Health Professional Council Regulation

Justine Trpezanovski - MRP representative - MRPC of NSW
Topics to be covered:

- The Regulatory body / structure in Australia
- Medical Radiation Practice Council of NSW
  - Who, What, Why
- Regulatory activity
- Common definitions
- Processes
- Council contact details
Who are the regulators?

Several agencies are directly or indirectly involved in the regulation of medical radiation practitioners and students:

- National Boards
- Australian Health Practitioner Regulation Agency (AHPRA)
- Health Care Complaints Commission (HCCC) (NSW only)
- Health Professional Councils Authority (HPCA) (NSW only)
Health Professional Councils of NSW

- Chiropractic
- **Dental**
- Medical
- Nursing and Midwifery
- Optometry
- Osteopathy
- Pharmacy
- Physiotherapy
- Podiatry
- Psychology
- ATSI Health Practice
- Chinese Medicine
- Medical Radiation Practice
- Occupational Therapy
- Paramedicine
How Council is appointed?

- Councils are independent statutory bodies established under the *Health Practitioner Regulation National Law (NSW)*

- Council members are appointed by the NSW Governor and are practitioners legal and community members
# Medical Radiation Practice Council of NSW

Nominated by the NSW Minister for Health and approved by the Governor

<table>
<thead>
<tr>
<th>Member</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ms Tracy Vitucci</td>
<td>President</td>
</tr>
<tr>
<td>Dr Karen Jovanovic</td>
<td>Deputy President</td>
</tr>
<tr>
<td>Ms Justine Trpezanovski</td>
<td>Medical Radiation Practitioner Member</td>
</tr>
<tr>
<td>Ms Nadine Thompson</td>
<td>Medical Radiation Practitioner Member</td>
</tr>
<tr>
<td>Mr Warren Stretton</td>
<td>Community Member</td>
</tr>
<tr>
<td>Mr Greg Ross</td>
<td>Legal Member</td>
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</tbody>
</table>
Role of the Councils

The primary role of the Councils is to protect the health and safety of the public

- The Councils’ functions are to deal with health, performance and conduct matters, governance and administer education and research funds.
- The Councils may place practice or health conditions/restrictions on a practitioner and in extreme cases may suspend a practitioner from practice.
- The Councils monitor conditions placed on practitioners (excluding registration issues).
The National Law sets out the committees and panels that assist the Council to undertake its regulatory activities.

Regulatory committees and panels include:
- Impaired Registrants Panels (IRP)
- Performance Review Panels (PRP)
- Assessment Committees
Health Care Complaints Commission (HCCC)

- Independent body established under Health Care Complaints Act 1993
- Aims to protect public health and safety by resolving, investigating and prosecuting health care complaints
- Consults with the Councils on health, conduct and performance matters regarding registered health and allied health professionals
- HCCC* also regulates non registered health professionals and manages complaints about public and private health care facilities

*www.hccc.nsw.gov.au
# Registrants Data FY2018-19

<table>
<thead>
<tr>
<th>Profession</th>
<th>NSW registered practitioners</th>
<th>Total Australian registered practitioners</th>
<th>% of Australian registered practitioners with NSW PPP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal and Torres Strait Islander Health Practitioner</td>
<td>133</td>
<td>690</td>
<td>19.3%</td>
</tr>
<tr>
<td>Chinese medicine practitioner</td>
<td>2,003</td>
<td>4,892</td>
<td>40.9%</td>
</tr>
<tr>
<td>Chiropractor</td>
<td>1,840</td>
<td>5,556</td>
<td>33.2%</td>
</tr>
<tr>
<td>Dental practitioner</td>
<td>7,100</td>
<td>23,726</td>
<td>29.9%</td>
</tr>
<tr>
<td>Medical practitioner</td>
<td>36,194</td>
<td>118,996</td>
<td>30.4%</td>
</tr>
<tr>
<td>Medical radiation practitioner</td>
<td>5,489</td>
<td>14,683</td>
<td>37.9%</td>
</tr>
<tr>
<td>Midwife</td>
<td>1,336</td>
<td>5,727</td>
<td>23.3%</td>
</tr>
<tr>
<td>Nurse</td>
<td>100,195</td>
<td>383,509</td>
<td>27.1%</td>
</tr>
<tr>
<td>Nurse and midwife(s)</td>
<td>7,744</td>
<td>27,707</td>
<td>28.0%</td>
</tr>
<tr>
<td>Occupational therapist</td>
<td>4,145</td>
<td>22,612</td>
<td>27.8%</td>
</tr>
<tr>
<td>Optometrist</td>
<td>1,923</td>
<td>5,781</td>
<td>33.4%</td>
</tr>
<tr>
<td>Osteopath</td>
<td>586</td>
<td>2,544</td>
<td>23.0%</td>
</tr>
<tr>
<td>Paramedic</td>
<td>4,417</td>
<td>17,023</td>
<td>25.5%</td>
</tr>
<tr>
<td>Pharmacist</td>
<td>9,437</td>
<td>31,955</td>
<td>30.2%</td>
</tr>
<tr>
<td>Physiotherapist</td>
<td>9,739</td>
<td>33,792</td>
<td>28.8%</td>
</tr>
<tr>
<td>Podiatrist</td>
<td>1,506</td>
<td>5,361</td>
<td>28.1%</td>
</tr>
<tr>
<td>Psychologist</td>
<td>12,318</td>
<td>37,783</td>
<td>32.6%</td>
</tr>
<tr>
<td>Total 2018/19</td>
<td>212,207</td>
<td>764,437</td>
<td>28.9%</td>
</tr>
<tr>
<td>Total 2017/18</td>
<td>202,633</td>
<td>702,761</td>
<td>28.7%</td>
</tr>
</tbody>
</table>
Complaints Received FY2018-19

- 6 cases were open at the beginning of the year
- 21 cases were closed during the year
- 6 cases were open at the end of the year

- 21 complaints were received about 20 medical radiation practitioners in 2018/19
- 6 of the complaints received were mandatory notifications about 6 practitioners

Complaints were mainly from:
- Patients - 5
- Employers - 5
- Other practitioners - 4

Complaints were mainly about:
- Clinical care - 4
- Health impairment - 4
- Behaviour - 4

3 year trend in number of complaints about medical radiation practitioners

- 2016/17: 29
- 2017/18: 12
- 2018/19: 21

[Graph showing trend over 3 years]
Complaint outcomes
FY2018-19

MEDICAL RADIATION PRACTICE COUNCIL’S REGULATORY ACTIVITY
- MATTERS CONCLUDED

MEDICAL RADIATION PRACTICE COUNCIL’S REGULATORY ACTIVITY

2 immediate actions were considered by Council

7 complaints were referred for Council management

Council did not conduct any counselling or interview sessions

HEALTH MATTERS
3 Health Assessments
1 Impaired Registrants Panel (IRP)

PERFORMANCE MATTERS
No Performance Assessments or Performance Review Panels (PRPs)

OUTCOMES

IMMEDIATE ACTION OUTCOMES
1 suspended registration
1 conditions on practice

ACTIVE MONITORING
Conduct - 0 cases
Performance - 0 cases
Health - 5 cases

KEY ACTION OUTCOMES FOR CLOSED CASES
1 conditions on practice
No practitioners counselled
No cancelled or surrendered registration
18 no further action or discontinued

No Tribunals
Definitions
Meaning of unsatisfactory professional conduct

- Conduct significantly below reasonable standard
- Contravention of the National Law or regulations
- Contravention of conditions of registration or undertaking
- Failure to comply with decision or order of the Committee or the Tribunal
- Contravention of requirement under the Health Care Complaints Act
- Accepting benefit for referral or recommendation to health service provider
Meaning of unsatisfactory professional conduct (Cont’d)

- Accepting benefit for recommendation of health product
- Offering a benefit for a referral or recommendation
- Failure to disclose pecuniary interest in giving referral or recommendation
- Engaging in over-servicing
- Supervision of assistants
- Other improper or unethical conduct
Meaning of professional misconduct

- Unsatisfactory professional conduct of a sufficiently serious nature to justify suspension or cancellation of the practitioner’s registration, or

- More than one instance of unsatisfactory professional conduct of a sufficiently serious nature to justify suspension or cancellation of the practitioner’s registration
Mandatory Notifications

Notifiable conduct, in relation to a registered health practitioner, means the practitioner has:

- practised the practitioner’s profession while intoxicated by alcohol or drugs
- engaged in sexual misconduct in connection with the practice of the practitioner’s profession
- placed the public at risk of substantial harm in the practitioner’s practice of the profession because the practitioner has an impairment
- placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards
Mandatory Notifications (Cont’d)

- Notifiable conduct, in relation to a student, means the student has an impairment that, in the course of the student undertaking clinical training, may place the public at substantial risk of harm.

- Mandatory notifications are made to AHPRA.

Under the National Law, health practitioners, employers and education providers have an obligation to notify AHPRA of notifiable conduct.
Complaints process
What happens when a Council receives a complaint?
Courses of action available to a Council

- Make inquiries
- Counselling
- Council Inquiry (Conduct)
- Refer to HCCC for investigation/conciliation
- Refer to Health pathway
- Refer to Performance pathway
- Refer to another entity
- Take no further action
Councils’ complaints streams

Conduct
Conduct issues generally relate to behavioural acts or omission and often go to the question of character or suitability of a practitioner. Conduct issues may constitute unsatisfactory professional conduct or professional misconduct, as defined in the Law.

Performance
Performance issues generally involve concerns about the standard of a practitioner’s clinical performance, that is whether the knowledge, skill or judgement of a practitioner, or care exercised, is significantly below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

Health
Impairment includes both physical and non-physical conditions that affect the health of a practitioner. Following assessment a Council may determine that a practitioner with an impairment can continue to practise where public safety can be ensured and management measures are in place, such as restrictions on practice, supervision or monitoring arrangements.
Counselling

- Usually held when there are issues of concern which may constitute a departure, but not a significant departure, from acceptable standards of practice and/or conduct.

- Purpose is to remind practitioners of their professional obligations and assist them in identifying possible areas for improvement.

Reference:
Conduct - Inquiry

Generally held when the nature of the complaint is sufficiently serious, but would not lead to a finding of professional misconduct (which can lead to suspension or cancelling of registration)

May lead to a finding of unsatisfactory professional conduct

Possible outcomes of Inquiry:

- Caution or reprimand
- Imposition of conditions
- Make orders - e.g. refund fees, complete an educational course, and/or take advice in relation to the management of the practitioner’s practice
- Fines

Reference:
Performance

- This pathway may be utilised where a Council has concerns regarding the overall performance of a practitioner

- Courses of action available:
  - Advice by letter with no further action
  - Performance interview - to gather more information
  - Performance assessment - assessment of performance in practice/simulation setting
  - Performance Review Panel - a hearing following a performance assessment report advising the practitioner’s professional performance is unsatisfactory

Reference:
Performance (Cont’d)

Where a Performance Review Panel finds that the professional performance of a practitioner is unsatisfactory, one of the following actions may be taken:

- Imposition of conditions on registration
- Make an order - e.g. a specified educational course
- Appropriate recommendations be made to Council - e.g. that a complaint be made
- Direct that the practitioner’s performance be reassessed at a future date
Health

Courses of action available to a Council:

- Referring the practitioner to undergo an independent health assessment by a Council-appointed practitioner (CAP)
- Convening an Impaired Registrant’s Panel (IRP) (2-3 members appointed by Council)

Action that can be taken following receipt of CAP report:

- No further action
- Refer the matter to an IRP
- Determine the matter concerns the practitioner’s conduct or performance (rather than health) and take appropriate action as required (including making a complaint)
- Take immediate action (section 150) where the Council has urgent concerns regarding public health or safety

Health (Cont’d)

Actions following an IRP:
- Counsel the practitioner or recommend he/she undertake counselling
- Recommend that the practitioner agree to having conditions placed on registration
- Recommend that the practitioner agree to be suspended from practising for a specified period
- Make any other recommendations the IRP thinks appropriate
Urgent interim action - s150

- Under section 150 of the National Law, the Council has urgent interim powers to suspend a practitioner’s registration or impose conditions to protect the health and safety of the public or if it is otherwise in the public interest.

- The complaint continues along the standard assessment process for complaints - i.e. to consult with HCCC etc.
Contact details

- **Website**

- **Email**
  [mail@medicalradiationpracticecouncil.nsw.gov.au](mailto:mail@medicalradiationpracticecouncil.nsw.gov.au)

- **Address**
  Level 6 North Wing OR Locked Bag 20
  477 Pitt Street
  Haymarket NSW 1238
  Sydney NSW 2000

- **Phone** 1300 197 177