



**Australian
Nursing &
Midwifery
Federation**
VICTORIAN BRANCH

535 Elizabeth Street
Melbourne Victoria 3000

Box 12600
A'Beckett Street PO
Melbourne Victoria 8006

anmfvic.asn.au
t 03 9275 9333
f 03 9275 9344
e records@anmfvic.asn.au

ABN 80 571 091 192
RTOID: 22609

ANMF (Vic Branch) Submission

Consultation Regulation Impact Statement: Use of the title 'surgeon' by medical practitioners

Lisa Fitzpatrick, Secretary
ANMF Victorian Branch

28 March 2022

23 March 2022
28 March 2022

Inquiry Contact:
Samantha Casey Professional Officer
Libby Muir Professional Officer
Email: records@anmfvic.asn.au

Introduction

The Australian Nursing and Midwifery Federation (ANMF) was established in 1924. The ANMF is the largest industrial and professional organisation in Australia for nurses and midwives, with Branches in each state and territory of Australia, we represent the professional, industrial and political interests of more than 310,000 nurses, midwives and carers nationally. The ANMF (Victorian Branch) represents close to 100,000 nurses, midwives and personal care workers (the latter predominantly in the private residential aged care sector).

The ANMF (Victorian Branch) represents, midwives, and personal care workers (the latter predominantly in the private residential aged care sector). Our members are employed in a wide range of enterprises in urban, rural, and community care locations, and the public and private health and aged care sectors.

The core business for the ANMF (Victorian Branch), is the representation of the professional and industrial interests of our members and the professions of nursing and midwifery. We have additional interests in the areas of workplace health and safety, and continuous professional development for Victorian nurses and midwives.

The ANMF (Victorian Branch) (ANMF) participates in the development of policy relating to nursing and midwifery practice, professionalism, regulation, education, training, workforce, and socio-economic welfare, health and aged care, community services, veterans' affairs, occupational health and safety, industrial relations, social justice, human rights, immigration, foreign affairs, and law reform.

The ANMF welcomes the Health Ministers' concern about quality and safety in the Cosmetic industry, including way the industry is governed, and the use of the term 'surgeon'. We appreciate the opportunity to provide feedback to the public consultation related to the *Use of the title 'surgeon' by medical practitioners in the Health Practitioner Regulation National Law Consultation Regulation Impact Statement*.¹

¹ Department of Health Victoria 2022 Use of the title 'surgeon' by medical practitioners in the Health Practitioner Regulation National Law Consultation Regulation Impact Statement.
<https://engage.vic.gov.au/medical-practitioners-use-title-surgeon-under-national-law>

Consultation RIS questions	Organisational responses
	<p>expected by their patients. This can be further examined through fellowship with an accredited specialist surgical college.</p> <p>Furthermore, the ANMF (Vic Branch) acknowledges that every nationally registered health practitioner is accountable for maintaining competency to perform their professional practice, in accordance with their individual 'scope of practice' and to ensure they are authorised, qualified and competent to continue to practice.</p> <p>It is recognised that all surgery carries clinical risk, there is both a professional (peer) and public expectation that, like all other areas of specialist practice, cosmetic surgery must be required to meet the same regulation and standards expected of practitioners, who are registered for specialities listed on the Medical Board of Australia's <i>List of Specialties, Fields of Specialty Practice and related Specialist Titles</i>.³</p>
<p>1.2 Prior to reading this RIS did you believe that cosmetic surgery is regulated in the same way as other surgery?</p>	<p>ANMF (Vic Branch) was aware that cosmetic/aesthetic surgery, and practitioners who use the title 'cosmetic surgeons,' have never been regulated in the same way as other surgical specialities and surgeons competent in those specified areas of medicine.</p> <p>For that reason, the ANMF (Vic Branch) has long considered this reform well overdue, and very timely given the recent public concerns about some cosmetic practices.</p>
<p>1.3 Does current regulation help you understand the differences between the regulation of cosmetic and other surgery?</p>	<p>The current regulation is difficult to simply interpreted and is incomplete. Specifically, it is heavily reliant on State and Territory regulation related to procedures that often occur in small practices and may lack governance and oversight in relation to quality and safety, formal policies and procedures, and /or practises that are designed to mitigate professional, clinical and operational risk within the workplace.</p> <p>Worker occupational health and safety considerations under the relevant laws are often neglected, and in some circumstances a lack of compliance with health regulation and the safe storage of medical products, equipment, human tissue and body fluid specimens, that all create unnecessary risks to works and consumers, and demonstrate a disregard for the current regulation standards.</p> <p>A major consideration also centres around consumer/patient health literacy, in particular, in relation to the minimum infection control and practitioner standards, and that they should reasonably expect.</p> <p>Consumers/patients are often limited in their health literacy and unaware of either Ahpra's recommendations for accessing a practitioner's suitability/qualifications, or they are not aware of where to access this information, or what the information provided means.⁴</p>
<p>1.4 Do you think the risks, potential harms or level of adverse outcomes associated with cosmetic surgery are higher than for other</p>	<p>Recent media and other reports indicate that there have been adverse events and that their incidence is increasing within the Cosmetic industry.</p> <p>Further, due to the lack of regulation in relation to any minimum standards for proceduralist – notably their qualifications, education, and the reporting of adverse events within the cosmetic industry, presents</p>

³ Medical Board of Australia 2018 Medical Board of Australia List of Specialties, Fields of speciality practice and related specialist titles
<https://www.ahpra.gov.au/documents/default.aspx?record=WD10%2f106%5bv3%5d&dbid=AP&chksum=OU7zOxkohlegDQJe1bkVgQ%3d%3d>

⁴ AHPRA 2020 Cosmetic procedures: #Be Safe First Ahpra and national Boards
<https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures.aspx>

Consultation RIS questions	Organisational responses
<p>areas of medical practice? If so, what is the basis for this view?</p>	<p>an inherent risk that this industry would be further exposed to because of its growth. This concern has been described by Ahpra as follows:</p> <p><i>“The person might be a registered health practitioner but may have very little experience or knowledge of the specific procedure or surgery you want.”⁵</i></p>
<p>Cosmetic surgery is not a recognised specialty under the National Law</p>	
<p>2.1 Prior to reading this RIS were you aware of the different training regimen for specialist surgeons as opposed to ‘cosmetic surgeons’?</p>	<p>The ANMF (Vic Branch) was aware of the different training regimen for specialist surgeons as opposed to ‘cosmetic surgeons’.</p>
<p>2.2 If you were unaware of this difference and have engaged a cosmetic surgical practitioner, would this knowledge have influenced your choice of practitioner? If you have not engaged a cosmetic surgical practitioner, would this knowledge impact your choice?</p>	<p>N/A</p> <p>ANMF (Vic Branch) reiterates that the Victorian public have a right to expect that all surgical procedures will be performed by practitioners who are authorised, qualified and competent to do so. This requires that they are regulated to ensure they meet high standards of education and patient care. Currently, for medical practitioners who advertise as ‘cosmetic surgeons’ this may not be the case.</p>
<p>Other elements in the regulatory framework for the performance of surgical procedures</p>	
<p>3.1 Are current guidelines, laws and regulations effectively deterring patient harm that may arise from practitioners performing cosmetic surgical procedures outside their level of competency?</p>	<p>Recent reports and feedback received via ANMF (Vic Branch) members suggest that this is not the case.</p> <p>Without effective regulation and accountability, cosmetic practices or clinics that perform any element of a cosmetic procedure appear to be able to operate without any adequate patient/client protections whatsoever. The flow on effect and potential risk to the public, is that practitioners perform procedures that are beyond their educational preparation and assessed level of competency.</p>
<p><u>3.2</u> Prior to reading this RIS were you aware of Ahpra’s register of practitioners, and if so, have you found its information useful to help you make informed decisions about</p>	<p>ANMF (Vic Branch) is aware of Ahpra’s register of practitioners.</p> <p>Such information, although useful in identifying medical practitioners who have restrictions, is limited to providing information in general terms only.</p> <p>Nurses engage with patients as consumers of health care as a foundation of their professional practice. Consequently, nurses are very</p>

⁵ AHPRA 2020 Cosmetic procedures: #Be Safe First Ahpra and national Boards
<https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures.aspx>

Consultation RIS questions	Organisational responses
<p>choosing a proceduralist?</p> <p>What additional information do you think it should include?</p>	<p>cognisant that many consumers are oblivious to, or confounded by, regulation and risk associated with their health outcomes.</p> <p>Our members' see firsthand, that health literacy is a common denominator in a patient's health outcomes. We know that people seeking cosmetic procedures may not always have the level of healthcare literacy that would facilitate them being able to utilise the Ahpra public register of health practitioners to check to qualification of their treating medical practitioner and /or the facts of other relevant information, in order to make an informed choice about their practitioner or their desired procedure.</p> <p>Many medical practitioners who advertise as 'cosmetic surgeons', list associations and fellowships with important sounding organisations, that may or may not offer education that achieves the high standards of education, and quality and safety, all patients should receive and only serve to offer a false sense of security to consumers/patients.</p>
<p>Public harm and risks that arise from the current regulatory regime</p>	
<p>4.1 Have you experienced difficulty getting cosmetic surgical practitioners to explain professional title, the risks and rewards of surgery, and their capacity to perform a given procedure? Was this more difficult than with other surgical practitioners?</p>	<p>N/A</p>
<p>4.2 Do you have any evidence of harms or complications resulting from procedures performed by practitioners who do not have advanced surgical training, or who are practising outside their scope of competence? Can these harms and complications be quantified?</p>	<p>ANMF (Vic Branch) has surveyed our members employed in cosmetic related practice and have been provided confidential information by them that is related to the harms and complications that they have witnessed because of procedures being performed by practitioners who do not have advanced surgical training.</p> <p>Our members advise that they see cases of post procedure infection following cosmetic procedures that are a major issue. One of the reasons for the increasing incidence is that there are often inappropriate or inadequate policies and procedures to guide providers both in infection control and ongoing wound management of associated medical practices.</p> <p>It is critical that any medical clinic undertaking cosmetic procedures, and cosmetic related surgical procedures must have guiding policies in place that relate to any procedures that are undertaken.</p> <p>Mandating such a requirement will serve two masters –</p> <ol style="list-style-type: none"> 1. to mitigate risk; and 2. provide clinical governance. [that should align with those set out by the Australian Commission on Quality and Safety in Healthcare (ACQSHC)]

Consultation RIS questions	Organisational responses
4.3 Do you have any evidence of harms arising from cosmetic surgeries that are the result of unethical or substandard practices or unethical conduct?	No
4.4 Can you provide information about the relationship between corporatisation and cosmetic surgery? If a relationship exists, is this more common in cosmetic surgery than in other surgical fields?	No
4.5 If corporatisation is more common in cosmetic surgery, is this is having any discernible effects on patient risk and harm?	
4.6 Can you provide evidence to show that financial incentives are attracting medical practitioners to the field of cosmetic surgery? If financial incentives exist, is this leading to greater risk and harm to patients?	No
4.7 Please provide any evidence you have about the volume of patients accessing cosmetic surgical procedures.	ANMF (Vic Branch) suggests this question highlights the lack of oversight in the industry. There must be more effective regulation and transparency in the Aesthetics/cosmetic industries to verify the widely reported growth in the industry. ^{6 7}
4.8 Can you provide evidence that demonstrates any	No

⁶ Hughes, D. 2020 Cosmetic Surgery boom is new face of COVID-19 Financial Review <https://www.afr.com/life-and-luxury/health-and-wellness/cosmetic-surgery-boom-is-new-face-of-covid-19-20200821-p55o0u#:~:text=Demand%20for%20beauty%20treatments%20including,since%20the%20COVID%2D19%20pandemic>.

⁷ Department of Health Victoria 2022 Use of the title ‘surgeon’ by medical practitioners in the Health Practitioner Regulation National Law Consultation Regulation Impact Statement. Pg 49-50 <https://engage.vic.gov.au/medical-practitioners-use-title-surgeon-under-national-law>

Consultation RIS questions	Organisational responses
<p>broader costs of post-operative outcomes of cosmetic surgeries on the health system and the broader economy? This includes any data that quantifies the cost to the public health system of revision surgeries for consumers who have suffered poor outcomes from cosmetic procedures.</p>	
<p>4.9 Are you aware of adverse impacts to cosmetic surgery patients due to there being no requirements to involve a GP in referrals? Does this have material effects on the quality of care being provided by cosmetic surgical proceduralists? If so, how this might reasonably be demonstrated?</p>	<p>No</p>
<p>4.10 Can you provide any evidence demonstrating the effectiveness or ineffectiveness of the National Law's advertising provisions, particularly in relation to the cosmetic surgery industry?</p>	<p>The advertising provisions set out in the national law's⁸ should provide some protection, however because the title 'surgeon' is not protected, there is nothing preventing the medical practitioner who works in the cosmetic industry from advertising themselves as a cosmetic surgeon regardless of their prior education and experience.</p> <p>Ahpra again places this obligation on the consumer to be aware, stating that:</p> <p><i>"The person might be a registered health practitioner but may have very little experience or knowledge of the specific procedure or surgery you want. Choose someone who is qualified, knowledgeable, skilled and experienced in performing the procedure or surgery. Ask about their qualifications and experience."</i>⁹</p> <p>Ahpra recommends that the consumer/patient ask the practitioner about their 'credentials'. ANMF (Vic Branch) considered this is inadequate, as it does not address the client's level of health literacy, nor their understanding of what is a suitable qualification for the practitioner to hold in order to undertake the (any) procedure.</p>

⁸ Health Practitioner Regulation National Law (Victoria) Act 2009. Available at: [HEALTH PRACTITIONER REGULATION NATIONAL LAW \(VICTORIA\) ACT 2009 \(austlii.edu.au\)](https://www.austlii.edu.au/au/other/dfat/special/regulation/national-law/victoria-act-2009/)

⁹ AHPRA 2020 Cosmetic procedures: #Be Safe First Ahpra and national Boards <https://www.ahpra.gov.au/Publications/Cosmetic-surgery-and-procedures.aspx>

Consultation RIS questions	Organisational responses
	It would be more appropriate that such a determination is decided by professional peers through regulation of the position, or protection of the title.
4.11 Can you provide any information about whether Ahpra's public register of practitioners helps to address any identified cosmetic surgery regulatory issues?	<p>The Aphra public register only provides information about a particular practitioner listed as specialist, that demonstrates that they have specialist qualifications in addition to their base qualification required for registration to practice as a medical practitioner.</p> <p>The Aphra public register does not address regulatory issues particular to a 'Cosmetic Surgeon' who is not in a listed as being authorised by Aphra in the specialty, in the same way it does for an anaesthetist or a plastic surgeon.</p> <p>The term 'Cosmetic Surgeon' is not a specialist title with the associated educational requirements for registration under that title.¹⁰</p> <p>In the case of cosmetic surgery, the public register does not address identified cosmetic surgery regulatory issues and will only warn a person of a practitioners practice, once they have a condition attached to their registration noted on the public register.</p> <p>By the time such an alert is placed on the public register, significant harm may already have been caused.</p>
Available data: quantitative and qualitative	
5.1 Are the issues relating to title restriction accurately outlined in this RIS?	Yes, although the RIS does not address the operational, delegation and supervision obligations on the practitioner, or any policy and procedure matters relating to nursing staff working for a cosmetic surgeon, nor the lack of quality and safety risk oversight required in those clinics.
5.2 How do you currently satisfy yourself that your practitioner is qualified to perform their desired surgery, cosmetic or otherwise? How did you satisfy yourself that a practitioner was qualified prior to reading this RIS?	N/A
5.3 Does this RIS accurately describe surgical procedures (cosmetic or otherwise) performed by practitioners, the types of specialists and other registered practitioners that perform them and the accepted parameters of practice for these practitioners?	N/A

¹⁰ Medical Board of Australia 2018 Specialist Registration
<https://www.medicalboard.gov.au/Registration/Types/Specialist-Registration.aspx>

Consultation RIS questions	Organisational responses
Options and cost-benefit analyses	
6.1 Do you support maintaining the status quo (Option 1)? Please explain why.	The ANMF (Vic Branch) does not support maintaining the status quo. The growth of the industry and the number of identified complications, must lead to greater regulation, and a concerted public health education and communication campaign.
6.2 Do you support implementing alternatives such as Options 2.1 or 2.2 to amending the National Law? Do you support implementing one or both? Please explain why. If this option is preferred, what reforms or initiatives would be required to realise either or both sub-option/s?	<p>In part, ANMF (Vic Branch) is supportive of implementing both, however not as an alternative to implementing Option 3 and Option 4.</p> <p>To address the issues relating to quality of care and patient safety in the Aesthetics/Cosmetic industry, ANMF recommend a regulatory and educational approach to ensuring safety in this rapidly growing area of health care.</p> <p>Regulation should not be limited to the title of 'surgeon', rather it should be expanded to address quality and safety issues throughout the sector with, at a minimum requirement for suitable accreditation.</p>
6.3 Do you support strengthening existing mechanisms in the National Scheme (Option 3)? Please explain why.	As above
6.4 Do you support restricting the title 'surgeon' under the National Law (Option 4)? Please explain why. If option 4 is preferred, which medical practitioners should be eligible to use the title 'surgeon', and why should option 4.1 or 4.2 be preferred?	<p>With regard to Option 4.1 or Option 4.2, this should be assessed by associated specialist practitioners and the most protective option put in place.</p> <p>The use of the title of surgeon is currently misleading to the public, their protection should be of utmost importance and only practitioners with the appropriate skills and knowledge to undertake surgery safely should do so.</p>
6.5 Will restricting the title 'surgeon' prevent medical practitioners who cannot use that title from using other titles that imply they are expert providers of cosmetic surgical services?	<p>The title surgeon has significant influence amongst the Australian community and clients, or patients seeking cosmetic surgery, would rightly expect that a 'surgeon' meets established education standards and strives to continuously improve their practice. They would expect that the surgeon is able to perform the procedure to the highest standard.</p> <p>This expectation may not be associated with other titles in the same way.</p> <p>Further should the change in the status of the title surgeon be implemented with expanded quality, safety and risk reporting and regulation, and an associated and effective education and</p>

Consultation RIS questions	Organisational responses
	communication campaign for consumers, patient/client safety would also be improved.
6.6 What other impacts will be restricting the title 'surgeon' have on surgical specialists and other medical practitioners, including those who obtained their qualifications overseas?	N/A
6.7 Is it likely that cosmetic surgery consumption patterns will change because of title restriction (whether option 4.1 or 4.2)? In what way? Will they be changed by options 2 and 3? In what way?	This will depend on the implementation of the program; however, the utmost focus of this review must be patient safety and quality of care. The cost of adverse events on a patient and their family, as well as on the health system, can be devastating.
6.8 Is the regulatory burden estimate provided in this RIS realistic? How likely is it that medical practitioners would embark on advanced studies solely in order to call themselves a 'surgeon'? Do you expect option 4.1 or 4.2 to heighten demand for advanced surgical qualifications? If so by what number? What evidence do you have to support this view?	<p>While the requirements are significant, this should be taken on balance with people's right to safe and high-quality health care and the cost of adverse events on patients, their families, the community and the health system.</p> <p>An increase in the requirements for 'cosmetic surgeons' may reduce the number of medical practitioners pursuing the specialty, however:</p> <ol style="list-style-type: none"> 1. The process will take time and practitioners will be able to prepare for the change. 2. The industry may consider implementing a process for training and assessment that is suitable for current and experienced practitioners that is shorter in length than the initial training required for these specialist surgeons. <p>In the context of recent reports of significant harm to patients of a dermatologist 'cosmetic surgeon' Option 4.2 would not prevent those harms from occurring unless there were additional regulations on their practitioners to ensure they maintained their surgical skills and had suitable regulation through a surgical college.</p>
6.9 Should any options be implemented alongside other options, as a package? If so, please explain why this would be ideal and how any potential impediments might be overcome?	Options 2, 3 and 4 should be considered to provide a comprehensive approach to improving quality and safety in 'cosmetic surgery' and the cosmetic/aesthetic industry more broadly.
6.10 Should Australian lawmakers be mindful of the potential for regulatory change in Australia to shift cosmetic surgery consumption to	<p>Yes, however Australians should be warned against cosmetic surgery consumption to other jurisdictions or overseas.</p> <p>By communicating the reasons for the shift in Australia, the public will perhaps better understand the risks that may be associated with</p>

Consultation RIS questions	Organisational responses
other jurisdictions abroad? What would the impacts be?	pursuing cosmetic procedures where they cannot be certain effective regulation exists.
6.11 Are you concerned that a particular option might have serious, adverse and possibly unanticipated effects? Please state which option/s and unanticipated effects, and why you hold these concerns.	As above
Additional comments	
Please include any additional comments or identified risks that you believe should be considered by health ministers.	

To receive this document in another format, phone (03) 9500 4392, using the National Relay Service 13 36 77 if required, or [email the NRAS Review Implementation Project Team](mailto:NRAS.Consultation@health.vic.gov.au), <NRAS.Consultation@health.vic.gov.au>.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Australia, Department of Health, January 2022.

ISBN 978-1-76096-698-0 (online/PDF/Word) or (print)

Available at [Medical practitioners' use of the title surgeon under the National Law, Engage Victoria](https://engage.vic.gov.au/medical-practitioners-use-title-surgeon-under-national-law)
<<https://engage.vic.gov.au/medical-practitioners-use-title-surgeon-under-national-law>>