Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
By email

Ruth Townsend
PhD Student
ANU College of Law
Australian National University
Canberra ACT 0200

Re: Inquiry into the establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety.

Dear Committee members,

I am writing to recommend that Australian paramedics be included in the national registration scheme.

In the attached submission, I provide some background and supporting information for the national registration for paramedics.

The key points are:

- Paramedics form a vital role in Australia's healthcare system. They are highly trained healthcare practitioners with high levels of skill. The Productivity Commission has recognised the important role paramedics can play in meeting Australia's health workforce needs.
- Paramedics and ambulance services are two distinctly different groups.
- The work paramedics do is inherently risky – they perform high risk interventions, in high risk conditions with high risk patients but are not registered in any State or Territory in Australia.
- There is currently no nationally uniform protection of the title of paramedic.
- There is an increasing number of paramedics working in an increasing number of private paramedic services. There is no easy way for the public to identify who is a suitably qualified paramedic and who is not.
- A way to protect the public and paramedics is to incorporate them into the National Regulation Scheme and have them registered with the Australian Health Practitioner Regulation Agency (AHPRA).
- Including paramedics in the national scheme will allow for the protection of title, the setting and accreditation of educational and professional standards of paramedics, the ability to sanction dangerous practitioners and provide support to impaired practitioners under a nationally consistent disciplinary scheme, facilitate safe movement of practitioners across state and international borders, and allow the public and employers to check the registration status of individual paramedics which provides further and better protection for the community than what is currently available.

Please do not hesitate to contact me if you would like me to explain any of these issues further.

Yours sincerely,

Ruth Townsend

BIOGRAPHY

I am PhD candidate at the Australian National University working on research that examines the regulation of paramedics in Australia.

I hold both a Bachelor and Master of Laws qualification, a Bachelor of Nursing, a Diploma of Paramedical Science (ASNSW) and other less relevant post-graduate qualifications.

I have worked as a registered nurse, a paramedic with the Ambulance Service of NSW and a solicitor in both public and private practice.

I have been a university lecturer since 2006 and have taught largely in the area of health law, ethics and professionalism in the School of Nursing at Charles Sturt University, the Australian National University's Medical School and the Australian National University's College of Law.

I have written and published in the area of health, law, ethics and professionalism including as both an author and editor of the text, 'Applied Paramedic Law and Ethics' (with co-editor Morgan Luck, Elsevier, 2013).

I, along with my colleague and PhD supervisor, Associate Professor Michael Eburn, have written about and presented on a range of paramedic-related topics in various industry publications and at a number of paramedic conferences. We also provided a submission to the Australian Health Ministers' Advisory Council's Consultation Paper: *Options for regulation of paramedics* which is available to view here https://law.anu.edu.au/sites/all/files/users/u4810180/2012_submission_to_the_australian_health_ministers_advisory_council.pdf

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

Submission to the Senate Legal and Constitutional Affairs Committee
29 January 2016

Ruth Townsend
Australian National University

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RECOMMENDATIONS

Recommendation: That paramedics be included in the national registration scheme administered by the Australian Health Practitioner Regulation Agency (AHPRA).

PART I – BACKGROUND

The Productivity Commission report into Australia's Health Workforce

In 2005, the Productivity Commission (PC) was requested by the Council of Australian Governments (COAG) and then Federal Treasurer, Peter Costello, to undertake a "broad, whole-of government perspective," in examining issues impacting on Australia's health workforce in the context of "the need for efficient and effective delivery of health services in an environment of demographic change, technological advances and rising health costs". The Commission was to consider "the supply of, and demand for, health workforce professionals," and to "propose solutions to ensure the continued delivery of quality health care over the next 10 years."[1] COAG requested that the Commission consider the health and education issues that apply to "the full range of health workforce professionals" and in particularly, the health workforce needs of rural areas. [2]

With regard to the term 'health workforce professional', the commission adopted an expansive definition saying,

> 'health workforce professional' defined to cover 'the entire health professional workforce', from a number of education and training backgrounds, including vocational, tertiary, post-tertiary and clinical. Without attempting to be exhaustive, examples of relevant occupations covered include: doctors, nurses, midwives, physiotherapists, podiatrists, pharmacists, psychologists, occupational therapists, dentists, radiographers, optometrists, Aboriginal Health Workers*, ambulance officers and paramedics*. Generally, people must be registered before they can practise in most of these occupations.[3]

It is interesting to note that of the 'professions' listed by the PC, paramedics/ambulance officers are the *only* practitioners who are not registered and that there is an association made between the terms 'professional' and 'registered'.

The PC was required, amongst other things, to "consider the institutional, regulatory and other factors across both the health and education sectors affecting the supply of health workforce professionals such as their entry, mobility and retention" which included, the relationships between health service planning and health workforce planning; the already existing cohesion across organisations and sectors in relation to health workforce education and training and appropriate accountability frameworks; workforce preparation through VET, undergraduate and postgraduate clinical training;

[1] Productivity Commission Report (2005) *Australia's Health Workforce*. pg iv
[2] Productivity Commission Report (2005) *Australia's Health Workforce*. pg v
[3] Productivity Commission Report (2005) *Australia's Health Workforce,* pg 2-3. (emphasis added)

net returns to individuals, professional mobility, skill portability and recognition, workforce satisfaction; and the scope of productivity enhancements that could be made to the health workforce sector.[4]

The final report of the Commission found that there had been some "considerable change and innovation in health workforce deployment across Australia in recent years" including the use of inter-disciplinary approaches to patient care. However, the evidence gathered by the Commission found that there was scope for further opportunities for health workforce innovation with a key recommendation that included undertaking further research on areas such as "broadening scopes of practice and more major job redesign"[5] because these areas had not been progressed or properly evaluated when attempted. The Commission said that a national advisory agency was required to be established to "identify, evaluate and facilitate nationally significant workforce innovations."[6]

Health Workforce Australia – Extending the role of paramedics

In November 2008, COAG established Health Workforce Australia (HWA) as the Commonwealth statutory authority recommended in the PC report and it has worked in conjunction with the Australian Health Ministers' Advisory Council (AHMAC). The agenda of the proposed agency was to include consideration of various workforce innovations including:-

- major job redesign such as the development of physician assistants, surgical care practitioners, rural health practitioners, nurse anaesthetists, medical assistants and **paramedic practitioners**.[7]

Health Workforce Australia was established to deliver "a national, coordinated approach to health workforce reform" in order "to address the challenges of providing a skilled, flexible and innovative health workforce that meets the needs of the Australian community."[8] The achievements of the agency since its inception include initiating a project to expand the scope of practice four health workforce groups – physiotherapists and nurses in the emergency department, advanced practice in endoscopy for nurses and extending the role of paramedics.[9]

[4] Productivity Commission (2005) *Australia's Health Workforce.* Canberra. Pg V.
[5] Productivity Commission (2005) *Australia's Health Workforce.* Canberra.
[6] Productivity Commission (2005) *Australia's Health Workforce.* Canberra.
[7] Productivity Commission (2005) *Australia's Health Workforce.* Canberra.
pg 65 (emphasis added).
[8] Health Workforce Australia (nd) *About HWA*. Viewed at https://www.hwa.gov.au/about
[9] Health Workforce Australia. (nd) *The Expanded Scope of Practice project*. Viewed at https://www.hwa.gov.au/work-programs/workforce-innovation-and-reform/expanded-scopes-of-practice-project

With regard to paramedics, the expanded scope of practice project's aim was to trial ways in which paramedics could be utilised to move beyond the delivery of emergency health care and extend to providing treatment for patients in their place of residence, thus reducing emergency department presentations and inter-facility transfers which take up around 30% of paramedic workload. The trial commenced in 2013 across five sites – two in South Australia, Tasmania, Victoria and the ACT.[10]

The Extending the Role of Paramedics (ERP) sub-project built on a model developed by the South Australian Ambulance Service (SAAS) which aimed to provide a service that would reduce emergency department presentations by providing what is, in effect, primary health care to people at home.[11] An Extended Care Paramedic (ECP) model was developed. The ECP would be able to refer the patient to other health practitioners if necessary. The ECP was expected to treat a diverse range of patients with a variety of conditions. These were mainly low acuity patient but some with multiple morbidities and as such complex. The management of these patients required the ECP to apply advanced clinical reasoning. A review of program was undertaken upon its completion. The final report found that the program had largely been successful with,

- ECPs treating consumers in situ and avoiding transport to an emergency department in 69 per cent of cases.
- There is an assumed 20% emergency department avoidance rate across all ambulance cases nationally but the ECP model found that the ED avoidance rate rose to 49%.[12] This reduction in transport to emergency departments represented a cost saving to hospital services in the ACT alone of approximately $400 000 (based on the average cost of an emergency department presentation (SCRGSP 2014, table 10A.65).[13]

Additional community benefits of the ECP model include increased equity of access to healthcare for rural and regional patients via the ECP and their ability to liaise with general practice to fill gaps in primary healthcare delivery, a Productivity Commission key performance indicator.[14]

[10] Health Workforce Australia. (nd) *The Expanded Scope of Practice project*. Viewed at https://www.hwa.gov.au/work-programs/workforce-innovation-and-reform/expanded-scopes-of-practice-project
[11] Health Workforce Australia (nd) *Extending the role of paramedics.* Viewed at https://www.hwa.gov.au/sites/uploads/paramedic_factsheet_201203.pdf
[12] Thompson C, Williams K, Morris D, Lago L, Kobel C, Quinsey K, Eckermann S, Andersen P and Masso M (2014) *HWA Expanded Scopes of Practice Program Evaluation: Extending the Role of Paramedics Sub-Project Final Report*. Centre for Health Service Development, Australian Health Services Research Institute, University of Wollongong.
[13] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.54 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf
[14] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at figure 9.22 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf

The ECP role also supports paramedic professionalisation by extending the role of the paramedic to one that is more autonomous and more flexible. [15] However, those who took part in the pilot program are unable to be awarded a formal qualification that reflects their higher level of training and skill and, because of a lack of national standardisation, there is no way for the paramedics involved to easily transfer their skills to other jurisdictions. This is an issue that could be remedied with national registration and accreditation.

Other issues arising from the pilot included a range of legislative and policy barriers. For example, a change of legislation is required to allow ECPs to carry blood products. An amendment to various Poisons regulations would be required to authorise paramedic practitioners to prescribe medications and particularly controlled substances like morphine.[16] The Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme would be required to be amended to allow ECPs to prescribe pharmaceutical therapies and to order diagnostic procedures under a Medicare provider number. [17] An amendment that links paramedic possession and administration of controlled medicines with paramedic registration, and the ability to become registered under the National Registration Scheme, would further facilitate the flexibility of practice of ECPs because their scope of practice would be linked to their registration rather than their employer. Of all the health workforce groups that were considered in the extended scope program, paramedics were the only group to sit outside the national health practitioners' registration scheme, administered by the Australian Health Practitioner Regulation Agency (AHPRA), another agency established on the back of the Productivity Commission's review.

[15] Thompson C, Williams K, Morris D, Lago L, Kobel C, Quinsey K, Eckermann S, Andersen P and Masso M (2014) *HWA Expanded Scopes of Practice Program Evaluation: Extending the Role of Paramedics Sub-Project Final Report*. Centre for Health Service Development, Australian Health Services Research Institute, University of Wollongong.
[16] Townsend, R and Luck, M (2013) *Applied Paramedic Law and Ethics*. Elsevier.
[17] Thompson C, Williams K, Morris D, Lago L, Kobel C, Quinsey K, Eckermann S, Andersen P and Masso M (2014) *HWA Expanded Scopes of Practice Program Evaluation: Extending the Role of Paramedics Sub-Project Final Report*. Centre for Health Service Development, Australian Health Services Research Institute, University of Wollongong.

The Australian Health Practitioner Regulation Agency (AHPRA)

The establishment of a national board for accreditation of educational curriculum and registration for health practitioners was recommended in the Productivity Commission report. [18] The recommendation was made in response to a number of factors including a recognition of the difficulty in monitoring overseas practitioners and applying a base standard of qualification by which to determine an overseas practitioner's suitability to practice in Australia.[19] There was also evidence that the jurisdictional and siloed approach to regulation that existed prior to the establishment of a national agency undermined the capacity for the development or expansion of roles that might best, flexibly provide the health care of the future. The Queensland government's submission acknowledged that, "Role expansion will certainly include some work practices moving from one occupational group to another. … the current system will not provide for this change"[20] and the Productivity Commission acknowledging that,

> ...the current fragmented and uncoordinated multiplicity of registration boards with their variable standards inhibits workforce efficiency and effectiveness, hinders workforce innovation and flexibility across jurisdictional borders, and increases administrative and compliance costs.[21]

AHPRA was established as the organisation responsible for the implementation of the National Registration and Accreditation Scheme across Australia. AHPRA commenced operations in June 2010 under the authority of the *Health Practitioner Regulation National Law Act 2009 (Qld) ('National Law Act')*. Despite the finding of the productivity commission with regard to the extended role that paramedics could play in addressing workforce needs, and the implementation of the ECP trial by Health Workforce Australia (HWA), paramedics were not included in the national registration scheme. There is little evidence available to explain this omission.

[18] Productivity Commission (2005) *Australia's Health Workforce Research Report*, Canberra. Recommendation 6.1 (xxxix) and Recommendation 7.1 (xL)

[19] Pacey, F, Harley, K, Veitch, C and Short, S (2012) National Scheme for Health Practitioner Registration and Accreditation: the Case of Australia in Short, S, McDonald, F and Sampford, C (2012) *Health workforce governance: Improved access, good regulatory practice, safer patients.* Farnham, England. Ashgate.

[20] Queensland Government (2005) *Queensland Government Submission to the Productivity Commission Study of the Health Workforce* viewed http://www.pc.gov.au/inquiries/completed/health-workforce/submissions/sub171/sub171.pdf

[21] Productivity Commission Report (2005) *Australia's Health Workforce Research Report,* Canberra.

PART II

What is a paramedic?

There is no standard definition of 'paramedic' in Australia. The title is only protected in NSW[22], Tasmania[23] and South Australia.[24] In South Australia a paramedic is defined as "a health practitioner who provides pre-hospital emergency care services or community-based alternative models of care as a result of a request for emergency medical assistance."[25] Unfortunately the title is not protected in any other state or territory. With an increasing number of private paramedic providers there is a need to ensure that all paramedics meet a basic standard of education and skill to protect the public and the profession.[26] This is a reason to bring paramedics under the ambit of the National Scheme.

There is the additional issue raised by the introduction of state-based regulatory schemes in that it results in a duplication of bureaucracy and creates inefficiencies (as noted above by the PC), it could create an additional, unintended legal risk. Paramedics transfer patients across state boundaries every day. For example, paramedics working in NSW will frequent the ACT and vice versa, as will paramedics working on the border between Victoria and NSW. Although the NSW title protection legislation allows for those 'authorised in another Australian jurisdiction to hold himself or herself out to be a paramedic'[27], there is no legislation in Victoria or the ACT that provides such an authorisation. This could result in paramedics from those states committing an offence under the NSW Act.

There are approximately 13000 full time salaried personnel involved in the delivery of ambulance services from predominately statutory state based services like the Ambulance Service of NSW.[28] There were close to 5000 volunteer personnel involved in the provision of services in the year 2010-2011.[29] Those numbers are set to grow with approximately 6000 students enrolled in degrees targeting the paramedic market in 2013.[30] The NSW Ambulance Service responded to over 1000000 calls

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[22] *Health Services Amendment (Paramedics) Act 2015* (NSW), s67ZDA
[23] *Ambulance Service Amendment Act 2013 (Tas)*
[24] *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA) Schedule 2, s 120A(1)(a)
[25] *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA) Schedule 2, s 120A(2)
[26] Paramedics Australasia has identified 122 permanent private sector employers of paramedics in Australia. Paramedics Australasia (2012) *Public risk and paramedic regulation*. Viewed at http://www.paramedics.org.au/content/2012/09/PA-Submission-on-paramedic-registration-03082012.pdf Paramedics Australasia has identified 122 permanent private sector employers of paramedics in Australia
[27] *Health Services Amendment (Paramedics) Act 2015* (NSW), s67ZDA 2 (b)
[28] Paramedics Australasia (2012) *Public risk and paramedic regulation.* viewed at https://www.paramedics.org/news-corporate/pa-submission-on-paramedic-registration/
[29] Paramedics Australasia (2012) *Public risk and paramedic regulation*. viewed at https://www.paramedics.org/news-corporate/pa-submission-on-paramedic-registration/
[30] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.65 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf

alone in the year 2011-2012.[31] According to the Productivity Commission, 3.2 million patients were assessed, treated or transported by the ambulance service organisations nationally (139 patients per 1000 people) in 2013-14.[32] National registration will codify protection of the title and ensure that only those suitably qualified are able to use it as is the case with medical practitioners, registered nurses, psychologists, podiatrists and another 35 or so others listed under the *National Law Act*.[33] This protection of title in turn provides protection to the public from those who are not suitably qualified to perform the role of the paramedic.

What do paramedics do?

The common identifiers and distinction of paramedics from other health practitioners is that (a) they work in an uncontrolled out-of-hospital environment[34] and (b) they most often provide unscheduled care. They provide a broad range of care and treatment and perform some of the most invasive procedures, under the least oversight in the most uncontrolled environments with extremely vulnerable patients. The range of interventions a paramedic can perform all carry risks to patient. They include the following:-

- putting hand, instrument, finger into body cavity;
- procedures below the skin;
- administration of a scheduled drug by injection;
- ordering a form of radiation;
- prescribing a scheduled drug;
- supply of substances for ingestion;
- managing labour or delivery of baby;
- undertake psychological intervention, treat serious disorders/with potential for harm;
- primary care providers without referral from a registered practitioner;
- treatment commonly occurs without other person present;
- patient commonly required to disrobe.[35]

[31] Ambulance Service of NSW (2012) *Annual Report 2011-2012* viewed http://www.ambulance.nsw.gov.au/Media/docs/Year%20in%20Review%2011%2012-f0937949-c33e-4990-9887-ec166c5931a7-0.pdf

[32] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.42 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf

[33] *Health Practitioner Regulation National Law Act 2009 (Qld), Section 114.*

[34] This is distinct from, for example, a general medical practitioner or general practice nurse who work within a controlled general practice environment.

[35] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council pg 36-37

The Australian Health Ministers Advisory Council identified 13 risk factors that assist in evaluating the risk a profession might pose to the public.[36] Paramedics, including extended care paramedics, can perform 11 of those 13 interventions. Paramedics engage in a higher number of risk interventions than ten of the health professions currently registered under the National Scheme.[37] Paramedics work in an out-of-hospital environment, administer restricted substances including morphine and anaesthetic agents, and perform advanced treatment skills including cricothyroidotomy and rapid sequence intubation, [38] interventions that are at least equivalent in difficulty and risk to those performed by nurses and doctors. As such, it is anomalous to not have them registered in the same way.

Historically paramedics (health treatment) services were inextricably linked to ambulance services (transport services). The training of staff was undertaken by state ambulance organisations as vocational training. On-road staff effectively only had to attend the scene of the patient, load them into the ambulance and go with them to ('load and go') to definitive care. However, times have changed and in 2011-12 around 12% of patients were treatment but not transported.[39] Additionally, ambulance service providers like NSW Ambulance, have changed their response modes to include single paramedic response on a motorbike for example, that allows the attending paramedic to assess and treat the patient and then request transport services attend if required. This change in focus has seen the paramedic develop into a highly trained and skilled practitioners where once they were merely 'drivers' with basic first aid knowledge. For example, the Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* recognised that paramedics play a vital role in plugging gaps in healthcare delivery in rural and remote communities.

> The role of paramedics is expanding to include the assessment and management of patients with minor illnesses and injuries to avoid transport to hospital (Thompson et. al. 2014). In some rural and remote communities paramedics provide extended access to health service delivery. Access to health services in these areas is often lower than metropolitan areas (chapter 11), in part, due to the difficulty of recruiting and retaining health professionals. Expanding roles are also developing in some metropolitan areas, where paramedics provide

[36] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council
[37] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council.
[38] See Table 7 and 8 for details of skills matrix, intravenous fluids and medication administration by paramedics in Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council Viewed at https://www.paramedics.org/content/2012/07/Consultation-Paper-Paramedic-Registration.pdf
[39] Australian College of Ambulance Professionals (2008) *Proposed arrangements for handling complaints, and dealing with performance, health and conduct matters*. Viewed at http://www.ahwo.gov.au/documents/National%20Registration%20and%20Accreditation/Proposed%20Complaints%20Arrangements/Australian%20College%20of%20Ambulance%20Professionals%20Ltd.pdf

care for patients through community health services as alternatives to emergency departments.[40]

Inclusion in the National Scheme would ensure that the public would have access to a nationally qualified paramedic regardless of their place of residence. This approach is consistent and an extension of Australia's universal healthcare culture that propounds to offer medical care regardless of a person's ability to pay and forms part of the social compact. The establishment of national education and practice standards would facilitate this development. Moreover, this process has already commenced with a shift in training from the vocational sector to the tertiary sector in the mid-1990's. This mirrors the transition that nursing made from hospital training to university degree-based programs in the late 1980's. Institutions other than NSW Ambulance for example, are now offering degree programs in paramedicine and this is seen as a critical step in the development of professional paramedic autonomy and self regulation[41], an advancement supported by practitioners and industry. In a survey conducted in 2012 by the peak industry body, Paramedics Australasia, 87% of almost 4000 paramedic respondents supported national registration, alongside support from other industry groups.[42]

Mobile workforce

An additional reason for the development of a national regulation scheme was to provide a mechanism whereby professions could not only establish the requisite standard of education and training needed to register as a practitioner in that profession but to also provide a mechanism

[40] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.39 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf

[41] For example,

Auckland University of Technology NZ - Bachelor of Health Science (Paramedicine)
Charles Sturt University NSW - Bachelor of Clinical Practice (Paramedic)
Edith Cowan University WA - Bachelor of Science (Paramedical Science)
Federation University – Graduate Diploma of Paramedicine
Flinders University SA - Bachelor of Science (Paramedic)
Monash University VIC - Bachelor of Emergency Health(Paramedic)

Queensland University of Technology - Bachelor of Paramedic Science
University of the Sunshine Coast - Bachelor of Paramedic Science
Victoria University - Bachelor of Health Science (Paramedic)
Australian Catholic University - Bachelor of Paramedicine
Curtin University – Bachelor of Science (Health Sciences)
University of Southern Queensland – Bachelor of Paramedicine
University of Western Sydney - Bachelor of Health Sciences (Paramedicine)

[42] Including The National Council of Ambulance Unions, Council of Ambulance Authorities, Private Paramedicine Australia. Paramedics Australasia (nd) *The case for national registration of paramedics.* viewed at https://www.paramedics.org/advocacy/registration/the-case-for-national-registration-for-paramedics/

whereby international practitioners could have their qualifications assessed for suitability to practice in Australia.[43] The services sector accounts for around 70 per cent of Australia's economic activity, employs four out of five Australians and plays an important role in international trade, accounting for around 17 per cent of Australia's total exports. [44] Globalisation and the trade in health services means that paramedics, alongside other medical and nursing practitioners, are a group that moves across international borders.[45]

Currently there is no consistent national mechanism that allows for the assessment of suitability of qualifications for paramedics applying to work in Australia. There is an active international labour market for paramedics and in the five years to 2012, approximately 300 permanent migrant paramedics moved to Australia and a slightly lesser number arrived on 457 visas.[46] Having paramedics regulated under the National Scheme would allow for consistent standards to be applied to those registering to practice paramedicine in Australia from overseas and would allow Australian-trained paramedics to have their qualifications recognised internationally.

Risk

The lack of a nationally uniform complaints data system for paramedics makes accessing data on paramedic risk and harm to the public difficult to obtain.[47] However, paramedics are already registered health professionals in the United Kingdom with approximately 19300 paramedics registered by the UK's Health and Care Professions Council (HCPC). In 2012-2013, 262 cases alleging breach of a paramedic's 'fitness to practice' were investigated by the HCPC.[48] This data not only shows that paramedics do pose a risk to the public, it also demonstrates the value in collecting this data. It provides an opportunity for the discipline to reflect on itself and identify areas in which paramedics are more likely to pose a risk to the public. This data also assists the discipline to identify areas for education and practice reform as does the equivalent data collected under the National Scheme in Australia for the professions registered with AHPRA.

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[43] Pacey, F, Harley, K, Veitch, C and Short, S (2012) National Scheme for Health Practitioner Registration and Accreditation: the Case of Australia in Short, S, McDonald, F and Sampford, C (2012) *Health workforce governance: Improved access, good regulatory practice, safer patients.* Farnham, England. Ashgate.

[44] DFAT (nd) *Trade in Services Agreement (TiSA)* viewed http://www.dfat.gov.au/trade/negotiations/services/trade-in-services-agreement.html

[45] Davey, M (March, 2015) Australian paramedics wanted to meet London ambulance service shortage. *The Guardian* viewed at http://www.theguardian.com/society/2015/mar/12/australian-paramedics-wanted-to-meet-london-ambulance-service-shortage

[46] Paramedics Australasia (2012) *Public risk and paramedic regulation,* page 6.

[47] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council

[48] Townsend, R and Eburn, M (2014) 'Professional Discipline for Registered Health Professionals: Lessons for Australian Paramedics' Vol 41 No 3 *Response* pp 41-43.

Current regulation

One of the key limiters of implementing the PCs recommendations continues to be the lack of consistent, national regulation of paramedics. Paramedics are currently regulated by a myriad of different laws and state-based schemes.[49] They are not registered in any state or territory in Australia. The lack of regulation extends to a lack of nationally agreed and accredited education and practice standards that would allow for the development of an innovative model of paramedic practice that would meet the model imagined by the Productivity Commission. In 2012 the Australian Health Ministers' Advisory Council undertook a consultation process to examine the options available for the regulation of paramedics.[50]

The Health Ministers' Workforce Committee consultation process considered a number of factors regarding the regulation of paramedics including, but not limited to, the risk to the health and safety of the public from incompetent, unethical or impaired practitioners; the complexities of the service paramedic provide; the current applicable regulation of paramedics and its suitability of purpose; the protection of a professional title; the potential costs and benefits of regulating the profession; and the current education, training and accreditation of paramedic programs and the minimum standards of competence required for a person applying to practice the profession.[51]

The consultation process identified that paramedics are the only type of health practitioner in Australia that work in a high risk environment, performing high risk interventions on high risk patients that are not regulated by the *Health Practitioner Regulation National Law Act ('National Law Act')*.[52] Not only does the lack of existing government regulation limit the development of paramedics to meet Australia's future health workforce needs, existing government regulations do little to protect the public in relation to the safety aspects of paramedic practice because, for example, in Western Australia there is no government regulation. Additionally, there is a growing private sector in ambulance services and paramedic providers.[53] In most states there is no regulation of the private profession. Even where there is regulation it is generally to the effect that private ambulance services are prohibited but these provisions are unclear (failing to identify what is an ambulance service) and

[49] For example, *Emergencies Act 2004* (ACT); *Health Services Act 1997* (NSW); *Ambulance Service Act 1991* (QLD); *Ambulance Service Act 1982* (TAS); *Health Practitioner Regulation National Law (South Australia) Act 2010* (SA); *Ambulance Services Act 1986 (*Vic); *Non-Emergency Patient Transport Act 2003* (VIC).
[50] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council.
[51] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council.
[52] 2009 (Qld)
[53] Eburn, M and Bendall J, 'The provision of Ambulance Services in Australia: a legal argument for the national registration of paramedics' (2010) 8(4) *Journal of Emergency Primary Health Care,* Article 990414.

are largely unenforced.[54] Emergency health care services are being provided at workplaces and at public events in circumstances where members of the workforce or public cannot know what level of qualification or skill those 'paramedics' have nor what action they can take should they receive less than optimal care. Given the term 'paramedic' is not a protected title except in NSW, Tasmania and South Australia, there is an increase in private providers and that there is no national registration then the risk of harm to the public is real, and growing.[55]

The current regulatory scheme fails to:

- Identify who may call themselves a 'paramedic';
- Establish the minimum level of training or skill set expected of a paramedic;
- Provide an adequate disciplinary or quality assurance mechanism for paramedics in particular those outside the state ambulance services;
- Fails to clearly articulate that patient care is the primary consideration in regulating the profession; and
- Fails to provide a system to allow employers to confirm that potential paramedic employees are qualified, competent and are not seeking to move employers due to poor performance or inadequate practice skills.[56]

Paramedics currently have a wide scope of clinical practice which includes the provision of complex skills and tightly restricted pharmaceutical substances.[57] At present the scope of practice is not determined by the profession but rather by the paramedic employer. A consistent scope of practice is in part limited by the lack of nationally agreed, education and training standards, with no base-line professionally accredited curriculum having been agreed upon. The lack of an education and practice standard has been hampered by the lack of agreement on the identity of a paramedic. A lack of a nationally agreed definition of what a paramedic is and what a paramedic does has also limited the capacity of legislators to protect the title 'paramedic'. There is no consistent, nationally standardised or agreed mechanism for the identification and management of a paramedic who may be suffering from a significant health, conduct or performance issue that may place the public and the individual practitioner at risk. The lack of such a mechanism not only disallows a consistent standard to be

[54] Eburn, M and Bendall J, 'The provision of Ambulance Services in Australia: a legal argument for the national registration of paramedics' (2010) 8(4) *Journal of Emergency Primary Health Care,* Article 990414.
[55] Townsend, R and Eburn, M (2012) *Submission to Consultation on options for regulation of paramedics.* Viewed at https://law.anu.edu.au/sites/all/files/users/u4810180/2012_submission_to_the_australian_health_ministers_advisory_council.pdf
[56] Townsend, R and Eburn, M (2012) *Submission to Consultation on options for regulation of paramedics.* Viewed at https://law.anu.edu.au/sites/all/files/users/u4810180/2012_submission_to_the_australian_health_ministers_advisory_council.pdf
[57] Health Workforce Principal Committee (2012) *Consultation Paper: Options for regulation of paramedics.* Australian Health Ministers' Advisory Council Table 7 and 8.

applied to practitioners and the public, it also allows incompetent or impaired practitioners to cross jurisdictions and continue to work elsewhere, putting members of the public at risk.

There is also no standardised complaints data collection mechanism available. Whilst it is acknowledged that it is an employer's prerogative and indeed right to follow up and manage any complaint of unprofessional conduct, the lack of transparency to the public as a necessary element of protecting the confidential nature of information afforded to an employer about an employee means that public protection and safety may be afforded less importance than if a complaint was made to an external third party. This limits transparency and accountability and in so doing undermines the social contract the public has with this group of health care practitioners, particularly those employed by state-based and/or funded services.[58] Further, under employer managed complaints systems there is no mechanism for a practitioner to report themselves or another for an impairment or unprofessional conduct. All of these omissions lessen the ability of regulators to ensure public safety with regard to paramedic practice. It also limits the ability of paramedics to develop as a profession and thus meet the goals recommended by the Productivity Commission. However these issues can be addressed via an inclusion of paramedics to the National Regulation Scheme and placing them within the scope of the National Law.

Professionalisation

Despite the obviously huge role paramedics play in delivering healthcare, they play a relatively small to non-existent role in shaping healthcare policy.[59] The lack of professional status, or relatively low professional status of paramedics, means that, despite arriving on scene with lights and sirens, they remain a largely 'invisible' workforce.[60] Perhaps one of the most significant impacts of continuing to have paramedics remain un-registered is that it has the potential to limit the professionalisation of the discipline. Professions Australia defines a profession as,

> "... a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as, possessing special knowledge and skills in a widely recognised body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others. It is inherent in the definition of a profession that a code of ethics governs the activities of each

[58] Blanchard, L, Hinnant, C and Wong, W (1998) 'Market-Based Reforms in Government: Toward a Social Subcontract' (1998) 30 *Administration & Society* 483, at 488 state that 'One of the most important factors in our conceptualisation of the social contract relationship is the presence of appropriate accountability and control mechanisms.'

[59] The Productivity Commission report noted that *'Ambulance services' attended 3.01 million incidents nationally in 2009-10 (excluding the NT). Most of these were emergency incidents (40.9 per cent), followed by non-emergency incidents (34.0 per cent) and urgent incidents (24.8 per cent).*

[60] Paramedics Australasia, (2011) *The Forgotten Health Profession* viewed at http://www.paramedics.org.au/content/2010/08/PA_ForgottenProfession_single-page_191011.pdf

> profession. Such codes require behaviour and practice beyond the personal moral obligations of an individual. They define and demand high standards of behaviour in respect to the services provided to the public and in dealing with professional colleagues. Further, these codes are enforced by the profession and are acknowledged and accepted by the community."[61]

Paramedics have a special body of knowledge and skill derived from research, education and training at a high level. The role and purpose of the paramedic is also altruistic by nature with its focus on service to the public. However, paramedics do not currently have a nationally agreed code of conduct and nor do they regulate themselves. Employers of paramedics determine their scope of practice and are responsible for their professional discipline. If paramedics were registered like doctors, nurses, chiropractors or any of the other 14 registered health professionals there would be a Paramedic Board that would set the discipline's standards of practice. A paramedic's authority to practice would be determined by the Board and it would be the Paramedic Board that would determine whether or not a paramedic was fit to practise. Regulation under the national scheme would allow paramedics, not employers of paramedics, to set education and practice standards and be able to determine who is eligible to call themselves a paramedic and who is not. A professional paramedic would have duties and obligations to his or her patient above and perhaps at times in conflict with duties owed to her or his employer. This is not currently the case. For example, in NSW, under the *Health Services Regulation*, a paramedic employed by NSW Ambulance Service must follow a lawful instruction of their employer that is:-

> (a) consistent with such protocols and procedures as may be issued by the chief executive from time to time, and
> (b) given to the member of staff by the member of staff's supervisor.
> (2) A member of staff may appeal in writing to the chief executive against an instruction given to the member of staff. The appeal must be made through the supervisor who gave the instruction. However, the member of staff must, pending the determination of the appeal, comply with this clause in relation to the instruction.[62]

This provision limits the professional autonomy of the individual paramedic practitioner and could potentially cause conflict for a paramedic who refuses to obey the instruction because they make a professional determination that to do so would not be in the interests of their patient. Where a doctor or nurse could confidently rely on their professional status and authority to place the patient's interest

[61] Professions Australia (nd) *What is a profession?* Viewed at http://www.professions.com.au/about-us/what-is-a-professional
[62] *Health Service Regulation 2013* (NSW) reg 20 viewed at http://www5.austlii.edu.au/au/legis/nsw/consol_reg/hsr2013252/s20.html

ahead of any other interest, the position for an employed paramedic is more tenuous. This supposition is supported by case law.[63]

The lack of registration not only limits autonomy in the decisions that paramedics make, it also limits the ability of paramedics to move practice spaces to fill workforce gaps. Paramedics are currently unauthorised to possess and supply certain medications unless they work for a State-based ambulance service. For example, in Qld, the *Health (Drugs and Poisons) Regulation*[64] authorises an employee of the Queensland Ambulance Service (QAS) to obtain, possess and administer a range of drugs listed in the QAS clinical protocols. However, if the authority to obtain, possess and administer rested with the *registered paramedic*, as it does with a registered medical practitioner, this would allow paramedics to take their services to market anywhere in Australia.

Registration is obviously not a requirement for the practice of various health professions, including paramedicine, but registration is recognised as conferring status and legitimacy on an occupational group because it is seen publicly as a state sanctioning or affirming of its professionalism.[65] Registration recognises the status of paramedics as being equal to those of other registered health practitioners, including not only medical and nurse practitioners but also chiropractors and podiatrists. Without registration, paramedics remain categorised with the following non-exhaustive list of non-registered health practitioners:-

> *art therapists, aromatherapists, assistants in nursing, audiologists and audiometrists, ayuvedic medicine practitioners, bioresonance practitioners, clinical perfusionists, complementary and alternative medical practitioners, dental assistants, herbalists, homeopaths, hypnotherapists, massage therapists, music, dance and drama therapists, naturopaths, optical dispensers, pharmacy assistants, phlebotomists, reflexologists, reiki practitioners and shiatsu therapists.*[66]

None of these practitioners have the scope of practice or indeed the life-and-death responsibilities of the paramedic. Indeed, paramedics share much more in common with doctors and nurses than they do with any of the aforementioned groups. Paramedicine is also following the professionalisation path

[63] *Worley v The Ambulance Service of New South Wales*[2004] NSWSC 1269 - the protocol that the paramedics were working off was identified as being inconsistent with clinical best practice and that this had the potential to significantly harm the patient.; Eburn, M. (2007). *Ambulance Service of NSW v Worley*; further legal lessons for the emergency services. *Australasian Journal of Paramedicine, 5*(2). Retrieved from http://ro.ecu.edu.au/jephc/vol5/iss2/4

[64] Townsend, R and Luck, M (2013)*Applied paramedic law and ethics*. Elsevier.

[65] Walshe (2009) Regulating health professionals in Healey, J and Dugdale, P (eds) *Patient Safety First*, *Responsive Regulation in Health Care.* Allen and Unwin.

[66] Australian Health Ministers' Advisory Council Health Workforce Principal Committee The *Consultation paper: Options for regulation of unregistered health practitioners*, February 2011, considered some of the existing unregulated health professions.

taken by nursing at the turn of the 20th century, to be self-regulating. It took nursing fourteen years and ten Bills to the House of Commons before the first British nurses registration legislation was passed around 1919.[67] In NSW, the Australasian Trained Nurses Association (ATNA) fought to establish its own health professionals' board, similar to that already established for doctors, dentists and pharmacists. ATNA did not accept that by law the Board of Health had the power to define who could be recognised as a registered nurse.[68]

In healthcare, public policy and the shaping of it, is dominated by the social contract. Professionalism is the basis of medicine's contract with society.[69] It demands placing the interests of patients above those of the physician, setting and maintaining standards of competence and integrity, and providing expert advice to society on matters of health. The principles and responsibilities of medical professionalism must be clearly understood by both the profession and society in a form of social contract. Reid argues that concepts of professionalism in medicine draws on social contract theory where the social contract metaphor is used as a heuristic device to prompt reflection on social responsibility, power, privilege and responsibility.[70] Essential to this contract is public trust in physicians, which depends on the integrity of both individual physicians and the whole profession. [71] Inherent therefore in the notion of professionalism is the virtue of trust. These same principles apply to the practice of paramedicine.

The legislative burden of responsibility for good decision making onto consumers for good health care associated with the marketisation of healthcare and growing access for laypeople to traditionally specialist knowledge assumes consumers are able to make those decisions.[72] However, a lack of health literacy, a limited ability of consumers to know what standard of care they can expect from healthcare professionals and the often emergent and critical nature of the work of paramedics perform means that consumers are heavily dependent on trust – of both the profession and professionals - to protect them.[73] Although paramedics have year-on-year been voted the most trusted profession[74] and

[67] Chiarella, M (2002) *The legal and professional status of nurses*. Churchill Livingstone.pg 174
[68] Chiarella, M (2002) *The legal and professional status of nurses*. Churchill Livingstone.pg 175.
[69] Cruess, R.L and Cruess, S, R (2008) Expectations and obligations: professionalism and medicine's social contract with society. *Perspect Biol Med* 51 (4): 579-98; Cruess, R.L and Cruess, S, R, and Johnston, S.E (2000) Professionalism: an ideal to be sustained. *Lancet* 356 (9224): 156-159; Cruess, S.R, Johnston, S and Cruess, R.L (2004) "Profession": a working definition for medical educators. *Teach Learn Med* 16 (1): 74-76.
[70] Lynette Reid, Medical professionalism and the social contract. *Perspectives in Biology and Medicine*. Autumn 2011, Vol. 54, No. 4 at 458.
[71] *Medical Professionalism Project* (2002) Medical Professionalism in the New Millennium: A Physician Charter *Ann. Int. Med.* 2002;136:243 at p. 244.
[72] Mahon, A(2013)Relationships in Healthcare. Trust in Transition in *Trust and Confidence in Government and Public Services*. Llewellyn,S, n Brookes,S, Mahon,A. (eds) Routledge, UK.
[73] Mahon, A(2013)Relationships in Healthcare. Trust in Transition in *Trust and Confidence in Government and Public Services*. Llewellyn,S, n Brookes,S, Mahon,A. (eds) Routledge, UK.
[74] Paramedics Australasia (2014) *Australia's most trusted professional calls for registration*. Viewed at https://www.paramedics.org/media/media-releases/australias-most-trusted-profession-calls-for-registration/

satisfaction with paramedic services remains high[75] there is a likelihood of this changing. In Australia the satisfaction ratings given by patients with regards to paramedic services is consistently high at around 98% across all statutory public service paramedic providers.[76] One explanation for high consumer satisfaction scores is that "… the vast majority of registrants are committed to their job and vocation to help others…and therefore maintain their competence, continue to develop professionally and do not misbehave."[77] However, another explanation is not that paramedics are safer and more competent than other health practitioners, it is that the public may have very little idea about what a 'paramedic' can and cannot do and how a 'paramedic' may be distinct from a 'first-aider' or 'ambulance driver'.[78] A low level of expectation as to the knowledge and skills that paramedics have may mean that satisfaction ratings are high if the patient's expectation is simply that the paramedic will turn up in an ambulance and transport them to hospital and that expectation is met.

As paramedic practice moves beyond state-run ambulance services and the emergency treatment-transport response, and private provider numbers increase, the lack of a national practice and educational accreditation standard will likely increase the risk of rogue or unscrupulous practitioners appearing that may have the effect of lessening the public's trust and confidence in the profession. The social contract that exists between practitioners and the public requires that the professionals be subject to a degree of accountability and transparency by the public. Having paramedics sit under a national practice and education standard and as a part of a national regulatory scheme will both lessen the risk of the existence of rogue or unscrupulous practitioners and the risk of harm being done to the professions reputation as eminently trustworthy. In short, paramedic registration will allow the profession to establish 'control over their scope of practice, to limit the numbers of people practising, and to gain the status and esteem which accompanies professional status.'[79]

[75] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.74 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf
[76] Australian Government Productivity Commission's Steering Committee for the Review of Government Service Provision (SCRGSP), *Report of Government Services 2015* at 9.74 http://www.pc.gov.au/research/ongoing/report-on-government-services/2015/emergency-management/fire-and-ambulance-services/rogs-2015-volumed-chapter9.pdf
[77] Health Professions Council, *Regulating ethics and conduct at the Council for Professions Supplementary to Medicine – 1960-200* (nd, London), 49.
[78] Because there is no title protection the 'paramedic' role can extend this widely. See discussion in Eburn, M and Bendall J, 'The provision of Ambulance Services in Australia: a legal argument for the national registration of paramedics' (2010) 8(4) *Journal of Emergency Primary Health Care,* Article 990414.
[79] Walshe (2009) Regulating health professionals in Healey, J and Dugdale, P (eds) (2009) *Patient Safety First*, *Responsive Regulation in Health Care.* Allen and Unwin. Pg 150.

PART III – SOLUTIONS

Why registration?

Regulation of health professionals has traditionally occurred through three routes –(1) civil, (2) criminal and (3) government-sanctioned self regulation.[80] Currently paramedics are regulated by routes (1) and (2). Criminal prosecution of health practitioners is rare and as such it is the least used arm of the 'regulatory trinity'.[81] A reform of state and territory civil liability laws[82] in Australia in or around 2002, has provided an opportunity for paramedics to self-regulate and establish the discipline's standard of care owed to a patient– a standard that is determined by the peer-group not by the patient, the employer or the court. However, this route of regulation has limited scope, applying most commonly after a significant harm has allegedly befallen a patient as a result of a practitioner's negligence. The National Registration and Accreditation Scheme ('The National Scheme) offers public protection by ensuring that only suitably qualified, competent and ethical practitioners are registered. Civil regulation also offers no guarantee that the negligent practitioner would offer an apology, have their practice sanctioned, or conditions/limitations imposed on their practice as a result.

The National Scheme can, unlike civil and criminal regulation, acknowledge and incorporate the understanding that health care systems are complex and allow for an examination by a group of peers, of a practitioner's performance and conduct that extends beyond negligence or criminal behaviour.

The *National Law Act* makes provision for the establishment of a panel of the practitioner's peers and a layperson (consumer representative) to represent community values to hear the complainant's case and then make a determination as to whether the practitioner has met the professional conduct standard.[83] Three conduct standards are defined in the Act, (1) unsatisfactory professional performance, (2) un-professional conduct and (3) professional misconduct. The panel can also consider the profession's 'approved registration standard' or code of conduct as 'evidence of what constitutes appropriate professional conduct or practice for the health profession.'[84] The practitioner's practice is assessed far more holistically and measured against a broad set of behaviours identified by the profession as representing the professions' standard and captured in a code of conduct. The

[80] McDonald, F (20 12) Challenging the regulatory trinity: global trends in health professional regulation in Short, S, McDonald, F and Sampford, C (2012) *Health workforce governance: Improved access, good regulatory practice, safer patients.* Farnham, England. Ashgate.
[81] McDonald, F (20 12) Challenging the regulatory trinity: global trends in health professional regulation in Short, S, McDonald, F and Sampford, C (2012) *Health workforce governance: Improved access, good regulatory practice, safer patients.* Farnham, England. Ashgate.
[82] *Civil Law Wrongs Act 2002* (ACT); *Civil Liability Act 2002* (NSW); *Civil Liability Act 2002* (WA); *Civil Liability Act 2002* (Tas); *Civil Liability Act 2003* (Qld); *Personal Injuries (Liabilities and Damages) Act 2003* (NT); and by amendments to the *Wrongs Act 1958* (Vic) and the *Wrongs Act 1936* (SA). *Trade Practices Amendment (Personal Injury and Death) Act (No 2) 2004* (Cth).
[83] *Health Practitioner Regulation National Law Act (Qld) s182 (4)(5)*
[84] *Health Practitioner Regulation National Law Act (Qld) s41*

Medical Profession have referred to their code of conduct as 'Good Medical Practice: A Code of Conduct for Doctors in Australia'.

> Good Medical Practice (the code) describes what is expected of all doctors registered to practise medicine in Australia. It sets out the principles that characterise good medical practice and makes explicit the standards of ethical and professional conduct expected of doctors by their professional peers and the community. The code was developed following wide consultation with the medical profession and the community. The code is addressed to doctors and is also intended to let the community know what they can expect from doctors.[85]

Additionally, the *National Law Act* allows the public to access disciplinary panel findings and to check an individual practitioner's registration status and whether there are any restrictions placed on their practise or any impairment that may affect the safety of a practitioner's practice. This information is required to be divulged to the registration authority upon re-registration each year and alerts regulators and the public to potential problems. This option is currently inconsistently applied to paramedics because paramedics have no agreed national registration standard or code of conduct and the public have no mechanism by which to know what the paramedic standard of conduct is and no publicly available register to check on a practitioner's practice status.

The *National Law Act* also makes provision for practitioners to self-notify the regulatory body when they believe they may pose some risk to the public. This protects both the public and the practitioner by allowing for the initiation of a support structure that does not punish the practitioner, but rather assists the practitioner to continue to practice safely. Further, there is requirement that all registered health practitioners make a mandatory notification of fellow practitioners where a reasonable belief is formed that the practitioner has engaged in notifiable conduct and poses a risk to the public.[86] Notifiable conduct includes the following:-

> (a) practised the practitioner's profession while intoxicated by alcohol or drugs; or
> (b) engaged in sexual misconduct in connection with the practice of the practitioner's profession; or
> (c) placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or

[85] Medical Board of Australia (2014) *Good Medical Practice: A Code of Conduct for Doctors* in Australia viewed at http://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx
[86] *Health Practitioner Regulation National Law Act* (Qld) s141

> (d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.[87]

There is no such requirement under existing paramedic regulation and as such, provides further support for paramedics to be included in the National Scheme.

The National Registration Scheme not only allows a profession to define itself and its education and practice standards, it also offers flexibility so as to allow for a mix of skills and qualifications of a profession to be recognised and registered. For example, there are several grades of registered nurse, including Nurse Practitioner, Registered Nurse, Endorsed-Enrolled Nurse and Assistant- In- Nursing, just as there are several categories of paramedic.[88] With regard to nursing, the latter category was created in order to regulate the practice of unqualified nurses. In order to accommodate the various categories of nurses, the register was modified to include a number of divisions (eg Division one and Division two) that would allow the profession to set different standards in qualifications and scope of practice for the various categories of nurses and that allowed for scope to develop both vocational and tertiary pathways to qualification. The National Registration Scheme also allows for different types of registration – general, specialist, provisional, limited and non-practicing.[89] Regulation, and specifically registration, did not limit the ability of the profession to accommodate a degree of flexibility into its workforce.

Including paramedics in the National Registration Scheme would provide further benefits including the simple and safe facilitation of movement of the workforce within Australia and Internationally; ensure education standards for the profession are uniform; that overseas practitioners applying to practice in Australia are able to be rigorously assessed to an agreed standard and; allow professional development of a flexible, responsive and sustainable paramedic health workforce will contribute to improved access to health services in Australia.

The National Scheme also provides the appropriate body with which to do so because effective regulation and public confidence is gained by having regulatory functions carried out by bodies that are wholly separate from the professional associations or service providers so as to protect against conflicts of interest or the regulator regulating itself. This is not currently the case for the largest

[87] *Health Practitioner Regulation National Law Act* (Qld) s140
[88] Paramedicine Australasia (nd) *Paramedic role descriptors*. Viewed https://www.paramedics.org/paramedics/what-is-a-paramedic/
[89] *Health Practitioner Regulation National Law Act* (Qld) Part 7.

number of paramedics in Australia who are currently regulated by the regulator – their employer. Inclusion of paramedics in the National Scheme will facilitate that separation of interests.[90]

PART IV - CONCLUSION

In short, bringing paramedics under ambit of AHPRA will meet all the objectives of the National registration and accreditation scheme:-

> (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and
>
> (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and
>
> (c) to facilitate the provision of high quality education and training of health practitioners; and
>
> (d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and
>
> (e) to facilitate access to services provided by health practitioners in accordance with the public interest; and
>
> (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.[91]

Recommendation: That paramedics be included in the national registration scheme administered by the Australian Health Practitioner Regulation Agency

[90] David Clementi, *Review of the Regulatory Framework for Legal Services in England and Wales Final Report* (2004) <http://www.legal-services-review.org.uk/content/report/report-chap.pdf>.
[91] *Health Practitioner Regulation National Law Act* (Qld) (3)(2)