

Executive Director Report



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

The Investigative Process

Melanie de Leon, JD, MPA

Occasionally the WMC receives questions about how our investigative process works. Our first response is that it is entirely dictated by statute and rules as the WMC is authorized under RCW 18.130.050(2) to investigate all complaints or reports of unprofessional conduct. But it is important that we further explain our processes, so we can be as transparent as possible to our stakeholders.

Our investigation phase begins with a review of the complaint by our case manager to determine if the person who filed the complaint (the “complainant”) is a “whistleblower” and would fall under the protection of RCW 43.70.075. If the complainant is the patient, employee of the institution where the healthcare was provided or a healthcare professional, their identity is confidential unless they waive that confidentiality. In certain situations, the WMC may not be able to investigate a case without releasing the identity of the complainant to the practitioner, so in those cases, we request the complainant waive their right to confidentiality. If they do, we proceed with the investigation; if they do not, we may close the complaint without taking any further action.

Upon receiving a whistleblower waiver, the complaint is assigned to an investigator and a reviewing commission member (RCM).

The RCM

Under RCW 18.130.050(11), the RCM is authorized to direct investigations. If possible, we try to match the specialty of the physician whom the complaint is against (we call this person the Respondent) with the specialty of the RCM. If the WMC does not have a matching specialty, we try to make the best match possible. We also can employ an expert in that specialty if needed.

The Investigator

The WMC has two types of investigators on staff: clinical and non-clinical. Clinical Healthcare Investigators must be currently licensed as a MD, DO, PA, ARNP or RN. They typically complete investigations regarding standard of care. Non-clinical Healthcare Investigators typically complete cases regarding sexual misconduct, fraud, actions taken in other states and other non-care centered complaints.

The assigned investigator reviews the complaint and sends out the initial notification letter of the complaint to the Respondent along with a redacted copy of the complaint if the allegations are not regarding sexual misconduct. The investigator is the Commission’s point

of contact for the Respondent throughout the duration of the investigation.

Investigators work with the RCM to plan the investigation and then complete that plan. **A typical investigation includes gathering documents, usually medical records regarding the allegations and interviewing the person who filed the complaint and other fact witnesses.** Our interviews are usually completed via phone, especially in the past 18 months.

After examining all the external sources, the investigator contacts the Respondent – in writing – with questions for the Respondent to answer. In most cases, the Respondent has an attorney who responds to that letter; however, we do work with non-represented doctors and physician assistants in the same manner. Under WAC 246-919-620, Respondents have 21 calendar days to respond to this letter and investigators may give one extension for good cause for up to 30 days. Also, under WAC 246-14-050, the basic time period for an investigation is 170 days.

Once the investigation is completed, the case file is provided to the RCM and assigned to a staff attorney for review. Then the complaint moves into the next phase of the process – case disposition. The next article provided by the WMC will review the case disposition process, as well as the final step in the disciplinary process – compliance. Stay tuned!

