



# Washington State Auditor's Office

## Performance Audit

Government that works for citizens

## Medical Discipline in Washington

In Washington, medical doctors and physician assistants (PAs) are licensed and regulated by the Medical Quality Assurance Commission (MQAC), while osteopathic doctors and PAs are licensed and regulated by the Board of Osteopathic Medicine and Surgery (BOMS). These boards are also responsible for investigating complaints about physicians and PAs and imposing sanctions when appropriate. The sanctions range from remedial, such as writing a paper or giving a presentation, to license revocation. Other medical professionals are regulated either by similar boards or by the Department of Health (DOH). A group of patient advocates asked the State Auditor's Office to evaluate whether the boards are adequately protecting the public. We agreed it was an important question and undertook this audit.

### MQAC is better suited to protect the public than BOMS

While the care provided by medical and osteopathic doctors is nearly identical, Washington regulates them separately. Until 2008, both boards regulated their professions independently, but were dependent on DOH for administrative functions. MQAC became independent of DOH after a pilot project showed the board's performance improved after being granted sole control over its staffing and budget. MQAC and DOH reported to the Legislature that the autonomy permitted MQAC to better regulate its providers and, as a result, better protect the public. BOMS does not have the same autonomy and so is at a disadvantage in its mission to protect the public.

### Merging the two boards would promote consistency

MQAC and BOMS serve very similar professions, review similar issues and operate in an identical regulatory environment. Nonetheless, they regulate very different numbers of providers, and their boards differ in size, workload and composition. We found multiple differences in how MQAC and BOMS manage their affairs and regulate their providers; many would be addressed by merging the boards.

**Board size and composition:** Both boards have public members, but only MQAC meets the best practice of having at least 25 percent public members.

**Representation of physician assistants:** MQAC includes them as board members; BOMS does not.

**Timeliness of complaint assessment:** MQAC's larger board, meeting more frequently, is able to assess more cases within mandated timeframes. In the 21 months ending September 2014, MQAC assessed cases within deadlines 95 percent of the time, while BOMS did so only 78 percent of the time.

**Rates of complaint investigation:** BOMS opens proportionally fewer investigations, including closing some cases that MQAC would investigate.

**Control over budget and staffing:** MQAC controls its budget and staffing, including legal counsel and dedicated investigators; BOMS does not and shares resources with more than 70 other professions.

### The limits to the work conducted in this performance audit

This performance audit did not review the correctness of the boards' decisions to investigate or the final disposition of complaints. Because the audit scope was related to the boards' disciplinary processes, we did not examine their licensing functions or educational requirements.

### Medical and osteopathic doctors' practices have become increasingly similar over time and many people do not know there is a difference between the two professions

When you visit a doctor, they can be either a medical doctor (MD) or a doctor of osteopathy (DO). Although these two professions were fundamentally different in the early years of medical regulation, over time, the two professions have become increasingly similar, so much that it is likely a patient doesn't even know if their physician has an MD or a DO credential. Currently, both professions do the following:

- Prescribe medications
- Perform surgery
- Serve as primary care providers
- Specialize in a various areas such as psychiatry or gynecology
- Complete the same core medical schooling
- Complete residencies with either medical or osteopathic programs
- Fill government physician roles

## Our key recommendation: Merge the two boards

Over the past decade, the state reduced its number of boards and commissions to help achieve effective and efficient government performance; for example, Governor Gregoire eliminated 67 boards and commissions in the 2000s. To eliminate the inconsistencies we found between MQAC and BOMS, we recommend merging these two boards. However, agency management expressed concerns about possible negative consequences to the osteopathic profession if the boards were merged.

We reviewed multiple sources, both national and for the 36 states that regulate medical and osteopathic doctors through one medical board, and found no advocacy for moving to separate regulation. We analyzed the growth and number of osteopathic doctors in states with merged boards and composite boards and found no correlation between the board type and the profession population. We did find that a major factor influencing the number of osteopathic physicians practicing in a state is not the existence of a separate board but the presence of an osteopathic medical school. Furthermore, a merged board does not require that the DO credential be eliminated. On the contrary, retaining the credential is essential to the existence of the osteopathic profession.

Due to the much smaller size of BOMS in comparison to MQAC, adding the osteopathic-related complaints to MQAC's workload would have little to no impact. If three DOs are added to MQAC, the resulting per-member workload would actually be lower.

We believe the risk of inconsistent treatment of the public's complaints is greater than the benefit of a separate board for osteopathic providers. One consolidated board, with osteopathic representation, would deliver more consistent consideration of complaints and so better serve the public.

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## We found room for improvement in other areas, including communication with the public and board visibility

During our comparison of best practices to the boards' policies, procedures and practices, we identified several areas for improvement on how the boards:

- Communicate their presence and purpose to the public
- Use the website to facilitate communication
- Interact with people with limited proficiency in written English
- Interact with people who have filed complaints

Both boards already made improvements to letters sent to complainants and respondents. However, both said that making improvements to web pages – including online forms and foreign-language translations – is not entirely in their control because DOH provides their internet support. Also, while medical facilities are required to post information about regulators and how to complain, health care professionals, including MDs and DOs, have no similar requirement. So, if someone sees a doctor or another health professional in a solo practice, there are no requirements that they share this information with their patients. We made recommendations to address these areas as well as some issues we identified with data management.

## The Legislature and the boards could address issues in the Uniform Disciplinary Act

Finally, we identified some elements in the statutes that govern medical discipline that we recommended the Legislature and the boards consider addressing. For example, Washington's Uniform Disciplinary Act (UDA) lacks several violations recommended by Federation of State Medical Boards, such as physicians not protesting an inappropriate managed care denial; we recommend the boards, together with the Legislature, consider whether these additional violations should be established in law or administrative code. We also recommend that the Legislature add a requirement to the UDA that all healthcare professionals post information on how to file a complaint.

### Per-member workload would decrease in a new merged board

Separate boards: Cases per member per year



Merged board: Cases per member per year



Source: 2013-2015 Uniform Disciplinary Act Biennial Report.