The legal aspects faced by cosmetologists and dermatologists

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ABSTRACT

The present day cosmetologists, in addition to conventional skin physicians, are also cosmetologists and minor skin surgeons in their practice. The cosmetic procedures have the risk of legal problems leaving an unsatisfied patient and troublesome law. One should have safe practice of cosmetology and possible complications and how to overcome these complications after cosmetology procedure. Doctor should know the routine precautions which help him to avoid unnecessary calls by the court.

Keywords: Cosmetic procedures, Informed consent, Legal aspects, Cosmetologists and dermatologists

INTRODUCTION

The demand for cosmetic procedures is ever increasing.¹ In the modern era, cosmetic procedures are a fancy, a fashion for some patients; it is their profession which compels them to undergo cosmetic procedures. This is supported by economic growth, high affordability, booming middle class with disposable incomes, revolution in the mass media and thereby increased awareness about cosmetic procedures.

There is desire to ‘look good’ that drives the patients to go into such cosmetic procedures. Treating dermatologists should not be over enthusiastic and should not come under high expectations of the patient. It always advisable to play safe. For any procedure, it variable results should be told to patients prior. Patients satisfaction and doctor’s safety should be kept in mind as no doctor think to harm the patients. Nowadays, dermatologists are performing increasing number of cosmetic procedures which have the risk of going into complications.²

By following some simple routine precautions and careful handling of a “difficult patient”, dermatologist can avoid unnecessary legal complications.³

Professional need-based clients demand good look like air-hostesses, actors, receptionist, market professionals, dancers etc. Look good feel clients who wish neat and clean look that matches their age. They seek treatment for their skin tags, moles, dermatosis papula nigra, Seborrheic keratosis, peels, fillers, botulinum toxin. Clients of special occasions who wish to look good on specific occasions, premarital female and male, close relatives of the bride and groom.

METHODS

Selection of patients

Choosing the right patient for a cosmetic procedure is the most crucial step. Whether the expectations of patient match the expected outcome from the procedures, possible complications should be explained to the patient.
in details. It is the trust the patients have on the doctor. Counseling of the patient is must before procedure.

Basic understanding of characteristic feature and pre-operative interview questions are valuable to dermatologists and cosmetologists.4

It is better to avoid patient who have high expectations from the procedures and also those patients who got numerous procedures performed by many doctors and history of poor outcome by the previous doctors. Any history of legal proceedings or threats, violence with previous doctors.5

Doctors practicing corrective dermatology should have serious not profitable approach and they select patients carefully.6

Counseling

Adequate time should be giving to this step. Adult patient preferably accompanied by a friend of relative or parent in whom he /she has full faith in the doctor. Children below 18 year must be accompanied by parents or legal guardian. There is an opportunity for cosmetologist to understand the needs of the patient and also to buildup rapport. Cosmetologist explanations and patient’s understanding to it has been shown to improve the patients compliance.7

Doctors should put all the options available to the patient and allow to choose. At this stage, important information like better or cheaper or more effective or safer procedures should be told to the patient. Detailed discussions about procedure is right way that wins the confidence of patients. Cosmetologist should discuss advantages, disadvantages and adverse effects and generally expected outcomes of the procedures chosen for patient. Patients responsibilities like post procedure care, fees charges should also be told. One should encourage the patient to clarify his doubts. This make the understanding for the patient to know his thinking and to avoid potentially dangerous patient. Choosing a right patient is an art of the doctor. A patient who has consulted many doctors for small issues and who lacks trust and who questions are never ending, best way is to avoid him.

Informed consent is important for legal as well as to improve quality of care and patient satisfaction.8,9 Presence of witness is always preferred while taking informed consent. It should include other conditions needed for treatment, other modalities of treatment, duration, number of sittings, expected results, needed to follow instructions before and after procedure and possible side effects. Consent should always be taken prior to the procedure and by the doctor only. It should be written in simple language which patient understands better, it should be signed by patient, parents or guardian in the case of minor. If patient is teen ager (13 to 18 years) better is to take consent of minor and parents. Consent forms also most protective where unpredictable outcomes come. It does not provide immunity for dermatologist from all guilt in case of adverse reaction occur.10

Patients expectations are higher and they are aware of the power of exercising their rights. Failure to obtain informed consent is one of common allegations in medical malpractice suits.11

Pre-procedure work up

Routine investigations should be done in all patients including bleeding time, clotting time, completer blood counts, random blood sugar, electrocardiogram, pregnancy test in child bearing age and other relevant investigations on clinical finding, past history of any cosmetic procedure done is to be noted. This helps the doctor to assess the expectations and level of risk. History must include connective tissue disorder, diabetes and keloids. If required, biopsy must be taken prior. Patients should be asked for his jobs and profession like actors and approximate time taken in procedure. Drug intake history antiplatelets drugs and vitamin E capsule (Blood thinners), history of green tea which can lead to excessive bleeding, history of topical retinoid before a chemical peel, use of isotrenoin which affects wound healing. Evaluation of the cosmetic patients require a good lighting, assessment of skin type and photo ageing.10

Photograph should be taken from same distance with similar lighting and magnifications in hair transplantation, rhinoplasty etc.

Anti-viral or antibiotic prophylaxis is must for cases of herpes. It is safer to give anti-viral prophylaxis. A test dose of lignocaine is recommended if it is to be used in procedure. Cosmetologists must well skilled for procedures. These skills are acquired by workshop, certified courses and hands on training. High quality training procedures, knowledge of possible complication and ability to address them properly with informed consent including photo documentations form the frame work of good practice.6

Standard of care practiced by dermatologists should be based on current evidence available.12

Aspecific and universal precautions should be taken, guidelines of sterilizations should be followed. One should be prepared for anaphylactic reactions, vasovagal, syncope etc. Talking to the patient remains vital during the procedure as patient is conscious throughout.

A qualified assistant or nurse referred to as ‘physician extenders, when adequately trained, they prove handy in the present day busy schedule of most practicioners.13


Physician extenders play direct role in dermatological care. Promoting patient safety through physician extenders supervisions and reporting of patients outcomes are highly needed.14

Medical record documentations is important. Operations notes should list all the steps and materials used for procedure with date, time, signature of the doctor or team. It is considered as important evidence in the court of law.

Post procedure care and patient workup should be complete. Documentations of advice are important over verbal instructions. Physicians should take great care to ensure complete and accurate records.15

“Downtime” of cosmetic procedure should be told during counseling itself. Patients should be asked to report if any unusual or unexpected events occur. The doctors should be available for contact for the early diagnosis and management of probable complications.16 Follow up visits should be told to comply.

**What to do when something goes wrong**

Even the most experienced and skilled dermatologists can have a bad day. Mistakes do happen even with the best hands. It is better to avoid patient going to courts. Try to make an out of court settlement if doctor defence is weak. This saves doctors reputation as well as economic loss due to time spent in attending to court house.16

In India, patients have an easy method of litigations as it is under the Consumer protection act, 1986.

Supreme court ruled in 1995 that doctors could be sued in India’s consumer courts for any service charged by doctor. Only hospitals giving free services are exempted. A complained can by filled in district forum if the value of the services and compensation claimed is less than 20 lakhs rupees; state commission if the value of the goods or services and the compensation claimed does not exceed more than 1 crore; in national commission, if the value of goods or services and compensation exceed more than 1 crore.

An aggrieved patient can approach the consumer forum with the complaint of medical negligence with in a period of 2 years from the date of cause of action. Once complaint is filed, it will be put before it. If it is so, it issues a notice to doctors who required to reply with in 30 days. This is called as written statement or version of the opposite party. The complainant is then allowed to file a rejoinder. Cross examination is permitted in appropriate cases and affidavits can be filed. Whenever necessary the forum may summon an expert to give evidence. It is always advisable to seek the advice of legal adviser.17

A proper legal reply from the doctor side can alleviate be need to visit the courthouse, in case patient has the intension of mere monitory gain.

What make the patient take a legal action- It is not always actual surgical outcome that make the patient sue the doctor. Patient-doctor relationship is most important factor in deciding whether patient will go to court. A patient is more likely to sue if patient perceives that his doctor is lacking sympathy and communication skills. Procedure are not performed properly, negligence on the part of doctor etc. are the reasons for the patient suing the doctor.

**SAVE YOUR SKIN**

As long as doctor is doing his duty properly, he should not worry. The approach of the physician in dealing with the patient often determines whether post operative problems are perceived by the patient as unfortunate complication or error by the physicians. An open trustful and caring approach by physician can avoid unnecessary trips to the courts. Poor communications, economic gains and negligence are primary reasons that patient sue their physician. Doctor should do their level best to minimize the damages.

Cosmetic patients sue doctors over hyperpigmentaions and sarring. Selection of right patient, good counselling, informed consent, sound knowledge of procedures proper priming before peel, ensuring patient compliance for post procedure care and follow up are the key points. Care should be taken to see that remedy should not be worse than disease the patient had. Do not over promise the patient. Always promise less and deliver more.

**CONCLUSION**

Dermatologist should be aware of local laws with registration of the clinic, toilet facility, drinking water supply, waste management, medical record maintainace taxes to be paid properly.

Aim of the article was the sensitize the cosmetologist about the legal issue in the practice. It is recommended to avail professionally indemnity to cover the risk of allegations of medical negligence and its consequences.

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**REFERENCES**
