

Insurance & Legal Matters

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- Overview of Topics
 - Licensing and Legal Issues
 - Working in a Physician's Practice
 - Working as an Independent Contractor
 - Business Owner Matters
 - Risks and Claims

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- Licensing & Legal Issues
 - Compliance with State Laws
 - AMA Carries the force of Regulation in Addition to State Laws
 - Who Can Do What Service?
 - Is a medical license required?
 - Is an aesthetics or cosmetology license required?
 - Do you need a Medical Director

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• **Working in a Physician's Practice**

- Physicians Med Mal policies with "blanket" coverage for medical staff
- Most do not cover non-medical staff
- Critical to determine what non-medical staff can legally do
- Separate insurance is often required for non-medical staff

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• **Independent Contractors**

- Medical Malpractice policies, rarely, if ever, cover independent contractors (medical or non-medical). Medspa or Day Spa types of policies can include independent contractors
- If you are working as an independent contractor, check with the facility if they are going to cover you under their policy. Be sure to get it in writing if the answer is yes.
- Independent contractors who work at multiple facilities should carry their own professional liability (PL) insurance

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○ **Independent Contractors, Continued**

- If an independent contractor has their own insurance the carrier will represent them in the event of a claim.
- If the independent contractor is a nurse, be sure the policy covers working on your own – most of those low cost nursing malpractice policies, assume the nurse will work for a clinic, doctor or facility which is less liability than being able to work on their own in a medspa or day spa

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- **Owning Your Own Business – Medical Services**
 - You may need someone with a medical designation to do certain procedures in your business based on state and AMA requirements
 - You may need a Medical Director and you may need to insure the Medical Director
 - Vicarious liability for the Medical Director can usually be covered as many Med Mal policies do not cover MD's in this role

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- **Owning Your Own Business, General Matters**
 - Depending on state law, determine if you can do the type of services you wish to do
 - Individuals working at the business may be employees or Independent Contractors
 - All Independent Contractors should list the business as "Additional Insured"
 - In addition to Professional Liability for the services you provide, you will need General Liability & Property coverage

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- **The BOTTOM LINE is this:**
 - No matter who owns the business or who works in the business – everyone must comply with the laws and licensing requirements in your state
 - No matter what the structure is of the business or who owns it – everyone needs to be covered by insurance somewhere.
 - Don't assume because someone says they have insurance it will be adequate for you. Not being sure can cost you your business!

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- **Risks & Claims**
 - Services with the most claims:
 - Laser Hair Removal
 - Hyper- and hypo- pigmentation
 - Turning up the strength beyond that recommended
 - Permanent Cosmetics
 - Client dissatisfaction
 - Wrong color matching on lips or brows
 - Water Sources (showers, hot tubs, spas, saunas, steam rooms) – slip and fall claims are much more likely when there is water
 - Microdermabrasion – improper aftercare
 - Massage - aches and pains

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- **Risks & Claims**
 - Skin Typing
 - Misclassifying skin types is a common cause of claims
 - Skin Type V is often treated like Skin Type IV
 - Laser and high level peels
 - Sexual Abuse Claims on the rise
 - Massage businesses have a huge exposure
 - Communicable Disease claims on the rise, often with waxing
 - If there is already an infection in the human body, the service can make it worse and they think they get it from the spa

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- **Real Claims Examples:**
 - Weight Loss treatment – woman had miscarriage
 - Microdermabrasion – client went dirt bike riding
 - Boyfriend called and said his fiancée was touched in an inappropriate manner by the esthetician
 - RN referred client to MD for blepharoplasty – MD caused eye injury – had no insurance

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• THANK YOU!

• QUESTIONS?
