



David Fogarty

Final Analysis
Legislative Service Commission

Sub. S.B. 173
123rd General Assembly
(As Passed by the General Assembly)

Sens. Drake, Kearns, Spada, Prentiss, Hagan

**Reps. Jones, Vesper, Patton, Terwilleger, Barnes, Smith, Tiberi, Flannery,
Verich, Allen, Widener, O'Brien, Amstutz, Grendell**

Effective date: *

ACT SUMMARY

- Requires that each board of county commissioners designate a county tuberculosis control unit or join with other counties to form a district tuberculosis control unit.
- Requires that a tuberculosis control unit ensure that tuberculosis treatment is made available to all persons with tuberculosis who reside in the area served by the unit.
- Requires physicians to make reports to tuberculosis control units on confirmed cases of tuberculosis, suspected cases, drug-resistant cases, and patient adherence to treatment regimens.
- Authorizes a tuberculosis control unit to issue orders requiring that a person with tuberculosis (1) complete a prescribed treatment regimen, (2) provide notice of intent to travel, and (3) remain separated from public gatherings while the tuberculosis is in a communicable stage.
- Permits the probate court to issue an injunction compelling a person to comply with an order from a tuberculosis control unit, and, if noncompliance continues, to authorize the unit to detain the person in a hospital or other facility.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Requires the Director of Health to make annual reimbursements to boards of county commissioners for expenses incurred in detaining individuals with tuberculosis who are indigent.
- Requires the Director of Health to maintain a tuberculosis registry and to engage in tuberculosis surveillance activities, and permits the Director to appoint physicians as tuberculosis consultants.
- Provides that the prohibition against payment of county funds to a sectarian institution does not apply when payment is for the treatment of persons with tuberculosis who are indigent or disabled.

TABLE OF CONTENTS

Overview.....	3
Tuberculosis control units	3
Availability of services	4
Funding of tuberculosis treatment.....	4
Contracts for services	5
County tuberculosis clinics.....	5
Reports by physicians.....	6
Reports by health facilities, laboratories, and others	6
Investigations of reports	7
Confidentiality of information	7
Distinctions between "communicable" and "active" tuberculosis	7
Protecting the public from persons with tuberculosis.....	8
Required treatment for individuals with active tuberculosis.....	8
Travel restrictions.....	8
Separation of individuals with communicable tuberculosis.....	9
Enforcement.....	9
Orders	9
Injunctions.....	9
Detention.....	9
Emergency detention	10
Expenses for detention	11
Religious exception	11
Tuberculosis record bureau	12
Local reports to the state.....	12
State tuberculosis registries	12
State tuberculosis surveillance activities	12
State tuberculosis consultants	13
Adoption of rules.....	13

Schools for children with tuberculosis.....	13
Care for the indigent and disabled by counties	14
References to tuberculosis hospitals	14
Technical correction.....	14

CONTENT AND OPERATION

Overview

Since 1908, boards of county commissioners have had statutory authority to establish county hospitals for tuberculosis. Formation of district tuberculosis hospitals was authorized in 1909. These statutes, which have been revised on several occasions, include provisions for closure of tuberculosis hospitals when no longer needed. According to a spokesperson from the American Lung Association of Ohio, hospitals used exclusively for treatment of tuberculosis no longer exist in this state.

The act repeals statutes related to tuberculosis hospitals and eliminates other statutory references to those hospitals. In place of tuberculosis hospitals, the act creates a system of tuberculosis treatment through county or district tuberculosis control units.

Tuberculosis control units

(sec. 339.72)

The act requires that the board of county commissioners of each county provide for the county to be served by a tuberculosis control unit. This may be accomplished by designating a county unit or by entering into an agreement with one or more other counties under which a district control unit is designated. The act specifies that the entity designated as a county or district tuberculosis control unit must accept that designation and fulfill its duties as the tuberculosis control unit. In designating the unit, the board may select any of the following:

- (1) A communicable disease control program operated by a board of health;
- (2) A tuberculosis program operated by a county that receives existing state funding for the treatment of tuberculosis;
- (3) A tuberculosis clinic established by a board of county commissioners;
- (4) A hospital that provides tuberculosis clinic services under contract with a board of county commissioners.



Availability of services

(sec. 339.73)

Each tuberculosis control unit is required by the act to ensure that tuberculosis treatment is made available to all individuals with tuberculosis who reside in the area served by the unit. In making treatment available, the tuberculosis control unit may provide the treatment or make referrals for receipt of treatment from other entities. The act specifies that the unit may make referrals for temporary housing.

The tuberculosis treatment that is to be provided under the act is limited to cases of active tuberculosis and infected contacts. The treatment includes provision of anti-tuberculosis medication, conduct of an investigation to determine if someone has tuberculosis, provision of appropriate follow-up services for confirmed and suspected cases of active tuberculosis, and provision of services by a physician through a course of therapy that meets the standards for tuberculosis treatment established by the United States Centers for Disease Control and Prevention or the American Thoracic Society.

The act requires that the tuberculosis control unit serve all individuals who are residents within the unit's jurisdiction, regardless of the length of time that the individual has resided in the area or the individual's income and resources. An individual who receives tuberculosis treatment is required by the act to disclose to the tuberculosis control unit the identity of any third party against whom the individual has or may have a right of recovery for the treatment provided. The act specifies that the board of county commissioners is the payor of last resort for tuberculosis treatment and that the board is required to pay for treatment only to the extent that payment is not made through third-party benefits.

Funding of tuberculosis treatment

(secs. 339.77 and 5705.20)

Under continuing law, the Department of Health may provide financial assistance to counties that operate an acceptable tuberculosis program. The amount paid annually is based on state appropriations and the number of tuberculosis cases with documented completion of an approved course of treatment during the previous fiscal year. The act transfers from the Public Health Council to the Director of Health the duties of providing forms for documentation and making determinations of what constitutes an acceptable tuberculosis program, an approved course of treatment, and an active case. Although the act eliminates a provision that requires payments to be made to the county that includes the

individual's legal residence, it appears that a determination of legal residence is to be made when determining what constitutes an active case.

Continuing law permits the board of county commissioners to levy a tax, with voter approval, for the support of tuberculosis clinics. The tax may be levied if the amount raised within the ten-mill limitation for supplementing the county's general funds will be insufficient for supporting tuberculosis clinics. The total levy cannot exceed 0.65 mill. The act specifies that if a tax was levied before the act's effective date for the support of tuberculosis clinics, the levy may be renewed for that purpose. The act expands the purposes for which a tuberculosis tax may be levied by including the purpose of supporting the treatment that must be provided under the act.

Contracts for services

(sec. 339.75; sec. 3701.84 (repealed))

Continuing law permits a board of county commissioners to contract with hospitals or the Director of Health for the care of persons with tuberculosis. The act expands the contracting authority by permitting contracts to be entered into with a local board of health or any hospital, clinic, or other health care entity. The act eliminates the duty of a board of county commissioners to pay for the transportation of patients and attendants.

The act eliminates from the law references to contracts with the Director of Health, since the Department of Health is no longer involved in providing clinic services for tuberculosis. The act correspondingly repeals the statute that gives the Department of Health authority to operate out-patient clinics for tuberculosis services.

County tuberculosis clinics

(sec. 339.76)

The act continues the authority of boards of county commissioners to maintain tuberculosis clinics or joint county tuberculosis clinics. In so doing, it maintains the boards' authority to provide by levying taxes, or otherwise, the funds necessary to operate the clinics. Under continuing law, a board may employ physicians, public health nurses, and other persons for the operation of clinics or other means for the prevention, cure, and treatment of tuberculosis. A tuberculosis clinic must be supervised by a board of three trustees, which has the same powers as a board of trustees for a county hospital, or by a board of health.

Reports by physicians

(sec. 339.78(A))

The act requires physicians to make reports to tuberculosis control units. Each report must contain the information requested by the unit, and the information must be provided at intervals specified by the unit. Specifically, the act requires reports to be made as follows:

- (1) When a physician completes diagnostic studies confirming that an individual has tuberculosis;
- (2) Prior to completion of diagnostic studies, if the signs and symptoms demonstrated are sufficient for the physician to suspect tuberculosis;
- (3) At any time it is determined that an individual's tuberculosis is resistant to one or more drugs;
- (4) If an attending physician finds that an individual is not adhering to the prescribed treatment regimen.

The act establishes a requirement that attending physicians document adherence to tuberculosis treatment regimens.

Reports by health facilities, laboratories, and others

(sec. 339.78(B))

In addition to accepting reports made by physicians, a tuberculosis control unit must accept reports made by health facility administrators, laboratories, and others. A report must be made by the administrator of a hospital, clinic, or other facility that is providing services to an individual who is confirmed to have or is suspected of having tuberculosis. A report must be made by a laboratory administrator for each positive tuberculosis test result obtained from a human specimen. Any other person is authorized under the act to make a report, if the person suspects that an individual has tuberculosis.

Investigations of reports

(sec. 339.80)

When a tuberculosis control unit receives a report of a confirmed or suspected case of tuberculosis, the act requires that the unit conduct an investigation that includes personal contact with the individual with tuberculosis. The investigation must commence not later than three working days after receipt of the report.

Confidentiality of information

(sec. 339.81)

The act provides that any information, data, and reports regarding a case of tuberculosis that are furnished to or procured by a tuberculosis control unit or the Department of Health is confidential and can be used only for statistical, scientific, and medical research aimed at controlling tuberculosis in Ohio. The act provides that a physician, hospital, or other entity that furnishes this information cannot, by reason of furnishing the information, be deemed to have violated a confidential relationship, be held to answer for willful betrayal of a professional confidence, or be held liable in damages to any person.

Distinctions between "communicable" and "active" tuberculosis

(sec. 339.71)

The act defines "tuberculosis" as the infectious disease caused in humans by one of the following microorganisms: *Mycobacterium tuberculosis*, *Mycobacterium bovis*, and *Mycobacterium africanum*. Tuberculosis is "active" when present in an individual who has not completed an appropriate course of anti-tuberculosis medication. Active tuberculosis can be demonstrated by clinical, bacteriological, or radiographic evidence. It includes both pulmonary and extrapulmonary tuberculosis. Pulmonary tuberculosis is tuberculosis that affects the lungs. Extrapulmonary tuberculosis is tuberculosis that affects tissues other than the lungs. Laryngeal tuberculosis is tuberculosis that affects the larynx.

When tuberculosis is active, it is not necessarily "communicable." Communicable tuberculosis is active pulmonary or laryngeal tuberculosis that has been determined, through examination of a culture of specimens obtained from an individual's respiratory tract, to be in a stage at which it can be transmitted to another individual.

Protecting the public from persons with tuberculosis

(secs. 339.40 (repealed), 339.84, and 339.99 (repealed))

Prior law authorized a board of health to order a person who had or was suspected of having tuberculosis to submit to examination until it was determined that the person was free from tuberculosis in a communicable stage. A person who violated the order or interfered with the execution of the order was subject to a fine (\$100), imprisonment (90 days), or both.

The act eliminates the role of boards of health. Instead, tuberculosis control units are given authority to issue orders requiring that a person comply with the act's requirements for tuberculosis prevention and control.

Required treatment for individuals with active tuberculosis

(sec. 339.82)

Under the act, an individual diagnosed with active tuberculosis must complete the entire treatment regimen prescribed by a physician. The regimen must include a course of anti-tuberculosis medication, recommendations for management of tuberculosis, and instructions for following contagion precautions to prevent the spread of tuberculosis. If an individual fails to take anti-tuberculosis medication, the act requires that the tuberculosis control unit establish a procedure under which the individual is required to be witnessed ingesting the medication by individuals the unit designates. The act requires the person with tuberculosis to take the medication in accordance with the unit's procedure.

Travel restrictions

(sec. 339.82(C))

An individual with active tuberculosis who intends to travel or relocate is required by the act to notify a tuberculosis control unit. The unit, then, is required to notify the Department of Health when an individual with active tuberculosis relocates. The Department must notify the unit serving the area to which the person intends to travel or relocate. If another state is involved, the unit must notify the appropriate public health authority in that state.

Separation of individuals with communicable tuberculosis

(sec. 339.82(B))

Under the act, an individual with communicable tuberculosis who is not hospitalized or otherwise confined must not attend any public gathering or be in any public place that the tuberculosis control unit determines cannot be maintained in a manner adequate to protect others from the spread of the disease. An individual who cannot be maintained outside a hospital in a manner adequate to protect others is required by the act to submit to hospitalization and remain hospitalized.

Enforcement

Orders

(secs. 339.83 and 339.84)

When a tuberculosis control unit becomes aware that an individual with tuberculosis is not complying with the act's requirements, the unit must inform the individual that Ohio law requires compliance and that the unit may issue an order compelling the individual to comply. The act authorizes tuberculosis control units to issue such orders.

Injunctions

(sec. 339.85)

If an order is issued, and the individual fails to comply, the tuberculosis control unit may apply to the probate court for an injunction prohibiting continued violation of the order. If the unit believes that an individual's failure to comply involves an immediate danger to the public health, the unit may request that the court (1) issue an injunction without granting an opportunity for a hearing or (2) hold an expedited hearing on the matter.

Detention

(sec. 339.86)

If an individual fails to comply with an injunction, the tuberculosis control unit may request that the probate court issue an order under which the unit is granted authority to detain the individual in a hospital or other place to be examined or treated. In addition to identifying the individual by name, the unit must specify in the request all of the following: (1) the purpose of making the request for detention, (2) an assessment that describes the circumstances and the

individual's behavior on which the request is based, (3) the recommended length of detention, and (4) a recommendation of a hospital or other place to be used for the detention.

The act authorizes the court to issue a detention order for an initial period of not more than 180 days. At the end of the initial detention period, the court must review the case and extend the order for subsequent periods of not more than 90 days. At the end of each subsequent period, the court must review the case. When it receives satisfactory evidence that the individual no longer has active tuberculosis, the court must terminate the order for detention.

With respect to the rights of an individual subject to detention, the act specifies the following:

(1) The individual may provide the tuberculosis control unit with the names, addresses, and telephone numbers of relatives and friends to be notified of the detention, and the unit must make all or a reasonable number of the requested notifications.

(2) The individual is not subject to forcible administration of anti-tuberculosis medication.

(3) The individual may, at any time, submit a request for release from detention.

(4) The individual may be represented by counsel during any proceeding pertaining to detention or proposed detention. If indigent, the individual may apply for court-appointed counsel and the court may make the appointment.

Emergency detention

(sec. 339.87)

When a tuberculosis control unit has reasonable grounds to believe that an individual who has or is suspected of having active tuberculosis poses a substantial danger to the health of other individuals, the act authorizes the unit to issue an emergency detention order. In the order, the unit directs a sheriff or other law enforcement officer to remove the individual to a hospital or other place to be examined and treated for tuberculosis.

Not later than the end of the third business day after an emergency detention, the unit is required to apply to the probate court for a regular detention order. If a request is not filed in that time, the act requires that the individual be released immediately. When released for this reason, the individual cannot be

detained by a subsequent emergency detention order unless the tuberculosis control unit first obtains a regular detention order.

Expenses for detention

(secs. 339.77(B) and 339.88)

Under the act, expenses for the detention or emergency detention of an individual are to be paid by the individual who is detained, unless the individual is indigent. Expenses for an indigent individual are to be paid by the board of county commissioners of the county from which the individual was removed.

The act permits a board of county commissioners to apply to the Director of Health for reimbursement of the expenses incurred in detaining indigent individuals. The act requires that the Director annually reimburse the boards of county commissioners for these expenses at a rate the Director must prescribe. The act limits the Director's total payment to the boards to the amount appropriated for detaining indigent individuals, but does not include an appropriation. The act provides that any of the funds not expended by the end of the fiscal year are to be disbursed by the Director to counties with acceptable tuberculosis control programs for use in treatment of tuberculosis patients.

Religious exception

(sec. 339.89)

The act provides that neither it nor the rules adopted under it require a person to undergo testing, medical treatment, or detention in a hospital or other place for treatment if the person, or, in the case of a child, the child's parents, rely exclusively on spiritual treatment through prayer, in lieu of medical treatment, in accordance with a recognized, religious method of healing. The person may be quarantined or otherwise safely isolated in the home or another place that is suitable to the health of the person and has been approved by the tuberculosis control unit as a place that provides appropriate protection to other persons and the community.

Tuberculosis record bureau

(sec. 339.74)

The act retains the duty to maintain a county or district tuberculosis record bureau, but transfers the duty from the board of county commissioners to the tuberculosis control unit. The unit must maintain records on all known cases of tuberculosis within the area served by the unit.

Local reports to the state

(sec. 339.79)

A tuberculosis control unit is required by the act to make a report to the Ohio Department of Health each time it receives a report of a suspected or confirmed case of tuberculosis or a case of drug-resistant tuberculosis. If the report pertains to someone who does not reside in Ohio, the Department must report to the state or local public health agency that serves the state in which the person resides.

State tuberculosis registries

(sec. 3701.14(B)(2) and (4))

Continuing law requires that the Director of Health maintain registries of hospitals, clinics, physicians, and other care providers for purposes of giving referrals to persons who inquire about their possible exposure to tuberculosis. The act expands this requirement by requiring that the Director maintain a tuberculosis registry to record the incidence of tuberculosis in Ohio.

State tuberculosis surveillance activities

(sec. 3701.74(B)(3))

The act requires that the Director of Health engage in tuberculosis surveillance activities. These activities must include the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

State tuberculosis consultants

(sec. 3701.14(B)(5))

The act permits the Director of Health to appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the Director. Each tuberculosis consultant appointed must act in accordance with guidelines established by the Director. A tuberculosis consultant is responsible for advising and assisting physicians and other health care practitioners who participate in the prevention, care, treatment, and control of tuberculosis. A tuberculosis consultant also is responsible for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

Adoption of rules

(sec. 3701.14(B)(6))

The act requires the Public Health Council to adopt rules establishing standards for the following: (1) performing tuberculosis screenings, (2) performing examinations of individuals who have been exposed to tuberculosis or who are suspected of having tuberculosis, (3) providing treatment to individuals with tuberculosis, (4) methods of preventing individuals with communicable tuberculosis from infecting others, (5) performing laboratory tests for tuberculosis and studies of drug-resistant tuberculosis, and (6) selecting laboratories that provide in a timely fashion the results of tuberculosis tests, with first consideration given to laboratories in Ohio.

The act specifies that the rules adopted apply to tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis. It requires that the rules be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.) and that they be consistent with any recommendations or guidelines on tuberculosis issued by the U.S. Centers for Disease Control and Prevention or by the American Thoracic Society.

Schools for children with tuberculosis

(sec. 3313.55)

The act eliminates a provision that authorizes the board of education of any school district to establish special schools for persons with tuberculosis. It also eliminates a provision that allows children with tuberculosis to be excluded from the regular schools.

Care for the indigent and disabled by counties

(sec. 339.11)

Continuing law permits a board of county commissioners to provide care for the indigent sick and disabled by entering into an agreement with corporations and associations organized either for charitable purposes or for the purpose of operating a hospital in any county. Under prior law, however, payment of public funds to a sectarian institution was prohibited. The act eliminates the prohibition when payment is for treatment of persons with tuberculosis.

References to tuberculosis hospitals

The act eliminates references to tuberculosis hospitals in the following Revised Code sections: 124.11, 329.05, 339.16, 339.17, 3317.03, 3701.01, 3702.62, 3727.01, 5705.01, 5705.191, and 5705.25.

Technical correction

(sec. 3107.18)

The act eliminates from the laws pertaining to adoption an incorrect cross-reference to the duties of the Director of Health to control and study infectious diseases, epidemics, and other public health matters.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-22-99	p. 910
Reported, S. Health, Human Services and Aging	03-21-00	p. 1478
Passed Senate (32-0)	03-21-00	pp. 1480-1481
Referred, H. Rules and Reference	03-28-00	p. 1731
Reported, H. Health, Retirement & Aging	05-09-00	p. 1901
Passed House (97-0)	05-17-00	pp. 1988-1989
Senate concurred in House amendments (33-0)	05-23-00	p. 1778

00-SB173.123/nlr

