

# Navigating the disparate Australian regulatory minefield of cosmetic therapy

Liang Joo Leow

Recently, New South Wales legislation was amended to enforce that any facility undertaking certain cosmetic procedures must be licensed.<sup>1</sup> Further, the Medical Board of Australia (MBA) issued guidelines for cosmetic procedures.<sup>2</sup> These regulations followed an increase in adverse events, risking patient health and safety, exemplified in a report<sup>3</sup> about Australia's largest cosmetic surgery provider, The Cosmetic Institute.

Differences between licensed and unlicensed facilities are not obvious. The availability of private health insurance and Medicare Benefits Schedule (MBS) rebates at licensed facilities does not serve to differentiate, as purely cosmetic procedures do not attract such benefits. Unlicensed facilities are not even required to meet recommended infection prevention and control standards, such as the The Royal Australian College of General Practitioners' (RACGP's) *Infection prevention and control standards for general practices and other office-based and community-based practices*.<sup>4</sup>

The New South Wales regulation, effective from 3 March 2016, restricts the performance of cosmetic procedures, such as breast augmentation and cosmetic nose surgery, to licensed facilities only. The MBA guidelines are effective from 1 October 2016, and require:<sup>2</sup>

- a cooling-off period for major procedures (and minor procedures for patients under 18 years of age)
- evaluation by a general practitioner

(GP), psychologist or psychiatrist prior to major procedures for patients under 18 years of age (and minor procedures when clinically indicated)

- explicit responsibility for postoperative care and provision of emergency facilities when using sedation, anaesthesia or analgesia
- consultation before prescribing Schedule 4 cosmetic injectables
- detailed written information about costs and clear information about risks and possible complications to be provided.

Interestingly, state/territory differences are also evident in regulations for laser and light (eg intense pulsed light [IPL]) devices, which are used to improve skin tone, texture and colour, and to remove tattoos or hair.

A review of the medical literature reveals that there is a lack of evidence to suggest that non-medical practitioners are less knowledgeable or skilful in

performing these treatments. This is despite state/territory restrictions placed on nurses, beauticians and dermal therapists/clinicians, who are allied health professionals formally trained in the assessment and treatment of a specific range of skin conditions (Table 1). A study comparing treatment outcomes for laser hair removal between physicians and nurses found that all variables measured (ie treatment efficacy, complication rate, patient satisfaction) were comparable between the two groups.<sup>5</sup>

The number of non-specialist medical practitioners involved with cosmetic practice is significant. This is reflected by the Australasian College of Aesthetic Medicine membership at 217 in 2015,<sup>6</sup> compared with that of the Fellowship of the Australasian College of Dermatologists at 538 in the same year.<sup>7</sup> Ironically, with the exception of dermatologists, doctors receive little or no undergraduate or

**Table 1. State/territory licensing requirements on non-medical practitioners for the operation of lasers and IPL for cosmetic use<sup>11</sup>**

State/territory	Lasers	IPL
Australian Capital Territory, New South Wales, Northern Territory, South Australia, Victoria	Not required	Not required
Queensland	Required	Not required
Tasmania	Required	Required
Western Australia	Registered medical practitioners only	Not required

*IPL, intense pulsed light*

postgraduate training in using these devices. Even among dermatologists, the required theoretical knowledge does not necessarily translate to an ability to operate these devices effectively.

In fact, the level of theoretical detail for these treatment modalities in certain non-medical university courses on dermal therapy, such as the Bachelor of Dermal Sciences at Victoria University, is comparable to, if not higher than, that of specialist dermatology training.<sup>8,9</sup>

Although there is no published local information, legal claims in the US related to cutaneous laser surgery are increasing and result in indemnity payments that exceed the reported average for indemnity payments across all medical specialties.<sup>10</sup> A 12-month Australian anonymous survey of 430 medical and non-medical practitioners revealed 416 cases of burns and permanent scarring (including 268 considered severe) and 62 cases of skin cancer (including 22 cases of melanoma) where diagnosis was delayed or missed by the practitioner.<sup>5</sup>

Differences in regulation across Australia mean it may be legal for certain individuals to administer treatment in one state/territory, yet illegal in another. This is an important consideration for non-medical practitioners and medical practitioners who delegate treatment to non-medical staff. Furthermore, there are implications for indemnity insurance. Ordinarily, policies provide cover across different states and territories; however, the disparate regulations necessitate policy exceptions on the basis of these differences.

As yet, regulations governing cosmetic surgery in New South Wales have not been matched by other Australian states/territories. National standards or concerted action by all states/territories would help to avoid confusion resulting from these inconsistencies and strengthen efforts to protect patient health and safety in Australia.

The MBA guidelines also refer to patient assessment and informed consent and recommend dealing

with inconsistencies in drugs/poisons legislation across jurisdictions, which can cause confusion for practitioners and consumers. The MBA guidelines also recommend reviewing, strengthening and aligning licensing and regulation of private health facilities, including use of sedation and anaesthesia. Unfortunately, while the listing of therapeutic goods, such as medicines or medical devices, on the Australian Register of Therapeutic Goods (ARTG) is regulated by the Therapeutic Goods Administration (TGA), regulation of their use is a matter for individual states/territories.

In the absence of cosmetic therapy regulation at a national level, licensing at state/territory level is a possible solution. This already applies in other fields of therapeutics. For instance, there is a national Medical Radiation Practice Board; however, licensing for radiotherapy operators is governed by independent state-based and territory-based organisations, with specific requirements on training and limitations on scope of practice.

In fact, an authoritative report based on a survey of both non-medical and medical practitioners favoured licensing on the basis of training and qualification over arbitrary restrictions or self-regulation through voluntary accreditation.<sup>11</sup> Licensing (as opposed to restriction) of cosmetic therapy by all states/territories could be an effective means of more uniform regulation across Australia.

Perhaps it is now time for more stringent regulation of cosmetic therapy in Australia, with such a system applying equitably to medical and non-medical practitioners alike.

#### Author

Liang Joo Leow BA, BSc (Med), MBBS (Hons), MPH&TM FACD, Department of Dermatology, St Vincent's Private Hospital, Sydney; Clinical Advisory and Innovation Council, St Vincent's Health Australia; Advisory Committee on Medicines, Therapeutic Goods Administration; Faculty of Medicine, University of New South Wales, NSW. DrLeow@aestheticdermatology.com.au

Competing interests: None.

Provenance and peer review: Not commissioned, externally peer reviewed.

#### References

1. New South Wales Government. Private Health Facilities Amendment (Cosmetic Surgery) Regulation 2016. Sydney: NSW Government, 2016.
2. Medical Board of Australia. Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures. Melbourne: MBA, 2016.
3. Scott S, Armitage R. Breast implant patients at The Cosmetic Institute knocked out without consent, report reveals. Australian Broadcasting Corporation. 20 April 2016. Available at [www.abc.net.au/news/2016-04-19/breast-implant-patients-knocked-out-without-consent/7329324](http://www.abc.net.au/news/2016-04-19/breast-implant-patients-knocked-out-without-consent/7329324) [Accessed 22 March 2017].
4. The Royal Australian College of General Practitioners. Infection prevention and control standards for general practices and other office-based and community-based practices. 5th edn. East Melbourne, Vic: RACGP, 2014.
5. Freedman BM, Earley RV. Comparing treatment outcomes between physician and nurse treated patients in laser hair removal. *J Cutan Laser Ther* 2000;2(3):137–40.
6. Australasian College of Aesthetic Medicine. ACAM submission to AHPRA: Consultation – Cosmetic medical and surgical procedures provided by medical practitioners. North Sydney, NSW: ACAM, 2015.
7. Australasian College of Dermatologists. Strategic plan, 2015–2019. Rhodes, NSW: ACD, 2015.
8. Victoria University. Bachelor of Dermal Sciences. Melbourne: Victoria University, 2017. Available at [www.vu.edu.au/courses/bachelor-of-dermal-sciences-hbds#units-and-electives-structure](http://www.vu.edu.au/courses/bachelor-of-dermal-sciences-hbds#units-and-electives-structure) [Accessed 13 July 2017].
9. Australasian College of Dermatologists. Training program curriculum overview. Rhodes, NSW: ACD, 2015.
10. Jalian HR, Jalian CA, Avram MM. Common causes of injury and legal action in laser surgery. *JAMA Dermatol* 2013;149(2):188–93.
11. Australian Radiation Protection and Nuclear Safety Agency. Regulatory impact statement – Intense pulsed light sources (IPLs) and lasers for cosmetic or beauty therapy. Canberra: ARPNSA, 2015.