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AMA submission to the Medical Board of Australia's Public Consultation Paper and Regulation Impact Statement on *Registered medical practitioners who provide cosmetic medical and surgical procedures*

Submitted to: medboardconsultation@ahpra.gov.au

The Australian Medical Association (the AMA) is pleased to provide comments on the Medical Board of Australia's (the Board's) Public Consultation Paper and Regulation Impact Statement on Registered medical practitioners who provide cosmetic medical and surgical procedures.

As a first principle, the AMA is not keen to see a precedent whereby supplementary guidelines are developed for various medical disciplines. The existing codes of conduct, and ethical and other guidelines serve the medical profession and patients well, and appropriately apply across all fields of practice, be they recognised specialties or areas of interest.

Having said that, we agree that the nature of cosmetic medical and surgical procedures being procedures that have no medical imperative, does present a perception that patients may be exploited.

For that reason, we support the Board in supplementing the *Good medical practice: A code of conduct for doctors in Australia* (the Code) with practice specific guidance that clearly articulate the Board's specific additional expectations when medical practitioners provide cosmetic medical and surgical procedures.

To avoid inconsistency, the supplementary guidelines should not repeat or rephrase provisions in the Code. They should address only those additional circumstances unique to cosmetic medical and surgical procedures that will be used by the Board to judge the practice of a medical practitioner, namely:

1. The medical practitioner who will be performing the procedure should have a face to face consultation with the patient, prior to scheduling the procedure or prescribing Schedule 4 cosmetic injectables.
2. The medical practitioner must be satisfied about the psychological status of the patient and that the cosmetic medical and surgical procedure is in the patient's best interests.
3. Informed consent should include a discussion of the realistic outcomes of the procedure, the risks and possible complications, and the total costs, including follow up care, revision surgery and further treatment e.g. rejection of implants in the short term or replacement of implants after expiry date.
4. To protect patient safety, procedures should only be performed in clinical facilities that are appropriately staffed and equipped, and where there are protocols for infection control, managing possible complications and emergencies, and providing after-care. Our preferred position is for these services to only be performed in accredited facilities, but

we recognise that elsewhere in the healthcare sector such levers are usually attached to funding, not practice.

5. Advertising content and patient information material should not glamorise procedures or imply patients can achieve outcomes that are not realistic.
6. Financing schemes such as inducements and loans should not be offered to patients seeking cosmetic services.

In making our comments below, we have tried to respond from the point of view of how the guidelines will be applied by the Board to determine appropriate professional conduct or practice.

AMA comments on the proposed supplementary guidelines

Recognising potential conflicts of interest

Section 8.11 of the Code already adequately covers managing conflicts of interest for medical practitioners providing cosmetic medical and surgical procedures. Paragraph 1.1 offered in the draft guidelines does not set any additional or particular responsibility about managing conflicts when offering or performing cosmetic medical and surgical procedures, and therefore should be removed.

Instead, the Board may wish to provide a statement that the guidelines will be used by the Board to judge whether medical practitioners have appropriately managed conflicts of interest in accordance with section 8.11 of the Code, that have arisen while offering or providing cosmetic services that are the subject of a complaint to the Board about the practitioner.

Patient assessment and cooling off period

The AMA agrees with the provisions in the guidelines that relate to patient assessment, however we would like to comment on the proposal for a cooling off period.

Elective surgery, particularly cosmetic surgery should not be entered into lightly. We recognise that by including a minimum 7 day cooling off period between the patient giving consent and the procedure being performed, the Board is looking to introduce a mechanism to stop the practitioner putting undue pressure on the patient to proceed immediately. However, given that every patient can decide not to proceed with any medical procedure at any time (prior to anaesthesia or incision), it is not clear in practical terms how the proposal for a cooling off period provides any additional protections for the patient. We will be interested to see how this works over time.

Additional responsibilities when providing cosmetic medical and surgical procedures for patients under the age of 18

The AMA does not support the use of medical procedures to modify or enhance physical appearance for people under 18 years of age, unless those procedures are in the person's medical and/or psychological best interests. While this is a difficult issue, we consider that treating medical practitioners are able to make these assessments, and make referrals when they consider it clinically appropriate.

In respect of the three month cooling off period, there are some procedures supported by Medicare arrangements, for example the correction of bat ears, that are better performed on younger children before they become self-conscious. The community expects access to these procedures in reasonable timeframes. Further, if the psychologist or psychiatric assessment confirms that the cosmetic medical or surgical procedure is in the patient's interest, it will be

inappropriate to delay the procedure to satisfy the three month period. Where there is no psychological or psychiatric issue, a three month cooling off period will be appropriate.
The AMA suggests that the paragraph instead set out an expectation that the medical practitioner must be satisfied about the psychological status of the patient and that cosmetic medical or surgical procedure is in the patient's best interests.

Patient management and Facilities
The AMA acknowledges that cosmetic medical and surgical procedures are often provided in facilities that are not regulated by State/Territory law, nor subject to any accreditation requirements set by third party payers. Therefore it is necessary for the Board to regulate the practice of the medical practitioner.

We agree cosmetic medical and surgical procedures should be performed in appropriate facilities with appropriate clinical and administrative staff and equipment, and where there are protocols for infection control, managing possible complications and emergencies, and providing after-care. Paragraph 5.3 in the guidelines refers to the need for there to be appropriately trained staff, facilities and equipment to deal with emergencies, including resuscitation of the patient – but only when the patient requires sedation or analgesia for the procedure. The AMA considers that the ability to deal with emergencies is a requirement in all situations and should not be limited to only those situations where sedation or analgesia apply.

As the guidelines are currently written it is not clear how the Board would make a judgment against a medical practitioner for failing to comply. The AMA presumes that if the Board is aware that medical services are provided in facilities that do not comply with the relevant legislation, the Board will make a referral to the appropriate state or territory authority. This should be stated in the guidelines.

Prescribing schedule 4 cosmetic injectables
The AMA agrees with the requirement in paragraph 7.2 that medical practitioners should not prescribe Schedule 4 (prescription only) cosmetic injectables unless they have had a face to face consultation with the patient.

Training and experience
As the covering consultation explains, the Board does not have a mechanism to restrict medical practitioners' scope of practice or to prescribe specific qualifications or training in this area of medicine.

Therefore, in the guideline the Board can realistically only set out an expectation that medical practitioners who perform, or intend to perform, cosmetic medical and surgical procedures will undertake additional training in this field of medicine.

The AMA also notes that the Code requires medical practitioners to ensure "that you have adequate knowledge and skills to provide safe clinical care" and to "maintain professional performance". As such, the Code provides adequate cover for the Board to judge the practice of a medical practitioner in relation to competence and this section should be removed from the supplementary guidelines.

Qualifications and titles
The provisions set out in paragraph 9.1 represents a re-phrasing of the existing guidance in the Code (section 8.9) which requires medical practitioners to provide accurate, truthful and

verifiable information about their experience and medical qualifications and to not misrepresent their experience, qualifications or position by misstatement or omission.

As paragraph 9.1 in the proposed supplementary guidelines does not offer specific guidance unique to the provision of cosmetic medical and surgical procedures it should be removed from the guidelines.

In the longer term, we think the Board should give more consideration to making cosmetic medical and surgical procedures an area of practice for which the registration of a medical practitioner may be endorsed under section15 of the Health Practitioner Regulation National Law Act.

We acknowledge there can be difficulties defining the breadth of procedures that constitute cosmetic medical and surgical procedures. However, we consider section 15 contemplates defining an area of practice by its purpose, which for cosmetic medical and surgical procedures would be as per the definition in the guidelines. It would not be the procedure but the purpose of the procedure that defines the area of practice.

Advertising
In additional to the existing guidelines for advertising medical services, the Board may wish to consider a specific requirement that advertising for cosmetic procedures should:

1. Not promote cosmetic procedures as an easy solution to individuals' personal or social problems; and
2. Regard direct to consumer advertising of pharmaceutical products designed to play on body image and weight concerns as unacceptable practice.

Financial arrangements
The AMA agrees financing schemes such as inducements and loans should not be offered to patients seeking cosmetic services. However, as applies for any medical service, we consider it acceptable for a medical practitioner to set their own terms for payment. For example payment of the medical fee in instalments is a common practice that provides a level of convenience to patients without offering any particular inducement to undergo the procedure. The guidelines could expressly permit this financial arrangement, given that payments will be made after the procedure is performed and therefore does not lock the patient into the procedure.

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