

# Claims Analysis Report

for

## Cosmetic Medicine

Trends over 10 years to 2007



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## Table of Contents

Section		Page No
1	Introduction .....	1
2	Key Conclusions .....	2
3	Claims Analysis.....	4
4	Risk Management Analysis.....	6
5	Legal Expense Matters .....	9
6	Key Risk Management Initiatives.....	10
7	MIGA – Risk Management Education.....	14

## Appendices

Appendix		Page No
1	Insurance Options Available With MIGA.....	16
2	IRM Program Booklet - 2007.....	18

## 1. Introduction

This Report has been prepared for the Australasian College of Cosmetic Surgery (ACCS).

It provides an analysis of the claims profile and trends for medical indemnity insurance issues for doctors working in the area of cosmetics in Australia.

The analysis is based on MIGA's claims data across a 10 year history to June 2007 and covers information in relation to the following two key specialty groups.

Specialty	Doctors included
Cosmetic Medical Practitioners	Doctors who are insured in one of the 4 categories for Cosmetic Medical Practitioners offered by MIGA.  Details of the procedures covered in each category are provided in Appendix 1.
Plastic Surgeons	Doctors who are registered as specialists and who undertake cosmetic work.

The data represents MIGA's actual experience to date.

Care is needed in using the data to draw conclusions about the total insurance costs for Cosmetic Medical Practitioners and Plastic Surgeons. This is because the claims costs shown exclude significant expense items such as the costs of reinsurance and expenses associated with managing claims. Also, the ultimate actual costs will differ to those shown, perhaps materially, where the estimates placed on open claims differ to the eventual outcome.

In this regard the figures provided in this Report are indicative and they should not be quoted without the prior approval of MIGA.

We look forward to discussing this material with the ACCS and to working with the College on the identification and implementation of risk management initiatives to address the emerging claims experience.

## 2. Key Conclusions

The key trends identified from the analysis are as follows:

### Claims frequency

- The average claims frequency for MIGA's Cosmetic Medical Practitioners across the 10 year period is 33.4%, which is:
  - Significantly higher than the average of around 5% across MIGA's whole membership
  - The same as Plastic Surgeons
  - Almost identical to the national reported frequency of 33.5%<sup>1</sup>
- This means that 1 claim will be reported each year for every 3 doctors working in the area of cosmetics
- If we include in the analysis incidents notified (some of which will develop into claims) – the frequency increases to 51%
- The claim frequency for Cosmetic Medical Practitioners in the last 3 years has increased by approximately 50% compared with the previous 7 years (grouping in this way helps by smoothing any fluctuations in the annual experience)
  - Nationally the frequency has increased by 41%.<sup>2</sup>

### Average size of claims

- The average size of claims for Cosmetic Medical Practitioners insured with MIGA across the 10 year period is \$29,000:
  - This figure excludes adjustments for inflation, excludes MIGA's expenses of administering claims and assumes that case estimates on open claims will prove to be correct
  - Also, a single large claim occurring could materially impact this figure
- The average of \$29,000 is:
  - Significantly lower than the average claim size of \$81,000 across all of MIGA's membership
  - Lower than the average claim size of \$40,000 for Plastic Surgeons (note – Cosmetic Medical Practitioners may include doctors who do not undertake any surgical work which reduces the average)

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<sup>1 & 2</sup> Refer ISA Report – June 2006 accessible via [www.insurancstats.com.au](http://www.insurancstats.com.au). Note – at a national level not all insurers split the experience between Cosmetic Medical Practitioners and Plastic Surgeons which is why it is reported as a group.

## 2. Key Conclusions cont...

- The average size of claims for Cosmetic Medical Practitioners insured with MIGA in Cat D (i.e. undertaking surgical work that MIGA rates equivalent to Plastic Surgeons) is the same as Plastic Surgeons i.e. \$40,000.

Overall, doctors working in the area of cosmetics have a much higher claims frequency than the average, but a lower average size of claims. The frequency is however increasing at a relatively significant rate.

### Key causes of loss

The key causes of claims identified in the analysis are:

- Patient dissatisfaction accounts for the majority of claims against Cosmetic Medical Practitioners (65%) with post operative management accounting for the next highest level of claims (24%)
- Approximately 33% of claims relate to moderate injury, which includes nerve or tissue injury
- The key procedures that have resulted in claims against Cosmetic Medical Practitioners are as follows:

Procedure	% of claims
Liposuction	24%
Breast augmentation /reduction/ implant	12%
Laser facial	11%

- The top 4 risk management issues identified for claims for Cosmetic Medical Practitioners are as follows:

Key risk management issue	% of claims having this issue
Patient expectations not managed or met	23%
Lack of or limited documentation	23%
Clinical management – clinical error, question re technical ability	16%
Informed consent - not obtained or inadequate	13%

In Section 5 of this Report we have outlined our initial thoughts on risk management initiatives that could be undertaken by the profession and the ACCS to address the claims issues identified.

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### 3. Claims Analysis

#### a. Introduction

The following claims indicators have been assessed:

- Claims frequency
- Average claims size.

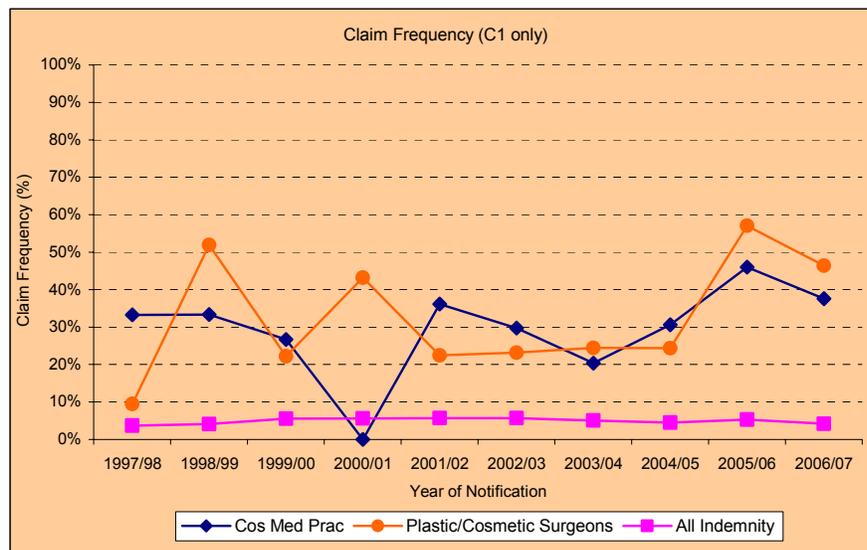
In addition, some information has been provided in relation to the gender of patients and the profile of the severity of claims.

#### b. Claims frequency

Analysis of claims frequency provides a guide as to whether the claims profile for an area of practice is changing, irrespective of the change in the number of doctors we are insuring in the category.

Claims frequency represents the number of claims per 100 doctors in the specialty.

The following graph shows the claims frequency for Cosmetic Medical Practitioners, compared with Plastic Surgeons and the average frequency across MIGA's membership.

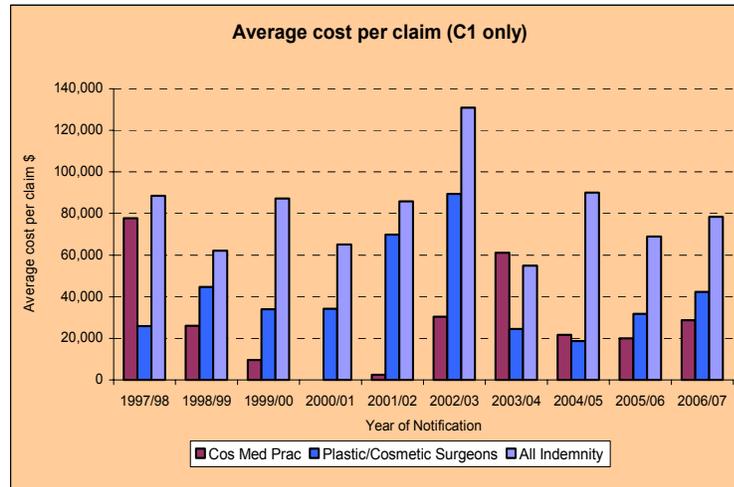


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### 3. Claims Analysis cont...

#### c. Average size of claims

The following graph shows the average size of claims for Cosmetic Medical Practitioners, compared with Plastic Surgeons and the average size across MIGA's membership.



#### d. Other useful data

The following table provides some information from MIGA's files on the gender of the patient and the severity of the claims, comparing Cosmetic Medical Practitioners and Plastic Surgeons.

		Cosmetic Medical Practitioners	Plastic Surgeons
<b>Gender of patient</b>			
	Female	85%	81%
	Male	15%	19%
<b>Severity of loss</b>			
	Minor injury	65%	39%
	Moderate injury (nerve or tissue)	34%	54%
	Serious injury	1%	5%
	Patient died from incident	0%	2%

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## 4. Risk Management Analysis

### a. Introduction

MIGA collects extensive information on claims files, including data that helps us understand the key drivers of claims. This Section provides information on:

- Key causes of loss for cosmetic claims
- The type of procedures that most commonly result in claims.

### b. Cause of loss

The two most significant causes of loss across the 10 years for both specialty groups is “patient dissatisfaction” with the outcome and “post operative management.”

Communication issues with the patient have been identified as key risk management factors in the areas of:

- Managing a patient’s expectations
- Obtaining informed consent
- Providing adequate information and advice on new procedures and alternatives
- Management of post operative complications (should they occur) including follow up and availability of the doctor to manage concerns.

The following table summarises the top 6 causes of loss for each of the two groups across the 10 year period.

Top 6 causes of loss for each	Cosmetic medical practitioners	Plastic surgeons
	% of total claims	% of total claims
Patient dissatisfaction with outcome	65%	49%
Post operative issues and management	24%	28%
Procedure - intra-operative injuries	3%	5%
Consent – not correctly warned, failure to warn	3%	4%
Medical treatment – complications, incorrect, not provided	1%	4%
Diagnosis – failure, missed diagnosis, wrong diagnosis	1%	5%
Procedure (other)	1%	3%
Anaesthetic event – awareness, dental damage	-	1%
Device failure – implant failure, equipment failure	1%	1%

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#### 4. Risk Management Analysis cont...

##### c. Types of procedures

In the following we have summarised the key procedures that have resulted in claims against Cosmetic Medical Practitioners (all), Cosmetic Medical Practitioners Level D and Plastic Surgeons and their average size.

In some cases, there may be more than one procedure which is the subject of a claim for the same patient.

The top procedures (number of claims) across the 10 year period are as follows:

Procedure	Cosmetic Medical Practitioners - all		Cosmetic Medical Practitioners Level D		Plastic Surgeons	
	% of total claims	Avg. size	% of total claims	Avg. size	% of total Claims	Avg. size
Liposuction	24%	\$29,000	22%	\$23,500	8%	\$24,000
Breast augmentation, reduction or implant	12%	\$33,500	16%	\$17,500	27%	\$26,000
Laser facial	11%	\$36,000	16%	\$15,500	2%	\$450
Permanent or semi permanent fillers	7%	\$17,500	9%	\$16,200	<1%	\$25,200
Face or neck or stitch lift	6%	\$20,500	6.5%	\$8,000	7%	\$20,000
Blepharoplasty	5%	\$4,000	6.5%	\$17,000	4%	\$4,200
Excision or removal of lesions, cysts, moles, plantar warts	<1%	\$1,700	3%	\$1,200	8%	\$27,000
Abdominoplasty	-	-	-	-	7%	\$30,500
Rhinoplasty	<1%	\$13,500	3%	\$13,500	7%	\$18,000

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**4. Risk Management Analysis cont...****d. Risk management codes**

Risk management coding is completed by MIGA on closed claims only. It is a mechanism to record the key underlying risk management issues that contributed to a claim. Accurate coding is generally only able to be completed once a matter is settled, the file is closed and all issues identified.

Up to 4 risk management codes may be attributed to any one claim. There may also be a number of underlying causes or contributing factors to a claim. Clinical judgement will be recorded as an issue where there is conflicting advice on adequacy of clinical management or performance.

The top 6 risk management issues for each group are as follows:

Key risk management issues	Cosmetic medical practitioners	Plastic surgeons
	% of claims having this issue	
Patient expectations not managed or met	23%	23%
Lack of or limited documentation	23%	10%
Clinical management – clinical error, question re technical ability	16%	24%
Informed consent – not obtained or inadequate	13%	14%
Billing dispute or concern with patient	8%	4%
Communication issues with patient or medical team	3%	10%
<b>Other issues that are recorded include:</b>		
Professional dispute – complaint motivated by comments from other doctor	3%	3%
Failure to consult with or delay in referring to specialist for additional treatment	2%	3%
Medical record system / tracking inadequate / files lost or unable to identify	2%	0%
Failure to follow up with visits, tests or referral	0%	4%
Failure to monitor patient whilst on meds, suicide watch or after surgery	0%	3%

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## 5. Legal Expense Matters

### a. Introduction

MIGA also insures doctors for matters where there is no claim for compensation but there may be legal expenses associated with an enquiry or issue.

These matters may include Medical Board complaints, Health Complaints Commission enquiries, Coronial matters and issues with Medicare Australia.

### b. Average size of claims

The following table summarises the average size of these claims, looking at the costs across all years, the last 3 years and the last 5 years.

What is noticeable is that the average cost of supporting a doctor to respond to a complaint is increasing. If a matter is brought before the Medical Tribunal or a court the costs can be significant. Most matters are dealt with as a complaint.

Average cost (all years)	Average (last 5 years)	Average (last 3 years)
\$4,000	\$4,700	\$6,000

### c. Key risk management issues

In the following table we have summarised the key risk management issues that have been identified in terms of legal expense claims for Cosmetic Medical Practitioners. Cause of loss codes are not recorded against “legal expense only” claims.

Top 5 risk management issues	% of claims having this issue
Advertising an issue	29%
Medical reports an issue	21%
Negligent treatment, poor treatment or management of condition	21%
Communication an issue	7%
Professional other (medical notes, unlawful conduct, unprofessional conduct)	7%

The MIGA IRM Program deals with “legal expense only” claims specifically in the Workshops topic “Issues before the Medical Board” and more generally in the other Workshops topics.

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## 6. Key Risk Management Initiatives

### a. Introduction

MIGA would like to work with the profession and the ACCS to identify risk management initiatives that can be implemented to address the claims trends we are currently seeing in cosmetics.

In the following, we have summarised some ideas we have for initiatives that could be considered. These are not exhaustive and should be read as a starting point only, pending further discussion with the ACCS.

MIGA also offers a comprehensive risk management program and in Section 6 we have provided an overview of key activities offered via the MIGA IRM Program which either are directly relevant to or would be valuable for doctors working in the area of cosmetic medicine.

### b. Key risk management initiatives

Taking into account all we have learnt from the claims analysis, we have identified some preliminary risk management ideas for discussion with the College.

These are ideas only and at this time do not reflect any understanding on our part as to what the ACCS might already be undertaking or considering. MIGA could assist with a number of these initiatives.

In the following we have summarised some initial thoughts on risk management initiatives that could be implemented to minimise some of the risk issues we see emerging with claims.

The analysis is split between:

- Those that are relevant to the specific risk management issues identified through the MIGA claims analysis
- Those that may have more general application.

## 6. Key Risk Management Initiatives cont...

### c. Specific ideas linked to the risk issues identified

Top 5 issues	% of claims	Key actions which could be undertaken by the College
1. Patient expectation	23	<ul style="list-style-type: none"> <li>• Develop a guide on Patient Selection and Managing Expectations for use by all College members</li> <li>• Develop a package of information which could be made available to every patient, including:               <ul style="list-style-type: none"> <li>- Patient selection – is cosmetic / plastic surgery for me?</li> <li>- Risks</li> <li>- Recovery</li> <li>- Results</li> <li>- Descriptions of the procedures with claims statistics</li> <li>- Follow up</li> <li>- Consent</li> </ul> </li> <li>• Develop a standardised patient satisfaction survey to be used by all members with the College collating, analysing and providing results and feedback to the College members</li> <li>• Develop and implement a best practice standard / code for advertising</li> </ul>
2. Documentation	23	<ul style="list-style-type: none"> <li>• Develop Guidance Notes on the ideal content of the medical record and critical information for cosmetic matters</li> <li>• Establish and implement a best practice standard and check list for preparing medical reports</li> </ul>
3. Clinical judgment	16	<ul style="list-style-type: none"> <li>• Consider competency based clinical training and guidelines in the key areas of risk identified</li> </ul>
4. Informed consent	13	<ul style="list-style-type: none"> <li>• Develop a standardised consent process and guidance material</li> </ul>
5. Billing dispute with patient	8	<ul style="list-style-type: none"> <li>• Develop Guidance Notes on dealing with billings disputes</li> </ul>

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## 6. Key Risk Management Initiatives cont...

### d. General risk management ideas

In the following table we have summarised other ideas in relation to risk management initiatives that could be considered, which would deal with many of the issues identified in the claims analysis.

General risk management initiatives
<ul style="list-style-type: none"> <li>• Develop risk management articles and case studies as a learning tool and promote via College publications and on the College web site</li> </ul>
<ul style="list-style-type: none"> <li>• Promote members enrolling in and completing their insurers' risk management program (where available)</li> </ul>
<ul style="list-style-type: none"> <li>• Establish focus group of College members and insurers to:               <ul style="list-style-type: none"> <li>○ Share claims data and analysis</li> <li>○ Facilitate discussion on underlying drivers of claims</li> <li>○ Consider what is currently available in terms of risk management education</li> <li>○ Identify initiatives to address College and risk management issues in addition to what is already in place / available</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Include in the College's national conference a risk management focus / theme and workshop(s) e.g. an MIGA IRM Workshop</li> </ul>
<ul style="list-style-type: none"> <li>• Develop a package of independent information for patients to be offered as part of the information exchange and consent process e.g. <a href="http://www.which.co.uk/reports">www.which.co.uk/reports</a></li> </ul>
<ul style="list-style-type: none"> <li>• Consider mentoring arrangements (including peer reviews) for new members and those with claims / complaints (accepting the latter may be difficult to identify)</li> </ul>
<ul style="list-style-type: none"> <li>• Extend the CPD Program to include activities that are linked to key causes of loss and exposure</li> </ul>
<ul style="list-style-type: none"> <li>• Develop and implement a best practice standard / code for advertising (noting there are different requirements in different States)</li> </ul>
<ul style="list-style-type: none"> <li>• Develop a best practice standard for complaints management and dispute resolution</li> </ul>

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**6. Key Risk Management Initiatives cont...****e. Procedures**

We would like to discuss further with the College clinical risk management activities that could be developed to minimise the frequency of claims that emerge from the following procedures:

- Liposuction
- Breast augmentation, reduction or implant
- Laser facial
- Permanent or semi permanent fillers
- Face or neck or stitch lift.

## 7. MIGA - Risk Management Education

### a. Introduction

MIGA offers a comprehensive risk management program for doctors.

Our Interactive Risk Management (IRM) Program is now in its sixth year; it is voluntary and on average 70% of our insured doctors enrol each year.

The Program offers:

- A maximum premium discount of 10% with MIGA on full completion (subject to terms and conditions of the Program)
- A wide range of risk management activities for the whole profession, geared to the key areas of risk identified through our claims experience
- The opportunity to earn CPD points with many Colleges
- The opportunity to attend risk management Conferences across Australia.

A copy of our IRM Program booklet for 2007/2008 is enclosed with this Report (refer Appendix 2).

There are many components of the IRM Program that are relevant to doctors practising in the areas of cosmetics:

### b. Workshops

The following workshops are offered by MIGA to members to cover the risk management issues identified for cosmetics:

Workshop	Issues covered
Managing patient expectations	Managing patient expectations; communication
Drafting a consent	Informed consent; duty of care, documentation, communication
Medical notes	Documentation
Follow up – your duty of care explored	Follow up, referral
Practice management – follow up systems	Follow up, monitoring patient care
Issues before the Medical Board	Clinical matters, availability, communication, billing, professional disputes, consent, documentation, patient expectations
Operative complications	Case Study: cosmetic
Procedural case studies	Case Study: cosmetic

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## 7. MIGA - Risk Management Education cont...

### c. Questionnaires

The following MIGA questionnaires are also relevant to doctors practising in the area of cosmetics:

Questionnaire	Issue
General Questionnaires	Based on MIGA Bulletin articles
Risk Focused Questionnaires	Consent, open disclosure, procedural case studies, non procedural case studies
Cosmetic Quiz (2005/2006)	Body dysmorphic disorder
Cosmetic Quiz (2006/2007):	DVT and pulmonary embolism in plastic surgery office procedures
Cosmetic Quiz (2007/2008)	Review of abdominoplasty and facelift mortality

### d. Other risk management activities

MIGA offers other activities and resources as part of our risk management program

These include:

- Practice self assessments:
  - We offer online questionnaires plus a mechanism for doctors to address any practice issues, implement change and earn points as part of the IRM Program for doing so
- Fact sheets - are available via the Members' Area of the MIGA website and relate to issues such as communication, follow up, medical notes and patient selection
- Bulletin articles – MIGA's bi-monthly Bulletin includes articles on risk management and case studies.

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## Appendix 1

## Insurance options available with MIGA for Cosmetic Medical Practitioners

The following table summarises the 4 categories of insurance available to Cosmetic Medical Practitioners who are insured with MIGA.

The options are based on increasing level of risk and we summarise the activities covered under each Category for Cosmetic Medical Practitioners.

Category	Includes	Excludes
<b>Cosmetic Medicine Level A</b>	GP Non Procedural activities as listed in the MIGA PDS/FSG <b>plus</b> the following: <ul style="list-style-type: none"> <li>• Botulinum toxin injections</li> <li>• Dermal fillers (non permanent) including poly lactic acid</li> <li>• Chemical peels (superficial epidermal only) such as glycolic acid peels</li> <li>• Intense Pulse Light therapy (IPL)</li> <li>• Laser therapy, excluding laser resurfacing</li> <li>• Microdermabrasion</li> <li>• Photo-rejuvenation</li> <li>• Radio frequency treatment</li> <li>• Microsclerotherapy for facial lesions</li> <li>• Sclerotherapy</li> </ul>	<ul style="list-style-type: none"> <li>• GP Procedural</li> <li>• Cosmetic Medicine Level B</li> <li>• Cosmetic Surgery Levels C and D</li> </ul>
<b>Cosmetic Medicine Level B</b>	All GP Non Procedural and GP Procedural activities as listed in the MIGA PDS/FSG <b>plus</b>  Activities listed under Cosmetic Medicine Level A	<ul style="list-style-type: none"> <li>• Cosmetic Surgery Levels C and D</li> </ul>
<b>Cosmetic Surgery Level C</b>	<ul style="list-style-type: none"> <li>• All GP Non Procedural and GP Procedural activities as listed in the MIGA PDS/FSG <b>plus</b></li> <li>• Activities listed under Cosmetic Medicine Level A <b>plus</b> the following: <ul style="list-style-type: none"> <li>– Dermabrasion</li> <li>– Dermal fillers (permanent)</li> <li>– Facial thread lifting procedures (not in association with skin excision)</li> <li>– Laser resurfacing</li> <li>– Liposuction/lipoplasty (including breast reduction via liposuction alone)</li> <li>– Medium and deep chemical peels (dermal peels using agents such as phenol and trichloroacetic acid)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Cosmetic Surgery Level D</li> </ul>

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## Appendix 1 cont...

## Insurance options available with MIGA for Cosmetic Medical Practitioners

Category	Includes	Excludes
<b>Cosmetic Surgery Level D</b>	<ul style="list-style-type: none"> <li>• All GP Non Procedural and GP Procedural activities as listed in the MIGA PDS/FSG <b>plus</b></li> <li>• Activities listed under Cosmetic Medicine Level A and Cosmetic Surgery Level C, <b>plus</b> the following:               <ul style="list-style-type: none"> <li>- Abdominoplasty</li> <li>- Blepharoplasty</li> <li>- Breast augmentation/reduction</li> <li>- Cosmetic rhinoplasty</li> <li>- Face lift</li> <li>- Labiaplasty</li> <li>- Otoplasty</li> <li>- Penile extension/thickening</li> </ul> </li> </ul>	

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Appendix 2 - IRM Program Booklet

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