



**PROCEDURES  
FOR COVID-19  
INVESTIGATIONS**

**ACCORDING TO  
INFECTIOUS DISEASE  
CONTROL &  
PREVENTION ACT  
AND OTHE RELEVANT  
LAWS**

**SUPPORTING  
EVIDENCE BY  
RT-PCR TEST KIT  
MAKERS,  
GOVERNMENT  
OFFICIALS &  
EXPERTS**

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# COVID-19 INVESTIGATION

Section  
1

## Procedures

### **According to Korean Law:**

- Items to ensure safety
- Items to ensure understanding
- Items to ensure compliance
- Items to ensure rights

Hello. Thank you for coming here. Before beginning, I would like to confirm a few things with you.

**1. It is my understanding that the COVID-19 public policy is pursuant to the Infectious Disease Control and Prevention Act. Is this true?**

I recently read the Infectious Disease Control and Prevention Act. According to Paragraph 4 of Article 6 of the Infectious Disease Control and Prevention Act, we have a duty to actively cooperate in this investigation. Therefore, in order to fulfill our duty, we will be actively participating in this investigation. This means that we will also be asking you questions so that we can confirm the situation. This is our right in accordance with Paragraph 2 of Article 6 of the Infectious Disease Control and Prevention Act, and it is your duty to provide such information in accordance with Paragraph 3 of Article 4, Paragraph 3 of Article 18, and Paragraph 1 of Article 34-2 of the same Act.

**2. Okay, do you promise to abide by the provisions of the Infectious Disease Control and Prevention Act and other relevant statutes?**

Okay, thanks. I want to ask you a few questions first so that we can maintain our health. We have been quarantining since you contacted us, so the time it takes to answer these questions does not pose a risk to any other people.

**3. Did you visit a Public Health Center or any of the institutions listed in Article 16-2 of the Infectious Disease Control and Prevention Act today?**

There are many sick people and many kinds of viruses and bacterial infections in those institutions. Therefore, I want to know if you disinfected your clothing before coming here. If you have virus particles on your clothing, you could infect us. Therefore, as a matter of safety and to maintain our health in accordance with Article 1 of the Infectious Disease Control and Prevention Act, we request that you disinfect your clothing.

**4. When was the last time you were tested for the virus?**

**5. Do you believe that there is any chance that you could infect us with the virus?**

**6. How confident are you? Would you say 100%?**

I want to ensure my safety in accordance with Article 1 of the Infectious Disease Control and Prevention Act.

**7. Next, I would like to know who is in charge and I would like to see your ID card in accordance with Paragraph 5 of Article 42 of the Infectious Disease Control and Prevention Act.**

I am very sorry for asking so many questions, but please let me explain myself. I am acquainted with many fields of study including the medical field and legal field. I am not an expert in either fields, but I have fostered an interest in them.

I have been very supportive of the COVID-19 public policy. However, recently, I have started feeling very anxious and nervous about some things.

In particular, I have been very anxious about the vaccination policy. Over twenty countries, including many developed countries such as Germany, France, Netherlands, Italy, and Canada, have halted the roll out of the AstraZeneca vaccine due to safety concerns. The United States hasn't even authorized it for emergency use. However, according to Yonhap News, the KCDC, rather than waiting just a few days to confirm safety, is going to speed up its vaccination plan.

Here is what Yonhap News said:

“As a result, countries such as Germany, France and Italy that temporarily suspended or stopped vaccinating AstraZeneca have resumed vaccinations. South Korea, which has not stopped vaccinating, is expected to speed up vaccination in the future for its "November collective immunity" goal.”

<https://www.yna.co.kr/view/AKR20210320050000530>

**Commented [rob1]:** "이에 독일, 프랑스, 이탈리아 등 아스트라제네카 백신 접종을 일시 보류 내지 중단했던 국가들은 접종 재개에 나섰다. 그간 백신 접종을 중단하지 않았던 우리나라는 '11월 집단면역' 목표를 위해 앞으로 접종에 더욱 속도를 낼 것으로 보인다."

Germany is still investigating the safety of the vaccine and a couple countries have banned its use all together.

It seems like common sense to me to confirm safety first, then proceed. But the KCDC's policy has been to proceed first and confirm safety afterward. This hastiness could endanger the lives of many people. This situation has created a lot of anxiety for me regarding the COVID-19 public policy. Therefore, I researched a bit about the KCDC's Emergency Use Authorization program and realized that it is a new program and that the KCDC doesn't have much experience using EUA products.

There is an article on the KCDC's website that says the following:

**Introduction of Emergency Use System for In Vitro Diagnostic Inspection Products for Domestic and Foreign Infectious Diseases**

Volume 10 No. 22 [Date: 2017-06-01]

"This allows private medical institutions to use unauthorized in vitro diagnostic testing products that are temporarily not officially licensed to respond to infectious diseases in case of a national crisis."

"However, Korea's emergency use approval system is now a step away, and the Korea Centers for Disease Control and Prevention is preparing detailed guidelines throughout the system, including rational decision-making process, evaluation, and follow-up management."

[http://www.kdca.go.kr/filepath/boardDownload.es?bid=0034&list\\_no=74966&seq=1](http://www.kdca.go.kr/filepath/boardDownload.es?bid=0034&list_no=74966&seq=1)

It seems that the COVID-19 public policy is the KCDC's first significant experience with EUA products. Therefore, the risk of problems occurring is naturally and understandably high. The decision to speed up the vaccination program despite so many countries halting their programs is completely exasperating for me. The KCDC seems overconfident and hasty, and this decision to speed up the vaccination program despite safety concerns has caused me a lot of stress and anxiety.

**Commented [rob2]:** 국내의 감염병 체외진단검사제품 긴급사용제도 소개 제 10 권 제 22 호 [날짜 : 2017-06-01]  
"이로써 민간의료기관들은 국가 위기 또는 위기 우려 시 감염병 대응을 위해 한시적으로 정식 허가를 받지 않은 체외진단검사제품을 제도적으로 사용할 수 있게 평가 또는 검토를 통해 허가되지 않은 제품을 사용할 수 있게 되었다"

**Commented [rob3]:** "그러나 우리나라의 긴급사용승인제도는 이제 걸음마를 뚫 수준으로서, 질병관리본부는 본 제도의 안정적 정착을 위해 긴급사용을 위한 합리적 의사결정과정과 평가, 사후관리 등 제도 전반에 걸친 구체적인 가이드라인을 마련 중에 있다."

Therefore, I decided to research the Infectious Disease Control and Prevention Act to learn my own rights and duties. As a result, I want to follow the law very strictly. I hope you understand. This is best for everyone's safety and health.

**8. Next, I would like to know if you have undergone the training stipulated in Paragraph 3 of Article 60-2 of the Infectious Disease Control and Prevention Act.**

**9. Are you a public official, medical personnel, or an expert in the field of infectious diseases?**

**10. Who is the physician in charge as described in Paragraph 1 of Article 60-2?**

Physicians are ultimately responsible for all medical procedures according to Item 1, Paragraph 1, Article 2 of the Medical Service Act. In other words, only a physician can perform medical procedures or give medical advice. Therefore, I need the name and license number of the supervising physician.

Next, I will ask a few questions about the alleged infected persons in accordance with Paragraph 3 of Article 4, Paragraph 2 of Article 6, Paragraph 3 of Article 18, and Paragraph 1 of Article 34-2 of the Infectious Disease Control And Prevention Act. This includes information on location of outbreak, symptoms, and the testing method that was used to confirm that they are carries of an infectious disease. Before proceeding with the investigation, I need to confirm this very important information.

**11. You said that some people were infected with COVID-19. Is that true?**

**12. Where were they infected?**

**13. What are their symptoms?**

**14. More than 200 viruses have influenza type symptoms, such as fever, cough, and respiratory problems. How do you know they have COVID-19 and not some other type of virus or bacterial infection?**

**15. How sure are you that the person has COVID-19? Are you 100% sure?**

**16. What is their status according to the Infectious Disease Control and Prevention Act? Are they "patients with an infectious disease" as defined by Paragraph 13 of Article 2 of the Infectious Disease Control and Prevention Act?**

**17. I would like to see proof of their infection. Can you please show me a copy of their diagnosis result with their personal information redacted?**

You are claiming that I am a "person suspected of contracting an infectious disease." That is a serious charge. If you right, my health and safety could be at risk. If you are wrong, you would be causing me tremendous mental agony and social stigma. You would also be putting me at risk of a painful and invasive medical test. You would also be exposing me to stress-induced sickness due to unnecessary medical observation and medical procedures.

Therefore, in accordance with my rights in Paragraph 2 of Article 6 and you duties in Paragraph 3 of Article 4, Paragraph 3 of Article 18, and Paragraph 1 of Article 34-2 of the Infectious Disease Control and Prevention Act, I am requiring proof of infection. Furthermore, Paragraph 1 of Article 4 of the Infectious Disease Control and Prevention Act recognizes my fundamental rights under the Korean Constitution. Therefore, proof of infection needs to be furnished before I can accept the title of "person suspected of contracting an infectious disease."

**18. The Infectious Disease Control and Prevention Act says that you need to confirm the infectious pathogen of the person suspected of contracting an infectious disease. Did you confirm with certainty beyond a reasonable doubt that those people are carries of an infectious pathogen?**

**19. Can you show me any proof of that those people are indeed carriers of an infectious disease?**

OPTIONAL

XX

Okay, if you can't show me documented proof of infection, I would like you to sign a sworn affidavit affirming the certainty of the infection. This will be a sign of good faith and bolster my confidence in these procedures.

AFFIDAVIT:

\*\*\*\*\*

I, \_\_\_\_\_, hereby affirm with certainty that \_\_\_\_\_ is a "person suspected of contracting an infectious disease" due to his/her direct or indirect contact with patient(s) confirmed to have an infectious disease using a laboratory test that is compliant with Article 16-2 of the Infectious Disease Control and Prevention Act.

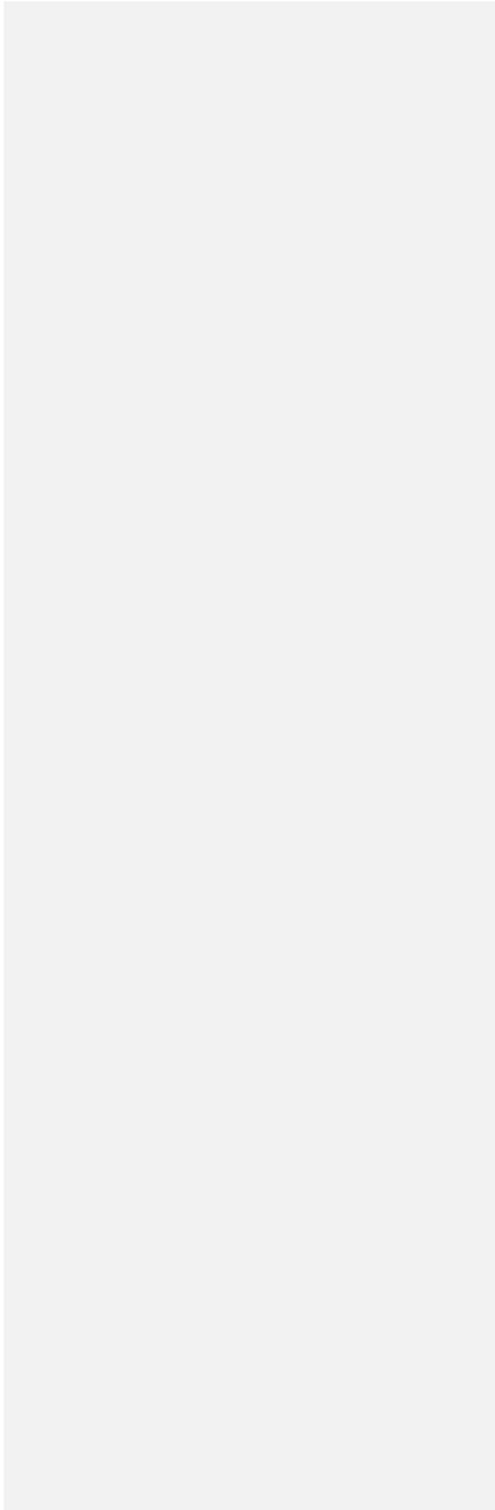
Name: \_\_\_\_\_

Job title: \_\_\_\_\_

Employee number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



\*\*\*\*\*

XX

Okay, I understand you don't want to sign the affidavit, but I think it is strange that you are accusing me of being a "person suspected of contracting an infectious disease" without at least showing me some evidence of that claim.

I feel that you are violating my rights under the Infectious Disease Control and Prevention Act and the Korean Constitution. Therefore, I will regard your refusal to furnish proof of infection [and your refusal to sign the affidavit] as confirmation of your uncertainty regarding my status as a "person suspected of contracting an infectious disease."

Okay, let's continue with the investigation.

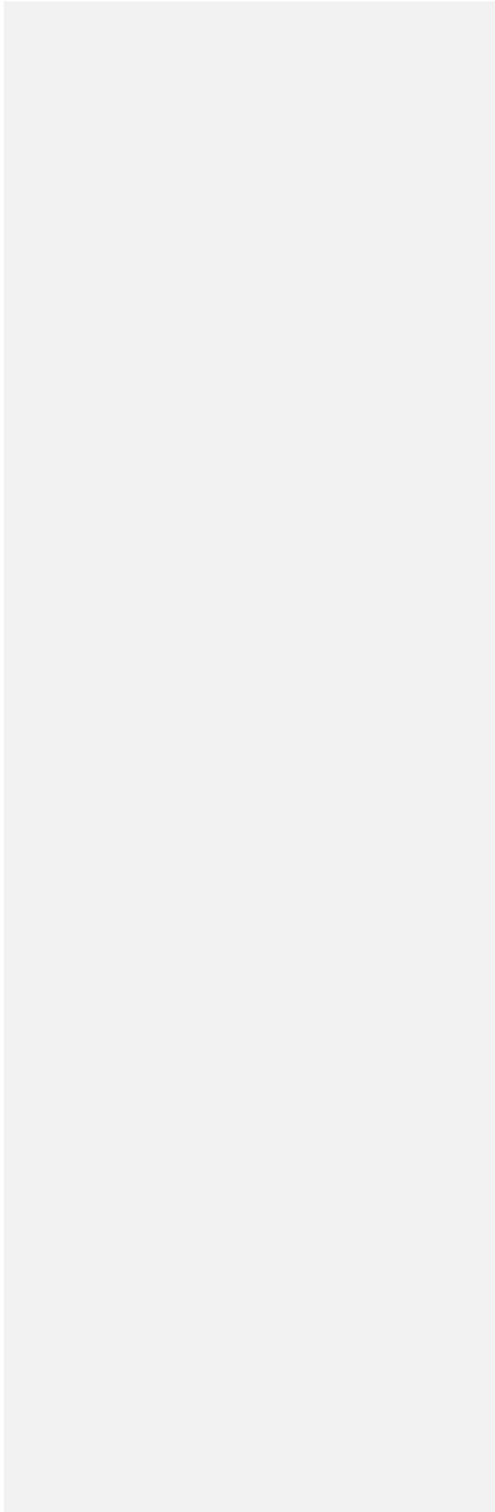
**20. What kind of test did you use to test them?**

**21. Was pure virus isolated and compared to a pure sample of SARS-CoV-2 to confirm the infectious pathogen? Or was some other method used such as cell culture, PCR testing, or antibody testing?**

DIFFERENT QUESTIONS BASED ON ANSWER TO QUESTION 17

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\*\*\*\*\*  
\*\*\*\*\*

**22. Okay, so what is their status exactly? Are they "pathogen carriers" according to Paragraph 15 of Article 2 of the Infectious Disease Control and Prevention Act?**



If answer is yes, then proceed to Questions 17 to 21.

If the answer is no, the proceed as follows:

**23. Are they "probable patients of an infectious disease" according to Paragraph 14 of Article 2 of the Infectious Disease Control and Prevention Act?**

**24. Why do you believe they are probable patients?**

**25. To be a probable patient of COVID-19, there must have been some actual contact with "patients with an infectious disease" or "pathogen carriers" of COVID-19. How do you know for certain that they are probable patients?**

**26. Did you confirm some of their contacts as being "patients with an infectious disease" or "pathogen carriers"?**

If the answer is yes, then proceed to Questions 17 to 21 with regard to the alleged "patients with an infectious disease" or "pathogen carriers" who were in contact with the "probable patients of an infectious disease."

If the answer is no, then proceed as follows:

**27. So, what makes you believe they are "probable patients of an infectious disease"? There must be some valid reason.**

Paragraph 14 of Article 2 of the Infectious Disease Control and Prevention Acts says the following:

"The term "probable patient of an infectious disease" means a person suspected of being affected by the pathogen of an infectious disease who has yet to be confirmed as a patient of an infectious disease;"

This means that the "probable patients of an infectious disease" are suspected of having an infectious pathogen in their bodies. The next step is to confirm that they are indeed "patients with an infectious disease."

**28. When are you going to confirm that they are indeed "patients with an infectious disease" or "pathogen carriers"?**

I would like to wait to confirm their status as "patients with an infectious disease" or "pathogen carriers" before proceeding with this investigation.

If the answer is no, then proceed to Question 17 to 21 with regard to the alleged "patients with an infectious disease" or "pathogen carriers" who were in contact with the "probable patients of an infectious disease."

If the answer is yes, then agree to quarantine at home for a reasonable amount of time until the "probable patients of an infectious disease" are confirmed to be "patients with an infectious disease" or "pathogen carriers."

If more than two days pass and there is no confirmation or if there is a requirement to stay in quarantine for 14 days, then require an agreement guaranteeing compensation in accordance with Paragraph 1 of Article 6 of the Infectious Disease Control and Prevention Act. If such an agreement is not furnished, then petition habeas corpus immediately and file criminal charges for violating the Infectious Disease Control and Prevention Act because the public officials have not properly established your status as a "person suspected of contracting an infectious disease."

If circumstances seem favorable, you can volunteer to remain in quarantine at home for 14 days in a non-legally binding manner. This means that you undergo no medical procedures, such as temperature checks and location tracking devices, and that no locks, stickers, or signs are placed on the gate of your residence. Furthermore, there will be no consequences for breaking

**Commented [rob4]:** "감염병의사환자"란 감염병병원체가 인체에 침입한 것으로 의심이 되나 감염병환자로 확인되기 전 단계에 있는 사람을 말한다."

quarantine in the event of an emergency. The government should also provide a delivery of food provisions as needed.

If the above paragraph cannot be agreed to, then proceed to ask the public officials what test they want you to undergo. In such a case proceed to Question 21.

If a test compliant with the Infectious Disease Control and Prevention Act is not offered but the public officials still demand you remain in quarantine while undergoing medical procedure, such as temperature checks and location tracking, then inform the public officials that you will petition habeas corpus immediately and also file criminal charges for falsely accusing me of being a "person suspected of contracting an infectious disease" and for attempting to violate Article 16-2 of the Infectious Disease Control and Prevention Act through the use of a non-compliant test and for violating Paragraph 4 of Article 50 of the Bioethics and Safety Act for misrepresenting the specifications of the genetic test. Coercion is a crime under the Criminal Act. You must demand that all procedure be followed lawfully. Furthermore, Article 16 of the Korean Constitution prohibits all intrusions of your residence without a valid warrant issued by a judge. There are no exceptions made for other Acts such as the Infectious Disease Control and Prevention Act.

If the police are not interested in pursuing the charges, then proceed with the petition for habeas corpus and file individual lawsuits against the public officials and police officers in accordance with Article 26 and Article 29 of the Korean Constitution.

# PROBLEMS WITH RT-PCR TESTS

Technical Specifications

## **Non-compliance with Law:**

- Cannot confirm infectivity
- Cannot confirm actual pathogen
- False positives & cycle count
- Not designed for asymptomatic people
- Contamination & testing environments

Section  
2

**RT-PCR tests are not compliant with Article 16-2 of the Infectious Disease Control And Prevention Act.**

The Infectious Disease Control and Prevention Act stipulates that a laboratory test must be used to confirm the infectious pathogen. In other words, the test used must be able to confirm infectivity and the literal pathogen.

**Problem 1: The RT-PCR tests cannot confirm infectivity**

In other words, RT-PCR tests cannot determine if the detected RNA is activated or inactivated, alive or dead, infectious or non-infectious. The Korean CDC has admitted this plainly. The detected RNA could be dead RNA from a past infection several months ago. And considering that COVID-19 has been spreading for over a year with many people unknowingly being asymptomatic carriers, it would not be strange if many non-infectious people test positive falsely. They could have had the virus several weeks or months ago and recovered completely without knowing it because of their asymptomatic state. But the dead RNA would still be in their bodies and this would cause a false-positive RT-PCR result. This is common knowledge, and it is recognized by the Korean CDC and the whole scientific community. Therefore, RT-PCR tests cannot confirm infectivity. Therefore, RT-PCR tests do not comply with the Infectious Disease Control and Prevention Act.

**Problem 2: The RT-PCR tests cannot confirm literal pathogens**

RT-PCR tests can only detect RNA assumed to belong to the virus. RNA is not a pathogen. A viral pathogen consists of not only genetic material, such as RNA, but also proteins. RT-PCR tests cannot detect protein. Therefore, RT-PCR cannot confirm the literal pathogen. Also, the detected genetic material is only a few percent of the entire genome of the alleged virus. Therefore, RT-PCR cannot prove that what it detects is in fact the virus. This is also common knowledge that is plainly admitted by the RT-PCR test kits makers themselves. Therefore, RT-PCR cannot confirm literal pathogens and it cannot guarantee that the RNA it detects is in fact from COVID-19. Therefore, RT-PCR does not comply with the Infectious Disease Control and Prevention Act.

**Problem 3: High amplification cycle counts of RT-PCR test kits cause false positives**

This third problem emphasizes the existence of the first two problems. It is commonly known that high amplification cycles during the RT-PCR process create many false positive results. The WHO has admitted this recently and has suggested users of RT-PCR to adjust the cycle count downward to avoid background noise (i.e., false positives). In fact, there is a prominent research paper published by Oxford University that shows that even at 25 cycles, 30% of all positive tests are in fact false positives. Do you know what the cycle count for most Korean FDA approved RT-PCR tests is? It is between 30 and 40 cycles. According to the research paper, at 30 cycles, 80% of positive tests are in fact false positives, and at 35 cycles, 97% of positive tests are in fact false positives. The evidence presented by this research paper has been so compelling that it resulted in a court in Portugal ruling that RT-PCR results are unreliable.

#### **Problem 4: RT-PCR tests were not designed for use on asymptomatic people**

There is a fourth problem, which is unrelated to the above three problems, but very serious. These RT-PCR tests have been continuously used on asymptomatic people. However, the Korean FDA approved RT-PCR test kit makers plainly state in their instruction manuals that their RT-PCR tests have not been validated for use on asymptomatic people. The Korean CDC has been continuously using RT-PCR tests on asymptomatic people despite the RT-PCR tests not being validated for use on asymptomatic people. This fourth problem, in addition to the problems one and two, show that the Korean CDC has been misrepresenting the specifications of the RT-PCR test. And this is a serious problem because it violates Paragraph 4 of Article 50 of the Bioethics and Safety Act.

#### **Problem5: RT-PCR tests are being used in areas highly susceptible to contamination**

The fifth problem is that RT-PCR tests are extremely sensitive to contamination. These types of tests need to be performed in sterilized rooms with negative air pressure to avoid contamination. Instead, the tests are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

#### **Evidence in Support of These Five Problems**

In support of these five problems, we will provide evidence directly from the instruction manuals of the RT-PCR test kit makers. We will also provide statements by Korean government officials, the WHO, and experts throughout the world that confirm these problems. Please see the attached documents.

**Our Demand: We require that COVID-19 tests that comply with the Infectious Disease Control and Prevention Act**

Therefore, we are requiring that a test be used that can resolve these five problems. Continuously using an unreliable test that violates the Infectious Disease Control and Prevention Act and the Bioethics and Safety Act only makes the pandemic appear bigger than it really is. We sincerely want to help end the pandemic. Therefore, we are requiring a test that complies with the Infectious Disease Control and Prevention Act and the Bioethics and Safety Act. We have a duty to ACTIVELY cooperate in the investigation of COVID-19, and therefore we need to fulfill this duty. Therefore, we require a compliant test.

Furthermore, before testing us, you need to retest the alleged infected people with a compliant test. You have not proved that they are in fact carriers of the infectious pathogen called COVID-19. We need to first prove that they are infected. This is very important. Do you know that there are over 200 known viruses and bacterial infections that have the exact same symptoms as COVID-19? Therefore, symptoms alone cannot be used to make a clinical diagnosis. We need to use a test that is compliant with the Infectious Disease Control And Prevention Act and the Bioethics and Safety Act. And I suspect that this will require using a technology to quickly isolate pure virus. But we are living in the age of scientific innovation, so I am confident that we can do this.

# PROBLEMS WITH RT-PCR TESTS CONT.

Technical Specifications

## **Non-compliance with Law:**

- According to Korean government officials
- According to World Health Organization and US FDA & CDC
- According to scientists and experts

Section  
3

## PROBLEM 1: RT-PCR TESTS CANNOT CONFIRM INFECTIVITY

이어 "아마도 2 차 감염 유발 양성률이 아직까지 생기지 않고 있는 사유에 대해서는 바이러스의 농도가 극히 낮거나 남아있는 죽은 바이러스가 PCR 검사를 통해 확인됐지 않았을까라고 추정하고 있다"며 "정확한 것은 재양성된 이후에 노출자들에 대한 모니터링이 끝나야 2 차 감염을 유발하는지 안 하는지를 확인할 수 있을 것 같다"고 밝혔다.

"That means the virus in the relapse cases have little to no infectiousness,"

- 정은경, 대한민국의 초대 질병관리청장

- Jeong Eun-kyeong, KCDC director

**MEDI:GATE NEWS 정은경 본부장**  
"격리해제 후 재양성 179 명...바이러스  
재활성



[medigatenews.com](http://medigatenews.com)

오 위원장은 "국내에서는 코로나 19 진단을 위해 이 바이러스의 유전자를 증폭해 검출하는 'PCR' 검사를 이용하는데, 재양성 사례는 PCR 검사에 내재한 기술적인 한계 때문"이라고 설명했다.

그는 "**PCR 검사로는 바이러스가 살아있는지, 죽어있는지를 구분할 수 없는 데다,** 상피세포 속에 들어있는 바이러스 유전물질의 양이 적으면 검사 결과의 신뢰도가 낮아진다"고 부연했다.

그는 또 "우리 호흡기 상피세포는 수명이 길어서 하프라이프(반감기)가 3 개월까지도 가능하다"면서 "**이런 세포 속에 들어있는 바이러스 RNA 는 세포가 탈락한 뒤 1~2 개월 뒤에도 PCR 검사에서 검출될 수 있다**"고 덧붙였다.

- 오명돈 Oh, Myoung Don; 직위 교수; 학과 내과학교실; 전공 감염내과; 사무실 서울대학교병원

"코로나 19 재양성 판정, '죽은 바이러스'  
유전물질 검출된 것"



[yna.co.kr](http://yna.co.kr)

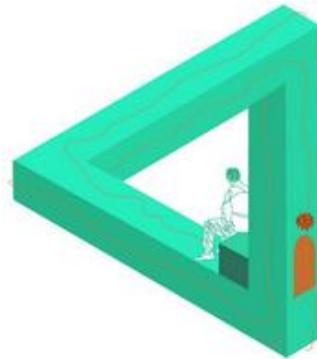
금년 4 월 18 일 중앙방역대책본부 정례 브리핑에서 코로나 19 격리해제 후 다시 양성으로 판정된 재양성 사례는 전국적으로 총 163 건이며, 격리해제자의 2.1% 수준인 것으로 보고하였다. 하지만, 전문가들은 이러한 재양성 사례는 재감염은 아닌 것으로 판단하고 있다. 그 이유는 다음과 같다. 첫째, 현재 코비드-19 진단을 위한 검사 방법은 바이러스 입자 자체를 검출하는 것이 아니고 바이러스의 RNA 유전자를 실시간 중합효소 연쇄반응(real-time PCR)으로 검출하는 것이다. **따라서 증식 가능한 바이러스 없이 유전자 찌꺼기만 있어도 검사는 양성으로 나올 수 있다. 코비드-19 에서 회복되어 퇴원한 후 전혀 증상이 없는 상태에서도 약 1 달까지도 유전자 검사는 양성**이 지속될 수 있다는 사실이 코비드-19 팬데믹 초기에 이미 잘 알려졌다(Lan, Xu et al. 2020).

- 박완범 교수

서울의대 코로나 19 과학위원회 위원

서울의대 감염내과

코비드-19 확진자가 재감염될 수 있는가? -  
연구 - SNU Responds to COVID-19 - 서



[snu.ac.kr](http://snu.ac.kr)

많은 임상 전문가들은 가능성의 하나로 감염력은 없거나 떨어지는 어떤 바이러스에 남아있는 조각들이 리얼 타임 RT-PCR 의 증폭과정에서 나타나는 것 아니겠냐.

- 권준욱 중앙방역대책본부 부분부장

"코로나 양성 나왔는데 증상이 없다" ...국내  
연구진 이유 밝혔다 /



[youtube.com](https://www.youtube.com)

**“Detection of viral RNA does not necessarily mean that a person is infectious and able to transmit the virus to another person”**

- The World Health Organization

**Transmission of SARS-CoV-2:  
implications for infection prevention  
precautions**



[who.int](https://www.who.int)

**“In some patients the viral RNA may only be detectable for several days, while in other patients it can be detected for several weeks, possibly months. Prolonged presence of viral RNA does not necessarily signify prolonged infectiousness.”**

- The World Health Organization

**Diagnostic testing for SARS-CoV-2**



[who.int](https://www.who.int)

**"It is possible that SARS-CoV-2 RNA may be detectable in the upper or lower respiratory tract for weeks after illness onset, similar to infections with MERS-CoV and SARS-CoV. However, detection of viral RNA does not necessarily mean that infectious virus is present."**

- US CDC

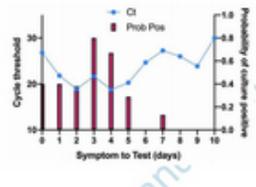
**Clinical Questions about COVID-19:  
Questions and Answers | CDC**



[cdc.gov](https://www.cdc.gov)

**"Caution needs to be applied to the results as it often does not detect infectious virus.** PCR results may lead to restrictions for large groups of people who do not present an infection risk." — The Centre for Evidence-Based Medicine

**Are you infectious if you have a positive  
PCR test result for COVID-19? - The  
Centre for Evidenc**



[cebm.net](https://www.cebm.net)

**"PCR does not distinguish between infectious virus and non-infectious nucleic acid"** — Barry Atkinson: National Collection of Pathogenic Viruses (NCPV)  
Eskild Petersen: infectious disease specialist

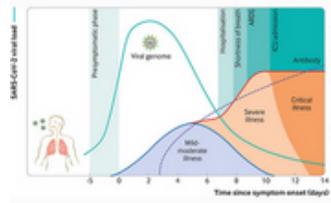
**SARS-CoV-2 shedding and infectivity -  
The Lancet**



[thelancet.com](https://www.thelancet.com)

**“...detection of viral RNA by qRT-PCR does not necessarily equate to infectiousness”** — Muge Cevik, clinical lecturer, et al.

**Virology, transmission, and pathogenesis  
of SARS-CoV-2 | The BMJ**



[bmj.com](https://www.bmj.com)

**RNA, the genetic material of the virus, was detectable in throat swabs for an average of 17 days from symptom onset, and for up to 83 days.** But RNA itself is not infectious, lead researchers Muge Cevik and Antonia Ho told Reuters in an email. **PCR tests that diagnose COVID-19 are so sensitive they can also detect non-viable genetic material, they explained.**

- Muge Cevik, MD, MSc, MRCP(UK), clinician-scientist working at the School of Medicine, University of St Andrews, under the Division of Infection and Global Health

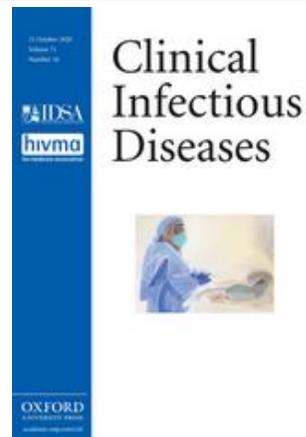
**Coronavirus infectiousness wanes by day nine; long ICU stays linked with nerve damage | Reuters**



[reuters.com](https://www.reuters.com)

**"A positive RT-qPCR result may not necessarily mean the person is still infectious** or that he or she still has any meaningful disease." — Michael R Tom, Michael J Mina

**To Interpret the SARS-CoV-2 Test, Consider the Cycle Threshold Value | Clinical Infectious Disease**



[oup.com](https://oup.com)

**Because the COVID-19 PCR tests only detect a fragment of the viral RNA, a positive test does not mean that infectious virus is present.** In one small study of people who had mild or asymptomatic novel coronavirus infection, virus was not cultured from the upper airway after day 10 of illness, **but detection of viral carriage by the molecular assay has been seen more than 80 days after the initial infection.**

A study carried out by the Korean CDC (KCDC) examined patients who had been hospitalized for COVID-19 but subsequently tested negative by PCR testing and were discharged home. Of 285 people who later retested positive, no instances of infection were found in 790 household family members and other close contacts. This strongly suggests that when there is detection of viral RNA at this stage, people are no longer infectious.

- Paul G. Auwaerter, MD, professor of medicine at the Johns Hopkins University School of Medicine and clinical director of the Division of Infectious Diseases

**COVID Testing FAQ, From Reinfection to Persistent Positives**



[medscape.com](https://www.medscape.com)

**South Korea Finds Patients Testing Positive Post-Recovery From Coronavirus Barely Infectious**

Medscape

[medscape.com](https://www.medscape.com)

**Unlike bacterial or viral culture, PCR testing DOES NOT require the pathogen to be alive in order to identify genetic code.**

- Real Diagnostics, Clinical Laboratory Improvement Amendments (CLIA) and Commission on Office Laboratory Accreditation (COLA) accredited company licensed by the Maryland Department of Health Office of Health Care Quality.

**realSTI — Real Diagnostics**



[realdxlabs.com](http://realdxlabs.com)

A similar conclusion cannot necessarily be drawn from positive PCR results, because **target DNA may persist for some time after the death of the bacteria.**

- F. Daxboeck, R. Krause, C. Wenisch, Laboratory diagnosis of Mycoplasma pneumoniae infection,

Clinical Microbiology and Infection, Volume 9, Issue 4, 2003, Pages 263-273, ISSN 1198-743X,

<https://doi.org/10.1046/j.1469-0691.2003.00590.x>.

(<https://www.sciencedirect.com/science/article/pii/S1198743X14631141>)

**Laboratory diagnosis of Mycoplasma pneumoniae infection - ScienceDirect**



[sciencedirect.com](http://sciencedirect.com)

**“Fragments of RNA can linger for weeks after infectious virus has been cleared,** often in people without symptoms or known exposures.”

“Testing to help slow the spread of SARS-CoV-2 asks not whether someone has RNA in their nose from earlier infection, but whether they are infectious today. It

is a net loss to the health, social, and economic well being of communities if post-infectious individuals test positive and isolate for 10 days. In our view, current PCR testing is therefore not the appropriate gold standard for evaluating a SARS-CoV-2 public health test.”

“The short window of transmissibility contrasts with a median 22–33 days of PCR positivity (longer with severe infections and somewhat shorter among asymptomatic individuals). **This suggests 50–75% of the time an individual is PCR positive, they are likely to be post-infectious.**”

“Once SARS-CoV-2 replication has been controlled by the immune system, RNA levels detectable by PCR on respiratory secretions fall to very low levels when individuals are much less likely to infect others. **The remaining RNA copies can take weeks, or occasionally months, to clear, during which time PCR remains positive.**”

- Michael J Mina

Affiliations

Center for Communicable Disease Dynamics, Department of Epidemiology and Department of Immunology and Infectious Diseases, Harvard T H Chan School of Public Health and Department of Pathology, Brigham and Women's Hospital, Harvard Medical School, Boston, MA, USA

**Clarifying the evidence on SARS-CoV-2 antigen rapid tests in public health responses to COVID-19**



[thelancet.com](https://www.thelancet.com)

**"I do want to emphasize that positive test results do not — underlined in neon — mean a clinical infection.** It's simply driving public hysteria and all testing should stop — unless you're presenting to the hospital with some respiratory problem."

- Roger Hodkinson MD, MA, MB, FRCPC, FCAP, CEO of Western Medical Assessments, MD from Cambridge University, Royal College certified pathologist in Canada (FRCPC).

**"This is the Greatest Hoax ever  
Perpetrated on an Unsuspecting Public"  
Dr. Roger Hodkinson (**



[bitchute.com](http://bitchute.com)

Faith in Quick Test Leads to Epidemic That Wasn't

New York Times, January 22, 2007

"But their very sensitivity makes false positives likely, and when hundreds or thousands of people are tested, as occurred at Dartmouth, false positives can make it seem like there is an epidemic."

"At Dartmouth the decision was to use a test, P.C.R., for polymerase chain reaction. It is a molecular test that, until recently, was confined to molecular biology laboratories."

"With pertussis, she said, "there are probably 100 different P.C.R. protocols and methods being used throughout the country," and it is unclear how often any of them are accurate. "We have had a number of outbreaks where we believe that

despite the presence of P.C.R.-positive results, the disease was not pertussis," Dr. Kretsinger added."

"The big message is that every lab is vulnerable to having false positives," Dr. Petti said. "No single test result is absolute and that is even more important with a test result based on P.C.R."

**Faith in Quick Test Leads to Epidemic  
That Wasn't - The New York Times**



[archive.org](https://archive.org)

Notably, **detection of viral RNA does not necessarily mean that infectious virus is present in respiratory specimens**, and caution is required when applying virus shedding duration that was calculated based on RT-PCR to assess infection potential.

**Clinical and immunological assessment of  
asymptomatic SARS-CoV-2 infections |  
Nature Medicine**

[nature.com](https://nature.com)

**"It's possible that people could shed remnants of the virus for some period of time. That doesn't mean anything is wrong with them or that they are contagious."**

- William Schaffner M.D., an infectious disease expert at Vanderbilt University Medical Center in Nashville

**Some have tested positive for COVID-19 after recovering. What does that mean?**



[yahoo.com](https://www.yahoo.com)

The take home message is that **PCR test does not distinguish between infectious and non-infectious virus.**

- Mikolaj Raszek, Ph.D., genome sequencing consultant

**COVID-19 PCR Tests - Genome Sequencing Blog For Everyday People | Merogenomics Inc.**

How do we know  
when a COVID-19  
PCR result is positive  
versus negative?

[merogenomics.ca](https://www.merogenomics.ca)

## PROBLEM 2: RT-PCR TESTS CANNOT CONFIRM ACTUAL PATHOGEN

### 병원체

병원체(病原體, 영어: pathogen, infectious agent, germ)는 바이러스, 세균, 기생충, 리케차, 원생동물 등 사람이나 동물의 체내에서 병을 일으키는 미생물을 가리킨다.

바이러스 ( 비세포성 미생물)

바이러스는 다른 종류의 미생물과 달리 , 세포가 아니며 , 세포막도 없다.

유전물질 ( DNA, RNA) 과 단백질 껍질만으로 이루어져 있다.

### 병원체 - 위키백과, 우리 모두의 백과사전



[wikipedia.org](http://wikipedia.org)

### 미생물 - 위키백과, 우리 모두의 백과사전



[wikipedia.org](http://wikipedia.org)

금년 4 월 18 일 중앙방역대책본부 정례 브리핑에서 코로나 19 격리해제 후 다시 양성으로 판정된 재양성 사례는 전국적으로 총 163 건이며, 격리해제자의 2.1%

수준인 것으로 보고하였다. 하지만, 전문가들은 이러한 재양성 사례는 재감염은 아닌 것으로 판단하고 있다. 그 이유는 다음과 같다. 첫째, **현재 코비드-19 진단을 위한 검사 방법은 바이러스 입자 자체를 검출하는 것이 아니고** 바이러스의 RNA 유전자를 실시간 중합효소 연쇄반응(real-time PCR)으로 검출하는 것이다. 따라서 증식 가능한 바이러스 없이 유전자 찌꺼기만 있어도 검사는 양성으로 나올 수 있다. 코비드-19 에서 회복되어 퇴원한 후 전혀 증상이 없는 상태에서도 약 1 달까지도 유전자 검사는 양성일 수 있다는 사실이 코비드-19 팬데믹 초기에 이미 잘 알려졌다(Lan, Xu et al. 2020).

- 박완범 교수

서울의대 코로나 19 과학위원회 위원

서울의대 감염내과

코비드-19 확진자가 재감염될 수 있는가? -  
연구 - SNU Responds to COVID-19 - 서



[snu.ac.kr](http://snu.ac.kr)

**[The PCR test] is unsuitable for SARS-CoV-2 detection and COVID-19 diagnosis. Only a virus, proven through isolation and purification, can be a solid gold standard [for testing].**

- Torsten Engelbrecht, award-winning journalist and co-author of Virus Mania with Dr. Klaus Kohnlein

**COVID19 PCR Tests are Scientifically Meaningless – OffGuardian**



[off-guardian.org](http://off-guardian.org)

**PCR does not require definitive knowledge of the pathogen DNA sequence. Additionally, PCR does not require that the pathogen(s) be isolated or their antigens produced to achieve the development and validation of an assay.**

- Maggi RG, Birkenheuer AJ, Hegarty BC, Bradley JM, Levy MG, Breitschwerdt EB. Comparison of serological and molecular panels for diagnosis of vector-borne diseases in dogs. Parasit Vectors. 2014;7:127. Published 2014 Mar 26. doi:10.1186/1756-3305-7-127

**8464886661159138 1..9**



[nih.gov](http://nih.gov)

**Understanding Our Current Health Crisis -  
The Weston A. Price Foundation**



[westonaprice.org](http://westonaprice.org)

RNA, the genetic material of the virus, was detectable in throat swabs for an average of 17 days from symptom onset, and for up to 83 days. **But RNA itself is not infectious, lead researchers Muge Cevik and Antonia Ho told Reuters in an email.** PCR tests that diagnose COVID-19 are so sensitive they can also detect non-viable genetic material, they explained.

- Muge Cevik, MD, MSc, MRCP(UK), clinician-scientist working at the School of Medicine, University of St Andrews, under the Division of Infection and Global Health

**Coronavirus infectiousness wanes by day nine; long ICU stays linked with nerve damage | Reuters**



[reuters.com](http://reuters.com)

**PCR does not isolate and identify viruses.**

PCR does not provide RNA sequences of pathogens.

PCR offers no baseline for comparison with patient samples.

PCR cannot determine an infected from non-infected sample.

- Tim O'Shea, D.C., Clinical Nutritionist

**DR. TIM O'SHEA OFFERS \$5000 FOR  
PROOF THAT THE COVID-19 EXISTS**



[bitchute.com](http://bitchute.com)

**"It is important to note that the test does not look for the complete genome of the virus, only for the short snippets."**

"The RT-PCR test only looks for a tiny gene sequence of the suspected target virus. However, for this to work, this small gene sequence would have to be absolutely unique and typical of the virus being searched for, no other virus would have the same gene sequence anywhere in its genome. However, this cannot be ruled out, as we do not know all the individual representatives of, for example, the very extensive and largely harmless corona family."

"Of the many millions of viruses that are released around us every second, only a handful survive long enough to find a new host. A positive RT-PCR test cannot exclude the possibility that it has merely detected an artefact of a virus that has already been destroyed. Consequently, in such cases there is no infection with Sars-Cov-2."

"Even if an RT-PCR test turns out positive because it should have detected the complete genome of SARS-CoV-2, this does not indicate an actual infection. **It does not even say anything about the actual presence of the whole virus.** If a person's whole genome is detectable in a glass of water, it does not mean that the person is actually in that glass. An active virus consists of genome and envelope, both must be intact, by the way. For an infection to occur, millions of active viruses must multiply in the body. However, since the RT-PCR test is ultra-sensitive and detects even absurdly low amounts of genetic material that are completely insufficient to trigger an infection, a positive test is still not conclusive with regard to a possible infection, even if the material found does indeed

originate from the active target virus. Consequently, in such cases there is still no infection with SARS-CoV-2."

"The PCR process is originally a genetic engineering manufacturing process. It is not suitable for the detection of an intact, replication-capable virus, since no conclusions about the pathogenic potential can be drawn from the test result. In principle, the test cannot diagnose an infection, since an infection requires not only the detection of an intact virus, but also its active replication in the host. The PCR method cannot make any statement about possible transmission either, because the prerequisite for transmission is a significant occurrence of infection."

- Matthias Müller, publicist and former consultant in the field of medicine, dietary supplements, and medical technology.

### Auf hauchdünnem Eis | Rubikon



[rubikon.news](https://www.rubikon.news)

### enformtk



[u-aizu.ac.jp](https://www.u-aizu.ac.jp)

### SUPPORTING DOCUMENTS for Matthias Müller Quotes

As recently as 2014, Drosten said of this PCR test method: "The method is so sensitive that it can detect a single hereditary molecule of this virus. If such a

pathogen, for example, flits across a nurse's nasal mucosa for a day without her getting sick or noticing anything else, she is suddenly a MERS case. Where previously, people at death's door were reported, now mild cases and even people without symptoms are suddenly included in the reporting statistics. This could also explain the explosion in the number of cases in Saudi Arabia. On top of this, the local media have made an incredible fuss about it."

"Reporting statistics suddenly include perfectly healthy people and distort them."

"Explosion in case numbers."

"The Media is exaggerating things beyond belief."

- Christian Drosten, Designer of original COVID-19 PCR test

**Christian Drosten & the Fraud Behind  
COVID 19 PCR Testing | Principia  
Scientific Intl.**



[principia-scientific.com](http://principia-scientific.com)

**Virologe Drosten im Gespräch 2014: „Die  
WHO kann nur Empfehlungen  
aussprechen“**



[wiwo.de](http://wiwo.de)

SUPPORTING DOCUMENTS for Matthias Müller Quotes

Millions of coronaviruses (so named because they have a halo of protein around them that looks like a crown) exist in nature.

**The President and the Plague: Tracking the Toll of Trump's Failure - Rolling Stone**

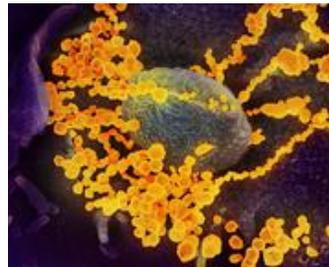


[rollingstone.com](https://www.rollingstone.com)

SUPPORTING DOCUMENTS for Matthias Müller Quotes

An estimated 10 nonillion (10 to the 31st power) individual viruses exist on our planet—enough to assign one to every star in the universe 100 million times over.

**There are more viruses than stars in the universe. Why do only some infect us?**



[nationalgeographic.com](https://www.nationalgeographic.com)

THE PCR TEST: EXPLAINING SURROGATE TESTS

To explain what a surrogate test is, let's say you want to know how many feet are in a particular town (not feet like inches, but feet at the end of your legs). Obviously, one way to find that out is to gather everybody in the town square and count the feet. Next, you want to know how many feet are in the next town over, so you assemble everyone and you count their feet. You keep doing that, and you get a 100 percent accurate reading of how many feet are in each town.

Then you say to yourself, "This is too tedious, I don't want to do this. I'm going to use a surrogate test, and that's going to tell me how many feet there are." So, you make some assumptions: (a) everybody who has feet has shoes; (b) everybody who has shoes has only one pair of shoes; (c) everybody who has shoes has shoelaces; and (d) there's only one shoe store in town that sells shoelaces. You decide that you are going to make this easy for yourself by going to the shoe store and asking how many shoelaces they sold this year—and that will tell you how many people have feet. It's nonsense, of course, because some people may not have shoes, some have many pairs of shoes, some have shoes without shoelaces and some shoelaces may come from other stores. Nevertheless, that's an example of a surrogate test—and a PCR test is a surrogate test.

If you first establish that everyone in town has one pair of shoes and they all have shoelaces, then you can count the shoelaces and make your counting job easier. But if you don't know the first critical piece of information, you can't do the second thing. In the case of this coronavirus, they didn't do the first thing—for whatever reason—but they are using the surrogate test anyway. To me, that is a monumental mistake.

- Tom Cowan, MD

The current CDC nucleic acid test kits for SARS-CoV-2 generate 30% false-positive and 20% false-negative results in the best state public health laboratory, Dr. Sin Hang Lee reported in a peer-reviewed article published in the International Journal of Geriatrics and Rehabilitation, an online journal based in Japan

(<http://www.int-soc-clin-geriat.com/info/wp-content/uploads/2020/03/Dr.-Lees-paper-on-testing-for-SARS-CoV-2.pdf>), on July 17, 2020.

**[Dr.-Lees-paper-on-testing-for-SARS-CoV-2.pdf](#)**

[int-soc-clin-geriat.com](http://int-soc-clin-geriat.com)

**CDC Coronavirus Test Kits Generate 30% False Positive and 20% False Negative Results - Connectic**



[bloomberg.com](https://www.bloomberg.com)

**PCR tests cannot detect free, infectious viruses at all. The tests can detect genetic sequences of viruses, but not viruses themselves.**

- John Lauritsen, Emmy award-winning journalist discussing PCR tests in the context of the inventor of PCR technology, Kary Mullis

**HIV & AIDS - Has Provincetown Become Protease Town?**



[archive.org](https://archive.org)

Mullis also questioned the very DNA analysis made possible by his invention of PCR.

- Coby McDonald, Contributor to California Magazine

**Intolerable Genius: Berkeley's Most Controversial Nobel Laureate | California Magazine**



[berkeley.edu](https://www.berkeley.edu)

**The first thing we need to understand about a PCR (polymerase chain reaction) test is that it is a surrogate test—it does not find a virus;**

rather, it finds something else said to indicate the presence of the virus. A surrogate test is one that is generally easier and less expensive to perform and can stand in for the gold-standard test (of actually finding the virus) and thereby make the clinical practice of medicine easier, safer, and cheaper.

PCR tests, antibody tests, and every other test for a "coronavirus" are surrogate tests, which have never been compared to any gold standard; therefore, they are completely and utterly useless and misleading. They are propaganda, not science.

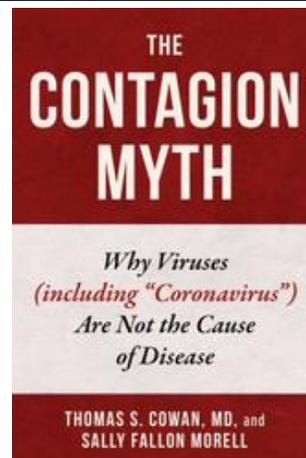
The gold standard test for a viral infection is the isolation, purification, and characterization of the virus and the proving of contagion.

Since no PCR test has ever undergone comparison to any gold standard, the results are meaningless. This is not a situation where we just need better or more accurate testing. As Kary Mullis, the inventor of the PCR technology, has insisted, time and again, PCR tests do not prove causation and cannot diagnose illness.

- Thomas Cowan MD

**The Contagion Myth: Why Viruses  
(including "Coronavirus") Are Not the  
Cause of Disease**

**\$24.99** ★★★★★☆ (4/5)



[barnesandnoble.com](https://www.barnesandnoble.com)

The first and major issue is that the novel Coronavirus SARS-CoV-2 (in the publication named 2019-nCoV and in February 2020 named SARS-CoV-2 by an international consortium of virus experts) is based on in silico (theoretical) sequences, supplied by a laboratory in China [1], because at the time neither control material of infectious ("live") or inactivated SARS-CoV-2 nor isolated genomic RNA of the virus was available to the authors. To date no validation has been performed by the authorship based on isolated SARS-CoV-2 viruses or full length RNA thereof.

**The fact that these PCR products have not been validated at molecular level is another striking error of the protocol, making any test based upon it useless as a specific diagnostic tool to identify the SARS-CoV-2 virus.**

All individuals testing positive with the RT-PCR test, as described in the Corman-Drosten paper, are assumed to be positive for SARS-CoV-2 infections. There are three severe flaws in their assumption. First, a positive test for the RNA molecules described in the Corman-Drosten paper cannot be equated to "infection with a virus". A positive RT-PCR test merely indicates the presence of viral RNA molecules. As demonstrated under point id (above), the Corman-Drosten **test was not designed to detect the full-length virus, but only a fragment of the virus.**

**We already concluded that this classifies the test as unsuitable as a diagnostic test for SARS-virus infections. Secondly and of major relevance, the functionality of the published RT-PCR Test was not demonstrated with the use of a positive control (isolated SARS-CoV-2 RNA) which is an essential scientific gold standard.**

There should be a Standard Operational Procedure (SOP) available, which unequivocally specifies the above parameters, so that all laboratories are able to set up the identical same test conditions. To have a validated universal SOP is essential, because it facilitates data comparison within and between countries. It is

very important to specify all primer parameters unequivocally. We note that this has not been done.

- Dr. Pieter Borger (MSc, PhD), Molecular Genetics, W+W Research Associate, Lörrach, Germany

**Review report Corman-Drosten et al.  
Eurosurveillance 2020 – CORMAN-  
DROSTEN REVIEW REPORT**

[cormandrostenreview.com](http://cormandrostenreview.com)

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**Author's statement:**

I, Pieter Borger, hereby certify that I am the author of the review report titled "Review report Corman-Drosten et al. Eurosurveillance 2020 – CORMAN-DROSTEN REVIEW REPORT" and that I have not been involved in the development of the CORMAN-DROSTEN assay.

I, Pieter Borger, hereby certify that I am the author of the review report titled "Review report Corman-Drosten et al. Eurosurveillance 2020 – CORMAN-DROSTEN REVIEW REPORT" and that I have not been involved in the development of the CORMAN-DROSTEN assay.

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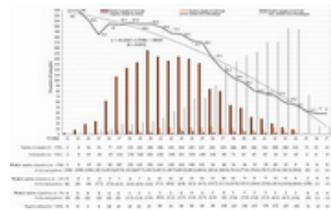
### **PROBLEM 3: RT-PCR TESTS FALSE POSITIVES DUE TO CYCLE COUNT**

**However, in an article published in Clinical Infectious Diseases, Bullard et al reported that patients could not be contagious with Ct >25 as the virus is not detected in culture above this value.**

**It can be observed that at Ct = 25, up to 70% of patients remain positive in culture and that at Ct = 30 this value drops to 20%. At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive.**

- Rita Jaafar, Sarah Aherfi, Nathalie Wurtz, Clio Grimaldier, Thuan Van Hoang, Philippe Colson, Didier Raoult, Bernard La Scola, Correlation Between 3790 Quantitative Polymerase Chain Reaction–Positives Samples and Positive Cell Cultures, Including 1941 Severe Acute Respiratory Syndrome Coronavirus 2 Isolates, Clinical Infectious Diseases, 2020;, ciaa1491, <https://doi.org/10.1093/cid/ciaa1491>

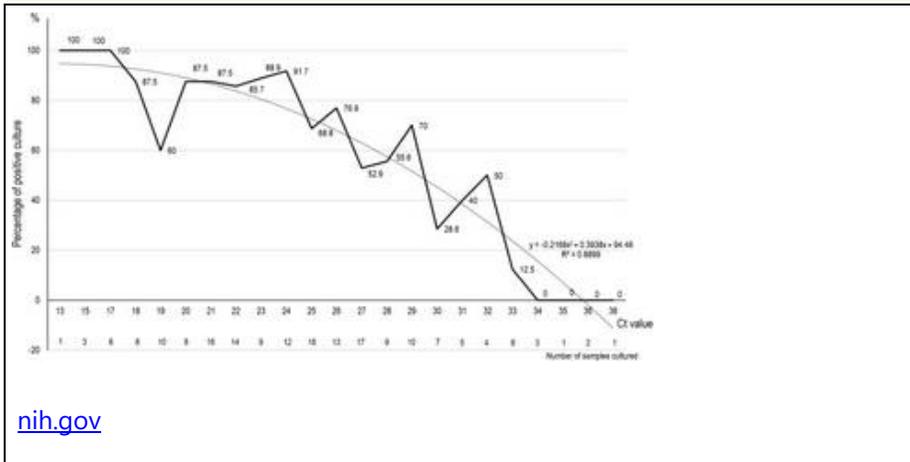
**Correlation Between 3790 Quantitative Polymerase Chain Reaction–Positives Samples and Positive**



[oup.com](http://oup.com)

**Samples with Ct values of 13–17 all led to positive culture. Culture positivity rate then decreased progressively according to Ct values to reach 12% at 33 Ct. No culture was obtained from samples with Ct > 34.**

- Bernard La Scola, IHU-Méditerranée Infection, Marseille, France; Aix Marseille Univ, IRD, APHM, MEPHI, Marseille, France



[nih.gov](http://nih.gov)

**Viral RNA load as determined by cell culture as a management tool for discharge of SARS-CoV-2 pa**

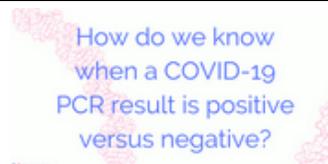


[nih.gov](http://nih.gov)

**For Ct values of ~23 the virus could be cultured nearly 87% of the time. For Ct >35, the ability to culture the virus dropped to 8%.**

- Mikolaj Raszek, Ph.D., genome sequencing consultant

**COVID-19 PCR Tests - Genome Sequencing Blog For Everyday People | Merogenomics Inc.**



[merogenomics.ca](http://merogenomics.ca)

The RT-PCR method is not a binary test, it does not have a clear positive or negative result. The test procedure is a threshold test, the threshold value is given as Ct value (cycle threshold). This value indicates how many doubling cycles should be carried out until the colouring test can be considered positive or negative. **There is no scientific basis for the Ct-value and there is no specification, it is arbitrary. Every manufacturer and every laboratory determines the Ct value as they wish.**

**It should also be clearly emphasised that "the" PCR test does not exist. Instead, there are a large number of different tests; currently there are well over one hundred in use worldwide.**

- Matthias Müller, publicist and former consultant in the field of medicine, dietary supplements, and medical technology.

**Auf hauchdünnem Eis | Rubikon**



[rubikon.news](http://rubikon.news)

**enformtk**

[u-aizu.ac.jp](http://u-aizu.ac.jp)

WHO has received user feedback on an elevated risk for false SARS-CoV-2 results when testing specimens using RT-PCR reagents on open systems.

**Users of RT-PCR reagents should read the IFU carefully to determine if manual adjustment of the PCR positivity threshold is necessary to account for any background noise which may lead to a specimen with a high cycle threshold (Ct) value result being interpreted as a positive result.** The design principle of RT-PCR means that for patients with high levels of circulating virus (viral load), relatively few cycles will be needed to detect virus and so the Ct value will be low. **Conversely, when specimens return a high Ct value, it means that many cycles were required to detect virus. In some circumstances, the distinction between background noise and actual presence of the target virus is difficult to ascertain.**

-World Health Organization

**WHO Information Notice for IVD Users**



[archive.org](https://www.who.int/news-room/feature-stories/2020/05/20200514-who-notice-for-ivd-users)

Your Coronavirus Testis Positive. Maybe It Shouldn't Be.

The PCR test amplifies genetic matter from the virus in cycles; the fewer cycles required, the greater the amount of virus, or viral load, in the sample. The greater the viral load, the more likely the patient is to be contagious.

This number of amplification cycles needed to find the virus, called the cycle threshold, is never included in the results sent to doctors and coronavirus patients, although it could tell them how infectious the patients are.

**In three sets of testing data that include cycle thresholds, compiled by officials in Massachusetts, New York and Nevada, up to 90 percent of people testing positive carried barely any virus, a review by The Times found.**

**Tests with thresholds so high may detect not just live virus but also genetic fragments, leftovers from infection that pose no particular risk — akin to finding a hair in a room long after a person has left, Dr. Mina said.**

Any test with a cycle threshold above 35 is too sensitive, agreed Juliet Morrison, a virologist at the University of California, Riverside. "I'm shocked that people would think that 40 could represent a positive," she said.

**The C.D.C.'s own calculations suggest that it is extremely difficult to detect any live virus in a sample above a threshold of 33 cycles.**

**Your Coronavirus Test Is Positive. Maybe It Shouldn't Be. - The New York Times**



[nytimes.com](https://www.nytimes.com)

Points raised in NY Times article

- Standard tests diagnose large numbers of people carrying insignificant amounts of virus.
- **Most are not likely to be contagious. If Ct >33, virus not grown in culture.**
- A cycle threshold >35 is too sensitive.
- **A more reasonable cutoff is Ct 30-35 or even Ct <30.**

- In NY state lab, 50% of recent positives had Ct >35.
- In MA, 85-90% of positives in July had Ct >30.

- Marie L. Landry, M.D. Director, Clinical Virology Laboratory, Yale New Haven Hospital

**COVID-19 Ct values\_YNHH Aug. 2020  
abbrev**



[yale.edu](http://yale.edu)

**The maximum reasonably reliable Ct value is 30 cycles.** Above a Ct of 35 cycles, rapidly increasing numbers of false positives must be expected.

- Dr. Pieter Borger (MSc, PhD), Molecular Genetics, W+W Research Associate, Lörrach, Germany

**Review report Corman-Drosten et al.  
Eurosurveillance 2020 – CORMAN-  
DROSTEN REVIEW REPORT**



[cormandrostenreview.com](http://cormandrostenreview.com)

And the problem is that this reliability proves to be, in terms of scientific evidence (and in this field, the judge will have to rely on the knowledge of experts in the field) more than debatable.

What follows from these studies is simple - **the eventual reliability of the PCR tests performed depends on the threshold of amplification cycles they contain, so that up to 25 cycles, the reliability of the test will be around 70%;** if 30 cycles are performed, the reliability drops to 20%; if 35 cycles are reached, the reliability will be 3%.

- Lisbon, Portugal, Court of Appeals

**Acórdão do Tribunal da Relação de Lisboa**



[dgsi.pt](http://dgsi.pt)

#### **PROBLEM 4: RT-PCR TESTS NOT VALIDATED FOR ASYMPTOMATIC PEOPLE**

**"Performance is unknown in asymptomatic patients."**

COMMENT: The United States FDA had been suggesting that RT-PCR test kit manufactures add this statement to their "Instructions for Use." This means that the United States FDA was aware that these tests were not meant to be used on asymptomatic people. This is an explicit admission that these tests are not validated on asymptomatic people.

**FDA Molecular Diagnostic Template for  
Manufacturers (MS WORD DOWNLOAD  
LINK)**

[archive.org](https://www.archive.org)

In its official rules for testing, Santa Clara County's Department of Public Health notes that **"It is important to note that the test is not validated for use in asymptomatic individuals,** and testing those without symptoms may give falsely reassuring negative results and lead to missed infections or inaccurate safety recommendations."

**Coronavirus: False negative tests cloud  
the picture of viral spread**



[mercurynews.com](https://www.mercurynews.com)

**The main issue is that the PCR tests were not designed to be used for diagnostic purposes in asymptomatic people with no exposure to COVID-19!**

Or in other words, the COVID-19 test was not designed for people with a low probability of disease.

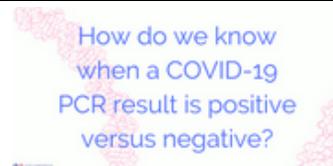
The point is that health authorities are fully aware of this. This is not news. **This is why health authorities actually discouraged using a diagnostic PCR testing as a screening tool the way we started doing it. Thus Public Health Ontario does not recommend COVID-19 asymptomatic testing, as does the US CDC.**

It is well understood the significant negative impact that tests with high false positive rate can have, be it financial, psychological and societal due to the misdirection and misuse of resources.

- Mikolaj Raszek, Ph.D., genome sequencing consultant

**COVID-19 PCR Tests - Genome Sequencing Blog For Everyday People | Merogenomics Inc.**

[merogenomics.ca](http://merogenomics.ca)



**The authorization is entirely based on the performance of these tests in symptomatic people and not in asymptomatic people.**

- Geoffrey Baird M.D., interim chair of laboratory medicine at the University of Washington

**What You Need to Know About COVID-19 Testing**



[webmd.com](http://webmd.com)

**PHO does not currently recommend routine testing of asymptomatic persons for COVID-19** (outside of those recommended in the guidance from the Ministry of Health, or as directed by the public health unit for public health investigation).

- Ontario Agency for Health Protection and Promotion

**COVID-19 Laboratory Testing at Public Health Ontario | Public Health Ontario**



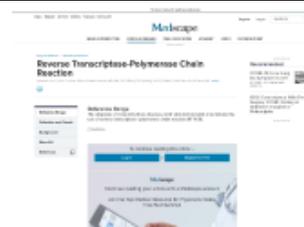
[publichealthontario.ca](https://publichealthontario.ca)

## PROBLEM 5: RT-PCR TESTS AND CONTAMINATION PROBLEMS

RT-PCR is extremely sensitive and can be performed using paraffin-embedded, fresh, or frozen tissues. **Its high false-positive rate (low specificity) is its Achilles heel; therefore, meticulous care is necessary to prevent contamination.** - Bishnu Prasad Devkota, MD, MHI, FRCS(Edin), FRCS(Glasg), FACP, FAMIA Professor of Medicine, St Louis University School of Medicine

Bishnu Prasad Devkota, MD, MHI, FRCS(Edin), FRCS(Glasg), FACP, FAMIA is a member of the following medical societies: American College of Physicians, American Medical Informatics Association, Healthcare Information and Management Systems Society, Royal College of Physicians and Surgeons of Glasgow, Royal College of Surgeons of Edinburgh

**Reverse Transcriptase-Polymerase Chain Reaction: Reference Range, Collection and Panels, Backgro**



[medscape.com](https://www.medscape.com)

"The RT-PCR test is an ultra-sensitive method. As it is able to detect even small concentrations of nucleic acids without any imagination, extreme demands are made on the implementation of the procedure. **Even microscopically small contaminations make the patient's smear unusable, and even the slightest mistake during sampling, packaging, transport or in the laboratory will invalidate the test. Basically, all samples must be taken under sterile conditions by medical professionals, sealed, packed, stored and transported under the strictest conditions. Laboratories must be certified and each test must be double-checked. Of course, this does not take place in the current orgy of testing. The very idea of setting up various test stations along motorways is grotesque and testifies to pure political activism. From a scientific point of view, it is utter nonsense. Not a single one of these tests is**

**permissible according to current standards, the medical significance of these tests is zero."**

### Auf hauchdünnem Eis | Rubikon



[rubikon.news](http://rubikon.news)

### enformtk



[u-aizu.ac.jp](http://u-aizu.ac.jp)

Like an electronically amplified antenna, PCR greatly amplifies the signal, but it also greatly amplifies the noise. Since the amplification is exponential, the slightest error in measurement, **the slightest contamination, can result in errors of many orders of magnitude.**

- John Lauritsen, Emmy award-winning journalist discussing PCR tests in the context of the inventor of PCR technology, Kary Mullis

### HIV & AIDS - Has Provincetown Become Protease Town?



[archive.org](https://archive.org)

### Research Paper Shows that COVID-19 RT-PCR Tests Are Not Specific

A research paper was published by the Spanish medical journal D-Salud-Discovery in November 2020 that shows that the genetic sequences used in PCRs to detect suspected SARS-CoV-2 are present in dozens of sequences of the human genome itself and in those of about a hundred microbes.

D-Salud-Discovery's advisory board is full of eminently qualified physicians and scientists. This lends further credibility to their research that the genetic primers, probes, and target gene sequences used in RT-PCR tests to identify SARS-CoV-2 do not target anything specific.

<https://www.dsalud.com/reportaje/la-estafa-se-constata-la-pcr-no-detecta-el-sars-cov-2/>

<http://philosophers-stone.info/wp-content/uploads/2020/11/The-scam-has-been-confirmed-Dsalud-November-2020.pdf>

Advisory board:

<https://www.dsalud.com/consejo-asesor/>

Here are some excerpts from their paper:

### LOOKING FOR THE ORIGIN OF THE FALSE GENOME

The question we asked ourselves then was: if the sequences that have been published do not belong - as claimed- to new viruses, where do they come from? And to try to answer that question we decided to carry out a search with a computer program called Basic Local

Alignment Search Tool (BLAST), a sequence alignment search tool that allows us to compare a given sequence with all the sequences stored in the National Institutes of Health of the United States (it is public and can be consulted at <https://blast.ncbi.nlm.nih.gov/Blast.cgi>). We explain step by step what we did so that our readers can repeat the search for themselves and check the results.

First we collected all the initiators of the PCRs described in the protocols hosted on the WHO website at the time which were these:

- China CDC protocol: uses ORF1ab and N genes as target.
  
- Protocol of the Pasteur Institute (France): uses two fragments of the RdRP (which is supposed to be SARS.CoV-2 specific )
  
- United States CDC protocol: uses three fragments of the N gene.
  
- Protocol of the National Institute of Infectious Diseases of Japan: it is the only one that has as target the S gene together with other genes supposedly shared with other coronaviruses.
  
- Charite Protocol (Germany): uses the E, N and RdRP genes.
  
- Hong Kong University Protocol: uses ORF1b-nsp14 and N gene.
  
- National Institute of Health Thailand protocol: uses the N gene.

We then introduced the sequence of the primers - the one that indicates the beginning of the sequence to be detected (forward) and the one that indicates the final (reverse) - into

the BLAST so that it could search for them in two databases: a collection of microbe genomes and the one corresponding to the human genome.

**THE SEQUENCES OF THE SO-CALLED SARS-COV-2 ARE FOUND BOTH IN HUMANS AND IN NUMEROUS MICROBES!**

Let's see in detail the procedure taking as an example the initiators of the French protocol. Once on the BLAST website, we chose Microbes to search the microbial genome databases and moved to the next page. Then a form appeared in which we entered the sequence of the forward initiator of the French protocol -that is ATGAGCTTAGTCCTGTG-, we selected the option Highly similar sequences and pressed the BLAST key. Just a few seconds later the results appeared -we took a screenshot (image 1)- and we were shown 100 sequences of microbes -particularly bacteria and archaea- with a coincidence of between 77% and 100% with an identity percentage of 100%.

We then returned to the home page and that second time we chose Human to search the human genome, we repeated the same operation and after a few seconds the result appeared which we screen captured again (image 2). And it turns out that the sequence entered coincides with 74 sequences of the human genome, with a coincidence of between 66% and 100% and a percentage of identity of 100%.

And that indicates that the sequence of that initial PCR primer that is supposed to be specific to SARS-CoV-2 actually corresponds to 74 fragments of the human genome and a hundred microbial fragments as well!

We then decided to repeat the operation but with the final or reverse primer - which is CTCCTTTGTGTGTGT - and the results were similar.

Since these were very short sequences -about twenty genetic letters or nucleotides- we decided to try again but with the target sequence defined by these two primers, i.e. the sequence of the supposed SARS-CoV-2 genome that is between the initial primer and the final primer. Obviously, for this we needed the sequence that is officially claimed to be

the "SARS-CoV-2 genome" and although thousands of laboratories claim to have isolated and sequenced it -a false claim as we have explained in previous reports- we decided to go to the National Centre for Biotechnology Information website:

[https://www.ncbi.nlm.nih.gov/nuccore/NC\\_045512.2?report=genbank&to=29903](https://www.ncbi.nlm.nih.gov/nuccore/NC_045512.2?report=genbank&to=29903)

Once there, we located the "target sequence", a fragment of 108 nucleotides located between positions 12,690 and 12,797 of the "genome", which is this one:

```
ATGAGCTTAGTCCTGTTGCACTACGACAGATGTTGTGCCGGTACACAACTGCTTGCACTGATGA  
CAATGCGTTAGCTTACAACAACAAGGGAG.
```

With this we repeated the steps previously described and the results were again surprising since there appeared again a hundred microbe sequences with a percentage of a match of 100% and four sequences of the human genome with an identity percentage between 83% and 95%. The matches were therefore lower but the important thing is that we continue to find fragments of the supposed "target sequence" of SARS-CoV-2 both in microbes and in our own genome.

Truly astonished we took a further step and tested with the gene considered at that time as the most specific of SARS-CoV-2, the E gene that is supposed to generate the envelope proteins and is located between positions 26,245 and 26,472:

```
ATGTA CTCA TTCGTTTCGGAAGAGACAGG TACTACGTTAATAGTTAATAGCGTACTTCTCTTGCTT  
TCGTGGTATTCTTGCTAGTTACACTAGCCATCCTGCTTCGATTGTGCGTACTGCTGCAATATTGTT  
AACGTGAGTCTTG TAAAACCTTTACGTTTACTCGTGTTAAAATCTGAATTCTTCTAGAGTTTCGATT  
CTGGTCTAA.
```

We repeated with it the steps already described and the result was even more surprising because despite its length another hundred microbe sequences appeared with a percentage of identity of 100% and 10 sequences of the human genome with a percentage of identity between 80% and 100%. And similar results were obtained with a fragment

chosen at random and with the N gene which they say corresponds to the proteins of the SARS-CoV-2 nucleocapsid.

We finally decided to test with the S gene which is said to generate the structural "spike" proteins that are key to entry into the cell and was subsequently considered to be the most specific SARS-CoV-2 gene. Since it is a gene whose sequence is much longer - 3821 nucleotides between positions 21,563 and 25,384 - we tested with two fragments chosen at random within that gene and the first - TTGGCAAATTCAGACTCACTTTC - resulted in another hundred microbe sequences and 93 sequences of the human genome and the second - CTTGCTGCTACTAAATGCAGAGTGT - a hundred microbial sequences and 90 of the human genome.

Finally we decided to test with the initiators of the Japan Protocol, the only one that includes target sequences of the S gene and, the reader will have already guessed, the results were once again similar: a hundred microbe sequences and 93 sequences of the human genome with an identity percentage between 94.12% and 100%!

We end by adding that even the WHO itself does not really believe in these tests. Just read the document published last September 11 as a laboratory guide for SARS-CoV-2 entitled Diagnostic tests for SARS-CoV-2 - it is available at <https://apps.who.int/iris/rest/bitstreams/1302661/retrieve> - and it literally says on page 5: "Whenever possible, suspected active infection should be tested with a nucleic acid amplification test (NAAT) such as RT-PCR. NAAT tests should target the SARS-CoV-2 genome but since there is no known global circulation of SARS-CoV-1 a Sarbecovirus sequence (presumed to include at least five human and animal coronaviruses including SARS-CoV-1 and SARS-Cov-2) is also a reasonable target". That is, WHO agrees to use non-specific sequences to detect SARS-CoV-2.

### **New York Times Reports on Fake Epidemic Caused by Reliance on RT-PCR Test**

The New York Times in January 2007 reported on a fake epidemic that was fueled by use of the PCR test. This is an important article because it is evidence that the PCR test is not reliable and can be used to create the image of an epidemic.

<https://web.archive.org/web/20191019005156/https://www.nytimes.com/2007/01/22/health/22whoop.html>

Here are just a few excerpts from the article:

### **Faith in Quick Test Leads to Epidemic That Wasn't**

But their very sensitivity makes false positives likely, and when hundreds or thousands of people are tested, as occurred at Dartmouth, false positives can make it seem like there is an epidemic.

At Dartmouth the decision was to use a test, P.C.R., for polymerase chain reaction. It is a molecular test that, until recently, was confined to molecular biology laboratories.

With pertussis, she said, "there are probably 100 different P.C.R. protocols and methods being used throughout the country," and it is unclear how often any of them are accurate. "We have had a number of outbreaks where we believe that despite the presence of P.C.R.-positive results, the disease was not pertussis," Dr. Kretsinger added.

"The big message is that every lab is vulnerable to having false positives," Dr. Petti said. "No single test result is absolute and that is even more important with a test result based on P.C.R."

# PROBLEMS WITH RT-PCR TESTS CONT.

Technical Specifications

## **Non-compliance with Law:**

- According to Korean FDA Approved RT-PCR Test Kit Makers
- According to US FDA EUA Authorized Korean RT-PCR Test Kit Makers

Section  
4



**Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"Nucleic acid may persist even after the virus is no longer viable."  
COMMENT: This is an explicit admission that this test cannot detect infectivity. The detected nucleic acid could be alive or dead, activated or inactivated, infectious or non-infectious.

"Clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

**Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The STANDARD M nCoV Real-Time Detection kit is a real-time reverse transcription-PCR assay for the qualitative detection of SARS-CoV-2 nucleic acids"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

"This kit is helpful for the auxiliary diagnosis of SARS-CoV-2 infection. The test results are for clinical reference only and cannot be used as a basis for confirming or excluding cases alone."

COMMENT: This is an explicit admission that the test does not detect the pathogen. The results are for REFERENCE ONLY, not for diagnosis. The results can only be used to help in making a clinical diagnosis. The reason is because it cannot detect the actual pathogen and it cannot detect infectiousness and it cannot be used with high reliability.

REFERENCE:

진단 키트의 중요성을 누구보다 잘 알고 있는 '코젠바이오텍'은 열흘 만에 코로나 19 진단 키트를 개발했다. 800 여종의 진단 제품을 개발하며 쌓은 광범위한 경험과 전문성이 빛을 발한 것이다. 신속한 개발로 2 월 4 일 국내 최초로 긴급사용승인 허가를 받은 '코젠바이오텍'의 진단 키트는 성능 면에서도 단연 돋보인다.

**'코젠바이오텍'은 연구용으로만 사용하던 `리얼타임(Real-time) PCR` (Polymerase chain reaction) 기법을 상용화한 곳이다.**

COMMENT: Along the same lines the STANDARD M nCoV Real-Time test kit, the technology used by previously KCDC EUA authorized Kogene Biotech is similar: "The RT-PCR technology was previously used for RESEARCH PURPOSES ONLY." In other words, this technology was not developed for diagnostic purposes.

**K-진단키트 선두주자, '코젠바이오텍' | KBS WORLD**



[kbs.co.kr](http://kbs.co.kr)

CROSS-REACTIVITY (SPECIFICITY)

In silico cross reactivity analysis was performed against 25 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 25 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:

"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](https://asm.org)

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are ORF1ab (FAM) and JOE / VIC / HEX (E gene) with a cycle count of  $\leq 36$ .

Only one of the target genes needs to be detected to trigger a positive result.

COMMENT: The E gene is not specific to SARS-CoV-2. Also, according to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 36, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

REFERENCE:

- 긴급도입 승인된 제품을 사용해 검사  
- upE/ORF1a 2 개 모두 양성인 경우 양성판정

민간의료기관용 메르스 및  
지카바이러스감염증 유전자 검사 지침 | 공지



[cdc.go.kr](http://cdc.go.kr)

#### **Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

"The performance of the STANDARD M nCoV Real-Time Detection kit was evaluated in a contrived clinical study using 30 nasopharyngeal specimens (NP) (collected in UTM) and 30 sputum samples collected from patients with signs and symptoms of a respiratory infection."

COMMENT: This is an explicit admission that the clinical performance of this test was only validated in specimens of people who had symptoms. This test is not validated for use in asymptomatic people.

#### **Problem 5 - RT-PCR Tests And Ease Of Contamination**

"As this test involves extraction of viral RNA and PCR amplification, care should be taken to avoid contamination of the amplification reaction mixture of the kit. Regular monitoring of laboratory contamination is recommended."

"Gloves must be changed between handling samples and STANDARD M nCoV Real-Time Detection kits. Prevent contamination. Avoid contaminating gloves when handling samples and controls."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



[medscape.com](https://www.medscape.com)

**U-TOP COVID-19 Detection Kit -  
Instructions for Use**



[fda.gov](https://www.fda.gov)

### **Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

### **Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The U-TOP COVID-19 Detection Kit is a one-step real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### **CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 33 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 33 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:  
"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

**Problem 3 - RT-PCR Test False Positives Due to Cycle Count**

The target genes are ORF1ab (FAM) and N (HEX) with a cycle count of  $\leq 38$ .

Only one of the target genes needs to be detected to trigger a positive result.

COMMENT: According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 38, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

REFERENCE:

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- upE/ORF1a 2 개 모두 양성인 경우 양성판정

민간의료기관용 메르스 및  
지카바이러스감염증 유전자 검사 지침 | 공지



[cdc.go.kr](http://cdc.go.kr)

#### **Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA which is generally detectable in upper and lower respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

#### **Problem 5 - RT-PCR Tests And Ease Of Contamination**

"Avoid use of the kit if contaminated with test sample."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



[medscape.com](http://medscape.com)



### **Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"Clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

"Detection of viral RNA may not indicate the presence of infectious virus or that SARS-CoV-2 is the causative agent for clinical symptoms."

COMMENT: There is an explicit admission that the test cannot confirm infectivity.

### **Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The Real-Q 2019-nCoV Detection Kit is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from the SARS-CoV-2"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### **CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 32 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 32 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:

"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are FAM (RdRP) and HEX / VIC (E gene) with a cycle count of  $\leq 38$ .

Only one of the target genes needs to be detected to trigger a positive result.

COMMENT: The E gene is not specific to SARS-CoV-2. Also, according to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 38, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

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- upE/ORF1a 2 개 모두 양성인 경우 양성판정

민간의료기관용 메르스 및  
지카바이러스감염증 유전자 검사 지침 | 공지



[cdc.go.kr](http://cdc.go.kr)

#### **Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

#### **Problem 5 - RT-PCR Tests And Ease Of Contamination**

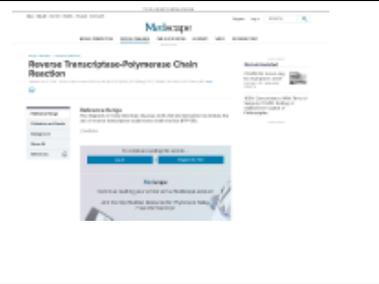
"PCR is a very sensitive method, therefore, take care to avoid carry-over contamination."

"Avoid contamination by adhering to good laboratory practices and to the procedures specified in this package insert."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**

[medscape.com](https://www.medscape.com)





### **Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

"All results should be interpreted by a health care professional in the context of patient medical history and clinical symptoms."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

"Nucleic acid may persist even after the virus is no longer viable."

COMMENT: This is an explicit admission that the test cannot detect infectivity.

### **Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The EzplexSARS-CoV-2 G Kit is a real-time RT-PCR in vitro diagnostic test intended for the qualitative detection of nucleic acid from SARS-CoV-2"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### **CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 28 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 28 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:

"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are FAM (RdRp) and CY5 (N) with a cycle count of  $\leq 39$ .

The test is inconclusive when only one target gene is detected.

COMMENT: The N gene is not specific to SARS-CoV-2. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 39, almost guaranteeing that the result is a false positive.

#### **Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

In the clinical evaluation study, left-over archived specimens from symptomatic patients suspected of COVID-19 infection were tested."

COMMENT: This is an explicit admission that the clinical performance of this test was only validated in specimens of people who had symptoms. This test is not validated for use in asymptomatic people.

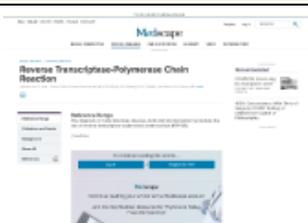
#### **Problem 5 - RT-PCR Tests And Ease Of Contamination**

"Avoid cross-contamination during the specimen handling steps. Specimens can contain extremely high levels of virus or other organisms."

"Good laboratory practices are required to ensure the performance of the kit, with care required to prevent contamination of the kit components."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain Reaction: Reference Range, Collection and Panels, Backgro**



[medscape.com](https://www.medscape.com)



## Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen

"The Allplex™ 2019-nCoV Assay is an in vitro diagnostic (IVD) real-time reverse transcriptase polymerase chain reaction (RT-PCR) test intended for the qualitative detection of SARS-CoV-2 viral nucleic acids"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

### CROSS-REACTIVITY (SPECIFICITY)

In silico cross reactivity analysis was performed against 26 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 26 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

### REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:

"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we

understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

**Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

"In the clinical evaluation study, selected left-over archived samples from symptomatic patients suspected of COVID-19 infection."

COMMENT: This is an explicit admission that the clinical performance of this test was only validated in specimens of people who had symptoms. This test is not validated for use in asymptomatic people.

**Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"Detection of viral RNA may not indicate the presence of infectious virus or that 2019-nCoV is the causative agent for clinical symptoms."

"Nucleic acid may persist even after the virus is no longer viable."

COMMENT: These are explicit admissions that the test cannot detect infectivity.

"clinically correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are E (FAM) RdRP (CalRed 610) and N (Quasar 670) with a cycle count of  $\leq 40$ .

Only one of the target genes (N or E gene) needs to be detected to trigger a positive or presumptive positive result.

COMMENT: The E gene is not specific to SARS-CoV-2. This test will trigger presumptive positive even when none of the unique SARS-CoV-2 target genes are detected. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 38, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

#### REFERENCE:

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[cdc.go.kr](http://cdc.go.kr)

### Problem 5 - RT-PCR Tests And Ease Of Contamination

"Avoid contamination by adhering to good laboratory practices and to the procedures specified in this package insert."

"False positive results may happen from cross- contamination between patient samples, specimen mix-up and RNA contamination during product handling."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



[medscape.com](https://www.medscape.com)

**AQ-TOP COVID-19 Rapid Detection Kit -  
Instructions for Use**



[fda.gov](https://www.fda.gov)

**Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"clinically correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

**Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The AQ-TOP™ COVID-19 Rapid Detection Kit is a Real-Time Loop Mediated Isothermal Amplification (RT-LAMP) test intended for the qualitative detection of nucleic acid from SARS-CoV-2 "

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

**CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 33 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 33 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

#### REFERENCE:

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#### **False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](https://asm.org)

#### CROSS-REACTIVITY (SPECIFICITY)

"However, some of the primers showed high homologies to specific microorganisms: SARS-coronavirus, Haemophilus influenzae, Legionella pneumophila, Streptococcus pneumoniae, Streptococcus pyogenes, Mycoplasma pneumoniae, Staphylococcus epidermis, Streptococcus salivarius and Staphylococcus aureus. Since the amplification and detection of RT-LAMP requires simultaneous binding of six (6) primers and a detection probe to the target nucleic acid, it is not expected that these microorganisms will be amplified or produce cross-reactive signal."

COMMENT: This is an explicit admission that the test is not specific. The maker expects that there will be no cross reactivity but does not guarantee it.

#### **Problem 3 - RT-PCR Test False Positives Due to Cycle Count**

The target gene is ORF1ab (FAM) with a cycle count of  $\leq 30$ .

Only one target gene needs to be detected to trigger a positive result.

COMMENT: According to a major scientific study published in Oxford University Press, "At Ct = 30, the value we used to report a positive result for PCR, 20% of cultures are positive." This means that at 30 cycles, 80% of positive results are false positives.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

REFERENCE:

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- upE/ORF1a 2 개 모두 양성인 경우 양성판정

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[cdc.go.kr](http://cdc.go.kr)

#### Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People

"Results are for the identification of SARS-CoV-2 RNA which is generally detectable in upper and lower respiratory specimens during the acute phase of infection."

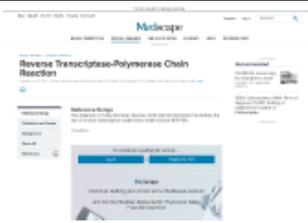
COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

#### Problem 5 - RT-PCR Tests And Ease Of Contamination

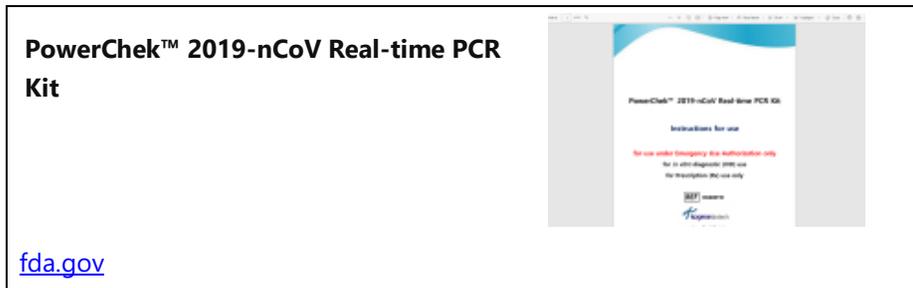
"Change gloves often to avoid cross contamination between samples and control reagents."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



[medscape.com](https://www.medscape.com)



### **Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

### **Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"PowerChek™ 2019-nCoV Real-time PCR Kit is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### **CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 27 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 27 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

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**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

**Problem 3 - RT-PCR Test False Positives Due to Cycle Count**

The target genes are E and RdRP with a cycle count of  $\leq 37$ .

Only one of the target genes needs to be detected to trigger a presumptive positive or positive result.

COMMENT: The E gene is not specific to SARS-CoV-2. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 37, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

REFERENCE:

- 긴급도입 승인된 제품을 사용해 검사  
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민간의료기관용 메르스 및  
지카바이러스감염증 유전자 검사 지침 | 공지



[cdc.go.kr](http://cdc.go.kr)

#### Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detected in respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

#### Problem 5 - RT-PCR Tests And Ease Of Contamination

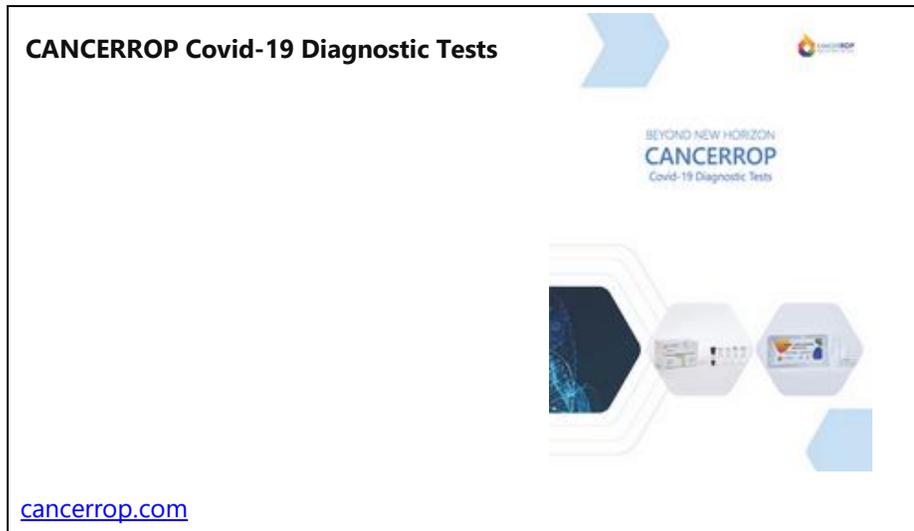
"We recommend that all experiment steps be performed with poly-gloves to prevent the risk of contamination with nucleases (RNase or DNase)."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



[medscape.com](https://www.medscape.com)



**LACK OF AVAILABLE INFORMATION**

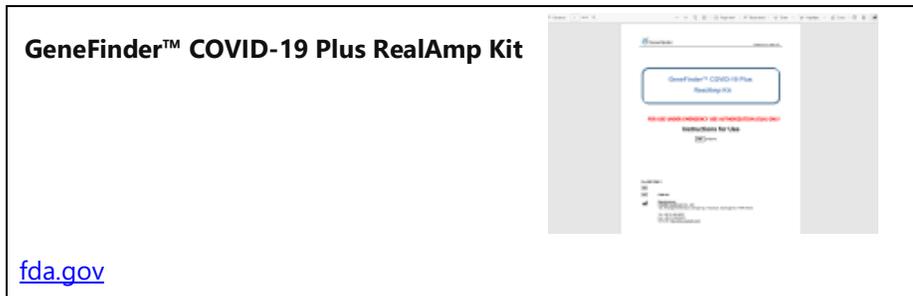
I was unable to find the "Instructions for Use" for this test kit. The target gene and cycle count information are provided on the company's website, but no other technical information was available. The website was made mostly for marketing purposes.

**Problem 3 - RT-PCR Test False Positives Due to Cycle Count**

The target genes are E and RdRP with a cycle count of  $\leq 39$ .

Both target genes need to be detected to trigger a positive result. If only one target gene is detected, the test is invalid. In such a case, the test must be repeated and or a new specimen tested until a conclusive result is obtained.

COMMENT: The E gene is not specific to SARS-CoV-2. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 37, almost guaranteeing that the result is s a false positive.



### **Problem 1 - RT-PCR Test Cannot Confirm Infectivity**

"clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

"Nucleic acid may persist even after the virus is no longer viable."

COMMENT: This is an explicit admission that the test cannot detect infectivity.

### **Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen**

"The GeneFinder COVID-19 Plus RealAmp Kit is a real-time reverse transcription-PCR assay for the qualitative detection of SARS-CoV-2 nucleic acids"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### **CROSS-REACTIVITY (SPECIFICITY)**

In silico cross reactivity analysis was performed against 18 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 18 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

REFERENCE:

A clinical microbiologist writing for the American Society of Microbiology (ASM) stated this clearly:

"[Analytic sensitivity and specificity] differ in meaning from clinical sensitivity and specificity (the percentage of positive patients who test positive and negative patients who test negative, respectively) and a test with good analytical sensitivity and specificity does not necessarily have good clinical sensitivity and specificity. The overall performance of SARS-CoV-2 RT-PCR tests cannot be known until we understand who is truly infected and who isn't." The ASM paper concludes by acknowledging that "as yet, there is no consensus on how accurate our testing is."

**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are RdRp (FAM), N (JOE / VIC), and E (Texas Red) with a cycle count of  $\leq 40$ .

Only one of the target genes needs to be detected to trigger a positive result. If only the E gene is positive, the test triggers a presumptive positive result.

COMMENT: The E gene is not specific to SARS-CoV-2. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means

that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 38, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a positive result. Now only one target gene is required. This further increases the risk of false positives.

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[cdc.go.kr](http://cdc.go.kr)

#### Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

"The performance of the GeneFinder COVID-19 Plus RealAmp Kit was evaluated in a contrived clinical study using 60 individual upper respiratory specimens and 60 sputum specimens collected from patients with signs and symptoms of a respiratory infection."

COMMENT: This is an explicit admission that the clinical performance of the test was only validated in people with symptoms. This test was not validated for people without symptoms.

#### Problem 5 - RT-PCR Tests And Ease Of Contamination

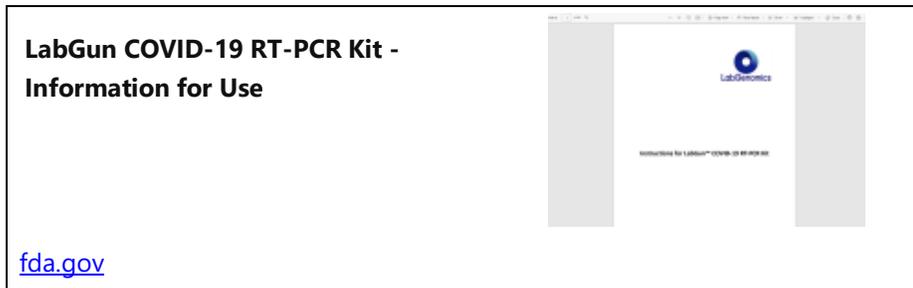
"Collection should avoid possible contamination in collection, storage, and transportation."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

**Reverse Transcriptase-Polymerase Chain  
Reaction: Reference Range, Collection  
and Panels, Backgro**



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### Problem 1 - RT-PCR Test Cannot Confirm Infectivity

"clinically correlation with patient history and other diagnostic information is necessary to determine patient infection status."

"The agent detected may not be the definite cause of disease."

"Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions."

COMMENT: This test cannot confirm infectiousness. Both positive and negative results are inconclusive. Even when the test is positive and the patient has symptoms, the test cannot guarantee that the cause of the disease is SARS-CoV-2.

### Problem 2 - RT-PCR Test Cannot Confirm Actual Pathogen

"LabGun™ COVID-19 RT-PCR Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test intended for the qualitative detection of nucleic acid from the SARS-CoV-2"

COMMENT: The test does not claim to detect the actual pathogen, but simply nucleic acid.

#### CROSS-REACTIVITY (SPECIFICITY)

In silico cross reactivity analysis was performed against 39 viruses.

COMMENT: The very existence of this analysis shows that the test is not testing for literal pathogen. Otherwise, there would be no need for this analysis.

Furthermore, there are literally trillions of viruses in the world and many unknown and unsequenced coronaviruses. Doing a cross reactivity analysis against 39 viruses is hardly meaningful.

Moreover, this is the test's analytical specificity, which is very different from clinical specificity.

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**False Negatives and Reinfections: the Challenges of SARS-CoV-2 RT-PCR Testing**



[asm.org](http://asm.org)

### Problem 3 - RT-PCR Test False Positives Due to Cycle Count

The target genes are RdRp (FAM) and E (Cy5) with a cycle count of  $\leq 40$ .

Only one of the target genes (RdRp) needs to be detected to trigger a positive result. If only the E gene is detected, the result is inconclusive.

COMMENT: The E gene is not specific to SARS-CoV-2. According to a major scientific study published in Oxford University Press, "At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive." This means that at 35 cycles, 97% of positive results are false positives. This test has a cycle count of 40, almost guaranteeing that the result is a false positive.

Furthermore, only one target gene is required to trigger a positive result. During the MERS outbreak, the KCDC required detection of two target genes to trigger a

positive result. Now only one target gene is required. This further increases the risk of false positives.

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지카바이러스감염증 유전자 검사 지침 | 공지



[cdc.go.kr](http://cdc.go.kr)

#### **Problem 4 - RT-PCR Test Not Validated For Use On Asymptomatic People**

"Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection."

COMMENT: The acute phase of infection refers to symptoms. Even then the RNA is only generally detectable.

"The LabGun™ COVID-19 RT-PCR Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The SARS-CoV-2 primer/probe set is designed to detect RNA from the SARS-CoV-2 in nasopharyngeal, or oropharyngeal, anterior nasal and mid-turbinate nasal swabs, as well as nasopharyngeal wash/aspirate or nasal aspirate specimens and sputum, from patients with signs and symptoms of infection who are suspected of COVID-19."

COMMENT: This is an explicit admission that this test was only validated for people with symptoms. The test was not designed to be used on people who are asymptomatic.

#### **Problem 5 - RT-PCR Tests And Ease Of Contamination**

"Cross-contamination may occur when inappropriate handling of reference materials and specimens, which will cause inaccurate results."

COMMENT: According to Bishnu Prasad Devkota, "Meticulous care is necessary to prevent contamination." These tests should be performed in sterilized rooms with negative air pressure. Instead, they are often being done outdoors in parking lots and on roadsides where there is air pollution, yellow sand, and all types of contaminants in the air. The swabs are completely contaminated before even entering the recipient's nose. And yet these tests are being relied upon and fueling the pandemic case numbers.

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# PROBLEMS WITH CELL CULTURE TESTING

Test Specifications

## **Non-compliance with Law:**

- According to test specifications
- According to scientists and experts

Section  
5

**Cell Cultures Are Not Compliant with Article 16-2 of the Infectious Disease Control and Prevention Act**

The Infectious Disease Control and Prevention Act stipulates that a laboratory test must be used to confirm the infectious pathogen. In other words, the test used must be able to confirm infectivity and the literal pathogen. Cell cultures are not compliant for the following reasons.

**Problem 1: Cell cultures cannot confirm infectivity**

The first problem is that cell culturing is basically a technique that tries to confirm whether or not there is cytopathic effects (CPE) in cells cultured with impure materials (rather than with purified virus obtained through the method for isolating viruses according to Koch's Postulates). Even when CPE is found, it is impossible to say with certainty what caused the CPE. The CPE could be due to the addition of antibiotics to the cell cultures. The CPE could be due to the induced stress on the specimen in an environment that takes place outside of the body. The CPE could be due to endogenous processes within the cells. The CPE could be due to viruses other than SARS-CoV-2. Therefore, cell cultures cannot confirm infectivity with SARS-CoV-2. Therefore, cell cultures are not compliant with the Infectious Disease Control and Prevention Act.

In support of this first problem, please consider the paper "Antibiotic-induced release of small extracellular vesicles (exosomes) with surface-associated DNA" published on the website of Nature. The paper explains that certain substances -such as antibiotics- added to in vitro experiments can stress the cell cultures so that they generate new sequences that had not been previously detected.

<https://www.nature.com/articles/s41598-017-08392-1.pdf>

or

[https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5557920/pdf/41598\\_2017\\_Article\\_8392.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5557920/pdf/41598_2017_Article_8392.pdf)

This phenomenon was also documented by Barbara McClintock in 1983 during her Nobel Prize lecture. She reports that the genetic material of living beings can constantly alter, by being hit by "shocks." These shocks can be toxins, but also other materials that produced stress in the test-tube.

<https://www.nobelprize.org/uploads/2018/06/mcclintock-lecture.pdf>

German virologist and molecular biologist Stefan Lanka Phd., who won a monumental Supreme Court case in Germany in regard to the measles virus, said this in regard to CPE:

"All claims about viruses as pathogens are wrong and are based on easily recognizable, understandable and verifiable misinterpretations ... All scientists who think they are working with viruses in laboratories are actually working with typical particles of specific dying tissues or cells which were prepared in a special way. They believe that those tissues and cells are dying because they were infected by a virus. In reality, the infected cells and tissues were dying because they were starved and poisoned as a consequence of the experiments in the lab."

" ... the death of the tissue and cells takes place in the exact same manner when no "infected" genetic material is added at all. The virologists have apparently not noticed this fact. According to ... scientific logic and the rules of scientific conduct, control experiments should have been carried out. In order to confirm the newly discovered method of so-called "virus propagation" ... scientists would have had to perform additional experiments, called negative control experiments, in which they would add sterile substances ... to the cell culture."

"These control experiment have never been carried out by the official "science" to this day. During the measles virus trial, I commissioned an independent laboratory to perform this control experiment and the result was that the tissues and cells die due to the laboratory conditions in the exact same way as when they come into contact with alleged "infected" material."

Lanka's main point is this: when modern scientists are working with diseased tissue, they think the presence of a virus is causing the disease, instead of realizing that the tissue in question has been cut off and isolated from its host, then doused with antibiotics, and that this separation and poison make it diseased and kill it, rather than any virus.

<https://www.globalresearch.ca/dr-stefan-lanka-2020-article-busts-virus-misconception/5719146>

### **Problem 2: Cell cultures cannot identify the pathogen**

The second problem is that there is no way to look at the cell cultures even under an electron microscope and confirm that what is observed is SARS-CoV-2. There are countless harmless viruses, pathogenic viruses, and endogenously produced extracellular vesicles, such as exosomes, that are approximately the same size, shape, and density as SARS-CoV-2. Therefore, cell cultures cannot confirm the pathogen. Therefore, cell cultures are not compliant with the Infectious Disease Control and Prevention Act.

In support of this second problem, please consider the papers "Cell Membrane Vesicles Are a Major Contaminant of Gradient-Enriched Human Immunodeficiency Virus Type-1 Preparations" and "Microvesicles Are a Source of Contaminating Cellular Proteins Found in Purified HIV-1 Preparations" published in the March 1997 issue of the journal "Virology." The papers revealed that the vast majority of what had previously been called "pure HIV" was impurities that were clearly not HIV. What was being observed included micro-vesicles that looked very similar to HIV under an electron microscope, but were of cellular origin.

<https://davidcrowe.ca/SciHealthEnv/papers/277-Microvesicles-Gluschankof.pdf>

<https://davidcrowe.ca/SciHealthEnv/papers/278-Microvesicles-Bess.pdf>

The third problem is that cell cultures often accompany or are supplemented with PCR testing. However, PCR testing is also not compliant with the Infectious Disease Control and Prevention Act. Therefore, neither cell cultures nor PCR are compliant methods of testing.



# PROCEDURES TO CONTINUE INVESTIGATION

## Section 6

### Procedures

#### **According to Korean & International Law:**

- Items to ensure use of compliant test
- Items to ensure informed consent
- Items to ensure liability
- Items to ensure compensation

### **Procedures for Continuing with the Investigation**

### **Procedures if a Compliant Tests Is Not Offered**

I cannot accept the title of "person suspected of contracting an infectious disease." You have not confirmed that those people are carriers of an infectious pathogen. The RT-PCR test is not compliant with the Infectious Disease Control and Prevention Act and violates the Bioethics and Safety Act for misrepresenting the product's specifications. I would be happy to take a test, but you must first confirm that those people are carriers of an infectious disease using a test that is compliant with the law.

I realize that you are trying your best to do your job. I realize that everyone wants to defeat COVID-19. But I also want to defeat COVID-19, and we will never defeat COVID-19 if we are using non-compliant tests. As I mentioned earlier, I have been very disappointed with the vaccine policy. Over twenty countries, including developed countries such as Germany, France, Netherlands, Italy, and Canada, have halted the vaccine roll out due to safety concerns. On the other hand, the KCDC, rather than waiting just a few days to confirm safety, is speeding up its vaccination plan. It is common sense to confirm safety first, then proceed. But the KCDC's policy has been to proceed first and confirm safety afterward. This hastiness has created a lot of anxiety for me regarding all COVID-19 policies. Therefore, I decided that I need to follow the law very strictly. Therefore, I am requiring that those people be tested with a compliant test before I accept the title of "person suspected of contracting an infectious disease."

If I am forced into quarantine, I will immediately file a petition for habeas corpus, and I will also file a criminal charges against you for falsely accusing me of being a "person suspected of contracting an infectious disease" and for attempting to violate Article 16-2 of the Infectious Disease Control and Prevention Act through the use of a non-compliant test and for violating Paragraph 4 of Article 50 of the Bioethics and Safety Act for misrepresenting the specifications of the genetic test. Coercion is a crime under the Criminal Act. I require that all procedures be followed lawfully. Furthermore, Article 16 of the Korean Constitution prohibits all intrusions of my residence without a valid warrant

issued by a judge. There are no exceptions made for retroactive legislation such as the Infectious Disease Control and Prevention Act.

**Procedures if a Compliant Tests Is Not Offered Following Confirmation of Contact with Carriers of an Infectious Pathogen**

After confirming the infectious state of those persons using a test that complies with the Infectious Disease Control and Prevention Act, we would like to continue with the investigation process.

**29. Do you know if South Korea is still actively observing the UNESCO's Universal Declaration on Bioethics and Human Rights?**

I am asking this because South Korea played an active role in promoting the Universal Declaration on Bioethics and Human Rights. South Korea has also been a very active member of UNESCO.

Therefore, I am wondering if you have been receiving informed consent from people before performing these invasive medical procedures in accordance with the Universal Declaration on Bioethics and Human Rights. I understand that the purpose of the COVID-19 medical policy is to protect society, but that doesn't mean that we should abandon all laws and universal ethical principles to try to accomplish our goal. Bodily autonomy is the most fundamental right a person possesses. In this respect, the Universal Declaration on Bioethics and Human Rights says that individual autonomy must be prioritized before the needs of society.

For example, Paragraph 2 of Article 3 says, "The interests and welfare of the individual should have priority over the sole interest of science or society."

Therefore, even during a pandemic, an individual's autonomy should be prioritized.

**30. Do you agree with this? Surely you don't disagree with UNESCO's Universal Declaration on Bioethics and Human Rights, do you?**

The South Korean government helped promote the declaration.

In Paragraph 1 of Article 6, it says, "Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be express and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice."

Therefore, I don't really understand how you are fining people for refusing to take the test. I agree that people should volunteer to take the test to help society as a whole, but fining people for not taking it is a violation of basic bioethics principles and human rights.

**31. So, has the South Korean government abandoned its membership in UNESCO and repudiated the Universal Declaration on Bioethics and Human Rights?**

Okay, I understand that you don't know. I am just curious about this because it is such a serious issue.

Anyway, the Universal Declaration on Bioethics and Human Rights is not legally binding, so there is no real obligation for South Korea to follow it. I just feel disappointed that the South Korean government has repudiated the basic human right of informed consent and has rather adopted a strategy of threatening people to take an invasive medical procedure.

**32. Are the compliant tests Korean FDA EUA authorized products or are they Korean FDA officially-approved products?**

**33. Are the swabs Korean FDA EUA authorized products or are they Korean FDA officially-approved products?**

#### **Procedures for Korean FDA EUA Authorized Products**

Next, I would like to clarify that informed consent must be received before using EUA products. According to the Korean CDC, EUA products are not officially approved but only granted temporary authorization for use. According to Article 46-2 of the Medical Device Act in light of Paragraph 2 of Article 6 and Paragraph 2 of Article 15 of the same Act, EUA products are experimental and investigative in nature, since they cannot guarantee safety. (The Medical Device Act was recently revised and Article 46-2 was abolished, but the pre-revision Act still bears witness to the experimental nature of EUA products. Furthermore, Article 46-2 existed at the time the EUA system and EUA products were authorized and therefore bears an important witness to the experimental nature of EUA products. Moreover, Article 46-2 is still referred to in Article 13-2 of the most recent Enforcement Decree of the Medical Devices Act.) Therefore, according to Article 7 of the International Covenant on Civil and Political Rights, to which the Republic of Korea is legally bound, informed consent must be received before using EUA products. Use of EUA products without receiving informed consent constitutes medical malpractice, while the use of EUA products forcefully on unwilling recipients constitutes a crime of violence under Article 260 of the Criminal Act.

Also note that the use of EUA products without informed consent is a violation of the following codes, principles, and guidelines:

Use of EUA products without informed consent violates Item 1 of the Nuremberg Code, which is considered to be the most influential document in the world on experimental medical procedures.

Use of EUA products without informed consent violates Paragraph 1 of Article 6 of the "Universal Declaration on Bioethics and Human Rights" formulated by UNESCO, to which the Republic of Korea is a member nation.

Use of EUA products without informed consent violates "Guideline 20: RESEARCH IN DISASTERS AND DISEASE OUTBREAKS" of the "International Ethical Guidelines for Health-related Research Involving Humans formulated by the Council for International Organizations of Medical Sciences (CIOMS)" in collaboration with the World Health Organization (WHO), to which the Republic of Korea has been an active advocate through the Korean Academy of Medical Sciences.

Next, I would just like to express my sincere concern and anxiety in regard to Korea's EUA system. I want to defeat this pandemic as quickly as possible and I understand that everyone at the Korean CDC is working hard to try to defeat the pandemic. However, one of the reasons I am asking so many questions and requiring compliance to the Infectious Disease Control And Prevention Act is because I have some serious worries about safety and the implementation of Korea's EUA system.

According to the Korean CDC itself, EUA products are officially unapproved but temporarily authorized for use in times of infectious disease outbreaks. Furthermore, the Korean CDC admitted in June 2017 that "Korea's emergency use approval system is now a step away, and the Korea Centers for Disease Control and Prevention is preparing detailed guidelines throughout the system, including rational decision-making process, evaluation, and follow-up management." In other words, the Korean EUA system itself is still completely experimental. These statements make me very worried about safety. In particular, I am worried that safety problems with EUA products and the EUA system itself could result in greater damage than COVID-19 itself.

**Commented [rob1]:** 그러나 우리나라의 긴급사용승인제도는 이제 걸음마를 댄 수준으로서, 질병관리본부는 본 제도의 안정적 정착을 위해 긴급사용을 위한 합리적 의사결정과정과 평가, 사후관리 등 제도 전반에 걸친 구체적인 가이드라인을 마련 중에 있다.

I would now like to mention one example that demonstrates the immaturity of the Korean EUA system and the potential dangers hasty decisions can make.

It was recently reported that over 20 countries in the world, including Germany, France, Netherlands, Italy, and Canada, halted their use of the AstraZeneca vaccine (also known as Vaxzeria) due to safety concerns. This sounds reasonable because safety always needs to be the first priority. However, according to Yonhap News, Korea did the exact opposite.

Instead of temporarily stopping the AstraZeneca vaccine roll out to reconfirm safety, the Korean CDC decided to speed up its program. This type of decision demonstrates that Korea's EUA system itself is still very immature and susceptible to disasters. If the AstraZeneca vaccine was indeed confirmed to be dangerous, the Korean CDC would have recklessly endangered the lives of thousands of people. This type of decision by the Korean CDC has created extreme anxiety for me. Therefore, I need to confirm many things before proceeding to ensure that all procedures are safe, appropriate, and lawful.

#### Procedures for Korean FDA Officially-Approved Products

Since the test is Korean FDA approved, we assume that the Korean government is assuming full liability in the event of a defective test, injury, discomfort, side effects, or loss or misuse of my genetic material. As a sign of good faith, we require you to prepare an agreement that outlines the Korean government's liability in mandating this test. This is especially important because the test is an invasive medical procedure. I don't want to find myself in a situation where I am injured but am required by the government to follow complicated procedures to prove causation between your test and my injury. In such a case, I fear that I could be devastated by an injury but receive no help or compensation. The government has often quickly turned away people who were apparently injured by a vaccine by simply saying "No connection." It is very hard for an injured person with no financial and academic resources to prove causation between a medical intervention and an injury. Therefore, we are very willing to take the test, but we first need to you to prepare an agreement that outlines the Korean government's liability in the event that I am injured. The Infectious Disease Control and Prevention Act does not prohibit this, but rather emphasizes the protection of my fundamental rights in Paragraph 1 of Article 4.

Commented [rob2]: 무관

In addition, we require very specific information on the test, including information on the test's manufacturer, performance, clinical test data, and materials used in manufacturing so that we can confirm the specifications easily before receiving the test and afterward in the event of side effect or problem.

#### Procedures for Receiving Compensation

Next, I would like to inform you that the investigation, isolation, and testing procedures are requiring my time, resulting in stress and loss of opportunity. Therefore, if we are to proceed, I will require compensation in accordance with Paragraph 1 of Article 6 of the Infectious Disease Control and Prevention Act and Paragraph 2 of Article 13 and Paragraph 3 of Article 23 of the Korean Constitution, which specifically states that property rights cannot be deprived by retroactive legislation even during times of public necessity. This fundamental right elucidated by the Korean Constitution is indeed recognized in Paragraph 1 of Article 4 of the Infectious Disease Control and Prevention Act. Our time, bodies, and bodily materials are our property. We do not offer our time, bodies, or bodily materials for free, and we do not consent to enslavement. Therefore, we do require compensation. Even if other people have participated in this type of investigation, isolation, and testing voluntarily without compensation, that does not preclude our fundamental right to receive compensation.

I would like to conclude by reading Paragraph 1 of Article 4 of the Infectious Disease Control and Prevention Act:

Article 4 (Responsibilities of the State and Local Governments)

(1) The State and local governments shall respect the dignity and values of patients of an infectious disease, etc. as human beings, protect their fundamental rights, and shall not impose on them any disadvantage, such as restrictions on employment, except by statutes.

This provision aligns very well with the Korean Constitution. You have a duty to protect my fundamental rights. Bodily autonomy is the most fundamental right that a person possesses. Otherwise, such a person would simply be a slave, or perhaps worse than a slave. Therefore, I am very pleased that the Infectious Disease Control and Prevention Act concurs with the Korean Constitution by recognizing my fundamental rights and stipulating my right to compensation.



( : )

[시행 2021. 3. 9] [법률 제17920호, 2021. 3. 9, 일부개정]

질병관리청 (감염병정책총괄과 - 감염병 기본계획 등 총괄) 043-719-7136

질병관리청 (위기대응총괄과 - 감염병 위기관리대책 등) 043-719-9063

질병관리청 (감염병진단관리총괄과 - 감염병 병원체 등) 043-719-7847

질병관리청 (예방접종총괄과 - 예방접종) 043-719-8393

질병관리청 (생물안전평가과 - 고위험병원체) 043-719-8044

보건복지부 (질병정책과-중앙감염병전문병원, 내성균 관리대책, 수출금지, 감염취약계층의 보호조치, 손실보상) 044-202-2505

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1 ( ) 이 법은 국민 건강에 위해(危害)가 되는 감염병의 발생과 유행을 방지하고, 그 예방 및 관리를 위하여 필요한 사항을 규정함으로써 국민 건강의 증진 및 유지에 이바지함을 목적으로 한다.

2 ( ) 이 법에서 사용하는 용어의 뜻은 다음과 같다. <개정 2010. 1. 18., 2013. 3. 22., 2014. 3. 18., 2015. 7. 6., 2016. 12. 2., 2018. 3. 27., 2019. 12. 3., 2020. 3. 4., 2020. 8. 11.>

1. “감염병”이란 제1급감염병, 제2급감염병, 제3급감염병, 제4급감염병, 기생충감염병, 세계보건기구 감시대상 감염병, 생물테러감염병, 성매개감염병, 인수(人獸)공통감염병 및 의료관련감염병을 말한다.
2. “제1급감염병”이란 생물테러감염병 또는 치명률이 높거나 집단 발생의 우려가 커서 발생 또는 유행 즉시 신고하여야 하고, 음압격리와 같은 높은 수준의 격리가 필요한 감염병으로서 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
  - 가. 에볼라바이러스병
  - 나. 마버그열
  - 다. 라싸열
  - 라. 크리미안콩고출혈열
  - 마. 남아메리카출혈열
  - 바. 리프트밸리열
  - 사. 두창
  - 아. 페스트
  - 자. 탄저
  - 차. 보툴리눔독소증
  - 카. 야토병
  - 타. 신종감염병증후군
  - 파. 중증급성호흡기증후군(SARS)
  - 하. 중등호흡기증후군(MERS)
  - 거. 동물인플루엔자 인체감염증
  - 네. 신종인플루엔자
  - 더. 디프테리아
3. “제2급감염병”이란 전파가능성을 고려하여 발생 또는 유행 시 24시간 이내에 신고하여야 하고, 격리가 필요한 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
  - 가. 결핵(結核)
  - 나. 수두(水痘)

- 다. 홍역(紅疫)
  - 라. 콜레라
  - 마. 장티푸스
  - 바. 파라티푸스
  - 사. 세균성이질
  - 아. 장출혈성대장균감염증
  - 자. A형간염
  - 차. 백일해(百日咳)
  - 카. 유행성이하선염(流行性耳下腺炎)
  - 타. 풍진(風疹)
  - 파. 폴리오
  - 하. 수막구균 감염증
  - 거. b형헤모필루스인플루엔자
  - 너. 폐렴구균 감염증
  - 더. 한센병
  - 러. 성홍열
  - 머. 반코마이신내성황색포도알균(VRSA) 감염증
  - 버. 카바페넴내성장내세균속군종(CRE) 감염증
  - 서. E형간염
4. “제3급감염병”이란 그 발생을 계속 감시할 필요가 있어 발생 또는 유행 시 24시간 이내에 신고하여야 하는 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
- 가. 파상풍(破傷風)
  - 나. B형간염
  - 다. 일본뇌염
  - 라. C형간염
  - 마. 말라리아
  - 바. 레지오넬라증
  - 사. 비브리오패혈증
  - 아. 발진티푸스
  - 자. 발진열(發疹熱)
  - 차. 찻가무시증
  - 카. 렙토스피라증
  - 타. 브루셀라증
  - 파. 공수병(恐水病)
  - 하. 신증후군출혈열(腎症候群出血熱)
  - 거. 후천성면역결핍증(AIDS)
  - 너. 크로이츠펠트-야콥병(CJD) 및 변종크로이츠펠트-야콥병(vCJD)
  - 더. 황열
  - 러. 뎅기열
  - 머. 큐열(Q熱)
  - 버. 웨스트나일열

- 서. 라임병  
 어. 진드기매개뇌염  
 저. 유비저(類鼻疽)  
 처. 치쿤구니아열  
 커. 중증열성혈소판감소증후군(SFTS)  
 터. 지카바이러스 감염증
5. “제4급감염병”이란 제1급감염병부터 제3급감염병까지의 감염병 외에 유행 여부를 조사하기 위하여 표본감시 활동이 필요한 다음 각 목의 감염병을 말한다.
- 가. 인플루엔자  
 나. 매독(梅毒)  
 다. 회충증  
 라. 편충증  
 마. 요충증  
 바. 간흡충증  
 사. 폐흡충증  
 아. 장흡충증  
 자. 수족구병  
 차. 임질  
 카. 클라미디아감염증  
 타. 연성하감  
 파. 성기단순포진  
 하. 첨규콘딜롬  
 거. 반코마이신내성장알균(VRE) 감염증  
 너. 메티실린내성황색포도알균(MRSA) 감염증  
 더. 다제내성녹농균(MRPA) 감염증  
 러. 다제내성아시네토박터바우마니균(MRAB) 감염증  
 머. 장관감염증  
 버. 급성호흡기감염증  
 서. 해외유입기생충감염증  
 어. 엔테로바이러스감염증  
 저. 사람유두종바이러스 감염증
6. “기생충감염병”이란 기생충에 감염되어 발생하는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
7. 삭제<2018. 3. 27.>
8. “세계보건기구 감시대상 감염병”이란 세계보건기구가 국제공중보건의 비상사태에 대비하기 위하여 감시대상으로 정한 질환으로서 질병관리청장이 고시하는 감염병을 말한다.
9. “생물테러감염병”이란 고의 또는 테러 등을 목적으로 이용된 병원체에 의하여 발생된 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
10. “성매개감염병”이란 성 접촉을 통하여 전파되는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
11. “인수공통감염병”이란 동물과 사람 간에 서로 전파되는 병원체에 의하여 발생하는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
12. “의료관련감염병”이란 환자나 임산부 등이 의료행위를 적용받는 과정에서 발생한 감염병으로서 감시활동이 필요하여 질병관리청장이 고시하는 감염병을 말한다.

13. “감염병환자”란 감염병의 병원체가 인체에 침입하여 증상을 나타내는 사람으로서 제11조제6항의 진단 기준에 따른 의사, 치과의사 또는 한의사의 진단이나 제16조의2에 따른 감염병병원체 확인기관의 실험실 검사를 통하여 확인된 사람을 말한다.
14. “감염병의사환자”란 감염병병원체가 인체에 침입한 것으로 의심이 되나 감염병환자로 확인되기 전 단계에 있는 사람을 말한다.
15. “병원체보유자”란 임상적인 증상은 없으나 감염병병원체를 보유하고 있는 사람을 말한다.
- 15의2. “감염병의심자”란 다음 각 목의 어느 하나에 해당하는 사람을 말한다.
- 가. 감염병환자, 감염병의사환자 및 병원체보유자(이하 “감염병환자등”이라 한다)와 접촉하거나 접촉이 의심되는 사람(이하 “접촉자”라 한다)
- 나. 「검역법」 제2조제7호 및 제8호에 따른 검역관리지역 또는 중점검역관리지역에 체류하거나 그 지역을 경유한 사람으로서 감염이 우려되는 사람
- 다. 감염병병원체 등 위험요인에 노출되어 감염이 우려되는 사람
16. “감시”란 감염병 발생과 관련된 자료, 감염병병원체·매개체에 대한 자료를 체계적이고 지속적으로 수집, 분석 및 해석하고 그 결과를 제때에 필요한 사람에게 배포하여 감염병 예방 및 관리에 사용하도록 하는 일체의 과정을 말한다.
- 16의2. “표본감시”란 감염병 중 감염병환자의 발생빈도가 높아 전수조사가 어렵고 중증도가 비교적 낮은 감염병의 발생에 대하여 감시기관을 지정하여 정기적이고 지속적인 의과학적 감시를 실시하는 것을 말한다.
17. “역학조사”란 감염병환자등이 발생한 경우 감염병의 차단과 확산 방지 등을 위하여 감염병환자등의 발생 규모를 파악하고 감염원을 추적하는 등의 활동과 감염병 예방접종 후 이상반응 사례가 발생한 경우나 감염병 여부가 불분명하나 그 발병원인을 조사할 필요가 있는 사례가 발생한 경우 그 원인을 규명하기 위하여 하는 활동을 말한다.
18. “예방접종 후 이상반응”이란 예방접종 후 그 접종으로 인하여 발생할 수 있는 모든 증상 또는 질병으로서 해당 예방접종과 시간적 관련성이 있는 것을 말한다.
19. “고위험병원체”란 생물테러의 목적으로 이용되거나 사고 등에 의하여 외부에 유출될 경우 국민 건강에 심각한 위험을 초래할 수 있는 감염병병원체로서 보건복지부령으로 정하는 것을 말한다.
20. “관리대상 해외 신종감염병”이란 기존 감염병의 변이 및 변종 또는 기존에 알려지지 아니한 새로운 병원체에 의해 발생하여 국제적으로 보건문제를 야기하고 국내 유입에 대비하여야 하는 감염병으로서 질병관리청장이 보건복지부장관과 협의하여 지정하는 것을 말한다.
- 2 ( )** 이 법에서 사용하는 용어의 뜻은 다음과 같다. <개정 2010. 1. 18., 2013. 3. 22., 2014. 3. 18., 2015. 7. 6., 2016. 12. 2., 2018. 3. 27., 2019. 12. 3., 2020. 3. 4., 2020. 8. 11., 2020. 12. 15.>
1. “감염병”이란 제1급감염병, 제2급감염병, 제3급감염병, 제4급감염병, 기생충감염병, 세계보건기구 감시대상 감염병, 생물테러감염병, 성매개감염병, 인수(人獸)공통감염병 및 의료관련감염병을 말한다.
  2. “제1급감염병”이란 생물테러감염병 또는 치명률이 높거나 집단 발생의 우려가 커서 발생 또는 유행 즉시 신고하여야 하고, 음압격리와 같은 높은 수준의 격리가 필요한 감염병으로서 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
    - 가. 에볼라바이러스병
    - 나. 마버그열
    - 다. 라싸열
    - 라. 크리미안콩고출혈열
    - 마. 남아메리카출혈열
    - 바. 리프트밸리열
    - 사. 두창
    - 아. 페스트
    - 자. 탄저

- 차. 보툴리눔독소증  
 카. 야토병  
 타. 신종감염병증후군  
 파. 중증급성호흡기증후군(SARS)  
 하. 중등호흡기증후군(MERS)  
 거. 동물인플루엔자 인체감염증  
 너. 신종인플루엔자  
 더. 디프테리아
3. “제2급감염병”이란 전파가능성을 고려하여 발생 또는 유행 시 24시간 이내에 신고하여야 하고, 격리가 필요한 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
- 가. 결핵(結核)  
 나. 수두(水痘)  
 다. 홍역(紅疫)  
 라. 콜레라  
 마. 장티푸스  
 바. 파라티푸스  
 사. 세균성이질  
 아. 장출혈성대장균감염증  
 자. A형간염  
 차. 백일해(百日咳)  
 카. 유행성이하선염(流行性耳下腺炎)  
 타. 풍진(風疹)  
 파. 폴리오  
 하. 수막구균 감염증  
 거. b형헤모필루스인플루엔자  
 너. 폐렴구균 감염증  
 더. 한센병  
 러. 성홍열  
 머. 반코마이신내성황색포도알균(VRSA) 감염증  
 버. 카바페넴내성장내세균속군종(CRE) 감염증  
 서. E형간염
4. “제3급감염병”이란 그 발생을 계속 감시할 필요가 있어 발생 또는 유행 시 24시간 이내에 신고하여야 하는 다음 각 목의 감염병을 말한다. 다만, 갑작스러운 국내 유입 또는 유행이 예견되어 긴급한 예방·관리가 필요하여 질병관리청장이 보건복지부장관과 협의하여 지정하는 감염병을 포함한다.
- 가. 파상풍(破傷風)  
 나. B형간염  
 다. 일본뇌염  
 라. C형간염  
 마. 말라리아  
 바. 레지오넬라증  
 사. 비브리오패혈증

- 아. 발진티푸스
  - 자. 발진열(發疹熱)
  - 차. 쯤쯤가무시증
  - 카. 렘토스피라증
  - 타. 브루셀라증
  - 파. 공수병(恐水病)
  - 하. 신증후군출혈열(腎症候群出血熱)
  - 거. 후천성면역결핍증(AIDS)
  - 너. 크로이츠펠트-야콥병(CJD) 및 변종크로이츠펠트-야콥병(vCJD)
  - 더. 황열
  - 러. 뎅기열
  - 머. 큐열(Q熱)
  - 버. 웨스트나일열
  - 서. 라임병
  - 어. 진드기매개뇌염
  - 저. 유비저(類鼻疽)
  - 쳐. 치쿤구니아열
  - 커. 중증열성혈소판감소증후군(SFTS)
  - 터. 지카바이러스 감염증
5. “제4급감염병”이란 제1급감염병부터 제3급감염병까지의 감염병 외에 유행 여부를 조사하기 위하여 표본감시 활동이 필요한 다음 각 목의 감염병을 말한다.
- 가. 인플루엔자
  - 나. 매독(梅毒)
  - 다. 회충증
  - 라. 편충증
  - 마. 요충증
  - 바. 간흡충증
  - 사. 폐흡충증
  - 아. 장흡충증
  - 자. 수족구병
  - 차. 임질
  - 카. 클라미디아감염증
  - 타. 연성하감
  - 파. 성기단순포진
  - 하. 첨규큰달림
  - 거. 반코마이신내성장알균(VRE) 감염증
  - 너. 메티실린내성황색포도알균(MRSA) 감염증
  - 더. 다제내성녹농균(MRPA) 감염증
  - 러. 다제내성아시네토박터바우마니균(MRAB) 감염증
  - 머. 장관감염증
  - 버. 급성호흡기감염증
  - 서. 해외유입기생충감염증

- 어. 엔테로바이러스감염증  
저. 사람유두종바이러스 감염증
6. “기생충감염병”이란 기생충에 감염되어 발생하는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
7. 삭제<2018. 3. 27.>
8. “세계보건기구 감시대상 감염병”이란 세계보건기구가 국제공중보건의 비상사태에 대비하기 위하여 감시대상으로 정한 질환으로서 질병관리청장이 고시하는 감염병을 말한다.
9. “생물테러감염병”이란 고의 또는 테러 등을 목적으로 이용된 병원체에 의하여 발생된 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
10. “성매개감염병”이란 성 접촉을 통하여 전파되는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
11. “인수공통감염병”이란 동물과 사람 간에 서로 전파되는 병원체에 의하여 발생하는 감염병 중 질병관리청장이 고시하는 감염병을 말한다.
12. “의료관련감염병”이란 환자나 임산부 등이 의료행위를 적용받는 과정에서 발생한 감염병으로서 감시활동이 필요하여 질병관리청장이 고시하는 감염병을 말한다.
13. “감염병환자”란 감염병의 병원체가 인체에 침입하여 증상을 나타내는 사람으로서 제11조제6항의 진단 기준에 따른 의사, 치과 의사 또는 한의사의 진단이나 제16조의2에 따른 감염병병원체 확인기관의 실험실 검사를 통하여 확인된 사람을 말한다.
14. “감염병의사환자”란 감염병병원체가 인체에 침입한 것으로 의심이 되나 감염병환자로 확인되기 전 단계에 있는 사람을 말한다.
15. “병원체보유자”란 임상적인 증상은 없으나 감염병병원체를 보유하고 있는 사람을 말한다.
- 15의2. “감염병의심자”란 다음 각 목의 어느 하나에 해당하는 사람을 말한다.
- 가. 감염병환자, 감염병의사환자 및 병원체보유자(이하 “감염병환자등”이라 한다)와 접촉하거나 접촉이 의심되는 사람(이하 “접촉자”라 한다)
- 나. 「검역법」 제2조제7호 및 제8호에 따른 검역관리지역 또는 중점검역관리지역에 체류하거나 그 지역을 경유한 사람으로서 감염이 우려되는 사람
- 다. 감염병병원체 등 위험요인에 노출되어 감염이 우려되는 사람
16. “감시”란 감염병 발생과 관련된 자료, 감염병병원체·매개체에 대한 자료를 체계적이고 지속적으로 수집, 분석 및 해석하고 그 결과를 제때에 필요한 사람에게 배포하여 감염병 예방 및 관리에 사용하도록 하는 일체의 과정을 말한다.
- 16의2. “표본감시”란 감염병 중 감염병환자의 발생빈도가 높아 전수조사가 어렵고 중증도가 비교적 낮은 감염병의 발생에 대하여 감시기관을 지정하여 정기적이고 지속적인 의과학적 감시를 실시하는 것을 말한다.
17. “역학조사”란 감염병환자등이 발생한 경우 감염병의 차단과 확산 방지 등을 위하여 감염병환자등의 발생 규모를 파악하고 감염원을 추적하는 등의 활동과 감염병 예방접종 후 이상반응 사례가 발생한 경우나 감염병 여부가 불분명하나 그 발병원인을 조사할 필요가 있는 사례가 발생한 경우 그 원인을 규명하기 위하여 하는 활동을 말한다.
18. “예방접종 후 이상반응”이란 예방접종 후 그 접종으로 인하여 발생할 수 있는 모든 증상 또는 질병으로서 해당 예방접종과 시간적 관련성이 있는 것을 말한다.
19. “고위험병원체”란 생물테러의 목적으로 이용되거나 사고 등에 의하여 외부에 유출될 경우 국민 건강에 심각한 위험을 초래할 수 있는 감염병병원체로서 보건복지부령으로 정하는 것을 말한다.
20. “관리대상 해외 신종감염병”이란 기존 감염병의 변이 및 변종 또는 기존에 알려지지 아니한 새로운 병원체에 의해 발생하여 국제적으로 보건문제를 야기하고 국내 유입에 대비하여야 하는 감염병으로서 질병관리청장이 보건복지부장관과 협의하여 지정하는 것을 말한다.
21. “의료·방역 물품”이란 「약사법」 제2조에 따른 의약품·의약외품, 「의료기기법」 제2조에 따른 의료기기 등 의료 및 방역에 필요한 물품 및 장비로서 질병관리청장이 지정하는 것을 말한다.

[시행일 : 2021. 6. 16.] 제2조

**3 ( )** 감염병의 예방 및 관리에 관하여는 다른 법률에 특별한 규정이 있는 경우를 제외하고는 이 법에 따른다.

**4 ( 가 )** ① 국가 및 지방자치단체는 감염병환자등의 인간으로서의 존엄과 가치를 존중하고 그 기본적 권리를 보호하며, 법률에 따르지 아니하고는 취업 제한 등의 불이익을 주어서는 아니 된다.

② 국가 및 지방자치단체는 감염병의 예방 및 관리를 위하여 다음 각 호의 사업을 수행하여야 한다. <개정 2014. 3. 18., 2015. 7. 6., 2020. 3. 4.>

1. 감염병의 예방 및 방역대책
2. 감염병환자등의 진료 및 보호
3. 감염병 예방을 위한 예방접종계획의 수립 및 시행
4. 감염병에 관한 교육 및 홍보
5. 감염병에 관한 정보의 수집·분석 및 제공
6. 감염병에 관한 조사·연구
7. 감염병병원체(감염병병원체 확인을 위한 혈액, 체액 및 조직 등 검체를 포함한다) 수집·검사·보존·관리 및 약제내성 감시(藥劑耐性 監視)
8. 감염병 예방을 위한 전문인력의 양성
9. 감염병 관리정보 교류 등을 위한 국제협력
10. 감염병의 치료 및 예방을 위한 약품 등의 비축
11. 감염병 관리사업의 평가
12. 기후변화, 저출산·고령화 등 인구변동 요인에 따른 감염병 발생조사·연구 및 예방대책 수립
13. 한센병의 예방 및 진료 업무를 수행하는 법인 또는 단체에 대한 지원
14. 감염병 예방 및 관리를 위한 정보시스템의 구축 및 운영
15. 해외 신종감염병의 국내 유입에 대비한 계획 준비, 교육 및 훈련
16. 해외 신종감염병 발생 동향의 지속적 파악, 위험성 평가 및 관리대상 해외 신종감염병의 지정
17. 관리대상 해외 신종감염병에 대한 병원체 등 정보 수집, 특성 분석, 연구를 통한 예방과 대응체계 마련, 보고서 발간 및 지침(매뉴얼을 포함한다) 고시

③ 국가·지방자치단체(교육감을 포함한다)는 감염병의 효율적 치료 및 확산방지를 위하여 질병의 정보, 발생 및 전파 상황을 공유하고 상호 협력하여야 한다. <신설 2015. 7. 6.>

④ 국가 및 지방자치단체는 「의료법」에 따른 의료기관 및 의료인단체와 감염병의 발생 감시·예방을 위하여 관련 정보를 공유하여야 한다. <신설 2015. 7. 6.>

**4 ( 가 )** ① 국가 및 지방자치단체는 감염병환자등의 인간으로서의 존엄과 가치를 존중하고 그 기본적 권리를 보호하며, 법률에 따르지 아니하고는 취업 제한 등의 불이익을 주어서는 아니 된다.

② 국가 및 지방자치단체는 감염병의 예방 및 관리를 위하여 다음 각 호의 사업을 수행하여야 한다. <개정 2014. 3. 18., 2015. 7. 6., 2020. 3. 4., 2020. 12. 15.>

1. 감염병의 예방 및 방역대책
2. 감염병환자등의 진료 및 보호
3. 감염병 예방을 위한 예방접종계획의 수립 및 시행
4. 감염병에 관한 교육 및 홍보
5. 감염병에 관한 정보의 수집·분석 및 제공
6. 감염병에 관한 조사·연구
7. 감염병병원체(감염병병원체 확인을 위한 혈액, 체액 및 조직 등 검체를 포함한다) 수집·검사·보존·관리 및 약제내성 감시(藥劑耐性 監視)

## 8. 감염병 예방 및 관리 등을 위한 전문인력의 양성

## 8의2. 감염병 예방 및 관리 등의 업무를 수행한 전문인력의 보호

## 9. 감염병 관리정보 교류 등을 위한 국제협력

## 10. 감염병의 치료 및 예방을 위한 의료·방역 물품의 비축

## 11. 감염병 예방 및 관리사업의 평가

12. 기후변화, 저출산·고령화 등 인구변동 요인에 따른 감염병 발생조사·연구 및 예방대책 수립

13. 한센병의 예방 및 진료 업무를 수행하는 법인 또는 단체에 대한 지원

14. 감염병 예방 및 관리를 위한 정보시스템의 구축 및 운영

15. 해외 신종감염병의 국내 유입에 대비한 계획 준비, 교육 및 훈련

16. 해외 신종감염병 발생 동향의 지속적 파악, 위험성 평가 및 관리대상 해외 신종감염병의 지정

17. 관리대상 해외 신종감염병에 대한 병원체 등 정보 수집, 특성 분석, 연구를 통한 예방과 대응체계 마련, 보고서 발간 및 지침(매뉴얼을 포함한다) 고시

③ 국가·지방자치단체(교육감을 포함한다)는 감염병의 효율적 치료 및 확산방지를 위하여 질병의 정보, 발생 및 전파 상황을 공유하고 상호 협력하여야 한다. &lt;신설 2015. 7. 6.&gt;

④ 국가 및 지방자치단체는 「의료법」에 따른 의료기관 및 의료인단체와 감염병의 발생 감시·예방을 위하여 관련 정보를 공유하여야 한다. &lt;신설 2015. 7. 6.&gt;

[시행일 : 2021. 6. 16.] 제4조

5 ( ) ① 「의료법」에 따른 의료인 및 의료기관의 장 등은 감염병 환자의 진료에 관한 정보를 제공받을 권리가 있고, 감염병 환자의 진단 및 치료 등으로 인하여 발생한 피해에 대하여 보상받을 수 있다.

② 「의료법」에 따른 의료인 및 의료기관의 장 등은 감염병 환자의 진단·관리·치료 등에 최선을 다하여야 하며, 보건복지부장관, 질병관리청장 또는 지방자치단체의 장의 행정명령에 적극 협조하여야 한다. &lt;개정 2020. 8. 11.&gt;

③ 「의료법」에 따른 의료인 및 의료기관의 장 등은 국가와 지방자치단체가 수행하는 감염병의 발생 감시와 예방·관리 및 역학조사 업무에 적극 협조하여야 한다.

[전문개정 2015. 7. 6.]

6 ( ) ① 국민은 감염병으로 격리 및 치료 등을 받은 경우 이로 인한 피해를 보상받을 수 있다. &lt;개정 2015. 7. 6.&gt;

② 국민은 감염병 발생 상황, 감염병 예방 및 관리 등에 관한 정보와 대응방법을 알 권리가 있고, 국가와 지방자치단체는 신속하게 정보를 공개하여야 한다. &lt;개정 2015. 7. 6.&gt;

③ 국민은 의료기관에서 이 법에 따른 감염병에 대한 진단 및 치료를 받을 권리가 있고, 국가와 지방자치단체는 이에 소요되는 비용을 부담하여야 한다. &lt;신설 2015. 7. 6.&gt;

④ 국민은 치료 및 격리조치 등 국가와 지방자치단체의 감염병 예방 및 관리를 위한 활동에 적극 협조하여야 한다. &lt;신설 2015. 7. 6.&gt;

[제목개정 2015. 7. 6.]

## 2

7 ( ) ① 질병관리청장은 보건복지부장관과 협의하여 감염병의 예방 및 관리에 관한 기본계획(이하 “기본계획”이라 한다)을 5년마다 수립·시행하여야 한다. &lt;개정 2010. 1. 18., 2020. 8. 11.&gt;

② 기본계획에는 다음 각 호의 사항이 포함되어야 한다. &lt;개정 2015. 7. 6., 2020. 3. 4., 2021. 3. 9.&gt;

1. 감염병 예방·관리의 기본목표 및 추진방향

2. 주요 감염병의 예방·관리에 관한 사업계획 및 추진방법

2의2. 감염병 대비 의약품·장비 등의 비축 및 관리에 관한 사항

3. 감염병 전문인력의 양성 방안

3의2. 「의료법」 제3조제2항 각 호에 따른 의료기관 종별 감염병 위기대응역량의 강화 방안

4. 감염병 통계 및 정보통신기술 등을 활용한 감염병 정보의 관리 방안

5. 감염병 관련 정보의 의료기관 간 공유 방안

6. 그 밖에 감염병의 예방 및 관리에 필요한 사항

③ 특별시장·광역시장·도지사·특별자치도지사(이하 “시·도지사”라 한다)와 시장·군수·구청장(자치구의 구청장을 말한다. 이하 같다)은 기본계획에 따라 시행계획을 수립·시행하여야 한다.

④ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 기본계획이나 제3항에 따른 시행계획의 수립·시행에 필요한 자료의 제공 등을 관계 행정기관 또는 단체에 요청할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

⑤ 제4항에 따라 요청받은 관계 행정기관 또는 단체는 특별한 사유가 없으면 이에 따라야 한다.

**7 ( )** ① 질병관리청장은 보건복지부장관과 협의하여 감염병의 예방 및 관리에 관한 기본계획(이하 “기본계획”이라 한다)을 5년마다 수립·시행하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

② 기본계획에는 다음 각 호의 사항이 포함되어야 한다. <개정 2015. 7. 6., 2020. 3. 4., 2020. 12. 15., 2021. 3. 9.>

1. 감염병 예방·관리의 기본목표 및 추진방향

2. 주요 감염병의 예방·관리에 관한 사업계획 및 추진방법

**2의2. 감염병 대비 의료·방역 물품의 비축 및 관리에 관한 사항**

3. 감염병 전문인력의 양성 방안

3의2. 「의료법」 제3조제2항 각 호에 따른 의료기관 종별 감염병 위기대응역량의 강화 방안

4. 감염병 통계 및 정보통신기술 등을 활용한 감염병 정보의 관리 방안

5. 감염병 관련 정보의 의료기관 간 공유 방안

6. 그 밖에 감염병의 예방 및 관리에 필요한 사항

③ 특별시장·광역시장·도지사·특별자치도지사(이하 “시·도지사”라 한다)와 시장·군수·구청장(자치구의 구청장을 말한다. 이하 같다)은 기본계획에 따라 시행계획을 수립·시행하여야 한다.

④ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 기본계획이나 제3항에 따른 시행계획의 수립·시행에 필요한 자료의 제공 등을 관계 행정기관 또는 단체에 요청할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

⑤ 제4항에 따라 요청받은 관계 행정기관 또는 단체는 특별한 사유가 없으면 이에 따라야 한다.

[시행일 : 2021. 6. 16.] 제7조

**8 ( )** ① 질병관리청장 및 시·도지사는 제7조에 따른 기본계획 및 시행계획의 시행과 국제 협력 등의 업무를 지원하기 위하여 민간전문가로 구성된 감염병관리사업지원기구를 둘 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

② 국가 및 지방자치단체는 감염병관리사업지원기구의 운영 등에 필요한 예산을 지원할 수 있다.

③ 제1항 및 제2항에 따른 감염병관리사업지원기구의 설치·운영 및 지원 등에 필요한 사항은 대통령령으로 정한다.

**8 2( )** ① 국가는 감염병의 연구·예방, 전문가 양성 및 교육, 환자의 진료 및 치료 등을 위한 시설, 인력 및 연구 능력을 갖춘 감염병전문병원 또는 감염병연구병원을 설립하거나 지정하여 운영한다.

② 국가는 감염병환자의 진료 및 치료 등을 위하여 권역별로 보건복지부령으로 정하는 일정규모 이상의 병상(음압병상 및 격리 병상을 포함한다)을 갖춘 감염병전문병원을 설립하거나 지정하여 운영한다.

③ 국가는 예산의 범위에서 제1항 및 제2항에 따른 감염병전문병원 또는 감염병연구병원을 설립하거나 지정하여 운영하는 데 필요한 예산을 지원할 수 있다.

④ 제1항 및 제2항에 따른 감염병전문병원 또는 감염병연구병원을 설립하거나 지정하여 운영하는 데 필요한 절차, 방법, 지원 내용 등의 사항은 대통령령으로 정한다.

[본조신설 2015. 12. 29.]

**8 3( )** ① 보건복지부장관은 내성균 발생 예방 및 확산 방지 등을 위하여 제9조에 따른 감염병관리위원회의 심의를 거쳐 내성균 관리대책을 5년마다 수립·추진하여야 한다.

② 내성균 관리대책에는 정책목표 및 방향, 진료환경 개선 등 내성균 확산 방지를 위한 사항 및 감시체계 강화에 관한 사항, 그 밖에 내성균 관리대책에 필요하다고 인정되는 사항이 포함되어야 한다.

③ 내성균 관리대책의 수립 절차 등에 관하여 필요한 사항은 대통령령으로 정한다.

[본조신설 2016. 12. 2.]

**8 4( )** ① 보건복지부장관은 내성균 관리대책의 수립·시행을 위하여 관계 공무원 또는 관계 전문가의 의견을 듣거나 관계 기관 및 단체 등에 필요한 자료제출 등 협조를 요청할 수 있다.

② 보건복지부장관은 내성균 관리대책의 작성을 위하여 관계 중앙행정기관의 장에게 내성균 관리대책의 정책목표 및 방향과 관련한 자료 또는 의견의 제출 등 필요한 협조를 요청할 수 있다.

③ 제1항 및 제2항에 따른 협조 요청을 받은 자는 정당한 사유가 없으면 이에 따라야 한다.

[본조신설 2016. 12. 2.]

**8 5( )** ① 질병관리청장은 감염병 정보의 수집·전파, 상황관리, 감염병이 유입되거나 유행하는 긴급한 경우의 초동조치 및 지휘 등의 업무를 수행하기 위하여 상시 긴급상황실을 설치·운영하여야 한다. <개정 2020. 8. 11.>

② 제1항에 따른 긴급상황실의 설치·운영에 필요한 사항은 대통령령으로 정한다.

[본조신설 2018. 3. 27.]

**9 ( )** ① 감염병의 예방 및 관리에 관한 주요 시책을 심의하기 위하여 질병관리청에 감염병관리위원회(이하 "위원회"라 한다)를 둔다. <개정 2010. 1. 18., 2020. 8. 11.>

② 위원회는 다음 각 호의 사항을 심의한다. <개정 2014. 3. 18., 2016. 12. 2., 2019. 12. 3., 2021. 3. 9.>

1. 기본계획의 수립
2. 감염병 관련 의료 제공
3. 감염병에 관한 조사 및 연구
4. 감염병의 예방·관리 등에 관한 지식 보급 및 감염병환자등의 인권 증진
5. 제20조에 따른 해부명령에 관한 사항
6. 제32조제3항에 따른 예방접종의 실시기준과 방법에 관한 사항
- 6의2. 제33조의2제1항에 따라 제24조의 필수예방접종 및 제25조의 임시예방접종에 사용되는 의약품(이하 "필수예방접종약품 등"이라 한다)의 사전 비축 및 장기 구매에 관한 사항
- 6의3. 제33조의2제2항에 따른 필수예방접종약품등의 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항의 결정
7. 제34조에 따른 감염병 위기관리대책의 수립 및 시행
8. 제40조제1항 및 제2항에 따른 예방·치료 의약품 및 장비 등의 사전 비축, 장기 구매 및 생산에 관한 사항
- 8의2. 제40조의2에 따른 의약품 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항의 결정
- 8의3. 제40조의6에 따른 개발 중인 백신 또는 의약품의 구매 및 공급에 필요한 계약에 관한 사항
9. 제71조에 따른 예방접종 등으로 인한 피해에 대한 국가보상에 관한 사항
10. 내성균 관리대책에 관한 사항
11. 그 밖에 감염병의 예방 및 관리에 관한 사항으로서 위원장이 위원회의 회의에 부치는 사항

**9 ( )** ① 감염병의 예방 및 관리에 관한 주요 시책을 심의하기 위하여 질병관리청에 감염병관리위원회(이하 "위원회"라 한다)를 둔다. <개정 2010. 1. 18., 2020. 8. 11.>

② 위원회는 다음 각 호의 사항을 심의한다. <개정 2014. 3. 18., 2016. 12. 2., 2019. 12. 3., 2020. 12. 15., 2021. 3. 9.>

1. 기본계획의 수립
  2. 감염병 관련 의료 제공
  3. 감염병에 관한 조사 및 연구
  4. 감염병의 예방·관리 등에 관한 지식 보급 및 감염병환자등의 인권 증진
  5. 제20조에 따른 해부명령에 관한 사항
  6. 제32조제3항에 따른 예방접종의 실시기준과 방법에 관한 사항
  - 6의2. 제33조의2제1항에 따라 제24조의 필수예방접종 및 제25조의 입시예방접종에 사용되는 의약품(이하 “필수예방접종약품 등”이라 한다)의 사전 비축 및 장기 구매에 관한 사항
  - 6의3. 제33조의2제2항에 따른 필수예방접종약품등의 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항의 결정
  7. 제34조에 따른 감염병 위기관리대책의 수립 및 시행
  8. 제40조제1항 및 제2항에 따른 예방·치료 의료·방역 물품의 사전 비축, 장기 구매 및 생산에 관한 사항
  - 8의2. 제40조의2에 따른 의료·방역 물품(「약사법」에 따른 의약품으로 한정한다) 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항의 결정
  - 8의3. 제40조의6에 따른 개발 중인 백신 또는 의약품의 구매 및 공급에 필요한 계약에 관한 사항
  9. 제71조에 따른 예방접종 등으로 인한 피해에 대한 국가보상에 관한 사항
  10. 내성균 관리대책에 관한 사항
  11. 그 밖에 감염병의 예방 및 관리에 관한 사항으로서 위원장이 위원회의 회의에 부치는 사항
- [시행일 : 2021. 6. 16.] 제9조

10 ( ) ① 위원회는 위원장 1명과 부위원장 1명을 포함하여 30명 이내의 위원으로 구성한다. <개정 2018. 3. 27.>

② 위원장은 질병관리청장이 되고, 부위원장은 위원 중에서 위원장이 지명하며, 위원은 다음 각 호의 어느 하나에 해당하는 사람 중에서 위원장이 임명하거나 위촉하는 사람으로 한다. 이 경우 공무원이 아닌 위원이 전체 위원의 과반수가 되도록 하여야 한다. <개정 2010. 1. 18., 2015. 12. 29., 2018. 3. 27., 2019. 12. 3., 2020. 8. 11.>

1. 감염병의 예방 또는 관리 업무를 담당하는 공무원
2. 감염병 또는 감염관리를 전공한 의료인
3. 감염병과 관련된 전문지식을 소유한 사람
4. 「지방자치법」 제165조에 따른 시·도지사협의체가 추천하는 사람
5. 「비영리민간단체 지원법」 제2조에 따른 비영리민간단체가 추천하는 사람
6. 그 밖에 감염병에 관한 지식과 경험이 풍부한 사람

③ 위원회의 업무를 효율적으로 수행하기 위하여 위원회의 위원과 외부 전문가로 구성되는 분야별 전문위원회를 둘 수 있다.

④ 제1항부터 제3항까지에서 규정한 사항 외에 위원회 및 전문위원회의 구성·운영 등에 관하여 필요한 사항은 대통령령으로 정한다.

10 ( ) ① 위원회는 위원장 1명과 부위원장 1명을 포함하여 30명 이내의 위원으로 구성한다. <개정 2018. 3. 27.>

② 위원장은 질병관리청장이 되고, 부위원장은 위원 중에서 위원장이 지명하며, 위원은 다음 각 호의 어느 하나에 해당하는 사람 중에서 위원장이 임명하거나 위촉하는 사람으로 한다. 이 경우 공무원이 아닌 위원이 전체 위원의 과반수가 되도록 하여야 한다. <개정 2010. 1. 18., 2015. 12. 29., 2018. 3. 27., 2019. 12. 3., 2020. 8. 11., 2021. 1. 12.>

1. 감염병의 예방 또는 관리 업무를 담당하는 공무원
2. 감염병 또는 감염관리를 전공한 의료인
3. 감염병과 관련된 전문지식을 소유한 사람
4. 「지방자치법」 제182조에 따른 시·도지사협의체가 추천하는 사람

5. 「비영리민간단체 지원법」 제2조에 따른 비영리민간단체가 추천하는 사람
6. 그 밖에 감염병에 관한 지식과 경험이 풍부한 사람
- ③ 위원회의 업무를 효율적으로 수행하기 위하여 위원회의 위원과 외부 전문가로 구성되는 분야별 전문위원회를 둘 수 있다.
- ④ 제1항부터 제3항까지에서 규정한 사항 외에 위원회 및 전문위원회의 구성·운영 등에 관하여 필요한 사항은 대통령령으로 정한다.

[시행일 : 2022. 1. 13.] 제10조

### 3

**11 ( )** ① 의사, 치과의사 또는 한의사는 다음 각 호의 어느 하나에 해당하는 사실(제16조제6항에 따라 표본감시 대상이 되는 제4급감염병으로 인한 경우는 제외한다)이 있으면 소속 의료기관의 장에게 보고하여야 하고, 해당 환자와 그 동거인에게 질병관리청장이 정하는 감염 방지 방법 등을 지도하여야 한다. 다만, 의료기관에 소속되지 아니한 의사, 치과의사 또는 한의사는 그 사실을 관할 보건소장에게 신고하여야 한다. <개정 2010. 1. 18., 2015. 12. 29., 2018. 3. 27., 2020. 3. 4., 2020. 8. 11.>

1. 감염병환자등을 진단하거나 그 사체를 검안(檢案)한 경우
2. 예방접종 후 이상반응자를 진단하거나 그 사체를 검안한 경우
3. 감염병환자등이 제1급감염병부터 제3급감염병까지에 해당하는 감염병으로 사망한 경우
4. 감염병환자로 의심되는 사람이 감염병병원체 검사를 거부하는 경우

② 제16조의2에 따른 감염병병원체 확인기관의 소속 직원은 실험실 검사 등을 통하여 보건복지부령으로 정하는 감염병환자등을 발견한 경우 그 사실을 그 기관의 장에게 보고하여야 한다. <개정 2015. 7. 6., 2018. 3. 27., 2020. 3. 4.>

③ 제1항 및 제2항에 따라 보고를 받은 의료기관의 장 및 제16조의2에 따른 감염병병원체 확인기관의 장은 제1급감염병의 경우에는 즉시, 제2급감염병 및 제3급감염병의 경우에는 24시간 이내에, 제4급감염병의 경우에는 7일 이내에 질병관리청장 또는 관할 보건소장에게 신고하여야 한다. <신설 2015. 7. 6., 2018. 3. 27., 2020. 3. 4., 2020. 8. 11.>

④ 육군, 해군, 공군 또는 국방부 직할 부대에 소속된 군의관은 제1항 각 호의 어느 하나에 해당하는 사실(제16조제6항에 따라 표본감시 대상이 되는 제4급감염병으로 인한 경우는 제외한다)이 있으면 소속 부대장에게 보고하여야 하고, 보고를 받은 소속 부대장은 제1급감염병의 경우에는 즉시, 제2급감염병 및 제3급감염병의 경우에는 24시간 이내에 관할 보건소장에게 신고하여야 한다. <개정 2015. 7. 6., 2015. 12. 29., 2018. 3. 27.>

⑤ 제16조제1항에 따른 감염병 표본감시기관은 제16조제6항에 따라 표본감시 대상이 되는 제4급감염병으로 인하여 제1항제1호 또는 제3호에 해당하는 사실이 있으면 보건복지부령으로 정하는 바에 따라 질병관리청장 또는 관할 보건소장에게 신고하여야 한다. <개정 2010. 1. 18., 2015. 7. 6., 2015. 12. 29., 2018. 3. 27., 2020. 8. 11.>

⑥ 제1항부터 제5항까지의 규정에 따른 감염병환자등의 진단 기준, 신고의 방법 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2015. 7. 6.>

**12 ( )** ① 다음 각 호의 어느 하나에 해당하는 사람은 제1급감염병부터 제3급감염병까지에 해당하는 감염병 중 보건복지부령으로 정하는 감염병이 발생한 경우에는 의사, 치과의사 또는 한의사의 진단이나 검안을 요구하거나 해당 주소지를 관할하는 보건소장에게 신고하여야 한다. <개정 2010. 1. 18., 2015. 7. 6., 2018. 3. 27.>

1. 일반가정에서는 세대를 같이하는 세대주. 다만, 세대주가 부재 중인 경우에는 그 세대원
2. 학교, 병원, 관공서, 회사, 공연장, 예배장소, 선박·항공기·열차 등 운송수단, 각종 사무소·사업소, 음식점, 숙박업소 또는 그 밖에 여러 사람이 모이는 장소로서 보건복지부령으로 정하는 장소의 관리인, 경영자 또는 대표자

② 제1항에 따른 신고의무자가 아니더라도 감염병환자등 또는 감염병으로 인한 사망자로 의심되는 사람을 발견하면 보건소장에게 알려야 한다.

③ 제1항에 따른 신고의 방법과 기간 및 제2항에 따른 통보의 방법과 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2015. 7. 6.>

**12 ( )** ① 다음 각 호의 어느 하나에 해당하는 사람은 제1급감염병부터 제3급감염병까지에 해당하는 감염병 중 보건복지부령으로 정하는 감염병이 발생한 경우에는 의사, 치과 의사 또는 한의사의 진단이나 검안을 요구하거나 해당 주 소지를 관할하는 보건소장에게 신고하여야 한다. <개정 2010. 1. 18., 2015. 7. 6., 2018. 3. 27., 2020. 12. 15.>

1. 일반가정에서는 세대를 같이하는 세대주. 다만, 세대주가 부재 중인 경우에는 그 세대원
  2. 학교, 사회복지시설, 병원, 관공서, 회사, 공연장, 예배장소, 선박·항공기·열차 등 운송수단, 각종 사무소·사업소, 음식점, 숙박업소 또는 그 밖에 여러 사람이 모이는 장소로서 보건복지부령으로 정하는 장소의 관리인, 경영자 또는 대표자
  3. 「약사법」에 따른 약사·한약사 및 약국개설자
- ② 제1항에 따른 신고의무자가 아니더라도 감염병환자등 또는 감염병으로 인한 사망자로 의심되는 사람을 발견하면 보건소장에게 알려야 한다.
- ③ 제1항에 따른 신고의 방법과 기간 및 제2항에 따른 통보의 방법과 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2015. 7. 6.>

[시행일 : 2021. 6. 16.] 제12조

**13 ( )** ① 제11조 및 제12조에 따라 신고를 받은 보건소장은 그 내용을 관할 특별자치도지사 또는 시장·군수·구청장에게 보고하여야 하며, 보고를 받은 특별자치도지사 또는 시장·군수·구청장은 이를 질병관리청장 및 시·도지사에게 각각 보고하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

- ② 제1항에 따라 보고를 받은 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제11조제1항제4호에 해당하는 사람(제1급감염병 환자로 의심되는 경우에 한정한다)에 대하여 감염병병원체 검사를 하게 할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ③ 제1항에 따른 보고의 방법 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2020. 3. 4.>

[제목개정 2020. 3. 4.]

**14 ( )** ① 「가축전염병예방법」 제11조제1항제2호에 따라 신고를 받은 국립가축방역기관장, 신고대상 가축의 소재지를 관할하는 시장·군수·구청장 또는 시·도 가축방역기관의 장은 같은 법에 따른 가축전염병 중 다음 각 호의 어느 하나에 해당하는 감염병의 경우에는 즉시 질병관리청장에게 통보하여야 한다. <개정 2019. 12. 3., 2020. 8. 11.>

1. 탄저
2. 고병원성조류인플루엔자
3. 광견병
4. 그 밖에 대통령령으로 정하는 인수공통감염병

- ② 제1항에 따른 통보를 받은 질병관리청장은 감염병의 예방 및 확산 방지를 위하여 이 법에 따른 적절한 조치를 취하여야 한다. <신설 2015. 7. 6., 2020. 8. 11.>
- ③ 제1항에 따른 신고 또는 통보를 받은 행정기관의 장은 신고자의 요청이 있는 때에는 신고자의 신원을 외부에 공개하여서는 아니 된다. <개정 2015. 7. 6.>
- ④ 제1항에 따른 통보의 방법 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2015. 7. 6.>

**15 ( )** 보건소장은 관할구역에 거주하는 감염병환자등에 관하여 제11조 및 제12조에 따른 신고를 받았을 때에는 보건복지부령으로 정하는 바에 따라 기록하고 그 명부(전자문서를 포함한다)를 관리하여야 한다. <개정 2010. 1. 18.>

- 16 ( )** ① 질병관리청장은 감염병의 표본감시를 위하여 질병의 특성과 지역을 고려하여 「보건의료기본법」에 따른 보건의료기관이나 그 밖의 기관 또는 단체를 감염병 표본감시기관으로 지정할 수 있다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>
- ② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제1항에 따라 지정받은 감염병 표본감시기관(이하 “표본감시기관”이라 한다)의 장에게 감염병의 표본감시와 관련하여 필요한 자료의 제출을 요구하거나 감염병의 예방·관리에 필요한 협조를 요청할 수 있다. 이 경우 표본감시기관은 특별한 사유가 없으면 이에 따라야 한다. <개정 2010. 1. 18., 2020. 8. 11.>
- ③ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제2항에 따라 수집한 정보 중 국민 건강에 관한 중요한 정보를 관련 기관·단체·시설 또는 국민들에게 제공하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>
- ④ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 표본감시활동에 필요한 경비를 표본감시기관에 지원할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>
- ⑤ 질병관리청장은 표본감시기관이 다음 각 호의 어느 하나에 해당하는 경우에는 그 지정을 취소할 수 있다. <개정 2015. 7. 6., 2019. 12. 3., 2020. 8. 11.>
1. 제2항에 따른 자료 제출 요구 또는 협조 요청에 따르지 아니하는 경우
  2. 폐업 등으로 감염병 표본감시 업무를 수행할 수 없는 경우
  3. 그 밖에 감염병 표본감시 업무를 게을리하는 등 보건복지부령으로 정하는 경우
- ⑥ 제1항에 따른 표본감시의 대상이 되는 감염병은 제4급감염병으로 하고, 표본감시기관의 지정 및 지정취소의 사유 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <신설 2015. 7. 6., 2018. 3. 27.>
- ⑦ 질병관리청장은 감염병이 발생하거나 유행할 가능성이 있어 관련 정보를 확보할 긴급한 필요가 있다고 인정하는 경우 「공공기관의 운영에 관한 법률」에 따른 공공기관 중 대통령령으로 정하는 공공기관의 장에게 정보 제공을 요구할 수 있다. 이 경우 정보 제공을 요구받은 기관의 장은 정당한 사유가 없는 한 이에 따라야 한다. <개정 2015. 7. 6., 2020. 8. 11.>
- ⑧ 제7항에 따라 제공되는 정보의 내용, 절차 및 정보의 취급에 필요한 사항은 대통령령으로 정한다. <개정 2015. 7. 6.>

**16 2( )** ① 다음 각 호의 기관(이하 “감염병병원체 확인기관”이라 한다)은 실험실 검사 등을 통하여 감염병병원체를 확인할 수 있다. <개정 2020. 8. 11.>

1. 질병관리청
  2. 국립검역소
  3. 「보건환경연구원법」 제2조에 따른 보건환경연구원
  4. 「지역보건법」 제10조에 따른 보건소
  5. 「의료법」 제3조에 따른 의료기관 중 진단검사의학과 전문의가 상근(常勤)하는 기관
  6. 「고등교육법」 제4조에 따라 설립된 의과대학 중 진단검사의학과가 개설된 의과대학
  7. 「결핵예방법」 제21조에 따라 설립된 대한결핵협회(결핵환자의 병원체를 확인하는 경우만 해당한다)
  8. 「민법」 제32조에 따라 한센병환자 등의 치료·재활을 지원할 목적으로 설립된 기관(한센병환자의 병원체를 확인하는 경우만 해당한다)
  9. 인체에서 채취한 검사물에 대한 검사를 국가, 지방자치단체, 의료기관 등으로부터 위탁받아 처리하는 기관 중 진단검사의학과 전문의가 상근하는 기관
- ② 질병관리청장은 감염병병원체 확인의 정확성·신뢰성을 확보하기 위하여 감염병병원체 확인기관의 실험실 검사능력을 평가하고 관리할 수 있다. <개정 2020. 8. 11.>
- ③ 제2항에 따른 감염병병원체 확인기관의 실험실 검사능력 평가 및 관리에 관한 방법, 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2020. 3. 4.]

**17 ( )** ① 질병관리청장 및 시·도지사는 감염병의 관리 및 감염 실태와 내성균 실태를 파악하기 위하여 실태조사를 실시하고, 그 결과를 공표하여야 한다. <개정 2010. 1. 18., 2015. 7. 6., 2016. 12. 2., 2020. 3. 4., 2020. 8. 11.>

② 질병관리청장 및 시·도지사는 제1항에 따른 조사를 위하여 의료기관 등 관계 기관·법인 및 단체의 장에게 필요한 자료의 제출 또는 의견의 진술을 요청할 수 있다. 이 경우 요청을 받은 자는 정당한 사유가 없으면 이에 협조하여야 한다. <신설 2020. 3. 4., 2020. 8. 11.>

③ 제1항에 따른 실태조사에 포함되어야 할 사항과 실태조사의 시기, 방법, 절차 및 공표 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2020. 3. 4.>

**18 ( )** ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병이 발생하여 유행할 우려가 있거나, 감염병 여부가 불분명하나 발병원인을 조사할 필요가 있다고 인정하면 지체 없이 역학조사를 하여야 하고, 그 결과에 관한 정보를 필요한 범위에서 해당 의료기관에 제공하여야 한다. 다만, 지역확산 방지 등을 위하여 필요한 경우 다른 의료기관에 제공하여야 한다. <개정 2015. 7. 6., 2019. 12. 3., 2020. 8. 11.>

② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 역학조사를 하기 위하여 역학조사반을 각각 설치하여야 한다. <개정 2020. 8. 11.>

③ 누구든지 질병관리청장, 시·도지사 또는 시장·군수·구청장이 실시하는 역학조사에서 다음 각 호의 행위를 하여서는 아니 된다. <개정 2015. 7. 6., 2020. 8. 11.>

1. 정당한 사유 없이 역학조사를 거부·방해 또는 회피하는 행위
2. 거짓으로 진술하거나 거짓 자료를 제출하는 행위
3. 고의적으로 사실을 누락·은폐하는 행위
- ④ 제1항에 따른 역학조사의 내용과 시기·방법 및 제2항에 따른 역학조사반의 구성·임무 등에 관하여 필요한 사항은 대통령령으로 정한다.

**18 2( )** ① 「의료법」에 따른 의료인 또는 의료기관의 장은 감염병 또는 알 수 없는 원인으로 인한 질병이 발생하였거나 발생할 것이 우려되는 경우 질병관리청장 또는 시·도지사에게 제18조에 따른 역학조사를 실시할 것을 요청할 수 있다. <개정 2020. 8. 11.>

② 제1항에 따른 요청을 받은 질병관리청장 또는 시·도지사는 역학조사의 실시 여부 및 그 사유 등을 지체 없이 해당 의료인 또는 의료기관 개설자에게 통지하여야 한다. <개정 2020. 8. 11.>

③ 제1항에 따른 역학조사 실시 요청 및 제2항에 따른 통지의 방법·절차 등 필요한 사항은 보건복지부령으로 정한다. [본조신설 2015. 7. 6.]

**18 3( )** ① 질병관리청장은 제60조의2제3항 각 호에 해당하는 사람에 대하여 정기적으로 역학조사에 관한 교육·훈련을 실시할 수 있다. <개정 2020. 3. 4., 2020. 8. 11.>

② 제1항에 따른 교육·훈련 과정 및 그 밖에 필요한 사항은 보건복지부령으로 정한다. [본조신설 2015. 7. 6.]

**18 4( )** ① 질병관리청장은 제18조에 따른 역학조사 등을 효율적으로 시행하기 위하여 관계 중앙행정기관의 장, 대통령령으로 정하는 기관·단체 등에 대하여 역학조사에 필요한 자료제출을 요구할 수 있다. <개정 2020. 8. 11.>

② 질병관리청장은 제18조에 따른 역학조사를 실시하는 경우 필요에 따라 관계 중앙행정기관의 장에게 인력 파견 등 필요한 지원을 요청할 수 있다. <개정 2020. 8. 11.>

③ 제1항에 따른 자료제출 요구 및 제2항에 따른 지원 요청 등을 받은 자는 특별한 사정이 없으면 이에 따라야 한다.

④ 제1항에 따른 자료제출 요구 및 제2항에 따른 지원 요청 등의 범위와 방법 등에 관하여 필요한 사항은 대통령령으로 정한다. [본조신설 2015. 7. 6.]

**19 ( )** 성매개감염병의 예방을 위하여 종사자의 건강진단이 필요한 직업으로 보건복지부령으로 정하는 직업에 종사하는 자와 성매개감염병에 감염되어 그 전염을 매개할 상당한 우려가 있다고 시장·군수·구청장이 인정한 자는 보건복지부령으로 정하는 바에 따라 성매개감염병에 관한 건강진단을 받아야 한다. <개정 2010. 1. 18.>

**20 ( )** ① 질병관리청장은 국민 건강에 중대한 위협을 미칠 우려가 있는 감염병으로 사망한 것으로 의심이 되어 시체를 해부(解剖)하지 아니하고는 감염병 여부의 진단과 사망의 원인규명을 할 수 없다고 인정하면 그 시체의 해부를 명할 수 있다.  
<개정 2020. 8. 11.>

② 제1항에 따라 해부를 하려면 미리 「장사 등에 관한 법률」 제2조제16호에 따른 연고자(같은 호 각 목에 규정된 선순위자가 없는 경우에는 그 다음 순위자를 말한다. 이하 “연고자”라 한다)의 동의를 받아야 한다. 다만, 소재불명 및 연락두절 등 미리 연고자의 동의를 받기 어려운 특별한 사정이 있고 해부가 늦어질 경우 감염병 예방과 국민 건강의 보호라는 목적을 달성하기 어렵다고 판단되는 경우에는 연고자의 동의를 받지 아니하고 해부를 명할 수 있다.

③ 질병관리청장은 감염병 전문의, 해부학, 병리학 또는 법의학을 전공한 사람을 해부를 담당하는 의사로 지정하여 해부를 하여야 한다.<개정 2020. 8. 11.>

④ 제3항에 따른 해부는 사망자가 걸린 것으로 의심되는 감염병의 종류별로 질병관리청장이 정하여 고시한 생물학적 안전 등급을 갖춘 시설에서 실시하여야 한다.<개정 2010. 1. 18., 2020. 8. 11.>

⑤ 제3항에 따른 해부를 담당하는 의사의 지정, 감염병 종류별로 갖추어야 할 시설의 기준, 해당 시체의 관리 등에 관하여 필요한 사항은 보건복지부령으로 정한다.<개정 2010. 1. 18.>

**20 2( )** ① 질병관리청장은 감염병환자등이 사망한 경우(사망 후 감염병병원체를 보유하고 있던 것으로 확인된 사람을 포함한다) 감염병의 차단과 확산 방지 등을 위하여 필요한 범위에서 그 시신의 장사방법 등을 제한할 수 있다. <개정 2020. 8. 11.>

② 질병관리청장은 제1항에 따른 제한을 하려는 경우 연고자에게 해당 조치의 필요성 및 구체적인 방법·절차 등을 미리 설명하여야 한다.<개정 2020. 8. 11.>

③ 질병관리청장은 화장시설의 설치·관리자에게 제1항에 따른 조치에 협조하여 줄 것을 요청할 수 있으며, 요청을 받은 화장시설의 설치·관리자는 이에 적극 협조하여야 한다.<개정 2020. 8. 11.>

④ 제1항에 따른 제한의 대상·방법·절차 등 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2015. 12. 29.]

## 5

**21 ( , )** ① 감염병환자, 식품, 동식물, 그 밖의 환경 등으로부터 고위험병원체를 분리한 자는 지체 없이 고위험병원체의 명칭, 분리된 검체명, 분리 일자 등을 질병관리청장에게 신고하여야 한다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>

② 고위험병원체를 분양·이동받으려는 자는 사전에 고위험병원체의 명칭, 분양 및 이동계획 등을 질병관리청장에게 신고하여야 한다.<신설 2019. 12. 3., 2020. 8. 11.>

③ 고위험병원체를 이동하려는 자는 사전에 고위험병원체의 명칭과 이동계획 등을 질병관리청장에게 신고하여야 한다.<신설 2019. 12. 3., 2020. 8. 11.>

④ 질병관리청장은 제1항부터 제3항까지의 신고를 받은 경우 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다.<신설 2020. 3. 4., 2020. 8. 11.>

⑤ 질병관리청장은 제1항에 따라 고위험병원체의 분리신고를 받은 경우 현장조사를 실시할 수 있다.<신설 2019. 12. 3., 2020. 3. 4., 2020. 8. 11.>

⑥ 고위험병원체를 보유·관리하는 자는 매년 고위험병원체 보유현황에 대한 기록을 작성하여 질병관리청장에게 제출하여야 한다.<신설 2018. 3. 27., 2019. 12. 3., 2020. 3. 4., 2020. 8. 11.>

⑦ 제1항부터 제3항까지에 따른 신고 및 제6항에 따른 기록 작성·제출의 방법 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.<개정 2010. 1. 18., 2018. 3. 27., 2019. 12. 3., 2020. 3. 4.>

[제목개정 2018. 3. 27., 2019. 12. 3.]

- 22 ( 가 )** ① 감염병의 진단 및 학술 연구 등을 목적으로 고위험병원체를 국내로 반입하려는 자는 다음 각 호의 요건을 갖추어 질병관리청장의 허가를 받아야 한다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>
1. 제23조제1항에 따른 고위험병원체 취급시설을 설치·운영할 것
  2. 고위험병원체의 안전한 수송 및 비상조치 계획을 수립할 것
  3. 보건복지부령으로 정하는 요건을 갖춘 고위험병원체 전담관리자를 둘 것
- ② 제1항에 따라 허가받은 사항을 변경하려는 자는 질병관리청장의 허가를 받아야 한다. 다만, 대통령령으로 정하는 경미한 사항을 변경하려는 경우에는 질병관리청장에게 신고하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>
- ③ 제1항에 따라 고위험병원체의 반입 허가를 받은 자가 해당 고위험병원체를 인수하여 이동하려면 대통령령으로 정하는 바에 따라 그 인수 장소를 지정하고 제21조제1항에 따라 이동계획을 질병관리청장에게 미리 신고하여야 한다. 이 경우 질병관리청장은 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다. <개정 2010. 1. 18., 2020. 3. 4., 2020. 8. 11.>
- ④ 제1항부터 제3항까지의 규정에 따른 허가 또는 신고의 방법과 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

- 23 ( 가 )** ① 고위험병원체를 검사, 보유, 관리 및 이동하려는 자는 그 검사, 보유, 관리 및 이동에 필요한 시설(이하 “고위험병원체 취급시설”이라 한다)을 설치·운영하여야 한다.
- ② 고위험병원체 취급시설을 설치·운영하려는 자는 고위험병원체 취급시설의 안전관리 등급별로 질병관리청장의 허가를 받거나 질병관리청장에게 신고하여야 한다. <개정 2020. 8. 11.>
- ③ 제2항에 따라 허가를 받은 자는 허가받은 사항을 변경하려면 변경허가를 받아야 한다. 다만, 대통령령으로 정하는 경미한 사항을 변경하려면 변경신고를 하여야 한다.
- ④ 제2항에 따라 신고한 자는 신고한 사항을 변경하려면 변경신고를 하여야 한다.
- ⑤ 제2항에 따라 허가를 받거나 신고한 자는 고위험병원체 취급시설을 폐쇄하는 경우 그 내용을 질병관리청장에게 신고하여야 한다. <개정 2020. 8. 11.>
- ⑥ 질병관리청장은 제2항, 제4항 및 제5항에 따른 신고를 받은 경우 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다. <개정 2020. 8. 11.>
- ⑦ 제2항에 따라 허가를 받거나 신고한 자는 고위험병원체 취급시설의 안전관리 등급에 따라 대통령령으로 정하는 안전관리 준수사항을 지켜야 한다.
- ⑧ 질병관리청장은 고위험병원체를 검사, 보유, 관리 및 이동하는 자가 제7항에 따른 안전관리 준수사항 및 제9항에 따른 허가 및 신고 기준을 지키고 있는지 여부 등을 점검할 수 있다. <개정 2020. 8. 11.>
- ⑨ 제1항부터 제5항까지의 규정에 따른 고위험병원체 취급시설의 안전관리 등급, 설치·운영 허가 및 신고의 기준과 절차, 폐쇄 신고의 기준과 절차 등에 필요한 사항은 대통령령으로 정한다.
- [전문개정 2020. 3. 4.]

- 23 2( 가 )** 질병관리청장은 제23조제2항에 따라 고위험병원체 취급시설 설치·운영의 허가를 받거나 신고를 한 자가 다음 각 호의 어느 하나에 해당하는 경우에는 그 허가를 취소하거나 고위험병원체 취급시설의 폐쇄를 명하거나 1년 이내의 기간을 정하여 그 시설의 운영을 정지하도록 명할 수 있다. 다만, 제1호에 해당하는 경우에는 허가를 취소하거나 고위험병원체 취급시설의 폐쇄를 명하여야 한다. <개정 2020. 3. 4., 2020. 8. 11.>
1. 속임수나 그 밖의 부정한 방법으로 허가를 받거나 신고한 경우
  2. 제23조제3항 또는 제4항에 따른 변경허가를 받지 아니하거나 변경신고를 하지 아니하고 허가 내용 또는 신고 내용을 변경한 경우
  3. 제23조제7항에 따른 안전관리 준수사항을 지키지 아니한 경우
  4. 제23조제9항에 따른 허가 또는 신고의 기준에 미달한 경우
- [본조신설 2017. 12. 12.]

- 23 3( 가 )** ① 감염병의 진단 및 학술연구 등을 목적으로 생물테러감염병을 일으키는 병원체 중 보건복지부령으로 정하는 병원체(이하 “생물테러감염병병원체”라 한다)를 보유하고자 하는 자는 사전에 질병관리청장의 허가를 받아야 한다. 다만, 감염병의사환자로부터 생물테러감염병병원체를 분리한 후 보유하는 경우 등 대통령령으로 정하는 부득이한 사정으로 사전에 허가를 받을 수 없는 경우에는 보유 즉시 허가를 받아야 한다. <개정 2020. 8. 11.>
- ② 제22조제1항에 따라 국내반입허가를 받은 경우에는 제1항에 따른 허가를 받은 것으로 본다.
- ③ 제1항에 따라 허가받은 사항을 변경하고자 하는 경우에는 질병관리청장의 변경허가를 받아야 한다. 다만, 고위험병원체를 취급하는 사람의 변경 등 대통령령으로 정하는 경미한 사항을 변경하려는 경우에는 질병관리청장에게 변경신고를 하여야 한다. <개정 2020. 8. 11.>
- ④ 제1항부터 제3항까지의 규정에 따른 허가, 변경허가 또는 변경신고의 방법 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.
- [본조신설 2019. 12. 3.]

- 23 4( )** ① 고위험병원체는 다음 각 호의 어느 하나에 해당하는 사람만 취급할 수 있다.
1. 「고등교육법」 제2조제4호에 따른 전문대학 이상의 대학에서 보건의료 또는 생물 관련 분야를 전공하고 졸업한 사람 또는 이와 동등한 학력을 가진 사람
  2. 「고등교육법」 제2조제4호에 따른 전문대학 이상의 대학을 졸업한 사람 또는 이와 동등 이상의 학력을 가진 사람으로서 보건의료 또는 생물 관련 분야 외의 분야를 전공하고 2년 이상의 보건의료 또는 생물 관련 분야의 경력이 있는 사람
  3. 「초·중등교육법」 제2조제3호에 따른 고등학교·고등기술학교를 졸업한 사람 또는 이와 동등 이상의 학력을 가진 사람으로서 4년 이상의 보건의료 또는 생물 관련 분야의 경력이 있는 사람
- ② 누구든지 제1항 각 호의 어느 하나에 해당하지 아니하는 사람에게 고위험병원체를 취급하도록 하여서는 아니 된다.
- ③ 제1항 각 호의 학력 및 경력에 관한 구체적인 사항은 보건복지부령으로 정한다.
- [본조신설 2019. 12. 3.]

- 23 5( )** ① 고위험병원체를 취급하는 사람은 고위험병원체의 안전한 취급을 위하여 매년 필요한 교육을 받아야 한다.
- ② 질병관리청장은 제1항에 따른 교육을 보건복지부령으로 정하는 전문 기관 또는 단체에 위탁할 수 있다. <개정 2020. 8. 11.>
- ③ 제1항 및 제2항에 따른 교육 및 교육의 위탁 등에 필요한 사항은 보건복지부령으로 정한다.
- [본조신설 2019. 12. 3.]

## 6

- 24 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 다음 각 호의 질병에 대하여 관할 보건소를 통하여 필수예방접종(이하 “필수예방접종”이라 한다)을 실시하여야 한다. <개정 2010. 1. 18., 2013. 3. 22., 2014. 3. 18., 2016. 12. 2., 2018. 3. 27., 2020. 8. 11.>
1. 디프테리아
  2. 폴리오
  3. 백일해
  4. 홍역
  5. 파상풍
  6. 결핵
  7. B형간염
  8. 유행성이하선염

9. 풍진
  10. 수두
  11. 일본뇌염
  12. b형헤모필루스인플루엔자
  13. 폐렴구균
  14. 인플루엔자
  15. A형간염
  16. 사람유두종바이러스 감염증
  17. 그 밖에 질병관리청장이 감염병의 예방을 위하여 필요하다고 인정하여 지정하는 감염병
- ② 특별자치도지사 또는 시장·군수·구청장은 제1항에 따른 필수예방접종업무를 대통령령으로 정하는 바에 따라 관할구역 안에 있는 「의료법」에 따른 의료기관에 위탁할 수 있다. <개정 2018. 3. 27.>
- ③ 특별자치도지사 또는 시장·군수·구청장은 필수예방접종 대상 아동 부모에게 보건복지부령으로 정하는 바에 따라 필수예방접종을 사전에 알려야 한다. 이 경우 「개인정보 보호법」 제24조에 따른 고유식별정보를 처리할 수 있다. <신설 2012. 5. 23., 2018. 3. 27.>
- [제목개정 2018. 3. 27.]

**25 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 다음 각 호의 어느 하나에 해당하면 관할 보건소를 통하여 입시예방접종(이하 “입시예방접종”이라 한다)을 하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

1. 질병관리청장이 감염병 예방을 위하여 특별자치도지사 또는 시장·군수·구청장에게 예방접종을 실시할 것을 요청한 경우
  2. 특별자치도지사 또는 시장·군수·구청장이 감염병 예방을 위하여 예방접종이 필요하다고 인정하는 경우
- ② 제1항에 따른 입시예방접종업무를 위탁에 관하여는 제24조제2항을 준용한다.

**26 ( )** 특별자치도지사 또는 시장·군수·구청장은 입시예방접종을 할 경우에는 예방접종의 일시 및 장소, 예방접종의 종류, 예방접종을 받을 사람의 범위를 정하여 미리 공고하여야 한다. 다만, 제32조제3항에 따른 예방접종의 실시기준 등이 변경될 경우에는 그 변경 사항을 미리 공고하여야 한다. <개정 2021. 3. 9.>

**26 2( )** ① 보건소장 및 제24조제2항(제25조제2항에서 준용하는 경우를 포함한다)에 따라 예방접종업무를 위탁받은 의료기관의 장은 예방접종을 하기 전에 대통령령으로 정하는 바에 따라 예방접종을 받으려는 사람 본인 또는 법정대리인의 동의를 받아 해당 예방접종을 받으려는 사람의 예방접종 내역을 확인하여야 한다. 다만, 예방접종을 받으려는 사람 또는 법정대리인의 동의를 받지 못한 경우에는 그러하지 아니하다.

② 제1항 본문에 따라 예방접종을 확인하는 경우 제33조의4에 따른 예방접종통합관리시스템을 활용하여 그 내역을 확인할 수 있다. <개정 2019. 12. 3.>

[본조신설 2015. 12. 29.]

**27 ( )** ① 질병관리청장, 특별자치도지사 또는 시장·군수·구청장은 필수예방접종 또는 입시예방접종을 받은 사람 본인 또는 법정대리인에게 보건복지부령으로 정하는 바에 따라 예방접종증명서를 발급하여야 한다. <개정 2010. 1. 18., 2015. 12. 29., 2018. 3. 27., 2020. 8. 11.>

- ② 특별자치도지사나 시장·군수·구청장이 아닌 자가 이 법에 따른 예방접종을 한 때에는 질병관리청장, 특별자치도지사 또는 시장·군수·구청장은 보건복지부령으로 정하는 바에 따라 해당 예방접종을 한 자로 하여금 예방접종증명서를 발급하게 할 수 있다. <개정 2010. 1. 18., 2015. 12. 29., 2020. 8. 11.>
- ③ 제1항 및 제2항에 따른 예방접종증명서는 전자문서를 이용하여 발급할 수 있다.

**28 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 필수예방접종 및 입시예방접종을 하거나, 제2항에 따라 보고를 받은 경우에는 보건복지부령으로 정하는 바에 따라 예방접종에 관한 기록을 작성·보관하여야 하고, 그 내용을 시·도지사 및 질병관리청장에게 각각 보고하여야 한다. <개정 2010. 1. 18., 2018. 3. 27., 2020. 8. 11.>

② 특별자치도지사나 시장·군수·구청장이 아닌 자가 이 법에 따른 예방접종을 하면 보건복지부령으로 정하는 바에 따라 특별자치도지사 또는 시장·군수·구청장에게 보고하여야 한다. <개정 2010. 1. 18.>

**29 ( )** 질병관리청장, 시·도지사 또는 시장·군수·구청장은 다음 각 호의 구분에 따라 조사를 실시하고, 예방접종 후 이상반응 사례가 발생하면 그 원인을 밝히기 위하여 제18조에 따라 역학조사를 하여야 한다. <개정 2020. 8. 11.>

1. 질병관리청장: 예방접종의 효과 및 예방접종 후 이상반응에 관한 조사
2. 시·도지사 또는 시장·군수·구청장: 예방접종 후 이상반응에 관한 조사

**30 ( )** ① 제71조제1항 및 제2항에 규정된 예방접종으로 인한 질병·장애·사망의 원인 규명 및 피해 보상 등을 조사하고 제72조제1항에 따른 제3자의 고의 또는 과실 유무를 조사하기 위하여 질병관리청에 예방접종피해조사반을 둔다. <개정 2020. 8. 11.>

② 제1항에 따른 예방접종피해조사반의 설치 및 운영 등에 관하여 필요한 사항은 대통령령으로 정한다.

**31 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 초등학교와 중학교의 장에게 「학교보건법」 제10조에 따른 예방접종 완료 여부에 대한 검사 기록을 제출하도록 요청할 수 있다.

② 특별자치도지사 또는 시장·군수·구청장은 「유아교육법」에 따른 유치원의 장과 「영유아보육법」에 따른 어린이집의 원장에게 보건복지부령으로 정하는 바에 따라 영유아의 예방접종 여부를 확인하도록 요청할 수 있다. <개정 2010. 1. 18., 2011. 6. 7.>

③ 특별자치도지사 또는 시장·군수·구청장은 제1항에 따른 제출 기록 및 제2항에 따른 확인 결과를 확인하여 예방접종을 끝내지 못한 영유아, 학생 등이 있으면 그 영유아 또는 학생 등에게 예방접종을 하여야 한다.

**32 ( )** ① 질병관리청장은 국민의 예방접종에 대한 관심을 높여 감염병에 대한 예방접종을 활성화하기 위하여 예방접종주간을 설정할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

② 누구든지 거짓이나 그 밖의 부정한 방법으로 예방접종을 받아서는 아니 된다. <신설 2021. 3. 9.>

③ 예방접종의 실시기준과 방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2021. 3. 9.>

**33 ( )** ① 질병관리청장은 예방접종약품의 국내 공급이 부족하다고 판단되는 경우 등 보건복지부령으로 정하는 경우에는 예산의 범위에서 감염병의 예방접종에 필요한 수량의 예방접종약품을 미리 계산하여 「약사법」 제31조에 따른 의약품 제조업자(이하 “의약품 제조업자”라 한다)에게 생산하게 할 수 있으며, 예방접종약품을 연구하는 자 등을 지원할 수 있다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>

② 질병관리청장은 보건복지부령으로 정하는 바에 따라 제1항에 따른 예방접종약품의 생산에 드는 비용의 전부 또는 일부를 해당 의약품 제조업자에게 미리 지급할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

**33 2( )** ① 질병관리청장은 제24조에 따른 필수예방접종 및 제25조에 따른 임시예방접종이 원활하게 이루어질 수 있도록 하기 위하여 필요한 필수예방접종약품등을 위원회의 심의를 거쳐 미리 비축하거나 장기 구매를 위한 계약을 미리 할 수 있다. <개정 2020. 8. 11.>

② 질병관리청장은 제1항에 따라 비축한 필수예방접종약품등의 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항을 위원회의 심의를 거쳐 정할 수 있다. <개정 2020. 8. 11.>

[본조신설 2019. 12. 3.]

[중전 제33조의2는 제33조의4로 이동 <2019. 12. 3.>]

**33 3( )** 「약사법」 제31조 및 같은 법 제42조에 따른 품목허가를 받거나 신고를 한 자 중 필수예방접종약품등을 생산·수입하거나 하려는 자는 보건복지부령으로 정하는 바에 따라 필수예방접종약품등의 생산·수입 계획(계획의 변경을 포함한다) 및 실적을 질병관리청장에게 보고하여야 한다. <개정 2020. 8. 11.>





에 필요한 사실에 관하여 거짓 진술, 거짓 자료를 제출하거나 고의적으로 사실을 누락·은폐하여서는 아니 된다. <개정 2017. 12. 12.>

[본조신설 2015. 7. 6.]

- 36 ( )** ① 보건복지부장관, 질병관리청장 또는 시·도지사는 보건복지부령으로 정하는 바에 따라 「의료법」 제3조에 따른 의료기관을 감염병관리기관으로 지정하여야 한다. <신설 2020. 3. 4., 2020. 8. 11.>
- ② 시장·군수·구청장은 보건복지부령으로 정하는 바에 따라 「의료법」에 따른 의료기관을 감염병관리기관으로 지정할 수 있다. <개정 2010. 1. 18., 2020. 3. 4.>
- ③ 제1항 및 제2항에 따라 지정받은 의료기관(이하 “감염병관리기관”이라 한다)의 장은 감염병을 예방하고 감염병환자들을 진료하는 시설(이하 “감염병관리시설”이라 한다)을 설치하여야 한다. 이 경우 보건복지부령으로 정하는 일정규모 이상의 감염병관리기관에는 감염병의 전파를 막기 위하여 전실(前室) 및 음압시설(陰壓施設) 등을 갖춘 1인 병실을 보건복지부령으로 정하는 기준에 따라 설치하여야 한다. <개정 2010. 1. 18., 2015. 12. 29., 2020. 3. 4.>
- ④ 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병관리시설의 설치 및 운영에 드는 비용을 감염병관리기관에 지원하여야 한다. <개정 2020. 3. 4., 2020. 8. 11.>
- ⑤ 감염병관리기관이 아닌 의료기관이 감염병관리시설을 설치·운영하려면 보건복지부령으로 정하는 바에 따라 특별자치도지사 또는 시장·군수·구청장에게 신고하여야 한다. 이 경우 특별자치도지사 또는 시장·군수·구청장은 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다. <개정 2010. 1. 18., 2020. 3. 4.>
- ⑥ 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병 발생 등 긴급상황 발생 시 감염병관리기관에 진료개시 등 필요한 사항을 지시할 수 있다. <신설 2015. 7. 6., 2020. 3. 4., 2020. 8. 11.>

- 37 ( )** ① 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병환자가 대량으로 발생하거나 제36조에 따라 지정된 감염병관리기관만으로 감염병환자들을 모두 수용하기 어려운 경우에는 다음 각 호의 조치를 취할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>
1. 제36조에 따라 지정된 감염병관리기관이 아닌 의료기관을 일정 기간 동안 감염병관리기관으로 지정
  2. 격리소·요양소 또는 진료소의 설치·운영
- ② 제1항제1호에 따라 지정된 감염병관리기관의 장은 보건복지부령으로 정하는 바에 따라 감염병관리시설을 설치하여야 한다. <개정 2010. 1. 18.>
- ③ 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제2항에 따른 시설의 설치 및 운영에 드는 비용을 감염병관리기관에 지원하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>
- ④ 제1항제1호에 따라 지정된 감염병관리기관의 장은 정당한 사유없이 제2항의 명령을 거부할 수 없다.
- ⑤ 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병 발생 등 긴급상황 발생 시 감염병관리기관에 진료개시 등 필요한 사항을 지시할 수 있다. <신설 2015. 7. 6., 2018. 3. 27., 2020. 8. 11.>

**38 ( )** 감염병관리기관은 정당한 사유 없이 감염병환자들의 입소(入所)를 거부할 수 없다.

**39 ( )** 감염병관리시설 및 제37조에 따른 격리소·요양소 또는 진료소의 설치 및 관리방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

**39 2( 가)** 질병관리청장, 시·도지사 및 시장·군수·구청장은 감염병관리시설을 정기적으로 평가하고 그 결과를 시설의 감독·지원 등에 반영할 수 있다. 이 경우 평가의 방법, 절차, 시기 및 감독·지원의 내용 등은 보건복지부령으로 정한다. <개정 2020. 8. 11.>

[본조신설 2015. 12. 29.]

**39 3( )** ① 시·도지사는 감염병 발생 또는 유행 시 감염병환자들의 접촉자를 격리하기 위한 시설(이하 “접촉자 격리시설”이라 한다)을 지정하여야 한다. 다만, 「의료법」 제3조에 따른 의료기관은 접촉자 격리시설로 지정할 수 없

다.

② 질병관리청장 또는 시·도지사는 감염병환자등의 접촉자가 대량으로 발생하거나 제1항에 따라 지정된 접촉자 격리시설만으로 접촉자를 모두 수용하기 어려운 경우에는 제1항에 따라 접촉자 격리시설로 지정되지 아니한 시설을 일정기간 동안 접촉자 격리시설로 지정할 수 있다. <개정 2020. 8. 11.>

③ 제1항 및 제2항에 따른 접촉자 격리시설의 지정 및 관리 방법 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2018. 3. 27.]

**39 3( )** ① 시·도지사는 감염병 발생 또는 유행 시 감염병의심자를 격리하기 위한 시설(이하 “감염병의심자 격리시설”이라 한다)을 지정하여야 한다. 다만, 「의료법」 제3조에 따른 의료기관은 감염병의심자 격리시설로 지정할 수 없다. <개정 2020. 12. 15.>

② 질병관리청장 또는 시·도지사는 감염병의심자가 대량으로 발생하거나 제1항에 따라 지정된 감염병의심자 격리시설만으로 감염병의심자를 모두 수용하기 어려운 경우에는 제1항에 따라 감염병의심자 격리시설로 지정되지 아니한 시설을 일정기간 동안 감염병의심자 격리시설로 지정할 수 있다. <개정 2020. 8. 11., 2020. 12. 15.>

③ 제1항 및 제2항에 따른 감염병의심자 격리시설의 지정 및 관리 방법 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2020. 12. 15.>

[본조신설 2018. 3. 27.]

[제목개정 2020. 12. 15.]

[시행일 : 2021. 6. 16.] 제39조의3

**40 ( )** ① 질병관리청장은 생물테러감염병 및 그 밖의 감염병의 대유행이 우려되면 위원회의 심의를 거쳐 예방·치료 의약품 및 장비 등의 품목을 정하여 미리 비축하거나 장기 구매를 위한 계약을 미리 할 수 있다. <개정 2010. 1. 18., 2020. 8. 11.>

② 질병관리청장은 「약사법」 제31조제2항에도 불구하고 생물테러감염병이나 그 밖의 감염병의 대유행이 우려되면 예방·치료 의약품을 정하여 의약품 제조업자에게 생산하게 할 수 있다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>

③ 질병관리청장은 제2항에 따른 예방·치료 의약품의 효과와 이상반응에 관하여 조사하고, 이상반응 사례가 발생하면 제18조에 따라 역학조사를 하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

**40 ( )** ① 질병관리청장은 생물테러감염병 및 그 밖의 감염병의 대유행이 우려되면 위원회의 심의를 거쳐 예방·치료 의료·방역 물품의 품목을 정하여 미리 비축하거나 장기 구매를 위한 계약을 미리 할 수 있다. <개정 2010. 1. 18., 2020. 8. 11., 2020. 12. 15.>

② 질병관리청장은 「약사법」 제31조제2항에도 불구하고 생물테러감염병이나 그 밖의 감염병의 대유행이 우려되면 예방·치료 의약품을 정하여 의약품 제조업자에게 생산하게 할 수 있다. <개정 2010. 1. 18., 2019. 12. 3., 2020. 8. 11.>

③ 질병관리청장은 제2항에 따른 예방·치료 의약품의 효과와 이상반응에 관하여 조사하고, 이상반응 사례가 발생하면 제18조에 따라 역학조사를 하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

[제목개정 2020. 12. 15.]

[시행일 : 2021. 6. 16.] 제40조

**40 2( )** 질병관리청장은 생물테러감염병이나 그 밖의 감염병의 대유행에 대비하여 제40조제1항 및 제2항에 따라 비축하거나 생산한 의약품 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항을 위원회의 심의를 거쳐 정할 수 있다. <개정 2020. 8. 11.>

[본조신설 2014. 3. 18.]

**40 2( )** 질병관리청장은 생물테러감염병이나 그 밖의 감염병의 대유행에 대비하여 제40조제1항 및 제2항에 따라 비축하거나 생산한 의료·방역 물품(「약사법」에 따른 의약품으로 한정한다) 공급의 우선순위 등 분배기준, 그 밖에 필요한 사항을 위원회의 심의를 거쳐 정할 수 있다. <개정 2020. 8. 11., 2020. 12. 15.>

[본조신설 2014. 3. 18.]

[시행일 : 2021. 6. 16.] 제40조의2

**40 3( )** ① 보건복지부장관은 제1급감염병의 유행으로 그 예방·방역 및 치료에 필요한 의약품, 의약품 등 보건복지부령으로 정하는 물품(이하 “의약품등”이라 한다)의 급격한 가격상승 또는 공급부족으로 국민건강을 현저하게 저해할 우려가 있을 때에는 그 의약품등의 수출이나 국외 반출을 금지할 수 있다.

② 보건복지부장관은 제1항에 따른 금지를 하려면 미리 관계 중앙행정기관의 장과 협의하여야 하고, 금지 기간을 미리 정하여 공표하여야 한다.

[본조신설 2020. 3. 4.]

**40 3( )** ① 보건복지부장관은 제1급감염병의 유행으로 그 예방·방역 및 치료에 필요한 의료·방역 물품 중 보건복지부령으로 정하는 물품의 급격한 가격상승 또는 공급부족으로 국민건강을 현저하게 저해할 우려가 있을 때에는 그 물품의 수출이나 국외 반출을 금지할 수 있다. <개정 2020. 12. 15.>

② 보건복지부장관은 제1항에 따른 금지를 하려면 미리 관계 중앙행정기관의 장과 협의하여야 하고, 금지 기간을 미리 정하여 공표하여야 한다.

[본조신설 2020. 3. 4.]

[시행일 : 2021. 6. 16.] 제40조의3

**40 4( )** 시·도지사 또는 시장·군수·구청장은 감염병의 확산 또는 해외 신종감염병의 국내 유입으로 인한 재난상황에 대처하기 위하여 감염병 대비 의약품·장비 등을 비축·관리하고, 재난 상황 발생 시 이를 지급하는 등 필요한 조치를 취할 수 있다.

[본조신설 2020. 9. 29.]

**40 4( )** 시·도지사 또는 시장·군수·구청장은 감염병의 확산 또는 해외 신종감염병의 국내 유입으로 인한 재난상황에 대처하기 위하여 감염병 대비 의료·방역 물품을 비축·관리하고, 재난상황 발생 시 이를 지급하는 등 필요한 조치를 취할 수 있다. <개정 2020. 12. 15.>

[본조신설 2020. 9. 29.]

[제목개정 2020. 12. 15.]

[시행일 : 2021. 6. 16.] 제40조의4

**40 5( )** ① 질병관리청장은 감염병의 예방·관리·치료 업무에 필요한 각종 자료 또는 정보의 효율적 처리와 기록·관리 업무의 전산화를 위하여 감염병환자등, 「의료법」에 따른 의료인, 의약품 및 장비 등을 관리하는 감염병관리통합정보시스템(이하 “감염병정보시스템”이라 한다)을 구축·운영할 수 있다.

② 질병관리청장은 감염병정보시스템을 구축·운영하기 위하여 다음 각 호의 자료를 수집·관리·보유 및 처리할 수 있으며, 관련 기관 및 단체에 필요한 자료의 입력 또는 제출을 요청할 수 있다. 이 경우 자료의 입력 또는 제출을 요청받은 기관 및 단체는 정당한 사유가 없으면 이에 따라야 한다.

1. 감염병환자등의 인적사항(「개인정보 보호법」 제24조에 따른 고유식별정보 등 대통령령으로 정하는 개인정보를 포함한다)

2. 감염병 치료내용, 그 밖에 감염병환자등에 대한 예방·관리·치료 업무에 필요한 자료로서 대통령령으로 정하는 자료

③ 감염병정보시스템은 다음 각 호의 정보시스템과 전자적으로 연계하여 활용할 수 있다. 이 경우 연계를 통하여 수집할 수 있는 자료 또는 정보는 감염병환자등에 대한 예방·관리·치료 업무를 위한 것으로 한정한다.

1. 「주민등록법」 제28조제1항에 따른 주민등록전산정보를 처리하는 정보시스템

2. 「지역보건법」 제5조제1항에 따른 지역보건의료정보시스템

3. 「식품안전기본법」 제24조의2에 따른 통합식품안전정보망

4. 「가축전염병 예방법」 제3조의3에 따른 국가가축방역통합정보시스템

5. 「재난 및 안전관리 기본법」 제34조에 따른 재난관리자원공동활용시스템
  6. 그 밖에 대통령령으로 정하는 정보시스템
  - ④ 제1항에서 제3항까지의 규정에 따른 정보의 보호 및 관리에 관한 사항은 이 법에서 규정된 것을 제외하고는 「개인정보 보호법」 및 「공공기관의 정보공개에 관한 법률」을 따른다.
  - ⑤ 감염병정보시스템의 구축·운영 및 감염병 관련 정보의 요청 방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다.
- [본조신설 2020. 9. 29.]

- 40 6( )** ① 질병관리청장은 생물테러감염병 및 그 밖의 감염병의 대유행에 대하여 기존의 백신이나 의약품으로 대처하기 어렵다고 판단되는 경우 「국가를 당사자로 하는 계약에 관한 법률」에도 불구하고 위원회의 심의를 거쳐 개발 중인 백신이나 의약품의 구매 및 공급에 필요한 계약을 할 수 있다.
- ② 공무원이 제1항에 따른 계약 및 계약 이행과 관련된 업무를 적극적으로 처리한 결과에 대하여 그의 행위에 고의나 중대한 과실이 없는 경우에는 「국가공무원법」 등 관계법령에 따른 징계 또는 문책 등 책임을 묻지 아니한다.
- ③ 제1항에 따른 계약의 대상 및 절차, 그 밖에 필요한 사항은 질병관리청장이 기획재정부장관과 협의하여 정한다.
- [본조신설 2021. 3. 9.]

- 41 ( )** ① 감염병 중 특히 전파 위험이 높은 감염병으로서 제1급감염병 및 질병관리청장이 고시한 감염병에 걸린 감염병환자등은 감염병관리기관, 감염병전문병원 및 감염병관리시설을 갖춘 의료기관(이하 “감염병관리기관등”이라 한다)에서 입원치료를 받아야 한다. <개정 2010. 1. 18., 2018. 3. 27., 2020. 8. 11., 2020. 8. 12.>
- ② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 다음 각 호의 어느 하나에 해당하는 사람에게 자가(自家)치료, 제37조제1항제2호에 따라 설치·운영하는 시설에서의 치료(이하 “시설치료”라 한다) 또는 의료기관 입원치료를 하게 할 수 있다. <개정 2010. 1. 18., 2020. 8. 11., 2020. 8. 12.>
1. 제1항에도 불구하고 의사가 자가치료 또는 시설치료가 가능하다고 판단하는 사람
  2. 제1항에 따른 입원치료 대상자가 아닌 사람
  3. 감염병의심자
- ③ 보건복지부장관, 질병관리청장, 시·도지사 또는 시장·군수·구청장은 다음 각 호의 어느 하나에 해당하는 경우 제1항 또는 제2항에 따라 치료 중인 사람을 다른 감염병관리기관등이나 감염병관리기관등이 아닌 의료기관으로 전원(轉院)하거나, 자가 또는 제37조제1항제2호에 따라 설치·운영하는 시설로 이송(이하 “전원등”이라 한다)하여 치료받게 할 수 있다. <신설 2020. 8. 12., 2020. 9. 29.>
1. 중증도의 변경이 있는 경우
  2. 의사가 입원치료를 필요성이 없다고 판단하는 경우
  3. 격리병상이 부족한 경우 등 질병관리청장이 전원등의 조치가 필요하다고 인정하는 경우
- ④ 감염병환자등은 제3항에 따른 조치를 따라야 하며, 정당한 사유 없이 이를 거부할 경우 치료에 드는 비용은 본인이 부담한다. <신설 2020. 8. 12.>
- ⑤ 제1항 및 제2항에 따른 입원치료, 자가치료, 시설치료의 방법 및 절차, 제3항에 따른 전원등의 방법 및 절차 등에 관하여 필요한 사항은 대통령령으로 정한다. <개정 2020. 8. 12.>

- 41 2( )** ① 사업주는 근로자가 이 법에 따라 입원 또는 격리되는 경우 「근로기준법」 제60조 외에 그 입원 또는 격리기간 동안 유급휴가를 줄 수 있다. 이 경우 사업주가 국가로부터 유급휴가를 위한 비용을 지원 받을 때에는 유급휴가를 주어야 한다.
- ② 사업주는 제1항에 따른 유급휴가를 이유로 해고나 그 밖의 불리한 처우를 하여서는 아니 되며, 유급휴가 기간에는 그 근로자를 해고하지 못한다. 다만, 사업을 계속할 수 없는 경우에는 그러하지 아니하다.
- ③ 국가는 제1항에 따른 유급휴가를 위한 비용을 지원할 수 있다.
- ④ 제3항에 따른 비용의 지원 범위 및 신청·지원 절차 등 필요한 사항은 대통령령으로 정한다.

[본조신설 2015. 12. 29.]

**42 ( )** ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 해당 공무원으로 하여금 다음 각 호의 어느 하나에 해당하는 감염병환자등이 있다고 인정되는 주거시설, 선박·항공기·열차 등 운송수단 또는 그 밖의 장소에 들어가 필요한 조사나 진찰을 하게 할 수 있으며, 그 진찰 결과 감염병환자등으로 인정될 때에는 동행하여 치료받게 하거나 입원시킬 수 있다. <개정 2010. 1. 18., 2018. 3. 27., 2020. 8. 11.>

1. 제1급감염병
2. 제2급감염병 중 결핵, 홍역, 콜레라, 장티푸스, 파라티푸스, 세균성이질, 장출혈성대장균감염증, A형간염, 수막구균 감염증, 폴리오, 성홍열 또는 질병관리청장이 정하는 감염병
3. 삭제<2018. 3. 27.>
4. 제3급감염병 중 질병관리청장이 정하는 감염병
5. 세계보건기구 감시대상 감염병
6. 삭제<2018. 3. 27.>

② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제1급감염병이 발생한 경우 해당 공무원으로 하여금 감염병의심자에 게 다음 각 호의 조치를 하게 할 수 있다. 이 경우 해당 공무원은 감염병 증상 유무를 확인하기 위하여 필요한 조사나 진찰을 할 수 있다. <신설 2020. 3. 4., 2020. 8. 11., 2020. 9. 29.>

1. 자가(自家) 또는 시설에 격리
- 1의2. 제1호에 따른 격리에 필요한 이동수단의 제한
2. 유선·무선 통신, 정보통신기술을 활용한 기기 등을 이용한 감염병의 증상 유무 확인이나 위치정보의 수집. 이 경우 위치정보의 수집은 제1호에 따라 격리된 사람으로 한정한다.
3. 감염 여부 검사

③ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제2항에 따른 조사나 진찰 결과 감염병환자등으로 인정된 사람에 대해서는 해당 공무원과 동행하여 치료받게 하거나 입원시킬 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>

④ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제1항·제2항에 따른 조사·진찰이나 제13조제2항에 따른 검사를 거부하는 사람(이하 이 조에서 “조사거부자”라 한다)에 대해서는 해당 공무원으로 하여금 감염병관리기관에 동행하여 필요한 조사나 진찰을 받게 하여야 한다. <개정 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑤ 제1항부터 제4항까지에 따라 조사·진찰·격리·치료 또는 입원 조치를 하거나 동행하는 공무원은 그 권한을 증명하는 증표를 지니고 이를 관계인에게 보여주어야 한다. <신설 2015. 12. 29., 2020. 3. 4.>

⑥ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제2항부터 제4항까지 및 제7항에 따른 조사·진찰·격리·치료 또는 입원 조치를 위하여 필요한 경우에는 관할 경찰서장에게 협조를 요청할 수 있다. 이 경우 요청을 받은 관할 경찰서장은 정당한 사유가 없으면 이에 따라야 한다. <신설 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑦ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 조사거부자를 자가 또는 감염병관리시설에 격리할 수 있으며, 제4항에 따른 조사·진찰 결과 감염병환자등으로 인정될 때에는 감염병관리시설에서 치료받게 하거나 입원시켜야 한다. <신설 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑧ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병의심자 또는 조사거부자가 감염병환자등이 아닌 것으로 인정되면 제2항 또는 제7항에 따른 격리 조치를 즉시 해제하여야 한다. <신설 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑨ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제7항에 따라 조사거부자를 치료·입원시킨 경우 그 사실을 조사거부자의 보호자에게 통지하여야 한다. 이 경우 통지의 방법·절차 등에 관하여 필요한 사항은 제43조를 준용한다. <신설 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑩ 제8항에도 불구하고 정당한 사유 없이 격리 조치가 해제되지 아니하는 경우 감염병의심자 및 조사거부자는 구제청구를 할 수 있으며, 그 절차 및 방법 등에 대해서는 「인신보호법」을 준용한다. 이 경우 “감염병의심자 및 조사거부자”는 “피수용자”로, 격리 조치를 명한 “질병관리청장, 시·도지사 또는 시장·군수·구청장”은 “수용자”로 본다(다만, 「인신보호법」 제6조제1항 제3호는 적용을 제외한다). <신설 2015. 12. 29., 2020. 3. 4., 2020. 8. 11.>

⑩ 제1항부터 제4항까지 및 제7항에 따라 조사·진찰·격리·치료를 하는 기관의 지정 기준, 제2항에 따른 감염병의심자에 대한 격리나 증상여부 확인 방법 등 필요한 사항은 대통령령으로 정한다. <신설 2015. 12. 29., 2020. 3. 4.>

⑪ 제2항제2호에 따라 수집된 위치정보의 저장·보호·이용 및 파기 등에 관한 사항은 「위치정보의 보호 및 이용 등에 관한 법률」을 따른다. <신설 2020. 9. 29.>

**43 ( )** ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병환자등이 제41조에 따른 입원치료가 필요한 경우에는 그 사실을 입원치료 대상자와 그 보호자에게 통지하여야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

② 제1항에 따른 통지의 방법·절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

**43 2( )** ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제42조제2항·제3항 및 제7항, 제47조제3호 또는 제49조제1항제14호에 따른 입원 또는 격리 조치를 할 때에는 그 사실을 입원 또는 격리 대상자와 그 보호자에게 통지하여야 한다. <개정 2020. 8. 11.>

② 제1항에 따른 통지의 방법·절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.  
[본조신설 2020. 3. 4.]

**44 ( )** 교도소장은 수감자로서 감염병에 감염된 자에게 감염병의 전파를 차단하기 위한 조치와 적절한 의료를 제공하여야 한다.

**45 ( )** ① 감염병환자등은 보건복지부령으로 정하는 바에 따라 업무의 성질상 일반인과 접촉하는 일이 많은 직업에 종사할 수 없고, 누구든지 감염병환자등을 그러한 직업에 고용할 수 없다. <개정 2010. 1. 18.>

② 제19조에 따른 성매개감염병에 관한 건강진단을 받아야 할 자가 건강진단을 받지 아니한 때에는 같은 조에 따른 직업에 종사할 수 없으며 해당 영업을 영위하는 자는 건강진단을 받지 아니한 자를 그 영업에 종사하게 하여서는 아니 된다.

**46 ( )** 질병관리청장, 시·도지사 또는 시장·군수·구청장은 보건복지부령으로 정하는 바에 따라 다음 각 호의 어느 하나에 해당하는 사람에게 건강진단을 받거나 감염병 예방에 필요한 예방접종을 받게 하는 등의 조치를 할 수 있다. <개정 2010. 1. 18., 2015. 7. 6., 2020. 8. 11.>

1. 감염병환자등의 가족 또는 그 동거인
2. 감염병 발생지역에 거주하는 사람 또는 그 지역에 출입하는 사람으로서 감염병에 감염되었을 것으로 의심되는 사람
3. 감염병환자등과 접촉하여 감염병에 감염되었을 것으로 의심되는 사람

**47 ( )** 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병이 유행하면 감염병 전파를 막기 위하여 다음 각 호에 해당하는 모든 조치를 하거나 그에 필요한 일부 조치를 하여야 한다. <개정 2015. 7. 6., 2020. 3. 4., 2020. 8. 11.>

1. 감염병환자등이 있는 장소나 감염병병원체에 오염되었다고 인정되는 장소에 대한 다음 각 목의 조치
  - 가. 일시적 폐쇄
  - 나. 일반 공중의 출입금지
  - 다. 해당 장소 내 이동제한
  - 라. 그 밖에 통행차단을 위하여 필요한 조치
2. 의료기관에 대한 업무 정지
3. 감염병의심자를 적당한 장소에 일정한 기간 입원 또는 격리시키는 것
4. 감염병병원체에 오염되었거나 오염되었다고 의심되는 물건을 사용·접수·이동하거나 버리는 행위 또는 해당 물건의 세척을 금지하거나 태우거나 폐기처분하는 것
5. 감염병병원체에 오염된 장소에 대한 소독이나 그 밖에 필요한 조치를 명하는 것

6. 일정한 장소에서 세탁하는 것을 막거나 오물을 일정한 장소에서 처리하도록 명하는 것

**48 ( )** ① 육군·해군·공군 소속 부대의 장, 국방부직할부대의 장 및 제12조제1항 각 호의 어느 하나에 해당하는 사람은 감염병환자등이 발생한 장소나 감염병병원체에 오염되었다고 의심되는 장소에 대하여 의사, 한의사 또는 관계 공무원의 지시에 따라 소독이나 그 밖에 필요한 조치를 하여야 한다.

② 제1항에 따른 소독 등의 조치에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

## 8

**49 ( )** ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병을 예방하기 위하여 다음 각 호에 해당하는 모든 조치를 하거나 그에 필요한 일부 조치를 하여야 하며, 보건복지부장관은 감염병을 예방하기 위하여 제2호, 제2호의2부터 제2호의4까지, 제12호 및 제12호의2에 해당하는 조치를 할 수 있다. <개정 2015. 7. 6., 2015. 12. 29., 2020. 3. 4., 2020. 8. 11., 2020. 8. 12., 2020. 9. 29., 2021. 3. 9.>

1. 관할 지역에 대한 교통의 전부 또는 일부를 차단하는 것
  2. 흥행, 집회, 제례 또는 그 밖의 여러 사람의 집합을 제한하거나 금지하는 것
    - 2의2. 감염병 전파의 위험성이 있는 장소 또는 시설의 관리자·운영자 및 이용자 등에 대하여 출입자 명단 작성, 마스크 착용 등 방역지침의 준수를 명하는 것
    - 2의3. 버스·열차·선박·항공기 등 감염병 전파가 우려되는 운송수단의 이용자에 대하여 마스크 착용 등 방역지침의 준수를 명하는 것
    - 2의4. 감염병 전파가 우려되어 지역 및 기간을 정하여 마스크 착용 등 방역지침 준수를 명하는 것
  3. 건강진단, 시체 검안 또는 해부를 실시하는 것
  4. 감염병 전파의 위험성이 있는 음식물의 판매·수령을 금지하거나 그 음식물의 폐기나 그 밖에 필요한 처분을 명하는 것
  5. 인수공통감염병 예방을 위하여 살처분(殺處分)에 참여한 사람 또는 인수공통감염병에 드러난 사람 등에 대한 예방조치를 명하는 것
  6. 감염병 전파의 매개가 되는 물건의 소지·이동을 제한·금지하거나 그 물건에 대하여 폐기, 소각 또는 그 밖에 필요한 처분을 명하는 것
  7. 선박·항공기·열차 등 운송 수단, 사업장 또는 그 밖에 여러 사람이 모이는 장소에 의사를 배치하거나 감염병 예방에 필요한 시설의 설치를 명하는 것
  8. 공중위생에 관계있는 시설 또는 장소에 대한 소독이나 그 밖에 필요한 조치를 명하거나 상수도·하수도·우물·쓰레기장·화장실의 신설·개조·변경·폐지 또는 사용을 금지하는 것
  9. 쥐, 위생해충 또는 그 밖의 감염병 매개동물의 구제(驅除) 또는 구제시설의 설치를 명하는 것
  10. 일정한 장소에서의 어로(漁撈)·수영 또는 일정한 우물의 사용을 제한하거나 금지하는 것
  11. 감염병 매개의 중간 숙주가 되는 동물류의 포획 또는 생식을 금지하는 것
  12. 감염병 유행기간 중 의료인·의료업자 및 그 밖에 필요한 의료관계요원을 동원하는 것
    - 12의2. 감염병 유행기간 중 의료기관 병상, 연수원·숙박시설 등 시설을 동원하는 것
  13. 감염병병원체에 오염되었거나 오염되었을 것으로 의심되는 시설 또는 장소에 대한 소독이나 그 밖에 필요한 조치를 명하는 것
  14. 감염병의심자를 적당한 장소에 일정한 기간 입원 또는 격리시키는 것
- ② 시·도지사 또는 시장·군수·구청장은 제1항제8호 및 제10호에 따라 식수를 사용하지 못하게 하려면 그 사용금지기간 동안 별도로 식수를 공급하여야 하며, 제1항제1호·제2호·제6호·제8호·제10호 및 제11호에 따른 조치를 하려면 그 사실을 주민에게 미리 알려야 한다.
- ③ 시·도지사 또는 시장·군수·구청장은 제1항제2호의2의 조치를 따르지 아니한 관리자·운영자에게 해당 장소나 시설의 폐쇄를 명하거나 3개월 이내의 기간을 정하여 운영의 중단을 명할 수 있다. 다만, 운영중단 명령을 받은 자가 그 운영중단기간 중에 운영을 계속한 경우에는 해당 장소나 시설의 폐쇄를 명하여야 한다. <신설 2020. 9. 29., 2021. 3. 9.>

④ 제3항에 따라 장소나 시설의 폐쇄 또는 운영 중단 명령을 받은 관리자·운영자는 정당한 사유가 없으면 이에 따라야 한다. <신설 2021. 3. 9.>

⑤ 시·도지사 또는 시장·군수·구청장은 제3항에 따른 폐쇄 명령에도 불구하고 관리자·운영자가 그 운영을 계속하는 경우에는 관계 공무원에게 해당 장소나 시설을 폐쇄하기 위한 다음 각 호의 조치를 하게 할 수 있다. <신설 2020. 9. 29., 2021. 3. 9.>

1. 해당 장소나 시설의 간판이나 그 밖의 표지판의 제거
2. 해당 장소나 시설이 제3항에 따라 폐쇄된 장소나 시설임을 알리는 게시물 등의 부착

⑥ 제3항에 따른 장소나 시설의 폐쇄를 명한 시·도지사 또는 시장·군수·구청장은 위기경보 또는 방역지침의 변경으로 장소 또는 시설 폐쇄의 필요성이 없어진 경우, 「재난 및 안전관리 기본법」 제11조의 지역위원회 심의를 거쳐 폐쇄 중단 여부를 결정할 수 있다. <신설 2021. 3. 9.>

⑦ 제3항에 따른 행정처분의 기준은 그 위반행위의 종류와 위반 정도 등을 고려하여 보건복지부령으로 정한다. <신설 2020. 9. 29., 2021. 3. 9.>

**49 2( )** ① 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 호흡기와 관련된 감염병으로부터 사회복지시설을 이용하는 어린이, 노인 등(이하 “감염취약계층”이라 한다)을 보호하기 위하여 「재난 및 안전관리 기본법」 제38조제2항에 따른 주의 이상의 위기경보가 발령된 경우 감염취약계층에게 마스크 지급 등 필요한 조치를 취할 수 있다.

② 제1항에 따른 감염병의 종류, 감염취약계층의 범위 및 지급절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. [본조신설 2020. 3. 4.]

**49 2( )** ① 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 호흡기와 관련된 감염병으로부터 저소득층과 사회복지시설을 이용하는 어린이, 노인, 장애인 및 기타 보건복지부령으로 정하는 대상(이하 “감염취약계층”이라 한다)을 보호하기 위하여 「재난 및 안전관리 기본법」 제38조제2항에 따른 주의 이상의 위기경보가 발령된 경우 감염취약계층에게 의료·방역 물품(「약사법」에 따른 의약품으로 한정한다) 지급 등 필요한 조치를 취할 수 있다. <개정 2020. 12. 15.>

② 제1항에 따른 감염병의 종류, 감염취약계층의 범위 및 지급절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. [본조신설 2020. 3. 4.]

[시행일 : 2021. 6. 16.] 제49조의2

**49 3( , )** ① 의료업에 종사하는 의료인(「의료법」 제2조에 따른 의료인 중 의사·치과의사·한의사만 해당한다. 이하 이 조에서 같다)은 감염병과 관련하여 「재난 및 안전관리 기본법」 제38조제2항에 따른 심각 단계 이상의 위기경보가 발령된 때에는 환자, 의료인 및 의료기관 등을 감염의 위험에서 보호하기 위하여 필요하다고 인정하는 경우 「의료법」 제33조제1항에도 불구하고 보건복지부장관이 정하는 범위에서 유선·무선·화상통신, 컴퓨터 등 정보통신기술을 활용하여 의료기관 외부에 있는 환자에게 건강 또는 질병의 지속적 관찰, 진단, 상담 및 처방을 할 수 있다.

② 보건복지부장관은 위원회의 심의를 거쳐 제1항에 따른 한시적 비대면 진료의 지역, 기간 등 범위를 결정한다.

[본조신설 2020. 12. 15.]

**50 ( )** ① 육군·해군·공군 소속 부대의 장, 국방부직할부대의 장 및 제12조제1항제2호에 해당하는 사람은 감염병환자등이 발생하였거나 발생할 우려가 있으면 소독이나 그 밖에 필요한 조치를 하여야 하고, 특별자치도지사 또는 시장·군수·구청장과 협의하여 감염병 예방에 필요한 추가 조치를 하여야 한다. <개정 2015. 7. 6.>

② 교육부장관 또는 교육감은 감염병 발생 등을 이유로 「학교보건법」 제2조제2호의 학교에 대하여 「초·중등교육법」 제64조에 따른 휴업 또는 휴교를 명령하거나 「유아교육법」 제31조에 따른 휴업 또는 휴원을 명령할 경우 질병관리청장과 협의하여야 한다. <신설 2015. 7. 6., 2020. 8. 11.>

- 51 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 감염병을 예방하기 위하여 청소나 소독을 실시하거나 쥐, 위생해충 등의 구제조치(이하 “소독”이라 한다)를 하여야 한다. 이 경우 소독은 사람의 건강과 자연에 유해한 영향을 최소화하여 안전하게 실시하여야 한다. <개정 2010. 1. 18., 2020. 3. 4.>
- ② 제1항에 따른 소독의 기준과 방법은 보건복지부령으로 정한다. <신설 2020. 3. 4.>
- ③ 공동주택, 숙박업소 등 여러 사람이 거주하거나 이용하는 시설 중 대통령령으로 정하는 시설을 관리·운영하는 자는 보건복지부령으로 정하는 바에 따라 감염병 예방에 필요한 소독을 하여야 한다. <개정 2010. 1. 18., 2020. 3. 4.>
- ④ 제3항에 따라 소독을 하여야 하는 시설의 관리·운영자는 제52조제1항에 따라 소독업의 신고를 한 자에게 소독하게 하여야 한다. 다만, 「공동주택관리법」 제2조제1항제15호에 따른 주택관리업자가 제52조제1항에 따른 소독장비를 갖추었을 때에는 그가 관리하는 공동주택은 직접 소독할 수 있다. <개정 2015. 8. 11., 2020. 3. 4.>
- 52 ( )** ① 소독을 업으로 하려는 자(제51조제4항 단서에 따른 주택관리업자는 제외한다)는 보건복지부령으로 정하는 시설·장비 및 인력을 갖추어 특별자치도지사 또는 시장·군수·구청장에게 신고하여야 한다. 신고한 사항을 변경하려는 경우에도 또한 같다. <개정 2010. 1. 18., 2020. 3. 4.>
- ② 특별자치도지사 또는 시장·군수·구청장은 제1항에 따른 신고를 받은 경우 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다. <신설 2020. 3. 4.>
- ③ 특별자치도지사 또는 시장·군수·구청장은 제1항에 따라 소독업의 신고를 한 자(이하 “소독업자”라 한다)가 다음 각 호의 어느 하나에 해당하면 소독업 신고가 취소된 것으로 본다. <개정 2017. 12. 12., 2018. 12. 31., 2020. 3. 4., 2020. 12. 22.>
1. 「부가가치세법」 제8조제8항에 따라 관할 세무서장에게 폐업 신고를 한 경우
  2. 「부가가치세법」 제8조제9항에 따라 관할 세무서장이 사업자등록을 말소한 경우
  3. 제53조제1항에 따른 휴업이나 폐업 신고를 하지 아니하고 소독업에 필요한 시설 등이 없어진 상태가 6개월 이상 계속된 경우
- ④ 특별자치도지사 또는 시장·군수·구청장은 제3항에 따른 소독업 신고가 취소된 것으로 보기 위하여 필요한 경우 관할 세무서장에게 소독업자의 폐업여부에 대한 정보 제공을 요청할 수 있다. 이 경우 요청을 받은 관할 세무서장은 「전자정부법」 제36조제1항에 따라 소독업자의 폐업여부에 대한 정보를 제공하여야 한다. <신설 2017. 12. 12., 2020. 3. 4.>
- 53 ( )** ① 소독업자가 그 영업을 30일 이상 휴업하거나 폐업하려면 보건복지부령으로 정하는 바에 따라 특별자치도지사 또는 시장·군수·구청장에게 신고하여야 한다. <개정 2010. 1. 18., 2020. 3. 4.>
- ② 소독업자가 휴업한 후 재개업을 하려면 보건복지부령으로 정하는 바에 따라 특별자치도지사 또는 시장·군수·구청장에게 신고하여야 한다. 이 경우 특별자치도지사 또는 시장·군수·구청장은 그 내용을 검토하여 이 법에 적합하면 신고를 수리하여야 한다. <신설 2020. 3. 4.>
- 54 ( )** ① 소독업자는 보건복지부령으로 정하는 기준과 방법에 따라 소독하여야 한다. <개정 2010. 1. 18.>
- ② 소독업자가 소독하였을 때에는 보건복지부령으로 정하는 바에 따라 그 소독에 관한 사항을 기록·보존하여야 한다. <개정 2010. 1. 18.>
- 55 ( )** ① 소독업자(법인인 경우에는 그 대표자를 말한다. 이하 이 조에서 같다)는 소독에 관한 교육을 받아야 한다.
- ② 소독업자는 소독업무 종사자에게 소독에 관한 교육을 받게 하여야 한다.
- ③ 제1항 및 제2항에 따른 교육의 내용과 방법, 교육시간, 교육비 부담 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>
- 56 ( )** 특별자치도지사 또는 시장·군수·구청장은 제47조제5호, 제48조제1항, 제49조제1항제8호·제9호·제13호, 제50조 및 제51조제1항·제3항에 따라 소독을 실시하여야 할 경우에는 그 소독업무를 소독업자가 대행하게 할 수 있다. <개정 2015. 7. 6., 2020. 3. 4.>

- 57 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 소속 공무원으로 하여금 소독업자에게 소독의 실시에 관한 관계 서류의 제출을 요구하거나 검사 또는 질문을 하게 할 수 있다.
- ② 제1항에 따라 서류제출을 요구하거나 검사 또는 질문을 하려는 소속 공무원은 그 권한을 표시하는 증표를 지니고 이를 관계인에게 보여주어야 한다.
- 58 ( )** 특별자치도지사 또는 시장·군수·구청장은 소독업자가 다음 각 호의 어느 하나에 해당하면 1개월 이상의 기간을 정하여 그 위반 사항을 시정하도록 명하여야 한다.
1. 제52조제1항에 따른 시설·장비 및 인력 기준을 갖추지 못한 경우
  2. 제55조제1항에 따른 교육을 받지 아니하거나 소독업무 종사자에게 같은 조 제2항에 따른 교육을 받게 하지 아니한 경우
- 59 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 소독업자가 다음 각 호의 어느 하나에 해당하면 영업소의 폐쇄를 명하거나 6개월 이내의 기간을 정하여 영업의 정지를 명할 수 있다. 다만, 제5호에 해당하는 경우에는 영업소의 폐쇄를 명하여야 한다. <개정 2020. 3. 4.>
1. 제52조제1항 후단에 따른 변경 신고를 하지 아니하거나 제53조제1항 및 제2항에 따른 휴업, 폐업 또는 재개업 신고를 하지 아니한 경우
  2. 제54조제1항에 따른 소독의 기준과 방법에 따르지 아니하고 소독을 실시하거나 같은 조 제2항을 위반하여 소독실시 사항을 기록·보존하지 아니한 경우
  3. 제57조에 따른 관계 서류의 제출 요구에 따르지 아니하거나 소속 공무원의 검사 및 질문을 거부·방해 또는 기피한 경우
  4. 제58조에 따른 시정명령에 따르지 아니한 경우
  5. 영업정지기간 중에 소독업을 한 경우
- ② 특별자치도지사·시장·군수·구청장은 제1항에 따른 영업소의 폐쇄명령을 받고도 계속하여 영업을 하거나 제52조제1항에 따른 신고를 하지 아니하고 소독업을 하는 경우에는 관계 공무원에게 해당 영업소를 폐쇄하기 위한 다음 각 호의 조치를 하게 할 수 있다.
1. 해당 영업소의 간판이나 그 밖의 영업표지 등의 제거·삭제
  2. 해당 영업소가 적법한 영업소가 아님을 알리는 게시물 등의 부착
- ③ 제1항에 따른 행정처분의 기준은 그 위반행위의 종류와 위반 정도 등을 고려하여 보건복지부령으로 정한다. <개정 2010. 1. 18.>
- 9** , , <개정 2015. 7. 6.>
- 60 ( )** ① 질병관리청장 및 시·도지사는 감염병 예방 및 방역에 관한 업무를 담당하는 방역관을 소속 공무원 중에서 임명한다. 다만, 감염병 예방 및 방역에 관한 업무를 처리하기 위하여 필요한 경우에는 시장·군수·구청장이 방역관을 소속 공무원 중에서 임명할 수 있다. <개정 2020. 3. 4., 2020. 8. 11.>
- ② 방역관은 제4조제2항제1호부터 제7호까지의 업무를 담당한다. 다만, 질병관리청 소속 방역관은 같은 항 제8호의 업무도 담당한다. <개정 2020. 8. 11.>
- ③ 방역관은 감염병의 국내 유입 또는 유행이 예견되어 긴급한 대처가 필요한 경우 제4조제2항제1호 및 제2호에 따른 업무를 수행하기 위하여 통행의 제한 및 주민의 대피, 감염병의 매개가 되는 음식물·물건 등의 폐기·소각, 의료인 등 감염병 관리인력에 대한 임무부여 및 방역물자의 배치 등 감염병 발생지역의 현장에 대한 조치권한을 가진다.
- ④ 감염병 발생지역을 관할하는 「국가경찰과 자치경찰의 조직 및 운영에 관한 법률」 제12조 및 제13조에 따른 경찰관서 및 「소방기본법」 제3조에 따른 소방관서의 장, 「지역보건법」 제10조에 따른 보건소의 장 등 관계 공무원 및 그 지역 내의 법인·단체·개인은 정당한 사유가 없으면 제3항에 따른 방역관의 조치에 협조하여야 한다. <개정 2020. 12. 22.>
- ⑤ 제1항부터 제4항까지 규정한 사항 외에 방역관의 자격·직무·조치권한의 범위 등에 관하여 필요한 사항은 대통령령으로 정한다.

[전문개정 2015. 7. 6.]

**60 2( )** ① 감염병 역학조사에 관한 사무를 처리하기 위하여 질병관리청 소속 공무원으로 100명 이상, 시·도 소속 공무원으로 각각 2명 이상의 역학조사관을 두어야 한다. 이 경우 시·도 역학조사관 중 1명 이상은 「의료법」 제2조제1항에 따른 의료인 중 의사로 임명하여야 한다. <개정 2018. 3. 27., 2020. 3. 4., 2020. 8. 11.>

② 시장·군수·구청장은 역학조사에 관한 사무를 처리하기 위하여 필요한 경우 소속 공무원으로 역학조사관을 둘 수 있다. 다만, 인구수 등을 고려하여 보건복지부령으로 정하는 기준을 충족하는 시·군·구의 장은 소속 공무원으로 1명 이상의 역학조사관을 두어야 한다. <신설 2020. 3. 4.>

③ 역학조사관은 다음 각 호의 어느 하나에 해당하는 사람으로서 제18조의3에 따른 역학조사 교육·훈련 과정을 이수한 사람 중에서 임명한다. <개정 2020. 3. 4.>

1. 방역, 역학조사 또는 예방접종 업무를 담당하는 공무원

2. 「의료법」 제2조제1항에 따른 의료인

3. 그 밖에 「약사법」 제2조제2호에 따른 약사, 「수의사법」 제2조제1호에 따른 수의사 등 감염병·역학 관련 분야의 전문가

④ 역학조사관은 감염병의 확산이 예견되는 긴급한 상황으로서 즉시 조치를 취하지 아니하면 감염병이 확산되어 공중위생에 심각한 위해를 가할 것으로 우려되는 경우 일시적으로 제47조제1호 각 목의 조치를 할 수 있다. <개정 2020. 3. 4.>

⑤ 「국가경찰과 자치경찰의 조직 및 운영에 관한 법률」 제12조 및 제13조에 따른 경찰관서 및 「소방기본법」 제3조에 따른 소방관서의 장, 「지역보건법」 제10조에 따른 보건소의 장 등 관계 공무원은 정당한 사유가 없으면 제4항에 따른 역학조사관의 조치에 협조하여야 한다. <개정 2020. 3. 4., 2020. 12. 22.>

⑥ 역학조사관은 제4항에 따른 조치를 한 경우 즉시 질병관리청장, 시·도지사 또는 시장·군수·구청장에게 보고하여야 한다. <개정 2020. 3. 4., 2020. 8. 11.>

⑦ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제3항에 따라 임명된 역학조사관에게 예산의 범위에서 직무 수행에 필요한 비용 등을 지원할 수 있다. <개정 2020. 3. 4., 2020. 8. 11.>

⑧ 제1항부터 제7항까지 규정한 사항 외에 역학조사관의 자격·직무·권한·비용지원 등에 관하여 필요한 사항은 대통령령으로 정한다. <개정 2020. 3. 4.>

[본조신설 2015. 7. 6.]

**60 3( )** ① 질병관리청장 또는 시·도지사는 감염병의 유입 또는 유행이 우려되거나 이미 발생한 경우 기간을 정하여 「의료법」 제2조제1항의 의료인에게 제36조 및 제37조에 따라 감염병관리기관으로 지정된 의료기관 또는 제8조의2에 따라 설립되거나 지정된 감염병전문병원 또는 감염병연구병원에서 방역업무에 종사하도록 명할 수 있다. <개정 2020. 8. 11.>

② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병이 유입되거나 유행하는 긴급한 경우 제60조의2제3항제2호 또는 제3호에 해당하는 자를 기간을 정하여 방역관으로 임명하여 방역업무를 수행하게 할 수 있다. <개정 2020. 3. 4., 2020. 8. 11., 2020. 9. 29.>

③ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병의 유입 또는 유행으로 역학조사인력이 부족한 경우 제60조의2제3항제2호 또는 제3호에 해당하는 자를 기간을 정하여 역학조사관으로 임명하여 역학조사에 관한 직무를 수행하게 할 수 있다. <개정 2020. 3. 4., 2020. 8. 11.>

④ 제2항 또는 제3항에 따라 질병관리청장, 시·도지사 또는 시장·군수·구청장이 임명한 방역관 또는 역학조사관은 「국가공무원법」 제26조의5에 따른 임기제공무원으로 임용된 것으로 본다. <개정 2020. 3. 4., 2020. 8. 11.>

⑤ 제1항에 따른 종사명령 및 제2항·제3항에 따른 임명의 기간·절차 등 필요한 사항은 대통령령으로 정한다.

[본조신설 2015. 12. 29.]

**61 ( )** ① 시·도지사는 감염병을 예방하기 위하여 필요하면 검역위원을 두고 검역에 관한 사무를 담당하게 하며, 특별히 필요하면 운송수단 등을 검역하게 할 수 있다.

② 검역위원은 제1항에 따른 사무나 검역을 수행하기 위하여 운송수단 등에 무상으로 승선하거나 승차할 수 있다.

③ 제1항에 따른 검역위원의 임명 및 직무 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

**62 ( )** ① 특별자치도지사 또는 시장·군수·구청장은 감염병이 유행하거나 유행할 우려가 있으면 특별자치도 또는 시·군·구(자치구를 말한다. 이하 같다)에 감염병 예방 사무를 담당하는 예방위원을 둘 수 있다.

② 제1항에 따른 예방위원은 무보수로 한다. 다만, 특별자치도 또는 시·군·구의 인구 2만명당 1명의 비율로 유급위원을 둘 수 있다.

③ 제1항에 따른 예방위원의 임명 및 직무 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>

**63 ( )** ① 제2조제6호에 따른 기생충감염병에 관한 조사·연구 등 예방사업을 수행하기 위하여 한국건강관리협회(이하 “협회”라 한다)를 둔다. <개정 2018. 3. 27.>

② 협회는 법인으로 한다.

③ 협회에 관하여는 이 법에서 정한 사항 외에는 「민법」 중 사단법인에 관한 규정을 준용한다.

## 10

**64 ( . . . 가 )** 다음 각 호의 경비는 특별자치도와 시·군·구가 부담한다. <개정 2015. 7. 6., 2015. 12. 29., 2020. 8. 12., 2020. 9. 29.>

1. 제4조제2항제13호에 따른 한센병의 예방 및 진료 업무를 수행하는 법인 또는 단체에 대한 지원 경비의 일부
2. 제24조제1항 및 제25조제1항에 따른 예방접종에 드는 경비
3. 제24조제2항 및 제25조제2항에 따라 의료기관이 예방접종을 하는 데 드는 경비의 전부 또는 일부
4. 제36조에 따라 특별자치도지사 또는 시장·군수·구청장이 지정한 감염병관리기관의 감염병관리시설의 설치·운영에 드는 경비
5. 제37조에 따라 특별자치도지사 또는 시장·군수·구청장이 설치한 격리소·요양소 또는 진료소 및 같은 조에 따라 지정된 감염병관리기관의 감염병관리시설 설치·운영에 드는 경비
6. 제47조제1호 및 제3호에 따른 교통 차단 또는 입원으로 인하여 생업이 어려운 사람에 대한 「국민기초생활 보장법」 제2조제6호에 따른 최저보장수준 지원
7. 제47조, 제48조, 제49조제1항제8호·제9호·제13호 및 제51조제1항에 따라 특별자치도·시·군·구에서 실시하는 소독이나 그 밖의 조치에 드는 경비
8. 제49조제1항제7호 및 제12호에 따라 특별자치도지사 또는 시장·군수·구청장이 의사를 배치하거나 의료인·의료업자·의료관계요원 등을 동원하는 데 드는 수당·치료비 또는 조제료
- 8의2. 제49조제1항제12호의2에 따라 특별자치도지사 또는 시장·군수·구청장이 동원한 의료기관 병상, 연수원·숙박시설 등 시설의 운영비 등 경비
9. 제49조제2항에 따른 식수 공급에 드는 경비
10. 제62조에 따른 예방위원의 배치에 드는 경비
- 10의2. 제70조의6제1항에 따라 특별자치도지사 또는 시장·군수·구청장이 실시하는 심리지원에 드는 경비
- 10의3. 제70조의6제2항에 따라 특별자치도지사 또는 시장·군수·구청장이 위탁하여 관계 전문기관이 심리지원을 실시하는 데 드는 경비
11. 그 밖에 이 법에 따라 특별자치도·시·군·구가 실시하는 감염병 예방 사무에 필요한 경비

**65 ( . 가 )** 다음 각 호의 경비는 시·도가 부담한다. <개정 2015. 12. 29., 2018. 3. 27., 2020. 8. 12., 2020. 9. 29.>

1. 제4조제2항제13호에 따른 한센병의 예방 및 진료 업무를 수행하는 법인 또는 단체에 대한 지원 경비의 일부
2. 제36조에 따라 시·도지사가 지정한 감염병관리기관의 감염병관리시설의 설치·운영에 드는 경비

3. 제37조에 따른 시·도지사가 설치한 격리소·요양소 또는 진료소 및 같은 조에 따라 지정된 감염병관리기관의감염병관리시설 설치·운영에 드는 경비
- 3의2. 제39조의3에 따라 시·도지사가 지정한 접촉자 격리시설의 설치·운영에 드는 경비
4. 제41조 및 제42조에 따라 내국인 감염병환자등의 입원치료, 조사, 진찰 등에 드는 경비
5. 제46조에 따른 건강진단, 예방접종 등에 드는 경비
6. 제49조제1항제1호에 따른 교통 차단으로 생업이 어려운 자에 대한 「국민기초생활 보장법」 제2조제6호에 따른 최저보장수준 지원
- 6의2. 제49조제1항제12호에 따라 시·도지사가 의료인·의료업자·의료관계요원 등을 동원하는 데 드는 수당·치료비 또는 조제료
- 6의3. 제49조제1항제12호의2에 따라 시·도지사가 동원한 의료기관 병상, 연수원·숙박시설 등 시설의 운영비 등 경비
7. 제49조제2항에 따른 식수 공급에 드는 경비
- 7의2. 제60조의3제1항 및 제3항에 따라 시·도지사가 의료인 등을 방역업무에 종사하게 하는 데 드는 수당 등 경비
8. 제61조에 따른 검역위원의 배치에 드는 경비
- 8의2. 제70조의6제1항에 따라 시·도지사가 실시하는 심리지원에 드는 경비
- 8의3. 제70조의6제2항에 따라 시·도지사가 위탁하여 관계 전문기관이 심리지원을 실시하는 데 드는 경비
9. 그 밖에 이 법에 따라 시·도가 실시하는 감염병 예방 사무에 필요한 경비

**65 ( · 가 )** 다음 각 호의 경비는 시·도가 부담한다. <개정 2015. 12. 29., 2018. 3. 27., 2020. 8. 12., 2020. 9. 29., 2020. 12. 15.>

1. 제4조제2항제13호에 따른 한센병의 예방 및 진료 업무를 수행하는 법인 또는 단체에 대한 지원 경비의 일부
2. 제36조에 따라 시·도지사가 지정한 감염병관리기관의 감염병관리시설의 설치·운영에 드는 경비
3. 제37조에 따른 시·도지사가 설치한 격리소·요양소 또는 진료소 및 같은 조에 따라 지정된 감염병관리기관의감염병관리시설 설치·운영에 드는 경비
- 3의2. 제39조의3에 따라 시·도지사가 지정한 감염병의심자 격리시설의 설치·운영에 드는 경비**
4. 제41조 및 제42조에 따라 내국인 감염병환자등의 입원치료, 조사, 진찰 등에 드는 경비
5. 제46조에 따른 건강진단, 예방접종 등에 드는 경비
6. 제49조제1항제1호에 따른 교통 차단으로 생업이 어려운 자에 대한 「국민기초생활 보장법」 제2조제6호에 따른 최저보장수준 지원
- 6의2. 제49조제1항제12호에 따라 시·도지사가 의료인·의료업자·의료관계요원 등을 동원하는 데 드는 수당·치료비 또는 조제료
- 6의3. 제49조제1항제12호의2에 따라 시·도지사가 동원한 의료기관 병상, 연수원·숙박시설 등 시설의 운영비 등 경비
7. 제49조제2항에 따른 식수 공급에 드는 경비
- 7의2. 제60조의3제1항 및 제3항에 따라 시·도지사가 의료인 등을 방역업무에 종사하게 하는 데 드는 수당 등 경비
8. 제61조에 따른 검역위원의 배치에 드는 경비
- 8의2. 제70조의6제1항에 따라 시·도지사가 실시하는 심리지원에 드는 경비
- 8의3. 제70조의6제2항에 따라 시·도지사가 위탁하여 관계 전문기관이 심리지원을 실시하는 데 드는 경비
9. 그 밖에 이 법에 따라 시·도가 실시하는 감염병 예방 사무에 필요한 경비

[시행일 : 2021. 6. 16.] 제65조

**66 ( · 가 )** 시·도(특별자치도는 제외한다)는 제64조에 따라 시·군·구가 부담할 경비에 관하여 대통령령으로 정하는 바에 따라 보조하여야 한다.

**67 ( )** 다음 각 호의 경비는 국가가 부담한다. <개정 2010. 1. 18., 2015. 7. 6., 2015. 12. 29., 2018. 3. 27., 2019. 12. 3., 2020. 3. 4., 2020. 8. 11., 2020. 8. 12., 2020. 9. 29.>

1. 제4조제2항제2호에 따른 감염병환자등의 진료 및 보호에 드는 경비
2. 제4조제2항제4호에 따른 감염병 교육 및 홍보를 위한 경비
3. 제4조제2항제8호에 따른 감염병 예방을 위한 전문인력의 양성에 드는 경비
4. 제16조제4항에 따른 표본감시활동에 드는 경비
- 4의2. 제18조의3에 따른 교육·훈련에 드는 경비
5. 제20조에 따른 해부에 필요한 시체의 운송과 해부 후 처리에 드는 경비
- 5의2. 제20조의2에 따라 시신의 장사를 치르는 데 드는 경비
6. 제33조에 따른 예방접종약품의 생산 및 연구 등에 드는 경비
- 6의2. 제33조의2제1항에 따른 필수예방접종약품등의 비축에 드는 경비
- 6의3. 제36조제1항에 따라 보건복지부장관 또는 질병관리청장이 지정한 감염병관리기관의 감염병관리시설의 설치·운영에 드는 경비
7. 제37조에 따라 보건복지부장관 및 질병관리청장이 설치한 격리소·요양소 또는 진료소 및 같은 조에 따라 지정된 감염병관리기관의감염병관리시설 설치·운영에 드는 경비
- 7의2. 제39조의3에 따라 질병관리청장이 지정한 접촉자 격리시설의 설치·운영에 드는 경비
8. 제40조제1항에 따라 위원회의 심의를 거친 품목의 비축 또는 장기구매를 위한 계약에 드는 경비
9. 삭제<2020. 8. 12.>
- 9의2. 제49조제1항제12호에 따라 국가가 의료인·의료업자·의료관계요원 등을 동원하는 데 드는 수당·치료비 또는 조제료
- 9의3. 제49조제1항제12호의2에 따라 국가가 동원한 의료기관 병상, 연수원·숙박시설 등 시설의 운영비 등 경비
- 9의4. 제60조의3제1항부터 제3항까지에 따라 국가가 의료인 등을 방역업무에 종사하게 하는 데 드는 수당 등 경비
- 9의5. 제70조의6제1항에 따라 국가가 실시하는 심리지원에 드는 경비
- 9의6. 제70조의6제2항에 따라 국가가 위탁하여 관계 전문기관이 심리지원을 실시하는 데 드는 경비
10. 제71조에 따른 예방접종 등으로 인한 피해보상을 위한 경비

**67 ( )** 다음 각 호의 경비는 국가가 부담한다. <개정 2010. 1. 18., 2015. 7. 6., 2015. 12. 29., 2018. 3. 27., 2019. 12. 3., 2020. 3. 4., 2020. 8. 11., 2020. 8. 12., 2020. 9. 29., 2020. 12. 15.>

1. 제4조제2항제2호에 따른 감염병환자등의 진료 및 보호에 드는 경비
2. 제4조제2항제4호에 따른 감염병 교육 및 홍보를 위한 경비
3. 제4조제2항제8호에 따른 감염병 예방을 위한 전문인력의 양성에 드는 경비
4. 제16조제4항에 따른 표본감시활동에 드는 경비
- 4의2. 제18조의3에 따른 교육·훈련에 드는 경비
5. 제20조에 따른 해부에 필요한 시체의 운송과 해부 후 처리에 드는 경비
- 5의2. 제20조의2에 따라 시신의 장사를 치르는 데 드는 경비
6. 제33조에 따른 예방접종약품의 생산 및 연구 등에 드는 경비
- 6의2. 제33조의2제1항에 따른 필수예방접종약품등의 비축에 드는 경비
- 6의3. 제36조제1항에 따라 보건복지부장관 또는 질병관리청장이 지정한 감염병관리기관의 감염병관리시설의 설치·운영에 드는 경비
7. 제37조에 따라 보건복지부장관 및 질병관리청장이 설치한 격리소·요양소 또는 진료소 및 같은 조에 따라 지정된 감염병관리기관의감염병관리시설 설치·운영에 드는 경비
- 7의2. 제39조의3에 따라 질병관리청장이 지정한 감염병의심자 격리시설의 설치·운영에 드는 경비
8. 제40조제1항에 따라 위원회의 심의를 거친 품목의 비축 또는 장기구매를 위한 계약에 드는 경비
9. 삭제<2020. 8. 12.>
- 9의2. 제49조제1항제12호에 따라 국가가 의료인·의료업자·의료관계요원 등을 동원하는 데 드는 수당·치료비 또는 조제료



1. 제36조 및 제37조에 따른 감염병관리기관의 지정 또는 격리소 등의 설치·운영으로 발생한 손실
  - 1의2. 제39조의3에 따른 감염병의심자 격리시설의 설치·운영으로 발생한 손실
  2. 이 법에 따른 조치에 따라 감염병환자, 감염병의사환자 등을 진료한 의료기관의 손실
  3. 이 법에 따른 의료기관의 폐쇄 또는 업무 정지 등으로 의료기관에 발생한 손실
  4. 제47조제1호, 제4호 및 제5호, 제48조제1항, 제49조제1항제4호, 제6호부터 제10호까지, 제12호, 제12호의2 및 제13호에 따른 조치로 인하여 발생한 손실
  5. 감염병환자등이 발생·경유하거나 질병관리청장, 시·도지사 또는 시장·군수·구청장이 그 사실을 공개하여 발생한 「국민건강보험법」 제42조에 따른 요양기관의 손실로서 제1호부터 제4호까지의 손실에 준하고, 제70조의2에 따른 손실보상심의위원회가 심의·의결하는 손실
  - ② 제1항에 따른 손실보상금을 받으려는 자는 보건복지부령으로 정하는 바에 따라 손실보상 청구서에 관련 서류를 첨부하여 보건복지부장관, 시·도지사 또는 시장·군수·구청장에게 청구하여야 한다. <개정 2015. 12. 29.>
  - ③ 제1항에 따른 보상액을 산정함에 있어 손실을 입은 자가 이 법 또는 관련 법령에 따른 조치의무를 위반하여 그 손실을 발생시켰거나 확대시킨 경우에는 보상금을 지급하지 아니하거나 보상금을 감액하여 지급할 수 있다. <신설 2015. 12. 29.>
  - ④ 제1항에 따른 보상의 대상·범위와 보상액의 산정, 제3항에 따른 지급 제외 및 감액의 기준 등에 관하여 필요한 사항은 대통령령으로 정한다. <신설 2015. 12. 29.>
- [시행일 : 2021. 6. 16.] 제70조

- 70 2( )** ① 제70조에 따른 손실보상에 관한 사항을 심의·의결하기 위하여 보건복지부 및 시·도에 손실보상심의위원회(이하 “심의위원회”라 한다)를 둔다.
- ② 위원회는 위원장 2인을 포함한 20인 이내의 위원으로 구성하되, 보건복지부에 설치된 심의위원회의 위원장은 보건복지부차관과 민간위원이 공동으로 되며, 시·도에 설치된 심의위원회의 위원장은 부시장 또는 부지사와 민간위원이 공동으로 된다.
  - ③ 심의위원회 위원은 관련 분야에 대한 학식과 경험이 풍부한 사람과 관계 공무원 중에서 대통령령으로 정하는 바에 따라 보건복지부장관 또는 시·도지사가 임명하거나 위촉한다.
  - ④ 심의위원회는 제1항에 따른 심의·의결을 위하여 필요한 경우 관계자에게 출석 또는 자료의 제출 등을 요구할 수 있다.
  - ⑤ 그 밖의 심의위원회의 구성과 운영 등에 관하여 필요한 사항은 대통령령으로 정한다.
- [본조신설 2015. 12. 29.]

- 70 3( )** ① 질병관리청장, 시·도지사 및 시장·군수·구청장은 이 법에 따른 감염병의 발생 감시, 예방·관리 및 역학조사업무에 조력한 의료인 또는 의료기관 개설자에 대하여 예산의 범위에서 재정적 지원을 할 수 있다. <개정 2020. 8. 11.>
- ② 제1항에 따른 지원 내용, 절차, 방법 등 지원에 필요한 사항은 대통령령으로 정한다.
- [본조신설 2015. 12. 29.]

- 70 3( )** ① 질병관리청장, 시·도지사 및 시장·군수·구청장은 이 법에 따른 감염병의 발생 감시, 예방·관리 및 역학조사업무에 조력한 의료인, 의료기관 개설자 또는 약사에 대하여 예산의 범위에서 재정적 지원을 할 수 있다. <개정 2020. 8. 11., 2020. 12. 15.>
- ② 제1항에 따른 지원 내용, 절차, 방법 등 지원에 필요한 사항은 대통령령으로 정한다.
- [본조신설 2015. 12. 29.]  
[제목개정 2020. 12. 15.]  
[시행일 : 2021. 6. 16.] 제70조의3

- 70 4( )** ① 질병관리청장, 시·도지사 및 시장·군수·구청장은 이 법에 따라 입원 또는 격리된 사람에 대하여 예산의 범위에서 치료비, 생활지원 및 그 밖의 재정적 지원을 할 수 있다. <개정 2020. 8. 11.>
- ② 시·도지사 및 시장·군수·구청장은 제1항에 따른 사람 및 제70조의3제1항에 따른 의료인이 입원 또는 격리조치, 감염병의 발생 감시, 예방·관리 및 역학조사업무에 조력 등으로 자녀에 대한 돌봄 공백이 발생한 경우 「아이돌봄 지원법」에 따른 아

이돌봄서비스를 제공하는 등 필요한 조치를 하여야 한다.

③ 제1항 및 제2항에 따른 지원·제공을 위하여 필요한 사항은 대통령령으로 정한다.

[본조신설 2015. 12. 29.]

**70 5( )** 보건복지부장관, 시·도지사 및 시장·군수·구청장은 심의위원회의 심의·의결에 따라 제70조제1항 각 호의 어느 하나에 해당하는 손실을 입은 자로서 경제적 어려움으로 자금의 긴급한 지원이 필요한 자에게 제70조제1항에 따른 손실보상금의 일부를 우선 지급할 수 있다.

[본조신설 2020. 9. 29.]

**70 6( )** ① 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 감염병환자등과 그 가족, 감염병의심자, 감염병 대응 의료인, 그 밖의 현장대응인력에 대하여 「정신건강증진 및 정신질환자 복지서비스 지원에 관한 법률」 제15조의2에 따른 심리지원(이하 “심리지원”이라 한다)을 할 수 있다.

② 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 심리지원을 「정신건강증진 및 정신질환자 복지서비스 지원에 관한 법률」 제15조의2에 따른 국가트라우마센터 또는 대통령령으로 정하는 관계 전문기관에 위임 또는 위탁할 수 있다.

③ 제1항에 따른 현장대응인력의 범위와 제1항 및 제2항에 따른 심리지원에 관하여 필요한 사항은 대통령령으로 정한다.

[본조신설 2020. 9. 29.]

**71 ( 가 )** ① 국가는 제24조 및 제25조에 따라 예방접종을 받은 사람 또는 제40조제2항에 따라 생산된 예방·치료 의약품을 투여받은 사람이 그 예방접종 또는 예방·치료 의약품으로 인하여 질병에 걸리거나 장애인이 되거나 사망하였을 때에는 대통령령으로 정하는 기준과 절차에 따라 다음 각 호의 구분에 따른 보상을 하여야 한다.

1. 질병으로 진료를 받은 사람: 진료비 전액 및 정액 간병비

2. 장애인이 된 사람: 일시보상금

3. 사망한 사람: 대통령령으로 정하는 유족에 대한 일시보상금 및 장제비

② 제1항에 따라 보상받을 수 있는 질병, 장애 또는 사망은 예방접종약품의 이상이나 예방접종 행위자 및 예방·치료 의약품 투여자 등의 과실 유무에 관계없이 해당 예방접종 또는 예방·치료 의약품을 투여받은 것으로 인하여 발생한 피해로서 질병관리청장이 인정하는 경우로 한다. <개정 2010. 1. 18., 2020. 8. 11.>

③ 질병관리청장은 제1항에 따른 보상청구가 있는 날부터 120일 이내에 제2항에 따른 질병, 장애 또는 사망에 해당하는지를 결정하여야 한다. 이 경우 미리 위원회의 의견을 들어야 한다. <개정 2010. 1. 18., 2020. 8. 11.>

④ 제1항에 따른 보상의 청구, 제3항에 따른 결정의 방법과 절차 등에 관하여 필요한 사항은 대통령령으로 정한다.

**72 ( )** ① 국가는 예방접종약품의 이상이나 예방접종 행위자, 예방·치료 의약품의 투여자 등 제3자의 고의 또는 과실로 인하여 제71조에 따른 피해보상을 하였을 때에는 보상액의 범위에서 보상을 받은 사람이 제3자에 대하여 가지는 손해배상청구권을 대위한다.

② 예방접종을 받은 자, 예방·치료 의약품을 투여받은 자 또는 제71조제1항제3호에 따른 유족이 제3자로부터 손해배상을 받았을 때에는 국가는 그 배상액의 범위에서 제71조에 따른 보상금을 지급하지 아니하며, 보상금을 잘못 지급하였을 때에는 해당 금액을 국세 징수의 예에 따라 징수할 수 있다.

**72 2( )** 보건복지부장관, 질병관리청장, 시·도지사 및 시장·군수·구청장은 이 법을 위반하여 감염병을 확산시키거나 확산 위험성을 증대시킨 자에 대하여 입원치료비, 격리비, 진단검사비, 손실보상금 등 이 법에 따른 예방 및 관리 등을 위하여 지출된 비용에 대해 손해배상을 청구할 권리를 갖는다.

[본조신설 2021. 3. 9.]

**73 ( 가 )** 제70조 및 제71조에 따라 보상받을 권리는 양도하거나 압류할 수 없다.

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74 ( ) 이 법에 따라 건강진단, 입원치료, 진단 등 감염병 관련 업무에 종사하는 자 또는 종사하였던 자는 그 업무상 알게 된 비밀을 다른 사람에게 누설하거나 업무목적 외의 용도로 사용하여서는 아니 된다. <개정 2020. 9. 29.>

74 2( ) ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병관리기관의 장 등에게 감염병관리시설, 제37조에 따른 격리소·요양소 또는 진료소, 제39조의3에 따른 접촉자 격리시설의 설치 및 운영에 관한 자료의 제공을 요청할 수 있으며, 소속 공무원으로 하여금 해당 시설에 출입하여 관계 서류나 시설·장비 등을 검사하게 하거나 관계인에게 질문을 하게 할 수 있다. <개정 2018. 3. 27., 2020. 8. 11.>

② 제1항에 따라 출입·검사를 행하는 공무원은 그 권한을 표시하는 증표를 지니고 이를 관계인에게 제시하여야 한다.  
[본조신설 2015. 7. 6.]

74 2( ) ① 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병관리기관의 장 등에게 감염병관리시설, 제37조에 따른 격리소·요양소 또는 진료소, 제39조의3에 따른 감염병의심자 격리시설의 설치 및 운영에 관한 자료의 제공을 요청할 수 있으며, 소속 공무원으로 하여금 해당 시설에 출입하여 관계 서류나 시설·장비 등을 검사하게 하거나 관계인에게 질문을 하게 할 수 있다. <개정 2018. 3. 27., 2020. 8. 11., 2020. 12. 15.>

② 제1항에 따라 출입·검사를 행하는 공무원은 그 권한을 표시하는 증표를 지니고 이를 관계인에게 제시하여야 한다.  
[본조신설 2015. 7. 6.]

[시행일 : 2021. 6. 16.] 제74조의2

75 ( ) 시·도지사 또는 시장·군수·구청장은 다음 각 호의 어느 하나에 해당하는 처분을 하려면 청문을 실시하여야 한다

1. 제49조제3항에 따른 장소나 시설의 폐쇄 명령
2. 제59조제1항에 따른 영업소의 폐쇄 명령

[전문개정 2021. 3. 9.]

76 ( ) ① 이 법에 따른 보건복지부장관의 권한 또는 업무는 대통령령으로 정하는 바에 따라 그 일부를 질병관리청장 또는 시·도지사에게 위임하거나 관련 기관 또는 관련 단체에 위탁할 수 있다.

② 이 법에 따른 질병관리청장의 권한 또는 업무는 대통령령으로 정하는 바에 따라 그 일부를 시·도지사에게 위임하거나 관련 기관 또는 관련 단체에 위탁할 수 있다.

[전문개정 2020. 8. 11.]

76 2( ) ① 질병관리청장 또는 시·도지사는 감염병 예방 및 감염 전파의 차단을 위하여 필요한 경우 관계 중앙행정기관(그 소속기관 및 책임운영기관을 포함한다)의 장, 지방자치단체의 장(「지방교육자치에 관한 법률」 제18조에 따른 교육감을 포함한다), 「공공기관의 운영에 관한 법률」 제4조에 따른 공공기관, 의료기관 및 약국, 법인·단체·개인에 대하여 감염병환자등 및 감염병의심자에 관한 다음 각 호의 정보 제공을 요청할 수 있으며, 요청을 받은 자는 이에 따라야 한다. <개정 2016. 12. 2., 2020. 3. 4., 2020. 8. 11., 2020. 9. 29.>

1. 성명, 「주민등록법」 제7조의2제1항에 따른 주민등록번호, 주소 및 전화번호(휴대전화번호를 포함한다) 등 인적사항
2. 「의료법」 제17조에 따른 처방전 및 같은 법 제22조에 따른 진료기록부등
3. 질병관리청장이 정하는 기간의 출입국관리기록
4. 그 밖에 이동경로를 파악하기 위하여 대통령령으로 정하는 정보

② 질병관리청장, 시·도지사 또는 시장·군수·구청장은 감염병 예방 및 감염 전파의 차단을 위하여 필요한 경우 감염병환자등 및 감염병의심자의 위치정보를 「국가경찰과 자치경찰의 조직 및 운영에 관한 법률」에 따른 경찰청, 시·도경찰청 및 경찰서(이하 이 조에서 “경찰관서”라 한다)의 장에게 요청할 수 있다. 이 경우 질병관리청장, 시·도지사 또는 시장·군수·구청장의 요청을 받은 경찰관서의 장은 「위치정보의 보호 및 이용 등에 관한 법률」 제15조 및 「통신비밀보호법」 제3조에도 불구하고 「위

치정보의 보호 및 이용 등에 관한 법률」 제5조제7항에 따른 개인위치정보사업자, 「전기통신사업법」 제2조제8호에 따른 전기통신사업자에게 감염병환자등 및 감염병의심자의 위치정보를 요청할 수 있고, 요청을 받은 위치정보사업자와 전기통신사업자는 정당한 사유가 없으면 이에 따라야 한다. <개정 2015. 12. 29., 2018. 4. 17., 2020. 3. 4., 2020. 8. 11., 2020. 12. 22.>

③ 질병관리청장은 제1항 및 제2항에 따라 수집한 정보를 관련 중앙행정기관의 장, 지방자치단체의 장, 국민건강보험공단 이사장, 건강보험심사평가원 원장, 「보건의료기본법」 제3조제4호의 보건의료기관(이하 “보건의료기관”이라 한다) 및 그 밖의 단체 등에게 제공할 수 있다. 이 경우 보건의료기관 등에 제공하는 정보는 감염병 예방 및 감염 전파의 차단을 위하여 해당 기관의 업무에 관련된 정보로 한정한다. <개정 2020. 3. 4., 2020. 8. 11.>

④ 질병관리청장은 감염병 예방 및 감염 전파의 차단을 위하여 필요한 경우 제3항 전단에도 불구하고 다음 각 호의 정보시스템을 활용하여 보건의료기관에 제1항제3호에 따른 정보 및 같은 항 제4호에 따른 이동경로 정보를 제공하여야 한다. 이 경우 보건의료기관에 제공하는 정보는 해당 기관의 업무에 관련된 정보로 한정한다. <신설 2020. 3. 4., 2020. 8. 11.>

1. 국민건강보험공단의 정보시스템
2. 건강보험심사평가원의 정보시스템
3. 감염병의 국내 유입 및 확산 방지를 위하여 질병관리청장이 필요하다고 인정하여 지정하는 기관의 정보시스템

⑤ 의료인, 약사 및 보건의료기관의 장은 의료행위를 하거나 의약품을 처방·조제하는 경우 제4항 각 호의 어느 하나에 해당하는 정보시스템을 통하여 같은 항에 따라 제공된 정보를 확인하여야 한다. <신설 2020. 3. 4.>

⑥ 제3항 및 제4항에 따라 정보를 제공받은 자는 이 법에 따른 감염병 관련 업무 이외의 목적으로 정보를 사용할 수 없으며, 업무 종료 시 지체 없이 파기하고 질병관리청장에게 통보하여야 한다. <개정 2020. 3. 4., 2020. 8. 11.>

⑦ 질병관리청장, 시·도지사 또는 시장·군수·구청장은 제1항 및 제2항에 따라 수집된 정보의 주체에게 다음 각 호의 사실을 통지하여야 한다. <개정 2020. 3. 4., 2020. 8. 11.>

1. 감염병 예방 및 감염 전파의 차단을 위하여 필요한 정보가 수집되었다는 사실
2. 제1호의 정보가 다른 기관에 제공되었을 경우 그 사실
3. 제2호의 경우에도 이 법에 따른 감염병 관련 업무 이외의 목적으로 정보를 사용할 수 없으며, 업무 종료 시 지체 없이 파기된다는 사실

⑧ 제3항 및 제4항에 따라 정보를 제공받은 자가 이 법의 규정을 위반하여 해당 정보를 처리한 경우에는 「개인정보 보호법」에 따른다. <개정 2020. 3. 4.>

⑨ 제3항에 따른 정보 제공의 대상·범위 및 제7항에 따른 통지의 방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2020. 3. 4.>

[본조신설 2015. 7. 6.]

[제목개정 2020. 3. 4.]

**76 3( )** 제42조제6항은 제41조제1항, 제47조제3호, 제49조제1항제14호에 따른 입원 또는 격리에 관하여도 준용한다. <개정 2020. 8. 12.>

[본조신설 2020. 3. 4.]

**76 4( )** 심의위원회 위원 중 공무원이 아닌 사람은 「형법」 제127조 및 제129조부터 제132조까지의 규정을 적용할 때에는 공무원으로 본다.

[본조신설 2020. 3. 4.]

## 12

**77 ( )** 다음 각 호의 어느 하나에 해당하는 자는 5년 이하의 징역 또는 5천만원 이하의 벌금에 처한다.

1. 제22조제1항 또는 제2항을 위반하여 고위험병원체의 반입 허가를 받지 아니하고 반입한 자

2. 제23조의3제1항을 위반하여 보유허가를 받지 아니하고 생물테러감염병병원체를 보유한 자
  3. 제40조의3제1항을 위반하여 의약외품등을 수출하거나 국외로 반출한 자
- [전문개정 2020. 3. 4.]

**77 ( )** 다음 각 호의 어느 하나에 해당하는 자는 5년 이하의 징역 또는 5천만원 이하의 벌금에 처한다. <개정 2020. 12. 15.>

1. 제22조제1항 또는 제2항을 위반하여 고위험병원체의 반입 허가를 받지 아니하고 반입한 자
  2. 제23조의3제1항을 위반하여 보유허가를 받지 아니하고 생물테러감염병병원체를 보유한 자
  3. 제40조의3제1항을 위반하여 의료·방역 물품을 수출하거나 국외로 반출한 자
- [전문개정 2020. 3. 4.]

[시행일 : 2021. 6. 16.] 제77조

**78 ( )** 다음 각 호의 어느 하나에 해당하는 자는 3년 이하의 징역 또는 3천만원 이하의 벌금에 처한다. <개정 2017. 12. 12., 2019. 12. 3., 2020. 9. 29.>

1. 제23조제2항에 따른 허가를 받지 아니하거나 같은 조 제3항 본문에 따른 변경허가를 받지 아니하고 고위험병원체 취급시설을 설치·운영한 자
2. 제23조의3제3항에 따른 변경허가를 받지 아니한 자
3. 제74조를 위반하여 업무상 알게 된 비밀을 누설하거나 업무목적 외의 용도로 사용한 자

**79 ( )** 다음 각 호의 어느 하나에 해당하는 자는 2년 이하의 징역 또는 2천만원 이하의 벌금에 처한다. <개정 2015. 7. 6., 2017. 12. 12., 2019. 12. 3., 2020. 3. 4., 2021. 3. 9.>

1. 제18조제3항을 위반한 자
2. 제21조제1항부터 제3항까지 또는 제22조제3항에 따른 신고를 하지 아니하거나 거짓으로 신고한 자
- 2의2. 제21조제5항에 따른 현장조사를 정당한 사유 없이 거부·방해 또는 기피한 자
- 2의3. 제23조제2항에 따른 신고를 하지 아니하고 고위험병원체 취급시설을 설치·운영한 자
3. 제23조제8항에 따른 안전관리 점검을 거부·방해 또는 기피한 자
- 3의2. 제23조의2에 따른 고위험병원체 취급시설의 폐쇄명령 또는 운영정지명령을 위반한 자
- 3의3. 제49조제4항을 위반하여 정당한 사유 없이 폐쇄 명령에 따르지 아니한 자
4. 제60조제4항을 위반한 자(다만, 공무원은 제외한다)
5. 제76조의2제6항을 위반한 자

**79 2( )** 다음 각 호의 어느 하나에 해당하는 자는 1년 이하의 징역 또는 2천만원 이하의 벌금에 처한다. <개정 2019. 12. 3., 2020. 9. 29.>

1. 제23조의4제1항을 위반하여 고위험병원체를 취급한 자
  2. 제23조의4제2항을 위반하여 고위험병원체를 취급하게 한 자
  3. 제76조의2제1항을 위반하여 질병관리청장 또는 시·도지사의 요청을 거부하거나 거짓자료를 제공한 의료기관 및 약국, 법인·단체·개인
  4. 제76조의2제2항 후단을 위반하여 경찰관서의 장의 요청을 거부하거나 거짓자료를 제공한 자
- [본조신설 2015. 12. 29.]

**79 3( )** 다음 각 호의 어느 하나에 해당하는 자는 1년 이하의 징역 또는 1천만원 이하의 벌금에 처한다. <개정 2020. 8. 12.>

1. 제41조제1항을 위반하여 입원치료를 받지 아니한 자
2. 삭제<2020. 8. 12.>

3. 제41조제2항을 위반하여 자가치료 또는 시설치료 및 의료기관 입원치료를 거부한 자
4. 제42조제1항·제2항제1호·제3항 또는 제7항에 따른 입원 또는 격리 조치를 거부한 자
5. 제47조제3호 또는 제49조제1항제14호에 따른 입원 또는 격리 조치를 위반한 자

[본조신설 2020. 3. 4.]

[중전 제79조의3은 제79조의4로 이동 <2020. 3. 4.>]

**79 4( )** 다음 각 호의 어느 하나에 해당하는 자는 500만원 이하의 벌금에 처한다.

1. 제1급감염병 및 제2급감염병에 대하여 제11조에 따른 보고 또는 신고 의무를 위반하거나 거짓으로 보고 또는 신고한 의사, 치과의사, 한의사, 군의관, 의료기관의 장 또는 감염병병원체 확인기관의 장
2. 제1급감염병 및 제2급감염병에 대하여 제11조에 따른 의사, 치과의사, 한의사, 군의관, 의료기관의 장 또는 감염병병원체 확인기관의 장의 보고 또는 신고를 방해한 자

[본조신설 2018. 3. 27.]

[제79조의3에서 이동 <2020. 3. 4.>]

**80 ( )** 다음 각 호의 어느 하나에 해당하는 자는 300만원 이하의 벌금에 처한다. <개정 2018. 3. 27., 2020. 3. 4., 2020. 8. 12.>

1. 제3급감염병 및 제4급감염병에 대하여 제11조에 따른 보고 또는 신고 의무를 위반하거나 거짓으로 보고 또는 신고한 의사, 치과의사, 한의사, 군의관, 의료기관의 장, 감염병병원체 확인기관의 장 또는 감염병 표본감시기관
2. 제3급감염병 및 제4급감염병에 대하여 제11조에 따른 의사, 치과의사, 한의사, 군의관, 의료기관의 장, 감염병병원체 확인기관의 장 또는 감염병 표본감시기관의 보고 또는 신고를 방해한 자
- 2의2. 제13조제2항에 따른 감염병병원체 검사를 거부한 자
3. 제37조제4항을 위반하여 감염병관리시설을 설치하지 아니한 자
4. 삭제<2020. 3. 4.>
5. 제42조에 따른 강제처분에 따르지 아니한 자(제42조제1항·제2항제1호·제3항 및 제7항에 따른 입원 또는 격리 조치를 거부한 자는 제외한다)
6. 제45조를 위반하여 일반인과 접촉하는 일이 많은 직업에 종사한 자 또는 감염병환자들을 그러한 직업에 고용한 자
7. 제47조(같은 조 제3호는 제외한다) 또는 제49조제1항(같은 항 제2호의2부터 제2호의4까지 및 제3호 중 건강진단에 관한 사항과 같은 항 제14호는 제외한다)에 따른 조치에 위반한 자
8. 제52조제1항에 따른 소독업 신고를 하지 아니하거나 거짓이나 그 밖의 부정한 방법으로 신고하고 소독업을 영위한 자
9. 제54조제1항에 따른 기준과 방법에 따라 소독하지 아니한 자

**81 ( )** 다음 각 호의 어느 하나에 해당하는 자는 200만원 이하의 벌금에 처한다. <개정 2015. 7. 6., 2019. 12. 3., 2021. 3. 9.>

1. 삭제<2018. 3. 27.>
2. 삭제<2018. 3. 27.>
3. 제12조제1항에 따른 신고를 게을리한 자
4. 세대주, 관리인 등으로 하여금 제12조제1항에 따른 신고를 하지 아니하도록 한 자
5. 삭제<2015. 7. 6.>
6. 제20조에 따른 해부명령을 거부한 자
7. 제27조에 따른 예방접종증명서를 거짓으로 발급한 자
8. 제29조를 위반하여 역학조사를 거부·방해 또는 기피한 자
- 8의2. 제32조제2항을 위반하여 거짓이나 그 밖의 부정한 방법으로 예방접종을 받은 사람
9. 제45조제2항을 위반하여 성매개감염병에 관한 건강진단을 받지 아니한 자를 영업에 종사하게 한 자

10. 제46조 또는 제49조제1항제3호에 따른 건강진단을 거부하거나 기피한 자  
 11. 정당한 사유 없이 제74조의2제1항에 따른 자료 제공 요청에 따르지 아니하거나 거짓 자료를 제공한 자, 검사나 질문을 거부·방해 또는 기피한 자

**81 2( 가 )** ① 단체나 다중(多衆)의 위력(威力)을 통하여 조직적·계획적으로 제79조제1호의 죄를 범한 경우 그 죄에서 정한 형의 2분의 1까지 가중한다.

② 제79조의3 각 호의 죄를 범하여 고의 또는 중과실로 타인에게 감염병을 전파시킨 경우 그 죄에서 정한 형의 2분의 1까지 가중한다.

[본조신설 2021. 3. 9.]

**82 ( )** 법인의 대표자나 법인 또는 개인의 대리인, 사용인, 그 밖의 종업원이 그 법인 또는 개인의 업무에 관하여 제77조부터 제81조까지의 어느 하나에 해당하는 위반행위를 하면 그 행위자를 벌하는 외에 그 법인 또는 개인에게도 해당 조문의 벌금형을 과(科)한다. 다만, 법인 또는 개인이 그 위반행위를 방지하기 위하여 해당 업무에 관하여 상당한 주의와 감독을 게을리하지 아니한 경우에는 그러하지 아니하다.

**83 ( )** ① 다음 각 호의 어느 하나에 해당하는 자에게는 1천만원 이하의 과태료를 부과한다. <신설 2015. 7. 6., 2017. 12. 12., 2019. 12. 3.>

1. 제23조제3항 단서 또는 같은 조 제4항에 따른 변경신고를 하지 아니한 자
  2. 제23조제5항에 따른 신고를 하지 아니한 자
  3. 제23조의3제3항 단서에 따른 변경신고를 하지 아니한 자
  4. 제35조의2를 위반하여 거짓 진술, 거짓 자료를 제출하거나 고의적으로 사실을 누락·은폐한 자
- ② 제49조제1항제2호의2의 조치를 따르지 아니한 관리자·운영자에게는 300만원 이하의 과태료를 부과한다. <신설 2020. 8. 12.>

③ 다음 각 호의 어느 하나에 해당하는 자에게는 100만원 이하의 과태료를 부과한다. <개정 2015. 7. 6., 2019. 12. 3., 2020. 3. 4., 2020. 8. 12.>

1. 제28조제2항에 따른 보고를 하지 아니하거나 거짓으로 보고한 자
  2. 제33조의3에 따른 보고를 하지 아니하거나 거짓으로 보고한 자
  - 2의2. 제41조제3항에 따른 전원등의 조치를 거부한 자
  3. 제51조제3항에 따른 소독을 하지 아니한 자
  4. 제53조제1항 및 제2항에 따른 휴업·폐업 또는 재개업 신고를 하지 아니한 자
  5. 제54조제2항에 따른 소독에 관한 사항을 기록·보존하지 아니하거나 거짓으로 기록한 자
- ④ 다음 각 호의 어느 하나에 해당하는 자에게는 10만원 이하의 과태료를 부과한다. <신설 2020. 8. 12.>

1. 제49조제1항제2호의2 또는 제2호의3의 조치를 따르지 아니한 이용자
  2. 제49조제1항제2호의4의 조치를 따르지 아니한 자
- ⑤ 제1항부터 제4항까지에 따른 과태료는 대통령령으로 정하는 바에 따라 질병관리청장, 관할 시·도지사 또는 시장·군수·구청장이 부과·징수한다. <개정 2015. 7. 6., 2020. 8. 11., 2020. 8. 12.>

<제17920호, 2021. 3. 9.>

- 1 (시행일)** 이 법은 공포한 날부터 시행한다. 다만, 제34조 및 제49조의2의 개정규정은 공포 후 6개월이 경과한 날부터 시행한다.
- 2 (생물테러감염병 등에 대비한 개발 중인 백신 및 치료제 구매 특례에 대한 경과조치)** 이 법 시행 전에 생물테러감염병 및 그 밖의 감염병의 대유행에 대처하기 위해 체결한 개발 중인 백신이나 의약품의 구매 및 공급에 필요한 계약은 제40조의6의 개정

규정에 따라 체결된 계약으로 본다.

**3** (손해배상에 관한 적용례) 제72조의2의 개정규정은 이 법 시행 후 이 법을 위반하여 감염병을 확산시키거나 확산 위험성을 증대시킨 경우부터 적용한다.



( : )

[시행 2020. 9. 12.] [법률 제17472호, 2020. 8. 11., 타법개정]

보건복지부 (생명윤리정책과-총괄, 유전자, 배아) 044-202-2947

보건복지부 (생명윤리정책과-인체유래물) 044-202-2944

## 1

1 ( ) 이 법은 인간과 인체유래물 등을 연구하거나, 배아나 유전자 등을 취급할 때 인간의 존엄과 가치를 침해하거나 인체에 위해(危害)를 끼치는 것을 방지함으로써 생명윤리 및 안전을 확보하고 국민의 건강과 삶의 질 향상에 이바지함을 목적으로 한다.

2 ( ) 이 법에서 사용하는 용어의 뜻은 다음과 같다. <개정 2015. 12. 29.>

1. "인간대상연구"란 사람을 대상으로 물리적으로 개입하거나 의사소통, 대인 접촉 등의 상호작용을 통하여 수행하는 연구 또는 개인을 식별할 수 있는 정보를 이용하는 연구로서 보건복지부령으로 정하는 연구를 말한다.
2. "연구대상자"란 인간대상연구의 대상이 되는 사람을 말한다.
3. "배아"(胚芽)란 인간의 수정란 및 수정된 때부터 발생학적(發生學的)으로 모든 기관(器官)이 형성되기 전까지의 분열된 세포군(細胞群)을 말한다.
4. "잔여배아"란 체외수정(體外受精)으로 생성된 배아 중 임신의 목적으로 이용하고 남은 배아를 말한다.
5. "잔여난자"란 체외수정에 이용하고 남은 인간의 난자를 말한다.
6. "체세포핵이식행위"란 핵이 제거된 인간의 난자에 인간의 체세포 핵을 이식하는 것을 말한다.
7. "단성생식행위"란 인간의 난자가 수정 과정 없이 세포분열하여 발생하도록 하는 것을 말한다.
8. "체세포복제배아"(體細胞複製胚芽)란 체세포핵이식행위에 의하여 생성된 세포군을 말한다.
9. "단성생식배아"(單性生殖胚芽)란 단성생식행위에 의하여 생성된 세포군을 말한다.
10. "배아줄기세포주"(Embryonic stem cell lines)란 배아, 체세포복제배아, 단성생식배아 등으로부터 유래한 것으로서, 배양 가능한 조건에서 지속적으로 증식(增殖)할 수 있고 다양한 세포로 분화(分化)할 수 있는 세포주(細胞株)를 말한다.
11. "인체유래물"(人體由來物)이란 인체로부터 수집하거나 채취한 조직·세포·혈액·체액 등 인체 구성물 또는 이들로부터 분리된 혈청, 혈장, 염색체, DNA(Deoxyribonucleic acid), RNA(Ribonucleic acid), 단백질 등을 말한다.
12. "인체유래물연구"란 인체유래물을 직접 조사·분석하는 연구를 말한다.
13. "인체유래물은행"이란 인체유래물 또는 유전정보와 그에 관련된 역학정보(疫學情報), 임상정보 등을 수집·보존하여 이를 직접 이용하거나 타인에게 제공하는 기관을 말한다.
14. "유전정보"란 인체유래물을 분석하여 얻은 개인의 유전적 특징에 관한 정보를 말한다.
15. "유전자검사"란 인체유래물로부터 유전정보를 얻는 행위로서 개인의 식별 또는 질병의 예방·진단·치료 등을 위하여 하는 검사를 말한다.
16. "유전자치료"란 질병의 예방 또는 치료를 목적으로 인체 내에서 유전적 변이를 일으키거나, 유전물질 또는 유전물질이 도입된 세포를 인체로 전달하는 일련의 행위를 말한다.
17. "개인식별정보"란 연구대상자와 배아·난자·정자 또는 인체유래물의 기증자(이하 "연구대상자등"이라 한다)의 성명·주민등록번호 등 개인을 식별할 수 있는 정보를 말한다.
18. "개인정보"란 개인식별정보, 유전정보 또는 건강에 관한 정보 등 개인에 관한 정보를 말한다.
19. "익명화"(匿名化)란 개인식별정보를 영구적으로 삭제하거나, 개인식별정보의 전부 또는 일부를 해당 기관의 고유식별기호로 대체하는 것을 말한다.

3 ( ) ① 이 법에서 규율하는 행위들은 인간의 존엄과 가치를 침해하는 방식으로 하여서는 아니 되며, 연구대상자들의 인권과 복지는 우선적으로 고려되어야 한다.

- ② 연구대상자등의 자율성은 존중되어야 하며, 연구대상자등의 자발적인 동의는 충분한 정보에 근거하여야 한다.
- ③ 연구대상자등의 사생활은 보호되어야 하며, 사생활을 침해할 수 있는 개인정보는 당사자가 동의하거나 법률에 특별한 규정이 있는 경우를 제외하고는 비밀로서 보호되어야 한다.
- ④ 연구대상자등의 안전은 충분히 고려되어야 하며, 위험은 최소화되어야 한다.
- ⑤ 취약한 환경에 있는 개인이나 집단은 특별히 보호되어야 한다.
- ⑥ 생명윤리와 안전을 확보하기 위하여 필요한 국제 협력을 모색하여야 하고, 보편적인 국제기준을 수용하기 위하여 노력하여야 한다.

- 4 ( ) ① 생명윤리 및 안전에 관하여는 다른 법률에 특별한 규정이 있는 경우를 제외하고는 이 법에 따른다.  
 ② 생명윤리 및 안전에 관한 내용을 담은 다른 법률을 제정하거나 개정할 경우에는 이 법에 부합하도록 하여야 한다.

- 5 ( 가 ) ① 국가와 지방자치단체는 생명윤리 및 안전에 관한 문제에 효율적으로 대처할 수 있도록 필요한 시책을 마련하여야 한다.  
 ② 국가와 지방자치단체는 생명윤리 및 안전 관련 연구와 활동에 대한 행정적·재정적 지원방안을 마련하여야 한다.  
 ③ 국가와 지방자치단체는 각급 교육기관 등에서 생명윤리 및 안전에 대한 교육을 할 수 있도록 하여야 하고, 교육 프로그램을 개발하는 등 교육 여건이 조성되도록 지원하여야 한다.

- 6 ( ) ① 보건복지부장관은 생명윤리정책에 관한 전문적인 조사, 연구 및 교육 등을 실시하기 위하여 해당 업무를 수행할 능력이 있다고 인정하는 기관·단체 또는 시설을 생명윤리정책연구센터로 지정할 수 있다.  
 ② 제1항에 따른 생명윤리정책연구센터의 지정 및 운영 등에 필요한 사항은 보건복지부령으로 정한다.

## 2 가

### 1 가

- 7 ( 가 ) ① 생명윤리 및 안전에 관한 다음 각 호의 사항을 심의하기 위하여 대통령 소속으로 국가생명윤리심의위원회(이하 "국가위원회"라 한다)를 둔다.
1. 국가의 생명윤리 및 안전에 관한 기본 정책의 수립에 관한 사항
  2. 제12조제1항제3호에 따른 공용기관생명윤리위원회의 업무에 관한 사항
  3. 제15조제2항에 따른 인간대상연구의 심의 면제에 관한 사항
  4. 제19조제3항에 따른 기록·보관 및 정보 공개에 관한 사항
  5. 제29조제1항제3호에 따른 잔여배아를 이용할 수 있는 연구에 관한 사항
  6. 제31조제2항에 따른 연구의 종류·대상 및 범위에 관한 사항
  7. 제35조제1항제3호에 따른 배아줄기세포주를 이용할 수 있는 연구에 관한 사항
  8. 제36조제2항에 따른 인체유래물연구의 심의 면제에 관한 사항
  9. 제50조제1항에 따른 유전자검사의 제한에 관한 사항
  10. 그 밖에 생명윤리 및 안전에 관하여 사회적으로 심각한 영향을 미칠 수 있다고 판단하여 국가위원회의 위원장이 회의에 부치는 사항
- ② 국가위원회의 위원장은 제1항제1호부터 제9호까지의 규정에 해당하는 사항으로서 재적위원 3분의 1 이상의 위원이 발의한 사항에 관하여는 국가위원회의 회의에 부쳐야 한다.

- 8 ( 가 ) ① 국가위원회는 위원장 1명, 부위원장 1명을 포함한 16명 이상 20명 이하의 위원으로 구성한다. <개정 2013. 3. 23.>

- ② 위원장은 위원 중에서 대통령이 임명하거나 위촉하고, 부위원장은 위원 중에서 호선(互選)한다.
- ③ 국가위원회의 위원은 다음 각 호의 사람이 된다. <개정 2013. 3. 23., 2014. 11. 19., 2017. 7. 26.>

1. 교육부장관, 과학기술정보통신부장관, 법무부장관, 산업통상자원부장관, 보건복지부장관, 여성가족부장관
2. 생명과학·의과학(醫科學)·사회과학 등의 연구 분야에 대한 전문지식과 경험이 풍부한 사람 중에서 대통령이 위촉하는 7명 이내의 사람
3. 종교계·윤리학계·법조계·시민단체(「비영리민간단체 지원법」 제2조에 따른 비영리민간단체를 말한다) 또는 여성계를 대표하는 사람 중에서 대통령이 위촉하는 7명 이내의 사람
- ④ 제3항제2호 및 제3호에 따른 위원의 임기는 3년으로 하되, 연임할 수 있다. 다만, 위원의 자리가 비게 된 경우에 새로 위촉된 위원의 임기는 전임자 임기의 남은 기간으로 한다.
- ⑤ 국가위원회에 간사위원 2명을 두되, 간사위원은 과학기술정보통신부장관과 보건복지부장관으로 하며, 수석 간사위원은 보건복지부장관으로 한다. <개정 2013. 3. 23., 2017. 7. 26.>
- ⑥ 보건복지부장관은 국가위원회의 사무 처리 등 업무를 지원하기 위하여 보건복지부령으로 정하는 바에 따라 생명윤리 및 안전에 관련한 전문기관 중 하나를 지정하여 그 전문기관으로 하여금 사무국의 기능을 수행하게 할 수 있다. <신설 2014. 3. 18.>

9 ( 가 ) ① 국가위원회의 효율적인 운영을 위하여 국가위원회에 분야별 전문위원회를 둘 수 있다.

- ② 국가위원회의 사무는 수석 간사위원이 처리한다.
- ③ 국가위원회의 회의 등 활동은 독립적이어야 하고, 공개를 원칙으로 한다.
- ④ 국가위원회는 필요한 경우에 관련 당사자의 출석, 의견 진술 및 자료 제출 등을 요구할 수 있다. 이 경우 해당 요구를 받은 자는 타당한 사유가 없으면 요구에 따라야 한다.
- ⑤ 이 법에서 정한 사항 외에 국가위원회 및 전문위원회의 구성·운영, 그 밖에 필요한 사항은 대통령령으로 정한다.

## 2

10 ( ) ① 생명윤리 및 안전을 확보하기 위하여 다음 각 호의 기관은 기관생명윤리위원회(이하 "기관위원회"라 한다)를 설치하여야 한다.

1. 인간대상연구를 수행하는 자(이하 "인간대상연구자"라 한다)가 소속된 교육·연구 기관 또는 병원 등
  2. 인체유래물연구를 수행하는 자(이하 "인체유래물연구자"라 한다)가 소속된 교육·연구 기관 또는 병원 등
  3. 제22조제1항에 따라 지정된 배아생성의료기관
  4. 제29조제2항에 따라 등록된 배아연구기관
  5. 제31조제3항에 따라 등록된 체세포복제배아등의 연구기관
  6. 제41조제1항에 따라 보건복지부장관의 허가를 받은 인체유래물은행
  7. 그 밖에 생명윤리 및 안전에 관하여 사회적으로 심각한 영향을 미칠 수 있는 기관으로서 보건복지부령으로 정하는 기관
- ② 제1항에도 불구하고 보건복지부령으로 정하는 바에 따라 다른 기관의 기관위원회 또는 제12조제1항에 따른 공용기관생명윤리위원회와 제3항 및 제11조제4항에서 정한 기관위원회 업무의 수행을 위탁하기로 협약을 맺은 기관은 기관위원회를 설치한 것으로 본다.
- ③ 기관위원회는 다음 각 호의 업무를 수행한다.
1. 다음 각 목에 해당하는 사항의 심의
    - 가. 연구계획서의 윤리적·과학적 타당성
    - 나. 연구대상자등으로부터 적절한 절차에 따라 동의를 받았는지 여부
    - 다. 연구대상자등의 안전에 관한 사항
    - 라. 연구대상자등의 개인정보 보호 대책
    - 마. 그 밖에 기관에서의 생명윤리 및 안전에 관한 사항
  2. 해당 기관에서 수행 중인 연구의 진행과정 및 결과에 대한 조사·감독
  3. 그 밖에 생명윤리 및 안전을 위한 다음 각 목의 활동

- 가. 해당 기관의 연구자 및 종사자 교육
- 나. 취약한 연구대상자들의 보호 대책 수립
- 다. 연구자를 위한 윤리지침 마련
- ④ 제1항에 따라 기관위원회를 설치한 기관은 보건복지부장관에게 그 기관위원회를 등록하여야 한다.
- ⑤ 제3항 및 제4항에 따른 기관위원회의 기능 및 등록 등에 필요한 사항은 보건복지부령으로 정한다.

- 11 ( )** ① 기관위원회는 위원장 1명을 포함하여 5명 이상의 위원으로 구성하되, 하나의 성(性)으로만 구성할 수 없으며, 사회적·윤리적 타당성을 평가할 수 있는 경험과 지식을 갖춘 사람 1명 이상과 그 기관에 종사하지 아니하는 사람 1명 이상이 포함되어야 한다.
- ② 기관위원회의 위원은 제10조제1항 각 호의 기관의 장이 위촉하며, 위원장은 위원 중에서 호선한다.
  - ③ 기관위원회의 심의대상인 연구·개발 또는 이용에 관여하는 위원은 해당 연구·개발 또는 이용과 관련된 심의에 참여하여서는 아니 된다.
  - ④ 제10조제1항 각 호의 기관의 장은 해당 기관에서 수행하는 연구 등에서 생명윤리 또는 안전에 중대한 위해가 발생하거나 발생할 우려가 있는 경우에는 지체 없이 기관위원회를 소집하여 이를 심의하도록 하고, 그 결과를 보건복지부장관에게 보고하여야 한다.
  - ⑤ 제10조제1항 각 호의 기관의 장은 기관위원회가 독립성을 유지할 수 있도록 하여야 하며, 행정적·재정적 지원을 하여야 한다.
  - ⑥ 제10조제1항에 따라 둘 이상의 기관위원회를 설치한 기관은 보건복지부령으로 정하는 바에 따라 해당 기관위원회를 통합하여 운영할 수 있다.
  - ⑦ 제1항부터 제6항까지에서 규정한 사항 외에 기관위원회의 구성 및 운영에 필요한 사항은 보건복지부령으로 정한다.

- 12 ( )** ① 보건복지부장관은 다음 각 호의 업무를 하게 하기 위하여 제10조제1항에 따라 설치된 기관위원회 중에서 기관 또는 연구자가 공동으로 이용할 수 있는 공용기관생명윤리위원회(이하 "공용위원회"라 한다)를 지정할 수 있다.
- 1. 제10조제2항에 따라 공용위원회와 협약을 맺은 기관이 위탁한 업무
  - 2. 교육·연구 기관 또는 병원 등에 소속되지 아니한 인간대상연구자 또는 인체유래물연구자가 신청한 업무
  - 3. 그 밖에 국가위원회의 심의를 거쳐 보건복지부령으로 정하는 업무
  - ② 둘 이상의 기관이 공동으로 수행하는 연구로서 각각의 기관위원회에서 해당 연구를 심의하는 것이 적절하지 아니하는 경우에 수행 기관은 각각의 소관 기관위원회 중 하나의 기관위원회를 선정하여 해당 연구를 심의하게 할 수 있다.
  - ③ 제1항 및 제2항에 따른 공용위원회의 지정, 기능, 운영 및 기관위원회의 공동 운영 등에 필요한 사항은 보건복지부령으로 정한다.

- 13 ( )** ① 보건복지부장관은 기관위원회의 운영을 적절하게 감독·지원하기 위하여 다음 각 호의 업무를 수행한다.
- 1. 기관위원회의 조사
  - 2. 기관위원회 위원의 교육
  - 3. 그 밖에 기관위원회의 감독 및 지원에 필요한 업무로서 보건복지부령으로 정하는 업무
  - ② 기관위원회의 조사 및 교육 지원 등에 필요한 사항은 보건복지부령으로 정한다.

- 14 ( 가 )** ① 보건복지부장관은 기관위원회의 구성 및 운영실적 등을 정기적으로 평가하여 인증할 수 있다.
- ② 보건복지부장관은 제1항에 따라 인증을 받은 기관위원회의 인증 결과를 인터넷 홈페이지 등에 공표할 수 있다.
  - ③ 중앙행정기관의 장은 제1항에 따른 인증 결과에 따라 그 기관에 예산 지원 및 국가 연구비 지원 제한 등의 조치를 할 수 있다.

④ 보건복지부장관은 제1항에 따라 인증을 받은 기관위원회가 다음 각 호의 어느 하나에 해당하면 그 인증을 취소할 수 있다. 다만, 제1호에 해당하는 경우에는 그 인증을 취소하여야 한다.

1. 거짓이나 부정한 방법으로 인증을 받은 경우
  2. 기관위원회의 구성 및 운영에 중요한 변동사항이 발생하여 제5항에 따른 인증기준에 맞지 아니하는 경우
- ⑤ 제1항에 따른 인증의 기준 및 유효기간 등에 관하여 필요한 사항은 대통령령으로 정한다.

### 3

**15 ( )** ① 인간대상연구를 하려는 자는 인간대상연구를 하기 전에 연구계획서를 작성하여 기관위원회의 심의를 받아야 한다.

② 제1항에도 불구하고 연구대상자 및 공공에 미치는 위험이 미미한 경우로서 국가위원회의 심의를 거쳐 보건복지부령으로 정한 기준에 맞는 연구는 기관위원회의 심의를 면제할 수 있다.

**16 ( )** ① 인간대상연구자는 인간대상연구를 하기 전에 연구대상자로부터 다음 각 호의 사항이 포함된 서면동의(전자문서를 포함한다. 이하 같다)를 받아야 한다.

1. 인간대상연구의 목적
2. 연구대상자의 참여 기간, 절차 및 방법
3. 연구대상자에게 예상되는 위험 및 이득
4. 개인정보 보호에 관한 사항
5. 연구 참여에 따른 손실에 대한 보상
6. 개인정보 제공에 관한 사항
7. 동의의 철회에 관한 사항
8. 그 밖에 기관위원회가 필요하다고 인정하는 사항

② 제1항에도 불구하고 동의 능력이 없거나 불완전한 사람으로서 보건복지부령으로 정하는 연구대상자가 참여하는 연구의 경우에는 다음 각 호에서 정한 대리인의 서면동의를 받아야 한다. 이 경우 대리인의 동의는 연구대상자의 의사에 어긋나서는 아니 된다.

1. 법정대리인
2. 법정대리인이 없는 경우 배우자, 직계존속, 직계비속의 순으로 하되, 직계존속 또는 직계비속이 여러 사람일 경우 협의하여 정하고, 협의가 되지 아니하면 연장자가 대리인이 된다.

③ 제1항에도 불구하고 다음 각 호의 요건을 모두 갖춘 경우에는 기관위원회의 승인을 받아 연구대상자의 서면동의를 면제할 수 있다. 이 경우 제2항에 따른 대리인의 서면동의를 면제하지 아니한다.

1. 연구대상자의 동의를 받는 것이 연구 진행과정에서 현실적으로 불가능하거나 연구의 타당성에 심각한 영향을 미친다고 판단 되는 경우
2. 연구대상자의 동의 거부를 추정할 만한 사유가 없고, 동의를 면제하여도 연구대상자에게 미치는 위험이 극히 낮은 경우

④ 인간대상연구자는 제1항 및 제2항에 따른 서면동의를 받기 전에 동의권자에게 제1항 각 호의 사항에 대하여 충분히 설명하여야 한다.

**17 ( )** ① 인간대상연구자는 사전에 연구 및 연구환경이 연구대상자에게 미칠 신체적·정신적 영향을 평가하고 안전대책을 마련하여야 하며, 수행 중인 연구가 개인 및 사회에 중대한 해악(害惡)을 초래할 가능성이 있을 때에는 이를 즉시 소속 기관의 장에게 보고하고 적절한 조치를 하여야 한다.

② 인간대상연구자는 질병의 진단이나 치료, 예방과 관련된 연구에서 연구대상자에게 의학적으로 필요한 치료를 지연하거나 진단 및 예방의 기회를 박탈하여서는 아니 된다.

**18 ( )** ① 인간대상연구자는 제16조제1항에 따라 연구대상자로부터 개인정보를 제공하는 것에 대하여 서면동의를 받은 경우에는 기관위원회의 심의를 거쳐 개인정보를 제3자에게 제공할 수 있다.

② 인간대상연구자가 제1항에 따라 개인정보를 제3자에게 제공하는 경우에는 익명화하여야 한다. 다만, 연구대상자가 개인식별정보를 포함하는 것에 동의한 경우에는 그러하지 아니하다.

19 ( ) ① 인간대상연구자는 인간대상연구와 관련한 사항을 기록·보관하여야 한다.

② 연구대상자는 자신에 관한 정보의 공개를 청구할 수 있으며, 그 청구를 받은 인간대상연구자는 특별한 사유가 없으면 정보를 공개하여야 한다.

③ 제1항 및 제2항에 따른 기록·보관 및 정보 공개에 관한 구체적인 사항은 국가위원회의 심의를 거쳐 보건복지부령으로 정한다.

4

1

20 ( ) ① 누구든지 체세포복제배아 및 단성생식배아(이하 "체세포복제배아등"이라 한다)를 인간 또는 동물의 자궁에 착상시켜서는 아니 되며, 착상된 상태를 유지하거나 출산하여서는 아니 된다.

② 누구든지 제1항에 따른 행위를 유인하거나 알선하여서는 아니 된다.

21 ( ) ① 누구든지 인간의 배아를 동물의 자궁에 착상시키거나 동물의 배아를 인간의 자궁에 착상시키는 행위를 하여서는 아니 된다.

② 누구든지 다음 각 호의 행위를 하여서는 아니 된다.

1. 인간의 난자를 동물의 정자로 수정시키거나 동물의 난자를 인간의 정자로 수정시키는 행위. 다만, 의학적으로 인간의 정자의 활동성을 시험하기 위한 경우는 제외한다.

2. 핵이 제거된 인간의 난자에 동물의 체세포 핵을 이식하거나 핵이 제거된 동물의 난자에 인간의 체세포 핵을 이식하는 행위

3. 인간의 배아와 동물의 배아를 융합하는 행위

4. 다른 유전정보를 가진 인간의 배아를 융합하는 행위

③ 누구든지 제2항 각 호의 어느 하나에 해당하는 행위로부터 생성된 것을 인간 또는 동물의 자궁에 착상시키는 행위를 하여서는 아니 된다.

2

22 ( ) ① 체외수정을 위하여 난자 또는 정자를 채취·보존하거나 이를 수정시켜 배아를 생성하려는 의료기관은 보건복지부장관으로부터 배아생성의료기관으로 지정받아야 한다.

② 배아생성의료기관으로 지정받으려는 의료기관은 보건복지부령으로 정하는 시설 및 인력 등을 갖추어야 한다.

③ 배아생성의료기관의 지정 기준 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

④ 제1항에 따라 지정을 받은 배아생성의료기관(이하 "배아생성의료기관"이라 한다)이 보건복지부령으로 정하는 중요한 사항을 변경할 경우에는 보건복지부장관에게 그 변경사항을 신고하여야 한다.

⑤ 배아생성의료기관의 장은 휴업하거나 폐업하는 경우에는 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 신고하여야 한다.

⑥ 배아생성의료기관의 장은 휴업하거나 폐업할 때에 보건복지부령으로 정하는 바에 따라 보관 중인 배아, 생식세포 및 관련 서류를 보건복지부 또는 다른 배아생성의료기관으로 이관하여야 한다. <개정 2020. 8. 11.>

23 ( ) ① 누구든지 임신 외의 목적으로 배아를 생성하여서는 아니 된다.

② 누구든지 배아를 생성할 때 다음 각 호의 어느 하나에 해당하는 행위를 하여서는 아니 된다.

1. 특정의 성을 선택할 목적으로 난자와 정자를 선별하여 수정시키는 행위

2. 사망한 사람의 난자 또는 정자로 수정하는 행위

3. 미성년자의 난자 또는 정자로 수정하는 행위. 다만, 혼인한 미성년자가 그 자녀를 얻기 위하여 수정하는 경우는 제외한다.  
 ③ 누구든지 금전, 재산상의 이익 또는 그 밖의 반대급부(反對給付)를 조건으로 배아나 난자 또는 정자를 제공 또는 이용하거나 이를 유인하거나 알선하여서는 아니 된다.

**24 ( )** ① 배아생성의료기관은 배아를 생성하기 위하여 난자 또는 정자를 채취할 때에는 다음 각 호의 사항에 대하여 난자 기증자, 정자 기증자, 체외수정 시술대상자 및 해당 기증자·시술대상자의 배우자가 있는 경우 그 배우자(이하 "동의권자"라 한다)의 서면동의를 받아야 한다. 다만, 장애인의 경우는 그 특성에 맞게 동의를 구하여야 한다.

1. 배아생성의 목적에 관한 사항
2. 배아·난자·정자의 보존기간 및 그 밖에 보존에 관한 사항
3. 배아·난자·정자의 폐기에 관한 사항
4. 잔여배아 및 잔여난자를 연구 목적으로 이용하는 것에 관한 사항
5. 동意的 변경 및 철회에 관한 사항
6. 동의권자의 권리 및 정보 보호, 그 밖에 보건복지부령으로 정하는 사항

② 배아생성의료기관은 제1항에 따른 서면동의를 받기 전에 동의권자에게 제1항 각 호의 사항에 대하여 충분히 설명하여야 한다.

③ 제1항에 따른 서면동의를 위한 동의서의 서식 및 보관 등에 필요한 사항은 보건복지부령으로 정한다.

**25 ( )** ① 배아의 보존기간은 5년으로 한다. 다만, 동의권자가 보존기간을 5년 미만으로 정한 경우에는 이를 보존기간으로 한다.

② 제1항에도 불구하고 항암치료 등 보건복지부령으로 정하는 경우에는 동의권자가 보존기간을 5년 이상으로 정할 수 있다.

③ 배아생성의료기관은 제1항 또는 제2항에 따른 보존기간이 끝난 배아 중 제29조에 따른 연구의 목적으로 이용하지 아니할 배아는 폐기하여야 한다.

④ 배아생성의료기관은 배아의 폐기에 관한 사항을 기록·보관하여야 한다.

⑤ 제3항 및 제4항에 따른 배아의 폐기 절차 및 방법, 배아의 폐기에 관한 사항의 기록·보관에 필요한 사항은 보건복지부령으로 정한다.

**26 ( )** ① 배아생성의료기관은 연구에 필요한 잔여배아를 제30조제1항에 따라 배아연구계획서의 승인을 받은 배아연구기관에 제공하거나 잔여난자를 제31조제4항에 따라 체세포복제배아등 연구계획서의 승인을 받은 체세포복제배아등의 연구기관에 제공하는 경우에는 무상으로 하여야 한다. 다만, 배아생성의료기관은 잔여배아 및 잔여난자의 보존 및 제공에 든 경비의 경우에는 보건복지부령으로 정하는 바에 따라 제공받는 연구기관에 대하여 경비지급을 요구할 수 있다.

② 제1항에 따른 잔여배아 및 잔여난자의 제공 절차, 경비의 산출, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

③ 배아생성의료기관은 잔여배아 및 잔여난자의 보존 및 제공 등에 관한 사항을 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 보고하여야 한다.

**27 ( )** ① 배아생성의료기관은 보건복지부령으로 정하는 바에 따라 난자를 채취하기 전에 난자 기증자에 대하여 건강검진을 하여야 한다.

② 배아생성의료기관은 보건복지부령으로 정하는 건강 기준에 미치지 못하는 사람으로부터 난자를 채취하여서는 아니 된다.

③ 배아생성의료기관은 동일한 난자 기증자로부터 대통령령으로 정하는 빈도 이상으로 난자를 채취하여서는 아니 된다.

④ 배아생성의료기관은 난자 기증에 필요한 시술 및 회복에 걸리는 시간에 따른 보상금 및 교통비 등 보건복지부령으로 정하는 항목에 관하여 보건복지부령으로 정하는 금액을 난자 기증자에게 지급할 수 있다.

**28 ( )** ① 배아생성의료기관은 다음 각 호의 사항을 준수하여야 한다. <개정 2015. 12. 29.>

1. 제24조에 따른 동의서에 적힌 내용대로 배아·난자 및 정자를 취급할 것
2. 보건복지부령으로 정하는 바에 따라 잔여배아 및 잔여난자의 보존·취급 및 폐기 등의 관리를 철저히 할 것

3. 그 밖에 생명윤리 및 안전의 확보를 위하여 필요하다고 인정하여 보건복지부령으로 정하는 사항
- ② 보건복지부장관은 배아의 생성 등에 관한 동의 등을 적절하게 관리하기 위하여 배아생성의료기관에 관한 표준운영지침을 정하고 배아생성의료기관에게 그 준수를 권장하여야 한다. <신설 2015. 12. 29.>
- [제목개정 2015. 12. 29.]

## 3

**29 ( )** ① 제25조에 따른 배아의 보존기간이 지난 잔여배아는 발생학적으로 원시선(原始線)이 나타나기 전까지만 체외에서 다음 각 호의 연구 목적으로 이용할 수 있다.

1. 난임치료법 및 피임기술의 개발을 위한 연구
  2. 근이영양증(筋異營養症), 그 밖에 대통령령으로 정하는 희귀·난치병의 치료를 위한 연구
  3. 그 밖에 국가위원회의 심의를 거쳐 대통령령으로 정하는 연구
- ② 제1항에 따라 잔여배아를 연구하려는 자는 보건복지부령으로 정하는 시설·인력 등을 갖추고 보건복지부장관에게 배아연구기관으로 등록하여야 한다.
- ③ 제2항에 따라 등록한 배아연구기관(이하 "배아연구기관"이라 한다)이 보건복지부령으로 정하는 중요한 사항을 변경하거나 폐업할 경우에는 보건복지부장관에게 신고하여야 한다.

**30 ( )** ① 배아연구기관은 잔여배아의 연구를 하려면 미리 보건복지부장관에게 배아연구계획서를 제출하여 승인을 받아야 한다. 배아연구계획서의 내용 중 대통령령으로 정하는 중요한 사항을 변경하는 경우에도 또한 같다.

- ② 제1항에 따른 배아연구계획서에는 기관위원회의 심의 결과에 관한 서류가 첨부되어야 한다.
- ③ 보건복지부장관은 다른 중앙행정기관의 장이 연구비를 지원하는 배아연구기관으로부터 배아연구계획서를 제출받았을 때에는 승인 여부를 결정하기 전에 그 중앙행정기관의 장과 협의하여야 한다.
- ④ 배아연구계획서의 승인 기준 및 절차, 제출서류, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

**31 ( )** ① 누구든지 제29조제1항제2호에 따른 희귀·난치병의 치료를 위한 연구 목적 외에는 체세포핵이식행위 또는 단성생식행위를 하여서는 아니 된다.

- ② 제1항에 따른 연구의 종류·대상 및 범위는 국가위원회의 심의를 거쳐 대통령령으로 정한다.
- ③ 체세포복제배아등을 생성하거나 연구하려는 자는 보건복지부령으로 정하는 시설 및 인력 등을 갖추고 보건복지부장관에게 등록하여야 한다.
- ④ 제3항에 따라 등록한 기관(이하 "체세포복제배아등의 연구기관"이라 한다)은 체세포복제배아등을 생성하거나 연구하려면 보건복지부령으로 정하는 바에 따라 미리 보건복지부장관에게 연구계획서(이하 "체세포복제배아등 연구계획서"라 한다)를 제출하여 승인을 받아야 한다.
- ⑤ 체세포복제배아등 연구계획서의 승인에 관하여는 제30조를 준용한다. 이 경우 "잔여배아"는 "체세포복제배아등"으로, "배아연구계획서"는 "체세포복제배아등 연구계획서"로 각각 본다.

**32 ( )** ① 배아연구기관 및 체세포복제배아등의 연구기관은 해당 기관에서 수행하는 연구로 인하여 생명윤리 또는 안전에 중대한 위해가 발생하거나 발생할 우려가 있는 경우에는 연구 중단 등 적절한 조치를 하여야 한다.

- ② 배아연구기관 및 체세포복제배아등의 연구기관이 잔여배아 및 잔여난자를 제공받은 후 이를 연구의 목적으로 이용하지 아니하려는 경우에는 제25조제3항부터 제5항까지의 규정을 준용한다. 이 경우 "배아"는 "잔여배아 및 잔여난자"로 본다.
- ③ 배아연구기관이 잔여배아를 관리하는 경우 및 체세포복제배아등의 연구기관이 잔여난자, 체세포복제배아등을 관리하는 경우에는 제28조를 준용한다.

## 4

**33** ( ) ① 배아줄기세포주를 수립하거나 수입한 자는 그 배아줄기세포주를 제34조에 따라 제공하거나 제35조에 따라 이용하기 전에 보건복지부령으로 정하는 바에 따라 그 배아줄기세포주를 보건복지부장관에게 등록하여야 한다.

② 보건복지부장관은 배아줄기세포주의 등록을 신청한 자가 다른 중앙행정기관의 장으로부터 과학적 검증을 받은 경우에는 제1항에 따른 등록을 하는 데에 그 검증자료를 활용하여야 한다.

③ 보건복지부장관은 제1항에 따라 배아줄기세포주를 등록한 자에게 배아줄기세포주의 검증 등에 든 비용의 전부 또는 일부를 지원할 수 있다.

**34** ( ) ① 배아줄기세포주를 수립한 자가 그 배아줄기세포주를 타인에게 제공하려면 보건복지부령으로 정하는 바에 따라 기관위원회의 심의를 거쳐야 한다.

② 제1항에 따라 배아줄기세포주를 제공한 자는 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 배아줄기세포주의 제공현황을 보고하여야 한다.

③ 제1항에 따라 배아줄기세포주를 제공하는 경우에는 무상으로 하여야 한다. 다만, 배아줄기세포주를 제공하는 자는 배아줄기세포주의 보존 및 제공에 든 경비의 경우에는 보건복지부령으로 정하는 바에 따라 이를 제공받는 자에 대하여 경비지급을 요구할 수 있다.

④ 제1항부터 제3항까지의 규정에 따른 배아줄기세포주의 제공 및 보고, 경비의 산출 방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

**35** ( ) ① 제33조제1항에 따라 등록된 배아줄기세포주는 체외에서 다음 각 호의 연구 목적으로만 이용할 수 있다.

1. 질병의 진단·예방 또는 치료를 위한 연구
2. 줄기세포의 특성 및 분화에 관한 기초연구
3. 그 밖에 국가위원회의 심의를 거쳐 대통령령으로 정하는 연구

② 제1항에 따라 배아줄기세포주를 이용하려는 자는 해당 연구계획서에 대하여 보건복지부령으로 정하는 바에 따라 기관위원회의 심의를 거쳐 해당 기관의 장의 승인을 받아야 한다. 승인을 받은 연구계획서의 내용 중 대통령령으로 정하는 중요한 사항을 변경하는 경우에도 또한 같다.

③ 제2항에 따라 승인 또는 변경승인을 받은 자는 보건복지부령으로 정하는 바에 따라 그 사실을 보건복지부장관에게 보고하여야 한다.

④ 제2항에 따라 승인을 받은 자는 배아줄기세포주를 제공한 자에게 제공받은 배아줄기세포주의 이용계획서를 작성하여 제출하여야 한다.

⑤ 제2항에 따라 연구를 승인한 기관의 장은 연구를 하는 자가 연구계획에 적합하게 연구를 하도록 감독하여야 한다.

## 5

### 1

**36** ( ) ① 인체유래물연구를 하려는 자는 인체유래물연구를 하기 전에 연구계획서에 대하여 기관위원회의 심의를 받아야 한다.

② 제1항에도 불구하고 인체유래물 기증자 및 공공에 미치는 위험이 미미한 경우로서 국가위원회의 심의를 거쳐 보건복지부령으로 정한 기준에 맞는 연구는 기관위원회의 심의를 면제할 수 있다.

**37** ( ) ① 인체유래물연구자는 인체유래물연구를 하기 전에 인체유래물 기증자로부터 다음 각 호의 사항이 포함된 서면동의를 받아야 한다.

1. 인체유래물연구의 목적

2. 개인정보의 보호 및 처리에 관한 사항
3. 인체유래물의 보존 및 폐기 등에 관한 사항
4. 인체유래물과 그로부터 얻은 유전정보(이하 "인체유래물등"이라 한다)의 제공에 관한 사항
5. 동의의 철회, 동의 철회 시 인체유래물등의 처리, 인체유래물 기증자의 권리, 연구 목적의 변경, 그 밖에 보건복지부령으로 정하는 사항
  - ② 인체유래물 기증자가 동의 능력이 없거나 불완전한 경우의 대리인 동의에 관하여는 제16조제2항을 준용한다. 이 경우 "연구대상자"는 "인체유래물 기증자"로 본다. <신설 2018. 12. 11.>
  - ③ 제1항 및 제2항에도 불구하고 인체유래물연구자가 아닌 인체유래물 채취자로부터 인체유래물을 제공받아 연구를 하는 인체유래물연구자의 경우에 그 인체유래물 채취자가 인체유래물 기증자(제2항에 따라 준용되는 제16조제2항에 따른 대리인을 포함한다. 이하 이 조 및 제38조에서 같다)로부터 제1항 각 호의 사항이 포함된 서면동의를 받았을 때에는 제1항에 따른 서면동의를 받은 것으로 본다. <개정 2018. 12. 11.>
  - ④ 인체유래물연구의 서면동의 면제에 관하여는 제16조제3항을 준용한다. 이 경우 "연구대상자"는 "인체유래물 기증자"로 본다. <개정 2018. 12. 11.>
  - ⑤ 인체유래물연구자는 제1항 및 제2항에 따른 서면동의를 받기 전에 인체유래물 기증자에게 제1항 각 호의 사항에 대하여 충분히 설명하여야 한다. <개정 2018. 12. 11.>
  - ⑥ 제1항 및 제2항에 따른 서면동의를 위한 동의서의 서식 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2018. 12. 11.>

**38** ( ) ① 인체유래물연구자는 제37조제1항 및 제2항에 따라 인체유래물 기증자로부터 인체유래물등을 제공하는 것에 대하여 서면동의를 받은 경우에는 기관위원회의 심의를 거쳐 인체유래물등을 인체유래물은행이나 다른 연구자에게 제공할 수 있다. <개정 2018. 12. 11.>

- ② 인체유래물연구자가 제1항에 따라 인체유래물등을 다른 연구자에게 제공하는 경우에는 익명화하여야 한다. 다만, 인체유래물 기증자가 개인식별정보를 포함하는 것에 동의한 경우에는 그러하지 아니하다.
- ③ 제1항에 따라 인체유래물등을 제공할 경우 무상으로 하여야 한다. 다만, 인체유래물연구자가 소속된 기관은 인체유래물등의 보존 및 제공에 든 경비의 경우에는 보건복지부령으로 정하는 바에 따라 인체유래물등을 제공받아 연구하는 자에게 경비지급을 요구할 수 있다.
- ④ 인체유래물연구자는 제1항에 따라 인체유래물등을 제공하거나 제공받았을 때에는 보건복지부령으로 정하는 바에 따라 인체유래물등의 제공에 관한 기록을 작성·보관하여야 한다.
- ⑤ 인체유래물등의 제공 방법 및 절차, 경비의 산출, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

**39** ( ) ① 인체유래물연구자는 동의서에 정한 기간이 지난 인체유래물등을 폐기하여야 한다. 다만, 인체유래물등을 보존하는 중에 인체유래물 기증자가 보존기간의 변경이나 폐기를 요청하는 경우에는 요청에 따라야 한다.

- ② 인체유래물연구자는 제1항에 따른 인체유래물등의 폐기에 관한 사항을 보건복지부령으로 정하는 바에 따라 기록·보관하여야 한다.
- ③ 인체유래물연구자가 부득이한 사정으로 인하여 인체유래물등을 보존할 수 없는 경우에는 기관위원회의 심의를 거쳐 인체유래물등을 처리하거나 이관하여야 한다.
- ④ 인체유래물등의 보존, 폐기, 처리 또는 이관 등에 필요한 사항은 보건복지부령으로 정한다.

**40** ( ) 인체유래물연구자의 인체유래물 기증자에 대한 안전대책 및 기록의 유지와 정보 공개에 관하여는 제17조 및 제19조를 각각 준용한다. 이 경우 "인간대상연구"는 "인체유래물연구"로, "연구대상자"는 "인체유래물 기증자"로 각각 본다.

- 41 ( 가 )** ① 인체유래물은행을 개설하려는 자는 대통령령으로 정하는 바에 따라 보건복지부장관의 허가를 받아야 한다. 다만, 국가기관이 직접 인체유래물은행을 개설하고자 하는 경우는 제외한다.
- ② 제1항에도 불구하고 다른 법령에 따라 중앙행정기관의 장으로부터 연구비 지원의 승인을 받아 인체유래물은행을 개설하려는 경우에는 그 중앙행정기관의 장으로부터 연구비 지원의 승인을 받은 후 보건복지부장관에게 신고하면 제1항에 따른 허가를 받은 것으로 본다. 이 경우 그 중앙행정기관의 장은 미리 보건복지부장관과 협의하여야 한다.
- ③ 제1항 및 제2항에 따라 개설된 인체유래물은행이 대통령령으로 정하는 중요한 사항을 변경하거나 휴업 또는 폐업하려는 경우에는 보건복지부장관에게 신고하여야 한다.
- ④ 인체유래물은행의 시설·장비 기준 및 허가·신고 절차, 그 밖에 필요한 사항은 대통령령으로 정한다.
- 42 ( )** ① 인체유래물은행은 인체유래물연구에 쓰일 인체유래물을 직접 채취하거나 채취를 의뢰할 때에는 인체유래물을 채취하기 전에 인체유래물 기증자로부터 다음 각 호의 사항이 포함된 서면동의를 받아야 한다.
1. 인체유래물연구의 목적(인체유래물은행이 인체유래물연구를 직접 수행하는 경우만 해당한다)
  2. 개인정보의 보호 및 처리에 관한 사항
  3. 인체유래물등이 제공되는 연구자 및 기관의 범위에 관한 사항
  4. 인체유래물등의 보존, 관리 및 폐기에 관한 사항
  5. 동意的 철회, 동意的 철회 시 인체유래물등의 처리, 인체유래물 기증자의 권리나 그 밖에 보건복지부령으로 정하는 사항
- ② 인체유래물은행은 제1항에 따른 서면동의를 받기 전에 인체유래물 기증자에게 제1항 각 호의 사항에 대하여 충분히 설명하여야 한다.
- ③ 제1항에 따른 서면동의를 위한 동의서의 서식 등에 관하여 필요한 사항은 보건복지부령으로 정한다.
- 42 2( )** ① 제42조에도 불구하고 인체유래물은행은 의료기관(「의료법」에 따라 개설된 의료기관을 말한다. 이하 이 조에서 같다)으로부터 그 의료기관에서 치료 및 진단을 목적으로 사용하고 남은 인체유래물(이하 "잔여검체"라 한다)을 연구목적에 한정하여 제2항부터 제6항까지의 방법 및 절차에 따라 제공받을 수 있다. 이 경우 의료기관은 잔여검체를 제공할 목적으로 치료 및 진단에 필요한 정도를 초과하는 인체유래물을 채취하여서는 아니 된다.
- ② 잔여검체를 인체유래물은행에 제공하려는 의료기관은 제공 대상이 되는 인체유래물을 채취하기 전에 피채취자에게 다음 각 호의 사항을 서면으로 고지하여야 한다. 이 경우 제1호에 대한 사항은 구두로도 설명하여야 한다.
1. 피채취자가 거부의를 표시하지 않으면 잔여검체가 인체유래물은행에 제공될 수 있다는 사실
  2. 제1호에 따른 거부의를 표시 방법 및 절차
  3. 잔여검체의 익명화 방법
  4. 잔여검체의 보존, 관리, 폐기 및 이용 등에 관한 사항
  5. 그 밖에 보건복지부령으로 정하는 사항
- ③ 제2항에 따른 고지를 받은 피채취자가 잔여검체의 제공을 거부하려는 경우에는 서명 또는 날인된 서면이나 그 밖에 보건복지부령으로 정하는 방법으로 거부의를 표시하여야 한다. 이 경우 제2항에 따른 서면의 수령 거부는 전단에 따른 거부의를 표시한 것으로 본다.
- ④ 의료기관은 제3항에 따라 피채취자가 거부의를 표시한 잔여검체를 인체유래물은행에 제공하여서는 아니 된다.
- ⑤ 의료기관은 제1항에 따라 인체유래물은행에 잔여검체를 제공하기 전에 잔여검체 제공 목적 및 대상, 익명화의 방법 등을 정하여 미리 기관위원회의 승인을 받아야 한다.

- ⑥ 의료기관은 제1항에 따라 잔여검체를 인체유래물은행에 제공하는 경우에는 익명화하여야 한다.
- ⑦ 제1항에 따라 의료기관이 잔여검체를 제공할 경우 무상으로 하여야 한다. 다만, 의료기관은 잔여검체의 보존 및 제공에 든 경비의 경우에는 보건복지부령으로 정하는 바에 따라 인체유래물은행에 그 경비지급을 요구할 수 있다.
- ⑧ 의료기관은 잔여검체를 제공하였을 때에는 보건복지부령으로 정하는 바에 따라 잔여검체의 제공에 관한 기록을 작성·보관하여야 한다.
- ⑨ 인체유래물은행의 잔여검체 제공에 관하여는 제43조를 준용한다. 이 경우 "인체유래물등"은 "잔여검체"로 본다.
- ⑩ 제2항에 따른 서면고지의 방법 및 절차, 제3항에 따른 거부 의사 표시 방법 및 절차, 제5항에 따른 기관 위원회의 승인 항목 및 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2019. 4. 23.]

- 42 3( )** ① 인체유래물은행의 장 또는 그 종사자는 보존 중인 잔여검체를 정당한 이유 없이 사용, 폐기 또는 손상하여서는 아니 된다.
- ② 인체유래물은행의 잔여검체 보존 및 폐기에 관하여는 제39조를 준용한다. 이 경우 "인체유래물연구자"는 "인체유래물은행"으로, "인체유래물등"은 "잔여검체"로 본다.
  - ③ 인체유래물은행이 제42조의2제1항에 따라 잔여검체를 제공받은 경우에는 익명화하여야 한다.
  - ④ 인체유래물은행의 장은 보건복지부령으로 정하는 바에 따라 잔여검체의 익명화 방안이 포함된 개인정보 보호 지침을 마련하고, 개인정보 관리 및 보안을 담당하는 책임자를 지정하여야 한다.

[본조신설 2019. 4. 23.]

- 43 ( )** ① 인체유래물은행의 장은 인체유래물등을 제공받으려는 자로부터 이용계획서를 제출받아 그 내용을 검토하여 제공 여부를 결정하여야 한다.
- ② 인체유래물은행의 장은 인체유래물등을 타인에게 제공하는 경우에는 익명화하여야 한다. 다만, 인체유래물 기증자가 개인식별정보를 포함하는 것에 동의한 경우에는 그러하지 아니하다.
  - ③ 인체유래물은행의 장은 인체유래물등을 타인에게 제공하는 경우에는 무상으로 하여야 한다. 다만, 인체유래물등의 보존 및 제공에 든 경비를 보건복지부령으로 정하는 바에 따라 인체유래물등을 제공받는 자에게 요구할 수 있다.
  - ④ 기관위원회는 인체유래물등의 제공에 필요한 지침을 마련하고, 지침에 따라 적정하게 제공되고 있는지 정기적으로 심의하여야 한다.
  - ⑤ 인체유래물등 이용계획서의 기재내용·제출절차, 제공에 필요한 지침, 기관위원회의 심의, 그 밖에 인체유래물등의 제공 및 관리에 필요한 사항은 보건복지부령으로 정한다.

- 44 ( )** ① 인체유래물은행의 장 또는 그 종사자는 보존 중인 인체유래물등을 타당한 사유 없이 사용, 폐기, 손상하여서는 아니 된다.
- ② 인체유래물은행이 제38조제1항 및 제53조제1항에 따라 인체유래물등을 제공받은 경우에는 익명화하여야 한다.
  - ③ 인체유래물은행의 인체유래물등의 보존 및 폐기에 관하여는 제39조를 준용한다.
  - ④ 인체유래물은행의 장은 보건복지부령으로 정하는 바에 따라 인체유래물등의 익명화 방안이 포함된 개인정보 보호 지침을 마련하고, 개인정보 관리 및 보안을 담당하는 책임자를 지정하여야 한다.

- 45 ( )** 국가나 지방자치단체는 예산의 범위에서 인체유래물은행의 운영에 필요한 비용을 지원할 수 있다.

## 6

**46** ( ) ① 누구든지 유전정보를 이유로 교육·고용·승진·보험 등 사회 활동에서 다른 사람을 차별하여서는 아니 된다.

② 다른 법률에 특별한 규정이 있는 경우를 제외하고는 누구든지 타인에게 유전자검사를 받도록 강요하거나 유전자검사의 결과를 제출하도록 강요하여서는 아니 된다.

③ 의료기관은 「의료법」 제21조제3항에 따라 환자 외의 자에게 제공하는 의무기록 및 진료기록 등에 유전정보를 포함시켜서는 아니 된다. 다만, 해당 환자와 동일한 질병의 진단 및 치료를 목적으로 다른 의료기관의 요청이 있고 개인정보 보호에 관한 조치를 한 경우에는 그러하지 아니하다. <개정 2016. 12. 20.>

**47** ( ) ① 인체 내에서 유전적 변이를 일으키는 일련의 행위에 해당하는 유전자 치료에 관한 연구는 다음 각 호의 모두에 해당하는 경우에만 할 수 있다. <개정 2015. 12. 29.>

1. 유전질환, 암, 후천성면역결핍증, 그 밖에 생명을 위협하거나 심각한 장애를 불러일으키는 질병의 치료를 위한 연구

2. 현재 이용 가능한 치료법이 없거나 유전자치료의 효과가 다른 치료법과 비교하여 현저히 우수할 것으로 예측되는 치료를 위한 연구

② 유전물질 또는 유전물질이 도입된 세포를 인체로 전달하는 일련의 행위에 해당하는 유전자치료에 관한 연구는 제1항제1호 또는 제2호 중 어느 하나에 해당하는 경우에만 할 수 있다. <신설 2015. 12. 29.>

③ 유전자치료는 배아, 난자, 정자 및 태아에 대하여 시행하여서는 아니 된다. <개정 2015. 12. 29.>

**48** ( ) ① 유전자치료를 하고자 하는 의료기관은 보건복지부장관에게 신고하여야 한다. 대통령령으로 정하는 중요한 사항을 변경하는 경우에도 또한 같다.

② 제1항에 따라 보건복지부장관에게 신고한 의료기관(이하 "유전자치료기관"이라 한다)은 유전자치료를 하고자 하는 환자에 대하여 다음 각 호의 사항에 관하여 미리 설명한 후 서면동의를 받아야 한다.

1. 치료의 목적

2. 예측되는 치료 결과 및 그 부작용

3. 그 밖에 보건복지부령으로 정하는 사항

③ 유전자치료기관의 신고 요건 및 절차, 동의서의 서식, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

**49** ( ) ① 유전자검사를 하려는 자는 유전자검사항목에 따라 보건복지부령으로 정하는 시설 및 인력 등을 갖추고 보건복지부장관에게 신고하여야 한다. 다만, 국가기관이 유전자검사를 하는 경우에는 그러하지 아니하다.

② 제1항에 따라 신고한 사항 중 대통령령으로 정하는 중요한 사항을 변경하는 경우에도 신고하여야 한다.

③ 보건복지부장관은 제1항에 따라 신고한 유전자검사기관(이하 "유전자검사기관"이라 한다)으로 하여금 보건복지부령으로 정하는 바에 따라 유전자검사의 정확도 평가를 받게 할 수 있고, 그 결과를 공개할 수 있다.

④ 유전자검사기관은 유전자검사의 업무를 휴업하거나 폐업하려는 경우에는 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 신고하여야 한다.

⑤ 보건복지부장관은 유전자검사기관이 「부가가치세법」 제8조에 따라 관할 세무서장에게 폐업신고를 하거나 관할 세무서장이 사업자등록을 말소한 경우에는 신고 사항을 직권으로 말소할 수 있다. <개정 2017. 12. 12.>

⑥ 보건복지부장관은 제5항의 직권말소를 위하여 필요한 경우 관할 세무서장에게 유전자검사기관의 폐업 여부에 대한 정보 제공을 요청할 수 있다. 이 경우 요청을 받은 관할 세무서장은 「전자정부법」 제36조제

1항에 따라 유전자검사기관의 폐업여부에 대한 정보를 제공하여야 한다. <신설 2017. 12. 12.>

- 50** ( ) ① 유전자검사기관은 과학적 증거가 불확실하여 검사대상자를 오도(誤導)할 우려가 있는 신체 외관이나 성격에 관한 유전자검사 또는 그 밖에 국가위원회의 심의를 거쳐 대통령령으로 정하는 유전자검사를 하여서는 아니 된다.
- ② 유전자검사기관은 근이영양증이나 그 밖에 대통령령으로 정하는 유전질환을 진단하기 위한 목적으로만 배아 또는 태아를 대상으로 유전자검사를 할 수 있다.
- ③ 의료기관이 아닌 유전자검사기관에서는 다음 각 호를 제외한 경우에는 질병의 예방, 진단 및 치료와 관련한 유전자검사를 할 수 없다. <개정 2015. 12. 29.>
1. 의료기관의 의뢰를 받은 경우
  2. 질병의 예방과 관련된 유전자검사로 보건복지부장관이 필요하다고 인정하는 경우
- ④ 유전자검사기관은 유전자검사에 관하여 거짓표시 또는 과대광고를 하여서는 아니 된다. 이 경우 거짓표시 또는 과대광고의 판정 기준 및 절차, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

- 51** ( ) ① 유전자검사기관이 유전자검사에 쓰일 검사대상물을 직접 채취하거나 채취를 의뢰할 때에는 검사대상물을 채취하기 전에 검사대상자로부터 다음 각 호의 사항에 대하여 서면동의를 받아야 한다. 다만, 장애인의 경우는 그 특성에 맞게 동의를 구하여야 한다.
1. 유전자검사의 목적
  2. 검사대상물의 관리에 관한 사항
  3. 동의의 철회, 검사대상자의 권리 및 정보보호, 그 밖에 보건복지부령으로 정하는 사항
- ② 유전자검사기관이 검사대상물을 인체유래물연구자나 인체유래물은행에 제공하기 위하여는 검사대상자로부터 다음 각 호의 사항이 포함된 서면동의를 제1항에 따른 동의와 별도로 받아야 한다.
1. 개인정보의 보호 및 처리에 대한 사항
  2. 검사대상물의 보존, 관리 및 폐기에 관한 사항
  3. 검사대상물의 제공에 관한 사항
  4. 동의의 철회, 동의 철회 시 검사대상물의 처리, 검사대상자의 권리, 그 밖에 보건복지부령으로 정하는 사항
- ③ 유전자검사기관 외의 자가 검사대상물을 채취하여 유전자검사기관에 유전자검사를 의뢰하는 경우에는 제1항에 따라 검사대상자로부터 서면동의를 받아 첨부하여야 하며, 보건복지부령으로 정하는 바에 따라 개인정보를 보호하기 위한 조치를 하여야 한다.
- ④ 검사대상자가 동의 능력이 없거나 불완전한 경우의 대리인 동의에 관하여는 제16조제2항을 준용한다. 이 경우 "연구대상자"는 "검사대상자"로, "연구"는 "검사"로 각각 본다.
- ⑤ 다음 각 호의 어느 하나에 해당하는 경우에는 동의 없이 유전자검사를 할 수 있다.
1. 시체 또는 의식불명인 사람이 누구인지 식별하여야 할 긴급한 필요가 있거나 특별한 사유가 있는 경우
  2. 다른 법률에 규정이 있는 경우
- ⑥ 제1항부터 제4항까지의 규정에 따라 서면동의를 받고자 하는 자는 미리 검사대상자 또는 법정대리인에게 유전자검사의 목적과 방법, 예측되는 유전자검사의 결과와 의미 등에 대하여 충분히 설명하여야 한다.
- ⑦ 유전자검사의 동의 방식, 동의 면제 사항, 그 밖에 필요한 사항은 보건복지부령으로 정한다.

- 52** ( ) ① 유전자검사기관은 다음 각 호의 서류를 보건복지부령으로 정하는 바에 따라 기록·보관하여야 한다.
1. 제51조에 따른 동의서
  2. 유전자검사 결과
  3. 제53조제2항에 따른 검사대상물의 제공에 관한 기록

- ② 유전자검사기관은 검사대상자나 그의 법정대리인이 제1항에 따른 기록의 열람 또는 사본의 발급을 요청하는 경우에는 그 요청에 따라야 한다.
- ③ 제2항에 따른 기록의 열람 또는 사본의 발급에 관한 신청 절차 및 서식 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

- 53** ( ) ① 유전자검사기관은 제51조제2항에 따라 검사대상자로부터 검사대상물의 제공에 대한 서면동의를 받은 경우에는 인체유래물연구자나 인체유래물은행에 검사대상물을 제공할 수 있다.
- ② 제1항에 따른 검사대상물의 제공에 관하여는 제38조제2항부터 제5항까지의 규정을 준용한다. 이 경우 "인체유래물등"은 "검사대상물"로, "인체유래물 기증자"는 "검사대상자"로 각각 본다.
- ③ 유전자검사기관은 제1항에 따라 검사대상물을 제공하는 경우 외에는 검사대상물을 유전자검사 결과 획득 후 즉시 폐기하여야 한다.
- ④ 유전자검사기관은 검사대상물의 폐기에 관한 사항을 기록·보관하여야 한다.
- ⑤ 유전자검사기관은 휴업 또는 폐업이나 그 밖에 부득이한 사정으로 인하여 검사대상물을 보존할 수 없는 경우에는 보건복지부령으로 정하는 바에 따라 검사대상물을 처리하거나 이관하여야 한다.
- ⑥ 검사대상물의 폐기, 폐기에 관한 기록·보관 및 검사대상물의 처리 또는 이관에 필요한 사항은 보건복지부령으로 정한다.

## 7

- 54** ( ) ① 보건복지부장관은 생명윤리 및 안전의 확보와 관련하여 필요하다고 인정할 때에는 제10조제1항 각 호의 기관과 유전자검사기관(이하 "감독대상기관"이라 한다) 및 그 종사자에 대하여 보건복지부령으로 정하는 바에 따라 이 법의 시행에 필요한 보고 또는 자료의 제출을 명할 수 있고, 생명윤리 또는 안전에 중대한 위해가 발생하거나 발생할 우려가 있을 때에는 그 연구 및 연구 성과 이용의 중단을 명하거나 그 밖에 필요한 조치를 할 수 있다.
- ② 보건복지부장관은 이 법에서 정하고 있는 사항의 이행 또는 위반 여부의 확인을 위하여 필요하다고 인정할 때에는 관계 공무원으로 하여금 감독대상기관 또는 그 사무소 등에 출입하여 그 시설 또는 장비, 관계 장부나 서류, 그 밖의 물건을 검사하게 하거나 관계인에게 질문하게 할 수 있으며, 시험에 필요한 시료(試料)를 최소분량으로 수거하게 할 수 있다. 이 경우 관계 공무원은 그 권한을 표시하는 증표를 지니고 이를 관계인에게 보여주어야 한다.
- ③ 감독대상기관 또는 그 종사자는 제1항 및 제2항에 따른 명령·검사·질문 등에 대하여 타당한 사유가 없으면 응하여야 한다.

- 55** ( ) ① 보건복지부장관은 감독대상기관 또는 그 종사자와 제33조부터 제35조까지의 규정에 따라 배아줄기세포주를 등록·제공 또는 이용한 자에게 다음 각 호의 대상물을 폐기할 것을 명할 수 있다. 이 경우 폐기의 절차 및 방법에 관하여는 제25조제5항, 제39조제4항, 제53조제6항을 각각 준용한다.
1. 제22조제1항부터 제3항까지, 제23조, 제24조제1항, 제25조제3항(제32조제2항에서 준용하는 경우를 포함한다), 제26조제1항, 제27조제1항부터 제3항까지, 제29조제1항·제2항, 제30조제1항부터 제3항까지, 제31조제1항·제3항·제4항, 제33조제1항, 제34조제1항·제3항, 제35조제2항을 위반하여 채취·생성·보존·연구 또는 제공된 배아·체세포복제배아등·배아줄기세포주 또는 난자
  2. 제39조제1항, 제41조제1항, 제43조제2항, 제49조제1항, 제50조제1항부터 제3항까지, 제51조제1항·제2항·제4항, 제53조제1항부터 제3항까지의 규정을 위반하여 채취·보존 또는 제공된 검사대상물 및 인체유래물

② 보건복지부장관은 감독대상기관의 시설·인력 등이 제22조제2항, 제29조제2항, 제31조제3항 또는 제41조제4항에서 정하는 기준 등에 맞지 아니하여 연구·채취·보존 또는 배아의 생성 등을 하는 경우에 생명윤리나 안전에 중대한 위해가 발생하거나 발생할 우려가 있다고 인정할 때에는 감독대상기관에 대하여 그 시설의 개선을 명하거나 그 시설의 전부 또는 일부의 사용을 금지할 것을 명할 수 있다.

**56** ( ) ① 보건복지부장관은 감독대상기관이 다음 각 호의 어느 하나에 해당할 때에는 그 지정·등록 또는 허가를 취소하거나 1년 이내의 기간을 정하여 그 업무의 전부 또는 일부의 정지를 명할 수 있다. <개정 2019. 4. 23.>

1. 제10조제1항(같은 항 제1호 및 제2호에 해당하는 기관의 경우는 제외한다), 제20조, 제21조, 제22조 제1항부터 제3항까지, 제23조, 제24조제1항·제2항, 제25조제3항·제4항(제32조제2항에서 준용하는 경우를 포함한다), 제26조제1항·제3항, 제27조제1항부터 제3항까지, 제28조(제32조제3항에서 준용하는 경우를 포함한다), 제29조제2항, 제30조제1항, 제31조제1항, 제32조제1항, 제42조의3제1항, 제43조제2항, 제44조제1항, 제48조제1항 후단, 제48조제2항, 제50조, 제51조제1항부터 제4항까지, 제52조제1항·제2항 및 제53조제2항부터 제5항까지의 규정을 위반하였을 때

2. 제54조제1항 및 제55조에 따른 명령을 이행하지 아니하였을 때

3. 제54조제2항에 따른 검사·질문·수거에 응하지 아니하였을 때

② 제1항에 따른 행정처분의 세부 기준은 그 위반행위의 유형과 위반 정도 등을 고려하여 보건복지부령으로 정한다.

**57** ( ) 보건복지부장관은 제56조에 따라 기관의 지정·등록 또는 허가를 취소하려는 경우에는 청문을 하여야 한다.

**58** ( ) ① 보건복지부장관은 감독대상기관이 다음 각 호의 어느 하나에 해당하여 업무정지처분을 하여야 할 경우로서 그 업무정지가 해당 사업의 이용자에게 심한 불편을 주거나 그 밖에 공익을 해칠 우려가 있을 때에는 대통령령으로 정하는 바에 따라 그 업무정지처분을 갈음하여 2억원 이하의 과징금을 부과할 수 있다.

1. 제22조제1항부터 제3항까지, 제24조제1항·제2항, 제25조제3항·제4항(제32조제2항에서 준용하는 경우를 포함한다) 및 제27조제1항부터 제3항까지의 규정을 위반하였을 때

2. 제28조(제32조제3항에서 준용하는 경우를 포함한다) 및 제32조제1항에 따른 준수사항을 위반하였을 때

3. 제54조제1항 및 제55조에 따른 명령을 이행하지 아니하였을 때

4. 제54조제2항에 따른 검사·질문·수거에 응하지 아니하였을 때

② 제1항에 따라 과징금을 부과하는 위반행위의 종류와 위반 정도 등에 따른 과징금의 금액이나 그 밖에 필요한 사항은 보건복지부령으로 정한다.

③ 보건복지부장관은 제1항에 따른 과징금을 내야 할 자가 납부기한까지 내지 아니하였을 때에는 국세 체납처분의 예에 따라 징수한다.

**59** ( ) 보건복지부장관은 이 법의 규정에 따라 지정·허가·등록·승인을 받으려 하거나 신고를 하는 자 또는 그 내용을 변경하려는 자로 하여금 보건복지부령으로 정하는 바에 따라 수수료를 내게 할 수 있다.

## 8

**60** ( ) 보건복지부장관은 이 법에 따른 생명윤리 및 안전의 확보에 이바지할 수 있는 연구사업 및 교육을 육성·지원하기 위하여 대통령령으로 정하는 바에 따라 해당 단체·기관 또는 종사자에게 필요한 비용의 전부 또는 일부를 지원할 수 있다.

- 61** ( ) ① 보건복지부장관은 이 법에 따른 권한의 일부를 대통령령으로 정하는 바에 따라 질병관리청장 또는 소속 기관의 장에게 위임할 수 있다. <개정 2020. 8. 11.>
- ② 보건복지부장관은 대통령령으로 정하는 바에 따라 다음 각 호의 어느 하나에 해당하는 업무의 일부를 관계 전문기관 또는 단체에 위탁할 수 있다.
1. 제13조제1항제2호에 따른 기관위원회 위원의 교육에 관한 업무
  2. 제14조에 따른 기관위원회의 평가·인증에 관한 업무
  3. 제49조제3항에 따른 유전자검사의 정확도 평가에 관한 업무
- ③ 보건복지부장관은 제2항에 따라 관계 전문기관 또는 단체에 업무를 위탁한 경우에는 필요한 예산을 보조할 수 있다.
- ④ 제2항에 따른 관계 전문기관 또는 단체에 대한 예산 보조, 보조금 환수(還收), 지원 금지 등에 필요한 사항은 대통령령으로 정한다.

**62** ( ) 보건복지부장관이 제61조에 따라 위탁한 업무에 종사하는 기관, 단체의 임직원은 「형법」 제129조부터 제132조까지의 규정을 적용할 때에는 공무원으로 본다.

**63** ( ) 감독대상기관 또는 그 종사자나 업무에 종사하였던 사람은 직무상 알게 된 개인정보 등의 비밀을 누설하거나 도용하여서는 아니 된다.

## 9

**64** ( ) ① 제20조제1항을 위반하여 체세포복제배아등을 자궁에 착상시키거나 착상된 상태를 유지하거나 출산한 사람은 10년 이하의 징역에 처한다.

② 제1항의 경우 미수범도 처벌한다.

**65** ( ) ① 제21조제1항을 위반하여 인간의 배아를 동물의 자궁에 착상시키거나 동물의 배아를 인간의 자궁에 착상시킨 사람 또는 같은 조 제3항을 위반하여 같은 조 제2항 각 호의 어느 하나에 해당하는 행위로부터 생성된 것을 인간 또는 동물의 자궁에 착상시킨 사람은 5년 이하의 징역에 처한다.

② 제1항의 경우 미수범도 처벌한다.

**66** ( ) ① 다음 각 호의 어느 하나에 해당하는 사람은 3년 이하의 징역에 처한다.

1. 제20조제2항을 위반하여 체세포복제배아등을 자궁에 착상시키거나 착상된 상태를 유지 또는 출산하도록 유인하거나 알선한 사람
2. 제21조제2항 각 호의 어느 하나에 해당하는 행위를 한 사람
3. 제23조제1항을 위반하여 임신 외의 목적으로 배아를 생성한 사람
4. 제23조제3항을 위반하여 금전, 재산상의 이익 또는 그 밖의 반대급부를 조건으로 배아나 난자 또는 정자를 제공 또는 이용하거나 이를 유인하거나 알선한 사람
5. 제31조제1항을 위반하여 희귀·난치병의 치료를 위한 연구 목적 외의 용도로 체세포핵이식행위 또는 단성생식행위를 한 사람
6. 제63조를 위반하여 비밀을 누설하거나 도용한 사람

② 제29조제1항을 위반하여 잔여배아를 이용한 자는 3년 이하의 징역 또는 5천만원 이하의 벌금에 처한다.

③ 제1항제1호 및 제2호의 경우 미수범도 처벌한다.

**67** ( ) ① 다음 각 호의 어느 하나에 해당하는 자는 2년 이하의 징역 또는 3천만원 이하의 벌금에 처한다. <개정 2015. 12. 29.>

1. 배아를 생성할 때 제23조제2항 각 호의 어느 하나에 해당하는 행위를 한 자
2. 제24조제1항을 위반하여 서면동의 없이 난자 또는 정자를 채취한 자
3. 제27조제1항을 위반하여 난자 기증자에 대하여 건강검진을 하지 아니한 자 또는 같은 조 제2항이나 제3항을 위반하여 난자를 채취한 자
4. 제46조제1항부터 제3항까지의 규정을 위반하여 유전정보를 이유로 다른 사람을 차별한 자, 유전자검사를 받도록 강요하거나 유전자검사 결과를 제출하도록 강요한 자 또는 환자 외의 자에게 제공하는 기록 등에 유전정보를 포함시킨 자
5. 제47조제1항부터 제3항까지를 위반하여 유전자치료에 관한 연구를 하거나 유전자치료를 시행한 자
6. 제50조제1항부터 제3항까지의 규정을 위반하여 유전자검사를 한 자
7. 제55조에 따른 폐기명령 또는 개선명령을 이행하지 아니한 자
- ② 제22조제6항을 위반하여 배아, 생식세포를 이관하지 아니한 자는 2년 이하의 징역 또는 1천만원 이하의 벌금에 처한다.

**68 ( )** 다음 각 호의 어느 하나에 해당하는 자는 1년 이하의 징역 또는 2천만원 이하의 벌금에 처한다

· <개정 2019. 4. 23.>

1. 제22조제1항부터 제3항까지의 규정을 위반하여 배아생성의료기관으로 지정받지 아니하고 인간의 난자 또는 정자를 채취·보존하거나 이를 수정시켜 배아를 생성한 자
2. 제25조제3항(제32조제2항에서 준용하는 경우를 포함한다)을 위반하여 배아를 폐기하지 아니한 자
3. 제26조제1항을 위반하여 유상(有償)으로 잔여배아 및 잔여난자를 제공한 자
4. 제26조제3항을 위반하여 보건복지부장관에게 보고하지 아니한 자
5. 제29조제2항을 위반하여 배아연구기관으로 등록하지 아니하고 잔여배아를 연구한 자
6. 제30조제1항을 위반하여(제31조제5항에서 준용하는 경우를 포함한다) 배아연구계획서의 승인을 받지 아니하고 배아연구를 한 자
7. 제31조제3항을 위반하여 보건복지부장관에게 등록하지 아니하고 체세포복제배아등을 생성하거나 연구한 자
8. 제41조제1항을 위반하여 허가를 받지 아니하고 인체유래물은행을 개설한 자
9. 제42조제1항을 위반하여 서면동의 없이 인체유래물을 직접 채취하거나 채취를 의뢰한 자
- 9의2. 제42조의2제2항에 따른 서면고지 없이 잔여검체를 인체유래물은행에 제공한 자
- 9의3. 제42조의2제4항을 위반하여 거부 의사를 표시한 피채취자의 잔여검체를 인체유래물은행에 제공한 자
10. 제50조제4항을 위반하여 유전자검사에 관하여 거짓표시 또는 과대광고를 한 자
11. 제51조제1항·제2항·제4항을 위반하여 유전자검사에 관한 서면동의를 받지 아니하고 검사대상물을 채취한 자 또는 같은 조 제3항을 위반하여 서면동의서를 첨부하지 아니하거나 개인정보를 보호하기 위한 조치를 하지 아니하고 유전자검사를 의뢰한 자

**69 ( )** ① 법인의 대표자나 법인 또는 개인의 대리인, 사용인, 그 밖의 종업원이 그 법인 또는 개인의 업무에 관하여 제64조부터 제66조까지의 어느 하나에 해당하는 위반행위를 하면 그 행위자를 벌하는 외에 그 법인 또는 개인을 5천만원 이하의 벌금에 처한다. 다만, 법인 또는 개인이 그 위반행위를 방지하기 위하여 해당 업무에 관하여 상당한 주의와 감독을 게을리하지 아니한 경우에는 그러하지 아니하다.

② 법인의 대표자나 법인 또는 개인의 대리인, 사용인, 그 밖의 종업원이 그 법인 또는 개인의 업무에 관하여 제67조 또는 제68조의 위반행위를 하면 그 행위자를 벌하는 외에 그 법인 또는 개인에게도 해당 조문의 벌금형을 과(科)한다. 다만, 법인 또는 개인이 그 위반행위를 방지하기 위하여 해당 업무에 관하여 상당한 주의와 감독을 게을리하지 아니한 경우에는 그러하지 아니하다.

**70 ( )** ① 다음 각 호의 어느 하나에 해당하는 자에게는 500만원 이하의 과태료를 부과한다. <개정 2019. 4. 23.>

1. 제10조제1항을 위반하여 기관위원회를 설치하지 아니한 자
2. 제33조제1항을 위반하여 등록하지 아니하고 해당 배아줄기세포주를 제공하거나 이용한 자
3. 제35조제1항을 위반하여 배아줄기세포주를 이용한 자
4. 제38조제2항을 위반하여 인체유래물등을 익명화하지 아니하고 다른 연구자에게 제공한 자
5. 제39조제1항 본문 또는 제3항(제42조의3제2항 및 제44조제3항에서 준용하는 경우를 포함한다)에 따라 인체유래물을 폐기, 처리하거나 이관하지 아니한 자
6. 제41조제2항에 따른 신고를 하지 아니한 자
- 6의2. 제42조의2제6항을 위반하여 잔여검체를 익명화하지 아니하고 인체유래물은행에 제공한 자
- 6의3. 제42조의2제9항을 위반하여 잔여검체를 익명화하지 아니하고 타인에게 제공한 자
- 6의4. 제42조의3제4항을 위반하여 잔여검체의 익명화 방안이 포함된 개인정보 보호 지침을 마련하지 아니하거나 개인정보 관리 및 보안을 담당하는 책임자를 두지 아니한 자
7. 제44조제4항을 위반하여 인체유래물등의 익명화 방안이 포함된 개인정보 보호 지침을 마련하지 아니하거나 개인정보 관리 및 보안을 담당하는 책임자를 두지 아니한 자
8. 제48조제1항을 위반하여 신고하지 아니하고 유전자치료를 한 자
9. 제49조제1항 본문에 따른 신고를 하지 아니한 자
10. 제54조제3항을 위반하여 보건복지부장관의 명령·검사·질문 등에 대하여 타당한 사유 없이 응하지 아니한 감독대상기관 또는 그 종사자

② 다음 각 호의 어느 하나에 해당하는 자에게는 300만원 이하의 과태료를 부과한다.

1. 제22조제4항 또는 제5항, 제29조제3항을 위반하여 보건복지부장관에게 신고하지 아니한 자
2. 제22조제6항을 위반하여 관련 서류를 이관하지 아니한 자

③ 다음 각 호의 어느 하나에 해당하는 자에게는 200만원 이하의 과태료를 부과한다. <개정 2019. 4. 23.>

1. 제10조제4항을 위반하여 보건복지부장관에게 등록하지 아니한 자
  2. 제11조제4항을 위반하여 보건복지부장관에게 보고하지 아니한 자
  3. 제34조제3항을 위반하여 유상으로 배아줄기세포주를 제공한 자
  4. 제38조제3항을 위반하여 유상으로 인체유래물등을 제공한 자
  5. 제41조제3항에 따른 신고를 하지 아니한 자
  - 5의2. 제42조의2제7항을 위반하여 유상으로 잔여검체를 제공한 자
  6. 제49조제2항 또는 제4항에 따른 신고를 하지 아니한 자
- ④ 제1항부터 제3항까지에 따른 과태료는 대통령령으로 정하는 바에 따라 보건복지부장관이 부과·징수한다.

# CONSTITUTION OF THE REPUBLIC OF KOREA

Wholly Amended by Constitution No. 10, Oct. 29, 1987

## Article 1

- (1) The Republic of Korea shall be a democratic republic.
- (2) The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

1

## Article 2

- (1) Nationality in the Republic of Korea shall be prescribed by Act.
- (2) It shall be the duty of the State to protect citizens residing abroad as prescribed by Act.

2

가

## Article 3

The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

3

## Article 4

The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the basic free and democratic order.

4

## Article 5

- (1) The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.
- (2) The Armed Forces shall be charged with the sacred mission of national security and the defense of the land and their political neutrality shall be maintained.

5

가

**Article 6**

(1) Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.

(2) The status of aliens shall be guaranteed as prescribed by international law and treaties.

6

가

가

**Article 7**

(1) All public officials shall be servants of the entire people and shall be responsible to the people.

(2) The status and political impartiality of public officials shall be guaranteed as prescribed by Act.

7

**Article 8**

(1) The establishment of political parties shall be free, and the plural party system shall be guaranteed.

(2) Political parties shall be democratic in their objectives, organization and activities, and shall have the necessary organizational arrangements for the people to participate in the formation of the political will.

(3) Political parties shall enjoy the protection of the State and may be provided with operational funds by the State under the conditions as prescribed by Act.

(4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring an action against it in the Constitutional Court for its dissolution, and the political party shall be dissolved in accordance with the decision of the Constitutional Court.

8

가

가

가

**Article 9**

The State shall strive to sustain and develop the cultural heritage and to enhance national culture.

9

가

**Article 10**

All citizens shall be assured of human worth and dignity and have the right to pursuit of happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

10

가 가 , 가 . 가

가 가

**Article 11**

(1) All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status.

(2) No privileged caste shall be recognized or ever established in any form.

(3) The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileges shall ensue therefrom.

11

**Article 12**

(1) All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated except as provided by Act. No person shall be punished, placed under preventive order or subject to involuntary labor except as provided by Act and through lawful procedures.

(2) No citizen shall be tortured or be compelled to testify against himself/herself in criminal cases.

(3) Warrants issued by a judge through due procedures upon the request of a prosecutor shall be presented in case of arrest, detention, seizure or search: Provided, That in a case where a criminal suspect is an apprehended flagrante delicto, or where there is danger that a person suspected of committing a crime punishable by imprisonment of three years or more may escape or destroy evidence, investigative authorities may request an ex post facto warrant.

(4) Any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his/her own efforts, the State shall assign counsel for the defendant as prescribed by Act.

(5) No person shall be arrested or detained without being informed of the reason therefor and of his/her right to assistance of counsel. The family, etc., as designated by Act, of a person arrested or detained shall be notified without delay of the reason for and the time and place of the arrest or detention.

(6) Any person who is arrested or detained, shall have the right to request the court to review the legality of the arrest or detention.

(7) In a case where a confession is deemed to have been made against a defendant's will due to torture, violence, intimidation, unduly prolonged arrest, deceit or etc., or in a case where a confession is the only evidence against a defendant in a formal trial, such a confession shall not be admitted as evidence of guilt, nor shall a defendant be punished by reason of such a confession.

12

가

3

가

가

가가



가

**Article 13**

(1) No citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed, nor shall he/she be placed in double jeopardy.

(2) No restriction shall be imposed upon the political rights of any citizen, nor shall any person be deprived of property rights by means of retroactive legislation.

(3) No citizen shall suffer unfavorable treatment on account of an act not of his/her own doing but committed by a relative.

13

가

**Article 14**

All citizens shall enjoy freedom of residence and the right to move at will.

14

가 .

**Article 15**

All citizens shall enjoy freedom of occupation.

15

가 .

**Article 16**

All citizens shall be free from intrusion into their place of residence. In case of search or seizure in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

16

**Article 17**

The privacy of no citizen shall be infringed.

17

**Article 18**

The privacy of correspondence of no citizen shall be infringed.

18

**Article 19**

All citizens shall enjoy freedom of conscience.

19

가 .

**Article 20**

(1) All citizens shall enjoy freedom of religion.

(2) No state religion shall be recognized, and religion and state shall be separated.

20

가 .

**Article 21**

(1) All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.

(2) Licensing or censorship of speech and the press, and licensing of assembly and association shall not be recognized.



가 .

**Article 26**

(1) All citizens shall have the right to petition in writing to any governmental agency under the conditions as prescribed by Act.

(2) The State shall be obligated to examine all such petitions.

26

가 가 .

가

**Article 27**

(1) All citizens shall have the right to be tried in conformity with the Act by judges qualified under the Constitution and the Act.

(2) Citizens who are not on active military service or employees of the military forces shall not be tried by a court martial within the territory of the Republic of Korea, except in case of crimes as prescribed by Act involving important classified military information, sentinels, sentry posts, the supply of harmful food and beverages, prisoners of war and military articles and facilities and in the case of the proclamation of extraordinary martial law.

(3) All citizens shall have the right to a speedy trial. The accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.

(4) The accused shall be presumed innocent until a judgment of guilt has been pronounced.

(5) A victim of a crime shall be entitled to make a statement during the proceedings of the trial of the case involved as under the conditions prescribed by Act.

27



가 .

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가 가 .

가 .

**Article 28**

In a case where a criminal suspect or an accused person who has been placed under detention is not indicted as provided by Act or is acquitted by a court, he/she shall be entitled to claim just compensation from the State under the conditions as prescribed by Act.

28

가

가 .

**Article 29**

(1) In case a person has sustained damages by an unlawful act committed by a public official in the course of official duties, he/she may claim just compensation from the State or public organization under the conditions as prescribed by Act. In this case, the public official concerned shall not be immune from liabilities.

(2) In case a person on active military service or an employee of the military forces, a police official or others as prescribed by Act sustains damages in connection with the performance of official duties such as combat action, drill and so forth, he/she shall not be entitled to a claim against the State or public organization on the grounds of unlawful acts committed by public officials in the course of official duties, but shall be entitled only to compensations as prescribed by Act.

29

가

가

가

**Article 30**

Citizens who have suffered bodily injury or death due to criminal acts of others may receive aid from the State under the conditions as prescribed by Act.

30

가

**Article 31**

(1) All citizens shall have an equal right to receive an education corresponding to their abilities.

(2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by Act.

(3) Compulsory education shall be free of charge.

(4) Independence, professionalism and political impartiality of education and the autonomy of institutions of higher learning shall be guaranteed under the conditions as prescribed by Act.

(5) The State shall promote lifelong education.

(6) Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by Act.

31

가

가

### Article 32

(1) All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means and shall enforce a minimum wage system under the conditions as prescribed by Act.

(2) All citizens shall have the duty to work. The State shall prescribe by Act the extent and conditions of the duty to work in conformity with democratic principles.

(3) Standards of working conditions shall be determined by Act in such a way as to guarantee human dignity.

(4) Special protection shall be accorded to working women, and they shall not be subject to unjust discrimination in terms of employment, wages and working conditions.

(5) Special protection shall be accorded to working children.

(6) The opportunity to work shall be accorded preferentially, under the conditions as prescribed by Act, to those who have given distinguished service to the State, wounded veterans and police officers, and members of the bereaved families of military service members and police officers killed in action.

32

가 . 가 .

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RESEARCH INSTITUTE

가

가

가

### Article 33

(1) To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action.

(2) Only those public officials who are designated by Act, shall have the right to association, collective bargaining and collective action.

(3) The right to collective action of workers employed by important defense industries may be either restricted or denied under the conditions as prescribed by Act.

33

가 .

가 .

**Article 34**

- (1) All citizens shall be entitled to a life worthy of human beings.
- (2) The State shall have the duty to endeavor to promote social security and welfare.
- (3) The State shall endeavor to promote the welfare and rights of women.
- (4) The State shall have the duty to implement policies for enhancing the welfare of senior citizens and the young.
- (5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age or other reasons shall be protected by the State under the conditions as prescribed by Act.
- (6) The State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

34

가  
가  
가

가  
가



**Article 35**

- (1) All citizens shall have the right to a healthy and pleasant environment. The State and all citizens shall endeavor to protect the environment.
- (2) The substance of the environmental right shall be determined by Act.
- (3) The State shall endeavor to ensure comfortable housing for all citizens through housing development policies and the like.

35

가 , 가

가

**Article 36**

- (1) Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal.
- (2) The State shall endeavor to protect mothers.
- (3) The health of all citizens shall be protected by the State.

36

가 , 가  
가  
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**Article 37**

- (1) Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.
- (2) The freedoms and rights of citizens may be restricted by Act only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated.

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**Article 38**

All citizens shall have the duty to pay taxes under the conditions as prescribed by Act.

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**Article 39**

- (1) All citizens shall have the duty of national defense under the conditions as prescribed by Act.
- (2) No citizen shall be treated unfavorably on account of the fulfillment of his obligation of military service.

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**Article 40**

The legislative power shall be vested in the National Assembly.

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**Article 41**

(1) The National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens.

(2) The number of members of the National Assembly shall be determined by Act, but the number shall not be less than 200.

(3) The constituencies of members of the National Assembly, proportional representation and other matters pertaining to National Assembly elections shall be determined by Act.

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**Article 42**

The term of office of members of the National Assembly shall be four years.

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**Article 43**

Members of the National Assembly shall not concurrently hold any other office prescribed by Act.

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**Article 44**

(1) During the sessions of the National Assembly, no member of the National Assembly shall be arrested or detained without the consent of the National Assembly except in case of flagrante delicto.

(2) In case of apprehension or detention of a member of the National Assembly prior to the opening of a session, such member shall be released during the session upon the request of the National Assembly, except in case of flagrante delicto.

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**Article 45**

No member of the National Assembly shall be held responsible outside the National Assembly for opinions officially expressed or votes cast in the Assembly.

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**Article 46**

- (1) Members of the National Assembly shall have the duty to maintain high standards of integrity.
- (2) Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.
- (3) Members of the National Assembly shall not acquire, through abuse of their positions, rights and interests in property or positions, or assist other persons to acquire the same, by means of contracts with or dispositions by the State, public organizations or industries.

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**Article 47**

- (1) A regular session of the National Assembly shall be convened once every year under the conditions as prescribed by Act, and extraordinary sessions of the National Assembly shall be convened upon the request of the President or one fourth or more of the total members.
- (2) The period of regular sessions shall not exceed a hundred days, and that of extraordinary sessions, thirty days.
- (3) If the President requests the convening of an extraordinary session, the period of the session and the reasons for the request shall be clearly specified.

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**Article 48**

The National Assembly shall elect one Speaker and two Vice-Speakers.

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**Article 49**

Except as otherwise provided for in the Constitution or in Act, the attendance of a majority of the total members, and the concurrent vote of a majority of the members present, shall be necessary for decisions of the National Assembly. In case of a tie vote, the matter shall be regarded as rejected.

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**Article 50**

(1) Sessions of the National Assembly shall be open to the public: Provided, That when it is decided so by a majority of the members present, or when the Speaker deems it necessary to do so for the sake of national security, they may be closed to the public.

(2) The public disclosure of the proceedings of sessions which were not open to the public shall be determined by Act.

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#### Article 51

Bills and other matters submitted to the National Assembly for deliberation shall not be abandoned on the ground that they were not acted upon during the session in which they were introduced, except in a case where the term of the members of the National Assembly has expired.

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#### Article 52

Bills may be introduced by members of the National Assembly or by the Executive.

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#### Article 53

(1) Each bill passed by the National Assembly shall be sent to the Executive, and the President shall promulgate it within fifteen days.

(2) In case of objection to the bill, the President may, within the period referred to in paragraph (1), return it to the National Assembly with written explanation of his objection, and request it be reconsidered. The President may do the same during adjournment of the National Assembly.

(3) The President shall not request the National Assembly to reconsider the bill in part, or with proposed amendments.

(4) In case there is a request for reconsideration of a bill, the National Assembly shall reconsider it, and if the National Assembly repasses the bill in the original form with the attendance of more than one half of the total members, and with a concurrent vote of two thirds or more of the members present, it shall become Act.

(5) If the President does not promulgate the bill, or does not request the National Assembly to reconsider it within the period referred to in paragraph (1), it shall become Act.

(6) The President shall promulgate without delay the Act as finalized under paragraphs (4) and (5). If the President does not promulgate an Act within five days after it has become Act under paragraph (5), or after it has been returned to the Executive under paragraph (4), the Speaker shall promulgate it.

(7) Except as provided otherwise, an Act shall take effect twenty days after the date of promulgation.

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**Article 54**

(1) The National Assembly shall deliberate and decide upon the national budget bill.

(2) The Executive shall formulate the budget bill for each fiscal year and submit it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly shall decide upon it within thirty days before the beginning of the fiscal year.

(3) If the budget bill is not passed by the beginning of the fiscal year, the Executive may, in conformity with the budget of the previous fiscal year, disburse funds for the following purposes until the budget bill is passed by the National Assembly:

1. The maintenance and operation of agencies and facilities established by the Constitution or Act;
2. Execution of the obligatory expenditures as prescribed by Act; and
3. Continuation of projects previously approved in the budget.

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**Article 55**

(1) In a case where it is necessary to make continuing disbursements for a period longer than one fiscal year, the Executive shall obtain the approval of the National Assembly for a specified period of time.

(2) A reserve fund shall be approved by the National Assembly in total. The disbursement of the reserve fund shall be approved during the next session of the National Assembly.

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#### Article 56

When it is necessary to amend the budget, the Executive may formulate a supplementary revised budget bill and submit it to the National Assembly.

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#### Article 57

The National Assembly shall, without the consent of the Executive, neither increase the sum of any item of expenditure nor create any new items of expenditure in the budget submitted by the Executive.

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#### Article 58

When the Executive plans to issue national bonds or to conclude contracts which may incur financial obligations on the State outside the budget, it shall have the prior concurrence of the National Assembly.

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#### Article 59

Types and rates of taxes shall be determined by Act.

59

#### Article 60

(1) The National Assembly shall have the right to consent to the conclusion and ratification of treaties pertaining to mutual assistance or mutual security; treaties concerning important international organizations; treaties of friendship, trade and navigation; treaties pertaining to any restriction in sovereignty; peace treaties; treaties which will burden the State or people with an important financial obligation; or treaties related to legislative matters.

(2) The National Assembly shall also have the right to consent to the declaration of war, the dispatch of armed forces to foreign states, or the stationing of alien forces in the territory of the Republic of Korea.

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**Article 61**

(1) The National Assembly may inspect affairs of state or investigate specific matters of state affairs, and may demand the production of documents directly related thereto, the appearance of a witness in person and the furnishing of testimony or statements of opinion.

(2) The procedures and other necessary matters concerning the inspection and investigation of state administration shall be determined by Act.

61

**Article 62**

(1) The Prime Minister, members of the State Council or government delegates may attend meetings of the National Assembly or its committees and report on the state administration or deliver opinions and answer questions.

(2) When requested by the National Assembly or its committees, the Prime Minister, members of the State Council or government delegates shall attend any meeting of the National Assembly and answer questions. If the Prime Minister or State Council members are requested to attend, the Prime Minister or State Council members may have State Council members or government delegates attend any meeting of the National Assembly and answer questions.

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**Article 63**

(1) The National Assembly may pass a recommendation for the removal of the Prime Minister or a State Council member from office.

(2) A recommendation for removal as referred to in paragraph (1) may be introduced by one third or more of the total members of the National Assembly, and shall be passed with the concurrent vote of a majority of the total members of the National Assembly.

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**Article 64**

(1) The National Assembly may establish the rules of its proceedings and internal regulations: Provided, That they are not in conflict with Act.

(2) The National Assembly may review the qualifications of its members and may take disciplinary actions against its members.

(3) The concurrent vote of two thirds or more of the total members of the National Assembly shall be required for the expulsion of any member.

(4) No action shall be brought to court with regard to decisions taken under paragraphs (2) and (3).

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**Article 65**

(1) In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, Justices of the Constitutional Court, judges, members of the National Election Commission, the Chairperson and members of the Board of Audit and Inspection, and other public officials designated by Act have violated the Constitution or other Acts in the performance of official duties, the National Assembly may pass motions for their impeachment.

(2) A motion for impeachment prescribed in paragraph (1) may be proposed by one third or more of the total members of the National Assembly, and shall require a concurrent vote of a majority of the total members of the National Assembly for passage: Provided, That a motion for the impeachment of the President shall be proposed by a majority of the total members of the National Assembly and approved by two thirds or more of the total members of the National Assembly.

(3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his/her power until the impeachment has been adjudicated.

(4) A decision on impeachment shall not extend further than removal from public office: Provided, That it shall not exempt the person impeached from civil or criminal liability.

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**Article 66**

- (1) The President shall be the Head of State and represent the State vis-a-vis foreign states.
- (2) The President shall have the responsibility and duty to safeguard the independence, territorial integrity and continuity of the State and the Constitution.
- (3) The President shall have the duty to pursue sincerely the peaceful unification of the homeland.
- (4) Executive power shall be vested in the Executive Branch headed by the President.

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**Article 67**

- (1) The President shall be elected by universal, equal, direct and secret ballot by the people.
- (2) In case two or more persons receive the same largest number of votes in the election as referred to in paragraph (1), the person who receives the largest number of votes in an open session of the National Assembly attended by a majority of the total members of the National Assembly shall be elected.
- (3) If and when there is only one presidential candidate, he/she shall not be elected President unless he/she receives at least one third of the total eligible votes.
- (4) Citizens who are eligible for election to the National Assembly, and who have reached the age of forty years or more on the date of the presidential election, shall be eligible to be elected to the presidency.
- (5) Matters pertaining to presidential elections shall be determined by Act.

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**Article 68**

(1) The successor to the incumbent President shall be elected seventy to forty days before his/her term expires.

(2) In case a vacancy occurs in the office of the President or the President-elect dies, or is disqualified by a court ruling or for any other reason, a successor shall be elected within sixty days.

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**Article 69**

The President, at the time of his/her inauguration, shall take the following oath: "I do solemnly swear before the people that I will faithfully execute the duties of the President by observing the Constitution, defending the State, pursuing the peaceful unification of the homeland, promoting the freedom and welfare of the people and endeavoring to develop national culture."

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**Article 70**

The term of office of the President shall be five years, and the President shall not be reelected.

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**Article 71**

If the office of the presidency is vacant or the President is unable to perform his/her duties for any reason, the Prime Minister or the members of the State Council in the order of priority as determined by Act shall act for him/her.

71

**Article 72**

The President may submit important policies relating to diplomacy, national defense, unification and other matters relating to the national destiny to a national referendum if he deems it necessary.

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**Article 73**

The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys; and declare war and conclude peace.

73

**Article 74**

(1) The President shall be Commander-in-Chief of the Armed Forces under the conditions as prescribed by the Constitution and Act.

(2) The organization and formation of the Armed Forces shall be determined by Act.

74

**Article 75**

The President may issue presidential decrees concerning matters delegated to him/her by Act with the scope specifically defined and also matters necessary to enforce Acts.

75

**Article 76**

(1) In time of internal turmoil, external menace, natural calamity or a grave financial or economic crisis, the President may take in respect to them the minimum necessary financial and economic actions or issue orders having the effect of Act, only when it is required to take urgent measures for the maintenance of national security or public peace and order, and there is no time to await the convocation of the National Assembly.

(2) In case of major hostilities affecting national security, the President may issue orders having the effect of Act, only when it is required to preserve the integrity of the nation, and it is impossible to convene the National Assembly.

(3) In case actions are taken or orders are issued under paragraphs (1) and (2), the President shall promptly notify it to the National Assembly and obtain its approval.

(4) In case no approval is obtained, the actions or orders shall lose effect forthwith. In such case, the Acts which were amended or abolished by the orders in question shall automatically regain their original effect at the moment the orders fail to obtain approval.

(5) The President shall, without delay, put on public notice developments under paragraphs (3) and (4).

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**Article 77**

- (1) When it is required to cope with a military necessity or to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law under the conditions as prescribed by Act.
- (2) Martial law shall be of two types: extraordinary martial law and precautionary martial law.
- (3) Under extraordinary martial law, special measures may be taken with respect to the necessity for warrants, freedom of speech, the press, assembly and association, or the powers of the Executive and the Judiciary under the conditions as prescribed by Act.
- (4) When the President has proclaimed martial law, he shall notify it to the National Assembly without delay.
- (5) When the National Assembly requests the lifting of martial law with the concurrent vote of a majority of the total members of the National Assembly, the President shall comply.

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**Article 78**

The President shall appoint and dismiss public officials under the conditions as prescribed by the Constitution and Act.

78

**Article 79**

(1) The President may grant amnesty, commutation and restoration of rights under the conditions as prescribed by Act.

(2) The President shall receive the consent of the National Assembly in granting a general amnesty.

(3) Matters pertaining to amnesty, commutation and restoration of rights shall be determined by Act.

79

**Article 80**

The President shall award decorations and other honors under the conditions as prescribed by Act.

80

**Article 81**

The President may attend and address the National Assembly or express his/her views by written message.

81

**Article 82**

The acts of the President under law shall be executed in writing, and such documents shall be countersigned by the Prime Minister and the members of the State Council concerned. The same shall apply to military affairs.

82

**Article 83**

The President shall not concurrently hold the office of Prime Minister, a member of the State Council, the head of any Executive Ministry, nor other public or private posts as prescribed by Act.

83

**Article 84**

The President shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

84

**Article 85**

Matters pertaining to the status and courteous treatment of former Presidents shall be determined by Act.

85

**Article 86**

- (1) The Prime Minister shall be appointed by the President with the consent of the National Assembly.
- (2) The Prime Minister shall assist the President and shall direct the Executive Ministries under order of the President.
- (3) No member of the military shall be appointed Prime Minister unless he/she is retired from active duty.

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**Article 87**

- (1) The members of the State Council shall be appointed by the President on the recommendation of the Prime Minister.
- (2) The members of the State Council shall assist the President in the conduct of State affairs and, as constituents of the State Council, shall deliberate on State affairs.
- (3) The Prime Minister may recommend to the President the removal of a member of the State Council from office.
- (4) No member of the military shall be appointed a member of the State Council unless he/she is retired from active duty.

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**Article 88**

- (1) The State Council shall deliberate on important policies that fall within the power of the Executive.
- (2) The State Council shall be composed of the President, the Prime Minister, and other members whose number shall be no more than thirty and no less than fifteen.
- (3) The President shall be the Chairperson of the State Council, and the Prime Minister shall be the Vice-Chairperson.

88

**Article 89**

The following matters shall be referred to the State Council for deliberation:

1. Basic plans for state affairs, and general policies of the Executive;
2. Declaration of war, conclusion of peace and other important matters pertaining to foreign policy;
3. Draft amendments to the Constitution, proposals for national referendums, proposed treaties, legislative bills, and proposed presidential decrees;
4. Budgets, settlement of accounts, basic plans for disposal of state properties, contracts incurring financial obligation on the State, and other important financial matters;
5. Emergency orders and emergency financial and economic actions or orders by the President, and declaration and termination of martial law;
6. Important military affairs;
7. Requests for convening an extraordinary session of the National Assembly;
8. Awarding of honors;
9. Granting of amnesty, commutation and restoration of rights;
10. Demarcation of jurisdiction between Executive Ministries;
11. Basic plans concerning delegation or allocation of powers within the Executive;
12. Evaluation and analysis of the administration of State affairs;
13. Formulation and coordination of important policies of each Executive Ministry;
14. Action for the dissolution of a political party;
15. Examination of petitions pertaining to executive policies submitted or referred to the Executive;
16. Appointment of the Prosecutor General, the Chairperson of the Joint Chiefs of Staff, the Chief of Staff of each armed service, the presidents of national universities, ambassadors, and such other public officials and managers of important State-run enterprises as designated by Act; and
17. Other matters presented by the President, the Prime Minister or a member of the State Council.

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**Article 90**

(1) An Advisory Council of Elder Statesman, composed of elder statespersons, may be established to advise the President on important affairs of State.

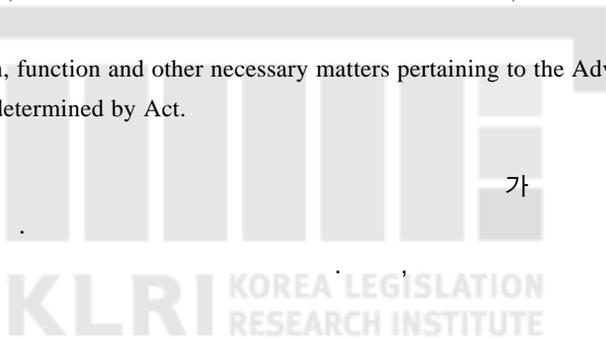
(2) The immediate former President shall become the Chairperson of the Advisory Council of Elder Statesman: Provided, That if there is no immediate former President, the President shall appoint the Chairperson.

(3) The organization, function and other necessary matters pertaining to the Advisory Council of Elder Statesman shall be determined by Act.

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**Article 91**

(1) A National Security Council shall be established to advise the President on the formulation of foreign, military and domestic policies related to national security prior to their deliberation by the State Council.

(2) The meetings of the National Security Council shall be presided over by the President.

(3) The organization, function and other necessary matters pertaining to the National Security Council shall be determined by Act.

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**Article 92**

(1) A National Unification Advisory Council may be established to advise the President on the formulation of peaceful unification policy.

(2) The organization, function and other necessary matters pertaining to the National Unification Advisory Council shall be determined by Act.

92

### **Article 93**

(1) A National Economic Advisory Council may be established to advise the President on the formulation of important policies for developing the national economy.

(2) The organization, function and other necessary matters pertaining to the National Economic Advisory Council shall be determined by Act.

93

### **Article 94**

Heads of Executive Ministries shall be appointed by the President from among members of the State Council on the recommendation of the Prime Minister.

94

### **Article 95**

The Prime Minister or the head of each Executive Ministry may, under the powers delegated by Act or Presidential Decree, or ex officio, issue ordinances of the Prime Minister or the Executive Ministry concerning matters that are within their jurisdiction.

95

### **Article 96**

The establishment, organization and function of each Executive Ministry shall be determined by Act.

96

### **Article 97**

The Board of Audit and Inspection shall be established under the direct jurisdiction of the President to inspect and examine the settlement of the revenues and expenditures of the State, the accounts of the State and other organizations specified by Act and the job performances of the executive agencies and public

officials.

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**Article 98**

(1) The Board of Audit and Inspection shall be composed of no less than five and no more than eleven members, including the Chairperson.

(2) The Chairperson of the Board shall be appointed by the President with the consent of the National Assembly. The term of office of the Chairperson shall be four years, and he/she may be reappointed only once.

(3) The members of the Board shall be appointed by the President on the recommendation of the Chairperson. The term of office of the members shall be four years, and they may be reappointed only once.

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**Article 99**

The Board of Audit and Inspection shall inspect the closing of accounts of revenues and expenditures each year, and report the results to the President and the National Assembly in the following year.

99

**Article 100**

The organization and function of the Board of Audit and Inspection, the qualifications of its members, the range of the public officials subject to inspection and other necessary matters shall be determined by Act.

100

**Article 101**

- (1) Judicial power shall be vested in courts composed of judges.
- (2) The courts shall be composed of the Supreme Court, which is the highest court of the State, and other courts at specified levels.
- (3) Qualifications for judges shall be determined by Act.

101

**Article 102**

- (1) Departments may be established in the Supreme Court.
- (2) There shall be Supreme Court Justices at the Supreme Court: Provided, That judges other than Supreme Court Justices may be assigned to the Supreme Court under the conditions as prescribed by Act.
- (3) The organization of the Supreme Court and lower courts shall be determined by Act.

102

**Article 103**

Judges shall rule independently according to their conscience and in conformity with the Constitution and laws.

103

**Article 104**

- (1) The Chief Justice of the Supreme Court shall be appointed by the President with the consent of the National Assembly.
- (2) The Supreme Court Justices shall be appointed by the President on the recommendation of the Chief Justice and with the consent of the National Assembly.
- (3) Judges other than the Chief Justice and the Supreme Court Justices shall be appointed by the Chief Justice with the consent of the Conference of Supreme Court Justices.

104

**Article 105**

- (1) The term of office of the Chief Justice shall be six years and he shall not be reappointed.
- (2) The term of office of the Justices of the Supreme Court shall be six years and they may be reappointed as prescribed by Act.
- (3) The term of office of judges other than the Chief Justice and Justices of the Supreme Court shall be ten years, and they may be reappointed under the conditions as prescribed by Act.
- (4) The retirement age of judges shall be determined by Act.

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**Article 106**

(1) No judge shall be removed from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment, nor shall he/she be suspended from office, have his/her salary reduced or suffer any other unfavorable treatment except by disciplinary action.

(2) In the event a judge is unable to discharge his/her official duties because of serious mental or physical impairment, he/she may be retired from office under the conditions as prescribed by Act.

106



**Article 107**

(1) When the constitutionality of a law is at issue in a trial, the court shall request a decision of the Constitutional Court, and shall judge according to the decision thereof.

(2) The Supreme Court shall have the power to make a final review of the constitutionality or legality of administrative decrees, regulations or actions, when their constitutionality or legality is at issue in a trial.

(3) Administrative appeals may be conducted as a procedure prior to a judicial trial. The procedure of administrative appeals shall be determined by Act and shall be in conformity with the principles of judicial procedures.

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**Article 108**

The Supreme Court may establish, within the scope of Act, regulations pertaining to judicial proceedings and internal discipline and regulations on administrative matters of the court.

108

**Article 109**

Trials and decisions of the courts shall be open to the public: Provided, That when there is a danger that such trials may undermine the national security or disturb public safety and order, or be harmful to public morals, trials may be closed to the public by court decision.

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**Article 110**

- (1) Courts-martial may be established as special courts to exercise jurisdiction over military trials.
- (2) The Supreme Court shall have the final appellate jurisdiction over courts-martial.
- (3) The organization and authority of courts-martial, and the qualifications of their judges shall be determined by Act.
- (4) Military trials under an extraordinary martial law may not be appealed in case of crimes of soldiers and employees of the military; military espionage; and crimes as defined by Act in regard to sentinels, sentry posts, supply of harmful foods and beverages, and prisoners of war, except in the case of a death sentence.

110

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**Article 111**

- (1) The Constitutional Court shall have jurisdiction over the following matters:
  1. The constitutionality of a law upon the request of the courts;
  2. Impeachment;
  3. Dissolution of a political party;
  4. Competence disputes between State agencies, between State agencies and local governments, and between local governments; and
  5. Constitutional complaint as prescribed by Act.
- (2) The Constitutional Court shall be composed of nine Justices qualified to be court judges, and they shall be appointed by the President.
- (3) Among the Justices referred to in paragraph (2), three shall be appointed from persons selected by the National Assembly, and three appointed from persons nominated by the Chief Justice of the Supreme Court.

(4) The president of the Constitutional Court shall be appointed by the President from among the Justices with the consent of the National Assembly.

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#### Article 112

(1) The term of office of the Justices of the Constitutional Court shall be six years and they may be reappointed under the conditions as prescribed by Act.

(2) The Justices of the Constitutional Court shall not join any political party, nor shall they participate in political activities.

(3) No Justice of the Constitutional Court shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.

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#### Article 113

(1) When the Constitutional Court makes a decision of the constitutionality of a law, a decision of impeachment, a decision of dissolution of a political party or an affirmative decision regarding the constitutional complaint, the concurrence of six Justices or more shall be required.

(2) The Constitutional Court may establish regulations relating to its proceedings and internal discipline and regulations on administrative matters within the limits of Act.

(3) The organization, function and other necessary matters of the Constitutional Court shall be determined by Act.

113

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**Article 114**

- (1) Election commissions shall be established for the purpose of fair management of elections and national referenda, and dealing with administrative affairs concerning political parties.
- (2) The National Election Commission shall be composed of three members appointed by the President, three members selected by the National Assembly, and three members designated by the Chief Justice of the Supreme Court. The Chairperson of the Commission shall be elected from among the members.
- (3) The term of office of the members of the Commission shall be six years.
- (4) The members of the Commission shall not join political parties, nor shall they participate in political activities.
- (5) No member of the Commission shall be expelled from office except by impeachment or a sentence of imprisonment without prison labor or heavier punishment.
- (6) The National Election Commission may establish, within the limit of Acts and decrees, regulations relating to the management of elections, national referenda, and administrative affairs concerning political parties and may also establish regulations relating to internal discipline that are compatible with Act.
- (7) The organization, function and other necessary matters of the election commissions at each level shall be determined by Act.

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**Article 115**

- (1) Election commissions at each level may issue necessary instructions to administrative agencies concerned with respect to administrative affairs pertaining to elections and national referenda such as the preparation of the pollbooks.
- (2) Administrative agencies concerned, upon receipt of such instructions, shall comply.

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**Article 116**

- (1) Election campaigns shall be conducted under the management of the election commissions at each level within the limit set by Act. Equal opportunity shall be guaranteed.
- (2) Except as otherwise prescribed by Act, expenditures for elections shall not be imposed on political parties or candidates.

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**Article 117**

- (1) Local governments shall deal with administrative matters pertaining to the welfare of local residents, manage properties, and may enact provisions relating to local autonomy, within the limit of Acts and subordinate statutes.
- (2) The types of local governments shall be determined by Act.

117

**Article 118**

- (1) A local government shall have a council.
- (2) The organization and powers of local councils, and the election of members; election procedures for heads of local governments; and other matters pertaining to the organization and operation of local governments shall be determined by Act.

118

**Article 119**

- (1) The economic order of the Republic of Korea shall be based on a respect for the freedom and creative initiative of enterprises and individuals in economic affairs.
- (2) The State may regulate and coordinate economic affairs in order to maintain the balanced growth and stability of the national economy, to ensure proper distribution of income, to prevent the domination of the

market and the abuse of economic power and to democratize the economy through harmony among the economic agents.

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#### Article 120

(1) Licenses to exploit, develop or utilize minerals and all other important underground resources, marine resources, water power, and natural powers available for economic use may be granted for a period of time under the conditions as prescribed by Act.

(2) The land and natural resources shall be protected by the State, and the State shall establish a plan necessary for their balanced development and utilization.

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#### Article 121

(1) The State shall endeavor to realize the land-to-the-tillers principle with respect to agricultural land. Tenant farming shall be prohibited.

(2) The leasing of agricultural land and the consignment management of agricultural land to increase agricultural productivity and to ensure the rational utilization of agricultural land or due to unavoidable circumstances, shall be recognized under the conditions as prescribed by Act.

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#### Article 122

The State may impose, under the conditions as prescribed by Act, restrictions or obligations necessary for the efficient and balanced utilization, development and preservation of the land of the nation that is the basis for the productive activities and daily lives of all citizens.

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**Article 123**

- (1) The State shall establish and implement a plan to comprehensively develop and support the farm and fishing communities in order to protect and foster agriculture and fisheries.
- (2) The State shall have the duty to foster regional economies to ensure the balanced development of all regions.
- (3) The State shall protect and foster small and medium enterprises.
- (4) In order to protect the interests of farmers and fishermen, the State shall endeavor to stabilize the prices of agricultural and fishery products by maintaining an equilibrium between the demand and supply of such products and improving their marketing and distribution systems.
- (5) The State shall foster organizations founded on the spirit of self-help among farmers, fishers and business persons engaged in small and medium industry and shall guarantee their independent activities and development.

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**Article 124**

The State shall guarantee the consumer protection movement intended to encourage sound consumption activities and improvement in the quality of products under the conditions as prescribed by Act.

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**Article 125**

The State shall foster foreign trade, and may regulate and coordinate it.

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**Article 126**

Private enterprises shall not be nationalized nor transferred to ownership by a local government, nor shall their management be controlled or administered by the State, except in cases as prescribed by Act to meet urgent necessities of national defense or the national economy.

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**Article 127**

- (1) The State shall strive to develop the national economy by developing science and technology, information and human resources and encouraging innovation.
- (2) The State shall establish a system of national standards.
- (3) The President may establish advisory organizations necessary to achieve the purpose referred to in paragraph (1).

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**Article 128**

- (1) A proposal to amend the Constitution shall be introduced either by a majority of the total members of the National Assembly or by the President.
- (2) Amendments to the Constitution for the extension of the term of office of the President or for a change allowing for the reelection of the President shall not be effective for the President in office at the time of the proposal for such amendments to the Constitution.

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**Article 129**

Proposed amendments to the Constitution shall be put before the public by the President for twenty days or more.

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**Article 130**

- (1) The National Assembly shall decide upon the proposed amendments within sixty days of the public announcement, and passage by the National Assembly shall require the concurrent vote of two thirds or more of the total members of the National Assembly.
- (2) The proposed amendments to the Constitution shall be submitted to a national referendum not later than thirty days after passage by the National Assembly, and shall be determined by more than one half of all votes cast by more than one half of voters eligible to vote in elections for members of the National Assembly.

(3) When the proposed amendments to the Constitution receive the concurrence prescribed in paragraph (2), the amendments to the Constitution shall be finalized, and the President shall promulgate it without delay.

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#### ADDENDA

##### Article 1

This Constitution shall enter into force on the twenty-fifth day of February, anno Domini Nineteen hundred and eighty-eight: Provided, That the enactment or amendment of Acts necessary to implement this Constitution, the elections of the President and the National Assembly under this Constitution and other preparations to implement this Constitution may be carried out prior to the entry into force of this Constitution.

##### Article 2

(1) The first presidential election under this Constitution shall be held not later than forty days before this Constitution enters into force.

(2) The term of office of the first President under this Constitution shall commence on the date of its enforcement.

##### Article 3

(1) The first elections of the National Assembly under this Constitution shall be held within six months from the promulgation of this Constitution. The term of office of the members of the first National Assembly elected under this Constitution shall commence on the date of the first convening of the National Assembly under this Constitution.

(2) The term of office of the members of the National Assembly incumbent at the time this Constitution is promulgated shall terminate the day prior to the first convening of the National Assembly under paragraph (1).

##### Article 4

(1) Public officials and officers of enterprises appointed by the Government, who are in office at the time of the enforcement of this Constitution, shall be considered as having been appointed under this Constitution: Provided, That public officials whose election procedures or appointing authorities are changed under this Constitution, the Chief Justice of the Supreme Court and the Chairperson of the Board of Audit and Inspection shall remain in office until such time as their successors are chosen under

this Constitution, and their terms of office shall terminate the day before the installation of their successors.

(2) Judges attached to the Supreme Court who are not the Chief Justice or Justices of the Supreme Court and who are in office at the time of the enforcement of this Constitution shall be considered as having been appointed under this Constitution notwithstanding the proviso of paragraph (1).

(3) Those provisions of this Constitution which prescribe the terms of office of public officials or which restrict the number of terms that public officials may serve, shall take effect upon the dates of the first elections or the first appointments of such public officials under this Constitution.

**Article 5**

Acts, decrees, ordinances and treaties in force at the time this Constitution enters into force, shall remain valid unless they are contrary to this Constitution.

**Article 6**

Those organizations existing at the time of the enforcement of this Constitution which have been performing the functions falling within the authority of new organizations to be created under this Constitution, shall continue to exist and perform such functions until such time as the new organizations are created under this Constitution.

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Last updated : 2018-06-08



# HABEAS CORPUS ACT

Act No. 8724, Dec. 21, 2007

Amended by Act No. 10364, Jun. 10, 2010

Act No. 11005, Aug. 4, 2011

Act No. 14972, Oct. 31, 2017

## Article 1 (Purpose)

The purpose of this Act is to protect fundamental human rights guaranteed to all citizens by the Constitution of the Republic of Korea, by establishing the procedure of habeas corpus relief for individuals unduly deprived of their personal liberty by an illegal administrative disposition or confinement in private facilities.

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## Article 2 (Definitions)

(1) The term "inmate" in this Act means any person held, protected or confined against his/her free will in any medical facility, welfare facility, confinement facility or protective facility (hereinafter referred to as "confinement facility") managed by the State, a local government, a public corporation, an individual, a private organization, etc.: Provided, That this shall not include any person arrested and detained according to criminal procedure, any convict, nor any person who is protected in accordance with the Immigration Act.

(2) The term "custodian" in this Act means the head or administrator of a confinement facility.

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## Article 3 (Habeas Corpus Petition)

Where the confinement of an inmate is illegally initiated or an inmate remains confined even after the cause that gave rise to such confinement ceases to exist, such inmate or his/her legal representative,

guardian, spouse, lineal blood relative, brother, sister, cohabitant, employer or an employee at the relevant confinement facility (referred to as "habeas corpus petitioner" hereinafter) may file a petition for habeas corpus with a court, as prescribed by this Act: Provided, That if any other procedure for habeas corpus relief is included in any other Act, this is applicable where it is obviously impossible to seek habeas corpus relief under such other Act within a reasonable period. <Amended by Act No. 10364, Jun. 10, 2010>

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. < 2010.6.10.>

**Article 3-2 (Notice, etc. of Habeas Corpus Petition)**

- (1) A custodian shall, prior to the confinement of an inmate, notify him/her that a petition for habeas corpus may be filed under Article 3.
- (2) Neither a custodian nor a habeas corpus petitioner (excluding an inmate) shall obstruct an inmate from filing any petition for habeas corpus under Article 3.

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**Article 4 (Jurisdiction)**

The competent court for hearing of a petition for habeas corpus shall be a district court or its branch court which has jurisdiction over the address, residence or current location of the relevant inmate or confinement facility.

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**Article 5 (Form of Petition)**

A petition for habeas corpus under Article 3 shall be filed in writing specifying the particulars listed in the following subparagraphs:

- 1. Name and address of a habeas corpus petitioner;
- 2. Name and address of a custodian, and other descriptions to identify such custodian;
- 3. Name of an inmate;
- 4. Gist of petition;
- 5. Reasons why confinement is illegal;

6. Place of confinement.

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#### Article 6 (Dismissal of Petition)

(1) A court may dismiss a petition for habeas corpus in the following cases by court ruling:

1. Where a petition for habeas corpus is filed by a person who has no standing;

2. Where the requirements under Article 5 are not met;

3. Where it is obvious that habeas corpus relief can be sought according to the procedure for habeas corpus provided for in any other Act;

4. Where a petition for habeas corpus rejected pursuant to this Act or any other Act, is renewed.

(2) In cases falling under any subparagraph of paragraph (1), a court may impose an order for correction of the deficiency, fixing a reasonable period therefor.

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#### Article 7 (Transfer of Jurisdiction)

A court may, ex officio or upon the request of a habeas corpus petitioner, transfer a petition case to another court deemed competent to hear such case.

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#### Article 8 (Hearing of Petitions)

(1) A court shall, without delay, proceed to trial to hear a petition for habeas corpus, the necessity for continued confinement, the legality of confinement, etc., except in the case of its dismissal.

(2) A court may, if deemed necessary, seek opinions from a doctor from a department of mental health science, psychologist, social welfare scholar or any other related professional, etc. on the mental and

psychological conditions and the status of confinement of an inmate <Amended by Act No. 11005, Aug. 4, 2011>

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. < 2011.8.4.>

**Article 9 (Temporary Release, etc. from Confinement)**

(1) Where a court deems that an urgent need exists to avoid any possible human injury, etc. during an inmate's continued confinement, it may temporarily release the inmate from confinement, ex officio or upon the request of a habeas corpus petitioner by court ruling.

(2) A court shall, prior to the decision under paragraph (1), pledge the inmate to answer a summons of the court at any time, and may impose necessary conditions on the inmate with respect to his/her temporary release from confinement.

(3) A court may revoke a decision under paragraph (1) if the inmate does not appear on a date for his/her trial or fails to comply with any condition imposed pursuant to paragraph (2). In such cases, if deemed unreasonable to confine the inmate in the former confinement facility, the court may remand the inmate to detain him/her in any other confinement facility of the same kind or a similar type.

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**Article 10 (Date for Examination)**

(1) A court shall appoint a date for examination of a petition for habeas corpus and summon the relevant habeas corpus petitioner and inmate on the date so appointed, except in cases where such petition is dismissed.

(2) A court may, if deemed necessary, require an inmate and other related persons to appear on the date of examination under paragraph (1).

(3) A custodian shall submit a written return specifying the following matters before the date of examination and allow the relevant inmate to appear in court on the date of examination, as required by

the court:

1. Name and address of the inmate, and other descriptions to identify the inmate;
2. Date and place of confinement of the inmate;
3. Cause of confinement;
4. Reasons for continued confinement and the expected date of termination of the confinement;
5. Other matters relating to confinement.

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**Article 11 (Protection of Inmates)**

If deemed necessary to protect an inmate, a court may, by court ruling, order a custodian to transfer the inmate from the existing confinement facility to any such other confinement facility of the same kind or a similar type as the court deems appropriate.

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**Article 12 (Opening of Hearing to the Public and Appointment of Court-Appointed Counsel)**

(1) A hearing shall be conducted in open court: Provided, That if deemed necessary to protect an inmate, such hearing may be closed to the public by court ruling.

(2) An inmate or a habeas corpus petitioner may designate his/her counsel. If a habeas corpus petitioner, etc. is unable to designate his/her counsel due to poverty or other cause, the court shall ex officio make an appointment of counsel in the absence of intent to the contrary clearly expressed by the habeas corpus petitioner, etc.: Provided, That this shall not apply where the habeas corpus petition is found to be manifestly groundless.

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**Article 13 (Ruling)**

(1) If a court deems that a petition for habeas corpus is well-grounded as a result of its hearing, it shall order the relevant inmate released immediately from confinement by court ruling.

(2) A court shall reject a petition for habeas corpus if it is found to be groundless. In such cases, if a person has the relevant inmate in his/her custody pursuant to Article 9 (3) or 11, the court shall order such person to transfer custody of the inmate to the relevant custodian.

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**Article 14 (Charging of Costs)**

A court may charge all or some of costs incurred for trial of a petition for habeas corpus to the relevant habeas corpus petitioner or custodian.

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**Article 15 (Appeal)**

A habeas corpus petitioner or custodian, who is dissatisfied with a ruling under Article 13, may make an immediate complaint against such ruling within seven days of the ruling: Provided, That no immediate complaint shall have the effect to suspend the execution. <Amended by Act No. 14972, Oct. 31, 2017>

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**Article 16 (Prohibition of Reconfinement)**

No person who is released from confinement pursuant to this Act shall be reconfinement on the same ground as that presented in the previous habeas corpus petition.

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**Article 17 (Supreme Court Regulations)**

Other necessary matters regarding the hearing and trial of habeas corpus petitions shall be prescribed by Supreme Court Regulations.

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**Article 18 (Penalty Provisions)**

(1) A custodian who falsely prepares or refuses to submit a written return under Article 10 (3) shall be punished by imprisonment with labor for not more than one year, by suspension of disqualification for not more than three years, or by a fine not exceeding ten million won. <Amended by Act No. 10364, Jun. 10, 2010>

(2) A person who obstructs an inmate from filing a petition for habeas corpus in violation of Article 3-2 (2) shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding ten million won. <Newly Inserted by Act No. 10364, Jun. 10, 2010>

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 . < 2010.6.10.>

**Article 19 (Administrative Fines, etc. for Failure to Appear in Court on Date of Examination)**

(1) If a custodian fails to appear in court on the date for examination without a justifiable ground, the court may impose upon him/her an administrative fine not exceeding five million won by court ruling.

(2) If a custodian fails to appear in court without a justifiable ground in spite of the imposition of an administrative fine under paragraph (1), the court shall detain him/her for a period of seven days or less by court ruling.

(3) Article 311 of the Civil Procedure Act shall apply mutatis mutandis to the ruling under paragraph (1).

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**Article 20 (Administrative Fines)**

(1) A person who, in violation of Article 3-2 (1), fails to give notice of the opportunity to file a petition for habeas corpus shall be subject to an administrative fine not exceeding five million won.

(2) Administrative fines under paragraph (1) shall be imposed and collected by the Minister of Justice.

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**ADDENDUM**

This Act shall enter into force six months after the date of its promulgation.

<8724, 2007.12.21.>

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**ADDENDUM <Act No. 10364, Jun. 10, 2010>**

This Act shall enter into force three months after the date of its promulgation.

<10364, 2010.6.10.>

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**ADDENDA <Act No. 11005, Aug. 4, 2011>**

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 4 Omitted.**

<11005, 2011.8.4.> ()

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**ADDENDA <Act No. 14972, Oct. 31, 2017>**

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Special Cases concerning Immediate Complaints)**

Any inmate against whom a ruling is made under Article 13 as at the time this Act enters into force may make an immediate complaint within seven days from the date this Act enters into force, notwithstanding the amended provisions of Article 15.

<14972, 2017.10.31.>

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Last updated : 2020-01-21





[시행 2021. 3. 30] [법률 제17787호, 2020. 12. 29, 일부개정]

- 보건복지부 (보건의료정책과 - 진료거부, 진단서, 처방전, 의료광고 등) 044-202-2402  
 보건복지부 (보건의료정책과 - 전문병원, 안마사) 044-202-2405  
 보건복지부 (의료자원정책과 - 의료인 행정처분 등) 044-202-2453  
 보건복지부 (의료인력정책과 - 의료인 업무범위 등) 044-202-2437  
 보건복지부 (의료기관정책과 - 개설, 의료법인, 기록열람 등) 044-202-2480  
 보건복지부 (의료기관정책과 - 시설·인력기준 등) 044-202-2474

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1 ( ) 이 법은 모든 국민이 수준 높은 의료 혜택을 받을 수 있도록 국민의료에 필요한 사항을 규정함으로써 국민의 건강을 보호하고 증진하는 데에 목적이 있다.

2 ( ) ①이 법에서 “의료인”이란 보건복지부장관의 면허를 받은 의사·치과의사·한의사·조산사 및 간호사를 말한다. <개정 2008. 2. 29., 2010. 1. 18.>

②의료인은 종별에 따라 다음 각 호의 임무를 수행하여 국민보건 향상을 이루고 국민의 건강한 생활 확보에 이바지할 사명을 가진다. <개정 2015. 12. 29., 2019. 4. 23.>

1. 의사는 의료와 보건지도를 임무로 한다.
2. 치과의사는 치과 의료와 구강 보건지도를 임무로 한다.
3. 한의사는 한방 의료와 한방 보건지도를 임무로 한다.
4. 조산사는 조산(助産)과 임신부 및 신생아에 대한 보건과 양호지도를 임무로 한다.
5. 간호사는 다음 각 목의 업무를 임무로 한다.
  - 가. 환자의 간호요구에 대한 관찰, 자료수집, 간호판단 및 요양을 위한 간호
  - 나. 의사, 치과의사, 한의사의 지도하에 시행하는 진료의 보조
  - 다. 간호 요구자에 대한 교육·상담 및 건강증진을 위한 활동의 기획과 수행, 그 밖의 대통령령으로 정하는 보건활동
  - 라. 제80조에 따른 간호조무사가 수행하는 가목부터 다목까지의 업무보조에 대한 지도

3 ( ) ①이 법에서 “의료기관”이란 의료인이 공중(公衆) 또는 특정 다수인을 위하여 의료·조산의 업(이하 “의료업”이라 한다)을 하는 곳을 말한다.

② 의료기관은 다음 각 호와 같이 구분한다. <개정 2009. 1. 30., 2011. 6. 7., 2016. 5. 29., 2019. 4. 23., 2020. 3. 4.>

1. 의원급 의료기관: 의사, 치과의사 또는 한의사가 주로 외래환자를 대상으로 각각 그 의료행위를 하는 의료기관으로서 그 종류는 다음 각 목과 같다.
  - 가. 의원
  - 나. 치과의원
  - 다. 한의원
2. 조산원: 조산사가 조산과 임신부 및 신생아를 대상으로 보건활동과 교육·상담을 하는 의료기관을 말한다.

3. 병원급 의료기관: 의사, 치과의사 또는 한의사가 주로 입원환자를 대상으로 의료행위를 하는 의료기관으로서 그 종류는 다음 각 목과 같다.

가. 병원

나. 치과병원

다. 한방병원

라. 요양병원(「장애인복지법」 제58조제1항제4호에 따른 의료재활시설로서 제3조의2의 요건을 갖춘 의료기관을 포함한다. 이하 같다)

마. 정신병원

바. 종합병원

③ 보건복지부장관은 보건의료정책에 필요하다고 인정하는 경우에는 제2항제1호부터 제3호까지의 규정에 따른 의료기관의 종류별 표준업무를 정하여 고시할 수 있다. <개정 2009. 1. 30., 2010. 1. 18.>

④ 삭제<2009. 1. 30.>

⑤ 삭제<2009. 1. 30.>

⑥ 삭제<2009. 1. 30.>

⑦ 삭제<2009. 1. 30.>

⑧ 삭제<2009. 1. 30.>

**3 2( )** 병원·치과병원·한방병원 및 요양병원(이하 “병원등”이라 한다)은 30개 이상의 병상(병원·한방병원만 해당한다) 또는 요양병상(요양병원만 해당하며, 장기입원이 필요한 환자를 대상으로 의료행위를 하기 위하여 설치한 병상을 말한다)을 갖추어야 한다.

[본조신설 2009. 1. 30.]

**3 3( )** ① 종합병원은 다음 각 호의 요건을 갖추어야 한다. <개정 2011. 8. 4.>

1. 100개 이상의 병상을 갖춘 것

2. 100병상 이상 300병상 이하인 경우에는 내과·외과·소아청소년과·산부인과 중 3개 진료과목, 영상의학과, 마취통증의학과와 진단검사의학과 또는 병리과를 포함한 7개 이상의 진료과목을 갖추고 각 진료과목마다 전속하는 전문의를 둘 것

3. 300병상을 초과하는 경우에는 내과, 외과, 소아청소년과, 산부인과, 영상의학과, 마취통증의학과, 진단검사의학과 또는 병리과, 정신건강의학과 및 치과를 포함한 9개 이상의 진료과목을 갖추고 각 진료과목마다 전속하는 전문의를 둘 것

② 종합병원은 제1항제2호 또는 제3호에 따른 진료과목(이하 이 항에서 “필수진료과목”이라 한다) 외에 필요하면 추가로 진료과목을 설치·운영할 수 있다. 이 경우 필수진료과목 외의 진료과목에 대하여는 해당 의료기관에 전속하지 아니한 전문의를 둘 수 있다.

[본조신설 2009. 1. 30.]

**3 4( )** ① 보건복지부장관은 다음 각 호의 요건을 갖춘 종합병원 중에서 중증 질환에 대하여 난이도가 높은 의료행위를 전문적으로 하는 종합병원을 상급종합병원으로 지정할 수 있다. <개정 2010. 1. 18.>

1. 보건복지부령으로 정하는 20개 이상의 진료과목을 갖추고 각 진료과목마다 전속하는 전문의를 둘 것

2. 제77조제1항에 따라 전문의가 되려는 자를 수련시키는 기관일 것

3. 보건복지부령으로 정하는 인력·시설·장비 등을 갖춘 것

4. 질병군별(疾病群別) 환자구성 비율이 보건복지부령으로 정하는 기준에 해당할 것
- ② 보건복지부장관은 제1항에 따른 지정을 하는 경우 제1항 각 호의 사항 및 전문성 등에 대하여 평가를 실시하여야 한다. <개정 2010. 1. 18.>
- ③ 보건복지부장관은 제1항에 따라 상급종합병원으로 지정받은 종합병원에 대하여 3년마다 제2항에 따른 평가를 실시하여 재지정하거나 지정을 취소할 수 있다. <개정 2010. 1. 18.>
- ④ 보건복지부장관은 제2항 및 제3항에 따른 평가업무를 관계 전문기관 또는 단체에 위탁할 수 있다. <개정 2010. 1. 18.>
- ⑤ 상급종합병원 지정·재지정의 기준·절차 및 평가업무를 위탁 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18.>
- [본조신설 2009. 1. 30.]

- 3 5( )** ① 보건복지부장관은 병원급 의료기관 중에서 특정 진료과목이나 특정 질환 등에 대하여 난이도가 높은 의료행위를 하는 병원을 전문병원으로 지정할 수 있다. <개정 2010. 1. 18.>
- ② 제1항에 따른 전문병원은 다음 각 호의 요건을 갖추어야 한다. <개정 2010. 1. 18.>
1. 특정 질환별·진료과목별 환자의 구성비율 등이 보건복지부령으로 정하는 기준에 해당할 것
  2. 보건복지부령으로 정하는 수 이상의 진료과목을 갖추고 각 진료과목마다 전속하는 전문의를 둘 것
  - ③ 보건복지부장관은 제1항에 따라 전문병원으로 지정하는 경우 제2항 각 호의 사항 및 진료의 난이도 등에 대하여 평가를 실시하여야 한다. <개정 2010. 1. 18.>
  - ④ 보건복지부장관은 제1항에 따라 전문병원으로 지정받은 의료기관에 대하여 3년마다 제3항에 따른 평가를 실시하여 전문병원으로 재지정할 수 있다. <개정 2010. 1. 18., 2015. 1. 28.>
  - ⑤ 보건복지부장관은 제1항 또는 제4항에 따라 지정받거나 재지정받은 전문병원이 다음 각 호의 어느 하나에 해당하는 경우에는 그 지정 또는 재지정을 취소할 수 있다. 다만, 제1호에 해당하는 경우에는 그 지정 또는 재지정을 취소하여야 한다. <신설 2015. 1. 28.>
    1. 거짓이나 그 밖의 부정한 방법으로 지정 또는 재지정을 받은 경우
    2. 지정 또는 재지정의 취소를 원하는 경우
    3. 제4항에 따른 평가 결과 제2항 각 호의 요건을 갖추지 못한 것으로 확인된 경우
  - ⑥ 보건복지부장관은 제3항 및 제4항에 따른 평가업무를 관계 전문기관 또는 단체에 위탁할 수 있다. <개정 2010. 1. 18., 2015. 1. 28.>
  - ⑦ 전문병원 지정·재지정의 기준·절차 및 평가업무를 위탁 절차 등에 관하여 필요한 사항은 보건복지부령으로 정한다. <개정 2010. 1. 18., 2015. 1. 28.>
- [본조신설 2009. 1. 30.]

## 2

## 1

- 4 ( )** ① 의료인과 의료기관의 장은 의료의 질을 높이고 의료관련감염(의료기관 내에서 환자, 환자의 보호자, 의료인 또는 의료기관 종사자 등에게 발생하는 감염을 말한다. 이하 같다)을 예방하며 의료기술을 발전시키는 등 환자에게 최선의 의료서비스를 제공하기 위하여 노력하여야 한다. <개정 2012. 2. 1., 2020. 3. 4.>
- ② 의료인은 다른 의료인 또는 의료법인 등의 명의로 의료기관을 개설하거나 운영할 수 없다. <신설 2012. 2. 1., 2019. 8. 27.>

③ 의료기관의 장은 「보건의료기본법」 제6조·제12조 및 제13조에 따른 환자의 권리 등 보건복지부령으로 정하는 사항을 환자가 쉽게 볼 수 있도록 의료기관 내에 게시하여야 한다. 이 경우 게시 방법, 게시 장소 등 게시에 필요한 사항은 보건복지부령으로 정한다. <신설 2012. 2. 1.>

④ 삭제 <2020. 3. 4.>

⑤ 의료기관의 장은 환자와 보호자가 의료행위를 하는 사람의 신분을 알 수 있도록 의료인, 제27조제1항 각 호 외의 부분 단서에 따라 의료행위를 하는 같은 항 제3호에 따른 학생, 제80조에 따른 간호조무사 및 「의료기사 등에 관한 법률」 제2조에 따른 의료기사에게 의료기관 내에서 대통령령으로 정하는 바에 따라 명찰을 달도록 지시·감독하여야 한다. 다만, 응급의료상황, 수술실 내인 경우, 의료행위를 하지 아니할 때, 그 밖에 대통령령으로 정하는 경우에는 명찰을 달지 아니하도록 할 수 있다. <신설 2016. 5. 29.>

⑥ 의료인은 일회용 의료기기(한 번 사용할 목적으로 제작되거나 한 번의 의료행위에서 한 환자에게 사용하여야 하는 의료기기로서 보건복지부령으로 정하는 의료기기를 말한다. 이하 같다)를 한 번 사용한 후 다시 사용하여서는 아니 된다. <신설 2016. 5. 29., 2020. 3. 4.>

**4 2( )** ① 간호·간병통합서비스란 보건복지부령으로 정하는 입원 환자를 대상으로 보호자 등이 상주하지 아니하고 간호사, 제80조에 따른 간호조무사 및 그 밖에 간병지원인력(이하 이 조에서 “간호·간병통합서비스 제공인력”이라 한다)에 의하여 포괄적으로 제공되는 입원서비스를 말한다.

② 보건복지부령으로 정하는 병원급 의료기관은 간호·간병통합서비스를 제공할 수 있도록 노력하여야 한다.

③ 제2항에 따라 간호·간병통합서비스를 제공하는 병원급 의료기관(이하 이 조에서 “간호·간병통합서비스 제공기관”이라 한다)은 보건복지부령으로 정하는 인력, 시설, 운영 등의 기준을 준수하여야 한다.

④ 「공공보건의료에 관한 법률」 제2조제3호에 따른 공공보건의료기관 중 보건복지부령으로 정하는 병원급 의료기관은 간호·간병통합서비스를 제공하여야 한다. 이 경우 국가 및 지방자치단체는 필요한 비용의 전부 또는 일부를 지원할 수 있다.

⑤ 간호·간병통합서비스 제공기관은 보호자 등의 입원실 내 상주를 제한하고 환자 병문안에 관한 기준을 마련하는 등 안전관리를 위하여 노력하여야 한다.

⑥ 간호·간병통합서비스 제공기관은 간호·간병통합서비스 제공인력의 근무환경 및 처우 개선을 위하여 필요한 지원을 하여야 한다.

⑦ 국가 및 지방자치단체는 간호·간병통합서비스의 제공·확대, 간호·간병통합서비스 제공인력의 원활한 수급 및 근무환경 개선을 위하여 필요한 시책을 수립하고 그에 따른 지원을 하여야 한다.

[본조신설 2015. 12. 29.]

**4 3( )** ① 의료인은 제5조(의사·치과의사 및 한의사를 말한다), 제6조(조산사를 말한다) 및 제7조(간호사를 말한다)에 따라 받은 면허를 다른 사람에게 대여하여서는 아니 된다.

② 누구든지 제5조부터 제7조까지에 따라 받은 면허를 대여받아서는 아니 되며, 면허 대여를 알선하여서도 아니 된다.

[본조신설 2020. 3. 4.]

**5 ( )** ① 의사·치과의사 또는 한의사가 되려는 자는 다음 각 호의 어느 하나에 해당하는 자격을 가진 자로서 제9조에 따른 의사·치과의사 또는 한의사 국가시험에 합격

한 후 보건복지부장관의 면허를 받아야 한다. <개정 2010. 1. 18., 2012. 2. 1., 2019. 8. 27.>

1. 「고등교육법」 제11조의2에 따른 인정기관(이하 “평가인증기구”라 한다)의 인증(이하 “평가인증기구의 인증”이라 한다)을 받은 의학·치의학 또는 한의학을 전공하는 대학을 졸업하고 의학사·치의학사 또는 한의학사 학위를 받은 자
  2. 평가인증기구의 인증을 받은 의학·치의학 또는 한의학을 전공하는 전문대학원을 졸업하고 석사학위 또는 박사학위를 받은 자
  3. 외국의 제1호나 제2호에 해당하는 학교(보건복지부장관이 정하여 고시하는 인정기준에 해당하는 학교를 말한다)를 졸업하고 외국의 의사·치과의사 또는 한의사 면허를 받은 자로서 제9조에 따른 예비시험에 합격한 자
  - ② 평가인증기구의 인증을 받은 의학·치의학 또는 한의학을 전공하는 대학 또는 전문대학원을 6개월 이내에 졸업하고 해당 학위를 받을 것으로 예정된 자는 제1항제1호 및 제2호의 자격을 가진 자로 본다. 다만, 그 졸업예정시기에 졸업하고 해당 학위를 받아야 면허를 받을 수 있다. <개정 2012. 2. 1.>
  - ③ 제1항에도 불구하고 입학 당시 평가인증기구의 인증을 받은 의학·치의학 또는 한의학을 전공하는 대학 또는 전문대학원에 입학한 사람으로서 그 대학 또는 전문대학원을 졸업하고 해당 학위를 받은 사람은 같은 항 제1호 및 제2호의 자격을 가진 사람으로 본다. <신설 2012. 2. 1.>
- [전문개정 2008. 10. 14.]

**6 ( )** 조산사가 되려는 자는 다음 각 호의 어느 하나에 해당하는 자로서 제9조에 따른 조산사 국가시험에 합격한 후 보건복지부장관의 면허를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2019. 8. 27.>

1. 간호사 면허를 가지고 보건복지부장관이 인정하는 의료기관에서 1년간 조산 수습과정을 마친 자
2. 외국의 조산사 면허(보건복지부장관이 정하여 고시하는 인정기준에 해당하는 면허를 말한다)를 받은 자

**7 ( )** ① 간호사가 되려는 자는 다음 각 호의 어느 하나에 해당하는 자로서 제9조에 따른 간호사 국가시험에 합격한 후 보건복지부장관의 면허를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2012. 2. 1., 2019. 8. 27.>

1. 평가인증기구의 인증을 받은 간호학을 전공하는 대학이나 전문대학[구제(舊制) 전문학교와 간호학교를 포함한다]을 졸업한 자
2. 외국의 제1호에 해당하는 학교(보건복지부장관이 정하여 고시하는 인정기준에 해당하는 학교를 말한다)를 졸업하고 외국의 간호사 면허를 받은 자
- ② 제1항에도 불구하고 입학 당시 평가인증기구의 인증을 받은 간호학을 전공하는 대학 또는 전문대학에 입학한 사람으로서 그 대학 또는 전문대학을 졸업하고 해당 학위를 받은 사람은 같은 항 제1호에 해당하는 사람으로 본다. <신설 2012. 2. 1.>

**8 ( )** 다음 각 호의 어느 하나에 해당하는 자는 의료인이 될 수 없다. <개정 2007. 10. 17., 2018. 3. 27., 2018. 8. 14.>

1. 「정신건강증진 및 정신질환자 복지서비스 지원에 관한 법률」 제3조제1호에 따른 정신질환자. 다만 , 전문의가 의료인으로서 적합하다고 인정하는 사람은 그러하지 아니하다.
2. 마약·대마·향정신성의약품 중독자
3. 피성년후견인·피한정후견인
4. 이 법 또는 「형법」 제233조, 제234조, 제269조, 제270조, 제317조제1항 및 제347조(허위로 진료비를 청구하여 환자나 진료비를 지급하는 기관이나 단체를 속인 경우만을 말한다), 「보건범죄단

속에 관한 특별조치법, 「지역보건법, 「후천성면역결핍증 예방법, 「응급의료에 관한 법률, 「농어촌 등 보건의료를 위한 특별 조치법, 「시체해부 및 보존에 관한 법률, 「혈액관리법, 「마약류관리에 관한 법률, 「약사법, 「모자보건법, 그 밖에 대통령령으로 정하는 의료 관련 법령을 위반하여 금고 이상의 형을 선고받고 그 형의 집행이 종료되지 아니하였거나 집행을 받지 아니하기로 확정되지 아니한 자

**8 ( )** 다음 각 호의 어느 하나에 해당하는 자는 의료인이 될 수 없다. <개정 2007. 10. 17., 2018. 3. 27., 2018. 8. 14., 2020. 4. 7.>

1. 「정신건강증진 및 정신질환자 복지서비스 지원에 관한 법률」 제3조제1호에 따른 정신질환자. 다만, 전문의가 의료인으로서 적합하다고 인정하는 사람은 그러하지 아니하다.
2. 마약·대마·향정신성의약품 중독자
3. 피성년후견인·피한정후견인
4. 이 법 또는 「형법」 제233조, 제234조, 제269조, 제270조, 제317조제1항 및 제347조(허위로 진료비를 청구하여 환자나 진료비를 지급하는 기관이나 단체를 속인 경우만을 말한다), 「보건범죄단속에 관한 특별조치법, 「지역보건법, 「후천성면역결핍증 예방법, 「응급의료에 관한 법률, 「농어촌 등 보건의료를 위한 특별 조치법, 「시체 해부 및 보존 등에 관한 법률, 「혈액관리법, 「마약류관리에 관한 법률, 「약사법, 「모자보건법, 그 밖에 대통령령으로 정하는 의료 관련 법령을 위반하여 금고 이상의 형을 선고받고 그 형의 집행이 종료되지 아니하였거나 집행을 받지 아니하기로 확정되지 아니한 자

[시행일 : 2021. 4. 8.] 제8조

**9 ( 가 )** ①의사·치과의사·한의사·조산사 또는 간호사 국가시험과 의사·치과의사·한의사 예비시험(이하 “국가시험등”이라 한다)은 매년 보건복지부장관이 시행한다. <개정 2008. 2. 29., 2010. 1. 18.>

- ②보건복지부장관은 국가시험등의 관리를 대통령령으로 정하는 바에 따라 「한국보건의료인국가시험원법」에 따른 한국보건의료인국가시험원에 맡길 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2015. 6. 22.>
- ③보건복지부장관은 제2항에 따라 국가시험등의 관리를 맡긴 때에는 그 관리에 필요한 예산을 보조할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>
- ④국가시험등에 필요한 사항은 대통령령으로 정한다.

**10 ( )** ①제8조 각 호의 어느 하나에 해당하는 자는 국가시험등에 응시할 수 없다. <개정 2009. 1. 30.>

- ②부정한 방법으로 국가시험등에 응시한 자나 국가시험등에 관하여 부정행위를 한 자는 그 수험을 정지시키거나 합격을 무효로 한다.
- ③ 보건복지부장관은 제2항에 따라 수험이 정지되거나 합격이 무효가 된 사람에 대하여 처분의 사유와 위반 정도 등을 고려하여 대통령령으로 정하는 바에 따라 그 다음에 치러지는 이 법에 따른 국가시험등의 응시를 3회의 범위에서 제한할 수 있다. <개정 2016. 12. 20.>

**11 ( )** ①보건복지부장관은 보건의료 시책에 필요하다고 인정하면 제5조에서 제7조까지의 규정에 따른 면허를 내줄 때 3년 이내의 기간을 정하여 특정 지역이나 특정 업무에 종사할 것을 면허의 조건으로 붙일 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

- ②보건복지부장관은 제5조부터 제7조까지의 규정에 따른 면허를 내줄 때에는 그 면허에 관한 사항을 등록대장에 등록하고 면허증을 내주어야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

③제2항의 등록대장은 의료인의 종별로 따로 작성·비치하여야 한다.

④면허등록과 면허증에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**12 ( )** ①의료인이 하는 의료·조산·간호 등 의료기술의 시행(이하 “의료 행위”라 한다)에 대하여는 이 법이나 다른 법령에 따로 규정된 경우 외에는 누구든지 간섭하지 못한다.  
 ②누구든지 의료기관의 의료용 시설·기재·약품, 그 밖의 기물 등을 파괴·손상하거나 의료기관을 점거하여 진료를 방해하여서는 아니 되며, 이를 교사하거나 방조하여서는 아니 된다.  
 ③누구든지 의료행위가 이루어지는 장소에서 의료행위를 행하는 의료인, 제80조에 따른 간호조무사 및 「의료기사 등에 관한 법률」 제2조에 따른 의료기사 또는 의료행위를 받는 사람을 폭행·협박하여서는 아니 된다. <신설 2016. 5. 29.>

**13 ( )** 의료인의 의료 업무에 필요한 기구·약품, 그 밖의 재료는 압류하지 못한다.

**14 ( )** ①의료인은 의료행위에 필요한 기구·약품, 그 밖의 시설 및 재료를 우선적으로 공급받을 권리가 있다.  
 ②의료인은 제1항의 권리에 부수(附隨)되는 물품, 노력, 교통수단에 대하여서도 제1항과 같은 권리가 있다.

**15 ( )** ①의료인 또는 의료기관 개설자는 진료나 조산 요청을 받으면 정당한 사유 없이 거부하지 못한다. <개정 2016. 12. 20.>  
 ②의료인은 응급환자에게 「응급의료에 관한 법률」에서 정하는 바에 따라 최선의 처치를 하여야 한다.

**16 ( )** ①의료기관에서 나오는 세탁물은 의료인·의료기관 또는 특별자치시장·특별자치도지사·시장·군수·구청장(자치구의 구청장을 말한다. 이하 같다)에게 신고한 자가 아니면 처리할 수 없다. <개정 2015. 1. 28.>  
 ②제1항에 따라 세탁물을 처리하는 자는 보건복지부령으로 정하는 바에 따라 위생적으로 보관·운반·처리하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>  
 ③의료기관의 개설자와 제1항에 따라 의료기관세탁물처리업 신고를 한 자(이하 이 조에서 “세탁물처리업자”라 한다)는 제1항에 따른 세탁물의 처리업무에 종사하는 사람에게 보건복지부령으로 정하는 바에 따라 감염 예방에 관한 교육을 실시하고 그 결과를 기록하고 유지하여야 한다. <신설 2015. 1. 28.>  
 ④세탁물처리업자가 보건복지부령으로 정하는 신고사항을 변경하거나 그 영업의 휴업(1개월 이상의 휴업을 말한다)·폐업 또는 재개업을 하려는 경우에는 보건복지부령으로 정하는 바에 따라 특별자치시장·특별자치도지사·시장·군수·구청장에게 신고하여야 한다. <신설 2015. 1. 28.>  
 ⑤제1항에 따른 세탁물을 처리하는 자의 시설·장비 기준, 신고 절차 및 지도·감독, 그 밖에 관리에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18., 2015. 1. 28.>

**17 ( )** ①의료업에 종사하고 직접 진찰하거나 검안(檢案)한 의사[이하 이 항에서는 검안서에 한하여 검시(檢屍)업무를 담당하는 국가기관에 종사하는 의사를 포함한다], 치과 의사, 한의사가 아니면 진단서·검안서·증명서를 작성하여 환자(환자가 사망하거나 의식이 없는 경우에는 직계존속·비속, 배우자 또는 배우자의 직계존속을 말하며, 환자가 사망하거나 의식이 없는 경우로서 환자의 직계존속·비속, 배우자 및 배우자의 직계존속이 모두 없는 경우에는 형제자매를 말한다) 또는 「형사소송법」 제222조제1항에 따라 검시(檢屍)를 하는 지방검찰청검사(검안서에 한한다)에게 교부하지 못한다. 다만, 진료 중이던 환자가 최종 진료 시부터 48시간 이내에 사망한 경우에는 다시 진료하지 아

니하더라도 진단서나 증명서를 내줄 수 있으며, 환자 또는 사망자를 직접 진찰하거나 검안한 의사·치과 의사 또는 한의사가 부득이한 사유로 진단서·검안서 또는 증명서를 내줄 수 없으면 같은 의료기관에 종사하는 다른 의사·치과 의사 또는 한의사가 환자의 진료기록부 등에 따라 내줄 수 있다. <개정 2009. 1. 30., 2016. 5. 29., 2019. 8. 27.>

②의료업에 종사하고 직접 조산한 의사·한의사 또는 조산사가 아니면 출생·사망 또는 사산 증명서를 내주지 못한다. 다만, 직접 조산한 의사·한의사 또는 조산사가 부득이한 사유로 증명서를 내줄 수 없으면 같은 의료기관에 종사하는 다른 의사·한의사 또는 조산사가 진료기록부 등에 따라 증명서를 내줄 수 있다.

③의사·치과 의사 또는 한의사는 자신이 진찰하거나 검안한 자에 대한 진단서·검안서 또는 증명서 교부를 요구받은 때에는 정당한 사유 없이 거부하지 못한다.

④의사·한의사 또는 조산사는 자신이 조산(助産)한 것에 대한 출생·사망 또는 사산 증명서 교부를 요구받은 때에는 정당한 사유 없이 거부하지 못한다.

⑤제1항부터 제4항까지의 규정에 따른 진단서, 증명서의 서식·기재사항, 그 밖에 필요한 사항은 보건복지부령으로 정한다. <신설 2007. 7. 27., 2008. 2. 29., 2010. 1. 18.>

**17 2( )** ① 의료업에 종사하고 직접 진찰한 의사, 치과 의사 또는 한의사가 아니면 처방전 [의사나 치과 의사가 「전자서명법」에 따른 전자서명이 기재된 전자문서 형태로 작성한 처방전(이하 “전자처방전”이라 한다)을 포함한다. 이하 같다]을 작성하여 환자에게 교부하거나 발송(전자처방전에 한정한다. 이하 이 조에서 같다)하지 못하며, 의사, 치과 의사 또는 한의사에게 직접 진찰을 받은 환자가 아니면 누구든지 그 의사, 치과 의사 또는 한의사가 작성한 처방전을 수령하지 못한다.

② 제1항에도 불구하고 의사, 치과 의사 또는 한의사는 다음 각 호의 어느 하나에 해당하는 경우로서 해당 환자 및 의약품에 대한 안전성을 인정하는 경우에는 환자의 직계존속·비속, 배우자 및 배우자의 직계존속, 형제자매 또는 「노인복지법」 제34조에 따른 노인의료복지시설에서 근무하는 사람 등 대통령령으로 정하는 사람(이하 이 조에서 “대리수령자”라 한다)에게 처방전을 교부하거나 발송할 수 있으며 대리수령자는 환자를 대리하여 그 처방전을 수령할 수 있다.

1. 환자의 의식이 없는 경우

2. 환자의 거동이 현저히 곤란하고 동일한 상병(傷病)에 대하여 장기간 동일한 처방이 이루어지는 경우

③ 처방전의 발급 방법·절차 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2019. 8. 27.]

**18 ( )** ① 의사나 치과 의사는 환자에게 의약품을 투여할 필요가 있다고 인정하면 「약사법」에 따라 자신이 직접 의약품을 조제할 수 있는 경우가 아니면 보건복지부령으로 정하는 바에 따라 처방전을 작성하여 환자에게 내주거나 발송(전자처방전만 해당된다)하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

② 제1항에 따른 처방전의 서식, 기재사항, 보존, 그 밖에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

③ 누구든지 정당한 사유 없이 전자처방전에 저장된 개인정보를 탐지하거나 누출·변조 또는 훼손하여서는 아니 된다.

④ 제1항에 따라 처방전을 발행한 의사 또는 치과 의사(처방전을 발행한 한의사를 포함한다)는 처방전에 따라 의약품을 조제하는 약사 또는 한약사가 「약사법」 제26조제2항에 따라 문의한 때 즉시 이에 응하여야 한다. 다만, 다음 각 호의 어느 하나에 해당하는 사유로 약사 또는 한약사의 문의에 응할 수

없는 경우 사유가 종료된 때 즉시 이에 응하여야 한다. <신설 2007. 7. 27.>

1. 「응급의료에 관한 법률」 제2조제1호에 따른 응급환자를 진료 중인 경우
2. 환자를 수술 또는 처치 중인 경우
3. 그 밖에 약사의 문의에 응할 수 없는 정당한 사유가 있는 경우

⑤ 의사, 치과의사 또는 한의사가 「약사법」에 따라 자신이 직접 의약품을 조제하여 환자에게 그 의약품을 내어주는 경우에는 그 약제의 용기 또는 포장에 환자의 이름, 용법 및 용량, 그 밖에 보건복지부령으로 정하는 사항을 적어야 한다. 다만, 급박한 응급의료상황 등 환자의 진료 상황이나 의약품의 성질상 그 약제의 용기 또는 포장에 적는 것이 어려운 경우로서 보건복지부령으로 정하는 경우에는 그러하지 아니하다. <신설 2016. 5. 29.>

**18** ( ) ① 의사 및 치과의사는 제18조에 따른 처방전을 작성하거나 「약사법」 제23조제4항에 따라 의약품을 자신이 직접 조제하는 경우에는 다음 각 호의 정보(이하 “의약품정보”라 한다)를 미리 확인하여야 한다.

1. 환자에게 처방 또는 투여되고 있는 의약품과 동일한 성분의 의약품인지 여부
2. 식품의약품안전처장이 병용금지, 특정연령대 금지 또는 임부금지 등으로 고시한 성분이 포함되는지 여부
3. 그 밖에 보건복지부령으로 정하는 정보

② 제1항에도 불구하고 의사 및 치과의사는 급박한 응급의료상황 등 의약품정보를 확인할 수 없는 정당한 사유가 있을 때에는 이를 확인하지 아니할 수 있다.

③ 제1항에 따른 의약품정보의 확인방법·절차, 제2항에 따른 의약품정보를 확인할 수 없는 정당한 사유 등은 보건복지부령으로 정한다.

[본조신설 2015. 12. 29.]

**19** ( ) ①의료인이나 의료기관 종사자는 이 법이나 다른 법령에 특별히 규정된 경우 외에는 의료·조산 또는 간호업무나 제17조에 따른 진단서·검안서·증명서 작성·교부 업무, 제18조에 따른 처방전 작성·교부 업무, 제21조에 따른 진료기록 열람·사본 교부 업무, 제22조제2항에 따른 진료기록부등 보존 업무 및 제23조에 따른 전자의무기록 작성·보관·관리 업무를 하면서 알게 된 다른 사람의 정보를 누설하거나 발표하지 못한다. <개정 2016. 5. 29.>

② 제58조제2항에 따라 의료기관 인증에 관한 업무에 종사하는 자 또는 종사하였던 자는 그 업무를 하면서 알게 된 정보를 다른 사람에게 누설하거나 부당한 목적으로 사용하여서는 아니 된다. <신설 2016. 5. 29.>

[제목개정 2016. 5. 29.]

**20** ( ) ①의료인은 태아 성 감별을 목적으로 임부를 진찰하거나 검사하여서는 아니 되며, 같은 목적을 위한 다른 사람의 행위를 도와서도 아니 된다.

②의료인은 임신 32주 이전에 태어나 임부를 진찰하거나 검사하면서 알게 된 태아의 성(性)을 임부, 임부의 가족, 그 밖의 다른 사람이 알게 하여서는 아니 된다. <개정 2009. 12. 31.>

[2009. 12. 31. 법률 제9906호에 의하여 2008. 7. 31. 헌법재판소에서 헌법불합치 결정된 이 조 제2항을 개정함.]

**21** ( ) ① 환자는 의료인, 의료기관의 장 및 의료기관 종사자에게 본인에 관한 기록(추가기재·수정된 경우 추가기재·수정된 기록 및 추가기재·수정 전의 원본을 모두 포함한다. 이하 같다)의 전부 또는 일부에 대하여 열람 또는 그 사본의 발급 등 내용의 확인을 요청할 수 있다. 이 경우 의료인, 의료기관의 장 및 의료기관 종사자는 정당한 사유가 없으면 이를 거부하여서는 아니 된다. <신

설 2016. 12. 20., 2018. 3. 27.>

②의료인, 의료기관의 장 및 의료기관 종사자는 환자가 아닌 다른 사람에게 환자에 관한 기록을 열람하게 하거나 그 사본을 내주는 등 내용을 확인할 수 있게 하여서는 아니 된다.<개정 2009. 1. 30., 2016. 12. 20.>

③ 제2항에도 불구하고 의료인, 의료기관의 장 및 의료기관 종사자는 다음 각 호의 어느 하나에 해당하면 그 기록을 열람하게 하거나 그 사본을 교부하는 등 그 내용을 확인할 수 있게 하여야 한다. 다만, 의사·치과의사 또는 한의사가 환자의 진료를 위하여 불가피하다고 인정한 경우에는 그러하지 아니하다.<개정 2009. 1. 30., 2010. 1. 18., 2011. 4. 7., 2011. 12. 31., 2012. 2. 1., 2015. 12. 22., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2018. 3. 20., 2018. 8. 14., 2020. 3. 4., 2020. 8. 11.>

1. 환자의 배우자, 직계 존속·비속, 형제·자매(환자의 배우자 및 직계 존속·비속, 배우자의 직계 존속이 모두 없는 경우에 한정한다) 또는 배우자의 직계 존속이 환자 본인의 동의서와 친족관계임을 나타내는 증명서 등을 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
2. 환자가 지정하는 대리인이 환자 본인의 동의서와 대리권이 있음을 증명하는 서류를 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
3. 환자가 사망하거나 의식이 없는 등 환자의 동의를 받을 수 없어 환자의 배우자, 직계 존속·비속, 형제·자매(환자의 배우자 및 직계 존속·비속, 배우자의 직계존속이 모두 없는 경우에 한정한다) 또는 배우자의 직계 존속이 친족관계임을 나타내는 증명서 등을 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
4. 「국민건강보험법」 제14조, 제47조, 제48조 및 제63조에 따라 급여비용 심사·지급·대상여부 확인·사후관리 및 요양급여의 적정성 평가·가감지급 등을 위하여 국민건강보험공단 또는 건강보험심사평가원에 제공하는 경우
5. 「의료급여법」 제5조, 제11조, 제11조의3 및 제33조에 따라 의료급여 수급권자 확인, 급여비용의 심사·지급, 사후관리 등 의료급여 업무를 위하여 보장기관(시·군·구), 국민건강보험공단, 건강보험심사평가원에 제공하는 경우
6. 「형사소송법」 제106조, 제215조 또는 제218조에 따른 경우
- 6의2. 「군사법원법」 제146조, 제254조 또는 제257조에 따른 경우
7. 「민사소송법」 제347조에 따라 문서제출을 명한 경우
8. 「산업재해보상보험법」 제118조에 따라 근로복지공단이 보험급여를 받는 근로자를 진료한 산재보험 의료기관(의사를 포함한다)에 대하여 그 근로자의 진료에 관한 보고 또는 서류 등 제출을 요구하거나 조사하는 경우
9. 「자동차손해배상 보장법」 제12조제2항 및 제14조에 따라 의료기관으로부터 자동차보험진료수가를 청구받은 보험회사등이 그 의료기관에 대하여 관계 진료기록의 열람을 청구한 경우
10. 「병역법」 제11조의2에 따라 지방병무청장이 병역판정검사와 관련하여 질병 또는 심신장애의 확인을 위하여 필요하다고 인정하여 의료기관의 장에게 병역판정검사대상자의 진료기록·치료 관련 기록의 제출을 요구한 경우
11. 「학교안전사고 예방 및 보상에 관한 법률」 제42조에 따라 공제회가 공제급여의 지급 여부를 결정하기 위하여 필요하다고 인정하여 「국민건강보험법」 제42조에 따른 요양기관에 대하여 관계 진료기록의 열람 또는 필요한 자료의 제출을 요청하는 경우
12. 「고엽제후유의증 등 환자지원 및 단체설립에 관한 법률」 제7조제3항에 따라 의료기관의 장이 진료기록 및 임상소견서를 보훈병원장에게 보내는 경우

13. 「의료사고 피해구제 및 의료분쟁 조정 등에 관한 법률」 제28조제1항 또는 제3항에 따른 경우
14. 「국민연금법」 제123조에 따라 국민연금공단이 부양가족연금, 장애연금 및 유족연금 급여의 지급 심사와 관련하여 가입자 또는 가입자였던 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
- 14의2. 다음 각 목의 어느 하나에 따라 공무원 또는 공무원이었던 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
- 가. 「공무원연금법」 제92조에 따라 인사혁신처장이 퇴직유족급여 및 비공무상장해급여와 관련하여 요청하는 경우
- 나. 「공무원연금법」 제93조에 따라 공무원연금공단이 퇴직유족급여 및 비공무상장해급여와 관련하여 요청하는 경우
- 다. 「공무원 재해보상법」 제57조 및 제58조에 따라 인사혁신처장(같은 법 제61조에 따라 업무를 위탁받은 자를 포함한다)이 요양급여, 재활급여, 장애급여, 간병급여 및 재해유족급여와 관련하여 요청하는 경우
- 14의3. 「사립학교교직원 연금법」 제19조제4항제4호의2에 따라 사립학교교직원연금공단이 요양급여, 장애급여 및 재해유족급여의 지급심사와 관련하여 교직원 또는 교직원이었던 자를 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
15. 「장애인복지법」 제32조제7항에 따라 대통령령으로 정하는 공공기관의 장이 장애 정도에 관한 심사와 관련하여 장애인 등록을 신청한 사람 및 장애인으로 등록한 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
16. 「감염병의 예방 및 관리에 관한 법률」 제18조의4 및 제29조에 따라 질병관리청장, 시·도지사 또는 시장·군수·구청장이 감염병의 역학조사 및 예방접종에 관한 역학조사를 위하여 필요하다고 인정하여 의료기관의 장에게 감염병환자등의 진료기록 및 예방접종을 받은 사람의 예방접종 후 이상 반응에 관한 진료기록의 제출을 요청하는 경우
17. 「국가유공자 등 예우 및 지원에 관한 법률」 제74조의8제1항제7호에 따라 보훈심사위원회가 보훈심사와 관련하여 보훈심사대상자를 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
- ④ 진료기록을 보관하고 있는 의료기관이나 진료기록이 이관된 보건소에 근무하는 의사·치과의사 또는 한의사는 자신이 직접 진료하지 아니한 환자의 과거 진료 내용의 확인 요청을 받은 경우에는 진료기록을 근거로 하여 사실을 확인하여 줄 수 있다. <신설 2009. 1. 30.>
- ⑤ 제1항, 제3항 또는 제4항의 경우 의료인, 의료기관의 장 및 의료기관 종사자는 「전자서명법」에 따른 전자서명이 기재된 전자문서를 제공하는 방법으로 환자 또는 환자가 아닌 다른 사람에게 기록의 내용을 확인하게 할 수 있다. <신설 2020. 3. 4.>

**21 ( )** ① 환자는 의료인, 의료기관의 장 및 의료기관 종사자에게 본인에 관한 기록(추가기재·수정된 경우 추가기재·수정된 기록 및 추가기재·수정 전의 원본을 모두 포함한다. 이하 같다)의 전부 또는 일부에 대하여 열람 또는 그 사본의 발급 등 내용의 확인을 요청할 수 있다. 이 경우 의료인, 의료기관의 장 및 의료기관 종사자는 정당한 사유가 없으면 이를 거부하여서는 아니 된다. <신설 2016. 12. 20., 2018. 3. 27.>

② 의료인, 의료기관의 장 및 의료기관 종사자는 환자가 아닌 다른 사람에게 환자에 관한 기록을 열람하게 하거나 그 사본을 내주는 등 내용을 확인할 수 있게 하여서는 아니 된다. <개정 2009. 1. 30., 2016. 12. 20.>

- ③ 제2항에도 불구하고 의료인, 의료기관의 장 및 의료기관 종사자는 다음 각 호의 어느 하나에 해당하면 그 기록을 열람하게 하거나 그 사본을 교부하는 등 그 내용을 확인할 수 있게 하여야 한다. 다만, 의사·치과의사 또는 한의사가 환자의 진료를 위하여 불가피하다고 인정한 경우에는 그러하지 아니하다. <개정 2009. 1. 30., 2010. 1. 18., 2011. 4. 7., 2011. 12. 31., 2012. 2. 1., 2015. 12. 22., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2018. 3. 20., 2018. 8. 14., 2020. 3. 4., 2020. 8. 11., 2020. 12. 29.>
1. 환자의 배우자, 직계 존속·비속, 형제·자매(환자의 배우자 및 직계 존속·비속, 배우자의 직계 존속이 모두 없는 경우에 한정한다) 또는 배우자의 직계 존속이 환자 본인의 동의서와 친족관계임을 나타내는 증명서 등을 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
  2. 환자가 지정하는 대리인이 환자 본인의 동의서와 대리권이 있음을 증명하는 서류를 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
  3. 환자가 사망하거나 의식이 없는 등 환자의 동의를 받을 수 없어 환자의 배우자, 직계 존속·비속, 형제·자매(환자의 배우자 및 직계 존속·비속, 배우자의 직계존속이 모두 없는 경우에 한정한다) 또는 배우자의 직계 존속이 친족관계임을 나타내는 증명서 등을 첨부하는 등 보건복지부령으로 정하는 요건을 갖추어 요청한 경우
  4. 「국민건강보험법」 제14조, 제47조, 제48조 및 제63조에 따라 급여비용 심사·지급·대상여부 확인·사후관리 및 요양급여의 적정성 평가·가감지급 등을 위하여 국민건강보험공단 또는 건강보험심사평가원에 제공하는 경우
  5. 「의료급여법」 제5조, 제11조, 제11조의3 및 제33조에 따라 의료급여 수급권자 확인, 급여비용의 심사·지급, 사후관리 등 의료급여 업무를 위하여 보장기관(시·군·구), 국민건강보험공단, 건강보험심사평가원에 제공하는 경우
  6. 「형사소송법」 제106조, 제215조 또는 제218조에 따른 경우
  - 6의2. 「군사법원법」 제146조, 제254조 또는 제257조에 따른 경우
  7. 「민사소송법」 제347조에 따라 문서제출을 명한 경우
  8. 「산업재해보상보험법」 제118조에 따라 근로복지공단이 보험급여를 받는 근로자를 진료한 산재보험 의료기관(의사를 포함한다)에 대하여 그 근로자의 진료에 관한 보고 또는 서류 등 제출을 요구하거나 조사하는 경우
  9. 「자동차손해배상 보장법」 제12조제2항 및 제14조에 따라 의료기관으로부터 자동차보험진료수가를 청구받은 보험회사등이 그 의료기관에 대하여 관계 진료기록의 열람을 청구한 경우
  10. 「병역법」 제11조의2에 따라 지방병무청장이 병역판정검사와 관련하여 질병 또는 심신장애의 확인을 위하여 필요하다고 인정하여 의료기관의 장에게 병역판정검사대상자의 진료기록·치료 관련 기록의 제출을 요구한 경우
  11. 「학교안전사고 예방 및 보상에 관한 법률」 제42조에 따라 공제회가 공제급여의 지급 여부를 결정하기 위하여 필요하다고 인정하여 「국민건강보험법」 제42조에 따른 요양기관에 대하여 관계 진료기록의 열람 또는 필요한 자료의 제출을 요청하는 경우
  12. 「고엽제후유의증 등 환자지원 및 단체설립에 관한 법률」 제7조제3항에 따라 의료기관의 장이 진료기록 및 임상소견서를 보훈병원장에게 보내는 경우
  13. 「의료사고 피해구제 및 의료분쟁 조정 등에 관한 법률」 제28조제1항 또는 제3항에 따른 경우
  14. 「국민연금법」 제123조에 따라 국민연금공단이 부양가족연금, 장애연금 및 유족연금 급여의 지급 심사와 관련하여 가입자 또는 가입자였던 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우

- 14의2. 다음 각 목의 어느 하나에 따라 공무원 또는 공무원이었던 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
- 가. 「공무원연금법」 제92조에 따라 인사혁신처장이 퇴직유족급여 및 비공무상장해급여와 관련하여 요청하는 경우
- 나. 「공무원연금법」 제93조에 따라 공무원연금공단이 퇴직유족급여 및 비공무상장해급여와 관련하여 요청하는 경우
- 다. 「공무원 재해보상법」 제57조 및 제58조에 따라 인사혁신처장(같은 법 제61조에 따라 업무를 위탁받은 자를 포함한다)이 요양급여, 재활급여, 장해급여, 간병급여 및 재해유족급여와 관련하여 요청하는 경우
- 14의3. 「사립학교교직원 연금법」 제19조제4항제4호의2에 따라 사립학교교직원연금공단이 요양급여, 장해급여 및 재해유족급여의 지급심사와 관련하여 교직원 또는 교직원이었던 자를 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
15. 「장애인복지법」 제32조제7항에 따라 대통령령으로 정하는 공공기관의 장이 장애 정도에 관한 심사와 관련하여 장애인 등록을 신청한 사람 및 장애인으로 등록한 사람을 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
16. 「감염병의 예방 및 관리에 관한 법률」 제18조의4 및 제29조에 따라 질병관리청장, 시·도지사 또는 시장·군수·구청장이 감염병의 역학조사 및 예방접종에 관한 역학조사를 위하여 필요하다고 인정하여 의료기관의 장에게 감염병환자등의 진료기록 및 예방접종을 받은 사람의 예방접종 후 이상 반응에 관한 진료기록의 제출을 요청하는 경우
17. 「국가유공자 등 예우 및 지원에 관한 법률」 제74조의8제1항제7호에 따라 보훈심사위원회가 보훈심사와 관련하여 보훈심사대상자를 진료한 의료기관에 해당 진료에 관한 사항의 열람 또는 사본 교부를 요청하는 경우
18. 「한국보훈복지의료공단법」 제24조의2에 따라 한국보훈복지의료공단이 같은 법 제6조제1호에 따른 국가유공자등에 대한 진료기록등의 제공을 요청하는 경우
- ④ 진료기록을 보관하고 있는 의료기관이나 진료기록이 이관된 보건소에 근무하는 의사·치과의사 또는 한의사는 자신이 직접 진료하지 아니한 환자의 과거 진료 내용의 확인 요청을 받은 경우에는 진료기록을 근거로 하여 사실을 확인하여 줄 수 있다. <신설 2009. 1. 30.>
- ⑤ 제1항, 제3항 또는 제4항의 경우 의료인, 의료기관의 장 및 의료기관 종사자는 「전자서명법」에 따른 전자서명이 기재된 전자문서를 제공하는 방법으로 환자 또는 환자가 아닌 다른 사람에게 기록의 내용을 확인하게 할 수 있다. <신설 2020. 3. 4.>
- [시행일 : 2021. 6. 30.] 제21조

- 21 2( )** ① 의료인 또는 의료기관의 장은 다른 의료인 또는 의료기관의 장으로부터 제22조 또는 제23조에 따른 진료기록의 내용 확인이나 진료기록의 사본 및 환자의 진료경과에 대한 소견 등을 송부 또는 전송할 것을 요청받은 경우 해당 환자나 환자 보호자의 동의를 받아 그 요청에 응하여야 한다. 다만, 해당 환자의 의식이 없거나 응급환자인 경우 또는 환자의 보호자가 없어 동의를 받을 수 없는 경우에는 환자나 환자 보호자의 동의 없이 송부 또는 전송할 수 있다.
- ② 의료인 또는 의료기관의 장이 응급환자를 다른 의료기관에 이송하는 경우에는 지체 없이 내원 당시 작성된 진료기록의 사본 등을 이송하여야 한다.
- ③ 보건복지부장관은 제1항 및 제2항에 따른 진료기록의 사본 및 진료경과에 대한 소견 등의 전송 업무를 지원하기 위하여 전자정보시스템(이하 이 조에서 “진료기록전송지원시스템”이라 한다)을 구축·운영할 수 있다.

- ④ 보건복지부장관은 진료기록전송지원시스템의 구축·운영을 대통령령으로 정하는 바에 따라 관계 전문기관에 위탁할 수 있다. 이 경우 보건복지부장관은 그 소요 비용의 전부 또는 일부를 지원할 수 있다.
- ⑤ 제4항에 따라 업무를 위탁받은 전문기관은 다음 각 호의 사항을 준수하여야 한다.
1. 진료기록전송지원시스템이 보유한 정보의 누출, 변조, 훼손 등을 방지하기 위하여 접근 권한자의 지정, 방화벽의 설치, 암호화 소프트웨어의 활용, 접속기록 보관 등 대통령령으로 정하는 바에 따라 안전성 확보에 필요한 기술적·관리적 조치를 할 것
  2. 진료기록전송지원시스템 운영 업무를 다른 기관에 재위탁하지 아니할 것
  3. 진료기록전송지원시스템이 보유한 정보를 제3자에게 임의로 제공하거나 유출하지 아니할 것
- ⑥ 보건복지부장관은 의료인 또는 의료기관의 장에게 보건복지부령으로 정하는 바에 따라 제1항 본문에 따른 환자나 환자 보호자의 동의에 관한 자료 등 진료기록전송지원시스템의 구축·운영에 필요한 자료의 제출을 요구하고 제출받은 목적의 범위에서 보유·이용할 수 있다. 이 경우 자료 제출을 요구 받은 자는 정당한 사유가 없으면 이에 따라야 한다.
- ⑦ 그 밖에 진료기록전송지원시스템의 구축·운영 등에 필요한 사항은 보건복지부령으로 정한다.
- ⑧ 누구든지 정당한 사유 없이 진료기록전송지원시스템에 저장된 정보를 누출·변조 또는 훼손하여서는 아니 된다.
- ⑨ 진료기록전송지원시스템의 구축·운영에 관하여 이 법에서 규정된 것을 제외하고는 「개인정보 보호법」에 따른다.

[본조신설 2016. 12. 20.]

## 2

- 22 ( )** ①의료인은 각각 진료기록부, 조산기록부, 간호기록부, 그 밖의 진료에 관한 기록(이하 “진료기록부등”이라 한다)을 갖추어 두고 환자의 주된 증상, 진단 및 치료 내용 등 보건복지부령으로 정하는 의료행위에 관한 사항과 의견을 상세히 기록하고 서명하여야 한다. <개정 2013. 4. 5.>
- ②의료인이나 의료기관 개설자는 진료기록부등[제23조제1항에 따른 전자의무기록(電子醫務記錄)을 포함하며, 추가 기재·수정된 경우 추가 기재·수정된 진료기록부등 및 추가 기재·수정 전의 원본을 모두 포함한다. 이하 같다]을 보건복지부령으로 정하는 바에 따라 보존하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2018. 3. 27.>
- ③ 의료인은 진료기록부등을 거짓으로 작성하거나 고의로 사실과 다르게 추가 기재·수정하여서는 아니 된다. <신설 2011. 4. 7.>
- ④ 보건복지부장관은 의료인이 진료기록부등에 기록하는 질병명, 검사명, 약제명 등 의학용어와 진료기록부등의 서식 및 세부내용에 관한 표준을 마련하여 고시하고 의료인 또는 의료기관 개설자에게 그 준수를 권고할 수 있다. <신설 2019. 8. 27.>
- 23 ( )** ①의료인이나 의료기관 개설자는 제22조의 규정에도 불구하고 진료기록부등을 「전자서명법」에 따른 전자서명이 기재된 전자문서(이하 “전자의무기록”이라 한다)로 작성·보관할 수 있다.
- ②의료인이나 의료기관 개설자는 보건복지부령으로 정하는 바에 따라 전자의무기록을 안전하게 관리·보존하는 데에 필요한 시설과 장비를 갖추어야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

- ③ 누구든지 정당한 사유 없이 전자의무기록에 저장된 개인정보를 탐지하거나 누출·변조 또는 훼손하여서는 아니 된다.
- ④ 의료인이나 의료기관 개설자는 전자의무기록에 추가·수정을 한 경우 보건복지부령으로 정하는 바에 따라 접속기록을 별도로 보관하여야 한다. <신설 2018. 3. 27.>

- 23 2( )** ① 보건복지부장관은 전자의무기록이 효율적이고 통일적으로 관리·활용될 수 있도록 기록의 작성, 관리 및 보존에 필요한 전산정보처리시스템(이하 이 조에서 “전자의무기록시스템”이라 한다), 시설, 장비 및 기록 서식 등에 관한 표준을 정하여 고시하고 전자의무기록시스템을 제조·공급하는 자, 의료인 또는 의료기관 개설자에게 그 준수를 권고할 수 있다.
- ② 보건복지부장관은 전자의무기록시스템이 제1항에 따른 표준, 전자의무기록시스템 간 호환성, 정보 보안 등 대통령령으로 정하는 인증 기준에 적합한 경우에는 인증을 할 수 있다.
- ③ 제2항에 따라 인증을 받은 자는 대통령령으로 정하는 바에 따라 인증의 내용을 표시할 수 있다. 이 경우 인증을 받지 아니한 자는 인증의 표시 또는 이와 유사한 표시를 하여서는 아니 된다.
- ④ 보건복지부장관은 다음 각 호의 어느 하나에 해당하는 경우에는 제2항에 따른 인증을 취소할 수 있다. 다만, 제1호에 해당하는 경우에는 인증을 취소하여야 한다.
1. 거짓이나 그 밖의 부정한 방법으로 인증을 받은 경우
  2. 제2항에 따른 인증 기준에 미달하게 된 경우
- ⑤ 보건복지부장관은 전자의무기록시스템의 기술 개발 및 활용을 촉진하기 위한 사업을 할 수 있다.
- ⑥ 제1항에 따른 표준의 대상, 제2항에 따른 인증의 방법·절차 등에 필요한 사항은 대통령령으로 정한다.

[본조신설 2016. 12. 20.]

[종전 제23조의2는 제23조의3으로 이동 <2016. 12. 20.>]

- 23 3( )** ① 의료인 또는 의료기관 개설자는 전자의무기록에 대한 전자적 침해행위로 진료정보가 유출되거나 의료기관의 업무가 교란·마비되는 등 대통령령으로 정하는 사고(이하 “진료정보 침해사고”라 한다)가 발생한 때에는 보건복지부장관에게 즉시 그 사실을 통지하여야 한다.
- ② 보건복지부장관은 제1항에 따라 진료정보 침해사고의 통지를 받거나 진료정보 침해사고가 발생한 사실을 알게 되면 이를 관계 행정기관에 통보하여야 한다.

[본조신설 2019. 8. 27.]

[종전 제23조의3은 제23조의5로 이동 <2019. 8. 27.>]

- 23 4( )** ① 보건복지부장관은 진료정보 침해사고의 예방 및 대응을 위하여 다음 각 호의 업무를 수행한다.
1. 진료정보 침해사고에 관한 정보의 수집·전파
  2. 진료정보 침해사고의 예보·경보
  3. 진료정보 침해사고에 대한 긴급조치
  4. 전자의무기록에 대한 전자적 침해행위의 탐지·분석
  5. 그 밖에 진료정보 침해사고 예방 및 대응을 위하여 대통령령으로 정하는 사항
- ② 보건복지부장관은 제1항에 따른 업무의 전부 또는 일부를 전문기관에 위탁할 수 있다.
- ③ 제1항에 따른 업무를 수행하는 데 필요한 절차 및 방법, 제2항에 따른 업무의 위탁 절차 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2019. 8. 27.]

**23 5( )** ① 의료인, 의료기관 개설자(법인의 대표자, 이사, 그 밖에 이에 종사하는 자를 포함한다. 이하 이 조에서 같다) 및 의료기관 종사자는 「약사법」 제47조 제2항에 따른 의약품공급자로부터 의약품 채택·처방유도·거래유지 등 판매촉진을 목적으로 제공되는 금전, 물품, 편익, 노무, 향응, 그 밖의 경제적 이익(이하 “경제적 이익등”이라 한다)을 받거나 의료기관으로 하여금 받게 하여서는 아니 된다. 다만, 견본품 제공, 학술대회 지원, 임상시험 지원, 제품 설명회, 대금결제조건에 따른 비용할인, 시판 후 조사 등의 행위(이하 “견본품 제공등의 행위”라 한다)로서 보건복지부령으로 정하는 범위 안의 경제적 이익등인 경우에는 그러하지 아니하다. <개정 2015. 12. 29.>

② 의료인, 의료기관 개설자 및 의료기관 종사자는 「의료기기법」 제6조에 따른 제조업자, 같은 법 제15조에 따른 의료기기 수입업자, 같은 법 제17조에 따른 의료기기 판매업자 또는 임대업자로부터 의료기기 채택·사용유도·거래유지 등 판매촉진을 목적으로 제공되는 경제적 이익등을 받거나 의료기관으로 하여금 받게 하여서는 아니 된다. 다만, 견본품 제공등의 행위로서 보건복지부령으로 정하는 범위 안의 경제적 이익등인 경우에는 그러하지 아니하다. <개정 2011. 4. 7., 2015. 12. 29.>

[본조신설 2010. 5. 27.]

[제23조의3에서 이동 <2019. 8. 27.>]

**24 ( )** 의료인은 환자나 환자의 보호자에게 요양방법이나 그 밖에 건강관리에 필요한 사항을 지도하여야 한다.

**24 2( )** ① 의사·치과의사 또는 한의사는 사람의 생명 또는 신체에 중대한 위해를 발생하게 할 우려가 있는 수술, 수혈, 전신마취(이하 이 조에서 “수술등”이라 한다)를 하는 경우 제2항에 따른 사항을 환자(환자가 의사결정능력이 없는 경우 환자의 법정대리인을 말한다. 이하 이 조에서 같다)에게 설명하고 서면(전자문서를 포함한다. 이하 이 조에서 같다)으로 그 동의를 받아야 한다. 다만, 설명 및 동의 절차로 인하여 수술등이 지체되면 환자의 생명이 위협하여지거나 심신상의 중대한 장애를 가져오는 경우에는 그러하지 아니하다.

② 제1항에 따라 환자에게 설명하고 동의를 받아야 하는 사항은 다음 각 호와 같다.

1. 환자에게 발생하거나 발생 가능한 증상의 진단명
2. 수술등의 필요성, 방법 및 내용
3. 환자에게 설명을 하는 의사, 치과의사 또는 한의사 및 수술등에 참여하는 주된 의사, 치과의사 또는 한의사의 성명
4. 수술등에 따라 전형적으로 발생이 예상되는 후유증 또는 부작용
5. 수술등 전후 환자가 준수하여야 할 사항

③ 환자는 의사, 치과의사 또는 한의사에게 제1항에 따른 동의서 사본의 발급을 요청할 수 있다. 이 경우 요청을 받은 의사, 치과의사 또는 한의사는 정당한 사유가 없으면 이를 거부하여서는 아니 된다.

④ 제1항에 따라 동의를 받은 사항 중 수술등의 방법 및 내용, 수술등에 참여한 주된 의사, 치과의사 또는 한의사가 변경된 경우에는 변경 사유와 내용을 환자에게 서면으로 알려야 한다.

⑤ 제1항 및 제4항에 따른 설명, 동의 및 고지의 방법·절차 등 필요한 사항은 대통령령으로 정한다.

[본조신설 2016. 12. 20.]

**25 ( )** ① 의료인은 대통령령으로 정하는 바에 따라 최초로 면허를 받은 후부터 3년마다 그 실태와 취업상황 등을 보건복지부장관에게 신고하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 4. 28.>

- ② 보건복지부장관은 제30조제3항의 보수교육을 이수하지 아니한 의료인에 대하여 제1항에 따른 신고를 반려할 수 있다. <신설 2011. 4. 28.>
- ③ 보건복지부장관은 제1항에 따른 신고 수리 업무를 대통령령으로 정하는 바에 따라 관련 단체 등에 위탁할 수 있다. <신설 2011. 4. 28.>

**26** ( ) 의사·치과의사·한의사 및 조산사는 사체를 검안하여 변사(變死)한 것으로 의심되는 때에는 사체의 소재지를 관할하는 경찰서장에게 신고하여야 한다.

### 3

**27** ( ) ①의료인이 아니면 누구든지 의료행위를 할 수 없으며 의료인도 면허된 것 이외의 의료행위를 할 수 없다. 다만, 다음 각 호의 어느 하나에 해당하는 자는 보건복지부령으로 정하는 범위에서 의료행위를 할 수 있다. <개정 2008. 2. 29., 2009. 1. 30., 2010. 1. 18.>

1. 외국의 의료인 면허를 가진 자로서 일정 기간 국내에 체류하는 자
2. 의과대학, 치과대학, 한의과대학, 의학전문대학원, 치의학전문대학원, 한의학전문대학원, 종합병원 또는 외국 의료원조기관의 의료봉사 또는 연구 및 시범사업을 위하여 의료행위를 하는 자
3. 의학·치과의학·한방의학 또는 간호학을 전공하는 학교의 학생

②의료인이 아니면 의사·치과의사·한의사·조산사 또는 간호사 명칭이나 이와 비슷한 명칭을 사용하지 못한다.

③누구든지 「국민건강보험법」이나 「의료급여법」에 따른 본인부담금을 면제하거나 할인하는 행위, 금품 등을 제공하거나 불특정 다수인에게 교통편의를 제공하는 행위 등 영리를 목적으로 환자를 의료기관이나 의료인에게 소개·알선·유인하는 행위 및 이를 사주하는 행위를 하여서는 아니 된다. 다만, 다음 각 호의 어느 하나에 해당하는 행위는 할 수 있다. <개정 2009. 1. 30., 2010. 1. 18., 2011. 12. 31.>

1. 환자의 경제적 사정 등을 이유로 개별적으로 관할 시장·군수·구청장의 사전승인을 받아 환자를 유치하는 행위
  2. 「국민건강보험법」 제109조에 따른 가입자나 피부양자가 아닌 외국인(보건복지부령으로 정하는 바에 따라 국내에 거주하는 외국인은 제외한다)환자를 유치하기 위한 행위
- ④ 제3항제2호에도 불구하고 「보험업법」 제2조에 따른 보험회사, 상호회사, 보험설계사, 보험대리점 또는 보험중개사는 외국인환자를 유치하기 위한 행위를 하여서는 아니 된다. <신설 2009. 1. 30.>

⑤ 누구든지 의료인이 아닌 자에게 의료행위를 하게 하거나 의료인에게 면허 사항 외의 의료행위를 하게 하여서는 아니 된다. <신설 2019. 4. 23., 2020. 12. 29.>

**27** 2 삭제 <2015. 12. 22.>

### 4

**28** ( ) ①의사·치과의사·한의사·조산사 및 간호사는 대통령령으로 정하는 바에 따라 각각 전국적 조직을 두는 의사회·치과의사회·한의학사회·조산사회 및 간호사회(이하 “중앙회”라 한다)를 각각 설립하여야 한다.

②중앙회는 법인으로 한다.

③제1항에 따라 중앙회가 설립된 경우에는 의료인은 당연히 해당하는 중앙회의 회원이 되며, 중앙회의 정관을 지켜야 한다.

- ④중앙회에 관하여 이 법에 규정되지 아니한 사항에 대하여는 「민법」 중 사단법인에 관한 규정을 준용한다.
- ⑤중앙회는 대통령령으로 정하는 바에 따라 특별시·광역시·도와 특별자치도(이하 “시·도”라 한다)에 지부를 설치하여야 하며, 시·군·구(자치구만을 말한다. 이하 같다)에 분회를 설치할 수 있다. 다만, 그 외의 지부나 외국에 의사회 지부를 설치하려면 보건복지부장관의 승인을 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
- ⑥중앙회가 지부나 분회를 설치한 때에는 그 지부나 분회의 책임자는 지체 없이 특별시장·광역시장·도지사·특별자치도지사(이하 “시·도지사”라 한다) 또는 시장·군수·구청장에게 신고하여야 한다.
- ⑦ 각 중앙회는 제66조의2에 따른 자격정지 처분 요구에 관한 사항 등을 심의·의결하기 위하여 윤리위원회를 둔다. <신설 2011. 4. 28.>
- ⑧ 윤리위원회의 구성, 운영 등에 관한 사항은 대통령령으로 정한다. <신설 2011. 4. 28.>

- 29 ( 가 )** ①중앙회를 설립하려면 대표자는 대통령령으로 정하는 바에 따라 정관과 그 밖에 필요한 서류를 보건복지부장관에게 제출하여 설립 허가를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
- ②중앙회의 정관에 적을 사항은 대통령령으로 정한다.
- ③중앙회가 정관을 변경하려면 보건복지부장관의 허가를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

- 30 ( )** ①중앙회는 보건복지부장관으로부터 의료와 국민보건 향상에 관한 협조 요청을 받으면 협조하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
- ②중앙회는 보건복지부령으로 정하는 바에 따라 회원의 자질 향상을 위하여 필요한 보수(補修)교육을 실시하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
- ③의료인은 제2항에 따른 보수교육을 받아야 한다.

- 31 삭제** <2011. 4. 7.>

- 32 ( )** 보건복지부장관은 중앙회나 그 지부가 정관으로 정한 사업 외의 사업을 하거나 국민보건 향상에 장애가 되는 행위를 한 때 또는 제30조제1항에 따른 요청을 받고 협조하지 아니한 경우에는 정관을 변경하거나 임원을 새로 뽑을 것을 명할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

### 3

#### 1

- 33 ( )** ①의료인은 이 법에 따른 의료기관을 개설하지 아니하고는 의료업을 할 수 없으며, 다음 각 호의 어느 하나에 해당하는 경우 외에는 그 의료기관 내에서 의료업을 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
1. 「응급의료에 관한 법률」 제2조제1호에 따른 응급환자를 진료하는 경우
  2. 환자나 환자 보호자의 요청에 따라 진료하는 경우
  3. 국가나 지방자치단체의 장이 공익상 필요하다고 인정하여 요청하는 경우
  4. 보건복지부령으로 정하는 바에 따라 가정간호를 하는 경우
  5. 그 밖에 이 법 또는 다른 법령으로 특별히 정한 경우나 환자가 있는 현장에서 진료를 하여야 하는 부득이한 사유가 있는 경우

②다음 각 호의 어느 하나에 해당하는 자가 아니면 의료기관을 개설할 수 없다. 이 경우 의사는 종합병원·병원·요양병원·정신병원 또는 의원을, 치과의사는 치과병원 또는 치과의원을, 한의사는 한방병원·요양병원 또는 한의원을, 조산사는 조산원만을 개설할 수 있다. <개정 2009. 1. 30., 2020. 3. 4.>

1. 의사, 치과의사, 한의사 또는 조산사
2. 국가나 지방자치단체
3. 의료업을 목적으로 설립된 법인(이하 “의료법인”이라 한다)
4. 「민법」이나 특별법에 따라 설립된 비영리법인
5. 「공공기관의 운영에 관한 법률」에 따른 준정부기관, 「지방의료원의 설립 및 운영에 관한 법률」에 따른 지방의료원, 「한국보훈복지의료공단법」에 따른 한국보훈복지의료공단

③제2항에 따라 의원·치과의원·한의원 또는 조산원을 개설하려는 자는 보건복지부령으로 정하는 바에 따라 시장·군수·구청장에게 신고하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

④제2항에 따라 종합병원·병원·치과병원·한방병원·요양병원 또는 정신병원을 개설하려면 제33조의2에 따른 시·도 의료기관개설위원회의 심의를 거쳐 보건복지부령으로 정하는 바에 따라 시·도지사의 허가를 받아야 한다. 이 경우 시·도지사는 개설하려는 의료기관이 다음 각 호의 어느 하나에 해당하는 경우에는 개설허가를 할 수 없다. <개정 2008. 2. 29., 2010. 1. 18., 2019. 8. 27., 2020. 3. 4.>

1. 제36조에 따른 시설기준에 맞지 아니하는 경우
  2. 제60조제1항에 따른 기본시책과 같은 조 제2항에 따른 수급 및 관리계획에 적합하지 아니한 경우
- ⑤제3항과 제4항에 따라 개설된 의료기관이 개설 장소를 이전하거나 개설에 관한 신고 또는 허가사항 중 보건복지부령으로 정하는 중요사항을 변경하려는 때에도 제3항 또는 제4항과 같다. <개정 2008. 2. 29., 2010. 1. 18.>

⑥조산원을 개설하는 자는 반드시 지도의사(指導醫師)를 정하여야 한다.

⑦다음 각 호의 어느 하나에 해당하는 경우에는 의료기관을 개설할 수 없다. <개정 2019. 8. 27.>

1. 약국 시설 안이나 구내인 경우
2. 약국의 시설이나 부지 일부를 분할·변경 또는 개수하여 의료기관을 개설하는 경우
3. 약국과 전용 복도·계단·승강기 또는 구름다리 등의 통로가 설치되어 있거나 이런 것들을 설치하여 의료기관을 개설하는 경우
4. 「건축법」 등 관계 법령에 따라 허가를 받지 아니하거나 신고를 하지 아니하고 건축 또는 증축·개축한 건축물에 의료기관을 개설하는 경우

⑧ 제2항제1호의 의료인은 어떠한 명목으로도 둘 이상의 의료기관을 개설·운영할 수 없다. 다만, 2 이상의 의료인 면허를 소지한 자가 의원급 의료기관을 개설하려는 경우에는 하나의 장소에 한하여 면허 종별에 따른 의료기관을 함께 개설할 수 있다. <신설 2009. 1. 30., 2012. 2. 1.>

⑨ 의료법인 및 제2항제4호에 따른 비영리법인(이하 이 조에서 “의료법인등”이라 한다)이 의료기관을 개설하려면 그 법인의 정관에 개설하고자 하는 의료기관의 소재지를 기재하여 대통령령으로 정하는 바에 따라 정관의 변경허가를 얻어야 한다(의료법인등을 설립할 때에는 설립 허가를 말한다. 이하 이 항에서 같다). 이 경우 그 법인의 주무관청은 정관의 변경허가를 하기 전에 그 법인이 개설하고자 하는 의료기관이 소재하는 시·도지사 또는 시장·군수·구청장과 협의하여야 한다. <신설 2015. 12. 29.>

⑩ 의료기관을 개설·운영하는 의료법인등은 다른 자에게 그 법인의 명의를 빌려주어서는 아니 된다. <신설 2015. 12. 29.>

[제목개정 2012. 2. 1.]

[2007. 12. 27. 법률 제9386호에 의하여 2007. 12. 27. 헌법재판소에서 헌법불합치된 이 조 제2항을 개정함]

- 33 2( )** ① 제33조제4항에 따른 의료기관 개설 허가에 관한 사항을 심의하기 위하여 시·도지사 소속으로 의료기관개설위원회를 둔다.  
 ② 제1항의 의료기관개설위원회의 위원은 제28조에 따른 의사회·치과의사회·한의사회·조선사회 및 간호사회의 의료인으로서 경험이 풍부한 사람과 제52조에 따른 의료기관단체의 회원으로서 해당 지역 내 의료기관의 개설·운영 등에 관한 경험이 풍부한 사람으로 한다.  
 ③ 의료기관개설위원회의 구성과 운영에 필요한 사항과 그 밖에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2020. 3. 4.]

- 33 3( )** ① 보건복지부장관은 제33조제2항을 위반하여 의료기관을 개설할 수 없는 자가 개설·운영하는 의료기관의 실태를 파악하기 위하여 보건복지부령으로 정하는 바에 따라 조사(이하 이 조에서 “실태조사”라 한다)를 실시하고, 위법이 확정된 경우 그 결과를 공표하여야 한다. 이 경우 수사기관의 수사로 제33조제2항을 위반한 의료기관의 위법이 확정된 경우도 공표 대상에 포함한다.  
 ② 보건복지부장관은 실태조사를 위하여 관계 중앙행정기관의 장, 지방자치단체의 장, 관련 기관·법인 또는 단체 등에 협조를 요청할 수 있다. 이 경우 요청을 받은 자는 특별한 사정이 없으면 이에 협조하여야 한다.  
 ③ 실태조사의 시기·방법 및 결과 공표의 방법 등에 관하여 필요한 사항은 보건복지부령으로 정한다

[본조신설 2020. 12. 29.]

[시행일 : 2021. 6. 30.] 제33조의3

- 34 ( )** ①의료인(의료업에 종사하는 의사·치과의사·한의사만 해당한다)은 제33조제1항에도 불구하고 컴퓨터·화상통신 등 정보통신기술을 활용하여 먼 곳에 있는 의료인에게 의료지식이나 기술을 지원하는 원격의료(이하 “원격의료”라 한다)를 할 수 있다.  
 ②원격医료를 행하거나 받으려는 자는 보건복지부령으로 정하는 시설과 장비를 갖추어야 한다. <개정 2008. 2. 29., 2010. 1. 18.>  
 ③원격医료를 하는 자(이하 “원격지의사”라 한다)는 환자를 직접 대면하여 진료하는 경우와 같은 책임을 진다.  
 ④원격지의사의 원격의료에 따라 의료행위를 한 의료인이 의사·치과의사 또는 한의사(이하 “현지의사”라 한다)인 경우에는 그 의료행위에 대하여 원격지의사의 과실을 인정할 만한 명백한 근거가 없으면 환자에 대한 책임은 제3항에도 불구하고 현지의사에게 있는 것으로 본다.

- 35 ( )** ①제33조제1항·제2항 및 제8항에 따른 자 외의 자가 그 소속 직원, 종업원, 그 밖의 구성원(수용자를 포함한다)이나 그 가족의 건강관리를 위하여 부속 의료기관을 개설하려면 그 개설 장소를 관할하는 시장·군수·구청장에게 신고하여야 한다. 다만, 부속 의료기관으로 병원급 의료기관을 개설하려면 그 개설 장소를 관할하는 시·도지사의 허가를 받아야 한다. <개정 2009. 1. 30.>

②제1항에 따른 개설 신고 및 허가에 관한 절차·조건, 그 밖에 필요한 사항과 그 의료기관의 운영에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**36** ( ) 제33조제2항 및 제8항에 따라 의료기관을 개설하는 자는 보건복지부령으로 정하는 바에 따라 다음 각 호의 사항을 지켜야 한다. <개정 2008. 2. 29., 2009. 1. 30., 2010. 1. 18., 2016. 5. 29., 2019. 4. 23., 2019. 8. 27., 2020. 3. 4.>

1. 의료기관의 종류에 따른 시설기준 및 규격에 관한 사항
2. 의료기관의 안전관리시설 기준에 관한 사항
3. 의료기관 및 요양병원의 운영 기준에 관한 사항
4. 고가의료장비의 설치·운영 기준에 관한 사항
5. 의료기관의 종류에 따른 의료인 등의 정원 기준에 관한 사항
6. 급식관리 기준에 관한 사항
7. 의료기관의 위생 관리에 관한 사항
8. 의료기관의 의약품 및 일회용 의료기기의 사용에 관한 사항
9. 의료기관의 「감염병의 예방 및 관리에 관한 법률」 제41조제4항에 따른 감염병환자등의 진료 기준에 관한 사항
10. 의료기관 내 수술실, 분만실, 중환자실 등 감염관리가 필요한 시설의 출입 기준에 관한 사항
11. 의료인 및 환자 안전을 위한 보안장비 설치 및 보안인력 배치 등에 관한 사항
12. 의료기관의 신체보호대 사용에 관한 사항
13. 의료기관의 의료관련감염 예방에 관한 사항

**36** 2( ) ① 의료기관 개설자는 「농어촌 등 보건의료서비스를 위한 특별조치법」 제5조의2에 따른 배치기관 및 배치시설이나 같은 법 제6조의2에 따른 파견근무기관 및 시설이 아니면 같은 법 제2조제1호의 공중보건전문직에게 의료행위를 하게 하거나, 제41조제1항에 따른 당직의료인으로 두어서는 아니 된다. <개정 2016. 12. 20., 2018. 3. 27.>

② 의료기관 개설자는 「병역법」 제34조의2제2항에 따라 군병원 또는 병무청장이 지정하는 병원에서 직무와 관련된 수련을 실시하는 경우가 아니면 같은 법 제2조제14호의 병역판정검사전담의사에게 의료행위를 하게 하거나 제41조제1항에 따른 당직의료인으로 두어서는 아니 된다. <신설 2018. 3. 27.>

[본조신설 2015. 12. 29.]

[제목개정 2018. 3. 27.]

**37** ( ) ① 진단용 방사선 발생장치를 설치·운영하려는 의료기관은 보건복지부령으로 정하는 바에 따라 시장·군수·구청장에게 신고하여야 하며, 보건복지부령으로 정하는 안전관리기준에 맞도록 설치·운영하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

② 의료기관 개설자나 관리자는 진단용 방사선 발생장치를 설치한 경우에는 보건복지부령으로 정하는 바에 따라 안전관리책임자를 선임하고, 정기적으로 검사와 측정을 받아야 하며, 방사선 관계 종사자에 대한 피폭관리(被曝管理)를 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

③ 제1항과 제2항에 따른 진단용 방사선 발생장치의 범위·신고·검사·설치 및 측정기준 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**37** ( ) ① 진단용 방사선 발생장치를 설치·운영하려는 의료기관은 보건복지부령으로 정하는 바에 따라 시장·군수·구청장에게 신고하여야 하며, 보건복지부령으로 정하는 안전관리기준에 맞도록 설치·운영하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

② 의료기관 개설자나 관리자는 진단용 방사선 발생장치를 설치한 경우에는 보건복지부령으로 정하는 바에 따라 안전관리책임자를 선임하고, 정기적으로 검사와 측정을 받아야 하며, 방사선 관계 종사자에 대한 피폭관리(被曝管理)를 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

③ 제2항에 따라 안전관리책임자로 선임된 사람은 선임된 날부터 1년 이내에 질병관리청장이 지정하는 방사선 분야 관련 단체(이하 이 조에서 “안전관리책임자 교육기관”이라 한다)가 실시하는 안전관리책임자 교육을 받아야 하며, 주기적으로 보수교육을 받아야 한다. <신설 2020. 12. 29.>

④ 제1항과 제2항에 따른 진단용 방사선 발생장치의 범위·신고·검사·설치 및 측정기준 등에 필요한 사항은 보건복지부령으로 정하고, 제3항에 따른 안전관리책임자 교육 및 안전관리책임자 교육기관의 지정에 필요한 사항은 질병관리청장이 정하여 고시한다. <개정 2008. 2. 29., 2010. 1. 18., 2020. 12. 29.>  
[시행일 : 2021. 6. 30.] 제37조

- 38** ( ) ① 의료기관은 보건의료 시책상 적정한 설치와 활용이 필요하여 보건복지부장관이 정하여 고시하는 의료장비(이하 “특수의료장비”라 한다)를 설치·운영하려면 보건복지부령으로 정하는 바에 따라 시장·군수·구청장에게 등록하여야 하며, 보건복지부령으로 정하는 설치인정기준에 맞게 설치·운영하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2012. 2. 1.>
- ② 의료기관의 개설자나 관리자는 제1항에 따라 특수의료장비를 설치하면 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 정기적인 품질관리검사를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>
- ③ 의료기관의 개설자나 관리자는 제2항에 따른 품질관리검사에서 부적합하다고 판정받은 특수의료장비를 사용하여서는 아니 된다.
- ④ 보건복지부장관은 제2항에 따른 품질관리검사업무의 전부 또는 일부를 보건복지부령으로 정하는 바에 따라 관계 전문기관에 위탁할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

- 39** ( ) ① 의료인은 다른 의료기관의 장의 동의를 받아 그 의료기관의 시설·장비 및 인력 등을 이용하여 진료할 수 있다.
- ② 의료기관의 장은 그 의료기관의 환자를 진료하는 데에 필요하면 해당 의료기관에 소속되지 아니한 의료인에게 진료하도록 할 수 있다.
- ③ 의료인이 다른 의료기관의 시설·장비 및 인력 등을 이용하여 진료하는 과정에서 발생한 의료사고에 대하여는 진료를 한 의료인의 과실 때문이면 그 의료인에게, 의료기관의 시설·장비 및 인력 등의 결함 때문이면 그것을 제공한 의료기관 개설자에게 각각 책임이 있는 것으로 본다.

- 40** ( ) ① 의료기관 개설자는 의료업을 폐업하거나 1개월 이상 휴업(입원환자가 있는 경우에는 1개월 미만의 휴업도 포함한다. 이하 이 조에서 이와 같다)하려면 보건복지부령으로 정하는 바에 따라 관할 시장·군수·구청장에게 신고하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2016. 12. 20.>
- ② 의료기관 개설자는 제1항에 따라 폐업 또는 휴업 신고를 할 때 제22조나 제23조에 따라 기록·보존하고 있는 진료기록부등을 관할 보건소장에게 넘겨야 한다. 다만, 의료기관 개설자가 보건복지부령으로 정하는 바에 따라 진료기록부등의 보관계획서를 제출하여 관할 보건소장의 허가를 받은 경우에는 직접 보관할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>
- ③ 시장·군수·구청장은 제1항에 따른 신고에도 불구하고 「감염병의 예방 및 관리에 관한 법률」 제18조 및 제29조에 따라 질병관리청장, 시·도지사 또는 시장·군수·구청장이 감염병의 역학조사 및 예방접종에 관한 역학조사를 실시하거나 같은 법 제18조의2에 따라 의료인 또는 의료기관의 장이 질병관리청장 또는 시·도지사에게 역학조사 실시를 요청한 경우로서 그 역학조사를 위하여 필요하다고 판단하는 때에는 의료기관 폐업 신고를 수리하지 아니할 수 있다. <신설 2016. 5. 29., 2020. 8. 11.>
- ④ 의료기관 개설자는 의료업을 폐업 또는 휴업하는 경우 보건복지부령으로 정하는 바에 따라 해당 의료기관에 입원 중인 환자를 다른 의료기관으로 옮길 수 있도록 하는 등 환자의 권익을 보호하기 위한 조치를 하여야 한다. <신설 2016. 12. 20.>



- 40 3( )** ① 보건복지부장관은 제40조의2에 따라 폐업 또는 휴업한 의료기관의 진료기록부등을 보관하는 관할 보건소장 및 의료기관 개설자가 안전하고 효과적으로 진료기록부등을 보존·관리할 수 있도록 지원하기 위한 시스템(이하 “진료기록보관시스템”이라 한다)을 구축·운영할 수 있다.
- ② 제40조의2에 따라 폐업 또는 휴업한 의료기관의 진료기록부등을 보관하는 관할 보건소장 및 의료기관 개설자는 진료기록보관시스템에 진료기록부등을 보관할 수 있다.
- ③ 제2항에 따라 진료기록부등을 진료기록보관시스템에 보관한 관할 보건소장 및 의료기관 개설자(해당 보건소 및 의료기관 소속 의료인 및 그 종사자를 포함한다)는 직접 보관한 진료기록부등 외에는 진료기록보관시스템에 보관된 정보를 열람하는 등 그 내용을 확인하여서는 아니 된다.
- ④ 보건복지부장관은 제1항에 따른 진료기록보관시스템의 구축·운영 업무를 관계 전문기관 또는 단체에 위탁할 수 있다. 이 경우 보건복지부장관은 진료기록보관시스템의 구축·운영 업무에 소요되는 비용의 전부 또는 일부를 지원할 수 있다.
- ⑤ 제4항 전단에 따라 진료기록보관시스템의 구축·운영 업무를 위탁받은 전문기관 또는 단체는 보건복지부령으로 정하는 바에 따라 진료기록부등을 안전하게 관리·보존하는 데에 필요한 시설과 장비를 갖추어야 한다.
- ⑥ 보건복지부장관은 진료기록보관시스템의 효율적 운영을 위하여 원본에 기재된 정보가 변경되지 않는 범위에서 진료기록부등의 형태를 변경하여 보존·관리할 수 있으며, 변경된 형태로 진료기록부등의 사본을 발급할 수 있다.
- ⑦ 누구든지 정당한 접근 권한 없이 또는 허용된 접근 권한을 넘어 진료기록보관시스템에 보관된 정보를 훼손·멸실·변경·위조·유출하거나 검색·복제하여서는 아니 된다.
- ⑧ 진료기록보관시스템의 구축 범위 및 운영 절차 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2020. 3. 4.]

[시행일 : 2023. 3. 5.] 제40조의3

- 41 ( )** ① 각종 병원에는 응급환자와 입원환자의 진료 등에 필요한 당직의료인을 두어야 한다. <개정 2016. 12. 20.>
- ② 제1항에 따른 당직의료인의 수와 배치 기준은 병원의 종류, 입원환자의 수 등을 고려하여 보건복지부령으로 정한다. <신설 2016. 12. 20.>

- 42 ( )** ① 의료기관은 제3조제2항에 따른 의료기관의 종류에 따르는 명칭 외의 명칭을 사용하지 못한다. 다만, 다음 각 호의 어느 하나에 해당하는 경우에는 그러하지 아니하다. <개정 2008. 2. 29., 2009. 1. 30., 2010. 1. 18., 2020. 3. 4.>

1. 종합병원 또는 정신병원이 그 명칭을 병원으로 표시하는 경우
2. 제3조의4제1항에 따라 상급종합병원으로 지정받거나 제3조의5제1항에 따라 전문병원으로 지정받은 의료기관이 지정받은 기간 동안 그 명칭을 사용하는 경우
3. 제33조제8항 단서에 따라 개설한 의원급 의료기관이 면허 종별에 따른 종별명칭을 함께 사용하는 경우
4. 국가나 지방자치단체에서 개설하는 의료기관이 보건복지부장관이나 시·도지사와 협의하여 정한 명칭을 사용하는 경우
5. 다른 법령으로 따로 정한 명칭을 사용하는 경우

② 의료기관의 명칭 표시에 관한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

③의료기관이 아니면 의료기관의 명칭이나 이와 비슷한 명칭을 사용하지 못한다.

**43** ( ) ① 병원·치과병원 또는 종합병원은 한의사를 두어 한의과 진료과목을 추가로 설치·운영할 수 있다.

② 한방병원 또는 치과병원은 의사를 두어 의과 진료과목을 추가로 설치·운영할 수 있다.

③ 병원·한방병원·요양병원 또는 정신병원은 치과의사를 두어 치과 진료과목을 추가로 설치·운영할 수 있다. <개정 2020. 3. 4.>

④ 제1항부터 제3항까지의 규정에 따라 추가로 진료과목을 설치·운영하는 경우에는 보건복지부령으로 정하는 바에 따라 진료에 필요한 시설·장비를 갖추어야 한다. <개정 2010. 1. 18.>

⑤ 제1항부터 제3항까지의 규정에 따라 추가로 설치한 진료과목을 포함한 의료기관의 진료과목은 보건복지부령으로 정하는 바에 따라 표시하여야 한다. 다만, 치과의 진료과목은 종합병원과 제77조제2항에 따라 보건복지부령으로 정하는 치과병원에 한하여 표시할 수 있다. <개정 2010. 1. 18.>

[전문개정 2009. 1. 30.]

[법률 제9386호(2009. 1. 30.) 부칙 제2조의 규정에 의하여 이 조 제5항 단서의 개정규정 중 치과의사에 대한 부분은 2013년 12월 31일까지 유효함]

**44** 삭제 <2009. 1. 30.>

**45** ( ) ① 의료기관 개설자는 「국민건강보험법」 제41조제4항에 따라 요양급여의 대상에서 제외되는 사항 또는 「의료급여법」 제7조제3항에 따라 의료급여의 대상에서 제외되는 사항의 비용(이하 “비급여 진료비용”이라 한다)을 환자 또는 환자의 보호자가 쉽게 알 수 있도록 보건복지부령으로 정하는 바에 따라 고지하여야 한다. <개정 2010. 1. 18., 2011. 12. 31., 2016. 3. 22.>

② 의료기관 개설자는 보건복지부령으로 정하는 바에 따라 의료기관이 환자로부터 징수하는 제증명수수료의 비용을 게시하여야 한다. <개정 2010. 1. 18.>

③ 의료기관 개설자는 제1항 및 제2항에서 고지·게시한 금액을 초과하여 징수할 수 없다.

[전문개정 2009. 1. 30.]

**45** 2( ) ① 보건복지부장관은 모든 의료기관에 대하여 비급여 진료비용 및 제45조제2항에 따른 제증명수수료(이하 이 조에서 “비급여진료비용등”이라 한다)의 항목, 기준 및 금액 등에 관한 현황을 조사·분석하여 그 결과를 공개할 수 있다. 다만, 병원급 의료기관에 대하여는 그 결과를 공개하여야 한다. <개정 2016. 12. 20.>

② 보건복지부장관은 제1항에 따른 비급여진료비용등의 현황에 대한 조사·분석을 위하여 의료기관의 장에게 관련 자료의 제출을 명할 수 있다. 이 경우 해당 의료기관의 장은 특별한 사유가 없으면 그 명령에 따라야 한다. <신설 2016. 12. 20.>

③ 제1항에 따른 현황조사·분석 및 결과 공개의 범위·방법·절차 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2016. 12. 20.>

[본조신설 2015. 12. 29.]

**45** 2( ) ① 의료기관의 장은 보건복지부령으로 정하는 바에 따라 비급여 진료비용 및 제45조제2항에 따른 제증명수수료(이하 이 조에서 “비급여진료비용등”이라 한다)의 항목, 기준, 금액 및 진료내역 등에 관한 사항을 보건복지부장관에게 보고하여야 한다. <신설 2020. 12. 29.>

② 보건복지부장관은 제1항에 따라 보고받은 내용을 바탕으로 모든 의료기관에 대한 비급여진료비용 등의 항목, 기준, 금액 및 진료내역 등에 관한 현황을 조사·분석하여 그 결과를 공개할 수 있다. 다만, 병원급 의료기관에 대하여는 그 결과를 공개하여야 한다. <개정 2016. 12. 20., 2020. 12. 29.>

③ 보건복지부장관은 제2항에 따른 비급여진료비용 등의 현황에 대한 조사·분석을 위하여 필요하다고 인정하는 경우에는 의료기관의 장에게 관련 자료의 제출을 명할 수 있다. 이 경우 해당 의료기관의 장은 특별한 사유가 없으면 그 명령에 따라야 한다. <신설 2016. 12. 20., 2020. 12. 29.>

④ 제2항에 따른 현황조사·분석 및 결과 공개의 범위·방법·절차 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2016. 12. 20., 2020. 12. 29.>

[본조신설 2015. 12. 29.]

[제목개정 2020. 12. 29.]

[시행일 : 2021. 6. 30.] 제45조의2

**45 3( )** 보건복지부장관은 제45조의2제1항에 따른 현황조사·분석의 결과를 고려하여 제증명수수료의 항목 및 금액에 관한 기준을 정하여 고시하여야 한다.

[본조신설 2016. 12. 20.]

**45 3( )** 보건복지부장관은 제45조의2제2항에 따른 현황조사·분석의 결과를 고려하여 제증명수수료의 항목 및 금액에 관한 기준을 정하여 고시하여야 한다. <개정 2020. 12. 29.>

[본조신설 2016. 12. 20.]

[시행일 : 2021. 6. 30.] 제45조의3

**46 ( )** ①환자나 환자의 보호자는 종합병원·병원·치과병원·한방병원·요양병원 또는 정신병원의 특정한 의사·치과의사 또는 한의사를 선택하여 진료를 요청할 수 있다. 이 경우 의료기관의 장은 특별한 사유가 없으면 환자나 환자의 보호자가 요청한 의사·치과의사 또는 한의사가 진료하도록 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2018. 3. 27., 2020. 3. 4.>

②제1항에 따라 진료의사를 선택하여 진료를 받는 환자나 환자의 보호자는 진료의사의 변경을 요청할 수 있다. 이 경우 의료기관의 장은 정당한 사유가 없으면 이에 응하여야 한다. <개정 2018. 3. 27.>

③의료기관의 장은 환자 또는 환자의 보호자에게 진료의사 선택을 위한 정보를 제공하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2018. 3. 27.>

④의료기관의 장은 제1항에 따라 진료하게 한 경우에도 환자나 환자의 보호자로부터 추가비용을 받을 수 없다. <개정 2018. 3. 27.>

⑤ 삭제<2018. 3. 27.>

⑥ 삭제<2018. 3. 27.>

**47 ( )** ①보건복지부령으로 정하는 일정 규모 이상의 병원급 의료기관의 장은 의료관련감염 예방을 위하여 감염관리위원회와 감염관리실을 설치·운영하고 보건복지부령으로 정하는 바에 따라 감염관리 업무를 수행하는 전담 인력을 두는 등 필요한 조치를 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 8. 4., 2020. 3. 4.>

② 의료기관의 장은 「감염병의 예방 및 관리에 관한 법률」 제2조제1호에 따른 감염병의 예방을 위하여 해당 의료기관에 소속된 의료인 및 의료기관 종사자에게 정기적으로 교육을 실시하여야 한다. <신설 2019. 4. 23.>

- ③ 의료기관의 장은 「감염병의 예방 및 관리에 관한 법률」 제2조제1호에 따른 감염병이 유행하는 경우 환자, 환자의 보호자, 의료인, 의료기관 종사자 및 「경비업법」 제2조제3호에 따른 경비원 등 해당 의료기관 내에서 업무를 수행하는 사람에게 감염병의 확산 방지를 위하여 필요한 정보를 제공하여야 한다. <신설 2015. 12. 29., 2019. 4. 23.>
- ④ 질병관리청장은 의료관련감염의 발생·원인 등에 대한 의과학적인 감시를 위하여 의료관련감염 감시 시스템을 구축·운영할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑤ 의료기관은 제4항에 따른 시스템을 통하여 매월 의료관련감염 발생 사실을 등록할 수 있다. <신설 2020. 3. 4.>
- ⑥ 질병관리청장은 제4항에 따른 시스템의 구축·운영 업무를 대통령령으로 정하는 바에 따라 관계 전문기관에 위탁할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑦ 질병관리청장은 제6항에 따라 업무를 위탁한 전문기관에 대하여 그 업무에 관한 보고 또는 자료의 제출을 명할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑧ 의료관련감염이 발생한 사실을 알게 된 의료기관의 장, 의료인, 의료기관 종사자 또는 환자 등은 보건복지부령으로 정하는 바에 따라 질병관리청장에게 그 사실을 보고(이하 이 조에서 “자율보고”라 한다)할 수 있다. 이 경우 질병관리청장은 자율보고한 사람의 의사에 반하여 그 신분을 공개하여서는 아니 된다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑨ 자율보고한 사람이 해당 의료관련감염과 관련하여 관계 법령을 위반한 사실이 있는 경우에는 그에 따른 행정처분을 감경하거나 면제할 수 있다. <신설 2020. 3. 4.>
- ⑩ 자율보고가 된 의료관련감염에 관한 정보는 보건복지부령으로 정하는 검증을 한 후에는 개인식별이 가능한 부분을 삭제하여야 한다. <신설 2020. 3. 4.>
- ⑪ 자율보고의 접수 및 분석 등의 업무에 종사하거나 종사하였던 사람은 직무상 알게 된 비밀을 다른 사람에게 누설하거나 직무 외의 목적으로 사용하여서는 아니 된다. <신설 2020. 3. 4.>
- ⑫ 의료기관의 장은 해당 의료기관에 속한 자율보고를 한 보고자에게 그 보고를 이유로 해고 또는 전보나 그 밖에 신분 또는 처우와 관련하여 불리한 조치를 할 수 없다. <신설 2020. 3. 4.>
- ⑬ 질병관리청장은 제4항 또는 제8항에 따라 수집한 의료관련감염 관련 정보를 감염 예방·관리에 필요한 조치, 계획 수립, 조사·연구, 교육 등에 활용할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑭ 제1항에 따른 감염관리위원회의 구성과 운영, 감염관리실 운영, 제2항에 따른 교육, 제3항에 따른 정보 제공, 제5항에 따라 등록하는 의료관련감염의 종류와 그 등록의 절차·방법 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2020. 3. 4.>
- [제목개정 2020. 3. 4.]

**47 ( )** ① 보건복지부령으로 정하는 일정 규모 이상의 병원급 의료기관의 장은 의료관련감염 예방을 위하여 감염관리위원회와 감염관리실을 설치·운영하고 보건복지부령으로 정하는 바에 따라 감염관리 업무를 수행하는 전담 인력을 두는 등 필요한 조치를 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 8. 4., 2020. 3. 4.>

② 의료기관의 장은 「감염병의 예방 및 관리에 관한 법률」 제2조제1호에 따른 감염병의 예방을 위하여 해당 의료기관에 소속된 의료인, 의료기관 종사자 및 「보건의료인력지원법」 제2조제3호의 보건의료인력을 양성하는 학교 및 기관의 학생으로서 해당 의료기관에서 실습하는 자에게 보건복지부령으로 정하는 바에 따라 정기적으로 교육을 실시하여야 한다. <신설 2019. 4. 23., 2020. 12. 29.>

③ 의료기관의 장은 「감염병의 예방 및 관리에 관한 법률」 제2조제1호에 따른 감염병이 유행하는 경우 환자, 환자의 보호자, 의료인, 의료기관 종사자 및 「경비업법」 제2조제3호에 따른 경비원 등 해당 의료기관 내에서 업무를 수행하는 사람에게 감염병의 확산 방지를 위하여 필요한 정보를 제공하여야 한

다. <신설 2015. 12. 29., 2019. 4. 23.>

- ④ 질병관리청장은 의료관련감염의 발생·원인 등에 대한 의과학적인 감시를 위하여 의료관련감염 감시 시스템을 구축·운영할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑤ 의료기관은 제4항에 따른 시스템을 통하여 매월 의료관련감염 발생 사실을 등록할 수 있다. <신설 2020. 3. 4.>
- ⑥ 질병관리청장은 제4항에 따른 시스템의 구축·운영 업무를 대통령령으로 정하는 바에 따라 관계 전문기관에 위탁할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑦ 질병관리청장은 제6항에 따라 업무를 위탁한 전문기관에 대하여 그 업무에 관한 보고 또는 자료의 제출을 명할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑧ 의료관련감염이 발생한 사실을 알게 된 의료기관의 장, 의료인, 의료기관 종사자 또는 환자 등은 보건복지부령으로 정하는 바에 따라 질병관리청장에게 그 사실을 보고(이하 이 조에서 “자율보고”라 한다)할 수 있다. 이 경우 질병관리청장은 자율보고한 사람의 의사에 반하여 그 신분을 공개하여서는 아니 된다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑨ 자율보고한 사람이 해당 의료관련감염과 관련하여 관계 법령을 위반한 사실이 있는 경우에는 그에 따른 행정처분을 감경하거나 면제할 수 있다. <신설 2020. 3. 4.>
- ⑩ 자율보고가 된 의료관련감염에 관한 정보는 보건복지부령으로 정하는 검증을 한 후에는 개인식별이 가능한 부분을 삭제하여야 한다. <신설 2020. 3. 4.>
- ⑪ 자율보고의 접수 및 분석 등의 업무에 종사하거나 종사하였던 사람은 직무상 알게 된 비밀을 다른 사람에게 누설하거나 직무 외의 목적으로 사용하여서는 아니 된다. <신설 2020. 3. 4.>
- ⑫ 의료기관의 장은 해당 의료기관에 속한 자율보고를 한 보고자에게 그 보고를 이유로 해고 또는 전보나 그 밖에 신분 또는 처우와 관련하여 불리한 조치를 할 수 없다. <신설 2020. 3. 4.>
- ⑬ 질병관리청장은 제4항 또는 제8항에 따라 수집한 의료관련감염 관련 정보를 감염 예방·관리에 필요한 조치, 계획 수립, 조사·연구, 교육 등에 활용할 수 있다. <신설 2020. 3. 4., 2020. 8. 11.>
- ⑭ 제1항에 따른 감염관리위원회의 구성과 운영, 감염관리실 운영, 제2항에 따른 교육, 제3항에 따른 정보 제공, 제5항에 따라 등록하는 의료관련감염의 종류와 그 등록의 절차·방법 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2020. 3. 4.>

[제목개정 2020. 3. 4.]

[시행일 : 2021. 12. 30.] 제47조제2항

**47 2( )** 의료기관의 장은 천재지변, 감염병 의심 상황, 집단 사망사고의 발생 등 입원환자를 긴급히 전원(轉院)시키지 않으면 입원환자의 생명·건강에 중대한 위험이 발생할 수 있음에도 환자나 보호자의 동의를 받을 수 없는 등 보건복지부령으로 정하는 불가피한 사유가 있는 경우에는 보건복지부령으로 정하는 바에 따라 시장·군수·구청장의 승인을 받아 입원환자를 다른 의료기관으로 전원시킬 수 있다.

[본조신설 2019. 1. 15.]

## 2

**48 ( 가 )** ①제33조제2항에 따른 의료법인을 설립하려는 자는 대통령령으로 정하는 바에 따라 정관과 그 밖의 서류를 갖추어 그 법인의 주된 사무소의 소재지를 관할하는 시·도지사의 허가를 받아야 한다.

- ②의료법인은 그 법인이 개설하는 의료기관에 필요한 시설이나 시설을 갖추는 데에 필요한 자금을 보유하여야 한다.
- ③의료법인이 재산을 처분하거나 정관을 변경하려면 시·도지사의 허가를 받아야 한다.
- ④이 법에 따른 의료법인이 아니면 의료법인이나 이와 비슷한 명칭을 사용할 수 없다.

**48 2( )** ① 의료법인에는 5명 이상 15명 이하의 이사와 2명의 감사를 두되, 보건복지부장관의 승인을 받아 그 수를 증감할 수 있다.

- ② 이사와 감사의 임기는 정관으로 정하되, 이사는 4년, 감사는 2년을 초과할 수 없다. 다만, 이사와 감사는 각각 연임할 수 있다.
- ③ 이사회에 있어서 각 이사 상호 간에 「민법」 제777조에 규정된 친족관계에 있는 사람이 그 정수의 4분의 1을 초과해서는 아니 된다.
- ④ 다음 각 호의 어느 하나에 해당하는 사람은 의료법인의 임원이 될 수 없다.
1. 미성년자
  2. 피성년후견인 또는 피한정후견인
  3. 파산선고를 받은 사람으로서 복권되지 아니한 사람
  4. 금고 이상의 형을 받고 집행이 종료되거나 집행을 받지 아니하기로 확정된 후 3년이 지나지 아니한 사람
  - ⑤ 감사는 이사와 제3항에 따른 특별한 관계에 있는 사람이 아니어야 한다.

[본조신설 2019. 8. 27.]

**49 ( )** ①의료법인은 그 법인이 개설하는 의료기관에서 의료업무 외에 다음의 부대사업을 할 수 있다. 이 경우 부대사업으로 얻은 수익에 관한 회계는 의료법인의 다른 회계와 구분하여 계산하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2015. 1. 28.>

1. 의료인과 의료관계자 양성이나 보수교육
  2. 의료나 의학에 관한 조사 연구
  3. 「노인복지법」 제31조제2호에 따른 노인의료복지시설의 설치·운영
  4. 「장사 등에 관한 법률」 제29조제1항에 따른 장례식장의 설치·운영
  5. 「주차장법」 제19조제1항에 따른 부설주차장의 설치·운영
  6. 의료업 수행에 수반되는 의료정보시스템 개발·운영사업 중 대통령령으로 정하는 사업
  7. 그 밖에 휴게음식점영업, 일반음식점영업, 이용업, 미용업 등 환자 또는 의료법인이 개설한 의료기관 종사자 등의 편의를 위하여 보건복지부령으로 정하는 사업
- ②제1항제4호·제5호 및 제7호의 부대사업을 하려는 의료법인은 타인에게 임대 또는 위탁하여 운영할 수 있다.
- ③제1항 및 제2항에 따라 부대사업을 하려는 의료법인은 보건복지부령으로 정하는 바에 따라 미리 의료기관의 소재지를 관할하는 시·도지사에게 신고하여야 한다. 신고사항을 변경하려는 경우에도 또한 같다. <개정 2008. 2. 29., 2010. 1. 18.>

**50 ( 「 」 )** 의료법인에 대하여 이 법에 규정된 것 외에는 「민법」 중 재단법인에 관한 규정을 준용한다.

**51 ( 가 )** 보건복지부장관 또는 시·도지사는 의료법인이 다음 각 호의 어느 하나에 해당하면 그 설립 허가를 취소할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

1. 정관으로 정하지 아니한 사업을 한 때
2. 설립된 날부터 2년 안에 의료기관을 개설하지 아니한 때
3. 의료법인이 개설한 의료기관이 제64조에 따라 개설허가를 취소당한 때
4. 보건복지부장관 또는 시·도지사가 감독을 위하여 내린 명령을 위반한 때
5. 제49조제1항에 따른 부대사업 외의 사업을 한 때

**51 2( )** 누구든지 의료법인의 임원 선임과 관련하여 금품, 향응 또는 그 밖의 재산상 이익을 주고받거나 주고받을 것을 약속해서는 아니 된다.

[본조신설 2019. 8. 27.]

### 3

**52 ( )** ①병원급 의료기관의 장은 의료기관의 건전한 발전과 국민보건 향상에 기여하기 위하여 전국 조직을 두는 단체를 설립할 수 있다. <개정 2009. 1. 30.>

②제1항에 따른 단체는 법인으로 한다.

**52 2( )** ① 의료인에 관련되는 의학 및 관계 전문분야(이하 이 조에서 “의학 등”이라 한다)의 연구·진흥기반을 조성하고 우수한 보건의료인을 발굴·활용하기 위하여 대한민국의 학한림원(이하 이 조에서 “한림원”이라 한다)을 둔다.

② 한림원은 법인으로 한다.

③ 한림원은 다음 각 호의 사업을 한다.

1. 의학등의 연구진흥에 필요한 조사·연구 및 정책자문
2. 의학등의 분야별 중장기 연구 기획 및 건의
3. 의학등의 국내외 교류협력사업
4. 의학등 및 국민건강과 관련된 사회문제에 관한 정책자문 및 홍보
5. 보건의료인의 명예를 기리고 보전(保全)하는 사업
6. 보건복지부장관이 의학등의 발전을 위하여 지정 또는 위탁하는 사업

④ 보건복지부장관은 한림원의 사업수행에 필요한 경비의 전부 또는 일부를 예산의 범위에서 지원할 수 있다.

⑤ 한림원에 대하여 이 법에서 정하지 아니한 사항에 관하여는 「민법」 중 사단법인에 관한 규정을 준용한다.

⑥ 한림원이 아닌 자는 대한민국의학한림원 또는 이와 유사한 명칭을 사용하지 못한다.

⑦ 한림원의 운영 및 업무수행에 필요한 사항은 대통령령으로 정한다.

[본조신설 2015. 12. 29.]

### 4 가

**53 ( 가)** ①보건복지부장관은 국민건강을 보호하고 의료기술의 발전을 촉진하기 위하여 대통령령으로 정하는 바에 따라 제54조에 따른 신의료기술평가위원회의 심의를 거쳐 신의료기술의 안전성·유효성 등에 관한 평가(이하 “신의료기술평가”라 한다)를 하여야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

②제1항에 따른 신의료기술은 새로 개발된 의료기술로서 보건복지부장관이 안전성·유효성을 평가할 필요성이 있다고 인정하는 것을 말한다. <개정 2008. 2. 29., 2010. 1. 18.>

③보건복지부장관은 신의료기술평가의 결과를 「국민건강보험법」 제64조에 따른 건강보험심사평가원의 장에게 알려야 한다. 이 경우 신의료기술평가의 결과를 보건복지부령으로 정하는 바에 따라 공표할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 12. 31.>

④그 밖에 신의료기술평가의 대상 및 절차 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**54 ( 가 )** ①보건복지부장관은 신의료기술평가에 관한 사항을 심의하기 위하여 보건복지부에 신의료기술평가위원회(이하 “위원회”라 한다)를 둔다. <개정 2008. 2. 29., 2010. 1. 18.>

②위원회는 위원장 1명을 포함하여 20명 이내의 위원으로 구성한다.

③위원은 다음 각 호의 자 중에서 보건복지부장관이 위촉하거나 임명한다. 다만, 위원장은 제1호 또는 제2호의 자 중에서 임명한다. <개정 2008. 2. 29., 2010. 1. 18.>

1. 제28조제1항에 따른 의사회·치과의사회·한의사회에서 각각 추천하는 자
2. 보건의료에 관한 학식이 풍부한 자
3. 소비자단체에서 추천하는 자
4. 변호사의 자격을 가진 자로서 보건의료와 관련된 업무에 5년 이상 종사한 경력이 있는 자
5. 보건의료정책 관련 업무를 담당하고 있는 보건복지부 소속 5급 이상의 공무원

④위원장과 위원의 임기는 3년으로 하되, 연임할 수 있다. 다만, 제3항제5호에 따른 공무원의 경우에는 재임기간으로 한다.

⑤위원의 자리가 빈 때에는 새로 위원을 임명하고, 새로 임명된 위원의 임기는 임명된 날부터 기산한다.

⑥위원회의 심의사항을 전문적으로 검토하기 위하여 위원회에 분야별 전문평가위원회를 둔다.

⑦그 밖에 위원회·전문평가위원회의 구성 및 운영 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**55 ( )** 보건복지부장관은 신의료기술평가에 관한 업무를 수행하기 위하여 필요한 경우 보건복지부령으로 정하는 바에 따라 자료 수집·조사 등 평가에 수반되는 업무를 관계 전문기관 또는 단체에 위탁할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

## 5

**56 ( )** ①의료기관 개설자, 의료기관의 장 또는 의료인(이하 “의료인등”이라 한다)이 아닌 자는 의료에 관한 광고(의료인등이 신문·잡지·음성·음향·영상·인터넷·인쇄물·간판, 그 밖의 방법에 의하여 의료행위, 의료기관 및 의료인등에 대한 정보를 소비자에게 나타내거나 알리는 행위를 말한다. 이하 “의료광고”라 한다)를 하지 못한다. <개정 2018. 3. 27.>

②의료인등은 다음 각 호의 어느 하나에 해당하는 의료광고를 하지 못한다. <개정 2009. 1. 30., 2016. 5. 29., 2018. 3. 27.>

1. 제53조에 따른 평가를 받지 아니한 신의료기술에 관한 광고
2. 환자에 관한 치료경험담 등 소비자로 하여금 치료 효과를 오인하게 할 우려가 있는 내용의 광고

3. 거짓된 내용을 표시하는 광고
  4. 다른 의료인등의 기능 또는 진료 방법과 비교하는 내용의 광고
  5. 다른 의료인등을 비방하는 내용의 광고
  6. 수술 장면 등 직접적인 시술행위를 노출하는 내용의 광고
  7. 의료인등의 기능, 진료 방법과 관련하여 심각한 부작용 등 중요한 정보를 누락하는 광고
  8. 객관적인 사실을 과장하는 내용의 광고
  9. 법적 근거가 없는 자격이나 명칭을 표방하는 내용의 광고
  10. 신문, 방송, 잡지 등을 이용하여 기사(記事) 또는 전문가의 의견 형태로 표현되는 광고
  11. 제57조에 따른 심의를 받지 아니하거나 심의받은 내용과 다른 내용의 광고
  12. 제27조제3항에 따라 외국인환자를 유치하기 위한 국내광고
  13. 소비자를 속이거나 소비자로 하여금 잘못 알게 할 우려가 있는 방법으로 제45조에 따른 비급여 진료비용을 할인하거나 면제하는 내용의 광고
  14. 각종 상장·감사장 등을 이용하는 광고 또는 인증·보증·추천을 받았다는 내용을 사용하거나 이와 유사한 내용을 표현하는 광고. 다만, 다음 각 목의 어느 하나에 해당하는 경우는 제외한다.
    - 가. 제58조에 따른 의료기관 인증을 표시한 광고
    - 나. 「정부조직법」 제2조부터 제4조까지의 규정에 따른 중앙행정기관·특별지방행정기관 및 그 소속기관, 「지방자치법」 제2조에 따른 지방자치단체 또는 「공공기관의 운영에 관한 법률」 제4조에 따른 공공기관으로부터 받은 인증·보증을 표시한 광고
    - 다. 다른 법령에 따라 받은 인증·보증을 표시한 광고
    - 라. 세계보건기구와 협력을 맺은 국제평가기구로부터 받은 인증을 표시한 광고 등 대통령령으로 정하는 광고
  15. 그 밖에 의료광고의 방법 또는 내용이 국민의 보건과 건전한 의료경쟁의 질서를 해치거나 소비자에게 피해를 줄 우려가 있는 것으로서 대통령령으로 정하는 내용의 광고
- ③의료광고는 다음 각 호의 방법으로는 하지 못한다. <개정 2018. 3. 27.>
1. 「방송법」 제2조제1호의 방송
  2. 그 밖에 국민의 보건과 건전한 의료경쟁의 질서를 유지하기 위하여 제한할 필요가 있는 경우로서 대통령령으로 정하는 방법
- ④제2항에 따라 금지되는 의료광고의 구체적인 내용 등 의료광고에 관하여 필요한 사항은 대통령령으로 정한다. <개정 2018. 3. 27.>
- ⑤ 보건복지부장관, 시장·군수·구청장은 제2항제2호부터 제5호까지 및 제7호부터 제9호까지를 위반한 의료인등에 대하여 제63조, 제64조 및 제67조에 따른 처분을 하려는 경우에는 지체 없이 그 내용을 공정거래위원회에 통보하여야 한다. <신설 2016. 5. 29., 2018. 3. 27.>

[2018. 3. 27. 법률 제15540호에 의하여 2015. 12. 23. 헌법재판소에서 위헌 결정된 이 조를 개정함.]

**57 ( )** ①의료인등이 다음 각 호의 어느 하나에 해당하는 매체를 이용하여 의료광고를 하려는 경우 미리 의료광고가 제56조제1항부터 제3항까지의 규정에 위반되는지 여부에 관하여 제2항에 따른 기관 또는 단체의 심의를 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 8. 4., 2016. 1. 6., 2018. 3. 27.>

1. 「신문 등의 진흥에 관한 법률」 제2조에 따른 신문·인터넷신문 또는 「잡지 등 정기간행물의 진흥에 관한 법률」 제2조에 따른 정기간행물
2. 「옥외광고물 등의 관리와 옥외광고산업 진흥에 관한 법률」 제2조제1호에 따른 옥외광고물 중 현수막(懸垂幕), 벽보, 전단(傳單) 및 교통시설·교통수단에 표시(교통수단 내부에 표시되거나 영상·

음성·음향 및 이들의 조합으로 이루어지는 광고를 포함한다)되는 것

### 3. 전광판

4. 대통령령으로 정하는 인터넷 매체[이동통신단말장치에서 사용되는 애플리케이션(Application)을 포함한다]

5. 그 밖에 매체의 성질, 영향력 등을 고려하여 대통령령으로 정하는 광고매체

② 다음 각 호의 기관 또는 단체는 대통령령으로 정하는 바에 따라 자율심의를 위한 조직 등을 갖추어 보건복지부장관에게 신고한 후 의료광고 심의 업무를 수행할 수 있다. <개정 2018. 3. 27.>

1. 제28조제1항에 따른 의사회·치과의사회·한의사회

2. 「소비자기본법」 제29조에 따라 등록된 소비자단체로서 대통령령으로 정하는 기준을 충족하는 단체

③ 의료인등은 제1항에도 불구하고 다음 각 호의 사항으로만 구성된 의료광고에 대해서는 제2항에 따라 보건복지부장관에게 신고한 기관 또는 단체(이하 “자율심의기구”라 한다)의 심의를 받지 아니할 수 있다. <개정 2018. 3. 27.>

1. 의료기관의 명칭·소재지·전화번호

2. 의료기관이 설치·운영하는 진료과목(제43조제5항에 따른 진료과목을 말한다)

3. 의료기관에 소속된 의료인의 성명·성별 및 면허의 종류

4. 그 밖에 대통령령으로 정하는 사항

④ 자율심의기구는 제1항에 따른 심의를 할 때 적용하는 심의 기준을 상호 협의하여 마련하여야 한다. <개정 2018. 3. 27.>

⑤ 의료광고 심의를 받으려는 자는 자율심의기구가 정하는 수수료를 내야 한다. <신설 2018. 3. 27.>

⑥ 제2항제1호에 따른 자율심의기구가 수행하는 의료광고 심의 업무 및 이와 관련된 업무의 수행에 관하여는 제29조제3항, 제30조제1항, 제32조, 제83조제1항 및 「민법」 제37조를 적용하지 아니하며, 제2항제2호에 따른 자율심의기구가 수행하는 의료광고 심의 업무 및 이와 관련된 업무의 수행에 관하여는 「민법」 제37조를 적용하지 아니한다. <신설 2018. 3. 27.>

⑦ 자율심의기구는 의료광고 제도 및 법령의 개선에 관하여 보건복지부장관에게 의견을 제시할 수 있다. <신설 2018. 3. 27.>

⑧ 제1항에 따른 심의의 유효기간은 심의를 신청하여 승인을 받은 날부터 3년으로 한다. <신설 2018. 3. 27.>

⑨ 의료인등이 제8항에 따른 유효기간의 만료 후 계속하여 의료광고를 하려는 경우에는 유효기간 만료 6개월 전에 자율심의기구에 의료광고 심의를 신청하여야 한다. <신설 2018. 3. 27.>

⑩ 제1항부터 제9항까지의 규정에서 정한 것 외에 자율심의기구의 구성·운영 및 심의에 필요한 사항은 자율심의기구가 정한다. <신설 2018. 3. 27.>

⑪ 자율심의기구는 제1항 및 제4항에 따른 심의 관련 업무를 수행할 때에는 제56조제1항부터 제3항까지의 규정에 따라 공정하고 투명하게 하여야 한다. <신설 2018. 3. 27.>

[제목개정 2018. 3. 27.]

[2018. 3. 27. 법률 제15540호에 의하여 2005. 12. 23. 헌법재판소에서 위헌 결정된 이 조를 개정함.]

**57 2( )** ① 자율심의기구는 의료광고를 심의하기 위하여 제2항 각 호의 구분에 따른 심의위원회(이하 이 조에서 “심의위원회”라 한다)를 설치·운영하여야 한다.

② 심의위원회의 종류와 심의 대상은 다음 각 호와 같다. <개정 2020. 3. 4.>

1. 의료광고심의위원회: 의사, 의원, 의원의 개설자, 병원, 병원의 개설자, 요양병원(한의학사가 개설한 경우는 제외한다), 요양병원의 개설자, 정신병원, 정신병원의 개설자, 종합병원(치과는 제외한다)

- 다. 이하 이 호에서 같다), 종합병원의 개설자, 조산사, 조산원, 조산원의 개설자가 하는 의료광고의 심의
2. 치과의료광고심의위원회: 치과의사, 치과의원, 치과의원의 개설자, 치과병원, 치과병원의 개설자, 종합병원(치과만 해당한다. 이하 이 호에서 같다), 종합병원의 개설자가 하는 의료광고의 심의
3. 한방의료광고심의위원회: 한의사, 한의원, 한의원의 개설자, 한방병원, 한방병원의 개설자, 요양병원(한의사가 개설한 경우만 해당한다. 이하 이 호에서 같다), 요양병원의 개설자가 하는 의료광고의 심의
- ③ 제57조제2항제1호에 따른 자율심의기구 중 의사회는 제2항제1호에 따른 심의위원회만, 치과의사회는 같은 항 제2호에 따른 심의위원회만, 한의사회는 같은 항 제3호에 따른 심의위원회만 설치·운영하고, 제57조제2항제2호에 따른 자율심의기구는 제2항 각 호의 어느 하나에 해당하는 심의위원회만 설치·운영할 수 있다.
- ④ 심의위원회는 위원장 1명과 부위원장 1명을 포함하여 15명 이상 25명 이하의 위원으로 구성한다. 이 경우 제2항 각 호의 심의위원회 종류별로 다음 각 호의 구분에 따라 구성하여야 한다.
1. 의료광고심의위원회: 제5항제2호부터 제9호까지의 사람을 각각 1명 이상 포함하되, 같은 항 제4호부터 제9호까지의 사람이 전체 위원의 3분의 1 이상이 되도록 구성하여야 한다.
  2. 치과의료광고심의위원회: 제5항제1호 및 제3호부터 제9호까지의 사람을 각각 1명 이상 포함하되, 같은 항 제4호부터 제9호까지의 사람이 전체 위원의 3분의 1 이상이 되도록 구성하여야 한다.
  3. 한방의료광고심의위원회: 제5항제1호·제2호 및 제4호부터 제9호까지의 사람을 각각 1명 이상 포함하되, 같은 항 제4호부터 제9호까지의 사람이 전체 위원의 3분의 1 이상이 되도록 구성하여야 한다.
- ⑤ 심의위원회 위원은 다음 각 호의 어느 하나에 해당하는 사람 중에서 자율심의기구의 장이 위촉한다
1. 의사
  2. 치과의사
  3. 한의사
  4. 「약사법」 제2조제2호에 따른 약사
  5. 「소비자기본법」 제2조제3호에 따른 소비자단체의 장이 추천하는 사람
  6. 「변호사법」 제7조제1항에 따라 같은 법 제78조에 따른 대한변호사협회에 등록된 변호사로서 대한변호사협회의 장이 추천하는 사람
  7. 「민법」 제32조에 따라 설립된 법인 중 여성의 사회참여 확대 및 복지 증진을 주된 목적으로 설립된 법인의 장이 추천하는 사람
  8. 「비영리민간단체 지원법」 제4조에 따라 등록된 단체로서 환자의 권익 보호를 주된 목적으로 하는 단체의 장이 추천하는 사람
  9. 그 밖에 보건의료 또는 의료광고에 관한 학식과 경험이 풍부한 사람
- ⑥ 제1항부터 제5항까지의 규정에서 정한 것 외에 심의위원회의 구성 및 운영에 필요한 사항은 자율심의기구가 정한다.

[본조신설 2018. 3. 27.]

**57 3( )** 자율심의기구는 의료광고가 제56조제1항부터 제3항까지의 규정을 준수하는지 여부에 관하여 모니터링하고, 보건복지부령으로 정하는 바에 따라 모니터링 결과를 보건복지부장관에게 제출하여야 한다.

[본조신설 2018. 3. 27.]

## 6

**58 ( )** ① 보건복지부장관은 의료의 질과 환자 안전의 수준을 높이기 위하여 병원급 의료기관 및 대통령령으로 정하는 의료기관에 대한 인증(이하 “의료기관 인증”이라 한다)을 할 수 있다. <개정 2020. 3. 4.>

② 보건복지부장관은 대통령령으로 정하는 바에 따라 의료기관 인증에 관한 업무를 제58조의11에 따른 의료기관평가인증원에 위탁할 수 있다. <개정 2020. 3. 4.>

③ 보건복지부장관은 다른 법률에 따라 의료기관을 대상으로 실시하는 평가를 통합하여 제58조의 11에 따른 의료기관평가인증원으로 하여금 시행하도록 할 수 있다. <개정 2020. 3. 4.>

[전문개정 2010. 7. 23.]

**58 2( )** ① 보건복지부장관은 의료기관 인증에 관한 주요 정책을 심의하기 위하여 보건복지부장관 소속으로 의료기관인증위원회(이하 이 조에서 “위원회”라 한다)를 둔다.

② 위원회는 위원장 1명을 포함한 15인 이내의 위원으로 구성한다.

③ 위원회의 위원장은 보건복지부차관으로 하고, 위원회의 위원은 다음 각 호의 사람 중에서 보건복지부장관이 임명 또는 위촉한다. <개정 2016. 5. 29.>

1. 제28조에 따른 의료인 단체 및 제52조에 따른 의료기관단체에서 추천하는 자
2. 노동계, 시민단체(「비영리민간단체지원법」 제2조에 따른 비영리민간단체를 말한다), 소비자단체(「소비자기본법」 제29조에 따른 소비자단체를 말한다)에서 추천하는 자
3. 보건의료에 관한 학식과 경험이 풍부한 자
4. 시설물 안전진단에 관한 학식과 경험이 풍부한 자
5. 보건복지부 소속 3급 이상 공무원 또는 고위공무원단에 속하는 공무원

④ 위원회는 다음 각 호의 사항을 심의한다.

1. 인증기준 및 인증의 공표를 포함한 의료기관 인증과 관련된 주요 정책에 관한 사항
  2. 제58조제3항에 따른 의료기관 대상 평가제도 통합에 관한 사항
  3. 제58조의7제2항에 따른 의료기관 인증 활용에 관한 사항
  4. 그 밖에 위원장이 심의에 부치는 사항
- ⑤ 위원회의 구성 및 운영, 그 밖에 필요한 사항은 대통령령으로 정한다.

[본조신설 2010. 7. 23.]

**58 3( )** ① 의료기관 인증기준은 다음 각 호의 사항을 포함하여야 한다.

1. 환자의 권리와 안전
2. 의료기관의 의료서비스 질 향상 활동
3. 의료서비스의 제공과정 및 성과
4. 의료기관의 조직·인력관리 및 운영
5. 환자 만족도

② 인증등급은 인증, 조건부인증 및 불인증으로 구분한다. <개정 2020. 3. 4.>

③ 인증의 유효기간은 4년으로 한다. 다만, 조건부인증의 경우에는 유효기간을 1년으로 한다. <개정 2020. 3. 4.>

④ 조건부인증을 받은 의료기관의 장은 유효기간 내에 보건복지부령으로 정하는 바에 따라 재인증을 받아야 한다. <개정 2020. 3. 4.>

⑤ 제1항에 따른 인증기준의 세부 내용은 보건복지부장관이 정한다. <개정 2020. 3. 4.>  
[본조신설 2010. 7. 23.]

**58 4( 가)** ① 의료기관 인증을 받고자 하는 의료기관의 장은 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 신청할 수 있다.

② 제1항에도 불구하고 제3조제2항제3호에 따른 요양병원(「장애인복지법」 제58조제1항제4호에 따른 의료재활시설로서 제3조의2에 따른 요건을 갖춘 의료기관은 제외한다)의 장은 보건복지부령으로 정하는 바에 따라 보건복지부장관에게 인증을 신청하여야 한다. <개정 2020. 3. 4.>

③ 제2항에 따라 인증을 신청하여야 하는 요양병원이 조건부인증 또는 불인증을 받거나 제58조의10제1항제4호 및 제5호에 따라 인증 또는 조건부인증이 취소된 경우 해당 요양병원의 장은 보건복지부령으로 정하는 기간 내에 다시 인증을 신청하여야 한다. <개정 2020. 3. 4.>

④ 보건복지부장관은 인증을 신청한 의료기관에 대하여 제58조의3제1항에 따른 인증기준 적합 여부를 평가하여야 한다. 이 경우 보건복지부장관은 보건복지부령으로 정하는 바에 따라 필요한 조사를 할 수 있고, 인증을 신청한 의료기관은 정당한 사유가 없으면 조사에 협조하여야 한다. <신설 2020. 3. 4.>

⑤ 보건복지부장관은 제4항에 따른 평가 결과와 인증등급을 지체 없이 해당 의료기관의 장에게 통보하여야 한다. <신설 2020. 3. 4.>

[본조신설 2010. 7. 23.]

[제목개정 2020. 3. 4.]

**58 5( )** ① 의료기관 인증을 신청한 의료기관의 장은 평가결과 또는 인증등급에 관하여 보건복지부장관에게 이의신청을 할 수 있다.

② 제1항에 따른 이의신청은 평가결과 또는 인증등급을 통보받은 날부터 30일 이내에 하여야 한다. 다만, 책임질 수 없는 사유로 그 기간을 지킬 수 없었던 경우에는 그 사유가 없어진 날부터 기산한다.

③ 제1항에 따른 이의신청의 방법 및 처리 결과의 통보 등에 필요한 사항은 보건복지부령으로 정한다.  
[본조신설 2010. 7. 23.]

**58 6( )** ① 보건복지부장관은 인증을 받은 의료기관에 인증서를 교부하고 인증을 나타내는 표시(이하 “인증마크”라 한다)를 제작하여 인증을 받은 의료기관이 사용하도록 할 수 있다.

② 누구든지 제58조제1항에 따른 인증을 받지 아니하고 인증서나 인증마크를 제작·사용하거나 그 밖의 방법으로 인증을 사칭하여서는 아니 된다.

③ 인증마크의 도안 및 표시방법 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2010. 7. 23.]

**58 7( )** ① 보건복지부장관은 인증을 받은 의료기관에 관하여 인증기준, 인증 유효기간 및 제58조의4제4항에 따라 평가한 결과 등 보건복지부령으로 정하는 사항을 인터넷 홈페이지 등에 공표하여야 한다. <개정 2020. 3. 4.>

② 보건복지부장관은 제58조의4제4항에 따른 평가 결과와 인증등급을 활용하여 의료기관에 대하여 다음 각 호에 해당하는 행정적·재정적 지원 등 필요한 조치를 할 수 있다. <개정 2020. 3. 4.>

1. 제3조의4에 따른 상급종합병원 지정
  2. 제3조의5에 따른 전문병원 지정
  3. 의료의 질 및 환자 안전 수준 향상을 위한 교육, 컨설팅 지원
  4. 그 밖에 다른 법률에서 정하거나 보건복지부장관이 필요하다고 인정한 사항
- ③ 제1항에 따른 공표 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2010. 7. 23.]

**58 8( )** ① 보건복지부장관은 인증과 관련하여 필요한 경우에는 관계 행정기관, 의료기관, 그 밖의 공공단체 등에 대하여 자료의 제공 및 협조를 요청할 수 있다.

② 제1항에 따른 자료의 제공과 협조를 요청받은 자는 정당한 사유가 없는 한 요청에 따라야 한다.

[본조신설 2010. 7. 23.]

**58 9( )** 보건복지부장관은 인증의 실효성을 유지하기 위하여 보건복지부령으로 정하는 바에 따라 인증을 받은 의료기관에 대하여 제58조의3제1항에 따른 인증기준의 충족 여부를 조사할 수 있다.

[본조신설 2020. 3. 4.]

[중전 제58조의9는 제58조의10으로 이동 <2020. 3. 4.>]

**58 10( )** ① 보건복지부장관은 인증을 받은 의료기관이 인증 유효기간 중 다음 각 호의 어느 하나에 해당하는 경우에는 의료기관 인증 또는 조건부인증을 취소하거나 인증마크의 사용정지 또는 시정을 명할 수 있다. 다만, 제1호 및 제2호에 해당하는 경우에는 인증 또는 조건부인증을 취소하여야 한다. <개정 2020. 3. 4.>

1. 거짓이나 그 밖의 부정한 방법으로 인증 또는 조건부인증을 받은 경우
2. 제64조제1항에 따라 의료기관 개설 허가가 취소되거나 폐쇄명령을 받은 경우
3. 의료기관의 종별 변경 등 인증 또는 조건부인증의 전제나 근거가 되는 중대한 사실이 변경된 경우
4. 제58조의3제1항에 따른 인증기준을 충족하지 못하게 된 경우
5. 인증마크의 사용정지 또는 시정명령을 위반한 경우

② 제1항제1호에 따라 인증이 취소된 의료기관은 인증 또는 조건부인증이 취소된 날부터 1년 이내에 인증 신청을 할 수 없다.

③ 제1항에 따른 의료기관 인증 또는 조건부인증의 취소 및 인증마크의 사용정지 등에 필요한 절차와 처분의 기준 등은 보건복지부령으로 정한다. <신설 2020. 3. 4.>

[본조신설 2010. 7. 23.]

[제목개정 2020. 3. 4.]

[제58조의9에서 이동 <2020. 3. 4.>]

**58 11( 가 )** ① 의료기관 인증에 관한 업무와 의료기관을 대상으로 실시하는 각종 평가 업무를 효율적으로 수행하기 위하여 의료기관평가인증원(이하 "인증원"이라 한다)을 설립한다.

② 인증원은 다음 각 호의 업무를 수행한다.

1. 의료기관 인증에 관한 업무로서 제58조제2항에 따라 위탁받은 업무
2. 다른 법률에 따라 의료기관을 대상으로 실시하는 평가 업무로서 보건복지부장관으로부터 위탁받은 업무

3. 그 밖에 이 법 또는 다른 법률에 따라 보건복지부장관으로부터 위탁받은 업무

③ 인증원은 법인으로 하고, 주된 사무소의 소재지에 설립등기를 함으로써 성립한다.

④ 인증원에는 정관으로 정하는 바에 따라 임원과 필요한 직원을 둔다.

⑤ 보건복지부장관은 인증원의 운영 및 사업에 필요한 경비를 예산의 범위에서 지원할 수 있다.

⑥ 인증원은 보건복지부장관의 승인을 받아 의료기관 인증을 신청한 의료기관의 장으로부터 인증에 소요되는 비용을 징수할 수 있다.

⑦ 인증원은 제2항에 따른 업무 수행에 지장이 없는 범위에서 보건복지부령으로 정하는 바에 따라 교육, 컨설팅 등 수익사업을 할 수 있다.

⑧ 인증원에 관하여 이 법 및 「공공기관의 운영에 관한 법률」에서 정하는 사항 외에는 「민법」 중 재단 법인에 관한 규정을 준용한다.

[본조신설 2020. 3. 4.]

**59 ( )** ① 보건복지부장관 또는 시·도지사는 보건의료정책을 위하여 필요하거나 국민보건에 중대한 위해(危害)가 발생하거나 발생할 우려가 있으면 의료기관이나 의료인에게 필요한 지도와 명령을 할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

② 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 의료인이 정당한 사유 없이 진료를 중단하거나 의료기관 개설자가 집단으로 휴업하거나 폐업하여 환자 진료에 막대한 지장을 초래하거나 초래할 우려가 있다고 인정할 만한 상당한 이유가 있으면 그 의료인이나 의료기관 개설자에게 업무개시 명령을 할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

③ 의료인과 의료기관 개설자는 정당한 사유 없이 제2항의 명령을 거부할 수 없다.

**60 ( )** ① 보건복지부장관은 병상의 합리적인 공급과 배치에 관한 기본시책을 5년마다 수립하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2019. 8. 27.>

② 시·도지사는 제1항에 따른 기본시책에 따라 지역 실정을 고려하여 특별시·광역시 또는 도 단위의 지역별·기능별·종별 의료기관 병상 수급 및 관리계획을 수립한 후 보건복지부장관에게 제출하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2019. 8. 27.>

③ 보건복지부장관은 제2항에 따라 제출된 병상 수급 및 관리계획이 제1항에 따른 기본시책에 맞지 아니하는 등 보건복지부령으로 정하는 사유가 있으면 시·도지사와 협의하여 보건복지부령으로 정하는 바에 따라 이를 조정하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2019. 8. 27.>

**60 2( )** ① 보건복지부장관은 우수한 의료인의 확보와 적절한 공급을 위한 기본시책을 수립하여야 한다.

② 제1항에 따른 기본시책은 「보건의료기본법」 제15조에 따른 보건의료발전계획과 연계하여 수립한다.

[본조신설 2015. 12. 29.]

**60 3( )** ① 보건복지부장관은 간호·간병통합서비스 제공·확대 및 간호인력의 원활한 수급을 위하여 다음 각 호의 업무를 수행하는 간호인력 취업교육센터를 지역별로 설치·운영할 수 있다.

1. 지역별, 의료기관별 간호인력 확보에 관한 현황 조사

2. 제7조제1항제1호에 따른 간호학을 전공하는 대학이나 전문대학[구제(舊制) 전문학교와 간호학교를 포함한다] 졸업예정자와 신규 간호인력에 대한 취업교육 지원

3. 간호인력의 지속적인 근무를 위한 경력개발 지원
4. 유휴 및 이직 간호인력의 취업교육 지원
5. 그 밖에 간호인력의 취업교육 지원을 위하여 보건복지부령으로 정하는 사항
  - ② 보건복지부장관은 간호인력 취업교육센터를 효율적으로 운영하기 위하여 그 운영에 관한 업무를 대통령령으로 정하는 절차·방식에 따라 관계 전문기관 또는 단체에 위탁할 수 있다.
  - ③ 국가 및 지방자치단체는 제2항에 따라 간호인력 취업교육센터의 운영에 관한 업무를 위탁한 경우에는 그 운영에 드는 비용을 지원할 수 있다.
  - ④ 그 밖에 간호인력 취업교육센터의 운영 등에 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2015. 12. 29.]

- 61 ( )** ① 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 의료기관 개설자 또는 의료인에게 필요한 사항을 보고하도록 명할 수 있고, 관계 공무원을 시켜 그 업무 상황, 시설 또는 진료기록부·조산기록부·간호기록부 등 관계 서류를 검사하게 하거나 관계인에게서 진술을 들어 사실을 확인받게 할 수 있다. 이 경우 의료기관 개설자 또는 의료인은 정당한 사유 없이 이를 거부하지 못한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 8. 4., 2016. 12. 20., 2018. 3. 27., 2019. 8. 27.>
- ② 제1항의 경우에 관계 공무원은 권한을 증명하는 증표 및 조사기간, 조사범위, 조사담당자, 관계 법령 등이 기재된 조사명령서를 지니고 이를 관계인에게 내보여야 한다. <개정 2011. 8. 4.>
- ③ 제1항의 보고 및 제2항의 조사명령서에 관한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18., 2011. 8. 4.>

- 61 2( )** ① 보건복지부장관은 이 법의 위반 사실을 확인하기 위한 경우 등 소관 업무를 수행하기 위하여 필요한 경우에는 의료인, 의료기관의 장, 「국민건강보험법」에 따른 국민건강보험공단 및 건강보험심사평가원, 그 밖의 관계 행정기관 및 단체 등에 대하여 필요한 자료의 제출이나 의견의 진술 등을 요청할 수 있다.
- ② 제1항에 따른 자료의 제공 또는 협조를 요청받은 자는 특별한 사유가 없으면 이에 따라야 한다.
- [본조신설 2019. 8. 27.]

- 62 ( )** ① 의료기관 개설자는 의료기관 회계를 투명하게 하도록 노력하여야 한다.
- ② 100병상 이상의 병원급 의료기관으로서 보건복지부령으로 정하는 일정 규모 이상의 병원급 의료기관 개설자는 회계를 투명하게 하기 위하여 의료기관 회계기준을 지켜야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2020. 3. 4.>
- ③ 제2항에 따른 의료기관 회계기준은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

- 63 ( )** ① 보건복지부장관 또는 시장·군수·구청장은 의료기관이 제15조제1항, 제16조제2항, 제21조제1항 후단 및 같은 조 제2항·제3항, 제23조제2항, 제34조제2항, 제35조제2항, 제36조, 제36조의2, 제37조제1항·제2항, 제38조제1항·제2항, 제41조부터 제43조까지, 제45조, 제46조, 제47조제1항, 제58조의4제2항 및 제3항, 제62조제2항을 위반한 때, 종합병원·상급종합병원·전문병원이 각각 제3조의3제1항·제3조의4제1항·제3조의5제2항에 따른 요건에 해당하지 아니하게 된 때, 의료기관의 장이 제4조제5항을 위반한 때 또는 자율심의기구가 제57조제11항을 위반한 때에는 일정한 기간을 정하여 그 시설·장비 등의 전부 또는 일부의 사용을 제한 또는 금지하거나 위반한 사항을 시정하도록 명할 수 있다. <개정 2008. 2. 29., 2009. 1. 30., 2010. 1. 18., 2010. 7. 23., 2011. 4. 28., 2015. 12. 22., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2018. 3. 27., 2020. 3. 4.>

② 보건복지부장관 또는 시장·군수·구청장은 의료인등이 제56조제2항·제3항을 위반한 때에는 다음 각 호의 조치를 명할 수 있다. <신설 2018. 3. 27.>

1. 위반행위의 중지
2. 위반사실의 공표
3. 정정광고

③ 제2항제2호·제3호에 따른 조치에 필요한 사항은 대통령령으로 정한다. <신설 2018. 3. 27.>

**64 ( 가 )** ① 보건복지부장관 또는 시장·군수·구청장은 의료기관이 다음 각 호의 어느 하나에 해당하면 그 의료업을 1년의 범위에서 정지시키거나 개설 허가의 취소 또는 의료기관 폐쇄를 명할 수 있다. 다만, 제8호에 해당하는 경우에는 의료기관 개설 허가의 취소 또는 의료기관 폐쇄를 명하여야 하며, 의료기관 폐쇄는 제33조제3항과 제35조제1항 본문에 따라 신고한 의료기관에만 명할 수 있다. <개정 2007. 7. 27., 2008. 2. 29., 2009. 1. 30., 2010. 1. 18., 2011. 8. 4., 2013. 8. 13., 2015. 12. 22., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2018. 8. 14., 2019. 4. 23., 2019. 8. 27.>

1. 개설 신고나 개설 허가를 한 날부터 3개월 이내에 정당한 사유 없이 업무를 시작하지 아니한 때
2. 제27조제5항을 위반하여 무자격자에게 의료행위를 하게 하거나 의료인에게 면허 사항 외의 의료행위를 하게 한 때
3. 제61조에 따른 관계 공무원의 직무 수행을 기피 또는 방해하거나 제59조 또는 제63조에 따른 명령을 위반한 때
4. 제33조제2항제3호부터 제5호까지의 규정에 따른 의료법인·비영리법인, 준정부기관·지방의료원 또는 한국보훈복지의료공단의 설립허가가 취소되거나 해산된 때
- 4의2. 제33조제2항을 위반하여 의료기관을 개설한 때
5. 제33조제5항·제7항·제9항·제10항, 제40조 또는 제56조를 위반한 때. 다만, 의료기관 개설자 본인에게 책임이 없는 사유로 제33조제7항제4호를 위반한 때에는 그러하지 아니하다.
- 5의2. 정당한 사유 없이 제40조제1항에 따른 폐업·휴업 신고를 하지 아니하고 6개월 이상 의료업을 하지 아니한 때

6. 제63조에 따른 시정명령(제4조제5항 위반에 따른 시정명령을 제외한다)을 이행하지 아니한 때

7. 「약사법」 제24조제2항을 위반하여 담합행위를 한 때

8. 의료기관 개설자가 거짓으로 진료비를 청구하여 금고 이상의 형을 선고받고 그 형이 확정된 때

9. 제36조에 따른 준수사항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 한 때

② 제1항에 따라 개설 허가를 취소당하거나 폐쇄 명령을 받은 자는 그 취소된 날이나 폐쇄 명령을 받은 날부터 6개월 이내에, 의료업 정지처분을 받은 자는 그 업무 정지기간 중에 각각 의료기관을 개설·운영하지 못한다. 다만, 제1항제8호에 따라 의료기관 개설 허가를 취소당하거나 폐쇄 명령을 받은 자는 취소당한 날이나 폐쇄 명령을 받은 날부터 3년 안에는 의료기관을 개설·운영하지 못한다.

③ 보건복지부장관 또는 시장·군수·구청장은 의료기관이 제1항에 따라 그 의료업이 정지되거나 개설 허가의 취소 또는 폐쇄 명령을 받은 경우 해당 의료기관에 입원 중인 환자를 다른 의료기관으로 옮기도록 하는 등 환자의 권익을 보호하기 위하여 필요한 조치를 하여야 한다. <신설 2016. 12. 20.>

**64 ( 가 )** ① 보건복지부장관 또는 시장·군수·구청장은 의료기관이 다음 각 호의 어느 하나에 해당하면 그 의료업을 1년의 범위에서 정지시키거나 개설 허가의 취소 또는 의료기관 폐쇄를 명할 수 있다. 다만, 제8호에 해당하는 경우에는 의료기관 개설 허가의 취소 또는 의료기관 폐쇄를 명하여야 하며, 의료기관 폐쇄는 제33조제3항과 제35조제1항 본문에 따라 신고한 의료기관에만 명할 수 있다. <개정 2007. 7. 27., 2008. 2. 29., 2009. 1. 30., 2010. 1. 18., 2011. 8. 4., 2013. 8. 13., 2015. 12.

22., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2018. 8. 14., 2019. 4. 23., 2019. 8. 27., 2020. 12. 29.>

1. 개설 신고나 개설 허가를 한 날부터 3개월 이내에 정당한 사유 없이 업무를 시작하지 아니한 때
- 1의2. 제4조제2항을 위반하여 의료인이 다른 의료인 또는 의료법인 등의 명의로 의료기관을 개설하거나 운영한 때
2. 제27조제5항을 위반하여 무자격자에게 의료행위를 하게 하거나 의료인에게 면허 사항 외의 의료행위를 하게 한 때
3. 제61조에 따른 관계 공무원의 직무 수행을 기피 또는 방해하거나 제59조 또는 제63조에 따른 명령을 위반한 때
4. 제33조제2항제3호부터 제5호까지의 규정에 따른 의료법인·비영리법인, 준정부기관·지방의료원 또는 한국보훈복지의료공단의 설립허가가 취소되거나 해산된 때
- 4의2. 제33조제2항을 위반하여 의료기관을 개설한 때
- 4의3. 제33조제8항을 위반하여 둘 이상의 의료기관을 개설·운영한 때
5. 제33조제5항·제7항·제9항·제10항, 제40조 또는 제56조를 위반한 때. 다만, 의료기관 개설자 본인에게 책임이 없는 사유로 제33조제7항제4호를 위반한 때에는 그러하지 아니하다.
- 5의2. 정당한 사유 없이 제40조제1항에 따른 폐업·휴업 신고를 하지 아니하고 6개월 이상 의료업을 하지 아니한 때
6. 제63조에 따른 시정명령(제4조제5항 위반에 따른 시정명령을 제외한다)을 이행하지 아니한 때
7. 「약사법」 제24조제2항을 위반하여 담합행위를 한 때
8. 의료기관 개설자가 거짓으로 진료비를 청구하여 금고 이상의 형을 선고받고 그 형이 확정된 때
9. 제36조에 따른 준수사항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 한 때
- ②제1항에 따라 개설 허가를 취소당하거나 폐쇄 명령을 받은 자는 그 취소된 날이나 폐쇄 명령을 받은 날부터 6개월 이내에, 의료업 정지처분을 받은 자는 그 업무 정지기간 중에 각각 의료기관을 개설·운영하지 못한다. 다만, 제1항제8호에 따라 의료기관 개설 허가를 취소당하거나 폐쇄 명령을 받은 자는 취소당한 날이나 폐쇄 명령을 받은 날부터 3년 안에는 의료기관을 개설·운영하지 못한다.
- ③ 보건복지부장관 또는 시장·군수·구청장은 의료기관이 제1항에 따라 그 의료업이 정지되거나 개설 허가의 취소 또는 폐쇄 명령을 받은 경우 해당 의료기관에 입원 중인 환자를 다른 의료기관으로 옮기도록 하는 등 환자의 권익을 보호하기 위하여 필요한 조치를 하여야 한다.<신설 2016. 12. 20.>

[시행일 : 2021. 6. 30.] 제64조

**65** ( ) ①보건복지부장관은 의료인이 다음 각 호의 어느 하나에 해당할 경우에는 그 면허를 취소할 수 있다. 다만, 제1호의 경우에는 면허를 취소하여야 한다. <개정 2008. 2. 29., 2009. 1. 30., 2009. 12. 31., 2010. 1. 18., 2015. 12. 29., 2016. 5. 29., 2020. 3. 4., 2020. 12. 29.>

1. 제8조 각 호의 어느 하나에 해당하게 된 경우
2. 제66조에 따른 자격 정지 처분 기간 중에 의료행위를 하거나 3회 이상 자격 정지 처분을 받은 경우
3. 제11조제1항에 따른 면허 조건을 이행하지 아니한 경우
4. 제4조의3제1항을 위반하여 면허를 대여한 경우
5. 삭제<2016. 12. 20.>
6. 제4조제6항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 한 경우
7. 제27조제5항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 할 우려가 있는 수술, 수혈, 전신마취를 의료인 아닌 자에게 하게 하거나 의료인에게 면허 사항 외로 하게 한 경우
- ②보건복지부장관은 제1항에 따라 면허가 취소된 자라도 취소의 원인이 된 사유가 없어지거나 개선(改悛)의 정이 뚜렷하다고 인정되면 면허를 재교부할 수 있다. 다만, 제1항제3호에 따라 면허가 취소

된 경우에는 취소된 날부터 1년 이내, 제1항제2호에 따라 면허가 취소된 경우에는 취소된 날부터 2년 이내, 제1항제4호·제6호 또는 제8조제4호에 따른 사유로 면허가 취소된 경우에는 취소된 날부터 3년 이내에는 재교부하지 못한다. <개정 2007. 7. 27., 2008. 2. 29., 2010. 1. 18., 2016. 5. 29., 2016. 12. 20., 2019. 8. 27.>

**65 ( )** ①보건복지부장관은 의료인이 다음 각 호의 어느 하나에 해당할 경우에는 그 면허를 취소할 수 있다. 다만, 제1호의 경우에는 면허를 취소하여야 한다. <개정 2008. 2. 29., 2009. 1. 30., 2009. 12. 31., 2010. 1. 18., 2015. 12. 29., 2016. 5. 29., 2020. 3. 4., 2020. 12. 29.>

1. 제8조 각 호의 어느 하나에 해당하게 된 경우
2. 제66조에 따른 자격 정지 처분 기간 중에 의료행위를 하거나 3회 이상 자격 정지 처분을 받은 경우
3. 제11조제1항에 따른 면허 조건을 이행하지 아니한 경우
4. 제4조의3제1항을 위반하여 면허를 대여한 경우
5. 삭제<2016. 12. 20.>
6. 제4조제6항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 한 경우
7. 제27조제5항을 위반하여 사람의 생명 또는 신체에 중대한 위해를 발생하게 할 우려가 있는 수술, 수혈, 전신마취를 의료인 아닌 자에게 하게 하거나 의료인에게 면허 사항 외로 하게 한 경우

②보건복지부장관은 제1항에 따라 면허가 취소된 자라도 취소의 원인이 된 사유가 없어지거나 개선(改悛)의 정이 뚜렷하다고 인정되면 면허를 재교부할 수 있다. 다만, 제1항제3호에 따라 면허가 취소된 경우에는 취소된 날부터 1년 이내, 제1항제2호에 따라 면허가 취소된 경우에는 취소된 날부터 2년 이내, 제1항제4호·제6호·제7호 또는 제8조제4호에 따른 사유로 면허가 취소된 경우에는 취소된 날부터 3년 이내에는 재교부하지 못한다. <개정 2007. 7. 27., 2008. 2. 29., 2010. 1. 18., 2016. 5. 29., 2016. 12. 20., 2019. 8. 27., 2020. 12. 29.>

[시행일 : 2021. 6. 30.] 제65조

**66 ( )** ①보건복지부장관은 의료인이 다음 각 호의 어느 하나에 해당하면 1년의 범위에서 면허자격을 정지시킬 수 있다. 이 경우 의료기술과 관련한 판단이 필요한 사항에 관하여는 관계 전문가의 의견을 들어 결정할 수 있다. <개정 2008. 2. 29., 2009. 12. 31., 2010. 1. 18., 2010. 5. 27., 2011. 4. 7., 2011. 8. 4., 2016. 5. 29., 2016. 12. 20., 2019. 4. 23., 2019. 8. 27.>

1. 의료인의 품위를 심하게 손상시키는 행위를 한 때
2. 의료기관 개설자가 될 수 없는 자에게 고용되어 의료행위를 한 때
- 2의2. 제4조제6항을 위반한 때
3. 제17조제1항 및 제2항에 따른 진단서·검안서 또는 증명서를 거짓으로 작성하여 내주거나 제22조제1항에 따른 진료기록부등을 거짓으로 작성하거나 고의로 사실과 다르게 추가 기재·수정한 때
4. 제20조를 위반한 경우
5. 삭제<2020. 12. 29.>
6. 의료기사가 아닌 자에게 의료기사의 업무를 하게 하거나 의료기사에게 그 업무 범위를 벗어나게 한 때
7. 관련 서류를 위조·변조하거나 속임수 등 부정한 방법으로 진료비를 거짓 청구한 때
8. 삭제<2011. 8. 4.>
9. 제23조의5를 위반하여 경제적 이익등을 제공받은 때
10. 그 밖에 이 법 또는 이 법에 따른 명령을 위반한 때

- ②제1항제1호에 따른 행위의 범위는 대통령령으로 정한다.
- ③의료기관은 그 의료기관 개설자가 제1항제7호에 따라 자격정지 처분을 받은 경우에는 그 자격정지 기간 중 의료업을 할 수 없다. <개정 2010. 7. 23.>
- ④ 보건복지부장관은 의료인이 제25조에 따른 신고를 하지 아니한 때에는 신고할 때까지 면허의 효력을 정지할 수 있다. <신설 2011. 4. 28.>
- ⑤ 제1항제2호를 위반한 의료인이 자진하여 그 사실을 신고한 경우에는 제1항에도 불구하고 보건복지부령으로 정하는 바에 따라 그 처분을 감경하거나 면제할 수 있다. <신설 2012. 2. 1.>
- ⑥ 제1항에 따른 자격정지처분은 그 사유가 발생한 날부터 5년(제1항제5호·제7호에 따른 자격정지처분의 경우에는 7년으로 한다)이 지나면 하지 못한다. 다만, 그 사유에 대하여 「형사소송법」 제246조에 따른 공소가 제기된 경우에는 공소가 제기된 날부터 해당 사건의 재판이 확정된 날까지의 기간은 시효 기간에 산입하지 아니 한다. <신설 2016. 5. 29.>

**66 2( )** 각 중앙회의 장은 의료인이 제66조제1항제1호에 해당하는 경우에는 각 중앙회의 윤리위원회의 심의·의결을 거쳐 보건복지부장관에게 자격정지 처분을 요구할 수 있다.

[본조신설 2011. 4. 28.]

**67 ( )** ①보건복지부장관이나 시장·군수·구청장은 의료기관이 제64조제1항 각 호의 어느 하나에 해당할 때에는 대통령령으로 정하는 바에 따라 의료업 정지 처분을 갈음하여 10억원 이하의 과징금을 부과할 수 있으며, 이 경우 과징금은 3회까지만 부과할 수 있다. 다만, 동일한 위반행위에 대하여 「표시·광고의 공정화에 관한 법률」 제9조에 따른 과징금 부과처분이 이루어진 경우에는 과징금(의료업 정지 처분을 포함한다)을 감경하여 부과하거나 부과하지 아니할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2016. 5. 29., 2019. 8. 27.>

②제1항에 따른 과징금을 부과하는 위반 행위의 종류와 정도 등에 따른 과징금의 액수와 그 밖에 필요한 사항은 대통령령으로 정한다.

③보건복지부장관이나 시장·군수·구청장은 제1항에 따른 과징금을 기한 안에 내지 아니한 때에는 지방세 체납처분의 예에 따라 징수한다. <개정 2008. 2. 29., 2010. 1. 18.>

**68 ( )** 제63조, 제64조제1항, 제65조제1항, 제66조제1항에 따른 행정처분의 세부적인 기준은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**69 ( )** ①제61조에 따른 관계 공무원의 직무를 행하게 하기 위하여 보건복지부, 시·도 및 시·군·구에 의료지도원을 둔다. <개정 2008. 2. 29., 2010. 1. 18.>

②의료지도원은 보건복지부장관, 시·도지사 또는 시장·군수·구청장이 그 소속 공무원 중에서 임명하되, 자격과 임명 등에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

③의료지도원 및 그 밖의 공무원은 직무를 통하여 알게 된 의료기관, 의료인, 환자의 비밀을 누설하지 못한다.

**7 <2011. 4. 7.>**

**70 삭제 <2011. 4. 7.>**

- 71 삭제 <2011. 4. 7.>  
 72 삭제 <2011. 4. 7.>  
 73 삭제 <2011. 4. 7.>  
 74 삭제 <2011. 4. 7.>  
 75 삭제 <2011. 4. 7.>  
 76 삭제 <2011. 4. 7.>

## 8

- 77 ( ) ①의사·치과의사 또는 한의사로서 전문의가 되려는 자는 대통령령으로 정하는 수련을 거쳐 보건복지부장관에게 자격 인정을 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>  
 ②제1항에 따라 전문의 자격을 인정받은 자가 아니면 전문과목을 표시하지 못한다. 다만, 보건복지부장관은 의료체계를 효율적으로 운영하기 위하여 전문의 자격을 인정받은 치과의사와 한의사에 대하여 종합병원·치과병원·한방병원 중 보건복지부령으로 정하는 의료기관에 한하여 전문과목을 표시하도록 할 수 있다. <개정 2008. 2. 29., 2009. 1. 30., 2010. 1. 18.>  
 ③ 삭제 <2016. 12. 20.>  
 ④전문의 자격 인정과 전문과목에 관한 사항은 대통령령으로 정한다. <개정 2011. 4. 28.>  
 [법률 제9386호(2009. 1. 30.) 부칙 제2조의 규정에 의하여 이 조 제2항 단서의 개정규정 중 치과의사에 대한 부분은 2013년 12월 31일까지, 한의사에 대한 부분은 2009년 12월 31일까지 유효함]  
 [2016. 12. 20. 법률 제14438호에 의하여 2015. 5. 28. 헌법재판소에서 위헌 결정된 이 조 제3항을 삭제함.]
- 78 ( ) ①보건복지부장관은 간호사에게 간호사 면허 외에 전문간호사 자격을 인정할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>  
 ② 전문간호사가 되려는 사람은 다음 각 호의 어느 하나에 해당하는 사람으로서 보건복지부장관이 실시하는 전문간호사 자격시험에 합격한 후 보건복지부장관의 자격인정을 받아야 한다. <개정 2018. 3. 27.>  
 1. 보건복지부령으로 정하는 전문간호사 교육과정을 이수한 자  
 2. 보건복지부장관이 인정하는 외국의 해당 분야 전문간호사 자격이 있는 자  
 ③ 전문간호사는 제2항에 따라 자격을 인정받은 해당 분야에서 간호 업무를 수행하여야 한다. <신설 2018. 3. 27.>  
 ④ 전문간호사의 자격 구분, 자격 기준, 자격 시험, 자격증, 업무 범위, 그 밖에 필요한 사항은 보건복지부령으로 정한다. <신설 2018. 3. 27.>
- 79 ( ) ①이 법이 시행되기 전의 규정에 따라 면허를 받은 한지 의사(限地 醫師), 한지 치과의사 및 한지 한의사는 허가받은 지역에서 의료업무에 종사하는 경우 의료인으로 본다.  
 ②보건복지부장관은 제1항에 따른 의료인이 허가받은 지역 밖에서 의료행위를 하는 경우에는 그 면허를 취소할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>  
 ③제1항에 따른 의료인의 허가지역 변경, 그 밖에 필요한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

④한지 의사, 한지 치과의사, 한지 한의사로서 허가받은 지역에서 10년 이상 의료업무에 종사한 경력이 있는 자 또는 이 법 시행 당시 의료업무에 종사하고 있는 자 중 경력이 5년 이상인 자에게는 제5조에도 불구하고 보건복지부령으로 정하는 바에 따라 의사, 치과의사 또는 한의사의 면허를 줄 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

**80 ( )** ① 간호조무사가 되려는 사람은 다음 각 호의 어느 하나에 해당하는 사람으로서 보건복지부령으로 정하는 교육과정을 이수하고 간호조무사 국가시험에 합격한 후 보건복지부장관의 자격인정을 받아야 한다. 이 경우 자격시험의 제한에 관하여는 제10조를 준용한다. <개정 2019. 8. 27.>

1. 초·중등교육법령에 따른 특성화고등학교의 간호 관련 학과를 졸업한 사람(간호조무사 국가시험 응시일로부터 6개월 이내에 졸업이 예정된 사람을 포함한다)
  2. 「초·중등교육법」 제2조에 따른 고등학교 졸업자(간호조무사 국가시험 응시일로부터 6개월 이내에 졸업이 예정된 사람을 포함한다) 또는 초·중등교육법령에 따라 같은 수준의 학력이 있다고 인정되는 사람(이하 이 조에서 “고등학교 졸업학력 인정자”라 한다)으로서 보건복지부령으로 정하는 국·공립 간호조무사양성소의 교육을 이수한 사람
  3. 고등학교 졸업학력 인정자로서 평생교육법령에 따른 평생교육시설에서 고등학교 교과 과정에 상응하는 교육과정 중 간호 관련 학과를 졸업한 사람(간호조무사 국가시험 응시일로부터 6개월 이내에 졸업이 예정된 사람을 포함한다)
  4. 고등학교 졸업학력 인정자로서 「학원의 설립·운영 및 과외교습에 관한 법률」 제2조의2제2항에 따른 학원의 간호조무사 교습과정을 이수한 사람
  5. 고등학교 졸업학력 인정자로서 외국의 간호조무사 교육과정(보건복지부장관이 정하여 고시하는 인정기준에 해당하는 교육과정을 말한다)을 이수하고 해당 국가의 간호조무사 자격을 취득한 사람
  6. 제7조제1항제1호 또는 제2호에 해당하는 사람
- ② 제1항제1호부터 제4호까지에 따른 간호조무사 교육훈련기관은 보건복지부장관의 지정·평가를 받아야 한다. 이 경우 보건복지부장관은 간호조무사 교육훈련기관의 지정을 위한 평가업무를 대통령령으로 정하는 절차·방식에 따라 관계 전문기관에 위탁할 수 있다.
- ③ 보건복지부장관은 제2항에 따른 간호조무사 교육훈련기관이 거짓이나 그 밖의 부정한 방법으로 지정받는 등 대통령령으로 정하는 사유에 해당하는 경우에는 그 지정을 취소할 수 있다.
- ④ 간호조무사는 최초로 자격을 받은 후부터 3년마다 그 실태와 취업상황 등을 보건복지부장관에게 신고하여야 한다.
- ⑤ 제1항에 따른 간호조무사의 국가시험·자격인정, 제2항에 따른 간호조무사 교육훈련기관의 지정·평가, 제4항에 따른 자격신고 및 간호조무사의 보수교육 등에 관하여 필요한 사항은 보건복지부령으로 정한다.

[전문개정 2015. 12. 29.]

**80 2( )** ① 간호조무사는 제27조에도 불구하고 간호사를 보조하여 제2조제2항제5호가목부터 다목까지의 업무를 수행할 수 있다.

- ② 제1항에도 불구하고 간호조무사는 제3조제2항에 따른 의원급 의료기관에 한하여 의사, 치과의사, 한의사의 지도하에 환자의 요양을 위한 간호 및 진료의 보조를 수행할 수 있다.
- ③ 제1항 및 제2항에 따른 구체적인 업무의 범위와 한계에 대하여 필요한 사항은 보건복지부령으로 정한다.

[본조신설 2015. 12. 29.]

**80 3( )** 간호조무사에 대하여는 제8조, 제9조, 제12조, 제16조, 제19조, 제20조, 제22조, 제23조, 제59조제1항, 제61조, 제65조, 제66조, 제68조, 제83조제1항, 제84조, 제85조, 제87조, 제87조의2, 제88조, 제88조의2 및 제91조를 준용하며, 이 경우 “면허”는 “자격”으로, “면허증”은 “자격증”으로 본다. <개정 2016. 12. 20., 2019. 8. 27.>

[본조신설 2015. 12. 29.]

**81 ( )** ①이 법이 시행되기 전의 규정에 따라 자격을 받은 접골사(接骨士), 침사(鍼士), 구사(灸士)(이하 “의료유사업자”라 한다)는 제27조에도 불구하고 각 해당 시술소에서 시술(施術)을 업(業)으로 할 수 있다.

②의료유사업자에 대하여는 이 법 중 의료인과 의료기관에 관한 규정을 준용한다. 이 경우 “의료인”은 “의료유사업자”로, “면허”는 “자격”으로, “면허증”은 “자격증”으로, “의료기관”은 “시술소”로 한다.

③의료유사업자의 시술행위, 시술업무의 한계 및 시술소의 기준 등에 관한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**82 ( )** ①안마사는 「장애인복지법」에 따른 시각장애인 중 다음 각 호의 어느 하나에 해당하는 자로서 시·도지사에게 자격인정을 받아야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

1. 「초·중등교육법」 제2조제5호에 따른 특수학교 중 고등학교에 준한 교육을 하는 학교에서 제4항에 따른 안마사의 업무한계에 따라 물리적 시술에 관한 교육과정을 마친 자
2. 중학교 과정 이상의 교육을 받고 보건복지부장관이 지정하는 안마수련기관에서 2년 이상의 안마수련과정을 마친 자

②제1항의 안마사는 제27조에도 불구하고 안마업무를 할 수 있다.

③안마사에 대하여는 이 법 중 제8조, 제25조, 제28조부터 제32조까지, 제33조제2항제1호·제3항·제5항·제8항 본문, 제36조, 제40조, 제59조제1항, 제61조, 제63조(제36조를 위반한 경우만을 말한다), 제64조부터 제66조까지, 제68조, 제83조, 제84조를 준용한다. 이 경우 “의료인”은 “안마사”로, “면허”는 “자격”으로, “면허증”은 “자격증”으로, “의료기관”은 “안마시술소 또는 안마원”으로, “해당 의료관계단체의 장”은 “안마사회장”으로 한다. <개정 2009. 1. 30.>

④안마사의 업무한계, 안마시술소나 안마원의 시설 기준 등에 관한 사항은 보건복지부령으로 정한다. <개정 2008. 2. 29., 2010. 1. 18.>

**83 ( )** ①보건복지부장관 또는 시·도지사는 국민보건 향상을 위하여 필요하다고 인정될 때에는 의료인·의료기관·중앙회 또는 의료 관련 단체에 대하여 시설, 운영 경비, 조사·연구 비용의 전부 또는 일부를 보조할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2010. 7. 23.>

② 보건복지부장관은 다음 각 호의 의료기관이 인증을 신청할 때 예산의 범위에서 인증에 소요되는 비용의 전부 또는 일부를 보조할 수 있다. <신설 2010. 7. 23., 2020. 3. 4.>

1. 제58조의4제2항 및 제3항에 따라 인증을 신청하여야 하는 의료기관
2. 300병상 미만인 의료기관(종합병원은 제외한다) 중 보건복지부장관이 정하는 기준에 해당하는 의료기관

**84 ( )** 보건복지부장관, 시·도지사 또는 시장·군수·구청장은 다음 각 호의 어느 하나에 해당하는 처분을 하려면 청문을 실시하여야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2010. 7. 23., 2016. 12.

20., 2020. 3. 4.>

1. 제23조의2제4항에 따른 인증의 취소
2. 제51조에 따른 설립 허가의 취소
3. 제58조의10에 따른 의료기관 인증 또는 조건부인증의 취소
4. 제63조에 따른 시설·장비 등의 사용금지 명령
5. 제64조제1항에 따른 개설허가 취소나 의료기관 폐쇄 명령
6. 제65조제1항에 따른 면허의 취소

**85 ( )** ①이 법에 따른 의료인의 면허나 면허증을 재교부 받으려는 자, 국가시험등에 응시하려는 자, 진단용 방사선 발생 장치의 검사를 받으려는 자는 보건복지부령으로 정하는 바에 따라 수수료를 내야 한다. <개정 2008. 2. 29., 2010. 1. 18.>

②제9조제2항에 따른 한국보건의료인국가시험원은 제1항에 따라 납부받은 국가시험등의 응시수수료를 보건복지부장관의 승인을 받아 시험 관리에 필요한 경비에 직접 충당할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2015. 6. 22.>

**85 ( )** ①이 법에 따른 의료인의 면허나 면허증을 재교부 받으려는 자, 국가시험등에 응시하려는 자, 진단용 방사선 발생 장치의 검사를 받으려는 자, 진단용 방사선 발생장치 안전관리책임자 교육을 받으려는 자는 보건복지부령으로 정하는 바에 따라 수수료를 내야 한다. <개정 2008. 2. 29., 2010. 1. 18., 2020. 12. 29.>

②제9조제2항에 따른 한국보건의료인국가시험원은 제1항에 따라 납부받은 국가시험등의 응시수수료를 보건복지부장관의 승인을 받아 시험 관리에 필요한 경비에 직접 충당할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2015. 6. 22.>

[시행일 : 2021. 6. 30.] 제85조

**86 ( )** ①이 법에 따른 보건복지부장관 또는 시·도지사의 권한은 그 일부를 대통령령으로 정하는 바에 따라 질병관리청장, 시·도지사 또는 시장·군수·구청장이나 보건소장에게 위임할 수 있다. <개정 2008. 2. 29., 2010. 1. 18., 2020. 8. 11.>

②보건복지부장관은 이 법에 따른 업무의 일부를 대통령령으로 정하는 바에 따라 관계 전문기관에 위탁할 수 있다. <개정 2008. 2. 29., 2010. 1. 18.>

**86 2( )** 제57조의2제4항에 따른 심의위원회 위원은 「형법」 제129조부터 제132조까지의 규정을 적용할 때에는 공무원으로 본다.

[본조신설 2018. 3. 27.]

**86 3( )** 제22조제2항, 제23조제1항 또는 제40조제2항에 따라 보존·보관하여야 하는 기록이 천재지변이나 그 밖의 불가항력으로 멸실된 경우에는 해당 기록의 보존·보관의무자는 제64조, 제66조 또는 제90조에 따른 책임을 면한다.

[본조신설 2019. 4. 23.]

**86 3( )** 제22조제2항, 제23조제1항 또는 제40조의2제1항에 따라 보존·보관하여야 하는 기록이 천재지변이나 그 밖의 불가항력으로 멸실된 경우에는 해당 기록의 보존·보관의무자는 제64조, 제66조 또는 제90조에 따른 책임을 면한다. <개정 2020. 3. 4.>

[본조신설 2019. 4. 23.]

[시행일 : 2023. 3. 5.] 제86조의3

## 9

**87 ( )** 제33조제2항을 위반하여 의료기관을 개설하거나 운영하는 자는 10년 이하의 징역이나 1억원 이하의 벌금에 처한다.

[본조신설 2019. 8. 27.]

[중전 제87조는 제87조의2로 이동 <2019. 8. 27.>]

**87 2( )** ① 제12조제3항을 위반한 죄를 범하여 사람을 상해에 이르게 한 경우에는 7년 이하의 징역 또는 1천만원 이상 7천만원 이하의 벌금에 처하고, 중상해에 이르게 한 경우에는 3년 이상 10년 이하의 징역에 처하며, 사망에 이르게 한 경우에는 무기 또는 5년 이상의 징역에 처한다. <신설 2019. 4. 23.>

②다음 각 호의 어느 하나에 해당하는 자는 5년 이하의 징역이나 5천만원 이하의 벌금에 처한다. <개정 2009. 1. 30., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2019. 4. 23., 2019. 8. 27., 2020. 3. 4., 2020. 12. 29.>

1. 제4조의3제1항을 위반하여 면허를 대여한 사람
- 1의2. 제4조의3제2항을 위반하여 면허를 대여받거나 면허 대여를 알선한 사람
2. 제12조제2항 및 제3항, 제18조제3항, 제21조의2제5항·제8항, 제23조제3항, 제27조제1항, 제33조제2항(제82조제3항에서 준용하는 경우만을 말한다)·제8항(제82조제3항에서 준용하는 경우를 포함한다)·제10항을 위반한 자. 다만, 제12조제3항의 죄는 피해자의 명시한 의사에 반하여 공소를 제기할 수 없다.
3. 제27조제5항을 위반하여 의료인이 아닌 자에게 의료행위를 하게 하거나 의료인에게 면허 사항 외의 의료행위를 하게 한 자

[제87조에서 이동 <2019. 8. 27.>]

**87 2( )** ① 제12조제3항을 위반한 죄를 범하여 사람을 상해에 이르게 한 경우에는 7년 이하의 징역 또는 1천만원 이상 7천만원 이하의 벌금에 처하고, 중상해에 이르게 한 경우에는 3년 이상 10년 이하의 징역에 처하며, 사망에 이르게 한 경우에는 무기 또는 5년 이상의 징역에 처한다. <신설 2019. 4. 23.>

②다음 각 호의 어느 하나에 해당하는 자는 5년 이하의 징역이나 5천만원 이하의 벌금에 처한다. <개정 2009. 1. 30., 2015. 12. 29., 2016. 5. 29., 2016. 12. 20., 2019. 4. 23., 2019. 8. 27., 2020. 3. 4., 2020. 12. 29.>

1. 제4조의3제1항을 위반하여 면허를 대여한 사람
- 1의2. 제4조의3제2항을 위반하여 면허를 대여받거나 면허 대여를 알선한 사람
2. 제12조제2항 및 제3항, 제18조제3항, 제21조의2제5항·제8항, 제23조제3항, 제27조제1항, 제33조제2항(제82조제3항에서 준용하는 경우만을 말한다)·제8항(제82조제3항에서 준용하는 경우를 포함한다)·제10항을 위반한 자. 다만, 제12조제3항의 죄는 피해자의 명시한 의사에 반하여 공소를 제기할 수 없다.
3. 제27조제5항을 위반하여 의료인이 아닌 자에게 의료행위를 하게 하거나 의료인에게 면허 사항 외의 의료행위를 하게 한 자

4. 제40조의3제3항을 위반하여 직접 보관한 진료기록부등 외 진료기록보관시스템에 보관된 정보를 열람하는 등 그 내용을 확인한 사람
5. 제40조의3제7항을 위반하여 정당한 접근 권한 없이 또는 허용된 접근 권한을 넘어 진료기록보관시스템에 보관된 정보를 훼손·멸실·변경·위조·유출하거나 검색·복제한 사람

[제87조에서 이동 <2019. 8. 27.>]

[시행일 : 2023. 3. 5.] 제87조의2제2항

**88 ( )** 다음 각 호의 어느 하나에 해당하는 자는 3년 이하의 징역이나 3천만원 이하의 벌금에 처한다. <개정 2019. 8. 27., 2020. 3. 4.>

1. 제19조, 제21조제2항, 제22조제3항, 제27조제3항·제4항, 제33조제4항, 제35조제1항 단서, 제38조제3항, 제47조제11항, 제59조제3항, 제64조제2항(제82조제3항에서 준용하는 경우를 포함한다), 제69조제3항을 위반한 자. 다만, 제19조, 제21조제2항 또는 제69조제3항을 위반한 자에 대한 공소는 고소가 있어야 한다.
2. 제23조의5를 위반한 자. 이 경우 취득한 경제적 이익등은 몰수하고, 몰수할 수 없을 때에는 그 가액을 추징한다.
3. 제82조제1항에 따른 안마사의 자격인정을 받지 아니하고 영리를 목적으로 안마를 한 자

[전문개정 2016. 12. 20.]

**88 ( )** 다음 각 호의 어느 하나에 해당하는 자는 3년 이하의 징역이나 3천만원 이하의 벌금에 처한다. <개정 2019. 8. 27., 2020. 3. 4.>

1. 제19조, 제21조제2항(제40조의2제4항에서 준용하는 경우를 포함한다), 제22조제3항, 제27조제3항·제4항, 제33조제4항, 제35조제1항 단서, 제38조제3항, 제47조제11항, 제59조제3항, 제64조제2항(제82조제3항에서 준용하는 경우를 포함한다), 제69조제3항을 위반한 자. 다만, 제19조, 제21조제2항(제40조의2제4항에서 준용하는 경우를 포함한다) 또는 제69조제3항을 위반한 자에 대한 공소는 고소가 있어야 한다.
2. 제23조의5를 위반한 자. 이 경우 취득한 경제적 이익등은 몰수하고, 몰수할 수 없을 때에는 그 가액을 추징한다.
3. 제82조제1항에 따른 안마사의 자격인정을 받지 아니하고 영리를 목적으로 안마를 한 자

[전문개정 2016. 12. 20.]

[시행일 : 2023. 3. 5.] 제88조

**88 2( )** 다음 각 호의 어느 하나에 해당하는 자는 2년 이하의 징역이나 2천만원 이하의 벌금에 처한다. <개정 2016. 12. 20., 2020. 3. 4.>

1. 제20조를 위반한 자
2. 제47조제12항을 위반하여 자율보고를 한 사람에게 불리한 조치를 한 자

[본조신설 2009. 12. 31.]

[제88조의3에서 이동, 종전 제88조의2는 삭제 <2016. 12. 20.>]

**88 3**

[제88조의2로 이동 <2016. 12. 20.>]

**89 ( )** 다음 각 호의 어느 하나에 해당하는 자는 1년 이하의 징역이나 1천만원 이하의 벌금에 처한다. <개정 2018. 3. 27., 2019. 8. 27.>

1. 제15조제1항, 제17조제1항·제2항(제1항 단서 후단과 제2항 단서는 제외한다), 제17조의2제1항·제2항(처방전을 교부하거나 발송한 경우만을 말한다), 제23조의2제3항 후단, 제33조제9항, 제56조제1항부터 제3항까지 또는 제58조의6제2항을 위반한 자
2. 정당한 사유 없이 제40조제4항에 따른 권익보호조치를 하지 아니한 자
3. 제51조의2를 위반하여 의료법인의 임원 선임과 관련하여 금품 등을 주고받거나 주고받을 것을 약속한 자
4. 제61조제1항에 따른 검사를 거부·방해 또는 기피한 자(제33조제2항·제10항 위반 여부에 관한 조사임을 명시한 경우에 한정한다)

[전문개정 2016. 12. 20.]

**90** ( ) 제16조제1항·제2항, 제17조제3항·제4항, 제17조의2제1항·제2항(처방전을 수령한 경우만을 말한다), 제18조제4항, 제21조제1항 후단, 제21조의2제1항·제2항, 제22조제1항·제2항, 제23조제4항, 제26조, 제27조제2항, 제33조제1항·제3항(제82조제3항에서 준용하는 경우를 포함한다)·제5항(허가의 경우만을 말한다), 제35조제1항 본문, 제41조, 제42조제1항, 제48조제3항·제4항, 제77조제2항을 위반한 자나 제63조에 따른 시정명령을 위반한 자와 의료기관 개설자가 될 수 없는 자에게 고용되어 의료행위를 한 자는 500만원 이하의 벌금에 처한다. <개정 2007. 7. 27., 2009. 1. 30., 2011. 4. 7., 2016. 12. 20., 2018. 3. 27., 2019. 8. 27.>

**90** ( ) 제16조제1항·제2항, 제17조제3항·제4항, 제17조의2제1항·제2항(처방전을 수령한 경우만을 말한다), 제18조제4항, 제21조제1항 후단(제40조의2제4항에서 준용하는 경우를 포함한다), 제21조의2제1항·제2항, 제22조제1항·제2항(제40조의2제4항에서 준용하는 경우를 포함한다), 제23조제4항, 제26조, 제27조제2항, 제33조제1항·제3항(제82조제3항에서 준용하는 경우를 포함한다)·제5항(허가의 경우만을 말한다), 제35조제1항 본문, 제41조, 제42조제1항, 제48조제3항·제4항, 제77조제2항을 위반한 자나 제63조에 따른 시정명령을 위반한 자와 의료기관 개설자가 될 수 없는 자에게 고용되어 의료행위를 한 자는 500만원 이하의 벌금에 처한다. <개정 2007. 7. 27., 2009. 1. 30., 2011. 4. 7., 2016. 12. 20., 2018. 3. 27., 2019. 8. 27., 2020. 3. 4.>

[시행일 : 2023. 3. 5.] 제90조

**90** 2(「 」 ) 음주로 인한 심신장애 상태에서 제12조제3항을 위반하는 죄를 범한 때에는 「형법」 제10조제1항을 적용하지 아니할 수 있다.

[본조신설 2019. 4. 23.]

**91** ( ) 법인의 대표자나 법인 또는 개인의 대리인, 사용인, 그 밖의 종업원이 그 법인 또는 개인의 업무에 관하여 제87조, 제87조의2, 제88조, 제88조의2, 제89조 또는 제90조의 위반행위를 하면 그 행위자를 벌하는 외에 그 법인 또는 개인에게도 해당 조문의 벌금형을 과(科)한다. 다만, 법인 또는 개인이 그 위반행위를 방지하기 위하여 해당 업무에 관하여 상당한 주의와 감독을 게을리하지 아니한 경우에는 그러하지 아니하다. <개정 2010. 5. 27., 2016. 12. 20., 2019. 8. 27.>

[전문개정 2009. 12. 31.]

**92** ( ) ①다음 각 호의 어느 하나에 해당하는 자에게는 300만원 이하의 과태료를 부과한다.

<개정 2015. 1. 28., 2016. 12. 20., 2019. 8. 27.>

1. 제16조제3항에 따른 교육을 실시하지 아니한 자

- 1의2. 제23조의3제1항을 위반하여 진료정보 침해사고를 통지하지 아니한 자  
 1의3. 제24조의2제1항을 위반하여 환자에게 설명을 하지 아니하거나 서면 동의를 받지 아니한 자  
 1의4. 제24조의2제4항을 위반하여 환자에게 변경 사유와 내용을 서면으로 알리지 아니한 자  
 2. 제37조제1항에 따른 신고를 하지 아니하고 진단용 방사선 발생장치를 설치·운영한 자  
 3. 제37조제2항에 따른 안전관리책임자를 선임하지 아니하거나 정기검사와 측정 또는 방사선 관계 종사자에 대한 피폭관리를 실시하지 아니한 자  
 4. 삭제<2018. 3. 27.>  
 5. 제49조제3항을 위반하여 신고하지 아니한 자  
 ② 다음 각 호의 어느 하나에 해당하는 자에게는 200만원 이하의 과태료를 부과한다. <개정 2016. 12. 20., 2019. 8. 27.>  
 1. 제21조의2제6항 후단을 위반하여 자료를 제출하지 아니하거나 거짓 자료를 제출한 자  
 2. 제45조의2제2항을 위반하여 자료를 제출하지 아니하거나 거짓으로 제출한 자  
 3. 제61조제1항에 따른 보고를 하지 아니하거나 검사를 거부·방해 또는 기피한 자(제89조제4호에 해당하는 경우는 제외한다)  
 ③ 다음 각 호의 어느 하나에 해당하는 자에게는 100만원 이하의 과태료를 부과한다. <개정 2009. 1. 30., 2012. 2. 1., 2015. 1. 28., 2015. 12. 29., 2016. 5. 29.>  
 1. 제16조제3항에 따른 기록 및 유지를 하지 아니한 자  
 1의2. 제16조제4항에 따른 변경이나 휴업·폐업 또는 재개업을 신고하지 아니한 자  
 2. 제33조제5항(제82조제3항에서 준용하는 경우를 포함한다)에 따른 변경신고를 하지 아니한 자  
 3. 제40조제1항(제82조제3항에서 준용하는 경우를 포함한다)에 따른 휴업 또는 폐업 신고를 하지 아니하거나 제40조제2항을 위반하여 진료기록부등을 이관(移管)하지 아니한 자  
 4. 제42조제3항을 위반하여 의료기관의 명칭 또는 이와 비슷한 명칭을 사용한 자  
 5. 제43조제5항에 따른 진료과목 표시를 위반한 자  
 6. 제4조제3항에 따라 환자의 권리 등을 게시하지 아니한 자  
 7. 제52조의2제6항을 위반하여 대한민국의학한림원 또는 이와 유사한 명칭을 사용한 자  
 8. 제4조제5항을 위반하여 그 위반행위에 대하여 내려진 제63조에 따른 시정명령을 따르지 아니한 사람  
 ④ 제1항부터 제3항까지의 과태료는 대통령령으로 정하는 바에 따라 보건복지부장관 또는 시장·군수·구청장이 부과·징수한다. <신설 2009. 1. 30., 2010. 1. 18.>

**92 ( )** ① 다음 각 호의 어느 하나에 해당하는 자에게는 300만원 이하의 과태료를 부과한다. <개정 2015. 1. 28., 2016. 12. 20., 2019. 8. 27.>

1. 제16조제3항에 따른 교육을 실시하지 아니한 자  
 1의2. 제23조의3제1항을 위반하여 진료정보 침해사고를 통지하지 아니한 자  
 1의3. 제24조의2제1항을 위반하여 환자에게 설명을 하지 아니하거나 서면 동의를 받지 아니한 자  
 1의4. 제24조의2제4항을 위반하여 환자에게 변경 사유와 내용을 서면으로 알리지 아니한 자  
 2. 제37조제1항에 따른 신고를 하지 아니하고 진단용 방사선 발생장치를 설치·운영한 자  
 3. 제37조제2항에 따른 안전관리책임자를 선임하지 아니하거나 정기검사와 측정 또는 방사선 관계 종사자에 대한 피폭관리를 실시하지 아니한 자  
 4. 삭제<2018. 3. 27.>  
 5. 제49조제3항을 위반하여 신고하지 아니한 자

② 다음 각 호의 어느 하나에 해당하는 자에게는 200만원 이하의 과태료를 부과한다. <개정 2016. 12. 20., 2019. 8. 27., 2020. 12. 29.>

1. 제21조의2제6항 후단을 위반하여 자료를 제출하지 아니하거나 거짓 자료를 제출한 자
2. 제45조의2제1항을 위반하여 보고를 하지 아니하거나 거짓으로 보고한 자
3. 제45조의2제3항을 위반하여 자료를 제출하지 아니하거나 거짓으로 제출한 자
4. 제61조제1항에 따른 보고를 하지 아니하거나 검사를 거부·방해 또는 기피한 자(제89조제4호에 해당하는 경우는 제외한다)

③ 다음 각 호의 어느 하나에 해당하는 자에게는 100만원 이하의 과태료를 부과한다. <개정 2009. 1. 30., 2012. 2. 1., 2015. 1. 28., 2015. 12. 29., 2016. 5. 29., 2020. 12. 29.>

1. 제16조제3항에 따른 기록 및 유지를 하지 아니한 자
- 1의2. 제16조제4항에 따른 변경이나 휴업·폐업 또는 재개업을 신고하지 아니한 자
2. 제33조제5항(제82조제3항에서 준용하는 경우를 포함한다)에 따른 변경신고를 하지 아니한 자
- 2의2. 제37조제3항에 따른 안전관리책임자 교육을 받지 아니한 사람
3. 제40조제1항(제82조제3항에서 준용하는 경우를 포함한다)에 따른 휴업 또는 폐업 신고를 하지 아니하거나 제40조제2항을 위반하여 진료기록부등을 이관(移管)하지 아니한 자
4. 제42조제3항을 위반하여 의료기관의 명칭 또는 이와 비슷한 명칭을 사용한 자
5. 제43조제5항에 따른 진료과목 표시를 위반한 자
6. 제4조제3항에 따라 환자의 권리 등을 게시하지 아니한 자
7. 제52조의2제6항을 위반하여 대한민국의학한림원 또는 이와 유사한 명칭을 사용한 자
8. 제4조제5항을 위반하여 그 위반행위에 대하여 내려진 제63조에 따른 시정명령을 따르지 아니한 사람

④ 제1항부터 제3항까지의 과태료는 대통령령으로 정하는 바에 따라 보건복지부장관 또는 시장·군수·구청장이 부과·징수한다. <신설 2009. 1. 30., 2010. 1. 18.>

[시행일 : 2021. 6. 30.] 제92조

### 93 삭제 <2009. 1. 30.>

<제17787호, 2020. 12. 29.>

1 (시행일) 이 법은 공포 후 6개월이 경과한 날부터 시행한다. 다만, 제27조제5항, 제65조제1항제7호, 제66조제1항제5호 및 제87조의2제2항제3호의 개정규정은 공포 후 3개월이 경과한 날부터 시행하고, 제47조제2항의 개정규정은 공포 후 1년이 경과한 날부터 시행하며, 법률 제17069호 의료법 일부개정법률 제87조의2제2항의 개정규정은 2023년 3월 5일부터 시행한다.

2 (적용례) ① 제64조제1항제1호의2·제4호의3의 개정규정은 같은 개정규정 시행 이후 제4조제2항 또는 제33조제8항을 위반하여 의료기관을 개설하거나 운영 중인 경우부터 적용한다.

② 제65조제1항제7호, 제87조의2제2항제3호 및 법률 제17069호 의료법 일부개정법률 제87조의2제2항제3호의 개정규정은 같은 개정규정 시행 이후의 위반행위부터 적용한다.

### **International Covenant on Civil and Political Rights**

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

## Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

## Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

### Article 4

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

## Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## PART III

## Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

#### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

#### Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

#### Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

#### Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

#### Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

#### Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

#### Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

#### Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

#### Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

#### Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

#### Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

#### Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

#### Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

#### Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

#### Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

#### Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all

persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

#### PART IV

#### Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

#### Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

#### Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

#### Article 31

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

#### Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4. 2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

#### Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

#### Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The

election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

#### Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

#### Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

#### Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

#### Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

#### Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
  
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
  - (a) Twelve members shall constitute a quorum;
  
  - (b) Decisions of the Committee shall be made by a majority vote of the members present.

#### Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
  - (b) Thereafter whenever the Committee so requests.
  
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
  
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

#### Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

#### Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

### PART V

#### Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

#### Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

## PART VI

## Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

## Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

## Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

## Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

## Article 52

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

# ACT ON THE PROTECTION, USE, ETC. OF LOCATION INFORMATION

Act No. 7372, Jan. 27, 2005  
 Amended by Act No. 8002, Sep. 27, 2006  
 Act No. 8367, Apr. 11, 2007  
 Act No. 8486, May 25, 2007  
 Act No. 8775, Dec. 21, 2007  
 Act No. 8867, Feb. 29, 2008  
 Act No. 9481, Mar. 13, 2009  
 Act No. 9483, Mar. 13, 2009  
 Act No. 11423, May 14, 2012  
 Act No. 11690, Mar. 23, 2013  
 Act No. 11717, Mar. 23, 2013  
 Act No. 12840, Oct. 15, 2014  
 Act No. 13203, Feb. 3, 2015  
 Act No. 13540, Dec. 1, 2015  
 Act No. 14224, May 29, 2016  
 Act No. 14839, Jul. 26, 2017  
 Act No. 14840, Jul. 26, 2017  
 Act No. 15608, Apr. 17, 2018  
 Act No. 16087, Dec. 24, 2018

## Article 1 (Purpose)

The purpose of this Act is to protect privacy from the divulging, abuse and misuse of location information, provide a safe environment for using location information, and activate the use of location information, thus contributing to the improvement of people's standard of living and the promotion of public welfare.

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## Article 2 (Definitions)





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#### Article 4 (Relationship with Other Statutes)

Except as otherwise provided in other statutes, the collection, storage, protection, and use of location information shall be subject to such conditions as provided in this Act.

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#### Article 5 (Permission for Location Information Business Handling Personal Location Information)

(1) Any person who intends to engage in location information business handling personal location information shall obtain permission from the Korea Communications Commission for his/her trade name, location of the main office, type and description of the relevant location information business, and major business facilities, including location information systems, as prescribed by Presidential Decree. <Amended by Act No. 8775, Dec. 21, 2007; Act No. 8867, Feb. 29, 2008; Act No. 15608, Apr. 17, 2018>

(2) Deleted. <by Act No. 9481, Mar. 13, 2009>

(3) In order to grant permission under paragraph (1), the Korea Communications Commission shall comprehensively examine the following: <Amended by Act No. 8867, Feb. 29, 2008; Act No. 15608, Apr. 17, 2018>

1. Feasibility of a plan for location information business;
2. Plans to take technical and managerial measures relating to the protection of personal location information;
3. Propriety of the scale of facilities relating to location information business;
4. Financial and technical capabilities;
5. Other matters necessary for running the business.

(4) When the Korea Communications Commission grants permission pursuant to paragraph (1), it may attach conditions necessary to conduct research and development to improve accuracy and reliability of location information, fair competition, or protection of personal location information. <Amended by Act No. 8867, Feb. 29, 2008>

(5) Only corporations shall be eligible for permission under paragraph (1). <Amended by Act No. 15608, Apr. 17, 2018>

(6) Matters concerning guidelines and procedures for obtaining permission prescribed in paragraph (1); and detailed examination standards for each item for examination under paragraph (3), shall be prescribed by Presidential Decree. <Amended by Act No. 8867, Feb. 29, 2008>



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**Article 5-2 (Reporting on Location Information Business Not Handling Personal Location Information)**

Any person who intends to engage in location information business not handling personal location information, shall report the following matters to the Korea Communications Commission, as prescribed by Presidential Decree:

- 1. Trade name;
- 2. Principal place of business;
- 3. Type and details of location information business;
- 4. Main business facilities, including a location information system.

(2) Any person (if the person is a corporation, including its representative) for whom one year has not passed since the person was ordered to cease business operations under Article 13 (1) shall be prohibited from reporting another location information business under paragraph (1).

(3) If a person who has reported his/her location information business pursuant to paragraph (1) (hereinafter referred to as "object location information provider") intends to change any of the following matters already reported, the person shall report such change to the Korea Communications Commission, as prescribed by Presidential Decree:

- 1. Trade name;
- 2. Principal place of business;
- 3. Location information system (limited to where such change results in deteriorating the level of technology for protecting personal location information, subsequent to filing a report).

(4) Upon receiving a report under paragraph (1) or a report on a change in the matter specified in paragraph (3) 3, the Korea Communications Commission shall review and accept the report if it meets the

requirements of this Act.

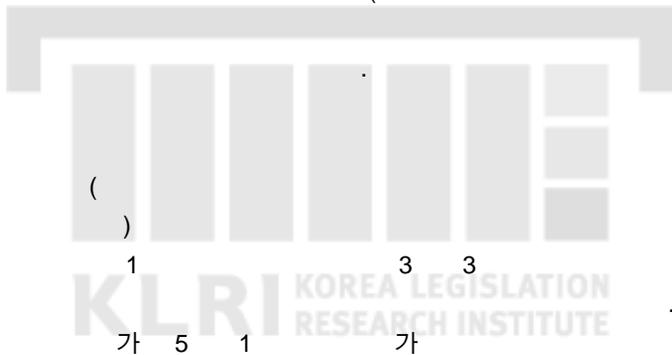
(5) If a personal location information provider has submitted documents necessary for reporting his/her location information business not handling personal location information, as at the time of filing an application for permission under Article 5 (1), such provider shall be deemed to have filed a report under paragraph (1).

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**Article 6 (Grounds for Disqualification of Executive Officers or Employees)**

(1) None of the following persons shall be qualified to be an executive officer of either a personal location information provider or an object location information provider (hereinafter referred to as "location information provider"); and none of the following employees shall be designated as a person with authorized access under Article 16 (1) (hereafter in this Article referred to as a person with authorized access): <Amended by Act No. 12840, Oct. 15, 2014; Act No. 13203, Feb. 3, 2015; Act No. 13540, Dec. 1, 2015; Act No. 15608, Apr. 17, 2018>

1. A minor or a person under adult guardianship or under limited guardianship;
2. A person declared bankrupt but not yet reinstated;
3. A person for whom three years have not elapsed since his/her imprisonment without labor or heavier punishment declared by a court for violating this Act, the Act on Promotion of Information and

Communications Network Utilization and Information Protection, the Framework Act on Telecommunications, the Telecommunications Business Act, or the Radio Waves Act, was completely executed (including where it is deemed to completely executed) or was remitted;

4. A person subject to suspended execution of his/her imprisonment without labor or heavier punishment, declared by a court for violating this Act, the Act on Promotion of Information and Communications Network Utilization and Information Protection, the Framework Act on Telecommunications, the Telecommunications Business Act, or the Radio Waves Act;

5. A person for whom three years have not elapsed since he/she was sentenced to punishment by a fine for violating this Act, the Act on Promotion of Information and Communications Network Utilization and Information Protection, the Framework Act on Telecommunications, the Telecommunications Business Act, or the Radio Waves Act;

6. A person for whom three years have not elapsed since he/she received a disposition to revoke permission or an order to discontinue business operations under Article 13 (1); and in cases of a corporation, a person engaged in conduct giving rise to so revoking permission or an order to discontinue business operations, as well as its representative.

(2) Where an executive officer falls or is found falling under any subparagraph of paragraph (1) as at the time he/she is appointed, he/she shall resign from office ipso facto; and where a person with authorized access falls or is found falling under any subparagraph of paragraph (1) as at the time he/she is designated, such designation shall be null and void. <Amended by Act No. 13540, Dec. 1, 2015>

(3) Any conduct in which a resigned executive officer is involved before his/her resignation, or in which an employee whose designation as a person with authorized access is null and void is involved before the nullification under paragraph (2), shall remain in effect. <Amended by Act No. 13540, Dec. 1, 2015>

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(5) Upon receiving a report under paragraph (4), the Korea Communications Commission shall review and accept the report if it meets the requirements of this Act. <Newly Inserted by Act No. 15608, Apr. 17, 2018>

(6) A transferee authorized under paragraph (1), a transferee or inheritor who filed a report under paragraph (4), a corporation incorporated by a merger or split-off, or a corporation surviving a merger or split-off shall succeed to the status of the transferor, the decedent, or the incorporated location information provider existing prior to the merger or split-off, respectively. <Amended by Act No. 15608, Apr. 17, 2018>

(7) Matters concerning the methods, procedures, etc. for filing an application for authorization under paragraph (1); detailed guidelines for examining each item under paragraph (2); and the methods, procedures, etc. for filing a report under paragraph (4), shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 13203, Feb. 3, 2010; Act No. 15608, Apr. 17, 2018>

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**Article 8 (Suspension or Discontinuation of Operations of Location Information Business)**

(1) If a location information provider intends to fully or partially suspend business operations, such provider shall determine the period of suspension of business operations; shall develop a plan to notify the subjects of personal location information of the suspension of business operations (only if the location information provider handles personal location information); and shall either obtain approval therefor from the Korea Communications Commission or report the plan to the Korea Communications Commission as follows. In such cases, the period of suspension of business operations shall not exceed one year:

1. Personal location information provider: Approval;
2. Object location information provider: Reporting.

(2) If a location information provider intends to discontinue business operations fully or partially, such provider shall develop a plan to notify the subjects of personal location information of the discontinuation of business operations (only if the location information provider handles personal location information); and shall either obtain approval therefor from the Korea Communications Commission or report the plan to the Korea Communications Commission as follows:

1. Personal location information provider: Approval;
2. Object location information provider: Reporting.

(3) A personal location information provider who has obtained approval under paragraph (1) 1 or (2) 1 shall notify the subjects of personal location information of the following matters, by not later than the scheduled date of suspension or discontinuation of business operations:

1. Approval to suspend business operations under paragraph (1) 1: The scope of the suspended location information business and the period of suspension of business operations;
2. Approval to discontinue business operations under paragraph (2) 1: The scope of the discontinued location information business and the date of discontinuation of business operations.

(4) When a personal location information provider fully or partially suspends operations of his/her location information business with approval under paragraph (1) 1, or when a location information provider fully or partially discontinues operations of his/her location information business under paragraph (2), such provider shall destroy personal location information and data verifying the collection of location information as follows simultaneously with suspending or discontinuing business operations:

1. Approval to suspend business operations under paragraph (1) 1: Personal location information (limited to the personal location information, related to the suspended business operations if business operations are partially suspended);
2. Approval to discontinue business operations under paragraph (2) 1: Personal location information and data verifying the collection of location information (limited to the personal location information and



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### Article 9 (Reporting on Location-Based Service Business)

(1) Any person who intends to engage in location-based service business (excluding location-based service business not handling personal location information; hereafter the same shall apply in this Article and Articles 9-2, 10, and 11) shall report, to the Korea Communications Commission, the trade name; the principal place of business; the type of business; and main business facilities, including location information systems, etc., as prescribed by Presidential Decree. <Amended by Act No. 8775, Dec. 21, 2007; Act No. 8867, Feb. 29, 2008; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

(2) Any person for whom one year has not passed since the person was ordered to discontinue business operations under Article 13 (1) (if the person is a corporation, including its representative) shall be prohibited from reporting another location-based service business under paragraph (1). <Amended by Act No. 15608, Apr. 17, 2018>

(3) If a person who has reported a location-based service business under paragraph (1) intends to change any of the following, the person shall report the change to the Korea Communications Commission, as prescribed by Presidential Decree: <Amended by Act No. 15608, Apr. 17, 2018>

1. Trade name;
2. Principal place of business;
3. Location information system (limited to where such change results in deteriorating the level of technology for protecting personal location information, subsequent to reporting the business).

(4) Where a location information provider has submitted the documents required for reporting his/her location-based service business under paragraph (1), when filing an application for permission under Article 5 (1), such provider shall be deemed to have completed the reporting on the location-based service business under paragraph (1) (in cases of micro enterprises, etc. referred to in the main sentence of Article 9-2 (1), referring to reporting under the proviso to the same paragraph). <Amended by Act No. 15608, Apr. 17, 2018>

(5) Upon receiving a report under paragraph (1) or a report on a change in the matter specified in paragraph (3) 3, the Korea Communications Commission shall review and accept the report if it meets the requirements of this Act. <Newly Inserted by Act No. 15608, Apr. 17, 2018>

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**Article 9-2 (Reporting on Location-Based Service Business of Micro Enterprises)**

(1) Notwithstanding Article 9 (1), if a person who is either a micro enterprise, defined in Article 2 of the Act on the Protection of and Support for Micro Enterprises, or a self-employed creative enterprise, defined in Article 2 of the Act on the Fostering of Self-Employed Creative Enterprises, (hereinafter referred to as "micro enterprise or self-employed creative enterprise") intends to engage in location-based service business, such person may do so without filing a report under Article 9 (1): Provided, That if such person intends to continue location-based service business even one month after the commencement of the business shall report the following matters to the Korea Communications Commission within one month from the commencement date of the business, as prescribed by Presidential Decree:

1. Trade name;
2. Principal place of business;
3. Type and details of business.

(2) Any person for whom one year has not passed since the person was ordered to discontinue business operations under Article 13 (1) (if the person is a corporation, including its representative) shall be prohibited from reporting another location-based service business under paragraph (1).

(3) If a person who has filed a report under the proviso to paragraph (1) changes either of the following, the person shall report the change to the Korea Communications Commission within one month from the date of change, as prescribed by Presidential Decree:

1. Trade name;
2. Principal place of business.

(4) If a person who has commenced location-based service business in accordance with the main sentence of paragraph (1) or a person who has filed a report in accordance with the proviso to the same paragraph ceases to be a micro enterprise or self-employed creative enterprise, such person shall file a report with the Korea Communications Commission to supplement matters necessary for reporting under Article 9 (1), within one month from the date the relevant event occurs, as prescribed by Presidential Decree.

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**Article 10 (Acquisition of Location-Based Service Business or Merger of Corporations)**

(1) If the business of a person who has reported location-based service business in accordance with Article 9 (1) or the proviso to Article 9-2 (1) is fully or partially transferred or inherited; or if a corporation that has reported location-based service business in accordance with Article 9 (1) or the proviso to Article 9-2 (1) is merged or split off, the transferee or inheritor of the business or the corporation incorporated during the merger or split-off or the corporation surviving the merger or split-off shall report such event to the

Korea Communications Commission, as prescribed by Presidential Decree. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 15608, Apr. 17, 2018>

(2) Upon receiving a report under paragraph (1), the Korea Communications Commission shall review and accept the report if it meets the requirements of this Act. <Newly Inserted by Act No. 15608, Apr. 17, 2018>

(3) The transferee or inheritor who has filed a report in accordance with paragraph (1) or the corporation incorporated during a merger or split-off or the corporation surviving a merger or split-off shall succeed to the status of the transferor, the decedent, or the corporation existing prior to the merger or split-off, respectively. <Amended by Act No. 15608, Apr. 17, 2018>

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#### **Article 11 (Suspension or Discontinuation of Operations of Location-Based Service Business)**

(1) If a location-based service provider intends to fully or partially suspend business operations, he/she shall determine the period of suspension; shall notify subjects of personal location information thereof by not later than 30 days before the scheduled date of suspension; and shall report to the Korea Communications Commission thereon. In such cases, the period of suspension shall not exceed one year, and the location-based service provider shall destroy personal location information (limited to personal location information related to the suspended business operations if business operations are partially suspended), simultaneously with suspending the business operations. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

(2) If a location-based service provider intends to fully or partially discontinue business operations, he/she shall notify the subjects of personal location information thereof by not later than 30 days before the date of discontinuation; and shall report to the Korea Communications Commission thereon. In such cases, personal location information and data verifying the use and provision of personal location information (limited to personal location information and data verifying the use and provision of location information related to the discontinued business operations if business operations are partially discontinued) shall be destroyed simultaneously with discontinuing the business operations. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 15608, Apr. 17, 2018>



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**Article 13 (Revocation of Permission and Discontinuation or Suspension of Business Operations)**

(1) In any of the following cases, the Korea Communications Commission may revoke the permission or authorization granted to a location information provider or a location-based service provider (hereinafter referred to as "location information provider or location-based service provider"); or may order a location information provider or location-based service provider to discontinue business operations or fully or partially suspend business operations for a period of up to six months (hereinafter referred to as "suspension of business operations"): Provided, That the permission or authorization granted to a location information provider or location-based service provider shall be revoked, or a location information provider or location-based service provider shall be ordered to discontinue business operations, in the case of subparagraph 1: <Amended by Act No. 8867, Feb. 29, 2008; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

1. Where a location information provider or location-based service provider has obtained permission, modified permission, or authorization under Article 5 (1) or (7) or 7 (1) by fraud or other improper means; or has filed a report under Article 5-2 (1) or 9 (1) or the proviso to Article 9-2 (1) by fraud or other improper means;
2. Where a location information provider or location-based service provider fails to resume business operations, without good cause, after the period of suspension under Article 8 (1) or 11 (1);
3. Where a location information provider or location-based service provider fails to continue business operations for at least six months without obtaining approval or filing a report in accordance with any of the following:
  - (a) Approval under Article 8 (1) 1 or (2) 1;
  - (b) Reporting under Article 8 (1) 2 or (2) 2;
  - (c) Reporting under the former part of Article 11 (1) or the former part of Article 11 (2);
4. Where a material change occurs to the facilities related to the collection of location information or the technical and managerial measures related to the protection of location information, thus preventing continued services;
5. Where a location information provider or location-based service provider fails to take technical and managerial measures under Article 16 (1) or measures to preserve data verifying the collection of

location information and data verifying the collection, use, and provision of location information under Article 16 (2) (hereinafter referred to as "data verifying the collection, use, and provision of location information");

6. Where a location information provider or location-based service provider collects, uses, or provides location information without specifying his/her intention to collect, use, or provide location information in his/her terms and conditions or without obtaining consent thereto, in violation of Article 18 (1) or 19 (1);

7. Where a location information provider or location-based service provider collects, uses, or provides location information, beyond the scope of consent, in violation of Article 18 (2) or 19 (5);

8. Where a location information provider or location-based service provider uses or provides, to a third party, location information, beyond the scope specified in his/her terms and conditions or notified to the pertinent subject, in violation of Article 21.

(2) Detailed criteria for administrative measures under paragraph (1) shall be prescribed by Presidential Decree, based upon the type and gravity of the relevant violation.

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**Article 14 (Imposition of Penalty Surcharges)**

(1) Where the suspension of business under Article 13 (1) is likely to substantially harm to the interests of subjects of personal location information, the Korea Communications Commission may impose a penalty surcharge not exceeding 3/100 of the sales of the relevant location information business or location-based service business in lieu of an order for business suspension. <Amended by Act No. 8867, Feb. 29, 2008>

(2) Matters necessary for the criteria and procedures for the imposition of penalty surcharges, such as calculation of the sales referred to in paragraph (1), shall be prescribed by Presidential Decree.

(3) Where a person obligated to pay a penalty surcharge under paragraph (1) fails to pay such surcharge by the due date, the Korea Communications Commission may collect an additional charge at the rate prescribed by Presidential Decree, from the date after such due date, within the extent not exceeding 8/100 per annum of the surcharge in arrears. <Amended by Act No. 8867, Feb. 29, 2008>

(4) Where a person obligated to pay a penalty surcharge fails to pay such surcharge by the due date, the Korea Communications Commission shall urge him/her to pay the surcharge, setting the deadline; and where he/she fails to pay the surcharge and the additional charge under paragraph (3) by the deadline, it shall collect them in the same manner as delinquent national taxes are collected. <Amended by Act No. 8867, Feb. 29, 2008>

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**Article 15 (Prohibition on Collection of Location Information)**

(1) No one shall collect, use, or provide any location information without consent of the subject of relevant location information: Provided, That the foregoing shall not apply in any of the following cases: <Amended

by Act No. 11423, May 14, 2012; Act No. 15608, Apr. 17, 2018>

1. Where an emergency rescue agency requests emergency rescue under Article 29 (1) or for the issuance of a warning under Article 29 (7);
2. Where a police agency makes a request under Article 29 (2);
3. Where otherwise provided in other statutes.

(2) No one shall obtain personal location information about another person by deceiving a personal location information provider or a location-based service provider (hereinafter referred to as "personal location information provider or a location-based service provider"), by copying the person's telecommunications device or misappropriating such information. <Amended by Act No. 15608, Apr. 17, 2018>

(3) Any person who sells, lends, or transfers an object with a built-in device capable of collecting location information shall notify the person who purchases, borrows, or acquires such object of the fact that the object has such built-in device capable of collecting location information. <Amended by Act No. 15608, Apr. 17, 2018>

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**Article 16 (Measures for Protecting Location Information)**

- (1) Each location information provider, etc. shall take managerial measures, such as establishing guidelines on processing and management of location information to prevent the divulging, alteration, impairment, etc. of location information or designating those with authorized access, and take technical measures, such as installing a firewall or using encryption software. In such cases, details of the managerial measures and technical measures shall be prescribed by Presidential Decree.
- (2) Each location information provider, etc. shall cause data verifying the collection, use, and provision of location information to be automatically recorded and preserved in a location information system.
- (3) In order to protect location information and prevent abuse and misuse of location information, the Korea Communications Commission may authorize affiliated public officials to examine details of the

technical and managerial measures taken under paragraph (1), and the preservation status of records under paragraph (2), as prescribed by Presidential Decree. <Amended by Act No. 8867, Feb. 29, 2008>

(4) Each public official who examines the details of the technical and managerial measures and the status of preservation of records under paragraph (3), shall carry a certificate indicating his/her authority and produce it to persons involved. <Amended by Act No. 13203, Feb. 3, 2015>

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#### **Article 17 (Prohibition on Divulging Location Information)**

No location information provider, etc. nor their current or former employees shall divulge, alter, impair, or disclose any location information acquired in the course of performing their duties.

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#### **Article 17-2 (Notification of Processing of Location Information to Subjects of Personal Location Information)**

Where any location information provider, etc. notify matters regarding processing of location information to a subject of personal location information, such provider, etc. shall use an easy-to-understand form and clear and plain language.

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#### **Article 18 (Collection of Personal Location Information)**

(1) Where any location information provider intends to collect personal location information, such provider shall specify, in advance, the following in his/her terms and conditions; and shall obtain consent from the subjects of personal location information: <Amended by Act No. 15608, Apr. 17, 2018>

1. Trade name, address, phone number and other contact information of the location information provider;

2. Rights held by the subjects of personal location information and their legal representatives (limited to where consent is required from a legal representative under Article 25 (1)); and methods of exercising such rights;
  3. Details of the services to be provided by the location information provider to a location-based service provider;
  4. Grounds for and period of retaining data verifying the collection of location information;
  5. Other matters prescribed by Presidential Decree as necessary for protecting personal location information.
- (2) A subject of personal location information may withdraw his/her consent for part of the scope of personal location information collected and the terms and conditions, when he/she has given consent under paragraph (1).
- (3) Where any location information provider collects personal location information, he/she shall collect such information to the minimum extent necessary for attaining the purpose of the collection.

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#### Article 19 (Use or Provision of Personal Location Information)

- (1) Where any location-based service provider intends to provide services using personal location information, such provider shall specify, in advance, the following in his/her terms and conditions; and shall obtain consent from the subjects of personal location information: <Amended by Act No. 15608, Apr. 17, 2018>
1. Trade name, address, phone number and other contact information of the location-based service provider;
  2. Rights held by the subjects of personal location information and their legal representatives (limited to where the consent of a legal representative is required under Article 25 (1)) and methods of exercising such rights;



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**Article 20 (Provision of Personal Location Information by Location Information Providers)**

(1) In order to attain the purposes of using or providing personal location information under Article 19 (1) or (2), any location-based service provider that has obtained consent from the subjects of personal location information pursuant to Article 19 (1) or (2) may request the location information provider that has collected the relevant personal location information to provide such information. In such cases, no location information provider shall refuse to provide such information without good cause.

(2) Procedures for, and method of location information providers' providing personal location information to location-based service providers pursuant to paragraph (1) shall be prescribed by Presidential Decree.

<Amended by Act No. 8867, Feb. 29, 2008>

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**Article 21 (Restriction on Use and Provision of Personal Location Information)**

Unless a location information provider, etc. have obtained consent from a subject of personal location information or except in the following cases, they shall neither use personal location information or data verifying the collection, use, or provision of location information beyond the scope specified in their terms and conditions or notified to the subject in accordance with Articles 18 (1) and 19 (1) and (2) nor provide such information to any third party: <Amended by Act No. 13203, Feb. 3, 2015>

1. Where data verifying the collection, use, and provision of location information are required to calculate fees related to the provision of location information and location-based services;
2. Where data is processed in such a way that any specific person cannot be identified, and provided for the purpose of statistics, academic research, or market research.

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**Article 22 (Notification of Transfer of Business)**

Any person who has succeeded to the rights and obligations of a location information provider, etc. as a result of the full or partial transfer, merger, inheritance, etc. of their business (hereinafter referred to as "transfer, etc."), shall notify the following to the subjects of personal location information within 30 days, as prescribed by Presidential Decree:

1. Full or partial transfer, etc. of the business;
2. Name, address, phone number and other contact information of the person who has succeeded to the rights and obligations of the location information provider, etc.;
3. Other matters prescribed by Presidential Decree as necessary for the protection of personal location information protection.

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**Article 23 (Destruction of Personal Location Information)**

When any location information provider, etc. attain the purpose of collecting, using or providing personal location information, they shall immediately destroy personal location information other than data verifying the collection, use, and provision of location information that should be recorded and preserved in accordance with Article 16 (2).

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**Article 24 (Rights Held by Subjects of Personal Location information)**

- (1) Any subject of personal location information may, at any time, fully or partially withdraw consent given to a location information provider, etc. under Article 18 (1) or 19 (1), (2), or (4). <Amended by Act No. 13203, Feb. 3, 2015>
- (2) Any subject of personal location information may request, at any time, a location information provider, etc. to temporarily suspend collecting, using, or providing location information. In such cases, the location



consent as prescribed by Presidential Decree. <Amended by Act No. 16087, Dec. 24, 2018>

(2) Articles 18 (2), 19 (5), and 24 shall apply mutatis mutandis where a legal representative gives consent under paragraph (1). In such cases, "subject of personal location information" shall be construed as "legal representative". <Amended by Act No. 13203, Feb. 3, 2015>

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### **Article 26 (Use of Location Information for Protecting Children Eight Years or Younger)**

(1) Where the legal guardian of any of the following persons (hereinafter referred to as "child eight years or younger, etc.") gives consent to collecting, using, or providing personal location information regarding the child eight years or younger, etc., for the protection of the latter's health or safety, it shall be deemed that the child, etc. personally consent thereto: <Amended by Act No. 8367, Apr. 11, 2007; Act No. 12840, Oct. 15, 2014; Act No. 13203, Feb. 3, 2015>

1. A child eight years or younger;
2. A person under adult guardianship;
3. A person with a mental disorder defined in Article 2 (2) 2 of the Act on Welfare of Persons with Disabilities, classified as a person with a severe disability defined in subparagraph 2 of Article 2 of the Act on the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities (limited to those registered as disabled persons under Article 32 of the Act on Welfare of Persons with Disabilities).

(2) The legal guardian of a child eight years or younger, etc. referred to in paragraph (1), means any of the following persons who provides de facto protection for the child, etc.: <Amended by Act No. 8367, Apr. 11, 2007; Amended by Act No. 10517, Mar. 30, 2011; Act No. 12840, Oct. 15, 2014; Act No. 13203, Feb. 3, 2015; Act No. 14224, May 29, 2016; Act No. 15608, Apr. 17, 2018>

1. The legal representative of a child of eight years old or younger or a guardian under Article 3 of the Act on the Guardianship of Minors in Protective Facilities;
2. The legal representative of a person under adult guardianship;
3. The legal representative of a person prescribed in paragraph (1) 3, the head of a residential facility for persons with disabilities under Article 58 (1) 1 of the Act on Welfare of Persons with Disabilities (limited to any facility established and operated by the State or a local government), the head of a mental health sanatorium defined in Article 22 of the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients (limited to any facility established and operated by the

State or a local government), or the head of a mental health rehabilitation facility defined in Article 26 of the same Act.

(3) Requirements for giving consent under paragraph (1) shall be prescribed by Presidential Decree.

(4) Articles 18 through 22 and 24 shall apply mutatis mutandis where legal guardians give their consent pursuant to paragraph (2). In such cases, "subjects of personal location information" shall be construed as "legal guardians".

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**Article 27 (Compensation for Damage)**

Where a subject of personal location information suffers damage because a location information provider, etc. have violated Articles 15 through 26, he/she may claim damages against the location information provider, etc. In such cases, the location information provider, etc. shall not be exempt from liabilities unless they prove that there was no intention or negligence on their part.

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**Article 28 (Mediation in Disputes)**

(1) Where the parties to a dispute related to location information fail to reach an agreement or it is impossible to reach an agreement, the relevant location information provider, etc. may file a petition for adjudication with the Korea Communications Commission. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 13203, Feb. 3, 2015>

(2) Where the parties to a dispute related to location information fail to reach an agreement or it is impossible to reach an agreement, the relevant location information provider, etc. or the user may file a petition for mediation with the Personal Information Dispute Mediation Committee established under Article 40 of the Personal Information Protection Act. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 29 (Use of Personal Location Information for Emergency Rescue)**

(1) Where any subject of personal location information, his/her spouse or blood-relative within the second degree, or a guardian of a minor under Article 928 of the Civil Act (hereinafter referred to as "spouse, etc.") requests emergency rescue to protect health or safety from imminent danger, an emergency rescue agency referred to in subparagraph 7 of Article 3 of the Framework Act on the Management of Disasters and Safety (hereinafter referred to as "emergency rescue agency") may determine whether it is an emergency; and may request a location information provider to provide personal location information. In such cases, no spouse, etc. shall request emergency rescue for any purpose other than emergency rescue.

(2) The National Police Agency, regional police agencies, and police stations under Article 2 of the Police Act (hereinafter referred to as "police agency") may request a location information provider to provide any of the following personal location information: Provided, That if a police agency intends to obtain personal location information regarding a person who has requested rescue to protect another person's health or safety (hereinafter referred to as "witness") under subparagraph 1, it shall obtain consent from such witness:

1. Where rescue has been requested for protecting any person, including the witness or person requiring rescue from imminent health- or life-threatening danger (hereinafter referred to as "rescuer"), personal location information regarding the witness;

2. Where a rescuee has requested rescue from any third person, the personal location information regarding such rescuee;
3. Where a custodian defined in subparagraph 3 of Article 2 of the Act on the Protection and Support of Missing Children (hereinafter referred to as "custodian") has requested emergency rescue of a missing child, etc. defined in subparagraph 2 of Article 2 of the same Act (hereinafter referred to as "missing child, etc.") for protecting the latter's health or safety, the personal location of such missing child, etc.
- (3) Where any third person has requested rescue from a police agency pursuant to paragraph (2) 2, the police agency shall confirm the intention of the rescuee.
- (4) Requests for emergency rescue under paragraphs (1) and (2) shall be made only by calling special phone numbers prescribed by Presidential Decree and assigned for the sake of maintaining public order and promoting public interest. *<Amended by Act No. 15608, Apr. 17, 2018>*
- (5) Any location information provider in receiving a request under paragraph (1) or (2) may collect personal location information without the consent of the relevant subject of personal location information; and shall not refuse such request by an emergency rescue agency or a police agency on the ground that consent is withheld by the subject of personal location information.
- (6) Where any emergency rescue agency, location information provider, or police agency requests or provides personal location information pursuant to paragraph (1) or (2), it shall immediately notify the relevant subject of personal location information, of such fact: Provided, That where such immediate notification appears likely to threaten the health or safety of the subject of personal location information, the notification shall be made without delay after the relevant grounds have ceased.
- (7) In order to warn subjects of personal location information located in disaster areas or potential disaster areas, such as typhoon, heavy rain, fire and chemical, biological, and radiological (CBR) accidents, of the dangers to their lives or bodies, any emergency rescue agency may request a location information provider to issue a warning, as prescribed by Presidential Decree; and no location information provider so requested shall refuse such request to issue a warning on the ground that consent is withheld by the subjects of personal location information in the disaster areas. *<Amended by Act No. 8867, Feb. 29, 2008>*
- (8) No emergency rescue agency or police agency, nor any current or former emergency rescue worker, shall use personal location information provided for emergency rescue, for any purpose other than for emergency rescue.
- (9) Where a police agency has requested to provide personal location information under paragraph (2), it shall keep the following matters, as prescribed by Presidential Decree, and where a subject of personal location information requests the police agency to confirm, inspect or copy the collected personal location information, it shall comply with such request without delay: *<Amended by Act No. 15608, Apr. 17, 2018>*
  1. Person who made the request;
  2. Date, time, and purpose of the request;
  3. Details of information provided by the location information provider;

4. Consent to collecting personal location information (limited to the cases falling under the proviso to paragraph (2)).

(10) Matters necessary for requests for emergency rescue under paragraphs (1) and (2); confirmation of an intention under paragraph (3); and the method of, and procedures for, the issuing of warnings under paragraph (7), shall be prescribed by Presidential Decree.

(11) No emergency rescue agency or police agency shall inform any third party of the personal location information provided under paragraph (1) or (2): Provided, That the foregoing shall not apply to the following cases: <Newly Inserted by Act No. 13203, Feb. 3, 2015>

- 1. Where the subject of personal location information has consented thereto;
- 2. Where the personal location information is provided to another emergency rescue agency or another police agency where emergency rescue activities are inevitable.

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**Article 30 (Requests for Personal Location Information, and Method Thereof)**

(1) Where any emergency rescue agency or police agency requests a location information provider to provide personal location information pursuant to Article 29 (1) and (2), it shall do so using a location information system; and where any location information provider receives a request from an emergency rescue agency or a police agency to provide personal location information, it shall do so using a location information system. <Amended by Act No. 11423, May 14, 2012>

(2) Emergency rescue agencies and police agencies shall report data about the requests for, and providing, personal location information under paragraph (1) and Article 29 (11), to the Public Administration and Security Committee of the National Assembly semi-annually; while location information providers shall report such data to the Science, ICT, Broadcasting, and Communications Committee of the National Assembly semi-annually: Provided, That data about the requests for, and the provision of, such information under paragraph (1) shall be reported separately from data about requests for, and providing, such information under Article 29 (11). <Newly Inserted by Act No. 11423, May 14, 2012; Act No. 11717, Mar. 23, 2013; Act No. 13203, Feb. 3, 2015; Act No. 14840, Jul. 26, 2017>

(3) Matters necessary for requests by emergency rescue agencies and police agencies under paragraph (1) and for reporting under paragraph (2), shall be prescribed by Presidential Decree. <Amended by Act No. 11423, May 14, 2012>

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**Article 30-2 (Use of Computerized Information about Registration of Family Relationships)**

Upon receiving a request for emergency rescue under Article 29 (1), an emergency rescue agency may request the Minister of the National Court Administration to provide it with computerized data about registration under Article 11 (6) of the Act on the Registration, etc. of Family Relationships, so as to verify the relationship between the person requesting emergency rescue and the subject of personal location information.

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**Article 31 (Reduction of, and Exemption from, Costs)**

Where any location information provider issues a warning pursuant to Article 29 (7) or provides personal location information to an emergency rescue agency or a police agency pursuant to Article 30 (1), costs incurred therein may be reduced or exempt. <Amended by Act No. 11423, May 14, 2012>

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**Article 32 (Submission of Statistical Data)**

(1) Each location information provider shall submit statistical data regarding the issuance of warnings under Article 29 (7) and providing personal location information under Article 30 (1) to the Science, ICT, Broadcasting, and Communications Committee of the National Assembly and the Korea Communications Commission respectively semi-annually. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11423, May 14,

2012; Act No. 15608, Apr. 17, 2018>

(2) Such matters as methods for submitting statistical data under paragraph (1) shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 15608, Apr. 17, 2018>

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### Article 33 (Promotion of Technological Development)

(1) In order to efficiently promote the development of technologies and devices related to collecting, using, or providing location information, the Minister of Science and ICT or the Korea Communications Commission may authorize relevant research institutes prescribed by Presidential Decree to perform projects for research and development, technical cooperation, technology transfer, technical guidance, etc. (hereafter in this Article, referred to as "research and development, etc."). In such cases, the Minister of Science and ICT or the Korea Communications Commission shall consult with the heads of related central administrative agencies thereon. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 14839, Jul. 26, 2017>

(2) The Minister of Science and ICT or the Korea Communications Commission may fully or partially subsidize research institutes for expenses they incur in performing research and development, etc. projects pursuant to paragraph (1). <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 14839, Jul. 26, 2017>

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### Article 34 (Promotion of Standardization)

(1) The Minister of Science and ICT and the Korea Communications Commission may establish standards for collecting, using, or providing location information for the protection and use thereof and publicly announce them, in consultation with the heads of related central administrative agencies: Provided, That the Korean Industrial Standards under Article 12 of the Industrial Standardization Act shall apply to the matters for which relevant Korean Industrial Standards are established. <Amended by Act No. 8486, May 25, 2007; Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013; Act No. 14839, Jul. 26, 2017

(2) The Minister of Science and ICT and Future Planning and the Korea Communications Commission may recommend a location information provider, etc. or a manufacturer or supplier of products related to location information to comply with the standards under paragraph (1). <Amended by Act No. 8867, Feb. 29, 2008; Act No. 14839, Jul. 26, 2017>

(3) Matters to be standardized under paragraph (1) shall be as follows: <Amended by Act No. 9483, Mar. 13, 2009>

1. Technologies related to protecting and certifying location information;
2. Technologies related to collecting, storing, managing, and providing location information;
3. Technologies related to emergency rescue and other public services;
4. Other base technologies related to protecting and using location information.

(4) Matters necessary for the method, and procedures for standardization under paragraph (1) shall be prescribed by Presidential Decree. <Newly Inserted by Act No. 9483, Mar. 13, 2009>

(5) The Minister of Science and ICT and the Korea Communications Commission may render assistance in activities for the standardization of collecting, using, and providing location information. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 9483, Mar. 13, 2009; Act No. 11690, Mar. 23, 2013; Act No. 14839, Jul. 26, 2017>

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#### **Article 35 (Promotion of Use of Location Information)**

(1) The Korea Communications Commission, following consultation with the heads of related central administrative agencies, may implement projects for the efficient utilization and promotion of related technologies and application services in various fields, such as the public sector, industry, living, and

welfare, for the purpose of protecting and using location information, as prescribed by Presidential Decree. <Amended by Act No. 8867, Feb. 29, 2008>

(2) The Korea Communications Commission may provide persons participating in any of the projects under paragraph (1) with technical and financial assistance as necessary. <Amended by Act No. 8867, Feb. 29, 2008>

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**Article 36 (Requests for Submission of Materials and Inspections)**

(1) In any of the following cases, the Korea Communications Commission may request a location information provider, etc. to submit necessary materials, including relevant articles and documents:

- 1. Where the Korea Communications Commission discovers a violation of this Act or is informed of a suspected violation of this Act;
- 2. Where the Korea Communications Commission receives a report or complaint about a violation of this Act;
- 3. Where it is necessary to protect location information on any other ground prescribed by Presidential Decree.

(2) If a location information provider, etc. fail to submit the materials under paragraph (1) or are found to have violated this Act, the Korea Communications Commission may authorize its public officials to enter the place of business of the location information provider, etc. and inspect the status of operation of business, relevant articles and documents, facilities, equipment, etc. In such cases, Article 16 (4) shall apply mutatis mutandis.

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**Article 37 (Hearings)**

Where the Korea Communications Commission intends to revoke permission or authorization or order to discontinue business operations in accordance with Article 13, it shall hold a hearing. <Amended by Act No. 8867, Feb. 29, 2008>

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**Article 38 (Delegation or Entrustment of Authority)**

(1) Part of the authority of the Korea Communications Commission vested under this Act, may be delegated to the heads of its affiliated agencies, as prescribed by Presidential Decree.

(2) Some of the following affairs assigned to the Korea Communications Commission under this Act, may be entrusted to the Korea Internet and Security Agency established under Article 52 of the Act on Promotion of Information and Communications Network Utilization and Information Protection or the Telecommunications Technology Association founded under Article 34 of the Framework Act on Broadcasting Communications Development, as prescribed by Presidential Decree:

- 1. Inspection, conducted pursuant to Article 16 (3), of technical and managerial measures and the preservation status of records thereof (limited to affairs related to technical support);
- 2. Promoting standardization under Article 34;
- 3. Requesting the submission of materials and conducting inspections under Article 36 (1) and (2) (limited to affairs related to technical support).

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**Article 38-2 (Legal Fiction as Public Officials in Applying Penalty Provisions)**

The executive officers and employees of the Korea Internet and Security Agency or the Telecommunications Technology Association engaging in the affairs entrusted by the Korea Communications Commission pursuant to Article 38 (2), shall be deemed as public officials in applying penalty provisions under Articles 129 through 132 of the Criminal Act to them.

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**Article 38-3 (Provisions Applicable Mutatis Mutandis)**

@Articles 16 (1) and (3), 17, 28 (1), 34, 35, and 36 shall apply mutatis mutandis to persons who engage in location-based service business not handling personal location information.

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**Article 39 (Penalty Provisions)**

Any of the following persons shall be punished by imprisonment with labor for not more than five years; or by a fine not exceeding 50 million won: <Amended by Act No. 11423, May 14, 2012; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

1. Any person who engages in location information business without obtaining permission, in violation of Article 5 (1); or who obtains permission by fraud or other improper means;
2. Any person who divulges, alters, impairs, or discloses personal location information, in violation of Article 17;
3. Any person who collects, uses, or provides personal location information to another person, without consent thereto from the subject of the personal location information; or beyond the scope of consent, in violation of Article 18 (1) or (2) or 19 (1), (2), or (5); or who receives personal location information for profit or for any unlawful purpose, although he/she is aware of such circumstance;
4. Any person who uses or provides to a third party, personal location information beyond the scope specified in the terms and conditions or notified to the relevant subjects, in violation of Article 21;
5. Any person who uses personal location information for any purpose other than emergency rescue, in violation of Article 29 (8);
6. Any person who provides or receives personal location information, without consent thereto from the subject of the personal location information; or for any purpose other than emergency rescue, in violation of Article 29 (11).

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**Article 40 (Penalty Provisions)**

Any of the following persons shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won: <Amended by Act No. 8775, Dec. 21, 2007; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

- 1. Any person who engages in location information business without obtaining permission to make a change; or who obtains permission to make a change by fraud or other improper means, in violation of Article 5 (7);
- 1-2. Any person who engages in location information business not handling personal location information, without reporting in violation of Article 5-2 (1); or who reports such business by fraud or other improper means;
- 2. Any person who engages in location-based service business, without reporting in violation of Article 9 (1), the proviso to Article 9-2 (1) or Article 9-2 (4); or who reports by fraud or other improper means;
- 3. Any person who violates an order issued to discontinue business operations under Article 13 (1);
- 4. Any person who collects, uses, or provides personal location information regarding an individual without the individual’s consent, in violation of Article 15 (1);
- 5. Any person who obtains personal location information regarding another person by deceiving a personal location information provider or location-based service provider by copying the person’s telecommunications device or misappropriating such information, in violation of Article 15 (2).

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**Article 41 (Penalty Provisions)**

Any of the following persons shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 20 million won: <Amended by Act No. 11423, May 14, 2012; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>

1. Any person who changes a location information system, without reporting the change, in violation of Article 5-2 (3) 3 or 9 (3) 3, or who reports a change in a location information system by fraud or other improper means;
2. Any person who fails to destroy location information, in violation of Article 8 (4) or 11 (1) or (2);
3. Any person who violates an order to suspend business issued under Article 13 (1);
4. Any person who fails to take technical and managerial measures in violation of Article 16 (1) (including persons to whom said provisions shall apply mutatis mutandis pursuant to Article 38-3); 4-2. Any person who fails to ensure that data verifying the collection, use, and provision of location information are to be automatically recorded and preserved in a location information system, in violation of Article 16 (2);
5. Any person who refuses a request by an emergency rescue agency or a police agency, in violation of Article 29 (5); or who refuses to issue a warning, in violation of Article 29 (7).

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**Article 42 (Joint Penalty Provisions)**

If the representative of a corporation or an agent or employee of, or any other person employed by, the corporation or an individual commits any violation described in Articles 39 through 41 in conducting the business affairs of the corporation or individual, the corporation or individual shall, in addition to punishing the violator accordingly, be subject to a fine prescribed in the relevant Article: Provided, That this shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant business affairs to prevent such violation. [This Article Wholly

*Amended by Act No.10137, Mar. 17, 2010]*

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### **Article 43 (Administrative Fines)**

(1) Any of the following persons shall be subject to an administrative fine not exceeding 20 million won:

*<Amended by Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>*

1. Any person who violates a condition for granting permission under Article 5 (4);
2. Any person who acquires a business or merges or splits off a business, without authorization, in violation of Article 7 (1);
3. Any person who fully or partially suspends or discontinues business operations, without obtaining approval, in violation of Article 8 (1) or (2);
4. Any person who refuses to provide personal location information, in violation of Article 20 (1);
5. Any person who refuses a request for temporary suspension or fails to take a technical measure, in violation of Article 24 (2).

(2) Any of the following persons shall be subject to an administrative fine not exceeding ten million won:

*<Amended by Act No. 11423, May 14, 2012; Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018; Act No. 16087, Dec. 24, 2018>*

1. Any person who fails to report the acquisition, inheritance, merger, or split-off of a business or who reports the acquisition, inheritance, merger, or split-off of a business by fraud or other improper means, in violation of Article 7 (4) or 10 (1);
2. Any person who fails to report the whole or partial suspension or discontinuation of business operations, in violation of Article 8 (1) or (2) or 11 (1) or (2);
3. Any person who fails to disclose terms and conditions or grounds for and details of an amendment to the terms and conditions, in violation of Article 12 (1);
- 3-2. Any person who violates an order to amend terms and conditions under Article 12 (2);
4. Any person who fails to notify that an object has a built-in device capable of collecting location information, in violation of Article 15 (3);
5. Any person who fails to perform a duty to specify terms and conditions in violation of Article 18 (1) or 19 (1);
6. Any person who collects personal location information, in violation of Article 18 (3);
7. Any person who fails to give information or notice, in violation of Article 19 (2) through (4);
8. Any person who fails to notify transfer, etc. of business, in violation of Article 22;

- 9. Any person who refuses a request for inspection, notification, or correction, in violation of Article 24 (3);
  - 10. Any person who collects, uses, or provides personal location information without obtaining the consent of the relevant legal representative or without confirming that such legal representative gives the consent, in violation of Article 25 (1);
  - 11. Any person who requests emergency rescue under Article 29 (1) or (2), by fraud;
  - 12. Any person who fails to notify providing personal location information, in violation of Article 29 (6);
  - 13. Any person who fails to submit relevant articles, documents, etc. under Article 36 (1); or who submits any false article or document (including persons to whom said provisions shall apply mutatis mutandis pursuant to Article 38-3);
  - 14. Any person who, without good cause, refuses, interferes with, or evades an inspection under Article 36 (2) (including persons to whom said provisions shall apply mutatis mutandis pursuant to Article 38-3).
- (3) Any of the following persons shall be subject to an administrative fine not exceeding five million won: *<Amended by Act No. 13203, Feb. 3, 2015; Act No. 15608, Apr. 17, 2018>*
- 1. Any person who changes the trade name or principal place of business, without reporting such change; or who reports a changed trade name or principal place business by fraud or other improper means, in violation of Article 5 (7), 5-2 (3), 9 (3) 1 or 2, or 9-2 (3);
  - 2. Any person who fails to submit statistical data, in violation of Article 32.
- (4) Administrative fines under paragraphs (1), (2) (excluding subparagraph 11), and (3) shall be imposed and collected by the Korea Communications Commission, as prescribed by Presidential Decree. *<Amended by Act No. 8867, Feb. 29, 2008; Act No. 13203, Feb. 3, 2015>*
- (5) through (7) Deleted. *<by Act No. 13203, Feb. 3, 2015>*
- (8) Administrative fines under paragraph (2) 11 shall be imposed and collected by the heads of emergency rescue agencies or the heads of police agencies, as prescribed by Presidential Decree. *<Amended by Act No. 11423, May 14, 2012>*
- (9) Deleted. *<by Act No. 13203, Feb. 3, 2015>*

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ADDENDA

- (1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation: Provided, That Articles 29 through 32, subparagraph 5 of Article 41, Article 43 (2) 11 and 12, and Article 43 (8) shall enter into force on the date of its promulgation.
- (2) (Transitional Measures concerning Permission for Location Information Business) Each person who engages in local information business as at the time this Act enters into force shall obtain permission from the Minister of Information and Communications in accordance with Article 5 (1), within three months from the date this Act enters into force.
- (3) (Transitional Measures concerning Reporting on Location-Based Service Business) Each person who engages in location-based service business as at the time this Act enters into force shall report his/her business to the Minister of Information and Communications in accordance with Article 9 (1), within three months from the date this Act enters into force.
- (4) (Transitional Measures concerning Terms and Conditions) Each person who engages in location information business or location-based service business as at the time this Act enters into force shall prepare terms and conditions under Article 12 (1) within three months from the date this Act enters into force and shall report them to the Minister of Information and Communications.

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ADDENDUM <Act No. 8002, Sep. 27, 2006>

This Act shall enter into force on the date of its promulgation.

<8002, 2006. 9. 27.>

ADDENDA <Act No. 8367, Apr. 11, 2007>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 6 Omitted.**

<8367, 2007. 4. 11.> ()

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ADDENDA <Act No. 8486, May 25, 2007>

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 through 10 Omitted.**

<8486, 2007. 5. 25.> ()

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ADDENDUM <Act No. 8775, Dec. 21, 2007>

This Act shall enter into force six months after the date of its promulgation.

<8775, 2007. 12. 21.>

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ADDENDA <Act No. 8867, Feb. 29, 2008>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 12 Omitted.**

<8867, 2008. 2. 29.> ( )

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ADDENDA <Act No. 9481, Mar. 13, 2009>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 Omitted.**

<9481, 2009. 3. 13.> ()

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ADDENDUM <Act No. 9483, Mar. 13, 2009>

This Act shall enter into force six months after the date of its promulgation.

<9483, 2009. 3. 13.>

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ADDENDUM <Act No. 10137, Mar. 17, 2010>

This Act shall enter into force on the date of its promulgation.

<10137, 2010. 3. 17.>

ADDENDA <Act No. 10166, Mar. 22, 2010>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Articles 2 through 9 Omitted.**

<10166, 2010. 3. 22.> ()

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ADDENDA <Act No. 10517, Mar. 30, 2011>

**Article 1 (Enforcement Date)**

This Act shall enter into one year after the date of its promulgation.

**Articles 2 through 4 Omitted.**

<10517, 2011. 3. 30.> ()

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ADDENDUM <Act No. 11423, May 14, 2012>

This Act shall enter into force six months after the date of its promulgation.

<11423, 2012. 5. 14.>

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ADDENDA <Act No. 11690, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

**Articles 2 through 7 Omitted.**

<11690, 2013. 3. 23.> ()

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ADDENDA <Act No. 11717, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Articles 2 through 4 Omitted.**



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ADDENDA <Act No. 12840, Oct. 15, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Transitional Measure concerning Disqualifications of Incompetent Persons)**

Notwithstanding the amended provisions of Articles 6 (1) 1 and 26 (1) 2 and (2) 2, the previous provisions shall apply to the persons, for whom the declaration of incompetence or quasi-incompetence pronounced as at the time the amended provisions enter into force, remains effective under Article 2 of the Addenda to the Civil Act (Act No. 10429).

<12840, 2014. 10. 15.>

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ADDENDA <Act No. 12844, Nov. 19, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That the amendments to the statutes to be amended pursuant to Article 6 of the Addenda, which were promulgated before this Act enters into force but the enforcement dates of which have yet to arrive, shall enter into force on the enforcement date of the relevant statute.

**Articles 2 through 7 Omitted.**

<12844, 2014. 11. 19.> ()

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ADDENDA <Act No. 13203, Feb. 3, 2015>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability to Permission for Location Information Business)**

The amended provisions of Articles 5 (8) 4 and 7 (3) 4 shall apply, beginning with where an application is filed for permission for location information business or authorization for the acquisition, etc. of location information business, after this Act enters into force.

<13203, 2015. 2. 3.>

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ADDENDA <Act No. 13540, Dec. 1, 2015>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Transitional Measures to Grounds for Disqualification)**

Notwithstanding the amended provisions of Article 6, an employee of a location information provider as at the time this Act enters into force shall be governed by the previous provisions.

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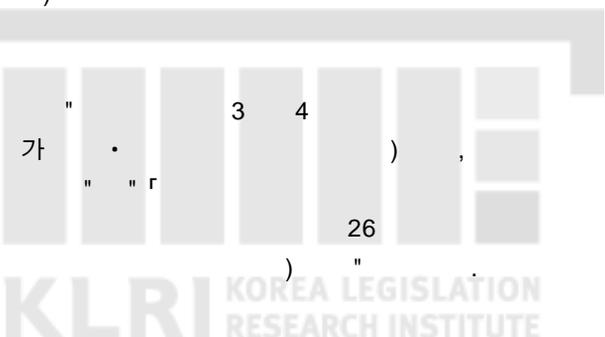
ADDENDA <Act No. 14224, May 29, 2016>

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 through 21 Omitted.**

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ADDENDA <Act No. 14839, Jul. 26, 2017>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That, the amendments to the statutes to be amended pursuant to Article 5 of the Addenda, which were promulgated before this Act enters into force but the enforcement dates of which have yet to arrive, shall enter into force on the enforcement date of the relevant statute.

**Articles 2 through 6 Omitted.**

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ADDENDA <Act No. 14840, Jul. 26, 2017>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Articles 2 through 4 Omitted.**

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ADDENDA <Act No. 15608, Apr. 17, 2018>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability to Reporting by Micro Enterprises on Location-Based Service Business)**

The amended provisions of Articles 9 (4) and 9-2 shall apply to micro enterprises, etc. that commence location-based service business after this Act enters into force.

**Article 3 (Applicability to Disclosure of Terms and Conditions)**

The amended provisions of Article 12 (1) shall also apply where a person intends to amend the terms and conditions reported before this Act enters into force.

**Article 4 (Transitional Measures concerning Permission for Location Information Business)**

(1) If a person who holds permission granted under previous Article 5 (1) as at the time this Act enters into force engages in location information business handling personal location information, such person shall be deemed to have obtained permission from the Korea Communications Commission under the amended provisions of Article 5 (1).

(2) If a person who holds permission granted under previous Article 5 (1) as at the time this Act enters into force engages in location information business, without handling personal location information, such person shall be deemed to have filed a report in accordance with the amended provisions of Article 5-2 (1), and such report shall be deemed to have been accepted by the Korea Communications Commission under the amended provisions of Article 5-2 (4).

(3) If a person who has an application pending for permission under Article 5 (1) as at the time this Act enters into force engages in location information business, without handling personal location information, such person shall be deemed to have filed a report in accordance with the amended provisions of Article 5-2 (1).

**Article 5 (Transitional Measures concerning Acquisition of Location Information Business or Merger of Corporations)**

(1) If the transferee of all or part of the business of a person who holds authorization granted under previous Article 7 (1) as at the time this Act enters into force reports and has engaged in location information business, without handling personal location information, or a corporation incorporated by a merger or split-off or a corporation surviving a merger or split-off reports such acquisition, merger, or split-off in accordance with the amended provisions of Article 7 (4), such report shall be deemed to have been accepted by the Korea Communications Commission under the amended provisions of Article 7 (5).

(2) If a person who filed an application for authorization under previous Article 7 (1) before this Act enters into force is the transferee of all or part of the business of a person who has engaged in location information business, without handling personal location information, or a corporation incorporated by a merger or split-off or a corporation surviving a merger or split-off, such person shall be deemed to have reported the acquisition, merger, or split-off in accordance with the amended provisions of Article 7 (4).

**Article 6 (Transitional Measures concerning Suspension or Discontinuation of Operations of Location Information Business)**

(1) If a person who engages in location information business as at the time this Act enters into force, without handling personal location information, with approval granted under previous Article 8 (1) or (2) files a report in accordance with the amended provisions of Article 8 (1) 2 or (2) 2, such report shall be deemed to have been accepted by the Korea Communications Commission under the amended provisions of Article 8 (6).

(2) If a person who filed an application for approval under previous Article 8 (1) or (2) before this Act enters into force engages in location information business, without handling personal location information, such person shall be deemed to have filed a report in accordance with the amended provisions of Article 8 (1) 2 or (2) 2.

**Article 7 Omitted.**

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ADDENDUM <Act No. 16087, Dec. 24, 2018>

This Act shall enter into force six months after the date of its promulgation.

<16087, 2018. 12. 24.>

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Last updated : 2019-10-08



## MEDICAL DEVICES ACT

Wholly Amended by Act No. 10564, Apr. 7, 2011

Amended by Act No. 11690, Mar. 23, 2013

Act No. 11985, Jul. 30, 2013

Act No. 11998, Aug. 6, 2013

Act No. 12017, Aug. 13, 2013

Act No. 12392, Jan. 28, 2014

Act No. 13116, Jan. 28, 2015

Act No. 13698, Dec. 29, 2015

Act No. 14330, Dec. 2, 2016

Act No. 15279, Dec. 19, 2017

Act No. 15486, Mar. 13, 2018

Act No. 15945, Dec. 11, 2018

Act No. 16402, Apr. 23, 2019

### Article 1 (Purpose)

The purpose of this Act is to promote the efficient management of medical devices and further contribute to the improvement of public health by providing for matters concerning the manufacturing, import, distribution, etc. of medical devices.

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### Article 2 (Definitions)

(1) The term "medical device" in this Act means an instrument, machine, apparatus, material, software, or any other similar product specified in the following subparagraphs as one used, alone or in combination, for human beings or animals: Provided, That drugs and quasi-drugs under the Pharmaceutical Affairs Act and the prosthetic limbs and aids among assistive devices for persons with disabilities under Article 65 of the Act on Welfare of Persons with Disabilities shall be excluded herefrom: <Amended by Act No. 15945, Dec. 11, 2018>

1. A product used for the purpose of diagnosing, curing, alleviating, treating, or preventing a disease;
2. A product used for the purpose of diagnosing, curing, alleviating, or correcting an injury or impairment;



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### Article 3 (Classification and Designation of Classes)

(1) In order to ensure systematic and reasonable safety control of medical devices in conformity with the intended use of each medical device and differences in potential risks to humans while in use, the Minister of Food and Drug Safety shall classify and designate the class of each medical device. <Amended by Act No. 11690, Mar. 23, 2013>

(2) Matters necessary for the standards and procedures for the classification and designation of the class of each medical device under paragraph (1) shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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### Article 4 (Relationship with other Acts)

Notwithstanding the provisions of this Act, the installation and operation of radiation-emitting equipment for diagnosis and special medical treatment equipment shall be governed by Articles 37 and 38 of the Medical Service Act and Articles 17-3 and 17-4 of the Veterinarians Act.

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### Article 5 (Medical Devices Committee)

(1) A Medical Devices Committee (hereinafter referred to as the “Committee”) shall be established within the Ministry of Food and Drug Safety to investigate and deliberate on the following in response to a request from the Minister of Health and Welfare or the Minister of Food and Drug Safety: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 16402, Apr. 23, 2019>

1. Matters concerning standard specifications of medical devices;
2. Matters concerning the re-examination and re-evaluation of medical devices;
3. Matters concerning medical devices subject to tracking and control;
4. Matters concerning the classification and designation of classes of medical devices;
5. Matters concerning the scope, etc. of certification and notification of medical devices to be entrusted;

6. Other important matters concerning medical devices.

(2) The Committee shall be comprised of not less than 50 but not more than 100 members, including one chairperson and two vice chairpersons. In such cases, a majority of the total members shall be those who are not public officials. <Newly Inserted by Act No. 16402, Apr. 23, 2019>

(3) The office of chairperson shall be assumed by the Vice Minister of Food and Drug Safety, and the office of vice chairperson by a public official who belongs to the Senior Executive Service in each of the Ministry of Health and Welfare and the Ministry of Food and Drug Safety. <Newly Inserted by Act No. 16402, Apr. 23, 2019>

(4) Members of the Committee shall be appointed or commissioned by the Minister of Food and Drug Safety from among those listed in the following subparagraphs, and the Minister of Health and Welfare may recommend a candidate for membership: <Newly Inserted by Act No. 16402, Apr. 23, 2019>

1. A public official of Grade IV or higher who takes charge of duties related to medical devices, or a public official in general service who belongs to the Senior Executive Service;

2. A person who is recommended by the head of a medical device-related organization, the head of a non-profit, non-governmental organization pursuant to Article 2 of the Assistance for Non-Profit, Non-Governmental Organizations Act, the head of a medical device-related academic society, or the head of a university, college or industrial college under subparagraph 1 or 2 of Article 2 of the Higher Education Act;

3. A person who has plenty of academic knowledge and experience in relation to medical devices.

(5) The term of office of a member shall be two years: Provided, That the term of office of a member who is a public official shall be the period during which the member is in his/her post as a public official. <Newly Inserted by Act No. 16402, Apr. 23, 2019>

(6) The Committee may establish a subcommittee that consists of not more than 20 members when necessary to facilitate the operation thereof. <Newly Inserted by Act No. 16402, Apr. 23, 2019>

(7) Other matters necessary for organization, operation, etc. of the Committee shall be prescribed by Presidential Decree. <Amended by Act No. 16402, Apr. 23, 2019>

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certification, or file a manufacturing notification as follows with respect to medical devices he/she intends to manufacture: *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

1. For medical devices designated and publicly notified by the Minister of Food and Drug Safety and unlikely to pose any risk to human safety and health even upon occurrence of a failure or malfunction because of marginal potential risk to human health: Manufacturing permission, manufacturing certification, or manufacturing notification, by item category;
2. For any medical device, other than those falling under subparagraph 1: Manufacturing permission, manufacturing certification, or manufacturing notification, by type of item.

(3) When a person files an application for manufacturing business permission under the main sentence of paragraph (1), he/she shall file an application for manufacturing permission or manufacturing certification for at least one item, or file a manufacturing notification on at least one item, under any of the subparagraphs of paragraph (2). *<Amended by Act No. 13116, Jan. 28, 2015>*

(4) A person who intends to obtain manufacturing business permission pursuant to paragraph (1) or person who intends to obtain manufacturing permission or manufacturing certification, or file a manufacturing notification pursuant to paragraph (2) shall be equipped with necessary facilities and manufacturing and quality control systems before filing an application for such permission or certification or filing such notification as prescribed by Ordinance of the Prime Minister: Provided, That the foregoing shall not apply in cases prescribed by Ordinance of the Prime Minister, such as entrusting testing for quality control or manufacturing process to a third person. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

(5) A manufacturer who intends to obtain manufacturing permission or manufacturing certification, or to file a manufacturing notification pursuant to paragraph (2) shall submit necessary data, such as data on manufacturing and quality control systems, technical documents, and clinical test data, to the Minister of Food and Drug Safety, as prescribed by Ordinance of the Prime Minister. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

(6) If permission for items of manufacture and sale has already been granted or report on manufacture and sale have already been made pursuant to Article 31 (2) of the Pharmaceutical Affairs Act for a medical device compounded with, or in combination of a drug or quasi-drug because its main function is equivalent to that of a drug or quasi-drug, manufacturing permission or manufacturing certification shall be deemed granted or a manufacturing notification shall be deemed filed pursuant to paragraph (2). *<Amended by Act No. 13116, Jan. 28, 2015>*

(7) Any person who intends to obtain manufacturing business permission pursuant to paragraph (1) shall employ a quality manager to conduct affairs provided for in Article 6-2 (1), as prescribed by Ordinance of the Prime Minister. *<Newly Inserted by Act No. 12392, Jan. 28, 2014>*

(8) The Minister of Food and Drug Safety shall notify an applicant of whether to grant him/her manufacturing business permission within 25 days from the date of receiving the application for manufacturing business permission under the main sentence of paragraph (1). *<Newly Inserted by Act No.*

15279, Dec. 19, 2017>

(9) Where the Minister of Food and Drug Safety fails to notify an applicant of whether to grant him/her manufacturing business permission or whether to extend a period for handling civil appeals under statutes related to handling of civil appeals within the period specified in paragraph (8), such permission shall be deemed granted on the day immediately following the day on which the period (where the period for handling civil petitions becomes extended or re-extended under statutes related to handling of civil petitions, it refers to the relevant period) ends. <Newly Inserted by Act No. 15279, Dec. 19, 2017>

(10) Items subject to, procedures, standards, and conditions for, and the management of manufacturing business permission under the main sentence of paragraph (1) and manufacturing permission, manufacturing certification, or manufacturing notifications under paragraph (2), and other necessary matters shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 12392, Jan. 28, 2014; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>

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**Article 6-2 (Matters to be Observed by Quality Managers and other Relevant Matters)**

- (1) A quality manager (hereinafter referred to as "quality manager") under Article 6 (7) shall conduct affairs concerning the direction and supervision of employees engaged in manufacturing of medical devices, manufacturing management, quality control, and safety control (including post-market safety control to deal with possible side effects, etc.; hereinafter the same shall apply in this Article).
- (2) A quality manager shall receive regular training on the latest standards and specifications for medical devices, quality control, and safety control at least once a year.
- (3) Where necessary to prevent harm to people's health, the Minister of Food and Drug Safety may order a quality manager to undergo further training in addition to training already being provided regularly under paragraph (2) at least once a year.
- (4) In addition to matters prescribed by paragraphs (1) through (3), necessary matters concerning the scope of duties, the content, hours, methods and procedures of training, educational expenses, designation of an institution offering education, and so forth shall be prescribed by Ordinance of the Prime Minister.

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**Article 6-3 (Restrictions on Manufacturing Permission, etc.)**

(1) None of the following medical devices is eligible for manufacturing permission, manufacturing certification, nor manufacturing notification:

1. A medical device which has the same intended use, operating principles, raw materials, etc. as those of any medical device whose permission was revoked pursuant to Article 36 (1) and from the date of whose revocation one year has not passed yet;
2. A medical device containing or made using raw materials recognized by the Minister of Food and Drug Safety as having safety and effectiveness defects, and in direct or indirect contact with the human body;
3. A medical device designated by the Minister of Food and Drug Safety, which uses or contains raw materials that may infect people with diseases that could pose a risk to the public health, such as bovine spongiform encephalopathy, and is in direct or indirect contact with the human body;
4. Other medical devices not in compliance with standards for manufacturing permission, manufacturing certification of, or manufacturing notifications on medical devices established and announced by the Minister of Food and Drug safety.

(2) No medical device that includes any of the following in its name is eligible for manufacturing permission, manufacturing certification, or a manufacturing notification:

1. A name unsuitable for a medical device, or a name that could be misleading for another product, or an exaggerated name;
2. A name that expresses indication, efficacy, or effect of a medical device;
3. Other names not in compliance with standards established and announced by the Minister of Food and Drug Safety, which correspond to subparagraphs 1 and 2.

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**Article 6-4 (Designation, etc. of Institutions Reviewing Technical Documents)**

(1) The Minister of Food and Drug Safety may designate a specialized institution for reviewing conformity of technical documents, etc. to be submitted pursuant to Article 6 (5) (hereinafter referred to as "institution reviewing technical documents"), which shall be responsible for performing duties concerning review.

(2) Any entity who intends to be designated as an institution reviewing technical documents shall meet requirements for designation, including specialized human resources, etc. necessary for review and file an application with the Minister of Food and Drug Safety.

(3) Where an institution reviewing technical documents designated pursuant to paragraph (1) reviews technical documents, it shall abide by matters prescribed by Ordinance of the Prime Minister, such as preparing and issuing a written notice of results of reviewing technical documents and keeping records concerning review of such technical documents.

(4) Matters necessary for detailed standards, procedures and methods for designation of institutions reviewing technical documents shall be prescribed by Ordinance of the Prime Minister.

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**Article 7 (Conditional Permission, etc.)**

(1) The Minister of Food and Drug Safety may grant manufacturing business permission, manufacturing permission, or manufacturing certification, or receive a manufacturing notification on condition that an applicant or notifier be equipped with facilities and manufacturing and quality control systems required

under Article 6 (4) within a specified period. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) Matters necessary for granting conditional permission or conditional certification or receiving conditional notification, and relevant matters under (1), shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

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#### **Article 8 (Re-Examination of Newly Developed Medical Devices, etc.)**

(1) If an item category or item for which a person intends to obtain manufacturing permission pursuant to Article 6 (2) falls under any of the following, the Minister of Food and Drug Safety may grant manufacturing permission upon requiring the person to undergo a re-examination for safety and effectiveness of the item category or the item within a specified period after such item category or item is released to the market for distribution, and may issue an order to the person to take necessary measures based upon the results of the re-examination: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15945, Dec. 11, 2018>

1. A newly-developed medical device substantially different in the operating principles, performance, or intended use from the item category or item already approved, certified, or notified;

2. A orphan medical device designated by the Minister of Food and Drug Safety as a medical device for a disease with a small number of patients in the Republic of Korea and with a particular utility value.

(2) A manufacturer of a medical device subject to re-examination under paragraph (1) shall file an application for re-examination, along with data about the performance of the device while in use, adverse event cases, and other data specified by Ordinance of the Prime Minister, within the period specified by the Minister of Food and Drug Safety, which shall be between four and seven years from the date he/she obtained the manufacturing permission for the relevant item category or item. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15945, Dec. 11, 2018>

(3) A manufacturer of a medical device subject to re-examination shall preserve the data prescribed by the Minister of Food and Drug Safety, which are required to prepare the accompanying data under paragraph (2), such as records of adverse events occurring to those who have used such medical device during the period between the date of manufacturing permission and the date of re-examination application, for two years from the date of re-examination application. <Newly Inserted by Act No. 15945, Dec. 11, 2018>

(4) The methods and procedures for, and timing of the re-examination under paragraphs (1) and (2), and other relevant matters, shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15945, Dec. 11, 2018>

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**Article 9 (Re-Evaluation)**

(1) If the Minister of Food and Drug Safety deems it necessary to review the safety and efficacy of a medical device for which manufacturing permission or manufacturing certification has been granted or on which a manufacturing notification has been filed pursuant to Article 6 (2), he/she may re-evaluate the medical device, and may issue an order for necessary measures based upon the results of the re-evaluation. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) The methods, procedures, and standards for the re-evaluation under paragraph (1), and other relevant matters, shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 10 (Approval, etc. of Clinical Test Plans)**

(1) A person who intends to conduct a clinical test using a medical device shall prepare a clinical test plan and obtain approval thereof from the Minister of Food and Drug Safety, and the same shall also apply to any revision to the clinical test plan: Provided, That the foregoing shall not apply to clinical tests

prescribed by Ordinance of the Prime Minister, such as tests conducted to observe clinical effects of a medical device available in the market according to the terms and conditions of permission. <Amended by Act No. 11690, Mar. 23, 2013>

(2) A person who intends to manufacture or import a medical device for clinical tests approved under paragraph (1) shall manufacture it in manufacturing facilities that meet the standards prescribed by Ordinance of the Prime Minister or import one manufactured in facilities meeting such standards. In such cases, a medical device may be manufactured or imported without obtaining permission or certification, or filing a notification, notwithstanding Article 6 (2) or 15 (2). <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(3) The Minister of Food and Drug Safety may designate a medical institution equipped with facilities, human resources, and equipment necessary for conducting clinical tests, as a clinical testing institution, from among the medical institutions established under the Medical Service Act. <Amended by Act No. 11690, Mar. 23, 2013>

(4) Anyone who intends to conduct a clinical test under paragraph (1) shall comply with the following: <Amended by Act No. 11690, Mar. 23, 2013>

1. Conduct a clinical test in a clinical testing institution designated under paragraph (3);
2. Not select any person admitted into a collective facility prescribed by Ordinance of the Prime Minister, such as a social welfare facility, (hereafter referred to as "admitted person" in this subparagraph) as the subject of a clinical test: Provided, That an admitted person may be selected as the subject of a clinical test, if it is unavoidable, by the nature of a clinical test, to select the admitted person as the subject of the clinical test and the standards prescribed by Ordinance of the Prime Minister are met;
3. Explain to the subject of a clinical test the details of the test, potential harms that could affect the health of the subject during the clinical test, the details of compensation for such harms, the procedures for compensation, and other relevant matters, and obtain consent from the subject.

(5) When a clinical testing institution designated under paragraph (3) conducts a clinical test, it shall prepare and issue a report on the results of the clinical test, keep records of the test, and comply with other matters prescribed by the Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

(6) Where the Minister of Food and Drug Safety deems that a clinical test prescribed in paragraph (1) causes or is likely to cause any serious harm to the public health and hygiene, and any of the following event or causes occurs, he/she may change or revoke such clinical test or take other necessary measures: Provided, the same shall not apply in cases prescribed in subparagraph 4 or 5, when a clinical test does not adversely affect the safety, rights, or welfare of subjects of a clinical test or effectiveness of a test, or violations are not committed repetitively or intentionally: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13698, Dec. 29, 2015>

1. Where any subject of the clinical test is likely to suffer an unexpected severe disease or to be exposed to injury;



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**Article 10-2 (Designation, etc. of Institutions Conducting Non-Clinical Trials)**

(1) Any institution which intends to conduct non-clinical trials for subjects, other than human, concerning the verification of medical devices and confirmation of their effectiveness (hereinafter referred to as "institution conducting non-clinical trials") shall be designated by the Minister of Food and Drug Safety, and where it intends to revise designated matters, it shall obtain revised designation from the Minister of Food and Drug Safety, as prescribed by Ordinance of the Prime Minister.

(2) Any entity that intends to be designated as an institution conducting non-clinical trials pursuant to paragraph (1), shall be equipped with facilities, specialized human resources and equipment necessary for non-clinical trials of medical devices, as prescribed by Ordinance of the Prime Minister.

(3) Where an institution conducting non-clinical trials conducts non-clinical trials pursuant to paragraph (1), it shall abide by matters prescribed by Ordinance of the Prime Minister, such as preparing and issuing non-clinical trial reports and keeping records concerning non-clinical trials.

(4) Except as otherwise specifically prescribed in paragraphs (1) through (3), standards, procedures and methods for the designation of institutions conducting non-clinical trials, the operation and management of such institutions, and other necessary matters shall be prescribed by Ordinance of the Prime Minister.

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**Article 11 (Preliminary Examinations of Manufacturing Permission, Notification, etc.)**

(1) A person who intends to obtain manufacturing permission or manufacturing certification, or file a manufacturing notification pursuant to Article 6 (2) or a person who intends to conduct a clinical test pursuant to Article 10 may request the Minister of Food and Drug Safety to preliminarily examine materials necessary for the manufacturing permission, manufacturing certification, manufacturing notification, or approval of such test. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) Upon receipt of a request for examination made under paragraph (1), the Minister of Food and Drug Safety shall conduct the examination and give notice of the results to the applicant. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 16402, Apr. 23, 2019>

(3) The Minister of Food and Drug Safety shall consider the results of the examination under paragraph (2) when granting permission or certification, or receiving a notification, under Article 6 (2), or granting permission, etc. under Article 10. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(4) Subject matter and scope of the preliminary examination under paragraph (1), the procedure and method thereof, and other relevant matters shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 12 (Permission, etc. for Change)**

(1) Where any change, such as a change in location, occurs in any information regarding permission or certification already granted or a notification already filed pursuant to the main sentence of Article 6 (1), or Article 6 (2) and (5), a manufacturer shall obtain permission or certification for change from or file a notification on change to the Minister of Food and Drug Safety. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 12392, Jan. 28, 2014; Act No. 13116, Jan. 28, 2015>

(2) The Minister of Food and Drug Safety shall notify an applicant of whether to grant him/her permission to change manufacturing business information within 15 days after the date of receiving the application for change under paragraph (1). <Amended by Act No. 15279, Dec. 19, 2017>

(3) Where the Minister of Food and Drug Safety fails to notify an applicant of whether to grant him/her permission to change manufacturing business information or whether to extend a period for handling civil appeals under statutes related to handling of civil appeals, such permission shall be deemed granted on the

day immediately following the day on which the period (where the period for handling civil appeals becomes extended or re-extended under statutes related to handling of civil appeals, it refers to the relevant period) ends. <Amended by Act No. 15279, Dec. 19, 2017>

(4) Matters necessary for procedures and standards for applying for permission or certification for change, or filing a notification on change under paragraph (1) shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>

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**Article 13 (Obligations of Manufacturers)**

(1) A manufacturer shall maintain facilities and manufacturing and quality control systems referred to in Article 6 (4), and shall comply with other matters prescribed by Ordinance of the Prime Minister regarding production control, including self-testing. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) A manufacturer shall report to the Minister of Health and Welfare and the Minister of Food and Drug Safety on the results of producing medical devices and other relevant matters, as prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

(3) No manufacturer (including the representative, director or other employees of a corporation, and in cases of entities, other than corporations, including the employees thereof) shall provide money, articles, convenience, labor, entertainment or other economic benefits (hereinafter referred to as "economic benefits, etc.") to medical personnel or founders of medical institutions (including the representative, director or other employees of a corporation; hereafter the same shall apply in this Article) or persons working for medical institutions or let medical personnel, founders of medical institutions or persons working for medical institutions help medical institutions to acquire economic benefits, etc., for purposes of promoting sales, such as adopting medical devices, inducing them to use medical devices, or maintaining trade: Provided, That the same shall not apply to economic benefits, etc. within the scope prescribed by Ordinance of the Minister of Health and Welfare after consulting with the Minister of Food and Drug Safety, such as providing samples, sponsoring a symposium, supporting clinical tests, product



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**Article 14 (Notification of Permanent Closure, Temporary Shutdown, etc.)**

(1) Where a manufacturer falls under any of the following subparagraphs, he/she shall notify the Minister of Food and Drug Safety thereof, as prescribed by Ordinance of the Prime Minister: Provided, That the same shall not apply if the period of temporary shutdown is less than one month or factory operation is resumed after being shut down temporarily for less than one month: <Amended by Act No. 15945, Dec. 11, 2018>

1. Where he/she intends to permanently close or temporarily shut down his/her factory;

2. Where he/she intends to resume the operation of the factory temporarily shut down.

(2) Upon receipt of a notification on permanent closure or temporary shutdown under paragraph (1) 1, the Minister of Food and Drug Safety shall inform the notification filer whether or not to accept the notification, within seven days of receipt of such notification. <Newly Inserted by Act No. 15945, Dec. 11, 2018>

(3) If the Minister of Food and Drug Safety fails to inform a notification filer whether or not to accept the notification or to extend the processing period thereof under statutes and regulations related to civil petitions treatment, within a period fixed under paragraph (2), the notification shall be deemed accepted on the day following the end of the period (referring to the extended or re-extended period if the processing period is extended or re-extended under the statutes and regulations related to civil petitions treatment). <Newly Inserted by Act No. 15945, Dec. 11, 2018>

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**Article 15 (Import Business Permission, etc.)**

(1) A person who intends to engage in the business of importing medical devices shall obtain import business permission from the Minister of Food and Drug Safety. <Amended by Act No. 11690, Mar. 23, 2013>

(2) A person granted import business permission under paragraph (1) (hereinafter referred to as "importer") shall obtain import permission or import certification, or file an import notification with

regard to medical devices that he/she intends to import, according to the following classifications:  
*<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

1. For medical devices designated and publicly notified by the Minister of Food and Drug Safety and unlikely to pose any risk to human safety and health even upon occurrence of a failure or malfunction because of marginal potential risk to human health: Import permission, import certification, or import notification, by item category;

2. For any medical device other than those falling under subparagraph 1: Import permission, import certification, or import notification, by item.

(3) When a person files an application for import business permission pursuant to paragraph (1), he/she shall file together with an application for import permission or import certification for at least one item, or file together with an import notification on at least one item under paragraph (2). *<Amended by Act No. 13116, Jan. 28, 2015>*

(4) A person who intends to obtain import business permission pursuant to paragraph (1) or a person who intends to obtain import permission or import certification or to file an import notification pursuant to paragraph (2) shall be equipped with facilities necessary for conducting quality inspections and manufacturing and quality control systems before applying for such permission or certification, or filing such notification, as prescribed by Ordinance of the Prime Minister: Provided, That the foregoing shall not apply in cases prescribed by Ordinance of the Prime Minister, such as entrusting quality control testing to a third person. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

(5) If permission has already been granted, or a report has already been filed, to import an item pursuant to Article 42 (1) of the Pharmaceutical Affairs Act for a medical device compounded with, or in combination of a drug or quasi-drug and a medical device because its main function is equivalent to that of a drug or a quasi-drug, the relevant import permission or import certification shall be deemed already granted or the relevant import notification shall be deemed already filed pursuant to paragraph (2). *<Amended by Act No. 13116, Jan. 28, 2015>*

(6) The proviso to Article 6 (1), Article 6 (5), (7) through (10), Articles 6-2, 6-3, 7 through 9, 11 through 13, 13-2, and 14 shall apply mutatis mutandis to medical devices imported pursuant to paragraphs (1) through (5) and the importers of such medical devices. In such cases, the term "manufacturing" shall be construed as "import;" "manufacturing business permission" as "import business permission;" "manufacturing permission" as "import permission;" "manufacturing certification" as "import certification;" "manufacturing notification" as "import notification;" "production management" as "import management;" and "manufacturer" as "importer," respectively. *<Amended by Act No. 12392, Jan. 28, 2014; Act No. 13116, Jan. 28, 2015; Act No. 14330, Dec. 2, 2016; Act No. 15279, Dec. 19, 2017>*

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(2) The Minister of Food and Drug Safety may entrust a specialized institution or organization concerned with affairs concerning the supply of medical devices scarce or in urgent need of introduction and the provision of relevant information under paragraph (1), and subsidize expenses necessary therefor, as prescribed by Ordinance of the Prime Minister.

(3) If a specialized institution or organization concerned, to which the Minister of Food and Drug Safety has entrusted affairs under paragraph (2), imports a medical device scarce or in urgent need of introduction to perform the entrusted affairs, it may import such medical device without permission, certification or notification, notwithstanding Article 15 (2) or (6).

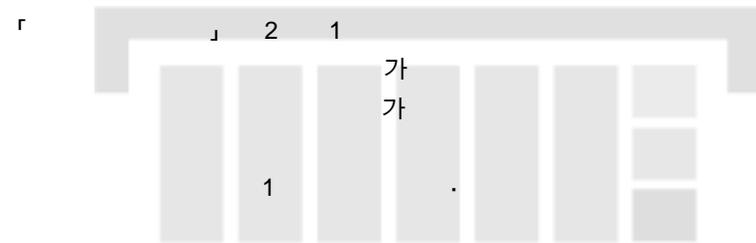
(4) Other than those specified in paragraphs (1) through (3), matters necessary for the methods of supply, and entrustment, of medical devices scarce or in urgent need of introduction shall be prescribed by Ordinance of the Prime Minister.

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**Article 16 (Notification on Repair Business)**

(1) A person who intends to engage in the business of repairing medical devices (hereinafter referred to as "repairer") shall file a notification on his/her repair business with the Minister of Food and Drug Safety, as prescribed by Ordinance of the Prime Minister: Provided, That it is unnecessary to file a notification on repair business if a person who has obtained manufacturing permission or manufacturing certification, or has filed a manufacturing notification pursuant to Article 6 (2), or who has obtained import permission or import certification, or has filed an import notification pursuant to Article 15 (2) repairs a medical device manufactured or imported by his/her own company. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) A person who intends to file a notification on his/her repair business pursuant to paragraph (1) (including a person who intends to repair medical devices imported by his/her own company under the proviso to the said paragraph) shall be equipped with facilities and a quality control system, as prescribed by Ordinance of the Prime Minister: Provided, That the foregoing shall not apply in cases specified by Ordinance of the Prime Minister, such as entrusting the testing for quality control to a third person.

<Amended by Act No. 11690, Mar. 23, 2013>

(3) Items subject to notification to engage in the repair business under paragraph (1), standards for, and terms and conditions of accepting notifications, and other necessary matters shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

(4) The proviso to Article 6 (1), and Articles 12, 13 and 14 (1), shall apply mutatis mutandis to reporting under paragraph (1). In such cases, the term "manufacturing" shall be construed as "repair," "manufacturing business permission" as "repair business notification," "production management" as "repair management," and "manufacturer" as "repairer," respectively. <Amended by Act No. 14330, Dec. 2, 2016; Act No. 15945, Dec. 11, 2018>

(5) Regarding a notification on repair business filed under paragraph (1), the Minister of Food and Drug Safety shall inform the filer thereof whether or not to accept the notification within ten days of receipt of such notification, and regarding a notification on permanent closure or temporary shutdown filed under paragraph (4), within seven days of receipt of such notification. <Newly Inserted by Act No. 15945, Dec. 11, 2018>

(6) If the Minister of Food and Drug Safety fails to inform a notification filer whether or not to accept the notification or to extend the processing period thereof under statutes and regulations related to civil petitions treatment, within a period fixed under paragraph (5), the notification shall be deemed accepted on the day following the end of the period (referring to the extended or re-extended period if the processing period is extended or re-extended under the statutes and regulations related to civil petitions treatment).

<Newly Inserted by Act No. 15945, Dec. 11, 2018>

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#### **Article 17 (Notification of Distribution Business, etc.)**

(1) A person who intends to engage in the business of distributing medical devices (hereinafter referred to as "distributor") or a person who intends to engage in the business of leasing medical devices (hereinafter referred to as "lessor") shall file a notification of his/her distribution business or leasing business with the competent Special Self-Governing City Mayor, Special Self-Governing Province Governor, or the head of a Si/Gun/Gu (the head of a Gu shall refer to the head of an autonomous Gu; hereinafter the same shall apply) having jurisdiction over his/her place of business, separately for each place of business, as prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

(2) A notification under paragraph (1) may be omitted in any of the following cases: <Amended by Act No. 11690, Mar. 23, 2013>

1. Where a manufacturer or importer of medical devices distributes or leases medical devices manufactured or imported by him/her, to a medical device handler;
2. Where a person who has filed his/her distribution business notification under paragraph (1) engages in a leasing business;
3. Where a person who has established a pharmacy or a drug wholesaler distributes or leases medical devices;
4. Where a person distributes medical devices for the control of conception or medical devices used for self-diagnosis to be used at places other than medical institutions, prescribed by the Ordinance of the Prime Minister.

(3) As to a notification under paragraph (1), Article 6 (1) 2, 4, and 5, and Articles 12 through 14 (1) shall apply mutatis mutandis. In such cases, the term "manufacturing" shall be construed as "distribution or leasing;" "manufacturing business permission" as "notification of a distribution business or a leasing business;" and "manufacturer" as "distributor or lessor," respectively. <Amended by Act No. 15945, Dec. 11, 2018>

(4) Upon receipt of a notification on distribution business or leasing business under paragraph (1) or upon receipt of a notification on permanent closure or temporary shutdown under paragraph (3), the Special

Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu shall inform the notification filer whether or not to accept the notification, within three days of receipt of such notification. <Newly Inserted by Act No. 15945, Dec. 11, 2018>

(5) If the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu fails to inform a notification filer whether or not to accept the notification or to extend the processing period thereof under statutes and regulations related to civil petitions treatment, within a period fixed under paragraph (4), the notification shall be deemed accepted on the day following the end of the period (referring to the extended or re-extended period if the processing period is extended or re-extended under the statutes and regulations related to civil petitions treatment). <Newly Inserted by Act No. 15945, Dec. 11, 2018>

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**Article 18 (Matters to be Observed by Distributors, etc.)**

(1) A person qualified to distribute or lease medical devices pursuant to this Act shall comply with the method of ensuring quality of medical devices at his/her place of business and other matters concerning the maintenance of order in distribution, as prescribed by Presidential Decree. <Amended by Act No. 11690,

Mar. 23, 2013>

(2) Neither distributor nor lessor (including the representative, director or other employees of a corporation, and in cases of entities, other than corporations, including the employees thereof) shall provide money, articles, convenience, labor, entertainment or other economic benefits to medical personnel or founders of medical institutions (including the representative, director or other employees of a corporation; hereafter the same shall apply in this Article) or persons working for medical institutions or let medical personnel, founders of medical institutions or persons working for medical institutions help medical institutions to acquire economic benefits, etc., for purposes of promoting sales or lease, such as adopting medical devices, inducing them to use medical devices, or maintaining trade: Provided, That the same shall not apply to economic benefits, etc. within the scope prescribed by Ordinance of the Minister of Health and Welfare after consulting with the Minister of Food and Drug Safety, such as acts of providing samples, etc. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13698, Dec. 29, 2015>

(3) Article 13-2 shall apply mutatis mutandis to the distributor or lessor prescribed in paragraph (2). In such cases, "manufacturer" shall be construed as "distributor or lessor." <Newly Inserted by Act No. 14330, Dec. 2, 2016>

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**Article 19 (Standard Specifications)**

As for a medical device deemed by the Minister of Food and Drug Safety as requiring the standards for the quality of the medical device, the Minister of Food and Drug Safety may establish standard specifications for such medical device, including its scope of application, appearance or structure, test specifications, and labeling. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 20 (Labeling on Containers, etc.)**

Manufacturers and importers of medical devices shall label a container or an outer package of a medical device with the following descriptions: Provided, That the foregoing shall not apply to any container or outer package prescribed by Ordinance of the Prime Minister: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 13698, Dec. 29, 2015; Act No. 14330, Dec. 2, 2016; Act No. 15279, Dec. 19, 2017>

1. The trade name and address of the manufacturer or importer;
2. If imported, the origin of manufacture (the name of the country of manufacture and of the manufacturer);
3. Permission (certification or notification) number and name (name of a product, item or model). In such cases, the name of a product shall be limited to where there exists a name of a product;
4. The manufacturing number and the date of manufacturing (the use-by date may be stated in lieu of the date of manufacturing, if the use-by date exists);
5. Weight or packaging unit;
6. A label stating "medical device";
7. A "single-use only" and "do not reuse" label for a single-use medical device;
8. Medical device standard code prescribed by the Minister of Food and Drug Safety, in consultation with the Minister of Health and Welfare;
9. The fact that package inserts shall be provided in electronic form on a website, and the address of the website that provides the package inserts (limited to where the package inserts are provided on a website in accordance with Article 22 (2)).
  - (a) Medical devices of Class 4 : July 1, 2019;
  - (b) Medical devices of Class 3 : July 1, 2020;
  - (c) Medical devices of Class 2 : July 1, 2021;
  - (d) Medical devices of Class 1 : July 1, 2022.

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**Article 21 (Labeling on Outer Package, etc.)**

If it is impossible to read any description under Article 20, which is written on a container or an outer package of a medical device because it is covered by an outer container or another outer package, the same description shall be also written on the outer container or the other outer package.

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**Article 22 (Labeling on Package Inserts)**

(1) Manufacturers and importers of medical devices shall include the following information in a package insert of a medical device: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

- 1. The method of, and precautions for, use;
- 2. Instructions for maintenance and inspections, if maintenance and inspections are required;
- 3. Matters that the Minister of Food and Drug Safety requires to be described pursuant to Article 19;
- 4. Other matters prescribed by Ordinance of the Prime Minister.

(2) The package inserts under paragraph (1) may be furnished in any of the following forms: <Amended by Act No. 15279, Dec. 19, 2017>

- 1. USB, CD-ROM, or other electronic media;
- 2. Printed manual (paper, booklet, etc.);
- 3. Websites (limited to medical devices being used mainly at medical institutions prescribed in Article 3 of the Medical Service Act, which are designated by the Minister of Food and Drug Safety).

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#### Article 23 (Requirements for Labeling)

Descriptions specified in Articles 20 through 22 shall be written at a position more noticeable than any other letter, article, picture, or symbol and shall be written accurately in Korean language with easily comprehensible terms, as prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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#### Article 24 (Prohibition, etc. on Labeling and Advertisements)

(1) None of the following descriptions shall be indicated or written on a container, outer package, packing material, or package insert of a medical device: <Amended by Act No. 13116, Jan. 28, 2015>

1. A false or misleading description;
2. Any performance, efficacy, or effect not included in the permission or certification granted under Article 6 (2) or the notification filed under Article 15 (2);
3. A method or period of use that is likely to cause harm to the public health or hygiene.

(2) No one shall include any of the following in advertising a medical device: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

1. A false or exaggerated advertisement about the name, method of manufacturing, performance, efficacy, effect, or mechanism of a medical device;
2. An advertisement using an article likely to mislead any person to believe that a medical doctor, a dentist, a doctor of oriental medicine, a veterinarian, or any other person guarantees, endorses, officially recognizes, provides guidance for, or acknowledges the performance, efficacy, or effect of a medical device or that any of such persons are using such a medical device;
3. An advertisement using an article, a photograph, or a symbol that implies the performance, efficacy, or effect of a medical device, or using any other implication;
4. An advertisement with respect to a medical device, using a document or symbol that implies abortion or that is obscene;
5. An advertisement about the name of a medical device or the method of manufacturing, performance, efficacy, or effect of a medical device without permission or certification or inconsistent with matters

notified pursuant to Article 6 (2) or 15 (2): Provided, That medical devices falling under the proviso to Article 26 (1) can be advertised in accordance with the procedure, method, and permitted extent determined and publicly notified by the Minister of Food and Drug Safety;

6. An advertisement without the review under Article 25 (1) or with any content inconsistent with the content reviewed.

(3) The scope of labeling, descriptions, and advertisements of medical devices under paragraphs (1) and (2), and other relevant matters shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 25 (Review of Advertisements)**

(1) A person who intends to advertise a medical device shall undergo a review in advance by the Minister of Food and Drug Safety in accordance with the guidelines, methods, and procedure of review determined by the Minister of Food and Drug Safety. <Amended by Act No. 11690, Mar. 23, 2013>

(2) The Minister of Food and Drug Safety may entrust an organization specified by Ordinance of the Prime Minister with affairs related to the review under paragraph (1). <Amended by Act No. 11690, Mar. 23, 2013>

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### **Article 26 (General Prohibitions)**

(1) No one shall repair, distribute, lease, provide, or use any unapproved, uncertified, or unnotified medical device as required under Article 6 (2) or 15 (2), nor manufacture, import, repair, store, or display any medical device with intent to distribute, lease, provide, or use such medical device: Provided, That the foregoing shall not apply where a person manufactures, imports, stores, or displays a medical device for the purpose of display in a fair, exhibition, exposition, etc., in accordance with the procedure, method, and so forth prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) No one shall manufacture, import, distribute, or lease any of the following medical devices: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>

1. A medical device inconsistent with the details approved, certified, or notified under Article 6 (2), 12, or 15 (2) or (6);
2. A medical device entirely or partially unsanitary or a medical device made of any substance contaminated by pathogenic microbes or any spoiled or decomposed substance;
3. A medical device that has caused, or is likely to cause, harm to the public health, the destruction, suspension of use, revocation of permission, etc. of which is ordered by the Minister of Food and Drug Safety, the competent Special Self-Governing City Mayor, Special Self-Governing Province Governor, or the head of a Si/Gun/Gu pursuant to Articles 34 through 36.

(3) No repairer of any medical device shall alter the performance, structure, rating, external appearance, dimensions, or any other element of a medical device approved, certified, or notified under Article 6 (2), 12, or 15 (2) or (6) in the course of repairing the medical device: Provided, That this shall not apply to a minor repair involving a change of the outer appearance of medical devices, as prescribed by Ordinance of the Prime Minister, without undermining the safety and effectiveness thereof. <Amended by Act No. 13116, Jan. 28, 2015; Act No. 15486, Mar. 13, 2018>

(4) No person shall alter or remodel a medical device inconsistently with the details stated in the permission, certification, or notification granted or filed under Article 6 (2), 12, or 15 (2) or (6) in the course of using the medical device: Provided, That the foregoing shall not apply in any of the following cases: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

- 1. Where a manufacturer or importer alters or remodels a medical device prescribed by Ordinance of the Prime Minister, he/she has manufactured or imported at his/her own company, as stated in the amendment to permission, certification, or notification granted or filed under Article 12 or 15 (6);
- 2. Where a person alters or remodels a medical device for his/her own convenience, to the extent not affecting the safety and effectiveness of the medical device.

(5) No repairer, distributor, or lessor shall repair, distribute, or lease any of the following medical devices, or store or display any such medical device with intent to repair, distribute, or lease: <Amended by Act No. 13116, Jan. 28, 2015>

- 1. A medical device manufactured, imported, or repaired inconsistently with the details stated in the permission, certification, or notification granted or filed under Article 6 (2), Article 12, Article 15 (2) or (6), or Article 16 (1);
- 2. A medical device that violates Article 24 (1).

(6) No founder of a medical institution shall use, for a clinical test, any medical device not approved for the clinical test by the Minister of Food and Drug Safety under Article 10. <Amended by Act No. 11690, Mar. 23, 2013>

(7) No one shall make any indication on an outer package, packing material, or an accompanying document of any appliance other than a medical device, to mislead any person to believe that the appliance has a performance, efficacy, or effect similar to that of a medical device, or include any such misleading content in any advertisement, or distribute or lease, or store or display, with intent to distribute or lease, an appliance marked or advertised with such misleading content.

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**Article 27 (Testing and Inspections)**

(1) Before the Minister of Food and Drug Safety grants permission or certification or accepts a notification pursuant to Article 6 (2), 12, or 15 (2) or (6), or when he/she issues an order to undergo an inspection pursuant to Article 33, he/she may conduct testing or an inspection on the safety, performance, etc. of the relevant medical device. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(2) The Minister of Food and Drug Safety may require a testing and inspection institution of medical devices designated by the Minister of Food and Drug Safety under Article 6 (2) 4 of the Act on Testing and Inspection in the Food and Drug Industry to conduct the testing and inspection under paragraph (1). <Amended by Act No. 11690, Mar. 23, 2013; Act No. 11985, Jul. 30, 2013>

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**Article 28 (Designation, etc. of Quality Control Examination Agencies)**

(1) The Minister of Food and Drug Safety may examine facilities, and manufacturing and quality control systems to verify: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

1. Whether a person who intends to obtain manufacturing business permission under Article 6 (1), or a person who intends to obtain manufacturing permission or manufacturing certification under Article 6 (2), is equipped with facilities, and manufacturing and quality control systems under the main sentence of Article 6 (4);
2. Whether a manufacturer maintains facilities, and manufacturing and quality control systems, and fulfills his/her obligations concerning production control, as required under Article 13 (1);
3. Whether a person who intends to obtain import business permission under Article 15 (1), and a person who intends to obtain import permission or import certification, or file an import notification under Article 15 (2) is equipped with facilities, and manufacturing and quality control systems required for a factory for imported medical devices under the main sentence of Article 15 (4);
4. Whether an importer maintains facilities, and manufacturing and quality control systems required for a factory for imported medical devices under Article 13 (1) applied mutatis mutandis pursuant to Article 15 (6), and fulfills his/her obligations concerning import management.

(2) The Minister of Food and Drug Safety may designate an agency to conduct examinations of facilities, and manufacturing and quality control systems under paragraph (1) (hereinafter referred to as "quality control examination agency"). <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(3) An entity who intends to obtain designation as a quality control examination agency pursuant to paragraph (2) shall have experts necessary for conducting examination of facilities, and manufacturing and quality control systems. <Amended by Act No. 13116, Jan. 28, 2015>

(4) In conducting examination of facilities, and manufacturing and quality control systems, a quality control examination agency designated pursuant to paragraph (2) shall observe matters prescribed by Ordinance of the Prime Minister, such as preparing a quality control examination report and submitting it to the Minister of Food and Drug Safety, and keeping the records on quality examinations. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(5) Except as otherwise provided for in paragraphs (1) through (4), the requirements for designation of quality control examination agencies, procedures and methods for such designation, and other relevant matters, shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 29 (Medical Devices Subject to Tracking and Control)**

(1) If it is necessary to track the location of any of the following medical devices (hereinafter referred to as "medical devices subject to tracking and control") because it is likely to cause a fatal harm due to an adverse effect while in use or a defect, the Minister of Food and Drug Safety may separately designate it as one subject to control: <Amended by Act No. 11690, Mar. 23, 2013>

- 1. A medical device inserted into the human body for at least one year;
- 2. A medical device for life support usable in any place other than a medical institution.

(2) Matters necessary for the criteria for the designation and control of medical devices subject to tracking and control under paragraph (1) shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 30 (Preparation, Preservation, etc. of Records)**

(1) Every manufacturer, importer, distributor, lessor or repairer of medical devices subject to tracking management (hereafter referred to as "handlers, etc." in this Article), every founder of a medical institution that handles medical devices subject to tracking and control, or every doctor, oriental medicine doctor, dentist, etc. working for such medical institution (hereafter referred to as "users" in this Article) shall prepare and keep the records concerning medical devices subject to tracking and control as classified below and submit such records to the Minister of Food and Drug Safety, as prescribed by Ordinance of the Prime Minister: <Amended by Act No. 13698, Dec. 29, 2015>

- 1. Handlers: Records concerning manufacture, sale (including purchase), lease or repair of the medical devices subject to tracking management;
- 2. Users: Records that make it possible to track patients using the medical devices subject to tracking management.

(2) The Minister of Food and Drug Safety may order a handler or user to submit additional data if necessary for verification of records submitted under paragraph (1). In such cases, neither the handler nor the user shall disobey an order by the Minister of Food and Drug Safety, such as an order for submission of data, without justifiable grounds. <Amended by Act No. 15945, Dec. 11, 2018>

(3) Matters necessary for the preparation and preservation of records under paragraph (1) shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 31 (Control of Adverse Effects)**

(1) If a medical device handler discovers any case or risk of death or occurrence of a serious adverse effect on human health while in use, he/she shall immediately report such discovery to the Minister of Food and Drug Safety and shall retain the records thereof. *<Amended by Act No. 11690, Mar. 23, 2013>*

(2) When a manufacturer, an importer, a repairer, a distributor, or a lessor of a medical device (hereinafter referred to as "manufacturer, etc.") becomes aware that the medical device has caused, or is likely to cause, harm to human health due to its poor quality or other relevant factors, he/she shall recall such medical device or take measures necessary for recall without delay. In such cases, a manufacturer or an importer shall establish a recall plan, considering adverse effects on human health and other relevant factors, and report the plan to the Minister of Food and Drug Safety in advance, as prescribed by Ordinance of the Prime Minister. *<Amended by Act No. 11690, Mar. 23, 2013>*

(3) Upon receipt of a plan for recall of a medical device submitted under the latter part of paragraph (2), the Minister of Food and Drug Safety may order the relevant manufacturer or importer to announce such plan to the public. *<Amended by Act No. 11690, Mar. 23, 2013>*

(4) The Minister of Food and Drug Safety shall notify a founder of a medical institution who has used a medical device which has caused or risks the death of people or a serious adverse effect on human health as a result a report he/she has received pursuant to paragraph (1) or the latter part of paragraph (2), of the adverse effect, recall plan, etc. of such medical device. *<Newly Inserted by Act No. 13116, Jan. 28, 2015>*

(5) A founder of a medical institution in receipt of notification pursuant to paragraph (4) shall notify patients who have received medical treatment using the relevant medical device, of the adverse effect of, recall plan for, etc. the medical device, by a making a visit, mail, telephone, e-mail, or fax. In such cases, a founder of a medical institution shall submit materials evidencing that he/she has notified patients, to the Minister of Food and Drug Safety. *<Newly Inserted by Act No. 13116, Jan. 28, 2015>*

(6) The Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may fully or partially exempt manufacturers, etc. who have conscientiously recalled the relevant medical device or taken measures necessary therefor under paragraph (2), from administrative dispositions issued under Article 36, as prescribed by Ordinance of the Prime Minister. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>*

(7) Procedures for, and details of, reporting adverse effects under paragraph (1); guidelines and procedures for, and methods of recalls, and matters to be included in recall plans under paragraph (2); methods of making public announcements under paragraph (3); guidelines and procedures for, and methods of giving notifications under paragraph (4); and details of, procedures for, and methods of notification, and procedures for and methods of submitting evidentiary materials under paragraph (5), and other necessary matters, shall be prescribed by Ordinance of the Prime Minister. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>*

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**Article 31-2 (Reports, etc. on Details of Supply of Medical Devices)**

(1) Where manufacturers, importers, distributors and lessors of medical devices supply medical devices to medical institutions, and medical device distributors and lessors, they shall report details of such provision to the Minister of Food and Drug Safety, in consultation with the Minister of Health and Welfare, as prescribed by Ordinance of the Prime Minister.

(2) The Minister of Health and Welfare may request the Minister of Food and Drug Safety to submit materials reported pursuant to paragraph (1).

(3) The Minister of Food and Drug Safety may operate a consultative body comprised of employees of relevant institutions, including the Ministry of Health and Welfare, etc., so as to efficiently utilize information on the distribution of medical devices.

(a) Medical devices of Class 4 : July 1, 2020;

- (b) Medical devices of Class 3 : July 1, 2021;
- (c) Medical devices of Class 2 : July 1, 2022;
- (d) Medical devices of Class 1 : July 1, 2023.

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**Article 31-3 (Establishment, etc. of Integrated Medical Device Information System)**

(1) The Minister of Food and Drug Safety may establish and operate an electronic data processing system (hereinafter referred to as "integrated medical device information system") so as to efficiently record and manage information on medical devices, ranging from permission, manufacture, import, sale to use thereof.

(2) Manufacturers, etc. shall register information prescribed by Ordinance of the Prime Minister, including medical devices standard code or information on medical devices, as information necessary for managing medical devices in a systematic and efficient manner, in the integrated medical device information system prescribed in paragraph (1).

(3) Manufacturers, etc. shall comply with standards prescribed by Ordinance of the Prime Minister (hereinafter referred to as "standard for management of integrated medical device information") in registering and managing information prescribed in paragraph (2).

(4) The integrated medical device information system may be utilized by electronically linking with the information system related to medical devices.

(5) Other matters necessary for establishment, operation and management, etc. of the integrated medical devices information system shall be prescribed by Ordinance of the Prime Minister.

- (a) Medical devices of Class 4 : July 1, 2020;
- (b) Medical devices of Class 3 : July 1, 2021;
- (c) Medical devices of Class 2 : July 1, 2022;
- (d) Medical devices of Class 1 : July 1, 2023.

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**Article 31-4 (Designation and Operation, etc. of Integrated Medical Device Information Center)**

(1) The Minister of Food and Drug Safety may entrust duties concerning collection, investigation, processing, use, or provision of information on medical devices and establishment or operation of the integrated medical device information system prescribed in Article 31-3 to relevant specialized organizations or groups after designating such organizations or groups (hereinafter referred to as "integrated medical device information center), as prescribed by Presidential Decree.

(2) The head of the integrated medical device information center may request the State, local governments, public institutions, or persons handling medical devices to submit materials or data concerning its duties, only when necessary for performing duties prescribed in paragraph (1), including verifying information reported and submitted. In such cases, any person, in receipt of a request for submitting materials or data, shall comply therewith, except in extenuating circumstances; and royalties or fees shall be exempt for data provided to the head of the integrated medical device information center.

(3) The Minister of Food and Drug Safety and the Minister of Health and Welfare may order the head of the integrated medical device information center to report the current status of management of medical devices.

(4) The Minister of Food and Drug Safety may fully or partially subsidize expenses incurred in operating the integrated medical device information center.

(5) Matters necessary for operating the integrated medical device information center shall be prescribed by Ordinance of the Prime Minister.

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**Article 31-5 (Reporting on Detection of Foreign Substances in Medical Devices)**

(1) Where a medical device handler detects any substance (hereinafter referred to as "foreign substance") other than raw materials normally used in a medical device or its container or package, which is likely to cause harm in the process of use or which is not suitable for use, he/she shall report such detection to the Minister of Food and Drug Safety without delay.

(2) Upon receipt of a report on the detection of any foreign substance under paragraph (1), the Minister of Food and Drug Safety shall take necessary measures, such as investigations into the cause of inclusion of such foreign substance.

(3) Matters necessary for the standards, subject matters, and procedures for reporting foreign substances under paragraph (1), and for measures under paragraph (2), shall be prescribed by Ordinance of the Prime Minister.

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**Article 32 (Reporting, Inspection, etc.)**

(1) The Minister of Health and Welfare, the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may require handlers of medical devices, institutions reviewing technical documents concerning medical devices, clinical testing institutions, institutions conducting non-clinical trials, quality control examination agencies, or institutions or organizations entrusted under Article 15-2 (2) to file a necessary report or may

assign relevant public officials to perform the following acts, if deemed necessary for the risk prevention and quality control of medical devices, the maintenance of order in distribution, or the management and supervision of institutions entrusted with affairs concerning medical devices: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13698, Dec. 29, 2015; Act No. 15279, Dec. 19, 2017; Act No. 15945, Dec. 11, 2018>

1. Entering a medical institution handling medical devices, a factory, a warehouse, a store, an office, an institution reviewing technical documents concerning medical devices, a clinical testing institution, an institution conducting non-clinical trials, a quality control examination agency, an institution or organization entrusted under Article 15-2 (2), or any other place in which medical devices are handled in the course of business to inspect facilities therein, relevant books, documents, or other objects or asking questions to relevant persons;
  2. Collecting medical devices that are suspected to fall under any subparagraph of Article 34 (1), or medical devices necessary for testing or quality inspection in a minimum quantity.
- (2) A public official who intends to enter a place, conduct an inspection, ask questions, or collect a medical device pursuant to paragraph (1), shall carry with him/her an identification verifying his/her authority and present it to interested persons.
- (3) The scope of the authority and duties of the relevant public officials and the identification referred to in paragraphs (1) and (2) and other necessary matters shall be prescribed by Ordinance of the Prime Minister after consulting with the Minister of Health and Welfare. <Amended by Act No. 11690, Mar. 23, 2013>

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#### Article 32-2 (On-Site Inspection of Foreign Factories)

(1) In any of the following cases, the Minister of Food and Drug Safety may visit and inspect (hereafter in this Article referred to as “on-site inspection”) a foreign factory through prior consultation with the manufacturer of medical devices, the importer of medical devices, the manager of the foreign factory (referring to a plant located overseas that performs the manufacturing and quality control of medical devices; hereinafter the same shall apply), or the government of the exporting country:

1. Where the Minister of Food and Drug Safety deems that an on-site inspection is required to prevent hazards in a medical device manufactured through overseas commission or imported from abroad (hereafter in this Article referred to as “imported medical device, etc.”);
2. Where the Minister of Food and Drug Safety deems that it is necessary to ascertain the truth of information on the safety and effectiveness of an imported medical device, etc. collected at home and abroad.

(2) Where an on-site inspection under paragraph (1) is refused without justifiable grounds, or a hazard is likely to occur in an imported medical device, etc. as a result of an on-site inspection, the Minister of Food and Drug Safety may take necessary measures against the foreign factory concerned, such as the suspension of import of its medical devices, etc.

(3) Where the manufacturer of medical devices, the importer of medical devices, the manager of a foreign factory, or the government of an exporting country identifies any cause of a problem in an imported medical device, etc. the import of which has been suspended pursuant to paragraph (2) and suggests improvements, or where such imported medical device, etc. is deemed non-hazardous through an on-site inspection, etc., the Minister of Food and Drug Safety may cancel the import suspension measure, etc. under paragraph (2). In such cases, where it is necessary to confirm such improvements, the Minister of Food and Drug Safety may conduct an on-site inspection.

(4) Matters necessary for on-site inspections, and for import suspension measures, etc. and procedures and methods for cancellation thereof, under paragraphs (1) through (3), shall be prescribed by Ordinance of the Prime Minister.

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### Article 33 (Inspection Orders)

If the Minister of Food and Drug Safety deems that a medical device is likely to cause harm to the public health, he/she may order a handler of the medical device to undergo an inspection conducted by an institution conducting non-clinical trials designated under Article 10-2 (1) or a medical device testing and inspection agency designated by the Minister of Food and Drug Safety under Article 6 (2) 4 of the Act on Testing and Inspection in the Food and Drug Industry. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 11985, Jul. 30, 2013; Act No. 13698, Dec. 29, 2015>

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### Article 34 (Orders for Recall, Destruction, Public Announcement and Other Relevant Matters)

(1) The Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may order a manufacturer, etc. to recall any of the following medical devices, to destroy such medical devices or take any other measure in a manner that can prevent any harm to public hygiene, or to announce such fact to the public, depending upon the degree of the harm: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

1. A medical device distributed, stored, displayed, manufactured, or imported in violation of Article 26;
2. A medical device deemed likely to cause serious damage to the public health or have a fatal effect on the public health when used.

(2) If a person to whom an order under paragraph (1) was issued fails to comply with the order or if an urgent measure is required for the public health, the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may require relevant public officials to destroy, envelop, or seal the goods at issue or take other necessary measures. In such cases, Article 32 (2) shall apply mutatis mutandis. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

(3) Matters necessary for the guidelines and methods for recall, destruction, etc. and the method of public announcement based upon the degree of harm posed by medical devices under paragraph (1) shall be

prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 35 (Orders for Suspension of Use, etc.)**

If the findings of an inspection under Article 33 reveals that a medical device used by a person who has established a medical institution or a veterinary hospital is inappropriate or is likely to fall under any subparagraph of Article 34 (1), the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may order the person to suspend the use of, or repair, the medical device, or take other necessary measures. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

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**Article 35-2 (Corrective Order)**

Where manufacturers fail to submit an expense report prescribed in Article 13-2 (1) (including cases applied mutatis mutandis in Article 15 (6) or 18 (3)) or to keep the relevant expense report, related books, and evidential materials, the Minister of Health and Welfare may order them to correct such violations within a fixed period.

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**Article 36 (Revocation of Permission, etc., Suspension of Business Activities, and Relevant Matters)**

(1) If any of the following events occurs to a manufacturer, etc., the relevant permission or certification may be revoked, the place of business may be closed, the manufacturing, import, and distribution of the relevant item category or item may be prohibited, or an order to suspend business activities completely or partially for up to a year may be issued, by the Minister of Food and Drug Safety if the person is a manufacturer, importer, or repairer of the medical device, and by the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu if the person is a distributor or a lessor of the medical device: Provided, That the relevant permission or certification shall be revoked or the place of business shall be closed, in cases falling under subparagraph 1, 22, or 23: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 12107, Aug. 13, 2013; Act No. 13116, Jan. 28, 2015; Act No. 14330, Dec. 2, 2016; Act No. 15279, Dec. 19, 2017; Act No. 15945, Dec. 11, 2018>

1. Where a manufacturer, etc. falls under any subparagraph of Article 6 (1) (limited to where the person falls under Article 6 (1) 2, 4, or 5, if the person is a distributor or a lessor): Provided, That the foregoing shall not apply where an heir has transferred his/her status as a manufacturer, etc. to a third person within six months from the commencement date of inheritance pursuant to Article 47 (2);
2. Where a manufacturer, etc. manufactures or imports a medical device without obtaining permission or certification, or filing a notification, in violation of Article 6 (2) or 15 (2);
3. Where a manufacturer, etc. fails to be equipped with facilities and manufacturing and quality control systems under the main bodies of Article 6 (4) and Article 15 (4), or facilities and manufacturing and quality control systems under the main sentence of Article 16 (2);
4. Where a manufacturer, etc. fails to fulfill any of the conditions imposed under Article 7 (1);
5. Where a manufacturer, etc. fails to undergo a re-examination or take measures required based on the results of a re-examination in violation of Article 8, or is found, as a result of a re-examination, to have failed to secure safety or effectiveness;
6. Where a manufacturer, etc. fails to undergo a re-evaluation or take measures required based on the results of a re-evaluation in violation of Article 9, or is found, as a result of a re-evaluation, to have failed to secure safety or effectiveness;
7. Where a manufacturer, etc. manufactures medical devices in a manufacturing facility not in compliance with standards or imports medical devices manufactured in such a facility, in violation of Article 10 (2);
8. Where a manufacturer, etc. fails to obtain amended permission or amended certification or file an amended notification, in violation of Article 12 (1) (including cases to which Article 12 (1) shall apply mutatis mutandis pursuant to Article 15 (6), 16 (4), or 17 (3));
9. Where a manufacturer, etc. fails to comply with any of the matters to be observed in relation to manufacturing, quality control, production management, import management, or repair management, in violation of Article 13 (1) (including cases to which Article 13 (1) shall apply mutatis mutandis pursuant to Article 15 (6) or 16 (4));

- 9-2. Where a manufacturer, etc. fails to report the results of production or import, etc. of medical devices, in violation of Article 13 (2) (including cases applied mutatis mutandis in Article 15 (6));
10. Where a manufacturer, etc. provides any economic benefit, etc., in violation of Article 13 (3) (including cases to which Article 13 (3) shall apply mutatis mutandis under Article 15 (6)) or Article 18 (2);
11. Where a manufacturer, etc. fails to comply with the maintenance of order in distribution and other relevant matters, in violation of Article 18 (1);
12. Where a manufacturer, etc. commits a violation in labeling any matters under Articles 20 through 23;
13. Where a manufacturer, etc. violates Article 24 (1) or (3) in labeling or placing a description in a container, an outer package, packing material, or a package insert of a medical device;
14. Where a manufacturer, etc. makes an advertisement of a medical device in violation of Article 24 (2) or (3);
- 14-2. Where a manufacturer, etc. fails to prepare, preserve or submit a record, or prepares, preserves or submits a false record, in violation of Article 30 (1);
15. Where a manufacturer, etc. disobeys an order for submission of data, etc. without just cause in violation of Article 30 (2);
16. Where a manufacturer, etc. fails to report an occurrence of an adverse effect or fails to retain the records of an occurrence of an adverse effect, in violation of Article 31 (1);
17. Where a manufacturer, etc. fails to recall medical devices, fails to take measures necessary for recall or fails to report a recall plan, in violation of Article 31 (2), or fails to comply with an order to publicly announce such a recall plan, in violation of paragraph (3) of said Article;
- 17-2. Where a manufacturer, etc. fails to report details of provision of medical devices or falsely reports thereon, in violation of Article 31-2 (1);
- 17-3. Where a manufacturer, etc. fails to register information with the integrated medical device information system, in violation of Article 31-3 (2), or fails to comply with the standard for managing integrated medical device information, in violation of Article 31-3 (3);
18. Where a manufacturer, etc. fails to report the detection of a foreign substance or files a false report thereon, in violation of Article 31-5;
19. Where a manufacturer, etc. refuses, interferes with, or evades the entry, inspection, inquiry, or collection by a relevant public official under Article 32 (1);
20. Where a medical device handled by a manufacturer, etc. is found, as a result of an inspection conducted under Article 32 or 33, to have caused, or to be likely to cause, harm to the public health;
21. Where a manufacturer, etc. fails to comply with any order issued under Article 33, 34, or 35;
22. Where a manufacturer, etc. manufactures, imports, repairs, sells, or leases a medical device that has caused, or is likely to cause, harm to public health, or a medical device deemed not having the claimed performance, efficacy, or effect;

23. Where a manufacturer, etc. has no facility or place of business at the location permitted or notified in accordance with this Act;

24. Where a manufacturer, etc. continues his/her business during a period for which his/her business activities are suspended.

(2) Notwithstanding paragraph (1), if the relevant manufacturer or importer is not culpable for the cause in question in the cases falling under paragraph (1) 5 (limited to cases where it is found, as a result of a re-examination, to have failed to secure safety or effectiveness) or 6 (limited to cases where it is found, as a result of a re-evaluation, to have failed to secure safety or effectiveness) and it is deemed that the purpose of the relevant permission, certification, or notification can be achieved by changing the raw material or structure, etc. of the medical device, an order for such change only may be issued. <Amended by Act No. 13116, Jan. 28, 2015; Act No. 15945, Dec. 11, 2018>

(3) If a person fails to comply with an order for change under paragraph (2), the Minister of Food and Drug Safety may also issue any of the administrative dispositions under paragraph (1). <Amended by Act No. 11690, Mar. 23, 2013>

(4) In cases falling under paragraph (1) 18, the Minister of Health and Welfare may request the Minister of Food and Drug Safety to issue an order revoking the relevant permission or certification, closing the place of business, prohibiting the manufacture, import, or distribution of the item category or the item, or suspending the business activities. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

(5) The criteria for the administrative dispositions under paragraphs (1) through (3) shall be prescribed by Ordinance of the Prime Minister. <Newly Inserted by Act No. 11690, Mar. 23, 2013>

- (a) Medical devices of Class 4 : July 1, 2020;
- (b) Medical devices of Class 3 : July 1, 2021;
- (c) Medical devices of Class 2 : July 1, 2022;
- (d) Medical devices of Class 1 : July 1, 2023.
- (a) Medical devices of Class 4 : July 1, 2019;
- (b) Medical devices of Class 3 : July 1, 2020;
- (c) Medical devices of Class 2 : July 1, 2021;
- (d) Medical devices of Class 1 : July 1, 2022.

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**Article 37 (Revocation of Designation, etc.)**

(1) Where any of the following applies to an institution reviewing technical documents, clinical testing institution, institution conducting non-clinical trials or quality control examination agency designated under Article 6-4 (1), Article 10 (3), Article 10-2 (1) or Article 28 (2), the Minister of Food and Drug Safety may revoke its designation or issue an order suspending its business activities for a specified period not exceeding six months: Provided, That the Minister of Food and Drug Safety must revoke the

designation in cases falling under subparagraph 1, 2, or 5: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 11985, Jul. 30, 2013; Act No. 13698, Dec. 29, 2015>

1. If it has obtained designation by fraud or other improper means;
  2. If it prepares or issues a falsified report on results of reviewing technical documents, report on results of a clinical test or report on a non-clinical test, or prepares or files a falsified quality control examination report intentionally or by gross negligence;
  3. If it fails to meet any of the requirements for designation under Article 6-4 (2), Article 10 (3), Article 10-2 (2) or Article 28 (3);
  4. If it fails to comply with any of the matters to be observed under Article 6-4 (3), Article 10 (5), Article 10-2 (3) or Article 28 (4);
  5. If it continues its business during a period for which its business activities are suspended.
- (2) No institution whose designation has been revoked pursuant to paragraph (1) can apply for designation again within three years from the date of the revocation.
- (3) The criteria for the administrative dispositions issued under paragraph (1) shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 38 (Imposition of Penalty Surcharges)**

(1) In cases of requiring an order to suspend business activities pursuant to Article 36 (1) or (3), if the disposition to suspend business activities is likely to cause severe inconvenience to users of medical devices or to jeopardize public interest, the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may impose a

penalty surcharge not exceeding one billion won in lieu of the suspension of business activities, as prescribed by Presidential Decree. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017; Act No. 15945, Dec. 11, 2018>

(2) Matters necessary for the types of violations punishable by the imposition of a penalty surcharge under paragraph (1), the amount of a penalty surcharge based upon the severity, etc. of the relevant violation, the method of collection and other relevant matters shall be prescribed by Presidential Decree.

(3) If necessary for the collection of a penalty surcharge, the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may request the head of a competent tax office in writing stating the following details, to furnish him/her with tax information: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

1. The relevant taxpayer's personal information;
2. Intended use;
3. Data about the amount of distribution that serves as the basis for the imposition of the penalty surcharge.

(4) If a person obligated to pay a penalty surcharge under paragraph (1) fails to pay it by the deadline for payment, the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of the competent Si/Gun/Gu may revoke the imposition of the penalty surcharge under paragraph (1) and then issue a disposition to suspend business activities pursuant to Article 36 (1) or (3) or collect the penalty surcharge in the same manner as delinquent national taxes are collected or in accordance with the Act on the Collection, etc. of Local Non-Tax Revenue, as prescribed by Presidential Decree: Provided, That if it is impossible to issue the disposition to suspend business activities pursuant to Article 36 (1) or (3) because of the permanent closure of business, etc. under Article 14, the penalty surcharge shall be collected in the same manner as delinquent national taxes are collected, or in accordance with the Act on the Collection, etc. of Local Non-Tax Revenue. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 11998, Aug. 6, 2013; Act No. 15279, Dec. 19, 2017>

(5) Penalty surcharges collected pursuant to paragraphs (1) and (4) shall devolve on the State or local governments to which the competent collecting agency belongs.

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**Article 38-2 (Announcement of Violations)**

The Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu may announce information related to dispositions, such as details of dispositions imposed on manufacturers, etc. for whom administrative dispositions are determined under Articles 36 through 38 and on institutions under Article 37, and the names of persons subject to dispositions and relevant medical devices, as prescribed by Presidential Decree.

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**Article 39 (Hearings)**

The Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu shall hold a hearing, if he/she intends to issue any of the following administrative dispositions: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>

1. Revoke permission or certification, close a place of business, prohibit manufacturing, import, or distribution of an item category or an item, or completely or partially suspend business activities under Article 36;
2. Revoke a designation under Article 37.

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**Article 40 (Medical Device Surveillance Officers)**

(1) The Ministry of Health and Welfare, the Ministry of Food and Drug Safety, the Special Metropolitan City, Metropolitan Cities, the Special Self-Governing City, Dos, the Special Self-Governing Province, and each Si/Gun/Gu (Gu shall mean an autonomous Gu; the same shall apply hereinafter) shall appoint medical device surveillance officers for performance of the relevant public officials' duties under Articles 32 (1) and 34 (2). <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

(2) Medical device surveillance officers under paragraph (1) shall be appointed by the Minister of Health and Welfare, the Minister of Food and Drug Safety, the Special Metropolitan City Mayor, a Metropolitan City Mayor, the Special Self-Governing City Mayor, a Do Governor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu from among public officials under the jurisdiction of the Ministry of Health and Welfare, the Ministry of Food and Drug Safety, the Special Metropolitan City, a Metropolitan City, the Special Self-Governing City, a Do, the Special Self-Governing Province, or a Si/Gun/Gu. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

(3) Matters necessary for the qualification for medical device surveillance officers under paragraphs (1) and (2), the appointment, and the scope of duties of such surveillance officers shall be prescribed by Ordinance of the Prime Minister after consultation with the Minister of Health and Welfare. <Amended by Act No. 11690, Mar. 23, 2013>

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**Article 40-2 (Customer Medical Device Surveillance Officers)**

(1) The Minister of Food and Drug Safety, Special Metropolitan City Mayor, Metropolitan City Mayor, Do Governor, Special Self-Governing Province Governor, Special Self-Governing City Mayor or the head of a Si/Gun/Gu may appoint persons recommended by the head of the relevant group, from among persons

with knowledge on medical devices, persons who have completed a specific level of educational curriculum, members or employees of an association or group related to medical devices, or executives or employees of a consumer group registered pursuant to Article 29 of the Framework Act on Consumers as consumer medical device surveillance officers for the safe management of medical devices.

(2) Medical device surveillance officers among consumers (hereinafter referred to as "consumer medical device surveillance officers") appointed pursuant to paragraph (1) shall perform the following duties:

1. Supporting surveillance, collection or inspection of medical devices, etc. conducted by medical device surveillance officers appointed pursuant to Article 40 (1);
2. Where medical devices distributed fail to meet standards for indication or labeling or violate provisions prohibiting false or exaggerated advertisement, reporting such fact or providing materials related thereto to the competent administrative agency;
3. Other matters prescribed by Ordinance of the Prime Minister in relation to the management of medical devices.

(3) No consumer medical device surveillance officers shall abuse their authority perform the duties prescribed in subparagraphs of paragraph (2).

(4) The Minister of Food and Drug Safety, Special Metropolitan City Mayor, Metropolitan City Mayor, Do Governor, Special Self-Governing Province Governor, Special Self-Governing City Mayor or the head of a Si/Gun/Gu who appoints consumer medical device surveillance officers pursuant to paragraph (1), shall provide education necessary for performing the duties of consumer medical device surveillance officers.

(5) The Minister of Food and Drug Safety, Special Metropolitan City Mayor, Metropolitan City Mayor, Do Governor, Special Self-Governing Province Governor, Special Self-Governing City Mayor or the head of a Si/Gun/Gu shall dismiss a consumer medical device surveillance officer where:

1. The consumer medical device surveillance officer retire from or is dismissed from a recommended group;
2. The consumer medical device surveillance officer engages in misconduct in relation to any of the duties prescribed in subparagraphs of paragraph (2) or abuses his/her authority;
3. The consumer medical device surveillance officer becomes unable to perform his/her duties due to a disease or wound, etc.

(6) Where a consumer medical device surveillance officer intends to enter a business office of a distributor or lessor of medical devices on his/her own, to perform the duty prescribed in paragraph (2) 1, the consumer medical device surveillance officer shall obtain prior approval from the Minister of Food and Drug Safety, Special Metropolitan City Mayor, Metropolitan City Mayor, Do Governor, Special Self-Governing Province Governor, Special Self-Governing City Mayor or the head of a Si/Gun/Gu.

(7) A consumer medical device surveillance officer who enters a business office of a distributor or lessor of medical devices on his/her own upon obtaining prior approval under paragraph (6), shall carry a written approval and identification indicating his/her status and show them to the relevant persons.

(8) Qualifications for, scope of duties of, or education for consumer medical device surveillance, and other necessary matters shall be prescribed by Ordinance of the Prime Minister.

(9) The Minister of Food and Drug Safety may fully or partially subsidize the expenses incurred in operating consumer medical device surveillance officers within budgetary limits.

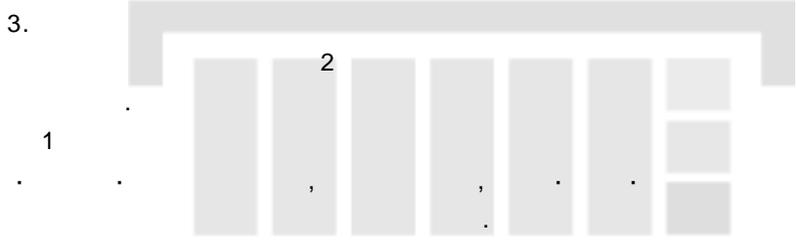
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**Article 41 (Research and Development for Growth of Medical Device Industry)**

The Minister of Health and Welfare or the Minister of Food and Drug Safety may entrust the Korea Health Industry Development Institute established under the Korea Health Industry Development Institute Act with research and development projects for the establishment of infrastructure for evaluation of the quality of medical devices, the support for projects for standardization of specifications of medical devices, and other projects for the growth of the medical device industry and may subsidize it for expenses necessary for such activities. *<Amended by Act No. 11690, Mar. 23, 2013>*

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**Article 42 (Establishment of National Institute of Medical Device Safety Information)**

(1) The National Institute of Medical Device Safety Information (hereinafter referred to the "Information Institute") shall be established to provide comprehensive information and technological assistance regarding trends in newly-developed medical devices in Korea and overseas and clinical information, and to conduct business affairs related to certification of medical devices. *<Amended by Act No. 13116, Jan. 28, 2015; Act No. 15486, Mar. 13, 2018>*

(2) The Information Institute shall be a corporation. *<Amended by Act No. 15486, Mar. 13, 2018>*

(3) The articles of incorporation of the Information Institute shall state the following: *<Newly Inserted by Act No. 15945, Dec. 11, 2018>*

1. Purpose;
2. Name;
3. Location of the main office;
4. Matters concerning assets;
5. Matters concerning executive officers and employees;
6. Operation of the board of directors;
7. Scope and details of business, and the execution thereof;
8. Accounting;
9. Methods of public announcement;
10. Revisions to the articles of incorporation;
11. Other important matters concerning the operation of the Information Institute.

(4) Where the Information Institute intends to revise the articles of incorporation, it shall obtain authorization thereof from the Minister of Food and Drug Safety. *<Newly Inserted by Act No. 15945, Dec. 11, 2018>*

(5) Except as otherwise expressly provided for in this Act, the provisions of Civil Act governing incorporated foundations shall apply mutatis mutandis to the Information Institute. <Amended by Act No. 15486, Mar. 13, 2018; Act No. 15945, Dec. 11, 2018>

(6) The operation of the Information Institute and other relevant matters shall be prescribed by Presidential Decree. <Amended by Act No. 15486, Mar. 13, 2018; Act No. 15945, Dec. 11, 2018>

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**Article 43 (Business Activities of the Information Institute)**

(1) The Information Institute shall conduct the following business activities: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15486, Mar. 13, 2018>

1. Provide information and technical support regarding medical devices, including research on international specifications for improving technology for medical devices, and gathering, analysis, and management of information from domestic and overseas sources;
2. Support clinical tests to commercialize newly developed medical devices;
3. Training, public relations, and support in regard to information related to the quality control system, such as risk management, and permission, certification, and notification;

4. Support the international certification of standard specifications for advanced management of medical devices;
5. Investigation and research to support the formulation of policies related to the safety of medical devices;
6. Investigation and identification of causal relationships between medical devices and their side-effects;
7. Collection, management, analysis, assessment and provision of various information related to the safety of medical devices (hereinafter referred to as "medical device safety information"), such as information about side-effects of medical devices, permission to manufacture medical devices, certification and notification thereof;
8. Affairs entrusted by the Minister of Food and Drug Safety pursuant to Article 44 (2);
9. Other business activities deemed necessary by the Minister of Food and Drug Safety in relation to provision of information on, and technical support for medical devices.

(2) The Minister of Food and Drug Safety may subsidize the business activities conducted by the Information Institute pursuant to paragraph (1). <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15486, Mar. 13, 2018>

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**Article 43-2 (Revocation of Certification or Notification)**

(1) Where a medical device certified or notified pursuant to Article 6 (2) or 15 (2) falls under any of the following, the Minister of Food and Drug Safety may revoke the certification or acceptance of the notification thereof: Provided, That he/she shall revoke the certification or acceptance of the notification where such medical device falls under subparagraph 1:

1. Where the medical device has been certified or notified by fraud or other improper means;
2. Where a serious defect is discovered in the quality control or performance of the medical device manufactured after it was certified or notified;
3. Where the medical device has caused or is likely to cause harm to the public health or is found ineffective.

(2) Procedures and methods for revocation of certification and notification under paragraph (1), and other relevant matters, shall be prescribed by Ordinance of the Prime Minister.

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**Article 43-3 (Guidance, Supervision, etc. of the Information Institute)**

(1) Where necessary to supervise the Information Institute, the Minister of Food and Drug Safety may require the Information Institute to file a report or submit information concerning its affairs, or to issue other necessary orders, and require subordinate public officials to inspect the books of accounting, documents, etc of the Information Institute upon entry into its offices. <Amended by Act No. 15486, Mar. 13, 2018>

(2) Any public official who inspects the books of accounting, documents, etc. upon gaining access pursuant to paragraph (1) shall carry identification indicating his/her authority and present it to interested persons.

(3) The Minister of Food and Drug Safety shall formulate and implement a guidance and supervision plan each year to verify whether the affairs entrusted pursuant to Article 44 (2) are conducted properly, and other relevant matters.

(4) Other matters necessary for the guidance and supervision of the Information Institute shall be prescribed by Ordinance of the Prime Minister. <Amended by Act No. 15486, Mar. 13, 2018>

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**Article 43-4 (Request for Materials)**

(1) Where deemed necessary to perform business affairs, such as the collection, assessment, etc. of medical device safety information, the head of the Information Institute (hereinafter referred to as "the head of the Information Institute") may request the following institutions or persons to submit materials regarding medical device safety information. In such cases, an institution or a person in receipt of the request to submit materials shall comply therewith, except in extenuating circumstances:

1. The State or a local government;
2. A public institution or public organization;
3. A research institute;
4. A medical device handler.

(2) Where the head of the Information Institute requests necessary materials under paragraph (1), he/she may request materials that include personal information, such as sensitive information under Article 23 of the Personal Information Protection Act and personally identifiable information (including resident registration numbers) under Article 24 of the same Act. In such cases, an institution or a person in receipt of such request shall provide the materials after deleting personally identifiable information.

(3) Notwithstanding paragraph (2), where the Minister of Food and Drug Safety approves that materials possessed by at least two institutions or persons need to be analyzed in an integrated manner, the head of the Information Institute may receive and integrate materials including personally identifiable information. In such cases, upon integration of materials, personally identifiable information shall be deleted without delay not be restored or regenerated.

(4) Materials provided in accordance with the provisions of paragraphs (1) through (3) shall not be used for purposes other than originally intended.

(5) The Minister of Food and Drug Safety may regularly check out whether the head of the Information Institute complies with paragraphs (3) and (4), and may take necessary measures, such as dismissal, where he/she violates the provisions thereof.

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**Article 43-5 (Investigator of Causal Relations)**

- (1) The head of the Information Institute may appoint or commission investigators (hereinafter referred to as “investigator of causal relations”) to investigate and identify causal relationships between medical devices and their side effects, from among its employees or those with expertise and experience in relevant fields, where deemed necessary to perform business activities provided for in Article 43 (1) 6.
- (2) When appointing or commissioning an investigator of causal relations, the head of the Information Institute shall report such fact to the Minister of Food and Drug Safety without delay.
- (3) The head of the information institute may require an investigator of causal relations to enter medical institutions, factories, warehouses, stores, and offices which manufacture, store or handle medical devices, and other places where investigation is deemed necessary and to look through relevant books, documents or other articles. In such cases, the investigator of causal relations shall carry an identification or relevant document indicating his/her authority and present such identification or document to interested person(s).
- (4) Matters regarding the qualifications, scope of duties, identifications, etc. of investigators of causal relations shall be provided for by Ordinance of the Prime Minister.
- (5) Except as otherwise provided for in this Act, the Framework Act on Administrative Investigations shall apply mutatis mutandis to the procedures, methods, etc. of investigations or inquiries under paragraph (3).

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#### **Article 44 (Delegation and Entrustment of Authority)**

(1) The Minister of Food and Drug Safety may delegate part of his/her authority bestowed by this Act to the commissioner of a Regional Food and Drug Administration, the Special Metropolitan City Mayor, a Metropolitan City Mayor, the Special Self-Governing City Mayor, a Do Governor, the Special Self-Governing Province Governor, the head of a Si/Gun/Gu, or the head of a public health clinic, as prescribed by Presidential Decree. *<Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015; Act No. 15279, Dec. 19, 2017>*

(2) The Minister of Food and Drug Safety may entrust affairs concerning the certification or notification of medical devices under this Act to the Information Institute, as prescribed by Ordinance of the Prime Minister. In such cases, he/she shall establish and announce guidelines for medical devices, the certification or notification of which can be entrusted to the Center and the scope of such medical devices among medical devices which cause marginal potential harm to human health while in use, following deliberation thereon by the Committee. *<Newly Inserted by Act No. 13116, Jan. 28, 2015; Act No. 15486, Mar. 13, 2018; Act No. 16402, Apr. 23, 2019>*

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*< 2013. 3. 23., 2015. 1. 28., 2017. 12. 19.>*

*< 2015. 1. 28., 2018. 3. 13., 2019. 4. 23.>*

#### **Article 44-2 (Legal Fiction as Public Officials in Application of Penalty Provisions)**

Executive officers and employees of the Information Institute that perform the affairs entrusted by the Minister of Food and Drug Safety pursuant to Article 44 (2) shall be deemed public officials for the purposes of Articles 127 and 129 through 132 of the Criminal Act. *<Amended by Act No. 15486, Mar. 13, 2018>*

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emergencies under Article 2 (1) 7 of the Act on Physical Protection and Radiological Emergency:

1. Notwithstanding Article 6 (2), an act of having manufacturers who have not been granted manufacturing permission or manufacturing certification or who have not filed a manufacturing notification with respect to medical devices engage in manufacturing;
2. Notwithstanding Article 15 (2), an act of having importers who have not been granted import permission or import certification or who have not filed an import notification with respect to medical devices engage in importing.

(2) Notwithstanding Article 26 (1), the Minister of Food and Drug Safety may require medical device handlers to repair, distribute, lease, provide or use medical devices manufactured or imported under paragraph (1) or to store or display any medical device with intent to distribute, lease, provide or use such medical device.

(3) Reasons for request by a relevant central administrative agency under paragraphs (1) and (2), the scope of medical devices subject to exemption from procedures, permission, etc. and ex post facto handling criteria, such as collection of medical devices, shall be prescribed by Presidential Decree.

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**Article 47 (Succession to Status of Manufacturers, etc., and Relevant Matters)**

(1) If a manufacturer, etc. dies or transfers his/her business or a corporate manufacturer, etc. merges with another corporation, the transferee of the business, or the corporation surviving the merger or newly established as a consequence of the merger shall succeed to the status of the manufacturer, etc.: Provided, That the foregoing shall not apply, if the transferee of the business or the corporation surviving the merger or newly established as a consequence of the merger falls under any of the following:

1. If a manufacturer, importer, or repairer falls under any subparagraph of Article 6 (1);

2. If a distributor or lessor falls under Article 6 (1) 2, 4, or 5.

(2) If an heir who succeeds to the status of a manufacturer, etc. pursuant to paragraph (1) falls under any subparagraph of paragraph (1), he/she shall transfer the business to any third person within six months from the commencement date of inheritance.

(3) If a manufacturer or an importer transfers his/her business related to medical devices approved, certified, or notified pursuant to Article 6 (2) or (6) or Article 15 (2) or (5), the manufacturer or importer who acquires the business shall succeed to the status of the manufacturer or importer with respect to the permission or certification for, or notification on, the relevant item category or item. <Amended by Act No. 13116, Jan. 28, 2015>

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**Article 48 (Transfer of Effects of Administrative Sanctions)**

If a person succeeds to the status of a manufacturer, etc. in accordance with Article 47, the effects of an administrative disposition imposed on the previous manufacturer, etc. shall be transferred to the transferee or the corporation surviving a merger or newly established as a consequence of a merger and shall remain effective for one year from the day on which the disposition was issued, while if proceedings of an administrative disposition are pending, the proceedings of the administrative sanction may continue against the transferee, the corporation surviving the merger, or the corporation newly established as a consequence of the merger: Provided, That the foregoing shall not apply if a new manufacturer, etc. is not aware of such a disposition or a violation when he/she succeeds to the business (excluding the succession to the status by inheritance).

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**Article 49 (Renewal of Permission, Notifications, etc.)**

A manufacturer, etc. shall obtain renewal of his/her permit, certificate, or notification acceptance letter, as prescribed by Ordinance of the Prime Minister. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

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**Article 50 (Fees)**

Any of the following persons shall pay fees, as prescribed by Ordinance of the Prime Minister: <Amended by Act No. 11690, Mar. 23, 2013; Act No. 13116, Jan. 28, 2015>

1. A person who intends to obtain permission or certification, or file a notification pursuant to this Act;
2. A person who intends to amend matters approved, certified, or notified pursuant to this Act;
3. A person who intends to undergo an examination of technical documents or safety and effectiveness or a re-examination of a newly developed medical device, etc. pursuant to this Act;
4. A person who intends to undergo a preliminary examination pursuant to Article 11;
5. A person who intends to undergo a review of an advertisement of a medical device pursuant to Article 25.

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**Article 51 (Penalty Provisions)**

(1) A person who violates Article 26 (1) shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding fifty million won. <Amended by Act No. 14330, Dec. 2, 2016>

(2) Imprisonment with labor and a fine under paragraph (1) may be imposed concurrently.

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**Article 52 (Penalty Provisions)**

(1) Any of the following persons shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding thirty million won: <Amended by Act No. 14330, Dec. 2, 2016; Act No. 15486, Mar. 13, 2018>

1. A person who violates Article 10 (1), the former part of Article 10 (2), Article 10 (4), Article 12 (1) (including cases to which the said paragraph of the said Article shall apply mutatis mutandis pursuant to Article 15 (6) or 16 (4)), Article 13 (1) (including cases applied mutatis mutandis in Article 15 (6)), the main sentence of Article 16 (1), Article 17 (1), Article 24 (1) and (2), Article 26 (2) through (7), and Article 45 (2);

2. A person who refuses, interferes with, or evade activities conducted by a competent public official to destroy, envelop, or seal a medical device or take any other measures pursuant to Article 34 (2).

(2) Imprisonment with labor and a fine under paragraph (1) may be imposed concurrently.

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**Article 53 (Penalty Provisions)**

A person who violates Article 13 (3) (including cases to which the said paragraph of the said Article shall apply mutatis mutandis under Article 15 (6)) or Article 18 (2) shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding thirty million won. <Amended by Act No. 14330, Dec. 2, 2016>

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3 3 . <2016. 12. 2.>

**Article 53-2 (Penalty Provisions)**

Anyone who prepares or issues a falsified report on results of a clinical trial, report on a non-clinical trial or a quality control examination report pursuant to Article 10 (5), Article 10-2 (3) or Article 28 (4) shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding ten million won. <Amended by Act No. 14330, Dec. 2, 2016>

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**Article 54 (Penalty Provisions)**

Any of the following persons shall be punished by a fine not exceeding five million won: <Amended by Act No. 13116, Jan. 28, 2015>

1. A person who violates Article 18 (1), Articles 20 through 23, Article 30 (1) and (2), or Article 31 (1) or (5);
2. A person who refuses, interferes with, or evades a competent public official's entry, collection, closure, or other dispositions under Article 32 (1) or 36 (1) or (2);
3. A person who violates an order to undergo an inspection, recall, destruction, public announcement, suspension of use, suspension of business activities, and so forth under Article 33, 34 (1), 35, or 36 (1) or (2);
4. A person who commits a violation under Article 37 (1) 1, 2, or 5.

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**Article 54-2 (Penalty Provisions)**

(1) A person who violates Article 6 (7) (including cases applied mutatis mutandis in Article 15 (6)), Article 6-2 (1) (including cases applied mutatis mutandis in Article 15 (6)) and Article 13 (4) (including cases applied mutatis mutandis in Article 15 (6)) shall be punished by a fine not exceeding three million won. <Amended by Act No. 14330, Dec. 2, 2016>

(2) Any of the following persons shall be punished by a fine not exceeding two million won: <Newly Inserted by Act No. 14330, Dec. 2, 2016; Act No. 15486, Mar. 13, 2018>

1. A person who has failed to prepare an express report, in violation of Article 13-2 (1) (including cases applied mutatis mutandis in Article 15 (6) or Article 18 (3)), or has failed to keep the relevant express report, related books and evidential materials;
2. A person who has fraudulently prepared an express report prescribed in Article 13-2 (1) (including cases applied mutatis mutandis in Article 15 (6) or Article 18 (3));
3. A person who has failed to comply with a request for submission of an express report, related books and evidential materials prescribed in Article 13-2 (2) (including cases applied mutatis mutandis in

Article 15 (6) or Article 18 (3));

4. A person who refuses, obstructs or evades an investigation or inquiry by an investigator of causal relations under Article 43-5 (3).

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**Article 55 (Joint Penalty Provisions)**

If the representative of a corporation or an agent or employee of, or other person employed by a corporation or an individual commits any violations under Articles 51 through 54 in conducting the business affairs of the corporation or individual, the corporation or individual shall, in addition to punishing the violator accordingly, be subject to a fine under the relevant provisions: Provided, That this shall not apply where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such violations.

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**Article 56 (Administrative Fines)**

(1) Any of the following persons shall be subject to an administrative fine not exceeding one million won: <Amended by Act No. 12392, Jan. 28, 2014; Act No. 13116, Jan. 28, 2015; Act No. 14330, Dec. 2, 2016; Act No. 15945, Dec. 11, 2018>

1. A person who fails to undergo training, in violation of Article 6-2 (2) (including cases to which Article 6-2 (2) shall apply mutatis mutandis pursuant to Article 15 (6) or (3) (including cases to which Article 6-2 (3) shall apply mutatis mutandis pursuant to Article 15 (6));

- 1-2. A person who fails to report the results of production or import, etc. of medical devices, in violation of Article 13 (2) (including cases to which Article 13 (2) shall apply mutatis mutandis pursuant to Article 15 (6));
- 2. A person who fails to file a notification on permanent closure or temporary shutdown of business, in violation of Article 14 (including cases to which Article 14 shall apply mutatis mutandis pursuant to Article 15 (6), 16 (4), or 17 (3));
- 2-2. A person who has failed to report details of provision of medical devices or fraudulently reported such details, in violation of Article 31-2 (1);
- 2-3. A person who has failed to register information with the integrated medical device information system, in violation of Article 31-3 (2), or who has failed to comply with the standard for managing integrated medical device information, in violation of Article 31-3 (3);
- 3. A person who has failed to report the detection of a foreign substance or filed a false report thereon, in violation of Article 31-5;
- 4. A person who fails to renew his/her permit or certificate, or notification acceptance letter, in violation of Article 49.

(2) Administrative fines prescribed under paragraph (1) shall be imposed and collected by the Minister of Food and Drug Safety, the Special Self-Governing City Mayor, the Special Self-Governing Province Governor, or the head of a Si/Gun/Gu, as prescribed by Presidential Decree. <Amended by Act No. 11690, Mar. 23, 2013; Act No. 15279, Dec. 19, 2017>

- (a) Medical devices of Class 4 : July 1, 2020;
- (b) Medical devices of Class 3 : July 1, 2021;
- (c) Medical devices of Class 2 : July 1, 2022;
- (d) Medical devices of Class 1 : July 1, 2023.
- (a) Medical devices of Class 4 : July 1, 2019;
- (b) Medical devices of Class 3 : July 1, 2020;
- (c) Medical devices of Class 2 : July 1, 2021;
- (d) Medical devices of Class 1 : July 1, 2022.

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ADDENDA

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation: Provided, That the amended provisions of Articles 42 and 43 shall enter into force one year after the date of their promulgation.

**Article 2 (Applicability to Manufacturing Permission, etc., of Medical Devices by Item Category)**

The amended provisions of Articles 6 (2) 1 and 15 (2) 1 shall apply to cases subject to manufacturing permission or import permission granted, or manufacturing notification or import notification filed, on or after this Act enters into force.

**Article 3 (Applicability to Medical Devices Compounded with or in Combination of Drugs or Quasi-Drugs)**

The amended provisions of Articles 6 (6) and 15 (5) shall apply to cases subject to manufacturing permission granted or manufacturing notification filed, or import permission granted or import notification filed, on or after this Act enters into force.

**Article 4 (Applicability to Labeling on Containers, etc.)**

The amended provisions of Article 20 shall apply to medical devices manufactured or imported on or after this Act enters into force.

**Article 5 (Transitional Measures concerning Clinical Testing Institutions, etc.)**

(1) A clinical testing institution designated pursuant to the previous provisions as at the time this Act enters into force shall be deemed a clinical testing institution designated pursuant to the amended provisions of Article 10 (3).

(2) A testing and inspection institution registered pursuant to the previous provisions as at the time this Act enters into force shall be deemed a testing and inspection institution designated pursuant to the amended provisions of Article 27 (2).

(3) A quality control examination agency registered pursuant to the previous provisions as at the time this Act enters into force shall be deemed a quality control examination agency designated pursuant to the amended provisions of Article 28 (2).

**Article 6 (Transitional Measures concerning Administrative Dispositions)**

Notwithstanding the amended provisions of Article 36, administrative dispositions imposed for acts committed before this Act enters into force shall be governed by the previous provisions.

**Article 7 (Transitional Measures concerning Penalty Provisions and Administrative Fines)**

In applying penalty provisions or imposing an administrative fine for an act committed before this Act enters into force, the previous provisions shall apply.

**Article 8 Omitted.**

**Article 9 (Relationships with other Acts)**

A citation to any provisions of the previous Medical Devices Act by any other statute when this Act enters into force shall be deemed a citation to the corresponding provision of this Act in lieu of the previous provision, if such a corresponding provision exists in this Act.

<10564, 2011. 4. 7.>

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ADDENDA <Act No. 11690, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.

(2) Among the Acts amended in accordance with Article 6 of Addenda, the amended provisions of the Acts promulgated before this Act enters into force but the enforcement dates of which have yet to arrive, shall enter into force on their respective enforcement dates, and the amended provisions of Article 47 (1) of the Pharmaceutical Affairs Act under Article 6 (477) of the Addenda and of Article 18 (1) of the Medical Devices Act under Article 6 (481) of the Addenda shall enter into force on the dates prescribed by the Presidential Decrees concerning the relevant Acts within the scope of one year after this Act enters into force.

**Articles 2 through 7 Omitted.**

<11690, 2013. 3. 23.>

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ADDENDA <Act No. 11985, Jul. 30, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 through 5 Omitted.**

<11985, 2013. 7. 30.>

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ADDENDA <Act No. 11998, Aug. 6, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

**Articles 2 and 3 Omitted.**

<11998, 2013. 8. 6.>

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ADDENDA <Act No. 12107, Aug. 13, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Applicability to Suspension of Business Activities)**

The amended provisions of Article 36 (1) shall also apply to administrative dispositions imposed for violations committed before this Act enters into force.

<12107, 2013. 8. 13.>

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ADDENDA <Act No. 12392, Jan. 28, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability to Designation of Medical Device Quality Manager)**

The amended provisions of Articles 6 (7), 13 (4), and 15 (6) shall apply beginning with the first person who applies for manufacturing business permission or import business permission after this Act enters into force.

**Article 3 (Transitional Measures concerning Designation of Quality Manager)**

A manufacturer or an importer who obtained permission before this Act enters into force or who obtained permission pursuant to the previous provisions without being governed by the amended provisions of Articles 6 (7), 13 (4), and 15 (6) after this Act enters into force, shall be in compliance with the aforesaid amended provisions within two years from the date on which this Act enters into force.

<12392, 2014. 1. 28.>

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ADDENDA <Act No. 13116, Jan. 28, 2015>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation: Provided, That matters related to manufacturing and quality control systems in the amended provisions of Articles 6 (4) and (5), 7 (1), 13 (1), 15 (4), 28 (1) through (4), and 36 (1) shall enter into force one year after the date of their promulgation.

**Article 2 (Applicability to Introduction of Certification System)**

The amended provisions of Articles 6, 7, 11, 12, and 15 regarding applications for certification and notification and processing of such applications and notifications shall apply beginning with the first person who applies for manufacturing certification, import certification, or amended certification, or files a manufacturing notification, import notification, or amended notification after such amended provisions enter into force.

**Article 3 (Applicability to Labeling of Single-Use Medical Devices)**

The amended provision of subparagraph 7 of Article 20 shall apply beginning with the first single-use medical device taken out from the factory or bonded area after this Act enters into force.

**Article 4 (Transitional Measures concerning Processing of Applications for Certification and Notification)**

Where a person who has obtained permission or amended permission for a medical device subject to certification and notification under the amended provisions of Articles 6, 12, and 15, or has filed a

notification or amended notification thereon from/to the Minister of Food and Drug Safety pursuant to the previous provisions before the aforesaid amended provisions enter into force, the person shall be deemed to have obtained certification or amended certification, or have filed a notification or amended notification pursuant to this Act.

**Article 5 (Transitional Measures concerning Applications for Permission, etc.)**

The previous provisions shall apply to persons who have applied for manufacturing business permission, manufacturing permission, import business permission, or import permission, or have filed a manufacturing notification or import notification pursuant to the previous provisions as at the time this Act enters into force.

<13116, 2015. 1. 28.>

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ADDENDA <Act No. 13698, Dec. 29, 2015>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That the following amended provisions shall enter into force on the dates prescribed in the relevant subparagraphs:

- 1. Amended Articles 6-4, 10-2, 32, 33, 37 and 53-2: The date on which one year elapses after the date of its promulgation;

2. Amended Articles 13 and 18: The date on which three months elapse after the date of its promulgation.

**Article 2 (Applicability to Persons who Provides Economic Benefits, Etc.)**

The amended Articles 13 (3) and 18 (2) shall apply, beginning with the first person who provides economic benefits, etc. after the amended provisions enter into force.

**Article 3 (Applicability to Labeling on Containers, Etc.)**

The amended subparagraph 3 of Article 20 shall apply, beginning with a medical device to be first imported or manufactured after this Act enters into force.

**Article 4 (Transitional Measures concerning Institutions Reviewing Technical Documents)**

Any institution reviewing technical documents designated pursuant to the previous provisions as at the time this Act enters into force shall be deemed an institution reviewing technical documents designated pursuant to the amended Article 6-4 (1).

<13698, 2015. 12. 29.>

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ADDENDA <Act No. 14330, Dec. 2, 2016>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date prescribed by Ordinance of the Prime Minister within five years from the date of its promulgation: Provided, That the amended provisions of Articles 13-2, 15 (6), 18 (3), 35-2 and 54-2 (2) shall enter into force six months after the date of its promulgation; and the amended provisions of Articles 51 (1), 52 (1) and 53 shall enter into force on the date of its promulgation.

**Article 2 (Preparation for Enforcing the Act)**

The Minister of Food and Drug Safety may take measures necessary for establishment and operation, etc. of the system to register information concerning medical devices before this Act enters into force.

**Article 3 (Applicability to Submission, etc. of Expense Reports)**

The amended provisions of Article 13-2 shall apply, beginning with the fiscal year following the fiscal year to which the enforcement date of the amended provisions belongs.

**Article 4 (Applicability to Submission, etc. of Expense Reports)**

The amended provisions of subparagraph 8 of Article 20 shall apply, beginning with the first medical device manufactured or imported after this Act enters into force.

**Article 5 (Special Cases of Pilot Projects)**

(1) The Minister of Food and Drug Safety may implement pilot projects before this Act enters into force, so as to efficiently promote projects prescribed in Articles 31-2 and 31-3.

(2) The Minister of Food and Drug Safety may provide administrative or financial support to pilot projects prescribed in paragraph (1).

(3) Matters necessary for implementation of pilot projects prescribed in paragraph (1) shall be prescribed by the Minister of Food and Drug Safety.

<14330, 2016. 12. 2.>

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ADDENDA <Act No. 15279, Dec. 19, 2017>

**Article 1 (Enforcement Date)**

This Act shall enter into force one month after the date of its promulgation: Provided, That the amended provisions of Article 6 (1) 2 shall enter into force on the date of its promulgation; and the amended provisions of Articles 20 and 22 shall enter into force on the date Article 20 of the Medical Devices Act (Act No. 14330) enters into force.

**Article 2 (Applicability to Permission and Permission for Change)**

The amended provisions of Article 6 (8) and (9) (including cases applicable mutatis mutandis pursuant to Article 15 (6)) and Article 12 (2) and (3) (including cases applicable mutatis mutandis pursuant to Article 15 (6)) shall apply, beginning with the first application for permission to engage in the business of manufacturing medical devices and permission to change manufacturing business information or for permission to engage in the business of importing medical devices or permission to change importing business information after this Act enters into force.

**Article 3 (Transitional Measures concerning Grounds for Disqualification of Incompetent Persons, etc.)**

Notwithstanding the amended provisions of Article 6 (1) 2, persons for whom the declaration of incompetence or quasi-incompetence remains in effect under Article 2 of the Addenda to the Civil Act (Act No. 10429) shall be governed by the previous provisions.

<15279, 2017. 12. 19.>

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ADDENDA <Act No. 15486, Mar. 13, 2018>



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ADDENDA <Act No. 15945, Dec. 11, 2018>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That the following amended provisions shall enter into force on the dates prescribed in the relevant subparagraphs:

1. For the amended provisions of Articles 14 (including cases where it applies mutatis mutandis under Articles 15 (6), 16 (4) and 17 (3)), 16 and 17, the date on which one month elapses after this Act is promulgated;
2. For the amended provisions of Article 42 (3) through (6), the date on which three months elapse after this Act is promulgated;
3. For the amended provisions of Articles 15-2 and 31-5, Article 32 (1) concerning entrusted institutions and organizations under Article 15-2 (2), and Articles 30 (2), 32-2, 36 (1), 38 (1), 38-2 and 56 (1) 3 and 4, the date on which six months elapse after this Act is promulgated.

**Article 2 (Applicability to Notifications of Permanent Closure, Temporary Shutdown, etc. Filed by Manufacturers of Medical Devices, etc.)**

The amended provisions of Articles 14 (including cases where it applies mutatis mutandis under Articles 15 (6), 16 (4) and 17 (3)), 16 and 17 shall apply to a notification on permanent closure or temporary shutdown, or a notification on repair business, distribution business or leasing business, which is filed by a manufacturer of medical devices, etc. after said amended provisions enter into force.

**Article 3 (Applicability to Announcement of Violations)**

The amended provisions of Article 38-2 shall apply to administrative dispositions that are determined after the said amended provisions enter into force.

**Article 4 (Transitional Measures concerning Penalty Surcharges)**

With respect to the imposition of penalty surcharges for offenses committed before the amended provisions of Article 38 (1) enter into force, the previous provisions shall prevail.

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ADDENDA <Act No. 16402, Apr. 23, 2019>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Transitional Measures concerning Composition of Committee Membership)**

(1) Where the Committee fails to meet the amended provisions of the latter part of Article 5 (2) as at the time of appointing or commissioning its members after this Act enters into force, it shall commission non-public official members until the requirements under the amended provisions are met.

(2) The membership composition of the Committee shall be governed by the previous provisions until the amended provisions of the latter part of Article 5 (2) are met, pursuant to paragraph (1).

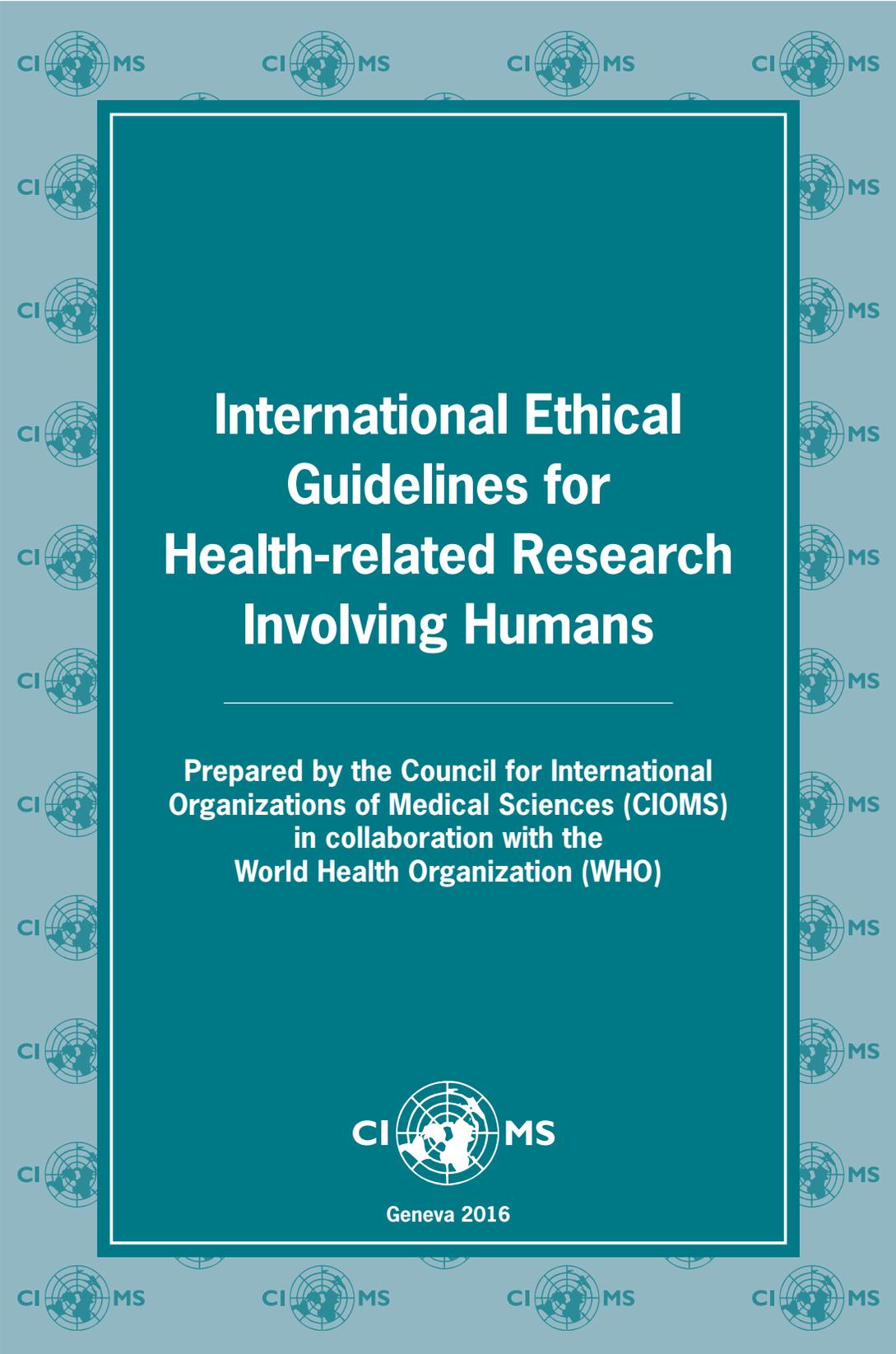
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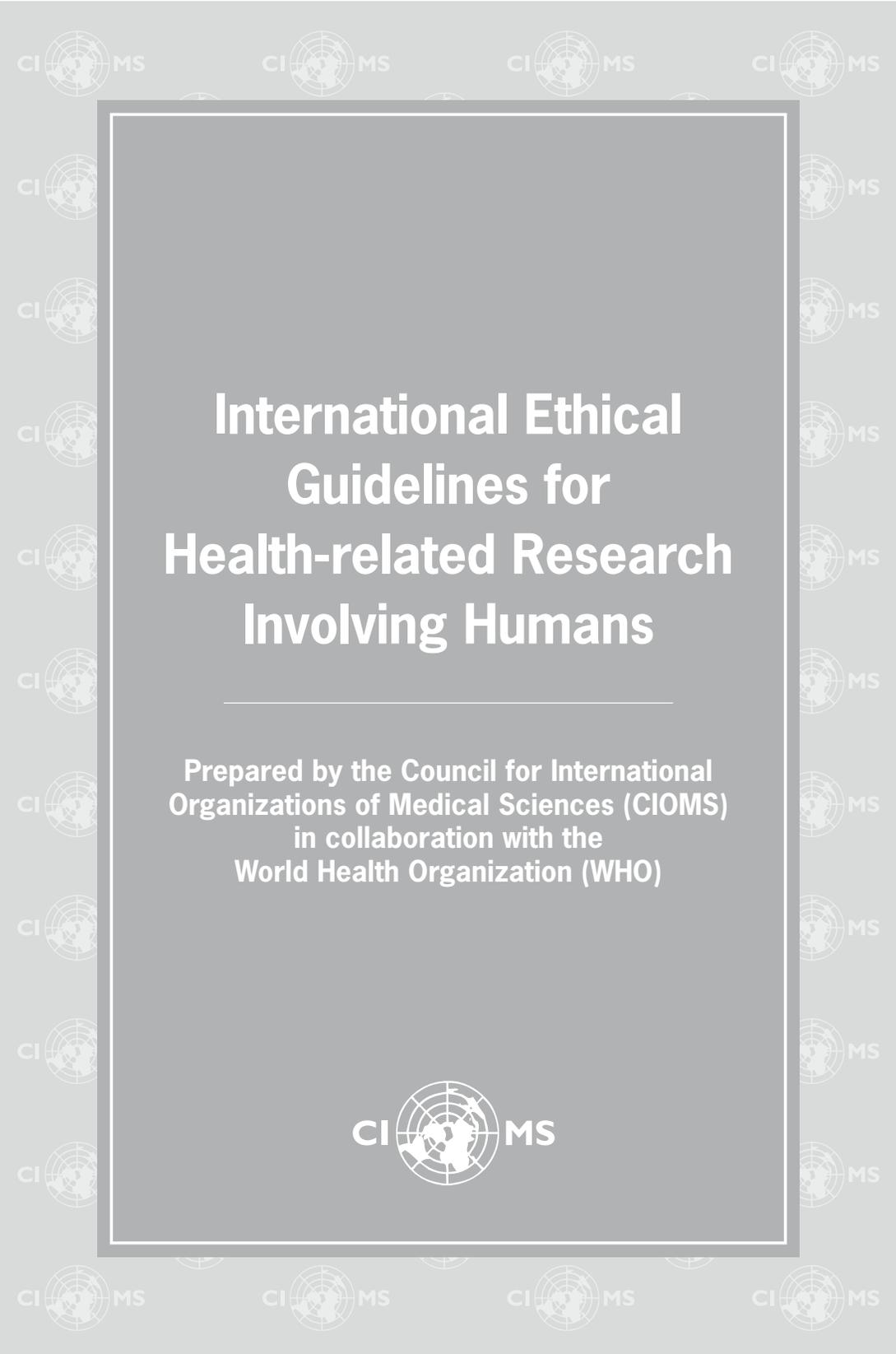
# International Ethical Guidelines for Health-related Research Involving Humans

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Prepared by the Council for International  
Organizations of Medical Sciences (CIOMS)  
in collaboration with the  
World Health Organization (WHO)



Geneva 2016



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ISBN 978-929036088-9**

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e-mail: [info@cioms.ch](mailto:info@cioms.ch).

CIOMS publications are also available through the World Health Organization, WHO Press, 20 Avenue  
Appia, CH-1211 Geneva 27, Switzerland.

Citation for this document:

International Ethical Guidelines for Health-related Research Involving Humans, Fourth Edition. Geneva.  
Council for International Organizations of Medical Sciences (CIOMS); 2016.

The authors alone are responsible for the views expressed in this publication and those views do not  
necessarily represent the decisions, policies or views of their respective institutions or companies.

Design and Layout: Paprika (Annecy, France)

## ACKNOWLEDGEMENTS

The Council for International Organizations of Medical Sciences (CIOMS) acknowledges the contribution of the Working Group for the revision of the CIOMS Ethical Guidelines. In 2011, the Executive Committee of CIOMS decided to set up a Working Group to revise the CIOMS Guidelines. The Working Group consisted of 10 members (Anant Bhan, Eugenijus Gefenas, Dirceu Greco, David Haerry, Bocar Kouyate, Alex John London, Ruth Macklin, Annette Rid, Rodolfo Saracci, Aissatou Touré, one chair (Hans van Delden), four advisers, from WHO (Marie-Charlotte Bouësseau and later Abha Saxena), UNESCO (Dafna Feinholz), COHRED (Carel Ijsselmuiden) and WMA (Urban Wiesing and Hans-Joerg Ehni) and one scientific secretary (Rieke van der Graaf). All members of the Working Group were internationally recognized for their expertise in research. The composition of the Working Group ensured that different cultural perspectives were present, members varied in experience and expertise, and gender balance was achieved. One of the members represented the perspective of research participants. Their affiliations are indicated in Appendix 3.

CIOMS is grateful for the valuable contributions of many commentators on its first draft from individual persons and institutions (see Appendix 4). Their detailed review and comments have greatly helped to shape the final document.

A number of institutions and organizations made valuable contributions by providing hospitality to host meetings of the Working Group (Utrecht University, Netherlands; Vilnius University, Lithuania; and UNESCO, Paris, France).

Special thanks are due to Carla Saenz and Tania Flores at PAHO, who at no cost translated comments submitted by Spanish-speaking persons and organizations into English. Their work has been tremendously helpful in ensuring meaningful global involvement in the revision process.

The revision of these Guidelines has been carried out in collaboration with World Health Organization (WHO), the facilitation of which was led by Abha Saxena. As a result of this collaboration, the guideline development process is consistent with the standards and policies of WHO. The organization-wide review by WHO especially by the Ethics Review Committee was coordinated by Maria Magdalena Guraib and Vânia de la Fuente Nunez. Ronald Johnson, Melba Gomes, Joan Dzenowagis and Sheryl VanderPoel have provided substantial inputs to the draft document.

At CIOMS, Sev Fluss edited the draft document and provided constructive comments, and Gunilla Sjölin-Forsberg, the Secretary-General (SG) of CIOMS until the end of 2015, attended many meetings of the Working Group and contributed her experience from the many other Working Groups in which she has participated. Lembit Râgo has supported the revision work after becoming the new SG in April 2016. Finally, Caprice Fraiha and Sue le Roux have helpfully provided administrative support for the revision process.

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## PREFACE

### *About CIOMS*

The Council for International Organizations of Medical Sciences (CIOMS) is an international nongovernmental organization in official relationship with World Health Organization (WHO). It was founded under the auspices of WHO and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1949. Among its mandates is maintaining collaborative relations with the United Nations and its specialized agencies, especially UNESCO and WHO.

### *The first version of the CIOMS Guidelines (1982)*

CIOMS, in association with WHO, undertook its work on ethics in biomedical research in the late 1970s. Accordingly, CIOMS set out, in cooperation with WHO, to prepare guidelines. The aim of the guidelines was (and still is) to provide internationally vetted ethical principles and detailed commentary on how universal ethical principles should be applied, with particular attention to conducting research in low-resource settings. The outcome of the CIOMS/WHO collaboration was entitled *Proposed International Ethical Guidelines for Biomedical Research Involving Human Subjects*.

### *The second version of the CIOMS Guidelines (1993)*

The period that followed saw the outbreak of the HIV/AIDS pandemic and proposals for large-scale trials of prevention and treatment for the disease. These developments raised new ethical issues that had not been considered in the preparation of the *Proposed Guidelines*. There were other factors also – rapid advances in medicine and biotechnology, changing research practices such as multinational field trials, experimentation involving vulnerable population groups, and also a new perspective in both high- and low-resource settings, that research involving humans could be beneficial to participants rather than threatening. The World Medical Association's Declaration of Helsinki was revised twice in the 1980s – in 1983 and 1989. It was timely to revise and update the 1982 Guidelines, and CIOMS, with the collaboration of WHO and its Global Programme on AIDS, undertook the task. The outcome was the issue of two sets of guidelines: *International Guidelines for Ethical Review of Epidemiological Studies* in 1991, and *International Ethical Guidelines for Biomedical Research Involving Human Subjects* in 1993.

### *The third version of the CIOMS Guidelines (2002)*

After 1993, ethical issues arose for which the 1993 CIOMS Guidelines had no specific provisions. They related mainly to externally sponsored clinical trials carried out in low-resource settings. In particular, the use of comparators other than an established effective intervention used in low-resource settings became a concern. Commentators took opposing sides on this issue. This debate necessitated the revision and updating of the 1993 Guidelines. CIOMS organized a consultation meeting with eight commissioned papers. After this meeting, a WG was set up that laboured over a period of two years during which there was a public posting of a draft with a request for comments. The revision process was finished in 2002.

### *Epidemiological Guidelines (2009)*

The process of revising the 1993 version of the biomedical research Guidelines made clear that developments in the ethical analysis of all types of research using human subjects had potential implications for the 1991 Guidelines for epidemiological studies. Furthermore, the growing recognition of the importance of epidemiological research to improving the health of the public highlighted the

importance of bringing the 1991 Guidelines into line with current thinking on ethics and human rights. Therefore, in 2003 CIOMS constituted a core group to consider how the existing ethical guidance for epidemiological studies should be updated. Intending to ensure that ethical principles are consistently applied to all types of research, the core group decided to prepare a Supplement to the 2002 document that would address the special features of epidemiological studies. In February 2006, a draft of the supplement was posted on the CIOMS website and opened to comment from interested parties. The response from groups and individuals involved in biomedical research was largely positive, but many objected that epidemiologists were not necessarily conversant with the 2002 Guidelines and would therefore find it burdensome to have to switch back and forth between the epidemiology supplement and the biomedical research document. Eventually, therefore, the final version of the Guidelines (2009) combined both documents.

#### *The fourth version of the CIOMS Guidelines (2016)*

During its annual meeting in 2009 the Executive Committee of CIOMS considered the desirability of a revision of the CIOMS Ethical Guidelines for Biomedical Research. Since 2002 several developments had taken place including: a heightened emphasis on the importance of translational research, a felt need to clarify what counts as fair research in low-resource settings, more emphasis on community engagement in research, the awareness that exclusion of potentially vulnerable groups in many cases has resulted in a poor evidence base, and the increase of big data research. Moreover the Declaration of Helsinki of 2008 was revised again at that moment. The Executive Committee therefore decided to first explore the desirability of such a revision.

#### *The revision process of the 2002 version*

In 2011, the CIOMS Executive Committee decided to set up a Working Group to revise the CIOMS Guidelines and fund the work from internal means. This Group met three times each year from September 2012 until September 2015. Virtually all Guidelines underwent major revisions. Some Guidelines were merged (for example, 2002 Guidelines 4 and 6 both dealt with informed consent), and others were newly created (for example, Guideline 20 on research in disaster and disease outbreaks). Furthermore, the Working Group decided to merge the CIOMS Guidelines for Biomedical Research with the CIOMS Guidelines for Epidemiological Research. At the same time, in order to ensure the epidemiological dimension, an epidemiologist, who was also a member of the Working Group, closely read the revisions from an epidemiological perspective.

#### *Scope of the 2016 version*

The Working Group decided to broaden the scope of the 2002 Guidelines from “biomedical research” to “health-related research”. The Working Group considered biomedical research too narrow since that term would not cover research with health-related data, for example. At the same time, the Working Group acknowledged that this new scope also had limits. For example, new developments such as the idea of the Learning Healthcare System that tries to integrate forms of research and care, were beyond the scope of the draft of the Working Group. The Working Group also acknowledged that there is no clear distinction between the ethics of social science research, behavioural studies, public health surveillance and the ethics of other research activities. The current scope is confined to the classic activities that fall under health-related research with humans, such as observational research, clinical trials, biobanking and epidemiological studies.

#### *Collaboration with WHO*

The CIOMS Guidelines have always been written in collaboration with WHO. For the current Guidelines, the nature and scope of this collaboration were better defined with a joint decision

to follow recommendations of the WHO Guidelines Review Committee (GRC). This includes (i) a description of the process of revision, prior to revision; (ii) ensuring that the Working Group is global in representation, and includes regional balance and representation of all stakeholders, with a clear process for reporting and managing conflicts of interests; (iv) providing information on the process of evidence retrieval and synthesis for the revision of the Guidelines; and (v) ensuring an independent external peer review of the final product. The GRC acknowledged that many of the “review questions” may not require a full “systematic review” and quality assessment but the process of retrieving information needed to be documented.

The process of development and revision of these Guidelines was discussed with, and approved by, the WHO GRC. The final draft of these Guidelines was reviewed by the Secretariat of the GRC, which concluded that since these Guidelines are related to values and moral principles, they were exempted from GRC review. Collaboration with WHO has included a review of the draft Guidelines by all WHO offices (Regional Offices and Headquarters) and the network of WHO Collaborating Centres on Bioethics. Members of the WHO Research Ethics Review Committee reviewed the entire document in two half-day meetings and provided extensive comments on the 2015 draft version of the document.

#### *International consultation and peer review*

In June 2014 the Working Group organized a symposium during the 12<sup>th</sup> World Congress of the International Association of Bioethics (IAB) in Mexico City during which key issues were presented and opened for discussion. This session served as one element of the international consultation process for the proposed revision of the CIOMS Guidelines. In November 2014 the draft revision was discussed at the Forum of Ethical Review Committees in the Asian & Western Pacific Region (FERCAP) in Manila in a plenary session with more than 800 attendees. The revision was also discussed at the Advancing Research Ethics Training in Southern Africa (ARESA) Seminar on 17–18 September 2015 in Cape Town and at CENTRES (Clinical Ethics Network & Research Ethics Support), in Singapore in November 2015.

Specific feedback was sought from the member organizations of CIOMS and from members of National Ethics Committees participating in the Global Summit of National Ethics Committees (2014).

At the end of September 2015 the Working Group opened its draft guidelines for public comments until 1 March 2016. The Working Group received comments from 57 different institutions and organizations. In many cases these comments were prepared by several persons from one institution. The commentators represented all parts of the world (see Appendix 4). The Working Group received over 250 pages of comments, ranging from minor editorial issues to in-depth, detailed comments. In June 2016 the Working Group met a final time.

The close cooperation with the World Medical Association during the revision process ensured that the final draft was in line with the Declaration of Helsinki.

At the beginning of October 2016 the final draft was submitted to the CIOMS Executive Committee, which approved the text at its General Assembly meeting in Geneva in November 2016.

The final draft replaces all previous versions of the CIOMS ethical guidelines, both in the domain of biomedical and epidemiological research. At the same time, research projects that have been ethically assessed on the basis of previous versions of the guidelines may be continued on the terms and conditions as set out in those previous versions.

Reactions to the Guidelines are welcome and should be addressed to the Secretary-General, Council for International Organizations of Medical Sciences, P.O. Box 2100, CH-1211 Geneva 2, Switzerland; or by email to [info@cioms.ch](mailto:info@cioms.ch).

## EVIDENCE RETRIEVAL AND SYNTHESIS

In the revision process, literature reviews were used as sources for further ethical deliberation. Authoritative declarations, reports and guidance documents have had a prominent role in these discussions, such as the Nuremberg Code (1947), the Universal Declaration of Human Rights of the United Nations (1948), the International Covenant on Civil and Political Rights of the United Nations (1966), the Belmont Report (1979), the Guideline on Good Clinical Practice (GCP) of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) (1996), the Oviedo Convention of the Council of Europe (1997), the Universal Declaration on Bioethics and Human Rights of UNESCO (2005), the UNAIDS/WHO Ethical Considerations in Biomedical HIV Prevention Trials (2007/2012), Standards and operational guidance for ethics review of health-related research with human participants of the WHO (2011), and the Declaration of Helsinki of the World Medical Association (2013). Some of these guidelines have been extensively used, in particular the UNAIDS/WHO document (2012) for Guideline 7 on community engagement.

Textbooks, existing ethical frameworks for human subjects research and reports on research involving human beings were also valuable sources of information. The Working Group reviewed papers in major ethics journals (in alphabetical order) such as the American Journal of Bioethics, Bioethics, BMC Medical Ethics, the Cambridge Quarterly of Healthcare Ethics, Developing World Bioethics, the Hastings Center Report, the Journal of Bioethical Inquiry, the Journal of Empirical Research on Human Research Ethics, the Journal of Law, Medicine and Ethics, the Journal of Medical Ethics, the Journal of Medicine and Philosophy, Medicine, Health Care and Philosophy, as well as articles in leading medical or scientific journals, such as BMJ, The Lancet, the New England Journal of Medicine and Science.

Literature reviews were used in three ways. First, we searched main ethical guidelines on research with humans and textbooks on research ethics to identify new topics or viewpoints in existing debates. For instance, many guidelines have included statements on biobanking which was one of the reasons to merge the CIOMS guidelines for epidemiological research with those for biomedical research.

We performed searches in Embase and Medline on review papers and papers with strong positions on certain topics. For example, component analysis and the net risk test are two recent approaches to making risk-benefit assessments. There is no agreement among bioethicists on which of these approaches is preferable. The Working Group read relevant papers on these approaches and developed a middle ground. A similar process was adopted for vulnerability. A consensus emerged in recent publications that vulnerability can no longer be applied to entire groups. As a result, the Working Group eliminated the group approach. Instead, the Guidelines focus on characteristics that lead to considering certain groups as vulnerable and on the specific protections that are needed in those situations.

Third, literature reviews were performed to address relatively new topics, such as opt-out procedures in biobanking or informing research participants of (un)solicited findings. The Working Group reviewed relevant papers on these topics and accordingly took a position.

It is important to emphasize that the literature was used as a starting point for further discussion. Ultimately, the validity of the ethical positions in these Guidelines hinge on the strength of the arguments, not on the frequency of an ethical standpoint in the literature.

All decisions by the Working Group were reasoned decisions. Members discussed all proposals for revision of particular texts during the meetings and electronically between meetings. Members deliberated until they had reached a well-argued consensus. If no consensus was reached, the previous text in the 2002 Guidelines remained in place.

## PREAMBLE

The ethical principles set forth in these Guidelines should be upheld in the ethical review of research protocols. The ethical principles are regarded as universal. Moreover, the Guidelines should be read and interpreted as a whole. Some Guidelines have cross references to other Guidelines. The purpose of these cross references is to help the reader navigate through the Guidelines. However, absence of cross references to other Guidelines does not imply that other Guidelines may not be applicable.

Although the Guidelines focus primarily on rules and principles to protect humans in research, both virtues and protections are essential to reliably safeguard the rights and welfare of humans.

As a general rule, “must” has been used to attach greater moral weight to requirements when compared to “should”.

The term “health-related research” in these Guidelines refers to activities designed to develop or contribute to generalizable health knowledge within the more classic realm of research with humans, such as observational research, clinical trials, biobanking and epidemiological studies. Generalizable health knowledge consists of theories, principles or relationships, or the accumulation of information on which they are based related to health, which can be corroborated by accepted scientific methods of observation and inference.

These Guidelines address research involving humans. Usage in the bioethics literature varies. In this document, the terms “human beings”, “research participants”, and “human subjects” are used interchangeably.

Progress towards a world where all can enjoy optimal health and health care is crucially dependent on all kinds of research including research involving humans.

## GUIDELINE 1:

# SCIENTIFIC AND SOCIAL VALUE AND RESPECT FOR RIGHTS

---

The ethical justification for undertaking health-related research involving humans is its scientific and social value: the prospect of generating the knowledge and the means necessary to protect and promote people's health. Patients, health professionals, researchers, policy-makers, public health officials, pharmaceutical companies and others rely on the results of research for activities and decisions that impact individual and public health, welfare, and the use of limited resources. Therefore, researchers, sponsors, research ethics committees, and health authorities, must ensure that proposed studies are scientifically sound, build on an adequate prior knowledge base, and are likely to generate valuable information.

Although scientific and social value are the fundamental justification for undertaking research, researchers, sponsors, research ethics committees and health authorities have a moral obligation to ensure that all research is carried out in ways that uphold human rights, and respect, protect, and are fair to study participants and the communities in which the research is conducted. Scientific and social value cannot legitimate subjecting study participants or host communities to mistreatment, or injustice.

## Commentary on Guideline 1

**General considerations.** In order to be ethically permissible, health-related research with humans, including research with samples of human tissue or data, must have social value. The scientific and social value of research can be difficult to quantify, but it is generally grounded in three factors: the quality of the information to be produced, its relevance to significant health problems, and its contribution to the creation or evaluation of interventions, policies, or practices that promote individual or public health. It is essential to the social value of health-related research that its design is scientifically sound and that it offers a means of developing information not otherwise obtainable. For example, so-called "seeding trials" violate this requirement if their purpose is to influence clinicians who participate in the study to prescribe a new medication rather than to produce knowledge about the merits of these interventions.

**Social value.** Social value refers to the importance of the information that a study is likely to produce. Information can be important because of its direct relevance for understanding or intervening on a significant health problem or because of its expected contribution to research likely to promote individual or public health. The importance of such information can vary depending on the significance of the health need, the novelty and expected merits of the approach, the merits of alternative means of addressing the problem, and other considerations. For example, a well-designed, late phase clinical trial could lack social value if its endpoints are unrelated to clinical decision-making so that clinicians and policy-makers are unlikely to alter their practices based on the study's findings.

Similarly, although replication serves an important role in scientific research, well-designed studies that lack sufficient novelty may also lack social value.

Researchers, sponsors, research ethics committees and relevant health authorities, such as regulators and policy-makers, must ensure that a study has sufficient social value to justify its associated risks, costs and burdens. In particular, there must be sufficient social value to justify risks to participants in studies that lack the prospect of potential individual benefit to them (see Guideline 4 – Potential individual benefits and risks of research).

**Scientific value.** Scientific value refers to the ability of a study to produce reliable, valid information capable of realizing the stated objectives of the research. The requirement of scientific value applies to all health-related research with humans, regardless of funding source or degree of risk to participants. In part, this is because a diverse range of stakeholders (including patients, clinicians, researchers, policy-makers, industrial sponsors and others) rely on the information that research generates to make decisions that have important consequences for individual and public health. For example, evidence produced in early phase research provides the foundation for subsequent studies, and methodological shortcomings can derail promising avenues of research and squander valuable resources. Many other forms of research, such as clinical trials, health systems research, epidemiological studies or post-marketing studies, generate data that are relevant for clinical decision-making, health and social policy, or resource allocation. Ensuring that studies uphold high scientific standards is essential for maintaining the integrity of the research enterprise and its ability to fulfil its social function.

Although the quality of the information produced by research depends critically on the scientific value of a study, scientific value alone does not make a study socially valuable. For example, a study can be rigorously designed but lack social value when the research question has been successfully addressed in prior research. However, a study cannot be socially valuable without appropriate and rigorous research methods to address the question at hand. In other words, scientific value is a necessary but not a sufficient condition for the social value of health research.

**Qualification of research personnel.** Sponsors, researchers, and research ethics committees must ensure that all research personnel are qualified by virtue of their education and experience to perform competently and with integrity. This includes receiving appropriate ethics education and training. Qualifications of research personnel must be adequately described in the materials submitted to the research ethics committee (Appendix I).

**Respect for rights and welfare.** Although the social value of research is a necessary condition for its ethical acceptability, it is not sufficient. All research with humans must be carried out in ways that show respect and concern for the rights and welfare of individual participants and the communities in which research is carried out. This respect and concern is manifest in requirements for informed consent, ensuring that risks are minimized and are reasonable in light of the importance of the research, and other requirements discussed in this document. Research must also be sensitive to issues of justice and fairness. This concern is manifest in choosing whose health needs are investigated; how risks, burdens, and anticipated benefits of individual studies are distributed; and who will have access to any resulting knowledge and interventions. These and other ethical aspects of research are discussed in the following guidelines and commentaries. The research protocol submitted for ethical review must include, when relevant, the items specified in Appendix I, and must be carefully followed in conducting the research.

**Dissemination of results of research.** Dissemination is essential to achieving social value. The importance of disseminating scientific information, including negative findings, is discussed in Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols.

## GUIDELINE 2:

# RESEARCH CONDUCTED IN LOW-RESOURCE SETTINGS

---

**Before instituting a plan to undertake research in a population or community in low-resource settings, the sponsor, researchers, and relevant public health authority must ensure that the research is responsive to the health needs or priorities of the communities or populations where the research will be conducted.**

**As part of their obligation, sponsors, and researchers must also:**

- ▶ **make every effort, in cooperation with government and other relevant stakeholders, to make available as soon as possible any intervention or product developed, and knowledge generated, for the population or community in which the research is carried out, and to assist in building local research capacity. In some cases, in order to ensure an overall fair distribution of the benefits and burdens of the research, additional benefits such as investments in the local health infrastructure should be provided to the population or community; and**
- ▶ **consult with and engage communities in making plans for any intervention or product developed available, including the responsibilities of all relevant stakeholders.**

## Commentary on Guideline 2

**General considerations.** This Guideline pertains to settings in which resources are so limited that the population may be vulnerable to exploitation by sponsors and investigators from wealthier countries and communities. The ethical standards applied should be no less stringent than they would be for research carried out in high-resource settings. To ensure that people in low-resource settings receive equitable benefit from their participation in health-related research, this Guideline demands that local social value be created. Low-resource settings should not be interpreted narrowly as low-resource countries. These settings might also exist in middle- and high- income countries. Moreover, a setting can change over time and no longer be considered low-resource.

**Responsiveness of research to health needs or priorities.** The responsiveness requirement can be met by demonstrating that research is needed to provide new knowledge about the best means of addressing a health condition present in that community or region. Where communities or policy-makers have determined that research on particular health needs constitutes a public health priority, studies that address such needs seek to provide social value to the community or population and are therefore responsive to their health needs. Concerns about responsiveness might hinge on the relevance to the community of the information a study is designed to produce. For example, a question about responsiveness might arise if a study of a new intervention is planned for a community in which established effective interventions for a health condition are not locally available and the new

intervention has features that would make it difficult to implement in that community. In such cases, researchers and sponsors must consider whether the study could be made more relevant to local health needs. If the knowledge to be gained from the research is intended for use primarily for the benefit of populations other than those involved in the research, the responsiveness requirement is violated. In such cases, the research raises serious concerns about justice, which requires a fair distribution of the benefits and burdens of research (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research).

Some research is intended to generate information relevant to the health needs of people in low-resource settings but is not carried out in populations that are the intended beneficiaries of the research. As an exception to the general rule specified in this Guideline, such studies can be justified because the effort to generate information relevant to significant health needs of people in low-resource settings represents an important demonstration of solidarity with burdened populations. For example, during the Ebola outbreak of 2014, phase one studies on investigational Ebola vaccines were carried out in low-resource communities not experiencing an Ebola outbreak.

**Responsibilities and plans.** When the research has important potential individual benefits to the population or community, the responsibility to make any intervention or product developed available to this population is shared among researchers, sponsors, governments, and civil society. For this reason, the negotiation among stakeholders must include representatives in the community or country, including, where appropriate, the national government, the health ministry, local health authorities, relevant scientific and ethics groups, as well as members of the communities from which persons are drawn, patent-holders if they are other than the sponsor, and nongovernmental organizations such as health advocacy groups. The negotiation must address the health-care infrastructure required for safe and appropriate use of any intervention or product developed. When applicable, it must also consider the likelihood and conditions of authorization for distribution, and decisions regarding payments, royalties, subsidies, technology and intellectual property, as well as distribution costs, when such information is not proprietary. A plan to ensure the availability and distribution of successful products can require engaging with international organizations, donor governments and bilateral agencies, civil society organizations, and the private sector. The ability of the local health-care infrastructure to be able to provide the intervention must be facilitated at the outset so that delivery is possible following the completion of the research.

**Post-trial availability for communities and populations.** Even if research addresses a question that has social value for the community or population where it is carried out, the community or population will not benefit from successful research unless the knowledge and interventions that it produces are made available to them and products are reasonably priced. Post-trial access plans are of particular concern for research conducted in low-resource settings where governments lack the means or infrastructure to make such products widely available.

An investigational drug is unlikely to be generally available to the community or population until sometime after the conclusion of the study, as it may be in short supply, and in most cases could not be made generally available before a drug regulatory authority has approved it. However, other successful outcomes of research that do not require approval by a regulatory agency should be implemented as soon as feasible. An example is the introduction of male circumcision in countries with a high burden of HIV disease. Research demonstrated a significant preventive effect of male circumcision, following which, programmes to offer male circumcision were introduced in several countries.

When the outcome is scientific knowledge rather than a commercial product, complex planning or negotiation among relevant stakeholders may not be needed. There must be assurance, however, that the scientific knowledge gained will be distributed and available for the benefit of the population. To that end, agreement must be reached with the local community about the form such dissemination

should take. One example might be a study that learns why a health condition such as neural tube defects is prevalent in a particular population. Another example could be a study that results in knowledge to educate the population about foods to eat or avoid in order to promote or maintain health.

These requirements for post-trial availability to communities and populations must not be construed as precluding studies designed to evaluate novel therapeutic concepts. An example might be research designed to obtain preliminary evidence that a drug or a class of drugs is beneficial in treating a disease that occurs only in low-resource settings, when the research could not be carried out reasonably well in more developed communities. Such preliminary research may be justified ethically even if there will not be a specific product that could be made available to the population of the host country or community at the conclusion of the preliminary phase of its development. If the concept is found to be valid, subsequent phases of the research could result in a product that would be made reasonably available at its conclusion.

**Additional benefits to the population or community.** Benefits other than those associated with study participation may accrue to the community or population, especially in resource-poor settings. Such benefits can include improving the health infrastructure, training laboratory personnel, and educating the public about the nature of research and the benefits resulting from a particular study. Whereas capacity-building should be a part of any research conducted in low-resource settings, other types of benefits will depend on the circumstances of the research and environment in which it is carried out. These additional benefits must be determined in consultation with the communities or the local population. Additional benefits may also include contributions that research or research partnerships make to the overall scientific environment of such countries and communities.

**Community engagement.** From the inception of research planning, it is important to ensure full participation of communities in all steps of the project, including discussions of the relevance of the research for the community, its risks and potential individual benefits, and how any successful products and possible financial gain will be distributed, for example through a benefit-sharing agreement. This consultation should be an open, collaborative process that involves a wide variety of participants, including community advisory boards, community representatives, and members of the population from which research participants will be recruited. Research ethics committees should require community members to disclose any conflicts of interests (see Guideline 25 – Conflicts of interest). Active community involvement helps to ensure the ethical and scientific quality and successful completion of proposed research. In addition, it helps the research team to understand and appreciate the research context, promotes smooth study functioning, contributes to the community's capacity to understand the research process, enables members to raise questions or concerns, and helps to build trust between the community and researchers (see Guideline 7 – Community engagement).

## GUIDELINE 3:

# EQUITABLE DISTRIBUTION OF BENEFITS AND BURDENS IN THE SELECTION OF INDIVIDUALS AND GROUPS OF PARTICIPANTS IN RESEARCH

**Sponsors, researchers, governmental authorities, research ethics committees and other stakeholders must ensure that the benefits and burdens of research are equitably distributed. Groups, communities and individuals invited to participate in research must be selected for scientific reasons and not because they are easy to recruit because of their compromised social or economic position or their ease of manipulation. Because categorical exclusion from research can result in or exacerbate health disparities, the exclusion of groups in need of special protection must be justified. Groups that are unlikely to benefit from any knowledge gained from the research should not bear a disproportionate share of the risks and burdens of research participation. Groups that are under-represented in medical research should be provided appropriate access to participate.**

## Commentary on Guideline 3

**General considerations.** The equitable distribution of benefits and burdens in the selection of study populations requires that the benefits of research be distributed fairly and that no group or class of persons bears more than its fair share of the risks or burdens from research participation. When benefits or burdens of research are to be apportioned unequally among individuals or groups, the criteria for unequal distribution should be scientifically and ethically justified rather than arbitrarily or conveniently chosen. Situations where unequal distribution of benefits would be considered are those in which the research particularly affects the population under study. In general, equitable distribution requires that participants be drawn from the qualifying population in the geographic area of the study where the results can be applied (see Guideline 2 – Research conducted in low-resource settings). Inclusion and exclusion criteria should not be based upon potentially discriminatory criteria, such as race, ethnicity, economic status, age or sex, unless there is a sound ethical or scientific reason to do so. For example, in cases where the under-representation of particular groups results in or perpetuates health disparities, equity may require special efforts to include members of those populations in research (see Guideline 17 – Research involving children and adolescents, Guideline 18 – Women as research participants, and Guideline 19 – Pregnant women and breastfeeding women as research participants).

**Fair distribution of research benefits.** Equity in the distribution of the benefits of research requires that research not disproportionately focus on the health needs of a limited class of people, but instead aims to address diverse health needs across different classes or groups. In the past, groups considered vulnerable were excluded from participation in research because it was considered the most expedient way of protecting those groups (for example, children, women of reproductive age, pregnant women). As a consequence of such exclusions, information about the diagnosis, prevention and treatment of diseases that afflict such groups is limited. This has resulted in a serious injustice. Since information about the management of diseases is considered a benefit to society, it is unjust to intentionally deprive specific groups of that benefit. The need to redress these injustices by encouraging the participation of previously excluded groups in basic and applied biomedical research is widely recognized.

**Fair distribution of research burdens.** Research with human participants typically requires that some persons or groups are exposed to risks and burdens in order to generate the knowledge needed to protect and promote people's health (see Guideline 1 – Scientific and social value and respect for rights). Equity in the distribution of burdens of research requires special care to ensure that individuals, communities or populations that are already disadvantaged or marginalized are not over-represented in research. A disproportionate selection of disadvantaged or convenient populations is morally problematic for several reasons. First, it is unjust to selectively invite poor or marginalized individuals or groups to participate in research because this concentrates the risks and burdens of research on people who already experience increased risks and burdens from social and economic disadvantage. Second, these individuals and groups are also the most likely to be excluded from, or to have difficulty accessing, the benefits of research. Third, the broad inclusion of different social groups helps to ensure that research is conducted in a socially and ethically acceptable manner. When research is concentrated in disadvantaged or marginalized groups, it may be easier to expose participants to unreasonable risks or undignified treatment. Furthermore, research results obtained from disadvantaged populations may not be appropriately extrapolated to the general population.

In the past, certain groups have been over-used as research subjects. In some cases, this has been based on the easy availability of the populations. For example, in the United States prisoners were considered ideal persons for Phase I drug studies in the past. Other populations that may be over-represented in research because of their easy availability include students in researchers' classes, residents of long-term care facilities and subordinate members of hierarchical organizations. In other cases, impoverished groups have been over-used because of their willingness to serve as subjects in exchange for relatively small stipends, their desire to access medical care, or because research hospitals are often located in places where members of the lowest socio-economic classes reside.

Not only may certain groups within a society be inappropriately over-used as research participants, but also entire communities or societies may be over-used. Such over-use is especially problematic when the populations or communities concerned bear the burdens of participation in research but are unlikely to enjoy the benefits of new knowledge and products developed as a result of the research.

## GUIDELINE 4:

# POTENTIAL INDIVIDUAL BENEFITS AND RISKS OF RESEARCH

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To justify imposing any research risks on participants in health research, the research must have social and scientific value. Before inviting potential participants to join a study, the researcher, sponsor and the research ethics committee must ensure that risks to participants are minimized and appropriately balanced in relation to the prospect of potential individual benefit and the social and scientific value of the research.

The potential individual benefits and risks of research must be evaluated in a two-step process. First, the potential individual benefits and risks of each individual research intervention or procedure in the study must be evaluated.

- ▶ For research interventions or procedures that have the potential to benefit participants, risks are acceptable if they are minimized and outweighed by the prospect of potential individual benefit and the available evidence suggests that the intervention will be at least as advantageous, in the light of foreseeable risks and benefits, as any established effective alternative. Therefore, as a general rule, participants in the control group of a trial must receive an established effective intervention. The conditions under which a placebo may be used are spelled out in Guideline 5 – Choice of control in clinical trials.
- ▶ For research interventions or procedures that offer no potential individual benefits to participants, the risks must be minimized and appropriate in relation to the social and scientific value of the knowledge to be gained (expected benefits to society from the generalizable knowledge).
- ▶ In general, when it is not possible or feasible to obtain the informed consent of participants, research interventions or procedures that offer no potential individual benefits must pose no more than minimal risk. However, a research ethics committee may permit a minor increase above minimal risk when it is not possible to gather the necessary data in another population or in a less risky or burdensome manner, and the social and scientific value of the research is compelling (see Guideline 16 – Research involving adults incapable of giving informed consent, and Guideline 17 – Research involving children and adolescents).

In a second step, the aggregate risks and potential individual benefits of the entire study must be assessed and must be considered appropriate.

- ▶ The aggregate risks of all research interventions or procedures in a study must be considered appropriate in light of the potential individual benefits to participants and the scientific social value of the research.
- ▶ The researcher, sponsor and research ethics committee must also consider risks to groups and populations, including strategies to minimize these risks.

- ▶ **The potential individual benefits and risks of research studies must be evaluated in consultation with the communities to be involved in the research (see Guideline 7 – Community engagement).**

## Commentary on Guideline 4

**General considerations.** Participants in health research are often exposed to a variety of interventions or procedures, many of which pose some risk. In this Guideline, the term “intervention” refers to the objects of study, such as new or established therapies, diagnostic tests, preventive measures and various techniques (for example, financial incentives) that might be used to modify health-related behaviours. The term “procedure” refers to research activities that provide information about the object of study, for example the safety and efficacy of a new therapy. Procedures include surveys and interviews, clinical exams, monitoring (for example, an electrocardiogram), blood draws, biopsies, imaging, as well as methods used in the conduct of the research, such as randomization.

Many research interventions and procedures pose risks to participants. Risk is generally understood as an estimate of two factors: first, how likely it is that a participant will experience a physical, psychological, social or other harm; and second, the magnitude or significance of the harm. This understanding of risk implies that discomfort, inconvenience or burdens are harms of a very small magnitude that are almost certain to occur. The ethical justification for exposing participants to risks is the social and scientific value of research, namely the prospect of generating the knowledge and means necessary to protect and promote people’s health (see Guideline 1 – Scientific and social value and respect for rights). However, some risks cannot be justified, even when the research has great social and scientific value and adults who are capable of giving informed consent would give their voluntary, informed consent to participate in the study. For example, a study that involves deliberately infecting healthy individuals with anthrax or Ebola - both of which pose a very high mortality risk due to the absence of effective treatments - would not be acceptable even if it could result in developing an effective vaccine against these diseases. Therefore, researchers, sponsors, and research ethics committees must ensure that the risks are reasonable in light of the social and scientific value of the research, and that the study does not exceed an upper limit of risks to study participants.

What constitutes an appropriate risk-benefit ratio cannot be expressed in a mathematical formula or algorithm. Rather, it is a judgment that results from a careful assessment and reasonable balancing of a study’s risks and potential individual benefits. The steps outlined in this Guideline are intended to ensure protection of the rights and welfare of study participants.

It is important to evaluate the potential individual benefits and risks of proposed research in consultation with the communities to be involved in the research (see Guideline 7 – Community engagement). This is because a community’s values and preferences are relevant in determining what constitute benefits and acceptable risks. Evaluating risks and potential individual benefits also requires a good understanding of the context in which a study is to be conducted. This is best obtained in consultation with communities. Moreover, the risk-benefit ratio of a study can change as it progresses. Researchers, sponsors and research ethics committee should therefore re-evaluate the risks and potential individual benefits of studies on a regular basis.

**Evaluation of individual research interventions and procedures.** To evaluate the risks and potential individual benefits of a research study, researchers, sponsors, and research ethics committees must first assess the risks and potential individual benefits of each individual research intervention and procedure, and then judge the aggregate risks and potential individual benefits of the study as a whole. Taking these successive steps is important because overall judgments of the risk-benefit profile of a study as a whole are more likely to be inaccurate because they may miss

concerns raised by individual interventions. For example, a study may involve research procedures that do not pose significant risks, yet the procedures fail to yield important information. Global risk-benefit judgments would likely miss this concern. In contrast, scrutiny of each individual research intervention and procedure in the study would result in removing duplicative procedures and thereby minimize risks to participants.

**Potential individual benefits.** Research has a range of potential individual benefits. It generates the knowledge necessary to protect and promote the health of future patients (the social and scientific value of research; see Guideline 1 – Scientific and social value and respect for rights). A study intervention offers a prospect of clinical benefit when previous studies provide credible evidence that the intervention's potential clinical benefits will outweigh its risks. For example, many investigational drugs in Phase III trials offer a prospect of potential individual benefit. Researchers, sponsors and research ethics committees must maximize the potential individual benefits of studies for both future patients and study participants. For instance, the social and scientific value of studies can be maximized by making data or specimens available for future research (see Guideline 24 – Public accountability for health-related research). Potential clinical benefits to participants can be maximized by targeting populations who stand to benefit most from the intervention under study. Measures to maximize potential individual benefits need to be carefully balanced with competing considerations. For example, sharing data or specimens for future research can pose risks to participants, especially when adequate safeguards to protect confidentiality are not in place.

**Risks to research participants.** To evaluate the acceptability of risks in a given study, researchers, sponsors and research ethics committees must begin by ensuring that the study poses a socially valuable research question and employs sound scientific methods for addressing this question. They must then determine for each intervention and procedure in the study that the associated risks to participants are minimized and that mitigation procedures are in place. This can involve ensuring that plans and procedures exist to adequately manage and reduce risks, for example by:

- ▶ monitoring the study and providing mechanisms for responding to adverse events;
- ▶ establishing a Data Safety and Monitoring Committee (DSMC) to review and decide on data on harms and benefits as a study progresses;
- ▶ instituting clear criteria for stopping a study;
- ▶ installing safeguards to protect the confidentiality of sensitive personal data;
- ▶ seeking exemptions, where possible, from requirements to report information about illegal activities of study participants (such as sex work in countries where prostitution is forbidden by law);
- ▶ avoiding unnecessary procedures (for example, by performing laboratory tests on existing blood samples instead of drawing new blood, where scientifically appropriate); and
- ▶ excluding participants who are at a significantly increased risk of being harmed from an intervention or procedure.

Measures to minimize risks need to be carefully balanced with competing considerations regarding the scientific and value of research and fair subject selection. For example, decisions to stop a trial due to early, significant findings have to be balanced with the need to collect robust data on investigational interventions that are adequate to guide clinical practice.

Researchers, sponsors and research ethics committees must then ensure that the risks of each intervention and procedure, once minimized, are appropriately balanced in relation to the intervention's prospect of benefit for the individual participant and the social and scientific value of the research. For interventions that have a prospect of potential individual benefit, risks are acceptable if they are outweighed by the potential individual benefits for the individual participant *and* the intervention's risk-benefit profile is at least as advantageous as any established effective alternative. Participants in the

control group of a clinical trial must be provided with an established effective intervention; exceptions to this general rule are set out and discussed in Guideline 5 – Choice of control in clinical trials.

Judgments about the risk-benefit profile of study interventions, and how they compare with the risk-benefit profile of any established alternatives, must be based on the available evidence. Therefore, researchers and sponsors have an obligation to provide, in the research protocol and other documents submitted to the research ethics committee, a comprehensive and balanced overview of the available evidence that is relevant for evaluating the risks and potential individual benefits of the research. In research protocols for clinical trials, researchers and sponsors must clearly describe results from preclinical studies and, where applicable, early phase or exploratory trials of the study intervention involving humans. They must also note in the documents sent to the committee any limitations of the available data as well as any disagreement about the foreseeable risks and potential individual benefits, including potential conflicts of interests that might influence conflicting opinions. Researchers should provide a credible interpretation of the available evidence to support their judgment that an investigational agent has a favourable risk-benefit ratio, and that its risk-benefit profile is at least as advantageous as the risk-benefit profile of any established alternatives. It is important to note, however, that the risks and potential individual benefits of study interventions can be difficult to predict before larger clinical trials have been conducted. This means that sponsors, researchers and research ethics committees may need to judge the risk-benefit profile of such interventions under conditions of considerable uncertainty.

Finally, researchers, sponsors and research ethics committees must ensure that the aggregate risks of all research interventions or procedures in a study are acceptable. For example, a study may involve numerous interventions or procedures that each pose limited risks, but these risks may add up to an overall significant level of risk that is unacceptable in relation to the social and scientific value of the study. To guard against this possibility, researchers, sponsors and research ethics committees must complete risk-benefit evaluations with an overall judgment about the risks and potential individual benefits of the given study.

**The minimal-risk standard.** The minimal-risk standard is often defined by comparing the probability and magnitude of anticipated harms with the probability and magnitude of harms ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests. The purpose of these comparisons is to determine the level of acceptable research risk by analogy with the risks of activities in other areas of life: when the risks of an activity are considered acceptable for the population in question, and the activity is relatively similar to participating in research, then the same level of risk should be considered acceptable in the research context. These comparisons typically imply that research risks are minimal when the risk of serious harm is very unlikely and the potential harms associated with more common adverse events are small.

One difficulty with these risk comparisons, however, is that different populations can experience dramatic differences in the risks of daily life or in routine clinical examinations and testing. Such differences in background risk can stem from inequalities in health, wealth, social status, or social determinants of health. Therefore, research ethics committees must be careful not to make such comparisons in ways that permit participants or groups of participants from being exposed to greater risks in research merely because they are poor, members of disadvantaged groups or because their environment exposes them to greater risks in their daily lives (for example, poor road safety). Research ethics committees must be similarly vigilant about not permitting greater research risks in populations of patients who routinely undergo risky treatments or diagnostic procedures (for example, cancer patients). Rather, risks in research must be compared to risks that an average, normal, healthy individual experiences in daily life or during routine examinations. Furthermore, risk comparisons must not be made to activities that pose unacceptable risks themselves, or in which people choose to participate because of the associated benefits (some sporting activities, for example, are thrilling precisely because they involve an elevated risk of harm).

When the risks of a research procedure are judged to be minimal, there is no requirement for special protective measures apart from those generally required for all research involving members of the particular class of persons.

**Minor increase above minimal risk.** While there is no precise definition of a “minor increase” above minimal risk, the increment in risk must only be a fraction above the minimal risk threshold and considered acceptable by a reasonable person. It is imperative that judgments about a minor increase above minimal risk pay careful attention to context. Thus, research ethics committees need to determine the meaning of a minor increase above minimal risk in light of the particular aspects of the study they are reviewing.

**Risks to groups.** In order to achieve the social and scientific value of research, results must be made public (see Guideline 24 – Public accountability for health-related research). However, research results in certain fields (for example, epidemiology, genetics, and sociology) may present risks to the interests of communities, societies, families, or racially or ethnically defined groups. For example, results could indicate – rightly or wrongly – that a group has a higher than average prevalence of alcoholism, mental illness or sexually transmitted disease, or that it is particularly susceptible to certain genetic disorders. Research results could therefore stigmatize a group or expose its members to discrimination. Plans to conduct such research should be sensitive to these considerations and minimize risks to groups, notably by maintaining confidentiality during and after the study and publishing the resulting data in a manner that is respectful of the interests of all concerned.

Similarly, conducting research may disrupt or interfere with providing health care to the local community and thereby pose risks to the community. Research ethics committees must ensure, as part of evaluating the risks and potential individual benefits of research studies, that the interests of all who may be affected are given due consideration. For example, researchers and sponsors could contribute to the local health infrastructure in a way that compensates for any disruption caused by the research.

In assessing the risks and potential individual benefits that a study presents to a population, research ethics committees should consider the potential harm that could result from forgoing the research or from failing to publish the results.

**Risks to researchers.** In addition to participants, investigators themselves can be exposed to risks that result from research activities. For example, research involving radiation can expose researchers to risks and studies on infectious disease can pose risks to laboratory staff who are handling samples. Sponsors should carefully assess and minimize risks to researchers; specify and explain the risks of undertaking the research to investigators and other research staff; and provide adequate compensation in case any members of the research team incur harm as a result of the research.

## GUIDELINE 5:

# CHOICE OF CONTROL IN CLINICAL TRIALS

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**As a general rule, the research ethics committee must ensure that research participants in the control group of a trial of a diagnostic, therapeutic, or preventive intervention receive an established effective intervention.**

**Placebo may be used as a comparator when there is no established effective intervention for the condition under study, or when placebo is added on to an established effective intervention.**

**When there is an established effective intervention, placebo may be used as a comparator without providing the established effective intervention to participants only if:**

- ▶ **there are compelling scientific reasons for using placebo; and**
- ▶ **delaying or withholding the established effective intervention will result in no more than a minor increase above minimal risk to the participant and risks are minimized, including through the use of effective mitigation procedures.**

**Risks and benefits of other study interventions and procedures should be evaluated according to the criteria set out in Guideline 4 – Potential individual benefits and risks of research.**

## Commentary on Guideline 5

**General considerations for controlled clinical trials.** The conduct of controlled clinical trials is methodologically essential in order to test the relative merits of investigational interventions. To obtain valid results in a controlled trial, researchers must compare the effects of an experimental intervention on participants assigned to the investigational arm (or arms) of a trial with the effects that a control intervention produces in persons drawn from the same population. Randomization is the preferred method for assigning participants to the arms of controlled trials. Assignment to treatment arms by randomization tends to produce study groups comparable with respect to factors that might influence study outcomes, removes researcher bias in the allocation of participants, and helps to ensure that the study results reflect the effects of administered interventions and not the influence of extraneous factors.

The use of placebo controls in clinical trials creates the potential for conflict between the demands of sound science and the obligation to safeguard the health and welfare of study participants. In general, studies must be designed to generate accurate scientific information without delaying or withholding established effective interventions from participants. Researchers and sponsors may deviate from this rule when withholding such interventions is methodologically necessary and exposes participants to no more than a minor increase above minimal risk.

Although conventional randomized controlled clinical trials are often considered the gold standard, other study designs such as response-adaptive trial designs, observational studies, or historical comparisons can also yield valid research results. Researchers and sponsors must carefully consider whether the research question can be answered with an alternative design, and whether the risk-benefit profile of alternative designs is more favourable when compared to a conventional randomized controlled trial.

**Established effective intervention.** An established effective intervention for the condition under study exists when it is part of the medical professional standard. The professional standard includes, but is not limited to, the best proven intervention for treating, diagnosing or preventing the given condition. In addition, the professional standard includes interventions that may not be the very best when compared to available alternatives, but are nonetheless professionally recognized as a reasonable option (for example, as evidenced in treatment guidelines).

Yet established effective interventions may need further testing, especially when their merits are subject to reasonable disagreement among medical professionals and other knowledgeable persons. Clinical trials may be warranted in this case, in particular if the efficacy of an intervention or procedure has not been determined in rigorous clinical trials. Trials may also be useful when the risk-benefit profile of a treatment is not clearly favourable, such that patients might reasonably forgo the usual intervention for the condition (for example, antibiotic treatment for otitis media in children, or arthroscopic knee surgery). When there are several treatment options but it remains unknown which treatment works best for whom, comparative effectiveness research may help to further determine the effectiveness of an intervention or procedure for specific groups. This may include testing an established effective intervention against a placebo, provided the conditions of this Guideline are met.

Some people contend that it is never acceptable for researchers to withhold or withdraw established effective interventions. Others argue that it may be acceptable, provided that the risks of withholding an established intervention are acceptable, and withholding the established effective intervention is necessary to ensure that the results are interpretable and valid. In such cases, an intervention known to be inferior, a placebo (see below) or no intervention may be substituted for the established intervention. This Guideline takes a middle stance on this issue. The preferred option is to test potential new interventions against an established effective intervention. When researchers propose to deviate from this option, they must provide a compelling methodological justification and evidence that the risks from withholding or delaying the established intervention are no greater than a minor increase above minimal risk.

These principles on the use of placebo also apply to the use of control groups who receive no treatment or who receive a treatment that is known to be inferior to an established treatment. Sponsors, researchers, and research ethics committees should evaluate the risks of providing no treatment (and no placebo) or an inferior treatment, compared to the risks and potential individual benefits of providing an established treatment, and apply the criteria for placebo use in this Guideline. In sum, when an established effective intervention exists, it may be withheld or substituted with an inferior intervention only if there are compelling scientific reasons for doing so; the risks of withholding the established intervention or substituting it with an inferior one will result in no more than a minor increase above minimal risk to participants; and the risks to participants are minimized.

**Placebo.** An inert substance or sham procedure is provided to research participants with the aim of making it impossible for them, and usually the researchers themselves, to know who is receiving an active or inactive intervention. Placebo interventions are methodological tools used with the goal of isolating the clinical effects of the investigational drug or intervention. This enables researchers to treat participants in the study arm and the control arm in exactly the same way, except that the

study group receives an active substance and the control group does not. The risks of the placebo intervention itself are typically very low or non-existent (for example, ingestion of an inert substance).

In some fields, such as surgery and anaesthesia, testing the effectiveness of interventions may require the use of sham interventions. For example, the participants in the active arm of a surgery trial may receive arthroscopic surgery on their knees, while participants in the control group may receive only a minor skin incision. In other cases, both groups may receive an invasive procedure, such as inserting a catheter into a person's artery. The catheter is threaded into the heart of participants in the active arm, but stopped short of the heart in participants in the control arm. The risks of sham procedures can be considerable (for example, surgical incision under general anaesthesia) and must be carefully considered by a research ethics committee.

**Placebo controls.** The use of placebo is usually uncontroversial in the absence of an established effective intervention. As a general rule, when an established effective intervention exists for the condition under investigation, study participants must receive that intervention within the trial. This does not preclude comparing the effects of potential new interventions against a placebo control in cases where all participants receive the established effective intervention and are then randomized to the investigational intervention or placebo. Such add-on designs are common in oncology where all participants receive an established effective treatment, and are then randomized to placebo or the investigational intervention.

Alternatively, when there is credible uncertainty about the superiority of an established effective intervention over an investigational agent (“this is known as clinical equipoise”), it is permissible to compare its effects directly against an established effective intervention. In these cases, the study design safeguards the welfare of participants by ensuring that they are not deprived of care or prevention that is believed to be an effective response to their health needs.

Finally, the use of placebo is usually uncontroversial when an established effective intervention is not known to be safe and effective in a particular local context. For example, viruses often have different strains whose occurrence varies geographically. An established vaccine may have been shown to be safe and effective against a particular strain, but there may be credible uncertainty about its effects against a different strain in a different geographical context. In this situation, it can be acceptable to use a placebo control because it is uncertain whether the established vaccine is effective in the local context.

**Compelling scientific reasons.** Compelling scientific reasons for placebo controls exist when a trial cannot distinguish effective from ineffective interventions without a placebo control (sometimes referred to as “assay sensitivity”). Examples of “compelling scientific reasons” include the following: the clinical response to the established effective intervention is highly variable; the symptoms of the condition fluctuate and there is a high rate of spontaneous remission; or the condition under study is known to have a high response to placebos. In these situations, it can be difficult to determine without a placebo control whether the experimental intervention is effective, as the condition may be improving on its own (spontaneous remission) or the observed clinical response may be due to a placebo effect.

In some cases an established effective intervention is available but the existing data may have been obtained under conditions that are substantially different from local health care practices (for example, a different route of administration for drugs). In this situation, a placebo-controlled trial can be the best way of evaluating the intervention as long as this trial is responsive to local health needs, as set out in Guideline 2 – Research conducted in low-resource settings, and all other requirements in these Guidelines are met.

When a researcher invokes compelling scientific reasons to justify the use of placebo, the research ethics committee should seek expert advice, if such expertise is not already present among members of the committee, as to whether use of an established effective intervention in the control arm would invalidate the results of the research.

**Minimizing risks to participants.** Even when placebo is justified by one of the conditions in this Guideline, the possibly harmful effects of receiving this comparator must be minimized consistent with the general requirements to minimize the risks of research interventions (Guideline 4 – Potential individual benefits and risks of research). The following conditions apply to placebo-controlled trials.

First, researchers must decrease the period of placebo use to the shortest possible time consistent with achieving the scientific aims of the study. Risks in the placebo arm may be further reduced by permitting a change to active treatment (“escape treatment”). The protocol should establish a threshold beyond which the participant should be offered the active treatment.

Second, as discussed in Guideline 4 – Commentary, the researcher must minimize harmful effects of placebo-controlled studies by providing safety monitoring of research data during the trial.

**Minimal risks of receiving placebo.** Risks of receiving placebo count as minimal when the risk of serious harm is very unlikely and the potential harms associated with more common adverse events are small, as described in Guideline 4 – Potential individual benefits and risks of research. For example, when the investigational intervention is aimed at a relatively trivial condition, such as the common cold in an otherwise healthy person, or hair loss, and using a placebo for the duration of a trial would deprive control groups of only minor benefits, the risks of using a placebo-control design are minimal. The risks of receiving placebo in the presence of an established effective intervention must be compared with the risks that an average, normal, healthy individual experiences in daily life or during routine examinations.

**Minor increase above minimal risk.** Consistent with Guideline 4 – Potential individual benefits and risks of research, the minor increase above minimal risk standard also applies to placebo-controlled trials.

**Placebo control in a low-resource setting when an established effective intervention cannot be made available for economic or logistic reasons.** In some cases, an established effective intervention for the condition under study exists, but for economic or logistic reasons this intervention may not be possible to implement or made available in the country where the study is conducted. In this situation, a trial may seek to develop an intervention that could be made available, given the finances and infrastructure of the country (for example, a shorter or less complex course of treatment for a disease). This can involve testing an intervention that is expected or even known to be inferior to the established effective intervention, but may nonetheless be the only feasible or cost-effective and beneficial option in the circumstances. Considerable controversy exists in this situation regarding which trial design is both ethically acceptable and necessary to address the research question. Some argue that such studies should be conducted with a non-inferiority design that compares the study intervention with an established effective method. Others argue that a superiority design using a placebo can be acceptable.

The use of placebo controls in these situations is ethically controversial for several reasons:

1. Researchers and sponsors knowingly withhold an established effective intervention from participants in the control arm. However, when researchers and sponsors are in a position to provide an intervention that would prevent or treat a serious disease, it is difficult to see why they are under no obligation to provide it. They could design the trial as an equivalency trial to determine whether the experimental intervention is as good or almost as good as the established effective intervention.

2. Some argue that it is not necessary to conduct clinical trials in populations in low-resource settings in order to develop affordable interventions that are substandard compared to the available interventions in other countries. Instead, they argue that drug prices for established treatments should be negotiated and increased funding from international agencies should be sought.

When controversial, placebo-controlled trials are planned, research ethics committees in the host country must:

1. seek expert opinion, if not available within the committee, as to whether use of placebo may lead to results that are responsive to the needs or priorities of the host country (see Guideline 2 – Research conducted in low-resource settings); and
2. ascertain whether arrangements have been made for the transition to care after research for study participants (see Guideline 6 – Caring for participants' health needs), including post-trial arrangements for implementing any positive trial results, taking into consideration the regulatory and health care policy framework in the country.

**Comparative effectiveness and standard of care trials.** For many conditions and diseases, one or more established effective treatments exist. Physicians and hospitals may then use different treatments for the same condition. Yet often the relative merits of these treatments are unknown. Comparative effectiveness research, as well as systematic reviews, have received growing attention over the past few years. In comparative effectiveness research, two or more interventions regarded as standards of care are directly compared. Comparative effectiveness research may help to determine which standard of care has better outcomes or more acceptable risks. Research ethics committees should carefully distinguish between marketing studies that aim to position a product (sometimes called seeding trials) and comparative effectiveness studies in which scientific and public health perspectives are the primary objectives. Research ethics committees should not approve the first type of studies.

Although comparative effectiveness research does not typically delay or withhold an established effective intervention from participants, the risks associated with the different arms may vary substantially, for example when surgical and medical treatment options are being compared. The risks of standard of care procedures do not necessarily qualify as minimal simply because a treatment has become standard practice. The risks to participants must be minimized and appropriately balanced in relation to the prospect of potential individual benefit or the social value of the research (see Guideline 4 – Potential individual benefits and risks of research).

## GUIDELINE 6:

# CARING FOR PARTICIPANTS' HEALTH NEEDS

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Especially in the context of clinical trials, researchers and sponsors must make adequate provisions for addressing participants' health needs during research and, if necessary, for the transition of participants to care when the research is concluded. The obligation to care for participants' health needs is influenced, among other things, by the extent to which participants need assistance and established effective care is available locally.

When participants' health needs during and after research cannot be met by the local health infrastructure or the participant's pre-existing health insurance, the researcher and sponsor must make prior arrangements for adequate care for participants with local health authorities, members of the communities from which persons are drawn, or nongovernmental organizations such as health advocacy groups.

Addressing participants' health needs requires at least that researchers and sponsors make plans for:

- ▶ how care will be adequately provided for the condition under study;
- ▶ how care will be provided during the research when researchers discover conditions other than those under study ("ancillary care");
- ▶ transitioning participants who continue to need care or preventive measures after the research to appropriate health services;
- ▶ providing continued access to study interventions that have demonstrated significant benefit; and
- ▶ consulting with other relevant stakeholders, if any, to determine everyone's responsibilities and the conditions under which participants will receive continued access to a study intervention, such as an investigational drug, that has demonstrated significant benefit in the study.

When access is provided after the research to investigational interventions that have demonstrated significant benefit, the provision may end as soon as the study intervention is made available through the local public health-care system or after a predetermined period of time that the sponsors, researchers and community members have agreed before the start of a trial.

Information on care for participants' health needs during and after the research must be included in the informed consent process.

## Commentary on Guideline 6

**General considerations.** It is generally inappropriate to require researchers or sponsors to take on the role of a country's health systems. Nevertheless, research with humans often involves interactions that enable researchers to detect or diagnose health problems during recruitment and the conduct of research. Similarly, clinical research often involves care and preventive measures in addition to the experimental interventions. In some cases, participants may continue to need the care or prevention provided during the research after their participation in the study has ended. This may include access to an investigational intervention that has demonstrated significant benefit. In all these situations, researchers and sponsors must show care and concern for the health and welfare of study participants. This is justified by the principle of beneficence, which requires researchers and sponsors to safeguard the health of participants when it is in their power to do so. It is also supported by the principle of reciprocity; participants assist researchers in generating valuable data and, in return, researchers should ensure that participants receive needed care or preventive measures to safeguard their health. Importantly, the obligation to care for participants' health needs is not limited to research in countries with limited resources (see Guideline 2 – Research conducted in low-resource settings) but is a universal ethical requirement in research. Furthermore, even though the provision of care during and after the trial may be an incentive for people in low-resource settings to enrol, it should not be considered an undue influence.

**Ancillary care.** Sponsors are, in general, not obliged to finance interventions or to provide health-care services beyond that which is necessary for the safe and ethical conduct of research. Nevertheless, when prospective participants cannot be enrolled in a study because they do not meet the inclusion criteria, or enrolled participants are found to have diseases unrelated to the research, researchers should advise them to obtain or refer them for medical care. In some circumstances, it may be relatively easy for researchers to treat the condition or refer participants to a centre where treatment can be provided. In other cases, researchers may not have the expertise to treat the condition effectively, and appropriate treatment may not be available locally as part of the public health system. How to provide ancillary care in this situation is a complex issue and decisions will need to be made on a case-by-case basis following discussion with research ethics committees, clinicians, researchers and representatives of government and health authorities in the host country. Accordingly, before research begins agreement must be reached on how to provide care to participants who already have, or who develop, diseases or conditions other than those being studied (for example, whether care will be provided for health conditions that are readily treated in the local health-care system).

**Transition to care or preventive measures after research.** Because gaps in care and prevention can have significant impact on the welfare of participants, researchers and sponsors must make arrangements to transition participants to health care after the research has ended. At a minimum, researchers must link participants in need of continued medical attention to an appropriate health service at the end of their participation in the study and communicate relevant information to the health service. The researchers themselves might continue to provide follow-up for a certain period of time, possibly for research purposes, and then transfer care to an appropriate provider. The obligation to provide transition to care following the research applies to both participants in the control arm and the intervention arm.

**Continued access to beneficial interventions.** As part of their obligation to transition to care after research, researchers and sponsors may have to provide continued access to interventions that have demonstrated significant benefit in the study or to established effective interventions that were provided as part of the standard of care or prevention to all participants during the research. Access should also be provided, when pertinent, in the interval between the end of the individual's participation and the end of the study. In this situation, access could be arranged by an extension study or by compassionate use. This obligation depends on several factors. For example, if discontinuing an intervention will deprive participants of basic capabilities, such as the ability to

communicate or function independently, or significantly reduce a quality of life they had attained during the study, then the obligation will be greater than if the intervention provides relief for a minor or transient condition. Similarly, the obligation will be greater when participants are not able to access the needed care or prevention within the local health system than in cases where this is readily available. The obligation may also be greater when there are no available alternatives with clinical effectiveness similar to the intervention that has demonstrated significant benefit than in cases where such alternatives exist. However, the obligation may not be able to be completely met if the total number of qualifying individuals is very large. Continued access to interventions that have demonstrated significant benefit but await regulatory approval should be consistent with the relevant regulatory requirements for pre-licensure access and should not delay the process of obtaining regulatory approval.

Providing continued access to a beneficial study intervention can create several dilemmas:

- ▶ In the case of blinded controlled trials, it may take time to unblind the results and find out who has received which intervention. Researchers and sponsors should make provisions for this transition period and inform participants if they will be temporarily receiving the current standard of care before the study intervention can be administered.
- ▶ A research ethics committee may discuss whether researchers and sponsors are under an obligation to provide participants with continued access to the experimental intervention in a non-inferiority trial. When the tested intervention is not inferior to the standard of care, there is no obligation to provide participants with the tested intervention.

As stated in this Guideline, sponsors and researchers may no longer have an obligation to provide continued access to a study intervention that has demonstrated significant benefit when the intervention becomes available in the public health system. Moreover, sponsors, researchers and community members may agree before a trial starts that any intervention that has demonstrated significant benefit will be provided only for a predetermined period of time.

**Consultation with relevant stakeholders.** The obligation to care for participants' health needs rests with the researcher and the sponsor. However, the delivery of care may involve other parties, for example, local health authorities, insurance companies, members of the communities from which participants are drawn, or nongovernmental organizations such as health advocacy groups. Researchers and sponsors must describe their provisions for continued care in the study protocol and show that any other parties involved in continued care have agreed to the plan. Research ethics committees must determine whether the arrangements for continued care are adequate.

Decisions on how to fulfil the obligation to provide transition to care are best made for each study through a transparent and participatory process that involves all relevant stakeholders before the study begins (see Guideline 7 – Community engagement). This process must explore options and determine the core obligations in the particular situation with regard to the level, scope, and duration of any post-trial care and treatment package; equitable access to services; and the responsibility for provision of services. Agreements on who will finance, deliver, and monitor care and treatment must be documented.

**Information to participants.** Participants must be informed before the trial how the transition to care after research is arranged and to what extent they will be able to receive beneficial study interventions post-trial. Participants who receive continued access before regulatory approval must be informed about the risks of receiving unregistered interventions. When participants are informed about the extent of ancillary care, if any, to be provided, this information should be clearly separated from information about the study interventions and research procedures.

**Access to study interventions for communities.** Obligations to provide beneficial post-trial interventions to communities are discussed in Guideline 2 – Research conducted in low-resource settings.

## GUIDELINE 7:

# COMMUNITY ENGAGEMENT

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**Researchers, sponsors, health authorities and relevant institutions should engage potential participants and communities in a meaningful participatory process that involves them in an early and sustained manner in the design, development, implementation, design of the informed consent process and monitoring of research, and in the dissemination of its results.**

### Commentary on Guideline 7

**General considerations.** Proactive and sustained engagement with the communities from which participants will be invited to participate is a way of showing respect for them and the traditions and norms that they share. Community engagement is also valuable for the contribution it can make to the successful conduct of research. In particular, community engagement is a means of ensuring the relevance of proposed research to the affected community, as well as its acceptance by the community. In addition, active community involvement helps to ensure the ethical and social value and outcome of proposed research. Community engagement is especially important when the research involves minorities or marginalized groups, including persons with stigmatizing diseases such as HIV, in order to address any potential discrimination.

A community consists not only of people living in the geographic area where research is to be carried out; it also comprises different sectors of society that have a stake in the proposed research, as well as sub-populations from which research participants will be recruited. Stakeholders are individuals, groups, organizations, government bodies, or any others who can influence or are affected by the conduct or outcome of the research project. The process must be fully collaborative and transparent, involving a wide variety of participants, including patients and consumer organizations, community leaders and representatives, relevant NGOs and advocacy groups, regulatory authorities, government agencies and community advisory boards. Also, it is important to ensure diversity of views within the consultation process. For instance, when community leaders are men only, researchers should actively include the views of women, as well. There may also be value in consulting individuals who have previously participated in comparable studies.

The research protocol or other documents submitted to the research ethics committee should include a description of the plan for community engagement, and identify resources allocated for the proposed activities. This documentation must specify what has been and will be done, when and by whom, to ensure that the community is clearly defined and can be proactively engaged throughout the research to ensure that it is relevant to the community and is accepted. The community should participate, when feasible, in the actual discussion and preparation of the research protocol and documents.

Researchers, sponsors, health authorities and relevant institutions should take care that community engagement does not lead to pressure or undue influence on individual community members to participate (see commentary on Guideline 9 – Individuals capable of giving informed consent, section

on *Dependent relationship*). In order to avoid such pressure, individual informed consent must always be sought by the researcher.

Researchers and research ethics committees should be cognizant of the point at which the process of community engagement becomes a stage of formative research that itself requires ethics review. Examples of community engagement processes that may require ethics review include systematic data collection that can be generalized and disseminated in forums outside of the community in which they were implemented, as well as any data generation that could create social risks for participants.

**Engagement at the earliest opportunity.** Before a study is initiated, the community from which participants will be recruited should, when feasible, be consulted about their research priorities, preferred trial designs, willingness to be involved in the preparation and conduct of the study. Engaging the community at the earliest stage promotes smooth study functioning and contributes to the community's capacity to understand the research process. Community members should be encouraged to raise any concerns they may have at the outset and as the research proceeds. Failure to engage the community can compromise the social value of the research, as well as threaten the recruitment and retention of participants.

Community engagement should be an ongoing process, with an established forum for communication between researchers and community members. This forum can facilitate the creation of educational materials, planning the necessary logistical arrangements for the conduct of the research, and providing information about the health beliefs, cultural norms, and practices of the community. Active engagement with community members is a mutually educative process, which both enables researchers to learn about communities' cultures and understanding of research-related concepts, and contributes to research literacy by educating the community about key concepts critical for understanding the purpose and procedures of the research. Good-quality community engagement helps to ensure that existing community dynamics and power inequities are not allowed to derail the process of ensuring the comprehensive engagement of all relevant community stakeholders. Care should be taken to solicit the views of all sectors of the community proactively and sensitively. Community members should be invited to assist in the development of the informed consent process and documents to ensure that they are understandable and appropriate for potential participants.

**Confidence and trust.** Engaging the community strengthens local ownership of the research and builds confidence in the ability of leaders to negotiate various aspects of the research, such as recruitment strategies, care for the health needs of study participants, site selection, data collection and sharing, ancillary care and post-trial availability of any developed interventions for populations and communities (see Guideline 2 – Research conducted in low-resource settings, and Guideline 6 – Caring for participants' health needs). An open and active process of community engagement is critical for building and maintaining trust among researchers, participants, and other members of the local community. An illustration of successful involvement of the community was a study in the Eliminate Dengue Program in Queensland, Australia. Previous introductions of genetically-modified strategies for dengue vector control had generated international controversy by inadequately engaging host communities. This successful episode used well-established techniques in social science to understand the community's concerns and gain their support for conducting the trial.

**Roles and responsibilities.** Any disagreements that may arise regarding the design or conduct of the research must be subject to negotiation between community leaders and the researchers. The process must ensure that all voices are heard, and that pressure is not exerted by community members or groups with greater power or authority. In cases of irreconcilable differences between the community and researchers, it is important to specify in advance who will have the final say. The community must not be permitted to insist on including or omitting certain procedures that could threaten the scientific validity of the research. At the same time, the research team must be sensitive to cultural norms of communities in order to support collaborative partnerships, preserve

trust, and ensure relevance. The value of beginning community involvement at the earliest opportunity is that any such disagreements can be aired, and if unable to be resolved, the research may have to be forgone (see Guideline 8 – Collaborative partnership and capacity-building for research and research review). If a research ethics committee is confronted with a severe split in the community about the design or conduct of a proposed study, the committee should urge the researchers to conduct the study in another community.

**Engagement by communities or groups.** In some cases, communities or groups themselves initiate or conduct research projects. For example, patients with rare diseases may connect on online platforms and decide to collectively alter their treatment regimen while documenting the resulting clinical effects. Researchers should engage with these initiatives, which can offer valuable insights into their own work.

## GUIDELINE 8:

# COLLABORATIVE PARTNERSHIP AND CAPACITY-BUILDING FOR RESEARCH AND RESEARCH REVIEW

It is the responsibility of governmental authorities in charge of health-related research involving human participants to ensure that such research is reviewed ethically and scientifically by competent and independent research ethics committees and is conducted by competent research teams. Independent scientific and ethical review is critical to engender community trust for research (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols). Health-related research often requires international collaboration and some communities lack the capacity to assess or ensure the scientific quality or ethical acceptability of health-related research proposed or carried out in their jurisdictions. Researchers and sponsors who plan to conduct research in these communities should contribute to capacity-building for research and review.

Capacity-building may include, but is not limited to, the following activities:

- ▶ research infrastructure building and strengthening research capacity;
- ▶ strengthening research ethics review and oversight capacity in host communities (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols);
- ▶ developing technologies appropriate to health care and health-related research;
- ▶ educating research and health-care personnel and making arrangements to avoid undue displacement of health care personnel;
- ▶ engaging with the community from which research participants will be drawn (see Guideline 7 – Community engagement);
- ▶ arranging for joint publication consistent with recognized authorship requirements and data sharing (see Guideline 24 – Public accountability for health-related research); and
- ▶ preparing a benefit-sharing agreement to distribute eventual economic gains from the research.

## Commentary on Guideline 8

**General considerations.** Governmental authorities in charge of health-related research involving human participants have to ensure that such research is reviewed ethically and scientifically by competent and independent research ethics committees and is conducted by competent research teams (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols). Where research capacity is lacking or underdeveloped, sponsors and researchers have an ethical obligation to contribute to a host country's sustainable capacity for

health-related research and ethical review. Before undertaking research in a community with little or no such capacities, sponsors and researchers should have a plan that describes how the research can contribute to local capacity. The kind and amount of capacity-building reasonably required should be proportional to the magnitude of the research project. A brief epidemiological study involving only review of medical records, for example, would require relatively little, if any, such development, whereas a considerable contribution is to be expected of a sponsor of a large-scale vaccine trial intended to last several years. The conduct of research must not destabilize health care systems, and ideally should contribute to them.

**Collaborative partnership.** The development and testing of biomedical interventions frequently require international cooperative research. Real or perceived disparities in power or expertise should be resolved in a way that ensures equity in decision-making and action. The desired relationship is one of equal partners whose common aim is to develop a long-term collaboration through South-South and North-South cooperation that sustains site research capacity. To safeguard against power differences, innovative forms of collaboration should be considered. For example, the following three steps may promote inclusion, mutual learning and social justice. At the start of a collaboration and before even beginning a specific research project: i) determine the local research agenda; ii) determine capacity needs or priorities assessment amongst partners of international health research; and iii) create a Memorandum of Understanding (MoU).

Collaborative partnership also helps to ensure the social value of research by engaging the communities, thereby focusing on research the community considers valuable (see Guideline 1 – Scientific and social value and respect for rights, and Guideline 7 – Community engagement).

**Strengthening research capacity.** The specific capacity-building objectives should be determined and achieved through dialogue and negotiation among the sponsor, researchers and other relevant stakeholders, such as community boards and host-country authorities. These stakeholders should agree on joint efforts to strengthen research capacity as a component of the country's health system, and optimize its sustainability for further generation of new knowledge. Local principal investigators should be involved in the research project.

**Capacity-building and conflicts of interest.** Capacity-building may give rise to conflicts of interests. The following interests may conflict: the desire of the sponsor to conduct the research; the wishes of potential participants regarding their enrolment; the desire of investigators to access the latest medications for their patients and contribute to knowledge; and the commitment of local community leaders to compensate for inadequate research funding by bringing in sponsored research to build their infrastructure. Research ethics committees should evaluate whether capacity-building efforts may involve such conflicts of interests and seek ways to mitigate them (see Guideline 25 – Conflicts of interest).

**Strengthening ethical review.** Researchers and sponsors who plan to perform research in settings where research ethics committees are absent or lack adequate training should help to establish such committees, to the extent reasonably possible, before the research is initiated and make provisions for their education in research ethics. To avoid conflicts of interest and safeguard the independence of review committees, financial assistance from researchers and sponsors must not be provided directly and must never be tied to the committee's decision about specific protocols (see Guideline 25 – Conflicts of interest). Rather, funds must be made available specifically for research ethics capacity-building. It is in everyone's interest to have truly independent scientific and ethical review.

**Education of research personnel.** Sponsors are expected to employ and, if necessary, educate individuals to function as researchers, research assistants and coordinators and data managers, for example, and to provide, as necessary, reasonable amounts of financial, educational and other assistance for capacity-building.

**Joint publication and data sharing.** Collaborative research should lead to jointly (external and in-country) authored, open-access publications (see Guideline 24 – Public accountability for health-related research). Researchers and sponsors must provide fair opportunities to enable joint authorship consistent with recognized authorship requirements, such as those of the International Committee of Medical Journal Editors (ICMJE).

## GUIDELINE 9:

# INDIVIDUALS CAPABLE OF GIVING INFORMED CONSENT

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Researchers have a duty to provide potential research participants with the information and the opportunity to give their free and informed consent to participate in research, or to decline to do so, unless a research ethics committee has approved a waiver or modification of informed consent (see Guideline 10 – Modifications and waivers of informed consent). Informed consent should be understood as a process, and participants have a right to withdraw at any point in the study without retribution.

Researchers have a duty to:

- ▶ seek and obtain consent, but only after providing relevant information about the research and ascertaining that the potential participant has adequate understanding of the material facts;
- ▶ refrain from unjustified deception or withholding of relevant information, undue influence, or coercion (see Guideline 10 – Modifications and waivers of informed consent);
- ▶ ensure that the potential participant has been given sufficient opportunity and time to consider whether to participate; and
- ▶ as a general rule, obtain from each potential participant a signed form as evidence of informed consent. Researchers must justify any exceptions to this general rule and seek the approval of the research ethics committee.

With the approval of the research ethics committee, researchers must renew the informed consent of each participant if there is a substantive change in the conditions or procedures of the research, or if new information becomes available that could affect the willingness of participants to continue. In long-term studies, researchers should ensure at pre-determined intervals that each participant is willing to stay in the study, even if there are no changes in the design or objectives of the research.

It is the principal investigator's responsibility to ensure that all personnel obtaining informed consent for a study comply with this Guideline.

## Commentary on Guideline 9

**General considerations.** Informed consent is a process. The start of this process requires providing relevant information to a potential participant, ensuring that the person has adequately understood the material facts and has decided or refused to participate without having been subjected to coercion, undue influence, or deception.

Informed consent is based on the principle that individuals capable of giving informed consent have a right to choose freely whether to participate in research. Informed consent protects the individual's freedom of choice and respects the individual's autonomy.

The information must be provided in plain language understandable by the potential participant. The person obtaining informed consent must be knowledgeable about the research and capable of answering any questions from potential participants. Researchers in charge of the study must make themselves available to answer questions at the request of participants. Participants should be offered the opportunity to ask questions and receive answers before or during the research. Researchers should make every effort to address those questions in a timely and comprehensive manner.

This Guideline applies to individuals capable of giving informed consent. Requirements for research with individuals who are not capable of giving informed consent or with children and adolescents are set out in Guideline 16 – Research involving adults incapable of giving informed consent, and Guideline 17 – Research involving children and adolescents.

**Process.** Informed consent is a two-way communicative process that begins when initial contact is made with a potential participant and ends when consent is provided and documented, but can be revisited later during the conduct of the study. Each individual must be given as much time as needed to reach a decision, including time for consultation with family members or others. Adequate time and resources must be provided for informed-consent procedures.

**Language of the information leaflet and recruitment material.** All potential participants should be provided with a written information leaflet that they may take with them. Informing the individual participant must not be simply a ritual recitation of the contents of a written document. The wording of the leaflet and any recruitment material must be in language understandable by the potential participant and be approved by the research ethics committee. The wording of the leaflet must be short and preferably not exceed two or three pages. An oral presentation of information or the use of appropriate audiovisual aids, including pictographs and summary tables, are important to supplement written information documents to aid understanding. Information should also be appropriate for the participant group and specific individual, for example, in braille. Informed consent shall not include any language through which the subject is made to waive or appear to waive any of the participant's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

**Contents of the information leaflet.** Throughout these Guidelines, elements that need to be included in the information leaflet are specified. Appendix 2 contains the details of information that must be provided, as well as possible supplementary information. This list mentions, but is not limited to, information about the aims, methods, sources of funding, possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study and the discomfort it may entail, post-trial access and any other relevant aspects of the study.

**Comprehension.** The person obtaining consent must ensure that the potential participant has adequately understood the information provided. Researchers should use evidence-based methods for imparting information to ensure comprehension. The potential participant's ability to understand the information depends, among other things, on the individual's maturity, educational level and belief system. The participant's understanding also depends on the researcher's ability and willingness to communicate with patience and sensitivity, as well as the atmosphere, situation and location where the informed consent process takes place.

**Documentation of consent.** Consent may be indicated in a number of ways. The participant may express consent orally, or sign a consent form. As a general rule, the participant should sign a consent form, or, where the individual lacks decisional capacity, a legal guardian or other duly authorized

representative must do so (see Guideline 16 – Research involving individuals incapable of giving informed consent, and Guideline 17 – Research involving children and adolescents). The research ethics committee may approve a waiver of the requirement of a signed consent document under certain conditions (see Guideline 10 – Modifications and waivers of informed consent). Such waivers may also be approved when existence of a signed consent form might pose a risk to the participant, for example in studies involving illegal behaviour. In some cases, especially when the information is complicated, participants should be given information sheets to retain; these may resemble conventional sheets in all respects except that participants are not required to sign them. Their wording must be approved by the research ethics committee. When consent has been obtained orally, researchers should provide to the research ethics committee documentation of consent, certified either by the person obtaining consent or by a witness at the time consent is obtained.

**Renewing consent.** When substantive changes occur in any aspect of a study, the researcher must again seek informed consent from the participants. For example, new information may have come to light, either from the study itself or other sources, about the risks or benefits of products being tested or about alternatives to them. Participants must be given such information promptly. In most clinical trials, interim results are not disclosed to researchers or participants until the study has been concluded. In long-term studies, the willingness of each participant to continue in the study must be ensured.

**Individual informed consent and access to research populations.** In some circumstances, a researcher may enter a community or institution to conduct research or approach potential participants for their individual consent only after obtaining permission from an institution such as a school or a prison, or from a community leader, a council of elders, or another designated authority. Such institutional procedures or cultural customs should be respected. In no case, however, may the permission of a community leader or other authority substitute for individual informed consent. In some populations, the use of local languages may facilitate the communication of information to potential participants and the ability of a researcher to ensure that individuals truly understand the material facts. Many people in all cultures are unfamiliar with, or do not readily understand, scientific concepts such as placebo or randomization. Sponsors and researchers must use culturally appropriate ways to communicate information necessary for adherence to the requirements of the informed consent process. They must also describe and justify in the research protocol the procedure they plan to use in communicating information to participants. The project must include any resources needed to ensure that informed consent can be properly obtained in different linguistic and cultural settings.

**Voluntariness and undue influence.** Informed consent is voluntary if an individual's decision to participate is free from undue influence. A variety of factors may affect the voluntariness with which consent is provided. Some of these factors can be internal to participants, such as mental illness, whereas other influences can be external, such as a dependent relationship between participants and clinician-researchers. Circumstances such as severe illness or poverty may threaten voluntariness, but do not necessarily imply that participants cannot give voluntary informed consent in these situations. Research ethics committees must determine for each individual protocol if influences on voluntary consent cross the threshold of being undue, and if so, which safeguards are appropriate.

**Dependent relationship.** There are different forms of dependent relationships, such as those between teachers and students, and guards and prisoners. In the context of clinical research, dependent relationships can result from pre-existing relationships between a treating physician and a patient, who becomes a potential participant when his or her treating physician assumes the role of researcher. The dependent relationship between patients and clinician-researchers may compromise the voluntariness of informed consent, since potential participants who are patients depend on the clinician-researcher for medical care and may be reluctant to refuse an invitation to enrol in research in which the treating clinician is involved. Therefore, in principle, in the case of a dependent relationship a neutral third party such as a research nurse or a qualified collaborator,

should obtain informed consent. However, in some situations of dependency, it is preferable that the clinician provide the patient with information since he or she is most knowledgeable about the condition of the patient. However, to minimize the influence of the dependent relationship, several protective measures must be taken. Clinicians engaged in research must acknowledge and inform patients that they have a dual role as the treating clinician and researcher. They must emphasize the voluntary nature of participation and the right to refuse or withdraw from the research. They must also assure patients that their decision whether to enrol or refuse participation will not affect the therapeutic relationship or other benefits to which they are entitled. In cases where it is necessary for the treating clinician to explain the details of the study protocol, the research ethics committee must consider whether the informed consent document must be signed in the presence of a neutral third party.

**Risks.** Researchers must be completely objective in discussing the details of the experimental intervention, the pain or discomfort it may entail, and known risks and possible hazards. In some types of prevention research, potential participants must receive counselling about risks of acquiring a disease and steps they can take to reduce those risks. This is especially true of preventive research on communicable diseases, such as HIV/AIDS.

**Who obtains consent.** Informed consent must be obtained by a member of the research team. Delegation of obtaining consent, for instance to a research nurse or another member of the research team, for instance in the case of a dependent relationship, is permissible as long as the person who obtains consent is duly qualified and has prior experience in obtaining consent. The principal investigator is responsible for ensuring that all personnel working on the project comply with this Guideline.

**Special considerations regarding informed consent for the use of data in health registries.** The requirement to obtain informed consent for research on data in health-related registries may be waived, provided the conditions in Guideline 10 – Modifications and waivers of informed consent - are met. When a researcher plans to contact persons based on their inclusion in a health-related registry, the researcher must bear in mind that these persons may be unaware that their data were submitted to the registry or unfamiliar with the process by which researchers obtain access to the data (see Guideline 12 – Collection, storage and use of data in health-related research). If researchers wish to contact persons included in a health registry to obtain additional information from them for new research, such studies require informed consent.

## GUIDELINE 10:

# MODIFICATIONS AND WAIVERS OF INFORMED CONSENT

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**Researchers must not initiate research involving humans without obtaining each participant's individual informed consent or that of a legally authorized representative, unless researchers have received explicit approval to do so from a research ethics committee. Before a waiver of informed consent is granted, researchers and research ethics committees should first seek to establish whether informed consent could be modified in a way that would preserve the participant's ability to understand the general nature of the investigation and to decide whether to participate.**

**A research ethics committee may approve a modification or waiver of informed consent to research if:**

- ▶ **the research would not be feasible or practicable to carry out without the waiver or modification;**
- ▶ **the research has important social value; and**
- ▶ **the research poses no more than minimal risks to participants.**

**Additional provisions may apply when waivers or modifications of informed consent are approved in specific research contexts.**

## Commentary on Guideline 10

**General considerations.** A modification of informed consent involves making changes to the informed consent process, most frequently in relation to providing information and documenting the participant's informed consent. A waiver of consent allows researchers to conduct studies without obtaining fully informed consent.

As stated in Guideline 9 – Individuals capable of giving informed consent, individuals or their legally authorized representatives must give their informed consent for all health-related research involving humans. Modifications or waivers of informed consent require justification and approval. In general, researchers and research ethics committees must seek to preserve as much of the informed consent process as possible. They must carefully consider whether a modification of the informed consent process would still enable participants to understand the general nature of a study and make a meaningfully informed decision whether or not to participate. For instance, in some cases it may be possible to describe the purpose of a study without informing potential participants of the detailed procedures in the trial arms.

**Modifying the informed consent process by withholding information in order to maintain the scientific validity of the research.** It is sometimes necessary to withhold information in the consent process to ensure the validity of the research. In health-related research, this typically

involves withholding information about the purpose of specific procedures. For example, participants in clinical trials are often not told the purpose of tests performed to monitor their compliance with the regimen, since if they knew their compliance was being monitored they might modify their behaviour and hence invalidate results. In most such cases, potential participants must be asked to consent to remain uninformed of the purpose of some procedures until the research is completed. After their participation in the study ends, they must be given the omitted information. In other cases, because a request for permission to withhold some information would jeopardize the validity of the research, participants cannot be told that some information has been withheld until the data have been collected. Any such procedure may be implemented only if it receives explicit approval from a research ethics committee. Moreover, before study results are analysed, participants must be provided with the information withheld and given the possibility to withdraw their data collected under the study. The potential impact on the validity of the study when participants withdraw their data must be considered before a study starts.

**Modifying the informed consent process by actively deceiving participants.** Active deception of participants is considerably more controversial than simply withholding certain information. However, social and behavioural scientists sometimes deliberately misinform participants in order to study their attitudes and behaviour. For example, researchers use “pseudo-patients” or “mystery clients” to study the behaviour of health-care professionals in their natural settings.

Some people maintain that active deception is never permissible. Others would permit it in certain circumstances. Deception is not permissible in cases in which the study exposes participants to more than minimal risk. When deception is deemed indispensable for obtaining valid results in a study, researchers must convince the research ethics committee that no other method could obtain valid and reliable data; that the research has significant social value; and that no information has been withheld that, if divulged, would cause a reasonable person to refuse to participate. Researchers and research ethics committees must be aware that deceiving research participants may wrong them as well as harm them; participants may resent not having been informed when they learn that they have participated in a study under false pretences. Whenever this is necessary to maintain the scientific validity of the research, potential participants must be asked to agree to receiving incomplete information during the informed consent process (meaning that researchers obtain consent in advance for the deception). The research ethics committee must determine how participants must be informed of the deception upon completion of the research. Such informing, commonly called “debriefing”, ordinarily entails explaining the reasons for the deception. Debriefing is an essential part of trying to rectify the wrong of deception. Participants who disapprove of having been deceived for research purposes must be offered an opportunity to refuse to allow the researcher to use their data obtained through deception. In exceptional cases, a research ethics committee may approve the retention of non-identifiable information. For example, an option to withdraw data may not be offered in cases where research is evaluating quality of services or competence of providers (for example, studies involving “mystery” clients or patients).

**Waiving informed consent.** A research ethics committee may waive informed consent if it is convinced that the research would not be feasible or practicable to carry out without the waiver, the research has important social value, and the research poses no more than minimal risks to participants. These three conditions must also be met even when a study involves identifiable data or biological specimens, meaning that the data or specimens carry a person’s name or are linked to a person by a code. The conditions must also be met when studies analyse existing data from health-related registries, and when the participants are children, adolescents, and individuals not capable of giving informed consent (Guideline 16 – Research involving adults incapable of giving informed consent, and Guideline 17 – Research involving children and adolescents).

In addition, the three conditions for waiving informed consent must be met when data or biological specimens are not personally identifiable and the research has important social value. In this situation, the participants are unknown to the researcher and hence cannot be contacted to obtain informed

consent. Moreover, because the data or specimens are not personally identifiable, the risks to those individuals are no greater than minimal.

**Special considerations for waiving informed consent in studies using data in health-registries.** The creation and maintenance of health-related registries (for example, cancer registries and databanks of genetic and other anomalies in newborn babies) provide a major resource for many public health and epidemiological research activities, ranging from disease prevention to resource allocation. Several considerations support the common practice of requiring that all practitioners submit relevant data to such registries: the importance of having comprehensive and accurate information about an entire population; the scientific need to include all cases in order to avoid undetectable selection bias; and the ethical principle that burdens and benefits must be distributed equitably across the population. Hence, registries established as mandatory by governmental authorities usually involve obligatory rather than voluntary collection of data.

When a study is performed under a public health mandate or by public health authorities, such as disease surveillance, normally neither ethical review nor a waiver of consent is needed because the activity is mandated by law. At the same time, consent cannot be waived when public health authorities conduct studies in which data in the registries are combined with new activities that involve direct contact with persons, such as studies in which they obtain information from individuals by using questionnaires. Although the extent and limits of data collection are determined by law, researchers must still consider whether, in a given case, it is ethical to use their authority to access personal data for research purposes. When the use of such data does not constitute (or no longer clearly constitutes) a public health activity, the researcher must seek individual consent for the use of the data or demonstrate that the research meets the conditions for waiving informed consent, as set out in this Guideline. Research projects using data from one or more mandatory population-based registries should be submitted to a research ethics committee, except for data analyses involving internal institutional activity of a registry.

## GUIDELINE 11:

# COLLECTION, STORAGE AND USE OF BIOLOGICAL MATERIALS AND RELATED DATA

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When biological materials and related data, such as health or employment records, are collected and stored, institutions must have a governance system to obtain authorization for future use of these materials in research. Researchers must not adversely affect the rights and welfare of individuals from whom the materials were collected.

When specimens are collected for research purposes, either specific informed consent for a particular use or broad informed consent for unspecified future use must be obtained from the person from whom the material originally is obtained. The ethical acceptability of broad informed consent relies on proper governance. This type of consent must be obtained in the same way as described in Guideline 9 – Individuals capable of giving informed consent.

When human biological materials are left over after clinical diagnosis or treatment (so-called “residual tissue”) and are stored for future research, a specific or broad informed consent may be used or may be substituted by an informed opt-out procedure. This means that the material is stored and used for research unless the person from whom it originates explicitly objects. The informed opt-out procedure must fulfil the following conditions: 1) patients need to be aware of its existence; 2) sufficient information needs to be provided; 3) patients need to be told that they can withdraw their data; and 4) a genuine possibility to object has to be offered.

When researchers seek to use stored materials collected for past research, clinical or other purposes without having obtained informed consent for their future use for research, the research ethics committee may waive the requirement of individual informed consent if: 1) the research would not be feasible or practicable to carry out without the waiver; 2) the research has important social value; and 3) the research poses no more than minimal risks to participants or to the group to which the participant belongs.

Custodians of biological materials must arrange to protect the confidentiality of the information linked to the material, by sharing only anonymized or coded data with researchers, and limiting access to the material of third parties. The key to the code must remain with the custodian of the biological material.

The transfer of biological materials must be covered by a Material Transfer Agreement (MTA).

Biological materials and related data should only be collected and stored in collaboration with local health authorities. The governance structure of such collection should have representation of the original setting. If the specimen and data are stored outside the

**original setting, there should be provisions to return all materials to that setting and share possible results and benefits (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research, Guideline 7 – Community engagement, and Guideline 8 – Collaborative partnership and capacity building for research and review).**

## Commentary on Guideline 11

**General considerations.** Research involving human biological materials may include: tissues, organs, blood, plasma, skin, serum, DNA, RNA, proteins, cells, hair, nail clippings, urine, saliva, or other bodily fluids. These biological materials may come from a variety of places but the materials will mostly come from patients following diagnostic or therapeutic procedures, autopsy specimens, and donations of organs or tissue from living or dead humans, or bodily wastes or abandoned tissue. They may be collected expressly for a specific research purpose; from medical or diagnostic procedures with no initial intent to be used in research; or for research or medical or diagnostic purposes with the expectation that they may, or will, also be used in future research, although the precise research project(s) may not be known at the time. The value of bio-repositories for longitudinal studies of specific diseases is widely recognized. For this purpose, population biobanks have been established to allow studies across many diseases through correlations of genetic, environmental, occupational, and other health data.

In this Guideline, the term biobank is used for the collection of stored biological materials and associated data. The term biobank may refer to both large population biobanks and small bio-repositories consisting of bio-specimens in laboratories.

An individual whose biological materials and related data are used in research is a study participant and ethical guidelines that apply to research participants are applicable in this situation. This *mutatis mutandis* should also apply in cases where the research uses samples and data from deceased individuals. The vast majority of people do not object to their materials and related data being stored in repositories and used for research for the common good. However, the person whose materials are stored (the donor) must, in principle, explicitly authorize future use by one of the mechanisms described in this Guideline. Since the precise nature of the research is typically unknown, it is impossible to obtain specific informed consent at the time the material is collected. Therefore, broad informed consent for future use is an acceptable alternative to specific informed consent. Broad informed consent requires proper governance and management of the biobank.

**Governance.** Institutions in which biological material and related data are archived after collection for research purposes or as “left-overs” from clinical diagnosis or treatment must have a governance structure in place in which at least the following items are regulated:

- ▶ to which legal entity the material is entrusted;
- ▶ how authorization from the donor is obtained;
- ▶ how the donor can retract this authorization;
- ▶ in which circumstances donors need to be recontacted;
- ▶ a procedure for determining whether unsolicited findings should be disclosed, and if so, how they should be managed;
- ▶ how the quality of the material is controlled;
- ▶ how confidentiality of the link between biological specimens and personal identifiers of the donors is maintained;

- ▶ who may have access to the materials for future research, and under what circumstances;
- ▶ which body may review research proposals for future use of the material;
- ▶ appropriate mechanisms for keeping donors informed of research outcomes;
- ▶ how participatory engagement with patient groups or the wider community is organized;
- ▶ to which other sources of personal information the results of analyses on biological materials may be linked;
- ▶ in broad terms, which types of research will be pursued;
- ▶ which types of research will be excluded or included only after recontacting the donor for consent;
- ▶ to whom any benefits from the research are expected to accrue;
- ▶ appropriate mechanisms for keeping participants informed of research outcomes; and
- ▶ how the rights and welfare of individuals from whom the materials were collected are not adversely affected.

All governance systems should follow the principle of accountability and should maintain good stewardship of stored biological materials and related data. None of the regulations concerning the storage, use and final fate of biological samples should contradict or overrule conditions originally stated in (broad) informed consent documents and agreed to by research participants.

**Research ethics committees and biobanks.** The protocol for every study using stored human biological materials and related data must be submitted to a research ethics committee, which must ensure that the proposed use of the materials falls within the scope specifically agreed to by the donor, if the donor has given broad informed consent for future research. If the proposed use falls outside the authorized scope of research, re-consent is necessary. Research ethics committees may waive the requirement of individual informed consent for research with historical materials provided the above three conditions mentioned in the bold text of this Guideline are met (see Guideline 10 – Modifications and waivers of informed consent).

**Specific informed consent.** When the future use of the materials is known at the time of collection, specific informed consent must be obtained as described in Guideline 9, Individuals capable of giving informed consent. Persons who were incapable of giving informed consent at the time their bodily material was stored must be given the opportunity to give informed consent or refusal if researchers know, or reasonably should have known that the subject has become capable of giving informed consent (see also Guideline 16 – Research involving adults incapable of giving informed consent).

**Broad informed consent.** Broad informed consent encompasses the range of future uses in research for which consent is given. Broad informed consent is not blanket consent that would allow future use of bodily material without any restriction. On the contrary, broad informed consent places certain limitations on the future use of bodily materials. Broad informed consent forms should specify: the purpose of the biobank; the conditions and duration of storage; the rules of access to the biobank; the ways in which the donor can contact the biobank custodian and remain informed about future use; the foreseeable uses of the materials, whether limited to an already fully defined study or extending to a number of wholly or partially undefined studies; the intended goal of such use, whether only for basic or applied research, or also for commercial purposes; and the possibility of unsolicited findings and how they will be dealt with. The research ethics committee must ensure that the proposed collections, the storage protocol, and the consent procedure meet these specifications.

**Informed opt-out procedure for research on residual tissue.** Given that human biological materials left over after clinical diagnosis or treatment (so-called “residual tissue”) are frequently of

interest to future researchers, it is good clinical practice to offer donors several options: to have their materials used only for their own treatment or benefit and then discarded; to allow stored materials to be used for a specifically described research project (specific informed consent); or to allow stored materials to be used for yet undefined research, with or without personal identifiers. However, following this practice in every situation in health care may be overly demanding and difficult to implement; therefore, an informed opt-out procedure may be acceptable. This implies that the material is stored and used for research unless the person from whom it originates explicitly objects.

The informed opt-out procedure has to fulfil the following conditions: 1) patients need to be aware of its existence; 2) sufficient information needs to be provided; 3) patients need to be informed that they can withdraw their data; and 4) a genuine possibility to object has to be offered.

An informed opt-out procedure for research on residual tissue may not be appropriate in certain circumstances, namely a) when the research involves more than minimal risks to the individual, or b) when controversial or high-impact techniques are used, for example the creation of immortal cell lines, or c) when research is conducted on certain tissue types, for example gametes, or d) when research is conducted in contexts of heightened vulnerability. A research ethics committee must determine whether explicit informed consent for the research is required.

**Withdrawal of consent.** Donors or their legal representatives should be able to withdraw consent for maintenance and use of biological material stored in a biobank. The withdrawal of consent should be formalized by written documentation signed by the donor or their legal representative of the donor, and the samples should either be destroyed or returned to the donor. Future use of the biological materials and related data is not permitted after the withdrawal of consent.

**Authorization for research with archived materials.** When biological materials and data collected and stored in the past without specific or broad informed consent contain important and otherwise unobtainable data, a research ethics committee needs to decide whether the use of such materials is justified. The most common justification for using records or materials collected in the past without consent is that it would be impracticable or prohibitively expensive to locate the persons whose materials or records are to be examined. For example, this may happen when the study involves review of hospital records or performing new tests on blood collected at a time when consent to future research uses of such materials was not usually sought. In addition, the research must have important social value, and the research must pose no more than minimal risks to participants or to the group from which the participant originates.

**Confidentiality.** An important aspect of storing human biological material is confidentiality guaranteed to the donor. The information resulting from analysis of the material could, if disclosed to third parties, cause harm, stigma or distress. Those responsible for biobanks must arrange to protect the confidentiality of such information by, for example, providing only anonymized or coded data to researchers and limiting access of the material of third parties. During the process of obtaining informed consent, those responsible for the biobank must inform the potential donors about the safeguards that will be taken to protect confidentiality as well as their limitations. Biological material stored in biobanks must be anonymized or coded. When researchers use coded materials obtained from biobanks in later studies, the key to the code must remain with the custodian of the biobank. Thus researchers can use only anonymized or coded material. It should be acknowledged that the possibility of complete anonymization is becoming increasingly illusory as the possibility of cross-matching large datasets improves. The more difficult it becomes to anonymize data, the more important it will be to retain the ability to remove personal data from a dataset. This is a crucial part of the governance system specified above.

**Return of results and disclosure of (un)solicited findings.** Generally, biobanks store coded material in order to be able to link this material to health data. This means that research findings,

whether unsolicited or not, can be returned to the donor. The informed consent process must clearly stipulate whether return of information derived from analysis of the materials is foreseen, if the donor wishes. The information given to the donor should clearly state that providing individual diagnoses is not the purpose of the biobank or future research project, in order to prevent that donors are falsely reassured by the absence of unsolicited findings.

There is an emerging consensus that at least some findings in genetic research must be returned to individual donors if they wish. Tiered consent, meaning the possibility of obtaining packages or subsets of information, gives donors a range of choices and allows them to choose some options to give them greater control over the use of their biological materials. In general, the three guiding principles for return of results need to be followed: results must have analytical validity, clinical significance and actionability to qualify for being returned. This implies that life-saving information and data of immediate clinical utility involving a significant health problem must be offered for disclosure, whereas information of uncertain scientific validity or clinical significance would not qualify for communication to the participant. The research ethics committee should also evaluate whether individual counselling is necessary when returning particular genetic findings. Some cases may require making an ethically responsible management plan for returning (un)solicited findings.

**Children and adolescents.** Children and adolescents who reach the age of maturity during the research project should be given the opportunity to give informed consent for the continued storage and use of their material and related data, and they should also be able to withdraw consent for future research. An informed, opt-out system in which such persons are alerted to their right to withdraw could also be acceptable.

**Material Transfer Agreement.** The transfer of human biological materials must be covered by a material transfer agreement (MTA). This MTA must ensure that the biological materials are documented in such a way that they can be retrieved. The range and duration of use and what needs to happen at the end of the period of use must also be specified. All responsibilities concerning these elements of an MTA need to be clearly stated in the agreement. An MTA is also needed in multinational research projects in which one entity collects samples from persons in all participating countries and stores them in a single biobank.

**Closure of a biobank.** In the event of closure of the biobank, plans for appropriate transfer or disposal of the biological material and data should be developed in collaboration with local health authorities.

**Storing and using material from low-resource settings in biobanks.** Biobanks have become a global phenomenon. Nevertheless, some low-resource settings may be inexperienced in storing and using biological materials. In addition to what is stated in this Guideline, requirements for community engagement, capacity-building and equitable distribution of burdens and benefits of research as described in other guidelines also apply to biobank research in low-resource settings (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research, Guideline 7 – Community engagement, and Guideline 8 – Collaborative partnership and capacity building for research and review).

## GUIDELINE 12:

# COLLECTION, STORAGE AND USE OF DATA IN HEALTH-RELATED RESEARCH

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When data are stored, institutions must have a governance system to obtain authorization for future use of these data in research. Researchers must not adversely affect the rights and welfare of individuals from whom the data were collected.

When data are collected and stored for research purposes, either specific informed consent for a particular use or broad informed consent for unspecified future use must be obtained from the person from whom the data were originally obtained. The ethical acceptability of broad informed consent relies on proper governance. This type of informed consent must be obtained in the same way as described in Guideline 9 – Individuals capable of giving informed consent.

When data are used that were collected in the context of routine clinical care, an informed opt-out procedure must be used. This means that the data may be stored and used for research unless a person explicitly objects. However, a person's objection is not applicable when it is mandatory to include data in population-based registries. The informed opt-out procedure must fulfil the following conditions: 1) patients need to be aware of its existence; 2) sufficient information needs to be provided; 3) patients need to be informed that they can withdraw their data; and 4) a genuine possibility to object has to be offered.

When researchers seek to use stored data collected for past research, clinical or other purposes without having obtained informed consent for their future use for research, the research ethics committee may consider to waive the requirement of individual informed consent if: 1) the research would not be feasible or practicable to carry out without the waiver; and 2) the research has important social value; and 3) the research poses no more than minimal risks to participants or to the group to which the participant belongs.

Custodians of the data must arrange to protect the confidentiality of the information linked to the data, by sharing only anonymised or coded data with researchers, and limiting access to the material of third parties. The key to the code must remain with the custodian of the data.

Data from low-resource settings should only be collected and stored in collaboration with local health authorities. The governance structure of such a databank must have representation of the original setting. If the collection is stored outside the original setting there should be provisions to return all data to that setting and share possible results and benefits (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research, Guideline 7 – Community engagement, and Guideline 8 – Collaborative partnership and capacity building for research and review).

## Commentary on Guideline 12

**General considerations.** The value of data collections for longitudinal studies of specific diseases is widely recognized. Databanks may include all types of health-related data, including medical records, and patient health records. This Guideline is intended to cover health-related data beyond the individual care of patients.

As with biobanks, the vast majority of people do not object to their data being stored in collections and used for research for the common good. The person whose data are stored (the donor) must, in principle, explicitly authorize future use by one of the mechanisms described in this Guideline. Since the precise nature of the research is typically unknown, it is impossible to obtain specific informed consent at the time the data are collected. Therefore, broad informed consent for future use is an acceptable alternative to specific informed consent. Broad informed consent requires proper governance and management of the databank.

**Governance.** Institutions where data are collected and archived must have a governance structure in place in which at least the following items are regulated:

- ▶ to which legal entity the material is entrusted;
- ▶ how authorization from the donor is obtained;
- ▶ how the donor can retract this authorization;
- ▶ in which circumstances donors need to be recontacted;
- ▶ a procedure for determining whether unsolicited findings should be disclosed, and if so, how they should be managed;
- ▶ how the quality of the data collection is controlled;
- ▶ how confidentiality of the link between collected data and personal identifiers of the donors is maintained;
- ▶ who may have access to the data for future research, and under what circumstances;
- ▶ which body may review research proposals for future use of the data;
- ▶ appropriate mechanisms for keeping donors informed of research outcomes;
- ▶ how participatory engagement with patient groups or the wider community is organized;
- ▶ to which other sources of personal information the results of analyses with data may be linked;
- ▶ in broad terms, which types of research will be pursued;
- ▶ which types of research will be excluded or included only after recontacting the donor for consent;
- ▶ to whom any benefits from the research are expected to accrue;
- ▶ appropriate mechanisms for keeping participants informed of research outcomes; and
- ▶ how the rights and welfare of individuals from whom the data were collected are not adversely affected.

All governance systems should follow the principle of accountability and should maintain good stewardship of stored data. None of the regulations concerning the storage, use and final fate of health-related data should contradict or overrule conditions originally stated in (broad) informed consent documents and agreed to by research participants.

**Research ethics committees and storing health-related data.** The protocol for every study using collected data must be submitted to a research ethics committee, which must ensure that the proposed use of the data falls within the scope specifically agreed to by the donor, if the donor has given broad informed consent for future research. If the proposed use falls outside the authorized scope of research, re-consent is necessary. Research ethics committees may waive the requirement of individual informed consent for research with historical data provided the above three conditions mentioned in the bold text of this Guideline are met (see Guideline 10 – Modifications and waivers of informed consent). For population-based registries, internal institutional research activity of the registry may be exempted from review by a research ethics committee according to applicable law.

**Specific informed consent.** When the future use in research of the collected data is known at the time of collection, specific informed consent must be obtained as described in Guideline 9 – Individuals capable of giving informed consent. Persons who were incapable of giving informed consent at the time their data were stored must be given the opportunity to give informed consent or refusal if researchers know, or reasonably should have known, that the subject has become capable of giving informed consent (see also Guideline 16 – Research involving adults incapable of giving informed consent).

**Broad informed consent.** Broad informed consent encompasses the range of future uses in research for which consent is given (see Guideline 11 – Collection, storage and use of biological materials and related data). Broad informed consent should specify: the purpose of the databank; the conditions and duration of storage; the rules of access to the databank, the ways in which the donor can contact the databank custodian and remain informed about future use; the foreseeable uses of the data, whether limited to an already fully defined study or extending to a number of wholly or partially undefined studies; who will manage access to the data; the foreseeable uses of the data, whether limited to an already fully defined study or extending to a number of wholly or partially undefined studies; the intended goal of such use, whether only for basic or applied research, or also for commercial purposes; and the possibility of unsolicited findings and how they will be dealt with. The research ethics committee must ensure that the proposed collections, the storage protocol, and the consent procedure meet these specifications.

**Informed opt-out procedure for research with health-related data.** In the absence of broad informed consent, an informed opt-out consent procedure can be used. This means that the data are stored and used for research unless a person from whom the data originate explicitly objects. The informed opt-out procedure has to fulfil the following conditions: 1) patients need to be aware of its existence; 2) sufficient information needs to be provided; 3) patients need to be informed that they can withdraw their data; and 4) a genuine possibility to object has to be offered. However, in certain circumstances the researcher must obtain explicit informed consent, whether specific or broad: 1) when the research involves more than minimal risks to the individual; or 2) when controversial or high-impact techniques are used; or 3) when research is conducted in contexts of heightened vulnerability. A research ethics committee must determine whether explicit informed consent is required.

**Secondary use of stored data.** Sometimes data are collected in databanks, during research or during other activities (for example, clinical practice, health insurance), that can be used in future research. Typically the precise research questions will be unknown at the time of data collection. In those cases, it is acceptable to use the data for secondary analysis when the intended use falls within the scope of the original (broad) informed consent.

**Withdrawal of consent.** Donors or their legal representatives at any time and without any charges or losses, should have the possibility to withdraw their consent for use of data in a databank. The withdrawal of consent should be formalized by written documentation signed by the donor or

the legal representative of the donor, and the data should be either destroyed or returned to the donor. Future use of the data is not permitted after the withdrawal of consent.

**Authorization for research with archived data.** When existing data, collected and stored without a specific or broad informed consent process, offer important and otherwise unobtainable information, a research ethics committee needs to decide whether the use of such data is justified. The most common justification for using data collected in the past without consent is that it would be impracticable or prohibitively expensive to locate the persons whose data are to be examined. This may happen when, for instance, the study involves reviewing hospital records from a time when consent to future research uses of such data was not usually sought. In addition, the research must have important social value, and the research must pose no more than minimal risks to participants or to the group from which the participant originates.

**Re-contacting participants.** Long-term projects often include plans to search for and re-contact participants who have been lost to follow-up. Such outreach might also occur when researchers wish to obtain consent for a new use of stored biological material or data that still has personal identifiers. Participants or service users must be made aware of this possibility at the time of initial consent and given the choice to opt-out of being re-contacted. Researchers must also establish acceptable modalities for establishing contact with those participants or service users who are willing to be reached out to for the above-mentioned purposes.

In cases where a researcher does plan to contact persons based on their inclusion in a health-related registry, the researcher must bear in mind that these persons may be unaware that their data were submitted to the registry or unfamiliar with the process by which researchers obtain access to the data. If researchers wish to contact persons included in a health registry to obtain additional information from them for new research, such studies require individual informed consent (see Guideline 9 – Individuals capable of giving informed consent).

**Data mining.** Some entities collect data that may be “mined” for health-related research, even if they are not collecting health-related data deliberately (for example, queries in search engines, consumer choices on websites). Such entities must strive for governance structures and mechanisms to obtain authorization for future use of these data in research as discussed in this Guideline.

**Confidentiality.** Health-related data may contain a very large range of information. Therefore, an important aspect of storing health-related data is confidentiality. The collection and storage of information could, if disclosed to third parties, cause harm, stigma or distress. Those responsible for databanks must arrange to protect the confidentiality of such information by, for example, providing only anonymized or coded data to researchers and limiting access of the data to third parties. During the process of obtaining informed consent, those responsible for the databank must inform the potential donors about the safeguards that will be taken to protect confidentiality as well as their limitations. Data stored in databanks must be anonymized or coded. When researchers use coded materials obtained from databanks in later studies, the key to the code must remain with the custodian of the databank. Thus researchers can only use anonymized or coded material. It should be acknowledged that the possibility of complete anonymization is becoming increasingly illusory as the possibility of cross-matching large datasets improves. The more difficult it becomes to anonymize data, the more important it will be to retain the ability to remove personal data from a dataset. This is a crucial part of the governance system specified above.

When linked data are used, researchers customarily discard personal identifying information when consolidating data for purposes of statistical analysis; this also occurs when researchers have linked (or coded) different sets of data regarding individuals with the consent of individual participants. When project plans require personal identifiers to remain on records used for a study, researchers must explain to research ethics committees why this is necessary and how confidentiality will be

protected. It can be acceptable to store personally identifiable data to enhance their value for future research; by implication, efforts to de-identify data in order to safeguard confidentiality and the resulting trade-offs in the scientific value of the given data need to be carefully balanced.

**Limits of confidentiality.** Donors must be informed of the limits to the ability of researchers to ensure strict confidentiality and of the potential adverse consequences of breaches of confidentiality. Confidentiality is limited for three reasons. First, even with good governance structures, there is some background risk that data are leaked or stolen and thus are obtained by unauthorized third parties. Second, data from different sources (for example, health records, employment records, etc.) may be linked due to technological advances, which increasingly enable researchers or others to identify individuals even when working with anonymized or coded data. Identification is also possible when the context in which the research is conducted is narrow (for example, small hospital) or very specific (for example, patients with rare diseases). Pooling data from a number of comparable sources may reduce but not completely eliminate the possibility of identifying individuals. In addition, genetic information derived through comprehensive technologies (for example, whole-genome sequencing) increasingly allows identifying individuals. Third, releasing confidential data can be required by law. For example, some jurisdictions require the reporting to appropriate agencies of certain communicable diseases or evidence of child abuse or neglect. Similarly, (health) authorities and research ethics committee accrediting agencies may have the legal right to inspect study records, and a sponsor's compliance audit staff may require and obtain access to confidential data. These and similar limits to the ability to maintain confidentiality must be anticipated and disclosed to potential participants (see Guideline 9 – Individuals capable of giving informed consent). The more difficult it becomes to truly anonymize data, the more important it becomes for the participant to retain the ability to remove personal data from a dataset. Therefore, this is a crucial part of the governance system specified above.

**Mandatory population-based registries.** Research projects using data from mandatory population-based registries must be submitted for review to a research ethics committee except for data analyses inherent to the internal institutional research activity of the registry.

**Return of results and (un)solicited findings.** Especially in the context of data collections in which large data bases are combined (big data research), the informed consent must clearly stipulate whether return of information derived from analysis of the data is foreseen, if the donor wishes. The information given to the donor should clearly state that providing individual diagnoses is not the purpose of the databank or future research project, in order to prevent that donors being falsely reassured by the absence of unsolicited findings.

There is an emerging consensus that at least some findings in genetic research must be returned to individual donors if they wish. Tiered consent, meaning the possibility of obtaining packages or subsets of information, gives donors a range of choices and allows them to choose some options to give them greater control over the use of their data. In general, the three guiding principles for return of results need to be followed: results must have analytical validity, clinical significance and actionability to qualify for being returned. This implies that life-saving information and data of immediate clinical utility involving a significant health problem must be offered for disclosure, whereas information of uncertain scientific validity or clinical significance would not qualify for communication to the donor. The research ethics committee should also evaluate whether individual counselling is necessary when returning particular genetic findings. Some cases may require making an ethically responsible management plan for returning (un)solicited findings.

**Data-sharing.** Researchers, sponsors and research ethics committees must share data for further research where possible. The conditions for data sharing are spelled out in Guideline 24 – Public accountability for health-related research.

**Children and adolescents.** Children and adolescents who reach the age of maturity must be given the opportunity to give broad informed consent for the continued storage and use of their data and should also be able to withdraw consent for future research. An informed, opt-out system in which such persons are alerted to their right to withdraw, could also be acceptable.

**Closure of a databank.** In the event of closure of the databank, plans for appropriate transfer or disposal of the health-related data should be developed in collaboration with local health authorities.

**Storing and using data from low-resource settings in databanks.** Databanks have become a global phenomenon. Nevertheless, some low-resource settings may be inexperienced in storing and using biological materials. In addition to what is stated in this Guideline, requirements for community engagement, capacity-building and equitable distribution of burdens and benefits of research as described in other guidelines also apply to databank research in low-resource settings (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research, Guideline 7 – Community engagement, and Guideline 8 – Collaborative partnership and capacity building for research and review).

## GUIDELINE 13:

# REIMBURSEMENT AND COMPENSATION FOR RESEARCH PARTICIPANTS

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**Research participants should be reasonably reimbursed for costs directly incurred during the research, such as travel costs, and compensated reasonably for their inconvenience and time spent. Compensation can be monetary or non-monetary. The latter might include free health services unrelated to the research, medical insurance, educational materials, or other benefits.**

**Compensation must not be so large as to induce potential participants to consent to participate in the research against their better judgment (“undue inducement”). A local research ethics committee must approve reimbursement and compensation for research participants.**

### Commentary on Guideline 13

**General considerations.** Both in observational studies and intervention research, participants should not have to pay for making a contribution to the social good of research, whether in the form of direct expenses (for example, transportation costs), and must therefore be reasonably reimbursed for such expenses. In addition, participants must be appropriately compensated for the time spent and other inconveniences resulting from study participation. The amount of compensation should be proportional to the time spent for research purposes and for travel to the research site. This amount should be calculated using the minimum hourly wage in the region or country as a reference value. The obligation to reasonably reimburse and compensate participants arises even when study enrolment offers participants potential individual benefits (for example, an investigational drug). This is because the vast majority of clinical research studies involve research procedures that have no potential individual benefits for participants but are performed for research purposes, such as additional blood draws, extra hospital visits and overnight stays. Moreover, it cannot be known before the research that investigational interventions will benefit participants. Indeed, some research interventions may cause more harm than good.

**Appropriate compensation.** Participants must also be reasonably compensated for their inconvenience and time spent participating in research according to monetary value of the country in which the research is conducted. Compensation can be monetary or non-monetary and may include, for example, health services unrelated to the research, medical insurance, educational materials, counselling or food supplies. Especially when the research poses low risks, providing compensation for participation should not raise concerns about undue inducement.

**Unacceptable compensation.** Compensation is not meant to compensate for risk that participants agree to undertake but rather, for inconvenience and time. Therefore, the level of compensation

should not be related to the level of risk that participants agree to undertake. But especially as the risks of research procedures having no potential individual benefit for participants increase, so does the concern that compensation may constitute an undue inducement. Monetary or in-kind compensation for research participants must not be so large as to persuade them to volunteer against their better judgment or deeply held beliefs (“undue inducement”).

It can be difficult to determine whether undue inducement exists, in part because the compensation that makes some people volunteer against their better judgment depends on their personal situation. An unemployed person or a student may view compensation differently from an employed person. Research ethics committees must evaluate monetary and other forms of compensation in light of the traditions and socio-economic context of the particular culture and population in order to determine whether the average participant expected to enrol in the study is likely to participate in the research against his or her better judgment because of the compensation offered. The appropriateness of compensation is likely better judged by local research ethics committees than by international ones. Consultation with the local community may help to ascertain this even in the case of research conducted in the researcher’s own community.

**Compensation for persons who are incapable of giving informed consent.** Persons who are incapable of giving informed consent may be vulnerable to exploitation for financial gain by their guardians. A legally authorized representative asked to give permission on behalf of a person who is incapable of giving informed consent must be offered no compensation other than reimbursement for travel and other direct or indirect expenses. Where it would be reasonable to provide compensation to the participants themselves, their lack of decisional capacity must not preclude researchers from doing so. When participants are incapable of giving informed consent, compensation must be provided in a way that participants themselves can benefit from it.

**Compensation after study withdrawal.** When a researcher withdraws a participant from a study on health-related grounds, the person must be compensated for study participation up to the point of such withdrawal. When a person is withdrawn from a study due to a research-related harm, this harm must be treated and the participant is entitled to additional compensation as set out in Guideline 14 – Treatment and compensation for research-related harms. When researchers must withdraw a participant from the study for wilful noncompliance, they are entitled to withhold part or all of the payment. Participants who do not continue study participation for other reasons must be compensated in proportion to the amount of participation they completed. Researchers must not withhold all or most of the money until the end of studies involving more than one session or intervention in order to induce unwilling participants to remain in the study. The conditions for compensation must be approved by the research ethics committee and disclosed in the informed consent process.

**Studies of financial incentives.** In some studies, monetary or material incentives to participants are themselves a core object of study rather than a form of compensation. For example, incentives in the form of cash transfers or vouchers might be tested as a means of overcoming economic obstacles to treatment (for example, to accessing health care and continuing treatment) or lack of effective motivation for treatment (for example, in long-term treatment for some chronic conditions). Concerns about undue inducement must not preclude the conduct of such research, but research ethics committees must be sensitive to risks that might emerge for research using incentives.

## GUIDELINE 14:

# TREATMENT AND COMPENSATION FOR RESEARCH-RELATED HARMS

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**Sponsors and researchers must ensure that research participants who suffer physical, psychological or social harm as a result of participating in health-related research receive free treatment and rehabilitation for such harms, as well as compensation for lost wages, as appropriate. Such treatment and compensation are owed to research participants who are harmed physically, psychologically or socially, as a consequence of interventions performed solely to accomplish the purposes of research, regardless of fault. In the case of death resulting from research participation, the participant's dependents are entitled to compensation. Participants must not be asked to waive the right to free treatment and compensation for research-related harms.**

**Research ethics committees must determine whether there is an adequate arrangement for treatment and compensation for research-related injuries.**

### Commentary on Guideline 14

**General considerations.** This Guideline focuses on the entitlement to free treatment and additional compensation when research participants are harmed by research interventions or procedures. In the commentary below, the thresholds for such entitlements are described. Dependents of participants are also entitled to material compensation for death or disability occurring as a direct result of study participation. Lack of a proper mechanism in place for compensation of research harms may serve as a disincentive for people to participate in research, and may negatively impact trust in the research enterprise. Therefore, it is not only just, but also pragmatic, to have appropriate provision for free treatment and compensation for research-related harms.

**Obligation of the sponsor with regard to free treatment and rehabilitation.** Sponsors and researchers must ensure that research participants who suffer physical, psychological or social harm as a result of participating in health-related research receive free treatment and rehabilitation for such harms. This will usually mean that continuity of care for participants' health needs related to research harms is guaranteed without any cost to the participant for as long as such care is needed (see Guideline 6 – Caring for participants' health needs). The sponsor must provide this treatment or rehabilitation free of charge, since the harm resulted from the research.

**Obligation of the sponsor with regard to compensation.** Before the research begins, the sponsor, whether a pharmaceutical company, other organization or institution, or a government (where government insurance is not precluded by law), must agree to provide compensation for any harm for which participants are entitled to compensation based on this Guideline. Alternatively, the sponsor may come to an agreement with the researcher concerning the circumstances in which the researcher must rely on his or her own insurance coverage (for example, for negligence or failure of the researcher to follow the protocol, or where government insurance coverage is limited

to negligence). In certain circumstances, it may be advisable to follow both courses. Sponsors must seek adequate insurance to cover compensation, independent of proof of fault. Arrangements for free treatment and compensation should be described in the protocol and the informed consent.

**Equitable compensation and free medical treatment.** Compensation is owed to research participants who are harmed psychologically, physically or socially, as a consequence of interventions performed solely to accomplish the purposes of research. A harm is considered a consequence of the intervention when the harm would not have occurred but for the person's participation in research, and is different in kind or magnitude from the sorts of harms that would have been reasonable to expect in the context of clinical care. Compensation must be equitable: researchers and sponsors do not have an obligation to pay for care for every harm that befalls a participant while in a study. The research ethics committee must be satisfied that there is an adequate arrangement for free treatment and compensation for research-related harms, and provide oversight to ensure that researchers report such harms, how treatment is being paid for and compensation provided to participants, and what is being offered.

Participants must not be asked to waive their rights to free treatment or compensation for research-related harms, nor must they be required to show negligence or lack of a reasonable degree of skill on the part of the researcher in order to claim free treatment or compensation. The informed consent process or form must not contain statements that would absolve a researcher from responsibility in the case of harm, or that would imply that participants waive their right to seek compensation (see Guideline 9 – Individuals capable of giving informed consent). They must also be told what medical service, organization or individual will provide the treatment and what organization will be responsible for providing compensation.

## GUIDELINE 15:

# RESEARCH INVOLVING VULNERABLE PERSONS AND GROUPS

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**When vulnerable individuals and groups are considered for recruitment in research, researchers and research ethics committees must ensure that specific protections are in place to safeguard the rights and welfare of these individuals and groups in the conduct of the research.**

### Commentary on Guideline 15

**General considerations.** According to the Declaration of Helsinki, vulnerable groups and individuals “may have an increased likelihood of being wronged or of incurring additional harm.” This implies that vulnerability involves judgments about both the probability and degree of physical, psychological, or social harm, as well as a greater susceptibility to deception or having confidentiality breached. It is important to recognize that vulnerability involves not only the ability to provide initial consent to participate in research, but also aspects of the ongoing participation in research studies. In some cases, persons are vulnerable because they are relatively (or absolutely) incapable of protecting their own interests. This may occur when persons have relative or absolute impairments in decisional capacity, education, resources, strength, or other attributes needed to protect their own interests. In other cases, persons can also be vulnerable because some feature of the circumstances (temporary or permanent) in which they live makes it less likely that others will be vigilant about, or sensitive to, their interests. This may happen when people are marginalized, stigmatized, or face social exclusion or prejudice that increases the likelihood that others place their interests at risk, whether intentionally or unintentionally. Although research ethics committees can require special protections only for potential participants collectively for a particular project, researchers and others involved in research must take into account factors that render individual participants vulnerable and take appropriate steps to mitigate those factors.

A traditional approach to vulnerability in research has been to label entire classes of individuals as vulnerable. The account of vulnerability in this Guideline seeks to avoid considering members of entire classes of individuals as vulnerable. However, it is useful to look at the specific characteristics that may render individuals vulnerable, as this can aid in identifying the special protections needed for persons who may have an increased likelihood of being wronged or of incurring additional harm as participants in research. Different characteristics may also co-exist, making some individuals more vulnerable than others. This is highly dependent on the context. For example, persons who are illiterate, marginalized by virtue of their social status or behaviour, or living in an authoritarian environment, may have multiple factors that make them vulnerable.

Some characteristics can make it reasonable to assume that certain individuals are vulnerable, for example:

**Capacity to consent.** One widely accepted criterion of vulnerability is limited capacity to consent or decline to consent to research participation. Individuals with this characteristic are discussed in

other guidelines in this document (see Guideline 16 – Research involving adults incapable of giving informed consent, and Guideline 17 – Research involving children and adolescents).

**Individuals in hierarchical relationships.** The characteristic of vulnerability in this case is the possibility of diminished voluntariness of the consent of potential participants who are in a subordinate relationship. Examples are medical and nursing students, subordinate hospital and laboratory personnel, workers in settings where research studies are conducted, and members of the armed forces or police. Their agreement to volunteer may be unduly influenced, whether justified or not, by the expectation of preferential treatment if they agree to participate in the study or by fear of disapproval or retaliation if they refuse (see also commentary on Guideline 9 – Individuals capable of giving informed consent). The research protocol must include a description of provisions to protect such individuals from being conscripted into research.

**Institutionalized persons.** Residents of nursing homes, mental institutions, and prisons are often considered vulnerable because in a confined setting they have few options and are denied certain freedoms that non-institutionalized persons enjoy. For example, prisons have been described as “an inherently coercive environment.” Also, they may be in a dependent relationship with caregivers or guardians (see commentary on Guideline 9 – Individuals capable of giving informed consent, section on *Dependent relationship*).

One protection for institutionalized individuals is the appointment of an advocate of some sort to the research ethics committee when such proposals are under review (see commentary on Guideline 9 – Individuals capable of giving informed consent, section on *Dependent relationship*). Some individuals with this characteristic may also have diminished capacity to consent, and therefore require the additional protections noted earlier for participants who lack decisional capacity.

**Women.** Although women in general must not be considered vulnerable, specific circumstances in which women could be vulnerable in research include: studies with female or transsexual sex workers; research on sexual and intimate partner violence; studies with trafficked women, refugees and asylum seekers; studies of abortion in jurisdictions where abortion is illegal; and research with women who live in a cultural context where they are not permitted to consent on their own behalf for participation in research, but require permission from a spouse or male relative. When women in such situations are potential participants in research, researchers need to exercise special care (see Guideline 18 – Women as research participants).

**Pregnant women.** Pregnant women must not be considered vulnerable simply because they are pregnant. Specific circumstances, such as risks to the fetus, may require special protections, as set out in Guideline 19 – Pregnant women and breastfeeding women as research participants.

**Other potentially vulnerable individuals.** Among members of groups that have traditionally been considered vulnerable, the following are frequently mentioned: people receiving welfare benefits or social assistance and other poor people and the unemployed; people who perceive participation as the only means of accessing medical care; some ethnic and racial minorities; homeless persons, nomads, refugees or displaced persons; people living with disabilities; people with incurable or stigmatized conditions or diseases; people faced with physical frailty, for example because of age and co-morbidities, individuals who are politically powerless; and members of communities unfamiliar with modern medical concepts. Furthermore, in some contexts vulnerability might be related to gender, sexuality and age.

To the extent that these and other people have one or more of the characteristics discussed above, research ethics committees must review the need for special protection of their rights and welfare, and include such protections when necessary. However, researchers and research ethics committees must avoid making judgments regarding the exclusion of such groups based on

stereotypes. One proposed mechanism that can be used to avoid stereotyping is consultation with relevant stakeholders, where feasible, before, during and after the conduct of the research (see Guideline 7 – Community engagement).

**Special protections.** Special protections for these groups can include allowing no more than minimal risks for procedures that offer no potential individual benefits for participants; supplementing the participant's agreement by the permission of family members, legal guardians, or other appropriate representatives; or requiring that the research be carried out only when it is targeted at conditions that affect these groups. Safeguards can be designed to promote voluntary decision-making, limit the potential for confidentiality breaches, and otherwise work to protect the interests of those at increased risk of harm. Research ethics committees need to be sensitive to not overly excluding people, and allow them to participate by requiring that special protections be put in place.

**Group vulnerability.** Despite the importance of avoiding classification of entire groups as inherently vulnerable, circumstances exist that require research ethics committees to pay special attention to research involving certain groups. In some resource-limited countries or communities, lack of access to medical care, membership in ethnic and racial minorities, or other disadvantaged or marginalized groups can be factors that constitute vulnerability. As is true of the vulnerability of individuals, the judgment that groups are vulnerable is context dependent and requires empirical evidence to document the need for special protections.

## GUIDELINE 16:

# RESEARCH INVOLVING ADULTS INCAPABLE OF GIVING INFORMED CONSENT

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Adults who are not capable of giving informed consent must be included in health-related research unless a good scientific reason justifies their exclusion. As adults who are not capable of giving informed consent have distinctive physiologies and health needs, they merit special consideration by researchers and research ethics committees. At the same time, they may not be able to protect their own interests due to their lack of capacity to provide informed consent. Specific protections to safeguard the rights and welfare of these persons in research are therefore necessary.

Before undertaking research with adults who are not capable of giving informed consent, the researcher and the research ethics committee must ensure that:

- ▶ a legally authorized representative of the person who is incapable of giving informed consent has given permission and this permission takes account of the participant's previously formed preferences and values (if any); and
- ▶ the assent of the subject has been obtained to the extent of that person's capacity, after having been provided with adequate information about the research at the level of the subject's capacity for understanding this information.

If participants become capable of giving informed consent during the research, their consent to continued participation must be obtained.

In general, a potential participant's refusal to enrol in the research must be respected, unless, in exceptional circumstances, research participation is considered the best available medical option for an individual who is incapable of giving informed consent.

If participants have made advance directives for participation in research while fully capable of giving informed consent, the directives should be respected.

For research interventions or procedures that have the potential to benefit adults who are incapable of giving informed consent, the risks must be minimized and outweighed by the prospect of potential individual benefit. For research interventions or procedures that have no potential individual benefits for participants, two conditions apply:

- ▶ the interventions and procedures should be studied first in persons who can give consent when these interventions and procedures target conditions that affect persons who are not capable of giving informed consent as well as those who are capable, unless the necessary data cannot be obtained without participation of persons who are incapable of giving informed consent; and

- ▶ **the risks must be minimized and no more than minimal.**

**When the social value of the studies with such research interventions and procedures is compelling, and these studies cannot be conducted in persons who can give informed consent, a research ethics committee may permit a minor increase above minimal risk.**

## Commentary on Guideline 16

**General considerations.** In general, competence or decisional capacity is determined by the ability to understand material information, appreciate the situation and its consequences, consider the treatment options, and communicate a choice. Persons should be considered capable of giving informed consent unless it is proven otherwise. A person may be incapable to give informed consent for a variety of reasons (for example, dementia, some psychiatric conditions and accidents). Persons can become capable of giving informed consent after a certain period, or they can be incapable to decide whether they should be treated for a certain disease but capable to decide whether they want to enjoy a meal. This illustrates that a lack of decisional capacity is time-, task- and context-specific.

When researchers have reason to believe that potential or current participants are incapacitated, the participant's decisional capacity must be adequately assessed. In cases where incapacity to give informed consent might reasonably be expected, participants must be routinely screened. However, it is important to note that diagnosis of a mental or behavioural disorder does not necessarily imply that individuals are incapable of giving informed consent.

**Potential individual benefits and risks.** The potential individual benefits and risks of research with adults incapable of giving informed consent should be evaluated based on Guideline 4 – Potential individual benefits and risks of research, and Guideline 5 – Choice of control in clinical trials.

**Assent and dissent.** If participants cannot consent because they are incapacitated due to mental or behavioural disorders, they must be engaged in the research discussion at the level of their capacity to understand, and they must be given a fair opportunity to agree to or to decline participation in the study. This can also be called obtaining the participant's assent or dissent. Assent must be considered as a process (see Guideline 9 – Individuals capable of giving informed consent) that responds to changes in the person's cognitive status and is not merely the absence of dissent.

Any explicit objection by persons who are incapable to give informed consent must be respected even if the legally authorized representative has given permission. An explicit objection may be overruled if the incapacitated person needs treatment that is not available outside the context of research, prior research has demonstrated a significant benefit (see Guideline 4 – Potential individual benefits and risks of research), and the treating physician and the legally authorized representative consider the research intervention to be the best available medical option for the person lacking capacity.

**Permission of a legally authorized representative.** In accordance with relevant national regulations, the permission of an immediate family member or other person with a close personal relationship with the individual must be sought. Surrogate decision-makers must evaluate to what extent study participation is consistent with the individual's previously formed preferences and values (if any), and, in the case of research that offers participants a prospect of clinical benefit, to what extent study participation promotes the individual's clinical interests. Previously stated preferences regarding the individual's willingness to enrol in research or documented preferences in an advance directive should be respected. Researchers must recognize that surrogates may have their own interests that may call their permission into question. Furthermore, in situations where a legally authorized representative is not available to allow for timely enrolment, researchers may obtain the permission of a representative who is socially accepted but not formally recognized before the law.

**Emergency care situations in which the researcher anticipates that many participants will be unable to consent.** Research protocols are sometimes designed to address conditions occurring suddenly and rendering the patients or participants incapable of giving informed consent. Examples are sepsis, head trauma, cardiopulmonary arrest and stroke. In such circumstances, it is often necessary to proceed with the research interventions very soon after the onset of the condition in order to evaluate an investigational treatment or develop the desired knowledge.

If possible, an attempt must be made to identify a population that is likely to develop the condition to be studied. This can be done readily, for example, if the condition is one that recurs periodically in individuals, such as grand mal seizures and alcohol binges. In such cases, researchers should ideally contact potential participants while fully capable of informed consent, and obtain their agreement to be involved in the research during future periods of incapacitation, for example in an advance directive.

If there is no opportunity to solicit informed consent of participants while fully capable of informed consent, plans to conduct emergency care research with incapacitated persons must be publicized within the community in which it will be carried out, where feasible. In the design and conduct of the research, the research ethics committee, the researchers and the sponsors must be responsive to the concerns of the community. The research must not be carried out if it does not have substantial support in the community concerned. (See commentary on Guideline 4 – Potential individual benefits and risks of research, section on *Risks to groups of persons*, and Guideline 7 – Community engagement).

Before proceeding without prior informed consent, the researcher must make reasonable efforts to locate a legally authorized representative to give permission on behalf of an incapacitated patient in need of emergency care. If such a person can be located and refuses to give permission, the patient may not be enrolled as a participant.

The researcher and the research ethics committee should agree to a maximum time of involvement of an individual without obtaining either the individual's own informed consent or surrogate consent if the person continues to be unable to give consent. If, by that time, there is no individual or surrogate consent, the participant should be withdrawn from the study provided that withdrawal will not make the participant worse off. The participant or the surrogate should be offered an opportunity to object to the use of data derived from participation of the patient without consent or permission.

When there are no advance directives for research participation for the period of incapacitation, permission of a legally authorized representative must be sought. This permission must take account of the participant's previously expressed preferences and values, if any.

In all cases in which research has been approved to begin without prior consent of incapacitated persons because of suddenly occurring conditions, they must be given all relevant information as soon as they regain capacity, and their consent to remain in the study must be obtained as soon as reasonably possible. In addition, they must be given the opportunity to opt out of the study.

**Waivers of the permission by a legally authorized representative.** Research ethics committees may waive the requirement to obtain permission from a legally authorized representative if the conditions for waiving informed consent in research with participants who are capable of giving informed consent are satisfied (Guideline 10 – Modifications and waivers of informed consent).

## GUIDELINE 17:

# RESEARCH INVOLVING CHILDREN AND ADOLESCENTS

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Children and adolescents must be included in health-related research unless a good scientific reason justifies their exclusion. As children and adolescents have distinctive physiologies and health needs, they merit special consideration by researchers and research ethics committees. However, their distinctive physiologies and emotional development may also place children and adolescents at increased risk of being harmed in the conduct of research. Moreover, without appropriate support, they may not be able to protect their own interests due to their evolving capacity to give informed consent. Specific protections to safeguard children's rights and welfare in the research are therefore necessary.

Before undertaking research involving children and adolescents, the researcher and the research ethics committee must ensure that:

- ▶ a parent or a legally authorized representative of the child or adolescent has given permission; and
- ▶ the agreement (assent) of the child or adolescent has been obtained in keeping with the child's or adolescent's capacity, after having been provided with adequate information about the research tailored to the child's or adolescent's level of maturity.

If children reach the legal age of maturity during the research, their consent to continued participation should be obtained.

In general, the refusal of a child or adolescent to participate or continue in the research must be respected, unless, in exceptional circumstances, research participation is considered the best medical option for a child or adolescent.

For research interventions or procedures that have the potential to benefit children or adolescents, the risks must be minimized and outweighed by the prospect of potential individual benefit.

For research interventions or procedures that have no potential individual benefits for participants, two conditions apply:

- ▶ the interventions and procedures should be studied in adults first, when these interventions and procedures target conditions that affect adults as well as children and adolescents, unless the necessary data cannot be obtained without participation of children or adolescents; and
- ▶ the risks must be minimized and no more than minimal.

When the social value of the studies with such research interventions and procedures is compelling, and these studies cannot be conducted in adults, a research ethics committee may permit a minor increase above minimal risk.

## Commentary on Guideline 17

### **Justification of the involvement of children and adolescents in health-related research.**

The participation of children and adolescents is indispensable for research into diseases of childhood and conditions to which they are particularly susceptible, as well as for clinical trials of drugs that will be used for children and adolescents as well as adults. In the past, many new products were not tested in children or adolescents although they were directed at diseases also occurring in childhood. In some cases, this resulted in children or adolescents being exposed to interventions that were either not effective or were harmful. In general, this lack of information results in higher risks for children and adolescents from being exposed to interventions where little is known about their specific effects or safety in this population. Therefore, it is imperative to involve children and adolescents in research to study both investigational interventions for childhood conditions and established interventions in adults that are also relevant for children or adolescents, but that have not previously undergone rigorous testing in children and adolescents. Research ethics committees should recognize that research involving children or adolescents spans a wide range of individuals, from infants through to those just short of legal maturity, with very different physical, cognitive and emotional capacities. A nuanced approach to evaluating research with children and adolescents is therefore required.

**Order of involvement in research.** There is controversy over whether research must be done first in adults or adolescents before it is done in younger children. Some believe that all studies must be done in adults first in order to minimize risks in children. Others argue that this requirement can preclude valuable and timely research in children, in particular when the research addresses an important health need or priority of children.

These Guidelines acknowledge that the general rationale behind inclusion of adults before children is that children must be protected from unnecessary risks of harm. However, a strict adherence to this requirement may not always be tenable in pediatric research since children and adolescents face distinctive health problems. In the case of childhood-specific conditions, studies in adults would not be feasible or their results meaningful. Moreover, in rare cases (for example, when a disease affects large numbers of people, including children and adolescents, the available treatment options are limited, and an investigational agent shows great promise), waiting for conclusive results from research in adults before initiating pediatric studies can significantly delay the acquisition of relevant data and the development of beneficial interventions for children.

The current Guidelines do not require that research first be conducted in adults if the research includes interventions that have a prospect for potential individual benefit for children and adolescents. This prospect is sufficient to justify the risks associated with the interventions and procedures, provided that the cumulative risk of all study interventions and procedures that do not have a prospect of potential individual benefit are no more than minimal. If research meets these conditions but the cumulative risk of all study interventions and procedures that do not have a prospect of potential individual benefit is only a minor increment above minimal risk, then research ethics committees must be convinced that the research is of special relevance to children or adolescents and could not be carried out equally well in an adult population. In such cases, older children who are more capable of giving assent must be selected before younger children or infants, unless there are sound scientific reasons for performing the research in younger children first.

Research must always be conducted in adults before it is conducted in children when exploring the possible toxicity of new drugs. First exploring the possible toxicity of new drugs in adult populations represents a way of reducing risk for children and adolescents who might be involved in subsequent investigations of the same intervention.

**Potential individual benefits and risks.** The potential individual benefits and risks of research with children or adolescents should be evaluated based on Guideline 4 – Potential individual benefits and risks of research, and Guideline 5 – Choice of control in clinical trials.

**Assent.** Children and adolescents who are legally minors cannot give legally valid informed consent, but they may be able to give assent. To give assent means that the child or adolescent is meaningfully engaged in the research discussion in accordance with his or her capacities. Assent must be considered as a process (see Guideline 9 – Individuals capable of giving informed consent) and is not merely the absence of dissent. Furthermore, the researcher must involve the child or adolescent in the actual decision-making process and use age-appropriate information. It is of major importance to inform the child or adolescent and obtain assent as described above, preferably in writing for children who are literate. The process of obtaining assent must take into account not only the age of children, but also their individual circumstances, life experiences, emotional and psychological maturity, intellectual capabilities and the child's or adolescent's family situation.

As adolescents near the age of majority, their agreement to participate in research may be ethically (though not legally) equivalent to consent. In this situation, parental consent is ethically best considered as “co-consent” but legally, the adolescent's agreement remains assent. If child or adolescent participants reach the legal age of majority according to applicable law and become capable of independent informed consent during the research, their written informed consent to continued participation must be sought and their decision respected.

**Deliberate objection.** Some children and adolescents who are too immature to give assent may be able to register a “deliberate objection,” meaning an expression of disapproval or refusal of a proposed procedure. The deliberate objection of an older child or adolescent, for example, is to be distinguished from the behaviour of an infant likely to cry or withdraw in response to almost any adverse stimulus. A deliberate objection by a child or adolescent to taking part in research must be respected even if the parents have given permission, unless the child or adolescent needs treatment that is not available outside the context of research, the research intervention has a clear prospect of clinical benefit, and the treating physician and the legally authorized representative consider the research intervention to be the best available medical option for the given child or adolescent. In such cases, particularly if the child is very young or immature, a parent or guardian may override the child's objections. However, in some situations parents may press a researcher to persist with an investigational intervention against the child's wishes. Sometimes this pressure is meant to serve the parents' interests rather than the child's. In this case, the parents' decision must be overridden if the researcher believes it is not in the child's best clinical interest to enrol or continue study participation.

**Permission of a parent or legally authorized representative.** The researcher must obtain the permission of at least one parent or guardian in writing, consistent with applicable laws and regulations. The age at which a child becomes legally capable to give consent differs substantially from one jurisdiction to another. Often children who have not yet reached the legally established age of consent can understand the implications of research participation and go through standard informed consent procedures; however, legally they can only assent to serve as research participants. Independent of its quality, assent is never sufficient to permit participation in research unless it is supplemented by the permission of a parent, legal guardian or other duly authorized representative. The decision to continue or discontinue participation by children or adolescents who become legally capable during the study trumps the decision of their parents or legal guardians.

**Waiver of parental permission.** In certain circumstances, research ethics committees may waive parental permission. In such cases, special protections must be devised to ensure that the best interests of these children or adolescents are being served. These circumstances might include cases in which permission of a parent is not feasible or is undesirable. In some jurisdictions, certain

individuals who are below the general age of consent are regarded as “emancipated” or “mature” minors and are authorized to consent without the agreement or even the awareness of their parents or guardians. They may be married, pregnant or be parents themselves, or they may live independently. In other cases, studies involve investigation of adolescents’ beliefs and behaviour regarding sexuality or use of recreational drugs. Research may also address domestic violence, sexually transmitted diseases, pregnancy, abortion, or child abuse. In these cases, parental knowledge of the topic of the research may place the children or adolescents at risk of questioning, intimidation, or even physical harm by their parents.

In such cases, special protections to promote the best interests of these children or adolescents should include the involvement of independent child advocates. A child may also be asked to choose a relative, trusted friend, or family physician who is not involved in the research project who might then represent the child. Independent psychological and medical support for the participating children and adolescents is another special protection, though this may be difficult to realize in some communities. In such communities, the study personnel must be sufficiently qualified to help children and adolescents who need medical and psychological support.

A research ethics committee may also allow a waiver of parental permission if the conditions set out in Guideline 10 – Modifications and waivers of informed consent - are satisfied.

**Observation of the study by a parent or guardian.** A parent or legally appointed guardian who gives permission for a child or adolescent to participate in research must generally be given the opportunity, to a reasonable extent and without violating the privacy of other study participants, to observe the child’s participation as the study proceeds. This could enable the child to be withdrawn if the parent or guardian decides it is in the child’s best interests to do so.

**Emergency care situations in which the researcher anticipates that children and adolescents will participate.** When children and adolescents participate in emergency care research, the principles of Guideline 16 – Research involving adults incapable of giving informed consent - apply.

## GUIDELINE 18:

# WOMEN AS RESEARCH PARTICIPANTS

**Women must be included in health-related research unless a good scientific reason justifies their exclusion. Women have been excluded from much health-related research because of their child-bearing potential. As women have distinctive physiologies and health needs, they merit special consideration by researchers and research ethics committees. Only the informed consent of the woman herself should be required for her research participation. Since some societies lack respect for women's autonomy, in no case must the permission of another person replace the requirement of individual informed consent by the woman.**

**Women of child-bearing potential must be informed in advance of the possibility of risks to the fetus should they become pregnant during their research participation. When participation in research might be hazardous to a fetus or a woman if she becomes pregnant, sponsors and researchers must guarantee access to pregnancy tests, effective contraceptive methods before and during the research and to safe, legal abortion.**

## Commentary on Guideline 18

**General considerations.** Women in many societies have been excluded from research. For example, most of the early cardiovascular disease studies have excluded women because these diseases were believed to be uncommon in women. In particular, women who are biologically capable of becoming pregnant have been traditionally excluded from clinical trials of drugs, vaccines and medical devices owing to concern about undetermined risks to the fetus (see Guideline 15 – Research involving vulnerable persons and groups). Although the presumption against including women has changed in recent years, they are still excluded in many cases without adequate justification. Much remains unknown about the safety and efficacy of most drugs, vaccines, or devices used by women in medical practice, and this lack of knowledge can be dangerous. For example, heart attacks in women are different from heart attacks in men, so research is necessary to determine the best means of diagnosis and treatment in women.

**Vulnerability of women.** Despite the current general presumption that favours the inclusion of women in research, in many societies women remain socially vulnerable in the conduct of research. For example, they may suffer negligence or harm because of their submission to authority, their hesitancy or inability to ask questions, and a cultural tendency to deny or tolerate pain and suffering. When women in these situations are potential participants in research, researchers, sponsors and ethics committees must take special care in the research design, assessment of risks and benefits, as well as the process of informed consent, to ensure that women have the necessary time and appropriate environment to make decisions based on information provided to them.

Some women become vulnerable in research because of heightened psychological, social, physical, or legal risks. Examples include surveys and interviews regarding intimate partner violence and rape; social and behavioural research involving sex workers or women who inject drugs; and studies that solicit information about sexual behaviour. When the research involves household surveys or interviews, researchers must take special care to ensure that the women are interviewed in a private

place without the possibility of intrusion by other family members. In such studies, women must be given the option of conducting the interview in a setting of their choosing outside the home. Breach of confidentiality in these types of research could result in serious harms to women, even if the only information disclosed is their participation in the research. In studies involving women who have experienced gender-based violence, participation in interviews may cause emotional distress. Researchers must be prepared with referrals for psychological counselling if the need arises.

**Informed consent and authorization.** In some cultures, spouses or community leaders typically grant permission to invite women to participate. This authorization must not be used as a substitute for individual informed consent. The women must have adequate time and a proper environment in which to decide to enrol.

**Inclusion of women of child-bearing potential.** A general policy of excluding from clinical studies women who are biologically capable of becoming pregnant is unjust in that it deprives them of the benefits of new knowledge derived from these studies. It is also an affront to their right to self-determination. Although women of child-bearing age must be given the opportunity to participate in research, they must be informed that the research could include risks to the fetus if they become pregnant during the research (see Guideline 19 – Pregnant women and breastfeeding women as research participants). Access to a pregnancy test, to effective contraceptive methods and to safe, legal abortion must be guaranteed before exposure to a potential teratogenic or mutagenic intervention. When effective contraception and safe abortion are not available and alternative study sites are not feasible, the informed consent discussion must include information about the risk of unintended pregnancy, the legal grounds for abortion, and information about reducing harms from unsafe abortion and subsequent complications. Also, if the pregnancy is not terminated, participants must be guaranteed a medical follow-up for their own health and that of the infant and child.

**Women who become pregnant during research.** Many biomedical protocols call for terminating the participation of women who become pregnant during the research. In cases where a drug or biological product is known to be mutagenic or teratogenic, pregnant women must be removed from the study, and followed up and provided care through the duration of their pregnancy and delivery. Access to diagnostic tests must be provided to reveal any fetal anomalies. If anomalies are detected, women who wish may be referred for an abortion. When there is no evidence on the basis of which a potential harm to the fetus can be assumed, women who become pregnant should not automatically be removed from the study, but must be offered the option to continue or end their participation. For instance, in some cases it may be appropriate for a woman to stay in the study for safety monitoring but removed from the study drug. If the woman opts for continued participation, researchers and sponsors must offer adequate monitoring and support.

## GUIDELINE 19:

# PREGNANT AND BREASTFEEDING WOMEN AS RESEARCH PARTICIPANTS

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**Pregnant and breastfeeding women have distinctive physiologies and health needs. Research designed to obtain knowledge relevant to the health needs of the pregnant and breastfeeding woman must be promoted. Research in pregnant women must be initiated only after careful consideration of the best available relevant data.**

**In no case must the permission of another person replace the requirement of individual informed consent by the pregnant or breastfeeding woman.**

**For research interventions or procedures that have the potential to benefit either pregnant or breastfeeding women or their fetus or infant, risks must be minimized and outweighed by the prospect of potential individual benefit.**

**For research interventions or procedures that have no potential individual benefits for pregnant and breastfeeding women:**

- ▶ **the risks must be minimized and no more than minimal; and**
- ▶ **the purpose of the research must be to obtain knowledge relevant to the particular health needs of pregnant or breastfeeding women or their fetuses or infants.**

**When the social value of the research for pregnant or breastfeeding women or their fetus or infant is compelling, and the research cannot be conducted in non-pregnant or non-breastfeeding women, a research ethics committee may permit a minor increase above minimal risk.**

**Short-term and long-term follow-up of the fetus and the child may be required in research involving pregnant and breastfeeding women depending upon the study intervention and its potential risks.**

**As a general rule, health-related research involving pregnant women that has the potential for harm to the fetus should be conducted only in settings where women can be guaranteed access to a safe, timely and legal abortion in the event that participation in the research makes the pregnancy unwanted.**

## Commentary on Guideline 19

**General considerations.** Physicians prescribe medications for pregnant and breastfeeding women, but most often do so in the absence of studies involving such women and without adequate evidence of safety and efficacy. Such routine treatment includes medications that may have a prospect of serious harm to the fetus, such as radiation or chemotherapy for cancer. A direct consequence of the

routine exclusion of pregnant women from clinical trials is their use of medications (both prescription and non-prescription) lacking data from clinical trials about the potential individual benefits and harms to themselves, their fetuses and their future children. Therefore, after careful consideration of the best available relevant data, it is imperative to design research for pregnant and breastfeeding women to learn about the currently unknown risks and potential individual benefits to them, as well as to the fetus or nursing infant.

A case in point is the thalidomide episode, in which about 10,000 babies around the world (many in Western Europe) were born with severely deformed limbs because their mothers had taken medication when pregnant. This tragedy is often cited as a reason for excluding pregnant women from health-related research, but the lesson to be learned is the opposite. Never having been tested in pregnant women, the drug came to market and was readily available for morning sickness, a relatively mild condition. Had the drug been tested in very few women in a clinical trial, the mutagenic effect would most likely have been discovered and the total number of babies born with deformities would have been much smaller.

Research designed to obtain knowledge relevant to the health needs of pregnant and breastfeeding women should be promoted in the following areas:

- ▶ interventions for conditions resulting from pregnancy;
- ▶ interventions for conditions that affect the general population and are reasonably expected to be used without adequate evidence during pregnancy (for example off-label use of medications); and
- ▶ interventions for conditions that affect the developing fetus.

**Informed consent and risks and potential individual benefits.** The involvement of pregnant women in research is complicated by the fact that it may present risks and potential individual benefits to the fetus as well as to the woman. Participation of breastfeeding women in biomedical research may similarly pose risks to the nursing infant. Research in pregnant and breastfeeding women must be initiated only after careful consideration of the best available data from preclinical research in pregnant animal models, research in non-pregnant women, retrospective observational studies, and pregnancy registries.

Researchers and research ethics committees must ensure that potential research participants are adequately informed about the risks to breastfeeding women and their infants, and about the risks to pregnant women (including future fertility), their pregnancies, their fetuses, and their future offspring. Information must also include steps taken to maximize potential individual benefits and minimize risks (see Guideline 4 – Potential individual benefits and risks of research). When evidence concerning risks is unknown or conflicting, this must be disclosed to the pregnant or breastfeeding woman as part of the informed consent process. She is the one to make the final decision about the acceptability of these risks to her and her fetus or infant. Women must also be informed that it is often difficult to determine causality in cases of fetal or infant abnormalities. Pregnant women may be recruited for research in which there is no prospect of potential individual benefit to them or the fetus only if the risks of the intervention are minimal. Examples include minimally invasive studies of new diagnostic techniques. In special circumstances, a minor increase above minimal risk may be acceptable.

Some research involving pregnant women may be directed at the health of the fetus. In such cases, the role of the woman remains the same: she is the decision-maker for any interventions that affect her. This does not exclude the possibility of the woman consulting with the father of the fetus, if she wishes.

Especially in communities or societies in which cultural beliefs accord more importance to the fetus than to the woman's life or health, women may feel constrained to participate, or not to participate,

in research. Special safeguards must be established to prevent undue inducement to pregnant women to participate in research in which interventions hold out the prospect of potential individual benefit to the fetus but not to the woman herself.

Researchers must include in protocols on research involving pregnant women a plan for monitoring the outcome of the pregnancy with regard to both the health of the woman and the short-term and long-term health of the infant and child. Adverse events associated with research in pregnancy and during lactation may not occur immediately.

**Potential individual benefits and risks.** The potential individual benefits and risks of research with pregnant and breastfeeding women should be evaluated based on Guideline 4 – Potential individual benefits and risks of research, and Guideline 5 – Choice of control in clinical trials.

**Serious harm and access to abortion.** Research with pregnant women must be conducted only in settings where these women can be guaranteed access to a safe, legal abortion. This rule serves to prevent women from having to carry an unwanted fetus to term and deliver an affected baby against their wishes. Before pregnant women are enrolled, researchers must, at a minimum, determine whether fetal impairment and mental health conditions are recognised as legal grounds for abortion in that jurisdiction. If they are not, pregnant women must not be recruited for research in which there is a realistic basis for concern that significant fetal abnormality may occur as a consequence of participation in research. At the same time, this rule might restrict potentially valuable research in countries where women cannot be guaranteed access to abortion. In such cases, research projects can be conducted only if a local research ethics committee determines that the research has compelling social value for pregnant women and the women are informed about existing restrictions on abortion and possible options for obtaining an abortion in another country.

**Breastfeeding women.** The father may need to be consulted in research involving breastfeeding women, in accordance with Guideline 17 – Research involving children and adolescents. If a breast-fed infant may be exposed to an investigational product through the ingestion of breast milk (or it is unknown whether an infant would be exposed), such research should be conducted in accordance with Guideline 17 – Research involving children and adolescents.

## GUIDELINE 20:

# RESEARCH IN DISASTERS AND DISEASE OUTBREAKS

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Disasters arising from events such as earthquakes, tsunamis or military conflicts, and disease outbreaks, can have a sudden and devastating impact on the health of large affected populations. In order to identify effective ways of mitigating the health impact of disasters and disease outbreaks, health-related research should form an integral part of disaster response. However, the conduct of research must not unduly impact the response to the victims of a disaster.

In the conduct of research in disasters and disease outbreaks, it is essential to uphold the ethical principles embodied in these Guidelines. Conducting research in these situations raises important challenges such as the need to generate knowledge quickly, maintain public trust, and overcome practical obstacles to implementing research. These challenges need to be carefully balanced with the need to ensure the scientific validity of the research and uphold ethical principles in its conduct.

Researchers, sponsors, international organizations, research ethics committees and other relevant stakeholders should ensure that:

- ▶ studies are designed so as to yield scientifically valid results under the challenging and often rapidly evolving conditions of disasters and disease outbreaks (see Guideline 1 – Scientific and social value and respect for rights);
- ▶ the research is responsive to the health needs or priorities of the disaster victims and affected communities and cannot be conducted outside a disaster situation (see Guideline 2 – Research conducted in low-resource settings);
- ▶ participants are selected fairly and adequate justification is given when particular populations are targeted or excluded, for example health workers (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research);
- ▶ the potential burdens and benefits of research participation and the possible benefits of the research are equitably distributed (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research);
- ▶ the risks and potential individual benefits of experimental interventions are assessed realistically, especially when they are in the early phases of development (see Guideline 4 – Potential individual benefits and risks of research);
- ▶ communities are actively engaged in study planning in order to ensure cultural sensitivity, while recognizing and addressing the associated practical challenges (see Guideline 7 – Community engagement);
- ▶ the individual informed consent of participants is obtained even in a situation of duress, unless the conditions for a waiver of informed consent are met (see Guideline 9 –

Individuals capable of giving informed consent, and Guideline 10 – Modifications and waivers of informed consent); and

- ▶ research results are disseminated, data are shared, and any effective interventions developed or knowledge generated are made available to the affected communities (see Guideline 2 – Research conducted in low-resource settings, and Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols).

Research in disasters and disease outbreaks should ideally be planned ahead. Health officials and research ethics committees should develop procedures to ensure appropriate, expedient and flexible mechanisms and procedures for ethical review and oversight. For example, research ethics committees could pre-screen study protocols in order to facilitate and expedite ethical review in a situation of crisis. Similarly, researchers and sponsors could make pre-arrangements on data- and sample-sharing that research ethics committees review in advance.

Sponsors and research ethics committees should evaluate and seek to minimize the risks to researchers and health professionals conducting research in a disaster context. Sponsors should include in the protocol a plan for mitigating adverse events. Furthermore, appropriate resources for mitigation measures should be included in the protocol budget.

## Commentary on Guideline 20

### Humanitarian response and research in the acute phase of disasters and diseases outbreaks.

Disasters are sudden events that cause great suffering or loss of life. Disease and illness can either be the cause or a result of disasters. For example, epidemics can lead to disasters and destabilize political institutions or undermine economic activity. Conversely, natural and man-made disasters, such as earthquakes and war, can weaken or destroy health systems and have a devastating impact on individual and population health. The first and foremost obligation in acute disaster situations is to respond to the needs of those affected. At the same time, an obligation exists to conduct health-related research because disasters can be difficult to prevent, and the evidence base for effectively preventing or mitigating their public health impact is limited. These two obligations can come into conflict. This is because humanitarian response and health-related research often rely on the same infrastructure and the same personnel, so priorities between the two may need to be set. If nurses and physicians become researchers, this may also create dependent relationships (see Guideline 9 – Individuals capable of giving informed consent). Humanitarian workers, researchers and sponsors must be aware of these conflicts and ensure that their studies do not unduly compromise the disaster response. Researchers and sponsors should also aim to contribute to the infrastructure for the humanitarian response and integrate their research activities with this response. Importantly, all studies must be responsive to the health needs or priorities of the affected populations, and it must not be possible to conduct the research outside a disaster situation.

**General challenges in disaster research.** In infectious disease outbreaks, there can be considerable pressure to conduct research. This is especially the case for diseases that have a high mortality rate and where the treatment options are limited (for example during the 2014 Ebola outbreak). Conversely, in natural or man-made disasters, research can be met with great scepticism or even hostility, and researchers can be at risk of physical harm. Researchers and sponsors must be equipped to negotiate these pressures in what are typically fragile political and social situations. They must also have sufficient operational and security support in order to work effectively in such challenging environments. Acute disasters pose numerous challenges for conducting ethically responsible research. For example, potential study participants often suffer from serious physical or psychological

trauma that can make it difficult for them to protect their rights and interests. Limited or damaged health infrastructures can challenge implementation of preferred study designs and data collection. Moreover, efforts to make available as soon as possible any interventions or products developed from the research to the affected communities are often more challenging in acute disaster situations (see Guideline 2 – Research conducted in low-resource settings). Despite these challenges, it is essential that researchers and sponsors uphold the ethical principles embodied in these Guidelines, even if the standard ways of respecting these principles may need to be modified. In fact, an acute disaster situation can *require* modifying standard procedures so that ethical principles can be upheld in the most expedient way possible. For example, while ethical oversight is essential in all research, accelerated ethical review during disasters may be necessary to ensure that valuable studies can begin as soon as possible without compromising ethical requirements (see below).

While all ethical principles in these Guidelines have to be upheld, some require special attention.

**Potential individual benefits and risks of investigational interventions and emergency use outside clinical trials.** Especially when disasters are caused by infectious diseases that are highly contagious or serious (for example influenza, Ebola), there is great pressure to develop effective treatments and vaccines. When facing a serious, life-threatening infection, many people are willing to assume high risks and use unproven agents within or outside of clinical trials. However, it is essential that researchers and sponsors realistically assess the potential individual benefits and risks of experimental interventions and communicate these clearly to potential participants and individuals at risk. Even in ordinary circumstances, many promising experimental agents may not be safe and effective, and experimental interventions must be systematically evaluated in clinical trials. Moreover, emergency use can compromise recruitment of research participants and therefore undermine the conclusion of trials. Widespread emergency use with inadequate data collection about patient outcomes must therefore be avoided.

**Equitable distribution of risks and benefits.** Because experimental interventions are often limited in disaster situations, fair selection of participants is essential (Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research). Especially in dire emergencies, well-off and well-connected patients must not be further privileged (for example, community leaders). Moreover, the exclusion of especially vulnerable populations must be justified (Guideline 15 – Research involving vulnerable persons and groups). It may be acceptable to prioritize certain populations in study enrolment. For example, front line workers often put themselves at risk during a disaster such as an epidemic, and if experimental interventions are effective, these workers would be able to help more patients. The principles of reciprocity and helping the largest number of people could therefore justify their prioritization. Researchers, sponsors, and research ethics committees also need to ensure that burdens and benefits of participation are equitably distributed (see Guideline 3 – Equitable distribution of benefits and burdens in the selection of individuals and groups of participants in research).

**Scientific validity and alternative trial designs.** Disasters unfold quickly and study designs need to be chosen so that studies will yield meaningful data in a rapidly evolving situation. Study designs must be feasible in a disaster situation but still appropriate to ensure the study's scientific validity. Without scientific validity, the research lacks social value and must not be conducted (see Guideline 1 – Scientific and social value and respect for rights). Research may even divert personnel or resources from the disaster response. In clinical trials, the randomised-controlled trial design is often considered the “gold standard” for collecting robust data. However, researchers, sponsors, research ethics committees and others must explore alternative trial designs that may increase trial efficiency and access to promising experimental interventions while still maintaining scientific validity. The methodological and ethical merits of alternative trial designs must be carefully assessed before these designs are used. For example, when testing experimental treatments or vaccines during an epidemic, the appropriate trial design will depend on the promise of the investigational agent,

a variation in critical background factors (for example mortality and infection rates), and measurement of outcomes, among others. Researchers and sponsors must carefully evaluate the relative merits of different designs (for example observational or placebo-controlled) based on these factors.

**Community engagement.** Because disasters often lead to vulnerability and fragile political and social situations, engaging local communities about the research at an early stage is essential for maintaining public trust and ensuring that studies are conducted in a culturally sensitive manner (see Guideline 7 – Community engagement). Researchers and sponsors can use creative mechanisms to expedite and facilitate community engagement in a disaster situation (for example, by using social media). Fostering community leadership will often be important to address distrust and communicate effectively in order to gain support for the study design. In engaging with communities, researchers, sponsors and research ethics committees should be aware of potential conflicts of interest vis-à-vis the proposed research. For example, community leaders might seek to reassert their own authority by providing services to their communities through research.

**Ethical review and oversight.** The standard mechanism for ethical review will often be too time-consuming to enable full research protocols to be prepared and reviewed at the outset of a disaster. Procedures should be developed to facilitate and accelerate ethical review in a situation of crisis. For example, research ethics committees or a specialist ethics committee (perhaps on a national or regional level) may conduct an initial accelerated review of study protocols and continue oversight if studies raise significant ethical concerns. Research in disaster situations should ideally be planned in advance. This can involve, among other things, submitting partial study protocols for ethical “pre-screening” and drafting arrangements for data and sample sharing among collaborators. Health officials might also create an international network of specialists that could assist local review during a disaster. However, reviewing generic research protocols in advance cannot substitute for the ethical review of specific research protocols in a disaster. Local ethics review should be carried out whenever possible.

**Informed consent.** Even though most disaster victims are under duress, it is important to obtain their informed consent for study participation and especially to emphasize the difference between research and humanitarian aid. To explain the difference is especially important in the context of clinical trials that test experimental interventions in the early phases of development. The fact that potential participants are under duress does not prevent them from making a voluntary decision (Guideline 9 – Individuals capable of giving informed consent). The informed consent process must be designed in a way that is comprehensible and sensitive to persons who are under duress.

Special protections for individuals incapable of giving informed consent may apply, as described in Guideline 16 – Research involving adults incapable of giving informed consent, in the section on *Emergency care situations in which the researcher anticipates that many participants will be unable to consent*.

Individual informed consent may be waived for the sharing and analysis of surveillance data provided that the conditions of Guideline 10 – Modifications and waivers of informed consent - are met and appropriate governance systems for these data are put in place.

## GUIDELINE 21:

# CLUSTER RANDOMIZED TRIALS

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**In advance of initiating a cluster randomized trial, researchers, sponsors, relevant authorities, and research ethics committees should:**

- ▶ **determine who are the research participants and what other individuals or groups are affected, even though they are not directly targeted;**
- ▶ **determine whether it is required or feasible to obtain informed consent from patients, health care workers, or community members in certain studies;**
- ▶ **determine whether requiring informed consent and allowing refusal to consent may invalidate or compromise the research results;**
- ▶ **determine whether a no-intervention group is ethically acceptable as a comparator in a particular cluster randomized trial; and**
- ▶ **decide whether permission must be obtained from a gatekeeper.**

## Commentary on Guideline 21

**General considerations.** In this research design, groups of individuals (clusters), communities, hospitals, or units of a health facility are randomized to different interventions. The same ethical principles that govern all health-related research with humans are applicable to cluster randomized trials (CRTs). However, in the context of CRTs, these principles may require further specification as set out in this Guideline.

**Determining the research participants.** As in all research involving human participants, individuals who are targeted by an intervention are considered to be human subjects of research. In CRTs, the subjects can be patients, health care workers, or both. In CRTs in which health-care workers are the subjects, the intervention may not be targeted at patients, but aggregate data from patients' records may be used to judge the effectiveness of the intervention. An example is the introduction of new infection control procedures for workers in one cluster, with no change in procedures for the control cluster. Because only aggregate data regarding the number of infections are recorded, patients are not subjects in this type of study.

**Informed consent.** As a general rule, researchers must obtain informed consent from participants in a cluster randomized study unless a waiver or modification of consent is granted by a research ethics committee (see Guideline 10 – Modifications and waivers of informed consent). Waivers or modifications of informed consent may be necessary in some CRTs in which it is virtually impossible to obtain individual informed consent. This occurs when the intervention is directed at an entire community, making it impossible to avoid the intervention. Examples include a study comparing methods of incinerating waste or fluoridating the drinking-water supply to prevent dental carries. Members of the intervention community cannot avoid being affected by the intervention, so obtaining individual informed consent is impossible. Similarly, if the units in a cluster are hospitals or health centres, it could be difficult for patients to find another hospital or general practice to avoid a new method of delivery of preventive services. Another reason for the use of waivers or modifications

of consent in CRTs is that researchers may want to avoid participants in the control group learning about the intervention in the intervention group and accordingly, change their behaviour or try to get the intervention at another location, thereby compromising the results of the study.

When a study is conducted at a cluster level (different hospitals, clinics, or communities), the requirement to obtain consent from health care workers can compromise the results or make it difficult to analyse the results. When health care workers are the subjects, the refusal of some workers to be observed or to apply a new diagnostic or therapeutic tool could confound the results of the research. Researchers would not be able to tell whether a new intervention is sufficiently effective if some health care workers refuse to participate and employ their usual procedures. A waiver of consent would then be an option (see Guideline 4 – Potential individual benefits and risks of research), but health care workers must nevertheless be notified that a study is taking place. If the interventions are directly carried out on patients, they would normally also be considered research subjects and their consent to receive the intervention would be required.

Although in many CRTs participants cannot consent to being randomized, depending on the type of study design they may be able to give informed consent to receive the intervention. The intervention may be delivered at the individual level while the communities to which the individuals belong are randomized at the cluster level (for example, a vaccination campaign applied at the school level). These trials are called *individual-cluster randomized trials*. In some *individual-cluster randomized trials*, individuals may be able to consent to the intervention before it is administered in that cluster. For example, parents will not be able to consent to their children's school being randomized to a vaccination programme or to being allocated to that cluster, but they could consent or refuse to consent to their child's vaccination at school. In other CRTs, both the intervention and the community are randomized at the cluster level. These trials are called *cluster-cluster randomized trials* (for example, all the students in a school or all residents of a community). In *cluster-cluster randomized trials*, individual informed consent for receiving the intervention is typically difficult to obtain since it is almost impossible to avoid the intervention. At the same time, individual consent for data collection procedures is usually possible in both types of cluster randomized trials.

**Ethical acceptability of a no-intervention group.** Some CRTs investigate interventions that have been proven to be effective elsewhere; this is termed *implementation research*. This type of research is often conducted in low-resource settings. An ethical question pertaining to this type of study is whether it is acceptable to withhold the proven intervention from a control group in a CRT. This situation is analogous to that of placebo controls in a randomized, controlled trial when an established, effective prevention or treatment exists. If withholding the proven intervention from the control cluster would expose participants to more than a minor increase above minimal risk, it would be unethical to use that study design. An example would be the introduction of sterilizing equipment or disposable needles in a resource-poor health centre with a high infection rate among the patients. In the implementation CRT, health care workers would have to be educated in the use of the new equipment and instructed to throw away the disposable needles. Since the reuse of needles without sterilization would expose patients to more than a minor increase above minimal risk, it would be unethical for the control cluster to continue the usual practice. In such cases, it is necessary for researchers to explore an alternative design, such as using historical controls from the same facility. Research ethics committees have the responsibility to determine whether the proposed research is ethically acceptable when the methodology calls for withholding an established effective treatment from the control cluster.

**Gatekeeping in cluster randomized trials.** When a CRT substantially affects cluster or organizational interests, and a gatekeeper (for example, a community leader, headmaster, or local health council) possesses the legitimate authority to make decisions on the cluster or organization's behalf, the researcher must obtain the gatekeeper's permission to enrol the cluster or organization in the trial. Such permission does not replace the need to obtain individual informed consent where

this is required. Although a gatekeeper may not have been appointed or elected for the specific purpose of giving permission for the cluster to participate in research, the scope of authority must encompass interventions of the type in question when provided outside a research project. Moreover, the decision-maker must ensure that the risks of participation in the study and the randomisation are commensurate with the benefits for the cluster or for society. The gatekeeper may choose to consult a wider group of community representatives or advisers before taking the decision to permit the study.

## GUIDELINE 22:

# USE OF DATA OBTAINED FROM THE ONLINE ENVIRONMENT AND DIGITAL TOOLS IN HEALTH-RELATED RESEARCH

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When researchers use the online environment and digital tools to obtain data for health-related research they should use privacy-protective measures to protect individuals from the possibility that their personal information is directly revealed or otherwise inferred when datasets are published, shared, combined or linked. Researchers should assess the privacy risks of their research, mitigate these risks as much as possible and describe the remaining risks in the research protocol. They should anticipate, control, monitor and review interactions with their data across all stages of the research.

Researchers should inform persons whose data may be used in the context of research in the online environment of:

- ▶ the purpose and context of intended uses of data and information;
- ▶ the privacy and security measures used to protect their data, and any related privacy risks; and
- ▶ the limitations of the measures used and the privacy risks that may remain despite the safeguards put in place.

In case of a refusal by the person approached, researchers should refrain from using the data of this individual. This informed opt-out procedure must fulfil the following conditions: 1) persons need to be aware of its existence; 2) sufficient information needs to be provided; 3) persons need to be told that they can withdraw their data; and 4) a genuine possibility to object has to be offered.

Researchers collecting data on individuals and groups through publicly accessible websites without direct interaction with persons should, at a minimum, obtain permission from website owners, post a notice of research intent, and ensure compliance with published terms of website use.

Researchers must describe in the protocol how data obtained from online environments and digital tools will be treated, along with the potential risks of the research and how the potential risks are mitigated.

## Commentary on Guideline 22

**General considerations.** The vast range of data sources and technologies for collecting, analysing and sharing large quantities of data about individuals in the online environment has significantly expanded research opportunities, particularly with respect to studying personal and group characteristics, behaviours and interactions. The online environment includes the Internet, website platforms, social media, services such as purchasing, as well as email, chat and other applications, which are accessed by an array of computing and mobile devices. The characteristics of this environment make protecting the privacy of persons a major challenge.

People currently share information about themselves and others in their immediate circle with large numbers of other people online. This type of sharing has generated huge amounts of data for analysis by both public and private entities. Researchers can extract this information using automated tools. Such data are considered an important asset by the commercial sector for consumer profiling and marketing purposes.

**The need for privacy protection.** It has been argued that information posted online voluntarily by individuals is public, is used and sold by the commercial sector, and that therefore the normal protections and consent for research should not be required. However, users rarely adequately understand how their data are stored and used. And despite the insights that may result from this high volume of data, legal and ethical standards are unclear due to changing social norms and the blurring of boundaries of public and private information. Although the information may be collected from a public source, researchers should acknowledge that persons may be unwilling to have their data obtained for studies, and should account for the privacy norms in communities sharing information online. Users may not fully understand or appreciate the consequences of their actions, and may feel violated when their information is used in a context they did not anticipate.

The existence of data and information already online does not relieve the researcher from the obligation to respect privacy and mitigate risks that could result from combining data from multiple sources and their subsequent use and publication. Instead, the risk of unauthorized or inadvertent disclosure, in combination with technological capabilities that increase the volume and nature of identifiable data, point to the need to heighten data security and privacy protection in this context. It is especially important to address potential risks to vulnerable groups and others who may face adverse consequences as a result of exposure through this type of research.

**Assessment of privacy risk.** Assessment of privacy risk should encompass the range of threats to privacy, the aspects that exacerbate those threats, the likelihood of disclosure of information given those threats, and the extent, severity and likelihood of risks arising from those disclosures. Some privacy risks may be difficult to predict as data are accumulated, combined and used in a wide variety of contexts. For example, research on clinical or public health interventions using mobile devices is increasingly common. The convenience and reach of mobile devices, whether in the hands of persons or researchers, enables the convenient collection and rapid transmission of data in a variety of settings. Researchers using mobile phones and apps to collect data must be aware that these devices and applications each may have vastly different privacy-related characteristics and limitations.

Privacy risks are not a simple function of the presence or absence of specific fields, attributes or keywords in a set of data. Much of the potential for privacy risks stems from what can be inferred about individuals from the data as a whole or when the data are linked with other available information. Approaches to privacy protection in common use often provide limited protection. Traditional de-identification techniques have notable limitations, and definitions based on a simple concept of “identifiability” lack sufficient precision to be used as a standard. Very few data points can be used

to uniquely identify an individual in a set of data. Researchers who use only redaction of names or other clearly identifying information may reveal information that exposes individuals to privacy risks.

**Mitigation of privacy risk.** Selection and implementation of appropriate measures to mitigate privacy risks by investigators is essential and entails adopting privacy and security controls suited to the intended uses and privacy risks associated with the data. These measures in turn require a systematic analysis of the primary and secondary uses of the data, considering not just re-identification risks but also inference risks. This analysis should take into account not only whether a person can be directly associated with a particular attribute, but also the extent to which attributes that may be revealed or inferred depend on an individual's data and the potential harm that may result. It also takes into account the potential uses of the data, which in turn affects data management, output, and the privacy controls that may ultimately be suitable. The types of uses or analytic purposes intended impact the choice of privacy controls at each stage, as some techniques may enable or restrict certain types of uses.

Researchers should identify and manage risks during data collection, processing and dissemination. Privacy considerations require a conservative approach to data dissemination on the Internet. Academic publications and some institutions often require researchers to make their datasets publicly available, sometimes in an open data format. Public disclosure in such formats is problematic for datasets that contain identifiers, key-attributes and secondary attributes, as these enable re-identification of subjects by linking the records with auxiliary datasets. Once a dataset is released online, the researcher has lost control over how the data will be used, and the context of uses may change.

**Guidance to research ethics committees.** Research ethics committees may wish to consult a regularly updated list of specific privacy and security measures such as the one envisaged by WHO, that would be deemed to satisfy the requirement for reasonable and appropriate safeguards. There should be a requirement for implementing these safeguards broadly, covering some categories of research activities that may fall within an exemption to research ethics committee review. Research ethics committees should understand the application of controls that are calibrated to different categories of data sharing (meaning in some cases, data shared publicly would be subject to more stringent requirements than data shared among researchers). In efforts to harmonize approaches across regulations and institutional policies, research ethics committees should emphasize the need to provide similar levels of protection to research activities that pose similar privacy risks.

## GUIDELINE 23:

# REQUIREMENTS FOR ESTABLISHING RESEARCH ETHICS COMMITTEES AND FOR THEIR REVIEW OF PROTOCOLS

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All proposals to conduct health-related research involving humans must be submitted to a research ethics committee to determine whether they qualify for ethical review and to assess their ethical acceptability, unless they qualify for an exemption from ethical review (which may depend upon the nature of the research and upon applicable law or regulations). The researcher must obtain approval or clearance by such a committee before beginning the research. The research ethics committee should conduct further reviews as necessary, for example, when there are significant changes in the protocol.

Research ethics committees must review research protocols according to the principles set out in these Guidelines.

Research ethics committees must be formally established and given adequate mandate and support to ensure timely and competent review according to clear and transparent procedures. Committees must include multidisciplinary membership in order to competently review the proposed research. Committee members must be duly qualified and regularly update their knowledge of ethical aspects of health-related research. Research ethics committees must have mechanisms to ensure independence of their operations.

Research ethics committees from different institutions or countries should establish efficient communication in cases of externally sponsored and multi-centre research. In externally sponsored research, ethical review must take place in both the host and the sponsoring institution.

Research ethics committees should have a clear procedure for researchers or sponsors to make legitimate appeals against the decisions of research ethics committees.

## Commentary on Guideline 23

**General considerations.** Research ethics committees may function at the institutional, local, regional, or national levels, and in some cases at the international level. They must be established in accordance with rules set by a national or other recognized authority. Regulatory or other governmental authorities must promote uniform standards for committees within a country. Research institutions and governments must allocate sufficient resources for the ethical review process. Contributions of study sponsors to institutions or governments to support ethics review must be transparent.

Under no circumstances may payment be offered or accepted to procure a committee's approval or clearance of a protocol.

**Scientific and ethical review.** Although in some instances scientific review precedes ethical review, research ethics committees must always have the opportunity to combine scientific and ethical review in order to ensure the social value of the research (see Guideline 1 – Scientific and social value and respect for rights). The ethical review must consider, among other aspects: the study design; provisions for minimizing risk; an appropriate balance of risks in relation to potential individual benefits for participants and the social value of the research; safety of the study site, medical interventions, and monitoring safety during the study; and the feasibility of the research. Scientifically unsound research involving humans is unethical in that it may expose them to risk or inconvenience for no purpose. Even if there is no risk of injury, involving persons' and researchers' time in unproductive activities wastes valuable resources. Research ethics committees must therefore recognize that the scientific validity of the proposed research is essential for its ethical acceptability. Committees must either carry out a proper scientific review, verify that a competent expert body has determined the research to be scientifically sound, or consult with competent experts to ensure that the research design and methods are appropriate. If research ethics committees do not have expertise to judge science or feasibility, they must draw on relevant expertise.

**Accelerated review.** Accelerated review (sometimes called expedited review) is a process by which studies that involve no more than minimal risk may be reviewed and approved in a timely manner by an individual research ethics committee member or a designated subset of the full committee. Relevant authorities or research ethics committees may establish procedures for the accelerated review of research proposals. These procedures should specify the following:

- ▶ the nature of the applications, amendments, and other considerations that will be eligible for accelerated review;
- ▶ the minimum number of committee members required for accelerated review; and
- ▶ the status of decisions (for example, subject to confirmation by a full research ethics committee or not).

Relevant authorities or research ethics committees must establish a list of criteria for protocols that qualify for an accelerated review process.

**Further review.** The research ethics committee must conduct further reviews of approved studies as necessary, in particular if there are significant changes in the protocol that require re-consent by participants, affect the safety of participants, or other ethical matters that emerge during the course of the study. These further reviews include progress reports submitted by researchers and possible monitoring of researchers' compliance with approved protocols.

**Committee membership.** The research ethics committee must be constituted according to a document that specifies the manner in which members and the chair will be appointed, reappointed, and replaced. Research ethics committees must have members capable of providing competent and thorough review of research proposals. Membership normally must include physicians, scientists and other professionals such as research coordinators, nurses, lawyers, and ethicists, as well as community members or representatives of patients' groups who can represent the cultural and moral values of study participants. Ideally, one or more members should have experience as study participants since there is growing recognition that knowledge gained through personal experience as a participant can supplement the professional understanding of illness and medical care. Committees must include both men and women. When a proposed study involves vulnerable individuals or groups, as may be the case in research involving prisoners or illiterate persons, representatives of relevant advocacy groups should be invited to meetings where such protocols will be reviewed (see

Guideline 15 – Research involving vulnerable persons and groups). Regular rotation of members is desirable for balancing the advantage of experience with that of fresh perspectives.

Members of research ethics committees must regularly update their knowledge about the ethical conduct of health-related research. If committees do not have the relevant expertise to adequately review a protocol, they must consult with external persons with the proper skills or certification. Committees must keep records of their deliberations and decisions.

**Conflicts of interests on the part of committee members.** Research ethics committees must provide independent ethical opinions. Pressure can be brought to bear from many different directions, not just financial. Research ethics committees must therefore have mechanisms to ensure the independence of their operations. In particular, they must avoid any undue influence and minimize and manage conflicts of interests. Research ethics committees must require that their members disclose to the committee any interests they may have that could constitute a conflict of interest or otherwise bias their evaluation of a research proposal. Research ethics committees must evaluate each study in light of any disclosed interests and ensure that appropriate steps are taken to mitigate possible conflicts of interest (see Guideline 25 – Conflicts of interest). Research ethics committees may receive a fee for reviewing studies. However, this need not constitute a conflict of interest (see Guideline 25 – Conflicts of interest).

**National (centralized) or local review.** Research ethics committees may be created under the aegis of national or local administrations, national (or centralized) medical research councils or other nationally representative bodies. In a highly centralized administration, a national, or centralized, review committee may be constituted for both scientific and ethical review of research protocols. In countries where medical research is not centrally administered, ethical review can also be undertaken at a local or regional level. Whether research is nationally or locally reviewed varies and may depend on the size of the country and the type of the research. The authority of a local research ethics committee may be confined to a single institution or may extend to all institutions in which health-related research is carried out within a defined geographical area or network.

**Externally sponsored research.** Research may be externally sponsored, meaning that it is sponsored, financed, and sometimes wholly or partly carried out by an external organization with the collaboration or agreement of the appropriate authorities of the host community. External sponsors must collaborate with local partners (see Guideline 8 – Collaborative partnership and capacity building for research and review). Researchers and sponsors who plan to perform research in settings where research ethics committees are absent or lack adequate training should help to establish such committees according to their ability before the research is initiated, and make provisions for their education in research ethics (see Guideline 8 – Collaborative partnership and capacity building for research and review).

Externally sponsored research must be reviewed at the site of the sponsor as well as locally. The ethical standards should be no less stringent than they would be for research carried out in the country of the sponsoring organization (see also Guideline 2 – Research conducted in low-resource settings). Local committees must be fully empowered to disapprove a study that they believe to be unethical.

**Multi-centre research.** Some research projects are designed to be conducted in a number of centres in different communities or countries. To ensure that the results are valid, the study must be conducted in a methodologically identical way at each centre. However, committees at individual centres must be authorized to adapt the informed consent document provided by the sponsor or the lead institution in the multi-centre trial in order to make it culturally appropriate.

To avoid lengthy procedures, multi-centre research in a single jurisdiction (state or country) should be reviewed by only one research ethics committee. In cases of multi-centre research, if a local

review committee proposes changes to the original protocol that it believes are necessary to protect the research participants, these changes must be reported to the research institution or sponsor responsible for the whole research programme for consideration and possible action. This should ensure that all persons are protected and that the research will be valid across sites.

Ideally, review procedures should be harmonized, which may decrease the time needed for review and accordingly, speed up the research process. In order to harmonize review processes and to maintain sufficient quality of these processes, ethics committees must develop quality indicators for ethical review. Appropriate review must be sensitive to increases in risk of harm or wrongs to local participants and populations.

**Exemptions from review.** Some studies may be exempt from review. For example, when publicly available data are analysed or the data for the study are generated by observation of public behaviour, and data that could identify individual persons or groups are anonymized or coded, the study may be exempt. Health systems research may be exempted from review if public officials are interviewed in their official capacity on issues that are in the public domain.

**Monitoring.** Research ethics committees must be authorized to monitor ongoing studies. The researcher must provide relevant information to the committee to permit monitoring of research records, especially information about any serious adverse events. Following the analysis of the study data, researchers must submit a final report to the committee containing a summary of the study's findings and conclusions.

**Protocol amendments, deviations, violations and sanctions.** During the study, deviations from the original study might occur, such as changes in the sample size or analysis of the data as described in the protocol. Deviations must be reported to research ethics committees. In the case of permanent deviations, researchers may write an amendment. The research ethics committee must decide whether a deviation is legitimate or illegitimate. Protocol violations are deviations from the original protocol that significantly affect the rights or interests of research participants and significantly impact the scientific validity of the data. In the case of protocol violations, research ethics committees should ensure that study participants will be informed and provision will be made for the protection of their safety and welfare.

A researcher may fail to submit a protocol to a research ethics committee for prospective review. This omission is a clear and serious violation of ethical standards, unless applicable regulations specify conditions for exemptions from review.

Research ethics committees generally do not have the authority to impose sanctions on researchers for protocol violations or violations of ethical standards in the conduct of research involving humans. However, committees may halt the continuation of a previously approved protocol if it finds protocol violations or other misconduct on the part of researchers. Committees must report to the sponsor and institutional or governmental authorities any serious or continuing non-compliance with ethical standards in the conduct of previously approved research projects.

## GUIDELINE 24:

# PUBLIC ACCOUNTABILITY FOR HEALTH-RELATED RESEARCH

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**Public accountability is necessary for realizing the social and scientific value of health-related research. Therefore, researchers, sponsors, research ethics committees, funders, editors and publishers have an obligation to comply with recognized publication ethics for research and its results.**

**Researchers should prospectively register their studies, publish the results and share the data on which these results are based in a timely manner. Negative and inconclusive as well as positive results of all studies should be published or otherwise be made publicly available. Any publication or report resulting from a research study should indicate which research ethics committee has authorized the study.**

**Researchers and sponsors should also share information about and data from past research.**

## Commentary on Guideline 24

**General considerations.** In order to maximize benefits accruing from health research, reduce risks to future volunteers from undisclosed harms identified in previous clinical studies, reduce biases in evidence-based decision-making, improve efficiency of resource allocation for both research and development and financing of health interventions and promote societal trust in health-related research, researchers, sponsors, research ethics committees, funders, editors and publishers have an obligation to ensure public accountability. It is in the interest of all to improve the effectiveness of health care and public health to attain their fundamental goals: to prevent and cure disease, where possible, and alleviate pain and suffering (see Guideline 1 – Scientific and social value and respect for rights). Health-related research plays a vital role in this effort and therefore it is in the interest of society to promote such research for the benefit of all. At the same time, health-related research comes with risks and burdens for participants and with professional or financial benefits for the researchers and sponsors. Health-related research functions well only in the presence of professional and public trust. Trust can be enhanced by ensuring public accountability for research and its results. Therefore, researchers, sponsors, research ethics committees, editors and publishers all have ethical obligations to ensure the public accountability of research. This includes obligations to prospectively register studies (for example, in clinical trials registries), publish their results, and share the data on which these results are based. Moreover, given that many results from past research remain unpublished, retrospective registration in registries should be a priority so that clinicians, patients, sponsors and researchers can request disclosure of methods and results.

**Trial registries.** Unpublished data may contain important information on harms or side effects, clues about failed studies or unpromising interventions that must not be re-tested, and information that other researchers could use to increase the quality of research findings. As a first measure towards public accountability, researchers and sponsors have an obligation to register their studies

before they actually start, thus enabling others to see what is going on and make inquiries if reports fail to come out of the study.

Prospective registration of health-related research enables comparison of data reported with hypotheses the protocol was initially designed to test and helps to determine the number of times a hypothesis has been tested so that trial results can be understood in a broader context.

**Publication and dissemination of the results of research.** A next step in achieving accountability is publication and dissemination of the results of studies. Researchers have a duty to make the results of their health-related research involving human beings publicly available and are accountable for the completeness and accuracy of their reports. Negative and inconclusive as well as positive results must be published or otherwise made publicly available. In journal publications, all involved parties must adhere to accepted guidelines, such as those of the International Committee of Medical Journal Editors (ICMJE) for ethical reporting. Sources of funding, institutional affiliations and conflicts of interest must be disclosed in the publication. Reports of research that fail to comply with recognized guidelines must not be accepted for publication. Sponsors must not prevent researchers from publishing unwelcome findings that restrict their freedom of publication. As the persons directly responsible for their work, researchers must not enter into agreements that interfere unduly with their access to the data or their ability to analyse the data independently, prepare manuscripts, or publish them. Researchers must also communicate the results of their work to the lay public. Ideally, researchers should take steps to promote and enhance public discussion. Knowledge resulting from the research should be made accessible to the communities in which the research was conducted, either through publication in scientific journals or through other channels (see Guideline 2 – Research conducted in low-resource settings).

**Data sharing.** There are compelling reasons to share the data of health-related research. Responsible sharing of clinical trial data serves the public interest by strengthening the science that is the foundation of safe and effective clinical care and public health practice. Sharing also fosters sound regulatory decisions, generates new research hypotheses, and increases the scientific knowledge gained from the contributions of clinical trial participants, the efforts of clinical trial researchers, and the resources of clinical trial funders.

Data sharing requires careful balancing of competing considerations. Sharing of study data presents risks, burdens, and challenges as well potential individual benefits for various stakeholders. When sharing data, researchers must respect the privacy and consent of study participants. Researchers want a fair opportunity to publish their analyses and receive credit for carrying out studies and collecting data. Other researchers want to analyse data that would otherwise not be published in a timely manner and to replicate the findings of a published paper. Sponsors want to protect their intellectual property and commercially confidential information and allow a quiet period to review marketing applications. All stakeholders want to reduce the risk of invalid analyses of shared data.

It is crucial to create a culture of responsible data sharing and mutually reinforcing incentives for sharing. Funders and sponsors must require funded researchers to share study data and must provide appropriate support for sharing. Researchers and sponsors must share data and design and carry out future studies assuming that data will be shared. Research institutions and universities must encourage researchers to share data. In their review of protocols, research ethics committees should consider a researcher's and sponsor's record in reporting results. Medical journals should request that authors share the analytical data set supporting the publication of study results. Patient advocacy organizations should consider data sharing plans as a criterion for funding grants and promoting studies to their constituents. Regulatory agencies around the globe should harmonize requirements and practices for data sharing. The risks of data sharing may be mitigated by controlling with whom the data are shared and under what conditions, without compromising the scientific usefulness of the shared data. Organizations that share data should employ data use agreements,

observe additional privacy protections beyond de-identification and data security, as appropriate, and appoint an independent panel that includes members of the public to review data requests. These safeguards must not unduly impede access to data.

## GUIDELINE 25:

# CONFLICTS OF INTEREST

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The primary goal of health-related research is to generate, in ethically appropriate ways, the knowledge necessary to promote people's health. However, researchers, research institutions, sponsors, research ethics committees, and policy-makers have other interests (for example, scientific recognition or financial gain) that can conflict with the ethical conduct of research. Such conflicts between the primary goal of health-related research and secondary interests are defined as conflicts of interest.

Conflicts of interest can influence the choice of research questions and methods, recruitment and retention of participants, interpretation and publication of data, and the ethical review of research. It is therefore necessary to develop and implement policies and procedures to identify, mitigate, eliminate, or otherwise manage such conflicts of interest.

Research institutions, researchers and research ethics committees should take the following steps:

- ▶ Research institutions should develop and implement policies and procedures to mitigate conflicts of interest and educate their staff about such conflicts;
- ▶ Researchers should ensure that the materials submitted to a research ethics committee include a disclosure of interests that may affect the research;
- ▶ Research ethics committees should evaluate each study in light of any disclosed interests and ensure that appropriate means of mitigation are taken in case of a conflict of interest; and
- ▶ Research ethics committees should require their members to disclose their own interests to the committee and take appropriate means of mitigation in case of a conflict of interest (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols).

## Commentary on Guideline 25

**General considerations.** A conflict of interest exists when there is a substantial risk that secondary interests of one or more stakeholders in research unduly influence their judgment and thereby compromise or undermine the primary goal of research. For example, a researcher may have a financial stake in the outcomes of the study that creates a financial conflict of interest. Given the competitive environment for academic researchers and the increasing commercialization of research, managing conflicts of interests is essential for safeguarding the scientific integrity of research and protecting the rights and interests of study participants. This commentary first explains conflicts of interests and then discusses their management.

**Conflicts of interest.** Different stakeholders in research can have different types of conflicts of interest.

- 1. Researchers.** Academic conflicts of interest can arise when researchers or senior members of a research team become overly invested in their own ideas. For example, a researcher who has worked for decades on an investigational HIV drug may find it difficult to stop a trial early when interim results clearly recommend this course of action. Furthermore, researchers' careers depend on publishing interesting results, for example, when applying for research funding or promotion. This can create professional conflicts of interests.

Some researchers also have personal financial conflicts of interest. For example, researchers sometimes receive part of their salary or a "finder's fee" for recruiting research participants. When this income reflects a fair compensation for their time spent on recruitment, it does not present an inherent conflict of interest. However, a salary or "finder's fee" may lead researchers – intentionally or unintentionally – to interpret the inclusion or exclusion criteria of a study too flexibly, thereby potentially exposing participants to excessive risks or compromising the scientific validity of the research. This situation is of particular concern when participants are dependent on a researcher who is also their clinician (see Guideline 9 – Individuals capable of giving informed consent, section on *Dependent relationship*), and when the salary of the clinician is considerably lower than what the researcher is paid. It may also lead researchers to pressure eligible participants to enrol, thus compromising or undermining participants' voluntary consent. In addition, financial conflicts of interest can arise when researchers or senior members of the research team (or their close family members) have a financial stake in the company sponsoring the research, such as stock ownership.

- 2. Research institutions (universities, research centres, or pharmaceutical companies).** Research institutions can have both reputational and financial conflicts of interests. For example, universities rely on the reputation of their research to attract faculty, students, or external funding. Some universities also patent the discoveries of their employees. Institutional conflicts of interest can also arise when a research centre derives substantial support (perhaps covering years of funding) from a single sponsor or a handful of sponsors. Pharmaceutical companies may feel pushed to accelerate a marketing authorization for getting a longer period of patent protection, or they may be tempted to downplay the side effects of new medicines to get broader prescription patterns.
- 3. Research ethics committees.** Researchers often serve as members of research ethics committees and conflicts of interest can arise in this role. For example, a researcher may submit her own study protocol for review, or she may be reviewing the work of colleagues whom she knows personally, or whose work she considers critical for the success of her institution. Research ethics committees may also have financial interests when their members receive salaries or when they are directly funded by sponsors or serve an institution that depends significantly on support from a single sponsor or several sponsors.

A fee paid to a research ethics committee (or the institution where it operates) for reviewing a study does not present an inherent conflict of interest, provided that the fee is established by a general policy, is reasonably related to the costs of conducting the review and is not dependent on the outcome of the review (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols).

In order to evaluate the seriousness of a conflict of interest, and to determine appropriate measures for its management, research ethics committees need to judge the risk that the sponsor's or investigator's conflicts of interest unduly compromise or undermine the ethical or scientific conduct of a study. This involves judging both the likelihood that a secondary interest might compromise the rights or welfare of participants or the scientific validity of the research, as well as judging the magnitude of the secondary interest relative to the stakeholder's personal situation. For example, an early-career researcher with a modest salary might have more significant academic and financial conflicts of interest than an established senior member of the research team. Research ethics committees have to exercise their judgment when evaluating the seriousness of conflicts of interest.

As a general rule, a potential serious conflict of interest exists when there is a significant possibility that the actions of an investigator resulting from professional, academic, or financial interests will result in biased study results or cause harm or wrong to participants.

Conflicts of interests can influence researchers subconsciously. For example, researchers with a financial stake in a study may not intentionally manipulate the research findings. However, their financial interests may subconsciously influence their analysis and interpretation of the research data.

**Management of conflicts of interest.** All stakeholders in research share responsibility for developing and implementing policies and procedures to identify, mitigate, eliminate, or otherwise manage conflicts of interest. Although this is a joint responsibility, research institutions play a critical role in creating an institutional culture that takes conflicts of interest seriously and adopts appropriate measures for their management. Measures for managing conflicts of interest must be proportional to their seriousness. For example, a minor conflict of interest may be appropriately managed by disclosure, while a potential serious conflict can, in some cases, justify excluding a researcher from the study team. Policies and measures for managing conflicts of interest must be transparent and actively communicated to those affected.

- 1. Education of researchers and research ethics committees.** Raising awareness of conflicts of interest, as well as the importance of managing such conflicts, is essential for making procedures and policies effective.
- 2. Disclosure of interests to research ethics committees.** Researchers must disclose conflicts of interest on their part to the ethical review committee or to other institutional committees designed to evaluate and manage such conflicts. Researchers will most likely come to recognize conflicts of interest if they are prompted to scrutinize these conflicts as an expected part of preparing a description of their projects for ethical review. The development of a standardized disclosure form and related educational and explanatory materials may help to ensure that researchers understand conflicts of interest and routinely report relevant facts about their own situation to research ethics committees reviewing their protocols. Disclosure forms should provide a definition of conflicts of interest, along with some examples, and help researchers understand that a conflict of interest is not necessarily disqualifying, but may be managed. When research ethics committees have credible evidence about serious conflicts of interest related to a study that are not disclosed in the materials submitted to the committee, the member of the research team with the apparent conflict should be contacted for further information. Research ethics committees may also consult with the Conflict of Interest Coordinator in their institution.
- 3. Disclosure of interests to participants.** Research ethics committees may require that conflicts of interest be disclosed to potential study participants in the informed consent discussion and documents (for example, stock ownership). The disclosure must allow potential participants to judge the seriousness of the conflict of interest. This goes beyond describing “the nature and sources of funding for the research,” which is an element of informed consent (see Appendix 2). In the case of serious conflicts of interest, studies suggest that disclosure works best when it is provided by a health professional independent of the study team and potential participants are given time to reflect.
- 4. Mitigation of conflicts.** Research ethics committees may consider a range of other measures to mitigate or manage conflicts of interest beyond disclosing these conflicts to potential participants. For example, where appropriate, research ethics committees may require a member of the study team who has no leading role in its design to obtain the informed consent of potential participants. Research ethics committees may also require limiting the involvement of researchers in a study when they have a serious conflict of interest. For instance, a researcher with a serious conflict may be involved only as a collaborator or consultant for specific tasks that require such

expertise, but not as a principal investigator or co-researcher. Alternatively, research ethics committees may require independent monitoring and review of studies where, for reasons of expertise, the full involvement of researchers with a serious conflict of interest is necessary. In cases where a serious conflict of interest cannot be adequately mitigated, research ethics committees may decide not to approve a study. Research ethics committees themselves must employ similar measures to identify, mitigate and manage the conflicts of interests of their own members. When necessary, research ethics committees may require members with a serious conflict to withdraw from deliberations of the research ethics committee and its decisions (see Guideline 23 – Requirements for establishing research ethics committees and for their review of protocols).

# APPENDIX 1

## ITEMS TO BE INCLUDED IN A PROTOCOL (OR ASSOCIATED DOCUMENTS) FOR HEALTH-RELATED RESEARCH INVOLVING HUMANS

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(Include the items relevant to the study/project in question)

1. Title of the study;
2. A summary of the proposed research in lay/non-technical language;
3. A clear statement of the justification for the study, its significance in development and in meeting the needs of the country /population in which the research is carried out;
4. The investigators' views of the ethical issues and considerations raised by the study and, if appropriate, how it is proposed to deal with them;
5. Summary of all previous studies on the topic, including unpublished studies known to the investigators and sponsors, and information on previously published research on the topic, including the nature, extent and relevance of animal studies and other preclinical and clinical studies (Guideline 4);
6. A statement that the principles set out in these Guidelines will be implemented;
7. An account of previous submissions of the protocol for ethical review and their outcome;
8. A brief description of the site(s) where the research is to be conducted, including information about the adequacy of facilities for the safe and appropriate conduct of the research, and *relevant* demographic and epidemiological information about the country or region concerned;
9. Name and address of the sponsor;
10. Names, addresses, institutional affiliations, qualifications and experience of the principal investigator and other investigators (Guideline 1);
11. The objectives of the trial or study, its hypotheses or research questions, its assumptions, and its variables (Guideline 1);
12. A detailed description of the design of the trial or study. In the case of controlled clinical trials the description should include, but not be limited to, whether assignment to treatment groups

- will be randomized (including the method of randomization), and whether the study will be blinded (single blind, double blind), or open (Guideline 5);
13. The number of research participants needed to achieve the study objective, and how this was statistically determined;
  14. The criteria for inclusion or exclusion of potential participants, and justification for the exclusion of any groups on the basis of age, sex, social or economic factors, or for other reasons (Guideline 3);
  15. The justification for involving as research participants children or adolescents, persons who are unable to give informed consent or vulnerable persons or groups, and a description of special measures to minimize risks to such persons (Guidelines 15, 16 and 17);
  16. The process of recruitment, e.g. advertisements, and the steps to be taken to protect privacy and confidentiality during recruitment (Guideline 3);
  17. Description and explanation of all interventions (the method of treatment administration, including route of administration, dose, dose interval and treatment period for investigational and comparator products used);
  18. Plans and justification for withdrawing or withholding standard therapies in the course of the research, including any resulting risks to persons (Guidelines 4 and 5);
  19. Any other treatment that may be given or permitted, or contraindicated, during the study (Guideline 6);
  20. Clinical and laboratory tests and other tests that are to be carried out;
  21. Samples of the standardized case-report forms to be used, the methods of recording therapeutic response (description and evaluation of methods and frequency of measurement), the follow-up procedures, and, if applicable, the measures proposed to determine the extent of compliance of persons with the treatment;
  22. Rules or criteria according to which participants may be removed from the study or clinical trial, or (in a multi-centre study) a centre may be discontinued, or the study may be terminated;
  23. Methods of recording and reporting adverse events or reactions, and provisions for dealing with complications (Guidelines 4 and 23);
  24. The known or foreseen risks of adverse reactions, including the risks attached to each proposed intervention and to any drug, vaccine or procedure to be tested (Guideline 4);
  25. The potential individual benefits of the research to participants and to others (Guideline 4);
  26. The expected benefits of the research to the population, including new knowledge that the study might generate (Guidelines 1 and 4);
  27. For research carrying more than minimal risk of physical injury, details of plans, including insurance coverage, to provide treatment for such injury, including the funding of treatment, and to provide compensation for research-related disability or death (Guideline 14);

28. Provision for continued access to study interventions that have demonstrated significant benefit, indicating its modalities, the parties involved in continued care and the organization responsible for paying for it, and for how long it will continue (Guideline 6);
29. For research on pregnant women, a plan, if appropriate, for monitoring the outcome of the pregnancy with regard to both the health of the woman and the short-term and long-term health of the child (Guideline 19);
30. The means proposed to obtain individual informed consent and the procedure planned to communicate information to prospective participants, including the name and position of the person responsible for obtaining consent (Guideline 9);
31. When a prospective subject is not capable of informed consent, satisfactory assurance that permission will be obtained from a duly authorized person, or, in the case of a child who is sufficiently mature to understand the implications of informed consent but has not reached the legal age of consent, that knowing agreement, or assent, will be obtained, as well as the permission of a parent, or a legal guardian or other duly authorized representative (Guidelines 16 and 17);
32. An account of any economic or other inducements or incentives to prospective participants to participate, such as offers of cash payments, gifts, or free services or facilities, and of any financial obligations assumed by the participants, such as payment for medical services;
33. Plans and procedures, and the persons responsible, for communicating to participants information arising from the study (on harm or benefit, for example), or from other research on the same topic, that could affect participants' willingness to continue in the study (Guideline 9);
34. Plans to inform participants about the results of the study;
35. The provisions for protecting the confidentiality of personal data, and respecting the privacy of persons, including the precautions that are in place to prevent disclosure of the results of a subject's genetic tests to immediate family relatives without the consent of the subject (Guidelines 4, 11, 12 and 24);
36. Information about how the code, if any, for the persons' identity is established, where it will be kept and when, how and by whom it can be broken in the event of an emergency (Guidelines 11 and 12);
37. Any foreseen further uses of personal data or biological materials (Guidelines 11 and 12);
38. A description of the plans for statistical analysis of the study, including plans for interim analyses, if any, and criteria for prematurely terminating the study as a whole if necessary (Guideline 4);
39. Plans for monitoring the continuing safety of drugs or other interventions administered for purposes of the study or trial and, if appropriate, the appointment for this purpose of an independent data-monitoring (data and safety monitoring) committee (Guideline 4);
40. A list of the references cited in the protocol;
41. The source and amount of funding of the research: the organization that is sponsoring the research and a detailed account of the sponsor's financial commitments to the research institution, the investigators, the research participants, and, when relevant, the community (Guideline 25);

42. The arrangements for dealing with financial or other conflicts of interest that might affect the judgement of investigators or other research personnel: informing the institutional conflict-of-interest committee of such conflicts of interest; the communication by that committee of the pertinent details of the information to the ethical review committee; and the transmission by that committee to the research participants of the parts of the information that it decides should be passed on to them (Guideline 25);
43. For research that is to be carried out in a low-resource setting, the contribution that the sponsor will make to capacity-building for scientific and ethical review and for health-related research in the host country, and an assurance that the capacity-building objectives are in keeping with the values and expectations of the participants and their communities (Guideline 8);
44. The research protocol or documents send to the research ethics committee should include a description of the plan for (continued) community engagement, and present resources allocated for the community engagement activities. This documentation must clarify what has been and will be done, when and by whom to ensure that the community is clearly mapped and defined and can be proactively engaged throughout the research to ensure that the research is relevant to the community and is accepted. The community should participate, when feasible, in the actual discussion and preparation of the research protocol and documents (Guideline 7);
45. Particularly in the case of an industrial sponsor, a contract stipulating who possesses the right to publish the results of the study, and a mandatory obligation to prepare with, and submit to, the principal investigators the draft of the text reporting the results (Guideline 24);
46. In the case of a negative outcome, an assurance that the results will be made available, as appropriate, through publication or by reporting to the drug registration authority (Guideline 24);
47. Plans for publication of research results in certain fields (for example, epidemiology, genetics, sociology) that may present risks to the interests of communities, societies, families, or racially or ethnically defined groups and for minimizing risks to these groups, notably by maintaining confidentiality during and after the study and publishing the resulting data in a manner that is respectful of the interests of all concerned (Guideline 4); and
48. A statement that any proven evidence of falsification of data will be dealt with in accordance with the policy of the sponsor to take appropriate action against such unacceptable procedures.

## APPENDIX 2

# OBTAINING INFORMED CONSENT: ESSENTIAL INFORMATION FOR PROSPECTIVE RESEARCH PARTICIPANTS

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Before requesting an individual's consent to participate in research, the researcher must provide the following information, in language or another form of communication that the individual can understand (see also Guideline 9):

1. the purpose of the research, its methods, the procedures to be carried out by the researcher and the participant, and an explanation of how the research differs from routine medical care (Guideline 9);
2. that the individual is invited to participate in research, the reasons for considering the individual suitable for the research, and that participation is voluntary (Guideline 9);
3. that the individual is free to refuse to participate and will be free to withdraw from the research at any time without penalty or loss of benefits to which he or she would otherwise be entitled (Guideline 9);
4. the expected duration of the individual's participation (including number and duration of visits to the research centre and the total time involved) and the possibility of early termination of the trial or of the individual's participation in it;
5. whether money or other forms of material goods will be provided in return for the individual's participation, and, if so, the kind and amount, and that the time spent on the research and other inconveniences resulting from study participation will be appropriately compensated, monetary or non-monetary (Guideline 13);
6. that, after the completion of the study, participants will be informed of the outcomes of the research in general, if they so wish;
7. that individual participants during or after a study or collection of their biological material and health-related data will be informed of life-saving information and data of immediate clinical utility involving a significant health problem (see also Guideline 11);
8. that unsolicited findings will be disclosed if they occur (Guideline 11);
9. that participants have the right of access to their clinically relevant data obtained during a study on demand (unless the research ethics committee has approved temporary or permanent non-disclosure

of data, in which case the participant should be informed of, and given, the reasons for such non-disclosure);

10. pain and discomfort of experimental interventions, known risks and possible hazards, to the individual (or others) associated with participation in the research, including risks to the health or well-being of a participant's direct relatives (Guideline 4);
11. the potential clinical benefits, if any, expected to result to participants from participating in the research (Guidelines 4 and 9);
12. the expected benefits of the research to the community or to society at large, or contributions to scientific knowledge (Guideline 1);
13. how the transition to care after research is arranged and to what extent they will be able to receive beneficial study interventions post-trial and whether they will be expected to pay for them (Guidelines 6 and 9);
14. the risks of receiving unregistered interventions if they receive continued access to a study intervention before regulatory approval (Guideline 6);
15. any currently available alternative interventions or courses of treatment;
16. new information that may have come to light, either from the study itself or other sources (Guideline 9);
17. the provisions that will be made to ensure respect for the privacy of participants, and for the confidentiality of records in which participants are identified (Guidelines 11 and 22);
18. the limits, legal or other, to the researchers' ability to safeguard confidentiality, and the possible consequences of breaches of confidentiality (Guidelines 12 and 22);
19. the sponsors of the research, the institutional affiliation of the researchers, and the nature and sources of funding for the research, and, when they exist, any conflicts of interest of researchers, research institutions and research ethics committees and how these conflicts will be managed (Guidelines 9 and 25);
20. whether the researcher is serving only as a researcher or as both researcher and the participant's physician (Guideline 9);
21. the extent of the researcher's responsibility to provide care for participants' health needs during and after the research (Guideline 6);
22. that treatment and rehabilitation will be provided free of charge for specified types of research-related injury or for complications associated with the research, the nature and duration of such care, the name of the medical service or organization that will provide the treatment, and whether there is any uncertainty regarding funding of such treatment (Guideline 14);
23. in what way, and by what organization, the participant or the participant's family or dependants will be compensated for disability or death resulting from such injury (or, when indicated, that there are no plans to provide such compensation) (Guideline 14);
24. whether or not, in the country in which the prospective participant is invited to participate in research, the right to compensation is legally guaranteed;

25. that a research ethics committee has approved or cleared the research protocol (Guideline 23);
26. that they will be informed in case of protocol violations and how safety and welfare will be protected in such a case (Guideline 23).

In specific cases, before requesting an individual's consent to participate in research, the researcher must provide the following information, in language or another form of communication that the individual can understand:

1. for controlled trials, an explanation of features of the research design (e.g., randomization, double-blinding), that the participant will not be told of the assigned treatment until the study has been completed and the blind has been broken;
2. whether all essential information is disclosed and, if not, that they are asked to agree to receiving incomplete information and that full information will be provided before study results are analysed and participants are given the possibility to withdraw their data collected under the study (Guideline 10);
3. policy with regard to the use of results of genetic tests and familial genetic information, and the precautions in place to prevent disclosure of the results of a participant's genetic tests to immediate family relatives or to others (e.g. insurance companies or employers) without the consent of the participant (Guideline 11);
4. the possible research uses, direct or secondary, of the participant's medical records and of biological specimens taken in the course of clinical care;
5. for collection, storage and use of biological material and health-related data, that broad informed consent will be obtained, which should specify: the purpose of the biobank, the conditions and duration of storage; the rules of access to the biobank; the ways in which the donor can contact the biobank custodian and can remain informed about future use; the foreseeable uses of the materials, whether limited to an already fully defined study or extending to a number of wholly or partially undefined studies; the intended goal of such use, whether only for research, basic or applied, or also for commercial purposes, and whether the participant will receive monetary or other benefits from the development of commercial products developed from their biological specimens; the possibility of unsolicited findings and how they will be dealt with; the safeguards that will be taken to protect confidentiality as well as their limitations, whether it is planned that biological specimens collected in the research will be destroyed at its conclusion, and, if not, details about their storage (where, how, for how long, and final disposition) and possible future use, that participants have the right to decide about such future use, to refuse storage, and to have the material destroyed (Guidelines 11 and 12);
6. when women of childbearing potential are participating in health-related research, information about the possible risks, if they become pregnant during the research, to themselves (including future fertility), their pregnancies, their fetuses, and their future offspring; and the guaranteed access to a pregnancy test, to effective contraceptive methods and to safe, legal abortion before exposure to a potential teratogenic or mutagenic intervention. When effective contraception and/or safe abortion are not available and alternative study sites are not feasible, the women must be given information about: the risk of unintended pregnancy; the legal grounds for abortion; reducing harms from unsafe abortion and subsequent complications; and, when pregnancy is not terminated, the guarantee for a medical follow-up for their own health and that of the infant and child and the information that it is often difficult to determine causality in cases of fetal or infant abnormalities (Guidelines 18 and 19);

7. when concerning pregnant and breastfeeding women, the risks of participation in health-related research to themselves, their pregnancies, their fetuses, and their future offspring, what has been done to maximize potential individual benefits and minimize risks, that evidence concerning risks may be unknown or controversial, and that it is often difficult to determine causality in cases of fetal or infant abnormalities (Guidelines 4 and 19);
8. when concerning disaster victims who mostly are under duress, the difference between research and humanitarian aid (Guideline 20); and
9. when research is done in the online environment and using online or digital tools that may involve potentially vulnerable persons, information about the privacy and security controls that will be used to protect their data; and the limitations of the measures used and the risks that may remain despite the safeguards put in place (Guideline 22).

## APPENDIX 3

# CIOMS WORKING GROUP ON THE REVISION OF THE 2002 INTERNATIONAL GUIDELINES FOR BIOMEDICAL RESEARCH INVOLVING HUMANS

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### Chair

Hans van Delden

*Johannes JM van Delden is professor of medical ethics at the medical school of Utrecht University, the Netherlands, and director of education at the Julius Center for health sciences. He has written more than two hundred articles in peer-reviewed scientific journals and (co)authored three books. He was secretary of the International Association of Bioethics. As a professor of medical ethics he has built a strong academic group within the University Medical Center Utrecht. The special fields of interest of this group are: research ethics, moral problems at the end of life and moral problems in the care for the elderly. He is currently the chair of the International Bioethics Committee at UNESCO and was president of CIOMS from 2011 to 2016.*

### Secretary

Rieke van der Graaf

*Rieke van der Graaf is an assistant professor of bioethics and employed at the University Medical Center Utrecht at the Julius Center, Department of Medical Humanities. Her current research interests are inclusion of "vulnerable populations" in clinical research, the integration of care and research, and the ethics of innovative research designs. She is teaching medical ethics at the UMC Utrecht and has been a member of the UMC Utrecht's Hospital Ethics Committee for more than 10 years. She is a member of the Research Ethics Committee (REC) of the UMC Utrecht. She was the Secretary of the Working Group on the Revision of the CIOMS Guidelines.*

### Members

Anant Bhan

*Anant Bhan is trained as a medical doctor with a masters degree in bioethics from the University of Toronto. He is a researcher in the fields of Bioethics, Global Health and Health Policy based in India. He is also Adjunct Professor at Yenepoya University, Mangalore, India. In the past, he has worked for NGOs and a government public health training institution in India, as well as a consultant to a project on Ethical, Social and Cultural issues in health biotechnology based at the University of Toronto. Anant has published extensively in various national and international medical journals in the field of global/public health and bioethics, as well as contributed to popular mass media. Anant has been a resource person for trainings in global health, research methodology, research ethics and public health ethics, and also serves as guest faculty in various educational institutions in India and abroad. He is on the Editorial Board of 'Public Health Ethics' ([www.phe.oxfordjournals.org](http://www.phe.oxfordjournals.org)),*

a quarterly journal of Oxford University Press and also serves on the International Advisory Board of the *Asian Bioethics Review* (<http://www.asianbioethicsreview.com>). He is also a member of the *Ethics Working Group* of the US NIH-funded HIV Prevention Trials Network (<http://www.hptn.org/hptnresearchethics.htm>). He currently is a member of four ethics committees in India (in two of which he also serves as the chairperson), and has been as a reviewer for multiple journals, conference scientific committees and international grant competitions. Anant is also a member of the Steering Committee of the Global Forum on Bioethics in Research. He is also a member of the Board of the International Association of Bioethics.

#### Eugenijus Gefenas

Eugenijus Gefenas is a professor and director of the Department of Medical History and Ethics at the Medical Faculty of Vilnius University. He is also a director of the Lithuanian Bioethics Committee. Eugenijus Gefenas graduated from the Medical Faculty of Vilnius University in 1983 and obtained his PhD in medical ethics from the Institute of Philosophy, Sociology and Law in 1993. E. Gefenas teaches bioethics at the Medical Faculty of Vilnius University and together with colleagues from Clarkson University (USA) co-directs the Advanced Certificate Program in Research Ethics in Central and Eastern Europe. E. Gefenas is a member of the Council of Europe Committee on Bioethics; he was the chair of this Committee from 2011–2012. He was elected as the chairman of the Intergovernmental Bioethics Committee (IGBC) of UNESCO in 2015. The areas of his professional interest include ethical and policy-making issues related to human research and health care in transition societies.

#### Dirceu Greco

Dirceu Greco is full professor of Infectious Diseases and Bioethics at the School of Medicine, Federal University of Minas Gerais (UFMG), Belo Horizonte, Brazil. He received his MD degree and this PhD from UFMG. Chief, Infectious and Parasitic Diseases Service (2009-2011), Coordinator of UFMG University Hospital Centre for Clinical Research (2005-2010), member (2007-2010), Brazilian Research Ethics Commission (CONEP); member, Brazilian AIDS Commission (Ministry of Health-MoH). Main topics of interest include Infectious and Parasitic Illnesses, bioethics, public health and clinical immunology. He has participated in several working groups that gave rise to national/international guidelines related to ethics, prevention, care and treatment of HIV/AIDS and TB. He has frequently acted as temporary advisor to many national/international institutions, such as the Brazilian AIDS Programme, WHO, UNITAID, UNAIDS, CIOMS and WMA. From 2010 to 2013 he directed the Department of STD, AIDS and Viral Hepatitis (Secretary of Health Surveillance, MoH, Brazil).

#### David Haerry

David Haerry is a treatment writer and conference reporter since 1996. He is co-authoring a database on travel & residency restrictions for people living with HIV. David Haerry has been involved in health care professionals education projects since 2007. Since 2015, he is Secretary General of the Swiss Academic Foundation on Education in Infectious Diseases SAFE-ID. He is work package co-leader and member of the Executive Committee in the EUPATHMI project and involved in a number of European and global research networks and research collaborations, including the ENCePP Steering Group. He is co-chair of the Patient and Consumer Working Party at the European Medicines Agency and has served the European AIDS Treatment Group EATG in various positions since 2004. David has been involved in HIV and HCV drug development since 2005 and has specific interests in the areas of Personalised Medicine, Risk Communication, Pharmacovigilance, Observational Studies, Biomedical Prevention and HIV Eradication Research. He is living with HIV since 1986.

#### Bocar Kouyaté

Bocar A. Kouyaté is Senior Advisor to the Minister of Health, Burkina Faso and researcher at the Centre national de recherche et de formation sur le paludisme (CNRFP), Burkina Faso. Dr Kouyaté is a physician by training and holds a PhD degree in public health. He has worked throughout all levels of the health system in Burkina Faso from district medical officer to the intermediary level as

Provincial Director of Health and to Secretary General of the Ministry of Health from 1983 to 1998. From 1989 to 2009, he was Director of two research centres in Burkina Faso (Centre de recherche en santé de Nouna and, later on, Centre national de recherche et de formation sur le paludisme). He served as member of the Comité national d'éthique pour la recherche en santé (CERS) from 2003–2007 and was the Chair of the CERS from 2008–2013. He has considerable experience in research, research administration, capacity development and training, particularly in health systems, research ethics and malaria. His special interest is in the development of sustainable capacity and appropriate environment for research and getting research into policy and practice.

Alex London

Alex John London, PhD., is Professor of Philosophy and Director of The Center for Ethics and Policy at Carnegie Mellon University. An elected fellow of the Hastings Center, he has written extensively on problems in bioethics and ethical theory relating to uncertainty, risk, fairness, equality and justice. He is co-editor of *Ethical Issues in Modern Medicine*, one of the most widely used textbooks in medical ethics and recipient of the Elliott Dunlap Smith Award for Distinguished Teaching and Educational Service in the Dietrich College of Humanities and Social Sciences at Carnegie Mellon University. In 2016 Professor London was appointed to the U.S. National Academies of Sciences, Engineering and Medicine (formerly the Institute of Medicine) Committee on Clinical Trials During the 2014–2015 Ebola Outbreak. Since 2007 he has served as a member of the Ethics Working Group of the HIV Prevention Trials Network. He has served as an ethics expert in consultations with numerous national and international organizations including the U.S. National Institutes of Health, the World Health Organization, the World Medical Association and the World Bank.

Ruth Macklin

Ruth Macklin is Distinguished University Professor Emerita (Bioethics) in the Department of Epidemiology and Population Health at Albert Einstein College of Medicine in the Bronx, New York, USA. She has more than two hundred and seventy publications in professional journals and scholarly books in bioethics, law, medicine, philosophy, and the social sciences, in addition to articles in magazines and newspapers for general audiences. She is author or editor of thirteen books, including *Mortal Choices* (1988), *Against Relativism* (1999) and *Double Standards in Medical Research in Developing Countries* (2004). Dr Macklin is an elected member of the U.S. National Academy of Medicine and was president of the International Association of Bioethics from 1999–2001. She has served as consultant or adviser to the World Health Organization and UNAIDS, and chaired the external ethics committee of the Centers for Disease Control and Prevention from 2005 to 2008.

Annette Rid

Annette Rid is a Senior Lecturer in Bioethics and Society in the Department of Global Health & Social Medicine, King's College London, and an Elected Fellow of the Hastings Center. Trained in medicine, philosophy and bioethics in Germany, Switzerland and the United States, Annette's research interests span research ethics, clinical ethics and justice in health and health care. Annette has published widely in medical journals (e.g. *Lancet*, *JAMA*) and bioethics journals (e.g. *Journal of Medical Ethics*, *Bioethics*). She has served as an advisor, among others, for the World Health Organization and the World Medical Association, and sits on numerous scientific and advisory boards. At King's, Annette has led the new *Masters in Bioethics & Society* as one of its inaugural co-directors.

Rodolfo Saracci

Rodolfo Saracci qualified as an MD and holds specialist degrees in internal medicine and in medical statistics. He is a Fellow of the UK Faculty of Public Health. His career as a research epidemiologist in the field of chronic diseases, particularly cancer, has been principally developed at the WHO International Agency for Research on Cancer (IARC) in Lyon as a staff member and Chief of the Unit of Analytical Epidemiology. From 1982 to 2005 he chaired the Ethics Review Committee of IARC and has taken an active part in the CIOMS projects in biomedical ethics as a member of the drafting

group of the 2002 International Ethical Guidelines for Biomedical Research Involving Human Subjects and as co-rapporteur of the 2009 International Ethical Guidelines for Epidemiological Studies.

#### Aissatou Toure

Dr Aissatou Toure is a researcher at the Pasteur Institute in Dakar where she heads the Unit of Immunology and conducts research in the area of immunology of malaria. In parallel to her scientific activities as researcher in malaria, Dr Toure has different activities in the field of ethics, which represents for her a major area of interest. Dr Toure is member of the Senegalese National Ethics Committee for Health Research since 2003. Since 2012 Dr Toure is member of the Working Group on the Revision of CIOMS 2002 International Ethical Guidelines for Biomedical Research Involving Human Subjects. From 2006 to 2013 Dr Toure was a member of the UNESCO International Committee on Bioethics and as such participated to reports on various bioethics topics. Dr Aissatou Toure was also a member of the Working Group established in 2014 by WHO during the Ebola outbreak to advise and make recommendations on specific ethical issues raised by the Ebola crisis. She participated in the elaboration of WHO ethical guidance for managing infectious disease outbreaks. Aissatou Toure participates regularly in different activities of capacity building in ethics at the national level as well at the international level.

#### Advisors

##### Abha Saxena, WHO

An anaesthesiologist and a specialist in pain and palliative care by training, in 2001, she relocated from New Delhi, India, to join the Research Policy Department of World Health Organization, in which department she re-established the Research Ethics Review Committee of the Organization (WHO ERC), and led efforts to develop norms and standards for research ethics committees, and training tools in the area of research ethics. Currently as coordinator, she leads the Global Health Ethics team providing expertise on ethical issues to Member States and the three levels of the Organization. The function ensures ethical considerations are included in the elaboration and implementation of health policies and research activities and contributes to build global consensus on ethics topics and to harmonize ethical standards. Her role is to provide advice to WHO departments (Ethics Clinic), foster partnerships with other international organizations, in particular through the UN Inter-Agency Committee on Bioethics; with national ethics committees, serving as the permanent secretariat of the Global Summit of National Ethics Committees; with NGOs and all relevant partners. She supervises the development and dissemination of WHO ethics guidance and tools, the interaction with the WHO Global Network of Collaborating Centres on Bioethics, the Secretariat of the WHO Ethics Review Committee and the Public Health Ethics Consultative Group. For more information, please see <http://www.who.int/ethics/en/>

##### Dafna Feinholz Klip, UNESCO

Dafna Feinholz has a PhD in Research Psychology (UIA Mexico) and a Master in Bioethics (Universidad Complutense, Madrid, Spain). She was the Head of the Reproductive Epidemiology Department at the Mexican National Institute of Perinatology, as well as the Research and Planning Director of the Women and Health Program, at the Ministry of Health (Mexico). She successively occupied the posts of Academic Coordinator of the National Commission of Human Genome at the Ministry of Health; and the Executive Director of the National Commission of Bioethics, achieving a more independent legal status for the National Bioethics Committees, drafting the first national guidelines for Research Ethics Committees and Clinical Bioethics Committees, training their members, and promoting the law at the parliament that is currently in force, to legally establish and differentiate both types of committees. She is the founder of FLACEIS (Latin American Forum of Ethics Committees in Health Research) and was the Chairperson (2000–2006). Invited member of the international expert group, TDR-WHO: Drafting and translating Operational Guidelines for Ethics Committees. She was Mexico's representative at the meetings of the Intergovernmental Bioethics Committee to discuss the UNESCO Universal Declaration on Bioethics and Human Rights. Since September 2009, Dafna Feinholz is the Chief of the Bioethics Section, within UNESCO Social and Human Science Sector. In this capacity, she leads different activities aiming at reinforcing capacities of Member States to manage bioethical

challenges and to identify the ethical, legal and social implications of cutting-edge science, emerging technologies and their application for sustainable development.

Urban Wiesing, World Medical Association

Born 1958 in Ahlen/Westf, studied medicine, philosophy, sociology and history of medicine in Muenster and Berlin. Dr. med. 1987, Dr. phil. 1995, 1985-1988 Physician in anaesthesiology and internal medicine. 1988–1998 assistant at the Institute of Theory and History of Medicine at the University of Muenster. “Habilitation” and lecturer for theory and history of medicine in 1993. Since 1998 Professor and Chair of Medical Ethics at the University of Tuebingen. Director of the Institute of History of Medicine at the University of Tuebingen. 2004-2013 Chair of the Central Ethics-Committee of the Federal Board of Physicians.

Hans-Joerg Ehni (Alternate), World Medical Association

Hans-Joerg Ehni is the deputy director of the Institute for the Ethics and History of Medicine, University of Tuebingen, with a background in philosophy. His research is focused on the ethics of biomedical research involving human subjects and on the ethics of aging, particularly on the ethics of new biomedical interventions into the ageing process and increased longevity and on policies promoting healthy ageing. He is a member of the Research Ethics Committee of the Federal Board of Physicians, Baden-Württemberg.

Carel IJsselmuiden, Council on Health Research for Development (COHRED)

Carel is a physician, epidemiologist, public health practitioner, academic and social entrepreneur, with qualifications from universities in Belgium, Netherlands, South Africa and the United States. He spent 7 years in rural medicine and public health, 4 years in peri-urban and urban health care, HIV/AIDS control and environmental services management as Deputy Medical Officer of Health for Johannesburg, South Africa. He was appointed as Professor and Head of Department of the department of community health at the University of Pretoria in 1995, where he became the founding Director of the School of Health Systems and Public Health in 1999. He held this position until his appointment as Executive Director at COHRED in 2004. As such, he is also member of the COHRED Board, President of COHRED USA and board member of COHRED Africa. He has published widely in applied research, nutrition, immunization, environmental health, research capacity building, global public health education and ethics of international collaborative health research. As part of community service, he was director of the Elim Care Group Project, a health and development NGO in the north of South Africa, served on the board of the Nokuthula Centre for Disabled Children in Alexandra township in South Africa and offers strategic research and innovation development support to low- and middle-income countries. Carel holds two nationalities – South African and Netherlands – and has worked and lived in Africa, Europe, the United States and the Caribbean.

### Observer

Ingrid Callies

Dr Ingrid Callies, PHD (University Paris Descartes), LL.M (University of Virginia), a member of the New York Bar and a bioethicist, is Head of Ethics and Coordinator of the Code Authority and Ethics Committee (Codeum) for the pharmaceutical industry in France at Leem, the French federation of the pharmaceutical industry ([www.leem.org](http://www.leem.org)). Previously, she was Ethics Advisor at the Institut Pasteur, worked for the French National Agency for Research on Aids and Viral Hepatitis, and practised law at Hogan & Hartson LLP, a law firm now called Hogan Lovells. Co-editor of the Ethics of Research Section in the Elsevier International Encyclopedia of the Social and Behavioural Sciences, Ingrid Callies has also participated in major research projects, including LeukoTreat (a collaborative European project on leukodystrophy) and Satori (Stakeholders Acting Together On the ethical impact assessment of Research and Innovation).

## APPENDIX 4

# COMMENTATORS

	Institution/Organization	Country	Surname	First name
1		Brazil	Neto	Sodre
2	Areteva, Nottingham	United Kingdom	Corfield	Julie
3	Association of Clinical Research Professionals, Alexandria, VA	United States	Kremidas	Jim
4	Caribbean Public Health Agency Research Ethics Committee		Roopchand-Martin	Sharmella
5	Centro de Bioética, Persona y Familia	Argentina	Pucheta	Leonardo
6	CIOMS, Former President, Geneva	Switzerland	Vallotton	Michel
7	CIOMS, Senior Adviser, Geneva	Switzerland	Fluss	Sev
8	Comite Etico-Cientifico, Universidad de Ciencias Médicas de Costa Rica	Costa Rica	Vargas	Jorge Quesada
9	Dalhousie University, Halifax	Canada	Baylis	Francoise
			MacQuarrie	Robyn
10	Novel Tech Ethics, Dalhousie University, Halifax	Canada	Petropanagos	Angel
11	Department of Bioethics, National Institutes of Health, Bethesda, Maryland	United States	Millum	Joseph
			Wendler	David
			Grady	Christine
12	Disaster Bioethics COST Action, Research Ethics Working Group, Dublin	Ireland	O'Mathúna	Dónal
13	Division of Medical Ethics, NYU Medical School, New York	United States	Curry	David
14	Eli Lilly and Company, Indianapolis, Indiana	United States	Van Campen	Luann

	Institution/Organization	Country	Surname	First name
15	ESIC Medical College and Postgraduate Institute of Medical Sciences and Research (PGIMSR)	India	Gopichandran	Vijayaprasad
16	Economic and Social Research Council (ESRC) North West Doctoral Training Centre (NWDTC), Manchester	United Kingdom	Chiumento	Anna
17	European Network of Research Ethics Committees (EUREC), Brussels	Belgium	Doppelfeld	Elmar
18	Facultad de Ciencias Médicas, Universidad Nacional de Rosario, Rosario	Argentina	Diaz	María del Carmen
19	Faculty of Medicine Benha University, Banha	Egypt	Elgndy	Ibrahim
20	Faculty of Pharmaceutical Medicine, London	United Kingdom	Cottam	Ben
21	FLACSO Argentina, Buenos Aires	Argentina	Luna	Florencia
			Mastroleo	Ignacio
			Melamed	Irene
22	GADOR SA, Buenos Aires	Argentina	Roldán	Emilio
23	Indian Council Medical Research (formerly Deputy DG), New Delhi	India	Kumar	Nandini
24	International Society for Biological and Environmental Repositories (ISBER), Vancouver	Canada	Terris	Adam
25	Médecins Sans Frontières, Ethics Review Board, Geneva	Switzerland	Schopper	Doris
26	Nagasaki University, Nagasaki	Japan	Koonrunsesomboon	Nut
27	National Bioethics Commission on Health	Ecuador	Pacheco-Bastidas	Victor
28	National Institute of Radiological Sciences, Fuji Toranomon Orthopedic Hospital	Japan	Kurihara	Chieko
			Saio	Takeo
29	NHS Health Research Authority, London	United Kingdom	Collett	Clive
30	Novartis	Switzerland	Maman	Marianne

	Institution/Organization	Country	Surname	First name
31	Novo Nordisk A/S, Copenhagen	Denmark	Zdravkovic	Milan
32	Núcleo de Bioética de Londrina- Londrina, Parana	Brazil	Diniz	Nilza
33	Nuffield Council on Bioethics	United Kingdom	Whittall	Hugh
34	Pan American Health Organization, Regional Office for the Americas of the World Health Organization, Washington DC	United States	Saenz	Carla
35	Panamerican University, Mexico City	Mexico	Casas	Maria de la Luz
36	Peruvian IRB Network, Lima	Peru	Gil	Ana
			Lescano	A. Roxana
			Mestanza	Miguel
			Quiroz	Estela
			Sevilla	Carlos
37	Red Latinoamericana y del Caribe de Bioética UNESCO		Fuentes	Duilio
			Justo	Luis
			Lorenzo	Claudio
			Macías	Andrea
			Maglio	Ignacio
			Minaya	Gabriela
			Pacheco	Victor
			Penchaszadeh	Victor
			Pfeiffer	Maria Luisa
			Rocha de Cunha	Thiago
	Verges	Claude		
	Vidal	Susana		
38	Sama, Resource group for women and health, New Delhi	India	Sarojini	N.
39	Sense About Science/ AllTrials campaign, London	United Kingdom	Cockerill	James
40	St. John's Research Institute, Bangalore	India	Vaz	Manjulika

	Institution/Organization	Country	Surname	First name
41	Stellenbosch University, Stellenbosch	South Africa	Amugune	Beatrice
			Moremi	Lemphi
			Nair	Gonasagrie
			Nyanyukweni	Pandeni
			Singh	Shenuka
			Towers	Wayne
			Visage	Retha
			Wium	Anna-Marie
42	Swiss Academy of Medical Sciences (SAMS), Bern	Switzerland	Salathé	Michelle
43	Training and Resources in Research Ethics Evaluation (TRREE)	Switzerland	Sprumont	Dominique
44	Universidad Peruana Cayetano Heredia, Lima	Peru	Samalvides Cuba	Frine
45	Universidad Autónoma de Querétaro, Santiago de Querétaro	Mexico	Hall	Robert
46	University of Barcelona, Barcelona	Spain	Ferrer Salvans	Pau
47	University of Geneva, Geneva	Switzerland	Hurst	Samia
48	University of KwaZulu-Natal, Pietermaritzburg	South Africa	Kirimuhuzya	Claude
			Ndimuangu	Hilton
			Matandika	Limbanazo
			Magolela	Melda
			Akintola	Olagoke
			Bengu	Sibusisiwe
			Raiman	Shenaaz
			Mtande	Tiwonge
49	University of Milan, Milan	Italy	Linkeviciute	Alma
50	University of Missouri, Columbia	United States	Mcarthur	Carole
51	University of Ottawa, Ottawa	Canada	Williams	John
52	University of Pennsylvania, Philadelphia	United States	Ellenberg	Susan
53	University of the West Indies	Jamaica	Rampersad	Indira
			Nayak	Shivananda
54	University of Toronto, Toronto	Canada	Bandewar	Sunita V. S.

	Institution/Organization	Country	Surname	First name
55	U.S. Department of Health and Human Services, Washington DC	United States	Carr	Sarah
56	Washington University in St Louis, St Louis	United States	Dresser	Rebecca
57	World Health Organization (partial), Geneva	Switzerland	Van Ommeren	Mark

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CIOMS, in association with the World Health Organization, started its work on ethics in health-related research in the late 1970s. Accordingly, CIOMS set out, in cooperation with WHO, to prepare guidelines to indicate how the ethical principles set forth in the Declaration of Helsinki of the World Medical Association, could be effectively applied, particularly in low-resource settings, given their socio-economic circumstances, laws and regulations, and executive and administrative arrangements. Since then revised editions of the CIOMS ethical guidelines were published in 1993 and 2002. New developments in research have prompted CIOMS to again revise their ethical guidelines. The result is now available in this new publication.

In the new 2016 version of the ethical guidelines, CIOMS provides answers to a number of pressing issues in research ethics. The Council does so by stressing the need for research having scientific and social value, by providing special guidelines for health-related research in low-resource settings, by detailing the provisions for involving vulnerable groups in research and for describing under what conditions biological samples and health-related data can be used for research.

International Ethical Guidelines for Health-related Research Involving Humans. Geneva: Council for International Organizations of Medical Sciences (CIOMS); 2016.

CIOMS publications may be obtained directly from CIOMS by e-mail to [info@cioms.ch](mailto:info@cioms.ch).

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CIOMS publications are also distributed by the World Health Organization, 20 Avenue Appia, CH-1211 Geneva 27, Switzerland.



## Nuremberg Code

The **Nuremberg Code** (German: *Nürnberger Kodex*) is a set of [research ethics](#) principles for [human experimentation](#) created as a result of the [Nuremberg trials](#) at the end of the [Second World War](#).

### Background

The origin of the Nuremberg Code began in pre-[World War II](#) German politics, particularly during the 1930s and 1940s. The pre-war [German Medical Association](#) was considered to be a progressive yet democratic association with great concerns for public health, one example being the legislation of compulsory health insurance for German workers. However, starting in the mid-1920s, German physicians, usually proponents of [racial hygiene](#), were accused by the public and the medical society of [unethical](#) medical practices. The use of racial hygiene was supported by the German government in order to promote an Aryan race. Racial hygiene extremists merged with [National Socialism](#) to promote the use of biology to accomplish their goals of racial purity, a core concept in the Nationalist ideology. Physicians were attracted to the scientific ideology and aided in the establishment of National Socialist Physicians' League in 1929 to "purify the German medical community of 'Jewish [Bolshevism](#)'." Criticism was becoming prevalent; Alfons Stauder, member of the Reich Health Office, claimed that the "dubious experiments have no therapeutic purpose", and Fredrich von Muller, physician and the president of the Deutsche Akademie, joined the criticism.<sup>[1]</sup>

In response to the criticism of unethical human experimentation, the Reich government issued "Guidelines for New Therapy and Human Experimentation" in [Weimar Republic](#), Germany. The guidelines were based on [beneficence](#) and [non-maleficence](#), but also stressed legal doctrine of [informed consent](#). The guidelines clearly distinguished the difference between therapeutic and non-therapeutic research. For therapeutic purposes, the guidelines allowed administration without consent only in dire situations, but for non-therapeutic purposes any administration without consent was strictly forbidden. However, the guidelines from Weimar were negated by [Adolf Hitler](#). By 1942, the Nazi party included more than 38,000 German physicians, who helped carry out medical programs such as [the Sterilization Law](#).<sup>[2]</sup>

After World War II, a series of trials were held to hold members of the Nazi party responsible for a multitude of [war crimes](#). The trials were approved by President Harry Truman on May 2, 1945 and were led by the United States, Great Britain, and the Soviet Union. They began on November 20, 1945 in [Nuremberg](#), Germany, in what became known as the [Nuremberg trials](#). In one of the trials, which became known as the "[Doctors' Trial](#)", German physicians responsible for conducting unethical medical procedures on humans during the war were tried. They focused on physicians who conducted inhumane and unethical human experiments in [concentration camps](#), in addition to those who were involved in over 3,500,000 [sterilizations](#) of German citizens.<sup>[3][4]</sup>

Several of the accused argued that their experiments differed little from those used before the war, and that there was no law that differentiated between legal and illegal experiments. This worried Drs. Andrew Ivy and Leo Alexander, who worked with the prosecution during the trial. In April 1947, Dr. Alexander submitted a memorandum to the United States Counsel for War Crimes outlining six points for legitimate medical research.<sup>[5]</sup>

The Nuremberg code, which stated explicit voluntary consent from patients are required for human experimentation was drafted on August 9, 1947.<sup>[6]</sup> On August 20, 1947, the judges delivered their verdict against [Karl Brandt](#) and 22 others.<sup>[7]</sup> The verdict reiterated the memorandum's points and, in response to expert medical advisers for the prosecution, revised the original six points to ten. The ten points became known as the "Nuremberg Code", which includes such principles as [informed consent](#) and absence of [coercion](#); properly formulated [scientific](#) experimentation; and [beneficence](#) towards experiment participants. It is thought to have been mainly based on the [Hippocratic Oath](#), which was interpreted as endorsing the experimental approach to medicine while protecting the patient.<sup>[8]</sup>

### The ten points of the Nuremberg Code

The ten points of the code were given in the section of the verdict entitled "Permissible Medical Experiments":<sup>[5]</sup>

1. The voluntary consent of the human subject is absolutely essential.

2. The experiment should be such as to yield fruitful results for the good of society, unprocurable by other methods or means of study, and not random and unnecessary in nature.
3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment.
4. The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.
5. No experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects.
6. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment.
7. Proper preparations should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.
8. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be required through all stages of the experiment of those who conduct or engage in the experiment.
9. During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.
10. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

## Authorship

The Nuremberg Code was initially ignored, but gained much greater significance about 20 years after it was written. As a result, there were substantial rival claims for the creation of the Code. Some claimed that [Harold Sebring](#), one of the three U.S. judges who presided over the [Doctors' Trial](#), was the author. [Leo Alexander](#), MD and [Andrew Ivy](#), MD, the prosecution's chief medical expert witnesses, were also each identified as authors. In his letter to [Maurice H. Pappworth](#), an English physician and the author of the book [Human Guinea Pigs](#), Andrew Ivy claimed sole authorship of the Code. Leo Alexander, approximately 30 years after the trial, also claimed sole authorship.<sup>[9]</sup> However, after careful reading of the transcript of the Doctors' Trial, background documents, and the final judgements, it is more accepted that the authorship was shared and the Code grew out of the trial itself.<sup>[10]</sup>

Dr. Ravindra Ghooi from India has written a paper on this code and in his opinion, the code borrows heavily from the 1931 guidelines without acknowledging its source and thus could be considered plagiarized.<sup>[11]</sup>

## Importance

The Nuremberg Code has not been officially accepted as law by any nation or as official ethics guidelines by any association. In fact, the Code's reference to [Hippocratic duty](#) to the individual patient and the need to provide information was not initially favored by the [American Medical Association](#). The Western world initially dismissed the Nuremberg Code as a "code for barbarians" and not for civilized physicians and investigators. Additionally, the final judgment did not specify whether the Nuremberg Code should be applied to cases

such as [political prisoners](#), convicted felons, and healthy volunteers. The lack of clarity, the brutality of the unethical medical experiments, and the uncompromising language of the Nuremberg Code created an image that the Code was designed for singularly egregious transgressions.<sup>[12]</sup>

However, the Code is considered to be the most important document in the history of [clinical research ethics](#), which had a massive influence on global human rights. The Nuremberg Code and the related [Declaration of Helsinki](#) are the basis for the [Code of Federal Regulations Title 45 Part 46](#),<sup>[13][14]</sup> which are the regulations issued by the [United States Department of Health and Human Services](#) for the ethical treatment of human subjects, and are used in [Institutional Review Boards \(IRBs\)](#). In addition, the idea of [informed consent](#) has been universally accepted and now constitutes Article 7 of the United Nations' [International Covenant on Civil and Political Rights](#). It also served as the basis for [International Ethical Guidelines for Biomedical Research Involving Human Subjects](#) proposed by the [World Health Organization](#).<sup>[9]</sup>

## See also

- [Belmont Report](#)
- [Civil rights](#)
- [Declaration of Geneva](#)
- [Declaration of Helsinki](#)
- [Good clinical practice](#)
- [Green report](#)
- [Hippocratic Oath](#)
- [Human experimentation in the United States](#)
- [Human rights](#)
- [Human subject research](#)
- [Medical ethics](#)
- [Medical torture](#)
- [Nuremberg Principles](#)
- [The Hague Ethical Guidelines](#)
- [Universal Declaration of Human Rights](#)
- [World Medical Association](#)

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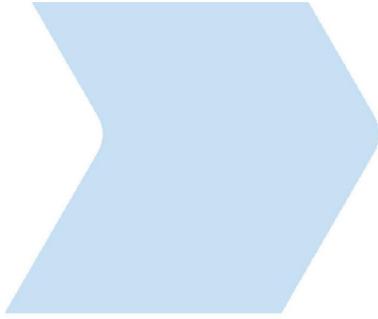
## Further reading

- Weindling, Paul: *Nazi Medicine and the Nuremberg Trials* (Palgrave, Basingstoke 2004)
- Schmidt, Ulf: *Justice at Nuremberg: Leo Alexander and the Nazi Doctors' Trial* (Palgrave, Basingstoke 2004)
- Schmidt, Ulf: Karl Brandt. *The Nazi Doctor: Medicine and Power in the Third Reich* (Continuum, London, 2007)
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- *BRITISH MEDICAL JOURNAL* No. 7070, Volume 313: page 1448, 7 December 1996.
- "The Nuremberg Code" (1947). In: Mitscherlich A, Mielke F. *Doctors of Infamy: The Story of the Nazi Medical Crimes*. New York: Schuman, 1949: xxiii–xxv.
- Carl Elliot's article "[Making a Killing](#)" in *Mother Jones* magazine (September 2010) asks if the Nuremberg Code is a valid legal precedent in Minnesota

## External links

Wikisource has original text related to this article:

[Nuremberg Code](#)



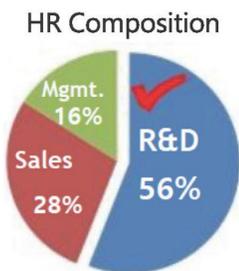
BEYOND NEW HORIZON  
**CANCERROP**  
Covid-19 Diagnostic Tests



# CANCERROP Profile

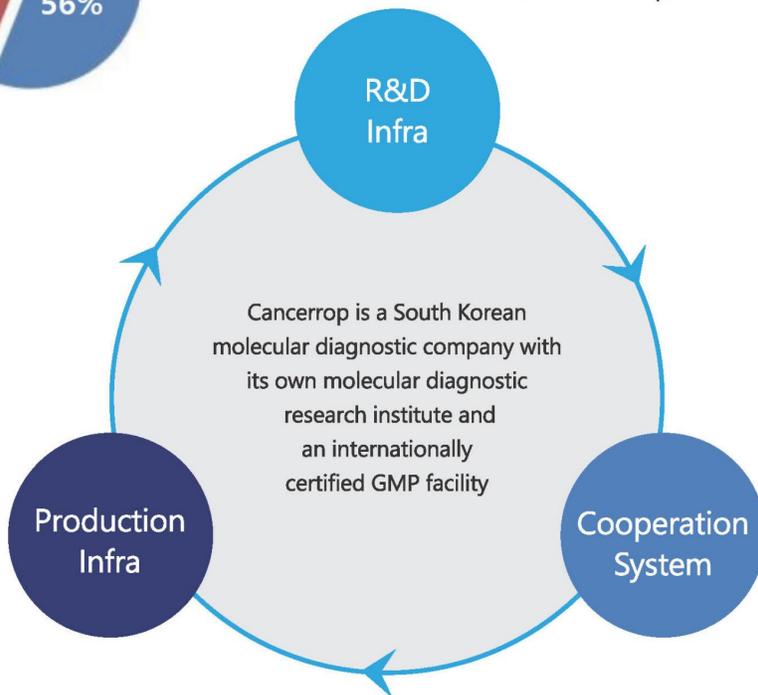


*Own Molecular Diagnostic Research Institute and Research Personnel*



*Quality Management System*

- Korean Standards
- KGMP, MFDS, Genetics Testing
  - Agency centers of disease control and prevention
- International Standards
- ISO 9001, ISO 14001, ISO 13485
- EU Standards
- CE-IVD: BAC Chip, STD PCR Kits



*Largest Production Infrastructure and most Certifications in the Industry*

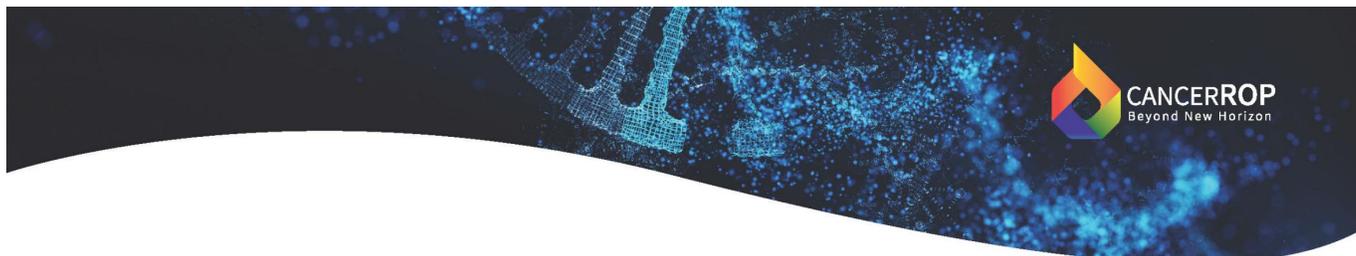
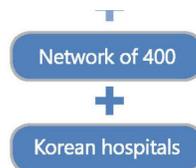
Scale: 330mf  
 Production: 100,000 copies a year  
 Certification: European CE, GMP  
 Other: Class 10,000 clean room, constant temperature and humidity



*Securing Domestic and Overseas Sales Network*

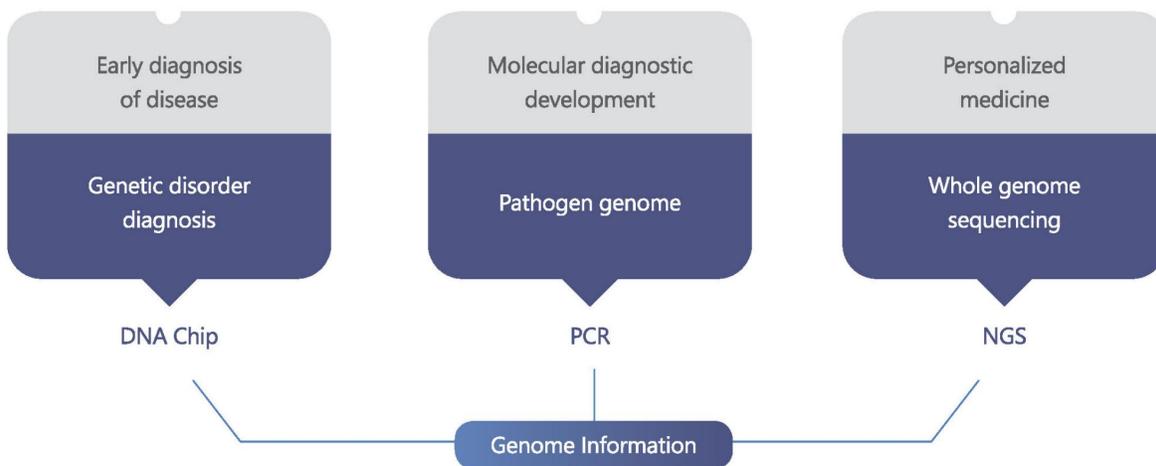


control temperature and humidity

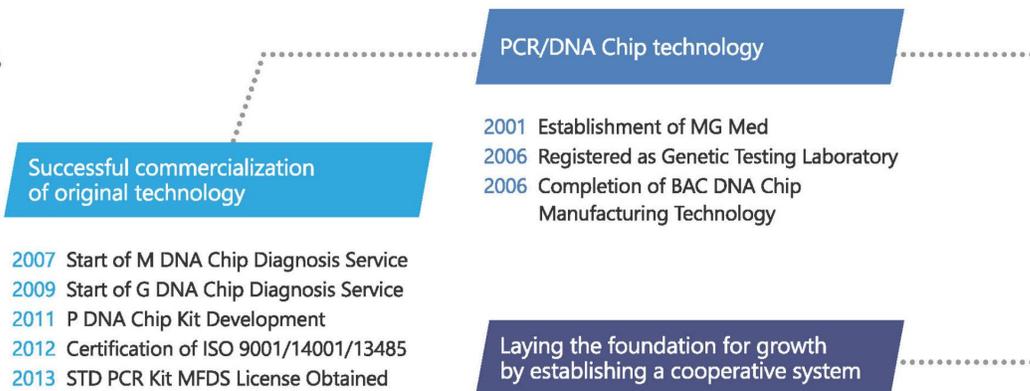


Cancerrop is a molecular diagnostic company that provides early diagnosis services and develops new diagnostic technologies

### Leader of Innovative Molecular Diagnostics |



### | Key Success



- 2013 G DNA Chip Technology Transfer Contract with China (Ahngook Pharm)
- 2015 G DNA Chip Technology Transfer Contract with Japan (Boryung Biopharma)
- 2015 G DNA Chip Technology Transfer Contract with US (Macrogen Clinical Lab)
- 2017 Company name changed to CANCERROP  
Expansion of R&C for Precision Medicine
- 2020 **CANCERROP officially launched Q-Sens® COVID-19 RT-PCR Detection Kit (V1, V2) / Q-Sens® COVID-19 IgG/IgM Rapid Kit**

## Q-Sens® COVID-19 Detection Kit V2

### | Principle

The Q-Sens® COVID-19 Detection Kit V2 is intended for the qualitative detection of SARS-CoV-2 in respiratory specimens such as nasopharyngeal swab, oropharyngeal swab and sputum from patients suspected of COVID-19 infection by their healthcare providers. The Q-Sens® COVID-19 Detection Kit V2 uses real-time reverse transcriptase polymerase chain reaction (RT-PCR) technology. This product contains enzymes and reaction components required for cDNA synthesis and PCR amplification, so a RT-PCR reaction can be easily performed by one step of adding of RNA template to primer/probe mixture. By using a probe-based multiplex PCR assay, SARS-CoV-2 and Sarbecovirus can be distinguished and diagnosed. The RdRp gene is specific for SARS-CoV-2 whereas the E gene is specific for Sarbecovirus. The internal control is designed to amplify an endogenous human gene and serves as an internal positive control to monitor sample quality, RNA extraction, and RT-PCR run.

### | Targets

Target	5' Fluorophore	3' Quencher	Remarks
RdRp gene	FAM	BHQ1	SARS-CoV-2
E gene	HEX*	BHQ1	Sarbecovirus
Internal Control (IC)	Cy5	BHQ2	IC

\* ABI 7500 Fast: JOE or VIC, Bio-Rad CFX96: HEX

### | Procedures



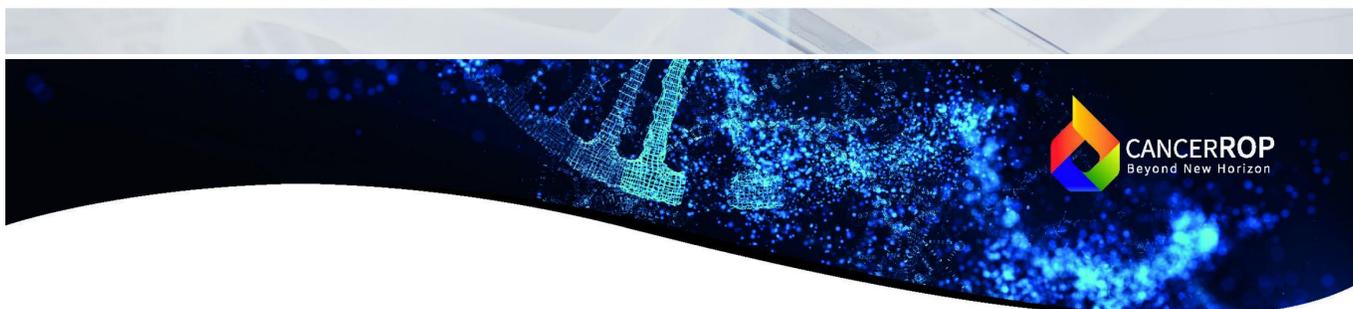
### | Kit Components

	Reagents	Volume (100 Tests)
	2X One-Step RT-PCR Mix	2 × 650 µL
5X COVID-19 Primer Mix	500 µL	



5X COVID-19 Primer Mix	520 µL
Positive Control (PC)	100 µL
RNase Free Water	1,000 µL

Benefits	Targets	Specimens	Packaging & Storage
<ul style="list-style-type: none"> <li>Results within 2 hours after RNA extraction</li> <li>One-Step Multiplex RT-PCR</li> <li>Human Endogenous Internal Control (IC)</li> </ul>	<ul style="list-style-type: none"> <li>RdRp gene &amp; E gene</li> </ul>	<ul style="list-style-type: none"> <li>Nasopharyngeal swab</li> <li>Oropharyngeal swab</li> <li>Sputum</li> </ul>	<ul style="list-style-type: none"> <li>100 Tests/Kit</li> <li>Store at below -20 °C</li> </ul>

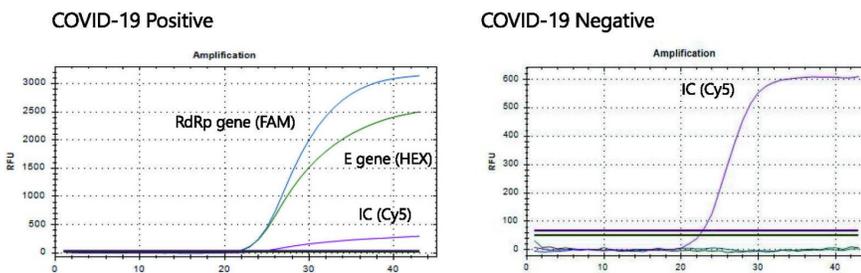


### Clinical Performances

Q-Sens® COVID-19 Detection Kit V2	FDA Approved Comparator Kit	
	Positive	Negative
Positive	70	0
Negative	0	200
Sensitivity	100% (95% CI: 94.8~100%)	
Specificity	100% (95% CI: 98.1~100%)	

\* Overall Percent Agreement= 100% (95% CI: 98.6~100%) \* Cohen's kappa = 1

### Result and Data



- Ct value of targets < 40: Detected (+) - Ct value of targets ≥ 40: Not detected (-)

### Interpretation

Case	RdRp	E	IC	Interpretation
PC	+	+	-	<b>Valid</b>
NC	-	-	-	<b>Valid</b>
1	+	+	+	<b>(COVID-19 Positive)</b> SARS-CoV-2 RNA is detected.
2	-	-	+	<b>(COVID-19 Negative)</b> SARS-CoV-2 RNA is not detected.

3	+/-	+/-	-	<b>(invalid)</b> Invalid result. Repeat test. If the result is still invalid, a new specimen should be obtained.
4	+	-	+	
5	-	+	+	

## Ordering Information

Cat. No.	Product Name	Size
MGQ005	Q-Sens® COVID-19 Detection Kit V2	100 Tests/Kit
MGI001	Q-Sens® COVID-19 IgG/IgM Rapid Kit	100 Tests/Kit



### Compatibility

- Bio-Rad CFX96 Touch™ Real-time PCR Detection System
- ABI 7500 Fast Real-time PCR Instrument System
- Most of Real-time PCR Instrument Systems



### Certification

- CE-IVD
- MFDS

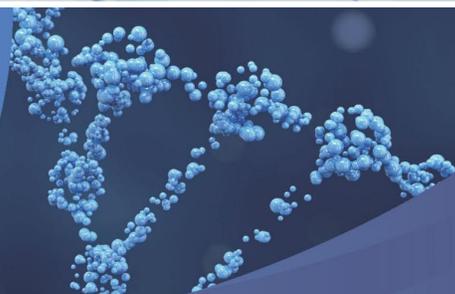


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Cat No. MGI001

# Q-Sens® COVID-19 IgG/IgM Rapid Kit



## Principle

The Q-Sens® COVID-19 IgG/IgM Rapid Kit was developed as an immunochromatographic assay to assist diagnosis of disease and immunological conditions by detecting anti-SARS-CoV-2 IgG and IgM antibodies in specimens such as fingerstick whole blood, venous whole blood, serum and plasma.

The immunochromatographic assay uses the sandwich method of antigens and antibodies of COVID-19.

The specimen will migrate by capillary action along the membrane, and produce red color on the control line, which is visible to the eye. If a COVID-19 antibody is present, an antigen-antibody complex is formed and shows red color on the test line. The Q-Sens® COVID-19 IgG/IgM Rapid Kit allows for quick results as it requires no additional equipment.

The Q-Sens® COVID-19 IgG/IgM Rapid Kit was developed according to the guidelines of WHO and KCDC.



## Benefits and Features

- Quick and easy testing
- Higher reliability than licensed products
- All necessary reagents provided



- Clinical data on patients confirmed by RT-PCR
- Pos 32 } Tested
- Neg 101 }



- Result-Sensitivity 94%

## Product Specification

- Main Characteristics
- Performance verified by comparison analysis with



**C** : Control  
**M** : Anti COVID-19 IgM  
**G** : Anti COVID-19 IgG

Flow

### Work-Flow

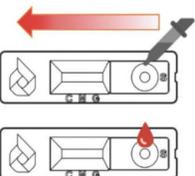


or



Specimen Collection

Process Direction



Specimen Insertion



Result Analysis

RT-PCR method

- Higher reliability than licensed products with 95% total concordance
- Manufactured in a KGMP facility
- Excellent sensitivity: Positive detection possible even with 4374x dilution for IgG, and 81x dilution for IgM
- Accurate results: Results not affected by other interference and cross-response material
- Rapid reaction: Qualitative detection completed within 10 minutes without additional equipment
- Store at 2-30°C



Cat No. MGI001

# Q-Sens® COVID-19 IgG/IgM Rapid Kit

### Kit Components

Component Parts	Vol. (100 Tests)
Q-Sens® COVID-19 IgG/IgM Rapid Test Card	100 ea/box
10X Specimen Buffer	2.5 ml, 4 ea
Manual	1 ea

### Clinical Performances

	RT-PCR/STANDARD M nCOV Real-time Detection Kit	
	Positive	Negative
Q-Sens® COVID-19 IgG/IgM Rapid Kit	30	4
	2	27

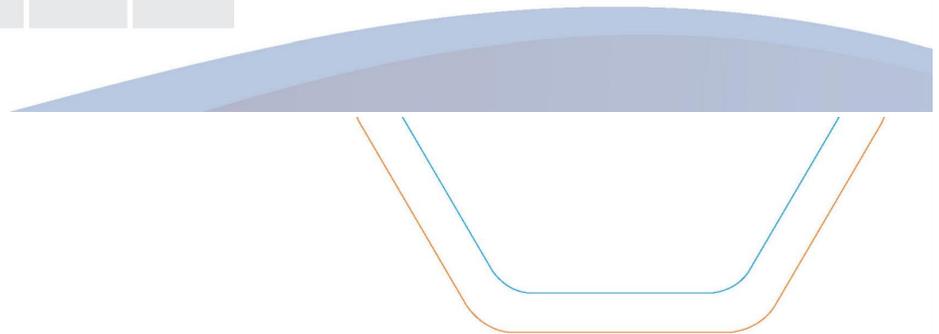
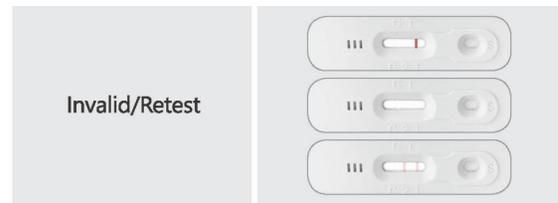
### Result

Interpretation	Developed Lines
IgM positive	
IgG positive	
IgM/IgG positive	
IgM weak positive	
IgG weak positive	
IgM/IgG weak positive	
Negative	

	Negative	2	97
--	----------	---	----

### Interpretation

	Interpretation of the Result	Control (C line)	IgG (G Line)	IgM (M Line)
1	SARS-CoV-2 negative	+	-	-
2	SARS-CoV-2 IgM positive	+	-	+
3	SARS-CoV-2 IgG positive	+	+	-
4	SARS-CoV-2 IgM/IgG positive	+	+	+
5	Invalid/Retest	-	+	-
6	Invalid/Retest	-	-	+
7	Invalid/Retest	-	-	-



[www.cancerrop.com](http://www.cancerrop.com)



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**CANCERROP**

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Covid-19 Diagnostic Tests



 **CancerRop. Co., Ltd.**

10F, Elysia bldg. 173, Digital-ro,  
Geumchun-gu, Seoul, 08510 Korea  
Tel +82-(0)2-890-8700  
Fax +82-(0)2-890-8702  
E-mail [cancerrop@cancerrop.com](mailto:cancerrop@cancerrop.com)  
Web [www.cancerrop.com](http://www.cancerrop.com)



S.B. PHARMA GMBH  
Max-Planck Str. 39a  
D-50858, Koln, Germany

# PowerChek™ 2019-nCoV Real-time PCR Kit

## Instructions for use

**for use under Emergency Use Authorization only**

**for *in vitro* diagnostic (IVD) use**

**for Prescription (Rx) use only**

**REF** R6900TD



KogeneBiotech Co., Ltd.

C1101, C-dong, 168, Gasan digital 1ro,  
Geumcheongu, Seoul, Republic of Korea, 08507

Tel: +82 2 2026 2150 Fax: +82 2 2026 2155

[www.kogene.co.kr/eng](http://www.kogene.co.kr/eng)

Sep 14, 2020



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## 1. Intended Use

PowerChek™ 2019-nCoV Real-time PCR Kit is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in anterior/mid-turbinate nasal swabs, nasopharyngeal/oropharyngeal swabs, nasopharyngeal washes/aspirates or nasal aspirates, bronchoalveolar lavage (BAL), and sputum from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C.§263a, that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detected in respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

Testing with the PowerChek™ 2019-nCoV Real-time PCR Kit is intended for use by qualified laboratory personnel specifically instructed and trained in the techniques of real-time PCR and in vitro diagnostic procedures. The PowerChek™ 2019-nCoV Real-time PCR Kit is intended for use only under the Food and Drug Administration's Emergency Use Authorization.



## 2. Product description

PowerChek™ 2019-nCoV Real-time PCR Kit provides a testing solution for SARS-CoV-2, including the assays and controls for a multiplex real-time RT-PCR test for the qualitative detection of RNA from SARS-Cov-2 in the following upper and lower clinical specimens: anterior/mid-turbinate nasal swabs, nasopharyngeal/oropharyngeal swabs, nasopharyngeal washes/aspirates or nasal aspirates, bronchoalveolar lavage (BAL) fluid, and sputum obtained from individuals suspected of COVID-19 by their healthcare provider. The RdRP target is specific for SARS-CoV-2 whereas the E gene is specific for Sarbecovirus. Both assays include a heterologous amplification system (Internal Control) to identify possible inhibition of nucleic acid amplification and to confirm the integrity of the reagents of the kit.

The test is based on real-time RT-PCR technology, utilizing reverse transcription (RT) to convert RNA into complementary DNA (cDNA), polymerase chain reaction (PCR) for the amplification of specific target sequences and target specific probes for the detection of the amplified DNA. The probes are labeled with fluorescent reporter and quencher dyes. In both assays, probes specific for SARS-CoV-2 or Sarbecovirus RNA are labeled with the fluorophore **FAM**. The probe specific for the target of the Internal Control (IC) is labeled with the fluorophore **JOE**. Using probes linked to distinguishable dyes enables the parallel detection of SARS-CoV-2 specific RNA and the Internal Control in the corresponding detector channels of the real-time PCR instrument.



### 3. Contents and storage

The PowerChek™ 2019-nCoV Real-time PCR Kit can be shipped and stored at –25 to –15°C until the expiration date printed on the label. All components of the PowerChek™ 2019-nCoV Real-time PCR Kit must be stored at –25 to –15°C, before and after opening (Table 1). Do not repeat the freeze/thaw procedure more than 3 times after opening. Exposure to light, heat, or humidity may affect the shelf life of some of the kit components and should be avoided.

**Table 1.** Components of PowerChek™ 2019-nCoV Real-time PCR Kit (R6900TD) for 100 reactions

Reagent	Cap label	Volume	Description	Storage
Primer/Probe Mix 1 (E gene)	P1	400 µL	- E specific primers and probe - IC specific primers and probe - DNA for IC	–25 to –15°C
Primer/Probe Mix 2 (RdRP gene)	P2	400 µL	- RdRP specific primers and probe - IC specific primers and probe - DNA for IC	–25 to –15°C
RT-PCR Premix	RP	2 X 1100 µL	Buffer containing dNTPs, MgCl <sub>2</sub> , <i>Taq</i> . One-step RT Real-time PCR Enzyme Mix	–25 to –15°C
Control 1 (E gene)	C1	100 µL	Positive control RNA (E gene), (2 x 10 <sup>4</sup> copies/ µL)	–25 to –15°C
Control 2 (RdRP gene)	C2	100 µL	Positive control RNA (RdRP gene) (2 x 10 <sup>4</sup> copies/ µL)	–25 to –15°C

### 4. Additionally required materials (but not provided)

- **PowerChek™ RNA Process Control Kit (KogeneBiotech, Cat No. IC0002 for 500 reactions)**
  - The PowerChek™ RNA Process Control Kit must be used with the PowerChek™ 2019-nCoV Real-time PCR Kit (R6900TD) to monitor the RNA extraction process as well as RT-PCR inhibition.
  - The PowerChek™ RNA Process Control Kit consists of the RNA Process Control (RPC), a nuclease-resistant artificial RNA, and the Primer/Probe mix (RNA Process Control) specific to the RNA Process Control. The RPC has no homologies to any other known sequences or the Internal Control of the PowerChek™ 2019-nCoV Real-time PCR Kit (R6900TD).



- The Components of PowerChek™ RNA Process Control Kit (for 500 reactions)

Reagent	Volume
Primer/Probe mix (RNA Process Control)	250 µL
RNA Process Control (RPC)	5 X 500 µL

- The set of primers and probes used in the PowerChek™ RNA Process Control Kit has no effect on the amplification of SARS-CoV-2 RNA and the specific probe for the RPC is labeled with fluorophore Cy5 so that the co-amplification of SARS-CoV-2 RNA, IC, and RPC is detected through the **FAM, JOE (or HEX)**, and **Cy5** channels, respectively.

**Unless otherwise indicated, all materials are available from major laboratory suppliers.**

- Real-time PCR instrument and equipment
  - Applied Biosystems™ 7500 Real-time PCR System
  - Applied Biosystems™ 7500 fast System run as a standard AB 7500
  - CFX96™ Real-time PCR Detection System
- Laboratory freezers
  - –30°C to –10°C
  - ≤ –70°C
- Centrifuge with a rotor for 2 mL reaction tubes
- Centrifuge with a rotor for microtiter plates, if using 96 well reaction plates
- Laboratory mixer, Vortex or equivalent
- Pipettes (adjustable 1.00 µL to 1,000.00 µL)
- Cold block or ice
- Appropriate nucleic acid extraction system or kit:
  - QIAamp® DSP Viral RNA Mini Kit (QIAGEN, Cat. No./ID: 60704)
- Nuclease-free water (not DEPC-treated)
- Disposable polypropylene micro-tubes or 96 well reaction plates with corresponding (optical) closing materials
  - For Applied Biosystems™ 7500 Real-time PCR System:
    - MicroAmp™ Optical 96-Well Plate (Applied Biosystems™, Cat. No. 8010560, 4316813)
    - MicroAmp™ Optical 96-Well Plate with Barcode (Applied Biosystems™, Cat. No. 4306737, 4326659)
    - MicroAmp™ Optical Adhesive Film (Applied Biosystems™, Cat. No. 4311971)



- MicroAmp™ Optical 8-Tube Strip, 0.2-mL (Applied Biosystems™, Cat. No. 4316567)
- MicroAmp™ Optical 8-Cap Strip (Applied Biosystems™, Cat. No. 4323032)
- For Applied Biosystems™ 7500 Fast Real-time PCR System:
  - MicroAmp™ Fast Optical 96-Well Plate, 0.1 mL (Applied Biosystems™, Cat. No. 4346907)
  - MicroAmp™ Fast Optical 96-Well Plate with Barcode, 0.1 mL (Applied Biosystems™, Cat. No. 4346906, 4366932)
  - MicroAmp™ Optical Adhesive Film (Applied Biosystems™, Cat. No. 4311971)
  - MicroAmp™ Fast 8-Tube Strip, 0.1 mL (Applied Biosystems™, Cat. No. 4358293)
  - MicroAmp™ Optical 8-Cap Strip (Applied Biosystems™, Cat. No. 4323032)
- For CFX96™ Real-time PCR Detection System:
  - Low-Profile 8-Tube Strips without Caps, white (Bio-Rad, Cat. No. TLS0851)
  - Hard-Shell® 96-Well PCR Plates, low profile, thin wall, skirted, white/white (Bio-Rad, Cat. No. HSP9655)
  - Optical Flat 8-Cap Strips (Bio-Rad, Cat. No. TCS0803)
- Sterilize aerosol barrier (filtered) pipette tips
- Disposable powder-free gloves and laboratory coat

## 5. Warning and Precautions

- For in vitro diagnostic use (IVD) only.
- For Emergency Use Authorization only.
- For prescription use only.
- This product has not been FDA cleared or approved;
- This test has been authorized by FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- This product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.



- Specimens should always be considered potentially infectious and handled in accordance with safe laboratory procedures. Refer to Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus disease 2019 (COVID-19). <https://www.cdc.gov/coronavirus/2019-ncov/lab/lab-biosafety-guidelines.html>.
- Specimen processing should be performed in accordance with national biological safety regulations.
- If infection with 2019-nCoV is suspected based on current clinical screening criteria recommended by public health authorities, specimens should be collected with appropriate infection control precautions.
- Do not eat, drink, smoke, apply cosmetics, or handle contact lenses in areas where reagents and human specimens are handled.
- Perform all manipulations of live virus samples within a class II (or higher) biological safety cabinet.
- Use personal protective equipment such as (but not limited to) gloves, eye protection, and lab coats when handling kit reagents while performing this assay and handling materials including samples, reagents, pipettes, and other equipment and reagents.
- Wash hands thoroughly after handling specimens and reagents.
- The PowerChek™ 2019-nCoV Real-time PCR Kit is a single-use device.
- All samples and positive/negative controls should be tested with **both** RdRP and E gene amplification mixtures in order to generate valid results. The two amplification reactions should not be used independently.
- Use of this product should be limited to personnel trained in the techniques of DNA amplification.
- Do not use a kit after its expiration date. The product will maintain performance through the control date printed on the label.
- Material Safety Data Sheets (MSDS) can be requested through KogeneBiotech website ([www.kogene.co.kr/eng](http://www.kogene.co.kr/eng)) or e-mail ([info@kogene.co.kr](mailto:info@kogene.co.kr)).
- The laboratory process must be one-directional, it should begin in the Extraction Area move to the Amplification and Detection Area. Do not return samples, equipment, and reagents in the area where you performed the previous step.
- Please be careful not to contaminate the Primer/Probe Mixture and RT-PCR premix with PCR products or Control DNA through pipetting. To prevent contamination, use of filter tips is recommended.
- Store extracted positive materials (samples, controls, and other amplicons) away from all other reagents and add it to the reaction mix in a separate area.



- Thaw all components thoroughly on ice before starting, experiment. When thawed, mix the components and centrifuge briefly.
- Dispose of all samples that have come into contact with specimens and reagents in accordance with applicable national, international, and regional regulations.
- Clean and disinfect all sample or reagent spills using a disinfectant such as 0.5% sodium hypochlorite, or other suitable disinfectants.
- Avoid contact of specimens and reagents with the skin, eyes, and mucosa. If contact with skin, eyes, and mucosa, immediately flush with water and seek medical attention.

## 6. Sample collection, transport, and storage

The sample collection, storage, and handling must be performed according to the CDC guidelines (Table 2). If samples cannot be processed immediately upon receipt or if there is a delay in shipping, specimens should be stored at 4°C if the delay is expected to last less than 72 hours. If the delay in processing is expected to exceed 72 hours, specimens should be stored at -70°C until processing or shipping can commence. For transport of samples for viral detection, use VTM (viral transport medium) containing antifungal and antibiotic supplements and avoid repeated freezing and thawing of specimens.

**Table 2.** Recommended specimen collection, transport, and storage conditions

Specimen type	Collection materials	Transport to laboratory	Storage till testing
Nasopharyngeal and oropharyngeal swabs	Dacron or polyester flocced swabs	4°C (or iced)	≤ 72 hours at 4°C > 72 hours at -70°C
Bronchoalveolar lavage	Sterile container	4°C (or iced)	≤ 72 hours at 4°C > 72 hours at -70°C
Sputum	Sterile container	4°C (or iced)	≤ 72 hours at 4°C > 72 hours at -70°C

NOTE: Sample collection devices are not provided with the PowerChek™ 2019-nCoV Real-time PCR Kit. All testing for COVID-19 should be conducted in consultation with a healthcare provider. Refer to CDC guidelines for sample collection and storage at: <https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>



## 7. Samples and Controls

Patient samples must be collected according to appropriate laboratory guidelines. Positive and negative test controls must be included to accurately interpret patient test results. **An internal amplification control (IC)** is included in the Primer/Probe Mix 1 (E gene) and the Primer/Probe Mix 2 (RdRP gene) and used to monitor for the presence of PCR inhibitors in specimens. The IC can be co-amplified with target DNA at the same time and visualized in the JOE (or HEX) channel.

Included the following controls when testing clinical samples:

- 1) **Positive Controls:** Two positive controls, Control 1 (E gene) and Control 2 (RdRP gene) are needed to verify the functionality of the SARS-CoV-2 specific RT-PCR detection system and must be included in each test batch. The positive controls are synthesized RNA by *in vitro* transcription and contain the specific target region for the E gene or RdRP gene.
- 2) **Negative Control (NTC):** A negative control is needed to check for contamination during assay preparation. The negative control must be included in each test batch. Molecular-grade water such as nuclease-free water should be used instead of nucleic acid template ("no template").
- 3) **Extraction control (RNA Process Control):** The RNA Process Control in the PowerChek™ RNA Process Control Kit (Kogenebiotech, Cat. No. IC0002) contains a defined copy number of a nuclease-resistant RNA and must be added to the clinical sample prior to RNA extraction. The RPC-specific probe is labeled with a different fluorophore, Cy5, which allows detection to be distinguished from the SARS-CoV-2/Sarbecovirus (FAM) and IC (JOE).
- 4) **Negative process control (NPC):** The RPC-spiked nuclease-free water serves as a negative extraction control to monitor for any cross-contamination during the extraction process. It also serves as an extraction control to validate extraction reagents and successful RNA extraction. The negative process control must be included in each test batch.



## 8. Workflow

Extracted RNA is the starting material for the PowerChek™ 2019-nCoV Real-time PCR Kit. The quality of the extracted RNA has a profound impact on the performance of the entire test system. The QIAamp® DSP Viral RNA Mini Kit (QIAGEN) has been validated for use with the PowerChek™ 2019-nCoV Real-time PCR Kit.

The PowerChek™ RNA Process Control Kit (KogeneBiotech, IC0002) must be used with the PowerChek™ 2019-nCoV Real-time PCR Kit (R6900TD) to monitor the RNA extraction process as well as RT-PCR inhibition. Add the RNA Process Control (RPC) to each clinical sample prior to the extraction process.

The RPC is co-amplified with SARS-CoV-2 RNA and the IC and is visualized in the Cy5 channel. Please refer to Section 4 (Additionally required materials (but not provided)). If you have any questions on the RNA Process Control, please contact our Technical Support (see Section 17).

Add the RNA Process Control (RPC) to a patient sample  
(5 µL of RPC for each sample)



Extract RNA from a patient sample using the QIAamp® DSP Viral RNA Mini Kit



Prepare master mix (15.5 µL) and add extracted RNA (4.5 µL) to make 20 µL total reaction volumes



Perform RT-PCR using the appropriate real-time instrument



Analyze data and interpret the results of the patient's sample



## 9. Nucleic acid extraction

Nucleic acids are isolated and purified from anterior/mid-turbinate nasal swabs, nasopharyngeal or oropharyngeal swabs, nasopharyngeal washes/aspirates or nasal aspirates, as well as sputum and bronchoalveolar lavage fluid specimens using the QIAamp® DSP Viral RNA Mini Kit.

Prior to the start of the nucleic acid extraction, 5 µL of RNA Process Control (RPC) is directly added to the **clinical sample (140 µL of sample)**. The 5 µL of RNA Process Control (RPC) should be added to the nuclease-free water (140 µL) to serve as the Negative Process Control. The RPC-spiked nuclease-free water should be included in the extraction process as the Negative Process Control to monitor for any cross-contamination that may occur during the extraction process. It also functions as an extraction control to assess extraction reagent integrity and successful RNA extraction.

Utilize 140 µL of clinical sample and **elute with 60 µL of Buffer AVE** from the QIAamp® DSP Viral RNA Mini Kit. If the extracted RNA cannot be used immediately, store at 2 to 8°C for up to 24 hours or at -70°C for up to 1 month.

Instructions for extracting RNA using the QIAamp® DSP Viral RNA Mini Kit can be obtained from the QIAamp DSP Virus Kit Handbook.

## 10. Procedure

We recommend that all experiment steps be performed with poly-gloves to prevent the risk of contamination with nucleases (RNase or DNase).

**\*Caution:** Both reaction mixtures must be used for all samples and Positive/Negative Controls.

- (1) Thaw the kit components on ice. Using ice is recommended during the experiment to maintain the enzyme activity. When thawed, mix the components and centrifuge briefly.
- (2) Preparing PCR Mixture: Prepare the reaction mixtures for a 20 µL total reaction volume as shown in Table 3 below.



**Table 3.** Reaction mixture set-up for the PowerChek™ 2019-nCoV Real-time PCR Kit if RPC is added to samples to monitor the successful recovery of RNA as well as RT-PCR inhibition

Composition	Volume per reaction for E gene assay	Volume per reaction for RdRP gene assay
Primer/Probe Mix 1 (E gene) or Primer/Probe Mix 2 (RdRP gene)	4 µL	4 µL
Primer/Probe Mix (RNA Process Control)	0.5 µL	0.5 µL
RT-PCR Premix	11 µL	11 µL
Total volume	15.5 µL	15.5 µL

(2-1) If the RNA Process Control (RPC) is used to monitor ONLY the inhibition of reverse transcription, prepare two master mixes; one with 0.5 µL of RPC per reaction and one master mix without RPC addition. The one with no RPC is for the negative process control and follows the set-up in Table 3 and the other master mix with the addition of RPC is for the clinical samples and follows the set-up in Table 4.

**Table 4.** The reaction mixtures of PowerChek™ 2019-nCoV Real-time PCR Kit, if RPC is added to the PCR mixture to monitor the inhibition of reverse transcription

Composition	Volume per reaction for E gene assay	Volume per reaction for RdRP gene assay
Primer/Probe Mix 1 (E gene) or Primer/Probe Mix 2 (RdRP gene)	4 µL	4 µL
Primer/Probe Mix (RNA Process Control)	0.5 µL	0.5 µL
RNA Process Control	0.5 µL	0.5 µL
RT-PCR Premix	11 µL	11 µL
Total volume	16 µL	16 µL

(3) Prior to moving to the nucleic acid handling area, prepare the No Template Control (NTC) and Negative Process Control (NPC) by adding 4.5 µL of nuclease-free water and extracted RNA from the RPC-spiked nuclease-free water to the negative sample wells. Securely cap the NTC and NPC wells before processing.

(4) Add 4.5 µL of extracted RNA to each well containing the reaction mixture. An example of a reaction plate set-up per batch test is displayed in Figure 1.



96 well Plate	E gene assay (Primer/Probe Mix 1)						RdRp gene assay (Primer/Probe Mix 2)					
	1	2	3	4	5	6	7	8	9	10	11	12
<b>A</b>	PC	S8	S16	S24	S32	S40	PC	S8	S16	S24	S32	S40
<b>B</b>	S1	S9	S17	S25	S33	S41	S1	S9	S17	S25	S33	S41
<b>C</b>	S2	S10	S18	S26	S34	S42	S2	S10	S18	S26	S34	S42
<b>D</b>	S3	S11	S19	S27	S35	S43	S3	S11	S19	S27	S35	S43
<b>E</b>	S4	S12	S20	S28	S36	S44	S4	S12	S20	S28	S36	S44
<b>F</b>	S5	S13	S21	S29	S37	S45	S5	S13	S21	S29	S37	S45
<b>G</b>	S6	S14	S22	S30	S38	NPC	S6	S14	S22	S30	S38	NPC
<b>H</b>	S7	S15	S23	S31	S39	NC	S7	S15	S23	S31	S39	NC

**Figure 1.** Example of reaction plate set-up

- (5) Prepare the 1,000-fold diluted positive control samples by 10-fold serial dilution (<5X LoD).
- (6) Next, add the 4.5 µL of each diluted positive control sample, Control 1 (for E gene) or Control 2 (for RdRP gene) to the wells for the positive control samples.
- (7) After closing the PCR reaction tubes or 96 well reaction plate, mix the reagents in the PCR reaction tubes by tapping the tubes. Centrifuge for 5 seconds to remove air bubbles and to collect the contents at the bottom of the tubes/wells.
- (8) Running the Real-time PCR instrument: Set up the PCR protocols according to Table 5. The PowerChek™ 2019-nCoV Real-time PCR Kit has been validated for use on the Applied Biosystems 7500 Real-time PCR System, the Applied Biosystems 7500 Fast Real-time PCR System, and the CFX-96 Real-time PCR Detection System. Read the manufacturer's instrument manual before running the test.

**Table 5.** Real-time PCR protocol for the PowerChek™ 2019-nCoV Real-time PCR kit Using the 3 Validated Instruments

Temperature	Time	Cycle
50 °C	30 min	1
95 °C	10 min	1
95 °C	15 sec	40
60 °C **	1 min	

\*\* Detect the fluorescence at this step.



(9) The fluorescence curves are analyzed in the FAM, JOE (or HEX), and Cy5 fluorescence detection channels as follows in Table 6.

**Table 6.** Specific Detection in Fluorescence Channels

E gene assay (Primer/Probe Mix 1)		RdRP gene assay (Primer/Probe Mix 2)	
Target Gene	Fluorophore	Target Gene	Fluorophore
E gene	FAM	RdRP gene	FAM
IC	JOE (or HEX)	IC	JOE (or HEX)
RNA Process Control	Cy5	RNA Process Control	Cy5

## 11. Data analysis

For information regarding data analysis on specific real-time PCR instruments, please refer to the manual of the respective instrument.

When the run finishes, set the threshold and baseline for each target gene as follows in Table 7.

**Table 7.** Analysis setting

Instrument	Target	Threshold
Applied Biosystems™ 7500 and 7500 Fast Real-time PCR System (Thermo Fisher Scientific)	E gene	0.2
	IC	0.2
	RNA Process Control	0.2
	RdRP gene	0.2
	IC	0.2
	RNA Process Control	0.2
CFX96™ Real-time PCR Detection System (Bio-Rad)	E gene	100
	IC	150
	RNA Process Control	200
	RdRP gene	100
	IC	150
	RNA Process Control	200



## 12. Quality Control

- Positive Control (PC): Two positive controls, Control 1 (E gene) and Control 2 (RdRP gene) are needed to verify the functionality of the SARS-CoV-2 specific RT-PCR detection system and must be included in each test batch. The positive controls are synthesized RNA by *in vitro* transcription and contain the specific target region for the E gene or RdRP gene.
- Negative Control (NC): PCR grade water is to be used as a negative control for the real-time PCR reaction. Its function is to monitor for reagent contamination.
- Negative Process Control (NPC): The RNA Process Control (RPC)-spiked nuclease-free water serves as a negative extraction control to monitor for potential cross-contamination during the extraction process. It also functions as an extraction control to verify extraction reagent integrity and successful RNA extraction. The extracted RPC is amplified and visualized in the Cy5 channel.
- Internal Control (IC): The Internal Control (IC) contains a defined copy number of an “artificial” DNA molecule that has no homologies to any other known sequences. The set of primers and probe and DNA molecules specific to the IC are included with an optimal concentration in Primer/Probe Mix 1 (E gene) and Primer/Probe Mix 2 (RdRP gene), so that the IC can be co-amplified with target DNA at the same time. The results can be visualized in the JOE (or HEX) channel. The IC is used to monitor for the presence of PCR inhibitors in specimens.



### 13. Results interpretation for patients

Assessment of clinical specimen test results must be performed after the positive and negative controls and the negative process control have been examined and determined to be valid and acceptable (Table 8). If the controls are not valid, the patient results cannot be interpreted.

**Table 8.** Validity of the diagnostic test run

Control ID	E gene Assay			RdRP gene Assay		
	E gene (FAM)	RPC <sup>2)</sup> (Cy5)	IC (JOE)	RdRP gene (FAM)	RPC <sup>2)</sup> (Cy5)	IC (JOE)
<b>Positive Control (PC)</b>	Ct value ≤ 37	Ct value > 35 or Not detected	Ct value ≤ 28	Ct value ≤ 37	Ct value > 35 or Not detected	Ct value ≤ 28
<b>Negative Control (NC)<sup>1)</sup></b>	Ct value > 37 or Not detected	Ct value > 35 or Not detected	Ct value ≤ 28	Ct value > 37 or Not detected	Ct value > 35 or Not detected	Ct value ≤ 28
<b>Negative Process Control (NPC)</b>	Ct value > 37 or Not detected	Ct value ≤ 35	Ct value ≤ 28	Ct value > 37 or Not detected	Ct value ≤ 35	Ct value ≤ 28

<sup>1)</sup> If the NC exhibits a Ct ≤ 35 for E/RdRP/IPC, sample contamination may have occurred. Invalidate the run and repeat the assay using a different molecular biology grade water.

<sup>2)</sup> If the RNA Process Control (RPC) is added to the PCR mixture as following Table 4, the RPC should be positive (Ct ≤ 35) in both positive and negative controls.

In the case of an invalid diagnostic test run, re-test using the remaining extracted nucleic acids. If the RNA Process Control (RPC) is negative in the Negative Process Control, repeat the nucleic acid extraction from the residual patient sample and re-test again. If a test run is repeatedly invalid, please contact our Technical Support (see Section 17).

The result of each target in clinical samples can be determined by the criteria described in Table 9 below. The expected results for the PowerChek™ 2019-nCoV Real-time PCR Kit are shown in Table 10. If results are obtained that do not follow these guidelines, re-extract from the residual patient sample and re-test the sample. If the repeat result remains invalid, consider collecting a new patient specimen.



**Table 9.** The criteria of each target; E gene, RdRP, IC, and RPC

	<b>E gene</b>	<b>RdRP gene</b>	<b>RPC</b>	<b>IC</b>
Positive (+)	Ct value ≤ 37	Ct value ≤ 37	Ct value ≤ 35	Ct value ≤ 28
Negative (-)	Ct value > 37 or Not detected	Ct value > 37 or Not detected	Ct value > 35 or Not detected	Ct value > 28 or Not detected

**Table 10.** Results interpretation as regarding the Ct values above

Case	E gene			RdRP gene			Interpretation	Action
	E (FAM)	RPC (Cy5)	IC (JOE)	RdRP (FAM)	RPC (Cy5)	IC (JOE)		
1	-	+	+	-	+	+	"SARS-CoV-2 is NOT detected".	Report the result to sender.
2	+	+/-*	+/-*	+	+/-*	+/-*	"SARS-CoV-2 is detected".	Report the result to sender and appropriate public health authorities.
3	-	+	+/-*	+	+/-*	+/-*	"SARS-CoV-2 is detected".	Report the result to sender and appropriate public health authorities. Missing amplification of E gene target may be due to: 1) a low concentration of viral RNA, 2) a mutation in the corresponding target region, or 3) other factors.
4	+	+/-*	+/-*	-	+	+/-*	Presumptive positive to SARS-CoV-2	Repeat the extraction from the residual patient sample and test again. If the result is still "Presumptive positive", report result to sender and appropriate public health authorities. Missing amplification of RdRP gene target may be due to: 1) a low concentration of viral RNA, 2) a mutation in the corresponding target region, 3) possible infection of other Sarbecovirus, or 4) other factors.



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5	-	-	+/-	-	-	+/-	Invalid result	Repeat extraction from the residual patient sample and test again. Poor RNA yield or RT-PCR inhibition is suspected. If the repeated result is still "invalid", report the result to the sender and give the recommendation of the collection of a new specimen.
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\* Detection of the Internal Control (IC) in the JOE detection channel and/or RNA Process Control (RPC) in the Cy5 channel is not required for positive SARS-CoV-2 results. A high copy number of target-specific gene can lead to reduced or absent IC or RPC.

#### 14. Assay limitations

- The performance of the PowerChek™ 2019-nCoV Real-time PCR Kit was established using nasopharyngeal swabs and sputum samples only.
- Anterior nasal swabs, mid-turbinate nasal swabs, nasopharyngeal washes/aspirates or nasal aspirates, and bronchoalveolar lavage specimens are considered acceptable specimen types for use with the PowerChek™ SARS-CoV-2 Real-time PCR Kit but performance has not been established.
- Based on the *in silico* analysis, SARS-CoV and other SARS-like coronaviruses in the same subgenus (Sarbecovirus) as SARS-CoV may cross-react with the RdRP primer set of the PowerChek™ 2019-nCoV Real-time PCR Kit. SARS-CoV is not known to be currently circulating in the human population, therefore it is highly unlikely to be present in patient specimens.
- Samples must be collected, transported, and stored using appropriate procedures and conditions. Improper collection, transport, or storage of specimens may hinder the ability of the assay to detect the target sequences. Refer to the CDC guidelines for sample collection and storage at: <https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>
- The impacts of vaccines, antiviral therapeutics, antibiotics, chemotherapeutic or immunosuppressant drugs have not been evaluated. The PowerChek™ 2019-nCoV Real-time PCR Kit cannot rule out diseases caused by other bacterial or viral pathogens.
- Negative results do not preclude infection with SARS-CoV-2, and should not be the sole



basis of a patient management decision.

- Laboratories are required to report all positive results to the appropriate public health authorities.
- False-negative results may arise from:
  - Improper sample collection
  - Degradation of the viral RNA during shipping/storage
  - Specimen collection after nucleic acid can no longer be found in the specimen matrix
  - Using unauthorized extraction or assay reagents
  - The presence of RT-PCR inhibitors
  - Mutation in the SARS-CoV-2
  - Failure to follow instructions for use
- False-positive results may arise from:
  - Cross-contamination during specimen handling or preparation
  - Cross-contamination between patient samples
  - Specimen mix-up
  - RNA contamination during product handling
- This assay must not be used on the specimen directly. The nucleic acid extraction kit that was validated for use with the PowerChek™ 2019-nCoV Real-time PCR Kit is the QIAamp® DSP Viral RNA Mini Kit.
- The E gene assay of PowerChek™ 2019-nCoV Real-time PCR Kit can detect the Sarbecovirus including SARS, SARS-CoV-2, and SARS-related coronavirus. The detected signal of the E gene target in the FAM channel could indicate the presence of SARS coronavirus or SARS-related coronavirus.

## 15. Conditions of authorization for laboratories

The PowerChek™ 2019-nCoV Real-time PCR Kit Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website:

<https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#2019-ncov>.

However, to assist clinical laboratories using the PowerChek™ 2019-nCoV Real-time PCR Kit, the relevant Conditions of Authorization are listed below.



- Authorized laboratories<sup>1</sup> using the PowerChek™ 2019-nCoV Real-time PCR Kit will include with test result reports of the PowerChek™ 2019-nCoV Real-time PCR Kit, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- Authorized laboratories using the PowerChek™ 2019-nCoV Real-time PCR Kit will perform the PowerChek™ 2019-nCoV Real-time PCR Kit as outlined in the PowerChek™ 2019-nCoV Real-time PCR Kit Instructions for Use. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents, and authorized materials required to perform the PowerChek™ 2019-nCoV Real-time PCR Kit are not permitted.
- Authorized laboratories that receive the PowerChek™ 2019-nCoV Real-time PCR Kit will notify the relevant public health authorities of their intent to run the test prior to initiating testing.
- Authorized laboratories using the PowerChek™ 2019-nCoV Real-time PCR Kit will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- Authorized laboratories will collect information on the performance of the test and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and KogeneBiotech ([info@kogene.co.kr](mailto:info@kogene.co.kr)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the test of which they become aware.
- All laboratory personnel using the test must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use the test in accordance with the authorized labeling.
- KogeneBiotech, its authorized distributor(s) and authorized laboratories using the PowerChek™ 2019-nCoV Real-time PCR Kit will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup>For ease of reference, this refers to, "laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests as "authorized laboratories."



## 16. Performance characteristics

- **Analytical Sensitivity**

### LoD studies using clinical sputum

The LoD study established the lowest SARS-CoV-2 viral RNA concentration (copies/μL) that consistently yielded a 95% positivity rate with the PowerChek™ 2019-nCoV Real-time PCR Kit.

A preliminary LoD for the SARS-CoV-2 specific target (RdRP gene) and the Sarbecovirus/SARS-CoV-2 target (E gene) was determined using viral genomic SARS-CoV-2 RNA (Human coronavirus (BetaCoV/Korea/KCDC03/2020)) from the National Culture Collection for Pathogens (NCCP). Clinical sputum matrices were screened negative by the PowerChek Kit and spiked with viral genomic RNA at various concentrations (2-fold dilutions) and tested in triplicate. RNA was extracted using the QIAamp DSP Viral RNA Mini Kit and run on the Applied Biosystems™ 7500 Real-time PCR System, Applied Biosystems™ 7500 Fast Real-time PCR System, and CFX96™ Real-time PCR Detection System (Table 11). The preliminary sputum LoD was determined to be 4 copies/μL on all PCR platforms.

The LoD of the PowerChek 2019-nCoV Real-time PCR Kit was confirmed using 20 individual extraction replicates consisting of spiked sputum samples at the LoD concentration. Samples were extracted with the QIAamp DSP Viral RNA Mini Kit and tested on the claimed Applied Biosystems and Bio-Rad PCR instruments. The lowest target level at which more than 95% of 20 replicates for sputum specimens produced positive results was 4 copies/μL for both all PCR platforms (Tables 12-14).

**Table 11.** The preliminary LoD study of the PowerChek™ 2019-nCoV Real-time PCR Kit (Sputa)

Concentration (copies/ μL)	Applied Biosystems™ 7500 Real-time PCR System			Applied Biosystems™ 7500 Fast Real-time PCR System			CFX96™ Real-time PCR Detection System			
	N	Mean Ct**	SD	N	Mean Ct	SD	N	Mean Ct	SD	
	<b>E gene</b>	8	3/3	35.24	0.12	3/3	35.02	0.24	3/3	35.51
	4	3/3	36.07	0.51	3/3	35.95	0.36	3/3	36.22	0.28
	2	1/3	NA*	NA	1/3	NA	NA	1/3	NA	NA



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<b>RdRP gene</b>	8	3/3	35.21	0.37	3/3	35.32	0.11	3/3	35.64	0.34
	4	3/3	36.43	0.16	3/3	36.73	0.09	3/3	37.16	0.54
	2	1/3	NA	NA	1/3	NA	NA	1/3	NA	NA

\* NA: not applicable

\*\* Mean Ct reported for dilutions that are ≥ 95% positive. Calculations only include positive results.

**Table 12.** LoD results on Applied Biosystems™ 7500 Real-time PCR System

Concentration	Target	Mean Ct (n=20)			% Positive
		E or RdRP	RPC	IC	
4 copies/μL	E gene	35.90	28.25	20.31	100
	RdRP gene	36.79	28.35	20.19	100

**Table 13.** LoD results on Applied Biosystems™ 7500 Fast Real-time PCR System

Concentration	Target	Mean Ct (n=20)			% Positive
		E or RdRP	RPC	IC	
4 copies/μL	E gene	35.92	28.65	20.52	100
	RdRP gene	36.53	28.22	20.22	100

**Table 14.** LoD results on CFX96™ Real-time PCR Detection System

Concentration	Target	Mean Ct (n=20)			% Positive
		E or RdRP	RPC	IC	
4 copies/μL	E gene	36.08	28.57	21.13	100
	RdRP gene	37.17	28.26	20.89	100

- **Inclusivity**

To demonstrate the predicted inclusivity of the PowerChek™ 2019-nCoV Real-time PCR Kit, *in silico* analysis was performed to verify primer and probe sequence homology with 10,252 whole-genome sequences of the SARS-CoV-2 in GISAID (n = 10007) and NCBI (n = 245) databases as of June 01, 2020. As a result, >99.6% of sequences exhibited 100% homology with the RdRP and E gene primers and probes (Table 15).

**Table 15.** *In silico* analysis for detection of SARS-CoV-2 sequences

Target	Primer or probe	Number of sequences	% of sequences exhibited 100% homology
E gene	Forward	10252 sequences	99.93%
	Reverse	10252 sequences	99.99%
	Probe	10252 sequences	99.95%
RdRP gene	Forward	10252 sequences	99.76%
	Reverse	10252 sequences	0.0001%*
	Probe	10252 sequences	100%

\*99.99% of sequences (10251 sequences) have a single mismatch in the binding region for the RdRP reverse primer. It was confirmed that one mismatch discovered by *in silico* analysis in the binding region of RdRP reverse primer has no effect on the performance of the PowerChek™ 2019-nCoV Real-time PCR Kit.

In conclusion, none of the analyzed sequences showed mismatches in more than one oligonucleotide and none of the mismatched sequences showed mismatches with both specific assays (E gene and RdRP gene), hence the reactivity of the PowerChek™ 2019-nCoV Real-time PCR Kit is unlikely to be affected.

- **Cross-reactivity**

***In silico* analysis**

Potential cross-reactivity was assessed through *in silico* analysis of each primer and probe sequence against other similar human respiratory pathogens (Table 17). No potential unintended cross-reactivity to other pathogens except for SARS coronavirus is expected. The binding sites for the E gene primers and probe are 100% homologous to SARS coronavirus indicating that amplification of the E gene target can occur in samples from patients infected with other Sarbecovirus members including SARS, SARS-CoV-2, and SARS-related viruses. There was greater than 80% homology of the RdRP primers and probe to SARS coronavirus, but detection is not expected and this was confirmed in laboratory testing.



**Table 17.** Strains used for *in silico* cross-reactivity

Other high priority pathogens from the same genetic family	High priority organisms likely in the circulating area
Human Coronavirus OC43	Adenovirus 71
Human Coronavirus 229E	Human Metapneumovirus
Human Coronavirus NL63	Influenza A
SARs Coronavirus	Influenza B
MERS-CoV	Influenza C
	Enterovirus D68
	Respiratory syncytial virus A
	Respiratory syncytial virus B
	Rhinovirus
	<i>Chlamydia pneumoniae</i>
	<i>Haemophilus influenzae</i>
	<i>Legionella pneumophila</i>
	<i>Mycobacterium tuberculosis</i>
	<i>Streptococcus pneumoniae</i>
	<i>Streptococcus pyogenes</i>
	<i>Bordetella pertussis</i>
	<i>Mycoplasma pneumoniae</i>
	<i>Pneumocystis jirovecii</i> (PJP)
	<i>Candida albicans</i>
	<i>Pseudomonas aeruginosa</i>
	<i>Staphylococcus epidermidis</i>
	<i>Streptococcus salivarius</i>

**Cross-reactivity wet testing**

To evaluate the analytical specificity of the PowerChek™ 2019-nCoV Real-time PCR Kit with regards to cross-reactivity, genomic RNA or DNA from different relevant pathogens was used for testing with the PowerChek™ 2019-nCoV Real-time PCR Kit. Organisms including 23 viruses and 4 bacterial strains were spiked in viral transport media at 10<sup>4</sup> – 10<sup>5</sup> copies/μL and 10<sup>6</sup> CFU/mL, respectively along with the RNA Process Control. Each spiked sample was extracted using the QIAamp DSP kit and tested in triplicate with the PowerChek™ 2019-nCoV Real-time PCR Kit on the Applied Biosystems™ 7500 Real-time PCR System. No cross-reactivity of the PowerChek™ 2019-



nCoV Real-time PCR Kit with genomic RNA or DNA of the selected pathogens was observed except for the expected detection of SARS-CoV by the E gene primers and probe. All samples generated a positive Internal Control signal in the JOE channel, whereas no signal was observed in the target-specific (FAM) channel (Table 18).

**Table 18.** Cross-reactivity test results

Pathogen	E gene	RdRP gene
Human Coronavirus OC43	Negative	Negative
Human Coronavirus 229E	Negative	Negative
Human Coronavirus NL63	Negative	Negative
SARS Coronavirus	Positive	Negative
MERS-CoV	Negative	Negative
Influenza A (H1N1)	Negative	Negative
Influenza A (H3)	Negative	Negative
Influenza A (H5)	Negative	Negative
Influenza B	Negative	Negative
Adenovirus	Negative	Negative
Parainfluenza virus 1	Negative	Negative
Parainfluenza virus 2	Negative	Negative
Parainfluenza virus 3	Negative	Negative
Respiratory syncytial virus subtype A	Negative	Negative
Respiratory syncytial virus subtype B	Negative	Negative
Enterovirus D68	Negative	Negative
Human Rhinovirus	Negative	Negative
Coxsackie A6	Negative	Negative
Echovirus 5	Negative	Negative
Enterovirus 71	Negative	Negative
<i>Streptococcus pneumoniae</i>	Negative	Negative
<i>Haemophilus Influenzae</i>	Negative	Negative
<i>Mycoplasma pneumoniae</i>	Negative	Negative
<i>Legionella pneumophila</i>	Negative	Negative
Rubella virus	Negative	Negative
Mumps virus	Negative	Negative
Measles virus	Negative	Negative



● **FDA SARS-CoV-2 Reference Panel Testing**

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to confirm the LoD. The extraction method and instrument used were the QIAamp® DSP Viral RNA Mini Kit (QIAGEN, Cat. No./ID: 60704) and the Applied Biosystems™ 7500 Real-time PCR System. The results are summarized in Table 19.

**Table 19.** Summary of LoD Confirmation Result using the FDA SARS-CoV-2 Reference Panel

Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	nasopharyngeal	5,400 NDU/mL	N/A
MERS-CoV	swab (NPS)	N/A	ND

NDU/mL =RNA NAAT detectable units/mL

N/A: Not applicable

ND: Not detected

● **Clinical evaluation**

**Clinical study using the contrived clinical samples**

A contrived clinical study was performed to evaluate the performance of the PowerChek™ 2019-nCoV Real-time PCR Kit. 80 negatives and 60 contrived positives were tested. The viral genomic RNA of SARS-CoV-2 (Human coronavirus (BetaCoV/Korea/KCDC03/2020), NCCP43326) was obtained from the National Cell Collection for Pathogens (NCCP).

The lysis buffer from QIAamp® DSP Viral RNA Mini Kit (QIAGEN, Cat. No./ID: 60704) was prepared by adding the RNA process control (Kogenebiotech, IC0002) before preparing the contrived clinical samples. The contrived positive clinical samples were prepared by spiking the SARS-CoV-2 genomic RNA into individual negative clinical nasopharyngeal swab and sputum samples to approximately 2X LoD (20 samples), 3X LoD (5 samples), and 5X LoD (5 samples). Contrived samples were blinded, randomized, extracted using the QIAamp® DSP Viral RNA Mini Kit, and then tested with the PowerChek™ 2019-nCoV Real-time PCR Kit on the Applied Biosystems™ 7500 Real-time PCR System.



All contrived positive samples generated the expected results for the assay's targets and all negative samples were non-reactive and negative for all assay targets. Result is shown in Table 20 and 21.

**Table 20.** Clinical evaluation study - Nasopharyngeal swabs

Sample Concentration	Number of positives	Mean Ct	
		E gene	RdRP gene
2X LoD	20/20	34.44	36.38
3X LoD	5/5	33.46	34.60
5X LoD	5/5	32.12	33.61
Negative	0/50	nd	nd

Positive percent agreement: 30/30 = 100% (95% CI 88.43-100.00%)

Negative percent agreement: 50/50 = 100% (95% CI 92.89-100.00%)

nd – not detected

**Table 21.** Clinical evaluation study - Sputa

Sample Concentration	Number of positives	Mean Ct	
		E gene	RdRP gene
2X LoD	20/20	35.17	36.17
3X LoD	5/5	34.04	34.75
5X LoD	5/5	32.90	33.83
Negative	0/30	nd	nd

Positive percent agreement: 30/30 = 100% (95% CI 88.43-100.00%)

Negative percent agreement: 30/30 = 100% (95% CI 88.43-100.00%)

nd – not detected



**Clinical study using clinical samples previously tested by another EUA RT-PCR authorized assay**

Performance of the PowerChek™ 2019-nCoV Real-time PCR Kit was evaluated using individual upper and lower respiratory clinical specimens previously tested from April to June 2020. In total, 30 positive (15 nasopharyngeal swabs and 15 sputa) and 30 negative (15 nasopharyngeal swabs and 15 sputa) clinical samples were tested for clinical validation of the PowerChek™ 2019-nCoV Real-time PCR Kit in comparison to an FDA authorized comparator assay.

The randomized, blinded samples were tested with the PowerChek™ 2019-nCoV Real-time PCR Kit on the Applied Biosystems™ 7500 Real-time PCR System and the FDA authorized comparator assay. Performance of the PowerChek™ 2019-nCoV Real-time PCR Kit demonstrated 100% PPA and 100% NPA in comparison to the FDA authorized comparator assay (Table 22).

**Table 22.** The clinical evaluation results of the PowerChek™ 2019-nCoV Real-time PCR Kit

			Comparator assay				Total
			Positive		Negative		
			NPS	Sputum	NPS	Sputum	
PowerChek™ 2019-nCoV Real-time PCR Kit	Positive	NPS	15	0	0	0	15
		Sputum	0	15	0	0	15
	Negative	NPS	0	0	15	0	15
		Sputum	0	0	0	15	15
	Total		15	15	15	15	60
Positive percent agreement (PPA)			30/30; 100% (95% CI 88.43-100.00%)				
Negative percent agreement (NPA)			30/30; 100% (95% CI 88.43-100.00%)				



## 16. Explanation of symbols used in Packaging

Symbol	Explanation
	Catalog Number
	In vitro diagnostic use
	Authorized representative in the European Community
	Date of Manufacture
	Manufactured by
	Batch code
	Contains sufficient for <n> tests
	Not to be used in case package is damaged
	Attention. See instruction for use
	Temperature Limitation
	Negative control
	Positive control
	Use by
	Keep away from sunlight



## 17. Customer and technical supports

### Contact information

KogeneBiotech Co., Ltd.  
C 1101, 168 Gasan Digital 1ro, Geumcheongu,  
Seoul, Republic of Korea, 08507

Contact number: +82 2 2026 2150 (Ext. 104)

U.S. contact number: +1 917 559 0414

Fax: +82 2 2026 2155

Technical support: [info@kogene.co.kr](mailto:info@kogene.co.kr)

Web site: [www.kogene.co.kr/eng](http://www.kogene.co.kr/eng)

Visit Web site for the latest service and support information

### Product support information

- Product FAQs
- Software, patches, and updates
- Training for many applications and instruments

### Order and technical support

### Product documentation

- Use guides, manuals, and protocols
- Certificates of Analysis
- Safety Data Sheets (also known as MSDS)



# AQ-TOP™ COVID-19 Rapid Detection Kit

**For in vitro diagnostic use only**

**RX only**

**For use under Emergency Use Authorization (EUA) only**

A molecular rapid diagnostic kit for detection of SARS-CoV-2 (COVID-19)  
in clinical samples using real-time Isothermal Amplification

**Instructions for Use | V1.1**

Store at –20°C

Date of Revision: May-2020



Certificate of KGMP



**ISO 13485**  
LL-C (Certification)

Certificate of ISO13485



## AQ-TOP™ COVID-19 Rapid Detection Kit

### **Indications of Medical Devices Act**

1. Product Category: IVD Reagent for Infectious Agents
2. Product Name: AQ-TOP™ COVID-19 Rapid Detection Kit
3. Product Catalogue Number: SS-9920
4. Purpose of use: See 1. in this User Guide

### **Warnings and Precautions**

Contact us for detailed information for the safe use of the AQ-TOP™ COVID-19 Rapid Detection Kit. Please check storage temperature and attention points for accurate diagnosis of the product. Sample and Assay waste must be disposed of in a legally designated manner.

### **Warranty and Responsibility**

All products of SEASUN BIOMATERIALS Inc. are tested under rigorous quality management processes. SEASUN BIOMATERIALS Inc. guarantees to ensure the quality of the product during warranty period. If any problems relating to the quality of the product are found, please contact the headquarters immediately.

### **Quality Control System**

All aspects of the quality management system, product creation, quality assurance, and supplier qualifications are certified to ISO 13485, ISO 9001, KGMP.

### **Inquiries and customer service (A/S)**

Send us an e-mail ([as@seasunbio.com](mailto:as@seasunbio.com)) to inquire about the product.

AQ-TOP™ COVID-19 Rapid Detection Kit

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## AQ-TOP™ COVID-19 Rapid Detection Kit

### **1. Intended Use**

The AQ-TOP™ COVID-19 Rapid Detection Kit is a Real-Time Loop Mediated Isothermal Amplification (RT-LAMP) test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in upper and lower respiratory specimens including oropharyngeal and nasopharyngeal swab specimens, anterior nasal and mid-turbinate nasal swabs, nasopharyngeal wash/aspirate or nasal aspirate specimens, bronchoalveolar lavage (BAL) and sputum from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper and lower respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostics information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The AQ-TOP™ COVID-19 Rapid Detection Kit is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR/LAMP and in vitro diagnostic procedures. The AQ-TOP™ COVID-19 Rapid Detection Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

## AQ-TOP™ COVID-19 Rapid Detection Kit

### **2. Product Description**

The AQ-TOP™ COVID-19 Rapid Detection Kit is a qualitative test based on RT-LAMP for detection of the SARS-CoV-2 RNA extracted from clinical specimens collected using the Viral Sample Collection Kit (Noble Bio, Cat # UTNFS-3B-1 or sterile sputum collection container (BD, Cat # 90004-118).

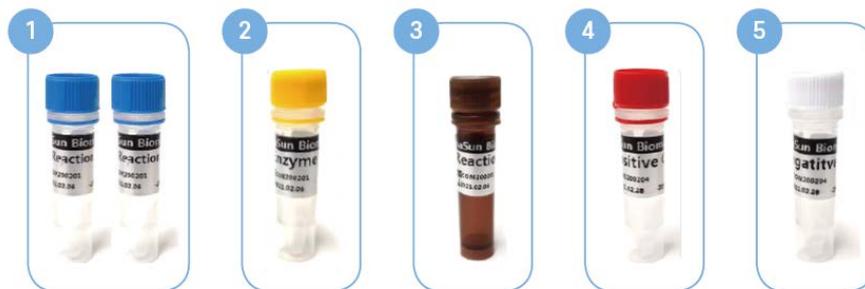
The AQ-TOP™ COVID-19 Rapid Detection Kit uses dual-labeled Peptide Nucleic Acid (PNA) probes that target ORF1ab for detection of SARS-CoV-2 RNA in FAM, and human RNase P for the internal control (IC) in the HEX fluorescence channel. Both reverse transcription and LAMP reactions take place at 60°C using the enzyme mixture of Reverse Transcriptase and Bst Polymerase. During the amplification, fluorescence resonance energy transfer (FRET) probes are incorporated in the amplification products. Upon incorporation, fluorescence is generated and can be monitored by the fluorescence reader on the CFX 96 and ABI 7500 real-time PCR platforms in a real time fashion.

In addition, the kit utilizes external Positive (PC) and Negative (NC) controls. The PC contains templates for SARS-CoV-2 Orf1ab and the human RNase P gene. The NC contains RNase/DNase free distilled water.

AQ-TOP™ COVID-19 Rapid Detection Kit

### 3. Kit Components and Packaging Specifications

The kit is composed of 2X Reaction buffer, Enzyme Mix, Reaction Mix, Positive control and Negative Control.



	Reagent label	Part #	Descriptions/Contents	Volume / Quantity	Store at
1	2X Reaction buffer	SS-9920CVB	PCR buffer	750µℓ / 2 tubes	-20°C
2	Enzyme Mix	SS-9920CVE	Reverse transcriptase Bst polymerase	100µℓ / 1 tube	
3	Reaction Mix	SS-9920CVM	Primer, probe mixture	400µℓ / 1 tube	
4	Positive Control	SS-9920CVP	Templates for SARS-CoV-2 and RNase P	200µℓ / 1 tube	
5	Negative Control	SS-9920CVN	Nuclease free DW	200µℓ / 1 tube	

#### Quality Control

**Negative Control (NC):** contains nuclease-free water intended to evaluate cross contamination of the kit, supplements, reagents and PCR instrument used in the test. Detection accuracy can be evaluated with the NC as well as non-specific signals that may be caused by primer dimer, primer-probe non-specific binding. The Negative control should be run using 10 µL in one well per test.

**Positive Control (PC):** contains plasmids with insert of SARS-CoV-2 Orf1ab and the human RNase P that is intended to evaluate RNA extraction, Enzyme activity, and Analytical and Clinical performance of the kit. The positive control should be run using 10 µL in one well per test.

## AQ-TOP™ COVID-19 Rapid Detection Kit

**Internal Control (IC):** The Reaction Mix tube of the kit consists of a primer set and a probe that detects human RNase P. The internal control is intended to evaluate the RNA extraction process, test accuracy as well as the real-time PCR instrument performance.

Both PC and NC should be used directly with the test without prior dilution.

### 4. Storage and Handling Requirements

Store all reagents at –20°C (both un-opened and in-use product).

Use the reagents within 3 months once opened.

Reagents should not be used past their expiration date.

Completely thaw the reagents except the Enzyme mix at room temperature before each use.

Place all reagents on ice once thawed during the whole test procedure.

Place Enzyme Mix on ice during the whole test procedure.

Avoid excessive freeze/thaw cycles.

Vortex and spin down briefly the reagents before each use.

### 5. Additional Materials and Equipment

The kit does not include sample collection and preservation instruments/buffers, RNA extraction reagents and Real-time PCR detection systems. Components required for detection of SARS-CoV-2 but not included with the kit are:

1. Sample collection / Storage / Shipping consumables
  - A. Viral Sample Collection Kit (Noble Bio, Cat.No UTNFS-3B-1) for collection and transport of upper respiratory tract specimens.
  - B. Sputum collection container (BD, Cat # 90004-118) for collection and transport of lower respiratory tract specimens (including BALs).
2. RNA extraction kit for extracting RNA from clinical specimens.
  - A. QIAamp DSP virus kit (Qiagen, Cat. No 60704)
3. Real-time PCR system and the consumables
  - A. Real-time PCR detection systems can be used with the AQ-TOP™ COVID-19 assay are
    - CFX 96 real-time PCR detection system (Bio-Rad) with software CFX manager V3.1
    - Applied Biosystems real-time PCR system 7500 with Software 2.0.6
  - B. Consumables

## AQ-TOP™ COVID-19 Rapid Detection Kit

- 96 well white PCR plate (Bio-Rad MLL9651, Applied Biosystems AB0900W or equivalent)
- Sealing Film or 8-12 well PCR plate cap (Bio-Rad MSB 1001 or equivalent)
- Vortex and Micro centrifuge
- Sterilized pipette tips with filter (10 µL, 200 µL and 1000 µL)
- 1.5 mL DNase/RNase free microcentrifuge tubes and racks
- Disposable powder-free gloves and laboratory gowns

### 6. Warnings and Precautions

For *in vitro* diagnostic use only.

Use under the guidance of physicians and specialists.

Please read this user guide carefully before first use.

Sensitivity of reagents may be lowered with prolonged exposure to room temperature or light.

Store all assay contents at -20°C away from UV/sunlight.

Avoid use if the kit is contaminated with test sample.

Keep clear the external environment, always use in a clean place.

Only use sterilized single-use micro filter tips.

Strong external impact may damage the screw tube.

If any abnormality is observed, stop the experiment, contact the manufacturer.

### 7. Specimen Collection, Handling and Storage

Inadequate or inappropriate specimen collection, storage, and transport are likely to yield false test results. Training in specimen collection is highly recommended due to the importance of specimen quality.

**Collecting specimen:** Refer to Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Patients Under Investigation (PUIs) for 2019 Novel Coronavirus (SARS-CoV-2)(<https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>).

Follow specimen collection device manufacturer instructions for proper collection methods. Swab specimens should be collected using only swabs with a synthetic tip, and an aluminum or plastic shaft. Calcium alginate swabs are unacceptable and cotton swabs with wooden shafts are not recommended. Place swabs immediately into sterile tubes containing 2-3 mL of viral

AQ-TOP™ COVID-19 Rapid Detection Kit

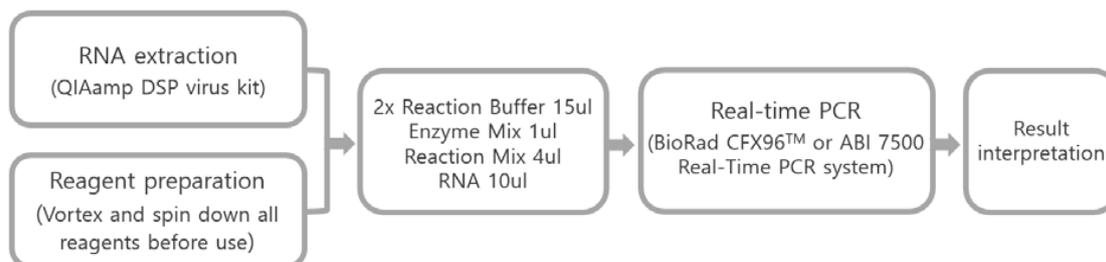
transport media. Store the samples at 2-8°C up to 72 hours. If a delay in shipping or extraction is expected, store samples at -70°C.

**Shipping:** Specimens must be packaged and transported according to the current edition of the International Air Transport Association (IATA) Dangerous Goods Regulation. Store specimens at 2-8°C and ship to the lab on ice packs. If a specimen is frozen at -70°C, ship to the lab on dry ice. Additional useful and detailed information on packing, shipping, and transporting specimens can be found at Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19).

**Rejection criteria:** Specimens will be rejected prior to the test 1) If the specimens were stored at 2-8°C over 72 hours 2) Specimens without sufficient volume for the test (less than 1 mL) 3) Label is damaged (cannot be read or recognized) or without labeling/identifying documents.

## 8. Test procedure

### 8.1 Summary of Preparation and Testing Process



Work flow of AQ-TOP™ COVID-19 Rapid Detection Kit

### 8.2 RNA extraction from clinical specimens

The AQ-TOP™ COVID-19 Rapid Detection Kit does not include viral RNA extraction reagents. The QIAamp DSP virus kit (Qiagen, Cat # 60704) has been validated with the AQ-TOP™ COVID-19 Rapid Detection Kit. The extraction kit requires 300 µL of sample input (both upper and lower respiratory tract specimens) and yields 60 µL of purified nucleic acid eluent. Following the extraction, RNA should be used immediately or stored at -70°C (for up to 1 month) for later use.

## AQ-TOP™ COVID-19 Rapid Detection Kit

**8.3 Reaction master mix and Assay set up**

Note: Plate set-up configuration can vary with the number of specimens. Negative and Positive control must be included in each run. Prepare reaction master mix in separate area (Assay preparation area) from nucleic acid handling.

1. Clean and decontaminate all work surfaces, equipment as well as small supplements e.g. pipette, vortex, micro centrifuge with 70% ethanol prior to use to minimize the risk of nucleic acid cross-contamination.
2. Place enzyme mix on ice during the whole test procedure. Other reagents can be thawed at room temperature. Keep all reagents on ice once thawed during the whole test procedure.
3. Vortex for 5 sec and spin down all reagents briefly before use.
4. Determine the number of reactions to set up for the assay. Be sure to make excess reaction mix for PC, NC and for possible pipetting error.
5. Prepare the reaction master mix in a 1.5 mL microcentrifuge tube according to the following table. It is recommended to prepare 110% of the calculated amount of master mix to account for pipetting carryovers.

**Master mix for one reaction**

Reagents	Volume (µL)
2X Reaction Buffer	15
Enzyme Mix	1
Reaction Mix	4
<b>Total (w/o RNA sample)</b>	<b>20</b>

6. Vortex the prepared master mix for 5 sec and centrifuge briefly to collect contents at the bottom of the tube and place the tube in a cold rack (ice or cold block).
7. Set up 96 well PCR plate.
8. Dispense 20 µL of master mix into the wells of 96-well PCR plate.
9. Pipette **10 µL** of NC into NC sample well (dispensing sample and control in 96 well plate are irrelevant, no fixed position is required).

AQ-TOP™ COVID-19 Rapid Detection Kit

**Nucleic acid template addition**

Note: Always change pipette tips in-between patient sample handling and after pipetting each component. Add the Positive Control to the PCR plate last, to avoid possible contamination. The Positive Control contains a high concentration of viral template. Change gloves often to avoid cross contamination between samples and control reagents

1. Gently vortex clinical RNA extract tubes for approximately 5 sec and spin down to collect contents at the bottom of the tubes. Always keep the sample tubes on ice or in a cold block.
2. Dispense nucleic acid samples of **10 µL** into the 96 well PCR plate containing the aliquoted reaction master mix.
3. Carefully pipette **10 µL** of PC into a PCR plate well last.
4. Seal the PCR plate with cap strip or sealing film. Ensure the sealing film is completely absorbed to the plate by using a roller.
5. Spin down briefly using a micro plate centrifuge to downward the contents and remove extra air bubbles. It is recommended to centrifuge for 30 sec at 500 x g, 4°C.

**8.4 Set up real-time LAMP run**

Note: AQ-TOP™ COVID-19 Rapid detection kit running protocol is slightly different for the CFX 96 and ABI 7500 real-time PCR detection systems. The run protocol and fluorescence channels for the targets are shown in Tables 1 and 2.

**Table 1. RT-LAMP Conditions**

Instrument	Temp	Time	Repeat
CFX 96	60°C	50 sec	30*
ABI 7500		60 sec	

\* Collect fluorescence signal in each repeat

**Table 2. Fluorescence Channel for Probes**

Fluorescence	Target
FAM	<Orflab> SARS-CoV-2
HEX/VIC or JOE*	<RNase P> human

\* HEX for Bio-Rad CFX 96, VIC or JOE for ABI 7500 platform

AQ-TOP™ COVID-19 Rapid Detection Kit

**CFX96 and Software Operation - 1 (New experiment)**

- ① Turn on a computer and CFX 96 > Display the 96-well thermal block > Place the 96 well plate prepared in previous step.
- ② Run the CFX Manager software on the computer connected to the CFX 96. Go to File > New > Protocol > input the run information as shown in Table 1. > Set the sample volume to 30 µL.
- ③ Go to Plate > Edit Selected > Set Fluorophores > Select fluorescence channel FAM and HEX.
- ④ Specify the positive control well, select “Positive Control” from “Sample type”, and load the fluorophores.
- ⑤ Specify the negative control well, select “Negative Control” from “Sample type”, and load the fluorophores.
- ⑥ Wells with clinical specimens should be specified as Unknown, and load the fluorophores.
- ⑦ Go to Settings > plate type > Select BR white.
- ⑧ Go to Start Run > Select Block Name (PCR instrument) to use > Close Lid and Start Run.

**CFX96 and Software Operation - 2 (Pre-Programmed Run Settings)**

- ① If you have a previous run file, you can re-use the programmed conditions for additional runs. Double click on a previous run file and select sequentially File > Repeat Run.
- ② Go to Plate tab > set Control and Sample information > Start Run. The fluorescence channel, plate type, and volume are already selected with previous run.

**ABI 7500 and Software Operation – 1 (New experiment)**

- ① Turn on a computer and ABI 7500 > display the 96 well thermal block > Place the 96 well plate prepared in previous step.
- ③ Run 7500 Software on the computer connected to the ABI 7500. Select sequentially 7500 (96 well) > Quantitation-Standard curve > TaqMan® Reagents > Standard (2 hours to complete a run).
- ④ Go to Plate Setup > Define Targets and Samples > Define Targets > Add New Target > Set

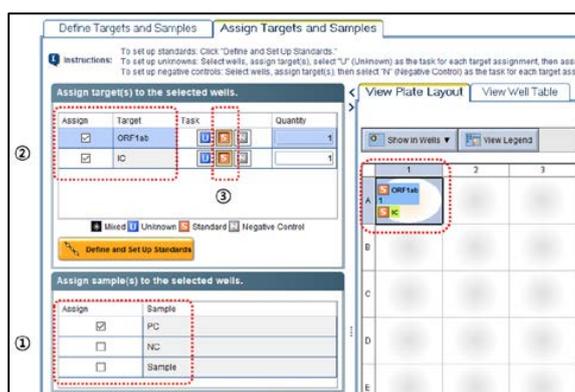
AQ-TOP™ COVID-19 Rapid Detection Kit

Target Name and Reporter as shown below:

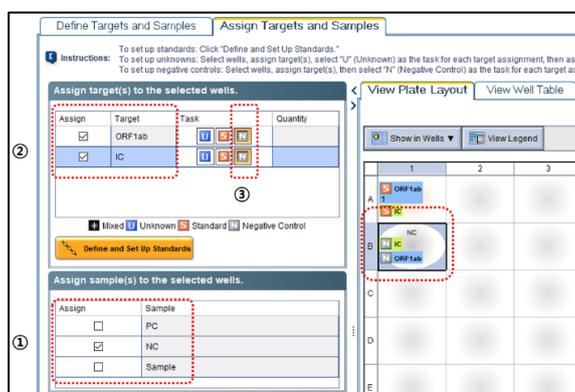
Target 1. ORF1ab: Reporter FAM; Quencher NFQ-MGB

Target 2. IC: Reporter VIC (or JOE); Quencher NFQ-MGB

- ⑤ Go to Define Samples > Add New Sample > Input PC, NC and Sample (Test Specimen).
- ⑥ Go to “Assign Target and Samples” to set targets and well positions for PC, NC and Samples to be analyzed.
  1. Positive Control: Click Positive Control Well from “View Plate Layout”. Select “PC” from ① (shown in figure below) and activate both targets from ② (shown in figure below) then activate ”S” for both targets from ③ (shown in figure below).

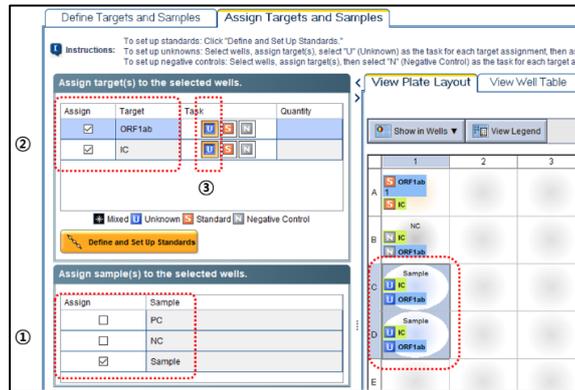


2. Negative Control: Click Negative Control Well from “View Plate Layout”. Select “NC” from ① (shown in figure below) and activate both targets from ② (shown in figure below) then activate ”N” for both targets from ③ (shown in figure below)



AQ-TOP™ COVID-19 Rapid Detection Kit

3. Sample: Click Wells with test samples from “View Plate Layout”. Select “Sample” from ① (shown in figure below) and activate both targets from ② (shown in figure below).



- ⑦ Select “None” from “Select the dye to use as the passive reference.”
- ⑧ Go to Run Method > Input the PCR condition as shown in Table 1. Setting with Tabular View is easier than with Graphical View. Set “Reaction volume Per Well” to 30 µL.
- ⑨ Save the protocol from File > Save As, then Go to Run and click “START RUN“ to start amplification.

**ABI7500 and Software Operation - 2 (Pre-Programmed Run Settings)**

- ① A previous run file can be used as a template. Go to File > Open > Select the file.
- ② Input the sample information in the “Plate setup” and proceed in the same order as above.

AQ-TOP™ COVID-19 Rapid Detection Kit

## 9. Result Interpretation

### Base line and threshold setting

The AQ-TOP™ COVID-19 Rapid Detection Kit has been validated using the baseline threshold setting which is automatically adjusted by both the CFX 96 and ABI 7500 Real-Time PCR instruments.

### Interpretation of Quality control

All controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted.

**Negative Control:** The NC reaction for fluorescence channels should not exhibit any fluorescence growth curves (Ct) that cross the threshold line  $\leq 30$ .

**Positive Control:** The PC will yield a positive result with both FAM and HEX or VIC/JOE fluorescence channels (FAM for SARS-CoV-2 Orf1ab, HEX or VIC/JOE for the human RNase P).

If control results are invalid, check condition of kit storage, reaction condition and master mix preparation step. Repeat the run using the same reagents with strict adherence to the guidelines. If controls exhibit invalid results again discard the control tubes and re-test using new controls. If the invalid result is generated for a third time with new control reagents, discard the whole kit.

The controls should meet the requirements listed in Table 3 to ensure valid results.

**Table 3. Interpretation of Results for Quality Control**

Control	Ct value	
	ORF1ab (FAM)	IC (HEX or VIC/JOE)
Negative	ND	ND
Positive	$\leq 30$	$\leq 30$

ND= Not detectable

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**Interpretation of Clinical samples**

If the values of the controls are conclusive, refer to the table (Table 4) below to determine the infection status of the patient sample.

**Table 4. Clinical Sample Results Interpretation**

Ct value		Interpretation	Action
ORF1ab (FAM)	IC (HEX or VIC/JOE)		
> 30 or ND	≤ 30	Negative (Absence of SARS-CoV-2 RNA)	Report results to healthcare provider. Consider testing for other viruses that may cause similar symptoms.
≤ 30	/	Positive (Presence of SARS-CoV-2 RNA)	Report results to healthcare provider and appropriate public health authorities.
> 30 or ND	> 30 or ND	Invalid	Repeat test with same RNA extract if available. If result remains invalid, repeat the extraction procedure with the remaining clinical specimen and repeat the test. If all markers remain negative after re-test, report the results as invalid and re-collect patient sample.

/ = No requirement of Ct value: If the SARS-CoV-2 target (ORF1ab) has a Ct value of ≤ 30, the Ct value of the IC is not required to be considered. It is possible, that samples may fail to exhibit RNase P growth curves due to low cell numbers in the original clinical sample.

**Internal Control (IC):** Failure to detect RNase P in any clinical specimen may indicate:

- Improper extraction of nucleic acid from clinical materials resulting in loss of RNA and/or RNA degradation.
- Absence of sufficient human cellular material due to poor collection or loss of specimen integrity.
- Improper assay set up and execution.
- Reagent or equipment malfunction.

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## 10. Limitations

- This test is a qualitative test and does not provide the quantitative value of viral load in the original specimens.
- The specimens to be tested shall be collected, processed, stored and transported in accordance with the conditions specified in the instructions. Inappropriate specimen preparation and operation may lead to inaccurate results.
- Extraction of nucleic acid from clinical samples must be performed according to the specified methods listed in this procedure. Other extraction approaches have not been evaluated.
- Amplification and detection of SARS-CoV-2 with this kit has only been validated with the CFX-96 Real-time PCR Detection system and Applied Biosystems® 7500 Real-Time PCR instrument. Use of other instrument systems may cause inaccurate results.
- False-negative results may occur if the viruses are present at a level that is below the analytical sensitivity of the assay or if the virus has genomic mutations, insertions, deletions, or rearrangements or if performed very early in the course of illness.
- Please refer to FDA's [FAQs on Diagnostic Testing for SARS-CoV-2](#) for additional information.

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## 11. Conditions of Authorization for the Laboratory

The AQ-TOP™ COVID-19 Rapid Detection Kit assay's Letter of Authorization, User Manual, and Labeling are available on FDA website: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations#covid19ivd>.

To assist clinical laboratories using the AQ-TOP™ COVID-19 Rapid Detection Kit, the relevant Conditions of Authorization are listed below.

- a) Authorized laboratories<sup>1</sup> using your product will include with test result reports, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- b) Authorized laboratories using your product will use your product as outlined in the Instructions for Use only. Deviation from the authorized procedures, such as the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- c) Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- d) Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities.
- e) Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and SEASUN BIOMATERIALS (via email: [info@seasunbio.com](mailto:info@seasunbio.com)) if they become aware of any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product.
- f) All laboratory personnel using your product must be appropriately trained in molecular techniques and use appropriate laboratory and personal protective equipment when handling this kit and use your product in accordance with the authorized labeling.
- g) SEASUN BIOMATERIALS, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, "Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests" as "authorized laboratories."

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**12. Assay Performance**

**12.1 Limit of Detection (LoD)**

The LoD study established the lowest SARS-CoV-2 viral RNA concentration (genomic copies/ul) that consistently yielded a 95% positivity rate with the AQ-TOP™ COVID-19 Rapid Detection Kit.

A preliminary LoD for the SARS-CoV-2 specific target ORF1ab was determined using whole viral genomic RNA (NCCP No. 43326, National Culture Collection for Pathogens) spiked into pooled negative clinical nasopharyngeal swab and sputum matrices. In the first part of this study, 10-fold dilutions of known concentrations of genomic RNA were prepared in negative clinical matrix (both nasopharyngeal swab and sputum) and processed using the Qiagen QIAamp DSP virus kit and run on the CFX 96-real time PCR detection system. Five PCR replicates per concentration were tested. See Table 5 for a summary of the LoD range finding study:

**Table 5. Summary of Preliminary LoD testing**

**A. Sputum specimen**

	70,000 copies/μL		7,000 copies/μL		700 copies/μL		70 copies/μL		7 copies/μL	
	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P
<b>+/total</b>	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5
<b>Mean Ct</b>	10.32	23.22	11.47	23.73	13.46	23.47	15.24	23.33	18.26	24.43
<b>SD</b>	0.13	0.53	0.35	0.87	0.39	0.61	0.55	0.61	1.00	0.55

**B. Nasopharyngeal swab specimen**

	70,000 copies/μL		7,000 copies/μL		700 copies/μL		70 copies/μL		7 copies/μL	
	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P	Orflab	RNase P
<b>+/total</b>	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5	5/5
<b>Mean Ct</b>	9.99	23.77	11.65	23.22	13.19	23.53	15.16	23.77	18.41	23.85
<b>SD</b>	0.30	0.59	0.51	0.53	0.36	0.74	0.57	0.85	1.09	0.72

Based on these results, additional 3-fold dilutions of known concentrations of genomic RNA were prepared in negative clinical matrix (nasopharyngeal swab and sputum). Twenty (20)

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individual extraction replicates per dilution were tested on both the CFX 96 and ABI 7500 real-time PCR systems. The lowest target level at which more than 95% of 20 replicates produced positive results was 7 copies/  $\mu\text{L}$  for both PCR platforms (CFX 96 and ABI 7500 system) for both upper and lower tract specimens (Table 6).

**Table 6. Summary of LoD confirmation**

**A. Sputum specimen**

	CFX 96 real-time PCR system						ABI 7500 real-time PCR system					
	7 copies/ $\mu\text{L}$		2.3 copies/ $\mu\text{L}$		0.8 copies/ $\mu\text{L}$		7 copies/ $\mu\text{L}$		2.3 copies/ $\mu\text{L}$		0.8 copies/ $\mu\text{L}$	
	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC
<b>+/total</b>	20/20	20/20	14/20	20/20	8/20	20/20	20/20	20/20	11/20	20/20	9/20	20/20
<b>Mean Ct</b>	18.77	23.16	-	23.72	-	22.93	18.53	23.23	-	23.72	-	23.39
<b>SD</b>	0.65	0.45	-	0.73	-	0.39	0.64	1.02	-	0.73	-	0.94

**B. Nasopharyngeal swab specimen**

	CFX 96 real-time PCR system						ABI 7500 real-time PCR system					
	7 copies/ $\mu\text{L}$		2.3 copies/ $\mu\text{L}$		0.8 copies/ $\mu\text{L}$		7 copies/ $\mu\text{L}$		2.3 copies/ $\mu\text{L}$		0.8 copies/ $\mu\text{L}$	
	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC	Orflab	IC
<b>+/total</b>	20/20	20/20	15/20	20/20	11/20	20/20	20/20	20/20	12/20	20/20	8/20	20/20
<b>Mean Ct</b>	18.73	23.17	-	23.64	-	22.92	18.77	23.16	-	23.72	-	22.93
<b>SD</b>	0.58	0.44	-	0.70	-	0.39	0.65	0.45	-	0.73	-	0.39

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**12.2 Inclusivity (Analytical Reactivity)**

Analytical reactivity (inclusivity) of the AQ-TOP™ COVID-19 Rapid Detection Kit was evaluated using publicly available full and partial SARS-CoV-2 genome sequences. 5876 sequences were downloaded from the following databases including National Genomics Data Center China (<https://bigd.big.ac.cn/>), GenBank (<https://www.ncbi.nlm.nih.gov/genbank/>), GISAID (<https://www.gisaid.org/>), GWH (<https://bigd.big.ac.cn/gwh/>) and NMDC (<https://microbiome.data.org/>).

Analysis was performed using the <Find binding sites and create fragment> tool in CLC main workbench 20.0.3 software. 496 sequences which comprise whole genome information of SARS-CoV-2 were analyzed against the primer and probes contained in the kit. All the alignments of the kit's primer and probe sets against the available 496 SARS-CoV-2 sequences showed 100% identity (absence of mismatch base against the SARS-CoV-2 target).

**12.3 Specificity (Cross-Reactivity)**

Evaluation of analytical specificity of the kit was conducted using both in-silico analysis and wet testing against pathogenic organisms mainly found in the human respiratory tract.

**In-silico Analysis:**

BLASTn analysis queries of the AQ-TOP™ COVID-19 Rapid Detection Kit primers and probes were performed against public domain nucleotide sequences with the following database search parameters:

- Mask low complexity regions = Yes
- Expectation value = 10
- Match/Mismatch = Match 2 Mismatch -3
- Gap Costs = Existence 5 Extension 2
- Max number of hit sequence = 250
- Mask lower case = No
- Mask low complexity regions = Yes
- Number of threads = 16
- Filter out redundant results = No.

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However, some of the primers showed high homologies to specific microorganisms: SARS-coronavirus, *Haemophilus influenzae*, *Legionella pneumophila*, *Streptococcus pneumoniae*, *Streptococcus pyogenes*, *Mycoplasma pneumoniae*, *Staphylococcus epidermis*, *Streptococcus salivarius* and *Staphylococcus aureus*. Since the amplification and detection of RT-LAMP requires simultaneous binding of six (6) primers and a detection probe to the target nucleic acid, it is not expected that these microorganisms will be amplified or produce cross-reactive signal. Because simultaneous homologies were only exhibited to 4 primers at most. Result of the in-silico analysis is shown in table 7.

**Table 7. In-silico Cross-Reactivity Analysis**

Microorganism	Reference No	Primer						Detection Probe
		F3_4	B3_4	FIP_4	BIP_4	LoopF4	LoopB4	
Human coronavirus 229E	NC_002645.1	/	/	/	/	/	/	/
Human coronavirus OC43	NC_006213.1	/	/	/	/	/	/	/
Human coronavirus HKU1	NC_006577	/	/	/	/	/	/	/
Human coronavirus NL63	NC_005831.2	/	/	/	/	/	/	/
SARS-coronavirus	NC_004718.3	100%	/	/	86%	90%	100%	/
MERS-coronavirus	KJ556336.1	/	/	/	/	/	/	/
Adenovirus type 1	MH183293.1	/	/	/	/	/	/	/
Adenovirus type 2	J01917.1	/	/	/	/	/	/	/
Adenovirus type 3	AY599836.1	/	/	/	/	/	/	/
Human Metapneumovirus	KJ627437.1	/	/	/	/	/	/	/
Parainfluenza virus 1	KX639498.1	/	/	/	/	/	/	/
Parainfluenza virus 2	KM190939.1	/	/	/	/	/	/	/
Parainfluenza virus 3	NC_001796.2	/	/	/	/	/	/	/
Parainfluenza virus 4	JQ241176.1	/	/	/	/	/	/	/
Influenza A	GCF_000865085.1	/	/	/	/	/	/	/
Influenza B	BLee1940	/	/	/	/	/	/	/
Enterovirus	NC_001472.1	/	/	/	/	/	/	/
Respiratory syncytial virus	NC_001803.1	/	/	/	/	/	/	/
Rhinovirus	NC_009996.1	/	/	/	/	/	/	/
<i>Chlamydia pneumoniae</i>	NC_005043.1	/	/	/	/	/	/	/
<i>Haemophilus influenzae</i>	NZ_LN831035.1	/	/	68%	/	/	/	/
<i>Legionella pneumophila</i>	NZ_LR134380.1	78%	/	/	/	/	/	/
<i>Mycobacterium tuberculosis</i>	NC_000962.3	/	/	/	/	/	64%	/
<i>Streptococcus pneumoniae</i>	NZ_LN831051.1	61%	/	/	/	/	/	/

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<i>Streptococcus pyogenes</i>	NZ_LN831034.1	/	/	/	/	94%	/	80%
<i>Bordetella pertussis</i>	NC_018518.1	/	/	/	/	/	/	/
<i>Mycoplasma pneumoniae</i>	NZ_CP010546.1	/	/	/	/	/	76%	/
<i>Pneumocystis jirovecii</i>	CAKM01000281.1	/	/	/	/	/	/	/
<i>Candida albicans</i>	GCA_003454745.1	/	/	/	/	/	/	/
<i>Pseudomonas aeruginosa</i>	NC_002516.2	/	/	/	/	/	/	/
<i>Staphylococcus epidermidis</i>	NZ_CP035288.1	/	78%	73%	/	70%	82%	/
<i>Streptococcus salivarius</i>	GCF_900636435.1	/	/	63%	/	/	64%	/
<i>Staphylococcus aureus</i>	BX571856.1	/	89%	/	/	/	76%	/

/ = no alignment found

**Cross-Reactivity Wet Testing**

Wet testing against normal and pathogenic organisms of the respiratory tract was performed to confirm the results of the in-silico analysis. Each organism (cultured isolates or inactivated strains) identified in Table 8 was tested using three extraction replicates with the AQ-TOP™ COVID-19 Rapid Detection Kit at concentrations of 10<sup>6</sup> CFU/mL or higher for bacteria and 10<sup>5</sup> pfu/mL or higher for viruses. No detectable amplification curve (Ct) was observed in the FAM detection channel for the SARS-CoV-2 ORF1ab when using the CFX 96 platform. As expected, the internal control did show 100% detection for all three tested replicates for all organisms evaluated for potential cross-reactivity.

**Table 8. Cross-Reactivity Wet Testing Analysis**

Microorganism	Source	% Detection (#detected / #tested)	
		ORF1ab	IC
Human coronavirus 229E	KBPV <sup>a</sup> VR-9	0% (0/3)	100% (3/3)
Human coronavirus OC43	KBPV VR-8	0% (0/3)	100% (3/3)
Human coronavirus HKU1	ATCCVR-3262SD <sup>b</sup>	0% (0/3)	100% (3/3)
Human coronavirus NL63	NCCP 43214	0% (0/3)	100% (3/3)
SARS-coronavirus	Clinical isolate <sup>c</sup>	0% (0/3)	100% (3/3)
MERS-coronavirus	Clinical isolate	0% (0/3)	100% (3/3)
Adenovirus type 1	KBPV VR-1	0% (0/3)	100% (3/3)
Adenovirus type 2	KBPV VR-58	0% (0/3)	100% (3/3)
Adenovirus type 3	KBPV VR-2	0% (0/3)	100% (3/3)
Human Metapneumovirus	KBPV VR-86	0% (0/3)	100% (3/3)
Parainfluenza virus 1	KBPV VR-44	0% (0/3)	100% (3/3)
Parainfluenza virus 2	KBPV VR-45	0% (0/3)	100% (3/3)
Parainfluenza virus 3	KBPV VR-46	0% (0/3)	100% (3/3)
Parainfluenza virus 4	KBPV VR-69	0% (0/3)	100% (3/3)
Influenza A (H3N2)	KBPV VR-32	0% (0/3)	100% (3/3)
Influenza A (H1N1)	KBPV VR-33	0% (0/3)	100% (3/3)
Influenza B	KBPV VR-34	0% (0/3)	100% (3/3)

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Enterovirus	KBPV VR-12	0% (0/3)	100% (3/3)
Respiratory syncytial virus	KBPV VR-48	0% (0/3)	100% (3/3)
Rhinovirus 1	KBPV VR-1	0% (0/3)	100% (3/3)
Rhinovirus 14	KBPV VR-39	0% (0/3)	100% (3/3)
Rhinovirus 7	KBPV VR-82	0% (0/3)	100% (3/3)
<i>Chlamydia pneumoniae</i>	ATCC 53592	0% (0/3)	100% (3/3)
<i>Haemophilus influenzae</i>	CCARM 9257	0% (0/3)	100% (3/3)
<i>Legionella pneumophila</i>	CCARM 19001	0% (0/3)	100% (3/3)
<i>Mycobacterium tuberculosis</i>	NCCP 15972	0% (0/3)	100% (3/3)
<i>Streptococcus pneumoniae</i>	CCARM 4157	0% (0/3)	100% (3/3)
<i>Streptococcus pyogenes</i>	CCARM 4528	0% (0/3)	100% (3/3)
<i>Bordetella pertussis</i>	NCCP 13671	0% (0/3)	100% (3/3)
<i>Mycoplasma pneumoniae</i>	ATCC 29342	0% (0/3)	100% (3/3)
<i>Pneumocystis jirovecii</i> (PJP)	Lab culture <sup>c</sup>	0% (0/3)	100% (3/3)
<i>Candida albicans</i>	CCARM 14004	0% (0/3)	100% (3/3)
<i>Pseudomonas aeruginosa</i>	CCARM 0220	0% (0/3)	100% (3/3)
<i>Staphylococcus epidermidis</i>	CCARM 3711	0% (0/3)	100% (3/3)
<i>Streptococcus salivarius</i>	NCCP 14735	0% (0/3)	100% (3/3)
<i>Staphylococcus aureus</i>	NCCP 15920	0% (0/3)	100% (3/3)
Nasal wash	-	0% (0/3)	0% (0/3)

<sup>a</sup>; KBPV: Korean bank of pathogenic virus (<https://www.kbpv.re.kr/index.php>)

<sup>b</sup>; human coronavirus HKU1 was tested using spiked isolated nucleic acid at a concentration of  $5 \times 10^5$  copies/mL

<sup>c</sup>; Clinical isolate, Culture: Clinical isolates in department of diagnostics, Hospital of Chungnam University, Korea.

## 12.4 Clinical Evaluation

Performance of the AQ-TOP™ COVID-19 Rapid Detection Kit was evaluated using contrived clinical nasopharyngeal swab and sputum specimens. A total of 60 contrived positive specimens (30 contrived positive nasopharyngeal swab specimens and 30 contrived positive sputum specimens) and 60 negative specimens were tested (30 negative nasopharyngeal swab and 30 negative sputum specimens). Leftover individual unique clinical nasopharyngeal swab and sputum matrices were determined to be negative using the U-TOP™ COVID-19 Detection Kit (FDA EUA 27-Apr-2020) prior to spiking in the RNA.

SARS-CoV-2 viral genomic RNA (NCCP No. 43326. National Culture Collection for Pathogens) was spiked into the clinical matrices at various concentrations relative to the assay's LoD. Of the 30 contrived nasopharyngeal swab positive samples, 20 were spiked at concentrations equivalent to 2X LoD (14 copies/μL), and 10 were spiked with concentrations equivalent to 3X LoD (21 copies/μL). Of the 30 contrived sputum positive samples, 20 were spiked at 2X LoD (14 copies/μL) and 10 were spiked with concentrations of 3X LoD (21 copies/μL). The remaining 30 nasopharyngeal swabs and 30 sputums were tested as negative clinical samples.

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Prepared samples were randomized and blinded, and RNA was extracted using the QIAamp DSP Virus Kit. Testing was performed in a total of two (2) RT-LAMP runs with one positive and one negative control included per run on the CFX 96 Real-Time PCR System. All negative samples were non-reactive and positive spiked samples at 2X and 3X LoD for both nasopharyngeal swabs and sputum showed 100% detection. Results of the study are summarized in Table 9.

**Table 9. Clinical Evaluation with Contrived Nasopharyngeal Swab and Sputum Specimens**

Specimen type	Concentration	Number of samples	Detection rate		Mean Ct	
			ORF1ab	IC	ORF1ab	IC
Nasopharyngeal swab	2X LoD	20	20/20	20/20	18.8	23.8
	3X LoD	10	10/10	10/10	17.4	24.9
	Negative	30	0/30	0/30	-	23.1
Sputum	2X LoD	20	20/20	20/20	19.1	23.2
	3X LoD	10	10/10	10/10	17.9	21.6
	Negative	30	0/30	30	-	23.1

An additional study was performed to evaluate the performance of the AQ-TOP™ COVID-19 Rapid Detection Kit testing individual, leftover, de-identified nasopharyngeal swab and sputum clinical specimens. A total of 35 positive specimens (20 nasopharyngeal swabs, 15 sputum samples) and 40 negative specimens (25 nasopharyngeal swabs, 15 sputum samples) were analyzed on CFX 96 Real-time PCR system by AQ-TOP™ COVID-19 Rapid Detection Kit. Specimens were previously tested using the EUA authorized test, U-TOP™ COVID-19 Detection Kit, authorized on 27-Apr-2020.

Both positive percent agreement (PPA) and negative percent agreement (NPA) between the 2 assays for both specimen types were 100%. The results are summarized in Table 10 and Table 11.

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**Table 10. Performance of Nasopharyngeal Swabs When Compared to the U-TOP™ EUA Authorized Assay**

Nasopharyngeal Swabs		Comparator Assay (U-TOP™ COVID-19 Detection Kit)		
		Positive	Negative	Total
AQ™-TOP COVID-19 Rapid Detection Kit Result	Positive	20	0	20
	Negative	0	25	25
	Total	20	25	45
Positive Agreement		100.0% (20/20); 83.89% - 100.00%*		
Negative Agreement		100.0% (25/25); 86.68% - 100.00%*		

**Table 11. Performance of Sputum Specimens When Compared to the U-TOP™ EUA Authorized Assay**

Sputum		Comparator Assay (U-TOP™ COVID-19 Detection Kit)		
		Positive	Negative	Total
AQ™-TOP COVID-19 Rapid Detection Kit Result	Positive	15	0	15
	Negative	0	15	15
	Total	15	15	30
Positive Agreement		100.0% (15/15); 79.62% - 100.00%*		
Negative Agreement		100.0% (15/15); 79.62% - 100.00%*		

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**Appendix A. FDA SARS-CoV-2 Reference Panel Testing**

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to corroborate the LoD. The extraction method and instrument used were QIAamp DSP virus kit (Qiagen, Cat No.60704) and CFX 96 Real-Time PCR Detection System. The results are summarized in Table 12.

**Table 12. Summary of LoD Confirmation Result Using the FDA SARS-CoV-2 Reference Panel**

Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	NP Swab	6x10 <sup>3</sup> NDU/mL	N/A
MERS-CoV		N/A	ND

NDU/mL: RNA NAAT detectable units/mL

N/A: Not Applicable

ND: Not Detected

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**13. Trouble shooting**

<b>Problem</b>	<b>Cause</b>	<b>Solution</b>
Fluorescence signal is not detected in all samples	Error of the PCR reaction	Review if any reagent was missed during the preparation process
	If the storage conditions of the kit are not appropriate, or the expiration date has expired	Repeat the test after checking the storage conditions and expiration date
Fluorescent signal is low in all samples	If the PCR reagents were not mixed correctly	Proceed with the test after review of PCR mix
	Long storage at room temperature or light exposure	Dispose the kit.
	If the expiration date has passed	Check the expiration date of the kit
Signal detection in Negative Control	If the PCR mixture or Negative control are contaminated	Discard and use new
	If the experiment place or the tool is contaminated	Check whether the test site or tool is contaminated. Repeat the experiment with new aliquots of all reagents
If there are different results in the same sample	Pipetting error	Check the pipette
	Cross contamination	Be careful with DNA splitting and repeat the test
	Contaminated 96-well plate	Test with a new 96-well plate
- SEASUN BIOMATERIALS Inc. guarantees all its products before the expiration date - Contact our A/S team if a problem not mentioned in this table has occurred		

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**14. Reference**

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7. SARS-CoV-2 detection real-time RT-PCR protocol. 2020. KCDC v1.5

**15. Symbols**

	Catalogue Number		Expiration Date
	Temperature limitation (Storage temperature)		Manufacturer
	In vitro Diagnostic Medical Device		Lot number
	Do Not Reuse (For single use only)		

**SEASUN BIOMATERIALS Inc.**

**Address** N317, 11-3, Techno 1-ro, Yuseong-gu, Daejeon, 34015, Korea  
**Tel** +82-42-716-0301  
**Fax** +82-42-716-0302  
**US Technical Support** 1-800-660-1952  
**E-mail** [as@seasunbio.com](mailto:as@seasunbio.com) / [info@seasunbio.com](mailto:info@seasunbio.com)  
**Web** [www.seasunbio.com](http://www.seasunbio.com)

Allplex™ 2019-nCoV Assay

# Allplex™ 2019-nCoV Assay (version 2.1; October 30<sup>th</sup> , 2020)

(Cat no. RP10250X / RP10252W)

## Instructions for Use

For *in vitro* diagnostic use  
**For Emergency Use Authorization Only**



Prescription Use only

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## ■ CHAPTER 1: Intended Use

The Allplex™ 2019-nCoV Assay is an *in vitro* diagnostic (IVD) real-time reverse transcriptase polymerase chain reaction (RT-PCR) test intended for the qualitative detection of SARS-CoV-2 viral nucleic acids in human nasopharyngeal swab, oropharyngeal swab, anterior nasal swab, mid-turbinate nasal swab, nasopharyngeal wash/aspirate, nasal aspirate, bronchoalveolar lavage (BAL) and sputum specimens from individuals who are suspected of COVID-19 by their health care provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status.

Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

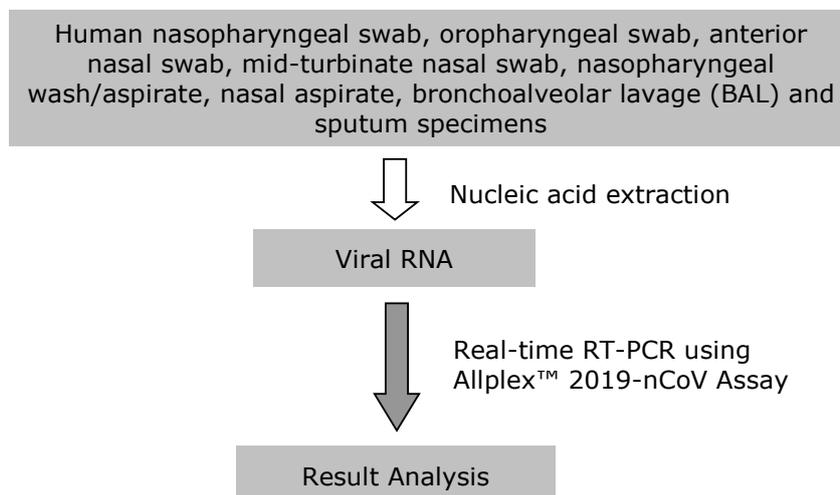
The Allplex™ 2019-nCoV Assay is intended for use by qualified, trained clinical laboratory personnel specifically instructed and trained in the techniques of real-time RT-PCR and *in vitro* diagnostic procedures. The Allplex™ 2019-nCoV Assay is only for use under the Food and Drug Administration's Emergency Use Authorization (EUA).

## ■ CHAPTER 2: Summary and Explanation of the Test

The technology of the Allplex™ 2019-nCoV Assay is a real-time reverse transcription polymerase chain reaction (RT-PCR) test. The 2019-nCoV primer and probe set(s) is designed to detect RNA from the 2019-nCoV in human nasopharyngeal swab, oropharyngeal swab, anterior nasal swab, mid-turbinate nasal swab, nasopharyngeal wash/aspirate, nasal aspirate, bronchoalveolar lavage (BAL) and sputum specimens.

## ■ CHAPTER 3: Principle of the Procedure

Nucleic acids are isolated and purified from specimen using a manual or an automated nucleic acid extraction system. 10 µL of Internal Control (RP-V IC) must be added before the extraction. Follow detailed extraction procedures in manufacturer's instructions. 8 µL of purified nucleic acid is reverse transcribed using 5X Real-time One-step Buffer/Real-time One-step Enzyme into cDNA which is then subsequently amplified in a CFX96™, CFX96 Touch™, Applied Biosystems 7500, or Applied Biosystems 7500 Fast Dx real-time PCR systems. During the process, the probe anneals to a specific target sequence located between the forward and reverse primers. During the extension phase of the PCR cycle, the 5' nuclease activity of Taq polymerase degrades the probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. With each cycle, additional reporter dye molecules are cleaved from their respective probes, increasing the fluorescence intensity. Fluorescence intensity is monitored at each PCR cycle by the CFX96™, CFX96 Touch™, Applied Biosystems™ 7500, Applied Biosystems™ 7500 Fast Dx real-time PCR detection systems. The result of amplification is reported through 'Seegene viewer' analysis. The 'Seegene viewer' shows whether the exported data is 2019-nCoV Detected, Presumptive positive, or Negative for easy retrieval of result by the user.



## ■ CHAPTER 4: Assay Materials

### Materials provided

The reagents contained in one Allplex™ 2019-nCoV Assay kit are sufficient for 100/124 reactions.

Table 1. Allplex™ 2019-nCoV Assay Composition

Contents	Volume (RP10250X/ RP10252W)	Description
2019-nCoV MOM	500 µL / 620 µL	MuDT* Oligo Mix (MOM): - Amplification and detection reagent *MuDT is the brand name of Seegene's oligo mixture
Real-time One-step Enzyme	200 µL	Enzyme mix for one-step RT-PCR
5X Real-time One-step Buffer	500 µL	Buffer for one-step RT-PCR - Buffer containing dNTPs
2019-nCoV PC	80 µL	Positive Control (PC) for PCR control: - Mixture of pathogen and IC clones
RP-V IC	1,000 µL	Exogenous Internal Control (IC) of Allplex™ 2019-nCoV Assay
RNase-free Water	1,000 µL	Ultrapure quality, PCR-grade RNase-free Water provided for: 1. Negative Control (NC) for PCR control 2. RT-PCR Mastermix (Refer to Table 6)

## Allplex™ 2019-nCoV Assay

## Materials required but not provided

## Additional materials and equipment required

- Disposable powder free gloves (latex or nitrile)
- Pipettes (adjustable) and sterile pipette tips
- 1.5 mL microcentrifuge tubes
- Clean bench
- Ice
- Desktop centrifuge  
(1.5 mL microcentrifuge and 96 well plate centrifuge)
- Vortex mixer
- Instruments and kits for nucleic acid extraction

Manufacturer	Instrument	Extraction Kit	Catalog No./Reaction No.
Seegene	Seegene STARlet (65415-03)	STARMag 96 X 4 Universal Cartridge Kit	384 reactions (744300.4.UC384)
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	384 reactions (EX00013C)
Hamilton	Microlab STARlet IVD (173000-075)	STARMag 96 X 4 Universal Cartridge Kit	384 reactions (744300.4.UC384)
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	384 reactions (EX00013C)
Seegene	Seegene NIMBUS (67930-03)	STARMag 96 X 4 Universal Cartridge Kit	384 reactions (744300.4.UC384)
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	384 reactions (EX00013C)
Hamilton	Microlab NIMBUS IVD (65415-02)	STARMag 96 X 4 Universal Cartridge Kit	384 reactions (744300.4.UC384)
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	384 reactions (EX00013C)
LG Chem	AdvanSure E3 System (YETS0001EG)	AdvanSure NA EX Kit	96 reactions Reagent Plate (RPE0001K01)
			Proteinase K Tube (RPK0001K01)
			Strip (E3 System) (YSTP0500KG)
GeneAll	N/A (Manual)	Ribospin vRD (Viral RNA/DNA Extraction Kit)	50 extractions (302-150 SG1701)
QIAGEN	N/A (Manual)	QIAmp DSP Viral RNA Mini Kit	50 extractions (61904)
Roche	Roche MagNA Pure 96 (MP96)	DNA and Viral NA Small Volume Kit	576 extractions (06 543 588 001)
ThermoFisher Scientific	KingFisher Flex automated extraction	MagMAX Viral/Pathogen Nucleic Acid Isolation Kit	200 extractions (A42352) 2,000 extractions (A48310)

Allplex™ 2019-nCoV Assay

NOTE:

- (1) All extraction options are commercially available.
- (2) The Seegene, Hamilton, LG Chem, and GeneAll extraction reagents/instrumentation can be purchased through Seegene Technologies (CA, US), [support@segenetech.com](mailto:support@segenetech.com)
- (3) The Seegene and Hamilton extraction reagents/instrumentation are validated with Seegene Launcher V6 software.

- PCR Instrument & Consumables
  - ⊖ Applied Biosystems™ 7500 (ThermoFisher Scientific),  
Applied Biosystem™ 7500 Fast Dx (ThermoFisher Scientific)

Consumables (Cat. No.)	
<u>For Applied Biosystems™ 7500;</u>	
<ul style="list-style-type: none"> <li>• MicroAmp™ Optical 96-Well Reaction Plate (Cat. No. N8010560, ThermoFisher Scientific)</li> <li>• MicroAmp™ Optical 96-Well Reaction Plate with Barcode (Cat. No. 4306737, ThermoFisher Scientific)</li> </ul>	
<u>For Applied Biosystems™ 7500 Fast Dx.</u>	
<ul style="list-style-type: none"> <li>• MicroAmp™ Fast 96-Well Reaction Plate (0.1mL) (Cat. No. 4346907, ThermoFisher Scientific)</li> <li>• MicroAmp™ Fast Optical 96-Well Reaction Plate with Barcode, 0.1 mL (Cat. No. 4346906, ThermoFisher Scientific)</li> </ul>	
<u>For both Applied Biosystems™ 7500/7500 Fast Dx;</u>	
<ul style="list-style-type: none"> <li>• Optical Adhesive Covers (Cat No. 4360954, ThermoFisher Scientific)</li> </ul>	
Software	
Applied Biosystems™ 7500	Applied Biosystems™ 7500 Fast Dx
SDS software v2.0.5	SDS software v1.4.1 (Windows XP) / 1.5.1 (Windows 7 64-bit)

- ⊖ CFX96™ Real-time PCR Detection System-IVD (Bio-Rad),  
CFX96 Touch™ Real-Time PCR Detection System (Bio-Rad)

Consumables (Cat. No.)
<ul style="list-style-type: none"> <li>• Hard-Shell® 96-Well PCR Plates, low profile, thin wall, skirted, white/white (Cat. No. HSP9655, Bio-Rad)</li> <li>• Hard-Shell® 96-Well PCR Plates, low profile, thin wall, skirted, white/white, barcoded (Cat. No. HSP9955, Bio-Rad)</li> <li>• Optical Flat 8-Cap Strips (Cat. No. TCS0803, Bio-Rad)</li> <li>• Low Tube Strip, WHT (Cat. No. TLS0851, Bio-Rad)</li> <li>• Optically Clear Heat Seal (Cat. No. 1814030, Bio-Rad)</li> <li>• Permanent Clear Heat Seal (Cat. No. 1814035, Bio-Rad)***</li> </ul>

**Allplex™ 2019-nCoV Assay**

<ul style="list-style-type: none"> <li>• PX1 PCR plate sealer (auto-sealer, Cat. No. 181-4000, Bio-Rad)***</li> <li>• MicroAmp™ Optical 8-Cap Strip (Cat. No. 4323032, ThermoFisher Scientific)</li> <li>• MicroAmp™ Optical 8-Tube Strip (0.2 mL) (Cat. No. 4316567, ThermoFisher Scientific)</li> <li>• EU 8-Single Attachable Indented Cap (Cat. No. B79501, BIOplastics)</li> <li>• EU 0.2 ml Thin-wall 8-Tube Strip (Cat. No. B77009, BIOplastics)</li> <li>• Mini-centrifuge (Cat. No. Mini-6K, Protagen)</li> <li>• PCR plate centrifuge (Cat. No. MPC-P25, Powerlab)</li> </ul> <p>*** The Permanent Clear Heat Seal must be used with the PX1 PCR Plate Sealer when running the Allplex™ assay</p>
<p>Software</p>
<p>CFX Manager™ Software V3.1 or CFX Maestro™ Software V1</p>

NOTE: All consumables for CFX96™ Real-time PCR Detection System-IVD and CFX96 Touch™ Real-Time PCR Detection System can be purchased through Seegene Technologies (California, US).

## ■ CHAPTER 5: Warnings and Precautions

The Allplex™ 2019-nCoV Assay should be performed by qualified, trained personnel.

- For *in vitro* diagnostic use only.
- For Emergency Use Authorization Only
- For Prescription Use Only
- This test has not been FDA cleared or approved; the test has been authorized by FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under CLIA of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostic tests for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.
- Reliability of the results depends on adequate specimen collection, storage, transport, and processing procedure.
- This test has not been validated for any other types of specimens other than those indicated in the intended use.
- If not tested immediately, store extracted RNA at  $\leq -70^{\circ}\text{C}$  until use and keep on ice during testing.
- Sensitivity of the assay may decrease if samples are repeatedly frozen and thawed for more than 7 times.
- Workflow in the laboratory should proceed in a unidirectional manner.
- Wear disposable gloves and change them before entering different areas. Change gloves immediately if contaminated or treat them with DNA decontaminating reagent.
- Supplies and equipment must be dedicated to working areas and should not be moved from one area to another.
- Do not pipette by mouth.
- Do not eat, drink, or smoke in laboratory work areas. Wear disposable powder-free gloves, laboratory coats and eye protections when handling specimens and reagents. Wash hands thoroughly after handling specimens and test reagents.
- Avoid contamination of reagents when removing aliquots from reagent tubes. Use of sterilized aerosol resistant disposable pipette tips is recommended.

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**Allplex™ 2019-nCoV Assay**

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- Do not pool reagents from different lots or from different tubes of the same lot.
- Do not use the product after its expiry date.
- Do not reuse any disposable items.
- Use screw-capped tubes and prevent any potential splashing or cross-contamination of specimens during preparation.
- Avoid possible contamination of reagents with extracted nucleic acids, PCR products, and positive control. To prevent contamination of reagents, use of filter-tips is recommended.
- Use separated and segregated working areas for each test run.
- To avoid contamination of working areas with amplified products, open PCR reaction tubes or strips only in designated working areas after amplification.
- Store positive materials separated from the kit's reagents.
- Handle all specimens as if infectious. Laboratory safety procedures (refer to Biosafety in Microbiological and Biomedical Laboratories & CLSI Documents) must be taken when handling specimens. Thoroughly clean and disinfect all work surfaces with 0.5% sodium hypochlorite (in de-ionized or distilled water). Product components (product residuals, packaging) can be considered as laboratory waste. Dispose of unused reagents and waste in accordance with applicable federal, state, and local regulations.
- Manipulation of potentially infected specimens should be performed in a certified Class II BSC in a BSL-2 facility or higher. This includes aliquoting and/or diluting specimens and nucleic acid extraction procedures involving potentially infected specimens.
- Use appropriate personal protective equipment including but not limited to disposable gloves, laboratory coat/gown, and eye protection when handling specimens, reagents, pipettes, and other equipment.
- Keep extracted RNA on cold block or on ice during reaction set-up.
- Keep PCR reagents on cold block or on ice during reaction set-up.
- Expiry date is 8 months from the date of manufacture when product is stored at  $\leq -20^{\circ}\text{C}$ . Please refer to label for expiry date.
- Seegene STARlet and Seegene NIMBUS are private label devices and are the same as the Microlab STARlet IVD and Microlab NIMBUS IVD. There is no change in the device other than labeling. All four devices can be used interactively and generate equivalent results. Instruments indicated share the same software application ("Seegene Launcher") and extraction kit ("STARMag 96 X 4 Universal Cartridge Kit" and "STARMag 96 X 4 Viral DNA/RNA 200 C Kit").
- This Allplex™ 2019-nCoV Assay is a qualitative *in vitro* test for the single or multiple detection of 3 target genes (E gene, RdRP gene, and N gene)
-

## ■ CHAPTER 6: Storage and Handling Conditions

### Reagent storage and handling

- All reagents of the Allplex™ 2019-nCoV Assay kit must be stored at -20 °C or below.
- Completely thaw all reagents on ice prior to use
- Do not store reagents in a frost-free freezer.
- Do not use kits or reagents beyond indicated expiry date.
- Always check the expiry date on the reagent tubes prior to use.

NOTE: The performance of kit components is unaffected for up to 7 cycles of freeze and thaw. If the reagents are used only intermittently, they should be stored in aliquots.

## Specimen storage and transport

- Specimen types: human nasopharyngeal swab, oropharyngeal swab, anterior nasal swab, mid-turbinate nasal swab, nasopharyngeal wash/aspirate, nasal aspirate, bronchoalveolar lavage (BAL) and sputum specimens

NOTE: Sample collection devices are not provided with the assay. All testing for COVID-19 should be conducted in consultation with a healthcare provider. Refer to CDC guidelines for sample collection (**Nasopharyngeal swab (NP) /oropharyngeal swab (OP) / anterior nasal swab / mid-turbinate nasal swab and sputum**) and storage at:

<https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>

Once the swabs have been collected in accordance with CDC guidelines, it is recommended to use Universal Transport Medium (UTM) for collection of nasopharyngeal, oropharyngeal anterior nasal and mid-turbinate nasal swabs.

- After collection, the specimen should be stored at 2-8°C and processed within 72 hours.
- If delivery and processing exceed 72 hours, specimens should be transported in dry ice and once in laboratory frozen at -70°C or colder.

NOTE:

- (1) Performance may be affected by prolonged storage of specimens.
- (2) Specimens transport should adhere to local and national instructions for transport of pathogenic material.
- (3) Specimens should be collected and handled according to the swab collection device manufacturer's recommended procedures.

## ■ CHAPTER 7: Assay Control Material(s)

### PCR controls

The PCR controls below are provided with the Allplex™ 2019-nCoV Assay to confirm the validity of each PCR run on the same plate.

In prior to determining of the validity of each PCR run, the user must confirm the results of the negative control and positive control on the 'Well Plate' on the upper left corner of the Seegene viewer.

The results of the negative control and positive control are displayed under the 'Auto Interpretation' column on the bottom half of the Seegene viewer. If the positive and/or negative control results are invalid, the corresponding PCR run must be repeated.

1. **Negative Control (NC)** is used as a PCR control to confirm test validity, and the absence of any contaminants during testing. The "No template" control is prepared using RNase-free Water added to the Master Mix prior to PCR. NC must be included in each test run. No signal should be detected with the NC.
2. **Positive Control (PC)** is used to confirm test validity, and functions as the validation control for PCR amplification and the test detection steps. The PC is constructed using plasmids encoding Allplex™ 2019-nCoV Assay target sequences and must be included in each test run.

NOTE: The Positive Control included in this kit is a high concentration PCR control. Dilute the PC with TE buffer by 1:10 before use.

Allplex™ 2019-nCoV Assay

The real-time PCR results of the positive and negative control can be viewed from the Seegene Viewer as shown in Picture 1 and Picture 2.

Picture 1. Example of valid positive/negative control results

Well	Name	Type	FAM		Cal Red 610		Quasar 670		HEX		Auto Interpretation	Comment
			E gene	C(t)	RdRP ...	C(t)	N gene	C(t)	IC	C(t)		
B11		NC	-	N/A	-	N/A	-	N/A	-	N/A	Negative Control(-)	
B12		PC	+	20,64	+	20,97	+	19,09	+	19,96	Positive Control(+)	

Picture 2. Example of invalid positive/negative control results

Well	Name	Type	FAM		Cal Red 610		Quasar 670		HEX		Auto Interpretation	Comment
			E gene	C(t)	RdRP ...	C(t)	N gene	C(t)	IC	C(t)		
F01		PC	+	38,99	+	38,77	+	39,05	-	N/A	Positive Control(Invalid)	
F02		NC	-	N/A	+	37,23	+	36,85	-	N/A	Negative Control(Invalid)	

Table 2. Allplex™ 2019-nCoV Assay; Control Acceptance Criteria

Control	Seegene Viewer Result (Ct value)				
	IC (HEX)	E gene (FAM)	RdRP gene (CalRed 610)	N gene (Quasar 670)	Auto Interpretation
2019-nCoV Positive Control	≤ 40	≤ 40	≤ 40	≤ 40	Positive Control (+)
	>40 or N/A	>40 or N/A	>40 or N/A	>40 or N/A	Positive Control (Invalid)
Negative Control	>40 or N/A	>40 or N/A	>40 or N/A	>40 or N/A	Negative Control (-)
	≤ 40	≤ 40	≤ 40	≤ 40	Negative Control (Invalid)

## Internal Control

The Allplex™ 2019-nCoV Assay includes a full process Internal Control (RP-V IC) which is composed of MS2 phage genome. This Internal Control material verifies all steps of the analysis process, including sample extraction, reverse transcription, and PCR to demonstrate proper specimen processing and test validity of each specimen.

A positive signal for the Internal Control indicates that all processing steps performed by the Allplex™ 2019-nCoV Assay were successful.

A negative signal of all targets including the Internal Control invalidates all negative results in the analysis. Repeat testing if an invalid result is reported. Refer to section 'Interpretation of Results' for more details.

## External Control

External controls are not provided with the Allplex™ 2019-nCoV Assay. Quality control requirements should be performed in conformance with local, state, and/or federal regulations or accreditation requirements and your laboratory's standard quality control procedures.

The following external controls are available:  
AccuPlex™ SARS-COV-2 reference material (Seracare Life Sciences, Inc., Cat no. 0505-0126; this kit includes positive & negative reference material.)  
The positive reference material may be used as an external extraction control.

## ■ CHAPTER 8: Procedure

### Sample collection, transport, and storage

Collect Nasopharyngeal swab (NP) /oropharyngeal swab (OP)/nasal swab/mid-turbinate s nasal swab, nasopharyngeal wash/aspirate, nasal aspirate, bronchoalveolar lavage (BAL) and sputum according to CDC guidelines and/or manufacturer's protocol for sample collection, storage and handling.

### Nucleic acid extraction

The assay was validated with the extraction options listed below. Perform the RNA extraction on samples according to the manufacturer's instructions for use. For the Microlab STARlet IVD, Seegene STARlet, Microlab NIMBUS IVD and Seegene NIMBUS extraction methods, follow the detailed instruction provided in the section of 'Preparation on Microlab STARlet IVD, Seegene STARlet, Microlab NIMBUS IVD and Seegene NIMBUS'.

<p><b>Seegene STARlet / Seegene NIMBUS / Microlab STARlet IVD / Microlab NIMBUS IVD (STARMag 96 X 4 Universal Cartridge Kit; Cat No. 744300.4.UC384)</b> See Operation Manual of each instrument or the section under 'preparation' for details. - Sample volume: 300 µL, Elution volume: 100 µL</p>
<p><b>Seegene STARlet / Seegene NIMBUS / Microlab STARlet IVD / Microlab NIMBUS IVD (STARMag 96 X 4 Viral DNA/RNA 200 C Kit; Cat No.EX00013C)</b> See Operation Manual of each instrument or the section under 'preparation' for details. - Sample volume: 300 µL, Elution volume: 100 µL</p>
<p><b>AdvanSure E3 System (AdvanSure NA EX Kit; Cat No.RPE0001K01,RPK0001K01)</b> See AdvanSure NA EX Kit User Manual for details. - Sample volume: 200 µL, Elution volume: 100 µL</p>
<p><b>QIAamp® DSP Virus Spin Kit (Cat No.61704) (QIAGEN)</b> Follow the 'Protocol Purification of viral nucleic acids from plasma or serum' of the QIAamp® DSP Virus Spin Kit Handbook. - Specimen volume: 190 µL, Elution volume: 40 µL</p>
<p><b>Ribospin™ vRD (Viral RNA/DNA Extraction Kit (Cat No.302-150, SG1701) (GeneAll)</b> See Ribospin™ vRD Manual for details. - Specimen volume: 290 µL, Elution volume: 40 µL</p>
<p><b>KingFisher™ Flex automated extraction (MagMAX Viral/Pathogen Nucleic Acid Isolation Kit, Cat No. A42352)</b> See MagMAX Viral/Pathogen Nucleic Acid Isolation Kit Manual for details. - Specimen volume: 200 µL, Elution volume: 50 µL</p>
<p><b>Roche MagNA Pure 96 (MP96) (DNA and Viral NA Small Volume Kit; Cat No.06 543 588 001)</b> See DNA and Viral NA Small Volume Kit Manual for details. - Specimen volume: 200 µL, Elution volume: 50 µL</p>

**Preparation on Microlab STARlet IVD, Seegene STARlet, Microlab NIMBUS IVD and Seegene NIMBUS:**

Hardware installation, Seegene Launcher software for operation and customer training (on site and/or video tutorial) are provided by Seegene Technologies (California, US), [support@seegenetech.com](mailto:support@seegenetech.com).

The Seegene Launcher is an application software that controls functions and protocols of the Microlab STARlet IVD/Seegene STARlet/Microlab NIMBUS IVD/Seegene NIMBUS.

The user manual of 'Seegene Launcher V6' containing detailed descriptions on instrument maintenance and experimental procedures of nucleic acid extraction using Microlab STARlet IVD, Seegene STARlet, Microlab NIMBUS IVD and Seegene NIMBUS will be provided.

The purification procedure is designed to ensure safe and reproducible handling of potentially infectious samples and comprises of 4 steps: sample lysis, nucleic acids binding to magnetic beads, debris washing and elution of purified nucleic acids.

Below instructions describe the procedures for Microlab STARlet IVD and Seegene STARlet. For Microlab NIMBUS IVD and Seegene NIMBUS, the same Seegene launcher software is used. Please follow exactly the same procedure as below after selecting NIMBUS in the setting during installation of the launcher.

For STARMag 96 X 4 Universal Cartridge Kit:

1. Take out 1 cartridge from the STARMag 96 X 4 Universal Cartridge Kit. 1 cartridge contains reagents for 96 tests, and the STARMag 96 X 4 Universal Cartridge Kit contains 4 cartridges (384 tests).

Picture 3. 1 cartridge from the STARMag 96 X 4 Universal Cartridge Kit



Table 3. Components of STARMag 96 X 4 Universal Cartridge Kit

Reagents	Volume
Lysis Buffer Universal LB	4 X 23 mL

## Allplex™ 2019-nCoV Assay

Reagents	Volume
Binding Buffer Universal BB	4 X 68 mL
Wash Buffer 1 Universal WB1	4 X 55 mL
Wash Buffer 2 Universal WB2	4 X 10 mL
Wash Buffer 3 Universal WB3	4 X 55 mL
Elution Buffer Universal EB	4 X 18 mL
Universal Magnetic Beads	4 X 1.8 mL
Lysis Buffer Universal LB	200 mL
Universal Proteinase K (lyophilized)	4 X 75 mg
Proteinase Buffer Universal PB	4 X 3 mL
Tub Cover	25 ea.
User Manual	2 ea.

## NOTE:

- (1) Lysis Buffer (LB), Binding Buffer (BB), and Wash Buffer 1 (WB1) contain chaotropic salt. Wear gloves and goggles always when handling buffers.
  - (2) Store all the components of extraction reagent kit at room temperature (18 - 25°C). In case of dissolved Proteinase K, store at -20°C.
  - (3) The expiration date of the product is indicated on the label. The cartridge remains effective for up to 15 months prior to its opening and for up to 4 months after its opening.
  - (4) All buffers are delivered ready-to-use.
  - (5) Lysis Buffer (LB) may form a salt precipitate during storage. To re-dissolve the precipitate, incubate the buffer bottle at 40°C until the precipitate is re-dissolved completely.
2. Before placing the cartridge on the Microlab STARlet IVD, Seegene STARlet, Microlab NIMBUS IVD or Seegene NIMBUS prepare the following:
- Proteinase K: When using the kit for the first time, add 2.6 mL Proteinase Buffer Universal PB to the lyophilized Proteinase K. Dissolved Proteinase K solution is stable at - 20 °C for at least 6 months. Transfer the Proteinase K solution into a 1.5mL microtube according to the number of samples. The volume of Proteinase K solution is automatically calculated by the Launcher software if the number of samples is entered into the software.
  - Wash Buffer 2 Universal WB2: Prepare 48mL of absolute ethanol (Cat. No. 1.00983.1011, Merck). After removing the film on the WB2 tub, add 48 mL of absolute ethanol into the WB2 tub. The WB2 tub should be covered after use and should be stored at room temperature (18 - 25°C).

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- **Magnetic Bead:** Suspend the magnetic bead by manually tapping the tube, and then quick vortexing.

For STARMag 96 X 4 viral DNA/RNA 200 C Kit;

1. Take out 1 cartridge from the STARMag 96 X 4 viral DNA/RNA 200 C Kit. 1 cartridge contains reagents for 96 tests, and the STARMag 96 X 4 viral DNA/RNA 200 C Kit contains 4 cartridges (384 tests).

Picture 4. 1 cartridge from the STARMag 96 X 4 viral DNA/RNA 200 C Kit



Table 4. Components of STARMag 96 X 4 viral DNA/RNA 200 C Kit

Reagents	Volume
Lysis Buffer LB	4 X 23 mL
Binding Buffer BB	4 X 68 mL
Wash Buffer 1 WB1	4 X 55 mL
Wash Buffer 2 WB2	4 X 10 mL
Wash Buffer 3 WB3	4 X 55 mL
Elution Buffer EB	4 X 18 mL
Magnetic Beads	8 mL
Bead Tube (2 mL tube)	4 ea.
Tub Cover	25 ea.
User Manual	1 ea.

NOTE:

- (1) Store all the components of extraction reagent kit at room temperature (18 - 25°C).
- (2) The expiration date of STARMag 96 X 4 Viral DNA/RNA 200 C Kit is indicated on the box label and store up to 1 month after its opening.
- (3) All buffers are delivered ready-to-use.

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2. Before placing the cartridge on the Microlab STARlet IVD or Seegene STARlet, prepare the following:
  - Add 48 mL of absolute ethanol into WB2 tub before use. WB2 tub should be covered with Tub Cover after using and stored at room temperature (18 ~ 25°C).
  - After sufficiently vortexing the Magnetic beads in the bottle, transfer 1.8 ml of Magnetic beads to bead tube(2 mL tube) before use.

Table 5. Materials required, but not provided

Basic Item
Absolute EtOH
Disposable powder free gloves (latex or nitrile)
Desktop centrifuge
Ice or cooler box
Pipettes (adjustable) and sterile aerosol resistant pipette tips
Vortex mixer

Purchasing Item	Cat. No.	Manufacturer
SMP-CAR-24-Tube Carrier Set-4 (24 sample carrier)	173440	Hamilton
SMP CAR 12 D35 (12 sample carrier)	185052	Hamilton
1.5 mL sterile microtubes	MCT-150-C	Axygen
96 Deep Well Micro Plate	SDP0096	Supercon
Deep well plate, 96 wells with Barcode label	SDP0096B	Supercon
MicroAmp® Optical 8-Tube Strip (0.2 mL)	4316567	Applied Biosystems
EU 0.2 ml Thin-wall 8-Tube Strip	B77009	BIOplastics
Hard-Shell® PCR plates 96-well WHT/WHT	HSP9655	Bio-Rad
Hard-Shell® PCR plates 96-well WHT/WHT,	HSP9955	Bio-Rad
Low Tube Strip, WHT	TLS0851	Bio-Rad
MicroAmp® Optical 8-Cap Strip	4323032	Applied Biosystems
EU 8-Single Attachable Indented Cap	B79501	BIOplastics
Optical Flat 8-Cap Strips	TCS0803	Bio-Rad
Optically Clear Heat Seal	1814030	Bio-Rad
Permanent Clear Heat Seal	1814035	Bio-Rad
PX1 PCR plate sealer (auto-sealer)	1814000	Bio-Rad
Mini-centrifuge	Mini-6K	Protagen
PCR plate centrifuge	MPC-P25	Powerlab
UPS	HP 910	Sampoongpower

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Allplex™ 2019-nCoV Assay

NOTE: All purchasing items listed above can be purchased through Seegene Technologies (California, US).

## Operation

### NOTE:

- (1) Prior to running the Seegene launcher, inspect the deck and carriers for cleanliness and empty the tip waste/liquid waste if there are any.
  - (2) A minimum of 300µL specimen volume is required to ensure 200µL of specimen pipetting by Microlab STARlet/Seegene STARlet. This will result in 100µL elution volume of nucleic acids (RNA) necessary to run the Allplex™ 2019-nCoV Assay.
  - (3) Only 12mm tubes, 16mm tubes and 1.5mL micro centrifuge tubes can be directly loaded to the Microlab STARlet/Seegene STARlet.
  - (4) For information on maintenance, refer to the Seegene Launcher V6 manual.
- 
1. Open the Seegene launcher software installed on the laptop connected to the Microlab STARlet IVD/Seegene STARlet for operation of the Microlab STARlet IVD/Seegene STARlet.



2. Click on **LAUNCHER RUN** on the main page.



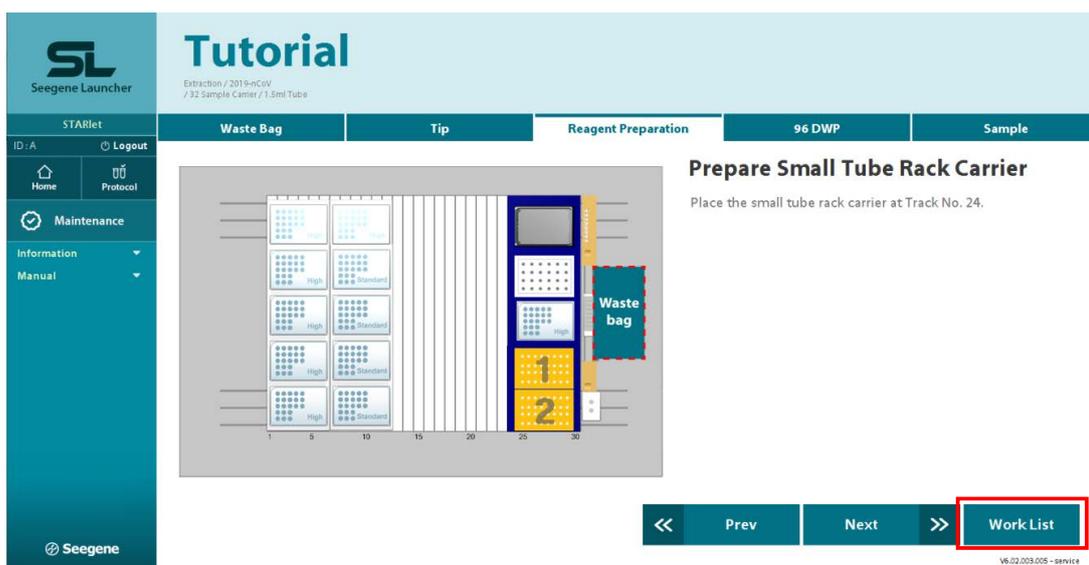
Allplex™ 2019-nCoV Assay

3. Select **2019-nCoV** (protocol for Allplex™ 2019-nCoV Assay) to begin the protocol. All following steps are included in a step by step instruction included in the software.



4. Check and follow the instructions carefully and then click on **Work List**. Samples, Internal Control, consumables, and 1 cartridge from the STARMag 96 X 4 Universal Cartridge Kit are placed on the Microlab STARlet IVD/Seegene STARlet while following step by step instructions guided by the Seegene Launcher software.

NOTE: After equilibrating specimens to room temperature, vortex each specimen briefly.



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- A barcode reader installed inside the Microlab STARlet IVD/Seegene STARlet automatically reads sample information. The sample information can also be manually entered, if necessary. Click on **Next**, once **Sample Quantity**, **Barcode**, **Name** (optional) and labware (1.5ml or 12mm or 16mm) information are entered correctly.

**Work List**  
 Extraction / 2019-nCoV / 32 Sample Carrier / 1.5ml Tube

Proteinase K: 161 µL

Sample Qty.: 9 OK

No.	Barcode	Name	2019-nCoV	1.5ml	12mm
1	2013-08-02/41529	T. Hanks	✓	<input type="radio"/>	<input type="radio"/>
2	2013-08-02/09405	H. Simpson	✓	<input type="radio"/>	<input type="radio"/>
3	2013-08-02/41522	L. Simpson	✓	<input type="radio"/>	<input type="radio"/>
4	2013-08-02/06632	M. Jackson	✓	<input type="radio"/>	<input type="radio"/>
5	2013-08-02/41525	K. Perry	✓	<input type="radio"/>	<input type="radio"/>
6	2013-08-02/41526	W. Smith	✓	<input type="radio"/>	<input type="radio"/>
7	2013-08-02/41524	J. Bieber	✓	<input type="radio"/>	<input type="radio"/>
8	2013-08-02/41557	H. Potter	✓	<input type="radio"/>	<input type="radio"/>
9	2013-08-02/04655	H. Granger	✓	<input type="radio"/>	<input type="radio"/>
*			<input type="checkbox"/>	<input type="radio"/>	<input type="radio"/>

Total: 9 0 9

Tutorial Next >>

**Work List**  
 Extraction / 2019-nCoV / 24 Sample Carrier / 16mm Tube

Proteinase K: 161 µL

Sample Qty.: 9 OK

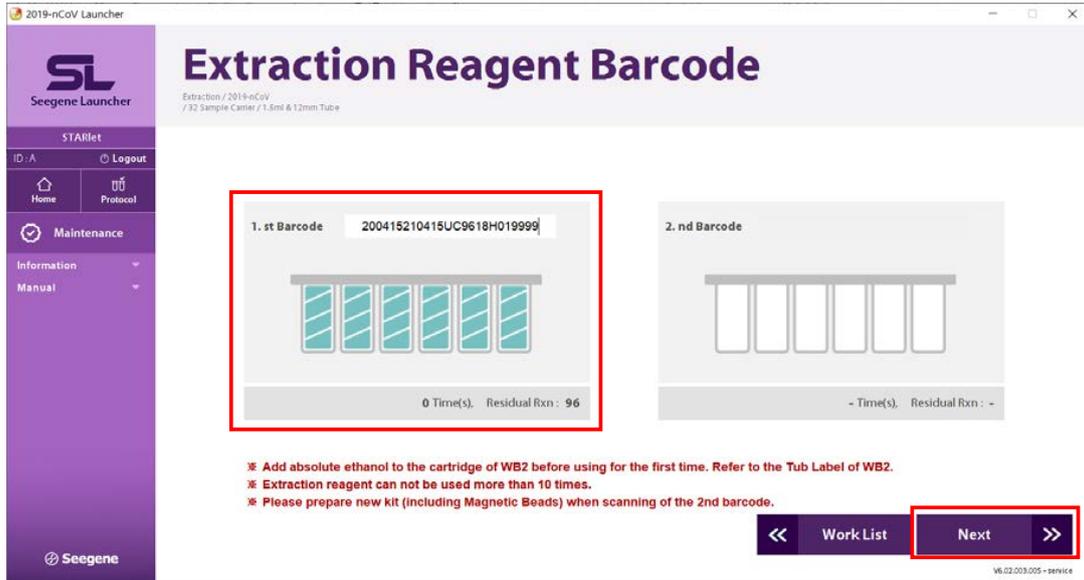
No.	Barcode	Name	2019-nCoV	16mm
1	1		✓	<input type="radio"/>
2	2		✓	<input type="radio"/>
3	3		✓	<input type="radio"/>
4	4		✓	<input type="radio"/>
5	5		✓	<input type="radio"/>
6	6		✓	<input type="radio"/>
7	7		✓	<input type="radio"/>
8	8		✓	<input type="radio"/>
9	9		✓	<input type="radio"/>
*			<input type="checkbox"/>	<input type="radio"/>

Total: 9 9

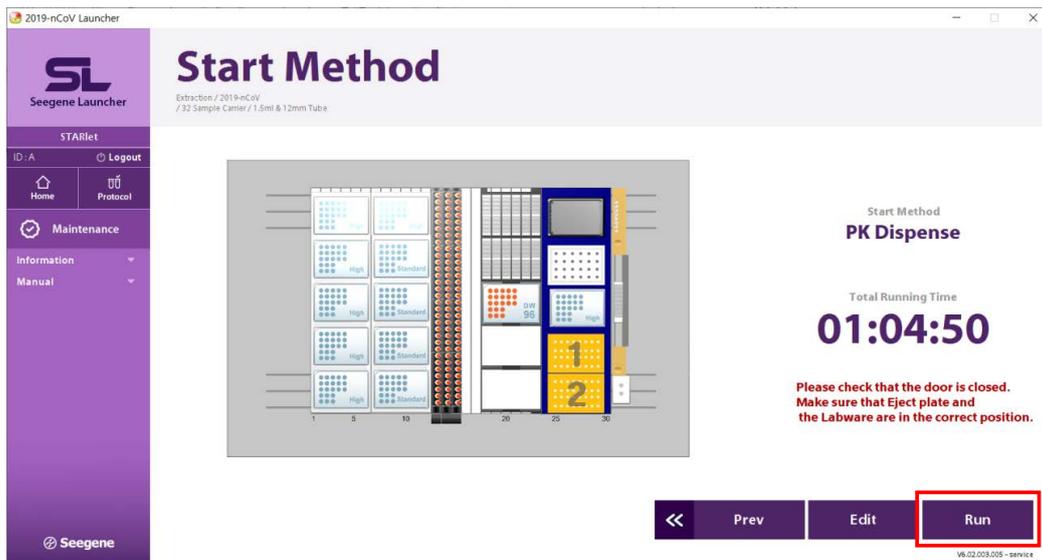
Tutorial Next >>

Allplex™ 2019-nCoV Assay

- Using a hand-held barcode reader provided with the Microlab STARlet IVD/Seegene STARlet, read barcode label attached on the side of the cartridge. After the **Extraction Reagent Barcode** information is entered, click on **Next**. If the remaining volume of the existing cartridge is insufficient to run the desired number of samples, a second cartridge needs to be barcoded and placed.



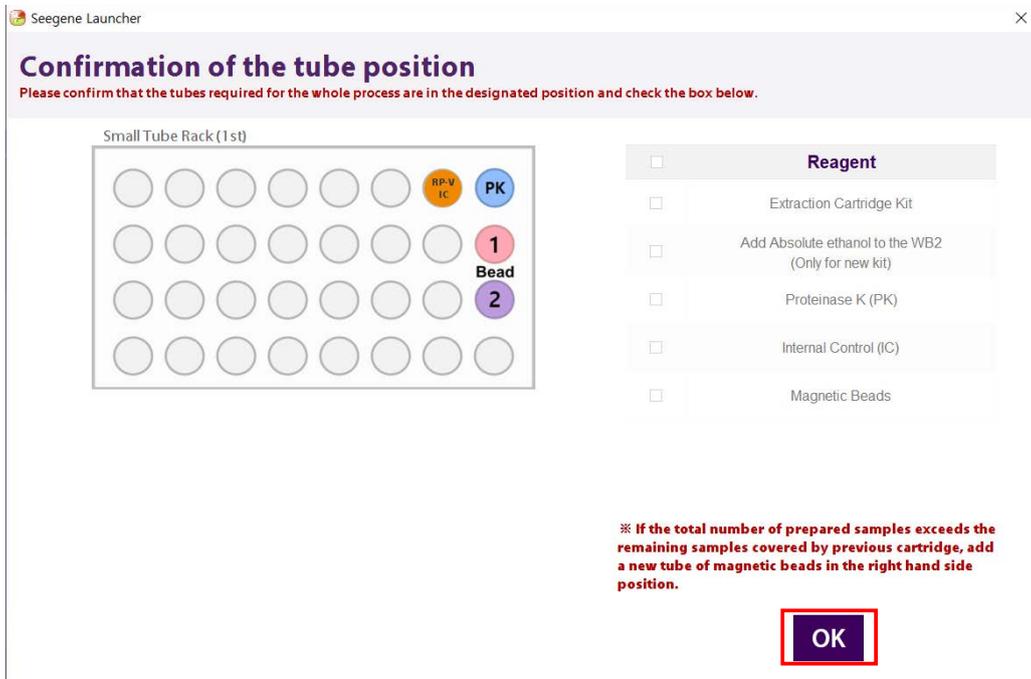
- Ensure that the Microlab STARlet IVD/Seegene STARlet door is firmly closed, and that the eject plate and labware are in their correct positions as shown below. Click on **Run** after all preparations are done. Do not open the door of the Microlab STARlet IVD/Seegene STARlet during operation.



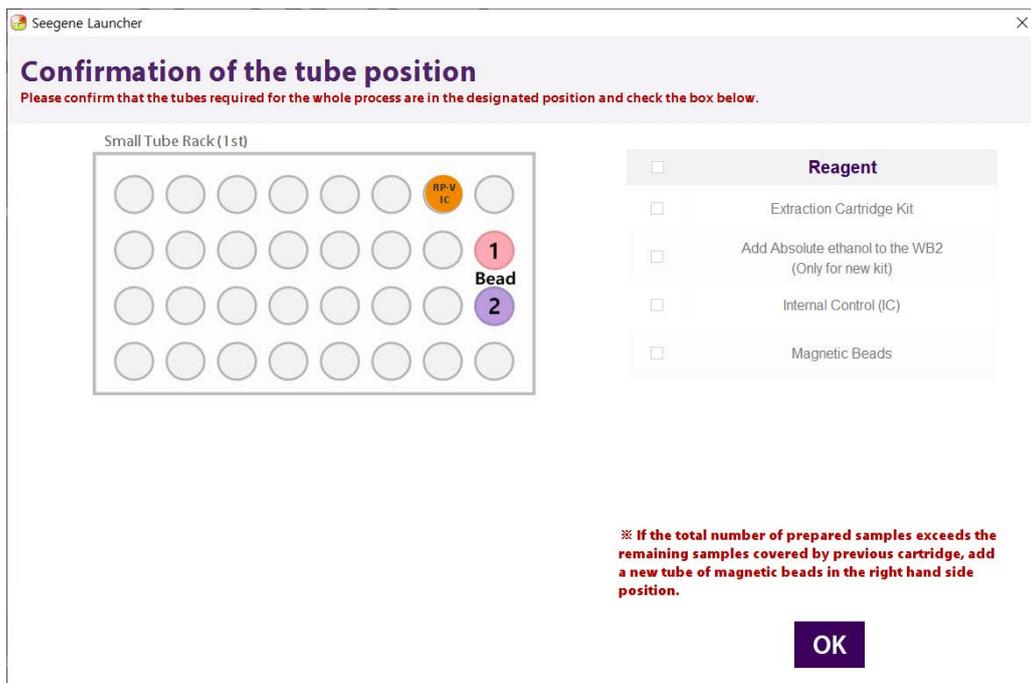
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8. Check that the reagents are in the right position and click on **OK** to start run.

For STARMag 96 X 4 Universal Cartridge Kit;



For STARMag 96 X 4 viral DNA/RNA 200 C Kit;



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For further inquiries regarding the extraction procedure, contact Seegene Technologies (California, US) at [support@segenetech.com](mailto:support@segenetech.com).

Please refer to the user manual of 'Seegene Launcher V6' for detailed description on experimental procedures of nucleic acid extraction using Microlab STARlet IVD and Seegene STARlet.

## Amplification and detection: CFX96™ and CFX96 Touch™

A video tutorial is available upon request to Seegene Technologies (California, US, [support@seegenetech.com](mailto:support@seegenetech.com)) for training on all experimental procedures related to amplification and detection under this section. Seegene Viewer v 3.20 for auto-interpretation of results is provided by Seegene Technologies (California, US), [support@seegenetech.com](mailto:support@seegenetech.com).

### Preparation for real-time PCR

#### NOTE:

- (1) To prevent contamination, prepare reagents in a PCR workstation or equivalent amplicon-free area. Do not use the same pipette for controls and samples, and always use aerosol barrier pipette tips.
- (2) Extracted RNA handling and PCR reagent preparation must be performed at different areas.
- (3) Remove all reagents from  $\leq -20^{\circ}\text{C}$  storage. After thawing them completely, spin down each reagent for quick spin.
- (4) The provided positive control (PC, PCR control) and clinical sample RNA extracts require special caution in handling to avoid carry-over contamination.
- (5) Include one Positive Control and one Negative Control on each plate.

1. Prepare following reagents in a labeled sterile 1.5 mL tube. Set up all reagents on ice.

Table 6. One-step RT-PCR Mastermix for different number of reactions (unit:  $\mu\text{L}$ )

No. of Reactions	1	2	3	4	5
2019-nCoV MOM	5	10	15	20	25
RNase-free Water	5	10	15	20	25
5X Real-time One-step Buffer	5	10	15	20	25
Real-time One-step Enzyme	2	4	6	8	10

2. Mix by inverting each reagent tube 5 times or quick vortex, and briefly centrifuge.

In 96-well PCR plate, Aliquot 17  $\mu\text{L}$  of the One-step RT-PCR Mastermix into PCR tubes. NOTE: Prior to adding specimen extract/positive controls

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Allplex™ 2019-nCoV Assay

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to PCR plate, move from the reagent prep area to a specimen processing area.

3. Add 8 µL of each sample's extracted nucleic acids, 2019-nCoV PC and NC (RNase-free Water; Negative Control (NC) for PCR control) into the tubes containing aliquot of the One-step RT-PCR Mastermix.
4. Cover with Permanent Clear Heat seal for 96-Well Skirted PCR Plates on PX1™ PCR Plate sealer, and briefly centrifuge the PCR tubes.

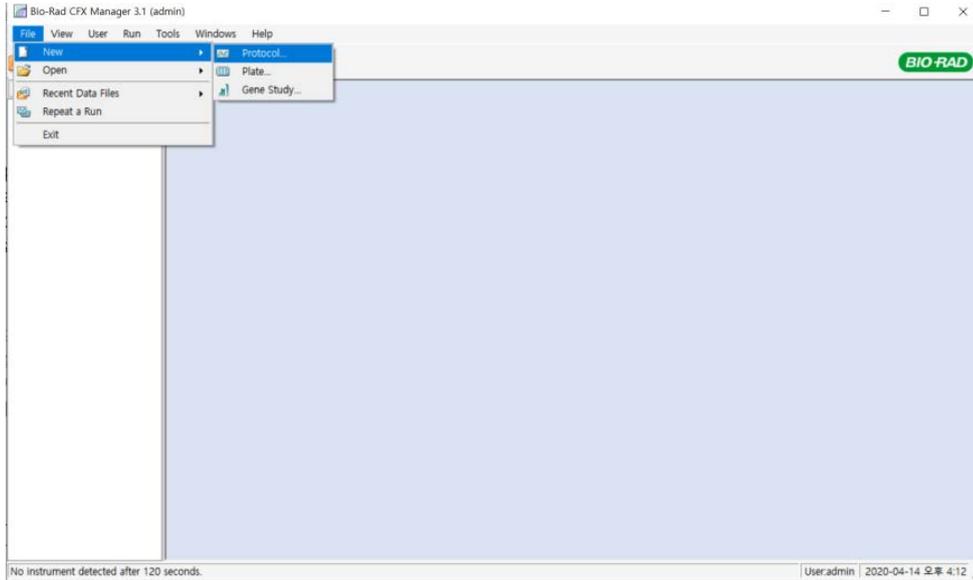
NOTE: The PCR tubes must be centrifuged before running PCR reaction. It needs to force the liquid to the bottom and to eliminate air bubbles.

5. Verify that the liquid containing all PCR components is at the bottom of each PCR tube. If not, centrifuge again at a higher rpm and for a longer time.
6. Immediately initiate the PCR on the Bio-Rad CFX or Bio-Rad CFX96 instruments. See details on PCR instrumentation set-up below.

## Real-time PCR Instrument Set Up

### Protocol Setup

1. In the main menu, select File → New → Protocol to open Protocol Editor.



2. In Protocol Editor, define the thermal profile as table below.

Step	No. of cycles	Temperature	Duration
1	1	50°C	20 min
2	1	95°C	15 min
3	45	94°C	15 sec
4		58°C	30 sec
5	GOTO Step 3, 44 more times		

NOTE: Plate Read at Step 4. Fluorescence is detected at 58°C.

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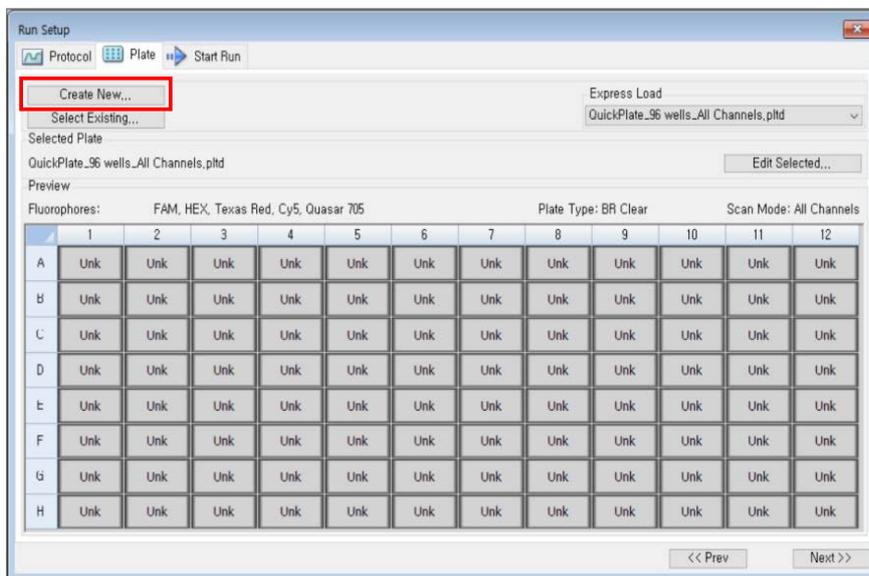
3. Click the box next to Sample Volume to directly input 25 µL.



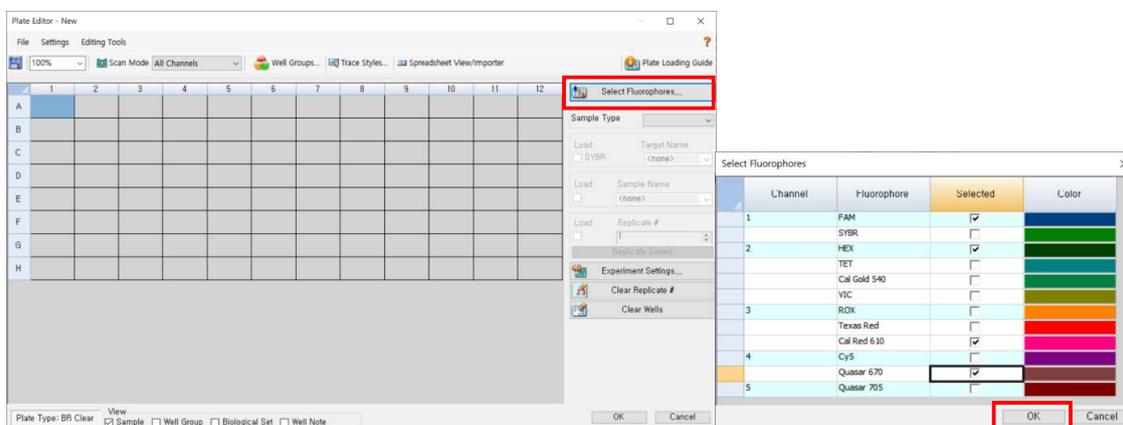
4. Click **OK** and save the protocol to open the Experiment Setup window.

## Plate Setup

1. From **Plate** tab in **Experiment Setup**, click **Create New** to open **Plate Editor** window.



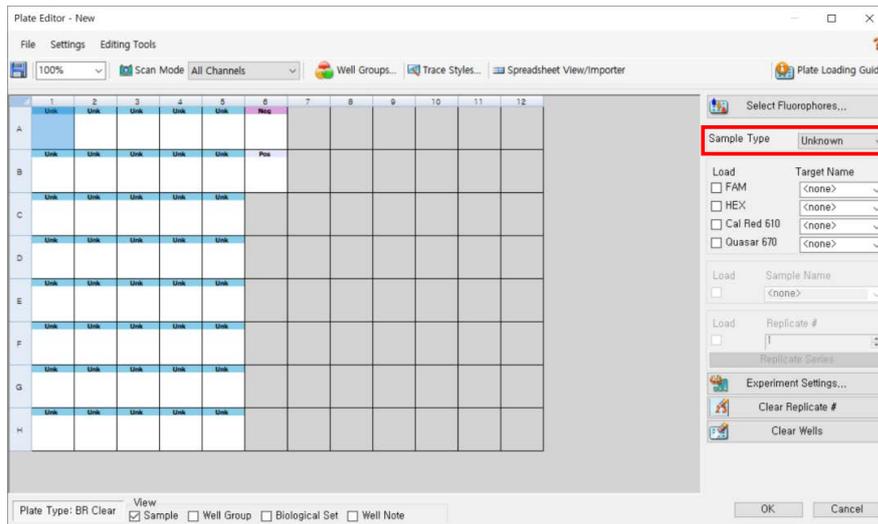
2. Click **Select Fluorophores** to indicate the fluorophores (FAM, HEX, Cal Red 610 and Quasar 670) that will be used and click **OK**.



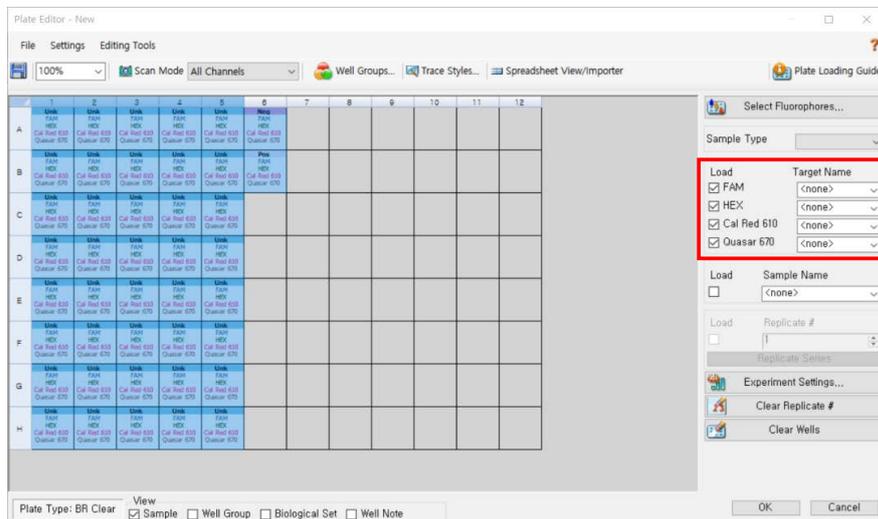
Allplex™ 2019-nCoV Assay

3. Select the desired well(s) and then its sample type from the **Sample Type** drop-down menu.

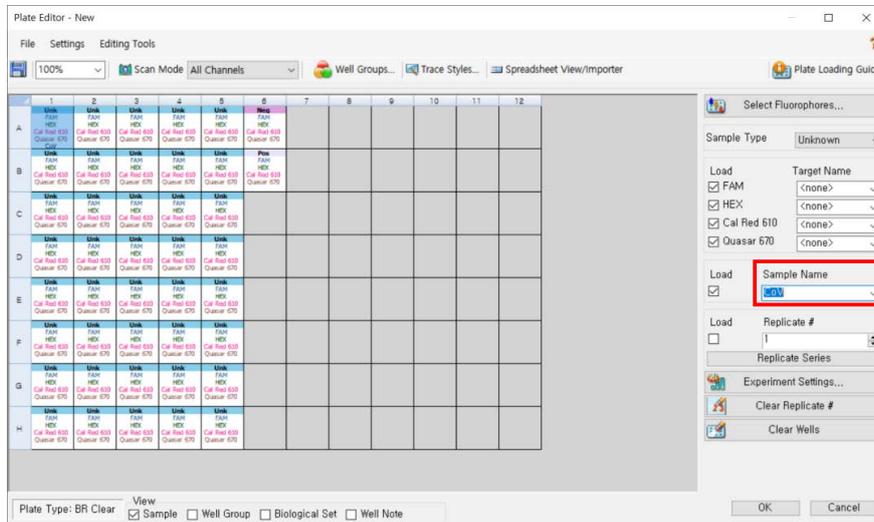
- **Unknown:** Clinical samples
- **Negative Control**
- **Positive Control**



4. Click on the appropriate checkboxes (**FAM, HEX, Cal Red 610 and Quasar 670**) to specify the fluorophores to be detected in the selected wells.

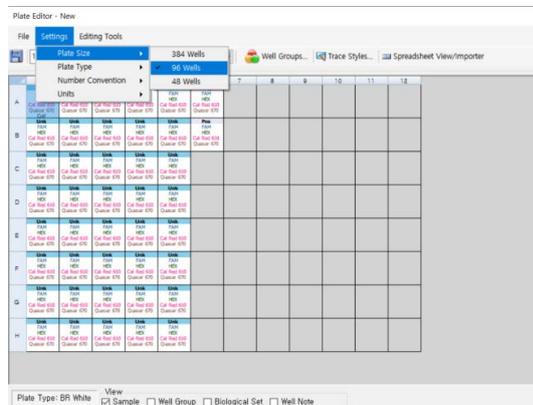
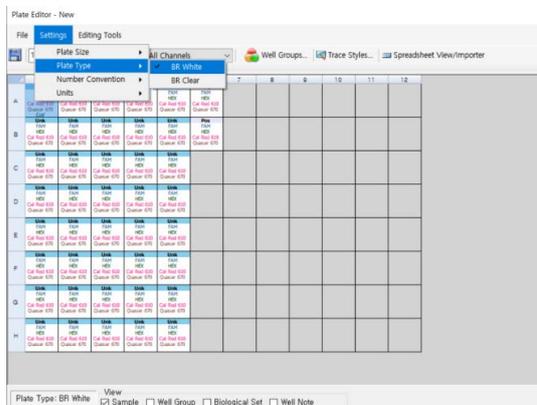


5. Type in **Sample Name** and press enter key.



6. In **Settings** of the **Plate Editor** main menu, choose **Plate Size (96 wells)** and **Plate Type (BR White)**.

7. Click **OK** to save the new plate.

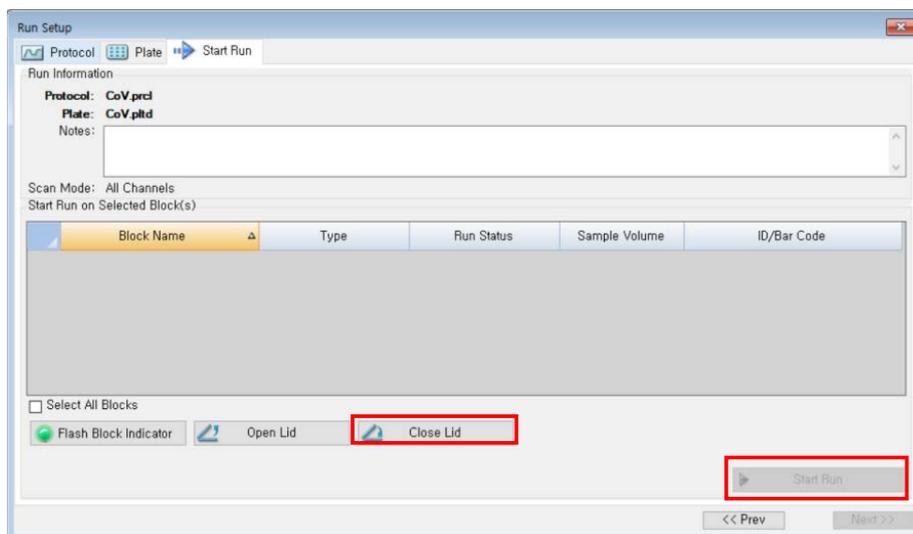


8. You will be returned to the **Experiment Setup** window.

## Real-time PCR run

### Start Run

1. From **Start Run** tab in **Experiment Setup**, click **Close Lid** to close the instrument lid.
2. Click **Start Run**.



3. Store the run file either in My Documents or in a designated folder. Enter the file name, click **SAVE**, and the run will start.

## Data export and analysis

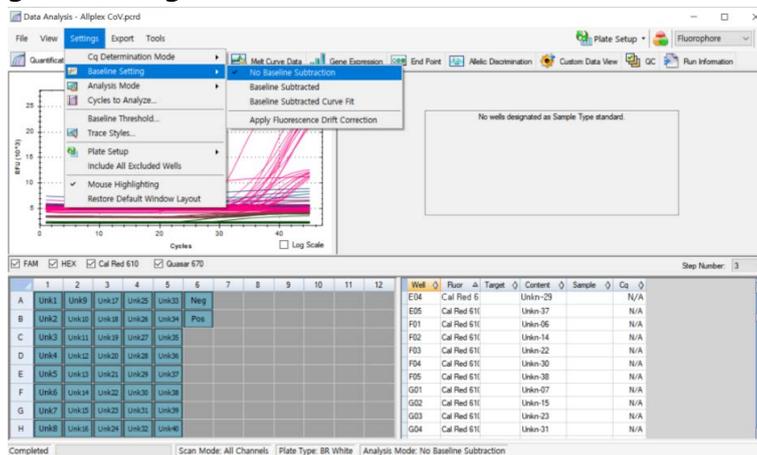
### Data export

(CFX96 Touch™, CFX Manager™ Software V3.1 & CFX Maestro™ Software)

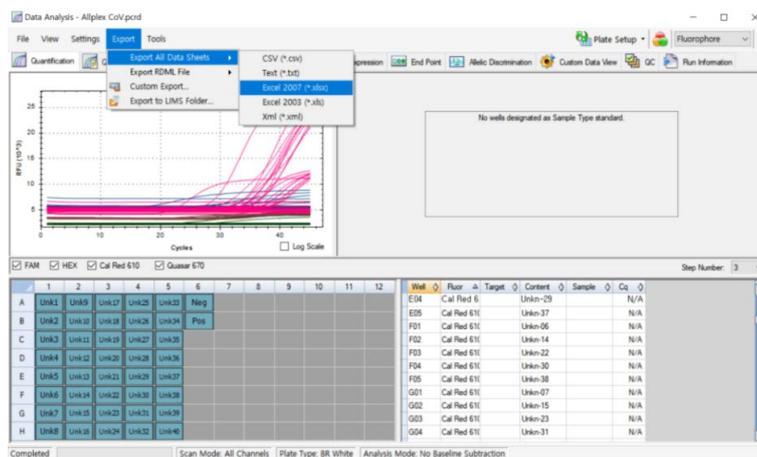
#### 1. Create folders for data export

- Create a folder to save amplification curve detection results.
- The location and name of the folder is specified by user, but in case of using 'Seegene Export' function, folder named "QuantStep4" is created automatically in selected location.

#### 2. After the PCR reaction, select **No Baseline Subtraction** from **Baseline Setting** of **Settings** menu.



#### 3. Select **Excel 2007** from **Export All Data Sheets** from **Export** menu.



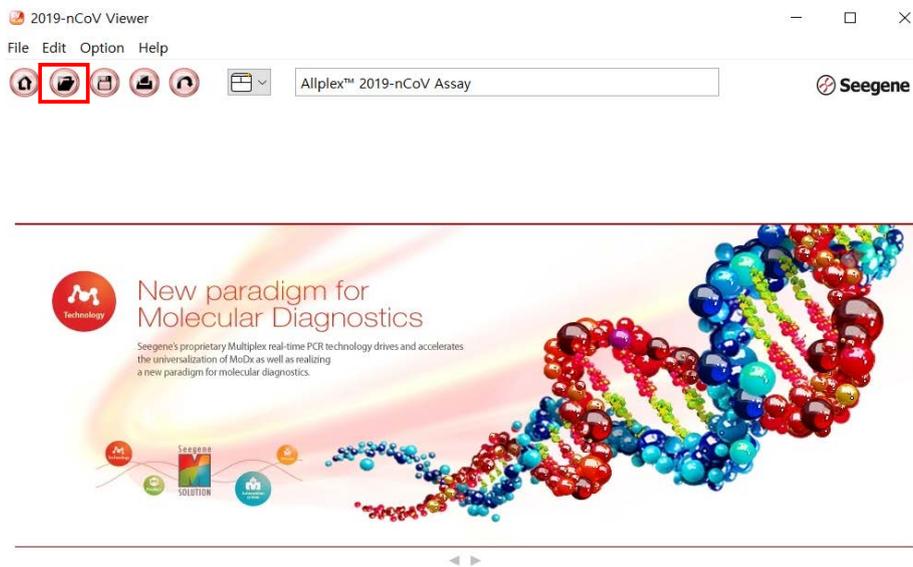
#### 4. Choose a location to save data and click **OK**.

## Data analysis

1. Open the **Seegene Viewer** software installed on the laptop connected to the Bio-Rad CFX96™.

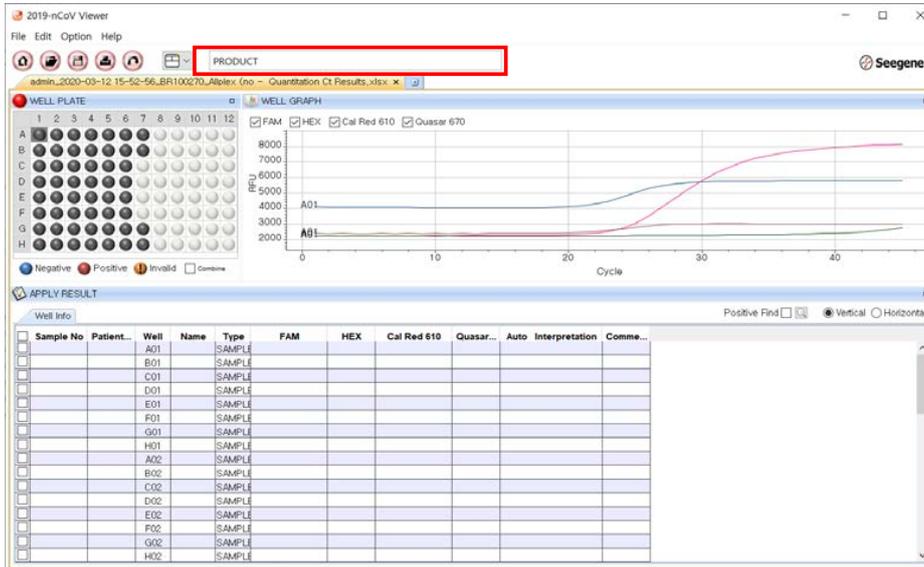


2. Click on Open icon and find CFX96™ export data on location where CFX96™ data was saved.

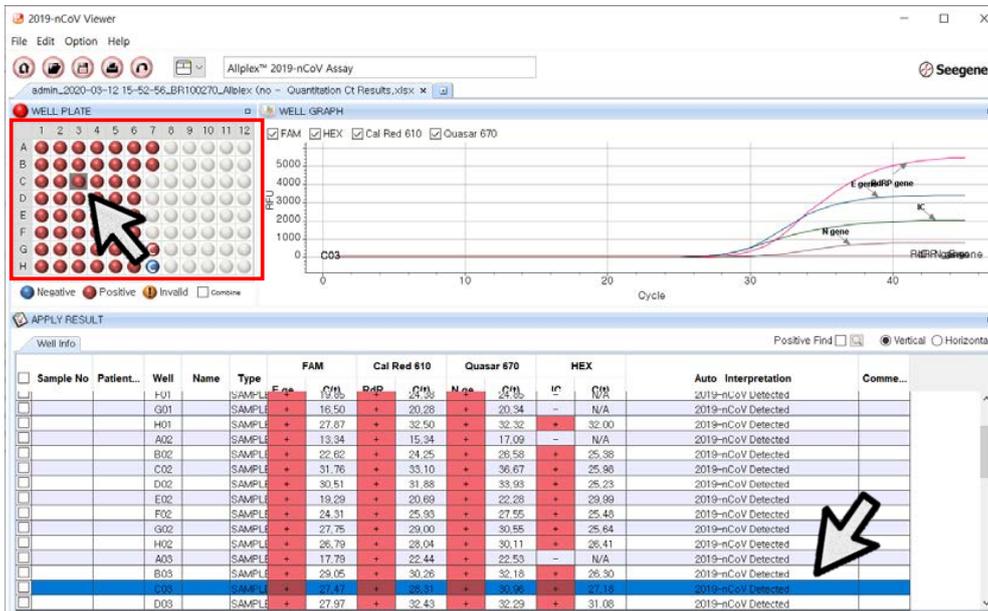


Allplex™ 2019-nCoV Assay

3. After opening the results file, select 'Allplex™ 2019-nCoV Assay' from the **PRODUCT** menu.



4. View test results. The results for each sample can be viewed by clicking on each well.



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**Allplex™ 2019-nCoV Assay**

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Table 7. Analytes of the Allplex™ 2019-nCoV Assay

<b>Fluorophore</b>	<b>Analyte</b>
FAM	E gene
HEX	Internal Control (IC)
Cal Red 610	RdRP gene
Quasar 670	N gene

## Amplification and detection: Applied Biosystems™ 7500

### Preparation for real-time PCR

#### NOTE:

- (1) To prevent contamination, prepare reagents in a PCR workstation or equivalent amplicon-free area. Do not use the same pipette for controls and samples, and always use aerosol barrier pipette tips.
- (2) Extracted RNA handling and PCR reagent preparation must be performed at different areas.
- (3) Remove all reagents from  $\leq -20^{\circ}\text{C}$  storage. After thawing them completely, spin down each reagent for quick spin.
- (4) The provided positive control (PC, PCR control) and clinical sample RNA extracts require special caution in handling to avoid carry-over contamination.
- (5) Include one Positive Control and one Negative Control on each plate.

1. Prepare following reagents in a labeled sterile 1.5 mL tube. Set up all reagents on ice.

Table 6. One-step RT-PCR Mastermix for different number of reactions (unit:  $\mu\text{L}$ )

No. of Reactions	1	2	3	4	5
2019-nCoV MOM	5	10	15	20	25
RNase-free Water	5	10	15	20	25
5X Real-time One-step Buffer	5	10	15	20	25
Real-time One-step Enzyme	2	4	6	8	10

2. Mix by inverting each reagent tube 5 times or quick vortex, and briefly centrifuge. In 96-well PCR plate, Aliquot 17  $\mu\text{L}$  of the One-step RT-PCR Mastermix into PCR tubes.

NOTE: Prior to adding specimen extract/positive controls to PCR plate, move from the reagent prep area to a specimen processing area.

3. Add 8  $\mu\text{L}$  of each sample's extracted nucleic acids, 2019-nCoV PC and NC (RNase-free Water; Negative Control (NC) for PCR control) into the tubes containing aliquot of the One-step RT-PCR Mastermix.
4. Cover with adhesive covers for 96-Well PCR Plates, and briefly centrifuge the PCR tubes.

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**Allplex™ 2019-nCoV Assay**

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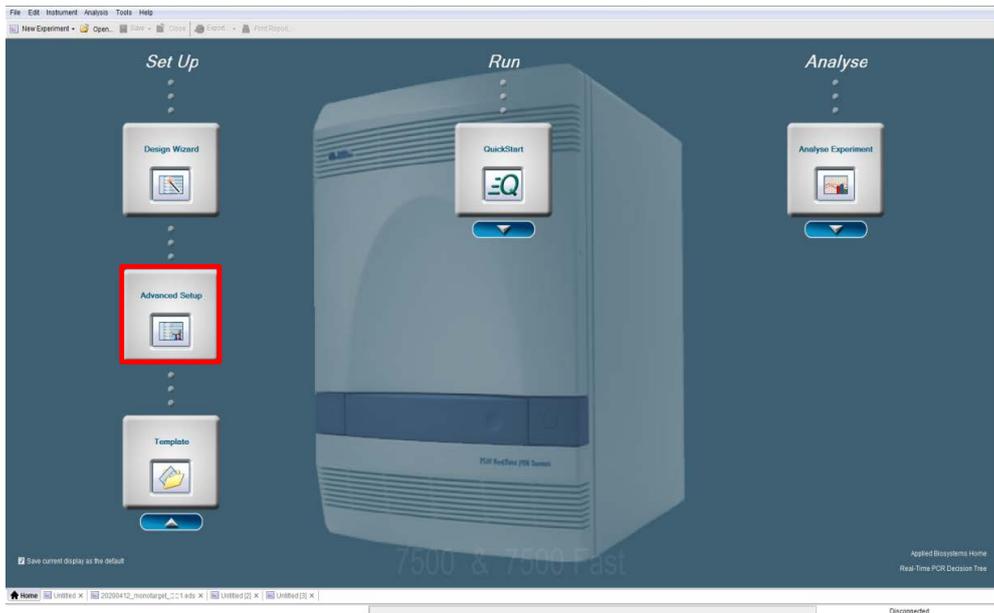
5. Verify that the liquid containing all PCR components is at the bottom of each PCR tube. If not, centrifuge again at a higher rpm and for a longer time.
6. Immediately initiate the PCR on the Applied Biosystems™. See details on PCR instrumentation set-up below.

Allplex™ 2019-nCoV Assay

**Real-time PCR Instrument set up**

NOTE: The instrument must be calibrated before use.

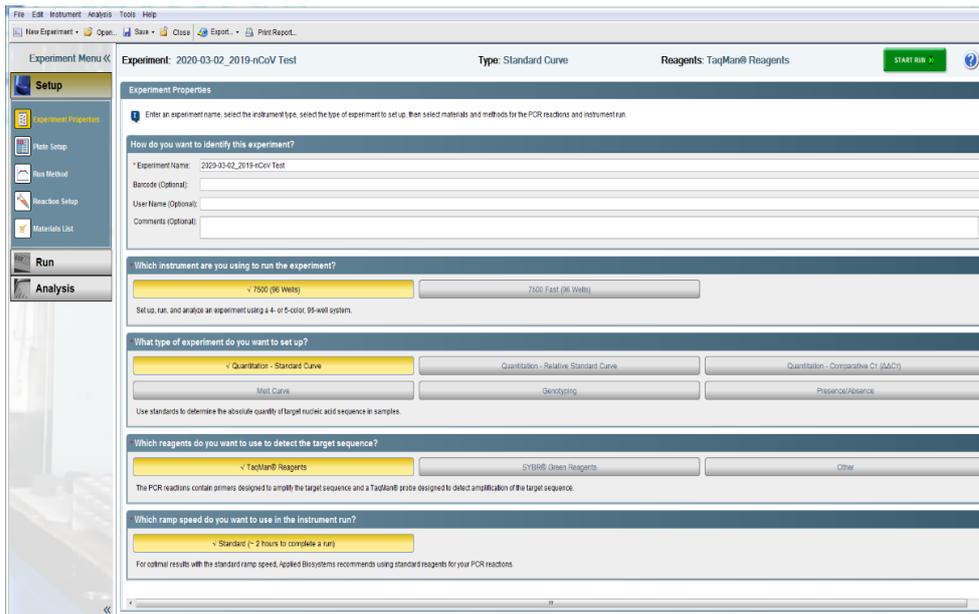
1. In the Applied Biosystems™ 7500 software, click on **Setup** → **Advanced set up**.



2. In the **Experiment properties tab**, enter **Experiment Name** and select **Instrument**, **Experiment type**, **Reagents**, and **Ramp speed** as follows.

<b>Instrument</b>	7500 (96 Wells)
<b>Experiment type</b>	Quantitation – Standard Curve
<b>Reagents</b>	Taqman® Reagents
<b>Ramp speed</b>	Standard

Allplex™ 2019-nCoV Assay



3. Click on **Plate setup** tab. In the **Define Targets** and **Samples** tab, enter **Target Name** and select **Reporter** and **Quencher** as follows.

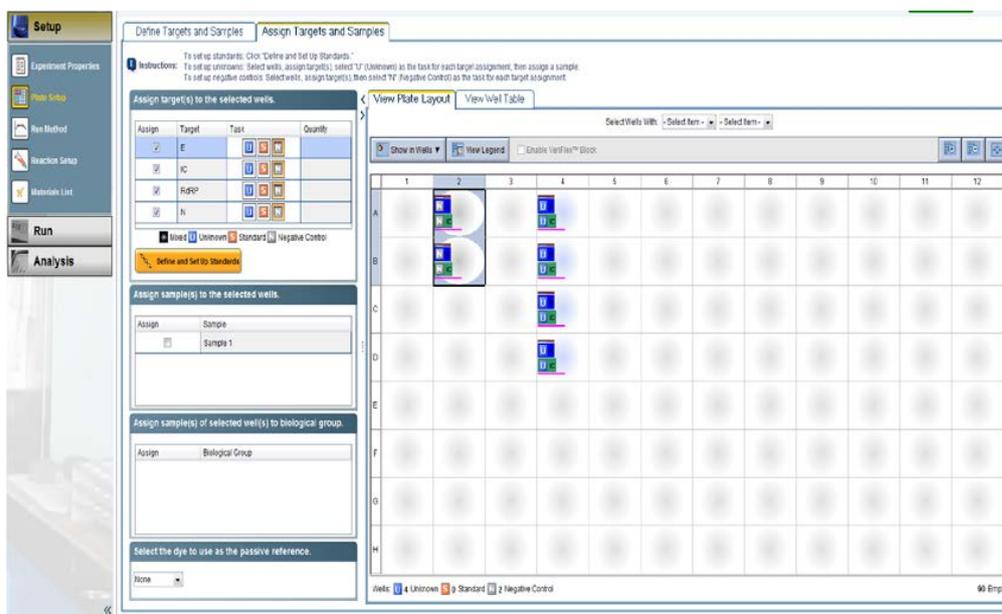
Target Name	Reporter	Quencher
E	FAM	None
IC	VIC	None
RdRP	ROX	None
N	CY5	None



Allplex™ 2019-nCoV Assay

4. Click on **Assign Targets and Samples** tab, select wells where the PCR tube will be placed and assign targets. Select None for Passive reference.

**NOTE:** If a well without sample or Mastermix is selected, signal noise may be observed. Ensure that only wells containing samples or Mastermix are selected.



5. Click on Run Method. In the Graphical View or Tabular View tab, enter **25 µL** as the **Reaction Volume** per Well field. Define the thermal profile as table below.

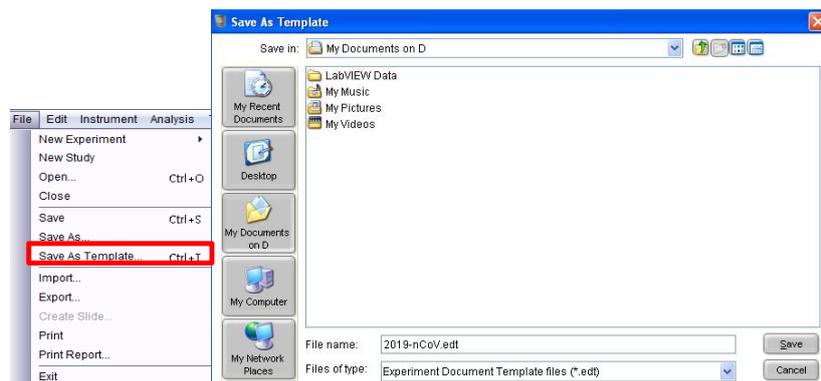
Step	No. of cycles	Temperature	Duration
1	1	50°C	20 min
2		95°C	15 min
3	45	94°C	15 sec
4		58°C	30 sec
5		GOTO Step 3, 44 more times	

NOTE: Plate Read at Step 4. Fluorescence is detected at 58°C.

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6. Click on **File** → **Save as Template** to save the new template file in **.edt** format. Enter the file name, select a location for the template, then click **Save**. The saved template can be used for future testing.



## Allplex™ 2019-nCoV Assay

**Start the Run**

1. Turn on the laptop and Applied Biosystems™ 7500 real-time PCR system. Ensure that the laptop is connected to the instrument.
2. Push the tray door to open the instrument. Load the PCR plate onto the plate holder of the instrument.
3. Push the tray door to close the instrument.
4. Click on **File** → **Save as** to save experiment in .eds format.



5. Click **START RUN**.



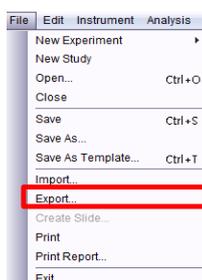
## Data export and analysis

Create folders for data export

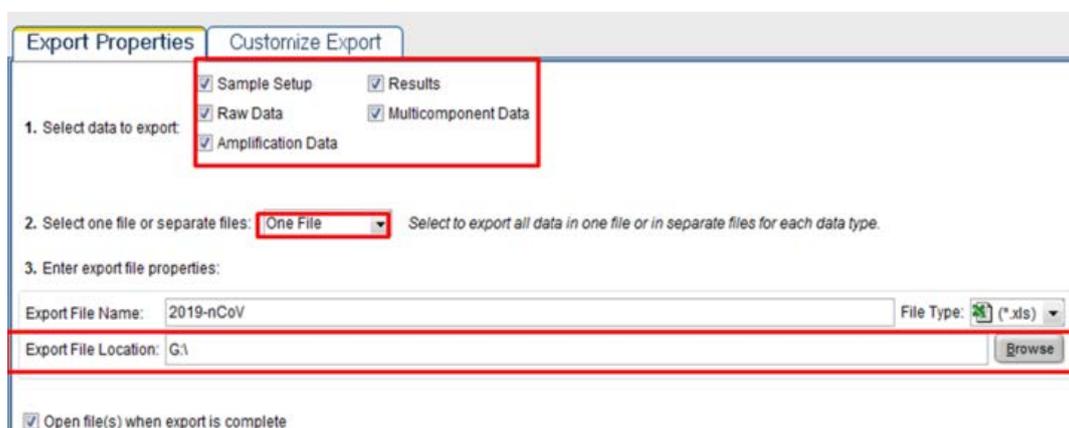
1. Create a folder to save data for all of amplification curve detection steps from the result file.
2. Enter folder name as necessary.

Data export

1. Click on **File** → **Export**



2. Click on the Export Properties tab (default) and select Sample Setup, Raw data, Amplification Data, Results, and Multicomponent Data under 1. Select data to export.



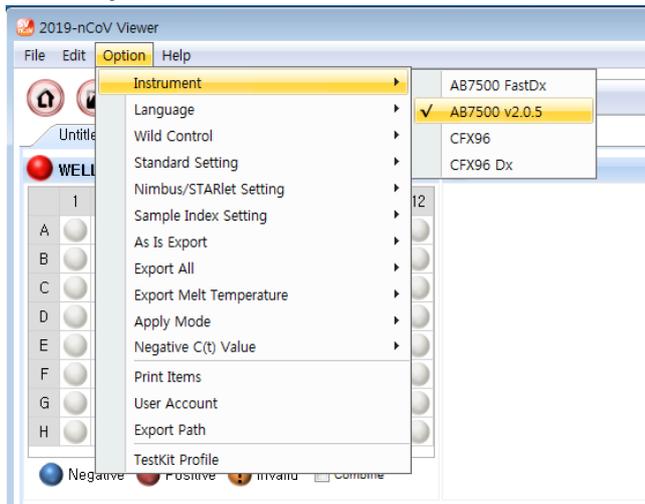
3. Select 'One File' under 2. Select one or separate files:
4. Enter Export File Name, then select Export File Location.
5. Select .xls in the File Type drop-down list.
6. Click Start Export.

## Data analysis

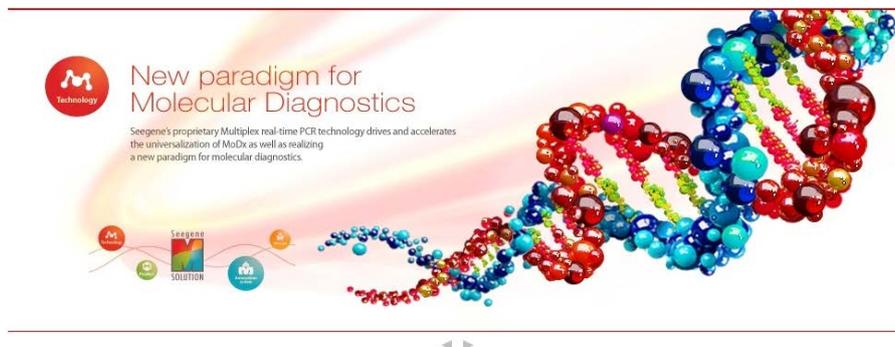
1. Open the Seegene Viewer software installed on the laptop connected to the Applied Biosystems™ 7500.



2. Click on **Option** to select AB7500 v2.0.5 from the **Instrument** menu.

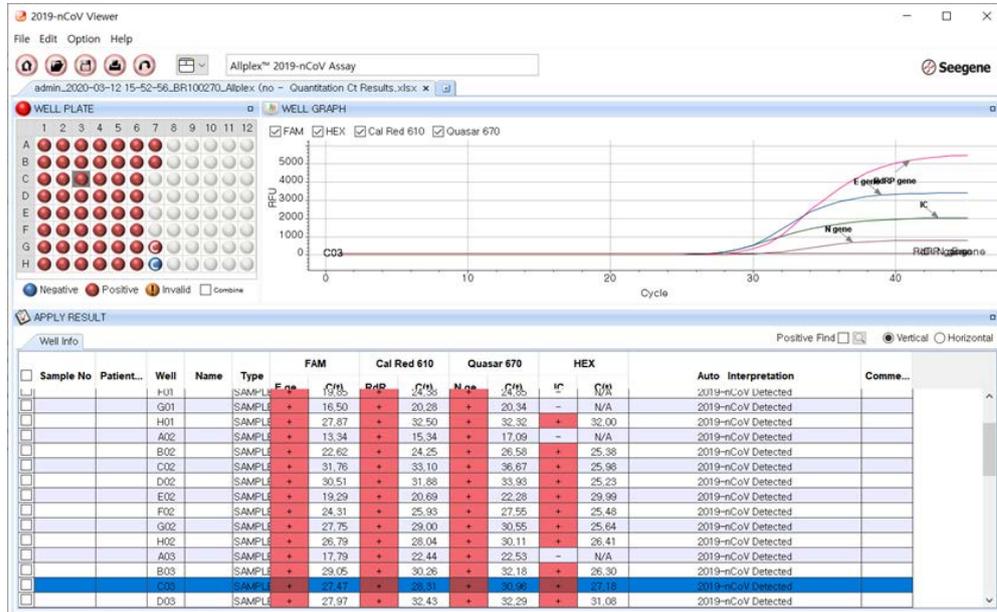


3. Click on the **Open** icon and locate the Applied Biosystems™ 7500 export data where the Applied Biosystems™ 7500 data was saved.

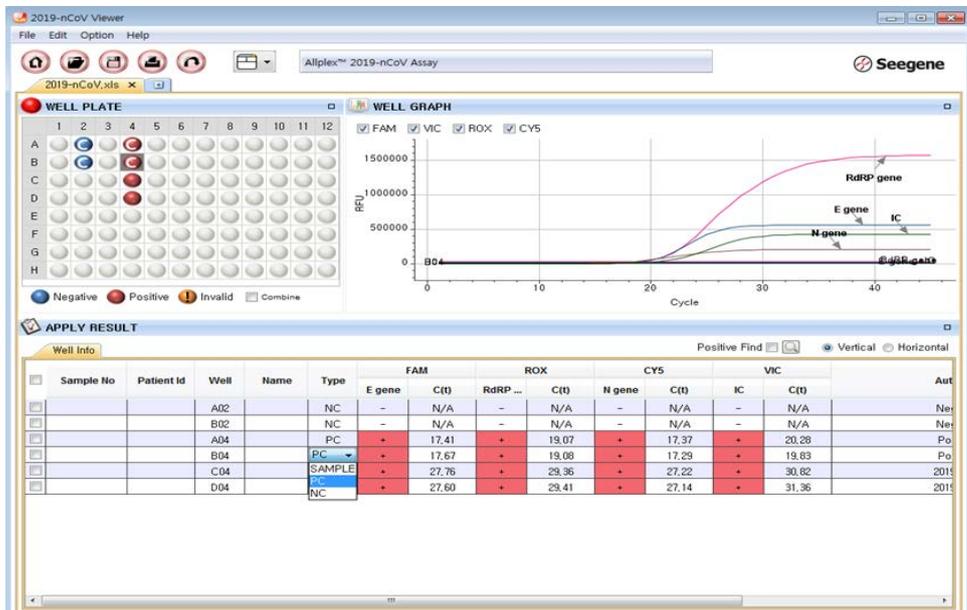


Allplex™ 2019-nCoV Assay

4. After opening the results file, select 'Allplex™ 2019-nCoV Assay' from the PRODUCT menu.



5. Assign Positive and Negative control accordingly by selecting PC, NC under the Type drop-down menu.



6. View test results. The auto-interpreted results for each well can be viewed by clicking on each well.

## Amplification and detection: Applied Biosystems™ 7500 Fast Dx

### Preparation for real-time PCR

**NOTE:**

- (1) To prevent contamination, prepare reagents in a PCR workstation or equivalent amplicon-free area. Do not use the same pipette for controls and samples, and always use aerosol barrier pipette tips.
- (2) Extracted RNA handling and PCR reagent preparation must be performed at different areas.
- (3) Remove all reagents from  $\leq -20^{\circ}\text{C}$  storage. After thawing them completely, spin down each reagent for quick spin.
- (4) The provided positive control (PC, PCR control) and clinical sample RNA extracts require special caution in handling to avoid carry-over contamination.
- (5) Include one Positive Control and one Negative Control on each plate.

1. Prepare following reagents in a labeled sterile 1.5 mL tube. Set up all reagents on ice.

Table 6. One-step RT-PCR Mastermix for different number of reactions (unit:  $\mu\text{L}$ )

No. of Reactions	1	2	3	4	5
2019-nCoV MOM	5	10	15	20	25
RNase-free Water	5	10	15	20	25
5X Real-time One-step Buffer	5	10	15	20	25
Real-time One-step Enzyme	2	4	6	8	10

2. Mix by inverting each reagent tube 5 times or quick vortex, and briefly centrifuge.

In 96-well PCR plate, Aliquot 17  $\mu\text{L}$  of the One-step RT-PCR Mastermix into PCR tubes. NOTE: Prior to adding specimen extract/positive controls to PCR plate, move from the reagent prep area to a specimen processing area.

3. Add 8  $\mu\text{L}$  of each sample's extracted nucleic acids, 2019-nCoV PC and NC (RNase-free Water; Negative Control (NC) for PCR control) into the tubes containing aliquot of the One-step RT-PCR Mastermix.
4. Cover with adhesive covers for 96-Well PCR plates, and briefly centrifuge the PCR tubes.

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**Allplex™ 2019-nCoV Assay**

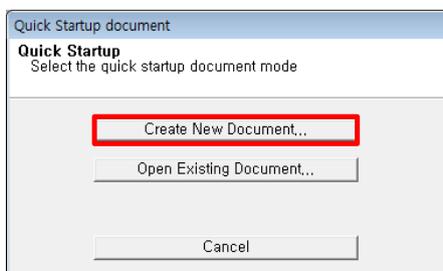
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5. Verify that the liquid containing all PCR components is at the bottom of each PCR tube. If not, centrifuge again at a higher rpm and for a longer time.
6. Immediately initiate the PCR on the Applied Biosystems™ 7500. See details on PCR instrumentation set-up below.

**Real-time PCR Instrument set up**

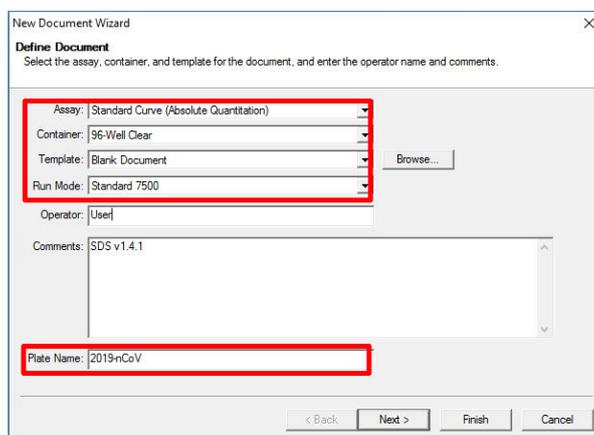
**NOTE:** The instrument must be calibrated before use.

1. In the SDS software, click on **Quick Startup** → **Create New Document**.



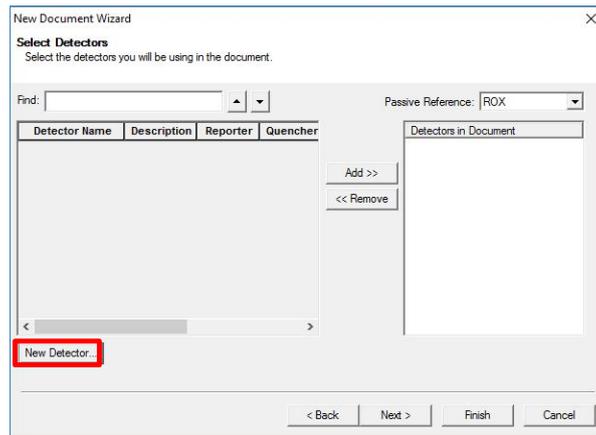
2. In **New Document Wizard**, select **Assay**, **Container**, **Template**, and **Run mode** as below then enter **Plate Name**.

Assay	Standard Curve (Absolute Quantitation)
Container	96-Well Clear
Template	Blank Document
Run mode	Standard 7500



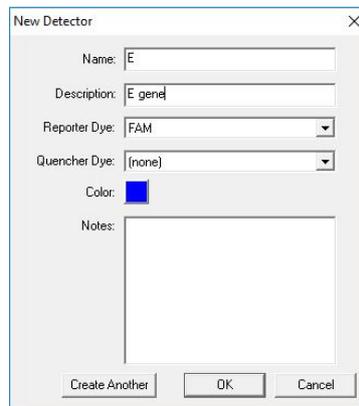
3. In **Select Detectors**, click on **New Detector** to add reporter and quencher information of analytes.

Allplex™ 2019-nCoV Assay

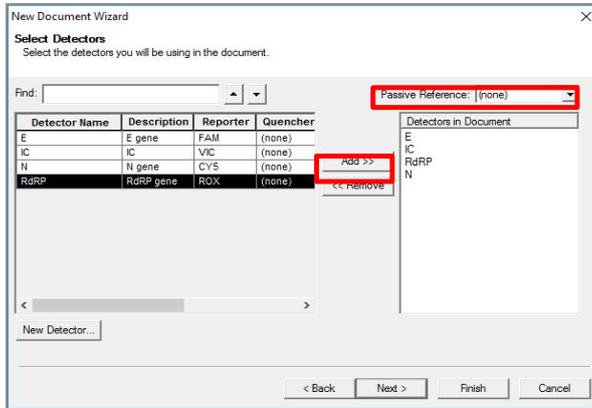


4. In **New Detector**, enter **Detector Name**, **Description** (optional) and select **Reporter**, **Quencher** as table below.

Detector Name	Reporter	Quencher
E	FAM	None
IC	VIC	None
RdRP	ROX	None
N	CY5	None

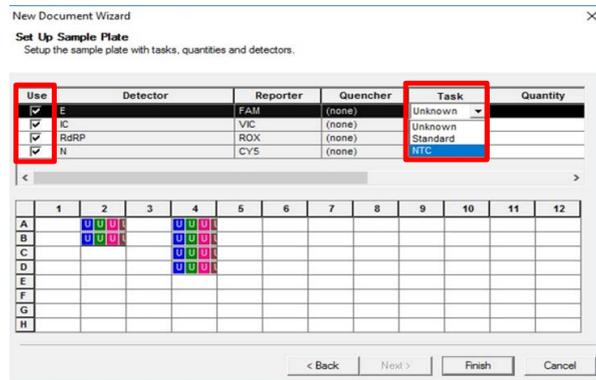


5. In **Select Detectors**, add E, IC, RdRP, and N to **Detectors in Document** field by clicking on **Add >>**. Select **none** for **Passive Reference**.

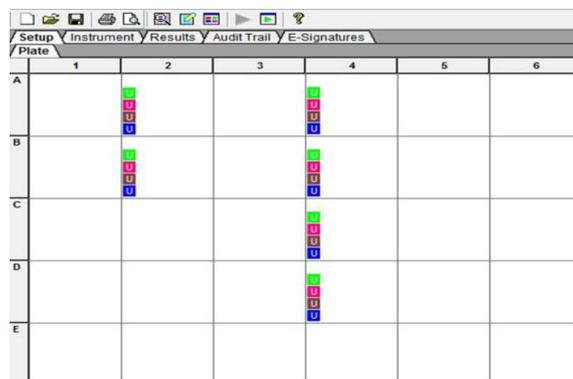


6. In **Set Up Sample Plate**, drag and select the wells where the PCR tube will be placed and assign targets by clicking on the check boxes next to each **Detector** and select **Unknown** from **Task**.

**NOTE:** If a well without sample or Mastermix is selected, signal noise may be observed. Ensure that only wells containing samples or Mastermix are selected.



7. In the **Setup – Plate** tab, confirm the run plate information.

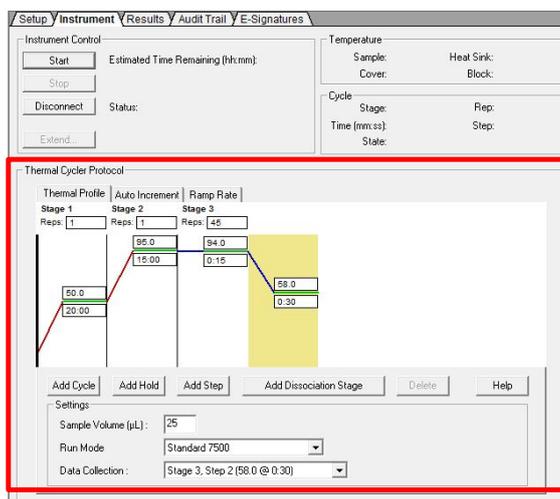


Allplex™ 2019-nCoV Assay

8. In the **Instrument** tab – **Thermal Cycler Protocol**, define the thermal profile as below. Enter **25 µL** in the **Sample Volume (µL)** field, select Stage 3, Step 2 [58.0°C @ 0:30] for **Data Collection (Plate Read)**

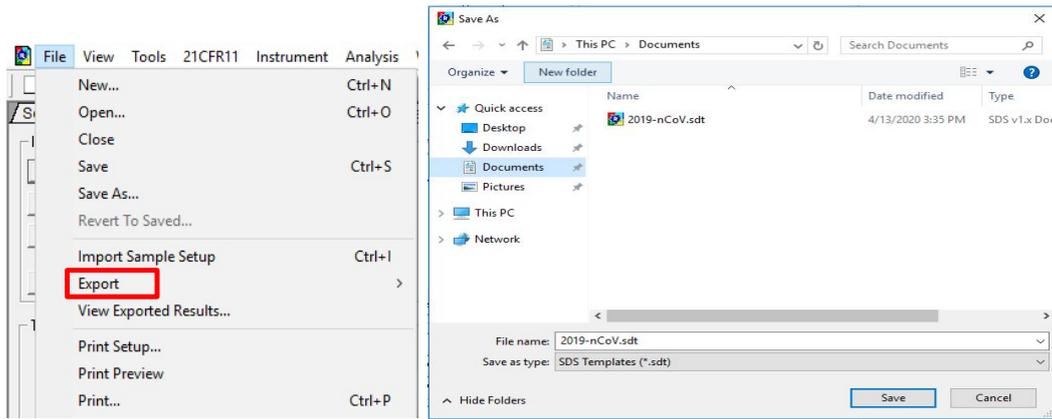
Step	No. of cycles	Temperature	Duration
1	1	50°C	20 min
2		95°C	15 min
3	45	94°C	15 sec
4		58°C	30 sec
5	GOTO Step 3, 44 more times		

NOTE: Plate Read at Step 4. Fluorescence is detected at 58°C.

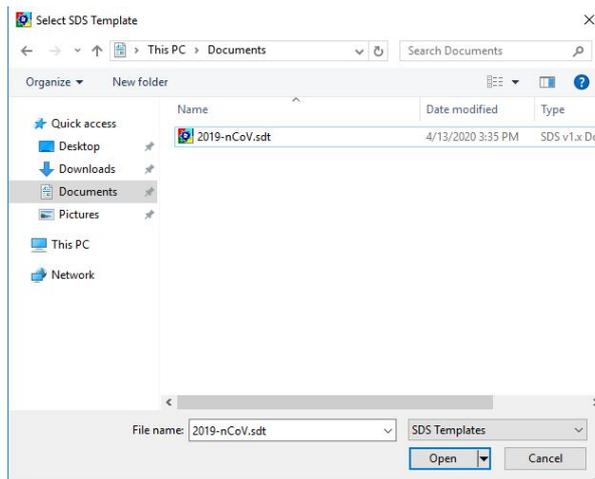
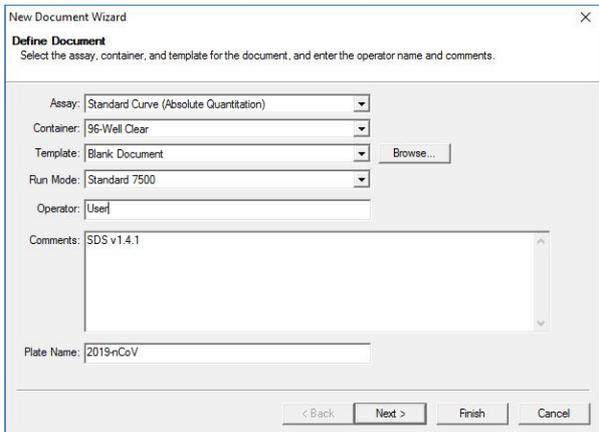


9. Click on **File** → **Save As** to save the new template file in **.sdt** format. Enter **File name**, select a location for the template, then click on **Save**. The saved template can be used for future testing.

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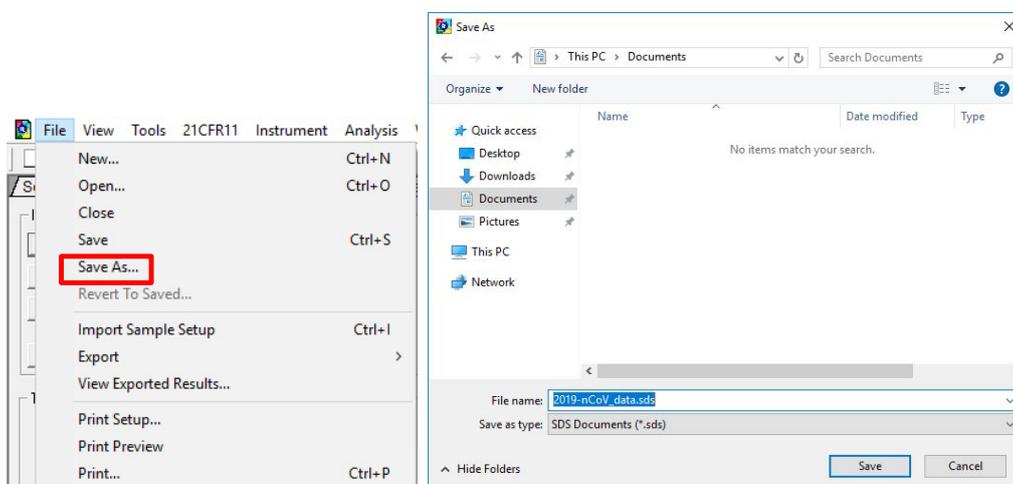


10. To open the saved run protocol file, click on **Browse** in the **Template** field to open the template file.

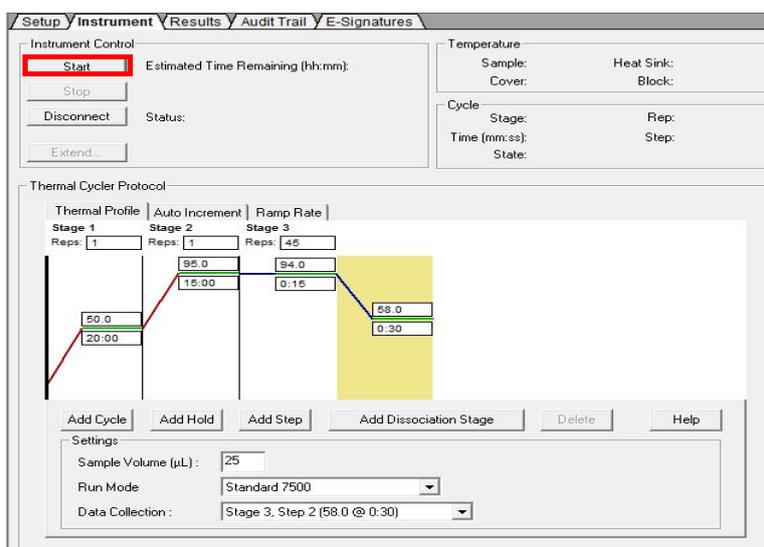


### Start the Run

1. Turn on the laptop and Applied Biosystems™ 7500 Fast Dx real-time PCR system. Ensure that the laptop is connected to the instrument.
2. Push the tray door to open the instrument. Load the PCR plate onto the plate holder of the instrument.
3. Push the tray door to close the instrument.
4. Click on **File** → **Save as** to save the experiment in **.sds** format.



5. Click on **Start**.



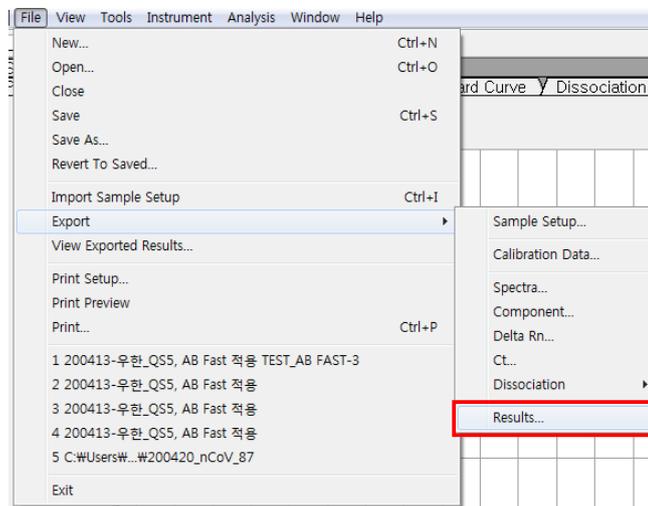
## Data export and analysis

Create folders for data export

1. Create a folder to save data for all of amplification curve detection steps from the result file.
2. Enter folder name as necessary.

Data export

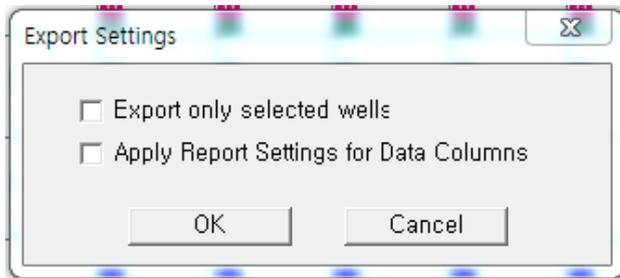
1. Click on **File** → **Export** → **Results** and select data file to export.



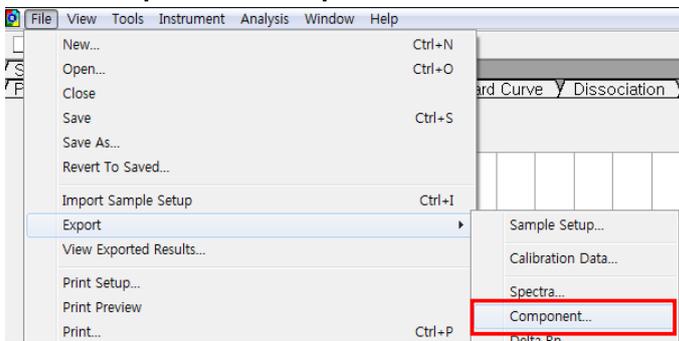
2. Select location to save exported files and enter `'\_Result'` at the end of the file name. Then click on **Save**.

e.g. 200420-Allplex 2019-nCoV Assay\_AB FAS\_Result

3. In Export Settings, click on **OK** without checking the boxes.



4. After exporting the Ct file, export data containing graphs by clicking on **File → Export → Component**.



5. Select location to save exported files, and enter '\_Result-g' at the end of the file name. Then click on **Save**.

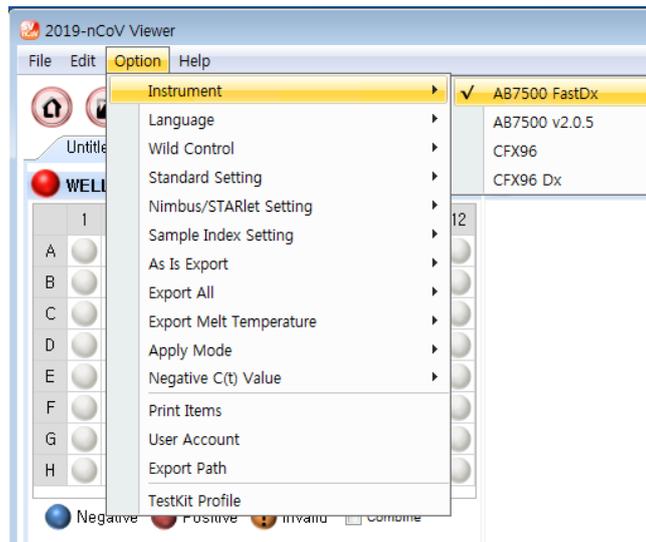
e.g. 200420-Allplex 2019-nCoV Assay\_AB FAS\_Result-g

**Data analysis**

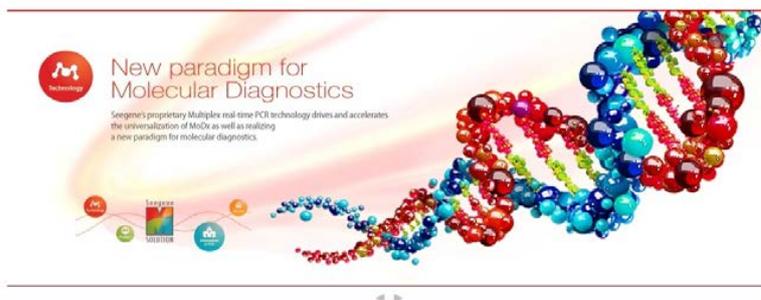
1. Open the Seegene Viewer software installed on the laptop connected to the Applied Biosystems™ 7500 Fast Dx



2. Click on **Option** to select AB7500 FastDx from the **Instrument** menu.

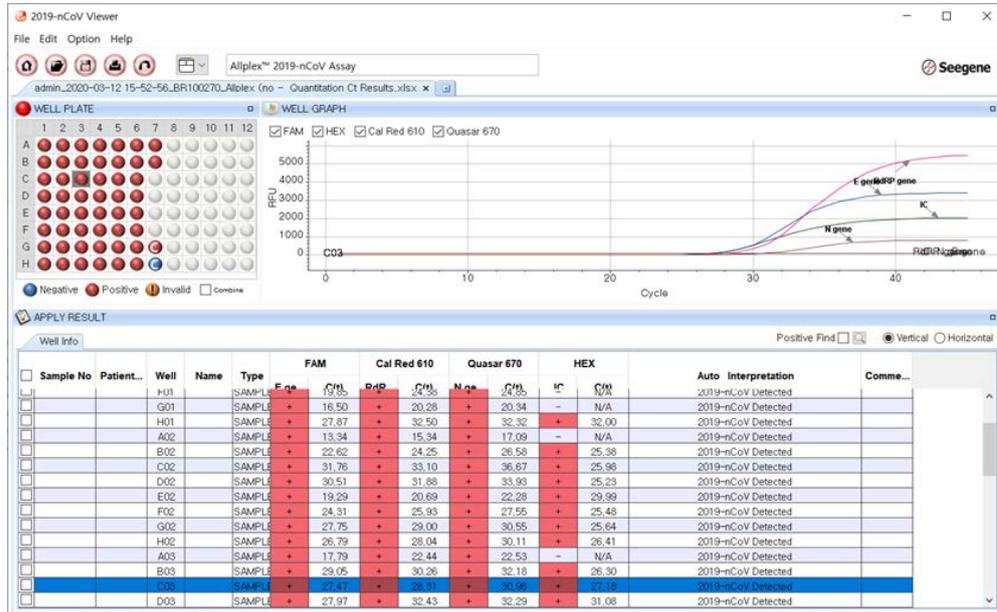


3. Click on the **Open** icon and locate the Applied Biosystems™ 7500 Fast Dx export data where the Applied Biosystems™ 7500 data was saved. The name of the file should end in `'\_Result'`

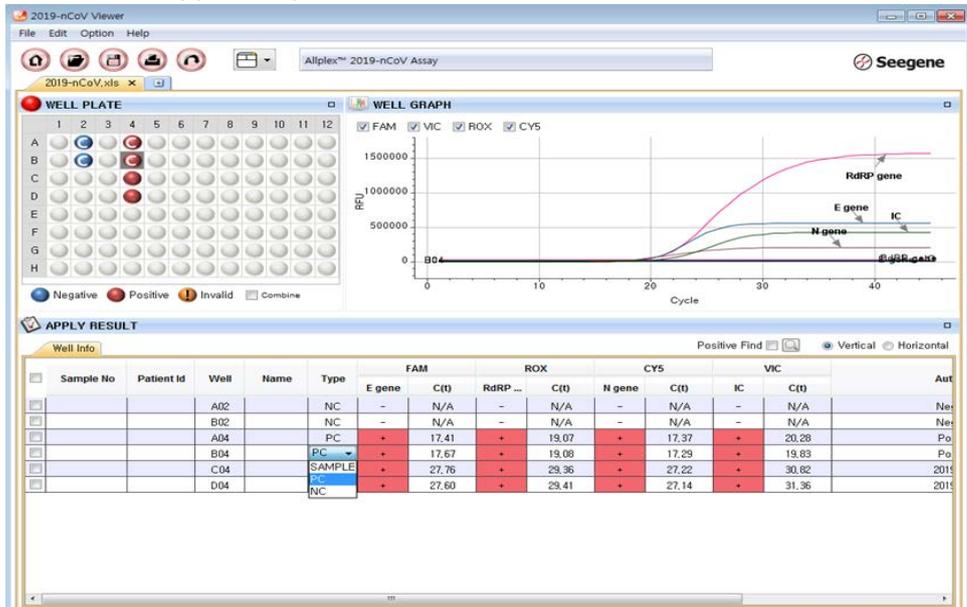


Allplex™ 2019-nCoV Assay

- After opening the results file, select 'Allplex™ 2019-nCoV Assay' from the PRODUCT menu.



- Assign Positive and Negative Control accordingly by selecting PC, NC under the Type drop-down menu.



- View test results. The auto-interpreted results for each sample can be viewed by clicking on each well.

## ■ CHAPTER 9: Interpretation of Results

All PCR controls should be examined prior to interpretation of patient results. If the controls are invalid, the patient results cannot be interpreted and reported.

One Negative Control and one Positive Control are processed with each run.

The results are analyzed by the Seegene Viewer software. Assessment of clinical specimen test results should be performed after the positive and negative controls have been examined and determined to be valid and acceptable. The results are validated using the Seegene Viewer auto-interpretive software based on performance of the Positive Control and Negative Control. In cases of validity failure, the sample results should not be interpreted or reported, and the run must be repeated.

The Seegene Viewer software is installed on a separate computer that is interfaced with the Bio-Rad CFX96™ or ThermoFisher Scientific Applied Biosystems™ 7500/7500 Fast Dx. The results are exported and transferred to the Seegene Viewer according to instructions under the section of 'Procedure: application and detection' provided for each instrument.

The auto-interpreted results can be exported to obtain a report in a preferred format (such as excel or pdf).

Seegene Viewer software (V 3.20) is provided by Seegene Technologies (California, US), [support@seegenetech.com](mailto:support@seegenetech.com).

Result interpretation for clinical specimens is presented in Table 8.

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Table 8. Result interpretation, clinical specimens

Ct value	Result
≤ 40	Detected (+)
> 40 or N/A	Not detected (-)

Potential Result Type	IC (HEX)	E gene (FAM)	RdRP gene (CalRed 610)	N gene (Quasar 670)	Auto-Interpretation	Interpretation/Further Actions
Case 1	+/-	+	+	+	2019-nCoV Positive	All Target Results are valid. 2019-nCoV (SARS-CoV-2) RNA is Detected.
Case 2	+/-	+	-	+	2019-nCoV Positive	All Target Results are valid. 2019-nCoV (SARS-CoV-2) RNA is Detected. Missing amplification of individual targets may be due to: 1) a sample at concentrations near or below the limit of detection of the test, 2) a mutation in the corresponding target region, or 3) other factors.
Case 3	+/-	+	+	-		
Case 4	+/-	-	+	+		
Case 5	+/-	-	-	+		
Case 6	+/-	-	+	-		
Case 7	+/-	+	-	-	Presumptive positive for 2019-nCoV	All Target Results are valid. Sarbecovirus RNA is detected but 2019-nCoV (SARS-CoV-2) specific RNA targets are not detected. Repeat testing. For samples with the same result on a repeated test, additional confirmatory testing may be conducted, if it is necessary to differentiate between 2019-nCoV (SARS-CoV-2) and SARS-CoV-1 or other Sarbecovirus currently unknown to infect humans, for epidemiological purposes or clinical management. Missing amplification of the 2019-nCoV (SARS-CoV-2) specific targets may be due to: 1) a sample at concentrations near or below the limit of detection of the test, 2) a mutation in the corresponding target region, or 3) other factors.
Case 8	+	-	-	-	Negative	All Target Results are valid. 2019-nCoV (SARS-CoV-2) RNA is Not Detected.
Case 9	-	-	-	-	Invalid	Results are invalid. Repeat test. If the result is still invalid, a new specimen should be obtained.

## ■ CHAPTER 10: Assay Limitations

- The use of this assay as an *in vitro* diagnostic under the FDA Emergency Use Authorization (EUA) is limited to laboratories that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests.
- Use of this assay is limited to personnel who are trained in the procedure. Failure to follow these instructions may result in erroneous results.
- The performance of the Allplex™ 2019-nCoV Assay was established using nasopharyngeal swab, oropharyngeal swab and sputum samples. Anterior nasal swabs and mid-turbinate nasal swabs are also considered acceptable specimen types for use with the Allplex™ 2019-nCoV Assay but performance has not been established. Testing of nasal and mid-turbinate nasal swabs (self-collected or collected by a healthcare provider) is limited to patients with symptoms of COVID-19. Please refer to FDA's FAQs on Diagnostic Testing for SARS-CoV-2 for additional information.  
<https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-diagnostic-testing-sars-cov-2>
- SARS-CoV-2 may mutate in one or more of the target regions of the Allplex™ 2019-nCoV Assay. If this occurs, then SARS-CoV-2 may not be detected.
- Based on the *in silico* analysis, SARS-CoV and other SARS-like coronaviruses in the same subgenus (Sarbecovirus) as SARS-CoV-2 may cross-react with the Allplex™ 2019-nCoV Assay. SARS-CoV is not known to be currently circulating in the human population, therefore is highly unlikely to be present in patient specimens.
- Samples must be collected, transported, and stored using appropriate procedures and conditions.
- False negative results may arise from improper specimen collection, handling, and degradation of the viral RNA during shipping/storage.
- Detection of viral RNA may not indicate the presence of infectious virus or that 2019-nCoV is the causative agent for clinical symptoms.

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Allplex™ 2019-nCoV Assay

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- Extraction and amplification of nucleic acid from clinical samples must be performed according the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.
- Avoid contamination by adhering to good laboratory practices and to the procedures specified in this package insert.
- False positive results may happen from cross- contamination between patient samples, specimen mix-up and RNA contamination during product handling.
- False-negative results may arise from:
  - Improper sample collection
  - Degradation of the viral RNA during shipping/storage
  - Specimen collection after nucleic acid can no longer be found in the specimen matrix
  - The presence of RT-PCR inhibitors
  - Mutation in the SARS-CoV-2 virus
  - Failure to follow instructions for use
- Negative results do not preclude infection with SARS-CoV-2 virus and should not be the sole basis of a patient management decision.
- A positive result indicates the detection of nucleic acid from the relevant virus. Nucleic acid may persist even after the virus is no longer viable.

## ■ CHAPTER 11: Conditions of Authorization for Laboratory

The Allplex™ 2019-nCoV Assay Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>. However, to assist clinical laboratories using the Allplex™ 2019-nCoV Assay, the relevant Conditions of Authorization are listed below.

1. Authorized laboratories<sup>1</sup> using the Allplex™ 2019-nCoV Assay will include with result reports of the Allplex™ 2019-nCoV Assay, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
2. Authorized laboratories using the Allplex™ 2019-nCoV Assay will perform the Allplex™ 2019-nCoV Assay as outlined in the Allplex™ 2019-nCoV Assay Instructions for Use. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to perform the Allplex™ 2019-nCoV Assay are not permitted.
3. Authorized laboratories that receive the Allplex™ 2019-nCoV Assay must notify the relevant public health authorities of their intent to run the test prior to initiating testing.
4. Authorized laboratories using the Allplex™ 2019-nCoV Assay will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
5. Authorized laboratories will collect information on the performance of Allplex™ 2019-nCoV Assay and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and Seegene Technologies ([support@segenetech.com](mailto:support@segenetech.com)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the test of which they become aware.

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Allplex™ 2019-nCoV Assay

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6. All laboratory personnel using The Allplex™ 219-nCoV Assay must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use the test in accordance with the authorized labeling.
7. Seegene Inc., its authorized distributor(s) and authorized laboratories using the Allplex™ 2019-nCoV Assay will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, “Laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests” as “authorized laboratories.”

## ■ CHAPTER 12: Performance Evaluation

### Limit of Detection (LoD) - Analytical Sensitivity

1. A study was conducted to evaluate the LoD of the Allplex™ 2019-nCoV Assay on different real time PCR instruments using SARS-CoV-2 reference RNA material (AccuPlex SARS-COV-2 Reference Material Kit, Seracare Life Sciences, Inc., Cat no. 0505-0126). All sample replicates were prepared by spiking the reference RNA material into negative clinical sputum matrix. An initial- range-finding study was performed and included five replicates at each of four different analyte concentrations (i.e., 1.2X LoD, 1X LoD, 0.1X LoD, and 0.01X LoD based on preliminary LoD testing using an alternate RNA material). An additional 20 replicates were evaluated at a concentration level where all targets were detected in the range finding study as well as at a 3-fold lower concentration to establish the LoD. The final LoD for each target was confirmed to be the lowest concentration for which at least 19/20 replicates were detected.
2. Specimen extraction was performed using the STARMag 96 X 4 Universal Cartridge Kit and the Microlab STARlet IVD instrument. Real-time RT-PCR was performed using the CFX96™, and CFX96 Touch™ Real-time PCR Detection Systems (Bio-Rad), and the Applied Biosystems™ 7500 and 7500 Fast Dx (ThermoFisher Scientific) real-time PCR systems. The LoD of each SARS-CoV-2 target is shown in Table 9.

Table 9. LoD of each target gene

PCR instrument	Target	Positive Rate	Limit of Detection	Unit
CFX96™	E gene	20/20	4,167	Copies/mL
	RdRP gene	19/20	1,250	Copies/mL
	N gene	20/20	4,167	Copies/mL
CFX96 Touch™	E gene	20/20	4,167	Copies/mL
	RdRP gene	20/20	4,167	Copies/mL
	N gene	20/20	4,167	Copies/mL
Applied Biosystems™ 7500	E gene	20/20	4,167	Copies/mL
	RdRP gene	20/20	4,167	Copies/mL
	N gene	20/20	4,167	Copies/mL
	E gene	20/20	4,167	Copies/mL

**Allplex™ 2019-nCoV Assay**

PCR instrument	Target	Positive Rate	Limit of Detection	Unit
Applied Biosystems™ 7500 Fast Dx	RdRP gene	20/20	4,167	Copies/mL
	N gene	20/20	4,167	Copies/mL

3. The final LoD of the Allplex™ 2019-nCoV Assay on CFX96™, and CFX96 Touch™ Real-time PCR Detection Systems (Bio-Rad), Applied Biosystems™ 7500, and Applied Biosystems™ 7500 Fast Dx (ThermoFisher Scientific) is confirmed as in Table 10 following the result interpretation criteria in Table 8.

Table 10. LoD Summary of the Allplex™ 2019-nCoV Assay on different real time PCR instruments

PCR instrument	Limit of Detection	Unit
CFX96™	4,167	Copies/mL
CFX96 Touch™	4,167	Copies/mL
Applied Biosystems™ 7500	4,167	Copies/mL
Applied Biosystems™ 7500 Fast Dx	4,167	Copies/mL

4. A study was conducted to evaluate the LoD of the Allplex™ 2019-nCoV Assay using additional extraction methods. Samples were prepared by spiking the same Accuplex SARS-CoV-2 reference material (catalog no. 0505-0126) into pooled lower (sputum) respiratory negative sample matrix. As the RNA target concentration of the Seracare material is 5,000 copies/mL, an initial- range-finding study was performed and included five replicates at each of four different analyte concentrations (i.e., 1.2X LoD, 1X LoD, 0.1X LoD, and 0.01X LoD). The tentative LoD was determined followed by confirmatory LoD evaluation (20 replicates spiked at 1X LoD) for lower (sputum) respiratory negative sample matrix. If 20/20 replicates were detected in the confirmatory LoD testing, the next lower concentration, using 3-fold dilution, was tested until <100% detection was observed. The confirmed LoD, defined as the lowest SARS-CoV-2 target concentration with ≥95% detection, is presented in Table 11 for each extraction method.

Table 11. LoD Summary of the Allplex™ 2019-nCoV Assay using different extraction methods

## Allplex™ 2019-nCoV Assay

Manufacturer	Instrument	Extraction Kit	Limit of Detection (Copies/mL)
Seegene	Seegene STARlet (65415-03)	STARMag 96 X 4 Universal Cartridge Kit	4,167
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	4,167
Hamilton	Microlab STARlet IVD (173000-075)	STARMag 96 X 4 Universal Cartridge Kit	4,167
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	4,167
Seegene	Seegene NIMBUS (67930-03)	STARMag 96 X 4 Universal Cartridge Kit	4,167
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	4,167
Hamilton	Microlab NIMBUS IVD (65415-02)	STARMag 96 X 4 Universal Cartridge Kit	4,167
		STARMag 96 X 4 Viral DNA/RNA 200 C Kit	4,167
LG Chem	AdvanSure E3 System (YETS0001EG)	AdvanSure NA EX Kit	4,167
GeneAll	N/A (Manual)	Ribospin vRD (Viral RNA/DNA Extraction Kit)	4,167
QIAGEN	N/A (Manual)	QIAmp DSP Viral RNA Mini Kit	4,167
Roche	MagNA Pure 96 (MP96)	DNA and Viral NA Small Volume Kit	4,167
ThermoFisher Scientific	KingFisher Flex automated extraction	MagMAX Viral/Pathogen Nucleic Acid Isolation Kit (200uL of sample is used)	4,167

## Inclusivity (Analytical Sensitivity)

*In silico* analysis for all sequences of SARS-CoV-2, available from NCBI and GISAID databases, was conducted by mapping the primers and probes of the Allplex™ 2019-nCoV Assay. If the *in silico* analysis for a target sequence revealed < 100% homology between the SARS-CoV-2 sequences and assay primers/probes and the mismatches have the potential to affect assay sensitivity, the target sequence containing the mismatch was evaluated in a wet test. As of May 13, 2020, *in silico* analysis through GISAID (n = 16667) and NCBI (n = 3490) sequences, generated data as shown in Table 12 below. Of these, 9 cases with homology of '< 100%' in the primer / probe region were identified (Table 13).

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Table 12: *In silico* analysis for detection of SARS-CoV-2 sequences, percent homology (as of May 13, 2020)

Data Base	Target Gene	Percent Homology (Total)		
		F' Primer	Probe	R' Primer
GISAID (n=16667)	RdRP	99.73 %	99.95 %	99.99 %
	E	99.97 %	99.86 % Case 1)	99.97 % Case 2)
	N	80.87 % Case 3)	99.98 %	99.81 %
NCBI (n=3490)	RdRP	99.85 %	99.91 %	100.00 %
	E	100.00 %	99.91 % Case 1)	100.00 %
	N	92.28 % Case 3)	100.00 %	99.88 %
Data Base	Target Gene	Percent Homology (Exclude*)		
		F' Primer	Probe	R' Primer
GISAID (n=16667)	RdRP	100.00 %	99.99 %**	100.00 %
	E	100.00 %	100.00 %	100.00 %
	N	82.01 % Case 4)	100.00 %	99.99 % Case 5)
		Case 6~10) F primer 3mer + R primer 1mer combination case Case 11) F primer 3mer + Probe 1mer combination case		
NCBI (n=3490)	RdRP	100.00 %	99.97 %**	100.00 %
	E	100.00 %	100.00 %	100.00 %
	N	93.31 % Case 4)	100.00 %	99.97 % Case 5)

\* Exclude table section excluded 1mer mismatch cases with the assumption that such cases are predicted to have less impact on sensitivity compared to mismatch cases with two or more mismatches.

\*\* Only one case was confirmed to have a 2mer mismatch for RdRP probe. (GISAID: EPI\_ISL\_417919, NCBI: MT372483)

Since quantified virus isolates of the 2019-nCoV variants (Cases 1-11) are not currently available, characterized stocks of *in vitro* transcribed RNA containing the specific variant/mismatch sequence were used

(Case 1): NCBI accession no. MT039890, Case 2): GISAID accession no. EPI\_ISL\_412459, Case 3): NCBI accession no. MT163714, Case 4): GISAID accession no. EPI\_ISL\_427043, Case 5): GISAID accession no. EPI\_ISL\_418898, Case 6): GISAID accession no. EPI\_ISL\_423172, Case 7): GISAID accession no. EPI\_ISL\_423553, Case 8): GISAID accession no. EPI\_ISL\_423270, Case 9): GISAID accession no. EPI\_ISL\_422657, Case 10):

Allplex™ 2019-nCoV Assay

GISAID accession no. EPI\_ISL\_422300, <sup>Case 11</sup>): GISAID accession no. EPI\_ISL\_425742).

*In vitro* transcription RNA of known titer (Unit: Copies/mL, Concentration: 3X LoD = 12,500 Copies/mL) was spiked into negative sample matrix (lower respiratory specimen; sputum) to mimic clinical specimens.

The Allplex™ 2019-nCoV Assay was tested for the 11 cases of mismatch types. Testing was performed in triplicate under the same condition, and all cases were detected (Table 13).

Table 13: Allplex™ 2019-nCoV Assay testing of 11 cases of mismatch types

No.	Type	Rep.	E gene	IC	RdRP gene	N gene
1	Case 1; E gene probe region 1mer mismatch	1	31.23	29.61	33.15	35.45
		2	31.27	29.47	32.37	35.3
		3	31.09	29.38	32.32	34.6
2	Case 2; E gene R' primer region 1mer mismatch	1	30.6	29.35	32.26	35.91
		2	31.39	29.41	32.73	34.91
		3	31.23	29.22	32.8	35.39
3	Case 3; N gene F' primer region 3mer mismatch	1	30.93	29.45	32.72	35.5
		2	31.13	29.55	32.71	35.15
		3	30.7	29.51	32.25	35.1
4	Case 4; N gene F' primer region 4mer mismatch.	1	32.06	32.73	36.21	27.67
		2	32.44	32.76	37.73	27.8
		3	31.91	32.36	37.04	27.67
5	Case 5; N gene F' primer region 2mer mismatch	1	32.13	32.24	36.39	27.74
		2	31.51	32.1	37.75	27.61
		3	31.27	32.06	34.87	28.07
6	Case 6; N gene F' primer region 3mer mismatch & N gene R' primer region 1mer match	1	31.33	32.19	36.78	27.8
		2	31.86	31.87	38.15	27.71
		3	31.99	32.89	36.7	27.74

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No.	Type	Rep.	E gene	IC	RdRP gene	N gene
7	Case 7; N gene F' primer region 3mer mismatch & N gene R' primer region 1mer mismatch	1	31.8	32.39	36.23	27.78
		2	31.82	32.18	35.52	27.7
		3	31.32	32.67	36.3	27.5
8	Case 8; N gene F' primer region 3mer mismatch & N gene R' primer region 1mer mismatch	1	32.07	32.08	36.68	27.7
		2	31.91	31.68	36.94	27.68
		3	31.79	32.49	37.21	27.61
9	Case 9; N gene F' primer region 3mer mismatch & N gene R' primer region 1mer mismatch	1	31.62	32.4	35.41	27.69
		2	31.85	32.29	35.98	27.61
		3	31.26	32.49	37.85	27.66
10	Case 10; N gene F' primer region 3mer mismatch & N gene R' primer region 1mer insertion	1	31.72	32.42	37.37	27.5
		2	31.89	31.9	35.59	27.74
		3	31.26	32.07	36.75	27.51
11	Case 11; N gene F' primer region 3mer mismatch & N gene probe region 1mer mismatch	1	31.08	32.05	N/A	27.45
		2	31.65	32.31	36.84	28.03
		3	31.79	32.64	37.94	27.71

Results from this testing demonstrated that all samples were detected at concentrations of 3X LoD; therefore, the base mismatches discovered by *in silico* analysis are not expected to affect assay performance.

## Cross-reactivity (Analytical Specificity)

### Evaluation of Cross-reactivity with high priority pathogens

*In silico* analysis was performed to evaluate the potential for cross-reactivity of the Allplex™ 2019-nCoV Assay targets with pathogens listed in Table 14 that may be encountered in clinical respiratory specimens. In addition, the pathogens listed in Table 16, were also wet tested.

Table 14. List of pathogens analyzed *in silico*

Other high priority pathogens from the same genetic family	High priority pathogens likely in the circulating area
Human coronavirus 229E	Adenovirus (e.g. C1 Ad. 71)
Human coronavirus OC43	Human Metapneumovirus (hMPV)
Human coronavirus HKU1	Parainfluenza virus 1-4
Human coronavirus NL63	Influenza A & B
SARS-coronavirus	Enterovirus (e.g. EV68)
MERS-coronavirus	Respiratory syncytial virus
	Rhinovirus
	<i>Chlamydia pneumoniae</i>
	<i>Haemophilus influenzae</i>
	<i>Legionella pneumophila</i>
	<i>Mycobacterium tuberculosis</i>
	<i>Streptococcus pneumoniae</i>
	<i>Streptococcus pyogenes</i>
	<i>Bordetella pertussis</i>
	<i>Mycoplasma pneumoniae</i>
	<i>Pneumocystis jirovecii (PJP)</i>
	<i>Candida albicans</i>
	<i>Pseudomonas aeruginosa</i>
	<i>Staphylococcus epidermis</i>
	<i>Streptococcus salivarius</i>

***In silico* analysis test results**

Cross-reactivity of the Allplex™ 2019-nCoV Assay was evaluated by *in silico* analysis and cross-reactivity was defined as greater than 80% homology between 'oligo set' and any sequence present in the targeted microorganism as table above. Cross-reaction is likely to occur when first, the amplicon size is below 500 bp, and second, when the homology of the binding site between the oligo set (forward primer, reverse primer, and probe) and the microorganism is greater or equal to 80% (Table 15. *In silico* analysis results of targeted pathogens).

Table 15. *In silico* analysis results of targeted pathogens

Pathogen	RdRP gene	E gene	N gene	Complex
Human coronavirus 229E	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Human coronavirus OC43	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Human coronavirus HKU1	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Human coronavirus NL63	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
SARS-coronavirus	Amp. Mis. #	100% Match*	Amp. Mis. #	Amp. Mis. #
MERS-coronavirus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Adenovirus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Human Metapneumovirus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Parainfluenza virus 1	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Parainfluenza virus 2	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Parainfluenza virus 3	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Parainfluenza virus 4	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Influenza A virus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Influenza B virus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Enterovirus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Respiratory syncytial virus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
Rhinovirus	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Chlamydia pneumoniae</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #

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Pathogen	RdRP gene	E gene	N gene	Complex
<i>Hemophilus influenzae</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Legionella pneumophila</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Mycobacterium tuberculosis</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Streptococcus pneumoniae</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Streptococcus pyogenes</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Bordetella pertussis</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Mycoplasma pneumoniae</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Pneumocystis gynoecia</i> (PJP)	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Candida albicans</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Pseudomonas aeruginosa</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Staphylococcus epidermis</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #
<i>Streptococcus salivarius</i>	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #	Amp. Mis. #

## NOTE:

- (\*) E gene converts 100% of SARS-coronavirus (taxonomy ID: 694009)  
 (#) Amp. Mis: Amplicon mismatch. Amplicon is not predicted to be formed. The combination of assay oligos with each microorganism did not achieve above 80% homology.

As a result of analysis, there were no microorganisms with potential non-specific or cross-reactive sequences except for E gene target sequences that showed a 100% match with SARS-coronavirus. E gene is a target gene for Sarbecovirus, so the results of the *in silico* analysis is expected (see Table 8 for result interpretation).

The Allplex™ 2019-nCoV Assay was further evaluated for potential cross-reactivity by wet-testing a total of 60 pathogens as well as pooled human nasal wash (Table 16). The bacterial species were tested at  $\geq 1 \times 10^6$  CFU/mL, and viral species at  $\geq 1 \times 10^5$  PFU/mL or  $1 \times 10^6$  genome copies/rxn.

Testing with the Allplex™ 2019-nCoV Assay was performed in triplicate for each organism under the same conditions. None of the 60 pathogens or the

## Allplex™ 2019-nCoV Assay

pooled human nasal wash generated detectable signals with SARS-CoV-2 targets of the Allplex™ 2019-nCoV Assay.

Table 16. List of pathogens evaluated by wet testing

No.	Usage	Pathogen	Source	Isolate No.
1	Exclusivity	human coronavirus HKU1	Korean isolate	
2	Exclusivity	human coronavirus OC43	ATCC	VR-1558
3	Exclusivity	human coronavirus NL63	Korean isolate	
4	Exclusivity	human coronavirus 229E	ATCC	VR-740
5	Exclusivity	human Severe Acute Respiratory Syndrome, SARS	Korean isolate	
6	Exclusivity	human Middle East Respiratory Syndrome Coronavirus: MERS-CoV	Korean isolate	
7	Exclusivity	influenza A virus (H1N1)	ATCC	VR-95
8	Exclusivity	Influenza A virus (H3N2)	ATCC	VR-547
9	Exclusivity	influenza B virus	ATCC	VR-523
10	Exclusivity	Human Rhinovirus 1	KBPV	VR-81
11	Exclusivity	Rhinovirus 21	KBPV	VR-40
12	Exclusivity	Human rhinovirus type 90	ATCC	VR-1291
13	Exclusivity	Human rhinovirus type 16	ATCC	VR-283
14	Exclusivity	Human rhinovirus type 42	ATCC	VR-338
15	Exclusivity	Human rhinovirus type 8	ATCC	VR-488
16	Exclusivity	Human rhinovirus type 14	ATCC	VR-284
17	Exclusivity	Human enterovirus type 68	ATCC	VR-1826
18	Exclusivity	Human enterovirus type 70	ATCC	VR-836
19	Exclusivity	Human enterovirus type 71	ATCC	VR-784
20	Exclusivity	human respiratory syncytial virus A	ATCC	VR-26
21	Exclusivity	human respiratory syncytial virus B	ATCC	VR-955
22	Exclusivity	Parainfluenza 1 virus	ATCC	VR-1380
23	Exclusivity	Human parainfluenza virus 2	ATCC	VR-92
24	Exclusivity	Human parainfluenza virus 3	ATCC	VR-93
25	Exclusivity	human parainfluenza 4 virus 4a	ATCC	VR-1378
26	Exclusivity	Human parainfluenza virus 4b	ATCC	VR-1377
27	Exclusivity	Human Metapneumovirus (MPV)	KBPV	VR-87
28	Exclusivity	Human adenovirus 1	ATCC	VR-1
29	Exclusivity	Human adenovirus 11	KBPV	VR-63
30	Exclusivity	Human adenovirus 18	ATCC	VR-1095
31	Exclusivity	Human adenovirus 23	ATCC	VR-1101
32	Exclusivity	Human adenovirus 3	ATCC	VR-3
33	Exclusivity	Human adenovirus 4	ATCC	VR-1572

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No.	Usage	Pathogen	Source	Isolate No.
34	Exclusivity	Human adenovirus 8	ATCC	VR-1368
35	Exclusivity	Human adenovirus type 31	ATCC	VR-1109
36	Exclusivity	Human adenovirus type 40	ATCC	VR-931
37	Exclusivity	Human adenovirus type 5	KBPV	VR-61
38	Exclusivity	Human adenovirus type 35	ATCC	VR-718
39	Exclusivity	<i>Legionella pneumophila Serotype 2</i>	ATCC	33154
40	Exclusivity	<i>Legionella pneumophila subsp. fraseri Serotype 4</i>	ATCC	33156
41	Exclusivity	<i>Legionella pneumophila Serotype 7</i>	ATCC	33823
42	Exclusivity	<i>Legionella pneumophila Serotype 10</i>	ATCC	43283
43	Exclusivity	<i>Legionella pneumophila Serotype 11</i>	ATCC	43130
44	Exclusivity	<i>Legionella pneumophila Serotype 12</i>	ATCC	43290
45	Exclusivity	<i>Legionella pneumophila Serotype 13</i>	ATCC	43736
46	Exclusivity	<i>Legionella pneumophila Serotype 14</i>	ATCC	43703
47	Exclusivity	<i>Legionella pneumophila subsp. fraseri Serotype 15</i>	ATCC	35251
48	Exclusivity	<i>Mycoplasma pneumoniae</i>	ATCC	15293
49	Exclusivity	<i>Mycoplasma pneumoniae M129-B7</i>	ATCC	29342
50	Exclusivity	<i>Chlamydomphila pneumoniae</i>	ATCC	53592
51	Exclusivity	<i>Bordetella pertussis</i>	ATCC	BAA-589
52	Exclusivity	<i>Pseudomonas aeruginosa (Z139; VIM-1)</i>	Zeptomatrix	801908
53	Exclusivity	<i>Mycobacterium tuberculosis</i>	ATCC	25177
54	Exclusivity	<i>Haemophilus influenzae</i>	ATCC	51907
55	Exclusivity	<i>Streptococcus pneumoniae</i>	KCCM	40410
56	Exclusivity	<i>Streptococcus pyogenes</i>	ATCC	19615
57	Exclusivity	<i>Staphylococcus epidermidis</i>	KCCM	40416
58	Exclusivity	<i>Candida albicans</i>	KCCM	11282
59	Exclusivity	<i>Pneumocystis pneumonia jirovecii (PJP)</i>	Korean isolate	
60	Exclusivity	<i>Staphylococcus salivarius</i>	Korean isolate	
61	Exclusivity	Pooled human nasal wash	Clinical sample	

## Clinical Evaluation

In the clinical evaluation study, selected left-over archived samples from symptomatic patients suspected of COVID-19 infection. Specimens were previously subjected for SARS-CoV-2 testing and then stored at a clinical laboratory in South Korea prior to including in this study. A total of 300 samples (150 upper respiratory samples, 150 lower respiratory samples); 100 positive samples (50 upper respiratory samples (NP/OP swabs in UTM), 50 sputum samples) and 200 negative samples (100 upper respiratory samples (NP/OP swabs in UTM), 100 sputum samples) were tested. The purpose of this clinical study was to assess the clinical performance of Seegene's Allplex™ 2019-nCoV Assay.

For this study, extraction was performed using the STARMag 96 X 4 Universal Cartridge Kit and the Microlab STARlet IVD instrument. Real-time RT-PCR was performed using the CFX96 Real-time PCR Detection System (Bio-Rad).

All specimens were evaluated with the Allplex™ 2019-nCoV Assay and a validated real-time PCR comparator assay. The comparator assay primers and probes were identical to the CDC 2019-Novel Coronavirus (2019-nCoV) Real-Time RT-PCR Diagnostic Panel but used alternate extraction and PCR instrumentation. The LoD of the comparator assay was shown to be equivalent to the CDC assay and therefore adequate for evaluation of clinical performance for the Allplex™ 2019-nCoV Assay.

The results from testing upper respiratory specimens including nasopharyngeal + oropharyngeal swabs shown in Table 17 generated a Positive Percent Agreement (PPA): 100.00% (49/49) [95% CI: 92.75% ~ 100.00%], and a Negative Percent Agreement (NPA): 93.07% (94/101) [95% CI: 85.76% ~ 96.93%].

The results from testing lower respiratory specimens (sputum) shown in Table 18, generated Positive Percent Agreement (PPA): 100.00% (49/49) [95% CI: 92.75% ~ 100.00%], and a Negative Percent Agreement (NPA): 96.84% (92/95) [95% CI: 90.39% ~ 99.18%]

Allplex™ 2019-nCoV Assay

Table 17. Upper respiratory samples  
 (nasopharyngeal + oropharyngeal swab) n=150

Final results		Comparator assay			
		2019-nCoV Detected	Inconclusive	2019-nCoV Not Detected	Total
Allplex™ 2019-nCoV Assay	SARS-CoV-2 Positive	49	1 <sup>1)</sup>	6 <sup>2)</sup>	56
	Presumptive Positive for SARS-CoV-2	0	0	0	0
	Negative	0	0	94	94
	<b>Total</b>	<b>49</b>	<b>1</b>	<b>100</b>	<b>150</b>

NOTE: (1) Sequencing result was SARS-CoV-2 positive (Comparator assay: N1 positive / N2 negative)  
 (2) Sequencing results were SARS-CoV-2 positive for 5 cases, and SARS-CoV-2 negative for 1 remaining case.

- A. Positive Percent Agreement (PPA): 100.00% (49/49)  
 [95% CI: 92.75% ~ 100.00%]
- B. Negative Percent Agreement (NPA): 93.07% (94/101)  
 [95% CI: 85.76% ~ 96.93%]

Table 18. Lower Respiratory samples (Sputum) n=150

Final results		Comparator assay			
		2019-nCoV Detected	Inconclusive	2019-nCoV Not Detected	Total
Allplex™ 2019-nCoV Assay	SARS-CoV-2 Positive	49	1 <sup>1)</sup>	2 <sup>2)</sup>	52
	Presumptive Positive for SARS-CoV-2	0	0	0	0
	Negative	0	0	92	92
	<b>Total</b>	<b>49</b>	<b>1</b>	<b>94</b>	<b>144</b>

NOTE: (1) Sequencing result was SARS-CoV-2 positive. (Comparator assay: N1 negative / N2 positive)  
 (2) Sequencing results were all SARS-CoV-2 positive for 2 cases.

- A. Positive Percent Agreement (PPA): 100.00% (49/49)  
 [95% CI: 92.75% ~ 100.00%]
- B. Negative Percent Agreement (NPA): 96.84% (92/95)  
 [95% CI: 90.39% ~ 99.18%]

## ■ CHAPTER 13: Key to Symbols

Symbol	Explanation
	<i>In vitro</i> diagnostic medical device
	Batch code
	Catalog number
	Use-by date
	Upper limit of temperature
	Oligonucleotide mix for amplification and detection
	Enzyme Mix
	Buffer
	RNase-free Water
	Positive Control (PC)
	Internal Control (IC)
	Consult instructions for use
	Manufacturer
	Date of manufacture
	Caution
	Contains sufficient for <n> tests
	Prescription Use only
	Emergency Use Authorization

## ■ CHAPTER 14: Ordering Information

The product will be distributed by Seegene Inc., located at Taewon Bldg., 91. Ogeum-ro, Songpa-gu, Seoul, Republic of Korea, 05548, and Seegene Technologies located at 325 N Wiget Ln #140, Walnut Creek, CA 94598 U.S.A.



Seegene Inc., Taewon Bldg., 91. Ogeum-ro, Songpa-gu, Seoul,  
Republic of Korea, 05548

Customer Support & Technical Support: [support@seegenetech.com](mailto:support@seegenetech.com)

For more contact information visit [www.seegene.com](http://www.seegene.com)

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This product is covered by one or more U.S. patents.

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# Ezplex SARS-CoV-2 G Kit

For Emergency Use Authorization (EUA) only.

For *in vitro* diagnostic use only.

For prescription use only



## Instructions for USE (IFU)



SML GENETREE Co., Ltd.  
6F, Hanmaeum Bldg,  
225 Baumoe-ro,  
Seocho-gu, Seoul,  
06740  
Republic of Korea



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## Proprietary Name: Ezplex SARS-CoV-2 G Kit

### I. Intended Use

The Ezplex SARS-CoV-2 G Kit is a real-time RT-PCR *in vitro* diagnostic test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in nasopharyngeal swabs, oropharyngeal swabs, and sputum specimens collected from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

This test is also for the qualitative detection of nucleic acid from the SARS-CoV-2 in pooled specimens containing up to five individual nasopharyngeal or oropharyngeal swabs where each specimen is collected by a healthcare provider using individual vials containing transport media from individuals suspected of COVID-19 by their health care provider. Negative results from pooled testing should not be treated as definitive. If a patient's clinical signs and symptoms are inconsistent with a negative result or if results are necessary for patient management, then the patient should be considered for individual testing. Specimens included in pools with a positive, inconclusive, or invalid results must be tested individually prior to reporting a result. Specimens with low viral loads may not be detected in specimen pools due to the decreased sensitivity of pooled testing.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The Ezplex SARS-CoV-2 G Kit is intended for use by qualified and trained clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and *in vitro* diagnostic procedures. The Ezplex SARS-CoV-2 G Kit is only for use in the United States under the Food and Drug Administration's Emergency Use Authorization.



## II. Summary and Explanation

Coronaviruses are a large family of viruses which may cause illness in animals or humans. In humans, several coronaviruses are known to cause respiratory infections ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). The most recently discovered coronavirus, SARS-CoV-2, causes the associated coronavirus disease COVID-19. This new virus and disease were unknown before the outbreak began in Wuhan, China, in December 2019.<sup>1</sup>

The most common symptoms of COVID-19 are fever, tiredness, and dry cough. Some patients may have aches and pains, nasal congestion, runny nose, sore throat, new loss of taste or smell, or diarrhea. These symptoms are usually mild and begin gradually. Some people become infected but don't develop any symptoms and don't feel unwell. The disease can spread through respiratory droplets produced when an infected person coughs or sneezes. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.<sup>2</sup> These droplets also can land on objects and surfaces around the person.<sup>3</sup> Other people may acquire SARS-CoV-2 by touching these objects or surfaces, then touching their eyes, nose, or mouth.

The virus that causes COVID-19 is infecting people and spreading easily from person to person. On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization (WHO).<sup>4,5</sup>

## III. Principles of the Procedure

The Ezplex SARS-CoV-2 G Kit uses TaqMan-based real-time reverse transcription polymerase chain techniques to conduct in vitro reverse transcription of SARS-CoV-2 RNA, DNA amplification and fluorescence detection. The assay targets specific genomic regions of the SARS-CoV-2 RdRP and N genes. Nucleic acid is isolated and purified from respiratory specimens using the Qiagen QIAamp<sup>®</sup> DSP Viral RNA Mini Kit. The purified nucleic acid is then reverse transcribed into cDNA using the Ezplex SARS-CoV-2 G kit. The cDNA is then subsequently amplified using either the CFX96 Dx Real-time PCR instrument (Bio-Rad) or the Applied Biosystems 7500 Real-time PCR instrument (ThermoFisher Scientific). During this process, the probe anneals to a specific target sequence located between the forward and reverse primers. During the extension phase of the PCR cycle, the 5' nuclease activity of Taq polymerase degrades the probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. With each cycle, additional reporter dye molecules are cleaved from their respective probes, increasing the fluorescence intensity. Fluorescence intensity is monitored at each PCR cycle.

The negative control included in the kit serves as a general control for exogenous nucleic acid contamination and is used to monitor cross-contamination during the RNA extraction and



PCR reaction setup steps. It should be run with each batch of tests.

The positive control included in the kit consists of synthesized plasmid DNA for each gene target and is used to monitor for the presence of inhibitors and the efficiency of the polymerase chain reaction. It should be run with each batch of tests.

An internal control is utilized to ensure that clinical specimens are successfully amplified and detected. This control consists of plasmid DNA that was synthesized to include a portion of the human BCR activator of RhoGEF and GTPase (BCR) gene. This control is added to the reaction master mixture during PCR preparation procedure.

The Ezplex SARS-CoV-2 G Kit does not include an internal control for RNA extraction/recovery or transcription. A known SARS-CoV-2 positive specimen or specimen containing SARS-CoV-2 RNA (i.e., in vitro transcript or pseudovirus) must be tested with every batch of patient specimens to monitor the integrity of these process steps.

#### IV. Kit Components and Packaging Specifications

Catalog Number: GNT2011-1 100 tests/kit

No.	Component Name*	Volume	Main Ingredients
1	RQ Mixture	1 vial, 1000uL	DNA Taq polymerase, Reverse Transcriptase, dNTPs with dUTP, Magnesium Chloride, Potassium, Uracil N-glycosylase
2	P+P	1 vial, 500uL	Tris-HCl, EDTA, Oligonucleotide primers specific for SARS-CoV-2 virus, Fluorescent-labeled oligonucleotide probe specific for SARS-CoV-2 virus
3	Positive Control (PC)	1 vial, 50uL	Tris-HCl, EDTA, Synthesized DNA control specific for SARS-CoV-2 virus
4	Negative Control (NC)	1 vial, 50uL	Double Distilled Water
5	Internal Control (IC)	1 vial, 20uL	Tris-HCl, EDTA, Synthesized DNA internal control
6	Instructions for Use (IFU)		

\*RQ Mixture: Real-time Quantitative PCR Mixture; P+P : Probe + Primer



Catalog Number: GNT-2011-2 200 tests/kit

No.	Kit Component*	Volume	Main Ingredients
1	RQ Mixture	2 vials, 1000uL	DNA Taq polymerase, Reverse Transcriptase, dNTPs with dUTP, Magnesium Chloride, Potassium, Uracil N-glycosylase
2	P+P	2 vials, 500uL	Tris-HCl, EDTA, Oligonucleotide primers specific for SARS-CoV-2 virus, Fluorescent-labeled oligonucleotide probe specific for SARS-CoV-2 virus
3	Positive Control (PC)	2 vials, 50uL	Tris-HCl, EDTA, Synthesized DNA control specific for SARS-CoV-2 virus
4	Negative Control (NC)	2 vials, 50uL	Double Distilled Water
5	Internal Control (IC)	2 vials, 20uL	Tris-HCl, EDTA, Synthesized DNA internal control
6	Instructions for Use (IFU)		

\*RQ Mixture: Real-time Quantitative PCR Mixture; P+P : Probe + Primer

#### Other Materials Provided:

- Genetree Viewer Software (CAT No. GNT2011-3)

#### V. Materials Required But Not Provided

No.	Name	CAT No.	Company
1	For Bio-Rad instrument: any applicable 96 well PCR plate plastics for CFX96 Dx system	MLL9651	Bio-Rad
2	For Bio-Rad instrument: any applicable PCR plate sealing film for CFX96 Dx system	MSB1001	Bio-Rad
3	For ThermoFisher Scientific instrument: microAmp Optical Adhesive Film	4311971	ThermoFisher Scientific



No.	Name	CAT No.	Company
4	For ThermoFisher Scientific instrument: microAmp Optical 96-well Reaction Plate	N8010560	ThermoFisher Scientific
5	For ThermoFisher Scientific instrument: microAmp Optical 8-tube strip(0.2mL)	431567	ThermoFisher Scientific
6	For ThermoFisher Scientific instrument: microAmp Optical 8-cap Strip	4323032	ThermoFisher Scientific
7	Qiagen QIAamp® DSP Viral RNA Mini Kit	61904	Qiagen
8	Known SARS-CoV-2 positive specimen or specimen containing SARS-CoV-2 RNA (i.e., in vitro transcript or pseudovirus) to control for extraction/recovery or transcription	MBC137-R (Recommended)	Vircell
9	Computer for installation of Genetree Viewer Analysis Software	1) Microprocessor: Intel(R) i3 3.5 GHz and above 2) Memory: 4 GB or 3; Microsoft Windows 7 or above	

## VI. Instruments

PCR Instruments validated for use with the Ezplex SARS-CoV-2 Kit:

- CFX96 Dx Real-time PCR Instrument with 1.6 or 3.1 or later versions of CFX Manager (Bio-Rad) **OR**
- ABI 7500 Real-time PCR Instrument with 2.3 or later versions of 7500 software (ThermoFisher Scientific)

## VII. Storage and Handling Conditions

- All kit materials should be stored at -20 °C opened and unopened.
- Use the reagents within 12 months once opened.
- Completely thaw the reagents before use.
- Repeated thawing and freezing should be avoided. It should not exceed 5 freeze-thaw



cycles.

## VIII. Warnings and Precautions

- For *in vitro* diagnostic use. For use under an Emergency Use Authorization (EUA) only.
- This product has not been FDA cleared or approved; but has been authorized by the FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This product has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- The emergency use of this product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §360bbb-3(b)(1), unless the declaration is terminated or authorization is revoked sooner.
- Handle all specimens as if infectious using safe laboratory procedures. Refer to Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with 2019-nCoV. <https://www.cdc.gov/coronavirus/2019-ncov/lab/lab-biosafety-guidelines.html>.
- Specimens may be infectious. Use Universal Precautions when performing this assay. Proper handling and disposal methods should be established by the laboratory director. Only personnel adequately trained in handling infectious materials should be permitted to perform this diagnostic procedure.<sup>6</sup>
- Use appropriate personal protective equipment when collecting and handling specimens from individuals suspected of being infected with SARS-CoV-2 as outlined in CDC Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with 2019 Novel Coronavirus (2019-nCoV).
- Wear disposable, powderless gloves, protective eye wear, and laboratory coats when handling specimens and reagents. Wash hands thoroughly after handling specimens and reagents.
- Dispose of all material that has come into contact with specimens and reagents in accordance with applicable national, international, and regional regulations.
- Maintain proper storage conditions during specimen shipping to ensure the integrity of the specimen. Specimen stability under shipping conditions other than those recommended has not been evaluated.
- Avoid cross-contamination during the specimen handling steps. Specimens can contain extremely high levels of virus or other organisms. Ensure that specimen containers do



not come in contact with one another, and discard used materials without passing them over any open containers. Change gloves if they come in contact with specimens. It is recommended to use sterile disposable filter-tips to aspirate reagents and specimens.

- Do not use the reagents and controls after the expiration date.
- Do not mix reagents from different lots.
- Since the plasmid DNA in the positive control can degrade, it is recommended that the reagents shall be divided into amounts required for 1-2 tests and stored in a freezer.
- Only the Qiagen QIAamp® DSP Viral RNA Mini Kit can be used with the Ezplex SARS-CoV-2 Kit for nucleic acid extraction.
- Only the Bio-Rad CFX Dx Real-time PCR Instrument and the ThermoFisher Scientific ABI 7500 Real-time PCR Instrument can be used with the Ezplex SARS-CoV-2 Kit. These instruments should be calibrated regularly according to instrument's instructions to eliminate cross-talks between channels.
- The Ezplex SARS-CoV-2 Kit uses PCR-based technology and experiments should be conducted in three separate areas: reagent preparation area, specimen preparation area, amplification area. Protective equipment accessories (goggles, work clothes, hats, shoes, gloves, etc.) should be worn during operation and protective equipment accessories should be changed when entering and leaving different work areas. Protective equipment accessories in each work area are not interchangeable.
- Store assay components at the recommended storage condition.
- Quality control requirements must be performed in conformance with local, state, and/or federal regulations or accreditation requirements and your laboratory's standard quality control procedures.
- Contamination may occur if carryover of specimens is not adequately controlled during specimen pool preparation, handling, and processing.
- Testing of pooled specimens may impact the detection capability of the SARS-CoV-2 assay and impact sensitivity.

## IX. Collection, Storage and Shipment of Specimens

Only upper respiratory specimens collected in VTM (such as nasopharyngeal and oropharyngeal swabs) and sputum specimens can be used with the test.

Note: Only nasopharyngeal/oropharyngeal swabs in viral transport media (VTM) have been validated for pooling. Ensure that sufficient specimen volumes of any upper respiratory specimen that is utilized for pooling also have enough volume for additional individual testing.

### A. Specimen Collection

Use only synthetic fiber swabs with plastic shafts. Do not use calcium alginate swabs or



swabs with wooden shafts, as they may contain substances that inactivate some viruses and inhibit PCR testing. Place swabs immediately into sterile tubes containing 3 ml of viral transport media (VTM). For initial testing, nasopharyngeal swab specimens are recommended. Collection of oropharyngeal swabs is a lower priority and is acceptable if other swabs are not available.

- Nasopharyngeal swab (NP): Insert a swab into nostril parallel to the palate. Swab should reach depth equal to distance from nostrils to outer opening of the ear. Leave swab in place for several seconds to absorb secretions. Slowly remove swab while rotating it.
- Oropharyngeal swab (e.g., throat swab, OP): Swab the posterior pharynx, avoiding the tongue.
- Sputum : Educate the patient about the difference between sputum and oral secretions. Have the patient rinse the mouth with water and then expectorate deep cough sputum directly into a sterile screw-cap collection cup or sterile dry container.

### B. Specimen Storage

The sample collection device is not a part of the assay kit. Patient samples must be collected according to appropriate laboratory guidelines. All testing for COVID-19 should be conducted in consultation with a healthcare provider. We recommend using CDC guidelines for sample collection of respiratory specimens and sample storage (<https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>). Specimens should be processed within 48 hours from collection and stored at 2-8°C during that time. If the specimens cannot be tested within 48 hours, samples should be stored frozen at -70°C or colder.

### C. Shipping

Specimens must be packaged, shipped, and transported according to the current edition of the International Air Transport Association (IATA) Dangerous Goods Regulation External Icon. Store specimens at 2-8°C and ship overnight to the lab on ice pack. If a specimen is frozen at -70°C ship, overnight to the lab on dry ice. Additional useful and detailed information on packing, shipping, and transporting specimens can be found at Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19).

### D. For more information, refer to:

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

<https://www.cdc.gov/coronavirus/2019-nCoV/guidelines-clinical-specimens.html>

Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens



Associated with Coronavirus Disease 2019 (COVID-19)

<https://www.cdc.gov/coronavirus/2019-nCoV/lab-biosafety-guidelines.html>

**E.** Ensure that sufficient specimen volumes of any upper respiratory specimen that is utilized for pooling also has enough volume for additional individual testing.

## **F. Specimen Pooling-Determining Appropriate Strategy for Implementation and Monitoring**

When considering specimen pooling, laboratories should evaluate the appropriateness of a pooling strategy based on the positivity rate in the testing population and the efficiency of the pooling workflow. Refer to Appendix A of these Instructions for Use for additional information *prior* to implementation of specimen pooling.

## **G. Specimen Preparation**

### **1. Specimens for Individual Testing**

- Nucleic acid should be isolated and purified from nasopharyngeal swabs, and oropharyngeal swabs, and a sputum specimens using the QIAamp® DSP Viral RNA Mini Kit.
- Prior to the start of the nucleic acid extraction, an additional negative clinical sample should be prepared and spiked with a known SARS-CoV-2 control. This functions as an extraction control to assess extraction reagent integrity and successful RNA extraction.
- Ensure homogenous mixing of prepared specimens.
- Utilize 140 µL of clinical sample and elute with 50 µL of Buffer AVE from the QIAamp® DSP Viral RNA Mini Kit. If the extracted RNA cannot be used immediately, store at 2 to 8 ° C for up to 24 hours or at -70 ° C for up to 1 month.
- Refer to the QIAamp® DSP Viral RNA Mini Kit Handbook for the protocol for extracting RNA using the QIAamp® DSP Viral RNA Mini Kit.

### **2. Pooled Specimens**

Only upper respiratory specimens collected in VTM, such as nasopharyngeal and oropharyngeal swabs, may be tested with pooled specimens.

- Obtain an empty tube (molecular grade sterile test tube).
- Determine the appropriate volume required from each individual specimen based on the pool size being implemented. The required specimen to extraction ratio in the assay test specimen must be



maintained for specimen pooling. The minimum combined volume of individual specimens pooled prior to transferring is 250 µL. The same volume of each specimen included in the pool needs to be used.

- Carefully transfer the determined volume of each individual specimen from the specimen collection container to the empty sterile tube.
- An additional negative clinical sample should be prepared and spiked with known SARS-CoV-2 control. It functions as an extraction control to assess extraction reagent integrity and successful RNA extraction.
- Ensure homogenous mixing of each prepared specimen pool.
- Utilize 140 µL of pooled clinical sample and elute with 50 µL of Buffer AVE from the QIAamp® DSP Viral RNA Mini Kit. If the extracted RNA cannot be used immediately, store at 2 to 8°C for up to 24 hours or at -70°C for up to 1 month.
- Refer to the QIAamp® DSP Viral RNA Mini Kit Handbook for the protocol for extracting RNA using the QIAamp® DSP Viral RNA Mini Kit

*Note: Retain the individual specimens for additional testing, if required.*

## X. Test Procedure

### A. Nucleic Acid Extraction

The QIAamp® DSP Virus Viral RNA mini Kit (Qiagen GmbH) must be used for RNA extraction and users shall follow the protocol included in the Kit Instructions for Use. After extraction, RNA if not used immediately should be divided into amounts required for 1-2 tests and stored at -70°C since RNA can degrade.

### B. Real-time PCR Amplification

#### 1. Reagent Master Mix Solution Preparation

- a. Refer to the table below and prepare the PCR master mix solution according to the number of specimens/controls to be tested.

Component	Volume (uL) per Specimen/Control
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RQ Mixture (Real time Quantitative Mixture)	10
P + P (Probe + Primer)	5
Internal control	0.1
Total	15.1

- b. Pipette 15uL of PCR master mix solution into each 96-well PCR plate or 8-cap strip. Add 5uL of the extracted RNA specimen into each 96-well PCR plate or 8-cap strip.
- c. Also, add 5 uL each of the positive control and negative control into each 96-well PCR plate or 8-cap strip.
- d. If the 96-well PCR plate is used for the preparation, seal the top of the plate thoroughly to prevent the liquid from spilling or leaking.
- e. If the 8-cap strip is used for the preparation, make sure that every cap is tightly closed on the top of the strips.
- f. Centrifuge the 96-well PCR plate or 8-cap strip to make sure that all liquids are placed at the bottom.
- g. Each batch of samples tested should include the following controls: positive control, negative control, and extraction/transcription control.

**2. PCR Instrument Set Up**

- a. Set up the Bio-Rad or Applied Biosystems PCR Instrument according to their respective Instrument Reference Guide/Manual using the cycling specifications below:

Step	Temperature / Time	Cycle
Hold	25 °C / 2 min	1 Cycle
	50 °C / 30 min	
	95 °C / 5 min	
Cycle	95 °C / 15 sec	40 Cycles
	60 °C / 45 sec	

- b. Set up fluorescent thresholds for detection targets per the table below.



c. The threshold should be adjusted to fall within the exponential phase of the fluorescence curves and above any background noise signal. The procedure chosen for setting the threshold should be used consistently.

Device	FAM	Cy5	VIC(HEX)
Bio-Rad CFX96 Dx	500	250	500
ThermoFisher Scientific AB7500	0.4	0.1	0.05

d. Add the prepared 96-well PCR plate or 8-cap strips to the PCR instrument and run the Bio-Rad or Applied Biosystems PCR Instrument according to their respective Instrument Reference Guide/Manual.

## XI. Quality Control

A Positive Control and Negative Control are provided with the Kit and should be run with each batch of specimens. An internal control [plasmid DNA synthesized to include a portion of the human BCR activator of RhoGEF and GTPase (BCR) genes] is provided with the kit and is utilized to ensure that each clinical specimen is successfully amplified and detected. This control is added to the reaction master mix during PCR preparation procedure. The Ezplex SARS-CoV-2 G Kit does not include an internal control for RNA extraction/recovery or transcription. A known SARS-CoV-2 positive specimen or specimen containing SARS-CoV-2 RNA (i.e., in vitro transcript or pseudovirus) must be tested with every batch of patient specimens to monitor the integrity of these process steps.

## XII. Genetree Viewer Software Analysis

**NOTE :** Please contact 'genetree@genetree.co.kr' to acquire 'Genetree Viewer' software prior to running the Ezplex SARS-CoV-2 G Test. Please refer to the Genetree Viewer Software Operators Manual for more detailed information.

### A. General Description of the Software and Example Screens



No.	Description
①	Positive/Negative results by well are indicated in '+', '-' respectively. Invalid results by well are indicated in ' ' respectively. Inconclusive results by well are indicated in '?' respectively.
②	Ct and fluorescent values of the results for each well are plotted on a graph.
③	Ct values of the results for each well are indicated numerically and qualitative results are printed.
④	Analysis results are converted into an excel spreadsheet.

GENETREE / VIEWER 1.13.777

2019-nCoV (FDA) real-time PCR : CFX 3.1  
admin\_2020-10-30 16-04-54\_BR200290 - Quantification Amplification Results.xlsx

Threshold

Print ExportToExcel

Sample ID	Sample	Well	Row	Col	Content	FAM(RdRp)	CY5(N)	VIC(IC)	Result Mix1	Result	Validity	Comment
		B02	B	02		36.06	36.97	27.75	Positive	Positive	Valid	
		C02	C	02		36.96	38.28	27.68	Positive	Positive	Valid	
		D02	D	02		39.14	37.61	27.62	Positive	Positive	Valid	
		E02	E	02		39.04	N/A	27.51	Inconclusive	Inconclusive	Valid	
		F02	F	02		N/A	N/A	27.50	Negative	Negative	Valid	
		G02	G	02		N/A	N/A	27.41	Negative	Negative	Valid	
		H02	H	02		N/A	N/A	N/A	Invalid	Invalid	Invalid	Retest after re-extraction
		A03	A	03		36.12	37.22	27.88	Positive	Positive	Valid	
		B03	B	03		35.71	36.67	27.69	Positive	Positive	Valid	



No.	Sample ID	Sample Well	Content	RdRp	N	IC	Result	Validity	Comment
10		B02		36,06	36,97	27,75	Positive	Valid	
11		C02		36,96	38,28	27,68	Positive	Valid	<b>4</b>
12		D02		39,14	37,61	27,62	Positive	Valid	
13		E02		39,04	N/A	27,51	Inconclusive	Valid	
14		F02		N/A	N/A	27,50	Negative	Valid	
15		G02		N/A	N/A	27,41	Negative	Valid	
16		H02		N/A	N/A	N/A	Invalid	Invalid	Retest after re-extraction
17		A03		36,12	37,22	27,88	Positive	Valid	
18		B03		35,71	36,67	27,69	Positive	Valid	

### XIII. Interpretation of Results

Assessment of clinical specimen test results should be performed after the positive and negative controls have been examined and determined to be valid and acceptable. If the controls are not valid, the patient results cannot be interpreted.

a. The table below lists the expected results for the kit with valid positive control and negative control.

FAM Ct (RdRp)	CY5 Ct (N)	VIC/HEX Ct (IC)	Result*	Comment
<40	<40	Any	<b>Positive</b>	SARS-CoV-2 RNA is detected
<40	Neg	Any	<b>Inconclusive</b>	Further confirmatory testing may be conducted if clinically indicated
Neg	<40	Any	<b>Inconclusive</b>	Further confirmatory testing may be conducted if clinically indicated
Neg	Neg	<38	Negative	SARS-CoV-2 RNA is not detected



Neg	Neg	≥38 or Neg	Invalid	Retest after re-extraction
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- The result is judged as Positive only when both the RdRp and N genes are detected.
- Further confirmatory testing may be conducted if clinically indicated if the result is judged as "Inconclusive".
- Retesting after re-extraction is necessary if the result is judged as "Invalid." If the re-tested result remains invalid, report the invalid result and consider collecting a fresh sample and re-testing if clinically indicated.

b. Interpretation of Results for Pooled Specimens

**Negative:** For sample pools yielding negative results, all samples making up that pool are presumed to be negative. Negative results from pooled specimen testing should not be treated as definitive. If the patient’s clinical signs and symptoms are inconsistent with a negative result and results are necessary for patient management, then the patient should be considered for individual testing. The utilization of specimen pooling should be indicated for any specimens with reported negative results.

**Positive:** Specimens in a positive specimen pool must be tested individually prior to reporting a result. Specimens with low viral loads may not be detected in specimen pools due to the decreased sensitivity of pooled testing.

**Invalid:** Specimens with an invalid pool result must be tested individually prior to reporting a result. However, in instances of an invalid run, repeat extraction and testing of the specimen pool may be appropriate depending on the laboratory workflow and required result reporting time.

**Inconclusive:** Specimens with an inconclusive pool result must be tested individually prior to reporting a result. Specimens with an inconclusive result upon individual testing may need further confirmatory testing if clinically indicated.



## XIV. Limitations

- The Ezplex SARS-CoV-2 G Kit has been analytically validated for use with nasopharyngeal and oropharyngeal swabs in VTM and sputum specimens run on the Bio-Rad CFX96 Dx Real-Time PCR and ABI 7500 Real-time PCR Instrument and utilizing the Qiagen QIAamp<sup>®</sup> DSP Viral RNA Mini Kit for RNA extraction. This assay has been clinically validated for use with nasopharyngeal/oropharyngeal swabs in VTM and sputum specimens run on the Bio-Rad CFX96 Dx Real-Time PCR utilizing the Qiagen QIAamp<sup>®</sup> DSP Viral RNA Mini Kit for RNA extraction.
- Based on the *in-silico* analysis, SARS-CoV and other SARS-like coronaviruses in the same subgenus (Sarbecovirus) as SARS-CoV-2 may cross-react with the N gene in the Ezplex assay. SARS-CoV is not known to be currently circulating in the human population, and therefore is unlikely to be present in patient specimens.
- The procedures in this handbook must be followed, as described. Any deviations may result in assay failure or may cause erroneous results.
- Use of this assay is limited to personnel who are trained in the procedure. Failure to follow these instructions may result in erroneous results.
- Reliable results are dependent on adequate specimen collection, transport, storage, and processing.
- Good laboratory practices are required to ensure the performance of the kit, with care required to prevent contamination of the kit components. Components should be monitored for contamination and any components thought to have become contaminated should be discarded as standard laboratory waste in a sealed pouch or zip-lock plastic bag.
- All specimens should be handled as if they are infectious following proper biosafety precautions.
- False negative results may be caused by:
  - Unsuitable collection, handling and/or storage of specimens
  - Specimen outside of viremic phase
  - Failure to follow procedures in this handbook
  - Use of unauthorized extraction kit or PCR platforms
- False positive results may be caused by:
  - Unsuitable handling of specimens containing high concentration of COVID-19 viral RNA or positive control template
  - Unsuitable handling of amplified product
- All results should be interpreted by a health care professional in the context of patient medical history and clinical symptoms.
- This test cannot rule out diseases caused by other pathogens.
- Negative results do not preclude SARS-CoV-2 infections and should not be used as the sole basis for treatment or other management decisions.
- A positive result indicates the detection of nucleic acid from the relevant virus. Nucleic



acid may persist even after the virus is no longer viable.

- Specimen pooling has only been validated using upper respiratory (nasopharyngeal/oropharyngeal) swabs in VTM.
- Specimens should only be pooled when testing demand exceeds laboratory capacity and/or when testing reagents are in short supply.

## XV. Conditions of Authorization for the Laboratory

The Ezplex SARS-CoV-2 G kit Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>

However, to assist clinical laboratories using the Ezplex SARS-CoV-2 G kit, the relevant Conditions of Authorization are listed below.

1. Authorized laboratories\* using the Ezplex SARS-CoV-2 G kit must include with result reports, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
2. Authorized laboratories using specimen pooling strategies when testing patient specimens with the Ezplex SARS-CoV-2 G kit must include with negative test result reports for specific patients whose specimen(s) were the subject of pooling, a notice that pooling was used during testing and that *“Patient specimens with low viral loads may not be detected in specimen pools due to the decreased sensitivity of pooled testing.”*
3. Authorized laboratories using the Ezplex SARS-CoV-2 G kit must use the Ezplex SARS-CoV-2 G kit as outlined in the authorized labeling. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to perform the Ezplex SARS-CoV-2 G kit are not permitted.
4. Authorized laboratories implementing pooling strategies for testing patient specimens must use the “Specimen Pooling-Determining Appropriate Strategy for Implementation and Monitoring” available in the authorized labeling to evaluate the appropriateness of continuing to use such strategies based on the recommendations in the protocol.
5. Authorized laboratories that receive the Ezplex SARS-CoV-2 G kit must notify the relevant public health authorities of their intent to run the test prior to initiating testing.
6. Authorized laboratories using the Ezplex SARS-CoV-2 G kit must have a process in place



for reporting test results to healthcare providers and relevant public health authorities, as appropriate.

7. Authorized laboratories must collect information on the performance of the test and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: CDRH-EUA-Reporting@fda.hhs.gov) and SML Genetree (via email: info@genetree.com or genetree@genetree.co.kr) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the test of which they become aware.

8. All laboratory personnel using the test must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use the test in accordance with the authorized labeling.

9. SML Genetree, its authorized distributor(s) and authorized laboratories using the SARS-CoV-2 G kit must ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

10. Authorized laboratories must keep records of specimen pooling strategies implemented including type of strategy, date implemented, and quantities tested, and test result data generated as part of the Protocol for Monitoring of Specimen Pooling Strategies. For the first 12 months from the date of their creation, such records must be made available to FDA within 48 business hours for inspection upon request. After 12 months from the date of their creation, upon FDA's request such records must be made available for inspection within a reasonable time.

\* The letter of authorization refers to "Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests" as "authorized laboratories."

## **XVI. Performance Evaluation**

### **A. Analytical Sensitivity (Limit of Detection)**

The limit of detection was evaluated for both upper and lower respiratory specimens. Negative clinical nasopharyngeal swabs collected in VTM and negative sputum matrix were used as the background matrices to prepare the samples. SARS-CoV-2 genomic RNA from Vircell (MBC137-R) was spiked into the negative clinical matrices at concentrations of 5, 2.5, 1.25, 0.625, and 0.3125 copies/uL. A total of 20 replicates per dilution were extracted using the



QIAamp® DSP Virus Spin Kit and then tested on both the CFX96 Dx and ABI7500 thermocyclers. The preliminary LoD was then confirmed by testing 20 additional extraction replicates. The limit of detection was estimated as the concentration where the overall assay result yielded 95% positivity.

Target	CFX96 Dx		ABI 7500	
	Nasopharyngeal	Sputum	Nasopharyngeal	Sputum
RdRp	0.8 copies/uL	0.64 copies/uL	1 copies/uL	1 copies/uL
N	1 copies/uL	1 copies/uL	1 copies/uL	0.64 copies/uL
Overall LOD	1 copies/uL	1 copies/uL	1 copies/uL	1 copies/uL

**B. Analytical Sensitivity (Inclusivity)**

An *in silico* analysis comparing the primer and probe sequences from the Ezplex SARS-CoV-2 G Kit against all SARS-CoV-2 sequences deposited in public databases (NCBI and GISAID) as of September 9, 2020 was conducted. The *in silico* analysis through reference sequences, generated the following data:

Target	Gene	Primer/Probe	Percent Identities
SARS-CoV-2 Virus	RdRp (NCBI, N=5000) (GISAID, N=5204)	Forward Primer	100 %
		Reverse Primer	100 %
		Probe	100 %
	N (NCBI, N=5000) (GISAID, N=5204)	Forward Primer	100 %
		Reverse Primer	100 %
		Probe	100 %



## C. Analytical Specificity

### 1. Cross Reactivity

Nucleic Acid from a total of 24 species of microorganisms that are likely to be found in clinical respiratory specimens were tested with the Ezplex assay. Each species was tested in triplicate at the concentrations indicated in the table below. No cross reactivity was observed.

Microorganism	Concentration	Microorganism	Concentration
Adenovirus	1X10 <sup>4</sup> copies/uL	<i>Legionella pneumophila</i>	1X10 <sup>4</sup> copies/uL
Human metapneumovirus	1X10 <sup>6</sup> copies/uL	<i>Mycobacterium tuberculosis</i>	1X10 <sup>4</sup> copies/uL
Human parainfluenza virus 1	1X10 <sup>4</sup> copies/uL	<i>Streptococcus pneumoniae</i>	1X10 <sup>4</sup> copies/uL
Human parainfluenza virus 2	1X10 <sup>4</sup> copies/uL	<i>Bordetella pertussis</i>	1X10 <sup>4</sup> copies/uL
Human parainfluenza virus 3	1X10 <sup>4</sup> copies/uL	<i>Mycoplasma pneumoniae</i>	1X10 <sup>4</sup> copies/uL
Human parainfluenza virus 4	1X10 <sup>4</sup> copies/uL	<i>Candida albicans</i>	1X10 <sup>4</sup> copies/uL
Influenza A virus	1X10 <sup>4</sup> copies/uL	<i>Staphylococcus aureus</i>	1X10 <sup>4</sup> copies/uL
Enterovirus 71 type	1X10 <sup>4</sup> copies/uL	Human coronavirus OC43	1.41X10 <sup>6</sup> copies/uL
Human respiratory syncytial virus A	1X10 <sup>4</sup> copies/uL	Human coronavirus NL63	1X10 <sup>6</sup> copies/uL
Human respiratory syncytial virus B	1X10 <sup>4</sup> copies/uL	Severe acute respiratory syndrome	1X10 <sup>6</sup> copies/uL
Human rhinovirus	1X10 <sup>4</sup> copies/uL	Middle East respiratory syndrome	1X10 <sup>6</sup> copies/uL
<i>Chlamydomyxa pneumoniae</i>	1X10 <sup>4</sup> copies/uL		
<i>Haemophilus influenzae</i>	1X10 <sup>4</sup> copies/uL		



## 2. Cross Reactivity (in-silico)

A total of 28 organisms were selected to assess the potential for cross reactivity with the primers/probes included in the Ezplex Assay. This analysis was conducted using the NCBI blast database. The percent homology with each primer and probe used in the Ezplex is displayed in the table below:

No.	Organisms	RdRP homology(%)			N homology(%)		
		F primer	Probe	R primer	F primer	Probe	R primer
1	Human coronavirus 229E*	89%	None	70%	58.8%	41.6%	50%
2	Human coronavirus OC43*	None	None	40%	94%	41.6%	50%
3	Human coronavirus HKU1*	91.6%	None	76.6%	52.9%	37.5%	60%
4	Human coronavirus NL63	33.3%	None	40%	52.9%	37.5%	60%
5	SARS-coronavirus **	75%	None	93.3%	100%	83.3%	80%
6	MERS-coronavirus*	60%	None	90%	58.8%	45.8%	60%
7	Adenovirus 71	37.5%	None	30%	52.9%	41.6%	50%
8	Human Metapneumovirus	45.8%	None	36.6%	58.8%	45.8%	55%
9	Parainfluenza virus 1	33.3%	None	33.3%	52.9%	37.5%	45%
10	Parainfluenza virus 2	None	None	None	None	None	None
11	Parainfluenza virus 3	None	None	None	None	None	None
12	Parainfluenza virus 4	50%	None	36.6%	64.7%	41.6%	50%
13	Influenza A	54.1%	None	43.3%	76.4%	62.5%	60%
14	Enterovirus group	50%	None	46.6%	70.5%	62.5%	70%
15	Respiratory syncytial virus	None	None	None	None	None	None
16	Rhinovirus	50%	None	46.6%	70.5%	62.5%	70%
17	<i>Chlamydia pneumoniae</i>	50%	None	43.3%	64.7%	54.1%	60%
18	<i>Haemophilus influenzae</i>	58.3%	None	43.3%	76.4%	54.1%	70%
19	<i>Legionella pneumophila</i> *	62.5%	None	50%	82.3%	54.1%	65%
20	<i>Mycobacterium tuberculosis</i>	50%	None	None	64.7%	62.5%	60%
21	<i>Streptococcus pneumoniae</i>	58.3%	None	43.3%	76.4%	54.1%	70%
22	<i>Streptococcus pyogenes</i>	54.1%	None	43.3%	76.4%	50%	65%
23	<i>Bordetella pertussis</i>	None	None	None	None	54.1%	70%
24	<i>Mycoplasma pneumoniae</i>	50%	None	43.3%	58.8%	45.8%	55%
25	<i>Pneumocystis jirovecii</i> (PJP)	62.5%	None	76.6%	64.7%	62.5%	65%
26	<i>Candida albicans</i> *	62.5%	None	53.3%	88.2%	54.1%	70%
27	<i>Pseudomonas aeruginosa</i>	62.5%	None	46.6%	76.4%	70.8%	65%
28	<i>Staphylococcus group</i> *	70.8%	None	50%	82.3%	79.1%	70%

1) For the organisms marked with \*, relatively high homology was observed (more than 80%) for one oligo in the primer/probe set. However, in order for an amplification product to



be generated using the PCR mechanism, both of the primers and the probe must anneal to the target sites on the gene. Therefore, cross-reactivity with these organisms is not expected.

2) For the SARS-coronavirus organism marked with \*\*, more than 80% homology was found for all three oligos for the N gene. However, the interpretation algorithm of Ezplex states that only results where both the RdRp and N genes show amplification within 40 Ct are considered positive. Because >80% homology was not seen in all three primer/probe oligos for the RdRp gene, false positive results are not expected to occur.

## 2. Interference

The effect of endogenous –( Albumin (0.24g/mL), Hemoglobin (0.2g/mL), Bilirubin (0.05mg/mL) ) and exogenous (Mupirocin(20mg/mL), Tobramycin (80mg/mL), Zanamivir (250ug/mL)) interfering substances on assay performance was evaluated. Samples containing these substances were tested in triplicate with and without SARS-CoV-2 virus material at a concentration of ~3XLoD. No interference was observed as indicated by a less than 1 mean Ct differential between samples with and without interferent for both gene targets in all cases.

## 2. In-silico analysis

In silico analysis for all sequences of SARS-CoV-2, available from NCBI and GISAID databases, was conducted by mapping the individual primers and probes of the Ezplex assay. As of Sep 09, 2020, in silico analysis through GISAID (n =5204) and NCBI (n = 5000) sequences generated data as shown in the table below.



Gene	Primer(Probe)	Homology(%)	
		NCBI(N=5000)	GISAIID(N=5204)
RdRp	Probe Primer	100	100
	Forward Primer	100	100
	Reverse Primer	100	100
N	Probe Primer	100	100
	Forward Primer	100	100
	Reverse Primer	100	100

**D. Clinical Evaluation**

The purpose of this clinical evaluation was to assess the clinical performance of Ezplex SARS-CoV-2 G Kit against an EUA-authorized comparator assay. In the clinical evaluation study, left-over archived specimens from symptomatic patients suspected of COVID-19 infection were tested. Specimens were previously subjected for SARS-CoV-2 testing and then stored at a clinical laboratory in South Korea prior to including in this study. A total of 30 positive and 30 negative clinical specimens confirmed by an EUA-authorized comparator Assay were tested with the investigational Ezplex assay. These 60 total specimens consisted of 15 positive and 15 negative upper respiratory (nasopharyngeal/oropharyngeal swabs collected in VTM) specimens and 15 positive and 15 negative sputum specimens. For this study, the specimens were extracted using the QIAamp® DSP Viral RNA mini Kit (Qiagen). Real-time RT-PCR was performed using the CFX96 Dx Real-time PCR Instrument (Bio-Rad). The results from testing of individual specimens are shown as below.



Upper Respiratory Specimens		EUA-Authorized Test			Lower Respiratory Specimens		EUA-Authorized Test		
		Positive	Negative	Total			Positive	Negative	Total
Ezplex	Positive	15	0	15	Ezplex	Positive	15	0	15
	Negative	0	15	15		Negative	0	15	15
	Total	15	15	30		Total	15	15	30
<b>Positive agreement (95% CI)</b>		100 % (78.2 ~ 100 %)			<b>Positive agreement (95% CI)</b>		100 % (78.2 ~ 100 %)		
<b>Negative agreement (95% CI)</b>		100 % (78.2 ~ 100 %)			<b>Negative agreement (95% CI)</b>		100 % (78.2 ~ 100 %)		

**E. Pooling Verification**

For the pooling verification study, a total of 180 upper respiratory specimens were collected and initially tested with Ezplex and the comparator EUA-authorized real-time PCR assays. These specimens consisted of 30 comparator positive and 150 comparator negative specimens. Testing with the Ezplex assay revealed concordant results for all specimens. Each single positive specimen was pooled together with 4 negative specimens (N=5) to create the positive pools. The negative pools were prepared by combining 5 negative specimens(N=5). This created a total of 30 positive and 30 negative pools. These pools were prepared by aliquoting 50uL of each specimen into a sterile tube to make a final volume of 250uL. For this study, extraction was performed using the QIAamp® DSP Viral RNA mini Kit (Qiagen). Real-time RT-PCR was performed using the CFX96 Dx Real-time PCR Instrument (Bio-Rad). The results from testing of pooled specimens are shown below for each target.



a) RdRp Gene Result

SARS-CoV-2 Virus(RdRp)			Individual Testing				
			Expected Positive			Negative	Total
			37 < Ct ≤ 40	34 < Ct ≤ 37	Ct ≤ 34		
Pooled Testing	Positive	37 < Ct ≤ 40	1	4	-	0	30
		34 < Ct ≤ 37	1	2	2		
		Ct ≤ 34	-	-	20		
	Negative		0	0	0	30	30
	Total		30			30	60
Positive agreement (95% CI)			100 % (88.4 ~ 100 %)				
Negative agreement (95% CI)			100 % (88.4 ~ 100 %)				

b) N gene Result

SARS-CoV-2 Virus(N)			Individual Testing				
			Expected Positive			Negative	Total
			37 < Ct ≤ 40	34 < Ct ≤ 37	Ct ≤ 34		
Pooled Testing	Positive	37 < Ct ≤ 40	4	1	-	0	30
		34 < Ct ≤ 37	-	3	1		
		Ct ≤ 34	-	-	21		
	Negative		0	0	0	30	30
	Total		30			30	60
Positive agreement (95% CI)			100 % (88.4 ~ 100 %)				
Negative agreement (95% CI)			100 % (88.4 ~ 100 %)				

These results indicate that all individually positive specimens were also detected when present in a 5-sample pool.



Among the 30 positive specimens, 8 weakly positive specimens were included in the verification. The individual Ct values for these specimens were compared to the Ct value where the same specimen was pooled with 4 negative specimens, as indicated below.

Individual Result				Pooled Result		
No.	RdRp(FAM)	N(Cy5)	IC(HEX)	RdRp(FAM)	N(Cy5)	IC(HEX)
1	38.42	38.09	30.82	36.90	39.09	31.28
2	35.65	35.16	30.81	36.72	36.35	31.30
3	35.64	37.11	31.13	37.57	37.66	31.52
4	38.63	38.25	31.37	38.72	38.94	31.25
5	35.29	36.13	30.60	38.06	36.44	31.49
6	36.56	37.19	30.52	37.73	39.19	31.37
7	35.43	36.33	30.69	37.15	36.95	31.23
8	36.63	35.59	30.64	36.81	39.92	31.23

These data indicate that low positive samples are able to be detected when present in 5 sample pools.

## XVII. FDA SARS-CoV-2 Reference Panel Testing

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded specimen testing was used to establish specificity and to confirm the LoD. The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded specimens and a standard testing protocol provided by the FDA. The extraction method and amplification instrument used were the QIAamp® DSP Viral RNA Mini Kit (62904) and the CFX96™ Dx Systems (1845097-IVD) respectively. The results are summarized in the Table below.



*Table: Summary of LoD Confirmation Result using the FDA SARS-CoV-2 Reference Panel*

<b>Reference Materials Provided by FDA</b>	<b>Specimen Type</b>	<b>Product LoD</b>	<b>Cross-Reactivity</b>
SARS-CoV-2	Nasopharyngeal Swab in VTM	1,200 NDU/mL	N/A
MERS-CoV		N/A	ND

NDU/mL = RNA NAAT detectable units/mL

N/A: Not applicable

ND: Not detected



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## **Appendix A: Specimen Pooling- Determining Appropriate Strategy for Implementation and Monitoring**

- **Sample Pooling Monitoring (Laboratory Monitoring Part A)**

Before a pooling strategy is implemented, a laboratory should determine the appropriate pool size based on percent positivity rate in the testing population and pooling testing efficiency (Table 1). The EZPlex SARS-CoV-2 assay has been validated for n-sample pool sizes up to five samples per pool

**Table 1. Efficiency of pooling based on the positivity of SARS-CoV-2 RNA in individual samples (as an example)**



<b>P, percent of positive subjects in the tested population</b>	<b><math>n_{\text{maxefficiency}}</math> (n corresponding to the maximal efficiency)</b>	<b>Efficiency of n-sample pooling corresponding to <math>n_{\text{maxefficiency}}</math> (a maximum increase in the number of tested patients when Dorfman n- pooling strategy used)</b>
5%	5	2.35
6%	5	2.15
7%	4	1.99
8%	4	1.87
9%	4	1.77
10%	4	1.68
11%	4	1.61
12%	4	1.54
13%	3	1.48
14%	3	1.43
15%	3	1.39
16%	3	1.35
17%	3	1.31
18%	3	1.28
19%	3	1.25
20%	3	1.22
21%	3	1.19
22%	3	1.16
23%	3	1.14
24%	3	1.12
25%	3	1.10

**A.1 If Historical Data for Individual Specimens is Available**

**A.1.1 Positivity Rate of Individual Testing**

- Estimate positivity rate ( $P_{\text{individual}}$ ) in the laboratory based on individual sample testing. For this consider the 7-10 previous days and calculate the number of patients tested during those days.  $P_{\text{individual}}$  is the number of positive results divided by the total number of tested patients during these 7-10 days.

**A.1.2 Selection of test developer validated size of sample pools, n**



- Use  $P_{\text{individual}}$  and Table 1 to choose an appropriate validated pool size. Table 1 presents the pool size with the maximum efficiency for the validated pool sizes and positivity rates. If the positivity rate ( $P_{\text{individual}}$ ) is in Table 1, choose  $n$  from Table 1 which corresponds to the maximum efficiency ( $F$ ).
- If  $P_{\text{individual}}$  in your laboratory does not correspond to the largest validated pool size in Table 1, the pool size with maximum efficiency for this positivity rate was not validated and you should choose the maximum  $n$  which was validated. For example, for the calculation of efficiency of 5-sample pooling, using formula  $F=1/(1+1/5-(1-P)^5)$ , when  $P_{\text{individual}}$  is 1%, the efficiency  $F$  is 3.46 for  $n=5$ . It means that 1,000 tests can cover testing of 3,460 patients on average.
- If  $P_{\text{individual}}$  is greater than 25%, then pooling patient samples is not efficient and should not be implemented.

#### **A.2 If Historical Individual Data for Individual Specimens is Unavailable**

If historical data from the previous 7-10 days is unavailable, the maximum pool size validated in the EUA and any smaller pool sizes can still be implemented, as the EUA test has been validated for the maximum pool size-specimen pooling. However, note that without  $P_{\text{individual}}$ , the laboratory may choose a pooling size that does not maximize pooling efficiency.

### **Sample Pooling Monitoring (Laboratory Monitoring Part B)**

After implementing a  $n$ -sample pooling strategy, calculate the percent positivity rate ( $P_{\text{pool}}$ ) based on  $n$  sample pooling strategy periodically using the data from pooled samples from the previous 7-10 days\*.

#### **B.1 If Historical Data for Individual Specimens is Available**

If historical data for individual specimens is available, compare  $P_{\text{pool}}$  to  $P_{\text{individual}}$  periodically. If  $P_{\text{pool}}$  is less than 85% of  $P_{\text{individual}}$  ( $P_{\text{pool}} < 0.85 \times P_{\text{individual}}$ ), it is recommended that:

- The pool size be adjusted to maximize pooling efficiency according to Table 1 above and the new  $n$  should not be more than the test developer validated maximum  $n$  in the EUA.
- If  $P_{\text{pool}}$  is greater than 25%, pooling of patient samples is not efficient and should be discontinued until the percent positivity rate decreases.

#### **B.2 If Historical Data for Individual Specimens is Unavailable**



- After implementing a n-sample pooling strategy, first calculate the positivity rate ( $P_{\text{pool-initial}}$ ) based on n-sample pool size using the data from testing pooled samples from the first 7-10 days\*.
  - If  $P_{\text{pool-initial}}$  is greater than 25%, pooling of patient specimens is not efficient and should be discontinued until the percent positivity rate decreases.
  - If  $P_{\text{pool-initial}}$  is less than or equal to 25%, pooling of patient specimens can be continued.
- Continue to monitor n-sample pooling strategy by calculating the positivity rate among patient samples during n-sample pooling ( $P_{\text{pools-x}}$ ) for subsequent 7-10\* day period based on n-sample pool testing. ( $P_{\text{pool-x}}$ ) should be updated daily using a moving average.

Compare  $P_{\text{pool-initial}}$  to  $P_{\text{pool-x}}$  periodically. If  $P_{\text{pool-x}}$  is less than 90% of  $P_{\text{pool-initial}}$  ( $P_{\text{pool-x}} < 0.90 \times P_{\text{pool-initial}}$ ), it is recommended that:

- The pool size be adjusted to maximize pooling efficiency, according to the criteria in Table 1 above, and the new n should not be more than the test developer validated maximum n in the EUA.
- If  $P_{\text{pool}}$  is greater than 25%, pooling of patient samples is not efficient and should be discontinued until the percent positivity rate decreases.

\* It is recommended that  $P_{\text{individual}}$  be calculated from the previous 7-10 days, while  $P_{\text{pool}}$  and  $P_{\text{pool-x}}$  are calculated from data collected during a 7-10 day time frame. However, when determining if 7-10 days is appropriate, take into consideration the laboratory testing volume and percent positivity, among other factors. Note that if the number of individual or pooled positive results collected during a given time frame is less than 10,  $P_{\text{individual}}$ ,  $P_{\text{pools}}$ , and  $P_{\text{pool-x}}$  may not be representative of the percent positivity in the testing population and the laboratory may want to consider extending the testing time period to increase the chance of capturing positives.

## XVIII. References



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6. **Clinical & Laboratory Standards Institute.** Document M29 Protection of Laboratory Workers from Occupationally Acquired Infections. CLSI website. <https://clsi.org/standards/products/microbiology/documents/m29/>. Accessed October 8, 2020.

## XIX. Symbols and Information



Symbol	Meaning	Symbol	Meaning
	Storage Temperature		In-Vitro Diagnostic Medical Devices
	Expiration date		Product User Manual
	Catalogue Number		Manufacturer
	Lot Number		Keep away from sunlight (P+P)
	Contents sufficient for <n> tests		European Conformity
 <b>Obelis S.A.</b> Bd. Général Wahis 53, B-1030 Brussels, Belgium	Authorized Representative in the European Community		

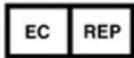
## XX. Technical and Customer Support

For Technical Support, please contact our Genetree Technical Support team. Before contacting Genetree Technical Support collect the following information

- Product name
  - Lot number
  - Serial number of the instrument
  - Error message (if any)
  - Software version
- Email for Technical Support: [info@smlgenetree.com](mailto:info@smlgenetree.com)
  - Email for Customer Support : [info@smlgenetree.com](mailto:info@smlgenetree.com)
  - Tel: +82-2-2057-7900
  - Fax: +82-70-7425-3950
  - Mailing address: 6F, Hanmaeum Bldg, 225 Baumoe-ro, Seocho-gu, Seoul, 06740
  - Republic of Korea
  - Website: <http://www.smlgenetree.com>



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**Obelis S.A.**

Bd. Général Wahis 53, B-1030  
Brussels, Belgium



**SML GENETREE Co., Ltd.**

6F, Hanmaeum Bldg, 225 Baumoe-ro, Seocho-gu, Seoul, 06740  
Republic of Korea

**SML Genetree Sciences, Inc.**  
5201 Great America Parkway, Suite 320  
Santa Clara, CA 95054



GENETREE VIEWER(1.13.777)

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# GENETREE VIEWER SOFTWARE (1.13.777)

## For Use with Ezplex SARS-CoV-2 G Kit

For Emergency Use Authorization (EUA) only.

For *in vitro* diagnostic use only.

For prescription use only

## Operators Manual



**Manufacturer:**

SML GENETREE Co., Ltd.

6F, Hanmaeum Bldg, 225 Baumoe-ro, Seocho-gu, Seoul, Republic of Korea

TEL : +82-2-2057-7900

FAX : +82-70-7425-3950

Website : <http://www.genetree.co.kr>





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## 1. Intended Use

Genetree Viewer is software used for the analysis of the qualitative detection of SARS-CoV-2 Virus using the Ezplex SARS-CoV-2 G Kit, a Reverse Transcription Real-time Polymerase Chain Reaction test that is able to detect SARS-CoV-2 Virus by extracting ribonucleic acid (RNA) from nasopharyngeal/oropharyngeal swabs and sputum specimens from patients suspected of having the COVID-19 infection.

## 2. Product Description and Instructions for Use

### 2.1 System Requirements

- 1) Microprocessor: Intel(R) i3 3.5 GHz or above
- 2) Memory: 4GB or larger
- 3) Microsoft Windows 7 or above
- 4) More than 1 USB port on computer

### 2.2 Software Download

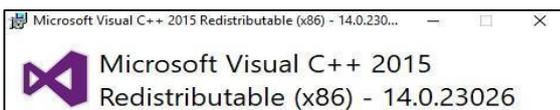
1. Insert the Genetree Viewer Software usb into the USB port of your computer. Download the Genetree Viewer software.
2. When the download is completed, extract the downloaded zip file to an appropriate folder.

### 2.3 Software Installation

1. Before installing Genetree Viewer analysis software, both of the '*Microsoft Visual C++ 2015 Redistributable(x86) Package*' and the '*Microsoft Visual C++ 2015 Redistributable(x64) Package*' must be installed in advance.

**NOTE: Both packages are contained in the Genetree Viewer installation zip file.**

**NOTE: The Microsoft Visual C++ 2015 Redistributable(x86) is saved as "vc\_redist.x86" and The Microsoft Visual C++ 2015 Redistributable(x64) is saved as "vc\_redist.x64"**

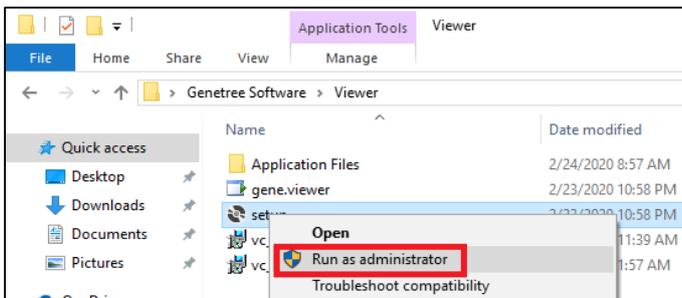




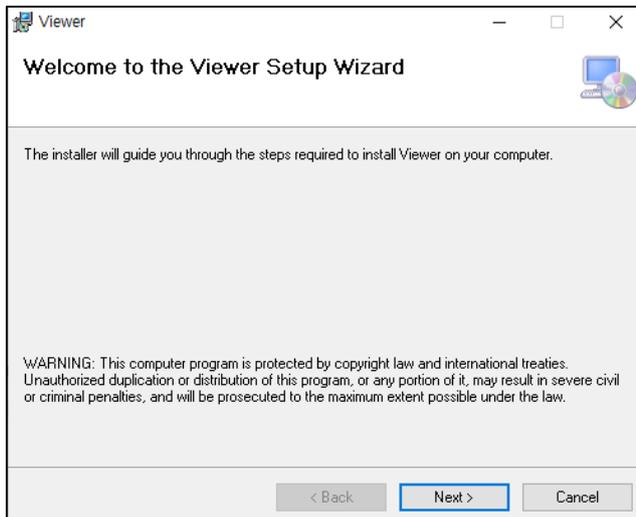
## GENETREE VIEWER(1.13.777)

2. After the pre-installation step, click on **'Run as Administrator'** in the **'Setup.exe'** file in the installation folder of **'Genetree Viewer'**.

**NOTE: If the installation is not possible due to the presence of antivirus software, the installation can be performed by temporarily stopping or not running the antivirus software and proceeding with the installation.**



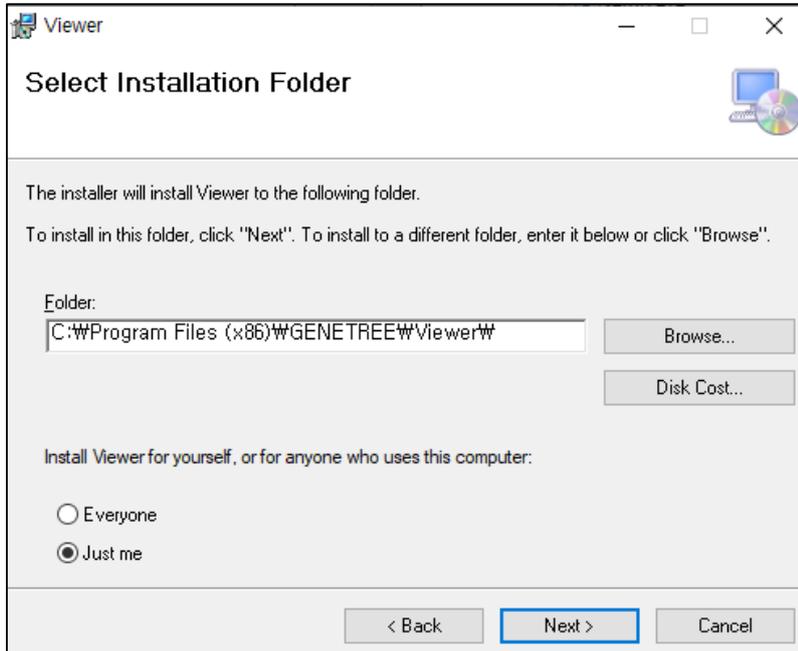
3. If **Run as Administrator**, GENETREE VIEWER Setup Wizard will pop up and guide the user through the steps required to install Viewer on your computer. Please, Click on **'Next'**.



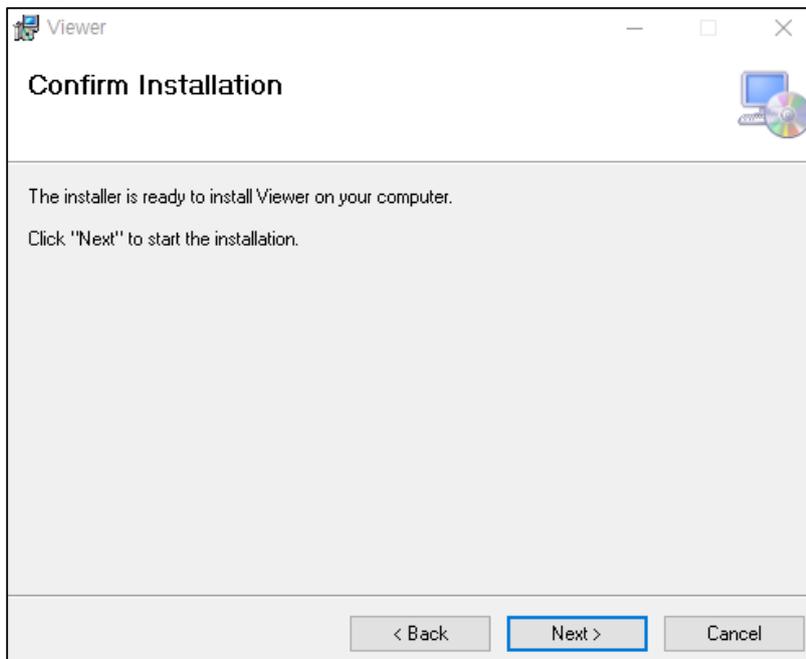


## GENETREE VIEWER(1.13.777)

4. Specify the install directory and check whether GENETREE VIEWER is installed for yourself or for anyone who uses this computer. And Click on **'Next'**



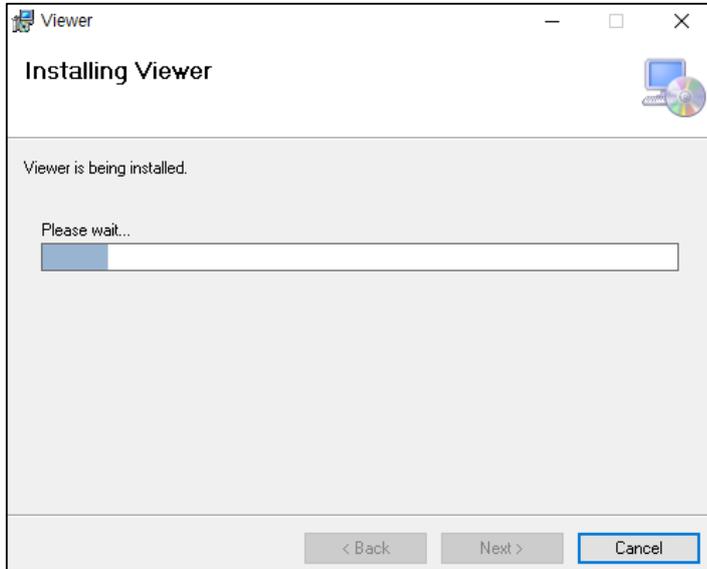
5. Click on **'Next'** to start installation.



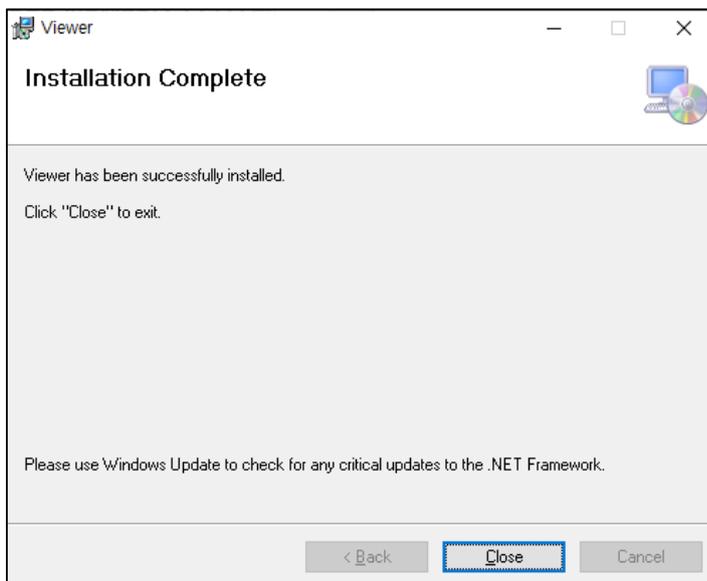


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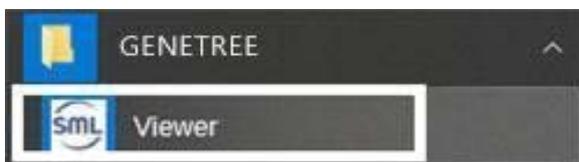
6. Wait for installation completion



7. After installation Complete, Click on 'Close'.



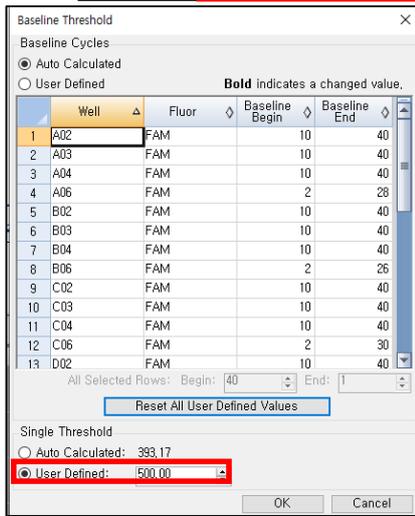
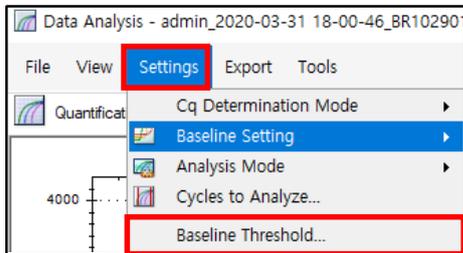
8. If the installation is completed, the run file of analysis software can be found in the 'Start menu' as shown below.



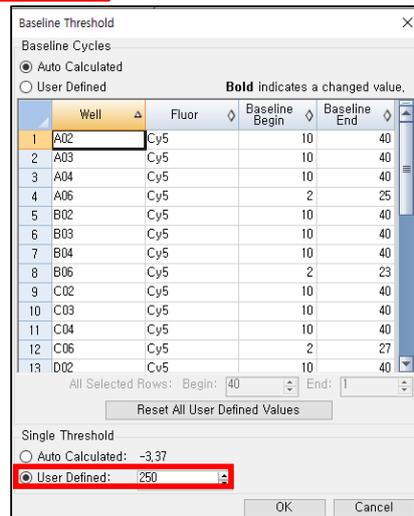


**2.4 Software Analysis (Bio-Rad CFX96 Dx Real-time PCR Instrument)**

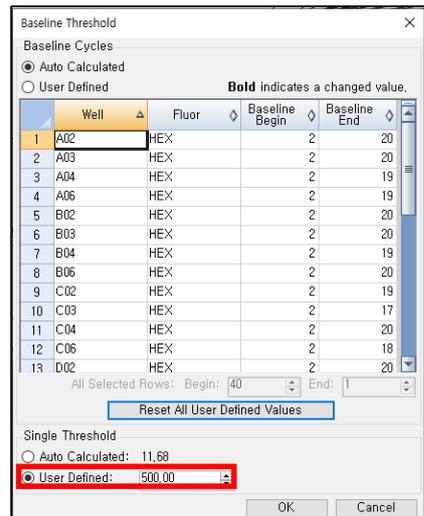
1. Check that PCR is finished and if the threshold is applied as 'Ezplex SARS-CoV-2 Kit Insert' in the CFX Manager software.



<FAM>



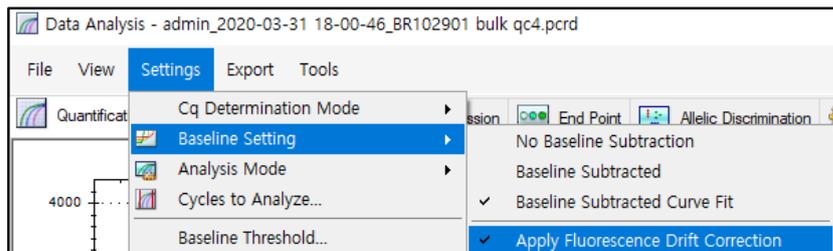
<CY5>



<HEX>

2. Click to enable the apply fluorescence drift correction in the CFX Manager software.

**Note: This configuring step is only needed for the CFX Manager software 3.1 version. In the CFX manager 1.6, steps '①' and '②' can be skipped.**



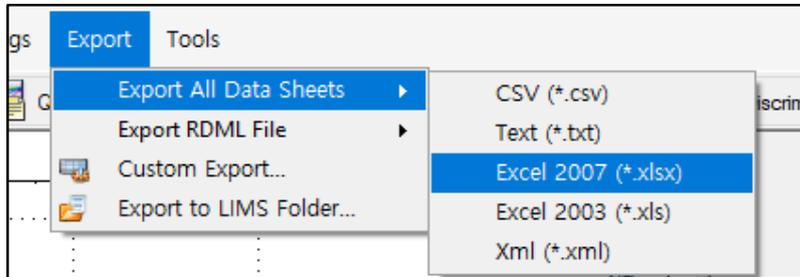


**GENETREE VIEWER(1.13.777)**

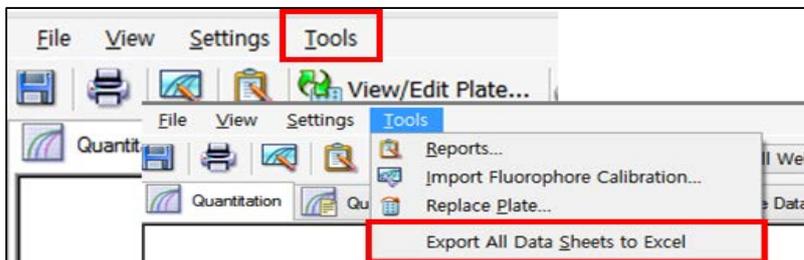
3. Click '**Export All Data Sheets**' from CFX Manager software's '**Tool**' menu to convert the test data into an excel spreadsheet.

**Note: Select Excel 2003 or Excel 2007 according to the Excel specifications.**

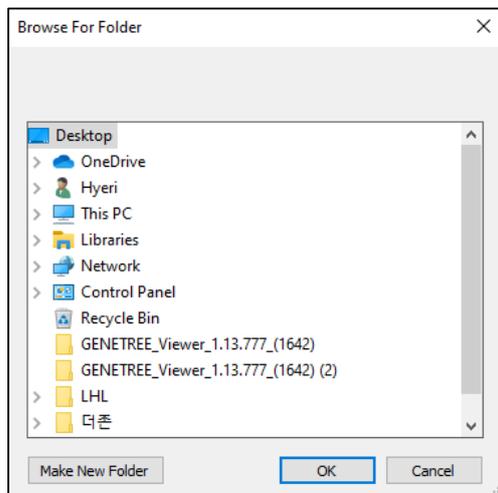
<CFX Manager software: 3.1 version>



<CFX Manager software: 1.6 version>

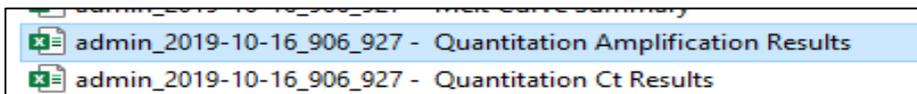


4. Specify a folder to save the file if you want, make New Folder and save the file in it

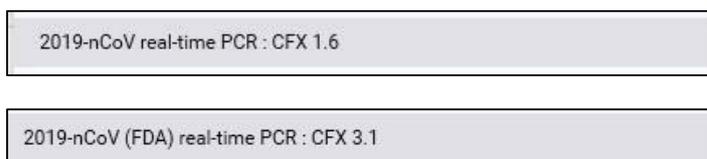




- Run the analysis software (Genetree Viewer); select **'Open'** on the upper left to navigate the folder where the converted excel file is saved, and open the file with name that ends with 'Quantitation Amplification Results.'

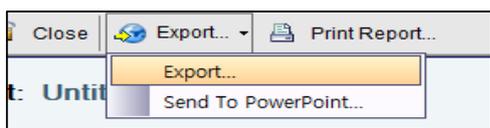


- Click **'Please select a kit'** menu at the top of the screen and select the appropriate item for the tested batch of specimens (2019-nCoV real-time PCR: CFX1.6 and 3.1).



### 2.5 Software Analysis (ABI 7500 Real-time PCR Instrument)

- Run the 7500 software, click the **'Export'** in the export menu.



- When the Export Properties window appears, select the 'Result' and 'Amplification' data in the '1. Select data to export' checkbox, specify the Excel file name in **'ExportFile Name'**, and proceed the export of data files.



- Run the 'Genetree Viewer' software, and load the exported data files via **'Open'** menu.
- When the files are successfully loaded, click the **'Please select a kit'** and select the appropriate test item as below.



- As shown in the image below, results for each well can be checked according to the selected Kit component.





**Note: Refer to the table below for description of the results.**

**3.1 General Description of the Software and Example Screens**

No.	Description
①	Positive/Negative results by well are indicated in '+', '-' respectively. Invalid results by well are indicated in ' ' respectively. Inconclusive results by well are indicated in '?' respectively.
②	Ct and fluorescent values of the results for each well are plotted on a graph.
③	Ct values of the results for each well are indicated numerically and qualitative results are printed.
④	Analysis results are converted into an excel spreadsheet.

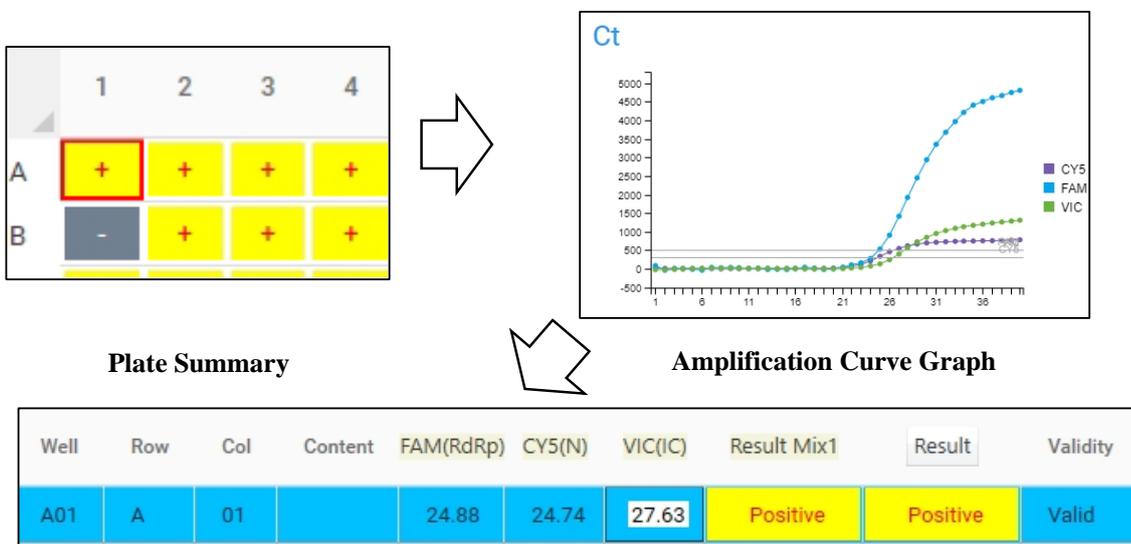
The screenshot displays the GENETREE VIEWER 1.13.777 interface. At the top, there's a menu bar with 'Open', 'Threshold', 'Print', and 'ExportToExcel' (highlighted with a red box). Below the menu is a 96-well plate grid (A-H, 1-12) with results like '+', '-', '?', and '|'. A red circle ① highlights a well with a '+' result. To the right is a Ct graph showing fluorescence intensity vs. cycle number for CYS, FAM, and VIC channels. A red circle ② highlights the graph. Below the graph is a data table with columns: Sample ID, Sample, Well, Row, Col, Content, FAM(RdRp), CYS(N), VIC(IC), Result Mix1, Result, Validity, Comment. A red circle ③ highlights a row in this table. At the bottom is an exported Excel spreadsheet with columns: No., Sample ID, Sample, Well, Content, RdRp, N, IC, Result, Validity, Comment. A red circle ④ highlights a row in this spreadsheet. A red arrow points from the 'ExportToExcel' button to the spreadsheet.





### 3.2 Positive Sample Example

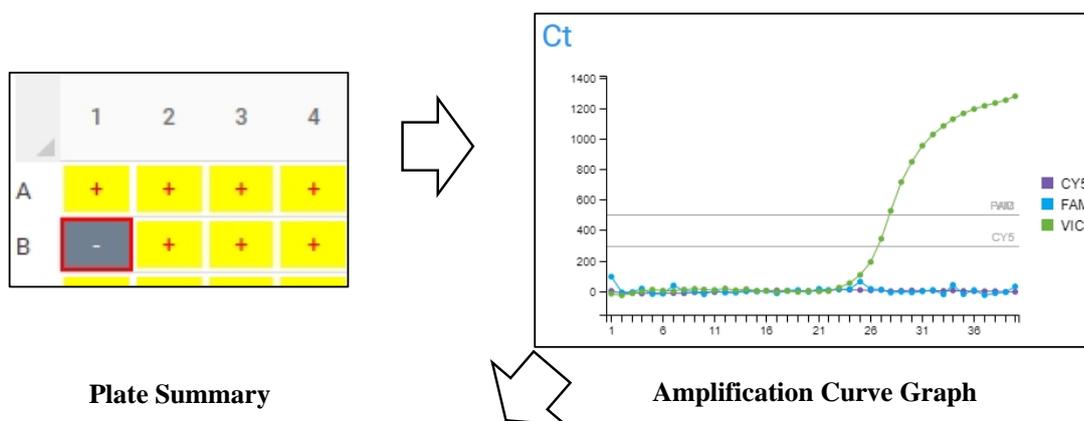
The '+' mark indicates a positive result in the plate summary. All the amplification curves appear above each threshold line in the amplification curve graph. The detailed result table displays each Ct value, positive result, and its validity for the positive sample.



Detailed Result Table

### 3.3 Negative Sample Example

The '-' mark indicates a negative result in the plate summary. The amplification curves for RdRp and N genes do not appear above each threshold line in the amplification curve graph (Only HEX or VIC appear). The detailed result table displays each Ct value as N/A, negative result, and its validity for the negative sample.





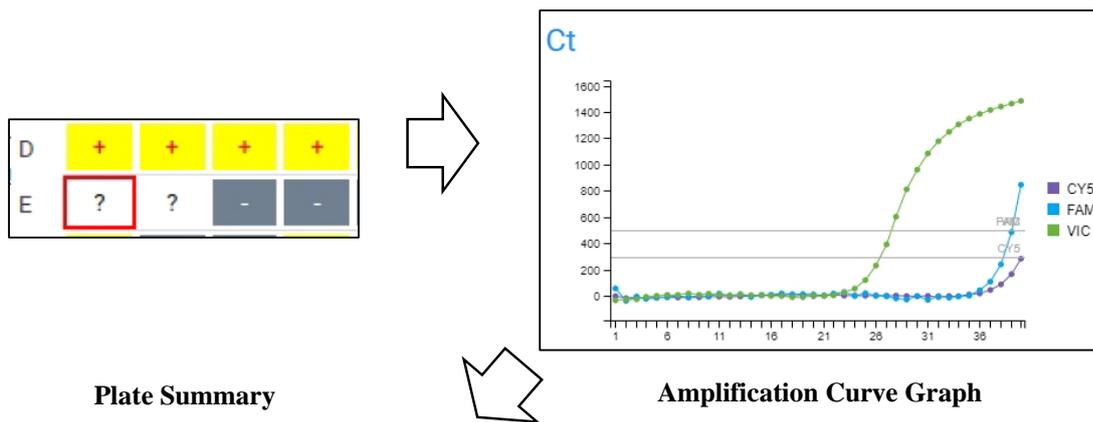
**GENETREE VIEWER(1.13.777)**

Well	Row	Col	Content	FAM(RdRp)	CY5(N)	VIC(IC)	Result Mix1	Result	Validity
B01	B	01		N/A	N/A	27.86	Negative	Negative	Valid

**Detailed Result Table**

**3.4 Inconclusive Sample Example**

The '?' mark indicates an inconclusive result in the plate summary. Just one of the amplification curves for RdRp or N gene appear above each threshold line in the amplification curve graph (HEX or VIC also appears). The detailed result table displays each Ct value, inconclusive result, and its validity.



**Plate Summary**

**Amplification Curve Graph**

Well	Row	Col	Content	FAM(RdRp)	CY5(N)	VIC(IC)	Result Mix1	Result	Validity
E01	E	01		N/A	37.60	27.76	Inconclusive	Inconclusive	Valid

**Detailed Result Table**

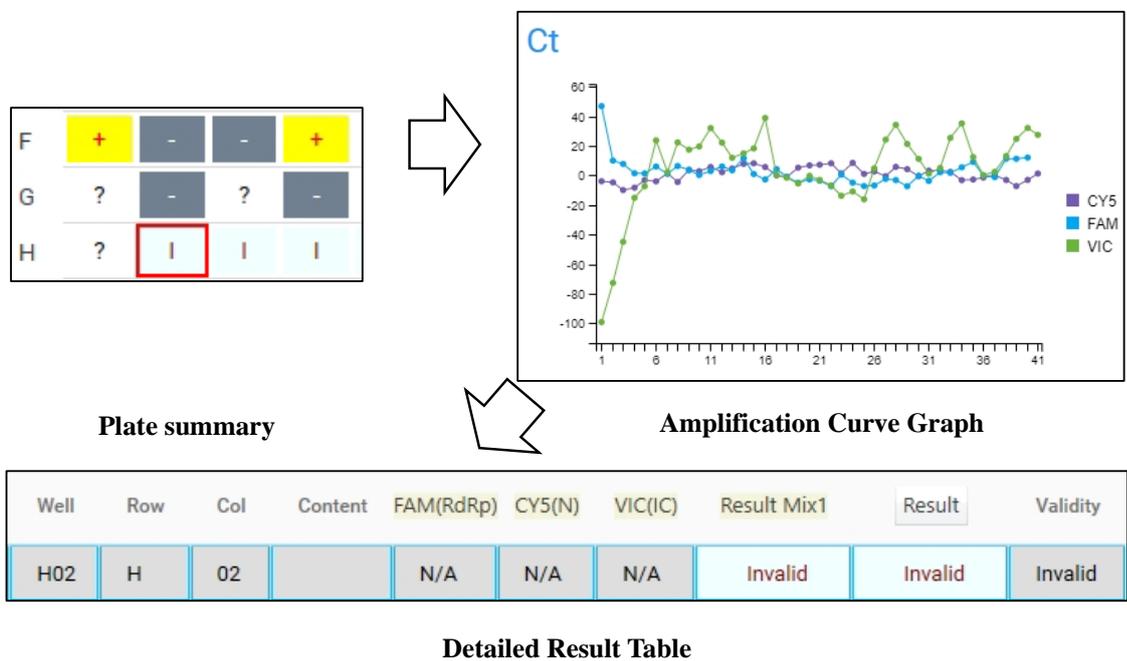




**GENETREE VIEWER(1.13.777)**

**3.5 Invalid Sample Example**

The 'I' mark indicates an invalid result in the plate summary. The amplification curve for IC (HEX or VIC) does not appear above its threshold line in the amplification curve graph (RdRp and N gene may or may not appear). The detailed result table displays each Ct value(N/A in IC), invalid result, and its invalidity.



**3. Troubleshooting**

The following table provides troubleshooting information and instructions for the Operator to follow to attempt to remedy abnormal situations that may arise with the Genetree Viewer software. Contact Technical Support if these or any other situations arise regarding the instrument or tests that cause concern.

No.	Relating Task	Symptom	Possible cause	Possible solution
1	Data File Open	Error Message: There is not a matched instrument for the input file.	Wrong format file selected and opened.	Select and reopen the appropriate data file exported from the device software (See 2.4 and 2.5).
2	Selecting a Kit	Cannot see correct test kit name.	Wrong data file opened which has different fluorescence channels with test assay.	Make sure that the test result was saved correctly and open it again.
3	Selecting a Kit	The question mark '?' is on the	The test kit is yet to be	Select an appropriate test kit.





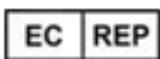
**GENETREE VIEWER(1.13.777)**

		whole plate well.	selected.	
4	Analysis	Displayed positive result of different organisms, not SARS-CoV-2 Virus.	Wrong data file opened which has similar fluorescence channel with tested assay.	Make sure that the test result was saved correctly and open it again.
5	Analysis	Cannot see Ct graph on positive result	The opened data file might be corrupted.	Re-export the test data from the device software.
6	Analysis	Displays "Negative" on the samples even though amplification occurred.	The threshold might not be adjusted in accordance with the Test kit instructions for use.	Readjust the threshold referring to the Test kit instructions for use.

**4. Symbols**

Symbol	Meaning	Symbol	Meaning
	Catalogue Number		In-Vitro Diagnostic Medical Devices
	Manufacturer		Product User Manual
	European Conformity		Authorized Representative in the European Community

**5. Authorized European Representative**



**Obelis S.A**  
 Address:  
 Bd. Général Wahis 53, B-1030 Brussels, Belgium

**6. Technical Support**

For Technical Support, please contact our dedicated technical support team on:

For Technical Support, please contact our Genetree Technical Support team. Before contacting Genetree Technical Support collect the following information:

- Product name
- Lot number
- Error message (if any)





## GENETREE VIEWER(1.13.777)

- Software version
- Email for Technical Support: [info@smlgenetree.com](mailto:info@smlgenetree.com)
- Email for Customer Support : [info@smlgenetree.com](mailto:info@smlgenetree.com)
- Tel: +82-2-2057-7900
- Fax: +82-70-7425-3950
- Mailing address: 6F, Hanmaeum Bldg, 225 Baumoe-ro, Seocho-gu, Seoul, 06740
- Republic of Korea
- Website: <http://www.smlgenetree.com>

### Warnings – When Used with the Ezplex SARS-CoV-2 G Kit:

- For *in vitro* diagnostic use. For use under an Emergency Use Authorization (EUA) only.
- This product has not been FDA cleared or approved; but has been authorized by the FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This product has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- The emergency use of this product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §360bbb-3(b)(1), unless the declaration is terminated or authorization is revoked sooner.

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#### SML GENETREE

6F, Hanmaeum Bldg, 225 Baumoe-ro, Seocho-gu, Seoul, 06740

Republic of Korea

#### SML Genetree Sciences, Inc.

5201 Great America Parkway, Suite 320

Santa Clara, CA 95054



STANDARD M nCoV Real-Time Detection kit

# STANDARD M nCoV Real-Time Detection kit

**For Use Under the Emergency Use Authorization (EUA) Only**

## Instructions for Use (IFU)



For *in vitro* diagnostic use



For prescription use only



For Use only under Emergency Use Authorization



M-NCOV-01



96 Tests



-25°C ~ -15°C



**SD BIOSENSOR, Inc.**

C-4th&5th, 16, Deogyong-daero 1556beon-gil, Yeongtong-gu, Suwon-si,  
Gyeonggi-do, 16690, REPUBLIC OF KOREA

**STANDARD M nCoV Real-Time Detection kit**

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**STANDARD M nCoV Real-Time Detection kit****1. Introduction**

Coronavirus is a single-stranded positive-sense RNA virus with an envelope of about 80 to 120 nm in diameter. Its genetic material is the largest of all RNA viruses and is an important pathogen of many domestic animals, pets, and human diseases. It can cause a variety of acute and chronic diseases. Common signs of a person infected with a coronavirus include respiratory symptoms, fever, cough, shortness of breath, and dyspnea. In more severe cases, infection can cause pneumonia, severe acute respiratory syndrome, kidney failure, and even death. The 2019 new coronavirus, or "SARS-CoV-2", was discovered because of Wuhan Viral Pneumonia cases in 2019, and was named by the World Health Organization on January 12, 2020, confirming that it can cause colds and the Middle East Respiratory Syndrome (MERS) and more serious diseases such as acute respiratory syndrome (SARS). This kit is helpful for the auxiliary diagnosis of SARS-CoV-2 infection. The test results are for clinical reference only and cannot be used as a basis for confirming or excluding cases alone.

**2. Intended Use**

The STANDARD M nCoV Real-Time Detection kit is a real-time reverse transcription-PCR assay for the qualitative detection of SARS-CoV-2 nucleic acids in nasopharyngeal, oropharyngeal, nasal, and mid-turbinate nasal swab, and sputum specimens from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 USC §263a, to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The STANDARD M nCoV Real-Time Detection kit is intended for use by qualified and trained clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and *in vitro* diagnostic procedures. The STANDARD M nCoV Real-Time Detection kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

**3. Principle of the Procedure**

STANDARD M nCoV Real-Time Detection kit is designed according to "WHO interim guidance for laboratory testing for 2019 novel coronavirus (2019-nCoV) in humans". This kit is based on TaqMan probe real-time fluorescent PCR technology. Coronavirus RNA was first transcribed into cDNA by reverse transcriptase, and then cDNA was used as a template for PCR amplification. During the PCR reaction, the 5'→3' polymerase activity of Taq DNA polymerase and exo-nuclease were simultaneously used. Dicer activity, which causes the degradation of the TaqMan probe, and the separation of the fluorophore and quencher makes the fluorescence signal detected by the instrument: FAM channel qualitative detection of the new coronavirus (SARS-CoV-2) ORF1ab (RdRp) gene, JOE (VIC or HEX) channel qualitative detection of the coronavirus E gene, and CY5 channel detection internal reference. The kit uses dUTP and UNG enzymes to prevent contamination of amplification products.

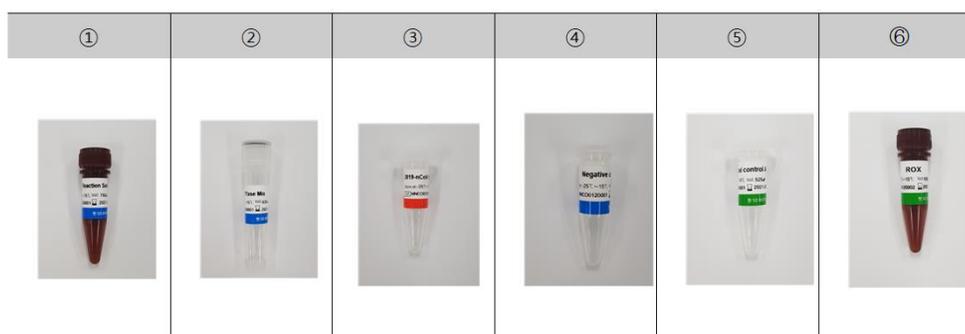
**STANDARD M nCoV Real-Time Detection kit**

Target	Channel
ORF1ab (RdRp) gene	FAM
E gene	JOE (VIC or HEX)
Internal control (IC)	CY5

**4. Kit Contents**

This kit is used for 96 test / kits. The kit contents are as follows;

	Reagent	Quantity	Volume in each reaction
1	2019-nCoV Reaction Solution	750 $\mu\text{L}$ /vial x 2	14 $\mu\text{L}$
2	RTase Mix	630 $\mu\text{L}$ /vial x 1	6 $\mu\text{L}$
3	2019-nCoV Positive control	600 $\mu\text{L}$ /vial x 1	-
4	Negative control	600 $\mu\text{L}$ /vial x 1	-
5	Internal control A	525 $\mu\text{L}$ /vial x 1	5 $\mu\text{L}$ (as extraction control) 0.5 $\mu\text{L}$ (as internal control)
6	ROX	55 $\mu\text{L}$ /vial x 1	0.5 $\mu\text{L}$
7	Instructions for use	1	-

**5. Storage and Stability Conditions**

1. The kit should be shipped and stored at the temperature of  $-25^{\circ}\text{C}$ ( $-13^{\circ}\text{F}$ ) to  $-15^{\circ}\text{C}$ ( $5^{\circ}\text{F}$ ).
2. The components of 2019-nCoV Reaction Solution and ROX should be stored away from light.
3. Kit materials are stable until the expiration date printed on the outer packaging.
4. Freeze-thawing of kit components more than 5 times may lead to inaccurate results.
5. Dispose of unused reagents and waste in accordance with country, federal, state, and local regulations.

**6. Compatible Instruments**

- LightCycler® 480 (S/W version 1.5.1.62, Roche)
- CFX96™ Dx System (S/W version 3.1, Bio-Rad)
- Applied Biosystems 7500 Real-Time PCR Instrument System (S/W version 2.0.6, Thermo Fisher Scientific)

**7. Additionally Required Materials and Equipment**

- Disposable latex gloves
- Sterilized filtered pipette tips
- Pipettes
- Sterilized (DNase, RNase free) micro centrifuge tube (1.5ml)

**STANDARD M nCoV Real-Time Detection kit**

- Nucleic acid extraction kit (QIAamp® Viral RNA Mini Kit, Qiagen, Cat.no. 52904)
- Vortex mixer
- Desktop centrifuge
- Clean bench
- RNase neutralizing agent
- Flake or snow type ice
- Thermal cycler
- 0.2ml PCR strips, plate (DNase, RNase free) and cap or sealing film for each Real-time PCR equipment
- PPE (Personal Protective Equipment)
- Biohazard waste container

**8. Description of Symbols**

Symbol	Description
	<i>In vitro</i> diagnostic medical device
	For prescription use only
	For Use only under Emergency Use Authorization
	Reference number
	Contains sufficient for <n> tests
	Temperature limit
	Manufacturer
	Use-by date
	Batch code
	Date of Manufacture
	Caution
	Instructions for use
	Fulfill the requirements of Directive 98/79/EC on <i>in vitro</i> diagnostic medical devices
	Authorized representative in the European Community
	Fulfill the requirements of KGMP

**STANDARD M nCoV Real-Time Detection kit****9. Warnings and Precautions**

- Federal Law restricts this device to sale by or on the order of a licensed practitioner.
- This kit is only for *in vitro* diagnostics only.
- Please read the instructions for use carefully before testing.
- All instruments used in the experiment should be sterilized.
- Do not eat, drink, smoke, apply cosmetics or handle contact lenses in areas where reagents and human specimens are handled.
- Handle all specimens as if infectious using safe laboratory procedures. Refer to Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with 2019-nCoV <https://www.cdc.gov/coronavirus/2019-nCoV/lab-biosafety-guidelines.html>. Dispose of hazardous or biologically contaminated materials according to the practices of your institution.
- Improper specimen collection, transfer, storage, and processing may cause erroneous test results.
- Nucleic acid extraction should be performed as soon as possible after specimen collection to avoid viral nucleic acid degradation; if it cannot be performed as soon as possible, it should be stored in accordance with SPECIMEN COLLECTION AND PREPARATION.
- After the operation of the nucleic acid extraction instrument, the used consumables should be sealed. After the instrument is cleaned, turn on the UV lamp for 30 minutes.
- As this test involves extraction of viral RNA and PCR amplification, care should be taken to avoid contamination of the amplification reaction mixture of the kit. Regular monitoring of laboratory contamination is recommended.
- Clinical laboratories should be equipped with equipment and operators in strict accordance with the "Code of Practice for Clinical Gene Amplification Laboratories".
- When using this kit, it should be operated strictly in accordance with the instructions; the specimen processing and specimen addition steps must be performed in a biological safety cabinet or other basic protective facilities, and follow the technical requirements of the clinical gene amplification laboratory.

**10. Reagent Handling**

- Handle all reagents, controls, and samples according to good laboratory practice in order to prevent carryover of samples or controls.
- Before use, visually inspect each reagent to ensure that there are no signs of leakage. If there is any evidence of leakage, do not use that material for testing.
- STANDARD M nCoV Real-Time Detection kit Reagent contains guanidine thiocyanate, a potentially hazardous chemical. Avoid contact of reagents with the skin, eyes, or mucous membranes. If contact does occur, immediately wash with generous amounts of water; otherwise, burns can occur.
- Avoid contact of reagents with the skin, eyes, or mucous membranes. If contact does occur, immediately wash with generous amounts of water; otherwise, burns can occur. If these reagents are spilled, dilute with water before wiping dry.
- Dispose of all materials that have come in contact with samples and reagents in accordance with country, state, and local regulations.

**11. Good Laboratory Practice**

- Do not pipette by mouth.
- Do not eat, drink, or smoke in designated work areas.
- Wear laboratory gloves, laboratory coats, and eye protection when handling samples and reagents. Gloves must be changed between handling samples and STANDARD M nCoV Real-Time Detection kits. Prevent contamination. Avoid contaminating gloves when handling samples and controls.
- Wash hands thoroughly after handling samples and kit reagents, and after removing the gloves.
- Thoroughly clean and disinfect all laboratory work surfaces with a freshly prepared solution of 0.5% sodium hypochlorite in distilled or deionized water (dilute household bleach 1:10). Follow by wiping the surface with 70% ethanol.

## STANDARD M nCoV Real-Time Detection kit

### 12. Procedure

#### 12.1. Specimen collection and preparation

Refer to CDC Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons Under Investigation (PUIs) for Coronavirus Disease 2019 (COVID-19) (<https://www.cdc.gov/coronavirus/2019-nCoV/lab/guidelines-clinical-specimens.html>)

##### 1) Specimen collection

###### **[Nasopharyngeal swab]**

1. Hold the nasopharyngeal swab close to the nasal septum slowly and deeply to the back of the nasopharynx.
2. Rotate it several times to obtain secretions.
3. Quickly dip the swab into the specimen collection tube, and discard the tail.
4. Tighten the tube cap to seal in case of drying.
5. Label the transport tube with sample identification information, including date of collection.

###### **[Oropharyngeal swab]**

1. Use moderate swab to wipe the posterior wall of the pharynx and the tonsils on both sides avoiding touching the tongue.
2. Quickly dip the swab into the specimen collection tube, and discard the tail.
3. Tighten the tube cap to seal in case of drying.
4. Label the transport tube with sample identification information, including date of collection.

###### **[Nasal mid-turbinate (NMT) swab, also called Deep Nasal Swab]**

1. Use a flocked tapered swab. Tilt patient's head back 70 degrees. While gently rotating the swab, insert swab less than one inch (about 2 cm) into nostril (until resistance is met at turbinates).
2. Rotate the swab several times against nasal wall and repeat in other nostril using the same swab.
3. Quickly dip the swab into the specimen collection tube, and discard the tail.
4. Tighten the tube cap to seal in case of drying.
5. Label the transport tube with sample identification information, including date of collection.

###### **[Anterior nares specimen (NS)]**

1. Using a flocked or spun polyester swab, insert the swab at least 1 cm (0.5 inch) inside the nares and firmly sample the nasal membrane by rotating the swab and leaving in place for 10 to 15 seconds. Sample both nares with same swab.
2. Quickly dip the swab into the specimen collection tube, and discard the tail.
3. Tighten the tube cap to seal in case of drying.
4. Label the transport tube with sample identification information, including date of collection.

###### **[Sputum]**

1. Collect sputum specimen by inducing a cough into a sterile container.
2. Specimens should be taken carefully to avoid contamination and completely sealed to prevent leakage during transportation (Triple packaging).
3. Label the transport tube with sample identification information, including date of collection.

**STANDARD M nCoV Real-Time Detection kit****2) Specimen storage**

Specimens can be stored at 2-8°C (35.6-46.4°F) for up to 72 hours after collection. If a delay in testing or shipping is expected, store specimens at -70°C (-94°F) or below.

**3) Specimen transport**

Specimens must be packaged and transported in accordance with the International Air Transport Association (IATA) Dangerous Goods Regulation. Follow shipping regulations for UN 3373 Biological Substance, Category B when sending potential SARS-CoV-2 specimens

**12.1. Assay Protocol****[Nucleic Acid Extraction]**

The QIAamp Viral RNA mini kit (QIAGEN, Cat. No. 52904) is used for nucleic acid extraction of specimens and reference materials.

1. The specimen volume required for nucleic acid extraction is 200  $\mu\text{l}$ .
2. When IC is used for extraction control, add 5  $\mu\text{l}$  of internal control A to each specimen to be extracted (including positive and negative controls)
3. After the nucleic acid extraction is completed, each eluent should be added to a reaction well immediately.

**[Reagent Preparation]**

1. LightCycler 480 or CFX96™Dx System  
Prepare the PCR mixture according to the table below for N reactions plus the PC and NC and dispense 20  $\mu\text{l}$  into each PCR reaction tube.

#	Reagents	Dosage in each reaction
1	2019-nCoV Reaction Solution	N x 14 $\mu\text{l}$
2	RTase Mix	N x 6 $\mu\text{l}$
3	Internal control A <sup>‡</sup>	N x 0.5 $\mu\text{l}$
Total volume/well		20 $\mu\text{l}$

<sup>‡</sup> If the IC (Internal Control A) is not used as an extraction control, add 0.5  $\mu\text{l}$  of IC into PCR master mix per 1 reaction and dispense 20.5  $\mu\text{l}$  into each well.

NOTE: PCR reaction mixture can be stored below 8°C (46.4°F) for 3 hours.

**STANDARD M nCoV Real-Time Detection kit**

## 2. Applied Biosystems 7500 Real-Time PCR Instrument System

Prepare the PCR mixture according to the table below and dispense 20.5µl into each PCR reaction tube.

	Reagents	Dosage in each reaction
1	2019-nCoV Reaction Solution	N x 14µl
2	RTase Mix	N x 6µl
3	ROX	N x 0.5µl
4	Internal control A <sup>‡</sup>	N x 0.5µl
	Total volume/well	20.5µl

<sup>‡</sup> If the IC (Internal Control A) is not used as an extraction control, add 0.5µl of IC into PCR master mix per 1 reaction and dispense 21µl into each well.

NOTE: PCR reaction mixture can be stored below 8°C (46.4°F) for 3 hours.

**[RT-PCR Amplification]**

1. Add 10µl of each of the negative control, positive control, and patient sample nucleic acid extract to the PCR mixture dispensed in each reaction tube.
2. Centrifuge at low speed for a few seconds, and place them on the real-time fluorescence quantitative PCR instrument.
3. Set the cycle conditions below on the PCR instrument.

Reaction	Temp. (°C)	Time	Cycle
Reverse transcription	50°C(122°F)	15 minutes	1
Initial denaturation	95°C(203°F)	3 minutes	1
Pre-amplification	95°C(203°F)	5 seconds	5
	60°C(140°F)	40 seconds	
Amplification	95°C(203°F)	5 seconds	40
	60°C(140°F)	40 seconds	
	Collect the signals (FAM/JOE*/Cy5)		

\* JOE/VIC/HEX



In the software operation interface of the Applied Biosystems 7500 real-time PCR instrument, select "ROX" from the Passive Reference pull-down menu.

**[Interpretation of Results]**

Assessment of clinical specimen test results should be performed after the positive and negative controls have been examined and determined to be valid. If the controls are not valid, the patient results cannot be interpreted.

Open the experiment data with the analysis software and perform the Ct analysis according to the instrument manual. See the table below for the Ct cut-off for each fluorescent channel.

**STANDARD M nCoV Real-Time Detection kit**

Target	Ct Value	Interpretation
ORF1ab gene (FAM)	Ct≤36	SARS-CoV-2 ORF1ab (RdRp) gene positive
E gene (JOE/VIC/HEX)	Ct≤36	Coronavirus E gene positive
IC (CY5)	Ct≤26	Internal control positive

Refer to the table below for the validity and the interpretation of each specimen result according to the results of each channel.

ORF1ab(RdRp) gene (FAM)	E gene (JOE/VIC/HEX)	IC (Cy5)	Interpretation	Action to be taken
Positive	Positive or Negative	Positive or Negative	• SARS-CoV-2 Positive	Report results to sender and appropriate health authority.
Negative	Positive	Positive or Negative	• SARS-CoV-2 Presumptive Positive.	Sample is repeated once. If the repeated result remains "PRESUMPTIVE POSITIVE", additional confirmatory testing may be conducted, if it is necessary to differentiate between SARS-CoV-2 and other SARS-like viruses for epidemiological purposes or clinical management.
Negative	Negative	Positive	• SARS-CoV-2 Negative	Report results to sender
Negative	Negative	Negative	• Invalid	Sample is repeated once from extraction. If a second failure occurs, it is reported to sender as invalid and recommend recollection if patient is still clinically indicated.



If the target gene signal (FAM, JOE/VIC/HEX) is strong, the CY5 (IC) may be negative.

**13. Quality Control**

All test controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted. A negative control and a positive control should be set for each batch.

The internal control A is a pseudovirus that contains RNA target, detected by the IC primers/probe set in the STANDARD M nCoV Real-Time Detection kit. Internal control A can be added to patient specimens, prior to extraction, to serve as a total process control OR can be added directly to the RT-PCR master mix, to serve as a reverse transcription and PCR amplification only control (see section 12.1 for preparation details). The internal control A should also be added to the positive control tube and negative control tube to confirm PCR amplification in each tube. Check the instrument, reagents and amplification conditions for errors and repeat the experiment.

**STANDARD M nCoV Real-Time Detection kit**

Control	QC requirements		
	ORF1ab(RdRp) gene (FAM)	E gene (JOE/VIC/HEX)	IC (Cy5)
2019-nCoV Positive control	Ct≤26	Ct≤26	Ct≤26
Negative control	Ct>36.	Ct>36.	Ct≤26
Extraction control* (Internal control A)	-	-	Ct≤26

\* If IC is only used without specimen as extraction control, Ct value of ORF1ab(RdRp) gene and E gene do not appear.

**14. Limitations of the Kit Protocols**

The use of this assay as an *in vitro* diagnostic under the FDA Emergency Use Authorization (EUA) is limited to laboratories that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests.

Use of this assay is limited to personnel who are trained in the procedure. Failure to follow these instructions may result in erroneous results.

Specimens must be collected, transported, and stored using appropriate procedures and conditions. Improper collection, transport, or storage of specimens may hinder the ability of the assay to detect the target sequences.

Extraction and amplification of nucleic acid from clinical specimens must be performed according the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.

False-negative results may arise from:

- o Improper specimen collection
- o Degradation of the viral RNA during shipping/storage
- o Using unauthorized extraction or assay reagents
- o The presence of RT-PCR inhibitors
- o Mutation in the SARS-CoV-2 virus
- o Failure to follow instructions for use

False-positive results may arise from:

- o Cross contamination during specimen handling or preparation
- o Cross contamination between patient samples
- o Specimen mix-up
- o RNA contamination during product handling

The effect of vaccines, antiviral therapeutics, antibiotics, chemotherapeutic or immunosuppressant drugs have not been evaluated.

Negative results do not preclude infection with SARS-CoV-2 virus and should not be the sole basis of a patient management decision.

A positive result indicates the detection of nucleic acid from SARS-CoV-2.

Nucleic acid may persist even after the virus is no longer viable.

Laboratories are required to report all positive results to the appropriate public health authorities.

**STANDARD M nCoV Real-Time Detection kit**

Testing of nasal, oropharyngeal, and mid-turbinate nasal swabs (self-collected on site or collected by a healthcare provider) is limited to patients with symptoms of COVID-19. Please refer to FDA's FAQs on Diagnostic Testing for SARS-CoV-2 for additional information.

Based on the in silico analysis, SARS-CoV may cross-react with the STANDARD M nCoV Real-Time Detection kit. SARS-CoV is not known to be currently circulating in the human population, therefore is highly unlikely to be present in patient specimens.

**15. Conditions of Authorization**

The STANDARD M nCoV Real-Time Detection kit assay's Letter of Authorization<sup>1</sup>, User Manual, and Labeling are available on FDA website: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations#covid19ivd>.

To assist clinical laboratories using the STANDARD M nCoV Real-Time Detection kit, the relevant Conditions of Authorization are listed below.

- a) Authorized laboratories using your product will include results and reports of your product. Under exigent circumstances, other appropriate methods for disseminating may be used, which may include mass media.
- b) Authorized laboratories using your product will use your product as outlined in the Instructions for Use only. Deviation from the authorized procedures, such as the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- c) Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- d) Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities.
- e) Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and SD Biosensor (via email: [sales@sdbiosensor.com](mailto:sales@sdbiosensor.com)) if they become aware of any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product.
- f) All laboratory personnel using your product must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use your product in accordance with the authorized labeling.
- g) SD Biosensor, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, "Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests" as "authorized laboratories."

## STANDARD M nCoV Real-Time Detection kit

## 16. Non-clinical Performance Evaluation

## 16.1 Analytical Sensitivity - Limit of Detection (LoD)

The LoD study established the lowest concentration of SARS-CoV-2 (genome copies(cp)/ $\mu$ L) that can be detected by the STANDARD M nCoV Real-Time Detection kit at least 95% of the time. The LoD was established by testing twenty replicates of six different dilutions of SARS-CoV-2 viral genomic RNA spiked into both sputum and nasopharyngeal swab specimen (collected in UTM). The study results that are summarized in the tables below show that the LoD for the STANDARD M nCoV Real-Time Detection kit is 0.5 cp/ $\mu$ L for upper and lower respiratory specimens on the ABI 7500; 0.25 cp/ $\mu$ L for upper respiratory specimens and 0.125 cp/ $\mu$ L for lower respiratory specimens on the CFX95; and 0.5 cp/ $\mu$ L for upper respiratory specimens and 0.25 cp/ $\mu$ L for lower respiratory specimens on the LC480

**Table 1. Results of the Analytical Sensitivity for the STANDARD M nCoV Real-Time Detection kit on the ABI 7500**

Specimen type	Concentration (cp/ $\mu$ L)	ORF1ab (RdRp) gene Target			E gene Target		
		Positive replicates	Mean Ct value	Standard Deviation	Positive replicates	Mean Ct value	Standard Deviation
NP swabs	1	20/20	33.1	0.6	20/20	32.4	0.7
	0.5	20/20	33.7	0.7	20/20	34.0	0.8
	0.25	17/20	35.3	0.9	16/20	35.1	0.7
	0.125	10/20	35.3	0.6	12/20	35.4	0.8
	0.0625	9/20	35.6	0.4	9/20	36.0	0.4
	0.0312	2/20	35.5	0.7	2/20	36.5	0.6
Sputum	1	20/20	31.6	0.3	20/20	32.1	0.7
	0.5	20/20	31.5	0.3	20/20	31.2	0.3
	0.25	18/20	32.9	0.4	19/20	32.8	0.4
	0.125	13/20	34.1	0.8	18/20	33.8	0.6
	0.0625	8/20	35.2	0.6	13/20	35.0	0.8
	0.0312	3/20	35.6	0.4	11/20	35.6	0.6

**Table 2. Results of the Analytical Sensitivity for the STANDARD M nCoV Real-Time Detection kit on the CFX96**

Specimen type	Concentration (cp/ $\mu$ L)	ORF1ab (RdRp) gene Target			E gene Target		
		Positive replicates	Mean Ct value	Standard Deviation	Positive replicates	Mean Ct value	Standard Deviation
NP swabs	1	20/20	30.9	0.1	20/20	31.2	0.2
	0.5	20/20	32.2	0.3	20/20	32.3	0.3
	0.25	20/20	33.2	0.4	19/20	33.1	0.5
	0.125	18/20	34.3	0.8	18/20	34.1	0.6
	0.0625	16/20	34.5	0.7	15/20	34.9	0.7
	0.0312	11/20	35.3	0.8	8/20	35.8	0.5
Sputum	1	20/20	31.1	0.4	20/20	31.3	0.3
	0.5	20/20	32.1	0.3	20/20	31.9	0.4
	0.25	20/20	33.0	0.5	20/20	32.8	0.4
	0.125	19/20	34.4	0.6	17/20	34.3	0.9
	0.0625	14/20	35.3	0.5	16/20	35.0	0.5
	0.0312	10/20	35.6	0.6	12/20	35.8	0.6

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**Table 3. Results of the Analytical Sensitivity for the STANDARD M nCoV Real-Time Detection kit on the LC480**

Specimen type	Concentration (cp/uL)	ORF1ab (RdRp) gene Target			E gene Target		
		Positive replicates	Mean Ct value	Standard Deviation	Positive replicates	Mean Ct value	Standard Deviation
NP swabs	1	20/20	31.6	0.5	20/20	32.4	0.7
	0.5	20/20	32.6	0.3	20/20	33.0	0.6
	0.25	18/20	34.8	1.1	17/20	35.2	0.8
	0.125	14/20	36.2	0.6	10/20	36.0	0.7
	0.0625	9/20	36.5	0.7	6/20	37.01	0.5
	0.0312	4/20	37.6	0.8	1/20	38.3	NA
Sputum	1	20/20	31.1	0.5	20/20	31.3	0.4
	0.5	20/20	31.0	0.2	20/20	31.3	0.3
	0.25	20/20	31.9	0.4	20/20	32.2	0.5
	0.125	17/20	33.0	0.9	16/20	33.5	0.6
	0.0625	12/20	35.1	0.5	15/20	35.1	0.6
	0.0312	7/20	35.0	1.1	11/20	35.5	0.7

**STANDARD M nCoV Real-Time Detection kit****16.2 Analytical Sensitivity - Reactivity/Inclusivity**

*In silico* analysis conducted to the primers and probe showed that STANDARD M nCoV Real-Time Detection kit will detect all SARS-CoV-2 sequences in NCBI and GISAID databases. The sequences of *in silico* analysis is the full genome sequences of SARS-CoV-2 except partial sequence and miss reading sequence

**Table 4. Results of *In Silico* analysis of ORF1ab(RdRp) primer/probe set**

<b>No. of Sequence ID analyzed</b>	<b>NCBI =1,084 and GISAID = 10,198</b>
<b>No. of Sequence ID of 100% Homology</b>	<b>11,279</b>
<b>No. of Sequence ID of less than 100% Homology</b>	<b>3</b>

The STANDARD M nCoV Real-Time Detection kit showed 100% homology to 11,279 out of 11,282 sequences against the ORF 1ab(RdRP) primers and probe set. The 3 mismatched sequences were confirmed to single nucleotide mismatch each.

**Table 5. Results of *In Silico* analysis of E primer/probe set**

<b>No. of Sequence ID analyzed</b>	<b>NCBI =1,084 and GISAID = 10,198</b>
<b>No. of Sequence ID of 100% Homology</b>	<b>11,278</b>
<b>No. of Sequence ID of less than 100% Homology</b>	<b>4</b>

STANDARD M nCoV Real-Time Detection kit showed 100% homology to 11,278 out of 11,282 sequences against the E primers and probe set. The 4 mismatched sequences were confirmed to single nucleotide mismatch each.

## STANDARD M nCoV Real-Time Detection kit

**16.3 Analytical Specificity:**

**a) Cross-Reactivity:** Cross-reactivity of the STANDARD M nCoV Real-Time Detection kit was evaluated both *in silico* analysis and by wet-testing whole organisms/viruses purchased from ATCC.

**a-1) In Silico analysis**

*In silico* analysis of the primers and probes was performed against the organisms and viruses listed in Table 6. According to In-silico analysis of E primers and probe, the cross reactivity except SARS-coronavirus and other Sarbecovirus is not expected.

**Table 6. Organisms and viruses evaluated for cross-reactivity, by in silico analysis, against the primers and probes for SARS-CoV-2 from the STANDARD M nCoV Real-Time Detection kit.**

Organism
Human coronavirus OC43
Human coronavirus HKU1
Human coronavirus 229E
Human coronavirus NL63
SARS-coronavirus
MERS-coronavirus
Parainfluenza virus 1
Parainfluenza virus 2
Parainfluenza virus 3
Parainfluenza virus 4
Enterovirus(EV68)
<i>Mycobacterium tuberculosis</i>
<i>Bordetella pertussis</i>
<i>Pneumocystis jirovecii</i>
Influenza C
Parechovirus
<i>Corynebacterium diphtheriae</i>
<i>Neisseria elongata</i>
<i>Neisseria meningitidis</i>
<i>Pseudomonas aeruginosa</i>
<i>Staphylococcus epidermis</i>
<i>Streptococcus salivarius</i>
<i>Leptospira interrogans</i>
<i>Chlamydia psittaci</i>
<i>Coxiella burneti</i> (Q-Fever)

**a-2) Cross-reactivity Wet Tested**

The 22 organisms and viruses, listed in Table 7, were wet-tested for cross-reactivity with the STANDARD M nCoV Real-Time Detection kit. All organisms and viruses were tested by spiking the organism/virus into NP swab matrix mixed with lysis buffer at the concentrations listed in Table 7. Each organism/virus was tested for cross-reactivity, in triplicate, on the CFX96. No cross-reactivity was observed for the organisms and viruses listed Table 7.

**Table 7. Cross-reactivity Test**

No.	Category	Cross-reactivity substance	Specimen Info.	Spiking Concentration
1	Non 2019-nCoV coronavirus infections	MERS-CoV	ATCC VR-3248SD	1 x 10 <sup>5</sup> copy/ml
		HCoV-229E	ATCC VR-740	1 x 10 <sup>6</sup> PFU/mL
		HCoV-HKU1	ATCC VR-3262SD	
		HCoV-NL63	ATCC VT-3263SD	

## STANDARD M nCoV Real-Time Detection kit

		HCoV-OC43	ATCC VR-1558	
2	Non 2019-nCoV Viral infections	Influenza A virus	ATCC VR-1811	
		Influenza B virus	ATCC VR-1735	
		Respiratory syncytial virus	ATCC VR-1540	
		Rhinovirus	ATCC VR-284	
		Parainfluenza virus	ATCC VR-94	
		Adenovirus	ATCC VR-3	
3	Bacteria	<i>Legionella pneumophila</i>	ATCC 33152	1 x 10 <sup>6</sup> CFU/mL
		<i>Chlamydia pneumoniae</i>	ATCC VR-2282	
		<i>Mycoplasma pneumoniae</i>	ATCC 15531	
		<i>Haemophilus influenzae</i>	ATCC 10211	
		<i>Moraxella catarrhalis</i>	ATCC 25240	
		<i>Streptococcus pyogenes</i>	ATCC 19615	
		Bowman Animal bacterium	ATCC 19606	
		<i>Klebsiella pneumoniae</i>	ATCC 13883	
		<i>Pseudomonas aeruginosa</i>	ATCC 27853	
<i>Streptococcus pneumoniae</i>	ATCC 6301			
4	Pooled human nasal wash		Employee	5~50%

## STANDARD M nCoV Real-Time Detection kit

## 17. Clinical Performance Evaluation

The performance of the STANDARD M nCoV Real-Time Detection kit was evaluated in a contrived clinical study using 30 nasopharyngeal specimens (NP) (collected in UTM) and 30 sputum samples collected from patients with signs and symptoms of a respiratory infection. Each specimen was split in order to prepare 30 positive and 30 negative samples for clinical evaluation. Positive samples were prepared by spiking viral genomic RNA at 2X and 4X LoD into 30 NP samples and 30 sputum samples, premixed with lysis buffer. All samples were extracted using the QIAamp Viral RNA Mini kit and were measured on the ABI 7500. All samples were tested in randomized and blinded fashion. The positive and negative percent agreements between the STANDARD M nCoV Real-Time Detection kit and the expected results from the NP swab and sputum specimens are shown below:

**Table 8. Result of clinical study**

Specimen type	Sample Concentration	N	ORF1ab_RdRp gene		E gene	
			% positive	Mean Ct	% positive	Mean Ct
Nasopharyngeal swab specimen(UTM)	2x LOD	20	100	32.22	100	31.84
	4x LOD	10	100	30.80	100	30.93
	Negative	30	0	-	0	-
Sputum	2x LOD	20	100	31.92	100	31.32
	4x LOD	10	100	31.10	100	30.50
	Negative	30	0	-	0	-

All positive samples were positive and all negative samples were negative in the background of individual clinical sample matrix.

In conclusion, the performance against the expected results are:

**Table 9. Result of clinical study**

Specimen	Result
Nasopharyngeal swab specimen(UTM)	<ul style="list-style-type: none"> <li>• Positive Percent Agreement: 100%(30/30) [95% CI: 88.65 – 100%]</li> <li>• Negative Percent Agreement: 100%(30/30) [95% CI: 88.65 – 100%]</li> </ul>
Sputum	<ul style="list-style-type: none"> <li>• Positive Percent Agreement: 100%(30/30) [95% CI: 88.65 – 100%]</li> <li>• Negative Percent Agreement: 100%(30/30) [95% CI: 88.65 – 100%]</li> </ul>

## STANDARD M nCoV Real-Time Detection kit

### 18. Troubleshooting

1. If the PC and IC are invalid: check for the expiration date indicated on the box label due to the possibility of invalidity of the expiration date or for improper storage conditions.
2. If the IC is invalid: check the results of the other tubes to see if they have been added to the PCR mixture. If the target Ct is  $\leq 25$ Ct, the IC may not be detected due to the overflow of the target amplicon.
3. If NC is invalid: this may be due to contamination of the workplace or the equipment, or improper storage.

### 19. Reference

1. Clinical management of severe acute respiratory infection when novel coronavirus (nCoV) infection is suspected. Interim guidance. WHO.2020
2. Diagnostic detection of Wuhan coronavirus 2019 by real-time RT-PCR.2020
3. Diagnosis and treatment of pneumonia caused by new coronavirus (trial version 4) National Health Commission. 2020
4. CDC Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons Under Investigation (PUIs) for Coronavirus Disease 2019 (COVID-19)  
<https://www.cdc.gov/coronavirus/2019-nCoV/lab/guidelines-clinical-specimens.html>



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**REF** BS7nCoV

# Real-Q 2019-nCoV Detection Kit

## INSTRUCTIONS FOR USE

(Ver. 1.1, Nov. 2020)

**For Use Under Emergency Use Authorization (EUA) Only**

**For Prescription Use Only**

**For in vitro Diagnostic Use Only**

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## 1. Intended Use

The Real-Q 2019-nCoV Detection Kit is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from the SARS-CoV-2 in Nasopharyngeal (NP) swab, NP aspirates, nasal mid-turbinate swab, nasal swab, oropharyngeal (throat) swab, sputum, tracheal aspirates and bronchoalveolar lavage (BAL) specimens from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA. Clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The Real-Q 2019-nCoV Detection Kit is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR assays and in vitro diagnostic procedures. The Real-Q 2019-nCoV Detection Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

## 2. Product Description

The Real-Q 2019-nCoV Detection Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The 2019-nCoV primer and probe set(s) is designed to detect RNA from the 2019-nCoV in nasopharyngeal (NP) swab, NP aspirates, nasal mid-turbinate swab, nasal swab, oropharyngeal (throat) swab, sputum, tracheal aspirates, and bronchoalveolar lavage (BAL) specimens from patients who are suspected of COVID-19 by their healthcare provider.

The oligonucleotide primers and probes for detection of SARS-CoV-2 were selected from regions of the virus RNA dependent RNA polymerase (RdRP) gene and Envelope (E) gene. An

additional primer/probe set to detect the human RNase P gene (HRP) in clinical specimens is also included in the kit. The target gene for detection and the fluorescent dye of the probe are shown in the table below. The test is designed to detect TaqMan probe fluorescence signals in three different wavelengths in a single tube.

FAM	HEX/VIC	Cy5
RdRP gene	E gene	Human RNase P

The RdRP primers & probe (FAM dye is attached) detect specific SARS-CoV-2 sequence and the E gene primers & probe (HEX dye is attached) detect both SARS-CoV and SARS-CoV-2 belonging to the B lineage of Betacoronavirus. The HRP-specific probe (internal control, IC) is labeled with a different fluorophore (Cy5 dye is attached), thus allowing for simultaneous detection of both SARS-CoV-2 and IC amplified products in the same reaction well.

### 3. Principle of the Procedure

Nucleic acids are isolated and purified using either QIAamp® MinElute Virus Spin Kit (QIAGEN) or MagNA Pure 96 DNA and Viral NA Small Volume Kit (Roche).

Performance of the Real-Q 2019-nCoV detection Kit is dependent upon the amount and quality of template RNA purified from human specimens. The following commercially available RNA extraction kits and instrument have been qualified and validated for recovery and purity of RNA for use with the kit:

	Extraction Kit (Manufacturer)
Manual extraction	QIAamp MinElute Virus Spin Kit (QIAGEN)
Automated extraction system (MagNA pure 96)	DNA and Viral RNA Small Volume kit (Roche)

The purified nucleic acid is reverse transcribed and amplified in a combined reaction process. 5 µL RNA template is added into 20 µL RT-PCR master mixture which is prepared from 12.5 ul of 2x PCR reaction mixture, 3 ul of nCoV probe & primer mixture and 1 µL of RT-PCR Enzyme. The real time RT-PCR reaction is performed on Applied Biosystems 7500 Real-Time PCR Instrument System (software version 2.3), Applied Biosystems 7500 fast Real-Time PCR Instrument System (software version 2.3), Applied Biosystems QuantStudio 5 Real-Time PCR Instrument System (software version 1.4), CFX96 real-time PCR detection system (software version 1.6), and CFX96 DX real-time PCR detection system (software version 1.6). In the RT-PCR reaction, the viral RNA

is first converted into cDNA in a reverse transcription reaction. The cDNA is then amplified by the target specific forward and reverse primers in the PCR reaction.

In the process, the probe anneals to a specific target sequence located between the forward and reverse primers. During the extension phase of the PCR cycle, the 5' nuclease activity of Taq polymerase degrades the probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. With each cycle, additional reporter dye molecules are cleaved from their respective probes, increasing the fluorescence intensity. Fluorescence intensity is monitored at each PCR cycle by Applied Biosystems 7500/7500 fast/QS5 Real-Time PCR Instrument System, Bio-Rad CFX96/CFX96 DX real-time PCR detection system.

## 4. Components

### 4.1 Materials provided

Component	Description	Volume (100T)
PCR MIX	2X PCR reaction mixture	1,250 µl
PROBE	nCoV probe & primer mixture	300 µl
POSITIVE CONTROL	Positive control	50 µl
ENZYME	RT-PCR enzyme	100 µl
WATER	Water, sterile, DNase/RNase free	1,000 µl
ROX DYE	ROX reference dye	10 µl

**Note :**

- The 2X PCR reaction mixture and RT-PCR enzyme contain reagents and enzymes for reverse transcription and amplification of SARS-CoV-2 targets (RdRP gene and E gene) and human RNase P (HRP).
- The nCoV probe & primer mixture includes: RdRP gene detection primer/probe, E gene detection primer/probe and HRP detection primer/probe.
- The Positive Control will yield a positive result with the RdRP gene, E gene and HRP primer/probe sets. The Positive Control contains RdRP gene, E gene and HRP gene at a concentration of 160x LoD. The use of an additional Positive Control that is closer to the LoD is recommended as a further QC measure.
- Water is to be used as a "no template"/negative control to check for contamination during

processing and must be included in each run.

- ROX is a passive reference dye used in ABI 7500/7500fast/QS5 real time PCR instruments.
- All components are to be taken out immediately before use, thawed and used following centrifugation. Immediately after use, store at -20 °C.

#### 4.2 Materials required but not provided

<b>RNA extraction</b>	<ul style="list-style-type: none"> <li>• QIAGEN QIAamp MinElute Virus Spin Kit (Cat. No. 57704)</li> </ul>
<b>Real time PCR instrument</b>	<ul style="list-style-type: none"> <li>• Roche MagNA pure 96/DNA and Viral RNA Small Volume Kit</li> <li>• Applied Biosystems 7500 real-time PCR instrument (7500 Software v2.3)</li> <li>• Applied Biosystems 7500 fast real-time PCR instrument (7500 Software v2.3)</li> <li>• Applied Biosystems QuantStudio 5 real-time PCR Instrument (QuantStudio™ Design and Analysis Software v1.4)</li> <li>• CFX96 real-time PCR detection system (CFX Manager™ Software v1.6)</li> <li>• CFX96 DX real-time PCR detection system (CFX Manager™ Software v1.6)</li> </ul>
<b>Consumables and Equipment</b>	<ul style="list-style-type: none"> <li>• Disposable powder free gloves</li> <li>• Pipettes (adjustable) and Nuclease-free pipet tips with aerosol barriers</li> <li>• Nuclease-free, low-binding microcentrifuge tubes (1.5 ml)</li> <li>• 0.2 mL DNase-free PCR tubes or plates (96 well) recommended by the instrument manufacturer</li> <li>• Optical caps or optical adhesive cover recommended by the instrument manufacturer</li> <li>• Desktop centrifuge</li> <li>• (1.5 mL microcentrifuge, 8 strip tubes centrifuge, 96 well plate centrifuge)</li> </ul>

### 5. Warnings & Precautions

- For in vitro diagnostic use only
- For prescription use only
- For Emergency Use Authorization only.
- This test has not been FDA cleared or approved; the test has been authorized by FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.

- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostic tests for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.
- All patient specimens and positive controls should be considered infectious and/or biohazardous and handled accordingly with safe laboratory procedures.
- Use personal protective equipment (PPE) consistent with current guidelines for the handling of potentially infectious samples.
- Do not eat, drink, smoke, apply cosmetics or handle contact lenses in areas where reagents and human specimens are handled.
- Do not use products beyond the expiration date.
- Store the kit at -20 °C.
- Do not mix with other product numbers.
- Always wear laboratory gloves, lab coats, and goggles when handling kit components.
- It is recommended to use aerosol barrier, RNase, DNase-free tips to prevent contamination.
- All components are to be taken out immediately before use, thawed and used after centrifugation for several seconds.
- After using the kit components, immediately store at -20 °C, and limit freezing and thawing to 5 times.
- Reagents should be used immediately after thawing to reduce the time at room temperature.
- When dispensing sample RNA, dispense RNA into the designated well.
- Manipulation of strip caps should be performed only while wearing vinyl gloves or rubber gloves without powder.
- If the tube is not well closed with a strip cap, the contents may evaporate, and incorrect results may occur.
- After adding the sample RNA to the appropriate tube, close the strip tube with a strip cap, lightly centrifuge and transfer the tube to a real time PCR instrument.
- Plate covers should be manipulated only while wearing plastic gloves or rubber gloves without powder.
- If the plate is not covered with a plate cover, the contents may evaporate, and incorrect results may occur.
- After completing the sample RNA loading, cover the plate with a plate cover, lightly centrifuge and install plate on a real time PCR instrument.
- Check if the real time PCR conditions and fluorescence dye selection described in the instruction manual are correctly set before proceeding.
- If the positive control is not amplified, entire run should be repeated from residual extracted RNA as the result is considered invalid.

- If a positive amplification signal appears in the negative control, entire run should be repeated from residual extracted RNA as the result is considered invalid.
- Verify the amplification curve for each sample to verify that the Ct analysis is correct.
- PCR is a very sensitive method, therefore, take care to avoid carry-over contamination.
- Avoid microbial and ribonuclease contamination of kit reagents including positive and negative controls.
- Discard the positive control DNA immediately once the kit has been consumed.
- Dispose of unused reagents, waste, and samples according to regulations.
- If reagent gets into your eyes, immediately flush extensively with water and follow doctor's instructions.
- If reagent comes into contact with skin, immediately rinse with water.
- When handling samples that may cause infection, treat them safely according to CLSI Guideline M29-A.
- Maintain real time PCR instruments according to the manufacturer's instructions.

## 6. Reagent Storage

The components of the Real-Q 2019-nCoV Detection Kit should be stored at -20 °C. Under these conditions, components of the kit are stable until the expiry date stated on the label. Multiple freeze-thaw cycles should be avoided and should not exceed five freeze-thaw cycles as this may reduce the analytical sensitivity.

**Note:** Do not store the kit at room temperature.

## 7. Control Materials

- Positive Control (PC):

The positive control is comprised of non-infectious DNA plasmids containing RdRP gene, E gene, and RNase P gene fragments used to verify PCR amplification process and is used in every test. The PC should yield a positive result for each target in the Real-Q 2019-nCoV Detection Kit. The Positive Control is at a concentration of 160x LoD. The use of an additional Positive Control that is closer to the LoD is recommended as a further QC measure.

- **Negative Control (NC):**

The negative control is DNase/RNase free water that is used to monitor non-specific amplification and contamination during the RT-PCR processes. The NC should yield a negative result for each target in the Real-Q 2019-nCoV detection Kit.

- **Internal Control**

The Real-Q 2019-nCoV Detection Kit uses the Human RNase P (HRP) gene as an endogenous extraction control, so RNA can be extracted and tested directly from the sample without the need for further addition of control material. RNase P is used to monitor extraction, reverse transcription and real time PCR amplification processes.

Additional controls should be tested in accordance with state and institutional guidelines and accreditation requirements. Testing of an RNA-based external positive control (such as a known SARS-CoV-2 positive specimen) with every batch of patient samples (extraction through RT-PCR) is recommended.

## 8. Specimen

- **Sample collection**

Sample collection device and/or sample preservation buffer is not included as part of the kit. Refer to the CDC Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens for COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>

Nasopharyngeal (NP) swab, NP aspirates, nasal mid-turbinate swab, nasal swab, oropharyngeal (throat) swab, sputum, tracheal aspirates and bronchoalveolar lavage (BAL) specimens are acceptable specimen types. The use of UTM is recommended for the transportation of swab specimens.

- After collection, the specimen should be stored at 2-8°C for up to 48 hours after collection.
- If delivery and processing exceed 48 hours, specimens should be transported in dry ice and once in laboratory frozen at -70°C or colder.

- **Specimen Transport**

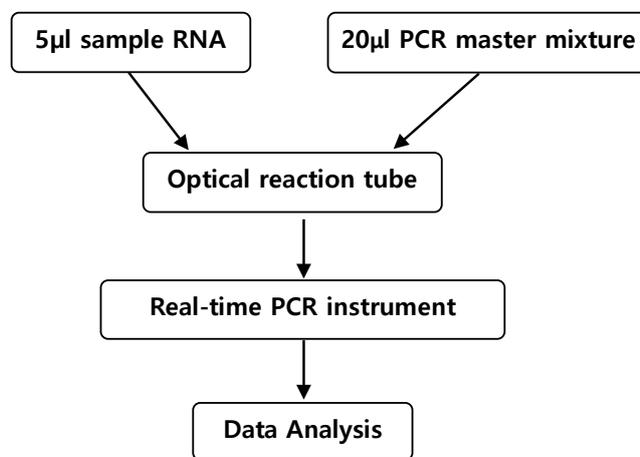
For domestic and international shipments, specimens must be packaged, shipped, and transported according to the current edition of the International Air Transport Association

(IATA) Dangerous Goods Regulation. Follow shipping regulations for UN 3373 Biological Substance, Category B when sending potential SARS-CoV-2 specimens.

## 9. Procedure

### 9.1 Schematic workflow

Use of a uni-directional workflow with separate preparation areas for RNA extraction, assay setup, and amplification is recommended to minimize the risk of contamination.



### 9.2 RNA extraction

The following RNA extraction kits have been validated for use with this assay:

	Extraction Kit (Manufacturer)	Sample volume	Elution volume
Manual extraction	QIAamp MinElute Virus Spin Kit (QIAGEN)	200 µl	50 µl
Automated extraction system (MagNA pure 96)	DNA and Viral RNA Small Volume kit (Roche)	250 µl	50 µl

Viral RNA is extracted according to the manual provided by each manufacturer. The extracted RNA is immediately tested with the Real-Q 2019-nCoV Detection Kit, and if it cannot be tested immediately, it should be stored below -70 °C.

### 9.3 Preparation of Reaction Mixture

#### Reagents are to be prepared in the following order:

- Thaw the components of the kit that are stored at -20 °C.
- Keep the components in ice or ice block as soon as they are thawed.
- Prepare the master mixture in ice or ice block for the PCR.
- After preparing the master mixture, immediately return kit components to -20 °C.
- Mix the master mix gently by pipetting up and down, then centrifuge briefly.

Note: Insufficient mixing of the master mixture may result in incorrect results.

#### Prepare a real time PCR master mix

- Prepare a real time PCR master mix for the reaction.
- ✘ Total required reactions = (n sample +1 positive control +1 negative control) +1
- ✘ Preparation of master mixture for CFX96/CFX96 DX

Component	Description	Volume
PCR MIX	2X PCR reaction mixture	12.5 µl
PROBE	nCoV probe & primer mixture	3 µl
ENZYME	RT-PCR enzyme	1 µl
WATER	Water, sterile, DNase/RNase free	3.5 µl
Total		20 µl

- ✘ Preparation of master mixture for AB7500/7500fast/QS5

Component	Description	Volume
PCR MIX	2X PCR reaction mixture	12.5 µl
ROX DYE	ROX reference dye	0.07 µl
PROBE	nCoV probe & primer mixture	3 µl
ENZYME	RT-PCR enzyme	1 µl
WATER	Water, sterile, DNase/RNase free	3.43 µl
Total		20 µl

Note: ROX dye may be added to the 2X PCR reaction mixture before using the kit.

In this case, 12.57 µl of a 2X PCR reaction mixture containing ROX can be used.

Note: When mixing the master mixture, pipette up and down several times; do not vortex.

- After mixing the master mixture well, briefly centrifuge. Aliquot 20 µl of master mixture into real time PCR strip tubes or plates wells.

- C. Add 5 µl of the clinical sample RNA into each tube or well containing aliquot of the master mixture.
- D. Add 5 µl of provided positive control (PC) into PC well containing aliquot of the master mixture.
- E. Add 5 µl of water to the negative control well containing aliquot of the master mixture.
- F. Close the tube caps securely and centrifuge briefly. Cover plate with plate cover and centrifuge briefly.

**9.4 Real time PCR Condition**

Step	Temperature	Time	Cycle	Acquisition mode
1	50 °C	30 min	1 cycle	
2	95 °C	15 min	1 cycle	
3	95 °C	15 sec	40 cycles	none
	62 °C	45 sec		Acquiring on FAM, HEX/VIC, Cy5

**Note :**

- Fluorescence is detected at 62°C of the step 3 (cycling step).
- In the CFX96/CFX96 DX, the fluorescence is designated by selecting FAM, HEX, and Cy5.
- In the ABI7500/7500fast/QS5, the fluorescence is set FAM, VIC, Cy5 for Reporter, and set all Quencher to None.

Target	Fluorescence
RdRP gene	FAM
E gene	HEX/VIC
IC(HRP)	Cy5

## 10. Results analysis

### 10.1 Positive and Negative controls

You should check the Ct value of the positive control. If the Ct value is out of the specified range, re-testing of all samples and controls within the PCR run should be performed. Positive results for the negative control, render the entire run invalid and all samples and controls within the run should be re-tested starting from RT-PCR.

	FAM Ct (RdRP gene)	HEX/VIC Ct (E gene)	Cy5 Ct (HRP)	Result	Comment
Positive control	28±5	28±5	28±5	Positive	Valid
Negative control	Neg	Neg	Neg	Negative	Valid

### 10.2 Interpretation of results

Assessment of clinical specimen test results should be performed after the positive and negative controls have been examined and determined to be valid and acceptable. If the controls are not valid, the patient results cannot be interpreted.

- ① Analyses should be performed separately for each target using a manual threshold setting.
- ② Thresholds should be adjusted to fall within exponential phase of the fluorescence curves and above any background noise signal. The procedure chosen for setting the threshold should be used consistently.
- ③ Threshold setting

Threshold	FAM (RdRP gene)	HEX / VIC (E gene)	Cy5 (HRP gene)
CFX96	300	300	200
CFX96 DX	300	300	200
ABI 7500 (with ROX)	0.1	0.05	0.05
ABI 7500 fast (with ROX)	0.1	0.05	0.05
ABI QS5 (with ROX)	0.1	0.05	0.05

- ④ Cut-off Ct is as shown in the table below.

FAM (RdRP gene)	HEX / VIC (E gene)	Cy5 (HRP gene)
≤38	≤38	≤35

To be valid, all clinical samples should exhibit fluorescence growth curves in the RNase P reaction that cross the threshold line within 35 cycles (≤35 Ct).

⑤ Analyze the results according to the table below.

FAM (RdRP)	HEX/VIC (E gene)	Cy5 (HRP)	Result	Comment
+	+	+/-	2019-nCoV positive	
+	-	+/-	2019-nCoV positive (*)	
-	+	+/-	Presumptive positive for 2019-nCoV (**)	Retest is recommended.
-	-	+	Negative	
-	-	-	Invalid	repeat the test

(\*) RdRP gene (+) and / E gene (-) result could be caused by 1) a sample at concentrations near or below the limit of detection of the test, 2) a mutation in the E gene target region in the oligonucleotide binding sites, or 3) other factors.

(\*\*) RdRP gene (-) and / E gene (+) result could be caused by 1) a sample at concentrations near or below the limit of detection of the test, 2) a mutation in the RdRP target region in the oligonucleotide binding sites, or 3) infection with some other human coronavirus (e.g., SARS-CoV or another human coronavirus previously unknown to infect humans), or 4) other factors. Retest is recommended. If the repeated result remains presumptive positive, contact your local public health laboratory or CDC for further guidance. Repeated presumptive positive results should be confirmed if clinically needed.

## 11. Limitations

- The use of this assay as an in vitro diagnostic under the FDA Emergency Use Authorization (EUA) is limited to laboratories that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, that meet requirements to perform high complexity tests.
- Use only by personnel trained in the techniques of rRT-PCR and in vitro diagnostic procedures.
- Based on the *in silico* analysis, SARS-CoV and other SARS-like coronaviruses in the same subgenus (Sarbecovirus) as SARS-CoV-2 may cross-react with the E-gene target. SARS-CoV is

not known to be currently circulating in the human population, therefore is highly unlikely to be present in patient specimens.

- Specimens must be collected, transported, and stored using appropriate procedures and conditions. Improper collection, transport, or storage of specimens may hinder the ability of the assay to detect the target sequences and lead to false negative results.
- Extraction and amplification of nucleic acid from clinical specimens must be performed according the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.
- Avoid contamination by adhering to good laboratory practices and to the procedures specified in this package insert.
- Laboratories are required to report all positive results to the appropriate public health authorities.
- Detection of SARS-CoV-2 RNA may be affected by sample collection methods, patient factors (eg, presence of symptoms), and/or stage of infection.
- Positive and negative predictive values are highly dependent on prevalence. False-negative test results are more likely when prevalence of disease is high. False-positive test results are more likely when prevalence is moderate to low
- Negative results do not preclude infection with the SARS-CoV-2 virus and should not be the sole basis of a patient treatment/management or public health decision. Follow up testing should be performed according to the current CDC or public health agency recommendations.
- Detection of viral RNA may not indicate the presence of infectious virus or that SARS-CoV-2 is the causative agent for clinical symptoms.
- The performance of this test has not been established for monitoring treatment of SARS-CoV-2 infection.
- Do not use expired reagents.

## 12. Conditions of Authorization for the Laboratory

The Real-Q 2019-nCoV Detection Kit Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>.

However, to assist clinical laboratories using the Real-Q 2019-nCoV Detection Kit, the relevant Conditions of Authorization are listed below:

- A. Authorized laboratories<sup>1</sup> using the Real-Q 2019-nCoV Detection Kit will include with test result reports, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- B. Authorized laboratories using the Real-Q 2019-nCoV Detection Kit will use the Real-Q 2019-nCoV Detection Kit as outlined in the "Real-Q 2019-nCoV Detection Kit Instructions for Use". Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to perform the Real-Q 2019-nCoV Detection Kit are not permitted.
- C. Authorized laboratories that receive the Real-Q 2019-nCoV Detection Kit must notify the relevant public health authorities of their intent to run the test prior to initiating testing.
- D. Authorized laboratories using the Real-Q 2019-nCoV Detection Kit will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- E. Authorized laboratories will collect information on the performance of the test and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and BioSewoom Inc. (via telephone: +82-2-498-2340 ; web address: <http://en.biosewoom.com/> ; email: [info@biosewoom.com](mailto:info@biosewoom.com)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of the test of which they become aware.
- F. All laboratory personnel using the test must be appropriately trained in PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use the test in accordance with the authorized labeling.
- G. BioSewoom Inc., authorized distributors, and authorized laboratories using the Real-Q 2019-nCoV Detection Kit will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, "Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests" as "authorized laboratories."

## 13. Performance evaluation

### 13.1 Analytical sensitivity (Limit of Detection, LoD)

To determine the Limit of Detection (LoD) and analytical sensitivity of the kit, studies were performed using serial dilutions of SARS-CoV-2 RNA and the LoD was determined to be the lowest concentration of template that could reliably be detected in 95% of all positive replicates. After preliminary studies using IVT RNA, the LoD of each target assay in the Real-Q 2019-nCoV Detection Kit was determined and verified using SARS-CoV-2 genomic RNA (RNA sample from the National Culture Collection for Pathogen (NCCP) in Republic of Korea. NCCP No. 43326). Whole viral genome RNA was spiked into sputum at various concentrations (3.125 copies/μl, 6.25 copies/μl, 12.5 copies/μl) diluted from the stock concentration of  $6 \times 10^8$  copies/μl. 20 replicates were tested from extraction to real time RT-PCR analysis. RNA extraction was performed by automatic extraction using the Roche MP96 instrument and manual extraction using the QIAGEN QIAamp MinElute Virus Spin Kit. The real-time RT-PCR assay was performed on ABI 7500 instrument. The LoD in sputum was confirmed as 6.25 copies/μl for both extraction methods.

Additional testing to confirm the LoD with nasopharyngeal swabs and sputum for the remaining thermocyclers was performed using QIAGEN QIAamp MinElute Virus Spin Kit. Following tentative LoD testing on all devices, LoD of the Real-Q 2019-nCoV Detection Kit test was confirmed by testing 20 replicates. The final confirmed LoD test results derived using the QIAGEN QIAamp MinElute Virus Spin Kit for extraction are summarized in the table below.

		<b>ABI7500</b>	<b>ABI7500 fast</b>	<b>QS5</b>	<b>CFX96</b>	<b>CFX96 DX</b>
<b>Final LOD</b>	Sputum (+) rate	6.25 copies/μl (100%, 20/20)	6.25 copies/μl (100%, 20/20)	6.25 copies/μl (100%, 20/20)	6.25 copies/μl (95%, 19/20)	6.25 copies/μl (100%, 20/20)
	NPS (+) rate	6.25 copies/μl (100%, 20/20)	3.125 copies/μl (95%, 19/20)	6.25 copies/μl (100%, 20/20)	3.125 copies/μl (100%, 20/20)	6.25 copies/μl (100%, 20/20)

### FDA SARS-CoV-2 Reference Panel Testing

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to confirm the LoD. The extraction method and instrument used were QIAGEN QIAamp MinElute Virus Spin Kit and CFX96 real-time PCR detection system. The results are summarized in Table 1.

Table 1: Summary of LoD Confirmation Result using the FDA SARS-CoV-2 Reference Panel

Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	NPS	5,400 NDU/mL	N/A
MERS-CoV		N/A	ND

- NDU/mL = RNA NAAT detectable units/mL
- N/A: Not applicable
- ND: Not detected

### 13.2 Inclusivity (Analytical Sensitivity)

Inclusivity was demonstrated by comparing the Real-Q 2019-nCoV Detection Kit primers and probes to an alignment of 2,753 SARS-CoV-2 sequences downloaded from the NCBI database and 21,587 SARS-CoV-2 sequences downloaded from the GISAID database as of June 1, 2020. Multiple sequence alignment by The MUSCLE alignment software was performed for all SARS-CoV-2 sequences. The inclusivity of 2019-nCoV detection was confirmed by *in silico* analysis of the position of the detection probe and primers used in the Real-Q 2019-nCoV Detection Kit in the alignment data through the GeneDoC MSA program. The GeneDoC multiple sequence alignment of primer and probe sequences showed that the RdRP primer/probe set and E primer/probe set in the Real-Q 2019-nCoV Detection Kit had 100% homology to all the SARS-CoV-2 sequences.

### 13.3 Cross-reactivity (Analytical Specificity)

Cross-reactivity of the Real-Q 2019-nCoV Detection Kit was evaluated by *in silico* analysis and by wet testing whole organisms and purified nucleic acids from pathogens that may potentially be found in respiratory specimens.

For the *in silico* analysis, the Real-Q 2019-nCoV Detection Kit primer and probe sequences were queried individually against sequences of 32 pathogens potentially present in upper respiratory specimens and/or with genetic similarities to SARS-CoV-2. Results of *in silico* analysis demonstrate that there is significant homology between the SARS-coronavirus (NC\_004718.3) and our assay primer/probes for RdRP gene and E gene. The primers and probe for the E gene have 100% homology to the SARS-coronavirus sequence. Upon further analysis of the subject sequence, three single nucleotide mismatches were found in the RdRP probe binding region resulting in an alignment of 22/25 bases. In addition, three single nucleotide mismatches were found in the 3'-terminal and mid-position sequences of the RdRP reverse primer binding region,

resulting in an alignment of 17/20 bases. Therefore, it is not anticipated that SARS coronavirus will be detected by the RdRP primer/probe set. SARS-CoV was confirmed not to be amplified by RdRP primer, probe in Real-Q 2019-nCoV Detection kit test through wet testing (see below).

Pathogen	%Homology Test RdRP gene primer&probe	%Homology Test E gene primer&probe
Human Coronavirus 229E	None	None
Human Coronavirus OC43	None	None
Human Coronavirus NL63	None	None
Human coronavirus HKU1	None	None
SARS-coronavirus	88.89%	100 %
MERS-coronavirus	None	None
Human Adenovirus	None	None
Human Enterovirus	None	None
Human Influenza A virus	None	None
Human Influenza B virus	None	None
Human Rhinovirus	None	None
Human Parainfluenza virus 4	None	None
Human Parainfluenza virus 3	None	None
Human Parainfluenza virus 2	None	None
Human Parainfluenza virus 1	None	None
Human Respiratory syncytial virus A	None	None
Human Respiratory syncytial virus B	None	None
Human Metapneumovirus	None	None
Human Bocavirus	None	None
<i>Mycoplasma pneumoniae</i>	None	None
<i>Chlamydia pneumoniae</i>	None	None
<i>Streptococcus pneumoniae</i>	None	None
<i>Haemophilus influenzae</i>	None	None
<i>Legionella pneumophila</i>	None	None
<i>Bordetella pertussis</i>	None	None
<i>Mycobacterium tuberculosis</i>	None	None
<i>Streptococcus pyogenes</i>	None	None
<i>Pneumocystis jirovecii</i>	None	None
<i>Candida albicans</i>	None	None
<i>Pseudomonas aeruginosa</i>	None	None
<i>Staphylococcus epidermis</i>	None	None
<i>Staphylococcus salivarius</i>	None	None

Thirty organisms and viruses were wet-tested for cross-reactivity with the Real-Q 2019-nCoV Detection kit. The organisms and viruses were tested by spiking into sputum matrix at a concentration of  $1 \times 10^6$  copies/ $\mu$ l. RNA was extracted using the QIAamp MinElute Virus Spin Kit and the Real-Q 2019-nCoV Detection Kit test was performed in duplicate on the AB 7500 Fast Real-Time PCR Instrument. Aside from SARS-Coronavirus yielding positive results with the E gene primer/probe set as predicted through in silico testing, all potentially cross-reactive specimens tested negative with the Real-Q 2019-nCoV Detection Kit, therefore, no further cross-reactivity was observed among the wet-tested pathogens.

NO.	Pathogens	Strain Number	Real-Q 2019-nCoV Detection Kit test results	
			RdRP gene N=2	E gene N=2
1	Adenovirus	ATCC VR-1603	Negative	Negative
2	Enterovirus	ATCC VR-1775	Negative	Negative
3	Influenza A virus	ATCC VR-1894	Negative	Negative
4	Influenza B virus	ATCC VR-101	Negative	Negative
5	Coronavirus 299E	ATCC VR-740	Negative	Negative
6	Coronavirus OC43	ATCC VR-1558	Negative	Negative
7	Coronavirus NL63	ZeptoMetrix 0810228CF	Negative	Negative
8	Coronavirus HKU1	Korean isolate	Negative	Negative
9	SARS-Coronavirus	Korean isolate	Negative	Positive
10	Rhinovirus	ATCC VR-283	Negative	Negative
11	Parainfluenza virus 4	ATCC VR-1377	Negative	Negative
12	Parainfluenza virus 3	ATCC VR-93	Negative	Negative
13	Parainfluenza virus 2	ATCC VR-92	Negative	Negative
14	Parainfluenza virus 1	ATCC VR-94	Negative	Negative
15	Respiratory syncytial virus A	ATCC VR-1540	Negative	Negative
16	Respiratory syncytial virus B	ATCC VR-1580	Negative	Negative
17	Metapneumovirus	NIBSC 08-320	Negative	Negative
18	Bocavirus	ATCC VR-767	Negative	Negative
19	<i>Mycoplasma pneumoniae</i>	ATCC 15531	Negative	Negative
20	<i>Chlamydia pneumoniae</i>	ATCC 53592	Negative	Negative
21	<i>Streptococcus pneumoniae</i>	ATCC 33400	Negative	Negative

22	<i>Haemophilus influenzae</i>	ATCC 33391	Negative	Negative
23	<i>Legionella pneumophila</i>	KCCM 41783	Negative	Negative
24	<i>Bordetella pertussis</i>	ATCC 9797	Negative	Negative
25	<i>Klebsiella pneumoniae</i>	KCCM 11418	Negative	Negative
26	<i>Haemophilus haemolyticus</i>	ATCC 33390	Negative	Negative
27	<i>Bordetella parapertussis</i>	ATCC BAA-587D-5	Negative	Negative
28	<i>Streptococcus mitis</i>	KCTC 5650	Negative	Negative
29	<i>Haemophilus parainfluenza</i>	KCTC 15417	Negative	Negative
30	<i>Streptococcus pseudopneumonia</i>	KCTC 5764	Negative	Negative

SARS-CoV showed ≥80% homology with RdRP gene primers & probe in *in silico* analysis, yet the SARS-CoV-2 RdRp gene was not detected by the Real-Q 2019-nCoV Detection kit in laboratory testing. The amount of primer(s)/ probe(s) included in nCoV probe & primer mixture of Real-Q 2019-nCoV Detection Kit are in such excess that interference is unlikely.

### 13.4 Clinical Evaluation

A clinical evaluation study was conducted to evaluate the performance of the Real-Q 2019-nCoV Detection Kit test using sputum specimens. A total of 20 contrived positive specimens at approximately 2X LoD and 10 contrived positive specimens at approximately 20X to 100X LoD were tested. Samples were contrived by spiking known concentrations of SARS-CoV-2 genomic RNA (RNA sample from the National Culture Collection for Pathogen (NCCP) in Republic of Korea) into individual sputum specimens. In addition to the contrived positive specimens, 30 negative specimens were tested. Each sample was extracted using the QIAamp MinElute Virus Spin Kit and tested on the ABI 7500 Fast Real-Time PCR Instrument. There were 30 total samples tested twice at the 2X to 100X LoD levels with all results valid and included in the analysis. There were 30 total negative samples tested with all results valid and included in the analysis.

SARS-CoV-2 Concentration	Number Tested	Positive Detected	% Detection
2X LoD	20	20	100
20X to 100X LoD	10	10	100
Negative	30	0	0
PPA (Positive Percent Agreement) : 100% , 95% CI: 88.65~100 %			
NPA (Negative Percent Agreement) : 100% , 95% CI: 88.65~100 %			

Note: Repeat testing of the 30 positive samples gave the same results.

Mean Ct values for Contrived Positive Specimens:

Concentration (# positive/# Tested)		RdRP Gene (FAM)	E Gene (HEX/VIC)	HRP Gene (Cy5)
2X LoD (20/20)	Mean Ct	36.36	36.64	30.48
	SD	0.49	0.41	0.27
20X LoD (3/3)	Mean Ct	33.6	33.8	30.55
	SD	0.24	0.19	0.31
50X LoD (3/3)	Mean Ct	32.0	32.3	30.16
	SD	0.10	0.16	0.03
75X LoD (2/2)	Mean Ct	31.6	31.6	30.55
	SD	0.06	0.12	0.37
100X LoD (2/2)	Mean Ct	31.1	31.2	30.8
	SD	0.03	0.03	0.23

Values shown are for the first set of assay replicates at each target level; similar mean and SD values were obtained with both sets of replicates.

For clinical evaluation study, left-over archived samples from patients with suspected and symptomatic COVID-19 infection were used. The Viral collection, Preservation and Transport Medium Kit (CAT. No UTNFS-3B, Noble Biosciences, Inc. Republic of Korea) had been used for collection of specimens within the clinical study. These samples were previously tested for SARS-CoV-2 using an FDA-authorized assay and stored at a temperature of -70°C in a clinical laboratory in South Korea prior to inclusion in this study. Specimen information is as shown in the table below.

	NPS/OPS in UTM*	Sputum	total
COVID-19 (+)	26	21	47
COVID-19 (-)	17	9	26
total	43	30	73

\*These specimens were stored in one UTM after simultaneously collecting NPS and OPS from the same patient.

(NPS: Nasopharyngeal swab, OPS: oropharyngeal (throat) swab, UTM: universal transport medium)

The purpose of this clinical study was to evaluate the clinical performance of the Real-Q 2019-nCoV Detection Kit. In this study, sample RNA was extracted using Qiagen QIAamp MinElute Virus Spin Kit and real-time RT-PCR was performed using CFX96 real-time PCR detection system. All samples were tested by the Real-Q 2019-nCoV Detection Kit and compared with the results

of testing with an FDA-authorized assay. The PPA (Positive Percent Agreement) and NPA (Negative Percent Agreement) results were confirmed as follows.

Results of Testing Sputum Specimens

		Comparator test		
		SARS-CoV-2 Positive	SARS-CoV-2 Negative	Total
Real-Q 2019-nCoV Detection Kit	2019-nCoV Positive	21	0	21
	2019-nCoV Negative	0	9	9
	Total	21	9	30
PPA (Positive Percent Agreement) : 100% (95% CI, 84.5~ 100%)				
NPA (Negative Percent Agreement) : 100% (95% CI, 70.1~100%)				

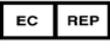
Results of Testing NP/OP Swab Specimens

		Comparator test		
		SARS-CoV-2 Positive	SARS-CoV-2 Negative	Total
Real-Q 2019-nCoV Detection Kit	2019-nCoV Positive	26	0	26
	2019-nCoV Negative	0	17	17
	Total	26	17	43
PPA (Positive Percent Agreement) : 100% (95% CI, 87.1~ 100%)				
NPA (Negative Percent Agreement) : 100% (95% CI, 81.6~100%)				

**14. References**

- 1) Zhang Y-Z. Novel 2019 coronavirus genome. Virological. [Accessed 21 Jan 2020]. Available from: <http://virological.org/t/novel-2019-coronavirus-genome/319>
- 2) Detection of 2019 novel coronavirus (2019-nCoV) by real-time RT-PCR Euro Surveill. 2020 Jan;25(3).
- 3) Genomic characterization of the 2019 novel human-pathogenic coronavirus isolated from a patient with atypical pneumonia after visiting Wuhan Emerg Microbes Infect. 2020 Dec;9(1):221-236

## 15. Explanation of symbols

Symbol	Explanation
	In vitro diagnostic medical device
	Batch code
	Catalogue number
	Use by
	Temperature limitation
	Contains sufficient for <n> tests
	Caution
	Consult instructions for use
	Manufacturer
	Authorized Representative in the European Community
	CE mark
	Prescription Use only
	Emergency Use Authorization

## 16. Contact Information



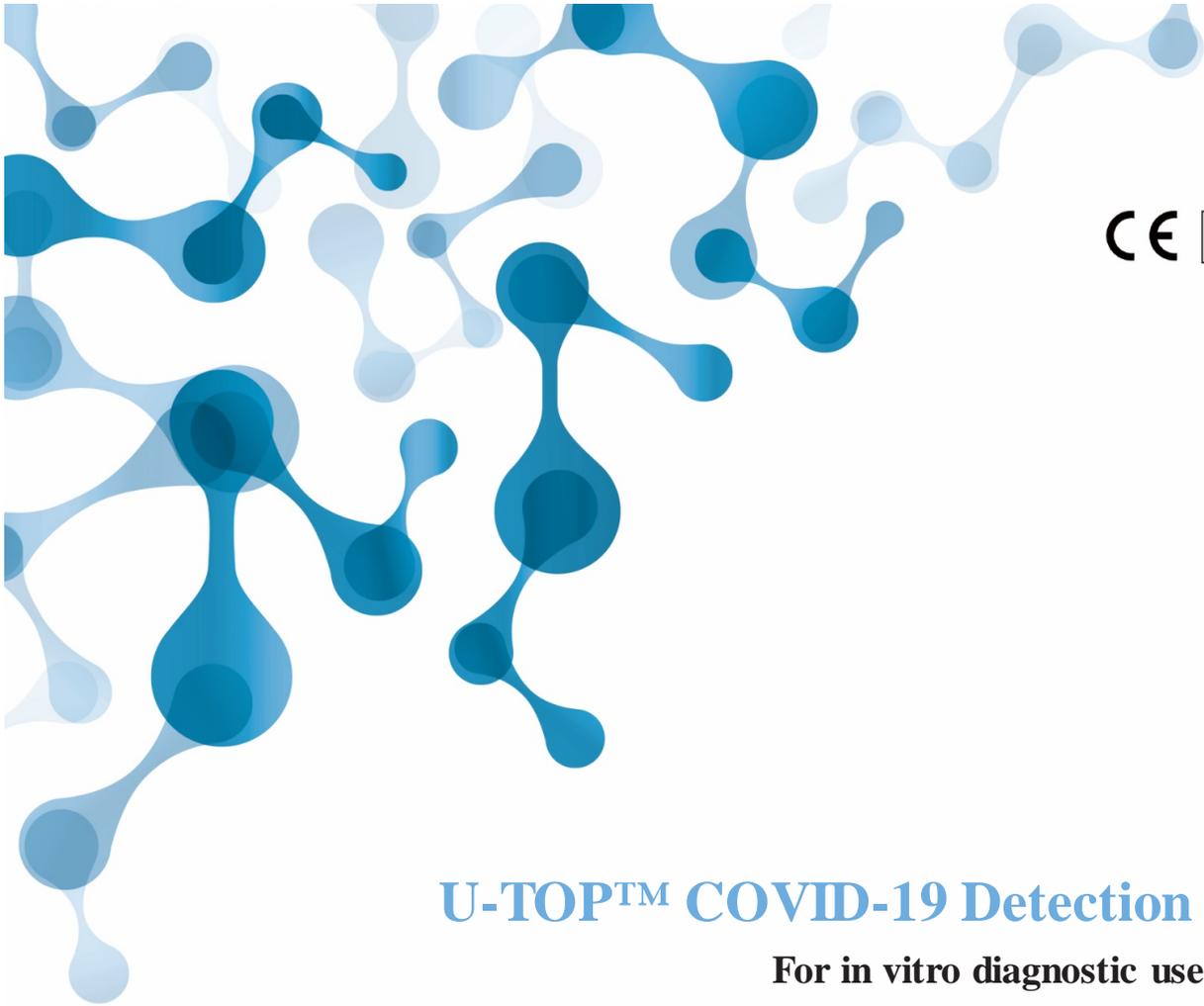
BioSewoom Inc.  
 2F Wooyoung Technocenter, 144 Ahasan-ro, Seongdong-gu, Seoul, 04783,  
 Republic of Korea

TEL : +82-2-498-2340

FAX : +82-2-498-1189

E. mail : [info@biosewoom.com](mailto:info@biosewoom.com)





## U-TOP™ COVID-19 Detection Kit

**For in vitro diagnostic use only**

**For Prescription Use only**

**For use under Emergency Use Authorization (EUA) only**

A diagnostic kit for detection of SARS-CoV-2 (COVID-19)  
in clinical samples using Real-time PCR

**Instructions for Use | V2.1**

Store at –20°C

Date of Revision: February 2021



Certificate of KGMP



**ISO 13485**

LL-C (Certification)

Certificate of ISO13485



### **Indications of Medical Devices Act**

1. Product Category: IVD Reagent for Infectious Agents
2. Product Name: U-TOP™ COVID-19 Detection Kit
3. Product Catalogue Number: SS-9930
4. Purpose of use: See 1. in this User Guide

### **Warnings and Precautions**

Contact us for detailed information for the safe use of the U-TOP™ COVID-19 Detection Kit. Please check storage temperature and attention points for accurate diagnosis of the product. Sample and Assay waste must be disposed of in a legally designated manner.

### **Warranty and Responsibility**

All products of SEASUN BIOMATERIALS Inc. are tested under rigorous quality management processes. SEASUN BIOMATERIALS Inc. guarantees to ensure the quality of the product during warranty period. If any problems relating to the quality of the product are found, please contact the headquarters immediately.

### **Quality Control System**

All aspects of the quality management system, product creation, quality assurance, and supplier qualifications are certified to ISO 13485, ISO 9001, KGMP.

### **Inquiries and customer service (A/S)**

Send us an e-mail ([as@seasunbio.com](mailto:as@seasunbio.com)) to inquire about the product.

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## 1. Intended Use

The U-TOP™ COVID-19 Detection Kit is a one-step real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in oropharyngeal and nasopharyngeal swab specimens, anterior nasal and mid-turbinate nasal swabs, nasopharyngeal washes/aspirates or nasal aspirates, as well as bronchoalveolar lavage and sputum specimens from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA which is generally detectable in upper and lower respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinically correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

Testing with the U-TOP™ COVID-19 Detection Kit is intended for use by qualified laboratory personnel specifically instructed and trained in the techniques of real-time PCR and *in vitro* diagnostic procedures. The U-TOP™ COVID-19 Detection Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

## 2. Product Description

The U-TOP™ COVID-19 Detection Kit is a qualitative test based on real-time reverse transcription polymerase chain reaction (RT-PCR) for detection of the SARS-CoV-2 RNA extracted from clinical specimens.

The U-TOP™ COVID-19 Detection Kit uses dual-labeled Peptide Nucleic Acid (PNA) probes that target two distinct regions in ORF1ab and one region in N gene of SARS-CoV-2 genome. Detection probes for two amplicons of Orf1ab are labeled with FAM and the probe for N is labeled with HEX reporter dye. The kit evaluates the presence of three individual amplicons of the SARS-CoV-2 genome. A sample is determined to be SARS-CoV-2 positive if the Ct value of one or both fluorescence channels are  $\leq 38$ .

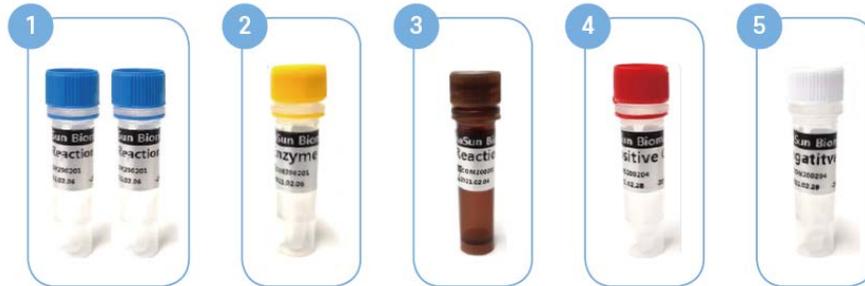
Since the PNA probes are labeled with the fluorescent dye reporter and quencher, the fluorescent signals of the intact probes are suppressed by the quencher dye. During the PCR amplification step, hybridization of the probes to the specific single-stranded DNA template results in separation of the reporter and quencher dyes and the generation of a fluorescent signal. With each PCR cycle, increasing amounts of target DNA amplicon are generated and the signal of the reporter dye increases concomitantly. Each reporter dye is measured at defined wavelengths, which enables simultaneous detection and discrimination of the amplified coronavirus target and the internal control.

The kit includes a primer/probe set to detect human RNase P gene (RP) as an internal control (IC) intended to examine RNA extraction efficiency, the enzyme activity of the kit as well as the assay performance. The IC probe is labeled with Texas Red fluorescent dye which uses an independent fluorescence detection channel from SARS-CoV-2 targets. The RP primer/probe set is included in the Reaction Mix tube.

In addition, the kit utilizes external Positive (PC) and Negative (NC) controls. The PC contains templates for SARS-CoV-2 Orf1ab and N targets as well as the human RNase P gene. The NC contains RNase/DNase free distilled water.

### 3. Kit Components and Packaging Specifications

The kit composed of 2X Reaction buffer, Enzyme Mix, Reaction Mix, Positive control and Negative Control.



	Reagent label	Part #	Descriptions/Contents	Volume / Quantity	Store at
1	2X Reaction buffer	SS-9930COP	PCR buffer	750µℓ / 2 tubes	-20°C
2	Enzyme Mix	SS-9930COE	Reverse transcriptase Taq polymerase	100µℓ / 1 tube	
3	Reaction Mix	SS-9930COM	Primer, probe mixture	400µℓ / 1 tube	
4	Positive Control	SS-9930COS	Template for SARS-CoV-2 and RNase P	200µℓ / 1 tube	
5	Negative Control	SS-9930CON	Nuclease free DW	200µℓ / 1 tube	

#### Control Materials to be Used with U-TOP™ COVID-19 Detection Kit

**Negative Control (NC):** contains nuclease-free water intended to evaluate cross contamination of the kit, supplements, reagents and PCR instrument used in the test. Detection accuracy as well as non-specific signals may be caused by primer dimer, primer-probe non-specific binding also can be evaluated with this control. Negative control should be run using 10 µL in one well per test.

**Positive Control (PC):** contains in vitro transcribed RNA of SARS-CoV-2 Orf1ab and N genes and a plasmid containing human RNase P that is intended to evaluate RNA extraction, enzyme activity, and analytical and clinical performance of the assay. The positive control should be run using 10 µL in one well per test.

**Internal Control (IC):** The Reaction Mix tube of the kit consists of a primer set and a probe that detects human RNase P. The internal control is intended to evaluate the RNA extraction process, test accuracy as well as the real-time PCR instrument performance. Both PC and NC should be used directly with the test without prior dilution.

#### **4. Storage and Handling Requirements**

Store all reagents at –20°C (both un-opened and in-use product).

Use the reagents within 3 months once opened.

Do not use reagents past their expiration date.

Completely thaw the reagents except the Enzyme mix at room temperature before each use.

Place all reagents on ice once thawed during whole test procedure.

Place Enzyme Mix on ice during whole test procedure.

Avoid excessive freeze/thaw cycles.

Vortex and spin down briefly the reagents before each use.

#### **5. Additional Materials and Equipment**

The kit does not include sample collection and preservation instruments/buffers, RNA extraction reagents and Real-time PCR detection systems. Components required for detection of SARS-CoV-2 but not included with the kit are:

1. Sample collection / Storage / Shipping consumables

A. TOP™ Virus Collection Kit (Seasun Biomaterials, Cat.No SS-1200), Viral sample collection kit (Noble Bio, Cat. No UTNFS-3B-1) or BD™ Universal Viral Transport System (BD, UVT Cat No. 220531) for collection and transport of upper respiratory tract specimens.

B. Sputum collection container: sterile container with screw cap (BD, Cat # 90004-118).

2. RNA extraction kit for extracting RNA from clinical specimen.

A. QIAamp DSP virus kit (Qiagen, Cat. No 60704)

B. PANAMAX™48 Nucleic acid extraction system (Software version: panaMAX 01.00.03) with PANAMAX™ Viral DNA/RNA Extraction Kit (Panagene, Cat.No PNAK-1001, PNAK-1002)]

C. TOP™ Viral DNA/RNA Extraction Kit (Seasun Biomaterials, Cat. No SS-1300)

3. Real-time PCR system and the consumables

- A. Real-time PCR detection systems can be used with the U-TOP™ COVID-19 assay are
- CFX 96 real-time PCR detection system (Bio-Rad) with software CFX manager V3.1
  - Applied Biosystems real-time PCR system 7500 with Software 2.0.6
- B. PCR Consumables
- 96 well white PCR plate (Bio-rad MLL9651, Applied Biosystems AB0900W or equivalent)
  - Sealing Film or 8-12 well PCR plate cap (Bio-rad MSB 1001 or equivalent)
  - Vortex and Micro centrifuge
  - Sterilized pipette tips with filter (10 µL, 200 µL and 1000 µL)
  - 1.5 mL DNase/RNase free microcentrifuge tubes and racks
  - Disposable powder-free gloves and laboratory gowns

## 6. Warnings and Precautions

- For Emergency Use Authorization Only.
- For *in vitro* diagnostic use only.
- For Prescription Use Only (Rx).
- This product has not been FDA cleared or approved;
- The test has been authorized by FDA under an Emergency Use Authorization (EUA) for use by laboratories certified under the Clinical Laboratory Improvement Amendments (CLIA) of 1988, 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens.
- This product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of *in vitro* diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.
- Use under the guidance of physicians and specialists.
- Sensitivity of reagents may be lowered with prolonged exposure to room temperature or light.
- Store all assay contents at -20°C away from UV/sunlight.
- Avoid use of the kit if contaminated with test sample.

- Keep clear the external environment, always use in a clean place.
- Only use sterilized single-use micro filter tips.
- Strong external impact may damage screw tubes filled with reagents or control materials.
- If any abnormality is observed, stop the experiment, contact the manufacturer.

## 7. Specimen Collection, Handling and Storage

Inadequate or inappropriate specimen collection, storage, and transport are likely to yield false test results. Training in specimen collection is highly recommended due to the importance of specimen quality.

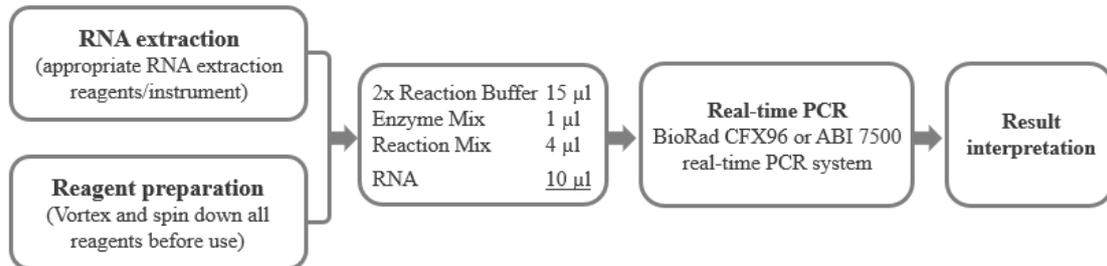
**Collecting specimen:** Refer to Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Patients Under Investigation (PUIs) for 2019 Novel Coronavirus (SARS-CoV-2). The U-TOP™ COVID-19 detection kit has been validated with TOP™ Virus Collection Kit (Season Biomaterials, Cat.No SS-1200), Viral sample collection kit (Noble Bio, Cat.No UTNFS-3B-1) and BD™ Universal Viral Transport System (BD, UVT Cat#220531) for collection and transport of upper respiratory tract specimens. Sputum, BALs, and washes/aspirates can be collected and transported in a sterile sputum collection container (BD, Cat # 90004-118). Follow specimen collection device manufacturer instructions for proper collection methods. Store the samples at 2-8°C up to 72 hours. If a delay in shipping or extraction is expected, store samples at -70°C.

**Shipping:** Specimens must be packaged and transported according to the current edition of the International Air Transport Association (IATA) Dangerous Goods Regulation. Store specimens at 2-8°C and ship to the lab on ice pack. If a specimen is frozen at -70°C, ship to the lab on dry ice. Additional useful and detailed information on packing, shipping, and transporting specimens can be found at Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19).

**Rejection criteria:** Specimens will be rejected prior to the test 1) if the specimens were stored at 2-8°C over 72 hours. 2) Specimens without sufficient volume for the test (less than 1 mL). 3) Label is damaged (cannot be read or recognized) or without labeling/identifying documents.

## 8. Test procedure/Protocol

### 8.1 Summary of Preparation and Testing Process



Work flow of U-TOP™ COVID-19 Detection Kit

### 8.2 RNA extraction from clinical specimens

The U-TOP™ COVID-19 Detection Kit does not include viral RNA extraction reagents. A silica dioxide-coated magnetic bead based automated nucleic acid extraction system PANAMAX™48 with PANAMAX™ Viral DNA/RNA extraction kit (Panagene, Cat# PNAK-1001, PNAK-1002), spin column based nucleic acid extraction reagents QIAamp DSP virus kit (Qiagen, Cat # 60704) and TOP™ Viral DNA/RNA extraction kit (Seasun Biomaterials, Cat#SS-1300) have been validated with the U-TOP™ COVID-19 Detection Kit. All three extraction kits require 300 µL sample input (both upper and lower respiratory tract specimens) and yields 60 µL of purified nucleic acid eluent. Following the extraction, RNA should be used immediately or stored at -70°C (for up to 1 month) for use later.

### 8.3 Reaction master mix and Assay set up

Note: Plate set-up configuration can vary with the number of specimens. Negative and Positive control must be included in each run. Prepare reaction master mix in separate area (Assay preparation area) from nucleic acid handling.

1. Clean and decontaminate all work surfaces, equipment as well as small supplements e.g. pipette, vortex, micro centrifuge with 70% ethanol prior to use to minimize the risk of nucleic acid cross-contamination.
2. Place enzyme mix on ice until thawed. Other reagents can be thawed at room temperature. Keep all reagents on ice once thawed during the whole test procedure.

3. Vortex for 5 sec and spin down all reagents before use.
4. Determine the number of reactions (N) to set up the assay. It is necessary to make excess reaction mix for PC, NC and for possible pipetting error.
5. Prepare the reaction master mix in 1.5 mL microcentrifuge tube according to the following table. It is recommended to prepare 110% of the calculated amount of PCR mix to account for pipetting carryovers.

#### Master mix for one reaction

Reagents	Volume (µL)
2X Reaction Buffer	15
Enzyme Mix	1
Reaction Mix	4
<b>Total (w/o RNA sample)</b>	<b>20</b>

6. Vortex the prepared master mix for 5 sec and centrifuge briefly to collect contents at the bottom of the tube and place the tube in a cold rack (ice or cold block).
7. Set up 96 well PCR plate.
8. Dispense 20 µL of master mix into the wells of 96-well PCR plate.
9. Pipette **10 µL** of NC into NC sample well (dispensing sample and control in 96 well plate are irrelevant, no fixed position is required)

#### 8.4 Nucleic acid template addition

Note: Always change pipette tips in-between patient sample handling and after pipetting each component. Add the Positive Control in PCR plate last, to avoid the contamination. Positive control contains high concentration of viral template.

1. Gently vortex nucleic acid sample tubes for approximately 5 sec and spin down the tubes to collect contents at the bottom of the tubes. Always keep the sample tubes on ice or in a cold block.
2. Dispense nucleic acid samples of **10 µL** into the 96 well PCR plate containing the aliquoted

reaction master mix.

3. Carefully pipette **10 µL** of PC into a PCR plate well last.
4. Seal the PCR plate with cap strip or sealing film. Ensure the sealing film is completely absorbed to the plate by using a roller.
5. Spin down briefly using a micro plate centrifuge to downward the contents and remove extra air bubbles. It is recommended to centrifuge for 30 sec at 500 x g, 4°C.

**8.5 Set up Real-time PCR run**

Note: U-TOP™ COVID-19 detection kit running protocol and PCR conditions are the same for both the CFX 96 and ABI 7500 real-time PCR detection systems; however, the method for the run set up (program set up) of the two PCR platforms are different. The run protocol and fluorescence channels for the targets are shown in Tables 1 and 2.

**Table 1. RT-PCR Thermocycling Conditions**

Step	Temp	Time	Repeat
cDNA synthesis	50°C	30 min	1
Amplification	95°C	15 min	1
	95°C	30 sec	41
	60°C	30 sec*	
	72°C	30 sec	

\* Collect fluorescence signal after reaction for 60°C / 30 sec

**Table 2. Fluorescence Channel for Probes**

Fluorescence	Target
FAM*	<Orf1ab> SARS-CoV-2
HEX/VIC**	<N> SARS-CoV-2
Texas Red	<RNase P> human

\*Two individual PNA probes for two distinct amplicons of Orf1ab own the same fluorescence signal FAM

\*\* HEX for Bio-rad CFX 96, VIC for ABI 7500 platform

### **CFX96 and Software Operation - 1 (New experiment)**

- ① Turn on a computer and CFX 96 > Display the 96-well thermal block > Place the 96 well plate prepared in previous step.
- ② Run the CFX Manager software on the computer connected to the CFX96. Go to File > New > Protocol > input the run information as shown in table 1. > Set the sample volume to 30  $\mu\text{L}$ .
- ③ Go to Plate > Edit Selected > Set Fluorophores > Select fluorescence channel FAM, HEX and Texas Red.
- ④ Specify the positive control well, select "Positive Control" from sample type, and input 3 detection fluorescence in the load (Select FAM, HEX, Texas Red).
- ⑤ Specify the negative control well, select "Negative Control" from sample type, and input 3 detection fluorescence in the load (Select FAM, HEX, Texas Red).
- ⑥ Wells with clinical specimens should be specified as Unknown, input 3 detection fluorescence in the load (Select FAM, HEX, Texas Red).
- ⑦ Go to Setting > plate type > Select BR white.
- ⑧ Go to Start Run > Select Block Name (PCR instrument) to use > Close Lid and Start Run.

### **CFX96 and Software Operation - 2 (Pre-Programmed Run Settings)**

- ① If you have a previous run file, you can re-use for further. Double click on a previous run file and select sequentially File > Repeat Run.
- ② Go to Plate tab > set Control and Sample information > Start Run. The fluorescence channel, plate type, and volume are already selected with previous run.

### **ABI 7500 and Software Operation – 1 (New experiment)**

- ① Turn on a computer and ABI 7500 > display the 96 well thermal block > Place the 96 well plate prepared in previous step.
- ③ Run 7500 Software on the computer connected to the ABI 7500. Select sequentially 7500 (96well) > Quantitation-Standard curve > TaqMan@ Reagents > Standard (2 hours to complete a run).
- ④ Go to Plate Setup > Define Targets and Samples > Define targets > Add New Target > set

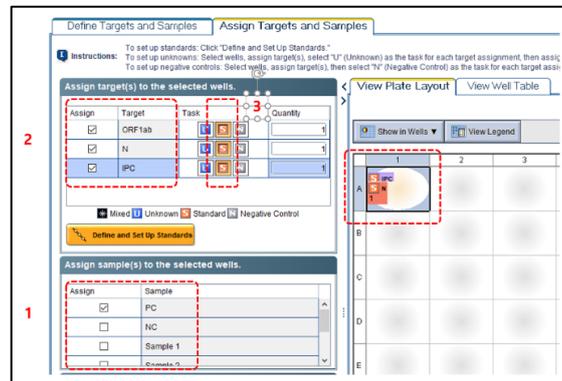
Target Name and Reporter as shown below:

Target 1. ORF1ab: Reporter FAM; Quencher NFQ-MGB

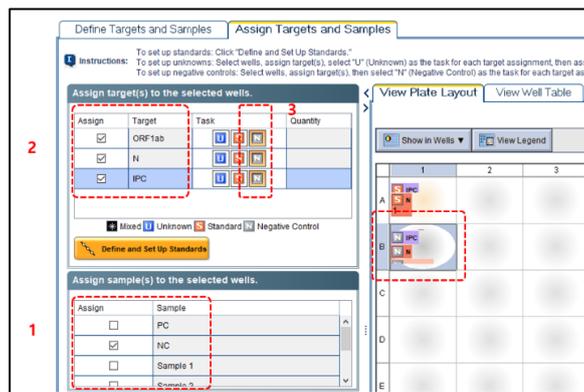
Target 2. N gene: Reporter VIC; Quencher NFQ-MGB

Target 3. IC: Reporter TEXAS RED; Quencher NFQ-MGB

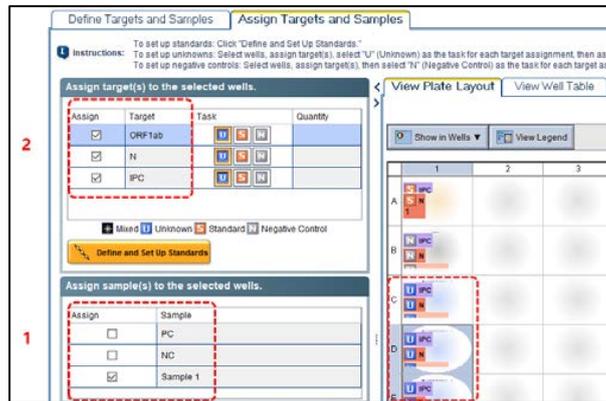
- ⑤ Go to Define Samples > Add New Sample > Input PC, NC and Sample (Test Specimen).
- ⑥ Go to “Assign Target and Samples” to set targets and well positions for PC, NC and Samples to be analyzed.
  1. Positive Control: Click Positive Control Well from “View Plate Layout”. Select “PC” from ① (shown in figure below) and activate all targets from ② (shown in figure below) then activate ”S” for all 3 targets from ③ (shown in figure below).



2. Negative Control: Click Negative Control Well from “View Plate Layout”. Select “NC” from ① (shown in figure below) and activate all targets from ② (shown in figure below) then activate ”N” for all 3 targets from ③ (shown in figure below)



3. Sample: Click Wells with test samples from “View Plate Layout”. Select “Sample” from ① (shown in figure below) and activate all targets from ② (shown in figure below).



- ⑦ Select “None” from “Select the dye to use as the passive reference.”
- ⑧ Go to Run Method > Input the PCR condition as shown in table 1. Setting with Tabular View is easier than with Graphical View. Set “Reaction volume Per Well” to 30  $\mu$ L.
- ⑨ Save the protocol from File > Save As, then Go to Run and click “START RUN” to start amplification.

**ABI7500 and Software Operation - 2 (Pre-Programmed Run Settings)**

- ① A previous run file can be used as a template. Go to File > Open > Select the file.
- ② Input the sample information in the “Plate setup” and proceed in the same order as above.

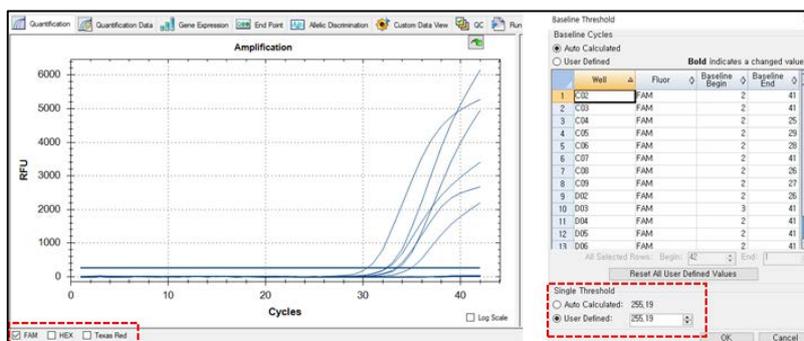
## 9. Result Interpretation

### Base line and threshold setting

The U-TOP™ COVID-19 Detection Kit has been validated using the baseline setting which is automatically adjusted by the CFX 96 and ABI 7500 Real-Time instruments. However, the baseline setting can be adjusted manually in case of production of background noise signal in PCR initiation phase. For adjusting manually, be sure the Thresholds fall within the exponential phase of the fluorescence curves and above any background signal. The threshold value for different instruments varies due to different signal intensities. If adjusting the threshold baseline manually follow the instructions below.

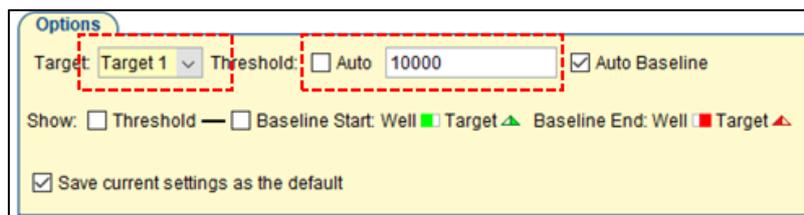
#### 1. CFX 96 real time PCR detection system

Check the box in front of the reporter (FAM, HEX, Texas Red) that needs to be adjusted. Go to Setting > Baseline Threshold > Activate the User defined > Adjust the Threshold value (shown in the figure below).



#### 2. ABI 7500 real time PCR detection system

Go to Amplification Plot > Select target (Reporter) to be adjusted > Adjust the Threshold value (shown in the figure below).



**Result Interpretation**

All controls should be examined prior to interpretation of patient results (Table 3). If the controls are not valid, the patient results cannot be interpreted.

**Negative Control:** The NC reaction for fluorescence channels should not exhibit any fluorescence growth curves (Ct) that cross the threshold line ( $\leq 38$ ). If NC reaction exhibits a growth curve that crosses the threshold at or before Ct 38, sample contamination may have occurred. Invalidate the run and repeat the assay using the same NC. If the NC continues to show a Ct of  $\leq 38$ , discard the NC tube and use a new NC or DNase/RNase free distilled water (Thermo Fisher Scientific Cat.10977015).

**Positive Control:** The PC will yield a positive result with the FAM, HEX, and Texas Red fluorescence channels (FAM for SARS-CoV-2 Orf1ab amplicon 1 and 2, HEX for SARS-CoV-2 N gene, and Texas Red for human RNase P).

If negative and positive control results are not as described above, the test results of the entire batch are invalid. The controls should meet the requirements listed in table 3 to ensure valid results.

**Table 3. Interpretation of Results for Quality Control**

Control	Ct value		
	ORF1ab (FAM)	N (HEX)	IC (Texas Red)
Negative	ND	ND	ND
Positive	$\leq 38$	$\leq 38$	$\leq 38$

ND= Not detectable

If the values of the controls are conclusive, refer to the table 4 below to determine the infection status.

**Table 4. Clinical Sample Results Interpretation**

Ct value			Interpretation	Action
ORF1ab (FAM)	N (HEX/VIC)	IC (Texas Red)		
> 38 or ND	> 38 or ND	≤ 38	Negative (Absence of SARS-CoV-2 RNA)	Report results to healthcare provider. Consider testing for other viruses that may cause similar symptoms.
≤ 38	/	/	Positive (Presence of SARS-CoV-2 RNA)*	Report results to healthcare provider and appropriate public health authorities.
/	≤ 38	/	Positive (Presence of SARS-CoV-2 RNA)*	
≤ 38	≤ 38	/	Positive (Presence of SARS-CoV-2 RNA)	
> 38 or ND	> 38 or ND	> 38 or ND	Invalid**	Repeat test with same RNA extract if available. If result remains invalid, repeat the extraction procedure with the remaining clinical specimen and repeat the test. If all markers remain negative after re-test, report the results as invalid and re-collect patient sample.

\*Result is suggestive of: 1) a sample at concentrations near or below the limit of detection of the test, 2) a mutation in one of the target regions, or 3) other factors.

\*\*Re test after confirmation of RNA extraction step, PCR mixture preparation step, PCR protocol and Kit storage condition and Validity.

/ = No requirement of Ct value. If one or both SARS-CoV-2 target have Ct value of ≤ 38, Ct value of IC and remained SARS-CoV-2 are not required to be considered.

ND= not determined (No detectable Ct value)

**Internal Control (IC):** All clinical samples should exhibit fluorescence growth curves in the RNase P reaction that cross the threshold line at or before Ct 38, thus indicating the presence of the human RNase P gene. Failure to detect RNase P in any clinical specimens may indicate:

- Improper extraction of nucleic acid from clinical materials resulting in loss of RNA and/or RNA degradation.
- Absence of sufficient human cellular material due to poor collection or loss of specimen integrity.
- Improper assay set up and execution. Reagent or equipment malfunction.

If the IC assay does not produce a positive result for human clinical specimens, interpret as follows:

- If the SARS-CoV-2 is positive even in the absence of a positive Ct value of IC ( $\leq 38.00$  Ct), the result should be considered valid. It is possible, that some samples may fail to exhibit RNase P growth curves due to low cell numbers in the original clinical sample. A negative IC signal does not preclude the presence of SARS-CoV-2 virus RNA in a clinical specimen.
- If all SARS-CoV-2 markers and RNase P are negative for the specimen, the result should be considered invalid for the specimen. If residual RNA extract remains, repeat the test with this material. If the result remains invalid, repeat the extraction procedure with residual specimen and repeat the test. If all markers remain negative after re-test, report the results as invalid and re-collect patient sample.

## 10. Limitations

- This test is for *in vitro* diagnostic use under FDA Emergency Use Authorization. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests.
- The performance of this test was established using nasopharyngeal swab and sputum specimens. Oropharyngeal swab specimens, anterior nasal and mid-turbinate nasal swabs, nasopharyngeal washes/aspirates or nasal aspirates, as well as bronchoalveolar (BALs) specimens are also considered acceptable specimen types for use but performance has not been established with the U-TOP™ COVID-19 Detection Kit.
- This test is a qualitative test and does not provide the quantitative value of viral load in the original specimens.
- The specimens to be tested shall be collected, processed, stored and transported in accordance with the conditions specified in the instructions. Inappropriate specimen preparation and operation may lead to inaccurate results.
- Extraction and amplification of nucleic acid from clinical samples must be performed according to the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.
- Amplification and detection of SARS-CoV-2 with this kit Detection Kit has only been validated with the CFX-96 Real-time PCR Detection system and Applied Biosystems® 7500 Real-Time PCR instrument. Use of other instrument systems may cause inaccurate results.

- False-negative results may occur if the viruses are present at a level that is below the analytical sensitivity of the assay or if the virus has genomic mutations, insertions, deletions, or rearrangements or if performed very early in the course of illness.

## 11. Conditions of Authorization for the Laboratory

The U-TOP™ COVID-19 Detection Kit assay's Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on FDA website: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/vitro-diagnostics-euas>.

To assist clinical laboratories using the U-TOP™ COVID-19 Detection Kit, the relevant Conditions of Authorization are listed below.

- a) Authorized laboratories<sup>1</sup> using your product will include with test result reports, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- b) Authorized laboratories using your product will use your product as outlined in the Instructions for Use only. Deviation from the authorized procedures, such as the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- c) Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- d) Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities.
- e) Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and SEASUN BIOMATERIALS (via email: [info@seasunbio.com](mailto:info@seasunbio.com)) if they become aware of any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product.
- f) All laboratory personnel using your product must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use your product in accordance with the authorized labeling.

g) SEASUN BIOMATERIALS, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, “Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, that meet requirements to perform high complexity tests” as “authorized laboratories.”

## 12. Assay Performance

### 12.1 Limit of Detection (LoD)

The LoD study established the lowest SARS-CoV-2 viral RNA concentration (genomic copies/ $\mu$ L) that consistently yields a 95% positivity rate with the U-TOP™ COVID-19 Detection Kit.

A preliminary LoD for the SARS-CoV-2 specific targets (ORF1ab and N genes) was determined using whole viral genomic RNA (NCCP No. 43326, National Culture Collection for Pathogens) with a starting concentration of 120 ng/ $\mu$ L spiked into pooled negative clinical nasopharyngeal swab and sputum matrices. In the first part of this study, a total of three 10-fold dilutions of known concentrations of genomic RNA were prepared in negative clinical matrix (both nasopharyngeal swab and sputum) and processed using the Qiagen QIAamp DSP virus kit and run on the CFX 96-real time PCR detection system. Five PCR replicates per concentration and 3 lots of the kit were tested. See Table 5 for a summary of the LoD range finding study:

**Table 5. Summary of Preliminary LoD Testing**

<b>Sputum</b>									
	100 copies/ $\mu$ L			10 copies/ $\mu$ L			1 copy/ $\mu$ L		
	Orf1ab	N	RNase P	Orf1ab	N	RNase P	Orf1ab	N	RNase P
Detection rate	15/15	15/15	15/15	15/15	15/15	15/15	15/15	15/15	15/15
Mean Ct	30.12	30.03	30.64	34.12	34.35	30.92	37.13	36.92	30.77
SD	0.51	0.46	0.83	0.54	0.52	0.88	0.58	0.50	0.79
<b>Nasopharyngeal swab</b>									
	100 copies/ $\mu$ L			10 copies/ $\mu$ L			1 copy/ $\mu$ L		
	Orf1ab	N	RNase P	Orf1ab	N	RNase P	Orf1ab	N	RNase P
Detection rate	15/15	15/15	15/15	15/15	15/15	15/15	15/15	15/15	15/15
Mean Ct	30.27	30.37	30.68	34.17	34.00	30.59	36.90	36.95	30.93
SD	0.67	0.56	0.66	0.52	0.44	0.84	0.48	0.43	0.81

Based on these results, additional 3-fold dilutions of known concentrations of genomic RNA were prepared in negative clinical matrix (nasopharyngeal swab and sputum) and processed using the QIAamp DSP virus kit, PANAMAX48 and TOP™ Virus kit, individually. Twenty individual extraction replicates per dilutions were tested on both the CFX 96 and ABI 7500 real-time PCR systems. The lowest target level at which more than 95% of 20 replicates produced positive results was 1 copy/μL for all three nucleic acid extraction methods for both upper and lower tract specimens on both PCR platforms CFX 96 and ABI 7500 system. Results of the confirmatory LoD studies are summarized in Table 6 and 7.

**Table 6. Summary of Confirmatory LoD Test on Bio-Rad CFX 96 System**

Sputum		1 copy/μL			0.3 copies/μL			0.1 copies/μL		
		ORF1ab	N	RNaseP	ORF1ab	N	RNaseP	ORF1ab	N	RNaseP
QIAamp DSP	Detection rate	20/20	20/20	20/20	18/20	17/20	20/20	13/20	14/20	20/20
	Mean Ct	36.93	37.05	30.51	-	-	30.93	-	-	30.53
	SD	0.45	0.56	0.84	-	-	0.83	-	-	0.77
PANAMAX™48	Detection rate	20/20	20/20	20/20	11/20	11/20	20/20	6/20	5/20	20/20
	Mean Ct	36.56	35.97	30.20	-	-	30.28	-	-	29.64
	SD	0.52	0.80	0.93	-	-	0.84	-	-	1.11
TOP™ Virus kit	Detection rate	20/20	20/20	20/20	8/20	9/20	20/20	4/20	6/20	20/20
	Mean Ct	36.09	36.22	29.59	-	-	30.05	-	-	29.16
	SD	0.71	0.63	1.13	-	-	1.11	-	-	1.11

Nasopharyngeal swab		1 copy/μL			0.3 copies/μL			0.1 copies/μL		
		ORF1ab	N	RNaseP	ORF1ab	N	RNaseP	ORF1ab	N	RNaseP
QIAamp DSP	Detection rate	20/20	20/20	20/20	17/20	16/20	20/20	12/20	11/20	20/20
	Mean Ct	37.08	37.23	30.62	-	-	30.81	-	-	30.69
	SD	0.47	0.48	0.83	-	-	0.74	-	-	0.91
PANAMAX™48	Detection rate	20/20	20/20	20/20	6/20	13/20	20/20	3/20	4/20	20/20
	Mean Ct	37.03	36.27	29.16	-	-	29.63	-	-	28.98
	SD	0.58	0.74	1.10	-	-	1.07	-	-	1.26
TOP™ Virus kit	Detection rate	20/20	20/20	20/20	9/20	12/20	20/20	6/20	6/20	20/20
	Mean Ct	36.30	36.27	30.03	-	-	29.26	-	-	29.83
	SD	0.46	0.87	1.47	-	-	1.19	-	-	0.97

**Table 7. Summary of Confirmatory LoD Test on ABI7500 System**

Sputum		1 copy/ $\mu$ L			0.3 copies/ $\mu$ L			0.1 copies/ $\mu$ L		
		ORF1ab	N	RNaseP	ORF1ab	N	RNaseP	ORF1ab	N	RNaseP
QIAamp DSP	Detection rate	20/20	20/20	20/20	16/20	16/20	20/20	10/20	14/20	20/20
	Mean Ct	37.38	37.21	30.93	-	-	30.50	-	-	30.75
	SD	0.48	0.51	0.79	-	-	0.79	-	-	0.88
PANAMAX™48	Detection rate	20/20	20/20	20/20	8/20	10/20	20/20	5/20	4/20	20/20
	Mean Ct	37.14	35.60	28.76	-	-	29.99	-	-	30.36
	SD	0.54	0.69	1.02	-	-	1.15	-	-	0.98
TOP™ Virus kit	Detection rate	20/20	20/20	20/20	9/20	13/20	20/20	9/20	7/20	20/20
	Mean Ct	35.77	35.71	29.48	-	-	29.37	-	-	30.59
	SD	0.40	0.82	0.79	-	-	0.88	-	-	1.12

Nasopharyngeal swab		1 copy/ $\mu$ L			0.3 copies/ $\mu$ L			0.1 copies/ $\mu$ L		
		ORF1ab	N	RNaseP	ORF1ab	N	RNaseP	ORF1ab	N	RNaseP
QIAamp DSP	Detection rate	20/20	20/20	20/20	16/20	16/20	20/20	10/20	14/20	20/20
	Mean Ct	37.38	37.21	30.93	-	-	30.50	-	-	30.75
	SD	0.48	0.51	0.79	-	-	0.79	-	-	0.88
PANAMAX™48	Detection rate	20/20	20/20	20/20	8/20	10/20	20/20	5/20	4/20	20/20
	Mean Ct	37.14	35.60	28.76	-	-	29.99	-	-	30.36
	SD	0.54	0.69	1.02	-	-	1.15	-	-	0.98
TOP™ Virus kit	Detection rate	20/20	20/20	20/20	8/20	11/20	20/20	7/20	5/20	20/20
	Mean Ct	35.67	35.84	30.11	-	-	30.01	-	-	30.27
	SD	0.45	0.75	1.02	-	-	0.67	-	-	0.97

**12.2 Inclusivity (analytical reactivity)**

Analytical reactivity (inclusivity) of the U-TOP™ COVID-19 Detection Kit was evaluated using publicly available full and partial SARS-CoV-2 genome sequences. 5282 sequences were downloaded from the following databases including National Genomics Data Center China (<https://bigd.big.ac.cn/>), GenBank (<https://www.ncbi.nlm.nih.gov/genbank/>), GISAID (<https://www.gisaid.org/>), GWH (<https://bigd.big.ac.cn/gwh/>) and NMDC (<https://microbiome data.org/>).

Analysis was performed using the <Find binding sites and create fragment> tool in CLC main workbench 20.0.3 software. 496 sequences which comprise whole genome information of SARS-CoV-2 were analyzed against primer and probes contained in the kit. All the alignments

of the kit's primer and probe sets against the available 496 SARS-CoV-2 sequences showed 100% identity (absence of mismatch base against the SARS-CoV-2 target).

### 12.3 Specificity (Cross-Reactivity)

Evaluation of analytical specificity of the kit was conducted using both *in silico* analysis and wet testing against pathogenic organisms mainly found in the human respiratory tract.

#### *In-silico* Analysis:

BLASTn analysis queries of the U-TOP™ COVID-19 Detection Kit primers and probes (2 ORF1ab primer/probe sets and 1 N primer/probe set) were performed against public domain nucleotide sequences with the following database search parameters:

- Mask low complexity regions = Yes
- Expectation value = 10
- Match/Mismatch = Match 2 Mismatch -3
- Gap Costs = Existence 5 Extension 2
- Max number of hit sequence = 250
- Mask lower case = No
- Mask low complexity regions = Yes
- Number of threads = 16
- Filter out redundant results = No.

**Table 8. *In-silico* Cross-Reactivity Analysis**

	Microorganism	Ref.Seq	ORF1ab (4 primer, 2 probe)	N (2 primer, 1 probe)
1	Human coronavirus 229E	NC_002645.1	No alignment found <sup>a</sup>	No alignment found
2	Human coronavirus OC43	NC_006213.1	No alignment found	No alignment found
3	Human coronavirus HKU1	NC_006577	No alignment found	No alignment found
4	Human coronavirus NL63	NC_005831.2	No alignment found	No alignment found
5	SARS-coronavirus**	NC_004718.3	Amplicon-1 primers: Forward 38%, Reverse 38% Amplicon-2 primers: Forward 42%, Reverse 40% Probes (both amplicons): No alignment found	Forward primer: 21% Reverse primer: 40% Probe: No alignment found
6	MERS-coronavirus	KJ556336.1	No alignment found	No alignment found
7	Adenovirus type 1	MH183293.1	No alignment found	No alignment found
8	Adenovirus type 2	J01917.1	No alignment found	No alignment found
9	Adenovirus type 3	AY599836.1	No alignment found	No alignment found
10	Human Metapneumovirus	KJ627437.1	No alignment found	No alignment found

	Microorganism	Ref.Seq	ORF1ab (4 primer, 2 probe)	N (2 primer, 1 probe)
11	Parainfluenza virus 1	KX639498.1	No alignment found	No alignment found
12	Parainfluenza virus 2	KM190939.1	No alignment found	No alignment found
13	Parainfluenza virus 3	NC_001796.2	No alignment found	No alignment found
14	Parainfluenza virus 4	JQ241176.1	No alignment found	No alignment found
15	Influenza A	GCF_000865085.1	No alignment found	No alignment found
16	Influenza B	BLe1940	No alignment found	No alignment found
17	Enterovirus	NC_001472.1	No alignment found	No alignment found
18	Respiratory syncytial virus	NC_001803.1	No alignment found	No alignment found
19	Rhinovirus	NC_009996.1	No alignment found	No alignment found
20	<i>Chlamydia pneumoniae</i>	NC_005043.1	No alignment found	No alignment found
21	<i>Haemophilus influenzae</i>	NZ_LN831035.1	No alignment found	No alignment found
22	<i>Legionella pneumophila</i>	NZ_LR134380.1	No alignment found	No alignment found
23	<i>Mycobacterium tuberculosis</i>	NC_000962.3	No alignment found	No alignment found
24	<i>Streptococcus pneumoniae</i>	NZ_LN831051.1	No alignment found	No alignment found
25	<i>Streptococcus pyogenes</i>	NZ_LN831034.1	No alignment found	No alignment found
26	<i>Bordetella pertussis</i>	NC_018518.1	No alignment found	No alignment found
27	<i>Mycoplasma pneumoniae</i>	NZ_CP010546.1	No alignment found	No alignment found
28	<i>Pneumocystis jirovecii</i> (PJP)	CAKM01000281.1	No alignment found	No alignment found
29	<i>Candida albicans</i>	Database*	No alignment found	No alignment found
30	<i>Pseudomonas aeruginosa</i>	NC_002516.2	No alignment found	No alignment found
31	<i>Staphylococcus epidermidis</i>	NZ_CP035288.1	No alignment found	No alignment found
32	<i>Streptococcus salivarius</i>	GCF_900636435.1	No alignment found	No alignment found
33	<i>Staphylococcus aureus</i>	BX571856.1	No alignment found	No alignment found

<sup>a</sup>; No alignment found: Greatest bit score of all the primer/probe against reference sequence is lower than 50 (lower than 50 % of the sequence similarity).

\*BLAST against online database [www.candidagenome.org](http://www.candidagenome.org)

\*\*Partial sequence homologies under 50% were found between primers and SARS-Coronavirus, whereas no homology was found in detection probes. Expected melting temperatures of primer with 50% of homology were 30-40°C however the annealing temperature of this assay is 60°C. Thus, nonspecific amplification of SARS-Coronavirus cannot be occurred. Even if SARS-coronavirus is amplified in non-specific manner the PCR product is not detected with the probes with no sequence similarity.

### Cross-Reactivity Wet Testing:

Wet testing against normal and pathogenic organisms of the respiratory tract was performed to confirm the results of the *in silico* analysis. Each organism (cultured isolates or inactivated strains) identified in the Table 9 was tested using three extraction replicates with the U-TOP™ COVID-19 Detection Kit at concentrations of 10<sup>6</sup> CFU/mL or higher for bacteria and 10<sup>5</sup> pfu/mL or higher for viruses. No detectable amplification curve (Ct) was observed for the ORF1ab and N targets. As expected, the internal control did show 100% detection for all three tested replicates for all organisms evaluated for potential cross-reactivity.

**Table 9. Cross-Reactivity Wet Testing Analysis**

Microorganism	Source	% Detection (#detected / #tested)		
		ORFlab	N	IC
Human coronavirus 229E	KBPV <sup>a</sup> VR-9	0% (0/3)	0% (0/3)	100% (3/3)
Human coronavirus OC43	KBPV VR-8	0% (0/3)	0% (0/3)	100% (3/3)
Human coronavirus HKU1	ATCCVR-3262SD*	0% (0/3)	0% (0/3)	100% (3/3)
Human coronavirus NL63	NCCP 43214	0% (0/3)	0% (0/3)	100% (3/3)
SARS-coronavirus	Clinical isolate <sup>b</sup>	0% (0/3)	0% (0/3)	100% (3/3)
MERS-coronavirus	Clinical isolate <sup>b</sup>	0% (0/3)	0% (0/3)	100% (3/3)
Adenovirus type 1	KBPV VR-1	0% (0/3)	0% (0/3)	100% (3/3)
Adenovirus type 2	KBPV VR-58	0% (0/3)	0% (0/3)	100% (3/3)
Adenovirus type 3	KBPV VR-2	0% (0/3)	0% (0/3)	100% (3/3)
Human Metapneumovirus	KBPV VR-86	0% (0/3)	0% (0/3)	100% (3/3)
Parainfluenza virus 1	KBPV VR-44	0% (0/3)	0% (0/3)	100% (3/3)
Parainfluenza virus 2	KBPV VR-45	0% (0/3)	0% (0/3)	100% (3/3)
Parainfluenza virus 3	KBPV VR-46	0% (0/3)	0% (0/3)	100% (3/3)
Parainfluenza virus 4	KBPV VR-69	0% (0/3)	0% (0/3)	100% (3/3)
Influenza A (H3N2)	KBPV VR-32	0% (0/3)	0% (0/3)	100% (3/3)
Influenza A (H1N1)	KBPV VR-33	0% (0/3)	0% (0/3)	100% (3/3)
Influenza B	KBPV VR-34	0% (0/3)	0% (0/3)	100% (3/3)
Enterovirus	KBPV VR-12	0% (0/3)	0% (0/3)	100% (3/3)
Respiratory syncytial virus	KBPV VR-48	0% (0/3)	0% (0/3)	100% (3/3)
Rhinovirus 1	KBPV VR-1	0% (0/3)	0% (0/3)	100% (3/3)
Rhinovirus 14	KBPV VR-39	0% (0/3)	0% (0/3)	100% (3/3)
Rhinovirus 7	KBPV VR-82	0% (0/3)	0% (0/3)	100% (3/3)
<i>Chlamydia pneumoniae</i>	ATCC 53592	0% (0/3)	0% (0/3)	100% (3/3)
<i>Haemophilus influenzae</i>	CCARM 9257	0% (0/3)	0% (0/3)	100% (3/3)
<i>Legionella pneumophila</i>	CCARM 19001	0% (0/3)	0% (0/3)	100% (3/3)
<i>Mycobacterium tuberculosis</i>	NCCP15972	0% (0/3)	0% (0/3)	100% (3/3)
<i>Streptococcus pneumoniae</i>	CCARM 4157	0% (0/3)	0% (0/3)	100% (3/3)
<i>Streptococcus pyogenes</i>	CCARM 4528	0% (0/3)	0% (0/3)	100% (3/3)
<i>Bordetella pertussis</i>	NCCP 13671	0% (0/3)	0% (0/3)	100% (3/3)
<i>Mycoplasma pneumoniae</i>	ATCC 29342	0% (0/3)	0% (0/3)	100% (3/3)
<i>Pneumocystis jirovecii</i> (PJP)	Lab culture	0% (0/3)	0% (0/3)	100% (3/3)
<i>Candida albicans</i>	CCARM 14004	0% (0/3)	0% (0/3)	100% (3/3)
<i>Pseudomonas aeruginosa</i>	CCARM 0220	0% (0/3)	0% (0/3)	100% (3/3)
<i>Staphylococcus epidermis</i>	CCARM 3711	0% (0/3)	0% (0/3)	100% (3/3)
<i>Streptococcus salivarius</i>	NCCP 14735	0% (0/3)	0% (0/3)	100% (3/3)
<i>Staphylococcus aureus</i>	NCCP 15920	0% (0/3)	0% (0/3)	100% (3/3)
Nasal wash	-	0% (0/3)	0% (0/3)	0% (0/3)

<sup>a</sup>; KBPV: Korean bank of pathogenic virus (<https://www.kbpv.re.kr/index.php>)

<sup>b</sup>; Clinical isolate, Culture: Clinical isolates in department of diagnostics, Hospital of Chungnam University, Korea.

\*human coronavirus HKU1 was tested using the spike with isolated nucleic acid at concentration of  $5 \times 10^5$  copies/ml.

### 12.3 Interfering substances study

Interfering substances studies were performed using nasopharyngeal swab specimens collected from healthy individuals spiked with or without SARS-CoV-2 genomic RNA at the concentration of 5xLoD. The samples were previously confirmed to be negative using the U-Top™ COVID-19 test. The interfering substances indicated in table 10 were added to the positive or negative contrived samples at the indicated concentrations, and the samples were processed using three extraction methods shown in table 10 following IFU supplied with the products. Each substance was tested at the highest medically relevant concentration in three replicates for both positive and negative contrived samples. Results indicate that all three extraction methods and the U-TOP COVID-19 test can well tolerate all the substances at the concentration equal or lower than the indicated values without significant interference. The study results are summarized in table 10.

**Table 10. Interference studies**

Interfering substances	Conc.	Detection % (#Detected / #tested)																		
		Q IAamp DSP virus kit						TOP virus kit						PANAMAX						
		Positive			Negative			Positive			Negative			Positive			Negative			
		ORFlab	N	IC	ORFlab	N	IC	ORFlab	N	IC	ORFlab	N	IC	ORFlab	N	IC	ORFlab	N	IC	
Tobramycin	5 ug/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Mucin	2.5 mg/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Whole blood	2.5% (v/v)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Fluticasone	5% (v/v)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Mupirocin	5 mg/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Nasal gel (Centella asiatica, Neomycin, Hydrocortisone)	5 mg/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Nasal drop (Oxymetazoline)	10% (v/v)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Oseltamir (Tamiflu)	2.5 ug/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Cepacol Sore Throat (Benzocaine/Menthol lozenges)	5 mg/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)
Zanamir	3 mg/ml	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)	100% (3/3)	100% (3/3)	100% (3/3)	0% (0/3)	0% (0/3)	100% (3/3)

### 12.4 Clinical Evaluation

Performance of the U-TOP™ COVID-19 Detection Kit was evaluated using contrived clinical nasopharyngeal swab and sputum specimens. A total of 60 contrived positive specimens (30 contrived positive nasopharyngeal swab specimens and 30 contrived positive sputum specimens) and 60 negative specimens were tested (30 negative nasopharyngeal swab and 30 negative sputum specimens). Leftover individual unique clinical nasopharyngeal swab and sputum matrices were determined to be negative using FDA-authorized comparator real-time RT-PCR assay and the U-TOP™ COVID-19 Detection Kit prior to spiking in the RNA.

SARS-CoV-2 viral genomic RNA (NCCP No. 43326. National Culture Collection for Pathogens) was spiked into 30 negative nasopharyngeal swab matrices and 30 negative sputum matrices at various concentrations relative to the assay's LoD. Of the 30 contrived nasopharyngeal swab positive samples, 20 were spiked at concentrations equivalent to 2X the LoD (2 copies/μL), and 10 were spiked with concentrations equivalent to 3X the LoD (3 copies/μL). Of the 30 contrived sputum positive samples, 20 were spiked at 2X LoD (2 copies/μL) and 10 were spiked with concentrations of 3X LoD (3 copies/μL). The remaining 30 nasopharyngeal swabs and 30 sputum samples were tested as negative clinical samples.

Prepared samples were randomized and blinded, and RNA was extracted using the QIAamp DSP Virus Kit. Testing was performed in a total of two RT-PCR runs with one positive and one negative control included per run. All negative samples were non-reactive and positive spiked samples at 2X and 3X LoD for both nasopharyngeal swabs and sputum showed 100% detection. Results of the study are summarized in Table 11.

**Table 11. Clinical Evaluation with Contrived Nasopharyngeal Swab and Sputum Specimens**

Specimen Type	SARS-CoV-2 concentration	# of samples	Detection rate		Mean Ct		
			ORF1ab	N	ORF1ab	N	IC (RNaseP)
Nasopharyngeal swab	2xLoD	20	20/20	20/20	36.1	36.2	30.6
	3xLoD	10	10/10	10/10	35.8	35.7	31.0
	Negative	30	0/30	0/30	-	-	30.7
Sputum	2xLoD	20	20/20	20/20	36.2	36.0	30.6
	3xLoD	10	10/10	10/10	35.6	36.2	30.7
	Negative	30	0/30	0/30	-	-	30.6

An additional study was performed to evaluate the performance of the U-TOP™ COVID-19 Detection Kit testing individual, leftover, de-identified nasopharyngeal swab and sputum clinical specimens. RNA was extracted from randomized and blinded clinical specimens using the QIAmp DSP virus kit according to the instructions supplied with the kit. A total of 35 clinical positive specimens including 20 nasopharyngeal swab, 15 sputum samples, and 40 clinical negative specimens including 25 nasopharyngeal swab, 15 sputum samples were analyzed on CFX 96 Real time PCR system by U-TOP™ COVID-19 Detection Kit. Specimens were previously tested using an FDA-authorized comparator real-time RT-PCR assay.

Both positive percent agreement (PPA) and negative percent agreement (NPA) between the 2 assays for both specimen types were 100%. The results are summarized in Table 12 and 13.

**Table 12. Clinical performance of nasopharyngeal swab specimens.**

Nasopharyngeal Swabs		Comparator Assay		
		Positive	Negative	Total
U-TOP™ COVID-19 Detection Kit	Positive	20	0	20
	Negative	0	25	25
	Total	20	25	45
Positive Agreement		100.0% (20/20); 95% CI: 83.89% - 100.00%		
Negative Agreement		100.0% (25/25); 95% CI: 86.68% - 100.00%		

**Table 13. Clinical performance of sputum specimens.**

Sputum specimens		Comparator Assay		
		Positive	Negative	Total
U-TOP™ COVID-19 Detection Kit	Positive	15	0	15
	Negative	0	15	15
	Total	15	15	30
Positive Agreement		100.0% (15/15); 95% CI: 79.62% - 100.00%		
Negative Agreement		100.0% (15/15); 95% CI: 79.62% - 100.00%		

**Appendix A. FDA SARS-CoV-2 Reference Panel Testing**

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to corroborate the LoD. The extraction method and instrument used were QIAamp DSP virus kit (Qiagen, Cat No.60704) and CFX 96 Real-Time PCR Detection System. The results are summarized in Table 14.

**Table 14. Summary of LoD Confirmation Result Using the FDA SARS-CoV-2 Reference Panel**

Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	NP Swab	0.6x10 <sup>3</sup> NDU/mL	N/A
MERS-CoV		N/A	ND

NDU/mL = RNANAAT detectable units/mL  
 N/A: Not Applicable  
 ND: Not Detected

### 13. Trouble shooting

Problem	Cause	Solution
Fluorescence signal is not detected in all samples	Error of the PCR reaction	Review if any reagent was missed during the preparation process
	If the storage conditions of the kit are not appropriate, or the expiration date has expired	Repeat the test after checking the storage conditions and expiration date
Fluorescent signal is low in all samples	If the PCR reagents were not mixed correctly	Proceed with the test after review of PCR mix
	Long storage at room temperature or light exposure	Dispose the kit.
	If the expiration date has passed	Check the expiration date of the kit
Signal detection in Negative Control	If the PCR mixture or Negative control are contaminated	Discard and use new
	If the experiment place or the tool is contaminated	Check whether the test site or tool is contaminated. Repeat the experiment with new aliquots of all reagents
If there are different results in the same sample	Pipetting error	Check the pipette
	Cross contamination	Be careful with DNA splitting and repeat the test
	Contaminated 96-well plate	Test with a new 96-well plate
- SEASUN BIOMATERIALS Inc. guarantees all its products before the expiration date - Contact our A/S team if a problem not mentioned in this table has occurred		

### 14. Reference

1. Victor M Corman et al., Diagnostic detection of SARS-CoV-2 by real-time RT-PCR. Euro Surveill 2020. 25(3): 2000045
2. Leo Poon et al., Detection of 2019 novel coronavirus (SARS-CoV-2) in suspected human cases by RT-PCR. [www.who.int/docs/default-source/coronaviruse/peiris-protocol-16-1-20.pdf](http://www.who.int/docs/default-source/coronaviruse/peiris-protocol-16-1-20.pdf).
3. Mary Johnson. Wuhan 2019 Novel Coronavirus – 2019–nCoV. MATER METHODS. 2020. 10:2867
4. Zheng-Li Shi et al., Discovery of a novel coronavirus associated with the recent pneumonia outbreak in 2 humans and its potential bat origin. Nature. 2020 579(7798): 270-273
5. Naganori Nao et al., Detection of second case of SARS-CoV-2 infection in Japan. NIID. 2020.
6. 2019–Novel coronavirus (SARS-CoV-2) real-time rRT-PCR panel primers and probes. 2020. US Centers for Disease Control and Prevention.
7. SARS-CoV-2 detection real-time RT-PCR protocol. 2020. KCDC v1.5

### 15. Symbols

	Catalogue Number		Expiration Date
	Temperature limitation (Storage temperature)		Manufacturer
	In vitro Diagnostic Medical Device		Lot number
	Do Not Reuse (For single use only)		

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### SEASUN BIOMATERIALS Inc.

**Address** N317, 11-3, Techno 1-ro, Yuseong-gu, Daejeon, 34015, Korea  
**Tel** +82-42-716-0301  
**Fax** +82-42-716-0302  
**US Technical Support** 1-800-660-1952  
**E-mail** [seasunbio@seasunbio.com](mailto:seasunbio@seasunbio.com) / [info@seasunbio.com](mailto:info@seasunbio.com)  
**Web** [www.seasunbio.com](http://www.seasunbio.com)



1copy™ COVID-19 qPCR Multi Kit

# 1copy™ COVID-19 qPCR Multi Kit

(Cat no. M22MD100M)

## Instructions for Use

For *in vitro* diagnostic use

**For Emergency Use Authorization Only**

**Prescription Use Only**



**1drop Inc.**

A-203, Keumkang Penterium IT Tower 215, Galmachi-ro, Jungwon-gu,  
Seongnam-si, Gyeonggi-do, 13217, REPUBLIC OF KOREA

TEL: +82 31 747 0109

FAX : +82 70 4275 1248

Email: [cs@1drop.co.kr](mailto:cs@1drop.co.kr)

Website: [www.1drop.co.kr](http://www.1drop.co.kr)



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1copy™ COVID-19 qPCR Multi Kit

## 1. Description

1copy™ COVID-19 qPCR Multi Kit provides reagents for real-time RT-PCR for detection of SARS-CoV-2, specifically targeting the E (Envelope) gene for and the RdRp (RNA dependent RNA polymerase) gene for SARS-CoV-2 in nasopharyngeal swab, anterior nasal swab, mid-turbinate nasal swab and oropharyngeal swab as well as nasopharyngeal wash/aspirate and nasal aspirate specimens.



1copy™ COVID-19 qPCR Multi Kit

## 2. Intended Use

1copy™ COVID-19 qPCR Multi Kit is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from SARS-CoV-2 in nasopharyngeal, oropharyngeal, anterior nasal, mid-turbinate nasal swab specimens as well as nasopharyngeal wash/aspirate and nasal aspirate specimens collected from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The 1copy™ COVID-19 qPCR Multi Kit is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and *in vitro* diagnostic procedures. 1copy™ COVID-19 qPCR Multi Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.



### 3. Principle of the Assay

The 1copy™ COVID-19 qPCR Multi Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The SARS-CoV-2 primer and probe set(s) is designed according to "WHO interim guidance for laboratory testing for 2019 novel coronavirus (2019-nCoV) in humans". This kit is based on TaqMan probe real-time fluorescent PCR technology. Upper respiratory specimens (nasopharyngeal, oropharyngeal, anterior nasal, and midturbinate swabs, nasopharyngeal wash/aspirates and nasal aspirate specimens) are extracted using QIAamp Viral RNA Mini Kit RNA mini kit (QIAGEN). After extraction, the purified nucleic acid is first reverse-transcribed into cDNA by reverse transcriptase, and then subsequently amplified by Taq DNA polymerase in the rRT-PCR instrument. In the PCR amplification, the 5' nuclease activity of Taq DNA polymerase causes the degradation of the TaqMan probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. Fluorescence intensity is monitored at each PCR cycle by the rRT-PCR instrument: FAM channel qualitative detection of SARS-CoV-2 E gene in E gene assay mixture (first well) and SARS-CoV-2 RdRp gene in RdRp gene assay mixture (second well), and Texas Red channel detection of internal positive control (human GAPDH gene) in E gene assay mixture (first well). The kit uses dUTP and UNG enzymes to prevent contamination of amplification products.

E gene assay mixture (1st well)		RdRp gene assay mixture (2nd well)	
Target	Channel	Target	Channel
E gene	FAM	RdRp gene	FAM
GAPDH	Texas Red		



#### 4. Kit Contents (Materials Provided)

<b>Kit contents</b>	<b>Cap color</b>	<b>Volume (100 Test)</b>
Master mix	Red	2 x 1000 $\mu\ell$
Primer/Probe mix 1(E gene, IPC)	Brown (Amber tube)	100 $\mu\ell$
Primer/Probe mix 2(RdRp gene)	Brown (Amber tube)	100 $\mu\ell$
Control 1 (E gene)	Yellow	100 $\mu\ell$
Control 2 (RdRp gene)	Yellow	100 $\mu\ell$
DEPC DW	Clear	1000 $\mu\ell$

※ Control 1 for E gene and Control 2 for RdRp gene are positive controls.

※ DEPC DW (Diethylpyrocarbonate-treated water; nuclease-free water) is used as a negative control.



## 5. Materials Required but Not Provided

\*Provided with the kit (please see kit contents, section 4)

- RNase/DNase free consumables (disposable latex or vinyl gloves)
- Filter tips
- 0.5mℓ or 0.2mℓ PCR tubes or 96-well PCR plates compatible with PCR instrument manufacturer's instructions
- 1.5mℓ micro tubes
- Sealing film
- Ice or cooling/cold block
- Microliter pipettes (1~10μℓ, 10~100μℓ, 100~1000μℓ)
- Mini centrifuge (0.2mℓ/0.5mℓ tubes, 10,000 rpm) or Benchtop centrifuge (1.5 mL microcentrifuge and 96 well plate centrifuge) with rotor for 0.2mℓ/0.5mℓ reaction tubes (capable of attaining 10,000 rpm), vortexer
- Sample collection and sample preservation buffer  
(Puritan UniTranz-RT 3 mℓ Filled Vial w/ Elongated & Ultrafine Flock Swabs (Cat No. UT-367))
- Real-time PCR instrument (See Section 6 below)
- QIAamp Viral RNA Mini Kit (QIAGEN, Cat no.52904)
- Ethanol (96~100%)



## 6. Compatible Real-time PCR Instruments

- Light Cycler 480 (Roche, Product No. 05015278001, Software version 1.5)
- Rotor-Gene Q 5plex HRM (Qiagen, Product No. 9001580, ,Software version 2.3.4)
- Applied Biosystems Quantstudio5 (Thermo Fisher Scientific, Product No. A28134, , Software version 1.4.3)
- Applied Biosystems 7500 Real-Time PCR Instrument system (Thermo Fisher Scientific, Product No. 4345241, Software version 2.0.6)
- CFX96™ Real-Time PCR Detection system (BIO-RAD, Product No. 1854095-IVD, Software Bio-Rad CFX Maestro version 1.1)



## 7. Warnings and Precautions

- Federal Law restricts this device to sale by or on the order of a licensed practitioner.
- 1copy™ COVID-19 qPCR Multi Kit is for *in vitro* diagnostic use only.
- For Emergency Use Authorization Only.
  
- Follow standard precautions. All patient specimens should be considered potentially infectious and handled accordingly.
- Do not eat, drink, smoke, apply cosmetics or handle contact lenses in areas where reagents and human specimens are handled.
- Handle all specimens as if infectious using safe laboratory procedures. Refer to Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with 2019-nCoV <https://www.cdc.gov/coronavirus/2019-nCoV/lab-biosafety-guidelines.html>. Dispose of hazardous or biologically contaminated materials according to the practices of your institution.
- Please read the package insert carefully prior to operation 1copy™ COVID-19 qPCR Multi Kit is only for emergency use with a prescription, as an *in vitro* diagnostic test. Each step of operation, from specimen collection, storage and transportation, and laboratory testing, should be strictly conducted in line with relevant biosafety regulations and molecular laboratory management.
- False positive and false negative results can be caused by poor specimen quality, improper specimen collection, improper transportation, improper laboratory processing, or a limitation of the testing technology. The operator should understand the principles of the procedures, including its performance limitations, in advance of operation to avoid potential mistakes.
- Separate laboratory areas, dedicated to performing predefined procedures of the assay, are required. a) 1st Area: Preparation Area—Prepare testing reagent: b) 2nd Area: specimen processing—Process the specimen and controls: c) 3rd: Amplification Area—PCR conducted.
- All materials used in one area should remain in that area and should not be moved or used in other areas. After the assay procedures, the workbench and lab supplies should be cleaned and disinfected immediately.
- All contents in this package are prepared and validated for the intended testing purpose. Replacement of any of the package contents will affect the testing performance of the kit. Components contained within a kit are intended to be used together. Do not mix components from different kit lots.
- This product is intended for professional use only and should be used by clinical laboratory personnel specifically trained in the techniques of real-time PCR and *in vitro* diagnostic procedures for use in clinical specimens.



- Do not use expired components.
- Wear appropriate protective clothing, disposable gloves and protective gloves.
- Use filter pipette tips to avoid contamination.
- Do not mix reagents from different lots of 1copy™ COVID-19 qPCR Multi Kit.
- Minimize the temperature difference of the components.
- Thaw necessary components just before using and promptly place back in freezer after use.
- Use thawed contents after gently mix and spin down.
- Prepare mixture of qPCR within a cooling/cold block or on ice.
- Discard unused reagents, waste and control according to laboratory safety rules and guidelines.
- In case of contact with eyes, rinse immediately with water.
- Be sure to deposit samples with the pipette directly into the reaction mix in PCR tubes. Do not deposit samples with the pipette to the inside plate well wall. The plates should be sealed immediately after the addition of sample. Following the amplification protocol, PCR plates should be placed into a sealable plastic bag for autoclaving and decontamination.
- Be sure not to introduce any foam or bubbles into the tubes when aliquoting Nucleic Acid reaction Mix. All PCR plates should be sealed prior to centrifugation and subsequent loading into the thermocycler to avoid any possible leakage and contamination.
- All lab workbench and supplies should be cleaned and disinfected regularly using 75% Ethanol or UV light.
- All pipette tips and centrifuge tubes in the assay should be DNase/RNase-free. The used centrifuge tubes and pipette tips should be discarded in waste bin with bleach and discarded after decontamination.
- Avoid exposure of the Primer/Probe Mixture to light.
- Even if the test results of this product are ‘positive’, it should be interpreted by an experienced specialist and review of various results such as the patient’s symptoms.
- Even if the test results of this product are ‘negative’, it should be interpreted by an experienced specialist and review of various results such as the patient’s symptoms without excluding infection.



1copy™ COVID-19 qPCR Multi Kit

## 8. Reagent Storage and Handling

- Store the kit below -20°C.
- Expiration date for kit is indicated on the packing box.
- Freezing and thawing is limited to 5 times.
- Minimize the temperature difference of the components.
- Thaw necessary components just before using and promptly place back in freezer after use.



## 9. Procedure

### 9.1 Specimen collection, transport and storage

Inadequate specimen collection, improper specimen handling and/or transport may yield a false result. Training in specimen collection is highly recommended due to the importance of specimen quality. CLSI MM13 (Clinical and Laboratory Standards Institute) may be referenced as an appropriate resource.

Refer to the CDC Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons Under Investigation (PUIs) for Coronavirus Disease 2019 (COVID-19) <https://www.cdc.gov/coronavirus/2019-nCoV/lab/guidelines-clinical-specimens.html>.

Refer to the CDC Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19) <https://www.cdc.gov/coronavirus/SARS-CoV-2/lab-biosafety-guidelines.html>.

Follow specimen collection devices manufacturer instructions for proper methods.

Swab specimens should be collected using only swabs with a synthetic tip, such as nylon or Dacron and an aluminum or plastic shaft. Calcium alginate swabs are unacceptable and cotton swabs with wooden shafts are not recommended. Place swabs immediately into sterile tubes containing 2-3 ml of viral transport media or universal transport media.

The swab specimens to be tested can be stored for up to 72 hours at 2-8°C, with long-term storage at -70° C or below.

Specimens must be packaged, shipped, and transported according to the current edition of the International Air Transport Association (IATA) Dangerous Goods Regulation. Follow shipping regulations for UN 3373 Biological Substance, Category B when sending potential 2019-nCoV specimens to the testing laboratory.

### 9.2 RNA extraction

\* Validated Kit for extraction of nucleic acids

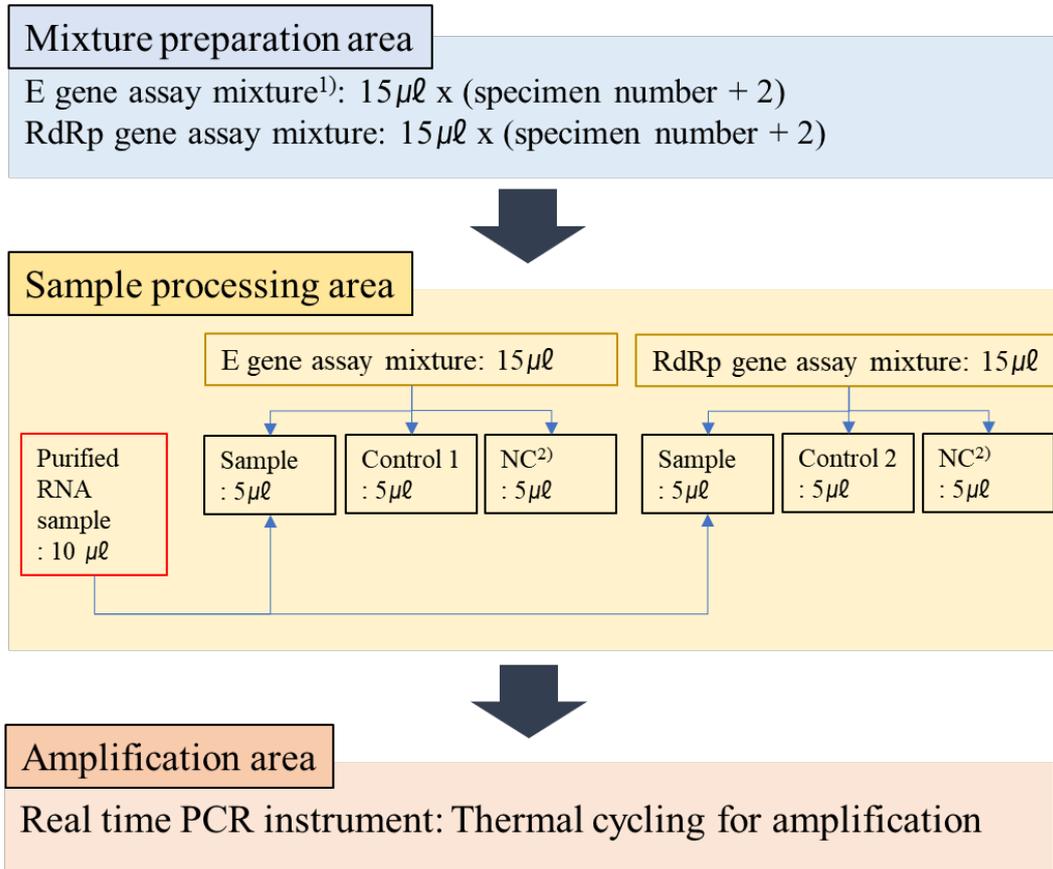
- QIAamp Viral RNA Mini Kit (QIAGEN, Cat no.52904)

RNA extraction should be performed using QIAamp Viral RNA Mini Kit (QIAGEN) according to the manufacturer's instructions and using the following specimen, lysis buffer and elution volumes. Use RNA samples immediately or store at -70°C.

Extraction kit	Patient specimen	Lysis buffer	Elution volume
QIAamp Viral RNA Mini Kit	140 µl	560 µl	50 µl



### Schematic Workflow



<sup>1)</sup> E gene assay mixture contains E gene primer/probe set(s) and GAPDH primer/probe set(s) for IPC detection  
<sup>2)</sup> NC is negative control (DEPC DW) supplied by manufacturer  
 Control sets (Control 1 and NC for E gene assay, Control 2 and NC for RdRp gene assay) should be run with each batch

### 9.3 RT-qPCR preparation

#### ① Mixture Preparation

\*Mixture preparation should be performed at mixture preparation area to avoid contamination.

Two aliquots of the nucleic acid extract are tested for each patient specimen, one for the E gene assay and one for the RdRp gene assay. Two assay mixtures are also prepared (E gene and RdRp).



i) Prepare E gene and RdRp assay mixtures assay mixtures in separate PCR tubes according to the following tables.

E gene assay mixture components	1 Reaction (Total volume : 15 $\mu\ell$ )	Volumes for N specimens ( $\mu\ell$ )
Master mix	10 $\mu\ell$	10 x (N+2)
Primer Probe mix 1	1 $\mu\ell$	1 x (N+2)
DEPC DW	4 $\mu\ell$	4 x (N+2)

RdRp gene assay mixture components	1 Reaction (Total volume : 15 $\mu\ell$ )	Volumes for N specimens ( $\mu\ell$ )
Master mix	10 $\mu\ell$	10 x (N+2)
Primer Probe mix 2	1 $\mu\ell$	1 x (N+2)
DEPC DW	4 $\mu\ell$	4 x (N+2)

ii) Pipette 15  $\mu\ell$  of each assay mixture into applicable wells according to the plate layout below. Cover and transfer the plate into sample processing area.

## ② Sample Preparation

\*Sample preparation should be performed at sample processing area

i) Add 5  $\mu\ell$  of the extracted RNA, control 1, control 2, and NC(DEPC DW) to the wells pre-filled with the assay mixtures according to plate layout below.

ii) Plate layout is as follows (example).



	E gene assay						RdRp gene assay					
	1	2	3	4	5	6	7	8	9	10	11	12
A	C1	S7	S15	S23	S31	S39	C2	S7	S15	S23	S31	S39
B	NC	S8	S16	S24	S32	S40	NC	S8	S16	S24	S32	S40
C	S1	S9	S17	S25	S33	S41	S1	S9	S17	S25	S33	S41
D	S2	S10	S18	S26	S34	S42	S2	S10	S18	S26	S34	S42
E	S3	S11	S19	S27	S35	S43	S3	S11	S19	S27	S35	S43
F	S4	S12	S20	S28	S36	S44	S4	S12	S20	S28	S36	S44
G	S5	S13	S21	S29	S37	S45	S5	S13	S21	S29	S37	S45
H	S6	S14	S22	S30	S38	S46	S6	S14	S22	S30	S38	S46

- C1: Control 1 (E gene positive control)
- C2: Control 2 (RdRp gene positive control)
- NC: Negative control (DEPC DW)
- S: Patient RNA sample

- iii) Seal the plate with sealing film and spin down the plate in a table top plate centrifuge.
- iv) Insert the plate into the PCR instrument.

9.4 Software setting

\* The 1copy™ COVID-19 qPCR Multi Kit has been validated with the following Real-Time PCR instruments and software:

- Light Cycler 480 (Roche, Product No. 05015278001, Software version 1.5)
- Rotor-Gene Q 5plex HRM (Qiagen, Product No. 9001580, Software version 2.3.4)
- Applied Biosystems Quantstudio5 (Thermo Fisher Scientific, Product No. A28134, Software version 1.4.3)
- Applied Biosystems 7500 Real-Time PCR Instrument system (Thermo Fisher Scientific, Product No. 4345241, Software version 2.0.6)
- CFX96™ Real-Time PCR Detection system (BIO-RAD, Product No. 1854095-IVD, Software Bio-Rad CFX Maestro version 1.1)

For each PCR instrument and software, enter the following assay settings for the 1copy™ COVID-19 qPCR Multi Kit.



① Enter the reaction volume 20 µL and modify PCR reaction conditions presented in the following table.

Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

\* Measure fluorescence at 60°C (FAM and Texas Red(or Red 610) channel)

② Select the type of measurement fluorescence as FAM and Texas Red(or Red 610).

※ Please refer to the Appendix 1 for detailed instructions on how to use each instrument.



## 10. Quality Control

\* Control 1, Control 2, and two negative controls(NC) (for E gene assay and RdRp assay) should be run with each batch.

· DEPC DW provided in kit is used as a negative control (NC). It is needed to evaluate if any contamination of the reaction mix and is evaluated in two wells of each test run, one for the E gene assay and one for the RdRp assay. This negative control is run through the entire test process, including extraction. If the volume of the NC reagent supplied with the kit is not sufficient it would be acceptable that testing laboratories include a separate negative control (nuclease-free water). NC should be negative and not exhibit fluorescence growth curves that cross the threshold line. If a false positive occurs with NC reactions, sample contamination may have occurred. Invalidate the run and repeat the assay.

· Control 1 (E gene plasmid) and control 2 (RdRp gene plasmid) are used as positive controls and with control having a target concentration of ~1,000 copies/mL. The positive controls are needed for assessment of amplification and detection processes as well as primer and probe integrity and to evaluate run validity. Each positive control should produce a positive result for the applicable target (Ct value  $\leq 40$  Ct). If expected positive reactivity is not achieved, the run should be invalidated and repeated with a new aliquot of control.

· IPC (Internal positive control, endogenous human GAPDH mRNA) should be present in each clinical specimen, and is co-purified with target SARS-CoV-2 virus. Therefore, the IPC can be used as an extraction control and an internal control. The IPC should be detected in E gene reaction well. The IPC is needed to evaluate, whether the extraction and amplification procedure is valid or not. The IPC must be detected (Ct  $\leq 40$ ) for a clinical specimen to be reported as negative for SAR-CoV-2 RNA.

Failure to detect IPC in a clinical specimen may indicate improper extraction of nucleic acid resulting in loss of nucleic acid, carry-over of PCR inhibitors from clinical specimens, or absence of sufficient human cellular material in the specimen. If expected positive reactivity of the IPC is not achieved in a specimen that is negative for SAR-CoV-2, re-sampling and re-testing should be performed for the specimen.

Quality control requirements should be performed in conformance with local, state, and/or federal regulations or accreditation requirements and your laboratory's standard quality control procedures.



## 11. Interpretation of Results

### 11.1 Cut off value

For both Control 1, Control 2, IPC and clinical specimens, the cutoff value for each applicable target to be considered detected (+) is a Ct value of  $\leq 40$ . An assay target is considered positive (detected) if there is a sigmoidal amplification curve with no higher than Ct of 40 at threshold value.

Ct value	Result
$\leq 40$	Detected (+)
$> 40$ or N/A	Not Detected (-)

Ct values above 40 for FAM and Texas Red(or Red 610) signals may be the result of unspecific amplification.

### 11.2 Interpretation, Controls

All test controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted. After the positive control, negative controls and IPC have been examined and determined to be valid and acceptable, assessment of clinical specimen test results should be performed. However, if a patient specimen detects a SARS-CoV-2 target, the result is valid regardless of whether the IPC is detected.

### 11.3 System suitability test - Interpretation of Control Results

Control 1 (E gene)	Control 2 (RdRp gene)	Negative control	Interpretation
+	+	-	Pass
-	+/-	+/-	Control Failure/System suitability failed/ Retest*
+/-	-	+/-	
+/-	+/-	+	

\* In the event of a control failure, specimen results should not be reported. Repeat the test run with new controls.

※ Note: Ct  $\leq 40$  = Detected (+), Ct  $> 40$  = Not Detected (-)



11.4 Patient specimen interpretation

E gene assay		RdRp gene assay Sample (FAM)	Interpretation
Sample (FAM)	IPC (Texas Red)		
+	+/-	+	Positive for SARS-CoV-2
-	+	-	Negative for SARS-CoV-2
+	+/-	-	Presumptive positive for SARS-CoV-2**
-	+/-	+	Positive for SARS-CoV-2
-	-	-	Invalid Result,* / Repeat extraction and RT-PCR. If repeat result is invalid, consider collection of a new specimen.

\* Invalid result due to potential sampling error or inhibition.

\*\* Presumptive positive for SARS-CoV-2: A negative SARS-CoV-2- specific target result (RdRp gene) and a positive non-specific SARS-Cov-2 target result (E gene target) may be suggestive of

- 1) a sample at concentrations near or below the limit of detection of the test,
- 2) a mutation in the RdRp target region in the oligo binding sites, or
- 3) infection with some other Sarbecovirus (e.g., SARS-CoV or some other Sarbecovirus previously unknown to infect humans), or
- 4) other factors. Sample should be retested.

For samples with a repeated presumptive positive result, additional confirmatory testing may be conducted, if it is necessary to differentiate between SARS-CoV-2 and SARS-CoV-1 or other Sarbecovirus currently unknown to infect humans, for epidemiological purposes or clinical management.

※ Note: Ct ≤40 = Detected (+), Ct >40 = Not Detected (-)



## 12. Assay Limitations

Specimens must be collected, transported, and stored using appropriate procedures and conditions. Improper collection, transport, or storage of specimens may hinder the ability of the assay to detect the target sequences.

Extraction and amplification of nucleic acid from clinical specimens must be performed according to the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.

Negative results do not preclude SARS-CoV-2 infections and should not be used as the sole basis for treatment or other management decisions.

False-negative results may arise from:

- Improper specimen collection
- Degradation of the viral RNA during shipping/storage
- Using unauthorized extraction or assay reagents
- The presence of RT-PCR inhibitors
- Mutation in the SARS-CoV-2 virus
- Failure to follow instructions for use

False-positive results may arise from:

- Cross contamination during specimen handling or preparation
- Cross contamination between patient samples
- Specimen mix-up
- RNA contamination during product handling

The effect of vaccines, antiviral therapeutics, antibiotics, chemotherapeutic or immunosuppressant drugs have not been evaluated.

Negative results do not preclude infection with SARS-CoV-2 virus and should not be the sole basis of a patient management decision.

A positive result indicates the detection of nucleic acid from SARS-CoV-2. Results do not reflect the viral load in the clinical specimens.

Nucleic acid may persist even after the virus is no longer viable.



Laboratories are required to report all positive results to the appropriate public health authorities.

Nasopharyngeal wash/aspirate or nasal aspirates and self-collected or healthcare provider collected nasal and mid-turbinate nasal swabs are additional acceptable upper respiratory specimens that can be tested with the 1copy™ COVID-19 qPCR Multi Kit; however, performance with these specimen types has not been determined.

This test is intended to be used for the detection of SARS-CoV-2 RNA in nasopharyngeal, anterior nasal and mid-turbinate swab specimens as well as nasopharyngeal wash/aspirate and nasal aspirate specimens collected in a Universal Transport Medium (UTM) or Universal Viral Transport System (VTM). Testing of other sample types with the 1copy™ COVID-19 qPCR Multi Kit may result in inaccurate results.

As with any molecular test, mutations within the target regions of the 1copy™ COVID-19 qPCR Multi Kit could affect primer and/or probe binding resulting in failure to detect the presence of virus.

Based on the *in silico* analysis, SARS-coronavirus may cross-react with the 1copy™ COVID-19 qPCR Multi Kit. SARS-coronavirus is not known to be currently circulating in the human population, therefore is highly unlikely to be present in patient specimens.



### 13. Conditions of Authorization for Laboratory

The 1copy™ COVID-19 qPCR Multi Kit assay's Letter of Authorization, User Manual, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on FDA website: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations>.

However, to assist clinical laboratories using the 1copy™ COVID-19 qPCR Multi Kit ("your product" in the conditions below), the relevant Conditions of Authorization are listed below.

- a) Authorized laboratories<sup>1</sup> using your product will include with result reports of your product, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- b) Authorized laboratories using your product will use your product as outlined in the Instructions for Use only. Deviation from the authorized procedures, such as the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- c) Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- d) Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- e) Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and 1drop Inc. ([sales@1drop.co.kr](mailto:sales@1drop.co.kr), +82 31 747 0109) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product of which you become aware.
- f) All laboratory personnel using your product must be appropriately trained in PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use your product in accordance with the authorized labeling.
- g) 1drop Inc., its authorized distributor(s) and authorized laboratories using the 1copy™ COVID-19 qPCR Multi Kit will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

<sup>1</sup> The letter of authorization refers to, "Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests" as "authorized laboratories."

### 14. Performance Evaluation



### 14.1 The Limit of Detection (LoD)

Studies were performed to determine the analytical limit of detection (LoD) of the 1copy™ COVID-19 Multi qPCR Kit. The LoD of the 1copy™ COVID-19 Multi qPCR Kit was established using one lot of reagents.

The RNA reference material for the experiment was AccuPlex™ SARS-CoV-2 Reference Material Kit (Seracare, Cat. No. 0505-0126, stock concentration 4226 copies/mL as determined by digital PCR). The reference material was serially diluted into pooled nasopharyngeal/oropharyngeal swab matrix.

The preliminary LoD was estimated using the Bio-Rad CFX96 instrument and included 5 sample replicates each of 5 dilution concentrations (500, 400, 300, 200, 100 copies/mL). Confirmation of the final LoD for each instrument was performed with additional sample replicates tested at the same five concentrations but with 20 sample replicates tested at the three lowest concentrations, including the final LoD concentration.

The LoD is defined as the lowest concentration at which 19/20 replicates are positive for each assay target. The claimed LoD for the assay is 200 copies/mL. Preliminary testing and confirmatory study results are presented in the following tables.

#### Preliminary LoD Range-Finding Results (Bio-Rad CFX96)

Concentration RNA copies/mL	Assay 1 (E gene)			Assay 2 (RdRp gene)		
	Mean Ct	%CV	Detection rate	Mean Ct	%CV	Detection rate
500	37.87	0.86	5/5	38.58	0.87	5/5
400	38.23	0.86	5/5	38.78	0.45	5/5
300	38.56	0.66	5/5	39.15	0.82	5/5
200	38.62	0.85	5/5	39.09	0.68	5/5
100	38.94	0.51	4/5	39.57	0.90	4/5

#### Confirmatory LoD Testing, Bio-Rad CFX96

Concentration (copies/mL)	Detection rate		Mean Ct and %CV					
	E gene	RdRp gene	E gene		IPC		RdRp gene	
			Mean Ct	%CV	Mean Ct	%CV	Mean Ct	%CV
500	100% (5/5)	100% (5/5)	37.59	1.07	26.89	2.99	37.88	0.47
400	100% (5/5)	100% (5/5)	38.13	1.13	27.68	6.85	38.23	0.92
300	100% (20/20)	100% (20/20)	38.7	0.89	27.52	5.30	38.74	1.25
200	100% (20/20)	100% (20/20)	38.91	1.61	27.26	4.94	39.00	1.61



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100	85% (17/20)	80% (16/20)	39.23	1.11	27.09	5.49	39.16	0.95
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## Confirmatory LoD Testing, ABI 7500

Concentration (copies/mL)	Detection rate		Mean Ct and %CV					
	E gene	RdRp gene	E gene		IPC		RdRp gene	
			Mean Ct	%CV	Mean Ct	%CV	Mean Ct	%CV
500	100% (5/5)	100% (5/5)	37.32	0.69	28.09	5.51	37.50	0.62
400	100% (5/5)	100% (5/5)	37.63	1.50	27.35	5.54	37.71	1.94
300	100% (20/20)	100% (20/20)	38.01	1.80	27.71	5.22	38.12	1.30
200	100% (20/20)	100% (20/20)	38.75	1.46	27.48	5.57	38.52	1.17
100	75% (15/20)	80% (16/20)	39.24	1.00	27.19	5.99	39.07	1.49

## Confirmatory LoD Testing, ABI Quantstudio5

Concentration (copies/mL)	Detection rate		Mean Ct and %CV					
	E gene	RdRp gene	E gene		IPC		RdRp gene	
			Mean Ct	%CV	Mean Ct	%CV	Mean Ct	%CV
500	100% (5/5)	100% (5/5)	36.91	1.28	26.93	5.68	37.41	1.10
400	100% (5/5)	100% (5/5)	37.30	0.28	27.59	4.39	37.83	0.24
300	100% (20/20)	100% (20/20)	37.95	1.32	26.52	5.70	38.20	1.06
200	100% (20/20)	100% (20/20)	38.32	1.85	26.58	5.59	38.61	1.21
100	80% (16/20)	85% (17/20)	39.05	1.87	26.61	5.59	39.05	1.58

## Confirmatory LoD Testing, Roche Light Cycler 480

Concentration (copies/mL)	Detection rate		Mean Ct and %CV					
	E gene	RdRp gene	E gene		IPC		RdRp gene	
			Mean Ct	%CV	Mean Ct	%CV	Mean Ct	%CV
500	100% (5/5)	100% (5/5)	36.64	1.09	27.35	6.87	36.67	1.00
400	100% (5/5)	100% (5/5)	37.08	0.93	26.73	6.08	37.02	1.21
300	100% (20/20)	100% (20/20)	37.60	0.77	26.34	6.15	37.40	0.93
200	100% (20/20)	100% (20/20)	38.12	1.56	25.99	5.14	37.94	1.26



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100	90% (18/20)	80% (16/20)	38.58	2.41	26.14	6.25	38.83	1.98
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## Confirmatory LoD Testing, QIAGEN Rotor Gene-Q

Concentration (copies/mL)	Detection rate		Mean Ct and %CV					
	E gene	RdRp gene	E gene		IPC		RdRp gene	
			Mean Ct	%CV	Mean Ct	%CV	Mean Ct	%CV
500	100% (5/5)	100% (5/5)	37.85	1.15	28.31	6.68	37.83	1.53
400	100% (5/5)	100% (5/5)	38.43	0.88	28.53	3.88	38.32	1.58
300	100% (20/20)	100% (20/20)	38.79	1.50	28.35	5.56	38.74	0.92
200	100% (20/20)	100% (20/20)	39.28	1.05	28.46	5.95	39.22	1.71
100	90% (18/20)	80% (16/20)	39.35	0.75	28.91	4.84	39.35	1.32

The final LoD for the Icopy™ COVID-19 qPCR Multi Kit is shown in the following table for each assay target and claimed PCR instrument.

LoD	Bio-Rad CFX96	ABI 7500	ABI Quantstudio5	Light Cycler 480	Rotor gene-Q
RdRp gene	200copies/mL	200copies/mL	200copies/mL	200copies/mL	200copies/mL
E gene	200copies/mL	200copies/mL	200copies/mL	200copies/mL	200copies/mL

## 14.2 Clinical Evaluation

The performance of the Icopy™ COVID-19 qPCR Multi Kit test was evaluated using contrived clinical nasopharyngeal (NP)/Oropharyngeal (OP) swab specimens. Leftover individual NP/OP clinical swab specimens were determined to be negative for SARS-CoV-2 prior to inclusion in the study. Positive contrived specimens were prepared by spiking each individual clinical NP/OP swab specimen with RNA reference material, AccuPlex™ SARS-CoV-2 Reference Material Kit (Seracare, Cat. No. 0505-0126, stock concentration 4226 copies/mL as determined by digital PCR), at a concentration of approximately 2x LoD (20 samples), 3x LoD (5 samples), or 5x LoD (5 samples), respectively for each specimen type. Negative NP/OP swab specimens were also tested in the study with 30 non-reactive specimens, respectively for each specimen type. All specimen identities were blinded and tested. Specimens were given a serial number by the researcher who conducted RNA spiking, and the specimen after spiking was recognized by the other experimenter by serial number(s) only. Study acceptance criteria for performance was defined as 95% agreement for specimens at 2x LoD, and 100% agreement for specimens at all other concentrations and for negative specimens.



The results showed 100% agreement with the expected results in the RNA spiked specimens and 100% agreement with the expected results in the negative specimens as shown in the following two tables

\* Nasopharyngeal swab specimens results

Target Concentration	Number concordant / Number Tested	E gene assay		RdRp gene assay		Positive rate	IPC	
		Mean Ct	%CV	Mean Ct	%CV		Mean Ct	%CV
2X LoD (400copies/mL)	20/20	38.22	1.39	38.06	1.62	100%	27.14	3.57
3X LoD (600 copies/mL)	5/5	37.27	1.17	37.12	1.69	100%	26.8	4.64
5X LoD (1000 copies/mL)	5/5	36.51	2.20	36.54	0.95	100%	27.22	1.07
Negative	30/30	NA	NA	NA	NA	0%	26.74	3.80

\* Oropharyngeal swab specimen results

Target Concentration	Number concordant / Number Tested	E gene assay		RdRp gene assay		Positive rate	IPC	
		Mean Ct	%CV	Mean Ct	%CV		Mean Ct	%CV
2X LoD (400copies/mL)	20/20	37.81	1.49	37.4	1.43	100%	26.82	4.44
3X LoD (600 copies/mL)	5/5	36.94	1.01	36.51	0.98	100%	27.08	5.02
5X LoD (1000 copies/mL)	5/5	36.21	1.87	36.03	1.70	100%	26.75	1.92
Negative	30/30	NA	NA	NA	NA	0%	27.25	5.23

### 14.3 Inclusivity

The inclusivity of 1copy™ COVID-19 Multi qPCR Kit was evaluated using *in silico* analysis of the assay primers and probes in relation to 880 SARS-CoV-2 sequences available in the GISAID gene database on April 10, 2020 for two targets, E and RdRp.

For the E target, 1copy™ COVID-19 Multi qPCR Kit had 100% match to all sequences with the exception of 2 sequences that had a single mismatch. For the RdRp target, 1copy™ COVID-19 Multi qPCR Kit had 100% match to all sequences with the exception of 3 sequences that had a single mismatch. None of these mismatches found for both targets are predicted to have a negative impact on the performance of the assay, given the location of the mismatches in the primer and probe regions respectively for the five variants. These mismatches are not predicted to adversely affect probe and primer binding or reduce assay efficiency.



14.4 Cross-reactivity

**List of Organisms analyzed using *in silico* analysis**

Other high priority pathogens from the same genetic family as SARS-CoV-2	Other organisms that may be present in respiratory specimens
Human coronavirus 229E	Adenovirus (e.g. C1 Ad. 71)
Human coronavirus OC43	Human Metapneumovirus (hMPV)
Human coronavirus HKU1	Parainfluenza virus 1-4
Human coronavirus NL63	Influenza A & B
SARS-coronavirus	Enterovirus (e.g. EV68)
MERS-coronavirus	Respiratory syncytial virus
	Rhinovirus
	<i>Chlamydia pneumoniae</i>
	<i>Haemophilus influenzae</i>
	<i>Legionella pneumophila</i>
	<i>Mycobacterium tuberculosis</i>
	<i>Streptococcus pneumoniae</i>
	<i>Streptococcus pyogenes</i>
	<i>Bordetella pertussis</i>
	<i>Mycoplasma pneumoniae</i>
	<i>Pneumocystis jirovecii</i> (PJP)
	<i>Candida albicans</i>
	<i>Pseudomonas aeruginosa</i>
	<i>Staphylococcus epidermis</i>
<i>Streptococcus salivarius</i>	

An *in silico* analysis for possible cross-reactions with all the organisms listed in the Table above was conducted by mapping primers and probes for both E gene and RdRp primers and probes in the 1copy™ COVID-19 qPCR Multi Kit individually to the sequences downloaded from the NCBI database. Potential cross-reaction is possible if there is >80% homology between the



database sequence and the target primers/probes of the assay. Results from the analysis showed that the RdRp primers and probe are specific for SARS-CoV-2 and E primers and probe are specific for SARS-CoV-2 and SARS-coronavirus.

Cross reactivity is not expected with other organisms listed in Table above based on the *in silico* analysis.

To further evaluate the potential for cross-reactivity of the 1copy™ COVID-19™ qPCR Multi Kit target sequences, wet-testing was performed for selected microorganisms and viruses that may be present in respiratory specimens. For cross-reactivity test, synthetic RNA of SARS-CoV-2 specific E gene and RdRp gene were separately evaluated for potential-cross-reactivity. All samples prepared with these synthetic RNA sequences were positive for the expected corresponding primer/probe mixture only. Testing also included respiratory viral pathogens (Influenza A virus (H3N2), Influenza A virus (H1N1)), Parainfluenza virus 1, Parainfluenza virus 2, Rhinovirus 14, Enterovirus 71), as well as *Escherichia coli* and human total RNA.

Samples were prepared at high microorganism concentrations as shown in the following table. A total of five replicates were tested for each potential cross-reactant. No unexpected cross-reactivity was observed for the organisms and viruses listed. The results can be seen in the table below.

#### **Wet-testing cross-reactivity of the 1copy™ COVID-19 qPCR Multi Kit**

<b>Organism</b>	<b>Concentration</b>	<b>Results E Gene (#detected/tested)</b>	<b>Results RdRp Gene (#detected/tested)</b>
Synthetic RNA of COVID-19 specific RdRp gene	5 x 10 <sup>2</sup> copies/mL	Not detected (0/5)	Detected (5/5)
Synthetic RNA of beta-coronavirus specific E gene	5 x 10 <sup>2</sup> copies/mL	Detected (5/5)	Not Detected (0/5)
Influenza A virus (H3N2) (Ref. KBPV_VR_32)	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Influenza A virus (H1N1) (Ref. KBPV_VR_33)	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Parainfluenza virus 1	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Parainfluenza virus 2	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Rhinovirus 14	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Enterovirus 71	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Escherichia coli	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)
Human total RNA	5 x 10 <sup>7</sup> copies/mL	Not detected (0/5)	Not detected (0/5)

## 15. References



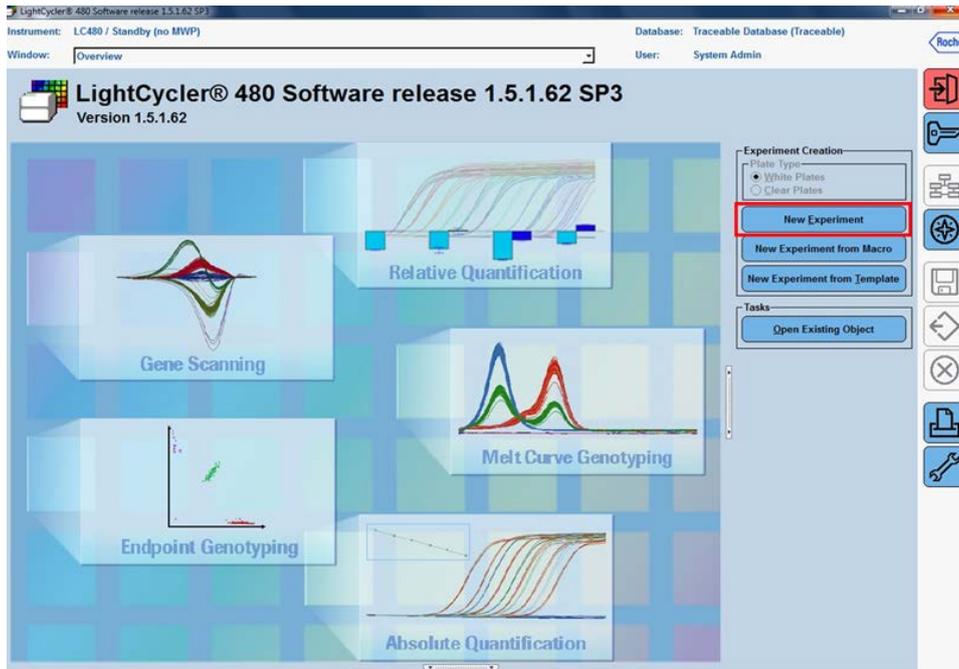
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2. Centers for Disease Control and Prevention. Biosafety in Microbiological and Biomedical laboratories (refer to latest edition). <http://www.cdc.gov/biosafety/publications/>
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4. Clinical and Laboratory Standards Institute. Collection, Transport, Preparation, and Storage of Specimens for Molecular Methods; Approved Guideline. CLSI Document MM13-A. Wayne, PA: Clinical and Laboratory Standards Institute; 2005.
5. World Health Organization. Laboratory Biosafety Manual. 3rd ed. Geneva, Switzerland: World Health Organization; 2004.
6. World Health Organization. Coronavirus disease (COVID-19) technical guidance: Laboratory testing for 2019-nCoV in humans. 3. Molecular assays to diagnose 2019-nCoV. [https://www.who.int/docs/default-source/coronaviruse/protocol-v2-1.pdf?sfvrsn=a9ef618c\\_2](https://www.who.int/docs/default-source/coronaviruse/protocol-v2-1.pdf?sfvrsn=a9ef618c_2)
7. WHO interim guidance for laboratory testing for 2019 novel coronavirus (2019-nCoV) in humans; 19 March 2020. <https://www.who.int/publications-detail/laboratory-testing-for-2019-novel-coronavirus-in-suspected-human-cases-20200117>



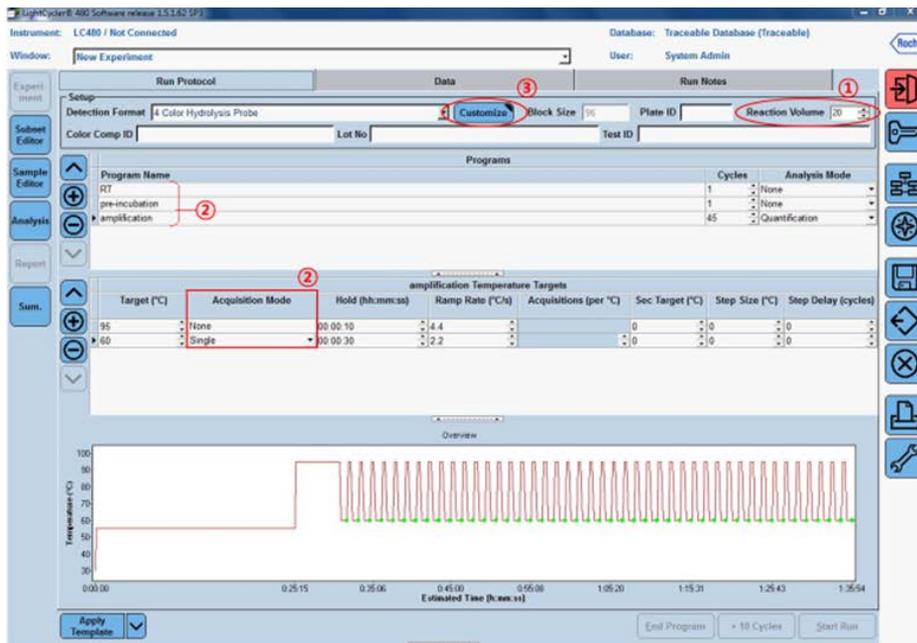
## Appendix 1. Software Setting

### ① Light Cycler 480 (Roche, Product No. 05015278001)

i) Run a software and click “New Experiment”



ii) Enter the reaction volume 20  $\mu\text{l}$  and modify PCR reaction conditions as below.

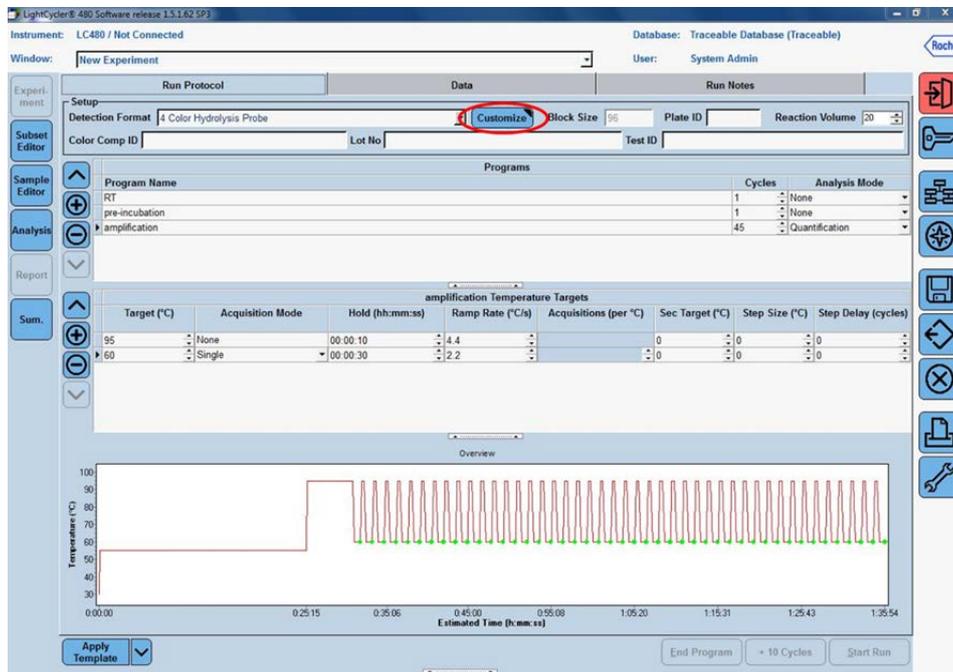


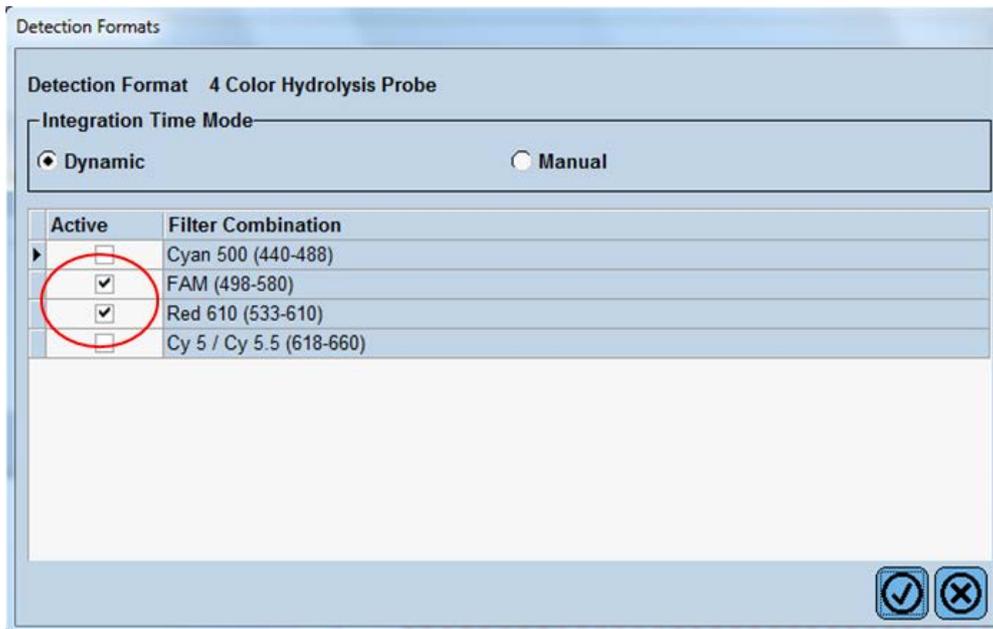


Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

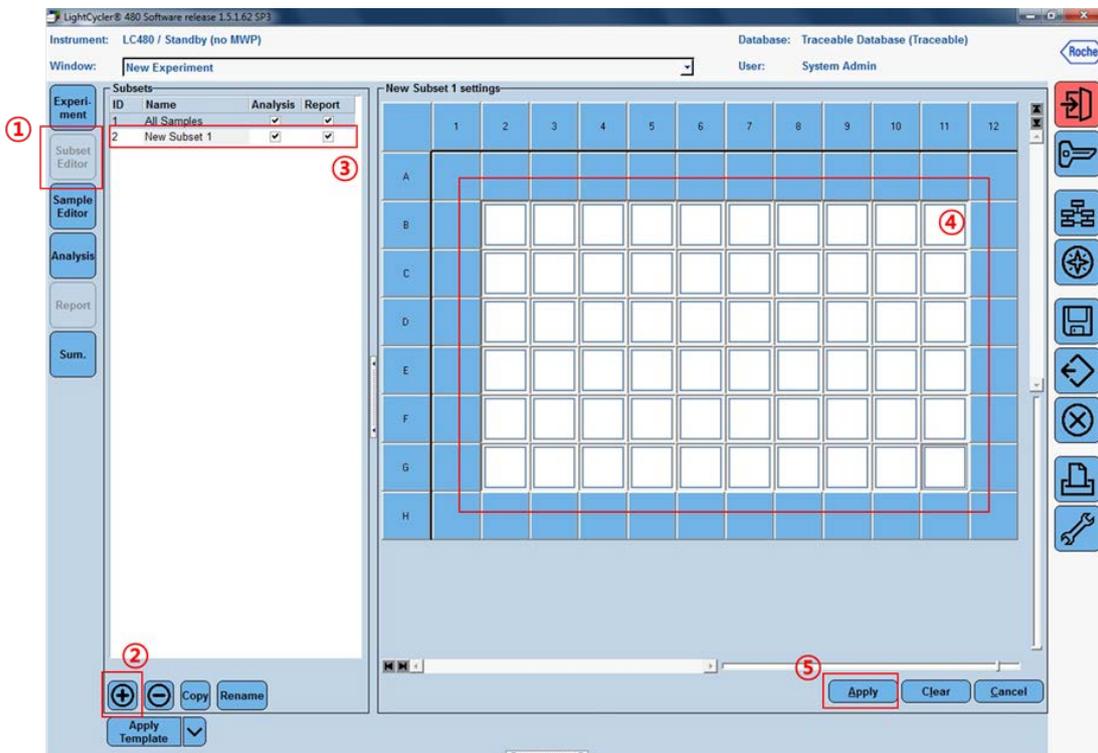
\* Measure florescence at 60°C (FAM and Red 610) channel

iii) Click “Customize” and select “FAM” & “Red 610”.



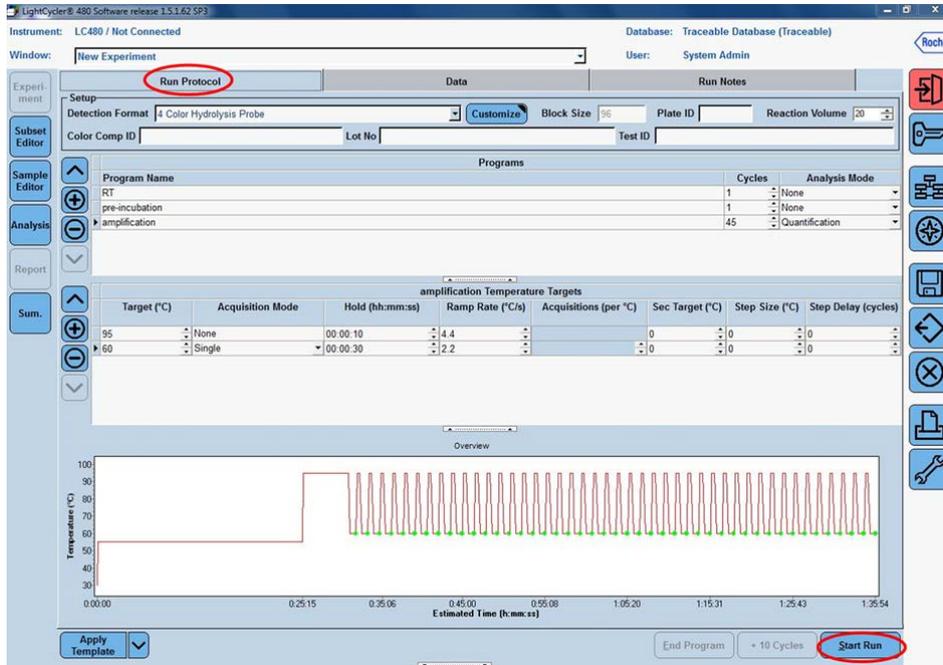


iv) Click “Subset Editor” and Define 96 well PCR plate layout on program.

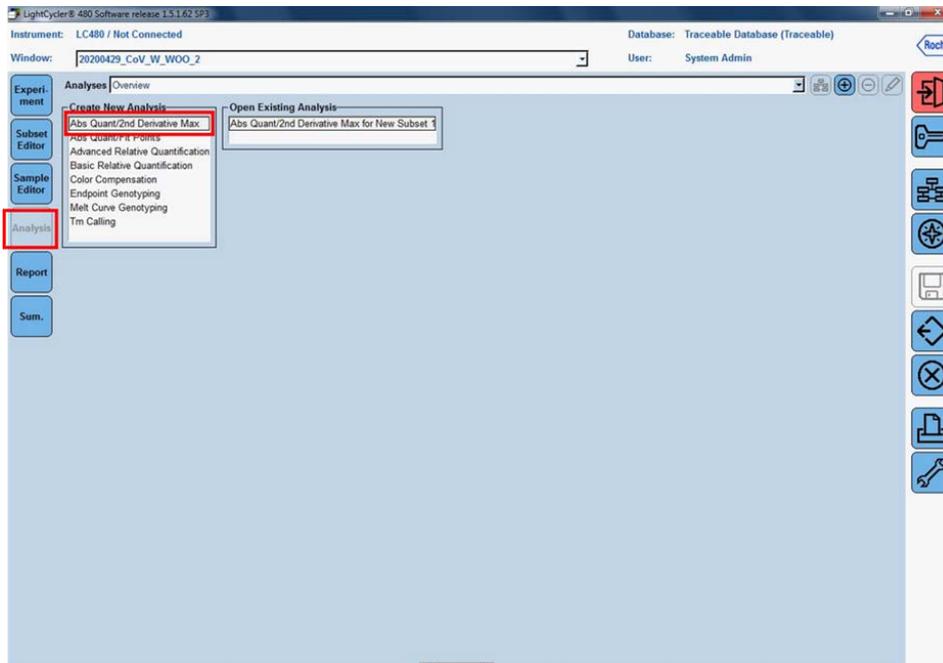




v) Click “Run Protocol” on the above menu bar and then “Start Run”



vi) For data Analysis follow the settings below table.





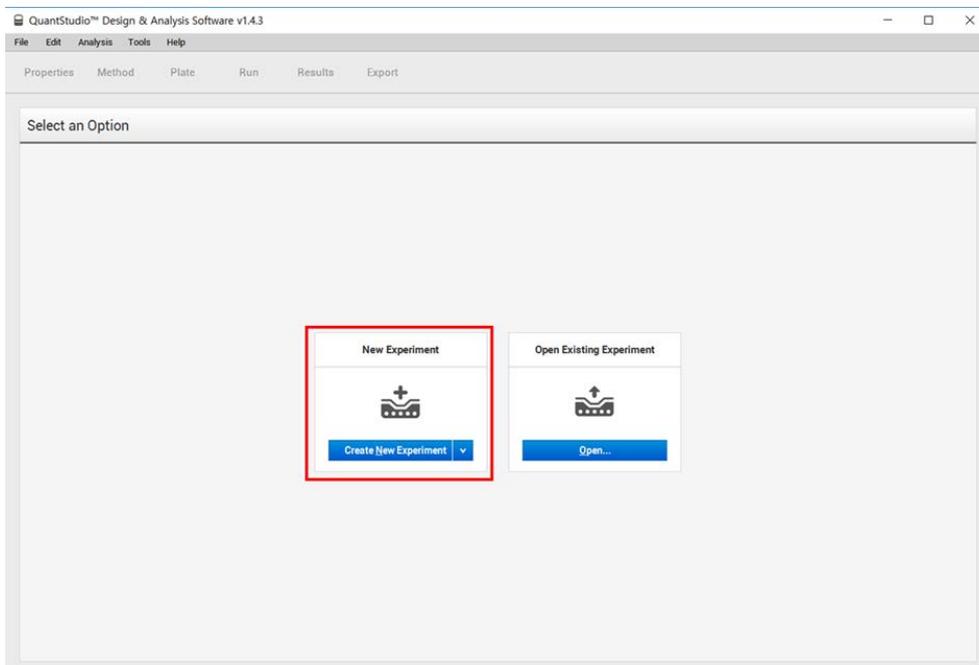
1copy™ COVID-19 qPCR Multi Kit

Target	Threshold					Baseline	
	CFX96	ABI 7500	ABI Quantstudio5	Rotor-Gene Q	LC480	Begin	End
E gene(FAM/Green)	300	50,000	15,000	0.1		3	15
RdRp gene(FAM/Green)	300	50,000	15,000	0.1	Whether or not Ct is checked when setting Abs Quant/2nd Derivative Max	3	15
IPC(Texas red/Red610/Orange)	100	20,000	5,000	0.1		3	15

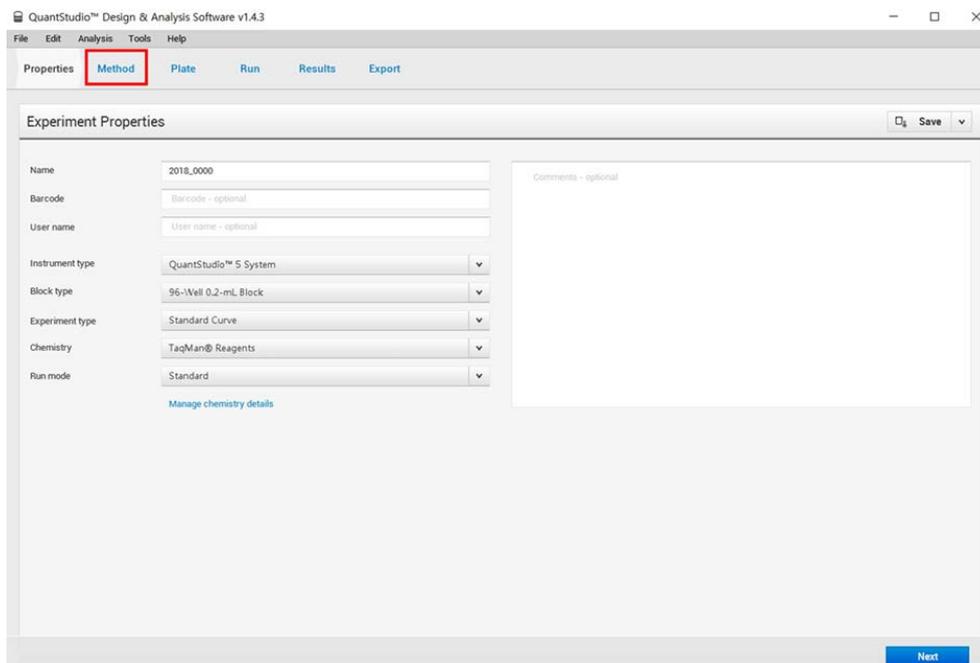


② **Applied Biosystems Quantstudio5 (Thermo Fisher Scientific, Product No. A28134)**

i) Run a software and click “Create New Experiment” of “New Experiment”

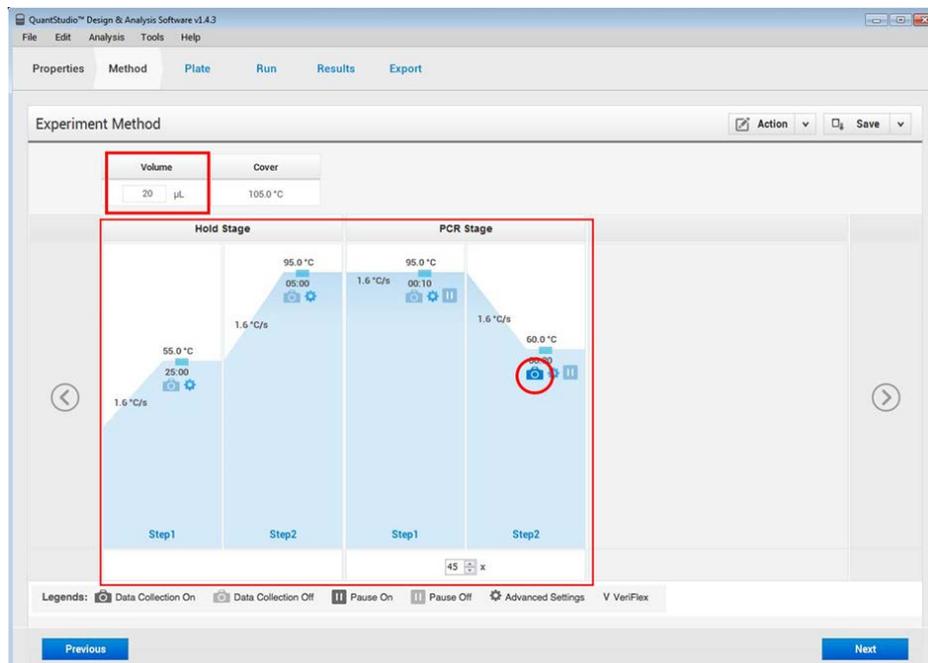


ii) Click “Method” on the above menu bar.





iii) Enter the reaction volume 20  $\mu\ell$  and modify PCR reaction conditions as below.

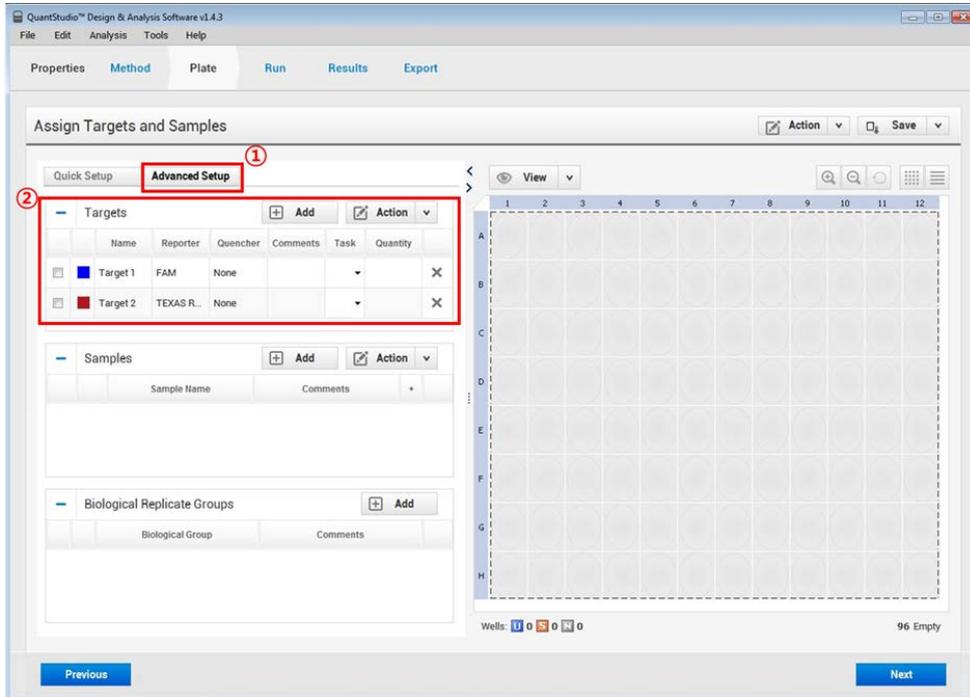


Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

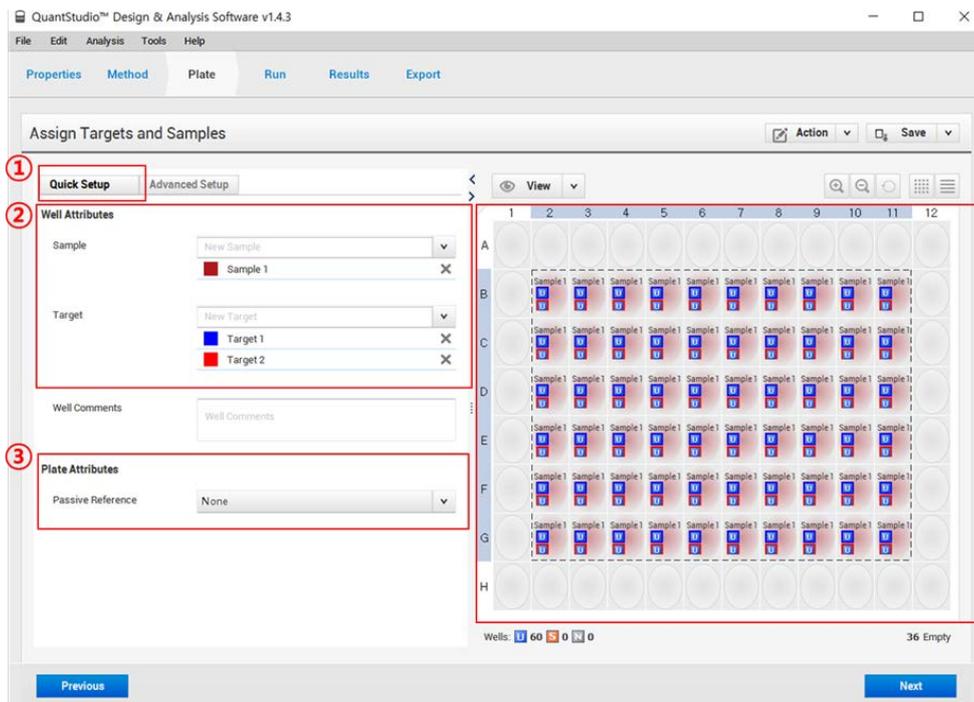
\* Measure florescence at 60°C (FAM and Red 610) channel



iv) Click “Plate” on the above menu bar and select “FAM” for Target1 and “TEX Red” for Target2 in “Advanced Setup”

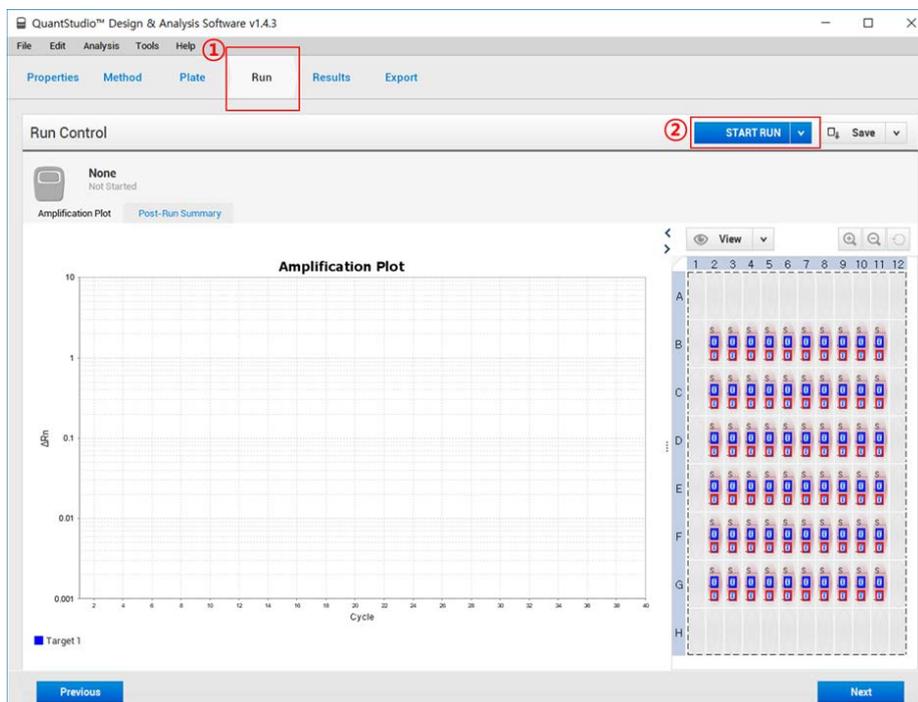


v) Click “Quick Setup” next to “Advanced Setup” and define 96 well PCR plate layout on program. Also, check the “Passive Reference : None”.

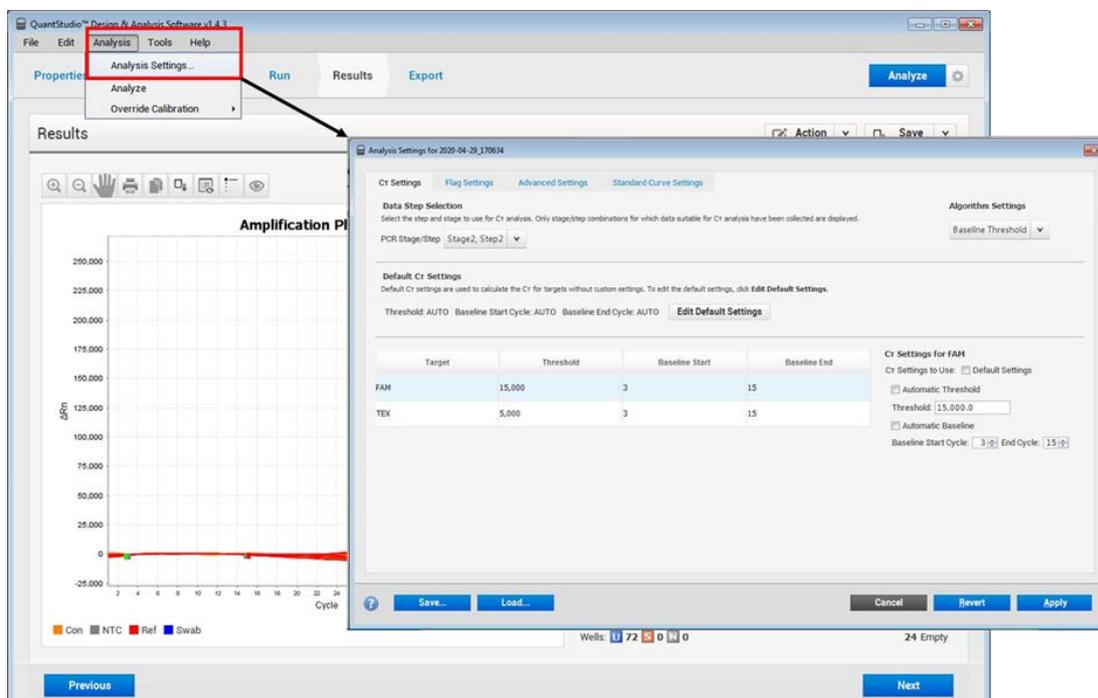




vi) Click “Run ” on the above menu bar and then “Start Run”



vii) For data Analysis follow the settings below table.





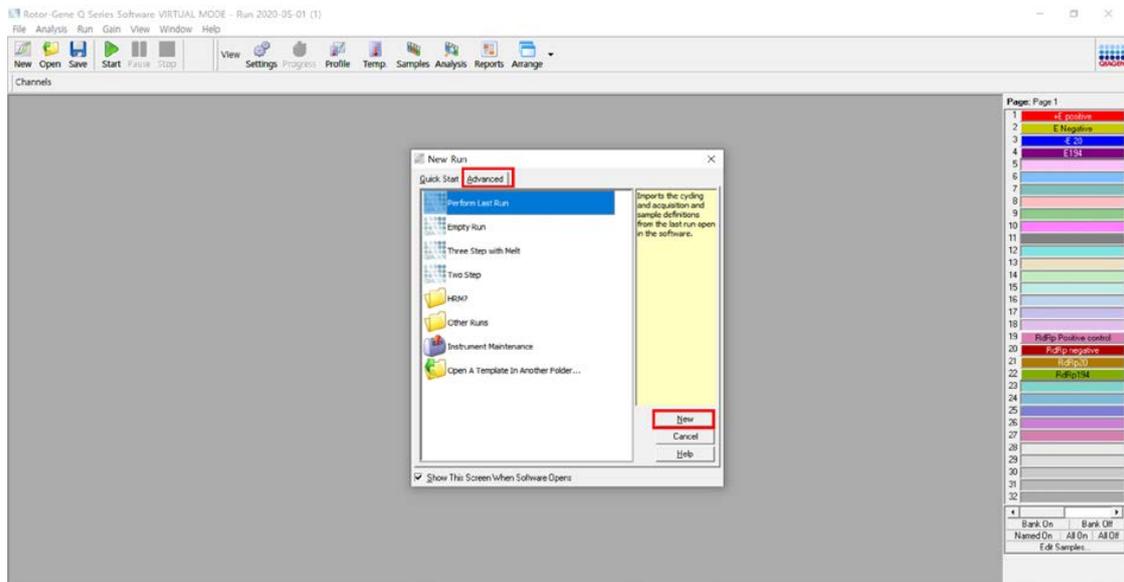
1copy™ COVID-19 qPCR Multi Kit

Target	Threshold					Baseline	
	CFX96	ABI 7500	ABI Quantstudio5	Rotor-Gene Q	LC480	Begin	End
E gene(FAM/Green)	300	50,000	15,000	0.1	Whether or not Ct is checked when setting Abs Quant/2nd Derivative Max	3	15
RdRp gene(FAM/Green)	300	50,000	15,000	0.1		3	15
IPC(Texas red/Red610/Orange)	100	20,000	5,000	0.1		3	15

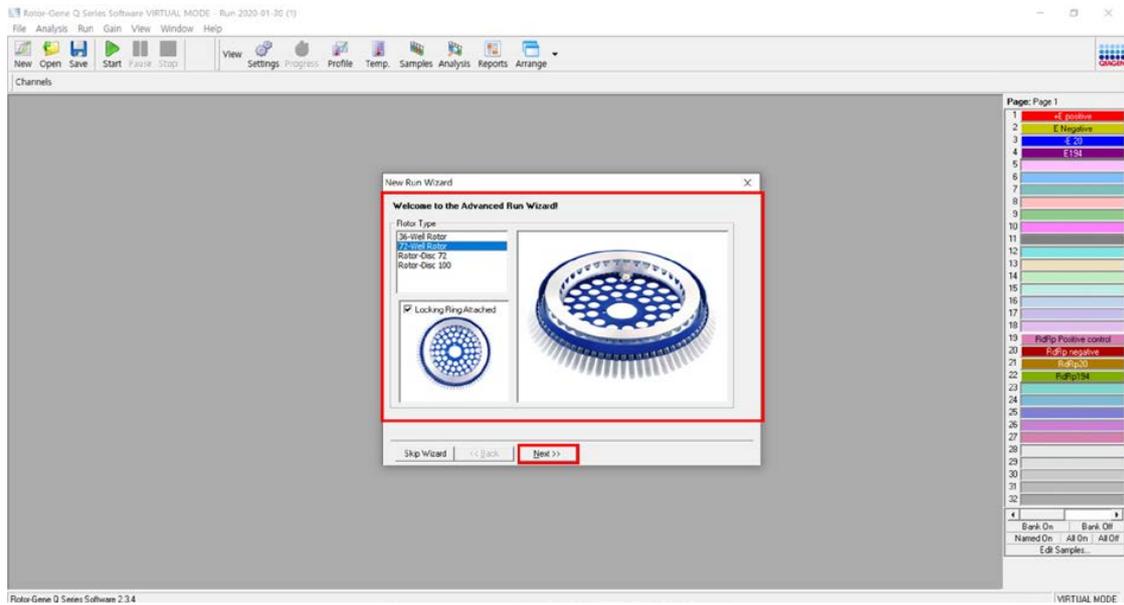


③ Rotor-Gene Q 5plex HRM (Qiagen, Product No. 9001580)

i) Run a software and click “Advanced” and click “New”.

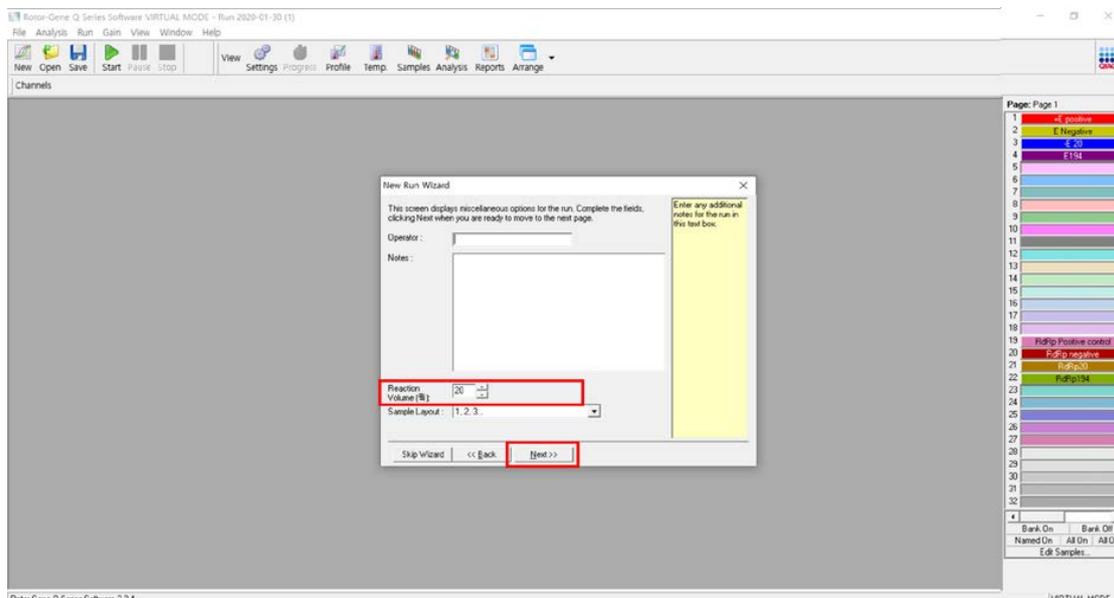


ii) Check the Rotor type and Click “Next”.

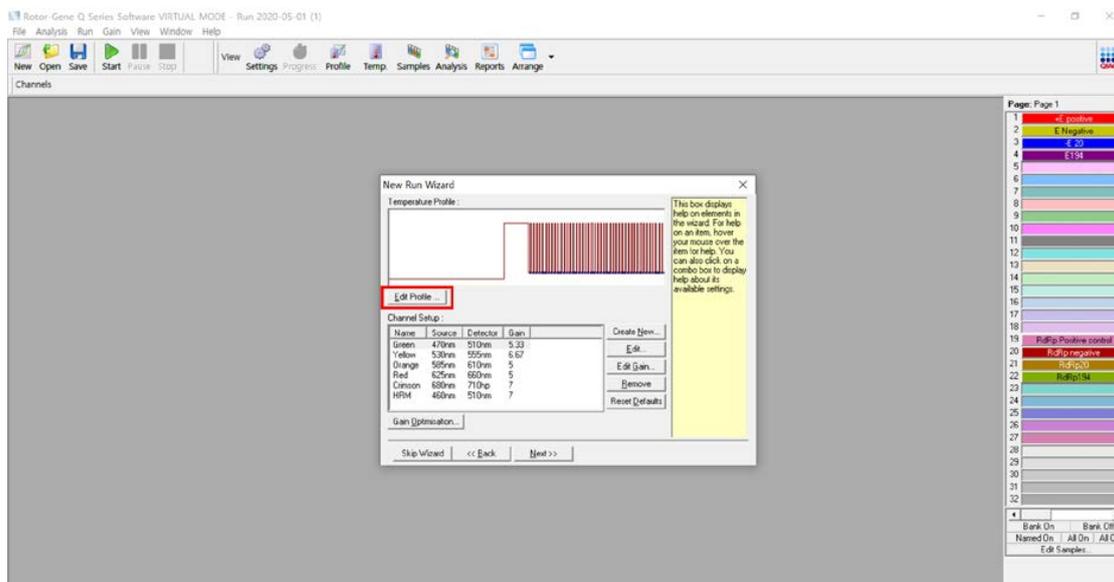




iii) Enter the reaction volume 20  $\mu\ell$  and click “Next”.



iv) Click “Edit profile” and modify PCR reaction conditions as below.



Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

\* Measure florescence at 60°C (Green and Orange) channel



Icopy™ COVID-19 qPCR Multi Kit

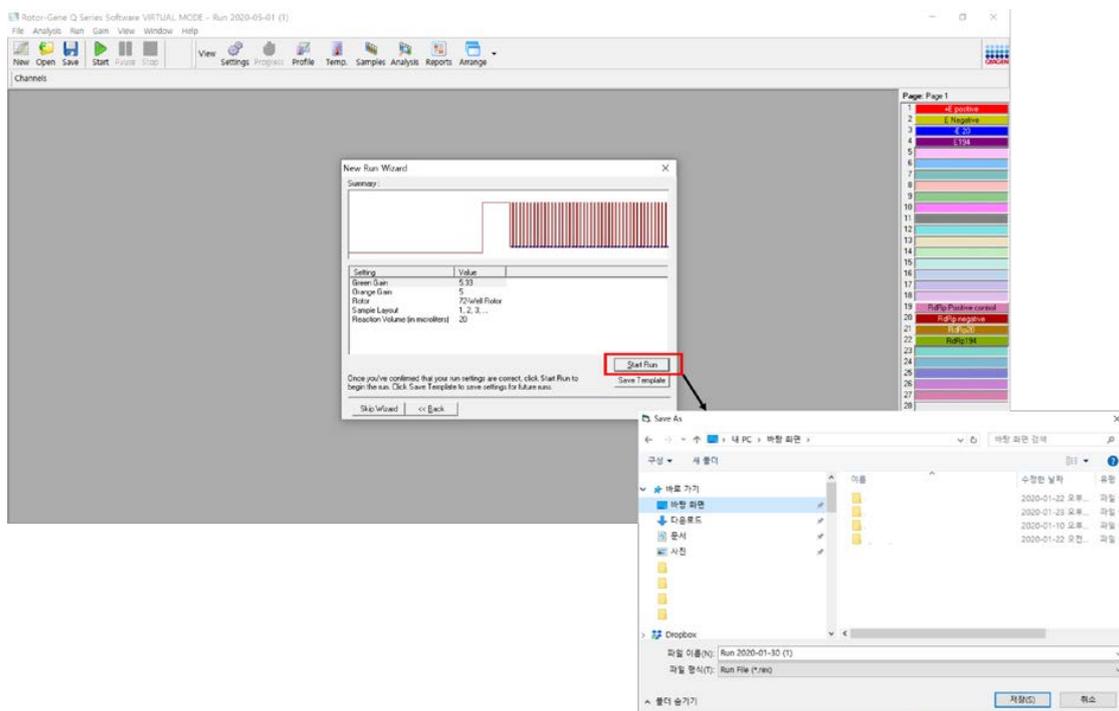
v) To measure fluorescence at 60°C, click the “Acquiring to Cycling A” and check the “Acquiring channels”, Green and Orange.

The screenshot shows the Rotor-Gene Q Series Software interface. The 'Edit Profile' window is open, displaying a thermal profile with a step at 60°C for 30 seconds. The 'Acquiring to Cycling A' step is highlighted in red. An arrow points from this step to the 'Acquisition' dialog box, which is also highlighted in red. In the 'Acquisition' dialog, the 'Acquiring Channels' list contains 'Green' and 'Orange'. Below the dialog is the 'Dye Channel Selection Chart' with the following data:

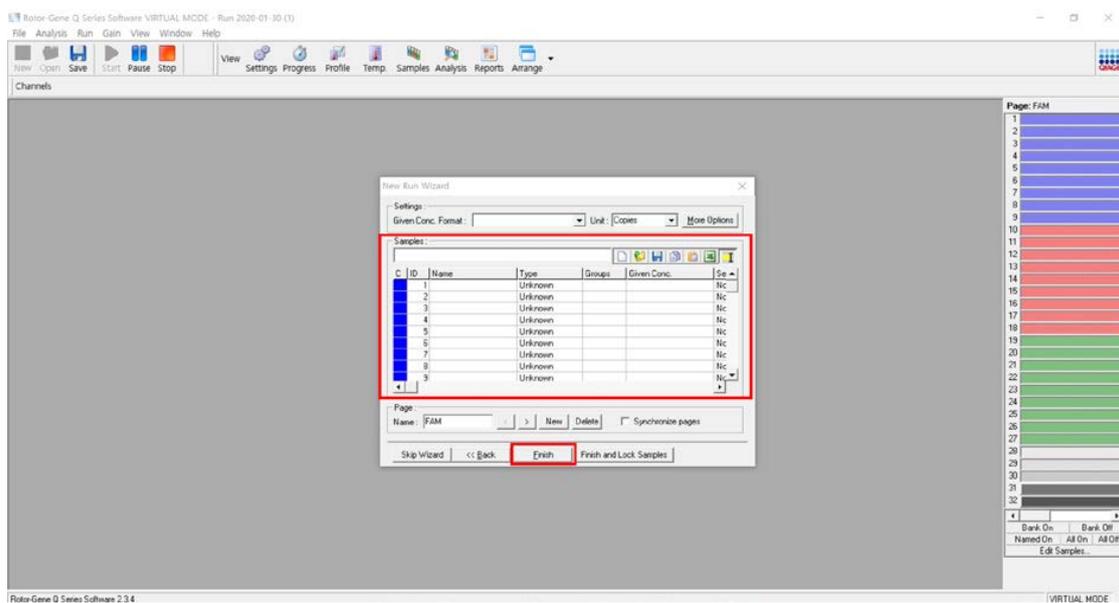
Channel	Source	Detector	Dyes
Green	470nm	610nm	FAM <sup>1</sup> , SYBR Green 1 <sup>1</sup> , Fluorescein, EvaGreen <sup>1</sup> , Alexa Fluor 488 <sup>1</sup>
Yellow	530nm	555nm	JOE <sup>1</sup> , VIC <sup>1</sup> , HEX, TET <sup>1</sup> , CAL Fluor Gold 540 <sup>1</sup> , Yakima Yellow <sup>1</sup>
Orange	585nm	610nm	ROX <sup>1</sup> , CAL Fluor Red 610 <sup>1</sup> , Cy3.5 <sup>1</sup> , Texas Red <sup>1</sup> , Alexa Fluor 568 <sup>1</sup>
Red	625nm	660nm	Cy5 <sup>1</sup> , Quasar 670 <sup>1</sup> , Alexa Fluor 633 <sup>1</sup>
Crimson	680nm	710hp	Quasar705 <sup>1</sup> , Alexa Fluor 680 <sup>1</sup>
Blue	400nm	510nm	SYTO 9 <sup>1</sup> , EvaGreen <sup>1</sup>



vi) Click “Start Run” and save the file.

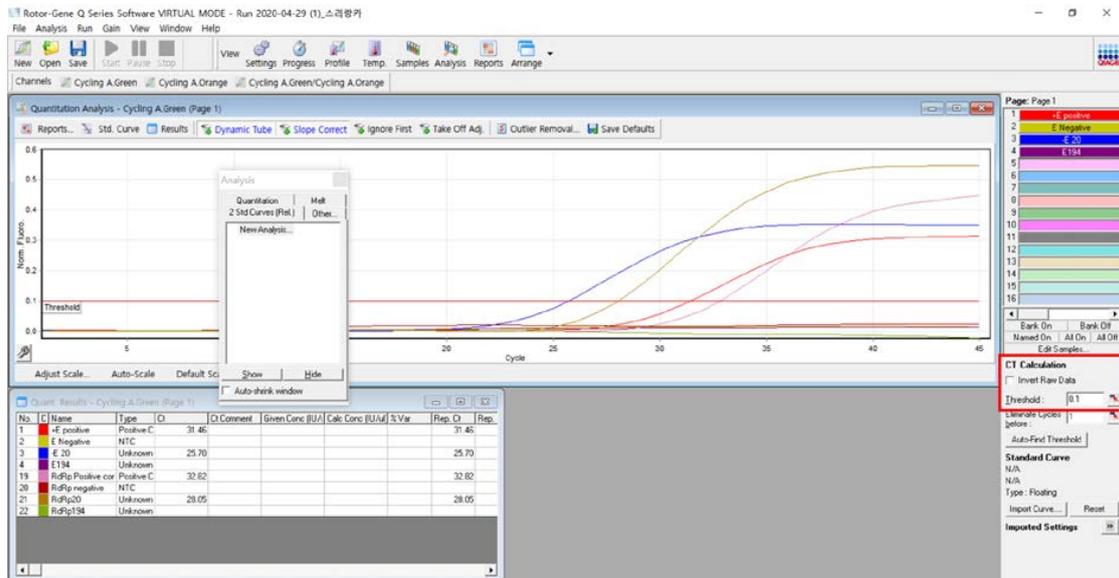


vii) Define the samples and click “Finish”.





viii) For data Analysis follow the settings below table.



Target	Threshold					Baseline	
	CFX96	ABI 7500	ABI Quantstudio5	Rotor-Gene Q	LC480	Begin	End
E gene(FAM/Green)	300	50,000	15,000	0.1	Whether or not Ct is checked when setting Abs Quant/2nd Derivative Max	3	15
RdRp gene(FAM/Green)	300	50,000	15,000	0.1		3	15
IPC(Texas red/Red610/Orange)	100	20,000	5,000	0.1		3	15



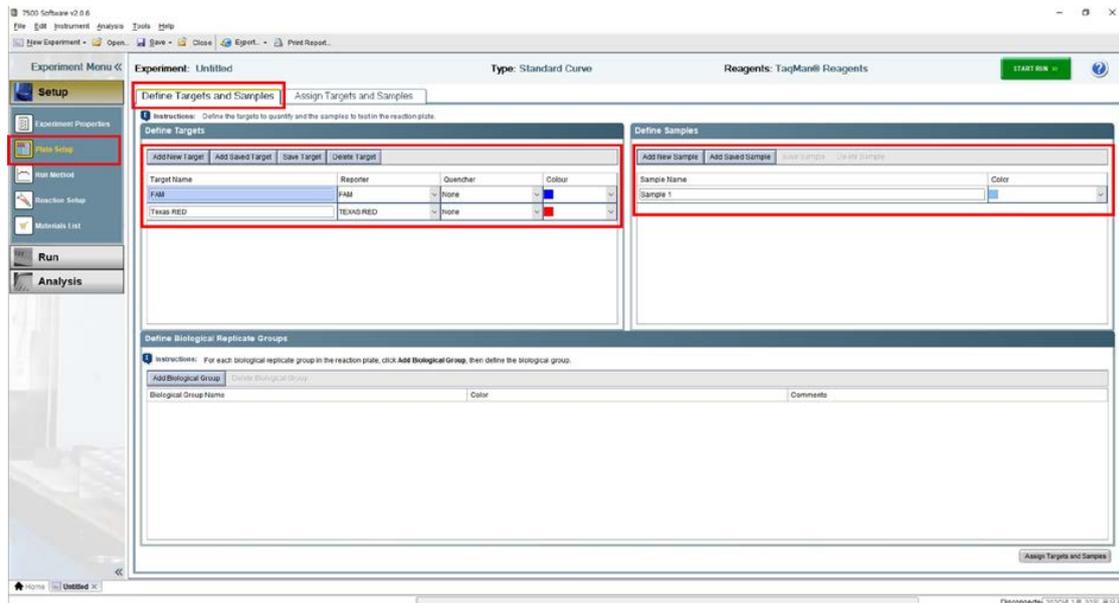
Icopy™ COVID-19 qPCR Multi Kit

④ Applied Biosystems 7500 Real-Time PCR Instrument system (Thermo Fisher Scientific, Product No. 4345241

i) Run a software and click “Advanced setup”

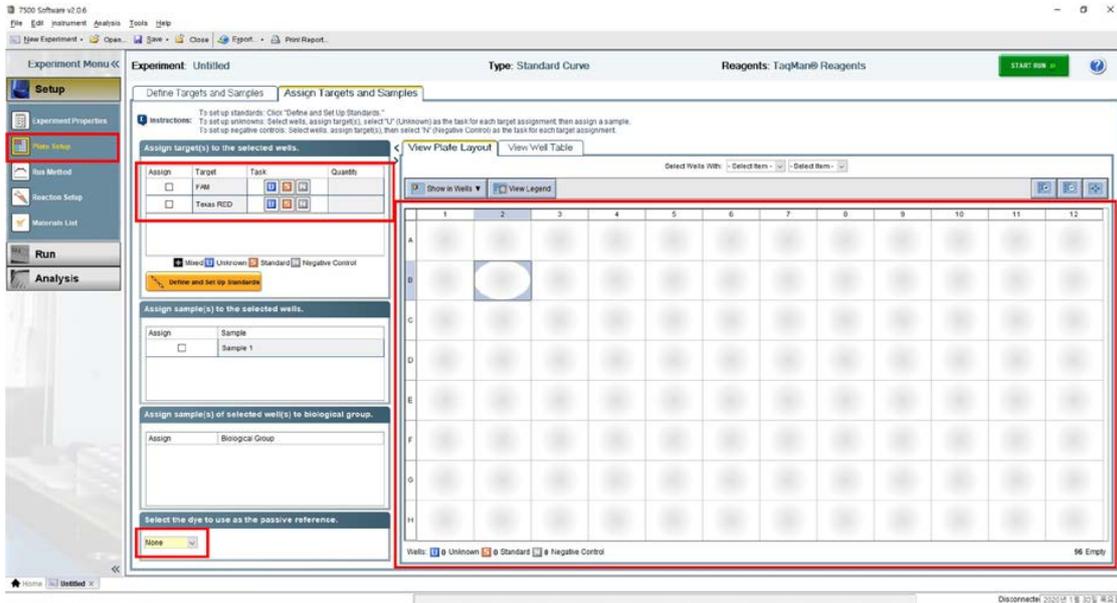


ii) Click “Plate setup” and select “FAM” for Target1 and “TEX Red” for Target2 in “Define Targets and Samples”

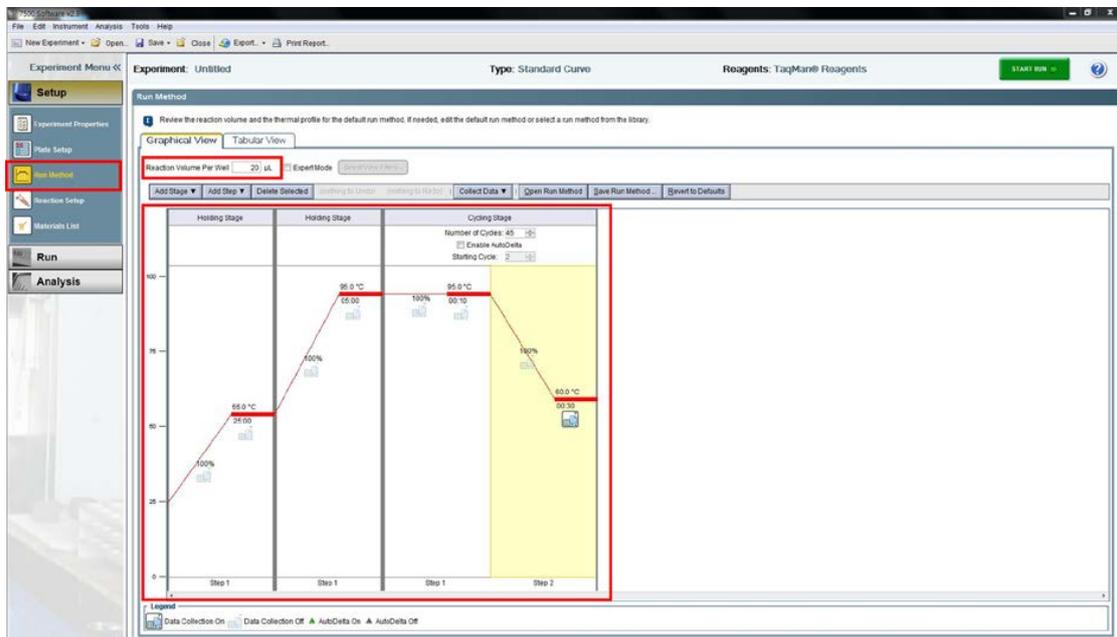




iii) Click “Assign Targets and Samples” and define 96 well PCR plate layout on program. Also, check the “Passive Reference : None”.



iv) Click “Run Method” and enter the reaction volume 20  $\mu\text{l}$  and modify PCR reaction conditions as below.

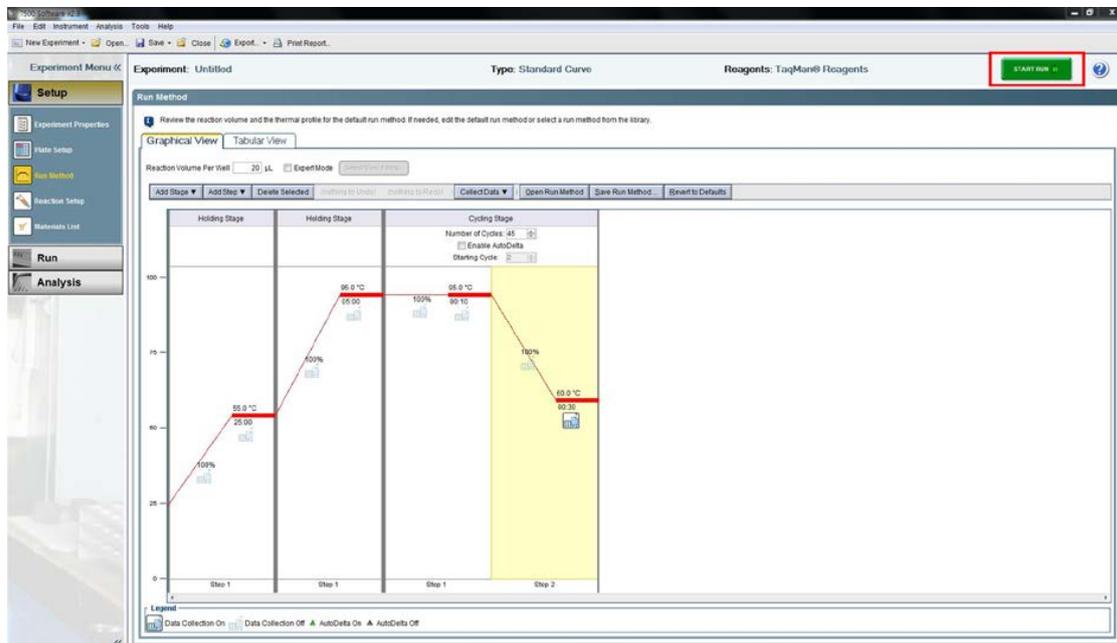




Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

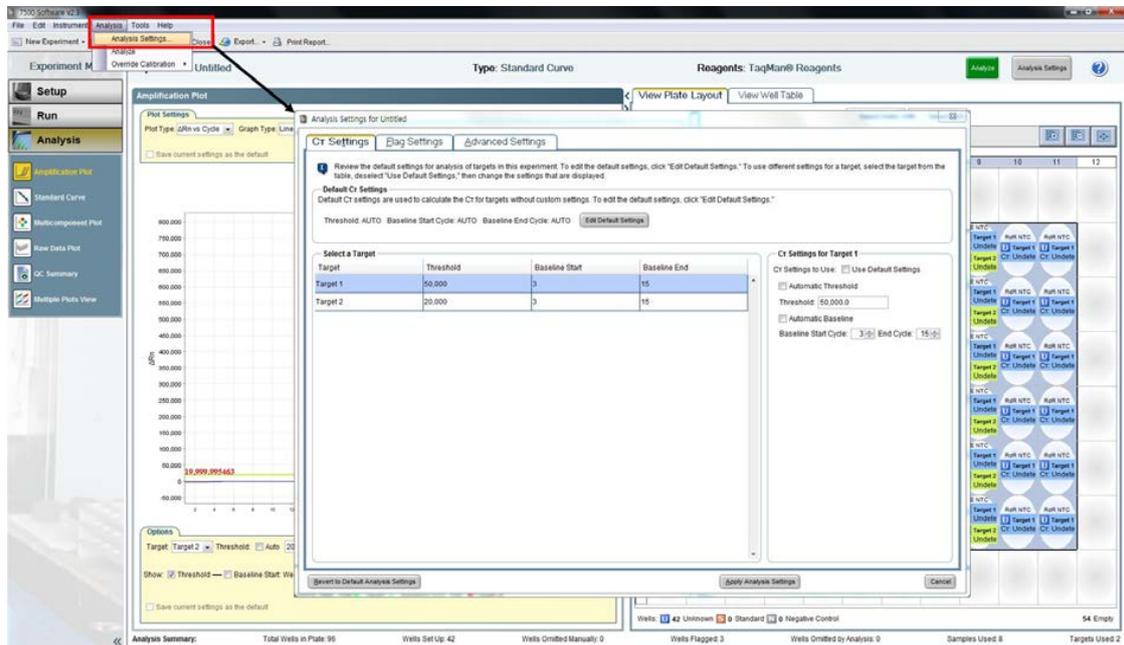
\* Measure florescence at 60°C (FAM and TexRED) channel

v) Click “Start Run”.





vi) For data Analysis follow the settings below table.

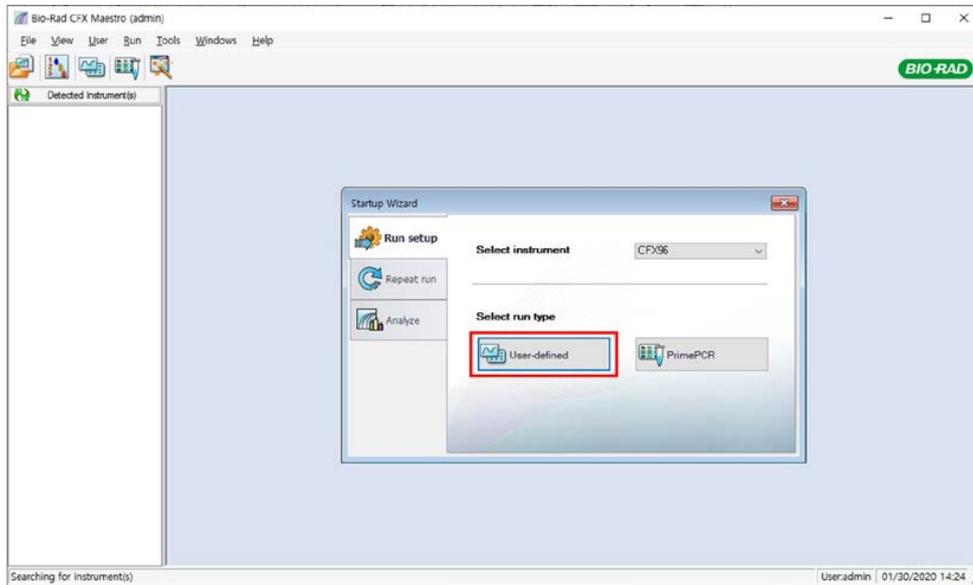


Target	Threshold					Baseline	
	CFX96	ABI 7500	ABI Quantstudio5	Rotor-Gene Q	LC480	Begin	End
E gene(FAM/Green)	300	50,000	15,000	0.1	Whether or not Ct is checked when setting Abs Quant/2nd Derivative Max	3	15
RdRp gene(FAM/Green)	300	50,000	15,000	0.1		3	15
IPC(Texas red/Red610/Orange)	100	20,000	5,000	0.1		3	15

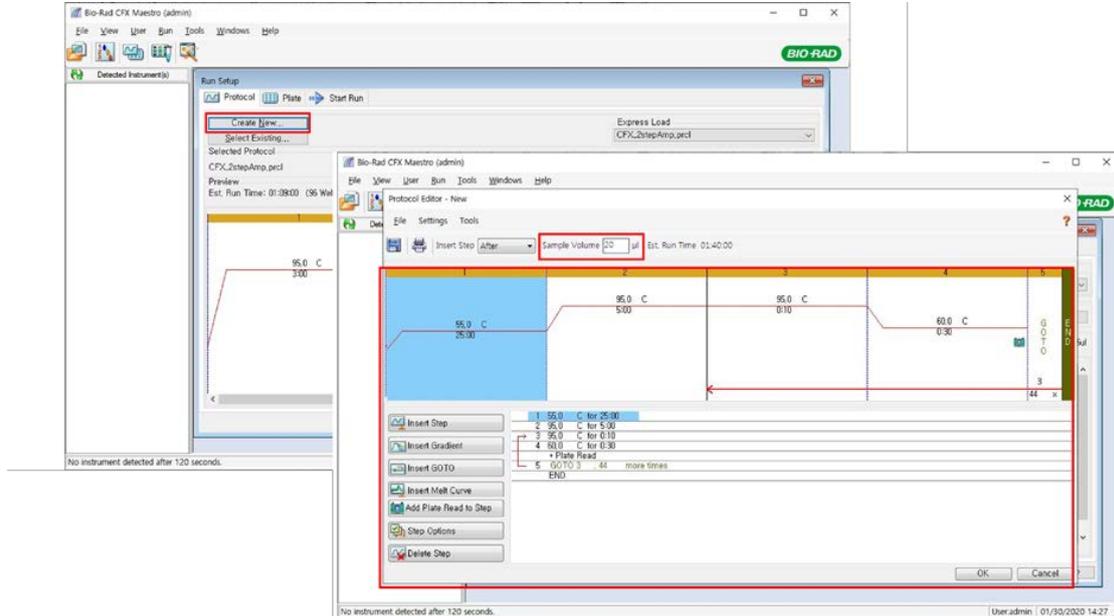


⑤ **CFX96™ Real-Time PCR Detection system (BIO-RAD, Product No. 1854095-IVD)**

i) Run a software and click “User-defined”



ii) Click “Create New” and enter the reaction volume 20  $\mu\text{l}$  and modify PCR reaction conditions as below.

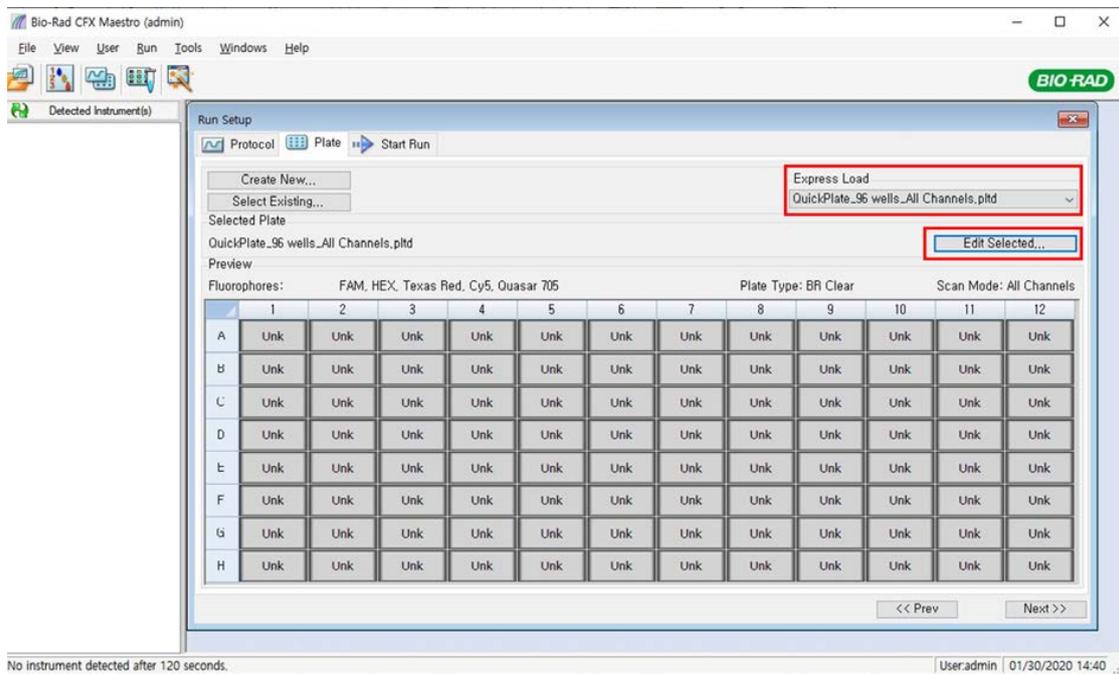




Step	Temperature	Time	Cycle
RT	55°C	25 min	1
Incubation	95°C	5 min	1
Amplification	95°C	10 sec	45
	60°C *	30 sec	

\* Measure florescence at 60°C (FAM and TexRED) channel

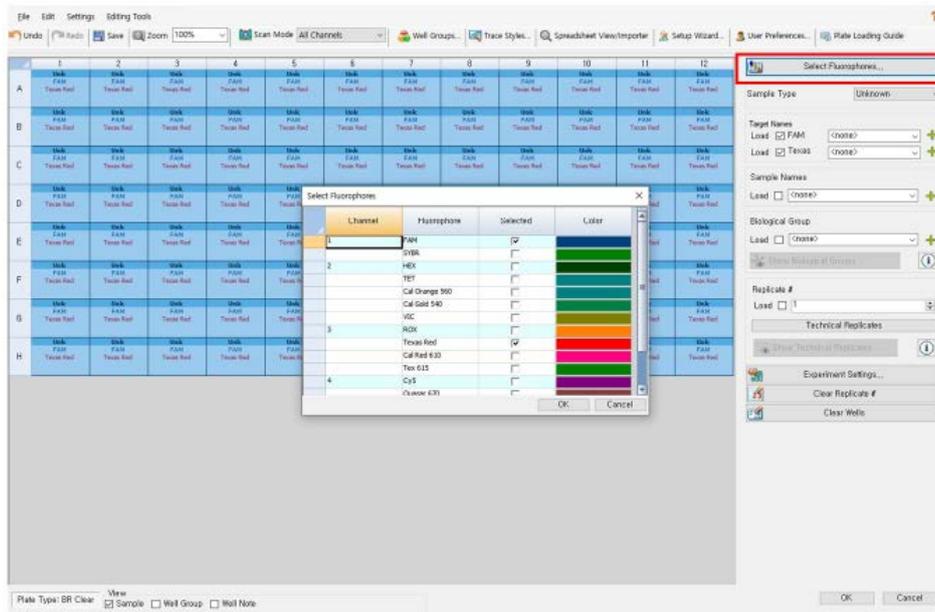
ii) Click “Plate” and check the “Express Load : QuickPlate\_96 wells\_All Channels.pltd” and click “Edit selected”.



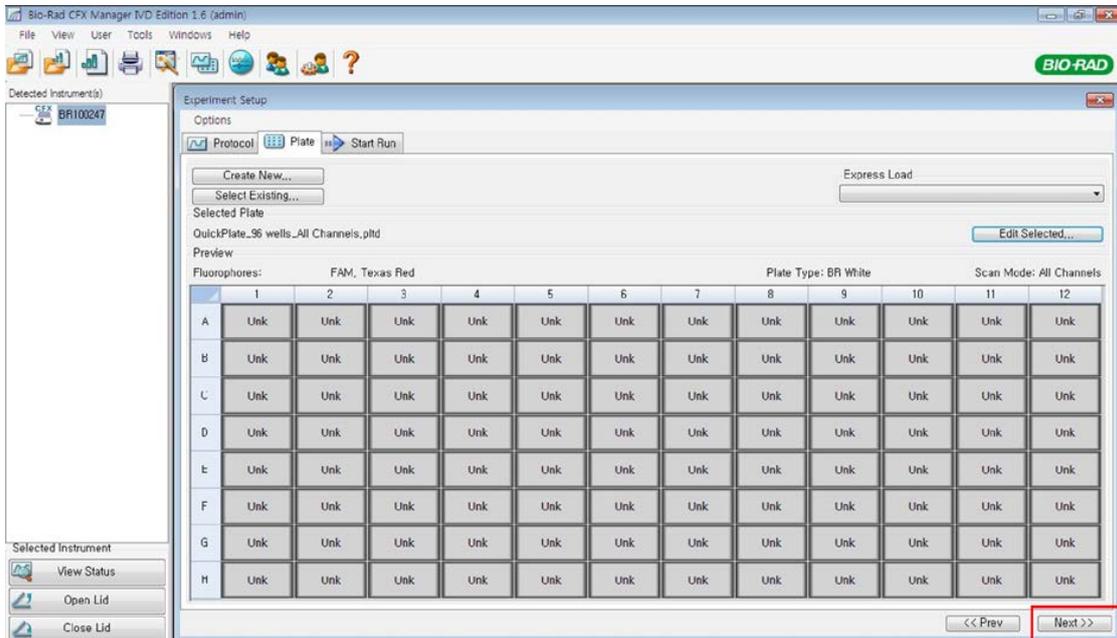


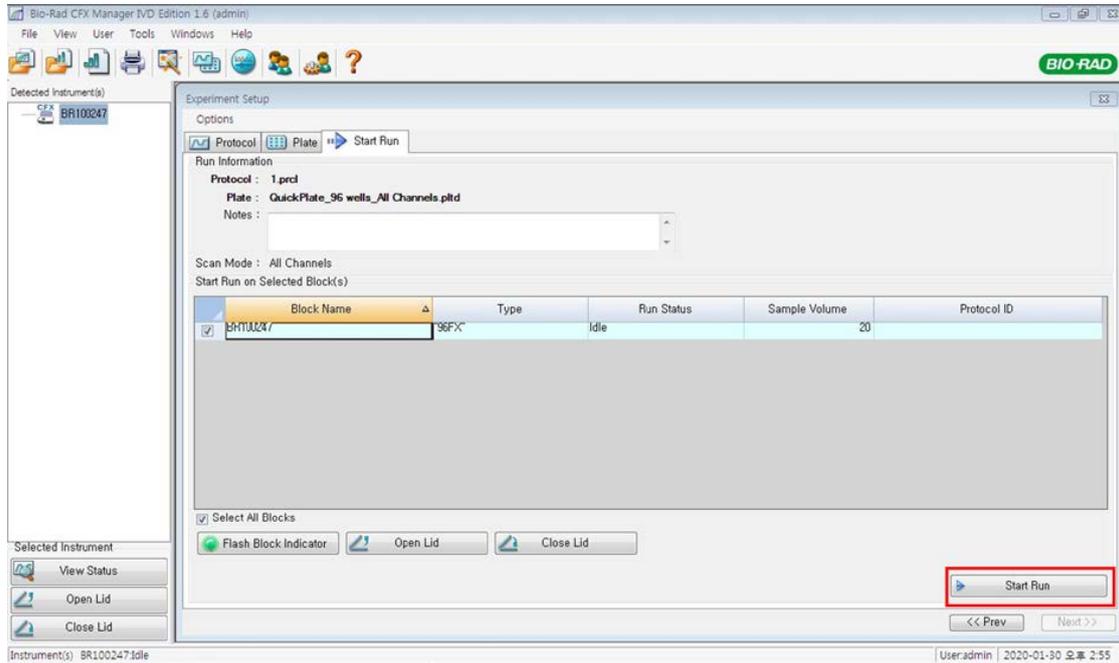
Icopy™ COVID-19 qPCR Multi Kit

iii) Click “Select Fluorophores” and check FAM and Texas Red. Also, Define 96 well PCR plate layout on program.

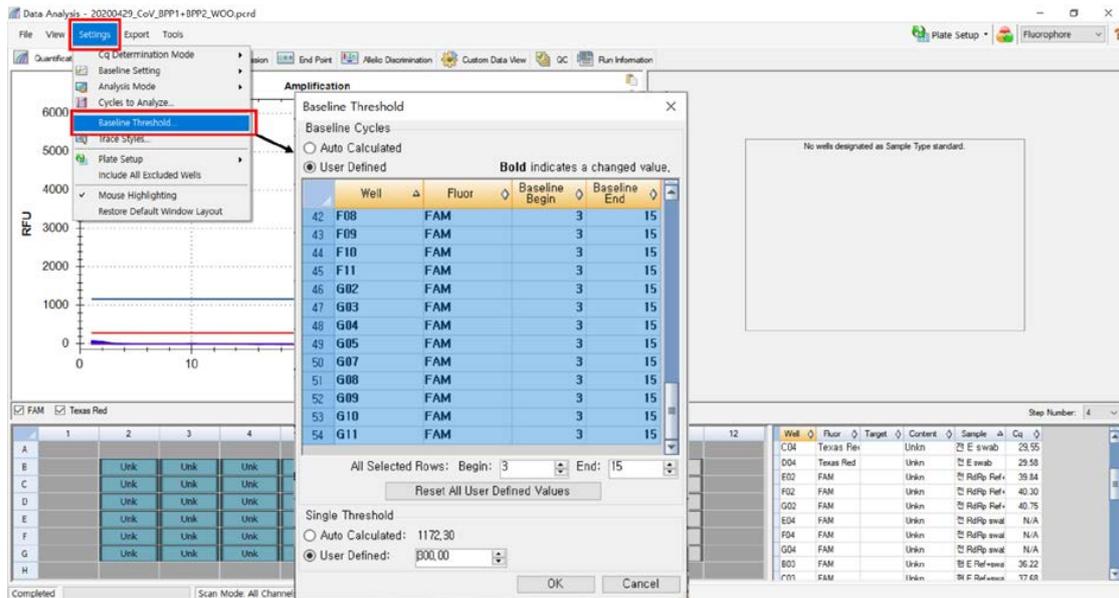


iv) Click “Next” and click “Start Run”





v) For data Analysis follow the settings below table.



Target	Threshold				Baseline		
	CFX96	ABI 7500	ABI Quantstudio5	Rotor-Gene Q	LC480	Begin	End
E gene(FAM/Green)	300		50,000	15,000	0.1	3	15
RdRp gene(FAM/Green)	300		50,000	15,000	0.1	3	15
IPC(Texas red/Red610/Orange)	100		20,000	5,000	0.1	3	15



REF NR05A

# NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

For use under the US Emergency Use Authorization (EUA) only

For *in vitro* diagnostic use only

Rx only

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REF NR05A

# NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

## GENERAL INFORMATION

### Product Name

NeoPlex™ COVID-19 Detection Kit

### Kit Contents

96 Tests

## INTENDED USE

NeoPlex™ COVID-19 Detection Kit is a multiplex *in vitro* real-time PCR assay intended for the qualitative detection of nucleic acid from the SARS-CoV-2 in upper respiratory specimens (such as nasopharyngeal, oropharyngeal, mid-turbinate, and nasal swabs) and lower respiratory specimens (such as sputum, tracheal aspirates, and bronchoalveolar lavage) from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, that meet requirements to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 is generally detectable in respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The NeoPlex™ COVID-19 Detection Kit is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time RT-PCR and *in vitro* diagnostic procedures. The NeoPlex™ COVID-19 Detection Kit is only for use under the US Food and Drug Administration's Emergency Use Authorization (EUA).



REF NR05A

## NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

### Summary and Explanation of the Test

SARS-CoV-2 is a novel coronavirus belonging to the family of Coronaviruses and causes coronavirus disease 2019 (also called COVID-19). Beginning in December 2019 in Wuhan City, China, SARS-CoV-2 has been spreading globally and the World Health Organization (WHO) declared the spate of infections caused by SARS-CoV-2 a pandemic on March 2020. More than 350,000 people were confirmed as SARS-CoV-2 infected and 15,000 people were dead currently. The most common symptoms are: fever, cough, fatigue, and shortness of breath. However, individuals can develop severe symptoms including pneumonia or respiratory failure.

The NeoPlex™ COVID-19 Detection Kit Assay is a qualitative *in vitro* test for the simultaneous detection and confirmation of RdRp and N genes in SARS-CoV-2 virus causing COVID-19 from upper respiratory specimens (such as nasopharyngeal, oropharyngeal, mid-turbinate and nasal swab) and lower respiratory specimens (such as sputum, BAL, and tracheal aspirate) from individuals suspected of COVID-19 by their healthcare provider. The NeoPlex™ COVID-19 Detection Kit Assay is real-time reverse transcription polymerase chain reaction (rRT-PCR) assay. Testing requires a small sample volume and short hands-on time with results available in approximately 3 hours. This test kit is intended for professional use.



REF NR05A

## NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

### Principles of the Procedure

The test is a real-time RT-PCR test intended for the qualitative detection of nucleic acid from the SARS-CoV-2 in upper and lower respiratory specimens. NeoPlex™ COVID-19 Detection Kit is based on two major processes;

- 1) Isolation of nucleic acid from specimens, 2) Multiplex real-time amplification.

Virus Target	Gene Targets
SARS-CoV-2	RdRp gene <sup>1</sup> N gene <sup>2</sup>

The primer & probe system is based on the standard TaqMan® Technology. The SARS-CoV-2 specific probes are labelled with the FAM fluorophore and JOE fluorophore to target COVID-19 RdRp and N genes, respectively. The internal control is labelled with the Cy5 fluorophore.

- 1) Isolation of nucleic acid from specimens: Nucleic acids are extracted from specimens using the QIAamp DSP Viral RNA Mini Kit (manual) (Qiagen, 61904).
- 2) Multiplex real-time PCR: Nucleic acid isolated from specimens is reverse transcribed to cDNA and subsequently amplified using the Applied Biosystems™ 7500 Fast Dx Real-Time PCR Instrument with SDS software version 1.4

### Assay controls

Controls that will be provided with the test kit include:

- a) A “no template” (negative) control, consisting of RNase-free water, is needed monitor for contamination during the extraction and RT-PCR process and is used through the entire sample processing procedure. At least one negative control should be included with each run.
- b) A positive template control is needed to monitor if the instrument and device work properly and is used through the entire sample processing procedure. The COVID-19 PC includes RdRp and N target genes as in vitro transcript (IVT) RNA at approximately 2x LoD (i.e., 20 copies/μl) respectively. At least one positive control should be included in each run.
- c) A negative extraction control (EC) is a previously characterized negative patient sample. It serves both as a negative extraction control to monitor for any cross-contamination that occurs during the extraction process, as well as an extraction control to validate extraction reagents and successful RNA extraction.
- d) An internal control targeting human RNaseP mRNA is needed to monitor if any potential PCR inhibitor exists in the specimen and is used though the entire sample processing procedure.



REF NR05A

## NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

COVID-19 PPM in NeoPlex™ COVID-19 Detection Kit contains primers and probes for targeting human RNaseP mRNA as an internal control. A positive internal control signal is required when interpreting any negative test results. The COVID-19 PPM also serves as the extraction control to ensure that samples resulting as negative contain nucleic acid for testing.

## Kit Components and Packaging Specification

The NeoPlex™ COVID-19 Detection Kit (catalog number: NR05A-US-IR0) contains sufficient reagents for 96 reactions and the components are as follow:

Components	Volume	Storage condition	Lid color
COVID-19 PPM	RdRp (Primer/Probe)	500ul/vial (1ea)	≤ -20°C
	N (Primer/Probe)		
	IC (Primer/Probe)		
	TrisEDTASolution		
One-step Master Mix	500ul/vial (1ea)	≤ -20°C	Yellow
COVID-19 Positive Control(PC)	RdRp IVT RNA (100 copies/rxn)	100ul/vial (1ea)	≤ -20°C
	N IVT RNA (100 copies/rxn)		
	IC IVT RNA (100 copies/rxn)		
DW(RNase-free water) (No template control)	1ml/vial (1ea)	≤ -20°C	Blue

## Materials Required but Not Provided

- MicroAmp™ Optical 8-Tube Strip, 0.2-mL (Cat No. 4316567)
- MicroAmp™ Optical 8-Cap Strip (Cat No. 4323032)
- QIAamp DSP Viral RNA Mini Kit (QIAGEN, Cat No.61904)
- Pipettes set, P2/P10, P20, P200, and P1000
- Aerosol barrier pipette tips
- Real-Time PCR instrument
  - ♦ Applied Biosystems™ 7500 Fast Dx Real-Time PCR Instrument with SDS software version 1.4 (Thermo Fisher Scientific, Cat No. 4406985 / 510(K) : K141220)
- Micro Centrifuge
- Vortexing mixer
- Disposable powder-free gloves



Use PCR plate strip caps only. Do not use PCR plate sealing film.

## KIT STORAGE AND STABILITY



REF NR05A

# NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

- Store the kit at  $\leq -20^{\circ}\text{C}$ .
- Kit materials are stable until the expiration date printed on the label under un-opened condition.
- Kit's shelf life is twelve (12) months.
- Use the reagents within four (4) weeks of opening.
- Limit freeze/thaw cycles for kit reagents.

## WARNINGS AND PRECAUTIONS

### 1. For *In Vitro* Diagnostic use under the FDA Emergency Use Authorization (EUA) Only.

2. This test has not been FDA cleared or approved, but has been authorized for emergency use by FDA under an EUA for use by authorized laboratories;
3. This test has been authorized only for the detection of nucleic acid from SARS-CoV-2, not for any other viruses or pathogens; and
4. The emergency use of this test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of COVID-19 under Section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or authorization is revoked sooner.
5. For prescription use only.
6. Do not smoke, drink or eat or apply cosmetic products in the work areas.
7. Laboratories within the United States and its territories are required to report all results to the appropriate public health authorities.
8. Positive results are indicative of SARS-CoV-2 RNA.
9. Care should be taken when handling, storing and disposing of potentially infectious materials. Suitable barrier protection against potential pathogens is recommended during all stages of use. Gloves and laboratory coats should be worn at all times. Adherence to appropriate local biosafety and biohazard guidelines or regulation is recommended when working with any human-derived blood, body fluid, tissues, or primary human cell lines where the presence of an infectious agent may be unknown. Handle waste disposal in accordance with accepted medical practice and applicable regulations.
10. Always use pipette tips with aerosol barriers. Tips that are used must be sterile and free of DNases and RNases. Use only supplied or pre-specified required consumables to ensure optimal test performance.
11. All human-sourced materials should be considered potentially infectious and should be handled with universal pre-cautions. If spillage occurs, immediately disinfect with a freshly prepared solution of 0.5% sodium hypochlorite in distilled or deionized water (dilute household bleach 1:10) or follow appropriate site procedures.
12. Fresh clean gloves must be worn in each area and must be changed before leaving that area.
13. Do not pipette by mouth.
14. Do not use reagents from different lots or from different tubes of the same lot.
15. Keep a kit in a refrigerator as listed in shelf life recommendations.
16. Do not freeze/thaw more than four times. Repeated frozen/thawed product may result in false negative and false positive results.
17. Take caution to not contaminate the product when extracting nucleic acid, amplifying PCR product, using positive



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Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

control (PC, Positive Control). To prevent contamination, store patient specimens separately from the positive control (PC, Positive Control).

18. Use sterilized consumable laboratory supplies. Do not reuse them.
19. Perform the procedure given in this package insert as described. Any deviation from the outlined protocols may result in assay failure or cause erroneous results. Modification to assay reagents, assay protocol or instrumentation is not permitted, and is in violation of the product Emergency Use Authorization.
20. Add the extracted nucleic acid sample and positive control (PC, Positive Control) into the reaction solution in a space separate from the PCR reaction solution preparation space.
21. Use calibrated measuring tools. (e.g. pipette)
22. Check the expiration date before using the kit reagents.
23. Keep Positive Control separated from Test Kit reagents when using, to avoid contamination.
24. Before starting the PCR, make sure the lid is closed properly.



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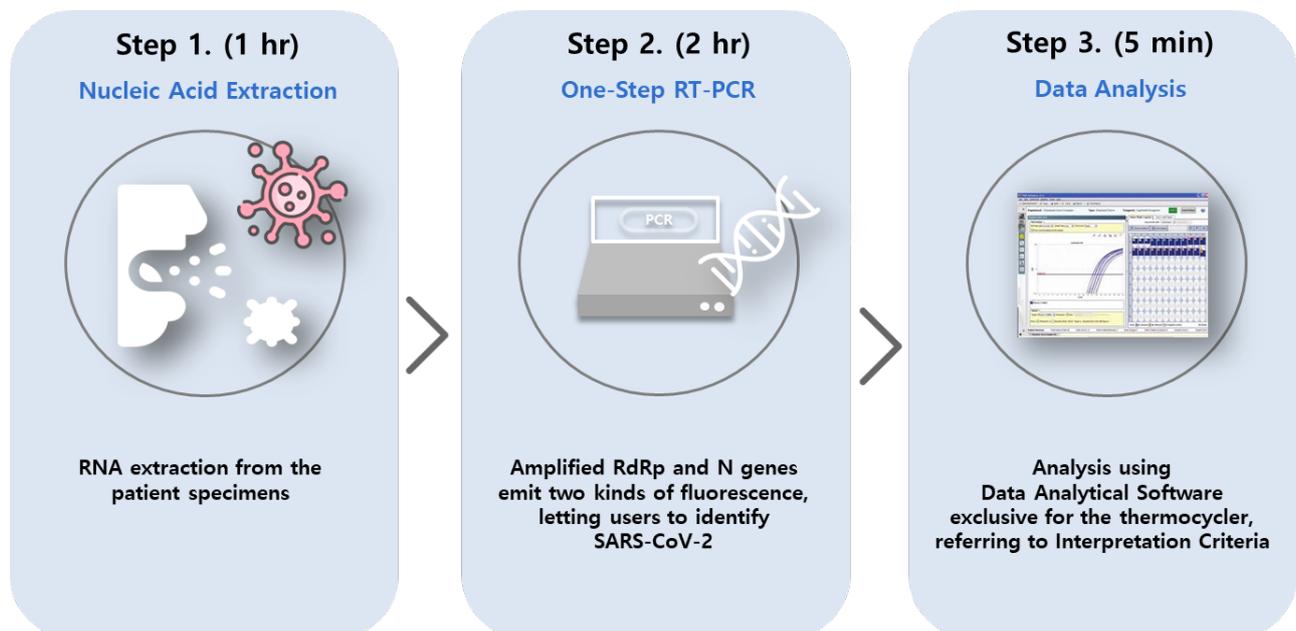
Multiplex Real-time PCR Reagents for SARS-CoV-2 Detection  
For professional *in vitro* diagnostic use only

# ASSAY PROCEDURES

## Compatible Real-time PCR Instruments

- Applied Biosystems™ 7500 Fast Dx Real-Time PCR Instrument with SDS software version 1.4

## Schematic View of Assay Procedure



## Specimen Collection and Handling

The recommended sample type for NeoPlex™ COVID-19 Detection Kit is an upper respiratory specimen (such as nasopharyngeal, oropharyngeal, mid-turbinate, or nasal swab) or lower respiratory specimen (such as sputum, BAL, or tracheal aspirate) specimen. Swabs should be a Universal Transport Media (UTM™) or equivalent.

1. Store specimens at 2-8 °C for no longer than seventy-two (72) hours. For pro-longed storage, freeze at  $\leq -70^{\circ}\text{C}$ .
2. Extracted nucleic acids should be stored at  $\leq -70^{\circ}\text{C}$ .
3. Transportation of clinical specimens must comply with local regulations for the transport of etiologic agents.



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Upper Respiratory Specimen (Naso/Oropharyngeal swab, Mid-turbinate or nasal swab)	Sputum
Place the specimen at room temperature for 10 minutes before running assay.	Place the specimen at room temperature for 10 minutes before running assay.
Prepare the sample by vortexing for 20 seconds before use.	Add saline or PBS to the specimen (1 part specimen to 2 parts of saline or PBS) and vortex it for 1 minute. Leave it at room temperature for 20 minutes. Vortex for 30 seconds

For more information, refer to:

1. Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons for Coronavirus Disease 2019 (COVID-19)
2. Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19)



- Handle all specimens as if they are capable of transmitting infectious agents.
- Use only the specimen type listed in the instruction manual.
- The specimen volume should be above 0.5ml.
- Wear eye protection, laboratory coats and disposable gloves when handling specimens.
- Specimens should be stored under the storage conditions listed above to ensure accurate results.
- Sample information should be recorded to avoid confusion.

## Preparation before testing

Prepare all the devices and reagents before use.

Place the kit at room temperature for at least 10 minutes to equilibrate, before PCR Master Mix.

After preparing PCR Master Mix, place them on ice.



**Lim it freeze/thawing more than four times.**



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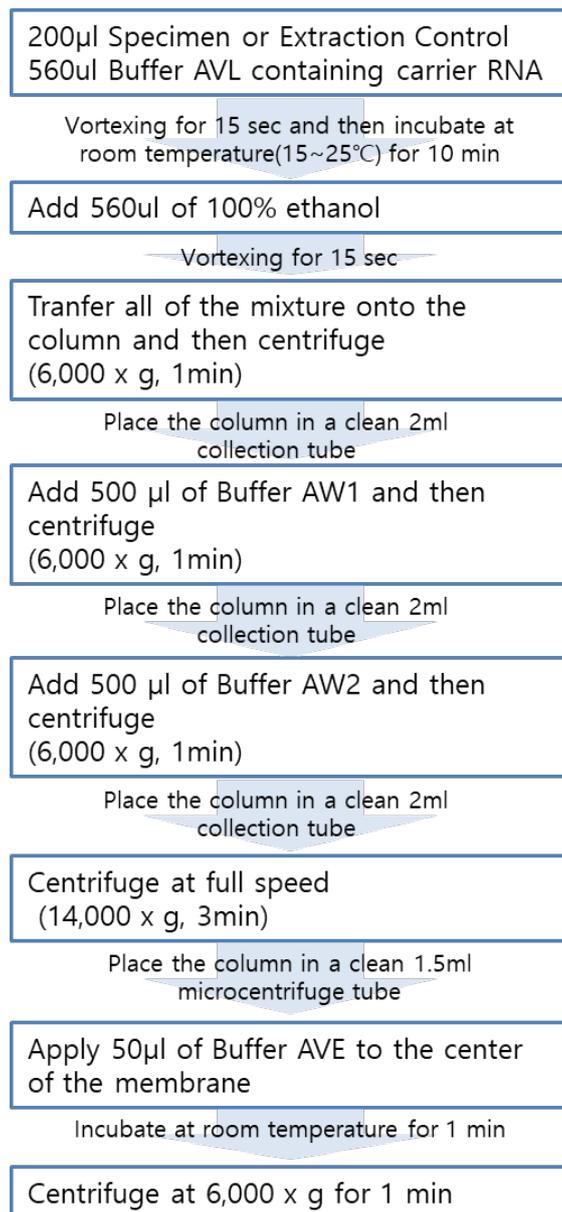
Multiplex Real-time PCR Reagents for SARS-CoV-2 Detection  
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## [Step 1] Nucleic Acid Extraction

Nucleic acid should be collected from a fresh specimen to ensure suitable Nucleic acid quality and quantity.

Nucleic acid extraction is performed using the manual (QIAamp DSP Viral RNA Mini Kit(Qiagen, 61904).  
 Follow the manufacturer's protocol as linked below:

<https://www.qiagen.com/us/resources/resourcedetail?id=46638e95-df58-4874-9015-732e75587524&lang=en>





## NeoPlex™ COVID-19 Detection Kit

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### [Step 2] Prepare PCR Master Mix and sample

1. Prepare the PCR Master Mix as described in the table below:

Contents	Volume per test
COVID-19 PPM	5ul
One-step Master Mix	5ul
DW(RNase-free Water)	5ul
<b>Total Volume</b>	<b>15ul</b>

**Note :** Calculate the required amount of each reagent based on the number of reactions (patient samples + controls).

2. Vortex and briefly centrifuge the PCR Master Mix using a microfuge.
3. Place 15µL aliquots of the PCR Master mix into 0.2ml PCR tubes, and close the lids. This step should be performed on ice.
4. To prepare the patient samples, add 5µl of each extracted, patient nucleic acid sample to its respective tube as described in the table below.

Contents	1 test (Volume)
PCR Master Mix	15ul
Nucleic acid (either extracted patient specimen or control)	5ul
<b>Total Reaction Volume</b>	<b>20ul</b>



- It is recommended that the PCR mixture be prepared just before use.
- Aerosol-resistant filter tips and tight gloves should be used when preparing samples. Take great care to avoid cross contamination.
- Defrost the reagents completely
- Centrifuge the reagent tubes briefly to remove the drops from the inside of the lids.

5. To prepare the controls, add 5µl of COVID-19 PC or DW (RNase-free water) to its respective tube as described above.



- Use a new pipette tip with each different sample.
- Avoid cross-contamination of PCR Master mix and samples with Positive Control.
- Do not label on the cap of the reaction tubes as fluorescence is detected through the cap.
- Centrifuge the PCR tube thoroughly for 30 seconds



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### [Step 3] PCR Setup and Amplification

1. Set up and run the Applied Biosystems 7500 Fast Dx Real-Time PCR Instrument. Follow the instrument Reference Guides for detailed instructions.

2. Select fluorescence channels according to the following:

Instruments	RdRp gene	N gene	IC
ABI 7500(Fast)	FAM	JOE	Cy5

3. Program the PCR protocol as following:

Segment	Temperature (°C)	Time	Cycles
1	50	30 min	1
2	95	15 min	1
3	95	15 sec	40
4*	60	60 sec	

\* Segment 4: Fluorescence data should be collected during the 60°C incubation step

4. For the analysis of the test result after PCR amplification, take the Ct result and interpret them according to the interpretation criteria for result analysis.

## INTERPRETATION OF RESULTS

### Control Testing Result Interpretation

All test controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted. Control results should be interpreted according to the criteria outlined below.

#### Acceptance criteria for a Valid Test

Case	Positive Control	Negative Control	Internal Control	Interpretation
1	+	-	+	Acceptable
2	+	-	- *	
3	+	+	+	Invalid/Re-test
4	+	+	-	
5	-	+	+	
6	-	+	-	
7	-	-	+	
8	-	-	-	

\* If the IC is negative, but the positive and negative controls yield expected results, and the patient specimen has at least one target detected. A positive result may be assigned.



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## Patient Specimen Result Interpretation

For the analysis of the test result after PCR amplification, take the amplification curve (or amplification plot) result. Interpret the results according to the two below interpretation tables, first which describes the individual target gene Ct thresholds, and the second which outlines the patient specimen result interpretation algorithm.

### 1. Individual target gene Ct threshold

Target	fluorescence	Ct threshold	Interpretation
COVID-19 RdRp gene	Refer to the fluorescence channels table of [Step 3] PCR Setup and Amplification.	≤ 40	Positive (+)
		N/A	Negative (-)
COVID-19 N gene		≤ 40	Positive (+)
		N/A	Negative (-)
IC*		≤ 40	Positive (+)
		N/A	Negative (-)

\* The Internal Control (IC) gene is to monitor the nucleic acid isolation procedure and the possibility of PCR inhibition. Extraction Control (EC, not provided) signal can be confirmed in this channel.

### 2. Patient Specimen Result Interpretation Algorithm

Case	FAM RdRp gene	JOE N gene	Cy5 IC	Interpretation
1	+	+	+	SARS-CoV-2 Positive
2	+	-	+	
3	-	+	+	
4	+	+	-	
5	+	-	-	
6	-	+	-	
7	-	-	+	Negative
8	-	-	-	Invalid/Re-test



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## Troubleshooting

If the Internal control signal is not observed

Potential causes	Solution
Error in specimen collection	If both the target and IC signal were not observed, recollect the specimen
Nucleic acid extraction failure	Read carefully the instruction for use of nucleic acid extraction kit and extract the nucleic acid from specimen again. To validate nucleic acid extraction step, you must use negative extraction control (Previously characterized negative patient sample).
Incorrect PCR setting	Repeat the detection procedure with a correct setting
Incorrect PCR cycle or machine temperature	Check the PCR conditions and repeat the PCR under the correct setting if necessary.
The fluorescence for data analysis do not comply with the protocol	Select the correct fluorescence for each target listed in this Instruction guide for data analysis
Leaving reagents at room temperature for a long time or incorrect storage condition	Check the storage conditions and the expiration date of the reagents and use a new kit
Presence of inhibitor	Dilute the template nucleic acid in distilled water (10-100x) and repeat the PCR with the diluted nucleic acid (If specimen is still present, restart from nucleic acid extraction procedure)
High load of pathogen's nucleic acid	Dilute the template nucleic acid in distilled water (10-100x) and repeat the PCR with the diluted nucleic acid

If signals are observed at the negative control or extraction control (i.e., a false positive result)

Potential causes	Solution
Presence of cross contamination	Decontaminate all surfaces and instruments with sodium hypochlorite or ethanol. Use filter tips during the extraction procedure. Change tips among tubes. Repeat the nucleic acid extraction with the new set of reagents
The fluorescence for data analysis do not comply with the protocol	Select the correct fluorescence for each target listed in this Instruction guide for data analysis

If no signal is observed at the positive control (i.e., a false negative result)

Potential causes	Solution
Error in specimen collection	Recollect the specimen
Incorrect storage of the specimen	Recollect the specimen and repeat the whole process. Make sure the product is stored in recommended conditions
Error in nucleic acid extraction	Re-extract the nucleic acid
Incorrect PCR setting	Repeat the PCR with corrected setting
The fluorescence for data analysis do not comply with the protocol	Select the correct fluorescence for each target listed in this Instruction guide for data analysis
Error in adding nucleic acid to corresponding PCR tubes	Check the sample numbers for nucleic acid containing tubes and make sure to add nucleic acid into correct PCR tubes during detection process
Incorrect PCR mixture	Check whether all components are added or not (If you use to pre-composed premix, should be reduce sensitivity) Each reagent should be used after homogenization and spin down before put the real-time PCR



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### Quality Control

NeoPlex™ COVID-19 Detection Kit includes COVID-19 PC as Positive control and DW(RNase-free water) as Negative control to monitor the reliability of the results from nucleic acid extraction to PCR amplification. For all runs, valid test results must be obtained for both Positive and Negative control. Positive Control result must be Positive (Valid). Negative Control result must be Negative (Valid). A negative extraction control (EC) is as previously characterized negative patient sample which is not provided in this kit. If the controls are not valid, the results cannot be interpreted. If the positive and negative control results are consistently invalid, contact us for technical assistance.

Control Type	Channel	Use
Negative Control	N/A	Monitors for environmental contamination.
Positive Control	FAM JOE Cy5	Monitors the NeoPlex™ COVID-19 Detection Kit and assay protocols to ensure proper function.
Extraction Control (not provided)	Cy5	Verifies proper nucleic acid extraction (both extraction kit and procedure), assay reagents and procedure.



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## LIMITATIONS

1. Performance of the NeoPlex™ COVID-19 Detection Kit has only been established with nasopharyngeal swab specimens, oropharyngeal swab specimens and sputum.
2. Analyte targets (viral sequences) may persist *in vivo*, independent of virus viability. Detection of analyte target(s) does not imply that the corresponding virus(es) are infectious, or are the causative agents for clinical symptoms.
3. All results from this and other tests must be considered in conjunction with the clinical history, epidemiological data and other data available to the clinician evaluating the patient.
4. The detection of pathogen nucleic acids is dependent upon proper specimen collection, handling, transportation, storage and preparation (including extraction). Failure to observe proper procedures in any one of these steps can lead to incorrect results. There is a risk of false negative values resulting from improperly collected, transported, or handled specimens.
5. The performance of NeoPlex™ COVID-19 Detection Kit was established using nasopharyngeal swabs, oropharyngeal swabs and sputum. Nasal swabs, mid-turbinate nasal swabs, BAL and tracheal aspirates are also considered acceptable specimen types for use with the NeoPlex™ COVID-19 Detection Kit, but performance has not been established. Testing of nasal and mid-turbinate nasal swabs (self-collected or collected by a healthcare provider) and BAL and tracheal aspirates (collected by a healthcare provider) is limited to patients with symptoms of COVID-19.
6. A specimen yielding a negative result may contain respiratory pathogens not probed by the assay.
7. The performance of this assay was not established in immunocompromised patients.
8. The performance for some viruses and subtypes may vary depending on the prevalence and population tested.
9. The performance of this test has not been established for screening of blood or blood product.
10. This test cannot rule out infections caused by other viral or bacterial pathogens not present on this test.
11. The results of this test should not be used as the sole basis for diagnosis, treatment, or other patient management decisions.
12. This device has been evaluated for use with human specimen material only.
13. The performance of this device has not been evaluated for patients without signs and symptoms of infection.
14. The performance of this device has not been evaluated for monitoring treatment of infection.
15. This assay may cross-react with SARS-coronavirus.
16. This test is a qualitative test and does not provide the quantitative value of detected organisms present.
17. False-negative results may occur by:
  - Error in specimen collection
  - Incorrect storage of the specimen
  - Error in nucleic acid extraction
  - Incorrect PCR setting
  - Error in adding nucleic acid to corresponding PCR tubes
  - Incorrect PCR mixture
18. False-positive results may occur by:
  - Presence of cross contamination by target organisms. Their nucleic acids or amplified product, or from non-specific signals in the assay.
19. This device may not be able to differentiate newly emerging SARS-CoV-2 subtypes.



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# Conditions of Authorization for the Laboratory

The NeoPlex™ COVID-19 Detection Kit Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website: <https://www.fda.gov/MedicalDevices/Safety/EmergencySituations/ucm161496.htm>.

However, to assist clinical laboratories using the NeoPlex™ COVID-19 Detection Kit (“your product” in the conditions below), the relevant Conditions of Authorization are listed below:

- A. Authorized laboratories<sup>1</sup> using NeoPlex™ COVID-19 Detection Kit will include with result reports of NeoPlex™ COVID-19 Detection Kit, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- B. Authorized laboratories using NeoPlex™ COVID-19 Detection Kit will use NeoPlex™ COVID-19 Detection Kit as outlined in the Instructions for Use. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use NeoPlex™ COVID-19 Detection Kit are not permitted.
- C. Authorized laboratories that receive NeoPlex™ COVID-19 Detection Kit will notify the relevant public health authorities of their intent to run NeoPlex™ COVID-19 Detection Kit prior to initiating testing.
- D. Authorized laboratories using NeoPlex™ COVID-19 Detection Kit will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.
- E. Authorized laboratories will collect information on the performance of NeoPlex™ COVID-19 Detection Kit and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: [CDRH-EUA-Reporting@fda.hhs.gov](mailto:CDRH-EUA-Reporting@fda.hhs.gov)) and GeneMatrix Inc. ([support@genematrix.net](mailto:support@genematrix.net)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of NeoPlex™ COVID-19 Detection Kit of which they become aware.
- F. All laboratory personnel using NeoPlex™ COVID-19 Detection Kit must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use NeoPlex™ COVID-19 Detection Kit in accordance with the authorized labeling.

<sup>1</sup> The letter of authorization refers to, “United States (U. S.) Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests” as “authorized laboratories.”



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## PERFORMANCE CHARACTERISTICS

### Limit of Detection (LoD)

1. The Limit of Detection (LoD) study established the lowest SARS-CoV-2 viral concentration (copies per reaction) that can be detected by the NeoPlex™ COVID-19 Detection Kit at least 95% of the time using synthetic RNA (from Twist Bioscience). Negative nasopharyngeal specimens (NPS), and negative sputum from a few patients were used in this study. Synthetic RNA was diluted into extraction buffer and then spiked into negative NPS or negative sputum to generate 24 individual samples at concentrations ranging from 100 - 12.5 copies/rxn. All samples were extracted using the manual QIAamp DSP Viral RNA Mini Kit (Qiagen, 61904), and run on the Applied BioSystems 7500 Fast Dx Real Time PCR Instrument. The lowest concentration that achieved greater than 95% positivity was confirmed to be 50 copies/rxn for both nasopharyngeal swabs and sputum.

### Analytical Specificity (Inclusivity, Cross reactivity)

#### 1. Inclusivity

An *In silico* Inclusivity study was performed to assess the ability of the NeoPlex™ COVID-19 Detection Kit to detect SARS-CoV-2 sequences in the NCBI database. *In silico* inclusivity analyses of the primer and probe sequences for the SARS-CoV-2 RdRp and N sets were performed against all SARS-CoV-2 U.S. sequences available in the NCBI database as of Jan 16, 2021. The analysis included 33,595 sequences in the RdRp gene region and 33,595 sequences in the N gene region. All primer/probe sets targeting the RdRp and N gene in the NeoPlex™ COVID-19 Detection Kit exhibited 100% homology with all sequences in the NCBI database.

#### 2. Cross Reactivity

An *In silico* cross-reactivity analysis was conducted with all primer and probe sequence in NeoPlex™ COVID-19 Detection Kit against Genbank sequences from NCBI nt database available on April 16<sup>th</sup>, 2020 for organisms listed on the below table.

Results from the *in silico* cross reactivity analysis showed the only organisms in the below table with oligo-hit sequence homology >80% are SARS-coronavirus, Human coronavirus HKU1, and MERS-coronavirus. However, it is not anticipated that Human coronavirus HKU1 or MERS-coronavirus will cross-react with the NeoPlex™ COVID-19 Detection Kit, as only a single primer or probe sequence exhibited >80% homolog, and therefore amplification is unlikely to occur. This assay may cross-react with SARS-coronavirus.

No.	Pathogens	No.	Pathogens
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1	Human coronavirus 229E	20	Human bocavirus
2	Human coronavirus OC43	21	Parechovirus
3	Human coronavirus HKU1	22	<i>Chlamydia pneumoniae</i>
4	Human coronavirus NL63	23	<i>Haemophilus influenzae</i>
5	SARS-Coronavirus	24	<i>Legionella pneumophila</i>
6	MERS-Coronavirus	25	<i>Mycobacterium tuberculosis</i>
7	Human adenovirus sp.	26	<i>Streptococcus pneumoniae</i>
8	Human metapneumovirus	27	<i>Streptococcus pyogenes</i>
9	Human parainfluenza virus 1	28	<i>Bordetella pertussis</i>
10	Human parainfluenza virus 2	29	<i>Bordetella parapertussis</i>
11	Human parainfluenza virus 3	30	<i>Mycoplasma pneumoniae</i>
12	Human parainfluenza virus 4	31	<i>Pneumocystis jirovecii</i> (PJP)
13	Influenza A virus	32	<i>Candida albicans</i>
14	Influenza B virus	33	<i>Pseudomonas aeruginosa</i>
15	Human Enterovirus	34	<i>Staphylococcus epidermidis</i>
16	Human Enterovirus D68	35	<i>Staphylococcus salivarius</i>
17	Human respiratory syncytial virus A	36	<i>Corynebacterium diphtheriae</i>
18	Human respiratory syncytial virus B	37	<i>Moraxella catarrhalis</i>
19	Human rhinovirus	38	<i>Coxiella burnetii</i> (Q-Fever)

\* GenBankIDs of 6 SARS coronavirus which showed high identity to our assay is as follows

: MK062183.1, MK062184.1, MK062182.1, MK062181.1, MK062180.1, MK062179.1

## Clinical Performance

### Clinical study using natural clinical specimens

A clinical study was performed to compare the performance of the NeoPlex™ COVID-19 Detection Kit in detecting SARS-CoV-2 from individual upper respiratory clinical specimens (i.e., OP or NP swabs) and lower respiratory clinical specimens (i.e., sputum) with an FDA-authorized real-time RT-PCR assay. For the NeoPlex™ COVID-19 Detection Kit, nucleic acid extraction and PCR amplification were performed using QIAamp DSP Viral RNA Mini Kit (Qiagen) and Applied Biosystems™ 7500 Fast Dx Real-Time PCR Instrument (ThermoFisher Scientific), respectively. In total, 50 positive clinical specimens, including 25 upper respiratory and 25 lower respiratory specimens were tested, which included 20 low positive specimens (10 upper respiratory and 10 lower respiratory specimens) as defined as samples with Ct values within 3 Ct of the mean LoD of the comparator assay (ranging from 30 to 36). In total, 30 negative clinical specimens (15 upper respiratory and 15 lower respiratory specimens) were tested. Performance of the NeoPlex™ COVID-19 Detection Kit demonstrated 100% PPA and 100% NPA vs the comparator assay. Results of testing natural clinical upper and lower respiratory specimens are illustrated in the following tables, respectively.

Specimen Type: Upper Respiratory (i.e., NP or OP)		FDA Authorized Comparator Assay	
		Positive	Negative
NeoPlex™ COVID-19 Detection Kit	Positive	25	0
	Negative	0	15



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<b>Positive Percent Agreement (PPA)</b>	100% (25/25), 95% CI: (86.28, 100%)
<b>Negative Percent Agreement (NPA)</b>	100% (15/15), 95% CI: (78.20, 100%)

Specimen Type: Lower Respiratory (i.e., Sputum)		FDA Authorized Comparator Assay	
		Positive	Negative
NeoPlex™ COVID-19 Detection Kit	Positive	25	0
	Negative	0	15
<b>Positive Percent Agreement (PPA)</b>		100% (25/25), 95% CI: (86.28, 100%)	
<b>Negative Percent Agreement (NPA)</b>		100% (15/15), 95% CI: (78.20, 100%)	

### Clinical study using contrived samples

The clinical performance of the NeoPlex™ COVID-19 Detection Kit assay was also established using residual nasopharyngeal swab, oropharyngeal swab and sputum specimens collected from individual patients with signs and symptoms of COVID-19 from a South Korean site. Prior to testing with the NeoPlex™ COVID-19 Detection Kit, the specimens were confirmed negative for SARS-CoV-2 by a sequencing panel established by the Ministry of Health of Japan<sup>3</sup>.

For each specimen type (i.e., nasopharyngeal swabs, oropharyngeal swabs and sputum), 40 contrived positives were generated for testing, of which twenty (20) were prepared at 2x LoD and twenty (20) at 10x LoD. Contrived positive samples were generated using extracted RNA from contrived SARS-CoV-2 positive patient specimens.

Forty (40) clinical negative nasopharyngeal swabs, oropharyngeal swabs and sputum from individual patients were also included in this study. Contrived specimens were tested along with 40 distinct negative clinical specimens in a randomized, blinded fashion. The results of the NeoPlex™ COVID-19 Detection Kit testing contrived specimens are described below and demonstrated a Positive Percent Agreement (PPA) and Negative Percent Agreement (NPA) of 100% for each specimen type.

Specimen Type	SARS-CoV-2 concentration	Clinical Evaluation of the NeoPlex™ COVID-19 Detection Kit		
		Number tested	Number Detected	% Detection
Nasopharyngeal swab	2x LoD	20	20	100% (N=20/20)
	10x LoD	20	20	100% (N=20/20)
	Negative	40	0	0 (N=0/40)
	PPA: 40/40, 100% (95% CI: 91.19-100%)			
NPA: 40/40, 100% (95% CI: 91.19-100%)				
Oropharyngeal swab	2x LoD	20	20	100% (N=20/20)
	10x LoD	20	20	100% (N=20/20)
	Negative	40	0	0 (N=0/40)
	PPA: 40/40, 100% (95% CI: 91.19-100%)			



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	NPA: 40/40, 100% (95% CI: 91.19-100%)			
Sputum	2x LoD	20	20	100% (N=20/20)
	10x LoD	20	20	100% (N=20/20)
	Negative	40	0	0 (N=0/40)
	PPA: 40/40, 100% (95% CI: 91.19-100%)			
NPA: 40/40, 100% (95% CI: 91.19-100%)				

## FDA SARS-CoV-2 Reference Panel Testing

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to confirm the LoD. The extraction method and instrument used were as below.

- 1) Isolation of nucleic acid from specimens: Nucleic acids were extracted from specimens using the QIAamp DSP Viral RNA Mini Kit (manual) (Qiagen, Cat No. 61904).
- 2) Multiplex real-time PCR: Nucleic acid isolated from specimens is reverse transcribed to cDNA and subsequently amplified using the Applied Biosystems™ 7500 Fast Dx Real-Time PCR Instrument with SDS software version (Thermo Fisher Scientific, Cat No. 4406985 / 510(K): K141220).

The results are summarized in the below table.

*Summary of LoD Confirmation Result using the FDA SARS-CoV-2 Reference Panel*

Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	Nasopharyngeal swab	5.4x10 <sup>3</sup> NDU/mL	N/A
MERS-CoV		N/A	ND

NDU/mL = RNA NAAT detectable units/mL  
 N/A: Not applicable  
 ND: Not detected



REF NR05A

# NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

## REFERENCES

1. Chen, Huijun, et al., Clinical characteristics and intrauterine vertical transmission potential of COVID-19 infection in nine pregnant women: a retrospective review of medical records. *The Lancet* 395.10226 (2020): 809-815.
2. Centers for Disease Control and Prevention, Respiratory Viruses Branch, Division of Viral Diseases, 2019-Novel Coronavirus (2019-nCoV) Real-time rRT-PCR Panel Primers and Probes. 24 Jan 2020.
3. Shirato, Kazuya, et al. Development of genetic diagnostic methods for novel coronavirus 2019 (nCoV-2019) in Japan. *Japanese Journal of Infectious Diseases* (2020): JJID-2020.

## SYMBOLS

			
Catalogue number	Batch code	Date of manufacture	Use-by date
	 -20°C (-4°F)		
<i>In vitro</i> diagnostic medical device	Upper limit of temperature	Caution	Consult instruction for use
	 <n>		
Manufacturer	Contains sufficient for <n> tests	Prescription Use Only	



REF NR05A

## NeoPlex™ COVID-19 Detection Kit

Multiplex RT-Real-time PCR Reagents for SARS-CoV-2 Detection

IVD



### GeneMatrix Inc.

**Manufacturing site**

7F, #B, Korea Bio Park, 700, Daewangpangyo-ro,  
Bundang-gu, Seoungnam-si, Gyeonggi-do,  
REPUBLIC OF KOREA

Tel: +82-31-628-2000 Fax: +82-31-628-2001

Website : <http://www.genematrix.net>

Customer & Technical Support: +82-31-628-2000 / [support@genematrix.net](mailto:support@genematrix.net)

Ordering information : +82-31-628-2020 / [sales@genematrix.net](mailto:sales@genematrix.net)

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Issue date: 2021.01.26



Material no. MFK-45

## GeneFinder™ COVID-19 Plus RealAmp Kit

FOR USE UNDER EMERGENCY USE AUTHORIZATION (EUA) ONLY

### Instructions for Use

**REF** IFMR-45

#### Rx USE ONLY

**IVD**

**REF**

**IFMR-45**



**Manufacturer:**  
**OSANG Healthcare Co., Ltd**  
132, Anyangcheondong-ro, Dongan-gu, Anyang-si, Gyeonggi-do, 14040 Korea

Tel: +82-31-460-9937  
Fax: +82-31-460-9933  
Web site: <http://www.osanghc.com>

**In Vitro Diagnostic**



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## 1. Intended Use

The GeneFinder COVID-19 Plus RealAmp Kit is a real-time reverse transcription-PCR assay for the qualitative detection of SARS-CoV-2 nucleic acids in nasopharyngeal, oropharyngeal, nasal, and mid-turbinate nasal swab specimens, bronchoalveolar lavage fluid (BAL), and sputum from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 USC §263a, to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in upper respiratory specimens during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The GeneFinder COVID-19 Plus RealAmp Kit is intended for use by qualified and trained clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and in vitro diagnostic procedures. The GeneFinder COVID-19 Plus RealAmp Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

## Summary and Explanation

An outbreak of pneumonia of unknown etiology in Wuhan City, Hubei Province, China was initially reported to WHO on December 31, 2019. Chinese authorities identified a novel coronavirus (SARS-2019-nCoV), which has resulted in thousands of confirmed human infections in many countries including the United States. Cases of asymptomatic infection, mild illness, severe illness, and some deaths have been reported.

The GeneFinder™ COVID-19 Plus RealAmp Kit is a molecular in vitro diagnostic test that aids in the detection and diagnosis SARS-2019-nCoV and is based on widely used nucleic acid amplification technology. The product contains oligonucleotide primers, labeled oligonucleotide probes, and control material used in real-time RT-PCR for the in vitro qualitative detection of SARS-2019-nCoV RNA in respiratory specimens.

## 2. Principle of the Assay

The GeneFinder™ COVID-19 Plus RealAmp Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The SARS-CoV-2 primer and probe set(s) is designed to detect RNA from the SARS-CoV-2 in sputum, bronchoalveolar lavage fluid (BAL), nasopharyngeal, oropharyngeal, nasal, and nasal mid-turbinate swabs from individuals who are suspected of COVID-19 by their healthcare provider.

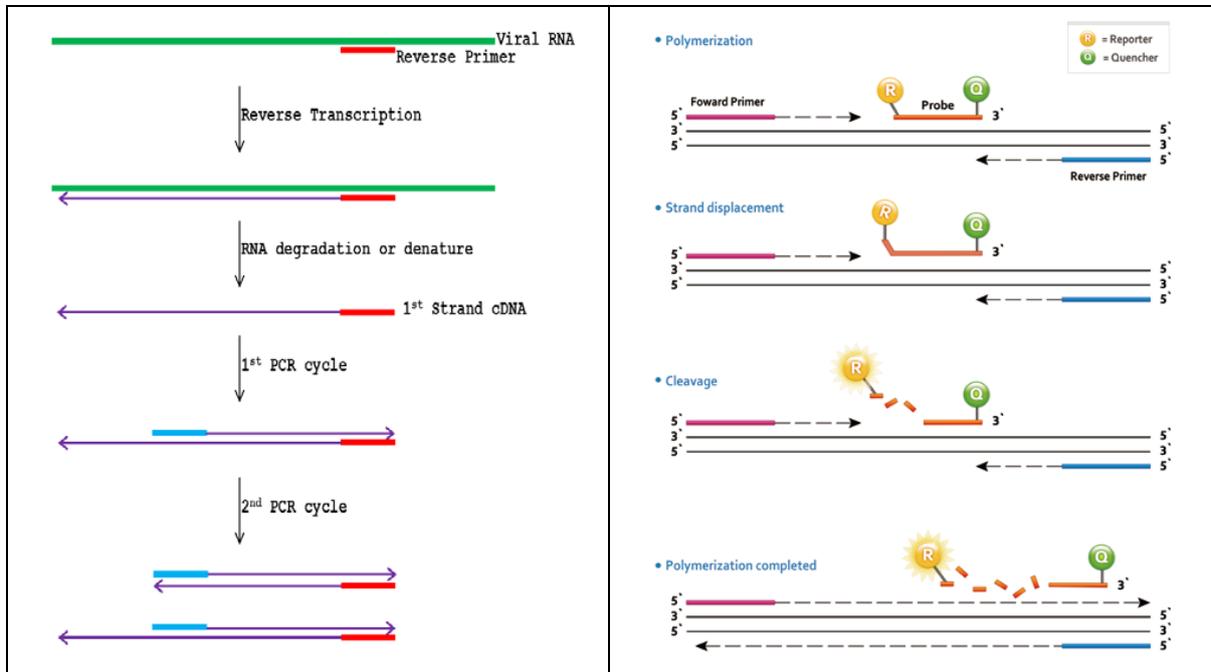
To develop the Real-Time Fluorescent RT-PCR Kit for Detecting SARS-2019-nCoV, the whole genome of SARS-CoV-2 was sequenced and compared to other known Coronavirus genes to deliberately select a specific target region in the ORF1ab region of SARS-CoV-2 genome. Further, human housekeeping gene RNase P was developed as the target gene for the internal control.

For the detection of SARS-CoV-2 RNA, nucleic acids are isolated and purified from sputum, bronchoalveolar lavage fluid (BAL), nasopharyngeal, oropharyngeal, nasal, and nasal mid-turbinate swabs. The purified nucleic acid is reverse transcribed, using the GeneFinder COVID-19 Plus RealAmp RT-PCR master mix into cDNA (Fig. 1), which is then subsequently amplified in the rRT-PCR instrument. During the amplification process, the probe anneals to a specific target sequence located between the forward and reverse primers. In the extension phase of the PCR cycle, the 5' nuclease activity of Taq DNA polymerase degrades the bound probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal (Fig. 2). Fluorescence intensity is monitored at each PCR cycle by the rRT-PCR instrument.



Material no. MFK-45

Figure 1. Reverse Transcription reaction diagram      Figure 2. Real time PCR application principle



**3. Kit Contents**

(100 tests / Kit)

Reagents / Materials	Cap color	Specifications	Quantity	Storage	Catalogue No.
COVID-19 Plus Reaction Mixture	Purple	1,050 µL/vial	1 vial	-20°C	IFMR-45
COVID-19 Plus Probe Mixture	Brown	550 µL/vial	1 vial	-20°C	IFMR-45
COVID-19 Plus Positive Control	Red	50 µL/vial	1 vial	-20°C	IFMR-45
COVID-19 Plus Negative Control	Green	50 µL/vial	1 vial	-20°C	IFMR-45

**4. Reagent Storage, Handling, and Stability**

- GeneFinder™ COVID-19 RealAmp kit is shipped at ambient temperature.
- All components of the kit arrive in solution.
- All components of the kit must be stored at -20°C upon arrival.
- The COVID-19 Plus Probe Mixture must be stored at -20°C and in the dark.
- Do not use kit components after expiration date printed on the tube label.
- If there is damage to the packaging inside and outside or kit contents have been tempered with or storage condition failed to meet above -20°C, do not use.
- Dispose of unused reagents and waste in accordance with country, federal, state, and local regulations.
- Repeated freezing and thawing may lead to inaccurate results.

Note: Inaccurate results may be obtained if the kit is not handled according to the instructions provided.

**5. Product Description**

**a. COVID-19 Plus Reaction Mixture**

Reaction mixture containing reagents and enzymes for reverse transcription and amplification.

**b. COVID-19 Plus Probe Mixture**

Buffer solution containing specific primers and probes that hybridize with the nucleic acid sequences of SARS-CoV-2 targets and human RNase P target.

**c. COVID-19 Plus Positive Control**

The positive Control verifies that the assay run is performing as intended and is used with every batch, starting at the master mixture.

Caution: Care should also be taken to avoid cross-contamination of other specimens when adding positive control.

**d. COVID-19 Plus Negative Control**

The negative control is used to monitor contamination on the assay run and is used with every batch, starting at the master mixture.

**6. Limitations**

The use of this assay as an in vitro diagnostic under the FDA Emergency Use Authorization (EUA) is limited to laboratories that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests.

Use of this assay is limited to personnel who are trained in the procedure. Failure to follow these instructions may result in erroneous results.

The performance of the GeneFinder™ COVID-19 Plus RealAmp Kit was established using upper respiratory specimens<sup>1</sup> and sputum specimens. Nasal swabs and mid-turbinate nasal swabs are also considered acceptable specimen types for use with the GeneFinder™ COVID-19 Plus RealAmp Kit but performance has not been established. Testing of nasal and mid-turbinate nasal swabs (self-collected or collected by a healthcare provider) is limited to patients with symptoms of COVID-19. Please refer to FDA's FAQs on Diagnostic Testing for SARS-CoV-2 for additional information.

**7. Required Materials****7.1 Provided with the kit**

Please see Kit Contents, Section 4.

**7.2 Required but not provided in the product**

- Applied Biosystems® 7500 Real-Time PCR Instrument (ABI 7500), Applied Biosystems®, 7500 Fast Real-Time PCR Instrument (ABI 7500 Fast), or CFX96 Real-Time PCR Instrument (CFX96).
- The following extraction kits were validated for use with the GeneFinder™ COVID-19 Plus RealAmp Kit:

Instrument/Manufacturer	Extraction Kit	Catalog No.
QIAGEN	QIAamp viral RNA Mini Kit	50 preps (52904) 250 preps (52906)
Roche MagNA Pure 96	DNA and Viral NA Small Volume Kit	576 Extraction (06543588001) External Lysis buffer (06374913001)

- Molecular Grade Water, Nuclease-free
- Racks for 1.5 mL microcentrifuge tubes
- Pipettes (1- 20 µL, 20-200 µL, 200-1,000 µL)
- Pipettes tips with aerosol barrier (RNase, DNase-free)

<sup>1</sup> Upper respiratory specimen was a mix of nasopharyngeal and oropharyngeal specimens, presumed negative for SARS-CoV-2, for the purpose of establishing performance characteristics of the GeneFinder™ COVID-19 Plus RealAmp Kit.



- Powder-free gloves (disposable)
- Vortex mixer or equivalent
- 1.5 ml tube
- PCR tube or 96 well plate
- Bench microcentrifuge
- DNAZap™ solutions (ThermoFisher Scientific, Cat.no: AM9890), or equivalent

## 8. Warnings and Precautions

Federal Law restricts this device to sale by or on the order of a licensed practitioner.  
For *in vitro* Diagnostics only (IVD).  
For Emergency Use only

Follow standard precautions. All patient specimens should be considered potentially infectious and handled accordingly.

Do not eat, drink, smoke, apply cosmetics or handle contact lenses in areas where reagents and human specimens are handled.

Handle all specimens as if infectious using safe laboratory procedures. Refer to Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with 2019-nCoV <https://www.cdc.gov/coronavirus/2019-nCoV/lab-biosafety-guidelines.html>. Dispose of hazardous or biologically contaminated materials according to the practices of your institution.

Please read the package insert carefully prior to operation. GeneFinder™ COVID-19 Plus RealAmp Kit is only for emergency use with a prescription, as an *in vitro* diagnostic test. Each step of operation, from specimen collection, storage and transportation, and laboratory testing, should be strictly conducted in line with relevant biosafety regulations and molecular laboratory management.

False positive and false negative results can be caused by poor specimen quality, improper specimen collection, improper transportation, improper laboratory processing, or a limitation of the testing technology. The operator should understand the principles of the procedures, including its performance limitations, in advance of operation to avoid potential mistakes.

Separate laboratory areas, dedicated to performing predefined procedures of the assay, are required. a) 1st Area: Preparation Area—Prepare testing reagent: b) 2nd Area: specimen processing—Process the specimen and controls: c) 3rd: Amplification Area—PCR conducted.

All materials used in one area should remain in that area and should not be moved or used in other areas. After the assay procedures, the workbench and lab supplies should be cleaned and disinfected immediately.

All contents in this package are prepared and validated for the intended testing purpose. Replacement of any of the package contents will affect the testing performance of the kit. Components contained within a kit are intended to be used together. Do not mix components from different kit lots.

Prior to beginning each assay, each component must be thoroughly thawed and briefly centrifuged. Avoid repeated freeze-thaw cycles.

Immediately after the addition of the Nucleic Acid reaction Mix, the 96 well plate for real-time PCR should be covered and transferred to specimen processing area.

To prevent contamination from exogenous RNA, samples should be prepared in the following sequence: 1) no template (negative) control, 2) specimen RNA, and 3) positive control. In addition, filtered pipette tips are required and should be replaced after the addition of each reagent or sample.

Be sure to deposit samples with the pipette directly into the reaction mix in PCR tubes. Do not deposit samples with the pipette to the inside plate well wall. The plates should be sealed immediately after the addition of sample. Following the amplification protocol, PCR plates should be placed into a sealable plastic bag for autoclaving and decontamination.

Be sure not to introduce any foam or bubbles into the tubes when aliquoting Nucleic Acid reaction Mix. All PCR plates should be sealed prior to being loaded into the thermocycler to avoid any possible leakage and



contamination.

All lab workbench and supplies should be cleaned and disinfected regularly using 75% Ethanol or UV light.

All pipette tips and centrifuge tubes in the assay should be DNase/RNase-free. The used centrifuge tubes and pipette tips should be discarded in waste bin with bleach and discarded after decontamination.

Avoid exposure to light of the COVID-19 Plus Probe Mixture.

## 9. Control Material for GeneFinder COVID-19 Plus RealAmp kit.

### 9.1 COVID-19 Plus Positive Control (PC):

The positive control verifies that the assay run is performing as intended and is used with every batch, starting at the master mixture. The PC is comprised of four individual non-infectious DNA plasmids coding for the RdRp gene, the E gene, the N gene, and the RNase P gene. The PC should yield a positive result for each target in the GeneFinder™ COVID-19 Plus RealAmp Kit.

※ Note. Please use a new aliquot of Positive control if there is no fluorescent signal detected in positive control.

### 9.2 COVID-19 Plus Negative Control (NC):

The negative control is used to monitor contamination on the assay run and is used with every batch, starting at the master mixture. The NC is comprised of DEPC-treated water. The NC should yield a negative result for each target in the GeneFinder™ COVID-19 Plus RealAmp Kit.

### 9.3 An internal control (IC), targeting RNase P is needed to verify that nucleic acid is present in every sample and is used for every sample processed. Because the PC is a DNA template, this serves as a control to ensure that the reverse transcription step is proceeding as intended. This also serves as the extraction positive control to ensure that samples resulting as negative for SARS-CoV-2 RNA contain nucleic acid for testing.

## 10. Procedure

### 10.1 Equipment Preparation

Clean and decontaminate all work surfaces, pipettes, centrifuges, and other equipment prior to use. Decontamination agents should be used including 10% bleach, 70% ethanol, and DNAzap™ solutions (ThermoFisher Scientific, Cat.no: AM9890) to minimize the risk of nucleic acid contamination.

### 10.2 Specimen Collection

The GeneFinder™ COVID-19 Plus RealAmp Kit is intended for use with RNA extracted from bronchoalveolar lavage fluid, nasopharyngeal swabs, oropharyngeal swabs, nasal swabs, mid-turbinate nasal swabs or sputum specimens.

Collection should avoid possible contamination in collection, storage, and transportation. The specimen should be presumed contagious and be operated according to relevant regulations.

Specimen Storage: The specimen may be tested immediately after collection, or it may be stored at 2-8°C for up to 72 hours before testing. If a delay in testing or shipping is expected, the specimen may be stored at -18°C for no longer than 1 week or at -70°C for no longer than 6 months. Avoid repeated freeze-thaw cycles.

### 10.3 Transporting Specimens

Specimens must be packaged and transported in accordance with the International Air Transport Association (IATA) Dangerous Goods Regulation. Follow shipping regulations for UN 3373 Biological Substance, Category B when sending potential SARS-CoV-2 specimens. Store specimens at 2-8°C and ship overnight. If a specimen is frozen at -70°C or lower, ship overnight on dry ice

### 10.4 RNA Extraction

RNA should be collected from fresh a specimen to ensure suitable RNA quality and quantity. Use only RNA Extraction kits validated for use with the GeneFinder™ COVID-19 Plus RealAmp kit. RNA extraction should be performed according to the RNA Extraction kit manufacturer's instructions. Use RNA samples immediately or store at -70°C.



Material no. MFK-45

Instrument / Extraction kit	Manufacturer	Patient specimen	Lysis buffer	Elution volume
QIAamp viral RNA mini kit	QIAGEN	140 uL	560 uL	50 uL
MagNA pure 96 /DNA and Viral RNA Small Volume kit	Roche	250 uL	-	50 uL

## 10.5 Preparation of Reagents

Thaw all components 15 to 25 °C . Mix gently and centrifuge the contents at low speed for 5 seconds.

- a) Prepare the GeneFinder COVID-19 Plus RealAmp master mixture by combining the components as listed in Table 1.

Table 1. Master Mixture preparation

Component	Calculation	Volumes for 1 reaction (µL)	Volumes for N patientsamples (µL)
COVID-19 Plus Reaction Mixture		10 µL	10*(N+3)
COVID-19 Plus Probe Mixture		5 µL	5*(N+3)
Total (COVID-19 Plus Master Mixture)		15 µL	15*(N+3)

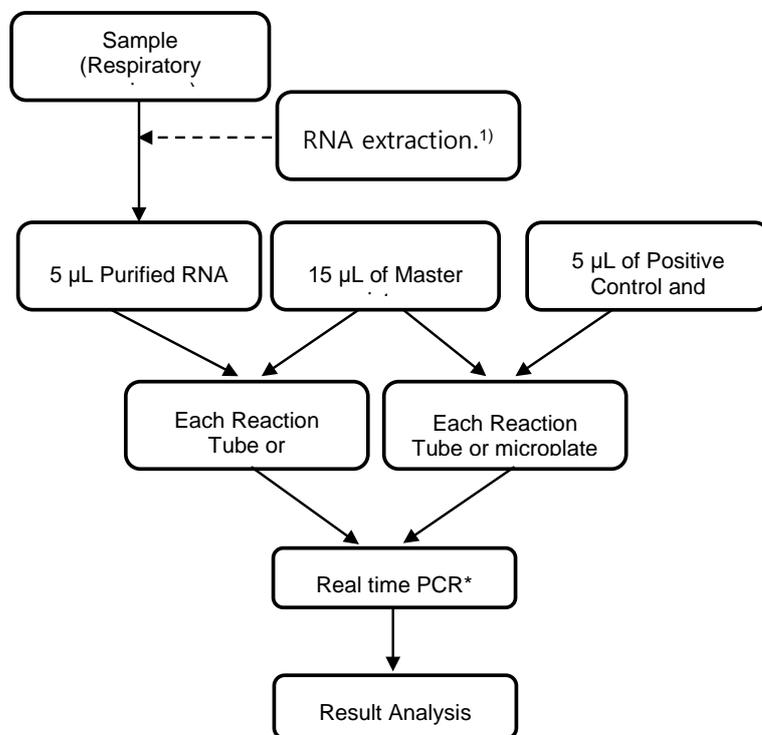
**Important:** Controls should be processed in each batch to ensure reliable results.

- b) Prepare 96-well plates for real-time RT-PCR based on the estimated number of reactions (N). Pipette 15 µL of master mixture into each well. Cover and transfer the plate into sample processing area.
- c) Add 5 µL of the extracted RNA to the well pre-filled with reagent mix in the following order: NC, patient specimen(s), and PC. Seal the plate and centrifuge at 2000 rpm for 10 seconds. Place the plate into the real-time RT-PCR instrument and record the location of controls and each specimen.



10.6 Real-Time PCR

Figure 1 Schematic Workflow for Test



<sup>1)</sup> Use only the RNA extraction kits validated with the GeneFinder COVID-19 Plus RealAmp kit.  
<sup>2)</sup> The PC and NC should be run with each batch.  
<sup>3)</sup> The PCR tubes and plates listed in Table 2 are recommended for use with the GeneFinder COVID-19 Plus RealAmp kit

Table 2. PCR tubes and plates recommended for use with the GeneFinder COVID-19 Plus RealAmp kit.

Instrument	Manufacturer	Plate / Tube	Cat. #	Package
ABI 7500	Thermo-Fisher scientific	MicroAmp Optical 8-tube strip	4316567	125strips/pack
		MicroAmp Optical 8-cap strip	4323032	300strips/pack
		MicroAmp Optical Adhesive Film	4311971	100 sheets/pack
		MicroAmp® Optical 96-Well Reaction Plate	N8010560	10 plates/pack
ABI 7500 Fast		MicroAmp Fast 8-tube strip	4358293	125 Strips/pack
		MicroAmp Optical 8-cap strip	4323032	300strips/pack
		MicroAmp® Fast Optical 96-Well Reaction Plate	4346907	10 plates/pack
		MicroAmp Optical Adhesive Film	4311971	100 sheets/pack
CFX 96	Bio-Rad	0.2 ml 8-Tube PCR Strips without Caps, low profile, white	TLS-0851	120strips/pack
		0.2 ml 8-Tube PCR Strips without Caps, low profile, clear	TLS-0801	120 strip/pack
		Optical Flat 8-cap strips for 0.2ml tube	TCS-0803	120strips/pack
		Multiplate PCR plates 96 well, white, low-profile	MLL9651	25 plates/pack
		Microseal 'B' Seal ('B' Clear Adhesive Seal)	MSB-1001	100 sheets/pack



### ✘ Real-Time PCR Instruments

The GeneFinder™ COVID-19 Plus RealAmp kit is to be used with the following Real-time PCR instruments:

- Applied Biosystems® 7500 Real-Time PCR System (software version 2.3, catalogue no: 4351104)
- Bio-Rad CFX Real-Time PCR Detection System (software version 1.6, catalogue no: BR181-51-95)
- Please ensure that all instruments used have been installed, calibrated, and maintained according to the manufacturer's instruction and recommendations.

### ✘ Real-Time PCR cycling conditions

Step	Temperature	Time	Cycles	
1	Reverse Transcription	50°C	20 min	1 cycle
2	Pre-denaturation	95°C	5 min	1 cycle
3	Denaturation	95°C	15 sec	45 cycles
	Annealing*	58°C	60 sec	

\*Collection of data

### ✘ Fluorescence channel settings

Target	Fluorescence (Reporter dye)	Quencher dye
RdRp gene	FAM	None
E gene	Texas Red	None
N gene	JOE (ABI 7500/ABI 7500 Fast) / VIC (CFX96)	None
Internal Control	Cy5	None

#### 10.7 Data Analysis

1. Select Amplification Plot in Analysis Mode.
2. Select Analysis Settings.
3. Set Threshold Values and Baseline start and end values.

Target	Threshold		Baseline	
	ABI 7500/ ABI 7500 Fast	CFX 96	Begin	End
RdRp gene (FAM)	30,000	300	3	15
E gene (Texas Red)	30,000	300	3	15
N gene (JOE/VIC)	30,000	300	3	15
Internal Control (Cy5)	10,000	100	3	15



## 11. Results Interpretation

All controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted. If any control does not perform as described in Section 14, the run is considered invalid and all specimens should be repeated from extraction step. Please note, all clinical samples should yield positive results for the IC, with Ct values not higher than 40. However, if a patient specimen detects a SARS-CoV-2 target, the lack of amplification of the IC can still be valid.

A specimen is positive for SARS-CoV-2 if there is a sigmoidal amplification curve in the FAM, Texas Red, and/or JOE/VIC channel, with Ct values not higher than 40. See Table 3 for interpretation of results.

Table 3. Interpretation of results

SARS-CoV-2 RdRp	SARS-CoV-2 N	SARS-CoV-2 E	RNase P	Result Interpretation	Report	Actions
+	+	+	+/-	SARS-CoV-2 Detected	POSITIVE	Report results to sender and appropriate public health authorities.
If only one or both targets are positive		+/-	+/-	SARS-CoV-2 Detected	POSITIVE	Report results to sender and appropriate health authorities.
-	-	+	+/-	SARS-CoV-2 is Presumptive Positive	PRESUMPTIVE POSITIVE	Sample is repeated once from RT-PCR. If the repeated result remains "PRESUMPTIVE POSITIVE", report results to sender and appropriate health authorities.
-	-	-	+	SARS-CoV-2 Not Detected	NEGATIVE	Report results to sender.
-	-	-	-	Invalid Result	INVALID	Repeat extraction and RT-PCR. If additional clinical sample is unavailable, report Invalid or Inconclusive Results, which will request a new specimen be collected, if clinically indicated.

## 12. Procedure Limitations

Specimens must be collected, transported, and stored using appropriate procedures and conditions. Improper collection, transport, or storage of specimens may hinder the ability of the assay to detect the target sequences.

Extraction and amplification of nucleic acid from clinical specimens must be performed according to the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.

False-negative results may arise from:

- o Improper specimen collection
- o Degradation of the viral RNA during shipping/storage
- o Using unauthorized extraction or assay reagents
- o The presence of RT-PCR inhibitors
- o Mutation in the SARS-CoV-2 virus
- o Failure to follow instructions for use

False-positive results may arise from:

- o Cross contamination during specimen handling or preparation
- o Cross contamination between patient samples
- o Specimen mix-up
- o RNA contamination during product handling



The effect of vaccines, antiviral therapeutics, antibiotics, chemotherapeutic or immunosuppressant drugs have not been evaluated.

Negative results do not preclude infection with SARS-CoV-2 virus and should not be the sole basis of a patient management decision.

A positive result indicates the detection of nucleic acid from SARS-CoV-2.

Nucleic acid may persist even after the virus is no longer viable.

Laboratories are required to report all positive results to the appropriate public health authorities.

### 13. Troubleshooting

Problems	Possible Causes	Action
No fluorescent signal is detected in any samples, including positive control	Error in the preparation of the master mixture	Ensure the volumes of reagent dispensed during preparation of the master mixture are correct.
	Probe degradation	Use a new probe aliquot.
	Omitted components	Verify each component and repeat the PCR mixture preparation.
	Instrument settings error	Verify the rRT-PCR instrument settings are correct.
If the fluorescent signal is detected in a negative control reaction.	Carry-over contamination	Change tips between samples; clean pipettes; use filter tips.
	Tube cap not properly sealed	Ensure plates are sealed correctly.
	Contamination of the master mixture	Prepare a new master mix and retest samples from RT-PCR.
	Contamination of the extraction/preparation area	Clean surfaces and instruments with aqueous detergents, wash lab coats, and replace test tubes and tips in use.
If the fluorescent signal does not exhibit sigmoidal characteristic in the patient samples.	Poor quality of RNA samples	Extract RNA from samples using only the kits validated with the GeneFinder™ COVID-19 Plus RealAmp Kit and store the extracted RNA at -70°C.
	Not enough volume of RNA samples added	Repeat samples from RT-PCR.
If the fluorescent signal does not exhibit sigmoidal characteristic in the positive control	Probe degradation	Use a new probe aliquot. Repeat samples from RT-PCR
If inconsistent Intensity of fluorescent signals appear	Pipetting error	Repeat samples from RT-PCR
	Contamination in the outer surface of PCR tubes and plate	Repeat samples from RT-PCR
	Bubbles in wells	Repeat samples from RT-PCR



**14. Quality Control**

Quality control requirements must be performed in conformance with local, state, and federal regulations or accreditation requirements and the user’s laboratory’s standard quality control procedures. Quality control procedures are intended to monitor reagent and assay performance. Test all positive controls prior to running diagnostic samples with each new kit lot to ensure all reagents and kit components are working properly. Always include a NC and PC in each batch.

The NC should show no amplification curve in the FAM, Texas Red, JOE/VIC, and Cy5 channels. The PC should show an amplification curve in the FAM, Texas Red, JOE/VIC, and Cy5 channels that appear to be sigmoidal in shape.

Table 4. Acceptance Criteria for Controls

Examples of Acceptance Criteria for Controls (Detection cycles Target range for Controls)				
Control	RdRp gene	E gene	N gene	IC (RNase P)
COVID-19 Plus Positive control	≤22	≤22	≤22	≤21
COVID-19 Plus Negative control	Not detected	Not detected	Not detected	Not detected

The amplification curves for the IC of the test specimens should appear to be sigmoidal in shape with a Ct value not higher than 40 in the Cy5 channel. Table 3 provides further details for interpretation of results for quality control.

**15. Conditions of Authorization**

The GeneFinder™ COVID-19 Plus RealAmp kit assay’s Letter of Authorization, User Manual, Quick Manual and Labeling are available on FDA website: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations#coronavirus>.

To assist clinical laboratories using the GeneFinder™ COVID-19 Plus RealAmp kit (“your product” in the conditions below), the relevant Conditions of Authorization are listed below.

- a) Authorized laboratories<sup>2</sup> using your product will include results and reports of your product. Under exigent circumstances, other appropriate methods for disseminating may be used, which may include mass media.
- b) Authorized laboratories using your product will use your product as outlined in the Instructions for Use only. Deviation from the authorized procedures, such as the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- c) Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- d) Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities.
- e) Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: CDRH-EUA-Reporting@fda.hhs.gov) and Osang Healthcare (sales@osanghc.com) if they become aware of any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product.
- f) All laboratory personnel using your product must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit and use your product in accordance with the authorized labeling.

<sup>2</sup> The letter of authorization refers to, “United States (U. S.) laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests” as “authorized laboratories.”



- g) Osang Healthcare, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.

**16. Performance Characteristics**

**Analytical Sensitivity: LoD**

The LoD study established the lowest concentration of SARS-CoV-2 (genome copies(cp)/μL) that can be detected by the GeneFinder COVID-19 Plus RealAmp Kit at least 95% of the time. The LoD was determined using both upper respiratory specimen and sputum, extracted using both the QIAamp Viral RNA mini Kit and Roche MagNA Pure 96 kit and measured on the ABI 7500, ABI 7500 Fast, and CFX96 instruments.

A preliminary LoD of 0.5 cp/μL was established by testing five different dilutions of SARS-CoV-2 viral genomic RNA (1.5 cp/μL, 1 cp/μL, 0.5 cp/μL, 0.25 cp/μL, and 0.05 cp/μL). The preliminary LoD was then confirmed by testing twenty replicates of three different dilutions of SARS-CoV-2 viral genomic RNA (0.5 cp/μL, 0.25 cp/μL, and 0.05 cp/μL). The study results, summarized in table 5, establish an LoD for the GeneFinder COVID-19 Plus RealAmp Kit of 0.5 cp/μL for both upper respiratory and sputum specimen types using the QIAamp Viral RNA mini Kit and Roche MagNA Pure 96 kit and measured on the ABI 7500, ABI 7500 Fast, and CFX96 instruments.

Table 5. Summary of LoD confirmation at 0.5 cp/μL

Target	QIAamp Viral RNA mini kit						Roche MagNA Pure 96 kit					
	ABI 7500		ABI 7500fast		CFX 96		ABI 7500		ABI 7500fast		CFX 96	
	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen	Lower Respiratory Tract specimen (Sputum)	Upper respiratory Tract specimen
RdRp (n/20), mean Ct	20/20 37.3	20/20 37.1	20/20 37.7	20/20 37.1	20/20 37.4	20/20 37.4	20/20 37.4	20/20 37.6	20/20 36.4	20/20 36.7	20/20 36.1	20/20 36.4
E gene (n/20), mean Ct	20/20 37.3	20/20 37.0	20/20 37.2	20/20 37.1	20/20 37.0	20/20 37.4	20/20 37.3	20/20 37.3	20/20 36.4	20/20 36.5	20/20 36.4	20/20 36.5
N gene (n/20), mean Ct	20/20 36.2	20/20 36.1	20/20 36.1	20/20 35.9	20/20 36.1	20/20 36.0	20/20 37.2	20/20 36.4	20/20 36.2	20/20 36.7	20/20 36.4	20/20 36.4



### **Inclusivity**

The inclusivity of the GeneFinder COVID-19 Plus RealAmp Kit was evaluated *in silico* by comparison of the primer and probe sequences with 100 SARS-CoV-2 sequences published in the NCBI database and 2,980 SARS-CoV-2 sequences published in the GISAID database as of 31 March 2020. The primers and probes for SARS-CoV-2 targets exhibited 100% homology with the all 3,080 target sequences with one exception. MT039890 (Severe acute respiratory syndrome coronavirus 2 isolate SNU01, complete genome) had 96.2% homology (25/26 nt) with the E gene probe, showing a mismatch at the 4th position of the 3' end of the probe. However, since the E target is a presumptive marker of SARS-CoV-2, it does not affect the diagnosis of SARS-CoV-2.

### **Analytical Specificity: Cross Reactivity**

The analytical specificity of GeneFinder COVID-19 Plus RealAmp Kit was evaluated both *in silico* and by wet testing of other organisms and viruses that may be present in respiratory specimens.

*In silico* analysis of the primers and probes was performed against the organisms and viruses listed in Table 6. *In silico* analysis suggests cross-reactivity of the GeneFinder COVID-19 Plus RealAmp Kit primers/probe sets for the RdRp and E targets with only SARS-coronavirus (Figure 2).

**Table 6.** Organisms and viruses, evaluated for cross-reactivity by *in silico* analysis, against the primers and probes for SARS-CoV-2 from the GeneFinder COVID-19 Plus RealAmp Kit.

Human coronavirus OC43
Human coronavirus HKU1
Human coronavirus 229E
Human coronavirus NL63
MERS-coronavirus
SARS-coronavirus
Human Metapneumovirus (hMPV)
Enterovirus (e.g. EV68)
Pseudomonas aeruginosa
<i>Chlamydia pneumoniae</i>
<i>Haemophilus influenzae</i>
<i>Legionella pneumophila</i>
<i>Mycobacterium tuberculosis</i>
<i>Streptococcus pneumonia</i>
<i>Streptococcus pyrogenes</i>
<i>Bordetella pertussis</i>
<i>Candida albicans</i>
<i>Pneumocystis jirovecii</i> (PJP)

The 20 organisms and viruses, listed in Table 7, were wet-tested for cross-reactivity with the GeneFinder COVID-19 Plus RealAmp Kit. All organisms and viruses were tested as nucleic acid and were spiked directly into the GeneFinder COVID-19 Plus RealAmp RT-PCR mix at the concentrations listed in Table 8. Each organism/virus was tested for cross-reactivity, in triplicate, on the ABI 7500, ABI Fast, and CFX96. No cross-reactivity was observed for the organisms and viruses listed Table 8 except with the primer/probe set for the E target, against SARS-coronavirus. A mean Ct value of  $15.6 \pm 0.1^3$  for this target, at a concentration of  $1.2 \times 10^9$  cp/Rx of SARS-Coronavirus RNA, was determined. Based on the *in silico* analysis, cross-reactivity with the primer/probe set for the E target against SARS-coronavirus is expected. The E target is a presumptive marker for SARS-Cov-2.

<sup>3</sup> Mean Ct value of nine replicates across the ABI 7500, ABI fast, and CFX 96.  
18-April-2020 (rev.2) IFMR-



Material no. MFK-45

**Table 7.** Organisms and viruses used in wet-testing cross-reactivity of the GeneFinder COVID-19 Plus RealAmp Kit.

Name	Source	Concentration
Influenza A (H1N1/09)	NCCP (42004)	6.9 x 10 <sup>7</sup> cp/Rx
Influenza A (H3N2)	NCCP (42471)	6.9 x 10 <sup>7</sup> cp/Rx
Influenza A (H5N1)	KVCC (R1300047)	6.9 x 10 <sup>7</sup> cp/Rx
influenza B	NCCP (42469)	6.5 x 10 <sup>7</sup> cp/Rx
Rhinovirus	NCCP (42601)	1.1 x 10 <sup>8</sup> cp/Rx
Respiratory syncytial virus (A/B)	NCCP (43179)	6.2 x 10 <sup>7</sup> cp/Rx
Parainfluenza 1	Vircell (MBC105)	6.2 x 10 <sup>7</sup> cp/Rx
Parainfluenza 2	Vircell (MBC038)	6.2 x 10 <sup>7</sup> cp/Rx
Parainfluenza 3	Vircell (MBC039)	6.2 x 10 <sup>7</sup> cp/Rx
Parainfluenza 4	Vircell (MBC050)	6.2 x 10 <sup>7</sup> cp/Rx
Adenovirus	NCCP (43193)	2.0 x 10 <sup>7</sup> cp/Rx
Human Bocavirus	KCDC	1.7 x 10 <sup>8</sup> cp/Rx
Measles virus	NCCP (40204)	1.7 x 10 <sup>8</sup> cp/Rx
<i>Mycoplasma pneumoniae</i>	Vircell (MBC035)	6.0 x 10 <sup>6</sup> cp/Rx
Human coronavirus OC43	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx
Human coronavirus HKU1	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx
Human coronavirus 229E	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx
Human coronavirus NL63	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx
MERS-coronavirus	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx
SARS-coronavirus	plasmid*	1.2 x 10 <sup>9</sup> cp/Rx

\*The target sequences for the primers/probe sets against the RdRp gene, N gene, and E gene of each Coronavirus strain were cloned into the pTOP Blunt V2 vector. Plasmids were spiked directly into the GeneFinder COVID-19 Plus RealAmp master mixture at the concentrations listed in Table 8.

#### **Interference**

Four interfering substances (Table 9) were evaluated for potential inhibition of the GeneFinder COVID-19 Plus RealAmp Kit.

Substances were spiked into negative upper respiratory matrix containing viral genomic RNA at 2X LoD, in quadruplicate, at the concentrations listed in Table 9. Specimens were then extracted using QIAamp viral RNA mini Kit and measured for SARS-CoV-2 on the ABI 7500. No inhibition was observed for any target in the presence of any of the interfering substances.

**Table 8.** Summary of Interfering Substances tested.

	Panel Member	Concentration
Panel Reagents	Mucin	10%, 1%, 0.1%
	Blood	20%, 5%, 1%
	Respiratory syncytial virus A	2000 cp/μL, 200 cp/μL, 20 cp/μL
	PBS	1X



**Clinical Evaluation**

The performance of the GeneFinder COVID-19 Plus RealAmp Kit was evaluated in a contrived clinical study using 60 individual upper respiratory specimens and 60 sputum specimens collected from patients with signs and symptoms of a respiratory infection. Positive specimens were prepared by spiking viral genomic RNA into 30 upper respiratory specimens and 30 sputum specimens at 1X, 2X, 3X, and 4X LoD. All specimens were extracted using the MagNA Pure 96 DNA and Viral NA Small volume kit (Roche) and were measured on the ABI 7500. All samples were tested in randomized and blinded fashion. The positive and negative percent agreements between the GeneFinder COVID-19 Plus RealAmp Kit and the expected results from the upper respiratory and sputum specimens are shown below.

**Table 9.** Clinical performance of the GeneFinder COVID-19 Plus RealAmp Kit with contrived upper respiratory specimens.

SARS-CoV-2 concentration	Number of NP/OP swabs	ORF1a/b target		E target		N target	
		Positive (95% CIs)	Mean Ct Value	Positive (95% CIs)	Mean Ct Value	Positive (95% CIs)	Mean Ct Value
1X LoD	10	10/10 (72.3% - 100%)	35.9 ± 1.9	10/10 (72.3% - 100%)	35.6 ± 1.8	10/10 (72.3% - 100%)	36.3 ± 1.4
2X LoD	10	10/10 (72.3% - 100%)	33.2 ± 3.0	10/10 (72.3% - 100%)	36.3 ± 1.5	10/10 (72.3% - 100%)	34.4 ± 1.5
3X LoD	5	5/5 (56.6% - 100%)	32.4 ± 2.7	5/5 (56.6% - 100%)	33.7 ± 1.7	5/5 (56.6% - 100%)	33.0 ± 3.1
4X LoD	5	5/5 (56.6% - 100%)	32.6 ± 1.9	5/5 (56.6% - 100%)	34.2 ± 1.9	5/5 (56.6% - 100%)	32.7 ± 1.0
Negative	30	0/30	NA	0/30	NA	0/30	NA

NA = Not available

Performance of the GeneFinder COVID-19 Plus RealAmp Kit with contrived upper respiratory specimens against the expected results are:

Positive Percent Agreement      30/30 = 100% (95% CI: 88.6% - 100%)  
 Negative Percent Agreement      30/30 = 100% (95% CI: 88.6% - 100)



Material no. MFK-45

**Table 10.** Clinical performance of the GeneFinder COVID-19 Plus RealAmp Kit with contrived sputum specimens

SARS-CoV-2 concentration	Number of NP/OP swabs	ORF1a/b target		E target		N target	
		Positive (95% CIs)	Mean Ct Value	Positive (95% CIs)	Mean Ct Value	Positive (95% CIs)	Mean Ct Value
1X LoD	10	10/10 (72.3% - 100%)	37.3 ± 0.6	10/10 (72.3% - 100%)	36.7 ± 1.2	10/10 (72.3% - 100%)	36.2 ± 1.1
2X LoD	10	10/10 (72.3% - 100%)	37.4 ± 1.2	10/10 (72.3% - 100%)	36.8 ± 0.9	10/10 (72.3% - 100%)	36.8 ± 0.5
3X LoD	5	5/5 (56.6% - 100%)	36.8 ± 0.9	5/5 (56.6% - 100%)	36.2 ± 0.8	5/5 (56.6% - 100%)	35.8 ± 1.1
4X LoD	5	5/5 (56.6% - 100%)	36.4 ± 0.8	5/5 (56.6% - 100%)	36.6 ± 1.4	5/5 (56.6% - 100%)	36.4 ± 1.2
Negative	30	0/30	NA	0/30	NA	0/30	NA

NA = Not available

Performance of the GeneFinder COVID-19 Plus RealAmp Kit with contrived sputum specimens against the expected results are:

Positive Percent Agreement 30/30 = 100% (95% CI: 88.6% - 100%)

Negative Percent Agreement 30/30 = 100% (95% CI: 88.6% - 100%)



**17. Product Label Symbols**



Lot or batch number



Caution



Catalogue number



Store below temperature shown



In Vitro Diagnostic Medical Device



Expiry date



Consult Instruction for Use



Manufacturer

**18. Reference**

1. WHO COVID-19 report 2020

**19. Contact Information**

OSANG Healthcare Co., Ltd  
132 Anyangcheondong-ro, Dongan-gu,  
Anyang-si, Gyeonggi-do, 14040, Korea

Tel: +82-31-460-0300

Fax: +82-31-460-9933

Web site: <http://www.osanghc.com>

**Technical Support**

Tel: +82-31-460-9937



## **Instructions for LabGun™ COVID-19 RT-PCR Kit**

For prescription use only.  
For in vitro diagnostic use only.  
For Emergency Use Authorization only.

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*This version of the LabGun™ COVID-19 RT-PCR Kit User's Manual was published in September, 2020.*

**Manufacturer**

**LabGenomics Co., Ltd.**

**#1204, 12F, 147, Gwanggyo-ro, Yeongtong-gu,**

**Suwon-si, Gyeonggi-do 443-270, Republic of Korea**

**Tel) +82-31-628-0700, Fax) +82-31-628-0701**

**[www.labgenomics.co.kr](http://www.labgenomics.co.kr)**

**Head office**

**LabGenomics Co., Ltd.**

**B-6F, 700, Daewangpangyo-ro, Bundang-gu,**

**Seongnam-si, Gyeonggi-do, Republic of Korea 13488**

**Tel) +82-31-628-0700, Fax) +82-31-628-0701**

**[www.labgenomics.co.kr](http://www.labgenomics.co.kr)**

LabGenomics Co., Ltd.

Technical Support

e-mail: [COVID-19.TechnicalSupport@labgenomics.com](mailto:COVID-19.TechnicalSupport@labgenomics.com)

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**Product Name**

LabGun™ COVID-19 RT-PCR Kit

**Intended Use**

LabGun™ COVID-19 RT-PCR Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test intended for the qualitative detection of nucleic acid from the SARS-CoV-2 in nasopharyngeal, or oropharyngeal, anterior nasal and mid-turbinate nasal swabs, as well as nasopharyngeal wash/aspirate or nasal aspirate specimens and sputum, from individuals who are suspected of COVID-19 by their healthcare provider. Testing is limited to laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests.

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in respiratory specimens during the acute phase of infection. Positive results are indicative of presence of SARS-CoV-2 RNA; clinically correlation with patient history and other diagnostics information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The LabGun™ COVID-19 RT-PCR Kit is intended for use by qualified clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and *in vitro* diagnostic procedures. The LabGun™ COVID-19 RT-PCR Kit is only for use under the Food and Drug Administration's Emergency Use Authorization.

**Principles of the Assay**

The LabGun™ COVID-19 RT-PCR Kit is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The SARS-CoV-2 primer/probe set is designed to detect RNA from the SARS-CoV-2 in nasopharyngeal, or oropharyngeal, anterior nasal and mid-turbinate nasal swabs, as well as nasopharyngeal wash/aspirate or nasal aspirate specimens and sputum, from patients with signs and symptoms of infection who are suspected of COVID-19. The primer/probe set for detection of Sarbecovirus is also included.

**Kit Components and Descriptions (Cat. No. CV9032B)**

Component	Description	Amount (100samples)	Storage
2X One-step buffer	One-step real-time RT-PCR buffer	2 x 1000 µL	≤ -20 °C
One-step enzyme	DNA polymerase and reverse transcriptase	200 µL	≤ -20 °C
Assay 1 (RdRp gene)	Primers and probe mix for RdRp + Rox Dye	400 µL	≤ -20 °C
Assay 2 ( E gene)	Primers and probe mix for E + Rox Dye	400 µL	≤ -20 °C
MS2 Internal control	MS2 bacteriophage	1000 µL	≤ -20 °C
Positive control	Cloned plasmid DNAs of RdRp and E gene	250 µL	≤ -20 °C

#### Materials Required but Not Provided

- Thermal Cycler: Applied Biosystems™ 7500 Real-time PCR Instrument system or Bio-Rad CFX96™ Real-time PCR detection system
- RNA extraction kits: QIAamp Viral RNA Mini kit (QIAGEN, Cat. No. 52904)
- DEPC-water
- PBS, 1X
- Bench-top centrifuge
- Serological Pipet (Pipette Aid)
- P-10, P-20, P-200, P-1000 Pipettes
- Multi-channel pipette (Mettler Toledo, Cat No. 17013794)
- P-10, P-20, P-200, P-1000 ART Plugged Tips
- 1.5 mL microcentrifuge tubes
- 96-Well Optical Reaction Plates
- Optical Adhesive Cover
- Vortex
- Microcentrifuge
- Refrigerator
- Freezers (-20°C and -80°C)

#### Storage and Handling Requirement

1. Store all reagents at -25 to -15°C.
2. Use the reagents within 30 days once opened.
3. Completely thaw the reagents before use.
4. Avoid repeated freeze/thaw cycles for reagents.

#### Warning and Precautions

1. For in vitro diagnostic use under Emergency Use Authorization only.
2. Positive results are indicative of the presence of SARS-CoV-2 RNA.
3. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.
4. Keep the kit upright during storage and transportation.
5. Before using the kit, check tubes for leakage or damage. Each component in the kit should be thawed at room temperature, thoroughly mixed, and centrifuged before use.
6. Cross-contamination may occur when inappropriate handling of reference materials and specimens, which will cause inaccurate results. It is recommended to use sterile disposable filter-tips to aspirate reagents and specimens.
7. All specimens to be tested and the reference materials of the kits should be considered as infectious substances and processed strictly in accordance with laboratory biosafety requirements. Sterile centrifuge tubes and filter-tips should be used. After use, the tips should be disposed into a waste bin containing a 10% sodium hypochlorite solution. After the operation, the work area surface and the instrument surface should be disinfected with a freshly prepared 10% sodium hypochlorite solution, and then cleaned with 75% ethanol or pure water. Finally, turn on UV light to disinfect working surfaces for 30 minutes.
8. The PCR instrument used for this assay should be calibrated regularly according to instrument's instructions to eliminate cross-talks between channels.
9. This kit uses PCR-based technology and experiments should be conducted in three separate areas: reagent preparation area, specimen preparation area, amplification area. Access to each area must be in strict accordance with a single flow direction, namely the specimen preparation area → reagent preparation area → amplification area. Protective equipment accessories (goggles, work clothes, hats, shoes, gloves, etc.) should be worn during operation and protective equipment accessories should be changed when entering and leaving different work areas. Protective equipment accessories in each work area are not interchangeable.

### Instruments

- Applied Biosystems™ 7500 Real-time PCR Instrument system with software version 2.3
- Bio-Rad CFX96™ Real-time PCR detection system with Bio-Rad CFX Manager 3.1

### Specimen Collection, Handling, and Storage

#### 1. Specimen Collection

Use only synthetic fiber swabs with plastic shafts. Do not use calcium alginate swabs or swabs with wooden shafts, as they may contain substances that inactivate some viruses and inhibit PCR testing. Place swabs immediately into sterile tubes containing viral transport media. Sputum is collected in a sterile sputum collection container.

#### 2. Storage

If specimens are not shipped or processed immediately, it is acceptable to store

specimens at 2-8°C for up to 72 hours after collection. If a delay in testing or shipping is expected to exceed 72 hours, specimens can be stored at -70°C or below until processing can proceed.

3. Shipping

Specimens PUI’s must be packaged, shipped, and transported according to the current edition of the International Air Transport Association (IATA) Dangerous Goods Regulation External Icon. Store specimens at 2-8°C and ship overnight to the lab on ice pack. If a specimen is frozen at -70°C, ship overnight to the lab on dry ice. Additional useful and detailed information on packing, shipping, and transporting specimens can be found at Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19).

For more information, refer to:

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

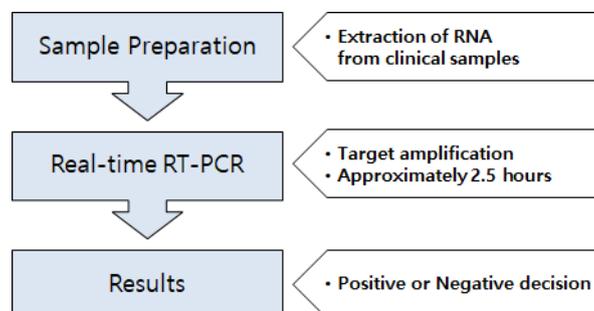
<https://www.cdc.gov/coronavirus/SARS-CoV-2/guidelines-clinical-specimens.html>

Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with Coronavirus Disease 2019 (COVID-19)

<https://www.cdc.gov/coronavirus/SARS-CoV-2/lab-biosafety-guidelines.html>

**Assay Procedure**

Nucleic acids are isolated and purified from nasopharyngeal/oropharyngeal swabs, anterior nasal and mid-turbinate nasal swabs, as well as nasopharyngeal wash/aspirate or nasal aspirate specimens and, sputa specimens using the QIAamp Viral RNA Mini extraction kit. The purified nucleic acid is directly amplified using the LabGun™COVID-19 RT-PCR Kit on either the Applied Biosystems™ 7500 Real-time PCR Instrument system or CFX96™ Real-time PCR detection system. In the process, the probe anneals to a specific target sequence located between the forward and reverse primers. During the extension phase of the PCR cycle, the 5’ nuclease activity of Taq polymerase degrades the probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. With each cycle, additional reporter dye molecules are cleaved from their respective probes, increasing the fluorescence intensity. Fluorescence intensity is monitored at each PCR cycle by the Real-time PCR Instrument system.



**A) RNA Extraction**

The IC is provided in the kit to confirm nucleic acid extraction and identify any PCR

inhibition. Before nucleic acid extraction, 10 µL of MS2 phage IC should be added to each specimen. Isolate and purify RNA using the QIAamp Viral RNA Mini kit (QIAGEN, Cat. No. 52904) according to manufacturer’s manual.

**B) Preparation of Real-time PCR reagents**

- 1) Prepare the reagents according to the table below. The final volume is calculated by multiplying the number of samples by the volume of each component (Table 1).

**Table 1.Components and volume of the reagents for PCR reaction**

Component	Volume (µℓ) per reaction
2X One-step Buffer	10
One-step Enzyme	1
Assay 1 (or 2)	4
Template RNA	5
Total volume	20

- 2) Mix the reaction master mix except the template, and spin-down briefly. Aliquot 15µℓ of the master mix into each well of 96-well plate, and add the template RNA. For positive control, use the “Positive Control” included in the kit instead of template RNA. For negative control, use the RNase-free water (DEPC-water) instead of template RNA.
- 3) Spin-down the plate briefly, and run the PCR reaction immediately.

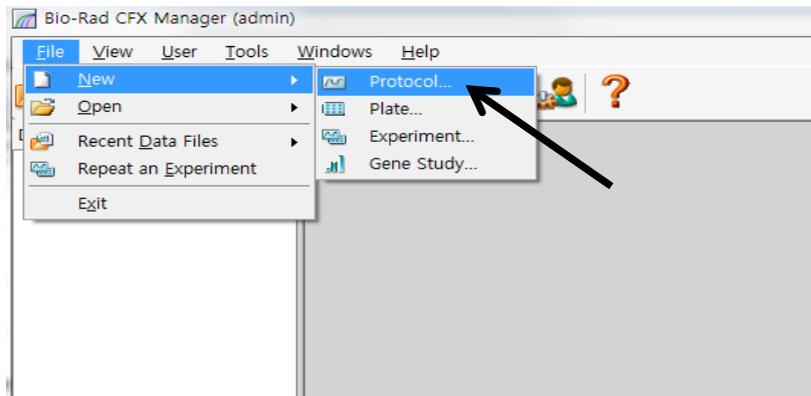
**C) Running Real-time RT-PCR instrument**

**1) CFX96 Real-time PCR instrument set up**

- The set-up of the CFX96 Real-time PCR System for the detection of COVID-19 and IC can be divided into the following steps: Protocol Setup, Plate Setup, and Start run.

**Protocol Set up**

- In the main menu, click “Protocol” to open the File

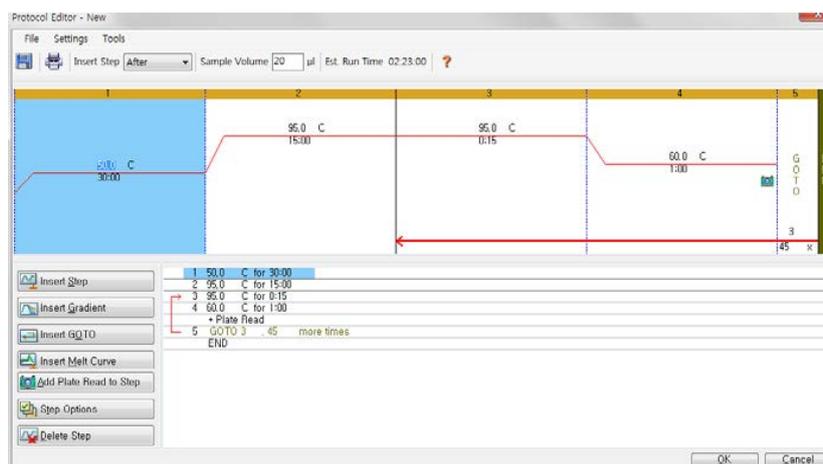


**Fig 1. Protocol set up**

- Create a new protocol or load an existing protocol for the experiment.
- In Protocol Editor, define the thermal profile as follows:

Segment	Temperature	Time	Cycles
1	50 °C	30 min	1
2	95 °C	15 min	1
3	95 °C	15 sec	45
4*	60 °C	1 min	

\*collect the fluorescence data

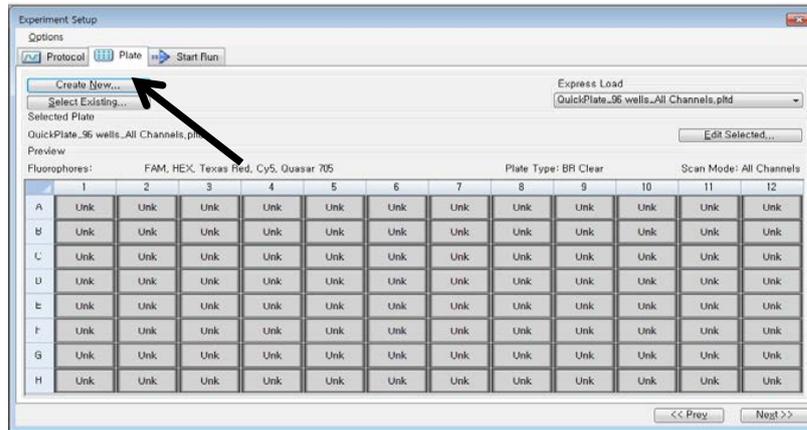


**Fig 2. Protocol Editor**

- Click on Sample Volume to directly edit the “20uL”
- Click “OK” and Click “Next”

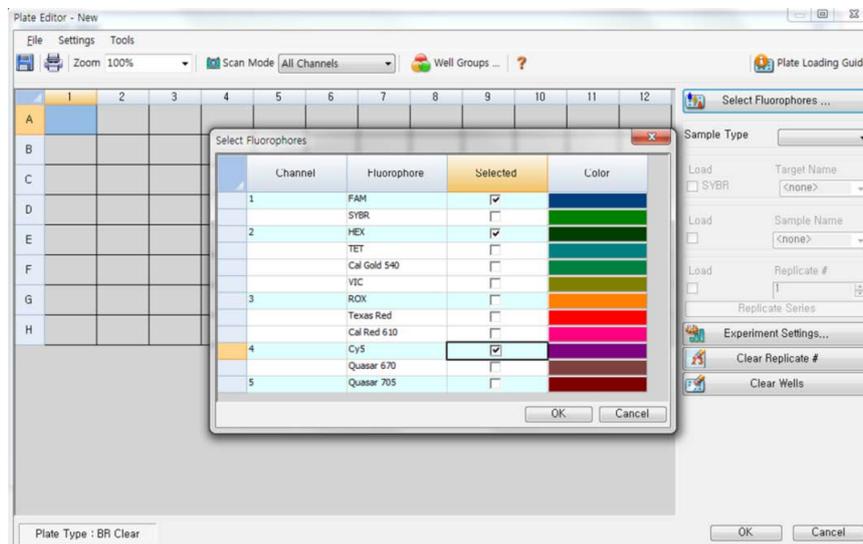
**Plate Set up**

- In “Experiment Setup plate”, click “Create New” to open the “Plate Editor” to create a new plate.



**Fig 3. Plate Editor “Create a new” plate or load an existing plate for the experiment.**

- Click “Select Fluorophores” to indicate the fluorophores (FAM, Cy5 and HEX(VIC)) that will be used in the experiment.

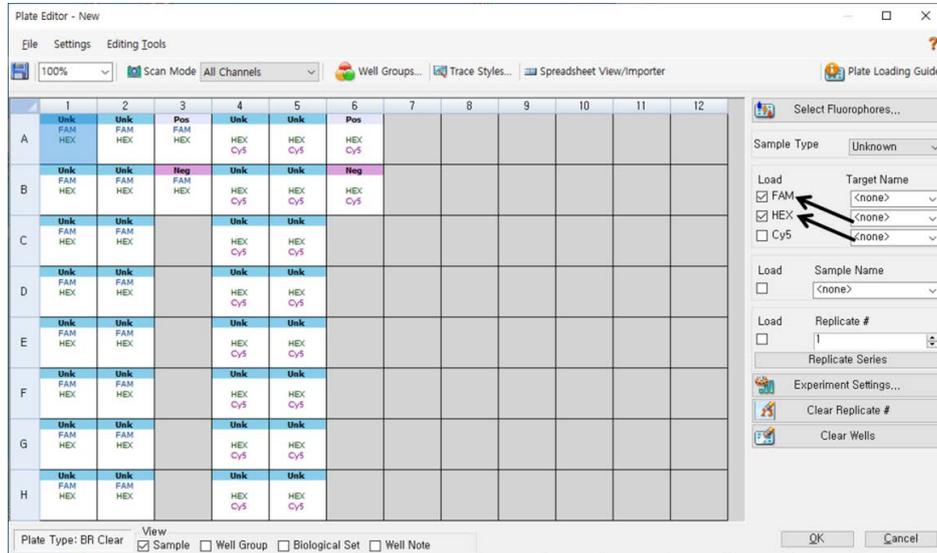


**Fig 4. “Select Fluorophores” (FAM, Cy5 and HEX(VIC))**

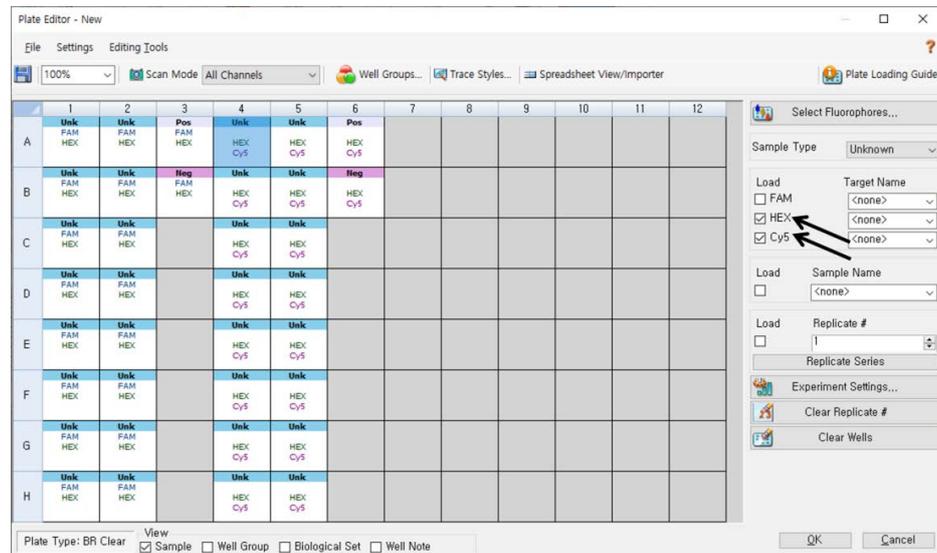
- Choose the appropriate well and then click the “Sample Type” from drop-down menu.

*Note: Unknown : Clinical Sample, Negative control, Positive control*

- Click the appropriate checkboxes [Assay 1:FAM and HEX(VIC), Assay 2: Cy5 and HEX(VIC)] to specify the fluorophores in the selected wells.

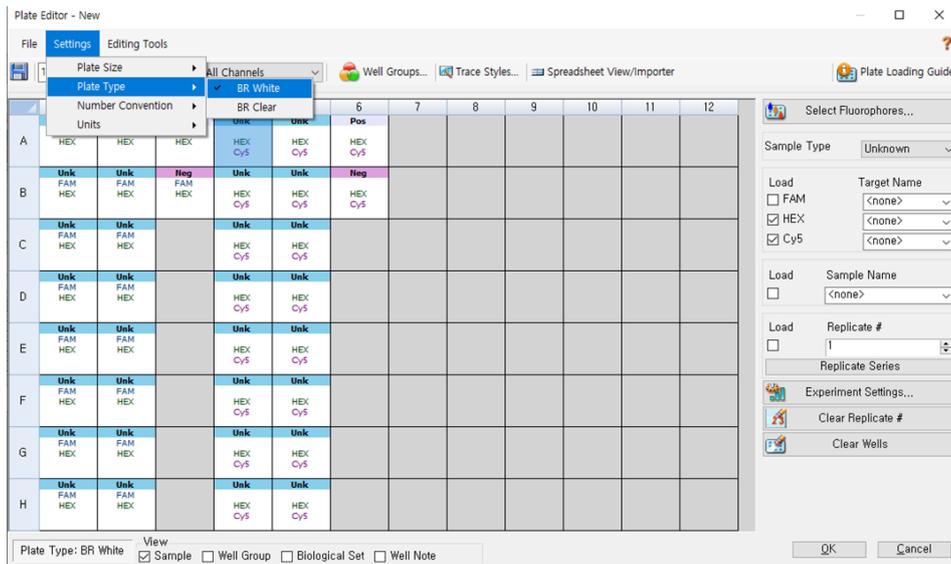


**Fig 5.1. Plate Setup for Assay 1**



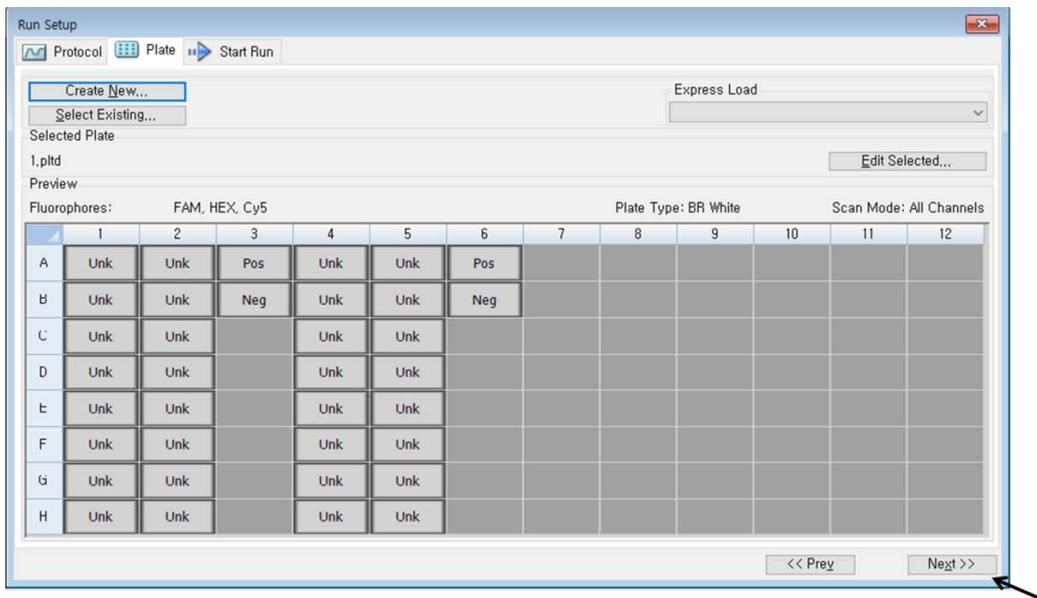
**Fig 5.2. Plate Setup for Assay 2**

- Type the “Sample Name” and press enter key.
- In “Setting” of the “Plate Editor” main menu, choose the “Plate Size” and “Plate Type (BR White)”



**Fig 6. Plate Type**

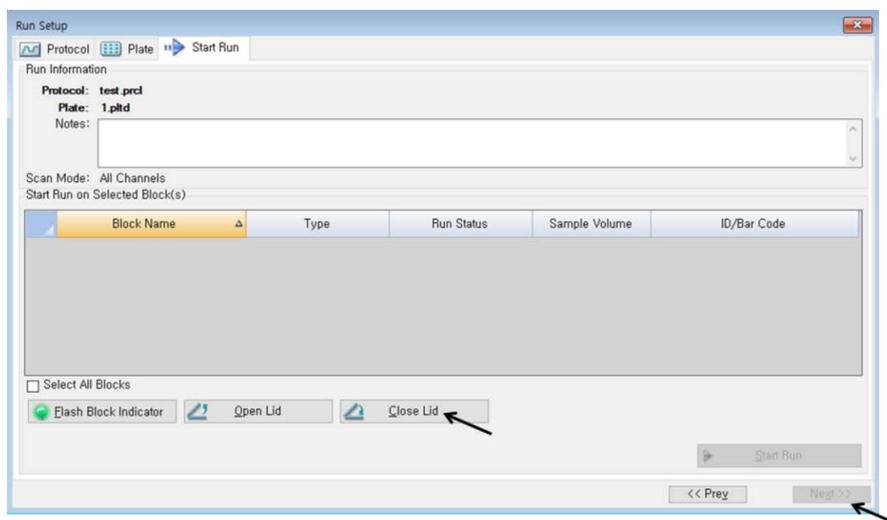
- Click "OK" and save a new plate set up file.
- Finally, "Experiment set up" window will open.



**Fig 7. Experiment setup Plate**

**Start Run**

- In “Experiment set up start run”, after the test plate on the device, click “Close Lid” to close the lid and click "Start Run"



**Fig 8. Close Lid and Start Run**

- After the reaction is completed, verify the amplification curve. Please refer to the instruction manual for your real time PCR instrument to read about analytical methods and set threshold for each real-time PCR machine in its management program following the table below.

Instrument	Threshold
CFX96™	Auto threshold

- Store the run file in New folder. Fill in the file name, click the “SAVE”, and machine will start.

**2) Applied Biosystems™ 7500 Real-time PCR Instrument system set up**

- The set-up of the ABI 7500 Real-time PCR Instrument for the detection of COVID-19 and IC can be divided into the following steps: Experiment Properties, Plate Setup, and Run Method.

### Experiment Properties

- In the Home screen, click “Advanced Setup” to open the setup stage.

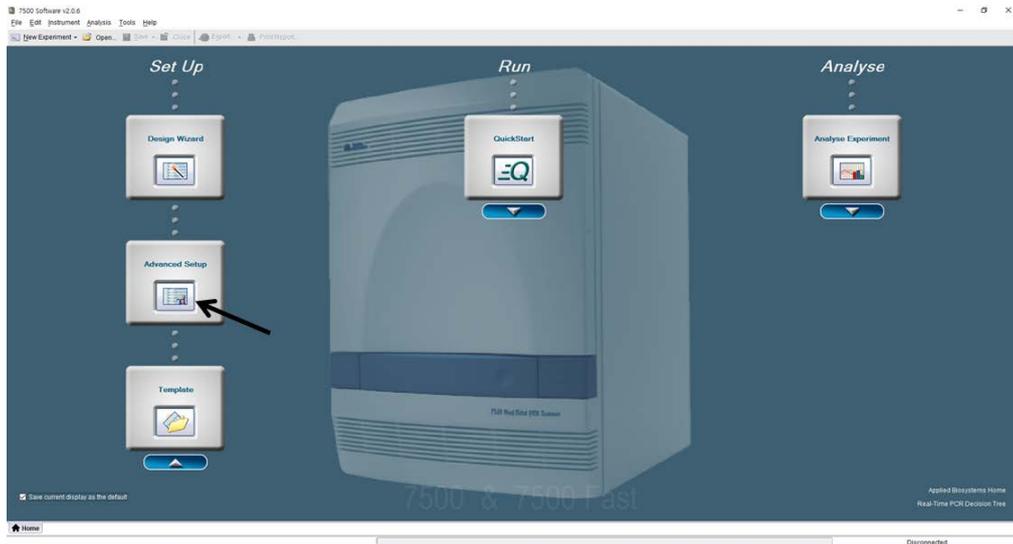


Fig 9. Advanced Setup

- Give the “Experiment Name” and click “Quantitation – Comparative Ct”

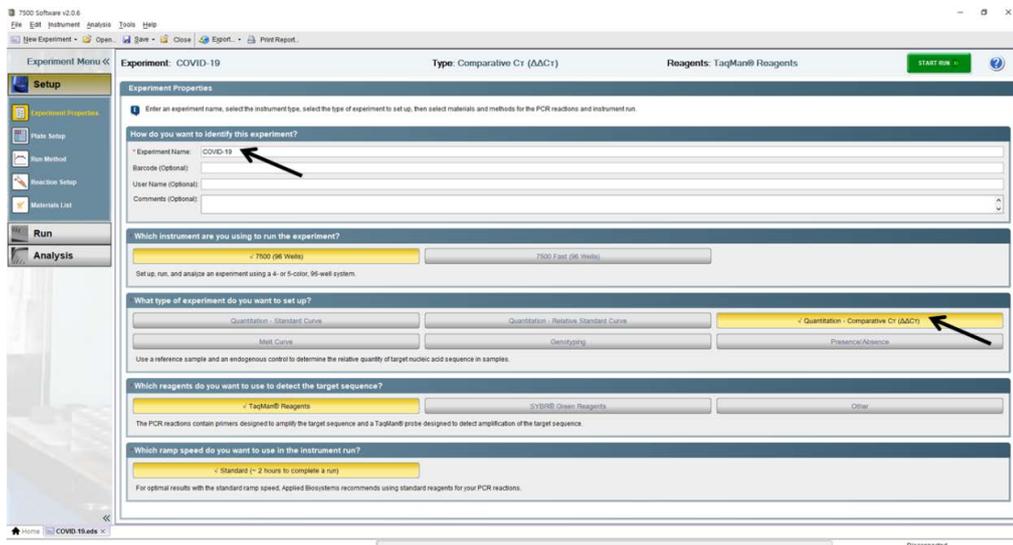


Fig 10. Experiment Properties

### Plate Setup

- Add new target for RdRp gene, E gene and IC, then specify Reporter, Quencher and Color.
- Add New Sample by the number of samples containing the Positive Control and Negative Control, and then give the sample name.

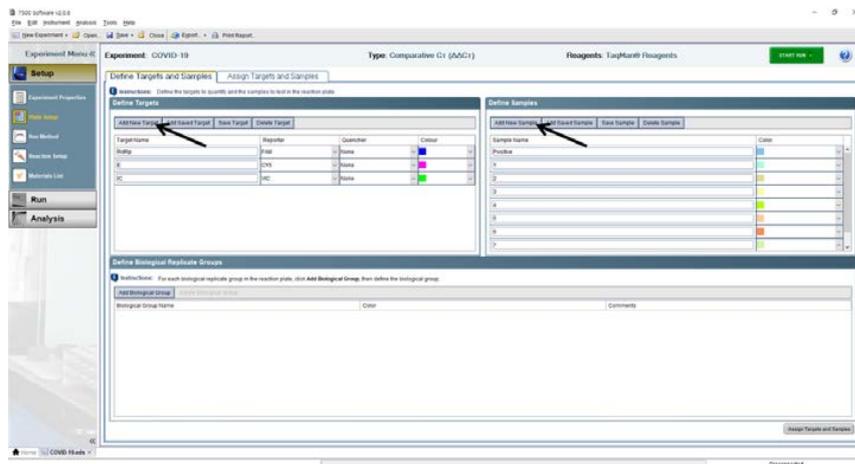


Fig 11. Set three targets and Sample name

- At the Assign Targets and Samples Tab, specify the sample location on the well and the assay target.

*Note: Assay 1 target :RdRp and IC, Assay 2 target : E and IC*

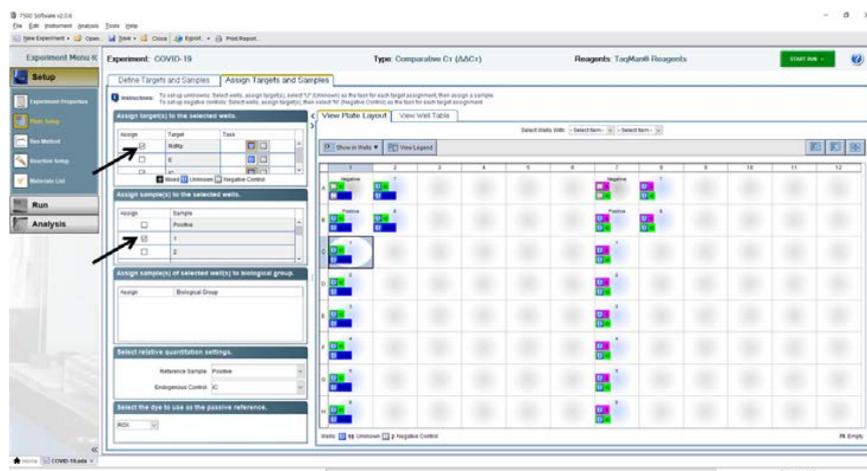


Fig 12. Set the sample location on the well and target

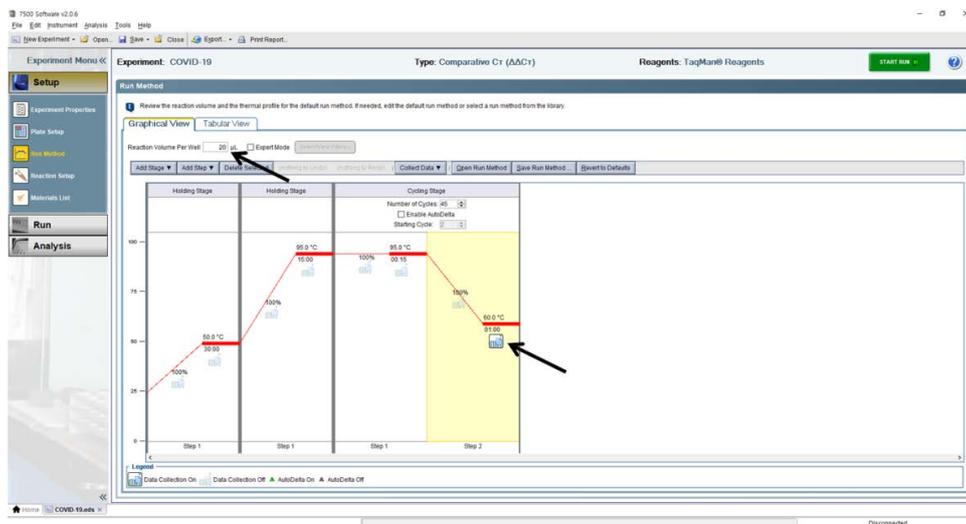
**Run Method**

- Add new target for RdRp gene, E gene and IC, then specify Reporter, Quencher and Color.
- In Graphical View, define the thermal profile as follows:

Segment	Temperature	Time	Cycles
1	50 °C	30 min	1
2	95 °C	15 min	1
3	95 °C	15 sec	45
4*	60 °C	1 min	

\*collect the fluorescence data

- Click on Reaction Volume Per Well to directly edit the “20 uL”



**Fig 13. Protocol Design**

*Note: Plate Read On Last Segment.*

- After the reaction is completed, verify the amplification curve. Please refer to the instruction manual for your real time PCR instrument to read about analytical methods and set threshold for each real-time PCR machine in its management program following the table below.

Instrument	Threshold
AB7500	FAM: 1, Cy5: 0.5
	HEX (VIC) : Auto threshold

- Save the Protocol and then Click “Start Run”
- From the next run, recall the stored protocol and modify sample location/ targets and proceed.

**Interpretation of Results**

The result analysis is confirmed using the Ct value measured for each target. It reads positive when Ct value ≤40 for each target among 45 cycles, and negative when Ct value > 40.

1. LabGun™ COVID-19 RT-PCR Kit Controls – Positive, Negative, and Internal

The Ct value should be ≤40 for the positive control, and not detectable for the negative control. The Ct value of the internal control (MS2) should be ≤40. All test controls should be examined prior to interpretation of patient results (Table 4). If the controls are not valid, the patient results cannot be interpreted.

Table 4. Summary of the interpretation for control results

Control Type/Name	Used to monitor	RdRp gene (FAM)	E gene (Cy5)	MS2 phage (VIC/HEX)	Expected Ct values
Positive Control (PC)	Substantial reagent failure including primer and probe integrity	+	+	-	≤40
Negative Control (NC)	Reagent and/or environmental contamination	-	-	-	None detected
MS2 RNA Internal Control (IC)	Failure in lysis and extraction procedure	-	-	+	≤40

**If the controls do not exhibit the expected performance as described, the assay may have been set up and/or executed improperly, or reagent or equipment malfunction could have occurred. Invalidate the run and re-test.**

2. Examination and Interpretation of Patient Specimen Results:

The interpretation of patient specimen results is determined by reading the Ct value of each sample and judging if the value is below or above 40. The summary of the interpretation is below (Table 5).

Table 5. Summary of the interpretation for patient specimen results

RdRp gene (FAM)	E gene (Cy5)	MS2 (VIC/HEX)	Result Interpretation	Action
+	+	±	SARS-CoV-2 detected	Report results to healthcare provider and appropriate public health authorities.
+	—*	±		
—	+	±	Inconclusive result	Repeat testing using residual nucleic acid first. If the repeated test result is inconclusive, re-extract nucleic acid from the remaining sample and repeat rRT-PCR. If the repeated result remains inconclusive, additional confirmatory testing should be conducted if clinically indicated.
—	—	+	SARS-CoV-2 not detected	Report results to healthcare provider.
—	—	—	Invalid result	Repeat extraction and rRT-PCR. If the repeated result remains invalid, consider collecting a new specimen from the patient.

\*- Ct Not Detected

**Limitations**

1. The use of this assay as an in vitro diagnostic under FDA Emergency Use Authorization (EUA) is limited to laboratories that are certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. § 263a, to perform high complexity tests.
2. This kit is used for qualitative detection of SARS-CoV-2 RNA from human nasopharyngeal, oropharyngeal, anterior nasal and mid-turbinate nasal swab as well as nasopharyngeal wash/aspirate or nasal aspirate specimens and sputum specimens. The results do not reflect the viral load in the original specimens.
3. The performance of the LabGun™ COVID-19 RT-PCR Kit was established using contrived nasopharyngeal swab and sputum specimens. Anterior nasal swabs, mid-turbinate nasal swabs, nasal washes, nasal aspirates and bronchoalveolar lavage (BAL) fluid are also considered acceptable specimen types for use with the LabGun™ COVID-19 RT-PCR Kit. Testing of nasal and mid-turbinate nasal swabs (self-collected or collected by a healthcare provider) is limited to patients with symptoms of COVID-19. Please refer to FDA’s FAQs on Diagnostic Testing for SARS-CoV-2 for additional information.
4. The LabGun™ COVID-19 RT-PCR Kit performance has only been established with nasopharyngeal swabs and sputum specimens.
5. The specimens to be tested shall be collected, processed, stored and transported in accordance with the conditions specified in the instructions. Inappropriate specimen preparation and operation may lead to inaccurate results.

6. Extraction and amplification of nucleic acid from clinical samples must be performed according to the specified methods listed in this procedure. Other extraction approaches and processing systems have not been evaluated.
7. Amplification and detection of SARS-CoV-2 with the LabGun™ COVID-19 RT-PCR Kit has only been validated with the Applied Biosystems® 7500 Real-Time PCR instrument and the CFX96™ Real-time PCR detection system. Use of other instrument systems may cause inaccurate results.
8. The limit of detection (LoD) is determined based on a 95% confidence of detection. When SARS-CoV-2 presents at the LoD concentration in the test specimen, there will be a low probability that SARS-CoV-2 is not detected. When SARS-CoV-2 presents below the LoD concentration in the test specimen, there will also be a certain probability that SARS-CoV-2 can be detected.
9. Primers and probes for this kit target highly conserved regions within the genome of SARS-CoV-2. Mutations occurred in these highly conserved regions (although rare) may result in RNA being undetectable.
10. Negative results do not preclude SARS-CoV-2 infections and should not be used as the sole basis for treatment or other management decisions.
11. Laboratories are required to report all positive results to the appropriate public health authorities.

#### **Conditions of Authorization for the Laboratory**

The LabGun™ COVID-19 RT-PCR Kit's Letter of Authorization, along with the authorized Fact Sheet for Healthcare Providers, the authorized Fact Sheet for Patients, and authorized labeling are available on the FDA website: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations#covid19ivd>. However, to assist clinical laboratories using the LabGun™ COVID-19 RT-PCR Kit, the relevant Conditions of Authorization are listed below:

- A. Authorized laboratories<sup>1</sup> using your product will include with result reports of your product, all authorized Fact Sheets. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.
- B. Authorized laboratories using your product will use your product as outlined in the Instructions for Use. Deviations from the authorized procedures, including the authorized instruments, authorized extraction methods, authorized clinical specimen types, authorized control materials, authorized other ancillary reagents and authorized materials required to use your product are not permitted.
- C. Authorized laboratories that receive your product will notify the relevant public health authorities of their intent to run your product prior to initiating testing.
- D. Authorized laboratories using your product will have a process in place for reporting test results to healthcare providers and relevant public health authorities, as appropriate.

- E. Authorized laboratories will collect information on the performance of your product and report to DMD/OHT7-OIR/OPEQ/CDRH (via email: CDRH-14-EUA-reporting@fda.hhs.gov) and You (via email: [COVID-19.TechnicalSupport@labgenomics.com](mailto:COVID-19.TechnicalSupport@labgenomics.com)) any suspected occurrence of false positive or false negative results and significant deviations from the established performance characteristics of your product of which they become aware.
- F. All laboratory personnel using your product must be appropriately trained in RT-PCR techniques and use appropriate laboratory and personal protective equipment when handling this kit, and use your product in accordance with the authorized labeling.
- G. You, authorized distributors, and authorized laboratories using your product will ensure that any records associated with this EUA are maintained until otherwise notified by FDA. Such records will be made available to FDA for inspection upon request.
- <sup>1</sup> The letter of authorization refers to, “Laboratories certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests” as “authorized laboratories.”

## Performance Characteristics

### **Limit of Detection (LoD)**

The analytical sensitivity (limit of detection or LoD) experiments were performed to determine the lowest concentration of SARS-CoV-2 detected at which approximately 95% of all (true positive) replicates tested positive.

To determine the LoD of the LabGun™ COVID-19 RT-PCR Kit, SARS-CoV-2 genomic RNA obtained from National Culture Collection for Pathogens of Korea (NCCP No.43326, Lot: 012669-T0013, Concentration: 10µg/µL) was spiked into negative clinical nasopharyngeal swab or sputum matrices, and pre-mixed with lysis buffer from the extraction kit (QIAamp Viral RNA Mini kit, QIAGEN) at six different concentrations. The viral genomic RNA extracted from each dilution was tested on the BioRadCFX96™ PCR instrument and the Applied Biosystems® 7500 Real-Time PCR instrument for SARS-CoV-2 (RdRP gene, Assay 1) and pan-Sarbecovirus (E gene, Assay 2).

The LoD was determined to be 20 genomic RNA copies/µL and subsequently confirmed by testing 20 replicates of the extracted RNA after spiking into each specimen type.

Table 6. LoD test from six different concentrations of SARS-CoV-2 RNA in nasopharyngeal swab on CFX96™ PCR instrument

Concentration (Genomic RNA copies/μL)	Assay 1 (RdRp gene)			Assay 2 (E gene)		
	Mean Ct	Standard Deviation	Positive rate	Mean Ct	Standard Deviation	Positive rate
2x10 <sup>4</sup>	28.0	0.39	3/3	29.4	0.1	3/3
2x10 <sup>3</sup>	30.5	0.01	3/3	31.8	0.15	3/3
2x10 <sup>2</sup>	33.7	0.26	3/3	35.5	0.34	3/3
1x10 <sup>2</sup>	35.1	0.29	3/3	36.1	0.23	3/3
2x10 <sup>1</sup>	37.3	0.83	3/3	39.0	1.38	3/3
2x10 <sup>0</sup>	NA	NA	0/3	41.4	NA	1/3

Table 7. Preliminary LoD test from six different concentrations of SARS-CoV-2 RNA in sputum on CFX96™ PCR instrument

Concentration (Genomic RNA copies/μL)	Assay 1 (RdRp gene)			Assay 2 (E gene)		
	Mean Ct	Standard Deviation	Positive rate	Mean Ct	Standard Deviation	Positive rate
2x10 <sup>4</sup>	28.1	0.18	3/3	29.2	0.27	3/3
2x10 <sup>3</sup>	31.0	0.02	3/3	31.8	0.12	3/3
2x10 <sup>2</sup>	34.4	0.55	3/3	35.3	0.14	3/3
1x10 <sup>2</sup>	35.4	0.11	3/3	36.5	0.63	3/3
2x10 <sup>1</sup>	37.6	0.38	3/3	40.0	NA	2/3
2x10 <sup>0</sup>	39.6	NA	2/3	43.3	NA	0/3

Table 8. Summary of LOD confirmation tests with clinical matrices on CFX96™ PCR instrument

Concentration (Genomic RNA copies/μL)	Specimen	Positive rate		Mean Ct			
		RdRp gene	E gene	RdRp gene	MS2	E gene	MS2
2x10 <sup>1</sup>	Nasopharyngeal swab	100% (20/20)	100% (20/20)	37.23	26.94	37.29	26.98
	Sputum	100% (20/20)	100% (20/20)	36.23	26.87	35.88	26.95

Table 9. Preliminary LoD test from six different concentrations of SARS-CoV-2 RNA In nasopharyngeal swab on AB7500 PCR instrument

Concentration (Genomic RNA copies/μL)	Assay 1 (RdRp gene)			Assay 2 (E gene)		
	Mean Ct	Standard Deviation	Positive rate	Mean Ct	Standard Deviation	Positive rate
2x10 <sup>4</sup>	28.8	0.15	3/3	29.0	0.08	3/3
2x10 <sup>3</sup>	31.4	0.11	3/3	31.3	0.04	3/3
2x10 <sup>2</sup>	34.6	0.16	3/3	34.6	0.16	3/3
1x10 <sup>2</sup>	35.5	0.43	3/3	35.9	0.84	3/3
2x10 <sup>1</sup>	38.5	0.55	3/3	39.1	NA	2/3
2x10 <sup>0</sup>	40.9	NA	1/3	40.6	NA	1/3

Table 10. Preliminary LoD test from six different concentrations of SARS-CoV-2 RNA in sputum on AB7500 PCR instrument

Concentration (Genomic RNA copies/ $\mu$ L)	Assay 1 (RdRp gene)			Assay 2 (E gene)		
	Mean Ct	Standard Deviation	Positive rate	Mean Ct	Standard Deviation	Positive rate
$2 \times 10^4$	28.7	0.13	3/3	28.9	0.11	3/3
$2 \times 10^3$	31.2	0.05	3/3	31.5	0.06	3/3
$2 \times 10^2$	34.7	0.18	3/3	34.9	0.24	3/3
$1 \times 10^2$	35.6	0.36	3/3	35.8	0.51	3/3
$2 \times 10^1$	38.3	0.21	3/3	38.5	0.48	3/3
$2 \times 10^0$	40.0	NA	2/3	40.3	NA	1/3

Table 11. Summary of LOD confirmation tests with clinical matrices on AB7500 PCR Instrument

Concentration (genomic RNA copies/ $\mu$ L)	Specimen	Positive rate		Mean Ct			
		RdRp gene	E gene	RdRp gene	MS2	E gene	MS2
$2 \times 10^1$	Nasopharyngeal swab	100% (20/20)	100% (20/20)	37.24	28.80	37.98	28.57
	Sputum	100% (20/20)	100% (20/20)	37.07	28.73	37.79	28.54

**Inclusivity**

For specific detection of SARS-CoV-2, the available sequences published from Germany, China, and Hong Kong were first identified, and aligned. As a result of alignment, primers and probes used in the LabGun™COVID-19 RT-PCR Kit were designed for a region of the RdRp gene without mutations between strains.

In silico analysis showed that the primers/probe sequences of the LabGun™COVID-19 RT-PCR Kit detect all analyzed SARS-CoV-2 sequences in NCBI and in GISAID databases as of April 14, 2020. The primers/probe for SARS-CoV-2 (RdRp gene) of the LabGun™COVID-19 RT-PCR Kit showed 100% homology to all but one sequence of RdRp gene in 43 NCBI sequences and 659 GISAID sequences. A single base mismatch of one sequence in NCBI sequences was located in the probe sequence for the RdRp gene. This mismatch is not predicted to impact assay performance. The primers/probe for Sarbecovirus (E gene) of the LabGun™COVID-19 RT-PCR Kit showed 100% homology to all sequences of the E gene in 44 NCBI and 659 GISAID sequences.

**Cross-Reactivity - Wet Testing**

### 1. Cross-reactivity with other infectious strains

Wet testing against normal and pathogenic organisms of the respiratory tract was performed to assess the potential cross-reactivity of the assay's primers and probes. Each organism identified in the table below was tested in triplicate with the LabGun™ COVID-19 RT-PCR Kit at the concentrations indicated. Either RNA or DNA of each viral or bacterial organism was spiked into negative clinical nasopharyngeal swab matrix, extracted using QIAamp Viral RNA Mini kit, and tested on the CFX96 PCR instrument for SARS-CoV-2 (RdRP gene, Assay 1) and pan-Sarbecovirus (E gene, Assay 2). All results were negative (Table 12).

Table 12. Infectious strains tested for cross-reactivity and their concentrations

Viral strains	Concentration (genome copies/ μL)	Bacterial strains	Concentration (genome copies/ μL)
Enterovirus	1.5x 10 <sup>8</sup>	<i>Neisseria meningitidis</i>	2.56 x 10 <sup>5</sup>
Influenza A virus	4.7x 10 <sup>8</sup>	<i>Acinetobacter baumannii</i>	1.28 x 10 <sup>5</sup>
Influenza B virus	4.68x 10 <sup>8</sup>	<i>Bacillus subtilis</i>	7.32 x 10 <sup>4</sup>
Parainfluenza virus type 1	7.12x 10 <sup>7</sup>	<i>Campylobacter jejuni</i>	2.7 x 10 <sup>5</sup>
Parainfluenza virus type 2	1.19x 10 <sup>8</sup>	<i>Candida glabrata</i>	3.82 x 10 <sup>5</sup>
Parainfluenza virus type 3	7.1x 10 <sup>7</sup>	<i>Citrobacter freundii</i>	1.05 x 10 <sup>5</sup>
Parainfluenza virus type 4	6.38x 10 <sup>7</sup>	<i>Escherichia coli</i>	9.48 x 10 <sup>4</sup>
Adenovirus	3.16x 10 <sup>7</sup>	<i>Enterococcus faecium</i>	1.47 x 10 <sup>5</sup>
Respiratory syncytial virus A	7.24x 10 <sup>7</sup>	<i>Listeria monocytogenes</i>	1.78 x 10 <sup>5</sup>
Respiratory syncytial virus B	7.24x 10 <sup>7</sup>	<i>Pseudomonas aeruginosa</i>	7.74 x 10 <sup>4</sup>
Dengue virus 2	1x 10 <sup>8</sup>	<i>Shigella boydii</i>	1 x 10 <sup>5</sup>
Dengue virus 3	1 x 10 <sup>8</sup>	<i>Shigella sonnei</i>	1 x 10 <sup>5</sup>
Dengue virus 4	1 x 10 <sup>8</sup>	<i>Staphylococcus haemolyticus</i>	1.89 x 10 <sup>5</sup>
Dengue virus 1	9.9 x 10 <sup>7</sup>	<i>Streptococcus agalactiae</i>	2.26 x 10 <sup>5</sup>
		<i>Haemophilus haemolyticus</i>	2.68 x 10 <sup>5</sup>
		<i>Salmonella typhi</i>	1 x 10 <sup>5</sup>
		<i>Neisseria cinerea</i>	2.9 x 10 <sup>6</sup>
		<i>Bacillus cereus</i>	7.96 x 10 <sup>4</sup>

		<i>Klebsiella pneumoniae</i>	8.48 x 10 <sup>4</sup>
		<i>Candida parapsilosis</i>	1.83 x 10 <sup>5</sup>
		<i>Enterobacter cloacae</i>	9.92 x 10 <sup>4</sup>
		<i>Klebsiella oxytoca</i>	7.86 x 10 <sup>4</sup>
		<i>Morganella morganii</i>	1.23 x 10 <sup>5</sup>
		<i>Shigella dysenteriae</i>	1 x 10 <sup>5</sup>
		<i>Shigella flexneri</i>	1.07 x 10 <sup>5</sup>
		<i>Staphylococcus epidermidis</i>	1.87 x 10 <sup>5</sup>
		<i>Streptococcus pyogenes</i>	2.58 x 10 <sup>5</sup>
		<i>Yersinia enterocolitica</i>	9.92 x 10 <sup>4</sup>
		<i>Haemophilus influenzae</i>	2.68 x 10 <sup>5</sup>

## 2. Cross-Reactivity *In silico* analysis

The primers/probe of the LabGun™ COVID-19 RT-PCR Kit specific for SARS-CoV-2 and Sarbecovirus were analyzed in silico for cross-reactivity with other organisms using NCBI BLASTn version 2.10.0+ under the default option (Table 13). The database search parameters were as follows:

- The match and mismatch scores were 1 and -3, respectively.
- The penalty to create and extend a gap in an alignment was 5 and 2, respectively.
- The search parameters automatically adjusted for short input sequences and the expected threshold was 1000 (Table 13).

In summary, no organisms other than related SARS-coronaviruses, exhibited >70% homology to the forward primer, reverse primer, and probe for either the RdRp or E target. The results of the in silico analysis suggest the LabGun™ COVID-19 RT-PCR Kit is designed for the specific detection of SARS-CoV-2, with no expected cross reactivity to the human genome, other coronaviruses, or human microflora that would predict potential false positive RT-PCR results.

Table 13. Organisms tested for cross-reactivity by in silico analysis

Strain	% Identity to SARS-CoV-2 (RdRp gene)	% Identity to Sarbecovirus (E gene)
CoV 229E	70.0	Not reactive
SARS-CoV	79.2	98.7
CoV HKU1	Not reactive	Not reactive
CoV NL63	Not reactive	Not reactive
CoV OC43	Not reactive	Not reactive
MERS	Not reactive	Not reactive
AdV	Not reactive	Not reactive
HMPV	Not reactive	Not reactive
HPIV1	Not reactive	Not reactive
HPIV2	Not reactive	Not reactive
HPIV3	Not reactive	Not reactive
HPIV4	Not reactive	Not reactive
Flu A	Not reactive	Not reactive
Flu B	Not reactive	Not reactive
EV	Not reactive	Not reactive
HRSV	Not reactive	Not reactive
HRV	Not reactive	Not reactive
Influenza C	Not reactive	Not reactive
Parechovirus	Not reactive	Not reactive
Chlamydia pneumoniae	Not reactive	Not reactive
Legionella pneumophila	Not reactive	Not reactive
Mycobacterium tuberculosis	Not reactive	Not reactive
Streptococcus pneumoniae	Not reactive	Not reactive
Bordetella pertussis	Not reactive	Not reactive
Mycoplasma pneumoniae	Not reactive	Not reactive
Pneumocystis jirovecii	Not reactive	Not reactive
Candida albicans	Not reactive	Not reactive
Corynebacterium diphtheriae	Not reactive	Not reactive
Legionell non-pneumophila	Not reactive	Not reactive
Bacillus anthracis	Not reactive	Not reactive
Moraxella catarrhalis	Not reactive	Not reactive
Neisseria elongata subsp. glycolytica ATCC 29315	Not reactive	Not reactive
Neisseria meningitidis	Not reactive	Not reactive
Pseudomonas aeruginosa	Not reactive	Not reactive
Streptococcus salivarius	Not reactive	Not reactive
Leptospiraalstonii	Not reactive	Not reactive
Chlamydia psittaci	Not reactive	Not reactive
Coxiellaburneti	Not reactive	Not reactive
Staphylococcus aureus	Not reactive	Not reactive

**Clinical Study**

The clinical performance of the LabGun™COVID-19 RT-PCR Kit was evaluated using SARS-CoV-2 genomic RNA spiked into individual negative, nasopharyngeal/oropharyngeal swab and sputum matrices. For each respective specimen, 100 negative samples and 50 contrived positive samples were tested. Samples were contrived by spiking known concentrations of SARS-CoV-2 viral genomic RNA, which was obtained from National Culture Collection for Pathogens of Korea (NCCP No.43326, Lot:012669-T0013, Concentration: 10 µg/µL), relative to the product LoD, into each specimen matrix that were determined to be negative by the LabGun™COVID-19 RT-PCR Kit before spiking in the genomic RNA. The spiking concentrations of SARS-CoV-2 viral genomic RNA into each respective specimen matrix were low positive (1x LOD and 2x LOD) and moderate positive (5x LOD) concentrations. The prepared samples were randomized and single-blinded and RNA was extracted using QIAamp Viral RNA Mini kit (QIAGEN). Testing was performed on the BioRad CFX96 PCR instrument in triplicate RT-PCR runs with one positive and one negative control included per run.

Results for the tests are shown in the tables below:

Table 14. Clinical evaluation with nasopharyngeal/oropharyngeal swab samples

	RdRp gene			E gene		
	% positive	Mean Ct	% CV	% positive	Mean Ct	% CV
unspiked	0/100	NA	NA	0/100	NA	NA
1x LOD	100% (20/20)	38.64	1.73%	100% (20/20)	38.63	1.87%
2x LOD	100% (20/20)	37.39	1.47%	100% (20/20)	37.89	1.81%
5x LOD	100% (10/10)	36.35	0.85%	100% (10/10)	36.79	1.34%

Table 15. Clinical evaluation with sputum samples

	RdRp gene			E gene		
	% positive	Mean Ct	% CV	% positive	Mean Ct	% CV
unspiked	0 /100	NA	NA	0/100	NA	NA
1x LOD	100% (20/20)	38.84	1.60%	100% (20/20)	38.63	1.80%
2x LOD	100% (20/20)	37.29	1.20%	100% (20/20)	38.00	1.90%
5x LOD	100% (10/10)	36.28	0.85%	100% (10/10)	36.73	1.29%

Table 16. LabGun™COVID-19 RT-PCR Kit performance relative to the expected results of the contrived samples with the respective nasopharyngeal/oropharyngeal swab and sputum specimen

		Contrived samples expected results	
		positive	negative
LabGun™ COVID-19 RT-PCR Kit	Positive	50	0
	negative	0	100

Positive Percent Agreement: 100% (95% CI, 92.89% - 100%)  
 Negative Percent Agreement: 100% (95% CI, 96.38% - 100%)

**Reference Panel Testing**

The evaluation of sensitivity and MERS-CoV cross-reactivity was performed using reference material (T1), blinded samples and a standard protocol provided by the FDA. The study included a range finding study and a confirmatory study for LoD. Blinded sample testing was used to establish specificity and to confirm the LoD. The extraction method used was manual spin protocol by QIAamp Viral RNA Mini Kit (QIAGEN, Cat No. 52904). The instrument used was CFX96™ with CFX manager version 3.1 (Bio-Rad). The results are summarized in Table 17.

Table 17. Summary of LoD Confirmation Result using the FDA SARS-CoV-2 Reference Panel

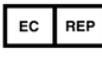
Reference Materials Provided by FDA	Specimen Type	Product LoD	Cross-Reactivity
SARS-CoV-2	Nasopharyngeal swab	1.8 x 10 <sup>3</sup> NDU/mL	N/A
MERS-CoV		N/A	ND

NDU/mL = RNA NAAT detectable units/mL

N/A: Not applicable

ND: Not detected

Symbols	Explanation
---------	-------------

	<p>Batch code          Reference No[2492]</p>
	<p>Catalogue number          Reference No[2493]</p>
	<p>Use by          Reference no [2607]</p>
	<p>Temperature limitation          Reference No [0533]</p>
	<p>Caution          Reference no [0434A]</p>
	<p>Operator's Manual; Operating instructions          Reference No [1641]</p>
	<p>Manufacturer          Reference No [3082]</p>
	<p>Date of manufacture          Reference no [2497]</p>
	<p>Authorized representative in the European Community</p>
	<p>In vitro diagnostic medical device</p>
	<p>Conformite Europeenne Mark</p>



**LabGenomics Co.,Ltd**

#1204, 12F, 147, Gwanggyo-ro, Yeongtong-gu,

Suwon-si, Gyeonggi-do 16229,

Republic of Korea

Tel) +82-31-628-0700

Fax) +82-31-628-0701

[www.labgenomics.co.kr](http://www.labgenomics.co.kr)



*Contains Nonbinding Recommendations***Molecular Diagnostic Template for Manufacturers**<sup>1</sup>

This template (the “template”) provides FDA’s current recommendations concerning what data and information should be submitted to FDA in support of a pre-EUA/EUA submission for a molecular diagnostic for SARS-CoV-2. As outlined in Section V.A. of the FDA guidance document *Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised)*,<sup>2</sup> FDA recommends that the following validation studies be conducted for a SARS-CoV-2 molecular diagnostic assay: Limit of Detection, Clinical Evaluation, Inclusivity, and Cross-reactivity. This template is intended to help manufacturers provide these validation data and other information to FDA, but alternative approaches can be used. It reflects FDA’s current thinking on the topic, and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* means that something is suggested or recommended, but not required. For more information about EUAs in general, please see the FDA Guidance document: *Emergency Use Authorization of Medical Products and Related Authorities*.<sup>3</sup>

**GENERAL INFORMATION ABOUT THIS TEMPLATE**

- Text highlighted in yellow **[Text]** should be completed by the test manufacturer (sponsor) as applicable to their specific test. Text in **bold** outlines the Food and Drug Administration’s (FDA) additional recommendations for the sponsors’ consideration when completing the suggested information in each section.
- This template is intended for testing with respiratory specimens; if you are considering non-respiratory specimens (e.g., blood, stool, etc.), please contact FDA at CDRH-EUA-Templates (CDRH-EUA-Templates@fda.hhs.gov) to discuss your validation strategy.
- A test authorized under an EUA is only authorized for emergency use while the EUA is in effect.
- This is an EUA interactive review template for Pre-EUA/EUA submissions. We plan to update the template as appropriate as we learn more about the COVID-19 disease and gain experience with the EUA process for this test.

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<sup>1</sup> This template is part of the *Policy for Coronavirus Disease-2019 Tests During the Public Health Emergency (Revised) - Immediately in Effect Guidance for Clinical Laboratories, Commercial Manufacturers, and Food and Drug Administration Staff*

<sup>2</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/policy-coronavirus-disease-2019-tests-during-public-health-emergency-revised>

<sup>3</sup> <https://www.fda.gov/media/97321/download>

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**EXAMPLE TEMPLATE:**

**A. PURPOSE FOR SUBMISSION**

Emergency Use Authorization (EUA) request for distribution and/or use of the **[test name]** to **[indicate labs, if applicable]** for the *in vitro* qualitative detection of RNA from the SARS-CoV-2 in **[add all claimed specimen types, e.g., nasopharyngeal/ oropharyngeal swabs, sputa, BAL, etc.]** from patients suspected of COVID-19 by a healthcare provider. Additional testing and confirmation procedures should be performed in consultation with public health and/or other authorities to whom reporting is required. Positive results should also be reported in accordance with local, state, and federal regulations. Performance is unknown in asymptomatic patients.

**B. MEASURAND**

Specific nucleic acid sequences from the genome of the SARS-CoV-2 **[please specify the targeted gene(s) of the pathogen]**.

**C. APPLICANT**

**[Official name, address and contact information of applicant]**

**D. PROPRIETARY AND ESTABLISHED NAMES**

Proprietary Name - **[test name]**  
Established Name - **[test name]**

**E. REGULATORY INFORMATION**

***Approval/Clearance Status:***

The **[test name]** test is not cleared, CLIA waived, approved, or subject to an approved investigational device exemption.

***Product Code:***

QJR

**F. PROPOSED INTENDED USE**

***1) Intended Use:***

***The proposed IU will be finalized based on the data and recommendations from Public Health authorities at the time of authorization – example text is provided below for a qualitative molecular test that detects organism RNA but may be adapted according to the specific emergency situation addressed by the device.***

**[Test name]** is a **[specify test technology such as, real-time RT-PCR test]** intended for the **[presumptive]** qualitative detection of RNA from the SARS-CoV-2 in **[describe all the specimen**

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**types, e.g.** nasopharyngeal, nasal, and oropharyngeal swab specimens and lower respiratory tract, BAL, sputum] from individuals suspected of COVID-19 by their healthcare provider. Testing is limited to [**laboratories - certified under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), 42 U.S.C. §263a, to perform high complexity tests, or by similarly qualified non-U.S. laboratories**].

Results are for the identification of SARS-CoV-2 RNA. The SARS-CoV-2 RNA is generally detectable in [**name specimen type, e.g.** upper respiratory] during the acute phase of infection. Positive results are indicative of the presence of SARS-CoV-2 RNA; clinical correlation with patient history and other diagnostic information is necessary to determine patient infection status. Positive results do not rule out bacterial infection or co-infection with other viruses. The agent detected may not be the definite cause of disease. Laboratories within the United States and its territories are required to report all positive results to the appropriate public health authorities.

Negative results do not preclude SARS-CoV-2 infection and should not be used as the sole basis for patient management decisions. Negative results must be combined with clinical observations, patient history, and epidemiological information.

The [**test name**] is intended for use by [**include intended user, e.g., qualified and trained clinical laboratory personnel specifically instructed and trained in the techniques of real-time PCR and in vitro diagnostic procedures**]. The [**test name**] is only for use under the Food and Drug Administration's Emergency Use Authorization.

#### **2) Special Conditions for Use Statements:**

For Emergency Use Authorization (EUA) only  
For prescription use only  
For in vitro diagnostic use only

#### **3) Special Instrument Requirements:**

The [**test name**] test is to be used with the [**list all RT-PCR Instruments, software requirements, automated extraction instruments**].

### **G. DEVICE DESCRIPTION AND TEST PRINCIPLE**

*Example text has been added under each of the sub-headings below for a fluorescence based rRT-PCR test for detection of organism RNA. If a different test principle is used by the test for the detection of a specific analyte please modify the description accordingly to capture the salient points in each of the sub-headings below. Please note that for new investigative technologies FDA may request additional detailed information so we can adequately assess the risks and benefits associated with the device.*

#### **1) Product Overview/Test Principle:**

*Describe the technology of the test and how this technology works to identify the measurand, the instruments employed/required to perform the test from sample collection to result (include all claimed extraction and PCR detection instruments), and the specimen types for which you claim to have specific performance characteristics as described below.*

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*If applicable, list all primer and probe sets and briefly describe what they detect. Please include the nucleic acid sequences for all primers and probes used in the test. Please indicate if the test uses biotin-Streptavidin/avidin chemistry in any of the steps for coupling reagents. Please note that an alignment with available reference genomes for different strains of the target pathogen is requested as part of the inclusivity evaluation (Section J).*

The [test name] is a real-time reverse transcription polymerase chain reaction (rRT-PCR) test. The SARS-CoV-2 primer and probe set(s) is designed to detect RNA from the SARS-CoV-2 in [list all the specimens] from patients suspected of COVID-19 by their healthcare provider.

2) **Description of Test Steps:**

*List and describe in detail all the steps of the test sequentially from specimen collection to detection.*

Nucleic acids are isolated and purified from [specimens] using [please describe the method(s) of extraction (please specify the specimen input volume for extraction and/or test, the nucleic acid elution volume and whether isolation/purification is manual and/or automated)]. The purified nucleic acid is reverse transcribed using [enzyme mix/kits – please specify the input volume of purified nucleic acid added to the rRT-PCR reaction mix] into cDNA which is then subsequently amplified in [please describe the instrument(s) and enzyme mix]. In the process, the probe anneals to a specific target sequence located between the forward and reverse primers. During the extension phase of the PCR cycle, the 5' nuclease activity of Taq polymerase degrades the probe, causing the reporter dye to separate from the quencher dye, generating a fluorescent signal. With each cycle, additional reporter dye molecules are cleaved from their respective probes, increasing the fluorescence intensity. Fluorescence intensity is monitored at each PCR cycle by [please describe the detection instrument(s)].

3) **Control Material(s) to be Used with [test name]:**

*List all control materials (provided with the test kit and/or required but not provided with the test kit and describe what they are, how they are expected to work, where in the testing process they are used, and the frequency of use. If a control is commercially available, provide supplier's name and catalog number or other identifier; if your device relies on external controls that are manufactured by a third party please note that these controls should also be validated within your analytical and clinical studies described below in Section J.*

Controls that will be provided with the test kit include:

- a) A “no template” (negative) control is needed to [describe need] and is used [describe use – please also specify frequency of use]
- b) A positive template control is needed to [describe need] and is used [describe use – please specify the concentration of the positive control relative to the LoD of your

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*test (note that ideally the positive control concentration should be such that it is close to the LoD of your test) and also specify frequency of use]*

- c) An extraction control *[describe control]* is needed to *[describe need]* and is used *[describe use – please also specify frequency of use]*. Please note that if the no template control and positive control, are taken through the entire sample processing procedure, including the extraction, then a separate extraction control is not required.
- d) An internal control *[describe control]* is needed to *[describe need]* and is used *[describe use]*.

Controls that are required but not provided with the test kit include *[describe control – provide recommended sources of the control materials – either a separate control kit for purchase that you the applicant develops or a control material that can be purchased from a third party]*. This/these control(s) is/are needed to *[describe need]* and is used *[describe use – please also specify frequency of use]*.

*Please note that any control recommended to be used with your device (provided with the kit or not) should be validated in the context of your analytical and clinical study (i.e., you will need to run these controls as part of your studies). In instances where control material is not readily available through 3<sup>rd</sup> party vendors (which is often the case at the beginning of an outbreak) FDA may request that you include suitable control material with your device. Please note that external control materials are considered particularly important when GMP requirements are waived and reagent stability studies are limited.*

## H. INTERPRETATION OF RESULTS

All test controls should be examined prior to interpretation of patient results. If the controls are not valid, the patient results cannot be interpreted. *Please describe if a Ct cutoff is used as part of your testing algorithm and/or if the end user is required to review fluorescent curves for weakly positive samples before final interpretation. Although not typical for molecular-based tests, if the test result involves the use of an algorithm/calculation, for example a ratio value, when determining the final patient test result, please include a detailed description and any additional calibration materials that may be required.*

- 1) ***[Test name] Controls – Positive, Negative and Internal***  
*Describe in detail the expected results generated, including acceptance criteria, for all the controls described in detail in Section G above. Describe the measured values (if applicable) for valid and invalid controls and outline the recommended actions the laboratory should take in the event of an invalid control result.*

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2) **Examination and Interpretation of Patient Specimen Results:**

*Describe when clinical specimen test results should be assessed and outline the criteria for test validity. Example text:* Assessment of clinical specimen test results should be performed after the positive and negative controls have been examined and determined to be valid and acceptable. If the controls are not valid, the patient results cannot be interpreted.

*Clearly indicate how to interpret numeric test values (if applicable) as positive or negative for presence of the SARS-CoV-2. Indicate if the end user is required to review fluorescent curves for weakly positive samples before final interpretation and how to identify indeterminate/inconclusive results (if they exist) results and how the user should resolve them, e.g. if repeat testing may be required.*

*When applicable, provide a table clearly describing the possible combinations of test result values for each primer/probe set, and how they should be combined into a final interpretation of the result for your test. If the test produces result that will be used as part of a CDC recommended testing algorithm, please indicate what follow-up testing/process should be conducted, if applicable.*

**I. PRODUCT MANUFACTURING**

1) **Overview of Manufacturing and Distribution:**

The product will be manufactured at [manufacturer's name and FDA registration number (if applicable) or laboratory name if an LDT] by [manufacturer name, or laboratory name if an LDT] personnel consistent with practices for the production of [types of devices] based on [type of quality system\*]. Material manufactured by [manufacturer's name, or laboratory name if an LDT] may be bottled and kitted by [packager name] manufacturing facility.

The current manufacturing capabilities include the ability to manufacture approximately [please insert the approximate number of units/products that can currently be manufactured per week at the manufacturing facility] products per week, however in the event of a surge in demand this could be increased to [please insert the approximate maximum number of units/products that could potentially be manufactured per week at the manufacturing facility if there was a surge in demand] product per week within a [please specify in weeks/months the expected timeframe required to increase product production if required] timeframe.

The product will be distributed by [please describe the distribution plan for the product and list all current distributors].

2) **Components Included with the Test**

Components manufactured by [manufacturer's name and FDA registration number (if applicable)] and supplied with the test include:

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List all components and reagents provided for your test, including a description of the primers and probes, volumes, concentrations, quantities, buffer components, etc.

3) **Components Required But Not Included with the Test**

Components required but not included with the test:

*List all components and reagents not included with the test that must be supplied by the user to perform the test, with specific supplier names and catalog numbers or other identifiers for obtaining these components and reagents. Please include here all specific consumables that were validated for use with your device, that are not interchangeable with other products and that are needed to guarantee device performance as established in the EUA validation studies listed in Section J below.*

4) **Testing Capabilities**

*Briefly describe current sample throughput capacity, total time required to perform the test (from clinical specimen collection, specimen transport to result), and number of tests that can be performed per instrument run and per day.*

5) **Reagent Stability:**

*Briefly describe stability test plan for reagents and include accelerated stability information, if available. Please note that reagent stability studies do not need to be completed at the time of EUA issuance, however the study design should be agreed upon during interactive review and the stability studies started immediately following authorization, if not before. You should consider the following recommendations when designing your stability study:*

- For EUAs you may follow the current FDA recognized CLSI Standard EP25 – Evaluation of Stability of In Vitro Diagnostic Reagents; Approved Guideline when evaluating the suitability of stability study designs. If you are planning to pursue a De Novo/510(k) for your device we recommend discussing in more detail your stability design to facilitate potential use of the EUA data in your regular premarket submission.
- We recommend testing a known positive diluted patient sample at 3-5x LoD rather than positive control material to establish reagent stability.
- If you are claiming multiple clinical specimen types in which similar LoDs are determined, you should use the most challenging clinical matrix for this study.
- We typically recommend your stability study design includes the evaluation of at least 5 replicates. You should also evaluate, if available, 3 different lots of reagents.
- You should design your study to provide data for a timeframe that is about 10% longer than the one to be claimed – for example; a claim of 18 months should be supported by stability data out to 20 months and a claim of 7 days should include stability data out to 8 days.
- FDA considers 15-30°C to represent room temperature conditions. Ideally you should evaluate stability at both 15°C and 30°C, however, for the purposes of the EUA evaluation at 30°C is acceptable as the worse-case scenario.

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- Shelf-Life Stability- Unopened kit:
  - You should evaluate real-time kit stability studies with unopened kits stored at the claimed storage temperature for your test.
  - Accelerated stability evaluations for unopened kits is acceptable for EUA submissions while the real-time studies are on-going. However, please note real-time stability data is required to support regular pre-market submissions and for the final claim of an EUA.
- Shipping Stability - Unopened kit: Study should evaluate the anticipated handling and shipping times and temperatures expected for unopened kits.
- In-use/Opened Kit Stability: Depending on your device your stability study design should also support in-use stability of the kit reagents once the kit has been opened, e.g., storage at 2-8 °C for 7 days. This includes on board stability once reagents have been placed on the instrument (if applicable).
- Inverted stability (if applicable): Study should support inverted stability for of kits.
- Freeze-thaw Stability: If you recommend aliquoting the reagents to meet the end-users needs following the initial thaw this recommendation should be supported by a freeze-thaw stability study, including the specific number of allowed freeze-thaw cycles.
- FDA analysis recommendations for real time stability studies are as follows:
  - Baseline of the study (t=0 of stability study) should not exceed a month from bottling
  - Clear baselines should be described (e.g., a month from bottling) for each stability claim under each study
  - Claims should be determined based on regression analysis. Any %change (%shift) from time zero (baseline) should be calculated between the target claim and the zero-time as  $(T_{test}-T_{baseline})/T_{baseline} * 100$  with 95%CI using the regression equation obtained from plotting the mean values. When formulating your acceptance criteria for evaluating the shift from baseline you should consider the reproducibility of your device. However, generally, that the shift at the target claim due to storage cannot exceed 10-15%. The target stability is the next to last tested point that was within +/- 10% of time zero.
  - Acceptance criterion may be different, depending on the test samples analyte concentration distribution in the intended use population and the risk, in other words, the impact of false results to public health.

## **J. PERFORMANCE EVALUATION**

***The following validation studies should be performed during your assay development:***

### ***1) Limit of Detection (LoD) - Analytical Sensitivity:***

***You should determine the LoD of the device utilizing the entire test system from sample preparation to detection. It is recommended to spike inactivated virus (e.g., heat treated or irradiated virus) into real clinical matrix (e.g., BAL fluid, sputum, etc.) for LoD determination, since the inactivated virus most closely reflects live virus in a***

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*clinical sample. If you are unable to acquire inactivated virus, FDA believes that viral genomic RNA is the next best material to use to generated contrived samples for testing. As positive natural clinical specimens are increasingly becoming available, a known positive clinical specimen as determined by an EUA test can also be used in generating dilutions in artificial or real clinical matrix for LoD determination. FDA recommends that preliminary LoD be determined by testing a 2-3 fold dilution series of three replicates per concentration. The final LoD concentration should be confirmed by testing 20 extraction replicates. FDA defines LoD as the lowest concentration at which 19/20 replicates are positive. If multiple clinical matrices are intended for clinical testing, you should submit to FDA the results from one representative matrix of each claimed clinical matrix type. For example, if testing common upper respiratory tract specimens (e.g., nasopharyngeal (NP) swabs, oropharyngeal (OP), swabs, nasal swabs, anterior nasal swabs, mid-turbinate nasal swabs, nasal aspirates, and nasal washes etc.), please submit results from the most challenging upper respiratory matrix. FDA considers nasopharyngeal (NP) swabs to be the most challenging upper respiratory matrix. If claiming common lower respiratory tract specimens (e.g., tracheal aspirates, sputum, etc.), please submit results from the most challenging lower respiratory matrix. FDA considers sputum to be the most challenging upper respiratory matrix. If claiming both upper and lower respiratory matrixes, submitting results from sputum samples may suffice to support both upper and lower respiratory matrices. If claiming alternative respiratory specimens, such as saliva, oral fluid, buccal swab, etc., please submit results from testing each of the claimed uncommon respiratory specimen type. If needed, FDA recommends that you follow the most current version of the CLSI standard, Evaluation of Detection Capability for Clinical Laboratory Measurement Procedures (CLSI EPI7).*

**[Please describe your LoD study, the specific material used (e.g., live or in-activated viral stocks, viral RNA), and the LoD (with appropriate units) for your assay]**

2) ***Inclusivity (analytical sensitivity):***

*Laboratories should document the results of an inclusivity study that demonstrates the strains of SAR-CoV-2 that can be detected by the proposed molecular assay. It is acceptable to conduct an in silico analysis of published SARS-CoV-2 sequences using the assay's primers and probes. FDA anticipates that 100% of published SAR-CoV-2 sequences will be detectable with the selected primers and probes.*

**[Please describe your Inclusivity study and confirm that there was 100% detection of all SARS-CoV-2 strains.]**

3) ***Cross-reactivity (Analytical Specificity):***

*Cross-reactivity studies are performed to demonstrate that the test does not react with related pathogens, high prevalence disease agents and normal or pathogenic flora that are reasonably likely to be encountered in the clinical specimen. The recommended list of organisms to be analyzed in silico and by wet testing is provided in the table*

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*below. For wet testing, concentrations of 10<sup>6</sup> CFU/ml or higher for bacteria and 10<sup>5</sup> pfu/ml or higher for viruses is recommended. In silico analyses alone may be acceptable for organisms that are difficult to obtain. FDA defines in silico cross-reactivity as greater than 80% homology between one of the primers/probes and any sequence present in the targeted microorganism.*

**Recommended List of Organisms to be Analyzed in silico  
 and by Wet Testing**

<b>Other high priority pathogens from the same genetic family</b>	<b>High priority organisms likely in the circulating area</b>
Human coronavirus 229E	Adenovirus (e.g. C1 Ad. 71)
Human coronavirus OC43	Human Metapneumovirus (hMPV)
Human coronavirus HKU1	Parainfluenza virus 1-4
Human coronavirus NL63	Influenza A & B
SARS-coronavirus	Enterovirus (e.g. EV68)
MERS-coronavirus	Respiratory syncytial virus
	Rhinovirus
	<i>Chlamydia pneumoniae</i>
	<i>Haemophilus influenzae</i>
	<i>Legionella pneumophila</i>
	<i>Mycobacterium tuberculosis</i>
	<i>Streptococcus pneumoniae</i>
	<i>Streptococcus pyogenes</i>
	<i>Bordetella pertussis</i>
	<i>Mycoplasma pneumoniae</i>
	<i>Pneumocystis jirovecii</i> (PJP)
	Pooled human nasal wash - to represent diverse microbial flora in the human respiratory tract
	<i>Candida albicans</i>
	<i>Pseudomonas aeruginosa</i>
	<i>Staphylococcus epidermis</i>
	<i>Streptococcus salivarius</i>

*Microbial Interference Studies: If in silico analysis reveals ≥ 80% homology between the cross-reactivity microorganisms and your test primers/ probe(s), we recommend that you either perform (1) a microbial interference study with SARS-CoV-2 and the microorganisms that your test primers/ probe(s) have homology to, or (2) as an alternative to the microbial interference study, you may provide justification as to why (e.g., amount of primer(s)/ probe(s) included in your master mix) the performance of your test would not be impacted by the presence of a causative agent of a clinically significant co-infection, or (3) explain why the in silico results are clinically irrelevant (e.g., low prevalence of MERS-CoV, etc.). Competitive microbial interference testing should be conducted for multiplex panels. The study should assess the effects of*

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***clinically relevant co-infections by testing selected microorganisms commonly found in respiratory tract in the presence of SARS-CoV-2 at low concentration. The interference should be evaluated testing at a minimum 3 replicates of each sample spiked at a low ( $\leq 3x$  LoD) SARS-CoV-2 concentration and a high interferent level (preferably microorganisms), to represent the worst-case scenario. The interferent microorganisms can be tested individually or as a pool (of four or five) in the presence of low concentration of SARS-CoV-2. Each microorganism of a pool should be tested individually, if that pool shows interference. If you plan to claim both upper and lower respiratory clinical specimens, the study should be performed in the most challenging specimen matrix, i.e., sputum. If interference is observed at the level tested, an additional titration study should be performed to determine the highest microorganism interferent level your test can tolerate.***

***Endogenous Interference Substances Studies: The extent of testing for endogenous interference substances depends on the matrix that is claimed for the device as well as on the technology of the device, e.g., if a nucleic acid extraction procedure is performed prior to testing or not. If your test uses extraction methods not previously reviewed by FDA as part of premarket submission or the test does not use an extraction procedure, we recommend testing of potential interferents. Please contact FDA to discuss the appropriate study designs.***

#### **4) Clinical Evaluation:**

***FDA recommends using natural clinical specimens in the clinical evaluation. Please refer to the following table for additional information regarding clinical study design:***

***Note: Clinical study recommendations listed in the table below do not apply to claims for testing asymptomatic individuals/screening and to saliva or other alternative respiratory specimen type claims.***

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<p><b>Minimum Number of Positive Specimens</b></p>	<p><i>At a minimum 30 natural (prospective or retrospective or leftover samples) positive clinical specimens should be collected from patients suspected of SARS-CoV-2 infection by the healthcare provider in the COVID-19 disease endemic region(s).</i></p> <p><i>Samples can be a mixture of specimen types, if you are seeking an upper respiratory claim (e.g., nasopharyngeal (NP) swab, oropharyngeal (OP) swab, nasal swab (NS)).</i></p> <p><i>If you are seeking a sputum claim, and any other respiratory specimen claim except alternative respiratory specimen types (e.g., saliva), we recommend a combination of 15 NP and 15 sputum samples.</i></p> <p><i>Specimens collected from different anatomical sites from the same patient may be used to support claims for multiple specimen types.</i></p> <p><i>The use of frozen samples is acceptable.</i></p> <p><i>The use of samples previously tested positive by another EUA RT-PCR assay may be acceptable without additional retesting. You should indicate the source of the samples, provide results for each tested sample, indicate specimen type, and initial test date.</i></p>
<p><b>Minimum Number of Negative Specimens</b></p>	<p><i>In general, for EUA at a minimum 30 individual negative samples acquired from the following sources are acceptable; (1) prospective samples from the individuals suspected of COVID-19 by their healthcare provider, (2) archived/retrospective respiratory samples collected from patients with signs and symptoms of respiratory infection, and (3) other subjects that are expected to be negative for SARS-CoV-2, such as specimens collected prior to COVID-19 pandemic in the US.</i></p>
<p><b>Recommended Comparator Method for percent agreement performance calculations</b></p>	<p><i>Positive percent agreement should be calculated in comparison to an EUA RT-PCR test. We recommend using only a high sensitivity EUA RT-PCR assay which uses a chemical lysis step followed by solid phase extraction of nucleic acid (e.g., silica bead extraction) please see the following website for the most recent list of FDA authorized 2019-nCoV tests: <a href="https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations">https://www.fda.gov/medical-devices/emergency-situations-medical-devices/emergency-use-authorizations</a>.</i></p> <p><i>Negative result agreement may be calculated in comparison to an EUA RT-PCR test (prospectively collected samples) or as agreement with expected results if samples were collected from</i></p>

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	<p><i>individuals known to be negative for SARS-CoV2 (e.g. collected before December 2019).</i></p> <p><i>The comparator assay may have the same, or different, targets as your assay.</i></p> <p><i>False results can be investigated using an additional EUA RT-PCR assay, and/or Sanger sequencing. The results of the discordant analysis can be footnoted in your final performance table but cannot be used to change the final performance calculations.</i></p>
<i>Acceptance Criteria</i>	<i>FDA believes 95% positive and negative agreement is acceptable clinical performance.</i>
<i>Natural Clinical Specimens IRB/Informed Consent Note</i>	<p><i>Prospective collection of clinical specimens to support the EUA request should be done in accordance with regulations for human subject protection, including IRB approval and informed consent.</i></p> <p><i>Use of leftover de-identified samples may follow the policy outlined in the FDA Guidance on Informed Consent for In Vitro Diagnostic Device Studies Using Leftover Human Specimens that are Not Individually Identifiable (<a href="https://www.fda.gov/media/122648/download">https://www.fda.gov/media/122648/download</a>).</i></p>
<i>Testing Approach Note 1</i>	<i>All clinical specimens tested in your study should be evaluated in accordance with your proposed diagnostic algorithm, including retesting when appropriate. The limited volume of natural specimens may preclude retesting. In instances where retesting is indicated but not performed, for the purposes of performance evaluation, initial results will be analyzed for performance and equivocal/indeterminate/inconclusive results should count against your final performance.</i>
<i>Testing Approach Note 2</i>	<i>Specimens should be tested in a blinded fashion, e.g., positive and negative samples should be presented to the end user in a blinded fashion. The end user should also be blinded to the results of any comparator method testing.</i>

*Alternative Respiratory Specimen Claims:*

*If you seek a claim for alternative respiratory specimens, such as saliva, oral fluid, buccal swabs, etc., you should test at least 30 paired, positive nasopharyngeal swabs and 30 of the same type of alternative respiratory specimen (e.g., all saliva). To minimize the occurrence of discordant results the samples should be collected within short time of each other and both tested using your candidate EUA assay. FDA believes ≥95% positive agreement with similar Ct values for the paired specimen types is acceptable performance. Please provide detailed information regarding the type of collection device and transport medium you propose to validate for use with your assay.*

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*Please note that some transport medium may not be compatible with assays that do not use a nucleic acid extraction step. In addition, some transport medium may not be acceptable for use for at-home collection due to the presence of hazardous chemicals. To discussion additional information that may be needed to support at-home sample collection and transport, please contact FDA at [CDRH-EUA-Templates@fda.hhs.gov](mailto:CDRH-EUA-Templates@fda.hhs.gov).*

#### *Sample stability*

*Please provide samples stability information, including the study design and results if the sample is shipped to a testing site from a location other than healthcare settings, e.g. samples collected at home.*

#### **Multiplex Panels Under EUA:**

An emergency declaration by the HHS Secretary is typically specific for a pathogen/ disease (i.e., there is a publicly declared health emergency involving a particular etiologic agent). Therefore, the EUA pathway is only applicable for testing patients with signs/symptoms/risk of exposure for that single agent in a given emergency. FDA has occasionally allowed limited additional target pathogens to be claimed for EUA devices, but panel members should be relevant to the event/disease outbreak subject of the specific emergency declaration. When determining whether to issue an EUA for a multiplex panel FDA takes into consideration the utility of the test (multiplex pathogen detection as an aid in differential diagnosis), clearance/approval status of IVDs for the other panel members, whether the proposed Intended Use fits within the HHS emergency declaration and the how the multiplex panel would fit into current public health authority patient testing algorithm recommendations. We recommend you contact FDA for specific feedback if you plan to claim multiple target analytes as part of your EUA test. If it is determined that a multiplex test is beneficial to the emergency response, analytical and clinical evaluations for each of the target analytes should be provided.

#### **Claiming Multiple Instruments and/or Extraction Methods:**

FDA recommends the following analytical and clinical validation for use of multiple instruments and/or extraction methods where the elution volumes from the extraction methods and PCR volumes on the different RT-PCR instruments are identical.

- **Limit of Detection (LoD):** These studies should be repeated for each clinical matrix claimed in the Intended Use. Pick one RT-PCR instrument and determine the tentative LoD (using 5 replicates in 10-fold dilution) followed by the confirmatory LoD (20 replicates spiked at tentative LoD) for each extraction method on the chosen instrument. Note: If you detect 20/20 replicates in your confirmatory LOD study you should test the next lower concentration, using a 3-fold dilution, until you achieve a hit rate of <20/20.
  - If the different extraction methods yield the same LoD ( $\leq 3 \times \text{LOD}$ ) on the RT-PCR instrument chosen for initial testing, pick one extraction method for further LoD determination on the remaining RT-PCR instruments and follow the recommendations below.
  - If the extraction methods do not yield the same LoD on the chosen RT-PCR

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instrument, please choose the extraction method with the worst LoD for further comparison of the LoD on all RT-PCR instruments.

For all other RT-PCR instruments you should use the following adaptive LoD study design:

- Please perform a refined tentative LoD study with 5 replicates at 0.5x, 1x, and 1.5 to 2x LoD. If you detect 4/5 replicates as positive at all the tested levels, you need to include the next higher concentration (i.e., 3x LoD). If you obtain 5/5 replicates at 0.5x LoD, you need to test the next lower concentration (i.e., 0.25x LoD). You will test in this manner until you find the lowest concentration that gives you 5/5 positive results for the tested RT-PCR instrument. This concentration should be used for a confirmatory LoD study for the given RT-PCR instrument using 20 replicates.

Final reported LoD: Please list all RT-PCR instruments with their respective LoDs if different LoDs are obtained. LoDs are considered comparable if they are between 1-3xLoD. These studies should be repeated for each clinical matrix claimed in the Intended Use.

- Interference Substances Studies (if applicable): FDA recommends evaluating interfering substances with the extraction method and RT-PCR instrument combination that has the worst overall LoD.
- Inclusivity Testing: FDA recommends evaluating inclusivity with the extraction method and RT-PCR instrument combination that has the worst overall LoD.
- Exclusivity Testing: FDA recommends evaluating exclusivity with any extraction/instrument combination.
- Clinical study: If an LoD study confirms equivalency for all RT-PCR instruments (between 2-3xLoD), then the clinical study may be conducted with any RT-PCR instrument. If one or more RT-PCR instruments have different LoDs, we recommend conducting the clinical study with the extraction method / RT-PCR instrument combination with the worst LoD.

Note, if there are differences in the extraction input volume, extraction elution volume and PCR input volume (extracted nucleic acid) then the LoD should be confirmed for each.

#### **K. UNMET NEED ADDRESSED BY THE PRODUCT**

**This section will be completed by FDA.**

#### **L. APPROVED/CLEARED ALTERNATIVE PRODUCTS**

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Currently no methods for the detection of the SARS-CoV-2 have been approved/ cleared by FDA.

**M. BENEFITS AND RISKS:**

**This section will be completed by FDA.**

**N. FACT SHEET FOR HEALTHCARE PROVIDERS AND PATIENTS:**

**Include proposed Fact Sheets for Patients and Healthcare Providers - see examples for authorized EUA tests on our website and templates will be made available.**

**O. INSTRUCTIONS FOR USE/ PROPOSED LABELING/PACKAGE INSERT:**

**Include Instructions for Use, Box Labels, Vial Labels and any other proposed labeling.**

**P. RECORD KEEPING AND REPORTING INFORMATION TO FDA:**

**[Manufacturer name]** will track adverse events and report to FDA under 21 CFR Part 803. A website is available to report on adverse events, and this website is referenced in the Fact Sheet for Health Care providers as well as through the **[Manufacturer name]** Product Support website: **[Include link to Website]**. Each report of an adverse event will be processed according to **[Manufacturer name]**'s Non-Conformance Reporting Requirements, and Medical Device Reports will be filed with the FDA as required. Through a process of inventory control, **[Manufacturer name]** will also maintain records of device usage/purchase. **[Manufacturer name]** will collect information on the performance of the test, and report to FDA any suspected occurrence of false positive or false negative results of which **[Manufacturer name]** becomes aware. **[Manufacturer name]** will maintain records associated with this EUA and ensure these records are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.