



COSMETIC PHYSICIANS  
COLLEGE  
OF AUSTRALASIA

22<sup>nd</sup> May 2015

The Executive Officer, Medical  
Medical Board of Australia  
AHPRA  
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Dear Executive Officer,

**SUBMISSION TO PUBLIC CONSULTATION: REGISTERED MEDICAL  
PRACTITIONERS WHO PROVIDE COSMETIC MEDICAL AND SURGICAL  
PROCEDURES**

The Cosmetic Physicians College of Australasia (CPCA) is pleased to make a submission to the Medical Board of Australia's (MBA) public consultation on registered medical practitioners who provide cosmetic medical and surgical procedures.

The CPCA represents the largest group of doctors in Australia with a special interest in minimally-invasive cosmetic medicine. One of the CPCA's primary endeavours is to safeguard the public by ensuring regulations are adhered to and standards are upheld in this evolving area of medicine.

The CPCA's comments in its submission are limited to minimally-invasive cosmetic procedures only, particularly the use of Schedule 4 medicines.

***About the CPCA***

The CPCA has played a significant role in the development of standards to protect the public in recent years and actively works to highlight and eradicate bad practices. For example, it was involved in formulating the NS10010 National Standard – Accreditation of Cosmetic Clinics which caters for cosmetic medicine practices where minimally invasive procedures are performed.

The CPCA's concern is to make sure that the public are not enticed to undergo treatments which may not be appropriate for them. So, for example, we have advocated against group-buy companies flouting the law by promoting and marketing discounted and time-limited deals for cosmetic medical procedures.

The CPCA supports the majority of recommendations from the 2010 Australian Health Ministers' Advisory Council's (AHMAC) Inter-Jurisdictional Cosmetic Surgery Working Group Clinical, Technical and Ethical Principal Committee and has advocated for their implementation.

Currently, the CPCA is represented on the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) working group examining the use of lasers and IPLs for cosmetic purposes.

### ***Responses to Consultation Questions***

#### **1. Do you agree with the nature and extent of the problem identified in this consultation paper, for consumers who seek cosmetic medical and surgical procedures provided by registered medical practitioners?**

As noted, the CPCA has a special interest in minimally-invasive cosmetic medicine and therefore its comments relate to this area of medicine only, not cosmetic surgical procedures.

The CPCA agrees that cosmetic medicine is elective and is usually initiated and requested by the patient. In some of these cases, the CPCA is concerned that minimally-invasive cosmetic procedures are initiated without a referral from a general practitioner.

For example, on 10 December 2012, the WA Department of Health issued a warning to all patients who received cosmetic procedures at the home of a registered nurse. The Department advised patients to visit their General Practitioner as soon as possible for a blood test following an “*investigation of a possible infection control breach*” which “*could have exposed patients to blood-borne virus or bacterial infection*”.

Looking at the medical industry more widely, a further example of the problems that can occur in the absence of a face to face consultation with a general practitioner is provided in the recent case between the ACCC and the Advanced Medical Institute (AMI), which was found guilty of “unconscionable conduct” by the Federal Court of Australia – case can be accessed [here](#). One of the key issues raised by the Court was that AMI doctors “*conducted a consultation by telephone only and did not see or conduct any physical examination of the patient*”

*“By not consulting face-to-face, by limiting the medications they would prescribe, by recommending long-term treatment programs, by failing to diagnose the cause of the condition, by failing to refer patients to a GP or specialist for underlying causes or presenting conditions, and by failing to advise or advise adequately about common side effects, the doctors failed to meet the [established] standard of practice...Instead, doctors were a cog in a commercial machine.”* said Justice Tony North

We agree with Justice North’s comments and that is why the CPCA recommends all potential patients for cosmetic procedures have an initial face-to-face consultation with their general practitioner or a medical practitioner with experience in cosmetic medicine, prior to treatment to avoid sub-optimal treatment.

The CPCA is of the view that the nature and extent of the problem is greater where the patient has responded to advertising by other registered non-medical practitioners.

#### **2. Is there other evidence to suggest that there is a problem with consumers making rushed decisions to have cosmetic medical and surgical procedures provided by registered medical practitioners without adequate information?**

Yes, there is evidence to suggest that this problem exists and could lead to undesirable outcomes. The CPCA has previously written to AHPRA and local health departments regarding concerns with advertising and marketing that promote the indiscriminate use of cosmetic injections to the public.

The CPCA's main concerns with these promotions relate to the use of time limited offers, discounts and testimonials that have the potential to lure the public into making rushed decisions.

The CPCA acknowledges that AHPRA's revision of the *Guidelines for advertising* and the development of a *Social media policy* which provide clarity on advertising and marketing in non-traditional media are designed to help address this problem. Given the widespread use of social and digital media by a wide range of health-related professions, the CPCA is of the view that this area needs to be monitored regularly.

Currently, only registered practitioners are required to comply with AHPRA's guidelines and policy in regards to advertising and marketing of regulated health services. The CPCA is of the view that AHPRA's guidelines need to be extended to also capture organisations and businesses where registered health practitioners provide services.

The CPCA will continue to raise its concerns on advertising and marketing on a case by case basis with AHPRA for their direct action.

**3. Is there other evidence that consumers cannot access reliable information or are relying on inaccurate information when making decisions about these procedures?**

In regards to minimally-invasive cosmetic medicine, many patients seem to be unaware that cosmetic injections are Schedule 4 medicines that need a prescription. Furthermore, cosmetic procedures require an understanding of complex facial anatomy, intimate knowledge of the medicine used, and their aesthetic placement within a patient.

That is why the CPCA is concerned with registered non-medical practitioners offering cosmetic injections as an ancillary service where it maybe outside their scope of practice -a highly pertinent consideration because in such instances professional indemnity is likely to be void, a fact of which the patient may be entirely ignorant.

The CPCA refers again to its earlier example, where the WA Department of Health issued a warning to all patients to visit their General Practitioner as soon as possible for a blood test following an "*a possible infection control breach*" which "*could have exposed patients to blood-borne virus or bacterial infection*". The warning was issued to patients who had received treatment from a registered nurse who was not supervised by a medical practitioner.

**4. Is there evidence that inappropriate use of qualifications and titles by medical practitioners may be misleading for consumers?**

The CPCA is concerned with non-medical practitioners who promote themselves in the area of cosmetic medicine and do not refer patients to medical practitioners prior to treatment. The CPCA is aware of previous such instances and have brought them to the attention of the relevant State bodies.

**5. Is there evidence that offers of finance for these procedures may act as an inducement for consumers to commit to a procedure before they have had adequate time to consider the risks?**

The CPCA is of the view that this question relates more to cosmetic surgical procedures and therefore has no comment.

**6. Is there other evidence of disproportionate numbers of complaints or adverse events for consumers who have had these procedures?**

The CPCA is of the view that this question relates more to cosmetic surgical procedures given that minimally-invasive treatments do not require a general anaesthetic and do not include cutting beneath the skin.

**7. Is there other evidence to identify the magnitude and significance of the problem associated with cosmetic medical and surgical procedures provided by registered medical practitioners?**

No.

**8. Is there other evidence that the current regulation of medical practitioners who provide cosmetic medical and surgical procedures is not adequately protecting the public and not providing clear guidance on the Board's expectations of practitioners?**

The CPCA can only comment on minimally-invasive procedures and is of the view that a recent NSW case involving a medical practitioner and nurse injector is a good example of where the Board's expectations for adequately protecting the public was not entirely met.

In this case, the nurse was found to be "guilty of unsatisfactory professional conduct and serious misconduct" for the practice of:

1. supplying Schedule 4 medication to patients at a practice and/or day spa contrary to the *Poisons and Therapeutic Goods Act 1966* (NSW)
2. administering the substance in the absence of any:
  - i) consultation, review or assessment of the patients by a medical practitioner
  - ii) prescription from a medical practitioner;
  - iii) written instructions or written orders from a medical practitioner;
  - iv) supervision by a medical practitioner.

Furthermore, the medical practitioner was found to:

1. be unaware of the suitability of the drugs for the patients, as he had not seen the patients beforehand and did not have sufficient experience with the drugs,
2. not have provided his direction and approval to the nurse to use the drugs on specific patients
3. not retained overall control of the safe and appropriate use of the drugs (the drugs were also taken out of the practice by the nurse)

The HCCC in this case stated that it is '*mindful that the use of nurse injectors for the administration of Botox and fillers would appear to be common place*' however was of the view that this did not '*abdicate the professional responsibility of a doctor who has obtained Schedule 4 medication for a patient for cosmetic purposes.*'

***Option 1***

**9. Does the Board's current code of conduct and the existing codes and guidelines of the professional bodies provide adequate guidance to medical practitioners providing cosmetic medical and surgical procedures?**

**10. How effective are existing professional codes and guidelines in addressing the problem identified by the Board?**

**11. Do you agree with the costs and benefits associated with retaining the status quo as identified by the Board?**

**12. Are there other costs and benefits associated with retaining the status quo that the Board has not identified?**

The CPCA agrees with the MBA's assessment that not all medical practitioners are members of a professional association and therefore will not be subject to the codes of that association.

This gap is highlighted in a recent case involving a nurse injector, who worked for a medical practitioner, who did not refer patients to the medical practitioner for an initial face-to-face consultation prior to the administration and use of Schedule 4 Medicines.

The CPCA does not support the option to retain the status quo of providing general guidance about the MBA's expectations, given that the professional associations have policies in place to which the vast number of medical practitioners adhere.

The CPCA supports the MBA adopting guidelines which reflect the existing policies implemented by professional associations in this area and encouraging the other National Boards to do the same.

For example, the CPCA's *Protocol for delegated cosmetic S4 injections* was adopted following extensive consultation with its members and other medical colleagues. The protocols provide a clear process for medical practitioners to follow whilst ensuring patient safety is upheld. This includes an initial face-to-face consultation.

### *Option 2*

**13. Would consumer education material be effective in addressing the problem?**

**If so, how could it be designed to ensure it is effective and kept up to date and relevant?**

**14. Who do you think is best placed to design consumer education material about cosmetic medical and surgical procedures provided by medical practitioners?**

**15. Who should pay for the development of consumer education material?**

**16. Are there any other costs and benefits associated with providing consumer education material that the Board has not identified?**

Professional associations already produce informative resources that are publicly accessible. The CPCA also notes that professional associations update their resources regularly to reflect best practice and work with their members to ensure that patients are accurately informed. However, the CPCA acknowledges that with the advent of communication avenues such as social media, the accuracy of that information is highly variable and can be confusing and overwhelming to the public.

The CPCA is of the view that the development of any additional educational material should be in consultation with the medical colleges and associations to ensure consistent messaging.

### *Option 3*

**17. The Board seeks feedback on elements for potential inclusion in guidelines:**

**17.1 Should there be a mandatory cooling off period for adults considering a cosmetic medical or surgical procedure (other than for minor procedures)?**

**If so, is seven days reasonable?**

This question doesn't relate to cosmetic injections and therefore the CPCA has no comment.

**17.2 Should there be a mandatory cooling off period for patients under the age of 18 who are considering a cosmetic medical or surgical procedure?**

**If so, is three months reasonable?**

Yes, except for those patients requesting minimally invasive services listed in the Medical Benefits Schedule (MBS).

In regards to children, the CPCA has long held the view they should not receive cosmetic medical or surgical procedures of any kind, unless there is a compelling medical or psychological reason, for example, hyperhidrosis. However, in the rare event that such a treatment is required, except for minimally invasive services listed in the MBS, the CPCA supports the current practice in NSW, where the patient is referred to a psychologist or psychiatrist and a three month cooling off period is required.

Furthermore, we recommend that the guidelines include a provision that the medical practitioner needs to be satisfied that there is compelling medical or psychological reason for the treatment before agreeing to administer a cosmetic treatment to a minor.

**17.3 Should medical practitioners be expected to assess patients for indications that the patient has significant underlying psychological problems which may make them an unsuitable candidate for the procedure?**

In regards to an adult patient, we recommend that the guidelines include a provision that the medical practitioner needs to be satisfied that there is compelling medical or psychological reason for the treatment. Except for patients requesting minimally invasive services listed in the MBS, the patient should also be referred to a psychologist or psychiatrist.

In regards to children, as per above, we recommend that the guidelines include a provision that the medical practitioner needs to be satisfied that there is compelling medical or psychological reason for the treatment. Except for patients requesting minimally invasive services listed in the MBS, the patient should also be referred to a psychologist or psychiatrist.

**17.4 Should medical practitioners be expected to refer these patients to an independent psychologist or psychiatrist for evaluation?**

Yes, if the medical practitioner suspects the patient may have significant underlying psychological problems.

**17.5 Is it reasonable to expect that registered medical practitioners refer all patients under the age of 18 to an independent psychologist or psychiatrist for evaluation before a cosmetic medical or surgical procedure is performed, regardless of whether legislation exists (as it does in Queensland via the *Public Health Act 2005*)?**

Yes, except for patients requesting minimally invasive services listed in the MBS.

**17.6 Should there be further restrictions for patients under the age of 18 who seek cosmetic medical and surgical procedures?**

Yes, the guidelines should include a provision that the medical practitioner needs to be satisfied that there is a compelling medical or psychological reason for the treatment.

**17.7 Should a medical practitioner be expected to have a face-to-face consultation (in person, not by video conference or similar) with a patient before prescribing schedule 4 prescription only cosmetic injectables?  
If not, why?**



Yes, the CPCA's *Protocol for delegated cosmetic S4 injections* states that a doctor must consult in person, face-to-face with a patient and formulate a written treatment plan prior to delegating the administration of Schedule 4 medicines for cosmetic purposes to a registered nurse.

The CPCA is of the view that the National Protocol that allows medical practitioners to consult and assess patients by using a video conference or a similar device is appropriate only in the event of emergency situations where a medical practitioner is not physically available, for example in remote and regional areas. Otherwise, the CPCA is of the view that the use of Schedule 4 medicines for cosmetic purposes is not an emergency and should require a face-to-face consultation except in rural areas where there are no medical practitioners available.

**18. Are there other elements not included in the draft guidelines at Attachment B that could be included?**

The CPCA is of the view that the guidelines regarding patients under the age of 18 and the administration of Schedule 4 Medicine should also be reflected by other National Boards.

**19. Do you agree with the costs and benefits associated with guidelines with explicit guidance (option 3) as identified by the Board?**

The CPCA supports the costs and benefits associated with the guidelines as identified by the MBA. The CPCA agrees that the benefits to safeguard the public through introducing clear, nationally consistent guidelines for non-invasive procedures and for patients under the age of 18 outweigh the costs.

**20. Are there other costs and benefits associated with guidelines with explicit guidance (option 3) that the Board has not identified?**

Not to our knowledge.

**21. Would the benefits of guidelines with explicit guidance (option 3) outweigh the costs, or vice versa?**

Yes. The CPCA is of the view that the benefits of introducing guidelines to safeguard the public outweigh the costs. This is a rapidly expanding area of medicine and guidelines would provide an improved standard for patients and provide a clear, nationally consistent standard for medical practitioners.

The CPCA agrees with the MBA's view that any cost as a result of the guidelines would be low compared with the overall cost of the cosmetic procedure. This view is predicated on the fact that the majority of medical practitioners are members of professional associations which have developed protocols to deal with these matters.

**Option 4**

**22. Do you agree with the costs and benefits associated with guidelines which are less explicit (option 4) as identified by the Board?**

Yes, the CPCA agrees with the costs and benefits associated with guidelines that are less explicit.

**23. Are there other costs and benefits associated with guidelines which are less explicit (option 4) that the Board has not identified?**

N/A.

**24. Would the benefits of guidelines which are less explicit (option 4) outweigh the costs, or vice versa?**

No. The CPCA is of the view that the MBA's guidelines which are less explicit will limit the Board's actions to protect the public and will not provide the adequate protection to children which option 3 provides.

***Preferred Option from the Regulatory Impact Statement***

The CPCA supports the MBA's recommended Option 3.

The CPCA supports clear, nationally consistent guidelines for medical practitioners who provide cosmetic medical and/or surgical procedures.

The CPCA welcomes the provision that patients under the age of 18, except for those requesting minimally invasive services listed in the MBS, have a cooling off period of three months and are referred to a psychologist or psychiatrist. The CPCA is of the view that the MBA should go further and ensure that medical practitioners need to be satisfied that there is a compelling medical or psychological reason to provide such the treatments to minors.

Furthermore, the CPCA requests that the provisions are regularly reviewed to ensure that they remain relevant and workable and also to ensure the maintenance of good regulatory practice.

Yours faithfully  
COSMETIC PHYSICIANS COLLEGE  
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