

6 April 2018

Mr Adam Crouch
The Chair
The Health Care Complaints Commission
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Crouch,

Subject: Inquiry into cosmetic health service complaints in New South Wales

Established in 1927, the Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand. RACS is a not-for-profit organisation representing more than 7,000 surgeons and 1,300 surgical trainees. Approximately 95 per cent of all surgeons practicing in Australia and New Zealand are Fellows of our College (FRACS).

RACS is committed to ensuring the highest standard of safe and comprehensive surgical and patient care for the communities it serves, and as part of this commitment, it strives to take informed and principled positions on issues of public health.

The RACS New South Wales (NSW) Committee not only represents our College in NSW, but has the privilege of representing almost 2000 Fellows and 450 Trainees as well as a number of International Medical Graduates on behalf of the College to key stakeholders throughout our state.

The RACS NSW Committee greatly appreciates the opportunity to make a submission to the "Inquiry into cosmetic health service complaints in New South Wales". The Committee has had good relations with key stakeholders from Health for a long time and we appreciate the interaction and opportunities to benefit not only surgery but also patient care in our great state.

As you may be aware the RACS NSW Committee has been strong proponents for safe cosmetic surgery practice in NSW for some time now and have previously advocated to the Minister for Health, to the Agency for Clinical Innovation, to the Clinical Excellence Commission and to the previous Health Care Complaints (HCCC) Inquiry into unsafe and illegal practices. We are very supportive of collaboration between agencies, organisations and government to improve quality and safety for the consumer, believing that this is the only way to bring about change and promote patient safety.

Initially the RACS NSW Committee sought the public recognition for our highly qualified surgeons who were well trained and skilled to be recognised separately by protecting the use of the word "surgeon" for our Fellows, rather than only by the post-nominal "FRACS" which is not well recognised in consumer circles. Many medical practitioners in NSW have not undertaken FRACS accredited training, but are performing surgery under local anaesthetic or conscious sedation in private clinics. In our view surgical operations should only be performed by practitioners who are registered surgical specialists. Although this has value, implementation would have unintended far reaching implications for other professionals, both inside and outside of the health sphere, due to other areas that use the term "surgeon" e.g. dental surgeons, ophthalmologists and tree surgeons.

RACS works closely with the professional societies representing its surgical specialties, including the Australian Society of Plastic Surgeons (ASPS). RACS and ASPS share the mutual goal of protecting the integrity of plastic surgery as a specialty, and to providing the highest quality care possible. ASPS partners with RACS to deliver the Australian Medical Council (AMC) accredited training program to become a recognised specialist plastic surgeon. By the time they are accredited, registered plastic and

reconstructive surgeons have undertaken a minimum of 12 years medical and surgical education, including at least five years of specialist postgraduate training. Due to the status quo there is the opportunity for under trained under qualified individuals to practice and call themselves cosmetic surgeons. As an example a cosmetic surgery clinic can call their medical specialists “Cosmetic surgeons”, although they may be doctors of other medical specialties, we feel that this may be misleading to the consumer. However these medical practitioners do meet the requirements set down by the HCCC where the consumer must have a consultation undertaken by a registered medical practitioner.

Cosmetic surgery is not recognised as a surgical specialty, nor is the title of “Cosmetic surgeon”. The training of cosmetic surgery is overseen by the Australian Society of Plastic Surgeons (ASPS) through the auspices of RACS. Only Specialist Plastic Surgeons are accredited by the Commonwealth Government of Australia, through the Australian Medical Council, to perform all reconstructive and cosmetic plastic surgery.

We support the need for the HCCC to address complaints with regards to cosmetic procedures and also the review of the sector as it becomes ever more popular. We would like to see greater visibility of responsibilities of practitioners and facilities and also greater protection for the consumer who purchases a procedure in good faith, particularly as augmentation becomes more popular. It was highlighted in 2017 that one in ten Australians aim to have plastic surgery in the next three years with the “main procedures undertaken were facial contouring (37%); facial (31%) and breast/chest enhancement (27%).”¹

Previously the Health Minister initiated a discussion paper of the “Cosmetic Surgery and The Private Health Facilities Act 2007”² in 2016 and consequent tighter regulation that came into effect in October of 2016 in New South Wales, whereby clinics administering anaesthetic resulting in more than conscious sedation had to meet standards, further to this the implementation of cooling off periods under legislation offered increased protection to the consumer, but could have gone further. This also addressed the need for all invasive procedures, namely breast augmentation and liposuction, to be performed in facilities equipped and accredited for general anaesthetic.

Unfortunately in September 2017 the death still occurred of a manager of a Sydney beauty salon where an international tourist administered anaesthetic and breast filler resulting in death.³ Although this was already outside the law implemented in 2016 the manager was the consumer in this case and the law was not adhered to. This could easily have been another consumer purchasing the service from this, or another beauty salon.

Following this death the New South Wales Health Minister, Mr Brad Hazzard queried whether beauty salons not directly undertaking surgery who were not required to have registration previously should now be obligated to do so.⁴

Under the Public Health Amendment (review) Act 2017⁵ beauty treatment operators who carry out skin penetration procedures, including waxing, must be registered with the local council. However the registration form⁶ contains only contact details, rather than qualification and experience, so does not protect the consumer any more from a practice perspective. Indeed in the Parliament of New South Wales Media release for this review it opens with “Unsafe and illegal cosmetic procedures are being performed at some cosmetic and beauty clinics by unregistered and unqualified health practitioners.”⁷ We are now more than a year later since the death in NSW and although legislation has been implemented the risks to the consumer are still apparent.

As you will be aware there has been national attempts to standardise titles to protect the public, and the *Health Practitioner Regulation National Law*⁸ was introduced in an attempt to standardise medical practitioners under the same regime. However it is not completely uniformed. In NSW this is covered by the *Health Practitioner Regulation National Law (NSW) No 86a*.⁹ The restrictions on the use of protected titles is legislated under s113. This provision explains that a person should “not knowingly or recklessly” take of use a title to induce the belief in another person that they are a registered health professional if they are not. Penalties of up to \$30,000 for an individual may apply.

As can be seen the RACS NSW State Committee are pleased that action has been taken ongoing, but we are still concerned for consumers from a health protection perspective whereby there are a number of grey areas, including the above suggestions in promoting safe practice.

Another risk that we see is the lack of awareness of the consumer as to their rights, the HCCC have promoted the changes well, but the public when making choices may go on a recommendation of an associate or website, rather than undertaking research to ensure safe positive results. We are aware that this cannot be controlled by the HCCC, but we would encourage clearer paths for the consumer to follow to get best practice and best outcomes.

To sum up

- We feel that further protections need to be put in place, particularly around confusing naming.
- The title “surgeon” should be protected for use by Fellows of recognised organisations such as RACS, or equivalent in other fields.
- There needs to be further protections in place in regards to the registration and practices of beauty salons. With all injectable procedures prescribed by a medical practitioner.
- We also feel that the HCCC has influence over registered practitioners and organisations; however increased visibility over the practitioners and organisations, qualifications, experience and scope would potentially speed up process and also protect the consumer more and
- Collaboration is essential to continual development of safe practice.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Raffi Qasabian', with a stylized flourish above the name.

Dr Raffi Qasabian,
Chair, NSW State Committee RACS

References

- ¹ Media Release, 2017 "How to choose the right plastic surgeon" 30 August 2017 *Australian Society of Plastic Surgeons* <http://plasticsurgery.org.au/wp-content/uploads/2017/08/How-to-choose-the-right-plastic-surgeon-ASPS-launces-new-website.pdf>
- ² Discussion Paper, 2016 "Cosmetic Surgery and The Private Health Facilities Act 2007: The Regulation of Facilities Carrying Out Cosmetic Surgery", NSW Government – Health, Available from: <http://www.health.nsw.gov.au/legislation/Documents/discussion-paper-cosmetic-surgery.pdf>
- ³ Media Release, 2017, "Woman dies after botched breast surgery at Sydney beauty salon", *ABC News*, 2 September 2017, Available from: <http://www.abc.net.au/news/2017-09-01/woman-who-underwent-botched-procedure-dies/8864854>
- ⁴ Naaman Zhou 2017, "Jean Huang death: New South Wales to review beauty clinic regulations", *The Guardian Australia Edition*, 2 September 2017, Available from: <https://www.theguardian.com/australia-news/2017/sep/02/jean-huang-death-new-south-wales-to-review-beauty-clinic-regulations>
- ⁵ NSW Government, 2017, "Public Health Amendment (Review) Bill 2017", New South Wales Legislative Assembly, updated 4 December 2017, Available from: <https://www.legislation.nsw.gov.au/bills/31f0d35f-88fc-45fe-bc03-93aeafd5565c>
- ⁶ Environmental Health Branch, 2012, "Control of skin penetration procedures", NSW Government – Health, Available from: <http://www.health.nsw.gov.au/environment/skinpenetration/Documents/form-c31-council-notification-skin-penetration.pdf>
- ⁷ Environmental Health Branch, 2012, "Beauty treatment - hygiene standards", NSW Government – Health, updated 4 February 2016, Available from: <http://www.health.nsw.gov.au/environment/factsheets/Pages/beauty-treatment.aspx>
- ⁸ Minister for Health and Minister for Ambulance Services, 2009, "Health Practitioner Regulation National Law Act 2009", current at 1 March 2018, Available from: <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-045>
- ⁹ NSW Government, 2017, "Health Practitioner Regulation National Law (NSW) No 86a", current at 1 March 2018, Available from: <https://www.legislation.nsw.gov.au/#/view/act/2009/86a>