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Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Dear Committee Members

RE THE ESTABLISHMENT OF A NATIONAL REGISTRATION SYSTEM FOR AUSTRALIAN PARAMEDICS TO IMPROVE AND ENSURE PATIENT AND COMMUNITY SAFETY

This submission supports the establishment of a national registration system for Australian paramedics and argues that the Australian Health Practitioners Regulation Agency is the appropriate body to maintain the national paramedic register.

It is argued that paramedic registration is required to protect consumers[1] given the high-risk nature of paramedic practice and to facilitate the expanded practice of paramedicine beyond the traditional state and territory based ambulance services. It is further argued that registration is necessary, given the growth in paramedic training degrees and therefore the growth in qualified paramedics, to provide pathways for seamless and unrestricted movement across the country for employment purposes.

Consumer protection - the High Risk nature of paramedic practice
The 2012 *Consultation paper: Options for regulation of paramedics* said:[2]

> The AHMAC 2009 Regulatory Impact Statement for the Decision to Implement the Health Practitioner Regulation National Law (p. 116) specifies 13 risk factors which were identified to evaluate whether a profession posed a risk to the public:
> 1. Putting an instrument, hand or finger into a body cavity.
> 2. Manipulation of the spine.
> 3. Application of a hazardous form of energy or radiation.
> 4. Procedures below the dermis, mucous membrane, in or below surface of cornea or teeth.
> 5. Prescribing a scheduled drug, supplying a scheduled drug (includes compounding), supervising that part of a pharmacy that dispenses scheduled drugs.
> 6. Administering a scheduled drug or substance by injection.
> 7. Supplying substances for ingestion.
> 8. Managing labour or delivering a baby.
> 9. Undertaking psychological interventions to treat serious disorders with potential for harm.
> 10. Setting or casting a fracture of a bone or reducing dislocation of a joint.
> 11. Primary care practitioners who see patients with or without a referral from a registered practitioner.

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1 'Consumers' is used, rather than patients, as it is not only those that receive direct care who depend on paramedics. In particular agencies that contract with paramedic services to provide on site emergency medical care are also 'consumers'.

2 Department of Health, Western Australia, *Consultation paper: Options for regulation of paramedics* (Health Workforce Principal Committee for the Australian Health Ministers' Advisory Council, 2012), 34.

12. Treatment commonly occurs without others present.
13. Patients commonly require to disrobe

The options paper identified that paramedic practice involved nine of the 13 high-risk activities[3] and that this meant that 'paramedics currently meet a greater number of risk factors than ten of the 14 health professions registered under the National Scheme'.[4]

It could be argued that paramedic practice actually involves more than the nine identified in the *Options Paper.* Paramedics also 'prescribe' and 'supply' scheduled drugs as they have to decide, in accordance with their Clinical Practice Guidelines or Protocols, what condition a patient is suffering from and then administer scheduled drugs to treat that injury or illness and they do that without direct supervision of a medical practitioner. Paramedics also 'set' fractures, albeit temporarily, when they apply appropriate slings and splints. Regardless of the exact interpretation it is clear that paramedic practice does involve areas of practice that are considered relevant indicia for national registration and they do it in extreme circumstances and without direct medical supervision.

These risks may be adequately managed where paramedics are employed solely by state or territory ambulance services. In those circumstances the ability to regulate paramedic practice, to determine paramedic training and scope of practice and to re-train, counsel, discipline and ultimately dismiss a paramedic lies with the state authority. If state ambulance services were the only employers of paramedics, dismissal from the state service would effectively bar a sub-standard paramedic practitioner from the profession and remove any further risk to patients.

Further, where paramedic services are provided only by state ambulance services, patients do not have the option to 'chose' their paramedic. This is unlike other registered health professionals such as doctors, chiropractors, optometrists etc. When seeking out a doctor or other registered health professional, a health consumer has little information that they can rely to determine the quality or competence of the practitioner. The fact that they are registered in good standing gives some confidence that any practitioner has met minimum standards of training and currency. Access to public records that give a practitioner's complaints history and limitations, restrictions or expanded authority related to their registration will also help inform consumers as to the quality of the practitioner. A consumer who is dissatisfied with the level of care they receive can be confident that there is an independent complaints system in place to investigate any allegations of unsatisfactory professional conduct and to take actions to remedy any deficiency in the practitioners conduct. In extreme cases a registered practitioner can be 'struck off' removing any future risk to patients.

Where a person calls 'triple zero' and asks for paramedic assistance they have no choice in either the ambulance provider or the paramedic that responds to their call. With the exception of Western Australia and the Northern Territory the ambulance that responds to a triple zero emergency call will be the ambulance service operated by the State or Territory government and the paramedic will be employed by, or a volunteer with, that service. In Western Australia and the Northern Territory emergency ambulance services are provided exclusively by St John Ambulance Australia under contractual arrangements with the state and territory respectively. In any case, the patient has no choice. Because emergency ambulance services are provided directly by the state or territory there are opportunities to raise complaints about ambulance or paramedic performance under the states health care complaints mechanism. If that was the extent of paramedic practice registration may not be necessary.

Paramedic practice is however growing and the 'consumer' is not just the person who might need emergency health care assistance. Writing in 2012, Bendall and I said 'In addition to the State and Territory provided ambulance services there is a growing private prehospital care industry. This private sector is very heterogeneous with levels of services ranging from first aid to intensive care paramedic services'.[5]

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3 Ibid 37.

4 Ibid 35.

5 Michael Eburn and Jason Bendall, 'The provision of Ambulance Services in Australia: a legal argument for the national registration of paramedics' (2012) 8(4) *Australasian Journal of Paramedicine* Art. 4, 2.

According to Paramedics Australasia '122 private sector employers of paramedic staff were identified in 2012'.[6] Private providers may not provide an emergency response to people who call triple zero, but they are providing emergency response services at workplaces such as remote mines and at public events. In 2012 the NSW Department of Health advised that no approvals had been granted to allow private ambulance operators as required by the *Health Services Act 1997* (NSW) s 67E but even so it was clear that there were a number of private providers competing in the market place.[7] In the Australian Capital Territory four agencies are approved to provide ambulance services at public events.[8]

In Western Australia and the Northern Territory there is no ambulance legislation so anyone could set up a business and claim to be providing paramedic services. There are no standards that are to be applied nor any regulatory supervision. A person who claimed to provide 'paramedic' services but who did not have trained 'paramedics' may be in breach of the Australian Consumer Law if their conduct was 'misleading or deceptive'[9] but that would provide little protection to patients who received sub-standard care.

A Western Australia coroner has recommended registration of paramedics. In the inquest into the death of Gemma Geraldine Thoms, who died at 'the Big Day Out' in Perth on 2 February 2009, Coroner Mulligan said:

> Whilst I have referred to these paramedics as paramedics, it is important to appreciate that there is no definition in Western Australia as to what a paramedic is or what qualifications or experience a paramedic needs to have before he or she can properly be referred to as a paramedic.
>
> The paramedics supplied by the owners of the Big Day Out, had no powers under Schedule 8 of the Poisons Act 1964 to dispense medications and there was no guarantee that their qualifications or expertise met the standard legitimately expected by the Western Australian public, of those who use that title and who respond to emergencies in our State.[10]

The Coroner reviewed the medical arrangements for the 2013 Big Day Out and was impressed by the higher level of care, the use of paramedics, nurses and doctors as part of the St John Ambulance response and the cooperation between the employed, event paramedics and the St John team. He noted that under 2009 Guidelines issued by the Department of Health on the preparations for events such as the Big Day Out there was a requirement to have paramedics on scene, but he noted that there is no definition of what is a paramedic or what qualifications a paramedic may have. He said:

> In my opinion, there needs to be a State based definition as to what a paramedic is, so that organisers of events such as the Big Day Out, together with the general public, can have confidence in the abilities of those who are protecting their medical interests at large scale public events.[11]

Coroner Mulligan recommended that

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6 https://www.paramedics.org/advocacy/registration/the-case-for-national-registration-for-paramedics/ (accessed 26 January 2016)..

7 Eburn and Bendall, above n. 5, 5.

8 *Emergencies (Service Provider) Approval 2015 (No 1)* (St John Ambulance Australia (ACT)); *Emergencies (Service Provider) Approval 2015 (No 4)* (First Aid Australia Pty Ltd trading as Ambulance Service Australia); *Emergencies (Service Provider) Approval 2015 (No 5)* (Jason John Preston, trading as First Aid Services) and *Emergencies (Service Provider) Approval 2015 (No 9)* (State Medical Assistance Pty Ltd trading as State Medical Assistance)

9 *Competition and Consumer Act 2010* (Cth); Schedule 2 - Australian Consumer Law, cl 18.

10 Coroners Court of Western Australia, *Record of Investigation into Death Ref No: 2/13*, 29 January 2013 <http://www.coronerscourt.wa.gov.au/_files/Thoms_finding.pdf> (accessed 28 January 2016)> [195]-[196].

11 Ibid [260].

> … the Director General of Health consider creating a definition of 'paramedic' and that he considers a form of registration that will ensure that only appropriately qualified people are entitled to use the title of paramedic and to be able to practise in Western Australia as a paramedic.[12]

Event organisers have to take increasingly rigorous risk assessment and have in place plans to deal with emergencies, ranging from isolated events of sudden illness or accident affecting just one person to mass casualty events. To deal with these emergencies they will call upon organisations that claim to provide expertise in emergency health management and who may claim to provide paramedics. In the absence of national registration, it is impossible for an organiser to know what skills each 'paramedic' has, their scope of practice or their fitness to practice as a paramedic. With the growing private sector ambulance community, it is essential, for the protection of all consumers (not just patients) that a scheme exists to set standards so that those who engage, or are treated by, a person who calls themselves a 'paramedic' can be confident in their skills and standing.

Paramedic registration for for seamless and unrestricted movement across the country for employment purposes.

According to the Australian Government's *Job Outlook* over 'the five years to November 2019, the number of job openings for Ambulance Officers and Paramedics is expected to be low (equal to or less than 5,000)'.[13] Even so the Council of Ambulance Authorities ('the CAA') has accredited 10 University programs as meeting the requirements for employment as a paramedic. Six programs have Provisional Accreditation, four have Preliminary Accreditation Approval and two are subject to Evaluation for Provisional Accreditation. Further, the 'CAA acknowledges that a number of other Vocational Education and Training (VET) providers also offer Certificate and Diploma level courses in paramedic studies'.[14] The number of students graduating from universities and VET providers will inevitably exceed the number that can be employed by the state and territory ambulance services (including St John Ambulance in Western Australia and the Northern Territory).

Without national registration, those taking out paramedic qualifications are in fact graduating with a degree or diploma that is of little value as they won't be able to practice their chosen profession. A critical issue for paramedic practice is the lawful authority to possess and supply restricted drugs or poisons. Drugs that are listed in schedules 2, 3, 4 or 8 of the Poisons Standard[15] are used in paramedic practice. In each state and territory, it is an offence to obtain or supply those restricted drugs without specific lawful authority. For paramedics that authority is granted to their employer, rather than to the paramedic because of his or her standing as a paramedic. For example, in Tasmania '… a volunteer ambulance officer, an ambulance officer, a paramedic or an interstate ambulance officer' may supply relevant scheduled drugs. An ambulance officer is 'an officer of the Ambulance Service as defined in the *Ambulance Service Act 1982*'[16] and a 'paramedic' is a suitably qualified member of Ambulance Tasmania.[17] In Victoria an 'operational staff member' of an ambulance service may be in possession of the Schedule 4 and Schedule 8 drugs listed in the permit issued to the ambulance service.[18] In NSW the authority to use scheduled drugs is given to employees of the ambulance service who are appropriately endorsed by the Director-General of Health.[19]

Even though paramedics have completed three or more years of training, their ability to practice their profession is tied to the authority of their employer, primarily state and territory based ambulance services. Private employers may also have authorities under relevant state legislation to allow their employees to

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12 Ibid Recommendation 2.

13 http://joboutlook.gov.au/occupation.aspx?code=4111&search=alpha&Tab=prospects (accessed 26 January 2016).

14 http://caa.net.au/paramedic-education/accredited-courses (accessed 26 January 2016).

15 *Poisons Standard October 2015*, https://www.comlaw.gov.au/Details/F2015L01534 (accessed 26 January 2016).

16 *Poisons Act 1971* (Tas) s 3.

17 *Ambulance Service Act 1982* (Tas) s 3AB.

18 *Drugs, Poisons and Controlled Substances Regulations 2006* (Vic) r 5.

19 *Poisons and Therapeutic Goods Regulation 2008* (NSW) cl 101 (with respect to Schedule 8 drugs) and cl 129 and Appendix C (with respect to Schedule 2, 3 and 4 drugs).

possess and use drugs but it is still the case that the authority does not belong to the paramedic. Compare this to registered medical and dental practitioners who are authorised, upon registration, to access the therapeutic drugs required for the competent practice of their profession.

Because the term paramedic is largely undefined and unprotected (except in Tasmania, South Australia and New South Wales, an issue to which I will return, later) what is a paramedics scope of practice and what skills a paramedic has, are undefined. As discussed, above, the CAA has noted that there are VET providers offering Certificate and Diploma level courses in paramedic studies but while 'these courses may have been developed to meet select third party employer needs, they a re not recognised by CAA member jurisdictions for the purposes of employment as an entry-level paramedic'.[20] That these qualifications are not recognised by the CAA (which represents the state and territory ambulance services) they may be recognised by private employers and people who have a Diploma in Paramedicine will no doubt expect to be able to call themselves a 'paramedic' and to be able to practice the profession for which they have trained.

A paramedic's authority to practice is no more than their current job description or the tasks that the employer determines that they are to do. There is no standard that defines the scope of a paramedic's role or the tasks he or she should be able to complete as a minimum. The closest is the CAA accreditation of tertiary courses but that is not binding on private employers.

The difficulty this poses for paramedics is that, when they leave an employer they lose their right to practice to the extent that right requires lawful authority (eg an authority to use scheduled drugs). If they wish to move to another employer, they are unable to point to a defined standard to satisfy their new employer that they are qualified and competent to do the tasks that they are employed to do.

If paramedics, like other health professionals, were registered they would be able to point to their status as a 'registered paramedic' to confirm their standing and their competency in the skills, attributes and learning required of a registered paramedic. If the authority to use and carry relevant drugs was personal, that is belonged to them as registered paramedics, they could carry that authority between employers.

Further if paramedics were registered health professionals there is no doubt that they would find opportunities to expand their practice for the benefit of the community. Medical practices, hospitals and communities may all look to find ways to employ paramedics to provide extended care. Paramedics could work in hospital emergency departments perhaps in rural communities to provide expert resuscitation freeing up medical practitioners to look to diagnosis and transfer to chronic care; communities may employ paramedics to provide out of hospital care in a variety of circumstances. Private ambulance services may arise where companies may contract private providers to provide emergency care at the workplace freeing up state ambulance resources to deal with other emergency cases. What paramedics could do and how they could contribute to community health would be limited only by their imagination, and not, as is currently the case, the need to be employed by a particular agency and in particular state and territory based ambulance services.

State based registration not be sufficient

To some extent these issues could be addressed by state based registration (such as that proposed by Victoria with the *Paramedics Registration Bill 2014* (Vic)). Even state based registration could facilitate interstate movement. If paramedics were registered on a state and territory basis they would be able to rely on the *Mutual Recognition Act 1992* (Cth). According to section 17:

> … a person who is registered in the first State for an occupation is, by this Act, entitled after notifying the local registration authority of the second State for the equivalent occupation:
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> (a) to be registered in the second State for the equivalent occupation; and
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> (b) pending such registration, to carry on the equivalent occupation in the second State.

If paramedics were registered on a state-by-state basis a paramedic registered in one state could apply to be registered in another state in order to carry on their profession. This is however more complex than national registration. It requires multiple applications and could require paramedics to maintain registration in more than

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[20] Above n 14.

one jurisdiction. No doubt differences would develop so issues as to 'equivalency' would arise. Further complications would arise if some states adopted registration and others did not. If the Victorian Bill passed into law, paramedics from outside Victoria could not rely on the *Mutual Recognition Act* as they would not be registered in their state (as no other state has, or is proposing state based registration). For the same reason paramedics in Victoria could not use the *Mutual Recognition Act* to facilitate inter-state movement as there are no equivalent 'local registration authority of the second State' to 'recognise' and give effect to the paramedic's Victorian registration.

These issues are not purely hypothetical. Already there are state based inconsistencies. For example, South Australia, Tasmania and New South Wales have moved to protect the title of 'paramedic'.[21] The prescribed qualifications to use the title 'paramedic' are not the same. Tasmania makes explicit provision to allow interstate paramedics to use the title paramedic whereas South Australia does not. The New South Wales legislation says that 'a person who is authorised under the legislation of another Australian jurisdiction to hold himself or herself out to be a paramedic' may also use the title in New South Wales but as noted here, there is no legislation to say who can call themselves a paramedic in either Queensland or Victoria so arguably paramedics from those states commit an offence (as they are not 'authorised under the legislation') when they cross the border into New South Wales.

As noted above, the Council of Ambulance Authorities, made up of the state and territory ambulance services including the Ambulance Service of NSW does not recognise vocational diplomas 'for the purposes of employment as an entry-level paramedic'. Even so, when the *Health Services Amendment (Paramedics) Act 2015 (NSW)* and the *Health Services Amendment (Paramedic Qualifications) Regulation 2015 (NSW)* come into force on 1 February 2016, a person holding 'a nationally-recognised Diploma of Paramedicine issued by a registered training organisation' will be entitled to use the term 'paramedic' in NSW, even though they would not be employed by NSW Ambulance.

What follows is that state based registration schemes could solve some issues but are likely to be inconsistent and would not facilitate seamless and unrestricted movement across the country for employment purposes. To achieve that objective, national registration is required.

The Australian Health Practitioners Regulation Agency is the appropriate body to maintain the national paramedic register.

If there is to be national registration the Australian Health Practitioners Regulation Agency (AHPRA) is the appropriate body to maintain the national paramedic register. AHPRA already maintains the register for 14 other health professions[22] and so has experience in maintaining and supporting professional boards and disciplinary processes. To develop another scheme would lead to unnecessary duplication and would set paramedics aside from other health professionals. This would be particularly complex for those that are both registered nurses (or other health professionals) and paramedics.

The objective of AHPRA is to ensure that 'health professions are regulated by nationally consistent legislation'[23] There is no reason why paramedics should not be brought under the same scheme. As argued above paramedics engage in many high risk practices. Patients and other consumers need to be assured that those that hold themselves out as paramedics are appropriately qualified and are fit and proper persons to continue in the practice.

The 'National Scheme facilitates a mobile health workforce while also protecting people who might use health services'.[24] With increased training requirements the professional standing of paramedics is

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21 *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA) s 120A; *Ambulance Service Act 1982* (Tas) ss 3AB and 39A; and *Health Services Act 1997* (NSW) s 67ZDA to be inserted by the *Health Services Amendment (Paramedics) Act 2015* on 1 February 2016.

22 Aboriginal and Torres Strait Islander Health; Chinese medicine, Chiropractic; Dental; Medical; Medical Radiation; Nursing and Midwifery; Occupational Therapy; Optometry; Osteopathy; Pharmacy; Physiotherapy; Podiatry and Psychology are all regulated by AHPRA.

23 http://www.ahpra.gov.au/About-AHPRA/Who-We-Are.aspx (accessed 26 January 2016).

24 http://www.ahpra.gov.au/About-AHPRA/What-We-Do.aspx (accessed 26 January 2016).

increasing and should be reflected by their national registration. National registration will recognise that paramedics have professional skills and knowledge by virtue of their training as paramedics, not by virtue of their employer or employment. As registered health professionals, graduates will be able to develop new ways of practice that will enhance the delivery of health care to the community and also allow paramedics freedom of movement as they will have skills and authority that can be carried with them as they move from employer to employer.

Further material in support
In support of the argument for national registration, I also submit, for the committee's consideration, two other papers that I have co-authored. They are:

- Michael Eburn and Jason Bendall, 'The provision of Ambulance Services in Australia: a legal argument for the national registration of paramedics' (2010) 8(4) *Australasian Journal of Paramedicine* Article 4; and
- Michael Eburn and Ruth Townsend, *Submission to the Australian Health Ministers Advisory Council's Consultation Paper: Options for regulation of paramedics*, 5 September 2012.

I thank the committee for the opportunity to make a submission and encourage the committee in its work. I trust that the committee's final report will further facilitate the move to national registration for paramedics.

Yours sincerely

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