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2021 New Mexico Statutes

Chapter 12 - Miscellaneous Public Affairs Matters

Article 10A - Public Health Emergency Response

Section 12-10A-7 - Procedures for isolation or quarantine of persons.

Universal Citation: NM Stat § 12-10A-7 (2021)

A. Except as provided in Section 9 [12-10A-9 NMSA 1978] of the Public Health Emergency Response Act, before isolating or quarantining a person during a declared public health emergency, the secretary of health shall apply for and obtain a written, ex parte order from a court that authorizes the isolation or quarantine. Notice of the application for the ex parte order shall be given, unless it clearly appears from specific facts shown that immediate and irreparable injury, loss or damage will result before an affected person can be heard in opposition to the application. The evidence or testimony in support of the application may be presented or taken by telephone, facsimile transmission, video equipment or other method of electronic communication. The court shall grant the application for an ex parte order upon finding that clear and convincing evidence exists to believe isolation or quarantine is warranted to respond to the public health emergency.

B. The ex parte order shall:

(1) state the specific facts justifying isolation or quarantine;

(2) state the persons, group or class of persons affected by the ex parte order;

(3) state that the persons being isolated or quarantined have a right to a court hearing under the Public Health Emergency Response Act and a right to be represented by counsel at the hearing; and

(4) be served as soon as practicable to persons isolated or quarantined.

C. The secretary of health shall coordinate with the secretary of public safety and the director regarding execution of the ex parte order. The ex parte order shall be posted in a public and accessible place. If individual notice is not feasible, the secretary of health, the secretary of public safety and the director shall use the best means available to ensure that a person subject to the ex parte order is informed of the order and his rights.

D. A person who is isolated or quarantined may request a court hearing pursuant to Section 10 [12-10A-10 NMSA 1978] of the Public Health Emergency Response Act at any time before the expiration of the ex parte order. A person shall not be isolated or quarantined pursuant to an ex parte order for longer than five days without a court hearing to determine whether isolation or quarantine should continue.

E. The isolation or quarantine of a person shall terminate automatically on the expiration date of a court order authorizing isolation or quarantine, or before the expiration date of the court order, upon notice to the court, if the secretary of health determines that isolation or quarantine is no longer necessary to protect the public.

History: Laws 2003, ch. 218, § 7.

ANNOTATIONS

Emergency clauses. — Laws 2003, ch. 218, § 21 contained an emergency clause and was approved April 6, 2003.

Compiler's notes. — This section was enacted by the legislature as part of Chapter 12, Article 10 NMSA 1978, but it was assigned to Article 10A by the compiler to separate it from the State Civil Emergency Preparedness Act.

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