



**Final Minutes of the State Board of Health
August 8, 2018**

**WA State Capitol Campus
John A. Cherberg Building
Senate Hearing Room 3
304 15th Avenue S.E.
Olympia, WA 98501**

State Board of Health members present:

Keith Grellner, RS, Chair
The Honorable Jim Jeffords
John Wiesman, DrPH, MPH
The Honorable Kurt Hilt
Bob Lutz, MD, MPH

Thomas Pendergrass, MD, MSPH, Vice Chair
Stephen Kutz, BSN, MP
Angel Reyna (by phone)
Fran Bessermin

State Board of Health members absent:

James Sledge, DDS, FACD, FICD

State Board of Health staff present:

Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Kelie Kahler, Communications Manager
Stuart Glasoe, Health Policy Advisor
Alexandra Montañó, Health Policy Advisor
Molly Simonson, Board Intern

Christy Hoff, Health Policy Advisor
Cait Lang-Perez, Health Policy Analyst
Lindsay Herendeen, Health Policy Analyst
Lilia Lopez, Assistant Attorney General

Guests and other participants:

Bernadette Pajer, Informed Choice, WA
Drella Stein, Informed Choice, WA
Jennifer Rushing, Informed Choice, WA
Scott Bertani, Lifelong AIDS Alliance
Lauren Jenks, Department of Health
Kelly Cooper, Department of Health
Theresa Phillips, Department of Health
Joe Laxson, Department of Health
Maria Courogen, Department of Health
Alexa Silver, Department of Health
Clark Halvorson, Department of Health
Tamara Jones, Department of Health
Joe Graham, Department of Health

Rob Duff, Governor's Office
Laurie Valeriano, Toxic-Free Future
Scott Sigmon, Sigmon Public Affairs
Jafar Zahir, Department of Health
Maria Flake, Department of Health
Debra Lochner Doyle, Department of Health
Michelle Roberts, Department of Health
Mike Means, Department of Health
Laura Johnson, Department of Health
Sam Perry, Department of Health
Michelle Roberts, Department of Health
Greg Endler, Department of Health

Keith Grellner, Board Chair, called the public meeting to order at 9:01 a.m. and read from a prepared statement (on file).

1. APPROVAL OF AGENDA

Motion: Approve August 8, 2018 agenda

Motion/Second: Jeffords/Pendergrass. Approved unanimously

2. ADOPTION OF JANUARY 10, 2018 MEETING MINUTES

Motion: Approve the June 14, 2018 minutes

Motion/Second: Pendergrass/Hilt. Approved unanimously

3. BOARD ANNOUNCEMENTS AND OTHER BUSINESS

Michelle Davis, Board Executive Director welcomed the Board to Olympia. She announced that the Governor reappointed Fran Bessermin, Tom Pendergrass, and Jim Jeffords for another term. She welcomed Dr. Bob Lutz as the new local health officer representative. Dr. Lutz is the health officer for Asotin and Spokane Regional health districts. Ms. Davis directed members to Tab 3 to see the biographies of the two interns that are currently working with the Board. Molly Simonson and Sahira Khalid. They are both working with the Health Impact Review (HIR) team to complete a literature review on reproductive health. This literature review is the result of Substitute Senate Bill 6219, which passed during the 2018 legislative session. The legislation required the Health Disparities Council to complete a literature review and develop recommendations to reduce or remove disparities in access to reproductive health by January 1. She noted that literature review is extensive and expressed appreciation for the interns' support and assistance.

Ms. Davis said that staff filed a CR-101 in July to update of the Food Code, chapter 246-215 WAC. In June, the Board received an update from the food program regarding various food safety activities including its work with the food safety advisory committee. This rulemaking includes the new 2017 Federal food code, recent state legislation on mobile food units and other topics like donated food.

Tab 3 also includes the June Health Promotion Committee meeting notes. Ms. Davis reported that she testified with Tami Thompson on June 26 regarding the Department of Early Learning (DEL) Child Care center rules. Board and Department staff identified inconsistencies with public health and safety rules (immunizations, notifiable conditions, food safety, on-site sewage and water recreation) and offered assistance to address these inconsistencies. DEL moved forward in adopting the final rules just a few days after the hearing. The final rules incorporated some, but not all requested changes.

Ms. Davis also reported that on July 30 Chair Grellner, Secretary Wiesman, Assistant Secretary Halvorson, and Ms. Davis met with Superintendent of Public Instruction, Chris Reykdahl regarding the desire to move forward with the school environmental health and safety rules. Ms. Davis indicated that they shared with Superintendent Reykdahl the goal to request funding for school environmental health inspections by local health officials for the coming biennial budget request. They plan to continue to engage the Superintendent and others in this discussion.

4. DEPARTMENT OF HEALTH UPDATE

John Wiesman, Secretary of Health, updated the Board on organizational changes and staff updates within the Department. The Department is currently working on legislative and budgetary requests for the upcoming 2019 legislative session. These proposals are due to the Governor's office in mid-September. Member Wiesman shared that the Department will be convening a number of phone calls over the coming weeks to discuss the requests and invited the Board to participate in the discussions. The Department has identified a number of priorities for the upcoming legislative session including tobacco and vapor products, promoting nutrition and the Healthiest Next Generation, dental health, and newborn screening. Member Wiesman discussed next steps for submitting the requests to the Governor's office.

Member Wiesman indicated that the Department is opening 700 acres of shellfish growing areas due to the Department of Ecology's rules that establish Puget Sound as no discharge zone. He also described the Department's efforts to seek reaccreditation through the Public Health Accreditation Board and development of the State Health Improvement Plan. The steering committee recently met for the first time and they are working on identifying goals and action items with a particular focus on reducing health disparities.

On July 18, the Department filed draft opioid prescribing rules with the code reviser. The Department will have a full briefing for the Board regarding opioids later this fall. Ms. Davis reminded the Board that staff plan to brief the Board later this fall about potential legislative and budgetary requests.

5. PUBLIC COMMENT

Chair Grellner directed members to public comment materials under tab 5 of the packet. These include comments received before the meeting.

Bernadette Pajer, Informed Choice Washington, said she feels there is a system of organizations including the drug industry aiming to maintain immunization status quo. She said she believed there is collaboration between pharmaceutical companies and health departments. She mentioned Dr. Opal's presentation to the Department of Health's Vaccine Advisory Committee and asked for a meeting with Secretary Weisman to discuss the issue further.

Drella Stein, Informed Choice Washington, asked the Board to focus on chronic illness and environmental pollutants that contribute to chronic illness and neurodevelopmental disorders. She said that vaccine policy may contribute to chronic disorders in children and said we need to look at a more personalized approach to vaccination. She said it is not appropriate to focus on infectious disease when chronic disease and neurodevelopmental disorders are at risk, and that more vaccine safety work is needed.

Jennifer Rushing, Informed Choice Washington, said she believes data on kindergarten vaccine rates are misleading. She said the schedule shows providers can administer several vaccines between the ages of 4-6 years and Washington state rules refer to these CDC guidelines. She said there would be some kindergarteners who do not have all the doses. She said there is a push by organizations to get rid of all personal belief exemptions and the kindergarten numbers used to push the agenda. She said she recommends tracking first graders, and this adds to growing mistrust the public has with vaccine policy and public health.

The Board took a break at 10:10 a.m. and reconvened at 10:25a.m.

6. BRIEFING—RULE PROPOSAL WAC 246-215-09150, FOOD TRUCK EMPLOYEE RESTROOM DISTANCE

Stuart Glasoe, Board Staff introduced the proposed rule change to WAC 246-215-09150. This subsection of the state food code sets requirements for food truck employee access to restrooms, including a 200-foot standard as the maximum distance to a restroom. He reminded the Board that it accepted a rulemaking petition from the Washington State Food Truck Association in 2017. The association cited a Pacific Lutheran University study identifying the 200-foot restroom standard as the top barrier to permitting food trucks in the City of Seattle and requested increasing the standard to 500 feet to help facilitate more vending locations. Mr. Glasoe said the Board filed the CR-102 on July 30, 2018, which proposes changing the distance to 500 feet. The proposed rule is currently open for public comment and scheduled for a public hearing at the Board's October meeting. Mr. Glasoe introduced Joe Laxson as new director of the Department of Health's Office of Environmental Health and Safety, noting that this office administers numerous Board rules.

Joe Laxson, Department of Health briefed the Board on work by staff and the Department's food safety advisory council (FSAC). He said the FSAC discussed this issue at length at its May meeting with input from local health jurisdictions and other stakeholders, and recommended that the Board accept the suggested rule change. Most members felt this would not have an adverse public health impact. The recommendation was not unanimous, and some believe that 500 feet was too far to walk to a restroom. Most local health jurisdictions were ambivalent but indicated that extending the standard to 500 feet was unnecessary and determining "readily accessible" could lead to inconsistencies. The department and FSAC will provide guidance to help interpret and apply the requirement. Mr. Laxson said there is no standard in the U.S. Food and Drug Administration (FDA) food code. He noted that staff reached out to jurisdictions in other states and requirements range from no requirement to a quarter mile. While there is no federal requirement for restroom distance, access to restrooms and adequate handwashing facilities are obvious public health needs. The department and FSAC believe the rule change will adequately protect public health, empower locals to make local decisions, and provide mobile food units with more flexibility to operate their businesses.

Chair Grellner asked for examples illustrating how the distance can work by applying the concept of "readily accessible." Mr. Glasoe referenced an example provide by Department staff where a restroom was within the required distance but separated by a busy street making access unsafe and unreasonable. Mr. Laxson added that it could be a challenge securing access during all hours of operation, which local health jurisdictions can evaluate in determining accessibility. Chair Grellner inquired to confirm that the department plans to define what "readily accessible" means. Mr. Laxson said the guidance document would outline criteria. Bob Lutz, Board Member said he assumes the guidance will address such issues as nonfunctional handwashing, proximity to places like Starbucks and needed agreements, and places where there is use of honey buckets. Mr. Laxson said the guidance would address such issues. Mr. Glasoe added that the subsection includes handwashing requirements. Tom Pendergrass, Vice Chair noted the flexibility and adaptability of food trucks providing food in a variety of venues and the Board's charge to protect public health—turns out to be a more complicated issue than it appears in the byline. He said definitions will be challenging and urged consideration of unusual circumstances. What we end up dealing with in the rules are the oddities and the unusual along with the everyday.

7. UPDATE AND NEXT STEPS—FOUNDATIONAL PUBLIC HEALTH SERVICES

Member Weisman introduced Maria Courogen and Marie Flake, Department of Health who gave an overview and presentation (presentation on file). Ms. Courogen shared Foundational Public Health Services definitions and briefly characterized them: Healthy, Vital, Everyone, Everywhere. Funding for this work is from local, state and federal fees and other sources (refer to Tab 7a on file).

Ms. Courogen discussed the 2017 legislature's investment of 12 million dollars in one-time funding, and described how the funding was allocated across the system, including 1 million dollars for three demonstration projects. This funding enabled King County to assist other local health jurisdictions (LHJ) statewide to address tuberculosis by sharing expertise. Two other demonstration projects include Spokane Regional Health District helping other LHJs epidemiology and health assessment expertise, and the work of Tacoma Pierce County Health District in sharing their expertise, assistance to Yakima and Cowlitz Counties in making timely information available to health care providers in their communities.

Ms. Courogen described the FPHS Assessment Result Highlights (refer to slide 12), which show the high degree of variability in the way FPHS are implemented across the state. Ms. Davis reminded the board that the assessment represents one moment in time. Staff changes dramatically change the colors on this grid. If we lose highly trained staff, it changes our capability levels, and the colors representing this work.

Member Lutz asked about the scoring on the assessment and if this represents the average. Ms. Courogen explained that the consultants created a summary level of scoring that features a weighted score by rolling up the summary level. Member Lutz asked for it to be very clear moving forward as it gets confusing. Member Wiesman commented that the AIHC is looking at this information tomorrow.

The FPHS ask for the 2020-21 state budget is 295 million dollars per biennium to cover the areas in the slide. Member Wiesman said the Department would work out the initial ask and the initial number will be less than 295 million dollars.

Ms. Courogen highlighted that this is the first joint decision package from the entire governmental public health system. She shared the timeline for the budget process and next steps, saying the intention is to ask to add on in each biennium as well as to maintain previous funding. She also shared the department's engagement plan, including outreach with public health community, essential partners, and policy makers.

Vice Chair Pendergrass discussed changing demographics of our population, including the rural/urban populations. He said the changing demographics would affect the need for public health services. He suggested modifying communications around FPHS for policy makers based on their constituents and the demographics in their areas. Stephen Kutz, Board Member said that as tribes discuss FPHS, we ought to concentrate on the same areas as the state with early priorities. He said every tribe is different and understanding all the capacities and needs is very difficult, perhaps more difficult than county and state assessments. Member Lutz said they would not be able to do their work around TB without shared service agreements and Washington TB Control Network. He applauded the idea of looking at shared services because rural counties can really benefit. Member Lutz said he would love to take a pared down version of this and share it with providers. He said

within a county such as Spokane, there are areas where services are available and other areas where they are less so. Chair Grellner said he is grateful for the Department's leadership on this effort. He said this is complicated and there are still people at different levels. He said to be careful not to equate transformation with meeting budgetary demands. He said that we have great examples of shared services, but we need to be careful in how we evaluate the data. Sharing out of necessity or lack of resources is different from sharing out of efficiency and effectiveness. He said that we push through our budget requests with models. Secretary Wiesman said there are some workgroups that are digging into some of these details around environmental public health, communicable disease, and assessment. He also said that shared services are not new and we need to work on how we can best systematize what makes sense. Ms. Flake said the data is only one input. There is also a separate, independent evaluation of the three shared services pilots. Member Kutz said that if they own a resource and share it, there is an inequality in the resource.

8. REQUEST FOR RULEMAKING—CHAPTER 246-680 WAC PRENATAL SCREENING

Vice Chair Pendergrass said the Board has authority to adopt rules around prenatal screening, including identifying the medically necessary tests that insurance carriers must pay for should a woman decide to have them. Department staff requested that the Board initiate rulemaking in 2014 but the health promotion committee denied the request at that time due to lack of staff capacity and because of the lack of clarity about developments in genetic testing. The health promotion committee recently discussed the need to update the rule. Vice Chair Pendergrass reminded the Board that the rule outlines the tests that must be offered but does not actually require a woman to have the tests if she does not want them.

Debra Lochner Doyle, Department of Health, shared a video to introduce members to the most common prenatal genetic tests available to women. She highlighted that testing is a personal choice but that the current rules require providers to share information and for health plans to cover the cost of testing. Ms. Doyle noted that the rules have reduced disparities by ensuring that all women with insurance have access to the same tests. She remarked on the changes in technology since the last rule update and the need to bring the rule up to current standard of practice. For example, carrier screening is not currently included as a standard, which means patients must pay out of pocket. She would like to work with Board members, staff, and other stakeholders to review the chapter and make suggestions for changes. She believes the rule can be simplified and made more durable.

Member Kutz wanted to clarify whether having access to testing was limited to those with insurance. Ms. Doyle said it testing would be available to anyone with insurance, including Medicaid. Vice Chair Pendergrass said there is high variability about what an insurer will pay for and emphasized Ms. Doyle's comments about how there are a number of new tests coming available every day. He suggested the Board consider opening the rule to improve the language. Ms. Doyle agreed and said they need to think carefully about what the standards should be. Member Kutz asked if there are protections around who has access to the results of these tests (e.g., life insurance), particularly for the children later in life. Ms. Doyle said there are federal laws to provide protections with some exceptions such as the military. She said life insurance is a product not a right, so not everyone has to have it and therefore a life insurance company could ask for results.

Recommended Board Action:

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

***Motion:** The Board accepts the request for rulemaking for chapter 246-680 WAC and directs staff to file a CR-101, Preproposal Statement of Inquiry to evaluate the request further and possible rule change.*

***Motion/Second:** Pendergrass/Hilt. Approved unanimously.*

The Board recessed for lunch at 11:59 p.m. and reconvened at 1:30 p.m.

9. RULES HEARING—CHAPTER 246-100 WAC COMMUNICABLE AND CERTAIN OTHER DISEASES—HIV TESTING

Caitlin Lang-Perez, Board Staff, provided context for the rules change, including legislative action to repeal specific consent and opt out requirements for HIV. She said Board staff identified three relevant rule sections and shared proposed changes. Member Kutz asked for clarification about the exception around insurance requirements. Ms. Lang-Perez explained that specific written consent is required per RCW 70.24.325 (Counseling and testing insurance requirements) and therefore is remained in the Board’s rules. Vice Chair Pendergrass said the separate consenting process was onerous and by revising 246-100 WAC, we would treat HIV like any other infectious disease. However, the proposed changes would not clean up issues around insurance language. Ms. Davis stated the insurance language reflects language in another statute specific to the Insurance Commissioner, so we felt constrained to make those changes. Vice Chair Pendergrass suggested working with the Insurance Commissioner to make changes to their authority to allow for updated language across the WAC. Member Kutz said the deletion of language about patient’s right to refuse aligns with other statutes allowing for such rights of refusal for any test. Chair Grellner clarified that this is rule change based on legislative requirements. Member Kutz clarified the rule had no other changes other than those necessary to become compliant with legislative action.

Public Testimony:

Chair Grellner opened the meeting for public comment and read from a prepared statement (on file).

Scott Bertani, Lifelong AIDS Alliance/Pierce County AIDS Foundation, thanked the Legislature for this action and the Board for making these recommendations, and testified in support of the draft as presented. In reference to WAC 246-100-208, Mr. Bertani suggested replacing the phrase “AIDS Counseling” with “HIV Disease Counseling” or “HIV Counseling.” Chair Grellner clarified for which section the suggested comments were relevant. Member Kutz verified that the suggested change would remove AIDS counseling from the title of 246-100-208 WAC and replace it with HIV Counseling as well as any other instance throughout chapter 246-100 WAC.

Vice Chair Pendergrass moved that the Board adopt the proposed amendments with the addition of the rephrasing of section 246-100-208 to remove AIDS counseling to replace with HIV counseling. Member Kutz seconded the motion to change the places AIDS counseling is referenced in the rule.

Recommended Board Action:

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

***Motion:** The Board adopts the proposed amendments to Title 246 WAC, as published in WSR 18-14-090, with the addition of the rephrasing of all instances of “AIDS counseling” within the chapter to “HIV counseling” and directs staff to file a CR-103, order of adoption, and establish an effective date.*

Motion/Second: Pendergrass/Kutz, Approved unanimously

10. UPDATE — SCHOOL MODULE AND IMMUNIZATION RATES

Vice Chair Pendergrass introduced Michele Roberts, Office of Immunization and Child Profile, who provided an overview of compliance rates for school immunization. She provided a brief overview of the Immunization Information System (IIS), or the statewide system to record vaccines. Part of the system includes a portal for schools to track immunizations for students attending their school. The Department received funding in 2016 for three years to implement the IIS School Module, and this is the first year that staff were able to pull data directly from the module to share with schools. They found that some schools had a decline in compliance rates because the system showed missing historical doses, while other schools saw an increase in compliance rates. Ms. Roberts said that the ISS School Module is helping the state get more accurate and more detailed data about immunization compliance in schools.

Ms. Roberts provided an overview of the status definitions used in the system to classify compliance including complete, conditional, exempt, and out-of-compliance. Overall, for 2017-2018 school year, they saw that 85.7% of kindergartners had complete immunization status (range 47.0% to 96.8%), 1.6% had conditional status, 4.7% were exempt, and 8.0% were out-of-compliance. The majority of exemptions are for personal belief (non-medical) exemptions. Healthy People 2020 goals are to have immunization rates at 95% or higher, indicating that Washington may be at risk for disease outbreaks. Out-of-compliance records are the highest priority for the agency. Washington State has a higher exemption rate than other states in the country, especially for medical exemptions. The Department determined that this may be due to lack of clarity on the form, and have made changes to improve clarity. To increase compliance rates, the Department has been using data to determine where variations exist and offering support directly to schools with high out-of-compliance rates; providing tools and resources through the School Module; and reviewing existing WACs to increase support and use of the School Module to reduce administrative burden. She discussed a number of barrier and challenges to implementing the module and getting schools to use the system. Ms. Roberts also discussed some of the successes of the ISS School Module, including adding 21,960 vaccine records for students into the system. She indicated that she would like to continue working with State Board of Health around updating rules related to immunization compliance for school and childcare entry. Two areas for future work include updating new requirements for Tdap timing and discussing the applicability of the rules to non-traditional schools and student (e.g. Running Start, Home-based Cooperatives).

Vice Chair Pendergrass emphasized that the School Module is the result of a 20-year effort to work with providers and get an entire cohort of students into the system. He also said that capturing the timing for multiple doses, legislative changes requiring medically verified records and changes in definitions of different statuses have been challenges to developing a complete dataset. He stated that this system is the best dataset we have about immunization compliance rates in the state. He stated that legislative funding for data does not generate a lot of “buzz,” but is important for health-based decision making in local communities. He said that we are continuing to work to make this system better.

11. BRIEFING — CHAPTER 246-290 WAC GROUP A PUBLIC WATER SUPPLIES, REGULATORY TOOL FOR PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) DRINKING WATER STANDARD

Stuart Glasoe, Board Staff, introduced the topic as continued discussion from the June Board meeting on the regulatory mechanism for a state PFAS drinking water standard—a state advisory level (SAL) or a maximum contaminant level (MCL). He explained the informational nature of the briefing with the goal of providing direction on the preferred policy framework, but with no formal action. He introduced the two speakers, Lauren Jenks, Department of Health, and Mike Means, Department of Health.

Ms. Jenks provided an overview of the issues and the presentation at the June Board meeting. She explained that the science related to PFAS is rapidly evolving at the same time that community concern about PFAS chemicals is increasing. The chemicals present a health risk and the U.S. Environmental Protection Agency (EPA) and other states are looking at regulatory action. She explained that we have too much information to ignore but maybe not as much as we would like. She noted the response to the petitioners and said rulemaking on this matter may be iterative as we learn more. The next step is to determine the appropriate regulatory mechanism. She said we are not alone in grappling with these issues and added it may take EPA many years to create a federal PFAS MCL if they decide to act. EPA is using rapid assessment tools to assess about 70 PFAS chemical and the Agency for Toxic Substances and Disease Registry (ATSDR) has released minimum risk levels for four PFAS chemicals. We will use this information in our work to help identify chemicals of concern, action levels, and options for regulating the class of chemicals.

Mr. Means described the two mechanisms the agency could use to regulate PFAS and other unregulated contaminants. In comparing MCLs and SALs, the state has similar flexibility with monitoring, notification, health advisories when appropriate, lab requirements and methodologies, SRF loan funding, and technical assistance. The main difference is the consequence of exceeding the standard. For an MCL, exceedances would require every system to treat, which may be challenging when dealing with changing science. A SAL would not automatically require treatment, and we may even set it lower than a level we would consider for an MCL to protect public health while we continue to assess things. Separate from the SAL, the Department of Health would retain authority to require treatment when values exceed levels that present public health risk.

Mr. Means said he believes the Department has enough information to recommend establishing a SAL to protect public health, track down problems, notify the public, and allow the science to develop. A SAL would support development of a future MCL if warranted. A SAL will help determine occurrence of the contaminant and set a framework for evaluating risk, as we require monitoring. Putting the values into rule shows the need for cleanup standards and informs funding priorities to address contaminants listed in the rules.

Mr. Means explained that work on a standard would include companion work updating the rule framework for SALs. This would include clarifying criteria for pursuing and establishing SALs, sampling, utility responsibilities addressing contamination, and protocols reviewing and updating SALs. He said the Department has five existing SALs that staff have not reviewed since 1996 and updated since 1993. Mr. Means closed by listing several next steps revising the rule, reworking the SAL process, developing the PFAS standard, and implementing related work in the Department's drinking water program.

Member Kutz noted the five chemicals last reviewed 22 years ago and asked about the review frequency for SALs. Mr. Means briefly explained how chemicals were originally listed as SALs, noted that all but five have since had MCLs developed, and said staff have informally reviewed the

remaining SALs. Ms. Jenks said the agency agrees that the SAL process is not working well and is why they recommend revising it to make it more transparent to the public.

Member Kutz asked how the Department deals with broader public risk outside of public water systems to ensure public safety in areas of contamination. Mr. Means said they use a coordinated effort with local health jurisdictions in affected areas to communicate with the broader community. Member Kutz asked if it is possible to clean-up PFAS or if contaminated supplies need to be abandoned. Mr. Means said granulated activated carbon is effective, but sometimes a utility will opt to stop using a source so we mention the gamut of possible solutions.

Vice Chair Pendergrass said we are in a time when we can look for all kinds of chemicals in water and asked why we are looking at these chemicals today. Mr. Means agreed that there is a huge array of chemicals in use. He explained that the primary method of detecting chemicals not already regulated in our water supplies is a federal program that runs on a six-year cycle called the unregulated contaminant-monitoring rule (UCMR) and looks for chemicals that are highest toxicity and are most likely to appear in drinking water systems. He said there are other ways and gave examples of the Department of Agriculture drawing attention to chemical contamination and the Department of Ecology working on cleanup sites that might contaminate a drinking water supply. Ms. Jenks reinforced the important role of UCMR and the related value updating the SAL process in the rules to improve regulating contaminants.

Chair Grellner noted the request for Board direction on this work, expressed support for the recommendations, and asked Board members if they support the approach refining the SAL process and developing a SAL for PFAS. Vice Chair Pendergrass said that he felt they have no choice but to proceed and made a broader point about society making new chemicals at a brisk clip, some with unintended consequences, the need for treatment in some places, and the eventual need to regulate other chemicals. Vice Chair Pendergrass referenced an earlier question saying we need to keep private well owners in mind because they are pulling drinking water from the same supplies as public water systems. Mr. Means echoed the point saying private wells have very limited monitoring with almost none monitored for these chemicals. Chair Grellner said local health jurisdictions have authority under the Board rules to require testing of private systems if they feel it is prudent. Member Kutz asked if the agency establishes a perimeter around a pocket of contamination and notifies landowners of potential risk. Mr. Means explained that Department of Ecology is responsible for groundwater resources and trying to define a perimeter. He said the state agencies coordinate with local health jurisdictions to communicate with and help communities with these situations. Chair Grellner concluded saying the Board supports the Department's recommendations and looks forward to hearing back on more detailed plans.

Chair Grellner suggested that the Board continue with the agenda without taking a break.

12. POLICY ON RULE VARIANCES, EXEMPTIONS, AND WAIVERS (MOVED UP IN AGENDA, AFTER AGENDA ITEM 4, BEFORE PUBLIC COMMENT)

Michelle Davis, Board Executive Director and Stuart Glasoe, Board Staff introduced the new Board policy for consideration and feedback. They explained that the Board received a waiver request in 2016 under chapter 246-215 WAC pertaining to water metering and a variance request in 2017 under chapter 246-262 WAC pertaining to a waterslide. The requests provided impetus for developing the policy. Mr. Glasoe explained that the policy defines the three types of exceptions used in Board rules (variance, exemption, and waiver), describes their occurrence in Board rules as illustrated in the

accompanying table, provides policy direction on their use in Board rules, and ends with procedures for processing requests to the Board. He said the provisions are found in twelve Board rules and in one non-Board rule administered by the Washington Department of Ecology on reclaimed water that references waiver authority in the Group A drinking water rules. He noted that only two Board rules include provisions that assign decision-making authority directly to the Board (the two examples previously cited) and a third includes optional approval authority.

Vice-Chair Pendergrass asked about the scope of the policy and if it applies only to water-related rules. Mr. Glasoe explained that the table depicts the Board rules that contain one or more of these provisions and the scope is broader than the water-related rules. Chair Grellner noted the importance of considering whether the Board is the appropriate body for reviewing requests compared to the role of local health. Kurt Hilt, Board Member asked if staff made progress on the water recreation rules given that the variance that came before the Board last fall stemmed in part from the need to update to the rule. Mr. Glasoe reported that the rule is open for updates but extensive work has not yet started. Chair Grellner asked about the requirement to review a request within 60 days and noted the challenge of scheduling a special meeting if needed. Members discussed challenges that could occur with this turnaround period, timing of Board meetings, and staff review of a request. Fran Bessermin, Board Member suggested delaying action until the next meeting to allow work on language to address the concerns. Ms. Davis offered to work with staff and return, with edited language for the Board's consideration, at the originally scheduled time in the agenda.

This agenda item continued at 2:54pm.

Mr. Glasoe said the concerns he heard were the desire to avoid calling a special meeting and concern that the timeframe might be too restrictive. He displayed and read revised language to the Board removing reference to a special meeting, explaining that the Board would strive to complete its review in 60 days, and adding language giving the Board reasonable flexibility to complete its work. Vice Chair Pendergrass voiced support for the change and reiterated that the challenge is not only bringing the Board together, but also allowing adequate time to review and prepare for meetings. Chair Grellner added that a special meeting, even a conference call, is still difficult, and the edited policy gives us added flexibility.

Recommended Board Action:

***Motion:** The Board approves Policy 2018-001 on Handling Variances, Exemptions, and Waivers in State Board of Health Rules, as amended.*

***Motion/Second:** Bessermin/Hilt, Approved unanimously.*

13. BOARD MEMBER COMMENTS

Jim Jeffords, Board Member stated that he was grateful the Board was not meeting in Clarkson due to the heat. Other members expressed gratitude for hosting the meeting in Asotin County earlier in the year.

Members extended another welcome to new Board member Bob Lutz. Member Lutz said his evolution from provider, to local health officer, to member of the Board has been exciting and he

thanked the Board for the opportunity. He also thanked staff for coordinating travels, orienting him to the board, and providing coaching along the way.

Member Wiesman also thanked staff for the logistics and for all the work that occurs outside of these meetings. He also thanked Department of Health staff for their work.

Vice Chair Pendergrass thanked Ms. Montano and said that the Health Promotion Committee is moving along and will be bringing new perspectives to the Board around immunizations and prenatal screening. He expressed appreciation for Ms. Davis and Chair Grellner's leadership.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 3:00 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair