Australian & New Zealand College of Paramedicine

Submission to

Health Workforce New Zealand

on

Regulating the paramedic workforce under the Health Practitioners Competence Assurance Act 2003

June 2017

The Australian & New Zealand College of Paramedicine recommends that to enhance the safety of the New Zealand public, it is in the public interest that paramedics be regulated through the establishment of a responsible authority to be called the Paramedicine Council under the provisions of the Health Practitioners Competence Assurance Act 2003.

Australian & New Zealand College of Paramedicine

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Executive Summary

The Australian & New Zealand College of Paramedicine (ANZCP) represents several thousand individuals working or studying as paramedics throughout New Zealand and Australia.

Whilst the majority of our members are employed within government agencies or government-funded private ambulance services, ANZCP has a significant membership sourced from other private enterprises including aeromedical retrieval, events industry, industrial and mining organisations as well as paramedics from the New Zealand and Australian Defence Forces.

The current consultation process has generated substantial interest, not only throughout our membership and their respective workforces, but also from the wider communities that are associated with ANZCP and understand the work of paramedics and the environments in which they operate.

This document contains our formal submission to the limited consultation conducted by Health Workforce New Zealand on '*Regulating the paramedic workforce under the Health Practitioners Competence Assurance Act 2003'*.

It explores the need for enhanced public safety, the risks associated with paramedic practice and the potential to achieve greater safety and better health care through appropriate statutory regulation.

The views expressed in the submission are based on the input from our members and from the key stakeholders and ultimate funders of paramedic care, the community. The input to inform the submission has come from all levels and from a diversity of professional and academic backgrounds.

The responses have been highly constructive, with uniformly positive support for regulation of paramedics under the Health Practitioners Competence Assurance Act 2003 (HPCA Act).

Community-based responses were unanimously of the view that they were the primary affected stakeholders as patients and funders - and that paramedics should be regulated through similar mechanisms as are medical practitioners and nurses.

ANZCP believes that the introduction of statutory regulation of paramedics is imperative. Indeed, to not ensure that paramedic care is delivered within a robust, enforceable and national framework underpinned by legislation, is to expose the community to an increasing degree of risk to health and safety and to forgo a number of other identified benefits.

ANZCP therefore recommends that paramedics be regulated under the provisions of the HPCA Act at the earliest opportunity as follows:

ANZCP recommends the establishment of an independent responsible authority (Paramedicine Council) operating under the provisions of the Health Practitioners Competence Assurance Act 2003, and comprising five independent practitioner members and two laypersons appointed by the Minister of Health following an open call for nominations.

The Australian & New Zealand College of Paramedicine

The Australian & New Zealand College of Paramedicine (ANZCP) traces its roots to 1973; firstly as the Australian Institute of Ambulance Officers (NSW) (1973-2001), then as the Australian College of Ambulance Professionals (NSW) (2001-2011). Since 2012 ANZCP has operated under the current name which better reflects who we represent and what the College does. As a learned society the College speaks for the professional interests of thousands of paramedics throughout New Zealand and Australia.

Today ANZCP comprises a diverse body of independent and employed professionals working across the private and public sectors. Our members range from those working in busy land ambulance and aeromedical retrieval services, to those in remote locations and wilderness settings - often practising alone as the only health professional at a given location.

That diversity of settings gives rise to the many different functional roles undertaken by paramedics. These may vary from working in a multidisciplinary team providing a broad range of patient health care options and involving a variety of high level assessments and higher risk clinical interventions; to community paramedic roles involved in making in-depth assessments of a patient and providing recommendations on the most appropriate treatment pathway.

ANZCP places a focus on the development of paramedic professionalism and continuing professional development; the maintenance of high clinical and competency standards; the performance of regular member audits; and the delivery of training and educational activities via face to face and on-line channels.

ANZCP has maintained an active role in discussions on paramedic regulation with all jurisdictions in Australia through participation in consultation sessions and focus groups as well as regular meetings with key officials. Among several key submissions was the ANZCP submission[1] to the 2012 consultation on *'Options for the Regulation of Paramedics'* which helped inform the decision of the Council of Australian Governments (COAG) Health Ministers to proceed with registration of paramedics under the National Registration and Accreditation Scheme (NRAS)[2].

ANZCP also was a member of the National Paramedic Stakeholder Reference Group during the final consultation and drafting of the legislative amendments for paramedic registration[3] which is currently being implemented in Australia.

Despite its significant role in the Australian regulatory proceedings, to date ANZCP has taken a less prominent approach to discussions in New Zealand[4] given that a Parliamentary Committee in 2008 found it essential that ambulance services be underpinned by nationally recognised clinical standards, and had recommended registration[5] of paramedics under the HPCA Act.

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[1] Australian & New Zealand College of Paramedicine, *Submission to Health Workforce Principal Committee on Options for the Regulation of Paramedics, Sept 2012*, http://www.anzcp.org.au/resources/ accessed 22/06/2017

[2] Australian Health Practitioner Regulation Agency, *Regulation of paramedics under the National Registration and Accreditation Scheme* http://ow.ly/YlXa30cKcJI accessed 18/06/2017

[3] Queensland Parliament, *Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017* http://bit.ly/2snDTKI accessed 16/06/2017

[4] ANZCP, December 2015, Registration of Paramedics – New Zealand, http://bit.ly/2tV7lUO accessed 23/06/2017

[5] Forty-eighth New Zealand Parliament (July 2008) , *Inquiry into the provision of ambulance services in New Zealand Report of the Health Committee* http://bit.ly/2rZyDZF accessed 26/06/2017

A formal case for registration of paramedics had also been submitted by Ambulance New Zealand[6] and was already under consideration. Other studies[7] had examined the case for regulated emergency care practitioners and found strong support from individuals (97%) and organisations for advanced paramedics to be 'professionally registered'.

ANZCP draws attention to the use of terminology in the Health Workforce New Zealand consultation document that refers to paramedics variously as 'ambulance officers' or 'ambulance paramedics' or synonymously as an 'ambulance workforce' or 'paramedic workforce'. No significant reference is made to the paramedics (medics) who work within the New Zealand Defence Force[8] (NZDF).

While it is recognised that the two major land ambulance services in New Zealand employ the majority of paramedics, the regulation of the profession is based on the role and fitness to practice of the practitioner and not the employment setting. This aligns with the regulation of other health practitioners as individuals – regardless of where they work.

In this submission ANZCP therefore refers to paramedics in the context of a distinct cohort of professional practitioners who may or may not work for an ambulance service and may practice as individuals or employees of any health service provider or organisation.

The submission addresses the issues and related consultation questions in sequence.

Issue 1. Do paramedics provide health services that pose a risk of harm?

Do you agree that the paramedic workforce provides a health service as defined under the HPCA Act, and poses a risk of harm to the health and safety of the public?

YES

ANZCP submits that the functions performed by paramedics fall within the context of healthcare and that paramedics provide a health service under a wide range of settings from emergency to out of hospital unscheduled and community care.

The professional work of paramedics is directed towards preserving life, preventing further illness or injury, promoting patient recovery and generally maintaining the health[9] of the community through supportive services.

Paramedics must make time critical decisions about the immediate administration of restricted, powerful and potentially dangerous medications. The responsibility for their administration in an emergency situation may well rest solely with the paramedic.

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[6] Ambulance New Zealand, *Registration,* http://www.ambulancenz.co.nz/about/ accessed 26/06/2017

[7] Clapperton J, *The feasibility of establishing Emergency Care Practitioners In New Zealand*, http://bit.ly/2tmafpy Master's degree dissertation, University of Otago, Dunedin, February, 2008 accessed 26/06/2017

[8] New Zealand Government, *Defence Careers*, http://bit.ly/2sLV0TM accessed 23/06/2017

[9] World Health Organisation, *Health: a state of complete physical, mental, and social well-being, not merely the absence of disease or infirmity*, http://bit.ly/2nmQ7iL accessed 23/06/2017

Paramedic practice also comprises a range of physically invasive procedures that involve varying degrees of risk to the patient. These activities may range from low to high risk where the interventions, based on clinical indications, clearly pose a serious risk of harm to the health and safety of the patient.

The highest risk procedures such as sedation, paralysis, endotracheal intubation and artificial ventilation are known to have potentially fatal consequences if the paramedic's clinical judgment is in error or through poor execution of the procedure.

Paramedic practice thus has a combination of many lower or moderate risk activities and a substantial number of high risk activities, cumulatively giving rise to what must be assessed as 'significant risk' to the public.

In performing these healthcare functions, the paramedics of New Zealand operate in a very similar manner to paramedics in other comparable jurisdictions such as Australia and the United Kingdom (UK).

UK Ambulance Service Trusts, hospitals, health clinics and other private employers have been notably active in recruiting[10] paramedics from New Zealand because of the closely relevant regimes of practice. In the UK, the Health and Care Professions Council (HCPC) and its predecessor organisation has regulated paramedics as a health profession[11] since 2000.

In Australia, the Council of Australian Governments (COAG) Health Council has agreed that paramedics are a health profession[12] and are to be regulated under the Australian Health Practitioner Regulation National Law (National Law) (s4(6) - health profession). The basis for that decision was for the protection of the public given the risk of harm (see later).

The first stage of enabling legislation[13] was tabled in the Queensland Parliament on 13 June 2017 and it is expected that by late 2018, paramedics in Australia will become registered health practitioners under the National Registration and Accreditation Scheme (NRAS) in the same manner as other health professions including nursing and medicine.

Issue 2. The nature and severity of the risk of harm

Do you agree with the consultation document's description of the nature and severity of the risk of harm posed by the paramedic workforce? If not, please provide comment.

YES

ANZCP agrees with the general tenor of statements concerning the nature and risk of harm outlined by the consultation document in tables 4 and 5. In doing so, it draws attention to a number of additional aspects.

[10] London Ambulance Service – *No ordinary challenge* http://ow.ly/aG0230cObwf accessed 17/06/2017

[11] Health and Care Professions Council, *About registration – paramedics*, http://bit.ly/2sauIgX accessed 12/06/2017

[12] AHPRA, *Regulation of paramedics under the National Registration and Accreditation Scheme* http://bit.ly/2pkhLfP accessed 18/06/2017

[13] The Paramedic Observer, *Paramedic registration begins journey to implementation* http://ow.ly/CYrg30cKa57 accessed 19/06/2017

In examining the rationale for paramedic registration in Australia, the Australian Health Minister's Advisory Council highlighted thirteen specific risk factors[14] used to inform the extent to which a health profession may pose a risk to the public. They identified paramedic practice risk as greater than that for ten of the fourteen currently registered health professions in Australia.

ANZCP suggests that this assessment understated the risks as it did not recognise that paramedics apply hazardous forms of radiation and energy (Risk Factor 3), being defibrillation and synchronized cardioversion; and where the skill set of Extended Care Paramedics is included, also perform setting or casting of a fracture or reducing dislocation of a joint (Risk Factor 10). While it is not part of the usual practice regime except for some specialist paramedics, paramedics also may expose patients to risk in extrication from confined spaces and motor vehicle incidents (Risk factor 2).

Inclusion of these risk factors would mean that paramedics engage in activities with cumulative risks exceeded only by medical practitioners.

Sedation, paralysis, endotracheal intubation and artificial ventilation of patients are near-equivalent procedures to those performed by anaesthetists under controlled emergency room and scheduled operating theatre environments. However, a paramedic typically must perform them under more challenging time-dependent and physically demanding circumstances with an unprepared patient and without the benefit of a patient's medical history. The potential risks of harm are substantially higher than would be considered acceptable under normal clinical conditions, and the professional demands placed upon the paramedic correspondingly greater.

Apart from the potential harm from interventional procedures, there is a noteworthy potential for harm associated with extended practice[15] or community care settings. The risks associated with the professional decision-making process of comprehensive health assessment, initiation of low acuity pathways and referral to alternate health practitioners or allied health providers; or discharge from care; are not as obvious as for physical or medication interventions but are equally or more serious in determining the outcomes for a patient.

It is undeniable that there are significant risks of harm to the public from paramedic practice. The uncertain status of patients; time and communication constraints; the unsupervised and inhospitable conditions under which paramedics often practice; and the dynamic and largely unpredictable environments in which they deliver patient care all contribute to a great potential for harm to the health and safety of patients.

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[14] Australian Health Ministers' Advisory Council, (September 2015), *Final Report: Options for regulation of paramedics – Appendix 1,* http://bit.ly/2djLnWm accessed 23/06/2017

[15] S Hoyle, A Swain, P Fake, P Larsen, *'Introduction of an extended care paramedic model in New Zealand'*, 1 Department of Surgery and Anaesthesia, University of Otago, and 2Wellington Free Ambulance, Wellington, New Zealand October 2012, http://bit.ly/2u6xnp0 doi: 10.1111/j.1742-6723.2012.01608.x accessed 29/06/2017

Issue 3. The frequency of harm caused by paramedic practice

Do you consider there is a high frequency of harm being caused by the practice of the paramedic workforce? Please provide comment about your answer.

NO – depending on the definition of high frequency

In the experience of ANZCP, the vast majority of paramedics in all settings conduct themselves with integrity and professionalism. They are competent and consummate practitioners who are committed to delivering high quality patient care in some of the most challenging environments.

The result is that the number of harmful events occasioned by inadequate or improper practice is not high. Examination of Annual Reports and the Office of the Health and Disability Commissioner data[16] in the consultation paper for 13 other professions discloses that some professions have very few reported incidents – so the level of incidence must be placed into perspective along with the exposure to risk and potential for harm.

In that respect, ANZCP believes that the low reported incidence rate for paramedics represents the tip of the iceberg. This may be a consequence of internalised processes and the absence of more formally legislated reporting requirements. Rather than an absence of incidents, there is (anecdotally) a reluctance to report due to fear of reprisals combined with a lack of quality reporting mechanisms, particularly with regard to external reporting and complaints.

When dealing with health care, the consequences of maltreatment or service failings resonate well beyond the immediate patient and may generate serious public concerns[17] and loss of public confidence. Statistics alone do not tell the full story and any occurrence of harm is deeply regrettable - with the negative impact felt most keenly by those closest to the event – and affecting not only the patient and their families, but also the practitioners involved. Because of the public interest in health, service providers are known to be very sensitive to incidents likely to impact negatively on their performance or image.

One of the constant issues as a result of paramedics not being regulated under a formal regulatory framework is the relative dearth of available data on complaints and other workforce information that is pivotal to understanding the structure of the workforce and the flows into and out of the workforce in both employed and private practice.

ANZCP is not alone in holding this view, and the consultation paper on paramedic regulation by the Australian Health Workforce Principal Committee also highlighted the paucity of data on health outcomes associated with paramedic services; the relative lack of transparency; and the absence of systematically collected information that might better inform policy regarding the degree of risk or the extent of undesirable events in paramedic practice.

Not surprisingly, initial efforts to outline the risks involved in paramedic practice were hampered by this lack of consolidated data and ANZCP has explored other measures including intervention risk matrices and listing of public domain cases and Coronial Inquiry outcomes. While a number of unreported cases in Australian jurisdictions were known, the details are not publicly available due to confidential settlements, resignations or unreported employer terminations.

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[16] NZ Ministry of Health, *Regulating the paramedic workforce under the Health Practitioners Competence Assurance Act 2003 Consultation Document (Table 6)* http://bit.ly/2s7MdNI accessed 30/06/2017

[17] The Paramedic Observer (April 2016), *Freedom to speak up*, http://bit.ly/2rTRVQe accessed 26/06/2017

To gain a better perspective of the likely incidence of untoward events and complaints one may call on the experience of the UK where the HCPC regulatory model[18] can provide data. The Health and Care Professions Tribunal Service handles the fitness to practice process, which is designed to protect the public. Finding that a registrant's fitness to practice is 'impaired' (negatively affected) means that there are concerns about their ability to practice safely and effectively. This may mean that they should not practice at all, or that they should be limited in what they are allowed to do.

The Fitness to practice Annual Report 2016[19] provides a comprehensive outline of the number of cases considered during 2015-16 as shown in the table below. The total number of complaints was 2,127 representing 0.62 % of the registered population of 341,745.

Of these, the number of paramedics subject to concerns was 239 and formed more than 1% of registered paramedics. This was the second highest percentage of all professions registered under the HCPC.

Table 4b Cases by profession

Profession	Number of cases	% of total cases	Number of registrants	% of the Register	% of registrants subject to concerns
Arts therapists	8	0.38	3,897	1.14	0.21
Biomedical scientists	47	2.21	22,154	6.48	0.21
Chiropodists / podiatrists	56	2.63	13,121	3.84	0.43
Clinical scientists	7	0.33	5,376	1.57	0.13
Dietitians	17	0.80	8,986	2.63	0.19
Hearing aid dispensers	18	0.85	2,442	0.71	0.74
Occupational therapists	93	4.37	36,272	10.61	0.26
Operating department practitioners	55	2.59	12,811	3.75	0.43
Orthoptists	1	0.05	1,385	0.41	0.07
Paramedics	239	11.24	22,380	6.55	1.07
Physiotherapists	139	6.54	51,662	15.12	0.27
Practitioner psychologists	146	6.86	21,470	6.28	0.68
Prosthetists / orthotists	4	0.19	1,005	0.29	0.40
Radiographers	87	4.09	30,244	8.85	0.29
Social workers in England	1,174	55.20	93,341	27.31	1.26
Speech and language therapists	36	1.69	15,199	4.45	0.24
Total	**2,127**	**100**	**341,745**	**100**	**0.62**

14 Fitness to practise annual report 2016

[18] Health & Care Professions Council, *What is fitness to practice?* http://bit.ly/2sKnnDu, accessed 26/06/2017

[19] Health & Care Professions Council , *Fitness to practice Annual Report 2016*, http://bit.ly/2soRgqN, accessed 26/06/2017

The historical time series of UK cases (p 62) also indicates that paramedic cases of concern have constituted over 1% of paramedic registrants for the past five years.

If this same level of incidents was to be replicated across the New Zealand paramedic workforce, the number of equivalent cases might range between a low of 10 to a high of 40 per annum.

Paramedics have an enviable reputation as being among the most trusted of professions in survey after survey - yet that is not to suggest that they don't make mistakes or that their performance may not be impaired for various reasons - or that complaints are not lodged.

ANZCP cautions against taking a too-literal view of these statistics as the complaints may involve a range of issues of varying severity and may also be conflated with service issues. However, this data reinforces the importance of independent registration of paramedics to protect the public. The risks of harm are not a theoretical concept but a reality.

Issue 4. Known occasions of harm caused by paramedics

Are you aware of any instances of harm to patients being caused by the paramedic workforce? If so, please provide further information.

YES

There is undeniable exposure to risk from paramedic practice especially given the out-of-hospital environment which may be hostile and uncontrolled, bringing additional practice risk to more routine interventions. ANZCP can say without equivocation that it has found or been advised of instances of harm in every jurisdiction in which it has members.

Independent verification or direct evidence of harm is difficult to establish and is not helped by the relative absence of reporting of harm from the unregulated providers of paramedic services. As noted earlier, a significant impediment arises from the combination of inadequate transparency under the existing regulatory arrangements and the internalisation of incident investigations and remedial actions taken by the ambulance services.

While some of the cases of untoward events and harm contain details that are constrained by confidentiality, ambulance services in the past have (generally) been reluctant to share or publish information (for a number of reasons) with some notable exceptions. Gaining access to ambulance service data for independent review by the profession or by the public has often proved difficult.

As noted under Issue 3, within the government-funded ‘public’ ambulance services there is a consistent pattern of internalised investigation and reports, limited public transparency and highly redacted information even when Right to Information applications are made.

From the above and similar experiences, it appears that currently only Coronial Reports will elicit objective and detailed information that would meet appropriate standards of public reporting and accountability in other areas of health care.

Nonetheless there is hearsay evidence to indicate that there is substantial public under-reporting of harm and near-miss incidents, sufficient to invalidate any claims that paramedic practice has a low level of harm; that the current regulatory arrangements are adequate; or that the risks are inconsequential.

Insufficient information is available to speculate on the unreported harm being done within the private sector, but it is unlikely to be less than that occurring within the 'public' funded services.

Developing an historical picture of untoward incidents within the paramedic profession is also limited by the rapid pace of change within this professional group. The majority of clinical practice advances, invasive clinical procedures and greater use of medical technology has occurred within the past 15-20 years and comprehensive healthcare-related data has not been collected over an extensive period.

Tellingly, regulation of paramedic practice under the HPCA Act would enhance consistency in the regulatory approach and recording of outcomes as part of a publicly available national registry. This would reduce the risk to the community by identifying and preventing persons who would be deemed 'unfit to practice' from practicing as a paramedic and by informing best practice.

In the absence of consolidated datasets that provide reliable outcomes data, the profession undertook a comprehensive online survey in 2012 in Australia to gain insights into the observed occasions of harm (inter alia).

The Survey was supported by the two major professional societies and most ambulance services resulting in more than 4000 responses – or more than one-third of the (then) estimated number of practitioners in Australia. The data was carefully validated to ensure its representative nature.

The results from the Survey on observed occasions of harm are both enlightening and frightening. The responses to the question: "Do you personally know of any instances of actual harm or injury to a patient associated with the practice of a paramedic?" are provided in Table 1.

Table 1. Knowledge of actual harm or injury among paramedic respondents

Response	Number of respondents	Per cent of respondents
No	1360	44
Yes - minor harm/injury	857	28
Yes - moderate harm/injury	337	11
Yes - significant harm/injury	250	8
Yes - death	277	9
Total	3,081	100

Source: PA Survey 2012, Question 15. Excludes university students

While some outcomes may not have been the result of overt paramedic interventions, the numbers indicating harm are of concern, indicating that paramedics see a much higher level of public risk and harm in practice than is evident in any public reporting.

The chilling conclusion is that the risks of harm are present; the number and severity of incidents are likely under-reported; and the levels of both risk and actual harm will continue to grow with expansion of the number of providers and rapidly changing practice developments.

New evidence-based treatments and developments in medical technology will continue to occur within paramedicine, as well as expansion of the role and the practice settings in which paramedics

operate. During this developmental journey, it is essential that the profession be uniformly regulated[20] to ensure the quality of service provision is maintained and care delivered by persons who are appropriately qualified and deemed 'fit to practice' under contemporary standards.

Issue 5. Non-government funded ambulance services and high-risk interventions

If you are a non-government funded ambulance provider, does your workforce practice high-risk interventions? Please provide comment about your answer. Refer to Tables 4 and 5 (page 10) of the consultation document

YES

The phrasing of this question is not applicable to ANZCP as it is not an ambulance service provider but it is relevant to our membership and on whose behalf ANZCP may respond. It is also applicable to those paramedics working in the NZDF and in retrieval and aeromedical services.

In the NZDF the interventions may be high-risk especially when executed under disaster conditions within New Zealand[21] or on deployment or in humanitarian operations such as aid and disaster relief missions in Vanuatu and Fiji; humanitarian assistance into Peace Support Operations like the Forward Surgical Team deployed to East Timor; or embedded support on deployment to Afghanistan and Iraq.

The scope of practice and competencies of a practitioner do not stop or start at a border or at a given time of day or night. They are integral to the role of the individual paramedic and available to be used as needed at the level required to preserve life and engender health and wellbeing.

Taken across the spectrum of paramedic practice, the interventions performed by paramedics may range from low to high risk. Even in the case of relatively low risk activities the circumstances of the day may escalate a routine procedure to a much higher level of risk of harm if performed incorrectly or contrary to developing clinical indications.

Issue 6. Is statutory regulation of paramedics in the public interest?

Do you consider that, under the Ministry's guidelines, it is in the public's interest to regulate the paramedic workforce under the HPCA Act?

YES

While the case for regulation of paramedics should not be controversial, the manner in which this is done varies across jurisdictions. Apart from ensuring the basic quality of paramedic practice, follow on benefits from regulation include the generation of public confidence and continued trust in the profession and the service providers for which they work.

Regulatory measures that enhance that trust relationship are in the public interest and are commonly associated in the public's eye with statutory regulation.

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[20] Sylvan, L. 2002, *Self-Regulation – Who's in Charge Here?* Australian Institute of Criminology Conference on Current Issues in Regulation: Enforcement and Compliance, http://bit.ly/2sXdnFv accessed 26/06/2017

[21] University of Canterbury, CEISMIC Digital Archive, *Operation Christchurch Quake*,http://www.ceismic.org.nz/news/operation-christchurch-quake accessed 26/06/2017

Another reason for statutory paramedic regulation stems from the (general) absence of an open market for emergency medical services. Ambulance service providers are perceived as essential services (even if not fully funded or operated by government). In New Zealand there is normally only a single public emergency service provider available, so that patients have no choice of provider or paramedic. In rural, remote and wilderness areas the choice of emergency and primary health care provider is even more limited or non-existent.

Land ambulance services thus operate as effective monopolies and the option to select a given paramedic practitioner is not available - with patients accepting the expertise of the treating paramedic on trust. That trust is based on the general community perception of trust in the regulatory processes for health practitioners.

Indeed, informal community feedback to ANZCP indicates there is a general perception within the community that paramedics already are registered health practitioners in a similar manner to nurses and medical practitioners.

Information concerning the quality and accreditation of health services is today considered a key aspect of accountability and transparency in the public interest. Under current arrangements for the regulation of paramedics that information is lacking, which highlights the need for independent regulatory controls that mandate appropriate information disclosure with respect to service standards, professional standards and fitness to practice.

Examining this further, emergency health services are subject to assessment on the basis of two major activity regimes. One is the practitioner-level quality of clinical service which may (or may not) be a separate issue from the performance of the agency provider function (which often revolves around timeliness). This creates a multi-dimensional concern in the public interest.

It is thus important that the evaluation of paramedic fitness to practice not be conflated with agency performance or be the subject only of internal review. The reasons for having a separation of review functions are the inherent conflict of interest, the potential for reputational damage allied with the perceptions of employer self-interest, and lack of public accountability.

Regulation of paramedics under an independent practitioner framework removes these perceptions, instills confidence and provides transparency. The HPCA Act (s.84) also provides for a separate Health Practitioners Disciplinary Tribunal[22] to hear and determine disciplinary proceedings relating to all registered health practitioners (including paramedics – if registered).

Any profession seeking regulatory inclusion must conform to the primary purpose of the Act which is "*to protect the health and safety of members of the public by providing for mechanisms to ensure that health practitioners are competent and fit to practice their professions* (s 3(1))".

Implicit in the Act is the protection of the public interest. This is achieved through ensuring that the public can readily determine what services a health practitioner is competent and entitled to provide. The underlying concept is to provide the public with clear information on the nature of a profession, and the scope of practice and competencies of its practitioners.

[22] New Zealand Health Practitioners Disciplinary Tribunal, *A Guide to Disciplinary Proceedings*, http://bit.ly/2s6Ec7Q accessed 23/06/2017

These arrangements for registration of healthcare professionals are consistent with the more general New Zealand policy framework for regulating occupations[23]. This states that the aim of regulation is broadly to protect the public from the risks of an occupation being carried out incompetently or recklessly.

In general, occupational regulation in statute is designed to protect the public from physical, mental or financial harm by:

- providing barriers to entry, such as the possession of particular qualifications and assessment of character
- enforcing rules of practice and providing for disciplinary procedures
- where clients' money is involved, providing a form of insurance through bonds or similar devices, and
- requiring providers of services to disclose information that will assist consumers to assess the service.

Cabinet Office Circular No (99)6[24] is based on the premise that:

- Intervention by the government in occupations should generally be used only when there is a problem or potential problem that is either unlikely to be solved in any other way or inefficient or ineffective to solve any other way
- The amount of intervention should be the minimum to solve the problem
- The benefits of intervening must exceed the costs.

A key trigger for regulatory intervention is the level of harm to the consumer or a third party. Nearly all occupations have the capacity to cause *some* harm, but given the costs of compliance, statutory intervention is limited to cases where the harm has the potential to be significant.

ANZCP firmly believes that when viewed in the light of government policy relating to regulation and the public interest, the practice risks associated with paramedicine materially exceed the threshold for statutory regulation of the practitioners.

Issue 7. Do existing mechanisms effectively address the risks of harm?

Do you consider that the existing mechanisms regulating the paramedic workforce are effectively addressing the risks of harm of the paramedic practice? Please provide comment about your answer.

NO

This proposal would mean continued reliance on existing regulatory and non-regulatory mechanisms, and voluntary measures such as a code of conduct.

In the words of Ambulance New Zealand[25]:

[23] New Zealand Cabinet Office CO (99)6, June 1999, *Policy framework for occupational regulation*, http://bit.ly/2uyFDOb accessed 23/06/2017

[24] ibid

> *There are currently no restrictions to prevent anybody setting up an ambulance service and advertising it as an emergency service with trained paramedics, even if they may not practice at the same standard as those working for current providers. And, there are no formal qualifications or competency requirements and no monitoring of standards across the whole sector.*

There are two major professional member organisations for paramedics within the region that advocate for minimum level educational qualifications and have nominated standards of professional behaviour as well as providing ongoing professional development activities.

ANZCP and Paramedics Australasia both have a code of conduct and professional standards but they are voluntary organisations and membership is not a requirement for employment. They have no statutory powers or enforceable regulatory functions underpinned by legislation.

Current regulatory arrangements thus are not considered robust enough to protect the public from harm for the following reasons:

- Voluntary codes of conduct established by professional associations have no binding authority and do not apply to non-members
- There is no independent health complaints process that has statutory powers to investigate and prosecute non-registered health professionals
- Service providers are not required to publish or share important information about matters of serious conduct or performance of individuals
- There is no mandated national standard of education or accreditation to ensure those who identify as paramedics are suitably qualified
- The title 'paramedic' will remain unrestricted and individuals may call themselves a paramedic regardless of qualifications, experience, recency of practice, fitness to practice or matters of misconduct other than subject to general and criminal law matters
- Investigation of complaints will remain the responsibility of individual employers in most cases. As such a distinct conflict of interest arises with regard to investigative processes and may contribute to inadequate or biased outcomes, and
- There will remain a clear lack of transparent public reporting on matters of misconduct that may inform other employers or rightfully inform members of the public.

The matter of protection of the title 'paramedic' is significant because there are concerns that a person could present themselves as being a paramedic despite not being suitably qualified. Protection of title would be one of the most important elements of any regulatory option as it impacts public safety even though it does not directly involve a paramedic intervention.

By way of example, ANZCP draws attention to a submission to the Australian Senate Inquiry by Professors Bange, Brightwell and Maguire[26] where a case of potential misrepresentation was referenced (pp 9-11) about a person who was based in Queensland but over a period of time may

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[25] Ambulance New Zealand, *Why are we discussing regulation* http://www.ambulancenz.co.nz/about/why/ accessed 26/06/2017

[26] Bange R, Brightwell R, Maguire B, *SUPPLEMENTARY SUBMISSION on the establishment of a national registration system for Australian paramedics to improve and ensure patient and community safety*, Senate Legal and Constitutional Affairs Committee, Parliament of Australia, Canberra, February 2016

have worked across both New Zealand and Australia as an (unqualified) paramedic[27]. This case initially was brought to light by ANZCP in its vetting of an application for membership.

Another recent case is that of a Christchurch man starting up an ambulance service[28] and who apparently has little more than a first-aid qualification. While he may not hold himself out personally to be a paramedic, the capacity to provide an appropriate governance framework for any employed paramedic(s) is not present and the development creates confusion (with attendant risks) in the eyes of the public.

While protection of title through statutory legislation or other mechanism is unlikely to deter the determined fraudster, it provides a measure of deterrence, and certainty of action in dealing with cases of misrepresentation and their aftermath(s).

The above issues highlight the need for reform and why the profession and surveyed members of the public have strongly supported registration under a robust statutory framework.

The only perceived benefit from retaining the status quo is that there is no immediate external cost, albeit there likewise will be no savings to providers who will continue to perform a number of regulatory activities that would otherwise be carried out by the external responsible authority.

Moreover, ANZCP believes that failure to act, despite having knowledge of the current regulatory shortcomings, poses substantial reputational, financial and health risks in terms of potential harm to the public.

Issue 8. The option of strengthening existing regulation

Can the existing mechanisms regulating the paramedic workforce be strengthened without regulation under the HPCA Act? Please provide comment about your answer.

NO – with qualification

Other than those regulatory provisions which apply to unregistered health workers generally, there are no specific regulatory mechanisms that have specific application to paramedics and ambulance service personnel (see Issue 7).

Currently ambulance service organisations apply internal models of clinical governance to ensure that patient safety and clinical quality are foremost concerns. Practice deviations are dealt with internally or notified as required under an essentially self-reported regime.

ANZCP acknowledges that some improvements could be achieved through the implementation of more robust complaints mechanisms, the provision of a register of authorised practitioners, the protection of title and increased powers to restrict individuals from practicing if they do not meet the requirements for fitness to practice. Other measures could include the introduction of legislated qualifications necessary for the role of paramedic.

[27] The Paramedic Observer (Facebook 9 March 2017), *Why practitioner registration systems need to be robust & independent*, http://bit.ly/2kvZtoF accessed 27/06/2017

[28] Stuff health, 13 March 2016, *Former Christchurch stripper starts up ambulance service* http://bit.ly/2tjyx2T accessed 27/06/2017

These measures taken together all result in a regulatory framework indistinguishable from regulation under the HPCA Act, but without the advantages of an established infrastructure, the potential for cost savings and other benefits - including alignment with Australian Trans-Tasman arrangements (see Issues 13 and 14) - that would come from use of the HPCA Act.

In general, ANZCP believes that strengthening some of the existing external regulatory framework to be more inclusive of paramedics might be feasible and go part of the way to better protecting the public. However those measures would in most cases require legislative change to be effective across all practitioners and providers, and would not benefit from economy of scale or the advantages of health services integration and overall integrity of regulation and data collation under the established framework of the HPCA Act (see later pp 26-27).

Issue 9. Ambulance sector to implement a register of paramedics

Should the ambulance sector consider implementing a simple register of paramedics suitable/unsuitable to practice instead of regulation under the HPCA Act?

NO

The fundamental principles of regulation should always apply. These were well articulated by Sir David Clementi in his 2004 review of legal services in England and Wales[29] and are summarised on page 21 of this submission. Although written in the context of legal services, the principles Sir David outlined have general application and are embodied within the framework of the HPCA Act and associated regulatory provisions.

The publication of a list of suitable/unsuitable practitioners is only one element of that process, and intended to ensure the necessary transparency in the public interest.

There are serious concerns about the legal implications of such an approach. Listing of someone as being unsuitable to practice presumes that the assessment is made following a rigorous independent evaluation process under the principles of natural justice, investigative rigour and due process similar to that which would apply under the HPCA Act.

If that assessment has not been done (which appears to be suggested), then any listing of unsuitability is subject to legal challenge and potential action for damages for defamation. Since the proposal appears to be based on voluntary action by unspecified parties (ambulance sector) and not underpinned by appropriate legislation, there are significant risks to those who would publish such a list.

Paramedics may work outside ambulance services, and this approach would also appear to require additional legislation to make it effective across all likely areas of practice.

Health practitioner legislation should sit alongside ambulance service legislation in the same way for paramedics as for other registered health practitioners employed by those services. No justification is seen for the service providers or professional bodies to attempt to regulate one category of employee (paramedics) and not others (medical practitioners, nurses) when there is a health practitioner regulatory option clearly available through the HPCA Act.

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[29] *Review of the Regulatory Framework for Legal Services in England and Wales Final Report*, Sir David Clementi, December 2004, http://bit.ly/2ttghoa accessed 27/06/2017

Ambulance sector legislation is built around government's legitimate objectives relating to ambulance (emergency and pre-hospital) service provision whereas practitioner regulation should be based around the role of the practitioner in any context (including ambulance service employment).

Put briefly, the provision of a voluntary professional register is not an appropriate route for the regulation of paramedics and this option is not supported by ANZCP.

Issue 10. Availability of other non legislative regulatory measures

Are there other non-legislative regulatory mechanisms that could be established to minimise the risks of harm of the paramedic workforce? Please provide comment about your answer.

Many aspects of health care delivery are already subject to statutory legislation including:

- health complaints laws
- laws that regulate specific activities such as use of medicines, therapeutic goods and medical radiation equipment
- regulation of public health threats such as infectious diseases
- consumer protection laws
- land transport licensing
- employment law
- other laws such as criminal law, tort law (negligence) and the law of contracts.

Two non-legislative options are firstly to rely on regulation by employers and secondly self-regulation by the profession. For example, members of a professional society can be disciplined for breaching the code of conduct or other provisions of a society's rules.

There are strong general arguments against relying on self-regulation by either employers or the profession when the risks of harm to the public are high and where there is inequality of knowledge and understanding between service providers and patients.

These arguments are outlined (pp 29-30) in the consultation paper prepared by the Australian Health Ministers' Advisory Council (AHMAC) on *Options for regulation of unregistered health practitioners*[30] .

Self-regulation may not be effective in protecting the public[31], particularly with respect to services provided by practitioners from the emerging professions, unless government takes a lead role in overseeing the self-regulatory structures and processes and providing incentives for compliance. This suggests that government would still need to play a role in paramedic regulation.

There is a useful role for voluntary and non-legislated professional codes of conduct in creating an environment of increased responsibility and public accountability but their powers are limited. In terms of enforceability, such codes are unlikely to significantly reduce the risk of harm to the public.

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[30] Australian Health Ministers' Advisory Council (AHMAC) 2011, *Options for regulation of unregistered health practitioners*, http://bit.ly/2tRI92f accessed 26/06/2017

[31] Sylvan, L. 2002, *Self-Regulation – Who's in Charge Here?* Australian Institute of Criminology Conference on Current Issues in Regulation: Enforcement and Compliance, http://bit.ly/2sXdnFv accessed 26/06/2017

Another disadvantage is that most non-statutory measures such as codes of conduct are reactive in nature, whereas the risks associated with paramedicine are considered to require firm proactive measures to prevent harm that may be irreversible.

The principal difficulty is that voluntary schemes such as membership of a society are not a mandatory requirement for employment. That situation results in there being a lack of real sanctions.

If a member was found to have breached the code and a penalty was imposed, the likely outcomes would be that the person would cease to be a member either of their own accord or by decision of the society. In either case the penalty is ineffective unless the breach is so serious as to be referred to the police, an integrity agency or a health complaints process.

The question of statutory regulation or the use of other options for unregistered health professions has been canvassed in depth in Australia in recent years. The Australian review included assessment of a range of regulatory measures including voluntary certification or self-regulation, quality assured voluntary registers, co-regulation, negative licensing (code regulation) - and statutory registration.

Significantly, these reviews included a concurrent examination of the specific case of paramedic regulation. The considered outcome was that statutory regulation under the National Law[32] was the most appropriate mechanism to meet the higher threshold of risk occasioned by paramedic practice. In the case of other unregistered health workers, the Australian Health Ministers opted to introduce a National Code of Conduct.

The voluminous details of the factors underpinning these decisions are not reproduced here but may be seen by reference to the consultation papers[33,34,35,36].

While acknowledging that other options exist for the regulation of paramedics, ANZCP agrees with the decisions reached by the Australian Health Ministers and submits that only statutory regulation is adequate to meet the requirements for the higher risk practice of paramedicine.

[32] Health Practitioner Regulation National Law Act 2009 (Qld, Australia) http://bit.ly/2tng45e accessed 22/06/2017

[33] The Paramedic Observer (Facebook 28 April 2017), *Regulation, Registration and the National Code of Conduct,* *http://bit.ly/2qoTi9i accessed 26/06/2017*

[34] COAG Health Council (17 April 2015), *Communique: A National Code of Conduct for health care workers* http://bit.ly/1yS81vA accessed 26/06/2017

[35] COAG Health Council (17 April 2015), *Final Report: A National Code of Conduct for health care workers,* http://bit.ly/2sfzfia accessed 26/06/2017

[36] Australian Health Ministers' Advisory Council 2015, *Final report: Options for regulation of paramedics*, http://bit.ly/2djLnWm accessed 26/06/2017

Issue 11. Feasibility of regulation under the HPCA Act

Do you agree that regulation under the HPCA Act is possible for the paramedic workforce? Please provide comment about your answer.

YES

ANZCP believes that any group that is subject to statutory regulation should be distinguished by the presence of those attributes normally associated with a profession. These characteristics are usually the application of specialised knowledge and skills obtained through extensive education and training; a high degree of personal integrity in the delivery of services; and a direct or fiduciary relationship with clients (patients).

The existence of a discrete body of knowledge, a defined scope of practice and competencies and a meaningful number of ethical practitioners are considered to be among the key requirements of a profession.

The paramedics of New Zealand fulfil these conditions and comprise an identifiable group of professional practitioners whose interventions pose a risk to the health and safety of the public sufficient to warrant independent regulation.

At issue is not whether paramedics should be subject to regulation in the public interest[37] but what form that regulation should take i.e. is it feasible and most appropriate to carry out the functions of regulation through *statutory regulation* under the HPCA Act given that their numbers are sufficient to support an independent responsible authority.

The primary functions of regulation are envisaged[38] as:

- setting minimum entry standards and training
- formulating professional roles to which individuals are expected to adhere
- monitoring the individuals providing services
- enforcing professional roles where necessary
- implementing a complaints procedure; and
- implementing a disciplinary procedure for individuals who are negligent or breach the professional roles of practice.

These objectives align closely with the proposed functions to be performed by a Paramedicine Council as outlined (p7) in the Health Workforce New Zealand consultation document[39] and as prescribed by the HPCA Act.

The HPCA Act provides (s115(1)) for the establishment of either a new registration authority for a profession or that a designated profession be added to an existing authority – thus creating a 'blended authority'.

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[37] Ministry of Health New Zealand, *Regulating a New Profession*. http://bit.ly/1QnwCzl accessed 22/06/2017

[38] Sir David Clementi, December 2004, *Review of the Regulatory Framework for Legal Services in England and Wales Final Report* http://bit.ly/2rWV9q9 accessed 22/06/2017

[39] Health Workforce New Zealand, May 2017, *Regulating the paramedic workforce under the Health Practitioners Competence Assurance Act 2003: Consultation Document*, http://bit.ly/2s7MdNI accessed 22/06/2017

New or blended authorities do not receive funding support and the set up and operational costs of a new authority must be borne by registrants. The financial viability of any proposed authority is therefore of relevance to any profession seeking to be regulated under the HPCA Act and measures to minimise administrative overheads welcome.

The consultation document outlines that Ambulance New Zealand has engaged with the Nursing Council of New Zealand (the Nursing Council) to develop a governance proposal. The essence of the proposal is that a new responsible authority called the Paramedic Council (sic) would be responsible for performing the prescribed registration functions under the HPCA Act and would use a service level agreement with the Nursing Council to provide operational support.

ANZCP welcomes this proposal which confirms the feasibility of regulation under the HPCA Act and demonstrates how the use of resources may be optimised for administrative functions. This shared resource arrangement appears similar to the governance arrangements by the Podiatrists Board of New Zealand to use the Nursing Council IT platform.

Similar moves by other regulatory authorities have included co-location of offices and service level agreements with the Nursing Council for the provision of core back office facilities including office space, facilities management, IT, database and finance support. Sharing of facilities will benefit all regulatory authorities and registrants through improved business processes, greater efficiencies, increased resources, and closer collaboration which would not be realised under other options for regulation.

In terms of costs, regulation under the HPCA Act takes advantage of the existing investment in the legislation and infrastructure, and ready-made regulatory processes and procedures. Government would bear only the minor amendment costs of adding a new profession to the existing legislation (potentially through an omnibus amendment) on a one-off basis.

ANZCP notes the use of the term 'Paramedic Council' and draws attention to the preferred use of 'paramedicine' as the generic description for the profession and 'paramedic' as a descriptor for the individual practitioner. ANZCP will use that terminology in the following discussion.

ANZCP does not agree that the proposed Paramedicine Council structure of three health practitioners and two laypersons is adequate to provide for a Chairperson and ensure the desired diversity[40] and sustainable performance and succession.

The clinical and professional functions to be performed by the Paramedicine Council are similar in scope to that of the other responsible authorities whose structures vary[41, 42, 43, 44] but whose board numbers are (generally) within the range of 7-9 members.

In Australia the equivalent Paramedicine Board which performs the same (effective) professional functions will have six practitioner and three layperson members.

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[40] NZ Cabinet Office November 2002, CO (02) 16: *Government Appointments: Increasing Diversity of Board Membership,* http://bit.ly/2uycgLF accessed 27/06/2017

[41] New Zealand Medical Radiation Technologists Board, *Board Members* http://bit.ly/2rNiyGv accessed 23/06/2017

[42] Dental Council, *Council Members*, http://bit.ly/2t2dbGX accessed 23/06/2017

[43] Podiatrist Board of New Zealand, *Board Members*, http://bit.ly/2s2ePZW accessed 23/06/2017

[44] New Zealand Psychologists Board, *Board Members*, http://bit.ly/2sBRyg5 accessed 23/06/2017

ANZCP's view of the professional workload is reinforced by the observations on accreditation contained in the submission[45] by the Council of Ambulance Authorities to the Independent Review of Accreditation Systems within the National Registration and Accreditation Scheme for health professions in Australia.

Suffice to say ANZCP believes the number of practitioner members is insufficient to properly represent the diversity of paramedic practice across New Zealand, and provide the independent input and leadership needed to fulfil the range of clinically relevant activities of the Paramedicine Council including the appointment of an expert Professional Conduct Committee[46].

ANZCP recommends the establishment of an independent responsible authority (Paramedicine Council) under the provisions of the Health Practitioners Competence Assurance Act 2003, comprising five independent practitioner members and two laypersons appointed by the Minister of Health following an open call for nominations.

Issue 12. Will paramedics accept the constraints and costs of statutory regulation?

If you are an ambulance organisation or ambulance provider, do you consider that the paramedic workforce:
(a) understands the individual responsibilities required under the HPCA Act? Refer to Appendix Four of the Consultation Document for the list of responsibilities.
(b) is prepared to pay the estimated annual practising certificate fee (and other future regulatory fees) set by the proposed Paramedic Council?
(c) understands the purpose of obtaining professional indemnity insurance?

As phrased, this question is not applicable to ANZCP since it is not an ambulance organisation or paramedic service provider. However, as a self-funded member-based society representing the professional interests of paramedics, it is in many ways much closer to its members, more aware of their views and more empowered to comment than would be most employers.

All New Zealand members of ANZCP were consulted for this submission and ANZCP believes that the following statements reflect the views of the paramedic workforce that will be affected by statutory regulation under the HPCA Act.

Yes to Q12 (a) - the paramedic workforce understands the individual responsibilities required under the HPCA Act, but the level of understanding varies substantially in depth of detail. The implementation of registration should thus proceed along with enhanced information, adequate training and familiarisation programs to ensure a smooth transition to registration.

Yes to Q12 (b) – there is great momentum within the current workforce for the registration of paramedics in the public interest. Overwhelmingly our enquiries show a commitment to both the professional and financial obligations that registration would entail, albeit some have highlighted the importance of not imposing additional costs on their ability to practice.

[45] Council of Ambulance Authorities, *Independent Review of Accreditation Systems within the National Registration and Accreditation Scheme for health professions*, http://bit.ly/2t5ggpB accessed 23/06/2017

[46] New Zealand Health Practitioners Disciplinary Tribunal, *Prehearing Procedures*, http://bit.ly/2t5tQKq accessed 23/06/2017

Whether the employers of paramedics meet the costs of registration or not (as happens with some other professions) members of the paramedic workforce have indicated a willingness to pay the estimated annual practicing certificate fee (and other future regulatory fees) set by the proposed Paramedic(sic) Council.

Yes to Q12 (c) – members of the paramedic workforce are aware of and understand the implications of vicarious liability and the purpose of professional indemnity insurance. The need for enhanced accountability and independent regulation is no more strongly felt than within the paramedic workforce itself.

Issue 13. Other benefits and impacts of statutory regulation under the HPCA Act

Do you have anything to add to the consultation document's list of benefits and negative impacts of regulating the paramedic workforce under the HPCA Act? *Refer to Tables 10 and 11 (pages 17 and 18) of the consultation document.*

YES

No overall negative impacts on the public are perceived from appropriate regulation of paramedics. Conversely, the identified risks to the public through the interventions of paramedics who work across every level of the community make it crucial that paramedics be regulated in the public interest.

To date much of that regulation has been exercised through the mechanism of employer-mandated protocols and general governmental regulations that apply to all healthcare-related workers such as the Misuse of Drugs Act 1975 (also see earlier – Issue 10).

Registration of paramedics under the HPCA Act would bring New Zealand into line with other countries that have statutory regulation including Australia (2018), United Kingdom, Ireland, Scotland, South Africa, parts of the United States and a growing number of Canadian provinces. The most significant alignment of standards and regulatory processes would be that with Australia because of the Trans-Tasman mutual recognition implications.

The suggested negative aspects listed in table 10 are considered separately below.

Professional indemnity insurance – long experience with health practitioners and other professions has shown the need for the protection of the public (and the practitioners) through various forms of operational insurance including public liability and professional indemnity insurance. This is considered not a negative impact but a normal cost of business.

A requirement for professional indemnity insurance also has positive impacts since the provision of insurance would be regularised through underpinning legislation, and the costs thus potentially reduced, given that underwriters currently are relatively unwilling to write such insurance for unregistered health workers / paramedics.

The necessary arrangements for insurance and the extent of mandatory cover (if any), would depend on the application of the principles of vicarious liability which currently apply for employed paramedics. Registration would not affect the existing legal conditions relating to vicarious liability, and it would be employers who would provide the indemnity protection in the same way as for other employees or employed registered health practitioners.

The nature of any indemnity requirements would be a matter for the responsible authority to determine and would provide an additional level of discipline on service provision especially where there are many casual and intermittent employment arrangements. Importantly, it would ensure protection for the public regardless of where a paramedic worked.

Potential costs of Competence/Conduct reviews – ANZCP is unable to quantify this aspect which would depend on the nature and number of complaints and reviews undertaken. It is envisaged that random and special purpose compliance audits would form part of the normal regulatory activities met by the fees paid by registrants. Costs arising out of formal investigations should be apportioned according to the outcomes, with the principle that no costs should be met by the practitioner if exonerated / found competent.

Potential loss of volunteers – the number of volunteers likely to seek registration is considered to be very low, as the overall requirements to gain and maintain registration are likely to be too onerous for most volunteers. Whether this translates into a loss of volunteerism into the technician or assistant levels of unregistered health workers is unknown, but experience in other jurisdictions indicates that the motivation for volunteerism is subject to many other factors.

The most likely affected persons are thought to be paramedics returning to the workforce after maternity or paternity leave or other absence, or those transitioning to retirement who may wish to undertake part time or volunteer activities.

The benefit of registration is that there will be clarity of role and scope of practice between the professional and assistant (unregistered volunteer) roles so that false expectations of service or treatment will not be generated.

Future one-off registration/other fees – ANZCP has no comment on this observation as it is considered speculative and could occur whether regulation under the HPCA Act proceeds at this time or not.

Potential impact of regulatory costs for service providers – the functions of regulation outlined on pp 20-21 are considered necessary for public safety regardless of where the costs are recognised. The major difference is that statutory regulation crystallises the costs into particular external activities rather than internalises them within the budgets of service providers.

There may be some additional costs of compliance but these are considered minor and significantly outweighed by other benefits for providers such as reduced costs for employment assessment, probity checks and fitness to practice investigations.

Cost to the service providers to implement continuing competency programmes that meet the standard set by the RA – this matter is an important reason for both paramedic registration and for independent accreditation of service providers. If the current level of expenditure is appropriate to meet community needs, then little change would be indicated and some cost savings realised through a reduction in compliance and administrative costs.

However, meeting the standards set by the RA should ensure a uniformly satisfactory level of commitment and standards across all service providers - which would be in the public interest.

Costs to the education sector for accreditation – this is not considered likely to be significantly greater than the costs already being met by New Zealand educational institutions for accreditation under the current arrangements for Australian and New Zealand accreditation.

If, as seems feasible, a common regional model is adopted for accreditation, then mutual recognition or joint arrangements may be made between accreditation authorities in New Zealand and Australia so that institutional costs may be minimised as well as the costs to the accreditation authority.

The benefits outlined in Table 11 - These have been assessed and ANZCP agrees that all the benefits listed are applicable to a greater or lesser degree, depending on the particular practice setting or the service provider role.

ANZCP reiterates that it is not only the question of paramedic regulation (per se) that is significant, but the manner and purpose of regulation. The principal purpose of statutory regulation under the HPCA Act revolves around enhancing patient safety, and the public benefits would include:

- transparent assurance that paramedics are appropriately educated and fit to practice
- reduced risks to the public associated with the actions of a practitioner who may have health, conduct or performance issues that make them unsafe to practice
- establishment of a national responsible authority with the powers to deal with any registered practitioner who may have health, conduct or performance issues that make them unsafe to practice
- a standardised and independent approach to the management of complaints and significant incident investigations
- establishment of consistent professional standards across all of the significant health workforce groups
- establishment of a national minimal education standard for paramedics
- establishment of a national accreditation body for the assessment of educational qualifications leading to registration as a paramedic
- a single portal for consideration of overseas qualifications and for matters associated with Trans-Tasman practitioner recognition
- legislated consistent national protection for use of the title 'paramedic', with only those person registered being able to use that title, and
- enhanced potential for greater utilisation of paramedics in remote health settings, and in multidisciplinary health teams.

Independent recognition of the public benefits of enhanced regulatory practices (and by extension - the regulation of paramedics under the HPCA Act) may be seen by reference to the outcomes of the 2012 Review[47] of the HPCA Act 2003 and examination of the submissions[48] and resulting Regulatory Impact Statement[49].

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[47] Office of Minister of Health, December 2015, *Recommendations arising from the 2012 Review of the Health Practitioners Competence Assurance Act 2003* http://bit.ly/2syfH75 accessed 23/06/2017

[48] Ministry of Health Library, *Submissions - HPCA Act 2003 review*, http://bit.ly/1HPmt6B accessed 23/06/2017

[49] Ministry of Health, November 2015, *2012 Review of the Health Practitioners Competence Assurance Act 2003: Regulatory impact statement,* http://bit.ly/2t1PZJD accessed 23/06/2017

The review highlighted the trust and confidence that patients place in health professionals and their relative vulnerability in the hands of unsafe health practitioners. The key to that trust is the HPCA Act and its regulatory framework which provide tangible evidence of regulatory performance and public perceptions of that performance.

The recommended changes to the HPCA Act recognised this relationship of trust, and the need for responsible authorities and their registered health practitioners to not only act with integrity and in the interests of the public, but to be perceived to be doing so. As a result, amendments were proposed to enhance the effectiveness of the responsible authorities and the resulting perceptions by requiring:

i. regular performance reviews of responsible authorities
ii. responsible authorities to provide information about decisions on practitioner practice and develop appropriate naming policies
iii. responsible authorities to develop standards relating to integrated care, team work and inter-professional communications, to support integrated care
iv. recognition of the importance of transparency, integrated patient-centred care, workforce flexibility and workforce planning
v. responsible authorities to collect and provide additional workforce information and data to contribute to health workforce planning, subject to privacy requirements.

These aspects will contribute to better models of health care and planning that benefits the public but are missing from the current regulatory arrangements for paramedics.

St John and Wellington Free Ambulance already have demonstrated how the paramedic workforce can treat patients in the home through their Urgent Community Care services which align with the 'one team' theme of the 2016 New Zealand Health Strategy. This emphasises collaboration across the health sector so there is better care and safe referral pathways.

Not to include paramedics within the same regulatory framework as their registered colleagues who work closely together on a daily basis is therefore to ignore the potential benefits of integrated care that has already been acknowledged by government and is among the priority objectives of Health Workforce New Zealand[50].

Several submissions to the 2012 Review also raised the matter of workforce data and the importance of consistent data collection which may be facilitated through registration (also see item v above). Registration of paramedics under the HPCA Act would provide the potential for a single point of data capture for such purposes and represents another valuable benefit.

Moreover, a national scheme of regulation would allow for a universal and robust quality assurance system that implements both preventive (entry and monitoring) and reactive measures (complaints and investigation) that should minimise the likelihood of risk to the public, respond to matter of grave importance and help inform best practice.

ANZCP therefore endorses statutory regulation under the HPCA Act as the most appropriate and robust model of regulation for paramedics.

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[50] Health Workforce New Zealand, *Annual Report to the Minister of Health 1 July 2015 to 30 June 2016,* http://bit.ly/2uzOIWK ISBN 978-1-98-850217-5 Accessed 26/06/2017

Issue 14. Do public benefits of regulation outweigh potential negative impacts?

Do you consider that the benefits to the public in regulating the paramedic workforce outweigh the negative impact of regulation? Please provide comment about your answer.

YES

The potential negative impact on the public of any form of regulation is usually measured by the degree to which it is anti competitive and against market principles. Statutory regulation under the HPCA Act would not be anti competitive because regulation of paramedics would not prevent qualified persons from offering their services.

As mentioned previously, where paramedic services are not regulated, patients are disadvantaged by their limited ability to assess the need for professional service or the type and quality of the service required. They also find it difficult to distinguish the competent from the incompetent paramedicine health care provider.

The capacity to engage in objective quality assessment of paramedic services may be compromised in the absence of regulation. Where disputes arise about professional services, redress is often difficult to obtain. Therefore both the professional paramedics and patients could benefit from measures which would facilitate the impartial resolution of complaints.

The objectives of statutory regulation under the HPCA Act are consistent with the principles embodied in the *Mutual Recognition Act*[51] *1992*, Australia's Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Act 1997[52].

These all aim to reduce the burdens of jurisdictional navigation for workers, and to improve the overall safety of the public through a transparent and navigable registry of approved providers.

The Trans-Tasman Mutual Recognition Act essentially recognises New Zealand and Australian registration standards as equivalent, thus allowing registered practitioners the freedom to practice in either country (subject to a limited right of refusal).

Regulation of paramedics under the HPCA Act would provide a list of those authorised to practice in a similar manner as for registered Australian paramedics. This is essential for the unrestricted movement of paramedics across jurisdictions - which has proved important in times of national disaster.

The regulatory burden on employers (principally aeromedical and offshore enterprises) who operate across both New Zealand and Australia will also be reduced by not needing a full assessment of employee qualifications, work history, probity, performance history and conduct in determining whether a paramedic is fit to practice and suitable for employment as a paramedic in a particular jurisdiction.

Considering the broader issue of overall quality in healthcare as a significant benefit in the public interest, international studies provide guidance on the main challenges and good practices to support improvements in health care quality, and to help ensure the effective use of the substantial resources devoted to health.

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[51] Australian Government, *Mutual Recognition Act 1992*, http://bit.ly/2tFbSLR accessed 23/06/2017

[52] New Zealand Government, *Trans-Tasman Mutual Recognition Act 1997*, http://bit.ly/2trdiwc accessed 28/06/2017

The OECD report on *Caring for Quality in Health*[53] emphasised the importance of addressing fragmentation in patient services and the significance of care continuity and co-ordination (Lesson 4).

The report points to the need for transformation towards more integrated and coordinated care, and the benefits of multidisciplinary teams in health care. It highlights the courage needed to challenge the ways in which patients have traditionally been treated and engaged in decisions on their own care.

To facilitate the provision of high quality care, governments and professional and patient groups should use a consistent set of tools such as standardisation of clinical practices, monitoring of capabilities, and reports on performance or accreditation of health care organisations and licensing of professional practitioners.

These key policies are shown graphically below in Table 0.1 taken from the OECD report.

Table 0.1. Key policies and institutions that influence health care quality

Policy	Examples
Health system design	Accountability of actors, allocation of responsibilities legislation
Health system inputs (professionals, organisations, technologies)	Professional licensing, accreditation of health care organisations, quality assurance of drugs and medical devices
Health system monitoring and standardisation of practice	Measurement of quality of care, national standards and guidelines, national audit studies and reports on performance
Improvement (national programmes, hospital programmes and incentives)	National programme on quality and safety, pay for performance in hospital care, examples of improvement programmes within institutions

Source: OECD (2017), Caring for Quality in Health: Lessons Learnt from 15 Reviews of Health Care Quality, OECD Reviews of Health Care Quality, OECD Publishing, Paris. http://dx.doi.org/DOI:10.1787/9789264267787-en

Paramedics are not the focus of the global Caring for Quality report, but their role is discussed in the more detailed 2015 OECD Review of Health Care Quality for Australia[54] which drew attention to the opportunities for paramedics to play a bigger role in health care through changing scopes of practice and appropriate regulation.

Research and project work by the former Health Workforce Australia (HWA) and other bodies[55,56] have identified the urgent need for a sustainable health and allied health workforce in Australia and the under-utilised potential for paramedics to contribute more towards meeting national goals of quality, access and equity in primary and out of hospital health care.

53 OECD (2017), *Caring for Quality in Health: Lessons Learnt from 15 Reviews of Health Care Quality*, OECD Reviews of Health Care Quality, OECD Publishing, Paris. http://dx.doi.org/DOI:10.1787/9789264267787-en accessed 24/06/2017

54 OECD (2015), *OECD Reviews of Health Care Quality: Australia 2015 Raising Standards*, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264233836-en accessed 24/06/2017

55 National Rural Health Alliance, *Health Services and Workforce*, bit.ly/1Qj9Fv2 accessed 26/06/2017

56 Australian Health Care Reform Alliance, *Health Workforce-June 2016* http://bit.ly/292oxB3 accessed 30/06/2017

ANZCP perceives the operational situation to be similar in New Zealand as for Australia, and that innovation through more flexible engagement in community health care by the paramedic workforce would be fostered by independent statutory regulation.

Paramedics have the capacity to impact greatly on patient care by addressing some conditions at home, and referring patients to other holistic care models such as social services, general practitioners and community care rather than transporting to emergency departments.

However these programs have only been delivered in limited circumstances thus far and cannot be rolled out to mainstream systems because of the absence of a statutory regulatory framework. Regulation of paramedics under the HPCA Act should facilitate these roles.

ANZCP believes that New Zealand's health system functions well, despite operating under a complex set of institutions and regulatory arrangements that make the patient journey fragmented and the coordination of patient care difficult.

However, ANZCP submits that statutory regulation of paramedics is consistent with the expert proposals advanced by the OECD and would be in the public interest as a further step toward improving the overall quality of health care in New Zealand.

Issue 15. Other matters

ANZCP firmly believes that statutory regulation of paramedics under the HPCA Act is important to adequately protect the public from potential harm. The current regulatory mechanisms are employer-based and do not allow for a national standard or a comprehensive approach to public and patient safety. The absence of nationally-mandated education standards, rigorous accreditation mechanisms, independent health complaints processes and protection of the title 'paramedic' have all contributed to a system that has an unacceptable potential to be unsafe.

The identification and publication of the risks associated with paramedic practice, makes it crucial that action be taken. Registration under the HPCA Act would have beneficial outcomes in the public interest by increasing transparency and reporting accountability. It would benefit patient safety by facilitating the collation of data to provide feedback and improvements in safety and quality that can be integrated into patient care.

There is no such thing as free regulation, and if the same level of public protection is to be effected, the same regulatory functions will need to be performed somewhere within the health care system. While there are some minor implementation costs, HPCA Act registration is self-funded in the longer term.

Registration through a national and established scheme should be the least expensive because of economies of scale, the demonstrated potential for sharing of resources and the reduction of individual practitioner and provider compliance costs.

These local benefits to the community through a nationally recognised scheme will also provide an international validation of professional standing that will enable greater expansion of service delivery internationally for humanitarian purposes and potentially open up an export activity where New Zealand might have a competitive advantage.

In summary, the key benefits of HPCA Act registration over other options are:

- establishment of a national responsible authority with the powers to deal with any registered paramedic who may have health, conduct or performance issues that makes them unsafe to practice or who demonstrate a pattern of conduct which indicates that they are not a fit and proper person to practice as a paramedic
- reduced risks to the public associated with the actions of a practitioner who may have health, conduct or performance issues
- reduction in overall regulatory costs through economies of scale, and the aggregation and consolidation of regulatory and administrative functions
- Reduction of direct costs to service providers through the transfer of several current internalised and separate regulatory functions to the self-funded registration processes
- establishment of a nationally consistent complaints process
- greater transparency through the engagement of community representatives and assurance to the public that paramedics are independently assessed as fit-to practice
- establishment of consistent professional and national educational standards
- establishment of an independent national accreditation body for the assessment of educational qualifications (note potential for alignment with Australia)
- centralised registration data which will better inform best practice and may improve the capacity to mobilise paramedics across borders in response to major disaster events
- legislated protection for use of the title 'paramedic' with less potential for identity fraud and harm by ensuring only registered practitioners can legally use that title, and
- Potential facilitation of external service delivery and export earnings.

Finally, ANZCP believes that registration of paramedics with its clear procedures and objective processes has the potential to create a healthier, safer and more productive working environment. The resulting climate of empowerment and accountability will generate improved morale and productivity within the paramedic workforce in addition to the benefits of registration in protecting the community.

Statutory regulation of paramedics is also seen as meeting the general principles of the *Government Expectations for Good Regulatory Practice*[57] and a whole-of-system view as outlined in the 2017 Impact Analysis Requirements[58] relating to government regulatory proposals (albeit exemption may apply).

Given the current risk profile and expanding scope of practice of paramedics, coupled with increasing employment opportunities outside the ambulance sector, ANZCP therefore has no hesitation in recommending registration under the HPCA Act as being the preferred option that will deliver the greatest net public benefit to the New Zealand community as a whole.

[57] NZ Treasury April 2017, *Government Expectations for Good Regulatory Practice*, http://bit.ly/2tyV7F8 accessed 28/06/2017

[58] NZ Cabinet Office June 2017, *CO (17) 3: Impact Analysis Requirements*, http://bit.ly/2tAjVfu accessed 30/06/2017

Australian & New Zealand College of Paramedicine

Stakeholder group represented

This submission is made by ANZCP, a professional learned society representing paramedics who work in many health care setting including employment with ambulance and emergency retrieval services in New Zealand, Australia and elsewhere within the region of Oceania.

While the primary membership of the society is comprised of paramedics, the Constitution and Rules of Association allow of other grades of membership and ANZCP has members at Student, Emergency Medical Technician, Volunteer and Associate levels, whose membership provides valuable insights into out of hospital, wilderness and other aspects of unscheduled and community care.

Communications with the College should be directed in the first instance to:

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Abbreviations

AHPRA	Australian Health Practitioners Regulation Agency
ANZCP	Australian and New Zealand College of Paramedicine
COAG	Council of Australian Governments (Australia)
HCPC	Health and Care Professions Council (UK)
HPCA Act	Health Practitioners Competency Assurance Act 2003
National Law	Health Practitioner Regulation National Law (Australia)
NRAS	National Registration and Accreditation Scheme (Australia)
NZDF	New Zealand Defence Force
OECD	Organisation for Economic Co-operation and Development
UK	United Kingdom

Appendix A – Consultation Purpose and Objectives

Regulating the Paramedic Workforce under the Health Practitioners Competence Assurance Act 2003 - Stakeholder Consultation

PURPOSE

The Minister of Health has agreed that Ambulance New Zealand's proposal for regulating the paramedic workforce under the HPCA Act can progress to the consultation stage of the application process.

A consultation document will be sent to stakeholders, which will seek views on whether:

- the paramedic workforce meets the criteria for regulation under the HPCA Act
- the proposed governance arrangements and costs for regulating the paramedic workforce under the HPCA Act are acceptable and feasible.

OBJECTIVES

The objectives of stakeholder consultation will be to determine whether:

- stakeholders have concerns about the risks of harm of the paramedic profession
- it is practical to regulate the paramedic profession under the HPCA Act
- there is good support from health stakeholders to regulate the paramedic profession under the HPCA Act
- there are any potential barriers and risks that need to be addressed prior to regulation, such as costs
- the paramedic profession and other affected stakeholders supports the profession being regulated under the proposed Paramedic Council
- the paramedic workforce is prepared to pay the costs of annual practicing certificate fees and understands the purposes of professional indemnity insurance.