



**STATE OF WASHINGTON**  
**WASHINGTON STATE BOARD OF HEALTH**  
*PO Box 47990 • Olympia, Washington 98504-7990*

June 10, 2009

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

**FROM:** Dr. Diana Yu, SBOH Member

**SUBJECT: NOTIFICATION OF EMERGENCY RULE MAKING — PROVISIONAL NOTIFIABLE CONDITIONS FOR H1N1 INFLUENZA A, CHAPTER 246-101 WAC**

**Summary and Background**

RCW 43.20.050(2) states that the “*state board of health shall ... (e) Adopt rules for the prevention and control of infectious and noninfectious diseases...*” To comply with the statute, the State Board of Health has adopted chapter 246-101 WAC, Notifiable conditions. These rules require reporting of certain infections, diseases, and other conditions to the Department of Health or local health agencies. By tracking these conditions, public health officials are better able to control outbreaks and develop interventions to protect the public’s health.

Preliminary data in Washington State for the novel influenza A (H1N1) virus suggest that 6% of known illnesses require hospitalization. This is higher than what is usually seen in a typical influenza season. To monitor the occurrence of novel influenza A (H1N1) virus, the Department of Health is establishing a surveillance system for hospitalized patients with influenza-like illness or severe respiratory illness; and in unexplained death investigations. This information will allow the Department to gain important information to understand the severity and spread of the virus before the 2009-2010 influenza season.

To accomplish this, the Department recommends that hospitalized or fatal cases of novel influenza A (H1N1) virus be added to the list of notifiable conditions in two sections of chapter 246-101 WAC. These are WAC 246-101-101, which describes the conditions that Washington’s health care providers must notify public health authorities of on a statewide basis; and WAC 246-101-301, which describes the conditions that Washington’s health care facilities must notify public health authorities of on a statewide basis. Immediate adoption of these rule changes is necessary so that the Department can track, respond to, and understand the virus. In addition, it will allow the Department to identify the groups at risk for serious illness in order to prioritize influenza vaccination programs in the 2009-2010 influenza season.

The Department of Health (DOH) has the authority to adopt emergency rules under the provisions of RCW 34.05.350 and WAC 246-101-015. Therefore, the Department is not

requesting the Board delegate its authority to conduct emergency rule making, as this is not necessary. Instead the Department is taking this opportunity to notify the Board of its emergency rule making actions. However, since an emergency rule is only effective for 120 days, it may be necessary to adopt an identical or substantially similar emergency rule to extend the required reporting period in order to continue to gather data during the 2009-2010 influenza season. In order to adopt identical or substantially similar emergency rule(s) after the 120 days of the emergency rule expire, the Administrative Procedures Act (chapter 34.05 RCW) requires that at the same time the emergency rule is in effect, action is also being taken to adopt a permanent rule. Therefore, the Department is requesting that the change being addressed in the emergency rule also be considered as part of the more extensive permanent rulemaking changes to chapter 246-101 WAC.

Dr. VanBuren briefed the Board in October 2008 and explained that updates to the notifiable conditions rule were needed especially for communicable diseases. This is because new diseases have been identified, the rules should have a broader national and international perspective, new laboratory methods have been developed, clarity for some parts could be improved, and additional reporting would be helpful to public health officials. Adding the novel influenza A (H1N1) virus to this rule revision is well within the scope that Dr. VanBuren proposed in 2008.

### **Recommended Board Action**

There is no recommended Board action.