



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

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January 24, 2006

The Honorable Al O'Brien
Washington State House of Representatives
House Criminal Justice & Corrections Committee Chair
428 John L. O'Brien Building
Post Office Box 40600
Olympia, Washington 98504-0600

Dear Representative O'Brien:

I am writing as chair of the Washington State Board of Health to request amendments to House Bill 2805, which is scheduled to be heard before your committee tomorrow. This bill would enhance the state's ability to aid in the recovery of missing persons. I believe the admirable goals of this bill could be better met by eliminating or amending Section 8.

The Department of Health (DOH) Newborn Screening Program currently collects genetic samples used to test for PKU and other inheritable disorders. Under Board rules, these must be retained until the donor turns 21. The samples are in the form of blood spots from heel pricks rather than swabs, and are collected on specimen/information forms. It is these blood spots that might be used to identify missing persons or human remains, not the PKU tests run on those blood spots. The specimens are considered property of the state and are stored at the DOH Public Health Laboratory in Shoreline, Washington, not in county repositories. A proposed striking amendment would have the Board store these samples, rather than DOH, even though the Board has no capacity to do so.

Authority for rule making related to newborn screening resides with the Washington State Board of Health (RCW 70.83.050). The Board, a separate agency from DOH, has already adopted a rule—WAC 246-650-050—that governs the privacy and security of the specimens. According to this existing rule, "Dried blood spot samples and specimen information may only be released when required by state or federal law." RCW 70.02.050 regulates the release of health care information by health care providers. Genetic information is health care information, and for purposes of this section DOH would be considered a health care provider. This section already contains language

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authorizing release of health care information to law enforcement, county coroners, and medical examiners under certain circumstances.

We believe, therefore, that state law and the existing Board rule already authorize the release of genetic information from the Newborn Screening Program for purposes of identifying missing persons or human remains. Section 8 of House Bill 2805 is therefore unnecessary.

If the Legislature believes this authority needs to be more explicit, Section 8 could simply amend RCW 70.02.050 as follows:

- Change RCW 70.02.050(2)(b) to read: "To federal, state, or local law enforcement authorities for the investigation of missing persons and otherwise to the extent the health care provider is required by law."
- Change RCW 70.02.050(2)(c) to read: "To county coroners and medical examiners for the investigations of deaths or missing persons, or for the identification of human remains."

A proposed striking amendment would have DOH develop rules for the release of information for purposes of investigating missing persons and identifying human remains. If rule changes are necessary, they could be done under the existing rule, WAC 246-650-050. We see no reason to split authority under Chapter 70.83 RCW or to create two sets of rules governing release of the same material. Moreover, if DOH were to develop rules prohibiting the release of this genetic information for any purposes other than the identification of a missing person or identification of human remains, as required in the proposed bill and the striking amendment, those rules would be in direct conflict with the Board's rule and with other state laws governing the release of health care information.

Thank you for considering this request.

Sincerely,



Kim Marie Thorburn, MD, MPH
Chair, Washington State Board of Health

cc: Criminal Justice and Corrections Committee Members
Ms. Yvonne Walker, Office of Policy Research
Washington State Board of Health Members
Mr. Craig McLaughlin, Washington State Board of Health
Mr. Brian Peyton, Department of Health
Ms. Jennifer Tebaldi, Department of Health