

Plan for the Detention of Persistently Non-Adherent Tuberculosis Patients

Civil Detention Plan	Date
Local Health Jurisdiction	

In order to prevent transmission of tuberculosis (TB), the above named health jurisdiction will detain nonadherent tuberculosis patients as stipulated in Health and Safety Code (H&SC), Section 121365(d) for the purpose of isolation. In order to assure a greater rate of completion of anti-TB therapy, this jurisdiction will detain persistently nonadherent tuberculosis patients as stipulated in H&SC, Section 121365(e).

I. Orders for Civil Detention

The Orders for Civil Detention which will be used by the above named health jurisdiction will be in compliance with H&SC, Section 121367 which requires that the following items be included in the orders:

- A. the legal authority under which the order is issued, including the particular sections of state law or regulations [H&SC, Section 121365(d) or 121365(e)];
- B. an individualized assessment of the person's circumstances or behavior constituting the basis for the issuance of the order;
- C. the less restrictive treatment alternatives that were attempted and were unsuccessful, or the less restrictive treatment alternatives which were considered and rejected, and the reasons the alternatives were rejected;
- D. the name of the person to be detained;
- E. the period of time during which the order shall remain effective;
- F. the location in which the person is to be detained, and the payer source if known;
- G. the purpose of the detention;
- H. a statement informing the person being detained that:
 - 1. he or she has the right to request release from detention;
 - 2. the detention shall not continue for more than five business days after the request for release, in the absence of a court order authorizing the detention;
 - 3. whether or not he or she requests release from detention, the local health officer is required to obtain a court order authorizing detention within 60 days following the commencement of detention and thereafter shall further seek court review of the detention within 90 days of each subsequent review;
 - 4. he or she has the right to arrange to be represented by counsel or to have counsel provided, and that if he or she chooses to have

- counsel provided, the counsel will be notified that the person has requested legal representation;
5. the name and telephone number of the person designated by the health officer to be contacted to request release;
 6. other terms and conditions as may be necessary to protect the public health.

Every person detained by this health jurisdiction pursuant to H&SC, Section 121365, will be provided with a separate notice, in addition to the order, informing him or her of items H 1-5 above, and that he or she may supply the addresses or telephone numbers of not more than two individuals to receive notification of the person's detention, and that the local health officer shall, at the patient's request, provide notice within the limits of reasonable diligence to those people that the person is being detained.

Orders will be served on and explained to patients in a language understandable to the patient. All reasonable attempts will be made to ensure patient understanding of orders and to accommodate the special needs of patients with impairments of hearing, vision, or reading skills, or with mental or cognitive disorders, or whose primary language is other than English.

II. Criteria for Civil Detention

The following criteria will be used by this health jurisdiction in issuing an order of detention pursuant to H&SC, Section 121365. These criteria have been developed in compliance with Section 121367(a) of the Health and Safety Code:

A. Detention for Isolation [H&SC, Section 121365(d)]

Specific patient behaviors that support an Order for Civil Detention for the purpose of isolation pursuant to H&SC, Section 121365(d): Patients will be detained for the behaviors which are checked below:

- _____ Leaving hospital against medical advice while infectious
- _____ Receiving visitors while infectious
- _____ Returning to work while infectious
- _____ Leaving home while infectious
- _____ Refusing or leaving hospital respiratory isolation
- _____ Refusing to submit sputum specimens for determination of infectiousness
- _____ Leaving hospital against medical advice
- _____ Refusing to mask or cover cough when instructed to do so
- _____ Violation of Order of Exclusion – H&S 121365 (f)
- _____ Violation of Order of Isolation – H&S 121365 (g)
- _____ Other: Specify _____

Less Restrictive Alternatives Attempted and Failed: Before detention is attempted pursuant to H&SC, Section 121365(d), all the less restrictive alternatives which have been checked below will have been attempted where appropriate, and will have failed:

√	Less Restrictive Alternative	The less restrictive alternatives which are <u>not</u> checked cannot be offered by this health jurisdiction because:
	Patient Education /Counseling	
	Ensure cost to patient is not a barrier	
	Patient Isolation Contract	
	DOT (as appropriate)	Daily _____ Bi-weekly _____ Thrice-weekly _____
	Enablers	
	Incentives	
	Housing	
	Changing Medication Schedule (e.g., from daily to intermittent therapy)	
	Reassignment of Case Manager or DOT Worker	
	Social Services	
	Drug Rehabilitation	
	Mental Health Services	
	Voluntary Home Isolation	
	Order for Examination [H&S 121365 (a)]	
	Order for COT [H&S 121365 (b)]	
	Order for DOT [H&S 121365 (c)]	
	Order for Exclusion [H&S 121365 (f)]	
	Order of Isolation [H&S 121365 (g)]	
	Other: Specify	

B. Detention for Completion of Treatment (COT) [H&SC, Section 121365(e)]

Specific patient behaviors which support an Order for Civil Detention for the purpose of completing treatment pursuant to H&SC, Section

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121365(e): Patients will be detained for the behaviors checked below:

- _____ Missing treatment doses. #____ Over____ Weeks, or Percentage of doses_____
- _____ Missing clinic/physician appointments. Number _____
- _____ Failing to refill medication orders or pick up prescriptions
- _____ Refusing to mask or cover cough when instructed to do so
- _____ Moving without notifying the health department
- _____ Leaving hospital against medical advice
- _____ Violation of Order for Examination – H&S 121365 (a)
- _____ Violation of Order for COT – H&S 121365 (b)
- _____ Violation of Order for DOT – H&S 121365 (c)
- _____ Other: Specify_____

Less Restrictive Alternatives Attempted and Failed: Before detention is attempted pursuant to H&SC, Section 121365(e), all the less restrictive alternatives which have been checked below will have been attempted where appropriate, and will have failed:

√	Less Restrictive Alternative	The less restrictive alternatives which are <u>not</u> checked cannot be offered by this health jurisdiction because:
	Patient Education /Counseling	
	Ensure cost to patient is not a barrier	
	Voluntary Daily or Intermittent DOT	
	Patient DOT Contract	
	Enablers	
	Incentives	
	Housing	
	Changing Medication Schedule (e.g., from daily to intermittent therapy)	
	Reassigning Case Manager or DOT Worker	
	Social Services	
	Drug Rehabilitation	
	Mental Health Services	
	Order for Examination [H&S 121365 (a)]	

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	Order for COT [H & S 121365 (b)]	
	Order for DOT [H & S 121365 (c)]	
	Order for Exclusion [H & S 121365 (f)]	
	Order of Isolation [H & S 121365 (g)]	
	Other: (Specify)	

III. Detention Procedures

The following procedures for detention and assuring judicial review will be implemented:

Documentation of nonadherent behavior and all appropriate less restrictive alternatives which have been attempted and have failed will be recorded in the patient's chart within ____ working day(s) of the occurrence of nonadherent behavior or the institution of less restrictive alternatives (listed in Section II above).

Title of person responsible for documentation of nonadherent behavior and less restrictive alternatives attempted:

Title of person responsible for reviewing documentation:

Orders for detention will be issued, served, and carried out by the following:

Title of person responsible for deciding that a patient will be detained:

Title of person who will sign Orders for Detention:

Title of person and name of agency who will locate patient and serve the order: _____

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Title of person and name of agency who will bring patient to the detention site: _____

Title of person responsible for ensuring that appropriate respiratory precautions are observed throughout the detention process, including but not limited to, serving orders, transporting the patient, and court appearances: _____

Judicial review of each detention shall occur no later than five business days after the patient requests release, or within 60 days following the commencement of detention, whether or not the patient requests release, and thereafter within 90 days of each subsequent review.

Title of person responsible for seeking judicial review:

Court in which judicial review will take place:

Title of person and name of agency responsible for transporting patient to court when necessary: _____

IV. Health Officer Responsibility

Whether or not the provider of treatment during detention is the Health Department, and whether or not the detention site is located within this health jurisdiction, the Health Officer will retain primary responsibility for the management of the TB patient being detained. The TB Controller or his or her designee will maintain regular or frequent contact with the provider to:

1. Monitor the patient's progress,
2. Gather information for the judicial review process,
3. Determine the earliest time for the appropriate release of the patient from detention,
4. Oversee discharge planning,
5. Gather information on the disposition of the case and complete follow-up Reports of a Verified Case of Tuberculosis (RVCT).

A person detained for the purpose of isolation [H&SC 121365(d)] will be released after he or she ceases to be infectious or when the Health Officer determines that the patient can be adequately separated from others so as to prevent the spread of TB. The Health Officer, or his or her designee, will review the circumstances of each case no less often than every _____ (weeks, months).

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A person detained for the purpose of completing treatment [H&SC 121365(e)] will be released after he or she completes treatment, or when the Health Officer determines that early release is appropriate because the patient meets the criteria for early release outlined in *Guidelines for the Civil Detention of Persistently Non-Adherent Tuberculosis Patients In California*, or if the patient was detained when TB was only suspected and TB has been ruled out. The Health Officer, or his or her designee, will review the circumstances of each case no less often than every _____ (weeks, months)

V. Detention Site

Patients will be detained for isolation [H&SC 121365(d)] in accordance with the policy statement *Detaining Sputum Smear Positive TB Patients* (Attachment I) at the following location(s) (Repeat for each site used.):

Name of Site: _____
Address of Site: _____
Type of Site: _____
Type of security provided at this facility: _____

The above named detention site has agreed to accept and treat patients with the following conditions in addition to active or suspected tuberculosis: _____ alcohol abuse _____ drug abuse _____ mental illness _____ HIV/AIDS

The above named site has the capability to isolate smear positive patients as follows: _____

This facility may be available for use by other health jurisdictions for the detention of nonadherent TB patients. Yes _____ No _____

Patients will be detained for completion of therapy [H&SC 121365(e)] at the following location(s) (Repeat for each site used.):

Name of Site: _____
Address of Site: _____
Type of Site: _____
Type of security provided at this facility: _____

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The above named detention site has agreed to accept and treat patients with the following conditions in addition to active or suspected tuberculosis:

____ alcohol abuse ____ drug abuse ____ mental illness ____ HIV/AIDS

The above named site has the capability to isolate smear positive patients.

Yes ____ No ____

This facility may be available for use by other health jurisdictions for the detention of nonadherent TB patients. Yes ____ No ____

This health jurisdiction has made the following arrangements to detain those patients who cannot be detained at the above named detention site(s): _____

VI. Transportation to Regional Civil Detention Sites

This health jurisdiction may decide to refer a detention patient to a Regional Civil Detention Site. Yes ____ No ____

If yes, provide the title of the person responsible for arranging transportation of patient. _____

Refer to "*What Precautions Should Be Taken When Transporting a TB Patient?*" by the Francis J. Curry National Tuberculosis Center (http://www.nationaltbcenter.edu/resources/tb_control_faq.cfm).

VII. Additional Considerations

In submitting this plan to the California Department of Health Services (CDHS), Tuberculosis Control Branch (TBCB), we hereby request that funding be provided to pay for each detention as it occurs. In addition, this health jurisdiction agrees:

- A. That these State funds will not be used to supplant funds provided by other agencies or reimbursement sources for the purpose of detaining nonadherent tuberculosis patients and/or suspects. Supplanting is defined as using one fund source instead of another to pay for something without an increase in the total funding available.
- B. The Tuberculosis Control Branch does not reimburse detentions carried out in correctional facilities.

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- C. To use forms provided by CDHS TBCB to:
1. Report the intent to detain a nonadherent TB patient to the CDHS TBCB at least one working day prior to detention or within 5 days of detention start date;
 2. Report the release of a detained TB patient to the CDHS TBCB within five working days after releasing the patient from detention;
 3. Provide data on each detention to the CDHS TBCB.
- D. To adhere to the terms and conditions of the Letter of Award for local assistance TB funding and the policies and procedures attached thereto; and
- E. To submit an updated detention plan should these policies and/or procedures be revised.

The *Guidelines for the Civil Detention of Nonadherent Tuberculosis Patients in California* have been reviewed by the Health Officer of this health jurisdiction or his or her designee who will ensure that the jurisdiction's policies and procedures regarding the civil detention of tuberculosis patients are lawful and in accordance with the *Guidelines*.

_____ Date _____
Signed

Name _____

Title _____

Address

Telephone _____