convictions legislation does not apply to criminal importations/tinfringement notice. Disclose charges or offences that are finalised it need not be disclosed in the application. All offence seems unrelated to medical practice that it is wrong to assume that if a criminal charge or conviction is recorded, and every charge made against the person for an offence (even if the charge is withdrawn or subject to a finding of not guilty). It is wrong to assume that if a criminal charge or offence seems unrelated to medical practice that it need not be disclosed in the application. All offences (even traffic offences) must be disclosed. However, it is not necessary to disclose charges or offences that are finalised by an expiation / infringement notice.

Importantly, under the National Law, spent convictions legislation does not apply to criminal history disclosure requirements. Therefore you must disclose your complete criminal history irrespective of the time that has lapsed since the charge / offence was made or the finding of guilt.

Applications for renewal require health practitioners to declare any changes to their criminal history (i.e. convictions or findings of guilt for an offence or the charge of an offence against a practitioner) during the previous registration period and any criminal history that has not previously been disclosed to AHPRA. If relevant criminal history is disclosed by a health practitioner it is for the Board to determine whether that history is relevant to their practice of the profession. If you are audited, AHPRA will use an independent service provider to check your criminal history (at no cost to you). Your criminal history (including offences which have been withdrawn, dismissed or subject to a finding of not guilty) will be checked against what has been declared by you in your previous applications for renewal of registration (lodged since 1 July 2010). If there has been a failure to disclose relevant criminal history, AHPRA may request further information from you.

You should also be aware that in some jurisdictions, prior to the National Law coming into effect (1 July 2010), the requirement to disclose criminal history to the relevant registration authority (Board) was, or may have been, less onerous than what is required under the National Law. In some cases practitioners may have, quite properly, not disclosed criminal history to a Board that is required to be disclosed under the National Law and, by oversight, not declared that previous history on either the initial application for registration under the National Law on or in subsequent applications for renewal. If this situation applies to you, you should ensure that you fully comply with the disclosure requirements when you next renew your registration.

Disclosure of relevant events
You should also be aware that section 130 of the National Law requires written disclosure to the Board within 7 days of certain events including where a practitioner is charged with an offence punishable by 12 months imprisonment or more and where the practitioner is convicted of or subject to a finding of guilt for an offence punishable by imprisonment. Some driving offences meet this criteria.

Employment considerations
If you are charged with or convicted of an offence, it is wise to review whether you have a contractual obligation to inform your employer or a facility/hospital(s) where you provide services. There may also be obligations contained within hospital or health service by-laws.

In our experience the terms of such contracts have wide and varied reporting requirements. Some have low reporting thresholds similar to AHPRA whereas others, for example, only require disclosure of certain serious offences. Our legal team is available to review your employment or service contract documents in the event that you are charged with or convicted of an offence and need assistance to understand any reporting requirements.

What you need to do
We suggest you keep an accurate log of the risk management and professional development activities you undertake each year.

You need to ensure that your medical indemnity insurance with MIGA is current and that you are covered for the activities and procedures you are undertaking. In practical terms, you must be covered in a category of practice that accurately describes your specific area of practice. In the event that you are charged with, or convicted of, an offence, it is important that you consider whether you need to notify the Board, and locate your employment or service contract and check any other disclosure requirements. If you have any concerns that you may not have previously fully disclosed your criminal history to AHPRA it is suggested that you obtain a police history check (“National Police Certificate”) before completing your next application for renewal of registration. You will then be in a position to ensure that you accurately address the disclosure requirements even if you are never subject to an audit.

How MIGA can help
If you are asked to provide evidence to demonstrate you have met the mandatory requirements and you are not sure how to respond, we can assist. Do not ignore the letter! Our Client Services team can also provide you with a copy of your Certificate of Insurance for the appropriate policy period which is being audited.

MIGA’s risk management program points can contribute to your compliance with the continuing professional development standard. If AHPRA informs you that you have failed to meet the mandatory registration standards under the National Law or information is required in relation to a non-disclosure, call MIGA for assistance and advice.