

WASHINGTON STATE BOARD OF HEALTH

Date: January 9, 2022

To: Washington State Board of Health Members

From: Patty Hayes, Board Member

Subject: Exception Rulemaking to Correct Typographical Errors in WAC 246-500-055, Human Remains Through Natural Organic Reduction

Background and Summary:

The Washington State Board of Health (Board) has the authority under RCW 43.20.050(2)(f) to adopt rules and standards for the prevention and control of infectious and noninfectious diseases, including rules governing the receipt and conveyance of remains of deceased persons. Chapter 246-500 WAC is the rule that establishes standards for health and safety measures in the handling of human remains.

In 2019, the Washington State Legislature passed ESSB 5001 (Chapter 432, Laws 2019), which authorized natural organic reduction (NOR) as a disposition method for human remains. Washington was the first state in the country, and first place in the world, to authorize NOR. In 2020, the Board updated chapter 246-500 WAC to include NOR as an approved method and added a new subsection, WAC-246-500-055, to establish the requirements that NOR facility operators must meet for testing and analyzing samples to prevent and control any potential health hazards. The Washington State Department of Licensing (DOL) is the regulator of NOR facilities and holds the overall licensing authority.

WAC 246-500-055 went into effect in January 2021. To date, four facilities have been licensed to conduct NOR in Washington. Following the first year of rule implementation, Board staff conducted an informal survey of all NOR facility operators to determine whether rule implementation was successful and if additional guidance was needed. Based on findings from the post-implementation survey and questions sent from the DOL and NOR facilities, staff identified a need for additional rulemaking to clarify the language in WAC-246-500-055. The purpose of this rulemaking is to clarify rule language around testing requirements for NOR without changing the rule's intended effect. It is also meant to correct a typographical error in subsection (2)(b) concerning the weight of contaminants in reduced remains. These proposed changes fall under exception rulemaking.

Under RCW 34.05.310(4)(d), the Board may pursue "exception" rulemaking without filing a pre-proposal notice of inquiry for rules that correct typographical errors or clarify the language of a rule without changing its effect.

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I have asked Molly Dinardo, Board Staff, to provide an overview of WAC 246-500-055, the related post-implementation findings, and the exception rulemaking proposal for the Board's consideration.

Recommended Board Actions:

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

The Board approves the rulemaking proposal and directs Board staff to move forward with exception rulemaking under RCW 34.05.310(4)(d) to correct typographical errors and to clarify the testing parameters language in WAC 246-500-055 and submit the CR-102 to initiate rulemaking.

Staff

Molly Dinardo

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