

The unregulated non-surgical cosmetics industry

The rise of social media and reality TV shows has helped destigmatise and popularise injectable and semi-permanent beauty treatments. This has led to an increase in their popularity, and a corresponding accessibility. It has also led to questions about safety.

The Minister of State for Health (previously Minister for Patient Safety), Maria Caulfield MP, said that:



The spread of images on social media has contributed to an increase in demand for cosmetic procedures such as Botox and fillers. While these can be administered safely, we are seeing an unacceptable rise in people being left physically and mentally scarred from poorly performed procedures¹.



A thorough review of the regulations surrounding the surgical and non-surgical cosmetic sector was as long ago as 2013, when Sir Bruce Keogh published a Report² following the PIP implant scandal which exposed lapses in product quality, after-care and record-keeping. He considered the use of misleading advertising and inappropriate marketing and concluded that: “non-surgical interventions, which can have major and irreversible adverse impacts on health and wellbeing, are almost entirely unregulated. In fact, a person having a non-surgical cosmetic intervention has no more protection and redress than someone buying a ballpoint pen or a toothbrush”. Since the Keoghs Review, little has changed to protect the non-surgical cosmetics industry, which remains widely unregulated.

The dangers of the treatments in an unregulated market

The most common problems clients suffer from following injectable treatments include complaining of lumps, uneven swelling, bruising, scarring and infection. Some extreme risks include necrosis, which the NHS states is also known as the “flesh-eating disease” and states that “it is a rare and life-threatening infection that can happen if a wound gets infected. It needs to be treated in hospital straight away”. Necrosis can occur immediately after the injection of fillers but may develop at a later stage due to the swelling and expansion of the filler, yet many clients are often unaware of these significant risks and complications before undergoing the procedures.

The majority of ingredients used for injectable and facial treatments, such as Botulinum toxin, known as “Botox” or for dermal fillers do not have to meet any defined patient safety standard, nor do they have to include or exclude any particular ingredients. Companies and beauticians have no official guidelines to follow when ordering products, and risk using unsafe products both harmful to the environment and their clients.

In an interview, the Health and Social Care Committee chairperson, Mr Jeremy Hunt MP, told Sky News that “there are a lot of backstreet cowboys where you can turn up and get non-surgical cosmetic procedures done to change your face, the shape of your nose”. That may be an inaccurate generalisation, but it points to the issue that there is no level of training or knowledge that a beautician should have before performing certain treatments, and there is a high risk of beauticians performing injectable treatments with little medical knowledge or experience.

Likewise, beauty training academies are not regulated and do not have any defined standards which they must ensure a student meets before issuing a certificate of competence. Without a particular threshold of knowledge and practical experience before passing, awarding certificates, which can be displayed in the beauticians’ studios, does not in fact provide any assurance of expertise or safety.

Government response to the absence of regulation

The increased demand for cosmetic treatments, and in turn the increase in complaints and legal claims against beauticians, has led the Government to include new safety provisions in the Health and Care Act 2022, which received Royal Assent on 28th April 2022.

The Act introduced new legislative measures that aim to make it easier for health and care organisations to deliver joined-up care for people who rely on multiple different services. The Act provides for Regulations to be passed that can prohibit beauticians from carrying out cosmetic procedures unless they have a personal license and/ or prohibit a beautician from using or permitting the use of premises for carrying out cosmetic procedures unless the person has a premises licence. These Regulations have not yet been formulated or passed. The Act therefore fails to state that a beautician must have a personal license, and the salon must have a premises licence to operate and provide cosmetic treatments or state the type of qualifications a beautician should have to provide a certain procedure. There is still a lack of guidance as to how detailed training courses should be designed so that they train and certify beauticians and there is a lack of guidance as to what products can and cannot be used.

The House of Commons Health and Social Care Committee published "The Impact of Body Image on Mental and Physical Health" report on 2nd August 2022³ which discussed the risk of exploitation of vulnerable groups seeking non-surgical cosmetic procedures and stressed the urgency of preventing further exploitation, urging the Government to introduce a licensing regime for non-surgical cosmetic procedures by July 2023.

The report recommends a two-part consent process which is to include, at a minimum, a full medical and mental health history, as well including as mandatory a 48-hour cooling-off period between the consent process and undergoing the procedure. The report also suggests that information regarding treatments should be provided in an accessible format to ensure that the client makes an informed decision about the proposed treatment.

The report stressed the need for a minimum standard to be met in regards to the education and training of practitioners who perform non-surgical cosmetic procedures and advised on the importance of ensuring that there should be a central pillar of a future licensing regime. "The Professional Standards Authority should be given the power to oversee a register of approved training providers. All training providers should have to meet an Ofqual-regulated standard".

What can salons do in the meantime?

While the Government is yet to introduce any regulations to improve the quality of injectable treatments, the consenting and treatment process, individual salons remain under Common Law and Statutory duties to ensure that they exercise reasonable skill and care in the provision of services. This means that beauticians will be judged against the standards of a body of well-qualified and experienced specialists, and a failure to meet those standards will likely lead to civil liabilities for damages and in extreme cases, criminal liabilities under the Health and Safety At Work Act 1974. Beauticians should therefore review their pre-treatment

processes including medical history enquiries, and consenting, as well as ensuring that they themselves and their staff meet the highest standards of training and continuous development in treatment, and aftercare processes.

Beauticians will be expected to undertake regular training to ensure that they are using the most modern equipment and up to date techniques when providing treatment and hold updated certificates evidencing their training and qualifications. These can be displayed for clients to see, allowing them to check their beautician's credentials.

Beauticians should also research the products they purchase, read on-line reviews, and take note of the ingredients to ensure that they are safe for use.

The consenting process should be reviewed by salons to ensure that they are able to demonstrate that they are obtaining their client's full informed consent. This means that the beautician is certain that the client understands the risks associated with the treatment and consents to the risks to achieve the potential benefit of the procedure. This can be achieved by explaining the risks associated with the treatment to the client, and providing the risks in writing, and for the client to sign the form to identify that they have read and understood the risks involved. Having a time break between a consenting appointment and the treatment is also important in demonstrating that informed consent has been obtained. Taking a detailed medical history and ensuring anyone undergoing psychiatric treatment, or in receipt of medication for psychological symptoms will need to be carefully screened to ensure that they have given informed consent.

The aftercare steps should be explained to the client clearly, orally and in writing on an aftercare form for the client to take home and turn to for a reminder.

Conclusion

Despite rising demand for non-surgical cosmetics, the industry remains largely unregulated and there is evidence that some practitioners have put the safety of their clients at risk. This adversely affects the reputation of the best and safest practitioners in this arena.

Whilst Government and interested bodies have commented on the need for regulation, practitioners would better protect their businesses if they too sought to encourage this regulation, and worked together to create Best Practice guidelines. In the meantime, practitioners will want to take steps to improve their own practices for undertaking continuous training and development, for documenting every stage of the treatment process to ensure obtaining informed consent for treatment and giving good aftercare advice. Taking these steps ensures that if a poor outcome does occur, the salon can show this has not arisen from any poor practice or a failure to exercise reasonable skill and care.

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