

Processing Complaints Against Medical Students, Residents, and Fellows

Introduction

In carrying out its disciplinary role to protect the public, the Washington Medical Commission (WMC) occasionally receives complaints¹ against medical students, residents and fellows. Because of the highly-supervised environment in which they practice, the WMC creates this procedure for processing complaints against medical students, residents and fellows.²

Medical students are not required to have a license to practice medicine. They are legally permitted to practice medicine in an accredited school of medicine so long as the practice is pursuant to a regular course of instruction or assignments from an instructor, or performed under the supervision or control of a licensed physician.³ Since medical students are in the early stages of learning in a highly structured and supervised environment, the dean of the medical school is often better equipped to address a concern than the WMC

Residents and fellows, who may or may not possess a license to practice medicine,⁴ do not practice independently. Rather, they practice in a learning environment with continuous evaluation and feedback designed to develop the skills to be a competent physician. An attending physician is responsible for training residents and fellows as to the proper standards of care and appropriate behavior. The attending physician is therefore in a better position to manage concerns than the WMC. If, however, a resident or fellow practices outside the program and independent of the supervision of the attending physician, such as in a moonlighting setting, the WMC is the appropriate entity to address concerns and take action if necessary.

If a complaint alleges that a resident or fellow engaged in reckless behavior or gross misconduct, the WMC may investigate the complaint against the resident or fellow, and may choose to open an investigation on the attending physician as well.

Procedure

A. Complaints against medical students

1. A panel of the WMC reviews a complaint against a medical student.

¹ For the purpose of this procedure, the term “complaint” includes a mandatory report under [RCW 18.130.070](#) and [18.130.080](#).

² A fellow is a physician who has completed a residency and is pursuing further training in a medical specialty.

³ Both residents and fellows are exempt from the license requirement under [RCW 18.71.030\(8\)](#) if they are in a program of clinical medical training sponsored by a college or university or hospital in this state and the performance of medical services are pursuant to their duties as residents and fellows. Although not required, many residents and fellows obtain a full license or a limited license under [RCW 18.71.095\(3\)](#) or [\(4\)\(b\)](#).

⁴ [RCW 18.71.030\(8\)](#).

2. The panel may close the case and refer the matter to the dean of the medical school in which the medical student is enrolled, unless the panel believes that the medical student may have engaged in reckless behavior or gross misconduct. In such a case, the panel may choose to investigate the complaint.

B. Complaints against residents and fellows

1. A panel of the WMC reviews a complaint against a resident or fellow.
2. If the panel believes there was a breach of the standard of care, but there was no gross negligence or other reckless behavior, the panel will change the name of the case from the resident or fellow to the name of the attending physician.
3. If the panel believes that the resident or fellow engaged in reckless behavior or gross misconduct, the panel may decide to investigate the resident or fellow, and may open a new case and investigate the attending physician as well.
4. If the panel believes that the resident or fellow was practicing without the supervision of a license supervisor in an approved training program, such as in a moonlighting environment, the panel will treat the resident or fellow as it would any other licensed physician. The panel may decide to investigate the resident or fellow and will not hold the attending physician responsible for actions of the resident or fellow.
5. If the WMC takes disciplinary action against the attending physician, the WMC may consider restricting the attending physician from the training of residents or fellows, though the WMC is not limited to this particular sanction.

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Introduction

In carrying out its disciplinary role to protect the public, the Washington Medical Commission ([WMC Commission](#)) occasionally receives complaints¹ against medical students, residents and fellows. Because of the highly-supervised environment in which they practice, the [WMC Commission](#) ~~provides~~~~creates~~ this procedure for processing complaints against medical students, residents and fellows.²

Medical Students

Medical students are not required to have a license to practice medicine. They are legally permitted to practice medicine in an accredited school of medicine so long as the practice is pursuant to a regular course of instruction or assignments from an instructor, or performed under the supervision or control of a licensed physician.³ Since medical students are in the early stages of practicing medicine, and monitored learning in a highly structured, ~~and~~ supervised environment, ~~the dean of the~~ medical school deans are often better equipped to address ~~a~~ concerns than the [WMC Commission](#).

However, if the Commission receives a complaint involving reckless behavior or gross misconduct by a medical student, the Commission may choose to investigate the complaint.

Residents and Fellows

¹ For the purpose of this procedure, the term "complaint" includes a mandatory report under [RCW 18.130.070](#) and [18.130.080](#).

² A fellow is a physician who has completed a residency and is pursuing further training in a medical specialty.

³ [RCW 18.71.030\(8\)](#). ~~Both residents and fellows are exempt from the license requirement under RCW 18.71.030(8) if they are in a program of clinical medical training sponsored by a college or university or hospital in this state and the performance of medical services are pursuant to their duties as residents and fellows. Although not required, many residents and fellows obtain a full license or a limited license under RCW 18.71.095(3) or (4)(b).~~

~~Postgraduate clinical training programs generally require each of their residents and fellows to obtain a limited license which permits them to practice medicine in connection with their duties as a resident or fellow. do not practice independently. Rather, the~~ By design within their program, their practice of medicine occurs ~~practice~~ in a learning environment with continuous evaluation and feedback ~~designed processes to~~ cultivate ~~develop~~ the skills necessary to be a competent physician. ~~An attending physician~~ is responsible for training ~~their residents and fellows~~ residents and fellows on ~~as to~~ the proper standards of care and appropriate behavior ~~professional conduct involving the practice of medicine. Due to established supervisory roles within training programs, a program director is~~ The attending physician is generally therefore in a better position than the Commission to manage concerns involving one of their residents or fellows ~~than the WMC.~~

However, a limited license does not shield a resident, fellow or their supervising attending physician from possible discipline by the Commission involving reckless behavior or gross misconduct; additionally, a limited license does not authorize a resident or fellow to engage in any practice of medicine outside of their program. If, ~~however,~~ a resident or fellow practices medicine outside of their program and independent of the supervision of the attending physician, such as in a moonlighting setting, the WMC-Commission is the appropriate entity to address concerns/complaints, and to take action if necessary. Additionally,

if a complaint alleges that a resident or fellow engaged in reckless behavior or gross misconduct, the Commission/WMC may open an investigation ~~one the complaint against the resident or fellow~~, and may choose to open an investigation on the attending physician as well.

Procedure

A. Complaints against medical students will be handled in the following manner.

1. A panel of the Commission/WMC reviews a complaint against a medical student.
2. The panel may close the case and refer the matter to the dean of the medical school in which the medical student is enrolled, unless the panel believes that the medical student may have engaged in reckless behavior or gross misconduct. In such a case, the panel may choose to investigate the complaint.

B. Complaints against residents and fellows will be handled in the following manner.

1. A panel of the WMC-Commission reviews a complaint against a resident or fellow.
2. If the panel believes there was a breach of the standard of care, but there was no gross negligence-misconduct or ~~other~~ reckless behavior, the panel will change the name of the case from the resident or fellow to the name of the attending physician.

⁴~~RCW 18.71.030(8). Both residents and fellows are exempt from the license requirement under RCW 18.71.030(8) if they are in a program of clinical medical training sponsored by a college or university or hospital in this state and the performance of medical services are pursuant to their duties as residents and fellows. Although not required, many residents and fellows obtain a full license or a limited license under RCW 18.71.095(3) or (4)(b).~~

- ~~3.~~ If the panel believes that the resident or fellow engaged in reckless behavior or gross misconduct, the panel may decide to ~~investigate~~ open an investigation on the resident or fellow, and may ~~choose to open a new case and investigate~~ open an investigation on the attending physician as well.
- ~~3.~~ If the panel receives a complaint that the resident or fellow is impaired or potentially impaired as the result of a health condition, the panel may open an investigation and consider making a simultaneous referral to the Washington Physicians Health Program (WPHP). If WPHP determines that a resident or fellow may be unable to practice with reasonable skill and safety and that the resident or fellow is not following the requirements of the program, WPHP will make a report to the Commission pursuant to its statutory reporting obligations (RCW 18.71.320 and RCW 18.130.175). The Commission may choose to weigh WPHP's experience and expertise, the trust it places in WPHP as the Commission's approved physician health program, and WPHP's statutory reporting obligations, in evaluating the credibility and seriousness of the report.
- ~~4.~~
- ~~4.~~ If the panel believes that ~~at the~~ resident or fellow was practicing independently outside of their program and without the supervision of ~~an attending physician~~ a license supervisor in an approved training program, such as in a moonlighting environment, the panel ~~will treat the resident or fellow as it would any other licensed physician. The panel~~ may decide to investigate the resident or fellow ~~but and~~ will not hold ~~an the~~ attending physician or program director responsible for actions of the resident or fellow.
- ~~5.~~
6. If the Commission takes disciplinary action against an attending physician, the Commission may consider restricting them from the training of residents or fellows, though the Commission is not limited to this particular sanction.

~~If the WMC takes disciplinary action against the attending physician, the WMC may consider restricting the attending physician from the training of residents or fellows, though the WMC is not limited to this particular sanction.~~

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