

Cabinet and Governor Appointed Agencies' Performance Audit Action Item(s) & Status

Medical Discipline in Washington

(See also [cabinet agency response](#) for full context to Washington State Auditor's Office (SAO) [report](#), November 2016)

The Department of Health (DOH), Washington Medical Commission (WMC) – formerly the Medical Quality Assurance Commission – and Board of Osteopathic Medicine and Surgery (BOMS) were included for this performance audit.

SAO Recognitions:

1. The two medical disciplinary boards are protecting the public and meet the legislative intent of quality healthcare and public safety.
2. DOH's Health Services Quality Assurance division has implemented a process to improve the letters it sends to complainants and respondents.
3. WMC has made changes to ensure compliance staff follow board orders.

SAO Issues Summary:

1. BOMS investigates a lower percentage of complaints than WMC. SAO found four cases where BOMS appeared to have jurisdiction but did not investigate complaints; WMC opened similar complaints. This is not necessarily wrong, but is an inconsistency between the boards.
2. BOMS does not meet complaint assessment performance targets that are set in WAC as frequently as WMC; BOMS does not (independently) control its budget and staffing; BOMS does not provide representation to the physician assistants it regulates.
3. The definition of "unprofessional conduct" in state law is missing some items laid out in the Federation of State Medical Boards' (FSMB) model medical practice act. One notable suggestion by FSMB is that failure by a provider to protest an inappropriate managed-care denial. While both boards use their rule-making authority to expand their definition of "unprofessional conduct," these rules are not reflected in the Uniform Disciplinary Act and so may not apply to other healthcare-related professions.
4. WMC did not always notify complainants of the case outcome when discipline was warranted. Only 16 out of 22 complainants were informed of the case outcome when their complaint resulted in discipline.
5. The boards outreach to the public is limited to press releases, listservs, and performance reporting. *[Agency and Boards note that they also use Facebook, Twitter, and in-person educational presentations.]* Despite current DOH guidelines on how to implement the patient rights act, the boards do not require that providers tell patients how to complain to the boards, resulting in 2 patients being misdirected by providers or not notified at all. Current DOH guidelines only apply to selected facilities, so sole practitioners and small clinics are not required to post this information.
6. DOH's website is confusing and does not include translation tools.
7. DOH's Provider Credential Search provides limited information and has limited provider search functions.
8. Washington's standard of proof is higher than recommended by the FSMB, making it more difficult to prove a complaint is legitimate.
9. BOMS and WMC staff do not use ILRS as intended, including inaccurate data entry and reliance on shadow systems.
10. Current performance management does not adequately evaluate the efficiency and effectiveness of the boards' disciplinary activities.

SAO Recommendations (Rec) Summary:

1. We recommend the Legislature merge BOMS and WMC into one board by adding three osteopathic physicians to the commission.
2. We recommend the **Legislature** ensure a minimum of 25 percent public members on the state medical boards, whether this is two separate entities or one merged board.
3. We recommend the **Legislature** modify the UDA so all health-care professionals must post information in a prominent location about where to file complaints.

4. WMC and BOMS work with the Legislature to determine whether the statutory definition of unprofessional conduct should better reflect the Federation of State Medical Boards guidelines. In doing so, consider the overall impact to healthcare-related professions if the UDA is changed.
5. WMC and BOMS work with the Legislature to determine whether the UDA should allow the disciplinary authority to issue a Letter of Concern in situations where the boards cannot meet the standard of proof, but enough evidence exists to show informal reporting to the provider could improve public safety. In doing so, consider the overall impact to healthcare-related professions if the UDA is changed.
6. WMC and BOMS work with DOH to improve the usability of their webpages, including addition of a translation tool to the website. In deciding what languages to translate to, consider Department of Justice guidelines for written translations.
7. WMC and BOMS work with DOH to improve the Provider Credential Search, with consideration of legal restrictions, including the provider search function, to allow for broader provider searches.
8. WMC and BOMS continue to improve correspondence by incorporating Plain Talk principles into their communications with complainants and respondents.
9. WMC and BOMS modify procedures to ensure complainants are sent letters at the end of all cases.
10. If the Legislature does not modify the UDA, we recommend WMC and BOMS expand outreach to the public, specifically by using their rulemaking authority to require that all providers post information in a prominent location about where to file complaints.
11. WMC and BOMS regularly evaluate whether staff are following policies and procedures, including whether they are accurately entering data into the Integrated Licensing and Regulatory System.
12. WMC and BOMS modify current performance measure activities to regularly evaluate the nature and volume of complaints, the adequacy and consistency of enforcement actions, as well as how well the boards are meeting their mission to protect the public.

The table below shows the current status of action items the agency initiated to address issues identified in the performance audit report. Please see the [cabinet agency response](#) for additional context and any additional steps already taken.

For an explanation of the columns below, [see the legend](#).

Issue/Rec	Status	Action Steps	Lead Agency	Due Date	Current Resources?	Budget Impact?	Legislation Required?	Notes
Rec 1	N/A	Not applicable – to the Legislature. Do not concur with the recommendation	DOH, WMC, BOMS	N/A	-	-	-Y	-Recommendation to the Legislature
Rec 2	Completed	DOH has submitted agency request legislation for the upcoming session for review and approval	DOH	N/A	-	-	-	-
Rec 3	N/A	Not applicable – to the Legislature.	N/A	N/A	-	-	-	-
Rec 4	N/A	Do not concur with the recommendation	WMC, BOMS	N/A	-	-	-	-

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Rec 5	N/A	Do not concur with the recommendation	WMC, BOMS	N/A	-	-	-	-
Rec 6	In Progress	Post the availability of language assistance on the DOH website.	WMC, BOMS, DOH	2019	WMC response: This is being funded by WMC because it is a WMC specific resource	WMC response: No budget impact & no additional funding required to complete this action step, see response to current resources. This will be an additional cost to WMC. Notably, our indirects are supposed to cover web support costs so we are effectively double paying for improving	WMC response: No, however we plan on doing a technical name change bill in 2019.	<p>WMC response: DOH has implemented a Spanish webpage and language assistance availability.</p> <p>WMC recently completed a rebranding process (logo, positioning statement, letterhead, colors) that will be unveiled approximately April 2018. This will provide a unique identity so the public, licensees, and stakeholders will immediately be aware of the Medical Commission. WMC has created a website independent of DOH that focuses on mobile functioning and general usability. The independent WMC website went live in August of 2018. Website can be translated into any available language via google translate services.</p> <p>BOMS response: By way of background, DOH has recently adopted two policies that relate to access and a related Language Access Plan.</p> <ul style="list-style-type: none"> ○ 05.011 Equal Access for Individuals with Disabilities Policy ○ 05.012 Title VI Policy/Limited English Proficiency Non Discrimination Policy <p>These policies and related plan outline DOH's approach to meaningful access to public health services and information and are intended to create consistency across the agency.</p>

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						our own service.		<p>One piece of our Language Access Plan concerns the web. Our goal is to become a fully functioning bi-lingual health department (English/Spanish). This will help ensure our compliance with federal mandates and help meet the needs of our customers. Additionally, we are including information about key services, the availability of interpretation/translation services, and our commitment to non-discrimination in the top 14 languages. The webpages for the complaint and disciplinary process for healthcare providers are available in Vietnamese, Spanish, Russian, Korean and Chinese.</p> <p>Work through 2019 will include the creation of language specific landing pages for the agency that link individuals on to all agency materials that have been created in that language, including the complaint and disciplinary process pages. We believe that this systematic and agency-wide approach to providing additional language access on the web is not only necessary to reduce risk and confusion created by haphazardly translating individual web pages, it will provide better customer service to all citizens in the long run.</p>
Rec 6	Completed	Establish a Spanish homepage on the DOH website.	WMC, BOMS, DOH	1/17	-	-	-	WMC response: DOH has implemented a Spanish webpage and language assistance availability

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Rec 7	In Progress	Rework the provider credential user interface to improve usability.	WMC, BOMS, DOH	2023	WMC response: the resources and technical capabilities are not available at this time, but DOH as a whole is working to upgrade their database and outward facing interface.	WMC response: yes, a significant impact.	WMC response: N – it might not require legislation but does require legislative action of the same level.	<p>WMC response: WMC is fully participating in the HELMS process, which is a core component to an improved Provider Credential Search. Process has been delayed due to decision package rejection until 2019. Project completion is not anticipated until the end of the next biennium.</p> <p>BOMS response: During the 2019 session DOH received funding authority for the replacement of our core licensing and disciplinary system. This system provides the source data to Provider Credential Search, and it is anticipated that a new system will provide expanded query capabilities.</p> <p>The pre-implementation process, including signing a contract with a vendor, is currently under way. The implementation process for the new system will continue through June 2023.</p>
Rec 7	In Progress	Consider changes to improve the ease of use of the provider credential search as part of an overall system replacement project due to be in place by mid-2020.	WMC, BOMS, DOH	2023	WMC response: see above	WMC response: see above	WMC response: N – it might not require legislation but does require legislative action of the same level.	<p>WMC response: WMC is fully participating in the HELMS process, which is a core component to an improved Provider Credential Search. Process has been delayed due to decision package rejection until 2019.</p> <p>BOMS response: During the 2019 session DOH received funding authority for the replacement of our core licensing and disciplinary system. This system provides the source data to Provider Credential</p>

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								Search, and it is anticipated that a new system will provide expanded query capabilities. The pre-implementation process, including signing with a vendor, is currently under way. The implementation process for the new system will continue through June 2023.
Rec 8	N/A	None applicable, please see note column and response letter .	WMC, BOMS	N/A	-	-	-	In 2013, WMC, BOMS and DOH recognized that communications with complainants and respondents could be improved, and we implemented an initiative do so. We appreciate SAO’s acknowledgment of the improvements we have made over the past few years. 6 As a part of our improvement efforts, we routinely assess the quality and accuracy of our communications with complainants and respondents.
Rec 9	N/A	None applicable, please see note column and response letter .	WMC, BOMS	N/A	-	-	-	WMC and BOMS already send letters to complainants at the end of cases. In the SAO’s review of more than four years of cases, it found six instances, out of about 8,600 cases reviewed, where we were unable to prove that a letter had been sent to a complainant.
Rec 10	N/A	None applicable, please see note column and response letter .	WMC, BOMS	N/A	-	-	-	WMC and BOMS agree that public outreach and engagement are effective, and we frequently engage in such efforts. We do not agree the evidence we have been provided supports the idea that a rule such as the one recommended — which would affect all professions under the concept that similarly situated persons are to be treated similarly —

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								<p>would be more effective at improving public safety. Today, WMC has a workgroup composed of its governor appointed public members to assess visibility and outreach. Speaking engagements have increased over 275% in FY19. Name recognition since rebranding and plain talking the WMC name has increased 24% according to preliminary reports.</p>
Rec 11	In Progress	Consider data input issues as part of an overall system replacement project due to be in place by 2020.	DOH, WMC, BOMS	2023	WMC response: a position has been reallocated as a business productivity manager who will be in charge of reducing process waste and auditing processes for accuracy.	WMC response: The new positions will be a higher range so we will need additional spending authority at a minimum. Also, this action item will have an impact on the agency's revenue or savings in torts and audits.	WMC response: None	<p>WMC response: WMC is in the process of hiring the final of three positions to stand up a quality unit, whose primary duty is to complete audits and process education for staff.</p> <p>BOMS response: We emphasized in our response to this finding in the 2016 report that we already regularly evaluate whether staff follow policies and procedures, internal controls, and the collective bargaining agreement, in entering data into the Integrated Licensing and Regulatory System, or ILRS. Since the time of that report, we continue to consider this aspect of our work to be vitally important, and we continue to similarly evaluate staff as in 2016.</p> <p>The audit report noted instances where certain kinds of data input required staff to "override" ILRS. Here, as in question #2 above, we anticipate that the implementation of a new licensing and discipline information system will provide added assurance that activity dates are</p>

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								being entered accurately. With the 2019 authorization of funding, we now anticipate a new information system will be implemented by 2023.
Rec 12	N/A	None applicable, please see note column and response letter .	DOH, WMC, BOMS	N/A	-	-	-	WMC, BOMS and DOH all have several performance metrics and highly trained staff members dedicated to performance management. Their roles include improving how we identify and use data to measure performance. Periodic review and deliberation on these measures are an important and regular part of their business. Because every complaint must be assessed on its own merits, we do not agree that the SAO's idea of consistency is a goal to strive for. We do welcome suggestions for metrics that will help drive and ensure desired outcomes.