

WASHINGTON STATE BOARD OF HEALTH

Final Minutes of the State Board of Health

November 10, 2021

Electronic meeting via ZOOM Webinar

State Board of Health members present:

Keith Grellner, RS, Chair
Tom Pendergrass, MD, MSPH, Vice Chair
Fran Bessermin
Bob Lutz, MD, MPH
Elisabeth Crawford
Temple Lentz, MOL
Stephen Kutz, BSN, MPH
Tao Sheng Kwan-Gett, MD, MPH

State Board of Health members absent:

Vazaskia Crockrell

State Board of Health staff present:

Michelle Davis, Executive Director
Melanie Hisaw, Executive Assistant
Kelie Kahler, Communication Manager
Stuart Glasoe, Health Policy Advisor
Samantha Pskowski, Health Policy Advisor
Lilia Lopez, Assistant Attorney General

Cait Lang-Perez, Health Policy Analyst
Lindsay Herendeen, Health Policy Analyst
Tracy Schreiber, Health Policy Analyst
Nathaniel Thai, Communications
Coordinator

Guests and other participants:

SheAnne Allen, Department of Health
Kelly Cooper, Department of Health
LinhPhung Huynh, Department of Health
Alexandra Montaña, Department of Health

Keith Grellner, Board Chair, called the public meeting to order at 10:02 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 November 10, 2021 agenda

Motion/Second: Vice Chair Pendergrass/Member Bessermin. Approved unanimously

2. ADOPTION OF OCTOBER 13, 2021 MEETING MINUTES

Motion: Approve the October 13, 2021 minutes.

Motion/Second: Vice Chair Pendergrass /Member Bessermin. 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 under tab 3. Ms. Davis announced that Board Member Crockrell would be taking a leave of absence from the Board until January 1.

Ms. Davis said the materials included meeting notes from recent policy committee meetings and a letter from the Governmental Public Health System to the Office of Financial Management (OFM) that certifies concurrence on the Foundational Public Health Services (FPHS) investment of \$88,140,000 in general fund-state spending authority. She said that once OFM reviews and approves the documentation it will allocate funds to the Department of Health (DOH) for the 2021-2023 biennium, and then DOH will disburse the funds to the governmental public health system based on the agreements of the FPHS Steering Committee. Ms. Davis reminded board members that ongoing and new FPHS funding for this biennium continues past investments in Health Impact Review (HIR) and policy staff, as well as an expansion of HIR capacity and increase in communication capacity (totaling 3.6 FTE).

Ms. Davis shared a letter the state's local health officers and the executive board of the WA State Association of Local Health Officials (WSALPHO). She said the letter shares WSALPHO's position that full FDA approval of a vaccine product should be a prerequisite for consideration of a requirement for child-care or school entry. Ms. Davis directed board members to a DOH email designating Chief Science Officer Tao Sheng Kwan-Gett as the Department's representative and co-chair of the technical advisory group (TAG) that will eventually review the COVID-19 vaccine. She indicated the Board received a significant volume of written comment. She stated that the board would make no decision today regarding a COVID-19 vaccine for school entry. Ms. Davis said that in response to the Board's October direction, staff has begun preparations for convening a TAG to evaluate the COVID 19 vaccine, including working with DOH staff to compile information and materials. She said staff is working to determine the logistics of convening a TAG in the virtual world, including identifying TAG membership reflective of partners and those disproportionately impacted by COVID-19. Ms. Davis said it may be beneficial to hire an independent facilitator for the TAG. She described next steps and said staff anticipate returning to the Board at the January 2022 meeting to provide a full briefing on the progress of this work.

Ms. Davis announced a November 17 Listening Session for the purpose of collecting community feedback on the Local Board of Health composition rules work. She asked members to share with their networks.

4. DEPARTMENT OF HEALTH NOVEL CORONAVIRUS (COVID-19) UPDATE AND OTHER UPDATES

Tao Sheng Kwan-Gett, Secretary's Designee, Secretary's Designee, Chief Science Officer, shared the Secretary's update (see Presentation on file,  Tab4A).

Member Kwan-Gett said there were 744,364 COVID-19 cases, 42,216 hospitalizations, and 8,858 deaths due to COVID-19 as of Monday, November 8. He added that after a peak in COVID-19 cases in mid-September there was a steady decline in cases followed by a plateau in the last few weeks. He also mentioned that COVID hospitalizations followed that same trend.

Member Kwan-Gett said the Department's goal is to keep the reproductive rate under one to see a decrease in COVID-19 activity. He said their modeling projections show indications of a possibly difficult winter ahead. He also said there's an increase in COVID-19 activity nationally and added that there's sustained increases in COVID-19 activity particularly in the western states.

Member Kwan-Gett said there is a possibility of a steep increase in fatality due to indoor gatherings in winter months and decrease to adherence of social distancing and masking recommendations. He anticipates a continued high demand for hospital and ICU beds throughout the winter due to strain on hospitals from influenza activity. He says there is still a need for masking, social distancing, and getting vaccinated.

SheAnne Allen, DOH COVID-19 Vaccine Director, Department of Health, shared an update on COVID-19 vaccines in Washington.

Ms. Allen said as of November 8 79.6 percent of the population aged 12 and older have initiated vaccination and 73.5 percent are fully vaccinated. She added that this data includes the Department of Defense and the Department of Veteran Affairs.

Ms. Allen announced that DOH added the five to eleven-year-old age group to their vaccination by age group data dashboard, and noted improvement in vaccination rates across different race groups due to DOH's equity strategies with providers and community members.

Ms. Allen said DOH's vaccination plan overview for five to eleven-year-olds focuses on allocation, eligibility, and distribution. She said DOH partners with local health jurisdictions, health providers, tribes and urban Indian health programs, schools, and community partners to create access points and provide input. She said the uptake of 12 to 15-year-old is another important factor in allocation.

Ms. Allen said DOH's focus on multilingual communication in outreach, leveraging community partnerships, prioritizing underserved communities for vaccine access, using community feedback to address barriers, and coordinating with community partners to cover gaps in priority communities are the strategies DOH used to increase vaccination in different race groups. Ms. Allen said the plan for five to 11-year-olds also focuses on adding more vaccine sites, which include DOH's mobile vaccine sites, school-based clinics, local health jurisdiction partnerships, and mass vaccination sites.

Ms. Allen said DOH's vaccine locator includes new filters and search functions to help parents and guardians narrow down their search to find vaccine near them. Ms. Allen said DOH addressed audience confidence in vaccine through transparent and frequent messaging, making information available in multiple languages, partnering with communities, bringing leaders, experts, and influencers into the conversation, and being

responsive to community needs and concerns. She added that DOH has reduced the social vulnerability index (SVI) in equity gap down to 6.7 percent from 12.3 percent in May.

Ms. Allen said there is high demand for DOH's care-a-van vaccination mobile sites to communities that need vaccine. She added that there are four in the state, two in eastern Washington and two in western Washington. She said DOH prioritizes high SVI, low vaccination areas first.

Ms. Allen said DOH's VillageReach program supports local health jurisdictions. She said this program approaches each community and helps with each of their specific needs. She said this is a resource offered to all local health jurisdictions.

Kelly Cooper, Policy and Legislative Relations Director, Department of Health, shared DOH's Legislative updates. Ms. Cooper reminded Board members of legislative assembly days in November, and said Governor will release his budget on the third week of December.

Ms. Cooper said the 60-day legislative session starts January 10 and said that short sessions are not intended for major policy requests but rather smaller tweaks before the next biennial budget. She said COVID has increased the magnitude of DOH's budget ask, which is focused on resources to continue the COVID response and resources to move into recovery.

Ms. Cooper described the department's agency request legislation, including updating and modernizing statutes for health professions boards and commissions. She said the Department was also requesting a bill to continue the COVID-19 response and recovery efforts, specifically allowing emergency medical technicians to continue to provide testing and vaccines, and monitoring those in quarantine at the request of local and state officials without an emergency declaration.

Ms. Cooper said the general fund state decision package includes an ask for 17.8 million dollars to support young adult behavioral health needs. She said the Department would also have a request for an appropriation of the American Rescue plan act dollars, 800 million dollars have not been appropriated. She said other agencies are in competition for those dollars to continue their response work. She said the Department's largest request is to continue COVID vaccination funding for 125 million dollars and a "contain the spread" package for 212 million dollars. Ms. Cooper said the department's remaining requests are innovative ideas which include the climate change surveillance and resiliency program. She said this ask helps communities be address increasing needs due to wildfire smoke and other climate change impacts.

Ms. Cooper said Congress passed the Infrastructure Investment and Jobs Act (H.R. 3684) and that it's 1.2 trillion dollars over five years which includes a little over 550 billion dollars in new investments. She said there are some investments in health such as rural services and broadband to keep communities connected and expand telehealth. She said another investment is water infrastructure that includes lead line replacement and 10 billion dollars for PFAS. She said DOH is still waiting to find out how much of these dollars Washington state will receive.

Board Chair Grellner, asked board members if they had questions or comments. Stephen Kutz, Board Member, asked what resources are needed to get vaccination levels up. Ms. Allen said it's about having conversations with each area to define the specific barriers.

Member Kutz asked if DOH is keeping track of participants in the vaccine for children program. Ms. Allen said DOH has been communicating with providers over the past year. She said over 675 providers are enrolled. She said the other remaining providers are already part of a larger system that offer the pediatric vaccine.

Member Kutz asked if DOH has measured which health providers have been vaccinated. Ms. Allen said HR is supposed to keep track of those numbers. She mentioned that DOH has heard that health providers are reporting these numbers. Ms. Allen asked Member Kwan-Gett if he had insight on smaller clinics' staff vaccination status measurements. Member Kwan-Gett said he did not have further information regarding those measurements.

5. PUBLIC COMMENT (Note: Public Testimony on Item 11, Rules Hearing for Communicable and Other Certain Diseases, Chapter 246-100 WAC, will begin at 1:30 p.m.)

Sue Coffman asked the Board whatever happened to my body my choice? Ms. Coffman commented that children are at low risk and the so-called vaccine has risks. She commented on the 837 adverse reactions from children ages 12-18 reported to VAERS and said the injection is aimed to line the pockets of conglomerates. She asked the board to oppose any COVID mandate for children.

Rebecca Faust, Tumwater, WA, said that moving forward with deliberative process of requiring a COVID vaccine for children before approval of FDA is extremely premature. She talked about testing, side effects, parental rights and risks to children, asking the board not to move the process forward at this time.

Laurie Layne asked the Board whatever happened to people having the choice for themselves and also their children. Ms. Layne said people need to have the choice to do what's medically best for them and their children. She commented on the terrible side effects of the vaccine for children, saying a requirement is unconstitutional.

Robert (Bob) Runnells, Vancouver parent, stated his position on the lack of need to inject children with the COVID vaccine. Mr. Runnells said the board must not ignore side effects and said the small number of children that died from COVID had underlying conditions. Mr. Runnells shared statistics from John Hopkins University and he referred to Brownstone.org, saying even the CDC recognizes natural immunity. Mr. Runnells requested the board not recommend vaccines, experimental or otherwise for citizens, especially children.

Bernadette Pajer, Informed Choice WA (ICW), Public Policy Director, talked about the Department of Homeland Security information on striking fear in people that oppose

COVID 19 responses. She commented on the labeling of conspiracy theories and domestic violent extremists and said it was not true. Ms. Pajer noted that many experts have said the COVID vaccine doesn't prevent transmission and world leaders openly declared the pandemic response will provide a great reset. She talked about controls, silencing and the threat to the foundation of our republic. She stated her opposition to marketing for the pharmaceutical industry, and talked about protecting children and reclaiming freedoms.

Stephen Schumacher asked to rescind WAC 246-100-040 that gives narrow emergency powers to a local health officer for up to 10 days. He said this doesn't authorize open ended bar or restaurant regulation. Mr. Schumacher said this order should be used for highly contagious diseases like typhoid.

David Streeter, Public Policy Director for WA Hospital Association, supports WAC 246-100, regarding the reporting process. Mr. Streeter said the hospital procedures are complex and he asked to please provide a 120-day window to get up to speed once the rules take effect. Mr. Streeter said additional time will ensure they are prepared with updated data systems, HR, IT, other vendors, work flows and labs.

Lisa Templeton said DOH recently released cases among children, not hospitalizations or deaths. She urged the Board to do everything in their power to stop injections in children, citing the injections are unethical. Ms. Templeton said as of October 29, there's been 837 reports to VAERS alone of cases of myocarditis and hospitalizations from vaccines.

Michelle Whitlow said she's publicly declaring if the Board considers the inclusion of the COVID vaccine for school entry, that decision would bring her considerable grief and emotional concern. Ms. Whitlow talked about the 9 criteria and the consideration in the evaluation of antigens. She said there were 75,562 adverse events reported in 2021 and she's read up on many different reactions. Ms. Whitlow said children are not at a high risk of death, and it's taken time to learn the adverse effects for adults. Ms. Whitlow said she's not opposed to vaccines, but she is opposed to the requirement to attend school and with so many unknowns, we may deeply regret this requirement in a few years. She objects to this requirement on a moral, scientific and legal basis.

Joshua Daughterty said he agreed with prior commenters and he added comments about masking, saying we should have the choice. He asked about the plan and if DOH is mandating everything. He suggested mirroring the restaurant policy, how masks can be removed once you sit down. Mr. Daughterty commented on forced vaccinations, jobs lost, and the lack of discussion about natural immunity.

Jodi Wilke said the active biologic ingredient in the COVID vaccine is called messenger RNA (MRNA), and the MRNA and subsequent spike protein is distributed evenly throughout the body. Ms. Wilke said spike proteins may change your child's DNA and have been shown to enter cell nuclei. Ms. Wilke said scientists have suggested modifications, but no changes yet. She said there is not a clinical necessity for community wide vaccination of youth and said that studies that have shown natural immunity is better. Ms. Wilke talked about the overall risk from COVID being low at a rate of 2 deaths for every million, saying more deaths and injuries come from the

vaccine than COVID. Ms. Wilke said the public cannot be agents for the health department and people aren't a police force.

Chair Grellner closed public comment at 12:01pm.

6. FOLLOW UP – TITLE 70 RCW RULEMAKING DELEGATION TO DEPARTMENT OF HEALTH

Stuart Glasoe, Board Staff, introduced the item noting that it was an administrative matter to fix an oversight and add additional authority to rulemaking authority previously delegated to the Washington Department of Health under RCW 43.20.050(4). He explained that the Board delegated rulemaking earlier in the year to correct citations in Board rules following reorganization of Title 70 RCW into two titles, Title 70 RCW, Public Health and Safety, and Title 70A RCW, Environmental Health and Safety. Specifically, the previous delegation failed to include Disposal of Dead Animals, WAC 246-203-121, in the list of rules delegated to the department to update and correct the citations. Thomas Pendergrass, Vice Chair, asked for confirmation that the rule listed in the motion was the rule accidentally not included in the former rulemaking delegation. Mr. Glasoe confirmed that the rule listed in the motion was the rule omitted in the previous rulemaking delegation.

Motion: The Board delegates to the Washington Department of Health rulemaking authority to correct citations in WAC 246-203-121 to accurately reference statutory authority in Title 70 RCW and Title 70A RCW.

Motion/Second: Member Kutz/Vice Chair Pendergrass. Approved unanimously

7. PROPOSED 2022 MEETING SCHEDULE

Michelle Davis, Executive Director, presented the proposed 2022 meeting schedule (materials on file, Tab 7a) for the Board's approval. She noted that prior to the pandemic they would have selected various locations around the state to meet. For now, they will continue to meet virtually updated public meeting guidance is available. Ms. Davis said that the Board may amend the 2022 meeting schedule to reflect an in-person meeting if there is a change in the Governor's directive.

Ms. Davis said that Melanie Hisaw, board executive assistant, will send out a calendar hold on members calendars once the schedule is approved.

Motion: The Board approves the proposed 2022 meeting schedule.

Motion/Second: Vice Chair Pendergrass/Member Bessermin. Approved unanimously.

Member Pendergrass asked whether the hearing dates for the Spokane Regional Health District were, were included on the list of regular board meetings. Ms. Davis said the hearing would occur through the Office of Administrative Hearings (OAH) are not on this list. She said individuals interested in that hearing need to connect with the OAH.

Member Kutz commented that he generally has a conflict the 2nd week of every month.

8. COVID-19 REPORTING EMERGENCY RULE, WAC 246-101-017

Member Kwan-Gett introduced the Notification and Reporting Requirements of Novel Coronavirus (SRS-CoV-2), (materials on file, Tab 8a). He said he first confirmed case of COVID-19 reported in the United States was in Washington State in January 2020, and since that time, there have been over 45 million confirmed cases and over 728,000 deaths reported in the United States. He said the Board previously adopted five 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. Per the requirements of the Administrative Procedures Act, RCW 34.05.350, the Board has taken steps to integrate requirements of the emergency rules into permanent rule.

Samantha Pskowski, Board Staff, said until the permanent rules are in effect, staff recommends the Board adopt a sixth 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 identify appropriate public health interventions.

Motion: The Board adopts a sixth emergency rule to extend the designation of COVID-19 as a notifiable condition and require reporting of essential testing and demographic data to improve the public health response to COVID-19. The Board directs staff to file a sixth CR-103E to extend WAC 246-101-017 without lapse, effective December 20, 2021.

Motion/Second: Vice Chair Pendergrass /Member Crawford. Approved unanimously

9. REVIEW OF 2021 LEGISLATIVE STATEMENT

Michelle Davis, Board Executive Director, directed board members to the 2021 legislative statement. She said the legislative statement provides guidance to staff regarding policy positions on issues that may come before the legislature. She said that staff will follow legislation that impacts the Board's statutory authority or the public health system, as well as the focused priority areas on this statement. Ms. Davis said she would send Board members a marked-up version of the 2021 legislative statement that reflects changes based on the 2021 legislative session and topics that Board staff anticipate may be raised during legislative session. She said she looked forward to Board members feedback and contributions to this statement.

She described examples of changes that staff identified, such as the 2021 legislative session, the legislature passed ESHB 1152, revised the composition of local boards of health. She said staff would update the language on page 2 to reflect the passage of 1152, however, she assumed that the Board would want to retain the statement regarding Local Health Officer authorities.

Vice Chair Pendergrass asked for a deadline. Ms. Davis asked for edits by December 15. Ms. Davis said the legislative changes that have already occurred will be removed from this document.

The Board recessed for lunch at 12:14 p.m. and reconvened at 1:15 p.m.

10. DEPARTMENT OF HEALTH REQUEST TO EXTEND EFFECTIVE DATE FOR NOTIFIABLE CONDITIONS, CHAPTER 246-101 WAC

Tao Sheng Kwan-Gett, Secretary's Designee, gave background on the rule, see materials on file, Tab 10.

Vice Chair Pendergrass commented that this work has been ongoing for over four years and asked for clarification if the delay request was just for the disaggregated race and ethnicity data. Member Kwan-Gett said he agrees and having this data is important regarding health disparities and communicable disease reporting. He said the Department does not want to ask partners to report when they don't have the systems to receive the information. He deferred to Department staff regarding the clarification on what is causing the delay.

Elisabeth L. Crawford, Board Member, asked if the IT systems will be ready by 2022, not 2023. She also asked, if we can adopt parts of the rules before the reporting systems are completely in place.

Ms. Pskowski introduced Alexandra Montaña, Director of Policy and Legislative Relations for the Division of Disease Control and Health Statistics at the Department. Ms. Montaña said there is not a way to move forward with implementing some components and not others. If the system is not ready to accept all, we can't move forward. This isn't just about race, ethnicity and language reporting, it's all reporting.

Member Crawford recalled this conversation about the implementation timing from March. She said it's unfortunate we must wait another year, but if that is the limiting factor, we'll have to wait.

Member Kutz said once we adopt a rule, we also set an implementation date. This has been a rolling issue. Many who would have been working are diverted to other issues due to COVID. We'd all like to have this behind us, but not possible yet. Vice Chair Pendergrass agreed, but was cynical we'll convince the federal government to use a disaggregated data set. He said he'd be willing to support the extension, although there are so many things in the revision that are well established and reasonable that need to be implemented now.

Motion: The Board accepts the Department of Health's request to amend the effective date of chapter 246-101 WAC, as filed in WSR 21-11-040. The Board directs staff to file a new CR-103, Order of Adoption, to delay the effective date of revisions to the Notifiable Conditions chapter to January 1, 2023.

Motion/Second: Vice Chair Pendergrass /Member Kutz. Approved unanimously

Vice Chair Pendergrass commented that the delay reminded him of the school rule. He said those in practice need to know the rules for reporting. While he supports the extension, he is still extremely anxious about it.

11. RULES HEARING – COMMUNICABLE AND OTHER CERTAIN DISEASES, CHAPTER 246-100 WAC

Bob Lutz, Board Member, introduced the background and process of the rulemaking (see material on file, Tab 11). In 2020, the Legislature passed Engrossed Substitute House Bill (ESHB) 1551, Modernizing the control of certain communicable diseases, which provides the Board with new rulemaking duties under chapter 70.24 RCW. ESHB 1551 modernized the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The new law took effect June 11, 2020. The Board initiated rulemaking in July 2020 to assure consistency with the new law and align chapters 246-100 WAC, Communicable and Certain Other Diseases, as well as chapter 246-101 WAC, Notifiable Conditions. The Board previously adopted amendments to the Notifiable Conditions chapter at its March 2021 meeting. Amendments include minor editorial revisions consistent with the changes in ESHB 1551.

Caitlin Lang-Perez, Board Staff, started off the presentation (see materials on file, Tab 11). Samantha Pskowski, Board Staff, shared the proposed rule revisions, interested party engagement, formal public comment and recommended revisions.

Member Kutz said most lay people would not consider eyes to be a mucous membrane without a medical background. He said we're talking about a lot of people leaning into these rules. Ms. Pskowski said those sections are responsibilities of the Local Health Officer (LHO) or the Chief Medical Officer at Department of Corrections. Member Kutz asked if affects the workplace under OSHA.

Ms. Pskowski said the provision regarding workplaces requires the person to request the LHO to take action, and the LHO is a medical professional. Member Kutz said that clarifies his question.

Member Lutz thanked the team and asked about the process moving forward. Ms. Pskowski provided an overview of a possible timeline if the Board chooses to move in that direction.

Chair Grellner opened the hearing for public testimony at 1:51pm on the Communicable and Other Certain Diseases.

Public Testimony:

Andrew Ashiofu, member of CGA HIV planning for King County, said he sent a letter saying the behaviors that affect public health are archaic. Mr. Ashiofu said the intent of legislators in HB 1551 was penalties for HIV exposure and the rules broaden the list of exposure. He asked to avoid implementing policies that run penalties, saying the Board should consider significant advances in STD or HIV prevention. Mr. Ashiofu said this rule would affect minorities like him seeking treatment and care.

Scott Bertani, Director of advocacy for a nonprofit HIV group and the state's past committee Co-Chair of an HIV Planning Steering group, said he worked with the legislature on modernizing the statute in HB 1551. He thanked the Board for these revisions. Mr. Bertani said the information on bloodborne pathogens have rapidly

changed. The laws are outdated and they subject people living with HIV and STDs greater penalization and stigma. Anyone taking practical means to avoid transmission would not be subject to penalties. Please reconsider language and they'll be happy to continue efforts alongside.

Dale Briese, Spokane county resident and HIV positive individual, has questions around the 2 strikes and current registers. People are not criminals just because they have STD's or HIV. The HIV Justice Alliance is willing to participate in making changes.

Maryellen Cooley, Spokane RHD HIV and STI prevention, thanked the Board for working on language and prevent exposure. She said there's a need to have trusting relationship with the public. She recommends in the mandatory section 246-100-272, in every case, people first is great, but would like to keep other language, not people living with HIV. Ms. Cooley said don't need to work with those already doing what they need to do, but we need to work with the newly infected people.

Mark Garrett, Spokane resident, long time HIV advocate and person living with HIV for 34 years said he's a member of the HIV Justice Alliance and involved in the effort to modernize this for last 8 years. Mr. Garrett is encouraged to hear the recommendation to tap the brakes and allow additional information to be adopted into proposed rule. He doesn't want regulations that expand government ability to monitor and confine Washington residents for exposure. Mr. Garrett said he's encouraged and he strongly recommends a delay to discuss in January.

Catherine Hanssens, Founding Executive Director of the Center for HIV Law & Policy, said it's a national organization that fights stigma and discrimination at the intersection of HIV and STD's. She applauds the speakers and the Board for being so responsive. Ms. Hanssens said she appreciates more feedback and she's providing legal counsel to the WA coalition. She said to underscore key issues, such as the way the board defines endangering the public health. She said it's about the health of communities and entire populations. She said the regulations as drafted now expand the definition to exposure of a single individual. She said the WSBOH noted that STD's are treatable and preventable. She said the rules penalized a person living with HIV who seeks treatment of a new condition. Ms. Hanssen offered one change, to strike the WA section entirely. Ms. Hanssen also talked about striking some sections and emphasizing the operative words, such as intent to do harm and a pattern, rather than an individual incident of a STD transmission in the context of a consensual relationship.

Wilson Pipkin, pronouns they/them, he/him, works for Department of King County said he submitted a letter to the board. Mr. Pipkin is HIV negative and legally married to a person living with HIV for 2 decades. Mr. Pipkin's spouse does not have paid leave, so he is there for both. Mr. Pipkin talked about many diseases can be lived with and said that any criminalization of these diseases has had plenty of time to prove any positive advocacy. Mr. Pipkin said it's not an acceptable policy solution to criminalize. He is not advocating for broadening the scope of criminalization.

Anthony Radovich, member of HIV Justice Alliance and co-chair of Standards of Care Committee, said he's been living with HIV for over 37 years. He said he echoes everything that Mr. Pipkin just said, thanking him and the colleagues that spoke earlier.

He thanked Board members for changing the language. Mr. Radovich said WA is on the forefront of treatment and care for the prevention of HIV and these rules pose a backward step. He said he's proud of the community for stepping forward. Mr. Radovich said nearly every person penalized and convicted has been from communities of color and this does not align with the equity values posted by the Board of Health.

Chair Grellner closed the public hearing testimony at 2:21pm.

Member Lutz thanked everyone for helping today as the board intentionally works to update the language and made a motion. Member Kwan-Gett thanked everyone for their testimony and think it's best to continue working with community as equity is important. Member Kutz asked if this can be done by January.

Chair Grellner, said this would continue into January and Member Lutz deferred to staff. Ms. Pskowski said our hope is to begin meeting to work through language in the next two months and bring this back to the Board in January. Ms. Pskowski said dependent on changes brought to the Board in January, a Supplemental CR-102 may be necessary, resulting in an additional rules hearing at a later date. Member Kutz said that rules never satisfy everybody, but he's good with that process.

Motion: The Board, based on today's discussion, elects to continue its decision whether to adopt the proposed rule to the Board's next regularly scheduled meeting in January 2022 for the purpose of clarifying, in response to public comment received, language related to Board authority in chapter 70.24 RCW to define certain exposures and behaviors. The Board directs staff to work with interested parties and subject matter experts to develop a recommendation for the Board's consideration at its January meeting.

Motion/Second: Member Lutz /Vice Chair Pendergrass. Approved unanimously

12. BOARD MEMBER COMMENTS

Keith Grellner, Board Chair called for comments.

Dr. Shah, Secretary of Health, thanked the Board for their leadership and persevering under tough times.

Vice Chair Pendergrass thanked Board staff and said he appreciated a few less pages in the board packets than last month. He also commended Dr. Kwan-Gett.

Member Kutz shared thoughts regarding FPHS work. He said during the worst pandemic this century, the Board has public health authority and needs to stand by principles and weigh in on some of the situations in the state. He suggested discussing at the January meeting.

Vice Chair Pendergrass commented on the work of the Board from regulations to Newborn screening issues. He commented on the challenge to listen and be responsive to all the citizens, saying one big challenge is standards of good data and how to evaluate the data. He said staff and members have been extraordinary at paying

attention to the quality and extent of this work and he believes the Board is an important regulatory body.

Member Kutz said we have some strict criteria that engages stakeholders and calls for further discussion. Vice Chair Pendergrass again praised board staff on their extraordinary work.

Chair Grellner said this is the last board meeting this year. He thanked Ms. Davis and all the staff, saying they do the bulk of the heavy work. Chair Grellner thanked DOH partners, saying we need their help. He thanked Secretary Shah and his staff, saying their support makes us a better Board. He thanked Board members, commenting that the work is not easy, it's hard, and often gut-wrenching, but it's our job. He echoed the comments from Member Kutz that not everyone is happy, but they are trying their best. Lastly, Chair Grellner thanked Vice Chair Pendergrass and Fran Bessermin, Board Member, saying their terms have been up for 6 months. Chair Grellner said he's served almost his entire tenure with Vice Chair Pendergrass and Members Bessermin and Kutz. He values their work and expertise and thanked them for filling their positions until they slip off to blissful retirement.

Member Kutz said he really appreciated the conversation and public comments around HIV issues and regulations. He talked about his experience on HIV back to 1984 and the first people that died on the forefront that never made it to the medications of today. He said we've come a long way, but still have work to do to make sure people living with the disease are not stigmatized.

Member Lutz thanked Chair Grellner and Vice Chair Pendergrass, saying it's an honor to serve. He thanked Board staff for their tireless work and Ms. Davis for her leadership and work on the FPHS Steering Committee. He commented that the pandemic is not behind and to be cautious.

Member Bessermin echoed previous comments and thanked Chair Grellner for his impeccable leadership.

Member Crawford said this wraps up her first year on the Board and she is grateful for the staff and their work. She finds it easy to follow along, and she thanked Board members for their work, saying she's learned much, and she likes 10-second rule.

Member Bessermin and Vice Chair Pendergrass moved to adjourn. Approved unanimously.

ADJOURNMENT

Keith Grellner, Board Chair, adjourned the meeting at 2:43 p.m.

WASHINGTON STATE BOARD OF HEALTH

Keith Grellner, Chair

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.

PO Box 47990 • Olympia, Washington • 98504-7990
360-236-4110 • wsboh@sboh.wa.gov • sboh.wa.gov