



**Annual  
Report  
2015-16**

**Medical  
Council**

of New South Wales

# President's message



The 2015/16 financial year saw an increase of 10% in overall complaint numbers and a 33% increase in matters where the Council considered it necessary to take urgent interim action to protect the public.

While the vast majority of matters brought to the Council's attention did not require its ongoing interest, 320 medical practitioners remained under Council monitoring for compliance with conditions on their registration over the last year.

Increasing complaint numbers, changing community expectations and legislative amendments have impacted significantly on the workload of our dedicated staff and Hearings and Council Members. The work of the Medical Council is largely conducted through its Health, Performance and Conduct streams. A Member of the Council is expected to serve on at least two decision making Committees in addition to participating in Council meetings and acting as a rostered delegate of the Council in between scheduled meetings. Council Members also participate in interviews and hearings as the need arises.

Management of the complex and constantly increasing workload will be a subject of ongoing discussion at a strategic planning day scheduled for November 2016. However, the Council has taken the first steps through the restructure of staff to ensure they are more efficient and effective in their work. The new structure better acknowledges the interplay of health, performance and conduct dimensions that may coexist in the genesis of events that brings medical practitioners to the attention of the Council. The new structure takes a holistic case management approach to ensure doctors on the medical register maintain appropriate professional standards and remain fit to practise medicine. The restructure is expected to be completed in late 2016.

The Council continues its work in engaging with the medical profession, community and stakeholders. Non-medical members of the Council play an especially valuable role in bringing the perspectives of health consumers and the community to our work. The Council engages with co-regulators at state and national levels to identify trends and develop standards. It liaises with the media to explain the Council's functions and actions, and with hospital administrators, universities and peak bodies to support the maintenance of appropriate professional standards.

Also this year the immediate past President of the Medical Council, Professor Peter Procopis, testified before the Royal Commission into Institutional Responses to Child Sexual Abuse to provide information regarding the former New South Wales Medical Board and the current Medical Council's processes in dealing with reports of child sex abuse by medical practitioners. The Royal Commission was critical of aspects of the former New South Wales Medical Board's handling of complaints, and encouraged the Council to improve awareness amongst medical practitioners of their reporting obligations and the appropriate care of survivors of childhood sexual abuse. This work has commenced and will remain a focus in the 2016-2017 year.

## President's message continued

Also high on the Council's agenda of ensuring appropriate standards of practice across the many and varied care settings will be the safe delivery of care by telemedicine and maintenance of appropriate standards in cosmetic medicine practice.

As we close the 2015/16 year and look to the next twelve months with enthusiasm, I thank the Council and Hearings Members for their selfless commitment to the maintenance of high standards in the medical profession and to additionally thank staff for their expertise, dedication and care in carrying out their critically important duties.



**Dr Greg Kesby**

President

Medical Council of NSW

# Regulation of Medical Practitioners in 2015/16

## Overview

**33,236**

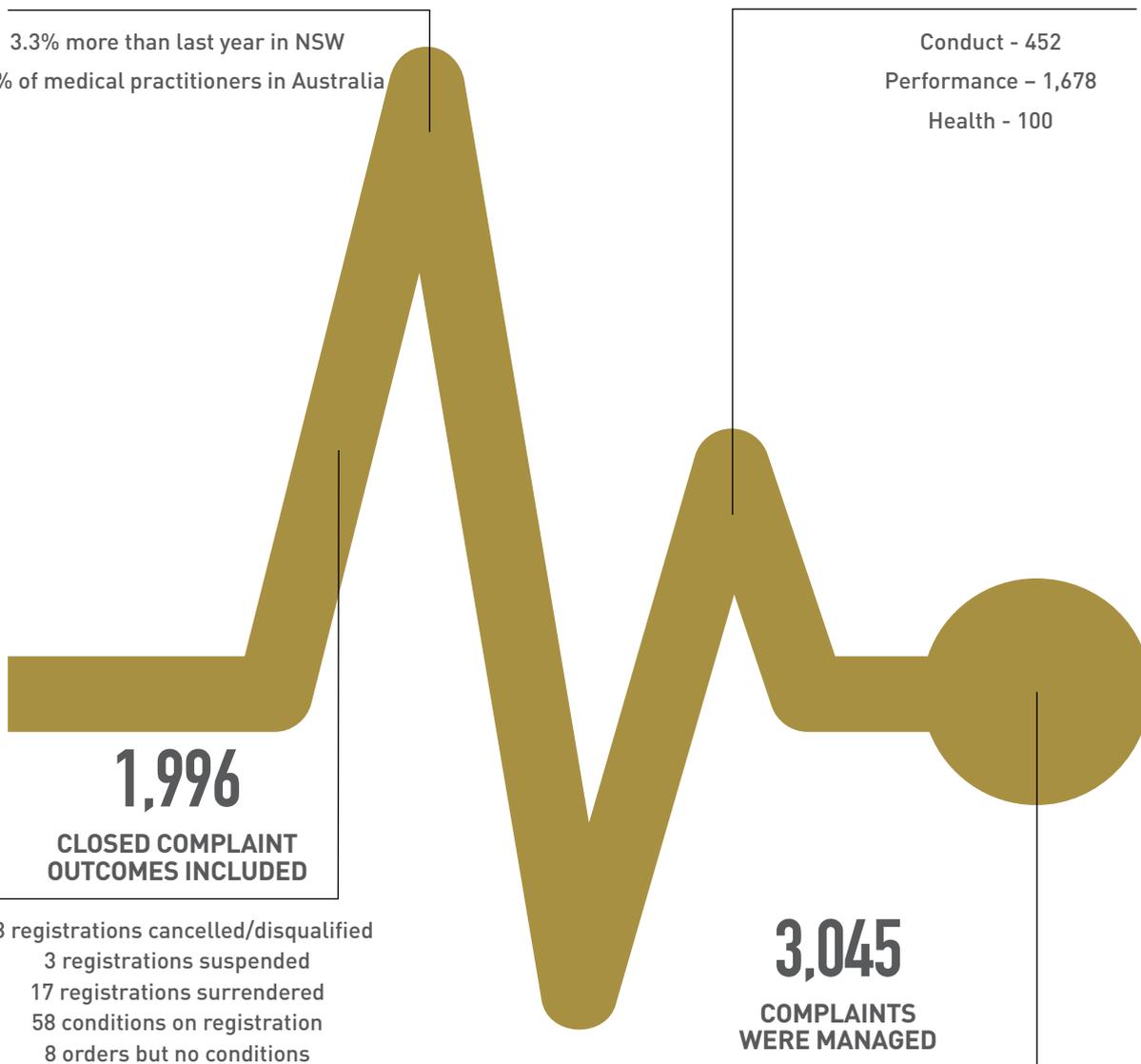
**REGISTERED MEDICAL PRACTITIONERS IN NSW**

3.3% more than last year in NSW  
31% of medical practitioners in Australia

**2,230**

**NEW COMPLAINTS RECEIVED RELATED TO**

Conduct - 452  
Performance - 1,678  
Health - 100



**1,996**

**CLOSED COMPLAINT OUTCOMES INCLUDED**

- 18 registrations cancelled/disqualified
- 3 registrations suspended
- 17 registrations surrendered
- 58 conditions on registration
- 8 orders but no conditions
- 6 change to non-practising registration
- 18 reprimands
- 4 cautions
- 4 counselling
- 48 resolution/conciliation by HCCC
- 91 all or part referred to another body
- 558 no further action
- 31 no jurisdiction
- 1,092 discontinued
- 60 withdrawn

**3,045**

**COMPLAINTS WERE MANAGED**

- 815 open at start of year
- 2,230 received during the year
- 1,996 closed during the year
- 1,049 open at end of year
- 320 active monitoring cases at end of year

## Regulation of Medical Practitioners in NSW in 2015/16

### Year in summary

#### Registered Medical Practitioners

As at 30 June 2016 NSW had 33,236 registered medical practitioners representing 31% of the 107,179 medical practitioners registered to practise in Australia. There was an increase of 3.3% on the 32,183 medical practitioners registered in NSW last year.

NSW had 6,981 registered medical students representing 35.3% of the total 19,760 medical students in Australia.

#### Complaints

During the year the Medical Council received 2,230 new complaints about 1,887 medical practitioners representing 5.65% of all NSW registered medical practitioners. This was a 10% increase in complaints on the previous year when 2,023 complaints were received about 1,720 medical practitioners.

During the reporting period, new complaints received related to:

- Conduct - 452 representing 20.4% of complaints received
- Performance - 1,678 representing 75.2% of complaints received
- Health - 100 representing 4.4% of complaints received.

Complaints received included 85 mandatory notifications.

In addition to the 2,230 new complaints received, the Medical Council managed 815 complaints that were open at the beginning of the year.

A total of 96 matters received immediate action consideration by the Medical Council.

There were 29 referrals to NCAT.

By year end 1,196 complaints had been closed and 1,049 remained open with 320 cases being actively monitored including 171 conduct matters, 30 performance matters and 119 health matters.

## Council Membership

Membership of the Medical Council is prescribed under the *Health Practitioner Regulation National Law (NSW)*.

There are 19 Members of the Medical Council appointed by the Governor, including nominees of Specialist Colleges (9), the Minister for Health (6), the Australian Medical Association (2), the Community Relations Commission (1) and a joint nominee of the Universities of Sydney, New South Wales and Newcastle (1).

Members as at 30 June 2016:

**Dr Gregory John Kesby** MBBS Hons (UNSW), BSc Hons (UNSW), PhD (Cambridge), DDU (ASUM), FRANZCOG, CMFM, MAICD, Royal Australian and New Zealand College of Obstetricians and Gynaecologists nominee (current term: 1.7.15 – 30.6.18) – President

**Adjunct Associate Professor Richard George Walsh** MBBS (Sydney), FANZCA, Australian and New Zealand College of Anaesthetists nominee (current term: 1.7.15 – 30.6.18) – Deputy President

**Clinical Associate Professor Stephen Adelstein** MB BCH (Wits), PhD (Sydney), FRACP, FRCPA, FFSc (RCPA), NSW Minister for Health nominee (current term: 1.7.15 – 30.6.17)

**Mr David Bell** MBA (Sydney), BEcon (UQld), BA (UNSW), GAICD, JP (NSW), Community Member, NSW Minister for Health nominee (current term: 1.7.15 – 30.6.18)

**Ms Narelle Bell** BA LLB (Macquarie), Legal Member, NSW Minister for Health nominee (current term: 1.7.15 – 30.6.18)

**Dr Roger Gregory David Boyd** MBBS (Sydney), MBA (Geneva), MHP (UNSW), FRACMA, AFCHSM, FHKCCM(Hon), GAICD, Royal Australasian College of Medical Administrators nominee (current term: 18.6.14 – 1.6.17)

**Dr Stephen Richard Buckley** MBBS (UNSW), FACRM, FAFRM (RACP), Royal Australasian College of Physicians nominee (current term: 1.7.15 – 30.6.18)

**Professor Anthony Andrew Eyers** MBBS (Sydney), FRACS, FRCS, Master of Bioethics (Monash), Royal Australasian College of Surgeons nominee (current term: 1.7.15 – 30.6.18)

**Mr Kenneth Hong** BA (Bond), GDLP (College of Law), GDL (Sydney), Community Relations Commission nominee (current term: 1.7.15 – 30.6.18)

**Professor Cheryl Anne Jones** MBBS Hons 1 (UTas), FRACP, PhD (Sydney), Universities nominee (current term: 1.7.15 – 31.12.17)

**Dr Jennifer Kendrick** BSc (Sydney), MBBS (Sydney), MPH (UNSW), GAICD, FRACGP, Royal Australian College of General Practitioners nominee (current term: 1.7.15 – 30.6.18)

**Associate Professor Ross Kerridge** MBBS, FRCA, FANZCA, Australian Medical Association (NSW) nominee (current term: 1.7.15 – 30.6.18)

**Dr Alix Genevieve Magney** BA Sociology (Hons), PhD Sociology (UNSW), NSW Minister for Health nominee (current term: 1.7.15 – 31.12.17)

**Mr Jason Masters** BEc (Flinders), GAICD, CFIAA, CRMA, CGEIT, CFE, JP, NSW Minister for Health nominee (current term: 1.7.15 – 31.12.17)

**Dr Brian Morton** MBBS (UNSW), FRACGP, FAMA, AM, Australian Medical Association (NSW) nominee (current term: 1.7.15 – 30.6.18)

**Dr Julian Parmegiani** MBBS (Hons) (UNSW), FRANZCP, GAICD, Royal Australian & New Zealand College of Psychiatrists nominee (current term: 1.7.15 – 31.12.17)

**Ms Lorraine Poulos** RN (SVH), Grad Cert HSM (ECU), NSW Minister for Health nominee (current term: 1.7.15 – 30.6.17)

**Dr John Frank Charles Sammut** MBBS (Hons) (Sydney), FACEM, Australasian College for Emergency Medicine nominee (current term: 1.7.15 – 30.6.17)

**Ms Frances Taylor** BA/BSocWk (Sydney), NSW Minister for Health nominee (current term: 1.7.15 – 30.6.18)

### Attendance at Council Meetings

During 2015/16 six ordinary meetings were held. Attendance at the meetings was as follows.

Member	Meetings Attended	Meetings Eligible to Attend
Dr Gregory Kesby	6	6
Adjunct Associate Professor Richard Walsh	5	6
Clinical Associate Professor Stephen Adelstein	5	6
Mr David Bell	5	6
Ms Narelle Bell	5	6
Dr Roger Boyd	6	6
Dr Stephen Buckley	4	6
Professor Anthony Evers	6	6
Mr Kenneth Hong	6	6
Professor Cheryl Jones	4	6
Dr Jennifer Kendrick	6	6
Dr Ross Kerridge	6	6
Dr Alix Magney	5	6
Mr Jason Masters	6	6
Dr Brian Morton	5	6
Dr Julian Parmegiani	6	6
Ms Lorraine Poulos	5	6
Dr John Sammut	5	6
Ms Frances Taylor	6	6

### Council Committees 2015/16

Medical Council Members generally serve on at least two committees to assist the Council to exercise its functions. In 2015/16 five non-Council Members also sat on the following committees.

Conduct	Health	Performance	Corporate Governance	Executive	Research
Chair: Richard Walsh	Chair: Anthony Eyers	Chair: John Sammut	Chair: Roger Boyd	Chair: Greg Kesby	Chair: Cheryl Jones
Anthony Eyers	Stephen Adelstein	David Bell	Stephen Adelstein	Roger Boyd	Stephen Adelstein
Kenneth Hong	David Bell	Narelle Bell	David Bell	Anthony Eyers	Anthony Eyers
Cheryl Jones	Narelle Bell	Roger Boyd	Narelle Bell	Cheryl Jones	Greg Kesby
Jennifer Kendrick	Roger Boyd	Stephen Buckley	Kenneth Hong	Jason Masters	Alix Magney
Ross Kerridge	Stephen Buckley	Kenneth Hong	Greg Kesby	John Sammut	Jason Masters
Greg Kesby	Ross Kerridge	Cheryl Jones	Jason Masters	Richard Walsh	
Alix Magney	Greg Kesby	Jennifer Kendrick	Frances Taylor		
Jason Masters	Alix Magney	Greg Kesby	Richard Walsh		
Julian Parmegiani	Brian Morton	Brian Morton			
Lorraine Poulos	Julian Parmegiani	Frances Taylor			
John Sammut	Lorraine Poulos	Richard Walsh			
Frances Taylor					
Non-Council Members					
Martine Walker		Elizabeth Tompsett			Peter Procopis
		Choong-Siew Yong			
		Geoff Brieger			

### Senior Officers

#### Executive Officer

Ms Caroline Lamb, BA (Queensland), LLB (UNSW), FCIS, GAICD, M Bioethics (Sydney), is the Executive Officer and Assistant Director, Medical of Health Professional Councils Authority.

#### Medical Director

Dr Stuart Dorney, MBBS FRACP is the Medical Director, Medical Council of NSW and Health Professional Councils Authority.

Senior officers are employed by the HPCA, as are all other staff providing services to the Medical Council.

### Organisational Review and Restructure

The Council endorsed its new organisational structure for staff supporting the Medical Council. Recruitment to vacant roles has commenced.

The structure includes:

- Additional roles to support increased complaint numbers and skill requirements
- A small number of roles to enable continuous improvement.

Transition to the new structure and new operating model is expected to take place in October 2016.

### Overseas Meetings and Conferences

Overseas travel during the reporting period included the President, Dr Greg Kesby, attending the IAMRA Revalidation Symposium in Montreal from 29 to 30 October 2015.

### Council Communications

In 2015/16 the Medical Council further increased its communication with the public, practitioners, medical students and other key stakeholders consistent with its Communications and Stakeholder Engagement Strategy.

As at 30 June 2016 the strategy guided the following outcomes:

- Greater engagement with registered medical practitioners as evidenced by continuing positive feedback received about the Medical Council's e-newsletter
- Increased engagement with medical students through speaking engagements at universities as part of the curriculum
- Engagement with professional colleges to include guest columns/updates from their respective nominees on the Medical Council in their communications with Members/Fellows
- Increased media coverage of the Medical Council and its role in medical publications
- Improved profile of medical regulation through collaboration on media engagement and communication activities between the Medical Council, the HCCC and AHPRA.

### Research

This year the Council funded a research project to evaluate the effectiveness of the Council's Health Program for practitioners with a drug and/or alcohol impairment.

In response to the release of a national drug and alcohol screening protocol by the Australian Health Practitioner Regulation Agency (AHPRA), the Council reviewed its drug and alcohol screening protocols for impaired practitioners and students.

In June 2016 the Australian Medical Association held a forum on doctors' health and wellbeing attended by representatives of the Council. The forum was an informal discussion between various stakeholders on the health of doctors in NSW. The forum identified a number of important challenges in the field of doctors' health, including the need for research. This matter is under consideration by the Research Committee.

The Committee also considered requests from AHPRA and external research teams seeking access to anonymised data in relation to studies of national complaints data.

### Assessing Complaints

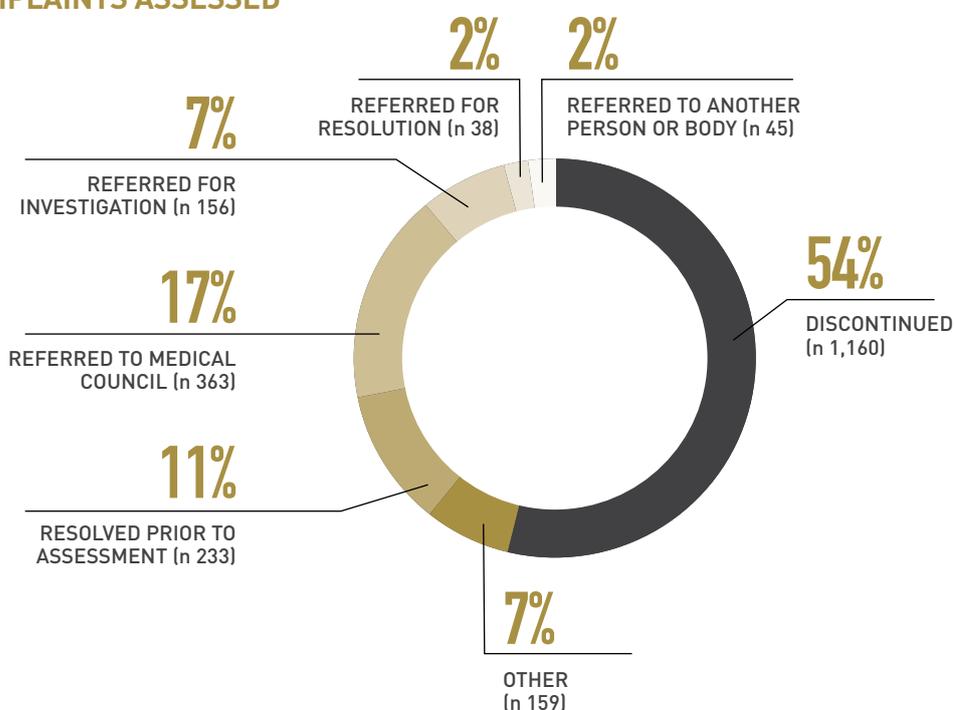
In NSW every complaint concerning medical practitioners and medical students is initially assessed jointly by the Health Care Complaints Commission (HCCC) and the Medical Council to determine the appropriate course of action. The safety of the public is at the forefront of the decision-making.

Following assessment, the Medical Council and the HCCC may:

- refer a complaint for formal investigation by the HCCC
- refer a complaint to another person or body, such as a Local Health District, for investigation
- refer a matter to the Medical Council to be considered in its Conduct, Performance or Health programs
- refer a complaint for direct resolution between the practitioner and the complainant either with or without the assistance of an HCCC Complaints Resolution Officer
- determine that no further action is required.

Of the 2,230 complaints received during the reporting period 2,154 complaints were assessed. The results of the complaints assessed are presented in the following graph.

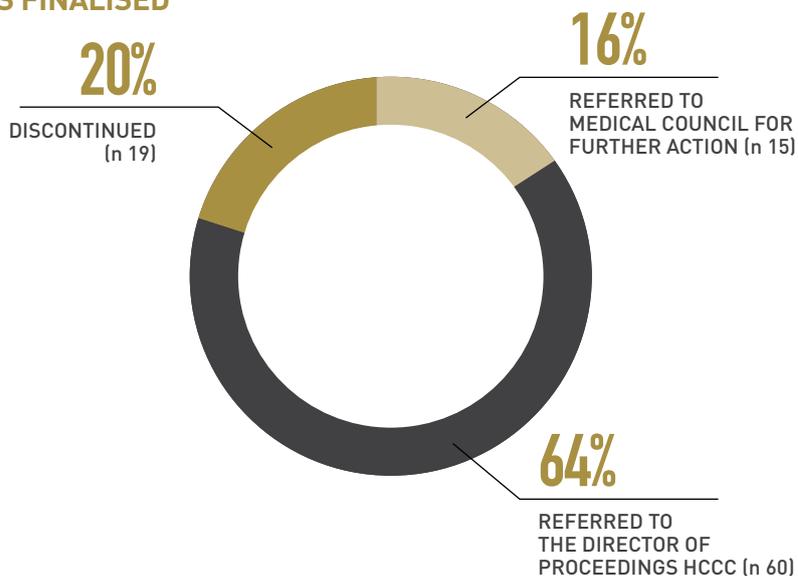
#### COMPLAINTS ASSESSED



Complaints which appear to raise significant issues of public safety are referred for investigation by the HCCC.

During the year 94 investigations were finalised by the HCCC. The results of the finalised investigations are presented in the following graph.

**INVESTIGATIONS FINALISED**



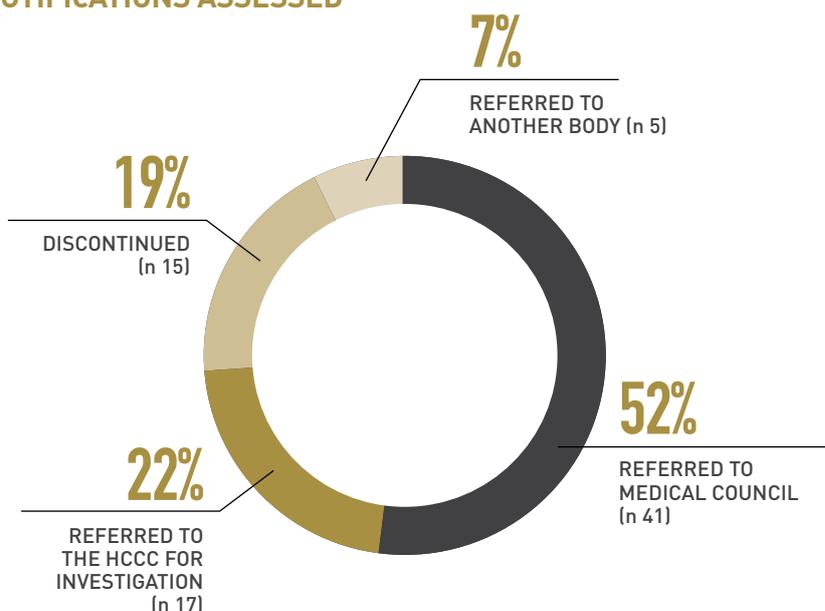
### Mandatory Notifications

Health practitioners, including medical practitioners and those in other health professions, are required by law in certain circumstances to make a notification about doctors whose conduct or health may place the public at risk. There are also requirements on employers and education providers to make mandatory notifications.

This year 85 mandatory notifications were received comprising 3.8% of total complaints received about NSW medical practitioners. This is 32 more than the 53 mandatory notifications received in 2014/15.

Of the 85 mandatory notifications received, 78 were assessed. The results of the mandatory notifications assessed are presented in the following graph.

#### MANDATORY NOTIFICATIONS ASSESSED



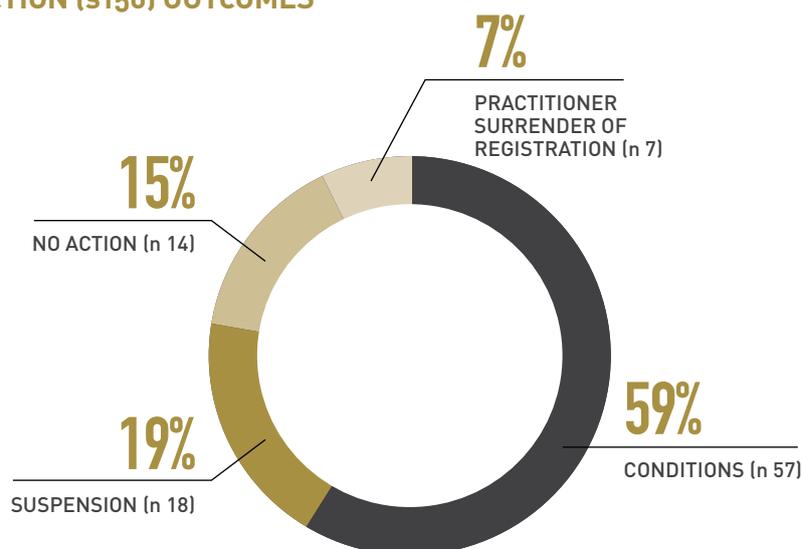
### Immediate Action Proceedings (Section 150) 2015/16

Where public safety may be at risk unless there is urgent action, the Medical Council has the power to suspend or impose conditions on a medical practitioner’s registration pending further action by the HCCC or the Medical Council.

In 2015/16, 96 immediate action inquiries were finalised representing a 33% increase on the previous year.

Outcomes of Section 150 immediate action proceedings in 2015/16 are presented in the following graph.

### IMMEDIATE ACTION (s150) OUTCOMES



### Conduct

A complaint which may involve a finding of unsatisfactory professional conduct or professional misconduct is dealt with by a Professional Standards Committee (PSC) or the NSW Civil and Administrative Tribunal (NCAT). Less serious matters are addressed in counselling interviews with the practitioner.

More information about disciplinary procedures and hearings is available at [www.mcnsw.org.au](http://www.mcnsw.org.au).

#### Disciplinary Proceedings 2015/16

PSC matters included the following:

- 21 matters open at the beginning of the year
- 12 new referrals during the year
- 22 hearings closed by the end of the year
- 11 hearings open at the end of the year.

NCAT matters included the following:

- 20 matters open at the beginning of the year
- 29 new referrals during the year
- 26 hearings closed by the end of the year
- 23 hearings open at the end of the year.

## Performance

Where a medical practitioner has been the subject of a complaint about professional performance the Council acts to support the primary objective of public safety.

The Medical Council uses Performance Interviews, Performance Assessments and Performance Review Panels to determine whether a practitioner's professional performance is of a standard which could reasonably be expected of a practitioner of an equivalent level of training or experience.

Where inadequacies are identified the Performance Program focuses on education and retraining to address unsatisfactory patterns of practice. This is typically achieved by imposing conditions on registration such as a requirement to undertake training courses but may also include a requirement for supervision of the practitioner by another practitioner approved by the Council. These conditions are monitored by the Medical Council for compliance.

More information about the Performance Program is available on the Medical Council's website at [www.mcnsw.org.au/page/6/doctors-performance-conduct-health/profession-performance](http://www.mcnsw.org.au/page/6/doctors-performance-conduct-health/profession-performance)

### Performance Program 2015/16

During the reporting period 204 complaints were referred to the Performance Program, a 28.3% increase on last year. In dealing with these complaints the following actions were completed:

- 98 performance interviews
- 28 performance assessments (including re-assessments)
- 29 Performance Review Panels.

## Case Study

### Performance Program

*In 2013 two complaints were received about Dr S, a practitioner who had recently arrived from overseas and was now working in an area of need in a rural general practice. The complaints related to her care of an elderly man and a pregnant woman. After reviewing the complaints the Performance Committee resolved that Dr S required a Performance Assessment which was carried out in her rural general practice. The assessors had concerns that Dr S's clinical skills and prescribing were not at the level expected of a doctor of her training and experience. A Performance Review Panel concurred and put conditions on her registration including that she meet with a supervisor on a weekly basis and undertake a number of educational courses.*

*Over the next two years Dr S completed the required courses and met with her supervisor weekly. Her supervisor reported that Dr S was taking an active role in her learning. Dr S remarked that she found the sessions very useful, particularly in preparing for her general practice exams. In August 2015 Dr S had a Performance Re-Assessment and demonstrated a significant improvement in her clinical skills and prescribing. In October 2015 Dr S exited the Performance Program and in the same month achieved her Fellowship of the Royal Australian College of General Practitioners.*

## Health

A medical practitioner's health problems may impair his or her capacity to practise medicine safely and effectively. The Medical Council has a long established Health Program which aims to manage impaired medical practitioners and medical students in a constructive and non-disciplinary manner while safeguarding the public. More information about the Health Program is available at [www.mcnsw.org.au](http://www.mcnsw.org.au).

In June 2015 the Medical Council commenced a research project to evaluate the effectiveness of the Health Program and to make recommendations for improvement. The research findings confirm the efficacy of the program while making useful recommendations for further improvement.

### Health Program 2015/16

As at 30 June 2016, 125 medical practitioners and medical students were participants in the Health Program, a 12% increase on the previous year.

The 83 notifications, referred to 64 Impaired Registrants Panels, were received from the following sources.

Source	Number of Notifications Referred to IRPs	Percentage of Notifications Referred to IRPs
Self reports	17	20%
Council initiated	14	17%
S150 referrals	14	17%
Treating practitioner	13	16%
Employer (including NSW Health) or university	9	11%
AHPRA	9	11%
Patient or patient's relative	7	8%
<b>TOTAL</b>	<b>83</b>	<b>100%</b>

## Case Study

### Exit from the Health Program

*Dr X is a 60 year old male GP who came to the attention of the Council on receipt of an investigation report by Pharmaceutical Services. The report indicated that Dr X had written numerous prescriptions for pethidine in various patients' names and that these prescriptions were for his own use. Urgent action was taken and Section 150 immediate action proceedings were convened. As a result a number of conditions were imposed on Dr X's registration including that he be prohibited from prescribing, possessing and supplying any drug of addiction. Dr X was referred to an Impaired Registrants Panel which amended his conditions to include that he submit to urine drug screening and attend for regular treatment of his drug dependency.*

*Thereafter Dr X joined the Health Program. Dr X engaged well with the program and remained compliant with his conditions over the years. Dr X reported that his involvement with the program allowed him to make major changes to his life with regards to his drug dependency. Dr X reported that the support he received on the program was very helpful and the formal structure allowed him to keep working and doing what he loves. Dr X exited the program approximately 3 years after the initial notification.*

### Monitoring

Orders and conditions are imposed on a medical practitioner's registration to protect the public. Typically these take the following forms:

- Limitations on a medical practitioner's practice – examples include restricting the type of procedure(s) a medical practitioner may perform or limiting the number of patient consultations per day
- Conditions aimed at remediating the medical practitioner – examples include requiring a practitioner to undertake specific courses or participate in supervision and/or
- Requiring a practitioner to attend for treatment in order to manage his/her health so he/she can continue to practise – this may include regular review by the Council-appointed practitioners or participating in alcohol or drug testing.

The Medical Council's Monitoring Program is responsible for monitoring compliance with orders and conditions imposed on a medical practitioner's registration, following a Health, Performance, or Conduct outcome. It also includes monitoring of conditions imposed as a result of the Council's urgent action proceedings.

### Monitoring Program 2015/16

A total of 320 practitioners were being monitored by the Medical Council as at 30 June 2016, an increase of 16% compared to the previous year.

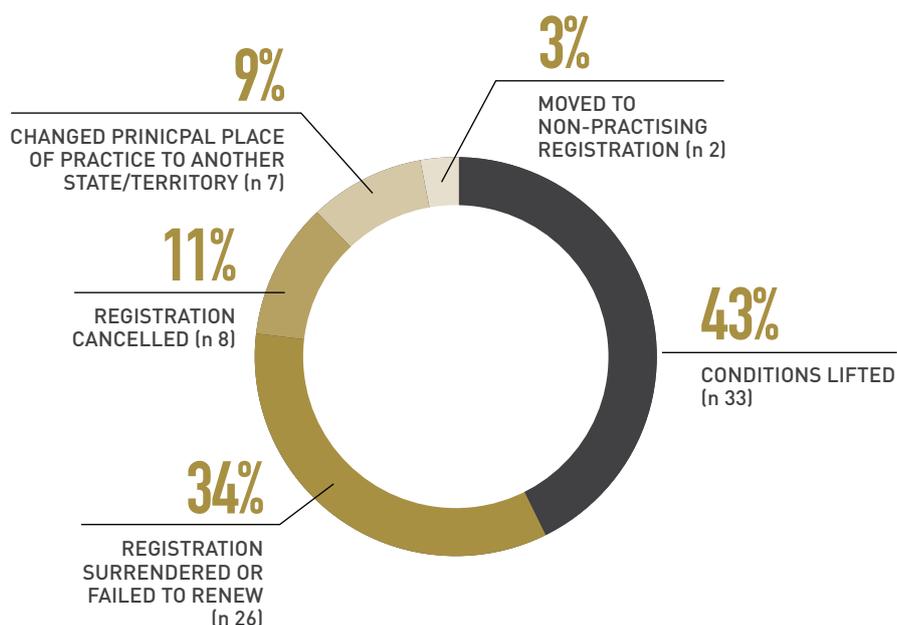
The following table provides a snapshot of the most common conditions imposed on medical practitioners being monitored as at 30 June 2016. A practitioner may be subject to more than one type of condition. Conditions are included on the national Register of health practitioners.

Common Conditions imposed*	Number
Subject to supervision conditions	104
Required to have a mentor	44
Subject to chaperone conditions	10
Required to submit to an audit	37
Subject to urine drug testing	30
Subject to Ethyl Glucuronide (EtG) Testing	20
Subject to Carbohydrate-Deficient Transferrin (CDT) testing	11
Required to complete an education course	18

\*A practitioner may be subject to more than one type of condition.

During the reporting period 76 practitioners exited the Monitoring Program. Outcomes for the practitioners who exited the Monitoring Program are presented in the following graph.

### OUTCOMES FOR PRACTITIONERS EXITING THE MONITORING PROGRAM



## Case Study

### Monitoring Program

*Dr Y is a general practitioner. Conditions were imposed on Dr Y's registration by a Performance Review Panel which found that Dr Y's medical records were not at a standard reasonably expected of a practitioner of an equivalent level of training or experience.*

*Dr Y was required to improve the standard of her records and have her records audited by a person nominated by the Council to monitor the required improvement. An audit was conducted in 2015. The audit report concluded that Dr Y had improved the standard of her record keeping and that they were now at the required standard. The Council considered the audit report and decided that no further audits were required. Dr Y's audit condition was lifted.*

### Remuneration

Remuneration for members of the Council was as follows.

President	\$43,464 per annum
Deputy President/Chairs of Committees	\$27,162 per annum
Members	\$12,037 per annum

### Financial Management

The Medical Council's accounts performance as reported in the Financial Statements was as follows.

Accounts Performance 2015/16	\$
Revenue	13,327,494
Operating expenditure	10,444,786
Gain/(loss) on disposal	9,747
<b>Net result</b>	<b>2,892,455</b>
<b>Net cash reserves (cash and cash equivalents minus current liabilities)</b>	<b>9,789,719</b>

\* Included in the net cash reserves is Education and Research bank account balance of \$46,704.

The Medical Council's budget for the period 1 July 2016 to 30 June 2017 is as follows.

Budget 2016/17	\$
Revenue	13,125,939
Operating expenditure	14,331,873
<b>Net result</b>	<b>(1,205,934)</b>

Full financial statements are presented in Part 3 of this report 'Financial Statements for NSW Health Professional Councils – Medical Council of NSW'.