Professional Discipline for Registered Health Professionals: Lessons for Australian Paramedics
Ruth Townsend and Michael Eburn

A number of proposals for the regulation and registration for paramedics have been considered by the Australian Health Ministers’ Advisory Council Health Workforce Principal Committee. One proposal is that paramedics join doctors, nurses and 14 other professions as registered health professionals under the national registration scheme. One implication of professional registration is that all registered paramedics would then be subject to a national, independent professional disciplinary system. Currently, any complaint about a paramedic’s practice would be made to their employer who would deal with the matter as an internal employment issue. With registration would come a professional disciplinary process, separate to the employer, that would consider complaints and that could impose penalties, up to and including cancelling a paramedic’s registration, for cases of proved unsatisfactory, unprofessional or professional misconduct.

Paramedics are already regulated health professionals in the United Kingdom (UK) with approximately 19000 paramedics registered by the UK’s Health and Care Professions Council (HCPC). In 2012-2013, 262 cases alleging breach of a paramedic’s ‘fitness to practice’ were investigated by the HCPC. With paramedics likely to be required to be registered health practitioners in Australia in the near future, it is an opportune time to explore some of the issues raised by the UK experience.

Registration of health professionals in Australia

The Health Practitioner Regulation National Law (Queensland) has been adopted in all Australian States and Territories and is known as the ‘National Law Act’. This Act establishes the Australian Health Practitioner Regulation Agency (AHPRA) and forms the legislative basis for national registration of 14 different health professions. The objectives of the Australian national registration and accreditation scheme are to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practice in a competent and ethical manner are registered.

Each profession has a national board. AHPRA provides support to the National Boards by administering the registration process; accepting and investigating complaints about professional conduct, performance or the health of registered health practitioners and working with the Health Complaints Commissions in each state and territory to make sure community concerns are being appropriately dealt with. AHPRA also supports the Boards in the development of registration standards, codes and guidelines and publishes information about the registration of individual health practitioners. This information is made freely available to the public.

There are many criteria required to be met for registration including having the necessary educational qualifications. One other key criterion is that the practitioner be of good character, that is, that they are a ‘fit and proper’ person to hold registration. This term is largely subjective and has no precise legal meaning. The New South Wales Supreme Court has determined that the concept of ‘fit and proper’ involves three elements – honesty, knowledge and ability. In essence a practitioner must have the knowledge, skills and character to practice their profession safely and effectively but it extends further to encompass the way in which an individual practitioner’s behaviour may impact on the public’s perception and confidence in the profession. The National Law Act allows for the ‘conduct of the practitioner, whether occurring in connection with the practice of the health practitioner’s profession or not’, to be examined when determining whether or not a practitioner is a fit and proper person to hold registration.

Paramedic registration

A number of proposals for the regulation and registration for paramedics have been considered by the Australian Health Ministers’ Advisory Council Health Workforce Principal Committee. Option 4 is Registration of paramedics through the National Scheme:

Under this option, the Health Practitioner Regulation National Law Act 2009 (the National Law) would be amended to include the profession of paramedics as a regulated profession under the National Law.

The benefit of registering paramedics under the National Scheme (as opposed to the other options of ‘No change – rely on existing regulatory and non-regulatory mechanisms’, and a voluntary code of practice; Strengthen statutory health complaint mechanisms – statutory code of conduct and powers to prohibit those who breach the code from continuing to provide health services’ and ‘Strengthen State and Territory regulation of paramedics’) is that it will allow for the provision of a standardised, national, independent disciplinary or quality assurance mechanism for registered paramedics and more particularly for those working outside the state ambulance services.

Complaints about the conduct of a registered health practitioner can be made by anyone, other practitioners, colleagues, employers, education providers, patients, families of patients – anyone at all. There is a mandatory reporting requirement for registered practitioners to report other registered practitioners, or students undertaking clinical training, to AHPRA, if they form ‘the reasonable belief’ that person has an impairment that may place the public at substantial risk of harm (has a health issue); is practising whilst intoxicated by alcohol or drugs; engages in sexual misconduct in the practice of the profession; or is placing the public at risk because of a significant departure from accepted professional standards. This mandatory requirement to report ‘notifiable conduct’ reinforces the view that registered health practitioners have an overriding professional and ethical obligation to protect and promote public health and safe healthcare above their own or their colleagues’ interests.

The complaint can be categorised in one or more of the following ways, that the practitioner has engaged in ‘Unsatisfactory professional performance’, ‘Unprofessional conduct’ or ‘Professional misconduct’. Under the National Law those terms are defined as:

‘Unsatisfactory professional performance... means [that] the knowledge, skill or judgment possessed, or care exercised by, the practitioner ... is below the standard reasonably expected of a health practitioner of an equivalent level of training or experience.’

Unprofessional conduct... means professional conduct that is of a lesser standard than that which might reasonably be expected of the health practitioner by the public or the practitioner’s professional peers, and includes—

(a) a contravention by the practitioner of ... [the National Law Act], whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention; and

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for allegations of professional misconduct. Panels and the Tribunal are independent of National Boards and are made up of a range of people, including at least one person who is not a professional. A non-professional's own professional, a non-health practitioner (usually a community member) sits on their panel.

Panels and Tribunals can find that a practitioner has no case to answer and no further action is taken, if, on the other hand, they find sufficient evidence to prove that the evidence is proved, there is a threshold approach to sanctions to ensure that the severity of the sanction is commensurate with the risk posed to the public or the profession by the practitioner. For example, it would not be appropriate to dismiss a practitioner from the roster for a one-off error that does not fall substantially below the standard required for a reasonable practitioner in circumstances that do not demonstrate that the practitioner is not fit and proper and whose registration is not acceptable to the public. Only the tribunal can find a practitioner guilty of professional misconduct and that is the only finding that can result in a practitioner being removed from the register.

Both the panel and tribunal are required to determine the allegations on the legal principles of law and procedure, and fairness. That means that those who have a complant brought against them are entitled to be heard, with their legal rights unimpeded and a right to be heard. At Tribunal hearings, a lawyer can represent complainants.

As there is currently no national space for the collection of data regarding complaints against paramedics in Australia, it is difficult to give a comprehensive account of how many complaints are made about paramedics and for what reasons. Registration with APRA would allow for the capture and collection of that data and the opportunity to provide the public with access to nationally standardized information about paramedic education, competence and professional practice standards. An examination of data regarding UK paramedic clinical practice patterns can provide some guidance as to what steps should be taken to prevent professional misconduct with some of the key areas of practice that present an issue for their UK counterparts.

The UK Experience

In 2012-2013, 202 cases alleging breach of codes or relevant legal duties were investigated by the HCPC. The type of behaviour complained about included unprofessional or malicious damage; drugs or alcohol; violence, religiosity, and prejudiced treatment; trust or any form of exploitation; and sexual deception.

Drug related matters: A paramedic was struck off for expressing improper and misleading information to an inappropriately selected patient, having not provided due care and skill following administration of a controlled drug.

Inappropriate behaviour: Two paramedics were struck off on the ground of inappropriate and misleading information towards a service user and providing misleading information to a service user. The paramedic was suspended for aggressive behaviour towards a service user; yet another was suspended for inappropriate and misleading information towards colleagues and failing to assist an injured patient.

Over (excessive) application of a drug was struck off for administering a drug substance to avoid attending a patient, and another was struck off for failing to respond appropriately to an emergency call.

Offences against children: Three paramedics were struck off following allegations of sexual exploitation and an unprofessional approach towards children and, one other was struck off for failing to respond appropriately to an emergency call.

Practising as a medical doctor: A paramedic another cautioned for taking a service vehicle for personal use whilst on duty. One was suspended for allowing an unqualified person to drive the ambulance.

Fraud: A paramedic was struck off for falsifying documents, making false and misleading representations and issuing false certification to a doctor.

In 2018, 361 complaints were investigated, 106 were found to be under the discipline of the HCPC, while 255 were found to be under the jurisdiction of the General Medical Council. The number of complaints was reduced to 201 in 2019.

Conclusion

The data above gives some indication of the scope and nature of paramedic’s complaints in the UK as well as some details on the nature of the complaints. It is important to note that the data does not allow us to identify the types of behaviours that present as a problem for paramedics, nurses and doctors, and to direct their professional practice. These behaviours included poor care specifically providing inappropriate, substandard care, working beyond a suitable scope of practice, inappropriate or inaccurate prescribing therapies, misleading or inaccurate documentation, poor communication with patients (a lack of information, transparency), poor monitoring of and inappropriate relationships with the patient. It also included criminal behaviour, harassment and sexual assault.

One benefit the proposed national registration of paramedics will bring is to place paramedics under the National Law that will allow for the regulation and oversight of their practice. The National Law will allow for an open, independent, standardised process to review the performance of registered paramedics, and the establishment of a database that will provide paramedics, regulators and other stakeholders with important information that can inform paramedic professional practice and education. This in turn will assist in ensuring that the patient and their care set, now and into the future. Reference

1. In NSP compulsory agreements on paramedics (and midwives) were used to ensure high standards of care. The Royal College of Obstetricians and Gynaecologists (2006) Annual Report. London: RCOG.


5. Reports: 2014 WHSW (No 2); 2012-2013 WHSW (No 3); 2012-2013 WHSW (No 4).


12. 361 complaints / 106 cases found to be under the discipline of the HCPC, while 255 cases found to be under the jurisdiction of the General Medical Council. The number of complaints was reduced to 201 in 2019.


