WASHINGTON

Medical Commission

Licensing. Accountability. Leadership.

Regular Meeting

May 13-14, 2021

2021 Meeting Schedule

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

The meeting dates for 2021 have been approved. Due to the COVID-19 event, these meetings may be done virtually instead of in person. Updates to the meeting locations will be made available via our GovDelivery and our Event Calendar at https://wmc.wa.gov/calendar.

Dates	Location	Meeting Type
January 14-15	Virtual	Regular Meeting
March 4-5	Virtual	Regular Meeting
April 8-9	Virtual	Regular Meeting
May 13-14	Virtual	Regular Meeting
July 8-9	TENTATIVE Capital Event Center (ESD 113) 6005 Tyee Drive SW Tumwater, WA 98512	Regular Meeting
August 19-20	TENTATIVE Capital Event Center (ESD 113) 6005 Tyee Drive SW Tumwater, WA 98512	Regular Meeting
Sept 30-Oct 2	TBD	Educational Conference
November 18-19	TENTATIVE Capital Event Center (ESD 113) 6005 Tyee Drive SW Tumwater, WA 98512	Regular Meeting

2022 Meeting Schedule

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Dates	Location	Meeting Type
January 13-14	TBD	Regular Meeting
March 3-4	TBD	Regular Meeting
April 14-15	TBD	Regular Meeting
May 26-27	TBD	Regular Meeting
July 7-8	TBD	Regular Meeting
August 25-26	TBD	Regular Meeting
October 6-8	TBD	Educational Conference
November 17-18	TBD	Regular Meeting

2023 Meeting Schedule

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Dates	Location	Meeting Type
January 12-13	TBD	Regular Meeting
March 2-3	TBD	Regular Meeting
April 13-14	TBD	Regular Meeting
May 25-26	TBD	Regular Meeting
July 6-7	TBD	Regular Meeting
August 24-25	TBD	Regular Meeting
October 5-7	TBD	Educational Conference
November 16-17	TBD	Regular Meeting

FORMAL HEARING SCHEDULE

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Hearing	Respondent	SPECIALTY	Case No.	Counsel	AAG	Staff Atty	PANEL	Presiding Officer	Location	Panel Composition (as of 5/4/21)
4-May										
2021 May		*Commission Meeting 5/13/2021*								
NO HEARINGS SCHEDULED THIS MONTH										
2021 June		*NO COMMISSION MEETING THIS MONTH*								
2-3 Jun	HARRIS, Anthony E., MD	BC- Neurological Surgery	M2020-711	Deanna Bui Scott O'Halloran	Defreyn	Wolf	A	Herington	TBD	
18-Jun	HADUONG, Quan, MD	BC-Anesthesiology	M2020-495 M2020-657	Adam Snyder Mallory Barnes-Ohlson	Defreyn	Page Landstrom	L	Herington	TBD	
28-Jun	LU, Kang, MD	Non-BC Self-designated Radiology	M2019-822	Pro Se	Defreyn	Karinen	A	Kavanaugh	TBD	Yu;
2021 July		*Commission Meeting 7/8/2021*								
21-23 Jul	JACKSON, George F., MD	BC- Psychiatry	M2019-365	James B. Meade, II	Brewer	Wolf	B	Blye	TBD	
2021 August		*Commission Meeting 8/19/2021*								
2-6 Aug	BRECHT, Kristine S., MD	BC - Family Medicine	M2019-94	Ketia B. Wick	Anderson	Wolf	B	Wareham	TBD	Golden; Hopkins;
5-6 Aug	DE, Monya, MD	Non-BC Self designated Internal Medicine	M2020-396	Mark Kimball Farnoosh Faryabi	Pfluger	Little	B	Donlin	TBD	
16-17 Aug	AFLATOONI, Alfred, MD	BC- Family Medicine	M2018-467	George Kargianis	Brewer	Wolf	A	Kuntz	TBD	
17-18 Aug	LENG, Vuthy, MD	Non-BC Self desigated Family Medicine	M2020-697	Philip deMaine	Defreyn	Berg	B	Kavanaugh	TBD	
23-25 Aug	KIM, Jeong H., MD	BC- Internal Medicine	M2019-699	Jennifer M. Smitrovich	Bahm	Page Landstrom	A	Kavanaugh	TBD	Yu;
25-27 Aug	LEE, Gerald	BC-Anesthesiology	M2020-699	Pro Se	Bahm	Karinen	A	Kuntz	TBD	
30 Aug - **2 Sept**	ANTOCI, Valentin, MD	Non-BC Self-Designated Orthopaedic Surgery	M2017-515	Pro Se	Defreyn	Page Landstrom	A	Kuntz	TBD	Blake; Yu;
2021 September		*Commission meeting 9/30/2021*								
8-Sep	BEVERLY, James M., PA	Phys. Asst.	M2019-482	Pro Se	Brewer	Berg	L	Donlin	TBD	
20-23 Sept	ATTEBERRY, Dave S., MD	Non-BC Self-designated Neurological Surgery	M2015-1151 M2020-804	Stephen M. Lamberson	Defreyn	Karinen	A	Kavanaugh	TBD	
2021 October		*NO COMMISSION MEETING THIS MONTH*								
2021 November		*Commission meeting 11/18/2021*								
5-Nov	RUSSELL, Trent J., PA-C	Physician Asst.	M2020-687	Connie Elkins McKelvey	Pfluger	Berg	B	Blye	TBD	

Commission Meeting Agenda
May 13-14, 2021

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for these meetings. Virtual public meetings, without a physical meeting space, will be held instead. The access links can be found below.

Thursday – May 13, 2021

Closed Sessions

8:00 am Case Reviews – Panel A
8:00 am Case Reviews – Panel B

Open Session

12:30 pm **Lunch & Learn: Legislative Update**
Stephanie Mason, Legislative Liaision & Public Information Officer
Please join this meeting from your computer, tablet or smartphone:
https://global.gotomeeting.com/join/511745189

Closed Sessions

1:30 pm Case Reviews – Panel A
1:30 pm Case Reviews – Panel B

4:00 pm Policy Committee Meeting

Please **register** for this meeting at:
https://attendee.gotowebinar.com/rt/4249340177254686222
After registering, you will receive an email containing a link that is unique to you to join the webinar.

Agenda Items	Presented By:	Page #:
Chapter 246-918 WAC Physician Assistants Including Implementation of Substitute House Bill 2378 Rulemaking *Request to initiate CR-102 process.*	Amelia Boyd	Updated draft language will be posted to our Rules page on 5/11/2021
Clinical Support Program Rulemaking *Request to initiate CR-102 process.*	Amelia Boyd	19
Guideline – Sexual Misconduct and Abuse *Periodic review and possible revisions.*	Michael Farrell	25
Procedure – Referral of Sexual Misconduct Cases *Periodic review and possible revisions.*	Michael Farrell	30
Procedure – Processing Complaints of Sexual Misconduct Through the Sexual Misconduct Analysis Review Team (SMART) *Periodic review and possible revisions.*	Michael Farrell	35

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Friday – May 14, 2021

Open Session

8:00 am –9:30 am **Business Meeting**

Please **register** for this meeting at:
https://attendee.gotowebinar.com/rt/3203691425100285198
After registering, you will receive an email containing a link that is unique to you to join the webinar.

1.0 Chair Calls the Meeting to Order

2.0 Housekeeping

3.0 Chair Report

4.0 Consent Agenda

Items listed under the Consent Agenda are considered routine agency matters and will be approved by a single motion without separate discussion. If separate discussion is desired, that item will be removed from the Consent Agenda and placed on the regular Business Agenda. — Action

4.1 Minutes – Approval of the April 9, 2021 Business Meeting minutes. — Pages 9-12

4.2 Agenda – Approval of the May 14, 2021 Business Meeting agenda.

5.0 New Business

5.1 **Request to Change July 2022 Meeting Dates** — Action

Ms. Boyd will present a request to change the meeting dates for the July 2022 meeting. — Page 13

6.0 Old Business

6.1 **Committee/Workgroup Reports** — Update

The Chair will call for reports from the Commission's committees and workgroups. Written reports begin on page 14.

See page 15 for a list of committees and workgroups.

6.2 **Rulemaking Activities** — Update

Rules Progress Report provided on page 19.

7.0 Public Comment

The public will have an opportunity to provide comments. ***If you would like to comment during this time, please limit your comments to two minutes. Please identify yourself and who you represent, if applicable, when the Chair opens the floor for public comment.***

8.0 Policy Committee Report

Dr. Karen Domino, Chair, will report on items discussed at the Policy Committee meeting held on May 13, 2021. See the Policy Committee agenda on page 1 of this agenda for the list of items to be presented. — Report/Action Begins on page 20

9.0 Member Reports

The Chair will call for reports from Commission members.

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10.0 Staff Member Reports

The Chair will call for further reports from staff.

Written reports begin on page 38

11.0 AAG Report

Heather Carter, AAG, may provide a report.

12.0 Leadership Elections

11.1	Restatement of Nominating Committee Report	Report
11.2	Nominations from the floor	
11.3	Election of Leadership	Action

13.0 Adjournment of Business Meeting

Open Sessions

9:45 am	Personal Appearances – Panel A Please join this meeting from your computer, tablet or smartphone: https://global.gotomeeting.com/join/243475405	Page 44
9:45 am	Personal Appearances – Panel B Please join this meeting from your computer, tablet or smartphone: https://global.gotomeeting.com/join/345525861	Page 45

Closed Sessions

Noon to 1:00 pm Lunch Break

Open Sessions

1:15 pm	Personal Appearances – Panel A Please join this meeting from your computer, tablet or smartphone: https://global.gotomeeting.com/join/243475405	Page 44
1:15 pm	Personal Appearances – Panel B Please join this meeting from your computer, tablet or smartphone: https://global.gotomeeting.com/join/345525861	Page 45

In accordance with the Open Public Meetings Act, this meeting notice was sent to individuals requesting notification of the Department of Health, Washington Medical Commission (Commission) meetings. This agenda is subject to change. The Policy Committee Meeting will begin at 4:00 pm on May 13, 2021 until all agenda items are complete. The Commission will take public comment at the Policy Committee Meeting. The Business Meeting will begin at 8:00 am on May 14, 2021 until all agenda items are complete. The Commission will take public comment at the Business Meeting. To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.

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Business Meeting Minutes
April 9, 2021

WASHINGTON Medical Commission
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Virtual Meeting via GoToWebinar

Commission Members

James E. Anderson, PA-C
Christine Blake, Public Member
Toni Borlas, Public Member
Charlie Browne, MD – Absent
Jimmy Chung, MD, 2nd Vice Chair
Diana Currie, MD
Karen Domino, MD
April Jaeger, MD
Charlotte Lewis, MD
John Maldon, Public Member, Chair
Terry Murphy, MD
Alden Roberts, MD
Scott Rodgers, JD, Public Member
Theresa Schimmels, PA-C
Robert Small, MD
Claire Trescott, MD, 1st Vice Chair
Richard Wohns, MD
Yanling Yu, PhD, Public Member

Commission Staff

Colleen Balatbat, Staff Attorney
Morgan Barrett, MD,
Jennifer Batey, Legal Support Staff Manager
Larry Berg, Staff Attorney
Amelia Boyd, Program Manager
Reneé Bruess, Investigator
Kayla Bryson, Executive Assistant
Jimi Bush, Director of Quality & Engagement
Adam Calica, Chief Investigator
Sarah Chenvert, Performance Manager
Melanie de Leon, Executive Director
Michael Farrell, Policy Development Manager
Gina Fino, MD, Investigator
Ryan Furbush, Paralegal
Rick Glein, Director of Legal Services
George Heye, MD, Medical Consultant
Jenelle Houser, Legal Assistant
Kyle Karinen, Staff Attorney
Shelley Kilmer-Ready, Legal Assistant
Becca King, Administrative Assistant
Richelle Little, Staff Attorney
Stephanie Mason, Legislative Liaison & PIO
Melissa McEachron, Director of Operations & Informatics
Ariele Page Landstrom, Staff Attorney
Trisha Wolf, Staff Attorney
Gordon Wright, Staff Attorney

Others in Attendance

Chris Bundy, MD, Executive Medical Director, Washington Physicians Health Program
Amy Brackenbury, Washington State Society of Anesthesiology
Richard Brantner, MD
Heather Carter, Assistant Attorney General
Mary Curtis, MD, Pro Tem Commissioner
Heather Cantrell, Policy Analyst, Department of Health
Melissa Johnson, Washington Association of Nurse Anesthetists
Katerina LeMarche, Washington State Medical Association
Gregory Terman, MD, Pro Tem Commissioner

1.0 Call to Order

John Maldon, Public Member, Chair, called the meeting of the Washington Medical Commission (Commission) to order at 8:00 a.m. on April 9, 2021.

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2.0 Housekeeping

Amelia Boyd, Program Manager, gave an overview of how the meeting would proceed.

3.0 Chair Report

Mr. Maldon reported he has received comments about the weekly Case Management Team (CMT) meeting. He stated that CMT seems to be working well and as intended.

4.0 Consent Agenda

The Consent Agenda contained the following items for approval:

4.1 Minutes from the March 5, 2021 Business Meeting.
4.2 Agenda for April 9, 2021.

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

5.0 Old Business

5.1 Committee/Workgroup Reports

These reports were provided in writing and included in the meeting packet.

Ms. de Leon announced that Commissioner Diana Currie, MD was selected to serve on the Federation of State Medical Boards ad-hoc task force on health equity and medical regulation.

5.2 Nominating Committee

Alden Roberts, MD, Committee Chair announced the candidates:

- Chair – John Maldon
- 1st Vice Chair – Claire Trescott, MD
- 2nd Vice Chair – Jimmy Chung, MD

Elections will be held at the May 14, 2021 Business meeting.

5.3 Rulemaking Activities

The rulemaking progress report was provided in the meeting packet. Ms. Boyd stated there was nothing further to report.

5.4 Lists & Labels Request

The following lists and labels request were discussed for possible approval or denial. Approval or denial of these requests is based on whether the entity meets the requirements of a "professional association" or an "educational organization" as noted on the application (RCW 42.56.070(9)).

- RussoCME

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

6.0 Public Comment

There were no public comments.

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7.0 Policy Committee Report

Dr. Karen Domino, Policy Committee Chair, reported on the items discussed at the Policy Committee meeting held on April 8, 2021:

Policy – Practitioners Exhibiting Disruptive Behavior
Dr. Domino explained that this document has been seen previously and that the Commission had suggested some edits. She reported that the Committee recommended approval of the revised document to be sent for Department of Health's Secretary review

> ***Motion:*** The Chair entertained a motion to approve the policy for Secretary review with the noted revisions. The motion was approved unanimously.

Procedure – Panel Composition
Dr. Domino explained that this document has also been seen previously and that the Commission had suggested some edits. She reported that the Committee recommended approval of the revised document, which was in the packet.

> ***Motion:*** The Chair entertained a motion to approve the procedure with the noted revisions. The motion was approved unanimously.

Procedure – Review procedure for Update!, the quarterly newsletter of the Washington Medical Commission
Dr. Domino explained that this procedure was up for its routine review. She stated that the Committee recommended the Commission reaffirm this procedure.

> ***Motion:*** The Chair entertained a motion to reaffirm the procedure. The motion was approved unanimously.

Board of Naturopathy position on naturopaths performing lipo-aspiration
Dr. Domino explained that the Committee chose to take no action on this item.

Addition: **Chapter 246-918 WAC Physician Assistants Including Implementation of Substitute House Bill 2378 Rulemaking**
Dr. Domino explained that the Committee discussed the draft language at length and decided that an another workshop was needed to allow additional time for discussion of the language. Dr. Domino encouraged Commissioners to participate in the next workshop.

8.0 Member Reports

Theresa Schimmels, PA-C, reported that the Spokane area will be holding a mass Covid-19 vaccination clinic.

9.0 Staff Reports

The reports below are in addition to those available in the packet.

Melanie de Leon, Executive Director reported that Micah Matthews, Deputy Executive Director, will be back in the beginning of May.

Ms. de Leon asked Ms. Boyd to explain the process for joining the Business meeting as a Panelist. Ms. Boyd stated that each Commissioner will receive an email with a link unique to them that will add them to the Business meeting as a Panelist. She also stated that Commissioners will never need to register for the Business meeting.

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10.0 AAG Report

Heather Carter, AAG, stated that the Commissioners have authority to direct an investigation. Commissioners should collaborate with the assigned investigator on their cases to get the information the Commissioner needs to complete their review of their cases. Ms. Carter reminded the Commissioners that they should not be conducting their own investigation by doing an internet search of any of the parties involved in the case. However, Commissioners may look up a medical procedure or medication.

11.0 ADJOURNMENT

The Chair called the meeting adjourned at 9:05 am.

Submitted by

Amelia Boyd, Program Manager

John Maldon, Public Member, Chair
Washington Medical Commission

Approved May 14, 2021

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July 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
26 June	27 June	28 June	29 June	30 June	1	2
3	4 Holiday Independence Day	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

Proposed meeting dates

Current approved meeting dates

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Committee/Workgroup Reports: May 2021

Reduction of Medical Errors Workgroup – Chair: Dr. Chung Staff: Mike Farrell
The committee is due to meet to go over its guideline and statement of understanding with the Foundation for Health Care Quality.

Annual Educational Conference Workgroup – Chair: Toni Borlas Staff: Jimi Bush
We are looking at the feasibility of holding an in-person conference in October. There is still uncertainty about the ability to secure a physical location. I will keep you updated, but if you have any ideas for a theme or speaker for the 2021 conference, please let me know. If you are interested in becoming part of the conference planning workgroup, please let Jimi know.

Commissioner Education Workgroup – Chair: None at this time Staff: Melanie de Leon
Meeting held May 4th where we discussed several ideas for future Lunch & Learns.

Osteopathic Manipulative Therapy Workgroup – Chair: None at this time Staff: Micah Matthews
Workgroup will reconvene after 2021 legislative session to consider any legislative or policy impacts.

Office-Based Surgery Rules Workgroup – Chair: Dr. Domino Staff: Mike Farrell
Meeting scheduled for Tuesday, May 18 at 1:30 pm.

Health Equity Advisory Committee – Chair: Dr. Jaeger Staff: Jimi Bush
We will be holding quarterly meetings for the rest of the year. All remaining policies/rules/etc. will be open for written comment at any time through the end of the committee lifespan. More information is available on the committee webpage.

Healthcare Disparities Workgroup – Chair: Dr. Currie Staff: Melanie de Leon
Staff unable to meet during legislative session, but will meet in the next month to review public health data currently collected by DOH.

Committees & Workgroups

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Executive Committee
John Maldon, Public Member, Chair
Dr. Trescott, 1st Vice Chair
Dr. Chung, 2nd Vice Chair
Dr. Domino, Policy Committee Chair
Dr. Roberts, Immediate Past Chair
Melanie de Leon
Micah Matthews
Heather Carter, AAG

Policy Committee
Dr. Domino, Chair (B)
Dr. Roberts (B)
Christine Blake, Public Member (B)
Jim Anderson, PA-C (A)
John Maldon, Public Member (B)
Scott Rodgers, Public Member (A)
Dr. Trescott (B)
Heather Carter, AAG
Melanie de Leon
Mike Farrell
Amelia Boyd

Newsletter Editorial Board
Dr. Currie
Dr. Chung
Dr. Wohns
Jimi Bush, Managing Editor
Micah Matthews

Legislative Subcommittee
Dr. Roberts, Chair
John Maldon, Public Member
Dr. Terman, Pro Tem Commissioner
Christine Blake, Public Member
Dr. Wohns
Melanie de Leon
Micah Matthews

Panel L
John Maldon, Public Member, Chair
Dr. Browne
Dr. Roberts
Christine Blake, Public Member
Dr. Chung
Theresa Schimmels, PA-C
Dr. Trescott
Dr. Barrett, Medical Consultant
Marisa Courtney, Licensing Supervisor
Ariele Page Landstrom, Staff Attorney
Micah Matthews

Finance Workgroup
Dr. Roberts, Immediate Past Chair, Workgroup Chair
John Maldon, Current Chair
Dr. Trescott, 1st Vice Chair
Dr. Chung, 2nd Vice Chair
Melanie de Leon
Micah Matthews
Jimi Bush

Annual Educational Conference Workgroup
Toni Borlas, Chair
Theresa Schimmels, PA-C
Dr. Domino
Jimi Bush, Organizer

Commissioner Education Workgroup
Dr. Domino
Dr. Chung
Dr. Roberts
Toni Borlas, Public Member
Scott Rodgers, Public Member
Dr. Terman, Pro Tem Commissioner
Melanie de Leon
Amelia Boyd
Jimi Bush

Updated: April 14, 2021

Committees & Workgroups

WASHINGTON Medical Commission
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Reduction of Medical Errors Workgroup
Dr. Chung, Chair
John Maldon, Public Member
Dr. Roberts
Dr. Domino
Dr. Jaeger
Christine Blake, Public Member
Scott Rodgers, Public Member
Melanie de Leon
Mike Farrell

Osteopathic Manipulative Therapy Workgroup
Dr. Roberts
Dr. Currie
John Maldon, Public Member
Micah Matthews
Michael Farrell
Amelia Boyd
Heather Carter, AAG

Health Equity Workgroup
Dr. Jaeger, Co-Chair
Dr. Roberts, Co-Chair
Yanling Yu, Public Member
Micah Matthews
Jimi Bush
Anjali Bhatt

Office-Based Surgery Rules Workgroup
Dr. Domino
Dr. Roberts
John Maldon, Public Member
Mike Farrell
Ariele Page Landstrom
Melanie de Leon
Amelia Boyd

Healthcare Disparities Workgroup
Dr. Currie, Chair
Dr. Browne
Dr. Jaeger
Christine Blake, Public Member
Melanie de Leon

Collaborative Drug Therapy Agreements Rulemaking Committee
Dr. Roberts, Chair
Dr. Chung
Dr. Small
John Maldon, Public Member
Tim Lynch, PQAC Commissioner
Teri Ferreira, PQAC Commissioner
Melanie de Leon
Micah Matthews
Kyle Karinen, Staff Attorney
Amelia Boyd
Heather Carter, AAG
Laruen Lyles, Executive Director, PQAC
Christie Strouse, Deputy Director, PQAC
Lindsay Trant, DOH Rules Coordinator

PQAC E-prescribing Rulemaking Committee
Christine Blake, Public Member
Dr. Browne
Dr. Small
Melanie de Leon
Amelia Boyd
TBD, Staff Attorney
Heather Carter, AAG

Stem Cells Rulemaking Committee
TBD, Chair
TBD
Yanling Yu, Public Member
Micah Matthews
Mike Farrell
Amelia Boyd
Heather Carter, AAG

Updated: April 14, 2021

Committees & Workgroups

WASHINGTON Medical Commission
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Opioid Prescribing – Patient Exemptions Rulemaking Committee
Dr. Roberts, Chair
Dr. Small
Dr. Terman, Pro Tem Commissioner
James Anderson, PA-C
Melanie de Leon
Mike Farrell
Amelia Boyd
Heather Carter, AAG

Telemedicine Rulemaking Committee
Christine Blake, Public Member, Chair
Toni Borlas, Public Member
Dr. Small
Dr. Roberts
Dr. Lewis
Dr. Wohns
Dr. Jaeger
Dr. Lisa Galbraith, BOMS
Dr. Kim Morrissette, BOMS
Micah Matthews
Stephanie Mason
Mike Farrell
Amelia Boyd
Tracie Drake, Program Manager, BOMS

PA Chapter 246-918 WAC & HB 2378 Rulemaking Committee
James Anderson, PA-C, Chair
Theresa Schimmels, PA
Christine Blake, Public Member
Melanie de Leon
Mike Farrell
Amelia Boyd
Heather Carter, AAG

SB 6551 – IMG Licensing Rulemaking Committee
TBD, Chair
TBD
TBD, Public Member
Micah Matthews
Ariele Landstrom, Staff Attorney
Marisa Courtney, Licensing Supervisor
Dawn Thompson
Becca King
Stephanie Mason
Rick Glein, Staff Attorney
Amelia Boyd
Heather Carter, AAG

Please note, any committee or workgroup that is doing any stakeholder work or getting public input must hold open public meetings.

WMC Rules Progress Report								Projected filing dates		
Rule	**Status**	**Date**	**Next step**	**Complete By**	**Notes**	**Submitted to RMS**	**SBEIS Check**	**CR-101**	**CR-102**	**CR-103**
Clinical Support MDs & PAs (formerly Technical Assistance)	Final workshop	5/12/2021	Request initiating CR-102 process	5/14/2021	Keep Osteo updated.			Complete	July 2021	November 2021
Telemedicine	CR-101 filed	9/17/2019	Workshops	TBD	Keep Osteo updated.			Complete	TBD	TBD
Stem Cells	CR-101 Filed	4/21/2020	Workshops	TBD	Keep Osteo updated.			Complete	TBD	TBD
Opioid Prescribing - LTAC, SNF patient exemption	CR-101 filed	3/26/2020	Workshops	TBD				Complete	TBD	TBD
Collaborative Drug Therapy Agreements (CDTA)	CR-101 filed	7/22/2020	Workshops	TBD				Complete	January 2022	April 2022
Emergency Licensing Rules	Secretary Review	3/26/2020	File CR-105	TBD	Holding until proclamation is lifted.					
Chapter 246-918 WAC & HB 2378	CR-101 filed	11/19/2020	Workshops	April 2021	Collaborate with Osteo on HB 2378			Complete	July 2021	October 2021
SB 6551 - IMG licensing	CR-101 filed	8/6/2020	Workshops	TBD				Complete	TBD	TBD

Updated: 5/5/2021

New Section

Physicians

246-919-650
Clinical Support Program

(1) The purpose of the clinical support program is to address practice deficiencies identified in the course of an investigation. The clinical support program may include education, training, and monitoring to improve the quality of care and reduce the risk of patient harm.

(2) A clinical support plan is a written and signed agreement between the physician and the commission listing steps the physician may take to resolve practice deficiencies. A plan may include, but is not limited to, one of more of the following: practice changes, training, continuing medical education, or follow-up monitoring of the physician's clinical practice by the physician's current employer or other practice monitor approved by the commission.

(3) The commission may resolve an alleged practice deficiency through the clinical support program following an investigation of a complaint or a mandatory report.

(4) The commission shall use the following criteria to determine eligibility for the clinical support program:

(a) The alleged practice deficiency may be corrected by practice changes, education, training, monitoring, or any combination of these, and are unlikely to reoccur;

(b) Practice changes, education, training, or monitoring, or any combination of these, is sufficient to ensure patient protection;

(c) The physician agrees to participate in the clinical support program; and

(d) The commission has not authorized disciplinary action for the identified practice deficiency under RCW 18.130.172, RCW 18.130.170, or RCW 18.130.090.

(5) The commission has sole discretion to offer a clinical support plan to an eligible physician to resolve a complaint. A physician who accepts a clinical support plan waives any right to a hearing to modify the clinical support plan or challenge the commission's decision regarding successful completion of the clinical support plan.

(6) The commission shall use the following process to implement the clinical support program:

(a) After an investigation identifies an alleged practice deficiency, the commission will apply criteria in subsection (4) of this section to determine eligibility for the clinical support program;

(b) If all of the criteria are met, and the commission determines that the physician is eligible for participation in the clinical support program, the commission may propose a clinical support plan to the physician;

(c) The commission shall evaluate whether the practice deficiency or deficiencies have been corrected and are unlikely to reoccur;

(d) The commission may conduct additional investigation and consider disciplinary action if additional facts become known or circumstances change such that the physician is no longer eligible based on the criteria in subsection (4) of this section; and

(e) If the physician successfully completes the clinical support plan, the commission will close the matter without further action.

(7) Participation in the clinical support program is not disciplinary action and is not reportable to the National Practitioner Data Bank or the Federation of State Medical Boards.

New Section

Physician Assistants

246-918-380
Clinical Support Program

(1) The purpose of the clinical support program is to address practice deficiencies identified in the course of an investigation. The clinical support program may include education, training, and monitoring to improve the quality of care and reduce the risk of patient harm.

(2) A clinical support plan is a written and signed agreement between the physician assistant and the commission listing steps the physician may take to resolve practice deficiencies. A plan may include, but is not limited to, one of more of the following: practice changes, training, continuing medical education, or follow-up monitoring of the physician assistant's clinical practice by the physician assistant's current employer or other practice monitor approved by the commission.

(3) The commission may resolve an alleged practice deficiency through the clinical support program following an investigation of a complaint or a mandatory report.

(4) The commission shall use the following criteria to determine eligibility for the clinical support program:

(a) The alleged practice deficiency may be corrected by practice changes, education, training, monitoring, or any combination of these, and are unlikely to reoccur;

(b) Practice changes, education, training, or monitoring, or any combination of these, is sufficient to ensure patient protection;

(c) The physician assistant agrees to participate in the clinical support program; and

(d) The commission has not authorized disciplinary action for the identified practice deficiency under RCW 18.130.172, RCW 18.130.170, or RCW 18.130.090.

(5) The commission has sole discretion to offer a clinical support plan to an eligible physician assistant to resolve a complaint. A physician assistant who accepts a clinical support plan waives any right to a hearing to modify the clinical support plan or challenge the commission's decision regarding successful completion of the clinical support plan.

(6) The commission shall use the following process to implement the clinical support program:

(a) After an investigation identifies an alleged practice deficiency, the commission will apply criteria in subsection (4) of this section to determine eligibility for the clinical support program;

(b) If all of the criteria are met, and the commission determines that the physician assistant is eligible for participation in the clinical support program, the commission may propose a clinical support plan to the physician assistant;

(c) The commission shall evaluate whether the practice deficiency or deficiencies have been corrected and are unlikely to reoccur;

(d) The commission may conduct additional investigation and consider disciplinary action if additional facts become known or circumstances change such that the physician assistant is no longer eligible based on the criteria in subsection (4) of this section; and

(e) If the physician assistant successfully completes the clinical support plan, the commission will close the matter without further action.

(7) Participation in the clinical support program is not disciplinary action and is not reportable to the National Practitioner Data Bank or the Federation of State Medical Boards.

Guideline

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Sexual Misconduct and Abuse

". . . I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons . . . ."[1]

Introduction

Background

Sexual misconduct between practitioners and patients or key third parties detracts from the goals of the practitioner-patient relationship, exploits the vulnerability of the patient, obscures the practitioner's objective judgment concerning the patient's health care, and is detrimental to the patient's well-being. Abusive behavior by a practitioner can harm a patient. The Washington Medical ~~Quality Assurance~~ Commission (Commission) does not tolerate sexual misconduct or abuse in any form.

The Commission first adopted a policy on sexual misconduct in 1992. The Commission revised the policy in 1996 and again in 2002. In 2006, the Commission established separate rules prohibiting sexual misconduct and prohibiting abuse. The Commission issues these guidelines to increase practitioner awareness of the rules and to help practitioners maintain appropriate practitioner-patient boundaries.

Definitions

A "patient" is a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.[2]

A "practitioner"~~, as used in these guidelines,~~ is a physician licensed under Chapter 18.71 RCW or a physician assistant as licensed under Chapter 18.71A RCW.

[1] Excerpt from Hippocratic Oath, Fourth Century B.C.
[2] WAC 246-919-630(1)(a) and WAC 246-918-410(1)(a).

A "key third party" is a person in a close personal relationship with the patient and includes, but is not limited to spouses, partners, parents, siblings, children, guardians and proxies.[3]

Guideline

The Commission will not tolerate a practitioner engaging in sexual misconduct with a patient or key third party.

As stated in the rules, a practitioner engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party, whether or not it occurred outside the professional setting:

(a) Sexual intercourse or genital to genital contact;
(b) Oral to genital contact;
(c) Genital to anal contact or oral to anal contact;
(d) Kissing in a romantic or sexual manner;
(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;
(f) Examination or touching of genitals without using gloves, except for examinations of an infant or prepubescent child when clinically appropriate;
(g) Not allowing a patient the privacy to dress or undress;
(h) Encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present;
(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;
(j) Soliciting a date;
(k) ~~Engaging in a conversation~~ Communicating regarding the sexual history, preferences or fantasies of the physician.[4]

Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.[5]

Consent

A patient's or key third party's consent to, initiation of, or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct. The practitioner has full and sole responsibility to maintain proper boundaries. It is not a defense or a mitigating factor that the patient or key third party consented to, proposed, or initiated the sexual contact or the sexual or romantic relationship.

It is improper for a practitioner who engages in sexual misconduct with a patient or key third party to make efforts to avoid full and sole responsibility by pointing to the patient's or key third party's consent or initiation, or by making any other attempt to shift responsibility to the patient, for example, by asserting that the patient or key third party was seductive or manipulative.

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[3] WAC 246-919-630(1)(c) and WAC 246-918-410(1)(c).
[4] WAC 246-919-630 (physicians), WAC 246-918-410 (physician assistants).
[5] Id.

Termination of Practitioner-Patient Relationship

Once the practitioner-patient relationship has been established, the practitioner has the burden of showing that the relationship no longer exists. The mere passage of time is not determinative of the issue. Because of the varying nature of types of practitioner-patient relationships, variety of settings, differing practice types, and imbalance in power between practitioner and patient, individual analysis is essential. As stated in the rules, the Commission will analyze each case individually and will consider a number of factors including, but are not limited to, the following:

(a) Documentation of formal termination;
(b) Transfer of the patient's care to another health care provider;
(c) The length of time that has passed;
(d) The length of time of the professional relationship;
(e) The extent to which the patient has confided personal or private information to the physician;
(f) The nature of the patient's health problem;
(g) The degree of emotional dependence and vulnerability.

Some practitioner-patient relationships may never terminate because of the nature and extent of the relationship. These relationships may always raise concerns of sexual misconduct whenever there is sexual contact.[6]

Former Patients or Key Third Parties

As provided in the rules, a practitioner cannot engage in any of the above behaviors with a former patient or former key third party if the practitioner

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or
(b) Uses or exploits privileged information or access to privileged information to meet the physician's personal or sexual needs.

Diagnosis and Treatment

Sexual misconduct does not include conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

[6] Two opinions from the Washington Supreme Court provide guidance on the issue of whether a person is a current patient. In *Haley v. Medical Disciplinary Board,* 117 Wn.2d 1062 (1991), the court held that a patient whose contact with the surgeon was limited to the removal of her spleen and two follow up appointments was not a patient six months after the last follow up when a sexual relationship began. The court said that if the surgeon had been in another specialty that typically has an ongoing relationship with the patient, such as a family practitioner or an obstetrician-gynecologist, the court would have found differently. In *Heinmiller v. Dept. of Health,* 127 Wn.2d 595 (1995), the same court found that a social worker who began a sexual relationship with a patient one day after terminating the professional relationship had sex with a client in violation of RCW 18.130.180(24).

Abuse

The Commission will not tolerate a practitioner abusing a patient. As stated in the rules, a practitioner abuses a patient when he or she:

(a) Makes statements regarding the patient's body, appearance, sexual history, or sexual orientation that have no legitimate medical or therapeutic purpose;
(b) Removes a patient's clothing or gown without consent;
(c) Fails to treat an unconscious or deceased patient's body or property respectfully; or
(d) Engages in any conduct, whether verbal or physical, which unreasonably demeans, humiliates, embarrasses, threatens, or harms a patient.[7]

Discipline

Upon a finding that a practitioner has engaged in sexual misconduct or abuse, the Commission will impose one or more sanctions set forth in RCW 18.130.160. In some cases, revocation may be the appropriate sanction. In others, the Commission may restrict and monitor the practice of a practitioner who is actively engaging in a treatment program. When imposing sanctions, the Commission must first consider what sanctions are necessary to protect the public. Only after this is done may the Commission consider and include sanctions designed to rehabilitate the practitioner.

Recommendations to Practitioners

To help prevent sexual misconduct and abuse, and to help practitioners maintain good practitioner-patient boundaries, the Commission strongly recommends that a practitioner:

1. Consider having a chaperone present during examination of any sensitive parts of the body.
2. Be aware of any feelings of sexual attraction to a patient or key third party. The practitioner should discuss such feelings with a supervisor or trusted colleague. Under no circumstances should a practitioner act on these feelings or reveal or discuss them with the patient or key third party.
3. Transfer care of a patient to whom the practitioner is sexually attracted to another health care provider. Recognizing that such feelings in themselves are neither wrong nor abnormal, a practitioner should seek help in understanding and resolving them.
4. Be alert to signs that a patient or key third party may be interested in a sexual relationship. All steps must be taken to ensure that the boundaries of the professional relationship are maintained. This could include transferring the care of the patient.
5. Respect a patient's dignity and privacy at all times.
6. Provide a professional explanation of the need for each of the various components of examinations, procedures, tests, and aspects of care to be given. This can minimize any misperceptions a patient might have regarding the practitioner's intentions and the care being given.
7. Communicate with a patient in a clear, appropriate and professional manner. A practitioner should never engage in communication with a patient or key third party that could be

[7] WAC 246-919-640 (physicians), WAC 246-918-420 (physician assistants).

interpreted as flirtatious, or which employ sexual innuendo, off-color jokes, or offensive language.

8. Refrain from discussing the practitioner's personal problems, or any aspect of the practitioner's intimate life with a patient.

Number:	GUI2017-03
Date of Adoption:	June 30, 2017
Reaffirmed / Updated:	N/A
Supersedes:	MD2002-05

Referral of Sexual Misconduct Cases

Introduction

Background

The Washington Medical Commission is committed to protecting the health and safety of the citizens of Washington. The Commission treats complaints of sexual misconduct by physicians and physician assistants very seriously. The Commission adopted a policy on sexual misconduct in 1992 and adopted rules on sexual misconduct in 2006.

RCW 18.130.062, which took effect on June 12, 2008, governs the processing of sexual misconduct cases. That statute requires that each "board or commission shall review all cases and only refer to the secretary sexual misconduct cases that do not involve clinical expertise or standard of care issues."[1]

Definitions

Sexual misconduct:

1. Sexual contact with a patient in violation of RCW 18.130.180(24);
~~2. Conviction of a sex crime;~~ or
~~3.~~2. A violation of the Commission's rules on sexual misconduct, WAC 246-919-630 and WAC 246-918-410. See Appendix A.

Clinical expertise means the proficiency or judgment that a license holder in a particular profession acquires through clinical experience or clinical practice and that is not possessed by a lay person.[2]

Standard of care means the care, skill and learning required of a reasonably prudent practitioner acting in the same or similar circumstances.[3]

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[1] RCW 18.130.062. Authority of Secretary—Disciplinary Process—Sexual misconduct
With regard to complaints that only allege that a license holder has committed an act or acts of unprofessional conduct involving sexual misconduct, the secretary shall serve as the sole disciplining authority in every aspect of the disciplinary process, including initiating investigations, investigating, determining the disposition of the complaint, holding hearings, preparing findings of fact, issuing orders or dismissals of charges as provided in RCW 18.130.110, entering into stipulations permitted by RCW 18.130.172, or issuing summary suspensions under RCW 18.130.135. The board or commission shall review all cases and only refer to the secretary sexual misconduct cases that do not involve clinical expertise or standard of care issues.

[2] RCW 18.130.020(2).

[3] RCW 7.70.040. *See also* RCW 18.130.020(1~~1~~2).

Practitioner means a physician licensed under Chapter 18.71 RCW or a physician assistant licensed under Chapter 18.71A RCW.

Procedure

1. ~~A~~ Medical Commission staff member receives a complaint alleging a practitioner engaged in sexual misconduct. The staff member immediately notifies the Director of Investigations~~Executive Director~~ or designee~~.~~
2. If the ~~Executive~~ Director of Investigations or designee determines there is a possibility that there is an immediate threat to the public health and safety, the Commission and its staff follow the Commission's procedure on emergency cases.
3. If the Executive Director or designee determines there is no immediate threat the public health and safety, the Executive Director or designee brings the complaint to the next Case Management Team (CMT) meeting. A CMT meeting involves Medical Commission staff and a panel of at least three members of the Medical Commission and is held every Wednesday morning.
4. At the CMT meeting, if the Medical Commission panel authorizes the investigation, ~~and~~it sets the case as a Priority A. The panel then reviews the complaint to determine whether the complaint involves clinical expertise or standard of care issues in accordance with RCW 18.130.062.

~~5.~~ If the Medical Commission panel determines the case does not involve clinical expertise or standard of care issues, the panel promptly refers the case to the Secretary. ~~The staff attorney attending the CMT prepares a memo documenting the decision and places the memo in the case file to be transferred to the Secretary. A representative of the Medical Commission promptly delivers the file to a representative of the Secretary.~~

~~6.~~5. If the Medical Commission panel determines the case involves clinical expertise or standard of care issues, the panel directs the Director of Investigations to assign an investigator to promptly investigate the case. ~~The staff attorney attending the CMT prepares a memo documenting the decision, places the memo in the case file, and sends a copy of the memo to the representative of the Secretary. During the course of the investigation and adjudication of the complaint, the Commission will inform the representative of all developments and include the representative in all discussions concerning the case~~.

~~7.~~6. If the Medical Commission panel, after reviewing the complaint, cannot determine if the case involves clinical expertise or standard of care issues, the panel directs the Director of Investigations to assign an investigator to contact the complainant and/or key witness immediately.

~~8.~~7. A Medical Commission investigator immediately contacts the complainant and/or key witness to

a. inform the complainant and/or key witness that the Medical Commission takes the complaint very seriously,
b. ask whether the complainant and/or key witness is willing to waive the right to confidentiality under RCW 43.70.075,
c. obtain more information to determine whether emergency action is warranted, and
d. obtain more information to determine if the complaint involves clinical expertise or standard of care issues.

~~9.~~8. At the next CMT meeting, a Medical Commission panel meets to review the complaint and the memo of the investigator's contact with the complainant and/or key witness. The panel determines if the case involves "clinical expertise or standard of care issues" in accordance with RCW 18.130.062. The Commission then follows steps 5 and 6, above.

~~10.~~9. If there are multiple complaints against a practitioner, the Medical Commission reviews each complaint separately and promptly refers appropriate cases to the Secretary.

~~11.~~10. If, after the Medical Commission transfers a complaint to the Secretary, the Secretary wishes to consult with the Medical Commission regarding issues in the case, the Medical Commission will fully cooperate and provide support and guidance to the Secretary as needed to protect the public.

~~12.~~11. ~~If the Medical Commission transfers a complaint to the Secretary, and the Secretary issues a Statement of Charges against a practitioner, the practitioner may request that the Presiding Officer make a ruling to determine whether the case involves clinical expertise or standard of care issues. The Presiding Officer may set a timeline for this request to be made. If the Presiding Officer determines that the case involves clinical expertise or standard of care issues, the Secretary transfers the case back to the Medical Commission.~~[4]

Date of Adoption:	June 30, 2017
Reaffirmed / Updated:	None
Supersedes:	MD 2013-04; MD2008-08

Appendix A[5]

WAC 246-919-630 Sexual misconduct

(1) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature,

[4] Under RCW 18.130.050(10), a disciplining authority may not delegate to a presiding officer a case "pertaining to standards of practice or where clinical expertise is necessary."

[5] WAC 246-919-630 applies to physicians. WAC 246-918-410 applies to physician assistants. The two rules are virtually identical. Therefore, WAC 246-918-410 is not repeated here.

extent and context of the professional relationship between the physician and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician" means a person licensed to practice medicine and surgery under chapter 18.71 RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician shall not engage in sexual misconduct with a current patient or a key third party. A physician engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

(a) Sexual intercourse or genital to genital contact;

(b) Oral to genital contact;

(c) Genital to anal contact or oral to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves, except for examinations of an infant or prepubescent child when clinically appropriate;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) ~~Engaging in a conversation~~Communicating regarding the sexual history, preferences or fantasies of the physician.

(3) A physician shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

(6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

(7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

(8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

[Statutory Authority: RCW 18.71.017, 18.130.062, and Executive Order 06-03. WSR 16-06-010, § 246-919-630, filed 2/18/16, effective 3/20/16. Statutory Authority: RCW 18.130.180, 18.71.017, and 18.71A.020. WSR 06-03-028, § 246-919-630, filed 1/9/06, effective 2/9/06.]

Processing Complaints of Sexual Misconduct Through the Sexual Misconduct Analysis Review Team (SMART)

Introduction

The Washington Medical Commission takes very seriously complaints of sexual misconduct[1] against physicians and physician assistants. Sexual misconduct by physicians and physician assistants causes significant harm to patients and destroys the trust of the public in the profession. The Commission adopted a policy on sexual misconduct in 1992 and adopted rules on sexual misconduct in 2006.

In 2015, the Legislature mandated that all interviews of persons alleging sexual misconduct by a licensed health care provider must be conducted by a person who has successfully completed a training program on interviewing victims of sexual misconduct in a manner that minimizes the negative impact on the victims.[2] All Commission investigators successfully completed the training.

To improve its handling of complaints of sexual misconduct, the Commission adopts this Procedure to ensure that ~~create a team of~~ Commission members and attorneys ~~to~~who handle these complaints~~.~~ ~~The team members will~~ have specialized training in evaluating complaints of sexual misconduct, including an understanding of the impact of trauma on victims.

Creation of Sexual Misconduct Analysis Review Team (SMART)

The Commission creates a Sexual Misconduct Analysis Review Team (SMART). SMART will consist of at least twelve Commission members. Ideally, ~~S~~six members will be clinical members and six will be public members.

For the case review process[3], ideally, each of the existing panels will contain six SMART members, three of which are clinical members and three of which are public members.

[1] For the purposes of this procedure, a sexual misconduct case is one in which a practitioner is alleged to have violated RCW 18.130.180(24), WAC 246-918-410 or WAC 246-919-630.
[2] RCW 18.130.062(2).
[3] In the case review process, the Commission breaks into two panels, Panel A and Panel B. Each panel reviews completed investigations and decides whether to take disciplinary action or to close the case.

The SMART members will complete training in investigating and evaluating complaints of sexual misconduct by health care providers. If a SMART member leaves the Commission, another Commission member must complete the training before joining SMART.

All Commission staff attorneys must complete the same training before being assigned to a case involving sexual misconduct.

Procedure

1. When a complaint is authorized for investigation, the Commission Medical Consultant will assign two SMART members to serve as reviewing commission members (RCMs), one clinical member and one public member. Both sexes will be represented. These SMART RCMs may direct the investigation of the complaint, communicating with the investigator as needed during the course of the investigation.
2. Upon completion of the investigation, the SMART team will jointly present the case to a panel of the Commission to determine whether to take disciplinary action.
3. If the panel votes to take disciplinary action, the SMART RCMs will direct the settlement process.
4. If the SMART RCMs reach a settlement with the practitioner, they will present the settlement to a panel of the Commission for approval. The practitioner must appear before the panel at the time of the presentation of the settlement and answer questions from the panel members.
5. If the case is not resolved with a settlement, the case will proceed to a formal hearing before a panel of the Commission. The hearing panel should include a SMART member, and, as stated in the Panel Composition Procedure, ~~T~~the hearing panel ~~will~~should include~~:~~ a public member and a should include a member of each gender.

    - ~~At least three current Commission members;~~
    - ~~At least one SMART member from the panel that did not order the statement of charges; and~~
    - ~~Both sexes will be represented.~~

6. During the compliance process, the SMART RCMs will continue to manage the case. If a SMART RCM leaves the Commission, the Commission will appoint a SMART member to replace the departing member. The new RCM will have the same traits as the departing member (clinical member or public member).

Date of Adoption:	January 13, 2017
Reaffirmed / Updated:	N/A
Supersedes:	None.

Staff Reports: May 2021

Melanie de Leon, Executive Director

Laptop rollout: Most commissioners have received their DOH-issued laptops or are working with Mike Hively to receive it. While not all Commissioners are having a better IT experience using these laptops, for the most part, it has been a success. As we move back to in-person meetings, I hope that using these laptops at the meetings will also be helpful. As new Commissioners are on-boarded, we will issue them a laptop for their use during the duration of their term(s) on the Commission.

Staffing Updates:

- Elizabeth Larose, HSC 1, joined the Licensing Unit on May 3rd.
- Lynnel Miller, Paralegal 1, will be joining the Legal Unit on June 16th.

Micah Matthews, Deputy Executive Director

Recurring: Please submit all Payroll and Travel Reimbursements within 30 days of the time worked or travelled to allow for processing. Request for reimbursement items older than 90 days will be denied. Per Agency policy, requests submitted after the cutoff cannot be paid out.

Amelia Boyd, Program Manager

Recruitment

Dr. Sarah Lyles has been appointed to fill the Congressional District 2 vacancy. Dr. Janet Barral has been appointed as a Pro Tem.

The following Commissioner terms ended June 30, 2020:

- Congressional District 6 – Claire Trescott, MD – eligible for reappointment
- Congressional District 8
- Physician-at-Large – Karen Domino, MD – eligible for reappointment

Recommendations have been sent to the Governor's office.

We also have a vacancy for a Public Member and the recommendations for that position have been sent to the Governor's office.

On June 30, 2021 we will have the following vacancies:

- Congressional District 1 – Jimmy Chung, MD – eligible for reappointment
- Congressional District 7 – Charlotte Lewis, MD – not eligible for reappointment
- Physician Assistant – Theresa Schimmels, PA-C – not eligible for reappointment

The application deadline for these positions was May 5, 2021.

Amelia Boyd, Program Manager, continued

We are also seeking physicians with the following specialties to serve as Pro Tem Members:

- Radiologist
- Psychiatrist

If you know anyone who might be interested in serving as a Pro Tem, please have them email me directly at amelia.boyd@wmc.wa.gov.

Rules

We have 8 rulemaking efforts in progress. For more information, please see the Rules Progress Report in this packet.

Melissa McEachron, Director of Operations and Informatics

Subpoenas for Records and other Compulsory Records Responses: We continue to work through the multiple subpoenas and requests. Also, we received 3 additional subpoenas, since our last report.

Archiving: Electronic files from Case Management Team meetings are prepared for archiving weekly. In addition, we started the digital archiving process for licensing applications.

Demographics: Staff members continue to enter Demographic census information into ILRS daily.

Morgan Barrett, MD, Medical Consultant

The Compliance Program is very happy to have Anthony Elders as our long awaited second Compliance Officer. Mike Kramer has kept the Compliance Program viable for many months during recruitment and I want to my express appreciation for his incredible work ethic.

George Heye, MD, Medical Consultant

Nothing to report.

Rick Glein, Director of Legal Services

Summary Suspensions:

In re Ati U. Yates, MD, Case No. M2021-49. On February 19, 2021, a Health Law Judge (HLJ), by delegation of the Commission, ordered that Dr. Yates' medical license be summarily suspended pending further disciplinary proceedings. The Statement of Charges (SOC) alleges that on or about July 10, 2020, Dr. Yates entered into a Stipulated Order with the Oregon Medical Board surrendering her license to practice as a physician and surgeon in that jurisdiction while under investigation for unprofessional conduct. Dr. Yates has waived her right to hearing or settlement and a Final Order will be issued based on the facts available to the Commission.

In re Cara A. Oliver, MD, Case No. M2020-1038. On April 6, 2021, The Commission ordered that Dr. Oliver's medical license be suspended pending further disciplinary proceedings. The

SOC alleges Dr. Oliver is unable to practice with reasonable skill and safety. As of the writing of this staff report, Dr. Oliver has not filed an Answer to the SOC.*

In re Scott Owen Davis, MD, Case No. M2020-419. On April 27, 2021, the Commission suspended Dr. Davis' medical license pending further disciplinary proceedings. The Amended SOC includes allegations that Dr. Davis established a pattern of repeatedly crossing appropriate physician-patient and key third party boundaries, praying with patients and key third parties, and talking about his marriage with patients and key third parties. As of the writing of this staff report, Dr. Davis has not filed an Answer to the Amended SOC.*

* The license holder must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. RCW 18.130.090

Orders Resulting from SOCs:

In re Mark C. Rose, MD, Case No. M2020-215. Final Order of Default (Failure to Respond).** On December 9, 2020, a HLJ, by delegation of the Commission, ordered that Dr. Rose's medical license be suspended pending further disciplinary proceedings. The SOC alleges that Dr. Rose and the Oregon Medical Board entered into a Stipulated Order in which Dr. Rose agreed to surrender his Oregon medical license while under investigation. Dr. Rose did not file a response to the SOC within the time allowed. The matter came before a HLJ in April 2021. The HLJ concluded sufficient grounds existed to take disciplinary action against Dr. Rose's license and ordered that his license to practice as a physician and surgeon be indefinitely suspended.***

In re Rajninder Jutla, MD, Case No. M2020-230. Final Order.** On June 23, 2020, the Commission summarily suspended Dr. Jutla's medical license pending further disciplinary proceedings. The SOC filed alleges that the Oregon Medical Board revoked Dr. Jutla's license to practice medicine in Oregon based on failure to meet the standard of care while treating chronic pain patients and failing to timely file an answer to the Oregon complaint. A virtual hearing was held in this matter March 8, 2021, regarding the merits of the SOC. A Final Order dated April 27, 2021, concluded that the Commission proved by a preponderance of the evidence and clear and convincing evidence that Dr. Jutla committed unprofessional conduct. Dr. Jutla's license is indefinitely suspended pending approval of a practice monitor, whereupon she may apply for reinstatement of her license. Upon reinstatement, Dr. Jutla will be placed on oversight for at least two years during which time she will be subject to practice monitor review and records review; obtain continuing education in the areas of chronic pain management, ethics, and record keeping; and personally appear before the Commission.

**Either party may file a petition for reconsideration within ten days of service of the order. RCW 34.05.461(3); 34.05.470. A petition for judicial review must be filed and served within 30 days after service of the order. If a petition for reconsideration is filed, the 30-day period does not start until the petition is resolved. RCW 34.05.542; 34.05.470(3).
***A person whose license has been suspended under chapter 18.130 RCW may petition the disciplining authority for reinstatement. RCW 18.130.150.

Rick Glein, Director of Legal Services, continued

Virtual Hearings:

In re Timo W. Hakkarainen, MD, Case No. M2019-877. The Commission initially served a SOC in this matter on September 9, 2020. The Commission served an Amended SOC on March 26, 2021, alleging that Dr. Hakkarainen's medical care of a patient fell below the standard. A virtual hearing was held in this matter April 28-30, 2021, regarding the merits of the Amended SOC. A Final Order is expected to be issued by the HLJ in early August 2021.****

****The HLJ has 90 days after the conclusion of the hearing to issue a decision.

Mike Farrell, Policy Development Manager

Nothing to report outside of the items on the policy committee agenda and the rules process.

Freda Pace, Director of Investigations

New addition: On April 16th, we welcomed Natalie Oakes as one of our newest investigators - Health Care Investigator 1 (She is filling Jim Noss' vacancy).

Quick background about Natalie – she brings with her a bachelors degree from Brigham Young University (English) and an associates degree from South Puget Sound Community College (General Studies). She has 4 years of experience as an Human Resources Consultant with the Department of Health, with a total of 6 years of state service already in the books. We are glad to have Natalie with us and look forward to putting her many skills to work with the Commission.

CMT Stats for the Quarter, brought to you by Mr. Christopher Waterman:

Quarter 1	Cases reviewed	Authorized		Closed	
2020	329	91	27.66%	238	72.34%
2021	**403**	**134**	**33.25%**	**269**	**66.75%**

From 2020 to 2021 we had a first quarter increase of cases reviewed by 74 or 22.4%.
We had 43 additional authorizations in first quarter from the year past. First quarter last year, we reviewed 329 cases. This year we reviewed 403.

Reminder: Please visit our CMT Signup sheet to fill vacancies beginning in May throughout the remainder of the year. If you have any questions about the signup process, please reach out to Chris Waterman at chris.waterman@wmc.wa.gov. If you have any other concerns related to CMT or Investigations, please do not hesitate to reach me at freda.pace@wmc.wa.gov.

Jimi Bush, Director of Quality and Engagement

CME Webinars

With the uncertainty of being able to provide an in-person conference in October, we are continuing with the ongoing webinar series. We received a grant from FSMB to offset the

Jimi Bush, Director of Quality and Engagement, continued

costs of these educational efforts. Please let me know if you have a suggestion for a speaker or topic. Upcoming Webinars and on-demand CME can be accessed on our website.

Special **THANK YOU** for providing a webinar or suggesting a topic:

- Dr. Currie
- Mr. Maldon
- Dr. Chung
- Mr. Anderson
- Ms. Schimmels
- Dr. Roberts
- Dr. Terman
- Mike Farrell
- Stephanie Mason
- Sarah Chenvert
- Marisa Courtney
- Emma Marienthal
- Richelle Little

Newsletter

The summer edition of the newsletter will go out a the end of June, if you have a suggestion for an article, please let me know and I will get in touch with you.

Performance

The fiscal year ends July 1st, and with that comes the annual performance report. We will be addressing COVID impacts amongst our regular KPIs. If there is something specific you would like for us to include in this years report, please let me know. The 2020 report can be viewed here.

FSMB Journal of Medical Regulation

We have been asked by the JMR to author a piece on our recidivism research. If you are interested in helping us proof and enhance the paper, please let me know.

Marisa Courtney, Licensing Manager

Total licenses issued from 03/31/2021-04/30/2021- 399

Credential Type	Total Workflow Count
Physician And Surgeon County/City Health Department License	0
Physician And Surgeon Fellowship License	3
Physician And Surgeon Institution License	0
Credential Type	**Total Workflow Count**
Physician And Surgeon License	250

Marisa Courtney, Licensing Manager, continued	
Credential Type	**Total Workflow Count**
Physician and Surgeon License Interstate Medical Licensure Compact	29
Physician And Surgeon Residency License	66
Physician And Surgeon Teaching Research License	0
Physician And Surgeon Temporary Permit	2
Physician Assistant Interim Permit	0
Physician Assistant License	49
Physician Assistant Temporary Permit	0
Totals:	**236**

Information on Renewals: March Renewals: 70.06% online renewals

Credential Type	# of Online Renewals	# of Manual Renewals	Total # of Renewals
IMLC	0	34	34
MD	960	394	1354
MDTR	2	1	3
PA	168	54	222
	70.06%	**29.94%**	**100.00%**

Information on Renewals: April Renewals: 68.40% online renewals

Credential Type	# of Online Renewals	# of Manual Renewals	Total # of Renewals
IMLC	0	34	34
MD	803	359	1162
MDRE	9	0	9
MDTR	2	4	6
PA	160	53	213
	68.40%	**31.60%**	**100.00%**

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Panel A
Personal Appearance Agenda

Friday, May 14, 2021

In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for these meetings. Virtual public meetings, without a physical meeting space, will be held instead.

Please join this meeting from your computer, tablet or smartphone:

https://global.gotomeeting.com/join/243475405

Panel Members: Jimmy Chung, MD, Panel Chair; James Anderson, PA-C; Charlie Browne, MD; Charlotte Lewis, MD; Yanling Yu, PhD, Public Member; Scott Rodgers, Public Member; Robert Small, MD; Richard Wohns, MD; Alan Brown, MD, Pro-Tem; Mary Curtis, MD, Pro-Tem

Compliance Officer: Anthony Elders

9:45am	**Laurel R. Harris, MD** Attorney: Erin Seeberger, Jennifer G. Crisera	M2019-409 (2019-10859) RCM: Mary Curtis, MD SA: Mike Farrell
10:30am	**Susana J. Escobar, MD** Attorney: Robin J. Mar	M2019-256 (2018-10704 et al.) RCM: James Anderson, PA-C SA: Colleen Balatbat
11:15 a.m.	**Benigno W.A. Dagan, MD** Attorney: Pro Se	M2019-990 (2018-14462) RCM: Jimmy Chung, MD SA: Larry Berg
Lunch Break		
1:15 p.m.	**Jeffrey S Pierson, MD** Attorney: Pro Se	M2011-1169 (2012-720 et al.) RCM: Scott Rodgers, Public Member SA: Trisha Wolf
2:00 p.m.	**Tracey B Shirk, MD** Attorney: Pro Se	M2019-705 (2019-99) RCM: Yanling Yu, PhD, Public Member SA: Kyle Karinen

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Panel B

Personal Appearance Agenda

Friday, May 14, 2021

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Please join my meeting from your computer, tablet or smartphone:

https://global.gotomeeting.com/join/345525861

Panel Members: April Jaeger, MD, Panel Chair
Toni Borlas, Public Member
Diana Currie, MD
Karen Domino, MD
Christine Hearst, Public Member
John Maldon, Public Member
Terry Murphy, MD
Alden Roberts, MD
Theresa Schimmels, PA-C
Claire Trescott, MD
Gregory Terman, MD, Pro Tem

Compliance Officer: Mike Kramer

9:45am	**Keith A. Luther, MD** Attorney: Pro Se	M2016-861 (2016-1813) RCMs: Toni Borlas, Public Member SA: Mike Farrell
10:30am	**Malcolm A. Whitaker, MD** Attorney: Gerald R. Tarutis	M2019-1005 (2019-8529) RCM: Terry Murphy, MD SA: Trisha Wolf
11:15 a.m.	**Victor O. Brooks, MD** Attorney: Pro Se	M2014-970 (2015-10678 et al.) RCM: Claire Trescott, MD SA: Kyle Karinen
LUNCH BREAK		
1:15 pm	**Wallace R Hodges, MD** Attorney: Pro Se	M2012-1282 (2012-8560) RCM: Claire Trescott, MD SA: Larry Berg
2:00 pm	**Alaine Nijenhuis, PA-C** Attorney: Levi S. Larson	M2019-1115 (2019-7497) RCM: Alden Roberts, MD SA: Colleen Balatbat

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