Avant
By doctors for doctors

Avant Mutual Group Limited
ABN 58 123 154 898

Registered office
Level 6, Darling Park 3
201 Sussex Street, Sydney NSW 2000

Postal address
PO Box 746 Queen Victoria Building
Sydney NSW 1230

DX 11583 Sydney Downtown

avant.org.au

Telephone 02 9260 9000 **Fax** 02 9261 2921
Freecall 1800 128 268 **Freefax** 1800 228 268

25 May 2023

Cosmetic Surgery Project
Australian Commission on Safety and Quality in Health Care

By email: cosmeticsurgery@safetyandquality.gov.au

Avant Submission to the consultation on the draft National Safety and Quality Cosmetic Surgery Standards

Thank you for the opportunity to provide a response to the consultation on the draft National Safety and Quality Cosmetic Surgery Standards, conducted by the Australian Commission on Safety and Quality in Health Care.

Our submission is attached.

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

Yours sincerely

Georgie Haysom
General Manager, Advocacy, Education and Research
Email: georgie.haysom@avant.org.au

Avant Mutual Group Limited
ABN 58 123 154 898

Avant Submission to the consultation on the draft National Safety and Quality Cosmetic Surgery Standards (Cosmetic Surgery Standards)

Avant is a member-owned doctors' organisation and Australia's largest medical indemnity insurer, committed to supporting a sustainable health system that provides quality care to the Australian community. Avant provides professional indemnity insurance and legal advice and assistance to more than 82,000 healthcare practitioners and students around Australia (more than half of Australia's doctors). Our members are from all medical specialities and career stages and from every state and territory in Australia.

We assist members in civil litigation, professional conduct matters, coronial matters and a range of other matters. Our Medico-legal Advisory Service provides support and advice to members and insured medical practices when they encounter medico-legal issues. We aim to promote quality, safety and professionalism in medical practice through advocacy, research and medico-legal education.

With that aim in mind, we confirm our broad support for regulatory change in relation to cosmetic surgery. We consider that effective change in this area requires a system-wide approach and Avant strongly supports national consistency in the regulatory framework.

The draft Cosmetic Surgery Standards are an important part of those changes and achieving national consistency. Avant agrees that cosmetic surgical procedures should be performed in licensed facilities.

We welcome the statement in the draft Cosmetic Surgery Standards that the Commission is working with state and territory jurisdictions to develop a National Licensing Framework for Cosmetic Surgery to ensure that all cosmetic surgical procedures are performed in licensed facilities (page 4). We consider that this should be accompanied by harmonisation of the various state and territory legislation governing what types of cosmetic surgery can be performed in certain facilities.

Given the Cosmetic Surgery Standards will be new and the scale of changes they implement, we recommend that there should be a substantial education campaign for practitioners and facilities impacted to ensure widespread awareness and compliance. This should be done in conjunction with other regulators such as the Medical Board, given that the requirements for accreditation of facilities are also relevant to individual practitioner's obligations to only perform procedures in accredited facilities.

Note: All reference to the Medical Board of Australia's 'Guidelines for registered medical practitioners who perform cosmetic surgery and procedures' are references to the revised guidelines due to come into effect on 1 July 2023.

Introduction: Is there any further information required to support your understanding of the context of the Cosmetic Surgery Standards and how they are to be applied?

There are a number of sources of information from regulatory and other organisations relevant to who performs cosmetic surgery and where it is performed. We recommend that the Cosmetic Surgery Standards include a section addressing how the Standards are to be read in conjunction with these other sources. This would be particularly relevant to the areas where there might be some confusion or conflict with those other sources (see below in relation to terminology).

Language: How could the language and terminology used be improved to make it easier to understand and more appropriate and applicable to cosmetic surgery service providers?

We support the inclusion of Terminology for key terms (pages 6-7) and the glossary at the end (pages 50-57). We consider that consistency of the key terms across regulatory sources in this area is very important for clarity for practitioners, facilities and for patients.

Specifically, we are concerned about the potential for confusion and inconsistency between the definitions of 'cosmetic surgery' in the Cosmetic Surgery Standards (page 6) and the Medical Board of Australia's revised 'Guidelines for registered medical practitioners who perform cosmetic surgery and procedures' effective 1 July 2023[1] (the Board's Guidelines). For example, the definition in the Board's Guidelines states only that 'Cosmetic surgery involves cutting beneath the skin' but the definition in the Cosmetic Surgery Standards covers '…invasive surgical procedures, such as physical removal or readjustment of organs or tissues to revise or change the appearance, colour texture, structure or position of normal bodily features and often involving cutting beneath the skin'. Interventions such as laser-cutting and injections to the genitalia (non-medically indicated) would likely be included in the Cosmetic Surgery Standards definition but potentially not covered by the Board's definition. This will impact on the implementation of the requirements for facilities and cause confusion as to what might be covered by the Cosmetic Surgery Standards but not considered cosmetic surgery for the purposes of the Board's Guidelines.

Where there are inconsistencies, we recommend that the Cosmetic Surgery Standards set out how these inconsistencies will be approached. We also recommend that the definitions, and those in the Board's Guidelines, are reviewed and reconsidered, for example, at about the first twelve months after implementation.

The use of the term 'service provider' in the context of the proposed definition is potentially confusing (pages 6-7). Without closely reading the definitions, 'service provider' could easily be confused for its ordinary meaning which would include individual health practitioners in addition to facilities. We consider that changing this term to 'health service

[1] Page 2, Medical Board of Australia - Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures

organisation' would be clearer for readers and those applying the Cosmetic Surgery Standards. This terminology is used in many other ACSQHC documents.[2] Using the same term would provide better clarity regarding the different governance obligations for organisations and individuals. If that change was made, the wording of the definition can largely remain the same in terms of explaining the meaning. The definition already states that the 'service provider' is also referred to as the 'facility' which in particular should remain as this is important for clarity and consistency with legislation regarding facilities in this area.

Appropriateness: Do the actions cover the key safety and quality issues for cosmetic surgery service providers? If no, please provide details.

Broadly, we consider that the actions do address the key safety and quality issues for cosmetic surgery. We have provided feedback and suggestions under each of the other questions where wording could be amended or clarified.

Clarification: Does the content require any further clarification or rewording? If yes, please provide suggestions for these changes.

Item 1.04

Item 1.04a (page 10) refers to service providers having "processes to assure itself that clinicians conducting cosmetic surgery comply with Medical Board of Australia and jurisdictional requirements for the assessment of patient suitability for the planned surgery". This is somewhat limiting because it only refers to patient suitability. Therefore we recommend the point be amended to refer generally to compliance with the Medical Board of Australia's (the Board) and jurisdictional requirements, by removing the words "for the assessment of patient suitability for the planned surgery" from item 1.04a. This would encompass compliance with all aspects of the Board's requirements set out in the Board's Guidelines coming into effect on 1 July 2023, not just the patient suitability assessment, and would promote greater safety and quality from service providers and clinicians.

Items 1.07 and 1.08

Items 1.07 and 1.08 (page 12) refer to requirements regarding contributing to clinical quality registries and acting on the reports from those registries. As we understand it, while the Medical Board's registration standard introduced a requirement to contribute to clinical quality registries, these are not yet identified nor listed on the Board's website. Therefore there may need to be further details or resources provided to practitioners to understand the content of this requirement and ensure compliance.

Items 1.16 and 1.17

Items 1.16 and 1.17 (pages 13-14) will likely require further support and resources to enable implementation. In our experience in hearing from our members, we understand that integration of electronic clinical information across different systems in different

[2] For example, as defined in Consumers and accreditation | Australian Commission on Safety and Quality in Health Care

hospitals, practices and other healthcare facilities and across different states and territories (interoperability) can be challenging. Work would need to be done to address any challenges prior to this requirement being implemented.

We agree with the proposal that there is standard national terminology as harmonisation of words and terms used would benefit patient safety and understanding amongst clinicians.

Items 1.20 and 1.21

The effect of the current wording of items 1.20 and 1.21(page 15) is unclear, particularly when read together with the Board's Guidelines and the Board's 'Registration standard: endorsement of registration of registered medical practitioners for the approved area of cosmetic surgery'[3] ('endorsement registration standard').

The term 'scope of practice' can be confusing for practitioners and the wording of item 1.20a potentially implies that service providers can define the scope of practice for their own facilities. This potentially undermines the safety and quality of health services being provided and may cause confusion and inconsistency of experience for patients. It is unclear what the intention of 1.20a is and we recommend it be amended to avoid any creep outside of accepted scope of practice in individual facilities.

Item 1.21 says processes need to be in place to ensure that cosmetic surgery and associated anaesthesia are only performed by 'medical practitioners with appropriate qualifications, skills and training recognised by national legislation'. It is not clear what national legislation this refers to and whether this is intended to refer to the requirements for endorsement from the Medical Board and Australian Medical Council (AMC), or more generally to the *Health Practitioner Regulation National Law*.

Section 9.1 (page 7) of the Board's Guidelines refer to the need for practitioners providing cosmetic surgery to have the 'appropriate knowledge, training and experience to perform the surgery' and also refers to the incoming cosmetic surgery endorsement as appropriate training. The Board's Guidelines are not 'national legislation' and it is not clear how the requirements of items 1.20 and 1.21 should be read together with the Board's Guidelines and the endorsement registration standard. Clarity regarding these requirements is crucial for patient understanding and for individual practitioners and service providers to be able to comply with this requirement.

The reference to the requirements for practitioners assisting with the provision of anaesthetics in item 1.21b is also a potential source for confusion, given the wording. Perhaps it is intended to refer to anyone providing anaesthesia for cosmetic surgery, not just someone assisting someone else provide anaesthesia. We recommend that this be reworded depending on the intention.

[3] Medical Board of Australia - Registration Standards

Items 2.04 to 2.10
These items relating to informed consent should make clear reference to the existing requirements from the Board's Guidelines and the Board's 'Good Medical Practice: A code of conduct for doctors practising in Australia' (Code of Conduct).

We recommend that the wording in item 2.04 (page 21) be amended to include reference to the Board's Guidelines as well as the Code of Conduct. We suggest this wording could be along the following lines: '2.04 The service provider [facility] ensures that its informed consent processes comply with legislation, the requirements of the Medical Board of Australia and current best practice'. This would help reinforce the integration of these Cosmetic Surgery Standards with the requirements from the Medical Board, rather than a general reference to "best practice".

In relation to items 2.06b and 2.06c, practitioners and service providers would benefit from clarity regarding the level of detail expected. These items, together with item 2.10, could be read to impose an obligation to include information about what each individual practitioner performing surgery charges.

In relation to item 2.10e, we recommend 'when' is changed to 'if'. This section could also refer to the requirements of section 6 of the Board's Guidelines for clarity, such as those set out in section 6.8.

Item 2.12
The requirements set out in item 2.12 are appropriately drawn from section 133 of the *National Health Practitioner Regulation National Law* (the National Law) and this item would benefit from direct reference to that section. We also recommend it refer to the Board's 'Guidelines for registered medical practitioners who advertise cosmetic surgery' (the Board's new advertising guidelines for cosmetic surgery) which come into effect from 1 July 2023. This will help reinforce awareness and understanding of the legal requirements that apply to advertising. The audits of advertising referred to in 2.12 would necessarily be done in accordance with the requirements of the Board's new advertising guidelines for cosmetic surgery.

Item 4.03
As mentioned above, this item also potentially causes confusion by implying that service providers can individually define scope of practice. However, particularly in relation to matters such as prescribing, dispensing and administering medicines, there may well be state and territory legislative requirements regarding who can do these tasks.

Item 4.04
The term 'best possible' in item 4.04 is vague and potentially implies something different than the way it is defined in the glossary (page 50). We recommend this be amended to replace 'best possible medication history' with the wording from the glossary definition, being 'a list of all the medicine a patient is using at presentation' and a reference to the

glossary is included to ensure this is cross-referenced when complying with this part of the Cosmetic Surgery Standards.

Item 5.07
Assessment for suitability for cosmetic surgery should also be informed by the Board's Guidelines and particularly the requirements set out in section 2 (page 3). We recommend reference to the Guidelines be included in this item.

Gaps and duplication: Are there any gaps or unnecessary duplication in the document? If yes, please provide details.

Items 6.06 and 6.07
The consumer outcomes articulated for items 6.06 and 6.07 does not necessarily correlate with the content as this is limited to clinical handover. There will be patients seeing a new clinician who have not been handed over as such. Additional information could be added to this section to provide guidance on what is required outside of clinical handover settings.

Item 6.10
The information in item 6.10 is potentially confusing in that it could implies the three items at a, b and c are all that is required to be included in a healthcare record. We recommend that additional information be added to this consumer outcome, perhaps with reference to the requirements of the Code of Conduct.

Devices
There is current reference to invasive medical devices in relation to infection control (standard 3) and in relation to reporting of adverse events related to devices (standards 4.06 - 4.08). However, we consider there should also be substantive requirements relating to the use of invasive medical devices such as prostheses/implants. These should include requirements for determining type, size and brand prior to surgery, and for the intended prostheses/implants to be immediately available during surgery.

Other feedback: Please provide any other feedback

We support the increased regulation of cosmetic surgery and the facilities where those surgeries are performed, in the interests of quality and safety for patients and practitioners. While these Standards and the foreshadowed National Licensing Framework are important steps, these will be most effective if supported by national consistency of facilities legislation across all Australian jurisdictions.

Avant Mutual
25 May 2023