

Medical Spas and Aesthetic Clinics: Key Legal Insights for Safe and Compliant Operations

December 15, 2024
By Michael H. Cohen

The popularity of medical spas has soared, offering clients advanced treatments like IV hydration, injectables, and aesthetic enhancements. However, medical spas operate within a highly regulated landscape. Compliance with scope-of-practice laws, corporate structure regulations, and advertising standards is essential to avoid enforcement actions. This guide provides key legal insights to help medical spas operate safely and legally, balancing innovation with compliance.

Key Legal Considerations for Medical Spa Compliance

Medical spas face distinct regulatory requirements, especially when it comes to ownership, licensing, and patient safety. Below are practical tips to help your medical spa remain compliant and thrive in this competitive industry.

1. Understanding Scope of Practice for Medical Spa Treatments

The scope of practice for services like IV hydration and injectables varies by state, with strict regulations regarding who can administer certain treatments. Compliance with these rules is essential for safe, legal operations.

- - **Licensed Medical Professionals:** Most states require that medical procedures like injectables and IV hydration be performed or supervised by licensed medical professionals, such as physicians, nurse practitioners, or physician assistants. Check your state's specific scope-of-practice laws to ensure compliance.
 - **Delegation and Supervision:** In states where delegation is allowed, ensure that appropriate supervision is provided and that staff are trained for each service offered. Some treatments may require direct physician oversight, especially when IV therapy or prescription-based injectables are involved.
 - **Liability Considerations:** Medical spas should carry liability insurance that covers treatments offered. Non-compliance with scope of practice can lead to disciplinary actions, fines, or potential malpractice claims.

Example: *A medical spa in California faced penalties for allowing unlicensed staff to administer injectables without physician supervision. After adjusting their protocols to ensure licensed staff performed these services, the spa achieved compliance. See California-specific scope of practice rules.*

Key Action: Verify that only licensed professionals perform medical treatments and that necessary supervision is in place.

2. Structuring Your Medical Spa with Professional Medical Corporations and MSOs

Structuring your medical spa within legal ownership models is essential to remain compliant. Professional Medical

Corporations (PMCs) and Management Services Organizations (MSOs) offer models for operating legally while allowing non-physicians to invest in the business.

- - **Professional Medical Corporations (PMCs):** Many states, including California, mandate that only licensed medical professionals own medical corporations. In these states, a physician must own a majority stake in the PMC. See California's specific rules, refer to the [Moscone-Knox Act](#).
 - **Management Services Organizations (MSOs):** MSOs allow non-physicians to manage non-clinical aspects, including marketing, administration, and billing. This model is often used by med spas to separate the clinical and business sides of the practice.
 - **Compliance with State Corporate Practice of Medicine (CPOM) Laws:** States with CPOM laws prohibit non-licensed individuals or companies from owning or controlling medical practices. Ensure your spa's ownership model aligns with your state's CPOM rules.

Case Study: A California-based med spa operated as an MSO, with a physician-owned PMC delivering all medical services. This structure aligned with California's CPOM laws, allowing the business to legally offer IV hydration and aesthetic treatments. See a summary of [CPOM laws](#).

Key Action: Structure your medical spa as a PMC and/or MSO based on state CPOM requirements.

3. Patient Safety Protocols and Standard Operating Procedures (SOPs)

To provide high-quality care, medical spas must implement SOPs that focus on patient safety and risk management, especially for invasive procedures.

- - **Informed Consent:** Patients should receive a clear informed consent form for each treatment, outlining potential risks and expected outcomes. Consent forms should be signed before any procedure, particularly for treatments like injectables or IV hydration.
 - **Sterilization and Infection Control:** All equipment should be sterilized according to healthcare standards, and infection control procedures should be followed meticulously. Failure to maintain a sterile environment can lead to health department inspections and penalties.
 - **Emergency Preparedness:** Staff should be trained in emergency response protocols, including recognizing and managing adverse reactions to treatments. Emergency equipment, such as oxygen tanks and epinephrine, should be readily available.

Example: A medical spa faced a client complaint due to an adverse reaction from an injectable treatment. By updating emergency protocols and enhancing staff training, the spa improved patient safety and maintained compliance. See [patient safety standards](#).

Key Action: Develop SOPs that emphasize patient safety, infection control, and emergency preparedness.

4. Compliant Marketing and Advertising for Medical Spas

Marketing for medical spas must comply with FTC and state advertising standards to avoid misleading claims. Clear, accurate marketing promotes patient trust and reduces regulatory risk.

- - **Truthful Advertising and Avoiding Guarantees:** Avoid claims that guarantee results or suggest the ability to cure

medical conditions. Focus on describing wellness benefits in general terms, such as “supports hydration” or “promotes wellness.” Visit [FTC advertising guidance](#).

- **Use of Testimonials and Social Media:** Be cautious with testimonials and social media promotions. The FTC requires that all testimonials reflect typical outcomes, and influencers must disclose any material connections with the spa.
- **Disclaimers in Digital Marketing:** Use disclaimers on websites and ads to clarify that your services are wellness-focused and do not replace medical treatment. Disclaimers help manage client expectations and protect the spa legally.

Case Study: *A medical spa received an FTC warning for advertising guaranteed results. After revising its language and including disclaimers, the spa met compliance standards and minimized future regulatory risk. Visit [FTC's advertising rules](#).*

Key Action: Ensure all marketing claims are accurate, substantiated, and include disclaimers to avoid FTC scrutiny.

Common Legal Risks and Penalties for Medical Spa Non-Compliance

Non-compliance with medical spa regulations can lead to severe penalties. Here's a breakdown of common risks and potential consequences:

Example Penalty Breakdown for Medical Spa Non-Compliance

Violation Type	Potential Consequences
Scope of Practice Violations	Fines, license suspension, cease-and-desist orders
Misleading Marketing Claims	FTC penalties, required advertising corrections
Inadequate Patient Safety Protocols	Health department inspections, client complaints
CPOM Law Violations	Regulatory penalties, restructuring requirements

For more guidance on operating a compliant medical spa, see the following resources:

- [Moscone-Knox Act: California Corporate Practice of Medicine Laws](#)
- [FTC Health Claims Advertising Guide](#)
- [OSHA's Guidelines for Infection Control](#)

Medical spas must comply with a range of legal requirements to offer safe, professional treatments. By structuring your business correctly, training staff, adhering to scope-of-practice rules, and marketing accurately, your spa can thrive while avoiding regulatory pitfalls.