

WAC 246-100-036 Responsibilities and duties--Local health

officers. (1) The local health officer shall establish, in consultation with local health care providers, health facilities, emergency management personnel, law enforcement agencies, and any other entity he or she deems necessary, plans, policies, and procedures for instituting emergency measures necessary to prevent the spread of communicable disease or contamination.

(2) Local health officers shall:

(a) Notify health care providers within the health district regarding requirements in this chapter;

(b) Ensure anonymous HIV testing is reasonably available;

(c) Make HIV testing, AIDS counseling, and pretest and post-test counseling, as defined in this chapter, available for voluntary, mandatory, and anonymous testing and counseling as required by RCW 70.24.400;

(d) Make information on anonymous HIV testing, AIDS counseling, and pretest and post-test counseling, as described under WAC 246-100-208 and 246-100-209, available;

(e) Use identifying information on HIV-infected individuals provided according to chapter 246-101 WAC only:

(i) For purposes of contacting the HIV-positive individual to provide test results and post-test counseling; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, spouses, and individuals in state registered domestic partnerships; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention; and

(f) Destroy documentation of referral information within the timeframes established in WAC 246-100-072 containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals.

(3) 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, vector control, condemnation of food supplies, and inspection and closure of facilities, consistent with those indicated in the 17th edition, 2000 of the *Control of Communicable Disease Manual*, published by the American Public Health Association, or other measures he or she deems necessary based on his or her professional judgment, current standards of practice and the best available medical and scientific information.

(4) A local health department may make agreements with tribal governments, with federal authorities or with state agencies or institutions of higher education that empower the local health officer to conduct investigations and institute control measures in accordance with WAC 246-100-040 on tribal lands, federal enclaves and military bases, and the campuses of state institutions. State institutions include, but are not limited to, state-operated colleges and universities, schools,
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hospitals, prisons, group homes, juvenile detention centers, institutions for juvenile delinquents, and residential habilitation centers.

[Statutory Authority: RCW 43.20.050. 03-17-022, § 246-100-036, filed 8/13/03, effective 9/13/03. Statutory Authority: RCW 43.20.050 (2)(d), 70.05.050, and 70.05.060. 03-05-048, § 246-100-036, filed 2/13/03, effective 2/13/03. Statutory Authority: RCW 43.20.050. 00-23-120, § 246-100-036, filed 11/22/00, effective 12/23/00. Statutory Authority: RCW 70.24.125 and 70.24.130. 99-17-077, § 246-100-036, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. 97-15-099, § 246-100-036, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. 92-02-019 (Order 225B), § 246-100-036, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-100-036, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. 89-02-008 (Order 324), § 248-100-036, filed 12/27/88. Statutory Authority: RCW 43.20.050. 88-07-063 (Order 308), § 248-100-036, filed 3/16/88.]

WAC 246-100-072 Rules for notification of partners at risk of HIV infection. (1) A local health officer or authorized representative shall:

(a) Within three working days of receipt of a report indicative of a previously unreported case of HIV infection, attempt to contact the principal health care provider to:

- (i) determine the best means of conducting a partner notification case investigation; and
- (ii) remind the health care provider of the requirements in subsection (2) of this section.

(b) Contact the HIV-infected person for the purpose of:

- (i) providing post-test counseling described under WAC 246-100-209; and

- (ii) providing assistance in notifying sex or injection equipment-sharing partners, including spouses and individuals in state registered domestic partnerships, that they may have been exposed to and infected with HIV and that they should seek HIV testing, unless the local health officer determines a partner notification case investigation is not necessary;

(c) Provide assistance notifying partners in accordance with the " Recommendations for Partner Services Programs for HIV Infection, Syphilis, Gonorrhea, and Chlamydial Infection" as published by the Centers for Disease Control and Prevention, October 2008.

(2) If the local health officer decides to conduct the partner notification case investigation, the principal health care provider shall inform the HIV-infected person that the

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local health officer or authorized representative will contact the HIV-infected person for the purpose of providing assistance with the notification of partners.

(3) A health care provider shall not disclose the identity of an HIV-infected individual or the identity of sex and injection equipment-sharing partners, including spouses and individuals in state registered domestic partnerships, at risk of HIV infection, except as authorized in RCW 70.24.105 or WAC 246-100-072.

(4) Local health officers and authorized representatives shall:

(a) Use identifying information, provided according to this section, on HIV-infected individuals only for:

(i) Contacting the HIV-infected individual to provide post-test counseling and as appropriate referral to medical care, or to contact sex and injection equipment-sharing partners, including spouses and individuals in state registered domestic partnerships; or

(ii) Carrying out an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024; and

(b) Destroy documentation of referral information established under this subsection, containing identities and identifying information on the HIV-infected individual and at-risk partners of that individual, immediately after notifying partners or within twelve months of the date information was received, whichever occurs first unless such documentation is
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being used in an active investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.

(5) A health care provider may consult with the local health officer or an authorized representative about an HIV-infected individual and the need for notification of partners at any time.

[Statutory Authority: RCW 70.24.130 and 70.24.380. 05-11-110, § 246-100-072, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.125 and 70.24.130. 99-17-077, § 246-100-072, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. 97-15-099, § 246-100-072, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. 92-02-019 (Order 225B), § 246-100-072, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-100-072, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. 89-02-008 (Order 324), § 248-100-072, filed 12/27/88.]

WAC 246-100-207 Human immunodeficiency virus (HIV)

testing--Ordering--Laboratory screening--Interpretation--

Reporting. (1) Any person ordering or prescribing an HIV test for another, except for seroprevalent studies under chapter 70.24 RCW or provided under subsections (2) and (3) of this section or provided under WAC 246-100-208(1), shall:

(a) Obtain the informed consent of the person, separately or as part of the consent for a battery of other routine tests provided that the person is specifically informed in writing or verbally that a test for HIV is included; and

(b) Offer the person an opportunity to ask questions and decline testing; and

(c) If the HIV test is positive for or suggestive of HIV infection, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209.

(2) Local health officers or authorized representatives shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Woman in Healthcare Settings".

(3) Health care providers may obtain a sample brochure about the September 2006 Centers for Disease Control and Prevention

"Revised Recommendations for HIV Testing of Adults, Adolescents, WAC (5/7/09 2:59 PM) [1]

and Pregnant Woman in Healthcare Settings" by contacting the department's HIV prevention program at P.O. Box 47840, Olympia, WA 98504-7840 or by visiting the program's website at http://www.doh.wa.gov/cfh/HIV_AIDS/Prev_Edu/default.htm.

(4) Any person authorized to order or prescribe an HIV test for another may offer anonymous HIV testing without restriction.

(5) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations;

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer.

(6) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:
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(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

(i) What an HIV test is;

(ii) Behaviors placing a person at risk for HIV infection;

(iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) Requirements under subsection (4)(c) of this section.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209 is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate
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HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

(7) Laboratories and other places where HIV testing is performed must demonstrate compliance with all of the requirements in the Medical test site rules, chapter 246-338 WAC.

(8) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(9) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) The test or sequence of tests has been approved by the United States Food and Drug Administration (FDA) or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.

(10) Persons may inform a tested individual of the unconfirmed reactive results of an FDA-approved rapid HIV test provided the test result is interpreted as preliminarily positive for HIV antibodies, and the tested person is informed that:

(a) Further testing is necessary to confirm the reactive screening test result;

(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;

(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and

(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.

[Statutory Authority: RCW 70.24.130 and 70.24.380. 05-11-110, § 246-100-207, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.380. 02-12-106, § 246-100-207, filed 6/5/02, effective 7/6/02. Statutory Authority: RCW 70.24.125 and 70.24.130. 99-17-077, § 246-100-207, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.380. 97-04-041, § 246-100-207, filed 1/31/97, effective 3/3/97. Statutory Authority: RCW 43.20.050 and 70.24.130. 92-02-019 (Order 225B), § 246-100-207, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-100-207, filed 12/27/90, effective 1/31/91. WAC (5/7/09 2:59 PM) [5]

Statutory Authority: Chapter 70.24 RCW and RCW 70.24.130. 89-20-006 (Order 334), § 248-100-207, filed 9/22/89, effective 10/23/89. Statutory Authority: Chapter 70.24 RCW. 89-14-003 (Order 329), § 248-100-207, filed 6/22/89; 88-17-058 (Order 318), § 248-100-207, filed 8/17/88.]

WAC 246-100-208 Counseling standard--AIDS counseling.

(1) Principal health care providers shall counsel or ensure AIDS counseling as defined in WAC 246-100-011(2) for each pregnant woman continuing the pregnancy. This subsection shall not apply when health care is sought in order to terminate a pregnancy or as a result of a terminated pregnancy.

(2) The principal health care provider shall:

(a) Obtain the informed consent of the pregnant woman, separately or as part of the consent for a battery of other routine tests provided that the woman is specifically informed in writing or verbally that a test for HIV is included; and

(b) Offer the pregnant woman an opportunity to ask questions; and

(c) Provide HIV testing unless the pregnant woman refuses to give consent; and

(d) If the pregnant woman refuses a confidential test, discuss and address reasons for refusal and document in the medical record that refusal and the provision of education on the benefits of HIV testing; and

(e) If the HIV test is positive for or suggestive of HIV infection, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209 .

(3) Health care providers may obtain a sample brochure addressing the elements of subsection (1) of this section by
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contacting the department of health's HIV prevention program at P.O. Box 47840, Olympia, WA 98504-7840 or by visiting the program's website at http://www.doh.wa.gov/cfh/HIV_AIDS/Prev_Edu/default.htm.

(4) Principal health care providers shall counsel or ensure AIDS counseling as defined in WAC 246-100-011(2) and offer and encourage HIV testing for each patient seeking treatment of a sexually transmitted disease.

(5) Drug treatment programs under chapter 70.96A RCW shall provide or ensure provision of AIDS counseling as defined in WAC 246-100-011(2) for each person in a drug treatment program.

[Statutory Authority: RCW 70.24.130 and 70.24.380. 05-11-110, § 246-100-208, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.380. 02-12-106, § 246-100-208, filed 6/5/02, effective 7/6/02. Statutory Authority: RCW 70.24.125 and 70.24.130. 99-17-077, § 246-100-208, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 43.20.050 and 70.24.130. 92-02-019 (Order 225B), § 246-100-208, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-100-208, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. 88-17-058 (Order 318), § 248-100-208, filed 8/17/88.]

WAC 246-100-209 Counseling standards--Human immunodeficiency virus (HIV) pretest counseling--HIV post-test counseling.

(1) Health care providers and other persons providing pretest or post-test counseling shall assess the individual's risk of acquiring and transmitting HIV by evaluating information about the individual's possible risk-behaviors and unique circumstances, and as appropriate;

(a) Base counseling on the recommendations of the Federal Centers for Disease Control and Prevention as published in the *Revised Guidelines for HIV Counseling, November 2001*; and

(b) Assist the individual to set a realistic behavior-change goal and establish strategies for reducing their risk of acquiring or transmitting HIV; and

(c) Provide appropriate risk reduction skills-building opportunities to support the behavior change goal; and

(d) Provide or refer for other appropriate prevention, support or medical services, including those services for other bloodborne pathogens; and

(e) If the individual being counseled tested positive for HIV infection: (i) Provide or arrange for at least one individual in-person counseling session consistent with the requirements in subsection (1)(a) through (1)(d) of this section; and

(ii) Unless testing was anonymous, inform the individual that the identity of the individual testing positive for HIV infection will be confidentially reported to the state or local
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health officer; and

(iii) Ensure compliance with the partner notification provisions contained in WAC 246-100-072, and inform the tested person of those requirements; and

(iv) Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and

(v) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate; and

(vi) Provide or refer for medical evaluation including services for other bloodborne pathogens, antiretroviral treatment, HIV prevention and other support services; and

(vii) Provide or refer for tuberculosis screening.

[Statutory Authority: RCW 70.24.130 and 70.24.380. 05-11-110, § 246-100-209, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 70.24.125 and 70.24.130. 99-17-077, § 246-100-209, filed 8/13/99, effective 9/1/99. Statutory Authority: RCW 70.24.022, [70.24].340 and Public Law 104-146. 97-15-099, § 246-100-209, filed 7/21/97, effective 7/21/97. Statutory Authority: RCW 43.20.050 and 70.24.130. 92-02-019 (Order 225B), § 246-100-209, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-100-209, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.24 RCW. 89-02-008 (Order 324), § 248-100-209, filed 12/27/88; 88-17-058 (Order 318), § 248-100-209, filed 8/17/88.]