



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

PO Box 47990 • Olympia, Washington 98504-7990

July 22, 2010

Mr. Bill Osmunson DDS, MPH
President, Washington Action for Safe Water
1418 – 112th Ave NE
Bellevue, Washington 98004

RE: Public Information Disclosure Request

Dear Dr. Osmunson:

The purpose of this letter is to provide an initial response to your request for information under the Washington State Public Records Act, chapter 42.56 RCW. The act requires the provision of records. It does not require justification of agency actions, identification of specific portions of a record and their application, or generation of new records.

I will address each of your requests in the context of the public records act and the history of fluoride regulation in Washington, and then explain how the Board intends to respond to the overall request.

Request #1 Intent of Use: Fluoridation of drinking water in Washington State is permitted by statute. The Board has not to my knowledge taken a formal position either in support of or in opposition to the fluoridation of drinking water. This agency, therefore, is not in possession of any records related to the Board's "purpose and intent for supporting the addition of fluoride to public drinking water."

Request #2 Concentration: Current standards for allowable and "optimal" fluoride concentration levels were established through a rule process completed before 2000. Rule making files related to that action are no longer retained by this office. Those files would be in the possession of the State Archives, a Division of the Office of the Secretary of State. Requests for those rule making files should be directed to the State Archives. A copy of the Board's records retention schedule is enclosed.

Request #3 Safety: Again, supportive materials for a rule revision made before 2000 and the standards established as part of that revision would be in the possession of the State Archives.

Request #4 FDA Communication: Copies of the exchange between Ned Therien and John V. Kelsey will be included among the records provided in response to this request.

Request #5 NRC Report: For purposes of the public records act, relevant documents would be the Environmental Health Committee memo to the Board, the National Research Council report, and any existing records (emails, etc.) about how the report might be interpreted or applied

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toward drafting the memo or responding to your petition for rule making. The memo is available on the Board's website. The Board does possess a copy of the NRC report. I believe you have a copy also. This document is copyrighted material and can be purchased from The National Academies Press (http://www.nap.edu/catalog.php?record_id=11571). Please call me if you want to make an appointment to review the Board's copy. Any meeting notes, emails, or other existing records related to the committee's or staff's interpretation or utilization of the report as it relates to the EH Committee's memo will be included in the records provided in response to this request.

Request #6: Please note that your public disclosure request skips from Request #5 to request #7.

Requests #7: Since the Board has never to my knowledge taken formal action or adopted a position on total exposure, it does not possess documents related to your request that it has "used" in the sense intended by the public records act. Neither the act nor the Board's retention schedule require retention of publications or other documents reviewed in the course of staying abreast of scientific developments in areas that touch on the Board's policy making duties. To the extent that such records happen to be in the Board's possession they will be included in the records provided in response to this request.

Request #8: Target concentrations for fluoride (optimal levels) are established in WAC 246-290-460, which was last revised in 1999. It appears the target concentrations were established before that revision. As mentioned previously, records related to rule revisions before 2000 would be in the possession of the State Archives. The Board has not to my knowledge taken formal action on this issue since a revision in 1999. To the extent that scientific materials related to recommended dosage happen to be in the Board's possession they will be included in the records provided in response to this request.

Request #9: The Board has never to my knowledge taken formal action or adopted a position on infant formula reconstituted with tap water, and I find the comments about formula being more "optimal" than mother's milk confusing given the public health community's long-standing and emphatic support of breastfeeding. To the extent that records related to infant formula safety and fluoride happen to be in the Board's possession, they will be included in the records provided in response to this request, but the caveats related to Request #7 and Request #8 would apply to this request as well.

Request #10 Federal Laws: As an agency of the state of Washington, the Board complies with all state statutes. Fluoridation is allowed under RCW 57.08.012. Your request for evidence the Board is exempt from the Safe Drinking Water Act (SDWA) and/or the Food, Drug, and Cosmetic Act (FDCA) is not a request for an identifiable public record according to Chapter 40.56 RCW. To the extent any documents specific to work of the Board related to water fluoridation and the SDWA or FDCA are in the possession of the Board, and such records are subject to disclosure, they will be included in the records provided to you in response to this request.

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Request #11: ANSI/NSF Standard 60 is referenced in section 220 of chapter 246-290 WAC but not section 460. Chapter 246-290 WAC assigns the Department of Health the responsibility for implementation and enforcement. The Board, therefore, does not possess materials related to this request. You may wish to inquire of the Department.

For reasons stated above, the Board intends to respond to your request in the following ways:

- 1) Refer you to the State Archives and the Department of Health where appropriate (completed).
- 2) Make the NRC report available for your review at our offices if requested.
- 3) Provide you with copies of all correspondence between Ned Therien and John Kelsey and any additional records that exist related to that correspondence.
- 4) Conduct an electronic search of emails and electronic files in the Board's possession, as well as a manual search of hard copy files, to identify and provide any records (in addition to the NRC report) related to fluoride or fluoridation and either total exposure, dosage, concentration, NSF/ANSI Standard 60 compliance, or infant formula.

Copies of the Therien-Kelsey correspondence will be forwarded to your e-mail address, bill@teachingsmiles.com in the next few days. We estimate that we can complete the electronic and manual records searches by early September and be able to send you an electronic copy of the records on a CD no later than September 17. There will be no charge for records we provide in electronic format. We will notify you if there are any delays regarding certain types of records.

Sincerely,



Craig McLaughlin
Executive Director

Enclosure

cc: Melissa Burke-Cain, Office of the Attorney General
Jill Edgin, Department of Health