

## Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023

**Submission No:** 12  
**Submitted by:** Australian Medical Association  
**Publication:**  
**Attachments:**  
**Submitter Comments:**



AUSTRALIAN MEDICAL  
ASSOCIATION  
ABN 37 008 426 793

T | [REDACTED]  
F | [REDACTED]  
E | [ama@ama.com.au](mailto:ama@ama.com.au)  
W | [www.ama.com.au](http://www.ama.com.au)

39 Brisbane Ave Barton ACT 2600  
PO Box 6090 Kingston ACT 2604

---

## **AMA Submission to the Health and Environment Committee: Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023**

[hec@parliament.qld.gov.au](mailto:hec@parliament.qld.gov.au)

The AMA welcomes the opportunity to provide this submission on the Health Practitioner Regulation National Law (Surgeons) Amendment Bill 2023 to the Health and Environment Committee. The AMA has over several decades called for protection of the title “surgeon” and is pleased to see that Health Ministers have finally taken action on this issue.

At the core of this legislation needs to be the improved safety of consumers who seek surgery. By qualifying the use of the title “surgeon”, consumers seeking surgery can be more secure in knowing they are seeing an Australian Medical Council accredited, College approved and trained “surgeon”.

The complexity of the current regulatory framework for medical practitioners and the incomplete understanding that many members of the public have as to its operation means that there is a significant risk that patients are undergoing serious and potentially risky medical procedures without a full and accurate understanding of the training and experience of the provider of those procedures.

The AMA agrees that consumers are likely to conclude that all practitioners currently using the title “surgeon” will have successfully completed a significant program of education, including basic medical training and formal, accredited post-graduate surgical training when that may not be the case.

The AMA does not support the current status quo where patients are misled by the term “surgeon”, believing that they are dealing with a practitioner who has formal surgical qualifications when they do not. There is potential for significant harm associated with the practice of surgery, and patients should be able to rely on the fact that a practitioner who uses the title “surgeon” is a medical practitioner who has had formal surgical training and remains a fellow of a surgical college (with the associated CPD requirements, codes of conduct, etc).

Whilst the AMA is supportive of the passage of this Bill, we would like to make the following observations:

### Non-medical practitioners - podiatrists

We note that the scope of this Bill only extends to medical practitioners and does not cover non-medically qualified practitioners who also use the title “surgeon”. In particular, the AMA does not support podiatrists being able to use the title “surgeon”. It is our position that any person providing any treatment that involves surgery should not be able to use the title surgeon unless they fulfil the criteria of this legislation.

Not including podiatrists who undertake surgery in this legislation fails the fundamental purpose of this legislation – namely to improve the safety of consumers or at least allowing them to make a more informed decision.

For example, a consumer presenting to a health care professional for a bunion that requires surgery could see a podiatrist who does surgery or an orthopaedic surgeon. Allowing the podiatrist to call themselves a surgeon could suggest to the consumer that the podiatrist and the orthopaedic surgeon are equivalent as they can both use the title “surgeon”. The additional training a podiatrist receives is not equivalent to a medical degree and completion of an AMC accredited specialist fellowship. This is a loophole that the AMA expects should be closed.

### Newly recognised surgical specialties

There are other medical specialties that incorporate the conduct of surgery, including General Practice, Rural Generalist Practice and Dermatology. However, it is uncommon for these practitioners to refer to themselves as “surgeons” and doing so could be misleading to the public in terms of the specialist nature of their training and practice. The AMA believes that these practitioners should continue to be able to refer to surgery as within their scope of practice but should not use the term “surgeon” and that this ability will not be impacted by the passage of this Bill.

An exception to this would be rural generalist surgery where there is currently an application for recognition of this field of practice before the Australian Medical Council (AMC). In the event that this application is successful, AMA would – subject to appropriate consultation with the relevant medical organisations - be supportive of the title “rural generalist surgeon” being able to be used. We note that the proposed new Clause 115A(5)(d) provides capacity for this to occur by including in the surgical class “another recognised specialty in the medical profession with the word “surgeon” in a specialist title for the specialty.”

### Additional pathway not supported

We note that the proposed Clause 115A(5)(e) will enable another class of medical practitioner to be prescribed as a surgical class by regulations made by the Ministerial Council. The inclusion of this clause may open the way for Health Ministers to enable a group of medical practitioners to use the title “surgeon” in the future who have not attained the equivalent standard required, for example, to become fellows of the Royal Australasian College of Surgeons, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists or the Royal Australian and New Zealand College of Ophthalmologists. As Clause 115A(5)(d) will enable new specialties recognised through the Medical Board of Australia (MBA) processes, the AMA does not see the

need for an additional pathway outside the MBA process to be established and would suggest to the Committee that Clause 115A(5)(e) be removed from the Bill.

### Surgical registrars

The passage of this Bill may also impact on surgical and other registrars who, whilst being on the surgical training program, have not yet attained fellowship. Advanced surgical trainees in particular may informally be referred to as “surgeons” in hospital settings. Even though they are senior doctors, technically the use of the word “surgeon” by a trainee who has not attained fellowship is not correct. There will need to be an extensive communication program to ensure that advanced surgical trainees and the organisations they work in are aware of the appropriate nomenclature and do not inadvertently breach the law.

### Clarification of powers of tribunals

We also note that this Bill, by amending s196 of the National Law, clarifies and removes ambiguities in relation to the powers of tribunals to cancel a person’s registration, or if the person does not hold registration, to also decide to disqualify the person from applying for registration for a specified period, prohibit the person from providing health services or using a title, or impose restrictions on the person’s provision of health services. To the extent that this provision clarifies the existing provisions which have been interpreted differently in some jurisdictions, the AMA has no objection to this change.

### General Comment

The AMA supports the passage of this Bill and considers that it will assist patients in understanding which health practitioners have undertaken the necessary rigorous training to safely perform surgical procedures. Taken together with a number of other measures impacting on the cosmetic surgery industry, this Bill will likely go some way to improving the safety performance of this industry. The Committee is asked to note, however, that the comments in this submission relate only to this Bill and does not address other aspects of reforms to the practice of cosmetic surgery.

We do however contend that the Bill could be improved by removing the ability of non-medically trained practitioners, such as podiatrists, from being able to use the title surgeon, which implies a level of training and supervised experience that is substantially beyond the requirements of a podiatric qualification.

We also ask the Committee to consider removing the additional pathway to opening up access to using the title “surgeon” provided to the Ministerial Council under Clause 115A(5)(e) as being unnecessary and may potentially lead to lower standards – thus undermining the intent of this Bill.

The AMA would be happy to expand on this submission at the Committee’s public hearing on 22 May 2023 to ensure there is a strong and clear outcome for the patients of Australia.

**May 2023**