

29 May 2015

Medical Board of Australia
Sent by email: medboardconsultation@ahpra.gov.au

Re: Public consultation on registered medical practitioners who provide cosmetic medical and surgical procedures

We wish to provide feedback on the public consultation paper and regulation impact statement on cosmetic surgery in Australia.

Background on Maurice Blackburn

Maurice Blackburn has standing to comment on this consultation paper due to our experience as Australia's largest medical negligence law firm.

The firm regularly receives inquiries from, and acts for, people concerned about the standard of care received in the cosmetic surgery industry in all jurisdictions.

Most of these inquiries do not result in a negligence claim due to the various injury thresholds under the law in each state and territory.

Laws determine how significant or severe an injury has to be before a person is entitled to claim damages for pain and suffering caused by the injury.

We have acted for a number of patients and their families in cases and coronial inquiries where the adequacy of post-operative care and communication in cosmetic surgery were central issues.

Among our cases was the tragic death of 26-year-old Lauren James in 2007, who died three days after undergoing liposuction.

Issues in the cosmetic surgery industry

Some examples of what lawyers at Maurice Blackburn see in the cosmetic surgery industry include, but are not limited to:

- performing surgery or procedures without reasonable care and skill
- poor supervision and training of practitioners providing treatments and procedures
- overselling procedures or providing misleading information about the outcomes
- lack of, or inadequate, informed consent
- lack of explanation of the risks and possible complications of the procedure
- failure to adequately manage post-operative complications
- failure to communicate between various doctors managing patients in cosmetic surgery clinics

Overview of cosmetic surgery industry

Cosmetic surgery is marketed aggressively, leading to increased and unrealistic consumer demand and a general perception that procedures carry less risk because they are discretionary. However, like all medical treatment, cosmetic surgery procedures come with risks and the potential for complications, regardless of the trivial nature of the procedure.

The problem is that when medicine becomes entrepreneurial, the risks can be overlooked or ignored.

From a patient safety perspective, the Medical Board of Australia's proposed overhaul in the regulation of cosmetic treatment is welcome and long overdue.

Response to proposed options

Maurice Blackburn is broadly supportive of options 2 and 3. We do not support options 1 and 4.

Response to option 2

In Australia there is limited reliable and independent information for consumers on what to expect when they see a medical practitioner who provides cosmetic medical and surgical procedures.

This is extremely concerning and would not be tolerated in any other area of medical treatment.

Maurice Blackburn believes consumer education material is an important part of ensuring informed consent for patients, and should be easily accessible for all who are considering or who have consented to procedures.

We propose that a professional body for the cosmetic surgery industry, such as the Australasian College of Cosmetic Surgery, pays for the development of consumer education material.

We believe the production of such consumer materials should be undertaken by a professional or industry body in collaboration with a health consumer organisation or patient safety group.

Response to option 3

Maurice Blackburn believes the draft guidelines are an important step forward in improving standards of care for patients who undergo cosmetic surgery procedures. We broadly support all of the guidelines.

Conclusion

As a law firm that places a priority on patient safety, Maurice Blackburn urges the Medical Board of Australia to proceed with the draft guidelines as outlined in option 3.

We believe providing appropriate consumer education material is a crucial part of improving patients' understanding of cosmetic medical and surgical procedures.

For those specialising in cosmetic surgery – the vast majority who are doing the right thing – these proposed guidelines will help them to demonstrate to the community that quality care and safety is paramount.

Thank you for the opportunity to provide our feedback on this consultation paper and we would be willing to meet with you to discuss this feedback in detail if necessary.

Yours faithfully

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