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system for paramedics: A response to New South Wales**

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Policy

Inquiry into the establishment of a national registration system for paramedics: A response to New South Wales

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Abstract

Introduction

The potential national registration of paramedics is a significant issue. Despite widespread support of paramedics joining other registered health practitioners under the National Registration and Accreditation Scheme, New South Wales continues to oppose.

Aim

This paper considers the New South Wales submission to the Senate Committee's inquiry into the establishment of a national registration system for Australian paramedics. It evaluates the reasons for New South Wales Health's opposition to national registration.

Conclusion

New South Wales Health's reasons for opposing national paramedic registration include the cost to implement a registration scheme, the desire to maintain vocational entry to employment and the purported efficiency of their current regulatory system. However, their position fails to address the challenges of employer-based regulation and the significant public protection benefit, among other things, of national statutory regulation.

Keywords:

registration; regulation; accreditation; New South Wales; public policy

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Introduction

The registration of Australian paramedics is a topical issue. Despite the expertise of paramedics, and their practise on vulnerable patients, they remain an unregistered health discipline. In order to assess the value of establishing a national registration system for paramedics, the Australian Senate commissioned a committee to determine whether paramedic registration, under the National Registration and Accreditation Scheme (the 'National Scheme') would improve and ensure patient and community safety. The National Scheme, through the Health Practitioner Regulation National Law Act 2009 (the 'National Law'), currently regulates 14 other health professions including medical practitioners and nurses (1-3).

The Senate Standing Committee on Legal and Constitutional Affairs sought submissions from interested parties, with particular reference to the following categories:

1. The role and contribution of the paramedic profession
2. Existing comparative frameworks for paramedics, doctors and nurses
3. Comparative duties of paramedics, doctors and nurses
4. Whether national accreditation is appropriate
5. Whether national registration is viable and appropriate to support portability of paramedic qualifications between jurisdictions; and
6. Any other related matters (4).

There was widespread support for establishing national registration for paramedics (5-7). For example, Victoria's Minister for Health, the Hon Jill Hennessy, pledged support for paramedic inclusion in the National Scheme and stated, 'Victoria has led the push for the national registration of paramedics' (8). Of the submissions received, New South Wales Health (NSW Health) exhibited reservations about establishing a national system for paramedic registration. It is interesting to note that the Council of Ambulance Authorities (CAA), representing the statutory employer bodies of Australian and New Zealand ambulance services, of which NSW Ambulance is a member, supported the inclusion of paramedics into the National Scheme, yet the New South Wales government did not (9). This article will address NSW Health's response to the Senate inquiry's call for submissions. In particular, it will consider NSW Health's submission that paramedics are already subject to a strong regulatory framework; that the costs may outweigh the additional minimal benefit of registration; and that NSW Health will reserve the right to participate in national registration pending further information being received (10).

Existing regulatory framework

New South Wales Health suggests its current system of regulation 'delivers many of the benefits of a national registration system' (10). Its submission to the senate inquiry specifies that paramedics in New South Wales are already subject to a strong clinical governance framework which includes a rigorous recruitment system, with employers setting standards for prospective applicants; a comprehensive complaints body through the New South Wales Health Care Complaints Commission; the ability to prevent paramedics from practising under the Health Care Complaints Act 1993 (NSW); drug and therapeutic goods regulation through the Poisons and Therapeutic Goods Regulation 2008 (NSW); and protection of the paramedic 'title' under section 67ZDA(1) of the Health Services Act 1997 (NSW). While there are some effective regulatory mechanisms applying to NSW paramedics, there are some challenges which current regulation fails to address. This article will identify the gaps and challenges to NSW Health's current regulatory framework that the Senate submission has not acknowledged. The regulatory tools addressed in this article include accreditation of educational standards.

The need for an external accreditation body for educational standards

There is an existing accreditation process within the paramedicine industry to ensure paramedic tertiary training courses are delivering requisite competencies for graduates. Accreditation standards are used to enable educational providers to deliver minimum and consistent levels of competence within an industry. The CAA is the organisation whose members make up the public ambulance employer providers in each state and territory of Australia, as well as New Zealand (11). It is also the organisation responsible for accrediting paramedic training at universities (12).

The accreditation body is significant because the credibility of the authorising body can determine the value of accreditation as a regulatory tool (13). If the paramedic accreditation organisation is not independent from the employer bodies, it may serve specific employers' needs only and not the industry as a whole. As the CAA is the accrediting body, and is made up of the state ambulance services, it is therefore, in effect, accrediting for employer purposes and perhaps not in the public interest. This raises a potential conflict of interest between the public interest and employer interests. In the NSW Health submission, it acknowledges aligning New South Wales paramedic training with the CAA's accreditation standards, although it does not require tertiary qualifications (10).

There is another additional issue with the CAA acting as the accreditation authority. The final authority for paramedics to practise still lies with employer bodies (14). As such, the accreditation standards are no more than a recommended guideline of minimum standards for employers. While NSW Ambulance might suggest they comply with the industry accreditation, and only employ paramedics who have completed CAA accredited training, they accept Diploma qualifications as a minimum standard of qualification (15). Further, there is no obligation for private paramedic providers in New South Wales to comply with CAA's accreditation standards either. With an ever expanding body of private sector providers of paramedic services (16-17), it is no longer appropriate for the public employers to solely govern this area of paramedic regulation. The disparity between minimum qualification and training standards of different employers could create differing standards of skill and expertise among people using the title 'paramedic'.

New South Wales Health addresses accreditation in a very limited way (10, p3). They seek changes to the National Scheme's accreditation mechanisms dealing with the qualifications for registered professions before agreeing to inclusion under the National Scheme. More specific guidance on the scope of these changes was not provided, although NSW Health suggest clarity was needed on whether paramedics would be part of a merged, existing board or separate board.

New South Wales Health still actively supports sustaining vocational training as an entry-to-employment qualification. However, tertiary qualifications have been identified as an important way for paramedic graduates to develop critical thinking and problem solving skills, among others (18). By continuing to support vocational entry-pathways, NSW Health does not fall into line with the other jurisdictions of Australia, which require tertiary education as a minimum standard of entry to the discipline. Given some New South Wales paramedics undertake vocational training, rather than tertiary education, NSW Health is concerned their paramedics will not be eligible for registration under the National Scheme (10, p8). It is likely some practising paramedics, in jurisdictions other than New South Wales, would also be concerned about their eligibility for registration if they have undertaken paramedic training under the old vocational model of 'on-the-job' training, rather than achieving higher educational qualifications at a tertiary institution.

A grandfathering provision that allows for practising paramedics without tertiary qualifications to be given a period of time to complete a bridging course to upskill may well be drafted into the national regulatory framework (17). A 'grandfather clause' is one which exempts people from statutory provisions for conduct which they were engaging in

at the time the legislation was passed (19). The accreditation of any such bridging course would then fall to the external accreditation body. A grandfather clause may also allow anyone currently practising as a paramedic to be registered, and remain registered, without the need to obtain a tertiary qualification.

Challenges of jurisdictional regulatory disparity

New South Wales Health administers paramedic regulation at a state level and it argues that it already delivers many of the benefits of a national registration system including, most importantly, that the public is protected (10). However, their approach to paramedic regulation fails to appreciate the broader benefits of a national regulatory framework or the challenges posed by the continuing jurisdictional disparity (17).

Indeed, its senate submission did not acknowledge either the benefits of adopting a national system or the risks of each state and territory governing their paramedics in a different way. When the regulatory mechanisms for governing paramedics in each state and territory differs there is the potential for issues to arise such as differing educational standards, disciplinary practices and continuing professional development requirements. There are additional problems with the current Australian state-based paramedic regulatory framework including that paramedic practice is not just regulated differently between states and territories but between employers.

New South Wales Health has not acknowledged the potential challenges of jurisdictional regulatory disparity in their Senate submission. Regardless of NSW Health's purported ability to protect the public from harm using their existing regulatory mechanisms, there are still significant issues with paramedic regulation being administered on an employer level that cannot be resolved using the existing regulatory framework. Specific issues are outlined below.

New South Wales Health, in their Senate submission, identify, 'there is no nationally consistent regulatory standard that governs ongoing fitness for practice, currency or continuing professional development for private or public providers' (10, p4). They suggest that each employer develop their own regulatory standards for continuing professional development and seem to suggest this to be a barrier to registration. However, the opposite is true. Registration on a national level would ensure the nationally consistent regulatory standards to which NSW Health refers.

The method for dealing with paramedic complaints between jurisdictions is one such concern. New South Wales Health boasts a 'strong' and enforceable code of conduct to promote high standards and a rigorous NSW Health Care Complaints Commission for dealing with complaints against paramedics.

It is significant that the Complaints Commission is responsible for investigating complaints against other registered health practitioners as well as paramedics. This provides some support for NSW Health's assertion that their complaints mechanisms are adequate (20, ss4,7). However, while breaches of the code of conduct can require the paramedic to cease practice or have conditions imposed on practice, (s41A) there is no positive power for any sanctions imposed to be communicated to the paramedic's employer, meaning employers could be unaware of any conditions of practice applicable to a paramedic.

There is no requirement for the outcome of any investigation or sanctions for paramedic conduct to be communicated to an employer in another jurisdiction if a paramedic moves interstate. Further, employers may have difficulty locating details of a prior complaint or the outcome of an investigation. The same problem exists if paramedics change from the public ambulance system to private practice. National registration ensures all employers, and the public, can access a paramedic's conditions of practice and whether paramedics have been struck off the register.

Arguably, section 41(2)(d) of the Health Care Complaints Act 1993 (NSW) allows the Complaints Commission to give notification of any complaints decisions to a 'relevant person or body', which could include an employer. However, notification is voluntary rather than mandatory. It is relevant to note that national boards are obliged to report 'health, conduct or performance action', following an investigation, to registered practitioners' employers (21, s206).

The New South Wales Code of Conduct is a form of negative licensing. Negative licensing does not restrict entry to the profession but provides avenues to take action against a practitioner who fails to comply with the standards of conduct (13,22). Should a code of conduct be breached, limitations can be applied to a practitioner's future conduct in the form of suspension or prohibition orders, for example (23,24). Negative licensing is a tool used for paramedic regulation because the codes of conduct, in participating jurisdictions, impose sanctions on paramedics for contravening the codes (17). Negative licensing has been criticised for being reactive to problems, rather than proactive, meaning behaviour can only be regulated following a negative outcome (13). While New South Wales uses negative licensing as a regulatory tool for paramedic governance, it is not consistently used on a national level. A system of paramedic registration, instead of relying on a negative licensing scheme that varies between jurisdictions, allows enforcement bodies to proactively institute standards for paramedic behaviour.

National registration provides an avenue for NSW Health to maintain their strong regulatory framework. With national

registration, paramedics will have an improved capacity to respond to public health threats because of national uniformity, portability of qualifications, better data on registrants, transparency of operations and practice, and enhanced public confidence, among other things (25,26). It is noted that NSW Health does not address portability of qualifications, better data, transparency or enhanced public confidence, other benefits of adopting national registration as a regulatory tool, in their submission (27).

Loss of employer control

New South Wales Health also expresses concern that national registration would mean its loss of industry control. One of their grounds for opposing a national system of registration includes the 'loss of control of the scope of practice and associated workforce flexibility for employers' (10, p9). As employers are currently the industry regulator, national registration would mean NSW Health would defer to the national industry regulators to ensure consistency in industry regulation. Although employers would still retain the right to make employment decisions unrelated to their employee's training, education and discipline. Employers would also still be responsible for dictating paramedic scopes of practice. The other registered health professions underwent similar changes in their professional evolution prior to the National Scheme's amalgamation of health professional regulation (3).

Costs of paramedic registration

New South Wales Health is concerned the costs of registration will outweigh the minimal additional benefits that would be achieved. It is acknowledged paramedic registration would cause additional costs (17). One of these costs is an annual paramedic registration fee. The paramedics themselves could pay registration or it could be an employer responsibility, although practitioners in other health professional groups pay their own registration fees. It is likely employers would object to the additional costs this would impose on their organisation if responsibility for payment of paramedic registration fees rests with them.

New South Wales Health also identifies a cost to 'establish the registration scheme'. While there would be a cost to the government to include paramedics in the current National Scheme, such as legislative drafting, parliamentary sitting time and the establishment of an infrastructure to support the additional discipline (17), there is an existing and functioning scheme which could incorporate paramedics. No resources are needed to establish a separate regulatory system.

Finally, the additional benefits of national registration are, by no means, minimal. The purpose of health professional regulation is to reduce the likelihood of risk to the public and to enable 'trust and confidence in the standing of the profession' (28,29).

Promoting public safety has also been legislatively acknowledged as an important consideration of the national statutory health professional regulation currently governing Australian registered health practitioners (21 s3A, 30). A national statutory regulation framework would ensure public safety is the most important consideration. With employer regulation, it is more difficult to determine whose interests current regulation is serving.

The exclusion of paramedics in New South Wales from national regulation

New South Wales Health has acknowledged they will reserve the right to participate in national registration. The Australian Government has suggested additional professions can be added to the National Scheme if a majority of the jurisdictions support the addition and regulation would minimise public safety risks (31). If NSW Health maintains its refusal, national paramedic registration can still go ahead. Paramedics in New South Wales could be expressly excluded from the operation of the National Scheme if NSW Health continues to object to their inclusion. National registration would then apply to all Australian paramedics except for those employed within New South Wales.

Excluding only paramedics in New South Wales from health professional regulation is problematic. A number of potential issues arise if NSW Health chooses this path. New South Wales paramedics may not be recognised as 'professional' in the same way as registered paramedics might, which has been considered an outcome of obtaining professional status under national health practitioner registration (32-34). Further, moving between Australian jurisdictions may be challenging as they would need to apply for registration for interstate work and there may be no reciprocal acknowledgement of their qualifications and training (16,17). New South Wales tertiary institutions may also suffer as potential applicants may choose to study in a jurisdiction supporting national registration. As a result, paramedics in New South Wales may seek registration to enable a transportability of their qualifications.

Conclusion

The potential national registration of paramedics is a significant issue warranting thorough consideration. Despite the scholarship in support of paramedics joining the National Scheme (16,35), NSW Health continues to express their objection to being part of national paramedic regulation. Their reasoning for the exclusion includes the cost to implement a registration scheme, the desire to maintain vocational entry to employment and the purported efficiency of their current regulatory system. However, NSW Health's position fails to address the challenges of employer-based regulation and the significant public protection benefit of national statutory

regulation. Refusing to take part in national registration will also ostracise paramedics in New South Wales from registered paramedics in other jurisdictions, as they will not have portability of qualifications. Should NSW Health opt out of national regulation, their paramedics, the profession and the public will be disadvantaged.

Conflict of interest

The author declares she has no competing interests. The author of this paper has completed the ICMJE conflict of interest statement.

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