



Date: July 30, 2020

To: Washington State Board of Health Members

From: John Wiesman, DrPH, MPH, Secretary of Health

Subject: Chapter 246-101 WAC – Notification and Reporting Requirements of Novel Coronavirus (SARS-CoV-2)

Background and Summary:

Novel Coronavirus (SARS-CoV-2), also known as Coronavirus Disease 2019 (COVID-19), is a respiratory illness caused by a new or “novel” coronavirus that was not identified in humans before December 2019. The first confirmed case of COVID-19 reported in the United States was in Washington State in January 2020. Since that time, there have been more than 3.9 million confirmed cases reported in the United States (as of July 23, 2020).

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law by President Trump on March 27, 2020, is intended to address the economic effects of the COVID-19 pandemic. Included in the law is a requirement for every laboratory that performs or analyzes a test intended to detect or diagnose a possible case of COVID-19 to report the results to the U.S. Department of Health and Human Services (HHS) through existing reporting channels through state and local public health departments until the end of the public health emergency declaration.

On June 4, 2020, HHS released guidance that specifies the additional data that must be reported by laboratories along with COVID-19 test results. Of these requirements, demographic information such as the patient’s age, race, ethnicity, and sex must be collected and reported to state or local public health departments using existing reporting channels in accordance with state law or policies. The guidance standardizes reporting to ensure that public health officials have access to comprehensive and nearly real-time data to inform decision-making in their response to COVID-19.

Race and ethnicity data for COVID-19 is not being consistently reported by the United States. As of July 23, 2020, race and ethnicity data was only available for 57 percent of confirmed cases nationally. However, the available data collected by the U.S. Centers for Disease Control and Prevention from states show a clear pattern that communities of color are being disproportionately impacted by COVID-19.

In Washington State, race and ethnicity data is also incomplete. Per the Department of Health’s (Department) COVID-19 Data Dashboard, as of July 27, 2020, race and ethnicity data is unknown for 34 percent of confirmed cases, 29 percent of hospitalizations, and 3 percent of deaths. The Department’s data also shows disproportionately higher rates of confirmed cases and hospitalizations among Hispanic, Black, Native Hawaiian/Other Pacific Islander, and American Indian/Alaska Native communities.

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In addition, the Board has received public comments from King County representatives as well as Building Changes, a nonprofit organization, requesting the Board include race and ethnicity data for all notifiable conditions under Chapter 246-101 WAC. Current permanent rulemaking for notifiable conditions is underway, and the proposed rule includes the requirement to report race and ethnicity data. However, the Board will not hold a hearing for the permanent rule until its August 12 meeting, and the rule will likely not go into effect until early 2021.

The Board has the authority under RCW 43.20.050(f) to adopt rules for the prevention and control of infectious and noninfectious diseases, as well as authority to adopt rules that govern reporting information that is necessary for public health officials to protect the public's health by tracking communicable diseases and other conditions.

I recommend the Board adopt an emergency rule to comply with the CARES Act to help assure race, ethnicity, and other demographic data is reported by health care providers, health care facilities, laboratories, and local health jurisdictions. Designating COVID-19 as a notifiable condition, and the requirement to include race and ethnicity data will enable the public health system to accurately determine the burden of infection on vulnerable groups and appropriate public health interventions. Waiting until the permanent rule is adopted and goes into effect is too late. I believe the immediate adoption this rule is necessary for the preservation of the public health, safety and general welfare of the State of Washington.

I have invited Kaitlyn Donahoe, Policy Advisor to the Board, and Sierra Rotakhina, Policy Advisor for the Disease Control and Health Statistics Division for the Department, to provide a summary of the proposed emergency rule.

Recommended Board Action:

The Board may wish to consider, amend if necessary, and adopt the following motion:

The Board adopts an emergency rule to designate COVID-19 as a notifiable condition and require health care providers, health care facilities, laboratories, and local health jurisdictions to report race, ethnicity, and other essential data for COVID-19 cases in accordance with the CARES Act and subsequent HHS guidance. The Board directs staff to file the CR-103E to create a new section under Chapter 246-101 WAC, which will become effective immediately upon filing with the code reviser.

Staff

Kaitlyn Donahoe

To request this document in an alternate format or a different language, please contact Kelie Kahler, Washington State Board of Health Communication Manager, at 360-236-4102 or by email at kelie.kahler@sboh.wa.gov. TTY users can dial 711.