



ABSTRACT

'The proposed "opt-out" system for national registration undermines the foundations of patient and community safety'

NCAU SUBMISSION

SENATE LEGAL & CONSTITUTIONAL AFFAIRS STANDING COMMITTEE

The establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety.

January 2016



TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY	3
2.	THE NATIONAL COUNCIL OF AMBULANCE UNIONS	4
3.	THE PROPOSED “OPT-OUT” SYSTEM OF PARAMEDIC NATIONAL REGISTRATION	5
4.	TERMS OF REFERENCE	8
	THE ROLE AND CONTRIBUTION MADE BY AUSTRALIAN PARAMEDICS	8
	COMPARATIVE FRAMEWORKS FOR REGULATING DOCTORS; REGISTERED NURSES AND PARAMEDICS	8
	COMPARATIVE DUTIES OF DOCTORS; REGISTERED NURSES AND PARAMEDICS	9
	A NATIONAL SYTEM OF ACCREDITATION UNDER THE AHPRA	9
	THE VIABILITY AND APPROPRIATENESS OF A NATIONAL REGISTER TO UNDERPIN PROFESSIONAL MOBILITY	10
5.	RECOMENDATIONS	11
6.	REFERENCES	12

1. EXECUTIVE SUMMARY.

In November 2015, the *COAG Health Council* issued the following communique:

Options for national registration of the paramedic profession

Health Ministers discussed options for the registration of paramedics and, on a majority vote, the meeting agreed to move towards a national registration of paramedics to be included in the National Registration Accreditation Scheme with only those jurisdictions that wish to register paramedics adopting the necessary amendments. Ministers agreed that work would need to come back to AHMAC for consideration. This would include the consideration of implementation of the recommendations of the NRAS Review, resolution of the scope of the paramedic workforce and the development of vocational as well as tertiary pathways. It was noted that NSW will reserve its right to participate. The Commonwealth dissented from the decisions as it is not consistent with the principles of the NRAS as a national regulatory reform

COAG Health Council Communique 6/11/2015.

The *National Council of Ambulance Unions* (NCAU) has been campaigning for the national registration of paramedics as part of the *National Registration and Accreditation Scheme* (NRAS) since its inception in 2008 and as such, welcomed this communiqué. The NCAU however is extremely concerned with provisions that allow “*only those jurisdictions that wish to register paramedics adopting the necessary amendments*” included in the communiqué. It appears that the NSW government is considering this option based on recent feedback.

In July 2012, the *Australian Health Ministers Advisory Council* (AHMAC) released the consultation paper: *Options for Regulation of Paramedics*. This paper posed 4 alternatives:

Option 1: No change to existing practice – rely on current regulatory and non regulatory mechanisms and a voluntary Code of Practice.

Option 2: Strengthen statutory health complaint mechanisms – statutory code of conduct and powers to prohibit those who breach the code from continuing to provide health services.

Option 3: Strengthen State and Territory regulation of paramedics

Option 4: Registration of paramedics through the national scheme

Consultation Paper: Options for Regulation of Paramedics (AHMAC) pp.59-60 July 2012

The overwhelming consensus of respondents to this paper, including NCAU, argued that Option 4 was the only option that adequately safeguarded patient and community safety as part of a consistent national framework.

NCAU firmly believes that the November 2015 communiqué effectively paves the way for an “opt out” registration scheme. ***NCAU strongly asserts that this proposed “opt-out” system for national registration undermines the foundations of patient and community safety.***

NCAU notes that all state and territory governments, with the exception of NSW, appear to endorse and are moving towards registering paramedics under the NRAS. Indeed, the Victorian Government, supported by the Queensland Government, has taken on the lead agency role in scoping and further developing a policy frame to enable this change to occur. We applaud their vision and foresight.

This submission will detail to the *Senate Legal & Constitutional Affairs Standing Committee* why the proposed “opt out” system of registration is a serious threat to public and community safety.

Key Recommendation:

NCAU urges the *Standing Committee* to find that all states and territory governments ***must*** progress paramedic registration under the NRAS in order to ensure public and community safety.

2. THE NATIONAL COUNCIL OF AMBULANCE UNIONS

- The NCAU was formed in 2008 by all of the registered unions representing paramedics in Australian States and Territories. Our constituent unions are the *Health and Community Services Union*, representing Tasmanian paramedics; *United Voice* (formerly LHMU) representing paramedics in Queensland, Western Australia, Northern Territory and Victoria (AEA); the *Transport Workers Union* representing paramedics from the ACT; the *Health Services Union*, representing NSW paramedics; and the *Ambulance Employees Association*, representing South Australian paramedics
- Currently the NCAU is advised by its constituent unions that they represent approximately 10,000 paramedics working across all Australian States and Territories.
- The NCAU was created, inter alia, to foster the interests of members on matters of national importance, to facilitate and coordinate campaigns on matters of national importance, to develop policy on agreed matters of national interest for paramedics and to make representations to governments and other organizations that are in the best interests of its members.
- A desire for national registration, professional recognition and a transparent system of national regulation was a founding issue for members of the NCAU.
- The achievement of National Registration and Regulation under the NRAS has been re-confirmed as the NCAU's main priority at each Annual Conference since our inception in 2008.
- NCAU's rationale for supporting paramedic registration is based on the following issues of importance or our members:
 - *Patient and community safety*
 - *Flexibility of employment and portability of qualifications*
 - *Consistent and transparent handling of complaints and fitness to practice issues*
 - *Protection of 'Registered Paramedic' title*

'About Paramedic Regulation' NCAU p. 5 July 2012

Paramedic members of NCAU generally operate in a totally unsupervised environment, often undertaking high risk interventions and making life and death decisions on a regular basis. The environment in which paramedics work is rapidly changing. Pre-employment tertiary qualifications are becoming mandatory. More paramedics are working in the private sector, outside of traditional state based employment models. The scope and complexity of clinical and pharmacological interventions is rapidly evolving. Technological change is impacting on work practices. Paramedics are now commonly referring patients to alternate clinical pathways.

The breadth and complexity of these change in the dynamic pre-hospital environment is steadily increasing the risk of harm to patients and the community. The danger of an "opt out" system of national registration is that it is not a *national* system at all. NCAU's concerns regarding the inherent dangers of such an inconsistent system of regulation to patient and community safety are detailed in the following sections.

3. THE PROPOSED “OPT OUT” SYSTEM OF PARAMEDIC REGISTRATION.

3.1 The original Objectives of Government Action.

To fully appreciate the dangers posed by an “opt out” system of paramedic registration, *Standing Committee* members should consider the original objectives of proposed regulation of paramedics. The objective of government action was to ensure

- *Effective and efficient quality assurance systems for delivery of paramedic services and*
- *To protect the public and the community from harm from paramedics who breach their professional and legal obligations in respect of their fitness to practice.*

Consultation Paper: Options for Regulation of Paramedics (AHMAC) p57 July 2012

More succinctly, the objective of national regulation and registration should guarantee **safe clinicians** and **safe systems** in which these clinicians can work.

3.2 Risk minimisation and National Regulation

It is rare that the majority of employer, employee and professional bodies support a move to **more** regulation. This was widely evident in the response to the original *Options Paper. Paramedics Australasia (PA)*, the peak national professional body for paramedics looked at national regulation and registration in terms of risk reduction factors. They endorsed registration under the NRAS as their preferred option because it:

1. *Provided a publically accessible and reported independent complaints mechanism*
2. *Ensured only those who meet approved educational and practitioner standards can use the title paramedic*
3. *Prevents paramedics with fitness to practice issues from moving from job to job without oversight or restriction*
4. *Makes checks on qualifications, probity and criminal history a condition of practice*
5. *Enforces compulsory accreditation of training and education programs*
6. *Covers all paramedics regardless of where they choose to work*
7. *Covers all employers of paramedics*

Public Risk and Paramedic Regulation, p2, Paramedics Australasia, 2012

Sadly, NCAU strongly asserts that an “opt out” system of regulation magnifies these risks. If NSW chooses **not** to participate in the national scheme it follows that patients and the community

- *Won't have access to a single consistent independent complaints mechanism which applies across state and territory boundaries*
- *Have no assurance that only those who meet approved educational and practitioner standards can use the title paramedic*
- *Could be treated by a paramedic with fitness to practice issues because they have moved from job to job without oversight or restriction*
- *Could be treated by a paramedic with no checks on qualifications, probity or criminal history*
- *Could be treated by a paramedic with qualifications from a non-accredited training or education program*

Wide ranging examples of these events and there often catastrophic consequences for patients and communities happening under the current un-regulated regime were provided by numerous

respondents to the original *Options Paper*. Indeed, a major catalyst for the original move to register paramedics under a national scheme were four deaths arising from inadequate ambulance responses in WA as reported in the ABC 4 Corners program “*Out of Time*” in 2009.

3.3 Private providers of paramedic services.

A further escalating risk that an “opt out” system will magnify is that it won’t cover all employers of paramedics. This is a serious concern when *Standing Committee* members consider that NSW Ambulance is the biggest employer of paramedics nationally and one of the biggest in the world. What is more concerning for NCAU and its constituents is that private providers in this jurisdiction will also be free to choose what level of self-regulation is appropriate. *Standing Committee* members again only have to examine examples provided by numerous respondents to the original *Options Paper* to appreciate the dangers posed by self-regulated organisations.

NCAU believes that the majority of large established private sector suppliers of paramedic services want and support regulation under the NRAS for this reason. Many of these providers employ paramedics in the energy sector or for contracted short term overseas deployments – both of which require compliance with ISO standards. Unregulated systems provide loopholes for less professional entities that could significantly endanger patient and community safety in the long term, as well undercutting responsible entities, threatening their commercial viability.

3.4 Recent Consequences of an “Opt Out” System

The NSW government convened a meeting of stakeholders in Sydney in late 2015 to discuss proposed *Protection of Title* legislation. A key topic of discussion, in the absence of their support for paramedic inclusion in the NRAS, was how to define a paramedic and what educational standards, qualifications and continuing professional development was required to maintain currency as a paramedic. Several private entities present strongly opposed moves to mandate annual certification and training in core skills, including resuscitation, as well as mandatory tertiary qualifications. NSW Health, representing the NSW Government, did not pursue this issue as a minimum requirement, reportedly to the dismay of more professional private providers of paramedic services present at the meeting.

Pers. Corr. with NCAU affiliates present in the Meeting, November 2015.

This recent example encapsulates how an “opt out” system will significantly undermine national regulation:

- *There will be no nationally consistent definition of “paramedic”, undermining protection of title, giving patients and the community no assurance of quality.*
- *There will be no nationally consistent continuing professional development provisions applying across the public and private sector employers of paramedics.*
- *There will be no nationally consistent approach to ensuring practitioners with approved educational and practitioner standards are employed.*
- *This example demonstrably details the insurmountable conflict of interest when public and private sectors both employ AND regulate.*

3.5 Conclusion.

The 2015 review of the *National Registration and Accreditation System (NRAS)*, endorsed by the *COAG Health Council*, concluded that the NRAS had made a number of significant achievements, including:

- i. *Ensuring that the community can have confidence that health professionals providing treatment and care in Australia meet a national standard based on safe practice.*
- ii. *Improving protection to the health system by ensuring that any health practitioner who has been found to have committed misconduct can no longer practice in other states or territories.*

Communique, Independent Review of the NRAS for Health Professions, COAG Health Council 7/8/15

It is ironic that the proposed “opt out” system of national regulation for paramedics will significantly undermine these two independently reviewed strengths of the current NRAS. NCAU is disappointed with this situation and the inevitable impact on patient and community safety that will ensue.

4. TERMS OF REFERENCE

i. THE ROLE AND CONTRIBUTION MADE BY AUSTRALIAN PARAMEDICS

NCAU estimates there are currently in excess of 15,000 paramedics operating across Australia, although actual numbers cannot be quantified due no agreed definition of what a paramedic is.

PA estimates in excess of 35% of all paramedics are employed outside of “traditional” state and territory government agencies; that the ADF is the fourth largest employer of paramedics and that there are in excess of 122 permanent private sector employers of paramedics in Australia, many of whom operate across state and territory boundaries, some of whom deploy internationally.

Out of hospital care is often provided in dangerous and uncontrolled settings. Paramedics typically work alone or in small teams with no direct supervision. Invasive procedures and administration of scheduled and other drugs are implemented on a regular basis. Paramedics in government based employment are increasingly likely to refer patients to primary healthcare pathways, avoiding Emergency Department presentations, as the role of paramedics diversify. Increasingly routine administration of anti-thrombolytic drugs to heart attack victims in the pre-hospital setting is demonstrably increasing survival rates as well as decreasing lengthy hospital admissions. In the private sector, paramedics provide everything from first aid, to medical support at major sporting and cultural events to site safety roles at mines and energy sector locations. An increasing number of Australian paramedics participate in short term deployments to civil, humanitarian and government agency projects in overseas locations.

ii. COMPARATIVE FRAMEWORKS FOR REGULATING DOCTORS; REGISTERED NURSES AND PARAMEDICS

Medical practitioners and registered nurses have been regulated by the NRAS since 2010 when the national scheme was introduced. Prior to that both groups had state and territory based registration.

Currently, state and territory ambulance service based paramedics, as well as privately employed paramedics are not registered. Employers are self-regulating. Unlike in the medical and nursing professions:

- *There is no nationally consistent complaint and data handling system. Data handling and reporting of clinical incidents is highly variable across jurisdictions.*
- *There is wide variability and diversity in the scope of practice of paramedics, with scope determined by the employer.*
- *There is a wide variability in paramedic education and training arrangements, with no compulsory national standards for accreditation of education and training.*
- *There are no mechanisms to prevent paramedics with significant health, conduct or performance issues from moving from one employer/jurisdiction to another and continue to work as a paramedic.*

These are documented and acknowledged deficiencies that currently exist.

Consultation Paper: Options for Regulation of Paramedics (AHMAC) p27 July 2012

This has resulted in the actual cases of harm and patient and community safety issues highlighted by numerous respondents to the original *Options Paper*.

iii. COMPARATIVE DUTIES OF DOCTORS; REGISTERED NURSES AND PARAMEDICS

NCAU asserts that this comparison is best made in terms of the risk associated with the day to day practice of the three professions including:

- *invasive procedures;*
- *administering scheduled drugs;*
- *working away from supervision; and*
- *providing complex and critical clinical assessments and care; and*

What often sets paramedic practice apart is that risks are magnified in the out of hospital environment. For example, the risks associated with cannulating a patient, performing procedures such as maintaining an airway and administering schedule drugs are greater when performed upside down in a badly lit, noisy, wet motor vehicle when it is raining and time is critical as opposed to a more conventional clinic or hospital environment.

Like medical practitioners, (but not nurses), paramedics perform these duties without supervision using clinical practice guidelines based on clinical judgement.

NCAU notes that the AHMAC 2009 *Regulatory Impact Statement for the Decision to Implement the Health Practitioner Regulation National Law* at p.116 has highlighted 13 risk factors identified and used to determine whether a particular profession posed a risk to the public and therefore ought to be considered for national registration and regulation. The *Consultation Paper* at p.35 notes that

"Paramedics currently meet a greater number of risk factors than 10 of the 14 health professions registered under the national scheme".

The NCAU believes that objectively utilising the risk factors listed in table 9 of the same document that paramedics actually experience more risk factors than 12 of the 14 professions already registered under the NRAS. That significant risk potential exists in paramedic practice is not disputed. NCAU asserts an "opt out" system of national regulation magnifies these risks and the inherent likelihood of actual harm to patients and the community occurring.

iv. A NATIONAL SYSTEM OF ACCREDITATION UNDER THE AHPRA

NCAU is completely supportive of all of the original arguments that led to the introduction of a NRAS:

- Provide for the protection of the public by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered and that practitioners have the skills and competencies to meet the health needs of the Australian community;
- Ensure that the process of assessment of courses and qualifications is undertaken independently from government, health professional educators and the profession;
- Have regard to the need to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and enable innovation in education and service delivery;
- Ensure the provision of an accreditation system for the health professions that is transparent, accountable, rigorous, effective, efficient, and fair;

- Provide rigorous and responsive assessment of overseas trained practitioners that protects the public by ensuring practitioners meet appropriate standards.

Regulatory Impact Statement for the Decision to Implement the Health Practitioner Regulation National Law, p16, AHMAC, September 2009

Again, NCAU asserts that many of these benefits will be lost if an “opt in” process of national registration is progressed for the paramedic profession.

v. THE VIABILITY AND APPROPRIATENESS OF A NATIONAL REGISTER TO UNDERPIN PROFESSIONAL MOBILITY

NCAU believes that a national register under the auspices of the NRAS is absolutely viable and appropriate to underpin professional mobility.

In January 2006, the *Australian Government Productivity Commission* released a research report titled *Australia's Health Workforce*. The report presented the findings of the commissioned study, *Health Workforce*, which examined issues impacting on the health workforce, including supply and demand for health professionals, and proposed solutions to ensure the continued delivery of quality healthcare over the next 10 years.

As the population ages the impact of health professionals such as paramedics not being able to work easily and without impediment across jurisdictions to meet demand will be magnified

The Commission's recommendations were intended to create a more sustainable and responsive health workforce. It was in this context that the creation of national registration and accreditation arrangements for health practitioners and health practitioner education and training was first recommended.

Portability of qualifications and cross jurisdictional professional recognition have been central to NCAU's support for national regulation and registration under the NRAS. NCAU is confident eventual inclusion of paramedics under the aegis of the NRAS will facilitate greater flexibility of employment options and portability of qualifications for all of our constituent members.

5. CONCLUSION AND RECOMENDATIONS

When the *Senate Legal & Constitutional Affairs Standing Committee* initiated this inquiry into the establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety, the November 2015 COAG communique had not been released.

Many surmised that the *Standing Committee's* inquiry was redundant, given that an apparent joint position on moving to a national scheme had been agreed. The "opt out" detail of the November communique soon became apparent.

The *Standing Committee* has a vital role to play in what NCAU hopes are the final moves towards a truly national registration system for Australian paramedics.

The "opt out" system is "second best" system of regulation. It would place paramedics in the same situation the medical and nursing professions were in prior to the introduction of the NRAS in 2010. It seems counter intuitive, to say the least, to regulate paramedics using a system that was considered so flawed that the NRAS was introduced to replace it in 2010. The argument in favour of the NRAS has been put and won. Its strength lies in the fact that it enforces a single uniformed nationwide regulatory framework for each of the registered professions.

To NCAU, ***an "opt out" system of regulation institutionalises the risk to patients and the public that was meant to be removed with the NRAS's introduction.***

It would be inconceivable that a hospital or local health service , employing over 13,000 health professionals, attending to more than 4 million incidents a year, would allow 3000 of those professionals to choose for themselves if they would need to be bound by an identical set of quality constraints/requirements to have accredited qualifications/impairment provisions and complaints handling processes to the rest of their colleagues. Yet this is effectively what is being proposed with the "opt out" system of paramedic regulation.

Over 4 million incidents are year are attended by Australian Paramedics. This caseload is steadily increasing as the population ages. Private sector providers are proliferating and are subject to no transparent regulation at present. Casual and intermittent models of employment are increasing. There is an increasing variability in training and education standards. University undergraduate programs are expanding exponentially with many not having fully accredited courses under current voluntary accreditation arrangements. Even more worryingly as numbers of enrolments continue to expand, arrangements for clinical placements cannot keep up with demand.

Many of these significant can only be managed by the introduction of a truly nationwide system of registration and regulation.

NCAU urges the *Standing Committee* to carefully consider the facts and arguments posed in this paper. Patient and community safety must be guaranteed.

Key Recommendation:

NCAU urges the *Standing Committee* to find that all states and territory governments ***must*** progress paramedic registration under the NRAS in order to ensure public and community safety.

6. REFERENCES

Australian Health Ministers' Advisory Council (AHMAC), *Consultation paper "Options for regulation of paramedics"*; July 2012, Health Workforce Principal Committee.

Australian Health Ministers' Advisory Council (AHMAC), *Regulatory Impact Statement for the Decision to Implement the Health Practitioner Regulation National Law*, September 2009

Communique, *Independent Review of the NRAS for Health Professions*, COAG Health Council 7/8/2015

Communique, COAG Health Council, *Options for national registration of the paramedic profession*; 6/11/2015.

National Council of Ambulance Unions (NCAU), *'About Paramedic Regulation'*, July 2012