

WASHINGTON STATE BOARD OF HEALTH

Date: March 10, 2021

To: Washington State Board of Health Members

From: Dr. Bob Lutz, Board Member

Subject: Chapter 246-100 WAC, Communicable and Certain Other Diseases, and Chapter 246-101 WAC, Notifiable Conditions

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 RCW 70.24.130.

The law works to modernize the state's control of communicable disease laws by:

- Ending statutory HIV/AIDS exceptionalism;
- Reducing HIV-related stigma;
- De-felonizing HIV exposure; and
- Removing barriers to testing for HIV.

The new law took effect June 11, 2020. In order to align the rules with the new law, the Board initiated rulemaking in July 2020 to update chapter 246-100 WAC and chapter 246-101 WAC. Additionally, these statutory changes impact other standards such as HIV training and education requirements and blood-borne pathogen testing in occupational exposures. Other agencies, such as the Office of the Superintendent of Public Instruction, Department of Corrections, and Department of Labor and Industries are engaging in their own rulemaking projects to implement ESHB 1551.

Chapter 246-100 WAC was last updated in 2018. Staff are currently working to identify possible revisions to the chapter to assure consistency with statute and protect public health and safety. Possible revisions include:

- Establishing procedures for taking appropriate action regard to health care facilities or health care providers that violate the laws or rules pertaining to the control and treatment of sexually transmitted disease;
- Prescribing stringent safeguards to protect the confidentiality of the persons and records subject to this chapter;
- Establishing procedures for investigations;
- Specifying behavior that endangers the public health, based on generally accepted standards of medical and public health science;

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- Defining specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections;
- Determining categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and
- Defining what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.

In addition to the Board's rules on communicable diseases, alignment with ESHB 1551 requires changes to the chapter 246-101 WAC, Notifiable Conditions. The Board previously filed a CR-101 to initiate rulemaking to consider changes to chapter 246-101 WAC in April 2018. Minor editorial changes related to implementation of ESHB 1551 were incorporated into the proposed rule that was filed on February 2, 2021. A public hearing for the proposed notifiable conditions rule, including these changes, is scheduled for the March 10, 2021 meeting.

I have invited Kaitlyn Donahoe, Sam Pskowski, Caitlin Lang-Perez, Board Staff, and LinhPhung Huynh, Department of Health Staff to provide a brief overview and update of this work. There is no action the Board will be taking on this item today.

Staff

Kaitlyn Donahoe

Caitlin Lang-Perez

Samantha Pskowski

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