Medical Spas Seen As Attractive Business For E&S Writers, If They Understand Risk

By CHARLES R. HAWK
Published 6/29/2009

Exposures can mount depending on what types of procedures are done and by whom

Our country's economic woes may have given baby boomers less money to spend on plastic surgery, but they are still seeking the fountain of youth—just a cheaper version.

According to the "Kaiser Daily Health Policy Report," while demand for major cosmetic surgery is down considerably, non-surgical cosmetic procedures such as Botox and chemical peels have taken less of a hit.

In fact, with the proliferation of new technologies that can smooth wrinkles and enhance "personal assets" at a bargain price, medical spas or "medi-spas" that offer these non-medical procedures are faring quite well.

This type of hybrid spa is a cross between a medical office and a day spa, where doctors and massage therapists often work side-by-side.

Adding to the demand for these procedures are an increasing number of job seekers who are turning to non-surgical cosmetic procedures in hopes that a younger, fresher version of their older selves will set them apart in job interviews.

Across the country, consumers are choosing less invasive cosmetic procedures, whether to give themselves a boost or to buy time and save money for a more costly procedure. Some of the most common noninvasive cosmetic procedures at a medical spa include:

- Laser skin resurfacing to treat fine lines and discoloration.

- Injectable dermal fillers such as Botox.

- Medical-strength chemical peels that can help correct scarring and improve the texture of sun-damaged skin.

Other non-surgical cosmetic treatments offered by medi-spas include:

- Sclerotherapy—a procedure used to treat varicose veins by injecting medicine into the blood vessels.

- Microdermabrasion—a procedure in which the dead outermost surface of the skin is partially or completely removed by light abrasion.

- Liposuction alternatives that offer minimally invasive body sculpting procedures to remove unwanted body fat.

- Micropigmentation (permanent cosmetics)—a technique that employs tattoos to mimic makeup such as eyeliner or lipliner.

Some spas also offer tattoo removal, which can now be accomplished more painlessly through laser treatments rather than dermabrasion or excision.

As the economy improves, new medical spa technologies should accelerate, such as new, longer-lasting Botox and derma filler products that are currently under development.
With new products will be new professional liability coverages for the spas and professionals who offer these services. Coverage for everyday beauty salons and day spas has typically been written by the standard markets—that is, until they begin to offer laser hair removal or other medical cosmetic services.

These new and more unpredictable professional liability risks have found a home in the excess and surplus lines market, where wholesale brokers working in partnership with surplus lines carriers are best equipped to meet their insurance needs.

Success in specialty insurance is about knowing a niche, and wholesale brokers and surplus lines carriers in the medical arena are able to figure out the moving pieces to put the coverage puzzle together.

For example, when Markel Corp. entered this emerging market several years ago, there was a learning curve, even with the company’s allied health experience. Markel had to go back to the insured multiple times to gather more information to determine the complete scope of services, the number of each procedure being performed and specifically who was performing the procedures—an aesthetician, registered nurse, nurse practitioner or a physician.

In most cases, technicians have a medical background. But if they do not, insurers need to understand their training.

Most medical spas have a medical director who oversees the spa but does not always perform the procedures. Others have a physician on staff that completes procedures regularly.

In any case, insurers need to find out where a physician’s medical malpractice coverage applies and when the spa needs to cover the practitioner’s professional liability.

A time-saving supplemental application specifically for the industry can help get the necessary information to the carrier.

Because of the wide range of services offered, the risks at each spa can be hard to pin down.

In terms of claims activity, laser skin treatments and chemical peels are two areas where more claims are seen. These procedures are performed frequently and sometimes the practitioners lack the proper training. There are also patients who are not properly screened in this first place.

Each of these procedures may pose complications, such as allergies to the chemicals or pigments, formation of scars, skin cracking, blistering or local infection, so it is crucial for every spa to provide an informed consent for every type of procedure offered.

Another challenge is keeping up with the latest equipment and procedures in this industry and how quickly spas evolve to meet customer demand.

Some larger medical spas that contract with physicians, for example, are expanding to provide more invasive medical procedures such as a facelift or breast augmentation. These spas have begun to send clients off-site to a surgicenter, which calls for more in-depth underwriting so the carrier can understand the exposure.

It’s also important to know where the client will go for their follow-up visits—to the spa or the physician’s office.

The subjectivity of cosmetic treatment can also drive claims. The expectations of one client may vary greatly from another and the results of each procedure differ. If a client’s expectations are not met, they may decide to sue the provider.

When medical spa procedures first emerged, rates were relatively high, but with more carriers entering the market and the general soft market conditions, the pricing has come down considerably.

There is plenty of capacity for medical spa professional liability, with some carriers placing more limits on what type of professionals they will insure and often pricing higher for more invasive surgical procedures.

While this specialty has remained strong compared to traditional cosmetic surgery, the recession has slowed the number of new spas opening over the past couple of years.

Once the economy shifts, however, expect to see more baby boomers seeking anti-aging procedures and a rapid increase in this niche.

Charles R. Hawk is director of medical professional liability for Markel Corp., an international property and casualty insurance holding company headquartered in Richmond, Va., that sells specialty insurance products and programs to a variety of niche markets.