WASHINGTON STATE BOARD OF HEALTH

Draft Minutes of the State Board of Health
October 13, 2021
Electronic meeting via ZOOM Webinar

State Board of Health members present:
Keith Grellner, RS, Chair
Tom Pendergrass, MD, MSPH Vice-Chair
Fran Bessermin
Stephen Kutz, BSN, MPH
Bob Lutz, MD, MPH
Elisabeth Crawford
Temple Lentz, MOL
Scott Lindquist, MD, MPH, Secretary's Designee

State Board of Health members absent:
Vazaskia Crockrell

State Board of Health staff present:
Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Kelie Kahler, Communication Manager
Stuart Glasoe, Health Policy Advisor
Samantha Pskowski, Health Policy Advisor
Lilia Lopez, Assistant Attorney General
Kaitlyn Donahoe, Health Policy Advisor
Cait Lang-Perez, Health Policy Analyst
Tracy Schneider, Health Policy Analyst
Nathaniel Thai, Communications Coordinator

Guests and other participants:
LinhPhung Huỳnh, Department of Health

Keith Grellner, Board Chair, called the public meeting to order at 9:31 a.m. and read from a prepared statement (on file). He then detailed operating procedure and ground rules for conducting a virtual meeting, and asked board members to introduce themselves.

1. **APPROVAL OF AGENDA**
   Motion: Approve October 13, 2021 agenda
   Motion/Second: Vice Chair Pendergrass/Member Lindquist. Approved unanimously

2. **ADOPTION OF AUGUST 11, 2021 MEETING MINUTES**
   Motion: Approve the August 11, 2021 minutes.
   Motion/Second: Vice Chair Pendergrass /Member Bessermin & Member Kutz. Chair Grellner abstained. Approved.

3. **BOARD ANNOUNCEMENTS AND OTHER BUSINESS**

Michelle Davis, Board Executive Director greeted the Board and directed Board members to materials in their packets under tab 3. Ms. Davis started her update with staff announcements; and indicated that Policy Advisor Kaitlyn Donahoe will be taking maternity leave starting in November. She said Sam and Stuart will be covering Kaitlyn's portfolio.

Ms. Davis also welcomed the Board's newest team members, who started on October 1, 2021. She said Tracy Schreiber is our new Health Impact Review Analyst, Nathan Thai is our new communications consultant, and Hannah Haag is our community outreach specialist. Ms. Davis noted that Tracy and Nathan's position are funded through the foundational public health services dollars the Board received this biennium, and Hannah's position is funded through a proviso for ESHB 1152 related to the Local Board of Health Composition. She said biographies are in Board materials and posted to the website.

Ms. Davis said committee notes from recent policy committees meetings are included in Board materials, and said these meetings were focused on preparation for today's board meeting. Ms. Davis also referenced recent rule filings, including the latest emergency rule for COVID 19 reporting (filed August 23) and the proposed changes to the communicable disease rules (filed last week). She said the Board would hold the public hearing on the Communicable Disease rule proposal at its November 10 Board meeting. She said information regarding how the public can provide comment on these rules is available on the Board's website.

Ms. Davis said that Sam and Kaitlyn presented a conceptual draft rule to the Washington State Association of Counties and Washington State Association of Local Public Health Officials in September.

Ms. Davis announced the hearing dates related to Spokane Regional Health District's Administrator, Amelia Clark, has been scheduled for January 20, 21, 24, and 25, 2022. She said the hearing will be recorded and the recording will be made available to the public at the end of each day.

She said the last item under Tab 3 is the petition response to Mr. Danilov. She noted that Mr. Danilov has submitted a response to the Board's decision, which is located in the public comments section of your materials.

4. DEPARTMENT OF HEALTH NOVEL CORONAVIRUS (COVID-19) UPDATE AND OTHER UPDATES

Scott Lindquist, State Epidemiologist for Communicable Diseases, Secretary's Designee, shared the Secretary's COVID-19 update (see Presentation on file, Tab4A).

Secretary's Designee Lindquist said he'll be going back to his regular job as the State Epidemiologist for Communicable Diseases now that Department of Health (DOH) has a Chief Science officer Dr. Tao Kwan-Gett. Secretary's Designee Lindquist proceeded to give a summary of the DOH COVID response from the beginning to now and said a big push from Dr. Shah is equity, innovation, and engagement.

Secretary's Designee Lindquist showed a graph of an epidemiological curve of COVID case waves in Washington. He said the fifth wave is the largest, which is driven by the delta variant since it is more contagious. He said of the ten percent of genotyping isolates DOH processes, they are all delta variants. He said the hospitalizations data also follows the same waves in COVID cases.

Secretary's Designee Lindquist said three things help control infection**:** masks, social distancing, and the vaccines. He said distributing the vaccine was difficult in Washington state but now the supply is more abundant, and the demand goes up and down depending on the perceived need of the public. He shared that as of Oct. 4, 9.2 million doses have been administered in the state.

Secretary's Designee Lindquist said Eastern and Southern Washington are in a very different place than the rest of the state. In the parts where vaccination rates are lower there are higher cases and hospitalizations. He said an understanding of the infectiousness of the delta variant and the need for booster doses are leading to an increase in people getting the COVID vaccine now. Secretary's Designee Lindquist said, "Dr. Shah is very interested in making sure there is equity in vaccination". He said there is still work needed to increase vaccination according to race and ethnicity data.

Secretary's Designee Lindquist said having 134,000 pediatric COVID cases is a significant number. He said one in three of all COVID cases are kids under 19 years old and that Multisystem Inflammatory Syndrome in Kids (MISC) is a significant life altering complication in child patients. He said Washington state is struggling with surge capacity in hospitals due to COVID cases and further stated that pediatric capacity is much more limited to handle an influx of pediatric COVID cases. He said there have been 13 deaths in the 0-19 age group due to COVID-19. He said outbreaks and cases in childcare and schools is concerning where 963 outbreaks have occurred in these settings, which is the highest number of outbreaks amongst non-health care settings currently. He said schools are rising in cases and outbreaks compared to childcare settings and that we would expect to see more outbreaks as kids return to classrooms.

At the end of the presentation Stephen Kutz, Board Member asked Secretary's Designee Lindquist for updated information on the topic of natural immunity versus vaccination. Secretary's Designee Lindquist said the CDC still recommends getting the vaccine after infection. Secretary's Designee Lindquist recommends that DOH should create a workgroup to address this topic further.

Chair Grellner asked Secretary's Designee Lindquist if there is any drastic medical difference between getting a vaccine compared to being administered other medical treatment for COVID. Secretary's Designee Lindquist said Ivermectin has not shown to be effective in treating COVID. He said the decision to put something in your body before getting sick is different than putting something in your body when you're ill and desperate.

Dr. Tao Kwan-Gett, State Chief Science Officer, introduced himself to the Board.

The Board took a break at 10:40 a.m. and reconvened at 10:50 a.m.

5. PUBLIC COMMENT

Jamie Bodden, Washington State Association of Local Public Health Officials (WSALPHO), provided comments on the Clallam County complaint against the local health officer. She said that local health officers have a broad scope to protect the public from disease and harm. She said Clallam County Board of Health passed a resolution supporting Dr. Berry and her work on behalf of the health department in September.

Liz Bumgarner provided comments in support of the work Dr. Berry has done in Clallam County. She said most people are very supportive and grateful of Dr. Berry. She stated her position on supporting vaccinations and community health and stated her position as against the disinformation of public health.

Brian Grad provided comments in support of the work Dr. Berry has done in Clallam County and said he was in favor of the Board to dismiss the complaint. He stated his position on supporting vaccinations and stated his position as against the disinformation against public health, its authority and vaccinations.

Joe Kunzler provided comments in support of Dr. Berry and the work she has done in Clallam County. He said he hopes others will take her lead to finish off COVID-19.

Daniel O'Keefe provided comments about the Clallam County complaint against the local health officer and stated his position and concerns about public trust, verifiable data, and the evidence Dr. Berry has to make local public health decisions.

Susie Olson Corgan stated her position on vaccinations, promotion of vaccines, and asked the Board to encourage promoting health habits against chronic disease.

Bernadette Pajer stated her position on vaccinations, promotion and misinformation about vaccines, and the concerns she has with vaccines for children.

Harmony Rutter provided comments in support of Dr. Berry and the work she has done in Clallam County. She stated her position on vaccinations and thanked Dr. Berry and the local community for the distribution of COVID-19 vaccines.

Lisa Templeton stated her position on vaccinations and the concerns she has with vaccines for children and asked for the latest data from VAERS.

Ron Richards provided comments in support of Dr. Berry and the work she has done in Clallam County and asked the Board to dismiss the complaint. He stated his support on Dr. Berry's efforts to combat the epidemic amid harassment by individuals opposed to vaccines and wearing masks.

Mallory Baker provided comments in support of testing at birth for Cytomegalovirus (cCMV), said early intervention will protect newborns, and gave information about symptomatic and a-symptomatic rates.

6. BRIEFING—TECHNICAL ADVISORY COMMITTEE RECOMMENDATIONS: ORNITHINE TRANSCARBAMYLASE DEFICIENCY (OTCD)

Vice Chair Pendergrass introduced the topic and presenters. Vice Chair Pendergrass noted that a technical advisory group convened on this topic and today's presentation will include the findings from that group.

Samantha Pskowski, Board Staff, described the differences between the two newborn screening items on today's agenda. She explained the Board's authority and process for considering new conditions for inclusion in the newborn screening rules, including convening a technical advisory committee (TAC) to provide a formal recommendation to the Board after the consideration of research, a cost-benefit analysis, as well as assessing the condition against specific criteria. Ms. Pskowski said that after hearing the TAC's recommendation, the Board may recommend initiating rulemaking to add the condition to the newborn screening panel. She said the OTCD TAC met in June and July of this year, and invited Dr. John Thompson, Department of Health, to provide information on the TAC's findings and recommendation.

Dr. Thompson explained that the TAC included a variety of stakeholders including advocates, bioethicists, representatives from public health and insurance payers, and more. He described OTCD and the five criteria the TAC assessed OTCD against: available testing technology, available diagnostic testing and treatment, prevention potential and medical rationale, public health rationale, cost-benefit and cost-effectiveness analysis. He said the TAC's recommendation was for the Board to initiate rulemaking to add OTCD to the newborn screening rules, but that the recommendation was not unanimous. Dr. Thompson discussed implementation challenges of adding OTCD to the panel. Vice Chair Pendergrass provided additional information and context in his capacity as co-chair of the TAC along with Dr. Thompson's presentation.

Elisabeth Crawford, Board Member asked Dr. Thompson to clarify whether diagnosing OTCD is a two-step process and asked whether the use of secondary markers could help reduce the prevalence of false positives for OTCD. Dr. Thompson said if the newborn screen is positive, it would prompt a provider to recommend diagnostic testing. He noted that the New England program uses a second-tier screen to sort out false positives and if the Board chooses to initiate rulemaking, the Department will reach out to New England for further information.

Member Kutz, thanked Dr. Thompson for the presentation and asked him to clarify the proportion of newborns that would be screened and diagnosed, and asked how many newborns would be expected to have this condition in Washington. Dr. Thompson said that based on data in California some newborns would screen negative and yet have OTCD later in life. He said the prevalence is 0.47 babies per year, or one baby every other year. Dr. Thompson noted that OTCD is a rare, x-linked condition. He said the Department would expect a high number of false positives through screening. Member Kutz asked if the timing of OTCD screening must be faster than other newborn screening conditions. Dr. Thompson said that testing happens quickly now, and many hospitals employ a courier service for samples, but not all newborns are born at those hospitals. He said the Department would want to improve the overall timeliness of testing if this condition were added.

Vice Chair Pendergrass asked Dr. Thompson if the Board has added a condition to the newborn screening panel and later decided to remove it. Dr. Thompson said that has not been the experience in Washington, but other states have reconsidered and removed certain conditions from their panels.

Chair Grellner asked whether family history or genetics are involved in OTCD, or if this condition is random and can only be identified through the newborn screening panel. Dr. Thompson said there are a small number of families, about 20 percent, who have a family history of the condition who can do prenatal testing to understand their risk.

Motion: The Board directs staff to file a CR-101 to initiate rulemaking for chapter 246-650 WAC to consider adding ornithine transcarbamylase deficiency (OTCD) to the newborn screening panel.

Motion/Second: Vice Chair Pendergrass/Member Bessermin. Approved unanimously

7. **BRIEFING—NEWBORN SCREENING, CHAPTER 246-650—CONGENITAL CYTOMEGALOVIRUS (cCMV)**

Vice Chair Pendergrass introduced the topic and directed Board members to Tab07a of the materials packet. He briefly discussed congenital cytomegalovirus (cCMV) and associated problems for newborns if infection occurs during early pregnancy. Vice Chair Pendergrass stressed the importance of early screening for this condition, but noted the topic is complicated and invited Department of Health staff to provide additional information.

Karin Neidt, Department of Health, discussed CMV and its transmission, symptoms, and outcomes of congenital CMV (cCMV) in newborns. She explained that there are two approaches for cCMV screening, targeted and universal, and discussed targeted screening approaches. Ms. Neidt said that targeted screening occurs when infants do not pass their newborn hearing screening.

Dr. John Thompson, Department of Health, discussed universal screening for cCMV using the existing process of utilizing a dried blood spot sample. He shared evidence from Ontario Province and compared the test sensitivities of current newborn screening conditions with cCMV. Dr. Thompson noted that the sensitivity of the targeted screening approach is quite low, whereas a universal screening approach could be as high as current newborn screening testing but noted that evidence is quite limited.

Ms. Neidt discussed treatment options and potential outcomes for those newborns who are diagnosed with cCMV. Mr. Thompson discussed unresolved questions related to cCMV that the Board may wish to consider in its decision to convene a technical advisory committee (TAC), including effectiveness of treatments, screening test performance, how diagnostic testing is coordinated, potential success of educational campaigns, capacity among providers for increased caseloads, and uncertainty of benefits for babies identified with cCMV.

Samantha Pskowski, Board Staff, reminded Board members that their action today is related to whether a TAC should be convened for cCMV, and directed Board members to the cover memo (Tab07a) for possible motions. She noted that due to limited

capacity, if the Board elected to convene a TAC, the TAC would not be able to convene until Summer 2022 at the earliest.

Member Kutz asked staff to clarify the difference between neonatal transmission and early childhood contraction of this condition, and whether prenatal screening would help with early detection. Ms. Neidt said that prenatal screening for CMV is not a standard practice and may provide a false sense of security. She said the major impacts of an infection in utero do not typically occur if the child contracts CMV in early childhood.

Member Crawford asked if the Department has data regarding the percentage of babies with cCMV are congenital compared to non-congenital. Ms. Neidt explained that congenital CMV is specifically contracted in utero, that's the focus of this screening.

Vice Chair Pendergrass said that the Board has heard about many challenges related to newborn screening for cCMV, and that a different kind of sample (e.g., saliva vs. bloodspot) should be collected to give us the most accurate information for diagnosis and treatment.

Secretary's Designee Lindquist said that he has a bias on this topic and wants to make sure the Board understands that anything they can do to detect cCMV is an obligation the Board should undertake. He said this disease is both very common and devastating for families.

Member Kutz asked whether the TAC would make other recommendations for things like preventive measures OBGYNs can take. Ms. Pskowski clarified that the TAC would be limited to making a recommendation to the Board regarding rulemaking.

Motion: The Board of Health directs for a technical advisory committee to explore the option of prenatal or neonatal diagnostics for CMV or adding to existing strategies.

Vice Chair Pendergrass indicated that Secretary's Designee Lindquist's motion aligned with the suggested motion in the cover memo, and read it from board materials "The Board directs staff to work with the Department of Health to convene a technical advisory committee to evaluate congenital cytomegalovirus using the Board's process and criteria to evaluate conditions for inclusion in WAC 246-650-020 and then make a recommendation to the Board."

Motion/Second: Member Lindquist/Member Kutz. Approved unanimously

8. **BRIEFING—IMMUNIZATION CRITERIA (Item 8 was moved to the afternoon after Item 12)**

Vice Chair Pendergrass, introduced the topic and invited Samantha Pskowski, Board Staff, to provide a refresher on the Board's process to consider new antigens for possible inclusion in the Board's immunizations rule, which outlines requirements for school entry.

Ms. Pskowski gave an overview of the Board's statutory authority as it relates immunization requirements for childcare and school entry. She discussed the Board's immunization rules, which establish the documentation of immunization status required for childcare and school entry, including a list of vaccine preventable diseases a child is required to be vaccinated against or show proof of acquired immunity for. Ms. Pskowski described the process the Board currently takes to consider new antigens for possible inclusion in the immunization rules, including: recommendations by the federal Advisory Committee on Immunization Practice (ACIP) and full Food and Drug Administration (FDA) approval for the vaccine, Board review against qualifying assumptions, possible convening of a technical advisory group (TAG) and consideration of the group's recommendations. She discussed the Board's criteria framework and the nine criteria the Board uses to consider the addition of new antigens into the rule, which fall into three categories: vaccine effectiveness, disease burden, and implementation.

Vice Chair Pendergrass noted that the state of Washington does not always implement every vaccine recommended by ACIP and similar organizations, for example, the meningococcal vaccine, which a TAG considered and did not recommend. He also emphasized the use of vaccine tracking in the state.

Chair Grellner, said this is a timely update and appreciates the information provided. He said that this topic might come to the Board in the near future.

Vice Chair Pendergrass said the data for COVID-19 vaccines for children is just becoming available, and we have very little information on children who have received the vaccine at this time.

Member Kutz agreed this is a timely presentation and important to remember the state has a vaccination database which is currently used for adults. He said the database is very helpful, and that the Vaccine Adverse Event Reporting System (VAERS), as mentioned by a member of the public during the public comment period, will be important to consider if there are any issues with the COVID-19 vaccines. Vice Chair Pendergrass said that VAERS is a voluntary reporting system, and that the Board will still need to balance the risk of disease compared to the risk of the vaccine if discussions move forward.

Secretary's Designee Lindquist said that he and Vice Chair Pendergrass have been chairs of immunization TAGs, but we have never had to discuss this topic during a pandemic and state of emergency. He considered whether the process of convening a TAG should be begun to start the work.

Member Kutz thanked Secretary's Designee Lindquist for the suggestion. He said the last thing he wants is to get backed into a corner and forced to make emergency decisions.

Motion: The Board directs staff start the process to convene a technical advisory group to discuss whether a COVID-19 vaccine should be considered for inclusion in the Board's immunizations rule for school-aged children.

Motion/Second: Member Lindquist/Member Kutz. Approved unanimously

Vice Chair Pendergrass noted that the COVID-19 vaccines for school children are not yet FDA approved, and extensive data is not yet available for these vaccines. He said this will impact the timeline to convene a TAG and consider the vaccine against the criteria; however, we have an ongoing problem of school children being behind on regular vaccinations.

Ms. Pskowski asked Secretary's Designee Lindquist to clarify the age group the TAG would consider for the COVID-19 vaccine. Secretary's Designee Lindquist responded K-12, consistent with other immunization TAGs.

Member Kutz said by the time the Board pulls an expert panel together we'll have more information on the impacts of these vaccines for consideration. Secretary's Designee Lindquist said that the TAG may choose to narrow the scope based on the age group approved by the FDA. Vice Chair Pendergrass noted that the Board will need to consider the timeline of the TAG and when a mandate, if any, would go into effect. He said that implementation of a COVID-19 vaccine mandate may not be possible for the 2022 school year.

Ms. Davis said the current process is for the Board to wait for ACIP recommendations to pull together a TAG; however, we have to give consideration to the fact that we are in the midst of a pandemic. She said she anticipates more data on the vaccines will come out as the ACIP makes a recommendation. It is possible that the data the TAG would need to rely on may not be released until after the emergency use authorization. Ms. Davis suggested could staff do an inventory of what information is available before convening experts for the TAG, and that staff could come back to the Board at its next meeting with an update. She also noted that many subject matter experts the TAG would rely on are currently activated in COVID-19 response. Ms. Davis said that staff can start the work, but she wants to manage expectations in terms of how quickly the TAG can be pulled together.

Chair Grellner said that he likes the idea of trying to get things teed up so that the Board is not running behind, but FDA approval is critically important. He said he hesitates getting too far ahead of the process without FDA approval. Member Kutz added that, based on who we know would typically serve on the TAG, it takes a while to get those folks on board.

Ms. Davis noted the Board should also make sure that BIPOC communities have a seat at this table and their voices inform the TAG's recommendation. She said staff will work to identify broad representation on this TAG, which may look different than what we've had in the past. Chair Grellner and Member Kutz agreed.

Member Kutz asked for additional information on improvements to ventilation in schools at an upcoming Board meeting. Vice Chair Pendergrass noted that the Board was provided information dated through late 2019-2020 on this topic.

The Board recessed for lunch at 12:40 p.m. and reconvened at 1:30 p.m.

9. HEARING—DRINKING WATER STANDARDS FOR PER-AND POLYFLUOROALKYL SUBSTANCES (PFAS), GROUP A PUBLIC WATER SUPPLIES, CHAPTER 246-290 WAC, AND DRINKING WATER LABORATORY CERTIFICATION AND DATA REPORTING, CHAPTER 246-390 WAC

Stuart Glasoe, Board Staff introduced the item, giving background on the rulemaking, highlighting key revisions to the Group A and Lab rules, introducing the presenters, and outlining the general format for the public hearing on the Group A rules followed by the hearing on the Lab rules. He also noted that there were separate motions for each of the rules for Board consideration.

Mike Means, Department of Health and Barb Morrissey, Department of Health gave a presentation (on file) on the Group A rulemaking, providing background on PFAS and its health risks, known occurrence in Washington drinking water, steps and timing of the rulemaking, key revisions and requirements of the proposed rules, and a rundown of key comments received and recommended responses. Mr. Means noted that the summary response to comments in the meeting material included several recommended technical and editorial changes to the proposed rule language.

Member Kutz noted impacts around Department of Defense (DoD) facilities and asked if DoD has been a good partner in this work. Mr. Means said the Department of Health has been working with DoD with varying levels of support among branches and actions based mainly on EPA's health advisory level. Member Kutz followed up asking if they are working with each individual branch. Mr. Means said they have been working with their overarching environmental responses and directly with individual branches. Member Kutz noted that there will be economic impacts to DoD.

Vice Chair Pendergrass asked for clarification on how the PFAS were selected and the levels established. Ms. Morrissey responded that two test methods are allowed under the rule, one tests for 18 PFAS analytes, the other for 25. She said there is insufficient health information on all the analytes to determine how much of each could be in water and not be a health concern. Ms. Morrissey said the department developed health guidance for five of the most common PFAS. She said that the proposed rule essentially uses an indicator approach that will help identify water supplies that are impacted by PFAS and follow-up risk management (e.g., treatment) should help remove other PFAS. Vice Chair Pendergrass followed up asking how the Department will know if other analytes look important. Ms. Morrissey responded that as we gain information and methods change, new PFAS analytes can be added. Mr. Means added that methods don't yet exist to test for all PFAS and we're focusing on PFAS most commonly found in Washington.

Member Kutz noted that all water is going to be tested and asked if there will be a map showing the areas and aquifers that are impacted by PFAS to help people understand the risks. Mr. Means said as information is obtained the intent is to assess and communicate where we find detections and to inform other source monitoring needs. He added that they use this same process to assess any drinking water contaminant.

Chair Grellner asked for clarification of rule's waiver process for monitoring. Mr. Means replied that the rule will help establish the baseline and until data is received, there is no ability to establish a waiver process. He said use of waivers will be consistent with the

department's approach with other organic chemical detections. He said the initial three-year monitoring period will be key to establishing baseline data and use of waivers.

Member Crawford asked for clarification of potential contamination sources of drinking water systems. Ms. Morrissey referenced the presentation slide showing contaminated sites in the state we are currently aware of, and said the suspected source is generally firefighting foam. She briefly described the persistent chemical characteristics and transport mechanisms to drinking water. She said sources may be decades old. She said other states have found contamination associated with industrial discharges, municipal waste streams, biosolids, landfills, and wastewater treatment. Ms. Morrissey said it's ultimately the PFAS we use in our consumer products that define the flow and sources of PFAS in our state. Mr. Means added that PFAS is very mobile and persistent.

Chair Grellner opened the hearing for public testimony on the Group A rules, allowing three minutes per person.

Amanda Balzer, City of Redmond, said the city is committed to providing safe drinking water and supports characterization of PFAS occurrence in drinking water and the public health risks. She expressed concern around inconsistencies between state and federal rules and between the Department of Health and Department of Ecology. She said there needs to be alignment between use of drinking water SALs and aquifer recharge areas for reclaimed water. She said the reclaimed water law identified acceptable uses of reclaimed water to include direct and indirect aquafer recharge, however, sampling of LOTT and Brightwater facilities have shown PFOA detections that exceed the SALs. The issue must be addressed in an update to the reclaimed water rules to prohibit land application of reclaimed water with PFAS above the SALs in aquifer recharge areas and wellhead protection areas. She also expressed concern with cost burdens and consumer confidence affected by reporting requirements. She requested clear fact-based information and messaging on sampling results and the range of relative health risks for different contamination level and different populations.

Laura Baumgartner, Pastor, Haller Lake Methodist Church, said she was testifying as part of the faith community in collaboration with Earth Ministry in support of protecting children, elders, and others from toxic PFAS chemicals and protecting access to clean drinking water. She expressed support for the strictest possible regulations to protect clean drinking water and the health and safety of our children. She said PFAS contamination was caused by human negligence and greed and causes harm to people having nothing to do with the contamination other than living downstream from the source. She said this is unacceptable and avoidable. She said PFAS are already in water systems, found in the blood stream of people, don't degrade, are difficult to remove, and we have an opportunity to make a difference in an already bad situation. She urged the Board to adopt the proposed limits and to continue working to adopt standards and strategies for all PFAS chemicals.

Joseph Grogan, Town of Coupeville, expressed concern with SALs versus an MCL as it pertains to water system notification and asked for clarification of records retention requirements. He said that unlike other contaminants with MCLs and other analytical monitoring results that need to be kept for five to twelve years, the rules say that all

testing must be retained for the life of the water system. He said this is not realistic for small water systems.

Steve Risotto declined to testify saying the department had addressed the issues he raised and there was no need to belabor them.

Maddie Smith, Earth Ministry Washington Interfaith Power and Light, said they work to organize faith communities to advocate for strong environmental justice policies. She expressed appreciation and support of action to protect the health of our communities and ecosystems especially given the stories from communities affected by PFAS chemicals. She said since 16 or more PFAS analytes will be analyzed, will those results be public in the reports water systems send out, or will reports include only results for SALs? She further asked whose job is it to continue monitoring data and papers published on health effects of other PFAS chemicals not included in the five proposed SALs? She asked will that be the public's job or is that something the department will actively look as the EPA MCL process continues and we learn more about PFAS chemicals? She said clean water is a right that everyone should have.

Laurie Valeriano, Toxic-Free Future, thanked the department and Board for the work on the important PFAS rule. She said the science has been in-depth, the rigor, the public process has been extensive and thoughtful. She said the state is pursuing a comprehensive approach to PFAS, not only the contamination but shutting off the sources such as food packaging and firefighting foam under authority of Safer Products Washington. She said we started work on the rule in 2017 with a petition to the agency and there has been lots of public process and improvements along the way. It's really timely and urgent for the Board to adopt this rule. She added that many communities have been impacted. She said the health costs and financial costs are tremendous, and it's the taxpayer—whether the military or state budget money—that pays. She said it's been in the tens of millions. Ms. Valeriano further stated that the way we'll be able to move forward and have polluters pay for cleanup of contaminated sites is by putting drinking water standards in place that inform cleanup standards that hold polluters accountable. She said we don't have PFAS manufacturing but firefighting foam is being used beyond trainings. She said chemical plants, refineries, military facilities, and airports are all required to use them. She said law was passed to stop the trainings but the foams are still being used in certain circumstances. She cited an example of a 2020 oil train derailment in Custer, Washington, where they used 900 gallons of foam before the PFAS-free foam was sent in. She said that laws are in place that will phase out use of PFAS foams but they are still being used. She referenced a national expert regarding health effects to help illustrate that these are problematic chemicals. She also referenced a breast milk study showing that PFAS chemicals are building up in people. She urged swift adoption of the rule and broader testing of PFAS in drinking water.

Chair Grellner closed the public hearing on the Group A rules and invited Board discussion.

Chair Grellner raised two questions based on public comment. He first asked about records retention. Mr. Means clarified that records retention for all chemical contaminants requires records to be kept for as long as the water system is in operation. He said only coliform records can be disposed of after a period of time. Chair

Grellner then asked about reclaimed water use with PFAS in the water. Mr. Means said the department is aware of some of the reclaimed water testing that has been done and has had discussions with the Department of Ecology, which is in a quandary, unable to do more with its standards until we have this drinking water standard. He said cleanup will apply on a case by case basis for individual permits. Chair Grellner expressed his concern with application of reclaimed water for aquifer recharge that doesn't meet drinking water standards and asked department and Board staff to keep it on their radar. Ms. Morrissey added that there is a lot of interagency coordination via the PFAS state action plan where they work on such issues and iron out any disconnects. Chair Grellner added that he wanted discussion of reclaimed water for aquifer recharge at an upcoming Environmental Health committee meeting.

Motion: The Board adopts the proposed amendments to chapter 246-290 WAC, Group A Public Water Supplies, as published in WSR 21-16-095 and as presented at today's meeting, and directs staff to file a CR-103, Order of Adoption, and establish an effective date.

Motion/Second: Vice Chair Pendergrass/Member Lentz. Member Crawford abstained. Approved.

Chair Grellner opened the public hearing on the Lab rules. Mr. Means gave a presentation (on file) on the Lab rulemaking, providing background on PFAS and known occurrence in Washington drinking water, the rulemaking process, key revisions to the Lab rules, and a summary of comments received and recommended responses.

Vice Chair Pendergrass asked if total fluorine levels will pick up the long list of PFAS. Ms. Morrissey said that total organic fluorine will detect the sum of PFAS in the water, but you can't rule out other fluorinated compounds that could be picked up. Such tests would not report on specific PFAS and allow action on the SALs. Vice Chair Pendergrass asked for clarification that fluorine and fluoride are different chemicals. Ms. Morrissey said he was correct.

Chair Grellner opened the hearing for public testimony on the Lab rules. No people signed up to give verbal testimony on the Lab rules. Chair Grellner reminded people that all written testimony was included in the meeting material for the PFAS hearings.

Chair Grellner closed the public hearing on the Lab rules and invited Board discussion. There were no questions or discussion

Motion: The Board adopts the proposed amendments to chapter 246-390 WAC, Drinking Water Laboratory Certification and Data Reporting, as published in WSR 21-16-094 with the revisions agreed upon at today's meeting, and directs staff to file a CR-103, Order of Adoption, and establish an effective date.

Motion/Second: Member Bessermin/Member Kutz. Approved unanimously.

The Board took a break at 2:50 p.m. and reconvened at 3:00 p.m.

9. **DELEGATION OF RULEMAKING REQUEST FOR WATER RECREATION, CHAPTER 246-260 AND 246-262 WAC (Sam on notes)**

Chair Grellner introduced Kaitlyn Donahoe, Board Staff to provide information on the Board's water recreation rules. Ms. Donahoe Kaitlyn provided a brief overview of the Board's rulemaking authority related to water recreation. She noted that the Board has these rules open currently but there are new time sensitive matters. She then turned it over to Todd Phillips, Department of Health, to discuss the Department's request to pursue expedited rulemaking for these changes.

Mr. Phillips discussed the Department's request to change definitions to align with new federal requirement. He noted these WAC chapters set requirements to protect the safety of those using water recreation facilities. He shared that the suction fitting standard ensures that covers protect from entrapment, which can lead to severe injury and possible death. He discussed the timeline of changes leading to 2017 updates of federal guidance and noted that as a result of updates, the 2011 suction fitting standard definition within the WAC currently is out of date. He commented that manufacturers have been putting new 2017 standard compliant products on the market and replacing old ones, resulting in challenges locating the products meeting the 2011 requirements. He continued that not adopting the new 2017 standards can result in a significant number of requested variances for local health jurisdictions and department of health needing to process. He clarified that while the Board is in the process of updating these rules, this current request is specifically to address the definition discrepancy. He noted that staff anticipate universal support for the change, but that if the Department receives substantive objection they would stop to utilize the exception process for a public hearing.

Vice Chair Pendergrass asked for a point of clarification that the change is about water turnover and suction systems. Mr. Phillips responded that it is about the suction systems.

Motion: The Board delegates to the Washington State Department of Health rulemaking authority to amend and incorporate the 2017 suction fitting standard in WAC 246-260-010 and WAC 246-262-010 via expedited rulemaking.

Motion/Second: Vice Chair Pendergrass/Member Bessermin. Approved unanimously.

Vice Chair Pendergrass shared that these are important rules and need to be updated as there have been instances, particularly with children, where hair and limbs have been impacted by suction systems. He commented that it is important that this rulemaking doesn't get us talking about other pool and spa related equipment.

10. **CLALLAM COUNTY PUBLIC HEALTH DISTRICT COMPLAINT**

Chair Grellner said the Board received a complaint pursuant to RCW 70.05.150, allowing individuals to file complaints regarding the actions of a local health officer or administrator to the State Board of Health.

Samantha Pskowski, Board Staff, gave background (see material on file). She noted that the complainants alleged that Clallam County Health Officer Dr. Berry violated chapter 70.05 RCW related to a health order issued on September 2, 2021. Ms.

Pskowski shared information on the timeline of the health order, the local board of health action, and the complaint.

Member Kutz noted that the complaint said the health order must occur under the direction of the local board of health. He asked for clarification regarding what the complaint means in respect to WAC. Assistant Attorney General Lilia Lopez clarified the interaction between the complaint and the authority provided to local health officers in WAC. She noted the strong broad authority that local health officers and local health jurisdictions have to take action to prevent disease. Member Kutz asked if absent specific direction, the local health officer has broad jurisdiction. Assistant Attorney General Lopez clarified that the local health officer has authority to exercise their own discretion in respect to controlling and prevention of disease. She continued that how that direction is provided is up to each locality and presumably that occurs in cooperation with the local board of health but may vary by jurisdiction.

Secretary's Designee Lindquist stated that the complaint is a gross misinterpretation of the RCW that goes against a decision someone doesn't like. He said that the local board of health appoints the health officer and the health officer then has a broad range. He noted the local health officer has a medical degree and the expertise to make decisions for disease prevention. He stated that in his opinion there are no grounds for this complaint.

Vice Chair Pendergrass expressed his agreement with Member Lindquist. He noted the local health officer was acting within their scope of responsibility and the local board of health verified they agreed with the health officer's decisions. He noted his confusion of why this was coming before the State Board of Health.

Bob Lutz, Board Member, stated his agreement with others and that the statute is clear in that the broad authority is vested in powers and duties of the local health officer who has the clinical knowledge. He continued that it is clear that after Dr. Berry issued her order, the local board of health met and agreed with her order.

Member Kutz noted the action of Dr. Berry is consistent with many other LHO around the state in similar circumstances. He stated that when he has worked with local health officers and doesn't always agree with broad orders, the local health officer does have the authority to issue them. Member Lindquist said he'd like to make a motion to dismiss this complaint.

Chair Grellner shared his agreement with much of what was already said. He noted that currently, local boards of health are elected leaders, they appoint the local health officer based on their credentialing. He continued that the local board of health does not direct a local health officer on a daily basis to take actions to uphold the law. He noted that it is the local health officer's responsibility to prevent the transmission of disease and that it is not optional. He furthered that the local board of health did not reprimand the local health officer, they supported her decision. Chair Grellner indicated that the complaint has no merit and if considered at all, should be done at the local level.

Temple Lentz, Board Member, stated that as a member of local board of health, she finds this complaint frivolous and a misunderstanding of statute. She said that the

statute clearly does not require the local health officer to seek permission for every decision and says quite the opposite.

11. UPDATE—LOCAL BOARD OF HEALTH COMPOSITION, CHAPTER 246-90 WAC

Member Lentz introduced the topic. Kaitlyn Donahoe, Board Staff, gave background on the legislation and rulemaking scope (see materials on file). She noted that the legislation is very prescriptive and the Board has a defined scope for this rulemaking. She provided an update on the timeline of work and shared that an informal draft will be circulated for feedback from interested parties in the coming days. Ms. Donahoe shared that staff have also developed a frequently asked questions document to assist interested parties.

Vice Chair Pendergrass commented on the importance of looking at how to make local boards of health have more leadership in their communities. He noted one challenge may be that not all communities have access to potential members with the same level of experience. He commended staff for moving forward on such a fast timeline.

Chair Grellner noted that local boards of health have an implementation deadline prior to the rules deadline. He shared that the Board will work closely with the Washington Association of Counties and Washington Association of Local Public Health Officials throughout the process.

Ms. Davis noted that the timeline crafted in the bill is a challenge for adopting the rules and also for the whole system. She indicated that the team is doing their best. Ms. Davis also shared that the Board has a document on their website titled “Welcome to Public Health” and that this process an opportunity to update that document as well.

(Agenda Item 8 was moved here)

12. BOARD MEMBER COMMENTS

Chair Grellner called for any comments.

Member Lutz, said this was a great meeting on relevant topics and he commented on the 1,052 pages to review in the board packets. He said kudos to the staff, and great questions and input from colleagues.

Vice Chair Pendergrass commended the staff work, welcomed new board staff and offered best wishes to Ms. Donahoe on her life event. He said the meeting materials and information were more daunting than usual. He appreciates the input from the public and is grateful to Ms. Davis for her extraordinary recruiting work.

Member Kutz expressed gratitude for the new members on the board.

Chair Grellner commended board staff for the herculean workload, and commented on the big lift for new members, especially on the Group A PFAS rule. He also thanked department staff for their work on the PFAS Group A and Lab rule.

Ms. Davis thanked board members and acknowledged the heavy agenda and multiple action items on a broad array of issues. She said meeting preparation is a big job for staff and for members to come to the meeting prepared.

Vice Chair Pendergrass thanked Dr. Shah for joining the meeting. Dr. Shah thanked the Board and especially Chair Grellner for his leadership.

Motion: Adjourn the October 13, 2021 meeting.

Motion/Second: Vice Chair Pendergrass/Member Kutz. Approved unanimously.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 4:30 p.m.

WASHINGTON STATE BOARD OF HEALTH

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Keith Grellner, Chair

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PO Box 47990 • Olympia, Washington • 98504-7990
360-236-4110 • wsboh@sboh.wa.gov • sboh.wa.gov