Introduction to Discipline

• There are 5 basic steps:
  • Intake
  • Assessment
  • Investigation
  • Case Disposition
  • Adjudication

RCW 18.130.095

Dental Quality Assurance Commission
Dental Quality Assurance Commission

It is the purpose of the commission established in RCW 18.32.0351 to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensure, continuing education, consistent standards of practice, continuing competency mechanisms, and discipline.

Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state.

RCW 18.32.002
Purpose

• RCW 18.130.160
• Safeguarding the public’s health and safety is the paramount responsibility of every disciplinary authority.
Chapter 18.130 – Uniform Disciplinary Act

- Report driven organization
- Must receive report to investigate
- Must consider rehabilitation before revocation
Dental Quality Assurance Commission

- 12 Dentists
- 2 Expanded Function Dental Auxiliaries
- 2 Public Members
- Appointed by the Governor for a 4 year term. May serve 2 terms.
- 4 Dentist members must be from east of the summit of the Cascade mountain range.
- Dentists must be active and licensed for at least 5 years.
What does the commission do?

- Meet 8 times per year
- Minimum standards for dentist license
- Discuss scope of practice issues – consistent standards of practice
- Evaluate national dental topics
- Committee reports and decisions if needed
- Rule modifications/hearings for formal adoption
- Correspondence review and response
What does the commission do?

Duties not open for public participation:

• Grant/Deny credential applications
• Evaluates Disciplinary cases (complaints, case files, and discipline)
• Continuing education audit review
Committees

- Dental Collaboration Committee (Dentists, Hygienists, Denturists)
- Dental Anesthesia Committee
- Dental Infection Control Committee
- Dental Continuing Competency Committee
- Educational Outreach Committee
- Jurisprudence Examination Committee
- Expanded Function Dental Auxiliary Education Program Committee
Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state.
Disciplinary Process
4 Basic Steps to the Disciplinary Process

1. Intake & Assessment
2. Investigation
3. Case Disposition
4. Adjudication
STEP 1:
Intake & Assessment
Intake & Assessment

- Reports come from a variety of sources, including patients, other healthcare professionals, insurance companies, facilities, national associations, national data bank reports, “hits” on criminal background checks.

- Anonymous and phone reports pose unique challenges but can be investigated based on nature of allegation.

- Intake staff develop a complaint summary.
The dental commission must consider any prior complaints and disciplinary action before authorizing investigation.

Apparent risk of imminent harm results in “Expedited Case Management Team” (ECMT) convened by case manager to set priority and seek immediate authorization for investigation.

At least 3 members evaluate. Case manager provides a redacted copy of report to the dental commission panel.
Assessment of the complaint and background information by the dental commission panel determines if an investigation should be pursued.

After assessing the reported violation, the dental commission panel decides whether to close without investigation or to authorize investigation.
STEP 2:
Investigation
Once authorized, file is assigned to investigator best suited to handle the case, i.e., gender sensitivity, experience level, and caseload of investigator.

- The Respondent is immediately notified of the complaint unless it would impede an effective investigation.

- Complainant is also notified and informed of their right to submit an impact statement pursuant to HB 1493 (2011).
Whistleblower protection bars the disclosure of a complainant’s identity in most cases.

In order to effectively investigate a complaint, the investigations unit asks for a release from the complainant.

If the complainant will not sign a release, the case is evaluated to determine if an effective investigation is possible without identifying the complainant.
Interview key parties, i.e. complainant, witnesses, subsequent providers, respondent.

Gather evidence from sources such as medical records, court records, law enforcement, businesses, through letter and subpoenas.

Work with outside agencies i.e., local, state, and federal.

The completed investigation is forwarded to the case manager to coordinate review by the dental commission.
STEP 3: Case Disposition
A copy of the investigative file is prepared for the reviewing commission member (RCM).

The assigned RCM is expected to read the entire investigative file, including the investigator’s report and all supporting evidence, and be prepared to brief dental commission panel (3 or more dental commission members).
Options for case disposition include: close the case as unsubstantiated, request additional investigation or legal review, or refer for disciplinary action.

If case is closed without action, complainant has 30 days to request reconsideration.

The reviewing board member may work with the investigator for additional information / clarification or request a legal review from a staff attorney.
STEP 4: Adjudication
Violation(s) are identified by the dental commission panel.

- Chapter 18.130 RCW - Uniformed Disciplinary Act
- Chapter 18.32 RCW - Dentistry
- Chapter WAC 246-817 WAC Dental Quality Assurance Commission
- Chapter 246-16 WAC Standards of Professional Conduct
Notice of Correction

Statement of Allegations / Stipulation to Informal Discipline

Statement of Charges
Notice of Correction

- A notice issued to the healthcare professional that a violation of a statute or rule has been documented.

- The notices are not considered enforcement actions.

- The provider is given a reasonable period of time to correct the violation.
Statement of Allegations / Stipulation to Informal Discipline

- The Statement of Allegations (SOA) sets forth the factual allegations against the healthcare professional and the potential violations of the Uniform Disciplinary Act.

- An SOA is resolved through a Stipulation to informal Disposition (STID) if the healthcare professional agrees to the STID.
Statement of Charges

- A document that is served on a healthcare professional notifying them of allegations of violations.

- Respondent may request hearing or agree to violations and sanctions.
Statistics

FY 2018

• Complaints received 415
• Investigations authorized 257
• Informal Discipline issued 48
• Agreed Orders issued 13
• Final Orders issued 4
Mock Case #1

**ALLEGATIONS:** Complainant alleges inferior outcome for fillings done by Respondent

**SUMMARY OF CASE:**

Complainant went to Respondent because of an advertisement for $1 exam. This was first exam in over 4 years. At exam it was found that C. had 7 fillings that needed to be done or replaced because they were silver filings. R. told C. that if not done soon they would get worse and probably need root canal. C. wanted to keep teeth so did all 7 fillings at that visit. Radiographically maybe 3 were legitimate and the rest are difficult to diagnose because they were occlusals. After fillings were done C. received bill for the services and found out that they were not covered because R. was not a contracted provider for C’s insurance. C. tried to set up payment plan with R. but R. refused and wanted money within 60 days or would send to collections. C. complained that R. spoke with an accent and was hard to understand and seemed abrupt. During this time two of the fillings started to hurt and another fell out. Subsequent dentist fixed the missing filling and adjusted the other two and they felt much better but not all the way. C. said subsequent said that R. should be reported to DQAC for inferior work. During investigation subsequent denied encouraging C. to file complaint but did say that filling that fell out was not bonded properly. C. was sent to collections for non-payment.
ALLEGATIONS: Failure to diagnose caries and have third molars removed.

SUMMARY OF CASE:
Complainant was a patient of respondent for 20 years. She transferred care when moving to another city. Her subsequent dentist informed her that she had many cavities and that her wisdom teeth needed to come out. She had the cavities filled (4 MOD, 5 DO, 13 MO, 30 DO, 31 MO) and wisdom teeth removed, but suffered a lingering paresthesia from the exo on 32. The OS reports that he informed the complainant pre op that this happens more often when third molars are removed after roots are fully developed.

The respondent’s view is that these were incipient lesions that he was treating with fluoride and had recently been treating for the last 2 years with SDF. The third molars had been asymptomatic, though partially erupted. Problings were 4 mm around them. When she asked (at 17 years old) if they needed to come out, the respondent had reviewed that he didn’t recommend it. He monitored them and nothing much seemed to happen.

(for simplicity, we are going with the idea that the radiographs between the respondent and the subsequent are identical)
ALLEGATIONS: Complainant alleges respondent caused a fracture because complainant had declined respondent’s advancements.

SUMMARY OF CASE:
Complainant alleges Dentist encounters a previous girlfriend. He offers to give her a discount on a tooth which she was told needs a crown from her current dentist. She accepts his offer. At the prep appt, the dentist asked her out on a date, she declines. She came in again to recement the temporary, the dentist again makes suggestive remarks and asks her out. She declined again and asked that he refrain from asking again. At the seat appt, she felt as if the tooth behind was being worked on. After crown was seated dentist stated that the tooth behind has a broken cusp tip and she needs a crown on it also. She feels he caused the fracture because she had declined his advancements.
Rules Process
Roles for Rules

Dental Commission

HSQA helps with rule process

Assistant Secretary, Secretary Review/Comment

Board or Commission Adopts

* See RCW 18.130.065
What is a Statute?

The Revised Code of Washington (RCW) is the compilation of all permanent laws now in force. It is a collection of Session Laws (enacted by the Legislature, and signed by the Governor, or enacted via the initiative process), arranged by topic, with amendments added and repealed laws removed.

The official version of the RCW is published by the Statute Law Committee and the Code Reviser.

Statute = Regulations, law, Revised Code of Washington, RCW
What is a Rule?

An enforceable directive that:

- If violated subjects someone to a penalty or sanction
- Sets conditions to issue, renew, deny or revoke a license/permit
- Provides right to a hearing, sets hearing procedures or practices

A rule helps give clarity if the underlying statute is broad or unclear.

Rule = Regulations, administrative law, Washington Administrative Code, WAC
What May Trigger Rulemaking?

- New Legislation (Statute change)
- Board/Commission/Department identifies need
- Petition (see RCW 34.05.330)
- Changes in technology or national standards
- Court decision
- Governor’s directives
Basic Rulemaking Process (95% of your rules)

1. CR-101 Notice
2. Stakeholder work
3. Drafting, Analyses
4. CR-102 Proposal
5. Public Hearing/Comments
6. Respond to Comments
7. CR-103 Final Adoption

Washington State Department of Health

Public Health
Always working for a safer and healthier Washington
Stakeholder Work

This is the time spent by the commission holding open public meeting so you can attend and participate in rule development.
Abbreviated Rules Processes

• **Exception**

• **Expedited** (CR-105 notice)
  - No hearing or analysis required. Used rarely.

• **Emergency**
  - Temporary for 120 days. Used rarely. Permanent only by following the complete rule process.
Why does rule making take so long?

Most rules take 12 to 18 months.

- Waiting periods set by law
- Public involvement takes time, but is worth it
  - Helps craft a better, clearer rule.
  - Encourages compliance
- Data, research, economic analyses
- Coordinating with DOH, Boards or Commissions
- Board/Commission meeting schedules
How do you get involved?

• Dental GovDelivery (interested parties list)
• Attend committee and commission meetings
• Read the commission newsletter
• Send written comments (email, fax, or mail)
  • State Concerns
  • Recommend solutions
  • Recommend specific rule language
2019 Rule Changes Completed

- Opioid Prescribing
- Continuing Education
Opioid Prescribing

Chapter 246-817 WAC

House Bill 1427 Opioid Prescribing
• 3 hours CE required to prescribe opioids
• 7 day prescription limit
• 12 tablet prescription limit for 24 and younger
• PMP registration
• PMP query first refill prescription
Continuing Education

Evaluating acceptable continuing education. Some notable changes include:

• Requiring CE every 3 years (63 hours) vs. annually (21 hours)
• No limitation on live webinars
• Accepting more on-line continuing education, only 30 minutes acceptable for every 60 minutes completed.
• Accepting board certification as CE
• Accepting clinical supervision of dental students as CE.
• Jurisprudence examination required every 3 years
Current Rules Changes in Progress

- Dental Hygiene allowable tasks - General Supervision
- Infection Control
- Administration of Sedation and Anesthesia
- Specialty Advertising
www.doh.wa.gov

Rules in Progress page
- Lists rules the commission are working on

What’s Happening page
- Lists recent rule changes

https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/Dentist
Dental Quality Assurance Commission

Join the Interested Parties list!

- Be informed about your profession
- Receive emails of Dental Commission meeting agendas, minutes, rule changes, & other health care provider information
- Keep informed of the commission’s activities

https://public.govdelivery.com/accounts/WADOH/subscriber/new