

## CHAPTER 9

# Legal risks of unprofessional behaviour

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Allied health professionals currently work in a heavily regulated field. The rationale for regulation is to protect individual patients and to ensure public health and safety. Professionals may be the subject of litigation (be sued); they may work in practices which are subject to accreditation; they could be complained about to the independent health complaints commissioners; they may need to appear at a coronial inquest in the case of a reportable death or they could be charged with criminal offences. Those allied health workers who are registered may be subject to disciplinary proceedings before the relevant registration board. All health service providers are urged by their various professional associations and others to strive for best practice and to make sure they have appropriate risk management strategies in place. They do, however, work in a high-risk environment, they will take risks, sometimes appropriately (see Carson and Bain, 2008) and sometimes inappropriately. Accordingly, errors, mistakes and accidents will happen and it is important when these occur that we learn from the errors so that they are not repeated, and the quality of the service is improved.

The anecdotal information contained in the boxes in this chapter is based on actual complaints but details have been altered to de-identify them.

### The health complaints commissioners

Every State and Territory has an independent health complaints commissioner.<sup>1</sup> The most recently established is in South Australia.<sup>2</sup>

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1 South Australia: Health and Community Services Complaints Commissioner, Victoria: Health Services Commissioner, New South Wales: Health Care Complaints Commissioner, Queensland: Chief Executive Officer, Commissioner, and seven Assistant Commissioners, ACT: Health Services Commissioner, Northern Territory: Health and Community Services Complaints Commissioner, Western Australia: Director, Tasmania: Health Complaints Commissioner, New Zealand: Health and Disability Commissioner. In Tasmania and the Northern Territory the health complaint commissions are included within the Office of the Ombudsman.

2 Health and Community Services Complaints Commissioner, *Health and Community Services Complaints Act 2004* (SA).

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