



Consultation on the review of the Criminal history registration standard and other work to improve public safety in health regulation

Attachment D – Submissions Template

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

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.

Your feedback will help us to understand what changes should be made to the criminal history standard and will provide information to improve our other work.

Please email your submission to AhpraConsultation@ahpra.gov.au

The submission deadline is close of business **14 September 2023**

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 These submissions will not be published on the website or elsewhere.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 personal 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

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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.

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.

Initial questions
<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>
Question A Are you completing this submission on behalf of an organisation or as an individual?
Your answer: <input checked="" type="checkbox"/> Organisation Name of organisation: Royal Australian and New Zealand College of Obstetricians and Gynaecologists. RANZCOG would like to thank [REDACTED] and the Professional Standards Committee for their contribution to this submission. Contact email: [REDACTED] <input type="checkbox"/> Myself Name: Click or tap here to enter text. Contact email: Click or tap here to enter text.
Question B If you are completing this submission as an individual, are you: <input type="checkbox"/> A registered health practitioner? Profession: Click or tap here to enter text. <input type="checkbox"/> A member of the public? <input type="checkbox"/> Other: Click or tap here to enter text.
Question C Would you like your submission to be published? <input checked="" type="checkbox"/> Yes, publish my submission with my name/organisation name <input type="checkbox"/> Yes, publish my submission without my name <input type="checkbox"/> No – do not publish my submission

Focus Area One – The Criminal history registration standard

Question 1

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 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.

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?

Your answer:

RANZCOG supports the proposal for greater information being publicly available and transparency in relation to details of criminal convictions which are relevant to the performance of health practitioners.

RANZCOG is of the view that there needs to be a clear separation between past convictions, and actions that were reversed or suspensions that were subsequently lifted. In instances where a practitioner is found guilty of profound misconduct that has a current and lasting effect on their ability to practice, it would be appropriate to make this information publicly available. RANZCOG suggests assuming the customs of the court of law; allowing the practitioner to be treated as innocent until proven guilty.

Secondly, consideration should be given to the relevance of a practitioner's conviction. RANZCOG supports the proposal to make more information publicly available, however the information needs to be considered pertinent to the practitioner's ability to practice safely. For example, traffic or parking related offences may have little to no impact on their ability to provide good quality health care and thus should remain private.

Question 2

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?

Your answer:

While RANZCOG understands the focus on those most vulnerable victims who are under the age of 18 years it believes, for the purposes of this act victims are "victims" and should be viewed equally. For example, if someone is 30 years of age has been sexually assaulted by a practitioner and is therefore not classified as an "other vulnerable" person RANZCOG does not feel that the assault should be regarded as less of an assault, than if the victim had been 16 years of age and/or a vulnerable person. In summary, RANZCOG believes that equal weight should be placed on offences of sexual assault regardless of age of the victim or other vulnerabilities.

Question 3

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?

Your answer:

RANZCOG believes this to be clear.

Question 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?
Your answer: The College does not believe anything needs to be removed.
Question 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?
Your answer: RANZCOG believes the 10 factors outlined in the current <i>Criminal history registration standard</i> are sufficient.
Question 6
Is there anything else you would like to tell us about the <i>Criminal history registration standard</i> ?
Your answer: No further feedback.

Focus area two – More information about decision-making about serious misconduct and/or an applicant or registered health practitioner’s criminal history
Question 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 . If not, please explain why?
Your answer: RANZCOG supports this notion.
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: RANZCOG agrees that Aboriginal and Torres Strait Islanders situations should be given special consideration. RANZCOG supports the need to recognise and respond to the experiences of vulnerable sub-population groups of the criminal justice system, particularly those of Aboriginal and Torres Strait Islander background. The College would like point 11, on page 17 regarding Aboriginal and Torres Strait Islander experience of the criminal justice system expanded to include and recognise the social, economic, and cultural background of all practitioners. RANZCOG believes that just as culture has a profound impact on a patients’ response to health care, the cultural circumstances that may have contributed to a practitioner committing, or pre-deposing them to committing an offence, must be considered.

Question 9

Is there anything else you would like to tell us about the information set out in [Attachment B](#)?

Your answer:

No additional feedback.

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:

The categorisation into A, B or C based on the severity of the offence seems an entirely logical approach.

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:

For the offences listed in Category A, there would need to be substantial reason to allow a practitioner to return to practice. RANZCOG agrees that factors to be considered should include 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.

Repeat offences, and in instances where there is no evidence of remorse, rehabilitation or similar should stop the practitioner from further practice.

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:

Whilst RANZCOG feels the definition of the categories of offences provided are clear, the examples are somewhat ambiguous. This section could benefit from a broad list of specific criminal charges, although RANZCOG recognises they will vary state by state.

For example, Category A: Indictable Offences: Category B: Summary Offences

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:

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

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:

RANZCOG is in support of this information being published. The College sees it fit for the details that allowed an individual to return to practice to be available for public scrutiny.

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 feedback.

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:

RANZCOG supports the expansion of the principles within the AHPRA Service Charter, or similar, to publicly state commitment to supporting those affected by sexual misconduct.

The College also supports the development of practical tools and approaches to enable this to happen.

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:

Timely communication with patients and the health practitioner under investigation would be highly beneficial. Often, the lengthy time taken for an investigation to occur is particularly taxing on those involved.

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:

RANZCOG supports the direction of the research outlined in the document.

The College agrees that further developing the systems understanding of the outcomes of sexual misconduct matters needs to be better understood, particularly pertaining to whether the system is effectively protecting the patient.

RANZCOG concurs that special consideration of Aboriginal and Torres Strait Islander Peoples is important to ensure that the health system provides a culturally safe environment free of racism and discrimination.

The College believes that there needs to representation from the community as well as from the profession and regulators in misconduct decision making.

Finally, RANZCOG supports the move to greater transparency of information as outlined in this document.

Question 19

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

Your answer

The College encourages ongoing research into this important area. It is particularly interested in the factors that may lead to a practitioner committing an offence in the first place and the reasons and context behind reoffending.

This is an area in which collaboration with the medical colleges, possibly through the Council of Presidents of Medical Colleges (CPMC), may be useful.

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:

No feedback.