

21 May 2012

Dr Joanne Katsoris  
Executive Officer  
Medical  
Australian Health Practitioner Regulation Authority  
GPO Box 9958  
Melbourne VIC 3001

Email: [medboardconsultation@ahpra.gov.au](mailto:medboardconsultation@ahpra.gov.au)

Dear Dr Katsoris

**Consultation – cosmetic medical and surgical procedures:**

**Draft supplementary guidelines on cosmetic medical and surgical procedures for ‘Good Medical Practice: A code of conduct for doctors in Australia’**

Thank you for inviting comment on the draft supplementary guidelines. The Australian Society of Plastic Surgeons (ASPS) notes that the Medical Board of Australia (MBA) has received a referral from the Australian Health Workforce Ministerial Council about the report titled *Cosmetic Medical and Surgical Procedures – A National Framework*, which has been commissioned and subsequently endorsed by the Australian Health Ministers’ Conference (AHMC). The report proposes various amendments to the MBA’s code of conduct for Australian doctors, *Good Medical Practice*. A draft addressing these issues is provided as Attachment 2 of the AHMC report, which in turn has been adopted without amendment by the MBA for the purpose of this consultation.

ASPS supports the proposed amendments as drafted, however there remain two substantial shortcomings in the draft guidelines which need to be addressed so as to effectively protect patients. These are:

- information about qualifications and experience; and
- the safety of office-based procedures.

Both these matters were addressed in depth in the report prepared by the Health Care Complaints Commission for the NSW Minister of Health, *The Cosmetic Surgery Report (1999)*. This report was also substantially referenced in the AHMC *National Framework* report.

**Information about qualifications and experience**

The draft guidelines require that at the initial consultation a prospective patient must be provided with written information about the practitioner’s qualifications and experience. The problem with this requirement is not that practitioners without an approved post-graduate qualification in surgery are likely to call themselves a ‘specialist surgeon’ in breach of the National Law, but rather will by omission not disclose that they do not in fact hold a FRACS or will call themselves a cosmetic surgeon, which is not proscribed by the Law, thereby potentially misleading the patient. As the Australian Competition and Consumer Commission identifies in its publication, *Straight talking with your patients, representing your services*,

‘Patients may be uncertain and confused about medical and health services, particularly if they are elective procedures. This means that doctors must take special care to explain their services...

Australian Society of Plastic Surgeons Inc.

Suite 503 Level 5, 69 Christie Street, St Leonards NSW 2065 Australia  
T +61 2 9437 9200 F +61 2 9437 9210 [info@plasticsurgery.org.au](mailto:info@plasticsurgery.org.au)  
[plasticsurgery.org.au](http://plasticsurgery.org.au)

ABN 78 823 025 148  
ARBN 117 773 645  
Incorporated in the ACT with members’ liability limited

Your patients can be at a disadvantage because they know less about the qualifications of medical professionals than those who practise in the profession. For example, patients may assume that a person who uses the title 'surgeon' has undertaken a particular level of training in surgical procedures. Doctors wishing to promote themselves as surgeons should ensure they are not using the term in a way that may mislead patients about their skills or qualifications.'

'You should ensure that claims or representations about professional qualifications, experience or services are not misleading...Misleading conduct can include being silent if, in the circumstances, there is an obligation to say something.'

The MBA's *Guidelines for advertising of regulated services* state that clients are best protected when practitioners advertise only those qualifications that are:

- approved for the purposes of registration or endorsement of registration; or
- conferred by approved higher education providers; or
- conferred by an education provider that has been accredited by a government accreditation authority.

And further, that practitioners who are considering the use of titles, words or letters to identify and distinguish themselves in advertising, other than those professional titles protected under the National Law are encouraged to ask themselves why they would do so.

Clearly the HCCC and ACCC have previously recognised the risks patients face in accessing cosmetic surgical services and the MBA itself, given the above requirements, has also recognised that patients need a high level of awareness and clear, precise information. It is therefore incumbent upon the MBA to establish guidelines that will be effective in affording patients protection.

To do this, the draft guideline must as a minimum require that the practitioner state in the information provided to patient either:

- I am a registered specialist surgeon (include sub-specialty); or
- I am not a registered specialist surgeon;

which would establish a common point of reference from which additional information about qualifications and expertise could be considered.

### **Office-based procedures**

We note that the report *Cosmetic Medical and Surgical Procedures – A National Framework* identifies that the national framework should be based on five interdependent elements – the procedures, the promotion of the procedures, the practitioner, the patient and the place. With respect to the last of these elements, the report noted that:

'The Australian Commission on Safety and Quality in Health Care (ACSQHC) is undertaking a project to develop a new national model of safety and quality health service standards to apply in the first instance to high risk services.'

The scheme would be mandatory and apply initially to high risk services including public and private hospitals and day procedure centres. In addition, 'medical rooms where high risk activities occur such as cosmetic surgery... or any facility not covered above where patients are sedated and/or anaesthetised and who are subject to invasive procedures are recommended for inclusion in the scheme.'

The HCCC report also recommended that the relevant legislation should be amended to require licensing of facilities where medical procedures are performed using local anaesthetic and sedation. Further, that the relevant health practitioner registration Acts be amended to deem non-compliance with licensing and reporting requirements be unsatisfactory professional conduct (Recommendations 4a and 4d).

ASPS is therefore of the view that rather than the new draft guidelines remaining silent on standards for safety and quality in medical rooms where cosmetic procedures are performed, it would be far more beneficial for patients and practitioners if the MBA made an explicit statement as to its current and future expectations about minimum standards which could foreshadow new mandatory requirements established under the ACSQHC process.

The Medical Journal of Australia recently published an article by Dr. Hugh Bartholomeusz, member ASPS Council, in relation to the regulation of office based surgery (ref: Med J Aust 2012; 196 (8): 492-493): "The need for regulation of office-based procedures"

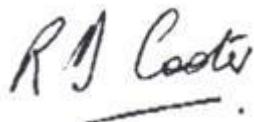
<https://www.mja.com.au/journal/2012/196/8/need-regulation-office-based-procedures>

To give effect to establishing relevant standards ASPS supports the use of a modified version of the American Association for Accreditation of Ambulatory Surgery Facilities International Class A standards, which can be accessed at:

<http://www.ironworks.us.com/SFRWEB/PDFs%20Common/AAAASF%20Surgical%20Standards%20Manual.pdf>.

ASPS supports the Medical Board's initiative in developing supplementary guidelines on cosmetic surgery, however to have a meaningful impact on protecting patients they must directly address the issues we have identified above.

Yours sincerely

A handwritten signature in black ink, appearing to read "RJ Cooter". The signature is written in a cursive style with a horizontal line underneath it.

Assoc. Professor Rodney Cooter MB.BS. MD (Adel), FRACS  
President