

Washington State Board of Health Policy & Procedure

Policy Number: 2005-001
Subject: Responding to Petitions for Rule-Making
Approved Date: November 9, 2005 (revised June 13, 2012)

Policy Statement

RCW 34.05.330 allows any person to petition a state agency to adopt, repeal, or amend any rule within its authority. Agencies have 60 days to respond. The agency can deny the request—explaining its reasons and, if appropriate, describing alternative steps it is prepared to take—or it must initiate rule-making. If denied, a petitioner can appeal the agency's decision to the Governor.

This policy defines who must be notified and consulted when the Board is petitioned, who may respond on behalf of the Board, and whether Board action is required.

- **Board Response:** When the Board receives a written petition for rule-making within its authority that clearly expresses the change or changes requested, the Board will respond within 60 days. The response may be made at the direction of the Board or under the authority of the Board's Chair. The response will be in the form of a letter from the Chair denying the petition or informing the petitioner the Executive Director has been directed to initiate rule-making.
- **Chair Authority:** The Chair may place a petition for rule-making on the agenda for a Board meeting scheduled to be held within 60 days of receipt of the petition. Alternatively, the Chair may respond to a rule-making petition without formal action by the full Board if the Board does not meet within 60 days of receipt of the petition or the Board chooses not to discuss and take action at a scheduled meeting.
- **Board Action:** A Board member who has been notified of a petition may request that the Chair place the petition on the agenda of a scheduled Board meeting for discussion and possible action by the Board. The Chair will honor the request unless asking the full Board to consider the petition would defer more pressing matters or prevent the Board from responding within 60 days. If the Chair declines, a Board member may introduce a motion to have the full Board consider the petition.

Procedure

- **Notifications:** Board staff, in consultation with the Executive Director, will respond to the petitioner within one business day acknowledging receipt of the petition and informing the petitioner whether the request is clear. The Executive Director or staff will notify Board members that a petition for rule-making has been received. This may be done by mentioning the petition during the next regularly scheduled Board meeting and by including a copy of the petition with materials distributed to Board members in attendance. If no meeting is scheduled before the 60-day response deadline, the Executive Director or staff will send an e-mail to Board members with an electronic version of the petition attached before action is taken by the Chair. The Chair or Executive Director shall also notify Board members of the response.
- **Consultation:** The Executive Director will recommend a response to the Chair. In developing this recommendation, the Executive Director will consult with the Board member who sponsored the most recent revisions to the rule being challenged or the appropriate policy committee. The Executive Director may also consult with appropriate representatives of the implementing agency or agencies, and may consult with stakeholders as appropriate.