



Aboriginal and Torres Strait
Islander Health Practice
Chinese Medicine
Chiropractic
Dental
Medical
Medical Radiation Practice
Nursing and Midwifery
Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Public consultation

25 October 2013

Public consultation: Review of *Criminal history registration standard* and *English language skills registration standard*

Please provide feedback in a word document (or equivalent)¹ to standard.consultation@ahpra.gov.au by close of business on 23 December 2013.

Public consultation

The 14 National Boards in the National Registration and Accreditation Scheme (the National Scheme) are releasing the attached consultation paper on the review of the criminal history and English language registration standards. You are invited to provide your comments on the consultation paper, including the questions in the paper, by 23 December 2013.

How your submission will be treated

Submissions will generally be published unless you request otherwise. The Boards publish submissions on their websites to encourage discussion and inform the community and stakeholders. However, the Boards retain the right not to publish submissions at their discretion, and will not place on their website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.

Before publication, the Boards may remove personally-identifying information from submissions, including contact details. The views expressed in the submissions are those of the individuals or organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the Boards.

The Boards also 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 These submissions will not be published on the website or elsewhere.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. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982* (Cwlth), which has provisions designed to protect personal information and information given in confidence.

Please let the Boards know if you do not want your submission published, or want all or part of it treated as confidential.

¹ You are welcome to supply a PDF file of your feedback in addition to the word (or equivalent) file, however we request that you do supply a text or word file. As part of an effort to meet international website accessibility guidelines, AHPRA and National Boards are striving to publish documents in accessible formats (such as word), in addition to PDFs. More information about this is available at www.ahpra.gov.au/About-AHPRA/Accessibility.aspx.

Contents

| | |
|--|----|
| Introduction..... | 1 |
| Overview <i>Criminal history registration standard</i> | 3 |
| Consultation <i>Criminal history registration standard</i> | 6 |
| Board's statement of assessment against AHPRA's <i>Procedures for development of registration standards and COAG principles for best practice regulation</i> | 8 |
| Overview <i>English language skills registration standard</i> | 11 |
| Revised consultation draft <i>English language skills registration standard</i> | 15 |
| Board's statement of assessment against AHPRA's <i>Procedures for development of registration standards and COAG principles for best practice regulation</i> | 21 |

Overview

25 October 2013

Review of *Criminal history registration standard*

Summary of issue

Purpose of the proposal

The Health Practitioner Regulation National Law Act (the National Law) as in force in each state and territory requires National Boards to develop registration standards about five matters, including the:

- criminal history of applicants for registration in the profession, and registered health practitioners and students registered by the Board, including the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the profession.

The first 10 National Boards to regulate registered health professions under the National Registration and Accreditation Scheme (the National Scheme) developed registration standards that were approved by the Australian Health Workforce Ministerial Council (Ministerial Council) and took effect on 1 July 2010. These standards were scheduled for review at least every three years, in keeping with good regulatory practice.

All National Boards participating in the review

The existing *Criminal history registration standard* is the same for all professions in the National Scheme. Because the standard is common across Boards, all 14 National Boards are participating in this review.

The four National Boards (the 2012 Boards) which joined the National Scheme in 2012 only recently finalised their registration standards. The timeframes for consultation on these documents was tight. The 2012 Boards consider that there are benefits in participating in the current reviews to identify any further opportunities to improve their registration standard, to maintain consistency of common documents and to give stakeholders a further opportunity for input.

The National Law requires the Boards to ensure there is wide-ranging consultation on the content of any proposed registration standard. The Boards are consulting about their review of the approved Criminal History Registration Standard.

Options statement

The Boards have considered a number of options in developing this proposal.

Option 1 – Status quo

Option 1 would continue with the existing registration standard. The registration standard lists the factors that a National Board will consider in deciding whether a health practitioner's criminal history is relevant to the practice of their profession, whether the criminal history occurred in Australia or overseas. (National Boards are also exploring a proposal to refine the approach to international criminal history checking. This approach is not affected by the review of the criminal history registration standard).

The existing registration standard sets out the same 10 factors for all 14 National Boards to consider. However, every case is decided individually. Boards apply the 10 factors when considering each applicant's criminal history.

The National Boards are not aware of any issues that have arisen in relation to the existing registration standard. The Ministerial Council approved the same registration standard for the four professions regulated under the National Scheme from 1 July 2012, as recommended by the 2012 Boards after wide ranging consultation.

Under this option, the Boards are consulting about how well the existing standard is working and whether it is clear.

Option 2 – A different standard

National Boards could develop a different standard that addresses the same content, as required by the National Law. As no major issues have been raised with the existing standard, the approach described in this option does not seem necessary.

Preferred option

The National Boards prefer Option 1.

Issues for discussion

Potential benefits and costs of the proposal

Both the existing and any new registration standard must address the issues required by the National Law, including the objectives and guiding principles. While the benefits of both options are similar, the costs are different. Both options have the benefit of clarifying the factors that a National Board will take into account in deciding whether a health practitioner's criminal history is relevant to their practice of the profession.

A different standard would present the factors differently and may identify other factors for Boards to consider. The existing standard has already been subject to significant consultation, by the first ten Boards in 2009/10 and the next four Boards in 2011/12. Consultation feedback to date has indicated that the factors contained in the standard are relevant and appropriate. The factors are similar to those considered by other bodies making similar decisions.

Changing the standard would involve a cost for practitioners, the public, employers and other stakeholders in understanding the difference between the old and new standard.

Information for the public and practitioners

As part of this review, National Boards will consider what further information could be developed and published for the public and practitioners about criminal history. For example, this could include more information for the public and practitioners about how National Boards consider criminal history and material to remind practitioners about their obligations under the National Law to advise the relevant National Board if their criminal history changes.

Questions for consideration

The Boards are inviting feedback on the following questions.

1. From your perspective, how is the current registration standard working?
2. Are there any state or territory-specific issues or impacts arising from applying the existing standard that you would like to raise with the Boards?
3. Is the content of the registration standard helpful, clear and relevant?
4. Is there any content that needs to be changed or deleted in the registration standard?
5. Is there anything missing that needs to be added to the registration standard?
6. Do you have any other comments on the registration standard?

Attachments

The existing *Criminal history registration standard* is at [Attachment 1](#)

The Board's draft *Statement of assessment against AHPRA's Procedures for development of registration standards and COAG principles for best practice regulation* is at [Attachment 2](#).

Background

Section 38 of the National Law requires each National Board to develop and recommend to the Ministerial Council five core registration standards, including a standard on matters about the criminal history of applicants for registration in the profession, and registered health practitioners and students registered by the Board, including the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the profession.

There are 14 National Boards that regulate 14 professions under the National Registration and Accreditation Scheme (the National Scheme). Ten professions were regulated by National Boards under the National Scheme from 1 July 2010, and a further four professions became nationally regulated from 2012:

- Aboriginal and Torres Strait Islander Health Practice Board of Australia (from 1 July 2012)
- Chinese Medicine Board of Australia (from 1 July 2012)
- Chiropractic Board of Australia
- Dental Board of Australia
- Medical Board of Australia
- Nursing and Midwifery Board of Australia
- Medical Radiation Practice Board of Australia (from 1 July 2012)
- Occupational Therapy Board of Australia (from 1 July 2012)
- Optometry Board of Australia
- Osteopathy Board of Australia
- Pharmacy Board of Australia
- Physiotherapy Board of Australia
- Podiatry Board of Australia, and
- Psychology Board of Australia.

The Australian Health Practitioner Regulation Agency (AHPRA) works in partnership with the National Boards to implement the requirements of the National Scheme, which has public safety at its heart. Further information is available at www.ahpra.gov.au.

Current standard

October 2013

Criminal history registration standard

Authority

This standard has been approved by the Australian Health Workforce Ministerial Council on <insert date> pursuant to the Health Practitioner Regulation National Law Act, as in force in each state and territory s 38 (1) (b) (the National Law) with approval taking effect from <insert date>.

Summary

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the 10 factors set out in this standard. While every case will need to be decided on an individual basis, these 10 factors provide the basis for the Board's consideration.

Scope of application

This standard applies to all applicants and all registered health practitioners. It does not apply to students.

Requirements

In deciding whether a health practitioner's criminal history is relevant to the practice of their profession, the Board will consider the following factors.

1. The nature and gravity of the offence or alleged offence and its relevance to health practice.

The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight that the Board will assign to it.

2. The period of time since the health practitioner committed, or allegedly committed, the offence.

The Board will generally place greater weight on more recent offences.

3. Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending.

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

- a. convictions
- b. findings of guilt
- c. pending charges
- d. non conviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information
- e. information which may explain why a non-conviction charge did not result in a conviction or finding of guilt.

4. The sentence imposed for the offence.

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

5. The ages of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence.

The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

6. Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the health practitioner committed, or allegedly committed, the offence.

The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.

7. The health practitioner's behaviour since he or she committed, or allegedly committed, the offence.

Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.

8. The likelihood of future threat to a patient of the health practitioner.

The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the health practitioner.

9. Any information given by the health practitioner.

Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.

10. Any other matter that the Board considers relevant.

The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered health practitioner to provide further information that may prejudice their personal situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

Note: the above factors have been numbered for ease of reference only. The numbering does not indicate a priority order of application.

Definitions

Criminal history is defined in the National Law as:

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law;
- every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence;
- every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

Under the National Law, spent convictions legislation does not apply to criminal history disclosure requirements.

Review

This standard will commence on <<insert date>>. The Board will review this standard at least every five years.



Aboriginal and Torres Strait
Islander Health Practice
Chinese Medicine
Chiropractic
Dental
Medical
Medical Radiation Practice
Nursing and Midwifery
Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Statement of assessment

Board's statement of assessment against AHPRA's *Procedures for development of registration standards* and *COAG principles for best practice regulation*

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the development of registration standards* which are available at: www.ahpra.gov.au

These procedures have been developed by AHPRA in accordance with section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law) which requires AHPRA to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme operates in accordance with good regulatory practice.

Below is the National Boards' assessment of its proposal to continue the existing *Criminal history registration standard* against the three elements outlined in the AHPRA procedures.

1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law

Board assessment

The Boards consider that continuing the existing Criminal History Registration Standard meets the objectives and guiding principles of the National Law.

The registration standard will protect the public by ensuring that National Boards apply the same factors to their consideration of an individual's criminal history.

The registration standard also supports the National Scheme to operate in a transparent, accountable, efficient, effective and fair way.

2. The consultation requirements of the National Law are met

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires a Board to consult other boards on matters of shared interest.

The Boards will ensure that there is public exposure of their proposal and there is the opportunity for public comment by undertaking an eight week public consultation process. This process includes the publication of the consultation paper (and attachments) on their websites.

The Boards have drawn this paper to the attention of key stakeholders.

The Boards will take into account the feedback received when finalising the review and deciding if there are any proposed changes to be recommended for submission to the Ministerial Council for approval.

3. The proposal takes into account the COAG principles for best practice regulation

Board assessment

In developing the proposal for consultation, the Boards have taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

As an overall statement, the Boards have taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the professions or the community.

The Boards make the following assessment specific to each of the COAG Principles expressed in the AHPRA procedures.

COAG Principles

A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

Board assessment

The Boards consider that the proposal is the best option for achieving the stated purpose. The proposal is to continue the existing standard which clearly lists factors for National Boards to consider, consistent with the criminal history screening requirements of the National Law. Therefore, at this stage, the Boards do not expect to impose any new requirements and anticipate the impact of the proposal will be minimal.

Continuing the existing registration standard will provide consistency for stakeholders. It is the Boards' view that the registration standard appropriately clarifies the factors that Boards take into account when considering criminal history matters.

The Boards consider that continuing the existing standard would have a minimal impact on the professions, which is significantly outweighed by the benefits of complying with the National Law, protecting the public and providing clarity and transparency, and that their approach is in the public interest.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

Board assessment

The Boards considered whether continuing the existing registration standard could result in an unnecessary restriction of competition among health practitioners. Continuing the existing standard will have no impact on competition, as it identifies a range of factors to be considered by the National Boards to assist consistent and appropriate decision-making, and is a registration standard that is mandatory to have, under the National Law.

C. Whether the proposal results in an unnecessary restriction of consumer choice

Board assessment

The Boards consider that consumer choice will not be affected by continuing the registration standard. Consumers expect to receive health services from qualified and safe practitioners. The requirement under the National Law for mandatory criminal history screening is a critical mechanism for protecting the public. Continuing this registration standard ensures that there is appropriate clarity and transparency about the factors National Boards take into account when reviewing criminal history matters and assessing whether a person's criminal history is relevant to his/her practice of the profession.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

Board assessment

The Boards considered the overall costs of continuing the existing registration standard to members of the public, registrants and governments and concluded that the costs are likely to be neutral to minimal, as this is an existing, required standard that has been administered since 1 July 2010. Regardless, any costs are appropriate when offset against the protection of the public benefits that this standard contributes to the National Scheme.

E. Whether the requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

Board assessment

The Boards consider the existing registration standard has been written in plain English that will enable practitioners and other interested parties to understand the requirements of the standard. However, the Boards are open to hearing from stakeholders about whether the clarity may be improved.

F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time

Board assessment

After the review, including if any changes are needed and approved by the Ministerial Council, the Boards will review the registration standard at least every five years, including an assessment against the objectives and guiding principles in the proposed National Law and the COAG principles for best practice regulation.

However, the Boards may choose to review the standard earlier than this, if it is necessary to ensure the standard's continued relevance and workability.

Overview

25 October 2013

Review of *English language skills registration standard*

Summary of issue

Purpose of the proposal

The Health Practitioner Regulation National Law (the National Law), as in force in each state and territory, requires a National Board to develop registration standards about five matters, including the requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession.

The first 10 National Boards to regulate registered health professions under the National Registration and Accreditation Scheme (the National Scheme) developed registration standards that were approved by the Australian Health Workforce Ministerial Council (Ministerial Council) and took effect on 1 July 2010. These standards were scheduled for review at least every three years, in keeping with good regulatory practice.

All National Boards participating in the review

The current *English language skills registration standards* are very similar for all professions in the National Scheme. Because the standards are largely common with only minor differences across Boards, all National Boards are participating in this review – except the Aboriginal and Torres Strait Islander Health Practice Board of Australia.

The Aboriginal and Torres Strait Islander Health Practice Board of Australia has an approved English language skills registration standard that differs from those of other National Boards to better reflect the specific nature of practice of this profession. The Board's approved standard has only been in effect since 1 July 2012 and was subject to the required wide-ranging consultation in preparation for the profession being regulated under the National Scheme. The Board considers that the current registration standard is clear and achieving its purpose.

The other three National Boards regulating their professions under the National Scheme from 2012 acknowledge that the timeframes for wide-ranging consultation on their draft proposals in 2011 were tight. Therefore, there are benefits in participating in the current review to identify any further opportunities to improve their registration standard, to maintain consistency of common documents, and to give stakeholders a further opportunity for input.

Participation in this review does not affect the operation of the current grand-parenting arrangements that the 2012 National Boards have established, including in relation to English language skills. For the Chinese Medicine Board, any changes to the standard would only apply to the post-grand-parenting phase (after 30 June 2015). This means there will be no change to the current communication requirements and grand-parenting arrangements as a result of this consultation.

The Nursing and Midwifery Board of Australia's (NMBA's) English Language Skills registration standard is not due for review until September 2014. However, the NMBA is participating in this review so that the board may consider any new evidence that might arise from this national review. The NMBA will consider modifications to its approved registration standard to provide additional flexibility without compromising the protective purpose of the standard, consistent with best available evidence and the outcomes of the all Boards review.

The National Law requires the Boards to ensure there is wide-ranging consultation on the content of any proposed registration standard.

Options statement

The Boards have considered a number of options in developing this proposal.

Option 1 – Status quo

Option 1 would continue with the existing registration standard. The registration standard requires practitioners applying for registration in Australia for the first time to undertake an English language skills test, unless they qualify for an exemption. A range of issues have been identified in relation to the current standard used by the 13 National Boards participating in this review.

Option 2 – Proposed revised standard

The National Boards commissioned research on English language skills. This research has helped inform the development of a revised English language skills registration standard that is largely common across the 13 National Boards participating in this consultation. A summary of the research is attached. National Boards have considered in the context of historical approaches, experience with the current regulatory position and the approaches of comparator jurisdictions.

The proposed revised standard provides more options for applicants to demonstrate their English language skills. It extends the period for which test results remain valid and provides more flexibility for applicants to count test results from more than one sitting in certain circumstances, while maintaining an appropriate focus on public safety.

Preferred option

The National Boards prefer Option 2.

Issues for discussion

Potential benefits and costs of the proposal

The benefits of the preferred option are that the draft revised standard:

- is more flexible and user-friendly
- strikes a better balance between protecting the public and impact on applicants
- reduces the cost to some applicants, and
- has been reworded to be simpler and clearer.

The costs of the preferred option are:

- applicants, other stakeholders, AHPRA and National Boards will need to become familiar with the new standard
- there will likely need to be a period of transition to the proposed revised standard, if approved
- some applicants will still need to sit an English language test.

Expanding the list of recognised countries

The recognition of English language skills developed by native speakers in countries such as Canada, New Zealand, Republic of Ireland, South Africa, United Kingdom and the United States of America generally reflects similar approaches by state and territory health practitioner boards in Australia before the National Scheme commenced.

In addition, the Department of Immigration and Citizenship exempts visa applicants from all of these countries except South Africa from English language skills testing.

These countries also generally have health care delivery systems with significant similarities to Australia. In most of these countries, health care is almost always delivered in English.

However, some applicants have argued that National Boards should recognise education in English from other countries, such as Hong Kong, Singapore and Malaysia. National Boards are interested in any evidence that would assist National Boards to assess whether there are any additional countries that should be recognised in their English language skills registration standard. National Boards are also interested in whether the list of recognised countries should be consistent with those countries

recognised by the Department of Immigration and Citizenship and if so, whether recognition of South Africa should be phased out over time.

Accepting test results from multiple sittings

The issue of whether National Boards should accept test results from multiple sittings is one of the most complex issues to be resolved in this review, and has been raised by stakeholders in past consultations.

Research does not provide a conclusive answer to this question.

Test providers advise that the validity and reliability of results from multiple test sittings depend on how the individual tests are constructed.

Accordingly, the Occupational English Test (OET) has advised that it is valid to accept test results from multiple sittings, after an applicant has initially sat all components of the test, provided the results are relatively close to the required level. This is because linguistic research has shown that a range of affective and physical factors can influence candidate performance on the test day, OET considers that in these circumstances a single sub-test re-sit is justifiable.

However, the International English Language Testing System (IELTS) advises that it was not designed to be a modular test. The four component modules are not offered as separate tests to be taken at different times. Rather, performance in the four skill areas is combined to provide a maximally reliable composite assessment of a candidate's overall language proficiency at a given point in time.

By contrast, some health professionals undertaking these tests argue that it is unfair that they are required to sit another full test when their test results are close to, but only slightly below the required standard. For example, an applicant who receives a score of 7 for three of the four components of the IELTS test, and a 6 or 6.5 on the fourth component would need to resit the full test under the current English Language Skills registration standard.

Some regulators within Australia and overseas have adopted a different approach to this issue. For example:

- the Chinese Medicine Board of Australia's current approved standard provides for completion of the International English Language Testing System examination (academic module) with an overall score of at least 7 with no individual score (in components of listening, reading, writing and speaking) below 6.5, and
- the Health and Care Professions Council in the United Kingdom, which regulates some professions that are also regulated in Australia under the National Law, as well as some that are not regulated in Australia, requires IELTS scores of level 7.0 with no element below 6.5.

Other proposed changes

The Pharmacy Board of Australia has proposed for applicants undertaking the International English Language Testing System (IELTS), to maintain the requirement to achieve a minimum score of 7 in each of the components (listening, reading, writing and speaking) and to remove the requirement that the applicant must achieve an overall score of 7.5. This will align with the current requirements of most other National Boards. The Pharmacy Board of Australia is interested in whether there is support for this change.

Questions for consideration

The Boards are inviting feedback on the following questions.

1. From your perspective, how is the current registration standard working?
2. Should the countries recognised in the standard be consistent with those countries recognised by the Department of Immigration and Citizenship for exemptions from English language testing? If so, should the recognition of South Africa in the National Boards' English language skills registration standard be phased out over time?
3. Is there any evidence to assist National Boards to assess whether there are any additional countries that should be recognised in their English language skills registration standard?

4. Do you have comments about how the National Boards should approach test results that are very close to, but slightly below, the current standard?
5. Should National Boards accept results from more than one sitting or is there a better way to address this issue, such as the approaches described above?
6. Is the content of the draft revised registration standard helpful, clear, relevant and more workable than the current standard?
7. Is there any content that needs to be changed or deleted in the revised draft registration standard?
8. Is there anything missing that needs to be added to the revised draft registration standard?
9. Do you have any other comments on the revised registration draft standard?

Attachments

The proposed revised *English language skills registration standard* is at [Attachment 1](#).

The Board's *Statement of assessment against AHPRA's Procedures for development of registration standards and COAG principles for best practice regulation* is at [Attachment 2](#).

The current English language skills registration standards are published on each National Boards' websites, accessible from www.ahpra.gov.au .

Background

There are 14 National Boards that regulate 14 professions under the National Registration and Accreditation Scheme (the National Scheme). Ten professions were regulated nationally under the National Scheme from 1 July 2010, and a further four professions became nationally regulated from 2012:

- Aboriginal and Torres Strait Islander Health Practice Board of Australia (from 1 July 2012)
- Chinese Medicine Board of Australia (from 1 July 2012)
- Chiropractic Board of Australia
- Dental Board of Australia
- Medical Board of Australia
- Nursing and Midwifery Board of Australia
- Medical Radiation Practice Board of Australia (from 1 July 2012)
- Occupational Therapy Board of Australia (from on 1 July 2012)
- Optometry Board of Australia
- Osteopathy Board of Australia
- Pharmacy Board of Australia
- Physiotherapy Board of Australia
- Podiatry Board of Australia, and
- Psychology Board of Australia.

The Australian Health Practitioner Regulation Agency (AHPRA) works in partnership with the National Boards to implement the requirements of the National Scheme, which has public safety at its heart. Further information is available at www.ahpra.gov.au.

Consultation draft

October 2013

Revised draft *English language skills registration standard*

Please note:

This consultation draft is being released by all National Boards except for the Aboriginal and Torres Strait Islander Health Practitioner Board of Australia. It contains a number of options for feedback identified in square brackets. There are some profession-specific aspects which are highlighted in boxes.

It also includes explanatory text in red which would be deleted in the final version of the standard.

Registration standard: English language skills

Effective from: <<date>>

Review date: <<date>>

The <xx> Board of Australia (Board) requires all applicants for initial registration to demonstrate English language skills to be suitable for registration.

This registration standard sets out how an applicant for registration can demonstrate to the Board that their competency in speaking and communicating in English is sufficient to practice the <xx> profession.

Does this standard apply to me?

This standard applies to all applicants for initial registration as defined.

See the *Definitions* section of this registration standard for the definition of initial registration.

It does not apply if you are applying for non-practising registration or if you are a student.

What must I do?

If you are applying for initial registration you must demonstrate English language competency in one of the following ways:

1. A combination of secondary education and tertiary qualifications, when you have undertaken and satisfactorily completed:
 - a. at least two years of your secondary education that was taught and assessed solely in English in one of the recognised countries (listed in the *Definitions* section of this standard); **and**
 - b. tertiary qualifications in the relevant professional discipline that were taught and assessed solely in English in one of the recognised countries.

[ALTERNATIVE FOR NURSING AND MIDWIFERY – see Appendix A]

OR

2. Extended studies undertaken solely in English, when you have undertaken and satisfactorily completed at least six years (full time equivalent) continuous education taught and assessed solely in English, in any of the recognised countries, which includes a tertiary qualification in the relevant professional discipline or a Board approved program of study for the <xx> profession.

OR

3. Accreditation by the National Accreditation Authority for Translators and Interpreters (NAATI) for translating and/or interpreting in English.

OR

4. Completion of one of the following tests of English language proficiency at the specified standard:

- a) the IELTS examination (academic module) with a minimum score of seven in each of the four components (listening, reading, writing and speaking). Results from (*Options for consultation*) [one] or [up to three] test sittings in a 12 month period may be used, only if all scores are 6.0 or above.
- b) the OET with an overall pass and grades A or B only in each of the four components. Results from more than one sitting may be used within a 12 month period.

OET NOT APPLICABLE FOR CHIROPRACTIC, OSTEOPATHY AND PSYCHOLOGY, AS OET HAS NOT YET DEVELOPED A SPECIFIC TEST FOR THESE PROFESSIONS

- c) other English language tests approved by the Board from time to time and published on the Board's website

ADDITIONAL OPTIONS FOR MEDICINE

successful completion of the NZREX; or
successful completion of the PLAB test.

ADDITIONAL OPTION FOR CHINESE MEDICINE

completion of the American Test for English as a Foreign Language (TOEFL test) including the spoken component and a minimum of 237 (test of written English 4.5).

Test results

The following additional requirements apply to the English language proficiency tests:

- You must make arrangements for test results to be provided directly to the Board by the testing authority; for example, by secure internet login; **and**
- Test results will be accepted if they were obtained:
 - within [two (*current position*)] or [three (*alternative for consultation*)] years prior to applying for registration; **or**
 - more than three years prior to applying for registration and you have actively maintained employment as a registered health practitioner in the <xx> profession using English as the primary language of practice in one of the recognised countries since the test result was obtained; **or**
 - more than three years prior to applying for registration and you are a registered student and have been continuously enrolled in a Board approved program of study since the test result was obtained and applied for registration within 12 months of completing the Board approved program of study.

You are responsible for the cost of English tests.

Exemptions

The Board may grant an exemption to this standard:

1. When you apply for limited registration in the following circumstances:
 - a. to perform a demonstration in clinical techniques
 - b. to undertake research that involves limited or no patient contact
 - c. to undertake a period of postgraduate study or supervised training Dental Board of Australia only that involves no patient contact while working in an appropriately supported environment that will ensure patient safety is not compromised.

Conditions will generally apply to these exemptions requiring supervision by a registered health practitioner and may also require the use of an interpreter.

The Board reserves the right at any time to revoke an exemption and/or require an applicant to undertake a specified English language test.

Authority

This registration standard was developed by the <<NAME>> Board of Australia under section 38 of the Health Practitioner Regulation National Law (the National Law) as in force in each state and territory after wide-ranging public consultation. It has been approved by the Australian Health Workforce Ministerial Council.

Definitions

A **recognised country** means one of the following countries:

- Australia
- Canada
- New Zealand
- Republic of Ireland
- South Africa
- United Kingdom
- United States of America.

Board approved program of study means an accredited program of study approved by the <name> Board of Australia under section 49(1) of the National Law and published in the Board's list of approved programs of study on the Board's website.

Initial registration - for the purpose of this registration standard an applicant for initial registration means:

- a practitioner applying for registration in Australia in the <xx> profession for the first time; **or**
- a practitioner applying for registration (including moving from non-practising to another registration type) who has not practised the profession in one of the recognised countries for five years or more

Initial registration does not include a practitioner who has had continual registration in the <xx> profession and is applying for a different category or division of registration in that profession, for example, a practitioner who holds provisional registration and is applying for general registration; or a practitioner who holds general registration and is applying for specialist registration.

IELTS means the International English Language Testing System

OET means Occupational English Test (OET) administered by the OET Centre.

MEDICINE ONLY

NZREX means New Zealand Registration Examination administered by the New Zealand Medical Council.

MEDICINE ONLY

PLAB test means the test administered by the Professional and Linguistic Assessments Board of the General Medical Council of the United Kingdom.

CHINESE MEDICINE ONLY

TOEFL means the Test for English as a Foreign Language.

Review

This standard will be reviewed at least every three years.

Last reviewed: XXXX

Appendix A – Draft English Language Skills Registration Standard

Requirements

ALTERNATIVE FOR NURSING AND MIDWIFERY

1. Applicants for registration

Registered nurses and registered midwives

- a). An applicant for registration as a registered nurse and/or a registered midwife who has provided evidence of completion of five (5) years*(full-time equivalent) of education taught and assessed in English, in any of the recognised countries listed in this registration standard, is considered to have demonstrated English language proficiency and has met the requirements of this standard;
- b). An applicant for registration as a registered nurse and/or a registered midwife who has not completed five (5) years*(full-time equivalent) of education taught and assessed in English, in any of the recognised countries listed in this registration standard, will be required to demonstrate English language proficiency in accordance with Board-approved English language tests.

*The completion of five (5) years (full-time equivalent) education taught and assessed in English means five (5) years full-time equivalent of either:

- i). tertiary and secondary; or
- ii). tertiary and vocational; or
- iii). combined tertiary, secondary and vocational education

taught and assessed in English in any of the recognised countries listed in this registration standard. These five (5) years must include evidence of a minimum of two (2) years full-time equivalent pre-registration program of study approved by the recognised nursing and/or midwifery regulatory body in any of the countries listed in this registration standard.

Enrolled Nurses

An applicant for registration as an enrolled nurse who has:

- c). provided evidence of completion of five (5) years*(fulltime equivalent) of education taught and assessed in English, in any of the recognised countries listed in this registration standard, is considered to have demonstrated English language proficiency and has met the requirements of this standard.

d). An applicant for registration as an enrolled nurse who has:

not completed five (5) years*(full-time equivalent) of education taught and assessed in English, in any of the recognised countries listed in this registration standard, will be required to demonstrate English language proficiency in accordance with Board approved English language tests.

*The completion of five (5) years (full-time equivalent) education taught and assessed in English means five (5) years full time equivalent of either:

- i) vocational and secondary; or
- ii) vocational and tertiary; or
- iii) combined vocational, secondary and tertiary education

taught and assessed in English in any of the recognised countries listed in this registration

standard. These five (5) years must include evidence of a minimum of one (1) year full-time equivalent in a pre-registration program of study approved by the recognised nursing and/or midwifery regulatory body in any of the countries listed in this registration standard.



Aboriginal and Torres Strait
Islander Health Practice
Chinese Medicine
Chiropractic
Dental
Medical
Medical Radiation Practice
Nursing and Midwifery
Occupational Therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Australian Health Practitioner Regulation Agency

Statement of assessment

Board's statement of assessment against AHPRA's *Procedures for development of registration standards* and *COAG principles for best practice regulation*

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the Development of Registration Standards* which are available at: www.ahpra.gov.au

These procedures have been developed by AHPRA in accordance with section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law) which requires AHPRA to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme operates in accordance with good regulatory practice.

Below is the National Boards' assessment of their proposal for a revised English Language Skills Registration Standard against the three elements outlined in the AHPRA procedures.

1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law

Board assessment

The Boards consider that the revised draft English language skills registration standard meets the objectives and guiding principles of the National Law.

The revised draft registration standard, if approved, will provide for the protection of the public by ensuring that applicants have the English language skills necessary to be suitable for registration in the profession. The revised draft standard will facilitate access to services, by providing more options for applicants to demonstrate that they have the necessary English language skills.

The revised draft registration standard also supports the National Scheme to operate in a transparent, accountable, efficient, effective and fair way.

2. The consultation requirements of the National Law are met

Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires a Board to consult other boards on matters of shared interest.

The Boards will ensure that there is public exposure of their proposal and there is the opportunity for public comment by undertaking an eight week public consultation process. This process includes the publication of the consultation paper (and attachments) on their websites.

The Boards have drawn this paper to the attention of key stakeholders.

The Boards will take into account the feedback they receive when finalising their proposals for submission to the Ministerial Council for approval.

3. The proposal takes into account the COAG Principles for Best Practice Regulation

Board assessment

In developing the revised draft registration standard for consultation, the Boards have taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

As an overall statement, the Boards have taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the professions or the community.

The Boards make the following assessment specific to each of the COAG principles expressed in the AHPRA procedures.

COAG Principles

A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

Board assessment

The Boards consider that the proposal is the best option for achieving the stated purpose. As the proposal creates more options to meet the required English language standard, the impact of the proposal is lower than the existing registration standard.

The revised draft registration standard will reduce costs and better balance the protection of the public with the burden on applicants.

The Boards consider that the revised draft standard would have a low impact on the professions. This low impact is significantly outweighed by the benefits of protecting the public and providing clearer, simpler requirements, in the public interest.

B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

Board assessment

The Boards considered whether their proposal could result in an unnecessary restriction of competition among health practitioners. The proposal is unlikely to significantly change the current levels of competition among health practitioners, but may help alleviate some unnecessary burdens on practitioners who need to demonstrate their English language proficiency to safely practice their profession in Australia.

C. Whether the proposal results in an unnecessary restriction of consumer choice

Board assessment

The Boards consider consumer choice will not be affected by the revised draft registration standard. The revised draft registration standard continues to support consumer choice, by requiring all practitioners to have the English language skills necessary to practise their profession safely, in accordance with the National Law.

D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

Board assessment

The Boards considered that the overall costs of continuing the existing registration standard to members of the public, registrants and governments and concluded that the likely costs are appropriate when offset against the benefits that this revised draft standard contributes to the National Scheme.

Subject to stakeholder feedback on the proposed revisions and if approved by the Ministerial Council, the revised draft standard should reduce the costs to applicants by providing more ways to meet the standard and extending the validity period of test results. This is expected to reduce the number of tests that some applicants will need to take.

E. Whether the requirements are clearly stated using ‘plain language’ to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

Board assessment

The Boards consider the revised draft registration standard has been written in plain English that will enable practitioners to understand the requirements of the standard. The Boards have changed the structure of the standard and reviewed the wording to make the standard easier to understand.

F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time

Board assessment

If approved, the Boards will review the revised registration standard at least every three years, including an assessment against the objectives and guiding principles in the National Law and the COAG principles for best practice regulation.

However, the Board may choose to review the standard earlier, if it is necessary to ensure the standard’s continued relevance and workability.

English language skills for health professionals

8 October 2013

Summary of research findings

Background

The National Boards are conducting a scheduled review of their registration standards, after three years experience with the National Scheme. To support evidence-based policy setting, the National Boards commissioned research on English language skills for health professionals.

The research, undertaken in 2012/13 by Professor Lesleyanne Hawthorne (Australian Health Workforce Institute, Faculty of Medicine, Dentistry and Health Sciences, University of Melbourne), included an examination of the evidence base in relation to current Australian English language skills registration standard requirements in health fields and the requirements of comparative international regulators. The research was framed in a broad context, including migration issues and included analysis of a range of issues outside the scope of the registration standard. The National Boards are publishing this summary of key aspects of the research on English language skills for health professionals as additional background for this consultation.

Next steps

National Boards will consult widely on a revised English language skills registration standard. The revised standard will reflect the Boards' consideration of this research, historical approaches, three years practical experience of the current regulatory position and the approaches of comparator jurisdictions.

Before finalising the standard and referring it to Ministerial Council for approval, the National Boards will consider the feedback provided through the extensive public consultation process. The Boards expect to consult on the revised English language skills registration standard later in 2013.

Summary of research outcomes

| | |
|--|--|
| Limits to the research base | The literature to inform English language skills registration standards to date is slight. Few health-specific studies exist. Many are based on small sample sizes. There are major research gaps. |
| Global ELSRS practice in medical and allied health fields | Global regulatory bodies adopt highly variable requirements in terms of English testing. This is currently a dynamic area of policy. Regulators may specify few or multiple tests; different test types (ranging from generic, to field-specific, to embedded, to interview-based); require diverse scores by test and field; allow different types of exemption; permit variable lengths of result validity (ranging from six to 24 months, which may vary from Immigration eg three years in Australia); and impose different operational requirements (for example to pass sub-tests at a single or sequential sittings). |

| | |
|---|---|
| <p>Range of acceptable tests</p> | <p>International English Language Testing System (IELTS) and Test of English as a Foreign Language (TOEFL) are the main tests accepted worldwide, with TOEFL dominant in select parts of Asia and North America.</p> <p>IELTS is accepted for skilled migration and OET is also accepted for health professionals for skilled migration. The relatively new Pearson Test of English Academic and the TOEFL iBT have been approved since November 2011 for student visa purposes in Australia. .</p> <p>The National Boards' current reference to IELTS and OET is consistent with the approach of other global health regulators.</p> |
| <p>Standard-setting</p> | <p>Existing research does not provide a clear direction about the English language test results that National Boards should require. In terms of benchmarking, global health regulatory bodies accept a range of test results, with IELTS scores ranging from 6 on some skills to 7.5 overall, with 7 the norm. There is limited research to validate these levels in the context of health practitioner regulation. While National Board requirements are consistent with many other regulators, tests also have differential impacts by field with some professions having higher failure rates.</p> |
| <p>Requirement to pass all four subtests at a single sitting</p> | <p>The research does not provide a conclusive answer to this question.</p> <p>Test providers advise that the validity and reliability of results from multiple test sittings depend on how the individual tests are constructed.</p> <p>Accordingly, the Occupational English Test (OET) has advised that it is valid to accept test results from more than one sitting, after an applicant has initially sat all components of the test, provided the results are relatively close to the required level. This is because linguistic research has shown that a range of affective and physical factors can influence candidate performance on the test day and OET considers that in these circumstances it is justifiable to allow a single sub-test re-sit to achieve the required score.</p> <p>However, the International English Language Testing System (IELTS) advises that it was not designed to be a modular test. The four component modules are not offered as separate tests to be taken at different times. Rather, performance in the four skill areas is combined to provide a maximally reliable composite assessment of a candidate's overall language proficiency at a given point in time.</p> |
| <p>Length of test result validity</p> | <p>The length of test result validity may merit review (particularly for candidates resident and engaged in clinical practice in Australia). A range of studies have demonstrated that 'high proficiency learners plateau for several years until attrition begins', within minimal change anticipated in a 3-4 year period for users scoring IELTS 7 and OET B (or higher), even with little or no use. The Department of Immigration and Citizenship has recently moved to a three-year validity period for English Language test results.</p> |

| | |
|------------------------|---|
| Test validity | While some research has been conducted on test validity in relation to the OET, there is very limited scientific evidence to date concerning the test's predictive or consequential validity. No research examining the validity of IELTS as a measure of English language skills for health professional registration was found, despite the existence of a substantial range of IELTS validity studies for other purposes. |
| Test exemptions | <p>The researcher acknowledged that defining English test exemptions is challenging. The research indicates that global health profession regulatory bodies have different exemptions from English language testing, ranging from no exemptions; to native English speakers from defined source countries; to international students qualified in the host country; to international students qualified in the host country having also completed secondary education in English.</p> <p>For skilled migration to Australia, exemptions are granted for passport holders from Canada; New Zealand; Ireland; UK; and the USA. Exemptions are granted by health regulators in some of the comparator countries for those who completed their studies in these countries.</p> <p>In relation to exemptions for former international students who have qualified for registration in Australia the research demonstrates minimal IELTS gains between entry and exit scores for students completing degrees over enrolment periods spanning 3 to 4.5 years. While some students improve, others get worse, and many remain stable.</p> |
| Conclusion | The research does not yet provide conclusive positions on key issues, and the National Boards are therefore considering the research in the context of historical approaches, experience with the current regulatory position and the approaches of comparator jurisdictions. |