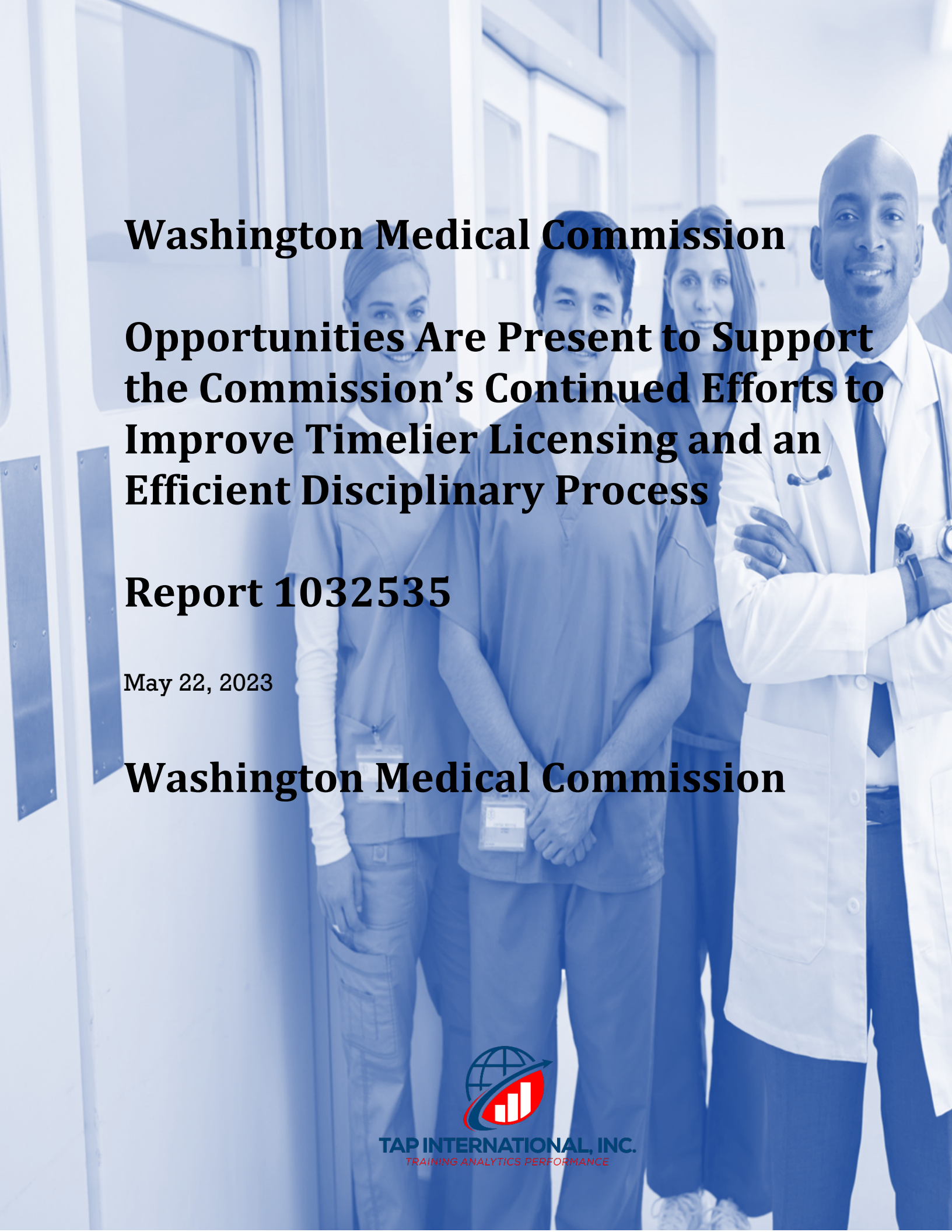


Washington Medical Commission

Opportunities Are Present to Support the Commission's Continued Efforts to Improve Timelier Licensing and an Efficient Disciplinary Process

Report 1032535

May 22, 2023

Washington Medical Commission

TAP INTERNATIONAL, INC.
TRAINING ANALYTICS PERFORMANCE

TRAINING | ANALYTICS | PERFORMANCE
333 University Avenue, Suite 200
Sacramento, CA 95825
www.tapinternational.org

Date: May 22, 2023

Memorandum For: Melanie de Leon, Executive Director, Washington Medical Commission

From: TAP International, Inc.

Subject: Transmittal of Final Report

Attached for your information is our final report, *Opportunities are Present to Support the Commission's Continued Efforts to Improve Timelier Licensing and an Efficient Disciplinary Process*. The purpose of this report was to address a Washington State Legislature request to determine: (1) How long does the Washington State Medical Commission (WMC) require to process licenses for applicants? (2) How does WMC's disciplinary process compare to other states? (3) What factors, if any, contribute to any inefficiencies in the licensing and disciplinary processes? and (4) What could the WMC do to improve its licensing and disciplinary processes?

This report describes:

- In 2021, the WMC took an average of ten weeks to complete the entire licensing processing across eight application types.
- The WMC completes the last segment of the licensing process for many of its applications within 14 days.
- The licensing and disciplinary processes share three key challenges described in this report that could adversely affect timeliness.
- Other states' practices can offer viable options for the WMC to consider in its efforts to protect public safety and enhance the quality of care.

The nine recommendations included in this report are designed to support the continuous process improvements already initiated by the WMC to speed its processing times as the volume of licensing applications and complaints against licensed medical professionals grows.

Sincerely,

TAP International, Inc.

TAP International, Inc.

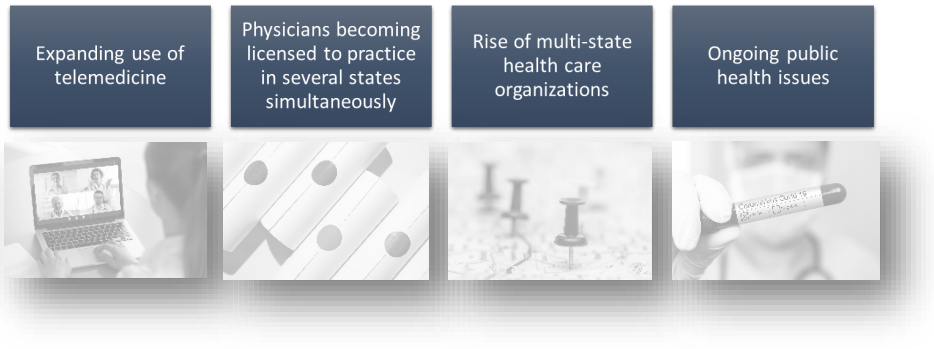
TABLE OF CONTENTS

RESULTS IN BRIEF

RESULTS IN BRIEF

Why This Study is Important

Washington residents rely on the WMC to ensure the appropriate licensing of medical professionals in the state. The WMC maintains accountability over these professionals from initial licensing through discipline that physicians may receive throughout their professional careers. These issues take on greater importance because of current and emerging trends in health care attributed to expanding telemedicine use, the rise of multi-state healthcare organizations, and ongoing public health issues.



How This Study Was Conducted

TAP International evaluated licensing timeliness and disciplinary effectiveness by the WMC, as well as studying other states' practices that could benefit the WMC. We determined: (1) how long the WMC takes to process licenses for applicants; (2) how the WMC's disciplinary process compares to other states; (3) the factors, if any, that contribute to any inefficiencies in these licensing and disciplinary processes; and (4) how the WMC can improve processes. TAP International analyzed 10,800 licensing applications and 4,600 disciplinary cases between 2019 and 2021, reviewed process documentation, and interviewed 51 officials among the WMC staff and management, selected Commission members, five professional health associations, and five other states.

What This Study Found

The WMC reduced the average time required to process medical licensing applications from 93 days in 2019 to 70 days in 2021. The WMC also met the 14-day goal the Washington Department of Health (DOH) had established for the final segment of the licensing process for many applications although this goal does not reflect most of the processing time required for licensing. Across the WMC's eight types of medical licensing applications, timeliness ranged from less than two weeks to 12 weeks (10 to 84 days) in 2021.

When the WMC receives complaints against licensed professionals, about one-third of them are authorized for investigation, and fewer result in the discipline of the licensed professional for various reasons. The WMC's licensing and disciplinary processes share common factors that create challenges, such as technology inefficiencies, regulatory requirements, and staffing strategies. Disciplinary processes implemented in other states offer alternative practices that could benefit the WMC, for instance, opening an initial review of all complaints submitted.

What This Study Concludes

WMC's legislative requirement to protect public safety relies on nuanced analysis and professional judgment guided by State regulations to determine whether a provider meets licensure requirements or violated state standards. Although the WMC processes reflect the results of prior continuous process improvement efforts, certain challenges prevent the WMC from accomplishing greater success in these areas. These include updating laws to reflect today's licensing and disciplinary environments, redesigning the existing staffing structure, and implementing alternative technological methods to enhance operational agility. Acting on notable activities and process features of other states could facilitate scalable business processes as workload levels increase.

What This Study Recommends

This report contains nine recommendations to the Executive Director of the Washington Medical Commission to support ongoing efforts to improve the WMC licensing and disciplinary process, and to protect the public by ensuring physicians and physician assistants provide quality healthcare. Implementing some recommendations may require the WMC to change the Washington Administrative Code (WAC) or for the WMC to ask the Washington State Legislature to change state law.

To update existing licensing and disciplinary process requirements, the WMC's Executive Director should work, when necessary, with the Washington State Legislature to:

1. Update the Revised Code of Washington (RCW) to modify the required FBI background check for licensure as optional per WMC's discretion and allow for a check of the National Practitioner Data Bank (NPDB) or another valid database the WMC finds acceptable as an alternative.

2. Update regulations to: (a) Require confidential investigations until the Commission applies charges against the respondent, and (b) Allow the Washington Medical Commission to issue a confidential letter of concern for cases that do not meet the legal threshold for sanction but warrant a state response.

3. Modify current law to shift the Commissioners' role from direct involvement in the complaint intake process to oversight and provide the Commission the authority to delegate decision-making on low priority complaints to the WMC staff; or, instead of modifying the Commissioners' role, expand the number of Commission members to support timely completion of licensing and disciplinary processes.

To improve the performance monitoring and scalability of the licensing process, the WMC's Executive Director should:

4. Formally establish and monitor goals that measure timeliness for all applications by type.

5. Until the Health Care Enforcement and Licensing Management System (HELMS) becomes fully operational, consider using tools to automate the extraction of

information from applications and their supplemental information. And, if needed, have the use of these tools reviewed by the new algorithmic accountability review board.

6. Until the new system, HELMS, is fully operational, provide an identifier code (belonging to the WMC staff requestor) to the licensing applicant, complainant, and respondent to be recorded on all correspondence submitted to the WMC, so customer service staff can forward the documents to the appropriate WMC staff person.

To improve the efficiency and effectiveness of the disciplinary process, the WMC Executive Director should:

7. Establish and use an Ombudsman's office to facilitate communication with complainants/respondents and address non-standard of care related complaints not requiring investigative and legal expertise.

8. Adopt other states' practices to reduce the burden on complainants to meet the regulatory threshold for further investigation of the case. Strategies to consider for valid complaints[1] include:
    - Integrate the complaint and investigative processes by taking witness statements and immediately requesting medical records for independent medical experts' review; and,
    - Submit valid complaints, but with medical records, to the Commission for further review and disposition.

9. Adopt other states' practices to expedite all types of cases. Strategies to consider include:
    - Obtain the authority and develop processes to send cases of documented misconduct by another authority (such as reported from the NPDB) directly to the Commission for action.
    - Dedicate teams of investigators and attorneys by case complexity across administrative, standard of care, moral turpitude, and other types of professional conduct cases who formally and actively participate in all phases of the planning and adjudication of the case.
    - Formally establish benchmarks for completing certain disciplinary cases based on the nature of their risk, including closing lower-level priority cases more quickly.

[1] Complaints that are within the jurisdiction of the WMC.

INTRODUCTION

INTRODUCTION

What are the goals of the Washington Medical Commission?

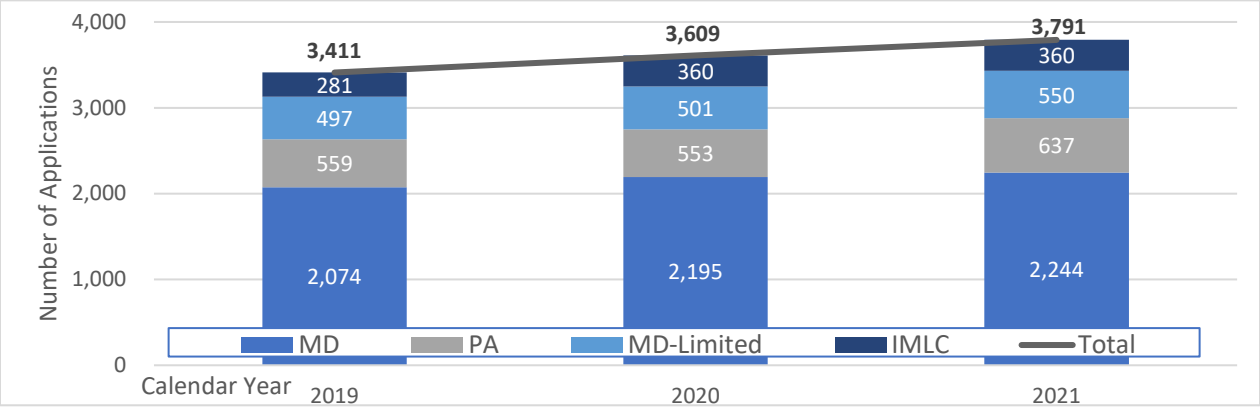
The WMC, in its strategic plan for 2021-2023, recognizes the ever changing healthcare industry and the speed of advancing technology that has led the Commission to re-examine its current strategies while promoting and protecting public safety. The WMC's plan is to work toward accomplishing its five strategic goals. Two of these goals include: (1) protecting Washington residents by enforcing requirements for licensure, including education, experience, and demonstrated competence, including efficiently issuing licenses to individuals meeting those requirements, and (2) protecting the health and safety of the public by effectively investigating complaints, enforcing the Uniform Disciplinary Act, and helping licensees improve their practice through education and training. The remaining goals include: facilitating and supporting the work of the WMC staff and Commission members in the modernization of regulations, policies, procedures, and legislation; providing education and resources for the public, licensees, and partners to increase awareness about the Commission and laws governing the safe practice of medicine in Washington; and upholding organizational success through proper governance, effective leadership and responsible management.

How has WMC's workload level changed?

Applications for licensing grew by 11 percent

Between 2019 and 2021, the WMC received 10,811 applications for licensing across eight different types of applications. Most of these license applications are for Medical Doctors (MDs) with 70 percent of license applications for MDs and IMLCs,[2] 14 percent for MD-Limited,[3] and Physician Assistants comprising 16 percent of license applications. See **Figure 1**.

Figure 1: Number of WMC Licensing Applications Received, by Year and by Type



Source: TAP International analysis of WMC licensing data.

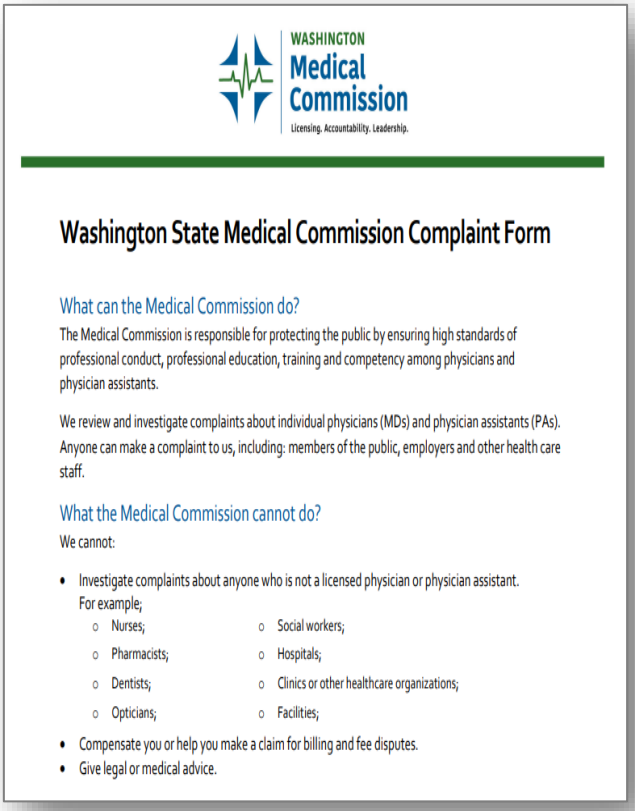
[2] Interstate Medical Licensure Compact Commission (IMLC).

[3] MD-Limited group includes these application types: MDCE-graduates acquiring clinical experience, MDFE - graduates in a fellowship program, MDIN - clinical setting license specific to an institution, MDRE - graduates in residency program, or MDTR - MD teaching and research license.

Each type of application is subject to review by the WMC before issuing a license to ensure compliance with a series of requirements established in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) variously related to education, clinical experience, and background.

Complaints against licensed medical professionals grew by 16 percent between 2019 and 2021

Our analysis shows a 16 percent growth in complaints against licensed medical professionals between 2019 and 2021. See **Figure 2**. Receipt of valid complaints initiates the disciplinary process rather than by other proactive means through independent investigations undertaken by the WMC.[4]



WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Washington State Medical Commission Complaint Form

What can the Medical Commission do?

The Medical Commission is responsible for protecting the public by ensuring high standards of professional conduct, professional education, training and competency among physicians and physician assistants.

We review and investigate complaints about individual physicians (MDs) and physician assistants (PAs). Anyone can make a complaint to us, including: members of the public, employers and other health care staff.

What the Medical Commission cannot do?

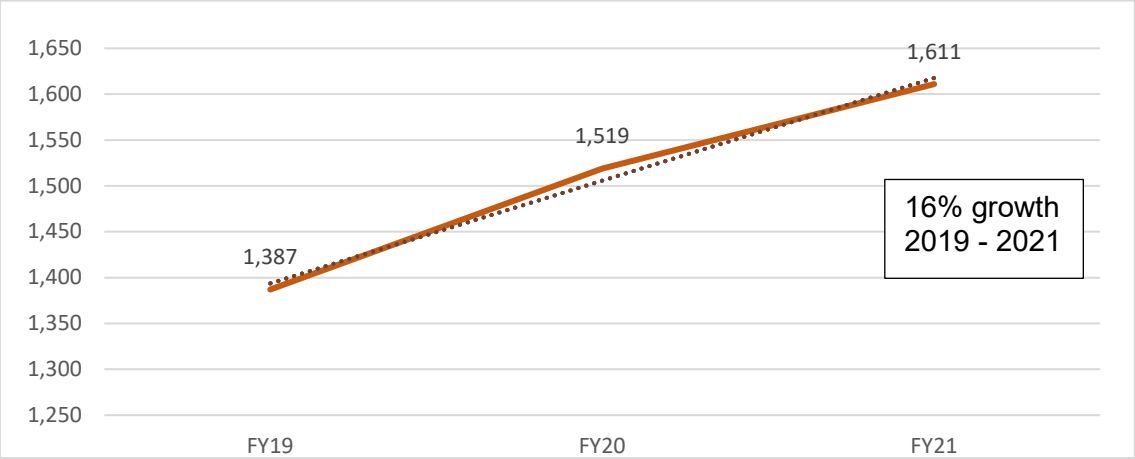
We cannot:

- Investigate complaints about anyone who is not a licensed physician or physician assistant. For example;
  - Nurses;
  - Pharmacists;
  - Dentists;
  - Opticians;
  - Social workers;
  - Hospitals;
  - Clinics or other healthcare organizations;
  - Facilities;
- Compensate you or help you make a claim for billing and fee disputes.
- Give legal or medical advice.

Valid complaints, which can be submitted by patients, employers of licensed professionals, or other organizations and individuals, include concerns about any number of activities, for example, the professional conduct of the licensed medical professional, the standard of care provided, administrative activities such as record-keeping, and moral turpitude. Commission members coordinate with the WMC staff to review each complaint and decide whether to investigate. WMC can also receive other complaints that would not proceed to investigation, for instance, complaints that do not contain sufficient information about the patient or provider from which to determine the nature of the complaint, or complaints about medical facilities, which are referred by the WMC to other agencies with appropriate jurisdiction. **Appendix B** describes the disciplinary process.

[4] A best practice suggested by the Federation of State Medical Boards (FSMB) calls for authorities to open an investigation in the absence of a complaint based on factors such as criminal history reports, prosecutorial charging instruments, FSMB, National Practitioner Data Bank (NPDB), and other reports, other agency and jurisdictional enforcement actions, or journalistic reporting. Using a modified Delphi panel, expert consensus was reached for 51 recommendations that were rated as highly important for State Medical Boards (SMBs). Panelists included physicians, executive members, legal counsel, and public members from approximately 50 percent of the 71 SMBs that serve the United States and its territories.

Figure 2: Number of Complaints Received by Fiscal Year



Source: Washington Medical Commission FY22 Performance Report, https://wmc.wa.gov/sites/default/files/public/FY22%20Performance%20Report.pdf

Has WMC Addressed Growth?

The WMC has continuously implemented multiple efforts to improve its licensing and disciplinary processes. Key changes, among others, include:

- Streamlining the licensing application by eliminating the need for the applicant to submit data that the WMC can obtain from national databases and reducing prior employment history required to seven years.
- Establishing a pilot program, referred to as the Practitioner Support Program. For complaints below the regulatory threshold for investigation, the WMC will send a personalized letter and offer a phone call to the respondent to discuss specifics and to inquire with the medical professional about the need for potential coaching. The program will formalize the WMC's current activities to explain why a complaint was closed to the complainant if contacted.
- Spearheading the creation of a workgroup to "explore innovations and efficiencies in digital credentialing" to be established and coordinated by the Federation of State Medical Boards (FSMB).

Audit Objectives

Concerned about the timeliness of licensure and disciplinary processes, the Washington State Legislature requested the Washington State Auditor's Office conduct a performance audit of these processes.[5] The State Auditor's Office contracted with TAP International in April 2022 to address the following audit objectives:

[5] The Washington State Legislature required this audit through the 2021 Engrossed Substitute Senate bill (ESSB) 5092, section 222 (41) and (42) addressing licensing efficiency and the disciplinary process.

1. How long does the WMC require to process licenses for applicants?

2. How does WMC's disciplinary process compare to other states?

3. What factors, if any, contribute to any inefficiencies in the licensing and disciplinary processes?

4. What could the WMC do to improve its licensing and disciplinary processes?

Scope

The scope of work included evaluating the process to determine eligibility for licensure for 10,811 applications received by the WMC between calendar years 2019 and 2021 among eight types of medical licenses. These applications included:

- Interstate Medical Licensing Commission (IMLC)
- Medical Doctor (MD)
- MDCE (MD Clinical Experience)
- MDFE (Medical Fellow)
- MDIN (Institutional License)
- MDRE (Medical Residency License)
- MDTR (Teaching and Research License)
- PA (Physician Assistant)

The scope of work analyzed 4,598 disciplinary complaints for timeliness and case disposition, compared WMC disciplinary process with five other states, analyzed disciplinary outcomes of a population of 210 cases that were closed between January 2019 and December 2021, and interviewed 51 WMC staff and management, WMC external stakeholders, officials from other states, and DOH staff.

The scope of work did not include the following:

- Examining "bias" in the disciplinary process. Unconscious bias would potentially occur in a governance structure designed to regulate their peers, such as the Washington Medical Commission, whose membership primarily consists of medical professionals responsible for overseeing the licensing and disciplinary process.
- Examining the consistency of decision making for disciplinary sanctions other than to evaluate controls implemented by the WMC to monitor for its consistency.
- Evaluating the DOH implementation of a new licensing system (Health Care Enforcement and Licensing Management System, or HELMS).
- Examining the accuracy of fee payment, posting, and deposits.
- Conducting a cost allocation audit of fees charged as part of the licensing and disciplinary processes to determine whether the WMC is recouping the cost of labor and time for license processing as well as the investigation and adjudication of complaints.

Methods Used to Address the Audit Objectives

Appendix C provides a detailed description of the methodological approach to the audit.

KEY RESULTS

LICENSING TIMELINESS KEY RESULTS

Section Highlights

The WMC has improved its overall timeliness for processing licensing applications for each calendar year between 2019 and 2021 attributed to the WMC's digitizing of documents and adding support staff. In 2021, the WMC required an average of 10 weeks, or 70 days, to issue a license between the receipt date of the application license and the final license approval date. Although the WMC has not established performance goals for the entire licensing process to assess overall success, a 14-day goal is in place to complete the last segment of the licensing process. Using this timeliness goal, WMC completes the last segment of the process for many applications although the measure excludes most of the processing time required for licensing.

Several factors contribute to lengthier application processing time and represent potential opportunities for improvement. These factors include regulatory requirements, use of outdated technology, and requesting supplemental information without utilizing advanced technology to help speed information sorting, which have likely contributed to adding one to 901 days to the licensing process for many applications.

Current and emerging challenges related to the current shortage of medical professionals in the state and the expansion of telemedicine could place added pressure on the timely completion of the WMC licensing processes. External stakeholders reported that the delays in licensing impact healthcare access at the local level, diminishing providers' ability to deliver care, particularly in rural areas.

What is the licensing authority and role of state Medical Boards and Commissions?

The purpose of the WMC is to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the WMC must promote the delivery of quality health care to the residents of the State of Washington.

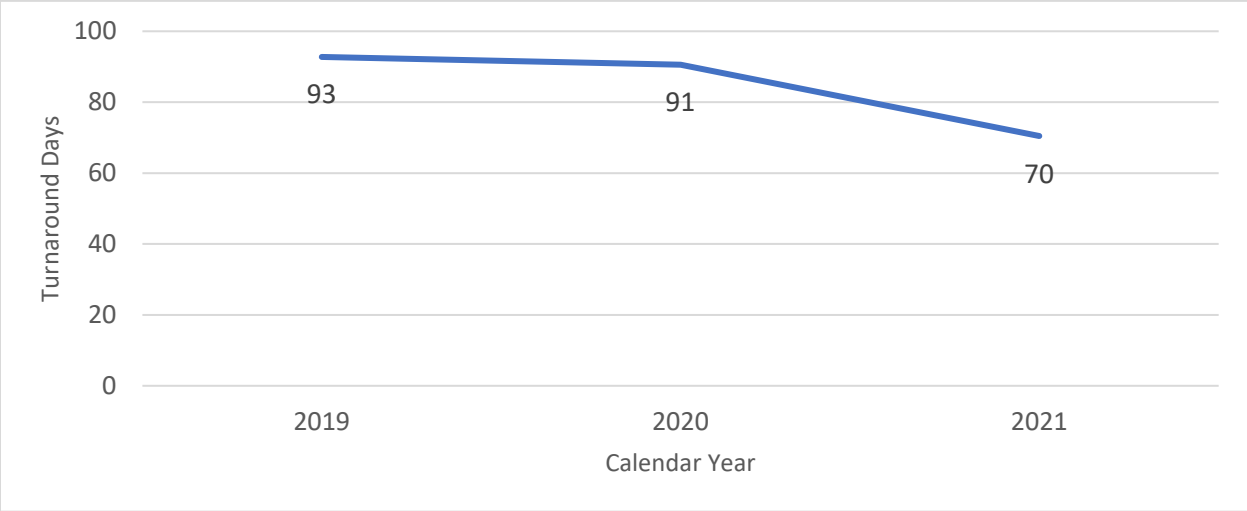
WMC'S TIMELINESS FOR THE FULL LICENSING PROCESS HAS IMPROVED

Depending on the license type, the WMC has an informal expectation of four to 12 weeks to complete the full licensing process – from receipt of an application to license issuance – although it has not established a formal performance goal to assess operational success of the entire licensing process. Establishing a performance goal would allow routine assessment of the WMC's success at completing the full licensing processing on time. Without a formal performance goal, this review measured the average turnaround time between license application receipt and approval for licensure.

As shown in **Figure 3**, the WMC averaged 93 days to complete the full process in 2019 that declined to 91 days on average in 2020 and then fell again to 70 days (10 weeks) on average

in 2021.[6] Over this period, the WMC reduced the average time to process a license by 23 days. The WMC improved its timeliness by adding staff and by scanning documents into electronic folders. However, adding staff suggests the design of the licensing process may not be able to sustain current timeliness should application growth continue without other changes to the licensing process.

Figure 3: Average Processing Time (In Days) from Application Receipt to Approval of Licensure by Year. (All Application Types)



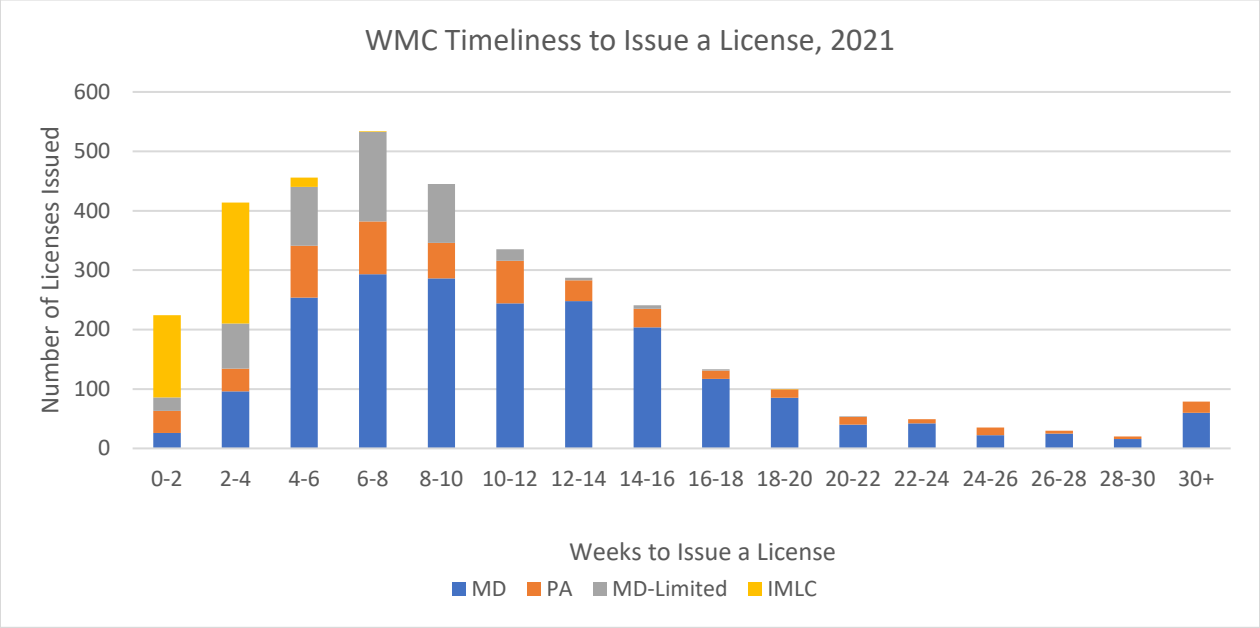
Source: TAP analysis of data extracted from the WMC licensing database

Timeliness among the eight application types varied, ranging from less than two weeks to 12 weeks (10 to 84 days) in 2021 because information requirements differed among the application types. For example, MDFE (graduate fellowship) applications do not require applicants to submit documentation verifying their clinical experience, while MD applications require this information. Completing an MD licensing application review took the WMC the most time to process in 2021, while the MDCE application was the quickest at 10 days, on average.[7] The differences and fluctuations in the time needed to process applications across the eight application types suggest the WMC can improve customer expectations through establishing different performance goals by application type once it has better technology available to monitor performance. See **Figure 4** that shows the distribution of all medical licensing applications by processing time, including the 79 licensing applications that took the WMC more than 30 weeks to process in 2021.

[6] The number of applications approved for licensing annually were 3,188 for 2019; 3,329 for 2020, and 3,436 for 2021.

[7] The volume of these applications influences overall licensing performance because these applications comprise 60 percent (2,058 of 3,446) of all licensed applications in 2021.

Figure 4: WMC Time to Issue a License (Distribution across weeks), 2021



Source: TAP analysis of data extracted from the WMC licensing database.

The WMC reduced its processing times among five of the eight application types ranging from seven days to 49 days between 2019 - 2021. See **Figure 5.** For the IMLC application, the WMC increased its processing time by 13 days from 2019 to 2021 although this application remained one of quickest to process (17 days on average). The ILMC application allows the WMC to expedite the licensing review among applicants who have already completed a full review by the state licensing board in the applicant's home state.[8] As more state medical boards accept the IMLC applications, the WMC can expect further growth with these types of applications. The WMC experienced a 28 percent increase between 2019 - 2021 (from 281 to 360 applications annually). WMC management, recognizing the application growth, requested additional staff funding for the Licensing Unit. The Governor's budget package announced in December 2022 for House and Senate approval includes the WMC-approved budget decision package.

[8] The IMLC is an agreement among 37 jurisdictions (37 states, DC, and Guam) to work together to significantly streamline the licensing process for physicians who want to practice in multiple states. To use the expedited licensure process, a physician must meet nine requirements and hold an active, unrestricted license in a member state where they live or are employed. At the successful completion of the qualifications process, the applicant receives a Letter of Qualification that can be submitted to a participant state to expedite the licensing process. For medical professionals within their home state (principal state) who wish to practice in other states, the applicant undergoes the full review process by their home state.

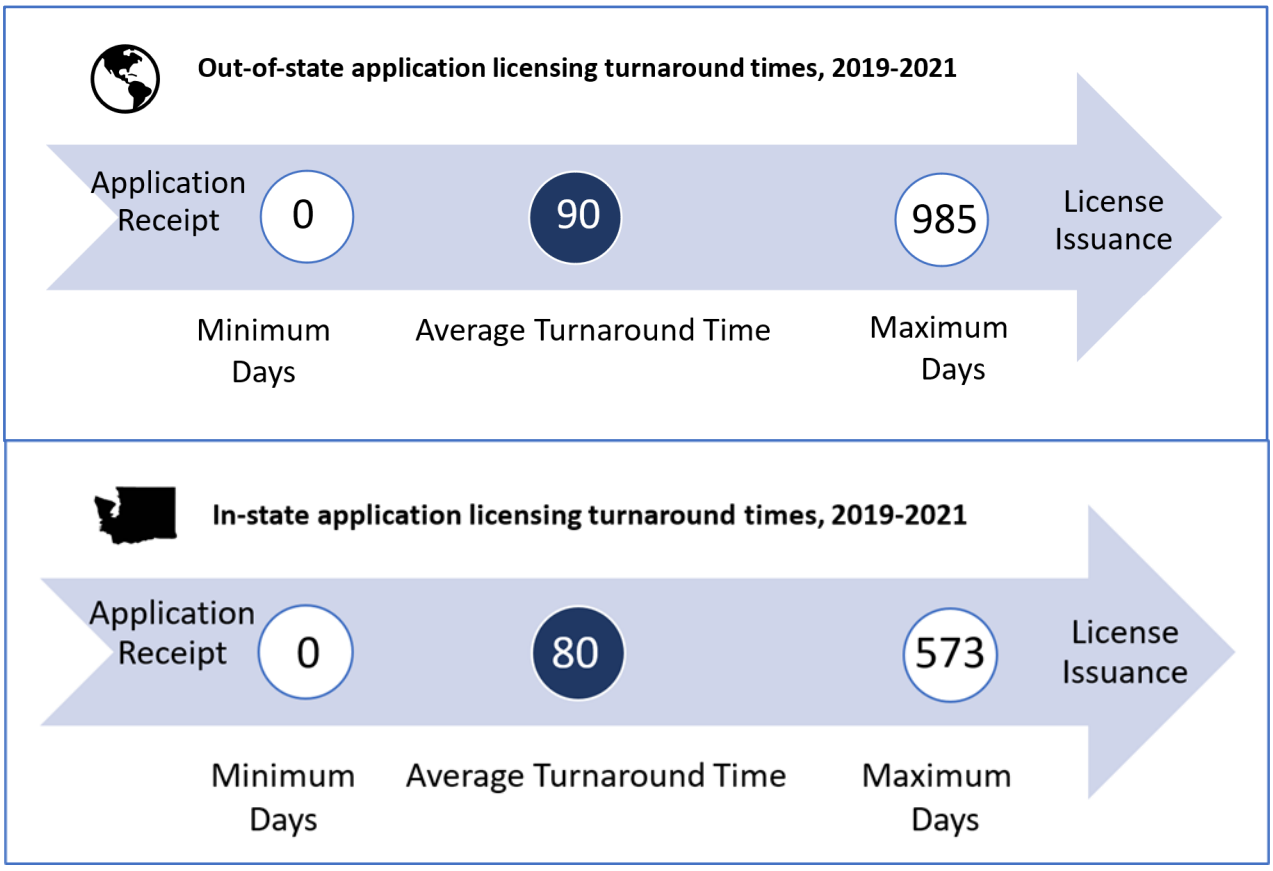
Figure 5: Timeliness to Licensure (in days) from Application Receipt to Final License Issue Date

License Type	2019	2020	2021	Change in the Number of Days Required between 2019 and 2021
MD	115	113	84	-31
IMLC (MD)	4	8	17	+13
PA	93	66	76	-17
Limited MD Licenses:				
MDCE	NA	NA	10	Not applicable
MDFE	71	101	46	-25
MDIN	27	NA	NA	Not applicable
MDRE	53	84	46	-7
MDTR	100	79	51	-49

Source: TAP analysis of data extracted from the WMC licensing database.

Further differences in timeliness occurred between applications received from outside of Washington and within Washington State. On average, the WMC took longer to process out-of-state applications (92 days in 2021) than applications from in-state residents. However, for in-state applications, the WMC required 27 days less to complete the full licensing process (65 days in 2021). **Figure 6** below shows the average timeline for all applications, 5,593 in-state and 4,320 out-of-state, licensed between 2019 and 2021.

Figure 6: Timeliness (in Days) for Out-of-State and In-State Applications



	Average 2019	Average 2020	Average 2021	Average 2019-2021	Minimum 2019-2021	Maximum 2019-2021
Out-of-State	107	91	76	90	same day	985
In-State	83	90	65	80	same day	573

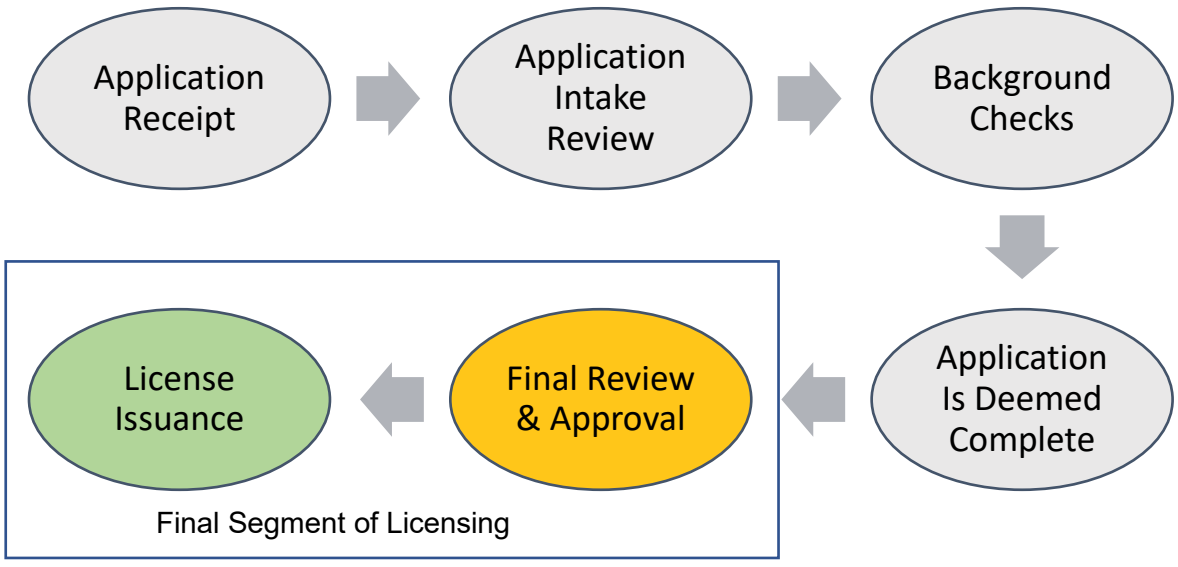
Source: TAP analysis of data extracted from the WMC licensing database. Median processing times are presented in Appendix A, Figure 17.

The WMC Met its Goal for Final Processing for Many Applications

The WMC has established an internal goal (14 days) to complete the final review and approval of applications as part of a DOH pilot project. **Figure 7** shows the key segments of the licensing process with the final review and approval segment at the end of the process. The WMC completed this last segment within 14 days for 79 percent of 9,953 applications that had licenses issued between 2019 and 2021, noting that measuring timeliness of this last segment excludes up to 80 percent of the processing time required to complete the entire process, see **Figure 8**. The final review and approval process requires only management review of the complete application if the application does not require Commission member review.[9] WMC executive management explained that the Commission has had prior discussions about potentially eliminating this metric because it does not reflect the entire licensing process.

Timeliness to complete the last segment of licensing process in 2021 was about the same or better across all application types in comparison to the 2019 level. See **Appendix A.**

Figure 7: Key Segments of the WMC Initial Licensing Process



Source: TAP analysis of the WMC licensing process.

[9] The MD licensing application, in comparison to other types of applications, had the most applications completed outside of the 14-day goal, at 30 percent.

Figure 8: Timeliness for WMC's Final Review and Approval for Licensure 2019 -2021*

License Type	% completed within 14 days	% completed outside of 14 days	Total Licenses Issued
All	79%	21%	9,953
MD	70%	30%	6,004
IMLC	100%	0%	1,000
PA	86%	14%	1,548
MDRE	95%	5%	1,330
MDFE	85%	15%	39
MDTR	85%	15%	27
MDCE	100%	0%	4
MDIN	100%	0%	1

*All turnaround times reported exclude up to five days to process application fees administered by DOH.
MD: Medical Doctor application type
IMLC: Interstate Medical Licensing Commission application type
PA: Physician Assistant application
MDRE: Medical Residency License
MDFE: Medical Doctor Fellow application type
MDTR: Teaching and Research license application
MDCE: M.D. graduate working to attain clinical experience application
MDIN: Institutional License
Source of data: TAP International analysis of WMC licensing data.

For the remaining 21 percent of the applications, the WMC required additional time to resolve outstanding issues or concerns. This report will describe the circumstances that can contribute to lengthier processing times.

WMC Accomplished Faster Processing for Renewals

Prior to the expiration of a medical license, the physician must submit a licensing renewal application. As a condition for renewal, the applicant must attest to the completion of Continuing Medical Education (CME) requirements. For these applications, WMC had improved processing timeliness from about one day in 2019 to a few hours in 2021 across all application types. See **Figure 9.**

Figure 9: Timeless of Renewal Processing, 2019 to 2021. (Number of days)

Turnaround Time	2019	2020	2021	Overall Average
IMCL	0.5	1.9	0.9	1.2
MD	1.1	0.6	0.2	0.6
MD-Limited	0.8	0.4	0.1	0.4
PA	0.9	0.8	0.2	0.6
TOTAL	**1.0**	**0.6**	**0.2**	**0.6**

Source: TAP International analysis of WMC licensing data.

LICENSING COULD BE FASTER BY ADDRESSING THREE KEY FACTORS THAT CONTRIBUTE TO LONGER PROCESSING TIMES

For 3,977 licensing applications between 2019-2021, one to 901 additional days were required to issue a license.[10] Three areas of the WMC's licensing process can lengthen the processing time when bottlenecks and other inefficiencies occur. These areas include:

1. **Regulatory Requirements**: The WMC, under the authority of RCW 18.130.064 for physicians and physician assistants, may require national background checks on licensing applications under certain circumstances, such as out-of-state residency and by type of application submitted. Of the 10,811 applications submitted to WMC for permanent licenses in the three years 2019-2021, about 64 percent, or 6,868 applications, required an FBI background check. Complying with this requirement increased licensing processing times; the WMC staff reported waiting up to six months to receive the results from the fingerprint review, especially in 2020. The Health System Quality Assurance (HSQA) agency, the DOH unit responsible for requesting and processing the results of the background checks, noted that in 2022, the wait time to receive FBI background check results has improved, averaging about two to four weeks.[11] Under WAC 246-919-396, the WMC recognizes that their completion may require additional time. If the applicant has met all other licensure requirements, except receipt of national background check results, the WMC may issue a temporary practice permit (TPP).

   For many applications, staff questioned the future of conducting FBI background checks for some types of applications because alternative information sources, such as the National Practitioner Data Bank (NPDB), can provide comparable information. NPDB, established by Congress and operated by the U.S. Department of Health and Human Services, is a web-based repository of reports on medical malpractice payments and specific adverse actions related to healthcare practitioners, providers, and suppliers.[12] The tool helps prevent practitioners from moving state to state without disclosing or discovering previous damaging performance. The NPDB, which the WMC has direct access to, assists in promoting quality health care and deterring fraud and abuse. Current requirements under the RCW do not address whether the WMC can rely on the NPDB as another option for checking an applicant's background, instead of state or national background checks.

2. **Issuance of Letters to Request Supplemental Information.** When the WMC licensing staff identify the need for additional applicant information, the staff

[10] Based on licensing applications that exceeded the average turnaround time for the year the application was approved for licensing.
[11] Washington State Patrol also experienced lengthy delays in conducting background checks in 2020 because of the COVID-19 pandemic.
[12] The information includes medical malpractice payments made on behalf of the practitioner, actions related to clinical privileges, state licensure or certification, federal licensure or certification, professional membership, and exclusions from Medicare/Medicaid or other government healthcare programs.

contacts the applicant via an email notice, referred to as a "deficiency" letter, to request data and other information needed to prepare a complete application. For the time period of this review, the WMC had to send the letter, if needed, within 30 days of receiving the application.[13] Of the 10,811 licensing applications processed between 2019 and 2021, 76 percent involved a request for additional information from the applicant.[14] When this occurs, it automatically extends the time to review the application because, if the applicant does not provide the requested information, the WMC is not authorized to close an application until one year after the initial information request provided there was no activity by the applicant. In comparison, the Nursing Care Quality Assurance Commission (NCQAC), requires the applicant to submit supplemental information within a shorter period, placing some of the responsibility on the applicant to ensure a complete application or risk closure of their application. At the time of our review, the WMC prepared plans to adopt a similar requirement that would close applications within 180 days of the last date of contact with the applicant.

When applicants respond to the letter and submit the requested information, the WMC uses multiple email addresses to receive the information, which further leads to longer processing times. WMC staff must search and sort all the documents submitted by applicants. Even if the WMC used only one email address and inbox, the WMC staff described spending significant time searching through hundreds of documents to locate an applicant's submitted information. The WMC does not presently use advanced technology that would streamline the sorting and extraction of data.

Finally, other delays occur if staff have unresolved concerns about the application information submitted, referred to as non-routine applications. WMC management or a panel comprised of Commission members generally review these applications for potential licensure. In 2022, WMC management reviewed 711 non-routine applications and referred 52 to the review panel.[15] At a minimum, the Commission panel responsible for application review meets monthly, contributing to added delays if a quorum is not present.

3. **Use of Outdated Technology to Process Licensing Applications:** The WMC presently relies on a legacy licensing and disciplinary system, the Integrated Licensing and Regulatory System (ILRS), to support its licensing process. ILRS does not have the functionality needed for today's licensing environment. ILRS, used at the

[13] The timeframe was updated to 15 days in late 2022.
[14] The current online portal requires applicants to submit application sections as separate files that applicants are frequently unaware. As a result, WMC staff reported that the full application is not always submitted. Staff explained that a letter of deficiency must be issued to request the supplemental section of the application, automatically lengthening the processing time. WMC does not track the frequency of this occurrence.
[15] A non-routine application could variously involve: (1) positive answers on state, hospital, or post-graduate training verifications; (2) applicants without an active license who have not worked for more than three years; and/or (3) positive answers to personal data questions, except for questions regarding malpractice history.

DOH and other commissions, was implemented in 2008 and is nearing the end of its life cycle. WMC must manually enter information for each step in the licensing process, recording the date that staff "touched" the application at each step. ILRS also has significant gaps in functionality that slows the licensing process.[16] These gaps include the absence of an online portal for applicants to submit application data directly to their own online account, compelling the applicant and other agencies to submit information via email to multiple inboxes or U.S. mail; and the absence of a self-help system with features like checking the status of applications by applicants, requiring licensing staff to stop processing applications to support call center operations.

By 2024, the DOH, in coordination with another ten Washington State agencies and commissions, plans to complete the system implementation of a new Health Care Enforcement and Licensing Management System (HELMS). HELMS is designed to support the licensing needs across 89 professions and 359 credential types, improve data security, support electronic records management, and improve information access.[17]

While HELMS offers a promising solution for scalability and timelier processing, challenges with its implementation have created significant concerns about its ability to meet the WMC's current and future functionality needs. Washington Technology Solutions (WATECH) officials reported delays in the completion of the new system. The delays include a six-month pause in its implementation from September 2021 to February 2022, subcontractor terminations, and underestimating project complexity. As a result, the project had not progressed with the completion of planned "stories," a series of system goals written from the software user's perspective. At the time of our review, implementation efforts were behind schedule.[18]

[16] ILRS also has significant system control deficiencies related to data security, electronic records management, and data accuracy.

[17] The design of the new HELMS system is expected to:

- View and manage information from one site, such as application status, specializations or endorsements, address updates, and allow providers to maintain up-to-date information.
- Allow employers of multiple providers to perform bulk credential renewals.
- Enable electronic notifications on credential expiration, status changes, disciplinary actions, and continuing education due dates.
- Reduce outbound and inbound mail processing for renewal and other processes through online transactions.
- Provide electronic access to facility inspection and/or investigation reports.
- Allow consumers visibility to provider specializations and practice locations.
- Enable patients and others who have filed complaints against practitioners and facilities to check complaint status online.
- Share records securely, and more efficiently, with regulatory boards, commissions, and committees.
- Provide more efficient access to performance measures by way of reporting dashboards.

[18] Forty-seven of 146 planned stories should have been completed, but 40 have actually been completed; and, of 1,082 requirements, 1,055 remain to be configured although the project was planned to only have 964 remaining. Project management reformulated the implementation plan to reduce user testing and simplified the system configuration to provide basic licensing functionality across the different credentials.

Without action to address these three factors creating key deficiencies, the WMC can likely expect continued challenges in trying to keep pace with the demand for medical licensing. The WMC has experienced a 160 percent increase in Washington State MDs practicing telemedicine between July 2020 and July 2021 and a 42 percent increase again from July 2021 to July 2022. With telemedicine growth forecasts ranging from 13 to 27 percent nationwide, combined with WMC application growth projections of five percent,[19] at least one additional staff member would be needed if WMC implements no other process improvement to sustain the WMC's current turnaround time. See **Figure 10** below.

Figure 10: Licensing Application Growth Forecasts

	2019 (actual)	2020 (actual)	2021 (actual)	2022 (estimate)	2023 (estimate)	2024 (estimate)
IMLC	281	360	360	413	452	492
MD	2,074	2,195	2,244	2,341	2,426	2,511
MD-Limited*	497	501	550	569	596	622
PA	559	553	637	661	700	739
Total	**3,411**	**3,609**	**3,791**	**3,984**	**4,174**	**4,364**
Growth Actual	--	6%	5%	--	--	--
Growth Est.	--	--	--	5%	5%	5%
Licensing Staff	--	--	--	9 (projection)	9 (projection)	10 (projection)

*MDCE, MDFE, MDIN, MDRE, MDTR

Source: TAP International analysis of WMC licensing data, 2019-2022.

[19] Assumes the rate of past growth and estimated future demand created by IMLC applications.

DISCIPLINARY PROCESS KEY RESULTS

Section Highlights

WMC shares common process elements with other states, such as adopting missions to protect public safety, establishing timeliness goals to complete the disciplinary process, and reporting difficulties in measuring the impact on public safety. Two key factors help explain the closure of the largest proportion of WMC complaints without disciplinary sanction. First, the process places the responsibility on the complainant to prepare a complaint form that meets the WMC threshold for investigation. Second, when cases are open, the WMC is required to apply a clear and convincing standard of evidence to support disciplining a medical professional. Other states offer potential alternatives that could enhance WMC's disciplinary process. These include the greater use of medical experts and independent investigators, different approaches to case management, varying roles of Commission members in the process, and conducting confidential investigations.

WMC DISCIPLINARY PROCESS SHARES COMMON ELEMENTS WITH OTHER STATES

Measuring the Efficiency of the Disciplinary Process

Each medical board and commission in the five participating states and WMC have similar public safety missions and goals, ensuring the protection of the health and well-being of state residents and that licensed medical professionals uphold the standards of care and other requirements established within their state.[20]

What is the disciplinary authority and role of state Medical Boards and Commissions?
The medical industry in the United States regulates themselves with guidance and authority by state authorized medical boards or commissions. Discipline of medical professionals is a key function of boards and commissions in each state. Receiving, reviewing, and investigating complaints followed by issuing legal sanctions for complaints that violated state requirements established for medical professionals is a statutory requirement across each state.

Program evaluation and subsequent performance measurement determines the progress made against pre-defined goals. The WMC and all the states participating in this review established measures for the time required to complete the disciplinary process. Measuring process timeliness allows for: (1) monitoring of operating efficiency to support resource allocation; (2) serve as a management early warning system; and (3) function as a vehicle for improving accountability to the public or potential subsequent changes to operations.

[20] Washington State law (RCW 18.71.002 and .003) provides authority to the WMC to protect public health, to promote the welfare of the state, and to provide an adequate public agency to act as a disciplinary body for the members of the medical profession licensed to practice medicine and surgery. This law states that the health and well-being of its residents are of paramount importance and the conduct of members of the medical profession licensed to practice medicine and surgery in this state plays a vital role in accomplishing the goal.

Without setting a timeline for the completion of the entire disciplinary process, the DOH monitors timeliness across three process segments. Under WAC 246-14, the WMC has 21 days to review the complaint form for completeness and for the Commission to determine whether to open a case for investigation, 170 days to complete an opened case investigation, and 140 days for case adjudication.[21] The timeline applies to all licensed/credentialled health professionals under the authority of the Department of Health. WMC officials explained timeliness goals were established years ago, not based on actual evidence-based timeliness information, and applied to all cases regardless of nature, complexity, or priority except for certain high-priority cases that cause harm. During our review, WMC was developing guidance to complete higher-priority cases faster, within 100 days.

Timeliness of the WMC's Disciplinary Process

Like other states, the WMC monitors the status of the cases within its established timelines through regularly preparing management reports. WMC staff also perform self-monitoring of their timeliness on individual cases, explaining that knowing where each case is within the established timeline allows them to prioritize their work.

For analytical purposes, the Auditor assessed timeliness of case processing by totaling each timeline across the three segments of the disciplinary process – 331 days. Among 1,612 complaints opened for investigation between 2019 – 2021, WMC completed 78 percent within 331 days. The remaining 22 percent of cases exceeded 331 days for multiple reasons. WMC staff reported that timeliness was influenced by difficulty and challenges in collecting evidence, although they also reported satisfaction with their authority to collect information. Other states also reported similar challenges in collecting information.

We did not determine the WMC's timeliness at completing each of the three segments of the disciplinary process because WMC monitors them routinely.

While WMC staff were generally satisfied with the timeliness goals, others raised the unreasonableness of them, explaining that the 170-day requirement to complete the investigative process is not a good representation of the average time to complete cases because some cases require additional time based on their degree of complexity, and others require less time. In addition, while WAC 246-14-010 states the timeline may not be followed in all cases, WMC staff reported that the timeline has become a "one size fits all", which has led some staff to postpone working on lower priority or less complex investigative cases until later in the expected timeline.

In comparison, two of the five participating states for this review routinely monitor one overall timeline to complete their disciplinary processes. Timelines varied among these states, ranging between 12 and 18 months.[22] Three states monitor timeliness for the completion of investigations. However, one of these states sets its timeline based on the nature of the complaint, such as cases with a potential immediate threat to the public. The timeline to complete all other lower-priority investigations is within 30 days. Upon receipt

[21] WMC has 45 days to issue an order if needed; and if no answer is filed, 60 days to file a proposed final order of default and 45 days to issue a final order of the submission.
[22] Legal statutes established these goals for these states.

of a complaint, the state has 75 days to issue an emergency suspension order and 90 days to conduct a trial after the order is issued, if necessary.

Few Complaints Result in Disciplinary Action

While the mission of WMC and other state boards is to promote public health and safety, a U.S. Department of Health and Human Services study reported no feasible way to measure regulatory impacts other than a managerial performance measurement approach.[23] WMC officials and officials from our participating states agreed about the challenges in measuring their disciplinary programs' effectiveness at protecting public safety. Nonetheless, a national expert in licensing medical professionals explained that the goal of the disciplinary process should be for the state medical board to establish model policies addressing systemic problems in medical practice, such as reducing recidivism, resulting in improved public safety. Aligned with this need, the WMC proactively conducted a one-time study on recidivism. In a study published in the Journal of Medical Regulation, the WMC found that 6.8 percent of 975 disciplined physicians were re-disciplined between 2008 and 2020.[24] Our analysis of 210 cases closed between June 2019, and December 2021 found similar results, with 15 repeat offenders among 194 disciplined professionals, or about eight percent.[25] Like the 2022 WMC study, the majority of recidivists were respondents who failed to comply with their existing orders.

Other managerial approaches to performance measurement have been used to assess the disciplinary process, including the rate at which complaints against medical providers resulted in disciplinary action or the number of disciplinary actions taken by a state medical board.[26] [27] For example, as shown in **Figure 11**, of 4,598 complaints received by the WMC between 2019 and 2021, the WMC closed 65 percent of them before opening an investigation.[28] For the remaining 35 percent of complaints opened for investigation, 75 percent (1,216) were closed without sanctions against the licensed professional.[29] The other states participating in this review also closed most cases without taking disciplinary action. For example, in one state about 60 percent of the complaints received in one year were

[23] U.S. Department of Health and Human Services Assistant Secretary for Planning and Evaluation Office of Disability, Aging and Long-Term Care Policy, *State Discipline of Physicians: Assessing State Medical Boards through Case Studies*, 2006.

[24] Jimi Bush, MPA; Sarah Chenvert, MBA, *An Evaluation of Clinicians with Subsequent Disciplinary Actions*: *Washington Medical Commission*, A JOURNAL of MEDICAL REGULATION VOL 108, NO 1.

[25] Some cases resulting in discipline from the WMC recidivism study were included in the TAP International analysis for 2019 and 2020, therefore it is reasonable to assume the results would be similar.

[26] For example, State Medical Boards receive hundreds to thousands of complaints each year. In 2021, these complaints led to discipline among less than one percent of licensed physicians (3,402 of 1,026,000).

[27] It is important to note administrative policies and other regulatory factors, such as the standard of evidence influence when a state medical board decides to close a compliant or when a state medical board takes formal disciplinary action.

[28] Complaints may be closed after review by the CMT Panel due to being below the threshold for referral to the investigation process.

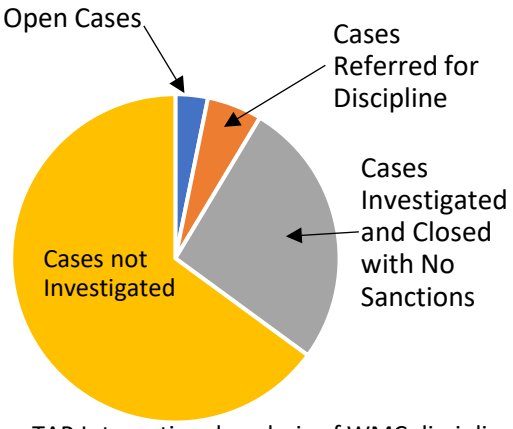
[29] For the 1,612 of complaints opened for investigation, 396 cases (25 percent) of these were referred for disciplinary sanctions, and 249 resulted in sanctions; the remaining 147 cases remained open as of August 2022.

closed during the initial complaint investigation. In another state, about half of the complaints received were closed without board action.

While many factors can close a complaint before or after an investigation,[30] we identified two key factors, shown below.

1. **Responsibility of the complainant to prepare a complaint that meets the regulatory threshold for investigation.**

Figure 11. Complaint Outcomes, 2019-2021



Source:TAP International analysis of WMC disciplinary data.

Under the WMC's disciplinary process, the complainant is responsible for preparing a complaint that meets the regulatory investigation threshold related to either a violation of professional conduct or standard of care**.** WMC staff explained complainants are generally unaware that the information they present on the complaint form needs to meet the regulatory threshold for the WMC to open a case for an investigation. WMC does not assist complainants in preparing their complaints because of the challenges that can occur when the case reaches the hearing stage of the disciplinary process.[31] Without basic guidance on the complaint form or information explaining the regulatory threshold to open an investigation and the type of information needed to meet that threshold, complainants have a higher risk of complaint closure without an investigation. Alternatively, one participating state for this review returns the complaint form to request additional information and dedicates one person to help complainants navigate the disciplinary process. Another three participating states opened an investigation upon receipt of the complaint, with officials explaining that complainants are not experts in the standard of care or medical regulations and should not be held responsible for ensuring the complaint form meets the requirements for investigation.

[30] Examples include: based on information provided, no violation of the law occurred; billing and fee disputes except as designated by disciplining authority; communication and personality issues; if allegations are true, no violation of law occurred; insufficient information; issues which have been otherwise resolved, case rendered was within standard of care.

[31] Officials from the five participating states in this review reported various efforts to collect additional information prior to deciding whether to open an investigation or close the complaint, without providing direct assistance to the complainant. WMC management explained that they will send a More Information Needed notice to a complainant that will explain what information is missing and critical in order to process the complaint and will communicate via email if follow up contact information is provided.

2. WMC's use of a higher standard of evidence.

A 2021 study published in the Journal of Medical Regulation identified consensus among state medical boards for using the "preponderance of the evidence" as the standard of proof in all disciplinary proceedings (rather than "clear and convincing evidence" or other standards).[32] While the Attorney General's Office officials explained the state requirements allow the WMC to apply a standard of proof using a "preponderance of evidence" in its investigations and adjudications, the WMC applies a "clear and convincing" standard of evidence because of a State Supreme Court ruling setting a precedent for this standard.[33] While a "preponderance of evidence" standard may require 51 percent certainty, the "clear and convincing" standard requires higher evidence and proof.

For 1,216 cases opened for investigation by the WMC, 28 percent (346) were closed because the evidence did not support a violation and was not referred to discipline. WMC staff explained that because all cases are subject to the higher "clear and convincing" standard, these cases, regardless of their priority classification, require more evidence, and therefore staff spend more time. While some cases could benefit from applying the lower "preponderance of evidence" standard, the court ruling prevents them from doing so. As a result, our analysis determined that the use of the higher standard of evidence is not a compliance issue.

Commission officials explained that another type of sanction is needed for those cases that were ultimately closed because there was not clear and convincing evidence of a violation. These officials suggested the use of a confidential letter warning the respondent about the risks of their conduct. Without this authority, WMC may lose an opportunity to enhance its public safety efforts

Four of the five states participating in this review, which were selected, in part, for using the "clear and convincing" standard of evidence for disciplinary matters, are working towards or can issue a non-formal disciplinary action letter similar to a warning or expression of concern. Having the authority to issue such letters enhanced the ability of these states to resolve certain cases quickly and efficiently, freeing up resources needed to resolve more difficult or serious cases. Launched in 2022, the WMC began issuing a practitioner support letter upon closure of complaints related to miscommunication, knowledge deficits, and similar issues; these letters suggest that the respondent develop a plan to prevent miscommunication, but this suggestion is voluntary.

[32] Protecting Patients from Egregious Wrongdoing by Physicians: Consensus Recommendations from State Medical Board Members and Staff. Journal of Medical Regulation Vol 107, No.3.

[33] WMC management explained the use of the "clear and convincing" standard is not discretionary for the WMC and is guided by WA Supreme Court decisions. According to the WMC, prosecutors in the Attorney General's Office will not sign off on charges that do not meet the clear and convincing standard.

OTHER STATES OFFER POTENTIAL ALTERNATIVES THAT COULD ENHANCE WMC'S DISCIPLINARY PROCESS

The five participating states applied varied approaches to three key disciplinary process components: the use of medical experts, case management activities, and roles and responsibilities of the Commission members. It is important to recognize that each state's unique regulatory environment influences the design of its disciplinary processes. A process feature that works for one state may not be as beneficial to another due to its own organizational culture or other operating constraints.

Routine Use of Medical Experts and Independent Investigators

A 2021 study published in the Journal of Medical Regulation found weak consensus among study participants that medical boards utilize a regional or national expert pool, as a recommended practice.[34] Officials interviewed from three participating states for this review reported the key benefits of using a pool of medical experts and specialized investigators for routine use on disciplinary cases. For example, one state established an Expert Reviewer Program that contracts with hundreds of medical experts. In this state, Expert Reviewers are assigned in the same field as the respondent involved in the complaint to perform a full review of the case, to examine medical records, and, if needed, request additional information for investigators to gather. Directly employing expert reviewers on complaints/cases provides immediate medical expertise and expedites data collection by quicker identification of the types of information needed to substantiate a complaint. Officials in two other states identified advantages of having access to a pool of up to 100 state-wide investigators that include faster investigations and access to investigators with expertise in specific areas.

Similar to the WMC, two states primarily rely on their board members to provide medical expertise. However, both boards may obtain additional specialized knowledge from outside medical experts to review information gathered during an investigation.

WMC staff said the time incurred in the hiring of medical experts is a barrier to accomplishing case efficiency, describing timelines of up to six months to hire the expert, process confidentiality requirements, and to receive the contracted deliverables. A WMC procurement officer reported that the timeliness of hiring a medical expert could take from one week to several months depending on multiple factors, such as;

- Timeliness and responsiveness of the medical expert, which can sometimes delay procuring activities from several days to weeks,
- Timeliness of communication with WMC staff,
- The time required by an expert witness to secure employer approval for outside employment, if applicable, and
- Receiving signed documents back to the WMC for execution.

[34] Utilizing medical experts in a specific specialty allows for evaluation of case information to determine whether a practitioner complied with standards for that specialty.

Analysis of data shows that although the WMC increased the number of contracts with medical experts in 2020-2021, the expenses incurred have declined, suggesting that the hired medical experts may have smaller scopes of services to complete. See **Figure 12**.

Figure 12: WMC Use of Medical Experts

	FY 2020	FY 2021
Cases Opened	1,452	1,497
# of Cases with Medical Experts	42	58
Percent of Cases with Medical Experts	3%	4%
Ratio (Medical expert hired per case)	1:35	1:26
Professional services expenses	$ 150,876	$ 116,610

Source: TAP International analysis of WMC disciplinary data, DOH Finance expense information, and DOH purchasing information.

Different Approaches to Case Management

Team Structure to Investigate Complaints

The 2021 study published in the Journal of Medical Regulation found strong consensus among participating State Medical Board members and staff of having a diverse investigative team, including clinicians, public members, and legal counsel. Each of the five states participating in this review differed in their team approach to investigating complaints/cases. One state includes a medical expert in the same field as the respondent. Another state has a medical expert who works with an assigned investigator. A third state assigns team members based on nature of the case, team member expertise, and in coordination with a Board member's specialty type. For cases involving sexual misconduct, attorneys are added to the team. A fourth state will dedicate investigators with less experience to investigate lower priority cases and investigators with more experience for higher priority cases. Finally, a fifth state dedicates specialists to investigating standard-of-care cases, although they will be assigned to other cases if needed. Additionally, this state and another allow staff the authority to close some types of cases.[35]

While the WMC assigns a Commission member, an investigator, and an attorney to each complaint opened for investigation, the team assignment can be more effective if the attorney assigned to the team has a formal role during the investigative process.[36] Presently, attorneys do not formally review and approve of investigative plans or monitor the evidence investigators collect. Having a more formal role could mitigate returning cases to

[35] Medical Boards in two states delegated staff the authority to close administrative cases. In one of these states, periodic audits are conducted of closed cases to ensure consistency and uniformity of decision-making. The other state (VA) said a major improvement in the timeliness of case processing was the delegation of authority by the board to staff to close lower priority cases.

[36] WMC management explained that staff attorneys talk to investigators daily to help investigators prioritize information the Reviewing Commission Member will likely need. However, the staff attorney roles and responsibilities are not clearly defined, and staff attorneys have expressed a desire to be involved in the investigation planning process.

investigators to collect additional information and/or receiving cases that included collecting unnecessary information.

When the WMC decides to open a complaint for investigation, WMC staff suggested that the nature of the case should reflect the specific expertise of the team members versus a generalist approach. For instance, in sexual misconduct cases with a clinical component, the WMC assigns specially trained Commissioners and staff.

Prioritization of Cases

To respond to the thousands of complaints that states can receive annually, some triage becomes necessary to determine the relative priority of a case for investigation. While all five participating states prioritize complaints for investigation, states varied in their methods. For instance, one state employs two fully licensed physicians working about 10 hours each per week to prioritize complaints and help investigators pinpoint documents needed for investigations. With each priority assignment, the number of days required to complete the case may vary, with higher priority cases requiring fewer days to complete the investigation expediting the disciplinary process. Another state uses a Chief Medical Officer to prioritize complaints. A third state does not allow the Board to prioritize the complaints, instead assigning responsibility to their Enforcement Division. In this state, each priority designated group A and B, and then C and D, have a different timeline for completing the investigation. A state official acknowledged the value of establishing timeliness goals based on case complexity versus the type of priority.

Although the WMC has 2010 HSQA procedures in place to assign priority levels to cases opened for investigation, the WMC generally applies three of the five classifications described. The three classifications generally applied by the WMC are: priority A – risk of immediate harm, B – moderate risk of harm, C – risk of harm, and the investigation for each must be completed within 170 days. The WMC recently set informal internal goals for some types of Priority A cases at 100 days. WMC staff variously raised the need to use expanded categorization of complaints and questioned applying the same timeline across all cases regardless of the priority assigned to them.

Segregated Roles and Responsibilities of Commission Members

A primary objective of state medical boards and commissions is to promote patient safety and enhance the profession's integrity through licensing, discipline, rulemaking, and education. How each is structured to accomplish this mission can vary among the state medical boards. One key structural area is segregation of roles and responsibilities to avoid the appearance or actual conflicts of interests. Segregation of duty serves as a critical control to manage risk and to ensure the effective completion of intended goals and objectives by separating key roles and responsibilities of a program, process, or operation. Therefore, segregation of duty is a key control element to support effective risk management.

Three of the five participating states segregate duties and roles of their Commission. These three states variously prohibit Commission members who review complaints from

participating in the other disciplinary process activities involving those cases or from reviewing complaints in general. For these states, segregating Commission responsibilities prevented potential risks, such as inherent bias in decision-making and other potential conflicts of interest between the Commission member and the respondent.

In contrast, WMC's Commission structure delegates full responsibility to Commission members to administer and oversee the disciplinary process in coordination with WMC management and staff. These key disciplinary responsibilities entail:

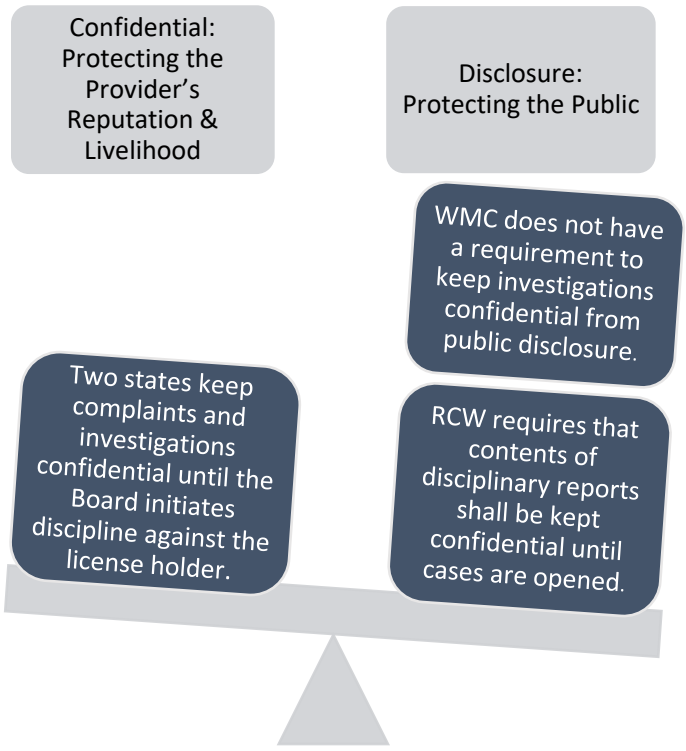
- Reviewing complaints and determining whether a case should be open for investigation,
- Participating in the investigation and adjudication of the case; including directing the investigation,
- Participating in hearings about the case, and
- Recommending, reviewing, and approving disciplinary sanctions.

The WMC mitigates some of the risks presented by its current set of roles and responsibilities by having public members serve on the Commission. WMC management explained that commissioners never participate in hearings on cases assigned to them and two panels are used; one as a charging panel and the other as a hearing panel. Other staff reported concerns about the timeliness impact that the Commission's role and responsibilities have on the disciplinary process. Although WMC management continuously encouraged Commission members to respond to staff requests for information and meetings in a timely manner. WMC staff commonly reported waiting for Commission member responses to emails, meetings, and other matters concerning a case, explaining that some Commission members are more responsive than others. WMC management has also continuously encouraged Commission members to serve on the complaint intake panel Case Management Team (CMT) to help fill Committee vacancies and avoid postponing complaint reviews. Finally, because the Commission meets seven times annually, it can immediately create case delays of up to six weeks or more, especially during the months the Commission does not meet. Having more frequent Commission meetings, according to WMC staff, would mitigate staff impact and shorten the timeliness of some cases.

OTHER INFORMATION

OTHER STATES REQUIRE CONFIDENTIALITY OF INVESTIGATIONS

RCW 18.71.0195 requires WMC to keep the contents of disciplinary reports confidential, but anyone can request the report through public requests for information regardless of case status. When WMC opens an investigation, staff routinely notify the respondent of the investigation.[37] WMC management explained that by law, respondents must be notified at the earliest point in the process possible and have chosen the point after receipt of a whistleblower clearance so that WMC can provide the respondent details about the complaint, which allows continued compliance with the law. Upon learning of the investigations, external stakeholders have reported cases of hospitals and large medical systems temporarily removing respondents from their practice because of medical malpractice insurance liability concerns. These stakeholders explained that a significant reputation and integrity risk to respondents unnecessarily occurs when cases become public, even if ultimately closed because of unsubstantiated allegations or insufficient evidence. Although the extent of the risk is unknown by them, these stakeholders reported cases where physicians were suspended by a hospital system over allegations ultimately closed by WMC without disciplinary action. The actions of hospital systems are not within the authority of the WMC. Since 2008, WMC formally suspended six licensed medical professionals pending completion of investigations.



State law in two of the five participating states for this review requires confidentiality of the complaint and investigation until the Commission formally alleges wrongdoing by a medical provider. Both states keep the complaint and investigation confidential until the formal filing of charges.

[37] WMC management explained that by law the respondent is notified at the earliest point in the process possible, generally after the whistleblower clearance is obtained.

WMC SANCTION ACTIVITY

In our analysis of 210 completed cases with sanctions between January 2019 and December 2021, 63 percent resulted in a Stipulation to Informal Disposition (STID). STID is a document stating allegations have been made and contains an agreement by the licensee to take some type of remedial action to resolve the concerns raised by the allegation. STIDs are generally the result of a negotiated settlement between WMC and the licensed professional/legal representative where the licensed professional accepts disciplinary sanction without admitting responsibility for the complaint. The WMC staff explained that STIDs are generally for less egregious cases. The average number of disciplinary sanctions agreed to by the WMC, and the respondent for this type of order declined from five disciplinary sanctions per case in 2019 to about three in 2021, as shown in **Figure 13**. The remaining 77 cases closed with disciplinary sanctions resulted in either formal or summary actions by the WMC.

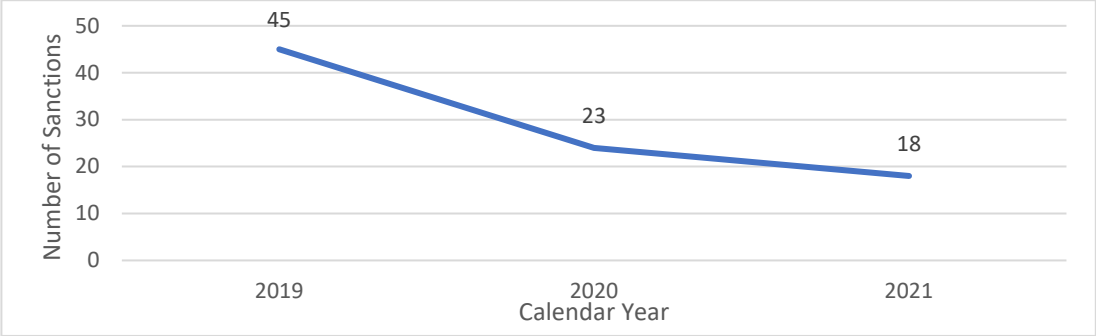
Figure 13: Total Sanctions Among Closed Cases Resulting in an Informal Disposition, 2019-2021

Informal Disposition (STID) Orders	2019	2020	2021	Total
Total Cases	55	34	44	133
Total Sanctions	262	124	146	532
Avg Sanction per Case	5	4	3	4

Source: TAP International analysis of closed cases resulting in informal dispositions. between 2019 and 2021.

Legal representation for the respondent serves as one factor influencing the level of and type of sanctions imposed on disciplined professionals. WMC staff explained during negotiations with legal representatives of the respondent, they are less inclined to agree on certain types of sanctions on behalf of their client, especially those involving a financial impact, as demonstrated by fewer cost recovery sanctions imposed on the respondent. As shown in **Figure 14,** cost recovery sanctions declined from 45 in 2019 to 18 in 2021 for STID-related cases. WMC management further explained that they are under guidance that cost recovery should be included in every STID, unless there are other financially burdensome sanctions in the STID.

Figure 14: Number of Cost Recovery Fee Sanctions Imposed on Disciplined Professionals



Source: TAP International analysis of 133 cases resulting in discipline.

The WMC's strategic priority and state requirement to rehabilitate the licensed professional serves as another factor influencing the type of sanction imposed on disciplined professionals. In 44 cases closed in 2021 with a STID, WMC commonly imposed as sanctions personal appearances at WMC meetings, cost recovery, coursework/written papers, and some type of licensing restriction. These sanctions support rehabilitation and re-education of the licensed professional. See **Figure 15**. WMC management explained that the philosophy is to apply "right touch actions to change behavior" to make a better practitioner, avoiding repeated mistakes and having to remove the respondent from medical practice permanently. Other management officials further explained that each case's circumstance drives the case's sanctions. One Commission member explained the need for the Commission to change their panels (A and B) bi-annually because these panels, composed of the same members, always develop their own way of discipline and discussion, becoming vulnerable to old patterns. By adding rotations, cases could be assessed differently.

Figure 15: Frequency of Disciplinary Sanctions Negotiated with Respondents for 133 Cases Resulting in Informal Disposition, 2019-2021

	2019	2020	2021	Total	Percent
Personal appearances	44	20	29	93	17%
Cost recovery	45	23	18	86	16%
Written paper	41	21	22	84	16%
Coursework	33	19	22	74	14%
Monitoring	40	12	17	69	13%
Other*	23	3	9	35	7%
License surrender	6	10	12	28	5%
Peer Group Presentation	9	5	2	16	3%
Fines	4	5	6	15	3%
Practice review	8	2	4	14	3%
Health program	5	2	2	9	2%
Restrictions	4	2	3	9	2%
Total	**262**	**124**	**146**	**532**	

***Examples include work notifications, DEA registration surrender, supervisor reports, self-reports, pre-conditions for petition.

APPENDICES

APPENDIX A: LICENSING TIMELINESS STATISTICS

Figure 16: Percentage of Licensed Applications Completed within 14 Days (Final Review and Approval)

Application Type	2019	2020	2021	Grand Total
ALL*	**76%**	**85%**	**77%**	**79%**
IMLC	100%	100%	100%	100%
MD	67%	78%	66%	70%
MDCE	NA	NA	100%	100%
MDFE	74%	92%	100%	85%
MDIN	100%	NA	NA	100%
MDRE	94%	93%	98%	95%
MDTR	83%	88%	86%	85%
PA	83%	94%	82%	86%

*Weighted average

Figure 17: Number of Licensed Applications with a Turnaround Time of 14 Days or less (Final Review and Approval of Licensure)

Application Type	2019	2020	2021	Grand Total
ALL	2,425	2,828	2,631	7,884
IMLC	279	360	360	999
MD	1,292	1,577	1,362	4,231
MDCE	NA	NA	4	4
MDFE	14	12	7	33
MDIN	1	NA	NA	1
MDRE	403	408	453	1,264
MDTR	10	7	6	23
PA	426	464	439	1,329

Figure 18: Average Turnaround Time (in Days) by Application Type between Application Receipt Date and License Issue Date

License Type	2019	2020	2021	2019-2021 Average	2019-2021 Median	2019-2021 Minimum	2019-2021 Maximum	2019-2021 # of Applications
MD	115	113	84	104	89	3	985	6,513
MD-Limited	55	85	46	61	57	1	366	1,548
IMLC	4	8	17	10	7	0	131	1,001
PA	93	66	76	78	63	3	482	1,749
ALL*	93	91	70	84	73	0	985	10,811

*Weighted averages. Minimum and maximum values are across all license types.

Figure 19: Median Turnaround Time (in Days) Between Application Receipt Date and License Issue Date by In State and Out-of-State Applications

Application Origin	Median 2019	Median 2020	Median 2021
Out-of-State	89	79	65
In-State	72	83	55

Figure 20: Timeliness and Application Volume by Quart

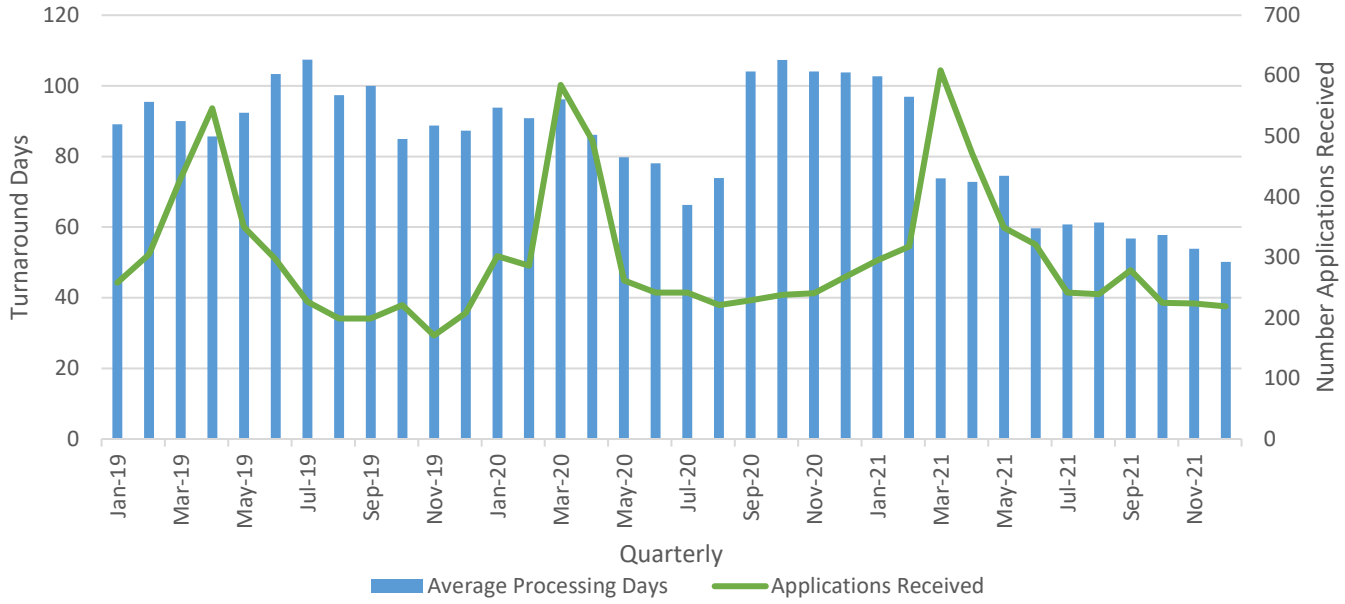


Figure 21: Average Turnaround Time (in Days) Between Application Receipt Date and License Issue Date, by Year and Month

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
IMLC	3	3	5	3	5	6	4	2	4	6	6	3
MD	103	105	116	124	111	113	138	128	120	113	105	109
MD-Limited	113	73	56	53	44	66	56	NA	27	99	67	103
PA	70	96	92	90	113	122	110	80	85	87	88	78
Average	**89**	**95**	**90**	**86**	**92**	**103**	**107**	**97**	**100**	**85**	**89**	**87**

	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20
IMLC	6	5	4	4	4	8	15	9	13	6	5	9
MD	108	98	112	108	103	104	85	108	128	148	135	136
MD-Limited	121	110	92	78	55	68	99	41	83	59	68	96
PA	66	79	79	56	47	42	41	52	68	75	86	86
Average	**94**	**91**	**96**	**86**	**80**	**78**	**66**	**74**	**104**	**107**	**104**	**104**

	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21
IMLC	16	11	14	18	15	12	20	18	22	21	18	17
MD	114	107	95	101	86	63	69	73	74	67	63	58
MD-Limited	106	89	50	43	32	17	26	48	NA	18	22	NA
PA	107	100	131	106	74	81	68	63	39	60	64	45
Average	**103**	**97**	**74**	**73**	**75**	**60**	**61**	**61**	**57**	**58**	**54**	**50**

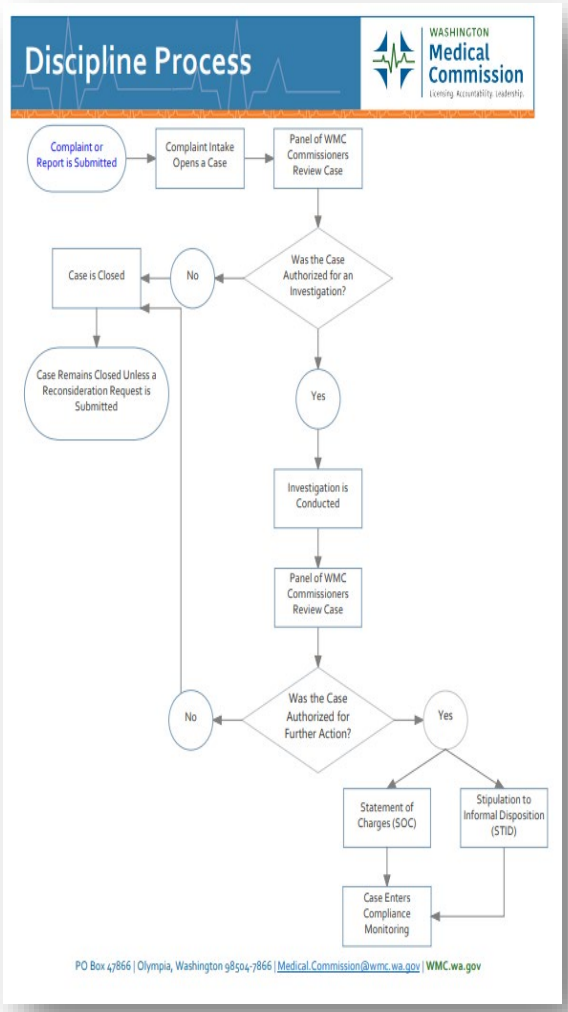
Figure 22: Average Turnaround Time (in Days) by State of Origin

Application Origin	2019	2020	2021	3 Year Average	# of Licenses Issued
Oregon	116	101	87	101	727 (7%)
California	149	118	96	117	635 (6%)
Texas	121	88	77	94	270 (3%)
All Other States (excluding WA, OR CA, TX and International)	95	81	68	80	2,688
Washington (in-state)	83	90	65	80	5,593
International	131	113	96	116	40

Source: TAP International analysis of WMC licensing data.

APPENDIX B: ORGANIZATIONAL STRUCTURE OF THE DISCIPLINARY UNIT

Disciplinary Unit	Key Purpose of the Component	Number of Positions
Intake Unit	Processes complaints	4
Investigative Unit	Assesses if non-compliance with state requirements occurred	10
Legal Unit	Reviews the sufficiency of evidence related to complaints; closes cases or brings cases forward to the Commission for sanctioning.[38]	12
Compliance Unit	Conducts monitoring of sanctioned medical professionals to ensure completion of sanctions ordered; and provides referrals to the WMC for enforcement if non-compliance occurs.	3



Washington Medical Commission members oversee, directly participate in, and support the licensing and disciplinary processes implementation. For instance, Commission members serve on licensing panels for complex applications that need further review by the Commission to determine licensure eligibility. Commission members also serve on panels to review initial complaints to determine whether complaints should be subject to investigation, oversee the investigations, and participate in case hearings to review and recommend disciplinary sanctions.

[38] WMC management explained that the Legal Unit advises and assists the Commission members.

APPENDIX C: METHODOLOGY

TAP International implemented the following activities for this review.

Audit Objective: How long does the WMC require to process licenses for applicants?

- Reviewed WMC's statutory, regulatory, and timeliness requirements for licensing processing, including but not limited, to Engrossed Substitute Senate Bill 5092, Revised Code of Washington (RCW) 18.130, 18.71, 34 and 42, and Washington Administrative Code (WAC) 246-80.

- Conducted statistical analysis that:
    - Determined the number of licensing applications received for calendar years 2019, 2020, and 2021;
    - Computed timeliness of licensing for each type of licensing application; timeliness was measured using two methods. The first method captured the number of days between the date that the application was received and the license issue date. The second method captured the number of days between the date the WMC began the final segment of licensing processing and license issue data;
    - Compared timeliness data against established performance goals, where established;
    - Compared the timeliness of the WMC's processing of licenses for applicants submitting applications from within Washington State and from out-of-state. These applications were identified by the mailing address state of the licensing application;
    - Identified the states that generated the largest volumes of out-of-state applications and compared overall timeliness between states;
    - Assessed overall timeliness of licensure pre-COVID (2019) and during COVID (2020 and 2021).
    - Determined the number of all licensing applications received for calendar years 2019, 2020, and 2021;
    - Forecasted licensing growth.
- Interviewed five randomly selected Commission members, and eight WMC management and licensing staff to discuss how the WMC's current process has helped or hindered the state's ability to respond to health emergencies, such as COVID-19.
- Estimated future licensing workload volumes based on historical data and trends; and determined the potential impact on the licensing and disciplinary processes.

Audit Objective: How does the WMC's disciplinary process compare to other states?

Peer State Selection

Analyzed other disciplinary programs in five states that met the four established criteria. The four criteria applied to identify these states include:

1. **Standard of Proof Required in Disciplinary Matters**.

The Washington State Supreme Court ruled that the Washington Medical Commission must use the "clear and convincing evidence" standard in its disciplinary decisions in 2001 (Nguyen v. Washington Medical Quality Insurance Commission, No. 68994-6 from FindLaw). According to the Federation of State Medical Boards (FSMB), Washington is one of 10 state medical boards – California, Florida, Idaho, Illinois, Louisiana, Nebraska, Oklahoma, Virginia, Washington, and West Virginia – that require the standard of proof of "clear and convincing evidence" for disciplinary matters, compared to other states that only require a "preponderance of the evidence" or a combination of the two standards.[39]

2. State Total Population. The population of a state partially determines the demand for health care. Therefore, the peer review sought to identify States with populations similar in size to Washington using U.S Census data.[40]

3. Rate of Adverse Actions for MDs/DOs per 100 licensed physicians in state. TAP International relied on the 2021 U.S. Health and Human Services data on the total number of reported adverse actions taken against physicians (MD & DO) from each state's licensing board, which indicates a measure of disciplinary activity workload of a Board or Commission. TAP International then applied the Federation of State Medical Boards (FSMB) biennial Census of Actively Licensed Physicians for 2020 to compute the rate of adverse action per 100 licensed physicians in each state.[41]

4. State has a separate Medical and Osteopathic Board. TAP International applied this criterion because (1) Washington state is one of 13 states with separate medical boards to license and provide oversight for Medical Doctors and Doctors of Osteopathic Health, respectively and (2) a 2016 SAO audit on Medical Discipline recommended that the Department of Health combine the two Boards into a single board to streamline government services under Initiative 900 and improve the timeliness and consistency of complaint resolution. TAP International relied on FSMB-gathered data on the composition of each state's medical board and their autonomy from state government.

---

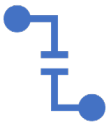
[39] "Standards of Proof Required in Board Disciplinary Matters" at https://www.fsmb.org/u.s.-medical-regulatory-trends-and-actions/state-medical-board-data/

[40] https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html

[41] National Practitioner Data Bank (US Department of Health and Human Services) https://www.npdb.hrsa.gov/analysistool/ Source of Number of DOs and MDs: Interactive 2020 Census Map, "Licensed Physicians by State" at https://www.fsmb.org/physician-census/

- Conducted seven interviews with disciplinary process officials in these five states to discuss and analyze six key components of these states' disciplinary processes with WMC's disciplinary process. These components were: (1) complaint processing; (2) case management tools (i.e., timelines, priority assignment; (3) staffing strategies related to case assignment; (4) frequency of use of and role of medical experts; (5) requirement for confidential investigations; and (6) role of the Board/Commission.

- Reviewed WMC business process maps, documentation, and interviewed disciplinary process staff to determine how disciplinary cases are received, processed, adjudicated, and monitored for after filing a complaint for comparative purposes.



Audit Objective: What factors, if any, contribute to any inefficiencies in the licensing and disciplinary processes?

- Reviewed the requirements for WMC's licensing and disciplinary case processing;
- Evaluated each operational and internal control factor listed below as a potential obstacle to timely licensing and disciplinary processing:
  - Organizational structure as an independent commission,
  - Staffing strategies,
  - Use of information technology and other tools,
  - Training activities,
  - Operational models,
  - Other entity dependencies.

- Interviewed the WMC staff and management to discuss licensing and disciplinary processing, including when and under what circumstances delays or other inefficiencies occur; how applications/disciplinary cases are assigned, the circumstances that would slow or expedite processing, and the efficiency and effectiveness of application/disciplinary case review activities.
- Interviewed stakeholders internal to Washington State government, including management from the DOH, staff at the Department of Finance, and officials at the Health Systems Quality Assurance (HSQA) to discuss the licensing process.
- Collected and analyzed the outcomes for a population of 210 disciplinary cases closed between January 2019 and December 2021; these cases were obtained from WMC's quarterly newsletter. The data was analyzed to determine the frequency of different types of sanctions used, the nature of the disciplinary cases, and recidivism rates.
- Analyzed a WMC disciplinary database of 4,598 records and:
  - Determined the timeliness of case outcomes from receipt of the complaint to sanctions ordered, the number of cases closed prior to sanction, and the percentage of complaints that led to enforcement action.

- Determined factors presenting inefficiencies that are within and outside of the WMC's control.

- Interviewed 32 disciplinary staff and management to discuss when and under what circumstances gaps occur, the circumstances that would slow the disciplinary review process, the efficiency, and effectiveness of disciplinary review activities, and the disadvantages and advantages of the process.
- Reviewed DOH reports, WMC reports, Commission meeting minutes, and process documentation.

Audit Objective: What could the WMC do to improve its licensing and disciplinary processes?

- Interviewed randomly selected Commission members and WMC management and staff to discuss potential improvement opportunities and challenges that the Commission can expect in the future without implementing potential recommendations.

- Interviewed external stakeholders from five medical professional and public health associations located in Washington to discuss customer satisfaction with the licensing and disciplinary process, opportunities to improve the processes, and current and emerging trends for their potential impact on them.

- Determined if the licensing process is structured to meet current/emerging challenges.

- Summarized and assessed all potential improvement opportunities identified by internal and external stakeholders, including TAP International's suggested improvements, for their potential impact in protecting public safety, addressing the root cases described in this report, the potential implications for WMC operations, and potential effects on other Washington state departments.

Factors Related to Auditor Independence

The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires the assessment of factors that have impaired auditor independence. TAP International did not encounter interference by the WMC or other stakeholders or other types of impairments that impacted the timeliness, validity, or reliability of the information described in this report.

Assessment of Data Reliability

The U.S. Government Accountability Office requires an assessment of the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations.

TAP International relied on licensing application data, complaint data, and disciplinary case information we obtained from the WMC via MS Excel databases. The WMC prepared these databases by writing a custom query to extract the data from the WMC's licensing and disciplinary information system. Generally, data extracted from these information systems undergo an external review by the DOH's business office to ensure accuracy and completeness. The WMC's internal review did not occur for this request, and instead, TAP International performed data quality assurance activities. These activities included reviewing the database for duplicate entries, anomalies in the data, data input errors, performing data electronic testing, and interviewing staff members knowledgeable about the data because a data dictionary supporting the identification of each data field was not available for proprietary reasons. TAP International also interviewed staff on methods and activities implemented to ensure that the information systems captured accurate and complete information. The discrepancies and other errors (422) were either excluded from the analysis or corrected to provide the Auditor with sufficient evidence to support our findings, conclusions, and recommendations.[42]

TAP International obtained data from the internal accounting system maintained by the Washington Department of Revenue to determine the amounts of fines and recovery fees levied as sanctions on disciplinary cases. TAP International found the data to be sufficiently reliable for our purposes to support specific results on fees and fines.

TAP International obtained data from quarterly newsletters published by the WMC that describes the disciplinary cases with sanctions approved by the WMC. While this data excludes cases the WMC closed without sanctions or cases pending for resolution, the number of cases completed with sanctions (210) between 2019 and 2021 provided a sufficient sample of cases to develop a subset of information. We compared this subset of information with disciplinary information received from the WMC and determined the data to be sufficiently reliable to support results on commonly applied sanctions.

Assessment of Internal Control

The U.S. Government Accountability Office requires an assessment of the adequacy of internal controls if they are significant to the audit's objectives. Internal controls are processes, procedures, and other tools that management uses to help an entity achieve its objectives and comply with applicable laws and regulations. Our internal control assessment results for one of the four audit objectives – licensure timeliness – would not adversely impact the results on timely licensure.

Although examining the effectiveness of decision-making related to discipline fell outside of our scope of work, TAP International did evaluate the existence of related internal controls. These controls of supervisory review and pilot studies on Commission panel decision-making provided sufficient evidence of their existence and implementation. TAP International did not test for their effectiveness.

[42] The types of errors included duplicate transactions, missing data, incorrect dates, and data extraction errors.

Audit Statement

TAP International conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that the audit be planned and performed to obtain sufficient evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. TAP International believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

APPENDIX D: AGENCY COMMENTS AND EVALUATION

A draft report was provided to the WMC executive management for technical review of the results and comment on the recommendations. The WMC provided technical comments which we incorporated as appropriate. In a letter commenting on the recommendations submitted by the Executive Director of the Washington Medical Commission and the Director, Office of Financial Management, WMC concurred or partially concurred with several of our audit recommendations. We commend their overall approach to considering areas for improvement and leveraging best practices to enhance WMC's efforts. For the areas where WMC did not concur with our recommendations, improvements could still occur while recognizing and addressing any legal or structural impediments to progress.

APPENDIX E: AGENCY RESPONSE

STATE OF WASHINGTON

May 9, 2023

Ms. Denise Callahan
President
TAP International, Inc.
333 University Avenue, Suite 200
Sacramento, CA 95825

Dear Ms. Callahan:

Thank you for the opportunity to review and respond to the performance audit report from TAP International, Inc. (TAP): "*Washington Medical Commission — Opportunities are Present to Support the Commission's Continued Efforts to Improve Timelier Licensing and an Efficient Disciplinary Process.*"

We appreciate the thorough and professional work of your performance audit team. Our response to TAP's recommendations is mixed for several reasons. Chief among these is that many of the recommendations would require legislative action that would go against longstanding state policy, such as the modifications to public disclosure laws.

We appreciate TAP recognizing the Washington Medical Commission's culture of innovation and Lean governing. As such, some of the recommendations were already addressed before and during the audit. The commission will continue to look for improvement opportunities.

Again, thank you for your work on this performance audit.

Sincerely,

Melanie de Leon
Executive Director
Washington Medical Commission

David Schumacher
Director
Office of Financial Management

cc: Honorable Pat McCarthy, Washington State Auditor
Jamila Thomas, Chief of Staff, Office of the Governor
Kelly Wicker, Deputy Chief of Staff, Office of the Governor
Nick Streuli, Executive Director of Policy and Outreach, Office of the Governor
Emily Beck, Deputy Director, Office of Financial Management
Mandeep Kaundal, Director, Results Washington, Office of the Governor
Tammy Firkins, Performance Audit Liaison, Results Washington, Office of the Governor
Scott Frank, Director of Performance Audit, Office of the Washington State Auditor

OFFICIAL STATE CABINET AGENCY RESPONSE TO PERFORMANCE AUDIT ON WASHINGTON MEDICAL COMMISSION – OPPORTUNITIES ARE PRESENT TO SUPPORT THE COMMISSION'S CONTINUED EFFORTS TO IMPROVE TIMELIER LICENSING AND AN EFFICIENT DISCIPLINARY PROCESS – MAY 9, 2023

The leadership of the Washington Medical Commission (WMC) and Office of Financial Management (OFM) provide this response to TAP International, Inc.'s performance audit report received on April 12, 2023.

PERFORMANCE AUDIT OBJECTIVES

The Washington State Legislature (Legislature) requested the State Auditor's Office (SAO) conduct a performance audit of WMC's licensing and disciplinary processes. The SAO contracted with TAP International, Inc. in 2022 to address these performance audit objectives:

1. How long does the WMC require to process licenses for applicants?
2. How does WMC's disciplinary process compare to other states?
3. What factors, if any, contribute to any inefficiencies in the licensing and disciplinary processes?
4. What could the WMC do to improve its licensing and disciplinary processes?

Recommendations to the WMC in brief: TAP International made nine recommendations to support WMC's ongoing efforts to improve the licensing and disciplinary process.

Recommendations 1-3 asked WMC to work with the Legislature, when necessary, to update existing licensing and disciplinary process requirements.

1. Update the Revised Code of Washington (RCW) to modify the required Federal Bureau of Investigation's (FBI) background check for licensure as optional per WMC's discretion and allow for a check of the National Practitioner Data Bank (NPDB) or another valid database the WMC finds acceptable as an alternative.

STATE RESPONSE: FBI background checks are important to ensure patient safety and the integrity of the profession. However, we agree that not every applicant needs to complete this step every time they apply to a different state. For certain candidates, this step could be at the discretion of the WMC, based on the assessment of risk and not by requirement of the statute. However, it should be noted, this requirement exists in the Uniform Disciplinary Act, which impacts more than 84 other professions and a similar number of stakeholders. This requirement is also part of the Interstate Medical Licensure Compact legislation and cannot be changed for licenses obtained through the compact.

Action Steps and Time Frame

- Work with the commission's stakeholders to evaluate when background checks should be at the discretion of the WMC and how often they should be done. By *October 2023*

2. Update regulations to: (a) Require confidential investigations until the WMC applies charges against the respondent, and (b) Allow the WMC to issue a confidential letter of concern for cases that do not meet the legal threshold for sanction but warrant a state response.

STATE RESPONSE: We partially agree with this recommendation. Both parts of the recommendations would require changes to two significant portions of Washington statute. The state of Washington values and promotes an open and transparent government. Allowing confidential investigations goes against the policy of open government and WMC's mission of protecting the public, which in turn, goes against the audit goal of improving disciplinary processes.

The state Public Records Act, current case law and public policy require WMC to provide all investigative records, regardless of the investigation stage, to the public upon request. Public safety, as determined by state law, gives citizens the right to know if a practitioner is under investigation, especially for sexual misconduct or severe standard of care issues so they can make informed decisions. The audit references unnamed stakeholders, some hospitals and large medical systems which have removed physicians and physician assistants (PAs) from practice due to WMC investigation and insurance liability. However, WMC has not been notified of this practice, even by licensees who have been sanctioned.

WMC agrees a confidential letter of concern in some cases would help a practitioner understand the issues found during investigations. This has been a longstanding request of the commissioners and WMC has explored this recommendation with the Attorney General's Office which has advised that this recommendation is not viable as it would impact due process rights if WMC made any standard of care findings in this letter. Additionally, this recommendation requires an amendment to the Uniform Disciplinary Act, which affects numerous stakeholders.

Action Steps and Time Frame: N/A

---

3. Modify current law to shift the Commissioners' role from direct involvement in the complaint intake process to oversight and provide the WMC the authority to delegate decision-making on low priority complaints to the WMC staff; or, instead of modifying the Commissioners' role, expand the number of commission members to support timely completion of licensing and disciplinary processes.

STATE RESPONSE: We disagree with this recommendation. We believe changing the current complaint intake process to TAP's recommendation would increase process timelines rather than decrease them. The WMC complaint review process was shaped by two Washington Supreme Court rulings that require commission members to assess the whole complaint and apply a specific standard of evidence. As a result, complaints are reviewed every week by a team of three commissioners, two clinicians and one public member, who provide the patient's perspective and the clinical expertise to determine if a standard of care complaint is viable. WMC staff do not possess enough medical knowledge and training to determine if an investigation should be opened or closed.

The current process provides the fastest pathway to an investigation. Implementing TAP's recommendation would still require questionable complaints be reviewed by an expert or commissioner with medical training after staff review. We believe that would add more time to this process.

Action Steps and Time Frame: N/A

Recommendations 4-6 address improving performance monitoring and scalability of the licensing process.

4. Formally establish and monitor goals that measure timeliness for all applications by type.

STATE RESPONSE: We agree that monitoring goals and timeliness for applications is appropriate. The WMC has a process in place for this. Currently, WMC staff track and report on licensing data and performance measures weekly. WMC monitors pending applications, workload by employee, workload by application type (Medical, Physicians Assistant, Limited, Interstate Medical Licensing Compact, and reactivations), FBI fingerprint packet processing, and the number of closed applications. In studying the WMC procedure from receipt of a completed application to formal license, TAP found positive performance throughout the audit period.

The report does not reference an ideal timeframe for license issuance, when compared to other states in our region, specifically the WWAMI states (Wyoming, Alaska, Montana, and Idaho) and Oregon. However, the

posted timeline expectations range from 8-12 weeks or more. The WMC was well within the competitive window, and more expeditious than other states in the current year.

WMC research on weeks to license	2018	2019	2020	2021	2022
Washington	7	9.5	12	11	5
Oregon	8-16	16	16	16	8-12
California	8	8	20	8	8-12
Idaho	8-16	16	13	16	12-14

Some license types issued by the WMC are either so low in number (Limited-Institutional) or so new (MD-Clinical Experience) that it would not be effective or prudent to establish a formal timeline. The WMC will formally establish reasonable timeline expectations with the action steps below.

Action Steps and Time Frame

- Establish application timeline expectations for physician and physician assistant applications. *By September 30, 2023.*
- Establish application timeline expectations for Limited Physician and Clinical Experience applications. *By October 31, 2023.*
- Establish timeline expectations for exception applications referred to Panel L. B*y November 30, 2023.*

---

5. Until the Health Care Enforcement and Licensing Management System (HELMS) becomes fully operational, consider using tools to automate the extraction of information from applications and their supplemental information. And, if needed, have the use of these tools reviewed by the new algorithmic accountability review board.

STATE RESPONSE: We disagree with this recommendation. At the present time, the WMC cannot justify spending additional licensee funds and staff time on tools that would be useful for less than a year or may not work with our current or future systems. Our limited resources will be needed to support activities related to implementing HELMS through the coming year.

Action Steps and Time Frame: N/A

---

6. Until the new system, HELMS, is fully operational, provide an identifier code (belonging to the WMC staff requestor) to the licensing applicant, complainant, and respondent to be recorded on all correspondence submitted to the WMC, so customer service staff can forward the documents to the appropriate WMC staff person.

STATE RESPONSE: We disagree with this recommendation based on the current timeline of HELMS and resources available. Additionally, the use of pending license numbers and case numbers generated by the current system already serves this functionality to some extent. These identifiers are currently used in emails and letters to applicants and licensees.

Action Steps and Time Frame: N/A

Recommendations 7-9 address improving efficiency and effectiveness of the disciplinary process.

7. Establish and use an Ombudsman's office to facilitate communication with complainants/respondents and address non-standard of care related complaints not requiring investigative and legal expertise.

STATE RESPONSE: The WMC agrees with the intent of this recommendation but has already addressed the issue through several ongoing efforts. Complaints that involve obtaining medical records have a specific process and communication to the complainant for non-disciplinary resolution. This is complicated by the current legal environment where the ownership and access to medical records are in question depending on the employment status of the licensee.

When commissioners cannot decide on a complaint due to lack of information, the WMC has developed a new process to work directly with complainants. This process will formally launch in May 2023 and WMC will complete an evaluation in 12 months to see if this process generates more actionable information from complainants based on direst guidance from a WMC case manager. Additionally, under RCW 18.130.057 (5)(a), reconsideration is available to the complainant.

Finally, in scenarios where complainants escalate their concerns beyond investigative and legal staff or through the Governor's Office, WMC executive staff routinely act as an ombuds to respond to concerns directly, as is standard at the Department of Health and other state agencies.

Action Steps and Time Frame

- Evaluate the new process and determine: if the complainants provided the requested information and if their responses resulted in decisions to open an investigation. *By May 31, 2024.*

---

8. Adopt other states' practices to reduce the burden on complainants to meet the regulatory threshold for further investigation of the case. Strategies to consider for valid complaints include:
    - Integrate the complaint and investigative processes by taking witness statements and immediately requesting medical records for independent medical experts' review; and,
    - Submit valid complaints, but with medical records, to the Commission for further review and disposition.

STATE RESPONSE: The WMC disagrees with this recommendation. The WMC is continuously looking to reduce timelines and incorporate best practices from other jurisdictions, as evidenced by our involvement in national and international regulatory best practices organizations. Additionally, the WMC has a full-time Lean employee who maps all work processes to see where we can eliminate waste, cut out redundancies and improve customer service.

Based on decades of complaint data, approximately 65% of filed complaints are closed and a commissioner finds an investigation is unwarranted. The majority of WMC's commissioners are clinicians. Allocating staff time to interview witnesses before a complaint is assessed by a clinical commissioner, when decades of data show 65% are closed, would represent a significant waste of resources.

The WMC also uses pro tem clinical commissioners to review complaints to determine the need for an investigation, thereby focusing our efforts to save time and money for cases that truly are violations. Obtaining medical records takes weeks at a minimum, which adds time and resources. Further, once we have obtained medical records, we are obligated to retain them for years, exposing WMC to legal risk should these records be disclosed inadvertently.

Action Steps and Time Frame: N/A

---

9. Adopt other states' practices to expedite all types of cases. Strategies to consider include:

    a) Obtain the authority and develop processes to send cases of documented misconduct by another authority (such as reported from the NPDB) directly to the WMC for action.
    b) Dedicate teams of investigators and attorneys by case complexity across administrative, standard of care, moral turpitude, and other types of professional conduct cases who formally and actively participate in all phases of the planning and adjudication of the case.
    c) Formally establish benchmarks for completing certain disciplinary cases based on the nature of their risk, including closing lower-level priority cases more quickly

STATE RESPONSE: The WMC partially agrees with this recommendation.

Recommendation 9(a) would require a change to the law. Of note, WMC commissioners currently consider action based on National Practitioner Data Bank and Federation of State Medical Board reports weekly. This recommendation suggests skipping assessments and moving directly to case disposition based on out-of-state reports. This recommendation creates due process questions and appropriate licensee notification issues.

Recommendation 9(b) mirrors what WMC has already implemented with sexual misconduct cases. We require specialized training for all staff and commissioners working on such cases. We do question the appropriateness of investigator involvement in the adjudication process as their findings are precisely what is being litigated. The WMC remains open to the concept and will pilot more dedicated response teams as resources and the law allows.

Recommendation 9(c) is already implemented with case prioritization. Priority A cases are those regarding sexual misconduct and those of imminent danger to the public. These are the cases that must be completed the quickest. Most cases designated as Priority C are those regarding standard of care, but without imminent risk to the public. However, these cases can be complex, requiring hundreds of pages of medical records and multiple witness interviews and cannot be completed quickly without significant increases in resources.

Monthly, the WMC monitors all case timelines and examines the oldest cases to ensure any actions needed to expedite the process are utilized. Completing disciplinary cases "quickly" is a goal. However, quality is critical, and WMC must ensure both the respondent and the complainant get our best work. Quality is most important during litigation, judicial review, and the appeals process. It is exceptionally rare that the WMC is on the losing side of a judicial ruling when the quality of our investigative and case work is at issue. While the WMC may not be able to implement the recommendations as written, the WMC is always looking for ways to improve its processes and its services to the patients and the public, while still providing the practitioner with a fair and unbiased investigation and case review.

Action Steps and Time Frame

- WMC will pilot more dedicated response teams as resources and the law allows, per recommendations in 9(b). *By November 2024*

APPENDIX F: CONTACTS AND ACKNOWLEDGMENTS

TAP International contact:

Denise Callahan, Denise@tapinternational.org or 916.549.0831

Acknowledgments:

TAP International would like to thank Commission members, management and staff at the Washington Medical Commission, key medical professional representatives and associations as well as officials in other states that participated in this review.