Regulation of paramedicine
Why can I call myself a paramedic, but you can’t call yourself a lawyer?
Paramedicine is an unregulated profession

- Who is a paramedic?
- What gives you authority to practice?
- What authority do you need?
- What about the use of drugs?

Consider the *Poisons and Therapeutic Goods Regulation 2008* (NSW) Appendix C, clause 7.
7 Emergency medical treatment by ambulance officers

A person:
(a) who is employed in the Ambulance Service of NSW as an ambulance officer or as an air ambulance flight nurse, and
(b) who is approved for the time being by the Director-General for the purposes of this clause, is authorised to possess and use any Schedule 2, 3 or 4 substance that is approved by the Director-General for use by such persons in the carrying out of emergency medical treatment.
What are a paramedic's obligations?

• Consider Ruth’s lecture on ethics; but what of the law?

• Is there a (legal) duty to rescue?
  – On duty or off?

• What’s expected of a ‘reasonable’ paramedic?
Cattley v St Johns Ambulance [sic] (1988, Unreported, Queen’s Bench)

[Any] … person holding himself out as a first-aider … would be negligent if he failed to act in accordance with the standards of the ordinary skilled rescuer exercising and professing to have that special skill … [but if] the first-aider acts in accordance with the First Aid Manual and he does so with ordinary skill, then he has met the test and he is not negligent.
Ambulance Service of NSW v Worley
[2006] NSWCA 102 at [29]:

Ambulance officers are not medical practitioners, let alone specialists in emergency medicine. Their training is by no means insignificant, but it does not equip them with the theoretical knowledge which would permit a fine evaluation of alternative treatments. In a case such as the present, their two functions were to stabilize the condition of a patient … and to ensure his speedy transfer to an available hospital.
And later, at [52]:

“The protocols do not avoid the need for ambulance officers to be trained to diagnose particular conditions. Further, they require officers to assess symptoms. Nevertheless, they give straightforward guidance in relation to diagnosis and assessment of symptoms and prescribe treatment, with limited room for discretionary choice of treatment.”
Is it different today?

• Consider that in Worley the parties called 10 doctors and …

• 0 paramedics.

• *Lithgow City Council v Jackson* [2011] HCA 36 went to the NSWCA and the HCA twice – the paramedics were never called

• Who sets the professional standards?
Paramedics Australasia

“Paramedics Australasia (PA) is the peak professional body representing paramedics in Australia, New Zealand and the pacific region. The organisation has an important role in setting standards of practice for the profession, and this role includes the development of paramedic competencies that inform the design of paramedic education programs.”
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Does it?

• When introducing the *Health Practitioner Regulation National Law (South Australia) (Protection of Title—Paramedics) Amendment Bill 2013* (SA), the Hon. J.J. Snelling, Minister for Health and Ageing, said:
“The Council of Ambulance Authorities has established an accreditation scheme for education courses in Australia to ensure that graduates meet the requisite education and training standards for employment as a paramedic in Australia and New Zealand. These qualifications will form the basis of the qualifications that will entitle a person to take the title of ‘paramedic.” (Hansard, House of Assembly – Wednesday, 16 October 2013, Page 7282).
What is the role of the profession when

• Assessing whether a response was negligent or

• ‘improper or unethical’ (Health Services Regulation 2013 (NSW) ss 14 and 17)?
Rogers v Whitaker (1992) 175 CLR 479 at [12]:

“… the standard of care to be observed by a person with some special skill or competence is that of the ordinary skilled person exercising and professing to have that special skill. But, that standard is not determined solely or even primarily by reference to the practice followed or supported by a responsible body of opinion in the relevant profession or trade … it is for the courts to adjudicate on what is the appropriate standard …”
Professional Registration

• May take place under the Health Practitioner Regulation National Law.

• A ‘Paramedic Board’ would be set up to set standards and impose professional discipline.

• Paramedics would have a code of conduct and could be ‘struck off’ for professional misconduct.
Questions? Comments?

Thank you for the opportunity to speak with you.

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