

# NC Communicable Disease Law

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# Legal Framework for CD Control

- *Detection* of communicable diseases or conditions within a population
- *Investigation* of cases and outbreaks by public health officials
- *Communicable disease control measures* to prevent or contain the spread of disease
- *Legal remedies* to enforce communicable disease laws
- *Confidentiality* of communicable disease information



# **PUBLIC HEALTH LEGAL AUTHORITY**

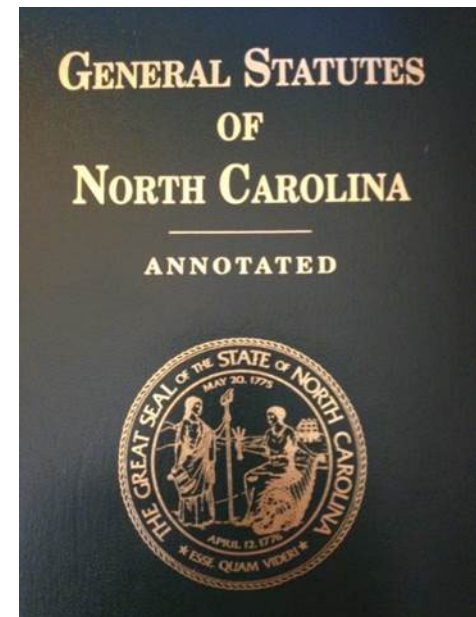
# State Law



- Source of authority: police power
- Both local and state public health officials have legal authority in NC
- Comprehensive approach to communicable disease control
  - Preparedness
  - Prevention: immunizations, environmental health
  - Detection: surveillance, reporting, access to records
  - Control: disease-specific control measures, potentially including isolation or quarantine
  - Enforcement

# NC Communicable Disease Statutes

- Enacted by NC General Assembly
- NC statutes:
  - Require CD reporting
  - Require compliance with CD control measures
  - Provide due process protections for persons isolated or quarantined
  - Address confidentiality and informed consent
  - Provide methods for enforcing CD laws
- G.S. Chapter 130A, Article 6
  - Citation example: G.S. 130A-135
  - On-line at [www.ncleg.net](http://www.ncleg.net) (click on link to General Statutes)



# NC Communicable Disease Rules

- Adopted by NC Commission for Public Health
- NC Administrative Code, Title 10A, Subchapter 41A
  - Citation example: 10A NCAC 41A.0101
  - On-line at <http://reports.oah.state.nc.us/ncac.asp>
- Establish reportable diseases and specific control measures, provide procedures for bloodborne pathogen exposures, address HIV testing
- Also immunization schedule and immunization info-sharing rules



The screenshot displays the website for the North Carolina Office of Administrative Hearings. The header includes the state seal and the text "North Carolina Office of Administrative Hearings". Navigation tabs are visible for HOME, HEARINGS, RULES (which is highlighted), CIVIL RIGHTS, STAFF, and LINKS. The main content area is titled "NCAC Table of Contents" and features a "Look-Up" button. A list of titles is provided, with "Title 10A" highlighted in blue. On the right side, there are dropdown menus for "All Titles", "All Chapters", and "Return Rules", along with a search bar and a "Search" button.

North Carolina  
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NCAC

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# NC Court Decisions



NC Supreme Court Chamber

- Law made by judges
- State courts: NC Court of Appeals, NC Supreme Court
- Federal courts: 4<sup>th</sup> Circuit Court of Appeals, US Supreme Court
- NC court decisions have upheld:
  - mandatory HIV reporting – *Act-Up Triangle v. Commission*
  - immunization requirements – *State v. Hay; In re Stratton*
  - authority to enforce CD laws – *Act-Up Triangle v. Commission*

# Roles: State & Local

## NC Division of Public Health

- State health director
- State epidemiologist
- Communicable Disease Branch
- Communicable disease consultants
- Disease investigation specialists
- State Laboratory of Public Health

## Local Public Health Agencies

- Local health director
- Communicable disease nurses
- Clinical staff
- Environmental health specialists



# Federal Law



- Specific issues:
  - Prevent introduction of disease into US
  - Prevent or control interstate spread
  - Preparedness
  - Assistance to states
- CDC provides:
  - Case definitions
  - Guidelines for control measures



# **KEY LEGAL ISSUES IN COMMUNICABLE DISEASE CONTROL**

# Confidentiality: Basic Principles

HIPAA

- Allows disclosures **required** by state law
- Allows disclosures **permitted** by state law for certain public health purposes

State PH laws

- **Requires** certain disclosures: mandatory reports; access to records in outbreaks
- **Permits** certain voluntary reports
- **Protects** communicable disease information obtained by public health by limiting uses and re-disclosure

Other laws

- Be aware that while HIPAA and state public health laws support access to information for communicable disease activities, other laws may inhibit access

# Reporting

## Mandatory

- Routine – physicians and certain others are required by law to routinely report specified diseases & conditions
- Non-routine – health care providers may be required to temporarily report symptoms, diseases, conditions, trends in use of services, or other information in response to state health director's order (not to exceed 90 days)

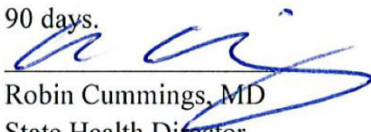
## Voluntary

- Routine – health care facilities are allowed (but not required) to report the same diseases/conditions that physicians are required to report
- Non-routine – health care providers are allowed to report unusual types or numbers of symptoms, illnesses, trends in health care visits, trends in prescriptions, or other events that could indicate a health condition caused by nuclear, chemical, or biological terrorism

TEMPORARY ORDER

MIDDLE EAST RESPIRATORY SYNDROME CORONAVIRUS (MERS-CoV) INFECTION

Pursuant to G.S. 130A-141.1, the State Health Director hereby issues a TEMPORARY ORDER requiring physicians licensed to practice medicine in this State and laboratories operating in this State to report suspected or confirmed MERS-CoV infections. This order is based upon a finding that reports of MERS-CoV infection are necessary for surveillance of a communicable disease that presents a danger to the public health. The report is required to be made immediately when MERS-CoV infection is reasonably suspected to exist. The physician shall make the report to the local health director of the county or district in which the patient resides. The local health director shall immediately report the infection to the Division of Public Health. The laboratory shall make the report directly to the Division of Public Health. This order is effective June 23, 2014 and expires in 90 days.

  
Robin Cummings, MD  
State Health Director

Reporter	What to report, when, & to whom
<b>Physicians</b> GS 130A-135	<ul style="list-style-type: none"> <li>• 70+ diseases/conditions listed in 10A NCAC 41A.0101(a)</li> <li>• Time frame varies from immediately to within 7 days</li> <li>• Report to local health director (via NCEDDS)</li> </ul>
<b>Schools/Child day care</b> GS 130A-136	<ul style="list-style-type: none"> <li>• 70+ diseases/conditions (10A NCAC 41A.0101(a); schools subject to FERPA may report if health/safety emergency)</li> <li>• Time frame varies from immediately to within 7 days</li> <li>• Report to local health director</li> </ul>
<b>Food/drink establishments</b> GS 130A-138	<ul style="list-style-type: none"> <li>• Foodborne illnesses specified in 10A NCAC 41A.0102(b) if:               <ul style="list-style-type: none"> <li>• Suspected case in employee, or</li> <li>• Suspected outbreak in customers or employees</li> </ul> </li> <li>• Report within 24 hours to local health director</li> </ul>
<b>Laboratories</b> GS 130A-139	<ul style="list-style-type: none"> <li>• Positive tests as specified in 10A NCAC 41A.0101(c)</li> <li>• Time frames vary, see 10A NCAC 41A.0102(d)</li> <li>• Report to local or state officials as specified in 10A NCAC 41A.0102(d)</li> </ul>

# Confidentiality: Mandatory and Voluntary Reporting

- ✓ HIPAA allows reports to public health that are either required or permitted by state law; everything discussed in this section is either required or permitted
- ✓ State laws provide immunity from liability for disclosures of information made in accordance with mandatory and voluntary reporting laws
- ✓ A state communicable disease confidentiality law (G.S. 130A-143) limits public health officials' redisclosure of information that is reported

# Investigations: Obtaining Records

**G.S. 130A-144(b) requires health care providers to give local or state public health officials access to:**

- Records pertaining to a mandatory or voluntary report
- Records the public health official determines are relevant to an investigation of a case or outbreak of a communicable disease or condition

**G.S. 130A-476(c) requires health care providers to give local or state public health officials access to:**

- Records the public health official determines are relevant to a report or an investigation of a case or outbreak of a health condition that may have been caused by nuclear, chemical, or biological terrorism



# Confidentiality: Records Obtained in Investigations

- ✓ HIPAA allows disclosures to public health that are required by state law; G.S. 130A-144(b) and 130A-476(c) are laws requiring disclosure
- ✓ G.S. 130A-144(c) and 130A-476(d) provide immunity from liability for disclosures of information made in accordance with these laws
- ✓ G.S. 130A-143 and/or 130A-476(e) limits public health officials' redisclosure of information that is obtained in an investigation

# Control Measures: General

## G.S. 130A-144

- Authorizes Commission for Public Health to adopt rules prescribing control measures
- Requires all persons to comply with control measures

## 10A NCAC 41A.0201 - .0214

- Prescribes control measures for HIV, hepatitis B, hepatitis C, STDs, tuberculosis, smallpox/vaccinia, and SARS
- For all other CDs, state rules incorporate control measures specified in:
  - CDC guidelines & recommended actions, or
  - APHA's Control of Communicable Diseases Manual

# Control Measures: Isolation & Quarantine (NC law)



- How are isolation & quarantine defined and what distinguishes them?
- Who may order?
- How long does an order last?
- How can it be enforced?

# Isolation & Quarantine (NC law)

## Isolation

- Limit on freedom of movement or freedom of action of a person infected (or suspected of being infected)

## Quarantine

- Limit on freedom of movement or freedom of action of a person exposed (or suspected of being exposed)
- Limit on access to an area contaminated with infectious agent
- Limit on freedom of movement or action of an unimmunized person

# Isolation & Quarantine (NC law)

- Who may order?
  - Local health director or state health director
- How long does order last?
  - Limits on freedom of action:
    - So long as public health endangered, no other limits in law
  - Limits on freedom of movement or access:
    - So long as public health is endangered but with a maximum of 30 days for initial order
    - If public health still endangered when order expires, may be extended by a Superior Court judge

# Control Measures: Emerging Illnesses

- In emerging illness, the CDC is likely to be the source of control measures and they may evolve as understanding of the illness develops.
- Examples:
  - Ebola in 2014: PPE guidelines revised after health care workers infected
  - H1N1 in 2009: Advice regarding school closure changed very early in outbreak



# How do bloodborne pathogen exposures occur?

Occupational exposure

- A health care worker experiences a needlestick.
- A law enforcement officer is bitten by a person who is under arrest.

Non-occupational (community) exposure

- A child finds a used syringe & needle in a public park and pricks her finger.
- There is an altercation that ends up with one person exposed to the another's blood.

# Control Measures: Bloodborne Pathogens

## Source of law depends on type of exposure

- Occupational: OSHA bloodborne pathogen standards
- Non-occupational (community): NC control measure rules for HIV, hepatitis B, hepatitis C

## Common threads in OSHA standards & NC rules

- Exposure: needlestick or contact between blood/body fluid and mucous membrane or nonintact skin
- Post-exposure evaluation and follow-up: may include testing, prophylaxis, disclosures of information
- Universal application



# Enforcement

- While any violation of NC communicable disease laws may be enforced using civil or criminal legal remedies, those remedies are most commonly used for violations of control measures.
  - Civil legal remedy: Seek court order (injunction)
  - Criminal legal remedy: Charge violator with misdemeanor
- Seek compliance through education first.
- Issue written orders as appropriate.
- Document evidence of noncompliance.
- Seek assistance of an attorney.

# **HOT TOPICS IN COMMUNICABLE DISEASE LAW**

# Health Care Worker Immunizations

## Required by State Law

- Nursing homes
  - Influenza
  - Exemptions: medical, religious, informed refusal
  - G.S. 131E-113
- Adult care homes
  - Influenza
  - Exemptions: medical, religious, informed refusal
  - G.S. 131D-9

## Required by Employers

- Employers establish specific requirements
- Must reasonably accommodate:
  - ADA disabilities that preclude vaccination
  - Sincerely held religious belief, practice, or observance

# HIV Control Measure Changes

- NC HIV control measures changed in January 2018, to reflect advances in HIV treatment
  - Effective treatment → viral suppression
  - Virally suppressed → not infectious
    - Undetectable = untransmittable
- New paradigm: Treatment is prevention

HIV control measure rule: [10A NCAC 41A .0202](#)

# HIV Control Measure Changes (cont.)

- A person living with HIV (PLWH) is considered to be not at risk for sexually transmitting the virus if all the following criteria are met:
  - PLWH is in HIV care, meaning they are being routinely seen by a physician managing their HIV
  - PLWH is adherent to treatment plan, including:
    - Taking antiretroviral treatment as directed
    - Attending all medical appointments
    - Having routine lab tests to monitor viral status
  - PLWH has been virally suppressed for at least 6 months

# HIV Control Measures

Requirement	PLWH is virally suppressed	PLWH is not virally suppressed
Notify sexual partners	Recommended but not required	Required
Use condoms	Recommended but not required	Required, unless: <ul style="list-style-type: none"> <li>• Sexual partner is also HIV positive</li> <li>• Sexual partner is taking PrEP</li> <li>• Sexual contact occurred because PLWH was victim of sexual assault</li> </ul>

## Other changes:

- Organ donation by PLWH permitted in some circumstances
- When significant risk of transmission must be determined (as in BBP exposure), must refer to CDC's risk estimates for HIV



# More information

## **Bloodborne Pathogens**

- [Blog Post: UPDATED: Blood Exposures and NC Communicable Disease Law \(September 2016\)](#)

## **Communicable Disease Law, Generally**

- [Blog Post: Keeping the Public Informed About Communicable Disease \(May 2015\)](#)
- [Blog Post: How Does North Carolina Law Address Outbreaks of Communicable Disease? \(September 2014\)](#)

## **Immunizations**

- [Blog Post: May Unimmunized Children be Excluded from School in North Carolina? \(January 2015\)](#)
- [Blog Post: Flu Vaccines for Health Care Workers \(October 2010\)](#)
- [Immunizations for Children and Adolescents: Frequently Asked Questions about North Carolina's Laws, by Jill Moore, Health Law Bulletin No. 91 \(July 2009\)](#)

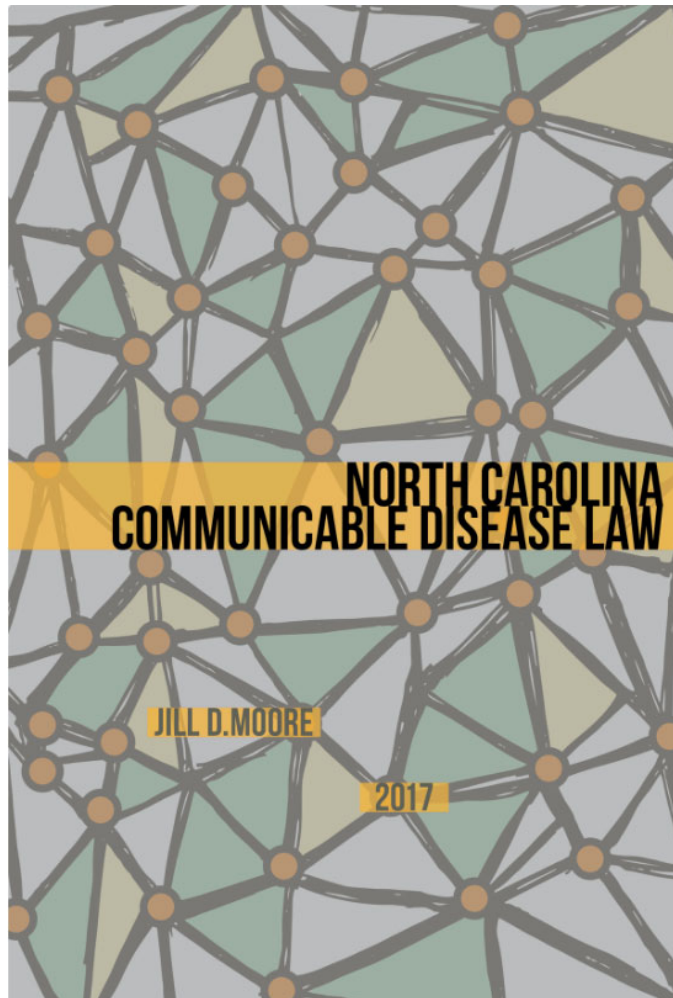
## **Isolation & Quarantine**

- [Blog Post: Ebola and the Law of Isolation and Quarantine in North Carolina \(October 2014\)](#)
- [The North Carolina Public Health System's Isolation and Quarantine Authority, by Jill Moore, Health Law Bulletin No. 84 \(July 2006\)](#)



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by Jill D. Moore, Associate Professor of Public Law and Government



An introduction to the law  
of communicable disease  
control in North Carolina

<https://www.sog.unc.edu/publications/books/north-carolina-communicable-disease-law>

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