

**Department of Health
Medical Quality Assurance Commission**

Policy Statement

<i>Title:</i>	<i>Complainant Opportunity to be Heard Through an Impact Statement</i>	<i>Number: MD2013-07</i>
<i>References:</i>	<i>RCW 18.130.057</i>	
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<i>Approved By:</i>	<i>Mimi Pattison, MD, FAAHPM, Chair (signature on file)</i>	

BACKGROUND:

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

In 2011, the Legislature passed RCW 18.130.057 requiring a disciplining authority, prior to a final decision in a disciplinary proceeding, to provide the person submitting the complaint or report, or his or her representative, an opportunity to submit a statement about the impact of the provider's conduct on the person and his or her family and to recommend sanctions.

POLICY:

The Commission will take a consistent approach to providing complainants the opportunity to submit an impact statement before the Commission imposes sanctions on a physician or physician assistant. When the Commission authorizes a Stipulation to Informal Disposition (STID) or a Statement of Charges (SOC), the Commission will notify the complainant of the opportunity to submit a written impact statement. The Commission will consider the impact statement prior to approving a STID or an Agreed Order. If a matter proceeds to a hearing, the hearing panel members will consider the impact statement prior to making a final decision on imposing sanctions against a physician or physician assistant.

PROCEDURE:

1. Stipulation to Informal Disposition or Statement of Charges

- a. If the Commission authorizes a STID or an SOC, the staff attorney will tell legal unit support staff, at the time the master case is set up, whether an impact statement should be solicited. If an impact statement should be solicited, then support staff will forward the information to the Chief Investigator. The Chief Investigator will notify the person submitting the complaint or report, or his or her representative, of the opportunity to provide a written impact statement about the effect of the provider's conduct on the person and his or her family and to recommend sanctions.
- b. If the Commission receives an impact statement in a STID case, a cover sheet and notice on colored paper and the impact statement will be placed on the left side of the investigative file. The staff attorney will give the statement to the Commission panel to consider when the STID is presented for acceptance. If the STID is accepted, support staff will send a cover letter, the impact statement, and a certification form to the respondent at the same time that the signed STID is forwarded to the Adjudicative Clerk Office for service. The respondent must certify to the Commission that the impact statement was received.
- c. If the Commission receives a written statement in an SOC case, a cover sheet and notice on colored paper and the impact statement will be placed on the left side of the investigative file. The impact statement will be copied along with the rest of the file and transmitted to the Attorney General's Office along with a request for services. If the impact statement is received subsequent to a request for Attorney General services, the staff attorney will send the statement to the Assistant Attorney General (AAG) in the case. The AAG will provide the impact statement to the respondent. The respondent must certify that the impact statement was received. If there is a proposed Agreed Order, the staff attorney will give the statement to the Commission panel to consider when the Agreed Order is presented for acceptance.

2. Formal Hearing

A Statement of Charges may result in a hearing. If the case proceeds to a hearing, the AAG will provide the impact statement to the Health Law Judge to give to the hearing panel members for consideration.

If the complainant requests an oral presentation of the impact statement, the AAG will make a request for oral presentation of the impact statement to the Health Law Judge at the prehearing conference.

3. Waiver and Default

If the respondent defaults or waives the right to a hearing, the impact statement will be included in the supporting documentation to be considered by the decision maker, and a copy will be sent to the respondent. The respondent must certify that the impact statement was received.