

8 Ethical Practice and Professional Conduct Standard

The PACFA Code of Ethics establishes the ethical framework for the practice of counselling and psychotherapy conducted by PACFA registrants. The Code defines and demands high standards of behaviour in respect to the services provided to the public and in dealing with professional colleagues and requires behaviour and practice beyond the personal moral obligations of an individual.¹

PACFA acknowledges that the clientele served by our registrants is diverse and often impacted by complex experiences. To ensure that PACFA's Register meets its regulatory obligation for supporting public safety, this Registration Standard sets out the requirement for the declaring of adherence to the PACFA Code of Ethics.

A key regulatory function of PACFA is to provide an ethical complaints-handling process for the profession. Complaints made against PACFA registrants and applicants for PACFA registration may be made however to organisations other than PACFA and include, for example, an employer, or the applicable state or territory Healthcare Complaints Entity.

To ensure that PACFA's Register meets its regulatory obligation for supporting public safety, this Registration Standard also sets out the requirement for the declaration of any past substantiated complaint of professional misconduct, or any current investigation relating to professional misconduct.

This standard also outlines the factors PACFA will consider in deciding the relevance of an applicant's or a registrant's professional misconduct history to the practice of the profession, and the likelihood of the practitioner's professional misconduct history bringing PACFA or the profession into disrepute.

Does this standard apply to me?

This standard applies to all applicants for registration and all registered counsellors, psychotherapists and Indigenous Healing practitioners.

When you apply for registration

When initially applying for registration, you must declare that you agree to abide by the PACFA Code of Ethics and if you breach the Code, you will indemnify PACFA from any liability arising from your actions.

You are also required to provide details and copies of relevant documentation if in the past you have had any complaints of professional misconduct substantiated in relation to your work, or you are currently being investigated for any complaint of professional misconduct in relation to your work.

1. Australian Council of Professions, 2003, *What is a Profession?*, Professions.org.au/what-is-a-professional

While you hold registration

For the duration of your PACFA registration, you must abide by the PACFA Code of Ethics and if you breach the PACFA Code of Ethics, you indemnify PACFA from any liability arising from your actions.

If during the period of registration, a complaint of professional misconduct in relation to your work is raised or substantiated with an organisation other than PACFA, PACFA must be notified within 30 days.

At renewal of registration

You are required to declare annually at renewal that you agree to abide by the PACFA Code of Ethics and if you breach the PACFA Code of Ethics, you will indemnify PACFA from any liability arising from your actions.

If you have not previously reported, you are also required to provide details and copies of relevant documentation if in the previous 12 months you have had any complaints of professional misconduct substantiated in relation to your work, or you are currently being investigated for any complaint of professional misconduct in relation to your work.

Review of professional misconduct history

Definitions

Professional misconduct: means a breach of a professional organisation's Code of Ethics and Code of Conduct.

Criminal offence: means an act defined as unlawful in criminal law.

Guiding principles

While a situation involving professional misconduct is not usually a criminal offence, every substantiated case of past professional misconduct, or any current investigation relating to professional misconduct reported to PACFA will be decided on an individual basis and will not necessarily preclude the gaining, maintaining or resumption of registration.

PACFA will be guided by ten defined factors outlined in the *AHPRA Registration standard: Criminal history (2015)* to ascertain whether an applicant or practitioner's professional misconduct history is relevant to the practice of our profession, and the likelihood of that history bringing PACFA or the profession into disrepute.

- 1. The nature and gravity of the offence or alleged offence and its relevance to health practice.**

The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight that the Board will assign to it.

- 2. The period of time since the health practitioner committed, or allegedly committed, the offence.**

The Board will generally place greater weight on more recent offences.

3. Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending.

In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:

- a. convictions
- b. findings of guilt
- c. pending charges
- d. non conviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt, taking into account the availability and source of contextual information which may explain why a non-conviction charge did not result in a conviction or finding of guilt.

4. The sentence imposed for the offence.

The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

5. The ages of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence.

The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

6. Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the health practitioner committed, or allegedly committed, the offence.

The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.

7. The health practitioner's behaviour since he or she committed, or allegedly committed, the offence.

Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission 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.

8. The likelihood of future threat to a patient of the health practitioner.

The Board is likely to place significant weight on the likelihood of future threat to a patient or client of the health practitioner.

9. Any information given by the health practitioner.

Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.

10. Any other matter that the Board considers relevant.

The Board may take into account any other matter that it considers relevant to the application or notification. A Board will not require an applicant or registered health practitioner to provide further information that may prejudice their personal situation pending charges and the Board must not draw any adverse inference as a result of the fact that information has not been provided.

Note: the above factors have been numbered for ease of reference only. The numbering does not indicate a priority order of application.

Document version control

Version	Description	Originator	Reviewed	Approved	Date	Next review
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