



## Health Professional Councils Authority

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Mr Martin Fletcher  
Chief Executive Officer  
Australian Health Practitioner Regulation Agency  
GPO Box 9958  
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Email: [criminalhistoryconsult@ahpra.gov.au](mailto:criminalhistoryconsult@ahpra.gov.au)

Dear Mr Fletcher

### **Re: Consultation on International Criminal History Checking**

Please accept this late submission from the Health Professional Councils Authority on behalf of the Chinese Medicine Council of New South Wales, the Optometry Council of New South Wales, the Osteopathy Council of New South Wales, the Pharmacy Council of New South Wales and the Podiatry Council of New South Wales.

In terms of the most appropriate option for international criminal records checking each of the above Councils supported the adoption of option 5 as outlined in the consultation paper. The Osteopathy Council also questioned whether another option might be for an applicant to consent to their criminal history check being obtained from the Australian Department of Immigration.

The Councils were divided on the issue of whether a three month stay or a six month stay in a jurisdiction should trigger a criminal records check in that jurisdiction. Both the Optometry Council and the Osteopathy Council support a three month stay triggering a check, whilst the Chinese Medicine Council, the Pharmacy Council and the Podiatry Council each support a six month stay triggering a criminal records check.

Other issues that have been raised by Councils during this consultation process are:

#### Declarations

There is some concern that the proposed checking process will only occur in those international jurisdictions for which the applicant has disclosed that they have spent the prescribed period of time. The process therefore remains reliant on the applicant to truthfully declare each of those overseas jurisdictions, and there is no mechanism to check the accuracy of such a declaration. No solution to this concern has been identified.

Fees and charges

Both the Optometry and Podiatry Councils expressed concern that the cost of international criminal record checks may be a disincentive to a full disclosure by applicants and suggested that a portion of each applicant's registration fees, whether the applicant is subject to an international criminal record check or not, be quarantined to pay for these checks, thereby reducing the cost to individual applicants.

Applicability to China

The Chinese Medicine Council noted that China has a specific process for obtaining criminal records clearance and that this process requires the applicant to apply in person at a Notary Public Office in China. The Council queried how the proposed option would apply to applicants who have spent considerable amounts of time in China.

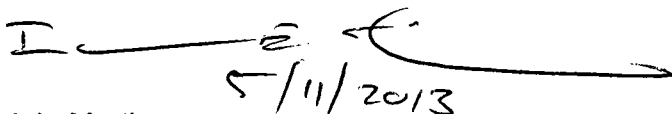
Civil Litigation

While this is not directly relevant to the matter of international criminal records checks the Osteopathy Council also recommended that applicants for registration be required to disclose whether or not they had been found liable to pay damages in civil litigation in Australia, including professional negligence litigation.

Finally the Health Professional Councils Authority seeks clarification from you as to what mechanism will be adopted for dealing with practitioners who have been registered on the basis of a false declaration regarding their international criminal record. Arguably any such registration is void on the basis of having been obtained by fraud and can be cancelled by the relevant National Board. A clear indication from AHPRA as to the proposed manner of dealing with such cases and the statutory basis for doing so is an essential aspect of good policy development in this area.

Please contact me by email [REDACTED] or by telephone on (02) [REDACTED] if I can provide you with any additional information.

Yours sincerely



5/11/2013

Iain Martin  
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