



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	██████████
Organisation (if applicable)	Consumers Health Forum of Australia
Email address	██████████

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?

Current guidelines are not effectively deterring patient harm that may arise from practitioners performing cosmetic surgical procedures outside their level of competency. The current guidelines also address a small part of a much bigger problem, namely, gaps in regulation and those who are not registered medical practitioners in the beauty/cosmetic industry. To this end, any guidelines must be mandated as legal, enforceable standards.

Urgent action to strengthen regulation in the form of standards, and enforcement of those standards, and stronger consumer education, is vital. It is deeply concerning that doctors can put up their shingle as a 'cosmetic surgeon' - they do not have the same depth of training as a plastic surgeon who does cosmetic related procedures.

The regulation of this uncontrolled area of medical practice is marked by a range of flaws, from a lack of clarity allowing the use of the title surgeon by non-specialists, to an absence of rigorous accreditation that is routine in other branches of medicine.

We have seen instance after instance where patient safety and health outcomes are put at risk. The distress and loss of productivity for many of these patients is profound. Patients are poorly advised and also experience unnecessary out of pocket costs in restorative surgery as a result. More disturbingly, such surgical free-for-alls may be much more widely prevalent than many people realise.

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

- Restrict the use of the word 'surgeon' to those who have completed actual surgical training and are registered with Australian College of Surgeons. Most people would not be aware of the different training regimen for specialist surgeons as opposed to 'cosmetic surgeons'. The average consumer is unaware of the difference between cosmetic and plastic surgery (considering plastic surgeons do also do cosmetic surgery)
- List and mandate a set of limited titles that cosmetic "surgeons" can use to call themselves. For example: Beauty practitioner; cosmetic practitioner; cosmetic physician (for registered doctors)
- Tighter regulation in the form of standards and enforcement of those standards must be introduced
- Within those standards, proof of competency should be required of all medical practitioners performing major cosmetic procedures
- Detailed definitions of which procedures can be performed by which medical practitioners must be included. A registered 'cosmetic physician' must list which specific procedures they are qualified to do
- More detailed definitions and restrictions around advertising, websites and social media use must be mandated. The 'cosmetic physician' must identify themselves by the same name as which they are registered with Ahpra and the AMB. Their name, registration, and professional endorsements must all be up front and central to their advertising including websites
- Restrictions must be placed on what can be posted by these registered cosmetic physicians online: photos (e.g. before and after) must be de-identified, must not be sexualised and must have limits around what can be shown. By nature of the power imbalance and the vulnerability of patients, they cannot possibly consent to videos of their procedures being placed online. This practice must be prohibited.

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

The terms cosmetic surgery and plastic surgery are not clearly delineated or defined. Differing views on cosmetic surgery limit clarity about procedures, where they're performed, who performs them and why they are being performed.

The Australian healthcare system mandates universal access to healthcare but not when there is nothing medically wrong. Developing guidelines and standards around surgery performed for purely cosmetic reasons (and thus excluding reconstructive surgery) or, with no underlying health issue, requires a common definition. For example:

The term 'cosmetic surgery' refers to a range of surgical procedures that are carried out to alter and enhance the 'normal appearance' of a presenting patient, as its primary goal. Any and all surgery must be performed by a qualified surgeon registered with the Royal Australasian College of Surgeons.

This could help when determining what type of procedures should only be performed, by whom they should be performed and within what kind of facilities they should be performed.

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?

- Full transparency around notifications and complaints processes
- Place time limits around complaints processes
- All communications regarding complaints notifications must be written in plain English, suitable for consumers

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

Advertising restrictions

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

Consider that current advertising for cosmetic surgery is causing significant harm through false and/or misleading advertising to entice unsuspecting patients, regulation around advertising must be enforceable and enforced in a timely manner.

There must be greater regulation and standards around medical advertising, consent and what is communicated to consumers, keeping safety and quality and the care of the consumer at the core of all messaging.

Truth and transparency in medical advertising are critical to ensuring the safety of cosmetic surgery patients in Australia.

Obtaining informed and educated consent is a legal and ethical requirement before any doctor performs a treatment on a patient. Consumers must freely give their consent without

coercion. Offering free or discounted cosmetic “surgery” or injectables is coercion. It incentivises a patient to undergo a treatment or procedure that they may not have otherwise consented to. Driving surgery prices down undercuts competition and undercuts quality and therefore safety. Minor procedures have become so common that a lot of consumers do not consider the risks involved with cosmetic procedures and how disastrous the complications can be.

Risk-based assessments should also include the marketing and advertising practice of the clinician in question, including social media advertising, potential price gouging, hygiene breaches, medicine breaches, etc.

7. What should be improved and why and how?

Current laws have resulted in thousands of consumers being put at risk. It comes back to the use of the title “cosmetic surgeon” by clinicians with no specialist surgical training. The title “cosmetic surgeon” is itself a deception.

Section 118 of the *Health Practitioner Regulation National Law Act 2009* prohibits claims to specialist registration by practitioners who are not registered specialists. This deception cannot be tolerated. Clinicians should only perform procedures for which they have appropriate training, expertise and experience.

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?

Guidelines are not enough. This must be mandated. Legal standards must be introduced to address the safety and quality aspects of the patient experience.

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?

Social media platforms have become powerful marketing tools for self-styled “cosmetic surgeons”. Ethics and respect for the patient are crucial in the relationship between clinician and patient. Confidentiality and privacy obligations are also vital in that relationship.

Patient privacy must be paramount. Patients should not be influenced in any way to allowing their image to appear publicly. This should never be part of their decision-making process. Written consent can also be no barrier once images of patients have gone online. The re-distribution process is insidious and can be impossible to control. Doctors are always obliged to protect patients’ privacy and portray them in a respectful manner.

Photographs and videos such as before/after photographs must be standardized to be sure that they are de-identified, respectful, and not presenting patients in a sexualized way. They must be used only to provide factual information, and always protecting patient identity. If patients wish to post their own photographs of themselves, that is entirely their prerogative. It should never be the prerogative of the doctor.

This applies to advertising, video posts and photographs posted on social media by unscrupulous and unethical doctors. There must be tighter standards and regulations set to protect consumers and patients in advertising, and from unethical advertising.

Young and other vulnerable people may not understand that their phone call to a friend or their online searches will result in them receiving targeted advertising to ‘fix flaws’ due to Google, Facebook and other social media algorithms that record and target their advertising.

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

As a regulatory body, there is also a role here for the Australian Competition & Consumer Commission being more pro-active regarding taking action on misleading marketing.

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)?

Current guidelines, laws and regulations are clearly not effectively deterring patient harm that may arise from practitioners performing cosmetic surgical procedures outside their level of competency.

We understand that most people would not be aware of the different training regimen for specialist surgeons as opposed to 'cosmetic surgeons'.

We believe that being aware of the difference between a specialist surgeon and a cosmetic 'surgeon' could influence consumers' choice. People make the decision to engage with cosmetic 'surgery' for very different reasons than choosing a surgeon for health concerns.

The reasons people may want cosmetic surgery, state of mind they may be in, and what they are looking for in a practitioner would be very different to those choosing surgery for purely health-related reasons. These two issues would greatly impact why and how the choice of practitioner is made.

The more cosmetic 'surgery' is available, the more there is potential for harm to be done by unscrupulous or unqualified clinicians, and the more harm can be done to people's financial situation.

Cosmetic procedures, cosmetic clinicians, 'surgeons' etc. exist worldwide. It should not be the responsibility of the consumer to assess whether or not a purported medical professional is qualified for any number of specific procedures. This must be done via regulation and clear communication on the part of the professional bodies overseeing each specialization.

12. Would establishing an endorsement in relation to cosmetic surgery provide more clarity about the specific skills and qualifications of practitioners holding the endorsement?
Cosmetic “surgery” or rather, those working within the cosmetic industry as clinicians must be governed by approved registration standards, codes, guidelines and standards for practice that together form a Professional Practice Framework (PPF). The PPF determines the requirements and expectations that guide the professional practice of any clinician of any kind in the field in Australia. Professional endorsements would no doubt be part of the professional toolkit of any cosmetic clinician. Such endorsements would have to be mandated to be clearly visible to the consumer online, in print and in the physical premises of the clinician. If specific skills and qualifications can be listed, all the better.
13. What programs of study (existing or new) would provide appropriate qualifications?
This is best answered by plastic surgeons and other professionals with intimate knowledge of appropriate and existing qualifications, suffice to say, that any procedure that pierces the skin, or demonstrably alters the skin or appearance of an individual in any way must have appropriate medical qualifications.
14. Please provide any further relevant comment in relation to specialist title protection and endorsement for approved areas of practice relevant to cosmetic surgery.

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?
The plan for cosmetic clinicians, as with any other medical professional in private practice, should be to reduce any unnecessary and overlapping regulations and compliances. Obligations to regulators must be uniform and reporting of vital information, licences, compliances etc should have to be done only once. State and Commonwealth legislation and regulations must therefore also align, particularly where cross-border treatment occurs as a matter of course.
16. If yes, what are the barriers, and what could be improved?
Make sure all standards, qualifications and other compliances have to be reported only once to one body. That information must be shared with other relevant regulation bodies as a matter of course where applicable.
17. Do roles and responsibilities require clarification?
Processes must be transparent, decisive and occur within time restrictions. Clarification around registering and monitoring must be clear and in plain English so that consumers can also understand the rules and regulations.
18. Please provide any further relevant comment about cooperating with other regulators.

--

Facilitating mandatory and voluntary notifications

19. Do the Medical Board's current mandatory notifications guidelines adequately explain the mandatory reporting obligations?
Yes. As long as the process is clear to practitioners and staff.
20. Are there things that prevent health practitioners from making notifications? If so, what?
This question can only be answered by practitioners.
21. What could be improved to enhance the reporting of safety concerns in the cosmetic surgery sector?
Education, general knowledge and understanding of where to start for consumers; education of staff;
22. Please provide any further relevant comment about facilitating notifications

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?
Current guidelines, laws and regulations are not effectively deterring patient harm that may arise from practitioners performing cosmetic surgical procedures outside their level of competency. The evidence is clear that because there is no proof of competency required, the lack of definition and educational competency means they can do what they like.
24. If not, what improvements could be made?

If you restrict the title 'surgeon' you take away a lot of the confusion and expectation for consumers.

We support restricting the title 'surgeon' under the National Law. It is deeply concerning that doctors can put up their shingle as a 'cosmetic surgeon' - they do not have the same depth of training as a plastic surgeon who does cosmetic related procedures

Cosmetic practitioners will be forced to call themselves something else to differentiate their skills base. This would then be an alert for consumers.

Ahpra should state that 'cosmetic surgeons' can only do specific procedures and that major, invasive surgery is not within their purview. Those procedures must be listed explicitly with their registration, in their advertising, and on their physical premises.

25. Should codes or guidelines include a requirement for practitioners to explain to patients how to make a complaint if dissatisfied?

Feedback from consumers (these were consumers who have had only minor procedures) confirms that there was little to no explanation given to them about the risks of the procedures they had. It must be required that practitioners explain to patients how to make complaints if dissatisfied. This should not be a guideline but included in national standards. The more cosmetic 'surgery' is available, the more there is potential for harm to be done by unscrupulous or unqualified clinicians. The lack of a clear pathway of referral from an independent GP also leaves consumers vulnerable and without support and without potential recourse or knowledge of recourse when things go wrong.

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?

Some consumers would be aware of Ahpra's register of practitioners, but most would not. There appear to be 2 separate pages on which a person may search for medical practitioners, both of which are very different and not very user-friendly.

The drop-down search options do not include an existing link to 'surgeon' as a search option which would be the likeliest search option if looking for 'cosmetic surgeon' but of course cosmetic surgeons will not be on the list because they are not accredited through Ahpra.

The name that is registered by a clinician with Ahpra must be the same as that which is advertised by the clinician. It must be clearly displayed on all advertising. Searching for the name on Ahpra's register of practitioners must therefore be easy for consumers to do.

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

If it is only those who have been registered with Ahpra who can be on the list of those who have agreed *not* to practice, a separate list of those who were not registered with Ahpra (such as cosmetic 'surgeons') who have been asked to stop practicing or asked to stop using the title surgeon be registered somewhere online that is easy for consumers to find. A link on the Ahpra website to the appropriate page or governing body would be useful for such searches.

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

It can be difficult for anyone without knowledge of the health system to know how to report a safety concern in the health sector generally. Consumers are not well served by current arrangements regarding regulation of health providers considering that not even health professionals or people in health administration roles know who is registered and who isn't. Furthermore there is a very poor understanding of what registration is intended to achieve. There is a poor understanding of those health practitioners registered under Ahpra, those professions which are not under Ahpra but are self-regulated (e.g. dietitians, speech pathologists, exercise physiologists etc.) and those that are not regulated/lacking in any robust means of regulation.

In terms of cosmetic "surgeons" there is currently no distinction under Ahpra for surgeons who practice in this area. There is also no other obvious body for consumers to make complaints about

cosmetic clinicians who do not call themselves surgeons. This all makes it difficult for people to know which agency to approach regarding a complaint. However, a quick internet search should send people in the direction of the Australian Medical Board or one of the Health Care Commissions. Consumers may find themselves trying to make complaints about plastic surgeons, where the terms plastic and cosmetic are considered interchangeable by the average consumer with little knowledge of the health care systems.

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

A plain-language explainer about cosmetic 'surgery' and where to go to complain would be useful. News/press release to alert people to the problem and the explainer on both websites and/or any other relevant websites would help. Any media explaining the difference between cosmetic and plastic surgeons would be useful for consumers.

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

One of the key issues about provision of information to consumers is identifying the best channels for disseminating that information. These will vary according to age group, gender and the type of surgery and so a multi-faceted campaign is required to alert consumers to the risks and highlighting to them the questions they should ask about any procedure. CHF recommends that this needs further examination, particularly looking at the role of social media to help target the messages.

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.

Nothing to add