

WASHINGTON STATE BOARD OF HEALTH

Date: March 10, 2021

To: Washington State Board of Health Members

From: Umair Shah, MD, 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 28 million confirmed cases and over 500,000 deaths reported in the United States.¹

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) in a manner prescribed by the HHS Secretary until the end of the public health emergency.²

HHS released laboratory data reporting guidance for COVID-19 on June 4, 2020, and later updated the guidance on January 8, 2021. The guidance 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 Federal Register 54826, Volume 85, Number 171, to update requirements for reporting SARS-CoV-2 test results by laboratories. The interim final rule states all laboratories conducting SARS-CoV-2 testing and reporting patient-specific results, including hospital laboratories, nursing homes, and other facilities conducting testing for COVID-19, who fail to report information required under the CARES Act will be subject to monetary penalties. The interim final rules became effective September 2, 2020.

¹ Centers for Disease Control and Prevention, [CDC COVID Data Tracker](#), accessed March 1, 2021

² [CARES Act](#), Public Law No: 116-136, Section 18115, accessed February 22, 2021

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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.

Complete demographic information is key to understanding which communities are impacted by the pandemic. Per the Department of Health (Department), race and ethnicity data is unknown for 42 percent of confirmed COVID-19 cases and 43 percent of hospitalizations.³ Understanding which populations are being disproportionately impacted can enable public health to build partnerships with community-based organizations to develop community-led prevention strategies.

The State Board of Health (Board) has previously adopted two emergency rules for COVID-19 reporting:

- On July 30, 2020, the State Board of Health (Board) adopted an emergency rule that explicitly designates COVID-19 as a notifiable condition and requires health care providers, health care facilities, and laboratories to report demographic data with COVID-19 test results. This emergency rule expired on November 28, 2020.
- On November 9, 2020, the Board adopted a second emergency rule to continue the requirement that demographic and other testing data be reported with COVID-19 test results. The second emergency rule also requires animal cases of COVID-19 to be reported by the Department of Agriculture. This emergency rule became effective on November 29, 2020.

I believe we must continue to designate COVID-19 as a notifiable condition and maintain reporting requirements consistent with HHS guidance. The requirement to report essential testing and demographic data with each COVID-19 test result will continue to enable the public health system to accurately determine the burden of infection on vulnerable groups and identify appropriate public health interventions.

I recommend the Board adopt a third emergency rule to ensure continued compliance with the CARES Act. I believe the immediate adoption of this rule 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 third emergency rule to extend the designation of COVID-19 as a notifiable condition and require health care providers, health care facilities, laboratories, local health jurisdictions, and the Department of Agriculture to report testing data and additional information to improve the public health response to COVID-19 in accordance with the CARES Act. The Board directs staff to file a second CR-103E to extend WAC 246-101-017 without lapse, effective on March 30, 2021.

³ Washington State Department of Health, [COVID-19 Data Dashboard](#), accessed March 1, 2021

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