

Procedure

Title:	Whistleblower Protection	PRO2017-09
References:	RCW 43.70.075 , RCW 18.130.095 , Chapter 246-15 WAC	
Contact:	Freda Pace, Director of Investigations	
Phone:	(360) 236-2740	E-mail: freda.pace@doh.wa.gov
Supersedes:	MD2013-02	
Effective Date:	November 3, 2017	
Approved By:	Warren Howe, MD, Chair (Signature on file)	

Background

The Medical Quality Assurance Commission (Commission) promotes patient safety and enhances the integrity of the profession through licensing, discipline, rulemaking and education. The Commission seeks to be efficient and effective in its disciplinary process.

[RCW 43.70.075](#) provides that the identity of a whistleblower who complains in good faith to the Department of Health about a health care provider shall remain confidential. [RCW 43.70.075\(2\)\(c\)](#) defines a “whistleblower” as “a consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the department of health.”

[RCW 18.130.095\(1\)\(a\)](#) provides that “a license holder must be notified upon receipt of a complaint, except when the notification would impede an effective investigation. At the earliest point in time, the license holder must be allowed to submit a written statement about the complaint....”

The Commission gives effect to both [RCW 43.70.075](#) and to [RCW 18.130.095\(1\)\(a\)](#) as it relates to Whistleblower Waiver (WBW), by notifying the license holder when:

1. WBW is received approving the confidentiality of the complainant;
2. WBW is denied; or
3. WBW is not returned after the second attempt.

The Commission maintains the confidentiality of the whistleblower’s identity for all other purposes.

The Commission has found that in some cases, the process of obtaining a whistleblower release delays the investigation of the complaint. To increase efficiency and timeliness in processing

complaints, the Commission recently placed a whistleblower release form on the web site that the complainant can download, complete, and send to the Commission.

Procedure

1. When the Commission receives a complaint, a panel of the Commission reviews the complaint to determine whether to investigate the complaint. If the Commission decides to investigate a complaint, the Director of Investigations will determine if a whistleblower release is needed to investigate the complaint.
2. If a whistleblower release is needed, and the complainant did not send one in with the complaint, Commission staff sends a letter to the complainant acknowledging the complaint, explaining the whistleblower protection under [RCW 43.70.075](#) and enclosing a whistleblower release.
3. If the complainant does not return the whistleblower release within 14 days, the Case Manager sends a second letter to the complainant acknowledging the complaint, explaining the whistleblower protection under [RCW 43.70.075](#) and enclosing a whistleblower release.
4. If the complainant does not return the whistleblower release within 14 days of the second letter, the Case Manager refers the case to the Director of Investigations to determine if the case can move forward by protecting the identity of the complainant. If so, the complainant will be identified as confidential and the Case Manager will prepare a memo describing the issue.
5. The Director of Investigations takes the case to the Case Management Team (CMT) for review.
6. The CMT reviews the case and decides whether to close the case or whether the case can be investigated without disclosure of the complainant's identity.