



**Final Minutes of the State Board of Health  
March 9, 2016**

Department of Health, Point Plaza East, Rooms 152/153, 310 Israel Road S.E., Tumwater, WA 98501

**State Board of Health members present:**

Keith Grellner, RS, Chair  
James Sledge, DDS, FACD, FICD  
Diana T. Yu, MD, MSPH  
Angel Reyna  
Thomas Pendergrass, MD, MSPH

The Honorable Jim Jeffords  
Kathy Lofy, State Health Officer, Secretary's  
Designee

**State Board of Health members absent:**

Fran Bessermin  
The Honorable Donna Wright  
Stephen Kutz, BSN, MPH

**State Board of Health staff present:**

Michelle Davis, Executive Director  
Melanie Hisaw, Executive Assistant  
Kelie Kahler, Communications Manager  
David DeLong, Health Policy Advisor

Christy Hoff, Health Policy Advisor  
Sierra Rotakhina, Health Policy Analyst  
Lilia Lopez, Assistant Attorney General

**Guests and other participants:**

Michele Roberts, Department of Health (DOH)  
Scott Lindquist, DOH  
Clark Halvorson, DOH  
Mike Means, DOH  
Ann Clifton, Mercury Awareness Team  
Jody Daniels, GlaxoSmithKline  
Jennifer Aspelund, Self  
Paul Throne, DOH  
Sarah Chodakewitz, DOH  
Gini Gobeske, Tacoma Pierce County Health Department  
Bill Osmunson, Fluoride Action Network  
Audrey Adams, WA Action for Safe Water (WASW) & King Co. Citizens Against Fluoridation (KCCAF)  
Stephen Baker, DOH  
Shelley Guinn, DOH  
Skylar Godwin, Peninsula Community Health Services  
Bryan Edgar, WA State Dental Association  
James Kaech, WA Assoc of Community & Migrant Health Centers(WACMHC)  
Lilian Bravo, WACMHC  
Roberto Gutierrez, WACMHC  
David Hudson, DOH  
Alison Mondy, WA Dental Service Foundation (WDSF)  
Emily Firman, WDSF  
Gerald Steel, WASW & KCCAF

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Keith Grellner, Board Chair, called the public meeting to order at 9:00 a.m. and read from a prepared statement (on file).

### 1. APPROVAL OF AGENDA

*Motion: Approve March 9, 2016 agenda*

*Motion/Second: Jeffords/Sledge Approved unanimously*

### 2. ADOPTION OF JANUARY 13, 2016 MEETING MINUTES

*Motion: Approve the January 13, 2016 minutes*

*Motion/Second: Sledge/Jeffords. Approved unanimously*

### 3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director, announced that she had appointed Sierra Rotakhina to the Health Policy Advisory position, and that the Megan Block will be serving an internship with the Board. Megan will be helping with projects. Ms. Davis indicated that tomorrow would be the last day of the 2016 legislative session and that the Board would receive an update at its April meeting. Ms. Davis directed the Board's attention to correspondence (on file), including:

- a memo from State Health Officer Kathy Lofy that included a request from the Vaccine Advisory Committee that the Board consider adding criteria about disease transmission in a school setting.
- Correspondence from the Joint Legislative Audit and Review Committee (JLARC) to alert the Board and Council that JLARC staff will begin its review of the Health Disparities Council.
- Two letters forwarded by Mr. Zakes, to Joseph Bocchini Chair of the Advisory Committee accepting recommendations to add X-linked Adrenoleukodystrophy (x-ALD) and Mucopolysaccharidosis Type 1 (MPS1) to the Recommended Uniform Screening Panel (RUSP).
- A letter from Ms. Jennifer Aspelund expressing concerns about needle clean up in King County; and
- Materials sent by Ms. Jean Mendoza regarding Air Quality in the Yakima Valley, as well as a letter from Jan Whitefoot regarding the Klompe CAFO.

Ms. Davis noted that Members Fran Bessermin and Donna Wright have indicated that they will not participate in today's meeting, and Member Kutz would try to join the Board in the afternoon.

### 4. DEPARTMENT OF HEALTH UPDATE

Kathy Lofy, State Health Officer, Secretary's Designee announced staff changes at the Department. Jennifer Tebaldi will be working more closely with John Weisman on Foundational Public Health Services, the department is recruiting her successor. The other recruitment underway is for the newborn screening program director. Member Lofy updated the Board on the Zika virus, and said that there were two confirmed cases in Washington, one in Mason County and the other in Spokane County. The Department is operating under a modified incident command to handle a potentially larger response to Zika. The response plan includes disease surveillance, mosquito surveillance and a strategic communication component. DOH will utilize Child Profile to educate new mothers about Zika. Federal partners have also created a national Zika Response Plan. Member Lofy noted that the *Aedes aegypti* mosquito is not in Washington at this time. Member Yu commended DOH on planning and having information ready when the first case in Mason County was reported. The Public Health Laboratories are currently examining whether Zika testing should occur at the state lab – cost analysis underway, currently only CDC does Zika testing. Member Pendergrass also commended the Department for taking on issue of emergency response.

Member Lofy then provided a brief update on legislative issues and the Supplemental budget, which has not passed. The vaping bill passed out of the House and negotiations on this bill are on-going. Department of Health's request bill that will streamline drinking water revolving funds has passed.

Member Lofy also noted there was a childhood immunizations bill to provide additional information to parents. Budget requests by DOH that are currently funded in the budget include: the School module information system, which streamlines school nurse work on immunization. The House budget funds healthy next generation initiative for staff at DEL and OSPI. There is also some money in budget for Health Systems Quality Assurance to address rulemaking backlog. Ms. Davis noted that the rulemaking backlog includes funding for the Board's assistant attorney general costs.

Member Pendergrass commented on vaping and its growth in popularity as well as the increase in burn incidents and accidental poisonings. He noted the challenge of writing regulations for issues such as safety caps, and other aspects of device and product safety. He also noted that immunization recommendations are complex and determining if a child is "up to date" is difficult. Member Sledge recognized the work that locals are doing to address the problems of vaping, but would like to see a statewide approach to it. Chair Grellner agreed, noting the void of state and federal regulation. He said that Kitsap is in early stages of adopting vaping product ordinance. He believes the vaping industry also wants federal or state guidance for a consistent business environment, and that the industry agrees with many of the health desires like no public use no minors use permitting and other safety/health goals. The industry wants vaping in a vape shop with restriction for minors. Vape supporters believe their product helps discontinue tobacco use (cigarette use). Member Yu expressed concern about restricting products access to kids. Youth can still buy nicotine vials and statewide regulation could prevent this. Small counties do not have resources to keep products out of the hands of kids.

Ms. Davis shared some of the sticking points for the vaping legislation included pre-emption and sampling. She noted that allowing vaping lounges may open the door to hookah or cigar lounges. Loss of revenue is a key concern for border counties. Member Lofy indicated her concern for smoking lounges, and cited data from Oregon that showed when hookah bars increased, hookah use among youth also increased.

**9. 2016 MEETING SCHEDULE UPDATE (note: this item ended up being moved ahead so that Public Testimony could begin at precisely 9:55am)**

Michelle Davis, Board Executive Director, directed the Board to the approved the 2016 meeting schedule. She requested Board action on two items for the 2016 schedule. She indicated that the Board will need to meet in April and the current schedule indicates is tentative. The current Board meeting schedule includes a June 8 Board meeting. This date conflicts with the WSALPHO June membership meeting (June 7-8 2016), and the WSALPHO meeting location was too remote for the public. She recommended the Board shift its June meeting date to Monday June 6, so that WSALPHO members in route to their June meeting could participate in the WSBOH Board meeting. She noted that Melanie Hisaw had secured a meeting space through Member Wright at the Snohomish Health District Building in Everett WA.

Member Yu noted that the Board is meeting less frequently. She described the challenges of addressing a backlog of issues including lack of staff and limited time for committees to do their work. Ms. Davis agreed with Member Yu's statement. She noted the current staffing is inadequate to keep up with petitions and other work. She continues to seek opportunities to use any flexibility in the budget and plans to seek additional funding next biennium. She feels that the Foundational Public Health Services creates a forum for discussing funding needs, and noted that staff have applied for a the CDC fellow. Member Yu remarked that rules work is also a substantial burden on the Department staff. Member Pendergrass acknowledged the challenge that the rules moratorium has created a backlog, which is complicated by the lack of employable candidates who understand

the regulation and legislative sides of this work. Interns and fellows come to learn not to do the necessary work. There is a balance between service and teaching. We need to be engaged in the funding discussions.

*Motion: Move to change the June meeting date from June 8 to June 6.*

*Motion/Second: Pendergrass/Yu. Approved unanimously*

## **5. PUBLIC TESTIMONY (Fluoridation of Drinking Water Testimony will be taken at 1pm)**

Ann Clifton, Mercury Awareness Team of Washington State, noted that they formed their group in 2001 with the goal of ending the use of mercury in everything. She highlighted that thimerosal is a registered pesticide used in rat poison and vaccines. She shared written testimony from Laura Hayes, testimony to the California legislature against required vaccination. Ms. Clifton noted that Mercury binds to a number of elements including known carcinogens. Her organization feels that the drug cartel in America controls the required vaccines in the United States and that Advisory Committee on Immunization Practices (ACIP) members have blatant conflicts of interests and are tied to the drug cartels. She indicated that the US Supreme Court has found that vaccines are unsafe and therefore the court must protect producers of vaccines. She said that the US government has never studied the health of vaccinated versus unvaccinated children. She indicated that small studies outside of the US have found that unvaccinated children are healthier than vaccinated children. In 2015 a CDC whistleblower noted that MMR vaccines caused autism in black boys and that was left out of a 2004 CDC report. Ms. Clifton noted that her organization believes that vaccines should be voluntary, that they should not be administered until age two (unless under special circumstances), and that thimerosal should be removed from all vaccines.

Jennifer Aspelund noted that she wrote to the Board in January about a program in Seattle teaching people how to pick up syringes and asking that the Board not allow Public Health - Seattle & King County (PHSKC) to allow this program. Ms. Aspelund noted that she could not find any consistent protocol for safely picking up needles. She noted that needle exchanges are supposed to require people to return used needles in order to get new needles, and asked if there is some accountability system to ensure that this happening. She noted that she has asked Mayor Murray why the system is not prosecuting people for drug possession and learned that they must be in possession of at least 300 dollars of illicit drugs in order to be charged for possession. She summarized PHSKC's and Tacoma's Point Defiance AIDs Project recommendations for how to pick up needles and noted that they are not standardized. Ms. Aspelund indicated that she does not know if there is an RCW or WAC that can address this—and that she wanted to bring this issue to the Board's attention.

Ms. Davis noted that the Board received two pieces of written testimony regarding agenda item 6, Meningococcal Vaccine Technical Advisory Group Recommendations. The testimony was from the March of Dimes, and PKids. Both organizations would like to see the Board table its decision on meningococcal until it reviews the immunizations criteria. She also directed the Board to significant written testimony from school nurses regarding item number 7, the petition for rulemaking. She noted that in addition to providing the packet of correspondence, she had summarized all comments into a table. She noted that there were only two individuals who did not support “No Shot, No School”, and that the Board had not received any comment from OSPI, the School Directors Association, or others on this issue.

*The Board took a break at 10:12 a.m. and reconvened at 10:27 a.m.*

*(Chair Grellner briefly reopened public testimony to allow for testimony from an individual who arrived after the morning's public testimony session had closed.)*

Gini Gobeske, Tacoma Pierce County Health Department, represents the immunization program at Pierce County. Ms. Gobeske encouraged the Board to require students to be fully immunized on the first day of school.

## **6. CONTINUATION OF JANUARY DISCUSSION—MENINGOCOCCAL VACCINE TECHNICAL ADVISORY GROUP RECOMMENDATIONS**

Tom Pendergrass, Board Member, noted that at the last meeting he asked that the Board table this vote until today's meeting to give himself more time to understand the issue of meningococcal immunization. His concern was not that the vaccine is a good vaccine—he noted that vaccine recommendations are subject to very strident review by the ACIP and the American Academy of Pediatrics, and then a local review by Washington's own Vaccine Advisory Committee. He noted that the Board must consider many factors, such as vaccine hesitancy, frequency of the disease, etc.; and that they need to be really thoughtful when looking at their mandates to ensure that the rules are truly protecting the public's health without enhancing anxiety about those mandates and what they mean.

Diana Yu, Board Member, reminded the Board that they saw the Technical Advisory Group (TAG) recommendation presentation during the January meeting. She said there had been a number of questions about the way TAG members voted. She noted that the TAG recommendation was not a reflection of the quality or effectiveness of the vaccine, but it reflects a question of whether the vaccine should be mandated. She noted that the greatest disagreement among the TAG members was if the vaccine, if provided in K-12, would decrease transmission of the disease. Member Yu asked Scott Lindquist, DOH, to provide some background.

Mr. Lindquist noted that the vaccine is safe, efficacious, and recommended by ACIP and the American Academy of Pediatrics. However, requiring this vaccine would have potentially averted one case last year. The disease incidence is so low that there was only one case (in an 18 year old) in Washington State last year, which was not transmitted in school. Washington has not seen any cases in school aged children this year.

Member Yu noted that the vaccine currently recommended by ACIP includes four antigens (A, C, Y, and W), and these are the antigens the TAG was considering. The vaccine for serogroup B was not considered by the TAG because ACIP has not recommended that vaccine for children. The TAG heard presentations that show that meningococcal vaccine is currently recommended for all kids at age 11, with a booster at age 16. The group of individuals at greatest risk are students who are entering college or military service or other congregate settings where they are in large groups. Chair Grellner noted that this additional discussion has helped him better understand the issue.

Member Yu identified two proposed recommended motions from the TAG. The first motion is for the Board to accept the recommendation of the TAG not to add meningococcal vaccine to the list of vaccine preventable diseases in the rule. She noted that the Board could revisit this recommendation in the future if circumstances change. The second motion came from the TAG as they were discussing the criteria. The TAG recommended that the criteria need to be reviewed. These criteria were developed in 2006, and the Board needs to periodically revisit the criteria to ensure that they still apply today. Member Lofy asked whether the criteria were used in the past.

Member Yu and Michele Roberts, responded that they were used for varicella and pneumococcal vaccines.

Member Lofy noted that she was involved in revising the newborn screening criteria and that this process, though they did not modify the criteria, was very helpful in clarifying the criteria. Member Pendergrass said he supported the second motion because he feels that they need to periodically review these criteria and processes, in order to ensure they are clear.

***Motion 1:** The Board accepts the recommendations of the Meningococcal Technical Advisory Group not to add meningitis to the list of vaccine preventable diseases included in Chapter 246-105 WAC.*

***Motion/Second:** Sledge/Jeffords. Approved unanimously*

***Motion 2:** The Board asks staff to convene an advisory committee to review the Board's 2006 immunization criteria and make recommendations to the Board on potential revisions.*

***Motion/Second:** Yu/Pendergrass. Approved unanimously*

## **7. PETITION FOR RULEMAKING CHAPTER 246-105 WAC; IMMUNIZATION OF CHILD CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES (CONDITIONAL STATUS)**

Tom Pendergrass, Board Member directed members to the Board packet and indicated conditional status is an issue that is more complicated than it appears on the surface. He said that homeless status, military family status are areas of exception.

Ms. Davis indicated that anybody can petition the Board to change a rule, and that the Board received two petitions for rulemaking in February regarding Chapter 246-105 WAC Immunization of Child Care and School Children Against Certain Vaccine-Preventable Diseases. One petition was from Ms. Tammy Beddoe and the other was from Ms. Valerie Hunt.

Ms. Davis reviewed the Board's authority to adopt procedural and substantive requirements for full immunization. She described the content of the Board's rule. The petitions request the Board change the rule to require children be fully immunized before school entry. She noted that Ms. Beddoe's petition indicated that she would be amenable to a reasonable accommodation under conditional status afforded to military families under RCW 28A.705.010 (Interstate Military Compact), Article IV; homeless children and youth under the McKinney Vento Act, and those children who are making satisfactory progress towards full immunization. Ms. Davis indicated that Ms. Hunt is requesting the Board amend part of the definition of satisfactory progress to eliminate the provision allowing missing immunizations be received within thirty days after the first day of attendance or after a temporary medical exemption is no longer valid. Ms. Davis described the underlying law for immunizations as it relates to school attendance.

In 2009 the Board amended the immunizations rule to amend the definition of conditional status and included a definition of satisfactory progress to clarify when a child is allowed a grace period to catch up on missing required immunizations. She said that this rule change was informed by discussions regarding adoption of the interstate military compact. She reviewed portions of the McKinney Vento Assistance Act that require schools to immediately enroll homeless children and youth even if they cannot provide records (such as immunizations) normally required for enrollment. She noted that the Board's rule does not specifically cite the McKinney Vento

Assistance Act or the interstate military compact. She said that the current rule enables schools to allow any child who is not fully immunized or does not have a completed Certificate of Immunization Status form (CIS) to attend school for thirty days prior to confirming the child is fully immunized (or showing satisfactory progress toward being fully immunized). Ms. Davis then introduced Michele Roberts, Director of the Office of Immunization and Child Profile for DOH, who provided additional information about the history of the immunization rules, the use of conditional status, and some of the feedback that the her staff have received on this rule (presentation on file).

Ms. Roberts provided a presentation (under Tab 7) including an overview of the difference between the rules before and after the changes made by the Board in 2009. She noted that there are at least 1.1 million school-age children, about 29,000 military dependents school-age children, and about 32,000 homeless school-age children in Washington. She indicated that there will always be a need for conditional status for students who have started a series but still need additional immunizations in the series. Ms. Roberts said that it is a best practice for schools to notify parents in the spring that their child is missing immunizations needed for the next school year.

Member Pendergrass noted that this rule now applies to all students, not just those protected under McKinney Vento or under the interstate military compact, which can create a large administrative burden for the school staff.

Ms. Roberts highlighted that when this rule was changed in 2009, many stakeholders did not realize that this change had happened. In 2011 and 2012 they started receiving comments about this change as stakeholders realized they needed to change their practices. In 2012 the Board convened a stakeholder group to discuss the change in the rule and the impact of the rule change. The group decided that the rule change was okay. However, the Board and the Department of Health have continued to receive feedback about this rule—with many school nurses pointing out that they would like the rule to be changed to require compliance on the first day of school. Some school nurses have indicated that they don't want the rule modified to require compliance on the first day of school as they are worried how this will impact families and equity. She noted that what we do not know if the comments that they have received are reflective of all stakeholder opinions.

Member Pendergrass noted that we now have legislation making exemption a more formalized process, so the complexity of requesting an exemption has increased. Ms. Roberts indicated that the current rule does allow all students a 30 day grace period—but that stakeholders have had trouble interpreting this. She reminded the members that the Department of Health has a decision package that is currently in all three budgets that would fund a School Module for the Immunization Information System. If funded, this module would help reduce the administrative burden on the schools. She also noted that we do not have solid data on the risk associated with this grace period or on if the change in the rule has had an impact on the number of students who are out of compliance. For kindergarteners in the 2014-2015 school year 1.8% were in conditional status, 4.5% were exempt, 11% were out of compliance, and 83% were fully immunized. DOH recommends that the Board deny the petitions, not because they don't think that this is an important issue that needs to be attended to, but because they are working to reduce the administrative burden through other mechanisms and want to see that process through, and they want to make sure that diverse stakeholders are engaged in this conversation.

Member Pendergrass noted that one of the requests that they have heard is that they revert to the pre-2009 language. He noted that this is not a possibility because it would put the rule in conflict

with federal law. Member Yu indicated she served as a Board member during the 2009 rule revision and was part of the 2012 stakeholder meetings. She did not believe that there has ever been a time that the rule said “No Shot-No School” explicitly. She commented that the RCW appears to require students to be immunized before the first day of school. She described her experience with Thurston County and its use of back-to-school immunization clinics at the time of kindergarten registration. When those stopped due to lack of participation, the Medical Reserve Corps (MRC) has provided clinics at schools within that first 30 days of school. School nurses provide a letter to parents identify missing vaccines and information about the MRC clinic. The clinics see 100 to 200 students and provide anywhere from 100 to 300 vaccines. Typically only a few students need several vaccines, most need just one. Vaccine access remains an issue because some parents are unable to see their doctors in a timely way. She noted that there will always need to for exceptions. She expressed that her worry about students may not be homeless but lack parental support to get vaccinated. Member Yu indicated for this issue to be an ongoing discussion with diverse stakeholders.

Ms. Roberts noted an increase in the out-of-compliance rates (though the data do not necessarily indicate that this is a result of the change in the rule). Member Yu asked Ms. Lopez if the first day of attendance is the first day in the classroom or the day of registration. Ms. Lopez noted that it would likely be the first day that the child is physically in the classroom. She also indicated that the RCW does allow students to come to school if they have initiated compliance with the schedule set out in the Board’s rule. Chair Grellner asked if there is an option to provide the School Module to schools with the most concerns first. Ms. Roberts expressed that they have considered offering the School Module to the schools with the most burden, least compliance, etc., first.

Member Reyna noted that parents are important stakeholders and that he would like to see a more robust interaction with the parents in this conversation. He also noted that 1.8% of kindergarten students were in conditional status and indicated that he would be interested to know the demographics of this group. This would help them determine if certain populations are being more impacted by this part of the rule—which could reflect an equity issue. Member Lofy noted that this is an issue and the Department is concerned about having so many students out of compliance.

Ms. Davis explained the Board’s process for responding to rule petitions. She noted that the Board may initiate rulemaking, but that this does not indicate when the rulemaking must be completed on a specific timeline. She expressed that there would need to be a broader conversation with diverse stakeholders that would precede any proposed change to the rule.

Member Pendergrass indicated a need to consider if the problem is in the language of the WAC or in its implementation. He suggested the Board consider both the “No Shots, No School” perspective as well as student needs. He noted that the current rule language is not sufficient if the implementation is not effective.

Member Yu asked if, when the Board files a CR 101, there a timeline on rulemaking. Ms. Davis noted that the Administrative Procedures Act does not put a life limit on a CR 101, so a rule will stay open until the Board takes action and adopts a final rule or decides to withdraw the CR 101. Board Members discussed the specific language of the potential motions and the impacts of those motions.

Ms. Davis reminded the Board that they adopted an earlier motion to reconsider the immunization inclusion criteria and that they need to consider what staff capacity they have to address both of

these issues and how to stage the work. She noted that the School Module may also identify other issues that may exist with the rule. Ms. Roberts indicated that implementation of the School Model may identify the need for additional changes to the rule.

*Motion: The Board denies the petition to amend Chapter 246-105 WAC, and directs Board staff and requests the Department of Health to engage stakeholders to identify possible inconsistencies in the immunizations rules, and strategies to reduce the administrative burden to schools while decreasing the number of children who are out of compliance with school immunization requirements.*

*Motion/Second: Yu/Sledge. Approved unanimously*

Chair Grellner directed staff to write a letter to the petitioners to let them know how the Board plans to proceed.

**8. RULE DELEGATION REQUEST WAC 246-272C-0150; TRANSITION FROM THE APPROVED ON-SITE SEWAGE TANKS LIST TO THE SEWAGE TANK REGISTERED LIST**

Keith Grellner, Board Chair asked staff to introduce the item. David DeLong, Board Staff, reminded the Board of its authority under RCW 43.20.050 to adopt rules and standards related to the disposal of human waste. Chapter 246-272C WAC establishes requirements for sewage tank design and construction, plan review and approval, and prefabricated tank registration. WAC 246-272C-0150 was adopted by the board in 2009 as a temporary rule to phase-out an “approved list” of on-site sewage tanks and transition to a “sewage tank registered list” for prefabricated tanks. The tanks on the “registered list” are compliant with updated requirements in Chapter 246-272C WAC for prefabricated tanks. Transition to the registered list is now complete. The Department is requesting the Board delegate rule making to repeal WAC 246-272C-0150. He referred members to materials in their packets (on file under Tab 8). Chair Grellner noted this was good housekeeping encouraged the Board to take action.

*Motion: The Board delegates to the Department of Health authority to repeal WAC 246-272C-0150, Transition from the approved on-site sewage tank list to the sewage tank registered list.*

*Motion/Second: Yu/Pendergrass. Approved unanimously.*

The Board recessed for lunch at 11:47am (Chair said they will reconvene at 1pm).

**10. PUBLIC HEARING – WAC 246-290-460; FLUORIDATION OF DRINKING WATER**

Keith Grellner, Board Chair asked staff to introduce the item. David DeLong, Board Staff, introduced himself and said this was a public hearing regarding updates to WAC 246-290-460, Fluoridation of drinking water. Mr. DeLong provided background information (read from the sponsor’s memo on file, Tab 10a) and an orientation of the materials in the board packet under Tab 10 (on file). Mr. DeLong introduced Mike Means, Acting Director for the Office of Drinking Water at the Department of Health, who presented on the rationale for rulemaking, the justification for the changes, the rule process and comments received regarding the rule change (presentation on file, Tab 10g).

Chair Grellner opened the rules hearing and read from a prepared statement (on file). He said each person would have five minutes for testimony.

Bill Osmunson introduced himself as a dentist with a Masters of Public Health. He said he provided numerous requests to the Board. He said he used to presume fluoride was safe and effective but

changed his mind after examining the science. He said that the department has just presented that it is safe and effective but didn't give any science. He said the Board was setting a standard in rules, in stone, and the problem is that science is constantly changing. He indicated that the Board has been highly unreactive to the changes in science. He said the National Academy for Science said we were getting too much fluoride ten years ago. Over those ten years, he and his organization have presented lots of science and but the Board is unresponsive. He said other groups have been publishing information about the non-effectiveness of fluoride. He indicated that in January the Food and Drug Administration said it is not effective; and has never been approved in supplements. Most of the world doesn't fluoridate water because it is not safe and effective and not ethical and a violation of liberty and freedom. The FDA just shut down a fluoride supplement manufacturer because it's not approved. He said jurisdictions are all passing on the responsibility. He said the responsibility for determining the science needed to be placed in rule. He stated that the Department has presented mythology to the Board and urged the Board to read the research.

Audrey Adams introduced herself as a mom of a severely hypersensitive son who is sensitive to fluoride. She is president of King County Citizens against Fluoridation and on the board of Washington Action for Safe Water. Both organizations are adamantly opposed to fluoridation of water. She commented on Flint Michigan and lead and read from a letter/report by Paul Connet with Fluoride Action Network about Flint, Michigan about the unspoken role Flint's fluoridation program may have played in intensifying this crisis (increasing corrosiveness and facilitating uptake of lead). She provided a cover letter and link to the report. She added that fluoridation increases corrosiveness of water and facilitating the uptake of lead into blood and aggravating leads toxic effects to the brain. She said the lead crisis and fluoridation's exacerbation of it, is not just a Flint problem it is a national problem. People in all corners of the country are drinking fluoridated water flowing through lead contaminated pipes. She said she is appreciative that the level of fluoride will be officially reduced but her son still cannot use it. She said water should be safe for everyone (not some) and if drugs are added to water, it is not safe for all.

Skyler Godwin, dental assistant, Peninsula Community Health Services, provided background on the company and testified in support for adopting the national standard. She said her organization also signed a letter in support of the rule change. Oral health problems in her community are often due to the community not fluoridating the water. She provided data for reduction in caries because of fluoridation. She has seen how devastating tooth decay can be. Fluoridation helps everyone. She said they see a lot of patients who are uninsured or on Medicaid. She said many of these children do not receive fluoride. She said she educates parents to help them understand the benefits of fluoride. She talked about the long-term effects of untreated oral disease. Forty percent of children in Washington start kindergarten with tooth decay. Dental disease prevents children from thriving and the pain disrupts sleep, classroom time and nutrition. In adults oral disease may causes pain and leads to other serious conditions. Oral disease is preventable and needs a public health response. She thanked the Board for its work to protect and promote public health.

Brian Edgar introduced himself as a former member of the Washington State Dental Commission, and president of the WA State Dental Association. Career of more than 40 years – fluoride has made the biggest difference in preventing decay. When fluoride went into systems, it took 15 years to really make a difference in preventing decay but it was like someone flipped a switch to turn off decay. He said CDC says it is one of the best health benefits of the century. The association supports the proposed rule.

Alison Mondy and Emily Firman, WA Dental Service Foundation. Provided background on the Foundation, which is funded by Delta Dental. She said fluoridation has the greatest potential to reduce cavities of all the strategies they promote. By adopting the national standard, Washington communities that fluorinate will be applying the most current science on the optimal fluoride level to protect oral health. This is one example for how we look at an issue over time and have re-evaluated the legitimacy of fluoride. She said the Board has done a good job of responding to the concerns of the advocates and the water service operators.

Gerald Steel introduced himself as representing WA Action for Safe Water and King County Citizens against Fluoridation and submitted materials. He quoted DOH as saying that the recommendation that 0.3 would not be effective and indicated he was unaware of any evidence of this, and asked the Board to ask DOH staff about the evidence for that statement. In Section 2 he requested the Board change optimum to maximum. He said HHS explicitly said to go to 0.7 because of safety problems, including 42% of people get discolored teeth from fluoride. The Board's authority is to make water safe and reliable. Optimum is beyond safe and reliable. Everyone would agree water with no fluoride is safe but with 5 ppm is not safe. HHS said fluoride at 0.7 should be the maximum – in adding (if it's naturally it can be higher). Section 4 – people should take action to adjust if levels go beyond .5-.9 – he has a problem with .8 and .9 because HHS evidence says 0.7 should be maximum. No practical reason he can think of for not taking action above 0.7. He personally feels fluoride is not safe even at that level but the Board's authority should be to set a maximum of 0.7.

Chair Grellner closed the public testimony portion of the hearing at 1:47.

Member Yu asked Mike Means about how close water systems can get to 0.7ppm. Mr. Means said the reason for the range is because operationally you can achieve 0.7ppm but at any given moment in time the exact concentration can vary a bit. Member Yu asked where the monitoring for fluoride is done, at delivery or at source? Mr. Means said .7 is done at every source location that goes into the distribution of the water supply. The water that goes into the distribution is as close to 0.7. There isn't any breakdown or any dilution during distribution. Goal for a water system that fluoridates is for all sources to fluoridate. Member Yu asked to confirm that if the system tests at .7ppm then the water she would drink would be at .7ppm. Mr. Means confirmed that is correct.

Member Sledge said they heard from testimony in January that systems couldn't distinguish between lead and PH before and after the addition of hydrofluoric acid, and asked whether that was his understanding. Mr. Means said that is still true, and that the Office of Drinking water looked at water system data of lead and arsenic before and after the addition of fluoride and found no detectable difference in those levels.

Member Pendergrass asked for a clarification related to temperature and geography. Class A systems with natural fluoride more than .7ppm – do they need to remove the fluoride? Mr. Means said naturally occurring fluoride is regulated with both a secondary and primary maximum contaminant level (set at 2 ppm and 4ppm respectively). If the source exceeds 4 ppm treatment is mandated so that it is less than 4.0. Many systems will blend water to achieve this.

Chair Grellner said he was a child of fluoridation growing up in the Midwest but unfortunately his children didn't have that benefit and they had to go to great lengths to try to make up for that lack of fluoridation. He appreciates the differences of opinion on fluoridation, but the question is not “to fluoridate or not fluoridate”, the question is to change the optimal level for systems that choose to

fluoridate based on HHS information. He feels comfortable with the information provided by staff and the volumes of information the Board has read. Member Jeffords said he grew up with fluoridated water but his wife did not and her family has markedly greater dental problems. Member Pendergrass said he had done lots of literature search on this topic. The issue of what makes water safe is interesting, he said the elements that are mixed into water is part taste, part safety, part content. He said some systems (not group A systems) have not been monitored since the well was dug. He supports resetting the level of fluoride to systems that choose to fluoridate. Dr. Yu said she appreciates the notification provisions of the rule so people become aware. She said she went to great lengths to make sure her children had access to fluoride. Keeping people informed is important so they can make choices.

*Motion: The Board adopts the proposed revisions to WAC 246-290-460, Fluoridation of drinking water.*

*Motion/Second: Sledge/Reyna. Approved unanimously*

## 11. BOARD MEMBER COMMENTS

Keith Grellner, Board Chair announced that Bainbridge Island school district took water sampling in older schools and schools with younger populations for lead, and that the schools found some elevated lead levels. This prompted a local discussion about what the results mean. He said there had been lots of discussion about the school rules, which have not been put into effect. Other schools in the county have problems and the existing rule does not provide clear standards and regulatory authority so it makes it awkward to address these local situations. He asked Members to promote rules to get them effective. This would be good thing for kids. Member Pendergrass added that new schools also bring new problems

Member Pendergrass indicated that we have a long way to go to improve immunization for influenza. Every hospital in the Seattle area has been full with viral lung diseases. These conditions affect kids and adults and we have to do better to protect the people of Washington.

Member Lofy Reminded the Board of the importance of Foundational Public Health Services. Local Health Jurisdictions don't have adequate resources to deal with TB. She also noted that flu vaccine rates need to be higher than 50 percent and a public education campaign could be expensive.

Member Yu announced that World TB day is coming up. She reported she attended a TB and Lung Disease Meeting in Denver, and was concerned that people continue to become infected with TB in the US. She said this is a treatable, preventable condition. She indicated that the public health system needs can do a better job of identifying those with TB infection so they can be treated. She also commented on continuing increase of opiate use. Overdose related deaths are rising. She said Mason County is seeing a very high increase in deaths and she is bringing people together to find solutions. Some answers lie in medications – treatment for opioid abuse. We need to stop thinking of drug use as something someone else does – it effects our communities. We all need to be educated about drug use and abuse.

Ms. Davis suggested that the Board should talk about future priorities at its next meeting. She mentioned that the Agency Medical Directors Group is also working on opioid issues and plans to ask Health professional commissions to reexamine the pain use guidelines. Member Lofy added there is a tremendous amount of work going on at the state level and they have a statewide response plan. One is prevention (e.g., safe prescribing practices), the second is a round medication assisted treatment and HCA is leading this effort. The third is preventing overdose deaths – naloxone. She said it is a complex epidemic and requires multiple strategies. Dr. Pendergrass said L&I is dealing

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with both sides of the problem. How do we manage chronic pain but not over manage it. It is a complex issue. Chair Grellner said there is an epidemic in Kitsap County. They Exchange about a million needles a year. He noted that the Board had received public testimony that expressed concern about the appropriateness of training the public on how to pick up needles. He said he believed the public was going to pick them up and it is better to have them trained to do so, because no other entity picks them up, or if there is it's usually public health. He remarked that it isn't always possible to pick them up in a timely manner. He said he thinks it is important to educate people if they want the education. Chair Grellner thanked DOH staff for their work.

## **ADJOURNMENT**

Keith Grellner, Board Chair, adjourned the meeting at 2:17 p.m.

## **WASHINGTON STATE BOARD OF HEALTH**

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, Chair