ADMINISTRATIVE RULES
REPORT TO LEGISLATURE
CLEARINGHOUSE RULE 07-090

By the Department of Health and Family Services relating to ch. HFS 145, Control of Communicable Diseases

Basis and Purpose of Proposed Rule

Statutory Authority:

- Section 227.11 (2), Stats., authorizes state agencies to promulgate rules that are necessary to operate their programs.
- Sections 252.02 (4) and (7), Stats., authorizes the Department to promulgate rules to prevent and control communicable diseases.
- Section 254.51 (3), Stats., authorizes the Department to promulgate rules that establish measures for prevention, surveillance and control of human disease that is associated with animal-borne and vector-borne disease transmission.
- Section 990.01 (5g), Stats., defines communicable disease as any disease that the Department determines by rule to be communicable in fact.

Purpose:
The Department is authorized by s. 990.01 (5g), Stats., to define communicable diseases by rule and by s. 252.02 (1), Stats., to establish surveillance systems for communicable diseases. The Department's surveillance system requires medical providers, health care facilities and laboratories to report the communicable diseases listed in ch. HFS 145 Appendix A to the local health officer or the state epidemiologist. At the national level, the Council of State and Territorial Epidemiologists (CSTE) recommends reportable diseases by adding them to the list of Nationally Notifiable Infectious Diseases (NNID). The diseases CSTE places under surveillance are typically novel pathogens or those with severe manifestations whose transmission is amenable to control by public health measures. States are encouraged to establish parallel reporting requirements. Accordingly, the Department proposes to add the following six NNID listed diseases to ch. HFS 145 Appendix A:

1. Influenza-associated pediatric deaths
2. Influenza A virus infection, novel subtypes
3. Poliovirus infection, nonparalytic
4. Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV)
5. Vancomycin-intermediate *Staphylococcus aureus* (VISA) infections and Vancomycin-resistant *Staphylococcus aureus* (VRSA) infections
6. Vibriosis

Additionally, the Department proposes to add the following three diseases which are not on the NNID list to ch. HFS 145 Appendix A:

1. Any illness caused by an agent that is foreign, exotic or unusual to Wisconsin, and that has public health implications. Section 250.02, Stats., authorizes the Department to take action to ascertain the presence of any communicable disease. This generic reporting requirement is in lieu of a long listing of individual exotic diseases that are rare but have major public ramifications. It also takes into account the possible emergence of important diseases that are as yet unknown. Each state adjacent to Wisconsin requires that unusual illnesses be reported.
2. Lymphocytic Choriomeningitis Virus (LCMV) infections. In 2003, LCMV was transmitted in organs from an infected Wisconsin donor to four organ recipients. Implementation of public health measures upon identification of a case could potentially limit further exposures.
3. Transmissible spongiform encephalopathy (TSE, human). Approximately 50% of states currently mandate reporting of human TSEs and the Division of Public Health already maintains surveillance for human TSEs. Mandatory reporting will simplify the process of obtaining clinical information, especially from out-of-state

providers, and will permit the Department to describe more accurately the burden of endemic TSEs of humans.

Additionally, the Department proposes to delete eight diseases, none of which are on the NNID list, from ch. HFS 145 Appendix A. The Department does not anticipate that there will be any adverse impact on the public from deletion of the eight diseases from mandatory reporting:

1. Amebiasis
2. Cat scratch disease (infection caused by *Bartonella* species)
3. Encephalitis, viral (other than arboviral)
4. Genital herpes infection (first episode identified by health care provider)
5. Hepatitis non-A, non-B, (acute)
6. Meningitis, viral (other than arboviral)
7. Reye syndrome
8. Typhus fever

Additionally, the Department proposes to change the way the following five diseases are listed in ch. HFS 145 Appendix A:

1. Change Arboviral infection (encephalitis/meningitis) to Arboviral Disease. The proposed change in terminology makes reporting requirements consistent with current Wisconsin public health practice. This group of diseases is currently on the NNID list.
2. Change *E. coli* 0157:H7, and other enterohemorrhagic *E. coli*, enteropathogenic *E. coli*, enteroinvasive *E. coli*, enterotoxigenic *E. coli* to *E. coli* 0157:H7 and other Shiga toxin-producing *E. coli* (STEC), enteropathogenic *E. coli*, enteroinvasive *E. coli*, and enterotoxigenic *E. coli*. In 2005, CSTE recommended that the enterohemorrhagic *Escherichia coli* (EHEC) condition name be revised to Shiga toxin-producing *Escherichia coli* (STEC) to more accurately describe the condition under surveillance.
3. Change Hepatitis E from a category I disease to a category II disease because this disease does not occur often in the United States and person-to-person transmission is uncommon.
4. Change Suspected Outbreaks of Other Acute or Occupational-related diseases from category II to category I because a possible outbreak requires immediate attention.
5. Change Varicella (chickenpox) – report by number of cases only to Varicella (chickenpox). In 2003, CDC encouraged all states to establish individual case reporting systems to monitor the impact of the varicella vaccination program on varicella morbidity. This level of surveillance is now operationally feasible because the number of cases is far fewer than in the pre-vaccination era. Varicella is on the NNID list.

Lastly, the Department proposes to:

1. Alphabetize the diseases in ch. HFS 145 Appendix A to make the list easier for persons reporting communicable diseases to use.
2. Allow reports of communicable diseases to be submitted electronically. Electronic transmission of reports currently occurs and is expected to increase.
3. Cite the most recent editions of the *Sexually Transmitted Diseases Treatment Guidelines* and the *Control of Communicable Diseases Manual* to make the references current.
4. Require laboratories to forward specimens to the State Laboratory of Hygiene for confirmatory or investigation purposes if requested by the State Epidemiologist.
5. Require laboratories and health care facilities to report a negative test result on a case or a suspected case to justify release from isolation or quarantine if requested by the State Epidemiologist or Local Health Officer.
6. Remove language requiring a person, laboratory or health care facility to report the total number of cases of other communicable diseases listed in ch. HFS 145 Appendix A to the local health officer on a weekly basis because varicella, the only disease reported in this manner, will now be reported as individual cases.

The intended goals of the proposed rulemaking are to make communicable disease reporting requirements in Wisconsin current, consistent with CSTE recommendations and supportive of Wisconsin public health practice.

Responses to Legislative Council Rules Clearinghouse Recommendations

The Department accepted the comments made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested.

Final Regulatory Flexibility Analysis

This rulemaking is unlikely to have a significant economic impact on the private sector generally, and any health care facilities or laboratories that may meet the definition of small business in 227.114 (1), Stats., in particular. It includes no fees, failure to comply with the rulemaking carries no penalties and communicable disease reporting mechanisms are already in place. Usual costs to the private sector include completing and mailing communicable disease case report forms, or keying-in and transmitting data electronically, to local health departments or the Department. These tasks are frequently performed by the infection control practitioner or clerical staff. Since the largest laboratories will be reporting automatically through electronic laboratory reporting, there will be minimal impact on these laboratories. Requests from the State Epidemiologist or the Local Health Officer for negative test results to justify release from isolation or quarantine are anticipated to be infrequent, as are requests from the State Epidemiologist that specimens to be forwarded to a public health laboratory for confirmatory or investigation purposes.

Changes to the Analysis or Fiscal Estimate

Analysis

No changes were made to the rule's fiscal analysis.

Fiscal Estimate

No changes were made to the fiscal estimate.

Public Hearing Summary

Public hearings were held in Madison on November 12, 2007 and in Wausau on November 13, 2007. There were no attendees. No comments were received during the comment period. The development phase of the proposed rules included circulation of a draft to the Wisconsin Council of Immunization Practices, Local Health Officers, the Wisconsin Association of Local Health Departments and Boards, the Wisconsin Chapter of the Association of Practitioners in Infection Control, the State Laboratory of Hygiene and its Laboratory Reporting Network, and the Bioterrorism Surveillance Epidemiology Workgroup. The draft was revised in response to comments received during the rule development phase.