



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 These submissions will not be published on the website or elsewhere.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
<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: The Australasian College of Dermatologists 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 checked="" type="checkbox"/> Other: Specialist medical college
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/ organisation name <input type="checkbox"/> No – do not publish my submission

<p>Focus area one – The Criminal history registration standard</p>
<p>Question 1</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>Your answer:</p> <p>The Australasian College of Dermatologists (ACD) supports the <i>Criminal History Registration Standard</i> (the 'Standard'), and the importance of achieving an appropriate balance when looking at the factors applied to decision-making about criminal history and registration.</p>
<p>Question 2</p> <p>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>Your answer:</p> <p>Yes. However, whether practitioners need to declare their entire criminal history to Ahpra when applying for or renewing their registration should be considered. Minor offences, such as traffic offences are not relevant to clinical practice and arguably should not have to be declared, especially if years have passed since the offence occurred. These declaration requirements are not only onerous for health practitioners, but we would assume impose a burden on Ahpra when efforts and attention would be better directed at those offences that are relevant to clinical practice.</p> <p>Although ACD acknowledges that laws differ between jurisdictions and thus impact the types of offences practitioners must declare, implementation of a standardized approach to declarations to ensure national consistency is necessary.</p>
<p>Question 3</p> <p>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>Your answer:</p> <p>ACD notes that a number of references to repeat offences and patterns of behaviour are made in the additional explanatory information in Attachment B and we would suggest that there would be benefit to reflecting this consideration more explicitly in the standard itself.</p>
<p>Question 4</p> <p>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>Your answer:</p> <p>No comment</p>
<p>Question 5</p>

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:

ACD has no concerns about the factors listed in the *Criminal history registration standard*.

Question 6

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

Your answer:

No comment

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:

ACD suggests that there would be value in reframing Attachment B around the principles and values that underlie decision-making. Some of the language used is not sufficiently clear and while more descriptive does not necessarily add greatly to the understanding of the Standard itself.

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:

No comment

Question 9

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

Your answer:

No comment

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:

ACD only supports the approach to decision-making about applicants and registered health practitioners with criminal history only if the categories of offence are used as part of a broader triaging process. It is essential that decision-making based on critical consideration continues to be given to all of the factors pertaining to an individual case.

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:

In principle, yes, we envisage some offences should automatically stop someone practicing as a health practitioner. However, a robust public consultation process would need to be undertaken to identify and understand what offences these would be.

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:

The categories of offences listed in Attachment C are highly subjective and inconsistent.

If categories are to be included, further review is needed to tighten up some of the definitions, for example in Category A 'other offences involving acts of a sexual nature against another person' may include a very broad range of offences some of which may not meet the threshold for Category A. ACD would also query use of 'Offences against morality' as this is a very broad catch all term which therefore seems counterproductive to the purpose of categorizing 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:

Yes, ACD are aware that disciplinary decisions are published on Ahpra and National Board websites.

As mentioned in our submission on Ahpra's draft *Data Strategy*, there is a need to balance the competing rights of the practitioner with the public's interest in disclosure to make informed decisions about their healthcare. It is important that the public register does not move away from its intended primary regulatory purpose of indicating current registration status.

ACD have previously raised concerns regarding the publication of information in relation to disciplinary proceedings on the public register. We do not support publishing a practitioners' disciplinary history in full or partially. The current arrangements are proportionate and appropriate. It is important that practitioners are supported to return to safe practice after disciplinary action has been completed.

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:

See comment above. Where disciplinary decisions are published, it should be at the discretion of the practitioner to decide whether or not they would like the reinstatement decision published.

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 comment

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:

ACD suggests developing a standardized pathway and process for referring individuals involved in the regulatory process who are affected by sexual misconduct by a registered health practitioner to available and appropriate clinical services independent of Ahpra.

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. There may be value in undertaking research to consider the impact of increased public hearings/reporting on health professionals generally and on individuals who are subject to investigations; and the appropriate supports that need to be provided to health professionals that are being investigated by Ahpra.
Question 19 Are there any other areas of research that could help inform the review? If so, what areas would you suggest?
Your answer See comment above.
Additional question <i>This question is most relevant to jurisdictional stakeholders:</i>
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