

# Should Advertising by Aesthetic Surgeons be Permitted?

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## Abstract

Cosmetic, aesthetic and cutaneous surgical procedures require qualified specialists trained in the various procedures and competent to handle complications. However, it also requires huge investments in terms of infrastructure, trained staff and equipment. To be viable advertising is essential to any establishment which provides cosmetic and aesthetic procedures. Business men with deep pockets establish beauty chains which also provide these services and advertise heavily to sway public opinion in their favour. However, these saloons and spas lack basic medical facilities in terms of staff or equipment to handle any complication or medical emergency. To have a level playing field ethical advertising should be permitted to qualified aesthetic surgeons as is permitted in the US and UK by their respective organisations.

**Keywords:** Advertising, aesthetic, procedures, complications, salons

## INTRODUCTION

Easy availability and demand for cosmetic procedures have created a virtual cottage industry of providers outside the health-care system.<sup>[1]</sup> Many street corner saloons and beauty chains have recently surfaced all over the country offering a bouquet of aesthetic surgery procedures done by technicians, half-baked and unqualified ‘doctors’ and sometimes qualified specialists.<sup>[2]</sup> Hair transplant, mole removal, botulinum toxin injections, fillers, liposuction, dermabrasion, laser hair reduction and scar removal are all easily available in these beauty saloons and spas. Many of them are done under local anaesthesia or tumescence anesthesia and occasionally complications such as paralysis, blindness and stroke occur following these procedures.<sup>[3,4]</sup> Although many cosmetic and aesthetic procedures are equipment controlled, the fact that the procedures are to be done on human body requires some knowledge and awareness of complications and their management. In 7-year prospective study done in Florida, there were 31 deaths and 143 procedure-related complications and hospital transfers following office procedures. A total of 58% (18/31) of the deaths and 61% (87/143) of the complications were associated with nonmedically necessary (cosmetic) procedures.<sup>[5]</sup> Delayed immunological reactions due to fillers injected by unlicensed practitioners has recently been reported in South Korea.<sup>[6]</sup>

In our country, only 24% dentists surveyed had emergency medical equipment in their offices, and only 6.6% were sure of giving an

intravenous injection.<sup>[7]</sup> Schools similarly are not equipped to handle any medical emergency.<sup>[8]</sup> In this scenario, expecting the saloons and spas to have the basic equipment, infrastructure and training necessary to manage a medical emergency is foolhardy. This recently resulted in the death of a medical student who underwent hair transplant under local anaesthesia in a procedure which lasted 6 h presumably due to inadequate management of complications arising out of reaction to the local anaesthesia. Government now proposes a law to regulate these saloons.<sup>[9]</sup>

## DISCUSSION

It is true that the business of aesthetics requires high investments on infrastructure and equipment along with major advertising costs. This puts establishment of an independent aesthetic, cosmetic and cutaneous surgery centre beyond the financial reach of most doctors. In addition, doctors are not permitted to advertise as per the Indian Medical Council Regulations according to which soliciting of patients directly or indirectly by a physician, or a group of physicians or by institutions or organisations is unethical. A physician is not permitted to make use of his/her name as subject of any form or manner of advertising or publicity through any mode either alone or in conjunction with

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10.4103/JCAS.JCAS\_77\_16

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**How to cite this article:** Nagpal N. Should advertising by aesthetic surgeons be permitted?. *J Cutan Aesthet Surg* 2017;10:45-7.

others which is of such a character as to invite attention to him or to his professional position, skill, qualification, achievements, attainments, specialities, appointments, associations, affiliations or honours and/or of such character as would ordinarily result in his self-aggrandisement.<sup>[10]</sup>

In no other medical field does marketing and advertising play as important role as it does in aesthetics. The demand, and acceptance of cosmetic and aesthetic procedures in society has saturated modern culture through television programs, news articles and advertisements for elective procedures that promise the fountain of youth, sex appeal and happiness. This media blitz has generated a greater public awareness for cosmetic procedures that propagates an ideal beauty standard that is not attainable by natural means.<sup>[11]</sup> Nearly all qualified doctors wish they did not have to do any marketing, and that word of mouth referrals would pack their waiting room. However, the truth is only a lucky handful find themselves in this enviable position. Since doctors cannot advertise they remain at a disadvantage compared to saloons and boutiques where similar procedures are done with impunity in the absence of any regulation.

If we consider the example of hair transplant surgery, currently in India, the business of surgical hair restoration is totally unregulated both by the government as well as the medical community. Flashy marketing and high-pressure sales pitches dominate the field, making truly objective and rational decision making by the patient nearly impossible. In general, hair transplantation is not handled as the medical specialty that it is, one that serves patients, but rather as a business that serves consumers. Unfortunately, aesthetic surgeons, dermatologists, plastic surgeons and others who have received training in hair transplant and other aesthetic surgery procedures are used as operative technicians by some of these high-profile centres. While these larger beauty chains have the ability to buy public opinion through expensive television, print and radio marketing, their seemingly powerful presence in the market usually does not equate to superior surgical results or a guarantee of a safe procedure. The doctors who perform the procedures in these beauty chains feel relatively secure given the regular source of patients, but unfortunately, the responsibility in case of a mishap remains the surgeon's.

The same scenario exists in field of Ayurveda and other AYUSH (Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy) methods of treatment. Although as per Practitioners of Indian Medicine (Standards of Professional Conduct, Etiquette and Code of Ethics) Regulations, 1982, it is mentioned under code of ethics that advertising or solicitation of patients directly or indirectly either personally or by advertisement in the newspaper, by placards or by distribution of circular cards or handbills by a practitioner of Indian medicine is unethical, advertisements routinely appear. However, disciplinary action can only be taken for advertisement through hoarding and tour programmes.<sup>[12]</sup> The ethical, legal or moral restraints are not imposed stringently on practitioners of homeopathic and other systems of medicine with large advertisements in print media and hoardings

proclaiming treatment of everything from hair loss to eternal youth. Large scale digital and TV marketing for ayurvedic and homeopathic remedies sways the public opinion in favor of these systems and their methods of treatment. Scientific and evidence based modern medicine practitioners remain at a disadvantage in this otherwise specialised field unless some mishap occurs when the qualification and other issues are raised.

Recent notification of Clinical Establishment Act (CEA) also, however, prescribes minimum standards only for the qualified dermatologists and plastic surgeons who wish to practice cosmetology. The saloons, boutiques and shops do not require any registration under CEA so will not need to provide the prescribed minimum standards. Although the district authority will have power under CEA to inspect any registered cosmetology clinic run by a Dermatologist anytime, he cannot inspect a unregistered beauty saloon unless a notice is issued regarding date and time of inspection to the unregistered establishment.<sup>[13]</sup> Furthermore, a cosmetology clinic opened by an AYUSH doctor has to comply only with minimum standards required from an AYUSH general practitioner's clinic.

The manufacturers of lasers and other equipment used in aesthetic surgery are also concerned with their bottom line. Their only concern is profits for the company, and anyone who can afford to buy their machine is their valued client. To train the customer or his staff to use the equipment becomes their responsibility which they fulfil readily. These companies also have links with large chains which also provide the training as well as the certificates of proficiency, diplomas, memberships and fellowships to those who purchase the machines. Unlike ultrasound, no legal restriction exists for sale or purchase of machines and equipment used in aesthetic surgery. This results in proliferation of aesthetic equipment in all nooks and corners in all kinds of medical and non-medical establishments.

Although the Indian Medical Council (professional conduct, etiquette and ethics) regulations were notified in 2002, no professional association or organisation has considered it fit to oppose and challenge these regulations ever. Although in principle it stands to reason that doctors should be placed at a pedestal different and higher than businesses and shops, in practice especially in India this concept is an oxymoron. The Consumer Protection Act (CPA) of 1986 has equated a doctor's professional services with services of any tailor, insurance agent, plumber, advertisement agencies, property dealer, transporter and so on so forth. In a landmark judgement of V.P. Shantha and others versus Indian Medical Association, even the free service provided by doctors still remains within the purview of CPA.<sup>[14]</sup>

Although the lawmakers have deemed it fit, inclusion of medical services under CPA has its problems. A business or trade has every right to promote its business or trade by advertising and this is considered ethical. Sourcing of consumers/clients/business by giving commissions, bulk marketing and profit sharing are all ethical for all businesses included under CPA except for medical professionals. Medical professionals in India today are traders as per law selling their services as also goods like blood<sup>[15]</sup> and hence accountable to

their consumers but have to follow ethics and norms which no other business or trader under the act has to follow. This is a piquant situation which deserves to be redressed.

Nowhere does this problem come to fore with more force than in the field of cosmetic and aesthetic surgery and procedures. Businesses houses, saloons and spas can advertise their services, source their business through commissions and profit sharing with beauticians and parlours. However, a dermatologist trained in cosmetology/hair transplant/aesthetic surgery cannot advertise his services to attract patients and cannot indulge in profit sharing, with those who can provide him with clients. These restrictions on qualified Dermatologists and plastic surgeons makes it difficult for them to compete and remain viable as a business. However at the same time they may be asked to pay hefty compensations being service providers as defined under Consumer Protection Act.<sup>[16]</sup>

To assist the public in obtaining medical services, The Code of Ethics of the American Society of Plastic Surgeons permits physicians to make known their services through advertising. A member may advertise through public communications media such as professional announcements, telephone and medical directories, computer bulletin boards, Internet web pages and broadcast and electronic media and even to use models in their advertisements.<sup>[17,18]</sup> The American Medical Association also does not place any restrictions on advertising by physicians except those that can be specifically justified to protect the public from deceptive practices. A physician may publicise him or herself as a physician through any commercial publicity or other form of public communication (including any newspaper, magazine, telephone directory, radio, television, direct mail or other advertising) provided that the communication shall not be misleading.<sup>[19]</sup> Even the new guidance issued by the General Medical Council advises to advertise and market services responsibly – any advertising must be clear, factual and not use promotional tactics, such as ‘two-for-one’ offers to encourage patients to make ill-considered decisions. It also includes a ban on offering cosmetic procedures as prizes. It must be published in a way that conforms with the law and with the guidance issued by the Advertising Standards Authority and Committee of Advertising Practice.<sup>[20]</sup>

## CONCLUSIONS

Aesthetic surgery requires a qualified medical professional to be trained in cosmetology and aesthetic surgery with well-equipped infrastructure and trained staff. Quackery in aesthetic surgery is rampant and needs to be curtailed with an iron fist if deaths like the one which occurred in Chennai are to be avoided. It needs to be publicised well as to who is qualified to do aesthetic procedures and where these procedures can be done safely. Sale of equipment used in aesthetic procedures needs to be regulated with zeal. If medical profession is noble and placed at a higher pedestal in public as mentioned by various court judgements and fed ad nauseum to medical graduates then ideally it should be removed from the list of service providers under CPA. If this cannot be acceptable then at the very least allow medical professionals the

same rights and privileges as any other trade, business or service provider including those of ethical advertising.

## Financial support and sponsorship

Nil.

## Conflicts of interest

There are no conflicts of interest.

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