Legal Implications of Infectious Disease Control: The Case of a Tuberculosis-Infected Traveler

Elenora E. Connors
JD/MPH 2008

The Case of the Tuberculosis-Infected Traveler

- Exposed:
  - Significant legal issues and the complexity involved in the protection of public health

- Highlighted:
  - Gaps in public health laws and emergency planning
Objectives

- Briefly Discuss Public Health Powers
- Understand the Timeline of Events
- Identify the Key Legal Issues

Public Health Powers

- Authority = all levels of government
  - Traditionally local/state responsibility
- State Power
  - 10th Amendment
  - Inherent police powers include:
    - Protection of health, safety, welfare, and morals of the public
- Police power = expansive, but limited through Supremacy Clause
Public Health Powers

- Multiple Jurisdictions
- Coordinating the role of state, local federal governments in protecting the health of the public

Timeline of Events: Initial Diagnosis/State Involvement

- January-April, 2007
  - Abnormal Chest x-ray
  - TB diagnosis confirmed
  - Began first line drug TB therapy
  - Samples sent to:
    - Georgia Public Health Laboratory and CDC
    - GA PHL indicates MDR-TB
Initial Diagnosis/
State Involvement

- **May 10 – 12, 2007**
  - Patient informed of MDR-TB diagnosis, advised not to travel
  - Legal Remedies
  - Attempt to serve patient with written notice not to travel

Federal Involvement/
International Travel

- **May 12-22, 2007**
  - Patient leaves early
  - CDC’s Division of Global Migration and Quarantine (DGMQ) contacted
  - Search to locate and isolate patient begins
  - CDC tests indicate XDR-TB
  - U.S. Customs and Border Patrol flags patient
International Travel

May 22-24, 2007
- Patient contacted
- Patient checks out of hotel, cannot be located
- Transportation Security Administration (TSA)
- Patient flies from Prague to Canada

Patient Re-Entry into U.S.

May 25-28, 2007
- Border patrol agent validates patient re-entry into U.S.
- Provisional isolation order
- CDC begins contact tracing
- Federal Isolation Order served.
Key Legal Issues

- State/Local Authority
- Federal Authority
- International Travel
- Patient Re-entry
- Patient Isolation

State/Local Authority

- State authority to restrict movement
- Georgia State Code:
  - Local health officials can act only *after* the patient violates orders
  - Voluntary approach
  - Situation of Non-compliant patient
Federal Authority

- Federal authority to restrict movement
  - Rarely used
  - Commerce Clause
    - Interstate
    - Some Intrastate isolation/quarantine
- 361 Public Health Service Act, 42 U.S.C. § 264

International Travel

- Statute originally written to detain immigrants
- Does not directly address patients leaving the country or U.S. authority internationally
- Federal law not applicable outside of U.S. unless Congress explicitly intends
Re-Entry into U.S.

- Liability of Border Patrol
- Liability of Patient
- Liability of airlines, others involved

Patient Isolation

- Isolation/Quarantine
  - Balance individual civil liberties with health of the public
  - Restrictions on freedom of movement (14th amendment)
  - Due process
  - Epidemic: mass quarantine
Conclusion

- Critical that public health agencies understand the legal authorities underlying their joint efforts to prevent and control infectious disease.
- It is necessary to form clear laws and legal authorities, coordination across jurisdictions, and develop best practices.

MANY THANKS TO:

- Montrece Ransom, JD
- Tony Moulton, PhD
- Everyone at the CDC