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**Cosmetic Surgery and The Private Health Facilities Act 2007  
The Regulation of Facilities Carrying Out Cosmetic Surgery  
Submission on Discussion Paper**

Avant welcomes the opportunity to respond to NSW Health's Discussion Paper.

Avant is a medical indemnity organisation representing over 68,000 medical and allied health practitioners and students in Australia, including practitioners performing cosmetic surgery. We have over 23,000 members in NSW.

*General Comments*

We understand that the Discussion Paper has been released following concerns that have been reported in the media about recent incidents involving cosmetic surgery. We understand that investigations are currently underway into these incidents, but the outcomes of these investigations are not yet known.

Avant's data indicates that the majority of complaints, claims and incidents involving cosmetic procedures relate primarily to clinical outcomes, patient dissatisfaction with results and/or treatment received, and inadequate consent.

Overall, Avant agrees that there needs to be better regulation in the area of cosmetic medical and surgical treatment. We believe that this should be done on a national basis. We supported the Medical Board of Australia's proposal to strengthen current guidance for medical practitioners providing cosmetic medical and surgical procedures in our submissions to the Medical Board's consultation on registered medical practitioners who provide cosmetic medical and surgical procedures.

We agree that it is reasonable to consider whether the current regulation of facilities where cosmetic surgery is carried out is appropriate. We support a responsive, risk-based approach to regulation whereby the least intrusive course of action that will protect the public from the risk of harm is taken, with escalation to more intrusive action when minimally-invasive strategies do not (or will not) work. We agree with the comment on page 3 of the Discussion Paper that "it is important that the Ministry only regulates in these areas where there is a public health and safety risk that can only be appropriately mitigated by way of requiring facilities to be licensed." In general we support increased regulation where there is a clear need.



It is unknown from the Discussion Paper whether the recent incidents involving cosmetic surgery would have been prevented if the surgery had been performed in a facility licensed under the *Private Health Facilities Act 2007*. We do not disagree with the need to license facilities where surgery and anaesthesia are being performed. However, in our view, additional regulation should only be introduced after consideration of all the issues including benefits, harms, access, compliance costs, costs to patients, and potential unintended consequences. In other words, it should be clear that increased regulation will prevent the harms seeking to be averted and lead to better patient outcomes.

*Definition of the new class*

We agree that a key issue is ensuring that the definition of the new class appropriately captures high risk procedures.

We refer you to our Category of Practice guide (available from our website at <http://www.avant.org.au/Products/Medical-Indemnity/Practitioner-Indemnity-Insurance-Policy/>). The procedures that fall within the category “Cosmetic Practice – Advanced”, typically surgical procedures performed by cosmetic practitioners, are listed on page 14.

If a new class is to be included in the *Private Health Facilities Act and Regulation*:

- We agree with the definition outlined in question 3 on page 6 of the Discussion Paper.
- We agree with the inclusion of vaginoplasty and calf implants in the list of procedures (as outlined in question 4 of page 7 of the Discussion Paper).
- We recommend the addition of labiaplasty and priapus injections to the list of procedures.

The definition of the new class needs to be sufficiently flexible to ensure that future procedures with the same or similar risk profile fall within the definition so that further amendment of the legislation is not required. Another option is to permit the Minister to be able to declare new procedures to be “cosmetic surgery” without the need for amending legislation to be passed.

Please contact me on the details below if you require any further information or clarification of the matters raised in this submission.



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