

# Mapping the contours of complaint risk

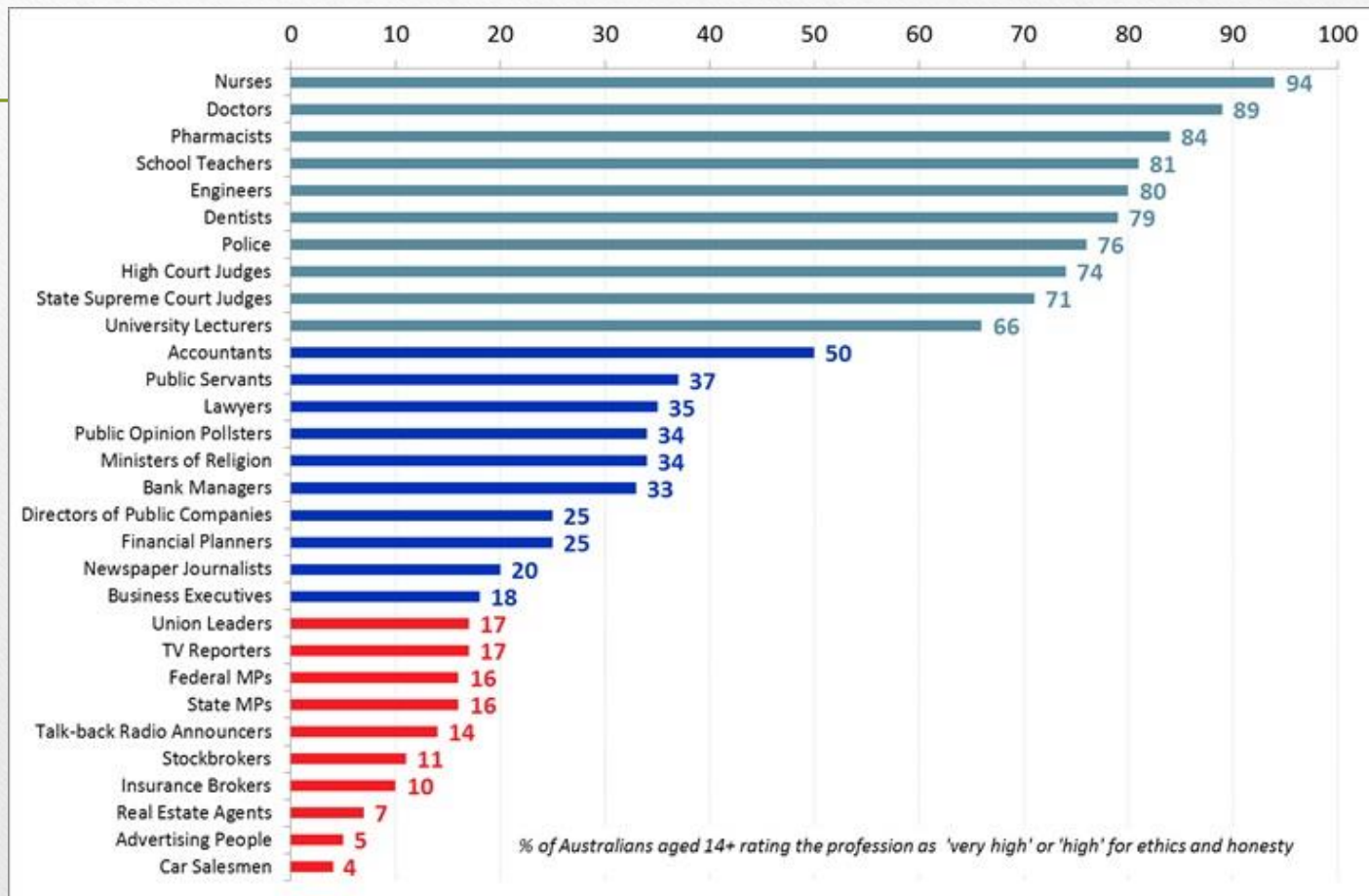
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Professional Standards Forum

Professor Marie Bismark, University of Melbourne

October 2022

# The most trusted professions



## Sydney accountant sentenced to six years' jail

REGULATION

Tax agent claimed almost \$800,000 through fraudulent returns

And yet ...

## Private school teacher stood down after 'serious misconduct' with Victoria's Secret model student

John Paul College in Daisy Hill has stood down its Head of Performing Arts teacher after he had his teaching license suspended in WA for serious misconduct against a student.

## Police and IBAC accused of failings while investigating a cop who abused his wife



Nick McKenzie

October 11, 2022 – 5.00am

A secret Victoria Police report has criticised the force's handling of a domestic violence case involving a serving policeman after police leaked the victim's escape plan to the perpetrator, potentially putting her at risk of more violence or even murder.

## Prominent defence lawyer's downfall decades in the making

A prominent Adelaide defence barrister has been struck off the roll of legal practitioners for his "gross departure" from professional standards over a 30-year period.

## 'Please don't kill me': Elite soldier feared for his life after cosmetic surgeon cut him open

Shocking revelations about botched cosmetic surgery are the tip of the iceberg in a lucrative growth industry that is out of control.

## Fire safety concerns result in building surveyor fines



“... it doesn't rain on everybody equally ...  
some [practitioners] have a malpractice dark cloud.”

-Gerald B Hickson MD

# Our research team: multidisciplinary skills and real-world experience

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## Research team:

Law/medicine: Marie Bismark

Law/public health: Tara Sklar, Jen Moore

Biostatistics: Matthew Spittal, Yamna Taouk

Regulation: Ron Paterson, Martin Fletcher

International expert: David Studdert



THE UNIVERSITY OF  
MELBOURNE



UNSW  
SYDNEY

# Australia has some of the best regulatory datasets in the world

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## **Datasets:**

All health practitioners in Australia (>640,000 practitioners)

All lawyers registered in Victoria (>20,000 practitioners)

All accountants registered in Victoria

## **Funders:**

Australian Health Practitioner Regulation Agency

Legal Services Board and Commissioner, Victoria

CPA Australia

National Health and Medical Research Council

# Analytical approach

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## **Analyses:**

*Quantitative:* descriptive, multivariate, and survival analyses

*Qualitative:* thematic analysis of Tribunal decisions

## **Ethics:**

Studies approved by University of Melbourne ethics committee

Strict data protection plans and deeds of confidentiality

All data de-identified before analysis



OPEN ACCESS

## Identification of doctors at risk of recurrent complaints: a national study of healthcare complaints in Australia

Marie M Bismark,<sup>1</sup> Matthew J Spittal,<sup>1</sup> Lyle C Gurrin,<sup>1</sup> Michael Ward,<sup>2</sup> David M Studdert<sup>1,3</sup>

► Additional material is published online only. To view please visit the journal online (<http://dx.doi.org/10.1136/bmjqs-2012-001691>).

<sup>1</sup>Melbourne School of Population and Global Health, University of Melbourne, Parkville, Victoria, Australia

<sup>2</sup>School of Medicine, University of Queensland, Brisbane

### ABSTRACT

**Objectives** (1) To determine the distribution of formal patient complaints across Australia's medical workforce and (2) to identify characteristics of doctors at high risk of incurring recurrent complaints.

**Methods** We assembled a national sample of all 18 907 formal patient complaints filed against doctors with health service ombudsmen

compared doctors who experienced multiple malpractice claims,<sup>1-5</sup> complaints,<sup>6,7</sup> and disciplinary actions<sup>8-10</sup> with doctors who experienced few or none, and identified differences in the sex, age and specialty profile of the two groups. Such research helps to explain medico-legal risk retrospectively, but does not provide practical guidance for identifying risks pro-

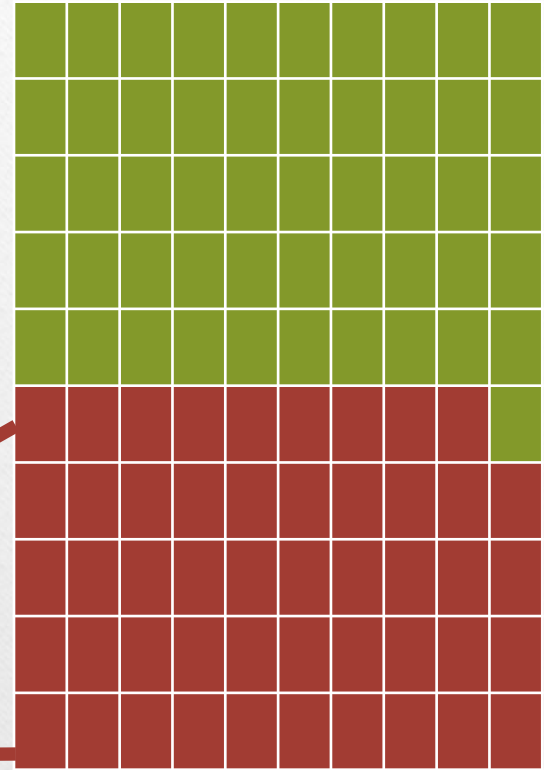
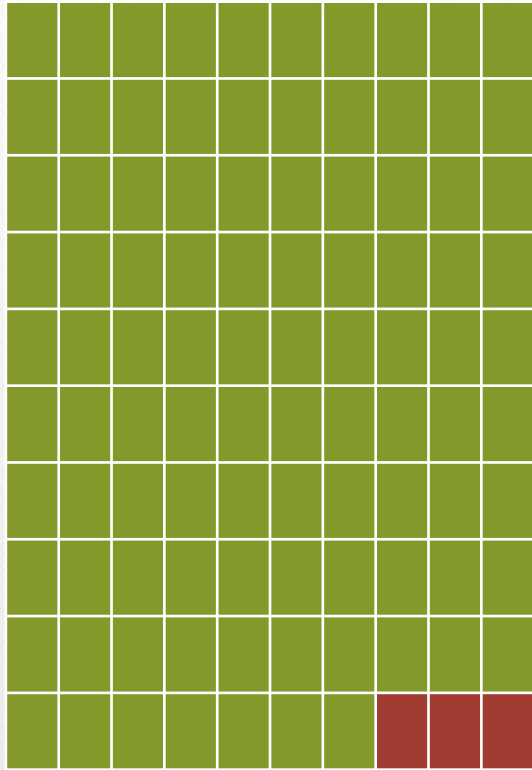


# 3%

of doctors  
account for

# 49%

of complaints  
about doctors

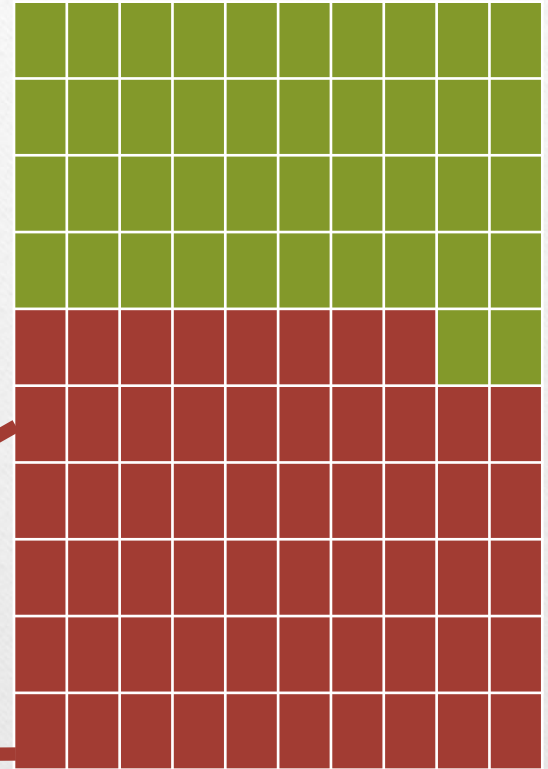
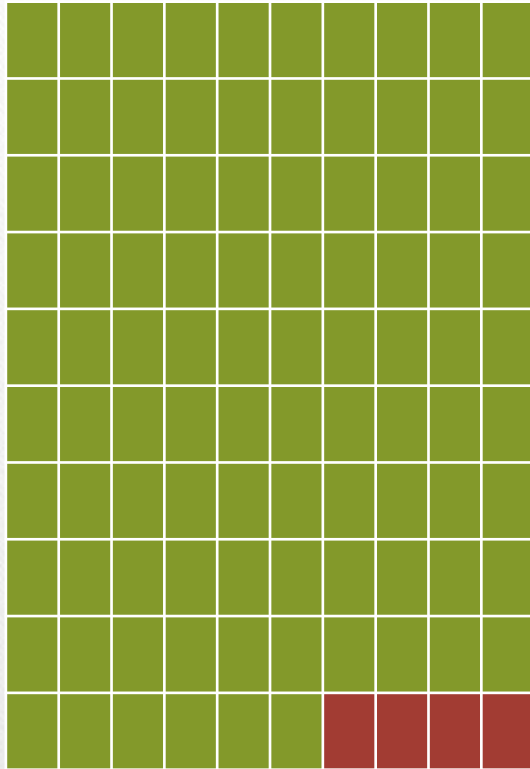


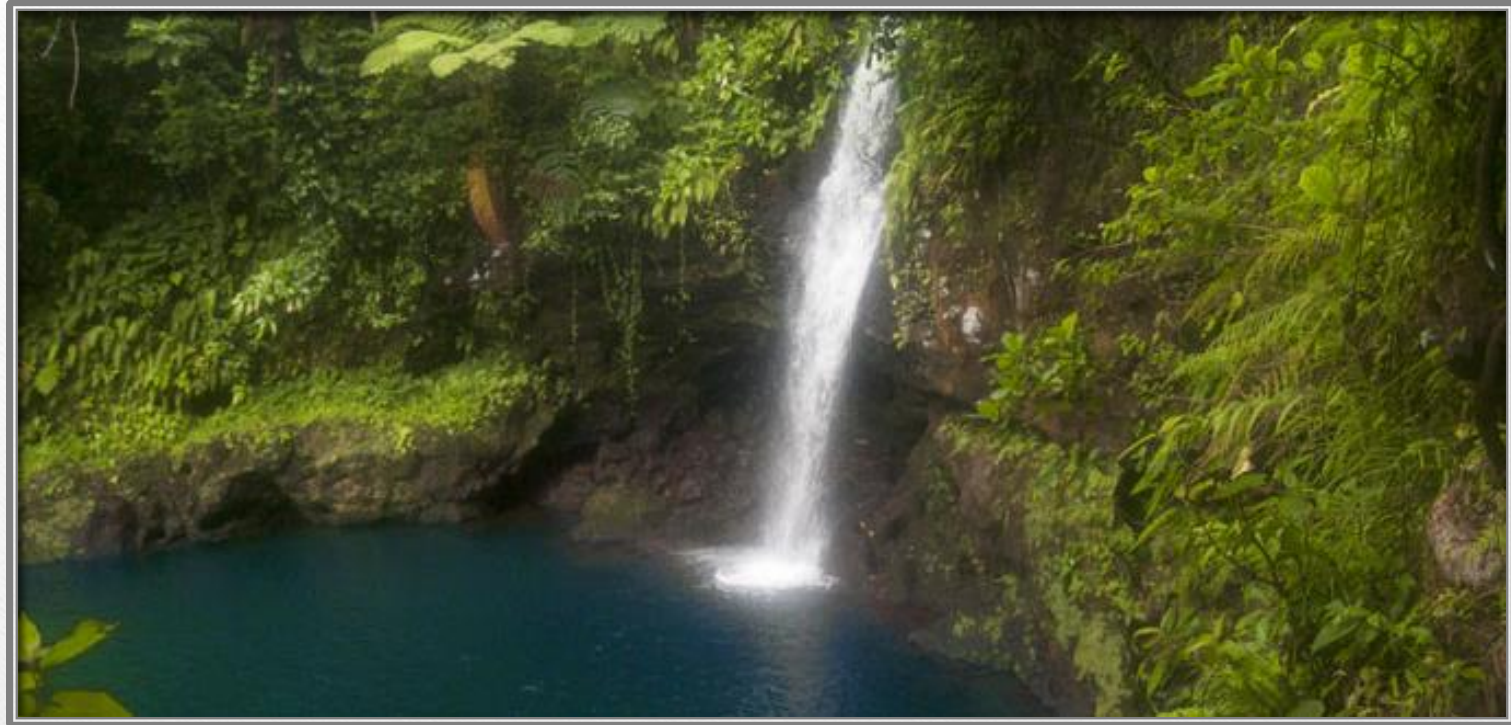
**4%**

of lawyers  
account for

**58%**

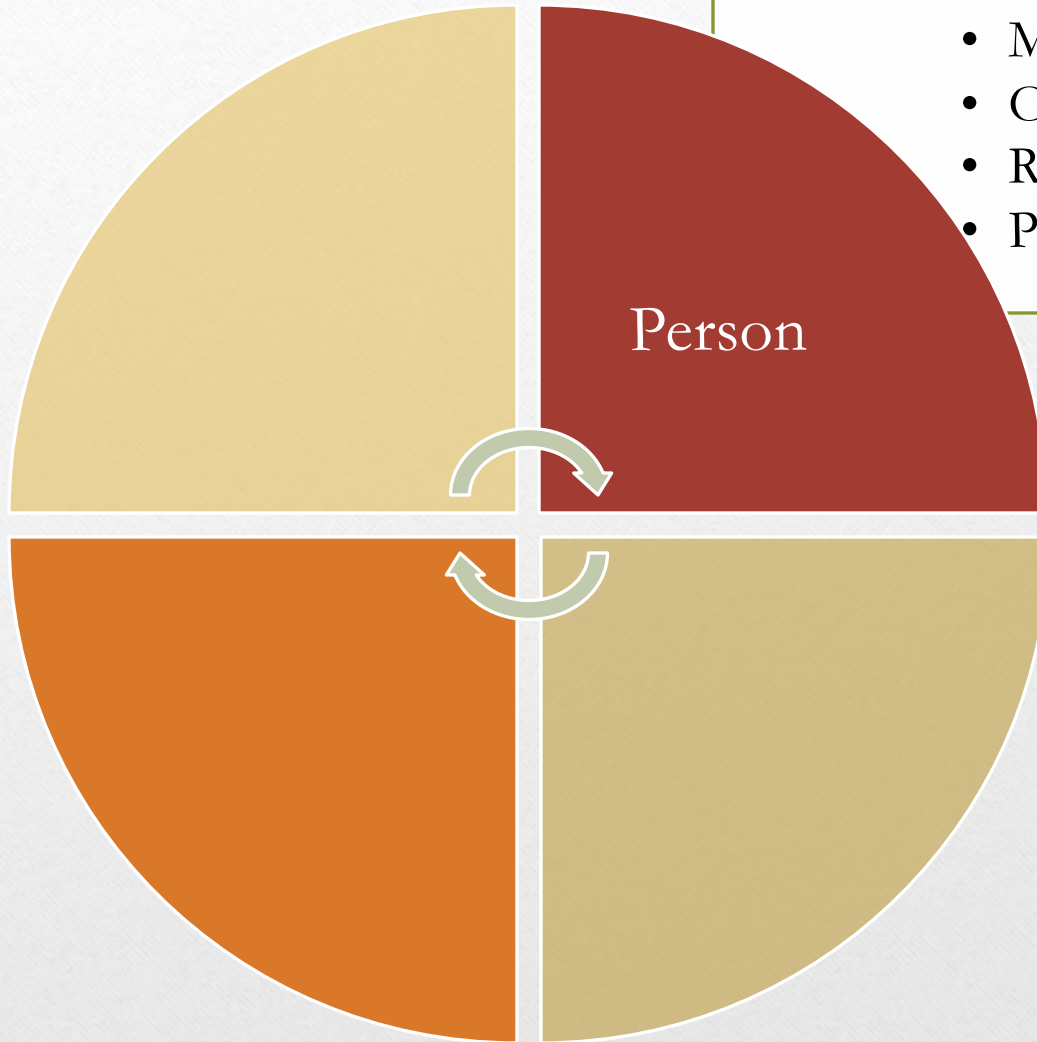
of complaints  
about lawyers





Q: Where are you going?

A: I'm walking upstream to find out why they're falling in.



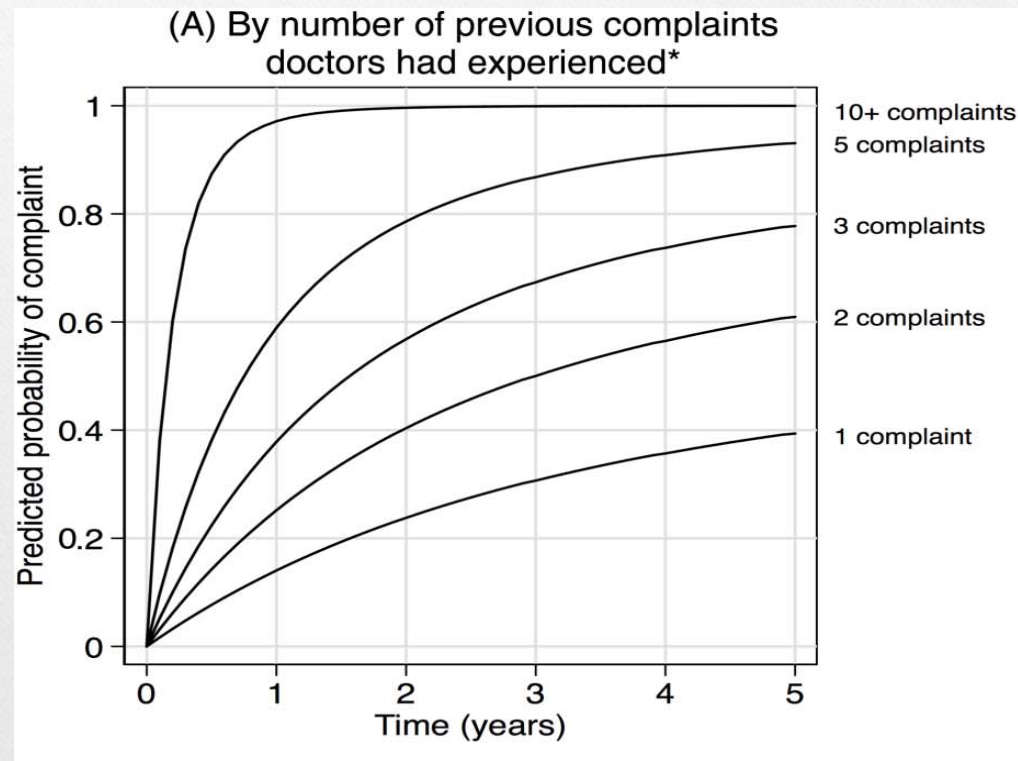
- Male
- Older age
- Regional
- Past history

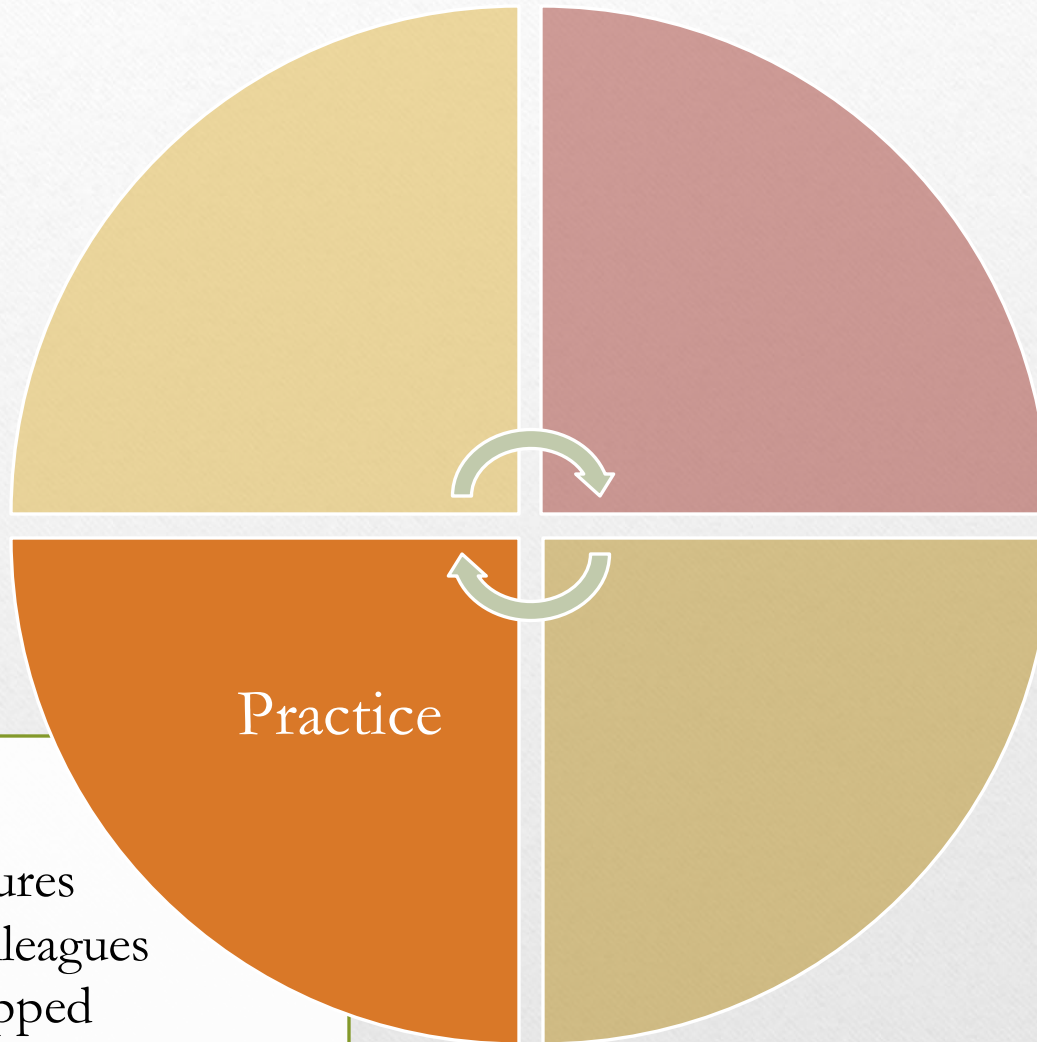
# Predictors of complaints about doctors

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Characteristic	Increase in risk
Male (cf female)	30%
Regional (cf urban)	20%
Age over 65 years (cf under 65 years)	40%

# Past behaviour is the strongest predictor of future behaviour

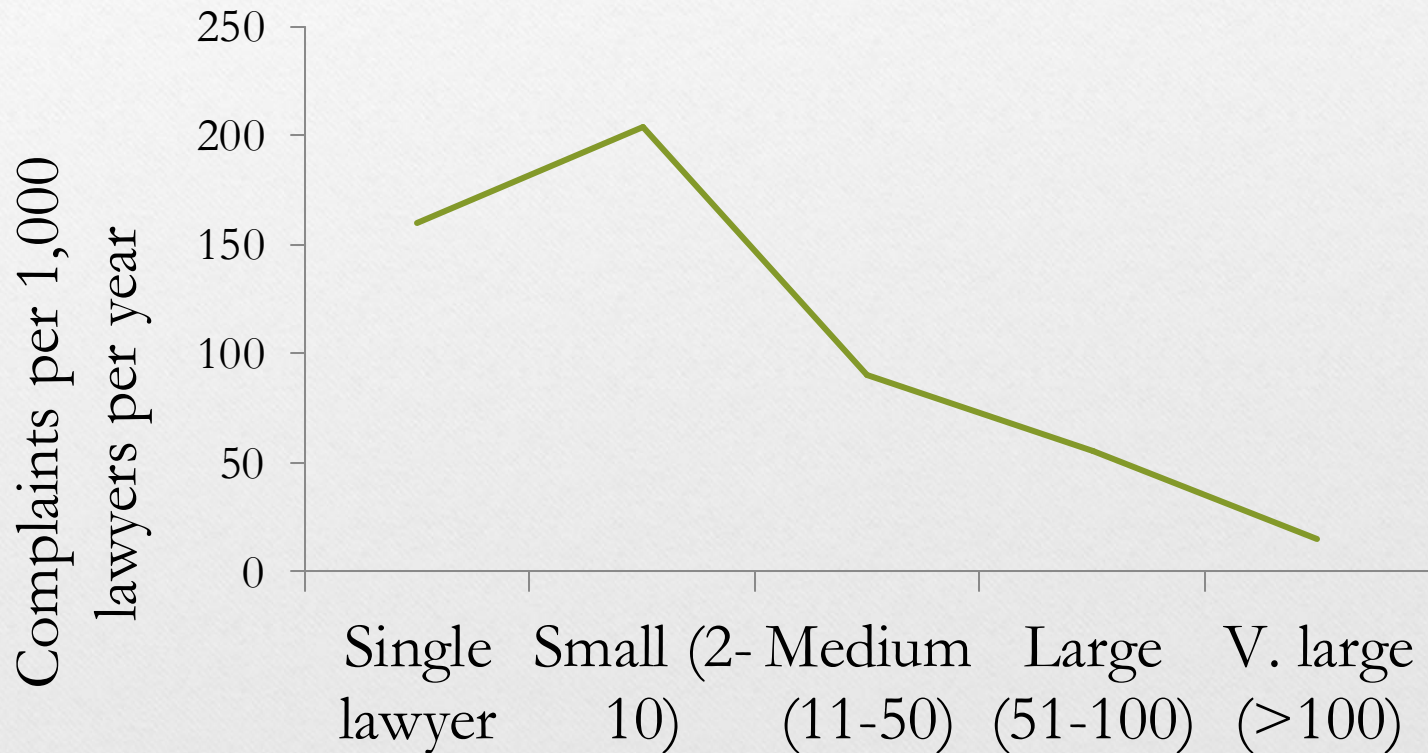




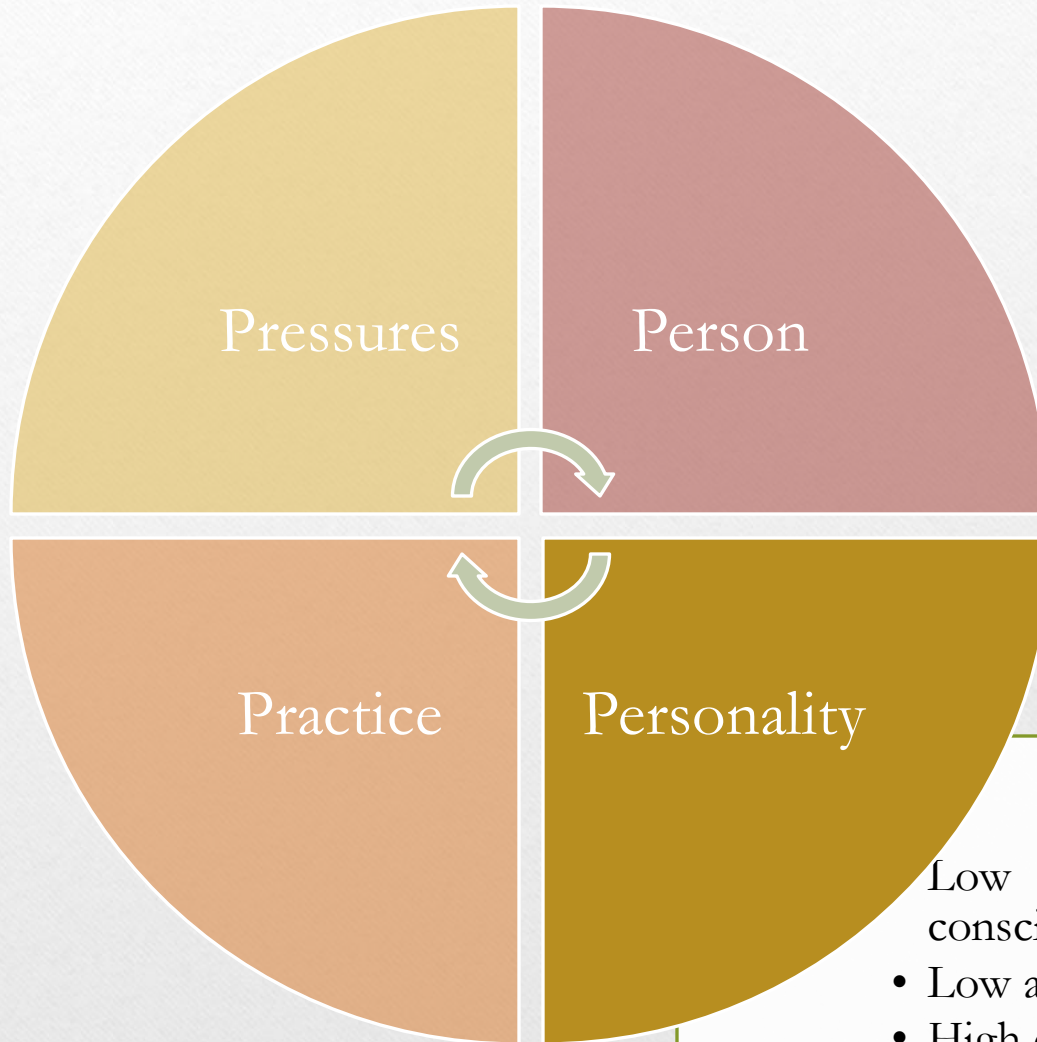
- Procedures
- Few colleagues
- Ill-equipped generalist

## Size of practice matters:

>80 percent of highly complaint-prone lawyers work in a practice with 3 or fewer lawyers

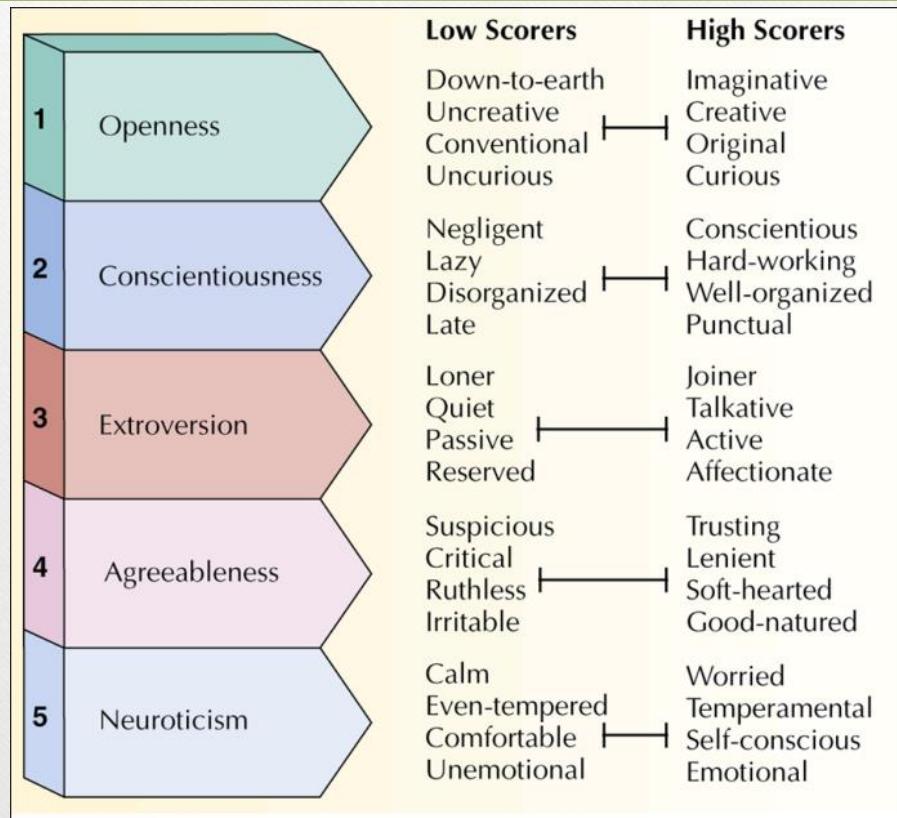




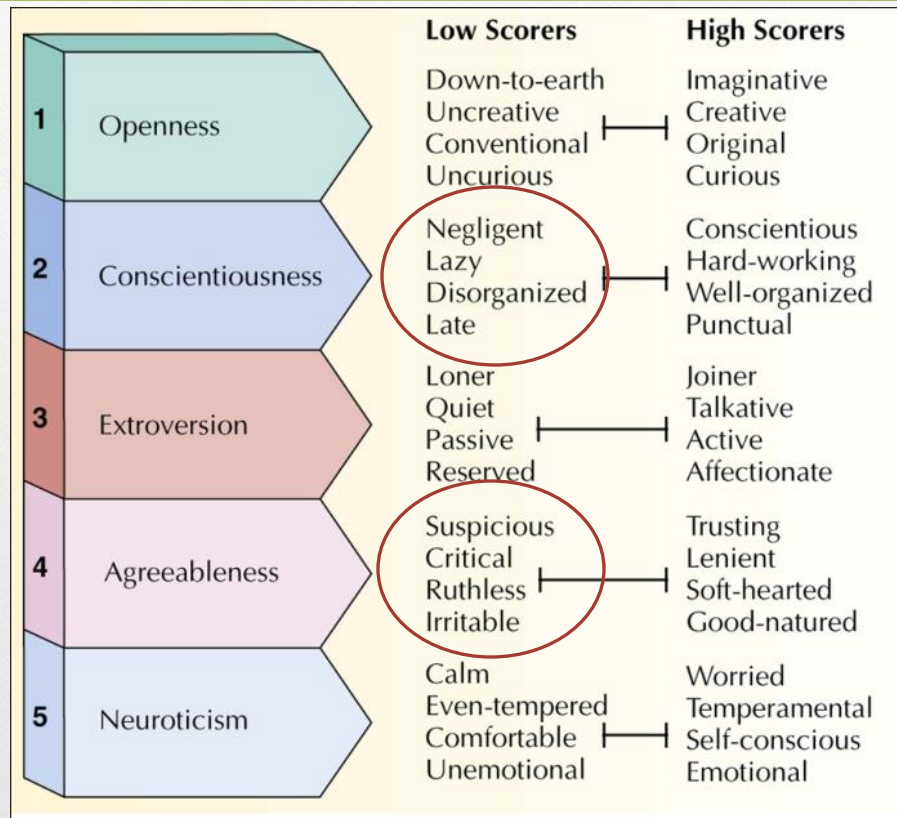


- Low conscientiousness
- Low agreeableness
  - High emotionality

# Big five personality traits



# Big five personality traits



# Personality traits of highly complaint-prone practitioners

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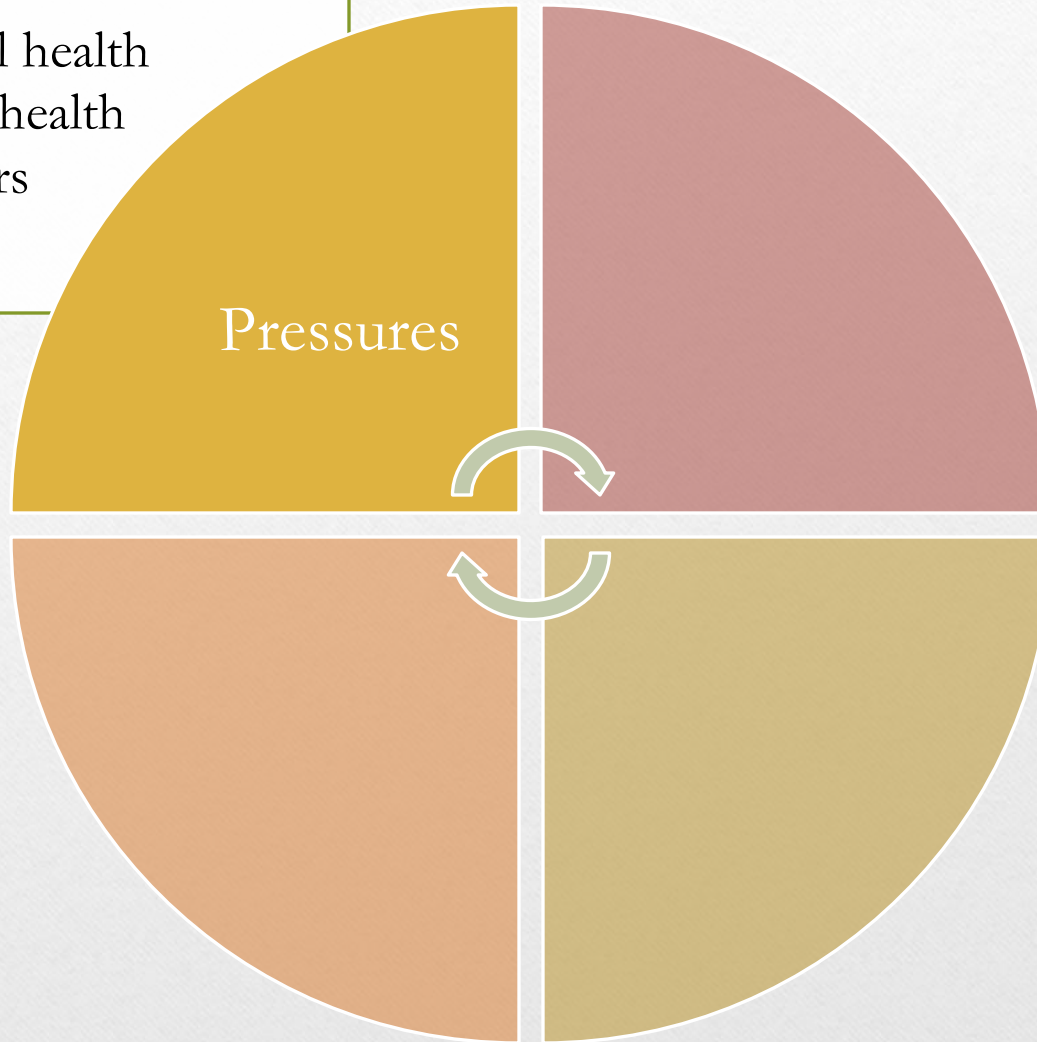
## Low conscientiousness

- Failure to comply with norms
- Delays in responding to requests
- Poor record keeping
- Disorganized and unorthodox practice arrangements

## Low agreeableness

- Difficulty appreciating ideas, feelings, or behaviours of others
- Lack of remorse
- Manipulativeness
- Deceitfulness
- Hostility
- Grandiosity

- Physical health
- Mental health
- Stressors



# A concatenation of personal disruption

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## Stressors

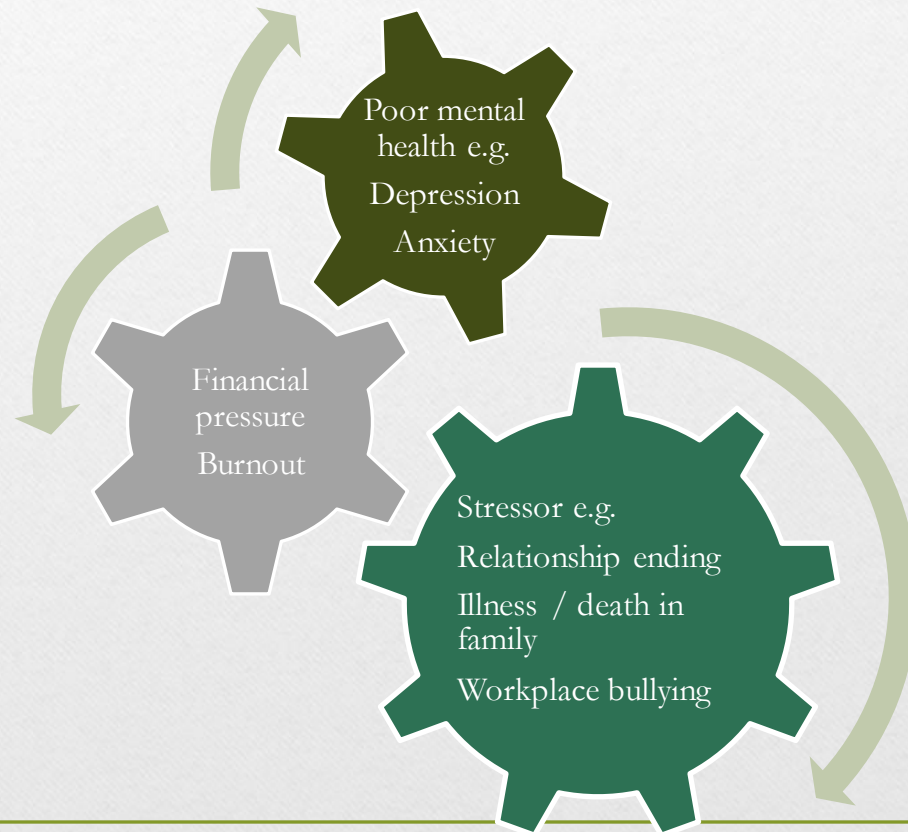
- Financial difficulty
- Relationship breakdown
- Illness or death in family
- Workplace bullying

## Health

- Over half of the highly complaint-prone lawyers were noted by Tribunal to have some form of health impairment
- Depression was commonly noted

# Multiple contributing factors

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- Physical health
- Mental health
- Stressors

Pressures

- Male
- Older age
- Regional
- Past history

Person



Practice

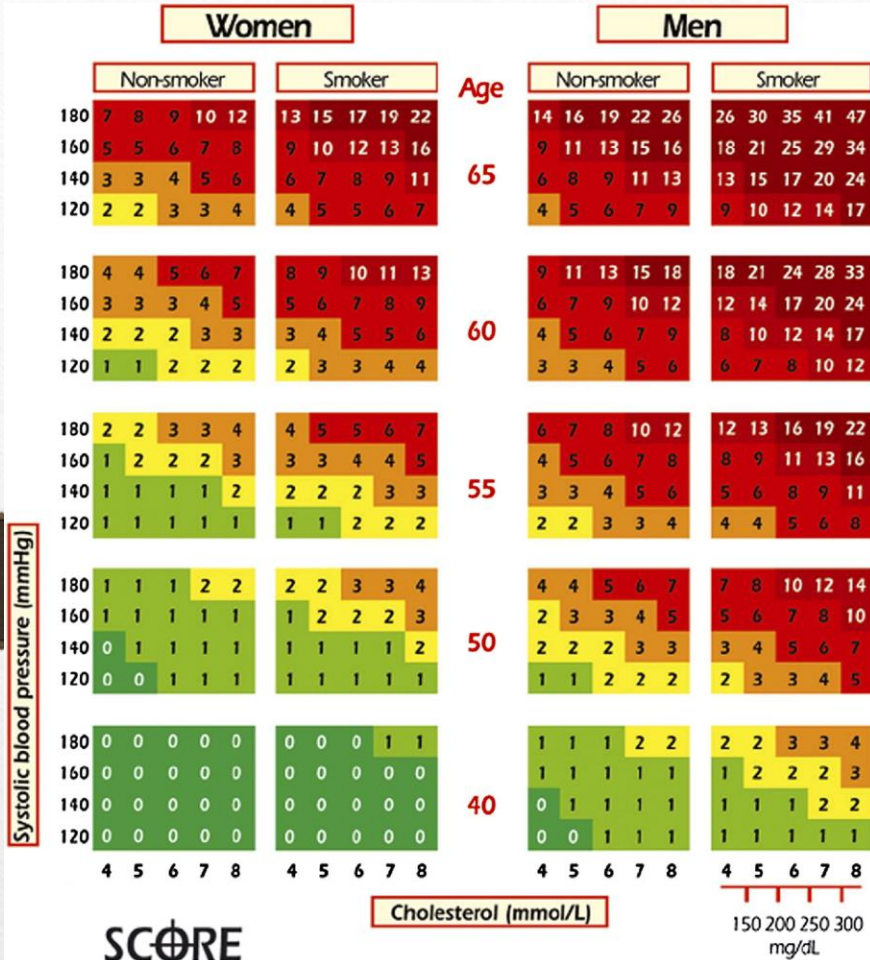
- Procedures
- Few colleagues
- Ill-equipped generalist

Personality

- Low conscientiousness
- Low agreeableness



# Pre-empting risk?



# Probability of complaint by PRONE score

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Practitioner A	Practitioner B
1 <sup>st</sup> complaint, female, physician, age 30	9 <sup>th</sup> complaint, male, plastic surgeon, less than 6 months since last complaint
PRONE score = 1	PRONE score = 17
Less than 15% chance of a complaint in next two years	>90% chance of another complaint within the next 2 years

## Professional Performance Framework

- Increasing age is a known risk factor for poor performance. The Board is proposing
  - to require practitioners who provide clinical care to have peer review and health checks at the age of 70 and three yearly thereafter, and
  - the outcome of health checks and peer reviews is not reported to the Board unless there is serious risk to patients.
- Professional isolation is a known risk factor. The Board is proposing:
  - to develop guidance to help practitioners identify the hallmarks of professional isolation and manage the risk, and
  - to require professionally isolated doctors to do more CPD that involves peer review.

## Women

	Non-smoker					Smoker				
180	7	8	9	10	12	13	15	17	19	22
160	5	5	6	7	8	9	10	12	13	16
140	3	3	4	5	6	6	7	8	9	11
120	2	2	3	3	4	4	5	5	6	7

180	4	4	5	6	7	8	9	10	11	13
160	3	3	3	4	5	5	6	7	8	9
140	2	2	2	3	3	3	4	5	5	6
120	1	1	2	2	2	2	3	3	4	4

180	2	2	3	3	4	4	5	5	6	7
160	1	2	2	2	3	3	3	4	4	5
140	1	1	1	1	2	2	2	2	3	3
120	1	1	1	1	1	1	1	2	2	2

180	1	1	1	2	2	2	2	3	3	4
160	1	1	1	1	1	1	2	2	2	3
140	0	1	1	1	1	1	1	1	1	2
120	0	0	1	1	1	1	1	1	1	1

180	0	0	0	0	0	0	0	0	1	1
160	0	0	0	0	0	0	0	0	0	0
140	0	0	0	0	0	0	0	0	0	0
120	0	0	0	0	0	0	0	0	0	0

4 5 6 7 8

4 5 6 7 8

### SCORE

15% and over
10% - 14%
5% - 9%
3% - 4%
2%
1%
< 1%

10-year risk of fatal CVD in populations at high CVD risk

Cholesterol (mmol/L)

## Men

	Non-smoker					Smoker				
180	14	16	19	22	26	26	30	35	41	47
160	9	11	13	15	16	18	21	25	29	34
140	6	8	9	11	13	13	15	17	20	24
120	4	5	6	7	9	9	10	12	14	17

180	9	11	13	15	18	18	21	24	28	33
160	6	7	9	10	12	12	14	17	20	24
140	4	5	6	7	9	8	10	12	14	17
120	3	3	4	5	6	6	7	8	10	12

180	6	7	8	10	12	12	13	16	19	22
160	4	5	6	7	8	8	9	11	13	16
140	3	3	4	5	6	5	6	8	9	11
120	2	2	3	3	4	4	4	5	6	8

180	4	4	5	6	7	7	8	10	12	14
160	2	3	3	4	5	5	6	7	8	10
140	2	2	2	3	3	3	4	5	6	7
120	1	1	2	2	2	2	3	3	4	5

180	1	1	1	2	2	2	2	3	3	4
160	1	1	1	1	1	1	2	2	2	3
140	0	1	1	1	1	1	1	1	2	2
120	0	0	1	1	1	1	1	1	1	1

4 5 6 7 8

150 200 250 300 mg/dL

# Rare events are hard to predict!

Live Science > Culture

## Mass Shootings: Why It's So Hard to Predict Who Will Snap

By Stephanie Pappas, Live Science Contributor | July 23, 2012 06:28pm ET

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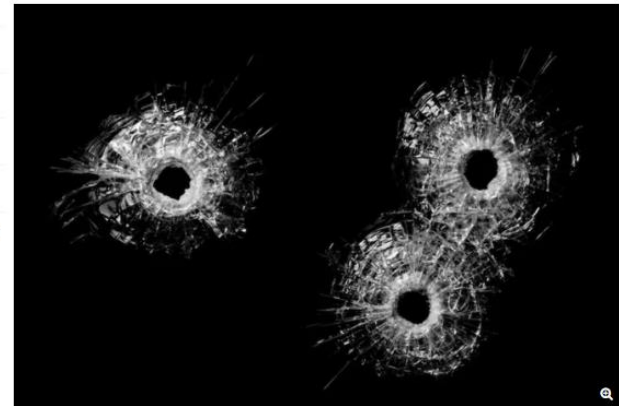
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MORE ▾



Bullet holes in glass.

Credit: Sascha Burkard, Shutterstock

# Significance of research

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- 1) A more risk-based approach to regulation may help to:
  - Identify practitioners in need of support
  - Avert “careers of misconduct”
  - Protect the public from harm

# Where next?

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- 1) Continue to update and learn from national dataset – power of studies increases each year
- 2) Join the puzzle pieces to improve our ability to predict risk through data linkage
- 3) Understand the experience of practitioners and notifiers



Questions and comments?

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