COSMETIC SURGERY AND THE PRIVATE HEALTH FACILITIES ACT 2007:
THE REGULATION OF FACILITIES CARRYING OUT COSMETIC SURGERY

NSW HEALTH

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SUMMARY

The Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical education, training, and high standards of practice in Australia and New Zealand.

RACS purpose is centred on excellence in patient care, and we endeavour to give consideration to the full effects of reform measures on patient care and service provision across all areas. We believe that the primary objective of any medical intervention should be to benefit the patient, and that patient safety is paramount.

We commend the NSW Government for initiating measures to strengthen the regulation of cosmetic surgery, as recent events have shown that patients (who are often unaware of differences in safety and quality standards) have been exposed to unacceptable risks in some practices. RACS is particularly concerned that patients may be undergoing major surgical procedures in unlicensed facilities without any form of oversight or adherence to standards.

The RACS position is that all facilities providing surgical services require oversight to maintain a minimum level of safe practice, and that regulation should be based on the credentials of the practitioner and the level of sedation, rather than the procedure that is undertaken. This is very relevant in the case of office-based facilities, which are not required to be licensed in any Australian jurisdiction, and for which there are no national standards. This is a particular concern and needs to be addressed.

The Australian and New Zealand College of Anaesthetists (ANZCA) and the Agency for Clinical Innovation (ACI) have well-developed standards on safe procedural sedation and these should be considered as part of any regulatory changes. Where they are consistent, we encourage the Government to consider how it can implement these standards more broadly, as procedural sedation is practised in other specialties apart from plastic and cosmetic surgery.

RACS does not support the creation of a separate class of private health facilities for cosmetic surgery, but supports revision of the definition of the surgical and/or anaesthesia class/es within the Private Health Facilities Regulation 2010 to include procedures performed on patients who are administered any intravenous sedation, excluding dental.

KEY POINTS

The Royal Australasian College of Surgeons recommends:

- Regulation of private health facilities based on the level of sedation rather than the procedure performed.
- That procedures requiring intravenous sedation, excluding dental, only be performed in an accredited and licensed day surgery or hospital.
- Procedures conducted using large volumes of local anaesthetics or nerve blocks, which may reach toxic levels be restricted to licensed facilities.
- Cosmetic surgical operations should only performed by practitioners who are registered surgical specialists.
- Development and implementation of nationally consistent requirements for office-based facilities, including independent accreditation of facilities, credentialing of clinical staff, infection control, sterile supply, and clinical waste management.

Regulation of cosmetic surgery in NSW

Regulation of sedation

In NSW, the licensing of private health facilities is governed under 18 classes of facilities where procedures such as anaesthesia and surgery are carried out. Facilities where daytime surgical procedures are carried out under ‘conscious sedation’ are not required to be licensed or accredited. This is clearly a risk to the public.
Procedural sedation may often be administered to low risk patients without incident, however there appears to be an extended list of higher risk procedures that are being undertaken under ‘conscious sedation’. It is essential that practitioners who administer sedation, and those who supervise recovery, have the appropriate skills and resources to manage potential risks.

RACS proposes that the definition of a surgical and/or anaesthesia private health facility be broadened to include all procedures requiring intravenous sedation of any type. Consideration should also be given to whether procedures conducted using large volumes of local anaesthetics or nerve blocks should also be restricted to licensed facilities. This is not intended to affect the practice of minor surgical procedures being carried out in doctors’ rooms under local anaesthesia.

In 2014, the release of the NSW Minimum Standards for Safe Procedural Sedation in non-operating theatres outlined a consistent framework for the delivery of safe procedural sedation across the state. The standards identify risk assessment processes, the skills and resources required to undertake sedation, referral and transfer arrangements, and post procedure criteria. RACS encourages the NSW Government to consider whether these standards should be mandatory as part of licensing requirements.

Regulation of practitioners

RACS works closely with the professional societies representing its surgical specialties, including the Australian Society of Plastic Surgeons (ASPS). RACS and ASPS share the mutual goal of protecting the integrity of plastic surgery as a specialty, and to providing the highest quality care possible.

ASPS partners with RACS to deliver the Australian Medical Council (AMC) accredited training program to become a recognised specialist plastic surgeon. By the time they are accredited, registered plastic and reconstructive surgeons have undertaken a minimum of 12 years medical and surgical education, including at least five years of specialist postgraduate training, and are formally recognised as Fellows of the Royal Australasian College of Surgeons (FRACS).

Many medical practitioners in NSW have not undertaken FRACS accredited training, but are performing surgery under local anaesthetic or ‘conscious sedation’ in private clinics. Surgical operations should only be performed by practitioners who are registered surgical specialists.

While all medical practitioners must be registered under the Health Practitioner Regulation National Law (NSW) and comply with the standards and guidelines issued by the Medical Board of Australia, these do not specify the level and quality of post-graduate training that must be completed before a practitioner can refer to themselves as a surgeon. This can mislead the public. They may assume that a doctor who calls themselves a surgeon has undergone the rigorous training program required by RACS, or an equivalent AHPRA-recognised College. Cosmetic surgery is not a formally recognised specialty in Australia, and any general practitioner can call themselves a cosmetic surgeon and practise cosmetic surgery, whether they have additional surgical training or not.

Where practitioners have not undergone specialist training they are likely to be less skilled and take longer to perform cosmetic surgical procedures. This potentially exposes patients to the requirement for larger doses of local anaesthetic or conscious sedation, with associated increased risk.

The NSW Government may wish to further protect the public by legislating for the appropriate and quarantined usage of the title “surgeon” to medical practitioners who have completed an AHPRA-recognised surgical specialty.

RACS recognises that office-based facilities are subject to legislation that applies to medical practitioners generally, which includes standards for record keeping, sterilisation and infection control, and encourages the continued strengthening of resources to enable the NSW Medical Council to sanction medical practitioners in breach of this legislation.
Regulation of office-based facilities

The Australian Government developed the National Safety and Quality Health Service Standards to guide the accreditation of healthcare facilities and provide a nationally consistent standard of care that consumers could expect from health service organisations, however there are no standards covering office-based facilities, and this is a deficiency of the system.

Accreditation is generally linked to reimbursement for service, and cosmetic procedures are not recognised by Medicare, nor do health insurers necessarily pay benefits for these types of procedures or the hospital costs associated with them.

Office-based facilities such as private rooms, where many cosmetic procedures are undertaken, are not defined in NSW legislation. It is expected that the volume and types of procedures conducted in these settings will increase as surgical techniques and sedation methods improve. Again, this is a substantial risk to the public.

Nationally consistent requirements for office-based facilities should be developed and implemented and should include independent accreditation of the facilities, with a particular focus on sedation level, credentialing of clinical staff, infection control, sterile supply, and clinical waste management. New Zealand has standards for office-based facilities which may be an appropriate starting point.

Cosmetic surgery as a new class of private health facilities

RACS does not support the creation of a new class of surgery within the cosmetic procedures group; however greater oversight of the appropriate credentialing of facilities, including appropriate credentialing of practitioners, is needed.

If any type of intravenous sedation is required to perform a procedure, then the surgery should only be undertaken in a licensed facility. This generally means a larger operation which requires the resources and oversight found in a larger facility.

References:
1 Private Health Facilities Regulation 2010. Clause 5. NSW Government.
2 Australian and New Zealand College of Anaesthetists. Guidelines of Sedation and/or Analgesia for Diagnostic and Interventional Medical, Dental or Surgical Procedures. Melbourne: ANZCA; 2014.
4 Medical Practice Regulation 2008. NSW Government.