Procedure

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

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 create a team of Commission members and attorneys to 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 twelve Commission members. Six members will be clinical members and six will be public members.

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

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.

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[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.

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 will include:

    - 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).

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