

SECOND READING SPEECH

Ambulance Service Amendment Bill 2013

Mr Speaker...

The purpose of this Bill is to amend the *Ambulance Service Act 1982* to better reflect contemporary ambulance practice and to provide a comprehensive licensing regime for existing and potential commercial providers of non-emergency patient transport.

Our aim is to ensure that the legislation provides the best possible safety for our patients, our community and of course our staff working in the ambulance service. We also want to ensure that where there are operators engaged in non-emergency activities with and for patients and the community that they are doing so within a strong, transparent and safe legislative framework.

Ambulance and emergency management practice has advanced considerably over the past thirty years and resulted in changes to the frameworks supporting and protecting public, patient and staff safety. In particular, the nature of out of hospital patient care by ambulance services has evolved and in the interests of public safety within our community there is a need to provide a very clear differentiation between paramedic or emergency ambulance services, non-emergency patient transport services, and first aid.

The current legislation is more than thirty years old and no longer reflects contemporary practice for emergency ambulance services, non-emergency patient transport, out of hospital care and first aid.

As well as practice change, a range of strategic and policy developments have contributed to improvements in patient services. Possibly the most notable in recent times was the acceptance by Government of 108 recommendations from reviews of Tasmania's patient transport services (the *Banscott Report*) and Tasmanian medical retrieval services (the *Sharley Report*).

This saw the establishment of Ambulance Tasmania as a state-wide service delivering the entire spectrum of out of hospital care. Ambulance Tasmania was given lead organisational responsibility for implementing the recommendations of Banskott and Sharley and developing improved service responses relating to non-emergency patient transport services, aero-medical retrieval services, and emergency and medical ambulance services and the establishment of the new integrated communications centre to coordinate the activities of all the business units across the State.

Banskott and Sharley also foreshadowed that strategic and operational service delivery developments that would follow the implementation of their recommendations would mean that current legislative frameworks would not adequately meet the needs of contemporary emergency and non-emergency patient transport services. This Bill addresses those needs.

New and revised definitions in the Bill reflect contemporary practice and the expanded role of Ambulance Tasmania beyond the provision of services from motor vehicles on public roads.

Additionally, in the interests again of public and patient safety and transparency, there is a need to make a clear distinction between emergency response services and other forms of patient services to the community. Those services are non-emergency patient transport and first aid coverage at sporting and other events.

A mix of organisations (charitable and commercial) deliver first aid services at sporting and other events. Currently, the lack of clarity around definitions and unrestricted use of terms such as ‘paramedic’ and ‘ambulance’, means it is difficult for event organisers to distinguish between service providers and confidently assess the level of first aid services they are contracting for an event.

Sometimes it can be difficult for people in the community to distinguish between a first aid post and an emergency service. I don’t think any of us ever want a situation to occur where a person seeks the wrong provider through a misunderstanding of the difference between an emergency paramedic provider and a first aid provider as has happened in other states. At the same time we

don't want to impose additional regulatory burdens on volunteer and charitable organisations providing first aid services. Ensuring that words like 'ambulance' and 'paramedic' are only used to describe emergency services will ensure there is no confusion about what these terms mean.

There is a process under way nationally to examine registration of the paramedic profession but this may take several years to reach a resolution. Ministers have recently agreed in principle to strengthen state and territory health complaints mechanisms via a single national Code of Conduct for unregistered health practitioners to be made by regulation in each jurisdiction. This is also likely to take some time to implement.

In the absence of national registration of paramedics, there are very sound reasons for the Ambulance Service Act to protect public safety by prescribing the qualifications and training for practice as a paramedic in Tasmania. This will ensure that only persons who are suitably qualified and accredited to practice in a competent and ethical manner may use the title.

It will also enable event managers and organisers to properly assess the qualifications of first aid providers and engage a suitable level of coverage for their event commensurate with the level of risk to persons attending the event. Again we are seeking to ensure public safety, clarity and transparency. Should national registration of paramedics occur, Tasmanian legislation may require amendment to reflect the outcome.

In Tasmania there are currently three commercial operators with consent to provide non-emergency patient transport. This Bill seeks to ensure that those providers and others intending to enter the market have clear and transparent understanding of patient quality and safety requirements needed to operate in Tasmania.

There may and have in the past been times when Tasmania looks to our colleagues nationally for support when we face major incidents or events, one example I can think of which is fresh in all our memories is the Beaconsfield Mine incident.

Permitting prescribed interstate ambulance services to render assistance at accidents or major incidents as required by, and under the control and direction of, the Commissioner of Ambulance Services will provide a sound legislative basis for assistance from interstate ambulance services for major incidents, air ambulance evacuations and assistance at major events.

Section 37 of the Ambulance Service Act already prohibits the provision of services 'similar to those provided by the Director of Ambulance Services', i.e. emergency ambulance services and non-emergency patient transport, without the consent of the Director. Originally designed to ensure the coordination and financial support of community-based ambulance services, the 'consent' provision has become a mechanism for 'licensing' of commercial providers of non-emergency patient transport.

This was never the intent of the 'consent' provision and the process has meant that providers operate (and by operate I am talking about looking after sick and vulnerable Tasmanians) without a transparent and accountable system of legislative checks and balances which our community would expect and rightly be entitled to. The Bill aims to ensure that the framework in which commercial providers operate can be clearly understood by existing and new providers, and the purchasers and users of those services.

To replace the 'consent' process, the Bill contains a contemporary regulatory framework for licensing non-emergency patient transport to ensure that the commercial non-emergency patient transport sector is appropriately regulated, ensuring that services are being delivered at a standard which will ensure community safety. Commercial providers with 'consent' under the current system will benefit from a two year transition phase.

The current Act does not provide sufficient detail to ensure adequate regulation. Whilst existing processes provide some safe guards, there are risks of a provider operating (knowingly or unknowingly) outside their scope of clinical practice, causing direct harm to a patient. Clearly articulating minimum standards will help providers understand the requirements.

The new licensing framework will provide a transparent, consistent and accountable mechanism for regulating commercial non-emergency patient transport service provision. The Bill covers licensing, review, inspection and enforcement powers, and provides scope to specify requirements and standards in the Regulations.

The licensing framework in the Bill has similar features to contemporary Victorian legislation, however, there are some key differences. Tasmania does not mirror the Victorian scope of practice for non-emergency patient transport services or the contestability of public sector non-emergency patient transport transfers. Tasmania has a different service delivery model due to differences in scale and policy around public ambulance services and contestability of the Tasmanian market.

The Bill contains new provisions to enhance staff safety. The review found that current provisions dealing with offences against ambulance officers are inadequate both in range and level of penalty, and do not reflect the impact that these actions can have on public safety.

The Bill contains the following new offences, each with a maximum penalty of a fine of up to 100 penalty units or imprisonment of up to 3 months, or both:

- assault, resist, impede, obstruct or an ambulance officer
- threaten, abuse or insult an ambulance officer
- fail to comply with lawful requirement or direction of an ambulance officer
- knowingly provide false or misleading information, and
- impersonate an ambulance officer

The penalties applied in the Bill for offences against ambulance officers are consistent with the current penalties for offences against emergency workers contained in the *Emergency Management Act 2006*. It should be noted that Recommendations from the Sentencing Advisory Council's final report into assaults on emergency service workers are being considered by the Government. These new offences and penalties will be considered as part of that process and refined again if necessary as part of the Government's response to that report.

Provision is made for an authorised officer to issue an infringement notice for prescribed offences. These offences will be listed in Regulations made by the Governor.

For example, an infringement notice might be issued for a breach by a licensed person such as inaccurate or incomplete record keeping. The penalty that would apply to an infringement notice would be a lesser penalty than would be incurred if a prosecution was undertaken. This allows efficient and effective management of minor non-emergency patient transport licence infringements.

Current arrangements between agencies involved in patient extrication rely on inter-agency communication at the roadside to determine scene management priorities at an incident scene. In cases where a patient is under the care of an ambulance officer, to give due care to the medical needs of the patient, a clear legislative statement is needed to ensure that the duty of care to the patient has the highest possible priority.

The Bill clarifies the respective roles of emergency services during patient extrication, by providing that in circumstances where an ambulance officer requires the assistance of another agency to extricate a patient, the ambulance officer will maintain responsibility for determining the priority of that extrication. This clarifies roles to improve patient safety and is consistent with the current road rescue principles.

The Bill puts it beyond doubt that ambulance officers responding to an emergency call are considered to have a reasonable and lawful excuse and/or consent to enter property and may use reasonable force to effect this entry, where considered necessary. This clarification is important to ensure our ambulance officers can reach people in need, such as a person requiring urgent assistance who is unable to unlock a door so that paramedics can enter. Two recent coronial inquiries in Tasmania have shown how important it is to enable ambulance officers to gain access to a property after an ambulance call.

Currently it is an offence to represent a motor vehicle as an ambulance. The Bill updates and expands this provision to apply to unauthorised use of Ambulance Service insignia, logo or uniforms, and to all types of vehicle as well as to persons. It also revises the definition of 'ambulance' to recognise the range of vehicles now involved in ambulance services, including aircraft. This brings Tasmania into line with other jurisdictions. The penalty is increased to 100 penalty units in line with similar offences in the *Emergency Management Act 2006*. Emergency ambulance services and vehicles need to be clearly recognisable and there should be a clear distinction between emergency and non-emergency services, to avoid potential public confusion.

The Bill amends section 40 of the Act to increase the penalty for false ambulance calls. False calls divert essential emergency resources away from the community and incur unnecessary cost to the Ambulance Service. The Bill amends the existing provision to cover all forms of ambulance transport and increases the fine to a maximum of 100 penalty units, consistent with similar offences. It also clarifies that a costs order awarded against the perpetrator of a false call may be made in favour of the Commissioner. This will ensure that any costs incurred by the Ambulance Service due to a false call can be recovered.

Other changes to Ambulance Service administration and practice and a general update of Act provisions are required to modernise the Act to meet the requirements of contemporary practice.

The Bill changes the name of the statutory position from 'Director of Ambulance Services' to 'Commissioner of Ambulance Services' to reflect the contemporary role of commissioning and setting standards across the ambulance sector, and is consistent with the practice of other emergency services nationally. This is different to the previous role of Director which stated all ambulance services were subject to the control and direction of the Director.

Immunity for acts and omissions in good faith is an accepted policy in relation to emergency management workers in Australia. The Bill ensures the protections given to emergency management workers and fire service officers also apply to ambulance officers, including volunteer ambulance officers, who are responding to patients at risk of injury or death.

The Act currently allows the Commissioner to charge a prescribed fee for ambulance services provided to any person by the Commissioner, by or on behalf of that person if that person is entitled to recover that fee under a statutory compensation scheme. The Act does not currently allow the Commissioner to charge fees to other persons, agencies or bodies for incidental costs and expenses incurred in respect of providing ambulance services, such as providing training, attending high risk events etc.

The Bill expands the Commissioner's power to charge fees across the range of services now expected of the Ambulance Service, such as attending high risk exercises conducted by other government and private entities, the provision of training and billing of non-residents for ambulance services. This is in line with other Tasmanian legislation including the *Tasmanian Health Organisations Act 2011*, the *Fire Service Act 1979* and the *Education Act 1994*. This does not alter the Government's policy of waiving ambulance fees for Tasmanian residents.

Currently, s.57 of the *Emergency Management Act 2006* protects emergency management workers, including volunteers from dismissal or loss of employment benefits or entitlements due to absence on emergency management or rescue and retrieval operations. The Bill gives volunteer ambulance officers similar protections from dismissal or other redeployment by their employer due to absence from employment on volunteer duties. This provision is required to reflect the important role of more than 600 volunteer ambulance officers in providing ambulance services in Tasmania.

The Department has consulted widely on the proposed changes. There has been strong support from medical, paramedic and volunteer peak organisations. Feedback on the consultation has been received from a number of external stakeholders and has been considered in the drafting of the Bill.

I commend the Bill to the House.