Brief Discussion: Medicolegal Aspects of Consent and Checklists for Common Cosmetic Procedures

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Minimally invasive cosmetic procedures have become increasingly popular in both private and academic dermatology settings. Patient informed consent and preprocedure and postprocedure checklists are vital for both excellent patient care and medicolegal protection for patient and practitioner. In private settings, procedures tend to be performed by a single individual with consistent quality and unified standards; this is seldom the case in academic settings, where patients are typically seen by different providers (residents) over multiple visits. To ensure standardization and consistent quality of care for patients undergoing cosmetic procedures, we have developed practical consents and preprocedure and postprocedure checklists for some common cosmetic procedures performed at our institution.

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DISCUSSION

Informed consent has 3 legal elements: the person is competent, consent is voluntary, and the person is appropriately informed about risks.[1] Competence is usually assumed for adult patients seeking cosmetic procedures. However, competence may be in question in patients with body dysmorphic disorder (BDD). This issue was raised in the case of *Lynn v Hugo*,[2] in which a cosmetic surgeon was sued by a patient who claimed BDD rendered her incompetent to give consent. The case was eventually dismissed, but it nevertheless raises the risk that BDD may at some point be a barrier to informed consent.[3,4] Therefore, it may be in dermatologists' interest to recognize signs of BDD. This disease is characterized by a preoccupation with a minimal or nonexistent physical flaw and resultant distress that may inhibit normal daily functioning.[4] BDD symptoms include anxiety, self-consciousness, and avoidance of social situations. Furthermore, patients may have a

TABLE 1

Contraindications and Risks of Cosmetic Procedures

	Injectable Fillers*	Chemical Peels	Botulinum Toxin Type A
Contraindications	Infection or inflammation at proposed site of injection Pregnancy or planning pregnancy Breast-feeding Body dysmorphic disorder	Infection or inflammation at application site Pregnancy or planning pregnancy Breast-feeding Isotretinoin use in the past 12 months Prior radiation at application site Body dysmorphic disorder	Infection or inflammation at injection site Pregnancy or planning pregnancy Breast-feeding Albumin allergy Clindamycin or aminoglycoside use Neuromuscular disease Body dysmorphic disorder
Risks	Common injection-related events Hypersensitivity reaction Granuloma formation Abscess formation Local necrosis Urticaria	Herpes simplex virus reactivation Pain Edema Infection Scarring Hyperpigmentation or hypopigmentation Contact dermatitis Persistent erythema	Pain Bruising Headache Adjacent muscle weakness Hypersensitivity reactions

*Injectable hyaluronic acid gel and calcium hydroxylapatite.

history of numerous cosmetic procedures owing to their preoccupation with their perceived physical flaws and unrealistic expectations of improved quality of life that will result from treatment of these flaws. Typical warning signs of BDD include excessive focus on perceived defects, attempts to mask the perceived defects, elaborate grooming rituals, and excessive use of mirrors to check appearance, dieting, and exercising. Aside from competence-related and consent-related issues, BDD patients are more prone than patients without BDD to be dissatisfied with cosmetic outcomes. They may also be more likely to take legal or even extralegal action against physicians.[3]

Nearly all cosmetic procedures are voluntary; there is seldom a strong medical need driving a patient's decision to undergo treatment. The voluntary nature of these procedures adds an extra burden to more fully disclose risks. As stated by Jones, "Clearly non-essential cosmetic surgery requires a *higher* degree of disclosure than potentially life-saving cancer surgery" [italics added].[1]

Information about risks must be given in a manner that laypersons can understand. For legal reasons, it is wise to document those risks in the consent signed by the patient. There are also practical reasons favoring written consents and written take-home materials for patients. Makdessian et al[5] showed that cosmetic patients remembered significantly more risks if they were disclosed in written format. This study supports previous data showing that written information enhances recall of risks and benefits.[6,7]

Cosmetic products are frequently used off label from their US Food and Drug Administration (FDA) indications. For example, botulinum toxin type A has FDA approval only for softening glabellar lines,[8] injectable hyaluronic acid gel is indicated only for correction of

TABLE 2

Checklists for Patients Undergoing Cosmetic Procedures

	Injectable Fillers	Chemical Peels	Botulinum Toxin Type A
Pamphlet	+	+	+
Premedication	Topical anesthetic Injected anesthetic miniblock	Valacyclovir Aspirin	+/− Topical anesthetic
Informed consent (procedure + photo)	+	+	+
Preprocedure and postprocedure photos	+	+	+
Ice packs	+	+/−	+/−
Written postprocedure instructions	+	+	+
Follow-up	14-21 days	2-3 days	10-14 days

+ indicates always needed; +/−, not always needed.

moderate to severe facial wrinkles, such as those in the nasolabial folds,[9] and calcium hydroxylapatite is approved only for correcting human immunodeficiency virus–associated facial lipoatrophy and for filling cosmetic folds and wrinkles.[10] In practice, these products are used in many other ways. Off-label use of FDA-approved medications and devices is acceptable medical practice.[11] As long as the use of cosmetic medications and devices is consistent with standard care routinely performed by other physicians, medical liability is minimal.

Table 1 presents the risks and contraindications of injectable fillers (injectable hyaluronic acid gel and calcium hydroxylapatite),[12,13] chemical peels,[14,15] and botulinum toxin type A.[16] Common filler-related adverse events include irritation, edema, pruritus, discoloration, and injection-site tenderness. Less commonly, hyaluronic acid hypersensitivity reactions may occur in 1 in 2000 patients; other rare adverse events include granuloma or abscess formation, local necrosis, and urticaria. Common risks associated with peels include herpes simplex virus reactivation, erythema, pain, edema, desquamation, infection, scarring, hyperpigmentation, hypopigmentation, contact dermatitis, and persistent erythema.

CONCLUSION

We have found that preprocedure and postprocedure checklists (Table 2) may be useful to ensure that all needed steps are taken by every practitioner. Although private practice procedures tend to be performed by a single individual with consistent quality and unified standards, this is seldom the case in academic settings, where patients are typically seen by different providers (residents) over multiple visits. Understanding issues pertaining to informed consent and preprocedure and postprocedure checklists helps to ensure standardization and consistent quality of care for patients undergoing cosmetic procedures.

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