

Policy and Procedure: Criminal History Checking: Board Policy



Chiropractors Board
of Queensland



Dental Technicians
and Dental Prosthetists
Board of Queensland



Medical Radiation Technologists
Board of Queensland



Occupational Therapists
Board of Queensland



Optometrists Board
of Queensland



Osteopaths Board
of Queensland



Pharmacists Board
of Queensland



Physiotherapists Board
of Queensland



Podiatrists Board
of Queensland



Psychologists Board
of Queensland



Speech Pathologists
Board of Queensland

1.0 Purpose and Scope of Policy

- 1.1 The purpose of this policy is to define the Boards' standard for conducting Criminal History checks and assessment.
- 1.2 Criminal History checking is an element of the fitness to practise requirement for registration under s45 of the Dental Practitioners Registration Act 2001 (the Act).
- 1.3 This policy applies to all new applications for registration under the Act, received on or after 1st July 2009.
- 1.4 The Mutual Recognition (Queensland) Act 1992 and the Trans-Tasman Mutual Recognition (Queensland) Act 2003 do not provide for the Boards to conduct Criminal History checks on Mutual Recognition applicants.

2.0 Introduction and relevant legislation

- 2.1 Each health practitioner registration Board has a statutory responsibility, in determining an applicant's eligibility for registration, to ensure that applicants for registration are fit to practise the profession. To meet this responsibility, under s45(1)(c) the Board will consider the applicant's Criminal History, as defined in schedule 4 of the Act.
- 2.2 The Board will only consider this information in so far as it may impact on the applicant's fitness to practise the profession.

3.0 Definition of 'Criminal History'

- 3.1 In accordance with schedule 4 of the Act, Criminal History of a person, means all of the following:
 - a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act;
 - b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act
- 3.2 As per s42(3) of the Act, the *Criminal Law (Rehabilitation of Offenders) Act 1986* does not apply to the disclosure, or consideration, of Criminal History.

4.0 Jurisdictions

- 4.1 In determining an application for registration, the Board will consider any charge or conviction which is disclosed in;

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- a) an Australian Criminal History Check
 - b) a Police Certificate, or equivalent, from the relevant international authority
 - c) the applicant's application
- 4.2 Australian Criminal History checks will be conducted by the Board under ss45(4) and 45(5) of the Act.
- 4.3 A Police Certificate, or equivalent, detailing any overseas Criminal History must be provided by the applicant (see policy *Criminal History Checking: Applicant policy*).
- 4.4 Applications will not be considered until the Australian and necessary overseas Police Certificate(s), or equivalent, has been received by the Board.

5.0 Consideration of Applicant's Criminal History

- 5.1 In considering an applicant's Criminal History, the Board may exercise its inquiry powers either by investigating the applicant or giving notice to the applicant pursuant to powers under s46(1)(a) and (b) of the Act.
- 5.2 The Board may consider any charges or convictions from Australia or any other jurisdictions in so far as they impact on an applicant's fitness to practise the profession.
- 5.3 The Board acknowledges the presence of mitigating and aggravating factors with respect to criminal charges and convictions. The Board will have regard to the specific circumstances of each offence and will apply a greater weighting to its consideration of recent offences and its consideration of convictions as opposed to charges.
- 5.4 The Board is committed to the principles of natural justice. In cases where the Board's preliminary view is to refuse, or impose conditions upon, registration, the Board will provide the applicant with an opportunity to make a submission (see further information under 6.0 Decision and Appeals)

6.0 Decision and Appeals

- 6.1 The Board may decide to:
- a) Register the applicant;
 - b) Register the applicant with conditions; or
 - c) Refuse registration.
- 6.2 If the Board reaches a preliminary view to b) or c) as a result of Criminal History information, the applicant will be notified and given an opportunity to make a submission within a reasonable time period, as stated in the relevant correspondence.
- 6.3 Upon receipt of the applicant's submission, the Board will consider all information before it, having regard to all qualification and fitness to practise issues, in reaching a final decision.

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6.4 If the applicant does not make any submission within the time period, the Board's preliminary view will be formalised as the final decision.

6.5 If the final decision is b) or c) the Board will provide the applicant with Notice of this decision, including reasons and details of appeal rights.

7.0 Exemptions

7.1 The Board will consider granting an exemption to the applicant's requirement to provide an overseas Police Certificate, or equivalent, in specific circumstances (see policy *Criminal History Checking: Applicant policy*).

8.0 Timeframes

8.1 The Board will endeavor to process all applications in a timely manner; however as the Criminal History checking process relies on numerous external agencies, exact time frames may vary depending upon the ease and speed of obtaining specific information.

9.0 Policy review

9.1 This policy will be reviewed annually from the date of endorsement, with amendments to be proposed to Boards as required.

9.2 The Director, Registration Services Program will be responsible for conducting the review of the policy and recommending amendments to the Boards.