Notice of Public Meeting

Wednesday, November 9, 2022
9:30 a.m. – 1:05 p.m.
Virtual Meeting via ZOOM Webinar
(hyperlink provided below)

Final Agenda

Time	Agenda Item	Speaker
9:30 a.m.	Call to Order & Introductions	Keith Grellner, Board Chair
9:35 a.m.	1. Approval of Agenda—Possible Action	Keith Grellner, Board Chair
9:40 a.m.	2. Approval of October 12, 2022, Minutes – Possible Action	Keith Grellner, Board Chair
9:45 a.m.	3. Announcements and Board Business	Board Executive Director
10:05 a.m.	4. Department of Health Update	Tao Sheng Kwan-Gett, Chief Science Officer and Secretary's Designee Kelly Cooper, Legislative Affairs Director Amy Ferris, Chief Financial Officer
10:45 a.m.	5. Public Comment	Please note: Verbal public comment may be limited so that the Board can consider all agenda items. The Chair may limit each speaker's time based on the number people signed up to comment.
11:05 a.m.	6. Emergency Rule – Notifiable Conditions, COVID-19 Reporting, WAC 246-101-017 – Possible Action	Tao Sheng Kwan-Gett, Chief Science Officer and Secretary's Designee Board Staff
11:20 a.m.	7. Request for Delegation for Rulemaking, Vital Statistics, Certificates, Chapter 246-491 WAC – Possible Action	Tao Sheng Kwan-Gett, Chief Science Officer and Secretary's Designee Board Staff
11:35 a.m.	Break	
11:50 a.m.	8. Update - Board Complaint Policy – Possible Action	Kelly Oshiro, Vice Chair Board Staff
12:05 p.m.	9. Rulemaking Petition – The Board has received a request to add MPS II to Newborn Screening, Chapter 246-650 WAC – Possible Action	Kelly Oshiro, Board Vice Chair Board Staff
12:20 p.m.	10. Legislative Statement	Board Staff

Time	Agenda Item	Speaker
12:35 p.m.	11. Proposed 2023 Meeting Schedule – Possible Action	Board Staff
12:45 p.m.	12. Board Member Comments	
1:05 p.m.	Adjournment	

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Draft Minutes of the State Board of Health
October 12, 2022
Electronic meeting via ZOOM Webinar

State Board of Health members present:
Keith Grellner, RS, Chair
Kelly Oshiro, JD, Vice Chair
Stephen Kutz, BSN, MPH
Patty Hayes, RN MN
Umair A. Shah, MD, MPH
Melinda Flores
Socia Love-Thurman, MD
Tao Sheng Kwan-Gett, MD, MPH, Secretary's Designee
Temple Lentz, MOL

State Board of Health members absent:
Elisabeth Crawford

State Board of Health staff present:
Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Kelie Kahler, Communication Manager
Stuart Glasoe, Health Policy Advisor
Kaitlyn Donahoe, Health Policy Advisor
Nathaniel Thai, Communications Coordinator
LinhPhung Huỳnh, Department of Health
Lindsay Herendeen, Health Policy Analyst
Cait Lang-Perez, Health Policy Analyst
Jo-Ann Huynh, Administrative Assistant
Hannah Haag, Community Outreach Coordinator
Lilia Lopez, Assistant Attorney General

Guests and other participants:

Keith Grellner, Board Chair, called the public meeting to order at 9:03 a.m. and read from a prepared statement (on file). He then detailed operating procedure and ground rules for conducting a virtual meeting, and asked board members to introduce themselves.

1. APPROVAL OF AGENDA

Motion: Approve October 12, 2022, agenda, as amended to add a discussion of the November 2022 Board Meeting.
Motion/Second: Member Hayes/Member Kutz. Approved unanimously

2. ADOPTION OF AUGUST 10, 2022, MEETING MINUTES

Motion: Approve the August 10, 2022, minutes.
Motion/Second: Member Love-Thurman/Member Hayes. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director greeted the Board and directed Board members to materials in their packets on page 13.

Ms. Davis gave updates about staffing changes to the Board. She announced that the Governor reappointed Board Member Patty Hayes to the Board and shared her gratitude for Member Hayes' continued service and expertise. Ms. Davis shared news of incoming Board staff. Molly Dinardo joins the Board as a new Policy Advisor on October 16. Miranda Calmjoy joins the Governor's Interagency Council on Health Disparities (Council) as a Health Impact Review Analyst in November. And Grace Cohen joins the Council as a Council Fellow through the Department of Health's Workforce Pathways Program. Ms. Davis shared that Nathaniel Thai, Communications Coordinator, took a promotional opportunity with the Washington State Health Care Authority. She thanked Mr. Thai for his work and wished him the best.

Ms. Davis discussed the Local Board of Health training that she and Kaitlyn Donahoe, Board Policy Advisor, attended in September. She said the training was sponsored by the Washington State Association of Local Public Health Officials (WSALPHO) and funded by Foundational Public Health Services (FPHS) dollars, and oriented new local board officials who joined after the passage of House Bill 1152, which expanded eligibility for local board membership to include non-elected officials. Ms. Davis served on a panel that provided an overview of the governmental public health system. She reported that she would continue to work with other members of the governmental public health system to develop trainings for these new members.

Ms. Davis discussed activities by the Health Impact Review (HIR) team. She said that they have recently provided presentations about their work to several organizations, including the Fred Hutchinson Cancer Center, the Environmental Justice Interagency Assessment Subcommittee, and the University of Washington Center for Anti-Racism and Community Health. Ms. Davis reported that the HIR team also recently presented to 85 attendees at the Legislative Staff Academy, and that they would continue their outreach to the Legislature in preparation for the 2023 Legislative Session. Ms. Davis reminded members that the HIR team is currently working on a Health Impact Review at the request of Senator Liias for Senate Bill 5982 concerning alcohol concentration.

Ms. Davis reviewed the materials in the meeting packets (on file). The materials consisted of September meeting notes from the Policies, Procedures, and Bylaws and Environmental Health Committees; a withdrawal memo for an old Pre-notice Statement of Inquiry related to the Onsite Sewage System Rule; an Order of Adoption for the Keeping of Animals Rule, which was filed on September 15, 2022, and would be going into effect on October 16, 2022; and the State Health Report, she said OFM had requested clarification related to their recommendations around (1) flavored vaping products and (2) requiring insurers to cover the cost of healthcare utilized by Washington communities, including Complementary and Alternative Medicine. Ms. Davis said she would be working with the Board Chair to develop responses.

Ms. Davis gave background on a budget request to be submitted to the Foundational Public Health Services (FPHS) Committee. She reported that she has worked with staff to identify current core and operational needs, given the shift over the past two years in

public engagement with the Board's work, as well as increased expectations of the Board around community engagement by the Governor and Legislature. She stated that initial requests are due to the FPHS Steering Committee by October 28, 2022, and that she is currently developing more formal descriptions and estimates to share with the Board.

Ms. Davis announced that she had been selected as a recipient of the 2022 Washington State Public Health Leadership Award. She thanked Jaime Bodden, Managing Director of WSALPHO, for nominating her.

Chair Grellner congratulated Ms. Davis on her award and shared that Ms. Bodden will read her nomination statement at the end of the meeting.

4. **DEPARTMENT OF HEALTH UPDATE**

Umair A. Shah, Secretary of Health, congratulated Michelle on her award from WSALPHO and thanked her for her support of the State Board of Health and the Department of Health (Department).

Secretary Shah and Dr. Tao Sheng Kwan-Gett, Chief Science Officer, provided updates on the following Department of Health efforts:

- The COVID-19 and Monkeypox (MPV) responses; and
- The transformational plan released several weeks ago.

Secretary Shah said that public health is a collective societal effort to assure the conditions in which people can be healthy, safe, and well. He emphasized the importance of the Department's cornerstone values of equity, innovation, and engagement. The underpinnings of the Department's transformational plan include centering equity; modernizing and using all technology available; and working with partners in the public health sector and beyond.

Dr. Kwan-Gett provided an update on the Department's MPV (Monkeypox) response. He said the MPV State Plan of Action includes a partner roundtable, 211 call line, outreach to health care providers, equitable vaccine distribution, support to tribes and local health jurisdictions, data dashboard, and exercising of public health's statutory authority to take disease control measures. He said data suggests the hard work we are doing is paying off—cases have been waning since August. However, it's too early to say the outbreak is over. Dr. Kwan-Gett said vaccination is one of the most important and powerful tools against MPV. Public health has worked to get adequate vaccine from the national strategic stockpile to people most at risk of infection and communities disproportionately impacted. Lastly, he said we need to continue reducing stigma against the LGBTQ population by combatting misinformation and homophobia.

Secretary Shah provided an update on the Department's COVID-19 response. He said the Department is continuing to meet its commitments under the 'WA Forward: Looking Ahead' plan, which provides guideposts for what public health is doing and what we are asking the public to do to protect everyone. The Department will continue with the plan through 2022 and then investigate whether/how we continue the plan into 2023.

Dr. Kwan-Gett spoke about hospitalizations in the state, which he said is an indication of virus activity. Dr. Kwan-Gett presented information about vaccine doses administered in Washington State, including information about the Bivalent Booster vaccine. He said the demand for Bivalent Booster vaccines is not as high as the Department would like, and the Department is working with local and tribal partners to increase outreach and education.

Secretary Shah stated that the Washington State of Emergency is ending on October 31, though this is not an indication that the COVID-19 pandemic is over. He stated there will also remain in place a Secretary of Health order for masking in health care settings and carceral settings. Secretary Shah also talked about flu/respiratory season and the Department is encouraging people to get the influenza vaccine.

Secretary Shah discussed the Department's Transformational Plan and five priority areas, including health and wellness; health systems and workforce transformation; environmental health; emergency response and resilience; and global and one health. He also shared that the Department is working on responding to a legislative directive to create four regional health offices and on-boarding staff.

Chair Grellner asked about different strains that are starting to appear and are impacting health care system capacity. Secretary Shah stated that the pandemic has stressed staffing across the public health and health care system, and this continues to be a challenge. He said the Department has also been working with the Department of Social and Health Services and Health Care Authority around staffing challenges in long-term care settings. He stated the Department is also working with the Washington Medical Coordination Center (WMCC) about transitions and diversions. He stated that federal support not directly related to COVID-19 is not readily available. He suggested that the Board of Health invite Dr. Mitchell from WMCC to provide perspective on impacts across the health care system (e.g., small versus large, rural versus urban, etc.). Dr. Kwan-Gett said that we are seeing similar structural problems across Washington and the country, and that it will require coordination to find solutions.

5. PUBLIC COMMENT

Sue Coffman stated her opposition to the COVID-19 vaccine.

Margaret Nartea agreed with the previous commenter and shared her opposition to the COVID-19 vaccine.

Mallory Baker stated additional data for cCMV consideration.

Lisa Templeton stated her opposition to the COVID-19 vaccine.

Amber Moffitt stated her position about COVID data, safety, and efficacy of the vaccine.

Patricia Bailey stated her opposition to the COVID-19 vaccine and COVID data.

Natalie Chavez stated her opposition to the COVID-19 vaccine.

Chair closed public comment at 10:29 am.

6. **HEALTH IMPACT REVIEW—INTRODUCTION AND FISCAL YEAR 2022 UPDATE**
Cait Lang-Perez, Board Staff, began the presentation on Health Impact Reviews (HIRs) by providing a brief overview of the Board's history and statutory authority to conduct HIRs in collaboration with the Governor's Interagency Council on Health Disparities. She explained that HIRs provide state legislators and the governor objective, non-partisan, evidence-based analyses to help policymakers determine the impact of proposed legislative or budgetary changes on health and equity. Ms. Lang-Perez then reviewed the HIR process and how it centers equity.

Lindsay Herendeen, Board Staff, discussed the methods used to gather and analyze evidence with an equity lens. She then reviewed the team's portfolio of 112 completed HIRs from FY2014 to FY2022. She discussed how HIRs have informed legislators' policy decisions. For example, Ms. Herendeen shared that during the 2022 legislative session, two requesters used HIR findings to support budget provisos and shape policy recommendations. Additionally, she also provided an example of how HIR findings have been used outside of the legislative process by agency staff to inform other policy work. She described how Health Benefit Exchange used the HIR findings specific to House Bill 1191 to inform the agency's recently submitted Section 1332 State Innovation Waiver to the federal government (pending).

Ms. Lang-Perez and Ms. Herendeen thanked the board and made themselves available to answer any questions.

Tao Sheng Kwan-Gett, Chief Science Officer, Secretary's Designee, said the HIR was helpful in thinking about next steps after the bill died.

Board Member, Steve Kutz, stated that he always finds conversations around HIRs helpful and said they have been used in decision making processes in communities.

Member Kwan-Gett thanked Ms. Lang-Perez and Ms. Herendeen. He noted that policy is important in health and that he is grateful that they are doing data and equity driven work.

Board Member, Patty Hayes, added her compliments and acknowledged all the work staff have done to improve the HIR process over the years. She expressed gratitude that staff point out data issues, especially when there are missing data. She highlighted the importance of looking for and identifying unintended consequences. She shared the previously implemented public health policy example of menu labeling. Public health professionals believed that by listing calories on menus people would use this information to change their decision-making. Member Hayes noted that this policy intervention missed the mark in terms of recognizing and addressing social determinants of health including, healthy food availability and the economic dimensions of people's decision making. She stated that if an HIR had been done on that policy proposal, it could have shaped how public health went about that addressing that identified need.

In closing, Chair Grellner recognized HIR staff's commitment to serving as non-partisan staff and building a reputation for providing quality evidence for decision-makers.

The Board took a break at 10:50 a.m. and reconvened at 11:00 a.m.

7. **EMERGENCY RULEMAKING – ON-SITE SEWAGE SYSTEMS, WAC 246-272A-0110, PROPRIETARY TREATMENT PRODUCTS AND SUPPLY CHAIN SHORTAGES**

Member Kwan-Gett introduced the Department of Health's request for the second emergency rule for on-site sewage systems. He explained that the Board adopted the original emergency rule in June allowing use of replacement parts for on-site sewage system proprietary treatment products during supply chain shortages, comparing it to use of generic parts in place of original manufacturer parts for vehicle maintenance. He noted impending expiration of the first emergency rule.

Jeremy Simmons, Department of Health revisited the need for the emergency rule and implementation of the first emergency rule. He explained that proprietary on-site sewage systems must be tested and approved for use in Washington, and the systems are commonly used on sensitive sites not well suited to conventional systems. Board rules require replacement parts to be identical to the approved system to ensure effective sewage treatment. Supply chain shortages and recent closure of Salcor—manufacturer of a widely used ultraviolet disinfection bulb—have created problems for system maintenance, new construction, and inspection of systems for home sales. He briefly described the Department's process, efforts, and results implementing the first emergency rule. He said six companies use Salcor bulbs in 37 different registered products. To date four companies have submitted and received approval of replacement-part proposals for 24 registered products, covering 65% of the products and thousands of systems across the state. He said the replacement bulbs are in other approved systems and function nearly identically, so there is high confidence they will perform well. Mr. Simmons said repairs began almost immediately following the approvals, helping to ensure effective treatment. He noted the need to extend the first 120-day emergency rule and shared a couple ideas on possible changes to the approach in the permanent on-site sewage system rulemaking.

Member Kutz asked for confirmation that these higher technology systems are often located in more fragile environments and if they fail have a higher propensity for negative impacts. Mr. Simmons said yes, explaining that conventional systems are more commonly used on sites with ample soils and good separation distances, and higher technology systems are used in more fragile or constrained building environments. Member Kutz said this is critical that we keep these systems functioning, and then asked if we are constrained by time for how long we can do an emergency rule extension. Michelle Davis, Board Executive Director explained that emergency rules are effective for 120 days. Technically we don't extend an emergency rule—we have to adopt a new emergency rule at the end of an expiring emergency rule if we want to keep those emergency protections in place. If we want to have multiple emergency rules, we also need to show that we are making progress to add this change to the permanent rules that are currently under development. Chair Grellner said he is glad we are working on this issue in the permanent rulemaking, referred to it as continuous quality improvement as things change, and said something like this provision in the new rule is good direction and he supports it.

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

Motion: The Board directs staff to file a second CR-103E, Emergency Rulemaking Order, to amend WAC 246-272A-0110 within chapter 246-272A WAC to help ensure on-site sewage system proprietary treatment products continue to function properly without negatively impacting treatment, operation, or maintenance during supply chain shortages.

Motion/Second: Member Oshiro/Member Hayes. Approved unanimously

8. **BRIEFING – NEWBORN SCREENING AND EARLY HEARING DETECTION, DIAGNOSIS, AND INTERVENTION PROGRAMS**

Kelly Oshiro, Board Vice Chair, said that in preparation to hear the recommendation from the technical advisory committee (TAC) on congenital cytomegalovirus (cCMV), Department of Health staff will provide an overview of the Newborn Screening Program as well as the Early Hearing Detection, Diagnosis, and Intervention (EHDDI) Program.

John Thompson, Department of Health, provided an overview of the Department's newborn screening program, public health rationale, and process for screening. He stated that every baby born in Washington State receives a newborn screening, and that the Department processes approximately 12 million newborn screening tests per year, identifying about 200 infants with heritable conditions and 170 infants with early hearing loss.

Karin Neidt, Department of Health, provided an overview of the Department's EHDDI program, hearing screening process, and early intervention strategies. She shared that all infants receive a hearing screening either in hospital or before a baby turns one month old.

Member Kutz asked if there are methods to monitor and follow up on babies born outside of hospital settings, such as home births, where screening may not occur? Dr. Thompson and Ms. Neidt responded that there is a matching process with birth certificate reporting and follow-up with primary care physicians to ensure babies are screened as soon as possible.

9. **BRIEFING – TECHNICAL ADVISORY COMMITTEE RECOMMENDATION: CONGENITAL CYTOMEGALOVIRUS (cCMV)**

Kelly Oshiro, Board Vice Chair, introduced the work of the cCMV Technical Advisory Committee (TAC) that met on September 21, 2022, to consider including the condition in the state's newborn screening panel.

Kaitlyn Donahoe, Board Staff, gave a brief overview and background on the Board's authority to adopt rules for newborn screening and the process used to evaluate candidate conditions (see materials on file).

Caitlin Maloney, Department of Health, provided an overview of cCMV, including modes of transmission, symptoms and long-term health issues, and efficacy of screening methods. Ms. Maloney said that 1 in 200 babies are born with cCMV each year.

Ms. Donahoe described the composition of the cCMV TAC, including representation from public health, advocates, state ethnic commissions, insurance, health care providers, and others. She discussed the guiding principles and criteria in which the TAC evaluated cCMV against. Ms. Donahoe stated the TAC received presentations from subject matter experts and heard from an impacted family to help evaluate the condition and make recommendations. She provided an overview of the TAC's votes and comments for each criteria and said the TAC's overall recommendation to the Board is not to add cCMV to the newborn screening panel at this time and to revisit the condition in three years.

John Thompson, Department of Health, discussed the cost-benefit analysis conducted by Ms. Maloney and him, which garnered rich discussion by the TAC. He said the cost-benefit ratio for cCMV was 0.35, which means for every dollar spent, there is 35 cents worth of benefit derived. Dr. Thompson highlighted the limitations of the analysis and discussed factors that aren't quantifiable, such as family stress.

Member Kwan-Gett who was the TAC Co-chair said it was a thoughtful TAC that took their charge seriously and had discussions on topics where there isn't much data.

Vice Chair Oshiro who was the TAC Co-chair said this particular newborn screening proposal seems more complex than past candidate conditions.

Member Hayes, commended staff on the presentation and said this is a complex issue. She asked for clarification regarding the screening sensitivity for cCMV using blood specimens and asked about the three-year timeline to revisit the condition.

Dr. Thompson said the sensitivity, or the ability for the test to correctly identify babies for cCMV, is 75%. He said in comparison, cystic fibrosis was about 92-93% and other conditions are around the 96-97% realm. Dr. Thompson said not all tests are created equal and there's a chance for a false negative.

Ms. Donahoe said the three-year timeline allows staff to identify and understand emerging data regarding antiviral therapies. Dr. Thompson discussed the other states currently screening for cCMV, noting that 6-8 states are conducting targeted screening and Minnesota is the only state that has initiated universal screening. He added that we should be able to see data and publications for those results in a few years.

Socia Love-Thurman, Board Member, asked about urine testing if a baby does not pass their second hearing screen. Karin Neidt, Department Staff, said urine testing isn't necessarily happening statewide, though some hospitals and audiology clinics will run PCR tests as a best practice.

Member Kutz asked for clarification regarding the use of blood spot samples. Dr. Thompson said the original blood spot is used for additional or confirmatory testing.

Motion: The Board determines that congenital cytomegalovirus (cCMV) should not be considered for addition to the newborn screening panel at this time and moves to reevaluate the condition in three years as a candidate for mandatory newborn screening in Washington state.

Motion/Second: Member Hayes/Member Kutz. Approved unanimously

Member Hayes, Member Kutz, and Member Love-Thurman discussed the timing to revisit this condition and the available data, noting that three years may not provide enough time to fully reconsider cCMV, but that more data could be available to inform future action.

Chair Grellner said if there is a dramatic change with data before three years, that would not prevent the board from considering it earlier. Ms. Davis confirmed the Board can review actions if we receive compelling information before that three-year timeline. Chair Grellner said he appreciates the in-depth analysis by the TAC members.

10. NOVEMBER 2022 BOARD MEETING DISCUSSION (ADDED IN AMENDED AGENDA MOTION)

Michelle Davis, Board Executive Director, said the purpose of this item was to seek direction from the Board regarding the decision it made in May 2022 to meet virtually in response to the state and federal emergency, whichever is longer. She said the Governor's state of emergency will expire on October 31 and noted that the Board would hold its next regularly scheduled meeting on November 9. She said the federal emergency remains in effect and acknowledged some members have expressed wanting to meet in person.

Member Kwan-Gett commented that it wasn't clear where we will be in November. He said he would be surprised if the pandemic significantly decreased and commented that we are entering into the winter months and waning immunity. He said new subvariants are on the horizon and could cause another wave.

Chair Grellner questioned whether the team was set up with masks, hand sanitizer, signage, etc. Ms. Davis said the team was still working through those details. She said appropriate meeting space was currently unavailable, and it wasn't clear whether the meeting equipment was adequate. She said that many agencies are not hosting public meetings yet. She said that Labor and Industries may have a room with connectivity and bandwidth for hybrid, but the room is only available on Nov 18. She reminded the Board that we cannot require the public to mask.

Lilia Lopez, Assistant Attorney General said another option under the updated OPMA, is to allow board members to meet in person and limit in person public attendance.

Chair Grellner said as much as he's ready to meet in person, it is important for these meetings to be managed in a fashion that makes it easy for the public to view and attend as needed. He shared concern about facility adequacy and availability. He said that November is last meeting scheduled for the year. He said we are not sure at this point, for continuity purposes, and we don't want to exclude the public even though we

can do it. He said presuming the federal emergency is in place, the Board should plan to meet virtually in November, and all we can do is act on what we know at this time.

Board Member Hayes concurred with the Chair.

Ms. Davis said staff will plan for a virtual meeting on November 9 and will prepare for hybrid meetings when the federal emergency order is lifted. She said the Governor's Office should receive a 60-day notice from HHS regarding the end of the federal emergency.

11. BOARD MEMBER COMMENTS

Chair Grellner opened this section by inviting Jaime Bodden, Washington State Association of Local Public Health Officials, to help recognize Ms. Davis, who received the WSPHA's 2022 Award for Public Health Leadership.

Ms. Bodden said that it was an honor to nominate Ms. Davis and to give her the recognition she deserves for her work. She thanked Ms. Davis for the work she has done as a partner for local public health jurisdictions and read from the piece she submitted to nominate Ms. Davis. Ms. Bodden shared that Ms. Davis has steered the Board through several challenging Board actions both before and during the COVID-19 pandemic, and that she has elevated the practice of conducting Health Impact Reviews with the State Legislature as a part of the bill review process. Ms. Bodden also recounted the way Ms. Davis supported Board members and staff as they fielded high volumes of public comments, intense protests, and threats while the Board made recommendations around school-mandate requirements for the COVID-19 vaccination this past year. She stated that despite everything, Ms. Davis worked to ensure that the Technical Advisory Committee for this task was inclusive, transparent, and science driven, while also considering social context. Ms. Bodden also remarked on Ms. Davis' compassion, empathy, focus on equity, steadfastness in her work, and love for public health. She congratulated Ms. Davis on receiving the award and thanked her for her work.

Member Hayes and other members applauded on camera for Ms. Davis.

Chair Grellner called for other Board member comments. He then thanked Ms. Davis, Ms. Bodden, and Board members and staff.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 12:48 p.m.

WASHINGTON STATE BOARD OF HEALTH

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Keith Grellner, Chair

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Molly Dinardo, MPH (she/her) - Policy Advisor

Molly Dinardo joined the State Board of Health staff as a Policy Advisor in October 2022. She supports the Board's policy and rulemaking initiatives related to health promotion, disease prevention, and other community and child health priorities.

Molly has over six years of experience supporting public health programming and research related to maternal and child health, breast and gynecologic cancers, health systems strengthening, transportation, and substance use prevention. Her experiences in public health are broad, but they all have a shared underlying theme: structural inequities and social determinants of health are driving factors in preventing people from reaching their full potential. In her work, Molly is interested in examining the root causes of health inequities and removing systemic barriers to health.

Most recently, Molly worked with the Campaign for Tobacco-Free Kids Washington and legislative staff to support commercial tobacco health policy education and advocacy efforts around youth prevention and funding for state prevention and cessation services. Before her legislative work, she worked at King County Metro evaluating an ORCA ticket pilot program and assisting with planning a same-day service public transportation option for riders who rely on Access paratransit. Earlier in her career, and before living in Washington, she worked in regulatory affairs at an oncology hospital and managed operations for USAID-funded global health projects.

Molly received her Bachelor of Arts degree in Anthropology and Sociology from Saint Michael's College in Vermont and her Master of Public Health degree from the University of Washington.

TECHNICAL ADVISORY COMMITTEE
SPECIAL MEETING SUMMARY NOTES

What: Newborn Screening Technical Advisory Committee: Congenital Cytomegalovirus

When: September 21, 2022

Participating via Zoom:
- Technical Advisory Committee (TAC) Members: Kelly Oshiro (Co-Chair), Dr. Tao Sheng Kwan-Gett (Co-Chair), Joan Chappell, Phyllis Smith, Mary Kay Asuenhus, Dr. Eric Leung, Dr. Krystal Plonski, Dr. Lydia Groseclose, Erin Boespflug, Dr. Karen Fukui-Miner, Nancy Aguilar, Dr. Usha Sankrithi, Melissa Moxley, Kara Hamilton-McGraw, Dr. Ben Wilfond, Dr. Betty Gilchrist, Peggy Harris.
- State Board and Department of Health Staff: Kaitlyn Donahoe, Michelle Davis, Melanie Hisaw, Jo-Ann Huynh, Nathaniel Thai, John Thompson, Karin Neidt, Marcie Rider, Samantha Fuller, Sarah Keefe, and Caitlin Maloney.
- Other Guests: Allegra Calder (Facilitator), Dr. Joseph Bocchini, and approximately 30 members of the public.

Summary Notes:

Welcome and Introductions
- Kaitlyn Donahoe provided introductory remarks; Allegra Calder asked TAC members to introduce themselves, their role, and represented industry.

TAC Expectations & Meeting Norms
- Dr. Tao Sheng Kwan-Gett and Kelly Oshiro discussed the scope and purpose of the TAC and the plan for the day. Dr. Kwan-Gett said that as a pediatrician for many years, he had a responsibility for testing newborns for hearing loss and metabolic conditions and highlighted the importance of newborn screening. Ms. Calder provided an overview of Zoom functions and meeting norms.

Overview: Newborn Screening Program & Early Hearing Detection, Diagnosis, and Intervention (EHDDI) Program
- Dr. John Thompson provided an overview of the state's newborn screening program, noting that 32 disorders are screened through dried blood spot specimens. He said nearly 12 million tests are conducted each year, of which 200 infants benefit from early diagnosis and treatment.
- Marcie Rider provided an overview of the state's early hearing detection, diagnosis, and intervention (EHDDI) program. She noted that every state has an

(Continued on the next page)

EHDDI program to ensure infants meet national hearing screening goals. Ms. Rider said the first few months are critical for language development and that a lack of diagnosis or misdiagnosis can cause developmental delays in children.

- Dr. Lydia Groseclose, Joan Chappell, Ms. Oshiro, and Ms. Rider discussed financial assistance for early hearing interventions and hearing aids, as well as the cadence for regular hearing monitoring.

Criteria Review

- Ms. Donahoe provided an overview of the Board's guiding principles and criteria for evaluating candidate conditions for the state's newborn screening program.
- Dr. Ben Wilfond noted that not all states use this process or criteria, and that Washington does a great job in establishing these principles.

Natural History of cCMV; Diagnostic Testing & Available Treatment

- Dr. Joseph Bocchini shared a presentation on the natural history of cCMV. He noted that cCMV is the most common congenital infection and leading cause of sensorineural hearing loss and neurodevelopmental delay. Dr. Bocchini discussed the diagnosis and treatment of cCMV, the current recommendations for antiviral therapy of infants with cCMV, and prevention tools that include increasing awareness and education, such as hygiene prevention measures.
- Dr. Wilfond and Dr. Bocchini discussed the selection process of asymptomatic infants enrolled in clinical trials for antiviral therapy.

Family Perspective

- Melissa Moxley provided a presentation on the impact of cCMV on her child and family. She explained that she contracted cytomegalovirus during pregnancy and her daughter was symptomatic of cCMV at birth. Ms. Moxley said that her daughter underwent antiviral therapy and improved, and eventually received a cochlear implant. She explained that she became an advocate for families who experience cCMV, which is the number one cause of non-genetic hearing loss.
- TAC members and staff thanked and commended Ms. Moxley for sharing her family's story.

Available Screening Technology

- Dr. Thompson and Ms. Rider provided an overview of available screening technology for cCMV using blood specimens and hearing screening, including targeted and universal screening methods.
- Dr. Wilfond asked about the proportion of babies screened that have hearing loss. Dr. Thompson said that about 170 babies are detected with hearing loss, and that about 31 of those babies experience late onset hearing loss acquired between birth and school age.
- Peggy Harris asked about fees for the newborn screening program and the availability of long-term follow up.

Cost-Benefit Analysis

- Caitlin Maloney provided a presentation on the economic model and results of the cost-benefit analysis. She said the hallmark of the newborn screening program is to prevent death and disability, and the team identified through their research that there is currently not strong evidence that screening for cCMV prevents death and disability.
- Dr. Wilfond, Dr. Eric Leung, and Ms. Rider discussed interventions to identify or prevent late onset hearing loss in children outside of the newborn screening program.
- Dr. Kwan-Gett, Ms. Maloney, and Dr. Bocchini discussed antiviral therapies, and the benefit of screening asymptomatic babies for cCMV to qualify for antiviral treatment options.
- Dr. Groseclose, Ms. Chappell, and Dr. Betty Gilchrist discussed the availability of audiology services in pediatric clinics and access to hearing monitoring for the Medicaid population.
- Ms. Moxley discussed elements that cannot be quantified in the cost-benefit analysis, such as the emotional impact to families.

Application of Criteria & Discussion

- Dr. Leung, Ms. Chappell, Dr. Kwan-Gett, Dr. Thompson, and Ms. Rider discussed the availability of screening technology and the audiology workforce, particularly in Eastern Washington, as well as concerns timely screening, and the ability to obtain urine samples in lieu of blood spot samples.
- Dr. Wilfond, Ms. Oshiro, Ms. Maloney, Dr. Thompson, Dr. Leung, and Dr. Groseclose discussed the health care system’s infrastructure and ability to perform timely targeted cCMV testing, medical training and continuing education for cCMV, as well as strategies for outreach, education, and testing for pregnant persons.
- Dr. Kwan-Gett, Ms. Chappell, and Dr. Leung discussed equitable access to audiology services for communities of color and rural populations, the sensitivity of dried blood spot testing for cCMV, as well as the emotional burden on families experiencing late onset hearing loss.
- Dr. Wilfond and Dr. Gilchrist discussed targeted cCMV screening and the impacts of late onset hearing loss in children, including disparities in school punishments without the consideration of disability.

Vote #1 – Criteria

- TAC members participated in an anonymous, online vote to assess whether cCMV meets or does not meet criteria established by the Board. *See addendum for vote summary.*

Vote #1 Results & Discussion

- Dr. Kwan-Gett and Ms. Oshiro reviewed the results of the TAC’s vote and associated comments for each of the criteria established by the Board.

Vote #2 – TAC Recommendation

- TAC members participated in an anonymous, online vote on an overall recommendation to the Board regarding the addition of cCMV in the state's newborn screening panel. *See addendum for vote summary.*

Vote #2 Results & Next Steps

- Dr. Kwan-Gett and Ms. Oshiro reviewed the results of the TAC's vote and associated comments. Dr. Kwan-Gett thanked the TAC for their votes and conversation on this complex topic.
- Dr. Usha Sankrithi, Dr. Wilfond, Dr. Leung, Dr. Krystal Plonski, Dr. Groseclose, and Ms. Harris participated in a discussion regarding their motivation for the recommendation to the Board, including the challenges of implementation, availability of data, desire to hear from the deaf or hard of hearing community, and alternative methods to screen for late onset hearing loss.
- Ms. Donahoe described next steps for the TAC and invited TAC members to attend the Board's upcoming meeting.
- Dr. Kwan-Gett and Ms. Oshiro thanked TAC members, presenters, and staff for their hard work today.

To request this document in an alternate format or a different language, please contact Kelie Kahler, State Board of Health Communication Manager, at 360-236-4102 or by email 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

From:	Febach, Hannah M (DOH)
To:	Donahoe, Kaitlyn N (SBOH); Davis, Michelle (SBOH)
Cc:	Thompson, Colleen A (DOH); Graff, Katherine M (DOH); Bay, Kathy W (DOH); Sherls-Jones, Jamilia J (DOH)
Subject:	Annual School and Childcare Reporting Deadline Change
Date:	Wednesday, September 7, 2022 1:18:58 PM
Attachments:	image001.png image002.png

Michelle Davis and Members of the State Board of Health,

I wanted to provide an update on our school and child care reporting plan.

RCW 28A.210.110 gives the Department of Health the authority to create the annual immunization report forms and timeline for schools and child care centers:

> **Immunization program—Administrator's duties upon receipt of proof of immunization or certification of exemption.**
>
> (3) File a written annual report with the department of health on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of health;

WAC 246-105-060 sets the report due date at November 1st:

> **Duties of schools and child care centers.**
>
> (b) Submit an immunization status report under RCW **28A.210.110** in a manner approved by the department. The report must be submitted to the department by November 1 of each year. If a school opens after October 1, the report is due thirty calendar days from the first day of school.

As you may recall, the last couple of years, the Office of Immunization at the Department of Health changed the deadline for school reporting and accordingly, notified the Board of such changes.

Similarly, this year we plan to extend the reporting deadline to December 1st. This will allow the Department to fully develop resources and schools the time to gather data needed to complete the report.

If you have questions or concerns, please let us know.

Thank you,
Hannah

Hannah Febach, MPA
Pronouns: she/her
Policy & Rules Manager
Division of Prevention and Community Health
Washington State Department of Health
hannah.febach@doh.wa.gov
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RULE-MAKING ORDER
EMERGENCY RULE ONLY

CR-103E (October 2017)
(Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 13, 2022
TIME: 7:29 AM

WSR 22-21-070

Agency: State Board of Health

Effective date of rule:
Emergency Rules
☒ Immediately upon filing.
☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose: The State Board of Health (board) adopted an emergency rule regarding certification and registration of proprietary treatment products used in on-site sewage systems on June 8, 2022 and it was filed on June 15, 2022 (WSR 22-13-101).The emergency rule amended WAC 246-272A-0110 to allow manufacturers to make a written request to the Department of Health (department) to substitute components of a registered product's construction in cases of a demonstrated supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product.

This second emergency rule adopts without change the same amendments and will continue to allow manufacturers of registered proprietary treatment products to replace components of their products that are not available due to supply chain shortages or similar manufacturing disruptions with like components, as long as the components will not negatively impact performance, treatment, operation, or maintenance of the original registered product.

The underlying justification for the initial emergency rule still applies because without the emergency rule, the current rule would impede home sales when maintenance of these devices is noted on home inspections for property transfers because replacement parts are unavailable. New construction is likewise impacted as many active or pending permits include on-site sewage systems using Salcor products. There are other manufacturers of disinfecting ultraviolet (UV) light systems that can be substituted into the proprietary treatment products that use Salcor products. In order to continue to protect the public's health, safety, and welfare, it is necessary to adopt a second emergency rule to allow the department to consider written requests from manufacturers of proprietary treatment products for substitutes to proprietary treatment product components so their systems will be able to function properly without negatively impacting treatment, operation or maintenance during supply chain shortages. To date, three manufacturers have received department approval to substitute the Salcor 3G UV lamp with an alternate UV lamp.

In 2018, the board filed a CR-101, Preproposal Statement of Inquiry (WSR 18-06-082), to initiate permanent rulemaking and update the on-site sewage system rules. That rulemaking is still underway and is expected to conclude in 2023. As directed by the board at the June 8, 2022 meeting, the emergency rule amendment will be considered for incorporation into the permanent rulemaking that is currently underway.

Citation of rules affected by this order:
New: None
Repealed: None
Amended: WAC 246-272A-0110
Suspended: None

Statutory authority for adoption: RCW 43.20.050 (3)

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The board finds that in order to protect the public's health, safety, and welfare it is necessary to adopt the emergency rule to amend WAC 246-272A-0110 to allow the department to consider written request from manufacturers of proprietary treatment products to substitute a proprietary treatment product component so their systems may continue to function properly without negatively impacting performance or diminish the effect of the treatment, operation, or maintenance during supply chain shortages.

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

The number of sections adopted at the request of a nongovernmental entity:

	New	0	Amended	0	Repealed	0

The number of sections adopted on the agency's own initiative:

	New	0	Amended	1	Repealed	0

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	0	Amended	0	Repealed	0

The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	0	Amended	1	Repealed	0

Date: October 13, 2022	**Signature:** Michelle A. Davis
Name: Michelle A. Davis	
Title: Executive Director, State Board of Health	

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

WAC 246-272A-0110 Proprietary treatment products—Certification and registration. (1) Manufacturers shall register their proprietary treatment products with the department before the local health officer may permit their use.

(2) To qualify for product registration, manufacturers desiring to sell or distribute proprietary treatment products in Washington state shall:

(a) Verify product performance through testing using the testing protocol established in Table I and register their product with the department using the process described in WAC 246-272-0120;

(b) Report test results of influent and effluent sampling obtained throughout the testing period (including normal and stress loading phases) for evaluation of constituent reduction according to Table II;

(c) Demonstrate product performance according to Table III. All ((~~thirty-day~~)) 30-day averages and geometric means obtained throughout the test period must meet the identified threshold values to qualify for registration at that threshold level; and

(d) For registration at levels A, B, and C verify bacteriological reduction according to WAC 246-272A-0130.

(3) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility accredited by ANSI:

(a) ANSI/NSF Standard 40—Residential Wastewater Treatment Systems;

(b) NSF Standard 41: Non-Liquid Saturated Treatment Systems;

(c) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation; or

(d) Protocol for bacteriological reduction described in WAC 246-272A-0130.

(4) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility meeting the requirements established by the Testing Organization and Verification Organization, consistent with the test protocol and plan:

(a) EPA/NSF—Protocol for the Verification of Wastewater Treatment Technologies; or

(b) EPA Environmental Technology Verification Program protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction.

(5) Treatment levels used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing treatment product performance in a product testing setting under established protocols by qualified testing entities.

(6) Manufacturers may make written request to the department to substitute components of a registered product's construction in cases of supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product.

TABLE I

Testing Requirements for Proprietary Treatment Products	
Treatment Component/ Sequence Category	**Required Testing Protocol**
Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	ANSI/NSF 40—Residential Wastewater Treatment Systems (protocols dated between July 1996 and the effective date of these rules)
Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E. (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/ EPA Environmental Technology Verification (April 2001)
Category 3 Black water component of residential sewage (such as composting and incinerating toilets).	NSF/ANSI Standard 41: Non-Liquid Saturated Treatment Systems (September 1999) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation (April 2000)
Total Nitrogen Reduction in Categories 1 & 2 (Above)	Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction/EPA Environmental Technology Verification Program (November, 2000)

TABLE II

Test Results Reporting Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	**Testing Results Reported**
Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	Report test results of influent and effluent sampling obtained throughout the testing period for evaluation of constituent reduction for the parameters: $CBOD_5$, and TSS: □ Average □ Standard Deviation □ Minimum □ Maximum □ Median □ Interquartile Range □ 30-day Average (for each month) For bacteriological reduction performance, report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within ((~~thirty-day~~)) 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period. See WAC 246-272A-0130. Test report must also include the individual results of all samples drawn throughout the test period.

Test Results Reporting Requirements for Proprietary Treatment Products	
Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E. (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	Report all individual test results and full test average values of influent and effluent sampling obtained throughout the testing period for: $CBOD_5$, TSS and O&G. Establish the treatment capacity of the product tested in pounds per day for $CBOD_5$.
Category 3 Black water component of residential sewage (such as composting and incinerating toilets).	Report test results on all required performance criteria according to the format prescribed in the NSF test protocol described in Table I.
Total Nitrogen Reduction in Categories 1 & 2 (Above)	Report test results on all required performance criteria according to the format prescribed in the test protocol described in Table I.

TABLE III

<table>
<tr><th colspan="7">Product Performance Requirements for Proprietary Treatment Products</th></tr>
<tr><th>Treatment Component/Sequence Category</th><th colspan="6">Product Performance Requirements</th></tr>
<tr><td rowspan="10">Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.</td><td colspan="6">Treatment System Performance Testing Levels</td></tr>
<tr><th rowspan="2">Level</th><th colspan="5">Parameters</th></tr>
<tr><th>$CBOD_5$</th><th>TSS</th><th>O&G</th><th>FC</th><th>TN</th></tr>
<tr><td>A</td><td>10 mg/L</td><td>10 mg/L</td><td>——</td><td>200/100 ml</td><td>——</td></tr>
<tr><td>B</td><td>15 mg/L</td><td>15 mg/L</td><td>——</td><td>1,000/100 ml</td><td>——</td></tr>
<tr><td>C</td><td>25 mg/L</td><td>30 mg/L</td><td>——</td><td>50,000/100 ml</td><td>——</td></tr>
<tr><td>D</td><td>25 mg/L</td><td>30 mg/L</td><td>——</td><td>——</td><td>——</td></tr>
<tr><td>E</td><td>125 mg/L</td><td>80 mg/L</td><td>20 mg/L</td><td>——</td><td>——</td></tr>
<tr><td>N</td><td>——</td><td>——</td><td>——</td><td>——</td><td>20 mg/L</td></tr>
<tr><td colspan="6">Values for Levels A - D are 30-day values (averages for $CBOD_5$, TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels.
Values for Levels E and N are derived from full test averages.</td></tr>
<tr><td>Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.

(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</td><td colspan="6">All of the following requirements must be met:

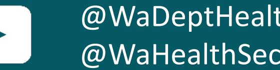
(1) All full test averages must meet Level E; and
(2) Establish the treatment capacity of the product tested in pounds per day for $CBOD_5$.</td></tr>
<tr><td>Category 3 Black water component of residential sewage (such as composting and incinerating toilets).</td><td colspan="6">Test results must meet the performance requirements established in the NSF test protocol.</td></tr>
<tr><td>Total Nitrogen Reduction in Categories 1 & 2 (Above)</td><td colspan="6">Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.</td></tr>
</table>

Department of Health Updates

www.doh.wa.gov

State Board of Health Meeting

November 9, 2022



Speakers

Public Health Updates

Tao Sheng Kwan-Gett, MD, MPH

Chief Science Officer

Agency Budget Requests

Amy Ferris

Chief Financial Officer

Agency Proposed Legislation

Kelly Cooper

Policy and Legislative Director

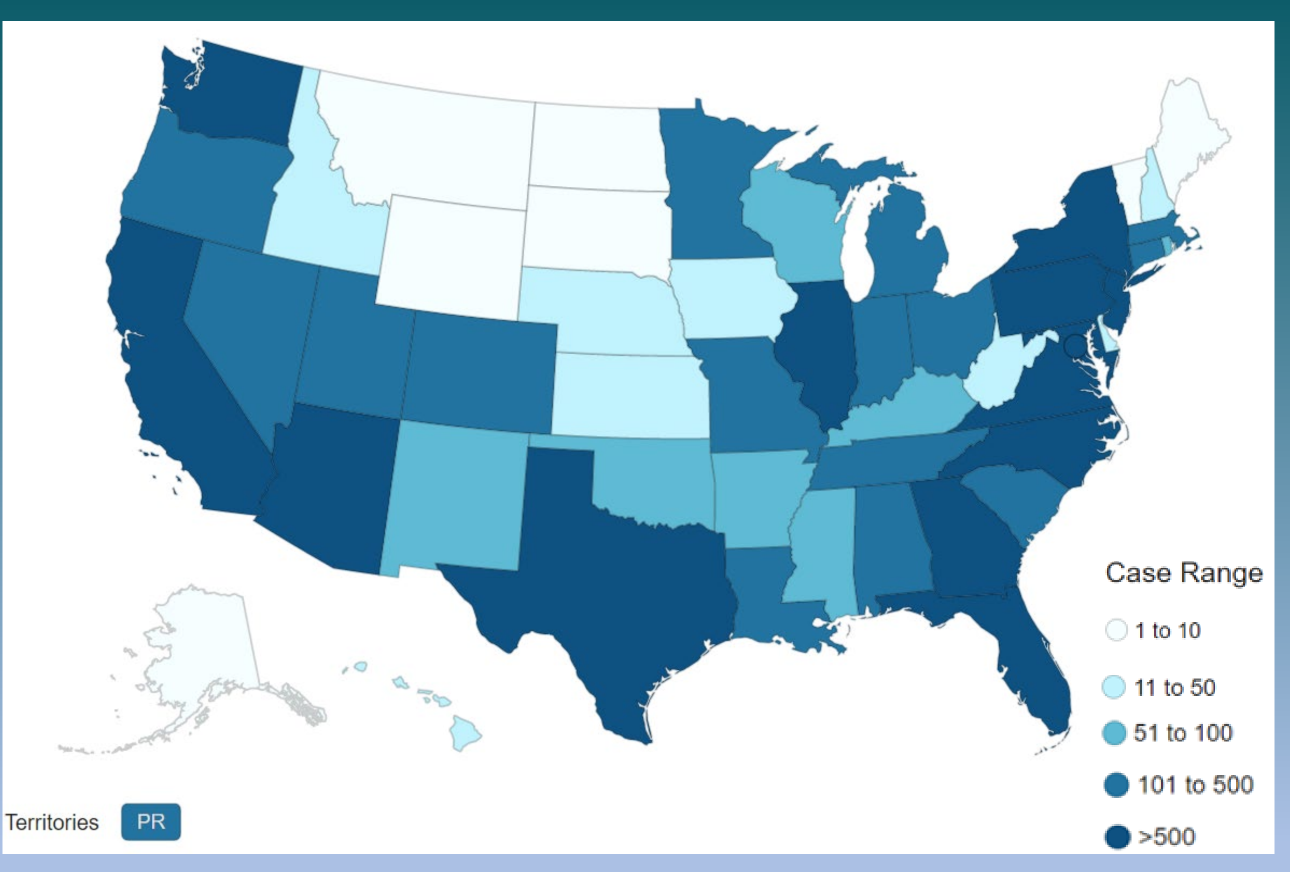
What is Public Health?
“What we as a society do
collectively to assure
the conditions in
which people
can be healthy.”
- The future of the Public's Health in the 21st Century, Institute of Medicine, 2003

Health
Where Equity,
Innovation and
Engagement meet

MPV (Monkeypox)

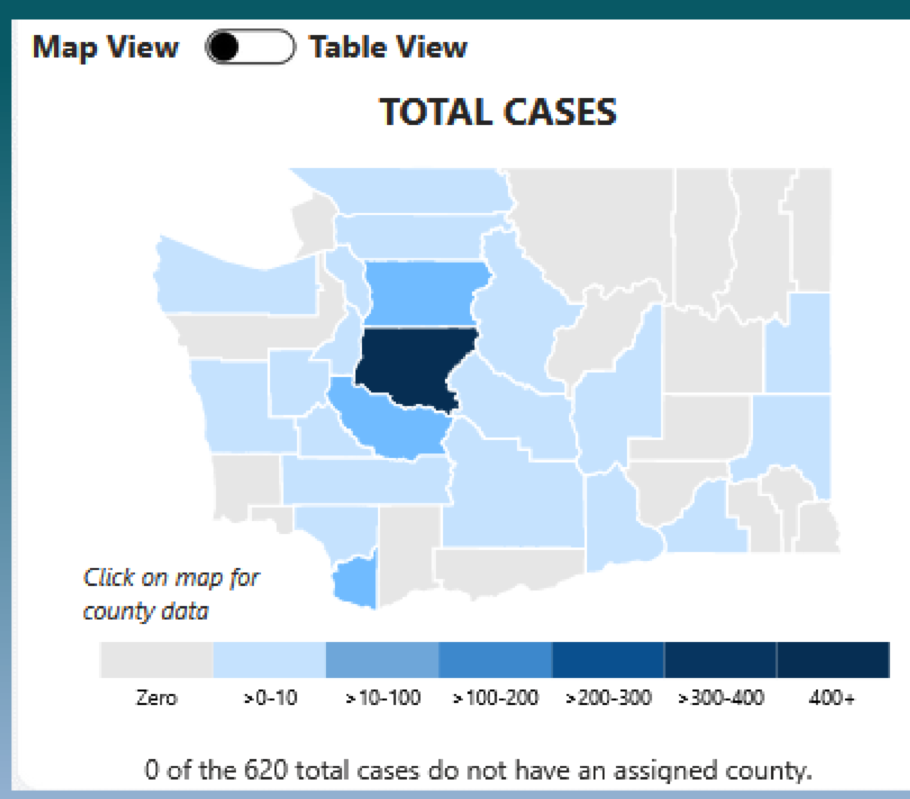
MPV Cases in US

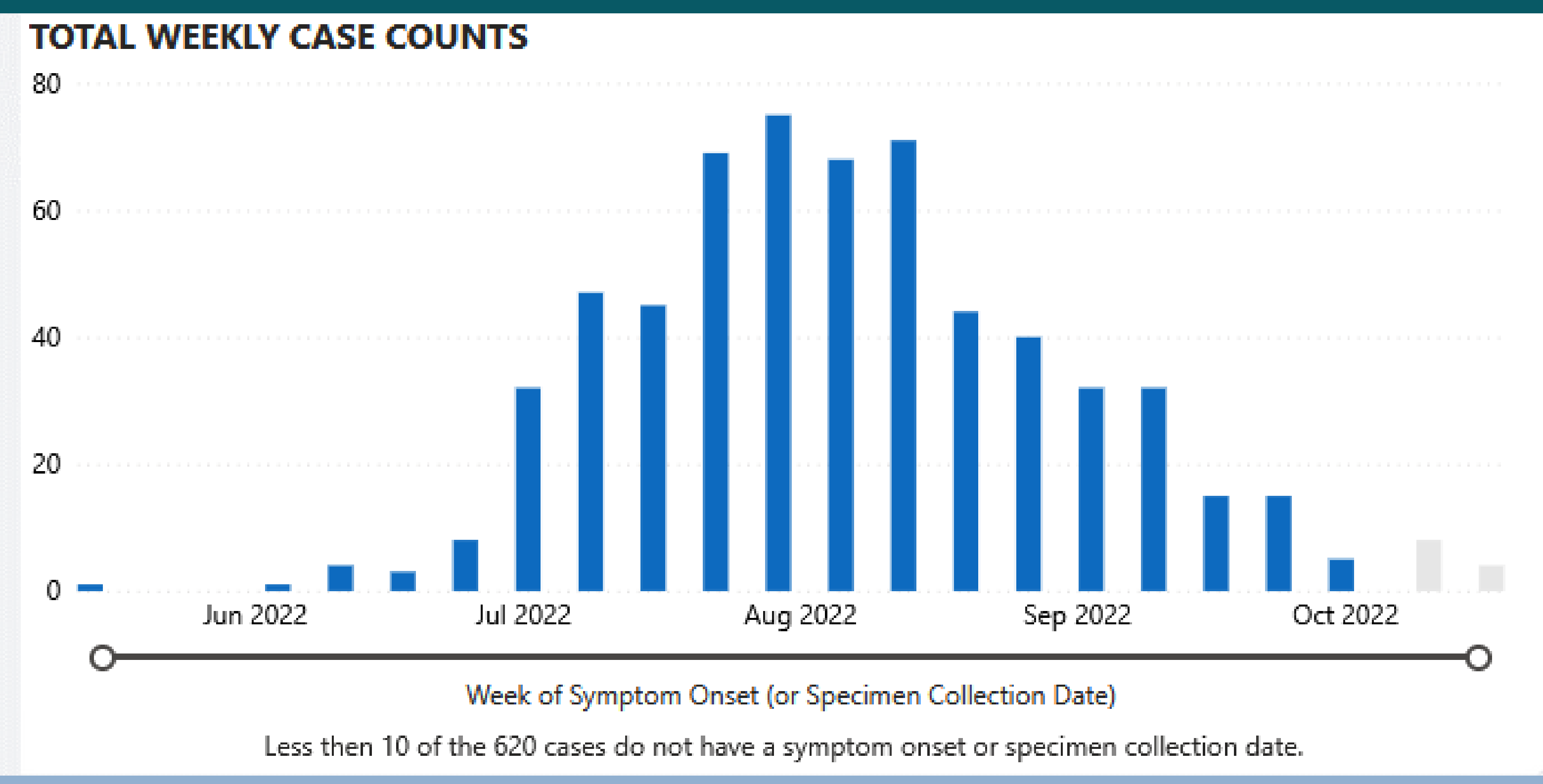
28,004 Confirmed and Probable Monkeypox Cases



Top 10 US Jurisdictions with Monkeypox Cases (as of 10/31/22)		
1	California	5,372
2	New York	4,071
3	Florida	2,688
4	Texas	2,672
5	Georgia	1,895
6	Illinois	1,364
7	Pennsylvania	827
8	New Jersey	743
9	Maryland	702
10	Washington	640

MPV in Washington State



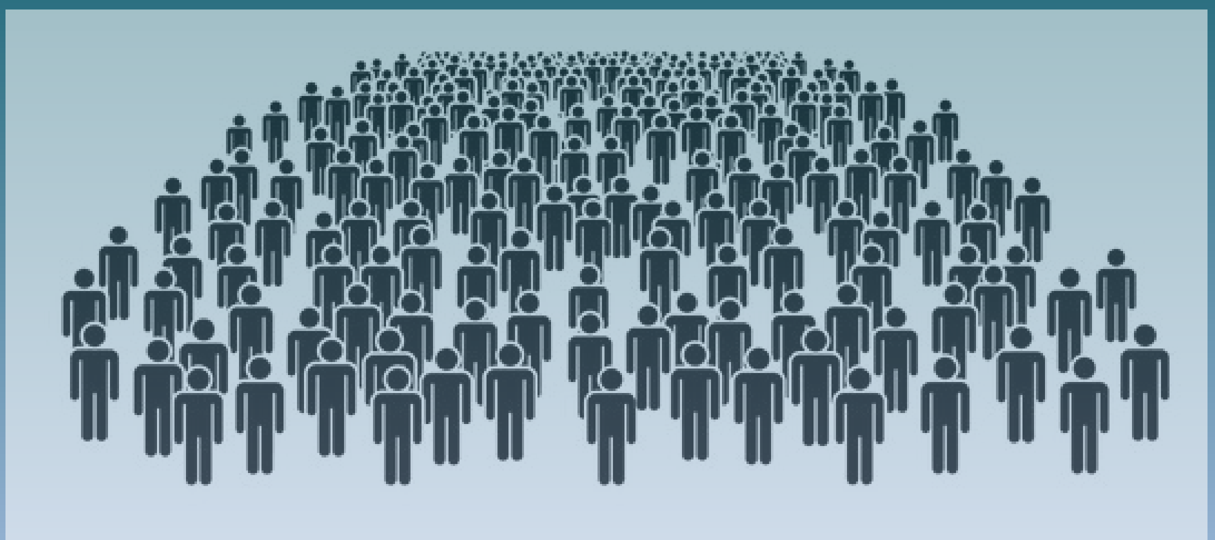


Source: DOH MPV data dashboard https://doh.wa.gov/you-and-your-family/illness-and-disease-z/monkeypox/monkeypox-mpv-data (10/31/2022)

MPV Vaccinations

Over 25,000 MPV vaccines administered!

8,020 people fully vaccinated

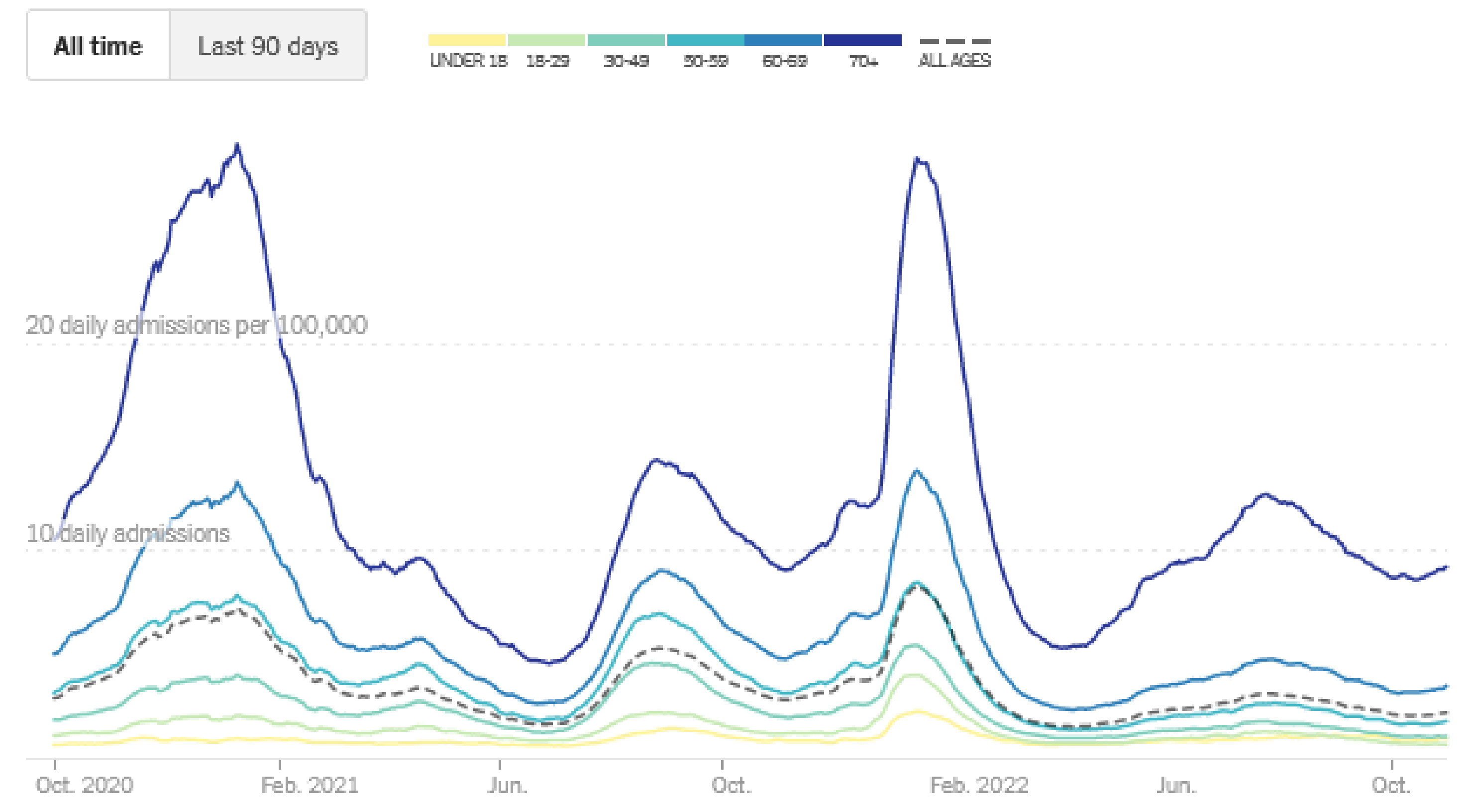


16,631 people partially vaccinated

Source: DOH MPV data dashboard https://doh.wa.gov/you-and-your-family/illness-and-disease-z/monkeypox/monkeypox-mpv-data (10/31/2022)

COVID-19

November 2022



Source: The New York Times https://www.nytimes.com/interactive/2021/us/covid-cases.html (11/1/2022)

COVID-19 Washington Snapshot

State Summary

50 CASES PER 100,000 POPULATION

5% OF HOSPITAL BEDS OCCUPIED BY COVID-19 PATIENTS

66% OF POPULATION COMPLETING PRIMARY SERIES

● Low ● Moderate ● Substantial ● High

TREND IN 7-DAY RATE OF NEW COVID-19 CASES PER 100,000 POPULATION

1,500
1,000
500
0
50
2021
2022
Specimen Collection Date

Cases from the last 8 days are not reported

Hospital bed occupancy is reported only at the state level

7-DAY CASE RATE PER 100,000 POPULATION

Measurement Period: 10/15/2022-10/22/2022

Click on the map for county data

0-9.99 | 10-49.99 | 50-99.99 | 100+

0 cases in the measurement period do not have an assigned county

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (10/31/2022)

@WaDeptHealth
@WaHealthSec

COVID-19 Variants

HHS Region 10: 7/24/2022 – 10/29/2022

NOWCAST

% Viral Lineages Among Infections

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

BA.4 BA.5 BF.7 BA.4.6 BQ.1

7/30/22 8/6/22 8/13/22 8/20/22 8/27/22 9/3/22 9/10/22 9/17/22 9/24/22 10/1/22 10/8/22 10/15/22 10/22/22 10/29/22

Collection date, week ending

HHS Region 10: 10/23/2022 – 10/29/2022 NOWCAST

Region 10 - Alaska, Idaho, Oregon, and Washington

WHO label	Lineage #	US Class	%Total	95%PI
Omicron	BA.5	VOC	62.9%	57.8-67.7%
	BQ.1	VOC	11.2%	6.8-17.8%
	BF.7	VOC	10.1%	8.1-12.5%
	BA.4.6	VOC	5.9%	4.2-8.2%
	BQ.1.1	VOC	3.1%	0.6-11.4%
	BA.5.2.6	VOC	2.6%	1.5-4.4%
	BA.2.75	VOC	2.3%	1.2-4.3%
	BA.2.75.2	VOC	1.5%	0.7-3.2%
	BA.4	VOC	0.3%	0.2-0.3%
	BA.2.12.1	VOC	0.0%	0.0-0.0%
	BA.2	VOC	0.0%	0.0-0.0%
	BA.1.1	VOC	0.0%	0.0-0.0%
	B.1.1.529	VOC	0.0%	0.0-0.0%
Delta	B.1.617.2	VBM	0.0%	0.0-0.0%
Other	Other*		0.1%	0.0-0.1%

* Enumerated lineages are US VOC and lineages circulating above 1% nationally in at least one week period. "Other" represents the aggregation of lineages which are circulating <1% nationally during all weeks displayed.

** These data include Nowcast estimates, which are modeled projections that may differ from weighted estimates generated at later dates

\# BA.1, BA.3 and their sublineages (except BA.1.1 and its sublineages) are aggregated with B.1.1.529. Except BA.2.12.1, BA.2.75, BA.2.75.2 and their sublineages, BA.2 sublineages are aggregated with BA.2. Except BA.4.6, sublineages of BA.4 are aggregated to BA.4. Except BF.7, BA.5.2.6, BQ.1 and BQ.1.1, sublineages of BA.5 are aggregated to BA.5. For all the lineages listed in the above table, their sublineages are aggregated to the listed parental lineages respectively. Previously, BA.5.2.6 were aggregated with BA.5. Lineages BA.2.75.2, BA.4.6, BF.7, BA.5.2.6 and BQ.1.1 contain the spike substitution R346T.

Source: CDC Nowcast: https://covid.cdc.gov/covid-data-tracker/#variant-proportions (10/31/2022)

@WaDeptHealth
@WaHealthSec

COVID-19 Hospital Use - Washington State

TREND IN 7-DAY RATE OF NEW COVID-19 HOSPITALIZATIONS PER 100,000 POPULATION

7-Day Hospitalization Rate

25
20
15
10
5
0

3.8

Jul 2020 Jan 2021 Jul 2021 Jan 2022 Jul 2022

Hospital Admission Date

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (11/1/2022)

COVID-19 Deaths - Washington State

TREND IN 7-DAY RATE OF NEW COVID-19 DEATHS PER 100,000 POPULATION

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (11/1/2022)

@WaDeptHealth
@WaHealthSec

Priority Areas Moving FORWARD

1. ENGAGEMENT AND EMPOWERMENT
2. PREVENTION, TOOLS AND ACCESS
3. SYSTEM READINESS, SUPPORT AND CAPACITY

Bivalent Doses by County

PEOPLE THAT RECEIVED A BIVALENT BOOSTER AMONG ELIGIBLE POPULATION

Legend

- 40%+
- >30% to 40%
- >20% to 30%
- >10% to 20%
- >0 to 10%
- Zero

County data for people with a bivalent booster is based on recipient's county of residence. 1,074 people receiving a bivalent booster do not have a county reported.

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (10/31/2022)

@WaDeptHealth
@WaHealthSec

Bivalent Doses by Age

PERCENT VACCINATED, WITHIN AGE GROUP

Age group	Initiated Primary Series (%)	Completed Primary Series (%)	Eligible People Who Received Any Booster (5+) (%)	Eligible People Who Received a Bivalent Booster (12+) (%)
6 mo-4	15.0%	8.2%		
5-11	37.4%	33.1%	33.3%	
12-15	58.4%	53.3%	40.8%	9.4%
16-17	68.5%	62.9%	44.1%	7.5%
18-34	80.2%	70.1%	44.4%	8.1%
35-49	87.9%	80.1%	56.2%	13.8%
50-64	85.3%	79.0%	66.0%	18.3%
65+	99.0%	94.8%	79.0%	32.5%

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (10/31/2022)

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Bivalent Doses by Race

State Level | County Level

PERCENT VACCINATED, WITHIN RACE/ETHNICITY GROUP

● Initiated Primary Series (6mo+) (%) ● Completed Primary Series (6mo+) (%) ● Eligible People Who Received Any Booster (5+) (%) ● Eligible People Who Received a Bivalent Booster (12+) (%)

	Initiated Primary Series (6mo+) (%)	Completed Primary Series (6mo+) (%)	Eligible People Who Received Any Booster (5+) (%)	Eligible People Who Received a Bivalent Booster (12+) (%)
American Indian/Alaska Native*	80.4%	73.0%	53.1%	13.0%
Asian*	89.2%	80.7%	66.7%	16.6%
Black*	71.8%	63.8%	46.6%	10.1%
Hispanic	64.9%	57.2%	43.9%	7.9%
Native Hawaiian/Pacific Islander*	95.6%	84.7%	45.3%	8.7%
White*	65.0%	60.4%	63.6%	21.2%

100% 50% 0%

*Non-Hispanic

See Learn More above for information on the reporting of these data as well as info about eligibility and approved vaccination age groups.

955,411 people initiating, 801,656 completed, 401,200 who received any booster, and 101,332 who received a bivalent booster have race and ethnicity reported as Unknown, Multiracial or Other Race/Ethnicity.

Source: DOH COVID-19 data dashboard https://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (10/31/2022)

173,922 bivalent doses

have been administered since September 1st

Flu Activity in Washington State

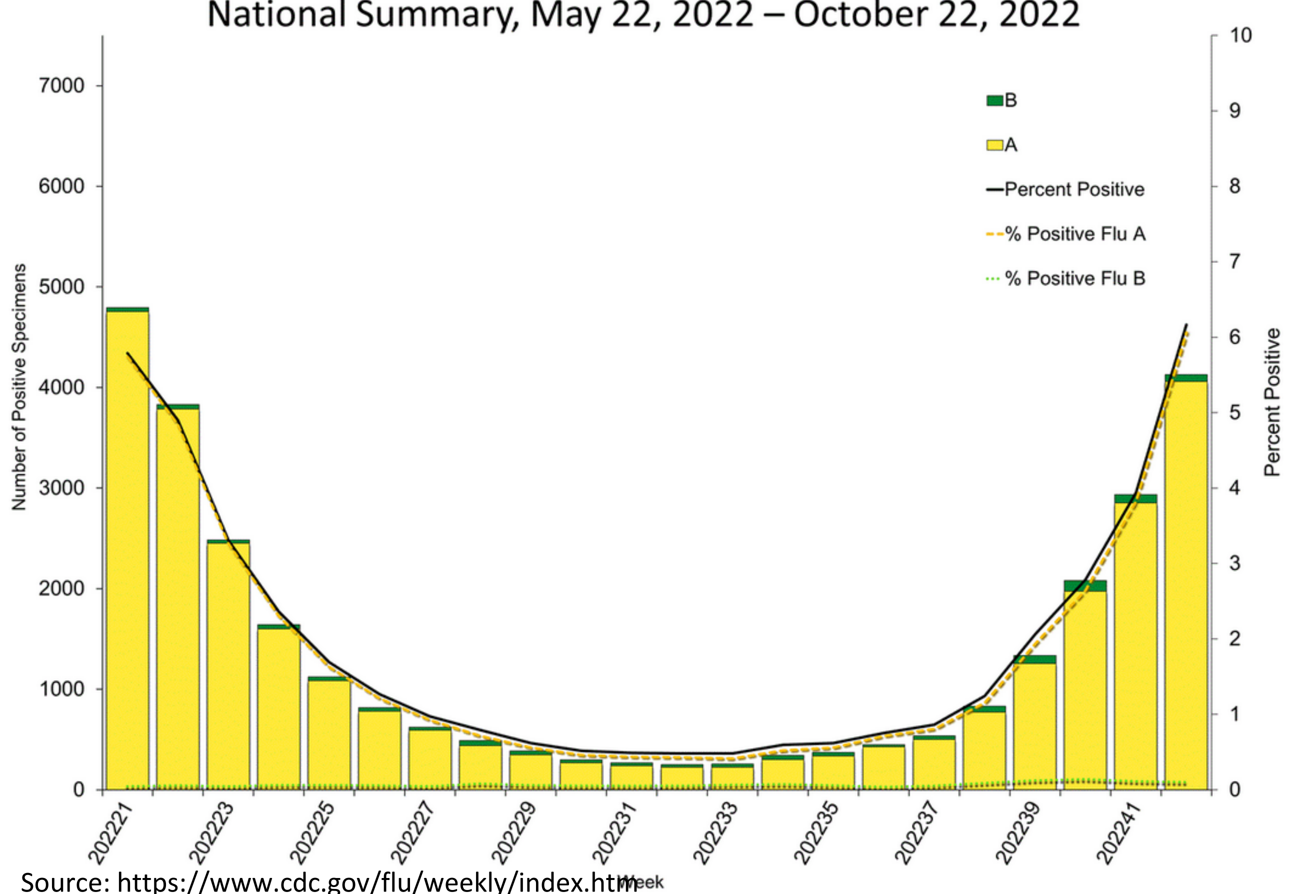
- Flu activity remains low
- Two deaths reported
- Vaccine takes 2 weeks to be effective
- Now is the time to get your shot

Respiratory Syncytial Virus (RSV)

- RSV commonly circulates in late fall and winter
- Children and adults who catch RSV often develop cold like symptoms
- RSV can be more serious for infants, older individuals, and immunocompromised

Source: CDC RSV: https://www.cdc.gov/dotw/rsv/index.html#:~:text=Respiratory%20syncytial%20virus%20(RSV)%20is,similar%20to%20the%20common%20cold

Concern for Flu / Respiratory Season



Source: https://www.cdc.gov/flu/weekly/index.htm

YOUR HEALTH

Flu is expected to flare up in U.S. this winter, raising fears of a 'twindemic'

September 23, 2022 · 4:59 AM ET

@WaDeptHealth
@WaHealthSec

Need to make a vaccine appointment?

Visit

VaccineLocator.doh.wa.gov

or **Vaccines.gov**

or call

833-VAX-HELP

Language assistance is available

6 a.m. to 10 p.m.
Monday

6 a.m. to 6 p.m.
Tuesday – Sunday
& observed state holidays

CovidVaccineWA.org

Department of Health Legislative and Budget Proposals

Transformational Plan

I. **Health and Wellness.** All Washingtonians have the opportunity to attain their full potential physical, mental and social health and well-being.

II. **Health Systems and Workforce Transformation.** All Washingtonians are well served by a health ecosystem that is robust and responsive, while promoting transparency, equity, and trust.

III. **Environmental Health.** All Washingtonians will thrive in a broad range of healthy environments — natural, built and social.

IV. **Emergency Response and Resilience.** All Washington communities have the information and resources they need to build resilience in the face of myriad public health threats and are well-positioned to prepare for, respond to, and recover from emergencies and natural disasters.

V. **Global and One Health.** All Washingtonians live in ever-connected environments that recognize and leverage the intersection of both global and domestic health as well as the connections of humans, animals, and the environment.

Overall DOH 2023-25 Biennium Budget Requests

➢ **Over $800 million of state resources** to support funding shortfalls, continue and enhance public health services with:

- Nearly $335 million for continuation of COVID-19 response resources;
- $100 million to support Legislatures next commitment to Foundational Public Health Services (FPHS);
- Over $200 million building on learnings from COVID – 19 to continue support resources and services;
- Remainder for other public health services.

➢ **Over $100 million for spending authority** to other fund sources.

Health and Wellness

Secure Reproductive Health Services

- Cover reproductive care related services and travel for people who are otherwise unable to afford or access them.
- Approximately 26 states have active abortion bans and DOH anticipates a sharp increase in people seeking abortions from outside the state.
- Provide safe, legal abortion procedures for clients who can't afford them as well as provide training to increase the number of providers to meet the anticipated increase in need for these procedures.

Cancer Screening & Prevention

- Federal grant shortfalls and widening gaps in access to care have led to widening disparities in cancer screening, prevention, and treatment.
- Disparities primarily impact people who live in communities with poor access to providers, those who earn low incomes, and communities of color.
- If funded, 7,000 people can be screened and treated for breast and cervical cancer.

Care Connect Washington (CCWA)

- State-supported, locally controlled system that provides coordinated, human-centered supports to individuals with a wide range of health-related social needs.
- Focus on supporting, training, and growing the community-based workforce, through community health workers, braiding resources, and creating low-barrier access to benefits and services for those who need them, to meet prevention, population health, and emergency response needs.
- The CCWA system has positioned it to increase community resilience and help communities emerge from the pandemic stronger and healthier, while also supporting future health emergencies.

Health and Wellness

Sustainment of Watch Me Grow Washington (WMGW) Program

- State's ability to communicate critical health information to families through Watch Me Grow Washington has been compromised by reduced and one-time resources.
- Ensures families with children under six are given the information they need such as immunization information and healthcare visit reminders.
- Without continued funding, DOH will be forced to reduce communication or completely discontinue the program. Impacting 300,000 families with reduced access to critical health information.

Statewide Investigative and Epidemiological Surge Support

- Washington state experienced an average of 2-3 outbreaks per year of communicable diseases including Mumps, Measles, and Acute Flaccid Myelitis.
- Developed a capacity to assist local health jurisdictions with case investigation and other surge support.
- Without sustained funding, the most under-resourced local jurisdictions, which already disproportionately experience health inequities, will lose this service.

HIV/AIDS Pharmaceutical Rebates Expansion

- DOH is requesting the creation of a non-appropriated fund for the rebate revenue generated by the purchase of HIV and other medications for people living with HIV. The federal Ryan White grant is a funder of last resort and all pharmaceutical rebates received by the department must be spent prior to spending the federal grant. Rebate revenues are very sizeable and unpredictable. This legislation will also raise the federal poverty level for Early Intervention Program to serve more people living with HIV.
- This proposal will allow DOH to disburse more community contracts in areas of highest need and fewest resources for HIV care and focus on reducing documented HIV health disparities for Black and Latina populations. Additionally, by raising the federal poverty level we expect to serve an additional 210 individuals living with HIV who have previously been ineligible.

Health Systems and Workforce Transformation

Expanded Foundational Public Health Services

- $450 million biennial shortfall in foundational public health services, including disease surveillance and epidemiology and all hazards emergency response, among other capabilities.
- The legislature took a vital step in filling 40% of this gap through the passage of 2SHB 1497 in 2019. Further investment can expand services related to housing and homelessness, climate change, chronic disease, maternal and child health, and access to health care.
- Investment to address health inequities and close health disparities which will continue to widen.

Uniform Facilities Enforcement Framework

- Establishes a standard framework for facilities enforcement based on acute care and psychiatric hospital laws. No such framework for other healthcare facilities regulated by DOH. Under current law, DOH's only compliance option is to suspend or revoke a facilities license in response to a violation.
- Creates a uniform framework for all health facilities including intermediate enforcement tools and giving the department the ability to work with facilities to address repeat violations quicker.
- Adds enforcement tools that allow the department to take swift action when a situation poses immediate risk to the public.
- Increase patient safety and facility compliance, while ensuring continued access to care.

Maintaining Core Public Health Data Systems

- Funding for DOH data systems related to electronification of paper records, infectious disease and environmental incident reporting, emergency department encounter reporting, and immunizations.
- These systems have the capability of responding to general public health emergencies and applicability to other emerging communicable diseases such as MPV, Ebola, and Measles.
- Adverse impacts will result including the halting of critical data collection and reporting to the CDC as well as state level visibility to health impacts across Local Health Jurisdictions.

Health Systems and Workforce Transformation

Sustainable Enhancement of the Washington State Public Health Laboratories Infrastructure

- Washington State's Public Health Laboratories and our local partners tracked the progression and evolution of COVID-19 throughout the pandemic, furthering our understanding of the virus and strategies to address it.
- This capability is applicable to current and future outbreaks of MPV, Ebola, Measles, and any novel infectious diseases that may emerge in Washington.
- Failing to sustain the Public Health Laboratories critical capabilities will reduce the state's capacity during the next crisis.

Home Care Aides and Agency Affiliated Counselors

- Home Care Aides and Agency Affiliated Counselors are low-wage, high demand professions with severe workforce shortages affecting access to behavioral health and long-term care.
- These regulatory programs have significant negative fund balances ($9.7M combined); we are raising licensure fees for both professions to bring revenue into alignment with current program expenditures.
- However, recovering the historical deficits through fees alone risks driving workers out of the profession and worsening access to care for vulnerable populations; therefore, Requesting $8.2 million GF-S to offset the historical deficit and reduce the impact of a fee increase.

Expanding Access for Faculty at Dental Schools

- Current statute allows the commission to issue a license to practice dentistry to persons who are licensed in another state and are teaching faculty members at the University of Washington (UW), allowing the license holder to practice at UW facilities for one year while employed there. DOH is requesting to generalize the statute to apply to all accredited dental schools in Washington.
- DOH is also requesting to change the name to the Washington Dental Commission, which would align with the Washington Medical Commission (WMC) and other states.

Environmental Health

Meeting DOH’s Statutory Obligations under the Healthy Environment for All (HEAL) Act

- Established new standards for environmental justice that many state agencies must implement, including DOH. Funding will ensure DOH can meet its obligations to comply with the act as environmental justice is incorporated into the agency’s policies, rules and budget decisions.
- DOH is also tasked with staffing and supporting the work of the Environmental Justice Council and the Environmental Health Disparities Map, both of which are integral for all HEAL agencies as they implement the law and the Climate Commitment Act.
- Without additional funding the agency runs the risk of maintaining the status quo and may be unable to fulfill the obligations of the HEAL Act.

Climate and Health Program Expansion

- Impacts of climate change are negatively affecting the health of people in Washington and these impacts are expected to become more severe in the future.
- DOH seeks to improve engagement with partners, coordination with local health departments and investment in existing programs to reduce the threat of climate change.
- Washington residents need better access to air quality information, more access to seek refuge in public spaces, and assistance implementing climate change plans.
- Improve coordination between local agencies and DOH will help ensure local adaptation efforts get implemented and state and federal resources are accessed to support climate action plan.
- Provide grants to small school districts to improve ventilation, filtration, and cooling systems in school buildings for students and the public seeking shelter during heat and smoke events.

Emergency Response and Resilience

COVID-19 Funding Gap

- Mass testing, vaccination, and responses to COVID-19 outbreaks as they emerge has led to the reopening of the economy and a return to a new normal in Washington state.
- Despite that success, over the last year an average of 11.6% of all hospital beds in the state were occupied by COVID-19 patients, pushing system-wide capacity to 91.7%. Over that same time, an average of 16 people per day died of COVID-19.
- Without replacing the depleting federal funds, the department's ability to respond to future surges will be severely strained and, in turn, leave the state vulnerable to additional waves that could push the state's hospital capacity to critical levels and cause preventable loss of life.

Establishing a Statewide Medical Logistics Center

- At the onset of the COVID-19 pandemic, the country watched as critical supplies such as ventilators and personal protective equipment quickly disappeared.
- In response to that failure, DOH acquired a 4.5 acre warehouse which now stores and distributes COVID-19 test kits as well as masks and other personal protective equipment to tribes and local health jurisdictions.
- The center has also distributed equipment throughout the MPV outbreak as well as in response to wildfires throughout the state.
- Without this proviso, DOH will return to a pre-COVID model which will yield the same results in future emergencies as came in the medical supply collapse of the pandemic.

Emergency Response and Resilience

Continued State Isolation and Quarantine Center Operational Costs

- DOH was able to support the isolation and quarantine of nearly 600 residents and travelers who required assistance with food, medical care, or shelter during their I&Q timeframe.
- Through maintained investment, this facility and procedure can be applied to many emerging, endemic communicable diseases including current and future COVID-19, MPV, Ebola, and/or Measles outbreaks.
- Without this investment, the state will be incapable of rapidly containing emerging outbreaks, whether the cases are domestic or imported via international travel, potentially exacerbating the spread of disease.

Medical Reserve Corps (MRC)

- To leverage the talents and resources of Washingtonians in response to communities impacted by disaster and emergency, DOH is requesting the creation of a State Medical Reserve Corps that can organize, train, equip, and mobilize volunteers in support of public health and healthcare needs.
- This capacity supports underserved local health jurisdictions by creating a structure to deploy volunteers across the state to assist with public health, medical, and mortuary response tasks.
- The creation of a State MRC managed and directed by DOH allows credentialed medical professionals and support staff to provide volunteer services to any incident in the State declared or non-declared. This centralized service allows counties without local volunteer management or MRC programs to utilize the skills and resources of responders from across the state.

Global Health

Global and One Health

- Requesting funds to create a Global and One Health team to lead the development and implementation of creative solutions improving the health and well-being of Washingtonians by emphasizing the connectedness of a strong bidirectional global-domestic health ecosystem.
- The COVID Pandemic, along with numerous other diseases including monkeypox (MPV), measles, and avian influenza has made it clear that global conditions impact our communities and that the complex intersection of human health, animals, and the environment requires sustained efforts to prevent, detect, and respond to global public health threats with domestic health impact whether infectious disease or otherwise.

Birth Equity Project

- Requesting funds for expanding the Birth Equity Project and other initiatives that support prenatal and perinatal health, with a focus on funding culturally appropriate, community-led, evidence-based, and evidence-informed projects that enhance prenatal and postpartum health and parent social support for communities experiencing the most extreme perinatal health disparities.
- In Washington state, at least 60% of pregnancy-related deaths from 2014–2016 were preventable. DOH is requesting funding to implement several recommendations made by the Maternal Mortality Review Panel to reduce preventable maternal deaths and improve health care for people before, during, and after pregnancy.

Key Takeaways

1. Monkeypox outbreak is **slowing** as availability of vaccine has increased and people have become more aware of how to avoid infection.

2. COVID-19 pandemic still ongoing and people should **get** bivalent COVID-19 **booster vaccine** to maintain **protection.** Flu shot is **best** bet to avoid influenza. People can get both vaccines on same day.

3. DOH has developed proposed agency request legislation to **achieve Equity** and **Optimal Health** for **All Washingtonians** through the priorities set forth in our **Transformational Plan**.

Working together for a healthier tomorrow…

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Date: November 9, 2022

To: Washington State Board of Health Members

From: Umair A. Shah, MD, MPH, Secretary of Health

Subject: WAC 246-101-017, Notification and Reporting Requirements of Novel Coronavirus (SARS-CoV-2)

Background and Summary:

Since the first confirmed case of Novel Coronavirus (SARS-CoV-2), also known as Coronavirus Disease 2019 (COVID-19), was reported in Washington State in January 2020, there have been over 97 million confirmed cases and over one million deaths reported in the United States.[1]

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020, includes a requirement for every laboratory that performs or analyzes a test intended to detect or diagnose a possible case of COVID-19 to report the results to the U.S. Department of Health and Human Services (HHS) in a manner prescribed by the HHS Secretary until the end of the public health emergency.

On June 4, 2020, HHS released laboratory data reporting guidance for COVID-19 that specifies standards for reporting laboratory testing data, including test results, relevant demographic details (e.g., patient's age, race, ethnicity, sex), and additional information to improve the public health response to COVID-19. These data must be collected and reported to state or local public health departments using existing reporting channels in accordance with state law or policies.

In September 2020, the Centers for Medicare and Medicaid Services (CMS) published an interim final rule in the Federal Register Volume 85, Number 171 stipulating that all laboratories conducting SARS-CoV-2 testing and reporting patient-specific results, including hospital laboratories, nursing homes, and other facilities conducting testing for COVID-19, who fail to report information required under the CARES Act will be subject to monetary penalties.

HHS has since updated its guidance twice: in January 2021 and March 2022. The most recent update removes requirements to report antibody or self-administered tests and specifies reporting requirements by testing entity and test type. The updated guidance also refines the reportable data components that accompany test results, and no longer suggests reporting answers to ask-on-order entry questions.

[1] Centers for Disease Control and Prevention, COVID Data Tracker, accessed October 31, 2022

(continued on the next page)

The State Board of Health (Board) has the authority under RCW 43.20.050 to adopt rules for the prevention and control of infectious and noninfectious diseases. The purpose of chapter 246-101 WAC, Notifiable Conditions, is to provide critical information to public health authorities to aid them in protecting and improving public health through prevention and control of disease.

The Board previously adopted eight emergency rules under WAC 246-101-017 to designate COVID-19 as a notifiable condition and require reporting of essential COVID-19 testing and patient demographic data aligned with the CARES Act starting in July 2020 and most recently in August 2022. To ensure consistency in reporting between regulated entities under chapter 246-101 WAC, the Board has required COVID-19 reporting by health care providers, health care facilities, laboratories, local health jurisdictions, and the Department of Agriculture.

In March 2021, the Board adopted revisions to chapter 246-101 WAC, Notifiable Conditions. In addition to the many changes to the chapter, the updated rules designate COVID-19 as a notifiable condition on a permanent basis. These changes go into effect on January 1, 2023. To comply with the Administrative Procedures Act, the Board also initiated rulemaking that would include additional reporting requirements for COVID-19 in alignment with the CARES Act and associated HHS guidance. The CR-101 for this rulemaking was filed in July 2021 (WSR 21-15-105).

Until permanent rules are in effect, I recommend the Board adopt a ninth emergency rule to continue to designate COVID-19 as a notifiable condition and require reporting of essential COVID-19 testing and demographic data to allow the governmental public health system to continue to implement appropriate public health interventions. Further, in order to avoid confusion for regulated entities, I recommend the Board rescind the emergency rule upon enactment of the permanent rules, withdraw the CR-101 for permanent COVID-19 rulemaking, and recommend that the state health officer issue a request for additional information to regulated entities under WAC 246-101-015 to help ensure continued compliance with HHS guidance through the end of the declared public health emergency.

Recommended Board Actions:

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

The Board adopts a ninth emergency rule to extend the designation of COVID-19 as a notifiable condition and the required reporting of essential testing and demographic data to maintain the necessary public health response to COVID-19. The Board directs staff to do the following:

- File a CR-103E to extend WAC 246-101-017 without lapse, effective December 16, 2022;
- Rescind the emergency rule effective January 1, 2023 when the permanent rules take effect;
- Withdraw the CR-101 for permanent COVID-19 rulemaking (filed as WSR 21-15-105); and

- Work with the Department of Health on communication to regulated entities to ensure continued compliance with HHS guidance through the end of the declared public health emergency.

Staff

Kaitlyn Donahoe

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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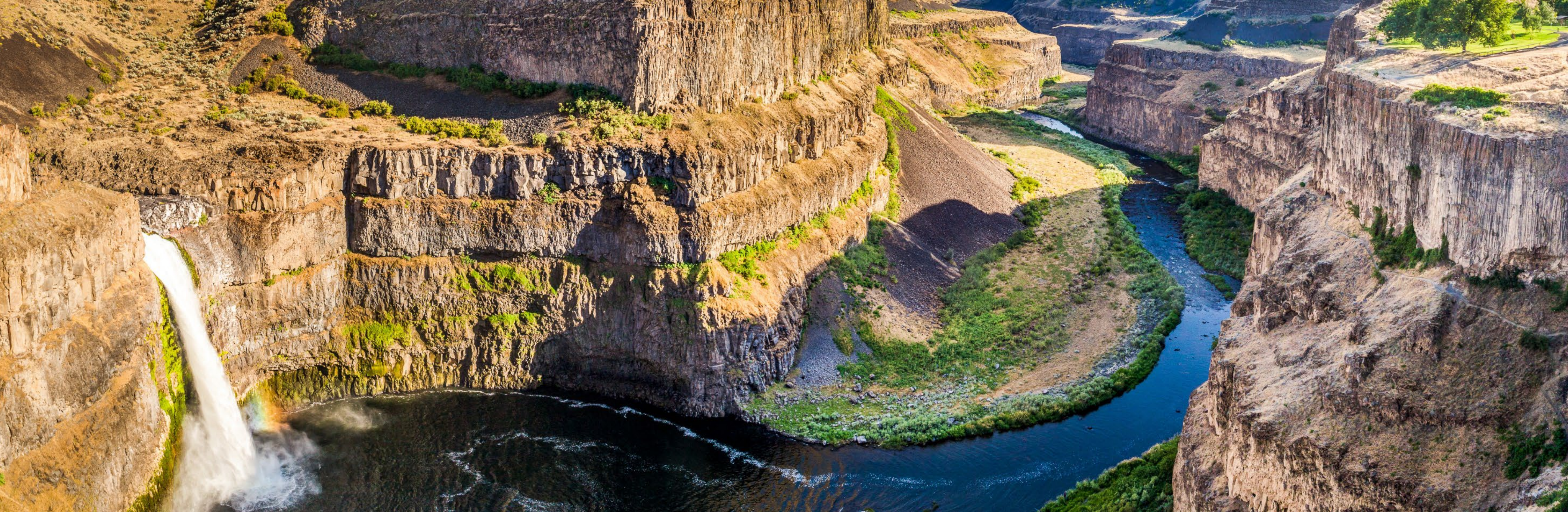


Washington State Board of Health

Emergency Rule: WAC 246-101-017, COVID-19 Reporting

November 9, 2022

Kaitlyn Donahoe, MPA

Policy Advisor, State Board of Health

Overview

- Background
- Prior Emergency Rules
- Proposed Ninth Emergency Rule
- COVID-19 Regulatory Landscape
- Proposed Future Reporting
- Next Steps

Background: CARES Act Requirements, HHS Guidance

- **March 2020:** the Coronavirus Aid, Relief, and Economic Security (CARES) Act requires laboratories to report COVID-19 test results to the Secretary of the U.S. Department of Health and Human Services (HHS) in a manner prescribed by the Secretary.
- **June 2020 (updated January 2021, March 2022):** HHS releases COVID-19 laboratory data reporting guidance specifying standards for reporting testing and demographic data.
- **September 2020:** Centers for Medicare and Medicaid Services (CMS) publish an interim final rule stipulating all laboratories conducting COVID-19 testing and reporting patient-specific results who fail to report information required under the CARES Act will be subject to monetary penalties.

Prior Emergency Rules

1 — July 2020

- Required reporters: health care providers & facilities, laboratories, LHJs
- All data components required by HHS
- Additional data reporting (e.g., patient emergency contact, preferred language)
- Disaggregated race and ethnicity

2 — November 2020

- Dept. of Agriculture added to the list of required reporters
- More closely aligned with HHS guidance; additional data components not required by HHS removed

3 — March 2021

- No changes; rule language identical to November 9, 2020, emergency rule

4 — June 2021

- No changes; rule language identical to November and March, emergency rules

5 — August 2021

- Adjusted reporting requirements for LHJs to report to the Dept. of Health to better reflect the capacity of the Dept. of Health and LHJs to receive and send these data
- All other requirements unchanged

6 — November 2021

- No change; rule language identical to August emergency rule

7 — April 2022

- Specifies reporting requirements by testing entity and test type
- Removes reporting for ask-on-order entry questions
- Refines list of reportable data components that accompany test results

8 — August 2022

- No change; rule language identical to April emergency rule

Proposed Ninth Emergency Rule

- No proposed changes are recommended today
- Eighth emergency rule is identical to the eighth emergency rule adopted by the Board in August
- Rule language is provided in today's meeting materials

COVID-19 Regulatory Landscape

Emergency Rules

- July 2020 to present
- Effective for 120 days at a time
- Cannot adopt identical consecutive rules without change in circumstance or starting permanent rulemaking (APA)

Federal Requirements

- CARES Act passed March 2020
- HHS guidance for COVID-19 reporting
- CMS financial penalties for noncompliance

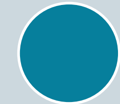
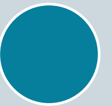
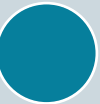
2021 Permanent Rules

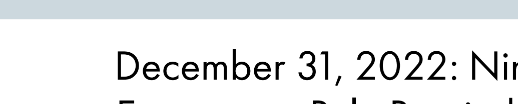
- Revisions to Notifiable Conditions chapter (246-100) adopted by the Board in March 2021, effective January 1, 2023
- COVID-19 designated as a notifiable condition
- Enhanced authority for DOH to request reporting for new conditions or additional data for current condition

Current Permanent Rulemaking

- To follow the APA, the Board initiated permanent rulemaking for COVID-19
- CR-101 was filed in July 2021

Proposed Future Reporting



December 16, 2022: Ninth Emergency Rule in Effect

December 31, 2022: Ninth Emergency Rule Rescinded

January 1, 2023:

- COVID-19 Permanent Notifiable Condition
- DOH Provisional Notification
- CR-101 Withdrawal

COVID-19 Test Results & Additional Patient Data Reported Through End of Public Health Emergency

QUESTIONS?

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THANK YOU

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RULE-MAKING ORDER
EMERGENCY RULE ONLY

CR-103E (December 2017)
(Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

Agency: State Board of Health

Effective date of rule:
Emergency Rules
☐ Immediately upon filing.
☒ Later (specify) 12/16/2022

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose: WAC 246-101-017, Novel coronavirus (SARS-CoV-2), coronavirus disease 2019 (COVID-19) reporting. The Washington State Board of Health has adopted a ninth emergency rule to continue to designate COVID-19 as a notifiable condition and establish reporting requirements for health care providers, health care facilities, laboratories, local health jurisdictions, and the Department of Agriculture to report certain data with COVID-19 test results, including relevant demographic details (e.g., patient's age, race, ethnicity, sex), and testing information. The rule allows for certain waivers by a local health officer. The rule establishes what testing and demographic data need to be reported as well as the timing and mechanism of reporting in accordance with Public Law 116-136, § 18115(a), the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Citation of rules affected by this order:
New: WAC 246-101-017
Repealed: None
Amended: None
Suspended: None

Statutory authority for adoption: RCW 43.20.050(2)(f)

Other authority:

EMERGENCY RULE
Under RCW 34.05.350 the agency for good cause finds:
☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☒ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The immediate adoption of a rule to designate COVID-19 as a notifiable condition, and require the reporting of demographic, testing, and other relevant data by health care providers, health care facilities, laboratories, local health jurisdictions, and the Department of Agriculture for each COVID-19 test is necessary to comply with federal law and related guidance. Immediate adoption of this rule is necessary for the preservation of the public health, safety and general welfare of the State of Washington during the global COVID-19 pandemic.

The CARES Act requires "every laboratory that performs or analyzes a test that is intended to detect SARS-CoV-2 or to diagnose a possible case of COVID-19" to report the results from each such test to the Secretary of the U.S. Department of Health and Human Services (HHS). The Act authorizes the HHS Secretary to prescribe the form, manner, timing, and frequency of such reporting. The HHS Secretary released laboratory data reporting guidance for COVID-19 on June 4, 2020, and later updated the guidance on January 8, 2021, and March 8, 2022. The guidance requires all COVID-19 test results and accompanying data be reported through existing state, territorial, local, and Tribal public health data reporting methods. Of these requirements, any person or entity ordering a test, registering an individual to be tested, collecting a specimen, or performing a test should make every reasonable effort to collect complete demographic data of the patient (e.g., ethnicity, race, age, sex). Updated guidance specifies which test results must be reported by entities based on entity and test type, and refines the list of reportable data components that must accompany test results.

In September 2020, the Centers for Medicare and Medicaid Services (CMS) published an interim final rule in Federal Register 54826, Volume 85, Number 171, to update requirements for reporting SARS-CoV-2 test results by laboratories. The interim final rule states all laboratories conducting SARS-CoV-2 testing and reporting patient-specific results, including

hospital laboratories, nursing homes, and other facilities conducting testing for COVID-19, who fail to report information required under the CARES Act will be subject to monetary penalties. The interim final rules became effective September 2, 2020.

Adoption of a ninth emergency rule ensures continued compliance with the CARES Act, including updated HHS guidance, CMS requirements, and maintain the necessary public health response to COVID-19.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	1	Amended	0	Repealed	0
Federal rules or standards:	New	1	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

The number of sections adopted at the request of a nongovernmental entity:

New	1	Amended	0	Repealed	0

The number of sections adopted on the agency's own initiative:

New	1	Amended	0	Repealed	0

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	0	Amended	0	Repealed	0

The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	1	Amended	0	Repealed	0

Date Adopted:	**Signature:**
Name: Michelle A. Davis	
Title: Executive Director, Washington State Board of Health	

RCW 43.20.050

Powers and duties of state board of health—Rule making—Delegation of authority—Enforcement of rules.

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW 70.119A.020, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

(b) Adopt rules as necessary for group B public water systems, as defined in RCW 70.119A.020. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for group B public water systems with fewer than five connections;

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains;

(d) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, and cleanliness in public facilities including but not limited to food service establishments, schools, recreational facilities, and transient accommodations;

(e) Adopt rules for the imposition and use of isolation and quarantine;

(f) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as may best be controlled by universal rule; and

(g) Adopt rules for accessing existing databases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

[**2011 c 27 § 1; 2009 c 495 § 1; 2007 c 343 § 11; 1993 c 492 § 489; 1992 c 34 § 4.** Prior: **1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050;** prior: (i) **1901 c 116 § 1; 1891 c 98 § 2;** RRS § 6001. (ii) **1921 c 7 § 58;** RRS § 10816.]

Date: November 9, 2022

To: Washington State Board of Health Members

From: Keith Grellner, Board Chair

Subject: Department of Health Request for Rulemaking Delegation, WAC 246-491-029, Information Collected on the Confidential Section of Live Birth and Death Certificates

Background and Summary:

The State Board of Health (Board) has the authority to adopt rules specifying pertinent information in vital statistic records relative to birth and manner of delivery necessary for statistical study under RCW 70.58A.020(3). WAC 246-491-029 sets forth the specific information collected in the confidential section of live birth and fetal death certificates.

The Department of Health (Department) is requesting delegation of rulemaking authority to propose and adopt changes to WAC 246-491-029 based on new statutory requirements and processes that affect the registration and certification of vital records. These changes directly affect live birth and fetal death certificates.

In 2018, Washington passed Senate Bill 6037, which updated the Uniform Parentage Act (UPA). The UPA provides a framework for how a legal parent-child relationship may be established or challenged. This bill was passed due to a federal amendment to the UPA in 2017. Amendments to this act expanded surrogacy rights and duties, including in the birth registration process. In addition, updates to the act included broader definitions of the term “parent” and “parentage” to recognize and protect the diversity of families and non-biological (or de facto) parent-child relationships.

Subsequently, in 2019, the Legislature added chapter 70.58A RCW, Vital Statistics, which repealed the previous chapter 70.58 RCW and created new sections of law to replace those repealed. Changes made to the vital records law included limiting the access of certified copies of birth and death records to qualified applicants, giving the Department authority to amend specified vital records and transfer custody of them to state archives, and updating references and definitions to reflect the UPA. Two sections took effect in 2019, and the remaining chapter sections took effect on January 1, 2021.

Finally, in 2021 the Legislature passed HB 1031, which added stillbirth as an option for certification of fetal death by the state or local registrar. As a result of the new legal requirements and processes referenced above, the Department’s Center for Health Statistics (CHS) needs to update the existing rules to incorporate these changes.

In addition, since 2014, the National Center for Health Statistics (NCHS) standards for birth and fetal death certificate items have changed significantly. The Department may

(continued on the next page)

want to align WAC 246-491-029 with these new standards. Continual realignment with national standards supports interoperability and the collection of useful data as these standards change over time.

Consistent with RCW 43.20.050(4) and Board Policy Number 2000-001, the Department is requesting delegation of rulemaking authority to amend Tables 1 and 2, statistical information contained in the confidential sections of birth and fetal death certificates, in WAC 246-491-029 for consistency with current state and federal laws.

I have asked Molly Dinardo, Board Staff, and Katitza Holthaus, Department Staff, to provide additional information for the Board's consideration of this request.

Recommended Board Actions:

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

The Board delegates to the Washington State Department of Health rulemaking authority to make changes to WAC 246-491-029, as appropriate, to align with current law and National Center for Health Statistics standards.

Staff

Molly Dinardo

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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STATE OF WASHINGTON

DEPARTMENT OF HEALTH

101 Israel Rd SE • Tumwater • PO Box 47811 • Olympia, Washington 98504-7811

Tel: (360) 236-4202 • TTY Relay: 800-833-6388

October 25, 2022

TO: Michelle Davis, Executive Director
Washington State Board of Health

FROM: Jerrod Davis, Assistant Secretary
Division of Disease Control and Health Statistics

SUBJECT: Request for Delegation of Rulemaking Authority for WAC 246-491-029.

The Department of Health (department) requests the authority to propose and adopt changes to WAC 246-491-029, Confidential information on state of Washington live birth and fetal death certificates, under chapter 70.58A RCW.

The department registers and certifies all vital events that occur in Washington state. Vital events include birth, marriage, divorce, death, and fetal death. Three significant statutory changes to vital records precipitated a need for rulemaking. First, passage of the Uniform Parentage Act in 2018 included surrogacy in the birth registration process and recognized the diversity of families and non-biological parent-child relationships. Next, the Legislature added chapter 70.58A RCW, Vital Statistics in 2019. Two sections took effect in 2019 and the remaining sections of the chapter took effect on January 1, 2021. Chapter 70.58A RCW made clarifications, added an amendment process, and added an administrative hearing. Additionally, the Legislature added a certification of birth resulting in stillbirth in 2021.

The Center for Health Statistics (CHS) needs to update existing rules to implement the new statutory requirements and processes. These statutory changes directly affect registration and certification of vital records, including live birth and fetal death.

Purpose of Rulemaking

CHS identified several reasons to consider amending WAC 246-491-029:

- Update terms to reflect the current statute and gender-neutral language.
- Add surrogacy terms.
- Add homeless status to the confidential statistical items.
- Align statistical items with the National Center for Health Statistics (NCHS) standards for birth and fetal death.

Potential Changes to the Rule

The department has identified the following changes that could occur during rulemaking:

- adding or removing statistical items in Tables 1 and 2,
- changing terms in Tables 1 and 2, and
- non-substantive editorial changes to make the text easier to understand.

SBOH Delegation Considerations

This rulemaking delegation request is based on the following criteria established in the State Board of Health's Policy Number 2000-001, Considering Delegation of Rules to Department of Health:

The extent to which the proposed rule seeks to adopt federal requirements in which the state has little or no discretion.
National Center for Health Statistics (NCHS) standards for birth and fetal death statistical items[1] changed significantly in 2014. The department may want to align WAC 246-491-029 with those new standards. Continual realignment with national standards supports interoperability and collection of useful data as those change over time.

The extent to which the substance and direction of the proposed rule is expected to have broad public and professional consensus.
The department does not anticipate any controversy or opposition to the changes considered for WAC 246-491-029. We expect interested parties will suggest language for terms and statistical items to add and remove.

[1] https://www.cdc.gov/nchs/nvss/deleted_items_from_birth_fetal_death_files.htm

The extent to which the proposed rule may make significant changes to a policy or regulatory program.

Legislative actions between 2018 and 2021 initiated significant changes for CHS. The department intends that any amendment proposal put forward will focus on alignment with current statutory terms and requirements; and NCHS standards. Any changes made to WAC 246-491-029 will support policy and programmatic changes made to other sections of rule related to vital statistics.

The extent to which the rule revision process would benefit from the Board's role as a convener of interested parties.

The department does not anticipate any controversy or opposition to the changes considered for WAC 246-491-029. Following the requirements of RCW 34.05.353, we will notify all interested parties by email, provide the proposed rule language to interested parties, and post information about the rulemaking on the department's vital statistics web page.

Collaboration with the SBOH

If delegation is granted, the department commits to work closely with State Board of Health's policy staff to make certain that any proposed amendment maintains the integrity of the rule. For more information, please contact Kelly Thomson, DCHS Policy Advisor at (360) 236-2274 or kelly.thomson@doh.wa.gov.

Request for Rulemaking Authority Delegation: WAC 246-491-029

www.doh.wa.gov

State Board of Health Meeting
November 9, 2022

@WaDeptHealth
@WaHealthSec

Statutory Changes to Vital Records

- **2018 - Uniform Parentage Act**
  - Included surrogacy in the birth registration process
  - Recognized diversity of families and non-biological parent-child relationships
- **2019 - chapter 70.58A RCW, Vital Statistics**
  - Made clarifications
  - Added amendment process
  - Added administrative hearing
- **2021- certification of birth resulting in stillbirth**

Rulemaking Considerations

Purpose of Rulemaking

- Update terms to reflect the current statute and gender-neutral language
- Add surrogacy terms
- Add homeless status to the confidential statistical items
- Align statistical items with the National Center for Health Statistics (NCHS) standards for birth and fetal death

Potential Changes to the Rule

- Adding or removing statistical items in Tables 1 and 2
- Changing terms in Tables 1 and 2
- Non-substantive editorial changes to make the text easier to understand

SBOH Delegation Considerations

- Alignment of WAC 246-491-029 with the 2014 NCHS statistical standards
- No expected controversy or opposition from interested parties
- Any changes made to WAC 246-491-029 will support policy and programmatic changes made to other sections of rule related to vital statistics
- DOH will notify all interested parties by email, provide the proposed rule language to interested parties, and post information about the rulemaking on the department's vital statistics web page

Contact Information

For more information, please contact:

- **Kelly Thomson, DCHS Policy Advisor**
  kelly.thomson@doh.wa.gov
- **Katitza Holthaus, CHS Policy Advisor**
  katitza.holthaus@doh.wa.gov

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Washington State Board of Health
Policy & Procedure

Policy Number:	**2000-001**
Subject:	**Considering Delegation of Rules to Department of Health**
Approved Date:	**November 8, 2000 (Revised June 13, 2012)**

Policy Statement

In some instances, the Washington State Board of Health may determine it is appropriate to delegate its authority for rulemaking to the Department of Health (RCW 43.20.050). The Board and the Department recognize the need to balance both broad constituent participation and administrative efficiency when making decisions about any rule delegation. For this reason, the Board and the Department have agreed upon a set of criteria to assist Board members in their decisions related to rule delegation.

The Board's decision to delegate a specific rule will be made on a case-by-case basis. The Board will determine the breadth of the delegation, which may range from specific aspects of a single rule section to a broader body of regulatory authority, such as an entire chapter of rules. Each Board delegation is for a single rulemaking process unless specified in an approved motion to be a continuing delegation until rescinded. Once a rule has been delegated, the Department will keep the Board informed about the rule making process through periodic progress reports. The Board may rescind its delegation at any time.

When considering delegation of authority to modify or adopt a rule, the Board may consider the following criteria:

- The extent to which the proposed rule revision is expected to include editorial and/or grammatical changes that do not change the substance of the rule;
- The extent to which the proposed rule seeks to adopt federal requirements in which the state has little or no discretion;
- The extent to which the substance and direction of the proposed rule is expected to have broad public and professional consensus;
- The extent to which the proposed rule may make significant changes to a policy or regulatory program; and
- The extent to which the rule revision process would benefit from the Board's role as a convener of interested parties.

Procedure

When the Board receives a request from the Department to delegate authority for rulemaking, the Executive Director will review the request compared with the above policy criteria. The Executive Director will prepare or direct staff to prepare a recommendation for the Board to consider at its next most convenient meeting. The Executive Director will consult with the Board Chair and members of any appropriate policy committee to formulate the recommendation. The Board may take action to delegate authority to the Department as requested or may otherwise specify rulemaking authority it delegates.

If the Board is not scheduled to meet again within two months and the Department justifies a pressing need to begin rulemaking, the Board's Chair may delegate the Board's rulemaking authority to the Department without a vote of the Board. The Board's Chair will consider recent actions of the Board that inform the collective philosophy of the Board, along with recommendations from the Executive Director and an appropriate policy committee of the Board before deciding to delegate authority to the Department without a vote of the Board. The Chair will limit any such delegation to a single rulemaking process. The Chair or Executive Director shall notify Board members of the delegation.

RCW 70.58A.020

Rule-making authority.

(1) The secretary shall have charge of the state vital records system and shall adopt rules to ensure implementation of the vital records system and this chapter.

(2) The secretary may adopt rules to set fees for services related to the vital records system, including, but not limited to, expediting requests, verification and access for government agencies, registering reports of delayed birth, amending vital records, and releasing vital records and vital statistics.

(3) The state board of health may adopt, amend, or repeal rules requiring statistical information related to birth and manner of delivery.
[2019 c 148 § 3.]

RCW 70.58A.530 (16)

Issuance of certifications and informational copies of vital records. (Effective October 1, 2022)

(16) The state registrar may release information contained in the confidential section of the birth record only to the following persons:

(a) The individual who is the subject of the birth record, upon confirmation of documentation and evidence of identity of the requestor in a manner approved by the state board of health and the department. The state registrar must limit the confidential information provided to the individual who is the subject of the birth record's information, and may not include the parent's confidential information; or

(b) A member of the public, upon order of a court of competent jurisdiction.
[2021 c 55 § 2; 2019 c 148 § 21.]

RCW 70.58A.902

Rule-making authority—2019 c 148.

The secretary and state board of health may adopt rules as authorized by this act to ensure that the sections in this act are implemented on their effective dates.
[2019 c 148 § 43.]

Date: November 9, 2022

To: Washington State Board of Health Members

From: Kelly Oshiro, Board Vice Chair

Subject: Update – Board Policy Number 2015-001, Responding to Complaints Against a Local Health Officer or Administrative Officer

Background and Summary:

Under RCW 70.05.120, any person may file a complaint with the Board concerning the failure of the local health officer or administrative officer to properly carry out public health laws under chapters 70.05, 70.24, and 70.46 RCW and Board rules.

The Board previously adopted Policy 2015-001, Responding to Complaints Against a Local Health Officer or Administrative Officer, which establishes the procedure by which the Board will handle complaints under RCW 70.05.120.

Current policy states that when a complaint is received, the Board determines whether the complaint falls within its authority to review and, if so, whether it merits further action. If it is determined that the complaint merits further action, the Board may request a preliminary investigation be completed by members and/or staff. Following the completion of a preliminary investigation, the Board will hear the results of the investigation at a public meeting and may take action, including scheduling a hearing in accordance with the Administrative Procedures Act (APA).

Since adoption of the policy, the Board has received and heard three complaints. In reviewing these complaints, staff have identified potential gaps in the policy that need updating. Areas for possible update include clarification on who may conduct a preliminary investigation, removing gendered language, clarification of the Board sponsor role, and increased specificity about who may serve as the presiding officer for a hearing. The goal of these recommendations is to provide additional transparency and clarification on how the Board will process future complaints received against local health officers or health administrators in accordance with RCW 70.05.120.

The Board reviewed proposed revisions to the policy at its June 2022 meeting. In September 2022, the Board convened an ad-hoc committee to review and recommend further revisions. I have asked Kaitlyn Donahoe, Board Staff, to provide an overview of proposed revisions to Policy 2015-001 for the Board’s consideration.

Recommended Board Actions:

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

(continued on the next page)

The Board adopts the proposed revisions to Policy 2015-001, Responding to Complaints Against a Local Health Officer or Health Administrator, along with any further revisions agreed upon at today's meeting, and directs staff to finalize the policy with the Board's Chair and Executive Director.

Staff

Kaitlyn Donahoe

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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Washington State Board of Health
Policy & Procedure

Draft Policy Number:	**2015-001**
Subject:	**Responding to Complaints Against a Local Health Officer or Administrative Officer Under RCW 70.05.120**
Approved Date:	**January 14, 2015 (Revised November 9, 2022)**

DRAFT

Policy Statement

RCW 70.05.120 allows any person to file a complaint with the Washington State Board of Health (~~board~~Board) alleging the failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health. The B~~b~~oard ~~shall~~will review complaints that allege a local health officer~~,~~ or administrative officer~~,~~ has refused or neglected to obey or enforce the provisions of chapters 70.05, 70.24 and 70.46 RCW, ~~and the state board of health~~or Board rules, regulations, or orders. The B~~b~~oard will review a complaint to determine whether it merits a preliminary investigation. The B~~b~~oard may dismiss a complaint that is beyond the scope of RCW 70.05.120, lacks sufficient information to support a preliminary investigation, or is frivolous in nature. If the B~~b~~oard determines a preliminary investigation is warranted, the B~~b~~oard ~~shall~~will assign ~~members and/~~staff or ~~staff~~a third-party investigator, as appropriate, to conduct a preliminary investigation and to report their findings to the ~~board~~Board. The ~~board~~Board will then review the findings of the investigation and ~~make a final determination regarding~~determine how to proceed. The Board may determine that further information is necessary, close the complaint~~.~~, or hold a hearing based on the findings of the preliminary investigation.

Procedure

1) **Complaint Review and Notifications:** Board staff, in consultation with the Executive Director, will respond to the complainant within five business days acknowledging receipt of the complaint. The Executive Director or staff will notify Board members that a complaint has been received and will be brought to the Board for review at the next regularly scheduled B~~b~~oard meeting. If no regular meeting is scheduled within 60 days of receipt of the complaint, or if the agenda for the regular meeting cannot accommodate review of the complaint, the Executive Director will notify the Chair of the need to schedule a special B~~b~~oard meeting for the purpose of reviewing the complaint. The Executive Director will also ~~shall~~ notify the subject local health official and will provide a copy of the complaint for ~~his or her~~their information and ~~review, and~~review and inform the official that ~~he or she~~they may provide a written response to the complaint if ~~he or she~~they so ~~chooses~~choose. The Executive Director ~~shall~~will notify the complainant and the subject local health official of dates and times that the Board is scheduled to review or

discuss the complaint. As part of the initial review, the Board will determine whether a complaint falls within its authority to review, and whether the complaint merits further action. Board staff may consolidate ~~M~~multiple complaints against the same official(s) about the same subject matter ~~will be consolidated~~ for review. The Board may dismiss a complaint that is beyond the scope of RCW 70.05.120, lacks sufficient information to support a preliminary investigation, or is frivolous in nature. The Board will notify the complainant(s) and the local health official named in the complaint(s) of complaint dismissal.

2) **Preliminary Investigation:** If the Board determines that a complaint is within the scope of RCW 70.05.120, and merits further review, the Board may direct ~~members and/or~~ staff to conduct a preliminary investigation. The Board may ~~designate~~identify a ~~sponsor~~B~~b~~oard member to ~~oversee~~be available for consultation with staff ~~activities. The~~ during the preliminary investigation. This Board member will recuse themselves as necessary from further participation in resolution of the complaint. The Board may direct staff to hire a third-party investigator to conduct the preliminary investigation when necessary to avoid a potential conflict of interest with the Board. The preliminary investigation may include~~,~~ but may not be limited to: a review of relevant statutory and rule authorities; gathering other background information and evidence; and interviewing the complainant, ~~witnesses, or named parties/individuals regarding~~the local health official named in the complaint, and others regarding the complainant's allegations. Background information includes, but is not limited to, laws, rules, court decisions, and documents submitted by the complainant and local health ~~jurisdiction~~official named in the complaint, and other state or local entities involved ~~in the complaint. Board staff may interview witnesses, any parties named~~ or implicated in the complaint~~,~~. In addition to conducting interviews, the individual(s) designated to conduct the investigation may consult with content or industry experts, ~~and consult with~~ appropriate representatives of named or implicated agencies, and others as appropriate. The Board may request the Department of Health to provide assistance in conducting the preliminary investigation.

3) **Findings:** ~~The sponsor and board~~Board staff or a third-party investigator assigned to conduct the investigation ~~shall~~will present the findings of the preliminary investigation and a recommendation for Board consideration at a ~~regular~~ B~~b~~oard meeting. As described above, B~~b~~oard staff ~~shall~~will notify the complainant and subject local health official of the date and time of the B~~b~~oard meeting at which the Board will review findings. The complainant and ~~may request that they~~ local health official named in the complaint will be given the opportunity to provide comment at the meeting.

4) ~~**Determination:**~~**Review of Findings** Based on the findings of the preliminary investigation, the ~~board~~Board will ~~make a determination regarding the complaint~~determine how to proceed. For example, it may request further information if it cannot reach a conclusion based on the results of the preliminary investigation; close the complaint if it concludes that the local health officer or administrative officer did not ~~fail~~ refuse or fail to obey or enforce the provisions of chapter 70.05, 70.24 or 70.46 RCW, or

DRAFT

~~the state board of health~~ Board rules, regulations, or orders; or, ~~if it determines that the local health officer or administrative officer failed to obey or enforce the provisions of chapter 70.05, 70.24 or 70.46 RCW, or the state board of health rules or orders, direct the officer to remedy the failure; or, if necessary,~~ hold a hearing under the Administrative Procedure Act (APA), chapter 34.05 RCW ~~regarding the officer's removal~~to determine if the local officer is guilty of the alleged acts~~.~~.

~~5)~~ **Hearing:** ~~If the Board determines that a hearing is necessary, it will be held pursuant to the provisions of chapter 34.05 RCW.~~

~~6)~~

5) ~~**Hearing:**~~ If a hearing is called, the Board will designate a presiding officer for the proceedings in accordance with RCW 34.05.425. The Board, members of the Board, or an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH) may serve as the presiding officer. If an ALJ is designated, the Board will determine the scope of the ALJ's duties at that time. The ALJ's scope of duties may include presiding over the hearing and/or serving as decision maker. If an ALJ is involved, OAH will schedule the proceedings. The proceedings will be conducted in accordance with the APA and applicable procedural rules.

6) **Notice of Final Disposition**: Unless the Board has called a hearing and OAH has notified the local health official named in the complaint(s) of the final disposition, the Board will notify the complainant(s) and the local health official of the final disposition of the complaint.

DRAFT

Washington State Board of Health
Policy & Procedure

Draft Policy Number:	**2015-001**
Subject:	**Responding to Complaints Against a Local Health Officer or Administrative Officer Under RCW 70.05.120**
Approved Date:	**January 14, 2015 (Revised November 9, 2022)**

DRAFT

Policy Statement

RCW 70.05.120 allows any person to file a complaint with the Washington State Board of Health (Board) alleging the failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health. The Board will review complaints that allege a local health officer or administrative officer has refused or neglected to obey or enforce the provisions of chapters 70.05, 70.24 and 70.46 RCW, or Board rules, regulations, or orders. The Board will review a complaint to determine whether it merits a preliminary investigation. The Board may dismiss a complaint that is beyond the scope of RCW 70.05.120, lacks sufficient information to support a preliminary investigation, or is frivolous in nature. If the Board determines a preliminary investigation is warranted, the Board will assign staff or a third-party investigator, as appropriate, to conduct a preliminary investigation and to report their findings to the Board. The Board will then review the findings of the investigation and determine how to proceed. The Board may determine that further information is necessary, close the complaint, or hold a hearing based on the findings of the preliminary investigation.

Procedure

1) **Complaint Review and Notifications:** Board staff, in consultation with the Executive Director, will respond to the complainant within five business days acknowledging receipt of the complaint. The Executive Director or staff will notify Board members that a complaint has been received and will be brought to the Board for review at the next regularly scheduled Board meeting. If no regular meeting is scheduled within 60 days of receipt of the complaint, or if the agenda for the regular meeting cannot accommodate review of the complaint, the Executive Director will notify the Chair of the need to schedule a special Board meeting for the purpose of reviewing the complaint. The Executive Director will also notify the subject local health official and will provide a copy of the complaint for their information and review and inform the official that they may provide a written response to the complaint if they so choose. The Executive Director will notify the complainant and the subject local health official of dates and times that the Board is scheduled to review or discuss the complaint. As part of the initial review, the Board will determine whether a complaint falls within its authority to review, and whether the complaint merits further action. Board staff may consolidate multiple complaints against

the same official(s) about the same subject matter for review. The Board may dismiss a complaint that is beyond the scope of RCW 70.05.120, lacks sufficient information to support a preliminary investigation, or is frivolous in nature. The Board will notify the complainant(s) and the local health official named in the complaint(s) of complaint dismissal.

2) **Preliminary Investigation:** If the Board determines that a complaint is within the scope of RCW 70.05.120, and merits further review, the Board may direct staff to conduct a preliminary investigation. The Board may identify a Board member to be available for consultation with staff during the preliminary investigation. This Board member will recuse themselves as necessary from further participation in resolution of the complaint. The Board may direct staff to hire a third-party investigator to conduct the preliminary investigation when necessary to avoid a potential conflict of interest with the Board. The preliminary investigation may include but may not be limited to: a review of relevant statutory and rule authorities; gathering other background information and evidence; and interviewing the complainant, the local health official named in the complaint, and others regarding the complainant's allegations. Background information includes, but is not limited to, laws, rules, court decisions, and documents submitted by the complainant and local health official named in the complaint, and other state or local entities involved or implicated in the complaint. In addition to conducting interviews, the individual(s) designated to conduct the investigation may consult with content or industry experts, appropriate representatives of named or implicated agencies, and others as appropriate. The Board may request the Department of Health to provide assistance in conducting the preliminary investigation.

3) **Findings:** Board staff or a third-party investigator assigned to conduct the investigation will present the findings of the preliminary investigation and a recommendation for Board consideration at a Board meeting. As described above, Board staff will notify the complainant and subject local health official of the date and time of the Board meeting at which the Board will review findings. The complainant and local health official named in the complaint will be given the opportunity to provide comment at the meeting.

4) **Review of Findings** Based on the findings of the preliminary investigation, the Board will determine how to proceed. For example, it may request further information if it cannot reach a conclusion based on the results of the preliminary investigation; close the complaint if it concludes that the local health officer or administrative officer did not refuse or fail to obey or enforce the provisions of chapter 70.05, 70.24 or 70.46 RCW, or Board rules, regulations, or orders; or, hold a hearing under the Administrative Procedure Act (APA), chapter 34.05 RCW to determine if the local officer is guilty of the alleged acts.

5) **Hearing:** If a hearing is called, the Board will designate a presiding officer for the proceedings in accordance with RCW 34.05.425. The Board, members of the Board, or an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH) may serve as the presiding officer. If an ALJ is designated, the Board will determine the scope

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of the ALJ's duties at that time. The ALJ's scope of duties may include presiding over the hearing and/or serving as decision maker. If an ALJ is involved, OAH will schedule the proceedings. The proceedings will be conducted in accordance with the APA and applicable procedural rules.

6) **Notice of Final Disposition**: Unless the Board has called a hearing and OAH has notified the local health official named in the complaint(s) of the final disposition, the Board will notify the complainant(s) and the local health official of the final disposition of the complaint.

Date: November 9, 2022

To: Washington State Board of Health Members

From: Kelly Oshiro, Board Vice Chair

Subject: Petition for Rulemaking – Chapter 246-650 WAC, Newborn Screening; Mucopolysaccharidoses Type II (MPS II)

Background and Summary:

The Administrative Procedures Act (RCW 34.05.330) allows any person to petition a state agency to request the 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 October 26, 2022, the Washington State Board of Health (Board) received a petition for rulemaking requesting an amendment to Chapter 246-650 WAC to add Mucopolysaccharidoses Type II (MPS II) as a condition for newborn screening. The petition states that MPS II is a "devastating disease with a better outcome the earlier it is diagnosed, and treatment begins." The petitioner requests this change because MPS II was recently added to the federal Recommended Uniform Screening Panel (RUSP). The RUSP provides a list of disorders that the Secretary of the Department of Health and Human Services (HHS) recommends for states to screen as part of their universal newborn screening programs.[1]

MPS II, also known as Hunter's Syndrome, is a rare hereditary metabolic condition that prevents the body's ability to break down and process complex sugars, or glycosaminoglycans (GAGs), properly.[2,3] This disease occurs when the body lacks an enzyme called iduronate-2-sulfatases (I2S), or these enzymes aren't functioning as they should. When the body has high levels of complex sugars, or they aren't breaking down, it causes the buildup of certain waste products in a person's cells and causes damage to many parts of the body, including bones, muscles, connective tissues, and organs.

Board has the authority under RCW 70.83.050 to adopt rules for screening Washington-born infants for hereditary conditions. WAC 246-650-010 defines the conditions, and

1. Health Resources and Services Administration (HRSA) | Recommended Uniform Screening Panel. Updated August 2022. Accessed October 27, 2022. https://www.hrsa.gov/advisory-committees/heritable-disorders/rusp
2. National Institute of Health | Mucopolysaccharidoses Fact Sheet | National Institute of Neurological Disorders and Stroke. Updated July 2022. Accessed October 27, 2022. https://www.ninds.nih.gov/mucopolysaccharidoses-fact-sheet
3. Health Resources and Services Administration | Mucopolysaccharidosis type II | Newborn Screening. Updated September 2022. Accessed October 27, 2022. https://newbornscreening.hrsa.gov/conditions/mucopolysaccharidosis-type-ii

(continued on the next page)

WAC 246-650-020 lists the conditions for which all Washington-born newborns are to be screened.

I have invited Molly Dinardo, Board Staff, and John Thompson, Director of the Department of Health's Newborn Screening Program, to provide a brief overview of the Board's process for adding a condition to the panel and share some brief background information on MPS II.

Recommended Board Actions:

The Board may wish to consider one of the following motions:

The Board accepts the petition for rulemaking to amend Chapter 246-650 WAC to add Mucopolysaccharidoses Type II (MPS II) as a condition for newborn screening. The Board directs staff to notify the requestor of its decision and to file a CR-101, Preproposal of Inquiry, under its authority in RCW 70.83.050.

OR

The Board declines the petition for rulemaking to add MPS II as a condition for newborn screening in Chapter 246-650 WAC, and directs staff to work with the Department of Health to perform a qualifying assumption analysis to evaluate MPS II for inclusion in WAC 246-650-020 and then report back to the Board so the Board can determine whether to establish a technical advisory committee to evaluate MPS II against the Board's criteria for adding conditions to the newborn screening rule.

Staff

Molly Dinardo

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.

PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at http://apps.leg.wa.gov/wac/default.aspx?cite=82-05.

CONTACT INFORMATION *(please type or print)*

Petitioner's Name: Mary Cavanagh

Name of Organization:

Mailing Address: 2417 223rd Pl. NE

City: Sammamish State: WA Zip Code: 98074

Telephone: (425) 301-5363 Email: cavanagh@gmail.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Department of Health

☐ **1. NEW RULE - I am requesting the agency to adopt a new rule.**

☐ The subject (or purpose) of this rule is:

☐ The rule is needed because:

☐ The new rule would affect the following people or groups:

☒ **2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: Chapter 246-650 WAC.

☒ I am requesting the following change: Add Mucopolysaccharidosis (MPS) II to New Born Screening panel

☒ This change is needed because: MPS II was recently added to federal RUSP. It is a devasting disease with a better outcome the earlier it is diagnosed and treatment begins.

☐ The effect of this rule change will be:

☐ The rule is not clearly or simply stated:

☐ **3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known:

(Check one or more boxes)

☐ It does not do what it was intended to do.

☐ It is no longer needed because:

☐ It imposes unreasonable costs:

☐ The agency has no authority to make this rule:

☐ It is applied differently to public and private parties:

☐ It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known:

☐ It duplicates another federal, state or local law or rule. List duplicate law or rule, if known:

☐ Other (please explain):

RCW 70.83.020

Screening tests of newborn infants.

(1) It shall be the duty of the department of health to require screening tests of all newborn infants born in any setting. Each hospital or health care provider attending a birth outside of a hospital shall collect and submit a sample blood specimen for all newborns no more than forty-eight hours following birth. The department of health shall conduct screening tests of samples for the detection of phenylketonuria and other heritable or metabolic disorders leading to intellectual disabilities or physical defects as defined by the state board of health: PROVIDED, That no such tests shall be given to any newborn infant whose parents or guardian object thereto on the grounds that such tests conflict with their religious tenets and practices.

(2) The sample required in subsection (1) of this section must be received by the department [of health] within seventy-two hours of the collection of the sample, excluding any day that the Washington state public health laboratory is closed.

[**2014 c 18 § 1**; **2010 c 94 § 18**; **1991 c 3 § 348**; 1975-'76 2nd ex.s. c 27 § 1; **1967 c 82 § 2**.]

RCW 70.83.030

Report of positive test to department of health.

Laboratories, attending physicians, hospital administrators, or other persons performing or requesting the performance of tests for phenylketonuria shall report to the department of health all positive tests. The state board of health by rule shall, when it deems appropriate, require that positive tests for other heritable and metabolic disorders covered by this chapter be reported to the state department of health by such persons or agencies requesting or performing such tests.

[**1991 c 3 § 349; 1979 c 141 § 113; 1967 c 82 § 3.**]

RCW 70.83.050

Rules and regulations to be adopted by state board of health.

The state board of health shall adopt rules and regulations necessary to carry out the intent of this chapter.
[**1967 c 82 § 5.**]

Washington State Board of Health
Policy & Procedure

Policy Number:	**2005-001**
Subject:	**Responding to Petitions for Rule-Making**
Approved Date:	**November 9, 2005 (revised August 13, 2014)**

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 initiative rule-making. If a petition to repeal or amend a rule is 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 of receipt of the petition. The response will be made at the direction of the Board. 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.

- **Consideration of the Petition:** 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, if the Board does not have a regular meeting scheduled within 60 days of receipt of the petition, or if hearing the petition at the next regular meeting would defer more pressing matters, the Chair shall call a special meeting of the Board to consider the petition for rulemaking.

Procedure

- **Notifications:** Board staff, in consultation with the Executive Director, will respond to the petitioner within three business days 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 and will be brought to the Board for consideration at the next regularly scheduled board meeting or will be considered at a special meeting. If

no regular meeting is scheduled before the 60-day response deadline, or if the agenda for the regular meeting cannot accommodate the petition, the Executive Director will notify the Chair of the need to schedule a special board meeting for the purposes of considering the petition. Upon Board action on the petition, the Executive Director shall assure Board members receive electronic copies of the final petition response.

- **Appeals:** If a petitioner appeals the Board's decision to deny a petition to the Governor, the Executive Director will inform the Board of the Governor's action on the appeal at the next scheduled Board meeting.
- **Consultation:** The Executive Director and Board staff will gather background information for the Board's use when it considers the petition. In this regard, 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.

Washington State Board of Health

PROCESS TO EVALUATE CONDITIONS FOR INCLUSION IN THE REQUIRED NEWBORN SCREENING PANEL

The Washington State Board of Health has the duty under RCW 70.83.050 to define and adopt rules for screening Washington-born infants for heritable conditions. Chapter 246-650-020 WAC lists conditions for which all newborns must be screened. Members of the public, staff at Department of Health, and/or Board members can request that the Board review a particular condition for possible inclusion in the NBS panel. In order to determine which conditions to include in the newborn screening panel, the Board convenes an advisory committee to evaluate candidate conditions using guiding principles and an established set of criteria.

The following is a description of the Qualifying Assumption, Guiding Principles, and Criteria which the Board has approved in order to evaluate conditions for possible inclusion in the newborn screening panel. The Washington State Board of Health and Department of Health apply the qualifying assumption. The Board appointed Advisory Committee applies the following three guiding principles and evaluates the five criteria in order to make recommendations to the Board on which condition(s) to include in the state's required NBS panel.

QUALIFYING ASSUMPTION

Before an advisory committee is convened to review a candidate condition against the Board's five newborn screening requirements, a preliminary review should be done to determine whether there is sufficient scientific evidence available to apply the criteria for inclusion.

THREE GUIDING PRINCIPLES

Three guiding principles govern all aspects of the evaluation of a candidate condition for possible inclusion in the NBS panel.

- Decision to add a screening test should be driven by evidence. For example, test reliability and available treatment have been scientifically evaluated, and those treatments can improve health outcomes for affected children.
- All children who screen positive should have reasonable access to diagnostic and treatment services.
- Benefits of screening for the disease/condition should outweigh harm to families, children and society.

CRITERIA

1. **Available Screening Technology:** Sensitive, specific and timely tests are available that can be adapted to mass screening.
2. **Diagnostic Testing and Treatment Available:** Accurate diagnostic tests, medical expertise, and effective treatment are available for evaluation and care of all infants identified with the condition.
3. **Prevention Potential and Medical Rationale:** The newborn identification of the condition allows early diagnosis and intervention. Important considerations:
   - There is sufficient time between birth and onset of irreversible harm to allow for diagnosis and intervention.
   - The benefits of detecting and treating early onset forms of the condition (within one year of life) balance the impact of detecting late onset forms of the condition.
   - Newborn screening is not appropriate for conditions that only present in adulthood.
4. **Public Health Rationale:** Nature of the condition justifies population-based screening rather than risk-based screening or other approaches.
5. **Cost-benefit/Cost-effectiveness:** The outcomes outweigh the costs of screening. All outcomes, both positive and negative, need to be considered in the analysis. Important considerations to be included in economic analyses include:
   - The prevalence of the condition among newborns.
   - The positive and negative predictive values of the screening and diagnostic tests.
   - Variability of clinical presentation by those who have the condition.
   - The impact of ambiguous results. For example the emotional and economic impact on the family and medical system.
   - Adverse effects or unintended consequences of screening.

WASHINGTON STATE
BOARD OF HEALTH

Statement of the Board on Possible Legislative Issues 2021-2022 Biennium

It is the policy (Policy 01-001) of the Washington State Board of Health (Board) to comment on legislative proposals that affect the Board's:

- Statutory authority and rules,
- 2020 State Health Report Recommendations, and
- 2017-2022 strategic plan activities

This statement represents the Sense of the Board and is used to guide staff and members in their communications on legislative and budget proposals. The statement is not intended to be an exhaustive list of anticipated legislative proposals, but it is focused on priority issues.

Foundational Public Health Services

The Board believes that *Public Health is Essential* and supports the recommendations developed by the Foundational Public Health Services (FPHS) Policy Workgroup to modernize the public health system, and provide state funding to the governmental public health system for the delivery of FPHS so they are available in every community. The Board supports the governmental public health system's budget requests to:

- Increase capacity for monitoring communicable diseases; investigating outbreaks and identifying causes; preventing cases; and coordinating disease response across agencies.
- Increase capacity for monitoring impact and causes of disease and disease response coordination.
- Increase statewide capacity for communicable disease monitoring, and outbreak investigations. Expand capacity at the state public health laboratory to meet increased demand.
- Continue implementation of the plan to rebuild and modernize public health.
- Continue and increase the legislature's initial investment in FPHS. This includes increasing the Board's capacity to meet its statutory obligations under chapter 43.20 RCW and other state laws.

The Board believes it is critical for the state to provide adequate, dedicated, stable funding for full implementation of FPHS statewide that keeps pace with inflation and demand for services. The Board **opposes** reductions to funding for the governmental public health system, including changes in fee authority or reductions to fund sources such as the Model Toxics Control Act.

Local Board of Health Governance

Washington's COVID-19 pandemic response has shown the critical importance of assuring our communities have evidence-based knowledge and resources to quickly identify and respond to disease outbreaks and other health threats in our communities.

Much of the ability to respond to outbreaks and other public health threats fall under the local health officer's authority. The local health officer is appointed by a county's local board of health. Local boards of health are made up of county elected officials, and in some cases, city elected officials and others who are included by way of ordinance. As a result of E2SHB 1152 (passed during the 2021 legislative session) most local boards of health must also have an equal balance of elected and non-elected members starting July 1, 2021. Non-elected members must represent public health, health care facilities, and providers; consumers of public health; and other community stakeholders. Local boards of health, local health administrators and officers have a statutory duty to carry out the state's public health laws and rules. Public health response should not be partisan or politicized. The Board would oppose legislation that diminishes local health officer duties or authorities.

Health Impact Reviews

Under RCW 43.20.285 the Board conducts Health Impact Reviews (HIRs) at the request of the Governor or a legislator. HIRs are objective, non-partisan, evidence-based analyses of proposed legislative or budgetary changes to determine the potential impacts on health and equity. The Board received funding for an additional 1.0 FTE in the 2021-2022 Foundational Public Health Services budget. The additional capacity will enable the Board to conduct more HIRs, thereby improving the state's ability to use evidence to inform policy and to promote health and equity. While the Board supports other state and legislative efforts to assess equity impacts of legislative proposals, the Board recognizes the unique value that HIRs add to legislative decision-making. The rigorous HIR research approach relying on both quantitative and qualitative research, as well as on lived experience, provides legislators with a nuanced understanding of how proposed policy may impact the status quo and health and equity in the state. The Board supports the retention of HIRs and will continue to offer assistance and support to ensure any new proposed tools align with and do not duplicate the work of HIRs.

The Board supports legislative action to ensure long-term, sustainable solutions to obtain peer-reviewed literature access for HIR work. The Board believes that there is also a need for all state employees to have access to research and published literature to inform evidence-based policy and program development.

Preventing Smoking and Vaping

In August 2016, the Board adopted Resolution 2016-01 to increase the age of purchase for tobacco and vapor products from age 18 years to 21. During the 2019 legislative session, EHB 1074 passed, raising the legal age for purchasing tobacco and vapor products from 18 to 21 years. The Board supports enhancing current strategies to prevent marketing, sales, and use of tobacco, e-cigarettes, smokeless tobacco, and cannabis to youth, including a ban on all flavored vapor and tobacco products and adding additional authority for product bans and allowing recalls smoking and vapor products. The Board would support legislation that improves regulation of Washington's vapor product industry including requiring vapor ingredient disclosure and routine lab testing for vapor products, requiring signage regarding health risks of these products,

removing the pre-emption of vapor product retail licensing, allowing for product bans and recalls, and instituting nicotine limits in products sold in Washington state.

In response to an outbreak of e-cigarette and vapor product associated lung injury, the Board adopted rules to ban the use of vitamin e acetate in vapor products. Compounds, such as Delta-8 THC, and other additives continue to emerge on the market with little known about their impacts on health. The Board supports efforts to understand and address emerging compounds that result in negative health effects.

Advancing Equity in State Government

The Board recognizes that racism is a public health crisis. Racism and other forms of discrimination have been institutionalized and perpetuated through policies and practices that prevent meaningful community engagement and limit access and opportunity to important public services. The Board would support legislation that prioritizes and operationalizes equity across state government.

As part of its five-year strategic plan the Board committed to support the Governor's Interagency Council on Health Disparities and to continues to incorporate the Council's recommendations in the Board's State Health Report.

In 2019, the Board supported legislation that would lead to creation of a State Equity Office. Through a proviso in the 2019-2021 operating budget, the Legislature directed the Health Disparities Council to convene an Office of Equity Task Force to develop an operations plan for a future Washington State Office of Equity. The Board endorsed the Task Force's recommendations and supports ongoing funding for the Washington State Office of Equity.

Data Disaggregation

The COVID-19 pandemic has disproportionately impacted communities of color. These disparate impacts are not unique to this pandemic. Existing inequities in our public health and health care systems impact public health's ability to identify and reach disproportionately impacted populations. When experience reveals inequities across and within groups, it is critical to be able to access and use disaggregated data to enhance efforts in preventing and containing diseases and conditions, in order to maximize public health.

Collection of detailed race, ethnicity, and language (REAL) data, beyond the Census-level data helps the public health system understand in greater detail which communities are disproportionately impacted and enables public health to build partnerships with community-based organizations to develop community-led prevention strategies that are culturally and linguistically appropriate. Meaningful use of these data relies on the interoperability of public health and health care data systems. Up-to-date information systems and technology must be in place and functional to facilitate collection and transmittal of these key demographic data.

The Board would support legislative action to ensure collection of REAL data, beyond Census-level categories, as well as data to identify and eliminate health inequities (for example by disability status, sexual orientation, gender identity, and other demographics). The Board would also support legislation to improve interoperability of public health and health care data systems.

School Environmental Health and Safety

The Board believes that all children should be able to attend schools that are built, maintained, and operated to assure a safe and healthy environment. The Board supports removal of the budget proviso that suspends the Board's rules related to environmental health and safety standards for primary and secondary schools (chapter 246-366A WAC). Until the Board's suspended school rules can be implemented, the Board supports the Department of Health's November 2016 recommendations in response to the Governor's directive on lead as they relate to school environmental health and safety.

During the COVID-19 pandemic, the Board has recognized that ongoing, regular inspections and technical assistance provided by local health jurisdictions are critical to ensuring schools are designed, built, and maintained to protect students' health. Only twelve of Washington's thirty-five local health jurisdictions have school environmental health and safety programs. Providing basic health and safety protections for all school children across the state, local health jurisdictions must have sufficient resources and capacity to conduct school environmental health and safety inspections.

One of the important lessons of the pandemic is the critical importance of indoor air quality as a key component of school environmental health. Higher ventilation rates can improve student performance and reduce the transmission and spread of respiratory illness, including SARS-CoV-2 (the virus that causes COVID-19). Regular inspection, maintenance, and regular repairs of heating, ventilation, and air conditioning (HVAC) systems as well as adequate ventilation to dilute contaminants can improve indoor air quality and school safety.

The Board would support legislation that would adequately fund school environmental health and safety programs as well as legislation to assess, improve, and update ventilation systems in schools.

Governor's Directive on Lead

Governor Inslee issued Directive 16-06 on May 2, 2016 to address lead remediation in the built environment. Environmental pathways for lead exposure include drinking water, homes, schools, and outdoor areas.

The Board continues to support the Department of Health's November 2016 report recommendations to the Governor, and including the continuing the initial investment

made to test drinking water at schools, provide remediation funds to replace fixtures, improve remediation assistance for low income and rental properties, and targeted blood testing for children at greatest risk of exposure to lead and subsequent case management. The Board was pleased with the passage of E2SHB 1139 during the 2021 legislative session, which requires lead testing and remediation in school drinking water. The Board also supports:

- Updating the *Health and Safety Guide for K–12 Schools in Washington State.*
- Gathering data to evaluate and update chapter 246-366A WAC, Environmental Health and Safety Standards for Primary and Secondary Schools, including updates to align with E2SHB 1139 and recent revisions made to the federal lead and copper rules.
- Including environmental health and safety in decisions using the funding formula for school construction and modernization.
- Encouraging health care providers to follow DOH blood lead screening recommendations.

Opioids

The Board supports the goals, strategies, and actions outlined in the updated 2021-2022 Opioid and Overdose Response Plan and the forthcoming updated plan, to effectively combat the opioid epidemic. Its goals are to:

- Prevent opioid and other drug misuse.
- Identify and treat opioid misuse and stimulant use disorder.
- Ensure and improve the health and wellness of people who use opioids and other drugs
- Use data and information to detect opioid misuse , monitor drug user health effects, analyze population health, and evaluate interventions.
- Support individuals in recovery.

On-Site Sewage Systems

The Board recognizes that on-site sewage systems are an important and effective means of treating and dispersing effluent if the systems are properly permitted, sited, operated, and maintained. The Board supports legislation that preserves the authority of local health officers and boards of health to develop and implement on-site sewage system regulations and plans which protect public health and meet community needs. The Board supports efforts to assure local on-site site sewage management programs have adequate funding.

Food Safety

The Board recognizes that food service is evolving. During the global pandemic, takeout and food distribution helped increase food rescue and security while reducing food waste. The Board anticipates legislation on topics including microenterprise home kitchens, use of latex gloves in food preparation, and statewide mobile food permits this legislative session. The Board's support of such legislation depends on whether the

legislation includes critical public health safeguards that uphold essential food safety standards (including but not limited to permitting, inspections, plan review, time to temperature controls and other public health measures).

Maternal and Child Health

The Board supports enhancing systems and support for pregnant mothers, infants, and children, and the monitoring of maternal mortality. The Board supports the recommendations in the Council's Literature Review on Inequities in Reproductive Health Access, as required by SSB 6219 (2018). The Board also supports the recommendations in the Department of Health's Healthy Pregnancy Advisory Committee Report on Strategies for Improving Maternal and Infant Health Outcomes.

Oral Health

The Board supports legislation that will advance its 2015 oral health recommendations, including maintaining and building upon effective programs like Access to Baby and Child Dentistry and University of Washington's Regional Initiatives in Dental Education (RIDE). The Board would also support development of a state oral health officer at the Department of Health.

Immunizations

The Board recognizes the research and data that demonstrate that immunizations reduce the incidence of vaccine preventable disease in our community and protect those who are immunocompromised and those unable to be vaccinated. The Board supports legislation that reduces the number of children who are out of compliance with state immunization requirements, assists schools in monitoring the immunization status of school-aged children and efforts to increase immunization rates across all age groups. The Board supports additional funding to increase school nurse capacity and improve access to and utilization of the Washington State Immunization Information System. The Board also supports the Department of Health's efforts to promote vaccination against COVID-19 by making these vaccines accessible.

Obesity Prevention and Access to Healthy Food

The rate of increase in obesity among Washington residents has slowed compared to other states. The Board supports efforts to increase access to healthy foods including fresh fruits and vegetables, reduce food insecurity, and increase opportunities for physical activity.

The Board also supports maintaining funding for the Fruit and Vegetable Incentive Program, which provides incentives to food insecure populations with limited incomes to select health food choices.

Increase Access to Health Care Coverage

The Affordable Care Act increased access to affordable health care for people in Washington. The uninsured rate in our state dropped by 61 percent between 2013 and 2016, to 5.4 percent of Washingtonians uninsured, but 2018 saw the number of

uninsured Washingtonians increase to 6.2 percent. Access to care has helped significantly reduce the number of adults who delay seeking care. Timely access to care helps people live longer, healthier, and more productive lives. It helps reduce and control health care costs. During the 2019 legislative session, the legislature passed legislation to make public option plans available in every county. In 2021, The legislature passed supplemental legislation to further increase the affordability and availability of these plans. This included a new premium and cost-sharing subsidy program administered by the state. The Board supports legislation that continues to build and sustain access to affordable health coverage across the state and legislation that alleviates cost concerns of those underinsured.

Shellfish Sanitation

The Board recognizes that sanitary controls are essential for the safe production, harvest, processing, and marketing of shellfish. Historically the Board's rulemaking authority and the Department of Health's regulatory authority have focused on the commercial and recreational harvest of bivalve molluscan shellfish such as clams, oysters, mussels, and geoduck. The Board and its partners have observed shifting needs related to climate change, marine biotoxins, and other shellfish, such as crab. In 2021, SHB 1508 nearly passed late in the legislative session. This bill would amend chapter 69.30 RCW, Sanitary Control of Shellfish, authorizing Board rulemaking to establish sanitary controls for commercial crab harvesting and processing as it pertains to marine biotoxins such as domoic acid and paralytic shellfish poisoning. This bill will likely be reintroduced in the 2022 session and the Board supports its passage.

Mental Health Services

The Board recognizes the disparate access to consistent and culturally competent mental health services in the state, particularly for our communities that have been disproportionately impacted by the COVID-19 pandemic. In recent years, there have been efforts to increase access to video and audio platforms that provide mental health services. The Board would support continued efforts to increase access to these services across our communities. The Board also recognizes the workforce challenges that plague the mental health care system. New provider types such as certified peer counselors have expanded capacity for support services, but gaps still exist. Additionally, studies continually show that there are public health benefits to providers reflecting the racial and ethnic diversity of their patients, by increasing trust, participation in care, and an increase in patient comfort. The Board supports efforts to increase and diversify the mental health workforce in Washington State. Lastly, the Board recognizes the impact that the COVID-19 pandemic has had on youth and the need for access to age appropriate services. The Board supports efforts to make mental health services readily available to youth in Washington State.

2023 Meeting Schedule

Proposed to the Board November 9, 2022

	Meeting Date	Location
Board	**Monday** **January 9, 2023**	**Virtual:** **Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.**
Board	**Wednesday** **March 8, 2023**	**Hybrid or Virtual, To Be Determined (TBD):** **Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.**
Board	**Wednesday** **April 12, 2023**	**Hold date – meet only if necessary**
Board	**Wednesday** **June 14, 2023**	**Hybrid:** • **Physical Location; TBD** • **Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.**
Board	**Wednesday** **July 12, 2023**	**Hold date – meet only if necessary**
Board	**Wednesday** **August 9, 2023**	**Hybrid:** • **Physical Location; Likely Capitol Campus, Olympia** • **Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.**
Board	**Monday** **October 9, 2023**	**Hybrid:** • **Physical Location; Likely Wenatchee, WA** • **Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.** *(note: WSALPHO Annual meeting is at the Coast Wenatchee Hotel October 10-13, 2023, tentative plan to co-locate with WSALPHO)*

Board	Wednesday November 8, 2023	Hybrid: • Physical Location; TBD • Virtual Meeting via ZOOM Webinar, hyperlink provided on website and agenda. Public Attendees can pre-register and access the meeting online.

Start time is 9:30 a.m. unless otherwise specified. Time and locations subject to change as needed. See the Board of Health Web site and the Health Disparities Council Web site for the most current information.

Last updated 10/31/2022