The Focal Point: Advocacy & Legislative Update

May 13, 2020

COVID-19 Update

The United States death toll due to COVID-19 surpassed 82,548 yesterday, as nearly all states have taken steps to relax lockdown measures. Deaths in the U.S. have averaged 2,000 a day since mid-April despite efforts to slow the outbreak. The death toll is higher than any fatalities from the seasonal flu going back to 1967 and represents more U.S. deaths than during the first eight years of the AIDS epidemic, from 1981 to 1988.

There have been 1,372,855 confirmed cases of COVID-19 detected through U.S. public health surveillance systems in 50 states and the District of Columbia, Puerto Rico, Guam, the Northern Marianas Islands, and U.S. Virgin Islands.

The global case total climbed to 4,298,269 with fatalities reaching 293,514 according to the Johns Hopkins online dashboard.

The coronavirus that first emerged in Wuhan, China has since mutated and the new, dominant strain spreading across the U.S. appears to be even more contagious, according to a new study published in BioRxiv. The new strain began spreading in Europe in early February before migrating to other parts of the world, including the United States and Canada, becoming the dominant form of the virus across the globe by the end of March.

Latest Guidance and Publications on COVID-19:

Criteria for Return to Work for Healthcare Personnel with Confirmed or Suspected COVID-19 (Interim Guidance)

Interim Guidance for Collection and Submission of Postmortem Specimens from Deceased Persons Under Investigation (PUI) for COVID-19

Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons for Coronavirus Disease 2019 (COVID-19)

Reopening Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools, and Homes

Guidance for Cleaning and Disinfecting

Discontinuation of Isolation for Persons with COVID -19 Not in Healthcare Settings

Guidance for U.S. Healthcare Facilities about Coronavirus (COVID-19)

How to Obtain a Nasopharyngeal Swab Specimen – Procedure and Video

Several eye banks have inquired about using a validated RT-PCR test under the Emergency Use Authorization (EUA) classification for testing potential donors for SARS-CoV-2. At this time, the EBAA is not requiring eye banks to perform post-mortem nasopharyngeal (NP) RT-PCR testing for SARS-CoV-2. However, a negative PCR result may be necessary (in addition to a Medical Director Review) to release certain tissue.

The decision to not require post-mortem NP RT-PCR testing for SARS-CoV-2 is based on several considerations, including the variable false negative rates of current RT-PCR testing, which ranges between 2-22%. Additionally, diagnostic RT-PCR tests for SARS-CoV have not been validated for cadaveric donors and are not intended for donor screening. Currently, the FDA does not recommend the use of laboratory tests to screen asymptomatic HCT/P donors.

The EBAA acknowledges that other associations, hospital systems, departments of health, or governments may require that all donors be tested for COVID-19. Eye banks should be aware of SARS-CoV-2 testing performed by partner agencies. Results of such testing must be communicated to end-users on Tissue Report Forms or other supporting documents.

Proper collection of specimens from the surface of the respiratory mucosa with nasopharyngeal swabs is the most important step in the laboratory diagnosis of COVID-19. A specimen that is not collected correctly may lead to false negative or inconclusive test results .
The NEJM has published a video demonstrating the collection of nasopharyngeal specimens for detection of COVID-19 along with the procedure used for adults and children. It is important to use approved PPE and the appropriate technique to minimize the possibility of spreading the virus.

The CDC has general specimen collection guidelines for diagnostic testing for COVID-19 entitled *Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons for Coronavirus Disease 2019 (COVID-19).* For more information, including illustrations and step-by-step guidance, see the CDC Influenza Specimen Collection instructions, which are applicable for respiratory viruses in general, and not specific for only influenza virus.

Viral Shedding in COVID-19 Patients

Patients may continue to shed the SARS-CoV-2 virus for up to six weeks after symptoms emerge, a small study reported in Clinical Infectious Diseases suggests. Researchers collected 299 RT-PCR tests for SARS-CoV-2 (about five tests per patient) from 56 COVID-19 patients during their disease course.

In the first three weeks after symptom onset, the majority of RT-PCR results were positive for SARS-CoV-2. From week three onward, negative results increased. All tests were negative at week six after symptom onset.

The longest duration between symptom onset and a positive RT-PCR test was 42 days, whereas the median duration was 24 days. These findings may question the current criteria for discharge.

The rate of positive results was highest at week one (100%), followed by 89.3%, 66.1%, 32.1%, 5.4% and 0% at weeks two, three, four, five and six, respectively.

Symptom-based Strategy to Discontinue Isolation for COVID-19

Available data indicate that shedding of SARS-CoV-2 RNA in upper respiratory specimens declines after onset of symptoms. At 10 days after illness onset, recovery of replication-competent virus in viral culture (as a proxy of the presence of infectious virus) is decreased and approaches zero. Although persons may produce PCR-positive specimens for up to 6 weeks (Xiao, 2020), it remains unknown whether these PCR-positive samples represent the presence of infectious virus. After clinical recovery, many patients do not continue to shed SARS-CoV-2 viral RNA. Among recovered patients with detectable RNA in upper respiratory specimens, concentrations of RNA after 3 days are generally in ranges where virus has not been reliably cultured by CDC.

Recommendations: For persons recovered from COVID-19 illness, CDC recommends that isolation be maintained for at least 10 days *after illness onset* and at least 3 days (72 hours) *after recovery.* Illness onset is defined as the date symptoms begin. Recovery is defined as resolution of fever without the use of fever-reducing medications with progressive improvement or resolution of other symptoms.

FDA Tightens Oversight of COVID-19 Antibody Tests

The FDA is withdrawing a policy that permitted manufacturers of COVID-19 antibody tests to sell their products without an agency review, following a congressional probe and a study showing that most tests do not generate consistently reliable data.

Under the immediately in effect guidance, commercial manufacturers must submit an emergency use authorization (EUA) within 10 business days that includes validation data for the tests. FDA warned that it will publicly disclose the names of companies that fail to do so.

FDA also provides performance threshold recommendations for specificity and sensitivity for antibody tests as well as voluntary templates for manufacturers and laboratories to follow when submitting EUAs, to help streamline the EUA process for antibody tests.

New IHME Forecast Projects Over 147,000 COVID-19 Deaths in US

New COVID-19 forecasts for the US project over 147,000 deaths through the beginning of August, according to the Institute for Health Metrics and Evaluation (IHME) at the University of Washington.

The death toll has already surpassed the most optimistic epidemiologic model, the one produced by the University of Washington's Institute for Health Metrics and Evaluation and touted by the White House, which had projected 64,000 deaths by Aug 1. That model has since been adjusted to take into account the easing of social distancing measures, and now projects 147,040 US COVID-19 deaths (estimate range of 113,182 to 226,971) by August 4.

The revised projections reflect a combination of updated daily death and case data, recent actions to ease previously implemented social distancing measures, and steadily rising levels of mobility in many places.

EDQM Webinar and ECDC Recommendations Regarding COVID-19

The European Directorate for the Quality of Medicines and HealthCare (EDQM), Council of Europe held a webinar entitled *Tissue Donation from Deceased Donors During the COVID-19 Pandemic* on April 28th to discuss how the COVID-19 pandemic is affecting national programs for tissue donation from deceased donors and daily practices in tissue establishments.

The presentations and a link to register and watch the recording of the webinar are available on the following web page: https://www.edqm.eu/en/transplantation-events-training-resources

The latest European Centre for Disease Prevention and Control (ECDC) recommendation on MPHO safety "Coronavirus disease 2019 (COVID-19) and supply of substances of human origin in the EU/EEA" is available using this link: https://www.ecdc.europa.eu/en/publications-data/coronavirus-disease-2019-covid-19-and-supply-substances-human-origin

The Dutch Transplant Foundation has also shared their donor selection guidelines for SAR-CoV-2 / COVID-19 which can be found here.

Ophthalmic ASC Checklist for Reopening

The American Academy of Ophthalmology, the American Society of Cataract and Refractive Surgery and the Outpatient Ophthalmic Surgery Society developed and released a checklist to resume ASC operations for patients who deferred ophthalmic care due to the COVID-19 pandemic.

The Ophthalmic ASC Checklist for Reopening provides guidelines on how to approach and manage key decisions, including administrative, clinical/infection prevention, life safety, sterilization and pharmacy factors. All ASCs should first follow requirements set by their individual state, county, and city before resuming operations.

ASCs must develop a comprehensive plan to ensure social distancing measures throughout the facility and have protocols in place for cleaning high-touch areas, such as door handles and countertops, throughout each day.

Facilities should follow state and local guidance for COVID-19 testing. Routine preoperative RT-PCR testing should not be mandatory for cases at low risk for aerosolizing bodily fluids and performed under monitored anesthesia or conscious sedation, such as cataract surgery. However, testing could be considered for patients with certain risk factors.

FDA Authorizes First Diagnostic Test Using At-Home Collection of Saliva Specimens

FDA granted the first emergency use authorization (EUA) with the option of using home-collected saliva samples for COVID-19 testing. The EUA allows Rutgers Clinical Genomics Laboratory to use its TaqPath SARS-CoV-2 Assay, which was previously covered under the

umbrella EUA for laboratory developed tests (LDT) for COVID-19, to test home collected saliva samples using the Spectrum Solutions LLC SDNA-1000 saliva collection device.

While the test is authorized for at-home sample collection, a prescription is required, and the EUA limits testing to be performed only at Rutgers' laboratory.

FDA Authorizes First Antigen Test for COVID-19

FDA issued an emergency use authorization (EUA) for the first antigen test for coronavirus disease (COVID-19) to Quidel Corporation for its Sofia 2 SARS Antigen FIA test. These diagnostic tests quickly detect fragments of proteins found on or within the virus by testing samples collected from the nasal cavity using nasal swabs.

This test is authorized for use in high and moderate complexity laboratories certified by Clinical Laboratory Improvement Amendments (CLIA), as well as for point-of-care testing by facilities operating under a CLIA Certificate of Waiver.

"One of the main advantages of an antigen test is the speed of the test, which can provide results in minutes," said FDA Commissioner Stephen Hahn, who cautioned that while antigen tests are highly accurate in terms of detecting positive results, they have a higher chance of delivering false negatives. Therefore, negative results should be confirmed with a PCR test to be more certain of the result.

FDA Releases Updated Information for Blood Establishments Regarding the COVID-19 Outbreak

FDA released updated recommendations on May 11 for blood establishments regarding COVID-19. Routine measures used to determine blood donor eligibility prevent individuals with clinical respiratory infections from donating blood. For example, blood donors must be in good health and have a normal temperature on the day of donation.

FDA does not recommend using laboratory tests to screen asymptomatic blood donors. Blood establishments may wish to consider donor educational materials to instruct individuals to self-defer and refrain from blood donation if they have:

- been diagnosed with COVID-19 and had symptomatic disease,
- are suspected to have COVID-19, or
- had a positive diagnostic test (e.g., nasopharyngeal swab) for SARS-CoV-2 but never developed symptoms.

FDA recommends instructing these individuals not to donate for at least 14 days after complete resolution of symptoms or the date of the positive diagnostic test, whichever period is longer.

Filtering Facepiece Respirators from China May Not Provide Adequate Protection

FDA is concerned that certain filtering facepiece respirators (respirators) manufactured in China may not provide consistent and adequate respiratory protection to health care

personnel exposed to COVID-19. These concerns are based on test results from the National Institute for Occupational Safety and Health (NIOSH) showing that some of these respirators do not meet their labeled performance standard.

FDA revised and reissued the EUA to remove all firms that were authorized based on the independent lab test criterion. Additionally, FDA in collaboration with CDC NIOSH, is increasing surveillance and random sampling of all respirators imported from China.

FDA issued a Letter to Healthcare Providers with considerations for all health care facilities that have respirators in their inventory.

FDA Issues Several Untitled Letters to Companies Regarding Unapproved Cellular Therapies

FDA issued an untitled letter to Mississippi-based BrioMD regarding the company's marketing of unapproved human cells, tissues, or cellular or tissue-based products (HCT/Ps). The company markets "perivascular cells" or "perivascular cellular therapy" products to treat serious and life-threatening respiratory conditions, immunologic and autoimmune diseases, neurologic conditions and musculoskeletal conditions.

FDA issued an untitled letter to Infuze MD for marketing unapproved “IV stem cell therapy” derived from human umbilical cord blood to treat spinal cord injury or damage, Parkinson’s disease, immunodeficiency disorders, autoimmune diseases, and muscular diseases. Such unapproved uses raise potential significant safety concerns.

An untitled letter was issued to Henry N. Small, MD, PA by the FDA for marketing unapproved umbilical cord blood derived cellular product, referred to as “cord blood stem cells” and “stem cell therapy,” for numerous diseases or conditions, such as Parkinson’s disease, Alzheimer’s disease, lupus, and fibromyalgia.

FDA believes that these products appear to be HCT/Ps and should be regulated as both drug and biological products. In order to lawfully market these products, a valid biologics license application or IND application must be in effect, as specified by FDA regulations. The agency requested a written response from each company within 30 days of receipt of the letter.

ICANN REJECTS SALE OF .ORG DOMAIN TO PRIVATE EQUITY FIRM

The organization that oversees internet domain names has rejected a proposal to transfer management of the .org top-level domain from a nonprofit to a private equity group called Ethos Capital LLC.

The Internet Corporation for Assigned Names and Numbers (ICANN) heeded the objections from associations, nonprofits, and a state attorney general who warned that a for-profit firm would drive registry prices higher and insufficiently protect the public interest if it were to acquire control of the .org domain registry. The ICANN Board declined to approve “a change from the fundamental public interest nature of PIR to an entity that is bound to serve the interests of its corporate stakeholders, and which has no meaningful plan to protect or serve the .ORG community.”

White House to Replace HHS Inspector General

President Trump is replacing the inspector general at the Department of Health and Human Services (HHS) several weeks after she issued a report describing “severe shortages" of testing kits, delays in getting coronavirus results and “widespread shortages” of masks and other equipment at U.S. hospitals.

The White House named Jason C. Weida, an assistant U.S. attorney in Boston, for the post currently occupied by Christi Grimm, who became inspector general in January. The nomination must be approved by the Senate.