

WASHINGTON STATE BOARD OF HEALTH

Date: June 8, 2022

To: Washington State Board of Health Members

From: Keith Grellner, Board Chair

Subject: Rulemaking Petition – Chapter 246-105 WAC, Immunization of Child Care and School Children for Vaccine Preventable Diseases

Background and Summary:

The Administrative Procedures Act (RCW 34.05.330) allows any person to petition a state agency to request adoption, amendment, or repeal of any rule. Upon receipt of a petition, the agency has sixty days to either (1) deny the petition in writing stating the reasons and, as appropriate, offer other means for addressing the concerns raised by the petitioner, or (2) accept the petition and initiate rulemaking.

On May 16, 2022, the Board received a petition for rulemaking from Kenneth Harp requesting amendment to chapter 246-105 WAC, Immunization of Child Care and School Children for Vaccine Preventable Diseases. Specifically, the petitioner requests that the Board amend WAC 246-105-070 to include language requiring health care providers administering immunizations to ensure informed consent is obtained prior to administering a vaccine with an Emergency Use Authorization and/or any product that has not completed Stage III Clinical Safety Trials. The petitioner further requests that the rules clarify that informed consent is consistent with the Nuremburg Code, UNESCO, the World Medical Association's Declaration of Helsinki, the guidelines of the Council for International Organizations of Medical Services and the International Covenant on Civil and Political Rights. The petitioner further states that these documents forbid medical experimentation without consent.

The Board's authority under RCW 28A.210.140 requires the Board to adopt rules to establish the procedural and substantive requirements for full immunization. These rules are set forth in chapter 246-105 WAC, which defines the diseases that children must be protected against and the documentation options to meet these requirements. WAC 246-105-070, requires a health care provider who administers immunizations, or their organization, to provide a patient or parent a medically verified immunization record containing certain information. This section mirrors RCW 28A.210.100, which requires health care providers to provide patients or their parents with an immunization record containing information required by Board rules.

In Washington State, there are over twenty boards and commissions that regulate the licensing of health care providers, including those who administer vaccines. Other law, including parts of chapter 7.70 RCW, addresses informed consent by a patient in a medical setting.

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Recommended Board Actions

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

The Board declines the petition to initiate rulemaking to amend chapter 246-105 WAC for the reasons articulated by Board members and directs staff to notify the petitioner of the Board's decision.

OR

The Board accepts the petition for rulemaking to amend chapter 246-105 WAC for the reasons articulated by the Board. The Board directs staff to notify the petitioner of its decision and to file a CR-101, Preproposal of Inquiry, under its authority in RCW 28A.210.140.

Staff

Samantha Pskowski

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.

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