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Australian Health Practitioners Regulation Agency  
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By Email: [criminalhistoryconsult@ahpra.gov.au](mailto:criminalhistoryconsult@ahpra.gov.au)

**Re: International criminal history checks**

Thank you for providing the Australian Dental Association Inc. (ADA) with the opportunity to provide feedback on options for the refining international criminal history checks as outlined in the Australian Health Practitioner Regulation Agency (AHPRA) Public Consultation Paper (consultation paper) issued in June 2012. The consultation paper clearly outlines the regulatory basis and processes used by the National Boards in assessing application for registration for the 14 health professions regulated under the Health Practitioner Regulation National Law Act 2009 (National Law).

The ADA notes that Section 79 of the National Law provides that a National Board must check the applicant's criminal history as part of reviewing an applicant for registration. The check may include provision of a check from a jurisdiction outside Australia.

It is acknowledged that the current approach taken by National Boards to meet this requirement under the National Law is to seek an Australian criminal history through CrimTrac and require the applicant to sign a declaration on the registration application form disclosing their criminal history in all countries including Australia. Applicants who do not disclose a criminal history are not subject to any further investigation but those who disclose an event are further investigated.

The ADA understands from the consultation document that between 45 and 90 persons applying for registration in any given year may have a positive criminal history that would be assessed as potentially affecting their registration application. Furthermore, current processes for migration are not a reliable process to ensure that a positive criminal history does not exist nor is the possession of a Certificate of Good Standing/Certificate of Registration Status a suitable measure.

The consultation paper also indicates that it is not possible for AHPRA to obtain criminal clearance certificates in most cases and that this responsibility can only lie with the applicant.

On this basis, AHPRA have identified four options for consideration by stakeholders.

The ADA has given due consideration to all of the options proposed and provides the following response to each of the proposals.

### **Option 1**

It is noted that this option is in line with current practise and is a cost effective option for both applicant and the National Boards. However, it places the community at risk from practitioners who fail to declare a criminal history which may otherwise have impacted on their ability to be registered as a health practitioner in Australia. As the potential for a problem would arise from those with an adverse record, it is likely to be this group that will fail to disclose an adverse history. Whatever option is put in place must address this. As Option 1 does not do this, this option is not supported.

### **Option 2**

This option places the onus on the individual seeking registration to provide satisfactory evidence that they meet the requirements to register as a health practitioner under the national registration scheme. This option is supported.

### **Option 3**

This option places the responsibility of collecting criminal history on the regulator and will impose a significant burden on the National Board resulting in potentially increased costs to the Board. This option could only be supported if the cost of the additional work required was borne by the applicant and there was no flow on effect to other registrants.

### **Option 4**

This option appears to be a variation of Option 1 with the addition of random auditing by AHPRA as a deterrent to applicants. Given that the consultation paper emphasises the difficulties associated with attaining criminal history records, there would potentially need to be major changes within some jurisdictions' regulatory arrangement to facilitate this process. There is no strong evidence in the consultation paper to suggest that this option is even possible.

Regulation of health practitioners is designed, as stated in the Schedule of the National Law:

*“ to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and is to protect the public Schedule Part 1 Clause 3(2)(a); and*

*to facilitate the rigorous and responsive assessment of overseas-trained health practitioners (2)(d).”*

Under these requirements, the National Boards have an obligation to ensure that before issuing a certificate of registration to a health practitioner, every effort has been made to ensure that the practitioner is of good standing and will practice in a competent and ethical manner. The public deserve nothing less.

It is on this basis that the ADA recommends that the AHPRA adopt Option 2 but include the auditing component outlined in Option 4 as an additional component.

Yours faithfully,



Dr F Shane Fryer  
President