

Message from the Chair



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What Happens when my Malpractice Claim is Reported to the WMC?

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When I was an employed risk management professional, I was aware of the Washington Medical Commission (WMC) medical malpractice reporting requirements. I knew WMC required a detailed report of the medical malpractice event together with supporting medical records as well as the dollar value of the settlement. What I did not know is what happened to the reports. What took so long for a response from WMC? Why were some cases investigated by WMC while other cases were closed without an investigation? What criteria was used to determine either to investigate or close a case? Whether WMC decided to investigate or not seemed a little inconsistent as some cases that I thought were candidates for investigation often were closed while some cases that were settled for economic reasons rather than standard of care issues were investigated. The process seemed a bit mysterious and at that time was not subject to question.

Now that I am an enlightened WMC commissioner I understand the process and - more importantly - any respondent (physician or physician assistant) can call a WMC representative at any time and ask questions about the status of their case.

Uniform Disciplinary Act, RCW 18.130.180, defines unprofessional conduct providing the basis for the medical complaint process against medical licensees in the state of Washington.

RCW 18.71.350 defines the requirements for reporting to WMC all medical malpractice settlement payments in excess of \$20,000 for a physician's incompetency or negligence in the practice of medicine. The payor must report the settlement amount and description of the circumstances of the claim within sixty days of the date the settlement payment is made. Examples of payors include medical malpractice insurance companies, excess insurance companies, self-insured entities, and reciprocal risk retention groups. Any method of reporting a settlement is acceptable at the discretion of the payor. For example, a letter with optional supporting documents may be used to file a report. Insurers typically report settlement payment using the National Practitioner's Data Bank (NPDB) form since all settlements of any value are required to be reported to the NPDB.

So, what is the process when WMC receives a medical malpractice settlement report? All physician and physician assistant complaints including malpractice settlement reports are reviewed each week by a Case Management Team (CMT). The CMT is composed of

three medical providers and one public member. The decision to authorize an investigation or not depends on a variety of factors. The available medical facts of the case are the primary consideration in the decision to authorize an investigation or close a case. Unfortunately, the reports often do not contain enough information to make a decision to authorize or close a case. This usually leads to authorizing an investigation. Offsetting the decision to authorize an investigation, may include the length of time from the date of treatment to the date a claim or judgment is paid. It is not unusual for a malpractice claim to take five years or more to conclude making an investigation difficult to obtain relevant case documentation.

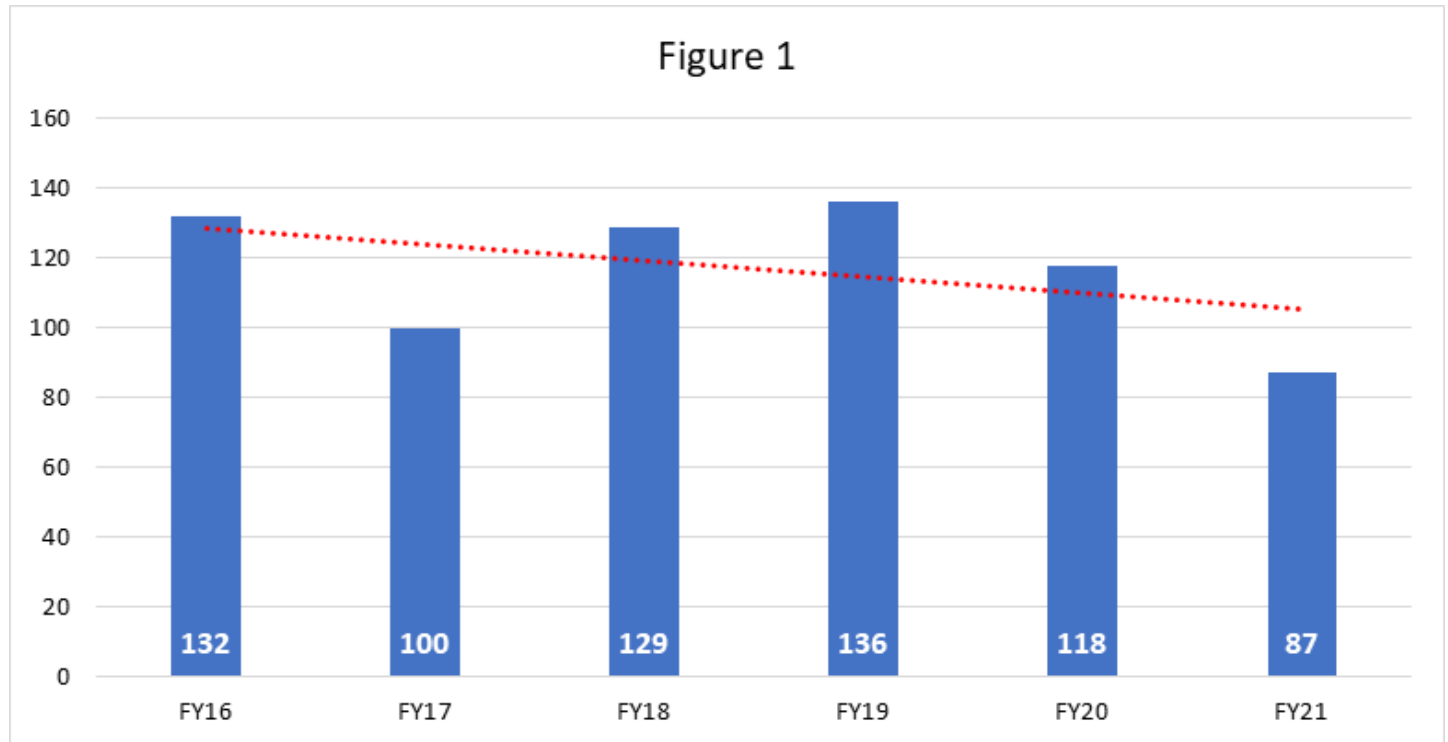
CMT decision makers might also conclude that a respondent may have learned from the malpractice experience and improved their practice, which is the one of the goals of the WMC disciplinary process. On the other hand, a respondent's lengthy complaint history or no complaint history may contribute to the decision.

Lastly, although not usually a determining factor is the settlement amount. An unclear description of the treatment event and a large settlement might lead to an authorization of an investigation. While a small dollar settlement figure might lead to the conclusion that the standard of care was met, and the settlement is a reflection of a cost of defense settlement.



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The following graph depicts the number of malpractice reports received by WMC in the past five years and the number of reports received to date in 2021. The number of reported cases is fairly consistent on an annualized basis with a 5 year average of 123 reports per year.



Medical malpractice report outcomes are reflected in the next graph. Ninety percent of the reported malpractice cases are closed either before or after investigation. A relatively small number of reported cases result in discipline with just seven percent of the reported cases resulting in discipline.



In the event there are questions about the medical malpractice reporting process, please contact medical.commission@wmc.wa.gov.