

**THE CHALLENGE TO MEDICAL
AUTONOMY AND PEER REVIEW EMBODIED
IN THE COMPLAINTS UNIT/HEALTH CARE
COMPLAINTS COMMISSION
OF NEW SOUTH WALES**

David Gervaise Thomas

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Supervisors

Associate Professor Gerard Sullivan,
School of Policy and Practice,
Faculty of Education,
University of Sydney

Dr Craig Campbell,
School of Policy and Practice,
Faculty of Education, University of Sydney

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ABSTRACT

The exercise of autonomy and self-regulation is seen in the literature as one of the basic criteria of professionalism. Since in modern states Medicine has generally been the occupational grouping which has most completely attained that status, it is seen as the model or archetype of professionalism. This study focuses on just one aspect of medical autonomy, that relating to the right of medical professionals to be accountable only to their fellow professionals as far as the maintenance of practice standards are concerned. In this thesis, the theory underlying this system of "peer review" is examined and then its application during the course of the 20th century is traced in one particular jurisdiction, that of the State of New South Wales in Australia. The reason for the focus on NSW is that in this jurisdiction, medical autonomy existed and was exercised in a particularly pure and powerful form after it was instituted in 1900. However, it was also in NSW that for the first time anywhere in the world, an institutional challenge to medical disciplinary autonomy emerged with the establishment in 1984 of the "Complaints Unit" of the Department for Health. The thesis of this study is that as a result of this development, which within a comparatively short space of time led to the emergence of a system of "co-regulation" of medical discipline, medical disciplinary autonomy and peer review had within a decade, been so severely challenged as to be almost extinct in this State.

In the light of theoretical frameworks provided by Weber, Habermas and the American scholar Robert Alford, the study examines the long drawn out struggle to institute medical autonomy in NSW in the 19th century, its entrenchment by subsequent legislation over the next eight decades and the "counter-attack" staged by the emergent forces of consumerism, supported by the forces of the ideology of "Public Interest Law, in the last two decades of the century. The study concludes with a discussion of the implications for definitions of professionalism which might result from the loss by Medicine in NSW, of its right to exclusive control of medical discipline and the consequent disappearance of medical peer review.

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KEY TO ACRONYMS USED

AMA	Australian Medical Association
BMA	British Medical Association
CAB	Consumer Affairs Bureau
CU	Complaints Unit
HCCC	Health Care Complaints Commission
MCA	Medical Consumers Association
MRB	Medical Registration Board
NSWPD	New South Wales Parliamentary Debates
PIAC	Public Interest Advocacy Centre
PIL	Public Interest Law