

# WASHINGTON STATE BOARD OF HEALTH

**Date:** March 10, 2021

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

**From:** Stephen Kutz, BSN, MPH

**Subject:** Rules Hearing – Notifiable Conditions Rulemaking – chapter 246-101 WAC

## Background and Summary:

The purpose of Chapter 246-101 WAC, Notifiable Conditions, is to provide critical information to public health authorities to aid them in protecting and improving public health through prevention and control of infectious and noninfectious conditions as required under RCW [43.20.050](#), [70.104.055](#), and [43.70.545](#). Rulemaking by the Washington State Board of Health (Board) and Washington State Department of Health (Department) has been underway since 2017.

The Board and Department filed a CR-101, Preproposal Statement of Inquiry, in April 2017. Initial work with stakeholders indicated a need to expand the scope of rulemaking. The original CR-101 was withdrawn and a new CR-101 was filed in March 2018 ([WSR 18-11-089](#)).

The CR-102, Proposed Rule, was filed in March 2020 ([WSR 20-06-061](#)). After a public hearing was held in April 2020, the Board determined it would continue its consideration of the proposed rule in recognition of interested parties' limited ability to review and comment on proposed changes as a result of the COVID-19 pandemic.

A supplemental CR-102 was filed in June 2020 ([WSR 20-13-062](#)), and a second public hearing was held in August 2020. As a result of public comment received, the Board elected to continue its consideration of the supplemental proposal for the purpose of gathering information to evaluate the feasibility of incorporating additional demographic reporting requirements into the proposed rule.

At its November 2020 meeting, the Board directed staff to develop rule language to include race, ethnicity, and language reporting informed by subject matter and community experts, local health jurisdictions, and the regulated community. The supplemental CR-102 was withdrawn in December 2020 ([WSR 21-01-028](#)).

A new CR-102 was filed on February 2, 2021 ([WSR 21-04-136](#)). Recommended changes to Chapter 246-101 WAC include, but are not limited to:

- Adding notification and specimen submission requirements for “new conditions” and conditions currently identified as “other rare diseases of public health significance”;

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- Updating and clarifying notification and specimen submission requirements for certain existing conditions;
- Clarifying and improving requirements for suspected cases;
- Adding requirements to report race, ethnicity, and preferred language;
- Revising the reporting requirements for veterinarians and the Department of Agriculture;
- Adding enhanced service facilities licensed under chapter 70.97 RCW to the definition of “health care facility;”
- Editorial revisions consistent with statutory changes in Engrossed Substitute House Bill 1551 (Chapter 76, Laws of 2020);
- Updating statutory references in the rules, including updated references to the Security and Confidentiality Guidelines developed by the Centers for Disease Control and Prevention; and
- Improving overall clarity and usability of the chapter.

I have invited Kaitlyn Donahoe, Board Staff, as well as Sierra Rotakhina and LinhPhung Huynh, Department Staff, to provide a summary of the proposed changes, share the comments that were received in the proposed rules, and provide staff recommendations on how to address those comments. Following their presentation, we will hold a public hearing on the rule and discuss the proposed changes.

#### Recommended Board Actions:

The Board may wish to consider, amend if necessary, and adopt the following motion:

The Board adopts the proposed amendments to chapter 246-101 WAC as published in WSR 21-04-136 with revisions agreed upon at today’s meeting. The Board directs staff to file a CR-103 and establish a January 1, 2022 effective date.

#### Staff

Kaitlyn Donahoe

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