

DATE: October 10, 2012

TO: Washington State Board of Health Members

FROM: Dr. Diana Yu, SBOH member

SUBJECT: BRIEFING – HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING, WAC 246-100-207

Background and Summary:

State Board of Health rules specify procedures for obtaining consent for HIV testing, counseling people undergoing testing, and notifying partners. These rules are in chapter 246-100 WAC, which addresses communicable diseases control. Authority derives from sections of chapter 70.24 RCW that were enacted as part of the 1988 AIDS Omnibus Act. The Board last updated its HIV rules in 2009.

In 2006, the U.S. Centers for Disease Control and Prevention (CDC) recommended that HIV testing be included as part of routine medical care without requiring specific counseling and consent for testing. In 2009, the Board revised its rules to be more consistent with CDC recommendations. The intent of the rule change was to reduce barriers to HIV testing in order to increase testing rates so that more infected individuals could seek life-prolonging treatment, and understand the need to protect partners. The 2009 rule change also enabled public health officials to have direct contact with individuals diagnosed with HIV infection so they could offer them partner notification services.

As part of the 2009 rule revisions, WAC 246-100-207 was modified to allow “informed consent” to occur either verbally or in writing. However, since the rule was revised it has come to our attention that “informed consent” is a legal term of art which implies that consent must be in writing. This conflicts with the intent of the 2009 rule changes and with the 2006 CDC HIV testing guidance, which allows either written or verbal consent for testing. The language in WAC 246-100-207 needs to be adjusted to make it clearer that either written or oral consent for HIV testing is acceptable.

Maria Courogen, director of the Office of Infectious Disease, is here today to provide a briefing on this proposed rule change. She will also explain the proposed next steps.

Recommended Board Action:

None.

Staff Contact:

Tara Wolff
