

**Submission
No 12**

COSMETIC HEALTH SERVICE COMPLAINTS IN NEW SOUTH WALES

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Mr Adam Crouch
Chair
Committee on the Health Care Complaints Commission
Parliament of NSW
Macquarie St
Sydney NSW 2000

Friday 6th April, 2018

Dear Mr Crouch

We appreciate the opportunity to present our views on the status and challenges confronting the management of complaints relating to Cosmetic Service Providers. Given some of the recent experiences in relation to cosmetic health services in New South Wales, particularly those which have been the focus of much media attention, ASPS welcomes this Inquiry and considers it timely.

The ASPS takes an active role, fully aligned with our professional standards, in advocating for a better Australian health system. We achieve that by contributing constructively to the public discourse about improvement in the both the system and its standards.

For the purposes of this response we adopt the Medical Board of Australia's guidelines in defining cosmetic procedures. Whilst these definitions have been developed with registered medical practitioners in mind, they are equally relevant as definitions across all providers of cosmetic health services. *Cosmetic medical and surgical procedures* are defined by the Medical Board as 'operations and other procedures that revise or change the appearance, colour, texture, structure or position of normal bodily features with the dominant purpose of achieving what the patient perceives to be a more desirable appearance or boosting the patient's self-esteem'.

These definitions reflect consideration of risk and are as follows:

- *Major cosmetic medical and surgical procedures* ('cosmetic surgery') involve cutting beneath the skin. Examples include; breast augmentation, breast reduction, rhinoplasty, surgical face lifts and liposuction. These entail the highest level of patient risk.
- *Minor (non-surgical) cosmetic medical procedures* do not involve cutting beneath the skin, but may involve piercing the skin. Examples include: non-surgical cosmetic varicose vein treatment, laser skin treatments, use of CO₂ lasers to cut the skin, mole removal for purposes of appearance, laser hair removal, dermabrasion, chemical peels, injections, microsclerotherapy and hair replacement therapy. These procedures involve a meaningful level of patient risk.
- A third category may be considered for *non-invasive procedures*, such as toxin injections and low level laser treatments, where relatively low levels of risk exists.

WHO IS THE ASPS?

The Australian Society of Plastic Surgeons (ASPS) is a non-profit organisation whose members are specialists in plastic and reconstructive surgery and who hold a Fellowship of the Royal Australian College of Surgeons (FRACS) or its equivalent. The Royal Australian College of Surgeons is currently the only body recognised by the Australian Medical Council (AMC) for training surgeons in this area. Inclusive of all membership categories, the ASPS has over 500 members, who comprise 95% of all Specialist Plastic Surgeons in Australia.

The ASPS sees its role as maintaining and improving standards of patient care and service by supporting the highest standard of surgical practice and professional behaviour in all our members. To achieve this, we undertake a range of training and continuing professional development activities as well as promoting research into the specialty of plastic and reconstructive surgery. The ASPS provides training in all aspects of cosmetic treatments, both surgical and non-surgical.

While ASPS members are primarily prepared and trained in one aspect of cosmetic health services – that is cosmetic surgery - a significant number of our members operate businesses that provide non-surgical cosmetic services to the public. We therefore have a comprehensive and well credentialed understanding of almost all facets of the provision of cosmetic health services to the Australian public. We note that there are very large numbers of providers of cosmetic services whose training and professional standards cannot be verified.

We also note that a separate submission to the Inquiry has been made by our sister organisation, the Australasian Society of Aesthetic Plastic Surgeons (ASAPS). A large percentage of ASPS members are also members of ASAPS. The ASPS fully endorses the submission to this Inquiry made by the ASAPS.

WHY IS THE ASPS INTERESTED IN THE COSMETIC HEALTH COMPLAINTS SYSTEM?

For over 40 years our specialty has closely followed the developments in the cosmetic health arena. Most recently, we have been concerned by:

- The dramatic growth in cosmetic health service provision, most of which up until recently is unregulated and poorly credentialed. Leaving aside surgical cosmetic health services, it is estimated that non-surgical cosmetic health services currently generate in excess of \$1bn in revenue each year for the Australian economy. This is now a significant industry that is expected to continue its recent high growth rate and, unless addressed with appropriate regulation, will continue to attract a large number of commercially oriented providers who have limited or no training or qualifications.
- The unregulated nature of the facilities in which the surgical and non-surgical procedures take place and the poor credentials of most of the operators of those unregulated facilities. The regulation of facilities is improving thanks to changes introduced first by the NSW Government and soon, we understand, to be adopted in other States. To be effective these changes should be accompanied by a greater emphasis on compliance and enforcement.

- The chronic misunderstanding that most of the public have of the credentials of providers of cosmetic health services and the confusion that exists around the term 'cosmetic surgeon' (currently any medical practitioner can use the title 'cosmetic surgeon' and perform cosmetic surgery without undertaking Australian Medical Council approved surgical training). The ASPS and our members are well trained and experienced at providing high quality advice to the public but these efforts have had very little impact in changing the aggregate of patient understanding and behaviour. The public are still confused as to which practitioner is best placed to provide the most appropriate form of cosmetic health service that will meet their needs.
- The reticence of members of the public to make complaints about providers of poor or very poor quality cosmetic health services. The HCCC 2017 Annual report notes that less than 50 complaints were received and assessed in 2017 in relation to cosmetic health service providers. We believe this is a gross underestimate of the legitimate dissatisfaction that the NSW public experiences annually with the providers of these services. We also believe that a large number of the public are unaware of the existence and role of the HCCC.
- Non-English speaking communities are particularly vulnerable to abuse by practitioners, such as individuals operating out of residential apartments, or injecting materials illegally imported from overseas. These services are marketed through non-English forums and social media, and so are hard to detect. Once discovered by authorities, in our experience the services and practitioner simply move to another location using a different alias. Most of these patients using such services are unaware of the regulations or are happy to have 'black market treatments'.
- As a result of all the above, and independent of the quality or otherwise of the service outcomes, patient safety has been compromised by the way these services are delivered. We assess that risk levels tolerated by the cosmetic health service industry in Australia are excessively high compared to any other part of the health system. The death in Sydney in 2017 of Ms Jean Huang has highlighted the extent to which risks are being taken in this industry at the cost of patient safety. Unfortunately, these events have occurred in spite of the continuous improvement in efforts undertaken by the HCCC over recent years in monitoring and addressing complaints.
- The community has yet to reach an understanding of the distinction between a beauty treatment, for which there may need to be only minimal if any experience and qualification, and a medical treatment, for which the public will and should expect strong regulations about qualifications, experience and process.

With these concerns in mind, the ASPS has advocated consistently over the last 20 years for:

- Better enforcement of regulations and guidelines relating to treatment facilities, with harsher penalties.
- Nationally consistent facilities regulation and licencing. In 2017 the ASPS released a joint paper with RACS (Royal Australasian College of Surgeons) and ANZCA (Australian and New Zealand College of Anaesthetists) on day surgery in Australia which highlighted six 'facilities' standards that we consider critical to the safe operation of cosmetic health services.

- Nationally consistent titling of surgeons and surgical credentials. ‘Cosmetic Surgeon’ is not a recognised credentialed title and is used to blur and disguise the level of training in surgery. As a result, the public are confused and are unaware of how to identify an appropriately qualified surgeon from one less appropriately qualified. More transparent credentialing of non-surgical service providers is also highly desirable.
- A public that is better informed about cosmetic health services. The ASPS now takes the view that a single, reliable, trustworthy source of information is required – see the ASPS recommendation below.

ASPS’ KEY RECOMMENDATION

The key recommendation of this response is that the NSW Government works with other State and Federal Governments to establish a Cosmetic Treatments Advice Service (CTAS). We argue that this is a critical complement to a Health Complaints Commission that is seeking to effectively identify and address unethical, unprofessional and poor practice in the provision of cosmetic health services.

This concept of an Advice Service was first flagged in The Cosmetic Surgery Report to the NSW Minister for Health in 1999. ASPS now strongly supports the NSW Government revisiting this recommendation and with colleagues from other States, Territories and the Federal Government, expanding it to apply nationally and to include all categories of cosmetic health service.

A service like CTAS would need to be advised by AMC accredited practitioners but it could help deliver:

- Advice and information regarding cosmetic health services to patients via a dedicated website, and also via accessible phone and other contact points;
- Advice to patients regarding the appropriate levels of qualification and standards to which cosmetic health providers should hold and adhere;
- A clear pathway for patients who have concerns about the treatment they have received and the advice they have been given.

Given the rapid growth in cosmetic health services, the deliberate lack of transparency in credentialing of surgical training, the current confusion in the public’s mind about reliable information sources, and the substantial existing array of unethical and poor practices and operators, the ASPS takes the view that a critical complement to a more effective health care complaints system will be the creation of an independent, appropriately trained, highly reliable, readily trustworthy information source.

In our view it is vitally important that the public is capable of identifying that trustworthy source of basic information before pathways to complaint will be widely accepted and used.

In our experience a significant proportion of patients of poor cosmetic health services at least partially blame themselves when things go wrong, and therefore are unwilling to make a public complaint. This is particularly true of younger patients and patients from non-English speaking communities who are often aware they have taken a risk by paying a lower cost for a less than fully qualified practitioner.

OTHER ASPS COMMENTS and RECOMMENDATIONS

Other comments and suggestions that the ASPS makes in this response are as follows:

1. In reviewing the adequacy of the powers and functions of the HCCC, the ASPS believes that it is important that the forcing functions of the Commissioner are enhanced and aligned with any changes to facilities regulation and the credentialing and titling requirements that the various State, Territory and Federal Governments are currently reviewing. This will serve to minimise criticism that the Commissioner lacks teeth to effectively deal with the systemic problems that are emerging in the cosmetic health services industry. Simply put the commission needs harsher penalties and these need to be enforced.
2. ASPS members report varying experiences with the HCCC. All support the intent underpinning the organisation. Members praise the timeliness of complaints management with comments suggesting that complaints are regularly investigated and resolved rapidly. This is clearly positive both for patients and health practitioners and serves to generate confidence in the HCCC as a competent, responsive and trustworthy organisation.
3. Notwithstanding the key recommendation relating to the CTAS, ASPS members suggest that raising awareness of the HCCC may be of particular relevance where patients choose practitioners offering lower cost services. Sometimes these services may be cheaper due to facility and anaesthetic requirements not being met but, regardless, anecdotal evidence suggests that patients are less willing to utilise the HCCC where they have chosen to access a lower cost option. Highlighting that this need not be the case as well as promoting the HCCC more broadly is considered valuable for cosmetic health consumers.
4. The Government might adopt a process for assessing anonymous complaints that relate to cosmetic health services by reviewing the credentials of practitioners referred to by such complaints and the licencing status of the facilities of such practitioners, with cross referencing to other regulatory agencies as appropriate. Increased reporting of adverse events may be seen if there is an allowance for anonymous reporting, as long as enough detail is provided. There could also be a mechanism whereby practitioners who see and treat adverse events can also report those to the HCCC with the patient name suppressed if requested by the patient.
5. The Government should seek to build nationally consistent regulations and legislation in the area of Health Care Complaints for cosmetic health services, and align these regulations with changes in facilities regulation and the credentialing and titling of practitioners. Given the depth of commercial activity, tightening regulations and standards in one state will result in interstate transfers of that commercial activity, which should be avoided.
6. The Government should seek to eliminate the use of the term 'Cosmetic Surgeon'. Our experience is that this term is currently being used to deliberately overestimate the level of training of a practitioner. The term is not recognised by the AMC and is being used to blur the distinction between specialist surgeons who have undertaken a further six years of accredited supervised training in specialist surgery and those who have not. It is our experience that it is the use of this term that is the major factor in the lack of transparency in the cosmetic surgical industry and confusion around surgical qualifications in the public. Only fully trained AMC accredited surgeons should be able to call themselves 'Surgeons'.

If you would like further explanation of any of the recommendations, suggestions or comments in this response, we would be only too pleased to discuss them with you.



Yours sincerely
Mark Ashton
President
Australian Society of Plastic Surgeons