

EXPEDITE
 Hearing is set
Date: 03/12/21
Time: 9:00AM
Judge/Calendar: Judge Lanese

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

DEPARTMENT OF LABOR AND
INDUSTRIES OF STATE OF
WASHINGTON,

Plaintiff,

v.

FOWLER NAT D. AND MARY M
DBA FARMBOY DRIVE IN,

Defendant.

No. 20-2-02460-34

SUPPLEMENTAL TO MOTION TO
DISMISS AND MOTION TO VACATE

Defendant, FOWLER NAT D. AND MARY M DBA FARMBOY DRIVE IN (“Farm Boy”), by and through undersigned counsel, Harbor Appeals and Law, PLLC, provides this Supplement to the previous filed motion to dismiss and vacate.

1. FACTS

1.1. Defendant Mary M. Fowler has run Farm Boy Drive-In since 1980. (Declaration of Mary M. Fowler, filed 02/18/21). She provides stable employment a small rural town. (Declaration of Mary M. Fowler, filed 02/18/21). No employee is over 47 years old. (Second Declaration of Mary M. Fowler, filed 02/22/21). There have been no cases of COVID-19 Farm Boy. (Second Declaration of Mary M. Fowler, filed 02/22/21).

1 1.2. In March of 2020, Governor Inslee issued his first Proclamation. In April of 2020,
2 Plaintiff issued a “Directive” informing the public that “DOSH does not enforce the Governor’s
3 Order directly.” (Att. 1, Labor Directive, April 2020). May 26, 2020, Plaintiff adopted an
4 “Emergency Rule” stating “Employers must not allow employees to perform work where a
5 business activity is prohibited by an emergency proclamation.” (Att. 2, Emergency Rule, May
6 2020). Authority to do so was purported to be under RCW 34.05.350, with requires “good cause”
7 as applied to an emergency situation.
8

9 1.3. COVID-19 proclamations have caused Farm Boy—for the first time since its
10 founding in 1980—to prepare for closing its doors for good. (Second Declaration of Mary M. Fowler,
11 filed 02/22/21). All employees will lose their jobs. Maytown will lose perhaps its largest employer.
12 (Second Declaration of Mary M. Fowler, filed 02/22/21). Meanwhile, no one has ever been harmed
13 at or been sick from visiting Farm Boy. (Second Declaration of Mary M. Fowler, filed 02/22/21).
14

15 1.4. As of February 19, 2021, the total “cases”¹ of COVID-19 for the State of Washington
16 is 332,904; with a total hospitalization are listed at 18,969; and deaths² numbering 4,822. (Att. 3,
17 Dashboard of Statewide Cases). Accepting these 3,461 deaths as actually resulting from³ 332,904
18 COVID-19 “cases,” the statewide fatality rate is extremely low at 0.0144846. Thurston County has
19

20 ¹ A “case” is defined any positive test for a fragment of any COVID virus (often not COVID-19), whether or not the
21 virus (fragment) is active, whether or not the person is ill or even showing symptoms, and whether or not the virus
22 (fragment) could actually make the person sick. (Att. 4, CDC Definition of Case). False positives are beyond abundant.
23 (*See* Att. 4, CDC Definition of Case) (implementing a “probable standard”). Government payments to hospitals for
24 COVID-19 patients is up to three times that of other illnesses, which obviously leads to perverse reporting incentives.
25 (Att. 5, Hospitals Paid More for Covid). Laboratory confirmed cases as of November of 2020 only amount to 80,093.
(Att. 6, Confirmed Cases November 2020).

² If someone dies and tests positive for COVID-19, or has symptoms of COVID-19, that is attributed as COVID death.
There is no inquiry into causation or co-morbidities. (Att. 4, CDC Definition of Case)

³ *Dying from* versus *dying with* COVID-19 are two very different things glossed over by Dashboard statistics. Unlike
government statisticians, courts are duty bound to determine causation before accepting facts when taking away
constitutional, employment, and property rights.

1 7010 cases and 64 death, for chance of dying with COVID-19 in our county at 0.00912. (Att. 7,
2 Dashboard of Thurston County Cases). When comparing the number of deaths to the population of
3 Washington (7,615,000 residents), the chances of living in Washington and dying of COVID-19 is
4 0.000063322. The overwhelming vast majority of persons dying with COVID-19 are in 60's, 70's,
5 80's, and 90's. (Att. 8, Dashboard of Age of Death). In Thurston County, literally, one person in
6 their 30's reportedly died with COVID, none under 30 years old, and only five total under 50 years
7 old. (Att. 8, Dashboard of Age of Death).

9 1.5. If an employee at a restaurant files a Labor & Industries claim on the basis her or she
10 contracted COVID-19 at his or her place of work, "such claim will be denied":

11 **When will a claim likely be denied?**

12 When the contraction of COVID-19 is incidental to the workplace or common to all
13 employment (such as an office worker who contracts the condition from a fellow
14 employee), a claim for exposure to and contraction of the disease will be denied.

15 (Att. 9, Frequently Asked Questions).

16 1.6. On December 15, 2020, Plaintiffs filed a "Petition" for "Immediate Restraint"
17 ("Petition"). (Petition, filed 12/15/20). Several declarations support it. First was declaration from
18 Nicholas Streuli. (Declaration of Nicholas Streuli, filed 12/15/20). His declaration attached copies
19 of proclamations. Nicholas had no personal knowledge of any harm to anyone at Farm Boy. Second
20 was from Anne Soiza. (Declaration of Anne Soiza, filed 12/15/20). Her declaration recited studies
21 stating COVID-19 could be dangerous. (Declaration of Anne Soiza). Ann had no personal
22 knowledge of any harm to anyone at Farm Boy. Third was the declaration of Michael Hall.
23 (Declaration of Michael Hall, filed 12/15/20). Michael is Plaintiff's attorney. He said his "office
24 made arrangements *for personal service of the accompanying pleadings and its registered agent for*

1 *service of process.*” (Declaration of Michael Hall at 3, filed 12/15/20) (emphasis added). He stated,
2 “*We anticipate that service will be completed on December 15, 2020 and will file proof of service as*
3 *soon as it is available.*” (Declaration of Michael Hall at 3, filed 12/15/20) (emphasis added). He had
4 no personal knowledge of any harm to anyone at Farm Boy.

5 1.7. No other substantive declarations supporting the CR 65 motion were filed.

6 1.8. On December 15, 2020, a “*Declaration of Mailing*” was filed. (Declaration of
7 Mailing, filed 12/15/21) (emphasis added). This was signed by a legal assistant, not any process
8 server. It stated “*I caused* the document below to be served as indicated below, properly addressed
9 and postage prepaid, to the following. . . .” (emphasis added). No summons was included:
10

11 DOCUMENTS: 1.) CASE COVER SHEET
12 18 2.) PETITION FOR ORDER COMPELLING
13 19 COMPLIANCE WITH AGENCY ORDER OF
20 IMMEDIATE RESTRAINT PURSUANT TO RCW
21 49.17.130 AND FOR INJUNCTIVE RELIEF UNDER RCW
22 49.17.170
23 3.) DECLARATION OF ANNE SOIZA
24 4.) DECLARATION OF NICHOLAS STREULI
5.) DECLARATION OF MICHAEL HALL
6.) TEMPORARY RESTRAINING ORDER COMPELLING
COMPLIANCE WITH AGENCY ORDER OF IMMEDIATE
RESTRAINT AND ORDER TO SHOW CAUSE
7.) A19-VOUCHER
8.) COVER LETTER

17 She stated “Mary M. Fowler dba Farm Boy Drive In” was getting a “copy” via “process service:

18 ORIGINAL TO: Superior Court Clerk (via E-filing)
19 Whatcom County Superior Court
20 311 Grand Ave. Ste. 301
21 Bellingham, WA 98264
22 COPY TO: Mary M. Fowler dba Farm Boy Drive In (via Process Service)
23 3840 Maytown Rd SW
24 Olympia, WA 98512
25 DATED this 15th day of December, 2020.
ERLYN R. GAMAD
Legal Assistant

1.9. No process server has filed a declaration attesting to personally serving anything on

Mary M. Fowler. . (See also Declaration of Mary M. Fowler, filed 02/18/21). Nat Fowler is dead.

1 (Declaration of Mary M. Fowler, filed 02/18/21).

2 1.10. On December 16, 2021, the Court issued a “Temporary Restraining Order” without
3 notice (“Restraining Order”) (Order, filed 02/16/21). The Restraining Order stated in pertinent part:
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- 5 • “Pursuant to RCW 49.17.170, the Court has *Jurisdiction over the parties*, and the subject
6 matter of, this petition for civil enforcement.” (emphasis added).
- 7 • “The Department has a well-grounded fear of immediate invasion of its clear legal right
8 to enforce the requirements of the Washington Industrial Safety and Health Act. . . .
- 9 • *Actual and substantial injury will result* by allowing Farm Boy Drive In to continue
10 operation . . . in that employees . . . will be exposed to risk of contracting COVID-19.
11 (emphasis added).
- 12 • The Department’s Petition for a Temporary Restraining Order is granted.

13 The Court Order did not provide an expiration date on the restraining order. It did not state
14 that failure to appear before the Court would result in another restraining order being entered. It did
15 not state the hour of issuance. The order was never personally served on Mary M. Fowler.

16 1.11. On December 18, 2020: An “Order Regarding Scheduled Show Cause Hearing” was
17 filed. (Order Regarding Show Cause, filed 12/18/21). A “Declaration of Service” was filed stating,
18 “the Order to Show Cause, dated December 16, 2020” was emailed to
19 “LELA@farmboydrivein.com.” (Declaration of Service, filed 12/18/20). Another “Declaration of
20 Service” was filed stating, “the Order Regarding Scheduled Show Cause Hearing, dated December
21 18, 2020” was emailed to “LELA@farmboydrivein.com.” (Declaration of Service, filed 12/18/20).

22 1.12. On December 22, 2020, Jason Celski appeared for Farm Boy Drive-In, and the
23 “Court directed the Deputy Clerk to administratively set the restraining order hearing over to January
24 5, 2021, at 3:00PM.” (Minutes, filed 12/22/20). Additionally, the minutes stated that “The Court will
25 sign an order extending the previous Temporary Restraining Order upon Presentation.” (Minutes,

1 filed 12/22/20).

2 1.13. On December 23, 2020, Plaintiff filed a “Motion for Order of Contempt” (Contempt
3 Motion). (Motion for Contempt, filed 12/23/20). The Contempt Motion stated it had evidence that
4 “Farm Boy . . . intended to remain open. . .”, that “Farm Boy was violating the Restraining Order.
5 This Contempt Motion was supported by a single declaration with no personal knowledge of any
6 thing occurring at Farm Boy. (Declaration of Lyndsey Banks, filed 12/23/20). The Declarant stated
7 she was told by an unnamed person that this person “drove past” Farm Boy and observed people
8 inside the restaurant. Based on this “evidence,” a motion to shorten time was presented ex-parte to
9 hear the Motion for Contempt. (Motion to Shorten Time, filed 12/23/20). The Court granted the
10 motion to shorten time and ordered the contempt hearing take place on December 29, 2020 (before
11 any hearing on the restraining order). (Order Granting Motion to Shorten Time, filed 12/24/20).
12 Despite the “emergency” threat of COVID exposure, the Court ordered that the “Parties shall appear
13 remotely *if possible*.” (emphasis added).
14

15 1.14. On December 28, 2020, a litany of Farm Boy employees filed declarations stating
16 none of them were sick or being harmed and that Farm Boy was a safe work environment.
17 (Declarations of Farm Boy Drive-In Employees, filed 12/28/20).
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19 1.15. On December 29, 2020, the Court ruled that Farm Boy Drive-In was in contempt.
20 (Order of Contempt, filed 12/29/20). No hearing on the ex-parte, no notice, temporary restraining
21 order had occurred yet. Mary M. Fowler had not been personally served anything. The Court ruled:

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- 23 • “This Court has jurisdiction over the parties to, and the subject of, this matter.”
 - 24 • “Farm Boy is in violation of the Temporary Restraining Order issued on December 15,
2020, and served on December 17, ⁴ 2020.”

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⁴ There is no declaration in the record indicating any service of anything on December 17, 2020.

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- “Pursuant to RCW 7.21.030, remedial sanctions against Farm Boy for its violation of the TRO are appropriate.”
 - “Sanctions against Farm Boy of \$2,000.00 a day from the period of December 18, 2020, through December 29, 2020, are reasonable” and ordered.⁵
 - “Additional remedial sanctions of \$2,000 per day from the date of this order through the date Farm Boy purges its contempt, or until otherwise ordered by this Court, are imposed on Farm Boy.”
 - “The temporary restraining order shall remain in full force and effect until otherwise ordered by this Court.”⁶

9 1.16. On December 31, 2020, Farm Boy filed a Response to the Temporary Restraining
10 Order. (Response to Order to Show Cause and Temporary Restraining Order, filed 12/31/20). It
11 argued that Plaintiff did not demonstrate facts or imminent harm justifying an immediate, ex-parte
12 no notice, restraining order and that the declarations of Farm Boy employees demonstrated there was
13 no imminent or irreparable or substantial harm or injury actually occurring at Farm Boy to Plaintiff
14 or any other third party.

15 1.17. On January 4, 2021, Plaintiff filed a Reply arguing in pertinent part that “Points of
16 Interest . . . such as restaurants, grocery stores, and religious establishments contribute to the spread
17 of COVID-19. . . .” and that “Farm Boy has never complied with the Governor’s proclamations and
18 WAC 296-800-14035” therefore “the Court’s temporary [no notice, ex-parte] temporary restraining
19 order” should “remain in place. . . .” (Reply, filed 01/04/21)

20 1.18. Also, on January 4, 2021, the Court ordered a Show Cause Hearing to take place of
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⁵ \$2000.00 per day is the maximum stated in RCW 7.21.030(2)(b).

⁶ CR 65 “provides that [any temporary restraining order] shall expire by its terms within such time after entry, not to exceed 14 days. . . .”

1 January 5, 2021, and that parties “shall appear remotely if possible.” (Show Cause Order, filed
2 01/04/21).

3 1.19. On January 5, 2021, Governor Inslee effectively lifted the ban on indoor dining in
4 Thurston County. (Att. 10, Restrictions on Indoor Dining Lifted in Thurston County). On the same
5 day, the Court ruled that “the Temporary Restraining Order entered on December 15, 2020 will
6 remain in full force and effect” and set a hearing for January 19, 2021, at 1:30pm.” (Court Minutes,
7 01/05/21).

8 1.20. On January 13, 2021, the Court entered an Order on Show Cause Hearing. (Show
9 Cause Order, filed 01/13/21). It ruled in pertinent part:

- 11 • “Actual and substantial injury *will result* by allowing Farm Boy to continue operation . .
12 .” (emphasis added).
- 13 • “There is a substantial probability that death or serious physical hard *could* result to
14 employees. . . .” (emphasis added).
- 15 • “The Court has jurisdiction over the parties to, and the subject of, this matter.”
- 16 • “The TRO was properly issued and should [and is to] remain in full force and effect until
17 other ordered by this Court *or until Farm Boy is permitted to resume offering indoor
18 dining service pursuant to the Governor’s COVID-19 proclamations. . . .*” (emphasis
19 added).

20 1.21. On January 13, 2021, Farm Boy filed a Motion to Dismiss and to Vacate Restraining
21 Order on Constitutional Grounds. (Motion to Dismiss, filed 01/13/21). In pertinent part, Farm Boy
22 argued that restraining order violated fundamental constitutional rights to hold private employment,
23 was a due process violation, equal protection, liberty interests, and was an unconstitutional taking. It
24 argued that Plaintiff was selectively and arbitrarily seek a restraining order and levying fines against
25 it. Farm Boy challenged the factual basis of the restraining order as not meeting the requisite

1 elements for issuance of an ex-parte, no notice, restraining order. It “objected to every material
2 finding in the temporary restraining order” and objected that immediate and irreparable injury, loss
3 or damage *will* result.” (Motion to Dismiss at 5, filed 01/13/21) (emphasis added). It also requested
4 an “evidentiary hearing to contest” the factual basis of the restraining order. (Motion to Dismiss at
5 5, filed 01/13/21).
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7 1.22. On January 13, 2021, Plaintiff moved for a second contempt order on shortened time.
8 (Second Motion for Contempt, filed 01/13/21; Second Motion to Shorten Time, filed 01/13/21). The
9 Second Contempt Motion was based on the same legal authority as the first. No declaration in
10 support filed contained any personal knowledge of anyone at Farm Boy harming anyone, nor
11 personal knowledge of any violation of any proclamation. One declaration contained links to
12 Facebook, where a “Farm Boy representative state[d]” that “what we’re doing is not against the law”
13 and the like. (Declaration of Lyndsey Banks, filed 01/13/21). It also stated the declarant was
14 informed that another unnamed person drove past Farm Boy and “observed cars in the parking lot,”
15 that the “blinds of the restaurant were closed,” and “One person was observed leaving the restaurant
16 with empty hands.” (Declaration of Lyndsey Banks, filed 01/13/21). Another declaration stated “two
17 [unnamed] members of my staff visited Farm Boy. . . .” (Declaration of Bryan Templeton, filed
18 01/13/21. This declarant asserted the unnamed persons “asked the drive-through attendant if he could
19 eat his food inside Farm Boy” and the “attendant responded with a wink and stated, ‘I can’t say yes
20 or no to that.’”
21

22 On the same day, an employee of Farm Boy, Alejandra Hamblin, filed an *unrebutted*
23 declaration stating that Farm Boy “follow[s] all health guidelines such as mask, temperature check
24 before and after shift and cleaning everything that has been touched.” She testified that Farm Boy
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1 has a glass protecting customers in the drive thru so people in the drive thru at the register when
2 [customers] pay inside for their food to go,” that Farm Boy’s blinds are down “so people do not
3 come inside for dining but only pay for food,” and that the restaurant has “not had any traces of covid
4 in the restaurant and all our employees have not had covid.” (Declaration of Alejandra Hamblin,
5 filed 01/13/21).

6
7 1.23. On January 14, 2021, the Court granted the Second Motion to Shorten Time and set
8 a second contempt hearing for January 19, 2021. (Second Order to Shorten Time, filed 01/14/21).

9 1.24. On January 15, 2021, Plaintiff filed a Reply in which the gravamen of its argument
10 justifying a no notice, ex-parte, restraining order and injunction was that “*Farm Boy’s actions are*
11 *either leading to or will result in actual and substantial injury to the Department in its role of*
12 *protecting worker’s statewide.*” (Reply at 9, filed 01/15/19) (emphasis added).

13 1.25. On January 19, 2021, the Court orally denied Farm Boy’s attorney’s request for a
14 continuance, kept the restraining order in place, orally found Farm Boy in contempt, and orally
15 granted Plaintiff’s motion for a preliminary injunction. (Minutes, Filed 01/19/21). No written order
16 was entered.

17
18 1.26. On February 8, 2021, Farm Boy filed a Motion to Dismiss for Lack of Jurisdiction
19 Over the Person and a Motion to Vacate Prior Orders under CR 60. (Motion and Memorandum, filed
20 02/08/21; Motion Order to Show Cause, filed 02/08/21). Farm Boys argued no summons had be
21 served or filed, all prior orders should be vacated as void, and the action should be dismissed for the
22 lack of personal jurisdiction.

23 1.27. On February 10, 2021, the Court granted the Farm Boy’s Motion for an Order to
24 Show Cause. (Show Cause Order, dated 02/10/21). The Court set a hearing for March 12, 2021. On
25

1 February 18, 2021, Mary M. Fowler filed a declaration attesting to the fact that she has never been
2 personally served any pleading or filing. (Declaration of Mary M. Fowler, filed 02/18/21). Farm
3 Boys now supplements its motion to dismiss and vacate.
4

5 2. ARGUMENT

6 2.1. The Court Lacks Personal Jurisdiction Over Farm Boy.

7 “Service of the summons . . . is necessary to complete the commencement of the action. . .
8 .” *e.g.*, *Powell v. Nolan*, 27 Wash. 318, 346, 68 P. 389, 390 (1902). Court Rule 4 states “the
9 summons and complaint shall be served together.” Court Rule 5 and CR 12 further require the
10 issuance of a summons and complaint. Where a summon has not be filed, let alone served, and
11 where neither a summons nor complaint has been personally served on the party, or the business
12 owner in the case of a sole proprietorship, the court lacks personal jurisdiction. RCW 4.28.080;
13 *Powell*, 27 Wash. at 346; *Asahi Metal Indus. Co. v. Superior Court of California, Solano Cty.*, 480
14 U.S. 102, 113, 107 S. Ct. 1026, 1032, 94 L. Ed. 2d 92 (1987); *Prof'l Marine Co. v. Those Certain*
15 *Underwriters at Lloyd's*, 118 Wash. App. 694, 703-04, 77 P.3d 658, 663 (2003). A party may move
16 under CR 12 to dismiss the action where there has been an insufficiency in process or service of
17 process. CR 12(b)(2), (4), (6).
18

19 Here, personal service of a summons and complaint, in the proper way, can confer personal
20 jurisdiction. There has been no personal service of any summons or complaint on Mary M. Fowler.
21 (Declaration of Mary M. Fowler, filed 02/18/21). *Personal* jurisdiction is not and could not be
22 conferred by RCW §§ 49.17.130, 170. Consequently, this Court lacked personal jurisdiction when
23 the restraining order was first entered, and it lacks it now. Dismissal is appropriate.
24

25 2.2. All Prior Orders are Void and Vacating Those Orders is Non-Discretionary.

1 Orders issued without personal jurisdiction are void regardless of any lapse of
2 time. *Powell*, 27 Wash. at 346, 68 P. 389, 390 (1902); *Asahi Metal Indus. Co.*, 480 U.S. at 113;
3 *Prof'l Marine Co.*, 118 Wash. App. at 703-04. There is a nondiscretionary duty on the trial court
4 to vacate void orders. CR 60(b)(5); *Servatron, Inc. v. Intelligent Wireless Prod., Inc.*, 186 Wash.
5 App. 666, 679, 346 P.3d 831 (2015).
6

7 Here, as stated above, the court lacked personal jurisdiction when prior orders were
8 entered, and it lacks them now. The Court has a nondiscretionary duty to vacate all previous orders
9 entered as void and dismiss this matter.

10 2.3. Mootness

11 A case is moot if the court cannot provide the basic relief originally sought or can no longer
12 provide effective relief. *Josephinium Assocs. v. Kahli*, 111 Wn. App. 617, 622, 45 P.3d 627 (2002);
13 *Orwick v. Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793, 796 (1984). Here, Plaintiff sought an
14 emergency, ex-parte, no notice, restraining order based on the claim that “imminent” and
15 “irreparable” harm “will” occur to Plaintiff’s “role of protecting workers statewide” because Farm
16 Boy—a tiny diner in a tiny town in rural Washington—allegedly violated the Governor’s
17 Proclamation by allowing people to sit down and eat in the restaurant. This claim, of course, is
18 absurd, but it also moot now because indoor dining is no longer banned. (Att. 10, Restrictions on
19 Indoor Dining Lifted in Thurston County). In other words, the court cannot now provide “the basic
20 relief originally sought” of instructing Farm Boy to not allow indoor dining. The restraining order
21 issue is moot, as is any injunctive relief, and this action must be dismissed. The contempt orders
22 should be vacated as argued below.
23

24 2.4. Evidentiary Objections to Declarations Filed by Plaintiff

1 2.4.1. *Lack of personal knowledge.*

2 “Evidence Rule 602 restates the time-honored view that a witness who testifies to a fact
3 which can be perceived by the senses must have had an opportunity to observe the fact and must
4 have actually observed it.” Wash. Prac., Methods of Practice § 34:4. (4th ed.), Evidence Rule 602.
5 Lack of personal knowledge. “Stated negatively, the rule bars statements which purport to relate
6 facts, but which are based only on the reports of others.” Wash. Prac., Methods of Practice § 34:4.
7 (4th ed.), Evidence Rule 602.
8

9 Here, the declarations from Plaintiff supporting the restraining order do *not* report any
10 firsthand personal knowledge about anything actually occurring at Farm Boy. They do *not* provide
11 that any employee or person from Farm Boy suffers from COVID-19 or that anyone is actually
12 sick or actually being harmed. Farm Boy objects and moves to strike all such declaratory
13 statements made without firsthand personal knowledge from all declarations.
14

15 2.4.2. *Hearsay.*

16 Evidence Rule 801(a) defines hearsay as “(1) an oral or written assertion or (2) nonverbal
17 conduct of a person, if it is intended by the person as an assertion.” Here, for the similar reason
18 that Plaintiff’s declarations lack personal knowledge, Plaintiff’s declarations are barred under
19 hearsay rules. The agency supervisor(s) in declaratory statements are reporting what some
20 unknown person(s)/staff allegedly stated to him or her. This is not allowable evidence, it is hearsay,
21 and Farm Boy objects and moves to strike all such declaratory statements from all declarations.
22

23 2.4.3. *Violation of Frye.*

24 “The courtroom is not the appropriate venue for scientists with reasonable differences of
25 opinion to resolve their professional disputes.” *Moore v. Harley-Davidson Motor Co. Grp.*, 158

1 Wash. App. 407, 418, 241 P.3d 808, 813 (2010). “[B]oth the underlying scientific principle *and* the
2 technique employing that principle” must be articulated and “find general acceptance in the
3 scientific community” before scientific evidence is admissible under Frye. *Moore v. Harley-*
4 *Davidson Motor Co. Grp.*, 158 Wash. App. 407, 418, 241 P.3d 808, 813 (2010).
5

6 Here, Plaintiff supplies declarations from persons that have no firsthand knowledge of the
7 studies they cite. There is no testimony supplied on these studies regarding the “underlying
8 scientific principle *and* the technique employing that principle.” Rather, Plaintiff simple recites
9 conclusory studies as conclusory fact. Worldwide and statewide response to COVID-19, a novel
10 issue, has varied considerably. Some countries like Sweden, and states like North Dakota, have
11 found it safer for everyone to not shut down businesses or discard individual liberty and decision
12 making. They have fared no worse during the outbreak and in most regards much better as to
13 overall health, safety, duration, as well as economically. Dictatorships, like China, have shut down
14 businesses and ordered populations to stay home in order to flex authoritarian political control and
15 government might over the ruled masses lacking recognition of individual rights. Statistics—and
16 common sense—in Washington demonstrate COVID-19 is not a catastrophic emergency, and that
17 it is only a serious threat to those with preexisting conditions and comorbidities. Regardless, the
18 issue is novel, and the fact that Plaintiffs cannot point to a single person being sick or infected or
19 harmed—whatsoever—at Farm Boys is objective evidence demonstrating flaws in its scientific
20 evidence and theory. Accepting Plaintiff’s secondhand scientific evidence without adequate
21 foundation laid, and examination by the Court, is error under Frye.
22

23 2.4.4. *Speculation.*

24 Evidence Rule 702 prevents conjecture and speculation from being admitted. *See also State*
25

1 v. *Huynh*, 49 Wash. App. 192, 198, 742 P.2d 160, 165 (1987) (holding “The admission of the
2 expert's testimony that the source of the accelerant *could* be the 2-gallon gas can was error.”)
3 (emphasis in original); *Riccobono v. Pierce County*, 92 Wash. App. 254, 966 P.2d 327 (Div. 2
4 1998) (holding expert's opinion was based upon a number of assumptions and the assumptions
5 were not supported by the record); *State v. Lewis*, 141 Wash. App. 367, 166 P.3d 786 (Div. 2 2007)
6 (holding generalized testimony that methamphetamine *can* cause paranoia, irritability, or irrational
7 behavior was inadmissible because methamphetamine affects different people differently and that
8 some people have such a high tolerance for the drug that it has no effect upon their
9 behavior); *Slippern v. Briggs*, 66 Wash. 2d 1, 394 P.2d 229 (1964), adhered to, 401 P.2d 216
10 (Wash. 1965) (holding treating physician not permitted to express opinion on whether something
11 was to occur or not occur because that would invite the jury to rely on speculation).
12

13 Here, Plaintiff’s argument for an ex-parte, no notice, restraining order as well as an
14 injunction was that “irreparable” harm was occurring to Plaintiff’s ability to protect “workers
15 statewide.” (Reply, filed 01/15/19). This claimed harmed crosses over from the speculative to the
16 realm of the absurd; nothing Farm Boy does, or does not do, impacts or could impact Plaintiff’s
17 ability to enforce lawful regulations. Moreover, Plaintiff’s assertion that anyone at Farm Boy is
18 going to die or be harm has not proven to be true over the last two months (in fact) and was pure
19 speculation when first asserted in the December 2020 ex-parte, no notice, petition. No evidence
20 even suggests anyone has been ill or harmed at Farm Boy. These realities demonstrate that Farm
21 Boy is either not allowing indoor dining, and there is not case for a restraining order, or that indoor
22 dining is not dangerous, and Plaintiff’s claims are hyperbolic not justifying ex-parte, no notice,
23 restraining orders. Citing studies that say people *could* get infected or sick, does not change these
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1 realities, and is pure speculation as to this case and controversy; in now way was an no notice, ex-
2 parte, restraining order under CR 65 justified. The burden was and is squarely on Plaintiffs to show
3 actual harm and injury occurring and Plaintiff plainly failed presenting only speculative conjecture
4 to this Court on an ex-parte basis.

5
6 *2.4.5. Confrontation clause and due process violation even if hearsay was admitted.*

7 While the confrontation clause generally only applies to criminal actions, “the due process
8 of law clauses in the Fifth and Fourteenth Amendments give one the opportunity to cross-examine
9 in civil proceedings as a matter of constitutional right.” *Little v. Rhay*, 8 Wash. App. 725, 729, 509
10 P.2d 92, 95 (1973) (negative treatment on other grounds). If a hearsay statement survives
11 admissibility, it must also survive a confrontation clause challenge. *State v. Mason*, 160 Wash. 2d
12 910, 162 P.3d 396 (2007) (holding “To survive a hearsay challenge is not, per se, to survive
13 a confrontation clause challenge.”).

14 Here, this Court’s restraining orders and the Governor’s proclamation declare criminal
15 penalties. The evidence presented by Plaintiff is pure hearsay, consisting of one bureaucrat
16 repeating what other unnamed bureaucrats stated to him or her. If this hearsay was somehow
17 admissible, it is not admissible under the confrontation clause and due process clause because
18 Farm Boy has no ability to confront, challenge, or cross-examine the unknown bureaucrat(s) prior
19 to entry of any restraining order.

20
21 2.5. No Restraining Order or Injunction was Ever Justified.

22 Court Rule 65 provides in pertinent part the following:

23 A temporary restraining order may be granted *without written or oral notice to the*
24 *adverse party or the adverse party's attorney only if (1) it clearly appears from*
25 *specific facts shown by affidavit . . . that immediate and irreparable injury, loss, or*
damage will result to the applicant before the adverse party or her or his attorney can

1 be heard in opposition, and (2) the applicant's attorney certifies to the court in writing
2 the efforts, if any, which have been made to give the notice and the reasons supporting
3 the applicant's claim that notice should not be required.

4 ***

5 Every temporary restraining order granted without notice shall be endorsed with the
6 *date and hour of issuance . . . shall define the injury and state why it is irreparable*
7 *and why the order was granted without notice; and shall . . . not to exceed 14 days. .*

8 Court Rule 12(b)(6) requires the Court to be able to grant the requested relief. Whether a
9 temporary restraining order was lawfully issued is a separate and distinct legal analysis from whether
10 a party complied with any relevant regulation. *Turner v. City of Walla Walla*, 10 Wash. App. 401,
11 404, 517 P.2d 985, 987 (1974) (holding “We do not reach the issue . . . of . . . whether plaintiff
12 complied with the terms of the Uniform Building Code [because t]he . . . question before th[e]
13 court . . . is whether the trial court abused its discretion in granting the temporary injunction.”).
14 Courts of Appeal review temporary restraining orders by, among other reasons, “determine[ing]”
15 whether “there was a clear legal right to the restraining order.” *Alderwood Assocs. v. Washington*
16 *Envtl. Council*, 96 Wash. 2d 230, 234, 635 P.2d 108, 111 (1981).

17 Here, first, no notice was given to Mary M. Fowler nor her attorney. Plaintiff’s attorney did
18 not certify in his declaration accompanying the petition that any efforts were made to contact the
19 “party”—Mary M. Fowler, or her attorney. He only called an employee at Farm Boy. His declaration
20 about personal service being planned or about to occur after entry of the ex-parte restraining order
21 was not true.

22 Second, the April of 2020 Labor Directive clearly admitted Plaintiff cannot directly enforce
23 any proclamation, let alone via ex-parte, no notice, restraining orders. Furthermore, no “*specific*
24 *facts*” occurring at Farm Boy “*clearly*” demonstrate “immediate and irreparable injury, loss, or
25 damage will result to the applicant,” *i.e.*, Plaintiff, a massive, faceless, bureaucracy. In an attempt to

1 erroneously manufacture harm justifying an ex-parte, no notice, restraining order, Plaintiff argues
2 that “Farm Boy’s actions . . . will result in actual or substantial injury to the Department in its role
3 of protecting workers statewide.”⁷ (Reply at 8, filed 01/15/21). No, quite frankly, that is absurd and
4 not remotely true, let alone “clearly” established. Even if Farm Boy was allowing indoor dining,
5 such actions by the metaphorical David, *i.e.*, Farm Boy, is utterly incapable of irreparably harming
6 the metaphorical Goliath’s, *i.e.*, Labor & Industries, ability to “protect workers statewide.”
7

8 Third, even if Plaintiff could directly enforce proclamations with ex-parte restraining orders,
9 and even if there was some *conceivable* nexus between Farm Boy allegedly violating the
10 proclamation and that alleged violation harming the “Department[’s] . . . role of protecting workers
11 statewide”—Plaintiff’s declarations plainly failed to “clearly” demonstrate any such nexus. Farm
12 Boy allowing, or not allowing indoor dining, has no impact on “the Department in its role of
13 protecting workers statewide.” Plaintiff, “statewide,” can do whatever it wants and that is legal. What
14 Plaintiff could not do, and did not do, is “clearly” show “specific” and “irreparable harm” that “will”
15 occur if an “emergency” ex-parte, no notice, restraining order was not ordered. It cannot show
16 injunctive relief on the same basis is justified either.
17

18 Fourth, *arguendo*, even if applicable statutes and the language of CR 65 were mangled to the
19 point of somehow allowing Plaintiff to seek “emergency” restraining orders on behalf of workers—
20 the declarations in this case do not show a “specific” emergency—let alone irreparable harm—
21 occurring at Farm Boy at all. Not one person has been sick at Farm Boy or injured in anyway. Not
22

23 ⁷ Labor & Industries, in its petition, claims its clear right being imminently harmed, and justifying a no notice, ex-
24 parte, restraining order, is its ability to protect all workers from harm from COVID-19. The ludicrous nature of this
25 claim is perhaps best showcased by the fact that Labor & Industries publicly states that it will deny workers protection
and claims “When the contraction of COVID-19 is incidental to the workplace.” (Att. 9, Frequently Asked Questions,
available at [https://www.lni.wa.gov/agency/outreach/workers-compensation-coverage-and-coronavirus-covid-19-
common-questions](https://www.lni.wa.gov/agency/outreach/workers-compensation-coverage-and-coronavirus-covid-19-common-questions)).

1 at the time of issuance of the restraining order and not in the over two months since then either. Not
2 one person from Farm Boy has complained or sought relief. According to the Dashboard, as of
3 2/19/2021 at 4:40pm the total “cases” of COVID-19 for the State of Washington is 332,904; with a
4 total hospitalization listed at 18,969; and deaths numbering 4,822. Accepting these 3,461 deaths as
5 actually caused by 332,904 COVID-19 “cases,” the fatality rate is extremely low at 0.0144846.
6 Thurston County has 7010 cases and 64 death, for a chance of dying with COVID-19 at .00912.
7 When comparing the number of deaths to the population of Washington (7,615,000 residents), the
8 chances of living in Washington and dying of COVID-19 is 0.000063322. The age of nearly every
9 single person dying with (who knows whether *from*???) COVID-19 in Thurston County was over
10 50 years old. No one over 47 years old works at Farm Boy. The likelihood of any employee dying
11 from COVID-19 at Farm Boys is basically zero. These are not emergency circumstances that
12 remotely justify ex-parte, no notice, restraining orders—repugnant to due process in all but the most
13 extreme case.
14

15 Fifth, the temporary restraining order did not contain the requisite language of the hour and
16 time of issuance. It did not state that it would expire in 14 days. The show cause portion of the order
17 did not even say that Plaintiff’s relief would be granted if Farm Boy failed to appear or answer.
18

19 In sum, the requisite elements for CR 65 an “emergency” restraining order—ex-parte, with
20 no notice—were not remotely met in this matter. Plaintiff has no claim for an injunction because
21 there is no evidence of any actual harm occurring. Plaintiffs have not stated a claim for which relief
22 can be granted because under the facts and evidence presented. Farm Boy could not possibly impact
23 Plaintiff’s role in “protecting workers statewide.” Granting the restraining order was not remotely
24 supported under CR 65 and was a gross due process violation. No continued restraining order or
25

1 injunction can be justified under the law.

2 2.6. The Contempt Orders Before an Actual Hearing on the Temporary Restraining Order
3 Were Gross Due Process Violations.

4 “The strictures of the Due Process Clause forbid a state court to
5 exercise personal jurisdiction . . . under circumstances that would offend traditional notions of fair
6 play and substantial justice.” *Asahi Metal Indus. Co. v. Superior Court of California, Solano Cty.*,
7 480 U.S. 102, 113, 107 S. Ct. 1026, 94 L. Ed. 2d 92 (1987). It is fundamental that a person must
8 receive adequate notice and opportunity to be heard before an order or judgment can be entered
9 against him. *In re Marriage of Maxfield*, 47 Wash. App. 699, 704, 737 P.2d 671, 674 (1987);
10 *Gourley v. Gourley*, 158 Wn.2d 460, 467, 145 P.3d 1185, 1188 (2006); *Mathews v. Eldridge*, 424
11 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); *Olympic Forest Prods. v. Chaussee Corp.*,
12 82 Wn.2d 418, 422, 511 P.2d 1002, 1005 (1973). If procedural safeguards are inadequate, a court
13 lacks jurisdiction over a party and cannot enter a valid order against him. *Maxfield*, 47 Wash. App.
14 at 704. Any such order is void. *Id.* at 706; *Hart v. Hawtin*, 8 Wash. App. 2d 1025, n. 9 (2019)
15 (unpublished). No later hearing . . . can undo . . . [a] due process [violation]. . . .” because the
16 Supreme Court of Washington “has not embraced the general proposition that a wrong may be
17 done if it can be undone.” *Olympic Forest Prods. v. Chaussee Corp.*, 82 Wn.2d 418, 422, 511 P.2d
18 1002, 1005 (1973) (internal punctuation and citation omitted); *Hawtin*, 8 Wash. App. 2d 1025, n.
19 9.

20
21 In pertinent part, RCW 7.21.010 defines contempt of court as follows:

22 Contempt of court means *intentional*:

23 ***

24 (b) Disobedience of any lawful judgment, decree, order, or process of the court;

25 ***

If a contempt finding is based upon the violation of a court order, *the order is strictly*

1 *construed in favor of the contemnor. In re Marriage of Humphreys*, 79 Wash.App. 596, 903 P.2d
2 1012 (1995) (emphasis added).

3 Here, there was no personal jurisdiction over Farm Boy or Mary M. Fowler. The procedural
4 and substantive requisites of a summons being issued and (any) personal service never occurred.
5 Moreover, no evidence has been produced by Plaintiff demonstrating Farm Boy has actually harmed
6 anyone, let alone Plaintiff. Astonishingly (from a civil procedural and due process perspective), a
7 contested hearing on the (void) restraining order had not even taken place before two contempt
8 orders—imposing maximum financial penalties—were issued. Even if there was personal
9 jurisdiction, and there was not, the due process clause mandates as a matter of fundamental fairness
10 adequate “opportunity to be heard” before such contempt orders could be issued. Farm Boy had a
11 due process right to a hearing on the ex-parte, no notice, temporary restraining order before it could
12 be held in contempt of such order. Since due process violations cannot be undone, these contempt
13 orders were void at inception.
14

15 2.7. Prior Orders Should be Vacated Under CR 60(b)(1)

16 Court Rule 60(b)(1) allows orders and judgments to be vacated based on irregularity in
17 obtaining them. Here, regardless of statutory, court rule, and constitutional violations—the
18 procedural history and events of this matter were certainly irregular and prejudicial to Farm Boy to
19 the degree that all prior orders, contempt and otherwise, should be vacated.⁸
20

21 2.8. Plaintiff’s Actions Violate Chapter, 43.06, RCW. Said RCW and Applicable WACs
22 are Unconstitutional in Creation and as Applied by Plaintiff Seeking Ex-Parte, No
23 Notice, Restraining Order and Contempt Orders Before Even a Hearing on the Merits

24 ⁸ Plaintiffs strongly appear to be forum shopping, as, apparently, the same petitions against other similarly situated
25 Defendants in other counties have been dismissed by Plaintiffs. This was after judges in those counties have pointed
out the gross service and (due) process defects in Plaintiff’s strategy to rain the unlimited power of the state down on
small business and families about to go bankrupt—ex-parte and without so much as a hearing on the merits.

1 The United States Supreme Court has held that “The Constitution of the United States is a
2 law for rulers and people, equally in war and in peace, and covers with the shield of its protection all
3 classes of men, at all times, and under all circumstances.” *Ex parte Milligan*, 71 U.S. (4 Wall.) 2,
4 120-21, 18 L.Ed. 281, 295 (1866).⁹ The Supreme Court went on to hold that allowing the government
5 to violate the constitution in an emergency leads to the most “pernicious consequences” that “was
6 ever invented by the wit of man.” *Id.* The high court reasoned that constitutional provisions cannot
7 be “suspended during any of the great exigencies of government.” *Id.*

9 The “right to hold specific private employment” is a fundamental right of Washington
10 citizenship. *Plumbers Steamfitters Union Local 598 v Was. Pub. Power Supply sys.*, 44 Wn.App 906,
11 915, 724 P.2d 1030 (1986). Washingtonians have “the right to hold specific private employment free
12 from unreasonable governmental interference. . . .” *Duranceau v. City of Tacoma*, 27 Wn.App. 777,
13 780. 620 P.2d 533 (1980). *New State Ice Co. v. Liebmann*, 285 U.S. 262, 278 (1932) (holding
14 “Nothing is more clearly settled than that it is beyond the power of a state, under the guise of
15 protecting the public, arbitrarily [to] interfere with private business or prohibit lawful occupations or
16 impose unreasonable and unnecessary restrictions upon them.”) (internal punctuation omitted).
17 The Attorney General of the state of Washington proclaims the right to employment to be a
18 fundamental right:

20 Everyone in Washington has civil rights. There are federal, state, and local laws that
21 protect our rights to fair treatment, *including in employment*, housing, education,
22 voting, insurance, credit, and public accommodations.

23 <https://www.atg.wa.gov/civil-rights-laws-and-enforcement> (emphasis added). The Constitution of

24 _____
25 ⁹ If the constitution cannot be lawfully suspended during the Civil War, it cannot be suspended because of COVID-19.

1 the State of Washington imposes on the Governor the duty to see that the laws are faithfully
2 executed. Const. art. 3, s 5.

3 In pertinent part, RCW 43.06.220 states:

4 the governor after proclaiming a state of emergency and prior to terminating such,
5 may, in areas described by the proclamation issue an order prohibit. . . .

6 ***

7 (f) The sale, purchase or dispensing of other commodities or goods, as he or she
8 reasonably believes should be prohibited to help preserve and maintain life, health,
9 property or the public peace

10 ***

11 (h) Such other activities as he or she reasonably believes should be prohibited to help
12 preserve and maintain life, health, property, or public peace.

13 Under RCW 43.06.210, “the governor must terminate said state of emergency proclamation
14 *when order has been restored in the area affected.*” (emphasis added). In April of 2020, Plaintiff
15 issued a “Directive” informing the public that “DOSH does not enforce the Governor’s Order
16 directly.” The Directive also states that “DOSH staff will not determine whether an employer is
17 engaged in essential activity” under the Governor’s Proclamations but would make referrals to the
18 Washington State coronavirus.wa.gov if “there is no clear rationale for the business operating.” On
19 May 26, 2020, Plaintiff adopted an “Emergency Rule” that states “Employers must not allow
20 employees to perform work where a business activity is prohibited by an emergency proclamation.”
21 It purported its authority to do so under RCW 34.05.350, with requires “good cause” as applied to
22 an emergency situation.

23 Here, in April of 2020, Plaintiff admitted it did not have authority to “enforce the Governor’s
24 Order directly.” Since then, Plaintiff has incrementally and “perniciously” declared authority to
25 essentially do whatever it wants, including citing and fining small family businesses on the brink of
bankruptcy—\$10,000.00 a day or more—because it alleges such businesses are not in compliance

1 with the Governor’s Proclamations. Plaintiff’s evidence of any proclamation violation is paltry,
2 lacking any firsthand personal knowledge, let alone statements about actual harm being done. More
3 shockingly, Plaintiff disposed of the desire to even have contested hearings on the issue by filing for
4 ex-parte, “emergency” no-notice restraining orders. Any orders, RCW’s, WAC’s, or proclamations
5 that purportedly support Plaintiff’s action of seeking ex-parte, no notice, restraining orders are
6 unconstitutionally as applied to Farm Boy’s due process, property, liberty, and employment rights.
7 In short, it is Plaintiff’s actions—not Farm Boy’s—that are contemptible.
8

9 Furthermore, there is no “emergency” taking place at Farm Boys, let alone in Thurston
10 County or this State. All purported authority by Plaintiff stems from Chapter, 43.06, RCW. That
11 chapter requires the Governor “to help preserve and maintain life, health, property, or public
12 peace.” RCW 43.06.220(g), (h). Along the same lines, RCW 43.06.210, provides that “the
13 governor must terminate said state of emergency proclamation *when order has been restored in*
14 *the area affected.*” Order has been restored if it was ever lacking. *The fundamental rights of*
15 *employment, property rights, and public peace exponentially outweigh the 0.00912 chance anyone*
16 *in Thurston County has of catching COVID-19 and dying.*
17

18 The bankruptcies, suicides, depression, loss of property, individual rights, liberties, and
19 political contention and division caused by the continuation of these authoritarian, tyrannical,
20 proclamations are the only thing that is jeopardizing “life” and “health.”¹⁰ In no democratic society
21 can such extended dictates from a single authoritarian be tolerated. If this county and state can hold
22 elections for a president, a house of representatives, a senate, and a governor and all state offices—
23

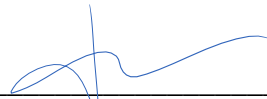
24 ¹⁰ Undersigned counsel’s own father was effectively prevented cancer treatment because of these types of “lifesaving”
25 proclamations. People being categorically denied the basic rights of life and property to prevent a less than 0.1%
chance of death—impacting only very specific demographics of people—is constitutional unreasonable and
prohibited.

1 and if this Court can hold hearings and trials, *in person even*—then the legislature can certainly
2 convene and pass actual democratically made law on any issues related to COVID-19.

3 The governor’s authority to issue and enforce proclamations has ceased because any crisis
4 in Thurston County no longer exists—if it ever did. Separation of powers doctrine and check and
5 balances, makes this Court duty bound to both stand up to executive, *i.e.*, historically monarchical,
6 overreach as well as legislative omission and complacency. This Court should not go along with
7 Plaintiff’s desire for RCW’s, Court Rules, WAC’s, and proclamations to be unconstitutionally
8 applied in such a way as to allow star chamber like restraining and contempt orders to be issued.
9

10 Respectfully submitted this 22nd day of February 2021.

11 HARBOR APPEALS AND LAW, PLLC

12 

13 _____
14 Drew Mazzeo, WSBA No. 46506
15 Attorney for FarmBoy

ATTACHMENT 1

DOSH DIRECTIVE

Department of Labor and Industries
Division of Occupational Safety and Health

Keeping Washington Safe and Working

1.70

GENERAL CORONAVIRUS PREVENTION UNDER STAY HOME-STAY HEALTHY ORDER

Date: April 7, 2020

I. Purpose

This Directive provides enforcement policy when evaluating workplace implementation of social distancing, sanitation and sick employee practices as required under the Governor's Proclamation: Stay Home - Stay Healthy Order.

Under the Order, people are required to stay home except for essential activities, which include a wide range of economic and social functions necessary to maintain minimum living conditions. Employers who continue operations under the Order are required to maintain coronavirus prevention practices consistent with DOSH, OSHA and Department of Health guidance. Coronavirus is recognized as a very serious workplace hazard.

II. Scope and Application

- A.** DOSH does not enforce the Governor's Order directly. Under existing DOSH rules, employers are required to protect workers from biological hazards and implement programs to address known hazards in the workplace.
- B.** DOSH staff will not determine whether an employer is engaged in essential activity. If there is no clear rationale for the business operating, this may be referred to the Washington State coronavirus.wa.gov page. (See the Governor's site "What's open and closed" at <https://coronavirus.wa.gov/whats-open-and-closed>).
- C.** DOSH staff will limit actions related to infectious disease only when there is an aspect of exposure that is specific to the relationship between employers and workers. DOSH will do so in a manner consistent with public health orders and issued guidance.
- D.** There are extensive recommendations for healthcare workplaces with specific guidance related to infectious disease prevention. Therefore, this Directive will normally not be used in specific healthcare delivery work task settings.

III. References

- Chapter 296-800 WAC, Safety and Health Core Rules
 - WAC 296-800-11045 Protect employees from biological agents
 - WAC 296-800-140, Accident Prevention Program
 - WAC 296-800-22005, Keep your workplace clean.
 - WAC 296-800-23025, Provide convenient and clean washing facilities

- Proclamation by the Governor: Stay Home - Stay Healthy Order
- CDC: Infection Control in Healthcare Personnel
- CDC Coronavirus (COVID-19) Page
- Washington State Coronavirus Response (COVID-19) Page
- OSHA Publication 3990: Guidance on Preparing Workplaces for COVID-19.pdf (English)
- OSHA Publication 3992: Guidance on Preparing Workplaces for COVID-19.pdf (Spanish)
- Washington State Department of Health Recommendations for Temporary Worker Housing Facilities

IV. **Background**

Staff shall learn and consider the baseline expectations for employers to provide workers a safe workplace during the coronavirus (COVID-19) virus outbreak. Overt workplace specific practices by the employer must be made to implement the Governor's Executive Order. There are four basic categories of prevention elements that must be addressed during the inspection/investigation. Employers must ensure social distancing practices for employees and control customer flow; ensure frequent and adequate employee handwashing and surface sanitation; and ensure sick employees stay home or go home if ill. Employers must also provide basic workplace hazard education about coronavirus and how to prevent transmission in the language best understood by the employee. DOSH staff will need to be thoughtful on how these four elements are addressed based on the challenges that the specific worksite tasks present, but all four elements must be addressed in each operating workplace.

DOSH Staff shall ensure that employers and employees are made aware that it is against the law for any employer to take any adverse action (such as firing, demotion, or otherwise retaliate) against a worker they suspect for exercising safety and health rights such as raising safety and health concerns to their employer, participating in union activities concerning safety and health matters, filing a safety and health complaint or participating in a DOSH investigation. DOSH Staff will ensure workers are informed they have 30 days to file their complaint with L&I DOSH and/or with Federal OSHA.

Employers must institute these prevention program elements or equivalent protections to limit the spread of the disease within the workplace under DOSH rules and in connection to the Governor's Order. These procedures are specific to COVID-19 prevention and the related virus. If a workplace has a concern about exposures to another pathogen, Technical Services must be consulted on procedures specific to that pathogen.

A. Basic Program Elements.

The following **bold program elements are essential** to the program whenever feasible. Employers who can establish work rules consistent with this section are not required to have further active monitoring or ongoing assessment of their workplace.

1. **Educate workers (and customers) about COVID-19 and how to prevent virus spread.**

- a. Post posters/information from the local health department, state Department of Health, Center for Disease Control and Prevention, and other authorities.
- b. Inform workers about the steps being taken in the workplace to establish social distancing, increased handwashing, and to prevent the spread of the virus.

2. **Maintain at least 6 feet of spacing at all times.**

- a. Occupied workstations are separated by 6 feet or have physical barriers
- b. Only infrequent intermittent passing within 6 feet is allowed between employees without wearing respiratory protection.
- c. Materials, produce, or work items are transported between workers by mechanical means or by using staging points.
 - Workers may be along a conveyor or production system carrying product.
 - Workers may go to a central point one-at-a-time to drop off or pick up items that transfer between workers.
 - Workers may have mailboxes, bins, or other surfaces at the periphery of their workspace where materials are left for them by other workers.
 - Provisions should be made to clean objects handled extensively by more than one worker when the items are transferred. Physically wiping the object so it is visibly clean (no obvious soiling, smearing, or streaks) is sufficient.
 - Social distancing is maintained during breaks and at shift start and end, while workers are at the employer's worksite.
 - Meetings with workers are limited in less than 10 and maintain 6 foot spacing of all in attendance.

3. **Regular cleaning of area, frequent cleaning of common-touch surfaces.**

- a. A cleaning schedule must be kept to maintain general housekeeping to prevent buildup of dirt and clutter.
- b. The first step in cleaning is to remove buildups of dirt and other materials on surfaces. Water and soap or other cleaning fluids are used with wipes, clothes, brushes or other physical means of removing these materials so that there is no visible build-up, smears, or streaks on the surface. Disinfecting is the second step and is primarily needed for high touch surfaces. Bleach solutions or an EPA approved disinfectant **must be used** to make sure this is effective. (See the list of approved disinfectants at <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>).

Surfaces that are commonly touched with the hands but difficult to clean (fabric, rough surfaces, and so forth) may need to be covered to make sure the environment is hygienic.

- c. Cleaning supplies need to be available to workers to do spot cleaning when necessary.
 - d. Surfaces that are regularly touched by workers must be cleaned regularly to maintain a visibly clean state (no obvious soiling, smearing, or streaks).
 - For surfaces touched by multiple workers, this can be on a frequent schedule, or between workers.
 - For surfaces touched by a single worker, this should be done periodically, at least once per shift or when unclean.
4. **Workers must have facilities for frequent handwashing readily available, including hot and cold (or tepid) running water and soap.**
- Staff must pay particular attention to transient outdoor and delivery workers and non-fixed worksites where there are no exceptions being granted. Portable wash stations are readily available.
 - To facilitate more frequent cleaning, secondary handwashing or sanitizing stations can be provided with either hand sanitizer, or wipes/towelettes.
 - Workers must be able to wash their hands after touching any surface/tool suspected of being contaminated, before and after eating and using the restroom, and before touching their face.
5. **Sick Employee and Post- employee illness procedures.**
- DOSH staff will ensure employers have a program to prevent sick employees from entering the workplace and when recognized, that ill employees are sent home.
- a. Ensure a system for preventing sick employees to be present at work.
 - b. Establish a process for deep cleaning after any worker leaves the workplace reporting a suspected or confirmed case of COVID-19.
 - c. Thoroughly clean areas where the worker worked or would have stayed more than 10 minutes.
 - Wipe all accessible surfaces
 - Clean up any visible soiling including any smears or streaks.
 - Sanitize common touch surfaces in the vicinity.
 - d. Do not allow other workers into these areas until the cleaning is complete.

B. Consider Possible Alternate Strategies.

Some industries may have challenges with basic elements so one or more of the following alternatives may be used to provide protection for workers.

1. Engineering controls can be established and maintained to provide an effective distancing of employees when it is not feasible to fully separate them.

- a. Barriers must block direct pathways from face to face between individuals, and make it so any indirect air pathways are greater than 6 feet. Sneezes and coughs should not be directed into the air above someone within 6 feet.
 - b. Covers can be used on common touch surfaces that cannot be easily cleaned. The covers may create a cleanable surface, or be something that can be changed out between individuals.
 - c. Ventilation that provides a clean air supply to a worker's breathing zone.
2. Job modifications may be necessary to facilitate appropriate social distancing. Although an operation may be overall part of an essential industry or service, there may be portions of the work which can be deferred until a later time. In some cases, reorganizing the work may be necessary to break up tasks in a manner that facilitates social distancing or other protective measures.
 3. Health surveillance can be done to identify early signs of infection, and separate workers who may present a risk to others.
 - a. There will usually be an initial screening and then periodic review (probably daily with COVID-19).
 - b. Initial screening will involve some review of the worker's history that may be relevant to their risk of contracting the disease. This may also include review of the worker's susceptibility to the disease and an education element on the disease and prevention.
 - c. Periodic screening will involve tracking symptoms and ongoing risks for contracting the disease.
 - d. The employer should set up surveillance in consultation with a physician or occupational health nurse and consider having ongoing participation or review by the healthcare professional.
 - e. The employer needs to consult with health professionals and determine whether the program relies on self-reporting by workers or if someone will be actively reviewing worker health on a regular basis.
 4. Personal protective equipment may be helpful to prevent transmission of the disease.
 5. Face shields can prevent direct exposure to expelled droplets and provide protection from disinfectants.
 6. Respirators require care in use and management under a program covered by the Respirator Rule, Chapter 296-842 WAC. Respirators are not normally recommended for social distancing purposes, but may be appropriate where workers must have close proximity to others.
 7. Surgical face masks (loose fitting cloth covers over the mouth and nose) do not prevent respiration of fine aerosols and are not protective in close proximity. The primary purpose for these devices are to prevent exposures to others and may have a use when individuals enter the workplace with a cough or sneeze.

C. Evaluate Special Circumstances.

Two situations where strict social distancing may not be generally feasible are for employer provided housing and businesses with extensive public interaction. The following sections provide additional considerations which are applicable in these situations.

1. Employer provided worker housing is provided by the employer in some circumstances such as agricultural guest workers.
 - a. Workers may have limited control over their environment in some worker housing situations and to the extent that the employer controls conditions, the basic program elements should be maintained as feasible during non-working time.
 - b. Social distancing **must be supported** for occupants during the time workers are housed, which may require additional resources. This includes accommodation of social distancing during cooking, sleeping, and in transportation.
 - c. If strict social distancing is not feasible (including options for dedicated individual or family rooms or offsite accommodations) then health surveillance should be instituted (see above) prior to and during the housing period.
 - d. Housing occupants **must be provided** cleaners and equipment to maintain a hygienic living space.
 - e. **Plans for ill employees must be in place.** If a housing occupant becomes sick:
 - **Employers must provide them with accommodations that are separate from others.**
 - A separate building or room if available, or use barriers or distance to separate them from others.
 - Separate food and bathroom access is also necessary.
 - **Arrangement for medical access.**
 - Telemedicine resources should be utilized first to determine appropriate care.
 - **Provide for transportation**, if necessary in a manner that does not expose others.
 - The employer needs to consult with a physician or public health authority to monitor the situation and provide guidance on treatment and continued housing of all workers.

2. Frequent customer/public interaction may be necessary in some places of employment.
 - a. To the extent feasible, establish social distancing with physical systems.
 - Set up tables that position people away from workers.
 - Place pay stations at a safe distance.
 - Install barriers between people.
 - Place markers and lane dividers to encourage appropriate distancing.
 - b. Have managers or floor leads observing individuals in the workplace and prepared to address behaviors that may put workers at risk.
 - c. Provide supplemental washing facilities to allow additional handwashing when workers handle objects after others, such as:
 - Hand sanitizer stations
 - Wipes or towelettes
 - Tepid water and soap in portable containers.

NOTE: Gloves may be provided, but also must be washed regularly to prevent the spread of the virus. This may help for workers whose hands are bothered by frequent washing.

V. Enforcement Policy

Inspection findings will be reviewed on a case by case basis. Conditions related to COVID-19 and the virus are still emerging. Public health recommendations and orders are being regularly revised, and so any compliance action must take into consideration current understanding of the situation and current rules and guides.

A. Accident Prevention Programs.

1. Employers are not expected to have comprehensive COVID-19 prevention programs at this point. In conducting program reviews, DOSH staff must look at all documents used by the employer to communicate with workers to determine their overall program. Where the employer is clearly implementing recommendations of the public health authorities, they do not need additional documentation of their specific program. Where strict social distancing is not implemented, there needs to be clear communication to workers of the employer's prevention expectations.
2. Violations of the sections of WAC 296-800-140, Accident Prevention Program, should be considered where the employer does not communicate workplace specific expectations to workers or is not effective in implementing those expectations.
3. Serious violations should specifically be considered in cases where the employer adopts practices or policies that clearly contradict the goals of coronavirus prevention practices published by DOSH, OSHA or public health recommendations.
4. Accident prevention program violations must follow instructions in the Compliance Manual.

B. Housekeeping.

Where a workplace is not being cleaned and kept sanitary per public health guidance, a violation of WAC 296-800-22005, *Keep your workplace clean*, may be considered. A serious classification should be strongly considered.

C. Handwashing.

1. There is a requirement for handwashing facilities that applies to all workplaces at all times. A serious and potential willful violation of WAC 296-800-23025, *Provide convenient and clean washing facilities*, will be considered whenever workers do not have basic handwashing facilities available at all or they are grossly inadequate in either number or maintenance.
2. Where employers cannot provide unlimited access to full handwashing facilities at all times, they **must provide alternate means** for frequent hand cleaning. A serious classification should be strongly considered if not adequate to achieve prevention. This is specifically necessary where workers regularly handle or touch objects or surfaces touched by others. Alternate hand cleaning may include:
 - a. Portable wash stations with tepid water and soap.
 - b. Wipes or towelettes with water and soap.
 - c. Hand disinfectant gel.

D. Exposure to Biological Hazards.

1. Workplace conditions which have a direct potential for worker exposure to the COVID-19 virus may be cited under WAC 296-800-11045, *Protect employees from biological agents*. This is the primary WAC code to be used for social distancing practice violations. This may include situations such as ineffective barrier or ventilation systems, or specifically allowing workers to be in close proximity, but where there is no written record of a policy or management decision.
2. Violations of this section are safe place violations in that they must be serious in classification and must follow the Compliance Manual instructions for safe place.

E. Temporary Farmworker Housing.


Temporary worker housing in agriculture is covered under Chapter 296-307 WAC, Part L, Temporary Worker Housing and Cherry Harvest Camps. This rule has specific requirements for hygiene facilities and housekeeping. Employers must in general achieve adequate social distancing; frequent handwashing during work; sanitation practices during work; sufficient disinfection supplies in housing; and sick employee practices outlined above. Consult with Technical Services and Compliance Operations on application of these rules when there is a COVID-19 concern.

VI. Point of Contact

DOSH staff should contact Compliance Operations if there are questions about applicability of WISHA rules to an infectious disease in the workplace. Technical Services may be contacted with technical questions about workplace practices.

VII. Review and Expiration

DOSH will review this Directive, and it will remain effective until superseded or canceled.

Approved: 

Anne F. Soiza, L&I Assistant Director
Division of Occupational Safety and Health

ATTACHMENT 2

WSR 20-12-017
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 26, 2020, 11:19 a.m., effective May 26, 2020, 11:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of labor and industries (L&I) is responding to the coronavirus disease 2019 (COVID-19) pandemic by adopting a new section to chapter 296-800 WAC related to prohibited business activities and compliance with conditions for operations under emergency proclamations and their amendments issued under RCW 43.06.220.

Under the emergency rule:

- Employers must not allow employees to perform work where a business activity is prohibited by an emergency proclamation.
- Employers must comply with all conditions for operation required by emergency proclamation, including Safe Start phased reopening requirements for all business and any industry specific requirements.

Citation of Rules Affected by this Order: New WAC 296-800-14035.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: L&I is taking action to help prevent the spread of COVID-19 and respond to the Governor's Proclamation 20-25, Stay Home, Stay Healthy, and its amendments allowing a phased-in reopening of businesses consistent with the recommendations of medical and safety professionals as to how businesses may reopen without increasing the risk of COVID-19 spreading.

The initial March 23, 2020, Stay Home, Stay Healthy Proclamation 20-25 required residents to stay home unless they need to pursue an essential activity, closed all businesses except essential businesses, and banned all gatherings for social, spiritual and recreational purposes. The order built upon earlier orders closing schools and restricting larger gatherings. Recent proclamation amendments established a phased-in approach to reopening Washington state, referred to as "Safe Start Washington."

The Stay Home, Stay Healthy proclamation and amendments create a systematic framework to reduce the spread of COVID from person-to-person interactions, ensuring continuity of critical functions and a phased-in reopening of businesses and activities such that the number of new cases is greatly reduced and medical facilities and providers are not overwhelmed by a spike in COVID-19 cases. Business operations and employee exposures are one component of the overall public health emergency response presented by COVID-19 and ensuring compliance with the proclamation requirement helps to protect the safety and health of employees.

The conditions of businesses reopening in the governor's orders are also consistent with the social/physical distancing and health and sanitation requirements of chapter 49.17 RCW and the Center[s] for Disease Control and Prevention. Chapter 49.17 RCW and L&I rule require employers to provide a safe and healthy workplace free from recognized hazards, and an employer can be cited for a violation of the "safe place" rule where there are no specific rules to address the particular hazard. And, for COVID-19, lack of social distancing or failure to address symptomatic employees can be cited under the safe place standard. This emergency rule ensures clarity that restrictions and conditions on business under the emergency proclamations are also health and safety requirements under chapter 49.17 RCW and that employers can be subject to a citation and monetary penalties for violations.

This emergency rule is necessary for the preservation of public health, safety, and general welfare of all employees. Emergency rule making is necessary here because providing for a full notice and comment time period will allow businesses to reopen or reopen without following all conditions for reopening, endangering employees and the public during the public comment time period. The governor's proclamation has found that the hazards of the unnecessary spread of COVID-19 present an immediate threat to public health and safety. The

Governor's Stay Home, Stay Healthy order is currently in effect, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and the governor's order.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: May 26, 2020.

Joel Sacks
Director

NEW SECTION

WAC 296-800-14035 2019 Novel coronavirus prohibited business activities and compliance with conditions for operations.

(1) Where a business activity is prohibited by an emergency proclamation an employer shall not allow employees to perform work.

(2) Employers must comply with all conditions for operation required by emergency proclamation issued under RCW 43.06.220, including Safe Start phased reopening requirements for all business and any industry specific requirements.

(3) An "emergency proclamation" means a proclamation that is in effect, including proclamation amendments and conditions, and issued under RCW 43.06.220.

ATTACHMENT 3

Cases

Hospitalizations

Deaths

Vaccinations



COVID-19 IN WASHINGTON STATE [Cases, Hospitalizations, Deaths and Vaccinations by County](#)

DA

Confirmed cases are individuals with a positive molecular test for COVID-19. Probable cases are individuals with a positive antigen test for COVID-19 and no positive... deaths are reported among confirmed and probable cases. Number of vaccine doses given includes all COVID-19 vaccine doses given in Washington facilities. [Learn](#)

SELECT COUNTY

Search

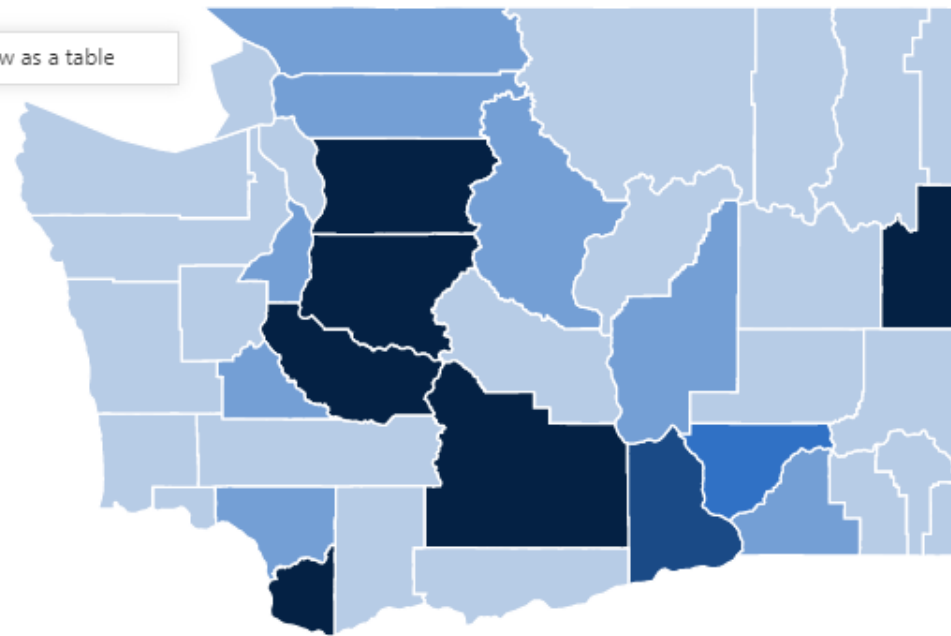
- Select all
- Adams County
- Asotin County
- Benton County
- Chelan County
- Clallam County
- Clark County
- Columbia County
- Cowlitz County
- Douglas County
- Ferry County
- Franklin County
- Garfield County
- Grant County
- Grays Harbor Coun...
- Island County

Confirmed Cases	316,186
Probable Cases	17,608
Total Cases	333,794
Hospitalizations	19,033
Deaths	4,822
Percent of Deaths (deaths/total cases)	1.4%
Total Molecular Tests	5,074,078
Number of Vaccine Doses Given	1,270,425

Please click "[Learn More](#)" for more information.

CASES BY COUNTY

Show as a table



Tabular View

1,462 of 333,794 cases do not have an assigned county

ATTACHMENT 4

Interim-20-ID-01**Committee:** Infectious Disease**Title: Standardized surveillance case definition and national notification for 2019 novel coronavirus disease (COVID-19)**

Check this box if this position statement is an update to an existing standardized surveillance case definition and include the most recent position statement number here: N/A .

Synopsis: This position statement creates a standardized case definition for 2019 novel coronavirus disease (COVID-19) including asymptomatic infections caused by Severe Acute Respiratory Syndrome Coronavirus-2 (SARS-CoV-2) and adds COVID-19 to the list of nationally notifiable conditions.

I. Statement of the Problem

Introduction of SARS-CoV-2, the virus that causes 2019 novel coronavirus disease (COVID-19), into the United States has resulted in the need for standardized surveillance to assist in understanding the transmission and epidemiology of the disease in U.S. jurisdictions. Public health agencies are investigating reported respiratory illnesses and identifying infected people (cases) through laboratory testing. Nationwide standardized surveillance is necessary to provide consistent case identification and classification, measure the potential burden of illness, characterize the epidemiology of medically attended and moderate to severe COVID-19 in the United States, detect community transmission, and inform public health response to clusters of illness and efficacy of population-based non-pharmaceutical interventions on the epidemic.

II. Background and Justification

In late December 2019, investigation of a cluster of pneumonia cases of unknown origin in Wuhan, China resulted in identification of a novel coronavirus. The virus is distinct from both SARS-CoV and MERS-CoV, although closely related. Early epidemiologic findings indicate COVID-19 may be less severe¹ than SARS or MERS, but evidence suggests that the virus is more contagious than its predecessors. SARS-CoV-2 is a newly identified pathogen and it is assumed there is no existing human immunity to the virus. Everyone is assumed to be susceptible, although there may be risk factors that increase an individual's illness severity.

Based on epidemiologic reports of the outbreak in China, those at highest risk for severe disease and death include people aged over 60 years and those with underlying conditions such as hypertension, diabetes, cardiovascular disease, chronic respiratory disease, and cancer. Disease in children appears to be relatively mild, and growing evidence that a significant proportion of infections across all age groups are asymptomatic.

Cases of COVID-19 in China and the initial U.S. cases in early March 2020 have been clustered. Most cases in China occurred in households and in Washington, for example, a significant cluster was associated with a long-term care facility. However, cases have been reported in the United States with no direct epidemiologic link to confirmed cases. Ongoing surveillance of illness, risk factors, and epidemiologic linkage is needed to characterize the disease transmission in the United States, and to inform intervention and mitigation strategies.

Epidemiological reports from the field are demonstrating a growing importance of presymptomatic and asymptomatic infections from two lines of evidence: the serial interval of COVID-19 appears to be close to or shorter than its median incubation period and clusters linked to presymptomatic and asymptomatic index cases^{4, 5}. CSTE realizes that field investigations will involve evaluations of persons with no symptoms and these individuals will need to be counted as cases.

III. Statement of the desired action(s) to be taken

CSTE recommends the following actions:

1. Implement a standardized surveillance case definition for COVID-19.
 - A. Utilize standard sources (e.g. reporting*) for case ascertainment for COVID-19. Surveillance for COVID-19 should use the recommended sources of data to the extent of coverage presented in Section V.
 - B. Utilize standardized criteria for case ascertainment for COVID-19 presented in Section VI and Table VI in Technical Supplement.
 - C. Utilize standardized criteria for case classification for COVID-19 presented in Sections VII and Table VII in Technical Supplement.
2. Utilize standardized criteria for case ascertainment and classification (based on Sections VI and VII and Technical Supplement) for **COVID-19** and **add** COVID-19 to the *Nationally Notifiable Condition List*
 - Immediately notifiable, extremely urgent (within 4 hours)
 - Immediately notifiable, urgent (within 24 hours)
 - Routinely notifiable
 - No longer notifiable
3. CSTE recommends that all States and Territories enact laws (statute or rule/regulation as appropriate) to make COVID-19 reportable in their jurisdiction. Jurisdictions (e.g. States and Territories) conducting surveillance (according to these methods) should submit case notifications** to CDC.
4. Expectations for Message Mapping Guide (MMG) development for a newly notifiable condition: the National Notifiable Diseases Surveillance System (NNDSS) is transitioning to HL7-based messages for case notifications; the specifications for these messages are presented in MMGs. When CSTE recommends a new condition be made nationally notifiable, CDC must obtain Office of Management and Budget Paperwork Reduction Act (OMB PRA) approval prior to accepting case notifications for the new condition. Under anticipated timelines, notification using the Generic V2 MMG would support transmission of the basic demographic and epidemiologic information common to all cases and could begin with the new *MMWR* year following the CSTE annual conference. Input from CDC programs and CSTE would prioritize development of a disease-specific MMG for the new condition among other conditions waiting for MMGs.
5. CDC should publish data on COVID-19 as appropriate (see Section IX).
CSTE recommends the following case statuses be included in the CDC Print Criteria:
 - Confirmed
 - Probable
 - Suspect
 - Unknown
6. CSTE recommends that all jurisdictions (e.g. States, Localities, or Territories) with legal authority to conduct public health surveillance follow the recommended methods outlined in this recommendation and in the accompanying standardized surveillance position statement.

*Reporting: process of a healthcare provider or other entity submitting a report (case information) of a condition under public health surveillance TO local, state, or territorial public health. Note: notification is addressed in a Nationally Notifiable Conditions Recommendation Statement and is the process of a local, state, or territorial public health authority submitting a report (case information) of a condition on the *Nationally Notifiable Conditions List* TO CDC.

**Notification: process of a local or state public health authority submitting a report (case information) of a condition on the *Nationally Notifiable Conditions List* to CDC.

IV. Goals of Surveillance

Surveillance of COVID-19 is necessary to characterize the epidemiology of the disease in the United States, to measure the burden of disease in the United States health system, and to inform public health action.

V. Methods for Surveillance: Surveillance for COVID-19 should use the recommended sources of data and the extent of coverage listed in Table V.

Table V. Recommended sources of data and extent of coverage for ascertainment of cases of COVID-19

Source of data for case ascertainment	Coverage	
	Population-wide	Sentinel sites
Clinician reporting	X	
Laboratory reporting	X	
Reporting by other entities (e.g., hospitals, veterinarians, pharmacies, poison centers), specify: Hospitals	X	
Death certificates	X	
Hospital discharge or outpatient records	X	
Data from electronic medical records	X	
Telephone survey		
School-based survey		
Other, specify: diagnosis codes, autopsy reports	X	

As commercial laboratories implement testing for SARS-CoV-2, laboratory reporting will be the most common source of data. Healthcare providers and facilities who diagnose or become aware of clinically compatible COVID-19 cases should report them to public health authorities.

VI. Criteria for case ascertainment

A. Narrative: A description of suggested criteria for case ascertainment of a specific condition.

Symptoms of COVID-19 are non-specific and the disease presentation can range from no symptoms (asymptomatic) to severe pneumonia and death. COVID-19 is a mild to moderate illness for approximately 80% of individuals evaluated with the disease; 15% are severe infection requiring supplemental oxygen; and 5% are critical infections requiring mechanical ventilation.² People with COVID-19 generally develop signs and symptoms, including mild respiratory symptoms and fever ~5 days after infection (mean incubation period 5-6 days, range 1-14 days).³

A1. Clinical Criteria for Reporting

In outpatient or telehealth settings at least two of the following symptoms: fever (measured or subjective), chills, rigors, myalgia, headache, sore throat, new olfactory and taste disorder(s)

OR

- at least one of the following symptoms: cough, shortness of breath, or difficulty breathing

OR

Severe respiratory illness with at least one of the following:

- Clinical or radiographic evidence of pneumonia, or
- Acute respiratory distress syndrome (ARDS).

AND

No alternative more likely diagnosis

A2. Laboratory Criteria for Reporting

- Detection of SARS-CoV-2 RNA in a clinical specimen using a molecular amplification detection test.
- Detection of specific antigen in a clinical specimen.

²

³

- Detection of specific antibody in serum, plasma, or whole blood indicative of a new or recent infection.*

**serologic methods for diagnosis are currently being defined*

A3. Epidemiologic Linkage Criteria for Reporting

- In a person with clinically compatible symptoms with one or more of the following exposures in the 14 days before onset of symptoms:
 - Travel to or residence in an area with sustained, ongoing community transmission of SARS-CoV-2; OR
 - Close contact** with a person diagnosed with COVID-19; OR
 - Member of a risk cohort as defined by public health authorities during an outbreak.

***Close contact is defined as being within 6 feet for a period of 10 minutes to 30 minutes or more depending upon the exposure. In healthcare settings, this may be defined as exposures of greater than a few minutes or more. Data are insufficient to precisely define the duration of exposure that constitutes prolonged exposure and thus a close contact.*

A4. Vital Records Criteria for Reporting

A person whose death certificate lists COVID-19 disease or SARS-CoV-2 as a cause of death or a significant condition contributing to death.

A5. Other Criteria for Reporting

Autopsy findings consistent with pneumonia or acute respiratory distress syndrome without an identifiable cause.

B. Disease-specific data elements to be included in the initial report

In addition to patient demographics, the following disease-specific data elements are expected to be included in all reports to public health agencies:

Laboratory Information:

- Specimen type
- Collection date
- Laboratory test performed
- Results

Clinical Information

- Description of clinical symptoms and signs of illness, or if asymptomatic
- Date of illness onset
- Hospitalization
- Underlying diseases or co-infections

Epidemiologic Information

- Known contact or linkage to COVID-19 cases
- Recent travel to or residence in an area with sustained, ongoing community transmission of SARS-CoV-2
- Member of a risk cohort as defined by public health authorities during an outbreak

VII. Case Definition for Case Classification

A. Narrative: Description of criteria to determine how a case should be classified.

A1. Clinical Criteria

At least two of the following symptoms: fever (measured or subjective), chills, rigors, myalgia, headache, sore throat, new olfactory and taste disorder(s)

OR

At least one of the following symptoms: cough, shortness of breath, or difficulty breathing

OR

Severe respiratory illness with at least one of the following:

- Clinical or radiographic evidence of pneumonia, or
- Acute respiratory distress syndrome (ARDS).

AND

No alternative more likely diagnosis

A2. Laboratory Criteria

Laboratory evidence using a method approved or authorized by the FDA or designated authority:

Confirmatory laboratory evidence:

- Detection of SARS-CoV-2 RNA in a clinical specimen using a molecular amplification detection test

Presumptive laboratory evidence:

- Detection of specific antigen in a clinical specimen
- Detection of specific antibody in serum, plasma, or whole blood indicative of a new or recent infection*

**serologic methods for diagnosis are currently being defined*

A3. Epidemiologic Linkage

One or more of the following exposures in the 14 days before onset of symptoms:

- Close contact** with a confirmed or probable case of COVID-19 disease; or
- Close contact** with a person with:
 - clinically compatible illness AND
 - linkage to a confirmed case of COVID-19 disease.
- Travel to or residence in an area with sustained, ongoing community transmission of SARS-CoV-2.
- Member of a risk cohort as defined by public health authorities during an outbreak.

***Close contact is defined as being within 6 feet for at least a period of 10 minutes to 30 minutes or more depending upon the exposure. In healthcare settings, this may be defined as exposures of greater than a few minutes or more. Data are insufficient to precisely define the duration of exposure that constitutes prolonged exposure and thus a close contact.*

A4. Vital Records Criteria

A death certificate that lists COVID-19 disease or SARS-CoV-2 as a cause of death or a significant condition contributing to death.

A5. Case Classifications

Confirmed:

- Meets confirmatory laboratory evidence.

Probable:

- Meets clinical criteria AND epidemiologic evidence with no confirmatory laboratory testing performed for COVID-19.
- Meets presumptive laboratory evidence AND either clinical criteria OR epidemiologic evidence.
- Meets vital records criteria with no confirmatory laboratory testing performed for COVID-19.

B. Criteria to distinguish a new case of this disease or condition from reports or notifications which should not be enumerated as a new case for surveillance

N/A until more virologic data are available.

VIII. Period of Surveillance

Ongoing

IX. Data sharing/release and print criteria

CSTE recommends the following case statuses* be included in the 'case' count released outside of the public health agency:

- Confirmed
- Probable
- Suspect
- Unknown

* Which case statuses are included in the case counts constitute the "print criteria."

Jurisdictions (e.g., States and Territories) conducting surveillance under this case definition can voluntarily submit de-identified case information to CDC, if requested and in a mutually agreed upon format.

Production of national data summaries and national data re-release for non-NNCs:

- Prior to release of national data summaries CDC should follow the CDC/ATSDR Policy on Releasing & Sharing Data, issued on April 16, 2003 and referenced in 11-SI-01 and custodians of such data should consult the CDC-CSTE Intergovernmental Data Release Guidelines Working Group report (www.cste2.org/webpdfs/drgwgreport.pdf) which contains data release guidelines and procedures for CDC programs re-releasing state, local, or territorial-provided data.
- CDC programs have a responsibility, in collaboration with states, localities, and territories, to ensure that CDC program-specific data re-release procedures meet the needs of those responsible for protecting data in the states and territories.
- In accordance with CSTE Position Statement 11-SI-04, CDC should apply the Revised Guidelines for Determining Residency for analyses and counting cases.

X. Revision History

This is the first standardized surveillance position statement for COVID-19 and SARS-CoV-2 infection.

XI. References

1. The Novel Coronavirus Pneumonia Emergency Response Epidemiology Team. The Epidemiological Characteristics of an Outbreak of 2019 Novel Coronavirus Diseases (COVID-19) in China]. *Zhonghua Liu Xing Bing Xue Za Zhi.* 2020;41(2):145–151. DOI:10.3760/cma.j.issn.0254-6450.2020.02.003.
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3. The Epidemiological Characteristics of an Outbreak of 2019 Novel Coronavirus Diseases (COVID-19) in China]. *Zhonghua Liu Xing Bing Xue Za Zhi.* 2020;41(2):145–151. DOI:10.3760/cma.j.issn.0254-6450.2020.02.003.
4. Serial interval of novel coronavirus (COVID-19) infections. Hiroshi Nishiura, Natalie M. Linton, Andrei R. Akhmetzhanov PII: S1201-9712(20)30119-3 DOI: <https://doi.org/10.1016/j.ijid.2020.02.060> Reference: IJID 4006 To appear in: *International Journal of Infectious Diseases*, Accepted Date: 27 February 2020
5. Presymptomatic Transmission of SARS-CoV-2 — Singapore, January 23–March 16, 2020. *Morbidity and Mortality Weekly Report Early Release / Vol. 69* April 1, 2020 U.S. Department of Health and Human Services Centers for Disease Control and Prevention. Wycliffe E. Wei; Zongbin Li; Calvin J. Chiew; Sarah E. Yong; Matthias P. Toh; Vernon J. Lee

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Technical Supplement

Table VI. Table of criteria to determine whether a case should be reported to public health authorities.

Criterion	COVID-19				
<i>Clinical Criteria for Reporting</i>					
Patient seen in outpatient or telehealth setting	N		N		
At least two of the following symptoms: <ul style="list-style-type: none"> • Fever (measured or subjective) • Chills • Rigors • Myalgia • Headache • Sore throat • New olfactory and taste disorder(s) 	O		O		
At least one of the following symptoms: <ul style="list-style-type: none"> • Cough • Shortness of breath • Difficulty breathing 	O		O		
Clinical or radiographic evidence of pneumonia		O		O	
Acute respiratory distress syndrome (ARDS)		O		O	
No alternative more likely diagnosis	N	N	N	N	
<i>Laboratory Criteria for Reporting</i>					
Detection of SARS-CoV-2 RNA in a clinical specimen using a molecular amplification detection test					S
Detection of specific antigen in a clinical specimen					S
Detection of specific antibody in serum, plasma, or whole blood indicative of a new or recent infection*					S
<i>Epidemiological Linkage Criteria for Reporting</i>					
Travel to an area with sustained, ongoing community transmission of SARS-CoV-2 in the 14 days prior to onset of symptoms			O	O	
Residence in an area with sustained, ongoing community transmission of SARS-CoV-2 in the 14 days prior to onset of symptoms			O	O	
Close contact** in the 14 days prior to onset of symptoms with a person diagnosed with COVID-19			O	O	
Member of a risk cohort group, as defined by public health authorities during an outbreak, in the 14 days prior to onset of symptoms			O	O	
<i>Vital Records Criteria for Reporting</i>					
A person whose death certificate lists COVID-19 disease or SARS-CoV-2 as a cause of death or a significant condition contributing to death					S
<i>Other Criteria for Reporting</i>					
Autopsy findings consistent with pneumonia or acute respiratory distress syndrome without an identifiable cause					S

Notes:

S = This criterion alone is SUFFICIENT to report a case.

N = All "N" criteria in the same column are NECESSARY to report a case.

O = At least one of these "O" (ONE OR MORE) criteria in **each category** (categories=clinical evidence, laboratory evidence, and epidemiological evidence) **in the same column**—in conjunction with all "N" criteria in the same column—is required to report a case.

*Serologic methods for diagnosis are currently being defined.

**Close contact is defined as being within 6 feet for a period of 10 minutes to 30 minutes or more depending upon the exposure. In healthcare settings, this may be defined as exposures of greater than a few minutes or more. Data are insufficient to precisely define the duration of exposure that constitutes prolonged exposure and thus a close contact.

Table VII. Classification Table: Criteria for defining a case of COVID-19.

Criterion	Probable					Confirmed
<i>Clinical Evidence</i>						
At least two of the following symptoms: <ul style="list-style-type: none"> Fever (measured or subjective) Chills Rigors Myalgia Headache Sore throat New olfactory and taste disorder(s) 	O	O	O			
At least one of the following symptoms: <ul style="list-style-type: none"> Cough Shortness of breath Difficulty breathing 	O	O	O			
Clinical or radiographic evidence of pneumonia	O	O	O			
Acute respiratory distress syndrome (ARDS)	O	O	O			
No alternative more likely diagnosis	N	N	N			
<i>Laboratory Evidence</i>						
Detection of SARS-CoV-2 RNA in a clinical specimen using a molecular amplification detection test that has been approved or authorized by the FDA or designated authority						S
Detection of specific antigen in a clinical specimen using tests approved or authorized by the FDA or designated authority		O	O	O		
Detection of specific antibody in serum, plasma, or whole blood indicative of a new or recent infection* using tests approved or authorized by the FDA or designated authority		O	O	O		
Absence of molecular amplification detection test for SARS-CoV-2 RNA	N				N	
<i>Epidemiologic Linkage Evidence</i>						
Close contact** with a confirmed or probable case of COVID-19 disease in the 14 days before onset of symptoms	O	O		O		
Close contact** in the 14 days before onset of symptoms with a person with: <ul style="list-style-type: none"> clinically compatible illness AND linkage to a confirmed case of COVID-19 disease 	O	O		O		
Travel to an area with sustained, ongoing community transmission of SARS-CoV-2 in the 14 days prior to onset of symptoms	O	O		O		
Residence in an area with sustained, ongoing community transmission of SARS-CoV-2 in the 14 days prior to onset of symptoms	O	O		O		
Member of a risk cohort, as defined by public health authorities during an outbreak, in the 14 days prior to onset of symptoms	O	O		O		
<i>Vital Records Evidence</i>						
A death certificate that lists COVID-19 disease or SARS-CoV-2 as a cause of death or a significant condition contributing to death					N	
<i>Criteria to distinguish a new case:</i>						
N/A	N/A	N/A	N/A	N/A	N/A	N/A

Notes:

S = This criterion alone is SUFFICIENT to classify a case.

N = All "N" criteria in the same column are NECESSARY to classify a case. A number following an "N" indicates that this criterion is only required for a specific disease/condition subtype (see below). If the absence of a criterion (i.e., criterion NOT present) is required for the case to meet the classification criteria, list the absence of criterion as a necessary component.

O = At least one of these "O" (ONE OR MORE) criteria in **each category** (categories=clinical evidence, laboratory evidence, and epidemiologic evidence) **in the same column**—in conjunction with all "N" criteria in the same column—is required to classify a case. A number following an "O" indicates that this criterion is only required for a specific disease/condition subtype.

* Serologic methods for diagnosis are currently being defined.

**Close contact is defined as being within 6 feet for a period of 10 minutes to 30 minutes or more depending upon the exposure. In healthcare settings, this may be defined as exposures of greater than a few minutes or more. Data are insufficient to precisely define the duration of exposure that constitutes prolonged exposure and thus a close contact.

ATTACHMENT 5

FACT CHECK

Fact check: Hospitals get paid more if patients listed as COVID-19, on ventilators

Michelle Rogers USA TODAY Network

Published 4:53 p.m. ET Apr. 24, 2020 | Updated 9:38 a.m. ET Apr. 27, 2020

The claim: Hospitals get paid more if patients are listed as COVID-19, and on ventilators

Sen. Scott Jensen, R-Minn., a physician in Minnesota, was interviewed by "The Ingraham Angle" host Laura Ingraham on April 8 on Fox News and claimed hospitals get paid more if Medicare patients are listed as having COVID-19 and get three times as much money if they need a ventilator.

The claim was published April 9 by The Spectator, a conservative publication. WorldNetDaily shared it April 10 and, according to Snopes, a related meme was shared on social media in mid-April.

Jensen took it to his own Facebook page April 15, saying, in part:

"How can anyone not believe that increasing the number of COVID-19 deaths may create an avenue for states to receive a larger portion of federal dollars. Already some states are complaining that they are not getting enough of the CARES Act dollars because they are having significantly more proportional COVID-19 deaths."

On April 19, he doubled down on his assertion via video on his Facebook page.

Jensen said, "Hospital administrators might well want to see COVID-19 attached to a discharge summary or a death certificate. Why? Because if it's a straightforward, garden-variety pneumonia that a person is admitted to the hospital for – if they're Medicare – typically, the diagnosis-related group lump sum payment would be \$5,000. But if it's COVID-19 pneumonia, then it's \$13,000, and if that COVID-19 pneumonia patient ends up on a ventilator, it goes up to \$39,000."

Jensen clarified in the video that he doesn't think physicians are "gaming the system" so much as other "players," such as hospital administrators, who he said may pressure physicians to cite all diagnoses, including "probable" COVID-19, on discharge papers or death certificates to get the higher Medicare allocation allowed under the Coronavirus Aid, Relief and Economic Security Act. Past practice, Jensen said, did not include probabilities.

He noted that some states, including his home state of Minnesota, as well as California, list only laboratory-confirmed COVID-19 diagnoses. Others, specifically New York, list all presumed cases, which is allowed under guidelines from the Centers for Disease Control and Prevention as of mid-April and which will result in a larger payout.

Jensen said he thinks the overall number of COVID-19 cases have been undercounted based on limitations in the number of tests available.

Provision in the relief act

The coronavirus relief legislation created a 20% premium, or add-on, for COVID-19 Medicare patients.

There have been no public reports that hospitals are exaggerating COVID-19 numbers to receive higher Medicare payments.

Jensen didn't explicitly make that claim. He simply suggested there is an "avenue" to do so now that "plausible" COVID-19, not just laboratory-confirmed, cases can be greenlighted for Medicare payment and eligible for the 20% add-on allowed under the relief act.

The initial \$30 billion – out of \$100 billion – in the grants dedicated to health care providers to address the pandemic was disbursed according to 2019 Medicare reimbursements.

The second wave will focus on providers in areas more heavily affected by the outbreak, according to Kaiser Health News, giving rise to Jensen's concern that hospitals could exploit the CDC's guidelines allowing presumed cases.

Jensen did not return an email request from USA TODAY for comment about his claim.

USA TODAY reached out to Marty Makary, a surgeon and professor of health policy and management at Johns Hopkins Bloomberg School of Public Health, about the claim. Makary said in an email April 21 that "what Scott Jensen said sounds right to me."

Makary did not elaborate, answer additional questions or respond to a request for an interview.

USA TODAY reached out to the American Hospital Association and Federation of American Hospitals on April 22, but as of publication had not received a response.

How does Medicare pay?

Snopes investigated the claim, finding it's plausible Medicare pays in the range Jensen mentions but doesn't have a "one-size-fits-all" payment to hospitals for COVID-19 patients.

As explained by nurse Elizabeth Davis in her piece for [verywellhealth.com](https://www.verywellhealth.com), each hospital has a base payment rate assigned by Medicare. It takes into account nationwide and regional trends, including labor costs and varying health care resources in each market.

Then, each diagnosis-related group, which classifies various diagnoses into groups and subgroups, is assigned a weight based on the average amount of resources it takes to care for a patient. Those figures are multiplied to determine the payment from Medicare. A hospital in one city and state may be paid more or less for treating a patient than a hospital in another.

PolitiFact reporter Tom Kertscher wrote, "The dollar amounts Jensen cited are roughly what we found in an analysis published April 7 by the Kaiser Family Foundation, a leading source of health information."

Ask FactCheck weighed in April 21: "The figures cited by Jensen generally square with estimated Medicare payments for COVID-19 hospitalizations, based on average Medicare payments for patients with similar diagnoses."

Ask FactCheck reporter Angelo Fichera, who interviewed Jensen, noted, "Jensen said he did not think that hospitals were intentionally misclassifying cases for financial reasons. But that's how his comments have been widely interpreted and paraded on social media."

Ask FactCheck's conclusion: "Recent legislation pays hospitals higher Medicare rates for COVID-19 patients and treatment, but there is no evidence of fraudulent reporting."

Julie Aultman, a member of the editorial board of the American Medical Association's *Journal of Ethics*, told PolitiFact it is "very unlikely that physicians or hospitals will falsify data or be motivated by money to do so."

Our ruling: True

We rate the claim that hospitals get paid more if patients are listed as COVID-19 and on ventilators as TRUE.

Hospitals and doctors do get paid more for Medicare patients diagnosed with COVID-19 or if it's considered presumed they have COVID-19 absent a laboratory-confirmed test, and three times more if the patients are placed on a ventilator to cover the cost of care and loss of business resulting from a shift in focus to treat COVID-19 cases.

This higher allocation of funds has been made possible under the Coronavirus Aid, Relief and Economic Security Act through a Medicare 20% add-on to its regular payment for COVID-19 patients, as verified by USA TODAY through the American Hospital Association Special Bulletin on the topic.

Our fact-check sources

The Spectator: "Hospitals get more to list patients as COVID-19 and three times as much if the patient goes on ventilator"

The World Net Daily: "Hospitals get paid more to list patients as COVID-19"

Snopes: "Is Medicare paying hospitals \$13K for patients diagnosed with COVID-19, \$39K for those on ventilators"

PolitiFact: "Hospitals get paid more to list patients as COVID-19"

Kaiser Health News: "Estimated cost for treating the uninsured hospitalized with COVID-19"

Factcheck.org: "Hospital Payments and the COVID-19 Death Count"

Coronavirus Aid, Relief and Economic Security Act

U.S. Department of Health and Human Services: "Guidance for Certifying Death Due to COVID-19"

Verywellhealth.com: "How a DRG determines how much a hospital gets paid"

American Hospital Association Special Bulletin

American Hospital Association special bulletin.

Email response from Marty Makary, a surgeon and professor of health policy and management at Johns Hopkins Bloomberg School of Public Health.

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ATTACHMENT 6

COVID-19 Confirmed Cases by Industry Sector

Washington State Department of Health

and

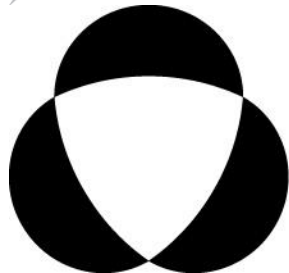
Washington State Department of Labor and Industries

November 10, 2020



Washington State Department of

Health



Washington State Department of

Labor & Industries

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.

Publication Number 421-002

For more information or additional copies of this report:

Disease Control and Health Statistics
Public Health Outbreak Coordination, Information, and Surveillance
1610 NE 150th Street, MS: K17-9
Shoreline, WA 98155

Phone: 206-418-5500 (24-hour contact for local health jurisdictions only)

Email: CommDisEpi@doh.wa.gov

COVID-19 Confirmed Cases by Industry Sector

Washington State Department of Health

November 10, 2020

The following report was a collaboration between Department of Health and Labor and Industries, Safety & Health Assessment & Research for Prevention Program, and contains data on occupation and industry among lab-confirmed cases of COVID-19 among Washington residents reported through 11:59pm on 2020-09-13. As of this date, there were 80,093 lab-confirmed cases, and 30,895 had employment information coded to standard occupation and industry codes. This was done using a free web-based coding tool called NIOCCS (NIOSH Industry and Occupation Computerized Coding System (<https://wwwn.cdc.gov/nioccs3/>)). If multiple jobs were listed for a case the first listed job was coded.

Occupation, industry and employer are captured during case interviews to determine possible exposure and transmission period. While some occupations place employees at a higher risk of being exposed to COVID-19, these data are not meant to imply that occupation was the exposure source for all of these cases.

Availability of Employment Data among COVID-19 Cases by Age Group

Employment data were available for 48% of the WA cases between the ages of 18-64 years old. In 2019, an estimated 73% of the population between the ages of 18-64 were employed. The difference between 73% employment and 48% employment data availability among cases 18-64 years old, suggests that either employment information is missing or cases occur among those who are not employed. We do not have a way to determine the relative contribution of these factors.

AgeGroup	No Employment Data Count	No Employment Data Percent	Employment Data Count	Employment Data Percent
0-4	1656	100%	0	0%
5-17	5744	95%	321	5%
18-44	20943	52%	19704	48%
45-64	10564	52%	9814	48%
65-79	5560	85%	1018	15%
80+	3479	99%	33	1%
Unknown	25	83%	5	17%
Total	47971		30895	

ATTACHMENT 7

PUBLIC HEALTH & SOCIAL SERVICES

Thriving, hopeful, healthy communities

[Home](#) [For Families](#) [For Business / Employee](#) [For Health Care Providers](#) [Resources](#) [Español \(Spanish\)](#) [Tiếng Việt \(Vietnamese\)](#)

Thurston County facilities are open to the public with safety measures to slow the spread of COVID-19 and protect public and



Thurston County COVID-19 Dashboard

COVID-19 Data as of

2/21/2021 2:44PM PST

New Confirmed Cases 40	Total Confirmed Cases 7065	Ever Hospitalized 338	Total Deaths 64	Recovered / Recovering Cases 6402	% of COVID-19 Positive over one week 4.9 %
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For more Thurston County COVID-19 data please select each tab below.

ATTACHMENT 8

List of All COVID-19 Deaths, Thurston County Residents

	Announced	Age Group	Gender	Death Certificate
1	4/4/20	80's	Male	Final
2	6/7/20	80's	Male	Final
3	6/9/20	80's	Female	Final
4	6/18/20	70's	Male	Final
5	7/5/20	80's	Female	Final
6	7/22/20	60's	Male	Final
7	7/28/20	60's	Male	Final
8	7/29/20	90's	Male	Final
9	8/4/20	60's	Female	Final
10	8/4/20	40's	Male	Final
11	8/9/20	80's	Female	Final
12	8/22/20	70's	Male	Final
13	8/31/20	60's	Male	Final
14	8/31/20	80's	Female	Final
15	9/2/20	90's	Male	Final
16	9/17/20	70's	Male	Final
17	10/9/20	70's	Male	Final
18	10/9/20	60's	Female	Final
19	10/9/20	60's	Male	Final
20	10/14/20	90's	Female	Final
21	10/19/20	80's	Male	Final
22	10/23/20	70's	Female	Final
23	10/26/20	60's	Female	Final
24	10/26/20	80's	Male	Final
25	10/26/20	70's	Male	Final
26	10/26/20	80's	Female	Final
27	10/26/20	90's	Female	Final
28	10/26/20	60's	Male	Final

29	10/27/20	80's	Female	Final
30	10/27/20	80's	Female	Final
31	10/27/20	90's	Male	Final
32	11/2/20	70's	Male	Final
33	11/3/20	80's	Female	Final
34	11/3/20	90's	Female	Final
35	11/4/20	90's	Female	Final
36	11/4/20	80's	Female	Final
37	11/9/20	80's	Male	Final
38	11/13/20	70's	Male	Final
39	11/16/20	50's	Male	Final
40	11/17/20	70's	Female	Final
41	11/20/20	70's	Female	Final
42	11/25/20	40's	Male	Final
43	11/25/20	80's	Female	Final
44	12/2/20	60's	Male	Final
45	12/4/20	60's	Female	Final
46	12/4/20	60's	Male	Final
47	12/4/20	80's	Male	Final
48	12/10/20	70's	Male	Final
49	12/11/20	90's	Female	Final
50	12/20/20	70's	Male	Final
51	12/23/20	90's	Female	Final
52	12/23/20	80's	Male	Final
53	12/29/20	70's	Male	Final
54	12/29/20	70's	Female	Final
55	12/30/20	60's	Female	Final
56	1/3/21	50's	Female	Final
57	1/6/21	80's	Male	Final
58	1/6/21	70's	Male	Final
59	1/13/21	80's	Male	Final

60	1/17/21	70's	Female	Final
61	1/17/21	60's	Male	Final
62	1/19/21	30's	Female	Final
63	1/31/21	70's	Female	Final
64	2/17/21	60's	Male	Final

Note: The death certificate column shows whether the death certificate is final or pending.

Thurston County Links

[Website Disclaimer \(https://www.thurstoncountywa.gov/tchome/Pages/disclaimer.aspx\)](https://www.thurstoncountywa.gov/tchome/Pages/disclaimer.aspx)

[ADA Accommodation \(https://www.thurstoncountywa.gov/tchome/Pages/ada.aspx\)](https://www.thurstoncountywa.gov/tchome/Pages/ada.aspx)

[Public Records Requests](https://www.thurstoncountywa.gov/tchome/Pages/publicrecords.aspx)

[\(https://www.thurstoncountywa.gov/tchome/Pages/publicrecords.aspx\)](https://www.thurstoncountywa.gov/tchome/Pages/publicrecords.aspx)

[Contact Us \(https://www.thurstoncountywa.gov/tchome/Pages/contact.aspx\)](https://www.thurstoncountywa.gov/tchome/Pages/contact.aspx)

[County Home Page \(https://www.thurstoncountywa.gov/tchome/Pages/default.aspx\)](https://www.thurstoncountywa.gov/tchome/Pages/default.aspx)

Public Health & Social Services (PHSS)

[PHSS Home Page \(http://www.co.thurston.wa.us/health\)](http://www.co.thurston.wa.us/health)

[PHSS Contact Us \(https://www.co.thurston.wa.us/health/global/contact.html\)](https://www.co.thurston.wa.us/health/global/contact.html)

412 Lilly Road NE

Olympia, WA 98506-5132

360-867-2500

WA RELAY: 711 or 800-833-6388

Public Health Emergencies: Business hours call 360-867-2500, After hours call 1-800-986-9050. Medical emergencies call 911.

ATTACHMENT 9

The Centers for Disease Control and Prevention (CDC), the Washington State Department of Health (DOH), and other public health agencies are responding to an outbreak of respiratory disease known as new coronavirus, or COVID-19.

The complete clinical picture regarding this public health emergency isn't fully understood. Reported illnesses have ranged from mild to severe, including cases and deaths in Washington.

This information is meant to answer many of the questions L&I is receiving regarding workers' compensation coverage and this new disease.

Questions About Workers' Compensation Coverage and Coronavirus (COVID-19)

Will my scheduled time-loss payments continue?

Yes. If you can't work due to your work-related injury or illness, then your time-loss payments will continue. If anything changes that may affect your benefits, a claim manager will contact you.

How can I get information about the status of my claim?

Get automated information about your claim in English or Spanish (en Español) by calling **1-800-831-5227** or through the [Claim & Account Center](https://secure.lni.wa.gov/home/) (<https://secure.lni.wa.gov/home/>).

Will an order and notice become final and binding if I did not have access to mail when my business was closed?

The time period to protest or appeal an order doesn't start until the order is communicated. If you cannot access the order through no fault of your own, you must



provide the claim manager with some evidence or an explanation such as you couldn't get your mail during a specific time period.

Could my time-loss check or pension check be reduced if I receive a federal stimulus check?

No. The economic stimulus checks approved by the federal government in response to the coronavirus pandemic are not used to determine the amount of your time-loss or pension benefits.

Can medical and vocational appointments be conducted by telephone?

Yes.

My attending physician won't see me right now and my certification for time-loss benefits has expired. What do I do?

We realize that many health care providers are postponing non-priority appointments. Ask your provider if they offer telehealth options or if you can check in with them by telephone. Your claim manager will evaluate the information available and continue to pay time-loss benefits for a period of time. It's important to keep your claim manager informed.

My treatment plan was put on hold. How does this affect my claim?

Your claim will not be closed if you need further treatment. We will allow time for you to complete your treatment plan when medical services resume.

Note: Our system automatically closes some claims for "medical benefits only." If this happens and you have not completed your treatment, contact your claim manager, who can help make sure your claim remains open so you can finish your treatment.

I would like to postpone or reschedule an independent medical evaluation (IME) because I'm concerned about the coronavirus outbreak. What do I do?

[TOP](#)

(#app)

Contact your claim manager at least 5 business days before your appointment to find a solution. IMEs can be postponed in some cases if, for example, you are at high risk for serious illness from the virus, or you'd need to travel from a relatively unaffected area into an area with more cases of the virus.

Is it appropriate to cancel or postpone a medical appointment or procedure because of concerns about coronavirus?

Contact your health care provider to find out what they recommend. Many providers are offering telehealth. If the appointment can safely be postponed, tell your claim manager.

How do I know if I'm at high risk for serious illness if I contract COVID and how do I know what to do to protect myself and my family from COVID-19?

The Centers for Centers for Disease Control and Prevention or [CDC provides comprehensive COVID-19 information](https://www.cdc.gov/coronavirus/2019-nCoV/index.html) about who is at greater risk for serious illness and how a person can best protect themselves and their families.

Since my child's school has closed, I don't have child care and need to postpone a medical or vocational appointment. What do I do?

Please make every effort to arrange for child care so you can attend a medical or vocational appointment for your claim. If all efforts fail, contact your vocational rehabilitation counselor (VRC) or medical provider to see if they can conduct your appointment by phone or another method. Keep your claim manager informed. We will make every effort to allow you time to reschedule your appointment.

I am concerned about going to class or participating in my retraining program because of the virus. What do I do?

Contact your VRC. Although schools are closed through the rest of the 2019 – 20 school year, your VRC will contact your school or trade program and explore options. It may be possible to study at home, pursue other alternatives, or put your retraining plan on hold [\(#app\)](#).


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while the pandemic resolves. Your VRC will keep L&I informed. Time-loss benefits will continue.

My temporary light-duty job is no longer available because of the virus. What do I do?

Contact your claim manager immediately. We recommend you submit a time-loss notification form through the [Claim & Account Center](https://secure.lni.wa.gov/home/) (<https://secure.lni.wa.gov/home/>).

Assuming there are no other changes, your claim manager will verify information and you will be eligible for time-loss benefits or your employer may choose to keep you on salary.

I was laid off from my job because of the coronavirus outbreak and have an open claim. How does this affect my benefits?

Appropriate medical treatment on your claim can still be approved. If medical treatment is delayed, your claim will not close. We know medical providers are postponing appointments, and we will allow you time to complete your treatment before closing your claim.

If you were working without medical restrictions, you are not eligible for time-loss benefits. In this case, you may be eligible for unemployment benefits through the Employment Security Department.

I've been released for work, but I don't have a job to return to, and the job market is very limited due to the coronavirus outbreak. What do I do?

Unfortunately, the department cannot pay time-loss benefits once you have been released for work or are found able to work. In many cases, you may be eligible for unemployment benefits through the Employment Security Department. Your claim manager can direct you to other community resources to look for a job.

Can COVID-19 ever be allowed as a work-related condition?

Under certain circumstances, claims from health care providers and first responders involving COVID-19 may be allowed. Other claims that meet certain criteria for exposure


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(#app)

will be considered on a case-by-case basis.

For allowed claims, time-loss payments for lost wages during a quarantine period may be available for up to 14 days. The CDC indicates that COVID-19 symptoms may appear anywhere from 2 to 14 days after exposure. Appropriate, medically required testing/surveillance would also be covered. This is a time-limited benefit, and no benefits would be paid after the worker tests negative for COVID-19 or the quarantine period has ended, unless the worker develops the disease. As with all wage replacement benefits under the Industrial Insurance Act, the first 3 days are not paid unless the worker is medically required to remain off work on the 14th day following exposure.

Once a claim is allowed, the insurer will pay for treatment of COVID-19. Currently, the only treatment for this new coronavirus is supportive care to help relieve symptoms.

When to file a claim

The Industrial Insurance Act allows for treatment of COVID-19 when work-related activity has resulted in probable exposure to the virus and certain criteria are met. In these cases, the worker's occupation must have a greater likelihood of contracting the disease because of the job (examples include first responders or health care workers). There must also be a documented or probable work-related exposure, and an employee/employer relationship.

Before helping a worker file a workers' compensation claim, the treating provider should consider if the following criteria are met:

- Was there an increased risk or greater likelihood of contracting the condition due to the worker's occupation (such as a first responder or health care worker)?
- If not for their job, would the worker have been exposed to the virus or contracted the condition?
- Can the worker identify a specific source or event during the performance of his or her employment that resulted in exposure to the new coronavirus (examples include a first responder or health care worker who has actually treated a patient with the virus)?


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(#app)

If the above criteria are not met, it is not necessary to file a workers' compensation claim; however, a claim may still be filed if requested by the worker or if the provider is uncertain if the case meets the criteria.

When will a claim likely be denied?

When the contraction of COVID-19 is incidental to the workplace or common to all employment (such as an office worker who contracts the condition from a fellow employee), a claim for exposure to and contraction of the disease will be denied.

How can I file a COVID-19 claim?

For workers

- Online via our [FileFast](https://lni.wa.gov/claims/for-medical-providers/filing-claims/filefast-report-of-accident) (<https://lni.wa.gov/claims/for-medical-providers/filing-claims/filefast-report-of-accident>) tool.
- By phone: **1-877-561-3453 (FILE)**.
- At your doctor's office (if you complete the Report of Accident at your doctor's office, the doctor files the form for you).

For providers

If your patient is insured through L&I, you should fill out a Report of Industrial Injury or Occupational Disease (ROA), either:

- [Online via FileFast](https://lni.wa.gov/claims/for-medical-providers/filing-claims/filefast-report-of-accident) (<https://lni.wa.gov/claims/for-medical-providers/filing-claims/filefast-report-of-accident>): Recommended, as you can bill an additional \$10 (code 1040M). Find out [why we recommend online claim filing](https://lni.wa.gov/claims/for-medical-providers/filing-claims/online-claim-filing) (<https://lni.wa.gov/claims/for-medical-providers/filing-claims/online-claim-filing>), how it works, and how it helps your patients.
- Fax a paper copy within two days to **1-800-941-2976** or **360-902-6690**. [Order forms online](https://lni.wa.gov/claims/for-medical-providers/filing-claims/filing-out-the-report-of-accident#PaperForm) (<https://lni.wa.gov/claims/for-medical-providers/filing-claims/filing-out-the-report-of-accident#PaperForm>).
- If your patient is insured through a self-insured employer, you should fill out the [Provider's Initial Report \(PIR\)](https://lni.wa.gov/forms-publications/F207-028-000.doc) (<https://lni.wa.gov/forms-publications/F207-028-000.doc>) (F207-028-000).


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For self-insured claims, send the Provider's Initial Report (PIR) and related chart notes to the self-insured employer (SIE) or their third party administrator (TPA).

(<https://lni.wa.gov/insurance/self-insurance/look-up-self-insured-employers-tpas>).

Filing a worker's compensation claim: Exposure vs. contraction of COVID-19

Workers exposed to COVID-19 must submit the appropriate accident report form before the insurer (L&I or the self-insured employer) can pay for treatment or time-loss benefits. The same is true if the worker is unable to work during the quarantine period or is ill from the virus.

While in most cases, L&I expects to receive claims for contraction of COVID-19, the Industrial Insurance Act allows the insurer to pay for testing before someone is ill when there's been a documented, work-related exposure.

If the diagnosed condition on the original accident report form is contraction of COVID-19 and the 3 criteria under **When to file a claim** are satisfied, the claim will be allowed and treatment authorized.

When a claim is filed for probable exposure and the criteria under **When to file a claim** are satisfied, the claim will be allowed for the quarantine period whether or not the worker actually contracted COVID-19.

Workers do not need to be examined by a physician for a COVID-19 exposure claim to be submitted when they are quarantined. L&I is handling medical documentation for these claims differently than other workers' compensation claims. However, we do require a positive test to allow a claim for the disease when a worker has actually contracted the virus.

If you have additional questions, send us a secure message through the Claim & Account Center (<https://secure.lni.wa.gov/home/>). If you do not have access to the Claim & Account Center, leave a telephone voice message, and we will get back to you as quickly as possible.

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Additional information on COVID-19

For up-to-date information on COVID-19, go to the following websites:

- [CDC coronavirus information](https://www.cdc.gov/coronavirus/2019-ncov/index.html) (https://www.cdc.gov/coronavirus/2019-ncov/index.html)
- [DOH coronavirus information](https://www.doh.wa.gov/Emergencies/Coronavirus) (https://www.doh.wa.gov/Emergencies/Coronavirus)
- [World Health Organization \(WHO\) coronavirus information](https://www.who.int/health-topics/coronavirus) (https://www.who.int/health-topics/coronavirus)

ATTACHMENT 10

Inslee announces “Healthy Washington— Roadmap to Recovery”

The state will shift to a two-phase system in accordance with regional case counts.



WA Governor's Office

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Gov. Jay Inslee today announced “Healthy Washington — Roadmap to Recovery,” a COVID-19 phased recovery plan. Beginning on January 11, the state will follow a regional recovery approach with every region beginning in Phase 1.

“No one was untouched by the effects of the pandemic in 2020; many have and continue to suffer through no fault of their own,” Inslee said during a press conference Tuesday.

“We aren’t out of this yet, but we are close to turning the corner on COVID-19 and this third wave of infection.”

Washington has avoided overwhelming the state’s health care systems throughout this pandemic so far through rigorous safety measures, such as physical distancing and masking, as well as social and economic restrictions. This new recovery system aims to safely ease some restrictions while also maintaining crucial hospital capacity, ensuring care for Washingtonians that need it and paving the way for economic recovery.

Regions



The regions are mostly based on Emergency Medical Services (EMS) regions used for evaluating healthcare services. There will be eight regions of four or more counties, divided according to available health care services based on metrics such as hospitalizations, case data and disease mobility.

The eight regions are as follows:

- **Puget Sound:** King, Pierce, Snohomish
- **East:** Adams, Asotin, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman

- **North:** Island, San Juan, Skagit, Whatcom
- **North Central:** Chelan, Douglas, Grant, Okanogan
- **Northwest:** Clallam, Jefferson, Kitsap, Mason
- **South Central:** Benton, Columbia, Franklin, Kittitas, Walla Walla, Yakima
- **Southwest:** Clark, Cowlitz, Klickitat, Skamania, Wahkiakum
- **West:** Grays Harbor, Lewis, Pacific, Thurston

“Our intent is to ensure that regions, the communities within them, and our state as whole have a balanced path toward recovery from the pandemic that relies on multiple key metrics that look at disease trajectory and health system capacity” said Deputy Secretary for COVID Response Lacy Fehrenbach. “This plan offers the start of clear way forward as we continue to slow the spread of COVID-19, while we get more people vaccinated over the next few months.”

Metrics

A region’s phase will be determined by the Department of Health (DOH) in response to four metric requirements. The final metrics for regions will be calculated on Friday, January 8 and will be effective January 11.

To go forward from Phase 1 to Phase 2, regions must meet all four metrics:

- **Decreasing trend in two-week rate of COVID-19 cases per 100K population** (decrease >10%)
- **Decreasing trend in two-week rate new COVID-19 hospital admission rates per 100K population** (decrease >10%)
- **ICU occupancy** (total — COVID-19 and non-COVID-19) **of less than 90%**
- **COVID-19 test positivity rate of <10%**

To remain in Phase 2, regions must meet at least 3 metrics:

- **Decreasing or flat trend in two-week rate of COVID-19 cases per 100K population**

- **Decreasing or flat trend in two-week rate new COVID-19 hospital admission rates per 100K population**
- **ICU occupancy (total — COVID-19 and non-COVID-19) of less than 90%**
- **COVID-19 test positivity rate of <10%.**

Regions that fail to meet two or more of the above metrics will be moved back to Phase 1.

The metrics for each region will be updated on the Risk Assessment Dashboard every Friday. Dependent on a region’s metrics, DOH will move into a new phase — forward or backward — the following Monday.

DOH and local health departments reserve the right to move a region outside of this timing, and additional phases may be added as the state’s COVID-19 situation changes with continued vaccine distribution and other changes in public health response.

“Our goal is to reopen our economy safely, and to do it as quickly as possible. Every week, we plan on tracking our ongoing progress in protecting our communities against COVID-19,” said Secretary of Health Umair Shah. “The governor’s new plan will allow all of us to understand what measures are being used for the path forward including when it makes sense to ease restrictions across the state.”

Healthy Washington - Roadmap to Recovery

Activities	Phase 1	Phase 2
Social and At-Home Gathering Size — Indoor	Prohibited	Max of 5 people from outside your household, limit 2 households
Social and At-Home Gathering Size — Outdoor	Max of 10 people from outside your household, limit 2 households	Max of 15 people from outside your household, limit 2 households
Worship Services	Indoor maximum 25% capacity	Indoor maximum 25% capacity
Retail Stores <small>(includes farmers' markets, grocery and convenience stores, pharmacies)</small>	Maximum 25% of capacity, encourage curbside pick-up	Maximum 25% of capacity, encourage curbside pick-up
Professional Services	Remote work strongly encouraged, 25% capacity otherwise.	Remote work strongly encouraged, 25% capacity otherwise.
Personal Services	Indoor maximum 25% capacity.	Indoor maximum 25% capacity.
Eating and Drinking Establishments <small>(establishments only serving individuals 21+ and no food remain closed)</small>	Indoor dining prohibited. Outdoor dining, 11 PM close, maximum 6 per table, limit 2 households per table	Indoor dining available 25% capacity, 11 PM close. Outdoor dining available, maximum 6 per table, limit 2 households per table
Weddings and Funerals	Ceremonies are limited to a total of no more than 30 people. Indoor receptions, wakes, or similar gatherings in conjunction with such ceremonies are prohibited.	Ceremonies and indoor receptions, wakes, or similar gatherings in conjunction with such ceremonies are permitted and must follow the appropriate venue requirements. If food or drinks are served, eating and drinking requirements apply. Dancing is prohibited.
Indoor Recreation and Fitness Establishments <small>(includes gyms, fitness organizations, indoor recreational sports, indoor pools, indoor K-12 sports, indoor sports, indoor personal training, indoor</small>	Low risk sports (including dance, no-contact martial arts, gymnastics, and climbing) permitted for practice and training only in stable groups of no more than 5 athletes. Appointment based fitness/training: 45-minute max session, no more than 1	Low and moderate risk sports competitions permitted (no tournaments). Fitness and training maximum 25% capacity.

dance, no-contact martial arts, gymnastics, climbing)	customer/athlete per room or per 500/sq. ft. for large facilities.	
Outdoor Sports and Fitness Establishments (outdoor fitness organizations, outdoor recreational sports, outdoor pools, outdoor parks and hiking trails, outdoor campsites, outdoor K-12 sports, outdoor sports, outdoor personal training, outdoor dance, outdoor motorsports)	Low and moderate risk sports permitted for practice and training only (no tournaments). Outdoor guided activities, hunting, fishing, motorsports, parks, camping, hiking, biking, running, snow sports, permitted.	Low, moderate, and high-risk sports competitions allowed (no tournaments), maximum 200 including spectators.
Indoor Entertainment Establishments (includes aquariums, indoor theaters, indoor arenas, indoor concert halls, indoor gardens, indoor museums, indoor bowling, indoor trampoline facilities, indoor cardrooms, indoor entertainment activities of any kind, indoor event spaces)	Private rentals/tours for individual households of no more than 6 people permitted. General admission prohibited.	Maximum 25% capacity. If food or drinks are served, eating and drinking requirements apply.
Outdoor Entertainment Establishments (includes zoos, outdoor gardens, outdoor aquariums, outdoor theaters, outdoor stadiums, outdoor event spaces, outdoor arenas, outdoor concert venues, rodeos)	Ticketed events only: Groups of 10, limit 2 households, timed ticketing required.	Groups of 15, limit 2 households per group, maximum 200 including spectators.

NOTE: Live entertainment is no longer prohibited but must follow guidance above for the appropriate venue. Long-term Care facilities, professional and collegiate sports remain governed by their current guidance/proclamations separate from this plan.

Phase 1

All regions will begin in Phase 1, because of current metrics.

Phase 1, for the most part, aligns with restrictions current in place for most counties today, with a few key exceptions. Indoor fitness and outdoor entertainment, for example, were both previously prohibited, but will now be permitted with restrictions.

Currently, all indoor fitness is entirely prohibited. DOH now believes that the state can safely allow appointment-based fitness and training where there is no more than 1 customer per room or 500 square feet for large facilities. This will allow gyms to schedule people wanting to come in to work out in a safe way to ensure activity during winter months. Masks and physical distancing are required.

Outdoor entertainment establishments will be permitted to reopen in Phase 1, including zoos, outdoor theaters and concert venues, and rodeos, among other outdoor venues. Operation must be by ticketed event only with groups of 10 maximum with a limit of two households. Timed ticketing is required, as well as facial coverings and physical distancing.

Indoor gatherings and indoor dining remain prohibited. Outdoor dining with a maximum of six and limit for two households per table is permitted with an 11:00 PM close.

Retail, worship services, personal services, and professional services — where remote work isn't available—are limited to 25% capacity.

Phase 2

Once a region meets all four required health metrics, they will be permitted to move from Phase 1 to Phase 2. This phase sees some relaxation in regulations, but masks and physical distancing are still required statewide for all activities.

Indoor social gatherings with people outside of the household begins being permitted in Phase 2 with a max of 5 people from outside the household and limit of two households. Outdoor social gatherings maximum in this phase is increased to 15 individuals from two households.

In Phase 2, indoor dining will be permitted with a maximum 25% capacity and an 11:00 PM close. All other indoor activities must also follow a 25% capacity limit. This includes retail, entertainment and groceries, as well as personal and professional services.

Indoor fitness must also follow the 25% capacity limit.

In Phase 2 moderate risk indoor sports and all sports outdoors gain flexibility to have league games and competitions, which will help ensure opportunities for kids to be active, which is especially important during winter months and as kids navigate virtual or hybrid schooling.

Outdoor entertaining may host groups of up to 15 with the two-household limit and an overall 75 person maximum. Wedding and funeral ceremonies and indoor receptions may take place following the appropriate venue requirements. Food and drink service limited to restaurant guidance.

*“It’s a new year, and COVID-19 is no longer new to us,” **Inslee said.** “We’ve learned a lot; we’ve struggled a lot; we’ve accomplished a lot. Washingtonians are undeterred. This battle continues, but the turning point is on its way.”*

Read the full plan [here](#).

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