



# Washington State Board of Health

Chapter 246-100 WAC, Communicable and Certain Other Diseases

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# Overview

- Background and Rulemaking Scope
- Proposed rule
- Interested Parties Engagement and Feedback
- Timeline
- Rules Hearing

# Rulemaking Background

- In 2020, the Legislature passed [ESHB 1551](#), Modernizing the control of certain communicable diseases.
- Generally, this law modernizes the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, and defelonizing HIV exposure.
- Legislation went into effect June 11, 2020.
- The legislation makes several statutory changes that impact Board rules:
  - [Chapter 246-100 WAC](#), Communicable and Certain Other Diseases
  - [Chapter 246-101 WAC](#), Notifiable Conditions

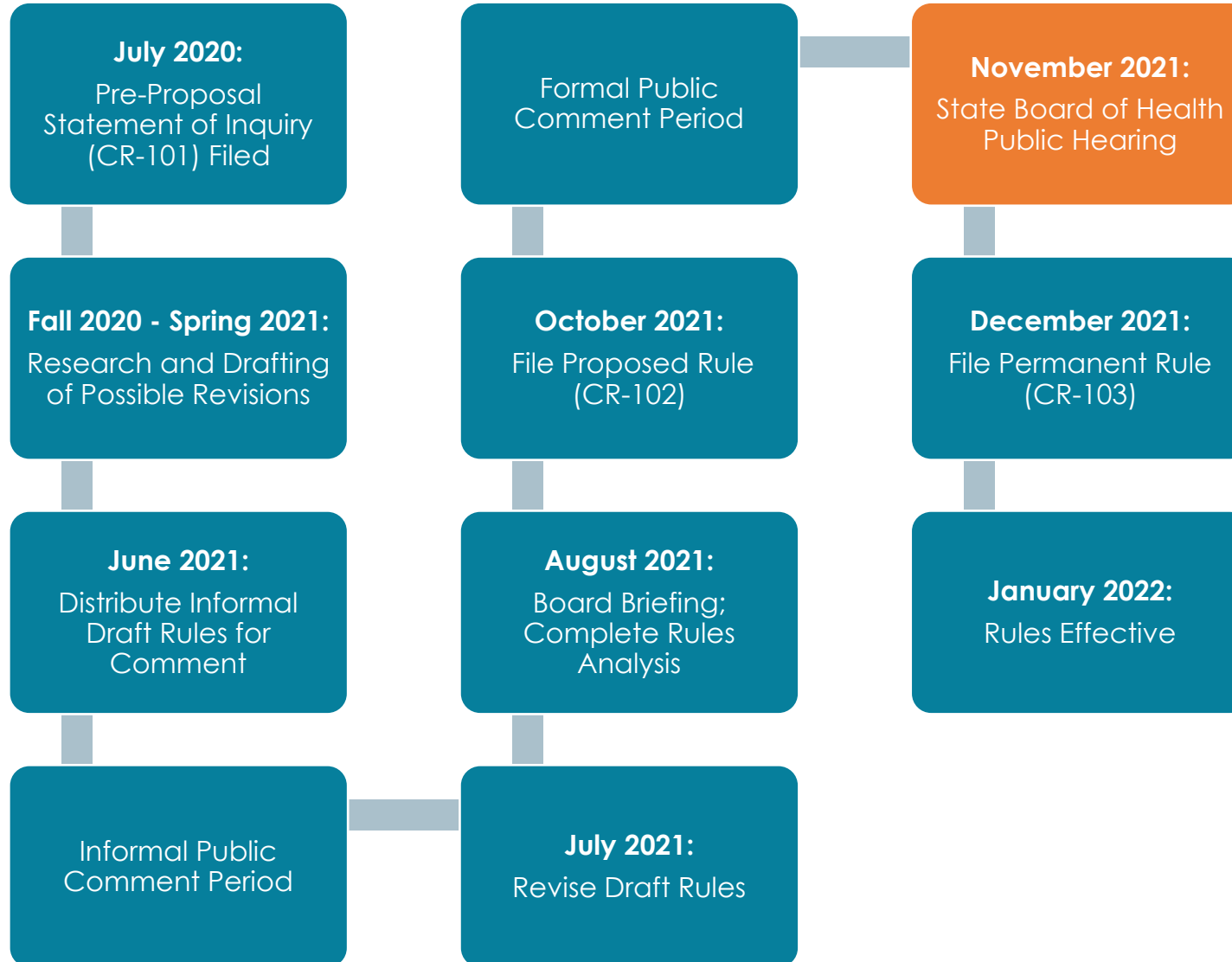
# Rulemaking Scope

Per ESHB 1551, the Board shall adopt rules:

- Establishing reporting requirements and procedures for sexually transmitted disease (STI) investigations
- Specifying behaviors that endanger the public health
- Defining tests that can be administered and specimens collected for STIs, blood-borne pathogens (BBP), and other infections
- Determining employment categories at risk of substantial BBP exposure
- Defining what constitutes an exposure presenting risk of a BBP



# Rulemaking Timeline



# Proposed Rule Revisions

- Editorial revisions throughout the chapter to remove gendered language (e.g., his or hers), use people-first language (e.g., people living with HIV), and provide clarity.
- Adding and removing definitions consistent with ESHB 1551.
- Removing references to HIV/AIDS counseling, including pre- and post-test counseling, and training consistent with ESHB 1551.
- Updating references to state law (RCW) and rule (WAC).
- Clarifying provisions related to the use of identifying information of persons living with HIV.

# Proposed Rule Revisions (continued)

- Revising the effective length of written health orders from three to 12 months consistent with ESHB 1551.
- Replacing references to HIV with blood-borne pathogens where appropriate.
- Establishing and clarifying the criteria for what constitutes a substantial exposure and possible risk of transmission of a blood-borne pathogen for the following:
  - Occupational settings
  - Local jail facilities
  - Washington State Department of Corrections facilities
- Utilized tables to increase usability of rule defining what constitutes an exposure presenting possible risk



# Interested Parties Engagement

- Consultation with Department of Health, Department of Corrections, Labor & Industries, certain local health jurisdictions
- Presentations at HIV Planning Steering Group meetings
- Informal drafts shared with the interested parties' distribution list for comment
- Listen & Learn session held in late June



# Formal Public Comment Received to Date

- One comment regarding the change of title in WAC 246-100-205



# Recommended Revisions

Based on comment received, staff are recommending the following changes:

- Amend instances of “and/or” to read in list form and “any combination of these”
- Remove in WAC 246-100-203, WAC 246-100-205, WAC 246-100-206, and WAC 246-100-2061 that references to exposures resulting in fluids in “eyes”. This language is repetitive with existing mucous membranes.
- Clarify in WAC 246-100-203 that “behavior endangering the public health” is only applicable if an individual is infectious and conduct is sufficient to transmit infection. Further clarify that these behaviors are not applicable if the exposed individual is on pre-exposure prophylaxis for HIV and HBV.

# Recommended Revisions (continued)

(1) A state or local health officer within ~~((his or her))~~ their jurisdiction may, in accordance with RCW 70.24.024, issue orders for a person to submit to medical examination, ~~((-))~~ testing, counseling, ~~((as well as orders to))~~ receive medical treatment, cease and desist specific activities, ~~((when he or she knows or has reason to believe that a person has a sexually transmitted disease and is engaging in conduct endangering the public health.~~

- ~~(( (b) "Conduct endangering))~~ or any combination of these after concluding an investigation and determining that a person is infected with an STI, **behavior occurred during an infectious period and was sufficient to transmit infection**, and continues to engage in specified behavior that endangers the public health despite reasonable efforts to obtain the person's voluntary cooperation.

# Recommended Revisions (continued)

(2) For the purposes of RCW 70.24.024 and this section, "behavior that endangers the public health" ((for the purposes of RCW 70.24.024 and this section,)) means(:(

for all sexually transmitted infections:

- (a) Anal, oral, or vaginal intercourse ((for all sexually transmitted diseases; without a latex or plastic condom resulting in introduction of semen or vaginal fluids to mucous membranes, ~~eyes, or an interruption of the epidermis.~~
- (b) For HIV and Hepatitis B, the following behaviors that result in the introduction of blood, semen or vaginal fluids to mucous membranes, ~~eyes, or an interruption of the epidermis of an individual who is not on pre-exposure prophylaxis~~



# Rules Hearing

# | THANK YOU