

Chapter 246-15 WAC
WHISTLEBLOWER COMPLAINTS IN HEALTH CARE SETTINGS

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WAC

246-15-001	Purpose and scope.
246-15-010	Definitions.
246-15-020	Rights and responsibilities—Whistleblower and department.
246-15-030	Procedures for filing, investigation, and resolution of whistleblower complaints.

WAC 246-15-001 Purpose and scope. The rules in this chapter are adopted pursuant to RCW 43.70.075. The purpose of these rules is to protect the identity of persons who communicate in good faith to the department alleging the improper quality of care by a health care facility or provider as defined in this chapter, and set forth the process the department will use in receiving, investigating, and resolving complaints.

[Statutory Authority: RCW 43.70.075 and 2019 c 62. WSR 22-02-017, § 246-15-001, filed 12/27/21, effective 1/27/22. Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-001, filed 12/20/96, effective 1/20/97.]

WAC 246-15-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

- (1) "Consumer" means:
 - (a) An individual receiving health care or services from a health care facility or health care professional;
 - (b) A person pursuant to RCW 7.70.065 authorized to provide informed consent to health care on behalf of (a) of this subsection who is not competent to consent.
- (2) "Department" means the Washington state department of health.
- (3) "Employee" means an individual employed by a health care facility or health care professional at the time the:
 - (a) Alleged improper quality of care occurred; or
 - (b) Alleged improper quality of care is discovered.
- (4) "Good faith" means an honest and reasonable belief in the truth of the allegation.
- (5) "Health care" means any care, service, or procedure provided by a health care facility or a health care provider:
 - (a) To diagnose, treat, or maintain a patient's physical or mental condition; or
 - (b) That affects the structure or function of the human body.
- (6) "Health care facility" means the following facilities and includes such facilities if owned and operated by a political subdivision or instrumentality of the state, and such other facilities as required by federal law and implementing regulations:
 - (a) Ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW;
 - (b) Ambulatory surgical facilities licensed under chapter 70.230 RCW;
 - (c) Behavioral health agencies licensed under chapter 71.05 or 71.24 RCW;
 - (d) Home health agencies licensed under chapter 70.127 RCW;
 - (e) Hospices licensed under chapter 70.127 RCW;
 - (f) Hospitals licensed under chapter 70.41 RCW;

(g) Kidney disease treatment centers licensed under chapter 70.41 RCW;
(h) Nursing homes licensed under chapter 18.51 RCW;
(i) Private psychiatric hospitals licensed under chapter 71.12 RCW; or

(j) Rural health care facilities as defined in RCW 70.175.020.

(7) "Health care provider," "health care professional," "professional" or "provider" mean a person who is licensed, certified, registered or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(8) "Improper quality of care," means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 RCW or chapters 70.41, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the department, further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

(9) "Whistleblower" means a consumer, employee, or health care professional including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under RCW 43.70.075.

[Statutory Authority: RCW 43.70.075 and 2019 c 62. WSR 22-02-017, § 246-15-010, filed 12/27/21, effective 1/27/22. Statutory Authority: RCW 43.70.075 and 2012 c 10. WSR 14-08-046, § 246-15-010, filed 3/27/14, effective 4/27/14. Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-010, filed 12/20/96, effective 1/20/97.]

WAC 246-15-020 Rights and responsibilities—Whistleblower and department. (1) The identity of the whistleblower remains confidential when, in good faith, the whistleblower:

(a) Complains about the improper quality by a health care provider or in a health care facility;

(b) Initiates any investigation or administrative proceeding about a complaint of improper quality of care; or

(c) Submits a notification or report of an adverse event or an incident to the department under RCW 70.56.020 or to the independent entity under RCW 70.56.040.

(2) The identity of the whistleblower under subsection (1) of this section will be revealed only:

(a) To appropriate government agency staff or disciplining authority member;

(b) By court order; or

(c) If the complaint initiation, notification, or report was not made or done in good faith.

[Statutory Authority: RCW 43.70.075 and 2019 c 62. WSR 22-02-017, § 246-15-020, filed 12/27/21, effective 1/27/22. Statutory Authority:

RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-020, filed 12/20/96, effective 1/20/97.]

WAC 246-15-030 Procedures for filing, investigation, and resolution of whistleblower complaints. (1) In filing, investigating, and resolving a whistleblower complaint, the department will protect a whistleblower's identity consistent with WAC 246-15-020.

(2) The regulatory authority will:

(a) Assess complaints based on potential imminent danger to the public and prioritize based on the initial determination;

(b) If authorized, conduct investigations and gather information as appropriate to the allegation;

(c) Review investigative findings to determine whether a violation of any statutes or rules occurred; and

(d) Take appropriate disciplinary action or close the case.

[Statutory Authority: RCW 43.70.075 and 2019 c 62. WSR 22-02-017, § 246-15-030, filed 12/27/21, effective 1/27/22. Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-030, filed 12/20/96, effective 1/20/97.]