

## Telehealth Cosmetic Consultation and Prescription



The Medical Board has updated its telehealth guidelines, effective 1 September 2023. The guidelines close the gap that's sprung up between online prescribing business models and good medical practice.

Read the Guidelines [here](#).

The Medical Board has stated that *"prescribing or providing healthcare for a patient without a real-time direct consultation, whether in-person, via video or telephone, is not good practice and is not supported by the Board."* The ACCSM agrees this is not good practice and supports the Board.

Without an actual **in-person** consultation and physical examination of a patient, the acceptable standard of a consultation may be considered inadequate. It is germane that in a court of law, what may be regarded as an acceptable standard of consultation may be determined by expert opinion.

A potentially serious indemnity risk has been identified regarding telehealth consulting.

Indemnity companies may cover doctors for telehealth consulting. However, it is probable that this has been in the context of the government initiative of tele-consulting or tele-prescribing for rural/remote health purposes and alike. It is likely to be a different scenario when telehealth is applied to cosmetic prescribing and instruction.

In telehealth arrangements, a medical practitioner is likely to inherently assume responsibility for the overall and continuing patient management by a second party such as nurse (RN or EN) or other non-medical practitioner/therapist.

Furthermore, there may be an expectation the prescribing practitioner will be responsible that they are either personally (or that there is another appropriately trained substitute medical practitioner) in close or immediate physical vicinity of the treatment event or thereabouts.

Even though the secondary non-medical practitioner may carry personal indemnity, this may prove to be insufficient in the scenario of a medical catastrophe such as anaphylaxis, burns, tissue necrosis and blindness.

Accordingly, medical negligence lawyers acting for a plaintiff often seek settlement from practitioners with the most robust indemnity cover (which is obligated under AHPRA registration provisions to be commensurate with the activities of each individual medical practitioner).

We are aware that there have been catastrophic cases relating to cosmetic filler injections including at least 12 cases of filler related blindness.

**We would therefore advise all our members and fellows involved in such arrangements to resile from or reconsider any telehealth second party arrangements that could be considered inadequate.**

Ronald Feiner  
Medical Dean, ACCSM

Further issues that may impact on the concerns raised in this correspondence are summarised below:

- There is no provision under Section 11 of the New South Wales Poisons and Therapeutic Goods Act 1966 (the Act) for a wholesaler to supply a registered nurse or other unauthorised persons with restricted substances. The Act and the Poisons and Therapeutic Goods Regulation 2008 (the Regulation) allows for a medical practitioner to be supplied by wholesale with restricted substances.
- Section 10 (4) of the Act allows for the supply of a restricted substance by a medical practitioner in the lawful practice of his or her profession. Supply is interpreted to also include administration to a patient.
- The re-supply by some medical practitioners of restricted substances to registered nurses for therapeutic use in circumstances where the registered nurse is not under the direct supervision of the medical practitioner, prima facie is considered to be wholesaling, contrary to Section 9 of the Act.

Regarding Standing Orders:

- Although Standing Orders are an accepted protocol for authorising the administration of restricted substances within hospitals, in accord with Section 10(4)(c) of the Act and Clause 58 of the Regulation, subject to strict conditions specified in the Ministry of Health's Policy Directive for the Handling of Medications in NSW Public Health Facilities (PD2013-043), there is no equivalent provision in the legislation for the use of Standing Orders in beauty clinics or salons by registered nurses.

There is no provision for "prescriptions" or "standing orders" for restricted substances to be prepared by an unauthorised person and then signed by a medical practitioner. Clause 32 of the Regulation is specific, allowing a medical practitioner to issue prescription for a restricted substance. There is no allowance for another person to "issue" a prescription or part of a prescription, to be signed by a medical practitioner.