

Notice of Intended Action

Department of Health intends to promulgate the administrative rules below, pursuant to the authority vested in Department of Health in A.S.C.A. §§ 13.0241 and 13.0327. In summary, these changes will implement rules related to quarantine and isolation. Interested persons who wish to submit comments or request a hearing on this matter may submit comments in person to Adriana Tavai at the Department of Health, Haleck's Executive Office Building, 2nd Floor, by email adriana.tavai@doh.as, or by mail to POB 5666, Pago Pago, AS 96799 or by October 18, 2021.

Proposed Rule 004-2021

Section 1:

Title 11, Chapter 7 of the American Samoa Administrative Code, as promulgated by Emergency Rule 003-2021, is repealed and replaced in its entirety as follows:

"Chapter 7 – Quarantine and Isolation ~~Emergency~~ Rules

Part 1 – Authority and Definitions

11.0701 Authority, Effective Date, and Expiration

(a) The Director of Health finds:

- (1) That the Director of Health is empowered to promulgate rules to protect the public health pursuant to A.S.C.A. §§ 13.0241 and 13.0327; and
- ~~(2) On January 3, 2021, the Governor of American Samoa declared a Public Health Emergency due to the threat of COVID-19, a communicable disease;~~
- ~~(3) The state of emergency remains effective;~~
- ~~(4) The use of quarantine and isolation is key to prevent the spread of COVID-19;~~
- ~~(5)~~ (2) A.S.C.A. § 13.0215 provides for the use of quarantine and isolation to prevent the spread of communicable diseases; ;

- ~~(6) The Governor suspended A.S.C.A. § 13.0215(d)(3) in part to allow the Department of Health to quarantine a person for up to 15 days without notice or a hearing; and~~
- ~~(7) The Director of Health finds that there is an imminent peril to public health which requires the promulgation of emergency rules pursuant to A.S.C.A. § 4.1010.~~
- (b) The rules in this chapter shall be in full force and effect when they are filed with the Secretary of American Samoa.
- ~~(c) The provisions of this chapter shall expire 120 days after they become effective or upon the promulgation of new rules which supersede these emergency rules.~~
- (d) Nothing in this chapter shall be construed to limit the authority of the Board of Directors or the Chief Executive Officer of the Medical Center to administer their facilities.

11.0702 Definitions

As used in this chapter, these terms shall have the following meanings:

- (1) "Directive" shall mean a directive to quarantine or isolate an individual as authorized by A.S.C.A. § 13.0215.
- (2) "Director" shall mean the Director of the Department of Health as defined in A.S.C.A. § 13.0203 or his designee.
- (3) "Facility" means any building or location that is or intended to be used to house individuals or groups in quarantine or isolation.
- (4) "Isolate", "isolated", or "isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the diseases to non-isolated individuals.
- (5) "Quarantine" means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.

Part 2 – Initiating Quarantine and Isolation

11.0703 Initiation of Quarantine

Quarantines can be initiated by:

- (1) Order of the Governor or the Director pursuant to a declared state of public health emergency; or
- (2) By the order of the Director or his or her designee based on:
 - (A) A medical assessment, including testing, that an individual or group of individuals were or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease; or
 - (B) When an individual enters an area where individuals or groups have been quarantined or isolated.

11.0704 Initiation of Isolation

Isolation may be initiated by order of the Director or his or her designee when the Director or his or her designee believes the individual or group of individuals is infected or reasonably believed to be infected with a contagious or possibly contagious disease.

11.0705 Length of Quarantine or Isolation

Based on medical investigation, including but not limited to evaluation and testing, an individual or group of individuals may be:

- (1) Released from quarantine or isolation; or
- (2) The conditions of the quarantine or isolation may be altered.

11.0706 Placement of Persons in Quarantine or Isolation

(a) Persons who are quarantined or isolated will be assigned to designated facilities or their homes based on factors including, but not limited to:

- (1) Continuing medical assessment of needs;
- (2) Results of medical testing;
- (3) Prior travel of individuals;

- (4) Assessment of exposure to communicable diseases;
 - (5) Accommodation of individuals with disabilities;
 - (6) The availability of facilities;
 - (7) The preference to avoid family separation, to the extent possible;
 - (8) The protection of vulnerable populations, including but not limited to unaccompanied minors, elderly, and disabled persons; and
 - (9) Availability of quarantine and isolation facilities; and
 - (10) The suitability of a person's home for quarantine or isolation.
- (b) Prior to allowing a person to be quarantined at home, the Department of Health will assess the home to determine if a person can be quarantined in a manner that prevents exposure of other members of the household.

11.0707 Service of Directive

- (a) Any individual who is placed in quarantine or isolation shall be served with a copy of the directive to quarantine or isolate that person using a form that is approved by the Director.
- (b) If a person is a minor, the directive to quarantine or isolate shall be served on the parent or guardian of the minor.
- (c) If a person subject to quarantine or isolation is incompetent, the directive to quarantine or isolate shall be served on the person's guardian.
- (d) If the written directive applies to a group of individuals and it is impractical to provide individual copies, the Directive may be posted in a conspicuous place in the isolation or quarantine premises.
- (e) The directive quarantine or isolate shall be kept on file at the Department of Health.
- (f) A copy of each directive to quarantine or isolate shall be provided to the Office of the Attorney General.

Part 3 –Quarantine and Isolation Facilities

11.0708 Inspection of Facilities

Any facility designated as a place to quarantine or isolate individuals, including homes or village-operated locations, and excepting facilities operated by the Department of Medical Services, must be inspected and approved by the Department of Health before use as a facility.

11.0709 Department of Health Provided Facilities

Department of Health provided facilities will provide:

- (1) Competent medical care;
- (2) Adequate food;
- (3) Clothing as needed;
- (4) Shelter;
- (5) Clean beds or sleeping cots;
- (6) Toilets;
- (7) Shower or bathing facilities; and
- (8) Access to outside communications.

11.0710 Entry into isolation or quarantine facilities

- (a) The department may authorize physicians, health care workers, or other individuals to access isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.
- (b) Any individual entering isolation or quarantine premises without authorization of the department or without adequate personal protective equipment may be isolated or quarantined when reasonably necessary to protect the public's health.

11.0711 Gifts and Donations

- (a) Each facility will have a dedicated and marked area where members of the public may bring food or other personal items for individuals who have been quarantined or isolated. The person who is leaving food or other personal items may designate that the food or personal items are for a specific person or that the donated items may be shared with individuals at the facility.

- (b) No personal contact will be between a person dropping off items and individuals who are quarantined or isolated will be allowed.
- (c) The Director or his or her designee may limit the amount and type of items or food that may be left in order to maintain the health and welfare of the facilities.
- (d) The American Samoa Government will not be the bailee of any property left at any facility.

Part 4 – Surveillance and Release

11.0712 Surveillance

- (a) Individuals in quarantine or isolation will be assessed at least once per day by a medical professional.
- (b) The conditions of each individual or group in quarantine or isolation will be assessed to determine if the individual should remain, may be released or if reassignment to another facility is appropriate.

11.0713 Extension of Quarantine or Isolation


- (a) If the Director or his or her designee believes that a person may need to be quarantined or isolated for longer than the time allowed for a quarantine or isolation without notice, the Director shall notify the Office of the Attorney General. The Attorney General will petition for continued quarantine or isolation pursuant to A.S.C.A. § 13.0215(d)(3).
- (b) The Director will notify the Office of the Attorney General within:
 - (1) 10 days of the commencement of a quarantine or isolation without notice so long as the Governor's Declaration of Continued Public Health Emergency suspends A.S.C.A. § 13.0215(d)(3) in part to allow quarantine or isolation without notice for up to 14 days; or
 - (2) 6 days of the commencement of a quarantine or isolation if A.S.C.A. § 13.0215(d)(3) is not suspended.

Part 5 – Enforcement

11.0715 Enforcement

- (a) The Director may direct officers from the Department of Public Safety or agents of the Department of Homeland Security to visit individuals who are quarantined or isolated at their homes. Any officers or agents designated for this task shall complete the training required by this section.
- (b) If the Director or his or her designee reasonably believes that an individual should be placed in quarantine or isolation, and the individual is not present or refuses to be quarantined or isolated, the Director may direct a police officer of the Department of Public Safety or an agent of the Department of Homeland Security to apprehend the person and take that person to a designated facility.
- (c) Prior to sending any officer or agent to serve quarantine or isolation directives, apprehend individuals who have been ordered to be quarantined or isolated, or visiting or securing any facility or location designated to quarantine or isolate individuals, the Director shall provide adequate training to those officers or agents which will include:
- (1) Use of the appropriate personnel protective equipment to be used while checking on individuals;
 - (2) Assess the proper immediate actions that may be taken if a person is absent or refuses to return to quarantine;
 - (3) The appropriate procedure for charging a person who has not complied with their quarantine directive; and
 - (4) Safety precautions to be used when meeting with, arresting, and transporting people in quarantined or isolated.
- (d) Any training that is provided in accordance with this section will be recorded in the officer's personnel file at the Department of Human Resources."

Notice Approved



Motusa Tuileama Nua
Director
Department of Health