

7 November 2013

Dr Joanne Katsoris
Executive Officer, Medical
Australian Health Practitioner Regulation Agency
GPO Box 9958
MELBOURNE VIC 3001

By email: criminalhistoryconsult@ahpra.gov.au

Dear Dr Katsoris

Consultation on International Criminal History Checking

We welcome the opportunity to provide input into the consultation on the options for refining international criminal history checks used by AHPRA in assessing applications for registration.

We have already provided submissions¹ on AHPRA's previous consultation on international criminal history checking. The previous consultation presented 4 options, and in our submissions Avant supported option 4. Under this option, applicants would make a declaration and AHPRA would undertake random audits to ensure compliance with the declaration approach.

AHPRA has now proposed a further, fifth option whereby an applicant would provide a declaration, and this would be supported by international criminal history checking by an external provider, at the expense of the applicant.

Comments on option 5

Avant's view is that option 5 strikes a reasonable balance between risk, undertaking comprehensive checks where appropriate, and not imposing unnecessary delays on applicants becoming registered.

Our members have experienced months of delays in processing registration applications. Option 5 would hopefully contribute to a reduction in registration delays.

¹ Submissions dated 16 August 2012

However, we have two significant concerns:

1. A criminal history from another country needs to be treated with caution. As indicated in the consultation paper, "Offences in some countries are not offences under Australian Law... There are also countries where the criminal justice system is less robust and a conviction may be made on the basis of questionable evidence or the applicant may make a claim of persecution." It is essential that any criminal history be examined carefully before challenging an applicant's declaration. We note that the Criminal History Registration Standard outlines the various factors that the Board takes into account in considering an applicant's criminal history.
2. If there is a criminal conviction, then there must be a considered approach in the action taken. The matter must be appropriately investigated and a balanced and fair decision be made about what action AHPRA or the Board would take in the circumstances.

We repeat the comment made in our earlier submission that where an applicant has already, as a part of his or her visa process, provided a criminal history clearance with his or her visa application, AHPRA should gain access to and rely upon that clearance in considering the applicant's application for registration. Where a clearance has been obtained, it would be unnecessary to undertake a further criminal history check as this would lead to duplication and additional cost.

Costs are an issue, particularly if the applicant has worked in a number of countries. We submit that there are alternatives in reducing the applicant's financial burden such as a fixed fee for a criminal history check or, alternatively, splitting the cost between AHPRA and the applicant, dependant on the number of criminal history checks required.

The process for criminal history checking needs to be made clear, particularly the process in circumstances where there is a conflict between the criminal history check and the applicant's declaration.

It is vital that an applicant be given an opportunity to provide submissions on their criminal history before any decisions are made that affect their registration.

Conclusion

AHPRA recognises that it is a balancing act between the protection of the public and the procedural and financial burdens on the individual applicant. There clearly needs to be an appropriate criminal history checking. Our concerns relate to making sure that there is a fair and balanced process in assessing the criminal history and that the appropriate action is taken (if any) in the individual circumstances.



Please contact me or Helen Turnbull if you require any further information or clarification of the matters raised in this letter.

Yours sincerely

Georgie Haysom
Head of Advocacy

Direct: (02) 9260 9185

Email: georgie.haysom@avant.org.au