



Guide to the review of the Criminal history registration standard and other work

Who we are

The Australian Health Practitioner Regulation Agency (Ahpra) works in partnership with 15 National Boards to ensure the community has access to a safe health workforce across the 16 health professions regulated under the [National Registration and Accreditation Scheme \(the National Scheme\)](#).

Public protection is our number one priority.

What is the review about?

An important function of the National Boards is to develop standards, codes, and guidelines for the regulated health professions. These documents help protect the public by setting standards of practice for registered health practitioners.

When standards, codes and guidelines are developed, we are required to carry out wide-ranging consultation on these documents. Consultation helps us get important information from various people, including registered health practitioners and the public, about the work we do and helps us to get a better understanding of people's expectations, concerns, and perspectives.

What is the Criminal history registration standard?

The National Boards' main role is to ensure the public is protected and they do this by making sure registered health practitioners are safe to practise. Being safe to practise not only means a person has the appropriate training and qualifications in their chosen profession, but that they are also a suitable person to be a registered health practitioner. All National Boards expect registered health practitioners to behave in a way that warrants the trust and respect the community place in health practitioners. A person's criminal history may be an indication that they are not a suitable person to be registered under the National Scheme.

The [Criminal history registration standard](#) (the criminal history standard) sets out what decision-makers consider when someone with a criminal history wants to become (or remain) a registered health practitioner in Australia. Decision-makers must decide whether a person's past criminal actions mean they should not be a registered health practitioner or whether the actions are no longer relevant and so shouldn't stop someone from being a registered health practitioner. The criminal history standard is an important document and helps to make sure that only people who are suitable become or remain registered health practitioners.

All National Boards use the same criminal history standard (with minor edits for paramedics).

What does the review involve?

The criminal history standard was first established in July 2010 and the National Boards' review is to ensure the standard remains relevant. This is one part of a larger program of work that Ahpra and the National Boards are doing to help increase public understanding and confidence about registered health practitioners being safe to practise. This other work is explained more below, and you can read about it on [our website](#).

Australian Health Practitioner Regulation Agency
National Boards
GPO Box 9958 Melbourne VIC 3001 Ahpra.gov.au 1300 419 495

Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

What changes to the criminal history standard are proposed?

No changes are proposed to the criminal history standard at this time. We want to hear what people think about the criminal history standard now before we draft any proposed changes.

What other work is being done?

More information about decision-making

We think we could better explain and publish more information about how we make decisions about an individual's criminal history and about professional misconduct by registered health practitioners. We know that other regulators, who have a similar focus to us, publish a lot more information about their decision-making than we do.

We have drafted some examples of what this information might look like. We want you to tell us what information you would like to see, and to get your thoughts on our ideas and draft examples.

More information about the decisions that are made

We are also looking at whether we can publish information about practitioners who are returned to the [national register of practitioners](#) after having their registration cancelled or suspended because of serious professional misconduct. We want to hear what information is important to you about these decisions.

Support for people affected by professional misconduct

We want to hear your thoughts about the work we are doing to support people who are affected by professional misconduct by registered health practitioners.

Research about professional misconduct

We have identified several potential areas of research to improve our knowledge about serious misconduct by registered health practitioners. We would like to hear your thoughts on our research ideas and to learn of any research suggestions you may have that might improve our work in this area.

How to give feedback

You can provide feedback using our [online form](#) or you can use our **submission template** (Attachment D of the consultation paper) and email us at AhpraConsultation@ahpra.gov.au.

The questions in the online form are the same as the ones in this guide and the ones in the submission template and consultation paper.

Submissions open on **3 August 2023** and close on **14 September 2023**.

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

Publishing submissions

We publish the submissions we receive because we want people to know what feedback we receive. We publish your name and the feedback you provide, but we do not publish your contact details or any other information that may identify people.

You can ask us not to publish your feedback or to take your name off the feedback you give us.

We will not publish submissions that have offensive comments or are about things we are not consulting on.

What if the deadline for feedback is missed?

You can ask for more time to provide your feedback by emailing us at AhpraConsultation@ahpra.gov.au or by phoning **1300 419 495**.

This opportunity to provide feedback is the first part of our work in this area (called the ‘scoping’ phase), and there will be more opportunities for you to provide feedback. This will include public consultation on the final version of a revised criminal history standard that must be approved by Health Ministers before it can be implemented.



We are just starting this review and will make changes to the criminal history standard based on the feedback received during this phase. When we make these changes, we will publish them again and there will be another opportunity for people to comment on this work.¹

Guide to the consultation questions

The questions in the consultation paper are focused on the individual aspects of the work that we want to hear your thoughts on.

To help you understand and think about each of the piece of work, we have outlined some guidance and explanation on the questions here:

Consultation questions	Guide to the questions
<p>Focus area one – The Criminal history registration standard</p> <ol style="list-style-type: none"> 1. The <i>Criminal history registration standard</i> (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 <i>Criminal history registration standard</i> does not get this balance right, what do you think should change to fix this? 2. Do you think the information in the current <i>Criminal history registration standard</i> 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? 3. Do you think the information in the current <i>Criminal history registration standard</i> is clear about how decisions on whether an applicant or registered health practitioner’s criminal history is relevant to their practice are made? 	<p>All of the questions in this section are about the current criminal history standard which was first put in place in 2010 and which you can find at Attachment A in the consultation paper.</p> <p>We think that the criminal history standard outlines most of the things that should be considered when deciding if an individual’s criminal history is relevant to their practice of a regulated health profession and may not need to change much, although the standard might need to be redrafted to better explain how it works.</p> <p>However, we also know that the criminal history standard has been largely unchanged since it was first drafted. The landscape in which decisions are made has changed significantly during this time, and so this review is an important opportunity for us to hear whether you think the standard is appropriate.</p> <p>We want to keep the criminal history standard relevant and up to date. A registration standard needs to be easily understood but flexible enough to remain relevant for some time.</p> <p>The first question in this section explains that the criminal history standard attempts to balance the type and seriousness of a criminal history, with other things, like the time since the criminal</p>

¹ National Boards complete a patient health and safety impact assessment for any new or revised registration standard, code or guideline. As no changes are proposed to the current standard in this consultation, a patient health and safety impact assessment has not been prepared yet. The patient health and safety impact assessment statement will accompany the next consultation on any proposed revisions to the *Criminal history registration standard*.

Consultation questions	Guide to the questions
<p>If you think it is not clear, what aspects need further explanation?</p> <p>4. Is there anything you think should be removed from the current <i>Criminal history registration standard</i>? If so, what do you think should be removed?</p> <p>5. Is there anything you think is missing from the 10 factors outlined in the current <i>Criminal history registration standard</i>? If so, what do you think should be added?</p> <p>6. Is there anything else you would like to tell us about the <i>Criminal history registration standard</i>?</p>	<p>offending and any positive actions a person might have taken.</p> <p>We want to hear whether you think that the criminal history standard gets this balance right.</p> <p>We also want to hear:</p> <ul style="list-style-type: none"> - how you'd fix the criminal history standard if you think it's got something wrong. - whether you think the things to be considered about a criminal history are the right things - whether the criminal history standard does a good job explaining how decisions are made - if there's anything that should be taken out or anything we should put in the criminal history standard - if there's anything else you'd like to tell us about your thoughts on the criminal history standard.
<p>Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner's criminal history</p> <p>7. Do you support Ahpra and National Boards publishing information to explain more about the factors in the <i>Criminal history registration standard</i> and how decision-makers might consider them when making decisions? Please refer to the example in Attachment B.</p> <p>If not, please explain why?</p> <p>8. 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?</p> <p>9. Is there anything else you would like to tell us about the information set out in Attachment B?</p> <p>10. 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.</p> <p>11. Do you think there are some offences that should stop anyone practising as a registered health practitioner, regardless of the</p>	<p>The questions in this section are all about how we might better explain and publish more information about how we make decisions about people with a criminal history.</p> <p>You can find examples of what we think decision-makers need to think about at Attachment B of the consultation paper.</p> <p>An example of information we might publish about categories of offences and how a particular criminal offence might impact on a decision about registration is at Attachment C of the consultation paper.</p> <p>The questions here are designed to find out what sort of information you might want to know about how decisions are made, and how decision-makers go about this.</p> <p>In answering these questions think about whether the examples provided are what you'd expect decision-making to look like about criminal history. Is this what you would expect or is there something missing from the example we have provided?</p> <p>We would also like to know if you think there are some criminal offences that, if a person has them on their criminal history, that person should not be a registered practitioner, and what you think these</p>

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<p>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.</p> <p>12. Is there anything else you would like to tell us about the possible approach to categorising offences set out in Attachment C?</p>	<p>criminal offences are. We have provided examples of how criminal offences might be categorized at Attachment C of the consultation paper, but you may have different thoughts.</p>
<p>Focus area three – Publishing more information about decisions that are made about serious misconduct by registered health practitioners</p> <p>13. 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?</p> <p>14. 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 where the law allows? Please explain your answer.</p> <p>15. 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?</p>	<p>These questions are about how we could publish more information about serious misconduct by practitioners.</p> <p>You can find the information about this work on page 9, paragraphs 39-44 of the consultation paper.</p> <p>Sometimes we cannot publish information due to the National Law or other legislation, like the Privacy Act. But we understand there is a public interest in decisions made by the National Boards or other decision-makers about serious misconduct matters involving practitioners.</p> <p>We want to hear if you think we should publish decisions when a practitioner goes back on the public register after their registration was cancelled or suspended because of serious professional misconduct. We want to hear what information you think would be important to know about these decisions.</p> <p>You can also tell us what information you would like to see, or how we could present the information we currently publish in a way that would help you better understand what is and is not acceptable behaviour by a registered health practitioner.</p>
<p>Focus area four –Support for people who experience professional misconduct by a registered health practitioner</p> <p>16. 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 47 of the consultation paper.)</p> <p>17. Is there anything else you would like to tell us about how we can support individuals affected</p>	<p>In asking these questions we want to get your ideas about how we can better support people who are affected by misconduct by registered health practitioners. We know some people find involvement in incidents of serious professional misconduct or criminal offences stressful, and that participating in our processes can also be difficult.</p> <p>We are thinking about what we can do to better support people involved in our processes.</p>

Consultation questions	Guide to the questions
<p>by a registered health practitioner's professional misconduct?</p>	<p>You can find information about the work we are doing here on page 10, paragraphs 45-47 of the consultation paper.</p> <p>We want to hear what you think we could do to support people.</p>
<p>Focus area five – Related work under the blueprint for reform, including research about professional misconduct</p> <p>18. Are the areas of research outlined appropriate?</p> <p>19. Are there any other areas of research that could help inform the review? If so, what areas would you suggest?</p>	<p>These questions are about the research we think will help improve our knowledge about misconduct matters.</p> <p>You can find information about this work on page 10, paragraphs 48-50 of the consultation paper.</p> <p>We want to research what conduct by registered health practitioners would impact on public confidence in the profession. We also want to look at what our data and experience tell us about reoffending, particularly about sexual misconduct matters, and how this might help us in our decision-making.</p> <p>We want to hear from you what you think about the research we are planning to do. We also want to hear whether you think there is something we should be researching that would help us in our work to protect the public.</p>
<p>Additional question (Most relevant to jurisdictional stakeholders)</p> <p>20. Are there opportunities to improve how Ahpra and relevant bodies in each jurisdiction share data about criminal conduct to help strengthen public safety?</p>	<p>This question is most relevant to representatives from state and territory health departments.</p> <p>We want to understand from these departments what data they hold and whether it is possible that we could share data to better protect the public.</p> <p>Data sharing is often restricted by laws, such as the Privacy Act, so this might not be possible, or may only be possible if legislation changes.</p>