

qrulepubliccomments

From: Roslyn Windholz [rwindhol@health.nyc.gov]
Sent: Wednesday, March 01, 2006 7:40 PM
To: qrulepubliccomments
Subject: NOTICE OF PROPOSED RULEMAKING REGARDING 42 CFR Parts 70 and 71

Attachments: quarantine.doc



quarantine.doc (31 KB)

Attached please find comments from the New York City Department of Health and Mental Hygiene regarding control of communicable disease.

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March 1, 2006

grulepubliccomments@cdc.gov

Regarding: 42 CFR Parts 70 and 71 - Control of Communicable Diseases; Proposed Rule

To Whom It May Concern:

The New York City Department of Health and Mental Hygiene (DOHMH) has reviewed the proposed federal regulations regarding the control of communicable diseases. The following express our specific concerns regarding the proposed regulations

Government authority to regulate for the protection of public health is premised on the State's inherent "police power", that is the power to provide for the health, safety, and welfare of the people. Historically, the health of citizens is a matter of local concern. [See Hillsborough County v. Automated Medical Laboratories, Inc. 471 U.S. 707, 719, 105 S.Ct. 2371, 2378 (1985). It is for this reason that we are concerned that various provisions in these amendments fail to recognize the role of local health departments. Some of the following comments address this fundamental concern.

(1) Proposed §70.1 (Scope and definitions)

While the Summary of Proposed Changes (IV) includes a discussion regarding the distinction between quarantine and isolation (see for example, page 71904), we believe the regulations fail to adequately define both these crucial terms. We recommend that the regulations themselves define both isolation as well as quarantine. Subsuming isolation within quarantine in the definition section is confusing.

(2) Proposed §70.2 (Report of death or illness on board flights)

The proposed revision eliminates the requirement currently existing in §70.4 that carriers report to local health authorities, instead requiring that reports be made to the Director of CDC. While we of course, appreciate the need to notify CDC, we believe it is critical that local health authorities be notified when any further action is taken.

We recommend the addition of a new (c) to state as follows: Once the Director receives a report pursuant to (a) and determines that any further action is necessary, the Director shall immediately notify the local health authority at the next port of call, station, or stop.

(3) Proposed §70.6

Specifically with regard to proposed Section 70.6(d), the regulation should state that the Director may apply the provisions of paragraphs (a) through (c) only after consultation with the state or local health officer.

(4) Proposed §70.11 (Sanitary Measures)

Proposed §70.11 (a) states as follows: “Whenever the Director reasonably believes that any carrier affecting interstate commerce, or animal, article or thing on board such carrier is or may be infected or contaminated with a communicable disease, the Director, may, in consultation with other **federal agencies** as appropriate:” (emphasis added). We believe that state or local health agencies should be required to be consulted.

We recommend that (a) be amended to specifically refer to state or local health agencies. Specifically, we suggest this provision read as follows: “Whenever the Director reasonably believes that any carrier affecting interstate commerce, or animal, article, or thing on board such carrier is or may be infected or contaminated with a communicable disease, the Director, may, in consultation with other federal agencies as appropriate as well as with local or state health agencies.”

(5) Proposed §70.12 (Detention of carriers affecting interstate commerce)

Proposed §70.12 (a) states: “The Director whenever necessary to prevent the introduction, transmission, or spread of communicable diseases and in consultation with such other **federal agencies** as the Director deems necessary may require the detention of any carrier affecting interstate commerce...” (emphasis added). Similar to our comment above, we believe it is important that “state or local health agencies” be required to be consulted.

(6) Proposed §70.21 (Care and treatment of persons)

This section provides that individuals subject to **medical examination and monitoring, provisional quarantine, or quarantine** are eligible for care and treatment at the expense of the Director of CDC. Medical monitoring as defined in §70.1 refers to voluntary or involuntary basis. Provisional quarantine as defined in §70.1 refers to involuntary basis. Quarantine as defined in §70.1 refers to voluntary or involuntary basis. DOHMH is unclear based on the regulation as drafted as to whether an Order must be issued before CDC becomes responsible for the care and treatment of the individual.

In addition, to the extent that medical care and treatment is mandatory, the regulations should be clear that CDC must pay for such after all third party payment has

been exhausted. Similarly, the cost of all care and treatment for persons held in detention by federal order should be borne by the federal government.

(7) It is unclear as to why many of the provisions in Part 70 apply only to airlines and not to other carriers as defined (see for example, sections 70.2-70.4)

(8) To the extent that proposed amendments to Part 71 mirror the proposed amendments to Part 70, we offer the same comments.

We appreciate the opportunity to provide our comments.

Sincerely,

Wilfredo Lopez
General Counsel for Health
NYC Department of Health & Mental Hygiene
125 Worth Street
New York, NY 10013
(212) 788-5025

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S:quarantine