

Information guide

September 2021

List of Approved Persons for appointment to hearing panels

Guide for applicants

This information package includes:

- information about the roles,
- selection criteria,
- selection process,
- sitting fees and remuneration information, and
- relevant sections of the National Law.

Introduction

The National Boards are seeking applications from experienced registered health practitioners and consumers or community advisors interested in being included on a list of approved persons for appointment to health panels and performance and professional standards panels.

Australian Health Practitioner Regulation Agency

The Australian Health Practitioner Regulation Agency (Ahpra) supports the National Boards in managing the registration and notifications for health practitioners and students across Australia.

The Ahpra national office is based in Melbourne with offices in every state and territory to support local boards, committees and registrants.

National Boards

There are 15 National Boards regulating 16 health professions under the National Law:

- Aboriginal and Torres Strait Islander Health Practice Board of Australia
- Chinese Medicine Board of Australia
- Chiropractic Board of Australia
- Dental Board of Australia
- Medical Board of Australia
- Medical Radiation Practice Board of Australia
- Nursing and Midwifery Board of Australia
- Occupational Therapy Board of Australia
- Optometry Board of Australia
- Osteopathy Board of Australia
- Paramedicine Board of Australia
- Pharmacy Board of Australia
- Physiotherapy Board of Australia
- Podiatry Board of Australia
- Psychology Board of Australia

Australian Health Practitioner Regulation Agency
National Boards

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Ahpra and the National Boards regulate these registered health professions: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical, medical radiation practice, midwifery, nursing, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology.

Panels and the Notifications process

Anyone with a concern about a health practitioner can make a notification to Ahpra or a state-based health complaint entity which may lead to an investigation or other action such as a health or performance assessment being undertaken on behalf of a National Board.

Following investigation or a health or performance assessment a National Board may decide to refer a matter to a panel. The National Law provides for the establishment of health panels and performance and professional standards panels to undertake hearings into health, performance and/or conduct matters.

Section 183 of the National Law provides for National Boards to appoint individuals to a list of persons approved to be appointed as members of panels. Members will then be chosen from this list to sit on a panel on a case by case basis.

The relevant provisions of the National Law relating to panels are set out in Division 11 of Part 8 of the National Law. Relevant extracts are reproduced in this information package.

Health panels

Section 181 of the National Law provides for the establishment of health panels consisting of at least three members. At least one member must be a registered health practitioner in the relevant health profession for which the Board is established; at least one member must be a medical practitioner; and at least one member must never have been a registered health practitioner in the health profession for which the Board has been established (a community member). If possible, panel members must be chosen from the jurisdiction in which the matter the subject of the hearing occurred.

Performance and professional standards panels

Section 182 of the National Law provides for the establishment of performance and professional standards panels consisting of at least three members. At least half, but no more than two-thirds, of the members of the panel must be registered health practitioners in the health profession for which the Board is established; and at least one member must be a community member. If possible, panel members must be chosen from the jurisdiction in which the matter the subject of the hearing occurred.

The purpose of the panels

The primary role of a Panel is to conduct a hearing into allegations or concerns raised in relation to a practitioner, and to make findings and a decision on the basis of the evidence before them.

A panel may make a number of decisions under the National Law, including taking no action, imposing conditions on registration, suspending a practitioner's registration (health panels only), and for a performance and professional standards panel, cautioning or reprimanding the practitioner.

What is involved?

If you are successful in appointment to the list of approved persons you will be required to participate in and complete the Panel Member Training Program before being able to sit on a panel.

The Panel Member Training Program is designed to ensure that panel members are supported to make effective decisions about the registration of practitioners or students who are subject to panel hearings.

You may then be called on from time to time to be part of a panel. If you are called on to be part of a panel, you will be contacted by Ahpra staff who will explore your availability and check that you do not have a conflict of interest in relation to the particular matter. Ahpra staff will also provide advice about the location and timeframe of the panel hearing.

There is an expectation that each hearing would include approximately half to one day of preparation time to review the documentation supplied by the notifier, practitioner and the investigator.

Term of appointment

All appointments are made by the relevant Board/s under the National Law. Appointments are for up to three years, with eligibility for reappointment, and will commence in July 2022.

Selection criteria

Applicants are required to provide a response to each of the following attributes in the online application form:

1. **Displays integrity:** is ethical, impartial, committed, diligent, prepared, organised, professional, principles-based and respectful; values diversity; and shows courage and independence.
2. **Thinks critically:** is objective, uses logical and analytical processes, distils the core the of complex issues and weighs up options.
3. **Applies expertise:** actively applies relevant knowledge, skills and experience to contribute to decision-making.
4. **Communicates constructively:** is articulate, persuasive, diplomatic, self-aware and reflects on personal impact and effectiveness, listens and responds constructively to contributions from others.

A *health practitioner* must be an experienced registered health practitioner with current practice experience and of good standing in the health profession for which the National Board is established.

Selection process

A selection advisory panel will review all applications and prepare a recommendation for the each Board's approval.

Shortlisted candidates may be interviewed to ensure that they have the necessary qualifications, skills and experience for the position.

Applicants will be required to provide **certified copies** of proof of identity and, if shortlisted, undergo probity checks, which include:

- a national criminal history check
- an Australian Securities and Investments Commission disqualification register check, and
- a National Personal Insolvency Index check conducted through the Australian Financial Security Authority.

For practitioner members, a check of board records will be undertaken to ensure the practitioner is of good standing.

Applicants are also required to provide information on whether they are current members of other government or statutory bodies.

Referee reports

Referee reports are an important part of the selection process. Applicants are asked to nominate three referees who can support their application relevant to the key selection criteria and duties of the position.

Remuneration

Sitting fees are determined by the Ministerial Council having regard to the remuneration generally applied to regulatory bodies with a substantial influence on the health industry.

The current remuneration (daily sitting fee) is detailed in the table below. The full day rate applies to all hearings and other assignments in excess of four hours in a day. Panel Member Training will be paid at a special assignment fee of \$282 for a half day in attendance.

The fees paid are assessable under the Income Tax Assessment Act 1997.

Under the *Superannuation Guarantee (Administration) Act 1992* you are eligible to receive contributions at 10% cent of your total annual remuneration to a superannuation fund of your choice.

Role	Half day fee	Full day fee	Extra travel time	
	Less than 4 hours	More than 4 hours		
	Fees include preparation and up to 4 hours travel time		Between 4-8 hours	Over 8 hours
Board/committee Chair	\$412	\$824	\$412	\$824
Board/committee members	\$337	\$674	\$337	\$674

Panel members may be paid an additional fee on top of standard sitting fees for preparation as this represents an essential part of the task. It is payable at the same rate as the standard sitting fees outlined above.

Expenses

Panel members are entitled to claim reasonable travel, accommodation and subsistence expenses incurred as part of participating at face-to-face meetings when required. More information on allowances and the process of payments and claims will be provided upon appointment.

Government or statutory employees

Ahpra recognises that government and statutory employees may be bound by their employer policy regarding payment for employment undertaken outside of the employer which may alter the way members are paid.

We recommend that applicants consult with their employer prior to submitting an application to ensure an acknowledgement of permission can be provided from their employer, allowing them to be appointed as a committee member, and/or receive remuneration, should they be successful.

Relevant sections of the National Law

The Health Practitioner Regulation National Law

Objectives and guiding principles

The objectives and guiding principles of the National Law are set out in section 3 of the National Law as follows:

- (1) The object of this Law is to establish a national registration and accreditation scheme for:
 - (a) the regulation of health practitioners; and
 - (b) the registration of students undertaking:
 - (i) programs of study that provide a qualification for registration in a health profession; or
 - (ii) clinical training in a health profession.
- (2) The objectives of the national registration and accreditation scheme are:
 - (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered; and
 - (b) to facilitate workforce mobility across Australia by reducing the administrative burden for health practitioners wishing to move between participating jurisdictions or to practise in more than one participating jurisdiction; and
 - (c) to facilitate the provision of high quality education and training of health practitioners; and
 - (d) to facilitate the rigorous and responsive assessment of overseas-trained health practitioners; and

- (e) to facilitate access to services provided by health practitioners in accordance with the public interest; and
 - (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.
- (3) The guiding principles of the national registration and accreditation scheme are as follows:
- (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
 - (b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;
 - (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

Division 11 Panels

181 Establishment of health panel

- (1) A National Board may establish a health panel if—
 - (a) the Board reasonably believes, because of a notification or for any other reason, that a registered health practitioner or student has or may have an impairment; and
 - (b) the Board decides it is necessary or appropriate for the matter to be referred to a panel.
- (1A) Also, a National Board must establish a health panel if the suspension of a practitioner's or student's registration is to be reconsidered under section 191(4A) or 191A(2)(c).
- (2) A health panel must consist of the following members chosen from a list referred to in section 183—
 - (a) at least one member who is a registered health practitioner in the health profession for which the Board is established;
 - (b) at least one member who is a medical practitioner with expertise relevant to the matter the subject of the hearing;
 - (c) at least one member who is not, and has not been, a registered health practitioner in the health profession for which the Board has been established.
- (3) In choosing members of the panel, the National Board must, if possible, choose a member from the jurisdiction in which the matter the subject of the hearing occurred.
- (4) No more than half of the members of the panel may be registered health practitioners in the health profession for which the Board is established.
- (5) However, if the registered health practitioner the subject of the hearing is a medical practitioner, a member of the panel referred to in subsection (2)(b) is not to be considered to be registered in the health profession for which the Board is established for the purposes of subsection (4).
- (6) A person cannot be appointed to the panel if the person has been involved in any proceedings relating to the matter the subject of the hearing by the panel.

182 Establishment of performance and professional standards panel

- (1) A National Board may establish a performance and professional standards panel if—
 - (a) the Board reasonably believes, because of a notification or for any other reason, that—
 - (i) the way a registered health practitioner practises the health profession is or may be unsatisfactory; or
 - (ii) the registered health practitioner's professional conduct is or may be unsatisfactory; and
 - (b) the Board decides it is necessary or appropriate for the matter to be referred to a panel.
- (2) A performance and professional standards panel must consist of at least 3 members.
- (3) In choosing members of the panel, the National Board must, if possible, choose a member from the jurisdiction in which the matter the subject of the hearing occurred.

- (4) At least half, but no more than two-thirds, of the members of the panel must be persons who are registered health practitioners in the health profession for which the Board is established, and chosen from a list approved under section 183.
- (5) At least one member must be a person who represents the community and chosen from a list approved under section 183.
- (6) A person may not be appointed to the panel if the person has been involved in any proceedings relating to the matter the subject of the hearing by the panel.

183 List of approved persons for appointment to panels

- (1) A National Board may appoint individuals to a list of persons approved to be appointed as members of panels.
- (2) To the extent practicable, individuals appointed under subsection (1) should not—
 - (a) for registered health practitioners, be individuals whose principal place of practice is in a co-regulatory jurisdiction; or
 - (b) otherwise, be individuals who live in a co-regulatory jurisdiction.

184 Notice to be given to registered health practitioner or student

- (1) A panel must give notice of its hearing of a matter to the registered health practitioner or student the subject of the hearing.
- (2) The notice must state—
 - (a) the day, time and place at which the hearing is to be held; and
 - (b) the nature of the hearing and the matters to be considered at the hearing; and
 - (c) that the registered health practitioner or student is required to attend the hearing; and
 - (d) that the registered health practitioner may be accompanied at the hearing by an Australian legal practitioner or other person; and
 - (e) that if the registered health practitioner or student fails to attend the hearing the hearing may continue, and the panel may make a decision, in the practitioner's or student's absence; and
 - (f) the types of decision the panel may make at the end of the hearing.
- (3) For a panel established under section 181(1A), the panel—
 - (a) may decide the hearing may be decided entirely on the basis of documents, without parties, their representatives or witnesses appearing at the hearing; and
 - (b) if the hearing is to be decided entirely on the basis of documents—must give written notice of the decision to the registered health practitioner or student the subject of the hearing.
- (4) The health practitioner or student may within 14 days after receiving the notice under subsection (3)(b) give a written notice to the panel—
 - (a) requesting a hearing; and
 - (b) undertaking to be available to attend the hearing within 28 days after giving the notice.
- (5) If the health practitioner or student gives a notice under subsection (4), the panel must give the health practitioner or student notice under subsection (1) stating a day for the hearing that is not more than 28 days after the practitioner's or student's notice was given.
- (6) Subsection (1) does not apply if—
 - (a) the panel makes a decision under subsection (3); and
 - (b) the health practitioner or student does not give notice under subsection (4).

185 Procedure of panel

- (1) Subject to this Division, a panel may decide its own procedures.
- (2) A panel is required to observe the principles of natural justice but is not bound by the rules of evidence.
- (3) A panel may have regard to—
 - (a) a report prepared by an assessor about the registered health practitioner or student; and
 - (b) any other information the panel considers relevant to the hearing of the matter.

186 Legal representation

- (1) At a hearing of a panel, the registered health practitioner or student the subject of the hearing may be accompanied by an Australian legal practitioner or another person.
- (2) An Australian legal practitioner or other person accompanying the registered health practitioner or student may appear on behalf of the practitioner or student only with the leave of the panel.
- (3) The panel may grant leave for an Australian legal practitioner or other person to appear on behalf of the registered health practitioner or student only if the panel considers it appropriate in the particular circumstances of the hearing.

187 Submission by notifier

If a matter the subject of a hearing before a panel relates to a notification, the notifier may, with the leave of the panel, make a submission to the panel about the matter.

188 Panel may proceed in absence of registered health practitioner or student

At a hearing, a panel may proceed in the absence of the registered health practitioner or student the subject of the proceedings if the panel reasonably believes the practitioner or student has been given notice of the hearing.

189 Hearing not open to the public

A hearing before a panel is not open to the public.

190 Referral to responsible tribunal

A panel must stop hearing a matter and require the National Board that established the panel to refer the matter to a responsible tribunal under section 193 if, at any time—

- (a) the practitioner or student the subject of the hearing asks the panel for the matter to be referred to a responsible tribunal under section 193; or
- (b) if the subject of the hearing is a registered health practitioner—
 - (i) the panel reasonably believes the evidence demonstrates the practitioner may have behaved in a way that constitutes professional misconduct; or
 - (ii) the panel reasonably believes the evidence demonstrates the practitioner's registration may have been improperly obtained because the practitioner or someone else gave the Board information or a document that was false or misleading in a material particular.

191 Decision of panel

- (1) After hearing a matter about a registered health practitioner, a panel may decide—
 - (a) the practitioner has no case to answer and no further action is to be taken in relation to the matter; or
 - (b) one or more of the following—
 - (i) the practitioner has behaved in a way that constitutes unsatisfactory professional performance;
 - (ii) the practitioner has behaved in a way that constitutes unprofessional conduct;
 - (iii) the practitioner has an impairment;
 - (iv) the matter must be referred to a responsible tribunal under section 193;

- (v) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action.
- (2) After hearing a matter about a student, a health panel may decide—
 - (a) the student has an impairment; or
 - (b) the matter must be referred to another entity, including, for example, a health complaints entity, for investigation or other action; or
 - (c) the student has no case to answer and no further action is to be taken in relation to the matter.
- (3) If a panel decides a registered health practitioner or student has an impairment, or that a practitioner has behaved in a way that constitutes unsatisfactory professional performance or unprofessional conduct, the panel may decide to do one or more of the following—
 - (a) impose conditions on the practitioner's or student's registration, including, for example, in relation to a practitioner—
 - (i) a condition requiring the practitioner to complete specified further education or training within a specified period; or
 - (ii) a condition requiring the practitioner to undertake a specified period of supervised practice; or
 - (iii) a condition requiring the practitioner to do, or refrain from doing, something in connection with the practitioner's practice; or
 - (iv) a condition requiring the practitioner to manage the practitioner's practice in a specified way; or
 - (v) a condition requiring the practitioner to report to a specified person at specified times about the practitioner's practice; or
 - (vi) a condition requiring the practitioner not to employ, engage or recommend a specified person, or class of persons;
 - (b) for a health panel, suspend the practitioner's or student's registration;
 - (c) for a performance and professional standards panel, caution or reprimand the practitioner.
- (4) If a panel decides to impose a condition on a registered health practitioner's or student's registration, the panel must also decide a review period for the condition.
- (4A) If a panel suspends a health practitioner's or student's registration, the panel must decide a date (the reconsideration date) by which the suspension must be reconsidered by a panel established under section 181(1A).
- (5) A decision by a panel that a registered health practitioner has no case to answer in relation to a matter does not prevent a National Board or adjudication body taking the matter into consideration at a later time as part of a pattern of conduct or practice by the health practitioner.

191A—Decision of panel after reconsideration of suspension

- (1) This section applies if the suspension of a health practitioner's or student's registration is reconsidered by a panel established under section 181(1A).
- (2) The panel may—
 - (a) revoke the suspension; or
 - (b) revoke the suspension, impose conditions under section 191(3)(a) and decide a review period for the conditions under section 191(4); or
 - (c) not revoke the suspension and decide a new reconsideration date.

191B—Change of reconsideration date for suspension of registration

- (1) This section applies if the suspension of a health practitioner's or student's registration is to be reconsidered by a panel established under section 181(1A) on a reconsideration date.
- (2) The panel may decide an earlier reconsideration date if—
 - (a) the health practitioner or student advises the panel of a material change in the practitioner's or student's circumstances and requests an earlier reconsideration date because of the change; and
 - (b) the panel is reasonably satisfied an earlier reconsideration date is necessary because of the change in circumstances.
- (3) For subsection (2), the panel must give the practitioner or student written notice of—
 - (a) if the panel decides an earlier reconsideration date—the earlier date; or

- (b) if the panel decides to refuse the request for an earlier reconsideration date—the panel's decision and the reasons for the decision.
- (4) The panel may decide a later reconsideration date if the panel is reasonably satisfied it is necessary to enable the panel to reconsider the suspension.

Examples of when the panel may be reasonably satisfied a later reconsideration date may be decided—

- (a) the health practitioner or student is required for a hearing and cannot attend because of illness;
 - (b) the panel requires extra time to consider further evidence supplied by the health practitioner or student;
 - (c) extra time is required to appoint a panel member for a panel member who is ill.
- (5) For subsection (4), the panel must give the health practitioner or student written notice of the later reconsideration date and the reasons for the decision.
 - (6) The suspension of the health practitioner's or student's registration remains in force until the panel makes a decision to revoke the suspension.

192 Notice to be given about panel's decision

- (1) As soon as practicable after making a decision under section 191, a panel must give notice of its decision to the National Board that established it.
- (2) The National Board must, within 30 days after the panel makes its decision, give written notice of the decision to—
 - (a) the registered health practitioner or student the subject of the hearing; and
 - (b) if the hearing related to a notification, the notifier.
- (3) The notice given to the registered health practitioner or student must state—
 - (a) the decision made by the panel; and
 - (b) the reasons for the decision; and
 - (c) that the registered health practitioner or student may appeal against the decision; and
 - (d) how an application for appeal may be made and the period within which the application must be made.
- (4) The notice to the notifier must include information about the decision made by the panel but only to the extent the information is available on the National Board's register.