

WASHINGTON STATE MEDICAL ASSOCIATION  
HOUSE OF DELEGATES

Resolution: B-1  
(A-19)

Subject: Towards A More Effective Washington Medical Commission  
Introduced by: Yakima County Medical Society  
Referred to: Reference Committee B

---

1 WHEREAS, questionable actions by the Washington Medical Commission (WMC) are  
2 common, e.g.:

- 3  
4 ● A hospital-based physician was granted a \$2.5 million settlement for wrongful  
5 termination, defamation, and malicious prosecution, but WMC refused to investigate  
6 false testimony by the defendant hospital's Chief Medical Officer and several other  
7 physician administrators.  
8 ● An emergency room physician with 30 years in practice was accused of negligent care.  
9 Without offering defense testimony, he agreed to a "Stipulation to Informal Disposition,  
10 which is not a formal disciplinary action and shall not be construed as a finding of  
11 unprofessional conduct or inability to practice". He voluntarily surrendered his license  
12 and retired. The plaintiff brought a malpractice suit, and the WMC "investigation" was  
13 used by the plaintiff's attorney in a hostile and humiliating deposition. The following  
14 day, the physician took his own life.  
15 ● A family medicine physician was questioned by WMC on the appropriateness of a  
16 testicular exam during an adolescent sports physical. The patient's mother had been in  
17 the room and was the complainant.  
18 ● A specialist physician named in a complaint was asked to review 200 pages of patient  
19 records, in which he was not able to find that he had provided any care for the patient.  
20 More than 18 months later, the "case" remains unresolved.<sup>1</sup>  
21 ● The WMC received complaints regarding a surgeon at Swedish Neurosurgical Institute.  
22 An investigation was done, but no action was taken. Following an expose in the *Seattle*  
23 *Times*, the WMC summarily suspended the license of the department head, citing the  
24 standard of "imminent danger". Following an investigation which was restricted to  
25 intimidating behavior towards nursing staff, his medical license was reinstated with  
26 oversight restrictions;<sup>2</sup> and  
27

28 WHEREAS, the assumption that the WMC process serves Washington patients is not evidence  
29 based; and  
30

31 WHEREAS, regulatory capture is a form of government failure that occurs when a regulatory  
32 agency, created to act in the public interest, instead advances the commercial or political  
33 concerns of special interest groups that dominate the industry or sector it is charged with  
34 regulating. When regulatory capture occurs, special interests are prioritized over the interests of  
35 the public, leading to a net loss for society. This concept was developed in a 1971 article, by  
36 Nobel Laureate George J. Stigler, entitled *The Theory of Economic Regulation*,<sup>3</sup> and

---

<sup>1</sup> Personal communications.

<sup>2</sup> [State Regulators Investigating Swedish's Cherry Hill Hospital, Top Surgeon](#). Mike Baker. February 16, 2017. Seattle Times

<sup>3</sup> [The Regulatory Capture of American Medicine by the Drug and Alcohol Testing, Assessment and Treatment Industry](#). Michael L. Langan, MD. August 6, 2016.



WSMA Policy

## **WASHINGTON MEDICAL COMMISSION**

### **Complaints**

The WSMA supports legislation, rulemaking or administrative action that would enable informal discussion and disposition of a complaint at a level below a reportable threshold. (EC Rpt B, A-01) (Reaffirmed A-17)

The WSMA believes that complaints filed against a physician should not be disclosed to the public until the Washington Medical Commission (WMC) files formal charges and that any such information disclosed to the public or to organizations must be accurate. (EC Rpt H, A-96) (Reaffirmed A-17)

The WSMA supports appropriate legislative or administrative action which would require the state to provide access to all of the substantive information except the identity of a complainant contained in the investigative file. (EC Rpt H, A-97) (Reaffirmed A-17)

The WSMA supports appropriate legislative or administrative action which would provide penalties against those who file malicious complaints against physicians. (EC Rpt H, A-97) (Reaffirmed A-17)

The WSMA supports appropriate legislative or administrative action which would require that complaints which could not be substantiated be dismissed and not be allowed to be re-opened and added on to subsequent allegations. (EC Rpt H, A-97) (Reaffirmed A-17)

### **Organizational Structure**

The WSMA supports legislation, rulemaking or administrative action that would result in a significant organizational change in the current WMC-DOH relationship: that administrative law judges be used to conduct hearings; that WMC have responsibility over investigators and attorneys working for it; and, that WMC retain all rule-making and policy-setting authority affecting the practice of medicine and WMC operations. (EC Rpt B, A-01) (Reaffirmed A-17)

## **DUE PROCESS**

The WSMA strongly believes the basic principles of a fair and objective hearing should always be accorded to the physician whose professional conduct is being reviewed. The fundamental aspects of a fair hearing are: a listing of specific charges, adequate notice of the right to a hearing, and the opportunity to present a defense. (JC 9.05-87) (Amended A-17)

## **DISCIPLINARY PROCEDURES**

The WSMA affirms the need to maintain continued and improved communication among patients, physicians, hospitals, the legal profession, and the state, which will reassure the public that licensed physicians continue to meet professional, ethical and moral standards. (Res 28, B-90) (Reaffirmed A-17)

## **MEDICAL BOARDS**

### **Authority**

The WSMA opposes any effort to dilute or eliminate the Washington Medical Commission's rule making authority and/or to reduce the boards to an advisory committee. (EC Rpt D, A-91) (Amended A-17)