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Royal Australasian College of Surgeons (RACS) submission to the Queensland Parliament Health and Environment Committee inquiry into the *Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023*

Level of approval: President of the Royal Australasian College of Surgeons (RACS)

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This RACS submission is supported by:

- Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG)
- The Royal Australian and New Zealand College of Ophthalmologists (RANZCO)



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This RACS submission is also supported by:

- Australian Orthopaedic Association (AOA)
- Australian and New Zealand Association of Paediatric Surgeons (ANZAPS)
- Australian and New Zealand Society for Vascular Surgery (ANZSVS)
- Australian Society of Otolaryngology Head and Neck Surgery (ASOHNS)
- Australian Society of Plastic Surgeons (ASPS)
- Australian and New Zealand Society of Cardiac & Thoracic Surgeons (ANZSCTS)
- Breast Surgeons of Australia and New Zealand (BreastSurgANZ)
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The Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Australia and Aotearoa New Zealand. RACS supports the ongoing development, maintenance of expertise and lifelong learning that accompanies the surgical practice of more than 8,300 surgeons and 1,300 surgical trainees and Specialist International Medical Graduates.

RACS welcomes the *HPRNL (Surgeons) Amendment Bill 2023* to protect the title ‘surgeon’ within the medical profession so as to ‘safeguard the public and strengthen the regulation of cosmetic surgery in Australia’¹.

RACS has long supported reform to the regulation of the title ‘surgeon’ for these purposes.

RACS is pleased that its position on which practitioners should be able access the title², which it formalised 2021, is generally reflected in the substance of the legislation.

The Queensland Parliament and commonwealth, state & territory health ministers are to be congratulated for moving this important reform forward.

However, RACS does hold some concerns about one aspect of the legislation; s115A (5)(e). This provision enables the Ministerial Council (commonwealth, state & territory health ministers) to prescribe another ‘class’ of medical practitioners as being a ‘surgical class’, thus granting the class access to the title ‘surgeon’.

A separate, but related reform agreed to by health ministers when they agreed to this legislation is the establishment of an ‘endorsement for cosmetic surgery’.

In submissions to various bodies in relation to the establishment of this ‘endorsement’, RACS has expressed the concern that surgical training programs may be accredited at *lower standards than those required of specialty surgical training programs*.

RACS provides accredited training for nine surgical specialties. For each specialty RACS provides supervised competency-based training across ten mandatory competency domainsⁱ for each stage of training. Attaining all competencies usually takes 5 – 6 years full time. RACS trainees are assessed for competence on at least a quarterly basis by approved supervisors, and their progress is rigorously monitored. In addition, an exit examination and final assessment of competence is required before trainees are considered safe and competent to perform surgery on the Australian public.

RACS does not provide training for the remaining three ‘surgical class’ medical specialties/fields which will initially have access to the title ‘surgeon’ under this amendment bill (Ophthalmology, Obstetrics and Gynaecology, and Oral and Maxillofacial Surgery). However, RACS understands the accredited specialty training provided by the relevant accredited colleges³ for these specialties/fields is of a similar duration and rigour to RACS’ programs.

On the other hand, and this has been RACS’ main concern with the ‘endorsement for cosmetic surgery’ concept, it is unclear what, in practice, the standards of an accredited training program enabling ‘endorsement’ will be. As yet no training programs enabling ‘endorsement’ have been accredited as the endorsement framework has only just been established. Indeed, the National Law’s ‘endorsement’ mechanism has *never before* been used to expand the registered scope of medical practitioners, except in relation to acupuncture – a *non-medical* field.

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

² <https://www.surgeons.org/en/about-racs/position-papers/title-of-surgeon-2021>

³ Royal Australian and New Zealand College of Ophthalmologists (RANZCO), Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), Royal Australasian College of Dental Surgeons (RACDS)

So, put simply, it is unclear whether a program enabling 'endorsement' will be a low quality five-*week* or a high standard five-*year* course of study. Given the 'endorsement' mechanism does not have a track record in medical practice, RACS fears a course enabling 'endorsement' may end up being closer to the former than the latter.

RACS is thus concerned that at some future time practitioners who, having completed a short, lower standard course enabling 'endorsement for cosmetic surgery', may lobby Ministers to prescribe them as a 'surgical class'.

In RACS' opinion the expertise to safely and expertly conduct surgery can only be achieved through a sufficient period of rigorous training at the standard which RACS providesⁱⁱ ⁱⁱⁱ. To allow practitioners who may have completed a short course in surgery access to the title 'surgeon' would undermine the purposes of this legislation.

Therefore RACS recommends that the Ministerial Council's power to prescribe particular classes of medical practitioner as 'surgical classes' be circumscribed.

In RACS' opinion access to the title 'surgeon' should only be available to 'classes' of medical practitioners who have *met standards of training and practice at the same level* as are required by the initial 'surgical classes' under this amendment (i.e. the specialties of Surgery, Ophthalmology, and Obstetrics and Gynaecology).

Specifically, RACS recommends that the Ministerial Council should only be able to prescribe additional 'surgical classes' if those classes have been acknowledged by the Medical Board as having^{iv}:

- 1) Significant surgery within their normal scope of practice
- 2) AMC accredited training of a standard equivalent to that of the initial surgical classes in this amendment bill (the specialties of Surgery, Ophthalmology, and Obstetrics and Gynaecology)
- 3) Standards of practice equivalent to that of the initial surgical classes in this amendment bill (the specialties of Surgery, Ophthalmology, and Obstetrics and Gynaecology)

Holding an 'endorsement' in a form of surgery if that 'endorsement' is based on *lower-standard training* should *not* be sufficient for a group to be prescribed as a 'surgical class' and to have access to the title 'surgeon'.

Finally, one of the issues with the cosmetic surgery sector has been that certain unqualified practitioners have been able to work outside their scope of practice because they conduct surgery in small unregulated facilities owned by the practitioners themselves. In RACS' view surgery should be practiced in approved facilities, where an independent process is available to ensure surgeons are working within their scope of practice. Without an assurance that surgery will only be conducted under such conditions, RACS would object to new classes of medical practitioners having access to the title 'surgeon', due to the danger that working without oversight, some such practitioners may practice beyond their scope.

This legislation is a very important change which will help protect patients, it would be a pity were an exploitable weakness be built into it from the beginning.

ⁱ The ten competencies are outlined in RACS' surgical competence and performance guide, available on the RACS' website; <https://www.surgeons.org/en/Trainees/the-set-program/racs-competencies>

ⁱⁱ RACS understands a similar standard of training is maintained by RANZCO, RANZCOG, and RACDS for their respective 'surgical class' specialties/fields.

ⁱⁱⁱ RACS understands that this legislation will not prevent those registered in 'podiatric surgery' from using the term. RACS and the Australian Orthopaedic Association have previously made a submission to a Senate inquiry expressing the strong view that programs of study leading to eligibility for registration in 'podiatric surgery' should be accredited by the Australian Medical Council, as is the case for other forms of surgery.

^{iv} The only exception RACS would consider to this circumscription would be for GPs in certain circumstances. Specifically RACS would consider allowing use of 'surgeon' to general practitioners in areas of need, where other medical specialists are less accessible, and when they have attained their qualifications via AMC accredited courses which include a significant surgical component (e.g. those provided via the 'Rural Generalist Pathway'), in combination with the words 'Rural GP/General Practitioner' i.e Rural GP Surgeon / Rural General Practice Surgeon