Targeted consultation

Draft guidance

Sexual misconduct and the National Law

1 September 2025

1. Overview

1.1 Registered health practitioners who have engaged in professional misconduct involving sexual misconduct will have additional information about that conduct permanently recorded on the national register (the additional information). The change is retrospective, meaning it applies from when a health profession was first regulated under the National Registration and Accreditation Scheme.

1.2 This change to the National Law[1] will start on a date to be decided by Governments. We anticipate this will be around April 2026.

1.3 National Boards have a very limited discretion to determine whether a tribunal finding of professional misconduct involves sexual misconduct. The Boards will not be reviewing or seeking to overturn the tribunal's findings in deciding to publish the additional information.

1.4 The tribunal process to hear serious matters involving allegations of professional misconduct is rigorous and ensures that the allegations and evidence are tested in an independent forum before a finding is made.

1.5 Additional information must not be published on the register contrary to a court or tribunal non-publication order. For example, if names are suppressed or pseudonyms are used in the tribunal decision. In most tribunal decisions, patient, client or witness names are de-identified.

1.6 While a Board's determination within this narrow scope will not be subject to merits review by a state or territory tribunals, a practitioner may be able to challenge the Board's decision through judicial review. The information must be removed if the tribunal's professional misconduct decision is overturned or stayed on appeal. The National Boards keep their discretion to not publish regulatory history information for health and safety reasons. Practitioners are entitled to confidentiality regarding their personal health.

1.7 Draft guidance (**Attachment A**) has been developed for use by National Boards. In the absence of a statutory definition of sexual misconduct, the National Boards will apply a consistent set of principles and examples to guide regulatory determinations. The draft guidance explains how the National Boards will determine whether behaviour constitutes sexual misconduct by registered health practitioners. It defines the scope, impact, and serious consequences of such misconduct and reinforces the commitment of the National Boards to protecting public health and safety.

2. Supports for the public and practitioners

2.1 We understand that references to sexual misconduct can be distressing. If you need help, support is available. You can access 24-hour phone and online support services from the national sexual assault, family, and domestic violence helpline: 1800 Respect. 13YARN can provide crisis support for Aboriginal and Torres Strait Islander Peoples.

2.2 Registered health practitioners who have had a concern raised about them are encouraged to contact their insurer, professional association or legal adviser for guidance and support. We publish information on general and profession specific support services here.

2.3 People who come forward to us with their concerns about sexual misconduct are offered support. Ahpra expanded its social work-led Notifier Support Service (NSS) which provides support to victims and survivors to navigate the regulatory and Tribunal process. The NSS program has proven to meet a significant need, receiving 278 referrals since its commencement in September 2021. The social workers' backgrounds variously include experience with DPP victim and witness support, criminal justice, sexual assault, domestic violence and Office of the Public Advocate.

[1] Health Practitioner Regulation National Law as in force in each state and territory

3. Consultation questions and submission information

3.1 We invite your feedback to help us improve the clarity and workability of the draft guidance. We will publish FAQs to help inform practitioners and the public about this change. Submissions to this targeted consultation will help us to develop this information. All feedback will be considered.

3.2 The consultation questions are below. You may decide to answer some, or all, of the questions.

1. Is the content of the draft guidance clear?
   Is the language as plain and simple as it could be?
   Could the content of the guidance be improved?
2. Is the structure of the draft guidance logical and easy to follow?
   If not, what changes would help improve this?
3. Is the process that the National Boards and Ahpra follow to publish the additional information on the public register clear?
   If not, please tell us what was not clear, and what changes could be made to make it more understandable
4. Is our explanation of the categories of sexual misconduct clear in the draft guidance?
   If not, how can we improve this?
5. In addition to FAQs, is there any other type of information or resource we could develop to help practitioners and the public better understand the publication of this additional information?
   If so, what would be most helpful?
6. Do you have any other feedback that you would like to provide?

3.4 Consultation on the draft guidance will be open for five weeks to close of business **Monday, 6 October 2025.**

3.5 Please complete the **response form** and submit by email to nationallawamendments@ahpra.gov.au. We ask that you use this form to provide your feedback as it will help us analyse responses.

3.6 We will treat your response as **confidential** and your feedback **will not** be published. If Ahpra receives a request for access to a confidential submission, it 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.

3.7 If you have any queries, please contact the Ahpra project team via email above.

4. Key issue in the draft guidance

<table>
<tr><th colspan="2">Determining whether professional misconduct involves sexual misconduct</th></tr>
<tr><td>WHAT is the issue?
Under the change to the National Law, National Boards will need to decide whether a tribunal's finding of professional misconduct by a practitioner involves sexual misconduct. If it does, then additional information is published on the register.
The National Law does not define sexual misconduct.
There are a wide range of behaviours that have the potential to fall within the term's ordinary meaning.
National Boards must produce guidance on what factors will be considered when deciding whether a finding of professional misconduct involves sexual misconduct, leading to publication on the register.</td><td>HOW is this approached in the draft guidance?
The draft guidance does not attempt to provide an exhaustive definition of sexual misconduct.
The draft guidance sets out categories and examples of sexual misconduct, depending on the facts of the particular case.
The draft guidance has been informed by the Explanatory notes to the Amendment Act; the Medical Board of Australia's Guidelines: Sexual boundaries in the doctor-patient relationship; and the Independent review of the use of chaperones to protect patients in Australia and follow-up report Three years on: Changes in regulatory practice since Independent review of the use of chaperones to protect patients in Australia.</td></tr>
<tr><td colspan="2">WHY this approach?
The boundaries of sexual misconduct in healthcare are not always clear, and cases often fall into legal and ethical grey areas.
These situations may not involve criminal behavior, or there may not be an obvious sign of sexualised intent, but they still raise serious concerns about professional conduct and patient safety.
The Board will use the guidance to consider the individual factors of a case, to determine whether the proven professional misconduct involves an element of sexual misconduct. Each case will be assessed by the Board, taking into account all relevant circumstances, including cultural sensitivities and the patient or client perspective.
In determining whether the conduct is sexual misconduct, National Boards are to consider the relevant tribunal decision in the context of the main guiding principle of the National Law – namely the protection of the public and public confidence in the safety of services provided by registered health practitioners. This means that National Boards will take into account whether the finding will assist to protect the public and maintain confidence in the profession.</td></tr>
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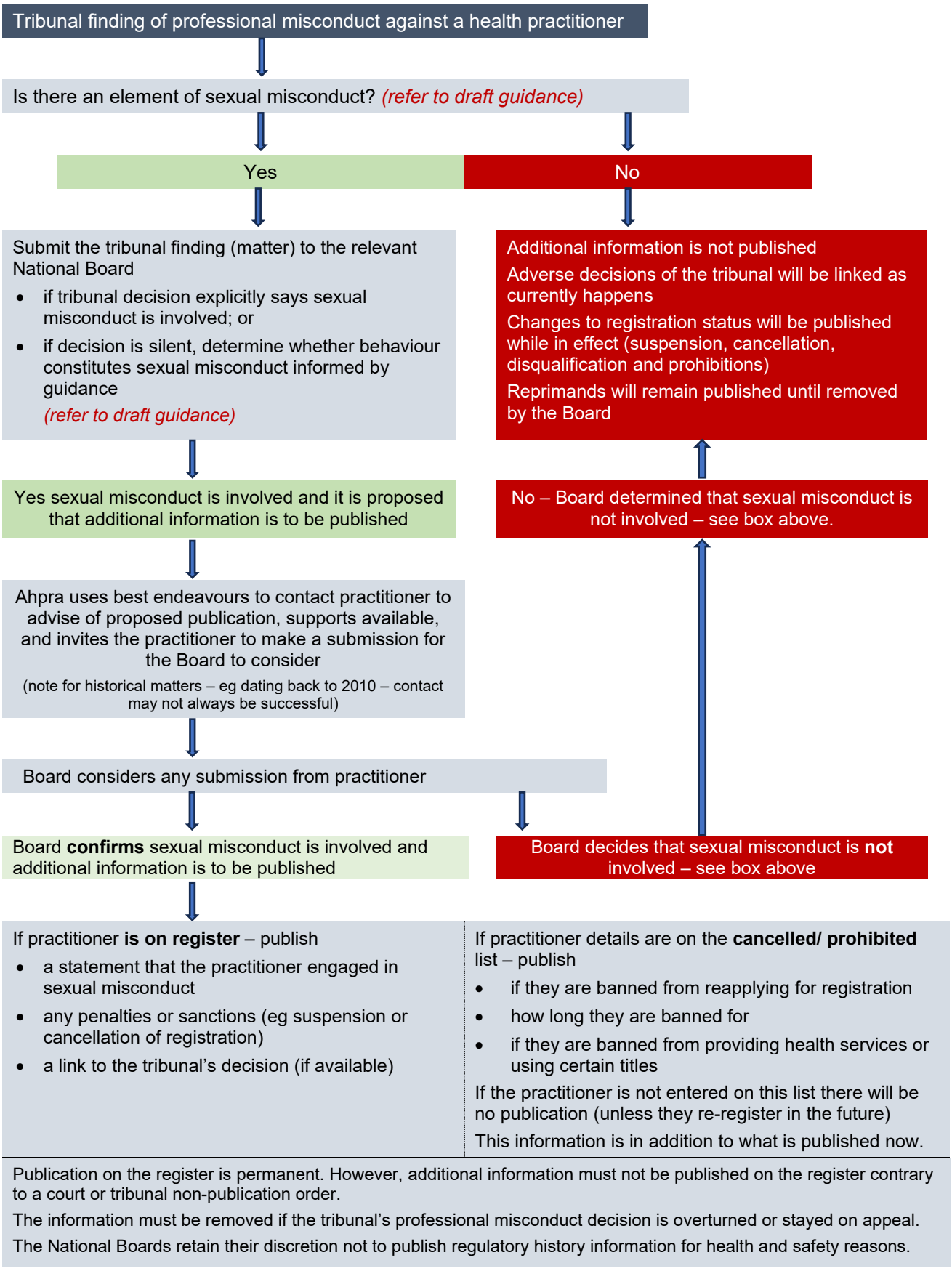
5. Process map

The Regulatory Guide sets out how Ahpra and the National Boards manage notifications about the health, performance and conduct of practitioners.

Below is a flowchart to show the process to publish the additional information, including where the guidance is intended to be used.


Tribunal finding of professional misconduct against a health practitioner
Is there an element of sexual misconduct? (refer to draft guidance)
Yes
No
Submit the tribunal finding (matter) to the relevant National Board
if tribunal decision explicitly says sexual misconduct is involved; or
if decision is silent, determine whether behaviour constitutes sexual misconduct informed by guidance
(refer to draft guidance)
Additional information is not published
Adverse decisions of the tribunal will be linked as currently happens
Changes to registration status will be published while in effect (suspension, cancellation, disqualification and prohibitions)
Reprimands will remain published until removed by the Board
Yes sexual misconduct is involved and it is proposed that additional information is to be published
No – Board determined that sexual misconduct is not involved – see box above.
Ahpra uses best endeavours to contact practitioner to advise of proposed publication, supports available, and invites the practitioner to make a submission for the Board to consider
(note for historical matters – eg dating back to 2010 – contact may not always be successful)
Board considers any submission from practitioner
Board confirms sexual misconduct is involved and additional information is to be published
Board decides that sexual misconduct is not involved – see box above
If practitioner is on register – publish
a statement that the practitioner engaged in sexual misconduct
any penalties or sanctions (eg suspension or cancellation of registration)
a link to the tribunal's decision (if available)
If practitioner details are on the cancelled/ prohibited list – publish
if they are banned from reapplying for registration
how long they are banned for
if they are banned from providing health services or using certain titles
If the practitioner is not entered on this list there will be no publication (unless they re-register in the future)
This information is in addition to what is published now.
Publication on the register is permanent. However, additional information must not be published on the register contrary to a court or tribunal non-publication order.
The information must be removed if the tribunal's professional misconduct decision is overturned or stayed on appeal.
The National Boards retain their discretion not to publish regulatory history information for health and safety reasons.

6. Next steps

6.1 Following consideration of stakeholder feedback, Ahpra will finalise the guidance and seek agreement from the Boards. We intend to publish the final guidance.

6.2 We will also prepare and publish a consultation report on Ahpra's National Law changes webpage.

7. Background to the changes to the National Law

7.1 The *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2025* (the amendment Act) includes a change to the National Law to expand information that is available on the public register about practitioners who have engaged in professional misconduct involving sexual misconduct. The amendment Act is available here.

7.2 There was public consultation before the legislative bill of amendments was finalised and introduced into Queensland Parliament. The Explanatory Notes to the Bill (pages 18 to 19) provide a good summary of the consultation.

7.3 The Australian Health Practitioner Regulation Agency (Ahpra) is tasked with implementing the changes to the National Law, in partnership with the National Boards. More information on our implementation activities and resources is available on our National Law amendments webpage.

8. Glossary

Ahpra	Australian Health Practitioner Regulation Agency
Jurisdictions	State, territory and Commonwealth health departments
Ministerial Council	Health Ministers from each state and territory and the Commonwealth
National Boards	15 National Boards established for the 16 registered health professions
National Law	Health Practitioner Regulation National Law, as in force in each state and territory
Professional misconduct	is defined in the National Law as meaning: (a) unprofessional conduct by the practitioner that amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience (b) more than one instance of unprofessional conduct that, when considered together, amounts to conduct that is substantially below the standard reasonably expected of a registered health practitioner of an equivalent level of training or experience (c) conduct of the practitioner, whether occurring in connection with the practice of the health practitioner's profession or not, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession.
Tribunal	A state or territory civil and administrative tribunal that hears the most serious matters (and appeals) involving registered health practitioners under the National Law. For example, in Victoria it is the Victorian Civil and Administrative Tribunal (VCAT), while in Queensland it is the Queensland Civil and Administrative Tribunal (QCAT).