



**The Hon Jillian Skinner MP**  
Minister for Health

INQ15/46

Ms Sophie Dunstone  
Committee Secretary  
Legal and Constitutional Affairs References Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Ms Dunstone

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

I am pleased to submit NSW Health's response to the Inquiry into the establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety.

Should you wish to discuss NSW Health's submission, please contact Dr Tim Jap, Senior External Relations Officer, Strategic Relations and Communications on 02 9391 9263.

Yours sincerely

Jillian Skinner MP

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## ***Senate Inquiry into the establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety***

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### **Overview**

Paramedics are currently not a registered profession under the National Registration and Accreditation Scheme (NRAS). At the time of the formation of the NRAS, they were not registered in any State or Territory and are still not registered in any Australian jurisdiction.

While not a registered profession, paramedics are subject to considerable regulation in NSW, providing strong protection for the public. In summary, the NSW regulatory framework consists of the following:

- In NSW, the majority of paramedics are employed by NSW Health through NSW Ambulance, which exercises strict clinical governance over paramedics through protocols, policies and procedures, as well as setting training and education standards for those who are entitled to call themselves paramedics. In addition, these employees are subject to NSW Health policies, including the NSW Health Code of Conduct, recruitment policies governing such matters as criminal record and reference checking, clinical governance oversight and a range of other policies (such as those on bullying and harassment, grievance procedures and complaints policies).
- NSW is one of only two jurisdictions that have a Code of Conduct governing non-registered health practitioners (other jurisdictions have agreed to implement a similar model). The Code applies to all paramedics, whether or not they are employed by NSW Ambulance. Breaches of the Code are investigated by the NSW Health Care Complaints Commission, the same body that investigates complaints against registered health professionals. Serious breaches can lead to an order that the paramedic cease practice.
- The NSW Poisons and Therapeutic Goods Act and Regulation regulate who may possess, use and supply poisons and therapeutic goods (medicines and drugs) in NSW. This applies to both government and private sector paramedics.
- Restriction of title legislation, which prevents a person in NSW from holding themselves out to be a paramedic unless they hold certain qualifications.

NSW legislation also places restrictions on the provision of emergency and non-emergency transport. The Health Services Amendment (Ambulance Services) Act 2015, when it commences, will amend s 67E of the Health Services Act 1997 to state that a person must not provide *emergency ambulance services* for fee or reward unless the person has the consent of the Health Secretary. Section 67F will provide that a person must not directly or indirectly provide or take part in the provision of supported non-emergency transport for fee or reward unless the person has taken certain steps outlined in the legislation regarding vehicles and patient safety. "Emergency ambulance services" are those that provide transport to sick and injured persons to or from hospitals in response to requests for medical assistance for persons who may have injuries or illnesses that require immediate medical attention in order to save or maintain life or to alleviate suffering, using staff who provide attention for the purpose of saving or maintaining life, or alleviating suffering, during transportation.

It is noted that paramedics provide services in situations where emergency ambulance services may, or may not, be provided. Although these sections effectively limit emergency ambulance services to Ambulance NSW, it is important to note that paramedics' activities both within and outside the provision of "emergency ambulance transport" are governed by the statutory regime described in the above dot points.

### *The National Registration and Accreditation Scheme (NRAS)*

Fourteen health professions are regulated nationally under the NRAS, which was formed in 2010. In 2014, a statutory independent review of the NRAS was undertaken by Mr Kim Snowball, who delivered his report to the Australian Health Workforce Ministerial Council (AHWMC) in April 2015. The Review made a number of recommendations regarding the NRAS including:

- merging of the nine low-regulatory workload national registration boards into a single board
- changes to accreditation mechanisms.

In their decision of 7 August 2015, AHWMC Ministers:

- deferred consideration of merging the nine low regulatory workload boards, pending further consultation with the Australian Health Practitioner Regulation Agency (AHPRA) and professional associations; and
- agreed that further work needed to be done on accreditation procedures.

The outcome of this work will have a major impact on the regulatory landscape of the NRAS.

In November 2015 AHWMC agreed by majority to move towards a national registration of paramedics and inclusion in the National Registration and Accreditation Scheme (NRAS) with only those jurisdictions that wish to register paramedics adopting the necessary amendments. Ministers agreed that work on this would need to come back to the Australian Health Ministers' Advisory Council for consideration. This would include the consideration of implementation of the recommendations of the Independent Review of the NRAS, resolution of the scope of the paramedic workforce and the recognition of vocational as well as tertiary qualification pathways as sufficient for the registration of paramedics.

NSW noted that it would reserve its right to participate in national registration, pending further work being undertaken.

### *Summary of the NSW position in relation to registration of paramedics*

National registration has both costs and benefits. Each of these must be closely examined in relation to whether it is necessary and appropriate to register paramedics. Given that the regulatory framework for paramedics differs from jurisdiction to jurisdiction, the costs and benefits of registration will also differ.

NSW has a strong regulatory framework for paramedics that already delivers many of the benefits of a national registration system. These include:

- a comprehensive complaints mechanism;
- the ability to prevent a paramedic from practicing where a serious complaint has been proven;
- the ability to regulate access to drugs and therapeutic goods to only those with appropriate ongoing training;
- prohibition of an individual using the title "paramedic" unless they hold particular qualifications;
- a strong clinical governance framework and rigorous recruitment framework for the majority of the State's paramedics, who are employed by NSW Ambulance.

In this context, there is an ongoing question of whether the costs of registration in NSW will outweigh the minimal additional benefits that would be achieved.

In addition, NSW is of the view that the significant outstanding issues from the review of the NRAS should be clarified prior to NSW making a final decision on whether registration is

appropriate for NSW paramedics. Of great importance to NSW are changes to accreditation mechanisms under the NRAS, through which qualifications for the registered professions are determined. Clarity on whether paramedics would be part of a merged board, or a separate board also has implications for the cost of the Scheme to paramedics and the public.

## Comments on Terms of Reference

### ***a) the role and contribution made by those in the paramedic profession, including the circumstances in which they are required to operate***

The contribution and value of the work of paramedics is not in question. There are many health professionals who play an extremely valuable role in the community who are not registered. The value of a health profession is not the appropriate test for whether or not that profession should be registered. The primary question is whether the work of a particular profession poses any risk to the public having regard to existing mechanisms to manage any potential risk.

#### *NSW Ambulance paramedics*

Paramedic services are a fundamental community service directed towards restoring and maintaining the health of a patient. Paramedics are best known for their involvement in the out-of-hospital emergency environment, but also operate across a range of healthcare contexts depending on their area of practice.

NSW Ambulance paramedics undertake clinical interventions in a diverse range of emergency and primary care settings. They are not restricted to delivering patients from accidents or to emergency departments, but are educated to assess, triage or treat patients in community settings, be it the patient's home or in public spaces. Their scope of practice spans the high to low acuity spectrum often operating as a patient's first point of contact with the health system. These paramedics respond to and assess patients, initiating implementation of appropriate management pathways that may involve definitive treatment, discharge from care, initial treatment with subsequent referral to appropriate alternative treatment or care options, or transport to a health facility for ongoing care or further definitive care if necessary.

Paramedics make a significant contribution in ensuring patients receive or access the most appropriate care to address their health needs. There is significant demand for paramedic services nationally in emergency and non-emergency situations for patients with acute, sub-acute and non-acute needs. The health requirements of the community associated with an ageing population and a rise in chronic disease have had an impact on more diverse models of care. To meet this demand, the clinical scope of practice for NSW Ambulance paramedics is now broader, more complex and diverse.

There is no national formal agreed definition of paramedic or single national 'scope of practice' for a paramedic. However, there is remarkable similarity in the 'scope of practice' for each state jurisdiction. The Inquiry is referred to the document titled Paramedic Professional Competency Standards and Evidence guidelines, published by the Council of Ambulance Authorities (CAA). NSW Ambulance aligns its certification and education to these standards. This document provides a guide to the general competencies required of paramedics employed by Australian statutory ambulance services. CAA is made up of the principal providers of ambulance services in each state and territory of Australia and in New Zealand and provides leadership through policy development, research and quality improvement activity.

#### *Paramedics outside NSW Ambulance*

In addition to being engaged by a statutory ambulance service, paramedics may be employed by a private paramedic service, academic/teaching institution or defence force. They may operate in a variety of industrial, resource sector, defence or event/public gathering settings. Paramedics outside of NSW Ambulance Services make up about ten percent of the total paramedic workforce in NSW. Private paramedic providers are best placed to describe their roles to the Inquiry.

**b) the comparative frameworks that exist to regulate the following professions, including training and qualification requirements and continuing professional development:**

**i. Paramedics**

Qualification

The minimum qualification for paramedics employed in statutory ambulance services in all states except NSW is a paramedic undergraduate or postgraduate degree from a tertiary provider accredited by the Council of Ambulance Authorities. In addition to this qualification, NSW recognises the vocational education and training (VET) qualification, Diploma of Paramedical Science (Ambulance).

NSW Ambulance provides significant education in addition to these minimum qualifications. Paramedics entering via the degree pathway are employed on a one-year internship before being recognised as a NSW Ambulance paramedic with those entering via the VET pathway undertaking a three-year on-the-job training program.

Continuing Professional Development and Certification

Each statutory ambulance service maintains its own certification program facilitating the authority to practice for its employees. Private providers would also develop their own requirements. There is no nationally consistent regulatory standard that governs ongoing fitness for practice, currency or continuing professional development for private or public providers.

NSW Ambulance maintains a mandatory Certificate to Practice (CTP) system for its paramedics. This is based on a continuing medical education model requiring paramedics to accumulate 100 CTP points every three years. Forty of these points are obtained through completion of mandatory professional development activity and assessment conducted by NSW Ambulance. Sixty points are obtained by the paramedic completing relevant clinical professional development activities of their own choosing. NSW Ambulance monitors CTP compliance of its paramedic workforce and non-compliant paramedics are withdrawn from patient care duties.

Regulatory framework for public and private sector paramedics in NSW

The NSW regulatory framework for paramedics has the following elements:

- NSW Code of Conduct for non-registered health practitioners
- Health Care Complaints Act 1993
- Poisons and Therapeutic Goods Act 1966
- Restriction of the title "paramedic"
- Regulation of paramedics employed by NSW Ambulance.

The NSW Code of Conduct for non-registered health practitioners is made under the Public Health Act 2010. It sets out a number of standards to protect the safety of the public in relation to the practice of non-registered health practitioners. The Code of Conduct can be accessed at <http://www.hccc.nsw.gov.au/Information/Information-for-Unregistered-Practitioners>

The Health Care Complaints Act 1993 establishes the NSW Health Care Complaints Commission (HCCC) as an independent body for the purposes of:

- receiving and assessing complaints relating to health services and health service providers in New South Wales;
- investigating and assessing whether any such complaint is serious and if so, whether it should be prosecuted;

- prosecuting serious complaints; and
- resolving or overseeing the resolution of complaints.

A complaint may be made under the Act concerning:

- the professional conduct of a health practitioner, including any alleged breach of the Code of Conduct for non-registered health professionals;
- a health service which affects, or is likely to affect, the clinical management or care of an individual client; or
- a health service provider.

A complaint may be made by any person including:

- the client concerned
- a parent or guardian of the client concerned
- a person chosen by the client as his or her representative
- a health service provider
- a member of Parliament
- the Health Secretary
- the Minister.

Under Part 2, Division 6A of the Act, if a paramedic is found to have breached the Code of Conduct in NSW and poses a risk to the health or safety of the public, the Health Care Complaints Commission can take action against that practitioner, including the issue of a prohibition order or an interim prohibition order, which prevents that practitioner from practising in NSW or imposes conditions on their practice.

This regulatory framework is known as a "negative licencing scheme". Under an agreement of Health Ministers made on 17 April 2015, those States and Territories that currently do not have such a scheme will be developing one. A National Code of Conduct, based on the NSW and SA existing Codes of Conduct, provides the framework for this scheme.

Negative licencing is a powerful tool, in that it provides a mechanism to receive and assess complaints and, in appropriate cases, to prohibit non-registered practitioners from practising. Once a national negative licence scheme is in place, prohibition orders will be recognised by all jurisdictions, making them nationally effective.

#### [Poisons and Therapeutic Goods Act 1966 and Poisons and Therapeutic Goods Regulation 2008](#)

The Poisons and Therapeutic Goods legislation in NSW regulates the access, supply, sale and use of poisons and medicines ("regulated substances"). The legislation specifies those that have authority to possess and use regulated substances.

The Poisons and Therapeutic Goods legislation allows NSW Ambulance employed paramedics access to medicines for administration to patients in accordance with approved protocols, including a range of Schedule 4 (restricted substances) and Schedule 8 (drugs of addiction).

The authority of an individual NSW Ambulance paramedic to possess and administer medicines may be withdrawn under the provisions of the Poisons and Therapeutic Goods legislation to protect the life or health of any person.

A number of private organisations are recognised by the NSW Ministry of Health as private paramedic organisations and appropriate authorisations are given under the Poisons and Therapeutic Goods legislation. There are currently 20 private

paramedic organisations issued with authority under the Poisons and Therapeutic Goods legislation in NSW. This authority allows employed paramedics to administer specific regulated substances necessary for paramedics to perform their role. These organisations are required to demonstrate appropriate systems and protocols, and authorities are subject to conditions. These conditions can include:

- the drugs which the employed paramedics are entitled to administer
- the length of the authority
- that drug administration is only for emergency treatment where a medical practitioner is not available
- approval to administer limited to employees with sufficient training (which, for paramedics, is assessed as training equivalent to the training provided by NSW Ambulance for those authorised to administer that medication)
- recertification processes every two years
- protocols for drug administration, reviewed at least annually by a panel of clinicians which must include a specialist emergency physician
- record keeping requirements
- that, on patient transfer, records are transferred to the hospital or NSW Ambulance Service.

Under the provisions of the Poisons and Therapeutic Goods legislation an authority issued to a private paramedic organisation may be suspended or cancelled if the conditions of the authority are contravened. Additionally, under the provisions of the Poisons and Therapeutic Goods legislation, an authority may be restricted or withdrawn for the purpose of protecting the life or health of any person.

Some private paramedic providers also hold a licence under the legislation for the wholesale supply of certain drugs, which carries further regulatory requirements.

Through its regulation of private providers, the legislation imposes the same standards on private paramedics as those imposed on employees of NSW Ambulance.

#### Restriction of the title "paramedic"

The Health Services Amendment (Paramedics) Act was passed by NSW Parliament on 26 August 2015. This law commences on 1 February 2016 and will make it an offence for a person to call themselves a paramedic without having the qualifications as prescribed by regulation.

#### Regulation of paramedics employed by NSW Ambulance

Over 90 per cent of paramedics in NSW are employed by NSW Ambulance. These employees are subject to strict employment requirements established under statutory arrangements.

The Health Services Act 1997 is the principal Act regulating the governance and management of the public health system in NSW and establishes NSW Ambulance. Paramedics, as employees are accountable under their specific employment conditions and the NSW Health Code of Conduct.

NSW Ambulance has an established formal clinical governance function and associated standards related to incident reporting, clinical quality and patient safety. Clinical protocols are based on the NSW Clinical Excellence Commission and NSW Agency for Clinical Innovation clinical practice guidelines which identify new or changed clinical practice.

As indicated above, NSW Ambulance maintains a formal and ongoing continuing professional development process for all paramedics via a mandatory Certificate to

Practice (CTP). NSW Ambulance monitors CTP compliance and non-compliant paramedics are withdrawn from patient care duties.

NSW Ambulance paramedics are subject to the range of policy directives applying to staff across NSW Health. Key policies include:

- Recruitment and Selection of Staff to the NSW Health Service
- Criminal Record Checks and Working with Children Checks
- Managing Misconduct
- Service Check Register for NSW Health
- Complaint or Concern about a Clinician - Management Guidelines
- NSW Health Code of Conduct

**ii. *Doctors and iii. registered nurses***

Doctors and nurses are regulated professions under the NRAS. The Medical Board of Australia determines the qualifications that entitle a person to registration as a medical practitioner, and imposes other registration standards dealing with matters such as continuing professional development, criminal history checks, English language standards and professional conduct. The Nursing and Midwifery Board performs the equivalent function for nurses and midwives. The relevant qualifications and registration standards can be found on each National Board's website.

**c) *the comparative duties of paramedics, doctors and registered nurses***

Doctors and nurses duties are generally determined by the type of service they provide and the setting in which they operate. These services and settings span a continuum ranging through primary, community, sub-acute and acute care settings. As noted above, regulation under the NRAS is through title protection, rather than through the restriction of practice (with a few exceptions). What is permissible in terms of the duties and roles of these health practitioners is defined through professional and Board standards and guidelines. Duties vary widely.

Duties of paramedics are outlined in the NSW response to the term of reference (a) above.

**d) *whether a system of accreditation should exist nationally and, if so, whether the Australian Health Practitioners Regulation Agency is an appropriate body to do so***

**e) *the viability and appropriateness of a national register to enable national registration for the paramedic profession to support and enable the seamless and unrestricted movement of paramedic officers across the country for employment purposes***

The NRAS was established pursuant to an Inter-Governmental Agreement (IGA) signed by the Commonwealth and all States and Territories in 2008. Under the IGA, the objectives of the NRAS were agreed, and these are now set out in section 3 of the Health Practitioner Regulation National Law. Clause 7.5 of the IGA states that the Ministerial Council will be responsible for agreeing on the inclusion of new professions in the Scheme. Clause 11 of the IGA states that details relating to the inclusion of health professions in the NRAS (apart from the 14 that are currently registered) are set out in Attachment B of the IGA.

Attachment B of the IGA sets out six criteria for determining whether a profession should be admitted to the NRAS. In setting out these criteria, the IGA notes that:

- the sole purpose of occupational regulation is to protect the public interest; and
- the purpose of regulation is not to protect the interests of health occupations.



As well as satisfying the criteria in the IGA, the Council of Australian Governments (COAG) requires that proposed additions to the NRAS are assessed by the Office of Best Practice Regulation (OBPR). The assessment process includes production of a Regulatory Impact Statement (RIS).

Such a RIS process was undertaken in relation to the registration of paramedics. In examining the case for the registration of paramedics, the OBPR formed the view that the RIS did not satisfy best practice regulatory requirements. The OBPR expressed the following concerns with the RIS proposing a national paramedic registration:

- The evidence of significant reduction in harm from the various options is uncertain;
- There is evidence of problems identified being managed under the status quo particularly through the Council of Ambulance Authorities standards;
- The confusion about who is a paramedic does not appear significant;
- The cost saving estimates for employers are not a significant issue and do not appear reliable; and
- Jurisdictional impacts are not well explained.

NSW is of the view that the OBPR's findings raise important questions regarding the appropriateness of national registration of paramedics. NSW will need to further consider these issues, as well as issues that arise from the review of the NRAS, prior to determining its final position on "opting in" to any registration scheme for paramedics under the NRAS.

There are, of course, potential benefits to national registration of paramedics. For NSW, these may include the following:

- nationally constituted, rather than jurisdiction-based, protection of title may increase consistent definition of paramedic roles by using common terminology and qualifications across all jurisdictions;
- reduction in the likelihood of practitioners with conduct issues moving from job to job because of the establishment of a public national register (although this can be addressed by way of all jurisdictions adopting a code of conduct for unregistered health practitioners and recognising interstate prohibition orders) and mandatory reporting requirements on practitioners and employers;
- mandatory checks on criminal history, qualifications, language and continuing professional development as ongoing conditions of practice (currently, these are a matter of clinical governance for each employer);
- ease of cross-border practice for paramedics, who would not have to meet different regulatory standards in different jurisdictions.

There are also a number of potential disadvantages to adding paramedics to the NRAS:

- NSW is the only state or territory that retains a vocational education and training (VET) pathway for paramedics. This training pathway is effective for NSW and provides for flexibility in workforce planning and management. Approximately 40 per cent of new NSW Ambulance paramedic trainees/interns in 2015 were recruited via the VET pathway. The potential discontinuance of the VET qualification pathway would be a disadvantage for the NSW Health Service. Under a national registration scheme (as the legislation currently stands), it would be an independent National Board which decides the qualifications that are appropriate for registration. This carries a risk that the VET training pathway may not be recognised by the Board, thus disadvantaging NSW.
- Registration involves costs, both to the public (in terms of public money required to establish the registration scheme) and to paramedics themselves (through registration fees). These costs are outlined in detail in the draft Regulatory Impact Statement submitted to the OBPR.

- Registration can also involve loss of control of the scope of practice and associated workforce flexibility for employers. In NSW this could lead to loss of flexibility in terms of workforce planning, management and cost effectiveness.

In determining whether or not registration should proceed, it is necessary to consider both the benefits and the costs, and whether the benefits outweigh the costs. In NSW, where there is already a high level of regulation of paramedics, many of the benefits of national registration have already been achieved through other regulatory mechanisms. These include:

- A strong code of conduct and a comprehensive complaints mechanism;
- the ability to prevent a paramedic from practicing where a serious complaint has been proven;
- the ability to regulate access to drugs and therapeutic goods to only those with appropriate ongoing training;
- prohibition of an individual using the title "paramedic" unless they hold particular qualifications;
- a strong clinical governance framework and rigorous recruitment framework for the majority of the State's paramedics, who are employed by NSW Ambulance.

The question of the benefits versus the costs of national registration is a matter under continuing consideration by NSW.

***f) any other related matters.***

Nil response