



# NSW Health Professional Councils

Annual Report 2016-17

Combined Annual Reports of the 14 New South Wales Health Professional Councils

ABORIGINAL AND TORRES STRAIT ISLANDER HEALTH PRACTICE COUNCIL • CHINESE MEDICINE COUNCIL  
CHIROPRACTIC COUNCIL • DENTAL COUNCIL • MEDICAL COUNCIL • MEDICAL RADIATION PRACTICE COUNCIL  
NURSING AND MIDWIFERY COUNCIL • OCCUPATIONAL THERAPY COUNCIL • OPTOMETRY COUNCIL • OSTEOPATHY  
COUNCIL • PHARMACY COUNCIL • PHYSIOTHERAPY COUNCIL • PODIATRY COUNCIL • PSYCHOLOGY COUNCIL

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# Foreword

The annual reports of the 14 NSW Health Professional Councils (Councils) are presented as a combined report.

The Councils are:

- **Aboriginal and Torres Strait Islander Health Practice Council** of New South Wales
- **Chinese Medicine Council** of New South Wales
- **Chiropractic Council** of New South Wales
- **Dental Council** of New South Wales
- **Medical Council** of New South Wales
- **Medical Radiation Practice Council** of New South Wales
- **Nursing and Midwifery Council** of New South Wales
- **Occupational Therapy Council** of New South Wales
- **Optometry Council** of New South Wales
- **Osteopathy Council** of New South Wales
- **Pharmacy Council** of New South Wales
- **Physiotherapy Council** of New South Wales
- **Podiatry Council** of New South Wales
- **Psychology Council** of New South Wales

This 2017 annual report is presented in three parts.

**Part 1** contains information common across all Councils, including information about the responsibilities of Councils, regulatory activities, governance, compliance and data reports for all Councils.

**Part 2** contains member and activity information specific to each Council.

**Part 3** contains audited financial statements specific to each Council.

The full combined report, including all three parts, is available on the Health Professional Councils Authority (HPCA) website [www.h pca.nsw.gov.au](http://www.h pca.nsw.gov.au).

Part 1 of the report and the relevant Council specific sections of Parts 2 and 3 are available on each Council's website.

The Health Professional Councils Authority has collated information provided by each Council about their respective activities.

The Australian Health Practitioner Regulation Agency (AHPRA) has provided registration data.



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16 October 2017

The Hon. Brad Hazzard MP  
Minister for Health  
Minister for Medical Research  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister

In accordance with the provisions of the *Annual Reports (Statutory Bodies) Act 1984* and the *Finance and Audit Act 1983*, the NSW health professional Councils are pleased to submit the Annual Report and Financial Statements for the year ending 30 June 2017 for presentation to Parliament.

Each Council is committed to administering the *Health Practitioner Regulation National Law (NSW)* in the best interests of public safety in NSW.

Yours sincerely,

Ms Lisa Penrith  
President  
Aboriginal and Torres Strait Islander  
Health Practice Council

Ms Rosemary MacDougal  
Deputy President  
Aboriginal and Torres Strait Islander  
Health Practice Council

Associate Professor Christopher Zaslawski  
President  
Chinese Medicine Council

Ms Christine Berle  
Deputy President  
Chinese Medicine Council

Dr Lawrence Whitman  
Deputy President  
Chiropractic Council

Dr Peter Cowie  
Member  
Chiropractic Council

Conjoint Associate Professor William O'Reilly  
President  
Dental Council

Dr Penny Burns  
Deputy President  
Dental Council

Dr Greg Kesby  
President  
Medical Council

Adjunct Associate Professor Richard Walsh  
Deputy President  
Medical Council



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President  
Medical Radiation Practice Council

Adjunct Professor John G Kelly AM  
President  
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Mr Kim Nguyen  
President  
Occupational Therapy Council

Mr Albert Lee  
President  
Optometry Council

Ms Anne Cooper  
President  
Osteopathy Council

Mr Stuart Ludington  
President  
Pharmacy Council

Mr Michael Ryan  
President  
Physiotherapy Council

Mr Luke Taylor  
President  
Podiatry Council

Professor Alexander Blaszcynski  
President  
Psychology Council

Dr Karen Jovanovic  
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Osteopathy Council

Mr Adrian Lee  
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Professor Darren Rivett  
Deputy President  
Physiotherapy Council

Ms Kristy Robson  
Deputy President  
Podiatry Council

Associate Professor William Warren  
Deputy President  
Psychology Council

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- Physiotherapy Council of New South Wales
- Podiatry Council of New South Wales
- Psychology Council of New South Wales



## **PART 1**

# **Overview, Regulatory activity, Governance and Compliance**

[About the Councils](#)

[About the Health Professional Councils Authority](#)

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# About the Councils

The 14 NSW Health Professional Councils (Councils) are statutory bodies established to protect the public. Councils achieve this by managing complaints that relate to the conduct, performance and health of registered health practitioners in NSW. Councils also manage conduct and health matters involving registered students in NSW health practitioner training programs.

The Councils fulfil their regulatory functions in partnership with the NSW Health Care Complaints Commission (HCCC), which is a separate statutory authority established under the *Health Care Complaints Act 1993*.

## Charter

The Councils are constituted under the *Health Practitioner Regulation National Law (NSW)* to exercise the powers, authorities, duties and functions imposed by the Law.

## Aims and Objectives

Councils act in the interests of the public by ensuring that registered practitioners are fit to practise and students are fit to have contact with members of the public while undertaking approved programs of study.

The Councils manage a range of programs, services and processes that support their objectives. These also provide the public with assurance that registered practitioners are maintaining proper and appropriate standards of conduct and professional performance.

The Pharmacy Council has an additional role of regulating pharmacy ownership and is required to maintain a register of NSW pharmacies.

## Council Membership

The composition of individual Councils is prescribed in the National Law and the *Health Practitioner Regulation (New South Wales) Regulation 2010*. Council members (members) are appointed by the Governor for a term of up to three years, except for half of the Pharmacy Council members who are elected. Members may be reappointed up to a maximum of nine years.

Membership details for each Council are provided in Part 2 of this report.

# About the Health Professional Councils Authority

The Health Professional Councils Authority (HPCA) is an executive agency of the NSW Ministry of Health (MoH) which works in partnership with the Councils and provides shared executive and corporate services to support the Councils' regulatory activities.

The *Health Practitioner Regulation National Law (NSW)* governs the HPCA.

HPCA responsibilities include employment of staff to manage operational and administrative functions, which allows Councils to focus on their regulatory purpose.

The HPCA also liaises with:

- The Ministry of Health to provide advice and responses to the Minister for Health and the Secretary on regulatory matters, member appointments and other operational functions
- The HCCC on complaints management issues
- The Australian Health Practitioner Regulation Agency (AHPRA) regarding finances, research and registration and reporting matters.

The HPCA's shared services assist Councils to achieve efficiencies that would not be possible if each Council had to establish its own service support structure.

Three year Service Level Agreements (SLAs) to 2019 are in place with all Councils, except the Medical Council. The SLAs define the scope and quality of services that Councils can expect within the constraints of available resources.

This year internal auditors reviewed the SLAs and made recommendations for future improvements.

# **NSW Councils and Co-regulation**

## **National Registration and Accreditation Scheme**

The NSW Councils and the HPCA operate under co-regulatory arrangements in the National Registration and Accreditation Scheme (NRAS).

The Councils, supported by the HPCA, and in partnership with the NSW Health Care Complaints Commission (HCCC), manage complaints about registered health practitioners in NSW and students registered to undertake health practitioner training in NSW.

National Boards and AHPRA are responsible for registration of health practitioners Australia wide and NRAS accreditation functions.

National Boards and AHPRA also manage complaints about health practitioners in most other Australian states and territories.

NSW Councils work collaboratively with the National Boards and AHPRA.

Under the NRAS, 14 health professions are registered. Registered practitioners can practise in their profession anywhere in Australia, but usually nominate a state or territory as their principal place of practice (PPP). AHPRA maintains a national Register with details of all registered health practitioners in Australia. The Register is available online. Further information about the NRAS and the national Register is available on the AHPRA website [www.ahpra.gov.au](http://www.ahpra.gov.au).

NSW Councils are funded through a portion of registration fees paid to AHPRA by health practitioners who identify NSW as their principal place of practice. Councils also receive a portion of fees collected from practitioners who do not identify a principal place of practice.

## **Registered Health Practitioners**

Information about registration and registrant numbers provides context for the Councils' regulatory activities and functions. HPCA sources this information from AHPRA.

196,605 registered health practitioners identified NSW as their principal place of practice as at 30 June 2017. This is 29% of the 678,938 health practitioners registered Australia wide.

## NSW Councils and Co-regulation continued

**Table 1: Registered health practitioners by profession as at 30 June 2017**

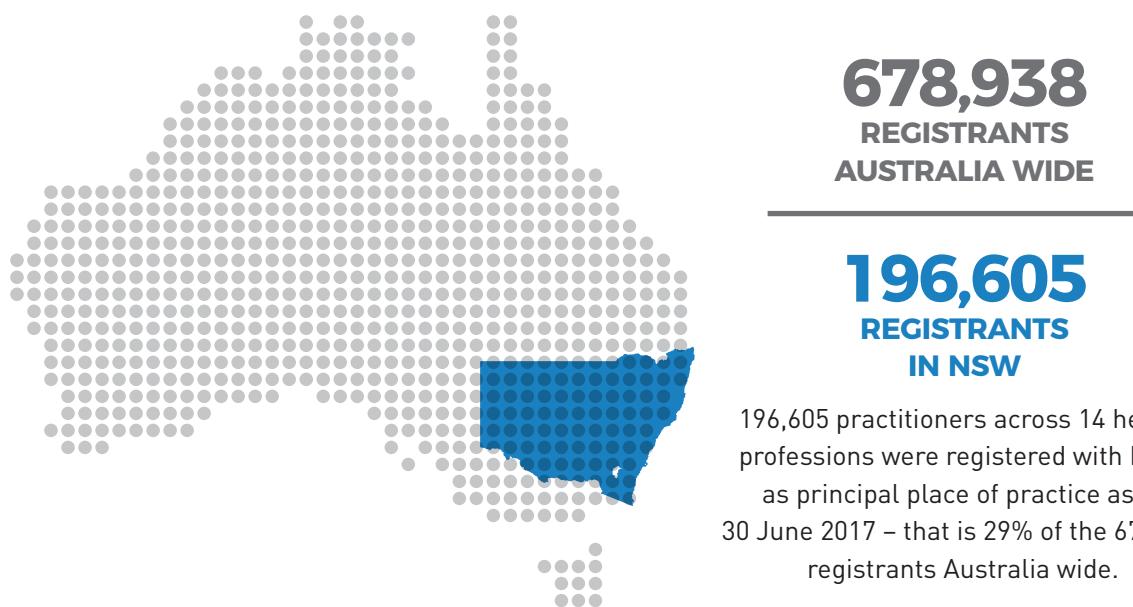
<b>Health Professions</b>	<b>Total Registered Practitioners in Australia</b>	<b>Registered Practitioners with NSW as PPP</b>	<b>% of Australian Practitioners with NSW as PPP</b>
Aboriginal and Torres Strait Islander Health Practitioner	608	120	19.74%
Chinese Medicine Practitioner	4,860	1,984	40.82%
Chiropractor	5,284	1,771	33.52%
Dental Practitioner	22,383	6,765	30.22%
Medical Practitioner	111,166	34,255	30.81%
Medical Radiation Practitioner	15,683	5,217	33.27%
Midwife	4,624	1,043	22.55%
Nurse	357,701	98,130	27.43%
Nurse and Midwife	28,928	8,371	28.94%
Occupational Therapist	19,516	5,516	28.26%
Optometrist	5,343	1,807	33.82%
Osteopath	2,230	564	25.29%
Pharmacist	30,360	9,270	30.53%
Physiotherapist	30,351	8,900	29.32%
Podiatrist	4,925	1,370	27.82%
Psychologist	34,976	11,522	32.94%
<b>Total</b>	<b>678,938</b>	<b>196,605</b>	<b>28.96%</b>

Registered practitioner numbers vary significantly between the health professions. Aboriginal and Torres Strait Islander Health Practice (ATSIHP) has the lowest number of practitioners with only 120 representing 0.06% of all NSW registered practitioners. Nursing and Midwifery has the highest number of practitioners with 107,544 representing 54.70% of all NSW registered practitioners.

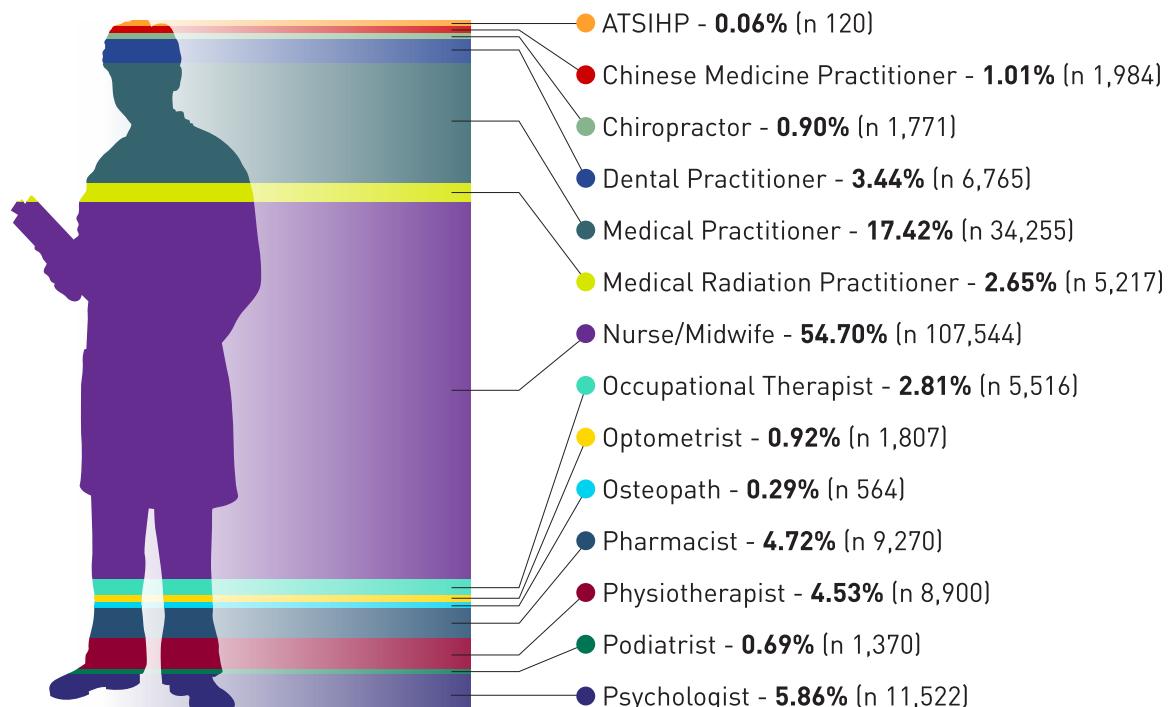
All NSW Councils have the same complaints management responsibilities. However, larger numbers of practitioners in a profession generally mean the council has a greater number of complaints to manage than Councils with smaller numbers of practitioners.

## NSW Councils and Co-regulation continued

### Registered health practitioners as at 30 June 2017



### Registered practitioners in NSW by profession – as a percentage of NSW registered practitioners



## NSW Councils and Co-regulation continued

### Student Registration

Students undertaking programs of study in 13 of the 14 regulated health professions are also registered. The Psychology Board of Australia does not register students but instead has in place provisional registration for new graduates.

The number of NSW students registered across the health professions as at 30 June 2017 was 43,282. NSW student registrations make up 27.53% of the 157,213 student registrations Australia wide. Figures are based on the location of the education provider.

Student registration data is identified separately to registration data about registered practitioners. Students do not pay registration fees and are not published on the national Register.

**Table 2: Registered students as at 30 June 2017**

<b>Students<sup>+</sup></b>	<b>Total Registered Students in Australia</b>	<b>Registered Students in NSW*</b>	<b>% of Australian Students in NSW</b>
Aboriginal and Torres Strait Islander Health Practitioner	448	109	24.33%
Chinese Medicine Practitioner	1,515	483	31.88%
Chiropractor	1,614	534	33.08%
Dental Practitioner	4,736	1,863	39.34%
Medical Practitioner	20,057	6,059	30.20%
Medical Radiation Practitioner	3,895	1,471	37.77%
Midwife	3,985	835	20.95%
Nurse	92,145	24,562	26.66%
Occupational Therapist	7,917	1,909	25.32%
Optometrist	1,516	396	26.12%
Osteopath	1,929	59	3.06%
Pharmacist	7,540	1,919	25.45%
Physiotherapist	8,357	2,590	30.99%
Podiatrist	1,559	493	31.62%
Psychologist <sup>^</sup>	-	-	-
<b>Grand total</b>	<b>157,213</b>	<b>43,282</b>	<b>27.53%</b>

<sup>+</sup> Student numbers are based on information provided to AHPRA by education providers and include students undertaking an approved program of study and those undertaking clinical training, for example ongoing students.

\* NSW students in programs where the education provider operates in multiple jurisdictions may not be captured in the NSW data but are captured in AHPRA's total registered student numbers.

<sup>^</sup> Psychology students are not registered and therefore no student numbers appear in the table. New psychology graduates work under provisional registration instead.

# Overview of Health Professional Regulation in NSW

Complaints in NSW as at 30 June 2017



**4,115**

complaints were received about 3,516 NSW health practitioners including:

- 295 mandatory notifications about 276 practitioners
- 343 cases where immediate action was considered or taken including review hearings.



**3,752**

complaints were closed during the year

- 2,282 complaints remained open at the end of the year
- 1,919 open complaints were carried over from the previous year.



**1,242**

new complaints were managed by Councils after consultation with the HCCC, that is 30% of complaints received.



**1,703**

complaints were about clinical care which was the most common type of complaint accounting for 41% of complaints received.

Other complaints received were about:

- prescribing, administering or dispensing medicines
  - communications
  - health impairment
  - documentation
  - boundary violation
  - various other issues.



**1,783**

complaints were from a patient which was the most common source of complaints accounting for 43% of complaints received.

The next most common sources of complaints included:

- relative of patient or practitioner
- treating or other practitioner
  - member of the public
  - employer.



**783**

cases were being actively monitored by Councils at year end including:

- 332 conduct matters
- 319 health matters
- 132 performance matters.

# Regulatory Activity

## Complaints about NSW Health Practitioners

Anyone can make a complaint about a registered health practitioner or registered student. Complaints may relate to the conduct, performance or health of a practitioner or the conduct or health of a student. A complaint may be made to a Council, the HCCC or AHPRA.

The *Health Care Complaints Act 1993* requires the Council and the HCCC to advise each other about complaints received and to consult about action to be taken. A complaint made to a Council is deemed to be also made to the HCCC and vice versa.

Most practitioners are professional and competent, so complaints are made about only a very small proportion of registered health practitioners. However different professions have different risk profiles which helps explain why some professions receive a proportionally higher number of complaints. Often risk may be associated with the nature of work carried out by the different professions, for example more invasive procedures can carry a higher risk. Another influential factor is the setting where practitioners work, for instance there are different risk profiles for practitioners in the private sector or solo practices compared with practitioners in public health who have greater access to other health practitioners, supervision and support systems.

Despite the relatively low incidence of complaints, the regulatory bodies and the work they do to manage these complaints is critical to safe health service delivery and public protection.

During the year the Councils received a total of 4,115 new complaints about 3,516 individual health practitioners representing 1.79% of all NSW based health practitioners.

Table 3 provides an overview of complaints about health practitioners by profession, including the number of complaints open at the beginning and the end of 2016/17; the number of complaints received during the year; the number of practitioners subject of complaint; and the proportion of NSW practitioners subject of complaint.

## Regulatory Activity continued

**Table 3: Overview of NSW complaints in 2016/17**

<b>Health Professions</b>	<b>Number of cases open at 1/7/16*</b>	<b>Number of complaints received in 2016/17</b>	<b>Number of complaints closed in 2016/17</b>	<b>Number of cases open at 1/7/17</b>	<b>Number of practitioners with complaints received in 2016/17</b>	<b>Practitioners with a complaint in 2016/17 as % of registered practitioners in NSW</b>
Aboriginal and Torres Strait Islander Health Practitioner	-	-	-	-	-	-
Chinese Medicine Practitioner	19	25	31	13	23	1.16%
Chiropractor	27	68	64	31	63	3.56%
Dental Practitioner	289	403	388	304	334	4.94%
Medical Practitioner	980	2,300	2,101	1,179	1,902	5.55%
Medical Radiation Practitioner	5	29	20	14	24	0.46%
Nurse / Midwife	333	680	626	387	624	0.58%
Occupational Therapist	4	16	16	4	16	0.29%
Optometrist	4	27	23	8	27	1.49%
Osteopath	3	11	5	9	8	1.42%
Pharmacist	142	272	217	197	250	2.70%
Physiotherapist	15	41	33	23	39	0.44%
Podiatrist	6	19	23	2	16	1.17%
Psychologist	92	224	205	111	190	1.65%
<b>Total</b>	<b>1,919</b>	<b>4,115</b>	<b>3,752</b>	<b>2,282</b>	<b>3,516</b>	<b>1.79%</b>

\* May include complaints received under the former law

**Note: As no complaints about Aboriginal and Torres Strait Islander Health Practitioners were received or open in the reporting period, this profession is not included in any further tables presenting complaints data in this report.**

## **Regulatory Activity** continued

### **Mandatory Notifications**

The Law requires health practitioners, employers and education providers to make mandatory notifications to AHPRA if they believe a practitioner has behaved in a way that constitutes notifiable conduct. AHPRA then refers these matters to a Council for management where NSW practitioners are involved.

Notifiable conduct includes:

- Practising while intoxicated by alcohol or drugs
- Sexual misconduct in connection with the practice of the profession
- Placing the public at risk of harm because of a significant departure from accepted professional standards
- Placing the public at risk of substantial harm because of a health issue or impairment.

Mandatory notifications are also made about registered students if they have an impairment that may place the public at substantial risk of harm. During the year 295 mandatory notifications were received about 276 registered practitioners accounting for 7.2% of all new complaints received during the year (n 4,115).

**Table 4: Mandatory notifications received by profession**

<b>Health Professions</b>	<b>Notifications</b>	<b>Number of Practitioners Subject of Mandatory Notification</b>	<b>Mandatory Notifications as % of all Complaints Received by Profession</b>
Chinese Medicine Practitioner	1	1	4.0%
Chiropractor	4	4	5.9%
Dental Practitioner	8	6	2.0%
Medical Practitioner	70	64	3.0%
Medical Radiation Practitioner	2	2	6.9%
Nurse / Midwife	172	164	25.3%
Occupational Therapist	2	2	12.5%
Optometrist	-	-	0%
Osteopath	1	1	9.1%
Pharmacist	14	13	5.1%
Physiotherapist	4	3	9.8%
Podiatrist	1	1	5.3%
Psychologist	16	15	7.1%
<b>Total</b>	<b>295</b>	<b>276</b>	<b>7.2%</b>

## **Regulatory Activity** continued

### **Complaints about Students**

Complaints about students are included in the Table 3 overview of NSW complaints for 2016/17 and Table 4 mandatory notifications.

Only seven Councils reported voluntary complaints or mandatory notifications about students as shown in Table 5.

**Table 5: Complaints and mandatory notifications about health professional students**

<b>Health Professions</b>	<b>Number of Complaints and Mandatory Notifications About Students</b>
Chinese Medicine Practitioner	1
Chiropractor	1
Dental Practitioner	-
Medical Practitioner	7
Medical Radiation Practitioner	2
Nurse / Midwife	19
Occupational Therapist	-
Optometrist	-
Osteopath	1
Pharmacist	-
Physiotherapist	-
Podiatrist	1
Psychologist	-
<b>Total 2016/17</b>	<b>32</b>

## Regulatory Activity continued

### Source of Complaints

Anyone can make a complaint about a health practitioner. However patients are most frequently the complainant. This year patients made 1,783 complaints accounting for 43.33% of all complaints received during the year.

**Table 6: Complaints received in 2016/17 by source of complaint for each profession**

Source	Chinese Medicine Practitioner	Chiropractor	Dental Practitioner	Medical Practitioner	Medical Radiation Practitioner	Nurse / Midwife	Occupational Therapist	Optometrist	Osteopath	Pharmacist	Physiotherapist	Podiatrist	Psychologist	Total
<b>AHPRA</b>	3	19	3	25	6	18	-	6	-	6	2	-	9	<b>97</b>
<b>Anonymous</b>	1	3	12	90	-	40	2	-	1	27	3	1	9	<b>189</b>
<b>Council</b>	1	2	4	4	1	25	-	-	-	11	2	1	-	<b>51</b>
<b>Pharmaceutical Services</b>	-	-	-	38	-	3	-	-	-	31	-	-	-	<b>72</b>
<b>Education provider</b>	-	-	-	1	-	9	-	-	1	1	1	1	5	<b>19</b>
<b>Employee</b>	-	-	8	8	1	7	-	-	-	8	-	-	4	<b>36</b>
<b>Employer</b>	-	-	4	56	3	177	2	-	-	5	1	1	5	<b>254</b>
<b>Government department</b>	2	1	2	34	-	8	-	-	-	5	-	1	6	<b>59</b>
<b>Insurance company</b>	3	-	2	-	-	-	-	-	-	-	-	-	1	<b>6</b>
<b>Lawyer</b>	-	2	-	13	-	-	-	-	-	-	-	-	2	<b>17</b>
<b>Member of the public<sup>1</sup></b>	7	16	12	91	1	51	-	-	-	43	4	3	36	<b>264</b>
<b>Other practitioner<sup>2</sup></b>	2	2	10	106	1	37	3	-	1	22	2	2	17	<b>205</b>
<b>Patient</b>	3	14	276	1,202	6	104	2	18	3	60	17	6	72	<b>1,783</b>
<b>Police</b>	1	-	1	6	1	1	-	-	1	2	-	-	1	<b>14</b>
<b>Relative (of patient or practitioner)</b>	1	1	55	509	5	119	7	3	2	28	5	2	45	<b>782</b>
<b>Self report</b>	1	3	4	38	3	44	-	-	2	3	2	1	1	<b>102</b>
<b>Treating practitioner<sup>3</sup></b>	-	5	6	66	-	27	-	-	-	19	2	-	10	<b>135</b>
<b>Other<sup>4</sup></b>	-	-	4	13	1	10	-	-	-	1	-	-	1	<b>30</b>
<b>Total 2016/17</b>	<b>25</b>	<b>68</b>	<b>403</b>	<b>2,300</b>	<b>29</b>	<b>680</b>	<b>16</b>	<b>27</b>	<b>11</b>	<b>272</b>	<b>41</b>	<b>19</b>	<b>224</b>	<b>4,115</b>

<sup>1</sup> Includes unpaid carers; friends of patient or practitioner; students.

<sup>2</sup> Includes other service providers; colleagues.

<sup>3</sup> Includes practitioners treating the patient or treating the practitioner.

<sup>4</sup> 'Other' includes Courts/Coroner; HCCC; Hospital; Medicare; other regulation authority; paid carers.

## Regulatory Activity continued

### Reasons for Complaints

There are various reasons why complaints are made about health practitioners. Generally the greatest number of complaints relate to clinical care or treatment. As a wide range of procedures, modalities and types of treatment are used by health practitioners as part of clinical care, it is to be expected that this is consistently the most common reason for a complaint. This year 1,703 complaints were received about clinical care or treatment accounting for 41.42% of matters.

**Table 7: Number of complaints received in 2016/17 by type of complaint for each profession**

Complaint Category	Chinese Medicine Practitioner	Chiropractor	Dental Practitioner	Medical Practitioner	Medical Radiation Practitioner	Nurse / Midwife	Occupational Therapist	Optometrist	Osteopath	Pharmacist	Physiotherapist	Podiatrist	Psychologist	Total
<b>Behaviour</b>	-	1	3	54	1	46	-	-	1	11	1	1	11	<b>130</b>
<b>Billing</b>	1	1	34	79	-	-	-	-	2	16	-	1	1	<b>135</b>
<b>Boundary violation</b>	2	1	9	109	5	30	-	-	1	-	2	-	22	<b>181</b>
<b>Clinical care</b>	5	10	281	1,077	6	232	2	13	2	-	14	7	54	<b>1,703</b>
<b>Communication</b>	-	3	13	204	3	37	9	2	-	6	4	2	22	<b>305</b>
<b>Confidentiality</b>	-	2	1	48	-	15	-	-	-	3	2	-	19	<b>90</b>
<b>Documentation</b>	3	-	4	153	-	13	2	3	-	2	1	-	19	<b>200</b>
<b>Health impairment</b>	-	5	11	109	5	112	2	-	2	12	4	2	16	<b>280</b>
<b>Infection / hygiene</b>	1	-	14	8	-	2	-	-	-	1	1	1	-	<b>28</b>
<b>Informed consent</b>	-	-	5	21	-	-	-	1	-	3	2	1	6	<b>39</b>
<b>National Law breach</b>	3	12	7	40	7	25	-	3	1	2	5	1	7	<b>113</b>
<b>National Law offence</b>	8	24	10	48	-	34	1	5	-	1	2	2	36	<b>171</b>
<b>Offence<sup>1</sup></b>	2	8	5	17	2	41	-	-	2	12	2	1	4	<b>96</b>
<b>Other<sup>2</sup></b>	-	1	3	66	-	15	-	-	-	13	1	-	7	<b>106</b>
<b>Pharmacy / medication</b>	-	-	3	267	-	78	-	-	-	190	-	-	-	<b>538</b>
<b>Total 2016/17</b>	<b>25</b>	<b>68</b>	<b>403</b>	<b>2,300</b>	<b>29</b>	<b>680</b>	<b>16</b>	<b>27</b>	<b>11</b>	<b>272</b>	<b>41</b>	<b>19</b>	<b>224</b>	<b>4,115</b>

<sup>1</sup> Offence includes offences by student.

<sup>2</sup> Other includes conflict of interest; discrimination; medico-legal conduct; research/teaching/assessment; response to adverse event; teamwork / supervision.

## **Regulatory Activity** continued

### **Assessing and Managing Complaints**

Complaints management is focused on the protection of public health and safety. The processes are intended to be remedial and supportive in nature rather than punitive for practitioners or an avenue for redress by complainants. However, on occasion the outcome may be disciplinary action for the practitioner who is the subject of a complaint, even though measures are taken to manage potential harm in the least restrictive manner possible. Information on the processes for making and managing complaints is available on the HPCA and Councils' websites which can be accessed through [www.h pca.nsw.gov.au](http://www.h pca.nsw.gov.au).

When a complaint is received in NSW, the relevant Council and the HCCC carry out a preliminary assessment and jointly decide which agency will manage the matter and whether some form of action is required. Complaints may be referred for a health or performance assessment, investigation, conciliation or to other pathways for management depending on the nature and seriousness of the matter.

The Law provides Councils with powers to deal with complaints relating to a practitioner's health, performance and conduct, commonly referred to as 'streams', or 'programs'.

In some instances more than one stream may be applicable. However a primary stream is usually identified, based on which issue is the most serious.

#### **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.

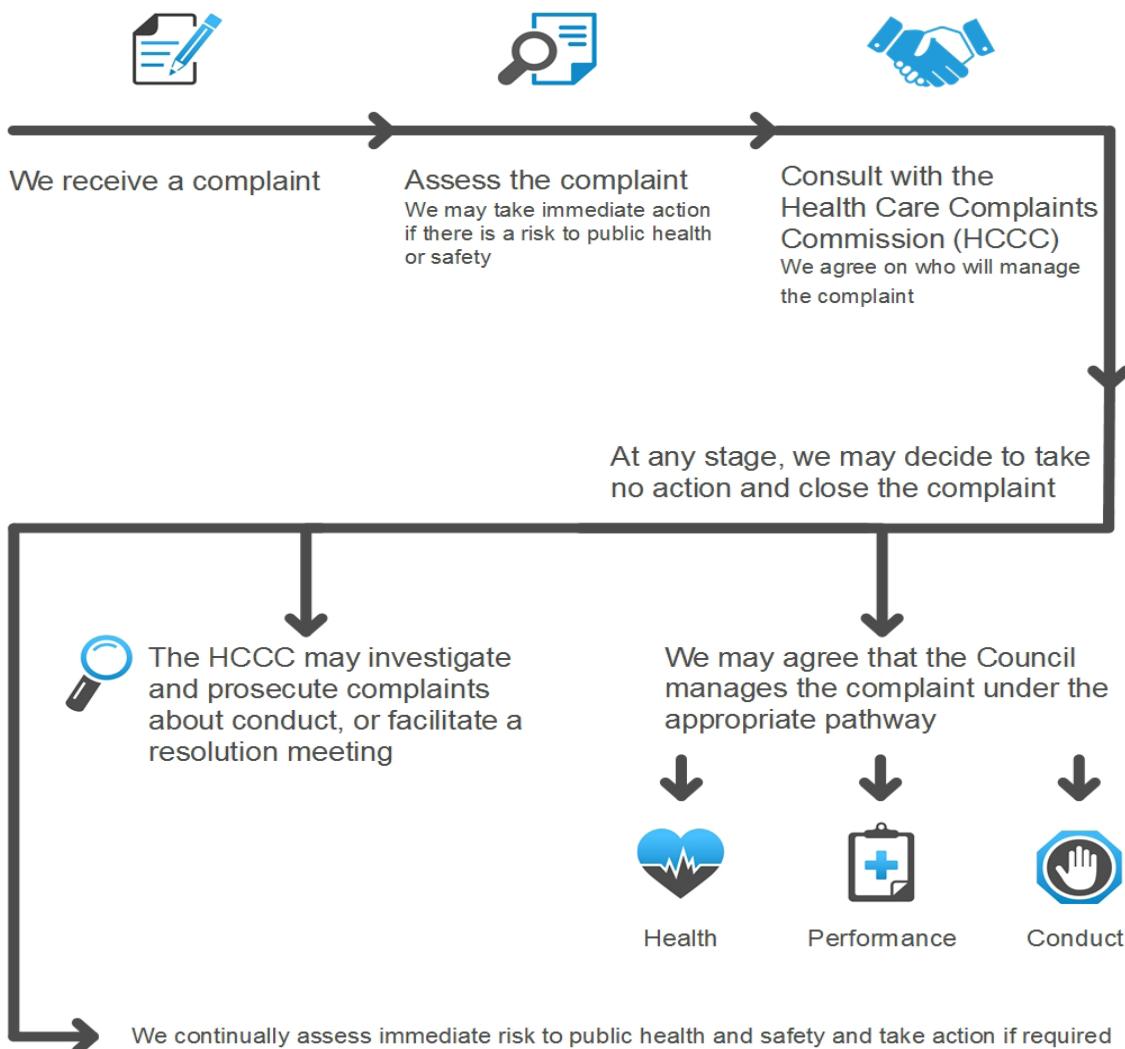
#### **Health**

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.

## Regulatory Activity continued

### What happens when a Council receives a complaint?

#### The assessment process



## Regulatory Activity continued

### Immediate Action under s150 of the National Law

Under s150 of the Law, Councils must exercise their powers to either suspend or impose conditions on a practitioner's registration if they are satisfied that such action is appropriate, for the protection of the health or safety of the public, or is otherwise in the public interest.

During the year 343 immediate action cases were considered by 11 Councils. Table 8 provides information on issues leading to consideration of immediate action for each profession. The most frequent reason for considering immediate action related to the health or impairment of a practitioner. This year there were 112 health or impairment related issues accounting for 32.65% of all immediate action matters.

A decision not to take immediate action at the outset does not preclude action being taken at a later point in time or the substantive complaint continuing to be dealt with by the Council, or the HCCC.

**Table 8: Immediate action considered or taken by category of complaint for each profession – including review hearings**

Profession	Boundary	Health	Infection Control	Offence	Breach of conditions	Pharmacy / Medication	Clinical care	Other	Total
<b>Chinese Medicine Practitioner</b>	1	-	-	-	-	-	-	-	<b>1</b>
<b>Chiropractor</b>	-	2	1	2	1	-	-	-	<b>6</b>
<b>Dental Practitioner</b>	1	9	7	1	5	1	4	-	<b>28</b>
<b>Medical Practitioner</b>	21	39	-	8	13	13	16	4	<b>114</b>
<b>Medical Radiation Practitioner</b>	-	1	-	-	-	-	2	-	<b>3</b>
<b>Nurse / Midwife</b>	10	40	-	6	5	17	27	8	<b>113</b>
<b>Occupational Therapist</b>	-	-	-	-	-	-	-	-	<b>0</b>
<b>Optometrist</b>	-	-	-	-	-	-	-	-	<b>0</b>
<b>Osteopath</b>	1	2	-	-	-	-	-	-	<b>3</b>
<b>Pharmacist</b>	1	15	1	14	2	23	1	2	<b>59</b>
<b>Physiotherapist</b>	-	1	-	-	1	-	-	-	<b>2</b>
<b>Podiatrist</b>	-	1	-	-	-	-	-	-	<b>1</b>
<b>Psychologist</b>	5	2	-	1	1	-	1	3	<b>13</b>
<b>Total</b>	<b>40</b>	<b>112</b>	<b>9</b>	<b>32</b>	<b>28</b>	<b>54</b>	<b>51</b>	<b>17</b>	<b>343</b>

Data includes matters where the practitioner surrendered registration and also review inquiries.

Data excludes matters that did not proceed to an inquiry.

## Regulatory Activity continued

This year, Councils exercising immediate action powers (excluding reviews applied for by the practitioner or initiated by the Council) imposed conditions in 165 matters and suspended the registration of 43 practitioners. These outcomes accounted for 74.29% of immediate action hearings, excluding review hearings.

Eight practitioners surrendered registration during the immediate action process.

Councils determined that no immediate action was required for 64 matters, that is 22.86% of immediate action hearings, excluding review hearings.

**Table 9: Immediate action outcomes for each profession - excluding review hearings**

Profession	No action taken	Accept surrender of registration	Action taken		Total
			Suspend registration	Impose conditions	
Chinese Medicine Practitioner	-	-	-	1	<b>1</b>
Chiropractor	1	-	3	1	<b>5</b>
Dental Practitioner	3	-	6	8	<b>17</b>
Medical Practitioner	18	8	23	50	<b>99</b>
Medical Radiation Practitioner	-	-	-	2	<b>2</b>
Nurse / Midwife	20	-	3	70	<b>93</b>
Occupational Therapist	-	-	-	-	<b>0</b>
Optometrist	-	-	-	-	<b>0</b>
Osteopath	-	-	-	2	<b>2</b>
Pharmacist	21	-	3	25	<b>49</b>
Physiotherapist	-	-	1	1	<b>2</b>
Podiatrist	-	-	1	-	<b>1</b>
Psychologist	1	-	3	5	<b>9</b>
<b>Total</b>	<b>64</b>	<b>8</b>	<b>43</b>	<b>165</b>	<b>280</b>

Data includes initial actions only.

Data excludes reviews of immediate action decisions and matters that did not proceed to an inquiry.

## Regulatory Activity continued

### Complaints Referred for Council Management

One pathway for complaints after initial consultation between a Council and the HCCC is referral for management by a Council.

During the year 1,242 new matters were referred for management by Councils accounting for 30% of complaints received. In addition, 214 complaints received prior to 30 June 2016, but assessed after 1 July 2016, were referred to a Council for management in 2016/17. The proportion of complaints received that were referred for Council management was variable across the professions.

**Table 10: Complaints referred for management by a Council following consultation with HCCC**

Profession	Complaints Received in 2016/17 and Referred for Management by Council <sup>1</sup>	% of Complaints Received in 2016/17 Referred for Management by Council	Total Complaints Managed by Councils in 2016/17 <sup>2</sup>
Chinese Medicine Practitioner	12	48%	19
Chiropractor	37	54%	40
Dental Practitioner	146	36%	199
Medical Practitioner	386	17%	502
Medical Radiation Practitioner	12	41%	12
Nurse / Midwife	378	56%	424
Occupational Therapist	3	19%	3
Optometrist	11	41%	10
Osteopath	5	45%	4
Pharmacist	149	55%	139
Physiotherapist	11	27%	13
Podiatrist	6	32%	8
Psychologist	86	38%	83
<b>Total</b>	<b>1,242</b>	<b>30%</b>	<b>1,456</b>

<sup>1</sup> Includes matters where a Council took immediate action. Excludes matters discontinued, pre-resolved or referred to resolution or conciliation; matters withdrawn, where there was no jurisdiction or referred elsewhere at the initial consultation decision with the HCCC; matters referred to HCCC for investigation, to Director Proceedings or Tribunal or PSC at some point; and matters still being assessed by the HCCC at 30 June 2017.

<sup>2</sup> Complaints received pre July 2016 and during 2016/17 that were managed by the Council in 2016/17.

## Regulatory Activity continued

### Assessments and Hearings

Councils may use a number of different mechanisms to assist in assessing complaints, making further inquiries and managing complaints. These include health or performance assessments; panel reviews for impairment or performance matters; and counselling or interviews.

Councils, other than the Medical and Nursing and Midwifery Councils, may use Assessment Committees or Council Inquiries.

The Medical and Nursing and Midwifery Councils may use a Professional Standards Committee for conduct matters that are not serious enough to warrant referral to a Tribunal.

Counselling or interviews were most frequently used by Councils to assist them in complaints management with 376 completed during the year, that is 32% of all assessments and hearings concluded in 2016/17.

**Table 11: Assessments and Hearings concluded in 2016/17**

Profession	Applicable to All Councils						Applicable to All Councils except Medical and N&M	Medical and N&M Councils Only
	Health Assessments <sup>1</sup>	IRPs <sup>1</sup>	Performance Assessments <sup>1</sup>	PRPs <sup>1</sup>	Tribunals (Complaint Hearings) <sup>2</sup>	Counselling / Interviews		
<b>Chinese Medicine Practitioner</b>	-	-	-	-	1	6	-	4
<b>Chiropractor</b>	3	1	-	-	2	7	-	-
<b>Dental Practitioner</b>	8	5	1	-	3	43	23	31
<b>Medical Practitioner</b>	109	59	23	22	25	113		15
<b>Medical Radiation Practitioner</b>	3	1	-	-	-	-	-	-
<b>Nurse / Midwife</b>	167	84	37	15	16	114		12
<b>Occupational Therapist</b>	5	3	-	-	-	1	-	-
<b>Optometrist</b>	-	-	-	-	-	-	-	-
<b>Osteopath</b>	2	1	-	-	-	1	-	-
<b>Pharmacist</b>	26	25	5	1	5	61	-	9
<b>Physiotherapist</b>	3	1	-	-	-	3	3	-
<b>Podiatrist</b>	-	-	-	-	-	4	-	-
<b>Psychologist</b>	15	4	6	2	4	23	-	-
<b>Total</b>	<b>341</b>	<b>184</b>	<b>72</b>	<b>40</b>	<b>56</b>	<b>376</b>	<b>26</b>	<b>44</b>
								<b>27</b>

<sup>1</sup>Excludes reassessments and reviews.

<sup>2</sup>Includes matters that did not proceed, for example complaints withdrawn.

## Regulatory Activity continued

### NSW Civil and Administrative Tribunal

Serious matters may be referred to the NSW Civil and Administrative Tribunal (NCAT) following investigation by the HCCC, particularly where substantiated complaints could result in cancellation or suspension of registration. The HCCC prosecutes these matters before NCAT.

NCAT decisions are publically available on the NCAT website.

During the year 52 new hearings were referred to NCAT. Table 12 provides an overview of complaint matters referred to NCAT by profession, including the number of matters open at the beginning and the end of 2016/17 and the number of matters referred during the year.

Hearings may involve one or more complaints.

Other functions carried out by NCAT include:

- Adjudicating appeals by a practitioner against certain decisions by a Council, a PSC, a PRP or the National Boards
- Reviewing orders cancelling a practitioner's registration and in some cases orders imposing conditions on registration.

**Table 12: Overview of complaints matters referred to NCAT**

Profession	Number of Open Hearings at 1/7/16	Number New Hearings Referred in 2016/17	Number of Hearings Closed in 2016/17	Number of Open Hearings at 30/6/17
<b>Chinese Medicine Practitioner</b>	1	-	1	-
<b>Chiropractor</b>	2	1	2	1
<b>Dental Practitioner</b>	3	3	3	3
<b>Medical Practitioner</b>	25	24	25	24
<b>Medical Radiation Practitioner</b>	-	1	-	1
<b>Nurse / Midwife</b>	16	14	16	14
<b>Occupational Therapist</b>	-	-	-	-
<b>Optometrist</b>	-	-	-	-
<b>Osteopath</b>	-	-	-	-
<b>Pharmacist</b>	5	5	5	5
<b>Physiotherapist</b>	-	-	-	-
<b>Podiatrist</b>	-	-	-	-
<b>Psychologist</b>	3	4	4	3
<b>Total</b>	<b>55</b>	<b>52</b>	<b>56</b>	<b>51</b>

## **Regulatory Activity** continued

### **Outcomes for Closed Complaints**

When Councils examine complaints, the issues identified and options available to appropriately manage a complaint influence the outcomes that lead to closure of a complaint.

It is also possible that a single complaint may result in more than one outcome, for example a practitioner may be reprimanded and also have conditions placed on their registration.

During the year the majority of closed complaints were either discontinued or involved no further action. Together these outcomes totalled 3,015 accounting for 79% of outcomes for closed complaints. A Council may take no action following further inquiries into the complaint, if for example it is satisfied that the practitioner acknowledges the issues of concern and has taken steps to ensure their practice has improved. Where no further action is recorded as the final outcome, Councils may have also provided advice or comments in correspondence to the practitioner or required the practitioner to take some action, such as updating a patient consent form.

Apart from matters that were discontinued or identified for no further action, conditions on registration was the most frequent outcome accounting for 221 matters and representing almost 6% of outcomes.

Outcomes for mandatory notifications cases are included in Table 13. However the issues that lead to mandatory notifications are potentially very serious. Consequently outcomes for these matters are also presented separately in Table 14.

## Regulatory Activity continued

**Table 13: Outcomes for complaints closed in 2016/17**

Outcome <sup>1</sup>	Chinese Medicine Practitioner	Chiropractor	Dental Practitioner	Medical Practitioner	Medical Radiation Practitioner	Nurse / Midwife	Occupational Therapist	Optometrist	Osteopath	Pharmacist	Physiotherapist	Podiatrist	Psychologist	Total
<b>Registration cancelled or registration disqualified</b>	-	1	1	23	-	21	-	-	-	2	-	-	5	<b>53</b>
<b>Registration suspended</b>	-	-	-	5	-	-	-	-	-	-	-	-	-	<b>5</b>
<b>Surrender of registration accepted</b>	-	-	5	21	-	2	-	-	-	2	-	-	2	<b>32</b>
<b>Conditions on registration</b>	3	2	23	63	1	94	1	-	1	29	-	-	4	<b>221</b>
<b>Orders made but no conditions</b>	-	-	8	5	-	-	-	-	-	-	-	-	-	<b>13</b>
<b>Change to non-practising registration accepted</b>	-	-	-	5	-	-	-	-	-	1	-	-	1	<b>7</b>
<b>Refund or payment withheld or retreat</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
<b>Fine imposed</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
<b>Reprimand issued</b>	1	1	5	11	-	7	-	-	-	5	-	-	-	<b>30</b>
<b>Caution issued</b>	1	-	9	6	-	1	-	-	-	1	-	-	-	<b>18</b>
<b>Finding but no orders</b>	-	-	-	-	-	2	-	-	-	-	-	-	-	<b>2</b>
<b>New complaint to be made</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
<b>Counselling</b>	4	6	21	11	1	35	1	4	-	13	3	2	13	<b>114</b>
<b>Resolution or conciliation by HCCC</b>	-	-	-	18	-	-	-	-	-	-	-	-	-	<b>18</b>
<b>All or part referred to another body</b>	3	6	9	58	2	3	1	-	1	16	2	5	15	<b>121</b>
<b>No further action <sup>2</sup></b>	14	31	147	489	9	237	2	7	1	87	9	8	68	<b>1,109</b>
<b>No jurisdiction<sup>3</sup></b>	-	9	3	17	1	36	-	-	-	1	-	-	11	<b>78</b>
<b>Discontinued</b>	6	8	169	1,328	6	193	11	11	2	66	19	8	79	<b>1,906</b>
<b>Withdrawn</b>	-	1	8	55	-	4	-	1	-	2	-	-	7	<b>78</b>
<b>Total</b>	<b>32</b>	<b>65</b>	<b>408</b>	<b>2,115</b>	<b>20</b>	<b>635</b>	<b>16</b>	<b>23</b>	<b>5</b>	<b>225</b>	<b>33</b>	<b>23</b>	<b>205</b>	<b>3,805</b>

<sup>1</sup> Each complaint may have more than one outcome, all outcomes have been included.

<sup>2</sup> Includes resolved before assessment; apology; advice; Council letter; comments by HCCC; deceased; no further action following Council processes.

<sup>3</sup> Includes non-renewal of registration.

## Regulatory Activity continued

During the year 302 mandatory notifications were finalised by Councils.

The most serious outcomes were registration cancelled, disqualified or suspended and surrender of registration accepted. This applied to 20 matters accounting for 7% of mandatory notifications outcomes.

Conditions were imposed on practice for 65 matters accounting for 22% of mandatory notifications outcomes.

For 157 matters, Councils determined that no further action was required or the matter was discontinued or withdrawn, that is 52% of mandatory notifications outcomes.

Each complaint may have more than one outcome. All outcomes for mandatory notifications closed during 2016/17 are included in Table 14.

**Table 14: Outcomes of mandatory notifications closed in 2016/17**

Profession	Discontinued or proceedings withdrawn	Changed to non-practising registration	No or other jurisdiction*	Counselling	Resolution process	No further action <sup>^</sup>	All or part referred to another body	Fine imposed	Finding but no orders	Caution or reprimand issued	Conditions on registration accepted	Surrender of registration accepted	Registration suspended	Registration cancelled or registration disqualified	Total
<b>Chinese Medical Practitioner</b>	-	-	-	1	-	1	-	-	-	-	-	-	-	-	<b>2</b>
<b>Chiropractor</b>	-	-	-	-	-	-	-	-	-	-	1	-	-	-	<b>1</b>
<b>Dental Practitioner</b>	-	-	-	-	-	2	-	-	-	-	2	-	-	-	<b>4</b>
<b>Medical Practitioner</b>	7	3	2	-	-	25	6	-	-	2	13	6	1	1	<b>66</b>
<b>Medical Radiation Practitioner</b>	-	-	1	-	-	1	1	-	-	-	1	-	-	-	<b>4</b>
<b>Midwife</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
<b>Nurse</b>	16	-	15	19	-	73	-	-	2	1	41	1	-	9	<b>177</b>
<b>Occupational Therapist</b>	-	-	-	-	-	1	-	-	-	-	1	-	-	-	<b>2</b>
<b>Optometrist</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
<b>Osteopath</b>	-	-	-	-	-	1	-	-	-	-	1	-	-	-	<b>2</b>
<b>Pharmacist</b>	-	-	1	1	-	5	1	-	-	-	4	-	-	-	<b>12</b>
<b>Physiotherapist</b>	1	-	-	1	-	2	-	-	-	-	-	-	-	-	<b>4</b>
<b>Podiatrist</b>	-	-	-	-	-	1	-	-	-	-	-	-	-	-	<b>1</b>
<b>Psychologist</b>	6	-	-	1	-	15	2	-	-	-	1	2	-	-	<b>27</b>
<b>Total 2016/17</b>	<b>30</b>	<b>3</b>	<b>19</b>	<b>23</b>	<b>0</b>	<b>127</b>	<b>10</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>65</b>	<b>9</b>	<b>1</b>	<b>10</b>	<b>302</b>

Each complaint may have more than one outcome, all outcomes have been included.

\* Includes practitioners who failed to renew.

<sup>^</sup> Includes conditions by consent.

## Regulatory Activity continued

### Monitoring and Compliance with Orders and Conditions

Councils are responsible for monitoring compliance with orders made and conditions imposed on practitioners by an adjudication body. Conditions fall into two categories:

1. Public conditions that are published on the National register on the AHPRA website [www.ahpra.gov.au](http://www.ahpra.gov.au)
2. Private conditions that relate to impairment and are recorded by AHPRA but not published on the National register due to privacy and confidentiality considerations.

Where Councils can ensure compliance with orders and conditions, practitioners can continue to practise in a way that is safe for consumers.

HPCA has a Monitoring, Inspection and Scheduling Unit (MISU) which manages systems and processes for monitoring practitioner compliance with orders and conditions, primarily for the Nursing and Midwifery and Dental Councils. The other Councils may use their own HPCA support staff for monitoring functions but they also seek assistance from MISU on occasion.

There is a separate monitoring team for Medical Council cases.

As at 30 June 2017 the HPCA was actively monitoring 783 cases on behalf of the Councils. The conduct stream accounted for the greatest number of cases being monitored totalling 332 cases, or 42% of all monitoring cases.

**Table 15: Active monitoring cases as at 30 June 2017 by profession and stream**

Profession	Conduct	Performance	Health	Total
Chinese Medicine Practitioner	1	1	0	<b>2</b>
Chiropractor	7	0	2	<b>9</b>
Dental Practitioner	25	23	12	<b>60</b>
Medical Practitioner	185	31	124	<b>340</b>
Medical Radiation Practitioner	0	0	3	<b>3</b>
Nurse / Midwife	59	57	138	<b>254</b>
Occupational Therapist	0	0	4	<b>4</b>
Optometrist	0	0	1	<b>1</b>
Osteopath	2	0	2	<b>4</b>
Pharmacist	41	14	21	<b>76</b>
Physiotherapist	1	1	1	<b>3</b>
Podiatrist	0	0	0	<b>0</b>
Psychologist	11	5	11	<b>27</b>
<b>Total</b>	<b>332</b>	<b>132</b>	<b>319</b>	<b>783</b>

<sup>1</sup>A practitioner may be monitored in more than one stream

# Trends 2012 to 2017

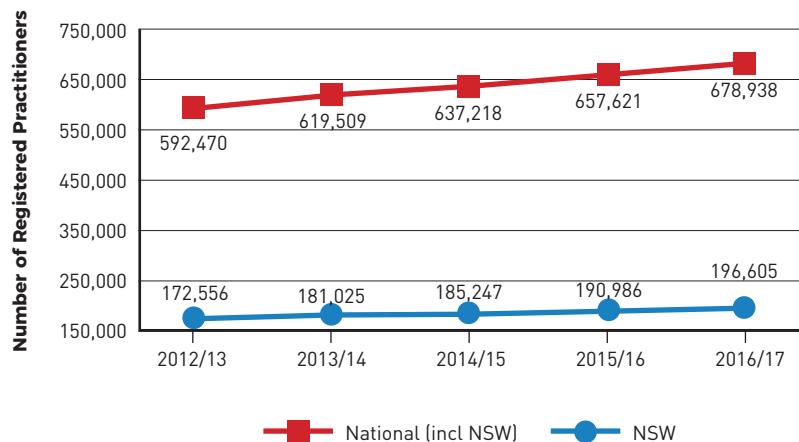
The National Registration and Accreditation Scheme (NRAS) commenced in July 2010 with 10 health professions. In July 2012 a further four health professions joined the NRAS. This section of the report contains trend data over five years from the time all 14 health professions were part of NRAS.

## Registration trends

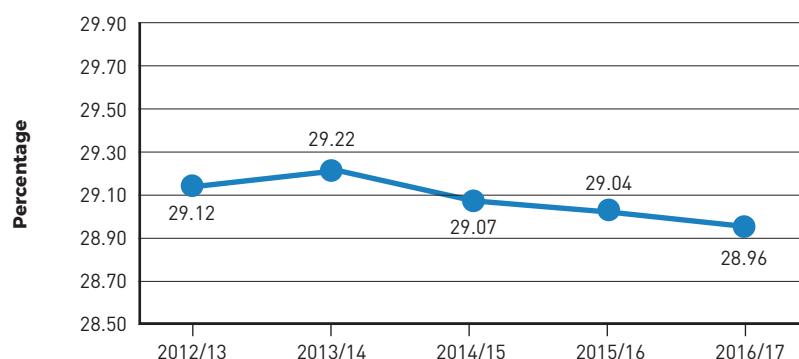
Since 2012/13 the number of registered practitioners with a principal place of practice in NSW has increased by 24,049 which represents a 13.9% increase in the past 5 years. This is consistent with the 14.6% increase in registered practitioners nationally. (See graph 1.)

NSW based practitioners have fairly consistently made up around 29% of practitioners Australia wide. (See graph 2.)

**Graph 1: Five year registered practitioner trend**



**Graph 2: NSW practitioners as a percentage of all Australian practitioners**



## Trends 2012 to 2017 continued

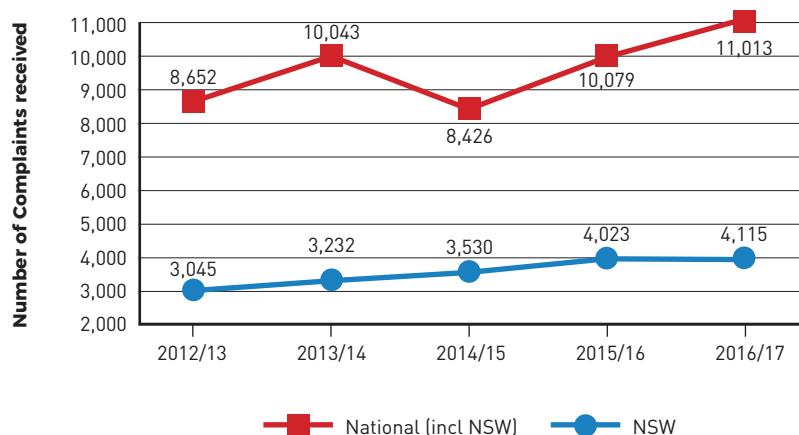
### Complaints trends

In 2016/17 the number of complaints received was 1,070 more than the number of complaints received four years earlier in 2012/13, which is a 35% increase. (See graph 3.)

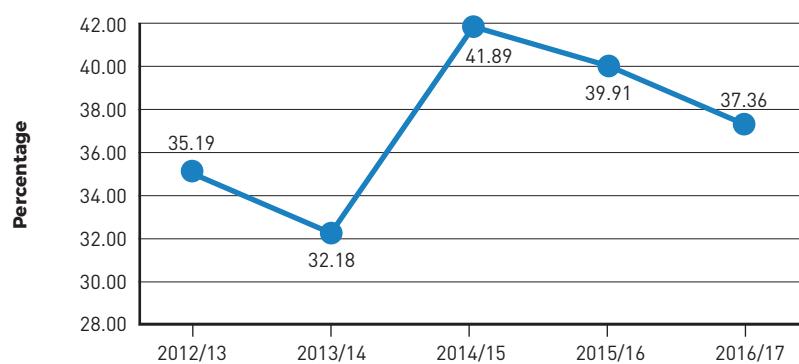
The increase in registered practitioner numbers would contribute to this in part. Other factors likely to impact on growing complaint numbers include increased awareness of the complaints process for newly registered professions and profession specific issues that generate an intermittent influx of complaints, such as advertising amongst chiropractors, infection control amongst dental practitioners and compounding issues amongst pharmacists.

Complaints about NSW based practitioners have constituted between 32% and 42% of complaint numbers Australia wide over the past five years. (See graph 4.)

**Graph 3: Five year complaints trend**



**Graph 4: NSW complaints as a percentage of National complaints received**

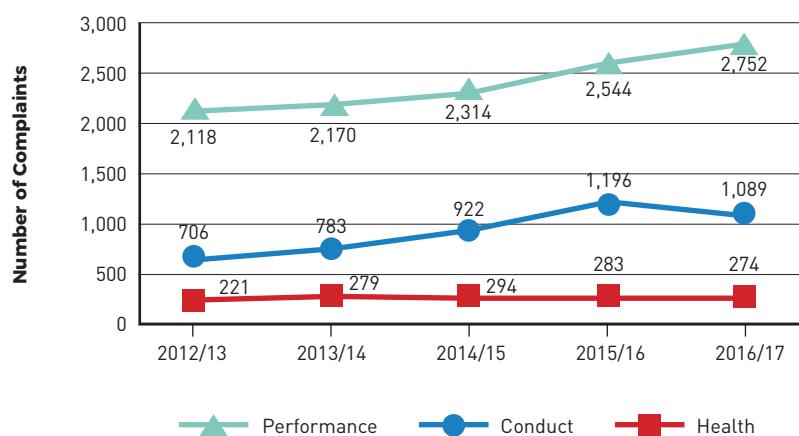


## Trends 2012 to 2017 continued

### Trends in conduct, performance and health streams

Trends in complaints by conduct, performance and health streams show a fairly consistent pattern for each stream as a proportion of total complaints received each year with performance matters making up the greatest proportion and health matters the lowest proportion. (See graph 5.)

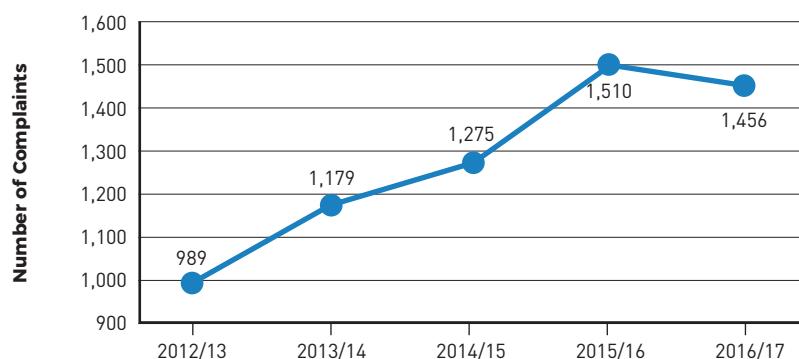
**Graph 5: Five year complaints trend by stream**



### Trends in complaints referred for management by Councils

Complaints assessed with the Health Care Complaints Commission and referred for management by Council are 467 more than four years ago in 2012/13 representing a 47% increase. However the proportion of total complaints received that was referred for Council management has remained fairly consistent over the past 5 years constituting between 32% and 38% of the total annual complaints received.

**Graph 6: Five year trend in complaints referred for management by Councils**

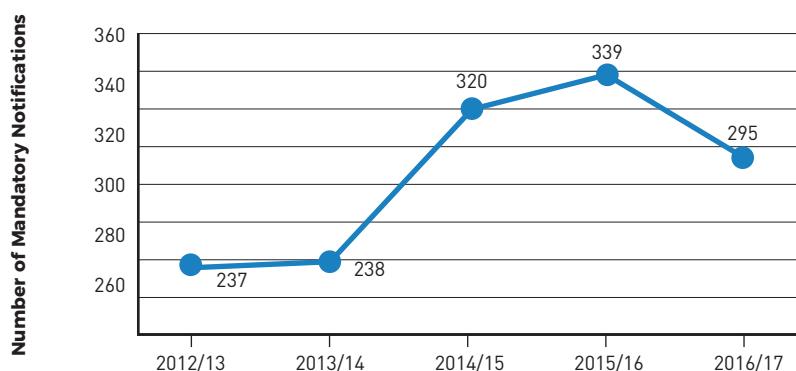


## Trends 2012 to 2017 continued

### Trends in mandatory notifications

There were 58 more mandatory notifications this year than four years ago in 2012/13 representing an increase of 24%. (See graph 7.) However the rate of increase for mandatory notifications is not as great as the overall increase in complaints received which have risen by 35%.

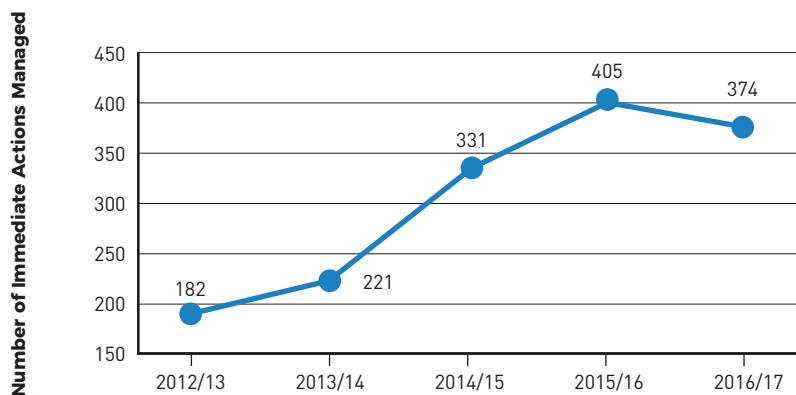
**Graph 7: Five year trend in mandatory notifications**



### Trends in immediate action matters

The five year trend in immediate action matters managed by Councils shows a significant increase. This year there were 192 more immediate action matters than four years ago in 2012/13 representing an increase of 105%. (See graph 8.)

**Graph 8: Five year trend in immediate actions managed**

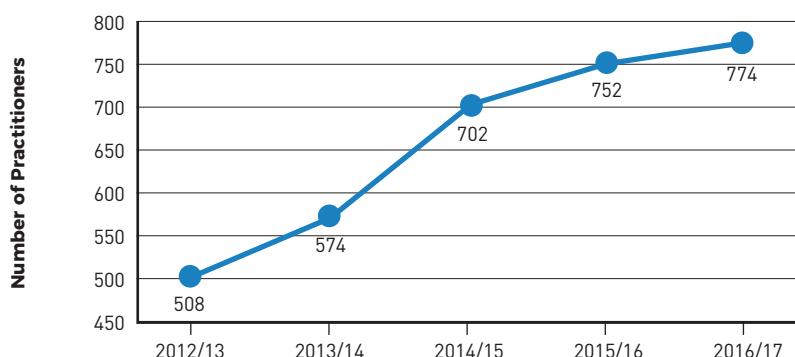


## Trends 2012 to 2017 continued

### Trends in monitoring

Trends in active monitoring of practitioners for compliance with orders or conditions show a notable increase. This year there were 266 more matters being monitored at year end than four years ago in 2012/13 representing an increase of 52%. (See graph 9.)

**Graph 9: Five year trend in practitioners being monitored for compliance with orders or conditions related to practice**



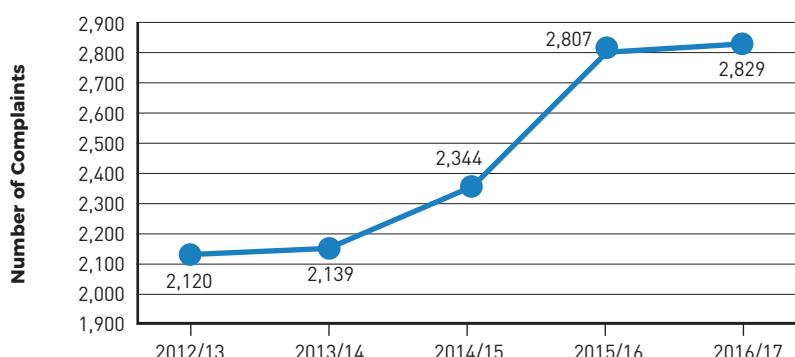
### Trends in source of complaints

Patients and the general public have consistently been the primary source of complaints, responsible for around 31% of complaints received annually. This year there were 704 more complaints made by patients than four years ago in 2012/13. This is an increase of 33% which is reasonably consistent with the increase in total complaints received. (See graph 10.)

The next most common sources of complaints over the past five years have been complaints from:

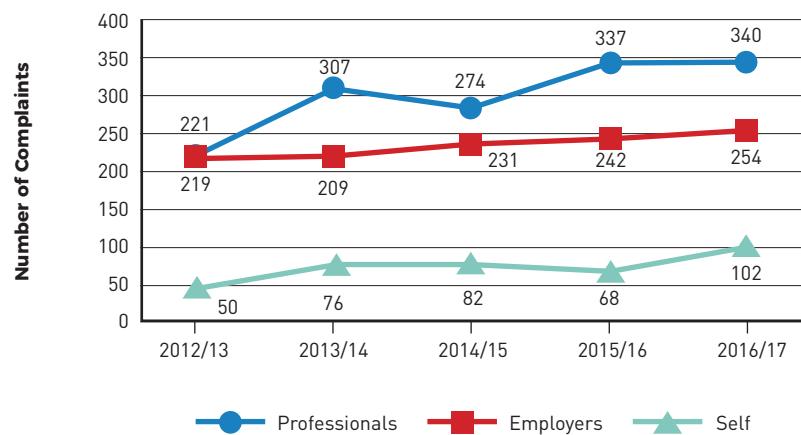
- Professionals, for example treating or other health practitioners
- Employers
- Self report by the practitioner. (See graph 11.)

**Graph 10: Five year trend in complaints from patients and the general public**



**Trends 2012 to 2017 continued**

**Graph 11: Five year trend in complaints from professionals, employers and self reports**



# Achievements and Priorities

## Integrated strategic planning

Public protection is the primary aim for all health professional Councils and the HPCA.

The combined Councils and HPCA Strategic Framework 2014 to 2017 has provided an overarching direction and shared priorities for Councils and the HPCA in achieving the primary aim.

The framework focuses on five key strategic themes.

	<b>Five key strategic themes</b>	<b>Objectives</b>
1.	Strengthen the profile and positioning of the councils and HPCA.	Improve communication and engagement with registrants (including new graduates), the NSW Minister and Government, jurisdictions and other key stakeholders.
2.	Develop partnerships with key stakeholders, internally and externally.	Strengthen collaboration across and between Councils and develop closer working relationships with key strategic partners.
3.	Demonstrate value.	Undertake research, measure performance and build and communicate evidence of the effectiveness and impact of the Councils' and HPCA's role.
4.	Build the organisations' sustainability and effectiveness.	Ensure equitable, flexible and sustainable funding, manage risk and deliver efficient and effective services.
5.	Position the Councils and HPCA for the future	Monitor current and emerging developments in the health care sector, and participate in and respond to key reviews and reform initiatives.

Within the strategic framework are:

- Council specific strategic and action plans
- The HPCA Strategic Plan 2015 to 2018 and annual HPCA action plans which are specific to the roles and responsibilities of the HPCA.

Planning activities include consultation with Council members and HPCA staff and quarterly reporting for organisation-wide action plans.

## Communications - website redevelopment

The main communications tool for Councils and the HPCA is the website. This year a major initiative has been website redevelopment to provide a modern, more interactive and user-friendly platform for the public, practitioners and other visitors.

Stakeholder and community consultation informed the website redevelopment project. Content was developed with a plain English approach and better access to information that meets the needs of different target audiences. Included in the new website is a new online complaints form.

The website launch was scheduled for August 2017.

## Achievements and Priorities continued

### People and culture – organisational review

Trend data over the past four years since 2012/13 shows significantly increased workloads including:

- 35% increase in the number of complaints received
- 47% increase in the number of complaints referred for management by Councils after consultation with the HCCC
- more than double the number of immediate action matters
- 52% increase in active monitoring of practitioner compliance with orders or conditions on practice.

However there has been little change to HPCA staffing over this same period of time and an increasing dependency on agency staff to assist in meeting demands.

This has led to organisational reviews to ensure that appropriate staffing levels and skills are available and that systems are efficient.

Review of the Gladesville staff working with the Medical Council was undertaken first, with recruitment in large part completed during the year.

Review of the regulatory staff at Pitt St and shared services commenced during the year and is expected to be completed during 2017/18.

A key feature of the review is a greater focus on case management and more effective intake and monitoring arrangements.

### Improving systems and processes – online orientation

During the year a new online orientation module was developed to provide a more user friendly, accessible and consistent approach to onboarding new staff. Complementary face to face components for work, health and safety, records management and the MaCS database were also reviewed and are now presented more systematically on a monthly basis with evaluations to inform quality improvement.

# Governance and Compliance

## Legislative changes

### Health Practitioner Regulation National Law (NSW)

During the reporting period the NSW Parliament passed a minor amendment to the Health Practitioner Regulation National Law (NSW) (the National Law) via Schedule 1.10 of the *Statute Law (Miscellaneous Provisions) Act 2017*. That amendment has the effect that the Chairperson of an Assessment Committees (established under Schedule 5E of the National Law), who is appointed from amongst the appointed members of the Committee, is appointed by the relevant Council rather than the Minister for Health. This amendment is consistent with the requirement that all members of a Committee are appointed by the Council.

### Health Practitioner Regulation (New South Wales) Regulation 2016

During the course of the year the *Health Practitioner Regulation (New South Wales) Regulation 2010* was repealed by operation of the *Subordinate Legislation Act 1989* and replaced on 1 September 2016 with the *Health Practitioner Regulation (New South Wales) Regulation 2016*.

Despite a slight restructuring of the Regulation the only significant change in the 2016 regulation is that the infection control standards set out in Schedule 3 now apply to a wider group of regulated professions than was the case under the 2010 Regulation. These professions include:

- Aboriginal and Torres Strait Islander Health practitioners
- Chinese Medicine practitioners
- Chiropractors
- Medical practitioners
- Medical Radiation practitioners
- Nurses and Midwives
- Occupational therapists
- Optometrists
- Pharmacists
- Physiotherapists

## Audit and risk management

NSW Treasury granted the Councils an exemption from the Internal Audit and Risk Management Policy for the NSW Public Sector on the grounds that Councils are small agencies for which the administrative and cost burden of full compliance would be prohibitive.

However the HPCA has in place appropriate risk management practices which are consistent with the core requirements of the policy, including the HPCA Audit and Risk Committee.

The Audit and Risk Committee comprises three members. Since March 2016 all committee members have been independent members, consistent with the updated Internal Audit and Risk Management Policy for the NSW Public Sector (TPP15-03).

The Audit and Risk Committee is an important way of ensuring independent monitoring and advice to the HPCA regarding financial reports, risk management and internal audits and reviews. It operates in a clear and transparent manner with a documented charter. Representatives of the Councils, the Audit Office of NSW and the internal auditors attend meetings as observers.

## Governance and Compliances continued

### Internal audit

In June 2016 the HPCA appointed a new internal auditor, Protiviti Inc, and a three year internal audit plan was developed.

During the year Protiviti completed two internal audits including:

- Review of the service level arrangements and agreements between the HPCA and Councils
- Review of the Risk Assessment Tool (RAT) used by staff to assess whether or not to consult with Councils about possible immediate action, and the timeframes for consulting.

HPCA management responded to the internal audit recommendations and has initiated action to effect improvements.

### Insurances

The HPCA manages insurances for all Councils through the Ministry of Health's insurance cover with the NSW Treasury Managed Fund including:

- Legal liability – public liability, professional indemnity, product liability
- Workers compensation
- Property coverage
- Comprehensive Motor Vehicle Insurance Policy.

### Information management and systems

A focus of the ICT (Information Communications Technology) Strategic Plan 2017 to 2019 is infrastructure transformation, beginning with the move to Infrastructure as a Service (IaaS) platform in the NSW government data centre.

In 2016/17 HPCA made a decision to strategically align itself with eHealth for ICT services. This strategic partnership will enable HPCA access to high availability infrastructure, services and platforms currently in the NSW health environment. The initial project to connect HPCA's two sites to the Health Wide Area Network (HWAN) commenced in 2017. This is a precondition for data migration to the Government Data Centre, planned to occur in 2018 consistent with NSW Government directive.

HPCA's records management software application, TRIM was upgraded in 2017.

The new websites for the HPCA and the 14 Health Professional Councils were completed ready for the launch in August 2017.

During the year further functional enhancements and modifications were made to the case management system (MaCS) to improve usability and reporting.

There are plans for a review of the MaCs case management system to commence in 2018, dependent on the onboarding of additional ICT capabilities. The review will make recommendations to either replace or significantly enhance the current system, with a focus on implementing workflows to drive efficiencies and meet the needs of the Councils.



## Health Professional Councils Authority

Level 6, North Wing, 477 Pitt Street, Sydney NSW 2000  
Locked Bag 20, Haymarket NSW 1238

Phone: 1300 197 177 Facsimile: +61 2 9281 2030  
Email: mail@h pca.nsw.gov.au Online: www.h pca.nsw.gov.au

### Digital Information Security Annual Attestation for the 2016/2017 Financial Statement

I, Mr Ameer Tadros, Director, Health Professional Councils Authority, am of the opinion that the NSW Health Professional Councils Authority had an Information Security Management System in place during the 2016/17 financial year which is materially consistent with the Core Requirements set out in the *Digital Information Security Policy for the NSW Public Sector* with the following exceptions:

#### **Core Requirement 1 – Information Security Management System**

HPCA *ICT Strategic Plan 2017-2019* informs of the planned transition of the HPCA IT systems to the Government Data Centre. This will facilitate the fuller deployment of ISO 27001 Information Security Management System.

#### **Core Requirement 2 – Compliance with Minimum Controls**

Implementation of Security Awareness program continues.

Upgrade of TRIM Records Management System to HPE RM 8.3

Business Continuity Plan (BCP) reviewed and tested.

#### **Core Requirement 3 – Certified Compliance with AS/NZS ISO/IEC 27001**

Compliance with ISO 27001 is part of overall ICT strategic architecture roadmap in 2017-2019.

**Mr Ameer Tadros**

Director  
Health Professional Councils Authority  
Date: 31 July 2017

Contact Officer:

Mr Iain Martin  
Assistant Director, Legal Services, Health Professional Councils Authority  
Telephone: (02) 9219 0203

## Governance and Compliances continued

### Exemptions from reporting provisions and triennial reports

As small statutory bodies, the Councils are exempt from certain reporting provisions. However this year triennial reports are due for the following:

- Multicultural policies and services program
- Workforce diversity
- Disability services
- Work, health and safety.

The health professional Councils and HPCA come under the relevant NSW Health policies and programs for all these areas.

The Councils continued to meet their compliance obligations and remain committed to implementing relevant legislative and policy requirements.

#### Multicultural policies and services program

The Multicultural Policies and Services Program is a whole of Government responsibility overseen by Multicultural NSW. It focuses on ensuring Government agencies implement the principles of multiculturalism through their strategic plans and deliver inclusive and equitable services to the public.

Over the past three years Councils and the HPCA have focused on two main NSW Health multicultural strategies.

##### *1. Improving training and education for health staff to support cultural competency*

'People and Culture' is a key focus area in the HPCA strategic plan 2015 to 2018. This contributes to the NSW Health strategy of improving training and education for health staff to support cultural competency. This has been primarily achieved through the introduction of a mandatory online module and access to face to face training on 'Aboriginal Culture – respecting the difference'. By June 2017, 77% of staff had completed the online training.

Council members also have access to the online training module 'Aboriginal Culture – respecting the difference'.

The Nursing and Midwifery Council has strongly supported cultural awareness amongst members, particularly Aboriginal and Torres Strait Islander culture. Council members have already participated in a cultural safety presentation and a further presentation on Aboriginal culture is planned for 2017/18.

Staff are required to undertake training about CORE values of collaboration, openness, respect and empowerment. These values are embedded and reinforced in the staff recognition awards program which takes place at the staff forum twice a year.

## Governance and Compliances continued

### *2. Delivering communication campaigns and strategies to support key messages*

In 2015 the Councils and HPCA embarked on a substantial program to improve the clarity and accessibility of communications with the public and practitioners who have been subject of a complaint. This program has included two main parts:

1. Plain English training for staff
2. Review of all correspondence templates and fact sheets.

Achievements by June 2017 included:

- Involvement of almost 40% of staff members in Plain English training with a further session planned for 2017/18.
- Plain English reviews of 50 correspondence templates and 17 fact sheets.

Another major communications project has been the website redevelopment for all 14 Councils and the HPCA. This project has involved a Plain English approach in developing content.

Also, particularly important from a multicultural perspective, is the more readily identifiable 'other languages' icon on the home page and information on making a complaint about health practitioners in 19 languages. The majority of the website redevelopment work took place during 2016/17 with a launch date scheduled for August 2017.

The phone interpreter service continues to be available to assist the public and practitioners with access to information. The phone interpreter service has assisted with the following languages:

- Mandarin
- Cantonese
- Arabic
- Korean.

The Chinese Medicine Council has delivered presentations to Chinese Medicine professional groups with visuals in Chinese as a significant number of the practitioners are from a Chinese background. Resource materials for Chinese Medicine practitioners and, where required, correspondence has been provided in Chinese.

Multicultural NSW reporting themes this year include:

- Improving outcomes for women
- Services for humanitarian entrants
- Key performance indicators and results of evaluations.

The primary achievement relevant to these themes is HPCA compliance with the NSW Government commitment to providing greater opportunities for the community to participate in decision making processes. This includes a particular interest in increasing women's representation on the Councils and committees, as well as people from other under represented groups. Across the 14 health professional Councils there are 112 members, including 52 female and 58 male members.

As at 30 June 2017 there were 2 vacancies.

## **Governance and Compliances** continued

Action planned in 2017/18 includes building on the foundational work with the Plain English project and website redevelopment project and developing the next HPCA three year strategic plan.

### **Disability services**

The NSW Disability Inclusion Act (2014) outlines the requirement for a State Disability Inclusion Plan, and the Act requires NSW public authorities to have a Disability Inclusion Action Plan outlining tailored commitment to ensuring people with disability can access services and fully participate in the community.

The NSW Health Disability Inclusion Action Plan 2016-2019 (DIAP) is a system-wide plan that sets out the high level vision and objectives of disability inclusion for NSW Health. The primary objective of the DIAP is to ensure the NSW public health system provides equitable and dignified access to services and employment for people regardless of disability.

Key disability service support actions for the Councils and HPCA have focused on:

- Access to information on making complaints about health practitioners, primarily through the new websites, which include a new online complaint form
- Health programs for impaired practitioners
- Merit based recruitment
- Full physical access to the HPCA office, including wheelchair accessible facilities.

Each Council must include community members and a number of these members have declared disabilities. Reasonable adjustments are made where required for Council members with disabilities to facilitate full and active participation in Council business.

### **Workforce diversity**

The HPCA workplace culture is respectful and supportive of diversity. This is underpinned by active promotion and reinforcement of NSW Health CORE values of collaboration, openness, respect and empowerment.

Consistent with the NSW Health commitment to workforce diversity, the HPCA recruits and employs staff on the basis of merit.

Approximately 21% of HPCA staff have identified with culturally and linguistically diverse backgrounds.

Data about the HPCA workforce and diversity trends is included in NSW Health reports.

## **Governance and Compliances** continued

### **Work, health and safety**

The Councils and HPCA maintain a commitment to the health, safety and welfare of members, staff and visitors consistent with Work Health and Safety (WHS) legislation in NSW.

NSW Health WHS policies and procedures apply to the health professional Councils and the HPCA.

The HPCA has established a WHS team with formal terms of reference. The team meets quarterly and takes responsibility for:

- Reviewing any incident reports or WHS issues raised by members, staff or visitors
- Conducting regular workplace WHS inspections at both Pitt Street and Gladesville offices
- Debriefing after evacuations and drills
- Advising the HPCA Executive on WHS related matters
- Facilitating communications with staff about WHS issues
- Proactively preparing WHS information for inclusion in the staff newsletter.

Building management maintains fire extinguishers, heat/smoke detectors, exit lighting and evacuation signage and all are compliant with requirements.

Fire alarm systems are regularly tested and evacuation drills conducted annually.

WHS notice boards are prominent in high usage areas.

Fire safety and evacuation procedures are prominently displayed around the offices and emergency procedures booklets are located at each workstation.

Designated fire wardens and first aiders on staff are provided with training on an annual basis.

The new online orientation module includes WHS information and is supplemented by face to face WHS office 'walkarounds' which are conducted at least monthly for new staff and as an annual refresher for all staff.

WHS presentations are included in staff forums which are conducted twice a year.

As staff may be dealing with upset or impaired practitioners or complainants, a number of safety measures have been put in place including:

- Installation of a duress alarm system
- Staff training on de-escalation techniques and use of the duress alarm
- Development of a policy on 'Managing Unpredictable People'
- Separate public and secure office entry points
- Security access cards
- Access to onsite security guards.

Planned office refurbishments in 2017/18 will also provide meeting rooms with dual entry and exit.

## **Governance and Compliances** continued

### **Human Resources**

The HPCA, as an executive agency of the Ministry of Health, employs staff under Part 4 of the Government Sector Employment Act 2013 to work both directly and indirectly with Councils. While Councils have regulatory responsibilities in complaints management, the HPCA has operational and administrative responsibilities.

HPCA staff are required to comply with Ministry of Health policies and procedures and are included in Ministry of Health reports, including details of HPCA Executive.

As at 30 June 2017 the HPCA's employment profile comprised 136 ongoing and temporary roles.

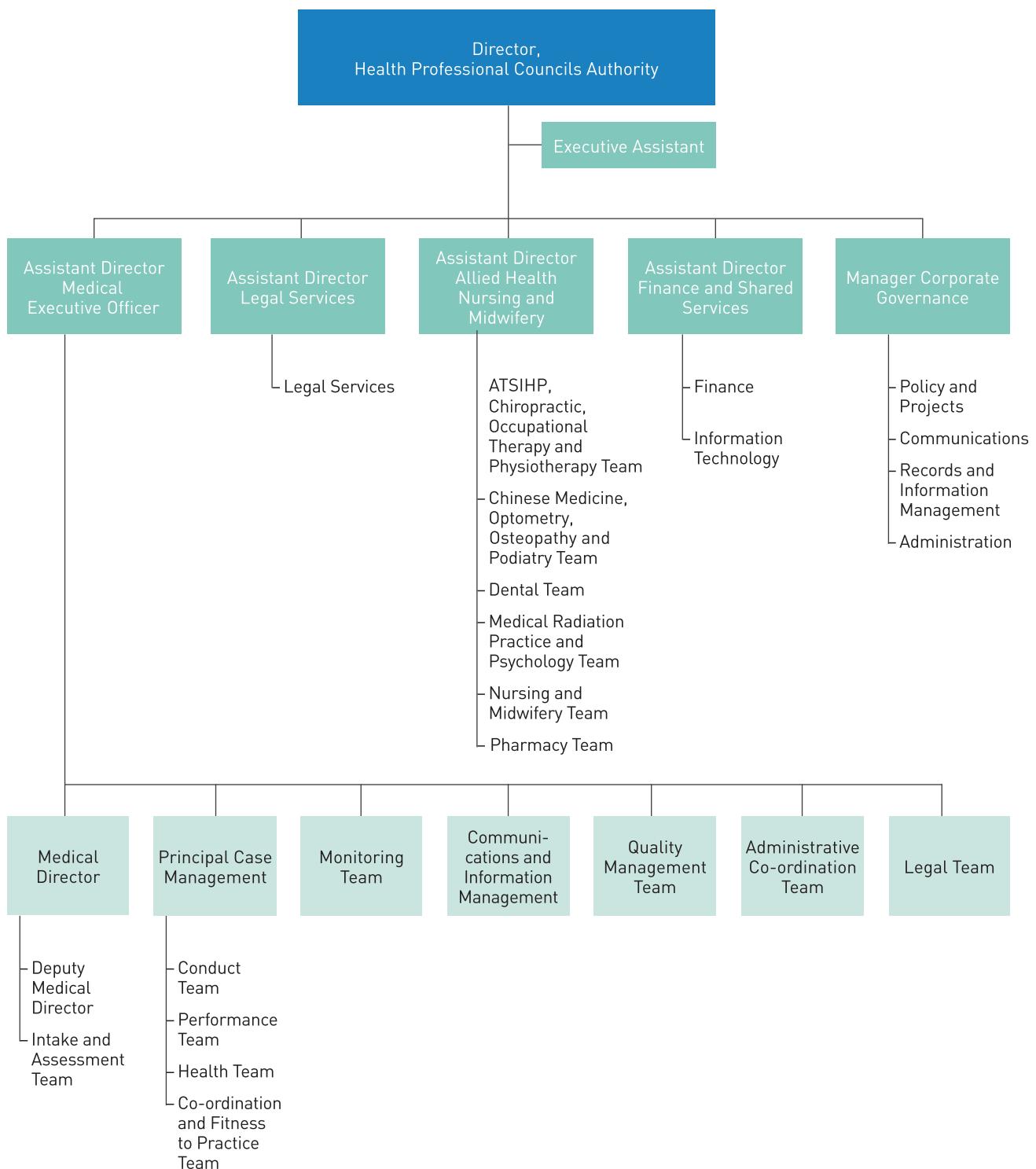
The NSW Ministry of Health provides some assistance with human resources services under a service level agreement with the HPCA.

An organisational review for HPCA staff supporting the Medical Council at Gladesville was completed and implemented during the year.

A separate organisational review of corporate services across the HPCA and regulatory teams supporting Councils, other than the Medical Council, commenced this year.

The following organisational chart represents the structure of HPCA as at 30 June 2017. This includes the new structure for staff working with the Medical Council and the structure currently under review for all other staff.

### HPCA Organisation Chart as at 30 June 2017



## **Governance and Compliances** continued

### **Performance Management**

All ongoing staff have a performance agreement as required under the Government Sector Employment (GSE) Act 2013. Managers complete annual and half yearly reviews with staff based on these agreements. The reviews provide staff with an opportunity to discuss with their manager strategic directions, individual priorities and learning and development needs.

### **Learning and Development**

Learning and development opportunities are available to all staff to build capabilities under the GSE and ensure they have the skills and knowledge relevant to core business and the achievement of strategic priorities. These opportunities also support career development for individuals.

During the year the Ministry of Health advised that seven online learning modules provided through the Health Education and Training Institute (HETI) had become mandatory for all staff including:

- Introduction to work, health and safety
- Privacy module 1 – know your boundaries
- Violence prevention and management – awareness
- Violence prevention and management – promoting acceptable behaviour in the workplace
- Aboriginal Culture – respecting the difference
- Hazardous manual tasks

HPCA implemented a program promoting the mandatory training and achieved a high level of compliance by year end.

The HPCA also developed its own online orientation program available through HETI and established greater structure and evaluations for the complementary face to face components of staff orientation.

Whole of staff forums were held in September 2016 and March 2017 which included presentations on key projects and issues. Feedback confirmed the internal communications value of the forums, particularly for the interactive and discussion sessions. Staff recognitions awards were also introduced at the staff forums.

## Governance and Compliances continued

### Consultants

Consultants engaged during 2016/17 at a cost of less than \$50,000 per consultancy are set out in table 16.

**Table 16: Consultant engagements costing less than \$50,000**

Service Provided	Number of Consultancies	Total Cost incl GST \$
Government data centre migration	1	\$27,311
Organisational review*	1	\$6,400
Governance	2	\$29,727
Nursing and Midwifery Council	3	\$59,349
Medical Council	2	\$30,926
<b>Total</b>	<b>9</b>	<b>\$153,713</b>

\* Finalisation of consultancy which commenced in 2015/16.

During the reporting period there were two consultancy engagements of \$50,000 or more.

- Generator Talent was engaged to complete implementation of a re-structure of the regulatory team supporting the Medical Council at a cost of \$93,859.
- Generator Talent was engaged to undertake consultations and develop role descriptions for the organisational review of regulatory and corporate staff located at Pitt Street at a cost of \$92,562.

### Financial Management

The HPCA provides financial management services to the Councils including the payment of accounts, budget preparation and monitoring and coordination of regular financial reporting to the Councils. Service Level Agreements (SLAs) between Councils and the HPCA include cost allocation methodologies for the distribution of shared costs across all Councils. The methodologies are largely based on Council activity and provide a formula to apportion shared services staff, facilities and other resources. The Cost Allocation Methodology will be reviewed in 2017/18 in consultation with Councils to ensure the formulae are equitable, simplified where possible to achieve efficiencies and transparency in their application.

In 2016/17 the HPCA made a decision to strategically align itself with eHealth and HealthShare NSW, which are units of the Health Administration Corporation (HAC) established to provide support services to health organisations across NSW. A review of the current TechnologyOne finance system and the subsequent development of a business case recommends the HPCA transition to HealthShare which includes the implementation of HealthShare's Stafflink financial system, and the transfer of selected data processing functions to HealthShare's Service Centre Westmead. The project to transition to HealthShare commenced in 2017 with an expected implementation date in the first half of 2018 for the core finance modules. A progressive rollout of other modules is planned to occur over the next few years as part of the program to transform the finance system into an automated, integrated and workflowed system. It is expected that once the system is fully implemented benefits, such as a substantial improvements in the effectiveness and efficiency of both financial and management reporting will be realised.

## Governance and Compliances continued

### Format

The accounts of the Councils' administrative operations, including any Education and Research Fund activities, together with the Independent Auditor's Report are set out in the Financial Statements in Part 3 of this Report.

### Investment Performance

The Councils' banking arrangements are with Westpac Banking Corporation as part of the Treasury banking system in accordance with the agreement between NSW Treasury and Westpac Banking Corporation for the provision of transactional banking.

The interest is paid twice per year by Treasury based on daily cash balances.

### Payments Performance

The Councils' accounts are managed by the Health Administration Corporation (HAC). The consolidated accounts payable performance report for all 14 Councils is set out in Tables 17 and 18.

**Table 17: Consolidated Councils' accounts payable performance (1)**

Quarter	Current (within due date)	Less than 30 days overdue	Between 30 to 60 days overdue	Between 60 to 90 days overdue	More than 90 days overdue
	\$	\$	\$	\$	\$
<b>All suppliers</b>					
September 2016	340,792	94,586	5,080	4,137	-
December 2016	1,273,028	37,068	1,923,588	2,519	-
March 2017	212,919	1,042,874	-	456	-
June 2017	928,080	33,338	2,959	11	-
<b>Small business suppliers</b>					
September 2016	138,048	55,623	5,080	4,137	-
December 2016	247,822	23,090	24	2,349	-
March 2017	77,879	900	-	445	-
June 2017	207,683	149	-	-	-

## Governance and Compliances continued

**Table 18: Consolidated Councils' accounts payable performance (2)**

Measure	September 2016	December 2016	March 2017	June 2017
<b>All suppliers</b>				
Number of accounts due for payment	222	159	112	211
Number of accounts paid on time	177	119	106	148
% of accounts paid on time (based on number of accounts)	80%	75%	95%	71%
\$ amount of accounts due for payment	444,595	3,236,923	1,256,249	964,387
\$ amount of accounts paid on time	340,792	1,273,388	212,919	317,567
% of accounts paid on time (based on \$)	77%	40%	17%	33%
Number of payments for interest on overdue accounts	-	-	-	-
Interest paid on overdue accounts	-	-	-	-
<b>Small business suppliers</b>				
Number of accounts due for payment	93	86	65	90
Number of accounts paid on time	63	64	62	89
% of accounts paid on time (based on number of accounts)	68%	75%	96%	99%
\$ amount of accounts due for payment	202,888	273,284	79,225	207,832
\$ amount of accounts paid on time	138,048	247,822	77,879	207,683
% of accounts paid on time (based on \$)	68%	91%	98%	100%
Number of payments for interest on overdue accounts	-	-	-	-

## Governance and Compliances continued

### Government Information Public Access

#### Access to Information

All Councils are committed to the principles of the *Government Information (Public Access) Act 2009* (GIPA Act) and provide access to policies, publications and information through their websites.

Councils comply with the *Government Information (Public Access) Regulation 2009* regarding annual reporting requirements and statistical reporting is submitted through the Information and Privacy Commission's GIPA online reporting tool.

Council websites provide information about GIPA and how to make an application. The 'Access to Information' pages include the following topics and resources.

- Right to information
- Agency information guide
- Disclosure log
- Contact information
- Register of government contracts
- Formal access application
- Frequently asked questions (FAQs)

#### Proactive Release of Government Information Program

The Councils monitor newly developed and/or revised information to identify what can be made publicly available. Relevant documents are then included on the HPCA and Councils' websites.

#### Number of Access Applications Received

Formal access applications for 2016/17, including withdrawn applications but excluding invalid applications, were as follows.

- The Dental Council received three formal access applications and managed one access application from 2015/16.
- The Medical Council received seven formal access applications. Two of these were not decided by end June 2017 and will carry over into the next year.
- The Nursing and Midwifery Council received two formal access applications. One of these was not decided by end June 2017 and will carry over into the next year.
- The Pharmacy Council received two formal access applications.
- The Physiotherapy Council received one formal access application.
- The Psychology Council received two formal access applications and managed one access application from 2015/16.

The other eight Councils did not receive any formal access applications.

## Governance and Compliances continued

The Councils reported that:

- No invalid access applications were received
- No invalid access applications that subsequently became valid were received
- No invalid review applications were received.

### **Number of Refused Applications for Schedule 1 Information - Clause 7(c)**

During the year access applications that were refused in part or in full because the information requested was information referred to in Schedule 1 of the GIPA Act were as follows:

- The Medical Council refused in part two access applications received this year and refused in full two access applications received this year
- The Pharmacy Council refused in part two access applications received this year
- The Physiotherapy Council refused in part one access application received this year
- The Psychology Council refused in part one access application received this year and refused in full one access application received in 2015/16.

For tables 19 and 20 more than one decision can be made in respect of a particular access application. If so, a recording is made in relation to each such decision.

**Table 19: Number of applications by type of applicant and outcome - GIPA**

	<b>Access granted in full</b>	<b>Access granted in part</b>	<b>Access refused in full</b>	<b>Information not held</b>	<b>Information already available</b>	<b>Refuse to deal with application</b>	<b>Refuse to confirm/deny whether information is held</b>	<b>Application withdrawn</b>
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	0
Not for profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representative)	0	3	1	0	0	0	0	0
Members of the public (other)	2	3	2	1	0	0	0	3

## Governance and Compliances continued

**Table 20: Number of applications by type of application and outcome - GIPA**

	<b>Access granted in full</b>	<b>Access granted in part</b>	<b>Access refused in full</b>	<b>Information not held</b>	<b>Information already available</b>	<b>Refuse to deal with application</b>	<b>Refuse to confirm/deny whether information is held</b>	<b>Application withdrawn</b>
Personal information applications*	1	1	0	0	0	0	0	2
Access applications (other than personal information applications)	0	2	2	0	0	0	0	0
Access applications that are partly personal information applications and partly other	1	3	1	1	0	0	0	1

\* A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant, the applicant being an individual.

**Table 21: Invalid applications - GIPA**

<b>Reason for invalidity</b>	<b>Number of applications</b>
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

For tables 21 and 22 more than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is recorded, but only once per application.

## Governance and Compliances continued

**Table 22: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 of the Act - GIPA**

	<b>Number of times consideration used</b>
Overriding secrecy laws	1
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	6
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0

**Table 23: Other public interest considerations against disclosure: matters listed in table to section 14 of the Act - GIPA**

	<b>Number of occasions when application not successful</b>
Responsible and effective government	1
Law enforcement and security	0
Individual rights, judicial processes and natural justice	3
Business interests of agencies and other persons	2
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

## Governance and Compliances continued

**Table 24: Timeliness - GIPA**

	<b>Number of applications</b>
Decided within the statutory timeframe (20 days plus any extensions)	10
Decided after 35 days (by agreement with applicant)	2
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>12</b>

**Table 25: Number of applications reviewed under Part 5 of the Act (by type of review and outcome) - GIPA**

	<b>Decision varied</b>	<b>Decision upheld</b>	<b>Total</b>
Internal review	0	3	<b>3</b>
Review by Information Commissioner *	2	0	<b>2</b>
Internal review following recommendation under section 93 of Act	1	0	<b>1</b>
Review by NCAT	0	0	<b>0</b>
<b>Total</b>	<b>3</b>	<b>3</b>	<b>6</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision was made by the Information Commissioner.

**Table 26: Applications for review under Part 5 of the Act (by type of applicant) - GIPA**

	<b>Number of applications for review</b>
Applications by access applicants	3
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	1

## Governance and Compliances continued

### Public Interest Disclosures

Each Council is subject to the provisions of the *Public Interest Disclosures Act 1994* and the reporting requirements of the *Public Interest Disclosures Regulation 2011*. Staff and Council members comply with the policy and information is available on the requirements and processes for making and managing disclosures. Councils provide six monthly reports to the NSW Ombudsman and Ministry of Health.

There were no public interest disclosures (PIDs) made by staff or members of any Council during the year.

**Table 27: Public Interest Disclosures**

	Made by public officials performing their day to day functions	Under a statutory or other legal obligation	All other PIDs
Number of public officials who made PIDs	0	0	0
Number of PIDs received	0	0	0
Of PIDs received, number primarily about:			
•    Corrupt conduct Maladministration	0	0	0
•    Serious and substantial waste			
•    Government information contravention			
Number of PIDs finalised	0	0	0

### Privacy

The Councils are subject to the provisions of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* and have adopted the NSW Health Privacy Management policy. An online Privacy module is now part of the mandatory training for all HPCA staff.

Three Councils reported privacy breaches this year.

Dental Council – two privacy breaches:

- The identity of a complainant who requested to remain anonymous was disclosed in error by a staff member during a phone conversation with the practitioner's lawyer.
- A decision document about a practitioner and cover letter was sent to an incorrect person.

Action for both matters included writing to the parties, making an apology and conducting a staff training session to review processes and discuss the seriousness of privacy breaches and the ramifications.

Nursing and Midwifery Council – six breaches:

- An email about a practitioner matter was sent in error to a Director of Nursing and Midwifery.

## **Governance and Compliances** continued

Action included advising both parties, making an apology and deleting the email.

- A letter about a practitioner's conditions was sent in error to an incorrect employer

Action included advising both parties, making an apology and ensuring the letter was returned to the Council.

- On four occasions correspondence including personal details or documents about a practitioner was sent in error to another practitioner.

Action on each occasion included advising both practitioners, making apologies and eliciting agreement to destroy the documents.

Psychology Council – two breaches:

- Documents for an Impaired Registrants Panel were sent to a previous address for the intended recipient and opened by the new occupant.

Action included advising the intended recipient and ensuring the documents were destroyed.

- A complaint about a practitioner was sent in error to an incorrect practitioner who was subject of another complaint.

Action included advising the intended recipients and ensuring documents received in error were destroyed and reviewing processes at team level.

## **Complaints about Council Administrative Processes**

The Councils acknowledge that the trust and confidence of the public is essential to their role and value all forms of feedback. A complaints handling policy and procedures are in place for addressing complaints about the Councils' administrative processes, activities, staff or service delivery, consistent with the NSW Ombudsman Complaint Management Framework.

One Council reported an administrative complaint this year.

The Nursing and Midwifery Council received an administrative complaint from a treating psychologist alleging that information provided by the psychologist has been misinterpreted in reasons for decision documentation about a practitioner.

The complaint was reviewed and responded to within a month.

# Glossary

## **Adjudication Body**

The Council, a panel, tribunal or court can be declared an adjudication body for the purposes of the Law.

## **Boundary/Boundaries**

Parameters around appropriate and effective interactions between health practitioners and their patients are professional boundaries. Behaviours that damage or exploit patients constitute boundary violation. This includes both sexual and non-sexual misconduct.

## **Cancellation (of registration)**

- A Council may recommend the cancellation of a practitioner's registration to the Tribunal Chair if the practitioner does not have sufficient physical and mental capacity to practise the profession
- A Council may recommend the cancellation of a student's registration if the student has an impairment
- The Tribunal may order the cancellation of a practitioner's or student's registration if it is satisfied that the practitioner is not competent to practise or is guilty of professional misconduct, or if the practitioner/student is unfit in the public interest to practise/to undertake clinical training or is not a suitable person for registration in the profession
- The Tribunal must cancel a practitioner's or student's registration if he/she has contravened a critical compliance order.

## **Caution**

A caution is a formal warning intended to act as a deterrent to a practitioner not to repeat conduct. This is a less serious outcome than a reprimand.

## **Closed Complaint**

A complaint is closed when a final outcome/decision has been determined by the Council or other decision-making entity under the Law, such as a Tribunal, Professional Standards Committee, Performance Review Panel or Court. This decision disposes of the matter.

## **Complainant**

A person who makes a complaint to a health complaint entity including the following:

- A health professional Council of NSW
- Health Professional Councils Authority (HPCA)
- Health Care Complaints Commission (HCCC)
- Australian Health Practitioner Regulation Agency (AHPRA).

## **Conciliation**

The Council may refer a complaint to the HCCC for conciliation, whereby the parties involved can negotiate a resolution.

## **Glossary** continued

### **Condition**

A condition aims to restrict a practitioner's practice in some way or may relate to the management of the practitioner's health, to protect the public. Conditions on practice are displayed on the public register maintained by AHPRA.

### **Immediate Action (Section 150)**

If a Council is satisfied that a practitioner or student poses an imminent risk to public safety the Council must take immediate action and may suspend registration or impose conditions on registration pending further investigation.

### **Notification**

A notification can be either voluntary or a mandatory notification. A voluntary notification is about behaviour which presents a risk but is not as serious as a mandatory notification.

### **Notifiable Conduct / Mandatory Reporting**

Notifiable conduct includes practising whilst intoxicated, engaging in sexual misconduct in connection with professional practice, placing the public at risk of substantial harm due to an impairment or a significant departure from accepted professional standards.

### **Open Matter**

A complaint remains open until such time as a final outcome/decision has been determined by the Council or other decision-making entity under the Law, such as a Tribunal, Professional Standards Committee, Performance Review Panel or Court. This decision disposes of the matter.

### **Order**

An order is a decision, condition or restriction placed on a practitioner's registration or practice.

### **Professional Misconduct**

Unsatisfactory professional conduct of a sufficiently serious nature to justify suspension or cancellation of the practitioner's registration.

### **Reprimand**

A reprimand is a formal rebuke or chastisement for inappropriate and unacceptable conduct and appears on a practitioner's registration.

### **Stream**

Conduct: behaviour by a practitioner that may be categorised as professional misconduct or unsatisfactory professional conduct.

Performance: professional performance that is considered unsatisfactory because it is below the standard reasonably expected of a practitioner of an equivalent level of training or experience.

Health: a practitioner who may have a physical or mental impairment, disability, condition or disorder that detrimentally affects, or is likely to detrimentally affect their capacity to practise their profession.

## **Glossary** continued

### **Supervision**

Supervision is the performing of one's duties or practice under the supervision of another similarly qualified practitioner.

### **Suspension (of registration)**

- A Council may suspend a practitioner's registration for an interim period if it determines that immediate action is required to protect the health or safety of any person(s) or the action is in the public interest
- With the voluntary agreement of the practitioner or student, a Council may suspend registration if recommended by an Impaired Registrants Panel
- A Council may recommend the suspension of a practitioner's registration to the Tribunal Chair if the practitioner does not have sufficient physical and mental capacity to practise the profession. It may recommend the suspension of a student's registration if the student has an impairment
- The Tribunal may order the suspension of a practitioner's or student's registration if it is satisfied that the practitioner is not competent to practise or is guilty of professional misconduct, or if the practitioner / student is unfit in the public interest to practise / to undertake clinical training or is not a suitable person for registration in the profession.

### **Unsatisfactory Professional Conduct**

Conduct which is:

- significantly below reasonable standards
- in contravention of the Law or regulations
- in contravention of conditions of registration
- failure to comply with order/decision of a Professional Standards Committee or Tribunal
- accepting or offering a benefit for referral or recommendation to a health service provider or a health product
- engaging in over servicing
- failure to disclose pecuniary interest in giving a referral or recommendation
- permitting assistants not registered in the profession to provide services requiring professional discretion or skill, or
- other unethical or improper behaviour. Additional matters apply to medical practitioners and pharmacists.

# Abbreviations

AASB	Australian Accounting Standards Board
AHPRA	Australian Health Practitioner Regulation Agency
ARC	Audit and Risk Committee
ATO	Australian Taxation Office
ATSIHP	Aboriginal and Torres Strait Islander Health Practice
AustLII	Australasian Legal Information Institute
BCS	Business Classification Scheme
CORE	Collaboration Openness Respect Empowerment
CPI	Consumer Price Index
DIAP	(NSW Health) Disability Inclusion Action Plan
DP	Director of Proceedings, HCCC
DPP	Director of Public Prosecutions
FTE	Full-time Equivalent
GIPA Act	Government Information (Public Access) Act 2009
GSE	Government Sector Employment
GST	Goods and Services Tax
HAC	Health Administration Corporation
HCCC	Health Care Complaints Commission
HETI	Health Education and Training Institute
HPCA	Health Professional Councils Authority
ICT / IT	Information Communications Technology / Information Technology
IRP	Impaired Registrants Panel
L&D	Learning and Development
MaCS	Monitoring and Complaints System
MISU	Monitoring Inspections and Scheduling Unit
MOH	Ministry of Health
NCAT	NSW Civil and Administrative Tribunal
NMW or N&M	Nursing and Midwifery
NRAS	National Registration and Accreditation Scheme
PID	Public Interest Disclosures
PPP	Principal Place of Practice
PRP	Performance Review Panel
PSC	Professional Standards Committee
RAT	Risk Assessment Tool
RTS	Records Titling Standard
SLA	Service level agreement
The National Law/The Law	Health Practitioner Regulation National Law (NSW) No 86a
TRIM	Total Records Information Management - the document management system used by the HPCA

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