



Medical Board of Western Australia

FINAL ANNUAL REPORT

17 October 2010



Table of Contents

PRESIDENT'S REPORT	3
BOARD MEMBERSHIP AND OFFICE	2
COMMITTEES	3
PANEL MEMBERS	5
OFFICE OF THE REGISTRAR.....	6
CEO/Registrar	6
Office.....	6
Staff.....	6
OVERVIEW OF OPERATIONS	9
FUNCTIONS OF THE BOARD	9
THE REGISTER	9
REGISTRATION	10
NOTIFICATIONS/COMPLAINTS.....	14
PROFESSIONAL STANDARDS.....	16
FINANCE, AUDIT AND MANAGEMENT	24

PRESIDENT'S REPORT

This Annual Report is a limited one to cover the period of time between 1 July 2010 and 18 October 2010. The reason for this is that the Medical Board of Western Australia will cease to exist after the 18 October 2010 as a result of joining the National Registration and Accreditation Scheme.

Whilst a short period, this has been a very busy period for the Medical Board of Western Australia, as there has been a great deal of preparation undertaken to join the Scheme.

There has been a great deal of interaction with the Australian Health Practitioner Regulation Agency (—AHPRA) during these few months with a view to a seamless transition to the new Scheme.

It has been an interesting time for Western Australia to observe the complexities and difficulties associated with the other States and Territories joining the Scheme from 1 July 2010.

The Medical Board of Australia will take over the functions of registering suitably qualified and confident practitioners and managing all disciplinary aspects of regulation once Western Australia transitions into the Scheme on the 18 October 2010.

I would like to thank all current Board members for their time and their effort and understanding in these difficult few months leading up to the transition. They have certainly contributed to a very sound and competent environment and prepared Western Australia for a smoother transition than perhaps some of the other States and Territories have experienced.



A handwritten signature in black ink that reads "Con. Michael".

PROFESSOR CON MICHAEL AO
President

BOARD MEMBERSHIP AND OFFICE



From left to right: Prof Stokes; Dr Patchett; Assoc Prof Wallace; Prof McKenna; Dr Towler; Dr Jefferies; Ms Ciffolilli; Ms Rivalland; Prof Michael; Ms Driscoll; Ms Ford; Dr McComish

The Medical Board of Western Australia (the Board) consists of 12 members appointed by the Minister for Health.

Details of the Board members, including their qualifications are listed below.

Professor Con Michael, (President), AO. MD, MBBS, FRCOG, FRANZCOG, DDU, M. AcMed (Hon) Malaysia, F.AcMed (Hon) Singapore

Professor Bryant Stokes, (Deputy President) AM, RFD, MBBS, FRACS, FRCS, KSJ, JP

Ms Nicoletta Ciffolilli, B Juris, LLB

Ms Anne Driscoll, BA (Psychology), Commissioner for Consumer Protection (Ex Officio)

Dr Simon Towler, MBBS, FFARACS, FFICANZCA. (Ex Officio)

Ms Prudence Ford, BSc (Hons), DipEd

Dr Felicity Jefferies, MBBS, FACRRM

Dr Michael McComish, MBBS, FRACP

Professor Ken Mark McKenna, MBBS, MRACOG; FRACOG

Dr Steven Patchett, MBChB, MRANZCP, FRANZCP

Ms Virginia Rivalland, MA, BA (English), RN

Associate Professor Peter Wallace, OAM, MBChB, FRACGP, FACRRM, Dip Obst RCOG; GAICD

COMMITTEES

Board members serve on one or more of the Board's committees.

The Medical Board of Western Australia Committees as at 17 October 2010 is as follows:

Registration Sub-Committee

Prof B Stokes (Chair)
Ms P Ford
Dr F Jefferies
Dr S Towler

Observers:

Ms P Malcolm, CEO
Ms M Faure, Registration Manager
Ms L Hawker, Registration Officer

Complaints Assessment Committee

Assoc Prof P Wallace (Chair)
Ms P Ford
Dr M McComish
Prof C Michael
Prof M McKenna
Dr S Patchett
Ms V Rivalland
Dr S Towler

Observers:

Ms P Malcolm, CEO
Ms K Weston, In house Legal Counsel
Dr S Gaby, Professional Standards Manager
Mr S Anderson, Case Manager
Ms A Rayner, Case Manager
Mr C Montgomery, Case Manager
Dr D Faulkner-Hill, Medical Advisor

Finance, Audit and Management Committee

Prof B Stokes (Chair)
Prof C Michael
Ms P Ford
Ms A Driscoll

Observers:

Ms P Malcolm, CEO
Mr R Parker, Accountant
Ms M Joyce, Office & Finance Administration Manager

National Registration Committee

Prof C Michael
 Prof B Stokes
 Ms P Ford
 Dr F Jefferies
 Dr S Towler
 Assoc Prof P Wallace
 Dr M McComish
 Prof M McKenna
 Dr S Patchett
 Ms V Rivalland
 Ms A Driscoll
 Ms N Ciffolilli

Impairment Review Working Committee

Prof C Michael (Chair)
 Dr S Patchett

Non-Board Members

Dr E Tay
 Prof G Riley
 Dr A Quigley

PANEL MEMBERS

Panel Members (Professional Standards Committee and Impairment Review Committee)

The Board acknowledges the invaluable contribution of the following members of the profession and the public who serve as members of the Professional Standards Committees and Impairment Review Committee as appointed by the Minister for Health.

Dr P Bentley	Ms D Bower	Dr R Bullen	Dr P Bugar
Dr S Burton	Dr M Cadden	Mr B Campbell	Ms M Carrigg
Dr T Chakera	Dr A Cronje	Dr G Cullingford	Ms D Davies
Dr G Dobb	Dr A Duncan	Dr A Ekladious	Dr S Hamilton
Dr D Heredia	Dr M Jones	Prof L Landau	Mr B Lawrence
Prof G Lipton	Dr S Lloyd	Dr J Lubich	Dr S Miller
Dr P Mulhern	Dr G Mullins	Dr R Murray	Dr R Newton
Mr B Patman	Mr J Pintabona	Dr D Roy	Assoc Prof M Sim
Mr M Solomon	Mr G Swensen	Dr E Tay	Dr A Thillainathan
Dr A Tulloch	Dr R Turnbull	Ms A White	Dr G Williamson
Clin Act Prof E Wylie			

Panel Members (Pre-Employment Structured Clinical Interview)

The Board also acknowledges the invaluable contribution of the following members of the profession who serve as members of the Pre-Employment Structured Clinical Interview panel.

Dr J Charkey-Papp	Dr J Copeman	Dr A Cronje	Dr A Duncan
Dr F Faigenbaum	Dr D Fakes	Dr M Howes	Dr M Kamien
Dr J Keenan	Dr F Lannigan	Dr C Lawson-Smith	Dr P McGuire
Dr F Ng	Dr A O'Connell	Dr J Orford	Dr W Pennells
Dr A Shannon	Dr E Solomon	Dr H Watts	

OFFICE OF THE REGISTRAR

CEO/Registrar

Ms Pamela Malcolm B Juris, LLB

Office

Henry James Building,
Unit 1, 8 Alvan Street
SUBIACO WA 6008

Telephone: (08) 63803500

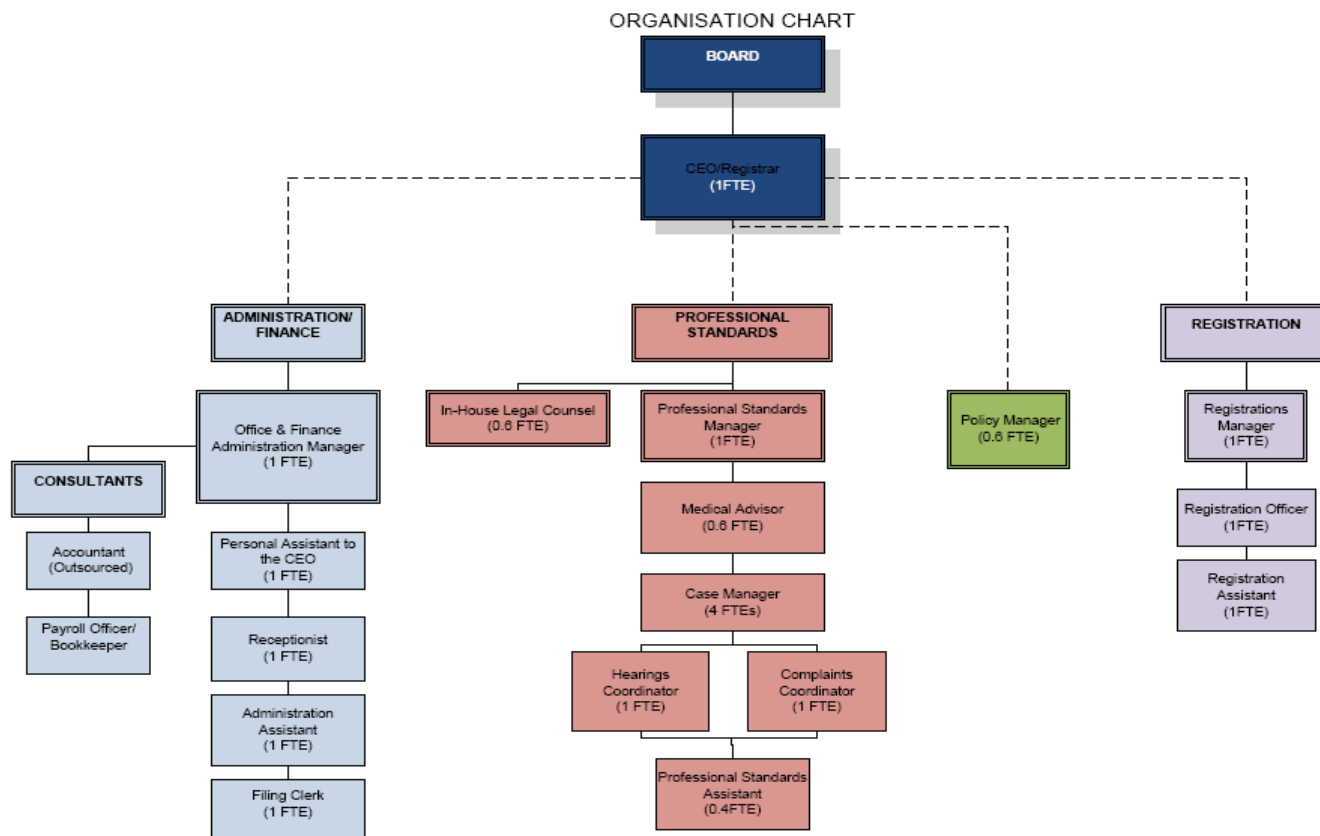
Facsimile: (08) 9321 1744

Australian Business Number: 25 271 541 367

Website: www.wa.medicalboard.com.au

Staff

Staff numbers remain reasonably consistent with the previous year. There has been continued channelling of staff into the various specialised departments and with that, a growing level of expertise in all areas. Please find below a copy of the Board's organisational chart.



Executive Team



**Ms Pamela Malcolm
CEO/Registrar**



**Ms Melanie Joyce
Office & Finance
Administration Manager**



**Dr Sharon Gaby
Professional Standards
Manager**



**Ms Melanie Faure
Registrations Manager**



**Ms Kristy Weston
In House Legal Counsel**



**Ms Tracey Annear
Policy Manager**

Staff Development

Staff members attended a wide range of relevant external training courses, seminars and in-house meetings, including:

- general management and leadership courses;
- professional skills development courses;
- mediation training;
- legal training sessions;
- public sector training sessions;
- freedom of information courses;
- operating procedures and policies; and
- IT software courses.

The Board includes a provision within its budget for the continual professional development of all staff members.

Equal Employment Opportunity

The Board is committed to in equal opportunity for all and to the principles of Equal Employment Opportunity. Recruitment, promotion and remuneration are based solely on the performance, skills and qualifications of an individual for a particular position. The Board has not had any claims lodged against it during the financial year.

Solicitors of the Board

The Board currently refers matters to the following panel of solicitors:

Disciplinary matters and general advice:

Liscia & Tavelli
PO Box 8193
Perth Business Centre
PERTH WA 6849

McCallum Donovan Sweeney
2nd Floor, Irwin Chambers
16 Irwin Street
PERTH WA 6000

DLA Phillips Fox
Level 32
44 St Georges Terrace
Perth WA 6000

Sparke Helmore
Level 12, The Quadrant
1 William Street
PERTH WA 6000

Tottle Partners
Level 40, BankWest Tower
108 St Georges Terrace
PERTH WA 6000

General contractual advice:

Mallesons Stephen Jaques
Central Park
152 St Georges Terrace
Perth WA 6000

Costs and fine recovery matters:

Cullen Babington Hughes
Level 2
95 Stirling Highway
NEDLANDS WA 6009

OVERVIEW OF OPERATIONS

FUNCTIONS OF THE BOARD

The Board is an independent statutory authority and administers its functions pursuant to the *Medical Practitioners Act 2008* (the Act⁹). It is bound to act in accordance with the Act and its functions and responsibilities include:

- advising the Minister on matters to which the Act applies;
- administering the scheme of registration
- performing functions in relation to disciplinary, competency and impairment matters;
- supporting and promoting public education in relation to the practice of medicine and the rights and duties of medical practitioners;
- monitoring and supporting the development of standards for registration of medical practitioners and the assessment of qualifications for registration;
- promoting and encouraging –
 - the continuing education of medical practitioners in the practice of medicine; and
 - increase levels of skill, knowledge and competence in the practice of medicine

The aim of the Board is to ensure that the people of Western Australia receive the highest possible standard of medical care through the fair and effective administration of the Act. This aim is achieved by ensuring that appropriate standards of entry onto the Medical Register are maintained, and that instances of misconduct, incompetence, or impairment are dealt with in a timely and appropriate manner.

THE REGISTER

REGISTER OF MEDICAL PRACTITIONERS PURSUANT TO THE ACT

The Board maintains a register of medical practitioners on its website. This register contains updated information and now is to include the following information, pursuant to the new Act:

- the name of the person; and
- the business, or other, address of that person; and
- a unique numerical identification number for that person; and
- the date on which the person was first registered; and
- particulars of all of the medical qualifications recognised by the Board and held by that person; and
- the provision or provisions of this Act under which the person is registered; and
- any conditions applying to the registration; and
- any condition or change of condition imposed by another registering authority; and
- details of the exercise of any power under Part 6 (discipline) in respect of that person or any order made or penalty imposed in respect of that person by the Board or in a proceeding before the State Administrative Tribunal under Part 6; and
- such other information, if any, as is prescribed by the regulations.

SPECIALIST REGISTER

Pursuant to the Medical Practitioners Act 2008, the Board maintains a Specialist Register. Specialists who wished to practice in a specialty were required to register their specialty qualifications in order to do so.

REGISTRATION

Registration Sub-Committee

- Professor Bryant Stokes (Chairperson)
- Dr Felicity Jefferies
- Ms Prudence Ford
- Dr Simon Towler

OVERVIEW

The Board's registration department is responsible for initial registration of all medical practitioners seeking to work in Western Australia; and for the renewal of the registration of all medical practitioners annually. This registration includes provisional, general, conditional and specific registration of qualified practitioners. Forms are available on the Board's website.

A total of individual medical practitioners were registered in Western Australia as at 17 October 2010. This is an increase of 137 registrants since the previous year.

	17 October 2010	30 June 2010	30 June 2009
General Registration		7,268	7,146

CONDITIONAL REGISTRATION

Conditional registration is granted to applicants who do not meet all the requirements of general registration under Section 30 of the Act. Of the 9,122 registered practitioners as at 17 October 2010, 1,854 practitioners were conditionally registered. This figure includes International Medical Graduates (IMGs), interns and those practitioners in supervised clinical practice and postgraduate training. The breakdown of the categories of the conditionally registered medical practitioners is as follows:

Conditional Registration	30 June 2010	30 June 2009
Internship	238	229
Supervised Clinical Practice	36	20
Postgraduate Training	97	66
Medical Teaching	3	8
Medical Research	3	3
Unmet Areas of Need	654	773
General Practice in Remote and Rural Western Australia	49	66
Recognised Specialist Qualifications and Experience	737	640
Foreign Specialist Qualifications and Experience – Further Training	26	19
Temporary Registration in the Public Interest	11	14

Conditional Registration	30 June 2010	30 June 2009
Special Continuing	0	1
TOTAL	1854	1839
Other Registration		
Medical Call Services	2	2
Body Corporate	248	245

CATEGORIES OF REGISTRATION

The categories of conditional registration available are defined as follows:

Interns

A graduate from an accredited Australian or New Zealand University who has been offered an Internship position in a Teaching Hospital is eligible for registration for the purpose of completing the twelve month period of internship.

Supervised Clinical Practice

A medical practitioner who has successfully completed both the multiple choice questionnaire and clinical component of the Australian Medical Council examinations is eligible for registration pursuant to this category. Registration will be granted for a period of twelve months, following which and subject to satisfactory performance, the medical practitioner is eligible for transfer to general (unconditional) registration.

Special Purpose Conditional Registration - Postgraduate Training

A medical practitioner whose primary medical degree was not obtained from an accredited Australian or New Zealand Medical School may be eligible for registration for the purpose of undertaking postgraduate training in Western Australia. Ongoing registration is subject to annual satisfactory performance reports to the conclusion of the postgraduate training program.

Special Purpose Conditional Registration - Medical Teaching

A medical practitioner may be eligible for conditional registration for the purposes of undertaking a medical teaching position in Western Australia if he or she has qualifications that the Board recognises for that purpose. Registration is generally limited to visiting overseas specialists who require short periods of registration.

Special Purpose Conditional Registration - Medical Research

A medical practitioner may be eligible for conditional registration for the purposes of undertaking a medical research position if he or she has qualifications that the Board recognises for that purpose. Registration is generally restricted to short periods.

Special Purpose Conditional Registration - Unmet Areas of Need

An overseas trained medical practitioner working in a position for a limited period of time in an area having been declared an Unmet Areas of Need by the Minister for Health and approved by the Board.

General Practice in Remote and Rural Western Australia

A medical practitioner who has qualifications and experience obtained overseas but is otherwise competent to practise as a general practitioner and undertakes to abide by the conditions in Section 33 may be eligible for registration in this category. The conditions are that:

1. the person can only practise medicine as a general practitioner;
2. the person must practise in remote and rural WA for five years after registration; and
3. must become a fellow of the Royal Australian College of General Practitioners within two years of registration.

Recognised Specialist Qualifications and Experience

An overseas-trained specialist who has been awarded Fellowship (or be deemed equivalent to an Australian trained specialist) to a recognised Australian Medical College.

Special Purpose Conditional Registration - Foreign Specialist Qualifications and Experience – Further Training

A medical practitioner, whose specialist qualifications and experience were obtained outside Australia, may be eligible for registration in this category for the purpose of undertaking further specialist training or examination in order to achieve Fellowship to a recognised Australian Medical College.

Special Purpose Conditional Registration - Temporary Registration in the Public Interest

Registration is granted at the Board's discretion on a temporary basis if it is deemed in the public interest to do so.

Registration of Business Structures

Required unless a practitioner practices on his/her own account, or in a partnership in which all the partners are medical practitioners.

NATIONALLY CONSISTENT REGISTRATION PATHWAYS (FOR IMGs)

As part of the national registration scheme, the development of a uniform approach to the registration of IMG's has been implemented nationally. This provides for a nationally consistent approach to the assessment of all IMGs. There has been ongoing consultation with all State and Territory Boards, the Australian Medical Council and various colleges for a considerably period of time.

The pathways now implemented in all States and Territories of Australia are as follows:

1. Competent Authority Pathway:

This pathway is for IMGs who are seeking non-specialist registration and who have completed training/assessment through an AMC approved authority (UK, Ireland, US, Canada, NZ).

The Department of Health is the accredited authority in Western Australia for conducting workplace based performance assessment under the competent authority model.

IMGs who are eligible for the competent authority pathway are not required to pass the MCQ or clinical examination to be registered, but must satisfactorily complete a 12 month period of workplace-based performance assessment. This is currently being undertaken by way of supervision reports to the Board. A pilot of workplace-based performance assessment will be commenced in Western Australia in January 2011.

2. Standard pathway (Workplace-based Assessment Pathway):

This pathway is for IMGs who are applying for non specialist positions but who do not qualify under the Competent Authority or Specialist Pathways.

These practitioners have been offered employment by a hospital or in a general practice position and will, of necessity have to successfully pass the multiple choice questionnaire (“MCQ”) and may have to undertake a pre-employment structured clinical interview (“PESCI”).

AMC MULTIPLE CHOICE QUESTIONNAIRE (“MCQ”)/PRE EMPLOYMENT STRUCTURED CLINICAL INTERVIEW (“PESCI”)

IMGs are required to undertake a mandatory screening examination, the AMC MCQ as a pre-registration requirement. This is followed by further assessment (Workplace-Based Performance Assessment).

The AMC approved a further pre-registration requirement (the PESCI) for IMGs under this pathway for practitioners who have been offered employment positions in areas considered high risk. The PESCI is an interview conducted by an AMC accredited authority. In Western Australia, the Medical Board of Western Australia is the accredited authority. Panellists with appropriate qualifications are appointed to conduct the PESCI. The PESCI is an assessment tool to enable the Board to gain an understanding of the ability of an IMG to work in a specific location. It is undertaken to assess the risk associated the practitioner and the specific location. The PESCI policy is available on the Board’s website.

The Board is the accredited authority to conduct PESCI’s in Western Australia. Since 1 July 2009, 27 PESCI have been conducted and of those, 17 IMG practitioners have passed and were deemed suitable to work at the requested location.

3. Specialist Pathway:

This pathway is for overseas trained specialists, specialists in training and area of need specialists who are assessed through the AMC/Specialist College Pathway.

These are college based assessments.

The new pathways set out the minimum standards applicable to IMGs applying to work as medical practitioners in Australia.

NOTIFICATIONS/COMPLAINTS

Complaints Assessment Committee

- Associate Professor Peter Wallace (Chairperson) (General Practitioner)
- Dr Michael McComish (Physician)
- Dr Steven Patchett (Psychiatrist)
- Dr Simon Towler (Intensivist) (Chief Medical Officer, Department of Health)
- Professor Mark McKenna (Obstetrics & Gynaecology)
- Ms Virginia Rivalland (Consumer Member)
- Ms Prudence Ford (Consumer Member)

The Complaints Assessment Committee is appointed by the Board each month (from the Board members listed above) and consists of not more than 4 persons —

- (a) a majority of whom must be medical practitioners (one or more of whom may be a member of the Board); and
- (b) one of whom (who may be a member of the Board)
 - (i) must be neither a medical practitioner nor qualified to be registered as a medical practitioner; and
 - (ii) must have knowledge of and experience in representing the interests of consumers.

In the year to 30 June 2010, 270 notifications were lodged with the Board. The total number of notifications under investigation at 30 June 2010 was 161. During the same period, 228 notifications were closed either due to the Board finding insufficient grounds to warrant disciplinary proceedings or being referred for disciplinary hearing.

If a complaint raises concerns in the public interest and the complainant's identity is established to the satisfaction of the Board, the Board may accept oral or written complaints if there are sufficient particulars provided. The Board may also investigate of its own volition should information be provided to the Board and it is in the public interest to do so.

A notification form is the preferred form of complaint and can be obtained from the Medical Board Website www.wa.medicalboard.com.au or from the Board's office.

Where a complaint may not involve a breach of the Act, it may be referred to the Office of Health Review (OHR) which is an independent State Government agency. A complainant can approach the OHR directly or ask the Board to refer their complaints to the OHR.

The following is a summary of the status of the complaints considered for the period 1 July 2010 to 17 October 2010:

Statistics	1 July 2010 – 17 October 2010	30 June 2010	7 months to 30 June 2009
Total number of new complaints received by the Board	81	270	107
Complaints where insufficient grounds to proceed to inquiry or no further action	15	167	29
Complaints under investigation	181	161	126

Complaints received from 1 July 2010 to 17 October 2011 were classified according to the nature of the allegations in the complaint documentation. Often there is more than one allegation and each matter receives a classification.

Ref No.	Complaint Category	Count	Percent
(1.1)	Inadequate information about treatment options	3	6.67
(1.2)	Inadequate information on services available	0	0.00
(1.3)	Misinformation or failure in communication	3	6.67
(1.4)	Failure to fulfil statutory obligations	0	0.00
(1.6)	Inadequate or Inaccurate Records	3	6.67
(1.8)	Certificate or report problem	0	0.00
(1.9)	Possible impairment practitioner	2	4.44
(2.1)	Failure to consent patient/client	0	0.00
(2.2)	Consent not informed	1	2.22
(2.3)	Consent not obtained	1	2.22
(2.5)	Refusal to refer or assist to obtain a second opinion	0	0.00
(3.1)	Inadequate diagnosis	1	2.22
(3.2)	Inadequate treatment	2	4.44
(3.3)	Rough treatment	1	2.22
(3.4)	Incompetent treatment	6	13.33
(3.5)	Negligent treatment	5	11.11
(3.6)	Wrong treatment	0	0.00
(4.1)	Inadequate information about costs	0	0.00
(4.2)	Unsatisfactory billing practice	0	0.00
(4.3)	Amount charged	0	0.00
(4.4)	Overservicing	1	2.22
(4.5)	Private Health Insurance	0	0.00
(5.1)	Inconsiderate service/lack of courtesy	1	2.22
(5.2)	Absence of caring	3	6.67
(5.3)	Failure to ensure privacy	0	0.00
(5.4)	Breach of confidentiality	1	2.22
(5.5)	Discrimination	0	0.00
(5.7)	Sexual impropriety	0	0.00
(5.8)	Sexual transgression or violation	0	0.00
(5.9)	Assault	0	0.00
(5.10)	Unprofessional conduct	9	20.00
(6.1)	Administrative practice	0	0.00
(6.2)	Facilities	0	0.00
(6.3)	Fraud/illegal practice	0	0.00
(6.4a)	Misleading claim (product/service)	0	0.00
(6.4b)	Misleading claim (practitioner e.g. qualifications)	0	0.00
(6.5)	Section 124, 125, 127	0	0.00
(7.1)	Mentally disturbed complainant	1	2.22
(7.2)	Unsubstantiated	1	2.22
Total		45	

PROFESSIONAL STANDARDS

Part 6 of the Act includes identification of three streams for professional standards matters:

- (1) discipline;
- (2) competence; and
- (3) impairment

Each stream provides for specific investigation processes. Both discipline and competence matters may proceed to a hearing before the Professional Standards Committee (~~PSC~~) or the State Administrative Tribunal (~~SAT~~). An impairment matter may proceed to the Impairment Review Committee (~~IRC~~). It is also possible to progress an impairment matter to the SAT, in serious circumstances.

If the Board is satisfied that the medical practitioner may have breached the Act, the Board can take one of the following actions:

- (1) Refer the matter to the Professional Standards Committee (PSC).
- (2) Refer the matter to the State Administrative Tribunal (SAT); or

The PSC

The PSC is comprised of independent PSC members appointed by the Minister for Health. The PSC hears matters considered by the Board which do not warrant a proceeding before the SAT. However referring a matter to the PSC does not preclude the Board from referring the matter to the SAT if the PSC advises the Board to do so. The PSC makes a recommendation following a hearing, to the Board. The Board may accept the recommendation, or make alternative Orders.

The PSC may recommend Orders as follows:

- (i) reprimand;
- (ii) that the medical practitioner pay to the Board a fine of an amount not exceeding \$5,000 specified in the order;
- (ii) that the Board impose restrictions or conditions or both on the practice of medicine by the medical practitioner.

Any medical practitioner who is aggrieved by any decision of the PSC may apply to the SAT for a review of the decision.

The SAT

SAT is an independent review tribunal that can hear disciplinary matters brought by the Board, against medical practitioners. Matters which may lead to a finding of removal or suspension of the medical practitioner shall be referred to the SAT.

The penalties the SAT may impose upon dealing with an allegation referred include any one or more of the following:

- (i) order the removal of the name of the medical practitioner from the register;

- (ii) order that the registration of the medical practitioner be suspended for such a period not exceeding 12 months as specified in the order;
- (iii) impose a fine not exceeding \$25,000;
- (iv) reprimand the medical practitioner.

Urgent action may be taken by the Board to restrain a medical practitioner from practicing medicine, where the Board is of the opinion that an activity of that practitioner involves or will involve a risk of imminent injury or harm to the physical or mental health of any person, pursuant to section 87 of the Act. The period of suspension is limited to 30 days and the matter will then be referred to the SAT for further consideration. One such matter has been referred in the past seven months.

Board Hearings (Re-Registration following Erasure from the Register)

Any medical practitioner whose name has been erased from the Register of Medical Practitioners (the Register) may at intervals of 12 months, apply to the Board for restoration of their name to the Register.

Any person whose registration has been suspended, on the expiration of a period of suspension or registration, shall be deemed automatically to be restored to the Register, and his/her rights and privileges as a medical practitioner shall thereupon be revived.

Where the Board orders the restoration to the Register or the name of the person is deemed automatically to be restored to the Register, the Board may in either case impose any condition which it thinks necessary to protect the public interest. Such an Order may limit, qualify or affect the manner in or places at which the person may practice. The Board may from time to time, either of its own motions or on application by that person, vary or revoke any condition imposed.

Where the Board is satisfied that a person who is registered as a medical practitioner under the Act has been suspended or that his or her name has been erased from the register of medical practitioners under the laws of another State or Territory of the Commonwealth, the Board may, without further inquiry, suspend the medical practitioner or erase the name of the medical practitioner from the register, as the case may be.

The following is a summary of Board hearings and matters referred to the SAT and PSC for the period 1 July 2010 to 17 October 2010:

	1 July 2010 – 17 October 2010	30 June 2010	1 December 2008 to 30 June 2009
PSC Hearings Completed	6	17	4
PSC Hearings Pending	38	46	39

	1 July 2010 – 17 October 2010	30 June 2010	1 December 2008 to 30 June 2009
SAT Hearings Completed	4	18	5
SAT Hearings Pending	29	42	57 (36 and 2 multiple matters)

	1 July 2010 – 17 October 2010	30 June 2010	1 December 2008 to 30 June 2009
IRC Hearings Completed	0	4	0
IRC Hearings Pending	2	4	0

	1 July 2010 – 17 October 2010	30 June 2010	1 December 2010 to 30 June 2009
Medical Board Proceedings:			
• Re-Registration Hearings Completed	0	2	0

A single proceeding may cover more than one section of the Act.

Impairment Review Committee

The Impairment Review Committee hears matters referred by the Board where a practitioner is considered to be potentially impaired. During the year ended 30 June 2010, four matters were heard by the Impairment Review Committee and conditions were placed on the practitioners' practice.

Monitoring of Conditions

Practitioners who are affected by a dependence on drugs or alcohol or have an impairment which impacts on their ability to practice, may have conditions imposed upon their practice of medicine.

During the year, 33 medical practitioners were subject to monitoring of conditions and of these, 25 related to dependence on drugs or alcohol or an impairment. The remainder relate to competency based monitoring.

Proceedings Concluded During the Period 1 July 2010 to 17 October 2010

Provided **below** is a summary of the proceedings concluded during the period 1 July 2010 to 17 October 2010.

Professional Standards Committee

Dr A (MBC/2994-420)

It was alleged to the Professional Standards Committee (PSC) that the practitioner may have acted carelessly in the course of his practise as a medical practitioner pursuant to section 76(1)(b)(i) of the *Medical Practitioners Act 2008*, and has engaged in conduct in a professional response that falls short of the standard that a member of the public is entitled to expect of a medical practitioner pursuant to section 76(1)(d) of the *Medical Practitioners Act 2008* in that, despite the Patient's clinical presentation being highly suggestive of a diagnosis of DVT, he:

- (i) relied upon the Ultrasound report in the absence of other investigations to exclude DVT;

- (ii) failed to undertake any further investigations to determine the cause of the Patient's swollen, painful and discoloured leg;
- (iii) failed to follow standard protocol for the diagnosis of suspected DVT, in that he did not order a repeat Doppler ultrasound 24 hours after the first ultrasound was performed;
- (iv) failed to admit the Patient for observation;
- (v) failed to offer precautionary blood thinning medication until requested to do so by the Patient;
- (vi) failed to provide an appropriate follow-up management plan for the Patient if her symptoms did not improve;
- (vii) discharged the Patient with a potentially life-threatening condition.

Upon hearing the Counsel Assisting the PSC and the Practitioner, at a hearing, the PSC ordered that:

1. The allegations be dismissed.

Dr B (MBC/2900-390)

It was alleged to the PSC that the Practitioner acted improperly in the course of his practice as a medical practitioner pursuant to section 76(10)(b)(iii) of the *Medical Practitioner Act 2008* (~~the Act~~), and has engaged in conduct in a professional respect that falls short of the standard that a member of the public is entitled to expect of a medical practitioner pursuant to section 76(1)(d) of the Act, in that he:

- a) failed to warn the Patient that he intended to lift her top; and
- b) failed to obtain the Patient's consent prior to lifting her top.

Upon receiving the recommendation of the PSC, dated 1 August 2011, the Medical Board of Western Australia finds that on the facts agreed by the parties, that the deficiencies established, when viewed together and in their overall context, constitute:

- i) improper conduct in a professional respect, pursuant to section 76(1)(b)(iii) of the Act; and
- ii) conduct in a professional respect that falls short of the standard that a member of the public is entitled to expect of a medical practitioner, pursuant to section 76(1)(d) of the Act.

And order that the Practitioner:

- a) be reprimanded; and
- b) must attend a communications skills course, approved by the Board, as soon as practicable.

Dr C (MBC/2650-314)

It was alleged to the PSC that the Practitioner may be guilty of improper conduct in a professional respect pursuant to s13(1)(a) of the *Medical Act 1894* in that the Practitioner:

1. did not attend to the Patient immediately, either when she was told by the Receptionist that the Patient had a fishbone lodged in his throat or when subsequently told by the Receptionist that the Patient was very distressed.

Upon considering the Submissions advanced by the Counsel Assisting the PSC and by the Counsel for the Practitioner, the PSC finds, on the facts agreed by the parties that:

- a) the deficiencies established when viewed together and in their overall context, constitute improper conduct in a professional respect, pursuant to Section 13(1)(a) of the *Medical Act 1894*.

And orders that:

- b) the Practitioner be reprimanded.

Dr D (MBC/2748-348)

Pursuant to Clause 11 of Schedule 2 of the *Medical Practitioners Act 2008*, it is alleged that the Practitioner is guilty of "improper conduct in a professional respect" pursuant to Section 13(1)(a) of the repealed *Medical Act 1894*, in that he spoke in a crude and/or discourteous manner to the Patient, thereby causing the Patient and her daughters distress.

Upon considering the Submissions advanced by Counsel for the Board and by Counsel for the Practitioner, the Board accepts the recommendations of the PSC and finds, on the facts agreed by the parties, that the deficiencies established, when viewed together and in their overall context, constitute improper conduct in a professional respect, pursuant to Section 13(1)(a) of the *Medical Act 1894*.

And orders that the practitioner:

- a) be reprimanded; and
- b) attend a communications skills course to be approved by the Board, in order to address the issue of using inappropriate language in front of patients.

Dr E (MBC/2806-344)

The Practitioner answers the allegations that she commenced employment at various clinics without first informing the Board as follows:

- a) in many of the clinics, she has not worked as a medical practitioner;
- b) she has not been 'employed' but has contracted as a self employed provider of services;
- c) she has not had access to any controlled narcotics through any clinic at which she has worked; and
- d) the only prescription medicines used by her are botox and filler medications, which are not narcotics.

On 6 April 2010, the Board resolved to extend the Practitioner's random urine screening for a further 12 months from the date of her positive screen result (i.e. until 12 June 2010). The Practitioner must also continue to attend her treating psychiatrist until 30 March 2012.

The Board has recently received a copy of the Practitioner's prescribing history from Medicare and the Department of Health. There is not record of Schedule 8 prescribing or self-prescribing by the Practitioner.

There does not appear to be any public interest in this matter's progression to a disputed hearing before the PSC in the absence of evidence that the Practitioner was employed as a medical practitioner in circumstances which allowed her unrestricted access to narcotics.

In light of the above, it is submitted that it would be appropriate for the PSC to recommend that the Board take no further action in relation to this matter.

Upon receiving the recommendations of the Professional Standards Committee, dated 12 August 2010, the Medical Board of Western Australia has resolved to take no further action in relation to this matter, pursuant to section 96(3)(a) of the *Medical Practitioners Act 2008*.

And orders that:

- a) No further action to be taken.

Dr F (MBC/2325-249)

It is alleged that by virtue of the facts, the Practitioner may be guilty of "improper conduct in a professional respect" pursuant to Section 13(1)(a) of the repealed *Medical Act 1894*, in that he breached his duty of confidentiality to his Patient on or about 24 April 2006, when he failed to obtain his Patient's consent to divulge confidential information contained in his letter of the same date, addressed to his employer and copied to the CEO of the Shire, when responding to the Patient's complaint made against him by his Patient's partner, on or about 19 April 2006.

Upon receiving the recommendation of the PSC, dated 26 August 2010, the Medical Board of Western Australia finds that the deficiencies established, when viewed together and in their overall context, constitute improper conduct in a professional respect, pursuant to Section 13(1)(a) of the *Medical Act 1894*.

And orders that:

- a) No further action be taken, upon the undertaking that the Practitioner undergo a training course to the satisfaction of the Board, in order to address the Professional Standards Committee's concerns regarding his appreciation of confidentiality obligations.

State Administrative Tribunal Proceedings

Dr Mark Lawry (MBC/2781-343)

It was alleged that Dr Lawry acted improperly in the course of his practice.

On 7 July 2010, it was ordered that:

1. The Respondent be reprimanded pursuant to section 116(1) of the *Medical Practitioners Act 2008* (the Act).
2. Conditions be imposed on the Respondent's registration as a medical practitioner pursuant to section 116(1)(f) of the Act, that the Respondent:
 - a) is not permitted to prescribe Schedule 8 Medicines without the prior consent of Professor Tony Hochberg (Medical Director of Gemini Medical Services) or such other person as may be approved in writing by the Medical Board of Western Australia (the Board) until 1 September 2011. All such consents must be recorded in a register to be maintained by the Respondent which must identify the date upon which the consent was given, the name of the medicine, the dosage, the patient for whom the medicine was prescribed, and the reason for the prescription;
 - b) must not prescribe or administer Schedule 8 Medicines to himself, his wife or a member of his family at any time;

- c) is not permitted to store or keep Schedule 8 Medicines in his home at any time, save and except where those Schedule 8 Medicines have been prescribed or administered by another medical practitioner for the treatment of the Respondent, his wife or children;
 - d) is not permitted to practise medicine in a surgery or clinic which stores or keeps Schedule 8 Medicines on the premises unless those medicines are stored or kept in a locked cabinet and a register is maintained recording on a daily basis the Schedule 8 Medicines dispensed, the dosage, the names of the patients to whom such medicines were prescribed, and the reasons for the prescription;
 - e) must no later than 7 days before commencing to practice medicine at a surgery or clinic at which he has not previously practised give written notice to the Board:
 - i) specifying the name and address, email address and telephone number of the surgery or clinic; and
 - ii) unless the Respondent has responsibility for the management of the surgery or clinic, the notice must confirm that the Respondent has informed the person with responsibility for managing the surgery or clinic of the conditions of his registration to practice medicine.
3. The Respondent shall pay the Board's costs of the application fixed at \$2,500.00 pursuant to section 88(2) of the *State Administrative Tribunal Act 2004*.

Dr Martin Bender (MBC/2989-427)

It was alleged that Dr Bender acted carelessly in the course of his practise as a medical practitioner.

On 4 August 2010, it was ordered that the Practitioner:

1. On the basis of the facts which appear above, the Respondent is guilty of acting carelessly contrary to section 76(1)(b)(i) of the *Medical Practitioners Act 2008* (~~the Act~~) in the care of a patient between 29 October 2009 and 21 November 2008 in that:
 - a) On two occasions, namely 29 October 2008 and 21 November 2008, the Respondent left the Patient's Warfarin dose unchanged in circumstances where the Patient's International Normalised Ratio (INR) and her recent INR history and her medical history:
 - i. indicated the need for an increase in dose;
 - ii. indicated that the Patient's INR had fallen significantly since 9 October 2008; and
 - iii. indicated the Patient's INR was close to moving into a sub-therapeutic range.

By 21 November 2008, it was of critical importance that an increase be made.
 - b) On 29 October 2008, when the Repondent reviewed the Patient's INR, he arranged review of the Patient in 2 weeks despite:
 - i. the Patient demonstrating an inconsistent and unpredictable response to Warfarin;
 - ii. the Patient's INR level having dropped by 0.5 since 9 october 2008 on a consistent dose of Warfarin;
 - iii. the Patient's INR results being close to falling outside the optimal range.

In the circumstances, the Respondent ought to have arranged review of the Patient in a shorter interval.
2. The Respondent be reprimanded.
3. The Respondent be fined a sum of \$3,500, payable on or before 10 Septemeber 2010.
4. The Respondent pay the Applicant's costs of these proceedings, fixed at \$2,000.

Dr Jan Ravet (MBC/2786-389)

It was alleged that Dr Ravet does not have sufficient knowledge or skill to practice medicine safely and competently and that it is therefore necessary for the Tribunal to make an order or orders pursuant to section 118 of the *Medical Practitioners Act 2008*.

On 30 August 2010, it was ordered that:

1. the practitioner be suspended from the practice of medicine for a period of 3 months to commence 7 days following the date of this Order;
2. following a period of suspension referred to in paragraph 1 above and subject to paragraphs 3 and 4 of this Order, a permanent condition be imposed upon the practitioner's registration as a medical practitioner that;
 - 2.1 the practitioner is prohibited from undertaking medical practice other than in a general practice and only when there is at least one other general practitioner present at that practice who has at least 5 years experience as a registered medical practitioner; and
 - 2.2 the practitioner is prohibited from undertaking any after hours (by reference to the particular practice at which the respondent is working) or on-call duties.
3. following the period of suspension referred to in 1 above, the practitioner is prohibited from working in a hospital save for the purpose of receiving further training whilst under the supervision of a Consultant medical practitioner.
4. the conditions imposed upon the practitioner by 2 and 3 above will be discharged by notice to the practitioner from the applicant if:
 - 4.1 the practitioner undertake a period of 3 months supervision by a Consultant medical practitioner whilst working as a medical practitioner in an emergency department accredited for the training and assessment of trainees; and
 - 4.2 the practitioner provides the applicant a document signed by the Director of Post-Graduate Education or equivalent at the emergency department, which certifies to the satisfaction of the applicant that the practitioner has completed a 3 month period of training and assessment and certifies that the practitioner has reached a level of competence in emergency medicine commensurate with the level of competence expected of an emergency department Junior Registrar who has completed one year in an emergency department.
5. The practitioner pay the applicant's costs of these proceedings, to be fixed by the Tribunal if not agreed.

Dr Humphrey Ugo (MBC/1045-10 & MBC/1046-10)

It was alleged that Dr Ugo acted improperly in the course of his practice.

On 10 September 2010, it was ordered that:

1. The respondent is reprimanded;
2. The respondent is fined \$1,750;
3. There be no order as to costs.

FINANCE, AUDIT AND MANAGEMENT

Finance, Audit and Management Committee:

- Professor Bryant Stokes (Chairperson)
- Professor Con Michael
- Ms Prudence Ford
- Ms Anne Driscoll

The Committee's primary function is to ensure accountability for the Board's financial affairs. The Finance, Audit and Management Committee reviews all matters relating to finance, audit and management of the Medical Board's contracts.

During the year, the Board requested an audit be conducted by the Auditor General's office to review the Board's processes. The Auditor General's office conducted a Control, Compliance & Accountability Examination which concluded that the Board adequately ensures that medical practice in Western Australia is carried out by properly qualified practitioners who meet appropriate standards. It was determined that the information on the Register of Medical Practitioners is accurate and up to date, but the security of the Register needed to be improved. The Board has subsequently improved its security. It was also determined that the Board properly investigates and takes action on complaints it receives about medical practitioners, although it does not always meet the timeframes set in legislation. The Board is aware of this matter however it is often not possible to complete a full investigation of a matter within the timeframes set in the legislation. The Board believes that it is in the public interest to complete thorough investigations of matters, therefore has on occasion exceeded the time limit set in the legislation.

A copy of the Public Sector Performance Report dated 5 May 2010 is available on the Office of the Auditor General's website <http://www.audit.wa.gov.au/report2010.php>.

Compliance

The Board has determined that it has requirements to comply with the following Acts and policies and procedures are being developed to ensure this occurs.

- Corruption and Crime Commission Act 2003;
- Disability Services Act 1993;
- Equal Opportunity Act 1984;
- Freedom of Information Act 1992;
- Occupational Safety and Health Act 1984;
- Parliamentary Commissioner Act 1971
- Public Sector Management Act 1994;
- State Records Act 2000;
- Public Interest Disclosure Act 2003;
- Workers Compensation and Injury Management Act 1981

Disability Services

The Disability Services Act, 1993 defines disability as a condition that:

- is attributable to an intellectual, cognitive, neurological, sensory or physical impairment or a combination of those impairments;
- is permanent; and
- may or may not be episodic in nature.

The Board's Disability Access and Inclusion Plan was prepared for 2008 – 2010 which outline the ways in which the Board will ensure that people with disabilities are provided with the same opportunities to access the Board's facilities and services. The plan will be reviewed within the next financial year.

Freedom of Information

The Medical Board of Western Australia received ten valid applications during the year ended 30 June 2010. During this time, six applications were finalised.

There was one internal review required during this period of which all decisions were confirmed.

The table below includes statistics which were provided to the Office of the Information Commissioner as part of the Annual Statistical Return.

FOI APPLICATIONS	STATISTICS
Personal Information Requests	1
Non-Personal Information Requests	9
Amendment of Personal Information	0
Total Applications Received	10
Applications Transferred in Full	0
Applications Completed	6
Applications Withdrawn	0
Internal Reviews Completed	1

Public Interest Disclosure

The Board did not receive any notices through the *Public Interest Disclosure Act 2003* during the year. The procedure for lodgement of public interest disclosures is available to the public on the Board's website.

Records Management

The Board completed some further amendments to the Recordkeeping plan to include information relating to the anticipated transition to the National Registration and Accreditation Scheme and resubmitted the plan to the State Records Office in June 2010.

Records management training is provided to all new staff as part of their induction program. This information forms part of the Board's Procedures Manual and identifies to staff, their roles and responsibilities under the Board's Recordkeeping Plan.

The efficiency and effectiveness of the Board's record keeping system is to be evaluated not less than every five years and the training program is to be reviewed as required.