

Cosmetic Acupuncture and Liability Insurance Coverage

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If you practice a form of cosmetic acupuncture, you have most likely had a conversation with your malpractice insurance company about liability coverage. One of the authors of this article has already had this sort of experience with her insurance company. The insurance carrier required a signed exclusion for "cosmetic" acupuncture. To the practitioner, it seemed obvious that a TCM-based protocol that includes traditional point selections on the face for "cosmetic" acupuncture should be covered within our scope of practice. When pressed for a definition of "cosmetic acupuncture," the insurance carrier in question explained that the issue is the goal of the treatment. Upon further questioning it became clear that using alternative descriptors such as "rejuvenation" for the procedure would not satisfy their concerns because, again, the goal of the treatment is cosmetic in nature. In their words, "if the goal of the treatment is cosmetic in nature and you get sued, you will not be covered."

As teachers of cosmetic acupuncture systems, this liability issue has been brought to our attention numerous times at seminars. To be certain, the insurance industry has recognized that cosmetic acupuncture is relatively new to the Western world of acupuncture. Along with the introduction of any new procedure comes a defining process. This defining process addresses issues like who can practice the new technique, how is its integrity to be maintained, is the procedure TCM-based, and, probably most important to them, what is the liability risk. It makes sense that insurance carriers are concerned about ethical practice or physical injury issues. We are all comfortable with that perspective. In the cosmetic acupuncture scenario, the big liability risk is the psychology of patients and the expectations that they associate with a cosmetic treatment. This is really not different than the patient expectations that plastic surgeons deal with when they are interviewing a prospective patient for a plastic surgery procedure. When you practice a form of cosmetic acupuncture, you deal with patients on a daily basis who say they understand the expectations, but in reality, they still want the results that come from a surgical facelift. Herein lies the potential for a lawsuit: dissatisfaction with results.

In general, there appears to be confusion among acupuncturists as to why there would be any question surrounding liability coverage for cosmetic acupuncture when standard acupuncture points are being used. Liability insurance has two basic concerns when looking at coverage: 1. Are you practicing within your scope of medicine? and 2. What is the risk factor with the type of procedure you are doing? This involves the physical risk as well as the psychological risk associated with the patient's expectations when receiving a cosmetic or rejuvenating acupuncture procedure. The benefits of the American Acupuncture Council (AAC) liability insurance defining the parameters of cosmetic acupuncture include:

- the integrity of the procedure will be maintained;
- practitioners will be required to have specific training in cosmetic acupuncture techniques in

- order to be covered by their liability insurance;
- AAC - approved courses will be accepted as proof of training in cosmetic acupuncture, reducing the paperwork and documentation that would otherwise be necessary and not a guarantee of coverage;
- use of the approved consent form will potentially weed out high-risk patients resulting in a lower risk/ratio factor; and
- practitioners without specific training in cosmetic acupuncture procedures will potentially be denied liability coverage.

The process of discussion and editing with the AAC and liability insurance carriers has led to the creation of a consent form for cosmetic acupuncture that can be used by practitioners who have completed AAC-approved courses in the specialty. The use of the form along with proof of approved training will allow practitioners to be covered without sending insurers additional information that may include disclosure forms, exclusions and/or documentation of training. The consent form will be specific to cosmetic acupuncture procedures and require both the patient and practitioner sign the form.

The form for cosmetic acupuncture procedures:

- states your training in facial or cosmetic acupuncture;
- clarifies that facial or cosmetic acupuncture is not a surgical procedure;
- gives a short description of the treatment;
- lists the other options that patients have for cosmetic purposes;
- lists the potential benefits of your treatment;
- lists the potential risks of your treatment; and
- clarifies the purpose of the consent form.

The AAC, along with the insurance liability carriers, has begun a process that will maintain a high level of integrity for practitioners of cosmetic acupuncture as well as to help us sort out potential problem patients. It is our responsibility to be aware, educated and involved in the process so it reflects our goals as practitioners.

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