

WASHINGTON STATE BOARD OF HEALTH

Date: January 10, 2024

To: Washington State Board of Health Members

From: Kelly Oshiro, Board Vice Chair

Subject: Complaint Against Snohomish County Health Department Officials

Background and Summary:

Under RCW 70.05.120, any person may file a complaint with the State Board of Health (Board) concerning 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's authority extends to state statutes in chapters 70.05, 70.24, and 70.46 RCW, or Board rules, regulations, and orders. When a complaint is received, the Board may request a preliminary investigation, in accordance with Board Policy 2015-001, if the complaint merits further action.

On November 28, 2023, the Board received a complaint against the Snohomish County Health Department Director and Local Health Officer. The complaint alleges that these health officials have violated RCW 70.05.070(3) and refused or neglected to obey and enforce the Board's rules related to communicable disease control under WAC 246-100-036 and 040. The allegation states that the Snohomish County Health Department has failed to use any of the available tools to control and prevent the spread of dangerous and highly infectious pathogens circulating within the county.

The complainant is requesting that the Board conduct a preliminary investigation under RCW 70.05.120(1) and is also seeking immediate implementation and enforcement of the State of Washington's current COVID-19 masking guidance throughout all of Snohomish County, immediate implementation and enforcement of procedures for isolation and quarantine under WAC 246-100-040, and "any other action necessary to control and prevent the spread of dangerous, contagious or infectious diseases" within the county.

[RCW 70.05.070\(3\)](#) states, "[t]he local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040 or 70.05.035, if any, shall "[c]ontrol and prevent the spread of any dangerous, contagious, or infectious diseases that may occur within [their] jurisdiction." Under Board rule, local health officers, "...shall, when necessary, conduct investigations and institute disease control and contamination control measures, including medical examination, testing, counseling, treatment, vaccination, decontamination of persons or animals, isolation, quarantine, etc....or other measures [they] deem necessary based on [their] professional judgment, current standards of practice and the best available

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medical and scientific information” (WAC 246-100-036(3)). The local health officer or the superior court may issue an emergency detention order for the purpose of isolation or quarantine when certain requirements are met to ensure that due process is satisfied (WAC 246-100-040).

According to [the Snohomish County Health Department’s website](#), masking is currently optional in most public settings.¹ Masking is recommended in certain situations, especially when [community transmission levels](#) are medium or high. Masks are still required in patient care areas of health care facilities when certain thresholds for COVID-19, flu, or respiratory syncytial virus (RSV) are exceeded.^{1,2} The Snohomish County Health Department’s website also notes that although local health jurisdictions have the authority to put in place masking requirements at the county level, the county is aligning with statewide guidance, and not currently putting more strict masking requirements in place for the county.¹ As stated in the June 2023 Snohomish County Health Department Health Officer’s [Order No. 23-033](#), “the Snohomish County Public Health Department and the Washington State Department of Health will continue to monitor COVID-19 disease activity in the county and state and carry out public health activities that help prevent severe disease and death from COVID-19.”³

On October 31, 2022, Governor Jay Inslee ended all COVID emergency orders, including Washington’s state of emergency declaration.⁴ Snohomish County Executive Somers simultaneously rescinded the state of emergency within Snohomish County.³ The rescinding of these emergency orders marked the transition from Washington’s emergency pandemic response to ongoing monitoring and prevention activities, such as promoting voluntary health behaviors like masking and vaccinations. On April 3, 2023, the Washington State Department of Health ended the Secretary of Health’s final masking order, which required universal masking in health care, long-term care, and adult correctional facilities for people aged 5 and older.⁵

The Snohomish County Health Department has stated its support of data-informed decisions by health care organizations to require masking in their facilities if certain thresholds are exceeded.² Additionally, they “encourage people to remain vigilant and flexible for future times when it may become advisable for everyone to mask up to protect [themselves], others, the health care system and other essential societal functions.”¹

Board Policy 2015-001 allows the subject local health officer or administrator to respond to a complaint against them. A notice was sent out to the Snohomish County Health Department Director and Local Health Officer to notify them of this complaint. The subject health officials were informed that the Board will review the complaint during its January 10, 2024, meeting, and that they may respond in writing to the complaint if they choose. The complainant was also informed that the complaint would be heard at the January 10 meeting and that they could submit supporting documentation before the meeting if they wished to. The complainant submitted an additional document titled “Supplemental Statement of Authorities” on December 22, 2023. This document was forwarded to Board Members and the health officials and is also included in the January meeting materials.

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Recommended Board Actions:

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

The Board determines that an investigation is warranted and directs staff to conduct a preliminary investigation under RCW 70.05.120 and report their findings to the Board.

OR

The Board determines that the complaint does not merit an investigation because, for the reasons articulated by the Board, it does not indicate a possible violation of public health law and that the Board directs staff to notify the complainant of the Board's decision.

Staff

Molly Dinardo, Policy Advisor

To request this document in an alternate format or a different language, please contact the Washington State Board of Health at 360-236-4110 or by email at wsboh@sboh.wa.gov. TTY users can dial 711.

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1. Snohomish County Health Department. Preventing COVID-19 | Masks. No Publication Date. Accessed December 18, 2023. <https://www.snohd.org/616/Masks>
 2. Snohomish County Health Department. Public Health Essentials Blog, Regional Healthcare Organizations Adopt Masking Guidelines. Published September 26, 2023. Accessed December 18, 2023. <https://www.snohd.org/Blog.aspx?IID=88#item>
 3. Snohomish County Health Department. Health Officer's Order No. 23-033. Published June 30, 2023. Accessed December 18, 2023. <https://www.snohd.org/DocumentCenter/View/12420/HO-Order-ending-COVID-public-health-emergency?bidId=>
 4. Governor Jay Inslee. State's COVID Emergency Order Ends Next Week. Published October 28, 2023. Accessed December 29, 2022. <https://www.governor.wa.gov/news-media/state%E2%80%99s-covid-emergency-order-ends-next-week>
 5. Washington State Department of Health. Masking Requirements in Healthcare, Long-term Care, and Correctional Facilities to End April 3. Published March 3, 2023. Accessed December 18, 2023. <https://doh.wa.gov/newsroom/masking-requirements-healthcare-long-term-care-and-correctional-facilities-end-april-3>