

SUBMISSION

AMA submission to the Independent review of the regulation of podiatric surgeons: Consultation paper

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The AMA welcomes the decision to undertake an independent review into the regulation of podiatric surgical practice under the National Scheme and the opportunity to provide a submission.

In responding to this Consultation, the AMA has strongly focussed on the need to ensure the safety of patients with feet and ankle conditions and who are considering surgical treatment.

The AMA notes the statement at Page 10 of the Consultation paper that over the period 1 July 2010 to 30 June 2023, podiatric surgeons had a notification rate eight times higher than the rate for podiatrists. Whilst a higher rate of notifications can be expected from practitioners undertaking procedures as compared to general podiatrists, this high rate of notifications nevertheless is a cause for concern – especially considering the common reasons for notifications identified in the Consultation paper. These include:

- performing an inadequate or inappropriate procedure or treatment; and
- making an incorrect diagnosis

Podiatric surgery is the only form of human medical treatment where a person other than a doctor can take a scalpel and cut into a patient. Not only are they able to cut into a patient, a Podiatric Surgeon with no formal medical degree or surgical training (Fellowship of the Royal Australasian College of Surgeons - FRACS or equivalent) can then operate on bones, tendons, joints and undertake internal fixation with screws for example. They can even do joint replacements (on a human).

This is an arrangement that the AMA considers needs to be rectified.

Of great importance here is the protection of the unsuspecting, sometimes unaware and sometimes misled public. From a public perspective, if a health care professional is offering formal surgical services, calls themselves a doctor and / or a surgeon, then the public would reasonably assume the health care professional was a doctor (with a medical degree) or a surgeon (Fellowship of the Royal Australasian College of Surgeons - FRACS or equivalent).

There are numerous examples of Podiatric Surgeons calling themselves doctors (despite not having a PhD or medical degree) and they obviously use the term surgeon.

The public could also be excused from assuming that the regulators would not allow this person to not be a doctor or a surgeon, if they are offering a medical service that involved cutting open the patient's skin. The lack of regulation has in fact perpetuated this problem and allowed it to flourish to the detriment of patients.

Accordingly, the AMA reaffirms its strong opposition to the use of the title "surgeon" by any practitioner who is not a medical practitioner and has not successfully completed a program of surgical training of at least the equivalent standard to that required to become a Fellow of the Royal Australasian College of Surgeons (RACS), including training programs with a substantial surgical component offered by the Royal Australian and New Zealand College of Ophthalmology (RANZCO) or the Royal Australian and New Zealand College of Obstetrics and Gynaecology (RANZCOG).

The complexity of the current regulatory framework for medical and health practitioners and the incomplete understanding that many members of the public have as to its operation is leading patients to undergo 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 argues that consumers are likely to conclude that all practitioners currently using the title "surgeon" within their title will have successfully completed a significant program of education, including basic medical training and formal, accredited post-graduate surgical training when that is not be the case.

The AMA does not support the current status quo where patients are misled by the term "podiatric surgeon", believing that they are dealing with a practitioner who has formal surgical qualifications when they do not. There is always the 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).

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 have equivalent qualifications as they can both use the title "surgeon". The training a podiatric surgeon receives is not equivalent to a medical degree and completion of an AMC accredited specialist fellowship¹.

The current exemption that allows podiatric surgeons to still use the protected term of 'surgeon' needs to be repealed to protect the public. The public assumes that the regulators would not allow a person who provides an invasive surgical procedure to not be a doctor or a surgeon. The AMA was disappointed that the recent change to the National Law restricting the use of the title "surgeon" by medical practitioners who have not completed a medical college training program with a substantial surgical component.

There is also the problem of a loophole where a doctor who has not undertaken formal surgical training (and therefore not part of the surgeon 'class' and can't use the term surgeon), could do a podiatry surgery program and thereby call themselves a 'podiatric surgeon'.

This exemption, and this loophole, need to be addressed to protect the public.

¹ <https://docplayer.net/11104520-Royal-australasian-college-of-surgeons-submission-to-nsw-health-concerning-the-performance-of-podiatric-surgery-in-new-south-wales.html>

Discussion of podiatric surgery is always plagued by a lack of evidence and an incomplete knowledge of podiatric surgical practices. Criticisms made, however, universally point to the lack of training adequacy compared to US and UK colleagues, the credentialing arrangements in place, the involvement of the medical profession and the manner in which Podiatric Surgeons advertise their services and the titles they use.

A number of medical professional organisations have expressed concern that the activities of podiatric surgeons in relation to two particular procedures, hallux valgus correction and ankle fusion, are potentially dangerous. This is particularly the case when a large proportion of the client base for podiatrists are diabetic or have other complex and chronic conditions with a concomitant higher risk of complications.

Should these patients be referred for surgery which does not meet appropriate standards of care, the results can be catastrophic, as these patients have a higher risk of infection which increases the complexity of care and the potential for complications. As noted by the RACS, "operations on the bones, ligaments and tendons of the foot carry significant risk of complications which at worst can lead to the loss of limb or be life-threatening" (RACS submission to NSW Health concerning the performance of podiatric surgery in NSW, 30/08/2005).

Some of the problems with the provision of Cosmetic Surgery have been attributed to lack of regulation in the industry. The recent review into the Cosmetic Surgery industry has recommended that the provision of such services should be only undertaken with a referral from an unrelated doctor.

The Podiatric Surgery industry has been able to enjoy a lack of regulation and this also needs to be addressed. Podiatric surgeons currently can market direct to the public, in a system with no checks or balance with the obvious dangers to the public. The need for a referral from an unrelated party should be considered as part of this Review, in addition to the AMA position that use of the title 'Podiatric Surgeon' should no longer be permitted.

The AMA supports careful consideration by this Review of the training and scope of practice of podiatrists who perform procedures, including whether the current training arrangements support the existing scope of practice, including whether the existing scope needs to be narrowed.

Conclusion

The AMA was pleased that Health Ministers finally took the decision this year to remove the ability to use the title "surgeon" from cosmetic health practitioners, who did not have the qualifications necessary to attain fellowship of RACS (or equivalent), as it was clear that harm was being caused to patients who thought their practitioner had a higher level of training than was in fact the case.

It is time for Health Ministers to take the same action in relation to the use of the title "surgeon" by podiatrists who undertake procedures.

The AMA supports:

- restriction of the use of the title "surgeon" to practitioners who are medical practitioners and have successfully completed a program of surgical training of at least the equivalent standard to that required to become a Fellow of the Royal Australasian College of Surgeons (RACS), including training programs with a substantial surgical component such as those offered by the Royal Australasian College of Ophthalmology or the Royal Australian College of Obstetrics and Gynaecology

- Consideration by the Independent Review of:
 - Introducing a requirement for a referral from an unrelated practitioner before a podiatric procedure can be undertaken
 - Current training arrangements for practitioners who perform podiatric procedures and whether they support the current scope of practice, including whether the scope should be narrowed.