



The Hon. Brad Hazzard MP
Minister for Health

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Dr Joe McGirr MP
Chair
Committee on the Health Care Complaints Commission
Email: hccc@parliament.nsw.gov.au

Your ref D22/15052
Our ref M22/3585

Joe
Dear Dr McGirr

Thank you for writing about the Report on Cosmetic Health Service Complaints in NSW by the Joint Parliamentary Committee on the Health Care Complaints Commission.

I acknowledge the important work of the Committee in this area.

The NSW Government supported, or supported in principle, all of the recommendations of Report. Twelve of the recommendations have been completed, two are on-going and the outcome of two of the recommendations (relating to protecting the title 'surgeon') will depend on the outcome of one of the other recommendations. A more detailed update is enclosed.

A range of important consultations have either have just occurred or are currently being undertaken, in the area of the regulation of cosmetic surgery:

- consultation by states and territories on a regulatory impact statement in relation to protecting the title 'surgeon'
- consultation by the NSW Ministry of Health on a draft code of conduct that will apply to health organisations
- consultation by the Australian Health Practitioner Regulation Agency and the Medical Board of Australia in relation to the regulation of registered health practitioners providing cosmetic surgery. A consultation paper has recently been released in relation to this review: www.ahpra.gov.au/news/cosmetic-surgery-independent-review-of-patient-safety.aspx

In addition, I am advised that the Ministry will be reviewing the types of cosmetic surgery that can only take place in a licensed private health facility. Currently, the Private Health Facilities Regulation 2017 lists the types of cosmetic surgeries that must take place in a licensed private health facility. The Ministry will be consulting on whether any changes should be made to the current list of cosmetic surgeries in the regulation.

These consultations and reviews will assist in determining whether further regulation is required in this area.

Thank you again for writing. For more information, please contact [REDACTED]

Yours sincerely

Brad Hazzard MP
Minister for Health

13 MAY 2022

Encl.

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Status of recommendations

Recommendation 1	<p>The Committee recommends that the Minister for Health reviews the powers and functions of the Health Care Complaints Commission to ensure the Commission is able to sufficiently protect patients using health services. In particular, the Committee recommends the Commission should have the powers:</p> <ul style="list-style-type: none"> a) to issue public warnings about specific health service providers and health organisations; b) to issue prohibition orders in relation to specific health organisations; and c) for search and entry to apply to all complaints and allow authorised persons to enter premises if the premises is a public place and the entry is made when the place is open to the public.
Position	Supported in principle
Status	Completed
Comments	The changes recommended were made in the <i>Health Legislation (Miscellaneous Amendments) Act 2020</i> , which commenced on 27 October 2020. Under the changes, health organisations will have to comply with a code of conduct and the Health Care Complaints Commission has the power to make prohibition orders against health organisations who breach the code. The Ministry of Health recently released a draft code for consultation, and the code is expected to be made by 1 September 2022.
Recommendation 2	<p>The Committee recommends that the Minister for Health continues to make representations to the COAG Health Council to protect or otherwise restrict the title 'cosmetic surgeon' at a national level under the Health Practitioner Regulation National Law.</p>
Position	Supported in principle
Status	Completed
Comments	<p>The issue of protection of title has been raised the COAG Health Council, now known as the Health Ministers Meeting (HMM). In late 2019, the HMM supported changes to restrict the use of the title 'surgeon' by medical practitioners, with further consultation occurring in relation to which medical practitioners can use the title. In December 2021, a consultation regulatory impact statement (RIS) regarding protecting the title surgeon was released for public consultation and closed on 1 April 2022. Following consideration of the submissions received, it is expected that the consultation RIS will be followed by production of a final RIS for decision by the Office of Best Practice Regulation, following further consideration by ministers on whether to amend the Health Practitioner Regulation National Law restricting the title surgeon.</p>

Recommendation 3	The Committee recommends that, if the COAG Health Council does not protect or otherwise restrict the title 'cosmetic surgeon' within a reasonable timeframe, the Minister for Health considers whether separate legislation should be introduced in the NSW Parliament to place restrictions on the use of the title 'cosmetic surgeon' in relation to doctors practising in New South Wales.
Position	Supported in principle
Status	Pending recommendation 2
Comments	Depending on the outcome of the HMM processes above, the NSW Ministry of Health will consider whether any changes in NSW are required.
Recommendation 4	The Committee recommends that the Minister for Health considers whether it is in the public interest to support protections and restrictions on the use of the title 'surgeon' either at a national level or for doctors practising in New South Wales.
Position	Supported in principle
Status	Pending recommendation 2
Comments	Depending on the outcome of the HMM processes above, the NSW Ministry of Health will consider whether any changes in NSW are required.
Recommendation 5	The Committee recommends that the Minister for Health and the Minister for Innovation and Better Regulation develop a targeted public education campaign to raise awareness about cosmetic health services, the risks involved in procedures and where to get relevant information.
Position	Supported
Status	Completed
Comments	NSW Fair Trading, in consultation with the NSW Ministry of Health and the Health Care Complaints Commission, has already developed tools and educational materials to assist consumers of cosmetic and beauty services.
Recommendation 6	The Committee recommends that the public awareness campaign use various forms of advertising, media (especially social media) and other resources to target the main demographics seeking cosmetic health services in terms of age, gender and cultural background.
Position	Supported
Status	Completed
Comments	NSW Fair Trading, in consultation with the NSW Ministry of Health and the Health Care Complaints Commission, has already developed tools and educational materials to assist consumers of cosmetic and beauty services.

Recommendation 7	<p>The Committee recommends that the Minister for Health pursues with the COAG Health Council the establishment of a national one-stop shop website and advice service relating to cosmetic health services to:</p> <p>a) provide relevant information about procedures, practitioners and facilities to individuals seeking these services, and</p> <p>b) direct individuals who are dissatisfied with a service or provider to appropriate complaint pathways including, for New South Wales, the Health Care Complaints Commission, NSW Fair Trading and NSW Health.</p>
Position	Supported in principle (note did not support a one stop shop)
Status	Completed
Comments	<p>The Minister for Health has written to Australian Health Practitioner Regulation Agency (AHPRA) to ask AHPRA and the National Boards to consider ways to ensure patients, or prospective patients, are properly informed of risks. The NSW Ministry of Health and NSW Fair Trading have reviewed their websites to ensure that the content is relevant to the consumer and assists them in making an informed decision prior to undergoing a cosmetic procedure or treatment.</p>
Recommendation 8	<p>The Committee recommends that, if the COAG Health Council does not agree to establishing a one-stop-shop website and advice service for cosmetic health services, the Minister for Health looks at the NSW Government establishing the service.</p>
Position	Supported in principle
Status	Completed/Ongoing
Comments	<p>The Minister for Health has written to AHPRA to ask AHPRA and the National Boards to consider ways to ensure patients, or prospective patients, are properly informed of risks. AHPRA responded that they will consider the Committee's recommendations as part of their regular reviews of professional guidelines and standards and will consult with stakeholders on proposed changes.</p> <p>AHPRA has also developed a consumer guide: https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures.aspx.</p> <p>On 30 November 2021, AHPRA and the Medical Board of Australia announced a review of the National Scheme's regulation of registered health practitioners providing cosmetic surgery. The review will be conducted by former Queensland Health Ombudsman Andrew Brown, and will report by mid-2022. The review will report on the regulatory role of AHPRA and relevant National Boards in cosmetic surgery, the way AHPRA works with other system regulators and opportunities to strengthen the safety reporting culture within cosmetic surgery. A consultation paper on that review is currently available at https://www.ahpra.gov.au/News/Cosmetic-surgery-independent-review-of-patient-safety.aspx</p> <p>The NSW Ministry of Health and NSW Fair Trading regularly review their respective websites to consider if any changes are required, including links to other websites and making the content user friendly. The website has been reviewed and remains up to date.</p>

Recommendation 9	The Committee recommends that NSW Health research behaviours of, and influences on consumers seeking cosmetic health services to inform future policy, regulation and education programs in this area. The Minister for Health could recommend to the COAG Health Council that it consider this as a priority for research funded through the National Health and Medical Research Council (NHMRC).
Position	Supported in principle
Status	Ongoing
Comments	The Chief Health Officer regularly discusses priorities for research funding at NHMRC. However, the NHMRC Chief Health Officer meetings have been focused on different priorities in 2020-21. NHMRC research priorities are described on its website: https://www.nhmrc.gov.au/research-policy/research-priorities
Recommendation 10	The Committee recommends that the Minister for Health pursues the issue of national regulation of the use of intense pulsed light devices and laser devices for cosmetic health service procedures with the COAG Health Council.
Position	Supported in principle
Status	Completed
Comments	In December 2018, the Australian Health Ministers' Advisory Council agreed to refer the issue of the regulation of intense pulsed light and laser devices to the Australian Radiation Protection and Nuclear Safety Agency.
Recommendation 11	The Committee recommends that the Minister for Health examines whether legislation should be introduced in New South Wales to regulate the use of intense pulsed light devices and laser devices used for cosmetic health services.
Position	Supported in principle
Status	Completed
Comments	In December 2018, the Australian Health Ministers' Advisory Council agreed to refer the issue of the regulation of IPL and laser devices to the Australian Radiation Protection and Nuclear Safety Agency. In March 2021, the Australian Radiation Protection and Nuclear Safety Agency wrote to the Environmental Health Standing Committee (enHealth – a subcommittee of the Australian Health Protection Principal Committee). The letter noted that the evidence of harm is limited but encouraged enHealth to lead a process to collect incident reporting data to support future policy discussions/regulation. This letter will be considered further by enHealth in due course.

Recommendation 12	<p>The Committee recommends that the Minister for Health and the Minister for Innovation and Better Regulation consider whether individuals providing cosmetic health services, and employees of those persons, should be required to disclose any commissions, incentives or other payments they receive for encouraging patients to agree to procedures, more of the same procedure or additional procedures.</p>
Position	Supported in principle
Status	Completed
Comments	<p>Changes to NSW Fair Trading legislation that commenced on 1 July 2020 include a general requirement for intermediaries to take reasonable steps to make customers aware of any commission or referral arrangements where the business receives a financial incentive from another supplier.</p> <p>The Medical Board of Australia has made guidelines for medical practitioners who provide cosmetic medical and surgical procedures. Among other things, the guidelines provide that:</p> <ul style="list-style-type: none"> • The medical practitioner should not provide or offer to provide financial inducements (e.g. a commission) to agents for recruitment of patients. • The medical practitioner should not offer financing schemes to patients (other than credit card facilities), either directly or through a third party, such as loans or commercial payment plans, as part of the cosmetic medical or surgical services. • Medical practitioners should not offer patients additional products or services that could act as an incentive to treatment (e.g. free or discounted flights or accommodation). • Medical practitioners should ensure that they do not have a financial conflict of interest that may influence the advice that they provide to their patients. <p>The Board's general guidelines that apply to all medical practitioners also provides that good medical practitioner involves not offering inducements or entering into arrangements that could be perceived to provide inducements</p> <p>A breach of the guidelines can be considered in deciding whether to take any disciplinary action against a practitioner. Complaints should be made to the Health Care Complaints Commission in relation to practitioners who breach these guidelines.</p>

Recommendation 13	The Committee recommends that the Minister for Health raises with the COAG Health Council the issue of whether patients seeking invasive cosmetic surgery be required to consult their General Practitioner and pursue national consultation on this issue.
Position	Supported in principle
Status	Completed
Comments	<p>The Minister for Health has raised the issue with the AHPRA and asked the Medical Board to review their guidelines. Per recommendation 8, AHPRA responded that they will consider the Committee's recommendations when they review their guidelines and standards, and will consult with stakeholders on proposed changes.</p> <p>AHPRA has also developed a consumer guide: https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures.aspx</p>
Recommendation 14	The Committee recommends that, as part of the New South Wales public education campaign about cosmetic health services, the Minister for Health encourages patients considering invasive cosmetic surgery to seek advice from a General Practitioner.
Position	Supported in principle
Status	Completed
Comments	The Minister for Health has written to AHPRA to ask the Medical Board to review their guidelines.
Recommendation 15	The Committee recommends that the Minister for Health and the Minister for Innovation and Better Regulation review whether the cooling off periods provided for in the Medical Board of Australia's <i>Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures</i> , 1 October 2016, are sufficient to protect consumers in New South Wales. The Ministers should also consider whether it would be appropriate to require and regulate cooling off periods for some cosmetic health services provided by non-registered practitioners.
Position	Supported in principle
Status	Completed
Comments	As part of a recent review of the regulation of cosmetic medicines, the NSW Ministry of Health considered whether a cooling off period was appropriate but did not recommend this approach, noting the Medical Board of Australia's guidelines on cosmetic medical and surgical procedures already apply when practitioners perform cosmetic surgery. These guidelines require cooling off periods to procedures involving cutting beneath the skin or for those under the age of 18 years.

Recommendation 16	The Committee recommends that the Minister for Health considers the feasibility of collecting data on revision surgery in the public health system, to correct cosmetic health procedures, to inform future policy and decision-making in this area.
Position	Supported in principle
Status	Completed
Comments	The NSW Ministry of Health has considered the feasibility of this issue. It is not considered feasible to collect data as revision surgery is carried out for various purposes and may not relate to cosmetic procedures, and some revision surgery could be carried out in response to overseas procedures.