



Medical Council OF NEW SOUTH WALES

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e-newsletter AUTUMN 2014 - VOLUME 2 - NO 2

Welcome from the President Professor Peter Procopis

Welcome to the second edition of the Medical Council of NSW e-newsletter – the first for 2014.

The new year has heralded some changes at the Council. There has been a change in the composition of the Council and we have also welcomed a new Medical Director.

This edition of the Council's e-newsletter features issues such as prescribing warnings and considerations for tech savvy doctors. It also provides a snapshot of the Council's Health and Performance programs, and delivers updates on the outcomes and implications of recent disciplinary hearings.



The e-newsletter can also be viewed on the Council's website: www.mcnsw.org.au

Contents

What's new? Changes at the Council	Read more
Changes to the Council's composition	
Current Council Members	
New senior appointments to the Council	
Important update	Read more
Up-scheduling of Alprazolam	
Hot topics	Read more
A helping hand	
Considerations for tech savvy doctors	
Fentanyl warning	
Spotlight on the Medical Council	Read more
The Health Program	
The Performance Program	
National Focus	Read more
Changes to the Code of Conduct	
Victorian Parliamentary Report	
International Focus	Read more
International information sharing	
Disciplinary hearings snapshot	Read more

What's new? Changes at the Council

Changes to the Council's composition



From 1 January this year, the composition of the Medical Council has to change.

The Council is now required to include a nominee from the Australian and New Zealand College of Anaesthetists and from the Australasian College for Emergency Medicine. The Council is no longer required to have nominees from the Royal Australian and New Zealand College of Radiologists or Royal College of Pathologists of Australasia.

In addition, one Council position is now required to be filled by a medical practitioner, nominated by the Minister, who is a member of one or more of the following five colleges: The Australasian College of Dermatologists, The Australian College of Rural and Remote Medicine, The Royal Australian and New Zealand College of Ophthalmologists, The Royal Australian and New Zealand College of Radiologists, or The Royal College of Pathologists of Australasia.

The makeup of the Council is otherwise unchanged. (For full details of the required makeup of the Council, see clause 3 to Schedule 1A of the *Health Practitioner Regulation (New South Wales) Regulation 2010*.)

When the Medical Council was created, on 1 July 2010, such changes were anticipated and Council members from Colleges which might be affected were appointed for shortened terms. This, plus the recent resignations of Legal Member Professor Belinda Bennett (to take up a position interstate) and Ministerial Nominee Antony Carpentieri (for personal reasons) means there are currently several vacancies on the Council.

The Council and the Minister are in the process of appointing new members. In the meantime, three previous members affected by the changes (Dr Stephen Adelstein, Dr Roger Boyd and Dr Bruce Doust) are providing valuable continuity by serving as non-Council members of the Council's various Committees.

The Council is grateful to all members (past and present) and takes this opportunity to thank them all for their dedication and commitment. The current Council membership now comprises:

Current Council members

Professor Peter Procopis (President)	Royal Australasian College of Physicians nominee
Dr Greg Kesby (Deputy President)	Royal Australian and New Zealand College of Obstetricians and Gynaecologists nominee
Professor Anthony Eyers	Royal Australasian College of Surgeons nominee
A/Professor Rod McMahon	Royal Australian College of General Practitioners nominee
A/Professor Richard Walsh	Australian and New Zealand College of Anaesthetists nominee
Dr Julian Parmegiani	Royal Australian and New Zealand College of Psychiatrists nominee
Dr Robyn Napier	Australian Medical Association nominee
Dr Choong-Siew Yong	Australian Medical Association nominee
Professor Cheryl Jones	Universities nominee
Mr Michael Christodoulou	Community Relations Commission nominee
Ms Rosemary Kusuma	Ministerial nominee
Dr Alix Magney PhD	Ministerial nominee
Mr Jason Masters	Ministerial nominee
Ms Lorraine Poulos	Ministerial nominee
Vacant	Legal Member nominated by the Minister
Vacant	Royal Australasian College of Medical Administrators
Vacant	Australasian College for Emergency Medicine
Vacant	2 x Ministerial Nominees

New senior appointments to the Council

Dr Stuart Dorney – Medical Director

The Medical Council is pleased to announce Dr Stuart Dorney has been appointed as our new Medical Director.

A Fellow of the Royal Australasian College of Physicians, Dr Dorney practised as a paediatric gastroenterologist. For 16 years, he was the Head of the Hepatology and Liver Transplant Unit at The Children's Hospital at Westmead (formerly the Royal Alexandra Hospital for Children and The New Children's Hospital).

More recently, he was the Director of Clinical Governance at the Sydney Children's Hospital Network. Dr Dorney brings extensive clinical and administrative experience to the role as well as knowledge and experience from working within the NSW regulatory system.



Miranda St Hill – Acting Executive Officer

Following the appointment of Ameer Tadros to the role of Director of the Health Professional Councils Authority, Miranda St Hill is acting in the position of Executive Officer of the Medical Council, while recruitment to permanently fill the position takes place.

Domarina Azad is acting in the role of Legal Director.

Danielle Crosbie – Communications Officer

Danielle Crosbie has taken up the role of the Medical Council's Communications Officer.

Over the past 10 years she has worked as a journalist in Sydney and in media and communication roles with the Federal Government in Canberra, including the Department of Families, Housing Community Services and Indigenous Affairs (now the Department of Social Services).

Important Update Up-scheduling of Alprazolam

In response to the increasing illicit use of alprazolam and evidence of alprazolam dependence, from 1 January this year, alprazolam has been up-scheduled from Schedule 4 to Schedule 8 (drug of addiction) of the Standard for the Uniform Scheduling of Medicines and Poisons.

The up-scheduling of alprazolam to Schedule 8 will apply to all forms and preparations of alprazolam. Currently available alprazolam brands include: Alprax, Alprazolam Sandoz, Alprazolam-GA, Chemmart Alprazolam, GenRx Alprazolam, Kalma, Ralozam, Terry White Chemists Alprazolam, and Xanax (now discontinued by the sponsor).

What it means for medical practitioners

The NSW Ministry of Health advises that as for any other Schedule 8 drugs, a medical practitioner will need to apply for a NSW Ministry of Health authority to prescribe alprazolam to a drug dependent patient prior to prescribing. If a patient is not considered drug dependant, an authority from the NSW Ministry of Health is required if treatment is continuous for more than two months. For further information visit the [NSW Ministry of Health website](#).

What it means for medical practitioners with conditions on their registration

If you have a condition that restricts you from possessing, supplying, administering or prescribing a Schedule 8 drug, the up-scheduling means you must remember that alprazolam is now a Schedule 8 drug.

Medical practitioners with conditions on their registration who have any queries about what the up-scheduling means for them are urged to contact the Medical Council ([see contact details on page 1](#)).

Hot Topics

A helping hand



Help is at hand for registered medical practitioners, medical students and their families, including the families of deceased doctors, in times of need.

The **Medical Benevolent Association of NSW** (MBANSW) is a free and confidential service that provides financial assistance and counselling support to all registered medical practitioners, medical students and their families in NSW and the ACT, with assistance aimed at recovery and independence.

A small independent organisation which is managed by a council of up to 20 registered medical practitioners, the MBANSW has been supporting the doctors of NSW and ACT since 1896. It is solely funded by tax deductible donations.

Requests for assistance come from all areas of the medical profession. They are primarily from medical practitioners (and their families) who are unwell or impaired. All requests for assistance are made to the MBANSW's Social Worker. They are then considered by the MBANSW's council members to determine whether they should be approved.

Should you need to seek assistance from the MBANSW, please be assured that support offered by the MBANSW is totally independent of the Medical Council. Medical Council staff will suggest contact be made with the MBANSW if a practitioner appears in need during Medical Council processes.

For more information or to make a donation visit the [MBANSW website](#) or phone 9987 0504.

Considerations for tech savvy doctors

Doctors face difficult challenges in managing the use of technological devices in the medical environment.

The Medical Council has noticed with some consternation an increase in complaints relating to the issue of taking photographs of patients with mobile devices.

Before snapping a patient's photo on your smartphone, doctors need to pause and think from a patient's perspective. The photo in the smart phone is patient information – so you must treat it as such. It attracts the same professional obligations as any other patient information you handle.



The taking of the photo must be done professionally. The more casual you appear, the more likely it is that your actions and intentions may be misunderstood by the patient. Exactly this has resulted in complaints about professional boundaries to the Medical Council.

As harmless as a clinical photo may seem, if you were a patient would you want photos of you captured on your doctor's smartphone, before they popped it in their pocket, finished their shift and headed to the pub with their mates? Or would you prefer your clinical photos taken with the hospital's camera, stored on your patient file, and deleted from camera's hard drive?

For more information about taking and storing patient photos contact your Medical Defence Organisation.

Fentanyl warning

Media reports about fatal overdoses relating to opioid analgesic Fentanyl have prompted renewed cautions about prescribing the drug. The drug is approved for use in patch-form for the management of chronic pain. Many of the fentanyl-related deaths have involved the injection of fentanyl extracted from patches.

Fentanyl Abuse and Misuse, developed by the NSW Ministry of Health, advises the difference between an analgesic dose and an overdose is minimal and for this reason, even highly opiate-tolerant patients can easily reach overdose levels. Patients are placed at most risk of overdose due to incorrect prescribing; forgetting to remove an existing patch; or increased skin temperatures, such as fever. For more information about the use of fentanyl refer to the NSW Ministry of Health [Safety Alert Broadcast System](#).

Spotlight on the Medical Council



The Medical Council provides a range of programs and services aimed at ensuring that all doctors working in NSW are fit to practise medicine at the high standard the public is entitled to expect.

In assessing whether they are fit to practise, the Medical Council considers their health and their professionalism, which includes their professional knowledge and expertise, as well as their professional conduct.

Doctors and medical students, who are considered unfit to practise, may be managed by the Medical Council's Health or Performance Programs.

The Health Program

Doctors and medical students whose personal health is impacting on or has the potential to impact on their safe practice of medicine are considered to be impaired. The Medical Council's Health Program manages impaired practitioners and students with the aim of protecting the public, while at the same time allowing participants in the program to remain in active medical practice or training.

Notification based, the Health Program manages registrants with psychiatric illness, problems with the abuse of alcohol or self-administration of addictive drugs, and occasionally physical illness.

When a credible notification is received, the registrant is assessed by a Council-appointed practitioner to determine the extent and nature of their impairment. They then meet with two or three members of the Council's Impaired Registrants Panel and the action necessary to protect the public is agreed. The most common outcome is conditions on the registrant's registration, although on occasions, it may be necessary for the registrant to be suspended for a period of time. The Council's Health Committee monitors these conditions, which may include urine drug testing, regular reviews and assessments.

Registrants are expected to fully comply with their conditions of registration to assure the Council they pose no risk to the public. As the registrant demonstrates progress, the conditions on their registration are gradually relaxed. While returning to unconditional practice is a goal of the program, some doctors, for example those with recurring psychiatric illness, may remain on the program indefinitely, with low level, occasional reviews. For more information visit the [Medical Council website](#).

If you are concerned that you, or a colleague may be impaired, please notify the Medical Council ([see contact details on page 1](#)).

The Performance Program

The professional performance of a registered medical practitioner is considered to be unsatisfactory if it is below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

The Medical Council's Performance Program provides an alternative pathway for practitioners who are neither impaired nor being investigated by the HCCC or being dealt with via other disciplinary processes, but for whom the Medical Council has concerns about the standard of their clinical performance. The notification-based program is designed to provide an avenue for education and retraining where inadequacies are identified, while at all times ensuring that the public is properly protected. It is designed to address patterns of practice rather than one-off incidents, unless the single incident is demonstrative of a broader problem.

The causes of poor performance are many and varied. Professional isolation and inattention to continuing professional development are common contributing factors.

Under the Performance Program medical practitioners may have conditions imposed on their registration, be ordered to complete a specified educational training course, undertake a report on their medical practice, or be required to seek and take advice from a specified practitioner. For more information visit the [Medical Council website](#).

National Focus

Changes to the Code of Conduct

The Medical Board of Australia's revised guidelines and codes of conduct for doctors and a new social media policy came into effect in March 2014.

The previous code of conduct, titled *Good Medical Practice: A Code of Conduct for Doctors in NSW*, had been in place since July 2010 and was due for review.

Although the revised code of conduct only makes minor alterations to the previous code, it reflects changes to the current regulatory framework and provides guidance on issues such as the use of social media and technology based consultations.

All medical practitioners are urged to familiarise themselves with its content to ensure their practice meets the Medical Board's expectations.

The revised guidelines and social media policy are available on the [Medical Board of Australia website](#).

Victorian Parliamentary Report

Earlier this month the Victorian Parliamentary Legal and Social Issues Legislation Committee tabled its report on the Inquiry into the Performance of the Australian Health Practitioner Regulation Agency. (AHPRA), which took place last year.

In her Foreword to the Report, the Committee's Chair Georgie Crozier MP said, the inquiry "presented a timely opportunity to review the performance of AHPRA and the National Registration and Accreditation Scheme since its implementation in July 2010, and to specifically assess the extent to which the Scheme is protecting the Victorian public.

"A large part of [the] Report...deals with the health complaints process under the National Scheme which is designed to protect the public."

The full report is available on the [Victorian Parliament website](#). AHPRA's response to the report is available on the [AHPRA website](#).

International Focus



International information sharing

Last month the Council became a signatory to the International Association of Medical Regulatory Authorities' (IAMRA) Statement of Intent on Proactive Information Sharing.

While it is not a legal document or binding contract and does not replace bilateral agreements between authorities, the Statement seeks to build on the [Principles of International Exchange of Physician Information](#), adopted by the IAMRA General Assembly in October 2008 in Cape Town, South Africa.

The Statement aims to ensure the security and protection of patients, as well as public confidence in medical practitioners and their regulation.

More information about IAMRA and the Statement of Intent on Proactive Information Sharing is available on their website: <http://www.iamra.com/>

Disciplinary Hearings Snapshot



On 1 January this year the NSW Civil and Administrative Tribunal (NCAT) commenced operation. It now handles all matters previously dealt with by the Medical Tribunal. While more serious complaints (that have the potential to result in suspension or cancellation of a practitioner's registration) are heard before the Tribunal, complaints which are unlikely to result in suspension or cancellation are heard before the Professional Standards Committee.

Tribunal Decisions from 1 January 2014 are published on [NSW Caselaw](#). Outcomes of the Professional Standards Committee will continue to be published on the [Medical Council website](#).

The following summaries of recent disciplinary decisions provide a snapshot of the issues dealt with by the former Medical Tribunal and Professional Standards Committee.

Medical Tribunal matter – Serious criminal conduct

A neurosurgeon had his registration cancelled after being convicted of manslaughter and two counts of supply of a prohibited drug (cocaine).

The neurosurgeon admitted to five complaints against him, which included professional misconduct and unsatisfactory professional conduct.

The neurosurgeon acknowledged he had contravened earlier conditions placed on his registration not to self-administer substances detailed in Schedule 4 or Schedule 8 of the NSW Poisons List or Schedule 1 of the Drug Misuse and Trafficking Act.

The Medical Tribunal formally found the complaints had been established and was satisfied that the neurosurgeon was not a suitable person to hold registration in the medical profession.

The neurosurgeon will not be permitted to re-apply for registration until 2019.

Professional Standards Committee matter – Unsatisfactory Professional Conduct

A complaint alleged that a colorectal surgeon was guilty of unsatisfactory professional conduct because he failed to assess a patient prior to commencing surgery and postpone a further elective procedure to re-operate after becoming aware that the patient was bleeding post-surgery.

The patient died following post-surgical complications.

The Committee found the colorectal surgeon guilty of unsatisfactory professional conduct by engaging in conduct that demonstrated the knowledge, skill or judgment possessed, or care exercised was significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

The colorectal surgeon was ordered to participate in and complete, at his own expense, all components of the Clinical Communication Program conducted by the Cognitive Institute, within in 12 months.

Professional Standards Committee matter – Unsatisfactory Professional Conduct

The Committee found an obstetrician and gynaecologist guilty of unsatisfactory professional conduct following a complaint made in relation to the care and treatment he provided to a patient, who died following surgery for an ectopic pregnancy.

The complaint also related to concerns raised by clinical auditors, appointed by the former NSW Medical Board, who observed the obstetrician and gynaecologist's surgical techniques and clinical judgement in treating other patients, all of whom had surgical procedures for various gynaecological conditions.

The Committee found the obstetrician and gynaecologist engaged in conduct that demonstrated the knowledge, skill or judgment possessed, or care exercised was significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

The Committee reprimanded the obstetrician and gynaecologist and ordered that Conditions be imposed on his registration.