

Washington State Board of Health Policy & Procedure

Policy Number: 2000-001
Subject: Considering Delegation of Rules to Department of Health
Approved Date: November 8, 2000 (Revised June 13, 2012)

Policy Statement

In some instances, the Washington State Board of Health may determine it is appropriate to delegate its authority for rulemaking to the Department of Health (RCW 43.20.050). The Board and the Department recognize the need to balance both broad constituent participation and administrative efficiency when making decisions about any rule delegation. For this reason, the Board and the Department have agreed ~~upon a set of criteria on certain policy considerations~~ to assist Board members in their decisions related to rule delegation.

The Board's decision to delegate a specific rule will be made on a case-by-case basis. The Board will determine the breadth of the delegation, which may range from specific aspects of a single rule section to a broader body of regulatory authority, such as an entire chapter of rules. Each Board delegation is for a single rulemaking process unless specified in an approved motion to be a continuing delegation until rescinded. Once a rule has been delegated, the Department will keep the Board informed about the rule making process through periodic progress reports. The Board may rescind its delegation at any time.

When considering delegation of authority to modify or adopt a rule, the Board may consider the following ~~criteria~~:

- The extent to which the proposed rule revision is expected to include editorial and/or grammatical changes that do not change the substance of the rule;
- The extent to which the proposed rule seeks to adopt federal requirements in which the state has little or no discretion;
- The extent to which the substance and direction of the proposed rule is expected to have broad public and professional consensus;
- The extent to which the proposed rule may make significant changes to a policy or regulatory program; and

- The extent to which the rule revision process would benefit from the Board's role as a convener of interested parties.

Procedure

When the Board receives a request from the Department to delegate authority for rulemaking, the Executive Director will review the request compared with the above policy ~~criteria~~considerations. The Executive Director will prepare or direct staff to prepare a recommendation for the Board to consider at its next most convenient meeting. The Executive Director will consult with the Board Chair and members of any appropriate policy committee to formulate the recommendation. The Board will then act on the request, which may include ~~may take action to~~delegating authority to the Department as requested or ~~may~~ otherwise specifying ing the rulemaking authority it delegates.

If the Board is not scheduled to meet again within two months and the Department justifies a pressing need to begin rulemaking, the Board's Chair may call a special meeting of the Board to consider the request. The Executive Director will send the request for delegation to all Board members prior to the meeting. ~~delegate the Board's rulemaking authority to the Department without a vote of the Board. The Board's Chair will consider recent actions of the Board that inform the collective philosophy of the Board, along with recommendations from the Executive Director and an appropriate policy committee of the Board before deciding to delegate authority to the Department without a vote of the Board. The Chair will limit any such delegation to a single rulemaking process. The Chair or Executive Director shall notify Board members of the delegation.~~