

Q1.

Public consultation: Review of the Criminal history registration standard and other work to improve public safety in health regulation

Introduction

The Australian Health Practitioner Regulation Agency (Ahpra) and the National Boards are inviting stakeholders to have their say as part of our review of the *Criminal history registration standard* (the criminal history standard). There are 19 specific questions we'd like you to consider below (with an additional question 20 most relevant for jurisdictional stakeholders.) All questions are optional, and you are welcome to respond to any you find relevant, or that you have a view on.

The submission deadline is close of business 29 September 2023.

Thank you for taking time to complete this survey.

Your feedback helps us to understand what changes should be made to the criminal history standard and will provide information to improve our other work. It will take approximately 10 minutes to complete this survey if you answer all questions.

How do we use the information you provide?

The survey is voluntary. All survey information collected will be treated confidentially and anonymously. Data collected will only be used for the purposes described above.

We may publish data from this survey in all internal documentation and any published reports. When we do this, we ensure that any personal or identifiable information is removed.

We do not share your personal information associated with our surveys with any party outside of Ahpra except as required by law.

The information you provide will be handled in accordance with [Ahpra's Privacy Policy](#).

If you have any questions, you can contact AhpraConsultation@ahpra.gov.au or telephone us on 1300 419 495.

Publication of submissions

We publish submissions at our discretion. We generally [publish submissions on our website](#) to encourage discussion and inform the community and stakeholders about consultation responses. Please let us know if you do not want your submission published.

We will not place on our website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

We can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include published experiences or other sensitive information. A request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982 (Cth)*, which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or if you want us to treat all or part of it as confidential.

Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is expressly requested.

Please click on the ARROW below to start the survey.

Q5.

Initial questions

To help us better understand your situation and the context of your feedback please provide us with some details about you.

Q65.

Are you completing this submission on behalf of an organisation or as an individual?

☒ Organisation

☐ Myself

Q6.

Please provide the name of the organisation.

Australian Dental and Oral Health Therapists' Association

Q8.

If you are completing this submission as an individual, are you:

This question was not displayed to the respondent.

Q9.

Which of the following health profession/s are you registered in, in Australia?
You may select more than one answer.

This question was not displayed to the respondent.

Q10.

Your contact details

Name:

[REDACTED]

Q11. Email address:

[REDACTED]

Q69.

Publication of your submission

Would you like your submission to be published?

- ☒ Yes - publish my submission **with** my name/organisation name
- ☐ Yes - publish my submission **without** my name/ organisation name
- ☐ No - **do not** publish my submission

Q14.

Focus area one: The Criminal history registration standard

Q47.

Question 1 of 20

The *Criminal history registration standard* (Attachment A) outlines the things decision-makers need to balance when deciding whether someone with a criminal history should be or stay registered such as the relevance of the offence to practice, the time elapsed and positive actions taken by the individual since the offence or alleged offence. All decisions are aimed at ensuring only registered health practitioners who are safe and suitable people are registered to practise in the health profession.

Do you think the criminal history standard gets this balance right?

If you think the Criminal history registration standard does not get this balance right, what do you think should change to fix this?

The criminal history standard and specifically the criteria and questions applied appropriately balances potential risks and benefits.

Q40.

Question 2 of 20

Do you think the information in the current *Criminal history registration standard* is appropriate when deciding if an applicant or registered health practitioner's criminal history is relevant to their practice? If not, what would you change?

The information provided within the Criminal history registration standard requires further clarification as to what constitutes an offence vs a criminal record. For example a person fined for public nuisance would be required to disclose this to Ahpra under the current standard however for the layman this can be interpreted as a fine rather than an official charge and may result in non-disclosure. The information is made clearer should help ensure practitioners can appropriate disclose this information. Additionally it is crucial that a consistent approach be taken to what constitutes a disclosable incident/criminal history for each state and territory jurisdiction. The current inconsistencies make it administratively complex for practitioners to meet the standards disclosure requirements.

Q41.

Question 3 of 20

Do you think the information in the current *Criminal history registration standard* is clear about how decisions on whether an applicant or registered health practitioner's criminal history is relevant to their practice are made? If you think it is not clear, what aspects need further explanation?

Refer to Q2

Q42.

Question 4 of 20

Is there anything you think should be removed from the current *Criminal history registration standard*? If so, what do you think should be removed?

N/-

Q43.

Question 5 of 20

Is there anything you think is missing from the 10 factors outlined in the current *Criminal history registration standard*? If so, what do you think should be added?

N/-

Q44.

Question 6 of 20

Is there anything else you would like to tell us about the *Criminal history registration standard*?

ADOHTA supports clear and transparent decision-making by Ahpra and the National Boards on determinations made relating to an applicant's or registered health professional's criminal history. Additionally a greater emphasis on support for registered health professionals accused of misconduct is greatly needed. Finally clarification is required within the standard of what documentation is required i.e., it needs to clearly stipulate and link to the Board's Statutory Declaration template and appropriately reflect this in supporting forms e.g., AIRP-20 form.

Q17.

Focus area two: More information about decision-making about serious misconduct and/or an applicant or registered health

practitioner's criminal history

Q46.

Question 7 of 20

Do you support Ahpra and National Boards publishing information to explain more about the factors in the *Criminal history registration standard* and how decision-makers might consider them when making decisions? Please refer to the example in Attachment B. If not, please explain why?

Yes please see previous response.

Q48.

Question 8 of 20

Is the information in Attachment B enough information about how decisions are made about practitioners or applicants with a criminal history? If not, what is missing?

This will require continual review and updating.

Q49.

Question 9 of 20

Is there anything else you would like to tell us about the information set out in Attachment B?

N/A

Q50.

Question 10 of 20

Thinking about the examples of categories of offences in Attachment C, do you think this is a good way to approach decision-making about applicants and registered health practitioners with criminal history? If you think this is a good approach, please explain why. If you do not agree with this approach, please explain why not.

N/A

Q51.

Question 11 of 20

Do you think there are some offences that should stop anyone practising as a registered health practitioner, regardless of the circumstances of the offence, the time since the offence, and any remorse, rehabilitation or other actions the individual has taken since the time of the offence? Please provide a brief explanation of your answer. If you answered yes, please explain what you think the offences are.

N/A

Q52.

Question 12 of 20

Is there anything else you would like to tell us about the possible approach to categorising offences set out in Attachment C?

N/A

Q53.

Focus area three: Publishing more information about decisions that are made about serious misconduct by registered health practitioners

Q54.

Question 13 of 20

Were you aware that disciplinary decisions by tribunals about registered practitioners were published to Ahpra and National Board websites and are linked to an individual practitioner's listing on the public register?

Yes however this is not necessarily public knowledge.

Q55.

Question 14 of 20

Do you think decisions made to return a practitioner to practice after their registration has been cancelled or suspended (reinstatement decisions) for serious misconduct should be published? Please explain your answer.

No - this information should be held by the Board as context however if someone has demonstrated rehabilitation and has returned to practice as a result of changed behaviour, CPD etc any published data may impact an individuals bias and perception. If the Board reinstates a practitioner a process of review should be incorporated as part of this process rather than public disclosure of this information.

Q56.

Question 15 of 20

Is there anything else you would like to tell us about the approach to publishing information about registered health practitioners with a history of serious misconduct?

N/-

Q57.

Focus area four: Support for people who experience professional misconduct by a registered health practitioner

Q58.

Question 16 of 20

What do you think Ahpra and National Boards can do to support individuals involved in the regulatory process who are affected by sexual misconduct by a registered health practitioner? (For examples, see paragraph 44)

N/A

Q59.

Question 17 of 20

Is there anything else you would like to tell us about how we can support individuals affected by a registered health practitioner's professional misconduct?

The forms relating to recency of practice and the criminal history registration standard must be consistent and refer to appropriate documentation requirements (i.e., statutory declaration). The term offence requires further clarification with clear examples to guide practitioners in understanding their disclosure obligations.

Q60.

Focus area five: Related work under the blueprint for reform, including research about professional misconduct

Q61.

Question 18 of 20

Are the areas of research outlined appropriate?

N/A

Q62.

Question 19 of 20

Are there any other areas of research that could help inform the review? If so, what areas would you suggest?

N/A

Q64.

Question 20 of 20
Additional question

This question is most relevant to jurisdictional stakeholders:

Are there opportunities to improve how Ahpra and relevant bodies in each jurisdiction share data about criminal conduct to help strengthen public safety?