



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 These submissions will not be published on the website or elsewhere.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

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.

Initial questions

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.

Question A

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

Your answer:

Organisation

Name of organisation: Congress of Aboriginal and Torres Strait Islander Nurses and Midwives (CATSINaM)

Contact email: [REDACTED]

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:

A registered health practitioner?

Profession: [Click or tap here to enter text.](#)

A member of the public?

Other: [Click or tap here to enter text.](#)

Question C

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

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:

As an overarching framework of factors, the Standard appears balanced. However, it is recommended the Standard specifically reference considerations for the criminal history assessment of Aboriginal and Torres Strait Islander applicants and practitioners.

CATSINaM is satisfied that Ahpra and the NMBA recognise the inequities underpinning the highly disproportion representation of Aboriginal and Torres Strait Islander peoples interacting with the criminal justice system. The incontrovertible importance of growing the Aboriginal and Torres Strait Islander nursing and midwifery workforce requires nuanced approaches to the application of criminal histories assessments for our peoples given the employability limitations of having a criminal record. That is not to suggest the diminishing of standards, rather, the application of policy that acknowledges the patterns of overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system and the need to map processes that enable fair assessment of an individual's fitness to study or practice, particularly in relation to 'spent convictions'.

It is recommended that Ahpra and the NMBA allow reasonable time to work with CATSINaM, in collaboration with key Community Controlled Organisations such as the Partnership for Justice for Health and the National Health Leadership Forum (NHLF), to examine the Ahpra's regulatory guidance materials and the NMBA's application of those materials. CATSINaM would seek to understand the NMBA's approaches to criminal history assessment and regulatory action to ensure fair, safe, and non-prejudicial assessment of the criminal histories of Aboriginal and Torres Strait Islander applicants and practitioners. There could be scope for including this work under the NMBA/CATSINaM Partnership Investment Agreement.

While the current Standard appears balanced, the application of the Standard across cases and professions is also of primary concern and that is difficult the gauge as an external stakeholder.

The follow future work is noted, and supported in principle pending further detail and consultation:

Para 28: We are proposing to include draft guidance for decision-makers to ensure they consider the disproportionate burden Aboriginal and Torres Strait Islander Peoples experience within the criminal justice system.

Para 46: We also have work underway to improve the cultural safety of our processes for Aboriginal and Torres Strait Islander notifiers. Detailed information on this piece of work should be provided.

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:

Yes, however, more detailed guidance materials should be developed to ensure consistency of interpretation and application across cases and professions.

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:

The factors are clear, however, not detailed. More detailed description (such as providing examples) could support public understanding of how the factors are applied in assessment processes.

Question 4

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

Your answer:

The unnecessary use of 'he' and 'she'.

Question 5

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?

Your answer:

Yes, as outlined above in Q1.

Question 6

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

Your answer:

No.

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 *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?

Your answer:

Yes. The publishing of information supports transparency and accountability in decision making and could support greater consistency and fairness.

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:

There may be enough information provided, however, the accessibility of the content could be improved by change the layout. The long sets of dot points interfere with the effectiveness of the guidance.

The following paragraph should include a more prescriptive guidance for example, as tracked below:

Aboriginal and Torres Strait Islander experiences of the criminal justice system

*When considering criminal history, recognition should be given to the disproportionate representation of Aboriginal and Torres Strait Islander people within Australia’s criminal justice system, which occurs for a range of reasons, including historic and ongoing levels of racism, dispossession and disadvantage due to colonisation. In considering the criminal history of Aboriginal and Torres Strait Islander applicants or registrants the possibility that an individual’s criminal history may arise from different treatment of Aboriginal and Torres Strait Islander Peoples and other Australians, rather than differences in behaviour, should be recognised **and taken into account**.*

Question 9

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

Your answer:

No.

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:

No comment.

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:

No comment.

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 comment.

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:

No comment.

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:

No comment.

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:

Any provisions should be designed or re-designed (in collaborative co-design with appropriate Aboriginal and Torres Strait Islander experts) to embed cultural safety and protect cultural safety.

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:

No comment.

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:

Yes, based on the limited information provided.

Consideration should also be given to working with Partnership for Health Justice who have expertise in justice health.

Question 19

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

Your answer

No comment.

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 comment.