	
)	
J.D.,)	
)	
Respondent.)	
_____)	

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.

INSTRUCTIONS AND PROCEDURES FOR SEEKING A
NON-EMERGENCY ISOLATION/QUARANTINE
COURT ORDER

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 5.00
COURT CONTACT INFORMATION

- **If you need to contact a judge after-hours or on a weekend or holiday, you can contact the Oregon Judicial Department (OJD), Security and Emergency Preparedness Office at 503-986-4547 or 503-871-3427. OJD can get you in touch with a judge in your county.**

Baker County:

1995 Third Street, Suite #220, Baker City, OR 97814
541-523-6303

Benton County:

120 NW Fourth, P.O. Box 1870, Corvallis, OR 97339
541-766-6859

Clackamas County:

807 Main Street, Oregon City, OR 97045
503-655-8447

Clatsop County:

749 Commercial Street, P.O. Box 835, Astoria, OR 97103
503-325-8555, ext 301

Columbia County:

230 Strand Street, St. Helens, OR 97051-2041
503-397-2327, ext 315

Coos County:

250 N. Baxter, Coquille, OR 97423
541-396-4100

Crook County:

300 NE Third Street, Prineville, OR 97754
541-447-6541, ext. 116

Curry County:

29821 Ellensburg Avenue, P.O. Box 810, Gold Beach, OR 97444
541-247-4511

Deschutes County:

1100 NW Bond, Bend, OR 97703
541-388-5300

Douglas County:

1036 SE Douglas, Roseburg, OR 97470
541-957-2409

Gilliam County:

221 S. Oregon, Condon, OR 97823
541-384-3572

Grant County:

201 S. Humbolt Street, P.O. Box 159, Canyon City, OR 97820
541-575-1438

Harney County:

450 N. Buena Vista #16, Burns, OR 97720
541-573-5207

Hood River County:

309 State Street, Hood River, OR 97031
541-386-3535

Jackson County:

100 S. Oakdale, Medford, OR 97501
541.776.7171, ext 123

Jefferson County:

75 SE "E" Street, Suite 101, Madras, OR 97741-1794
541-475-3317, ext 117

Josephine County:

500 NW 6th, Dept #17, Grants Pass, OR 97526
541-476-2309, ext 222

Klamath County:

316 Main Street, Klamath Falls, OR 97601
541-883-5503, ext 242

Lake County:

513 Center Street, Lakeview, OR 97630
541-947-6051

Lane County

125 East Eighth, Eugene, OR 97401
541-682-4166

Lincoln County:

225 W. Olive, P.O. Box 100, Newport, OR 97365
541-265-4236, ext 234

Linn County:

300 Fourth Avenue SW, P.O. Box 1749, Albany, OR 97321
541-967-3802

Malheur County:

251 "B" Street W#3, Vale, OR 97918
541-473-5178

Marion County:

100 High Street NE, P.O. Box 12869, Salem, OR 97309-0869
503-588-5368

Morrow County:

P.O. Box 609, Heppner, OR 97836
541-676-5264

Multnomah County:

1021 SW Fourth Ave., Portland, OR 97204
503-988-3957

Polk County:

850 Main Street, Dallas, OR 97338
503-623-3154

Sherman County:

P.O. Box 402, Moro, OR 97039
541-565-3650

Tillamook County:

201 Laurel Avenue, Tillamook, OR 97141
503-842-2596, ext 2124

Umatilla County:

216 SE 4th Street, Pendleton, OR 97801
541-278-0341, ext 224

Union County:

1005 "K" Avenue, La Grande, OR 97850
541-962-9500, ext 2244

Wallowa County:

101 S. River Street, Room 204, Enterprise, OR 97828
541-426-4991

Wasco County:

P.O. Box 1400, The Dalles, OR 97058-1400
541-506-2700, ext 10

Washington County:

150 N. First, Hillsboro, OR 97124
503-846-8767

Wheeler County:

P.O. Box 308, Fossil, OR 97830
541-763-2541

Yamhill County:

535 NE Fifth Street, Room #133, McMinnville, OR 97128
503-434-7496

SECTION 6.00
INSTRUCTIONS AND PROCEDURES FOR ISSUING ADMINISTRATIVE
ORDERS FOR TESTING/MEDICAL EXAMINATION/TREATMENT

I. Requiring a medical examination or testing

Under ORS 433.035, the state Public Health Director (PHD) or a Local Public Health Administrator (LPHA) may require the testing or medical examination of any person who may have, or may have been exposed to:

- A communicable, reportable disease;
- A new or uncommon disease of potential public health significance; or
- A condition that is the basis of a public health emergency declared by the Governor under ORS 433.441.

If the PHD or LPHA wishes to require testing or medical examination, a written administrative order must be issued that:

- Includes findings describing the communicable disease that the person is believed to have;
- Explains the reason for believing the person has a communicable disease;
- States whether medical or laboratory confirmation of the disease is feasible and possible;
- States whether confirmation of the disease would enable control measures to be taken to minimize the spread of the infection to others; and
- Explains that the person has the right to refuse to comply with the administrative order but that refusal may result in the PHD, LPHA, or the court issuing an emergency order requiring the person to be isolated or quarantined, or a petition may be filed in the circuit court seeking an order for isolation or quarantine.

An examination pursuant to an administrative order must be carried out by the local health officer or a physician licensed in Oregon by the Oregon Medical Board or Board of Naturopathic Medicine. The statute limits who can do these examinations to those listed above. Laboratory tests shall be conducted by the Oregon Public Health Lab, as long as it is able to perform the test.¹⁴

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¹⁴ See ORS 433.035(2) for provisions related to who pays for examinations or treatment.

II. Requiring treatment.

Under ORS 433.035(3), the PHD or LPHA may issue an administrative order requiring a person to complete an appropriate prescribed course of medication or other treatment for a disease, including directly observed therapy, if a person has:

- A communicable disease;
- A new or uncommon disease of potential public health significance; or
- A condition that is the basis of a state of public health emergency.

Infection control procedures can also be required. As was described above, the person must be informed of his or her right to refuse, and the ramifications of refusal. A written order for treatment should comply with the standards above, as applicable.

III. Voluntary compliance and least restrictive alternative.

The PHD or LPHA must make every effort to obtain voluntary compliance prior to issuing a written administrative order under ORS 433.035. In addition, compelling an examination, testing or treatment must be the least restrictive alternative available to accomplish the results necessary to minimize the transmission of the disease to others.

IV. Are these administrative orders useful?

You must decide whether the issuance of an administrative order is useful from a public health standpoint. Some people may be more likely to comply if they get a written order that threatens the imposition of civil penalties, versus being told, orally, what they need to do. As a legal matter, having documentation that you tried to obtain compliance by dealing with a situation administratively may be helpful if seeking court action becomes necessary.

**SECTION 7.00
ISOLATING PROPERTY**

The state public health director (PHD) or local public health administrator (LPHA) 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. ORS 433.142.

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).

"Toxic substance" is defined as "a substance that may cause illness, disability or death to persons who are exposed to it." ORS 433.260(14).

It is likely that in cases where it becomes necessary to file a petition to isolate property, the PHD or LPHA will have exercised its authority under ORS 431A.010 to enter private property with consent or after having obtained an administrative warrant, in order to inspect the property or to take samples for testing. The PHD and LPHA also have general authority to restrict access to contaminated property and you may wish to talk to your attorney about whether you can or should issue an administrative order to restrict access to property, prior to seeking a court order. ORS 431A.010(1)(h).

A form petition, affidavit, order, and certificate of service can be found in Section 8.00.

I. Filing a Petition

A petition and its accompanying affidavit to isolate property must:

- Describe the property subject to isolation;
- Describe
 - Reasonable efforts made to obtain voluntary compliance with public health measures necessary to isolate the property from the owner or custodian of the property; 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 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.

II. Service and Notice

A certified copy of the petition must be personally served on the owner or custodian of the property (or both) and a certificate of service should be filled out by whoever completes service. Once the certificate of service is complete, it should be filed with the court.

III. The Hearing

The court must hold a hearing within 72 hours of the filing of the petition, exclusive of Saturdays, Sundays and legal holidays. However, you can ask the court to have the hearing at a later date, but it must be held within 10 days of filing the petition. The court may delay the hearing beyond the 72 hours only for extraordinary circumstances and for good cause shown, or with the consent of the affected persons, 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. As stated above, the hearing may only be continued for up to 10 days. The court may grant the request for a continuance at its discretion

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

At the hearing, any person who submitted information or an affidavit in support of the petition should be called to testify.

IV. 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 must grant the petition. 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. The order should reflect the individual circumstances of the case and should be very specific with regard to actions that need to be taken to protect the public's health and the actions that need to be taken to decontaminate the property, or otherwise neutralize the effects of the toxic substance.

The court order 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.

The court order should be served on the owner or custodian (or both) of the property.

V. Releasing Property from Isolation

The law provides that the court order for isolation shall remain in place until the toxic substance no longer poses a serious risk to the health and safety of others. Thus, once the property is "cleaned up" the PHD or LPHA will likely have to communicate to the court that the matter is resolved and ask the court to issue an order releasing the property from isolation. You should work with your attorney on how best to accomplish this. You may wish to submit a draft order to the court to address this issue.