

Business Meeting Minutes

January 19, 2024



WASHINGTON
**Medical
Commission**
Licensing. Accountability. Leadership.

Virtual Meeting via Teams Webinar

Link to recording: <https://youtu.be/AacfJPPgeug?si=xJM9Y7yftugN2MV9>

Commission Members

Michael Bailey, Public Member
Christine Blake, Public Member
Toni Borlas, Public Member – Absent
Po-Shen Chang, MD
Jimmy Chung, MD
Diana Currie, MD
Karen Domino, MD, Chair
Arlene Dorrough, PA-C
Anjali D’Souza, MD
Harlan Gallinger, MD

April Jaeger, MD
Jamie Koop, Public Member – Absent
Ed Lopez, PA-C, Officer-at-Large
Sarah Lyle, MD – Absent
Terry Murphy, MD, Chair Elect
Elisha Mvundura, MD
Robert Pullen, Public Member
Scott Rodgers, JD, Public Member
Claire Trescott, MD
Richard Wohns, MD

WMC Staff in Attendance

Christine Babb, Investigator
Colleen Balatbat, Staff Attorney
Jennifer Batey, Legal Support Staff Manager
Alexander Bielaski, Case Manager
Amelia Boyd, Program Manager
Kayla Bryson, Executive Assistant
Jimi Bush, Director of Quality & Engagement
Carmen Challender, Health Services Consultant
Marisa Courtney, Licensing Manager
Joel DeFazio, Staff Attorney
Sylke Dixon, IMLC Licensing Specialist
Kelly Elder, Staff Attorney
Mike Farrell, Supervising Staff Attorney
Gina Fino, Director of Compliance
Ryan Furbush, Paralegal
Rick Glein, Director of Legal Services

Mike Hively, Director of Operations & Informatics
Jenelle Houser, Investigator
Ken Imes, Information Liaison
Kyle Karinen, Executive Director
Pamela Kohlmeier, MD, JD, Staff Attorney
Joanna Mallard, Health Services Coordinator
Emma Marienthal, Licensing Lead
Stephanie Mason, PR & Legislative Liaison
Micah Matthews, Deputy Executive Director
Lynne Miller, Paralegal
Fatima Mirza, Program Case Manager
Freda Pace, Director of Investigations
Stormie Redden, Legal Assistant
Chris Waterman, Complaint Intake Manager
Trisha Wolf, Staff Attorney
Mahi Zeru, Equity & Social Justice Manager

Others in Attendance

Marlon Basco-Rodillas, Dept. of Health (DOH)
Heather Carter, Assistant Attorney General
Kristin Effland, MCHS Program Director
Deborah Gleisner, ND, LM
Hillary Norris, Policy Analyst, Washington State
Medical Association

Bob Runnels, Informed Choice Washington
Jennifer Santiago, DOH
Katherine Sauerlender, LM
Kathy Weed, DOH

1.0 Call to Order

Karen Domino, MD, Chair, called the meeting of the Washington Medical Commission (WMC) to

order at 9:07 a.m. on October 20, 2023.

2.0 Public Comment

Comments from Lynn Bergeron regarding actions by the WMC were read into the record.

Comments from Tom Vander Sys regarding their healthcare were read into the record.

Bob Runnels, Informed Choice Washington Director, provided comments regarding actions by the WMC.

3.0 Executive Session

At 9:13 am, the Commissioners and some staff went into Executive Session under [RCW 42.30.110\(1\)\(i\)](#) to discuss a request from the United States Department of Justice. Dr. Domino stated this closed session was scheduled to end at 9:30 am. The end time was extended to 9:35 am. The business meeting was brought back to order at 9:36 am.

4.0 Chair Report

Dr. Domino thanked the Commissioners for the work they've been doing.

Dr. Domino reported that she, along with Kyle Karinen, Executive Director, and Micah Matthews, Deputy Executive Director, recently attended the Federation of State Medical Board's "Symposium on Artificial Intelligence in Health Care and Medical Regulation." She stated it was an interesting meeting. She went on to say that there's much to consider regarding the rapid progress of both generative artificial intelligence (AI) and diagnostic and treatment recommendation AI. She stated that as physicians or physician assistants there is not enough education about AI, and few understand the underlying processes.

5.0 Consent Agenda

The Consent Agenda contained the following items for approval:

5.1 Minutes from the October 20, 2023, Business Meeting

5.2 Agenda for January 19, 2024.

Motion: The Chair entertained a motion to approve the Consent Agenda. The motion was seconded and approved unanimously.

6.0 New Business

6.1 Petition for Declaratory Order

Mike Farrell, Supervising Staff Attorney, presented a petition for declaratory order from a licensee. He explained that a declaratory order is "an order issued by an agency that states how an agency is to apply a rule or statute or other law to specific circumstances." He clarified that the licensee is requesting the WMC to officially declare items mentioned in the petition. He further explained that in order to obtain a declaratory order from an agency, a petitioner must meet several requirements, with two being particularly crucial. In this instance, the first requirement is the presence of uncertainty requiring resolution in the case, and the second is that this uncertainty must adversely affect the petitioner. The Commission has the discretion to either issue or reject a declaratory order in this case.

Mr. Farrell further explained that this licensee is currently under investigation by the WMC. In response to a letter from a WMC investigator requesting patient records, they want the WMC to declare its legal jurisdiction to request a patient's medical records before the licensee provides them. The licensee is requesting a detailed account

substantiating the existence of a complaint that justifies the release of the medical records. They are seeking assurance that their request complies with relevant privacy laws and a citation of legal authority supporting the WMC's request. Additionally, the licensee is asking for the WMC to issue an order confirming its authority to conduct the investigation.

Mr. Farrell stated that while licensees often request statutory authority for WMC actions, typically provided in cooperation letters, this licensee is taking a different approach. They are using a statute in the Administrative Procedures Act that allows the agency to issue a declaratory order. However, since there is no uncertainty in the law, as the WMC's authority and the request's details are clear, and because the WMC adheres to all privacy laws, it is recommended to decline issuing this declaratory order.

Mr. Farrell explained that in addition to a statute, there is a Department of Health (DOH) rule that states the petition for declaratory order must be in a certain format and filed with the adjudicative services unit, which this licensee did not comply with. Mr. Farrell stated that if the petition is denied, there will be a letter sent to the licensee explaining the denial, which would include that the licensee did not comply with the DOH rule.

Dr. Domino opened the floor for the Commissioners to discuss this item. After a robust discussion:

Motion: The Chair entertained a motion to decline issuing the declaratory order. The motion was seconded and approved unanimously.

7.0 Old Business

7.1 Committee/Workgroup Reports

These reports were provided in writing and included in the meeting packet. There were no additional reports.

7.2 Rulemaking Activities

The rulemaking progress report was provided in the meeting packet. In addition to the written report the following request was made:

Kyle Karinen, Executive Director, requested that the WMC rescind the CR-101, Preproposal Statement of Inquiry, rulemaking regarding Collaborative Drug Therapy Agreements (CDTA). He provided a brief history of this rulemaking and stated the Commissioners have two options: either rescind the rulemaking or choose to continue the rulemaking efforts regarding CDTAs.

Jimmy Chung, MD, provided additional history related to this rulemaking. He recommended there be a group that reviews the current issues with CDTAs and the past issues to see if there is still a need to create a new rule or if the WMC should rescind the rulemaking.

There was not a motion to rescind the CR-101. Rulemaking on this subject will continue.

7.3 Strategic Plan 2023-2025

Jimi Bush, Director of Quality and Engagement, presented the final WMC Strategic Plan for the 2023-2025 biennium and requested that the Commissioners approve the plan.

Motion: The Chair entertained a motion to approve the 2023-2025 Strategic Plan.

The motion was seconded and approved unanimously.

8.0 Policy Committee Report

Christine Blake, Public Member, Policy Committee Chair, reported on the items discussed at the Policy Committee meeting held on January 4, 2024. The agenda was as follows:

Non-WMC Rulemaking: Midwifery Legend Drugs and Devices

Ms. Blake presented draft language from the Midwifery Committee regarding Midwifery Legend Drugs and Devices. She stated that there was no need to vote on these rules and there was no formal motion needed as these are not WMC rules but that the WMC is required by statute to provide feedback on midwifery rules.

Guidance Document: Medical Records: Documentation, Access, Retention, Storage, Disposal, and Closing a Practice

Ms. Blake stated this document was reviewed as part of the WMC's four-year review process. She reported that since the committee meeting on January 4, 2024, additional suggestions have been received for this document. Therefore, it will be revised and brought to a future committee meeting so that the edits can be reviewed.

9.0 Member Reports

Ms. Blake thanked Mike Farrell for his assistance with the Policy Committee and congratulated him on being chosen as the Supervising Staff Attorney.

10.0 Staff Reports

The reports below are in addition to the written reports that were included in the meeting packet.

Ms. Boyd reminded the Commissioners that there will be a session of the Sexual Misconduct and Response Training and stated that if they have not attended in the past they can hopefully attend the session on February 15, 2024.

11.0 AAG Report

Heather Carter, AAG, had nothing to report.

12.0 Adjournment

The Chair called the meeting adjourned at 10:35 am.

Submitted by

(signature on file)

Amelia Boyd, Program Manager

(signature on file)

Karen Domino, MD, Chair
Washington Medical Commission

Approved April 26, 2024

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