

## *Overview of the Independent review of the regulation of medical practitioners who perform cosmetic surgery*

The independent review was commissioned by the Australian Health Practitioner Regulation Agency (Ahpra) and the Medical Board of Australia (the Medical Board) in November 2021, in the wake of media reports that raised various concerns about alleged conduct of some medical practitioners in the sector.

Mr Andrew Brown (former Queensland Health Ombudsman) was appointed as the Independent Reviewer, alongside an Expert Panel comprising Conjoint Professor Anne Duggan (Chief Medical Officer, Australian Commission on Safety and Quality in Health Care), Mr Alan Kirkland (CEO, CHOICE) and Ms Richelle McCausland (National Health Practitioner Ombudsman). The review formally began in mid-January 2022 and submitted its report in August 2022.

The review examined the regulatory approach of Ahpra and the Medical Board to medical practitioners who perform cosmetic surgery with a focus on consumer safety and made recommendations about actions that will better protect the public.

The review undertook a public consultation stage which included releasing a consultation paper seeking written submissions from stakeholders, as well as an on-line survey aimed at consumers of cosmetic surgery. Public consultation ran for six weeks from 4 March to 14 April 2022, and resulted in 249 written submissions and 595 survey responses. Further targeted consultation was undertaken through the establishment of a Technical Advisory Group (which included specialist medical practitioners) and a Consumer Reference and Advisory Group (which included consumer representatives and experts in relevant fields), as well as consumer focus groups, and meetings with many individual stakeholders.

Overall, the review made 16 recommendations for action that Ahpra and the Medical Board can take to improve patient safety, within their sphere of influence, including by setting minimum standards about the education, training and qualifications expected of medical practitioners who perform cosmetic surgery, improving the way in which Ahpra and the Medical Board manage cosmetic surgery notifications, strengthening regulation of advertising, and using guidelines to set clearer expectations for medical practitioners who perform cosmetic surgery.

The review found that when it comes to cosmetic surgery, universal minimum standards for education, training and qualifications are non-existent in Australia. It is therefore possible for any medical practitioner to offer and perform invasive cosmetic surgical procedures without having undertaken appropriate training or having amassed sufficient supervised experience to reach an acceptable level of competency. In these circumstances, consumers are largely left on their own when it comes to selecting a practitioner to perform cosmetic surgery, having to sift through a plethora of advertising and marketing material and try to make sense of numerous qualifications, in an attempt to identify a qualified and competent practitioner.

The review recommended that Ahpra and the Medical Board use the 'endorsement' process provided for in its governing legislation (the National Law) to establish minimum qualifications for medical practitioners wishing to perform cosmetic surgery. An 'endorsement' recognises that a person has an extended scope of practice in a particular area because they have obtained a specific qualification that has been approved by the Medical Board. The training program(s) leading to the qualification also must be accredited by an independent accreditation authority. Once established, it will be easy for consumers to identify whether a practitioner is qualified to perform cosmetic surgery (as the endorsement will be listed on the Ahpra public register). A public education program about endorsement will also be necessary, however, conveying that consumers should ensure their practitioner has an endorsement is a much simpler message to communicate than the current unacceptable situation.

Cosmetic surgery, like any other form of surgery, is invasive and carries risks. It should only be performed by highly trained practitioners. The standards set for an education and training program by the Medical Board, in consultation with the AMC, will have to be very high. Only rigorous and robust programs that appropriately train practitioners in the necessary aspects of surgery should be accredited.

One of Ahpra and the Medical Board's key functions is to receive and manage notifications about the performance, conduct and health of medical practitioners, including taking disciplinary action against them when it is necessary to protect the community. To take disciplinary action, Ahpra and the Medical Board must first receive notifications. Notwithstanding that the National Law places an obligation on registered health practitioners to make notifications in certain circumstances (including where they observe that a medical practitioner is placing the public at risk of harm), the review found that there is a significant underreporting of safety issues by registered health practitioners and employers in the cosmetic surgery sector. The review recommended that Ahpra and the Medical Board review and enhance its educational material for practitioners about making mandatory and voluntary notifications, and undertake a targeted

education campaign in relation to making notifications aimed at the cosmetic surgery sector, including other health practitioners who may subsequently treat cosmetic surgery patients (e.g. emergency department staff).

In terms of the way that Ahpra and the Medical Board handle and respond to notifications about cosmetic surgery matters, the review found that some improvements to the way that cosmetic surgery notifications are assessed and investigated are necessary and made recommendations aimed at enhancing the regulatory response. This included the development of training and guidance material for staff specifically about the management of cosmetic surgery notifications to enhance consistency and rigor in the handling of these matters.

Ahpra and the Medical Board are part of a complex and multi-jurisdictional system that regulates cosmetic surgery in Australia. The review found that to appropriately manage notifications that are received, Ahpra and the Medical Board need to understand the roles and responsibilities of all the regulators in this space and be able to work effectively with them. The review recommended that Ahpra and the Medical Board take steps to improve the flow of information between regulators.

The review found that, owing to the unique nature of the cosmetic surgery sector (including that it lacks the protective measures found in other parts of the health system that inform consumers and direct them to qualified practitioners), advertising poses risks not present in other areas of medical practice and needs to be well regulated. The review was concerned with tactics employed by some practitioners, particularly on social media, including using images of models who are unlikely to have had cosmetic surgery to promote a particular surgical procedure, content that actively encourages people to pursue what is promoted as a socially accepted or perfect body type and the use of influencers to promote procedures. This is particularly concerning when regard is had to research suggesting a connection between social media use and the increasing incidence of body dysmorphia and other body image concerns (particularly among young women).

To safeguard against some of the concerning impacts of cosmetic surgery advertising, the review recommended:

- that stronger enforcement action be taken about high-risk matters
- an industry-specific audit be undertaken to inform future proactive auditing of such advertising, including using technology to assist with this
- that Ahpra and the Medical Board revise its Advertising Guidelines and/or produce additional material specifically about cosmetic surgery to clarify the standards expected of practitioners.

The review also examined the Medical Board's codes and guidelines, which are a way that the Board can seek to influence good medical practice by making their expectations clear to practitioners and the community of the standard expected of doctors. The review found that the Medical Board's *Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures* are not adequate and should be strengthened. The review recommended that these guidelines are updated, with improved clarity in relation to matters such as preoperative screening, informed consent and post-operative care.

The review also noted that the state-by-state variation in approach to facility regulation (which is a matter outside of the control of Ahpra and the Medical Board) potentially exposes patients to undue risk. However, the review considers that there is an opportunity for Ahpra and the Medical Board to take a lead in seeking to facilitate reform in areas outside its powers and responsibilities, where patient safety issues have been identified.

In conclusion, the review found that the cosmetic surgery sector has become somewhat of a market disrupter as it sits outside existing traditional health system frameworks that tend to ensure that patients access appropriately qualified medical practitioners. Regulatory responsibility is dispersed through a patchwork of national and state/territory agencies, all with different roles to play to address consumer safety issues present in the sector. In these circumstances the unique nature of the cosmetic surgery sector poses regulatory challenges not normally experienced in other areas of medical practice and calls for more unique solutions. The review considers that the recommendations it has made in its report will assist in tackling these challenges and ultimately improve community protection.