

WASHINGTON STATE BOARD OF HEALTH

Date: January 12, 2022

To: Washington State Board of Health Members

From: Dr. Bob Lutz, Board Member

Subject: Continuance of Rules Hearing – Communicable and Certain Other Diseases – Chapter 246-100 WAC

Background and Summary:

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

ESHB 1551 modernized the state's control of communicable disease laws by helping to end statutory HIV/AIDS exceptionalism, reduce HIV-related stigma, defelonize HIV exposure, and remove barriers to HIV testing. The new law took effect June 11, 2020. The Board initiated rulemaking in July 2020

The scope of the revisions in WAC 246-101 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 training and counseling, including pre- and post-test counseling, 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 certain 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 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, and Department of Health subject matter experts, as well as community and advocacy groups in the development of

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proposed revisions. Board staff distributed two informal drafts for comment and held a Listen and Learn session to solicit feedback. A CR-102, Proposed Rules, was filed on October 5, 2021, opening the formal public comment period which ended on October 28, 2021. The Board held a rules hearing at the November 10th meeting and voted to continue the hearing to today, based on public comment received, in order to clarify language related to certain exposures and behaviors.

I have invited Sam Pskowski, Cait Lang-Perez, Board staff, and LinhPhụng Huỳnh, Department of Health staff, to provide an overview of the proposed rule and discuss additional recommended revisions based on public feedback. We will then continue the rules hearing from the Board's November meeting on the proposed rule.

Recommended Board Actions

The Board may wish to consider, amend if necessary, and adopt one of the following motion for the proposed rules.

The Board adopts the proposed revisions to chapter 246-100 WAC, Communicable and Certain Other Diseases, as published in WSR 21-20-127, along with any revisions agreed upon at today's meeting. Furthermore, the Board directs staff to file a CR-103, Order of Adoption, and establish an effective date.

OR

The Board directs staff to continue working with subject matter experts and community experts to develop proposed rule language to implement ESHB 1551. If necessary, the Board directs staff to withdraw the CR-102 as published in WSR 21-20-127 in anticipation of filing a new CR-102 to incorporate additional revisions addressing concerns raised during the rules hearing.

Staff

Samantha Pskowski
Caitlin Lang-Perez

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