

Comments by NHF on CDC Quarantine Rulemaking – 9/2016

Docket No. CDC-2016-0068

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CDC Notice of Proposed Rulemaking: Control of Communicable Disease

COMMENTS BY THE NATIONAL HEALTH FEDERATION

The National Health Federation – the World’s oldest health-freedom organization – asks that the Centers for Disease Control *withdraw* its Notice of Proposed Rulemaking (NPRM) for the supposed Control of Communicable Disease (Docket No. CDC-2016-0068; CDC Notice of Proposed Rulemaking: Control of Communicable Disease).

If adopted, the Proposed Rulemaking (PRM) would be a direct and burdensome infringement of the personal liberties of Americans with no proven benefit to assisting in the control of communicable diseases beyond the means that are already at hand.

For all of the following reasons and more, the NHF recommends that the CDC withdraw the PRM in its entirety and at once.

1. The PRM’s “Voluntary Consent” Structure is Fatally Flawed, Unethical, and Unprincipled. The PRM would “allow” HHS/CDC to enter into a “voluntary” consent agreement with an individual. And that “voluntary” agreement is to be made upon whatever terms the CDC considers to be reasonably necessary, which means that the detained individual agrees to any of the public-health measures authorized under the PRM, including quarantine, isolation, conditional release, medical examination, hospitalization, vaccination, and treatment. Importantly, the PRM goes on to state that **the individual’s agreement shall not be considered as a prerequisite to the exercise of the CDC’s authority under the PRM.**

Such “agreements” reek of coercion, or at the very least the real risk of coercion, because most individuals confronted with authority will be incapable of giving their consent *voluntarily and without any sense of duress*. Rather, they will be detained and not allowed to walk until their “consent” has been extracted from them. This is unethical, unlawful, and violates a number of internationally recognized principles of law and justice.

For one, *the Nuremberg Code* holds that it is essential that true, voluntary consent of any human subject be obtained. This means several things: (1) That the person involved should have legal capacity to give consent; (2) That he or she should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and (3) That he or she should have sufficient knowledge and comprehension of the elements of the subject matter involved so as to enable him to make an intelligent and enlightened decision. (See, e.g., <https://history.nih.gov/research/downloads/nuremberg.pdf>)

Secondly, the PRM also violates the World Medical Association’s Declaration of Helsinki on Medical Ethics. In its Principles 25 and 26 (the first of several paragraphs on Informed Consent), the Declaration clearly states that individuals must be informed of the risks as well as a long litany of other factors that would be taken into consideration by individuals who

would be asked to provide their “voluntary” consent. Although admittedly the Declaration deals with medical research, there are at least two reasons why the Declaration still applies here: (1) The PRM itself does not comply with the list of factors that must be provided to individuals for them to be considered advised enough to provide informed consent; and (2) The vaccination component of the powers that the CDC would usurp and entrust to itself constitutes an inadequately tested medical procedure incorporating dangerous and untested products that have not been proven to be either safe or effective. (See <http://www.wma.net/en/30publications/10policies/b3/>)

One of the main components to Informed Consent is *Voluntarism*. According to most medical-ethics experts, true *Voluntarism* requires that the patient be free from “coercion and from unfair persuasions and inducements.” (See, e.g., Meisel A, Roth LH, Lidz CW, “Toward a model of the legal doctrine of informed consent,” *Am J Psychiatry* 1997;134:285–289, as cited in Del Carmen MG & Joffe S, “Informed Consent for Medical Treatment and Research: A Review,” *The Oncologist*, September 2005 Vol. 10, No. 8, pp. 636-641; doi:10.1634/theoncologist.10-8-636, at <http://theoncologist.alphamedpress.org/content/10/8/636.full>.) It is rather doubtful that the PRM – in real-world conditions – will satisfy the moral and ethical requirements set forth by medical practitioners and ethicists worldwide, regardless of any circumstances or potential circumstances determined by the CDC to justify its gross over-reach of self-appointed power.

In short, the PRM is fatally flawed, violates numerous ethical codes and principles, and the NPRM must be withdrawn.

2. The PRM’s Dragnet Observational Procedure Is Burdensome, Overbroad, and Counter-Productive. The PRM has proposed increased, very invasive and costly observation measures over travelers and individuals at risk of carrying communicable diseases. As written, the PRM would be a radical change from current policy, which tailors its investigation of persons reasonably believed to be exposed to a communicable disease and then focuses on just those individuals. The PRM instead proposes to capture information about *all* travelers and place that information into a database that could and would be used for indeterminate purposes beyond dealing with the actual threat of communicable diseases. This proposal would create a civil-liberties nightmare, greatly impacting the personal civil liberties of all Americans. Under well-established case law, Americans have a constitutional right of travel and the CDC’s PRM would drastically inhibit, even restrict, such rights in practice.

Moreover, the PRM imposes a huge data-collection cost burden upon the airline and other common-carrier industries that is simply not supported or justified by the end results. In fact, the PRM would make the likelihood of being able to contain a communicable-disease outbreak less certain with authorities having to plow through millions of records to find the disease vectors, instead of being able to focus upon those individuals who were identified at the time and place of transit.

3. The PRM’s Detention Powers Violate the Constitution and Personal Liberties of Individuals. One of the PRM’s many recommendations is to detain an individual for up to 72 hours without a Federal order of quarantine, isolation, and conditional release. This proposal would violate the personal liberties and civil rights of the detained individuals and could even potentially involve other countries’ citizens, thereby exposing the U.S. to international action or retaliation.

In particular, the PRM states: “Regulations prescribed under this section may provide for the apprehension and examination of any individual reasonably believed to be infected with a

communicable disease in a qualifying stage and (A) to be moving or about to move from a State to another State; or (B) to be a probable source of infection to individuals who, while infected with such disease in a qualifying stage, will be moving from a State to another State. Such regulations may provide that if upon examination any such individual is found to be infected, he may be detained for such time and in such manner as may be reasonably necessary.”

The above-quoted segment of the PRM is an abrogation of the Constitutional right of Habeas Corpus, which is the fundamental, individual right against arbitrary arrest and imprisonment, handed down to Americans through common law dating from the time of the signing of the Magna Carta (June 15, 1215), though the Habeas Corpus Act of 1679, and supported by extensive case law right up to the present.

The U.S. Constitution, in its Article 1, Section 9, specifically supports and enshrines this right when it states that “The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.”

The right of Habeas Corpus (literally “produce the body”) is intended to prevent (or provide speedy relief of, if after the fact) the wrongful imprisonment of individuals for any alleged criminal act. However, the PRM, once finalized, violates this right by authorizing the CDC to arbitrarily select and classify individuals as “ill” (and therefore suspected felons) and then arrest, detain, quarantine, and even vaccinate them without due process. This lack of legal or constitutional recourse to such CDC actions violates fundamental constitutional and civil rights. In this way, the CDC places itself, again by gross over-reach of presumed power, as the final say without accountability.

Further, the PRM violates the due-process clause of the 14th Amendment to the U.S. Constitution in that the PRM makes no provisions for recourse to the CDC’s arbitrary decisions and designations, nor does the PRM allow for true informed consent. The PRM was obviously drafted without proper consideration of our constitutional rights and, as such, is fatally flawed. The PRM should be completely scrapped and in light of the action taken by the CDC here, firm boundaries should be established on the CDC’s scope of practice so as to prevent such usurpation of power ever again.

4. No Need for Detention Powers That Already Exist. The PRM proposes granting CDC the power to "apprehend and detain anyone, anywhere, at any time, without Due Process or any right of appeal, and to hold that person in quarantine for as long as the CDC wants." However, *if* 42 U.S. Code § 264, originally codified in 1944 and updated since then, already grants the Federal government authority to take necessary measures (including the apprehension of individuals) in order to prevent the spread of communicable diseases, then there is *no* necessity for the PRM to include such powers anywhere within it.

5. The PMR Would Violate Personal Privacy Rights. The PMR’s proposed electronic collection of data systems of personal information as well as electronic monitoring of those under surveillance is unnecessary and violates Americans’ privacy rights to their own health information. (*See also* WMA Declaration of Helsinki Principles 9, 17, and 24.) The current system of monitoring is adequate for all typical communicable diseases.

The only justification (if one could even call it that) for the invasive approach suggested by the PMR is to handle serious outbreaks of communicable diseases actually created by the U.S. and other governments in their bioweapons labs. Increasingly, citizens are becoming aware that the greatest threat to their health does not come from natural communicable diseases but rather from their own governments, which develop and weaponized harmful and deadly viruses to distribute among various population groups as tests.

One example is the Ebola outbreak in West Africa that seemed to follow U.S. Department of Defense funded Ebola trials on humans in that region. Dr. Cyril Broderick, a former professor of plant pathology at the University of Liberia's College of Agriculture, has pointed to the pharmaceutical industry and the U.S. Department of Defense as intentionally spreading Ebola to provoke public demand to use unproven vaccines and drug as rescue remedies.

Professor Broderick reported that the U.S. Department of Defense funded Ebola trials on humans just prior to the Ebola outbreak in Guinea and Sierra Leone. He has pleaded for everyone to "please stand up to stop Ebola testing and the spread of this dastardly disease." [[Liberian Observer](#) Sept 9, 2014]

Ebola is a communicable disease that, typically, only leads to 40 deaths a year. It is an example of a natural disease that would not overwhelm the current reporting method by authorities. The only need for the extreme and invasive measures suggested in the NPRM would be to handle deliberately introduced-and-spread weaponized viruses. The NHF certainly hopes that the CDC is not anticipating any unannounced release of weaponized viruses and other deadly communicable diseases.

6. The PRM Calls for Unbelievably Excessive Fines and Penalties. The PRM also provides for fines ranging from \$250,000 to \$500,000 for each violation of CDC orders. (*See* 13 § 70.19 Penalties). Such punitive fines are in direct violation of the Eighth Amendment to the U.S. Constitution (as well as supporting case law), which specifically states that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

The CDC has provided no justification whatsoever for these excessive fines and penalties, nor could it. Clearly, the CDC intends nothing other than to use the threat of these punitive fines in order to induce "voluntary consent" from detained and coerced individuals, thereby revealing the true intent of the so-called "voluntary" agreements already criticized by the National Health Federation above.

7. The PRM Will Not Achieve its Stated Goals. As with most governmental actions, this PRM will be governed by the Law of Unintentional Consequences. It will not quell any spread of communicable diseases but rather will assist in their spread. It will achieve this "goal" by misdirecting attention and energy into needless actions, wasting time and money that would be put to better and more effective use, and scaring Americans with so many false alarms that when the real threat does arise no one will believe the CDC and take effective counter-measures.

Americans are increasingly suspicious of government action in the public arena as they awaken to the reality that governments' actions are neither benign nor well-intentioned. They are right to be skeptical of this NPRM and other CDC measures, given how untrustworthy the CDC has revealed itself to be by recent revelations of its cover-ups and suppressions of scientific research (*see, e.g.,* CDC's active cover-up of the link between autism and vaccines as revealed by Dr. William Thompson in his release of documents showing that the CDC was aware and suppressed scientific findings showing a 3.4 fold increase in the incidence of autism in African American boys, among other things).

The fact that there is absolutely no need for this NPRM leads the Federation and numerous others to ask the question, "Why is the CDC really proposing this rule-making authority be granted to itself?" Is it to have even more arbitrary power and control over individual Americans? Is it to make Americans increasingly obedient to the very public servants who are supposedly in place to serve them?

8. Individual Agents Acting to Enforce the PRM Should Be Sued Individually. Some have even suggested that **Title 42 actions** in Federal court might possibly be in order against all government bureaucrats *individually* who participate and push any wrongful actions against American and other citizens, thereby violating their individual civil and constitutional rights. This means that the individual wrongful actors – naked without the shield of governmental sovereign immunity – could be personally exposed and liable to having their own personal assets (homes, cars, bank accounts, and the like) seized in order to satisfy court judgments, if any. This, of course, would have to be tested in court; and it would not apply to lawful actions or those carrying out lawful orders. However, it does give pause for thought for all of us to be sure that any and all PRMs are constitutionally based and constitutionally carried out so as to protect Americans and avoid needless legal actions.

For all of the foregoing reasons, the National Health Federation respectfully asks that the CDC withdraw completely its Notice of Proposed Rule-Making.

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