

28<sup>th</sup> November 2013

**SNMIH UOW response to AHPRA Public consultation paper**

**September 2013**

**Consultation on international criminal history checking**

Academic and professional members of the school interested and involved in clinical placement for the BN, BNOQN and BN Advanced degree programmes have met and considered the proposals outlined by the Australian Health Practitioners Regulation Agency in the consultation paper on international criminal history checks and wish to make the following comments.

We are in agreement that there is inequity within the current processes where domestic registrants are required to provide a criminal record check and international applicants are required to provide a declaration of no criminal record alone.

We are also in agreement that there is a need to protect the public which may at times create tension with understandings about privacy and individual rights.

We note that with a number of countries in the world there are inherent difficulties with obtaining documents with regard to criminal record checks either because they do not exist or because the jurisdiction is not willing to release them.

We also note that a changing and challenging global situation on many levels sometimes means that some individuals are dispossessed and stateless.

We feel that these two situations must be acknowledged and provided for in any proposal with regard to criminal record check documentation for international applicants.

With regard to the state law definition of 'criminal history' part (c) *every charge made against a person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law* – we wish to note that this should be considered as any

*charge pending*. This is because a charge is a process at a point in time and; results in a conviction; results in an acquittal or is pending due to the ongoing process.

With regard to the questions asked on page 8;

We believe that option five may be the best option if the questions and issues listed below are addressed.

The proposed approach is clear except for with regard to the 'external provider'. It is not clear if this will be a provider/s in Australia or multiple providers in the country where the record check is being sought. The latter may be problematic.

The associated costs to the applicant need to be managed and need to be made explicit.

Issues and risks that we believe need further consideration are thus;

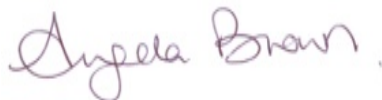
- The definition of criminal activity ( as discussed above)
- The inherent challenges associated with obtaining documentation from some countries as (discussed above) and the potential for applicants to remain temporarily registered for a long period of time (if not permanently)
- There are issues and risks associated with providing temporary registration to individuals who may have committed criminal offences. The proposal describes this risk as 'small'. We believe that the frequency may be small but the risk to be great. We do not believe that this is a satisfactory nor safe solution to the potential delays in obtaining criminal clearance documentation and suggest that there be provision for a statutory declaration signed in front of JP or similar officer of the law where documentation is unobtainable.
- The issue of 'spent' convictions needs to be clarified and this also may be by way of a statutory declaration as above.

We believe that living in a country for six months or longer is an appropriate time period to require a criminal record clearance. Three months would be too short as individuals undertake extended holidays and travels.

We have one further comment in that we wondered if health care practitioners from overseas and from diverse groups have been consulted. We understand that the consultation process

is an open one but believe that it may not have been brought to the attention of all individuals.

Yours sincerely



Angela Brown  
Head  
School of Nursing Midwifery & Indigenous Health  
University of Wollongong