

From: Geraldine Hunter
Sent: Monday, 11 November 2013 1:44 PM
To: criminal history consult
Subject: Consultation on international criminal history checking

When the preliminary consultation took place in 2012, the Australian Dental Association SA Branch Inc provided a response, as per below. The Association's position is still valid from our point of view.

AHPRA's Approach to Criminal Checks

The objectives of the national registration and accreditation scheme include – *providing for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered facilitating the rigorous and responsive assessment of overseas-trained health practitioners.* Section 79 of the National Law provides that before deciding an application for registration, a National Board must check the applicant's criminal history. This includes every conviction for an offence, every plea or finding of guilty and every charge made against a person for an offence. A National Board may obtain a written report about the criminal history of the applicant from (a) CrimTrac; (b) a police commissioner; (c) an entity in a jurisdiction outside Australia that has access to records about the criminal history of persons in that jurisdiction. AHPRA's consultation paper notes that although many international applicants must obtain a form of criminal clearance for immigration purposes, it is not a requirement of all visa classes. In many cases, the requirement puts the onus on applicants to demonstrate they are of good character. A Certificate of Good Standing/Certificate of Registration Status only provides evidence of an applicant's previous professional conduct and cannot be used to verify an applicant's criminal history. The consultation paper argues that the scope and content of criminal history documentation varies from country to country and it may be difficult to determine the accuracy of an international criminal history, or assess the weight assigned to a particular offence.

Proposed Options for Criminal Checks

Option 1 – Applicant declaration (Current Approach)

Requires the applicant's declaration only - no additional evidence of criminal history is required, sought or obtained from jurisdictions outside Australia.

Option 2: Applicant provides criminal history clearance evidence with application

Requires the internationally qualified applicant to:

- provide evidence of criminal history clearance, or
- provide/facilitate provision of criminal history information from jurisdictions outside Australia.

Option 3: AHPRA obtains clearance/information from jurisdictions outside Australia when processing application

AHPRA obtains criminal history clearance or evidence from jurisdictions outside Australia for internationally qualified applicants.

Option 4: Applicant makes declaration and AHPRA undertakes random sample audit

Internationally qualified applicants make declarations on their registration applications and AHPRA undertakes random audits, with clear and publicised deterrent consequences. AHPRA favours Option 2 or Option 4 and argues that Option 3 may not be possible due to difficulty in obtaining information from other jurisdictions.

ADASA Response

It is clear that AHPRA has a responsibility to adequately resource the accreditation process to ensure the safety of the community. In assessing applicants from within Australia during the first year of national screening, AHPRA found that about 6 per cent of the 52,445 applicants had some form of disclosable court outcome. AHPRA estimates that the figures for overseas applicants would be comparable. If so, 300-600 out of the 5000-10,000 overseas applicants have a relevant police record. Most people would consider this to be a considerable risk to the community.

The national registration scheme was precipitated in part by the public perception of the need for more stringent screening of health professionals, particularly those trained overseas. The infamous Patel case in Queensland highlighted the need for adequate checks. An overseas trained surgeon, Dr Jayant Patel, was found to have engaged in egregious malpractice. Dr Patel was employed by the Queensland Health Department at the Bundaberg Base Hospital under the Area of Need program which hires overseas trained doctors to work in regional areas. He was appointed Director of Surgery despite having no specialist surgical qualifications and was later found to have had a history of malpractice before coming to Australia. Patel has been linked to at least 87 deaths out of the 1,202 patients he treated between 2003 to early 2005.

Given the high risks associated with inadequate screening of applicants, the ADASA argues that AHPRA should allocate adequate resources to the process. This is essential if the key objectives of the national registration scheme (outlined above) are to be met. If Option 4 – the random audit - is possible, given that it depends on liaison between AHPRA and organisations issuing Criminal Clearance Certificates, Option 3 should also be possible. This option, requiring AHPRA to obtain information from other jurisdictions, provides the greatest level of protection to the community. Whatever option is followed, the cost ought to be borne by the applicant, not by the profession.

Regards

Gerry Hunter

Council Secretary

Australian Dental Association SA Branch

PO Box 858, Unley SA 5061

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