

## Requirement for Disclosure of Information and Confidentiality of Employee Health Information for Public Health Investigation

### Requirements to provide information and cooperate with public health COVID-19 investigations and control measures

Washington State law grants health departments broad powers and duties to investigate and prevent the spread of infectious diseases such as COVID-19. In addition to allowing members of the general public to notify the health department of any case, suspected case, outbreak, or potential outbreak of communicable disease, there is a requirement to cooperate with public health communicable disease investigations and infection control measures. In addition, the Governor's Proclamation 20-25.6 and Washington State Department of Labor & Industries mandate provision of requested information and cooperation with public health agencies regarding COVID-19 investigations and control.

[WAC 246-101-425](#): Responsibilities of the *general public*.

- (1) Members of the general public shall:
  - (a) Cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of notifiable conditions or other communicable diseases; and
  - (b) Cooperate with the implementation of infection control measures, including isolation and quarantine.
- (2) Members of the general public may notify the local health department of any case, suspected case, outbreak, or potential outbreak of communicable disease.

Governor Inslee's [Proclamation \(20-25.6\)](#) requires employers to: (a) cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of COVID-19; (b) cooperate with the implementation of infection control measures, including but not limited to isolation and quarantine and following the cleaning guidelines set by the CDC to deep clean and sanitize; (c) comply with all public health authority orders and directives; and (d) comply with all Department of Labor & Industries interpretive guidance, regulations, and rules and Department of Labor & Industries-administered statutes. As per the Washington Safe Start Plan, employers are also required to cooperate with public health authorities by: (e) returning phone calls within 4 hours; (f) meeting with public health officials promptly and answering questions from public health officials to help determine if and where transmission might be occurring in the work place; (g) sharing lists of employees with their contact information and other relevant documents, if requested; (h) allowing immediate and unfettered access to any work place and facility, as well as to all employees without threatened or actual retaliation against those employees; (i) following public health recommendations for testing and disease control measures; and (j) engaging in respectful and productive conversations regarding public health interactions.

The Department of Labor & Industries (L&I) Division of Occupational Safety and Health (DOSH) also recently amplified these requirements by issuing an emergency rule -- [\(CR-103E\) – COVID-19 Prohibited Business Activities and Conditions for Operations](#) -- that requires employers to comply with *all* of the Governor's emergency proclamations for operation. Under this emergency rule, employers can be subject to a citation and monetary penalties by failing to comply with the Governor's proclamations.

Employers routinely provide us with a list of their COVID-positive employees. Our disease investigators then use this information to understand where and how employees are becoming infected, and to implement adequate control measures. We also attempt to communicate with *all* known exposed co-workers and close contacts to provide them with information on COVID-19, offer support for self-quarantine, and refer them to free testing if needed. Self-quarantine and testing are crucial elements to breaking the spread of COVID-19. **Again, timely and thorough provision of employee contact and COVID-19 test results by employers is essential to the disease control effort and is required by law.** In addition to citations and penalties from L&I, individuals refusing or neglecting to obey these laws and rules can be found guilty of a misdemeanor (RCW 70.05.120).

### **Protecting confidentiality of public health investigation and employee health records**

All case reports and medical information obtained by the health department are confidential [[WAC 246-101-320](#) Handling of case reports and medical information.]

Information disclosed to an employer by public health must be treated as confidential employee health information. [[CFR \(Code of Federal Regulations\) § 1630.14 Medical examinations and inquiries specifically permitted.](#)] <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

An employer may not disclose to anyone else the name of the person or condition being investigated and must maintain the confidentiality of information received about the person in the course of assisting in the public health investigation.

Requirement for Cooperation and Confidentiality of Employee Health Info for Public Health Investigation – rev 7.13.20.docx