



**Australian College of Ambulance Professionals Ltd.**

---

# **Submission**

on

**Proposed arrangements for  
information sharing and privacy**

under the

**NATIONAL REGISTRATION AND ACCREDITATION SCHEME  
FOR THE HEALTH PROFESSIONS**

**Consultation Paper Issued by the  
Practitioner Regulation Subcommittee  
Health Workforce Principal Committee  
Australian Health Ministers' Advisory Council**

**PO Box 345W  
Ballarat West  
Victoria 3350**

**December 2008**



## Australian College of Ambulance Professionals Ltd.

Ms Bronwyn Nardi,  
Chair  
Practitioner Regulation Subcommittee  
Of the Health Workforce Principal Committee  
Level 12/120 Spencer Street  
MELBOURNE VIC 3000

By email: [NRAIP@dhs.vic.gov.au](mailto:NRAIP@dhs.vic.gov.au)

Dear Ms Nardi,

**Re: Submission To Consultation Paper On Proposed Arrangements for  
Information Sharing and Privacy under the National Registration And  
Accreditation Scheme For The Health Professions**

The *Australian College of Ambulance Professionals (ACAP)* is the national body representing paramedic practitioners engaged in the delivery of out of hospital emergency health care. ACAP's core business is the professional development and representation of its membership in professional matters.

ACAP participates in the development of policy in paramedicine and related health professions, health and community services, education and training, and relevant issues associated with occupational health and safety, health funding and regulation.

ACAP strongly supports the initiatives being taken to introduce a national scheme for the regulation of health professionals and the associated functions that this process entails.

ACAP sees the integrity of information management as being of crucial importance in the regulatory process and the protection of that information from misuse as paramount.

We acknowledge that further consultation papers will be released and that ACAP and other members of the profession will respond to these as necessary. Should you have any queries on this submission, I can be contacted by telephone on 0419 338 965 and by email [president@acap.org.au](mailto:president@acap.org.au) .

Yours sincerely  
Ian Patrick  
National President

## Executive Summary

1. The *Australian College of Ambulance Professionals (ACAP)* is the national body representing paramedic practitioners engaged in the delivery of out of hospital emergency health care. ACAP has an abiding professional interest in policy matters that affect the delivery of Emergency Medical Services (EMS) and is uniquely positioned to provide insights into the role of EMS in the continuum of health care.
2. In preparing this submission, ACAP has placed a focus on identifying issues of broad policy significance that affect the integrity of information management and underpin the regulatory process.
3. The submission outlines the importance of appropriate information security regimes to protect sensitive personal and practitioner information. By drawing comparisons with practices in the field of paramedicine, it highlights the risks associated with fragmented information and control systems.
4. The submission draws attention to the underlying purposes of regulation. It showcases ACAP's support for a national registration scheme for health practitioners with appropriate functional activities and robust information systems.
5. The submission notes the deficiencies in the current arrangements for the regulation of paramedics which would be overcome in great part by the inclusion of paramedic practitioners within the COAG regulatory scheme with appropriate information management practices.
6. The submission makes a number of observations on the various proposals within the consultation document to ensure due process, natural justice and effective reporting and management of outcomes.

For further information, contact:

Mr Les Hotchin  
National Secretary  
Australian College of Ambulance Professionals  
PO Box 345W  
Ballarat West  
Victoria 3350

Tel: +61 3 5331 9584  
Fax: +61 3 5333 2721  
Mob: +61 417 336 490  
Email: [secretary@acap.org.au](mailto:secretary@acap.org.au)

## Table of Contents

	Page
Background.....	5
Scope of paper.....	5
Australian College of Ambulance Professionals.....	5
ACAP philosophy of health care.....	6
ACAP’s concern about registration and information.....	6
ACAP philosophy of regulatory integrity.....	8
ACAP’s overview of the information environment.....	9
ACAP’s response to the consultation details.....	10
Glossary.....	20

# Background

## ***Scope of paper***

This submission is made in response to the consultation paper issued by the Practitioner Regulation Subcommittee of the Health Workforce Principal Committee, Australian Health Ministers' Advisory Council, seeking comment on the regulatory tools that should be available in a national registration scheme to deal with information sharing and privacy.

It is recognised that there is no single model for the regulation of professions nationally or internationally and that even within Australia, the different health and allied health professions have different systems. ACAP sees value in harmonizing these approaches to the degree feasible to achieve a workable arrangement that meets the objectives of regulation and is understandable and user-friendly to the public.

In particular, ACAP places an emphasis on the information management safeguards that should be put in place to minimise the potential for fraud and corruption.

## ***Australian College of Ambulance Professionals***

The *Australian College of Ambulance Professionals (ACAP)* is an incorporated body representing the professional interests of paramedics engaged in the delivery of out of hospital Emergency Medical Services (EMS).

ACAP activities encompass programs of professional development, voluntary regulation, publication and other professional activities designed to enhance the standards of out of hospital emergency health care and thereby better protect the health and safety of the community.

ACAP welcomes the Council of Australian Government's (COAG) decision to introduce a national professional registration scheme for health practitioners and implement a national accreditation scheme. It supports the objectives outlined by the Ministers to develop a national approach to information management that:

- ensures the primacy of public protection
- maintains a high degree of transparency,
- conforms to legislative requirements, and
- is appropriately accountable.

ACAP believes the underlying commitment to a stronger patient-oriented approach to health care with greatly enhanced community engagement is timely. It supports the view that the users (the public) should play a significant role in the regulatory processes and be suitably informed by appropriate and readily accessible information processes.

However, ACAP draws attention to the broader components of information management that extend well beyond the collection of data on individual practitioners and include the utilisation of information by supporting infrastructure providers and the provision of effective security systems associated with the relevant information networks.

While supporting transparent practitioner regulation, ACAP notes the need for suitable accreditation of the supporting infrastructure providers and the information security ramifications of registration networks, as well as provider and employer networks. These concerns apply to internalised systems but are of particular concern if outsourced (third party) information systems or network-based systems are used.

## ***ACAP philosophy of health care***

The primary goal of ACAP is to help develop the full potential of EMS as part of a system that will deliver quality health care to all Australians. To achieve this objective, ACAP believes that health care policy should:

- recognise the benefits of holistic care delivered by health professionals operating in a multidisciplinary environment;
- ensure an equitable health system by providing EMS for all Australians according to need and regardless of race, creed, gender, location or economic circumstances;
- establish funding arrangements at Federal, State and Territory levels that facilitate the delivery of better integrated health care services and minimise duplication of effort by optimising the use of available physical and human resources;
- ensure responsiveness, accountability, and high service standards through community engagement that recognises the legitimate role of consumers in the planning and delivery of healthcare;
- provide adequate educational opportunities for the recruitment, training and professional development of healthcare practitioners to ensure a sustainable workforce; and
- provide a national regulatory regime for health professionals and health care providers that will ensure consistent service standards, foster public safety and improve equity and access to care by facilitating health workforce mobility.

## ***ACAP's concern about registration and information***

ACAP's concern for regulation and appropriate information systems stems from its evaluation of the significant impact of EMS practitioners on patient outcomes and the interaction of paramedics with currently regulated health care professionals.

The expertise of paramedics and their clinical interventions are the mainstay in providing high quality out of hospital emergency health care in Australia. Working under the banner of EMS providers operating as government agencies or as long term contractors, paramedics deliver emergency and allied medical services that affect every level of Australian society.

While a small number of major service providers employ the bulk of paramedic personnel and apply a range of practice controls, they do not present the full story. The practitioner figures compiled by the Council of Ambulance Authorities (CAA)<sup>1</sup> do not include the contributions made by the Royal Flying Doctor Service, the private sector, by industrial paramedics in the field or the paramedics who work in the defence force, universities, and other peacekeeping and humanitarian roles funded by Government and Aid agencies.

In the absence of an appropriate regulatory regime and a suitable information framework that would offer more accurate data, the case-load capacity of persons engaged in delivering out of hospital paramedic (or equivalent) level services and not falling directly within the ambit of CAA-affiliated providers is estimated at 10-12% of the current reported caseload capacity.

---

<sup>1</sup> The Council of Ambulance Authorities Inc is a peak body representing major employers.  
<http://convention.ambulance.net.au/>

Not having a national regulatory scheme for paramedic practitioners in health care terms thus gives rise to a potential (but currently unknown) risk to the community from practitioners operating outside the scope of the major infrastructure providers.

In ACAP's view, the presence of an identifiable portion of the community with exposure to unregulated practice by any health-related professionals with the equivalent capacity for harm as paramedic practice, constitutes an unacceptable level of public risk.

While stating the potential risks in terms of unregulated paramedic practice, the principle of requiring uniform regulatory coverage of practitioners to protect the public is common to all health professions. Together with other issues, it has been one of the principal factors underpinning the urgency for registration of health workers in Australia's indigenous communities.

Taking a holistic view, emergency healthcare should be seamless (to the degree feasible) beginning with the identified need - whether initiated by an extraneous physical event or medical cause. To preserve life, paramedic practitioners may administer powerful restricted medications and perform invasive medical interventions in the critical period between the recognition of physical or mental distress and the commencement of institutional (hospital) care. It is well-recognised that clinical interventions during these precious minutes can determine the effectiveness of long term patient outcomes.

Given that it is proposed to have a national system of registration and information management for all other major participants in the process of emergency care, ACAP finds it inexplicable that paramedic practice should be excluded from any national regulatory system, with practice issues left to State agencies and contractors to determine.

ACAP therefore cannot stress too highly the concerns it holds for public safety and equity because of the absence of an appropriate national system of registration that would provide a single uniform and transparent information system for practitioner verification.

This is not the case at present, with quasi-regulation by the major employers who propound the use of individually applied and jurisdictionally-bound controls. ACAP rejects this restrictive view of regulation as unacceptable in today's world, inimical to good healthcare outcomes and not in the public interest on several grounds:

- there currently is no set of transparent and nationally accepted standards against which the performance and fitness to practice of a professional paramedic is assessed;
- In two jurisdictions (WA and NT) the primary infrastructure provider is a contracted organisation operating with variable oversight, varying clinical practice guidelines, and with no obvious accountability to the community;
- The major service providers themselves do not hold independent and objective accreditation that validates their performance against nationally accepted health care standards including mandatory clinical performance audits;
- There is no common database structure for information gathering, storage and dissemination of practitioner information between the various major employers, each of whom has different computer systems, different IT security arrangements and provide no direct public access to the status of individual practitioners.
- Jurisdictional constraints with different employer-based controls make it difficult for paramedics to move and retain their professional standing. Flow-on effects include undesirable cross-border integration and operational issues, more difficult recruitment and restrictions on practitioner mobility. These factors all have an adverse impact on workforce sustainability and resulting community access to qualified care;

- The current internalised complaint practices are perceived to hold grave conflicts of interest and do not exhibit transparent processes that will ensure natural justice and the separation of professional competence, fitness and impairment issues from disciplinary matters and potential provider deficiencies; and
- Existing practices do not provide for a single register of practitioners able to be accessed by the public and potential employers, the publication of disciplinary actions and outcomes regarding practitioners, or adequate statutory reporting obligations providing operational transparency.

The absence of transparent information on paramedic practitioners has been partially addressed by ACAP through a voluntary self-regulation program known as the “Certified Ambulance Professional” (CAP) program. Among the functions of the CAP program are the maintenance of a public register of practitioners, the fostering and endorsement of continuing development activities, and the referral of practitioner complaints.

ACAP acknowledges the limitations of any voluntary registration system. In addition to the absence of a legislative basis for enforceable complaint and professional discipline processes there is the separation between employer-based controls and the CAP program which increases the risk of errors, omissions and breaches of information security.

### ***ACAP philosophy of regulatory integrity***

Internationally, the impact of regulatory activities on the professions has become part of the public policy agenda. Among the reasons for regulation of the health care professions is that when faced with a choice of service providers, many consumers may be unable to make a rational choice.

Because of their specialist nature, professional services are taken at face value, with the consumer generally having to rely on the expertise of the practitioner and not well placed to assess the type and quality of the service.

Regulation thus may be justified on the grounds of providing protection for the consumer through guaranteeing a minimum quality of service based on the regulatory body having more information and expertise at its disposal than the average consumer.

If the practitioner service is delivered in conjunction with the support given by the infrastructure provider function - as occurs with employed professionals in (say) hospitals and EMS settings, the public interest becomes multi-dimensional and regulatory obligations encompass both the individual and the infrastructure provider (or employer).

The need for regulation is heightened by practical issues in Australia such as a failure to have an open market due to the limited availability of healthcare and diagnostic centres and hospitals, or (in the case of EMS) monopolistic government-sponsored providers.

In the context of out of hospital EMS, both the infrastructure providers and professional paramedics therefore are subject to greater than normal public interest and consumer protection considerations. The nature and dissemination of relevant practitioner and provider information is thus a critical element in protecting public safety.

To ensure an informed community and to assist employers, ACAP believes there should be national regulatory coverage of all health professionals, whether operating as full time, fractional time or volunteer practitioners. This coverage should cater for private practitioners and qualified members of the defence forces as well as those employed within the various State agencies, hospitals, universities, and industrial settings and on deployment on relief and humanitarian endeavours under bilateral agreements.

Only a mandatory national scheme has the capacity to collect, process, maintain and disseminate the required information while achieving the economies of scale, security, transparency and accessibility of information to realise the desired regulatory objectives.

### ***ACAP's overview of the information environment***

ACAP notes that the Intergovernmental Agreement (IGA) has not given detailed consideration to information sharing and privacy which are seen to be significant issues in the prevention of information misuse and fraud and corruption.

To perform the registration and accreditation functions successfully it will be necessary to compile and process a range of personal and sensitive health information about registrants. The intent is to use this information in a positive sense in ensuring the integrity of the registration process, but it also could be misused in various ways including facilitation of identity theft.

The information functions are envisaged to include the:

- collection and use of personal information provided by registrants when they apply for and renew registration;
- development and assignment of a unique identifier for each registered practitioner;
- establishment and maintenance of a public register which will include personal information about each registered practitioner;
- collection and use of personal and sensitive health information arising from complaints and its appropriate disclosure to other relevant parties and regulators;
- establishment of suitable information sharing protocols with Commonwealth agencies and State and Territory governments, the National E-Health Transition Authority (NEHTA), as well as overseas registration authorities; and
- provision of general health workforce data to government, and as a public resource.

ACAP agrees that the regulatory framework will need to facilitate the flow of the personal and sensitive health information needed to undertake the regulatory functions. It reiterates its concern that stringent steps must be taken to protect against the misuse of that information, and it warns against the collection of non-relevant data that is not clearly and demonstrably needed to perform the registration function.

Using the provision of EMS as an example, ACAP is concerned by the variability of information management practices and the different datasets and security arrangements employed by the various State and Territory infrastructure providers as well as differing privacy regimes within the States and Territories.

From informed observation, similar diverse situations appear to obtain for most health practitioners. The adoption of a national information management scheme under common legislative provisions therefore has the potential to improve the nature and flow of information, while at the same time introducing a more rigorous and harmonised approach that should enhance the integrity and protection of information.

Subject to the development of suitable information gathering protocols and the adoption of appropriate security measure as noted above, ACAP therefore supports the general principles for information sharing and privacy as articulated in Section 1.5 of the consultation document.

## ACAP's response to the consultation details

In the following observations, comment is made on the consultation proposals only where deemed necessary to reinforce, select a preferred option or offer a contrary viewpoint or alternative.

### ***Proposal 3.1.1:***

It is proposed that all requests for information will indicate the purposes for which it is being collected.

### ***Proposal 3.1.2:***

It is proposed that the national scheme legislation provide for the following key categories of information for the registration of individuals.

- Name and contact details (details and comments offered)
- Date of birth (details and comments offered)
- Qualifications (details and comments offered)
- Overseas registration details (details and comments offered)
- Details of recency of practice and other requirements (details and comments offered)
- Criminal record (details and comments offered)
- Professional indemnity insurance (details and comments offered)
- Registration details (details and comments offered).

### **ACAP response**

**Both proposals are endorsed. There should be close monitoring to ensure that superfluous information is not gathered and only directly relevant information is obtained to meet the goals of registration.**

### ***Proposal 3.2.1:***

It is proposed that the national scheme legislation provide the boards with the power to collect employer details and other similar details in order to enable notification by the relevant board to employers when a practitioner's registration status changes or conditions are placed on practice.

There are two options to give effect to this arrangement:

**Option 1:** Require name and address of employer, public health organisations, private hospitals, day procedure centres or nursing homes at which the practitioner is accredited to be recorded on registration and updated on renewal.

**Option 2:** Provide the boards with a power to require the practitioner to provide these details to the board, as necessary.

### **ACAP response**

**Endorsed. Given the potential for rapid movement into and out of employed status, the additional data collection requirements and the absence of relevancy until there is a need for notification, Option 2 is preferred.**

***Proposal 3.3.1:***

It is proposed that the legislation require that each registered health practitioner be allocated a unique identifier in the new registration system.

**ACAP response**

**Endorsed. It is further recommended that multi-factor verification procedures be considered in addition to the identifier for use when the practitioner is communicating with agencies such as Medicare Australia.**

***Proposal 3.3.2:***

It is proposed that the national scheme legislation authorise NEHTA and Medicare Australia, to adopt, use and disclose the unique identifier allocated to practitioners in order to enable e-health developments and other information sharing in the public interest. It is further proposed that the legislation governing the operation of NEHTA and Medicare Australia provide appropriate protection for the information provided to these agencies by the national scheme.

**ACAP response**

**Endorsed in principle but subject to review based on the nature of the proposed disclosures (currently unspecified) and contingent on the adoption of stringent security and other fraud and corruption prevention measures within the system.**

***Proposal 3.4.1:***

It is proposed that the national scheme legislation provide a power for boards to require identity checking, through photo identification and a “100 point check” system.

There are three options to give effect to this arrangement:

**Option 1:** All boards to require identity checking on initial registration post 1 July 2010, but not for existing registrants.

**Option 2:** Boards to decide whether identity checking along the lines of Option 1 will be required in their profession.

**Option 3:** Boards to decide whether identity checking along the lines of Option 1 will be required for only some applicants for registration.

**ACAP response**

**Endorsed with qualification. Option 1 is preferred but with a more stringent requirement for mandatory checks. The proposed 100 point system is not onerous when considered in context, and universal identity checking is recommended for all registrants in view of the concerns held that existing identity data may not be sufficiently reliable.**

***Proposal 3.8.1:***

It is proposed that the national scheme legislation provide for the Ministerial Council to specify from time to time, certain data items that must be collected as part of registration and renewal of registration processes where these data items are needed for workforce planning purposes as long as there is a clear need for the data and it is not too burdensome. Note that provision will also be made for additional data to be collected on a voluntary basis.

***Proposal 3.8.2:***

It is further proposed that the current voluntary paper-based labour force surveys conducted by current boards on behalf of jurisdictions be discontinued.

***Proposal 3.8.3:***

It is further proposed that information collected purely for workforce planning purposes will not be made available for board/agency purposes.

**ACAP response**

**Endorsed. ACAP draws specific attention to the lack of comparability and paucity of health-related data associated with the paramedic workforce and EMS generally. ACAP recommends the urgent consideration of additional data gathering to cater for the “missing link” of EMS in emergency care. This may form part of the National Health Workforce Work Program.**

***Proposal 3.8.4:***

It is proposed that the national scheme legislation provide for the Ministerial Council to require that specified, de-identified information is provided to the Council and any of its committees for workforce planning analysis.

***Proposal 3.8.5:***

It is proposed that the national scheme legislation requires that de-identified information relevant to workforce planning is made publicly available in a timely manner and by suitable means.

**ACAP response**

**Endorsed. ACAP agrees that the provision of health workforce data as a mandatory part of registration and renewal is a significant instrument of public policy and should be publicly available. ACAP strongly recommends the urgent consideration of additional data gathering to cater for the “missing link” of EMS data collection in emergency care (see above).**

***Proposal 4.1.1:***

It is proposed that the national scheme legislation specify that the following categories of information in relation to each registrant are available on the public register:

- (a) Current name
- (b) Sex
- (c) Postcode of contact address and name of postcode area
- (d) Registration identifier
- (e) Date of first registration
- (f) Renewal date
- (g) Class of registration (where relevant)
- (h) Division (where relevant)
- (i) Conditions on practice (where relevant)
- (j) Date of suspension and date suspension is to end (where relevant)
- (k) Endorsed specialities (where relevant), and
- (l) Other endorsements (where relevant).

**ACAP response**

**Endorsed with comment. The purpose of gender identification in the public register but not indigenous or ethnic status is not immediately obvious, and is seen as potentially discriminatory. However, on balance, it is accepted on the grounds of overall benefit in the public interest. It is suggested that item (f) “Renewal date” be more aptly described as “date that current registration cycle ends”.**

**4.2 De-registered practitioners**

Practitioners may cease to be registered for a variety of reasons including voluntary non-renewal, retirement or by formal de-registration as a result of a tribunal decision. If a practitioner has chosen to let their registration lapse, then there is no public policy reason to continue to show the practitioner on the public register. On the other hand, if de-registration is the result of a tribunal decision, then continued listing on the public register provides important information. It would appear inappropriate if further scrutiny and public identification could be avoided by persons under investigation for conduct matters, by their voluntarily withdrawing from registration. Among the proposed options are:

**Option 1:** De-registered practitioners appear on the register with a status of de-registered.

**Option 2:** De-registered practitioners be removed from the public register.

**Option 3:** Practitioners de-registered for conduct reasons appear on a separate register of de-registered practitioners.

**Option 4:** Practitioners de-registered for conduct reasons continue to be shown on the public register with the status of de-registered for conduct reasons.

***Proposal 4.2.1:***

It is proposed that the national scheme legislation provide that Option 4 be adopted and that the names of practitioners de-registered for conduct reasons appear on the public register with an indication that they have been de-registered for conduct reasons.

There also is an issue about how far back should the register go in showing de-registered practitioners.

### ACAP response

**Endorsed in principle but with comment that it needs strengthening by including elements drawn from the distinctive identification provided by Option 3.**

**There are a number of issues involved, including:**

- **prevention of fraud and misrepresentation;**
- **provision of appropriate information to guide the public and others;**
- **the ease of access, user-friendliness and efficacy of the information dissemination process;**
- **avoidance of any ambiguity, legal or otherwise; and**
- **issues of natural justice.**

**On balance, and taking all factors into account, ACAP is of the view that de-registered persons should be listed on a single list of registrants and de-registered persons, but this should be in a separate section of the list, carry the appropriate designation of their current status. Persons moreover should not be allowed to remove their names from the de-registered section of the list by voluntary withdrawal. In other words, there is no diminution of the rights of the individual to choose whether or not they wish to be registered (if qualified) but the ability to modify the de-registered list in any way is to be governed by the relevant formal due processes (and appeal procedures) of registration.**

**In determining whether there should be a statute of limitations for newly de-registered persons or those already de-registered, ACAP is cognizant of the public interest as the dominant factor in mandating registration. ACAP also acknowledges that it would diminish the credibility of registration were obvious anomalies to be perpetuated such as death, or physical or mental impairment to the extent that practice obviously would be impossible.**

**ACAP therefore recommends that the status of all persons on the de-registered section of the list be reviewed regularly at no longer a period than the normal registration cycle, in order to confirm the continued validity of their de-registration. On this basis it is considered appropriate that all currently de-registered persons be transferred to the new list and have their status reviewed at the time when the scheme is implemented.**

**ACAP further suggests that care be taken in the use of the term “practitioner” as it connotes currency of registration, and that alternative terminology be used when describing de-registered persons.**

#### ***Proposal 4.3.1:***

If conditions on practice relate to practitioner health or impairment issues, it is proposed that the national scheme legislation provide that the public register record that a health condition applies, with no further details appearing on the register. However, if specific restrictions on professional practice apply, they would appear on the register. The agency could release information about health conditions in particular circumstances if it was judged to be in the public interest but the test would be a high one.

### ACAP response

**Endorsed, but also see comments above on Proposal 4.2.1. The issue of impairment is considered less serious than de-registration and appropriate unambiguous annotation within the registered practitioner list is considered adequate.**

***Proposal 4.5.1:***

It is proposed that there be a general power in the national scheme legislation to allow any person to obtain a copy of, or an extract from, the register on payment of the fee determined by the agency. It is proposed that the agency would have a power to refuse to provide a copy of the register to any person unless satisfied that it is in the public interest to do so.

**ACAP response**

**Qualified endorsement. Given that transparency is sought for the registration process and there is to be on-line access to the publicly available information, this provision appears more designed to frustrate rather than prevent use of the available data. Power to withhold the release of wholesale information from the register may be appropriate in certain circumstances but the threshold test appears ill-stated.**

**ACAP would prefer that limits be set for the scope of information release from the register and that this trigger further consideration of appropriateness. In that event the information from the register should normally be available unless the agency determines that it is not in the public interest. The test therefore would be the converse of the present proposal wording – i.e. allow unless contraindicated.**

***Proposal 4.6.1:***

It is proposed that the national scheme legislation provide for the publication of tribunal decisions relating to registrants where it is in the public interest to do so.

**ACAP response**

**Endorsed in principle regarding the need for publication but not in detail regarding execution. ACAP believes in transparency through appropriate publication and draws attention to the comments under proposal 4.5.1.**

**The converse form of statement is considered more appropriate, with the preferred proposal being for legislation that provides for the publication of tribunal decisions relating to registrants *unless otherwise determined that it is not in the public interest to do so*. The process of determination of the public interest and threshold to apply should be suitably demanding.**

***Proposal 4.6.2:***

There is a public interest in making board or committee decisions in relation to conduct matters public. It is proposed that decisions be published on the register of decisions on the agency's website.

There are two options to give effect to this arrangement:

**Option 1:** All conduct decisions of boards or committees are published (with patient details de-identified).

**Option 2:** Boards may order that certain decisions are confidential and order that the decision register contain a confidential information notice.

### ACAP response

The preferred option in the consultation document is somewhat unclear but appears to be Option 2. As a principle, ACAP favours maximum disclosure to the extent that the publication of decisions is not counterproductive. The primacy of the public interest is relevant, and given the multiplier effect of potential harm from practitioner failings, ACAP accepts that the interests of the practitioner should be subservient to the public interest.

Among the less obvious purposes of publication is the deterrent effect on practitioners, educational benefits for the profession and the enhancement of public trust and confidence through the overt demonstration of appropriate actions.

At this time, ACAP is not convinced that it is infeasible to publish suitably de-identified decisions without prejudicing performance management and health management outcomes.

ACAP suggests a modified option to achieve the objectives above by (in principle) publishing the outcomes of every decision. However, in the case of those decisions where the interim decision involves identified performance management and health management matters, the reporting may not be verbatim but paraphrased and de-identified for both patient and practitioner.

In such cases there is a continuum of potential outcomes and the actions taken should be reported both at the time of initiating action and at the conclusion or resolution of the issue to ensure the monitoring of outcomes is appropriate in the interests of the patient/complainant, the practitioner, the public and the profession.

#### *Proposal 5.1.1:*

It is proposed that the national scheme legislation use the private sector provisions of the *Privacy Act 1988* as the basis for the privacy arrangements in the national scheme.

#### *Proposal 5.2.1:*

It is proposed that the existing Commonwealth private sector privacy regime and National Privacy Principles are incorporated by reference into the national scheme legislation.

### ACAP response

Endorsed. The diversity of privacy arrangements in Australia is well known and the legislative pitfalls manifold. Many health practitioners work in the private sector and the proposed approach would appear appropriate given that all governments are currently reviewing national privacy provisions.

ACAP also agrees with the quoted views of the Australian Law Reform Commission (ALRC) in its recent report on Australian Privacy Law and Practice that: *“Australian privacy laws are multi-layered, fragmented and inconsistent”*. The ALRC report also identified inconsistent regulation, particularly in the health sector, as causing complexity, significant compliance burdens and costs as well as impeding projects in the public interest such as health research.

As noted in the consultation document, a fragmented and inconsistent regulatory approach to the privacy of personal and health information will significantly obstruct regulatory authorities in achieving the desired policy objectives. These shortcomings are also among the deficiencies identified by ACAP as pertaining to the present jurisdictional and employer-based controls that apply to paramedics.

## **6 Confidentiality**

Officers of the agency and members of boards, committees and panels will be expected to observe confidentiality in relation to information obtained in the course of their work, unless authorised to release information in specific circumstances.

The national scheme legislation will require officers and members to observe confidentiality except in specified circumstances, such as:

- the execution of functions under the Act
- creation and maintenance of the public register as specified in the Act
- court or tribunal proceedings
- an order of a court or tribunal
- the investigation or the enforcement of a law of any State or Territory or of the Commonwealth, and
- following the written authority of the person to whom the information relates.

### **ACAP response**

**Endorsed. ACAP's concern with confidentiality and information security extends to the risks posed by external consultants, contractors, IT and health service providers and other persons and groups who are legitimate users and processors of information.**

**ACAP draws attention to the inherent risks in multiple user and provider arrangements for the collation, processing, storage and dissemination of personal practitioner information and the need to ensure stringent confidentiality and security controls at all times to prevent misuse of the data.**

#### ***Proposal 7.1.1:***

It is proposed that the national scheme legislation prevents the adoption of the scheme's health practitioner identifier for other purposes by other bodies. The legislation would also need to exempt the adoption and use of the identifier for e-health purposes subject to legislation providing appropriate protections being in place to oversight such e-health activities.

#### ***Proposal 7.2.1:***

It is proposed that the national scheme legislation provide for de-identified information from the registration system to be available to government agencies and to appropriate classes of other persons for research and statistical purposes.

#### ***Proposal 7.3.1:***

It is proposed that the national scheme legislation governing the release of information by the agency and the boards will set out the circumstances when material will be forwarded to the PSR (Professional Services Review Scheme).

#### ***Proposal 7.4.1:***

It is proposed that the national scheme legislation governing the release of information by the agency and the boards enables the release of information to Medicare Australia and specifies the purposes for which the information is to be released.

### **ACAP response**

**These proposals are all endorsed.**

***Proposal 7.5.1:***

It is proposed that the privacy framework to apply to the agency authorise the disclosure of relevant information to the DIAC for purposes under the *Migration Act 1958*.

***Proposal 7.7.1:***

It is proposed that the national scheme legislation enable the sharing of de-identified information with State and Territory government bodies for specified purposes and the notification of identified practitioners who pose a public health risk.

**ACAP response**

**These proposals are both endorsed.**

**7.8 Notification to Commonwealth, State and Territory health departments**

It is possible that during the course of investigation of a case, a board identifies that consistently poor practice has been followed, for example, in conducting diagnostic tests or undertaking certain procedures. If that poor practice presents a potential risk to other patients, beyond the case or cases under investigation, then it is proposed that the board be given power to bring the matter to the attention of the relevant health department.

***Proposal 7.8.1:*** It is proposed that the national scheme legislation provide that whenever a board identifies that the health of a patient who is not directly involved in a case under investigation may have been adversely affected by a practitioner, the board must notify the relevant State or Territory health department so that remedial action can be taken.

**ACAP response**

**This proposal is endorsed as being aligned with the principle of supervisory accountability and is consistent with the ACAP Code of Conduct in fulfilling the broader ethical obligations of patient care.**

**7.12 Trans-Tasman Mutual Recognition**

The *Trans-Tasman Mutual Recognition Act 1997* (the TTMRA) provides that a person who is registered in New Zealand for an occupation is entitled to be registered for the equivalent occupation in Australia, and vice versa. The TTRMA provides for the sharing of information between New Zealand and Australian registration authorities.

***Proposal 7.12.1:***

It is proposed that the national scheme legislation make appropriate provisions to cover the sharing of information with New Zealand registration authorities consistent with the TTMRA

**ACAP response**

**Endorsed**

### **7.12 Trans-Tasman Mutual Recognition**

The *Trans-Tasman Mutual Recognition Act 1997* (the TTMRA) provides that a person who is registered in New Zealand for an occupation is entitled to be registered for the equivalent occupation in Australia, and vice versa. The TTRMA provides for the sharing of information between New Zealand and Australian registration authorities.

#### ***Proposal 7.12.1:***

It is proposed that the national scheme legislation make appropriate provisions to cover the sharing of information with New Zealand registration authorities consistent with the TTMRA.

### **7.13 Overseas regulatory authorities**

There are a number of international contracts and agreements relating to cooperation with overseas health regulatory bodies.

#### ***Proposal 7.13.1:***

It is proposed that the national scheme legislation give boards powers to exchange information with international registration bodies.

### **ACAP response**

**All endorsed.**

#### ***Proposal 8.1:***

It is proposed that the national scheme legislation make the boards the repository of last resort with the power to take possession of patient health records when a practitioner has defaulted on their obligations.

### **ACAP response**

**Endorsed.**

## Glossary

The following terms are used in this submission.

<b>ACAP</b>	Australian College of Ambulance Professionals
<b>AHMAC</b>	Australian Health Ministers' Advisory Council
<b>ALRC</b>	Australian Law Reform Commission
<b>CAA</b>	Council of Ambulance Authorities Inc.
<b>CAP</b>	Certified Ambulance Professional program
<b>COAG</b>	Council of Australian Governments
<b>EMS</b>	Emergency Medical Services
<b>IGA</b>	Intergovernmental Agreement
<b>NEHTA</b>	National E-Health Transition Authority
<b>NHHRC</b>	National Health and Hospitals Reform Commission
<b>TTMRA</b>	Trans-Tasman Mutual Recognition Act 1997
<b>Paramedic</b>	A professional person whose education, training and skills enable them to provide a range of out of hospital emergency procedures and medical care