

## 1. Background

The Health Practitioner Regulation National Law (the **National Law**) is in force in each Australian state and territory. The National Law creates the Australian Health Practitioner Regulation Agency (**Ahpra**), National Health Practitioner Boards (**National Boards**) and the Agency Management Committee, which oversees and controls Ahpra's affairs. The National Law also provides for individuals to be appointed to perform particular functions under that law (such as assessors and inspectors who deal with complaints about health practitioners). In this policy, these entities and people are called 'we', 'us' and 'our'.

## 2. Purpose

The purpose of this policy is to give you a better understanding of our personal information handling practices – that is, how we collect, use, store and disclose personal and health information.

## 3. Overview

We use personal and health information to carry out our work under the National Law.

Our main role is to ensure the community has access to a safe health workforce across all professions registered under the National Registration and Accreditation Scheme. We do this by performing five core regulatory functions: professional standards; registration; notifications; compliance; and accreditation.

Ahpra is a national organisation and we choose to act consistently with the requirements of the *Privacy Act 1988* (Cth) (**Privacy Act**) and the Australian Privacy Principles found in that Act.

In addition to the Privacy Act, the National Law places obligations on Ahpra and the National Boards to maintain privacy and confidentiality over 'protected information', which means information that comes to a person's knowledge in the course of, or because of, that person exercising functions under the National Law.

We respect individuals' privacy and are committed to protecting individuals' personal information.

## 4. Collection of personal information and health information

In general, we only collect personal or health information to carry out our functions and activities under the National Law.

**Personal information** is information or an opinion about you or that could reasonably identify you. Information does not need to be true or recorded in a material form to be classified as personal information.

**Health information** is any personal information that relates to your health, including information about illness, injury or disability.

Ahpra and the National Boards perform a number of functions under the National Law, including:

- overseeing the accreditation of programs of study for health practitioners
- overseeing assessment of the knowledge and skills of overseas-trained applicants for registration
- registering health practitioners, imposing conditions on registration, and monitoring compliance, and

- overseeing the receipt, assessment and investigation of notifications (complaints) about health practitioners, and deciding the outcome of those complaints (including referral to adjudication bodies).

#### **4.1 The type of personal information and health information we collect**

The kind of personal information we may collect includes:

- your name;
- your contact details, including email, postal addresses and phone number;
- your occupation; and
- if applicable, details about your notification.

Much of the information we collect about notifications is sensitive because of the nature of our work.

#### **4.2 How we collect personal information and health information**

Whenever possible, we aim to collect personal information directly from the individual it relates to. For example, we do this when a practitioner applies for, or renews, their registration. When this occurs, we will tell the person why we need the information, what we will use it for, and when we might disclose it.

You can view our collection statements for different types of collection [here](#).

We usually collect personal and health information in the following ways:

- you provide this information directly to us via online forms, email, phone calls or other communications. This includes:
  - personal information of registered practitioners, people applying for registration, and complainants/notifiers;
  - personal information, including health information and criminal history information, of practitioners who have applied for registration or who have been subject to a notification/complaint or investigation;
  - personal information of people mentioned in a complaint, such as other health practitioners, and health information about patients who make a complaint or who are referred to in a complaint;
  - financial information when health practitioners pay registration fees; and
  - personal information of people who apply for a job with us.
- through agencies which are required to provide information to us so that we can carry out our functions.

Before 2010, many of our functions were performed by various state and territory bodies. We inherited records from those bodies when the National Law began in 2010, which contain personal and health information associated with registration, complaint and investigation files, public register information and general administration files.

#### **4.3 Unsolicited personal information**

We may receive personal information about you from someone else (unsolicited personal information), such as when:

- a person making a complaint/notification provides information about another person (such as the practitioner being complained about, other health practitioners, or other patients)
- we receive information from a practitioner's education provider or employer for registration purposes

- an investigation or assessment involves asking other people for information or an assessment of a health practitioner about whom a notification/complaint has been made, or
- we ask other government agencies to perform a criminal history check (where a practitioner has consented to this), or to confirm a practitioner's identity or immigration status.

Unsolicited personal information held by us will be dealt with in accordance with the same privacy protections that apply to solicited information.

Where possible and reasonable in the circumstances, we will endeavour to advise individuals when we have obtained their personal information from someone else. There may be circumstances in which it would not be appropriate for us to do this, for example in the course of an investigation or notification process.

#### **4.4 Our website**

Our website may record and log information about you for statistical purposes and to help us improve services. Information collected may include:

- server address
- top-level domain name
- the date and time of your visit
- pages accessed and documents downloaded
- previous sites visited
- if you have visited our website before
- type of browser used
- type of device used (phone, tablet, PC).

We use 'cookies' on our websites to make them easier to use. You can prevent the use of cookies through your browser settings, but this may affect your ability to use the full functionality of the website.

Further, we use Funnelback, which is a third party hosted service, to enhance search capability within our websites and improve their accessibility features. This service collects the key words you use to search our websites along with your IP address.

We require all third party service providers to comply with the Privacy Act and impose, as far as possible, confidentiality and privacy obligations at least as demanding as those that apply to us.

### **5. Use and disclosure of personal information and health information**

In some circumstances we will use and disclose personal information, subject to our obligations under the Privacy Act, the Australian Privacy Principles and our Confidentiality Policy (see section 7).

#### **5.1 General**

We only use and disclose personal information for the purpose it was collected (the primary purpose) to perform our role and activities.

We cannot disclose your personal information for another reason (a secondary purpose) unless an exemption applies. Exemptions include:

- you give consent or would reasonably expect the use or disclosure
- for the purposes set out in our collection statements, including in the notifications process (see sections 5.2 and 6).

- to our legal and professional advisers and service providers (and we will ensure, as far as possible, these people are bound by confidentiality and privacy obligations at least as demanding as those that apply to us)
- to other Health Complaints Entities (**HCE**) such as the Office of the Health Ombudsman in Queensland or the Health Care Complaints Commission established in New South Wales in accordance with the National Law
- where permitted, required or authorised by law
- where we reasonably believe the disclosure is necessary:
  - for enforcement related activities conducted by an enforcement body
  - to lessen or prevent a serious threat to a person's life, health, safety or welfare
  - to lessen or prevent a serious threat to public health, public safety or public welfare
- where Ahpra makes a statement to the media or publishes reports on its activities which contain personal information which is already publicly available

## 5.2 Notifications process

There are two sets of personal information that are relevant in the notifications process: the personal information of a patient and the personal information of a notifier.

Sometimes, the notifier and the patient are the same person.

We will ask for the notifier's consent to disclose their personal information to the practitioner before that information is disclosed.

If the concern is about care provided to a patient, it is almost always necessary to tell the practitioner who the patient is to enable the practitioner to respond to the notification. However, if the notifier is the patient, we will seek the notifier's consent prior to disclosing this information.

We may also need to tell the practitioner the notifier's name if this is necessary to enable the practitioner to respond to the notification. However, we will request the notifier's consent to do this. You can also request that we do not share the notifier's name with the practitioner. Please refer to section 6 below in relation to dealing with us confidentially or anonymously.

## 5.3 Freedom of Information

Ahpra is subject to the *Freedom of Information Act 1982 (Cth)* (**Freedom of Information Act**), and may be required to disclose personal information as required by that Act.

Ahpra applies the requirements of the Freedom of Information Act in accordance with the Freedom of Information Guidelines published by the Office of the Australian Information Commissioner (**FOI Guidelines**) when making Freedom of Information decisions. Further information in relation to the FOI Guidelines is available [here](#).

Further information in relation Ahpra's approach to Freedom of Information requests can be found [here](#).

## 5.4 Other uses and disclosures

We may exchange information with external researchers subject to appropriate research ethics approvals. Usually, all identifying personal information will be removed.

Ahpra also uses third parties to hold, process and maintain electronic copies of personal and health information. For example, we use third party data processors to store our data in hosted facilities. Where we do this, we require the third parties to comply with the Privacy Act and impose, as far as possible, confidentiality and privacy obligations at least as demanding as those that apply to us.

## 6. Anonymity and confidentiality

Wherever practical, you may choose to deal with us on an anonymous or confidential basis. This will not be practical in some circumstances, for example, where you are a health practitioner applying for registration.

Notifications and complaints however, may be made anonymously or confidentially, subject to certain limitations.

***Ideally, anonymous or confidential notifications should be made by phone so we can check our understanding of the concerns being raised and discuss any limitations we may face in progressing the matter***

Please also refer to our 'how to submit a concern' webpage found [here](#) and our Notifications Collection Statement found [here](#) for further information.

### 6.1 Anonymous Notifications

Notifications can be made anonymously. This means we do not record your name as the notifier.

We may assign a *pseudonym* (a false name) for a notifier who wishes to make a notification anonymously.

Mandatory notifications cannot be made anonymously.

In some circumstances we may be compelled to share information about an anonymous notification with others (for example, where the matter is the subject of legal proceedings or the practitioner makes a request for access to information under the Freedom of Information Act. Please refer to section 5.3 of this policy for further information).

If you have provided us with contact information for you, including email addresses or phone numbers, we may be compelled to release these. If possible and appropriate we will redact personal information before releasing other information.

If you make an anonymous notification/complaint this may limit our ability to investigate and respond as:

- it can be difficult for us to clarify or seek further information if we do not have your name or contact details;
- we are not able to provide you with any updates or details on the progress of your notification;
- we may not be able to gather necessary information from other entities about your concerns; and
- we need to ensure those involved in the notification are given a fair opportunity to respond to concerns and it may be difficult to explain the concerns without disclosing certain information.

### 6.2 Confidential Notifications

We accept notifications made on a confidential basis. This means that we do not share personal information about the notifier (such as the notifier's name) with other entities. This includes the practitioner who the concerns have been raised about.

While we will do our best to ensure the notifier's name is not released to the practitioner, it is sometimes possible for practitioners to assume or guess who the notifier is, based on the nature of the notification.

In some circumstances we may be compelled to share information about a confidential notification with others (for example, where the matter is the subject of legal proceedings or the practitioner makes a request for access to information under the Freedom of Information Act. (Please refer to section 5.3 of this policy for further information). Where appropriate and possible we will redact personal information before documents or other information is disclosed.

## 7. Confidentiality Policy

A person who performs a function under the National Law must not disclose information that comes to their knowledge in the course of, or because of, exercising that function, unless an exception applies.

Information may be disclosed when:

- the information is disclosed in the exercise of a function under, or for the purposes of, the National Law
- the disclosure is to a co-regulatory authority or other HCE (such as the Queensland Health Ombudsman, or, in NSW, a Health Professional Council established under the National Law)
- the disclosure is required or permitted by law
- the person the information relates to consents to the disclosure
- the disclosure is in a form that does not identify a person
- the information relates to proceedings before a responsible tribunal (as identified under the National Law) and the proceedings are or were open to the public
- the information is, or has been, accessible to the public, including if it is or was recorded in a National Register maintained by Ahpra, or
- the disclosure is otherwise authorised by a council of all Australian Health Ministers.

We require all our employees and contractors to comply with these confidentiality rules in relation to information they obtain in the course of their duties. This paragraph 7 is Ahpra's confidentiality policy (Confidentiality Policy) and it forms part of our overall Privacy Policy.

## **8. Overseas disclosure of personal information and health information**

### **8.1 Overseas service providers**

Third party IT support providers may also access our information systems remotely. This may involve access to personal information. Some of these third parties are located in countries outside Australia. Those countries include Japan, Canada and the United States of America.

In all cases, we seek to share the minimum amount of personal information necessary. We also require these third parties to comply with the Privacy Act and impose, as far as possible, confidentiality and privacy obligations at least as demanding as those that apply to us.

### **8.2 Overseas regulators**

We may disclose personal information about a person where a health regulator in another country requires this information to do its job. For example, we may notify an overseas health authority when conditions are imposed on a practitioner's registration.

## **9. How we protect personal information and maintain its quality**

We are committed to protecting individuals' personal information.

In order to protect data against unauthorised access, loss or use, we have put in place appropriate technical, physical and administrative safeguards:

- electronic data is held in Ahpra's secure, password protected data network
- we continually monitor our electronic systems to identify vulnerabilities and prevent cyber attacks
- paper files are held securely in Ahpra's offices. Access is restricted to authorised people who hold an Ahpra security pass. When archived, this information is held in secure external storage facilities
- all of our employees and contractors are required to sign a confidentiality undertaking
- privacy impact assessments are undertaken to ensure projects comply with this Privacy Policy

We take reasonable steps to ensure that the personal information we hold is accurate, complete and up to date. We retain, manage and destroy this information in accordance with our record-keeping obligations under state and territory public records legislation.

## 10. Accessing and correcting your information

You may ask for access to personal information we hold about you or ask that we correct that information.

If you would like to access, update or correct your personal information, please contact:

Privacy Officer

Australian Health Practitioner Regulation Agency

GPO Box 9958

Melbourne VIC 3001

Details on how to make a freedom of information request are available [here](#).

## 11. Complaints and privacy breaches

We treat privacy complaints very seriously and we aim to resolve them quickly and fairly. If we receive a privacy complaint from you, or we become aware of a privacy breach ourselves, we will determine what (if any) action we should take to resolve the complaint and the privacy concerns raised.

If you become aware of a data or privacy breach, please tell us immediately. A data or privacy breach means an actual or suspected breach, and includes:

- an unauthorised use or disclosure of personal information
- the loss, accidental or illegal destruction, unauthorised access, or unauthorised alteration of personal information.

If we become aware of a data or privacy incident, including an actual or suspected data breach, we will respond in accordance with our breach of privacy procedure, which is available for download at: <https://www.ahpra.gov.au/About-Ahpra/Privacy-Freedom-of-information-and-Information-publication-scheme/Information-Publication-Scheme.aspx>

If you believe we have breached your privacy, you may complain to:

- Ahpra, or
- the National Health Practitioner Privacy Commissioner, or
- both Ahpra and the Privacy Commissioner.

Information about making a complaint to Ahpra, and the Ahpra complaint-handling policy and procedure, is available at: [www.ahpra.gov.au/About-AHPRA/Complaints.aspx](http://www.ahpra.gov.au/About-AHPRA/Complaints.aspx)

The National Health Practitioner Privacy Commissioner can be contacted at the office of the National Health Practitioner Ombudsman:

GPO Box 2630

Melbourne VIC 3001

Phone 1300 795 265 (a translating and interpreting service is available via 131 450)

Email [complaints@nhpo.gov.au](mailto:complaints@nhpo.gov.au)

Web <https://www.nhpo.gov.au>

## 12. Contact us

If you have questions about this policy or would like a printed copy of this policy, please contact:

Privacy Officer

Australian Health Practitioner Regulation Agency

GPO Box 9958

Melbourne VIC 3001

Phone: 1300 419 495

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