

RCW 70.24.024 Orders for examinations and counseling—

Investigation—Issuance of health order—Notice and hearing—Exception.

(1) Subject to the provisions of this chapter, the state and local health officers or their authorized representatives may examine and counsel persons reasonably believed to be infected with or to have been exposed to a sexually transmitted disease.

(2) (a) The state or a local health officer may conduct an investigation when:

(i) He or she knows or has reason to believe that a person in his or her jurisdiction has a sexually transmitted disease and is engaging in specified behavior that endangers the public health; and

(ii) The basis for the health officer's investigation is the officer's direct medical knowledge or reliable testimony of another who is in a position to have direct knowledge of the person's behavior.

(b) In conducting the investigation, the health officer shall evaluate the allegations, as well as the reliability and credibility of any person or persons who provided information related to the specified behavior that endangers the public health.

(3) If the state or local health officer determines upon conclusion of the investigation that the allegations are true and that the person continues to engage in behavior that endangers the public health, the health officer shall document measures taken to protect the public health, including reasonable efforts to obtain the person's voluntary cooperation.

(4) (a) If the measures taken under subsection (3) of this section fail to protect the public health, the state or local health officer may issue a health order requiring the person to:

(i) Submit to a medical examination or testing, receive counseling, or receive medical treatment, or any combination of these. If ordering a person to receive medical treatment, the health officer must provide the person with at least one additional appropriate option to choose from in the health order; or

(ii) Immediately cease and desist from specified behavior that endangers the public health by imposing such restrictions upon the person as are necessary to prevent the specified behavior that endangers the public health.

(b) Any restriction shall be in writing, setting forth the name of the person to be restricted, the initial period of time during which the health order shall remain effective, the terms of the restrictions, and such other conditions as may be necessary to protect the public health. Restrictions shall be imposed in the least-restrictive manner necessary to protect the public health. The period of time during which the health order is effective must be reasonably related to the purpose of the restriction or restrictions contained in the order, up to a maximum period of twelve months.

(5) (a) Upon the issuance of a health order pursuant to subsection (4) of this section, the state or local health officer shall give written notice promptly, personally, and confidentially to the person who is the subject of the order stating the grounds and provisions of the order, including the factual bases therefor, the evidence relied upon for proof of infection and dangerous behavior, and the likelihood of repetition of such behaviors in the absence of such an order. The written notice must inform the person who is the subject of the order that, if he or she contests the order, he or she may file an appeal and appear at a judicial hearing on the enforceability of the order,

to be held in superior court. The hearing shall be held within seventy-two hours of receipt of the notice, unless the person subject to the order agrees to comply. If the person contests the order, no invasive medical procedures shall be carried out prior to a hearing being held pursuant to this subsection.

(b) The health officer may apply to the superior court for a court order requiring the person to comply with the health order if the person fails to comply with the health order within the time period specified.

(c) At a hearing held pursuant to (a) or (b) of this subsection (5), the person subject to the health order may have an attorney appear on his or her behalf at public expense, if necessary. The burden of proof shall be on the health officer to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed therein are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the health order.

(d) If the superior court dismisses the health order, the fact that the order was issued shall be expunged from the records of the department or local department of health. [2020 c 76 § 3; 1988 c 206 § 909.]