

COSMETIC PHYSICIANS COLLEGE of AUSTRALASIA LTD.

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31 May 2017

MMDR Consultations
Enhancing sanctions and penalties
Therapeutic Goods Administration
PO Box 100
WODEN ACT 2606
[Consultation Submission Form](#)

To whom it may concern,

Re: Consultation: TGA - enhancing sanctions and penalties in the Therapeutic Goods Act 1989

The Cosmetic Physicians College of Australasia (CPCA) represents the largest body of doctors who perform non- or minimally-invasive cosmetic medical treatments in Australia. The College aims to maintain high standards of learning, skills and conduct in cosmetic medicine, to help safeguard the public, whilst also supporting public education and awareness of the benefits of cosmetic medicine.

The CPCA welcomes the Therapeutic Goods Administration's (TGA's) decision to undertake a comprehensive review of the legislative framework underpinning the regulation of therapeutic goods, including a review of the Therapeutic Goods Act 1989 (the Act) and associated Regulations in their entirety, with a view to simplifying its structure and language to achieve a more user-friendly approach.

Outlined within the consultation, the CPCA supports 'Recommendation Fifty-Two' and agrees that broadening enforcement powers will benefit consumers by appropriate compliance with advertising regulatory requirements. However, we strongly believe that the prosecution of offenders is also necessary to deter inappropriate and misleading advertising of products.

The CPCA also welcomes proposed amendments to the Act to include three tiered offence regimes with corresponding civil penalty provisions to address advertising non-compliance as part of the implementation of the Medicines and Medical Devices Review.

The TGA's MMDR 2016 stakeholder consultation, proposed that the Act be amended to allow the TGA to issue a public warning notice in a similar manner to other regulators such as the ACCC. The CPCA strongly supports the notion of public warnings and a substantiation notices system.

The CPCA also supports the Expert Panel's proposal to remove the current Act requirement for many strict liability offences that the relevant goods if used, would likely result in harm or injury to a person. The CPCA also agrees that the Act should be amended to include strict liability offences and the enhancement of existing aggravated criminal offences, for repeated minor breaches through to serious non-compliance.

Finally, the CPCA has brought to the TGA's attention a growing number of advertisements of therapeutic goods or substances to the general public, which are designated 'prescription-only' items and are therefore in breach of the law.

As per our comment above, it is the view of the CPCA that the TGA must prosecute and



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make public such prosecutions, particularly for persistent breaches, to achieve a meaningful deterrent and a consequent reduction in non-compliance.

If you have any queries on our comments, please direct correspondence to the address below.

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*Please note that the CPCPA was incorporated in October 2014 and was preceded by the Cosmetic Physicians Society of Australasia Inc. (CPSA www.cosmeticphysicians.org.au).