



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

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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](mailto:CSReview@ahpra.gov.au).

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

### Your details

<b>Name</b>	██████████
<b>Organisation (if applicable)</b>	Australian College of Nurse Practitioners
<b>Email address</b>	██████████

## Your responses to the consultation questions

### Codes and Guidelines

<b>1. Do the current <i>Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures</i> 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?</b>
<p>The current guidelines need significant revision to meet changes in practice, use of social media and community expectation.</p> <p>There is insufficient discussion about practitioner's scope, qualifications, training and experience. The 2016 Guidelines state on page 6 they will be reviewed every 3 years, yet this does not appear to have occurred.</p>
<b>2. What changes are necessary and why? What additional areas should the guidelines address to achieve the above purpose?</b>
<p>Expectations of practitioners' scope, qualifications, training and experience need to be measurable and enforceable by AHPRA and other statutory bodies.</p> <p>Unless contravening of the Guidelines has greater penalties available, including criminal charges, the current penalties outlined are clearly insufficient, otherwise widespread poor practice would not be occurring: <i>"If a medical practitioner's professional conduct varies significantly from these guidelines, the practitioner should be prepared to explain and justify their decisions and actions. Serious or repeated failure to meet these guidelines may have consequences for a medical practitioner's registration."</i></p>
<b>3. Please provide any further comment in relation to the use of codes and guidelines relevant to the practice of cosmetic surgery.</b>
<p>Recent publicity of poor practice in cosmetic surgery has demonstrated total disregard for these Guidelines by some clinicians and associated high levels of patient harm, with almost every point of the Guidelines being disregarded or not met. There have also been multiple breaches of Codes of practice, which suggests these Codes and Guidelines are not enforceable in their current format or the penalties are seen as insignificant, thus encouraging ongoing poor practice.</p>

### Management of notifications

<b>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?</b>
<p>Recent publicity of poor practice in cosmetic surgery suggests there is a lack of timely response by AHPRA and the Medical Board to notifications of concern. It is also unclear whether hospitals who have admitted patients with complications from cosmetic surgery procedures have made separate notifications of concern to AHPRA +/- the Medical Board both regarding patient welfare and adverse events.</p> <p>Consideration should also be given as to how regulatory power and risk assessments and notifications processes relate to surgical procedures being performed where there is no diagnosis or medical problem being addressed, and how these may need to be adapted to incorporate such cosmetic procedures.</p>
<b>5. Please provide any further relevant comment in relation to the management of notifications about medical practitioners involved in cosmetic surgery.</b>
<p>It is incomprehensible how some cosmetic surgery providers have been allowed to continue to practice when there have been concerns raised for years. This reflects poorly on our regulation and impacts negatively on community trust of health professionals in general, and reflects poorly and unfairly on high quality and qualified cosmetic surgery providers.</p>

There also needs to be support for practitioners who work in a subordinate roles within cosmetic surgery settings to make notifications if they observe clear breaches of Guidelines and Codes of Conduct.

## Advertising restrictions

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

No.

AHPRA has very clear rules guidelines about what is allowable advertising and acceptable use of social media, yet many cosmetic surgery practices are breaching these. It may be that current penalties are not considered an adequate deterrent in such a lucrative industry.

### 7. What should be improved and why and how?

AHPRA needs to be more transparent about how it regulates advertising, the complaints it receives and the outcomes of these complaints. Penalties need to act as an additional deterrent to breaching guidelines, codes and regulations.

### 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?

AHPRA's vision states '*Our communities have trust and confidence in regulated health practitioners*'; however, without greater transparency and AHPRA being seen to addressing risks to the community, this cannot be achieved. More specific examples of breaches could also be provided, and a check box on annual registration around advertising compliance (this could include a 'not applicable' selection).

### 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?

If the advertising guidelines were followed and any adequately addressed and responded to

<https://www.ahpra.gov.au/Publications/Advertising-hub/Advertising-complaints/Unlawful-advertising.aspx> identifies less than 10 cases of tribunal findings of advertising breaches. This seems an extraordinarily small number. Overall, a greater regulatory response is required.

Additionally, the Guidelines refer to unreasonable expectations of beneficial treatment, however do not address areas of health that provide services for cosmetic purposes, i.e. those that do not address a specific health care or medical need.

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

Penalties need to be reviewed and enforced, especially with regards to social media advertising. These also need to be commensurate with the extent of the impact and reach (and income) of the provider. Accordingly, the fines could pay for this regulatory role to be managed in a more meaningful way.

## 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)?**

The beneficial impact of establishing a specific endorsement would depend on how it is implemented, and the consequences of providing services without the endorsement. If the current systems are not working sufficiently to protect patients and other issues of concern for this sector, it is unclear if adding a further layer of regulation would have any greater impact.

Without specific protections of a 'title', it is also hard to prevent others from using it, therefore it may be worth considering title recognition. It could be argued that it is impossible to regulate or endorse all roles in the health industry, however for higher risk area, it seems this may be required in order to protect the public.

<b>12. Would establishing an endorsement in relation to cosmetic surgery provide more clarity about the specific skills and qualifications of practitioners holding the endorsement?</b>
Potentially, yes. Industry wide consultation should occur in relation to this.
<b>13. What programs of study (existing or new) would provide appropriate qualifications?</b>
Firstly, separating education from the cosmetics industry, as they are currently providers of much of the education available.  Ensuring surface anatomy and evidence-based practice is included in study. Using the AQF to provide a framework of levels of qualification.
<b>14. Please provide any further relevant comment in relation to specialist title protection and endorsement for approved areas of practice relevant to cosmetic surgery.</b>
Specialist title protection and endorsement should be relevant particularly where practitioners are performing procedures that are invasive, or surgical procedures.

### Cooperation with other regulators

<b>15. Are there barriers to effective information flow and referral of matters between Ahpra and the Medical Board and other regulators?</b>
We are not specifically aware of whether there are any barriers, however we are aware of very slow processes in relation to referrals of matters, which may impact on the safety of the public.
<b>16. If yes, what are the barriers, and what could be improved?</b>
We are not aware of what the specific barriers are, however work needs to be done to ensure information flow is timely, and also that there are escalation processes in place.
<b>17. Do roles and responsibilities require clarification?</b>
It would be helpful to have a flow chart of how each of the regulators relate and work together, which is also in plain English so that the public can understand it.
<b>18. Please provide any further relevant comment about cooperating with other regulators.</b>
N/A

## Facilitating mandatory and voluntary notifications

<b>19. Do the Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations?</b>
No. There is insufficient information for non-treating practitioners, especially about significant departure from professional standards. There need to be clear examples of breaches and how they should be addressed.
<b>20. Are there things that prevent health practitioners from making notifications? If so, what?</b>
Power imbalances in workplaces. Fear of losing employment. Risk of being scapegoated for speaking out. The culture of the cosmetic surgery industry, that reinforces image and financial reward over patient safety and best practice.  Additionally, we are aware of instances where 'retaliatory' complaints have been made when a person is aware of who has likely made a notification about them. These should be investigated, but also considered potentially vexatious, and this needs to be addressed.
<b>21. What could be improved to enhance the reporting of safety concerns in the cosmetic surgery sector?</b>
Swift and transparent action taken by regulators in response to breaches.
<b>22. Please provide any further relevant comment about facilitating notifications</b>

## Information to consumers

<b>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?</b>
No.
<b>24. If not, what improvements could be made?</b>
Simple-language information/education. Mandating that this must be done, and that it must meet an expected level .
<b>25. Should codes or guidelines include a requirement for practitioners to explain to patients how to make a complaint if dissatisfied?</b>

Yes, and provide links to easily accessible / simple language complaints processes including options for giving verbal feedback.

**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?**

Simple language information/education campaigns. Placing these on the social media platforms utilised by cosmetic surgery providers, so more likely to be accessed by their consumers.

**28. Is the notification and complaints process understood by consumers?**

This is unlikely. <https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures/Information-about-who-to-contact.aspx> suggest multiple different options (including 15 National Boards, complaints commissions, TGA, health departments etc) with no advice about where to start or how to select a pathway.

**29. If not, what more could/should Ahpra and the Medical Board do to improve consumer understanding?**

This AHPRA webpage is a start <https://www.ahpra.gov.au/publications/cosmetic-surgery-and-procedures.aspx> but the language is too complex, and it is not sufficiently consumer focussed. A single entry point utilising a format, such as that used by <https://www.careopinion.org.au/>, would be ideal. AHPRA could work in collaboration with Care Opinion and Health Consumers Council to truly address consumer understanding and feedback, not only for cosmetic surgery, but for feedback about all healthcare services.

**30. Please provide any further relevant comment about the provision of information to consumers.**

Given that 44% of Australian adults read at primary/lower-high school level, consumer facing information by AHPRA and the Medical Board should be prepared with this in mind.

## 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.**

Cosmetic surgery is a multi-million dollar industry in Australia, which has led to a surge in growth and major challenges for regulators to sustain the level of scrutiny required for optimal patient safety. There is clearly a high level of wilful disregard for patient safety and well-being by some providers. Added to this is the number of procedures being performed in clinics, day hospitals or outpatient facilities that fall outside usual regular review processes.