



THE AUSTRALASIAN COLLEGE OF DERMATOLOGISTS

Cammeraygal Country

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7 April 2022

Mr Andrew Brown

Independent Reviewer

Independent review of the regulation of health practitioners in cosmetic surgery

c/o Ahpra

GPO Box 9958

Melbourne VIC 3001

email: CSReview@ahpra.gov.au

Dear Mr Brown,

RE: Australasian College of Dermatologists submission to the Independent Review

The Australasian College of Dermatologists (ACD) is the sole medical college accredited by the Australian Medical Council for the training and continuing professional development of medical practitioners in the speciality of dermatology. Dermatologists specialise in the diagnosis, treatment and management of all skin diseases and conditions, including skin cancer.

As the national peak membership organisation, we represent over 590 dermatologist Fellows (FACD) and 100 trainees. We are the leading authority in Australia for dermatology, providing information, advocacy and advice to patients, communities, government and other stakeholders on skin health and dermatological practice. Our vision is for the highest standard of skin health and dermatology care to be available to all patients and communities.

All Australians should have access to safe, timely and quality care, and confidence that their medical practitioner performing the procedure is appropriately trained and qualified. ACD welcomes the opportunity to respond to the Independent Review on the *Regulation of health practitioners in cosmetic surgery*.

Please find enclosed ACD's response to the terms of reference.

If you need any further clarification or have any questions, please do not hesitate to contact [REDACTED], Policy Officer at [REDACTED]

Kind regards

Dr Haley Bennett

Chief Executive Officer



Response template for submissions to the *Independent review of the regulation of medical practitioners who perform cosmetic surgery*

You are invited to have your say about the regulation of medical practitioners (doctors) who perform cosmetic surgery by making a submission to this independent review.

The consultation questions from the consultation paper are outlined below. Submissions can address some or all of these questions, and you can include any evidence or examples that you think are relevant.

Submissions can be emailed to:

Mr Andrew Brown, Independent Reviewer
marked '*Submission to the independent review on cosmetic surgery*' at CSReview@ahpra.gov.au.

The closing date for submissions is 5.00pm AEST 14 April 2022.

Your details

Name	<div></div>
Organisation (if applicable)	The Australasian College of Dermatologists
Email address	<div></div>

Your responses to the 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 health practitioners who perform cosmetic and other surgical procedures* are valuable in that they adopt a risk-based approach to appropriately stratifying cosmetic medical and surgical procedures, and the expected standards of practice of health practitioners performing those procedures. However, they do not address the core issue of stratification of those practitioners based on their qualifications within this practice area nor the types of facility in which the procedure is performed.

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

The use of the title 'cosmetic surgeon'

Although the guidelines recommend that procedures should only be performed by health practitioners who are appropriately trained and qualified, it has limited value when there is no nationally agreed AMC-accredited training pathway specifically for those performing cosmetic surgery; no Medical Board approved qualifications and training for cosmetic surgery; and no protection of the title 'cosmetic surgeon' or Medical Board-endorsed area of practice.

As information about a health practitioners training and qualifications is limited, patients can find it difficult to make an informed treatment decision. This places an unfair onus on prospective patients to determine whether their practitioner has the appropriate training and qualification with little information to inform their decision-making. This leads to notifications being made post-procedure by patients with concerns about the performance of the practitioner or the outcome of the cosmetic procedure.

ACD's view is that this would best be addressed with a legislative solution regarding the title 'cosmetic surgeon' and the establishment of an AMC-accredited training pathway. An interim step however would be to establish a set of minimum standards or qualifications for health practitioners performing specific cosmetic surgery procedures for inclusion in the guidelines. Those minimum standards should be developed through an extensive consultation process with those AMC-accredited specialty training colleges whose programs have a substantial surgical component (e.g., RACS, ACD, RANZCOG, RANZCO).

Where is cosmetic surgery performed?

The guidelines stipulate that health practitioners must perform surgery in a facility that is appropriate for the level of risk involved in the procedure, and this is up to the health practitioner to decide.

ACD recognises that there is variation in the state and/or territory legislative and regulatory approaches regarding restrictions on the types of facilities in which cosmetic surgery can be performed, and harmonisation of these is recommended. However, an interim solution would be strengthening the guidelines to include a clearer statement of expectation about where procedures defined as 'cosmetic surgery' should be performed, such as a day hospital.

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?

ACD welcomes efforts to strengthen both the regulatory framework and communications to support mandatory and voluntary notifications. There would also be value in measuring the impact of these efforts in improving the safety and reporting culture of potential patient risks in relation to cosmetic surgery.

ACD is supportive of Ahpra and the Medical Board's current risk-based approach to assessing notifications. Even though powers are limited and may not adequately meet patient expectations for redress or compensation, the repercussions for a health practitioner under investigation or found to be at fault can be significant and it is important that processes are fair and equitable to all parties.

While practitioners' responsibilities for safe, ethical practice and informed consent are clearly articulated, notably in the *Guidelines for registered health practitioners who perform cosmetic and other surgical procedures*, the complexities of the cosmetic surgery sector can make it difficult to unpack the basis of a patient-initiated notification i.e., whether it relates to misaligned expectations or a genuine poor standard of ethics and clinical care. It may be that a more tailored approach is needed to encourage, assess and investigate notifications related to cosmetic surgery to take account of these complexities.

Advertising restrictions

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

The current approach to regulating advertising in cosmetic surgery is inadequate, and the current sample size for proactive audits is too small.

ACD acknowledges the need for a risk-based approach to advertising compliance and enforcement. However, the ubiquity of cosmetic surgery advertising, particularly via social media, is encouraging ever more aggressive marketing. There are health practitioners who continue to inflate the benefits, downplay the risks, and infer levels of expertise that may not exist.

This is not unique to 'cosmetic surgery' but does seem to increase in those fields where the commercial motivations are greater, creating an unfair playing field for those health practitioners who are appropriately trained and qualified, practising safely and ethically and are abiding to the advertising requirements under the National Law.

7. What should be improved and why and how?

ACD would support advertising provisions in cosmetic surgery being more routinely and proactively enforced to ensure protection of consumers and patients. Ongoing education with case studies of what is and is not responsible, appropriate and lawful advertising is needed.

While outside the scope of this consultation, it is worth noting that the issues of both advertising and informed consent could form part of the training for any accredited 'cosmetic surgeon' training pathway and ongoing Continuing Professional Development (CPD).

8. 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?

ACD is concerned about the way in which health practitioners and non-medical providers who perform cosmetic procedures and surgery advertise or promote their services, and that this may be leading to unrealistic expectations of the benefits and outcome, and a downplaying of the risks. These perceptions can be difficult to undo at the point of consultation.

While the Ahpra *Guidelines for Advertising* themselves may be adequate, a better and more proactive enforcement strategy is needed to ensure public safety and that patients can make informed treatment decisions.

TGA's proposed restriction on social media influencers being able to give endorsements for cosmetic and health products, if paid or incentivised, including receiving gift products, which will be mandated 1 July 2022 are a welcome addition to the regulatory landscape in which cosmetic procedures and surgery are marketed.

9. 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?

Evidence on cosmetic surgery advertising is limited, but there are reports that widespread use of social media can inflate a patient's *sense* of knowledge, while not actually increasing their understanding about how a procedure could meet the individual needs or risks involved. As with other types of information on social media, it may require a lengthy conversation with their health practitioner to 'reset' those expectations and enable informed consent and treatment decisions.

While Ahpra's advertising compliance and enforcement strategy may be sufficiently flexible to capture new or different types of risks, emerging ways to advertise and evolving public expectations, it is not sufficiently scaled to proactively regulate the ubiquitous and unmediated nature of cosmetic surgery advertising on social media.

As outlined earlier, advertising guidelines that are adequate, and enforcement and compliance of these that is appropriate is needed to ensure medical practitioners understand their obligations regarding advertising of the regulated health services they provide. However, when it comes to advertising of cosmetic procedures more broadly there is a need for medical and non-medical providers to be held to the same standards, and greater national consistency in how complaints about non-medical providers are managed.

Title protection and endorsement for approved areas of practice

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)?

An endorsement of registration that recognises that a health practitioner has an extended scope of practice in cosmetic surgery has some merit in principle. However, 'cosmetic surgery' does not fall into the remit of one particular specialty college and there is currently no agreed training pathway by relevant AMC-accredited colleges for training cosmetic surgeons that would allow for such an endorsement pathway to be established.

As stated in our submission to the Consultation Regulation Impact Statement (RIS), a well-defined and accessible training pathway that is externally validated (i.e., by AMC) and a scope of practice that is agreed upon through effective consultation with relevant AMC-accredited training colleges (e.g., RACS, ACD, RANZCOG, RANZCO) will ensure that patients seeking cosmetic surgery can rely on the same level of regulation and standard of care as those undergoing surgery for medical procedures.

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

As above.

Cooperation with other regulators

15. Are there barriers to effective information flow and referral of matters between Ahpra and the Medical Board and other regulators?

It is difficult to comment on whether there is effective information flow and referral of matters between Ahpra, the Medical Board and other regulators. As an AMC-accredited college, we have very little visibility of these processes and greater transparency would be helpful.

16. If yes, what are the barriers, and what could be improved?

ACD is aware that the variations in the laws, regulations, and standards of cosmetic surgery between jurisdictions, as well as inconsistencies in the notification system for receiving and managing complaints could be impeding the flow of notifications, information and referrals. This could be addressed through improved consistency across jurisdictions about where to direct complaints and notifications.

17. Do roles and responsibilities require clarification?

Yes, regular and ongoing communication and clarification between Ahpra, the Medical Board and other regulators is needed to continue to build understanding of the respective roles and responsibilities.

Facilitating mandatory and voluntary notifications

19. Do the Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations?
Yes. However, in the absence of an agreed training and credentialing pathway for those performing cosmetic surgery, it may be difficult for health practitioners to judge the extent to which a practitioner's practice is significantly departing from accepted professional standards that places the public at risk of harm.
21. What could be improved to enhance the reporting of safety concerns in the cosmetic surgery sector?
<p>While ACD is of the view that the current system of reporting notifications is sufficient, opportunities exist to improve the reporting culture, including harmonisation across jurisdictions in reporting safety concerns about cosmetic procedures and services, and investment in a targeted education campaign about notification pathways.</p> <p>A targeted education campaign undertaken by Ahpra to advise health practitioners and others working in the cosmetic surgery sector, as well as those who may subsequently treat patients who have experienced complications from cosmetic surgery about the importance of notifying Ahpra, when appropriate and needed is recommended. The campaign could include providing resources to assist practitioners in understanding the steps involved in making a notification.</p>

Information to consumers

23. Do the Medical Board's current codes and guidelines adequately describe the obligations of practitioners who perform cosmetic surgery to provide sufficient information to consumers and obtain informed consent?
<p>Yes, the <i>Guidelines for registered health practitioners who perform cosmetic and other surgical procedures</i> provide consumers with extensive information on the obligations of practitioners performing cosmetic surgery to make an informed treatment decision.</p> <p>As highlighted above, the social media landscape and 'normalisation' of cosmetic surgery may be making these conversations more challenging. Evidence-based training for health practitioners on how to address myths and misconceptions about cosmetic surgery may be needed to ensure informed decision-making and consent.</p>
24. If not, what improvements could be made?
ACD recommends Ahpra utilise current instruments and methods available to implement an audit system or like to ensure medical practitioners who perform cosmetic surgery are providing their patients with necessary information to make an informed decision about cosmetic treatment. However, the likelihood that patients will continue to undergo surgical procedures without understanding the qualifications and capabilities of their practitioners, and the potential risks associated with the procedure remains for the reasons outlined previously.
26. In the context of cosmetic surgery, does the Ahpra website and public register of practitioners provide sufficient information about medical practitioners to inform consumer choices?

No.

27. If not, what more could/should Ahpra and the Medical Board do to inform consumer choices?

ACD is of the view that there is not widespread awareness by the public about the '*Register of practitioners*', and where there is awareness of the register, the paucity of information about individual specialties and subspecialties makes it extremely difficult for patients to identify the most appropriate proceduralist for the type of surgery they require. The limited utility of this register is compounded when it comes to cosmetic surgery because there is no protection of the title 'Cosmetic surgeon' and no agreed AMC-accredited training pathway for those performing cosmetic surgery.

A thorough co-design process of the register with both consumers and professional bodies should be undertaken to improve navigation and utility of content.

Further comment or suggestions

31. If you have any further comment relevant to Ahpra's and the Medical Board's regulation of cosmetic surgery including and/or suggestions for enhancements not mentioned in response to the above questions, please provide it here.

As noted in the consultation paper, learnings from the review may provide a foundation for more work to be undertaken in the cosmetic treatments space in relation to other health professions. ACD would welcome the opportunity to contribute to those discussions.