



Why Aren't Refugees Being Tested for Covid-19?

President Trump has the authority to add it to the list of 'quarantinable diseases' to mandate testing prior to resettlement

By Nayla Rush

Summary: By law, people moving to the United States are required to be tested for "quarantinable communicable diseases" prior to their arrival. The CDC has labeled Covid-19 as a "quarantinable communicable disease" requiring a suspension of entry into the U.S of people from certain countries. Despite this, refugees are not required to be tested for Covid-19 before being brought here for resettlement. President Trump can remedy this by issuing an executive order specifically adding Covid-19 to the list of "quarantinable communicable diseases" last updated by President Obama in 2014.

The Trump administration plans on resettling up to 15,000 refugees in FY 2021.¹ Should Joe Biden win next week, he has pledged to increase this ceiling more than eightfold, to 125,000.²

Regardless of the election outcome, however, refugees will likely not be tested for the Covid-19 virus prior to being admitted here — a legitimate assumption since the thousands who were resettled following the virus outbreak in FY 2020 were not.

This is worrisome given that the UN warns that refugees are especially vulnerable to the Covid-19 virus.³ What's more, the Centers for Disease Control and Prevention (CDC) has identified⁴ the virus as falling into the "quarantinable communicable diseases" category,⁵ one component of the "communicable diseases of public health significance" that are grounds for inadmissibility into the United States when identified during the required medical examination overseas.⁶

In accordance with the Immigration and Nationality Act (INA), all immigrants (including refugees) seeking admission into the United States must undergo a medical examination overseas before they are allowed in.⁷ The exam includes screening for any illness defined as a "communicable disease of public health significance."⁸ Those found with "communicable diseases of public health significance" (designated as Class A diseases), or who fail to present documentation of having received vaccination against vaccine-preventable diseases, are ineligible to be admitted to the United States unless they undergo treatment and no longer pose a danger of transmitting the disease.

The CDC and its parent agency, the Department of Health and Human Services (HHS), have regulatory authority over the medical screening process and can update the list of "communicable diseases of public health significance" that render immigrants ineligible for entry into the United States. (The list was last updated by HHS/CDC in 2016.) Other diseases included in that list are those called "quarantinable communicable diseases" that are designated as such by the president by executive order; this list was last updated in 2014 by President Obama through Executive Order 13674.⁹ Current "quarantinable communicable diseases" include "Severe Acute Respiratory Syndromes (SARS)" other than influenza that are causing or have the potential to cause a pandemic.

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On October 13, 2020, HHS justified its decision to suspend entry into the U.S. from Europe, Canada, Mexico, and other countries with the following rationale:

Because the CDC Director has determined that COVID-19 meets the definition of a severe acute respiratory syndrome as listed in Executive Order 13674, COVID-19 is a quarantinable communicable disease. It is caused by a novel (new) coronavirus, SARS-CoV-2, that was first identified as the cause of an outbreak of respiratory illness that began in the city of Wuhan in the Hubei Province of the People's Republic of China (PRC) in late 2019 and quickly spread worldwide. On January 30, 2020, the World Health Organization (WHO) declared that the outbreak of COVID-19 is a Public Health Emergency of International Concern.¹⁰

This means two things: Covid-19 is a “communicable disease of public health significance”; and, refugees should be screened for that disease during their medical examination abroad and rendered inadmissible if tested positive.

President Trump can issue an executive order specifically listing the Covid-19 virus as a “quarantinable communicable disease” to ensure that refugees are tested for this disease prior to resettlement. Even if President Trump is not reelected, it is unlikely that a President Biden would reverse his predecessor’s executive order and remove Covid-19 from that list, especially as we are witnessing new waves of the virus in countries all over the world. Biden has been very vocal about the dangerous nature of that disease, promising the American people to follow experts’ guidelines and to take every measure to protect them from the Covid-19 public health threat.

Refugees Are Not Being Tested for the Covid-19 Virus Prior to Resettlement

In Fiscal Year 2020 (October 1, 2019, to September 30, 2020), 11,814 refugees were resettled in the United States, under a refugee ceiling of 18,000. Of those 11,814, 60 percent (7,126) arrived after January 31, 2020, the day the Trump administration declared Covid-19 a public health emergency, announced Chinese travel restrictions, and suspended entry into the United States for foreign nationals who pose a risk for transmitting the Covid-19 virus. Forty percent (4,762) of FY2020’s refugees arrived after March 11, 2020, the day the WHO characterized the Covid-19 outbreak as a pandemic.¹¹

They were not tested for the Covid-19 virus before entry.¹² This was recently confirmed to me by a State Department spokesperson: “Refugees are subject to the same COVID-19 entry requirements as other foreign national travelers to the United States and they undergo required pre-departure screening set forth by the overseas airport and airlines” — which translates into a fever check and a series of health questions about Covid-19 symptoms or exposure to someone who tested positive for the virus.

This was further confirmed by the spokesperson (all emphases in this and subsequent quotations are added):

*Health protocols governing U.S. refugee resettlement are developed and overseen by the Centers for Disease Control and Prevention (CDC) ... **CDC does not currently recommend routine pre-departure COVID-19 testing for refugees.** CDC protocols do include health checks for COVID-19 symptoms prior to travel, with one check occurring at the airport just prior to departure. Refugees with signs or symptoms or are a contact of someone with COVID-19 [sic] are referred back to healthcare providers for medical evaluation and are not allowed to travel. Before they are allowed to travel, they must wait the CDC-recommended isolation and quarantine periods. For persons with signs or symptoms, they must be fully recovered and wait for 10 days. For persons who were a contact, they must have completed a 14 day quarantine period.*

So no testing prior to departure and no enforced 14-day quarantine after arrival either. Instead, according to the same spokesperson, “refugees also are recommended by the CDC to follow a *voluntary* stay-at-home period for 14 days after arrival.” To be more precise, the CDC advises newly resettled refugees to “[s]tay home *as much as possible* for the first 14 days after arrival.”¹³ The same recommendation to stay home “to the extent possible for 14 days” is given by the CDC to “people arriving from *high-risk destinations*.”¹⁴

But in the order suspending entry to the U.S. from certain countries, the CDC says quarantine or isolation is not sufficient; the suspension of the introduction of persons who could pose a serious threat of introduction of COVID-19 into the United States is necessary:

*CDC's experience with COVID-19 is that, under some circumstances, quarantine or isolation is not a viable solution for protecting the public health from the introduction of a communicable disease from another country. ... To continue to respond promptly and effectively to the public health emergency presented by COVID-19, CDC needs a more efficient regulatory mechanism to exercise its section 362 authority and suspend the introduction of persons who would otherwise pose a serious danger of introduction of COVID-19 into the United States. Even though COVID-19 is present in certain locations within the United States, the suspension of the introduction of persons into the United States may be required in the interest of public health to avert the danger of further introduction of the disease into the same or other locations in the United States.*¹⁵

CDC recently shifted its entry strategy for international air passengers, citing a better understanding of Covid-19 transmission, which “indicates that symptom-based screening has limited effectiveness because people with COVID-19 may have no symptoms or fever at the time of screening, or only mild symptoms.”¹⁶ Only a 72-hour pre-departure Covid-19 test, therefore, can be an efficient (albeit imperfect) screening tool.

Medical Examination Overseas

In July, I wrote about the medical concerns related to refugee resettlement amid a Covid-19 crisis and elaborated on the medical screening of refugees before (and after) resettlement.¹⁷

Immigrants and refugees must undergo a medical exam overseas as part of the immigration process for entry into the United States.¹⁸ HHS and CDC are the agencies in charge of the medical examination of aliens.¹⁹ HHS has authority to “promulgate regulations that establish requirements for the medical examination of aliens (immigrants, refugees, asylees, and parolees) before they may be admitted into the United States.”²⁰ Under this authority, CDC’s Division of Global Migration and Quarantine (DGMQ) “administers the regulations which include the health-related conditions that make aliens ineligible for entry into the United States.”

This medical examination is intended to exclude refugees with any contagious disease that could pose a public health threat from entering the United States and identify conditions that warrant medical follow-ups for those about to be welcomed into the United States. The screening is overseen by the CDC and implemented by the International Organization for Migration (IOM) or local physicians designated by U.S. embassies or consulates.

CDC provides the Department of State and U.S. Citizenship and Immigration Services (USCIS) with medical screening guidelines for all examining physicians. These physicians are “medically trained, licensed, and experienced medical doctors practicing overseas who are appointed by the local US embassy or consulate.”²¹

Medical screening involves review of medical history and available records, including documentation of having received vaccination against “vaccine-preventable diseases.”²² It also includes a physical examination that identifies physical or mental conditions that render applicants inadmissible for a visa (the aforementioned “communicable disease of public health significance”, also called Class A conditions), or other conditions (called Class B) that, although they do not render applicants inadmissible to the United States, are significant enough require extensive medical treatment.

The costs of the medical screening are borne by the U.S. government, and usually so are those for medical treatment necessary to make an already-approved refugee ready for travel. Medical examinations are usually valid between three to six months and must be valid at the time of departure for the United States.

Inadmissibility on Health-Related Grounds

The reason for this medical screening is that, according to 8 U.S.C. § 1182 9(a)(1)(A)(i), which pertains to “inadmissible aliens” on health-related grounds, “[a]ny alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance” is ineligible to receive a visa and ineligible to be admitted to the United States.²³ Those found to have such a disease are not allowed to enter the United States until they have been appropriately treated and are no longer infectious.

The USCIS Policy Manual lists the current “communicable diseases of public health significance” as designated by HHS that render someone inadmissible:

- *Gonorrhea;*
- *Hansen’s Disease (Leprosy), infectious;*
- *Syphilis, infectious stage; and*
- *Tuberculosis (TB), Active — Only a Class A TB diagnosis renders an applicant inadmissible to the United States. Under current Centers for Disease Control and Prevention (CDC) guidelines, Class A TB means TB that is clinically active and communicable.*²⁴

The manual also notes that “HHS regulations also list two additional general categories of communicable diseases of public health significance”, including “Communicable diseases that may make a person subject to quarantine, as listed in a Presidential Executive Order, as provided under Section 361(b) of the Public Health Service Act” and certain “[c]ommunicable diseases that may pose a public health emergency of international concern”.²⁵

The CDC provides more details regarding these two additional general categories of communicable diseases of public health significance:

- *Quarantinable diseases designated by any Presidential Executive Order. Current diseases include: cholera, diphtheria, infectious tuberculosis, plague, smallpox, yellow fever, viral hemorrhagic fevers, **severe acute respiratory syndromes** [SARS], and influenza caused by novel or re-emergent influenza (pandemic flu).*
- *Events that are reportable as a public health emergency of international concern (PHEIC) to the **World Health Organization (WHO)** under the International Health Regulations (IHR) of 2005 (currently polio, smallpox, SARS, influenza, and **other public health emergencies of international concern.**)*²⁶

Refugees Should Be Tested for Covid-19 Before Admission

But if Covid-19 is a “severe acute respiratory syndrome” according to the CDC, and “severe acute respiratory syndromes” render someone inadmissible to the United States, how can we be admitting refugees without requiring they be tested for Covid-19?

What’s more, on January 30, 2020, the WHO declared the outbreak of Covid-19 a Public Health Emergency of International Concern.²⁷ That should also mean that people with Covid-19 — including refugees — are inadmissible and thus testing should be required.

Yet thousands of refugees from countries with floundering health care systems, delayed government responses, and, more often than not, deep political and economic crises, are being resettled here without prior testing for Covid-19. This is puzzling to say the least; by U.S. law, screening refugees (and other immigrants) for “quarantinable communicable diseases” is mandatory. Why is the law not being applied?

While the requirement that refugees be tested for Covid-19 would seem unambiguous, President Trump can remove any doubt by issuing an executive order *explicitly* citing Covid-19 as a SARS quarantinable communicable disease. That should make Covid-19 tests obligatory for refugees (and other immigrants) shortly before departure for the United States. Those who test positive would need to remain where they are until they receive treatment. Once a Covid-19 vaccine is made available, refugees would need to show proof of vaccination for this virus (as they do with other “vaccine-preventable diseases” such as mumps, measles, rubella, polio, hepatitis B, etc.) to be eligible to enter the United States.

As explained in a media note announcing President Trump’s proposed refugee admissions for FY 2021, the proposed ceiling of 15,000 “reflects the Administration’s continuing commitment to prioritize the safety and well-being of Americans, especially in light of the ongoing COVID-19 pandemic.”²⁸ Surely updating the medical examination of refugees (and other immigrants) with Covid-19 will help in that direction. And should Biden win, he would need to come up with very strong justifications to reverse his predecessor’s executive order.

End Notes

¹ [“Transmission of the President’s Report to Congress on the Proposed Refugee Admissions for FY 21”](#), U.S. State Department, September 30, 2020.

² Joe Biden, [“My Statement on World Refugee Day”](#), Medium website, June 20, 2020.

³ Michelle Bachelet and Filippo Grandi, [“The coronavirus outbreak is a test of our systems, values and humanity”](#), UN High Commissioner for Refugees, March 12, 2020.

⁴ Robert R. Redfield, [“Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists”](#), Centers for Disease Control and Prevention, October 13, 2020.

⁵ [“Legal Authorities for Isolation and Quarantine”](#), Centers for Disease Control and Prevention, February 24, 2020.

⁶ [“Legal Authorities for Medical Examination of Aliens”](#), Centers for Disease Control and Prevention, Page last reviewed January 28, 2016.

⁷ [“Immigration and Nationality Act”](#), U.S. Citizenship and Immigration Services, July 19, 2019.

⁸ [“Legal Authorities for Medical Examination of Aliens”](#), Centers for Disease Control and Prevention, January 28, 2016.

⁹ [“Executive Order 13674—Revised List of Quarantinable Communicable Diseases”](#), The American Presidency Project, July 31, 2014.

¹⁰ [“Control of Communicable Diseases; Foreign Quarantine: Suspension of the Right To Introduce and Prohibition of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes”](#), Federal Register, September 11, 2020.

¹¹ Nayla Rush, [“Refugee Resettlement Roundup for FY 2020”](#), Center for Immigration Studies blog, October 6, 2020.

¹² See Nayla Rush, [“Australia’s Unwanted Refugees Are Still Being Resettled in the U.S.”](#), Center for Immigration Studies blog, May 29, 2020; and Nayla Rush, [“Refugees Are Being Resettled Despite the Coronavirus Outbreak: More than 3,000 resettled since late January, when pandemic task force was created”](#), Center for Immigration Studies blog, March 20, 2020.

¹³ [“Welcome Booklet for Refugees”](#), Centers for Disease Control and Prevention (CDC), August 5, 2020.

- ¹⁴ [“Federal Government Adjusts COVID-19 Entry Strategy for International Air Passengers”](#), Centers for Disease Control and Prevention, September 9, 2020.
- ¹⁵ [“Control of Communicable Diseases; Foreign Quarantine: Suspension of Introduction of Persons Into United States From Designated Foreign Countries or Places for Public Health Purposes”](#), Federal Register, March 24, 2020.
- ¹⁶ [“Federal Government Adjusts COVID-19 Entry Strategy for International Air Passengers”](#), Centers for Disease Control and Prevention, September 9, 2020.
- ¹⁷ Nayla Rush, [“Refugee Placement and Medical Concerns Amid a Covid-19 Pandemic and an Economic Crisis”](#), Center for Immigration Studies *Background*, July 1, 2020.
- ¹⁸ [“Frequently Asked Questions about the Final Rule for the Medical Examination of Aliens – Revisions to Medical Screening Process, Centers for Disease Control and Prevention”](#), Centers for Disease Control and Prevention, January 22, 2016.
- ¹⁹ [“Final Rule 42 CFR Part 34: Medical Examination of Aliens – Revisions to Medical Screening Process”](#), Centers for Disease Control and Prevention, January 22, 2016.
- ²⁰ [“Legal Authorities for Medical Examination of Aliens”](#), Centers for Disease Control and Prevention, January 28, 2016.
- ²¹ [“Panel Physician Portal”](#), Centers for Disease Control and Prevention, June 9, 2017.
- ²² [“Diseases and Vaccines Included”](#), Centers for Disease Control and Prevention, June 24, 2016.
- ²³ [“8 USC 1182: Inadmissible aliens”](#), United States Code, October 26, 2020.
- ²⁴ [“Chapter 6 - Communicable Diseases of Public Health Significance”](#), U.S. Citizenship and Immigration Services Policy Manual, October 15, 2020.
- ²⁵ *Ibid.*
- ²⁶ [“Medical Examination: Frequently Asked Questions \(FAQs\)”](#), Centers for Disease Control and Prevention, February 22, 2017.
- ²⁷ [“WHO Director-General’s statement on IHR Emergency Committee on Novel Coronavirus \(2019-nCoV\)”](#), January 30, 2020.
- ²⁸ [“Transmission of the President’s Report to Congress on the Proposed Refugee Admissions for FY 21”](#), September 30, 2020.