



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

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 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 These submissions will not be published on the website or elsewhere.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 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: The Australian Society of Medical Imaging and Radiation Therapy

Contact email: [REDACTED]

☐ Myself

Name: [Click or tap here to enter text.](#)

Contact email: [Click or tap here to enter text.](#)

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 standard does provide the considerations decision makers need to balance when someone with a criminal history applies for / remains / does not remain registered. The considerations properly consider those considerations to ensure only those health professionals who are safe and suitable people are registered to practice.

The statement related to this (B.11) appears to be reasonable and is just one of the considerations the document advises to be considered (age and time since offence being others). Perhaps the wording in the overview was unnecessary and superfluous.

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:

ASMIRT believes that the information is appropriate.

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:

ASMIRT concurs that the information provided in Attachment B is very useful in explaining the 10 considerations and are a necessary inclusion in the Registration standard. For example, the primacy of public protection is important to headline these considerations.

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:

ASMIRT seeks clarity on the lack of references to racial groups in the current standard. ASMIRT believes that the current standard is clear and gives decision makers the ability to consider mitigating factors. The standard does not require the decision maker to deny registration if the applicant has a criminal history but sets guidance appropriately on taking the nature of the criminal activity into account.

<p>Question 5</p> <p>Is there anything you think is missing from the 10 factors outlined in the current <i>Criminal history registration standard</i>? If so, what do you think should be added?</p>
<p>Your answer:</p> <p>ASMIRT agrees that each of the 10 factors are relevant and there does not appear to be anything lacking.</p>
<p>Question 6</p> <p>Is there anything else you would like to tell us about the <i>Criminal history registration standard</i>?</p>
<p>Your answer:</p> <p>A reference to criminal history in relation to Student Registration in the Registration Standard would be helpful. Although this is outlined in the explanatory notes to the consultation (<i>When does a National Board Consider a person's criminal history?</i>), ASMIRT suggests that the standard should reference student registration. There is good information on the AHPRA website, however ASMIRT would like to ensure that all students are cognizant of the criminal history check requirements during the course of their studies. ASMIRT would like to engage with the regulators to collaboratively provide clear concise documentation to all students when they commence their programs and a reminder whilst participating in their undergraduate programs.</p>

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:

ASMIRT suggests that it is of vital importance to understand the decision-making process for the purposes of transparency.

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:

ASMIRT agrees that a robust effort has been made to ensure that the principles outlined are comprehensive and useful to provide additional information and support the standard.

It would be worth considering that as each case is different and has different mitigating circumstances, sometimes it may be very difficult to provide this information.

ASMIRT suggests the provision of anonymized case studies to educate and demonstrate the decision-making process.

Question 9

Is there anything else you would like to tell us about the information set out in **Attachment B**?

Your answer:

ASMIRT acknowledges that whilst there is no doubt that past injustices against Aboriginal and Torres Strait Islander Peoples and other Australians, have led to increased incidences of criminal convictions and a criminal history for these people, the victims of crime are still the victims of crime, irrespective of the background of the perpetrator.

These regulations should focus on protecting the public from all criminal behaviour, regardless of its causative reasons. Investigating and minimising/eliminating racism towards Aboriginal and Torres Strait Islander Peoples and other Australians, while important, is the function of processes other than this one.

There are many factors and variables which have contributed to Aboriginal and Torres Strait Islander Peoples and other Australians holding a criminal history record. ASMIRT do not believe that they have been given a criminal history purely because of their race.

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:

ASMIRT suggests that care needs to be taken with being prescriptive about categorising offences in this manner. ASMIRT believes that it is important to have a benchmark.

For example, multiple convictions for drug use may be a justifiable reason to deny registration.

The decision makers should take all the information about the individual concerned into account and not make decisions about registration from a list. Whilst outlining categories of criminal offenses is useful, a hierarchy of criminal offenses can provide a systematic, explainable and defensible evidence base upon which decisions can be made.

It requires the decision-makers to be able to justify their decision-making process, which forms a vital aspect of acceptance. This is a similar approach to that taken by Sports Integrity Australia.

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:

ASMIRT suggests that Category A offences could be considered as significant enough to discontinue registration. As the intent of the regulators is for the purposes of public safety, it would not be ideal for a person with a murder or rape conviction to be imaging patients especially vulnerable paediatric patients.

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:

ASMIRT seeks to clarify the lack of discourse around Sexual Misconduct. This has not been listed in Attachment C, however item 7 page 5 of the background preamble utilised this as an example and reason to review the standards.

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:

ASMIRT acknowledges that outcomes of decisions are published on the above websites, however the decision-making process is not published. The ideal situation is for sufficient information to be published, so that the public are provided with enough detail for them to make an informed decision as to whether they wish to attend an individual practitioner.

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:

ASMIRT strongly agrees with this being published. A patient who may have experienced this in the past will be vulnerable. ASMIRT believes that all patients should have access to this information, to enable them to make an informed decision as to whether they wish to or be comfortable attending an individual practitioner.

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:

ASMIRT suggests that for transparency purposes and delivering on the aim to "protect the public," this information should be made publicly available.

Publishing information in context of the misconduct is required.

Focus area four – Support for people who experience professional misconduct by a registered health practitioner

Question 16

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.)

Your answer:

Whilst ASMIRT agrees with the aims of paragraph 47, ASMIRT suggests the provision of more detail specifying how a how a victim impact statement would be delivered to the health professional who has committed professional misconduct.

ASMIRT members have engaged with practitioners where the provision of such statements has been very therapeutic. However, the opposite effect has resulted where the perpetrator was perceived to be immune to any impact of unprofessional behavior, which ultimately was unhelpful to the victim.

ASMIRT suggests that the victim should always be given choices in provision and delivery of impact statements.

Question 17

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?

Your answer:

Professional misconduct can affect individuals in multiple ways and the effects may not present immediately. ASMIRT suggests that there may need to be access to counselling to support the affected individuals, prior to their visiting another healthcare professional from the same profession.

ASMIRT suggests detailing a process for the affected individual which may also include a referral back to their GP for support.

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:

ASMIRT suggests that research (local or international) on public attitudes must be carefully considered. While criminal codes set a standard for behavior in a community, they have been developed over centuries. Nonetheless, the criminal code has evolved as community attitudes have become more liberal (e.g. in relation to laws in relation to sexuality), but there is equally concerns about when public attitudes become more fascist in nature (e.g. pre-World War II Germany).

The Westminster system of government in Australia does provide for the criminal law to change, according to the determination of parliament and the judiciary (including precedent).

Question 19

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

Your answer

ASMIRT are interested to measure any re-attendance rates of notifiers to the same profession.

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:

ASMIRT believes that regular reporting and conversation between Ahpra and relevant bodies in each jurisdiction can highlight areas of regular occurrences, inconsistencies in approaches and solutions to provide a consistent approach to managing public expectations.