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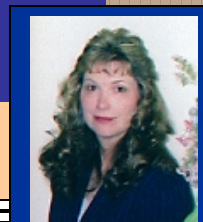
# ***THEORY TO FACT:***

## ***MEDICAL RECORD ANALYSIS***

Plaintiff or defense, let our experience with and knowledge about the health care system work for you.

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### **Ambulatory Surgical Center and Medi-Spa Cases: Important Issues to Consider**

Jane Doe has just finished telling about the injury she received at a certain ambulatory surgical center (ASC) and medi-spa. A brownish discoloration the size of the palm of the hand covers her left cheek even though she has applied make-up to conceal it. The intended result of the cosmetic procedure that was performed four months ago was to diminish sun spots from her face. Ms. Doe was dissatisfied with the resulting hyperpigmentation stating, "That girl didn't know what she was doing."

Unfortunately, the owners and managers of many ASC and/or medical spas do not implement basic industry and specialty guidelines to assess patients adequately and/or perform procedures properly in order to prevent foreseeable bad outcomes. The traditional dermatology office has given way to an evolving lucrative blend of cosmetic - aesthetician - plastic surgery - spa-like environments and procedures.

ASC's that perform cosmetic and plastic surgery procedures have grown astronomically in the last ten years and rely heavily on physician extenders (see box). In any particular case, it may become difficult to distinguish between cosmetic, medical, or medical cosmetic procedures. If a substance is involved, it may also be difficult to determine if it is a cosmetic, a drug, or a hazardous substance.

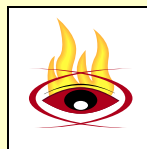
Many of these facilities may or may not be owned by physicians or by licensed individuals at all. Standards of care (SOC) and specialty guidelines may be limited to state statutes, if any, the

#### **Physician Extenders**

- Aestheticians
- Cosmetologists
- Permanent make-up artists
- Massage therapists
- Aesthetic nurses
- Various Technicians
- Nurse Practitioners

#### **Medi-spa Procedures**

- Tattoo removal (laser, non-laser)
- Permanent make-up
- Massage therapy
- Chemical peels
- Photo therapies
- Laser treatments
- Botox injections
- Body art and piercing
- Electrolysis



Public Health Department, city ordinances, and/or certification instructions. In response to unlicensed personnel being inadequately trained and performing questionable procedures leading to patient injuries, many states like New Mexico have defined what the practice of medicine is in order to prevent individuals from practicing medicine without a license.

Medical records may be very sparse in these cases especially if the recorder of patient information is an unlicensed individual. Information from the facility may be limited to the appointment book and billing information. Discovery can be enhanced with very specific deposition questions to determine the knowledge and skill level of the deponent.

When a facility is owned and operated by physicians and/or nurses, there is a higher standard of care, and failures in that care can be

demonstrated by medical and nursing guidelines (see Guidelines and SOC). Unbeknownst to a facility with unlicensed personnel, one particular procedure may require them to be accredited which will raise the SOC concerning patient safety for every procedure.

In Ms. Doe's case, the physician group that owned and operated the ASC and medi-spa had hospital privileges at a nearby hospital which made them fall under the same accreditation expectations of JCAHO. The physicians were also board certified by the American Medical Association which holds them accountable to certain ethical standards and specialty SOC.

### **Guidelines and SOC**

#### **Dermatology**

- Am Academy of Dermatology
- Am Board of Dermatology
- Am Board of Cosmetic Surgery

#### **Plastic Surgery**

- Am Assoc of Plastic Surgeons
- Am Board of Plastic Surgery
- Am Society of Plastic Surgeons

#### **Facility Accreditation**

- Am Assoc for Accreditation of Ambulatory Surgery Facilities
- Joint Commission on Accreditation of Healthcare Organizations (JCAHO)

#### **Other Organizations**

- Clinical Laboratory Improvement Amendments
- Food and Drug Administration
- American National Standards Institute
- Am Society of Plastic Surgical Nurses
- International Medi-spa Assoc