

# WASHINGTON STATE BOARD OF HEALTH

**Date:** November 10, 2021

**To:** Washington State Board of Health Members

**From:** Umair A. Shah, MD, MPH, Secretary of Health

**Subject:** WAC 246-101-017, Notification and Reporting Requirements of Novel Coronavirus (SARS-CoV-2)

## **Background and Summary:**

The State Board of Health (Board) has the authority under RCW 43.20.050 to adopt rules for the prevention and control of infectious and noninfectious diseases. The purpose of chapter 246-101 WAC, Notifiable Conditions, is to provide critical information to public health authorities to aid them in protecting and improving public health through prevention and control of infectious and noninfectious conditions as required under law.

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 over 45 million confirmed cases and over 728,000 deaths reported in the United States.<sup>1</sup>

The [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), signed into law on March 27, 2020, includes 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) in a manner prescribed by the HHS Secretary until the end of the public health emergency.

HHS released laboratory data reporting [guidance](#) for COVID-19 that specifies standards for reporting laboratory testing data, including test results, relevant demographic details (e.g., patient’s age, race, ethnicity, sex), and additional information to improve the public health response to COVID-19. These data must be collected and reported to state or local public health departments using existing reporting channels in accordance with state law or policies.

In September 2020, the Centers for Medicare and Medicaid Services (CMS) published an interim final rule in the [Federal Register Volume 85, Number 171](#) stipulating that all laboratories conducting SARS-CoV-2 testing and reporting patient-specific results, including hospital laboratories, nursing homes, and other facilities conducting testing for

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<sup>1</sup> Centers for Disease Control and Prevention, [COVID Data Tracker](#), accessed October 20, 2021

COVID-19, who fail to report information required under the CARES Act will be subject to monetary penalties.

The Board previously adopted five emergency rules under WAC 246-101-017 to designate COVID-19 as a notifiable condition and require reporting of essential COVID-19 testing and patient demographic data aligned with the CARES Act:

- July 30, 2020, filed as WSR 20-16-121
- November 9, 2020, filed as WSR 20-24-081
- March 10, 2021, filed as WSR 21-08-009
- June 9, 2021, filed as WSR 21-16-014
- August 11, 2021, filed as WSR 21-18-034

To ensure consistency in reporting between regulated entities under chapter 246-101 WAC, COVID-19 reporting is required of health care providers, health care facilities, laboratories, local health jurisdictions, and the Department of Agriculture.

Per the requirements of the Administrative Procedures Act, RCW 34.05.350, the Board has taken steps to integrate requirements of the emergency rules into permanent rule. On July 23, 2021, the Board filed a CR-101, Preproposal Statement of Inquiry, alerting interested parties that the Board will consider further amending chapter 246-101 WAC to address any remaining federally required data components for reporting COVID-19, support statewide COVID-19 disease surveillance, and allow the governmental public health system to identify appropriate public health interventions through the end of the COVID-19 pandemic and beyond.

Until the permanent rules are in effect, I recommend the Board adopt a sixth emergency rule to continue to designate COVID-19 as a notifiable condition and require reporting of essential COVID-19 testing and demographic data to allow the governmental public health system to identify appropriate public health interventions. I believe the continuation of these requirements through emergency rule adoption is necessary for the preservation of the public health, safety, and general welfare of the State of Washington.

#### Recommended Board Actions:

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

The Board adopts a sixth emergency rule to extend the designation of COVID-19 as a notifiable condition and require reporting of essential testing and demographic data to improve the public health response to COVID-19. The Board directs staff to file a sixth CR-103E to extend WAC 246-101-017 without lapse, effective December 20, 2021.

#### Staff

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