

# Professional Discipline for Registered Health Professionals: Lessons for Australian Paramedics

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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.<sup>1</sup> 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 registered health professional in the United Kingdom (UK) with approximately 19300 paramedics registered by the UK's Health and Care Professions Council (HCPC)<sup>2</sup>. 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<sup>3</sup>. 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<sup>5</sup> who are suitably trained and qualified to practice in a competent and ethical manner are registered'.<sup>4</sup>

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.<sup>6</sup> 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'<sup>7</sup>, 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.*<sup>9</sup>

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 practicing 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'.<sup>10</sup> 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 Act* 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.<sup>11</sup>

**'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

