

Virtual Mentor

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CLINICAL CASE

Mainstream Medicine Meets the Medi-Spa

Commentary by Lionel Bercovitch, MD

A new medi-spa moved to town and approached Dr. Anderson, a family physician, about referring some of her patients. A spa representative gave Dr. Anderson a stack of glossy brochures and cards to place on display in her waiting room. Dr. Anderson had heard of medical spas before, knowing they offered some medical procedures, massages, and other services, all in a luxurious environment that was not inexpensive. She knew that several of her patients could afford to go and might want to have more information about the spa, to which she had never given any thought before.

Subsequently, Dr. Anderson researched the spa and discovered that it was jointly owned and operated by an internist and a chiropractor. She couldn't help but be critical of some of the procedures on offer, especially those that were heavily marketed but lacked any credible evidence of efficacy. Would some of her patients be more willing to undergo such a procedure at the medi-spa because a licensed physician happened to recommend it? Would recommending the spa breach trust in the patient-doctor relationship?

Dr. Anderson glanced past her computer screen and noticed the brochures the spa representative had left and began to think about what she should do. Would displaying this information in her waiting room, or mentioning the spa to some of her patients constitute a tacit endorsement of the spa's procedures? Could such an endorsement affect Dr. Anderson's reputation or cost her the respect of some of her patients? She went to sleep struggling with these issues and thinking about what she wanted for her practice and professional future.

Commentary

Medical spas (often called medi-spas) combine treatments traditionally provided in a beauty salon or day spa with medical procedures and noninvasive cosmetic surgery and dermatologic treatments. The care environment is often more luxurious, attractive, and pampering than the standard medical practice setting. Medi-spas now generate more than \$1 billion per year in the United States, having doubled their revenues between 2006 and 2007 [1]. They typically offer standard cosmetic services such as waxing, eyebrow threading, and microdermabrasion, along with laser hair removal, other nonablative laser treatments, treatments with intense pulsed-light sources, and botulinum toxin and filler injections. Some offer massage and aromatherapy. One of the largest sources of profit for medi-spas is the sale of products such as cosmeceuticals [1].

Medical spas come in many sizes and organizational varieties. They may be freestanding entities or share space with a dermatology or cosmetic surgery practice (one-stop shopping); some are under corporate ownership, and others are owned and operated by dermatologists and plastic surgeons, other physician specialists such as obstetricians and family practitioners, or nonphysicians such as chiropractors, electrologists, and naturopaths. Individual state regulations and a patchwork of licensing boards dictate who can own and operate a medi-spa and who can perform which treatments under whose direct or indirect supervision. These boards also dictate what types of training and credentialing medi-spa staffers must have and what products medi-spas can sell. In many states, such facilities can have nonphysician ownership, or individual physicians can own and operate multiple sites. In several jurisdictions, licensed physician assistants, nurse practitioners, and registered nurses can perform laser treatments and inject neurotoxins and fillers without a supervising physician onsite. Cosmetic procedures for which there is little evidence-based benefit—such as some cellulite treatments, mesotherapy, and even nontherapeutic beauty treatments—can be carried out in a quasi-medical environment that lends an aura of medical acceptance to them.

The ethical dilemmas associated with medical spas (and cosmetic dermatology and cosmetic surgery in general) stem from a central question: is the medi-spa a consumer-driven, profit-motivated business that happens to fall under the purview of medical practice or is it a legitimate and integral part of the health care system? Does the medi-spa fulfill consumers' desires or relieve suffering and promote wellness? Does it follow the medical model, in which physicians have a fiduciary duty to place the interests of the patient above their own, or the business model in which the business has a fiduciary duty to its shareholders to maximize return on investment? If the medi-spa is a hybrid of the two, as many medical business ventures are, these duties will inevitably conflict. By virtue of the medical procedures offered and their potential morbidity, health care professionals have a duty that transcends the obligations of a business contract [2, 3]. The professional role of healer and entrepreneur conflict, and rationalization may play a part in how the physician-owner balances those roles.

Analyzing the Business Model's Details

There is nothing inherently unethical about medical spas unless the business model creates conflicting dual loyalties for the physicians or leads to substandard medical practice. Nor is there anything inherently evil about money in medicine, except when its pursuit and acquisition cause physicians to mismanage conflicts of interest. As in most everything in life, the devil is in the details; some of those follow.

Who supervises and performs the medical procedures? This has become an extremely contentious, high-stakes turf battle in states such as California and Florida. Traditionally, laser procedures and injections of fillers and botulinum toxin have been an integral part of dermatology and plastic-surgery practice. These specialists have the most sophisticated knowledge and best training in medical, surgical, and

laser procedures involving the skin and treatment of photoaging, pigment disorders, and birthmarks. But practitioners in fields as diverse as occupational health, emergency medicine, and obstetrics have argued that they can obtain the same training [4]. From a legal standpoint their licenses permit them to perform any of these procedures. Electrologists have traditionally used physical modalities to remove hair; should they not be able to use another newer physical modality to do so? One nurse practitioner argued that, since she could write prescriptions independently and administer chemotherapy or cardiac drugs without a physician onsite, should she not be able to administer something as relatively safe as botulinum toxin or a hyaluronic acid filler independently [5]?

From the technical standpoint, operating a laser and injecting a filler according to manufacturers' instructions are not complex procedures. But determining patient eligibility, performing the procedures optimally, and preventing or addressing complications cannot be acquired in a 1-day course with minimal hands-on experience. Supervising physicians should evaluate each patient before treatment, obtain informed consent, and remain actively involved in the course of treatment and readily available to deal with adverse events, even if the actual procedure is delegated to a trained assistant. Anecdotes (but no published data) tell of laser burns and adverse outcomes of nonsurgical cosmetic procedures resulting from inexperience and poor judgment of inadequately trained and supervised operators.

Each consumer, physician, state legislature, or licensing body has to struggle with these competing arguments and interests. Physicians, estheticians, physician assistants, nurse practitioners, registered nurses, and consumers all have distinct viewpoints and stakes. No single group can expect regulations that completely satisfy its desires and demands. The Commonwealth of Massachusetts convened a panel in 2006 that deliberated publicly for 2 years to produce a set of draft regulations that will likely serve as a model for other states [6]. The draft makes no mention of specialty requirements, stating only that the owner(s) (physician, nurse, or electrologist) be sufficiently experienced or trained (in what way is not defined) to perform the procedures and that those individuals be onsite at all times when the facility is open [6]. In Florida, the Safe Supervision bill, which became law in 2006, specified that medi-spas be supervised by dermatologists or plastic surgeons [1].

The sale of goods. A major source of revenue for medi-spas is the sale of an array of cosmetic and anti-aging products and cosmeceuticals. Much has been written about the ethics of physicians dispensing these products, and it is not within the scope of this commentary to extensively review the literature on this subject. Virtually all nonprescription cosmeceuticals and cosmetic products sold through dermatologic practices and medi-spas lack conclusive evidence to support their stated claims [7]. Idebenone and green tea products sold in physicians' offices and retail outlets are prominent examples [8].

Products distributed by reputable companies might have relevant physiologic and biochemical effects, be produced according to good manufacturing practice, and be

marketed effectively, but none of those properties equates to clinical efficacy. Physicians and medi-spas may also privately label products made by these manufacturers, a practice that is not always accompanied by full disclosure. Medi-spa retail enterprises often have sophisticated inventory control and marketing tools, such as receipt of cooperative advertising dollars from manufacturers. Although medi-spa operators and cosmetic dermatologists may claim that product sales follow ethical guidelines and that patients and clients are not pressured to purchase any product, the widespread practice of paying sales commissions constitutes incentive for staff to promote products and possibly exaggerate claims of efficacy. Lending one's status as a physician to the sale of unproven products in a medical setting is ethically questionable, especially since consumers look to their physicians and health care professionals as more authoritative than an esthetician or clerk at a cosmetic counter.

Interestingly, the regulations of the Commonwealth of Massachusetts Board of Registration in Medicine forbid the display or sale of products such as cosmetics and similar "nondurable goods" in medical offices and facilities (which is widely ignored), as well as products such as crutches, at a profit [9]. By contrast, the new Massachusetts draft recommendations specify that such products not be displayed or sold in exam or consultation rooms, that charges be reasonable, and that decisions regarding sales of items be guided by what is in the patient's best interest (without specifying any criteria for determining this) [6].

Dr. Anderson's Dilemma

Being asked to endorse and promote this quasi-medical venture makes Dr. Anderson uncomfortable. She might harbor reservations about the ethics and qualifications of the owners, truthfulness of the advertising, and slickness of the marketing or business model. She worries about the lack of evidence supporting the efficacy of some of these expensive cosmetic procedures and wonders whether patients are more willing to undergo them in a medical spa environment.

She also fears patients might view spa procedures recommended by a physician-owner more favorably and wonders whether her support would violate her professional duty to the patient. A health care professional who recommends a procedure or spa in which he or she has an undisclosed financial interest definitely breaches professional ethics, and one can argue that disclosure does not necessarily render the arrangement ethical. Moreover, if spa staff promote procedures of dubious clinical benefit for financial gain, Dr. Anderson's endorsement poses ethical problems.

Before referring patients to the spa, Dr. Anderson has some further research to do. Are supervising physicians well trained in medical skin care? Do they provide limited onsite supervision of the individuals who actually provide the treatments? Do they evaluate the patients being considered for treatment? One wouldn't refer patients to a specialist whose credentials, training, and competence were suspect, and the same should apply to any other type of referral. "Specialty" credentialing by a

confusing array of cosmetic surgical and laser boards not recognized by the American Board of Medical Specialties compounds the referral problem. Furthermore, promoting the business sidelines of a colleague's practice (or her own) to vulnerable patients who depend on their physicians for unbiased advice can compromise Dr. Anderson's fiduciary duty to put her patients' interests first. Were she to receive free or discounted spa procedures in exchange for her display of brochures, or receive a token amount of money for each referral and not disclose this arrangement to patients, Dr. Anderson would violate professional ethics guidelines on disclosure of financial conflicts of interest. Moreover, the reward arrangement, whether disclosed or not, could violate anti-kickback laws.

Suppose Dr. Anderson does not actively promote the spa, but her patients ask her about the facility or its staff. If a patient inquires about specific procedures, Dr. Anderson is obligated to disclose what she knows about the treatment and any lack of evidence for its efficacy. If there are other health care professionals whose work she does know and trust, or if there are better procedures than those offered at the medi-spa, she should recommend them as an alternative.

It has been said that if reading about what you're considering doing on the front page of the next day's newspaper would make you uncomfortable, then don't do it. That is certainly good advice for Dr. Anderson in this situation. Similarly, if she is uneasy enough about the venture that she lies awake worrying about it, there is no dilemma. She should politely decline to get involved.

Dr. Anderson apparently falls asleep struggling with what she wants for her practice and professional future. She might be concerned about how medicine is changing and becoming more entrepreneurial or about the future of traditional physicians such as herself. She might be thinking of whether her practice can remain financially viable if she does not become more entrepreneurial. What is more troubling is that, more than likely, Dr. Anderson is reflecting on how, under managed care and current reimbursement schemes, she finds herself spending less time with each patient, feeling hurried, pressured, and professionally unfulfilled. Her moral angst might be accompanied by symptoms of professional burnout or depression. She might for the first time be looking with envy at how other practitioners are generating income by delivering cosmetic services that are desired by patients, provided in an attractive and relaxing spa environment, and represent a cash business. This is indeed what motivates many practitioners to enter the medical spa business.

In a perfect world, every professional would find his or her practice fulfilling, stimulating, exciting, and generating an adequate living. But such is not the case, and most health care professionals at some point in their careers sense that they are stagnating, not able to provide the kind of care they would like, practicing in a way that conflicts with their moral values, or working harder each year for less income [10]. The resolution to Dr. Anderson's struggle is a "choose your own ending" story. Perhaps she awakes the next morning after a refreshing night's sleep, goes to work, cleans off her desk, tossing the spa brochures into the trash, and enters the first exam

room with a smile on her face and a spring in her step, secure in her decision. Perhaps she learns to resolve her ethical concerns, seeks professional help for burnout, arranges her schedule to suit her practice style, finds fulfilling pursuits and relationships outside of medicine, or adds an exciting and intellectually stimulating area of interest to her practice. And perhaps, in doing so, she decides to open her own medi-spa, run in accordance with her moral convictions. Choose your own ending.

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Disclosure

Lionel Bercovitch, MD, is a dermatologist and experienced laser surgeon who has neither current nor past financial interest in or professional association with any entity affiliated with a medi-spa, nor any financial or professional conflict of interest relating to the subject of this commentary.

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