

State	Stage Of Tuberculosis Treatment	Specific Due Process Protection	Legal Authorities	
CT	Pre- Confinement Measures	<p><i>CLEARLY ARTICULATED STANDARDS:</i></p> <p>Is There A Statutory Definition Of Infectious TB?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory definition of "infectious tuberculosis."</p>
			<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(a)(2) → "Infectious tuberculosis" means tuberculosis disease in a communicable or infectious stage as determined by chest radiograph, the bacteriologic examination of body tissues or secretions, or other diagnostic procedures. A person is considered infectious to others until such time as sputum smears from a pulmonary, laryngeal or other airway source collected on three consecutive days have tested negative for tuberculosis and the person shows significant clinical improvement, such as the resolution of cough or fever.</p>
			<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>
		<p><i>RIGHT TO REFUSE MEDICAL TREATMENT:</i></p> <p>Is There A Statutory Requirement For The Use Of Best Practices For TB Treatment Regardless Of The Individual's Ability To Pay?</p>	<p>Answer</p>	<p>No, there is no explicit statutory requirement for best practices to be employed in the treatment of TB regardless of the individual's ability to pay.</p>
		<p>Relevant Statutory Provisions</p>	<p>N/A</p>	
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>	

		<p>Answer</p>	<p>Yes, there is an explicit statutory requirement that culturally, linguistically, and educationally appropriate communications with an individual infected with or suspected of having TB be used in a manner that facilitates an understanding of individual rights and responsibilities.</p>
	<p><i>NOTICE:</i></p> <p>Is There A Statutory Requirement For Culturally, Linguistically, & Educationally Appropriate Communications To Be Used In A Manner That Facilitates An Understanding Of Individual Rights & Responsibilities?</p>	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(d) → Any warning or order issued by the director under subdivisions (1) to (4) . . . of this section, shall be in writing setting forth: . . . (3) in the case of a warning concerning examination under subdivision (1) of subsection (c) of this section, <u>the efforts that have been made to educate and counsel the person about the need for examination, the medical and legal consequences of failing to agree to it and the factual basis for the director's professional judgment that the person is unable or unwilling voluntarily to submit to such examination</u>; (4) in the case of warnings and orders under subdivisions (2) to (4), inclusive, of subsection (c) of this section and a petition under subdivision (5) of subsection (c) of this section, <u>the efforts that have been made to educate and counsel the person about the need to complete the appropriate prescribed course of treatment and the medical and legal consequences of failing to do so</u> . . . (emphasis added).</p> <p>§ 19a-265(p) → All health directors' emergency commitment orders and warnings shall be in a language that the person who is the subject of the warning or order can comprehend.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, these statutory provisions do meet the due process requirements of the Model Act.</p>

	<p><i>LEAST RESTRICTIVE MEANS:</i></p> <p>Is There A Statutory Requirement That Individuals With TB Are To Be Provided Counseling To Better Inform Them Of Their Options And The Nature Of Their Illness, As Well As The Consequences Of Refusing The Recommended Courses Of Action?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision requiring individuals with TB to be offered counseling to better inform them of their options and the nature of their illness, as well as the consequences of refusing the recommended courses of action.</p>
<p>Relevant Statutory Provisions</p>		<p>§ 19a-265(b) → The health care provider responsible for the treatment of any person with active tuberculosis shall devise, with the assistance and acknowledgment of that person and the approval of the director of health of the municipality in which the person with tuberculosis resides . . . an appropriate individualized plan of treatment tailored to the person's medical and personal needs and identifying the method for effective treatment and prevention of transmission.</p> <p>§ 19a-265(d) → Any warning or order issued by the director under subdivisions (1) to (4) . . . of this section, shall be in writing setting forth: . . . (3) in the case of a warning concerning examination under subdivision (1) of subsection (c) of this section, <i>the efforts that have been made to educate and counsel the person about the need for examination</i>, the medical and legal consequences of failing to agree to it . . . ; (4) in the case of warnings and orders under subdivisions (2) to (4), inclusive, of subsection (c) of this section and a petition under subdivision (5) of subsection (c) of this section, <i>the efforts that have been made to educate and counsel the person about the need to complete the appropriate prescribed course of treatment and the medical and legal consequences of failing to do so</i> . . . (emphasis added).</p>	
<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>Yes, these statutory provisions do meet the due process requirements of the Model Act.</p>	

	<p><i>NOTICE:</i></p> <p>Is There A Statutory Requirement That A Warning Is To Be Given To Individuals With TB, Or Those Suspected Of Having TB, Allowing Them To Voluntarily Adhere To Examinations Or Treatments And Notifying Them Of The Consequences Of Refusal?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory requirement that a warning is to be given to individuals with TB, or those suspected of having TB, allowing them to voluntarily adhere to examinations or treatments and notifying them of the consequences of refusal.</p>
<p>Relevant Statutory Provisions</p>		<p>§ 19a-265(c) → If any town, city or borough director of health determines that the public health is substantially and imminently endangered by a person with or suspected of having active tuberculosis, he may take the following actions as reasonably necessary to protect the public health: (1) <u>issue a warning stating that the person should have a physician's examination for tuberculosis</u> to a person who has active tuberculosis or who is suspected of having active tuberculosis when that person is unable or unwilling voluntarily to submit to such examination despite demonstrated efforts to educate and counsel the person about the need for such examination; (2) <u>issue a warning stating that the person should complete an appropriate prescribed course of medication for tuberculosis</u> when that person has active tuberculosis but is unwilling or unable to adhere to an appropriate prescribed course of medication despite a demonstrated effort to educate and counsel the person about the need to complete the prescribed course of treatment and the offering of such enablers and incentives as are reasonably appropriate to facilitate the completion of treatment by that person; (3) <u>issue a warning stating that the person should follow a course of directly observed therapy for tuberculosis that should be given in such a manner as shall minimize the time and financial burden on the person given that person's individual circumstances</u>, when that person has active tuberculosis, has been nonadherent to treatment for it and is unwilling or unable otherwise to adhere to an appropriate prescribed course of medication for tuberculosis despite a demonstrated effort to educate and counsel the person about the need to complete the course of treatment and the provision of such enablers and incentives to the person as are reasonably appropriate to facilitate the completion of treatment by that person (emphasis added).</p> <p>§ 19a-265(d) → Any warning or order issued by the director under subdivisions (1) to (4) . . . of this section, shall be in writing setting forth: . . . (3) in the case of a warning concerning examination under subdivision (1) of subsection (c) of this section, the efforts that have been made to educate and counsel the person about the need for examination, <u>the medical and legal consequences of failing to agree to it and the factual basis for the director's professional judgment that the person is unable or unwilling voluntarily to submit to such examination</u>; (4) in the case of warnings and orders under subdivisions (2) to (4), inclusive, of subsection (c) of this section and a petition under subdivision (5) of subsection (c) of this section, <u>the efforts that have been made to educate and counsel the person about the need to complete the appropriate prescribed course of treatment and the medical and legal consequences of failing to do so</u> . . . (emphasis added).</p>	
<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>Yes, these statutory provisions do meet the due process requirements of the Model Act.</p>	

		<p>Answer</p>	<p>Yes, a TB examination may be forced upon an individual.</p>
	<p><i>RIGHT TO REFUSE MEDICAL TREATMENT:</i></p> <p>May A TB Examination Be Forced Upon An Individual?</p>	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(e) → The director of health may make application to the probate court for the district in which a person subject to a warning issued under subdivision (1) of subsection (c) of this section resides for an enforcement order. A person concerning whom said application is made shall have the right to a court hearing which shall be held by the probate court within three business days of receipt of such application. The hearing shall be held to determine: (1) If the person has active tuberculosis or is suspected of having active tuberculosis; (2) if the person is unable or unwilling to be examined voluntarily; (3) if efforts have been made to educate the person about the need for examination; (4) whether the order is necessary and is the least restrictive alternative to protect the public health. The Probate Court may issue a warrant for the apprehension of a person who is the subject of an order for examination, and a police officer for the town in which such court is located, or if there is no such police officer then the state police or such other officer as the court may determine, shall deliver the person to a facility for examination as directed by the health director.</p> <p>§ 19a-265(k) → If the court, at such hearing, finds by clear and convincing evidence that the director of health has met the burden of proof set forth in subsection (j) of this section, the court shall: (1) In the case of examination orders: (A) Order such person to be examined; or (B) enter an order with such terms and conditions as the court deems appropriate to protect the public health in the manner least restrictive of the individual's liberty and privacy</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Most likely. The Model Act is silent on this point. Therefore, it appears that, technically, the relevant statutory provisions [§ 19a-265(e) & § 19a-265(k)] do not meet the Model Act's due process requirements. However, the relevant statutory provisions do comply with the basic constitutional public health law principles that call for a balance between protecting the safety of third parties (i.e. the general public) and protecting the due process rights of the individual. In this case, the degree of the invasion into the personal privacy of the individual is small as it is limited to a sputum sample and/or a chest x-ray. In addition, the threat to third parties is high as TB is extremely communicable. Therefore, it appears as though this balance is maintained.</p>

		<p><i>RIGHT TO REFUSE MEDICAL TREATMENT:</i></p> <p>May TB Treatment Be Forced Upon An Individual?</p>	<p>Answer</p>	<p>No, TB treatment may not be forced upon an individual.</p>
<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(n) → The provisions of this section shall not be construed to permit or require the forcible administration of any medication.</p> <p>§ 19a-265(c) → If any town, city or borough director of health determines that the public health is substantially and imminently endangered by a person with or suspected of having active tuberculosis, he may take the following actions as reasonably necessary to protect the public health: . . . (5) petition the Probate Court for a judicial commitment order that authorizes the removal to or detention in a hospital or other medically-appropriate setting for the purposes of facilitating completion of a prescribed course of treatment for tuberculosis of a person: (A) Who has active tuberculosis; (B) who is unwilling or unable to adhere to an appropriate prescribed course of treatment for tuberculosis despite a demonstrated effort to educate and counsel the person about the need to complete the course of treatment and to provide such enablers and incentives to the person as are reasonably appropriate to facilitate the completion of treatment by that person; (C) who has demonstrated a pattern of persistent nonadherence to treatment for tuberculosis; (D) for whom commitment for the purposes of completion of the prescribed course of treatment for active tuberculosis is necessary to prevent the development of drug-resistant tuberculosis organisms; and (E) for whom commitment for the purpose of treatment for active tuberculosis is the least restrictive course of action available to protect the public health</p> <p>§ 19a-265(k) → If the court, at such hearing, finds by clear and convincing evidence that the director of health has met the burden of proof set forth in subsection (j) of this section, the court shall: . . . (3) in the case of a petition for a commitment order for treatment issued pursuant to subdivision (5) of subsection (c) of this section, (A) order the continued commitment, but only for as long as is necessary to complete the prescribed course of treatment or to demonstrate adherence to treatment</p>			
<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act. Although other relevant statutory provisions [§ 19a-265(c) & § 19a-265(k)] allow for a prescribed course of treatment to be judicially ordered upon an individual with TB, § 19a-265(n) explicitly states that no previous provisions permit or require forcible administration of any medication, essentially prohibiting the forced treatment of TB.</p>			

State	Stage Of Tuberculosis Treatment	Specific Due Process Protection	Legal Authorities
CT	Quarantine: Temporary Detention	<p><i>CLEARLY ARTICULATED STANDARDS:</i></p> <p>Is There A Statutory Definition Of Non-Adherence</p>	<p>Answer Yes, there is an explicit statutory definition of "non-adherence."</p> <hr/> <p>Relevant Statutory Provisions § 19a-265(a)(4) → "Nonadherent" means not taking tuberculosis medications as prescribed or not following the recommendations of the attending physician or health officer for the management of tuberculosis.</p> <hr/> <p>Do These Provisions Meet The Due Process Requirements Of The Model Act? Yes, this statutory provision does meet the due process requirements of the Model Act.</p>

	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is A Court Order Required Within A Limited Amount Of Time (i.e. 3 days) In Order For The Quarantining Of An Individual To Continue?</p>	<p>Answer</p> <hr/> <p>Relevant Statutory Provisions</p> <hr/> <p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, a court order is required in order for the quarantining of an individual to continue.</p> <hr/> <p>§ 19a-265(c) → If any town, city or borough director of health determines that the public health is substantially and imminently endangered by a person with or suspected of having active tuberculosis, he may take the following actions as reasonably necessary to protect the public health: . . . (4) issue an emergency commitment order which shall extend for no more than ninety-six hours that authorizes the removal to or detention in a hospital or other medically-appropriate setting of a person: (A) Who has active tuberculosis that is infectious or who presents a substantial likelihood of having active tuberculosis that is infectious based upon epidemiologic, clinical, radiographic evidence and laboratory test results; (B) who poses a substantial and imminent likelihood of transmitting tuberculosis to others because of his or her inadequate separation from others, based on a physician's professional judgment using recognized infection control principles; (C) who is unwilling or unable to behave so as not to expose others to risk of infection from tuberculosis despite a demonstrated effort to educate and counsel the person about the need to avoid exposing others and required contagion precautions; (D) who has expressed or demonstrated an unwillingness to adhere to the prescribed course of treatment that would render the person noninfectious despite being educated and counseled about the need to do so and being offered such enablers and incentives as are reasonably appropriate to facilitate the completion of treatment; and (E) for whom emergency commitment is the least restrictive alternative to protect the public health.</p> <p>§ 19a-265(f) → Immediately upon issuance of an emergency commitment order under subdivision (4) of subsection (c) of this section, the director of health shall petition the probate court for the district in which the person who is subject to the order resides to determine whether such commitment shall be continued. . . .</p> <p>§ 19a-131b(a) → Notwithstanding the provisions of <i>section 19a-221</i> or <i>19a-265</i>, if the Governor has declared a public health emergency, the commissioner, if so authorized by the Governor pursuant to <i>section 19a-131a</i>, may order into quarantine or isolation, as appropriate, any individual, group of individuals or individuals present within a geographic area whom the commissioner has reasonable grounds to believe to be infected with, or exposed to, a communicable disease or to be contaminated or exposed to contamination or at reasonable risk of having a communicable disease or being contaminated or passing such communicable disease or contamination to other persons if the commissioner determines that such individual or individuals pose a significant threat to the public health and that quarantine or isolation is necessary and the least restrictive alternative to protect or preserve the public health. No individual or group of individuals or individuals present in a geographic area shall be quarantined or isolated unless they meet the conditions in this subsection.</p> <hr/> <p>Most likely. § 19a-265(f) does comply with the basic constitutional public health law principles that call for a balance between protecting the safety of third parties (i.e. the general public) and protecting the due process rights of the individual. As long as there is a hearing and court order required and scheduled within a reasonable amount of time after the individual is taken in to custody, it appears that this balance is maintained.</p>
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		<p><i>RIGHT TO REFUSE MEDICAL TREATMENT:</i></p> <p>May TB Treatment Be Forced Upon An Individual In Quarantine?</p>	<p>Answer</p> <hr/> <p>Relevant Statutory Provisions</p> <hr/> <p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, TB treatment may not be forced upon an individual in quarantine.</p> <hr/> <p>§ 19a-265(n) → The provisions of this section shall not be construed to permit or require the forcible administration of any medication.</p> <p>§ 19a-265(c) → If any town, city or borough director of health determines that the public health is substantially and imminently endangered by a person with or suspected of having active tuberculosis, he may take the following actions as reasonably necessary to protect the public health: . . . (5) petition the Probate Court for a judicial commitment order that authorizes the removal to or detention in a hospital or other medically-appropriate setting for the purposes of facilitating completion of a prescribed course of treatment for tuberculosis of a person: (A) Who has active tuberculosis; (B) who is unwilling or unable to adhere to an appropriate prescribed course of treatment for tuberculosis despite a demonstrated effort to educate and counsel the person about the need to complete the course of treatment and to provide such enablers and incentives to the person as are reasonably appropriate to facilitate the completion of treatment by that person; (C) who has demonstrated a pattern of persistent nonadherence to treatment for tuberculosis; (D) for whom commitment for the purposes of completion of the prescribed course of treatment for active tuberculosis is necessary to prevent the development of drug-resistant tuberculosis organisms; and (E) for whom commitment for the purpose of treatment for active tuberculosis is the least restrictive course of action available to protect the public health</p> <p>§ 19a-265(k) → If the court, at such hearing, finds by clear and convincing evidence that the director of health has met the burden of proof set forth in subsection (j) of this section, the court shall: . . . (3) in the case of a petition for a commitment order for treatment issued pursuant to subdivision (5) of subsection (c) of this section, (A) order the continued commitment, but only for as long as is necessary to complete the prescribed course of treatment or to demonstrate adherence to treatment</p> <hr/> <p>Yes, this statutory provision does meet the due process requirements of the Model Act. Although other relevant statutory provisions [§ 19a-265(c) & § 19a-265(k)] allow for a prescribed course of treatment to be judicially ordered upon a tuberculosis patient, § 19a-265(n) explicitly states that no previous provisions permit or require forcible administration of any medication, essentially prohibiting the forced treatment of TB.</p>
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<p><i>CLEARLY ARTICULATED STANDARDS THAT PROPERLY BALANCE INTERESTS:</i></p> <p>Are There Statutory Provisions Which Require Each Of The Following To Be Proven At The Quarantine Hearing:</p>	<p>Substantial Evidence Of Significant Danger</p>	<p>Answer</p> <p>No, there is no explicit statutory provision which requires proof at the quarantine hearing of substantial evidence of the significant danger that the individual with TB poses.</p>
		<p>Relevant Statutory Provisions</p> <p>§ 19a-265(n) → At any hearing held under this section, the director of health shall have the burden of showing by clear and convincing evidence that: . . . (4) in the case of continuation of an emergency commitment order under subdivision (4) of subsection (c) of this section that: (A) The person is infectious or presents a substantial likelihood of being infectious, (B) the person poses a substantial and imminent likelihood of transmitting tuberculosis to others, (C) the person is unable or unwilling to behave so as not to expose others to risk of infection and (D) commitment is the least restrictive alternative available to protect the public health.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p> <p>No, the due process requirements of the Model Act are not met because there is no statutory requirement that a hearing is to be held or a court order is to be obtained before an individual is quarantined. A court order is only necessary to determine whether the commitment of the individual with TB is to continue after they have already been quarantined (<u>see</u> § 19a-265(f)).</p>
	<p>Necessary To Prevent Harm?</p>	<p>Answer</p> <p>No, there is no explicit statutory provision which requires proof at the quarantine hearing that the quarantining of the individual with TB is necessary to prevent harm.</p>
		<p>Relevant Statutory Provisions</p> <p>N/A</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p> <p>No, the due process requirements of the Model Act are not met because no such statutory provision exists and because there is no statutory requirement that a hearing is to be held or a court order is to be obtained before an individual is quarantined. A court order is only necessary to determine whether the commitment of the individual with TB is to continue after they have already been quarantined (<u>see</u> § 19a-265(f)).</p>

		<p>Least Restrictive Measures?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires proof at the quarantine hearing that the quarantining of the individual with TB is the least restrictive measure available to remedy the situation.</p>
			<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(j) → At any hearing held under this section, the director of health shall have the burden of showing by clear and convincing evidence that: . . . (4) in the case of continuation of an emergency commitment order under subdivision (4) of subsection (c) of this section that: . . . (D) commitment is the least restrictive alternative available to protect the public health.</p> <p>§ 19a-131b(c) → The commissioner shall adhere to the following conditions and principles when quarantining or isolating individuals, groups of individuals or individuals present within a geographic area: (1) Quarantine and isolation shall be by the least restrictive means necessary to prevent the spread of a communicable disease or contamination to others and may include, but not be limited to, confinement to private homes or other private or public premises.</p>
			<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because there is no statutory requirement that a hearing is to be held or a court order is to be obtained before an individual is quarantined. A court order is only necessary to determine whether the commitment of the individual with TB is to continue after they have already been quarantined (<u>see</u> § 19a-265(f)). Although § 19a-131b(c) does require the commissioner to quarantine individuals only when such action is the least restrictive means necessary, this requirement applies only when the Governor has declared a public health emergency (<u>see</u> § 19a-131b(a)) and this requirement does not need to be proven at a hearing that is held before an individual is quarantined.</p>
	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Allows An Individual To Be Confined In Their Home?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which allows for individuals to be quarantined within their homes.</p>	
		<p>Relevant Statutory Provisions</p>		<p>§ 19a-131b(c) → An order to quarantine or isolate issued by the commissioner shall be in writing and shall include: . . . (4) the premises subject to quarantine or isolation, that may include, but need not be limited to, private homes or other private or public premises.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>

<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Limits The Length Of Time An Individual May Be Quarantined To A Reasonable Time (i.e. 3 Days or 72 Hours) Without An Additional Court Order?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which limits the amount of time an individual may be quarantined without an additional court order to 3 days (72 hours).</p>
	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(c) → If any town, city or borough director of health determines that the public health is substantially and imminently endangered by a person with or suspected of having active tuberculosis, he may take the following actions as reasonably necessary to protect the public health: . . . (4) issue an emergency commitment order which shall extend for <i>no more than ninety-six hours</i> that authorizes the removal to or detention in a hospital or other medically-appropriate setting of a person . . . (emphasis added).</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because the relevant statutory provision [§ 19a-265(c)] limits the amount of time any individual may be quarantined without an additional court order to a period of four days (96 hours), not 3 days (72 hours).</p>
<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Requires The Release Of An Individual From Quarantine If They Agree To Comply With The Recommended Course Of Treatment?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires the release of an individual from quarantine if they agree to comply with the recommended course of treatment.</p>
	<p>Relevant Statutory Provisions</p>	<p>N/A</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>

		<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Requires The Release Of An Individual From Quarantine If They Are No Longer Infectious?</p>	<p>Answer</p> <hr/> <p>Relevant Statutory Provisions</p> <hr/> <p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, there is no explicit statutory provision which requires the release of an individual from quarantine if they are no longer infectious.</p> <hr/> <p>§ 19a-131b(c) → The commissioner shall adhere to the following conditions and principles when quarantining or isolating individuals, groups of individuals or individuals present within a geographic area: . . . (5) quarantined or isolated individuals shall be immediately released when they are no longer infectious or capable of contaminating others or upon the order of a court of competent jurisdiction.</p> <hr/> <p>No, the due process requirements of the Model Act are not met because the relevant statutory provision [§ 19a-131b(c)] applies only when the Governor has declared a public health emergency (<u>see</u> § 19a-131b(a)).</p>
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State	Stage Of Tuberculosis Treatment	Specific Due Process Protection	Legal Authorities		
CT	Isolation: Long Term Detention	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Requires A Petition For A Court Order To Be Filed Before An Individual With TB Is Placed In Long Term Detention & Requiring Such Petition To Include:</p>	Factual Evidence Of Non-Adherence?	Answer	Yes, there is an explicit statutory provision which requires the petition for a court order to include factual evidence of non-adherence.
				Relevant Statutory Provisions	<p>§ 19a-265(j) → At any hearing held under this section, the director of health shall have the burden of showing by clear and convincing evidence that: (3) in the case of an order under subdivision (4) of subsection (c) of this section and a petition under subdivision (5) of said subsection (c), that efforts that have been made to educate and counsel that person about the need to complete the appropriate prescribed course of treatment and that reasonably appropriate enablers and incentives have been offered or provided to the person, <i>and that the person remains unable or unwilling voluntarily to adhere to the appropriate prescribed course of treatment</i>; (4) in the case of continuation of an emergency commitment order under subdivision (4) of subsection (c) of this section that: . . . (C) the person is unable or unwilling to behave so as not to expose others to risk of infection</p>
				Do These Provisions Meet The Due Process Requirements Of The Model Act?	Yes, this statutory provision does meet the due process requirements of the Model Act because it requires the director of health to show by “clear and convincing evidence that . . . the person remains unable or unwilling voluntarily to adhere to the appropriate prescribed course of treatment.”
			Legal Grounds For The Petition?	Answer	No, there is no explicit statutory provision which requires the petition for a court order to include the legal grounds on which the petition is filed.
				Relevant Statutory Provisions	N/A
				Do These Provisions Meet The Due Process Requirements Of The Model Act?	No, the due process requirements of the Model Act are not met because no such provision exists.

			Facts That Show Isolation Is Appropriate ?	Answer	No, there is no explicit statutory provision which requires the petition for a court order to include the facts which show that isolation or long term detention is appropriate.
				Relevant Statutory Provisions	N/A
				Do These Provisions Meet The Due Process Requirements Of The Model Act?	No, the due process requirements of the Model Act are not met because no such provision exists.
			Substantial Evidence Of Danger?	Answer	Yes, there is an explicit statutory provision which requires the petition for a court order to include substantial evidence of the danger the tuberculosis patient poses.
				Relevant Statutory Provisions	§ 19a-265(j) → At any hearing held under this section, the director of health shall have the burden of showing by clear and convincing evidence that: . . . (4) in the case of continuation of an emergency commitment order under subdivision (4) of subsection (c) of this section that: (A) The person is infectious or presents a substantial likelihood of being infectious, (B) the person poses a substantial and imminent likelihood of transmitting tuberculosis to others
				Do These Provisions Meet The Due Process Requirements Of The Model Act?	Yes, this statutory provision does meet the due process requirements of the Model Act.
			Assessment Of Less Restrictive Alternatives ?	Answer	Yes, there is an explicit statutory provision which requires the petition for a court order to include an assessment of less restrictive measures.
				Relevant Statutory Provisions	§ 19a-265(j) → At any hearing held under this section, the director of health shall have the burden of showing by clear and convincing evidence that: . . . (6) the order sought by the director of health is necessary and is the least restrictive alternative to protect the public health.
				Do These Provisions Meet The Due Process Requirements Of The Model Act?	Yes, this statutory provision does meet the due process requirements of the Model Act.

<p><i>NOTICE:</i></p> <p>Is There A Statutory Provision Requiring That The Individual With TB Is To Be Provided Notice That They May Be Isolated Or Placed In Long Term Detention If The Person Fails To Comply With Treatment?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which requires that individuals with TB are to be provided notice that they may be isolated or placed in long term detention.</p>
	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(h) → All orders by health directors and all applications or petitions for a hearing under this section shall be hand-delivered to the person subject to the order as quickly as reasonably possible</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>
<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Grants The Individual With TB The Right To Be Present At The Hearing Held To Determine Whether Long Term Detention Is Appropriate?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which grants the individual with TB the right to be present at the hearing that is held to determine whether long term detention is appropriate.</p>
	<p>Relevant Statutory Provision</p>	<p>§ 19a-265(h) → All orders by health directors and all applications or petitions for a hearing under this section shall be hand-delivered to the person subject to the order as quickly as reasonably possible and shall inform him that: (1) He or his representative has a right to be present at the hearing</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>

<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Grants The Individual With TB The Right To Counsel?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which grants the individual with TB the right to counsel.</p>
	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(h) → All orders by health directors and all applications or petitions for a hearing under this section shall be hand-delivered to the person subject to the order as quickly as reasonably possible and shall inform him that: . . . (2) he has a right to counsel and, if indigent or otherwise unable to pay for or to obtain counsel, he has a right to have counsel appointed to represent him</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process protections of the Model Act.</p>
<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Grants The Individual With TB The Right To A Medical Examination By An Independent Physician?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which grants the individual with TB the right to a medical examination by an independent physician.</p>
	<p>Relevant Statutory Provisions</p>	<p>N/A</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>

<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Are There Statutory Provisions Which Grant The Individual With TB The Right At The Hearing To:</p>	<p>Submit Evidence?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which grants the individual with TB the right at the hearing to submit evidence.</p>
		<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(i) → Prior to any hearing under this section, such person or his counsel shall be afforded access to all the person's medical records including, without limitation, hospital records if such person is hospitalized. If such person is hospitalized at the time of the hearing the hospital shall provide the person or his counsel access to all records in its possession relating to the condition of the person. Nothing in this subsection shall prevent timely objection to the admissibility of evidence in accordance with the rules of civil procedure.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because the relevant statutory provision [§ 19a-265(i)] does not explicitly grant the individual the right to submit evidence at the hearing, it only grants them the right to access all of their medical records.</p>
	<p>Call & Cross-Examine Witnesses?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which grants the individual with TB the right at the hearing to call and to cross-examine witnesses.</p>
		<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(h) → All orders by health directors and all applications or petitions for a hearing under this section shall be hand-delivered to the person subject to the order as quickly as reasonably possible and shall inform him that: . . . (4) he has a right to be present and to cross-examine witnesses testifying at the hearing</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because, although the relevant statutory provision [§ 19a-265(h)] does grant the individual with TB the right to cross-examine witnesses, it does not grant them the right to call witnesses.</p>

		<p>Submit Rebuttal Proofs?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which grants the tuberculosis patient the right at the hearing to submit rebuttal proofs.</p>
		<p>Relevant Statutory Provisions</p>	<p>N/A</p>	
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>No, the due process requirements of the Model Act are not met because no such provision exists.</p>
	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Requires The Hearings And Proceedings To Be Completed In A Timely Fashion?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires the hearings and proceedings to be completed in a timely fashion.</p>	
		<p>Relevant Statutory Provisions</p>	<p>N/A</p>	
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>
	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Requiring A Record Of The Proceedings To Be Made?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires a record of the hearings or proceedings to be made.</p>	
		<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(h) → All orders by health directors and all applications or petitions for a hearing under this section shall be hand-delivered to the person subject to the order as quickly as reasonably possible and shall inform him that: . . . (5) the proceedings before the Probate Court shall be recorded and shall be transcribed <i>if he appeals or files a writ of habeas corpus</i> . . . (emphasis added).</p>	
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>		<p>No, the due process requirements of the Model Act are not met because the relevant statutory provisions only require hearings or proceedings to be recorded and transcribed if the individual with TB appeals the decision or files a writ of habeas corpus. However, the statute may very well be requiring a record of the proceedings to be made in all situations, thus satisfying the model act's due process requirements. The wording and intent of the statute make its meaning unclear. It would be impossible to transcribe and record the proceedings of the court after they have concluded and the individual with TB then decided to appeal. A more clearly worded statute may meet the Model Act's due process requirements.</p>

<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Requires A Court Order In Writing Before An Individual With TB Is Placed In Long Term Detention?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires a court order in writing before an individual with TB is placed in long term detention.</p>
	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(d) → Any warning or order <i>issued by the director under subdivisions (1) to (4)</i>, inclusive, of subsection (c) of this section, or a petition under subdivision (5) of subsection (c) of this section, shall be in writing . . . (emphasis added).</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because the relevant statutory provision [§ 19a-265(d)] requires only that the warnings or orders issued by the director of health are to be in writing.</p>
<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Limits The Amount Of Time An Individual With TB May Be Kept In Long Term Detention To No Longer Than 6 Months Without Further Review?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which limits the amount of time an individual with TB may be kept in long term detention to no longer than 6 months without further review.</p>
	<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(l) → Such person may, at any time, move the court to terminate or modify an order made under subsection (k) of this section, in which case a hearing shall be held within five business days in accordance with this subsection. In addition, the court shall, on its own motion, review at least every six months any order of commitment issued under this section to determine if the conditions that required the commitment or restriction of the person still exist.</p>
	<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>

	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Requiring A Full Judicial Hearing Before The Extension Of The Confinement Period?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision which requires a full judicial hearing before the extension of the confinement period.</p>
		<p>Relevant Statutory Provisions</p>	<p>N/A</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>
	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Requiring The Release Of An Individual With TB From Long Term Detention If They Agree To Comply With The Recommended Course Of Treatment?</p>	<p>Answer</p>	<p>No, there is no explicit statutory provision requiring an individual with TB to be released from long term detention if they agree to comply with the recommended course of treatment.</p>
		<p>Relevant Statutory Provisions</p>	<p>N/A</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>No, the due process requirements of the Model Act are not met because no such statutory provision exists.</p>

	<p><i>FUNDAMENTAL FAIRNESS:</i></p> <p>Is There A Statutory Provision Which Grants An Individual In Long Term Detention The Right To Timely Appeal The Judicial Order Placing Them There?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which grants an individual with TB in long term detention the right to timely appeal the judicial order placing them there.</p>
		<p>Relevant Statutory Provisions</p>	<p>§ 19a-265(m) → Any person aggrieved by an order of the Court of Probate under this section may take an appeal to the Superior Court.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision meets the due process requirements of the Model Act.</p>
	<p><i>FREEDOM OF RELIGION:</i></p> <p>Is There A Statutory Provision Which Provides For A Religious Exception To The Other Relevant TB Control Provisions?</p>	<p>Answer</p>	<p>Yes, there is an explicit statutory provision which provides a religious exception to the other relevant tuberculosis control provisions.</p>
		<p>Relevant Statutory Provisions</p>	<p>§ 19a-131b(c) → . . . Any individual who desires treatment by prayer or spiritual means without the use of any drugs or material remedies, but through the use of the principles, tenets or teachings of any church incorporated under chapter 598 or any other religious or spiritual practice, may be so treated during such individual's quarantine or isolation.</p>
		<p>Do These Provisions Meet The Due Process Requirements Of The Model Act?</p>	<p>Yes, this statutory provision does meet the due process requirements of the Model Act.</p>