Cover letter to accompany Responses to Questions provided on Notice and Responses to statements made by other witnesses, in relation to the Senate Community Affairs References Committee inquiry into Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

11 October 2021

On behalf of the Australasian College of Cosmetic Surgery and Medicine (ACCSM)

Dear Secretary,

As this Senate Committee has heard, Australian patients seeking cosmetic surgery are at risk because there is no recognised accreditation standard for practitioners in this field of practice. Cosmetic surgery is not able to be recognised as a 'protected title' surgical specialty by the Australian Medical Council (AMC) under the Health Practitioner Regulation National Law Act 2009 (National Law) because it does not address the requirement of a new specialty to reduce the "burden of disease" for Australians.

Adverse, yet avoidable outcomes, occur at the hands of both plastic surgeons and cosmetic surgeons either with no training or inadequate training in cosmetic surgery.

To protect patients better, the Australasian College of Cosmetic Surgery and Medicine requests that the Senate consider recommendations to restrict the title of cosmetic surgeon only to those practitioners who have completed specific and accredited training in cosmetic surgery and reached a National Accreditation Standard.

This is the model the ACCSM submitted to the COAG Health Council on 4 January 2021.

Our proposal would allow AHPRA to regulate Cosmetic Surgery within its existing regulatory framework and address many of the problems raised by parties to this Senate inquiry.

Additionally, as an alternative regulatory mechanism that would have the same patient protection benefits, we also provide details of a further Endorsement model for cosmetic surgery that could operate under Section 98 of the National Law (see attached).

A system of specific accreditation, registration and/or endorsement with associated title restriction for **all** doctors practising cosmetic surgery, including plastic surgeons, other AMC specialist surgeons, Fellows of the ACCSM and others, will allow patients and the public to identify properly trained and safe providers of cosmetic surgery.

Further, it is entirely consistent with the intentions of Health Ministers of the COAG Health Council in relation to proposed National Law reforms following the 2015 Independent Review of the National Registration and Accreditation Scheme for health professionals.[1]

The ACCSM does not support proposals simply to restrict the title 'surgeon' and 'cosmetic surgeon' to AMC-accredited specialist surgeons who do not have any specialist cosmetic surgery training – an approach that was previously tried and failed in Queensland. Table 1 summarises how the different models for title restriction would impact the current risks and problems identified in this Senate inquiry.

We are confident our proposals provide sensible, evidence-based and readily implementable solutions to an enduring regulatory problem and are grateful for the Committee's consideration.

Yours sincerely,

Patrick Tansley

President

Australasian College of Cosmetic Surgery and Medicine

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Table 1: Summary of the effects of three proposed methods to restrict the title Cosmetic Surgeon

	ASAPS' Proposal	ACCSM Proposal No. 1 – Accreditation Standard	ACCSM Proposal No. 2 - Endorsement
Current Problem	**Restriction of the titles 'cosmetic surgeon' or 'surgeon' in the context of cosmetic surgery to AMC-accredited specialist surgeons.**	**Restriction of title 'cosmetic surgeon' to medical practitioners who have met a defined National Accreditation Standard and have been admitted to a Register of Cosmetic Surgeons.**	**Restriction of title 'cosmetic surgeon' to medical practitioners who have been Endorsed to practice cosmetic surgery under the National Law Section 98.[2]**
Patients are unable to identify easily (or at all) if a practitioner is trained and safe to perform cosmetic surgery	Patients will still be unable to identify if a practitioner is trained and safe to perform cosmetic surgery, so patient protection will remain unchanged.	Enhanced patient protection by easy identification of trained and safe providers of cosmetic surgery	Enhanced patient protection by easy identification of trained and safe providers of cosmetic surgery
Patients being misled by titles that imply but do not require training and competence in cosmetic surgery	Patients will continue to be misled as no AMC accredited specialist surgical qualification requires training in cosmetic surgery.[3,4] Unwittingly, this may **increase** risks to patients as they will unlikely be informed and current advertising often encourages the opposite belief.	Patients protected by knowing if a practitioner is called a cosmetic surgeon they are trained and accredited to perform it.	Patients protected by knowing if a practitioner is called a cosmetic surgeon they are trained and endorsed to perform it.
Operations being performed by practitioners without training or with inadequate training in cosmetic surgery	Operations will still be performed by practitioners without training or with inadequate training in cosmetic surgery, so patient protection will remain unchanged.	No restriction on practice but likely that hospital operating credentialing would only be granted to surgeons on the Register. Enhanced protection for patients.	Enhanced protection for patients as non-endorsed doctors who perform cosmetic surgery would be operating outside of their scope of practice and subject to regulatory action by AHPRA.
Lack of requirement for continuing professional development specific to cosmetic surgery	Practitioners will still not be required to undergo continuing professional development specific to cosmetic surgery, so patient protection will remain unchanged.	Enhanced protection for patients as continuing professional development specific to cosmetic surgery would be a requirement to remain on the Register.	Enhanced protection for patients as continuing professional development specific to cosmetic surgery would be a requirement to remain Endorsed.
Ensuring regulatory reform is fair for all practitioners.	Very advantageous **only** for all AMC-accredited specialist surgeons who wish to perform cosmetic surgery, whether or not they are trained and safe to do so. Patients would remain exposed to untrained, unsafe 'surgeons' when seeking cosmetic surgery.	Advantageous to all medical practitioners who are trained and competent in cosmetic surgery. Disadvantageous to providers of cosmetic surgery with no or inadequate training.	Advantageous to all medical practitioners who are trained and competent in cosmetic surgery. Disadvantageous to providers of cosmetic surgery with no or inadequate training.

1. COAG Health Council. Communique. 1 November 2019.
2. Health Practitioner Regulation National Law (Victoria) Act. No. 79 of 2009. 2009.
3. Australian Medical Council. Specialist Education Accreditation Committee. Accreditation Report: Review of the Education and Training Programs of the Royal Australasian College of Surgeons. 2002.
4. Australian Medical Council. Specialist Education Accreditation Committee. Accreditation Report: The Training and Education Programs of the Royal Australasian College of Surgeons. 2017.

AUSTRALASIAN COLLEGE
OF COSMETIC SURGERY AND MEDICINE

Senate Community Affairs References Committee inquiry into Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

Endorsement Model for an Area of Practice with associated title restriction - Cosmetic surgery

As an alternative option to the introduction of a **National Accreditation Standard** in cosmetic surgery, it is also proposed by the ACCSM that in order for a practitioner to be permitted to use the title 'cosmetic surgeon' and to practice cosmetic surgery within their scope of practice, they must obtain **Endorsement** for the Practice of Cosmetic Surgery under the Health Practitioners Regulation National Law ACT 2009 (National Law) at Section 98 - Endorsement for an Area of Practice.[1]

Endorsement for an Area of Practice, in the context of Cosmetic Surgery, is perhaps an example of the very reason Section 98 of the National Law was created. At the inception of the National Law in 2009 it provided a mechanism to accommodate a situation where there is a new area of medical practice, which does not fit the criteria of a new medical specialty, yet still requires oversight and appropriate restriction by regulatory authorities. Such circumstances reflect precisely the current situation regarding cosmetic surgery.

Under Section 98 of the National Law, practitioners who have demonstrated competency assessed against a set of accreditation standards (as determined by AHPRA, the Medical Board of Australia and the Australian Medical Council, in consultation with professional stakeholders and all underpinned by the Australian Council for Safety and Quality in Health Care's (ACSQH) "Standard for Credentialing and Defining the Scope of Clinical Practice"), are **Endorsed** as "being qualified to practise in an approved area of practice". This is consistent with the National Registration and Accreditation Scheme.

The **Endorsement Model** of credentialing and regulating practitioners of cosmetic surgery has many benefits:

1. It is already provided for under the National Law at Section 98.
2. It can be readily implemented without a change being required to the National Law.
3. It has precedence eg. Endorsement of acupuncture, scheduled medication prescribing and medication endorsed nurses.
4. It would be applicable to **all** practitioners of cosmetic surgery.
5. It would protect patients from inadequately trained and unsafe practitioners.
6. Its implementation can be expedited to the benefit of patient safety, as there is already an existing AHPRA framework to accommodate this model of Registration.

7. AHPRA already operates on the basis of a register of practitioners. In such context, those medical practitioners who apply and meet the accreditation standard will have "cosmetic surgery" stipulated under 'Endorsement' on their registration. From a pragmatic perspective, such an approach would not actually require the establishment of a *new* Register of 'Cosmetic Surgeons' although neither does it preclude it if so desired.

8. The ACSQH standard would ensure the Endorsement Model is fair and transparent.

9. It would be cost neutral as it would be funded by registration fees, payable as currently by registered medical practitioners.

Further, this approach would have the effect that the title "*Cosmetic Surgeon*" could be restricted for use only by registered medical practitioners who have the relevant Endorsement on their medical registration. This would allow the public to identify easily who is appropriately trained in cosmetic surgery, thereby promoting patient safety and would also facilitate regulation by the appropriate authorities of those holding such Endorsement.

[1] Health Practitioner Regulation National Law (Victoria) Act. No. 79 of 2009. 2009.

AUSTRALASIAN COLLEGE
OF COSMETIC SURGERY AND MEDICINE

Response to Questions from Senator Askew provided on Notice by the Senate Community Affairs References Committee inquiry into Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

11 October 2021

Dear Senator Askew,

Thank you for letter of 23 September 2021 containing Questions provided on Notice.[1] On behalf of the Australasian College of Cosmetic Surgery and Medicine (ACCSM, College), I respond as follows:

Question 1. What percentage of your members are registered specialists?

Response:

I am advised by the administration team of the ACCSM of the following data. The College has a current total membership of 172, of whom 103 hold full Fellowship of the College. Relevant to the purpose of this Senate Committee, 42 are surgical Fellows who perform invasive surgery, whilst the remaining 61 are medical Fellows. Of the surgical Fellows, 22 (52%) are registered as specialists, 21 in Australia and 1 in the United Kingdom, with one surgeon holding dual specialist registration in both countries.

Information relating to the context of Question 1.

By way of relevant perspective, it is important to note that in 2017 the United Kingdom General Medical Council (GMC) recognised that qualifications in **any** given specialty **do not** imply expertise in cosmetic surgery.[2-5]

This is consistent with the accreditation reports of the Royal Australasian College of Surgeons (RACS) over the last two decades published by the GMC's Australian equivalent, the Australian Medical Council (AMC) which confirm exclusion of training in cosmetic surgery.[6,7]

In its 2002 Report of the education programmes of RACS, the AMC estimated that only *'...20 to 30 per cent of positions currently have some time spent in a private consulting or theatre environment although not all of those even would involve cosmetic surgery or medicine.'*[6]

Fifteen years later in 2017, the situation remained unchanged with the latest AMC Report (which remains current in 2021) regarding the education programmes of RACS and the Australasian Board of Plastic and Reconstructive Surgery, responsible for training plastic and reconstructive surgeons in Australia, stating that AMC-accredited specialist plastic surgeons **have a '*deficit*' in their experience of aesthetic (cosmetic) surgery and qualify with 'a *gap in this area of practice.'*[7]**

Put another way, to address directly the implication of your question, it is incorrect to infer that specialist registration, whether in plastic surgery or any other specialty guarantees training and

competence in cosmetic surgery. It does not.[2-5] This is because cosmetic surgery falls outside reconstructive/functional (plastic) surgical training in public hospitals where cosmetic procedures are not performed (see Q4 for further details). Accredited specialists therefore qualify in Australia with little or no training in cosmetic surgery.

So damaging was the AMC's finding to the political narrative of plastic surgeons that the Australian Society of Plastic Surgeons (ASPS) lobbied to have the 2017 report revised. The AMC refused.[8]

Patients however, continue to be misled by statements from surgical societies representing plastic surgeons, which claim their AMC-accredited specialist registration makes them the only safe choice when considering cosmetic surgery.[9] This is not the case, as that AMC accreditation is for plastic surgery that is reconstructive/functional in nature. As a consequence, protecting to plastic surgeons the title 'cosmetic surgeon' or the title 'surgeon' (in the context of cosmetic surgery), in the absence of specific accreditation in cosmetic surgery, will only exacerbate the risks to the public. Please refer to **Table 1** embedded within the attached cover letter which summarises the effects of the three different proposed methods to restrict the title cosmetic surgeon.

Question 2. Does APHRA recognise specialists' registration through the ACCS? If not, why not?

Response: As a relatively new and expanding area of specialised practice, cosmetic medicine and surgery is not able to be recognised as one of the surgical specialties recognised by the Australian Medical Council (AMC) under the Health Practitioner Regulation National Law Act (National Law) because it does not address the existing legislative requirements for a new specialty to reduce '*the burden of disease*' for Australians.[10]

In 2008 the ACCS was invited to make an official application to the AMC to seek recognition of cosmetic medicine and surgery as a new specialty. Ultimately, the application was unsuccessful since it remains not possible to satisfy the required criterion of reduction in the '*burden of disease*'.[11]

For this principal reason, AHPRA is unable to recognise registration through the ACCSM, whether specialist or otherwise, as cosmetic surgery is not recognised as a specialty.

Question 3. How does the training you provide to your members align with the requirements of the Australian Medical Council?

Response: As a consequence of cosmetic surgery not being able to be recognised as a speciality (see Q2 above), training provided by the College falls outside the jurisdiction of the AMC.

However, that does not mean that the ACCSM cannot train medical practitioners to an AMC equivalent standard in cosmetic medicine and surgery. The lack of available training in cosmetic medical practice was in fact the very reason the ACCS and its predecessor, the Australian Association of Cosmetic Surgery, came into existence in 1992.

As a consequence, the ACCS (and now the ACCSM) has trained medical practitioners in the field of cosmetic medical practice for almost 3 decades and arguably to the highest level in Australia. Where applicable, its training program is structured around the 10 Standards set out by the AMC for assessment and accreditation of Specialist Medical Programs.[12]

To become an ACCSM Fellow, doctors must typically complete a minimum of 12 years of medical and surgical education and training and demonstrate competency specifically in cosmetic medicine and surgery. At initial selection, all candidates must have at least five years post-graduate experience, including three years of accredited (non-cosmetic) surgical training in posts approved by the College and be a fully registered practising medical practitioner. This is to ensure that prior to commencing cosmetic surgical training, candidates are already trained, experienced and competent in safe assessment and management of patients during the three phases of surgical care - pre-operatively, at surgery and post-operatively. This mirrors the AMC accredited model of surgical training of RACS where trainees must complete basic surgical training before commencing training in a specialised area such as plastic surgery or orthopaedic surgery. Most recently under my Presidency and as practice in the field has evolved, preference is now given to candidates who have attained Fellowship of one of the Royal Colleges of Surgeons or an equivalent post-graduate surgical qualification (as determined by the College).[13]

The ACCSM' registrar training program provides 24 months of advanced training in cosmetic surgery during which candidates for Fellowship are required to master a set of skills in consultation, clinical judgement and performance and are subject to direct observation and evaluation prior to undertaking written examinations. The training program includes 8 clinical rotations of 3 months each, involving attachment to at least 4 to at least 4 cosmetic surgical preceptors (Fellows of the ACCSM) who are responsible for the Registrar's clinical training. Registrars are required to complete a minimum of 25 hours clinical attendance each week (minimum 1100 hours per year) including 6 major procedures per week (minimum 250 per year) and 10 hours of academic time. Evaluation reports are submitted about the Registrar at the end of each clinical rotation. If performance is satisfactory, candidates are invited to sit written examinations conducted by the American Board of Cosmetic Surgery. This long established examination is independently validated. Only following successful completion, amongst other academic requirements, are candidates then invited to sit Viva Voce examinations, successful completion of which allows the grant of Fellowship. No Fellowship can be awarded without successful completion of the formal examination process. This is the only qualification specific to cosmetic surgery in Australia.

Thereafter, all Fellows are required to comply with Continuing Professional Development of the College, in order to recertify on an annual basis. Requirements include, but are not limited to, at least 80 hours of continuing medical education, audit and being credentialled at hospital(s) accredited by the Australian Council on Health Care Standards. In toto, this requirement ensures that Fellows undertake career-long continuous education specific to cosmetic surgery, thereby enhancing patient safety.

Despite the absence of specialty recognition, by means of the above, the College has delivered a training program that aims to meet applicable AMC standards for assessment and accreditation of Specialist Medical Programs.[12] The primary goal of the ACCSM is to ensure the safe provision of cosmetic medicine and cosmetic surgical procedures to the Australian general community through the supply of appropriately trained, certified and current health care practitioners. It

remains the only professional organisation in Australia which provides education and training of medical doctors leading to Fellowship specifically in cosmetic medicine and surgery. It is also the only organisation that undertakes specific recertification in cosmetic medical practice.

Question 4. Can you explain the training and qualifications required for providers who perform plastic surgery? How is this different to the qualifications obtained by cosmetic surgeons?

Response: Plastic surgeons

The AMC-accredited specialist plastic surgical training program of the Royal Australasian College of Surgeons (RACS) and its Australasian Board of Plastic and Reconstructive Surgery (ABPRS), which in combination are responsible for training plastic and reconstructive surgeons in Australia, is of traditional format and undertaken in public hospitals.

It is critical to appreciate that this 5 year training program is reconstructive (functional) in nature, comprising for example training in burns, breast cancer reconstruction, limb trauma, skin cancers, microsurgery and congenital deformities. Consistent with this, the AMC in its 2017 accreditation report, defines plastic and reconstructive surgery as a *'…speciality involving manipulation, repair and reconstruction of the skin, soft tissue and bone…The main emphasis is on maintaining or restoring form and function…'*[7] Cosmetic surgery falls outside this specialist plastic surgical training program accredited by the AMC.

Further, there is virtually no exposure to cosmetic surgery provided to such specialist trainees in the taxpayer funded public hospital system where such functional training is traditionally undertaken.

It is for these reasons that the AMC accreditation reports into the education programmes of RACS over the past two decades state that AMC-accredited specialist plastic surgeons have a '*deficit'* in their experience of aesthetic (cosmetic) surgery and **qualify** with 'a *gap in this area of practice.'*[6,7]

Further, in the 2017 AMC report no mention of cosmetic surgery training is made in relation to any of the other surgical specialities detailed.

AMC accredited training programs and associated specialist surgical registration cannot therefore be relied upon as benchmarks of training and competence in cosmetic surgery.

Response: Cosmetic surgeons

As 'Cosmetic Surgery' is unable to be recognised as a speciality (see Q2 above), any doctor, including reconstructive plastic surgeons untrained in cosmetic surgery, wishing to practise cosmetic surgery therefore has no option but to acquire privately organised training on an ad hoc basis. Historically, this training varied greatly and was not subject to any quality controls. Some obtained adequate, appropriate training and achieved competence whilst others did not. Many have had no training at all in the field. Such lack of formal training was the primary reason the Australasian College of Cosmetic Surgery was formed, as detailed above (see Q3 above), with origins dating back to 1992.

It is critical that any medical practitioner using the title 'Cosmetic Surgeon' possess essential training, qualifications, competency and recertification, specifically in cosmetic surgery to remove confusion for consumers. In such context and as identified by the AMC, specialist training and registration status is irrelevant (see Q1 above).

In light of the above, please refer to the answer provided to Q3 regarding the **training** and **qualifications** provided by the ACCSM to candidates seeking to become trained cosmetic surgeons and Fellows of a College dedicated to safe practice of this specialised area. The ACCSM remains the only professional organisation in Australia which provides education and training of medical doctors leading to Fellowship specifically in cosmetic medicine and surgery. It is also the only organisation that undertakes specific recertification in cosmetic medical practice.

Question 5. To ensure the safety of members of the public looking for cosmetic surgery, what recommendations would you make to provide clarity around the qualifications of providers?

Response: The ACCSM seeks the support of this Senate Committee for its proposal to the COAG Health Council to develop an accreditation model comprising three components[14]:

i) A competency-based **National Accreditation Standard** for cosmetic surgery. **Any** medical practitioner, including specialist plastic surgeons, other specialist surgeons and Fellows of the ACCSM performing such surgery under the title 'cosmetic surgeon' or 'aesthetic plastic surgeon' would have to achieve the benchmark Standard and undertake recertification.

ii) Independent formation and maintenance of a **Register** of such Cosmetic Surgeons by AHPRA. To ensure effectiveness, this must be **mandatory** for all medical practitioners performing cosmetic surgery. It is relevant to note that in the USA, the states of Oklahoma and Texas allow holders of the American Board of Cosmetic Surgery diploma to advertise their certification and state that they are 'Board Certified Cosmetic Surgeons.'

iii) **Restriction of the title** 'cosmetic surgeon' or 'cosmetic/aesthetic plastic surgeon' to those practitioners on the mandatory Register, thereby protecting the public by facilitating practitioner regulation by AHPRA and the Medical Board of Australia. This would remove confusion for consumers, allowing them to identify competent, safe practitioners and also prevent formation of any monopoly, by practitioners or their craft group representatives seeking to misuse the regulatory reform process for commercial advantage. Competition between safe practitioners based on competence, price and service, would benefit and protect patients by improving standards.

A proposal to restrict the title 'cosmetic surgeon' was endorsed in 2018 by the NSW Department of Health[15] and the findings of a NSW Parliamentary Inquiry into cosmetic health service complaints.[16] It was the Committee's view that by protecting or restricting the title, *"patients could then better inform themselves about whether their 'cosmetic surgeon' meets certain minimum criteria in terms of education, training and experience"*. The committee recommended *"the Minister for Health continues to make representations to the COAG Health Council to protect or*

otherwise restrict the title 'cosmetic surgeon' at a national level under the Health Practitioner Regulation National Law".

To facilitate this outcome in a manner beneficial to patients requires an accreditation model that clearly defines the *"minimum criteria in terms of education, training and experience."* The competency-based **National Accreditation Standard**, as proposed by the ACCSM, is consistent with such aim. To avoid potential bias and ensure only competent practitioners are accredited, the new standard should be underpinned by the existing Australian Council for Safety and Quality in Health Care's (ACSQH) "Standard for Credentialing and Defining the Scope of Clinical Practice,"(the Standard)[17] appropriately modified for cosmetic surgery. This is to ensure that the credentialing process is objective, transparent and fair and does not favour any particular group of surgeons.

The ACSQH Standard requires that credentialing committees: *'ensure that the threshold credentials are based on objective criteria about the necessary period and character of training and experience, rather than the possession of specific endorsements or accreditation by named professional colleges, associations, or societies;'*

Principle 6 of the Standard mandates *'the assessment of a medical practitioner's competence, performance and professional suitability to provide services in specific organisational environments, and of organisational capability, should always be contributed to by peer medical practitioners with relevant experience in similar organisational environments. For example, processes of credentialing and defining the scope of clinical practice of rural general practitioners should always be contributed to by peer general practitioners with relevant rural experience.'*

Once implemented, the competency-based National Accreditation Standard would ensure that:

- The public can be provided clear assurances regarding practitioners who are trained, experienced and properly accredited in cosmetic surgery, thereby improving safety.

- Medical practitioners who undertake cosmetic surgical procedures be required to maintain and enhance their knowledge and skills to deliver the highest levels of patient safety by means of ongoing cosmetic surgery specific Continuing Professional Development.

Additionally, as an alternative regulatory mechanism that would have the same patient protection benefits, the ACCSM has also provided details of a further **Endorsement Model** for cosmetic surgery as provided for under Section 98 of the National Law (see attached Endorsement document and Cover letter).

Only two groups of practitioners might be anticipated to object to the implementation of an **Accreditation Standard** and/or **Endorsement Model** and national **Register** of competent providers of cosmetic surgery. **Firstly**, medical practitioners performing cosmetic surgical procedures who do not meet the required standard. **Secondly**, medical practitioners (or their craft-group representatives) who seek to manipulate the regulatory reform process primarily to protect themselves rather than to protect patients, by eliminating competent alternative providers.

Finally, the ACCSM notes that in a communique published by the COAG Health Council in November 2019, following the 2015 Independent Review of the National Registration and Accreditation Scheme for health professionals, Health Ministers agreed to *'...progress changes to restrict the use of the title "surgeon" to provide better information for the public about the qualifications of surgeons, including those who call themselves cosmetic surgeons. The use of the title "surgeon", including by way of "cosmetic surgeon", by medical practitioners, non-specialist surgeons* ***or those without other appropriate specific training*** (emphasis added) *can cause confusion among members of the public. Ministers agreed that further consultation should be undertaken on which medical practitioners should be able to use the title "surgeon".*[18]

Later that month, The Hon Greg Hunt, Minister for Health, communicated this to ASAPS whilst also stating '*I note that further work will be required prior to the changes being made to the National Law* ***to determine which medical practitioners should be given the right to use the title 'surgeon'*** (emphasis added). *This will include consultation with community consumer groups and medical professions.'*[19]

The ACCSM considers that both the **National Accreditation Standard** and/or **Endorsement models**, **Register** and **linked restriction of title**, as proposed by the ACCSM, are entirely consistent with the stated positions and intentions of both the COAG Health Council and Minister Hunt and provide appropriate mechanisms to achieve their aims.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,

Patrick Tansley

President

Australasian College of Cosmetic Surgery and Medicine

MB BChir (Cantab) PGDipSurgAnat BSc (Hons) MScAesPlasSurg MD FRCS (Eng) FRCS (Plast) FACCSM (Surg)

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19. Hunt G. Letter from Minister Hunt to Dr. Naveen Somia, President, Australasian Society of Aesthetic Plastic Surgeons. 27 November 2019.

AUSTRALASIAN COLLEGE
OF COSMETIC SURGERY AND MEDICINE

Response to Questions from Senator Hughes provided on Notice by the Senate Community Affairs References Committee inquiry into Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

11 October 2021

Dear Senator Hughes,

Thank you for your letter of 24 September 2021 containing Questions provided on Notice.[1] On behalf of the Australasian College of Cosmetic Surgery and Medicine (ACCSM, College), I respond as follows:

Question 1. There are a range of options for recognising and regulating specialist occupations. **Why** do you think your proposal for a registry and accreditation model ***will better protect patients*** than others that have been proposed?

Response:

ASAPS and ACCSM both recognise the same problem: there are persons unqualified in cosmetic surgery purporting to practice it safely when this is not the case. Some refer to themselves as cosmetic surgeons. We both recognise that this is dangerous and the public deserves better. We both also recognise that the situation is confusing, misleading and difficult for patients to know who is safe and how to access safe treatments. We both recognise that Health Regulators need to take action to prevent patients being harmed.

Where we differ is in the proposed solution.

ASAPS propose to restrict the title 'surgeon' to holders of specialist registration and by that mechanism, ban the title 'cosmetic surgeon' and thereby, purportedly increase public safety. It is a specious argument which assumes that all AMC accredited surgeons, whether plastic or from other surgical specialities, are automatically trained in cosmetic surgery.

This is incorrect.

Over the last two decades, the Australian Medical Council (AMC) has in fact confirmed the exact opposite to be the case[2,3] on bases including that AMC-accredited specialist training programs of the Royal Australasian College of Surgeons (RACS) are traditional in format and undertaken in public hospitals. They are reconstructive (functional) in nature, for example the AMC defines plastic and reconstructive surgery as a *'…speciality involving manipulation, repair and reconstruction of the skin, soft tissue and bone…The main emphasis is on maintaining or restoring form and function…'*[3]

Therefore, restriction of the title 'surgeon' in isolation would likely mislead patients into believing that those Doctors who were to hold such restricted title – surgical 'specialists' as proposed by ASAPS - *are* trained, competent and safe in cosmetic surgery, when that is not the case. Most patients do not know that such specialists have not been trained in cosmetic surgery. The end result will therefore be more confusion, avoidable risk and harm to patients.

Further, there is a previous precedent of such isolated title restriction failing in Queensland in the early 2000's. It did not protect patients and achieved nothing other than an avalanche of complaints, made mainly by Doctors (not patients) against other Doctors, causing an enormous administrative burden upon the regulator.

Our organisations both agree there are cowboy practitioners calling themselves 'cosmetic surgeons.' It is these people who are the common enemies of the public. We both want to put a halt to this immediately.

The difference between our proposed solutions is that the ACCSM wishes to restrict title to practitioners who *are* trained and accredited in cosmetic surgery, including those plastic surgeons who are so trained. The plastic surgeons' representatives do not. They want to restrict the use of the title cosmetic surgeon (or surgeon in the context of cosmetic surgery) to AMC accredited surgeons even if they have no training or accreditation in cosmetic surgery.

It is common knowledge that cosmetic surgery is a booming industry and only getting bigger. More important than anything is patient safety. To ensure such safety, the ACCSM therefore proposes adoption of a **National Accreditation Standard (the Standard)** for Cosmetic Surgery whereby only those practitioners who meet the Standard would be allowed to use the title 'Cosmetic Surgeon'. This would include plastic surgeons if they are trained in cosmetic surgery and meet the Standard.

This **Accreditation and Registry model** will facilitate cosmetic surgeons being held to account to the same standard as any other medical practitioner performing invasive surgery. The model would:

- Ensure proper training of all doctors using the title cosmetic surgeon
- Prevent those who have no training from practising on unsuspecting patients
- Register and regulate those who are practising cosmetic surgery
- Facilitate public comprehension of who is properly trained in order to provide an informed and safe choice.

Further, the ACCSM has also provided details of an additional, alternative regulatory mechanism that would similarly enhance patient protection by means of accreditation and title protection using an **Endorsement model** provided for under Section 98 of the National Law.[4] As this accreditation pathway already exists, has examples of similar precedents and does not require change to the National Law, its implementation may be expedited. This aligns with the urgency of community need in this area of practice.

Please see attached a summary of the **Endorsement model** and refer to **Table 1** embedded within the attached cover letter which summarises the effects of the three different proposed methods to restrict the title cosmetic surgeon.

Finally, the ACCSM notes that in a communique published by the COAG Health Council in November 2019, following the 2015 Independent Review of the National Registration and Accreditation Scheme for health professionals, Health Ministers agreed to *'...progress changes to restrict the use of the title "surgeon" to provide better information for the public about the*

qualifications of surgeons, including those who call themselves cosmetic surgeons. The use of the title "surgeon", including by way of "cosmetic surgeon", by medical practitioners, non-specialist surgeons ***or those without other appropriate specific training*** (emphasis added) *can cause confusion among members of the public. Ministers agreed that further consultation should be undertaken on which medical practitioners should be able to use the title "surgeon".*[5]

Later that month, The Hon Greg Hunt, Minister for Health, communicated this to ASAPS whilst also stating '*I note that further work will be required prior to the changes being made to the National Law* ***to determine which medical practitioners should be given the right to use the title 'surgeon'*** (emphasis added)*. This will include consultation with community consumer groups and medical professions.'*[6]

The ACCSM considers that both the **National Accreditation Standard** and/or **Endorsement models**, **Register** and **linked restriction of title**, as proposed by the ACCSM, are entirely consistent with the stated positions and intentions of both the COAG Health Council and Minister Hunt and provide appropriate mechanisms to achieve their aims.

Question 2. How would a registry and accreditation model prevent untrained doctors from conducting invasive surgeries?

Response: This would be through a two-step process.[7-11] Firstly, a Doctor could only be **accredited** to practice cosmetic surgery once an agreed, objective competency-based standard had been reached. Secondly, their name would then be added to the mandatory **Register**, administered independently by the regulator AHPRA. Doctors untrained in cosmetic surgery would not meet the accreditation standard and thereby would be unable to be on the Register.

During the Senate Hearing, it was confirmed by Dr Tonkin, Chair Medical Board of Australia (MBA) that the regulation of scope of practice of an individual medical practitioner is reliant upon *'the individual practitioner along with their credentialing authority, their employer or the practice in which they work'* (see Proof Committee Hansard at Page 44, Paragraph 2). In this context, the Register would become an essential tool for regulating scope of practice in cosmetic surgery in the following three ways:

i. it may be accessed by accredited and/or licenced facilities such as day hospitals and used in credentialing criteria for practitioners wishing to perform invasive cosmetic surgery. Such facilities would appropriately deny operating privileges to those practitioners not entered onto the Register, thus preventing untrained doctors from conducting invasive surgeries.

ii. it may be accessed and used by Medical Defence Organisations (MDO, indemnity insurer). Currently Medical Registration Standards require all medical practitioners to obtain annual Medical Indemnity insurance from an MDO to cover their scope of practice in order to renew their medical registration. The Register could be used by MDOs to identify practitioners appropriately trained in cosmetic surgery and accordingly, offer or deny indemnity policies as appropriate. If a practitioner were not on the Register and therefore appropriately denied indemnity insurance to practice Cosmetic Surgery yet continued to do so, that individual would automatically become liable to regulatory action by AHPRA for operating outside the scope of practice for which they were indemnified.

iii. it would empower patients to identify Doctors who have been appropriately trained, qualified and are competent and accredited to undertake their cosmetic surgery. A public safety campaign could also be undertaken to inform the community of the public Register and its utility.

Based on all of the above, AHPRA and the Medical Board of Australia would be able not only to act against medical practitioners performing cosmetic surgery who are not on the Register of Cosmetic Surgeons (because they would be practicing outside of their scope of practice) but also against those who are on the Register in the event of sub-standard performance. This is exactly how the regulators currently act in relation to other forms of medical registration in Australia and would be merely an extension of that current role. Patients would therefore be protected.

Question 3. The Plastic surgeons are proposing a ban on the use of the title 'Cosmetic surgeon' - can you tell us **why** this suggestion ***is not in the best interests of patients?***

Response: Please see the detailed response to Question 1 above.

ASAPS' proposal to ban the title cosmetic surgeon means patients will not be protected but instead put at risk of further harm. As described earlier, there is a previous precedent of such failure in Queensland in the early 2000's. Banning of the title 'cosmetic surgeon' through restriction of the title 'surgeon' to holders of specialist registration, achieved nothing other than an avalanche of complaints, made mainly by Doctors (not patients) against other Doctors, causing an enormous administrative burden upon the regulator.

Critically, it will not protect patients, as such title restriction in isolation will likely mislead patients into believing that those Doctors who were to hold such restricted title – surgical 'specialists' as proposed by ASAPS - *are* trained, competent and safe in cosmetic surgery. In fact the AMC have identified the exact opposite is the case.[2,3] The end result of title restriction in isolation will therefore be more confusion and harm to patients. Please refer to Table 1 embedded within the attached cover letter.

In contrast, two-step proposal of the ACCSM *will* link restriction of the title 'Cosmetic Surgeon' with those practitioners who *are* trained and have met an agreed competency-based **National Accreditation Standard** in cosmetic surgery and also whose names have been entered on a **mandatory Register** administered independently by the Regulator.[8] Only then will patients be protected as they would be guaranteed that their Doctor had reached an objective level of training and competence and is therefore safe.

This type of registration model has precedence.

In the USA, Board Certification in a chosen field of surgery indicates a surgeon has obtained the highest level of qualification in that area. The American Board of Cosmetic Surgery (ABCS) certifies cosmetic surgeons after successful completion of a 2-year cosmetic surgery training program, similar to that provided by the ACCSM. Candidates must then pass the ABCS' certification exam, the same as that undertaken by ACCSM surgical candidates. Only following successful completion are practitioners admitted to the ABCS register of Cosmetic Surgeons. As US medical board legislation varies between states, currently the states of Oklahoma and Texas allow those surgeons who appear on the register to advertise their certification and use the title 'Board Certified Cosmetic Surgeon'.

Such a competency-based accreditation standard as proposed would apply to **ALL** doctors practising cosmetic surgery – plastic surgeons, other specialist surgeons and cosmetic surgeons alike. This is entirely consistent with NSW Department of Health recommendations.[12]

To avoid potential bias and ensure only competent practitioners are accredited, the new standard should be underpinned by the existing Australian Council for Safety and Quality in Health Care's (ACSQH) "Standard for Credentialing and Defining the Scope of Clinical Practice,"(the Standard),[13] appropriately modified for cosmetic surgery. This is to ensure that the credentialing process is objective, transparent and fair and does not favour any particular group of surgeons.

The ACSQH Standard requires that credentialing committees: *'ensure that the threshold credentials are based on objective criteria about the necessary period and character of training and experience, rather than the possession of specific endorsements or accreditation by named professional colleges, associations, or societies;'*

Principle 6 of the Standard mandates *'the assessment of a medical practitioner's competence, performance and professional suitability to provide services in specific organisational environments, and of organisational capability, should always be contributed to by peer medical practitioners with relevant experience in similar organisational environments. For example, processes of credentialing and defining the scope of clinical practice of rural general practitioners should always be contributed to by peer general practitioners with relevant rural experience.'*

The ACCSM proposal is also consistent with the findings of a 2018 NSW Parliamentary Inquiry, whose committee recommended *"the Minister for Health continues to make representations to the COAG Health Council to* ***protect or otherwise restrict*** *the title 'cosmetic surgeon' at a national level under the Health Practitioner Regulation National Law"*.[14] It was the Committee's view that by protecting or restricting the title, *"patients could then better inform themselves about whether their 'cosmetic surgeon' meets certain minimum criteria in terms of education, training and experience"* - effectively supporting the call for a National Accreditation Standard as proposed by ACCSM.

Question 4. Who is allowed to practice cosmetic surgery in Australia?

Response: Any Australian medical practitioner may call themselves a 'Cosmetic Surgeon', irrespective of any training in cosmetic surgery they may or may not have undertaken and irrespective of any specialist title.[4,7,9-11]

Three groups do so:

(1) ACCSM Fellows

(2) RACS Plastic Surgical Fellows, along with others holding specialist titles

(3) other practitioners many of whom may have no formal training, qualification or re-certification in cosmetic surgery. This third group of untrained (cowboy) practitioners is the most worrisome.

The ACCSM acknowledges this situation is confusing and unsafe for consumers.[7,9-11] It is to address this very problem and lack of regulation that the ACCSM proposed to COAG Health

Council in January 2021 the development of a **National Accreditation Standard** in cosmetic surgery requiring essential training, qualifications, competency and recertification in cosmetic surgery, along with a **Register** of Cosmetic Surgeons detailing those who have met and maintain the Standard and **linked restriction of the title 'Cosmetic Surgeon.'**[8] This would protect patients by allowing them to identify easily those practitioners who have met the competency standard.

Additionally, as an alternative regulatory mechanism that would have the same patient protection benefits, we also provide details of a further **Endorsement Model** for cosmetic surgery that could operate under Section 98 of the National Law (see attached Endorsement document and Cover letter).

Only two groups of practitioners might be anticipated to object to the implementation of such a process and national Register of competent providers of cosmetic surgery. Firstly, medical practitioners performing cosmetic surgical procedures who do not meet the required standard. Secondly, medical practitioners (or their craft-group representatives) who seek to manipulate the regulatory reform process primarily to protect themselves rather than to protect patients, by eliminating competent alternative providers.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,

Patrick Tansley

President

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