

WASHINGTON STATE BOARD OF HEALTH

Date: June 12, 2024

To: Washington State Board of Health Members

From: Patty Hayes, Board Chair

Subject: Rulemaking Petition – WAC 246-260-131 - Operation of Water Recreation Facilities

Background and Summary:

The Administrative Procedures Act (RCW 34.05.330) allows any person to petition a state agency for 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 May 8, 2024, the State Board of Health (Board) received a petition for rulemaking from David Belanger requesting the amendment of WAC 246-260-131, Operation of Water Recreation Facilities, subsections (6)(b)(i) and(ii). The petition specifically requests that the Board amend the rule to remove an allowance for the substitution of a swim or dive coach or scuba diver instructor in place of a lifeguard. The petition notes that instructors are in place to teach, not supervise swimmer safety and are not trained in the same lifesaving skills as lifeguards.

The Board's authority under RCW 70.90.120 requires the Board to adopt rules governing safety, sanitation, and water quality for water recreation facilities. The rules include requirements for facility operation. Beginning in 2016, the Board initiated rulemaking for revision of Chapters 246-260 & 246-262 WAC ([CR-101](#)) and has now established a Technical Advisory Committee (TAC) in conjunction with the Department of Health (Department).

The CDC updated the Model Aquatic Health Code (MAHC) in 2023 and the advisory committee has begun reviewing the MAHC and will be developing recommendations for the Board to review. The TAC will be taking MAHC guidelines into consideration when offering recommendations to the Board.

I have invited Andrew Kamali, Board Staff, and Ashlie Laydon, Department Staff, to provide additional information on this topic.

Recommended Board Actions

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

The Board declines the petition to initiate rulemaking to amend WAC 246-260-131(6)(b)(i) and (ii), for the reasons articulated by the Board, and directs staff to notify the requestor of the Board's decision.

OR

The Board accepts the petition for rulemaking to amend WAC 246-260-131(6)(b)(i) and (ii) to be considered as part of the ongoing rulemaking for water recreation facilities and directs staff to notify the requestor of its decision. The Board further requests that the Department direct the TAC to brief the Board on the TAC's findings by November 2024.

Staff

Andrew Kamali

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