

# WASHINGTON STATE BOARD OF HEALTH

**Date:** June 1, 2021

**To:** Washington State Board of Health Members

**From:** Keith Grellner, Chair

**Subject:** Complaint Against Spokane Regional Health District Public Health Administrator, Preliminary Investigation

## Background and Summary:

Under RCW 70.05.120, any person may file a complaint with the State Board of Health (Board) concerning the failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health. When a complaint is received, the Board determines whether the complaint falls within its authority to review and, if so, whether it merits further action. If it does, the Board may request a preliminary investigation. If a preliminary investigation so warrants, the Board may call a hearing, pursuant to the provisions of the Administrative Procedure Act, chapter 34.05 RCW, to determine whether the local health officer or administrative officer is guilty of the alleged acts.

On November 3, 2020 the Board received two complaints against the Spokane Regional Health District Administrator (SRHD), Amelia Clark. The complaints, one from Ben Stuckart and a second submitted by Maria Howard, PhD and co-signed by an additional 162 individuals, both allege violations of Chapter 70.05 of the Revised Code of Washington (RCW). An additional complaint alleging violations of Chapter 70.05 RCW was received by the Board from Ron Tussey on November 6, 2020.

The complaints specifically alleged that the health administrator failed to:

Terminate the local health officer in accordance with RCW 70.05.050; "...the local health officer shall not be removed until after notice is given, and an opportunity for a hearing before the board or official responsible for his or her appointment under this section as to the reason for his or her removal".

These complaints were made with respect to the termination of the SRHD Health Officer, Dr. Bob Lutz, on October 29, 2020. The complainants claimed that Dr. Lutz was removed from his position with neither an opportunity for a public hearing, or a full meeting and vote of the SRHD Board of Health. The SRHD Board of Health held a special meeting on Thursday, November 5, 2020, the agenda for which included a possible action regarding the approval of the termination of Dr. Bob Lutz, Health Officer. At that time, the SRHD Health Board voted to terminate Dr. Lutz effective immediately. Following receipt and review of the complaints, the Board voted at its regularly scheduled meeting on November 9, 2020 that the complaints had merit and warranted further investigation. The Board determined that a preliminary investigation would be

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conducted by an independent investigator consistent with to Board Policy 2015-001, Responding to Complaints Against a Local Health Officer or Administrative Officer. The Board, in cooperation with the Department of Health, contracted with Karen Sutherland of Ogden Murphy Wallace P.L.L.C. to conduct the preliminary investigation. The purpose of the preliminary investigation was to assess whether Ms. Clark violated RCW 70.05.050, specifically “...the local health officer shall not be removed until after notice is given, and an opportunity for a hearing before the board or official responsible for his or her appointment under this section as to the reason for his or her removal”.

During today’s meeting Ms. Sutherland will present the findings of her preliminary investigation. Following this presentation, the Board will discuss the findings and should choose a course of action for how to proceed.

The Board has a choice from the following as a response to the preliminary investigation findings:

1. Request more information and take no action at this time;
2. Determine that no violation of RCW 70.05.050 has occurred and dismiss the complaints; or
3. Determine that a violation of RCW 70.05.050 may have occurred and schedule a hearing with Ms. Clark at a date and time to be determined.

**Recommended Board Actions:**

The Board may wish to consider, amend if necessary, and adopt one of the following motions:

The Board determines that the information provided is insufficient to reach a conclusion as to whether a hearing is warranted, and requests further information be compiled as part of the preliminary investigation and report these findings to the Board.

OR

The Board determines that, based on the findings of the preliminary investigation, Ms. Clark did not fail to obey or enforce provisions of RCW 70.05.050 and a hearing is not warranted. The Board directs staff to notify the complainants and Ms. Clark of their decision.

OR

The Board determines that the information provided in the preliminary investigation warrants a hearing to determine whether Ms. Clark is guilty of failing to obey or enforce provisions of RCW 70.05.050. The Board directs staff to notify Ms. Clark that a hearing will be scheduled, and notice provided pursuant to the provisions of chapter 34.05 RCW.

**Staff**

Samantha Pskowski, Policy Advisor

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