



Optometrists Board of Queensland

# Optometrists Board of Queensland

## Policy and Procedure: Criminal History Checking: Applicant Policy



Chiropractors Board of Queensland



Dental Board of Queensland



Dental Technicians and Dental Prosthetists Board of Queensland



Medical Radiation Technologists Board of Queensland



Occupational Therapists 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 applicant's rights and obligations with respect to Criminal History checking.
- 1.2 Criminal History checking is an element of the fitness to practise requirement for registration under s45 of the Optometrists Registration Act 2001 (the Act).
- 1.3 This policy applies to all new applications for registration under the Act, received on or after 1<sup>st</sup> 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) of the Act 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 may 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.
- 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 Australian Criminal History Checks**

- 5.1 All applicants must make a declaration as to whether they hold a Criminal History in any jurisdiction within Australia. They must provide with this, a full explanation of the circumstance and detail of the criminal history and include any documents or correspondence received from the courts or law enforcement authorities relating to the charge(s) and / or conviction(s).
- 5.2 All applicants must undergo an Australian Criminal History check.
- 5.3 This will be coordinated by the Board upon receipt of a complete application.
- 5.4 Applicant's information will be released to the Commissioner of the Police Service under s45(4) of the Act.
- 5.5 Under s45(5) of the Act, the Commissioner must return a written report (Police Certificate), which may include information from the CrimTrac Agency and other Australian Police Services.
- 5.6 The cost for this check will be covered by the application fee for registration.

### **6.0 Overseas Criminal History Declaration**

- 6.1 All applicants must make a declaration as to whether they hold a Criminal History in any jurisdiction outside of Australia. They must provide with this, a full explanation of the circumstance and detail of the criminal history and include any documents or correspondence received from the courts or law enforcement authorities relating to the charge(s) and / or conviction(s).
- 6.2 Any applicant who does hold an overseas Criminal History must provide with their application, a Police Certificate, or equivalent, from the law enforcement authority of each relevant jurisdiction.
- 6.3 The certificate must be issued no earlier than three months prior to the date of application for registration.

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- 6.4 The certificate must be in English, or translated by a certified translator (see policy *Translation of documents*).
- 6.5 The certificate may be in the form of a certified copy (see policy *Witnessing & certifying documents*).
- 6.6 Any costs associated with providing overseas Police Certificates will be borne by the applicant.

### **7.0 Requesting a Waiver**

- 7.1 If an applicant with an overseas Criminal History is unable to obtain an overseas Police Certificate(s), or equivalent, they must provide a sworn statement to the Board detailing the reasons why and request that the Board grant an exemption to this requirement (6.2).
- 7.2 The applicant's submission should include any documentation upon which they wish to rely in support of the request for exemption.
- 7.3 A separate exemption must be sought for each relevant jurisdiction.
- 7.4 Suitable grounds for exemption may include
- a) obtaining the certificate would cause the applicant undue hardship (not including financial hardship)  
  
e.g. the applicant fears persecution if contacting authorities of this jurisdiction, or the relevant jurisdiction is deemed to be in a current state of administrative chaos.
- 7.5 Failure to provide any of the required documents will result in the application being incomplete, and will delay processing (see policy *Incomplete applications*).

### **8.0 Providing False or Misleading Information**

- 8.1 Applicants must certify that the personal information they provide is true and correct.
- 8.2 If it is subsequently discovered that an applicant has provided false or misleading documents or information, they may risk deregistration under the Act and may be liable for other penalties, including significant fines or imprisonment, should the Board seek to have the breach prosecuted.
- 8.3 Applicants should note that the existence of a Criminal History does not lead to automatic refusal of registration, however making a false declaration may lead to cancellation of registration under the Act.

### **9.0 Privacy Statement**

- 9.1 Applicants are asked to provide personal information so the Board can assess their suitability for registration.

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- 9.2 The information will be used to ensure that the Criminal History record released is that of the applicant, and not another person with the same name.
- 9.3 If an applicant has any concerns about the information that may be released as the result of a Criminal History check, they should contact Queensland Police, or the relevant Police Service in another jurisdiction.
- 9.4 The results of the Criminal History check will remain the property of the Board and will be kept on the applicant's personal file.
- 9.5 For any other information regarding privacy and freedom of information, please refer to the Board's Privacy and Security Policy.

### **10.0 Decision and Appeals**

- 10.1 The Board may decide to:
- a) Register the applicant;
  - b) Register the applicant with conditions; or
  - c) Refuse registration.
- 10.2 If the Board reaches a preliminary view to b) or c) as the 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.
- 10.3 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.
- 10.4 If the applicant does not make any submission within the time period, the Board's preliminary view will be formalised as the final decision.
- 10.5 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.

### **11.0 Timeframes**

- 11.1 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.

### **12.0 Policy review**

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

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