

# Menu of Suggested Provisions for State Tuberculosis Prevention and Control Laws

## What is the Menu of Suggested Provisions for State Tuberculosis Prevention and Control Laws and how is it intended to be used?

The Menu of Suggested Provisions for State Tuberculosis Prevention and Control Laws (Menu) is a practical legal resource for public health officials and their legal counsel to consider in the enactment, promulgation, amendment, or implementation of tuberculosis (TB) prevention and control laws.

The Menu contains a set of alternative provisions within each section. The Menu's provisions include existing state statutes and regulations to prevent and control TB. Some of the provisions are reproduced exactly in the Menu as they appear in state statutes or regulations, some have been modified based on input received from TB and legal experts, and others are newly drafted. Although the document and this fact sheet refer to "states," the Menu's provisions are also appropriate for consideration by tribes, territories, or localities.

The provisions in the Menu are intended to serve as a starting point – the suggested provisions must be considered within the policy and legal frameworks of the jurisdiction contemplating their adoption. Users of the Menu should carefully tailor the provisions to meet their specific needs.

## How was the Menu developed and who was involved?

Beginning in 2009, CDC researched, reviewed, and categorized the TB prevention and control statutes and regulations of all 50 states (plus the District of Columbia and New York City) based on recommendations of the Advisory Council for the Elimination of Tuberculosis (ACET) and the framework used in the article "Tuberculosis control laws—United States,1993: recommendations of the Advisory Council for the Elimination of Tuberculosis (ACET)," published in the *Morbidity and Mortality Weekly Report*.<sup>1</sup>

In February 2010, CDC convened a workshop that included TB controllers, TB program staff, legal counsel to state and local TB programs, representatives from partner organizations (National Tuberculosis Controllers Association [NTCA], Association of State and Territorial Health Officials, and National Association of County and City Health Officials), and federal public health attorneys and policy staff, with a wide range of TB prevention and control responsibility, experience, and expertise. Workshop participants reviewed and analyzed the draft Menu's provisions, and provided valuable input. ACET members and the Association of Public Health Laboratories (APHL) TB Steering Committee, and individuals with legal and TB expertise within CDC also provided comments and recommendations on the draft. The final document is the product of these efforts.

<sup>1</sup> Centers for Disease Control and Prevention. Tuberculosis control laws—United States,1993: recommendations of the Advisory Council for the Elimination of Tuberculosis (ACET). *MMWR* 1993;42(No. RR-15):[1-28].

## How were the provisions of the Menu selected?

CDC selected numerous and varied provisions for inclusion in the initial draft of the Menu. Examples of criteria used are:

- reported effectiveness of laws in the jurisdictions in which they are in place,
- laws that balance the imperative of protecting the public from transmission of TB with the rights of the individual patient,
- laws that appear to encompass recommendations provided by ACET in the 1993 MMWR article, or
- laws that address a variety of measures to prevent and control TB.

CDC modified provisions in the initial draft menu and crafted several new provisions based on input received from participants at the February workshop, ACET, the APHL TB Steering Committee, and legal and TB experts within CDC. Where provisions are included in the final document due to reported effectiveness, a statement to that effect is included in the descriptive note. In an effort to avoid redundancy while providing the flexibility of offering alternative provisions, CDC selected varying provisions within the same category throughout the process

## How is the Menu organized?

The Menu is organized into seven main sections:

- 1) Definitions for Consideration,
- 2) Legislative Intent,
- 3) Enabling Statutes and Rulemaking Provisions,
- 4) Case Identification,
- 5) Case Management,
- 6) Protection of Individual Rights, and
- 7) Interjurisdictional Collaboration.

Each section begins with a brief note describing the purpose of provisions included within the section. Provisions in each section are organized under sub-headings and should be viewed as alternatives to, rather than supplemental to, each other. The Menu concludes with two appendices: Appendix A provides a detailed description of due process as it relates to TB prevention and control, and Appendix B includes state TB control cases selected according to potential interest and relevancy to readers of the Menu.

## Why was the Menu undertaken and how is it different from a model act?

A request by ACET for a model TB prevention and control act prompted work on the Menu. In addition, state and local TB programs asked CDC for examples of laws from other jurisdictions used to prevent and control TB. The Menu differs from the traditional format of a model act because it features a set of options within each category of TB prevention and control laws, whereas a model act generally features one option. CDC opted for a “menu” approach based on feedback from partners (e.g., NTCA) that this approach would provide more flexibility.

## What is the significance of laws to TB prevention and control?

Laws to prevent and control TB have been in use for more than a century. TB prevention and control laws may include statutes (laws enacted by a legislative body), regulations (rules or orders, having legal force, issued by an administrative agency or a local government), or case law (decisions by judges interpreting laws, with binding precedent created by appellate courts court decisions). These laws may authorize a variety of TB prevention and control measures, including surveillance, isolation, treatment, emergency detention, and directly observed therapy.

## What do public health officials need to do to use the provisions in the Menu?

Public health officials should consult their legal counsel to use the provisions in the Menu. Legal counsel to public health officials are in the best position to identify how and if the Menu's provisions may be used in that jurisdiction.

Additional Sources for Information on TB Prevention and Control Laws:

[Scenario-Based Assessment: Understanding and Sufficiency of States' TB Control Laws.](#)

[TB Control Laws and Policies: A Handbook for Public Health and Legal Practitioners.](#)

[Express Tuberculosis Control Laws in Selected U.S. Jurisdictions.](#)

[Public Health Law Program, CDC, Legal Tools for Tuberculosis Control.](#)

[National Tuberculosis Controllers Association, TB Law Resources.](#)

*Disclaimer: This material is for informational use only and is not intended as a substitute for professional legal or other advice. Always seek the advice of an attorney or other qualified professional with any questions you may have regarding a legal matter.*

### References

#### NCHHSTP Atlanta:

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