

# WASHINGTON STATE BOARD OF HEALTH

**Date:** August 11, 2021

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

**From:** Dr. Bob Lutz, Board Member

**Subject:** Chapter 246-100 WAC, Communicable and Certain Other Diseases

## Background and Summary:

Chapter 246-100 WAC, Communicable and Certain Other Diseases establishes rules for the prevention and control of infectious and noninfectious disease under the authority provided in RCW 43.20.050. In 2020, the Legislature passed Engrossed Substitute House Bill (ESHB) 1551, Modernizing the control of certain communicable diseases (Chapter 76, Laws of 2020), which provides the Board with new rulemaking duties under chapter 70.24 RCW.

ESHB 1551 modernized the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The new law took effect June 11, 2020. The Board initiated rulemaking in July 2020 to assure consistency with the new law and align chapters 246-100 WAC, Communicable and Certain Other Diseases, as well as chapter 246-101 WAC, Notifiable Conditions.

The Board adopted amendments to the Notifiable Conditions chapter at its March 2021 meeting. Amendments include minor editorial revisions consistent with the changes in ESHB 1551.

The scope of the revisions in the Communicable Disease chapter include:

- Editorial revisions throughout the chapter to remove gendered language (e.g., his or hers), use people-first language (e.g., people living with HIV), and provide clarity.
- Adding and removing definitions consistent with ESHB 1551.
- Removing references to HIV/AIDS counseling, including pre- and post-test counseling, and training consistent with ESHB 1551.
- Updating references to law (RCW) and rule (WAC).
- Clarifying provisions related to the use of identifying information of persons living with HIV.
- Revising the effective length of written health orders from three to 12 months consistent with ESHB 1551.
- Replacing references to HIV with blood-borne pathogen.
- Establishing and clarifying the criteria for what constitutes a substantial exposure and possible risk of transmission of a blood-borne pathogen in occupational

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settings, local jail facilities, and Washington State Department of Corrections facilities.

Board staff consulted local health jurisdictions, the Washington State Department of Corrections, Washington State Labor & Industries, Department of Health subject matter experts, as well as community and advocacy groups in the development of proposed revisions. Board staff continue to work with interested parties to refine rule language and conduct a cost-benefit analysis in preparation for filing the CR-102, Proposed Rules, anticipated in early October 2021.

I have invited Kaitlyn Donahoe, Sam Pskowski, Caitlin Lang-Perez, Board Staff, and LinhPhung Huynh, Department of Health Staff to provide an update on the current progress of the rule revision ahead of an anticipated rules hearing in November. There is no action the Board will take on this item today.

#### Staff

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