Dear All

I am a registered medical practitioner in the State of NSW and I wish to make the following submission to AHPRA with regard to this consultation.

I applaud AHPRA for the general thrust of the document and for the consultative and inclusive approach it has taken to this task, recognising that regulations work only when there is a broad consensus in the applicable community that such regulations are effective efficient just and measured.

That said, there are a few specific points I would like to make

1) Page 11 section 5 the statement is made that **advertising may be a valuable tool in communicating the services health practitioners offer to the public to enable health consumers to make informed choices.**
I applaud and wholeheartedly agree with this statement.

And I alert AHPRA that it is currently impossible for a person resident in Australia to make informed choices if they seek through advertising a Botox treatment for some undesirable wrinkles. Because the advertising of any S4 drug is illegal, any law-abiding practitioner who offers Botox treatments cannot advertise the fact. But because this law is so poorly enforced, unscrupulous practitioners will advertise Botox in defiance of the law. Successfully. The unwitting consumer, being unaware of this situation, can therefore find only unscrupulous practitioners when searching in advertising for a Botox treatment. The law, in its application and effect, should not encourage illegality, but this one does. Therefore, the law should be either repealed, modified, or properly enforced, which would involve, one day, an actual referral of an offender to the DPP.

2) Page 16 section 7.2.5

**"Section 133 of the National Law states:**

***(1) A person must not advertise a regulated health service, or a business that provides a regulated health service, in a way that –***

***e) Directly or indirectly encourages the indiscriminate or unnecessary use of regulated health services***

**The unnecessary use of health services is not in the public interest.**

**Advertising may contravene the National Law when it:**

**encourages a person to improve their physical appearance together with the use of phrases such as ‘don’t delay’, ‘achieve the look you want’ and ‘looking better and feeling more confident’ "**

Phrased as it is, it is beyond argument that the performance of any activity deemed "unnecessary" is undesirable, since "unnecessary" is an innately negative adjective. It's akin to stating "bad treatments are bad". The question arises, though, as to \*who\* has the right to tell a consumer of health services that the service is unnecessary? Is it the doctor? Is it the peer group? Is it the partner or parent? Is it a governmental department?

My practice is a cosmetic medical practice. I arguably spend my whole day performing treatments that some person or another might deem "unnecessary", however, my patients deem the conditions I treat undesirable, the treatments efficacious, and the transaction positive, as evidenced by my high patient retention rates, and high level of activity, over decades of practice, with zero complaints to yourselves or to the Medical Board, indeed not so much as a single letter from a solicitor in nearly thirty years since graduation.

Amongst my patients I count many solicitors, a few barristers, many businesspeople, many professionals of all sorts including various medical practitioners of various specialties. Contrary to what might be thought in some circles, I do not spend my days exploiting the feeble-minded.

I understand, however, that AHPRA would want to dissuade the unnecessary use of regulated health services when such services are funded from the public purse.  I further understand that AHPRA would discourage health services that bring about no demonstrable change to the patient's benefit beyond pure placebo effects, and in this regard I think of biologically implausible treatments such as homeopathy. Cosmetic dermatology is not to be confused with these, and this section needs rephrasing to admit to the bona fides of a form of practice that is appreciated by a very substantial proportion of the community, lest AHPRA itself be seen as unnecessarily censorial, paternalistic and patronising to the intelligent and well-integrated citizens who benefit from these treatments.

Further, I don't believe AHPRA can justifiably take specific phrases out of their context as examples of expressions they would deem illegal. There may be instances in which "don't delay"may be a perfectly suitable phrase to use in advertising a health service. Overall, this is an area that may be better dealt with through case-law rather than through regulation: application of "reasonable man" tests, and the like.

Overall, I see this section as seeking to stigmatize cosmetic medical practice in a manner that is not warranted. Cosmetic medical practitioners are currently presenting a case to the Australian Medical Council for recognition of this field of practice. I am happy to assert my practice is bona fide, and so am disquieted by the prejudgement against cosmetic medical practice implicit in this section.

3) Pages 17 and 18, sections 8.2.2 and 8.2.3

It seems to me that AHPRA recognises only a small proportion of the post-nominals that a registered medical practitioner might use to identify his or her sphere of practice. I accept that the public must be able to take confidence in the post-nominals they see a professional using, but I suggest that AMC-approved postnominals are not the only ones that can help a prospective patient choose a doctor.

Rather than restricting doctors to using only fully AMC-approved postnominals such as FRACP or none at all, consumer information would be enhanced if AHPRA would create a category of postnominals that might be "registered pending approval", where the holder of such a postnominal is a member of a group with a substantial case for registration, without pre-empting whether or not such a case would be eventually successful.

For example, whilst being FACCS (fellow of the Australasian College of Cosmetic Surgery) is not an AMC-recognised specialisation \*yet\*, it is not just a random string of letters concocted yesterday over a kitchen table, and AHPRA should recognise it as such.

I have tried to keep this submission short and specific.

I hope I have contributed to your processes, facilitating responsible and practical health care for all

Yours sincerely

Dr John Mahony

MBBS FFMACCS