



How to Investigate Legal and Professional Liability in Cosmetic Intervention Issues

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Abstract

In recent years, cosmetic interventions have been growing rapidly in the world for beauty and luxury. Cosmetic interventions are classified into two types. The first type is surgical or invasive cosmetic intervention type which has a high risk such as liposuction and rhinoplasty while the second type is non-surgical, reversible, minimally invasive cosmetic interventions with low risk such as Botox and fillers. The surgical type of cosmetic intervention may be reconstructive type due to acceptable medical reasons such as repair of congenital defects or aesthetic type for beauty only. In recent years, a lot of claims have arisen against cosmetic intervention professionals because of improper performance of cosmetic interventions, medical negligence, or complications such as deformity and facial disfigurement. Therefore, this article aims to show professional standards of cosmetic interventions that should be applied and discuss rules that govern the legal and professional liability of physicians while performing these cosmetic interventions.

Keywords: Cosmetic Interventions; Legal Liability; Professional Liability

Introduction

Cosmetic interventions are used methods to improve the health status of humans wherein health is the convenience of complete physical, mental, social, and spiritual aesthetic interventions according to WHO [1]. Cosmetic surgery is already a feature of plastic surgery that become more common use in recent years in the world wherein it is considered a desirable choice for many persons to undergo an invasive medical intervention or surgical operation for an alteration of physical appearance for aesthetic reasons, not medical reasons [2].

Cosmetic interventions are classified into surgical, invasive cosmetic intervention types with a high risk that require general anesthesia while the other types are non-surgical, reversible, minimally invasive cosmetic

interventions with low risk that require local anesthesia wherein is carried out in outpatient clinics or beauty centers by non-physicians and nonqualified persons such as Botox, fillers, and chemical peels [3].

The surgical type of cosmetic intervention usually is a choice toward beauty and luxury such as liposuction and rhinoplasty. On the other hand, there is another type of plastic surgery that is reconstructive because of psychological reasons or congenital anomalies such as cleft lip or deformities from different causes such as burns and motor car accidents wherein it represents a necessity to improve aesthetic features based on acceptable medical reasons [4].

In recent years, cosmetic interventions for beauty have been growing rapidly, especially for women who have increased concerns about their appearance for improving



confidence. It was noted that the excessive use and abuse of cosmetic interventions are due to several factors wherein some factors are related to personality and psychological status, and other factors are related to social, community, and cultural changes. so, cosmetic procedures did not look as stigma as in the past [5].

In this context, a lot of claims have arisen against cosmetic intervention professionals because of improper performance of cosmetic interventions, medical negligence, or early and long-term complications such as deformity and facial disfigurement. Moreover, medical ethics abuse and violation of ethical principles during cosmetic interventions have greatly increased, and many ethical questions have been raised. Is cosmetic intervention commercial or is it part of the health care system of the patient? [6].

In addition, several factors represent a medicolegal challenge during performing cosmetic interventions. The assessment of the results quality usually is extremely subjective because it is done by the patient; besides, there is a mismatch between the patient's expectations and the gained results. In addition, the type of personality of the patient that doesn't tolerate imperfection, and the possibility of permanent disfigurement [7].

Therefore, this article aims to discuss rules that govern the legal and professional liability of physicians when performing cosmetic interventions, and then establish norms that help medicolegalists investigate medicolegal and malpractice issues related to this high-risk specialty which emerged in recent years.

Professional Standards of Cosmetic Interventions

The physician should commit to many ethical, legal, and professional rules before, during, and after cosmetic interventions. Firstly, the physician should be competent, certified, and qualified with enough practical experience in this area to perform these interventions. So, the medicolegalist should investigate the qualifications of a physician and ensure that cosmetic intervention is within the limit of his competency [8].

The physician should apply the different known rules whether international, national, ethical, or legal rules that are related to cosmetic intervention such as getting informed consent from the patient based on medicolegal rules that are capacity, voluntariness, and understanding [9]. So, the physician must communicate clearly with the patient, listen to his concerns, and explain the related information using appropriate language encouraging the patient to discuss the suggested procedure to help him make an informed consent

about the cosmetic intervention [10].

The medicolegalist should ensure that the used medical devices, medicines, and implants in cosmetic intervention by the physician comply with international medical product criteria. Moreover, the physician is also responsible for ensuring that the used equipment is fit for the purpose before intervention [11].

Moreover, the physician should ask the patient about the expected outcome he hopes for, and then assess whether this intervention is appropriate and meets his needs or not. So, the physician should consider the medical history and general health of the patient besides age, co-morbidities, and medications [12].

Moreover, the physician must avoid any cosmetic intervention for the psychologically vulnerable patient because this may affect the patient's satisfaction with the outcome of cosmetic intervention. Many features may detect the psychological patient such as if the patient's expectation of the outcome of surgery is unrealistic, or if the patient has a history of repeated cosmetic interventions, especially in one anatomical area leading to dissatisfaction [13].

Furthermore, a physician must give a complete illustration of cosmetic intervention to the patient including its implications, duration, length of recovery, and any possible complications besides likely realistic outcome, benefit and risk, and anticipated impact on the lifestyle of the patient. Moreover, the patient should know the plan of follow-up, aftercare, and the relevant financial implications [14].

In addition, all data of the patient including personal information and cosmetic intervention must be recorded securely, always respecting the patient's rights to privacy and confidentiality. On the other hand, a physician must be honest with his patient. It should not falsely claim that cosmetic intervention is risk-free or misleading about the desirable results [15]. Moreover, physicians should apply sound cosmetic intervention based on well-established scientific rules in a safe practical, and suitably equipped environment using the best available effective updated intervention without risk and with minimal side effects. Finally, physicians must be clear about financial considerations without any effect on the quality of cosmetic intervention itself, the standard of care, or recommendations to the patient [16].

Legal and Professional Liability

First, it should show some points about the foundations of the physician-patient relationship that are based on three essential elements which are the competency of a physician, consent from the patient, and the duty of the physician

towards the patient. The competence of a physician usually means getting a medical certificate or license while consent from the patient means approval from the patient based on understanding and information about the medical procedure that will be performed for him. So, the duty of the physician toward the patient means that the physician will do his best for the care of the patient based on applying sound scientific rules in diagnosis and treatment for the intention of recovery apart from the result [17].

Regarding consent from the patient, it should be valid. Therefore, three rules should be available to be valid, the readiness of the patient to undergo diagnostic procedures, treatment, and surgical interventions (voluntariness), the degree of understanding about the nature of diagnostic procedures, treatment, and surgical interventions (capacity), and enough information (Knowledge) about the nature and consequence of diagnostic procedures, treatment, and surgical interventions to the patient [18].

Moreover, informed consent should also include the obligation of the physician to achieve a specific result and use a certain method in cosmetic interventions. In addition, the physician should explain the advantages and disadvantages of cosmetic intervention, the possible adverse effects, and the expected outcomes in the informed consent to give the patient a clear understanding of the nature of cosmetic intervention [19].

On the other hand, there are pillars for professional liability that if one of them is breached, it is considered malpractice and requires legal accountability. The first pillar of professional liability is an error or act that occurs when a physician performs a procedure or prescribes medication for the patient while the second pillar is harm or result that results from this error or act such as injury, permanent infirmity, and death. The last pillar of professional liability is the causation connection or the link between error and harm [20].

Therefore, a lack of reasonable skill and care is a breach of professional liability pillars, and then it is considered malpractice. Thus, lack of reasonable skill is considered incompetence when the physician does not apply authorized scientific medical principles in a medical situation leading to a medical error that should be judged by the standards of specialty and the act of other professionals in the same situation. In addition, if there is a standard breach of the provided care and rights of the patient leading to a risk to the patient's safety, it is considered a lack of reasonable care (negligence) that should deserve a medical negligence charge [21].

Worthwhile, authorized scientific medical principles should be applied before, during, and after cosmetic

intervention. Pre-cosmetic intervention workups (routine investigations) should be done to assess the patient's fitness for cosmetic intervention such as bleeding time, clotting time, blood counts, random blood sugar, and electrocardiogram. This helps the physician to assess the level of risk and expectations via high-quality skillful procedures and helps him to determine the standard of care after the intervention [22,23].

Based on the above-mentioned, there is a non-written contract between physician and patient depending on an obligation to the means or the care, not the result. Therefore, the physician is not guaranteed to meet the objective of the medical procedure whether by medication or via surgical operation [24]. In this context, and from the medicolegal aspect, reconstructive plastic surgery is considered a necessary procedure to repair congenital anomalies or deformities, and then the obligation of the physician toward the patient in this type of cosmetic (aesthetic) surgery is the care or means, not the result achieving. In contrast, in the other type of cosmetic surgery which is performed without medical need because of an inclination toward beauty and luxury based on psychological reasons, the obligation of the physician to the patient is mainly achieving the result, not the care or means [25,26].

Thus, the medicolegalist should have an answer to some questions while investigating the medicolegal issues related to plastic surgery such as, was plastic surgery that was performed to the patient aesthetic or reconstructive? Was plastic surgery that was performed on the patient necessary or unnecessary? The answer to these questions can demarcate the obligations of the physician in these medicolegal issues determining if the obligation to care and means or to the result, and then the legal and professional liability of the physician [27].

In the same context, the medicolegalist should investigate whether the physician had valid informed consent from the patient or not. Noteworthy, the presence of valid consent does not protect the physician from legal accountability if there is any feature of malpractice such as a lack of responsible skill or care (negligence). Moreover, valid consent does not protect the physician from legal accountability if the obligation to the result is not achieved after aesthetic surgery [28].

Legal responsibility in cosmetic interventions is different from general principles of professionalism because the physician faces a healthy person who wants to be younger and more beautiful, not a patient. So, assessment of the patient's expectations is an important issue for the physician, and then informed consent should include an explanation of the possible risks and unwanted complications because the results of cosmetic interventions may not always be

compatible with the patient's expectations that sometimes are unrealistic, and then the patient is unsatisfied about the result of plastic intervention [29,30].

In this context, it should confirm some medicolegal facts that the physician should consider in this field. The physician should recognize that if the patient requests a cosmetic intervention and the physician believes this intervention will not be suitable or beneficial to the patient, the physician must not respond to this request even if this is recorded with informed consent [31]. In addition, the physician should know that it is not acceptable to use video, photographic, or audio records related to cosmetic intervention for promotional and marketing purposes even if the physician gained the patient's agreement. Finally, it is known that cosmetic interventions are elective and non-emergent, thus the physician should be sure that all healthcare resources are available during the performance of these cosmetic interventions, and then the surrounding environment is well-equipped and safe [32].

Conclusion

Cosmetic interventions are used methods to improve the health status of humans. It may be surgical or not surgical. Recently, medical ethics abuse and violation of ethical principles during cosmetic interventions have greatly increased, and many ethical questions have been raised. So, many ethical, legal, and professional rules should be committed by the physician before, during, and after cosmetic interventions. Therefore, when the medicolegalist investigates these medicolegal issues, he should be aware of the rules that govern the legal and professional liability of physicians when performing cosmetic interventions because this is considered a high-risk specialty that led to many medicolegal problems and malpractice in recent years.

Declaration of Conflicting Interests

The author declares that there is no conflict of interest.

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