



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 24, 2010

R&R BOH10-02

Proposed No. BOH10-02.1

Sponsors

1 A RULE AND REGULATION relating to the protection of
2 the public health through the nutrition information disclosure
3 of food; amending R&R 07-01, Section 3, as amended, and
4 BOH 5.10.025, adding new sections to BOH chapter 5.10 and
5 suspending R&R 07-01, Section 1, as amended, and BOH
6 5.10.005, R&R 07-01, Section 2, as amended, and BOH
7 5.10.015, R&R 08-02, Section 4, and BOH 5.10.022 and
8 BOH R&R 08-02, Section 5, and 5.10.023; enacted pursuant
9 to RCW 70.05.060, including the latest amendments or
10 revisions thereto.

11 BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

12 SECTION 1. Statement of fact: The King County Board of Health intends that
13 restaurants in King County have a transition period during which they may continue
14 providing menu labeling as described in BOH 5.10.015 and 5.10.022 while preparing to
15 comply with new national requirements for nutrition labeling by chain restaurants. This
16 transition period may last until the effective date of regulations to be promulgated by the
17 federal Food and Drug Administration.

18 NEW SECTION. SECTION 2. There is hereby added to BOH chapter 5.10 a
19 new section to read as follows:

20 The operation and effect of Code of King County Board of Health Sections
21 5.10.005, 5.10.015, 5.10.022 and 5.10.023 is suspended.

22 NEW SECTION. SECTION 3. There is hereby added to BOH chapter 5.10 a
23 new section to read as follows:

24 **Nutrition labeling of standard menu items at chain restaurants.**

25 A. General requirements for chain restaurants. Except for food described in
26 subsection D. of this section, in the case of food that is a standard menu item that is
27 offered for sale in a restaurant that is part of a chain with fifteen or more locations doing
28 business under the same name, regardless of the type of ownership of the locations, and
29 offering for sale substantially the same menu items, a restaurant shall disclose the
30 information described in subsections B. and C. of this section.

31 B. Information required to be disclosed by restaurants. Except as provided in
32 subsection D. of this section, a restaurant shall disclose in a clear and conspicuous
33 manner:

34 1. In a nutrient content disclosure statement adjacent to the name of the standard
35 menu item, so as to be clearly associated with the standard menu item, on the menu
36 listing the item for sale, the number of calories contained in the standard menu item, as
37 usually prepared and offered for sale; and a succinct statement concerning suggested
38 daily caloric intake posted prominently on the menu and designed to enable the public to
39 understand, in the context of a daily diet, the significance of the caloric information that
40 is provided on the menu. A restaurant may use the following statement: "The Dietary
41 Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to

42 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits
43 may be higher or lower depending upon daily calorie consumption.”

44 2. In a nutrient content disclosure statement adjacent to the name of the standard
45 menu item, so as to be clearly associated with the standard menu item, on the menu
46 board, including a drive-through menu board, the number of calories contained in the
47 standard menu item, as usually prepared and offered for sale; and a succinct statement
48 concerning suggested daily caloric intake posted prominently on the menu board,
49 designed to enable the public to understand, in the context of a daily diet, the significance
50 of the caloric information that is provided on the menu board. A restaurant may use the
51 following statement: “The Dietary Guidelines for Americans recommend limiting
52 saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000
53 calories daily. Recommended limits may be higher or lower depending upon daily
54 calorie consumption.”

55 3. In a written form, available on the premises of the restaurant and to the
56 consumer upon request, the following nutrition information:

57 a. The total number of calories derived from any source, and derived from the
58 total fat, in each serving size or other unit of measure of the food; and

59 b. The amount of the following nutrients: total fat, saturated fat, cholesterol,
60 sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total
61 protein contained in each serving size or other unit of measure; and

62 4. On the menu or menu board, a prominent, clear, and conspicuous statement
63 regarding the availability of the information described in subsection B.3.a. and b. of this
64 section.

65 C. Reasonable basis. For the purposes of this section, a restaurant shall have a
66 reasonable basis for its nutrient content disclosures, including nutrient databases,
67 cookbooks, laboratory analyses, and other reasonable means, as described in section
68 101.10 of title 21, Code of Federal Regulations (or any successor regulation) or in a
69 related guidance of the Food and Drug Administration.

70 D. Nonapplicability to certain food - In General. Subsections A. through C. of
71 this section do not apply to:

72 1. Items that are not listed on a menu or menu board, such as condiments and
73 other items placed on the table or counter for general use;

74 2. Daily specials, temporary menu items appearing on the menu for less than
75 sixty days per calendar year or custom orders;

76 3. Such other food that is part of a customary market test appearing on the menu
77 for less than ninety days.

78 E. Definition. For the purposes of this section, "menu" or "menu board" means
79 the primary writing of the restaurant from which a consumer makes an order selection.

80 SECTION 4. R&R 07-01, Section 3, as amended, and BOH 5.10.025 are each
81 hereby amended to read as follows:

82 **Enforcement - ~~((N))~~nutrition labeling.**

83 A. The director of the Seattle-King County department of public health or his or
84 her authorized representative is authorized to enforce the nutrition labeling requirements
85 of this chapter in accordance with the food establishment inspection and other
86 enforcement provisions of BOH chapters 5.02 and 5.60.

87 B. If the health officer questions the accuracy of nutrition labeling for a menu
88 item, the health officer may refer a nutrition professional from the Seattle-King County
89 department of public health to the restaurant to review and determine if the nutrition
90 information requires correcting. The health officer shall verify any required corrections
91 at the next regular inspection.

92 C. ~~((From August 1, 2008, through December 31, 2008, a chain restaurant shall
93 not be deemed to be in violation of BOH 5.10.015.B. and C. if the restaurant provides
94 documentation that it has taken steps to obtain calorie and nutrient analysis of standard
95 menu items and create nutrition labeling.~~

96 D. ~~From August 1, 2008, through August 1, 2009, a chain restaurant shall not be
97 deemed to be in violation of BOH 5.10.015.B. and C. as it applies to drive through menu
98 boards)) Owners and operators of chain restaurants shall have a transition period while
99 preparing to comply with section 3 of this rule. The transition period shall commence on
100 the effective date of this rule and remain in effect until the effective date of federal
101 regulations adopted pursuant to Section 4205 of the Patient Protection and Affordable
102 Care Act, Pub. L. No. 111-148.~~

103 D. During the transition period described in subsection C. of this section, the
104 owner or operator of a chain restaurant that provides a menu does not violate section 3 of
105 this rule if the restaurant makes nutrition labeling of calories, saturated fat, carbohydrate
106 and sodium and the dietary statement available through an alternative method described
107 in suspended BOH 5.10.022.

108 E. During the transition period described in subsection C. of this section, the
109 owner or operator of a chain restaurant that provides a menu board does not violate
110 section 3 of this rule if the restaurant

111 1. Makes nutrition labeling of calories available through an alternative method
112 described in suspended BOH 5.10.022; or

113 2. Makes nutrition labeling of saturated fat, carbohydrate and sodium and the
114 dietary statement available as described in suspended BOH 5.10.015 or 5.10.022, as
115 applicable.

116 **SECTION 5. Severability.** If any provision of this rule or its application to any

117 person or circumstance is held invalid, the remainder of the rule or the application of the
118 provision to other persons or circumstances is not affected.
119

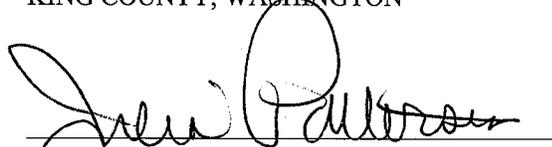
R&R BOH10-02 was introduced on and passed by the Board of Health on 5/20/2010,
by the following vote:

Yes: 9 - Ms. Frisinger, Mr. Hutchinson, Ms. Patterson, Ms. Lambert,
Mr. Licata, Ms. Clark and Ms. Manning

No: 0

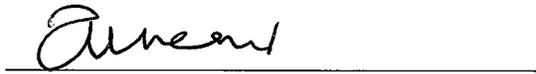
Excused: 4 - Ms. Drago, Mr. Conlin, Dr. Nicola, and Dr. Danielson

BOARD OF HEALTH
KING COUNTY, WASHINGTON



Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Board

Attachments: None