

**Australian College of Nurse Practitioners response to:**

## **AUSTRALIAN HEALTH PRACTITIONER REGULATION AGENCY (AHPRA) AND THE NATIONAL BOARDS**

- **PUBLIC CONSULTATION: REVIEW OF THE CRIMINAL HISTORY REGISTRATION STANDARD AND OTHER WORK TO IMPROVE PUBLIC SAFETY IN HEALTH REGULATION**

13 September 2023

Australian Health Practitioner Regulation Agency (AHPRA) and The National Boards  
AhpraConsultation@ahpra.gov.au  
The submission deadline is close of business 14 September 2023

To Whom It May Concern:

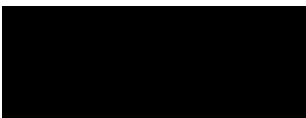
Thank you for the opportunity to provide feedback on the Review of the Criminal history registration standard and other work to improve public safety in health regulation, which is part of the review of the *Criminal history registration standard* (the criminal history standard).

The Australian College of Nurse Practitioners (ACNP) is the national peak organisation for Nurse Practitioners, advancing nursing practice and consumer access to health care. A key focus for the role and scope of practice development for Nurse Practitioners is on unmet needs within the community and increasing access to health care.

Please find the Australian College of Nurse Practitioners responses to the questions below.

Thank you again for the opportunity to participate in this important review.

Yours sincerely



**Leanne Boase**

**Chief Executive Officer**

Australian College of Nurse Practitioners

PO BOX 33175 Melbourne VIC 3004

St Kilda Rd Towers, Suite 502, 1 Queens Road Melbourne



1300 433 660

**Australian College of Nurse Practitioners**

**A:** PO Box 33175 Melbourne Vic 3004 | Office: St Kilda Rd Towers, Suite 502, 1 Queens Road Melbourne

**E:** admin@acnp.org.au **P:** 1300 433 660 **W:** www.acnp.org.au

<p><b>Initial questions</b></p> <p><i>To help us better understand your situation and the context of your feedback please provide us with some details about you. These details will not be published in any summary of the collated feedback from this consultation.</i></p>
<p><b>Question A</b></p> <p>Are you completing this submission on behalf of an organisation or as an individual?</p>
<p><b>Your answer:</b></p> <p><input checked="" type="checkbox"/> Organisation</p> <p>Name of organisation: <u>Australian College of Nurse Practitioners</u></p> <p>Contact email: [REDACTED]</p> <p><input type="checkbox"/> Myself</p> <p>Name: <u>Click or tap here to enter text.</u></p> <p>Contact email: <u>Click or tap here to enter text.</u></p>
<p><b>Question B</b></p> <p>If you are completing this submission as an individual, are you:</p> <p><input type="checkbox"/> A registered health practitioner?</p> <p>Profession: <u>Click or tap here to enter text.</u></p> <p><input type="checkbox"/> A member of the public?</p> <p><input type="checkbox"/> Other: <u>Click or tap here to enter text.</u></p>
<p><b>Question C</b></p> <p>Would you like your submission to be published?</p> <p><input checked="" type="checkbox"/> Yes, publish my submission <b>with my name/organisation name</b></p> <p><input type="checkbox"/> Yes, publish my submission <b>without</b> my name/ organisation name</p> <p><input type="checkbox"/> No – <b>do not</b> publish my submission</p>

<p><b>Focus area one – The Criminal history registration standard</b></p>
<p><b>Question 1</b></p> <p>The <i>Criminal history registration standard (Attachment A)</i> 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 any 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.</p> <p>Do you think the criminal history standard gets this balance right?</p> <p>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?</p>
<p><b>Your answer:</b></p> <p>Attachment A appears to have a sound approach to determining whether someone with a criminal history should be or remain registered as a health practitioner. The key elements mentioned, such as the relevance of the offence to the practice, the time elapsed since the offence, and any positive actions taken by the individual since the offence, are critical factors in making a fair and reasonable assessment. The emphasis on ensuring that only safe and suitable individuals are registered to practice in the health profession is a fundamental objective, and the standard aligns with this goal.</p>

<p><b>Question 2</b> 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?</p> <p><b>Your answer:</b></p> <p>Yes. The information in the current <i>Criminal history registration standard</i> is comprehensive and appropriate.</p>
<p><b>Question 3</b> 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? If you think it is not clear, what aspects need further explanation?</p> <p><b>Your answer:</b></p> <p>Yes, the information in the current <i>Criminal history registration standard</i> is clear.</p>
<p><b>Question 4</b> 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><b>Your answer:</b></p> <p>No.</p>
<p><b>Question 5</b> 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><b>Your answer:</b></p> <p>No.</p>
<p><b>Question 6</b> Is there anything else you would like to tell us about the <i>Criminal history registration standard</i>?</p> <p><b>Your answer:</b></p> <p>No, the standard is clear and appropriate.</p>

Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner's criminal history

<p><b>Question 7</b> 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 <b>Attachment B</b>. If not, please explain why?</p>
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**Your answer:**  
The ACNP supports the idea of Ahpra and National Boards publishing information to provide further clarification about the factors outlined in the Criminal history registration standard and how decision-makers should consider them when making registration decisions. Transparency and clear communication are crucial in promoting fairness and trust in the registration process. The example provided in Attachment B is a valuable resource in this regard as it helps illustrate how the standard can be applied in real-life scenarios.

**Question 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?

**Your answer:**  
  
Yes

**Question 9**  
Is there anything else you would like to tell us about the information set out in **Attachment B**?

**Your answer:**  
  
Nothing further

**Question 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.

**Your answer:**  
  
Yes, this is a good approach. The examples are contemporary and relevant.

**Question 11**  
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.

**Your answer:**  
  
Yes, there are certain offences that should disqualify anyone from practicing 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. These offences typically fall into categories that directly undermine the fundamental principles and trust required in healthcare. Such offences include:

**Sexual Offences:** Any conviction related to sexual assault, abuse, or exploitation, especially involving vulnerable people or patients, should result in automatic disqualification. These offences violate trust and the ethical standards essential in healthcare.

**Violent Crimes:** Offences such as murder, manslaughter, or assault with grievous bodily harm may pose significant risks to patient safety and well-being and should lead to disqualification.

**Patient Endangerment:** Offences that directly endanger the safety of patients, such as theft of prescription medications or tampering with medical records, should also result in disqualification.

**Fraud and Financial Crimes:** Convictions for serious financial crimes, particularly those involving healthcare fraud, can undermine the trust and integrity of the profession and should be disqualifying.

These offences betray the healthcare profession's core values, which include patient safety, trust, and ethical conduct. Regardless of any subsequent rehabilitation or remorse, allowing individuals with convictions in these categories to practice as registered health practitioners could pose serious risks to patients and the integrity of the healthcare system.

The goal should always be to protect the public while maintaining a fair and transparent system for evaluating the fitness of individuals with criminal histories to practice in healthcare.

#### Question 12

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

Your answer:

No

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

#### Question 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?

Your answer:

Yes

#### Question 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.

**Your answer:**

Yes, decisions made to return a practitioner to practice after their registration has been cancelled or suspended for serious misconduct should be published where the law allows. Transparency in reinstatement decisions serves to ensure public safety, accountability, maintaining public trust and confidence, as a deterrent and to support education and learning tools.

**Question 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?

**Your answer:**

No

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

**Question 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.)

**Your answer:**

Provide clear information in relation to the standard, and the regulatory process. Give individuals involved the choice whether to receive further information in relation to the specific case of misconduct and how it is being handled, noting that some people may find receiving more information traumatising. Also providing the individual affected by serious professional misconduct by a registered health practitioner an opportunity to provide a statement about how this has affected them and, where appropriate, offering support and counselling and taking steps to facilitate this.

**Question 17**

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?

**Your answer:**

As above

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

**Question 18**

Are the areas of research outlined appropriate?

Your answer:

The research areas are contemporary and appropriate.

**Question 19**

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

Your answer

**Additional question**

*This question is most relevant to jurisdictional stakeholders:*

**Question 20**

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

Your answer: