

ASAPS Submission to the Independent review of the regulation of health practitioners in cosmetic surgery

14 April 2022

Executive Summary

The [Australasian Society of Aesthetic Plastic Surgeons](https://www.aestheticsurgeons.org.au/) (ASAPS) congratulates the Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia (MBA) for this long overdue initiative aimed at examining patient safety issues in the cosmetic surgery sector and strengthening risk-based regulation of practitioners who practice cosmetic surgery, to better protect patients.

ASAPS contends that the reckless or deliberate misleading of patients by medical practitioners claiming to have expertise in cosmetic surgery is the priority regulatory failure that the *Independent review of the regulation of health practitioners in cosmetic surgery* (the Independent Review) must address.

As a general principle, any Australian consumer undergoing surgery correctly assumes and expects it will be undertaken safely by a registered specialist surgeon.

At present, if a medical practitioner who is not a registered surgeon, uses the title 'cosmetic surgeon' it implies to the patient and is commonly understood that this practitioner is a specialist surgeon. We note that AHPRA has previously argued that this is not inconsistent with the *Health Practitioner Regulation National Law Act* (the National Law) and existing Guidelines and regulation.

Misleading and confusing titles pose a major risk to patients who are unable to make informed choices about cosmetic surgery procedures nor medical practitioners in an open and transparent market.

The impact of this deception is verified by consumer research showing that 81% of Australians believe that when a practitioner uses the title "cosmetic surgeon" the practitioner is a "registered specialist" in cosmetic surgery. This is doubly deceptive as one, the practitioner may not be a registered specialist and two, cosmetic surgery is not a recognised specialty.

The gravity of this issue was recently reinforced by the Senate Standing Committee on Community Affairs, which released its report into the *Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law* in April 2022.

The report acknowledges the Committee's concern about the substantial risk to public safety caused by practitioners using the title 'surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery.

The impact of AHPRA's systemic regulatory failure to protect patients was verified by the ABC Four Corners Report which exposed [REDACTED]. The multiple media reports have revealed an unprecedented scale of patient harm and poor professional standards in cosmetic surgery.

Media reporting of the cosmetic surgery sector has only reinforced ASAPS position on the need to protect patients from the implications of being misled or confused by the title 'cosmetic surgeon'. No patient should ever be forced to say after the event - if I'd known their real qualifications and skills I would never have agreed to the medical procedure.

Practitioners who are unregistered surgeons yet use the title cosmetic surgeon bear primary responsibility for patient harm. However, AHPRA's inaction in response to title abuse by unregistered surgeons and lack of proactive and preventative enforcement to mitigate risk to patients deserves a share of the blame.

ASAPS contends that AHPRA's current reactive approach is insufficient given the gravity of this issue. AHPRA can and should do more to support informed consent and patient safety and this is clear within the existing legislation.

ASAPS recommends that AHPRA introduce and proactively enforce a requirement that practitioners make their registration status explicit to patients and in any other form of advertising to facilitate informed choice by patients and mitigate harm.

1. ASAPS Assessment of patient harm

ASAPS' assessment of patient harm in cosmetic surgery is informed by privileged and confidential feedback regarding cosmetic surgery patient harm from ASAPS's nationwide member network of 300+ members.

ASAPS' members are Specialist Plastic Surgeons working in the public and private sectors in regional and metro areas. ASAPS members are frequently called upon to treat avoidable life-threatening complications and sub-standard aesthetic results following cosmetic surgery, and therefore offer a unique perspective on the scale of the problem.

ASAPS' assessment of patient harm is further informed by the following:

- Detailed accounts of patient harm stories revealed by the ABC Four Corners and related media reporting about [REDACTED]
- Multiple media reports on cosmetic surgery patient harm including:

- Four patient deaths following cosmetic surgery - [Reference 1](#), [Reference 2](#), [Reference 3](#), [Reference 4](#))
- Life threatening complications following cosmetic surgery like punctured lungs, seizure activity, cardiac arrest, overdosing of local anaesthesia and excessive bleeding - [Reference](#)
- Findings of the four Cosmetic surgery inquiries that have occurred in NSW, Queensland and National jurisdictions since 1998 – [Reference 1](#), [Reference 2](#).
- Findings of the 2014 Australian Medical Council report on recognising Cosmetic Surgery as an independent speciality – [Reference 1](#), [Reference 2](#).
- Two Class Actions launched in the Supreme Courts of New South Wales and Victoria – [Reference 1](#), [Reference 2](#) ; and
- Numerous social media posts and comments about patient harm in cosmetic, including reports from victims on the Instagram account [REDACTED] which has 28,000 + followers.

Documented incidents of patient harm

- 1 . Cosmetic Surgery: Australian Industry Under Scrutiny After Horror Cases
<http://surgerysurvivors.com.au/2020/12/16/cosmetic-surgery-australian-industry-under-scrutiny-after-horror-cases/>
- 2 . Cosmetic surgery: Australian industry under scrutiny after horror cases. **Experts say the sector is infiltrated by dodgy operators cashing in on \$1bn obsession with beauty.**
<https://www.theguardian.com/lifeandstyle/2019/jul/24/cosmetic-surgery-australian-industry-under-scrutiny-horror-cases>
- 3 . Scarred And Traumatized: Former Patient Of Disgraced GP Speaks Out.
<http://surgerysurvivors.com.au/2020/12/16/scarred-and-traumatized-former-patient-of-disgraced-gp-speaks-out/>
- 4 . “I’m Stuck With Them”: The Suspended Doctor And His 120 Victims.
<http://surgerysurvivors.com.au/2020/12/21/australian-medical-insurer-avant-mutual-profited-off-victims-of-disgraced-cosmetic-surgeries/>
- 5 . Disgraced Doctor Throws Spotlight On Unregulated “Cosmetic Surgery” Industry.
<http://surgerysurvivors.com.au/2020/12/31/disgraced-doctor-throws-spotlight-on-unregulated-cosmetic-surgery-industry/>
- 6 . Cosmetic surgery industry has been plagued with issues for decades. So why didn’t authorities act?
<https://www.abc.net.au/news/2021-12-01/why-taken-so-long-to-crack-down-on-cosmetic-cowboys/100663292>

7. Celebrity cosmetic surgeon's liposuction patient in ICU after "major" blood loss
<https://www.abc.net.au/news/2021-11-18/cosmetic-surgeon-dr-daniel-aronov-liposuction-patient-in-icu/100624872>
8. Emma Steel's boyfriend Dr Alireza Fallahi has been referred to the health care regulator <https://www.dailymail.co.uk/news/article-10425343/Emma-Steels-boyfriend-Dr-Alireza-Fallahi-performed-surgery-Dolly-Parton-song-Jolene.html>
9. Alireza Fallahi is one of the doctors in the controversial video of surgeons performing liposuction while singing Dolly Parton hit *Jolene*.
https://www.dailytelegraph.com.au/subscribe/news/1/?sourceCode=DTWEB_WRE170_a_GGL&dest=https%3A%2F%2Fwww.dailytelegraph.com.au%2Fnews%2Fnews%2Femma-steels-new-beau-dr-alireza-fallahi-in-controversial-surgery-video%2Fnews-story%2F56fe43b00182274bacd8f914886
10. Woman recovers after cardiac arrest at cosmetic institute during breast implant surgery.
<https://www.smh.com.au/national/nsw/woman-recovers-after-cardiac-arrest-at-cosmetic-institute-during-breast-implant-surgery-20150131-132n8z.html>
11. A 20-year-old woman who went into **cardiac arrest** while undergoing breast surgery. The Institute's **Dr Niro** Sivathanan visited her yesterday.
<https://www.9news.com.au/health/patient-20-recovering-after-having-heart-attack-during-boob-job/c8d87692-1e5a-4854-94e6-4c18d77f9c9>
12. Cosmetic Surgery needs more than a tummy tuck. Op Ed by Prof Allan Fels. Former Chairman Australian Competition and Consumer Commission (ACCC). Sydney Morning Herald, October 28, 2021
13. Head of The Cosmetic Institute resigns amid claims of medical negligence
https://au.news.yahoo.com/head-of-the-cosmetic-institute-resigns-amid-claims-of-medical-negligence30212115.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAABYk96xVi7y BhydFSTH05wi6UZdA sJ OylO dYRB4xxM5LWOBG QWO7tDopz
14. ISAPS Patient safety diamond
<https://www.isaps.org/medical-travel-guide/safety-considerations/>

ASAPS's assessment finds three factors that posed a substantial risk to patient safety. This is supported by the findings of the April 2022 Senate Committee.

- 1) Practitioners who were neither [Australian Medical Council](#) (AMC) accredited nor AHPRA registered surgeons recklessly and deliberately used the title 'cosmetic surgeon' to hold out to patients that they are specialists.

- 2) Consumers and patients being misled by the title “cosmetic surgeon” into thinking the practitioner is a qualified, AMC accredited and AHPRA registered specialist surgeon when in fact the practitioner was not.
- 3) Invasive Cosmetic Surgery performed by practitioners who were neither AMC accredited nor AHPRA registered surgeons.

ASAPS strongly recommends that the Review adopt the following inter-related reform principles to ensure the legitimate use of titles to mitigate cosmetic surgery risk and protect patients:

- A practitioner who has only general registration (all registered medical practitioners) must use the title “Medical Practitioner”.
- Only a practitioner who is registered in a recognised specialty can use the protected title of that specialty. For example, a dermatologist who is registered as a specialist in dermatology should use the title “Specialist Dermatologist”. If they choose not to, they must use the title “Medical Practitioner”.
- All practitioners to be prohibited from using any title that falls outside the regulated list of protected titles.
- All practitioners must declare their registration status and official AHPRA title, as a key component of informed patient consent in a manner similar to the [Australian Open Disclosure Framework](#) of the Australian Commission for Safety and Quality in Health Care.

ASAPS acknowledges that the use of the title ‘surgeon’ is currently under consideration by the Ministerial Council and is therefore outside the scope of the Review. However, there are other administrative ways that the regulation of health practitioners undertaking cosmetic surgery can be substantially improved to protect patients by adopting the principles outlined above.

Requiring the practitioner responsible to be transparent about their Australian-recognised training and AHPRA registered title will allow patients to make informed choices. It will also make it easier for AHPRA to effectively regulate the sector and provide confidence to consumers, in the context of now well-documented and widely understood incidents of malpractice by unqualified practitioners.

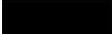
Recommendations

ASAPS commends the following recommendations to the Independent Review on cosmetic surgery.

1. That the MBA [Guidelines for Registered Medical Practitioners who perform cosmetic medical and surgical procedures](#) be urgently updated as follows:
 - a. Guideline 9, [Qualifications and Titles](#) be amended by adding a prohibition on medical practitioners using any title except their AHPRA registered title.
 - b. Guideline 10, [Advertising and Marketing](#) be amended to prohibit all advertising material including practice and practitioner websites from using any title except their AHPRA registered title.
 - c. Guideline 4, [Consent](#) be amended by adding to 4.1 a requirement that the practitioner must include only their AHPRA registered title in the information provided to patients.

- d. Guideline 2, Patient Assessment be amended to require the medical practitioner must declare their registration status and AHPRA registered title at the patient's first consultation.
2. That the MBA Guidelines for advertising of regulated health services be urgently amended to prohibit the use of any title except AHPRA registered titles as follows:
 - a. Guideline 4.1.4.d Qualifications be amended to include the following
'post nominal letters, abbreviations and qualifications obtained from Non AMC accredited private institutions should not be used by a registered medical practitioner'
 - b. Guideline 4.1.4 c Overstating specialist area of practice be amended to include the following:
When a practitioner does not hold specialist registration in Surgery, the National Boards consider that any advertising using words or titles related to "speciality" or "surgeon" is likely to mislead the public to believe the practitioner holds a type of specialist registration approved under national law. The use of the title Cosmetic Surgeon, Cosmetic surgery specialist, cosmetic practitioner, cosmetic surgery practitioner would be considered as misleading.
 3. That AHPRA update its website with the following statement - Cosmetic Surgeon is not a protected specialist title and *Cosmetic Surgery is not a regulated health service. AHPRA has identified the use of this title cosmetic surgeon is potentially misleading and deceptive and could lead to consumer confusion and patient harm. All registered medical practitioners must use only their official AHPRA title to ensure transparency and public trust in the system.*
 4. That AHPRA act immediately to maintain the integrity of its own register of practitioners by mandating practitioners to disclose their registration status displayed on the register that is maintained by AHPRA at the first consultation as an expected professional standard of care. Failure to do so should constitute professional misconduct that should be mandatorily reported.
 5. That AHPRA and the Medical Board of Australia do not endorse practitioners for cosmetic surgery, practitioners who have failed to complete AMC accredited training program in surgery and who are not eligible to be registered as specialist surgeons by AHPRA as there is no community benefit.
 6. That AHPRA and the Medical Board of Australia undertake a public education campaign to help patients understand what each AHPRA registered title is and the training and safety, registration, guarantees.

Contact


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Consultation Questions

Codes and guidelines

- 1. Do the current Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures adequately address issues relevant to the current and expected future practice of cosmetic surgery and contribute to safe practice that is within a practitioner's scope, qualifications, training, and experience?**

The current Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures and the Guidelines for advertising of regulated health services do not adequately address issues relevant to the current and future practice of cosmetic surgery. In several critical areas, they are now out of date and are inadequate to protect patients.

Since the Independent Review aims to ensure protection of patients, ASAPS strongly recommends that the priority for the current review must be ensuring, in a proactive manner, patient safety. The avoidable human, social and other costs of acting after the event and after a notification has been received is too great.

The Guidelines are lacking in explicit measures to ensure safe practice that is within a practitioner's scope, registration, qualifications, training, and experience. Multiple media reports of patient harm over the years including the cluster of investigative media report on "Cosmetic cowboys" by [Four Corners](#) in October 2021 and the class action lawsuits commenced by patients harmed because of cosmetic surgery is supportive evidence.

This is further reinforced by the findings of the April 2022 Senate Committee report where the committee acknowledged its concern about the substantial risk to public safety caused by practitioners using the title 'surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery.

- 2. What changes are necessary and why? What additional areas should the guidelines address to achieve the above purpose?**

Through evidence provided by our 300+ member network of Specialised Plastic Surgeons, ASAPS has unique visibility of the damage inflicted by unregistered surgeons and the urgent need for AHPRA to proactively regulate cosmetic surgery and improve the ability of patients to provide informed consent.

Every year thousands of women who seek cosmetic surgery, fall victims to misleading advertising and cheap deals and make choices that potentially impact their lives and livelihood. These women risk their lives and livelihood the hands of practitioners who are not registered surgeons but advertise using the title 'cosmetic surgeon' and whose standards of safety and hygiene fall short of the established and widely accepted Australian standard. Safety breaches during cosmetic surgery expose patients to potential serious injury and tragically, at times death. Beyond the human tragedy, the unnecessary use of Medicare and taxpayer funds in rectifying these injuries are substantial that further strains healthcare resources and adds to the cost.

Decades of media reports of patient harm in cosmetic surgery, two class action law suits currently underway, current review of the use of the title 'surgeon' by the ministerial council and the four cosmetic surgery inquiries that have taken place since 1998 and the concern by the Senate Standing Committee on Community Affairs about the **substantial risk to public safety** caused by practitioners using the title 'surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery all point to a better need to better protect patients.

Patients must be able to make choices in an open and transparent market. Practitioners who self-label as "cosmetic surgeons" are currently not required by the Guidelines and therefore don't disclose these important facts to their patients. It is therefore hard to see how their patients are "making an informed decision" regarding the cosmetic medical procedures they are undergoing. In fact, it is arguable that the information currently required to be given creates the dangerous illusion that the patient is fully informed, when in fact a critically relevant piece of information is either being withheld or supplied deceptively. The March 2022 class action launched in the Supreme Court of Victoria that alleges that each of the defendants engaged in misleading and deceptive conduct is supportive evidence.

Since the objective of the Independent Review is to protect patients, it is imperative that the independent review and AHPRA do not restrict themselves to patient harm data obtained through official complaints made to AHPRA. During an in-camera hearing to the Senate Committee AHPRA acknowledged that "recent media reports highlighted the significant issues in the cosmetic sector and that its complaints data is not providing AHPRA with a comprehensive overview of these issues."

In its April 2022 report into the *Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law*, the Senate Standing Committee on Community Affairs expressed concerns about the substantial risk to public safety caused by practitioners using the title 'surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery.

This risk can be mitigated if the practitioner were obliged to openly disclose the registration status and official AHPRA title to the patient during the first consultation, in a manner similar to the **Australian Open Disclosure Framework**.

The **Australian Open Disclosure Framework** was developed by the Australian Commission for Safety and Quality in Health Care and endorsed by Australian Health Ministers in 2013. It provides a nationally consistent basis for communication following unexpected health outcomes and harm. One of five main elements of the Open Disclosure Framework is a 'factual explanation of what happened'.

Requiring a practitioner to openly disclose registration status will help the patient make an informed choice based on factual information, an understanding of the practitioner's skills and qualifications and the associated risks. This will enable patients to provide informed consent, before they are either emotionally or economically invested in the procedure and / or the medical practitioner.

It is an important principle that every patient give informed consent before any medical procedure occurs (see Guideline 4.1 [Consent](#)). ASAPS strongly supports this principle and considers that AHPRA should be proactive in supporting an environment of informed consent in the cosmetic surgery sector.

The current Guideline 4.1 is inadequate in supporting informed consent. There is currently no obligation on the medical practitioner to declare their registration status and official AHPRA title to their patient.

ASAPS recommends that Guideline 4.1 be amended with the addition of the following text:

- *All practitioners must declare their registration status and official AHPRA title, as a key component of informed patient consent.*

The current requirement that the medical practitioner provide information about their qualifications and experience (Guideline 4.1) is inadequate and potentially misleading. Most patients are unable to make judgements between competing qualification claims and ‘shopping lists’ of experience, none of which is independently verified, and most are self-selected. The only independently verified source of qualifications is the AHPRA register, and titles as defined by the National Law.

Further Guideline 2, Patient Assessment must also be amended to include a requirement that the medical practitioner must declare their registration status and official AHPRA title at the patient’s first consultation. This will ensure that the patient can decide whether to proceed or not as early as possible before they are either emotionally or economically invested in the procedure and / or the medical practitioner.

Guideline 9.1 Qualifications and titles must be amended to ensure consistency with the reformed Guidelines 4.1 and 2. Currently it states:

9.1. A medical practitioner must not make claims about their qualification, experience or expertise that could mislead patients by implying the practitioner is more skilled or more experienced than is the case. To do so is in breach of the National Law (sections 117-119).

Given patient perceptions of titles, and the shorthand importance they place on them when deciding on cosmetic medical procedures, claims about titles and registration status must also be included

9.1. A medical practitioner must not make claims about their title, registration, qualification, experience or expertise...

Finally, Guideline 10, Advertising and Marketing must be amended to prohibit all advertising material including practice and practitioner websites from using any title except their AHPRA registered title. To ensure consistency the MBA Guidelines for advertising of regulated health services be urgently amended to prohibit the use of any title except AHPRA registered titles in any marketing or advertising activity. This is critically important regarding cosmetic surgery as patients rely more heavily upon social media, advertising and recommendations of family and friends in their decision-making process.

One of the most egregious examples of using titles to confuse patients is when a practitioner who is not a registered surgical specialist uses the fabricated title “cosmetic surgeons”. The deception is verified by consumer research that shows that 81% of Australians believe that when a practitioner uses the title “cosmetic surgeon” the practitioner is a “registered specialist” in cosmetic surgery. This is doubly deceptive as 1) the practitioner may not be a registered specialist and 2) cosmetic surgery is not a recognised specialty. The March 2022 class action launched in the Supreme Court of Victoria that

alleges that each of the defendants engaged in misleading and deceptive conduct is supportive evidence. This is further reinforced by the findings of the Senate Committee.

Practitioners who self-label as “cosmetic surgeons” are currently not required by the Guidelines and therefore don’t disclose these important facts to their patients. It is therefore hard to see how their patients are “making an informed decision” regarding the cosmetic medical procedures they are undergoing. In fact, it is arguable that the information currently required to be given creates the dangerous illusion that the patient is fully informed, when in fact a critically relevant piece of information is either being withheld or supplied deceptively.

Patients must be able to make choices in an open and transparent market. Addressing the obligations on medical practitioners to disclose in the new Guidelines would be a simple administrative step to reduce the information asymmetry between patients and medical practitioners.

ASAPS supports amending the Guidelines to require all practitioners to declare their registration status and official AHPRA title, as a key component of informed patient consent at the first consultation.

3. Please provide any further comment in relation to the use of codes and guidelines relevant to the practice of cosmetic surgery?

ASAPS wishes to comment on the following two interrelated topics that pose a substantial risk to patient safety:

- a) Inconsistent messaging from AHPRA
- b) Cosmetic surgery as a recognised speciality

a) Inconsistent messaging from AHPRA

The current lack of clarity around practitioner titles and the level of qualification these titles reflect has contributed to substantial risks to patients seeking cosmetic surgery, as acknowledged by the Senate Standing Committee on Community Affairs report in April 2022.

In addition to consumer confusion, AHPRA’s inconsistent messaging has perpetuated this issue by further enabling the use of false and misleading titles by practitioners who are empowered to market themselves as ‘cosmetic surgeons’.

AHPRA states on its website:

‘Cosmetic Surgeon is not a protected specialist title. This means that any medical practitioner could call themselves a ‘cosmetic surgeon’.

This official AHPRA statement is deliberately misinterpreted and weaponised by practitioners to support their commercial interests and convey a level of expertise in a surgical field that is currently unregulated, putting patients at substantial risk.

ASAPS has analysed the impact of this confusing statement and has identified four patterns of behaviour that pose a substantial risk to patient safety.

Pattern 1: A registered medical practitioner with no more than a basic medical degree, who is not qualified nor registered as a specialist surgeon **could selectively misinterpret** this AHPRA statement as a ‘tacit approval to practice cosmetic surgery without the need to qualify nor be registered as a Surgeon.

Pattern 2: An overseas doctor with no more than a basic medical degree **could also selectively misinterpret** this AHPRA statement as a ‘tacit approval to practice cosmetic surgery without complying with the professional and regulatory requirements expected of a doctor who did not go to medical school in Australia. These requirements are passing Australian exams, completing AMC accredited specialist surgical training, passing surgical exams and possessing a valid registration as a specialist surgeon.

Pattern 3: The overseas doctor (graduates of UK, Ireland, Canada, US and South African medical schools) with no more than a basic medical degree who gains full registration through the Competent Authority Pathway of AHPRA, without passing any Australian Exams, **could also misinterpret** this AHPRA statement as a ‘tacit approval to practice cosmetic surgery without complying with the professional and regulatory requirements expected of a doctor who did not go to medical school in Australia. These requirements are passing Australian exams, completing AMC accredited specialist surgical training, passing surgical exams and possessing a valid registration as a specialist surgeon.

Pattern 4: The non-medical entrepreneurial businessperson **could misinterpret** this AHPRA statement as a loophole to be exploited for commercial gains.

The ultimate price is paid by the consumer who sees this as an official endorsement from the MBA and AHPRA that any doctor (with no more than a basic medical degree and no specialist surgical qualification nor registration) has the competence and training to safely perform any cosmetic surgical procedure.

Based on this statement the consumer erroneously assumes that the risk is the same whether the surgery is performed by a registered surgical specialist or an unregistered surgeon. This is a substantial risk to public safety.

b) Cosmetic Surgery is not a recognised medical speciality

Cosmetic surgery is a regulated health service. Recognition as an ‘independent medical speciality in Australia’ implies that this medical speciality has been accorded ‘official recognition’ by the ministerial council in accordance with the National Law in Australia. It is a statutory tag for a medical speciality.

There are numerous surgical specialities that have not been given ‘the official recognition as an independent medical speciality’. They include Cosmetic Surgery, Spinal Surgery, Hip Surgery, Hand Surgery, Breast Surgery, Head and Neck Surgery, Endocrine Surgery, Colorectal Surgery, Hepatobiliary Surgery to name a few.

In fact, each of the 10 recognised independent medical specialities in Australia, nurture many surgical specialities under their overarching brand. For example, under the recognised medical speciality of Orthopaedic Surgery we have specialities like Spinal Surgery, Hand Surgery, Foot and Ankle Surgery, Shoulder Surgery and Hip and Knee Surgery. Under the recognised speciality of General Surgery there

are well established surgical specialities like Endocrine Surgery, Breast Surgery, Colorectal Surgery, Surgical Oncology, Hepatobiliary Surgery.

Similarly, under the AHPRA recognised medical speciality of Plastic Surgery there are established specialities of Cosmetic Surgery, Hand Surgery, Craniofacial Surgery, Burns Surgery and Microsurgery (see Diagram 1).

The nation's highest authority for medical education, the Australian Medical Council (AMC) has ruled in 2014 that there is insufficient evidence to recognise cosmetic surgery as a separate medical speciality (see Diagram 2).

Noting the role of the Independent Review is to ensure better protection of patients, ASAPS strongly recommends that AHPRA takes this opportunity to clarify that although Cosmetic Surgeon is not a protected specialist title, Cosmetic Surgery is a regulated health service and practitioners should still be obliged to use their official AHPRA title to ensure transparency and public trust.

Through this practical measure, AHPRA has an opportunity to mitigate the substantial risk to public safety highlighted in the April 2022 Senate Standing Committee report.

Recommendation

Current statement on AHPRA website that contributes to consumer confusion and increased risk:

[‘Cosmetic Surgeon is not a protected specialist title. This means that any medical practitioner could call themselves a ‘cosmetic surgeon’.](#)

ASAPS recommends replacing it with the following to offer clarity and mitigate risk to consumer:

“Cosmetic Surgeon is not a protected specialist title, but Cosmetic Surgery is a regulated health service. AHPRA has identified the use of this title Cosmetic Surgeon is potentially misleading and deceptive, leads to consumer confusion and patient harm. All registered medical practitioners must use only their official AHPRA title to ensure transparency and public trust in the system”

Diagram 1.



Australasian Society of
Aesthetic Plastic
Surgeons
Excellence in cosmetic surgery™

Is Cosmetic Surgery a recognised speciality or a speciality – What is the difference?

Recognised Speciality is a medical speciality that has been accorded **official recognition** as an independent medical speciality by the ministerial council in accordance with the national law.

In Australia only the following 10 surgical specialities are recognised as INDEPENDENT medical specialities despite the existence of many surgical specialities:

<ol style="list-style-type: none"> 1. Plastic Surgery (includes both Cosmetic Surgery and Reconstructive Surgery) 2. Cardio Thoracic Surgery 3. Neurosurgery 4. Orthopaedic Surgery 5. Urology 	<ol style="list-style-type: none"> 6. General Surgery 7. Vascular Surgery 8. Oral and Maxillofacial Surgery 9. Paediatric Surgery 10. Otolaryngology (ENT) and Head and Neck Surgery
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Each of the above 10 recognised medical specialities, nurture many specialities under their overarching brand:

ORTHOPAEDIC SURGERY	PLASTIC SURGERY	ENT SURGERY	GENERAL SURGERY
<ol style="list-style-type: none"> 1. Spine surgery 2. Shoulder surgery 3. Hand surgery 4. Hip and knee surgery 5. Foot and ankle surgery 	<ol style="list-style-type: none"> 1. Cosmetic surgery 2. Breast Surgery 3. Craniofacial surgery 4. Hand surgery 5. Burns surgery 6. Microsurgery 7. Reconstructive surgery 	<ol style="list-style-type: none"> 1. Rhinology and Sinus Surgery 2. Otolaryngology 3. Head and Neck Surgery 4. Paediatric ENT Surgery 	<ol style="list-style-type: none"> 1. Breast Surgery 2. Endocrine Surgery 3. Upper GI Surgery 4. Hepatobiliary Surgery 5. Bariatric Surgery 6. Colo Rectal Surgery 7. Surgical Oncology

It is neither feasible nor realistic to accord official status of a “recognised speciality” to ALL existing surgical specialities in Australia.

Cosmetic Surgery is a part of the recognised medical speciality of Plastic Surgery – Medical Board of Australia 2016

There is insufficient evidence to recognise Cosmetic Surgery as a separate discipline – Australian Medical Council 2014

Diagram 2.



Management of notifications

4. Having regard to AHPRA and the Medical Board's powers and remit, what changes do you consider are necessary to the approach of AHPRA and the Medical Board in managing cosmetic surgery notifications, including their risk assessment process, and why?

The avoidable human, social and other costs of acting after the event and after a notification has been received is too great. As no patient or public benefit can be demonstrated by AHPRA's current reactive after the event approach, ASAPS strongly recommends that the priority for the current review must be to ensure patient safety by adopting a proactive and responsive model that can identify, respond, and mitigate risk to patient safety at source.

The current model of managing notifications without effective enforcement does not protect patients. Sustainable patient protection is possible only when managing notification is combined with robust preventative measures to identify and mitigate risk at source.

Australian State and Territory Parliaments and the Council of Health Ministers approved *the Health Practitioner National Law Act* and established the AMC and AHPRA to define the high professional standards and regulatory compliance necessary to provide Australians with a health care system that is safe, effective and of the highest quality. Registered medical practitioners have an obligation to achieve these benchmarked high professional standards and comply with all regulations. These measures underpin the presumption of safety that provides public confidence in the system.

The multiple media reports of patient harm over the years, including the cluster of investigative media report on 'Cosmetic cowboys' by Four Corners in October 2021 and the class action lawsuits commenced by patients harmed because of cosmetic surgery, provides the evidence that certain practitioners have not achieved high professional standards benchmarked by the AMC and have not [REDACTED]. This undermines patient safety and public confidence in the system. This was verified by the April 2022 report by the Senate Standing Committee on Community Affairs, which raised concerns about the substantial risk to public safety caused by practitioners using the title 'surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery.

It is ASAPS view that AHPRA's current risk assessment methodology is flawed as it assumes false equivalence. AHPRA erroneously assumes the risk to the patient undergoing cosmetic surgery is the same irrespective of who performs the surgery or where the surgery is performed.

AHPRA's risk assessment is outdated because it does not factor:

1. The risk to the consumer due to the practitioner's lack of AMC accredited training
2. The risk to the consumer due to the practitioner's lack of AHPRA registration as a Surgeon,
3. The risk to the consumer due to the practitioner's deceptive use of the title 'Cosmetic Surgeon' to hold out as a specialist.

A basic Cosmetic Surgery Risk Matrix like the one below would have provided a better insight into the risk faced by patients who undergo cosmetic surgery

COSMETIC SURGERY RISK MATRIX		
	LOW RISK	HIGH RISK
RISK IDENTIFICATION		
Surgical Training	AMC accredited surgical training (The Australian Standard of Surgery)	Lack of AMC accredited surgical training (Lack of The Australian Standard of Surgery)
Registration	AHPRA Registered Surgeon	Unregistered Surgeon
RISK CHARACTERISATION		
Title	Use official AHPRA title that is an accurate reflection of registration and specialisation	Do not use official AHPRA title. Title used does not accurately reflect registration and specialisation and practitioner is holding out to be a specialist
Advertising	Not false and misleading	False and misleading advertising
Operating Facility	Licensed for cosmetic surgery	Unlicensed facility
Ongoing Surgical CPD	RACS (Royal Australasian College of Surgeons)	Not an AMC accredited Surgical College

This bias is manifest in the following AHPRA statement on its consumer facing website that states:

“Cosmetic Surgeon is not a protected specialist title. This means that any medical practitioner could call themselves a ‘Cosmetic Surgeon’”.

The consumer who reads this statement infers:

1. This statement to be an official endorsement from the MBA and AHPRA that any doctor is competent to call themselves a Cosmetic Surgeon.

2. Doctors who have no more than a basic medical degree and no specialist surgical qualification nor registration are endorsed by AHPRA to have the competence and training to safely perform any cosmetic surgical procedure.
3. That the risk to the consumer is the same whether the cosmetic surgery is performed by a registered surgical specialist or an unregistered surgeon.

The risk profiles of these two cohorts, Registered Specialist Surgeons (who number 6458 including 523 registered specialist plastic surgeons) and unregistered surgeons who use the term 'Cosmetic Surgeons' is clearly not the same.

All 6,458 AHPRA registered specialist surgeons maintain high professional standards and regulatory compliance, thereby mitigating risks and improving patient safety by participating in activities that include but are not limited to:

1. AMC accredited surgical training that is the 'Australian standard';
2. Ongoing formal assessments during the 5-year AMC accredited surgical training program;
3. Successful completion of training and passing of all AMC approved surgical exams;
4. Compliant with Surgical CPD (Continuous Professional Development);
5. Practice in a public, private or public and private hospital with regular peer reviewed performance audit;
6. Membership of professional societies, access to a professional network and scientific meetings; and
7. 24/7 Access to the RACS extensive Online library of surgical texts and journals to facilitate ongoing learning.

In contrast, an unregistered surgeon practicing invasive cosmetic surgery has a different risk profile mainly due to the lack of statutory safeguards like AMC accreditation and AHPRA registration.

Unlike a registered specialist surgeon:

1. The unregistered surgeon hasn't undergone the requisite AMC accredited surgical training to the highest Australian standards in surgery and is unable to avail the benefit of the risk mitigation inherent to the five-year AMC accredited training program.
2. The unregistered surgeon has not passed the requisite examinations in surgery to qualify as a specialist surgeon and unable to avail the benefit of surgical risk mitigation inherent to successfully passing the Australian surgical exam and fulfilling the academic rigours of an Australian surgical qualification.
3. The unregistered surgeon is ineligible to be registered by AHPRA as a Surgeon and is unable to avail the benefit of surgical risk mitigation inherent to being registered as a specialist surgeon by AHPRA and complying with all the surgical CPD requirements.
4. The unregistered surgeon is ineligible to obtain admitting or operating rights in a hospital with a robust clinical governance policy.

In stark contrast, medical indemnity insurers assess the risk of practitioners who perform cosmetic surgery very differently based on actuarial input and statutory safeguards. This reality of the vastly different risk profile is reflected in the different medical indemnity insurance premiums for registered specialist surgeons and unregistered surgeons. Recent media reports of patient harm in cosmetic surgery, the 2 class action lawsuits and the April 2022 Senate Standing Committee on Community Affairs report provide further evidence that AHPRA's risk assessment is flawed, ineffective and does not protect patients.

ASAPS strongly recommends that the priority for the current review must be to ensure patient safety AHPRA's accurate risk assessment and proactive risk mitigation at source. By ensuring that

1. All practitioners to be prohibited from using any title that falls outside the regulated list of protected titles.
2. All practitioners must declare their registration status and official AHPRA title, as a key component of informed patient consent at the first consultation.

7. Please provide any further relevant comment in relation to the management of notifications about medical practitioners involved in cosmetic surgery.

ASAPS would like to answer this in three parts

- a) Why notifications alone cannot be relied upon to provide the complete picture
- b) The barriers to making notifications about medical practitioners involved in Cosmetic Surgery
- c) Notifications without enforcement cannot regulate practitioners nor protect patients

Why data from notifications alone cannot be relied upon to provide the complete picture

AHPRA's obsessive focus solely on relying on 'Notifications about medical practitioners' without commensurate proactive robust enforcement measures will not result in risk-based regulation of practitioners who practice cosmetic surgery, to better protect patients as intended by the Independent Review. Over reliance on 'notifications' and ignoring 'media reports' will provide AHPRA with a skewed data set and an incomplete picture of the scale of the problem faced by patients because life threatening complications are more likely to be reported by media. This was verified during the in camera hearing to the Senate Committee in October 2021, where AHPRA acknowledged that *"recent media reports highlighted the significant issues in the cosmetic sector and that its complaints data is not providing AHPRA with a comprehensive overview of these issues"*.

The barriers to making notifications about medical practitioners involved in Cosmetic Surgery

The barriers to notifying AHPRA is best summarised by "It is easier to complete your tax return than make a complaint to AHPRA", this statement was made by Michael Fraser one of the panellists on the AHPRA podcast "Taking Care hosted by Susan Biggar", Episode Number 2: Patient safety and cosmetic surgery

It is not reasonable to expect patients, the majority of whom are not familiar with the system of regulation and are never going to attempt to navigate the AHPRA website, to discover the information about complaints and notification. Patients who have attempted to make a complaint to AHPRA have reported that the information is hard to access and the process not user friendly. Patients who had to interact with AHPRA staff on the phone in the process of making a complaint found the experience unpleasant. AHPRA's 111 Google reviews whose average rating is 1.7 out of 5 reflects the consumer experience of those who interacted with AHPRA.

The evidence suggests that notifications without enforcement cannot regulate practitioners nor protect patients

ASAPS would like to bring to the attention of the Independent review two instances that highlight that notifications without enforcement does not protect patients.

Case 1: Had AHPRA acted on information provided by ASAPS'S two Voluntary Notifications made in March 2021 and August 2021 with an intent to protect patients, the human tragedy witnessed on ABC Four Corners could have been avoided.

ASAPS made a voluntary notification to AHPRA in March 2021 documenting the substantial risk to patients undergoing cosmetic surgery by practitioners who are not registered surgical specialists yet use the title Cosmetic Surgeon and withhold their official AHPRA registration from the patients. The evidence to support the voluntary notification included multiple media reports of patient harm over the years to convey to AHPRA the ongoing risk of patient harm. AHPRA did not acknowledge nor assess the risk to patients based on information and did not act.

ASAPS made another voluntary notification regarding professional standards of a practitioner in August 2021. Again, AHPRA did not acknowledge nor assess the risk to patient based on the information provided in the voluntary notification and did not take any measures to protect patients.

In sharp contrast, ASAPS's submission to the Senate Committee that provided similar information about risk and patient harm in cosmetic surgery by practitioners who are not registered surgical specialists yet use the title Cosmetic Surgeon and withhold their official AHPRA registration from the patients prompted the Senate Committee to look into the problem. The senate committee proactively engaged with multiple stakeholders through submissions and in camera interviews to assess the risk of patient harm. The senate committee in its April 2022 report was concerned about the **substantial risk to public safety** caused by practitioners using the title 'Surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery.

Case 2: ASAPS would like to highlight AHPRA's lack of effective enforcement in response to a notification about a clear breach of the National Law section 118, by a practitioner who is NOT registered in the medical speciality of plastic surgery but continues to use the title plastic surgeon.

ASAPS made a voluntary Notification to AHPRA in October 2021.

On the 10th of April 2022, six months after the notification, there is no evidence of AHPRA's enforcement of a significant breach of the National Law regarding use of protected titles. For six months after the mandatory reporting by a voluntary notification to AHPRA there has been no action as the Practitioner had not stopped using the title plastic surgeon and patients continue to be misled about the skills, training and professional standards of care of this practitioner. Patients rely upon truthful titles. AHPRA must enforce the law in a timely manner as there is no community benefit in allowing a practitioner to use a title that does not accurately reflect the registration status.

Advertising restrictions

8. Is AHPRA and the Medical Board's current approach to regulating advertising in cosmetic surgery sufficient?

AHPRA and Medical Board's current approach to regulating advertising in cosmetic surgery is outdated and not sufficient to prevent patient harm. There have been multiple, well-documented incidents of serious patient harm as a result of unscrupulous practitioners, even after the December 2020 update to AHPRA's advertising guidelines.

The ABC Four Corners 'Cosmetic Cowboys' investigation and the media reports that followed, the Instagram page [REDACTED] that has 28,000 followers and the class action lawsuit filed in the Victorian Supreme court would not have happened if AHPRA and the Medical Board's current approach to regulating advertising in cosmetic surgery was fit for purpose.

The Senate Standing Committee on Community Affairs April 2022 report also cited concerns about the substantial risk to public safety caused by practitioners using the title 'Surgeon' who may not have any qualifications or experience in surgery or the specialised fields of surgery. This should prompt AHPRA to take urgent administrative steps to ensure the loopholes closed and the 2020 Advertising Guidelines are strengthened to protect patients.

There are three key deficiencies with AHPRA's existing guidelines for advertising a regulated health service to protect patients:

1. AHPRA's guidelines are not explicit enough;
2. The practitioners are not compliant with the AHPRA guidelines; and
3. AHPRA is not enforcing its own guidelines.

Noting that AHPRA's role is to 'protect patients', ASAPS contends that there is a substantial community and consumer expectation that AHPRA's Advertising Guidelines would be proactive in protecting patients.

9. What should be improved and why and how?

ASAPS strongly recommends that the Review adopt the following inter-related reform principles to ensure the legitimate use of titles to mitigate cosmetic surgery risk and protect patient:

- A practitioner who has only general registration (all registered medical practitioners) must use the title “Medical Practitioner”.
- Only a practitioner who is registered in a recognised specialty can use the protected title of that specialty. For example, a dermatologist who is registered as a specialist in dermatology should use the title “Specialist Dermatologist”. If they choose not to, they must use the title “Medical Practitioner”.
- All practitioners to be prohibited from using any title that falls outside the regulated list of protected titles.
- All practitioners must declare their registration status and official AHPRA title, as a key component of informed patient consent in a manner similar to the Australian Open Disclosure Framework of the Australian Commission for Safety and Quality in Health Care.

ASAPS acknowledges that the use of the title ‘Surgeon’ is currently under consideration by the Ministerial Council and is therefore outside the scope of the Review. However, there are other administrative ways that the regulation of health practitioners undertaking cosmetic surgery can be substantially improved to protect patients by adopting the principles outlined above.

Requiring the practitioner responsible to be transparent about their Australian-recognised training and AHPRA registered title will allow patients to make informed choices. It will also make it easier for AHPRA to effectively regulate the sector and provide confidence to consumers, in the context of now well-documented and widely understood incidents of malpractice by unqualified practitioners.

ASAPS commends the following recommendations to the Independent Review on cosmetic surgery.

1. That the MBA Guidelines for Registered Medical Practitioners who perform cosmetic medical and surgical procedures be urgently updated as follows:
 - a. Guideline 9, Qualifications and Titles be amended by adding a prohibition on medical practitioners using any title except their AHPRA registered title.
 - b. Guideline 10, Advertising and Marketing be amended to prohibit all advertising material including practice and practitioner websites from using any title except their AHPRA registered title.
 - c. Guideline 4, Consent be amended by adding to 4.1 a requirement that the practitioner must include only their AHPRA registered title in the information provided to patients.
 - d. Guideline 2, Patient Assessment be amended to require the medical practitioner must declare their registration status and AHPRA registered title at the patient’s first consultation.
2. That the MBA Guidelines for advertising of regulated health services be urgently amended to prohibit the use of any title except AHPRA registered titles as follows:
 - a. Guideline 4.1.4.d Qualifications be amended to include the following *‘post nominal letters, abbreviations and qualifications obtained from Non AMC accredited private institutions should not be used by a registered medical practitioner ‘*
 - b. Guideline 4.1.4c Overstating specialist area of practice be amended to include the following:

When a practitioner does not hold specialist registration in Surgery, the National Boards consider that any advertising using words or titles related to “speciality” or “surgeon” is likely to mislead the public to believe the practitioner holds a type of specialist registration approved under national law. The use of the title Cosmetic Surgeon, Cosmetic Surgery Specialist, Cosmetic Practitioner, Cosmetic Surgery Practitioner would be considered as misleading.

3. That AHPRA update its website with the following statement - *Cosmetic Surgeon is not a protected specialist title and Cosmetic Surgery is not a regulated health service. AHPRA has identified the use of this title Cosmetic Surgeon is potentially misleading and deceptive and could lead to consumer confusion and patient harm. All registered medical practitioners must use only their official AHPRA title to ensure transparency and public trust in the system.*
4. That AHPRA and the Medical Board of Australia undertake a public education campaign to help patients understand what each AHPRA registered title is and the training and safety, registration, guarantees.

10. Do the current Guidelines for advertising a regulated health service adequately address risks in relation to advertising of cosmetic surgery, or is a more specific regulatory response required?

The current Guidelines for advertising a regulated health service does not adequately address risk in relation to advertising of cosmetic surgery.

Section 4.1.4.D Qualifications

Analysing the patient harm in cosmetic surgery in the recent October 2021, ABC Four Corners report it was evident that consumers were confused with qualifications and titles.

Since AMC accredited specialist qualifications are the only qualifications that make a practitioner eligible for specialist registration, AHPRA should ban the use of post nominal letters, abbreviations and qualifications obtained from non-AMC accredited institutions as they are confusing to the consumer.

Use of these post nominal letters, abbreviations and qualifications obtained from non-AMC accredited private colleges is misleading as it implies that the practitioner has qualifications, skill or experience that is on par or higher than the AMC accredited specialist surgical training. This undermines the integrity of the AHPRA titling process, does not help the public to make an informed choice and impacts patient safety

ASAPS recommends that Section 4.1.4.d Qualifications be amended to include the following

‘post nominal letters, abbreviations and qualifications obtained from Non AMC accredited private institutions should not be used by a registered medical practitioner ‘

Sections 4.1.4.b Other uses of specialisations, specialities and specialist terms in advertising and Section 4.1.4.c Overstating specialist area of practice.

ASAPS has analysed decades of poor patient outcomes in cosmetic surgery and has identified false and misleading advertising by unregistered surgeons who were neither AMC accredited nor AHPRA registered surgeons but used the title 'Cosmetic Surgeon' to hold out that they are specialists to be the common denominator.

ASAPS recommends that Section 4.1.4c Overstating specialist area of practice be amended to include the following

When a practitioner does not hold specialist registration in Surgery, the National Boards consider that any advertising using words or titles related to "speciality" or "surgeon" is likely to mislead the public to believe the practitioner holds a type of specialist registration approved under national law. The use of the title Cosmetic Surgeon, Cosmetic Specialist or Cosmetic Surgery practitioner would be considered as misleading.

11. Does the promotion of cosmetic surgery via social media raise any issues that are not adequately addressed by the advertising guidelines, or that require any specific regulatory response?

Social media is essential media in 2022, however it has provided a megaphone for unscrupulous operators to mislead consumers. ASAPS recommends that all practitioners use only their official AHPRA title on social media. ASAPS recommends that AHPRA institute tough penalties for title breaches on social media.

While an audit of social media is beyond the scope of this review, a few sentinel points are worth considering in the context of the risk associated with promotion of cosmetic surgery via social media

- Social Media is essential for communication and many patients prefer these channels for ease of use and ease of information gathering.
- The problem is not with social media as a channel, but with the accuracy or truth of the content which can vary from good to outright dangerous and everything in between.
- Social Media Tech Giants curate cosmetic surgery content and disseminate it widely without any controls or filters. The result is minors can access this content easily.
- Minors are able to follow social media accounts of practitioners who practice cosmetic procedures including cosmetic surgery, there are no controls.
- Practitioners do not use their official AHPRA registration status and AHPRA titles but choose to use a title Cosmetic Surgeon. This is misleading advertising.
- Many social media platforms do not have the option for the practitioner to select the title 'Cosmetic Surgeon' but instead the only option is to select the title Plastic Surgeon. So, the practitioners who are not registered specialist plastic surgeons use the title PLASTIC SURGEON on social media platforms. This is misleading advertising and a breach of the National Law Sec 118.

10. Please provide any further relevant comment in relation to the regulation of advertising

Refer to response to Question 8.

11. To what extent would establishing an endorsement in relation to the practice of cosmetic surgery address relevant issues of concern in the sector (including patient safety issues)?

The Australian Parliaments and the Council of Health ministers approved the National Law and established the Australian Medical Council as an independent body to define the high professional standards and AHPRA to ensure registration and regulatory compliance by practitioners. These statutory safeguards provide Australians a health care system that is safe, effective and of the highest quality.

AMC accredited surgical training and AHPRA registration as a Specialist Surgeon act as statutory safeguards every time an Australian consumer undergoes surgery. No patient benefit can be demonstrated by removing these statutory safeguards and substituting them with a system that endorses unregistered surgeons who haven't achieved the professional standards defined by an AMC approved surgical qualification, nor an AHPRA approved specialist surgical title nor registration to practice cosmetic surgery.

ASAPS does not support establishing an endorsement in relation to the practice of cosmetic surgery based on Section 98 of the National Law because it denies the Australian consumer the benefit of the statutory safeguards making the consumer increasingly vulnerable to patient harm. The October 2021 ABC Four Corners report about patient harm is supportive evidence.

Section 98 of the National Law: Endorsement for approved area of practice states

(1) A National Board established for a health profession may, in accordance with an approval given by the Ministerial Council under section 15, endorse the registration of a registered health practitioner registered in a health profession for which the Board is established as being qualified to practise in an approved area of practice for the health profession if the practitioner—

(a) holds either of the following qualifications relevant to the endorsement—

(i) an approved qualification;

(ii) another qualification that, in the Board's opinion, is substantially equivalent to, or based on similar competencies to, an approved qualification; and

(b) complies with an approved registration standard relevant to the endorsement.

Patient safety in cosmetic surgery will not be addressed by establishing a separate endorsement in relation to the practice of cosmetic surgery, because the current professional standards of specialist

surgical practice defined by the Australian Medical Council (AMC) and regulatory compliance required by AHPRA of specialist surgeon is the highest form of endorsement possible within the Australian healthcare system and underpins the presumption of safety that provides public confidence in the system.

Before endorsing non-registered surgeons to practice cosmetic surgery, it is important AHPRA address the failure of its current guidelines and regulations in protecting patients from harm in cosmetic surgery.

Currently the 6,458 registered specialist surgeons who have an AMC approved surgical qualification and an AHPRA approved title comply with the professional standards established by the AMC and the regulations established by AHPRA.

The 5 year AMC accredited surgical training with AMC approved Australian Surgical Exams delivered by the Royal Australasian College of Surgeons (RACS) that leads to an AHPRA specialist registration and the use of a protected specialist surgical title is 'an approved qualification' that Section 98 of the National Law refers to.

In contrast, the Australian College of Cosmetic Surgery and Medicine (ACCSM) 2 year training program and its surgical exams are not approved by the Australian Medical Council (AMC) and hence is "not substantially equivalent to the approved qualification nor is it based on similar competencies to an approved qualification" which is the criteria under Section 98 for endorsement. [REDACTED]

In addition, Dr Daniel Lanzer who was the focus of the ABC Four Corners program and who was subsequently named in a Class Action Law Suit filed in the Supreme Court of Victoria, was a member of the Australian College of Cosmetic Surgery and Medicine (ACCSM) claimed to be a founding fellow of the ACCSM.

If practitioners with neither an approved qualification nor a qualification that is substantially equivalent to or based on similar competencies to that of an approved qualification, were to be endorsed to perform cosmetic surgery a two tier health care system will be created and the patients would continue to be misled and placed at risk because the endorsement could be perceived by patients as an official "tick of approval" for unregistered surgeons to undertake invasive surgery.

AHPRA endorsement of a non registered surgeon could be inferred by consumers and patients:

1. As an official "tick of approval" for unaccredited practitioners to undertake invasive surgery.
2. To be an official endorsement from the MBA and AHPRA that an 'endorsed' doctor with no more than a basic medical degree and no specialist surgical qualification nor registration has the competence and training equal to that of a 'registered' surgical specialist to safely perform any cosmetic surgical procedure.
3. That the risk to the consumer is the same whether the cosmetic surgery is performed by a registered surgical specialist or an "endorsed" unregistered surgeon when in actual fact they are different.
4. That the term 'registered' and 'endorsed' have the same statutory safeguards that protect patients when in actual fact they are different.

Endorsement creates more costs and consumer confusion by reducing transparency. Instead of endorsement, AHPRA should mandate and enforce that all medical practitioners should only use their official AHPRA title and the problem will be solved overnight in a manner that is cost effective.

Considering the extensive media expose of Dr Lanzer and Associates, and knowing what we know now, would AHPRA consider providing an endorsement in cosmetic surgery to Dr Lanzer and his Associates namely Drs Daniel Aronov, Ali Reza Fallahi and Daniel Darbyshire is in the best interests of public safety? The answer should be a clear no.

ASAPS's position opposing endorsement is clearly supported by the current professional standards and regulatory compliance that protect cosmetic surgery patients:

1. The Medical Board of Australia states that the recognised medical speciality of Plastic Surgery includes both cosmetic surgery and reconstructive surgery.
2. Cosmetic Surgery has been provided in a safe and effective manner by Registered Specialist Plastic Surgeons since 1960s.
3. The Australian Society of Plastic Surgeons (ASPS) was founded in 1970.
4. The Australasian Society of Aesthetic Plastic Surgeons (ASAPS) that was founded in 1978 has played a leadership role in raising the standards of Cosmetic Surgery and [patient safety](#) by providing Cosmetic Surgery education to Specialist Plastic Surgeons.
5. Many of ASAPS's 300 plus members have distinguished themselves in the field of Cosmetic Surgery by high standards of clinical practice, research, innovation, teaching and professional leadership and are regarded as global leaders in Cosmetic Surgery.
6. Cosmetic Surgery has always been an integral and inalienable part of the curriculum of the recognised medical speciality of Plastic Surgery in Australia.
7. The Board of Plastic Surgery through the Royal Australasian College of Surgeons (RACS) is tasked with providing AMC accredited training in Plastic Surgery including all the specialities that make up the recognised medical speciality of Plastic Surgery. These specialities include Burns Surgery, Cosmetic Surgery, Craniofacial surgery, Hand Surgery, Microsurgery, Breast Surgery, Reconstructive Surgery.
8. All cosmetic surgery operations have been listed in the [Medicare Benefits Schedule](#) under the Plastic Surgery Section.
9. Cosmetic Surgery operations are performed for both medical indications as well as cosmetic indications.
 - a. Breast Augmentation is the bellwether cosmetic surgery operation that all of us assume is purely a cosmetic surgery operation.
 - b. While majority of breast augmentation is performed for cosmetic indications, the Medicare Benefits Schedule has listed 3 item numbers (45524, 45527, 45528) in the Plastic

- Surgery Section that cover Breast Augmentation for various medical indications.
- c. 45528 Mammoplasty, augmentation, bilateral if reconstructive surgery is indicated because of:
 - i. developmental malformation of breast tissue excluding hypomastia or
 - ii. disease or trauma to the breast or
 - iii. amastia secondary to a congenital endocrine disorder.
10. The practice of cosmetic surgery is within the scope of practice of several surgical disciplines. While majority of the cosmetic surgery operations are performed by registered Specialist Plastic Surgeons, Cosmetic surgical procedures are within the scope of RACS fields of specialty practice are performed by, but not limited to:
- a) Specialist Plastic Surgeons
 - b) Specialist Otolaryngologists (ENT)
 - c) Specialist General Surgeons
 - d) Specialist Urologists
 - e) Specialist Ophthalmologists (eye specialists)
 - f) Specialist Gynaecologists.
11. In Australia there are 6458 registered specialist surgeons including 524 Registered Specialists in Plastic Surgery. The common theme linking the above specialists are:
- a) Completed the AMC accredited surgical training program,
 - b) Passed the qualifying surgical exams,
 - c) Qualified and Registered as Specialist surgeons
 - d) Recognised as surgical specialists by Medicare Australia a
 - e) Recognised as surgical specialists by the Department of health of all states and territories
 - f) Eligible to be appointed to public hospitals as specialist surgeons
 - g) Comply with ongoing CPD requirements that allows them to attain and then maintain specialist registration

For decades, ASAPS has been aware that every year thousands of patients, mostly women who seek cosmetic surgery, fall victims to misleading advertising and make choices that potentially impact their lives and livelihood. These women risk their lives and livelihood at the hands of practitioners who are not registered surgeons but advertise using the title 'Cosmetic Surgeon' and whose standards of safety and hygiene fall short of the Australian standard. These safety breaches expose patients to potential serious injury and tragically, at times death. Beyond the human tragedy, the unnecessary use of Medicare and taxpayer funds in rectifying these injuries are substantial that further strains healthcare resources and adds to the cost.

The ABC Four Corners program that aired in October 2021⁴ and the multiple media reports that followed showcased a group of Melbourne based practitioners who were not qualified nor registered surgeons but advertised using the title 'Cosmetic Surgeon' and practiced liposuction^{10,11,12,13}. The revelation of patient safety breaches and patient harm that shocked the nation was just the tip of the iceberg. Allegations of major safety breaches in the practice of cosmetic surgery include hygiene and safety breaches, as well as allegations by patients who claim these procedures left them with ongoing physical and psychological injuries. The series of media reports also highlighted the confusion faced by members of the public, who did not have knowledge of medical practitioner qualifications and training and were easily misled by advertising of the title of 'Cosmetic Surgeon'. As a result of this false and

misleading advertising, consumers often made poor choices that resulted in substandard outcomes and patient harm¹⁴.

Since 1998, the industry has seen four inquiries that have all identified the ecosystem of patient harm and identified the factors that perpetuates patient harm and widens the cosmetic surgery safety fault line. Regretfully, no meaningful action has resulted, and these four inquiries can be best described as institutional window dressing. The Senate Standing Committee on Community Affairs, which released its report into the Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law in April 2022, confirmed this.

Cosmetic Surgery Inquiries since 1998

Year of Cosmetic Surgery Inquiry	Govt Agency	Findings
1998	NSW committee of inquiry into cosmetic surgery	Inquiry found fewer patient safeguards exist in cosmetic surgery
2010	AMWAC interjurisdictional cosmetic surgery working group	Use of titles and qualifications should not imply that the practitioner is more skilled or has greater experience than is the case. Should not mislead public into believing that the practitioner is a specialist if not so recognised through established processes.
2013	QLD health quality and complaints commission – report based on 115 consumer complaints in cosmetic surgery 2006-2012	Identified instances of medical practitioners misrepresenting their qualifications when advertising. Recommended that use of titles and qualifications should not imply that the practitioner is more skilled or has greater experience than is the case.
2018	NSW parliament: Cosmetic Health Service complaints	Identified health providers who do not comply with the law. Identified use of the title cosmetic surgeon being problematic. Recommended restriction of the title cosmetic surgeon.
2022	Senate Committee report April 2022	Concerned about the substantial risk to public safety caused by practitioners using the title 'surgeon' who may not have any qualifications

		or experience in surgery or the specialised fields of surgery.
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12. Would establishing an endorsement in relation to cosmetic surgery provide more clarity about the specific skills and qualifications of practitioners holding the endorsement?

ASAPS does not support establishing an endorsement in relation to the practice of cosmetic surgery based on Section 98 of the National Law because the endorsement would not provide more clarity about the specific skills and qualifications of practitioners holding the endorsement.

The reality is unregistered surgeons who use the term Cosmetic Surgeon and practice invasive cosmetic surgery have failed to meet the Australian Standard of Surgery that the 6458 Registered specialist surgeons have.

The Australian Standard of Surgery is achieved by:

- Completing an AMC accredited specialist surgical training program;
- Passing Surgical Exams approved by the AMC; and
- Registration by AHPRA as a Specialist in Surgery.

The logical course of action for these unregistered surgeons who haven't met the Australian standard of surgery but who wish to practice invasive cosmetic surgery is to re-train and upskill to the Australian standard in surgery by completing AMC accredited specialist training in surgery, pass all surgical exams and obtain AHPRA registration as a specialist surgeon in Australia like the remaining 6458 specialist surgeons and legitimately enter the surgical workforce as registered surgeons.

Continuing to use the title cosmetic surgeon [REDACTED] and lobbying to obtain endorsement to practice cosmetic surgery without AMC accredited training is to thin veiled attempt to [REDACTED].

Endorsing unregistered surgeons who haven't met the Australian standards of specialist surgery to practice invasive cosmetic surgery will create more confusion instead of clarity. Instead of empowering the consumer it will confuse the consumer who will find it difficult to distinguish who is a registered specialist surgeons and who is an 'endorsed' non-specialist surgeons.

Consumers would continue to be misled and placed at risk because the AHPRA endorsement of a non-registered surgeon could be inferred by consumers and patients:

1. As an official "tick of approval " for unaccredited practitioners to undertake invasive surgery.
2. To be an official endorsement from the MBA and AHPRA that an 'endorsed' doctor with no more than a basic medical degree and no specialist surgical qualification nor registration has the competence and training equal to that of a 'registered' surgical specialist to safely perform any cosmetic surgical procedure.

3. That the risk to the consumer is the same whether the cosmetic surgery is performed by a registered surgical specialist or an “endorsed” unregistered surgeon when in actual fact they are different.
4. That the term ‘registered’ and ‘endorsed’ have the same statutory safeguards that protect patients when in actual fact they are different.

13. What programs of study (existing or new) would provide appropriate qualifications?

The 5-year AMC accredited surgical training with AMC approved Australian Surgical Exams delivered by the Royal Australasian College of Surgeons (RACS) that leads to an AHPRA specialist registration and the use of a protected specialist surgical title is ‘an approved qualification’ that Section 98 of the National Law refers to.

The current AMC accredited surgical training delivered by the Royal Australasian College of Surgeons is the highest Australian professional standard in Surgery and ensures safety by mitigating risk due to poor training and low professional standards. The RACS is the sole provider of accredited surgical training and education for nine ‘surgical’ fields of specialty practice including Plastic Surgery that provides the physiological, ethical, psychological, pharmacological, surgical and medical expertise to safely diagnose, treat and manage cosmetic surgical patients. Cosmetic surgery training that is an integral and inalienable part of the training program in plastic surgery has enabled Registered specialists in plastic surgery to practice cosmetic surgery since the 1960s in a safe and effective manner.

In contrast, the Australian College of Cosmetic Surgery and Medicine (ACCSM) 2 year training program and its surgical exams are not approved by the Australian Medical Council (AMC) and hence is “not substantially equivalent to the approved qualification nor is it based on similar competencies to an approved qualification” which is the criteria under Section 98 for endorsement. The October 2021 ABC Four Corners report about patient harm featured Dr Daniel Lanzer a member of the Australian College of Cosmetic Surgery and Medicine (ACCSM) who claimed to be a founding fellow of the ACCSM.

ASAPS concurs that the existing AMC accredited program of Plastic Surgery provides appropriate skills and qualifications to practice cosmetic surgery and would like to discuss the following in support of its submission.

1. The role of the AMC in maintaining national standards of medical education and training;
2. The existing programs of study in cosmetic surgery accredited by AMC that would provide appropriate qualifications; and
3. AMC Report on Assessment of Cosmetic Medical Practice as a Medical Specialty, Recognition of Medical Specialties Advisory Committee, July 2014.
4. AMC’s findings on the capacity and competency of the ACCSM in providing cosmetic surgery training.

1. The role of the AMC in maintaining national standards of medical education and training

The AMC is an independent national standards body ensures standards of education, training and assessment of the medical profession promote and protect the health of the Australian community.

The AMC advises and makes recommendations to Federal, State and Territory Governments, the Australian Health Workforce Advisory Council, the AHPRA, the MBA and State and Territory boards of the Medical Board of Australia, and any other state and territory medical regulatory authorities in relation to:

- i. matters concerning accreditation or accreditation standards for the medical profession;
- ii. matters concerning the registration of medical practitioners;
- iii. matters concerning the assessment of overseas qualifications of medical practitioners;
- iv. matters concerning the recognition of overseas qualifications of medical practitioners;
- v. the recognition of medical specialties; and
- vi. the assessment of education providers.

2. The existing programs of study in cosmetic surgery accredited by AMC that would provide appropriate qualifications

The Royal Australasian College of Surgeons (RACS) is the sole provider of accredited training and education for nine 'surgical' fields of specialty practice. The nine surgical training programs are five or six years at a minimum, on top of a primary medical degree.

The education and training provides the physiological, ethical, pharmacological, surgical and medical expertise to safely diagnose, treat and manage surgical patients.

The practice of cosmetic surgery is within the scope of practice of several surgical disciplines. Cosmetic surgical procedures are within the scope of RACS fields of specialty practice are performed by, but not limited to:

- Specialist Plastic Surgeons;
- Specialist Otolaryngologists (ENT);
- Specialist General Surgeons;
- Specialist Urologists;
- Specialist Ophthalmologists (eye specialists); and
- Specialist Gynaecologists.

In Australia, the common theme linking the above practitioners is that they have all completed an AMC accredited fellowship and comply with ongoing CPD requirements. Compliance allows them to attain and then maintain specialist registration.

The AMC accredited training program in Plastic Surgery includes accredited training and examination in all the specialities that make up the recognised medical speciality of Plastic Surgery. These specialities include Burns Surgery, Cosmetic Surgery, Craniofacial surgery, Hand Surgery, Microsurgery, Breast Surgery, reconstructive surgery.

Upon successful completion of this program and passing the examinations, the practitioner is eligible to be registered as a Specialist Plastic Surgeon, recognised as a specialist in Plastic Surgery by Medicare Australia and recognised as a specialist in Plastic surgery by the Department of Health of all states and territories enabling registered specialist Plastic surgeons to be appointed to public hospitals as plastic surgeons.

3. AMC Report on Assessment of Cosmetic Medical Practice as a Medical Specialty, Recognition of Medical Specialties Advisory Committee, July 2014.

In 2008, the Australasian College of Cosmetic Surgery (ACCS), now the Australasian College of Cosmetic Surgery and Medicine (ACCSM) lodged an application with the AMC to have Cosmetic Medical Practice recognized as a Medical Specialty.¹

This is a legitimate activity. There is scope for new medical titles can be granted through a well-defined regulatory pathway. The process is detailed in the *Guidelines for the Recognition of Medical Specialties and Fields of Specialty Practice under the Health Practitioner Regulation National Law*, published jointly by the AMC and the Medical Board of Australia (MBA).²

In particular, the guidelines state:

“The COAG Health Council may approve a new or amended specialty only after a public benefit has been demonstrated. That is, applicants proposing a new or amended specialty for recognition under the National Law must establish that there is a need for requiring government intervention (regulation) in the interests of the public and that existing arrangements or other alternative non-regulatory options are unsatisfactory.”

In their submission, the ACCSM submitted a list of common cosmetic surgical and medical procedures including:

- Abdominoplasty (tummy tuck)
- Augmentation phalloplasty (penile enlargement)
- Blepharoplasty (eyelid surgery)
- Botulinum toxin therapy
- Breast reduction
- Augmentation mammoplasty
- Chemical peel
- Collagen/fat injection
- Dermabrasion
- Rhytidectomy (facelift)
- Laser resurfacing
- Liposuction
- Otoplasty

¹ AMC Report on Assessment of Cosmetic Medical Practice as a Medical Specialty, Recognition of Medical Specialties Advisory Committee, July 2014.

² Guidelines for the Recognition of Medical Specialties and Fields of Specialty Practice under the Health Practitioner Regulation National Law.

- Rhinoplasty
- Sclerotherapy

[REDACTED]

[REDACTED]

The MBA defines cosmetic medical and surgical procedures as:

“... operations and other procedures that revise or change the appearance, colour, texture, structure or position of normal bodily features with the dominant purpose of achieving what the patient perceives to be a more desirable appearance or boosting the patient’s self-esteem.”³

The crucial issue in this definition are the words “what the patient perceives”. The patient has a view about their current appearance, and this motivates a desire to seek change through medical or surgical intervention. Under this robust definition, “cosmetic” becomes a therapeutic indication. In other words, if a procedure is done to treat a recognized disease it is not considered cosmetic. If the same procedure is performed because the patient perceives there is an aesthetic issue, it is deemed cosmetic. On this basis, there is no justification to separate practitioners into those who treat disease and those who treat aesthetic issues when they would be using the same assessment techniques and surgical procedures to do so.

[REDACTED]

[REDACTED]

[REDACTED] *The Recognition of Medical Specialties: Policy and Process (2009)*. These criteria take a holistic view of the community benefit that would result from approval of a new medical specialty.

- | | |
|---------------|---|
| Criterion I | That the specialty is a well-defined, distinct and legitimate area of medical practice with a sustainable base in the medical profession. |
| Criterion II | That specialization in the area of practice is demonstrably contributing to substantial improvements in the quality and safety of healthcare. |
| Criterion III | That specialization in the area of practice is demonstrably contributing to substantial improvements in the standards of medical practice. |

³ Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures. Medical Board of Australia, 1 October 2016.

Criterion IV That recognition of the specialty would be a wise use of resources.

[REDACTED]

4. The capacity of the ACCSM to deliver specialist surgical education

The Australasian College of Cosmetic Surgery and Medicine (ACCSM or College) claims to provide two years of advanced training in cosmetic surgery. Specific details of their course are not publicly available. According to the ACCSM website, the organisation currently has 38 surgical Fellows and an additional 55 medical (Non-Surgical) Fellows for a total of 93 Fellows.⁴ Additionally, there is no transparency as to the number of ACCSM Fellows who have successfully undertaken the ACCSM “training program” and how many were granted Fellowship positions by “special consideration” (i.e., Fellows who have not successfully completed the ACCSM “training program”).

It would be difficult for a potential patient to evaluate the skills, training, and expertise of an ACCSM Fellow given the [REDACTED]

[REDACTED]

⁴ Data from ACCSM website accessed 27th September 2021.

[REDACTED]

Note regarding final point, that the Medical Board of Australia states “...*medical practitioners must not ... perform elective surgery (such as cosmetic surgery), to anyone with whom they have a close personal relationship.*” Failure to comply constitutes major professional misconduct.⁵

[REDACTED]

14. Please provide any further relevant comment in relation to specialist title protection and endorsement for approved areas of practice relevant to cosmetic surgery.

Based on the evidence of patient harm in cosmetic surgery by practitioners who have not achieved the AMC standard of specialist surgery, and the lack of demonstrable evidence of public or patient benefit **ASAPS does not support endorsement** for approved areas of practice relevant to cosmetic surgery. The current AMC accredited surgical training combined with AHPRA registration is the highest Australian professional standard in Surgery and ensures safety by mitigating risk.

Class action lawsuits by cosmetic surgery patients

In March 2022, [Maddens Lawyers commenced a Class Action in the Victorian Supreme Court against Dermatology and Cosmetic Surgery Services Pty Ltd \(DCSS\) and the following doctors \(defendants\):](#) Dr Daniel Lanzer, Dr Daniel Aronov, Dr Daniel Darbyshire and Dr Alireza Fallahi (Dr Ali). (Additional information [here](#))

The class action was commenced on behalf of hundreds of patients who have suffered loss or damage because of cosmetic surgery being performed at DCSS or by one or more of the defendants. The class action alleges that each of the defendants engaged in misleading and deceptive conduct. It is also alleged that cosmetic surgeries were not undertaken with an appropriate level of care and skill by DCSS and that patients have reported devastating experiences and outcomes in connection with cosmetic surgery procedures such as:

- Inadequate pre surgery consultations
- Botched results

⁵ Medical Board of Australia. *Good medical practice: a code of conduct for doctors in Australia.*

- A lack or complete absence of after care
- Psychological trauma
- Lasting physical deformities
- Nerve pain
- Numbness

The range of procedures patients had undertaken include:

- Liposuction (including '360 lipo' and 'mega lipo')
- Otoplasty
- Face lifts
- Tummy tucks
- Brazilian Butt Lifts (BBL's)
- Treatments for lipodemia
- Breast augmentation
- Liposculpture

Further, the well-publicised class action commenced by Turner Freeman Lawyers against The Cosmetic Institute in the NSW Supreme court for patients complaining of having suffered from major intra-operative and post-operative complications following breast augmentation surgery at The Cosmetic Institute's clinics is also noted. These complications include heart issues, seizure activity post-operatively, pneumothorax (punctured lungs) and deficient surgical results causing pain and deformity.

AHPRA registration records of all practitioners named in both the Class Action lawsuits confirm that none of them were registered as specialist surgeons nor had they completed an AMC accredited surgical training program. All were practicing invasive cosmetic surgery and advertising themselves using the term 'Cosmetic Surgeon' despite not being registered as a specialist surgeon, with no surgical training and not having passed a qualifying Australian surgical exam.

This is a shocking example of [REDACTED] by a practitioner who is not a registered surgical specialist but uses the fabricated title "cosmetic surgeon". The [REDACTED] is verified by consumer research that shows that 81% of Australians believe that when a practitioner uses the title "Cosmetic Surgeon" the practitioner is a "registered specialist" in cosmetic surgery. In this case, this was [REDACTED] as 1) the practitioner was not a registered specialist and 2) cosmetic surgery is not a recognised speciality.

Diagram 1.

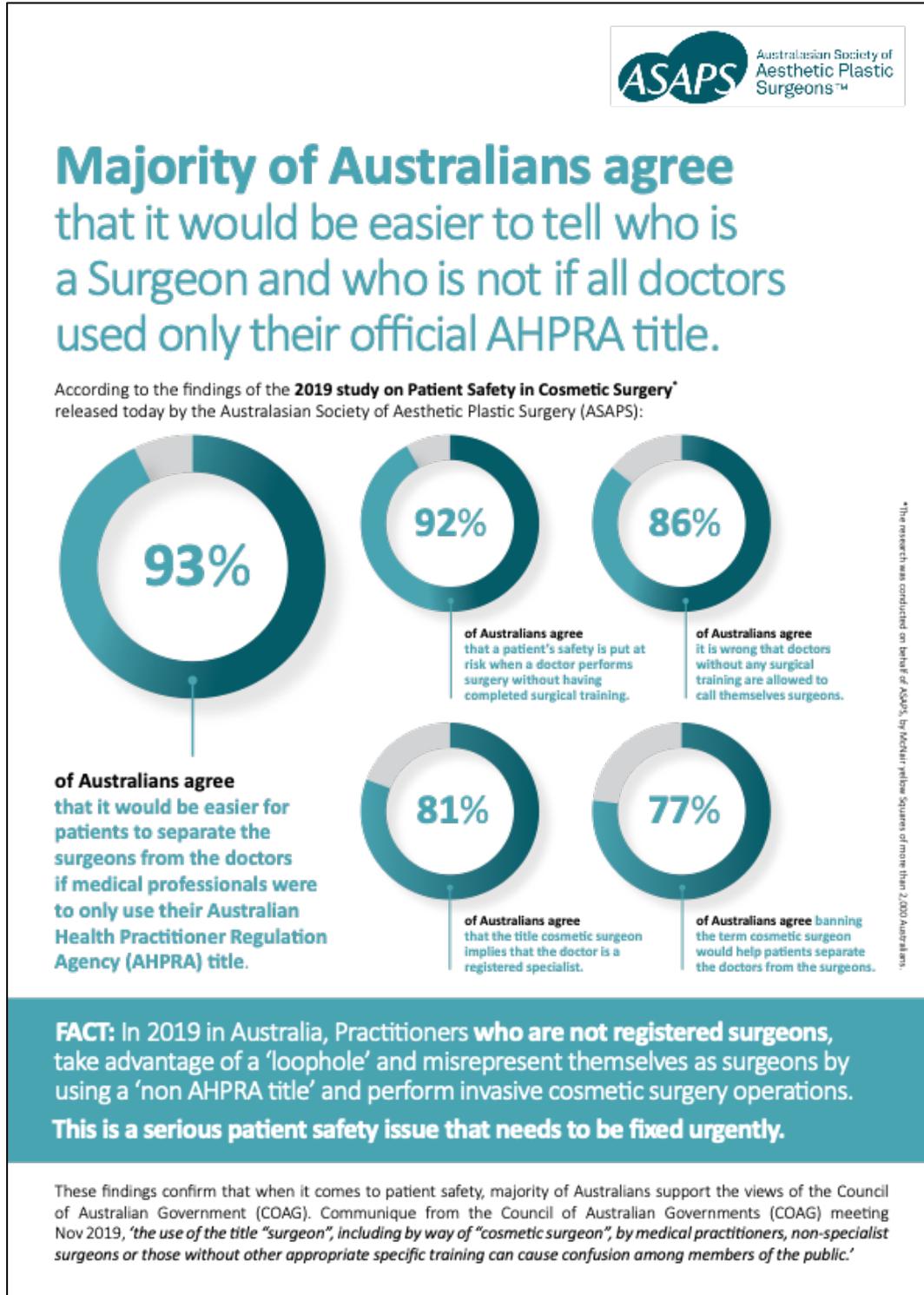


Diagram 2.



Cosmetic Surgery in Australia: 1960 to 2021

1927	<p>The Royal Australasian College of Surgeons is founded</p> <ul style="list-style-type: none"> Registered Surgeons provide surgical services to the community
1960s	<p>Cosmetic Surgery (a regulated health service) is provided by Registered Plastic Surgeons trained by the Royal Australasian College of Surgeons (RACS)</p>
1970	<p>The Australian Society of Plastic Surgeons (ASPS) is formed</p> <ul style="list-style-type: none"> Membership open to Registered Specialist Plastic Surgeons
1978	<p>Australasian Society of Aesthetic Plastic Surgeons (ASAPS) is formed</p> <ul style="list-style-type: none"> ASAPS holds the First Scientific Conference on Cosmetic Surgery in Melbourne
1984	<p>Medicare Australia includes cosmetic surgery under the Plastic Surgery section of the Medicare Benefits Schedule</p>
1992	<p>AACS is formed. Doctors who are not Registered Specialist Surgeons become members.</p> <ul style="list-style-type: none"> AACS was succeeded by the ACCS in 1999 which was succeeded by the ACCSM in 2021 AACS, ACCS nor ACCSM are not AMC accredited training organisations
1998	<p>NSW committee of inquiry into cosmetic surgery</p> <ul style="list-style-type: none"> FINDINGS: Fewer patient safeguards
2010	<p>AMWAC interjurisdictional cosmetic surgery working group</p> <ul style="list-style-type: none"> FINDINGS: Use of titles and qualifications Should not imply that the practitioner is more skilled or has greater experience than is the case. Should not mislead public into believing that the practitioner is a specialist if not so recognised through established processes
2013	<p>QLD health quality and complaints commission – report based on 115 consumer complaints in cosmetic surgery 2006-2012</p> <ul style="list-style-type: none"> FINDINGS: Identified instances of medical practitioners misrepresenting their qualifications when advertising Recommended that use of titles and qualifications should not imply that the practitioner is more skilled or has greater experience than is the case
2014	<p>Australian Medical Council (AMC), The independent Wells Report and the High Court of Australia</p> <ul style="list-style-type: none"> Found no evidence to support cosmetic surgery as a separate speciality
2016	<p>HCCC(NSW) report into the Cosmetic Institute, March 2016</p> <p>33 patients who underwent Breast Augmentation Surgery</p> <ul style="list-style-type: none"> 6 patients experienced life threatening adverse events 27 patients where the level of sedation was questioned
2016	<p>Medical Board of Australia in its 2016 Guidelines for Cosmetic Medical Practice</p> <ul style="list-style-type: none"> “the medical speciality of Plastic Surgery includes cosmetic surgery and reconstructive surgery”
2018	<p>NSW parliament: Cosmetic Health Service complaints</p> <ul style="list-style-type: none"> Identified health providers who do not comply with the law Identified use of the title cosmetic surgeon being problematic Recommended restriction of the title cosmetic surgeon.
2019 & 2020	<p>Adverse patient outcomes: Unregistered surgeon providing a regulated health service (cosmetic surgery) using the title cosmetic surgeon</p> <ul style="list-style-type: none"> Loss of Registration for 7 years NSW Supreme Court class action

Cooperation with other regulators

15. Please provide any further relevant comment about cooperating with other regulators.

Based on communications received from the Medical Boards, it is apparent that the number of complaints the medical board is dealing with is on the rise. The costs to manage the complaints remain hidden. Since the administrative costs to manage complaints are enormous and could potentially run into the millions, it makes sense to prevent the patient harm that leads to the complaints in the first place. This is both a pragmatic and cost-effective solution.

The increased number of complaints due to increased awareness brought about by the ABC Four Corners investigation in October 2021 would add to the cost burden. AHPRA should take this into account and make it mandatory for all medical practitioners to use only their official AHPRA title. This would prevent deceptive and misleading advertising which in turn would restrict the number of poor patient outcome, reduce complaints and costs.

ASAPS is concerned that the Cosmetic Surgery complaints may not get priority and get buried under the mountain of general medical complaints which may take priority. To mitigate operational risk and ASAPS suggests constituting an Independent special purpose 'cosmetic surgery complaint resolution' group be constituted under the auspices of AHPRA.

16. Do the Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations?

The Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations related to impairment, intoxication and sexual misconduct. But does not adequately explain 'significant departure from accepted professional standards' because AHPRA has not explicitly stated nor defined what accepted professional standards in cosmetic surgery are. This ambiguity and subjective interpretation are part of the problem.

If AHPRA is seeking to improve the safety of patients undergoing cosmetic surgery through mandatory reporting, it must define what constitutes significant departure from accepted professional standards in the practice of cosmetic surgery and communicate it to all practitioners.

ASAPS' assessment of patient harm in cosmetic surgery is informed by privileged and confidential feedback regarding cosmetic surgery patient harm from ASAPS's nationwide member network of 300+ members.

ASAPS' members are Specialist Plastic Surgeons working in the public and private sectors in regional and metro areas. ASAPS members are frequently called upon to treat avoidable life-threatening complications and sub-standard aesthetic results following cosmetic surgery, and therefore offer a unique perspective on the scale of the problem.

ASAPS' assessment of patient harm is further informed by the following:

- Detailed accounts of patient harm stories revealed by the ABC Four Corners and related media reporting about [REDACTED].
- Multiple media reports on cosmetic surgery patient harm including
 - Four patient deaths following cosmetic surgery

- Life threatening complications following cosmetic surgery like punctured lungs, seizure activity, cardiac arrest, overdosing of local anaesthesia and excessive bleeding.
- Findings of the four Cosmetic surgery inquiries that have occurred in NSW, Queensland and National jurisdictions since 1998 – [Reference 1](#), [Reference 2](#).
- Findings of the 2014 Australian Medical Council report on recognising Cosmetic Surgery as an independent speciality – [Reference 1](#), [Reference 2](#).
- Two Class Actions launched in the Supreme Courts of New South Wales and Victoria and
- Numerous social media posts and comments about patient harm in cosmetic, including reports from victims on the Instagram account [REDACTED] which has 28,000 + followers.

ASAPS's assessment finds three factors that posed a substantial risk to patient safety:

- 1) Practitioners who were neither Australian Medical Council (AMC) accredited nor AHPRA registered surgeons recklessly and deliberately used the title “Cosmetic Surgeon” to hold out to patients that they are specialists.
- 2) Consumers and patients being misled by the title “Cosmetic Surgeon” into thinking the practitioner is a qualified, AMC accredited and AHPRA registered specialist surgeon when in fact the practitioner was not.
- 3) Invasive Cosmetic Surgery performed by practitioners who were neither AMC accredited nor AHPRA registered surgeons.

To ensure the Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations, ASAPS recommends the independent review to instruct AHPRA/ Medical board to:

- List these three practices as constituting significant departure from accepted professional standards in cosmetic surgery.
- Introduce a mandatory requirement for practitioners to report these three practices that are significant departure from accepted professional standards.
- Determine the penalty for significant departure from accepted professional standards.
- Enforce the penalty for significant departure from accepted professional standards.
- Communicate regularly and effectively to bring about change.

17. Are there things that prevent health practitioners from making notifications? If so, what?

AHPRA's reluctance to regulate cosmetic surgery safety and its track record of lack of enforcement to protect patients despite compelling evidence from decades of poor patient outcomes is well known. Practitioners do not have confidence in AHPRA to either prosecute a complaint or protect the whistle blower. Consumers too, find it confusing and hard to make a complaint. This is the major barrier to prevent practitioners from making a notification. The impact of this barrier was eloquently summarised by “*It is easier to complete your tax return than make a complaint to AHPRA*”, this

statement was made by Michael Fraser one of the panellists on the AHPRA podcast “Taking Care hosted by Susan Biggar”, Episode Number 2: patient safety and cosmetic surgery

Some practitioners have leveraged AHPRA’s reluctance to regulate cosmetic surgery as tacit approval to do as they please. The ABC Four Corners program of October 2021 on cosmetic cowboys, 2 Class Action Law Suits and the April 2022 Senate committee finding is evidence of this ongoing regulatory failure.

AHPRA’s singular focus solely on ‘Notifications about medical practitioners’ without commensurate proactive robust enforcement measures will not protect patients and ensure sustainable patient safety in cosmetic surgery.

AHPRA’s public posturing on the ‘culture of lack of reporting’ does not reflect AHPRA’s track record on protecting patients. It is seen as a diversionary distraction to avoid accountability for its track record to protect patients despite compelling evidence from decades of poor patient outcomes

ASAPS’s own experience with the AHPRA’s complaint mechanism and process has been disappointing.

Case 1:

ASAPS made a voluntary notification to AHPRA in March 2021 documenting the substantial risk to patients undergoing cosmetic surgery by practitioners who are not registered surgical specialists yet use the title cosmetic surgeon and withhold their official AHPRA registration from the patients. The evidence to support the voluntary notification included multiple media reports of patient harm over the years to convey to AHPRA the ongoing risk of patient harm. AHPRA did not acknowledge nor assess the risk to patients based on information and did not act.

ASAPS made another voluntary notification regarding professional standards of a practitioner in August 2021. Again, AHPRA did not acknowledge nor assess the risk to patient based on the information provided in the voluntary notification and did not take any measures to protect patients.

In sharp contrast, ASAPS’s submission to the Senate Committee that provided similar information about risk and patient harm in cosmetic surgery by practitioners who are not registered surgical specialists yet use the title Cosmetic Surgeon and withhold their official AHPRA registration from the patients prompted the Senate Committee to investigate the problem. The senate committee proactively engaged with multiple stakeholders through submissions and in camera interviews to assess the risk of patient harm. The senate committee in its April 2022 report was concerned about the **substantial risk to public safety** caused by practitioners using the title ‘surgeon’ who may not have any qualifications or experience in surgery or the specialised fields of surgery.

Case 2:

A voluntary Notification was made to AHPRA in October 2021 **about a clear breach of the National Law section 118, by a practitioner who is NOT registered in the medical speciality of plastic surgery but continues to use the title plastic surgeon.**

On the 10th of April 2022, six months after the notification, there is no evidence of AHPRA's enforcement of a significant breach of the National Law regarding use of protected titles.

For six months after the mandatory reporting by a voluntary notification to AHPRA there has been no action as the Practitioner had not stopped using the of the title plastic surgeon and

patients continue to be misled about the skills, training, and professional standards of care of this practitioner. Patients rely upon truthful titles. AHPRA must enforce the law in a timely manner as there is no community benefit in allowing a Practitioner to use a title that does not accurately reflect the registration status.

18. What could be improved to enhance the reporting of safety concerns in the cosmetic surgery sector?

AHPRA's public commentary on the 'culture of lack of reporting' stems from its obsessive focus on 'Notifications about medical practitioners'. By restricting the information to a single channel, AHPRA has effectively created an information 'silo' and an over reliance on a single data source. For a 360 view into the state of the cosmetic surgery industry, AHPRA must 'break down the silos' of information and rely on media reports of patient harm in cosmetic surgery that is freely available online and on social media. All it takes is a google search. In less than 1 second, searching for the term 'Botched Cosmetic Surgery Australia' showed 1.34 million results and Botched Cosmetic Surgery Patient stories Australia' showed 29 million results.

The ABC Four Corners program of October 2021 was not the first time a cosmetic surgery patient safety disaster was aired on national TV. Since 1998 there have been four deaths following cosmetic surgery, numerous life threatening complications following cosmetic surgery like punctured lungs, seizure activity, cardiac arrest, over dosing of local anaesthesia, excessive bleeding, numerous media reports of patient harm in cosmetic surgery, two Class Action Law Suits and four inquiries into cosmetic surgery patient safety. Despite compelling and irrefutable evidence that patients are at risk, AHPRA did not analyse these disasters to gain information that could be translated into regulations to better to protect consumers and patients.

AHPRA has failed to act on media reports of patient harm in cosmetic surgery for decades has limited its ability to protect patients.

Cosmetic Surgery Complications

ASAPS's analysis of the reporting of cosmetic surgery complications revealed stark differences in the way they are reported.

Life threatening complications following cosmetic surgery pose an unacceptable risk to the consumer and it should be prevented by regulatory changes that addresses poor professional standards, poor safety standards, false and misleading advertising and facility licensing laws. During an in-camera hearing to the Senate Committee "AHPRA acknowledged that recent media reports highlighted the significant issues in the cosmetic sector and its complaints data is not providing AHPRA with a comprehensive overview of these issues". Hence the need for AHPRA to rely on sources of data including media reports and not rely on mandatory notification only.

Diagram 3.

Cosmetic Surgery is increasingly being defined by ‘botched’.

Despite Cosmetic Surgery being a **regulated health service**, ongoing regulatory failure coupled with poor professional standards has resulted in patient harm.

This was verified by the April 2022 Senate Committee report that acknowledged “**substantial risk to public safety** caused by practitioners using the title ‘surgeon’ who may not have any qualifications or experience in surgery or the specialised fields of surgery”.

Evidence of Patient Harm and poor patient outcomes in Cosmetic Surgery	
<ul style="list-style-type: none"> 4 patient deaths following cosmetic surgery Patient harm revealed by the ABC 4 Corners and related media reports about life threatening complications following cosmetic surgery like punctured lungs, seizure activity, cardiac arrest, over dosing of local anaesthesia and excessive bleeding Findings of the 4 Cosmetic surgery inquiries 1998, 2010, 2013, 2018 2 Class Actions launched in the Supreme Courts of NSW and Victoria Numerous social media posts and comments Stories of victims on the Instagram account [REDACTED] with 28,000 + followers. 	
LIFE THREATENING MEDICAL EMERGENCY	DISATISFACTION WITH AESTHETIC OUTCOME
<ul style="list-style-type: none"> Brought in by Ambulance Patient presents at Hospital Emergency Dept 	<ul style="list-style-type: none"> Seeks second opinion from a specialist
EXAMPLES OF CLINICAL CASES	
<ul style="list-style-type: none"> Punctured Lung, Liver or Bowel Excessive Bleeding, ruptured artery Severe Infection requiring ICU admission Anaesthetic drug overdose Cardiac Arrests Seizures Death 	<ul style="list-style-type: none"> Bad Scars Asymmetry Contour Irregularities following liposuction Breast Implant issues Wound healing issues following cosmetic surgery Unhappy with the aesthetic results
TIME CRITICAL MANAGEMENT	NOT TIME CRITICAL
<ul style="list-style-type: none"> Resuscitation and Emergency Surgery Intensive Care Admission 	<ul style="list-style-type: none"> Substandard cosmetic result Elective Surgery
CAUSES	
<ul style="list-style-type: none"> Regulatory Failure Poor Professional Standards High appetite for risk Information Asymmetry and consumer confusion Unregistered Surgeons awarded license to operated Day Surgery facility for Cosmetic Surgery 	<ul style="list-style-type: none"> Multifactorial Patient factors and Practitioner Factors Regulatory Failure False and Misleading Advertising Information Asymmetry and consumer confusion
REPORTING PATTERN	
<ul style="list-style-type: none"> Mainstream Media stories TV and Newspaper, print and digital 	<ul style="list-style-type: none"> AHPRA complaints Some media stories, print, digital and social media
SOLUTION	
<ul style="list-style-type: none"> Legislative and Regulatory changes Proactive enforcement by AHPRA Mandated Practitioner compliance Awareness campaign to support safe decision making by consumers 	<ul style="list-style-type: none"> Practitioner upskilling Restrictions on scope of practice Robust CPD (Continuous Professional Development) Awareness campaign to support safe decision making by consumers

ASAPS recommends that the Independent Review instruct AHPRA to establish a framework to facilitate mandatory reporting safety concerns in cosmetic surgery in the manner similar to the 'open disclosure framework'. There are 5 steps

1. REDUCING BARRIERS TO REPORT SAFETY CONCERNS	
1	<p>Define what constitutes mandatory reportable safety breach in Cosmetic Surgery.</p> <ol style="list-style-type: none"> 1. Practitioners who were neither AMC accredited nor AHPRA registered surgeons appropriate and use the title 'cosmetic surgeon' to hold out that they are specialists. 2. Practitioners who were neither AMC accredited nor AHPRA registered surgeons used the title 'cosmetic surgeon' to advertise a regulated health service (cosmetic surgery) in any form of print, digital or social media. 3. Invasive Cosmetic Surgery performed by practitioners who were neither AMC accredited nor AHPRA registered surgeons in unlicensed facilities.
2	<p>Specify the evidence to be supplied in support of the mandatory reportable safety breach</p> <ol style="list-style-type: none"> 1. Screen captures of digital advertising 2. URL 3. Date and time accessed
3	<p>List the disciplinary measure against each reportable safety concern</p> <ol style="list-style-type: none"> 1. AHPRA to decide
4	<p>Explicitly state how the 'whistle blower' will be protected from retribution by AHPRA or the Practitioner.</p> <ol style="list-style-type: none"> 1. AHPRA to explicitly state this in their advocacy and communication plan to facilitate behavioural change
5	<p>Undertake an advocacy campaign for 12 months to reinforce the importance of mandatory reporting and announce a start date, so that practitioners can comply.</p> <ol style="list-style-type: none"> 1. Separate standalone monthly emails and social media posts specifically about reducing harm in cosmetic surgery which over 12 months will help. 2. This should not stop after 12 months but, continue for the next 5 years. 3. This message should not be buried within the existing AHPRA communications and should be sent separately.
2. SURVEILLANCE TO SOURCE REAL TIME DATA ON PATIENT HARM	
1	<p>Google searches and google alerts is a good first step and would help in the short term. Developing proprietary software to data mine social media sites and internet sites is a good and effective long term solution.</p>

	For example; In less than 1 second, searching for the term “Botched Cosmetic Surgery Australia’ showed 1.34 Million results and “Botched Cosmetic Surgery Patient stories Australia’ showed 29 million results
3. PROACTIVE ENFORCEMENT	
1	AHPRA and Medical Boards to decide