

Regulation of the Non-Emergency Patient Transport Sector

Discussion Paper

Information Sessions

To assist you in responding to this discussion paper, you are invited to attend an information session on:

**Friday 21 June 2002; or
Thursday 27 June 2002.**

Further details on these sessions are in the foreword.

Discussion Paper

Responses to the discussion paper should be forwarded by close of business on **Monday 8 July 2002.**

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Foreword

In its policy *A Better Ambulance System*, the Government committed to ensure emergency ambulance services remained in public hands; to improve and expand the public ambulance services; and to regulate the provision of non-emergency transport services. The proposals described in this discussion paper for the establishment of a system of regulation for the non-emergency sector are part of implementing this commitment.

Currently there are approximately nine private providers of non-emergency patient transport services operating in a largely unregulated sector and providing services estimated to generate revenue in the order of \$20 million per annum. Consistent with the Government's policy, these private providers will be required to ensure the services they provide comply with appropriate minimum standards to be set in legislation and regulations.

It is proposed the *Ambulance Services Act 1986* be amended to protect public safety through the licensing of and setting of standards in regulations for the non-emergency sector. Without such a licensing and regulatory system, patients are potentially at risk, as there are currently no express legislative requirements for private providers to employ suitably qualified staff or to ensure their vehicles are properly equipped to deal with patients they transport.

In addition, as private providers currently perform stand-by duty at public events, it is proposed that specific regulations also be made to set minimum standards for this work.

This discussion paper describes proposals developed by the Department of Human Services to implement the Government's commitment to regulate this sector. It has been designed to provide information to relevant stakeholders including the providers and purchasers of these services. Specific questions have been included addressing the key issues covered by the paper. Readers are encouraged to respond to these questions or any other issues raised in the paper. The responses received will inform the Government's response to these proposals.

I encourage you to make a submission in answer to any of the specific questions raised or more generally on any aspect of the proposals and to attend one of the following information sessions.

Information Session A

Date: Friday 21 June 2002

Time: 11.30am to 1.30pm

Venue: Conference Room, Level 17,
555 Collins Street, Melbourne

Information Session B

Date: Thursday 27 June 2002

Time: 11.30am to 1.30pm

Venue: Conference Room, Level 17,
555 Collins Street, Melbourne

Contact Person: Could you please contact Constantina Angelopoulos if you will be attending one of the above sessions. **Phone No:** 9616 7218
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How To Comment on This Discussion Paper

This discussion paper is released for comment and response.

Additional copies of the paper can be obtained from:

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The paper can also be accessed through the Department of Human Services internet site at this address:

***<http://ambulance.health.vic.gov.au>**

Responses to the discussion paper should be forwarded by close of business on **8 July 2002** to:

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Suggested Format For Responses To The Discussion Paper

The following format is suggested to assist individuals and organisations in preparing submissions. If you are making a submission on behalf of an organisation, the submission should be endorsed by a member of the executive or management body of that organisation. If you are making a submission representing your personal views, it would be helpful if you provide your name and address, and an indication of your interest in ambulance services. All submissions will be treated as public unless respondents specifically request that they be kept confidential.

For Organisations

A. Cover Sheet

Name:

Organisation:

Title/position held:

Postal Address:

The attached submission represents the views of the organisation named above.

Signed:Date:.../.../200...

B. Submission

i. Issue(s) on which you want to comment.

ii. Relevant section / pages of the Discussion Paper.

iii. Comment.

For Individuals

A. Cover Sheet

Name:

Postal Address:

Interest in ambulance services: (for example 'subscriber', medical practitioner)

Signed:Date:.../.../200...

B. Submission

i. Issue(s) on which you want to comment.

ii. Relevant section/pages of discussion paper.

iii. Comment.

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1. Executive Summary

This discussion paper identifies proposals for the establishment of a licensing system pursuant to which:

- Private providers will be barred from undertaking specified non-emergency patient transports unless they hold a licence.
- Standards will be set in regulations to protect the safety and wellbeing of patients.

It is proposed that the requirement to obtain a licence will apply to all transport services, excluding public ambulance services, which offer specialised transport to and from medical services for people who require or may require assessment or treatment en route.

It is proposed that as the Metropolitan Ambulance Service (inclusive of Air Ambulance Victoria), Rural Ambulance Victoria and the Alexandra and District Ambulance Service are public bodies subject to a separate statutory accountability regime, imposed by the *Ambulance Services Act 1986*, they would be exempted from the requirement to obtain a licence. However, it is proposed that they be required in the legislation to comply with relevant standards.

It is proposed that the licensing and monitoring functions be vested in the Secretary to the Department of Human Services.

It is proposed that applicants for a licence be assessed on the:

- Fitness of the principals of the business.
- Suitability of the vehicles and equipment.
- Suitability of operating arrangements.

It is proposed that the criteria for renewal include:

- Consideration of the quality of services provided since it was last registered.
- Whether the principal is a fit and proper person.
- Whether the business has been carried on in conformity with the law.
- Whether the conditions of licence have been complied with.

It is proposed that fees be charged for initial licenses and for their annual renewal.

It is proposed that the Act and regulations set minimum standards to ensure the safety and well being of patients is protected. Given the broad range of patients transported by this sector different levels of care will be specified in the standards depending on the severity of the patient's condition.

In addition, as private providers currently perform stand-by duty at public events, it is proposed that specific regulations also be made to set minimum standards for this work.

It is proposed that the legislation contain a variety of penalty provisions including a provision enabling a licence to be revoked for failure to comply with the *Ambulance Services Act 1986*, regulations or any conditions of licence.

2. Background

The Government's policy A Better Ambulance System provides:

A full review of standards in the non-emergency sector will be conducted.

Labor will introduce regulations to cover safety standards in the private ambulance industry.

From previous consultations, it is known that there is 'in principle' support from many in the ambulance services, paramedics, hospitals and the non-emergency sector for the introduction of such regulations. Building on this 'in principle' support, the Department of Human Services has detailed in this discussion paper proposed amendments to the *Ambulance Services Act 1986* to provide for licensing and setting of standards through regulations.

In establishing a new regulatory framework, care must be taken to ensure:

- Regulatory standards can be defined with reasonable certainty.
- The standards are capable of being enforced.
- The benefits of particular regulations outweigh their costs.

As with any health sector industry, one of the key challenges to regulating will be to ensure that there is enough clarity in the regulation to enable the organisation to know in advance what the law requires them to do and yet ensure there is enough flexibility to:

- Encourage innovation and excellence.
- Keep pace with changing medical technologies.

2.1 Description of Non-emergency Work

The term 'patient transport services' covers a broad range of services including a category of work often described as 'non-emergency work'. As there is no one commonly accepted definition of non-emergency work, for purposes of describing this sector the broad range of patient transport services has been divided into four categories. To some extent these categories are imprecise and overlap but they nonetheless provide a useful way of describing the industry and serve as a framework for the discussion in this paper. It is important to recognise that these descriptive categories are not the same as the dispatch codes used by the Victorian Ambulance Services.

Category 1: Emergency Ambulance Transports—Ambulance responses to serious injuries or illnesses where there is often a need for specialised treatment or assessment of a patient at the scene by a paramedic and then transport to a medical facility. These most commonly arise from requests from members of the public, but may also include transports from a lower level to a higher level medical facility. Examples of transports which fall within this category, would be a person calling 000 to request an ambulance for a family member who is experiencing chest pain at home, or an urgent transfer from a small rural hospital to a major hospital for a patient requiring urgent surgery.

Category 2: Urgent Medical Cases—Transports of patients who have been assessed or treated by a medical practitioner and who require transport to or between medical facilities using transport services equipped and staffed to provide a high level of assessment, care and monitoring. An example of a transport which falls within this category would be a patient being transported from an emergency department in one hospital to a critical care unit in another hospital. Medical practitioners or nurses with particular skills, such as midwifery, may accompany these patients on such transports between hospitals.

Category 3: Planned Transports—Transports which have been arranged by or on behalf of a medical practitioner for a person not experiencing a health crisis but whose condition warrants the transport being undertaken by an experienced and skilled attendant but not necessarily an attendant with paramedic level skills. An example of a transport that falls within this category would be a person with chronic obstructive airways disease who requires transport from home to a medical appointment and may need their normal oxygen therapy en route.

Category 4: Routine Transports—Transports where the expectation of the health care professional requesting transport is that the patient will not require any clinical care or monitoring while in transit but will require a specialised vehicle for the transfer. An example of a patient in this category would be a person who requires transport home from hospital after back surgery and needs to lie down in a stretcher vehicle to be comfortably transported. Such a patient would require attendants who are appropriately trained and experienced in the safe manual handling of the patient and stretcher.

In Victoria, there are currently three public emergency ambulance services, the Metropolitan Ambulance Service, Rural Ambulance Victoria and the Alexandra and District Ambulance Service. Only these three services provide services falling within the emergency category noted above. In addition, the public ambulance services also undertake transports falling within the other three categories noted above. In contrast, private providers do not undertake "emergency transports" but do currently undertake transports falling within the remaining three categories.

For purposes of this discussion paper, the term non-emergency is used to mean transports falling within the three categories referred to above as urgent, planned and routine. The vast majority of such transports are via road but there are also a small number undertaken by air services, including helicopter and fixed wing aircraft services.

2.2 Why it is in the public interest to regulate the non-emergency patient transport sector

Emergency ambulance and non-emergency services are part of the broader health care system. It is generally accepted that the health sector market is one that requires regulation in order to ensure the needs of patients are protected and the confidence of the community in health services is maintained.

The *Ambulance Services Act 1986* contains a range of mechanisms by which the Government and Department of Human Services can oversee, monitor and set standards in the public ambulance services to ensure patients receive high quality care. These powers do not currently extend to directly regulating the standard of care provided by private providers in the non-emergency sector.

Currently there are approximately nine private providers operating in the non-emergency sector in Victoria. These private providers operate a total of approximately 117 stretcher vehicles. There are also a limited number of private providers of air transport services who provide transports of patients to and or from medical services. Major purchasers of non-

emergency services include the public ambulance services, hospitals, the Department of Veterans Affairs, the Traffic Accident Commission, the Victorian Workcover Authority, health insurers and individuals.

In metropolitan Melbourne, private providers undertake the majority of non-emergency transports through either a direct arrangement with purchasers such as public hospitals or through a contractual arrangement with the Metropolitan Ambulance Service. Outside metropolitan Melbourne, non-emergency transports are provided by Rural Ambulance Victoria and private providers.

Currently the private providers must comply with the requirements of the *Transport Act 1983*. This Act requires commercial passenger vehicles to be licensed by the Victorian Taxi Directorate. As a means of segregating this transport sector from other commercial passenger services such as taxis and hire cars, conditions attached to licences issued by the Victorian Taxi Directorate include the following equipment and/or qualification related requirements:

Stretcher/Ambulance type vehicles

- (a) The vehicle must not operate for the carriage of passengers unless at least one of the passengers carried on any journey is a person who:
 - (i) needs to be transported on a stretcher; or
 - (ii) requires the care of a trained first aid provider or an allied medical professional, (for example: nurse, ambulance officer, etc.) and/or the use of medical equipment carried in the vehicle in the course of that journey.
- (b) The vehicle must:
 - (i) comply with AS 2942–1987 in relation to any wheelchair and occupant restraint systems;
 - (ii) comply with AS 3856.1 & 2–1991 in relation to any hoists and ramps;
 - (iii) have beds/stretchers and other equipment secured by systems acceptable to the Victorian Taxi Directorate;
 - (iv) provide passenger access acceptable to the Victorian Taxi Directorate;
 - (v) be air-conditioned;
 - (vi) be fitted with a fire extinguisher with a minimum of 20B rating, fitted with a hose; and
 - (vii) have all equipment secured to withstand a 20 gravitational (20G) forward force.
- (c) The vehicle must be fitted to carry up to no more than five passengers, made up of one stretcher and a combination of:
 - one additional stretcher;
 - two passenger attendant seats;
 - two cabin attendant seats;
 - one wheelchair.

Sedan/station wagon type vehicles

- (a) The licensed vehicle must only operate for the carriage of incapacitated persons between their homes and hospitals and between hospitals throughout the State of Victoria.
- (b) The vehicle must only operate for the carriage of incapacitated persons, where at least one of the persons carried on any journey is a person who requires the care of a trained first aid provider or the use of medical equipment carried in the vehicle in the course of that journey.

- (c) The licensed vehicle must at all times be staffed by a Victorian Occupational Health and Safety accredited level 3 First Aid Officer, or an allied medical professional, (eg. nurse, ambulance officer).
- (d) The licensed vehicle must all times be equipped with resuscitation equipment and a fire extinguisher with a minimum of 20B rating, fitted with a hose. All equipment is to be secured to withstand a 20 times gravitational (20G) onward force.

However, apart from the above, there are no regulations that govern the qualifications of staff employed to undertake such transports, nor to ensure appropriate equipment and clinical quality control mechanisms are in place.

In its policy *A Better Ambulance System* the Government committed to further regulate this sector. More detailed regulation of the clinical care components of this sector is required because patients may be frail or quite ill and so the provision of adequately trained and equipped staff is imperative in meeting the clinical needs of patients. Given the broad range of patients currently transported by private providers of non-emergency transport services, the term non-emergency should not be taken to mean 'not very seriously ill' nor to mean 'no clinical skills are required' to transport this patient. The provision of non-emergency stretcher transport services is more than just a taxi service as can be seen in the following examples:

Example 1 Some patients currently transported using non-emergency transport services are ill and require the administration of medical therapies during the course of transport. For example, patients may require the administration of one or more of the following therapies:

- Oxygen
- Medication, including Glyceryl Trinitrate and Salbutamol.

and

- For coronary care patients, the maintenance of the administration of anti-coagulation therapy such as Heparin through an infusion control device.

Example 2 Some patients require no care or monitoring during transport but may still need to be transported using a stretcher. The staff undertaking the transport of such patients still require the clinical and manual handling skills to safely transfer the patient to and from the stretcher, load the stretcher in the vehicle, safely transport a person in a stretcher and to provide assistance in the unlikely event their condition changes during transport.

Many private providers operate under a contract with hospitals which specify the standards by which the private providers are to operate, however reliance on such contractual provisions alone are not considered adequate to protect patient safety as is illustrated by the following examples:

- Larger hospitals generally select a preferred provider for the bulk of their non-emergency transports. The selection process may include detailed requirements as to the standard of care to be provided during transport. However, problems may arise where the hospital utilises the services of other providers when required to meet peak demands or for long distance transfers. The ability to adequately monitor these "one off" service requests is limited.

- ❑ In some instances transport may be organised by staff on a ward who may have little detailed knowledge of the service standards of the provider whose services their hospital engages, particularly if there is a need to arrange for the transport as a matter of urgency. Staff may assume it's the "ambulance service" undertaking the transport using qualified paramedics when in fact it's a private provider who may be using staff with lesser qualifications.
- ❑ Where transport is organised by smaller hospitals the problems of selecting an appropriate private provider to undertake the transport is even more difficult. Smaller hospitals may not have available the expertise to assess the clinical competence and quality assurance standards of providers and, particularly in rural areas, may only have a limited number of providers from whom to choose.

The Metropolitan Ambulance Service and Rural Ambulance Victoria also enter into contracts with some private providers of patient transport services. These contracts include detailed performance specifications and the ambulance services regularly review the performance of these providers. However as the work undertaken on behalf of the ambulance services covers only a portion of the total work undertaken by private providers, there are providers who do not operate, and are not currently required to operate, in accordance with these standards and/or whose performance is not subject to monitoring by the ambulance services.

2.3 How—The Process from Here

The comments received in response to this discussion paper will inform the Government in the development of the proposed new legislation. In considering the proposals it is important to distinguish between requirements which can be incorporated in regulations, which will be drafted at a later date, and those which need to be included in the authorising legislation.

The authorising legislation comes into being through an Act of Parliament and becomes operational on the date specified in the Act. The power to regulate flows from those provisions of the authorising legislation that specifically enable the Governor in Council to make regulations. This discussion paper is designed to elicit comment on this first stage, in particular, what powers should be included in the authorising legislation. Comments on the specific content of any regulations will be sought during the process of preparing a regulatory impact statement, which will occur at a later date. This later process of evaluating proposed regulations is intended to ensure the costs and benefits of proposed regulations are carefully assessed.

An example may be helpful. The power to regulate private hospitals arises from the *Health Services Act 1988*. Section 158(1)(n) of this Act states regulations can be made specifying the records to be kept by the hospital, including "the form of records, the time when or period within which entries are to be made in the records and the period for which records are to be retained".

Based on this power, Part 5 of the *Health Services (Private Hospitals and Day Procedures Centres) (Interim) Regulations 2001* then contains detailed provisions on the records to be kept. These regulations specify such things as the fact that the clinical record for each patient must contain the patient's name, address, date of birth and sex; the relevant clinical details and details of any procedures undertaken.

Once the proposed legislation becomes an Act of Parliament, regulations can then be drafted in accordance with the process set out in the *Subordinate Legislation Act 1994*. Once this process begins, further consultations will occur as part of the preparation of regulations. This will include full public consultation and the release of a regulatory impact statement.

3. Proposal For Regulation of the Non-Emergency Sector

This discussion paper identifies proposals for the establishment of a licensing system pursuant to which:

- The operation of an unlicensed non-emergency patient transport business will be an offence.
- Standards will be set in regulations to protect the safety and wellbeing of patients.

The proposal is to include the licensing provisions within a new part of the *Ambulance Services Act 1986*.

The following discussion provides a general overview of a proposed model. It is divided into four parts:

- To whom should the new system apply?
- With whom should the licensing and monitoring functions reside?
- On what grounds will a licence be granted or revoked?
- In accordance with what standards must a licensee operate?

The regulation of stand-by cover at public events is discussed in a separate section of this paper.

3.1 To Whom Should The New System Apply?

Non-emergency services largely involve work such as inter-hospital transfers and attendance at outpatient clinics. There are currently approximately nine private for profit and not for profit operators providing non-emergency services in Victoria as well as a limited number of services providing air transport services for patients. The public ambulance services also undertake this work.

If the legislation is to make it an offence to undertake non-emergency transports without a licence, it will be necessary to define with some precision those services for which a licence is required. To facilitate the discussion on this definition, this paper proposes that the requirement to obtain a licence will apply to all specialised transports to and from medical services for people who require or may require clinical care or ongoing clinical monitoring or who need to travel in a stretcher vehicle.

The following examples illustrate the proposed definition and the need for precision in drafting the definition. They are designed to stimulate discussion to ensure only those services which ought to be regulated are included within the new mandatory licensing system.

Example 1: Transport options used by the general public, such as taxis, may be utilised from time to time to transport patients to and from hospitals or clinics. Some of these taxis are specially designed to carry people in wheel chairs and therefore are in a sense "specialised transport". However, this alone would not be sufficient to warrant regulation under this system, as the driver provides no clinical care and the transport does not involve the use of a stretcher.

Example 2: At times patients require transport via stretcher but do not require care or monitoring, for example, patients with a full leg plaster returning home from hospital. While no care or monitoring is required during transport, the attendants undertaking the transport will need to be skilled at transferring patients to and from the stretcher as well as in safely loading and unloading the stretcher. Under the proposed definition, such transports could only be performed by licensed providers whose staff had the requisite skill (to be defined later in the regulations) to undertake such transports or via a public ambulance service.

Example 3: At times patients may need to be lifted into a vehicle via a hoist. Under the proposed definition, the transport of such patients would fall within the new regulatory system only if the patient required transport via stretcher or required clinical monitoring or care during transport.

Medically unstable patients

The Government has expressed its concern over the use of private providers to transport medically unstable patients in the current unregulated environment. It is proposed that the new licensing system address these concerns by ensuring that:

- The standards are set high enough to ensure that patients are cared for by staff sufficiently qualified to meet their needs.
- Patients whose condition warrants an emergency response are transported by the public ambulance services.

For example, at times it is necessary to transfer patients from the emergency department in one hospital to an intensive care unit in another hospital. Such patients would have been assessed as requiring frequent observations while in hospital and therefore should receive a high level of supervision and care while in transit between hospitals. This level of care should not diminish during transport. Medical escorts may accompany such transports and the patient may be on a ventilator, or receiving any one of a number of possible therapeutic infusions and therefore require active supervision. If the patient's condition deteriorates en route the medical escort may require the assistance of an appropriately qualified second attendant.

Under the proposed new system of regulation, unlicensed private providers will not be able to transport such patients. Further, licensed providers will only be able to transport such patients if they can meet the high standards that will be set in the regulations. As noted above, the detail of the regulations will be formulated after the legislation has been approved by Parliament and will follow a detailed consultation process. While it is not possible at this point in time to predict with certainty the results of the regulation making process, it is clear that the regulations will specify that a high level of clinical skill is required to transport such patients. In defining the level of clinical skill required for such intensive care unit transfers, the regulations could, for example, require the attendance of two ambulance paramedics with recent experience working in an emergency ambulance service, as emergency interventions may well be required.

The impact of such a regulation might be that some or all private providers are unable to continue to undertake this work because they do not employ staff with such qualifications and do not undertake a sufficient volume of such work to justify the expense of employing such highly qualified staff. If the private sector elects not to undertake this work, the public ambulance services would then be required to undertake these transports.

Is there a need to only cover services for which a charge is made?

The proposed definition would pick up even services provided free of charge. For non-emergency services, is there a need to distinguish services for which no charge is made?

Questions—What are your views?

- 3.1.1 What types of transport should be regulated?
- 3.1.2 Should the proposed definition be broadened to include other types of transports?
- 3.1.3 Should specific types of transports be excluded from the proposed definition? For example, should the transport of patients in vehicles that do not travel on a public road be exempted?
- 3.1.4 Should the clinical aspects of air transport services designed to provide special transport services of patients to and from medical services also be regulated?

3.2 How Should the New System Apply To the Public Ambulance Services?

The new regulatory system being proposed has two features:

Licensing

and

Setting standards.

This raises the question of whether public ambulance services should be exempted from either the requirement to have a licence or compliance with regulatory standards. In answering this question, one needs to understand the context in which the public ambulance services operate.

Ambulance service subscribers and pensioner and health care card holders are entitled to access non-emergency ambulance services, without charge, provided that their need for such transport has been certified by a doctor and other relevant criteria are met. The Government, through the grants paid to the Metropolitan Ambulance Service and Rural Ambulance Victoria, meets the majority of the cost of these services to pensioner and health care cardholders.

These public ambulance services also compete with private providers for other chargeable non-emergency services, for example, inter-hospital transports for which hospitals can be billed.

The Metropolitan Ambulance Service has for some years outsourced the majority of non-emergency services, and currently contracts three operators to undertake this work. In contrast, Rural Ambulance Victoria continues to directly provide much of its non-emergency services but also uses private contractors to supplement its services. The Department of Human Services proposes that contractors engaged by the ambulance services should be required to have a licence and be subject to the same standards as all other contractors.

The question then arises, should the non-emergency services provided directly by these public ambulance services be exempted from:

The requirement to be licensed?

or

The requirement to comply with standards?

The preliminary view of the Department is that the public ambulance services should be exempt from the requirement to obtain a licence but should be required to comply with the standards.

Licence

It is the Department's view that there would be no benefit in requiring the public ambulance services to apply for a **licence**. A primary purpose of licensing is to ensure that the principals of the business are fit and proper to run the business and to ensure that compliance with standards can be adequately monitored.

The *Ambulance Services Act 1986* already ensures this is the case for the public ambulance services. For example, evaluating the fitness of the committee of management of a public ambulance service is unnecessary, as the Governor in Council has the power to appoint and remove members of the committee and to appoint an administrator. Other provisions under the Act also enable the Department of Human Services to monitor the performance of these public ambulance services.

Standards

The question of requiring public ambulance services to comply with the same standards as those set for private providers also needs to be considered. Arguments in favour of the proposition that the public ambulance services should comply with the same standards as are required of the private sector include:

- Patient safety—the standards will be the minimum necessary to ensure that patient safety is protected. It would be inappropriate for any service, public or private, to operate at a lesser standard.
- Fairness—private ambulance services operate in a competitive market and it would be unfair if the public ambulance services with whom they compete were allowed to operate at a lesser standard.

An opposing view might be that the public ambulance services should not be required to comply with the standards because of the following reasons:

- The functions of the public ambulance services as defined in the *Ambulance Services Act 1986* are:
 - to respond rapidly to requests for help in a medical emergency;
 - to provide specialized medical skills to maintain life and to reduce injuries in emergency situations and while moving people requiring those skills;
 - to provide specialized transport facilities to move people requiring emergency medical treatment;
 - to provide services for which specialized medical or transport skills are necessary; and
 - to foster public education in first aid.

Accordingly, the public ambulance services fill a unique role as the sole providers of emergency ambulance services. In addition, unlike private providers of non-emergency transport services, the public ambulance services must ensure their non-emergency transport services are accessible to all Victorians, even those living in remote rural locations. These unique features of the public ambulance services may be seen as supporting the development of a unique set of standards for their non-emergency services. For example, Rural Ambulance Victoria and the Alexandra and District Ambulance Service utilise ambulance community officers to support its services in smaller rural communities. These ambulance community officers provide a valuable community service to their local communities and are not utilised by the private sector.

- The standards by which the public ambulance services operate are set by their medical standards committees, which provides a sufficient quality assurance mechanism over which an additional set of standards imposed by regulation would offer no benefit.

On balance the Department of Human Services' preliminary view is that the arguments in favour of requiring compliance with the standards outweigh those against. However, the Department recognises that some variations in standards may be appropriate given the unique features of the public ambulance service. Similarly, it is also proposed that public ambulance services in other states be exempted from the new regulatory scheme on the basis that they only occasionally transport patients from their states into Victoria and it would be impractical and unnecessary for Victoria to attempt to regulate the public ambulance services of other states.

If this principle is accepted so that public ambulance services will be required to comply with the standards, a further question will need to be answered. Should the standards be "enforced" in the same way they will be for the private providers? For public ambulance services, the standards could be enforced by a direction from the Secretary to the Department of Human Services under powers that already appear in the *Ambulance Services Act 1986*. It should be noted though that there is no penalty for failure to comply with a direction. Alternatively the legislation could include a requirement that public ambulance services must comply with the standards set for licensed providers.

Questions—What are your views?

- 3.2.1 Should the Metropolitan Ambulance Service, Rural Ambulance Victoria and the Alexandra and District Ambulance Service be exempted from the requirement to comply with standards to be set in regulations?
- 3.2.2 Should any other organisations be exempted from compliance?
- 3.2.3 If a standard is breached, should the same penalties apply regardless of whether the breach was committed by a public ambulance service or a private provider?

3.3 With Whom Should the Licensing and Monitoring Functions Reside?

The Department proposes that the licensing and monitoring functions be vested in the Secretary to the Department of Human Services. The focus of the new regulatory structure will be the clinical aspects of the non-emergency transport services. The Department has considerable expertise in such licensing and regulatory functions for other health sector businesses.

Currently, private providers must comply with the provisions of the *Transport Act 1983* and regulations made pursuant to that Act as they are classified as commercial passenger vehicles. This legislation is primarily designed to ensure vehicles are roadworthy and that operators and drivers have been assessed as fit and proper persons having regard to their medical fitness, driving record and any proven criminal charges or charges pending. Nonetheless there will be some overlap between the proposed new system of regulation (which will focus on clinical care) and the regulatory structure of the *Transport Act* (which focuses on vehicle and road safety). The Department proposes that to the maximum extent possible, administrative arrangements are established to avoid duplication of efforts between the Taxi Directorate and the new licensing body to be established within the Department of Human Services.

Questions—What are your views?

- 3.3.1 Is the Secretary to the Department of Human Services the most appropriate body in whom to vest the licensing and the monitoring and enforcement of standards?
- 3.3.2 Is there a benefit in retaining a licensing requirement under the *Transport Act* for the non-emergency patient transport sector? Could this sector be solely regulated within the Department of Human Services?

3.4 On What Grounds Should a Licence Be Granted and Revoked?

It is proposed that the following factors be considered in determining whether a license to operate a non-emergency patient transport business should be granted.

- The fitness of the principals**—on the basis that the integrity of the owners and directors can affect the quality of the services provided and the public’s confidence in the services they receive.
- The suitability of the vehicles and equipment**—on the basis that to protect public safety, the licensing body should have some confidence in the safety of these before a licence is granted.
- The suitability of operating arrangements**—on the basis that to protect public safety, the licensing body should have some confidence the providers will be able to comply with the standards set in the regulations. This would include consideration of:
 - The proposed arrangements for the management and clinical supervision of the staff.
 - The arrangements made to maintain the quality of the services to be provided.
 - The arrangements that have been made to evaluate, monitor and improve the services provided.

These factors are similar to those the Secretary to the Department of Human Services must consider when assessing applications for a licence under the *Health Services Act 1988* for private hospitals. For private hospitals the Secretary must also consider the financial viability of the principals of the business. In relation to private providers of non-emergency patient transport services there seems to be less merit in requiring the Secretary to consider the financial viability of the principal. The setting and monitoring of standards should ensure the quality of care is maintained. If the principal is unable to run the business in a way which is financially viable, it would be expected other competitors could step in to provide the services, recognising that there could be some disruption to services during the transition.

Question—What are your views?

- 3.4.1 On what criteria should these businesses be assessed for licensing?

The *Health Services Act 1988* includes processes by which a proprietor of a proposed private hospital can apply for an approval in principle. The Department supports the inclusion of a similar approval in principle provision in the proposed scheme for the licensing of the non-emergency sector, as it would give proprietors greater certainty in planning to establish a new business.

Criteria For Renewal

The Department proposes that proprietors will be required to notify of any significant changes to their business, such as plans to transfer the business to a new proprietor and to apply for a renewal of their licence on an annual basis.

The Department proposes that the criteria for renewal be similar to that in Section 89 of the *Health Services Act 1988*. These criteria include:

- Consideration of the quality of services provided since it was last registered.
- Whether the proprietor is a fit and proper person.
- Whether the business has been carried on in conformity with the law.
- Whether the conditions of licence have been complied with.

Fees will be charged for initial licenses and for renewals. It is proposed that the licensing body be self-funding through the fees charged. The fees would be set in the regulations, and as such would be considered as part of the Regulatory Impact Statement process.

It is difficult to give a precise estimation of the fees that would be charged, but as a rough guide it is estimated that if the fees were based on a cost recovery model then they could be in the order of two hundred and fifty dollars per vehicle. The initial registration fee might be higher than the annual renewal of registration fee.

3.5 In Accordance With What Standards Must a Licensee Operate?

It is proposed that the Act and regulations set minimum standards for each service type to ensure the safety and well being of patients is protected. Listed below are the types of requirements that can be imposed. In a general sense, the broad power to set and enforce these standards will appear in the legislation with more detailed requirements to appear in the regulations.

It is expected that regulations, to be made by the Governor in Council, would address issues such as:

- The kinds of patients who may be transported and with what level of care.
- Safety, cleanliness and hygiene (including infection control procedures).
- Requirements to be complied with for the welfare and comfort of those people being transported, including but not limited to their comfort, privacy and respectful treatment.
- Requirements for staffing, including but not limited to minimum number of staff required for specified types of transports, qualifications and clinical accreditation.
- Requirements for the provision, inspection and maintenance of vehicles and equipment.
- Requirements for storage facilities.
- The amount and type of insurance which must be maintained.
- Quality assurance and clinical supervision.
- Requirements for the provision of and display of information.
- Records to be kept, including the form of records, the time within which entries must be made and the period for which the records must be maintained.

- Requirements as to the communication devices to be carried.
- Penalties for breach of the regulations.

A similar provision for regulations pertaining to private hospitals can be found in Section 158 of the *Health Services Act 1988*.

The specific content of the regulations themselves will be determined once the legislation has been passed and the Regulatory Impact Statement has been prepared. However, to assist readers, described below in some more detail are some of the types of things that could be addressed in regulations.

Staff Qualifications and Crewing Numbers

As with any health service, a key to the quality of the service to be provided is the competence of the staff. It is proposed that the Act and regulations include power to define the number and qualifications for staff to be utilised for the transport of patients. The qualification and number of staff required will vary with the service type. For some types of patients requiring clinical care, transport should be by highly skilled practitioners, such as paramedics. In those situations where clinical care is not required, a lower skill-set could be considered appropriate. The regulations may also specify that staff must regularly update these skills. Monash University and Victoria University currently provide accredited tertiary programs for the non-emergency sector staff.

To enable appropriate monitoring of staff qualifications, it could be a requirement that:

- Proprietors keep and make available for inspection staff registers and rosters.
- Staff carry and display at all times identification cards.

Clinical Supervision and Procedures

Clinical supervision is an essential ingredient of quality assurance and risk management. It is proposed that all non-emergency providers be required to employ a senior clinician who will be responsible for monitoring the quality of the clinical care provided. The regulations would specify the type of qualifications and experience required to qualify as a senior clinician.

Equipment

The Department proposes that proprietors be required to ensure that all equipment is in a proper state of repair; good working order; and is clean and free from hazards and properly secured. Such equipment would be required to be maintained in accordance with the relevant standards and regulations, such as those which exist for the care and storage of oxygen cylinders.

Under the regulations, specific provisions could be made as to the type of equipment to be carried for particular types of work.

Dignity and Respect for Patient's Rights

Patients have a right to expect that they will be treated with dignity, including a proper respect for their privacy. The Department proposes that the Act require proprietors to ensure patient confidentiality is maintained. Further, proprietors will be expected to have a procedure in place by which complaints can be made and addressed.

Mandatory Accreditation

Accreditation with an approved body was made a mandatory requirement for all public hospitals from the year 2000. It is proposed that providers of non-emergency transport should be required to have obtained accreditation by an approved body.

Insurance

The Department proposes that proprietors be required to obtain malpractice and general liability insurance. The minimum level of insurance to be taken out could be specified in the regulations.

Questions—What are your views?

- 3.5.1 Are there any specific requirements that should be contained within the legislation itself, rather than the regulations?
- 3.5.2 What types of standards should the regulations address?

Links to Other Legislation

Other legislation currently in force refers to ambulance services. Some of these references are exclusively relevant to emergency ambulance services. For other legislation, consideration could be given to amendments to reflect the new licensing scheme for the non-emergency sector.

Medication

The *Drugs, Poisons and Controlled Substances Act 1981* and the regulations made there under regulate the administration and storage of a range of drugs. Under the regulations, the definition of "health service" includes an "ambulance" service. The Department would not want to duplicate the requirements already imposed by this legislation. Nonetheless, it may be appropriate to consider imposing standards for the safe keeping of drugs and poisons not otherwise regulated by this legislation. It also might be appropriate to require providers to carry certain drugs to meet the needs of particular patients.

Question—What are your views?

- 3.5.3 What specific requirements should be contained within legislation to regulate the use and storage of drugs and poisons in the non-emergency sector?

Lights and Sirens

The *Road Safety (Vehicles) Regulations 1999* define an "emergency vehicle" to include:

"an ambulance under the control of—

- (i) an ambulance service created by Section 23 of the *Ambulance Services Act 1986* or listed in Schedule 1 to that Act; or
- (ii) an ambulance service created under a law in force in another State or in a Territory of the Commonwealth that the Minister, by notice in the *Government Gazette*, declares to be an ambulance service to which this paragraph applies".

Special provisions in relation to the use of warning devices and exemptions from other requirements apply to emergency vehicles.

Currently ambulance services, and some private providers, are allowed to use lights and sirens in an emergency.

With the development of the licensing system, should permission to use of some type of lights and sirens be extended to licensed providers under strict controls as to when they are used?

Question—What are your views?

3.5.4 Who should be able to use lights and sirens and in what circumstances?

4. Penalties For Failure To Comply

The Department proposes that the legislation contain a variety of penalty provisions, including:

- A section similar to Section 102 of the *Health Services Act 1988* allowing for the revocation of a licence if a proprietor has failed to, or is not likely to continue to, carry on the patient transport services in accordance with the Act, regulations or any conditions of licence, or has been convicted of an offence against the Act or regulations, or has ceased to be a fit and proper person to carry on the business.
- A section making it an offence to carry on a non-emergency business if the business is not licensed.
- A section making it an offence to contravene a condition of licence.
- A section rendering it an offence to supply information in connection with the legislation which is false and misleading.

Authorised officers under the Act will be given powers to enter and inspect premises to determine whether the Act and regulations are being complied with.

Question—What are your views?

4.1.1 What penalties should apply?

5. Stand-By Cover at Public Events

Organisers of public events often arrange for the provision of stand-by medical, first aid and ambulance services to provide pre-hospital care in the event of an accident. In addition, for some major public events, such as the world economic forum, the public ambulance services arrange for extra emergency ambulance services to be available close to the event so that they are better able to respond if an emergency should arise. The range of public events for which some form of stand-by cover is required is very broad and ranges from sporting events, such as horse racing and football, to concerts and public demonstrations.

The range of available stand-by cover is also broad and includes ambulance cover provided by the public ambulance services, services from private providers of patient transport services, first aid services provided by volunteers of St John Ambulance and on site specialist medical practitioners.

In general the choice of cover is determined by the organisers of the event, who often pay for the cost of the stand-by coverage, and, in some cases, by the public ambulance services.

As private providers currently undertake stand-by cover at public events, the proposed regulatory scheme described in this paper will also apply to those private providers who offer stand-by cover using stretcher transport vehicles. It is proposed that the regulations include a special section setting standards for those private providers offering stand-by coverage at public events. The purpose is to ensure that these organisations purporting to provide a capacity to attend and transport are operating in accordance minimum standards.

Question—What are your views?

5.1.1 Should the new regulatory scheme also apply to the provision of stand-by cover at public events? If so, should any organisation be exempted?