



Submission: Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law

Acknowledgement

It's important to note we have great respect for the many health professionals working each day in such important and often life saving roles. We acknowledge that health practitioners are put in difficult situations that we could never understand, particularly during COVID-19. In addition, we have both experienced medical emergencies that required emergency surgery: we would not be here today without this intervention.

Who we are

We are researchers and advocates who have helped expose systemic wage theft (7-Eleven, Domino's, etc), systemic issues in the franchising sector (Retail Food Group, Mortgage Choice, etc), fee gouging with Australia's largest toll road operator (Transurban), and more.

We did not set out to investigate issues in the Cosmetic Surgery Industry. We were tipped off about wage theft at a large practice and upon learning about other conduct, just like with 7-Eleven's underpayments, we felt compelled to act.

Regulators, Boards, and Colleges

Too often regulators and industry groups fall short of community expectations. Lack of action where needed allows unscrupulous operators to exploit the system and others for their own gain.

If well-resourced regulatory bodies are functioning as required, there should be no need for advocates like us. Systemic issues would already be identified, investigated, and resolved. Unfortunately, just as with wage theft and franchising, we find ourselves stumbling upon systemic issues that either through neglect, failure, or refusal, no regulatory or industry body has exposed and stopped.

To highlight how ineffective bodies can contribute to or perpetuate instances of misconduct, we'd like to lay out the following real life example. The problems at 7-Eleven were obvious and an open secret. Despite some investigative work on individual cases, the Fair Work Ombudsman was less effective in exposing and ending systemic wage theft through the 7-Eleven network than a broke advocate. Also problematic was that the Franchise Council of Australia (FCA) had just appointed the then 7-Eleven CEO as the Chairman of the FCA. The FCA is the industry lobby group for franchisors, and regularly informs committees, politicians, and regulatory bodies about their industry observations and expertise. Despite being comprised of industry experts, the FCA either did not know about rampant wage theft at 7-Eleven, or they did know, and did nothing about helping the exploited workers and had no problem appointing the 7-Eleven CEO to Chairman of the FCA Board.

Had either one of these bodies taken the lead, investigated and exposed the systemic issues, workers could have avoided exploitation and severe wage theft. We highlight these instances of industry and regulatory neglect, because the cosmetic surgery industry has striking similarities. Potential systemic issues and potentially rogue practitioners in the cosmetic surgery space appear easy to identify: there should be no excuse for regulatory or industry bodies to be unaware of what we have uncovered.

In our first phone call to AHPRA, they seemed disinterested in the topic of systemic issues in the cosmetic surgery industry. They were quite dismissive to us in this discussion and left us temporarily thinking they had no ability to investigate, intervene, reprimand or do anything else productive.

The particular group of cosmetic surgeons we are looking at hold or have held various fellowships with various colleges (The Australasian College of Cosmetic Surgery, The Royal Australian College of General Practitioners, Australia - 2017, etc).

Our Research into the Cosmetic Surgery Industry

Over the past eight months we have been researching potentially systemic issues in the cosmetic surgery industry and potential impacts to the public health system and general public. Our research is not finished, but given the timing of this inquiry we felt it appropriate to highlight AHPRA's role in identifying and stamping out systemic misconduct to protect the public.

The research triggered our interest in a group of cosmetic surgeons who work under the same banner around Australia. We have chosen not to identify them, but to use their conduct as a case study. The company is operated and led by a primary doctor. The rest are his associates and an 'independent' psychologist they use to assess patients, who is actually the partner of an associate.

The totality of the conduct with this group of doctors should have seen AHPRA, the Medical Board, other related bodies and colleges leaping to action long before we became aware.

The conduct we have observed and that others have alleged with this particular group of doctors appears to be egregious. Our concern with making a complaint to the AHPRA prosecutions team is that it would not be handled properly, and they would potentially inform the doctors prior to investigating, enabling the potential for them to cover their tracks, destroy evidence and intimidate potential witnesses and victims.

We spoke to patients who had published reviews and viewed all the public information we could find on these doctors, including their social media posts of which there are many, just in the last few years.

Their social media following is significant. Many of the videos are graphic with both gore and almost naked, or in some cases, fully naked and uncensored female patients. The doctors are all men and they are doing thousands of procedures.

The primary doctor suggested to followers and potential patients online that most of the work they do is medical and not actually cosmetic surgery.

"Most things I do are not actually cosmetic surgery. You know it's all about pain, self esteem, things that bother people. So I actually call it medical therapy. And I am happy that the Medical Board classify cosmetic surgery as surgery that's mostly performed to improve self esteem. How's that? I am very proud of the board because that is spot on. You know, I might have even suggested it myself. Who knows."

Some of the Alleged Conduct

Advertising to children

Advertising surgery procedures to platforms with large audiences of children and in a manner which may create insecurities or the desire to get surgery before the age of 18, or upon turning 18. I.e. Otoplasty "bat ears", Breast augmentation "implants", Neck liposuction "fat under chin".

Abuse of the Medicare system

Offering consultations for cosmetic surgery procedures that are later billed to Medicare without the patients' knowledge. "...both Dr [REDACTED] and Dr [REDACTED] (not from the same group)] have charged medicare for appointments I did not attend".

Patient confidentiality at risk

- Hiding patient faces in social media videos to “*respect privacy*” while showing and listing details that may enable a patient to be identified. Tattoos, birthmarks, scars, age, occupation, number of children, marital status, country of birth, time living in Australia, where they travelled from and the list goes on.
- What appears to be a surveillance camera overlooking the operating theatre table in one of their day hospitals which could indicate all patients naked and semi naked on the table are being filmed and non medical staff have access. The patients may not also be aware. Informed consent?

Increased risk of infection

- Performing major surgical procedures in consulting rooms, or side rooms of day hospitals, not in an operating theatre.
- Performing major surgical procedures in operating theatres with the theatre door wide open and exposed to:
 - outside air,
 - the movement of unscrubbed staff: laughing and talking unmasked, entering and exiting the theatre while the patient is almost naked or fully naked on the table.
- Staff in the operating theatre handling mobile phones brought into the theatre and then handling the outside of gloves without cleaning their hands, then using those gloves.
- Regular filming of major surgical procedures with as many as three mobile phones being handled in the theatre by gloved and ungloved surgeons and staff. Including holding them over open patients mid procedure.
- Allowing patients to handle their personal mobile phone in theatre and make social media videos whilst in the middle of a surgical procedure, while at the same time yet another person is using one or two phones to film them making their video which is also being published on social media.

Purported superior services

- Promoting their procedures using concerning language via live sessions on social media for potential patients to ask questions:
 - Surgery: “*is easy when you have done a lot*”. “*There is no such thing as a hard procedure*”.
 - Liposuction: “*people say you should only be removing 5 litres...rubbish*”.
 - Price: “*our surgeries are really cheap...cheaper than a car*”.
 - Claims: “*world pioneer...*” [on a certain procedure] and all patients in study said “*...pain went immediately*”.
- Use of language to suggest they offer superior services over other surgeons. “*Our special technique*”, “*our way*”, “*we pioneered*”, “*cheapest*”, “*the best*”.

Concerning behaviour

- Proudly posting about doing “*Kim Kardashian booties*” (has a high mortality rate), making videos about farting in the office, dance videos in the theatre standing on each other and equipment. Number two associate surgeon tipping new bottle of betadine over primary surgeon for laughs (not during operation). The relaxed approach seems to influence how they conduct themselves during surgery.
- Boasting about how much fat they remove from patients during one day, which seems to be quite a lot and well above the safe recommended limit by the American doctor who created the approach used.
- Making social media videos filming surgeries with patients, which appear to be advertising, yet they might argue are ‘educational’, however some of lyrics used in the music added are:
 - “*Yo the homies smoking d**ks tell them puff puff pass... B**ch I got a*s*”.
 - From another song “*I’m on a sugar crash, I ain’t got no f**kin’ cash, Maybe I should take a bath, Cut my f**kin’ brain in half*”.
 - Yet another song “*put my d**k in her mouth*”.

Encouraging gifts

Encouraging people to send them gifts. On one occasion, using social media to try and sell a patient’s expensive possession (over \$10,000) so the patient can afford to get surgery with them.

Omitting important information

Advertising major surgical procedure while omitting important information. Facelifts and mini-facelifts are promoted as being sutured (stitched), but staples are crudely used down the side of a patient’s face in front of their ears. They cover the staples with brown tape before showing the results. Results are often later shown with hair and makeup covering the area where the scar is.

Treating patients without dignity

Almost all posts on social media that involve any procedure below the chest show clinical photos were taken of the patient naked, even if they were taken for liposuction of the abs. The patient appears to have been needlessly photographed naked. In the videos they make, the doctors will show the clinical images of the naked patient over and over again, with tiny little dots that barely cover genitalia, moreso with women. They appear to take a lot of photos of each patient, and possibly from multiple mobile phones.

Dangerous working hours

Happily posting about working dangerously long hours, in excess of 12 hours and doing many major surgeries in a day. “*Got up at 6 o’clock this morning. Been operating all day. I think about seven or eight big operations. Got home after 12 at night. Spent the last 45 minutes answering your wonderful instagrams. Have to go to bed because I have to get up in four hours time to be back at the operating theatre...*”

Careless consultations

Online reviews indicate consultations are lasting around three minutes (after patients waited for hours), with patients having to be naked or almost naked while the doctor is too distracted by his phone. They complain the doctor was too busy using social media during the consultation, messaging people and making videos. Some people complained the doctor didn't even look at them. Responses from the practice appear to gaslight the patients who left bad reviews.

Note: All information relied upon when referencing the above group of doctors was publicly available or volunteered by patients who left bad reviews online.

There is also much more alleged conduct, but this is not our information and we have encouraged the confidential sources to approach the relevant government agencies given the serious nature of the allegations.

Social Media and AHPRA

AHPRA & National Boards - Guidelines for advertising a regulated health service

*"In the context of advertising a regulated health service, advertising includes all forms of verbal, printed and electronic communication that promotes and seeks to attract a person to a regulated health service provider and/or to attract a person to use the regulated health service. Social media is also often used to advertise a regulated health service."*¹

In our research, we found that a number of registered health practitioners who refer to themselves as cosmetic surgeons use various social media platforms to post images and videos about their work or practice. Social media is not just a social network, it is also used for marketing and advertising. Of the accounts we have viewed, the use of social media by cosmetic surgeons cannot be defined as educational. There is always a commercial aspect to their pages, whether it's advertising procedures, announcing their availability, enabling prospective patients to ask questions about their surgical prospects privately or publicly, and performing marketing stunts. Even if there is an educational aspect in some of their social media content, in our view it's attached to an overall commercial strategy.

We see no concerns in the responsible use of social media for marketing purposes by cosmetic surgeons. We are concerned about informed consent being obtained from patients for the use of their photos for social media marketing purposes.

¹ <https://www.ahpra.gov.au/documents/default.aspx?record=WD20/30461&dbid=AP&chksum=0sNkdBzefE4jEabpVY862A%3d%3d>

When uploading patient videos or photos to social media and gaining informed consents, in writing,

- Are patients made aware that photos or videos of them will be uploaded to social media?
- Are patients made aware that photos or videos of them will be uploaded to social media and marketed to children and young people?
- Are patients made aware which social media channel or channels their photos or video will be uploaded to?
- With the increase in popularity of 'Stories' features on social media platforms, where the content disappears after a timeframe, are patients made aware that their photo or video might be uploaded and then removed without them ever seeing it?
- Are patients made aware what time and date photos or videos of them will be uploaded (and removed if used in a Stories feature)?
- Are patients made aware how photos or videos of them will be censored, including to protect their identity and to censor genitalia?
- Are patients made aware that the surgeon has no control over the photo or video, and that the photo or video might be screenshot, downloaded, or scraped?
- Are patients made aware that the surgeon has no control over whether someone screenshots, downloads, or scrapes photos or videos of the patient, and then uploads the photos or videos to other sites?
- Are patients shown the photo or video in the exact form in which the surgeon intends to publish it on the social media site, including what music (if any) they plan to overlay?
- Are patients made aware that the photo or video of them might be used in perpetuity for marketing purposes?
- Are patients made aware that they can withdraw consent for their photos or videos to be used, for any reason?
- Are patients given an easy process to follow where they can withdraw consent for their photos or videos to be used or taken down?

Of the consent forms we have seen, no form goes into this level of detail. Our belief is that patients must be made aware exactly who, what, when, where, why, and how photos or videos of them (naked or otherwise) might be used. In our opinion, it is not enough for a consent form to say that the photo "might be used" on Facebook or on social media generally.

Unfortunately, beyond putting out some guidelines on marketing and investigating notifications, AHPRA appears to have no desire to oversee the way registered health practitioners are using and potentially abusing social media and obtaining consent. There appears to be no advertising guidelines by AHPRA regarding the advertising of cosmetic surgery to children. This is particularly concerning given children and young people make up a substantial amount of users of social media.

In a study published in April 2019 titled *“Effects of social media use on desire for cosmetic surgery among young women”*, the researchers found that *“body dissatisfaction has been shown to be a key motivational factor for cosmetic surgery among both women and men. Body dissatisfaction relates to the negative thoughts that an individual has about their body. It involves feelings of discrepancy between the actual body shape and an ideal one.”*²

Our overview of some surgeons’ use of social media shows constant referral in video format to their female and male patients having *“problem areas”*. In videos, these surgeons point to the areas on their patients’ bodies, and say it is an *“issue”*. It can be about areas of the body which traditionally have not been the subject of body image issues. Such areas include under the chin and under the arms. The doctors then get the patient to walk through exactly what it is they don’t like about their body. Our concern is that surgeons are using their current patients in order to drive insecurities in their social media followers. There is no clinical or educational reason to broadcast that a patient’s body is undesirable or unattractive.

We are particularly concerned about the effect this has on young people and children, whose bodies may not have fully formed yet and who are vulnerable to peer pressure and body image issues. For doctors to imply that a patient’s body is unattractive, and to suggest that a lot of young people are getting cosmetic surgery, it causes followers to question if there are problems with their own body.

Cosmetic surgeons publishing visual content daily on social media is driving insecurities in their (often young) followers. The 2019 study found that the more socially acceptable cosmetic surgery becomes, the more motivated people become to have cosmetic surgery. *“Hearing about other people’s experiences of cosmetic surgery increases the likelihood of individuals indicating that they would undergo a cosmetic procedure and patients who have undergone cosmetic procedures consistently report knowing someone who has had cosmetic surgery”*.³

These cosmetic surgeons know that by filming their happy patients and broadcasting it to thousands or millions of followers is changing culture, and driving the desire for cosmetic surgery. Directly or indirectly encouraging the indiscriminate or unnecessary use of cosmetic surgery is possibly a breach of the National Law, and this is the exact effect that consistent use of video advertising on social media has. Further, creating self-esteem issues in people and then selling the solution through cosmetic surgery is a stain on the whole medical industry.

The 2019 study sums it up well: *“The results showed that viewing images of cosmetically enhanced females had a marginally significant effect on desire for cosmetic surgery. These results therefore partially supported the hypothesis that cosmetic enhancement images (compared to a control condition) induce a desire for cosmetic surgery.*

² <https://link.springer.com/content/pdf/10.1007/s12144-019-00282-1.pdf>

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Moreover, those who were frequent social media users and who were less satisfied with their appearance were more likely to consider cosmetic surgery in the future.”⁴

If advertising cigarettes and alcohol is regulated and has oversight, where is AHPRA in the regulation of advertising cosmetic surgery on social media?

Bars and clubs are not allowed to advertise Happy Hour on their social media sites⁵. Cigarette companies have strict advertising laws they must adhere to.

Unfortunately, cosmetic surgeons have shown that self-regulation is out of the question. The colleges and industry groups are not adequately tackling the issue of cosmetic surgery advertising on social media. There is currently limited oversight occurring, and in our opinion the risk to the public is too great to ignore. We do not want a situation where the public health system is overrun because cosmetic surgery has gone poorly, and people who would otherwise not seek out cosmetic enhancements are falling victim to commercially-driven cosmetic surgeons.

There should be some guidelines around the classification of educational content on social media.

The Australian Competition & Consumer Commission (ACCC) should be more proactive in this space as well.

Proactive not Reactive

AHPRA, the National Boards, and other relevant organisations could benefit from adjusting to a more proactive approach to regulated health professionals breaking rules and putting the public at risk.

Educational material about how registered health professionals should behave seems to be in great supply, yet due diligence on registrations and memberships seems to be inadequate.

For example, The Australasian College of Cosmetic Surgery published a media release⁶ in 2019: *“Raising standards, Protecting Patients...Brazilian Butt Lift: Advice to patients – Don’t do it!...BBL is the cosmetic procedure with the highest risk of death.”* Yet one of their current fellows heavily promotes this kind of procedure and does many of them. There is quite a bit of conduct that is unlikely to tick the box under their code of conduct, yet this appears to have no effect on the particular doctor's fellowship.

⁴ <https://link.springer.com/content/pdf/10.1007/s12144-019-00282-1.pdf>

⁵ <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/compliance/advertising-promotions>

⁶ <https://www.accs.org.au/download/?id=media&doc=139>

In another example, The Royal Australian College of General Practitioners publishes a lot of material on advertising a regulated health service, yet one of their current/former fellows would have to be the most disturbing examples of offensive conduct on social media we have seen.

We want to stress that we are strong believers that people have a right to have control over their own body. We are not against people choosing to have cosmetic surgery.

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Operation Redress Pty Ltd (Franchise Redress, Toll Redress, Wage Theft Australia)