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Mr Adam Crouch  
Chair  
Committee on the Health Care Complaints Commission  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Email [hccc@parliament.nsw.gov.au](mailto:hccc@parliament.nsw.gov.au)

Dear Mr Crouch,

**Re: Health Care Complaints Commission (HCCC) Inquiry into cosmetic health service complaints in New South Wales**

**Reference: 1.3.11.9**

The Australian Society of Anaesthetists (ASA) welcomes the opportunity to comment on the HCCC inquiry into cosmetic health service complaints in NSW.

The ASA have been active in advocating for safe anaesthesia practices and office-based surgery as indicated by our previous submission to the Medical Board of Australia (MBA) consultation on *Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures* in 2015 and position statement, ASA-PS14 Anaesthesia for Office-based Surgery.

The issue raised in this inquiry relates to the fact that providers of cosmetic health services may not be registered health practitioners (e.g. medical practitioners, nurses etc). Consequently, they will not be regulated by the National Law (NRAS) and the regulatory agencies, such as Australian Health Practitioner Regulatory Agency (AHPRA), and the various penalties (e.g. reprimand, suspension) are not applicable.

In NSW there are additional state-based legislation, the *Public Health Act 2010* and the *Public Health Regulation 2012*, which regulates non-registered health practitioners. In reference to Schedule 3 of the *Public Health Regulation 2012*, the Code of Conduct appears to be reasonably comprehensive in addressing non-registered health practitioners and registered health practitioners who are providing a health service unrelated to their registration. It is noted that non-registered health practitioners can be reported to the HCCC.

The use of injectable drugs should not be available to non-registered health practitioners. Anaesthetic (including local anaesthetics) and sedative medication (including oral) use requires a high level of training, knowledge and expertise to prevent dangerous side effects

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to enable the provision of the safest anaesthesia to the community*

(including death) and as such should be restricted to those registered health practitioners with the requisite training and qualification.

The following addresses each item of the terms of reference.

**a. The roles and responsibilities of the Health Care Complaints Commission relative to the roles and responsibilities of Commonwealth and other state regulatory agencies;**

The Commonwealth and State regulatory agencies should have precedence over the HCCC, with the Commonwealth acting through the MBA and AHPRA addressing professional performance, and the State through its agencies addressing physical standards.

The HCCC should work closely with AHPRA to ensure an appropriate scope of practice for registered health practitioners involved in the delivery of cosmetic health services.

For registered health practitioners, the MBA should take precedence of the handling complaints matters over the co-regulatory arrangement with HCCC that exists in NSW.

For non-registered health practitioners, it would be appropriate for the NSW (state) jurisdiction to respond to notifications of misconduct and poor performance. This would require the HCCC in conjunction with the Health Professional Councils Authority to receive, investigate and prosecute the complaints. This would also have implications at the federal level, with notification to AHPRA.

**b. The adequacy of the powers and functions of the Health Care Complaints Commission to improve outcomes for the public in the cosmetic health services sector;**

Registered health practitioners are already covered by the NRAS and the notifications process through AHPRA and/or complaints process through the HCCC and the Health Professional Councils Authority. The penalties and possible remedial programs for these practitioners already in place appear to be adequate.

Non-registered health practitioners are regulated under the Code of Conduct under NSW legislation *Public Health Regulation 2012*. This legislation stipulates that the availability of a complaints handling mechanism through the HCCC.

Should a complaint be substantiated against non-registered health practitioners, the remedial actions of the HCCC and the relevant professional council should be enhanced.

**c. The opportunities for collaboration with other agencies, organisations and levels of Government to improve outcomes for the public in the cosmetic health services sector; and**

The collaborations between National Boards and AHPRA with HCCC and relevant health professional councils should continue to be strengthened.

Yours sincerely,



Associate Professor David M. Scott  
President