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October 14, 2016

Sylvia M. Burwell, Secretary  
U.S. Department of Health and Human Services  
Division of Global Migration and Quarantine  
U.S. centers for Disease Control and Prevention  
1600 Clifton Road NE  
MS E-03  
Atlanta, GA 30329

***Re: CDC-2016-0068: Control of Communicable Diseases, proposed rule***

Dear Secretary Burwell:

The Association for Professionals in Infection Control and Epidemiology (APIC) wishes to thank the Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) for the opportunity to provide input into proposed revisions to regulations for the Control of Communicable Diseases. APIC is a nonprofit, multidisciplinary organization representing over 15,000 infection preventionists whose mission is to create a safer world through prevention of infection. We are pleased that HHS/CDC continues to review regulations protecting the public health while also ensuring safeguards to individuals.

### **Apprehension and Detention of Persons with Quarantinable Communicable Diseases**

The use of quarantines and isolation are longstanding tools of public health and the government; however, such curtailment of personal liberty cannot be applied to the individual without evidence that a particular individual presents an active risk to the community.<sup>1</sup> All such persons are entitled to due process.<sup>2</sup>

APIC appreciates that the aim of quarantine or other movement restrictions during public health emergencies is to protect citizens from infectious diseases that are easily spread through human-to-human contact. We also appreciate that Ebola is included on the Revised List of Quarantinable Communicable Diseases which allows persons who are in the “qualifying stage” of disease to be evaluated for infection and quarantine.<sup>3</sup> The challenge with the current situation is that there is no scientific basis to justify placing a person who had contact with an infectious patient, but is currently asymptomatic into quarantine. The greatest infectious risk for Ebola is when patients are symptomatic; that is, the patient has a fever, vomiting, diarrhea, and malaise. Prior to this time, transmission risk is viewed as exceedingly low.<sup>4,5</sup>

The experience of isolation during quarantine can be traumatic for individuals, with serious financial and psychological hardships reported.<sup>6,7</sup> In the absence of scientific evidence of a public health benefit to quarantine, we believe the ethical consideration of curtailment of personal liberty must be the primary deciding factor.



We recommend caution in including a “precommunicable” stage when there is extremely low risk to the public, even if the infection is likely to cause a public health emergency, since science does not support quarantine in the “precommunicable” stage. Although we recognize that outbreaks of new diseases can lead to significant costs and public anxiety, this does not seem like reasonable rationale to quarantine individuals. It should be made clear that apprehension as defined by HHS and CDC -- “the temporary taking into custody of an individual or group for purposes of determining whether quarantine, isolation, or conditional release is warranted” -- is not the prerogative of public opinion, but rather by evidence and educated actions performed by trained public health experts.

### **Public Health Prevention Measures to Detect Communicable Disease**

APIC agrees with the definition of non-invasive to include the visual examination, temperature assessments, auscultation, external palpation, and external measurement of blood pressure, as these non-invasive measures are crucial to determine next steps in the care of the patient and whether escalation of treatment is required.

We also support the provision to collect additional personal information from screened individuals for the purpose of contact tracing. Depending on the disease, contact tracing is crucial for the treatment and potential quarantine of infectious persons.

### **Medical Examinations**

Again, APIC acknowledges that use of quarantines and isolation are important public health tools; however, such curtailment of personal liberty must be done with due process. There may be circumstances where a Federal order is crucial to protect the public from the spread of a public health emergency. In this case, providing for a prompt medical examination will allow the person to be evaluated, treated, or released as soon as possible.

### **Requirements Relating to Issuance of a Federal Order for Quarantine, Isolation, or Conditional Release**

APIC agrees that there may be particular circumstances where a group of individuals, e.g. all individuals onboard a flight, may have been exposed to a potential infectious agent. There is a concern that “groups” could be defined as cultural or ethnic groups; however, this risk is mitigated by having the Federal quarantine order contain the names of those individuals subject to the Federal order and be issued on an individual basis.

### **Medical Review of a Federal Order for Quarantine, Isolation, or Conditional Release**

APIC supports a role for the Federal government to ensure that basic living conditions, amenities, and standards are satisfactory when placing individuals under Federal orders as this would be a way to ensure that the hardships of quarantine are lessened and would therefore help ensure compliance.

### **Agreements**

The proposed provision would allow HHS/CDC to enter into an agreement with an individual such that the individual agrees to comply with any public health measure ordered by the agency, including quarantine, isolation, conditional release, medical examination, hospitalization, vaccination, and treatment. HHS/CDC sees such an agreement as a tool to obtain compliance and build trust. However,



an agreement is not a prerequisite to the exercise of CDC's authority to impose public health measures, and an individual is subject to criminal penalties for noncompliance with a federal order for quarantine, isolation, or conditional release whether or not an agreement is in place. Public health measures must be enforced regardless of the existence of an agreement; therefore, APIC disagrees with HHS/CDC that an agreement alone will build trust and ensure compliance. In fact, such an agreement might falsely imply to the individual that compliance is a choice rather than a requirement. In any case, persons subject to detention are entitled to procedural due process.<sup>1</sup>

APIC welcomes the opportunity to continue to work with HHS/CDC to protect the public from the spread of communicable diseases.

Sincerely,

A handwritten signature in black ink that reads "Susan Dolan".

Susan Dolan, RN, MS, CIC, FAPIC  
2016 APIC President

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<sup>1</sup> Gostin, LO. *Public health law: Power, duty, restraint* (2nd ed.). Berkeley, CA: University of California Press 2008.

<sup>2</sup> Ibid.

<sup>3</sup> 42 USC 264(d), Ex. Ord. No. 13295, Apr. 4, 2003, 68 F.R. 17255, as amended by Ex. Ord. No. 13375, § 1, Apr. 1, 2005, 70 F.R. 17299. Available at <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title42/pdf/USCODE-2011-title42-chap6A-subchapII-partG-sec264.pdf>. Accessed 1/29/15.

<sup>4</sup> Drazen JM, Kanapathipillai R, Campion EW, Rubin EJ, Hammer SJ, Morrissey S, Baden LR. Ebola and quarantine. *N Engl J Med* 2014; 371:2029-2030.

<sup>5</sup> Racaniello V. Nobel laureates and Ebola virus quarantine. Posted November 4, 2014. Available at <http://www.virology.ws/2014/11/04/nobel-laureates-and-ebola-virus-quarantine/>.

<sup>6</sup> Hawryluck L, Gold WL, Robinson S, Pogorski S, Galea S, Styra R. SARS control and psychological effects of quarantine. *Emerging Infectious Diseases*. 2004;10(7):1206–1212.

<sup>7</sup> Gilmartin HM, Grota PG, Sousa K. Isolation: A concept Analysis. *Nurs Forum* 2013;48:54-60.