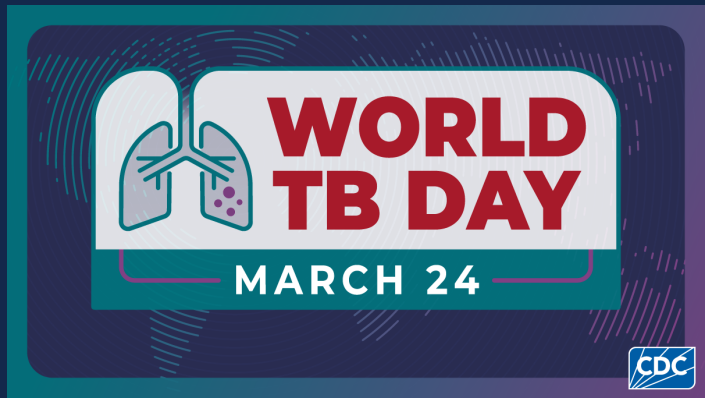
VIRGINIA TB PROGRAM | VDH VIRGINIA DEPARTMENT OF HEALTH

Legal Aspects of TB Case Management in Virginia

March 24, 2026



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Objectives

- Review key Code of Virginia sections related to TB
- Clarify confusing language
- Review ideal process flow

Code of Virginia

- Code of Virginia
  - Statutory laws passed by the General Assembly and signed by the Governor

Virginia Administrative Code

- Administrative Code
  - Regulations adopted by state agencies to implement, interpret, or enforce laws

LIS
VIRGINIA LAW

Public health laws and regulations related to TB

- Reporting of active TB disease and latent TB infection (LTBI)
- Antibiotic treatment of TB
- Isolation of people with active TB disease
- Contact investigation
- Screening and testing in certain settings

- Civil Liberties and individual rights
- Public good

Rights of people with active TB disease

- A person will not by physically forced to swallow medication
- All warnings and orders will be in a language the person can understand
- Any action will be supported by proper documentation
- A person who cannot afford legal counsel will have it provided for him/her.
- If ordered to appear before the court, the person shall be informed of his/her right to representation by legal counsel.
- A person subject to a court order has the right to file an appeal.
- Neither the State Health Commissioner nor any local health director shall disclose to the public the name of any person reported.

Definitions

- § 32.1-49.1. Tuberculosis definitions.
  - Defines “active TB disease”, “Tubercle bacilli”, and “Tuberculosis”
    - Definition of active TB disease includes room for “laboratory confirmed” and “clinical” TB
  - Legal definitions may be referenced when applying TB law. These legal definitions may differ, and are more limited, than clinical definitions used during treatment and case management.

§ 32.1-49.1. Definitions.

"Active tuberculosis disease" means a communicable disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or other definitive diagnostic test as established by the Commissioner, (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear and sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in the Commonwealth, or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the Commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing or suspected to contain tubercle bacilli is unobtainable.

"Tubercle bacilli" means disease-causing organisms belonging to the Mycobacterium tuberculosis complex and includes Mycobacterium tuberculosis, Mycobacterium bovis, Mycobacterium africanum or other members as established by the Commissioner.

"Tuberculosis" means a disease caused by tubercle bacilli.

Definitions

- § 32.1-48.01 Isolation of Certain Persons with Communicable Diseases of Public Health Significance Definitions.
  - This section defines tuberculosis as one of the communicable diseases of public health significance and provides basic definitions of at-risk behavior and appropriate precautions which are important when moving to legally impose isolation.

"Appropriate precautions" means those specific measures which have been demonstrated by current scientific evidence to assist in preventing transmission of a communicable disease of public health significance. Appropriate precautions will vary according to the disease.

"At-risk behavior" means engaging in acts which a person, who has been informed that he is infected with a communicable disease of public health significance, knows may infect other persons without taking appropriate precautions to protect the health of the other persons.

Definitions

- § 32.1-30. Local health departments.
  - References throughout the TB laws to actions taken by the local health director or by the commissioner or their designee. If medical decision making is needed, a non-clinician health director should consult with a clinician.

If a local health director is not a physician licensed to practice medicine and there is no licensed physician on staff, the local health director shall enter into a consulting agreement with a licensed physician to execute prescribing duties, consult on clinical matters, and perform all other duties as requested.

Reporting of TB and medical records

- § 32.1-49. Tuberculosis required to be reported.
  - Active TB is a reportable condition that should be reported to local public health immediately.
  - § 32.1-50 B-E. Reporting; report forms; report schedule; laboratory reports and required samples.
- 12VAC5-90-225 A and D. Additional data to be reported related to persons with active tuberculosis disease (confirmed or suspected).
  - Clinicians and medical facilities are required to provide initial and ongoing reports of people with active TB disease. Laboratories are also required to report positive results for TB and to submit a TB isolate to DCLS for susceptibility testing and genotyping.
- § 32.1-40. Authority of Commissioner to examine medical records.
  - *… upon request of the Commissioner or his designee in the course of investigation, research or studies of diseases or deaths of public health importance.*

VIRGINIA REPORTABLE DISEASE LIST

Reporting of the following diseases is required by state law (Sections 32.1-36 and 32.1-37 of the Code of Virginia and 12 VAC 5-90-80 of the Board of Health Regulations for Disease Reporting and Control). Report all conditions when suspected or confirmed to your local health department (LHD). Reports may be submitted by Confidential Morbidity Report Portal (Epi-1 form), computer-generated printout, CDC or VDH surveillance form, or upon agreement with VDH, by means of secure electronic submission.

REPORT IMMEDIATELY

- Anthrax (*Bacillus anthracis*)
- Botulism (*Clostridium botulinum*)
- Brucellosis (*Brucella* spp.)
- Cholera (*Vibrio cholerae* O1/O139)
- Coronavirus infection, severe (e.g., SARS-CoV, MERS-CoV)
- Diphtheria (*Corynebacterium diphtheriae*)
- Disease caused by an agent that may have been used as a weapon
- *Haemophilus influenzae* infection, invasive
- Hepatitis A
- Influenza-associated deaths if younger than 18 years of age
- Influenza A, novel virus
- Measles (Rubeola)
- Meningococcal disease (*Neisseria meningitidis*)
- Orthopoxviruses (e.g., Monkeypox virus, Variola virus/Smallpox, Vaccinia disease or adverse event)
- Outbreaks, all (including foodborne, healthcare-associated, occupational, toxic substance-related, waterborne, and any other outbreak)
- Pertussis/Whooping cough (*Bordetella pertussis*)
- Plague (*Yersinia pestis*)
- Poliovirus infection, including poliomyelitis
- Psittacosis (*Chlamydophila psittaci*)
- Q fever (*Coxiella burnetii*)
- Rabies, human and animal
- Rubella, including congenital rubella syndrome
- Syphilis (*Treponema pallidum*), congenital, primary, and secondary
- Tuberculosis, active disease (*Mycobacterium tuberculosis* complex)
- Tularemia (*Francisella tularensis*)
- Typhoid/Paratyphoid infection (*Salmonella* Typhi, *Salmonella* Paratyphi [all types])
- Unusual occurrence of disease of public health concern
- Vibriosis (*Vibrio* spp.)
- Viral hemorrhagic fever
- Yellow fever

REPORT WITHIN 3 DAYS

- Alpha-gal Syndrome (AGS)
- Amebiasis (*Entamoeba histolytica*)
- Arboviral infections (e.g., CHIK, dengue, EEE, LAC, SLE, WNV, Zika)
- Babesiosis (*Babesia* spp.)
- Campylobacteriosis (*Campylobacter* spp.)
- *Candida auris*, infection or colonization
- Carbapenemase-producing organism, infection or colonization
- Chancroid (*Haemophilus ducreyi*)
- Chickenpox (Varicella virus)
- *Chlamydia trachomatis* infection
- Coronavirus disease 2019 (COVID-19 or SARS-CoV-2)
- Cryptosporidiosis (*Cryptosporidium* spp.)
- Cyclosporiasis (*Cyclospora* spp.)
- Ehrlichiosis/Anaplasmosis (*Ehrlichia* spp., *Anaplasma phagocytophilum*)
- Giardiasis (*Giardia* spp.)
- Gonorrhea (*Neisseria gonorrhoeae*)
- Granuloma inguinale (*Calymmatobacterium granulomatis*)
- Hantavirus pulmonary syndrome
- Hemolytic uremic syndrome (HUS)
- Hepatitis B (acute and chronic)
- Hepatitis C (acute and chronic)
- Hepatitis, other acute viral
- Human immunodeficiency virus (HIV) infection
- Influenza, laboratory-confirmed
- Lead, reportable blood levels
- Legionellosis (*Legionella* spp.)
- Leprosy/Hansen's disease (*Mycobacterium leprae*)
- Leptospirosis (*Leptospira interrogans*)
- Listeriosis (*Listeria monocytogenes*)
- Lyme disease (*Borrelia* spp.)
- Lymphogranuloma venereum (*Chlamydia trachomatis*)
- Malaria (*Plasmodium* spp.)
- Mumps
- Neonatal abstinence syndrome (NAS)
- Ophthalmia neonatorum
- Rabies treatment, post-exposure
- Salmonellosis (*Salmonella* spp.)
- Shiga toxin-producing *Escherichia coli* infection
- Shigellosis (*Shigella* spp.)
- Spotted fever rickettsiosis (*Rickettsia* spp.)
- Streptococcal disease, Group A, invasive or toxic shock
- *Streptococcus pneumoniae* infection, invasive if <5 years of age
- Syphilis (*Treponema pallidum*), if not primary, secondary, or congenital
- Tetanus (*Clostridium tetani*)
- Toxic substance-related illness
- Trichinosis (Trichinellosis) (*Trichinella spiralis*)
- Tuberculosis infection
- Vancomycin-intermediate or vancomycin-resistant *Staphylococcus aureus* infection
- *Yersiniosis* (*Yersinia* spp.)

LEGEND

- Reportable by directors of laboratories. Additional condition-specific requirements for directors of laboratories available here. These and all other conditions listed must be reported by physicians and directors of medical care facilities.
- Laboratories must submit the initial isolate (preferred) within five days or the clinical specimen within two days of a positive result. All specimens must be identified with patient and physician information, and the LHD must be notified within the specified reporting timeframe.
- Include available antimicrobial susceptibility findings in report.
  - a Laboratories report acid-fast bacilli, *M. tuberculosis* complex or any other mycobacteria, and antimicrobial susceptibility for *M. tuberculosis* complex.
  - b Includes reporting of *Photobacterium damselae* and *Grimontia hollisae*.
  - c Includes submission of *Candida haemulonii* specimens to DCLS.
  - d By culture, antigen detection by direct fluorescent antibody (DFA), or nucleic acid detection. Influenza rapid antigen tests are not reportable.
  - e Laboratories that use enzyme immunoassay (EIA) without a positive culture should forward positive stool specimens or enrichment broth to DCLS.

ALL REPORTS ARE CONFIDENTIAL AND SHOULD INCLUDE -

1. the disease or condition diagnosed or suspected
2. patient's name, date of birth, age, sex, race/ethnicity, pregnancy status, address, and telephone number
3. physician's name, address, and telephone number
4. method of diagnosis, if available

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Updated September 2025

For more info., please visit https://www.vdh.virginia.gov/clinicians/

Treatment plan

- § 32.1-50.1. Treatment plan; submission of plan and mediation of disagreements; determination of cure.
  - When active TB disease is being managed in the community, the local health director may reference the law when seeking the treatment plan and documentation of adherence to that plan.
    - Disagreements over approval of a treatment plan may be brought to the Commissioner for resolution.
  - Provision of and approval of a treatment plan is **required prior** to discharging an inpatient or releasing or transferring someone from a correctional facility who is being treated for active TB disease

Questions to ask when considering legal action

- Does the person have active TB disease?
- Is the person engaging in at-risk behavior?
- Is the person currently infectious?

- Call us!
  - VDH TB Program can help with decision making, interpretation, and application
  - VDH TB Program will coordinate involvement and consultation with VA Attorney General, OEPI leadership, CHS leadership, and Commissioner

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Documentation

- Documentation is essential for process to move forward

- Medical records (bacteriology, chest imaging, drug sensitivities, DOT sheets, etc.)
- Efforts to counsel and educate
- Patient non-adherence to recommendations/orders
- At-risk behavior

Examination Request

- § 32.1-50 A. Examination of persons suspected of having active tuberculosis disease;
  - The local health director may request that anyone with presumptive TB disease be worked up for TB
    - Clinician of their choosing approved by the local health director potentially **with** cost to that person
    - **At no cost** through the health department

Counseling Order – issued by local health director

- § 32.1-48.02 – B
  - Criteria:
    - Communicable disease of public health significance
    - Engaging in at-risk behavior
  - Action:
    - Direct the person to report to the local health department for counseling on etiology, effects, and prevention of specific disease; inform about what constitutes at-risk behavior, and the need to use appropriate precautions
    - **Document** the session and any statements indicating the intentions or understanding of the person

- While *counseling* can and should take place at any time needed with a TB client, a **counseling order** would be in the context of at-risk behavior

Outpatient Treatment Order – issued by local health director

- § 32.1-48.02 – C
  - Criteria:
    - Communicable disease of public health significance caused by airborne microorganism
    - Person has failed to adhere to prescribed course of treatment, despite counseling
    - Engaging in conduct that places uninfected persons at risk
  - Action:
    - Direct the person to report to the local health department to receive outpatient treatment and education concerning their disease
    - **Document** the session and any statements indicating the intentions or understanding of the person

Emergency Order – Issued by Commissioner

- § 32.1-48.02 – D
  - Criteria:
    - Communicable disease of public health significance caused by airborne microorganism
    - Person has failed to adhere to prescribed course of treatment, despite counseling
    - Engaging in conduct that places uninfected persons at risk
    - **Medical data demonstrate that they pose an imminent threat to the health of others**
    - AND at least one of the following:
      - Person has refused or failed to report to the LHD after outpatient treatment order
      - Person has a documented history of failure to adhere to a prescribed course of treatment
      - Documentation exists that the person has indicated they will not comply with prescribed treatment
  - Action:
    - Person would be taken into custody by local law enforcement and placed, for a period not to exceed 48 hours, in the least restrictive, willing facility

Petition for Hearing – Issued by Commissioner

- § 32.1-48.03-A
  - Commissioner may petition the general district court where the person lives to appear before the court to determine whether isolation is necessary to protect the public health from the risk of infection

Petition for Temporary Detention – Issued by Court

- § 32.1-48.03-B
  - May be issued if the person cannot be brought before the court
  - Person is to remain at home, another residence, or another convenient and willing location for ≤ 48 hours prior to a hearing
  - Electronic monitoring may be used

Isolation Order – Issued by Court

- § 32.1-48.04 – A-C
- Criteria:
  - The person is infected with a disease of public health significance
  - The person is engaging in at-risk behavior
  - The person has demonstrated an intentional disregard for the health of the public by engaging in behavior which has placed others at risk for infection with the communicable disease of public health significance
  - There is no other reasonable alternative means of reducing the risk to the public

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Ending Court-ordered Isolation

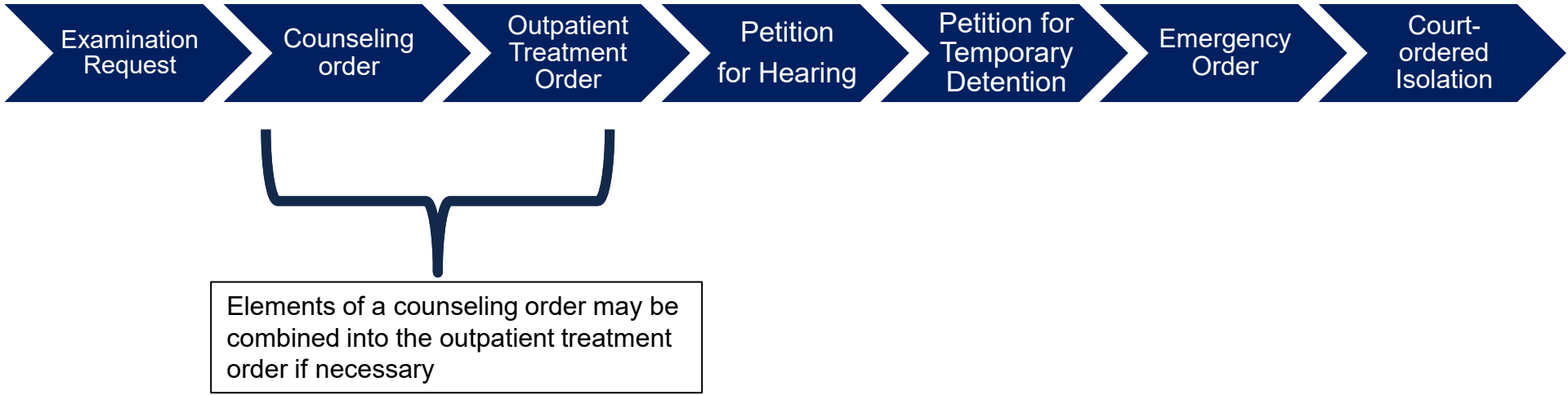
- § 32.1-48.04 - D
  - Any order for shall be valid for no more than 120 days, or for a shorter period of time if the Commissioner or his designee, or the court upon petition, determines that the person no longer poses a substantial threat to the health of others.
  - Orders for isolation may include additional requirements such as participation in counseling or education programs.
  - The court may, upon finding that the person no longer poses a substantial threat to the health of others, issue an order solely for participation in counseling or educational programs.
- End isolation as soon as possible
  - No longer infectious due to adequate treatment
  - If still declining treatment, able and willing to no longer put others at risk

Other considerations

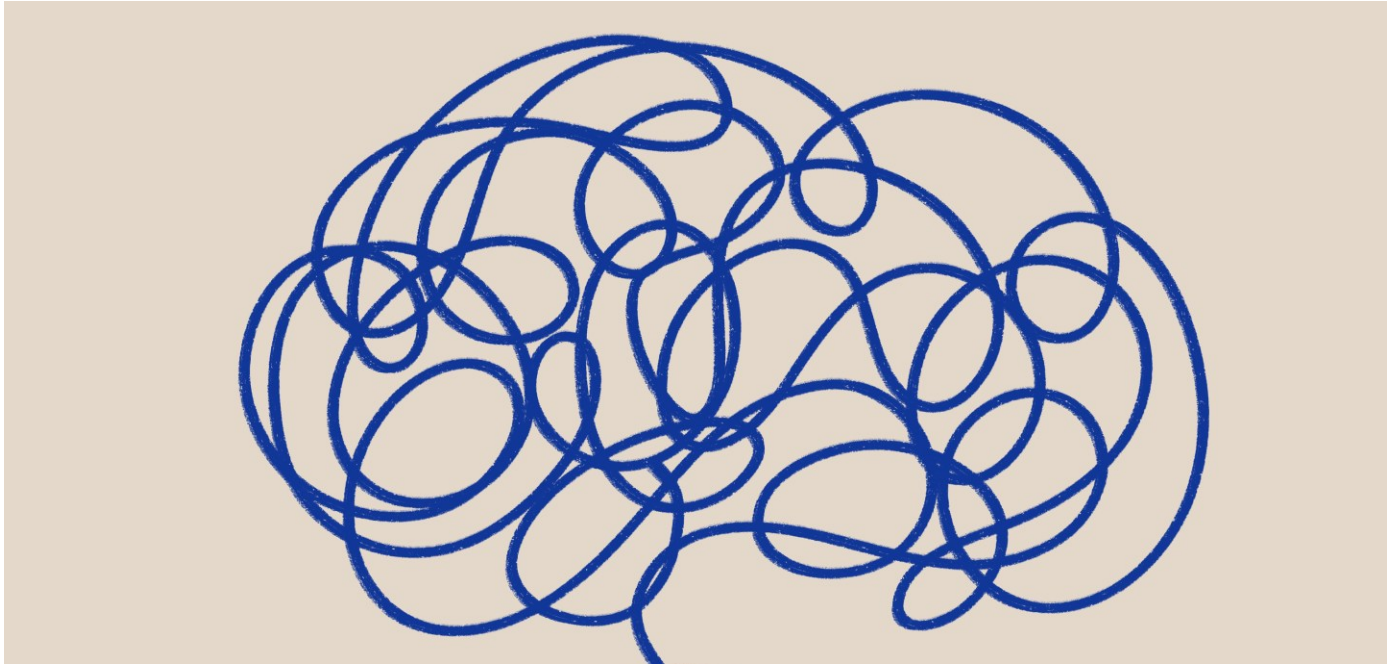
- Technology has evolved since last isolation order
  - Home isolation through electronic monitoring is possible
  - Jurisdictions without this capability may be able to request it through state police

Potential “ideal” flow

- May not apply to every situation and each component may not be necessary



Real flow



Work in progress

- Law Book
  - Move toward process driven and plain language resources to support decision making
  - Updated templates
  - Flow algorithm
- Will have to go through public comment/ Town Hall process
- Potential requests for language clarification through GA

Notes on confusing language

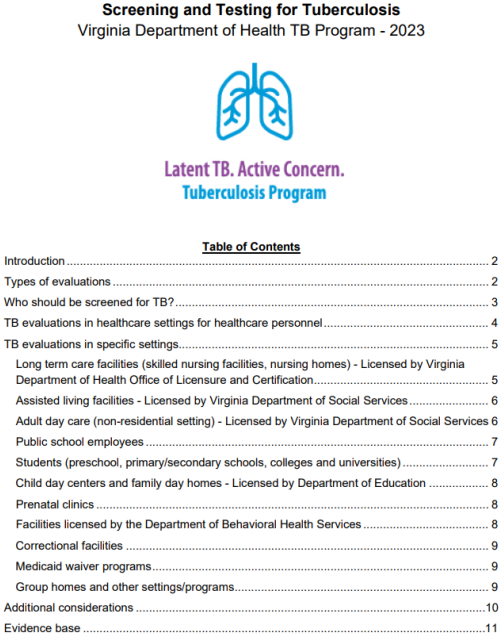
- Counseling order
  - § 32.1-48.02. Investigations of verified reports or medical evidence; counseling; outpatient and emergency treatment orders; custody upon emergency order; application of article.
  - *If the investigation indicates that the person has a communicable disease of public health significance caused by a* ***non-airborne microorganism*** *and that there is cause to believe he is engaging in at-risk behavior, the Commissioner or his designee may issue an order for such person to report to the local or district health department in the jurisdiction in which he resides to receive counseling…*
- Per Virginia Office of Attorney General: authority to issue counseling order is implicit
  - Could also get to the counseling piece as part of the outpatient treatment order which includes education

Notes on confusing language

- § 32.1-50.1-E. Cure
  - Once established in a person, active tuberculosis disease shall be considered present until (i) the person has received a complete and adequate course of antituberculosis drug therapy as established by the Commissioner in accordance with guidelines developed by the American Thoracic Society and Centers for Disease Control and Prevention and (ii) three successive cultures of specimens of sputum or other bodily fluid or tissue collected at intervals of no less than one week, or other definitive diagnostic test as established by the Commissioner demonstrate no viable tubercle bacilli, or the Commissioner or his designee determines that the clinical, laboratory, or radiographic evidence leads to a diagnosis other than active tuberculosis disease.

Other References to TB

- Screening and Testing
  - Screening and Testing for Tuberculosis – VDH resource
    - Outlines laws and regulations in different settings related to TB screening and testing
- § 32.1-50.2 Administration of tuberculin purified protein derivative by nurses; policies and guidelines
  - VDH must maintain policies and guidelines related to possession and administration of PPD by RNs and LPNs. The Health Commissioner or their designee may authorize RNs, acting as agents of VDH, to possess and administer PPD



Screening and Testing for Tuberculosis
Virginia Department of Health TB Program - 2023

Latent TB. Active Concern.
Tuberculosis Program

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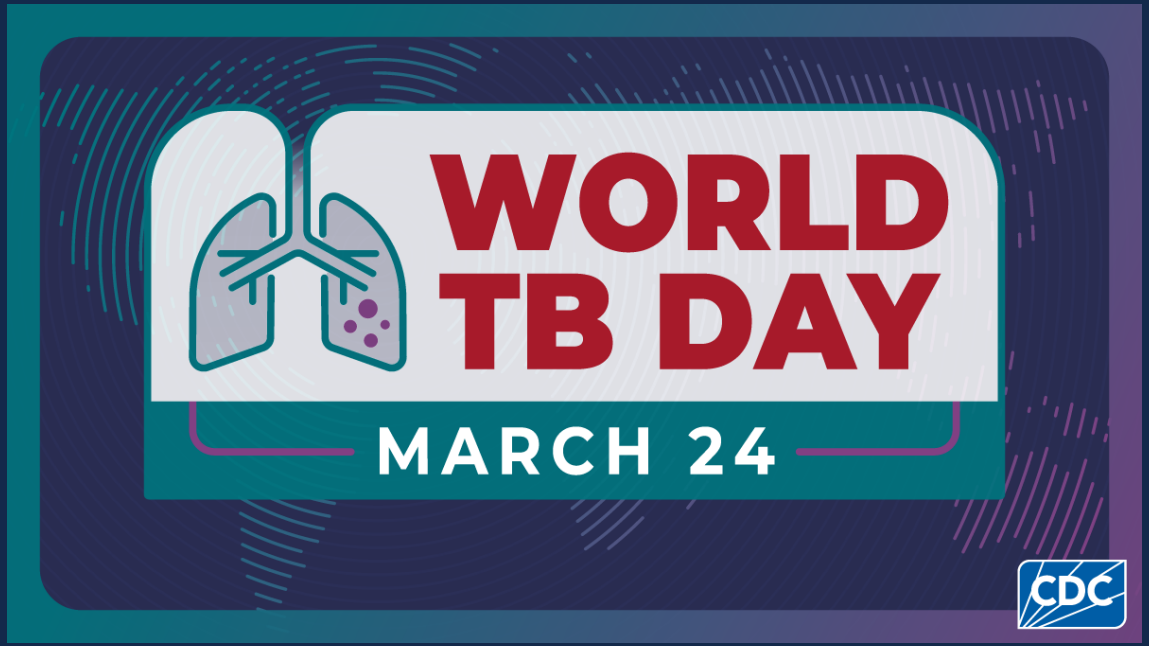
Contact Investigation

- Contact Investigation:
  - 12VAC5-90-100.
    - *Local health director or his designee shall have the authority and responsibility to perform contact tracing/contact services for HIV infection, infectious syphilis, and active tuberculosis disease and may perform contact services for the other diseases if deemed necessary to protect the public health.*
  - § 32.1-41. Anonymity of patients and practitioners to be preserved in use of medical record
    - *The Commissioner or his designee shall preserve the anonymity of each patient and practitioner of the healing arts whose records are examined pursuant to § 32.1-40 except that the Commissioner, in his sole discretion, may divulge the identity of such patients and practitioners if pertinent to an investigation, research or study. Any person to whom such identities are divulged shall preserve their anonymity.*

Thank you!



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