



Date: August 12, 2020

To: Washington State Board of Health Members

From: Stephen Kutz, BSN, MPH

Subject: Rules Hearing – Notifiable Conditions Rule Making – Chapter 246-101 WAC

Background and Summary:

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 RCW 43.20.050, 70.104.055, and 43.70.545. The State Board of Health (Board) and Washington State Department of Health (Department) filed a CR-101 in April 2017. Initial work with stakeholders indicated a need to expand the scope of the rulemaking. The original CR-101 was withdrawn and a new CR-101 was filed on March 18, 2018.

The CR-102, Proposed Rule, was filed on March 3, 2020 as WSR 20-06-061. Board staff filed a continuance on March 18, 2020 as WSR 20-07-108 for the purposes of updating meeting information.

The proposed changes include adding notification and specimen submission requirements for “new conditions” and conditions currently identified as “other rare diseases of public health significance”. The proposed rule also includes changes that update and clarify notification and specimen submission requirements for certain existing conditions, clarify and improve requirements for suspected cases, revise the reporting requirements for veterinarians and the Department of Agriculture, update statutory references in the rules, and update references to the 2006 Security and Confidentiality Guidelines developed by the Centers for Disease Control and Prevention to the most recent version.

The Board held a public hearing on April 8, 2020. The Board determined it would continue its consideration of the proposed rule until its August meeting in recognition of interested parties’ limited ability to review and comment on the proposed changes as a result of the Coronavirus Disease 2019 (COVID-19) pandemic. As a result of public comments received, the Board and Department have made additional changes to the proposed rule. Department staff filed a Supplemental CR-102, Proposed Rule, on June 16, 2020 as WSR 20-13-062 to announce the rules hearing continuance as well as adjustments to the original proposal.

The supplemental proposal adds Silicosis as a notifiable condition for health care providers and health care facilities, adds race and ethnicity to the list of required reportable data components, and makes other administrative changes and clarifications. If adopted, the proposed rule is anticipated to go into effect January 1, 2021.

At a special meeting of the Board on July 30, the Board adopted an emergency rule to explicitly designate Novel Coronavirus (SARS-CoV-2), also known as COVID-19, as a notifiable condition and require laboratories, health care providers, health care facilities, and local health jurisdictions to report certain data components in accordance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent U.S. Department of Health and Human Services (HHS) guidance. Required reportable data components for cases of COVID-19 go above and beyond the proposed changes Chapter 246-101 WAC. Of note, the emergency rule specifies how the patient's race and ethnicity should be reported and requires reporting of the patient's primary language. The emergency rule is in effect until November 2020 and may be extended by the Board to fulfill federal reporting requirements through the duration of this public health emergency.

I have invited Sierra Rotakhina and Alexandra Montañó from the Department, as well as Kaitlyn Donahoe, Board Staff, to provide a summary of the proposed changes, share the comments that were received on the proposed rule, and to provide staff recommendations on how to address the comments. Following their presentation we will hold a public hearing on the rule and discuss the proposed changes.

Recommended Board Action:

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

The Board, based on today's discussion, will continue its decision whether to adopt the proposed rule to the Board's November meeting for the purpose of gathering information to evaluate the feasibility of incorporating additional demographic reporting requirements into the proposed rule in response to public comments received. The Board directs staff to work with stakeholders and subject matter experts to develop a recommendation for the Board's consideration at its November meeting.

OR

The Board adopts the proposed amendments to chapter 246-101 WAC as published in WSR 20-13-062 with any revisions agreed upon at today's meeting, and directs staff to file a CR-103 and establish an effective date.

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.