

Public consultation document

18 December 2017

Proposed mandatory registration standards:

- English language skills
- Criminal history

Public consultation

The Paramedicine Board of Australia (the Board) is releasing this public consultation paper seeking feedback from stakeholders on the draft proposed registration standards for English language skills and criminal history.

Your feedback

You are invited to provide feedback by email using the template published with this consultation paper to paramedicine@ahpra.gov.au by close of business on 8 February 2018.

1. A template is provided to assist you in providing your feedback. Please provide your feedback in Word format, but you are welcome to supply a PDF file of your feedback in addition to the Word (or equivalent) file, but at least one version must be in Word. . As part of an effort to meet international website accessibility guidelines, AHPRA and the Board 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.

How your submission will be treated

1. Submissions will generally be published unless you request otherwise. The Board publishes submissions on its website to encourage discussion and inform stakeholders and the community. However, the Board retains the right not to publish submissions at its discretion, and will not place on its website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.
2. Before publication, the Board will endeavour to remove, as much as possible, any information that personally identifies individuals making submissions, including their contact details.
3. The views expressed in submissions are those of the individuals or organisations who submit them and publication does not imply any acceptance of, or agreement with, those views by the Board.
4. The Board will 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 These submissions will not be published on the website or elsewhere.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 (Cth)*, which has provisions designed to protect personal information and information given in confidence.

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

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Overview of consultation

18 December 2017

Proposed mandatory registration standards:

- English language skills
- Criminal history

Summary

1. The Health Practitioner Regulation National Law as in force in each state and territory (the National Law) requires the Paramedicine Board of Australia (the Board) to develop registration standards about certain matters including:
 - requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession, and
 - 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.
2. In each case the Board has carefully considered the objectives and guiding principles of the National Law, the Regulatory principles for the National Scheme¹ and the cross professional work done by other National Boards in deciding what it should propose in relation to these standards. Like other National Boards, the Board has adopted a risk-based approach to its work and has drawn on the publications and experiences of other National Boards in relation to these registration standards as well as other sources of information.
3. The Board consulted with its key stakeholders in November and December 2017 on draft registration standards. The comments received were taken into consideration when developing this version for public consultation.
4. The Board is inviting general comments on its proposed registration standards. There is an overview before each proposed draft that explains the proposed standard. There are also specific questions about the registration standards that you may wish to address in your response.
5. It is clear from the National Scheme review outcomes that governments expect National Boards to take advantage of the opportunities for multi-profession collaboration within the National Scheme. The proposed standards in this consultation have benefited from the collective experience of and the cross professional work carried out in the National Scheme in relation to these standards.
6. Similarly, governments expect National Boards to develop consistent approaches across professions rather than maintaining historic profession-specific approaches unless there are clear and robust reasons to support them, such as differentiated evidence of risk. This expectation has been reinforced in correspondence from the Ministerial Council when approving the last tranche of revised health professions' registration standards for other professions in the National Scheme
7. Across these two mandatory registration standards, only a few small variations have been made from the common registration standards already used by most other National Boards². This has been deemed necessary due to the nature of paramedicine education and practice. These include: removal of a reference to the OET test in the English language skills standards as no test currently exists for paramedicine in the OET framework; and the inclusion of a reference to training in the profession in addition to tertiary qualifications which the Board feels is relevant to demonstrating English language

¹ The National Registration and Accreditation Scheme.

² The English language skills registration standard is common to all National Boards except the Nursing and Midwifery and Aboriginal and Torres Strait Islander health professions Boards. The criminal history registration standard is common to all professions.

competency as some paramedics receive their training in the profession and outside of a tertiary education environment.

8. Generally the proposed standards all include a five-year review period, with an option for earlier review if required. This reflects the approach used by other National Boards. In the case of the English Language Skills Registration Standard it is proposed that the standard be reviewed in time to be superseded at the end of the 'grandparenting' period when the requirement for profession specific variations will have receded and a stronger alignment with the common approach used by other professions can be considered.
9. The Board proposes to develop and provide supporting material for example, a fact sheet) to guide practitioners as to their responsibilities in reporting criminal history matters and how this standard is applied.

Next steps

10. The Board will consider the consultation feedback on the proposed registration standards before finalising the documents for Ministerial Council³ approval.

³ COAG Health Council.

English language skills

Background

11. The Health Practitioner Regulation National Law (the National Law) requires National Boards to develop a registration standard about requirements about the English language skills necessary for an applicant for registration in the profession to be suitable for registration in the profession.
12. Section 55 of the National Law provides that a practitioner is unsuitable for registration if their speaking or otherwise communicating in English is insufficient for the individual to practice the profession.
13. Once finalised, the Board proposes to provide supporting material (for example, fact sheets) for practitioners and applicants to assist them in better understanding the requirements of this standard.

Questions for consideration

The Board is inviting feedback on the following questions:

1. From your perspective, does the proposed standard adequately fulfil the Board's requirements to set English language skills standards for the paramedicine profession?
2. Is the content of the proposed registration standard helpful, clear, relevant and workable?
3. Is there any content that needs to be changed or deleted in the proposed registration standard?
4. Is there anything missing that needs to be added to the proposed registration standard?
5. Do you have any other comments on the proposed registration standard?

Proposed registration standard

Registration standard: English language skills

Effective date: This registration standard is effective from <<date>> and will apply for a limited time of three years from that date to align with the *Registration standard: Grandparenting*.

The Paramedicine Board of Australia (the Board) requires all applicants for **initial registration**⁴ 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 practise the paramedicine profession.

Does this standard apply to me?

This standard applies to all applicants for **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 your English language competency in one of the following ways:

1. English is your **primary language** and you have undertaken and satisfactorily completed:
 - a. all of your primary and **secondary education** which was taught and assessed solely in English in a **recognised country**, and
 - b. **qualifications or training in the profession**, which you are relying on to support your eligibility for registration under the **National Law**, which were taught and assessed solely in English.

OR

2. You have a combination of secondary education and **qualifications or training in the profession**, where you have undertaken and satisfactorily completed:
 - a. at least two years of your **secondary education** which was taught and assessed solely in English in a recognised country; and
 - b. **qualifications or training in the profession**, which you are relying on to support your eligibility for registration under the **National Law**, which were taught and assessed solely in English in a **recognised country**.

OR

3. 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 **qualifications or training in the profession** which you are relying on to support your eligibility for registration under the **National Law**.

For the purpose of items 1, 2 and 3 the last period of education must have been completed no more than five years prior to applying for registration.

⁴ Bolded terms are defined in the *Definitions* section of this registration standard.

OR

4. You achieve the required minimum scores in one of the following English language tests and meet the requirements for **test results** specified in this standard:
- a. the IELTS (academic module) with a minimum overall score of 7 and a minimum score of 7 in each of the four components (listening, reading, writing and speaking).

NOTE:

We will only accept test results:

- i. from one test sitting, or
- ii. a maximum of two test sittings in a six month period only if:
 - you achieve a minimum overall score of 7 in each sitting, and
 - you achieve a minimum score of 7 in each component across the two sittings, and
 - no score in any component of the test is below 6.5.
- b. the **PTE Academic** with a minimum overall score of 65 and a minimum score of 65 in each of the four communicative skills (listening, reading, writing and speaking).

NOTE:

We will only accept test results:

- i. from one test sitting; or
- ii. a maximum of two test sittings in a six month period only if:
 - a minimum overall score of 65 is achieved in each sitting; and
 - you achieve a minimum score of 65 in each of the communicative skills across the two sittings; and
 - no score in any of the communicative skills is below 58.
- c. the **TOEFL iBT** with a minimum total score of 94 and the following minimum score in each section of the test:
 - 24 for listening;
 - 24 for reading;
 - 27 for writing; and
 - 23 for speaking.

NOTE:

We will only accept test results:

- i. from one test sitting; or
- ii. a maximum of two test sittings in a six month period only if:
 - a minimum total score of 94 is achieved in each sitting, and you achieve a minimum score of 24 for listening, 24 for reading, 27 for writing and 23 for speaking across the two sittings; and
 - no score in any of the sections is below:
 - 20 for listening;
 - 19 for reading;
 - 24 for writing; and
 - 20 for speaking.
- d. other English language tests approved by the Board from time to time and published on the Board's website with the required minimum scores.

Test results

The following requirements apply to the English language **test results**:

1. **Test results** will be accepted if they were obtained:

1.1 within the two years before the date you lodge your application for registration.

OR

1.2 more than two years before the date you lodge your application for registration if, in the period since the **test results** were obtained, you:

- have been in **continuous employment** as a paramedic (which commenced within 12 months of the date of the test) in one of the **recognised countries** where English was the primary language of practice; and
- lodge your application for registration within 12 months of finishing your last period of employment.

OR

1.3 more than two years before the date you lodge your application for registration if, in the period since the test result was obtained, you:

- have been continuously enrolled in a **Board approved program of study** (which commenced within 12 months of the date of the test) and undertook subjects in each semester, with no break from study apart from the education provider's scheduled holidays; and
- lodge your application for registration within 12 months of completing the **Board approved program of study**.

2. For the purposes of calculating time, if an applicant relies on **test results** from two sittings, time begins to run from the date of the earlier sitting.

Exemptions

1. The Board may grant an exemption to this standard 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; or
- c. to undertake a period of postgraduate study or supervised training while working in an appropriately supported environment that will ensure patient safety is not compromised.

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

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

More information

1. Practitioners who meet this standard on the basis of results from an English language test will be asked to declare that they have continued to use English as their primary language when they apply to move from non-practising to practising registration.

2. Further information regarding the evidence that applicants must provide to the Board to prove that they meet this standard is set out in the relevant application form.

3. Your test results will be verified independently with the test provider.

4. You are responsible for the cost of English language tests.

Authority

This registration standard was approved by the Ministerial Council on <<date>>

Definitions

Board approved program of study means an accredited program of study approved by the Paramedicine 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.

Continuous employment means working the equivalent of at least 26 weeks per year.

IELTS means the International English Language Testing System.

Initial registration means:

- a practitioner applying for registration in Australia in the paramedicine profession for the first time, **or**
- a practitioner applying for registration (including moving from non-practising to another registration type) who has not used English as their **primary language** for a period of greater than five years, **or**
- a practitioner who currently holds limited registration on the basis that they were granted an exemption from this standard in the limited circumstances described under *Exemptions* and who is applying for another type of registration.

Initial registration otherwise does not include a practitioner who has had continual registration in the paramedicine profession and is applying for a different category of registration in that profession, for example, a practitioner who holds provisional registration and is applying for general registration.

National Law means the *Health Practitioner Regulation National Law Act* as in force in each state and territory.

Practising registration means provisional, general, or limited registration.

Primary language means the language primarily used for reading, writing, listening, and speaking and the language known best and most comfortable with.

PTE Academic means the Pearson Test of English Academic.

Qualifications and training in the profession means the qualifications you hold or the education and training you have undertaken to qualify you for registration as a paramedic in Australia. To meet this definition, the education and training you have undertaken must have a defined curriculum and formal assessment. **Recognised country** means one of the following countries:

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

Secondary education means Australian school years 7 through to 12, even where year 7 is classified as part of primary school in a particular state or territory.

Six years (full time equivalent) continuous education means education over a period of six consecutive calendar years without a break from study apart from the education institutions' (e.g. school or university) scheduled holidays.

Student means a student currently registered under the National Law.

Test results means the official results provided by the English language test provider. If you are providing test results from two test sittings as defined, the results from both sittings must meet the requirements of this standard.

TOEFL iBT means the Test of English as a Foreign Language internet-based test.

Two test sittings in a six month period means that the dates of the sittings must not be more than six months apart. For example, if your first test sitting was on 1 March, the second sitting must be no later than 30 August. If you are providing test results from two sittings, you may provide results of any two tests taken within a six month period as defined.

Review

This standard will be reviewed at least every five years.

Last reviewed:

Criminal history

Background

14. The National Law requires National Boards to develop a registration standard about 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.
15. Section 55 of the National Law provides that a practitioner is unsuitable for registration if having regard to the individual's criminal history to the extent that is relevant to the individual's practice of the profession, the individual is not, in the Board's opinion, an appropriate person to practise the profession or it is not in the public interest for the individual to practise the profession.
16. Once finalised, the Board proposes to provide supporting material (for example, fact sheets) for practitioners and applicants to assist them in better understanding the requirements of this standard.

Questions for consideration

The Board is inviting feedback on the following questions.

1. From your perspective, does the proposed standard adequately fulfil the Board's requirements to set a standard in relation to the criminal history of practitioners including the matters to be considered in deciding whether an individual's criminal history is relevant to the practice of the paramedicine profession?
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 Board?
3. Is the content of the proposed registration standard helpful, clear and relevant?
4. Is there any content that needs to be changed or deleted in the proposed registration standard?
5. Is there anything missing that needs to be added to the proposed registration standard?
6. Do you have any other comments on the proposed registration standard?

Proposed registration standard

Registration standard: Criminal history

Effective from: <<date>>

Summary

This registration standard sets out the factors the National Board will consider in deciding whether a health practitioner's criminal history is relevant to the practice of their profession under the Health Practitioner Regulation National Law as in force in each state and territory (the National Law). While every case will need to be decided on an individual basis, these 10 factors provide the basis for the Board's consideration.

Does this standard apply to me?

This standard applies to all applicants for registration 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; and
- 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 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. The 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.

Review

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

Authority

This registration standard was approved by the Ministerial Council on <<date>>.

Registration standards are developed under section 38 of the National Law and are subject to wide ranging consultation.

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, and
- 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. This means that when making a declaration about criminal history, applicants and registered health practitioners must declare their entire criminal history, from Australia and any other country, including any spent convictions.

Statement of assessment

The Board's statement of assessment against AHPRA's Procedures for development of registration standards, codes and guidelines and COAG principles for best practice regulation

Proposed mandatory registration standards:

- English language skills
- Criminal history

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the development of registration standards, codes and guidelines* which are available at <http://www.ahpra.gov.au/Publications/Procedures.aspx>.

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 (the National Scheme) operates in accordance with good regulatory practice.

Below is the Board's assessment of its proposal for its proposed registration standard and guidelines 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 Board considers that the proposed registration standards meet the objectives and guiding principles of the National Law.

The proposal takes into account the National Scheme's key objective of protecting the public by ensuring only persons who are suitably trained and qualified in a competent and ethical manner are granted general registration.

The Proposed registration standard: English language skills, if approved, will provide for the protection of the public by ensuring that practitioners will have the English language skills necessary to be registered as a paramedic under the National Law, There are an adequate number of pathways available within the standards for an applicant to demonstrate their suitability in this regard.

The Proposed registration standard: Criminal history, if approved, will provide for the protection of the public by ensuring that practitioners who have a criminal history are considered in a fair and transparent manner, and that those who have a criminal history that may place the public at undue risk of harm may be deemed unsuitable and prevented from achieving registration under the National Law.

The proposed registration standard and guidelines also support the National Scheme to operate in a transparent, accountable, efficient 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 and guidelines. The National Law also requires the Board to consult other boards on matters of shared interest.

The Board will ensure that there is public exposure of its proposals and there is the opportunity for public comment by carrying out both preliminary and public consultation processes. This process will include the publication of the consultation paper (and attachments) on its website.

The Board has drawn this paper to the attention of key stakeholders in the preliminary phase of consultation.

The Board will take into account the feedback it receives when finalising its proposals for submission to the Ministerial Council for approval.

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

Board assessment

In developing the proposed registration standards and guidelines for consultation, the Board has taken into account the Council of Australian Governments (COAG) Principles of Best Practice Regulation.

As an overall statement, the Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community.

The Board makes 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 Board considers that its proposals are the best options for achieving the stated purposes. It is expected the proposals may affect some practitioners.

The Board considers that the proposed standards would have a moderate impact on the profession. These impacts are significantly outweighed by the benefits of protecting the public and providing clearer, simpler requirements, in the public interest.

The Board has carefully considered the objectives and guiding principles of the National Law, the Regulatory principles for the National Scheme⁵ and the cross professional work done by other National Boards in deciding what it should propose in relation to these standards. Like other National Boards, the Board has adopted a risk-based approach to its work and has drawn on the publications and experiences of other National Boards in relation to these registration standards as well as other sources of information.

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

Board assessment

The Board considered whether its proposals could result in an unnecessary restriction of competition among health practitioners. Because the proposals apply in the same way to all registered practitioners, they are not expected to impact on the current levels of competition among health practitioners.

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

⁵ The National Registration and Accreditation Scheme

Board assessment

The Board considers that the proposed registration standards will support consumer choice, ensuring there are risk appropriate, transparent and consistent requirements in relation to English language skills and criminal history.

Having clear registration standards with requirements appropriate to the risk and practice of the particular profession helps consumers understand what to expect from registered practitioners and supports consumer choice.

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

Board assessment

The Board considered the overall costs of the proposed registration standards to members of the public, registrants and governments and concluded that the likely costs are appropriate when offset against the benefits that the proposed registration standards contribute to the protection of the public.

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 Board considers the proposed registration standards have been written in plain English that will help practitioners to understand the requirements of the standards. The Board has ensured the structure and wording of the standards are clear and easy 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 Board will review the proposed registration standards 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 Board may choose to review the standards earlier, in response to any issues that arise or new evidence which emerges to ensure the standards' continued relevance and workability.