

In Confidence

Office of the Minister of Health

Chair, Cabinet Social Wellbeing Committee

Paramedic regulation under the Health Practitioners Competence Assurance Act 2003

Proposal

- 1 I seek agreement to designate the practice of paramedicine as a health profession and establish a new responsible authority under the Health Practitioners Competence Assurance Act 2003.

Executive Summary

- 2 The primary purpose of the Act is to protect public safety by providing mechanisms to regulate certain health professions that pose a risk of harm to the public. The Act enables independent authorities to regulate relevant health practitioners. There are over 20 regulated professions including, for example, doctors, nurses, dentists, anaesthetic technicians, occupational therapists and physiotherapists.
- 3 Ambulance New Zealand has proposed that paramedics become regulated under the Act. Consultation with the ambulance sector and other key stakeholders was required under section 116 of the Act. Submitters were supportive of Ambulance New Zealand's proposal.
- 4 Paramedics meet the criteria for regulation under the Act. There is potential risk of serious harm from the practice of paramedicine and paramedics often work in emergency situations, without direct supervision. The move towards a more ambiguous environment requires paramedics to operate as independent practitioners in patient assessment and decision making and be regulated in a comparable way to other health practitioners.
- 5 I propose that a new responsible authority, the Paramedic Council, be established under the Act to regulate paramedics.
- 6 Ambulance New Zealand, the Ministry of Health and the Accident Compensation Corporation have collectively agreed to a shared cost arrangement to meet the ongoing costs of implementing regulation.

Background

- 7 The Health Practitioners Competence Assurance Act 2003 is about public safety. The principle purpose of the Act 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 practise their professions.
- 8 The Act enables the Governor-General, on the recommendation of the Minister of Health to designate health services of a particular kind as a health profession under the Act and to either establish a responsible authority for the profession or add the profession to an existing responsible authority.
- 9 Section 116 of the Act requires that before recommending a health service be regulated as a health profession, the Minister must be satisfied that the health services pose a risk of harm to the public or that it is otherwise in the public interest that the health services be regulated as a profession under the Act.
- 10 The Minister must also be satisfied that the providers of the health services are generally agreed on the qualifications, standards and competencies for scopes of practice for the health profession proposed for regulation.
- 11 Ambulance New Zealand (the representative body of ambulance and aeromedical services in New Zealand) proposes that the paramedic profession be regulated under the Act. This includes about 1,400 paramedics and intensive care paramedics expected to be practising in New Zealand by the time regulation would come into force in 2020/21, if agreed by Cabinet. Most paramedics are employed by St John and Wellington Free Ambulance, with the remainder working for other ambulance providers.
- 12 The Ministry of Health and a panel of health sector experts have assessed this proposal based on the specific criteria required by the Act and further associated requirements designed to help assess professions against the intention of the Act. The criteria are set out below.

Primary criteria for regulation under the Act:

- A. the profession delivers a health service as defined by the Act
- B. the health services concerned pose a risk of harm to the health and safety of the public
- C. it is otherwise in the public interest that the health services be regulated as a health profession under the Act.

Secondary criteria for regulation under the Act

- 1 Existing regulatory or other mechanisms fail to address health and safety issues.
- 2 Regulation is possible to implement for the profession in question.
- 3 Regulation is practical to implement for the profession in question.
- 4 The benefits to the public of regulation clearly outweigh the potential negative impact of such regulation.

- 13 The Ministry also consulted with sector stakeholders, who support regulation.

- 14 This proposal does not include other ambulance roles that do not perform high-risk clinical interventions practised by the paramedic profession. This includes first responders (e.g. volunteers in rural communities) and emergency medical technicians (EMTs), who perform basic life support measures to patients. Scopes of practice for non-regulated ambulance roles will continue to be managed by individual employers.
- 15 There are approximately 1,600 EMTs at St John and Wellington Free Ambulance - half of them are volunteers. There is a public safety risk factor with EMTs as they can decide whether to transport patients to emergency departments or leave them at home. However, the risks of harm of the EMT workforce are being mitigated by St John and Wellington Free Ambulance's clinical governance framework and continuing clinical education programmes.
- 16 It is possible that, once regulated, the responsible authority for paramedics could consult to include EMTs as a scope of practice under the paramedic profession. Adding, amending or removing scopes of practice does not require a Cabinet decision.

Comment

Self-regulation and risk of harm

- 17 The ambulance sector is currently self-regulating and, with the exception of the Code of Health and Disability Services Consumers' Rights, the mechanisms to ensure public safety are voluntary or contract based. St John and Wellington Free Ambulance are contractually required to comply with the New Zealand Standard for Ambulance and Paramedical Services. The Standard requires ambulance providers to ensure their ambulance officers are appropriately qualified, trained and competent. However, the Standard can create inconsistencies with how competencies are assessed. There is no legal requirement for non-government funded ambulance providers to adhere to the Standard.
- 18 Currently, paramedics treat patients in life-threatening situations, undertake clinical decision making about patient transport and provide referrals with no direct clinical supervision. They perform a range of medical and surgical procedures that have the potential to cause harm, for example intravenous cannula placement into the vein of a patient to administer restricted and/or prescription medicines and fluids. Doctors and registered nurses perform similar high risk interventions to paramedics, but in a supervised team environment, and are regulated under the Act.
- 19 Paramedics have an increasing role in primary care service models, and are part of the primary care team delivering urgent primary care in rural and aged care settings.
- 20 The ambulance sector is expanding its traditional ambulance transport model to meet the needs of an increasing and ageing New Zealand population. Demand for emergency ambulance services is increasing by four to five percent a year.
- 21 A new model of care is being implemented by the ambulance sector that involves giving the paramedic workforce increasing responsibility to treat patients at the scene, refer patients to alternative health providers (such as after-hours clinics, general practices), or transport patients to an emergency department.
- 22 The move towards a more ambiguous environment requires paramedics to operate as independent practitioners in patient assessment and decision making and be regulated in a comparable way to other health practitioners.

- 23 Aside from protecting public safety, other benefits of regulating paramedics under the Act include:
- consistent standards of training, scopes of practice, code of conduct and maintenance of competencies for the paramedic workforce
 - Increased recognition of paramedics' role in the multidisciplinary primary health care team. This will improve coordination of care and allow paramedics to be included in the development of future models of care
 - increased employment opportunities for paramedics to work in other health care settings, such as emergency departments and urgent care clinics
 - Paramedics being allowed to practise in overseas urban search and rescue operations in countries that require registration and certification.
- 24 Paramedics are regulated in other jurisdictions, including the United Kingdom, Canada, Ireland, South Africa and Australia.

Sector consultation

- 25 Section 116 of the Act requires that consultation occurs before any profession is designated under the Act. I am satisfied that the Ministry has adequately consulted on the proposal to regulate paramedics, both with an expert panel and with sector stakeholders.
- 26 The Ministry received 103 submissions from the ambulance sector and other interested parties including: ambulance service providers (including four of the 16 identified non-government funded providers at the time), unions and professional organisations, the New Zealand Nurses Organisation, the New Zealand Medical Association, the Australasian College for Emergency Medicine, the Royal New Zealand College of General Practitioners, the Rural General Practice Network, the then New Zealand Fire Service, tertiary training institutions and individuals.
- 27 Over 90 percent of submitters held the view that paramedic services pose a risk of harm to the health and safety of the public and it is in the public interest that health services are regulated. The remaining 10 percent of submitters (individual submissions and one ambulance union) did not agree with the majority view as they considered that ambulance self-regulation was sufficient.
- 28 Over 70 percent of submitters considered that the existing mechanisms such as industry self-regulation, compliance with the Code of Health and Disability Consumers Rights and contractual and employer obligations to maintain standards and competencies are not effectively addressing the risks of harm from the paramedic profession.
- 29 The Ministry agrees that the paramedic profession should be regulated. The benefits to the public outweigh the potential costs of statutory regulation.

Establishing a new responsible (regulatory) authority, under the Act

- 30 Designating paramedics as a health profession and establishing a new responsible authority, the Paramedic Council, can be achieved through an Order in Council naming the Paramedic Council as the responsible authority for the profession.
- 31 The Ministry considered two options for regulating paramedics: establishing a new responsible authority or placing paramedics within an existing responsible authority. The Ministry also sought the views of Ambulance New Zealand and the Nursing Council of New Zealand (the Nursing Council).
- 32 A new responsible authority, the Paramedic Council, supported by the Nursing Council for administrative and secretariat functions is the preferred option as it is a cost effective governance model to reduce the costs of regulation without compromising professional integrity and expertise.
- 33 The purpose of the Paramedic Council will be to regulate the paramedic profession under the Act and to provide regulatory oversight and ensure public safety by:
- specifying the scopes of practice and prescribing the qualifications and competencies required for the paramedic profession
 - providing a public register of who is registered to provide paramedic care
 - requiring the paramedic profession to maintain their competence in order to receive an Annual Practising Certificate (APC) and preventing unsuitable practitioners from being registered
 - considering and acting on issues regarding the competence or conduct of paramedics and cases where a paramedic is unable to perform the functions of their profession because of a health condition
 - setting standards of clinical competence, cultural competence and ethical conduct for paramedics.

Funding the regulation of the paramedic profession

- 34 Responsible authorities' operating costs are recovered from their members through fees. Actual costs vary according to factors such as the number of registrants, the size of responsible authorities and the number of disciplinary proceedings.
- 35 Ambulance New Zealand has committed to contributing financially to the establishment of the Paramedic Council. The Auckland University of Technology and St John have also agreed to provide administrative support to register the first intake of paramedics. This will enable registration of paramedics to be free for the first year of implementation.
- 36 The costs of regulating paramedics in year 1 are estimated at around \$1.2 million to \$1.42 million for up to 1,400 paramedics. Regulatory costs includes establishment and operating expenses for a five-member Paramedic Council. After establishment of the Paramedic Council, the costs of regulating paramedics from year 2 onwards is estimated at around \$0.96 million to \$1.17 million per annum.
- 37 The Ministry and the Accident Compensation Corporation (ACC) have agreed to additional funding of up to \$0.6 million (\$0.3 million each) per annum to publicly funded emergency ambulance services as a contribution to their costs of implementing paramedic regulation.

- 38 Ministry funding would come from reprioritisation from within the Vote Health National Emergency Services appropriation. This funding will be provided as a one off increase to baseline funding to publicly funded emergency ambulance services (St John, Wellington Free Ambulance, air ambulance providers).
- 39 The remainder of the cost to regulate the paramedic profession will be paid by employers (primarily St John and Wellington Free Ambulance) and individual members of the paramedic profession.
- 40 I believe the potential risk of harm from the practice of paramedicine makes it necessary to regulate paramedics and, given the nature of ambulance service funding, it is reasonable for the Ministry and ACC to increase the baseline funding to contribute to the cost of regulation for contracted ambulance services.

Consultation

- 41 ACC, the New Zealand Defence Force, The Treasury, the Ministry for Children Oranga Tamariki, the Tertiary Education Commission, Ministry of Business, Innovation and Employment, the Ministry of Social Development, the Ministry of Justice and the State Services Commission were consulted on this paper.
- 42 The Treasury does not support the regulation of the paramedic profession under the Health Practitioners Competence Assurance Act. The need for regulating paramedics is not clear — as there is a lack of evidence of harm caused by paramedics noted in the Regulatory Impact Summary. In addition, Treasury is concerned that regulating paramedics will enable EMTs (a workforce with a high proportion of volunteers) to be regulated without a further Cabinet decision, as they would be regulated within the scope of practice of the paramedic profession. If regulation of EMTs occurs, this may result in substantial pressure on providers and the need for additional Crown funding. The scale of this fiscal risk has not yet been determined.

Financial Implications

- 43 Regulating paramedics under the Health Practitioners Competence Assurance Act 2003 will cost up to \$0.3 million per annum for Vote Health from existing funding in the National Emergency Services appropriation and ACC up to \$0.3 million per annum.

Legislative Implications

- 44 The proposals in this paper require an Order in Council under the Health Practitioners Competence Assurance Act 2003.

Impact Analysis

- 45 An Impact Summary has been prepared and is attached. The Ministry's Papers and Regulatory Committee has reviewed this and considers that the Impact Summary meets the quality assurance criteria.

Human Rights

- 46 There are no human rights implications arising from this proposal.

Gender Implications

- 47 A register of paramedics will allow the Ministry to monitor gender mix among the profession.

Disability Perspective

- 48 Regulating the paramedic profession will mean that people with disabilities can access health professionals that are registered and fit to practise. The requirements of regulation also provide greater transparency if any issues arise for patients or whānau. Regulation may help higher users of health services access more services at home.

Publicity

- 49 Ambulance New Zealand is expected to notify its ambulance stakeholders, including St John and Wellington Free Ambulance, about Cabinet's decision. A proactive media release, distributed to health stakeholders, is intended in relation to this proposal.

Proactive Release

- 50 I propose to proactively release this Cabinet paper and related Impact Summary, and the submissions from the targeted stakeholder consultation process. One submission will be released with redactions under section 9(2)(a) of the Official Information Act 1982 to protect the privacy of natural persons.

Recommendations

- 51 I recommend that the Committee:

1. note that the

1.1 purpose of the Health Practitioners Competence Assurance Act 2003 is to protect the health and safety of members of the public by providing mechanisms to ensure that health practitioners are competent and fit to practise

1.2 expanded ambulance model of care requires paramedics to operate as independent practitioners in patient assessment and decision making and be regulated under the Act in a comparable way to other health practitioners.

2. note that regulating the paramedic profession under the Health Practitioners Competence Assurance Act 2003 will better protect the public by providing mechanisms to ensure that paramedics are competent and fit to practise.

3. note that the Ministry of Health was required under the Health Practitioners Competence Assurance Act to consult on Ambulance New Zealand's proposal to regulate the paramedic profession and there is general agreement among submitters on the proposal.

4. note the estimated cost of regulating the paramedic profession is up to \$1.42 million in the first year of implementation for 1,400 registered paramedics in 2020/21, decreasing to approximately \$1.17 million in subsequent years.

5. note that the Ministry of Health will provide up to \$0.3 million per annum, and the Accident Compensation Corporation will provide up to \$0.3 million per annum, from existing baselines, to publicly funded emergency ambulance services to cover their employees' costs of paramedic regulation.

6. **note** that the remaining estimated costs of implementing paramedic regulation will be up to \$0.82 million in the first year and up to \$0.57 million in subsequent years, which will be met by the employers of emergency ambulance services (primarily St John and Wellington Free Ambulance) and individual paramedic health practitioners.
7. **note** that establishing a new responsible authority, the Paramedic Council, with secretariat support from the Nursing Council of New Zealand, is the most cost effective governance model to regulate the paramedic profession.
8. **agree** that an Order in Council be made under the Health Practitioners Competence Assurance Act 2003 to:
 - 8.1 designate the paramedic profession as a health profession
 - 8.2 establish a new responsible authority, the Paramedic Council, to regulate the paramedic profession, with secretariat support provided by the Nursing Council of New Zealand.
9. **authorise** the Minister of Health to issue drafting instructions to the Parliamentary Counsel Office to give effect to recommendation 8.

Authorised for lodgement

Hon Dr David Clark
Minister of Health