

# WASHINGTON STATE BOARD OF HEALTH

The Washington State Board of Health (Board) is inviting informal public comment on draft revisions to [chapter 246-100 WAC](#), Communicable and Certain Other Diseases. This chapter outlines requirements for the prevention and control of infectious and noninfectious diseases.

The following draft revisions relate to implementation of [Engrossed Substitute House Bill 1551](#), which passed during the 2020 legislative session. More information on the scope of the Board's rulemaking can be found in the Board's [CR-101, Preproposal Statement of Inquiry](#).

Draft revisions are made using tracked changes. All strikethrough text (~~example~~) are proposed deletions. All underlined text (example) are proposed additions.

Please send your feedback and any questions on the Board's rulemaking to [communicabledisease@sboh.wa.gov](mailto:communicabledisease@sboh.wa.gov). Feedback is due by **July 15, 2021**.

Staff contacts and more information on these rules can be found on the Board's [communicable disease rulemaking web page](#).

**WAC 246-100-011 Definitions.** The definitions in this section apply throughout chapter 246-100 WAC unless the context clearly requires otherwise:

(1) "Anonymous HIV testing" means that the name or identity of the person tested for HIV will not be recorded or linked to the HIV test result.

(2) "Blood-borne pathogen" means a pathogenic microorganism that is present in human blood and can cause disease in humans, including hepatitis B virus, hepatitis C virus, human immunodeficiency virus, and syphilis.

(3) "Board" means the Washington state board of health.

(4) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical criteria, or laboratory criteria, or both.

(6) "Communicable disease" means an illness caused by an infectious agent that can be transmitted from a person, animal, or object to a person by direct or indirect means including, but

not limited to, transmission via an intermediate host or vector, food, water, or air.

(7) "Contaminated" or "contamination" means containing or having contact with infectious agents or chemical or radiological materials that pose an immediate threat to present or future public health.

(8) "Contamination control measures" means the management of persons, animals, goods, and facilities that are contaminated, or suspected to be contaminated, in a manner to avoid human exposure to the contaminant, prevent the contaminant from spreading, and/or effect decontamination.

(9) "Department" means the Washington state department of health.

(10) "Detention" or "detainment" means physical restriction of activities of a person by confinement for the purpose of controlling or preventing a serious and imminent threat to public health and may include physical plant, facilities, equipment, and/or personnel to physically restrict activities of the person to accomplish such purposes.

(11) "Disease control measures" means the management of persons, animals, goods, and facilities that are infected with, suspected to be infected with, exposed to, or suspected to be exposed to an infectious agent in a manner to prevent transmission of the infectious agent to humans.

(12) "Health care facility" means:

(a) Assisted living facilities licensed under chapter 18.20 RCW;

(b) Birthing centers licensed under chapter 18.46 RCW;

(c) Nursing homes licensed under chapter 18.51 RCW;

(d) Hospitals licensed under chapter 70.41 RCW;

(e) Private establishments licensed under chapter 71.12 RCW;

(f) Enhanced service facilities licensed under chapter 70.97 RCW;

(g) Adult family homes licensed under chapter 70.128 RCW;

(h) Clinics or other settings where one or more health care providers practice; and

(i) In reference to sexually transmitted infections or blood-borne pathogens, other settings as defined in chapter 70.24 RCW.

(13) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title 18 RCW;  
or

(b) Is military personnel providing health care within the state regardless of licensure.

(14) "Health order" means a written directive issued by the state or local health officer that requires the recipient to take specific action to remove, reduce, control, or prevent a risk to public health.

(15) "HIV testing" means conducting a laboratory test or sequence of tests to detect or monitor the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207.

(16) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-related viruses which damage the cellular branch of the human immune system and leave the person immunodeficient.

(17) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(18) "Isolation" means the separation of infected or contaminated persons or animals from others to prevent or limit the transmission of the infectious agent or contaminant from those infected or contaminated to those who are susceptible to disease or who may spread the agent or contaminant to others.

(19) "Local health jurisdiction" or "LHJ" means a county health department under chapter 70.05 RCW, city-county health department under chapter 70.08 RCW, or health district under chapter 70.46 RCW.

(20) "Local health officer" means the person having been appointed under chapter 70.05 RCW as the health officer for the local health jurisdiction, or having been appointed under chapter 70.08 RCW as the director of public health of a combined

city-county health department, or their delegee appointed by the local board of health.

(21) "Medical treatment" or "treatment" means the treatment for curable diseases and treatment that causes a person to be unable to transmit a disease to others, based on generally accepted standards of medical and public health science.

(22) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(24) "Principal health care provider" means the attending physician or other health care provider licensed or certified under Title 18 RCW, recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

(25) "Quarantine" means the limitation of freedom of movement of persons or domestic animals that have been exposed to, or are suspected to have been exposed to, an infectious agent:

(a) For a period of time not longer than the longest usual incubation period of the infectious agent;

(b) In a way to prevent effective contact with those not so exposed.

(26) "School" means a facility for programs of education as defined in RCW 28A.210.070 (preschool and kindergarten through grade twelve).

(27) "Sexually transmitted disease" or "sexually transmitted infection" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact and considered to be a threat to public health and welfare, and to be an infection for which a legitimate public interest will be served by providing for regulation and treatments, including:

- (a) Chancroid;
- (b) Chlamydia;
- (c) Genital herpes simplex;
- (d) Genital human papilloma virus infection;
- (e) Gonorrhea;
- (f) Granuloma inguinale;



- (g) Hepatitis B infection;
- (i) Human immunodeficiency virus infection (HIV);
- (j) Lymphogranuloma venereum; and
- (k) Syphilis.

(28) "State health officer" means the person appointed by the secretary under RCW 43.70.020 to serve as statewide health officer, or, in the absence of such designation, the secretary.

(29) "Suspected case" or "suspected to be infected" means the local health officer, in their professional judgment, reasonably believes that infection with a particular infectious agent is likely based on signs and symptoms, laboratory evidence, or contact with an infected person, animal, or contaminated environment.

(30) "Veterinarian" means a person licensed under provisions of chapter 18.92 RCW.

[Statutory Authority: RCW 70.24.380. WSR 18-23-056, § 246-100-011, filed 11/15/18, effective 12/16/18. Statutory Authority: RCW 70.24.130 and 2012 c 10. WSR 14-08-046, § 246-100-011, filed 3/27/14, effective 4/27/14. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-011, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 43.20.050 (2) (d),

Chapter 246-100 WAC, Communicable and Certain Other Diseases  
Washington State Board of Health  
Working Draft – 6/14/2021

70.05.050 and 70.05.060. WSR 03-06-003, § 246-100-011, filed 2/19/03, effective 2/19/03. Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-100-011, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. WSR 97-15-099, § 246-100-011, filed 7/21/97, effective 7/21/97. Statutory Authority: Chapter 70.24 RCW. WSR 93-08-036 (Order 354B), § 246-100-011, filed 4/1/93, effective 5/2/93. Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 92-02-019 (Order 225B), § 246-100-011, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-011, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. WSR 89-07-095 (Order 325), § 248-100-011, filed 3/22/89; WSR 88-17-057 (Order 317), § 248-100-011, filed 8/17/88. Statutory Authority: RCW 43.20.050. WSR 88-07-063 (Order 308), § 248-100-011, filed 3/16/88; WSR 87-11-047 (Order 302), § 248-100-011, filed 5/19/87.]

**WAC 246-100-021 Responsibilities and duties—Health care providers.** Every health care provider, as defined in chapter 246-100 WAC, shall:

(1) Provide adequate, understandable instruction in control measures designed to prevent the spread of disease to:

(a) Each patient with a communicable disease under his or her care; and

(b) Others as appropriate to prevent spread of disease.

(2) Cooperate with public health authorities during investigation of:

(a) Circumstances of a case or suspected case of a notifiable condition or other communicable disease; and

(b) An outbreak or suspected outbreak of illness.

Comply with requirements in WAC 246-100-206, 246-100-211, and chapter 246-101 WAC.

(3) Use protocols established in the *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association, when treating wounds caused by animal bites. A copy of this publication is available for review at the department and at each local health jurisdiction.

(4) Conduct anonymous HIV testing consistent with the provisions of this chapter and report the identity of persons tested to the state or local public health officer if they have tested positive and received HIV health care or treatment services.

[Statutory Authority: RCW 43.20.050. WSR 15-05-014, § 246-100-021, filed 2/6/15, effective 3/9/15; WSR 00-23-120, § 246-100-

021, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 43.20.050, 70.24.130 and 70.104.055. WSR 92-02-019 (Order 225B), § 246-100-021, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-021, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.104 RCW. WSR 90-10-036 (Order 049), § 248-100-021, filed 4/26/90, effective 5/27/90. Statutory Authority: RCW 43.20.050. WSR 87-11-047 (Order 302), § 248-100-021, filed 5/19/87.]

**WAC 246-100-036 Responsibilities and duties—Local health**

**officers.** (1) The local health officer shall establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity they deem necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

(2) Local health officers shall:

(a) Notify health care providers within the local health jurisdiction regarding requirements in this chapter;

(b) Ensure anonymous HIV testing is reasonably available;

(c) Make HIV testing, , as defined in this chapter,  
available for voluntary, mandatory, and anonymous testing ;

(d) Make information on anonymous HIV testing available;

(e) Use identifying information on persons diagnosed with  
HIV provided according to chapter 246-101 WAC only:

(i) For purposes of contacting the person diagnosed with  
HIV to provide test results; or

(ii) To contact persons who may have experienced exposure,  
including persons identified as sex or injection equipment-  
sharing partners; or

(iii) To link with other name-based public health disease  
registries when doing so will improve ability to provide needed  
social and healthcare services and disease prevention, provided  
that the identity or identifying information of the persons  
living with HIV is not disclosed outside of the local health  
jurisdiction; and

(f) Destroy documentation of referral information  
established in WAC 246-100-072 and this subsection containing  
identities and identifying information on persons living with  
HIV and at-risk partners of those persons immediately after

notifying partners or within three months, whichever occurs first.

(3) Local health officers shall, when necessary, conduct investigations and institute disease control and contamination control measures, including medical examination, testing, counseling, treatment, vaccination, decontamination of persons or animals, isolation, quarantine, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with those indicated in the *Control of Communicable Diseases Manual*, 20th edition, published by the American Public Health Association, or other measures they deem necessary based on their professional judgment, current standards of practice, and the best available medical and scientific information.

(4) A local health jurisdiction should seek agreements as necessary with tribal governments and with federal authorities, with state agencies, and institutions of higher education that empower the local health officer to conduct investigations and institute control measures in accordance with WAC 246-100-040 on tribal lands, federal enclaves and military bases, and the campuses of state institutions. State institutions include, but

are not limited to, state-operated colleges and universities, schools, hospitals, prisons, group homes, juvenile detention centers, institutions for juvenile delinquents, and residential habilitation centers.

[Statutory Authority: RCW 43.20.050. WSR 15-05-014, § 246-100-036, filed 2/6/15, effective 3/9/15; WSR 03-17-022, § 246-100-036, filed 8/13/03, effective 9/13/03. Statutory Authority: RCW 43.20.050 (2) (d), 70.05.050, and 70.05.060. WSR 03-05-048, § 246-100-036, filed 2/13/03, effective 2/13/03. Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-100-036, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.24.125 and 70.24.130. WSR 99-17-077, § 246-100-036, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. WSR 97-15-099, § 246-100-036, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 92-02-019 (Order 225B), § 246-100-036, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-036, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. WSR 89-02-008 (Order 324), § 248-100-036, filed 12/27/88. Statutory Authority: RCW 43.20.050. WSR 88-07-063 (Order 308), § 248-100-036, filed 3/16/88.]

**WAC 246-100-070 Enforcement of local health officer**

**orders.** (1) An order issued by a local health officer in

accordance with this chapter shall constitute the duly authorized application of lawful rules adopted by the board and must be enforced by all police officers, sheriffs, constables, and all other officers and employees of any political subdivisions within the jurisdiction of the health department in accordance with RCW 43.20.050.

(2) Any person who shall violate any of the provisions of this chapter or any lawful rule adopted by the board shall be deemed guilty of a misdemeanor punishable as provided under RCW 70.05.120.

(3) Any person who shall fail or refuse to obey any lawful order issued by any local health officer shall be deemed guilty of a gross misdemeanor punishable as provided under RCW 70.24.025.

[Statutory Authority: RCW 43.20.050 (2) (d), 70.05.050, and 70.05.060. WSR 03-05-048, § 246-100-070, filed 2/13/03, effective 2/13/03.]

**WAC 246-100-072 Rules for notification of partners at risk of human immunodeficiency virus (HIV) infection.** (1) A local health officer or authorized representative shall:



(a) Within three working days of receipt of a report of a previously unreported case of HIV infection, attempt to contact the principal health care provider to:

(i) Seek input on the best means of conducting a case investigation including partner notification; and

(ii) If appropriate, request that the provider contact the person living with HIV as required in subsection (2) of this section.

(b) Contact the person diagnosed with HIV to:

(i) Discuss the need to notify sex or injection equipment-sharing partners, that they may have been exposed to HIV and that they should seek HIV testing; and

(ii) Offer assistance with partner notification as appropriate.

(c) Unless the health officer or designated representative determines partner notification is not needed or the person living with HIV refuses assistance with partner notification, assist with notifying partners in accordance with the

*"Recommendations for Partner Services Programs for HIV*

*Infection, Syphilis, Gonorrhea, and Chlamydial Infection"* as

published by the Centers for Disease Control and Prevention,  
October 2008.

(2) If the local health officer or designated representative informs the principal health care provider that they intend to conduct a partner notification case investigation, the principal health care provider shall attempt to inform the person living with HIV that the local health officer or authorized representative will contact the person living with HIV for the purpose of providing assistance with the notification of partners.

(3) A health care provider shall not disclose the identity of a person living with HIV or the identity of sex or injection equipment-sharing partners except as authorized in RCW 70.02.220 or in this section.

(4) Local health officers and authorized representatives shall:

(a) Use identifying information, according to this section, on persons living with HIV only to:

(i) Contact the person living with HIV to , as appropriate, refer to medical care, or to contact sex or injection equipment-sharing partners; or

(ii) Carry out an investigation of behavior that endangers the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.

(5) A health care provider may consult with the local health officer or an authorized representative about a person living with HIV and the need for notification of persons identified as sex or injection equipment-sharing partners at any time.

[Statutory Authority: RCW 70.24.130. WSR 10-01-082, § 246-100-072, filed 12/15/09, effective 1/15/10. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-072, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.125 and 70.24.130. WSR 99-17-077, § 246-100-072, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. WSR 97-15-099, § 246-100-072, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 92-02-019 (Order 225B), § 246-100-072, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-072, filed 12/27/90, effective 1/31/91. Statutory Authority:

Chapter 70.24 RCW. WSR 89-02-008 (Order 324), § 248-100-072,  
filed 12/27/88.]

**WAC 246-100-202 Sexually transmitted infections—Duties and  
authorities.** (1) Health care providers shall:

(a) Report each case of notifiable sexually transmitted  
infection as required in chapter 246-101 WAC; and

(b) At each medical encounter, when providing treatment for  
an infectious sexually transmitted infection, provide  
instruction, appropriate to each patient regarding:

(i) Communicability of the disease; and

(ii) Requirements to refrain from acts that may transmit  
the disease to another; and

(c) Ensure completion of a prenatal serologic test for  
syphilis in each pregnant woman pursuant to RCW 70.24.090  
including:

(i) Submitting a blood sample for syphilis to a laboratory  
approved to perform prenatal serologic tests for syphilis, as  
required in RCW 70.24.090, at the time of the first prenatal  
visit; and

(ii) Deciding whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy; and

(d) When diagnosing or caring for a patient with gonococcal or chlamydial *ophthalmia neonatorum*, reporting the case to the local health officer or local health jurisdiction in accordance with the provisions of chapter 246-101 WAC; and

(e) Instill a prophylactic ophthalmic agent into both eyes of the newborn as prophylaxis against *ophthalmia neonatorum* up to two hours after the delivery, whether the delivery occurred vaginally or by cesarean section. Acceptable ophthalmic prophylactic agents are application of erythromycin consistent with the "Sexually Transmitted Diseases Treatment Guidelines" as published by the Centers for Disease Control and Prevention, 2015. In the event the U.S. Food and Drug Administration declares a shortage of this prophylactic ophthalmic agent, health care providers may substitute alternative prophylactic ophthalmic agent recommended by the Centers for Disease Control and Prevention. If the newborn's parent(s) or legal guardian

refuses this procedure, the health care provider will document the refusal in the newborn's medical record.

(2) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement implying a person is free from sexually transmitted infection.

(3) State and local health officers or their authorized representatives shall have authority to conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted infection.

(a) For the purpose of this section, "reasonable belief" and "reasonably believed" shall mean a health officer's belief based upon a credible report from an identifiable person indicating another person is likely to have a sexually transmitted infection or to have been exposed to a STI;

(b) Investigations shall be conducted using procedures and measures described in WAC 246-100-036.

(4) Local health officers, health care providers, and others shall comply with the provisions in chapter 70.24 RCW, in addition to requirements in chapters 246-100 and 246-101 WAC.

(5) Any person who violates a rule adopted by the board for the control and treatment of a sexually transmitted infection is subject to penalty under RCW 70.24.080.

[Statutory Authority: RCW 70.24.130. WSR 09-22-097, § 246-100-202, filed 11/4/09, effective 12/5/09. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-202, filed 5/18/05, effective 6/18/05.]

**WAC 246-100-203 Sexually transmitted infections—Health officer orders.** (1) A state or local health officer within their jurisdiction may, in accordance with RCW 70.24.024, issue orders for a person to submit to medical examination testing, and/or counseling, receive medical treatment, cease and desist specific activities, or any combination of these when they know or have reason to believe that a person has a sexually transmitted infection and is engaging in specified behavior that endangers the public health.

(2) For purposes of RCW 70.24.024 and this section, "reason to believe" means a health officer's belief that is based on:

(a) Laboratory test results confirming or suggestive of a STI; or

(b) A health care provider's direct observation of clinical signs confirming a person has or is likely to have a STI; or

(c) Information obtained directly from a person diagnosed with a STI about the identity of their sex or injection equipment sharing partners when:

(i) Contact with the diagnosed person occurred during a period when the disease may have been infectious; and

(ii) The contact was sufficient to transmit the disease; and

(iii) The information is, in the health officer's judgment, credible.

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

(a) For all sexually transmitted infections:

(i) Anal, oral, or vaginal intercourse without a latex or plastic condom resulting in introduction of semen and/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 and/or vaginal fluids to mucous membranes, eyes, or an interruption of the epidermis:

(i) Anal, oral, or vaginal intercourse without a latex or plastic condom; and/or

(ii) Sharing of injection equipment; and/or

(iii) Knowingly donating or selling blood, blood products, body tissues, or semen.

(4) State and local health officers and their authorized representatives shall have authority to issue written orders for medical examination, testing, counseling, and cessation of behavior that endangers public health under RCW 70.24.024, only after:

(a) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and

(b) They have sufficient evidence to "reasonably believe" the person to be affected by the order:

(i) Has a sexually transmitted infection; and

(ii) Is knowingly engaging in "behavior that endangers the public health"; and

(c) They have investigated and reasonably confirmed the occurrence of such behaviors by:

(i) Interviewing sources to assess their credibility and accuracy; and

(ii) Interviewing the person to be affected by the order; and

(d) They have incorporated all information required in RCW 70.24.024 in a written order.

(5) State and local health officers and their authorized representatives shall have authority to issue written orders for treatment under RCW 70.24.024 only after laboratory test results or direct observation of clinical signs or assessment of clinical data by a health care provider confirm the person has, or is likely to have, a sexually transmitted infection.

(6) State and local health officers and their authorized representatives shall have authority to issue written orders to cease and desist from specified activities under RCW 70.24.024 only after:

(a) They have determined the person to be affected by the order is engaging in "behavior that endangers the public health"; and

(b) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a health care provider, confirm the person has, or is likely to have, a sexually transmitted infection; and

(c) They have exhausted procedures described in subsection (1)(c) of this section; and

(d) They have enlisted, if appropriate, court enforcement of the orders described in (c) and (d) of this subsection.

(7) Written orders to cease and desist from specified behaviors shall be reasonably related to the purpose or the restriction or restrictions for a period of time not to exceed 12 months provided all requirements of RCW 70.24.024 regarding notification, confidentiality, right to a judicial hearing, and right to counsel are met.

NEW SECTION

**WAC 246-100-2031 Sexually transmitted diseases – Orders and standards for detainment**

(1) A state or local health officer within their jurisdiction may, in accordance with RCW 70.24.034, bring action in superior court to detain a person in a designated or approved facility when they know or have reason to believe that person has a sexually transmitted infection and continues to engage in behaviors that present an imminent danger to the public health.

(2) For the purposes of detention in accordance with RCW 70.24.034 and this section, "behaviors that present an imminent danger to public health" or "BPID" means the following activities, under conditions specified below, performed by a person with a laboratory-confirmed HIV infection:

(a) Anal or vaginal intercourse without a latex or plastic condom; or

(b) Shared use of blood-contaminated injection equipment;

(c) Donating or selling blood, blood products, or semen;

and

(d) Activities described in (2)(a) and (b) of this subsection constitute BPID only if:iiiithe person with a laboratory confirmed HIV infection did not inform the persons with whom the activities occurred of their infectious status.

(3) State and local health officers and their authorized representatives shall have authority to seek court orders for detainment under RCW 70.24.034 only for persons diagnosed with HIV and only after:

(a) Exhausting procedures described in WAC 246-100-203(1);  
and

(b) Enlisting, if appropriate, court enforcement of orders to cease and desist; and

(c) Having "reason to believe" with sufficient evidence the person is engaging in BPID.

(4) A local health officer may notify the state health officer if they determine:

(a) The criteria for BPID are met by a person; and

(b) Such person fails to comply with a cease and desist order affirmed or issued by a court.

(5) A state or local health officer may request the prosecuting attorney to file an action in superior court to detain a person specified in this subsection. The requesting state or local health officer or authorized representative shall:

(a) Notify the department prior to recommending the  
detainment setting where the individualized counseling and  
education plan may be carried out consistent with subsections  
(6) (7), and (8) of this section;

(b) Make a recommendation to the court for placement of  
such person consistent with subsections (6), (7), and (8) of  
this section; and

(c) Provide to the court an individualized plan for  
education and counseling consistent with (7) of this subsection.

(6) Requirements for detainment of persons demonstrating  
BPID include:

(a) Sufficient number of staff, caregivers, and/or family  
members to:

(i) Provide round-the-clock supervision, safety of  
detainee, and security; and

(ii) Limit and restrict activities to prevent BPID; and

(iii) Make available any medical, psychological, or nursing  
care when needed; and

(iv) Provide access to education and counseling; and

(v) Immediately notify the state or local health officer of unauthorized absence or elopement; and

(b) Sufficient equipment and facilities to provide:

(i) Meals and nourishment to meet nutritional and religious or cultural needs; and

(ii) A sanitary toilet and lavatory; and

(iii) A bathing facility; and

(iv) Bed and clean bedding appropriate to size of detainee; and

(v) A safe detention setting appropriate to chronological and developmental age of detainee; and

(vi) A private sleeping room; and

(vii) Prevention of sexual exploitation;

(c) Sufficient access to services and programs directed toward cessation of BPID and providing:

(i) Psychological and psychiatric evaluation and counseling; and

(ii) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (7) of this section;

(d) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 246-322-180, WAC 246-337-110, or other applicable rules;

(e) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(7) Standards for an individualized counseling and education plan for a detainee include:

(a) Alignment with the detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(b) Identification of habitual and addictive behavior and relapse pattern;

(c) Identification of unique risk factors and possible cross-addiction leading to BPID;

(d) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;



(e) Provision of information about acquisition and transmission of HIV;

(f) Teaching and training of individual coping skills to prevent relapse to BPID;

(g) Specific counseling for substance use disorder, if required;

(h) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(i) Designation of a person primarily responsible for counseling and/or education who:

(i) Has a postgraduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(ii) Completed at least one year of clinical experience after postgraduate education with a primary focus on individualized behavior change; and

(iii) Is a certified counselor under chapter 18.19 RCW;

(j) Designation and provision of a qualified counselor under chapter 246-811 WAC when the detainee is assessed to have substance use disorder.

(8) The following settings are appropriate for detainment provided a setting meets requirements in subsection (6) (a) through (6) (e) of this section:

(a) Homes, care facilities, or treatment institutions operated or contracted by the department;

(b) Private homes, as recommended by the state or local health officer;

(c) Assisted living facilities licensed under chapter 18.20 RCW;

(d) Nursing homes licensed under chapter 18.51 RCW;

(e) Facilities licensed under chapter 71.12 RCW that provide behavioral health services, including:

(i) Psychiatric hospitals, per chapter 246-322 WAC;

(ii) Chemical dependency hospitals licensed under chapter 246-324 WAC;

(iii) Residential treatment facilities licensed under chapter 246-337 WAC;

(f) A hospital licensed under chapter 70.41 RCW.

[Statutory Authority: RCW 70.24.130 and 2012 c 10. WSR 14-08-046, § 246-100-203, filed 3/27/14, effective 4/27/14. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-203, filed 5/18/05, effective 6/18/05.]

**WAC 246-100-204 Absence of HIV or hepatitis C as an occupational qualification.** For the purpose of RCW 49.60.172 concerning the absence of HIV or hepatitis C infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye or interruption of the epidermis, when:

(1) No adequate barrier protection is practical; and

(2) Determined only on case-by-case basis consistent with RCW 49.60.180.

[Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-204, filed 5/18/05, effective 6/18/05.]

**WAC 246-100-205 Blood-borne pathogens exposure - Occupation settings.** A person who has experienced an exposure to another person's bodily fluids in a manner that presents a

possible risk of transmission of blood-borne pathogens, and who is exposed while engaged in a category of employment determined to be at risk of substantial exposure to blood-borne pathogens, may ask a state or local health officer to order testing for blood-borne pathogens of the person who was the source of the bodily fluids in accordance with RCW 70.24.340.

(1) Exposure that presents a possible risk of transmission shall be limited to:

(a) A physical assault upon the exposed person involving blood, semen, or vaginal fluid;

(b) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person; or

(c) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(2) The alleged exposure must have occurred on the job while the person was employed or acting as an authorized volunteer in one of the following employment categories that are at risk of exposure to blood-borne pathogens:

(a) Law enforcement officer;

(b) Firefighter;

(c) Health care provider;

(d) Staff of health care facilities;

(e) Funeral director;

(f) Embalmer; or

(g) Persons licensed to perform body art under RCW 18.300

(3) The health officer shall:

(a) Determine whether the alleged exposure meets the criteria established in this section for exposure that presents a possible risk of transmission, and, if criteria are met, notify and

arrange for testing of the person who is the source of the exposure in accordance with RCW 70.24.340; and

(b) Ensure that records related to blood-borne pathogen testing ordered by the health officer are maintained only by the ordering health officer.

(4) The health officer, as a precondition for ordering counseling and testing of the person who was the source of the exposure, may require that the exposed individual agree to be tested for HIV blood-borne pathogens if such testing is determined appropriate by the health officer.

(5) This section does not apply to the department of corrections or to inmates in its custody or subject to its jurisdiction.

[Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-205, filed 5/18/05, effective 6/18/05.]

**WAC 246-100-206 Blood-borne pathogen exposure - Local jail facilities.** Jail administrators, with the approval of the local public health officer, may order blood-borne pathogen testing of a jail detainee in accordance with RCW 70.24.360, provided that the local health officer determines that the detainee's behavior exposed the staff, other detainees, general public, or other persons and such exposure presents a possible risk of transmitting a blood-borne pathogen. (1) For purpose of of this section, "exposure presenting possible risk" means, as a result of activities identified in subsection (2), one or more of the following:

- (a) Introduction of blood, semen, or vaginal fluids into:
  - (i) A body orifice or a mucous membrane;
  - (ii) The eye; or
  - (iii) Interruption of the epidermis.

(b) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

(2) For the purposes of subsection (1) of this section, the following are activities which may result in "exposure presenting possible risk":

(a) Anal, oral, or vaginal intercourse without a latex or plastic condom excluding conjugal visits; or

(b) Physical assault; or

(c) Sharing of injection equipment or sharp implements; or

(d) Throwing or smearing of blood, semen, or vaginal fluids;

(3) Jail administrators may order blood-borne pathogen testing only under the following conditions:

(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident resulting in "exposure presenting possible risk"; and

(b) The local health officer:

(i) Determines the documented behavior or behaviors meet the criteria established in this section for behaviors presenting a "possible risk"; and

(ii) Interviews the detained person to evaluate the factual basis for alleged behavior ; and

(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained person, and/or independent investigation, that sufficient factual evidence exists to support the allegation of actual "behaviors presenting possible risk" resulting in exposure presenting possible risk; and

(iv) Arranges for testing of the person who is the source of the exposure to occur within seven days of the request from the jail administrator; and

(v) Reviews with the detained person who is the source of the exposure the documentation of the behavior to try to assure understanding of the basis for blood-borne pathogen testing; and

(vi) Provides written approval of the jail administrator's order prior to blood-borne pathogen testing.

(c) The jail administrator maintains blood-borne pathogen test results and identity of the tested person as a confidential, nondisclosable record, as provided in RCW 70.02.220.



Chapter 246-100 WAC, Communicable and Certain Other Diseases  
Washington State Board of Health  
Working Draft – 6/14/2021

[Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-206, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.380. WSR 02-12-106, § 246-100-206, filed 6/5/02, effective 7/6/02. Statutory Authority: RCW 70.24.125 and 70.24.130. WSR 99-17-077, § 246-100-206, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. WSR 97-15-099, § 246-100-206, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 92-02-019 (Order 225B), § 246-100-206, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-206, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. WSR 89-07-095 (Order 325), § 248-100-206, filed 3/22/89; WSR 88-21-093 (Order 322), § 248-100-206, filed 10/19/88; WSR 88-17-056 (Order 316), § 248-100-206, filed 8/17/88. Statutory Authority: RCW 43.20.050. WSR 87-11-047 (Order 302), § 248-100-206, filed 5/19/87.]

**WAC 246-100-2061 Blood-borne pathogen exposure - Department of corrections facilities.** (1) For purposes of RCW 70.24.370, the following constitutes an exposure that presents a “possible risk of transmission of a blood-borne pathogen”:

(a) Introduction of blood, semen, or vaginal fluids as a result of activities in subsection (2), into:

- (i) A body orifice or a mucous membrane;
- (ii) The eye; or

(iii) Interruption of the epidermis.

(b) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

(2) For the purposes of subsection (a) of this section, the following are activities which may result in “possible risk of transmission of a blood-borne pathogen”:

(a) Anal, oral, or vaginal intercourse without a latex or plastic condom excluding conjugal visits; or

(b) Physical assault; or

(c) Sharing of injection equipment or sharp implements; or

(d) Throwing or smearing of blood, semen, or vaginal fluids;

(3) The chief medical officer of the department of corrections may order blood-borne pathogen testing for an inmate in accordance with RCW 70.24.370, provided that the chief medical officer or their designee determines that the inmate’s behavior exposed the staff, general public, or other inmates and that exposure presents a possible risk of transmitting a blood-borne pathogen as defined in subsection (1) and (2) of this section.

**WAC 246-100-207 Blood-borne pathogen testing—Ordering—**

**Laboratory screening—Interpretation—Reporting.** (1) Except for persons ordering or prescribing a blood-borne pathogen test for

another person under subsections (3) and (4) of this section, any person ordering or prescribing a blood-borne pathogen test for another person if the test is positive for or suggestive of blood-borne pathogen infection, shall follow the provisions of chapter 246-101 WAC.

(2) The local and state health officer or authorized representative shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings.*"

(3) Any person authorized to order or prescribe an HIV test for another person may offer anonymous HIV testing without restriction.

(4) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Explain that donations are tested to prevent contamination of the blood supply, tissue, or organ bank donations;

(b) At the time of notification regarding a positive blood-borne pathogen test, provide or ensure at least one individual counseling session; and

(c) Inform the person that the name of the person testing positive for a blood-borne pathogen will be confidentially reported to the state or local health officer.

(5) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an blood-borne pathogen test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform a blood-borne pathogen test, provide written information to the person tested explaining:

(iii) Which blood-borne pathogen test is being administered and that the purpose of blood-borne pathogen testing in this setting is to determine eligibility for coverage;

(b) Obtain informed specific written consent for a blood-borne pathogen test or tests. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the person testing positive for a blood-borne pathogen will be confidentially reported to the state or local health officer; and

(c) Establish procedures to inform an applicant of the following:

(i) The applicant may designate a health care provider or health care agency to whom test results indicative of infection with a blood-borne pathogen are to be provided for interpretation; and

(iv) Test results indicative of infection are sent directly to the applicant.

(6) Laboratories and other places where blood-borne pathogen testing is performed must demonstrate compliance with all of the requirements in the medical test site rules, chapter 246-338 WAC.

(7) Persons informing a tested person of positive laboratory test results indicating blood-borne pathogen infection shall do so only when:

(a) The test or sequence of tests has been approved by the FDA or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) Such information consists of relevant facts communicated in such a way that it will be readily understood by the recipient and is linguistically, socially, culturally, and developmentally appropriate.

(8) Persons may inform a tested person of the unconfirmed reactive results of an FDA-approved rapid blood-borne pathogen test provided the test result is interpreted as preliminarily positive, and the tested person is informed that:

(a) Further testing is necessary to confirm the reactive screening test result;

(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;

(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and

(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.

[Statutory Authority: RCW 70.24.380. WSR 18-23-056, § 246-100-207, filed 11/15/18, effective 12/16/18; WSR 13-03-110, § 246-100-207, filed 1/17/13, effective 2/17/13. Statutory Authority: RCW 70.24.130. WSR 10-01-082, § 246-100-207, filed 12/15/09, effective 1/15/10. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-100-207, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.380. WSR 02-12-106, § 246-100-207, filed 6/5/02, effective 7/6/02. Statutory Authority: RCW 70.24.125 and 70.24.130. WSR 99-17-077, § 246-100-207, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.380. WSR 97-04-041, § 246-100-207, filed 1/31/97, effective 3/3/97. Statutory Authority: RCW 43.20.050 and 70.24.130. WSR 92-02-019 (Order 225B), § 246-100-207, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-207, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24

Chapter 246-100 WAC, Communicable and Certain Other Diseases  
Washington State Board of Health  
Working Draft – 6/14/2021

RCW and RCW 70.24.130. WSR 89-20-006 (Order 334), § 248-100-207, filed 9/22/89, effective 10/23/89. Statutory Authority: Chapter 70.24 RCW. WSR 89-14-003 (Order 329), § 248-100-207, filed 6/22/89; WSR 88-17-058 (Order 318), § 248-100-207, filed 8/17/88.]

**WAC 246-100-211 Tuberculosis.** (1) Health care providers diagnosing or caring for a person with tuberculosis, whether pulmonary or nonpulmonary, shall:

(a) Report the case to the local health officer or local health jurisdiction in accordance with the provisions of this chapter, and

(b) Report patient status to the local health officer every three months or as requested.

(2) The local health officer or local health jurisdiction shall:

(a) Have primary responsibility for control of tuberculosis within the designated jurisdiction;

(b) Maintain a tuberculosis control program including:

(i) Prophylaxis,

(ii) Treatment,

(iii) Surveillance,



- (iv) Case finding,
  - (v) Contact tracing, and
  - (vi) Other aspects of epidemiologic investigation;
- (c) Maintain a tuberculosis register of all persons with tuberculosis, whether new or recurrent, within the local jurisdiction including information about:
- (i) Identification of patient,
  - (ii) Clinical condition,
  - (iii) Epidemiology of disease,
  - (iv) Frequency of examinations;
- (d) Impose isolation of a person with tuberculosis in an infectious stage if that person does not observe precautions to prevent the spread of the infection;
- (e) Designate the place of isolation when imposed;
  - (f) Release the person from isolation when appropriate;
  - (g) Maintain and provide outpatient tuberculosis diagnostic and treatment services as necessary, including public health nursing services and physician consultation; and
  - (h) Submit reports of all cases to the department in accordance with the provisions of this chapter.

(3) When a person with tuberculosis requires hospitalization,

(a) Hospital admission shall occur in accordance with procedures arranged by the local health officer and the medical director or administrator of the hospital, and

(b) The principal health care provider shall:

(i) Maintain responsibility for deciding date of discharge, and

(ii) Notify the local health officer of intended discharge in order to assure appropriate outpatient arrangements.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-100-211, filed 12/27/90, effective 1/31/91; WSR 87-11-047 (Order 302), § 248-100-211, filed 5/19/87.]