

## Washington State Board of Health

Emergency Rule: WAC 246-101-017, COVID-19 Reporting

November 9, 2022

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#### **Overview**

- Background
- Prior Emergency Rules
- Proposed Ninth Emergency Rule
- COVID-19 Regulatory Landscape
- Proposed Future Reporting
- Next Steps

#### Background: CARES Act Requirements, HHS Guidance

- March 2020: the Coronavirus Aid, Relief, and Economic Security (CARES) Act requires laboratories to report COVID-19 test results to the Secretary of the U.S. Department of Health and Human Services (HHS) in a manner prescribed by the Secretary.
- June 2020 (updated January 2021, March 2022): HHS releases COVID-19 laboratory data reporting guidance specifying standards for reporting testing and demographic data.
- September 2020: Centers for Medicare and Medicaid Services (CMS) publish an interim final rule stipulating all laboratories conducting COVID-19 testing and reporting patient-specific results who fail to report information required under the CARES Act will be subject to monetary penalties.

## **Prior Emergency Rules**

• Required reporters: health care providers & facilities, laboratories,

LHJs

• All data components required by HHS

- Additional data reporting (e.g., patient emergency contact, preferred language)
- Disaggregated race and ethnicity

November 2020

• Dept. of
Agriculture
added to the
list of required
reporters

 More closely aligned with HHS guidance; additional data components not required by HHS removed 3

March 2021

identical to November 9, 2020, emergency rule

No changes;

rule language

4

June 2021

 No changes; rule language identical to November and March, emergency rules August 2021

• Adjusted reporting requirements for LHJs to report to the Dept. of Health to better reflect the capacity of the Dept. of Health and LHJs to receive and send these data

• All other requirements unchanged

6

2021

November

 No change; rule language identical to August emergency rule 7

• Specifies
reporting
requirements
by testing entity
and test type

 Removes reporting for ask-on-order entry questions

 Refines list of reportable data components that accompany test results 8

August 2022

 No change; rule language identical to April emergency rule

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#### **Proposed Ninth Emergency Rule**

- No proposed changes are recommended today
- Eighth emergency rule is identical to the eighth emergency rule adopted by the Board in August
- Rule language is provided in today's meeting materials



#### **COVID-19 Regulatory Landscape**

## **Emergency Rules** July 2020 to present Effective for 120 days at a time Cannot adopt identical consecutive rules without change in circumstance or

starting permanent

rulemaking (APA)

Federal Requirements CARES Act passed March 2020 HHS guidance for COVID-19 reporting CMS financial penalties for

noncompliance

2021 Permanent Rules Revisions to Notifiable Conditions chapter (246-100) adopted by the Board in March 2021, effective January 1, 2023 COVID-19 designated as a notifiable condition Enhanced authority for DOH to request reporting for new conditions or additional

data for current condition

## **Current Permanent** Rulemaking To follow the APA, the Board initiated permanent rulemaking for COVID-19 CR-101 was filed in July 2021

### **Proposed Future Reporting**

December 16, 2022: Ninth Emergency Rule in Effect January 1, 2023:

- COVID-19 Permanent Notifiable Condition
- DOH Provisional Notification
- CR-101 Withdrawal

December 31, 2022: Ninth Emergency Rule Rescinded

COVID-19 Test Results & Additional Patient Data Reported Through End of Public Health Emergency

# QUESTIONS?

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## THANK YOU

