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Dear Ms Caleo

RE: Draft National Licensing Framework for Cosmetic Surgery

The Royal Australasian College of Surgeons (RACS) welcomes the *Draft National Licensing Framework for Cosmetic Surgery* as part of the reforms to ‘safeguard the public and strengthen the regulation of cosmetic surgery in Australia’¹. RACS has long supported reform to the regulation of cosmetic surgery for these purposes.

RACS strongly supports national consistency in the regulatory framework, and we support the performance of cosmetic surgical procedures in licensed facilities by practitioners that are working within their scope of practice. The implementation of national consistency of the requirements for accreditation and licensing would reduce the opportunity for the variations in requirements between states and territories which could influence how patients choose facilities to undertake their cosmetic surgical procedure.

Despite the very short time provided to consult on the *Draft National Licensing Framework for Cosmetic Surgery*, RACS offers its in-principle support for the document. In the below, we provide some commentary for ACSQHC consideration.

1. As part of a robust clinical governance framework, it should be a prerequisite to have an independent medical director or other independent process to ensure all practitioners at the licensed facility are practising within their scope of practice.
2. In relation to ‘2. Recommend regulatory powers’ under points 7 and 12, punitive action and penalties against unlicensed premises should be consistent between all states and territories. At present there are inequities which exist between penalty units and their loading. The same can be said of language when using the word ‘license’ or ‘registered establishment’, and ‘utility’ creating further confusion. As a matter of semantics, we acknowledge the fundamental principles associated with a healthcare licensed premises provided by a government entity to operate a facility and provide evasive cosmetic procedures, and have a regulatory body be given permission to access a property in question for assessment. The laws between each state and territories are currently inconsistent. The below table compares the maximum penalty that can be applied for the offence of operating an unlicensed facility.

¹ *Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023, Explanatory Notes, p1*



	Penalty units	Value of penalty unit	Total monetary fine
New South Wales ²	5,000	\$110 ³	\$550,000
Victoria – as individual ⁴	240		\$44,380.80
Victoria – as body ⁶ corporate	1,200	\$184.92 ⁵	\$221,904
Queensland ⁷	1,000	\$143.75 ⁸	\$143,750
Northern Territory ⁹	200	\$162 ¹⁰	\$32,400
Tasmania ¹¹	100	\$181 ¹²	\$18,100
Australian Capital Territory – as individual ¹³	50	\$160 ¹⁴	\$8,000 (+ 6 months imprisonment)
Australian Capital Territory – as utility ¹⁵	2,000	\$810 ¹⁶	\$1,620,000 (+ 6 months imprisonment)
South Australia ¹⁷	-	-	\$60,000
Western Australia ¹⁸	-	-	\$5,000

We are looking forward to further engaging on this important initiative with ACSQHC in the interest of improving patient safety.

Yours sincerely

Associate Professor Kerin Fielding
President

Professor Mark Frydenberg
Chair, Health Policy & Advocacy Committee

² NSW Private Health Facilities Act 2007 Part 3 ‘Conduct of private health facilities 33 Unlicensed private health facility’

³ NSW Crimes (Sentencing Procedure) Act 1999 - Sect 17

⁴ Victoria Health Services Act 1988 - Sect 111 ‘Offences relating to carrying on a health service establishment’

⁵ Victoria Gazette Number G16 dated 21 April 2022

⁶ Victoria Health Services Act 1988 - Sect 111 ‘Offences relating to carrying on a health service establishment’

⁷ Queensland Private Health Facilities Act 1999 - Sect 39 ‘Licences required to operate private health facilities’

⁸ Queensland Penalties and Sentences (Penalty Unit Value) Amendment Regulation 2022

⁹ Northern Territory Public and Environmental Health Act 2011 section 10 ‘Business required to be registered’

¹⁰ Northern Territory Government Attorney-General and Justice, and NT Penalty Units Act 2022

¹¹ Tasmania Health Service Establishment Act 2006 sections 33, and 34

¹² Tasmanian Government Department of Justice and TAS Penalty Units and Other Penalties Act 1987

¹³ ACT Public Health Act 1997 section 21 ‘Activity licenses-offences’

¹⁴ ACT Legislation Act section 133

¹⁵ ACT Public Health Act 1997 section 21 ‘Activity licenses-offences’

¹⁶ ACT Legislation Act section 133

¹⁷ South Australia Health Care Act 2008 section 79 ‘Prohibition of operating private hospitals unless licensed’ and section 89B ‘Prohibition on providing health services unless licensed’

¹⁸ Western Australia Private Hospitals And Health Services Act 1927 - Sect 26k ‘Offences’