

COSMETIC HEALTH SERVICE COMPLAINTS IN NEW SOUTH WALES

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Partially
Confidential

Submission on the regulatory framework for complaints concerning cosmetic health service providers NSW

- *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.*

Key Issues:

Current level of reprimand for inappropriate/unethical surgery is inadequate.

HCCC only corresponds via electronic communication – no onsite investigation or interviews occur.

A doctor should only be called a surgeon if they are a Fellow of the Royal Australian College of Surgeons and only in the field that they are listed for.

No clear guideline on what surgery needs to be performed in a fully licenced hospital. This is beyond the scope of the HCCC but still a concern.

Even after HCCC intervenes, no perceived changes occur. The process seems pointless without appropriate reprimand. The HCCC needs to have the power to make change and enforce accountability.

Patients don't understand the complaints process. They don't know where to complain (there is no mandatory display of the complaints process in an unregulated clinic as there is in a fully licenced hospital)

If patients do complain, there is a perception that they are wasting their time. This leads to increasingly patients not complaining as they see posts in private groups saying that it's not worth it.

Patients are expected to do their research prior to surgery and in the event of a suboptimal result or complication, the patients held accountable if:

- They did not understand the risks involved
- They did not understand the associated costs of revision surgery
- They choose the wrong surgeon. A surgeon that does not have the skill or ability to rectify the problem

There is no government funded initiative to provide non-biased health promotion that facilitates patients doing their research.

There is a substantial cost to the public healthcare system in relation to complications from unregulated and under qualified doctors performing surgery. Especially in the explant sector. If these patients don't have anywhere else to go, they will end up in the public system.

Where does a patient turn to when their original surgeon is unable to or unwilling to fix sub optimal results or complications. HCCC should be able to enforce that the original surgeon to pay for rectification surgery with an appropriate surgeon.

Background

My name is Nicole Montgomery (RN) and I am the Founder of Trusted Surgeons, a not for profit, online platform educating consumers in the plastic and cosmetic realm. Our focus is helping people make informed decisions relating to surgery. We only list qualified plastic surgeons so that the public can choose a surgeon with appropriate qualifications and training. We also provide a support network for patients through a 1300 number and various online platforms and private groups. Our goal is to be a voice for the consumer and be an agency of change for the industry. We cover surgical and non-surgical. Through our support networks, we deal with many patients that have issues surrounding surgical complications and often have exhausted all avenues of rectification. These people feel as though there is no one to listen to them and they don't know where to turn. We provide a service by reaching out to our large network to help find solutions or at least give them a path to follow.

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The Committee has resolved to keep
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THE OPPORTUNITY'S FOR COLLABORATION WITH OTHER AGENCIES ORGANISATIONS AND LEVELS OF GOVERNEMENT TO IMPROVE OUTCOMES FOR ALL THE PUBLIC IN THE COSMETIC HEALTH SERVICES SECTOR.

(Problem)

Currently patients within the aesthetic industry are confused, the reason for this is because there are multiple organisations working independently. If the below organisations collaborated and worked together, the public would become educated and this would result in patient safety, accountability, and improved patient outcomes.

- The Australian Society of Plastic Surgeons
- The Australasian Society of Aesthetic Plastic Surgeons
- The Australasian Society of Cosmetic Physicians
- Cosmetic Physicians College of Australasia

Above there are 4 organisations all representing physicians, doctors, surgeons all within the aesthetic industry. Only two of these organisations are recognised governing bodies. All the above organisations have one common goal and that is to improve patient outcomes. There is no organisation representing patients. No governing body ensuring accountability or enforcing government guidelines.

If a patient complains to any of the above organisations, the patient is referred the appropriate government department, either HCCC, APHRA or health ombudsman. The patient is left with zero support and a guidance. There is also little to no ongoing quality improvement. Yet a public patient who attends any emergency department or day stay unit is given the option of completing a survey. These surveys are then utilised to for consistent improvement. The public and private system have numerous processes in place to ensure continual improvement. However cosmetic surgery is completely unregulated, some surgeons are qualified, some are not. Some surgeons operate in their

own day surgery, others operate in a hospital. Some even operate in private rooms that have no Licencing restraints. Nothing is consistent or policed.

The aesthetic industry leaves patients with no options, sometimes being forced to travel overseas to obtain accessible surgery. These patients who have revision within Australia or overseas often require an explant or wound care management. The public system absorbs these patients, the cost of ongoing dressings, IV antibiotics, removal of implants is all a burden on the Medicare system.

(Solution)

The industry requires an independent body which represents patients and facilitates ongoing improvement practices. There are multiple government initiatives, supported or facilitated which provide an independent patient resource and support network. Such as: The Better Health Channel, Beyond Blue, Head Space, Quit and the list goes on and on.

Trusted Surgeons has one primary goal and that is not simply to educate consumers, but to provide a voice and support. A Registered Nurse answer our 1300 number, emails and social media messages. The organisation established Not-for-profit status in 2017. The goal is to have no surgeons financially supporting the organisation and to be very independent. Trusted Surgeons is not a lead generator. The platform is a resource, support network, health promotor and voice of cosmetic/plastic surgery. Trusted Surgeons represent the patient and are patient driven.

Trusted Surgeons can facilitate consumers, clinics, and surgeons who meet the best practice guidelines of ASPS & ASAPS. Members of these organisations do participate in an independent review process. Commitment to ongoing patient insight survey's increases the available data and can be used for ongoing industry improvements. Sadly, patients that are price driven, invest little time in reading and want first hand testimonials. Patients want to message and enquire on their terms, patients want to search social media and patients are lured by great marketing campaigns. Professional bodies have an underlying agenda, that is to promote and protect their members. The professional bodies are education driven but the gap between surgeon and patient is as large as it was 5-10 years ago. The organisations are tied to a conservative board and a conservative historical approach to medicine. Not so long ago, medicine was not advertised or promoted. Today without a strategic marketing plan, an aesthetic clinic will not survive. The professional bodies are actively educating their members and distributing good content. This however has not grown brand awareness. Should the brands of any of the above organisations increase, they only refer to their list, they do not provide support or individual help for the patient.

Trusted Surgeons provide confidential help, raise awareness through social media and virtual PR, connect with patients as individuals case by case. We do not refer to a list and we help until the patient has found a surgeon or help post a complication. We would love to work with the HCCC to help patients get their concerns lodged and actioned. We would love to work with ASPS & ASAPS to continue to promote their surgeons. We also would like to educate the public on ongoing changes to Medicare and health fund providers. Share stories and support those in need, through raising awareness we can decrease cosmetic tourism, decrease admissions to the public system and decrease the vast number of patients who are uneducated. Together we can empower patients to make well informed decisions. With empowered and educated consumers choosing qualified surgeons with the appropriate training, we decrease the burden on the public system.

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;

(Problem)

The power of the HCCC is not enough. The reason for this is because there is not enough legislation. If the legislation and regulations are changed the HCCC would have adequate power.

There is no law against a general practitioner becoming a cosmetic surgeon, a cardiothoracic surgeon switching to a cosmetic surgeon. A doctor who decides not to become a GP or specialist and simply join the aesthetic industry under the title cosmetic physician, cosmetic practitioner ect. This has caused upheaval and dis-trust.

We have had only a few patients complain to us who previously complained to the HCCC. It is very difficult for patients to access past complaints. Improving transparency would in turn increase reliable information and hold surgeons/physicians accountable for their patients.

The patients who have complained to Trusted Surgeons, have done so because they were not satisfied with the response from the HCCC. Education needs to be provided surrounding the risks, rate of complications, rate of complaints and common misconceptions. With funding, Trusted Surgeons can support these patients and continue to educate. We frequently see misleading posts on social media from board certified surgeons and practitioners. What process is the clinic following to ensure the client understands the risks, costs, and potential aesthetic complications. In the cases we are involved with, patients generally recount only hearing about the good things around surgery with complications glossed over. The cooling off period helps with patients understanding their surgery, giving them time to research further and create questions for their surgeon but this is not enough. If a patient does not understand the gravity of having an invasive procedure and the risks on the day of consultation, chances are, they are not going to 7 days later. Surgeons however are often scared to “put off” patients with dwelling on risks and known complications.

This fear is common amongst surgeons, especially if the surgeon believes he never has a complication. Many surgeons offer animations on what the surgery entails, but do not offer animations on the complications.

(Solution)

Providing transparency regarding complaints and adequate educational material which is engaging and informative would significantly improve patient outcomes and patient understanding. Patients need a clear path to make complaints and it should be mandatory for all medical practices (not only those required by accreditation) to display clearly the complaints process. The HCCC needs to also be more involved in the process with face to face interviews of those being complained about. On site visits and speaking with other parties tied into the complaint. Simply emailing back wards and forwards does not do the process justice and leads to patients feeling that responses were not adequate. Most often than not, responses sent back to the HCCC in relation to a complaint are either written or vetoed by a solicitor.

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Summary:

It is abundantly clear that there needs to be change and better protection mechanisms set in place to protect the public in the cosmetic health care sector. The HCCC needs to clearly identify to the public, the course of action for people to take regarding suboptimal results both surgical and non-surgical. Displaying a complaints process should be mandatory for any medical practice that has an AHPRA registered practitioner employed. If a complaint is received, I believe a site visit and face to face interview is required, especially for repeat offenders that have multiple complaints of poor outcomes. Some of these practitioners are destroying people’s lives yet continue to practice regardless of multiple complaints. The HCCC should be able to enforce a stop work for extreme cases with a peer review to take place. Whether that be supervised time in surgery, reviewing surgical technique and knowledge or supervised in clinic for non-surgical work. The HCCC should have the power to force the surgeon of a negligent result to pay for rectification surgery with another surgeon, once all trust and faith is lost by the patient. Most patients do not want to get treated again by the original offending doctor once harm has been done.

There needs to be a clear benchmark set to determine a doctors/surgeon’s qualification. Either they are a surgeon, or they are not. There should not be grey areas in this regard. To simply put “adequate training” with out an actual bench mark, leaves the process open to interpretation. For some 2 days is deemed appropriate to then start operating on. It takes longer to get your driving licence than this and 2 days training is certainly not adequate in my mind. This leads to misleading advertising for these “dodgy” doctors who report to be “exceptionally skilled and experienced cosmetic surgeon”. The HCCC needs to have the appropriate power to cease this activity of misleading the public whether that be monetary fines or a cease in business.

Education is key in developing awareness around the seriousness of surgery and the potential outcomes and associated costs involved. Trusted Surgeons would love to work in conjunction with the HCCC to provide this service to the public. We are here as a voice for the people and independent of key stake holders in the industry. Developing our dedicated telephone and message service which is currently privately funded, to have a support network for the public in the cosmetic health care sector, would fill a void in the system. As previously stated, there are a multitude of help lines for many other health related issues. As far as I am aware, our service is the only one in this space. The public need a voice to help raise issues and induce change.

Surgery should only be performed in a licenced facility. I find it strange that it is mandatory to perform a colonoscopy or gastroscopy in a licenced facility, yet a doctor with no surgical qualification can perform a breast augmentation in his unlicensed rooms that does not meet basic standards of care or safety. Cosmetic surgical procedures should be listed as mandatory to be performed at a licenced facility where national standards are met, and the patient is given the best possible chance of a great outcome. This also means that these doctors are open to mandatory reporting for issues and complications. At this point, when a patient is operated in an unlicensed environment, mandatory reporting does not apply. The HCCC needs to have the power to force a doctor or clinic to perform these procedures in licenced facilities, in order to better serve the community and better provide protection mechanisms for the consumer.

Patients who under cosmetic surgery, non-surgical or surgical, I are at a significant disadvantage because the procedures are viewed as; vain, frivolous, not anecdotal, and commercial. However, regardless of whether one views Cosmetic Surgery as an independent field of medicine or not, it is still medicine. Aesthetic procedures are invasive, do change people's lives (both good and bad) and in surgical cases require anaesthetist. Until aesthetic surgery has its own specialty in which doctors cannot just decide they are a cosmetic surgeon and other specialist surgeons simply deciding to operate under a different field without being monitored, the public is at risk. A specialist plastic surgeon cannot become a neurosurgeon to add an income stream, yet an ENT surgeon can do breast augmentations and labiaplasty. A specialist plastic surgeon cannot operate as an orthopaedic surgeon. If this was common place and there was a complication, who would be at fault? The patient for choosing a plastic surgeon for their knee replacement or the surgeon? The surgeon is accountable for operating outside his scope of practice.

When a patient chooses the wrong surgeon for a cosmetic procedure, who is a fault? At this point in time, the patient being blamed and shamed. The patient is blamed for also being price driven or lured by convoluted marketing. This results in Medicare covering costs of explants, infections, and psychological trauma. The patients who have their lives destroyed are not compensated. The complaints do not result in change and the patient first philosophy is lost in a political war. Patients post-surgery need support, ongoing care, and an option to vent and be in control of their body. With trusted surgeons we provide a simplistic option for patients to check their surgeon is qualified in person or via the website. We then nurture patients who just want someone to empathise. Most often patients do not need us to intervene, they just need empathy and reassurance.

I welcome any feedback to the above and am happy to correspond further in relation to my submission. I would be keen to work further with the HCCC to bring about change for the community and provide safer environments for the public in this cosmetic healthcare sector. Change needs to happen if patients are going to start to trust the system again.

Nicole Montgomery