Submission No 6

COSMETIC HEALTH SERVICE COMPLAINTS IN NEW SOUTH WALES

Organisation: Cosmetic Physicians College of Australasia Ltd

Name: Dr Douglas Grose

Position: President

Date Received: 5 April 2018

COSMETIC PHYSICIANS COLLEGE *of* AUSTRALASIA LTD.

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5th April 2018

Adam Crouch
Committee Chair
NSW Health Care Complaints Commission
hccc@parliament.nsw.gov.au

Dear Mr Crouch,

Re: Inquiry into Cosmetic Health Service Complaints in NSW

In response to your formal invitation – sent and received by email on February 14 – to the Cosmetic Physicians College of Australasia to make a submission to your Committee's Inquiry, please find attached two documents:

- A submission from the CPCA Board on behalf of all its members; and
- An additional group of separate submissions from individual members (identified separately, but collated into one document), following our notice to all CPCA members advising them of the details of your Inquiry and calling for any further individual submissions they may wish to lodge personally.

Thank you for your consideration of our members' views on these most important matters. The CPCA considers patient safety the paramount issue in all oversight and regulation of the cosmetic and aesthetic medical industries.

Yours faithfully
COSMETIC PHYSICIANS COLLEGE OF AUSTRALASIA LTD

[redacted]

Dr Douglas Grose
MB:BS BSc (Med) Hons I, DObsRCOG, FCPCA
President 2015 - 2019

COSMETIC PHYSICIANS COLLEGE
OF AUSTRALASIA

5th April 2018

CPCA Submission:
Inquiry into Cosmetic Health Service Complaints in NSW

Terms of reference:

That the Committee on the Health Care Complaints Commission inquire into and report on the regulatory framework for complaints concerning cosmetic health service providers in New South Wales, with particular reference to:

- *The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies;*
- *The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in the cosmetic health services sector;*
- *The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector; and*
- *Any other related matters.*

Submission from the Cosmetic Physicians College of Australasia

Term of Reference 1: The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies.

The key roles and responsibilities of the HCCC should be focused on public health and safety issues.

To date, the HCCC is supposed to respond only to complaints about registered health practitioners. However, in the rapidly changing environment fostered by ever expanding advances in medical technology, many unregistered persons are increasingly acting like (and making themselves out to be) health practitioners.

Hence, the HCCC needs to be more amenable to investigating such persons and, given the seriousness of what those persons are doing, responding quickly if reliable information about such practices is gained.

Term of Reference 2: The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in the cosmetic health services sector.

The *"powers and functions of the HCCC to improve outcomes for the public in the cosmetic health services sector*" are clearly NOT adequate when the HCCC remains powerless to stop establishments, which clearly are not medical, advertising using words like "Medi" or "Medical".

If the HCCC accepts that its key roles and responsibilities should be focused on public health and safety issues, then it should be illegal to use certain terms when one is not a doctor or a doctor is not supervising treatments: Medispa, etc.

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Term of Reference 3: The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector.

All state and territory government Health Departments should legislate who may administer medications – if not universally, then at least in relation to cosmetic medicine.

To that end, the CPCA recently wrote to all state and territory Health Ministers noting our members' increasing concerns that – apart from Queensland – current state Drugs and Poisons Act legislation does not clearly and decisively specify who may legally inject Schedule 4 treatments.

It is a particularly worrying topic as our members increasingly observe the spread of (and aggressive advertising for) potentially dangerous developments and high-risk practices among non-medically trained operators within the cosmetic industry.

As part of the CPCA's ongoing efforts to minimise all serious risks to the health, safety or welfare of the public, our letter to each state and territory Health Minister suggested they carefully consider adopting the very specific terms of the Queensland Poisons Regulations – which clearly and authoritatively specify who may and may not administer S4 treatments.

Using the Queensland legislation as a guide would give each Health Department the legislative power to put untrained operators "out of business and off the streets" and also make the laws consistent across the states.

Of equal importance, adopting this legislation would make it obvious to the public – as well as enforcement agencies – that personnel other than registered health professionals should not be doing cosmetic injections.

The introduction of nation-wide comparable legislation – which clearly and decisively specifies who may legally inject Schedule 4 treatments – would provide the HCCC with a major imperative to "*collaborate with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector".*

Term of Reference 4: Any other related matters.

1: The Medical Board of Australia needs to reverse its decision to allow tele-consulting for cosmetic procedures – particularly where the doctor is not actually performing ongoing supervision (or not available to perform ongoing supervision) and may have no competency in the area of cosmetic medicine.

2: It would be preferable if there were recognised bodies (such as the CPCA) who could assess doctors who wish to inject or prescribe – as well as other health professionals who wish to inject – for competency, and only those who have been thus assessed may inject or prescribe for cosmetic procedures. There may be varying levels of competency or competencies for various procedures.

3: Doctors need to know the nurses who inject, be aware of their capabilities and be available for emergencies and complications.

4: A clearer and more specific definition of "scope of practice" – in relation to Master of Nursing qualification approvals to write prescriptions – needs to be adopted when being applied in the aesthetic medicine field.

5: Australian Customs officials need to take seriously the threat from imported medications – and be more active in detecting illegally-imported cosmetic medicines. This relates particularly to importations of medicines from
off-shore websites of products (both approved and not approved) which are currently being obtained illegally.

6: CPCA members are concerned about the limited effectiveness of AHPRA and the TGA to regulate delivery when they act on a purely reactive basis and may have limited powers under law to intervene, even if informed of potential illegal activity.

7: The TGA needs to be more active in detecting illegal machines and also in registering equipment for cosmetic medicine. The "lack of therapeutic claim" is concerning for hair removal lasers, tattoo removal lasers and also the new plasma machines, as they're being promoted to BTs and bypassing doctors (basically burning eyelids to shrink them).

8: ARPANSA needs to be more effective and proactive in its role. Laser and energy-based device regulation is an ongoing issue that needs to be closely monitored.

9: Investigators who speak/read Chinese languages should monitor WeChat and social media for illegal advertising or advertising of illegal practices. It is likely that other cultures will also be vulnerable in the same way and may need monitoring at some stage.

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#1

COMPLETE

Collector:	Email Invitation 1 (Email)
Started:	Wednesday, March 07, 2018 4:13:21 AM
Last Modified:	Wednesday, March 07, 2018 4:38:04 AM
Time Spent:	00:24:43
Email:	[redacted]
IP Address:	[redacted]

Page 1: College Member's Contribution to CPCA Submission

Q1 The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies:

It seems to me that the split of responsibility between state and federal government for health has lead to glaring gaps in the regulation of health and public safety. Lasers remain completely unregulated through most states with only Queensland and WA having regulations upon ownership and use of laser as a medical device . As a result we see at our clinic many referrals from other doctors and general public self referrals with shocking burns.

Q2 The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in cosmetic health services sector:

The sector remains unregulated to the most part , offering almost zero protection for the public .

Q3 The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector:

It seems to me that the Government who regulates the official health bodies with which the expertise in these areas lie, fails to listen, lisse with and collaborate with these bodies , who are at the cold face of the issues occurring , advising the doctors who are experts in this field , More preventable deaths and injuries will occur as a result of this negligence. Incompetent non medical practitioners are rife across the board.

Q4 Any other: (please refer to our current concerns as mentioned in the introduction to this form).

1. Currently the administration of botulinum toxin , a potentially lethal neurotoxin, is occurring by nurses unsupervised in clinics, in their own homes off label, prescribed by doctors who may have only done a 2 hour course in the administration of the drug and have little to no experience in its administration, and little understanding of the area of cosmetic medicine .
The use of “fillers” is even more in regulated .
As a referral centre for complicated cases or disgruntled patients we see at least 2-3 patients who have inappropriate, dysaesthetic application of these substances . In most cases this is amenable to treatment however we have a number of cases of permanent consequences..
the risk of potential permanent blindness and skin necrosis remains highest in those without adequate training .
The psychological scarring is of course present in almost all patients who have received inadequate and unsupervised treatment. It takes literally years and years to become compétant at such procedures.
At times doctors who are barely qualified will be Skyping a patient , prescribing scheduled drugs on the once off basis of having sighted the patient ,in 2 dimensional often inadequate video linkage and then officiate over the future treatments of this patient without ever seeing them live, or again. In an industry where patients are placing trust in these doctors it is unacceptable there is little to no expertise or responsibility taken .
Spas call themselves “Medi spas “ “medical” grade laser signs are mounted upon advertising placards ... falsely leading the public to believe in the qualifications of the providers to be “ medical “ or doctors . This is completely false advertising . What standards exist ? What are the powers that act as a deterrent ?
Almost none and nothing .
These should not be occurring by unqualified non medical practitioners, in hairdresser shops, beauty salons and the like.
The health authorities MUST work with the medical colleges to prevent rather than react to deaths and Cosmetic medicine disasters - burns, necrosis of skin, intra arterial injection of fillers, infections, disfiguring treatments ,that occur daily around Australia .

Q5 If you would like to upload any supporting documents or reports, please do so here:

Respondent skipped this question

Q6 Please complete the below boxes with your full name and membership number. CME points may apply (under the new sub-category 4o). Confirmation that your submission has been approved for CME points will be emailed to you in due course. Thank you.

First Name: [redacted]

Surname: [redacted]

Membership Number: [redacted]

#2

COMPLETE

Collector: Email Invitation 1 (Email)
Started: Wednesday, March 07, 2018 6:39:57 AM
Last Modified: Wednesday, March 07, 2018 6:53:58 AM
Time Spent: 00:14:00
Email: [redacted]
IP Address: [redacted]

Page 1: College Member's Contribution to CPCA Submission

Q1 The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies:

Public protection .Uniform regulations .Tight regulations nationally on approval of botulinum toxin .This should be on the same basis as prescribing codeine,medicinal marijuana.It should be only if a doctor is on the premisis

Q2 The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in cosmetic health services sector:

Licences to inject botulinum toxin ,fillers,blood products should be issued only to approved providers who are memebers of a college organisation -CPSA,COSMETIC SURGEONS AND FRACS PLASTIC SURGEONS,dermatologists

Q3 The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector:

Outcomes can only be improved if guidelines are uniform
between the colleges .No other agencies are necessary .
cosmetic medicine embraces dermatology ,antiageing medicine and regenerative medicine .in order to practice this profession it needs to fall into uniform regulations by practioners who belong to a structures society as for example FRACS,RACGP -This would stop rogue operators

Q4 Any other: (please refer to our current concerns as mentioned in the introduction to this form).

Regulation needs to be strictly in the hands of specialist colleges and licences given to providers who qualify through the colleges - this is the c ase in all professions who are given medicare numbers

Q5 If you would like to upload any supporting documents or reports, please do so here: **Respondent skipped this question**

Q6 Please complete the below boxes with your full name and membership number. CME points may apply (under the new sub-category 4o). Confirmation that your submission has been approved for CME points will be emailed to you in due course. Thank you.

First Name: **mark**
Surname: **jeffery**
Membership Number: [redacted]

#3

COMPLETE

Collector: Email Invitation 1 (Email)
Started: Wednesday, March 07, 2018 7:15:40 AM
Last Modified: Wednesday, March 07, 2018 8:14:12 AM
Time Spent: 00:58:31
Email: [redacted]
IP Address: [redacted]

Page 1: College Member's Contribution to CPCA Submission

Q1 The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies:

In Victoria at least, the Health Care Complaints Commissioner appears to only be interested in receiving complaints from patients. There is an automatic assumption within the organisation that complaints from doctors are motivated solely from "professional jealousy", which is trotted out as justification to excuse the HCC from investigating any complaint from a registered medical practitioner either about another registered Medical Practitioner or in particular about a perioperative Nurse Practitioner.

Q2 The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in cosmetic health services sector:

Reactive, rather than proactive. Unequally discriminatory against registered medical practitioners, whilst turning a complete blind eye to widespread rorting in other (sometimes health professional) organisations.

Q3 The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector:

Victoria has an unusually high number of nurse practitioners working in the endorsed field of perioperative care. Many of these perioperative NPs are exploiting a loophole that allows them to establish independent centres for S4 injecting, without any requirement at all for medical supervision or endorsement, and some of these same NPs are onselling S4 substances to non NP registered nurses, who then provide a roaming or even home based cosmetic service, further diluted from any medical care or supervision.
The Nurses Board of Victoria would be well equipped to identify these numbers, but when I enquired with AHPRA in January 2016, I was informed "as at 30 September 2015 there were 10 peri-operative nurse practitioners in Australia, of which 9 have a principle place of practice in Victoria. This data is unlikely to have significantly changed since September 2015, if at all." Do those figures not appear to be a little odd, if not suspicious, to anyone in Government? The entire purpose of the nurse practitioner scheme is to extend access to basic medical care in isolated areas of high medical need. Given the numbers of perioperative NPs residing in inner city metropolitan suburbs of Melbourne, it would appear that most of these perioperative NPs are not providing medical care to isolated communities at all.

Q4 Any other: (please refer to our current concerns as mentioned in the introduction to this form).

a) Advertising using words like "Medi" or "Medical" by establishments which clearly are not medical;
b)Use of tele-consulting where the doctor is not actually responsible for supervision and may have no competency in the area of cosmetic medicine;
c)Importation from offshore websites of products, both approved and not approved, which are medicines being obtained illegally;
d)The limited effectiveness of AHPRA and the TGA to regulate delivery when they act on a purely reactive basis and may have limited powers under law to intervene even if informed of potential illegal activity.

Q5 If you would like to upload any supporting documents or reports, please do so here:

Respondent skipped this question

Q6 Please complete the below boxes with your full name and membership number. CME points may apply (under the new sub-category 4o). Confirmation that your submission has been approved for CME points will be emailed to you in due course. Thank you.

First Name: [redacted]

Surname: [redacted]

Membership Number: [redacted]

#4

COMPLETE

Collector: [redacted]
Started: [redacted]
Last Modified: [redacted]
Time Spent: [redacted]
IP Address: [redacted]

[redacted]

[redacted] [redacted]

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[redacted]

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[redacted] [redacted]

[redacted]

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#5

COMPLETE

Collector:	Web Link 1 (Web Link)
Started:	Sunday, March 25, 2018 12:49:13 PM
Last Modified:	Sunday, March 25, 2018 1:29:46 PM
Time Spent:	00:40:32
IP Address:	[redacted]

Page 1: College Member's Contribution to CPCA Submission

Q1 The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies:

Sadly roles overlap and leave gaps between the various agencies. This makes it difficult to know to whom to complain about any given problem and in some cases there is no particular agency to complain to.

Q2 The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in cosmetic health services sector:

Seems to take a long time deciding how to improve things and then some of the regulations that are already in place do not get enforced.
We would have better control of the industry if the current regulations were actually always enforced, but also there are definitely areas where regulations have significant loopholes that enterprising practitioners use to deliver substandard care without penalty.

Q3 The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector:

There are too many agencies and the whole system is too unwieldy so in the end not much gets done.
Communication and meetings and decisions must be a disaster with so many different organisations involved.

Q4 Any other: (please refer to our current concerns as mentioned in the introduction to this form).

Claiming to be a medical institution where there are no doctors involved should be viewed in the same way as holding out as a medical practitioner falsely.

The prescribing of schedule 4 drugs is only possible for a medically qualified practitioner as it should be, but the reason for this is so that there is a line of responsibility that ensures adequate care in administration, aftercare and dealing with side effects, as well as appropriate insurance. It is highly inappropriate for a medical practitioner to facilitate prescribing of S4 substances for administration without particular care and more inappropriate for that practitioner not to view the patient as if that medical practitioner administered the treatment themselves.
Furthermore I believe that it should be mandatory for any organisation utilising the oversight of a prescribing doctor to display outwardly whom is their prescribing doctor. This allows patients to be certain the supervisor is indeed registered as a medical practitioner, and the option to be able to contact that practitioner in an emergency. If ideed that practitioner is taking responsibility for the treatment surely they would want the ability to hear from the patient at the earliest opportunity in the case of an emergency.
The other important stipulation for the supervising doctor is that they must be competent in the administration of the drug they prescribe, otherwise they should not be prescribing it because they are unlikely to be competent at advising on its use or treating its side effects.

It is horrifying that there are medical practitioners obtaining or authorising the use of medications not approved by the TGA and where this is discovered there should be penalties including revoking the right to delegate the use of S4s. We can educate the public to stay safer by using only qualified medical practitoners who are regulated for the safety of the public, but if these medical practitioners do not follow the rules then our advice to the public is flawed and in fact misleading. We require our governing bodies to apply the law so we can genuinely assure patients that medicine is safer under the supervision of doctors.

Finally I have been disappointed for decades at the complaints driven nature of the activities of the regulatory bodies. Busy medical practitioners do not have time to do surveillance of the industry thoroughly (although we try) and have to undergo personal scrutiny every time they bring a matter to the attention of the authorities, prior to that matter being dealt with. Members of the public are not fully aware of the regulations and complain about some things that are not valid and fail to know that other things that are done to them are actually in breach of the regulations. There needs to be surveillance by authorities and faster response to complaints. The CPCA would be an excellent vessel to refine complaints and present them to authorities as it could improve the result:workload ratio for authorities.
Given that it is possible to discover who makes a complaint against a doctor there is a huge disincentive for doctors to make complaints against colleagues, because those doctors who are breaking the rules are often the ones earning a lot of money doing so (therefore defend their postions vehemently) and also the ones who are in a good position to make retribution against someone who reports them.

Q5 If you would like to upload any supporting documents or reports, please do so here:

Respondent skipped this question

Q6 Please complete the below boxes with your full name and membership number. CME points may apply (under the new sub-category 4o). Confirmation that your submission has been approved for CME points will be emailed to you in due course. Thank you.

First Name:	**Keturah**
Surname:	**Hoffman**
Membership Number:	[redacted]
