

Message from the Chair



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

Medical Commission Perception

John Maldon

I am certain there are no physician or physician assistant licensees who welcome a Washington Medical Commission (WMC) inquiry into a medical practice event. However, the WMC in its' regulatory role has the primary responsibility of protecting the public. The Mission Statement succinctly states the role of the WMC. It states, "We promote patient safety and enhance the integrity of the profession through licensing, discipline, rulemaking and education."

The WMC licensing responsibility includes being certain that all new license requests meet the rigorous standards established by the medical commission and in many instances by legislative mandate. My early training began in the insurance industry. So, as a member of the licensing committee, I draw a parallel to insurance underwriting when deciding whether a license applicant meets all the requirements established by the legislature and the WMC before a license is granted.

One might therefore conclude that strict licensing requirements leads to the delivery of consistent quality care. But there obviously is way more to the story. The delivery of medical care is likely the most complicated endeavor of all professions. The human anatomy, disease processes, the state of the art of medicine, communications, pharmaceuticals, medical facilities just to name a few contribute to the complexity of delivering consistent quality care. This complexity can lead to medical errors and poor medical outcomes that can lead to complaints of care.

It seems there is a misconception that the WMC makes complaints against physicians and physician assistants. The WMC does not generate complaints against licensees with the rare exception of illicit or illegal activities by licensees generally reported in the media or by law enforcement. Virtually all complaints are made by patients, patient's families, patient's attorneys, mandatory reporters who are colleagues or co-workers or other regulatory entities.

The WMC's role is to provide an administrative response to the complaint being made. As might be expected, the majority of complaints do not rise to the level of a UDA violation; many are communication or billing concerns or are referred to one of the other regulatory commissions for investigation.

Other cases, suggestive of a UDA violation, are investigated. Some are closed while others may result in additional administrative action. The following

statistics demonstrate administrative action taken by the commission. Between July 1, 2020 and June 30, 2021, 1632 complaints were received by the WMC. 1102 of the total were closed by the commissioner review process with a determination of either lack of merit or due to insufficient information. The review process authorized 505 cases for investigation. 418 of the investigated cases were closed following review by a panel of commissioners. The remaining 87 cases, roughly 5% of the total number of complaints, were placed in the administrative remedial process following approval by a panel of commissioners.

It may be obvious to the reader that so far, I have avoided the word discipline and have chosen to use the term administrative process. And, for good reason. I don't want to suggest that there are cases that do not require discipline, but those cases are in the minority. Cases falling into the general category of moral turpitude that include illicit, illegal and poor behavioral choices without question fall into the discipline category.

The majority of the cases are generally standard of care cases. While officially these cases fall under the disciplinary category, they really belong in a category consisting of error identification, learning and changed processes leading to the advancement of improved delivery of patient care.



Message From the Chair

I have been a member of the WMC for seven years. I recall in my early participation on the commission that there seemed to be a culture of punishment in resolving cases where the standard of care was violated. This perceived culture was contrary to a philosophy that I had helped to implement in previous employment that promoted just culture, human error identification, systems breakdown analysis, provider support, education, improved systems and continuing patient care and financial support. The goal was to improve the patient experience organizationally. These same principles can and in many instances are employed in the WMC administrative process.

The WMC is required by statute to follow a formal legal process to resolve care complaints. But this process does not eliminate a culture of understanding human factors and the complexity of delivering medical care. It does not prevent an approach to remedial measures where in some cases the licensee in effect partners with the WMC to improve a practice failing. It does not prevent the use of settlement conferences to air differences of opinion and negotiate remedial measures that are most appropriate to a particular standard of care question. It does not prevent a compassionate compliance review panel from furthering the learning and confidence of licensees.

The above represents an evolving WMC culture that has a focus to not only improve a licensee's practice but to improve practices more broadly in the medical community. I firmly believe that a compassionate and reasoned approach to remedial measures is the best approach to improve medical care in the state of Washington.

Telemedicine 2021 Legislation

Audio-Only

[Substitute House Bill 1196](#) was passed during the 2021 legislative session and requires the following regarding the practice of telemedicine:

- Beginning July 25th, 2021, providers who bill a patient or the patient's health plan for audio-only telemedicine services must receive patient consent for the billing prior to rendering the service. The patient consent requirement is applicable to PEBB/SEBB plans, private health plans, behavioral health administrative services organizations and managed care organizations contracted with the Health Care Authority, and Medicaid managed care plans contracted with the Health Care Authority.
- Beginning January 1st, 2023, the provider must have an established relationship with a patient for an audio-only telemedicine service to be compensated at the same rate as an in-person visit. Established Relationship is defined as a prior in-person visit within the last year with the provider, another provider at the same clinic, or with the referring provider.
- The bill also amends [RCW 18.130.180\(21\) – unprofessional conduct](#), to include as unprofessional conduct a pattern of violations for failing to receive consent prior to billing for audio-only telemedicine services.



Consults With Practitioners in Other States

During the 2021 Legislative Session, the legislature passed [Substitute Senate Bill 5423](#). This allows Washington state Allopathic Physicians (MDs) and Osteopathic Physicians (DOs) to consult with practitioners licensed in another state, via telemedicine, in order to diagnose and treat a WA provider's established patient.

For more questions, please contact the [Board of Osteopathic Medicine and Surgery](#) or the [Washington Medical Commission](#).

Public Comment Notice

The WMC will be considering adoption of the telemedicine policy at the November meeting. We are looking for stakeholder feedback. [Read the Draft Language](#) and submit a comment on our website.

For more telehealth related information and resources, please visit [The Washington State Department of Health Telehealth Resources webpage](#).