



## 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](mailto: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](mailto: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 These submissions will not be published on the website or elsewhere.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](http://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: Australian Dental Association

Contact email: [REDACTED]

Myself

Name: Damian Mitsch

Contact email [REDACTED]

### 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: The information provided in relation to the things that decision-makers need to balance is adequate however, the standard should be written as a direction to registrants in line with other standards and the information for decision makers should be included in an appendix.

For example, the CPD standard for dental practitioners speaks to the registrant using terms such as:

*“To meet this registration standard, you must complete a minimum of 60 hours of CPD activities over a three-year CPD cycle”*

Whereas the Criminal history standard talks in terms of what the National Board will consider, e.g.

*“... the Board will consider the following factors...”*

Clearer guidance such as:

To meet the Criminal History Standard, you must notify the Board/Ahpra if/of:

1. you have a spent conviction that occurred prior to the establishment of the national law
2. any charge brought against you even if the matter is yet to be put before the courts
3. the outcome of any charges even if there was a finding of not-guilty including circumstances where the matter did not result in a conviction or finding of guilt

... would be helpful

### 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, but again it is written for decision-makers not registrants.

### 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:** Yes

**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:** See answer to Q1

**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:** No

**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:** We appreciate that there is a need to inform the public of the decision-making processes to reassure them that there are adequate systems in place. However, there needs to be some separation in the information provided for registrants, and for the general public, rather than trying to speak to both audiences through a single document.

**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:** Yes but as above, we believe that the information should be separated.

**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:** The ADA supports the creation of Attachment C but thinks that it could be expanded.

It would be useful for registrants to have some examples of things that should be reported and those that are not necessary to report. Specific jurisdictional matters will need to be considered, e.g.those states and territories that include minor traffic infringements in the criminal history record.

**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 – each circumstance should be considered on its own merits. Individuals can be rehabilitated.

**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



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

**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:** Individuals who have done 'their time' and rehabilitated should be supported to return to meaningful work. Currently many conditions placed on an individual's registration are private. There are adequate processes under the National Law to ensure public safety through supervision and compliance.

**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:** If the registration of an individual has been returned then it should be assumed that they are a fit and proper person to hold registration and are not putting the public at risk.



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Focus area four – Support for people who experience professional misconduct by a registered health practitioner
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<b>Question 16</b> 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.)
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<b>Your answer:</b> Provide links to relevant support organisations.
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<b>Question 17</b> 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?
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<b>Your answer:</b> No
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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

**Question 19**

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

**Your answer:** Not at this time.

**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:** Not that we're presently familiar with.