



State of Louisiana
Louisiana Department of Health
Office of the Secretary

September 10, 2020

Via Statutorily Required Email

To: The Honorable Patrick Cortez, President, Louisiana Senate
The Honorable Clay Schexnayder, Speaker, Louisiana House of Representatives
The Honorable Chairman Fred H. Mills, Jr., Senate Health & Welfare Committee
The Honorable Chairman Larry Bagley, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary
Cindy Rives

Re: First Report: Proposed Amendments to LAC 51:II.105 and 107 – Reportable Diseases and Conditions, and Laboratory and Healthcare Facility Reporting Requirements

Under the authority of the laws of the State of Louisiana and in accordance with the provisions of Chapter 6 of Title 36 of the Louisiana Revised Statutes of 1950, and with the Administrative Procedure Act, La. R.S. 49:950 *et seq.*, the secretary hereby gives notice that rulemaking procedures have been initiated to promulgate amendments to the rules governing the administration of Reportable Diseases and Conditions, and Laboratory and Healthcare Facility Reporting Requirements, LAC 51:II.105 and 107.

- I. Copy of the rule as it is proposed after amendment, with new proposed language indicated by the underscored text and deleted language indicated by the strike-through type.

See attachment.

- II. A statement of the proposed action.

This rule is being proposed to include COVID-19 in the list of diseases and conditions hereby declared reportable as a Class A Disease or Condition.

III. Specific citation of law authorizing promulgation of the rule.

On January 30, 2020, the International Health Regulations Committee of the World Health Organization declared the recent COVID-19 outbreak a "public health emergency of international concern" (PHEIC). On January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to COVID-19.

Circumstances which require the amendment of the rule.

Rulemaking is required to implement a change in hospitals subject to assessment.

IV. Statement of Fiscal and Economic Impact.

See attachment.

Please contact Melissa Mendoza, at melisssa.mendoza@la.gov, if you have any questions or require additional information about this matter.

Attachments (2)

Cc: Jimmy Guidry, MD, State Health Officer
Alexander Billioux, MD, DPhil, Assistant Secretary, OPH
DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, OPH
Aliya Rubenstein, Rulemaking Liaison, OPH
Melissa Mendoza, Legislative and Regulatory Affairs Director, OPH
Anita Dupuy, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Office of Public Health

Public Health—Sanitary Code

Disease Reporting Requirements (LAC 51:II.105 and 107)

Under the authority of R.S. 40: 4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend §§105 and 107 of Part II (The Control of Diseases) of Title 51 (Public Health-Sanitary Code) of the Louisiana Administrative Code. This rule is being proposed to include COVID-19 in the list of diseases and conditions hereby declared reportable as a Class A disease or condition.

For the reasons set forth above, the following amendments to Title 51 (Public Health-Sanitary Code) are hereby proposed to be adopted.

Title 51

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§105. Reportable Diseases and Conditions

A. — D.1.a.x. ...

xi. diphtheria Coronavirus Disease 2019 (COVID-19)/Infections with SARS-CoV-2;

~~xi~~ xii. diphtheria;

~~xiii~~ xiii. *Enterobacteriaceae*, carbenum-resistant;

~~xiii~~ xiv. fish or shellfish poisoning (domoic acid poisoning, neurotoxic shellfish poisoning, ciguatera, paralytic shellfish poisoning, scombroid);

~~xiv~~ xv. food-borne illness;

~~xv~~ xvi. glanders (*Burkholderia mallei*);

~~xvi~~ xvii. *Haemophilus influenzae* (invasive infection);

~~xvii~~ xviii. influenza-associated mortality;

~~xviii~~ xix. measles (rubeola, imported or indigenous);

~~xix~~ xx. melioidosis (*Burkholderia pseudomallei*);

~~xx~~ xxi. *Neisseria meningitidis* (invasive infection);

~~xxi~~ xxii. outbreaks of any infectious diseases;

~~xxxiii~~ xxxiii. pertussis;
~~xxxiii~~ xxxiv. plague (*Yersinia pestis*);
~~xxxiv~~ xxxv. poliomyelitis (paralytic and non-paralytic);
~~xxxv~~ xxxvi. *Pseudomonas aeruginosa*, carbapenem-resistant;
~~xxxvi~~ xxxvii. Q fever (*Coxiella burnettii*);
~~xxxvii~~ xxxviii. rabies (animal and human);
~~xxxviii~~ xxxix. ricin poisoning;
~~xxxix~~ xxxix. rubella (congenital syndrome);
~~xxxx~~ xxxxi. rubella (German measles);
~~xxxxi~~ xxxixii. severe acute respiratory syndrome-associated
coronavirus (SARS-CoV);
~~xxxxii~~ xxxixiii. *Staphylococcus aureus*, vancomycin intermediate or
resistant (VISA.VRSA);
~~xxxxiii~~ xxxixiv. staphylococcal enterotoxin B (SEB) pulmonary
poisoning;
~~xxxxiv~~ xxxixv. smallpox;
~~xxxxv~~ xxxixvi. tularemia (*Francisella tularensis*);
~~xxxxvi~~ xxxixvii. viral hemorrhagic fever (Ebola, Lassa, Marburg,
Crimean Congo, etc.); and
~~xxxxvii~~ xxxixviii. yellow fever.

D.2-E.6 ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), repromulgated LR 36:1253 (June 2010), amended LR 39:1053 (April 2013), LR 41:2653 (December 2015), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019).

**§107. Laboratory and Healthcare Facility Reporting Requirements
(Formerly §113)**

A-E. ...

F. Electronic reporting by a laboratory/facility shall include any results, negative or positive, for all components of testing indicative of the following conditions:

1. Coronavirus Disease 2019 (COVID-19)/Infections with SARS-CoV-2;

1. hepatitis C virus;
2. human immunodeficiency virus (HIV), including nucleotide sequences; and
3. syphilis.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5(2)(10)(11).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1214 (June 2002), amended LR 32:1052 (June 2006), LR 39:1054 (April 2013), LR 41:2655 (December 2015), amended by Department of Health, Office of Public Health, LR 45:669 (May 2019), LR 46:

Family Impact Statement

1. Will the proposed rule affect the stability of the family? Yes. The stability of the family will be enhanced if one or more family members has been determined to have a positive result of COVID-2 testing. A positive result will trigger certain isolation procedures to try to keep the other family members from exposure. Also, when the medical provider notifies the OPH of the test result, any positive test results will likely trigger contact tracing performed by the department to limit its spread in the family and the community at large.
2. Will the proposed rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed rule affect the functioning of the family? Yes. The functioning of the family will be enhanced since those who have been identified as having a positive COVID-2 test result will, in turn, call for enhanced protective and isolation procedures to prevent further transmission to other family members and the community at large.
4. Will the proposed rule affect family earnings and family budget? No.
5. Will the proposed rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained the proposed rule? The family is not able to perform the function as contained in the rule; however, any hospital or other medical testing facility owned or operated by a local governmental unit may be required to perform the function as contained in the rule.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. The intent of this disease reporting rule is to prevent the additional spreading of COVID-2 disease to other persons; therefore, prevention of additional cases of the disease will help to keep other family members and the community at-large healthy and thus would be expected to help to prevent the depletion of household income, assets, and financial security.
2. The effect on early childhood development and preschool through postsecondary education development. Other than attempting to keep school aged children healthy, there will be no effect on childhood development and preschool through postsecondary education development.
3. The effect on employment and workforce development. Persons who are able to prevent becoming infected with COVID-2 would be expected to remain healthy and such healthy persons would improve his or her chances to either remain employed or become employed. Keeping persons healthy would enhance the workforce as a whole.
4. The effect on taxes and tax credits. Keeping persons healthy by implementing this proposed rule should help to maintain taxes at a lower level since the fewer sick persons there are in the

COVID-2 pandemic would be expected to check the total amount of funds necessary to maintain a healthy population. This, in turn, should help to prevent the need for additional taxation.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

It is anticipated that the proposed rule will not have a significant adverse impact on small businesses as defined in the Small Business Protection Act.

Provider Impact Statement

The proposed rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments no later than Monday, October 26, 2020 to DeAnn Gruber, Bureau Director, Bureau of Infectious Diseases, Office of Public Health, 1450 Poydras St., Ste. 2136, New Orleans, LA, 70112 or faxed to (504) 568-7044.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary, ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:00 am on Monday, October 26, 2020, in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 9, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to the Bienville Building's front security desk.

Jimmy Guidry, MD
State Health Officer

and

Dr. Courtney N. Phillips
LDH Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person
Preparing
Statement:

DeAnn Gruber

Dept.: Louisiana Department of Health

Phone:

(504) 568-7474

Office: Office of Public Health

Return

Address: 1450 Poydras St., Ste. 2136
New Orleans, LA 70112

Rule Title: Disease Reporting Requirements

Date Rule Takes Effect: December 20, 2020

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS

The proposed rule change is anticipated to increase expenditures for the Office of Public Health (OPH) by approximately \$657 in FY 21 for publication costs. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule updates the reporting criteria in order to bring Louisiana's reporting requirements in line with recommendations from the Council of State and Territorial Epidemiologists (CSTE) and the Centers for Disease Control and Prevention (CDC). The notice of intent proposes to include COVID-19 (coronavirus disease) to the listing of reportable diseases and conditions set forth in §105 of Part II of the Sanitary Code (LAC Title 51), as well as proposes setting a timeline for such reporting in §107.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NON-GOVERNMENTAL GROUPS (Summary)

The estimated costs to directly affected persons or nongovernmental groups is expected to be negligible. Hospitals, clinics, laboratories, and other facilities that report infectious diseases may be affected by the proposed rule. Due to the addition of this disease to the list of reportable conditions, there may be a slight increase in workload to support these reporting requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT

The proposed rule has no known effect on competition and employment.



Signature of Agency Head or Designee

Alexander Billioux, MD, DPhil
Assistant Secretary, Office of Public Health
Typed Name & Title of Agency Head or Designee

8/9/20
Date of Signature



Legislative Fiscal Officer or Designee

9/10/20
Date of Signature