



State-Based Isolation or Quarantine Procedures

MEMORANDUM

Pandemic and All-Hazards Preparedness Reauthorization Act (PAHPRA) of 2013

This memorandum provides a sample of state statutory and regulatory and model law language regarding confidentiality measures relevant to state-based isolation or quarantine procedures. The memorandum focuses solely on provisions which relate to the quarantine or isolation of individuals to control the spread of a communicable diseases or contamination by toxic materials.

Following research on the matter, the table below presents data from 11 states and 2 model laws which provide examples of statutory or regulatory provisions which seek to protect records and materials, including medical records, gathered during quarantine and isolation judicial or administrative proceedings in non-emergency and emergency settings. Relevant citations and specific, excerpted language are provided, as well as brief comments related to the source or correlation of the language with existing model acts.

State	Statute Citation	Language	Regulation Citation	Language	Comments
South Carolina	Code 1976 § 44-4-560	(A) Access to protected health information of persons who have participated in . . . isolation[] or quarantine programs or efforts by DHEC during a public health emergency is limited to those persons having a legitimate need to: (1) provide treatment to the individual who	---	---	Adopts § 607(a) of Model State Emergency Health Powers Act (MSEHPA).

		is the subject of the health information; (2) conduct epidemiological research; or (3) investigate the causes of transmission.			
New Jersey	N.J.S.A. § 26:13-17	With respect to a state of public health emergency: a. Access to medical information of individuals who have participated in . . . isolation or quarantine programs . . . shall be limited to those persons having a legitimate need to acquire or use the information to: (1) provide treatment to the individual who is the subject of the health information; (2) conduct epidemiologic research; (3) investigate the causes of the transmission; (4) assist law enforcement agencies in the identification and location of victims of the public health emergency; or (5) provide payment by a responsible party for treatment or services rendered. . . . Nothing in this subsection shall be construed to allow for the release of medical information that is not related to the public health emergency or is protected under federal or State law.	---	---	Adopts with some expansion § 607(a) of MSEHPA.
Illinois	20 ILCS § 2305/2	(h) To prevent the spread of a dangerously contagious or infectious disease, the Department, local boards of health, and local public health authorities shall have emergency access to medical or health information or records or data upon the condition that [they] shall protect the privacy and confidentiality of any medical or health information or records or data obtained . . . in accordance with federal and State law. Additionally, any such medical or health information or records or	77 Ill. Adm. Code § 690.1355	b) Any medical or health information or records or data provided to the Department or certified local health department shall be exempt from inspection and copying under [FOIA]. e) Medical records held by a court related to orders of isolation, quarantine or closure shall be sealed by the circuit court.	General health information privacy applicability and a provision specifically referencing isolation or quarantine proceedings.

		data shall be exempt from inspection and copying under [FOIA].			
Alaska	AS § 18.15.385	(l) The department shall adopt regulations to protect, as much as possible, the privacy rights of individuals subject to isolation or quarantine under this section.	Alaska Admin. Code tit. 7. § 27.895	(d) A determination issued by the director following an informal review of . . . an isolation or quarantine order . . . is confidential and may only be released as a public document (1) upon written request of the individual who is the subject of the determination; or (2) if the determination can be redacted so that it contains no identifiable health information.	AS § 40.25.120 (3) specifically exempts “medical and related public health records” from the state’s public records law.
Utah	U.C.A. 1953 § 26-6b-3.4	(3) Medical records held by a court related to orders of restriction [treatment, isolation, or quarantine] under this chapter shall be sealed by the district court at the conclusion of the case.	---	---	Specific treatment of isolation and quarantine.
Virginia	VA Code Ann. § 32.1-48.09	(l) The State Health Commissioner shall ensure that the protected health information of any person or persons subject to the order of quarantine shall only be disclosed in compliance with § 32.1-127.1:03 of this title and the regulations relating to privacy of health records promulgated by [HHS] pursuant to [HIPAA] (42 U.S.C. § 1320d et seq.).	---	---	Referenced § 32.1-127.1:03 is the state’s general health records privacy law.
Minnesota	M.S.A. § 144.4195 M.S.A. § 13.3805	(Subd. 6) Data on individuals contained in the commissioner's directive under subdivision 2 [isolation or quarantine without advance ex parte order] are health data under section 13.3805, subdivision 1. (Subd. 1)(b)(1) Health data are private data on individuals. Notwithstanding section 13.05, subdivision 9 [intergovernmental agency access authorized or required under state law], health data may not be disclosed except as provided in this subdivision and section	---	---	Applies general health information privacy laws to isolation and quarantine proceedings.

		13.04 [providing for access by the subject individual].			
Oklahoma	63 Okl.St. Ann. § 1-106	(1) . . . Any health information or data acquired by the Commissioner [of Health] from any public agency, which information or data is otherwise confidential by state or federal law, shall remain confidential notwithstanding the acquisition of this information by the Commissioner.	---	---	Controlled by general health information privacy laws (e.g., HIPAA).
Texas	V.T.C.A., Health & Safety Code § 81.169 <i>But see</i> V.T.C.A., Health & Safety Code § 81.203	(e) The hearing [on an application for a court order for the management of a person with a communicable disease] must be open to the public unless the person or the person's attorney requests that the hearing be closed and the judge determines that there is good cause to close the hearing. Records of a health care facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by this chapter or other state law.	---	---	Potential conflict between provisions.
New York	McKinney's Public Health Law § 2301	(3) All papers pertaining to any proceeding for such an order compelling compliance [with required examination, specimen production, or isolation restrictions] shall, if placed on file as court records or otherwise, be sealed and withheld from inspection; and no person shall be allowed access thereto except upon an order of a justice of the supreme court or a judge or magistrate of the court wherein the proceeding was had. No order for access and inspection shall be granted except on due notice to the person named therein as the suspected person	---	---	Though this statute appears in section specifically addressing control of STDs, isolation measures may be included as part of these control measures.

		and on good cause shown.			
Arizona	A.R.S. § 36-727	(H) The court hearing shall not be open to the public and all records, notices, exhibits and other evidence are confidential and shall not be released to the public. The court may order any portion released or a public hearing to be held on a request from the afflicted person or, if a minor or incapacitated person, the afflicted person's parent or guardian or the afflicted person's attorney. The court's records and exhibits are available to the petitioner, the afflicted person, the department, the tuberculosis control officer, the local health officer or a legal representative of any of these persons or agencies.	---	---	Statute appears in section specifically regarding Tuberculosis control.



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SUPPORTERS

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