Cosmetic Surgery Regulation in Australia: Who Is to Be Protected—Surgeons or Patients?

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Abstract

The practice of cosmetic surgery is of immense interest across the western world. In Australia, its regulation is currently the subject of three separate administrative processes, all due to report by mid-2022. Cosmetic surgery is typically dealt with at a superficial level by the media and sometimes misrepresented by medical commentators. This article details relevant issues for consideration and in relation to their complexities, which may be of interest to readers in other jurisdictions such as the United States.

Keywords
cosmetic surgery, aesthetic surgery, training, regulation, Australia

An International and Timeless Problem

Australia has followed a similar course to the rest of the world in cosmetic surgical practice, with good and bad practitioners from all types of training background. Sensational revelations about the cosmetic industry are not new\textsuperscript{1} and unfortunately make popular, although often ill-informed and one-sided, copy.

The origins of cosmetic surgery predate those of modern plastic surgery and many other specialties, yet currently, this single craft group claims pre-eminence in appearance altering surgical practice in almost every country of the world. The father of modern plastic surgery is generally considered to be Sir Harold Gillies—a New Zealand otolaryngologist—but his work was reconstructive in nature, rather than cosmetic and developed by caring for soldiers suffering from disfiguring facial injuries during the First World War (1914-1918).

Around a decade earlier, Charles Conrad Miller (1881-1950), regarded as the first surgeon to attempt correction of the aging face, wrote in 1906 what is regarded as one of the first uniquely cosmetic surgical papers.\textsuperscript{2,3} Miller also wrote in 1907 the following paragraphs, quoted here in full given that they remain a very accurate summary of the situation some 115 years later:

“...This class of work [cosmetic surgery] . . . is a special field worthy of the closest study of the ablest of our profession, for he who operates or treats these cases has the future happiness and peace of mind of the patient at stake. Operations for improving the appearance cannot be botched. The operator must be skilful and fully capable in this field more than in any other . . . it is my earnest desire to encourage men throughout the country to give this subject careful attention, for it promises to be, before many years, a most profitable and satisfactory specialty.

The criminal carelessness of advertisers is unbelievable to those who have not seen the results of their utter disregard for patients. Many patients have consulted me who have been mutilated by advertisers and I have yet to find one who, before submitting to the advertiser for treatment, had not consulted a regular physician in good standing. These ethical physicians, while ridiculing the desires of the patients, could not conceal the fact that they were totally ignorant of this special subject . . .\textsuperscript{4}"

While it is undeniable that specialist plastic surgeons have made enormous contributions to the advancement of cosmetic surgery, plastic surgeons rarely acknowledge those made by other practitioners who have had an educational journey different from their own.

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Introductory line: 2022 will be momentous for the regulation of cosmetic surgery in Australia.

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In part, fuelled by the proliferation of doctors who have not been well trained and enter cosmetic surgical practice with an eye on its potential financial rewards, the result has become a polarization into “plastic surgeons” and the “rest.” We submit that this is not an accurate reflection of cosmetic surgery in Australia or the rest of the world and does not assist regulators, media, politicians and most importantly patients.

Past Attempts at Regulation

In Australia, following the 1999 Walton Cosmetic Surgery Inquiry, a Cosmetic Surgery Credentialing Council (CSCC) was established, but failed due to an impasse created by competing interests of different surgical groups. Despite the inclusion on the CSCC of representative doctors from “all specialties currently involved in work which could be described as ‘cosmetic surgery,’” it was unable to reach consensus on “the credentialling of practitioners performing invasive cosmetic procedures” as a consequence of numerous issues of “dissent,” which included the pursuit of a variety of “agenda(s).”

In 2022, reform is being considered once again—concurrently by a Senate Inquiry, Consultation Regulation Impact Statement and Australian Health Practitioner Regulation Agency (AHPRA) review, all due to report by mid-year.

Since 1999, there has been an exponential increase in demand and access to cosmetic surgery, seductive social media claims and intense scrutiny by all. The “elephant in the room” is lucrative financial incentives to all medical practitioners undertaking cosmetic work, presenting two dangers to the public. First, individual surgeons may recommend elective operations not necessarily in patients’ best interests. Second, potential rewards of influencing regulatory reform to produce a commercial monopoly for the specific group of chosen practitioners may distort representations to regulators made by individual stakeholders.

If politicians and authorities reform cosmetic surgery wisely, patients will be protected. To do so requires an appreciation of cosmetic surgery and how it relates to plastic and other specialist surgical practice.

The Barriers to Change—Stakeholders and Regulation

Although it is a relatively new discipline in its modern form, cosmetic surgery neither belongs to, nor is subsumed by any traditional surgical specialty. Elements of cosmetic work appear in ear, nose, and throat (ENT); breast; and general surgery in addition to dermatology.

Plastic surgery is commonly misunderstood to be synonymous with cosmetic surgery, and it is convenient for such specialists to perpetuate this distortion, often prompting vigorous associated discussion. Reconstrucive plastic surgery treats disease, injury, or birth defects. Cosmetic surgery is sought by healthy patients wishing to change appearance of normal tissues. Whilst having some commonalities, the training, skills, and experience have many significant differences, particularly regarding patient groups, expectations and their management.

As cosmetic surgery is not recognized as a specialty in Australia (or indeed anywhere in the world), it does not have a protected title under Australian National Law. Any medical practitioner, whether or not trained and competent in cosmetic surgery, may legally call themselves a “cosmetic surgeon” while still regulated by the National Law under AHPRA. Consequently, cosmetic surgery is undertaken by doctors from various backgrounds with varying levels of training and competence, with a spectrum of outcomes for patients.

Add to this mix medical entrepreneurs seeking a cut of what the Australasian Society of Aesthetic Plastic Surgeons (ASAPS) described as a “booming and lucrative cosmetic surgery market,” and it becomes easy to understand how patients can be confused and misled and why many doctors are not willing to be subjected to a process of change.

How Can Regulatory Reform Best Protect Patients?

Regulation must allow patients to be able to identify those doctors who are trained, competent and safe to perform cosmetic surgery from those who are not. Recognition of cosmetic surgery as an independent medical specialty would be the optimum solution. While sought in 2009 from the Australian Medical Council (AMC), it remains precluded under the National Law which requires any new specialty to address a “burden of disease,” which cosmetic surgery does not.

Nevertheless, a solution is available under section 98 of the National Law—Endorsement for an Area of Practice—created to accommodate new areas of practice not fitting the criteria of new medical specialties, yet still requiring regulatory restriction to protect patients. This precisely reflects the situation regarding cosmetic surgery.

In 2021, submissions to the Senate Inquiry proposed that doctors performing cosmetic surgery should be Endorsed on a public register as having met a National Accreditation Standard. Whilst ensuring core surgical competence, the Standard would require additional training, qualifications, competency and recertification specific to cosmetic surgery. To ensure patient safety, it must apply to all doctors performing cosmetic surgery, regardless of other competencies and providence.

While many plastic surgeons in Australia are competent and expertly perform cosmetic surgery, the evidence demonstrates that this is not merely because they have qualified as AMC-accredited specialist plastic surgeons, but likely from subsequent additional training and/or experience.
By restricting the title “cosmetic surgeon” (or use of the title “surgeon” in the context of cosmetic surgery) only to doctors on a specific AHPRA register, patients will be protected by allowing identification of practitioners who are trained, competent, and safe in cosmetic surgery. International precedent exists—for example, Oklahoma and Texas allow American Board of Cosmetic Surgery diplomats to advertise their certification and state that they are “Board Certified Cosmetic Surgeons.”

**Title vs Competency**

An alternative proposal by the Royal Australasian College of Surgeons (RACS) seeks to restrict use of the title “surgeon” to “medical practitioners who have completed AMC accredited specialist training in the medical specialty of surgery.” It would allow any RACS surgeon to promote themselves as a specialist surgeon when advertising cosmetic surgery services, regardless of whether they have any training, experience or competence in cosmetic surgery.

Concurrently, plastic surgical fellows of RACS with membership of the ASAPS seek to ban the title “cosmetic surgeon,” with the effect that non-RACS practitioners who are specifically trained, competent, and safe in its practice, would be prevented from using both the titles “surgeon” and “cosmetic surgeon.” This proposal would create a monopoly that would exclude many trained medical experts in cosmetic surgery, yet how it would protect patients is unclear.

RACS and associated groups acknowledge that “... cosmetic procedures need to be performed by a practitioner who is trained in the procedure...” However, the AMC provides no evidence of cosmetic surgery training by RACS in its 8 specialty training programs outside of plastic and reconstructive surgery.

Within plastic and reconstructive training, AMC reports since 2002 suggest inadequate cosmetic surgical training. In its 2017 report, the AMC variously stated in relation to cosmetic surgery that plastic surgical trainees have a “lack of training,” a “deficit” in experience available and qualify with “a gap in this area of practice.” Its newly published 2021 report is conspicuously silent about any robust dedicated cosmetic surgical training and experience for plastic surgical trainees.

The current Senate Inquiry was presented with evidence that in 3 years to June 2021, more than half of the practitioners—52% (96/183)—who were the subject of notifications (complaints) to AHPRA relating to cosmetic surgery (the AHPRA data) were surgeons holding AMC-accredited specialist surgical registration. Of these, 71% (68/96) were specialist plastic surgeons.

Isolated title restriction as proposed by RACS has a precedent in Queensland, Australia, from the early 2000s. That attempt did not protect patients but instead reportedly tied up regulators through vexatious complaints relating to title restriction.

Title restriction alone will not protect patients by allowing them to identify surgeons who are trained, competent, and safe in cosmetic surgery. Worse, it may give false reassurance that because the doctor is allowed to use the restricted title “surgeon,” he or she is trained, competent, and safe to perform cosmetic surgery when that may not be so.

Tangibly, the only doctor who has been the subject of a finding of culpability in the death of a patient during a cosmetic (liposuction) procedure in Australia was a plastic surgeon. At the inquest, the Victorian Coroner observed “... there was a need for specific training and experience in performing liposuction surgery” and in 2015, the Victorian Civil and Administrative Tribunal required the plastic surgeon “to complete further education.” Put another way, adopting the current proposals of RACS to restrict the title “surgeon” to holders of specialist registration without linkage to accreditation specifically in cosmetic surgery, would not have saved this patient’s life.

**What About Nonspecialist Cosmetic Surgeons?**

Unquestionably, inadequately trained or irresponsible cosmetic surgeons exist and are a danger to patients, which is exacerbated using the title “cosmetic surgeon” without any clarification about their training. However, in the same way that a single patient’s death does not mean all plastic surgeons performing liposuction are dangerous, it is incorrect to extrapolate that all cosmetic surgeons are inadequately trained or irresponsible.

Following publication of the AHPRA data, Dr Anne Tonkin, Chair Medical Board of Australia said

“... the ‘cowboy’ reputation of cosmetic surgeons was not reflected in AHPRA/board data” and that “... complaints around cosmetic procedures were spread evenly among cosmetic surgeons, plastic surgeons and other specialities, so there was no simple dichotomy between ‘bad’ cosmetic surgeons and ‘good’ plastic surgeons.”

**The Future**

It is clear the evidence proves that adverse, avoidable outcomes, occur from both plastic surgeons, and cosmetic or other surgeons who may have inadequate training in cosmetic surgery.

There is therefore good evidence supporting the proposal in Australia for a national competency-based accreditation Standard for all doctors performing cosmetic surgery, Endorsement on a public register of those who have met and maintain the standard and restriction of the title “cosmetic surgeon” (or use of the title “surgeon” in the context of cosmetic surgery) to those on the register, independently
administered by AHPRA. In fact, this complements the stance of the American Board of Cosmetic Surgery (ABCS), which has previously detailed 8 specific standards required by ABCS’ Diplomates to achieve U.S. Board Certification in cosmetic surgery. Both approaches could contribute to an international model for a defined specialty with recognized standards.30

Under the Australian proposal, public protection will be enhanced, no competent practitioner will be disadvantaged and no commercial monopoly will be granted to any particular group of doctors. The public will benefit from competition between safe practitioners based on competence, price, and service.

In Australia, regulation of cosmetic surgery is urgently needed7,9 but isolated title restriction that has a precedent of failure will neither fix the problem nor save life or limb.8,9 In contrast, the proposed solution of an accreditation standard/register has been welcomed by commentators without a vested interest (listen here on ABC Radio National, Channel 7 Sunrise here and 6PR Perth Radio here).

Nevertheless, plastic surgical and other specialist groups are opposed to itit11,32 and have declined the opportunity to specify or openly debate their reasons. Until all practitioners submit their objections to public scrutiny, the perception that protection of patients runs second to protection of surgeons’ interests will remain.

Key points

- Regulation of cosmetic surgery is an international problem.
- No single-craft group holds the monopoly on training and standards.
- To protect patients, a separate specialty of cosmetic surgery or the formal Endorsement/Accreditation of appropriate cosmetic surgery qualifications is needed.

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References

1. Walton M. The cosmetic surgery report. Report to the NSW Minister for Health. Published October 1999. Health Care Complaints Commission, Locked Mail Bag 18, Strawberry Hills, NSW 2012. hccc@hccc.nsw.gov.au
2. Rogers BO. A chronologic history of cosmetic surgery. Bull N Y Acad Med. 1971;47(3):265-302.
3. Miller CC. The excision of bag-like folds of skin from the region about the eyes. Aesthetic Plast Surg. 1988;12(3):155-156.
4. Miller CC. Outstanding alae nasi. Amer J Genitourin Dis. 1907;11:286.
5. Thursby P. Letter on behalf Australian Medical Association (NSW) Limited to NSW Health regarding the Cosmetic Surgery Credentialling Council. July 30, 2003.
6. ABC Four Corners. Cosmetic cowboys. https://www.abc.net.au/4corners/cosmetic-cowboys/13603636. Published October 25, 2021.
7. Tansley P, Hodgkinson D, Brown T. Letter to the Editor by Patrick Tansley, Darryl Hodgkinson and Tim Brown reply to “Defining plastic, reconstructive, aesthetic, and cosmetic surgeries. What can get lost and found in translation” by Xian Wei, Bin Gu, Qingfeng Li [published online ahead of print July 2020]. Ann Plast Surg. doi:10.1097/SAP.00000000000002498.
8. Tansley P. Opinion piece—knowledge and the knife. The Daily Telegraph. November 24, 2020; 19.
9. Tansley P. Opinion piece—standards need to lift in cosmetic surgery. Herald Sun. December 23, 2020; 21.
10. Tansley P. Opinion piece—Sydney Morning Herald. Safety of Patients Must Come First. November 1, 2021; 31.
11. Burd A. Deadly cosmetic surgery. BMJ opinion. June 2, 2010. https://blogs.bmj.com/bmj/2010/06/02/andrew-burd-on-deadly-cosmetic-surgery/
12. Dastoury K, Haivy J, Petro J, Ayewah M. Cosmetic surgery: a subspecialty that needs specialized training and recognition [published online ahead of print October 30, 2021]. Am J Cosm Surg. doi:10.1177/07488068211051859.
13. Burd A. LinkedIn post. Claiming competences that have not been taught or assessed. https://www.linkedin.com/feed/update/urn:li:activity:6866237917271076864?commentUrn=urn%3Ali%3Acomment%3A%28activity%3A6866237917271076864%2C6866653011249053696%29&replyUrn=urn%3Ali%3Acomment%3A%28activity%3A6866237917271076864%2C6866653117367013376%29. Published November 2021.
14. Hah W, American Board of Cosmetic Surgery T. Board certification in cosmetic surgery: an evaluation of training backgrounds and scope of practice. Plast Reconstr Surg. 2022;149(1):141e-142e.
15. Haivy J. Board certification in cosmetic surgery: an evaluation of training backgrounds and scope of practice. Plast Reconstr Surg. 2022;149(3):591e-592e.
16. Maddison M. Plea to ban “charlatan surgeons.” The Australian. December 29, 2020. https://www.theaustralian.com.au/nation/plea-to-ban-charlatan-plastic-surgeons/news-story/b5a94f37ac2f12499a3b4a6e57c3e35
17. ACCSM. Secondary submissions. 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. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AHPRA/Additional_Documents. Published October 11, 2021.
18. Royal Australasian College of Surgeons. Title of surgeon in Australia (2021). https://www.surgeons.org/about-racs/position-papers/title-of-surgeon-2021.

19. Deva AK. Why the term “cosmetic surgeon” is so dangerous. The Daily Telegraph. November 6, 2017. https://www.dailytelegraph.com.au/rendezview/why-the-term-cosmetic-surgeon-is-so-dangerous/news-story/07d6c7e44b469c0f7fbf48641de460a0

20. Deva AK. Time for authorities to ban the term “cosmetic surgeon” and restrict the use of the title surgeon to qualified and recognized specialists. Twitter. December 29, 2020. https://twitter.com/saferimplants/status/1343732974672482305.

21. Media release. Statement by the Royal Australasian College of Surgeons, the Australian Society of Plastic Surgeons (ASPS), the Australasian Society of Aesthetic Plastic Surgeons (ASAPS), and the Australian Society of Otolaryngology Head and Neck Surgeons (ASOHNs). https://plasticsurgery.org.au/statement-from-racs-and-specialty-societies-on-cosmetic-surgery/. Published October 26, 2021.

22. Australian Medical Council. Specialist Education Accreditation Committee. Accreditation report: the training and education programs of the Royal Australasian College of Surgeons, 2017; 123.

23. Australian Medical Council. Specialist Education Accreditation Committee. Accreditation report: the training and education programs of the Royal Australasian College of Surgeons, 2021. https://www.amc.org.au/wp-content/uploads/2022/03/2021-RACS-Report-secured-1.pdf

24. Fletcher M. Answers to written questions on notice, received from AHPRA. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AHPRA/Additional_Documents/%3FdocType%3DAnswer%26%20Question%26%20Notice. Published October 11, 2021.

25. Senate Community Affairs References Committee Report into Administration of registration and notifications by the Australian Health Practitioner Regulation Agency and related entities under the Health Practitioner Regulation National Law. Published April 1, 2022.

26. Hansard. 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. Published September 22, 2021.

27. AHPRA media release. Tribunal reprimands practitioners for unprofessional conduct. https://www.ahpra.gov.au/News/2015-01-13-media-release-mba.aspx?TSID_101_R0=08c403b05ab200039010cc6ff2392357c1a595c7719820b68cd710a7b873b9ba1a76b29a7a79f200830468b7ff143000faeb0eda36ada5d63f82f23a4e92b5abb0190578dfb2a7a675ac4135bd7eda6e9b1c7cbf3c6b00bb464e46f179ed397. Published January 13, 2015.

28. Health Care Complaints Commission. Dr Leslie Blackstock—medical practitioner—registration cancelled. https://www.hccc.nsw.gov.au/decisions-orders/media-releases/2020/dr-leslie-blackstock-medical-practitioner-registration-cancellation. Published September 30, 2020.

29. Durham P. The medical republic. Cosmetic surgery review to probe “weak safety culture.” https://medicalrepublic.com.au/cosmetic-surgery-review-to-probe-weak-safety-culture/58864?utm_source=TMR%20List&utm_campaign=9eb1e4fb8d-Newsletter_November_30_11_21&utm_medium=email&mc_cid=9eb1e4fb8d&mc_eid=17dd549a6&fbclid=IwAR39Zf71AswflHTazmw2lP_AKzK8r0vUfi7TyqqJN07A2N6NeR7cK2u8. Published November 30, 2021.

30. American Board of Cosmetic Surgery. Why choose an ABCS surgeon? 8 facts about ABCS Surgeons. https://www.americanboardcosmeticsurgery.org/patient-resources/choose-abcs-surgeon/. Published April 18, 2022.

31. Australian Society of Plastic Surgeons. Society rejects calls for “cosmetic surgeon” registry. https://plasticsurgery.org.au/wp-content/uploads/2021/12/211129-Australian-Society-rejects-registry-proposal.pdf. Published November 29, 2021.

32. Australasian Society of Aesthetic Plastic Surgeons. Register of cosmetic surgery practitioners. https://aestheticplasticsurgeons.org.au/media/register-of-cosmetic-surgery-practitioners/. Published October 27, 2021.

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