

## Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022

**Submission No:** 26  
**Submitted by:** Operation Redress  
**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**  
**Submitter Recommendations:**



## **Submission: HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL 2022**

### **Acknowledgement**

It's important to note we have great respect for the many health professionals working each day in such important and often life saving roles. We acknowledge that health practitioners are put in difficult situations that we could never understand, particularly during the pandemic. In addition, we have both experienced medical emergencies that required emergency surgery: we would not be here today without this intervention.

### **Who we are**

We are researchers and consumer advocates who have helped expose systemic wage theft (7-Eleven, Domino's Pizza, etc.), systemic issues in the franchising sector (Retail Food Group [Brumby's Bakery, Crust Pizza, Donut King, Michel's Patisserie], Mortgage Choice, etc.), fee gouging with Australia's largest toll road operator Transurban, and more recently, systemic issues in Australia's cosmetic surgery industry.

Operation Redress Pty Ltd was formed as a grassroots advocacy entity. Our purpose is to achieve regulatory and legislative change Australia-wide and aim to work with the media, regulators, politicians, and other stakeholders to ensure positive change is created. Our focus for almost two years has been on social media advertising and use by doctors who perform cosmetic surgery. Social media is the easiest and cheapest way for doctors or clinics to have such a wide reach of their potential patients. Without tighter regulation and oversight, we will see cowboys thrive in the cosmetic surgery industry, further creating risk to the public's safety.

This Submission is largely focused on the cosmetic surgery industry. Even though proposed changes would impact all industries within the medical sector, our research has generally not covered other industries and as such we do not propose to provide any insights on these industries.

### **Cosmetic Surgery Industry**

Cosmetic surgery is unique in the sense it involves both a serious medical procedure, but is also not often medically required.

This has meant in some instances profit is put before people and the industry increasingly becomes commercialised. The cosmetic surgery industry is booming<sup>1</sup>, with people seeking out aesthetic changes to their appearance based on trends, social media<sup>2</sup>, insecurities, self-esteem issues, or reasons to do with pain, pregnancy, and medical conditions. Some studies have already shown how social media plays a role in impacting self-esteem and confidence of young women<sup>3</sup>.

### **AHPRA & National Boards - Guidelines for advertising a regulated health service**

*“In the context of advertising a regulated health service, advertising includes all forms of verbal, printed and electronic communication that promotes and seeks to attract a person to a regulated health service provider and/or to attract a person to use the regulated health service. Social media is also often used to advertise a regulated health service.”<sup>4</sup>*

A number of doctors in this space are using glamorous, sexualised, filtered, enhanced, staged, and ‘selfies’ images to advertise cosmetic surgery on social media. Some providers create a narrative that cosmetic surgery is quick, easy, and very safe. They are profiting from the very issues they have created or exacerbated.

It’s not uncommon to see cosmetic surgery providers accompany social media advertising with a bland risk statement, but we note that many of these posts are already breaching the Advertising Guidelines published by the Australian Health Practitioner Regulation Agency (AHPRA). Yet given the seriousness and frequency of these posts, little seems to be happening in regards to protecting the public from advertising in a way that is against the National Law.

### **Removing The Prohibition Of The Use Of Testimonials In Advertising**

We have grave concerns over allowing testimonials to be used in advertising. There are already a concerning number of instances of false, misleading or deceptive advertising happening in the cosmetic surgery space and no action appears to be taken to stop it.

Almost every day on social media we have observed prominent cosmetic surgeons posting testimonials or purported testimonials. It is already against the law, they know the industry is on high-alert because AHPRA are reviewing the industry and the media continue to expose cosmetic surgeons behaving badly, yet they do it anyway. This industry is already out of control on social media. Giving them more freedom to advertise will only lead to public harm.

<sup>1</sup> <https://www.smh.com.au/lifestyle/health-and-wellness/cosmetic-surgery-boom-needs-tighter-controls-20211201-p59dxt.html>

<sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6756652/>

<sup>3</sup> <https://link.springer.com/article/10.1007/s12144-019-00282-1>

<sup>4</sup> <https://www.ahpra.gov.au/documents/default.aspx?record=WD20/30461&dbid=AP&chksum=0sNkdBzefE4jEabpVY862A%3d%3d>

### Existing access to testimonials

It is incorrect to assert that consumers do not have access to reviews and testimonials. Consumers and prospective patients can freely and easily access testimonials on review sites such as Google Reviews and RealSelf. Currently, the National Law prohibits healthcare providers from using these or other reviews and testimonials in advertising. It is of no material benefit for consumers to have reviews and testimonials used in advertising, and instead comes with increased risk of public harm. Currently, consumers already considering cosmetic surgery will seek out reviews and testimonials: it is not as if testimonials are banned in all circumstances.

Enabling cosmetic surgery providers to use these testimonials in their own advertising means people could be influenced or persuaded subconsciously to have unnecessary and risky procedures. It will mean people are targeted while they are driving or commuting (testimonials on the radio, on the back of buses, on billboards), while they are at school or work (testimonials on social media), and while they are at home (testimonials on TV). To be clear, cosmetic surgery providers already target consumers in these ways, of which our research shows multiple breaches of the existing Advertising Guidelines, but using testimonials adds a layer of potentially misguided trust, especially if the testimonial is by someone in a position of influence.

Other concerns surrounding removing the prohibition of testimonials in advertising are:

- A patient might publish a positive Google Review of their experience, but might not realise it could be used in advertising which could:
  - Include audiences of children and young people
  - Encourage surgery
  - Promote insecurities and self-esteem issues
- A patient might provide a testimonial soon after their surgery (including while impacted by sedation) which is knowingly or unknowingly used in advertising, but the patient then starts to have complications. There is no way for this patient to then retract their testimonial as it might have already been published and accessed by millions of people, and means their testimonial is deceptive and misleading.
- A patient might be gaslit or manipulated into providing a testimonial, despite not actually being happy with their surgery.
- A patient might be encouraged by a clinic worker to share their positive feedback in writing via private message with the doctor or clinic, such as having a clinic worker tell the patient, “the doctor loves to hear how much your surgery helped you”. We have instances of these private messages being used on social media by doctors (which is against the National Law), and there is no way of knowing if the patient consented to this, or understood it was going to be used in advertising.

Sending a private message to a doctor who is fully aware of what the procedure entails and the patient's history, circumstances, and any complications they experienced, is very different to how one might write a review for public consumption. The patient might feel comfortable writing to the doctor thanking them, but might include context with a lot more detail around pain levels, discomfort, recovery, and other aspects of their medical journey if they were writing a public review.

- A patient might genuinely like the outcome of their surgery and provide a testimonial to be used in advertising, but often the results aren't clear for a few months. When swelling subsides, it's not uncommon to hear that a patient is unhappy with the end result.
- A patient's testimonial might be used in Stories features on social media, which often disappear after 24 hours. This means there is no record of how the testimonial was used, whether it was edited or manipulated, and no proof for the regulator to take action on should it be a breach.

Concerningly, we believe young people and children will be specifically targeted in advertising cosmetic surgery, particularly ear pinning procedures. These groups will be influenced or persuaded by testimonials subconsciously, and providers will use their existing 24/7 platforms to target children and young people in their homes and schools.

#### The fallback of "false, misleading, deceptive" advertising

There is no simple way for a consumer to fact check a review or testimonial when it has been used in a healthcare provider's advertising. While the proposed amendment stipulates that testimonials would be held to the same standard of other advertising (that they cannot be "false, misleading or deceptive"), it's important to remember a consumer has no simple way of determining whether a testimonial is false (unless they personally know the individual who left it), has no way of knowing if a testimonial is misleading (unless there is someone to blow the whistle), and has no way of knowing if a testimonial is deceptive (unless they go through with the surgery).

In the spirit of transparency, if the condition for using testimonials in advertising is that they can't be false, misleading or deceptive, it is important to know the context around how many penalties cosmetic surgery providers have incurred for false, misleading, or deceptive advertising as it currently stands. Our own observations and research have concluded that false, misleading, or deceptive advertising is common online.

If providers in the cosmetic surgery space have never been, or are rarely penalised under the National Law for breaching false, misleading, or deceptive advertising laws on social media, then stating that testimonials will be held to the same standard is redundant: the standard is poor. The regulator has previously said they are not proactive, and having oversight of the many cosmetic surgery providers' (and indeed all healthcare providers') use of social media appears to be daunting.

### Consumer redress for false, misleading, deceptive advertising

This proposed law change in no way benefits consumers. It does the opposite: it opens them up to false, deceptive, misleading, incentivised, and edited testimonials being used anywhere 24/7. The average consumer would not know what false, misleading, or deceptive advertising constitutes, or if they suspected it, would not know how to confirm if a testimonial was false, misleading, or deceptive.

Further, if a consumer is able to identify and confirm that a testimonial used in advertising was false, misleading, or deceptive, there is no clear, easy, cheap, quick, or fair way for them to seek redress or put a stop to the advertising. AHPRA says they only act on very serious complaints, and even if they did act on an advertising breach, it could take many months to see a result. It would be unreasonable to expect a consumer to engage a solicitor to enforce the National Law because no authority will act quick enough to protect the public. The public is simply not protected if the fallback for allowing testimonials to be used in advertising is that the testimonials cannot be false. It puts the onus back on an uninformed consumer to know a) how to determine what is false, misleading, or deceptive, and b) where to go if they believe it is.

### Testimonial Variants

Some cosmetic surgery providers have attempted to find a loophole around using testimonials in advertising by publishing testimonial variants. A testimonial variant is where a provider films a 'reaction video' or 'video reveal' of their patient, who the audience is led to believe has not yet seen the results of their surgery. The patient does not say a word in the video, but is obviously elated with their results, often crying. We believe this is a cunning way to avoid penalties for using testimonials in advertising, and the guidelines and National Law should explicitly prohibit the use of testimonial variants. A reaction video is much more powerful and influential in encouraging others to have surgery than a positive verbal or written statement.

### Negative Reviews

We have come across a number of lawsuits where cosmetic surgery providers are the litigant. Further research shows they are suing patients for defamation after a review sharing a negative outcome or experience was left online. As consumer advocates, we have concerns around this approach.

Obviously very egregious false elements of reviews should be removed. However, we are seeing instances of patients being sued for sharing their experiences on review websites about their results. While there may be defences to defamation, it is extremely stressful, daunting, and expensive for patients to be the defendant in a lawsuit brought on by a presumably wealthy surgeon. In many cases, these reviews will simply disappear as patients do not want the stress or expense of defending themselves in court.

Defamation threats have considerable risk of public harm as patients are not able to share negative experiences publicly without risking a lawsuit.

Doctors who do cosmetic surgery are not only curating their social media feeds of just positive results, but are also threatening legal action for anyone who leaves negative statements on review sites. It's deeply problematic when the public cannot rely on any type of public information to conduct research. There is a power imbalance that frequently exists between doctors and patients. The National Law needs to consider how to balance the rights of a doctor with patients having the ability to share their honest experience publicly.

Allowing providers to use positive testimonials, in conjunction with allowing providers to sue for or remove negative reviews, leaves the public uninformed and at great risk. If a prospective patient wishes to conduct some due diligence and balance reviews used in advertising against public reviews on other sites, it could mean they are left with the false impression that the doctor has never had an unhappy patient.

### **AHPRA's Cosmetic Surgery Review**

After Four Corners and Nine Newspapers exposed the [REDACTED] AHPRA announced a review into cosmetic surgery<sup>7</sup>, including the use of social media for advertising. This review process is ongoing, and we believe it would be prudent for this Committee to consider the Report when it is finalised and released before making legislative changes that could impact the cosmetic surgery industry. There are a wide range of issues surrounding the advertising of cosmetic surgery which could be addressed in legislative changes when this review process is finalised.

### **Other Issues**

#### AHPRA's Public Register

Our research has shown it is difficult for consumers to access non-biased information about a cosmetic surgery provider given the strategies implemented by providers to ensure they maintain a positive reputation.

AHPRA's public register, while a good base, does not go into enough detail about cosmetic surgery providers to adequately inform consumers. We recommend that AHPRA provide access to the number of complaints a cosmetic surgery provider has registered against them, how many court cases they have been engaged in over the last five years relating to their practice, and if they have exceeded a certain number of Non-Disclosure Agreements they have asked their patients to sign. It is important to note that a number of cosmetic surgery providers are being sued in class actions, yet the AHPRA register makes no reference to these on the provider's profile.

With regard to alternative names, we support the recommendation that alternative names be listed on the public register.

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<sup>7</sup> <https://www.ahpra.gov.au/News/2021-11-24-cosmetic-review.aspx>



It should be required that doctors who currently practice under an alternative name ensure this is included on the public register: it can be notoriously difficult to track down a healthcare provider if they practice under a different name to their registered name. Our recommendation in the past has been to require providers to include their AHPRA Registration Number on their social media profiles and websites if they wish to practice under an alternative name.

#### Non-Disclosure Agreements (NDAs)

NDAs are especially problematic in the cosmetic surgery space because they pose a risk to the public. Patients who feel disfigured, misled, or were critically harmed, may be asked to sign an NDA by the provider. We have heard multiple instances of this occurring at some large cosmetic surgery clinics in Australia. The effect this has on the public is that patients who have had bad experiences are essentially silenced. Breaching their NDA could lead to court action. They have no way to inform the public of what has happened to them. They will normally sign an NDA if it means they will receive a refund, or if the doctor agrees to do revision surgery.

We have also heard that consumers are left unsure if they are allowed to make a complaint to a state authority or AHPRA if they have signed an NDA. Our recommendation would be that NDAs be disallowed in the cosmetic surgery industry, but failing that, we recommend:

- Ensure that patients are made aware by the provider that even if they sign an NDA, they are still allowed to make a complaint to AHPRA or a state authority.
- Require cosmetic surgery providers to supply a copy to AHPRA of each NDA they have asked a patient to sign. This will ensure dangerous patterns aren't emerging and providers aren't covering their tracks.
- Record how many signed NDAs a cosmetic surgery provider has supplied if this amount exceeds a certain number. For example, if a clinic has asked 2 or more patients to sign an NDA in the last 12 months, AHPRA's public register should make this known publicly.

#### Taking Photos With Personal Electronic Devices (PEDs)

We have noticed a number of cosmetic surgery providers using PEDs to take photos of patients. The use of their personal mobile phone and other PEDs is an issue for a number of reasons and patients may not be expressly aware of them. These issues are:

- The provider could have access to the patient's (often nude) photo or video in a non-clinical setting.
- Should the provider's PED be lost or stolen, these photos are now accessible to others not part of the doctor-patient relationship.
- Any person in the provider's household or who otherwise has access to the PED could then have access to the patient's photos.
- The PED might have app-based or cloud-based storage, which means patient photos could be accessible on other devices and by third-party apps, even after the photo has been deleted from the PED.
- Photos taken on a PED should be uploaded to the patient file then removed from the PED.



- Photos accessible elsewhere means there is no log of the patient's photos being viewed, downloaded, edited, or sent to someone else.

These concerns are reiterated if the photos are taken on a practice device which is not properly secured or has third-party storage. These images can be accessed by devices which have access to the third-party storage.

### Advertising guidelines

- The sexualisation of patients is not specifically referred to in AHPRA's Advertising Guidelines. We flag sexualised content as being against the existing Guidelines as it is an image of an unrealistic outcome, and often enhanced. This is backed up by a study published by the Australasian Journal of Plastic Surgery titled "Compliance of plastic surgeons with advertising guidelines"<sup>8</sup>, which one of the authors commented: "It's important sexualised images that don't fully represent the clinical negatives of the procedure have no place." However, it would be clearer if the Advertising Guidelines explicitly referenced sexualisation as being against the rules. It is common to see sexualised and glamorised photos of women and men published by cosmetic surgery providers on Instagram. This problem is only going to get worse if no action is taken.
- We encourage the use of clinically appropriate Before and After photos. We believe these have a role to play in providing information to prospective patients. Yet we have observed numerous providers using inexact photos. Currently, the Guidelines detail how Before and After photos could be misleading, including lighting, exposure, framing etc not being exact. However, the Guidelines currently state that if a provider stipulates that a Before and After image has been altered, it could be enough to relieve a provider of their obligation to only publish unaltered photos, or Before and After photos that are as exact as possible. We recommend that this be removed, as only Before and After photos which are unaltered and as exact as possible should be used in advertising to prevent misleading the public. (Page 17 of AHPRA's Advertising Guidelines)
- Cosmetic surgery providers are increasingly using selfies in advertising. Selfies are photos sent in by the patient and are generally not in a clinical setting. The provider would have no knowledge if the image has been enhanced using filters or Photoshop, or whether the person has been enhanced with make-up, bronzer, glitter, or oil. Further, the clothing the patient is wearing can enhance results. These photos often don't reference which procedure the person had done, and are often published without a photo of how the person looked beforehand, meaning there is no way of knowing what role the procedure played in the selfie. It leads potential consumers to think they can attain that look through cosmetic surgery, and advertising in this way is a substantial risk to the public.

<sup>8</sup><https://www.dailytelegraph.com.au/news/nsw/plastic-surgeons-using-sex-to-sell-cosmetic-surgery-study-finds/news-story/daa19ac6b784465703d208a8ea7fd560>

- The use of emojis, bright colours, glitter and sparkling filters, and certain music in advertising (especially on social media) is similar to the way lolly-flavoured and scented vapes are advertised<sup>9</sup>. While vape companies may not intend to target children and young people to sell their product to, their advertising and flavours attracted young people, causing an epidemic among those who would never have otherwise smoked nicotine. A similar way of thinking needs to be applied in the advertising of cosmetic surgery on social media sites like TikTok and Instagram. Children and young people who might never have considered cosmetic surgery, might be influenced through the way cosmetic surgery providers use advertising techniques. This is irreversible surgery which children and young people may soon regret or become disfigured by.
- We are observing more providers using hashtags and captions like #bodygoals, #curveinspo, #bikinibody, #bodyinspo, #summerready, and #summerbody to promote cosmetic surgery. The idea that some human bodies are not Summer-ready for aesthetic reasons is surely not supported by acceptable evidence. Doctors in our view should not be perpetuating the myth historically pushed by magazines that you must look a certain way or be a certain size in order to wear a bikini, go to the beach, swim, or be allowed to enjoy the Summer. Further research also needs to be conducted to determine what role hashtags like these have on the mental health of those struggling with eating disorders and body dysmorphia, and whether cosmetic surgery providers using these hashtags are contributing to or worsening their struggles. We recommend that the use of problematic hashtags like these be prohibited.
- The word “magical” is explicitly referred to in AHPRA’s Advertising Guidelines as creating an unreasonable expectation of beneficial treatment, and is therefore not allowed. Yet, we continue to see cosmetic surgery providers use variations of “magic” to describe types of surgeries and procedures on social media. No action appears to have been taken against the worst offenders: as recent as 31 May 2022, a cosmetic surgery provider used the word “magic” on Instagram.
- Words like “art” and “sculptures” are also problematic as they distort the public’s perception of cosmetic surgery. Referring to a service which carries a risk of death at worst (and infection or pain as possible or probable), as artistic is deeply misleading and almost outrageous. These terms make surgery seem fun, easy, and creative. Patients are not the creative outlets of doctors, and should not be treated as such in advertising.

Concerningly, it seems some providers are preempting a ban on calling themselves a “cosmetic surgeon” or “surgeon” if they are not a specialist surgeon. They have started using terms like “artist” and “sculptor”. Providers should not be allowed to use creative but manipulative language to distract from the fact that they are not specialist surgeons.

<sup>9</sup><https://www.vichealth.vic.gov.au/media-and-resources/media-releases/world-no-tobacco-day-2020>

- A number of providers include messaging around self-esteem and confidence essentially being cured through cosmetic surgery. Unfortunately our observations lead us to conclude that confidence issues can be brought on by excessive and aggressive cosmetic surgery advertising on Instagram -- a conclusion which is in part supported by this study<sup>10</sup>. Providers should only use claims in advertising if it is supported by acceptable evidence, but we notice confidence-curing claims are often used in relation to trend-based surgeries such as the Brazilian Butt Lift. It is particularly problematic when this type of confidence-boosting messaging also omits the comparably high risk of mortality, and that this trend could be shortlived.
- We have observed influencers being engaged by cosmetic surgery providers. The consumer, and likely the regulator, would have no idea they are being advertised to as the influencer does not disclose they received the surgery for free or discounted in exchange for social media posts promoting the provider. The provider should be ensuring these partnerships are disclosed: we witness providers commenting on or otherwise engaging with the influencers' posts, and never disclose that there was a partnership. We believe that providing discounted or free surgery to influencers in exchange for promotion is not appropriate and should be banned under the National Law. This is because:
  - It adds to the commercialised aspect of the cosmetic surgery industry.
  - It provides an unrealistic expectation of outcomes, as influencers control their image in many ways, not just surgery.
  - It encourages the indiscriminate use of cosmetic surgery (influencing the decisions of target markets).
  - If the influencer has a bad experience or a poor outcome, they might feel obligated to mislead the public about this as their contract comes with stipulations.
  - Providers often share posts or stories made by influencers about their experiences (and are therefore sharing testimonials). In other instances, they link to the influencer's profile where audiences can read the paid-for testimonials.

Influencers often promote things that might best cater to their audience. Promoting cosmetic surgery is not like going on holiday, eating at a restaurant, or buying clothes: there is a very real risk of infection, surgery is extremely painful, and it can lead to death.

Influencers tend to have a lot of trust with their audiences, and without disclosing there is a partnership and outlining negative experiences or risks, it gives rise to potentially misleading or unrealistic expectations. The ACCC should be investigating the increasing prevalence of influencers failing to disclose their partnership in the cosmetic surgery space, but the conduct should probably be banned altogether.

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<sup>10</sup> <https://link.springer.com/article/10.1007/s12144-019-00282-1>

### Photos and Advertising Consent

We hold concerns around the way photos are taken of patients (especially if these are taken by PEDs). Sometimes we notice that patients appear to be unnecessarily nude, for example, a patient is topless in a before photo for arm liposuction, but is covered for the after photo. We note that a number of cosmetic surgery patients might never have undergone a medical journey before (apart from visiting their GP), and are unlikely to know what is standard and what they should question. Being expected to have nude or topless photos taken is something which needs great consideration on how patients can be better protected under the National Law.

The way providers obtain consent for taking photos and using these in advertising can be unethical. We have heard of instances where doctors have asked patients to sign a consent form when they are being walked into the operating theatre. This puts the patient in a vulnerable position given they are often naked, sedated, and very nervous already. We believe they will often say yes as they don't want to upset the person who is about to operate on them.

Consent forms for using photos in social media advertising are often very light on information. Social media advertising is unique in the way services are marketed to audiences.

Patients should be made aware in the consent forms of the following:

- The provider has no control if the patient's photo is downloaded, copied, or screenshot (these could then be uploaded to other websites),
- Photos will be used in advertising cosmetic surgery to audiences that include children and young people,
- Social media users might interact negatively with the photo of the patient, including sexualised, racist, sexist or otherwise offensive and hurtful comments,
- The photo or video could be used in perpetuity.

Further, patients should be giving informed consent about how they want their photos used:

- Nudity in photos and videos: does the patient consent to topless photos/videos being taken and used, are sensitive areas to be covered or censored prior to being used?
- Protecting patient confidentiality: does the patient consent to social media advertising only if their identity is concealed? Do they want tattoos, birthmarks, and other identifying features covered?
- Patients should be told which platform it will be uploaded to and when it will be uploaded. Patients should be provided a copy of the photos, videos and wording used.
- The consent forms must be signed well before the surgery is to happen, not on the day, and not when they are affected by sedation.

We recommend that advertising consent forms be standardised across the cosmetic surgery industry. Social media is entirely different to advertising anywhere else due to its ease of access and wide reach and as such consent forms should separate social media with any other type of advertising.

Standardised consent forms should include a more detailed approach to ensure informed consent is received from patients. Finally, the patient must receive a copy of their signed consent form and it should also be uploaded to their patient file.

The issues we have identified in the cosmetic surgery space are numerous. While penalties exist for some of the conduct we observe, there is little action taken to enforce conduct against the National Law.

We hope to be called as witnesses to expand on some of our research and insights.

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Operation Redress Pty Ltd (Franchise Redress, Toll Redress, Wage Theft Australia)



**From:** [Operation Redress](#)  
**To:** [Health and Environment Committee](#)  
**Subject:** Correspondence: AHPRA's cosmetic surgery review  
**Date:** Thursday, 9 June 2022 12:58:33 PM

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Dear Committee Secretariat,

I am one of the authors of submission 26 to the HEALTH PRACTITIONER REGULATION NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL 2022 and listened to the hearings yesterday. I am happy for this correspondence to be published.

AHPRA was asked yesterday about whether the results of their ongoing cosmetic surgery review would assist this committee in getting the Bill right, to which AHPRA responded words to the effect of it would not, as no matters in the review pertain to the Bill.

With respect to AHPRA, this assertion is incorrect as their own published consultation paper for the cosmetic surgery review references "advertising restrictions" & "the management of advertising offences", of which testimonials currently are and which this Bill proposes to remove the ban on using in advertising. This paper can be found here: <https://www.ahpra.gov.au/News/Cosmetic-surgery-independent-review-of-patient-safety.aspx>

The word "advertising" is mentioned no less than 50 times in their consultation paper, and have asked submitters to respond to five questions relating to advertising specifically. Such questions can be found on page 18 of their consultation paper and include:

- Is Ahpra and the Medical Board's current approach to regulating advertising in cosmetic surgery sufficient?
- What should be improved and why and how?
- Do the current Guidelines for advertising a regulated health service adequately address risks in relation to advertising of cosmetic surgery, or is a more specific regulatory response required?
- Does the promotion of cosmetic surgery via social media raise any issues that are not adequately addressed by the advertising guidelines, or that require any specific regulatory response?
- Please provide any further relevant comment in relation to the regulation of advertising.

Their consultation paper also asks for feedback on social media, which is pertinent to this Bill given testimonials will be published by healthcare providers on social media if the ban is removed.

It is concerning that this committee was led to believe that the cosmetic surgery review will have no impact on this Bill, when the review asked for feedback on regulatory responses to advertising.

Regards,

MADDISON JOHNSTONE  
Director & Co-founder

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Operation Redress Pty Ltd

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