

DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the District of Columbia Department of Health, pursuant to section 1 of An Act To Authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408, D.C. Official Code §§ 7-131 *et seq.*) (2018 Repl.) and section 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Subtitle B (Public Health and Medicine) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to: (1) continue or modify provisions of Administrative Orders issued by the Department of Health during the public health emergency for COVID-19, which is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), previously known as “2019 novel coronavirus”, that will be needed after the public health emergency ends; and (2) add other provisions described in the next paragraph that are needed to provide the Department of Health with information after the public health emergency ends.

Emergency action is necessary because the spread of a contagious disease such as COVID-19, caused by SAR-CoV-2, is an imminent threat to the health, safety, and welfare of District residents. Therefore, it is necessary that the Department of Health and the Health Information Exchange receive prompt reports of new positive test results for SARS-CoV-2, that genomic sequencing be performed for residents who test positive for SARS-CoV-2, that certain persons who are not fully vaccinated who must work or learn in person have access to SARS-CoV-2 testing, that unlicensed persons continue to be authorized to administer SARS-CoV-2 vaccines after being trained and while supervised, and that certain health professionals receive continuing education on SARS-CoV-2 vaccines to improve vaccine counseling to residents.

This emergency rule was adopted on July 22, 2021 and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption, on November 18, 2021, or upon publication of a final rulemaking in the *D.C. Register*, whichever occurs first.

The Director also give notice of her intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, of Subtitle B, PUBLIC HEALTH AND MEDICINE, of Title 22, HEALTH, of the District of Columbia Municipal Regulations is amended as follows:

Subsection 201, COMMUNICABLE DISEASE SURVEILLANCE, is amended by adding a new subsection 201.4 to read as follows:

201.4 The severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), previously known as “2019 novel coronavirus” and more commonly known as COVID-19, shall be considered a communicable disease for the purpose of communicable disease surveillance and shall be electronically reported to the Department of Health immediately upon the provisional diagnosis of or the appearance of suspicious symptoms of SARS-CoV-2 and shall be electronically reported to the Department of Health immediately upon a laboratory confirmed diagnosis.

Section 202, REPORTING OCCURRENCES, is amended by adding new subsections 202.13 and 202.14, to read as follows:

202.13 In addition to the reporting required by subsections 202.1 through 202.12, the Public Health Laboratory shall report within twenty-four (24) hours after completion of each test result each positive or negative SARS-CoV-2 test result to the District of Columbia Health Information Exchange established by Chapter 87 of Title 29 of the District of Columbia Municipal Regulations.

202.14 In addition to the reporting required by subsections 202.1 through 202.12, each clinical laboratory operating in the District of Columbia, a clinical laboratory providing services to a health care facility located in the District of Columbia, or a clinical laboratory providing services to a health care provider located in the District of Columbia shall report each positive or negative SARS-CoV-2 test result to the District of Columbia Health Information Exchange established by Chapter 87 of Title 29 of the District of Columbia Municipal Regulations.

A new Section 221, CLINICAL LABORATORY WITH CAPACITY TO PERFORM GENOMIC SEQUENCING, is added to read as follows:

221 CLINICAL LABORATORY GENOMIC SEQUENCING OF SARS-CoV-2

221.1 A clinical laboratory operating in the District of Columbia, a clinical laboratory providing services to a health care facility located in the District of Columbia, or a clinical laboratory providing services to a health care provider located in the District of Columbia must conduct genomic sequencing using a widely accepted methodology for SARS-CoV-2 and in compliance with subsection 221.2 when a resident of the District of Columbia tests positive for SARS-CoV-2 based on a polymerase chain reaction (PCR) testing if the clinical laboratory has the capacity to conduct genomic sequencing.

221.2 Each clinical laboratory operating in the District of Columbia, a clinical laboratory providing services to a health care facility located in the District of Columbia, or a clinical laboratory providing services to a health care provider located in the District of Columbia conducting genomic sequencing for SARS-CoV-2 shall:

- (a) Conduct genomic sequencing on a minimum of ten percent (10%) of specimens from residents of the District of Columbia that are positive for SARS-CoV-2 for each period of time starting at 12:00 midnight on Sunday through 11:59 p.m. on the next Saturday;
- (b) Submit all genomic sequencing results for residents of the District of Columbia to the Department of Health and the Public Health Laboratory; and,
- (c). Store all specimens from residents of the District of Columbia that are positive for SARS-CoV-2 for a minimum of thirty (30) calendar days; provided, that if the clinical laboratory lacks the capacity or capability to store positive SARS-CoV-2 specimens for thirty (30) days, the clinical laboratory may request a hardship waiver from the Department of Health.

222.3 A clinical laboratory operating in the District of Columbia, a clinical laboratory providing services to a health care facility located in the District of Columbia, or a clinical laboratory providing services to a health care provider located in the District of Columbia that lacks the capacity to conduct genomic sequencing shall submit all specimens positive for SARS-CoV-2 for residents of the District of Columbia to the Public Health Laboratory.

A new Section 222, SARS-CoV-2 TESTING FOR IN-PERSON WORK AND LEARNING, is added to read as follows:

222 SARS-CoV-2 TESTING FOR IN-PERSON WORK AND LEARNING

222.1 A person who is not fully vaccinated and who must report, in person, to work in the District of Columbia is not required to have an order from a physician or other authorized health professional in order to be receive SARS-CoV-2 testing. Such person may be tested for SARS-CoV-2 without an order from a physician or other authorized health professional once in every seven (7) day period.

222.2 A person who is not fully vaccinated and who must report, in person, to learn in the District of Columbia is not required to have an order from a

physician or other authorized health professional in order to be receive SARS-CoV-2 testing. Such person may be tested for SARS-CoV-2 without an order from a physician or other authorized health professional once in every seven (7) day period if there is not a testing of a proportion of students each week for screening testing.

- 222.3 Each person tested pursuant to this section may be responsible for payment for some or all of the costs of SARS-CoV-2 testing when any third-party is not required to pay for the testing.

A new Section 223, SARS-CoV-2 VACCINE ADMINISTRATION, is added to read as follows:

223 SARS-CoV-2 VACCINE ADMINISTRATION

223.1 An individual, including a medical assistant or a health technician, who is not licensed, registered, or certified to practice a health occupation pursuant to Chapter 12 of Subtitle I of Chapter 3 of the District of Columbia Official Code, is authorized to administer a SARS-CoV-2 vaccine provided that:

- (a) The individual has successfully completed training, provided by a licensed health professional authorized by an existing scope of practice of a health profession to administer a vaccination in the District of Columbia, on the administration of the SARS-CoV-2 vaccine;
- (b) A licensed health professional authorized by an existing scope of practice of a health profession to administer a vaccination in the District of Columbia must supervise the individual at the vaccination site;
- (c) The licensed health professional reasonably determines that the individual is able to administer the SARS-CoV-2 vaccine under appropriate supervision;
- (d) The individual administers the SARS-CoV-2 vaccine at the vaccination site under the general supervision of a licensed health professional supervising the unlicensed person at the vaccination site; and
- (e) The training, authorization, and supervision are appropriately documented in the records maintained by the vaccination site.

A new Section 224, CONTINUING EDUCATION FOR SARS-CoV-2 VACCINE COUNSELING, is added to read as follows:

224**CONTINUING EDUCATION FOR SARS-CoV-2 VACCINE COUNSELING**

224.1

In addition to any other continuing education requirements and subject to subsection 224.2, a person licensed to practice one of the following professions must complete two (2) hours of continuing education on SARS-CoV-2 vaccines, including, but not limited to, SARS-CoV-2 vaccine safety, best practices for counseling patients about SARS-CoV-2 vaccines, and SARS-CoV-2 vaccine efficacy and effectiveness, on or before September 30, 2021:

- (a) Advanced Practice Registered Nurse;
- (b) Audiologist;
- (c) Chiropractor;
- (d) Dentist;
- (e) Dietician;
- (f) Doctor of Osteopath;
- (g) Licensed Clinical Social Worker;
- (h) Licensed Graduate Professional Counselor;
- (i) Licensed Graduate Social Worker;
- (j) Licensed Independent Clinical Social Worker;
- (k) Licensed Practical Nurse;
- (l) Licensed Professional Counselor;
- (m) Long Term Care Administrator;
- (n) Marriage and Family Therapist;
- (o) Medical Doctor;
- (p) Nutritionist;
- (q) Occupational Therapist;

- (r) Optometrist;
- (s) Pharmacist;
- (t) Physical Therapist;
- (u) Physician Assistant;
- (v) Podiatrist;
- (w) Psychologist;
- (x) Registered Nurse;
- (y) Respiratory Care Therapist; or
- (z) Speech Language Pathologist.

224.2 The hours of continuing education required by subsection 224.1 may be counted as hours required for public health priorities training hours or optional training hours where applicable.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 6th Floor, Washington, D.C. 20002, or by email to Angli.Black@dc.gov. Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays by contacting Angli Black, Paralegal Specialist, at (202) 442-5977 or Angli.Black@dc.gov.