



NEW ZEALAND
CHIROPRACTIC BOARD
TE POARI KAIKOROHITI O AOTEAROA

POLICY AND GUIDELINES:

CRIMINAL HISTORY POLICY

June 2021

Associated Policy Documents

- Registration Policy for NZ graduates
- Registration Policy for TTMRA applicants
- Registration Policy for overseas trained practitioners
- APC (including return to practice) Policy

Revision Schedule

Version	Date Approved	Next Review
One	03 June 2021	June 2023

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POLICY STATEMENT

The Chiropractic Board (the Board) has a responsibility under the Health Practitioners Competence Assurance Act 2003 (the HPCA Act) to ensure practitioners seeking registration or recertification are fit to practise. Fitness to practise includes consideration of any criminal convictions the practitioner may have incurred.

This document sets out the Board policy concerning the requirement to apply for criminal convictions report(s) for applications for registration; practitioners returning to practice; or applications for re-registration.

LEGISLATIVE CONTEXT

Section 16 (c) of the HPCA Act states that:

No applicant for registration may be registered as a health practitioner of a health profession if he or she has been convicted by any court in New Zealand or elsewhere of any offence punishable by imprisonment for a term of 3 months or longer, and he or she does not satisfy the responsible authority that, having regard to all the circumstances, including the time that has elapsed since the conviction, the offence does not reflect adversely on his or her fitness to practise as a health practitioner of that profession

STATUTORY DECLARATIONS

Each year a registered practitioner applies to renew their practising certificate; they are required to make a statutory declaration as to whether they have been convicted of any criminal offences or are subject to pending criminal charges.

In the case of being notified a registered health practitioner has been convicted of a criminal offence which is punishable by a term of imprisonment of three-months or longer, the Board will refer the matter to a professional conduct committee (PCC). This applies even if a term of imprisonment was not actually imposed.

In the case of a registered health practitioner declaring they are subject to a pending criminal charge, the Board will need to consider if that information raises any concerns about the appropriateness of the conduct or the safety of the practice of the practitioner and may refer those concerns to a PCC. The Board may consider ordering an interim suspension of the practitioner's practising certificate pending prosecution or investigation (section 69).

REQUIREMENTS

1. All applicants for registration are required to provide an original or certified copy of a police report from every country in which they have lived for six-months or longer. In the case of residence in New Zealand this must be in the form of a criminal conviction history from the Ministry of Justice.
2. New-Zealand registered practitioners returning to practise in New Zealand after an absence overseas are required to provide an original or certified copy of a criminal conviction's report/police report from every country in which they have lived for six-months or longer, since they last practised in New Zealand.

3. All applicants for re-registration (restoration to the Register) are required to provide an original or certified copy of a criminal conviction's report/police report from every country in which they have lived for six-months or longer (including New Zealand) from the date they last practised in New Zealand.
4. Criminal conviction histories/police report(s) are required to search for the applicant under all the names they have been known under whether in New Zealand or overseas, and in all variations of names evidenced on documentation provided for registration or the issue of a practising certificate. An applicant is exempted from this requirement if a search is based on an applicant's fingerprints, and this is clearly stated in the report.
5. Reports must be no older than six-months on receipt by the Board. However, the Board may accept a report that is older than six-months, if the applicant can satisfactorily demonstrate they have not lived in the relevant country or countries since the issue of the report/s.
6. If a disclosed conviction would have been covered by the Criminal Records (Clean Slate) Act 2004 (had it occurred in New Zealand), the Board will treat this type of conviction as being covered by the Clean Slate Act and disregard the conviction when considering the application.
7. Criminal conviction records from the U.S.A. – In addition to an FBI Identity History Summary Check, a criminal history record issued by the state police department in the state where the practitioner currently resides and all other states they have resided in for six-months or longer, will be required.

For the avoidance of doubt, these requirements apply to applicants who were aged 17 years and over whilst living in a jurisdiction.

CRIMINAL HISTORY CONSIDERATIONS

If an applicant has one or more convictions that meet the threshold set out in section 16(c) of the HPCA Act the Board must satisfy itself that these matters do not reflect adversely on the practitioner's fitness to practice as a chiropractor.

While every case will need to be decided on an individual basis, there are a number of factors that the Board may consider in making a decision. These may include, but are not limited to the following:

- **Nature and Gravity of the Offence:** The more serious the conviction and the greater its relevance to health practice, the more weight the Board will assign to it.
- **Subsequent Behaviour of the Health Practitioner:** Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the committing of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.
- **Information Provided by the Health Practitioner:** Any information provided by the health practitioner will be taken into consideration by the Board.

HOW TO APPLY

All applications for a criminal conviction history in respect of residence in New Zealand must be made using the form which can be found here: <https://www.justice.govt.nz/criminal-records/>