

WASHINGTON STATE BOARD OF HEALTH

Date: May 27, 2022

To: Washington State Board of Health Members

From: Michelle Davis, Executive Director

Subject: Determination of Meeting Format

Background and Summary:

On February 29, 2020, Governor Inslee issued Proclamation 20-05, proclaiming a State of Emergency for all counties in Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak. On March 13, 2020, President Trump declared a national emergency through Proclamation 9994 concerning the COVID-19 pandemic. President Biden issued a notice on April 13, 2022, continuing the national emergency for another 90 days.

On March 24, 2020, Governor Inslee issued Proclamation 20-28, prohibiting in-person meetings as well as waiving and suspending provisions in chapter 42.56 RCW, the Public Records Act, and chapter 42.30 RCW, the Open Public Meetings Act (OPMA), that hinder conducting public meetings remotely. The OPMA requires all meetings of governing bodies of public agencies to be open to the public. Proclamation 20-28 and subsequent extensions waived requirements for an in-person setting for public meetings, allowing agencies to hold fully remote public meetings.

During the 2022 Legislative Session, the Legislature passed, and the Governor signed Engrossed Substitute House Bill (ESHB) 1329, which:

- Clarifies that meetings subject to the OPMA must have a physical location, with a few exceptions; and
- Allows agencies to limit public attendance or to hold fully remote public meetings after a local, state, or federal state of emergency has been declared if the agency determines that a meeting with in-person attendance cannot be held with reasonable safety because of the emergency. If an agency makes such a determination, it may: (a) Hold a remote meeting of the governing body without a physical location; or (b) Hold a meeting of the governing body at which the physical attendance by some or all members of the public is limited due to a declared emergency.

Further, if the agency decides to limit public attendance or conduct the meeting remotely, it must provide an option for the public to listen to the meeting. This may be through the telephone, on a local cable television station, over the Internet, or through some other means. The option cannot require any cost to the public to access the meeting. If the public agency does not provide such an option, it cannot take action at

(continued on the next page)

the meeting. Notice provided for a remote meeting or a meeting with limited public attendance must include instructions for how the public may attend remotely.

On April 29, 2022, Governor Inslee issued Proclamation 20-28.16, stating that:

- Proclamation 20-28 and its subsequent extensions, which waived the OPMA requirement for in-person locations for public meetings, are terminated and rescinded effective 12:01 A.M. on June 1, 2022; and
- Proclamation 20-05 and its subsequent amendments remain in effect; therefore, a State of Emergency continues to exist in all counties of Washington.

Meetings of the Washington State Board of Health (Board) are subject to the OPMA. Prior to the pandemic, the Board typically held its regular meetings in person, and its committee meetings by phone. Board members, presenters and invited guests participated remotely in regular meetings from time to time, and TVW often livestreamed the Board's meetings. After the Governor issued proclamation 20-28, the Board met virtually for the remainder of 2020 and 2021. At its November 2021 meeting the Board adopted its 2022 meeting schedule and determined that meetings would be held virtually through the duration of the declared public emergency. These meetings did not have a physical location and, instead, provided the opportunity for Board members, staff, and members of the public to participate via a video communications platform, without additional costs.

Today, the Board will have an opportunity to discuss how it wants to hold future public meetings while the State of Emergency continues to exist, and whether or not it can hold in-person meetings with reasonable safety. If the Board determines it cannot hold in-person meetings with reasonable safety, then it may consider whether to hold meetings entirely remotely or to meet in person and limit public attendance. The Board can revisit this determination at any time during the declared state of emergency.

Recommended Board Actions:

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

Proposed Motion 1 (fully remote meetings): Due to the COVID-19 state of emergency as well as the reasons articulated by the Board today, the Board determines it is not reasonably safe to hold in-person meetings at this time. The Board directs Board staff to organize fully remote meetings for the duration of the Washington State of Emergency or the National Emergency, whichever terminates later.

Proposed Motion 2 (limit physical attendance): Due to the COVID-19 state of emergency as well as the reasons articulated by the Board today, the Board determines it is not reasonably safe to hold in-person meetings that include attendance by members of the public during this time. The Board directs Board staff to organize in-person meetings for Board members without in-person attendance by members of the public for the duration of the Washington State of Emergency or the National Emergency, whichever terminates later.

Proposed Motion 3 (fully in-person meetings): The Board determines that it is reasonably safe to hold in-person meetings and directs Board staff to identify in-person meeting locations for 2022 and to revise the Board's 2022 meeting schedule accordingly.

To request this document in an alternate format or a different language, please contact Kelie Kahler, Washington State Board of Health Communication Manager, at 360-236-4102 or by email at kelie.kahler@sboh.wa.gov. TTY users can dial 711.

PO Box 47990 • Olympia, WA 98504-7990
360-236-4110 • wsboh@sboh.wa.gov • sboh.wa.gov