



Medical Board of Western Australia

2010 ANNUAL REPORT
30 June 2010



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PRESIDENT'S REPORT

National Registration and Accreditation Scheme

This has been a busy year for the Medical Board of Western Australia with the transition into the National Registration and Accreditation Scheme drawing closer. Western Australia did not join the National Scheme on 1 July 2010 and is the only State continuing to function outside the Scheme. Many meetings and discussions have been held with the Australian Health Practitioner Regulation Agency during the year in an attempt to ensure a smooth transition. The accuracy of the migration of the Medical Board of Western Australia's registration information into the national system is imperative.

It is anticipated that the commencement date in Western Australia will be 18 October 2010 however this is subject to the proclamation of the *Health Practitioners Regulation National Law Act* in Western Australia. Once this occurs, the Medical Board of Western Australia ("the Board") will no longer exist. The Australian Health Practitioner Regulation Agency ("AHPRA") will then take responsibility for the operating functions of the Board.

The Medical Board of Australia will take over the functions of registering suitably qualified and competent practitioner; and developing and approving standards, codes and guidelines for practitioners Australia wide. The Medical Board of Australia will delegate many functions to "State Boards" and "State Committees". Current members of the Medical Board of Western Australia will transition to positions as the State Boards and Committees for a period of 12 months.

Registration Renewal

The Board has had a successful renewal process for medical practitioners this year with more than 50% of practitioners renewing online. The renewal system implemented last year under the Medical Practitioners Act saw the introduction of mandatory declarations by practitioners in order to register. This requirement has continued this year; and there has been an even greater acceptance of online renewal.

Disciplinary Matters

During the past year, professional conduct hearings have been held both pursuant to the *Medical Act 1894* (through transitional provisions) and pursuant to the *Medical Practitioners Act 2008*. The number of

matters heard in the year has increased significantly due to improved processes.

Impairment Review Committee hearings are increasing in number with practitioners being assessed in respect of health issues and on fitness to practice medicine.

On behalf of the Board, I thank all the staff for their continued support and cooperation in enabling the Board to achieve its objectives throughout the year, especially through such significant changes and in such uncertain times in respect of national registration.

I would sincerely like to thank all of the Board members for their time and effort in ensuring that the functions of the Board are managed appropriately. A great deal of time has been given to improve the Board's processes and functioning by all Board members.

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

Dr Peter Flett, MBBS; FRCPA, Director-General – Department of Health (resigned on 16 April 2010)

Dr Simon Towler, MBBS, FFARACS, FFICANZCA. (Ex Officio) (delegate of the Director-General and appointed on 13 June 2010)

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

Provided below is a summary of Board member attendances for the seven months ended 30 June 2010.

Member	Board Meetings	Committee Meetings/ Board Workshop	SAT Mediations	PSC Full Day	PSC Half Day	PSC Part Day
Prof C Michael	20 (20)	15	1	0	2	0
Prof B Stokes	18 (20)	26	1	3	5	7
Ms N Ciffolilli	17 (20)	1	2	0	0	0
Ms A Driscoll	13 (20)	12	1	0	0	0
Dr P Flett	0	0	0	0	0	0
Dr S Towler (delegate of the Director-General/Appointed in June 2010)	13 (20)	11	1	0	0	0
Ms P Ford	16 (20)	24	0	0	0	0
Dr F Jefferies	5 (20)	10	0	0	0	0
Dr M McComish	12 (20)	19	0	0	0	0
Prof M McKenna	14 (20)	10	0	0	0	0
Dr S Patchett	10 (20)	7	3	0	1	0
Ms V Rivalland	19 (20)	13	5	0	0	0
Assoc Prof P Wallace	16 (20)	11	3	0	0	0

Figures in brackets represent possible number of Board meeting attendances.

COMMITTEES

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

The Medical Board of Western Australia Committees as at 30 June 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 Ekladios	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

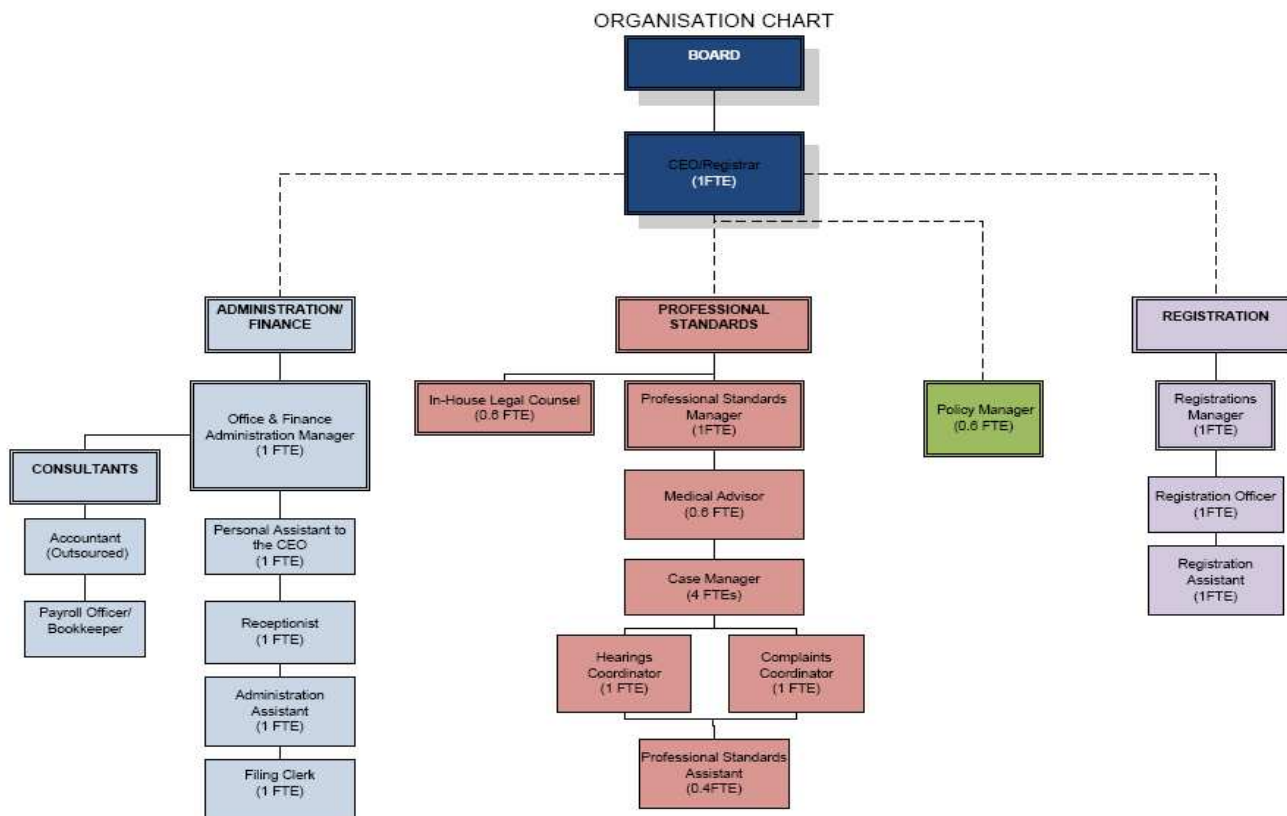
Telephone: (08) 63803500
Facsimile: (08) 9321 1744

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;
- investigation training;
- mediation training;
- 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

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

McCallum Donovan Sweeney
2nd Floor, Irwin Chambers
16 Irwin 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 Act"). 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 wish to practice in a specialty must register their specialty qualifications in order to do so. Information is available on request from the Board.

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 9,122 individual medical practitioners were registered in Western Australia as at 30 June 2010. This is an increase of 137 registrants since the previous year.

	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 30 June 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

Conditional Registration	30 June 2010	30 June 2009
Temporary Registration in the Public Interest	11	14
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

- Dr 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 year to 30 June 2010:

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

Complaints received from 1 July 2009 to 30 June 2010 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	14	1.90
(1.2)	Inadequate information on services available	7	0.95
(1.3)	Misinformation or failure in communication	58	7.87
(1.4)	Failure to fulfil statutory obligations	11	1.49
(1.6)	Inadequate or Inaccurate Records	4	0.54
(1.8)	Certificate or report problem	21	2.85
(1.9)	Possible impairment practitioner	8	1.09
(2.1)	Failure to consent patient/client	10	1.36
(2.2)	Consent not informed	7	0.95
(2.3)	Consent not obtained	6	0.81
(2.5)	Refusal to refer or assist to obtain a second opinion	5	0.68
(3.1)	Inadequate diagnosis	38	5.16
(3.2)	Inadequate treatment	85	11.53
(3.3)	Rough treatment	9	1.22
(3.4)	Incompetent treatment	35	4.75
(3.5)	Negligent treatment	46	6.24
(3.6)	Wrong treatment	45	6.11
(4.1)	Inadequate information about costs	4	0.54
(4.2)	Unsatisfactory billing practice	6	0.81
(4.3)	Amount charged	9	1.22
(4.4)	Overservicing	2	0.27
(4.5)	Private Health Insurance	1	0.14
(5.1)	Inconsiderate service/lack of courtesy	51	6.92
(5.2)	Absence of caring	47	6.38
(5.3)	Failure to ensure privacy	4	0.54
(5.4)	Breach of confidentiality	9	1.22
(5.5)	Discrimination	4	0.54
(5.7)	Sexual impropriety	11	1.49
(5.8)	Sexual transgression or violation	5	0.68
(5.9)	Assault	2	0.27
(5.10)	Unprofessional conduct	118	16.01
(6.1)	Administrative practice	10	1.36
(6.2)	Facilities	1	0.14
(6.3)	Fraud/illegal practice	5	0.68
(6.4a)	Misleading claim (product/service)	4	0.54
(6.4b)	Misleading claim (practitioner e.g. qualifications)	1	0.14
(6.5)	Section 124, 125, 127	2	0.27
(7.1)	Mentally disturbed complainant	22	2.99
(7.2)	Unsubstantiated	10	1.36
Total		737	

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 year ending 30 June 2010:

	30 June 2010	1 December 2008 to 30 June 2009
PSC Hearings Completed	17	4
PSC Hearings Pending	46	39

	30 June 2010	1 December 2008 to 30 June 2009
SAT Hearings Completed	18	5
SAT Hearings Pending	42	57 (36 and 2 multiple matters)

	30 June 2010	1 December 2008 to 30 June 2009
IRC Hearings Completed	4	0
IRC Hearings Pending	4	0

	30 June 2010	1 December 2010 to 30 June 2009
Medical Board Proceedings:		
• Re-Registration Hearings Completed	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 2009 to 30 June 2010

Provided **below** is a summary of the proceedings concluded during the period ended 30 June 2010.

Professional Standards Committee

Dr A (MBC/2497-323)

It was alleged to the PSC that the practitioner may have been:

1. guilty of infamous or improper conduct in a professional respect pursuant to section 13(1)(a) by reason of the conduct which gave rise to a conviction in the Magistrates Court of Western Australia on 3 April 2008 which conduct is described in the Statement of Material Facts;
2. affected by a dependence upon or an addiction to narcotic drugs and, or in the alternative, amphetamines pursuant to section 13(1) (b) of the repealed Act; and
3. suffering from a mental illness, being bulimia, depression and/or drug addiction or dependence to such an extent that the ability to practise as a medical practitioner is or is likely to be affected pursuant to section 13(1) (e) of the repealed Act.

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

1. The Practitioner be reprimanded;
2. The Practitioner must nominate a registered medical practitioner, to be approved by the Board, who will act as a mentor for a period of five (5) years.
3. The Practitioner must practise as a resident medical officer ("RMO") in a teaching hospital for the initial twelve (12) month period of registration under the conditions set out in these Orders
4. Following completion of the RMO placement:
 - a) the Practitioner is to remain under the category of "Supervised Clinical Practice" for a period of no less than four (4) years; and
 - b) the Practitioner must enter into a training program with the relevant College, as nominated by the Practitioner and approved by the Board.
5. In seeking the Board's approval to practise in accordance with paragraph 3 above, the Practitioner must:
 - a) notify the Board of:
 - i. which training program she proposes to enter after RMO;
 - ii. the proposed location;
 - iii. the proposed supervisor, including details of how the supervision would be undertaken (for example, the location of the supervisor, the extent of the opportunities to interact etc); and
 - iv. the hours she would be required to work.
 - b) provide the Board with official evidence from the College, confirming her acceptance into the training program.
6. The Practitioner must provide the Board with a written undertaking to:
 - a) Urinalysis
 - i. undergo random urine screening for the presence of drugs, for a period of five (5) years in accordance with the Board Policy: Urine Drug Screening:
 - a. Group 3 - for one (1) year from 3 August 2009; and
 - b. Group 5 - for four (4) years from 3 August 2010.
 - ii. pay for the urine screening referred to in subparagraph (i) above.
 - iii. authorise the testing laboratory in writing to forward copies of the urine screens directly to the Board after each screening and provide the Board with a copy of the written authorisation.
 - iv. in the event that any urine screen undertaken in accordance with the requirements of subparagraph (i) above is "positive", pay for further confirmatory testing to determine the substance, if any, causing the "positive". If the confirmatory testing shows that the screen was not caused by the presence of unauthorised drugs, the original screen will be deemed, as from the date of the confirmatory testing, not to have been "positive".
 - v. notify the Board in writing of any travel arrangements that may interfere with the urine screening referred to in subparagraph (i) above, seven (7) days before undertaking such travel.
 - vi. where the Practitioner will be given, or has been given, medical treatment ("treatment") that may produce a "positive" urinalysis result:
 - a) notify the Board in writing of the treatment
 - b) provide supporting documentation of the need for the treatment from the practitioner who is responsible for providing the treatment to the Practitioner
 - c) comply with subparagraphs A and B above as soon as practicable and, where possible, at least seven (7) days before undertaking such treatment
 - b) Reporting
 - i. consult with treating psychiatrist, or another consultant psychiatrist approved by the Board, for a review of the Practitioner's psychiatric conditions every six (6) months from 6 October 2008 for a period of five (5) years.
 - ii. ensure that the treating psychiatrist provides the Board with written reports after each review referred to in subparagraph (i) above, on the treating psychiatrist's opinion as to:

- a) whether the Practitioner is fit to practise as a medical practitioner, and
 - b) whether the Practitioner has remained drug free.
 - iii. consult regularly with the mentor referred to in sub-paragraph (i) above, and ensure that the mentor provides the Board with a written report every six (6) months. The mentor's report to the Board must advise and detail any concerns in respect of the Practitioner's practise of medicine. The first such report is to be received on or before 6 April 2009.
 - iv. consult with a clinical psychologist approved by the Board for a review of the Practitioner's psychiatric conditions every six (6) months from 6 October 2008 for a period of five (5) years.
 - v. ensure that the clinical psychologist provides the Board with written reports after each review referred to in subparagraph (i) above, on the treating psychiatrist's opinion as to:
 - a) whether the Practitioner is fit to practise as a medical practitioner, and
 - b) whether the Practitioner has remained drug free.
 - c) Drugs
 - i. for a period of five (5) years, not to prescribe or administer drugs listed in Schedule 4 or Schedule 8 of the *Poisons Act 1964* (WA) ("Schedule 8 drugs"), other than in the course of carrying out her duties as an RMO in the teaching hospital.
 - ii. for a period of five (5) years, the Practitioner must not at any time be in possession of a "doctor's bag" for any purpose.
 - iii. provide all and any consents required by the Board to enable the Board, its officers or agents to access, at any time, the Practitioner's prescribing data.
 - d) Conduct
 - i. immediately notify the Registrar of the Board if the Practitioner is charged with an offence.
 - ii. be of good behaviour for a period of five (5) years.
7. Undertaking in respect of breach of conditions
- a) The Practitioner must provide the Board with an undertaking that she will immediately cease practising ("the undertaking not to practise") if she is in breach of the conditions, as follows:
 - i. a urine screen undertaken in accordance with paragraph 6(a)(i) is "positive"; or
 - ii. a report from the treating psychiatrist or psychologist stating that he/she is of the opinion that:
 - a) the Practitioner is not fit to practise as a medical practitioner; and/or
 - b) the Practitioner has not remained drug free; and/or
 - c) the treating psychiatrist is unable to express an opinion on the issues above due to the failure of the Practitioner to make or keep an appointment or a failure to cooperate with the treating psychiatrist.
 - ii. for the purpose of clarity, where a urine screen is "positive", but subsequently deemed not to be "positive" under paragraph 6(d) above, the Practitioner must not practise from the time of the "positive" until the time that she is notified that, as a result of the confirmatory testing, the screen has been deemed not to be "positive".
8. If the Practitioner is required to undertake not to practise in accordance with paragraph 7(a) above, the Board may:
- a) refer the Practitioner to the SAT or PSC; or
 - b) release the Practitioner from that undertaking on such terms and conditions as the Board thinks fit; or
 - c) require the Practitioner to provide further information and, on receipt of that information, the Board may act in accordance with (a) or (b) above.
9. If the Board refers the Practitioner to the SAT or PSC under paragraph 8(a) above, the Practitioner must continue to comply with her undertaking not to practise:
- a) unless otherwise directed by the Board or the SAT; or
 - b) until 28 days have elapsed from the Practitioner notifying the Board in writing that she wishes to challenge the Board's decision not to release him from the undertaking not to practise.
10. If the Board has any concerns in relation to any of the matters referred to in paragraphs 2-6 above, including, but in no way limited to:
- a) a urinalysis result; or
 - b) the content of a report provided; or

- c) the failure to provide a report by the due date,
the Board may vary any of the conditions of these Orders.

11. There be liberty to apply to the Board with respect to these conditions after 12 months.

- a) Until 22 December 2010 the Practitioner must not administer, prescribe or possess drugs listed in Schedule 4 and Schedule 8 of the Poisons Act 1964 (WA). Should any of his patients require such drugs he must arrange for another medical practitioner to administer or prescribe them;

Dr B (MBC/2222-242)

It was alleged to the PSC that the Practitioner may be guilty of gross carelessness or incompetence pursuant to Section 13(1)(c) of the *Medical Act 1894* (WA) (as amended) in that:

1. when a vacuum extraction procedure failed, the Practitioner failed to seek an opinion from the Consultant Obstetrician; and failed to request that a Consultant Obstetrician take over the care of the Patient; and
 2. the failure on the part of the Practitioner to perform, or cause to have performed, foetal heart monitoring by CTG in circumstances where:
 - (a) labour was being induced 9 days post term;
 - (b) the patient suffered mild hypertension;
 - (c) an epidural anaesthetic was being used; and
 - (d) labour was being stimulated with Syntocinon:
- 2.1 throughout the whole of the labour;
- 2.2 alternatively:
- (a) at any time during the second stage of the labour; or
 - (b) at about 16:10 when a Syntocinon drip was commenced; or
 - (c) at about 21:20 to 21:30 when the maternal temperature was found to be elevated at 38 degrees celsius and the foetal heart rate was found to be elevated at about 170-180bpm; or
 - (d) at any time between 23:00 and 23:50 when old meconium stained liquor was noted.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing the PSC dismissed the matter and ordered that no further action be taken.

Dr C (MBC/2673-328)

It was alleged to the PSC that the Practitioner may have been guilty of improper conduct in a professional respect, pursuant to section 13(1) *Medical Act 1894* (WA) (as amended) or in the alternative, gross carelessness or incompetency in a professional respect pursuant to Section 13(1)(c) of the *Medical Act 1894* (as amended) in that:

1. the Practitioner's use of the Instrument to conduct the vaginal examination caused the Patient pain;
2. the Practitioner inappropriately touched the Patient's clitoris during the vaginal examination;
3. the Practitioner used the Instrument in such a manner that it inappropriately touched the Patient's anus during the vaginal examination; and
4. the Practitioner inappropriately reinserted the Instrument into the Patient's vagina after it had touched her anus.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC ordered that the matter be dismissed and no further action be taken.

Dr D (MBC/2481-268)

It was alleged to the PSC that the Practitioner may have been guilty of improper conduct in a professional respect, pursuant to section 13(1)(a) of the *Medical Act 1894 (WA) (as amended)*, by way of inaccurate reporting on a Medical Assessment.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC ordered that the Practitioner be reprimanded and fined.

Dr E (MBC/2688-335)

It was alleged to the PSC that the Practitioner has pursuant to section 76(1)(b)(i) of the *Medical Practitioners Act 2008* ("the Act") acted carelessly"; and/or pursuant to section 76(1)(b)(ii) of the Act "acted incompetently"; and/or pursuant to section 76(1)(d) "engaged in conduct in a professional respect that falls short of the standard – (i) that a member of the public is entitled to expect of a medical practitioner; or (ii) that a member of the medical profession would reasonably expect of a medical practitioner", in that:

1. at the First, Second and Third Consultations with the Patient, the Practitioner:
 - a) failed to perform a clinical examination;
 - b) failed to record a clinical examination in the Patient's notes; and
 - c) failed to refer the Patient for an ultrasound or any alternative investigation, other than a mammogram, to determine the cause of the Patient's symptoms;
2. at the Third Consultation, the Practitioner:
 - a) failed to identify the presence of a palpable lump in the Patient's left breast; and
 - b) failed to identify retraction of the Patient's left nipple;
3. the Practitioner failed to diagnose the Patient's breast cancer; and
4. in failing to diagnose the Patient's breast cancer, the Practitioner delayed the diagnosis and treatment of the Patient's breast cancer.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC recommended that the Practitioner be reprimanded and fined.

The recommendation of the PSC was accepted by the Board. .

Dr F (MBC/2100-181)

It was alleged to the PSC that the Practitioner may have been guilty of gross carelessness or incompetency in a professional respect in the management and treatment of a patient, pursuant to section 13(1)(c) of the *Medical Act (1894)(WA) (as amended)*, in that the Practitioner:

1. failed to warn of the risk of wound infection following the procedure;
2. failed to prescribe appropriate antibiotics to the Patient post-operatively; and
3. failed to provide appropriate post operative care to the Patient.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC recommended that the Practitioner be reprimanded and fined.

The recommendation of the PSC was accepted by the Board. .

Dr G (MBC/2879-382)

It was alleged to the PSC that the Practitioner may have been guilty of carelessness in a professional respect pursuant to Section 76(1)(b) of the *Medical Practitioners Act 2008* in that:

1. the Practitioner failed to appropriately manage a patient suffering from drug addiction; and
2. the Practitioner continued to over prescribe medications to a patient he knew to be suffering from drug addiction.

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

1. be cautioned;
2. attend a course run by the Drug and Alcohol Authority and provide confirmation to the Board of his attendance at that course;
3. nominate a clinical mentor, to be approved by the Board, to monitor the Practitioner's treatment of drug addicted patients for a period of 12 months;
4. is to arrange for his clinical mentor to provide reports every 3 months to the Board for a period of 12 months; and
5. shall not treat drug addicted patients unless he has complied with conditions 2-4 inclusive.

The recommendation of the PSC was accepted by the Board.

Dr H (MBC/2664-341)

It was alleged to the PSC that the Practitioner may have been guilty of improper conduct in a professional respect pursuant to Section 13(1)(a) of the *Medical Act (1894) (WA)* (as amended), in that the Practitioner engaged in conduct, which had the likely effect of intimidating and/or humiliating a member of the nursing staff at his place of employment.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC ordered that the matter be dismissed and no further action be taken.

Dr I (2507 & 2562/309)

It was alleged to the PSC that the Practitioner may have been guilty of improper conduct in a professional respect pursuant to Section 13(1)(a) of the *Medical Act (1894) (WA)* (as amended), in that the Practitioner communicated confidential information about the Patient to a member of the public.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC ordered that the Practitioner be reprimanded and fined.

Dr J (2802-391)

It was alleged to the PSC that the Practitioner has pursuant to section 76(1)(b)(i) and (iii) of the *Medical Practitioners Act 2008*; and/or pursuant to section 76(1)(b)(iii) of the Act "acted improperly"; and/or pursuant to section 76(1)(d) "engaged in conduct in a professional respect that falls short of the standard – (i) that a member of the public is entitled to expect of a medical practitioner; or (ii) that a member of the medical profession would reasonably expect of a medical practitioner", in that the Practitioner failed to take an adequate history from the patient in relation to risk factors for developing DVT.

Upon hearing the Counsel Assisting the PSC, and the Practitioner, at hearing, the PSC recommended that the Practitioner be reprimanded.

The recommendation of the PSC was accepted by the Board.

State Administrative Tribunal Proceedings

State Administrative Tribunal Proceedings

Dr Alexander Woo (MBC/2803-369)

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

It was alleged that Dr Woo:

1. presented a prescription of one schedule 4 drug and two schedule 8 drugs to a pharmacy when he knew that the medications were not to be used for the patient named in the prescription; and
2. prior to performing anaesthesia on two patients:
 - a) obtained two ampoules of 0.25mg Alfentanil for use in anaesthetising the patients;
 - b) did not use the ampoules for anaesthetising the patients;
 - c) did not return the ampoules to the Hospital's locked store; and
 - d) left the ampoules in his scrub shirt in a clothes hamper.

On 3 August 2009, it was ordered that the Practitioner:

1. be reprimanded;
2. pay a fine of \$5,000;
3. for a period of 12 months, must comply with a random urine testing regime as directed in writing by the Board; and
4. pay the Board's costs of \$3,000.

Dr Leila Dekker (MBC/2337-40)

It was alleged that Dr Dekker failed to stop following an accident to offer medical assistance.

On 6 August 2009, the SAT ordered that the practitioner:

1. be reprimanded; and
2. pay the Board's costs fixed in the sum of \$35,000.

Mr Michael McGushin (MBC/2599-322)

The Medical Board of Western Australia made a number of allegations that a surgeon, Mr Michael McGushin, was guilty of gross carelessness in relation to five patients between 1999 and 2007. During that period, Mr McGushin conducted a surgical practice at the Kalgoorlie Regional Hospital.

Mr McGushin admitted the allegations against him, and the SAT was called upon to determine the appropriate penalty. The principal issue for the SAT was whether, as the Board contended, the conduct demanded a period of suspension from practice. Mr McGushin argued that, given the steps which he had taken to address the problems giving rise to the complaints against him, and given the conditions of registration to which he was prepared to agree, suspension from practice was not necessary or appropriate.

The SAT considered the nature of the allegations, and the very significant retraining that Mr McGushin had undertaken to address the deficiencies in his practice. It accepted that the problems did not relate to Mr McGushin's surgical ability, but to his clinical decision-making. The SAT also accepted that those problems could, at least in part, be attributable to Mr McGushin's excessive workload in Kalgoorlie and personal issues which he was confronting at the relevant time. Having heard from those who had supervised Mr McGushin's practice over a period of 15 months since he commenced retraining, the SAT was satisfied that the public interest would best be served by imposing conditions on Mr McGushin's practice and a fine in relation to his conduct, rather than suspension.

On 7 September 2009, the SAT ordered that:

1. the Practitioner pay a fine of \$10,000;
2. the Practitioner pay the Board's costs to be agreed; and
3. the following conditions are imposed on the Practitioner's practice:
 - a. the Practitioner may only practice medicine as an employee of the South Metropolitan Health Service;
 - b. the Practitioner may only practice medicine under the supervision of Dr A or another supervisor approved in writing by the Board;
 - c. the Practitioner may not practice medicine until the Supervisor has informed the Board in writing that he agrees to report in writing to the Board every three months stating whether the Supervisor believes the Practitioner is performing satisfactorily as a surgeon and identifying any concerns the Supervisor may have with the Practitioner's performance and including the information required in Condition 3(n)(iii) below. For the sake of clarity the first such report is to be provided on or before 1 December 2009;
 - d. the Practitioner may not practice medicine upon receiving 7 days written notice from the Board that the Board has not received a report referred to in Condition 3(c) above until such time as the Board informs the Practitioner that the report referred to in the Report Notice has been received and the Practitioner may practice medicine;
 - e. the Practitioner must keep a log in relation to each patient treated by him;
 - f. the Practitioner must:
 - a. provide the Supervisor each week with a copy of the log kept in accordance with Condition 3(e) for the previous week; and
 - b. discuss individual patient cases with the Supervisor when requested to do so by the Supervisor.
 - g. the Practitioner must pay the Supervisor's costs, if any, of providing the reports referred to in Condition 3(c);
 - h. the Practitioner must arrange an annual independent audit of this practice by an auditor approved in writing by the Board. The first audit to take place on or before 1 March 2010;
 - i. for the sake of clarity:
 - i. the Board's approval referred to in Condition 3(h) above will not be given unless the Auditor agrees to provide a written report of each audit performed by the Auditor to the Board within 28 days of conducting an audit; and
 - ii. the audits referred to in Condition 3(h) may be conducted by different auditors.
 - j. in order to facilitate the audits referred to in Condition 3(h) above the Respondent must:
 - i. keep a copy of his operation notes in relation to any operation performed by the Respondent;
 - ii. keep a copy of any notes made by the Respondent in relation to any patient who has experienced complications after any operation performed by the Respondent; and
 - iii. provide the copies referred to in Conditions 3(j)(i) and (ii) above to the Auditor.
 - k. the Practitioner must pay the Auditor's costs of conducting the audits referred to in Condition 3(h) above;
 - l. the Practitioner may not practise medicine upon receiving 14 days written notice from the Board that the Board has not received a report referred to in Condition 3(h) above until such time as the Board informs the Practitioner that the report referred to in the Audit Notice has been received and the Practitioner may practise medicine;
 - m. the Practitioner must provide all and any consents to the Board that are required to enable the Board, its officers and agents, to access details of his clinical practice at any time;
 - n. subject to Condition 3(o) below the Practitioner must not perform the complex intra-abdominal procedures and laparoscopic procedures in the schedule to these orders except in compliance with the following conditions;

- i. the Practitioner must be directly supervised by the Supervisor or another consultant surgeon nominated by the Practitioner and approved in writing by the Board during the first five occasions on which the Practitioner performs each procedure listed in the Schedule;
- ii. for the sake of clarity:
 - a) "directly supervised" means that the Supervisor or the Consultant Surgeon must be present for and watching the whole of the Supervised Procedure;
 - b) the supervision of the Supervised Procedures may be undertaken by different people; and
 - c) before a person is approved by the Board to be a Consultant Surgeon that person has agreed to provide a report of the Respondent's performance during each of the Supervised Procedures observed by that person to the Supervisor within 7 days of the Supervised Procedure being undertaken.
- iii. in each report referred to in Condition 3(n)(ii)(c) above the Supervisor must inform the Board if the Respondent's performance during any Supervised Procedure was unsatisfactory or has been reported to the Supervisor by the Consultant Surgeon as being unsatisfactory (Unsatisfactory Supervised Procedures), that has not been referred to in any earlier report to the Board;
- iv. The Unsatisfactory Supervised Procedures shall not count in the total of Supervised Procedures carried out by the Practitioner for the procedure subject of the Unsatisfactory Supervised Procedure.
- o. the Practitioner may perform any of the complex intra-abdominal procedures and laparoscopic procedures in the Schedule without complying with Conditions 3(n) upon obtaining the Board's prior written consent to do so; and
- p. for the sake of clarity the Board's consent referred to in Condition 3(o) will not be granted unless the Practitioner satisfies the Board that the Practitioner is able to satisfactorily perform the procedure for which the Board's consent is sought.

SCHEDULE

- 1. AP resection;
- 2. Low or ultra low anterior resection;
- 3. Bariatric surgery;
- 4. Colonoscopy;
- 5. Gastroscopy;
- 6. Open cholecystectomy;
- 7. Reversal of Hartmann's procedure;
- 8. Elective splenectomy.

Dr Khoi Seong Leong (MBC/2615-293)

It was alleged that Dr Leong was guilty of gross carelessness and/or incompetence.

It was alleged that Dr Leong:

- 1. failed to undertake an inadequate pre-operative examination and assessment; and
- 2. induced general anaesthesia in the patient without first establishing a secure and clear airway.

On 29 September 2009, it was ordered that:

- 1. the Practitioner be reprimanded;
- 2. the registration of the Practitioner be suspended for a period of 3 months; and
- 3. the Practitioner pay a fine of \$5,000.

Dr Stephen Adams (MBC/2394-416)

Dr Adams' registration as a medical practitioner was suspended by the State Administrative Tribunal ("SAT") in relation to his conduct involving two female patients. Upon expiration of the 8 month period of suspension, the Board imposed conditions on Dr Adams' registration for a period of two years from 26 July 2009 to 26 July

2011. Dr Adams' solicitors, made an application to SAT for review under section 152(b) and (c) of the Medical Practitioners Act 2008.

On 4 November, it was ordered that:

1. the Practitioner will attend, at the Board's cost, a psychiatrist nominated by the Board for assessment by 26 March 2009, and thereafter every 12 months, and more frequently if requested to do so by the Board;
2. the Practitioner will attend on Dr A for treatment in relation to the personality issues identified in the report of Dr B on a monthly basis for a period of not less than 6 months;
3. the Practitioner will not make contact with female patients outside of normal consultation hours except:
 - a) in a situation of medical emergency, for example, to telephone a patient to inform them of a test result; or
 - b) where that patient is a person with whom the Practitioner has a familial, social or occupational relationship that predated the clinical relationship.
4. the Practitioner must nominate a clinical supervisor to be approved by the Board within 14 days of the date of this order, and must arrange for the clinical supervisor:
 - a) to be provided with a copy of these orders, and the orders of the SAT in VR 251 of 2007 (including the statements of agreed facts in relation to Patient A and Patient C); and
 - b) to consent to undertake the supervision required by these orders.
5. the Practitioner must meet monthly with his clinical supervisor. If it is not possible for the Practitioner and his supervisor to meet at least monthly, the Practitioner must notify the Board of the period in which supervision will not take place, and the reason why supervision has been delayed.
6. the Practitioner's clinical supervision is to deal with the following issues:
 - a) process;
 - b) interpersonal interactions;
 - c) the dynamics that exist within therapeutic work of a psychological or sexual nature; and
 - d) any need for ongoing psychotherapy.
7. the Practitioner is to arrange for his clinical supervisor to provide reports every 3 months to the Board. Those reports are to document the supervision undertaken and bring to the Board's attention any issues arising in relation to the Applicant's practice of medicine;
8. the Practitioner will provide any consents necessary to enable the Board to obtain reports from the psychiatrist appointed by the Board pursuant to Order 1 or the clinical supervisor appointed under Order 4. The Board may obtain these reports as often as it believes it appropriate and shall provide to the Practitioner a copy of all reports obtained from the Board appointed psychiatrist and the Board approved clinical supervisor as soon as practicable after the Board has received the report;
9. the Board will be responsible for the costs of the reports for the Board appointed psychiatrist; and
10. the Practitioner will be responsible for the costs of clinical supervision and for the costs of the reports of the clinical supervisor.

Dr Robert Thomas (MBC/2233-320)

It was alleged that Dr Thomas was guilty of improper conduct in the care of a patient.

It was alleged that Dr Thomas:

1. failed to adequately inform the patient of risks and complications associated with the procedure;
2. failed to adequately inform the patient of the possibility of extrusion of the injected material used in the procedure; and
3. failed to adequately inform the patient of the reduced efficacy of the procedure.

On 30 November, it was ordered that:

1. the Practitioner be reprimanded;
2. the Practitioner give a written undertaking to the Board to be of good behaviour and to comply with the conditions on practice imposed by the Board; and
3. the Practitioner to pay the costs.

Dr David Matthews (MBC/3025-412)

It was alleged that Dr Matthews was at risk of imminent injury or harm to the physical health of his patients.

On 10 December, it was ordered that:

1. the Practitioner provide the Board with evidence that his clinical skills have been assessed by one or more consultants from the Department of Anaesthesia at the Royal Perth Hospital and that they are satisfied that the Practitioner is competent to practise anaesthesia;
2. the Practitioner to provide the Board with a report from his treating psychiatrist (Dr A);
3. upon compliance by the Practitioner with conditions 1 and 2 the Practitioner be permitted to resume the practice of anaesthesia provided that he complies with the conditions set out below;
4. the Practitioner is to limit his practice to six sessions per week and one "on call" day every 10 days. Following two months of practice the Practitioner may apply to the Board and the Board is authorised by this order to approve an increase in the number of sessions that the Practitioner is permitted to work;
5. the Practitioner is:
 - a) to continue to consult with Dr A at a frequency to be determined by him.
 - b) to comply with all therapeutic recommendations made by Dr A including any recommendations in relation to medication, working hours and therapy of a psychological nature;
 - c) to cause Dr A to provide the Board with reports as to his health and capacity to practise and the first such report to be provided after two months of practice and thereafter such reports to be provided quarterly or at such intervals as the Board is authorised by the order to specify;
 - d) to provide his irrevocable consent to Dr A authorising him to notify the Board if Dr A should have any cause for concern about the Practitioner's capacity to practise medicine safely and the Practitioner must provide a copy of such consent to the Board;
 - e) to consult with his general practitioner on a regular basis and will provide his irrevocable consent to his general practitioner to notify the Board if the Practitioner's general practitioner should have any cause for concern about the Practitioner's capacity to practise medicine safely and the Board must provide a copy of such consent.
6. the Practitioner is to engage a Mentor, to be approved by the Board. The Mentor and the Practitioner are to meet at least fortnightly and the Mentor is to report to the Board in accordance with its Mentoring Policy. The Board is authorised by this order to vary the frequency with which the Practitioner is to meet with the Mentor;
7. the Practitioner will consent to be assessed by a psychiatrist appointed by the Board as and when the Board determines is appropriate. Such assessment or assessments will be at the Board's cost; and
8. the Practitioner may apply to vary these conditions.

Dr Robert Liddell (MBC/2868-388)

It was alleged that Dr Liddell was guilty of acting carelessly in the course of his practice as a medical practitioner.

It was alleged that Dr Liddell:

1. conducted a pre-employment medical assessment of a female patient involving a physical examination of the patient whilst the patient was wearing only underwear;
2. the practitioner failed to:
 - a) performed an examination of the patient's eyes and ears prior to asking her to remove her clothing;
 - b) provided the patient with:
 - i) a sheet, gown, modesty shorts or some other appropriate garment to preserve the patient's modesty;
 - ii) a screen for the patient's use whilst undressing and dressing;
3. failed to turn away whilst the patient was undressing and dressing;
4. failed to provide the patient with an explanation of the extent to which disrobing was required, and the reason for it, prior to commencing the examination;
5. failed to request the patient to undo her bra if that was necessary, rather than undo it himself;

6. failed to provide the patient with an explanation for the need to remove her bra prior to having her do so;
7. failed to provide the patient with an explanation of the need for, and the nature of, an examination testing for the existence of hernias prior to conducting that examination; and
8. failed to instruct the patient that she could dress as soon as he had completed the examination.

On 28 January 2010 it was ordered that:

1. the Practitioner be reprimanded; and
2. the Practitioner pay costs of \$6250.

Dr Neil Beck (MBC/2689-318)

It was alleged that Dr Beck was guilty of improper conduct in the course of his practice as a medical practitioner.

It was alleged that Dr Beck counter-signed prescriptions for substances restricted to prescription or supply by a registered medical practitioner to persons who were residents of the USA.

On 24 February 2010 it was ordered that:

1. the Practitioner be reprimanded;
2. the Practitioner is fined \$10,000; and
3. the Practitioner to pay agreed costs to the Board.

Dr Norman Burkett (MBC/2870-404)

It was alleged that Dr Burkett left the patient's warfarin dose unchanged in circumstances where the patient's International Normalised Ratio (INR) indicated the need for an increase in dose; and failed to review the patient in a shorter time frame.

On 14 April 2010 it was ordered that:

1. the Practitioner be reprimanded;
2. the Practitioner is fined \$5,000; and
3. the Practitioner to the Board's costs of \$2,500.

Dr Maurice Moriarty (MBC-2668-299)

It was alleged that Dr Moriarty signed prescriptions for reward, authorising the dispensing of Schedule 4 medicines to persons who were residents of the USA, with whom he had no clinical contact but who had received valid prescriptions from their doctor in the USA.

On 12 May 2010 it was ordered that:

1. the Practitioner be reprimanded;
2. the Practitioner be fined \$10,000; and
3. the Practitioner to pay agreed costs of \$2,500.

Dr Mohammed Ahmed El Rakhawy (MBC/2821-349)

It was alleged that Dr El Rakhawy was guilty of acting carelessly and acting incompetently in the course of his practice as a medical practitioner.

On 14 May 2010 it was ordered that:

1. the Practitioner be reprimanded;
2. the Practitioner be suspended from the practice of medicine for a period of 6 months;
3. the Practitioner pay costs fixed at \$15,000;
4. the Practitioner must attend an Australian Medical Council ("AMC") Clinical Bridging Course ("Course") run by The Royal Australian College of General Practitioners ("RACGP");
5. the Practitioner must pass the simulated 8 component multi station trial examination following the completion of the course;
6. the Practitioner must provide the Board with a certificate evidencing the Respondent's attendance and completion of the Course including the trial examination;
7. the Practitioner must then attend an oral examination with the Board pursuant to section 41(7) of the Act ("Examination"). The Examination will:
 - a) be conducted in accordance with the Board's policy issued January 2010; and
 - b) establish whether the Practitioner is competent to participate in a supervision and review program.
8. a condition be imposed on the Practitioner's registration as a medical practitioner that the Practitioner is not permitted to practise medicine until:
 - a) the Practitioner has provided the Board with a certificate evidencing the Practitioner's attendance and completion of the Course including the trial examination;
 - b) the Board has determined that the Practitioner is competent to participate in a supervision and review program, following the Examination.
9. a condition be imposed on the Practitioner's registration as a medical practitioner that the Practitioner is not permitted to practise medicine other than in accordance with a supervision and review program.
 - a) the Supervision and review program is:
 - i) set out in the supervised practice order; and
 - ii) subject to further review and approval by the Board's own auditor as the Board deems necessary.
 - b) the supervised practice order requires the Practitioner to lodge with the Board an undertaking executed by a registered medical practitioner approved by the Board in the form of the undertaking.
10. a condition be imposed on the Practitioner's registration as a medical practitioner that the Practitioner is not permitted to practise medicine on the expiry of a supervision and review program other than in accordance with such conditions as the Board may determine.

Dr J

**MBC/2146-170; MBC/2032-190; MBC/2150-202; MBC/2297-221; MBC/2255-230; MBC/2363-229;
MBC/2324-228; MBC/2351-227; MBC/2374-226; MBC/2426-251; MBC/2396-279**

Multiple legal proceedings were commenced against a practitioner in the SAT. On 9 October 2009 the proceedings were resolved by agreement between the practitioner and the Medical Board with the practitioner admitting to gross carelessness for the purposes of section 13(1)(c) of the *Medical Act 1894 (WA)* (as amended) (repealed) (Act) in relation to his conduct in respect of nine of the proceedings and admitting to one instance of infamous or improper conduct for the purposes of section 13(1)(a) of the Act.

As a result of the admissions, a penalty was imposed by the SAT, together with orders as to costs. In imposing the penalty, the SAT had regard to the fact that a penalty had already been imposed on the practitioner in SAT proceedings VR 51 of 2008 in that the practitioner's name had been removed from the register of medical practitioners.

The Medical Board is restricted in the information that can be supplied in relation to these matters by reason of non publication orders which prevent publication of both the name of the practitioner and the subject matter of the proceedings referred to above.

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>.

Financial statements for the year ended 30 June 2010 are included at the end of this report. The financial statements comply with Accounting Standards, the Medical Practitioners Act 2008 and other mandatory professional reporting requirements; and are a true and fair view of the financial position of the Board as at 30 June 2010.

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.