

# SANDY'S SIDELIGHT

Summer 2011

MedSpa Insurance Newsletter

Stay Enlightened ♦ Stay Heathy ♦ Stay Beautiful



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*"All of life is a constant education".*

*Eleanor Roosevelt*



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## WHAT YOU NEED TO KNOW!

**BEWARE THE LATISSE POLICE!**

Many medspa owners in a variety of states have recently found themselves surprised by an unannounced inspection from their states' Pharmacy Board (Department of Consumer Affairs, Board of Pharmacy). Dubbed the "Latisse Police" by many medspas, the Pharmacy Boards are checking for compliance with state laws and licensing. Due to an increase of abusive prescriptions, the Pharmacy Boards appear to be cracking down on small businesses, including pain clinics, medspas and other medical facilities. Be prepared – is your medspa in full compliance with your state's laws and statutes, particularly with regard to dispensing licenses? Laws, statutes and medical boards' scope of practice and supervisory requirement rules and regulations vary dramatically from state to state and it is the medspa owner's responsibility to stay abreast of these stark laws. Sometimes, the insurance companies' parameters can differ from the states' laws, so the medspa owner must do his/her homework to ensure they are working legally, within the confines of the laws and the rules of the medical boards of their state, just as a service station owner must make certain he or she is complying with state and government pollution liability laws.

**Yesterday's law could be replaced tomorrow with a far more restrictive one, so stay educated and informed not only as to safety procedures and practices, but also as to pending legislation and laws in your state.** If you don't have the time to research this information with the various Boards in your state, seek the help from compliance specialist firms, consultants or healthcare attorneys. Ignorance of the law is not an excuse.

**Don't put your doctor's and medical staffs' licenses at risk - be a responsible medspa owner.**

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## THE FUTURE OF MEDSPAS

“Spas managed the recession by reshaping their workforces and creatively identifying new ways to remain competitive.”<sup>1</sup>

“As announced in a recent report by iData Research, the market for aesthetic medicine modalities (Botox, dermal fillers, lasers, etc.) is expected to almost double, and exceed \$3 billion over the next seven years. The report estimates that the market for procedures such as Botox will grow to \$543 million by 2017, and that skin resurfacing, hair removal and laser lipolysis are the fastest-growing segments of the aesthetic medicine market.”<sup>2</sup>

“The growth and popularity of cosmetic injectables...will continue to increase as products continue to evolve and new players enter the market...As the popularity of nonsurgical and minimally invasive procedures continues to grow, surgeons and manufacturers will develop new techniques and products that advance the science, produce even better results and lessen recovery time.”<sup>3</sup>

<sup>1</sup><http://www.skininc.com/spabusiness/trends>

<sup>2</sup><http://www.aestheticmedicineneeds.com>, *IAPAM Links MedSpa Growth to Demand for Physician Botox Training*

<sup>3</sup><http://www.skininc.com>, *10 Cosmetic Plastic Surgery Predictions for 2011*



## INSURANCE PRODUCTS IN THE HEADLINES

### HAVE BOTOX, WILL TRAVEL

Perhaps as a result of the economy, I am receiving more and more calls from individual Nurses and Physician Assistants, interested in purchasing an individual policy or an entity policy, if they have their own LLC or corporation.

Often, these individuals who have become established in the medspa arena, performing injectables, lasers and esthetic procedures, find themselves faced with the opportunity to work at various locations, for a number of facilities, in which case a portable individual or entity policy is the most appropriate choice. This type of policy can provide coverage at unspecified, unlimited locations within the licensed state and can also include coverage for a supervisory Medical Director. Some can even extend coverage to work at private residences (there is usually an additional charge for this).

If you are working at a medspa or physician's office, be sure to request proof of your insurance coverage **in writing** (verbal agreements do not hold up in court). If the facility can't or won't cover you under their policy, you can 'rest insured' by purchasing one of these policies, knowing that you have your own coverage which follows you within your licensed state. All that is required is a simple, 4 page application and copies of your License and Training Certificates; annual premiums are very reasonable. Policies are also available for individual Estheticians.

Please call me for more information.



## COVERAGES IN THE SPOTLIGHT

### CYBER LIABILITY

I recently sent letters to all of my insureds advising them of this important coverage, not normally included on Malpractice nor General Liability policies, but which can now sometimes be added by endorsement to these policies. Higher limits can also be purchased as a stand-alone policy.

With increased transition to EMR (electronic medical records), healthcare facilities find themselves facing a new exposure known as “**Cyber Liability**”, as private patient medical information is becoming digital and accessible from the internet. Medical cyber liability is considered to be the fastest growing threat to physicians in the realm of medical liability. There has been a very large push from government to convince physicians, hospitals and clinics to put electronic medical records in place. Unfortunately, this creates exposures to the healthcare provider arising out of data security, management of confidential information and infringement of intellectual property rights. “Since 2005...over 263 million data records of U.S. residents have been exposed to security breaches.”<sup>1</sup>

The use of everyday technologies in your practice, such as internet use, a website, email advice, electronic imaging, online scheduling and stored information, could put your data at risk and expose your facility to lawsuits.

A recent claim involved a physician who after losing his laptop, fell victim to cyber thieves who accessed confidential data on 2,800 patients for the purposes of identity theft.

No question about it - **data breaches are expensive!** The rules and regulations after a security breach vary from state to state, but nearly every state now has notification laws (‘Red Flag Regulations’), declaring your company must notify all your customers of the breach and you will have to pay for call centers, drafting written alerts and press releases, printing, postage and publications needed to inform your customers. One study estimated the cost of a data breach at **\$204 per compromised record!**

### NETWORK SECURITY & PRIVACY

**INSURANCE** includes coverage for both online and offline information, virus attacks, denial of service, HIPAA coverage, Red Flag Regulations including all necessary legal, PR, advertising and postage expenses incurred by the insured to notify third parties of an information breach, cost of credit monitoring for all affected individuals, full regulatory defense coverage, regulatory fines/penalties coverage and more.

Please call or email me to discuss this important coverage.



“Three things are certain: Death, taxes, and lost data”.

David Dixon

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<sup>1</sup><http://sandiegometro.com/2011>, *Cyber Liability: Managing the Risks*, March 5, 2011



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## IN THE STAGE LIGHTS

I am honored to have been asked to be a guest speaker addressing the topic of **“Medical Spas: What is the Real Exposure?”** at the PIAA Underwriting Workshop to be held at The Fairmont Olympic Hotel in Seattle, WA on October 5, 2011.

For more information about this 3 day conference (October 5-7, 2011), log onto: [www.piaa.us](http://www.piaa.us)

Archived copies of my newsletters can be found on my website at <http://www.professional-ins.com>

If you have questions or information which you'd like to share with fellow medspa professionals, please email me at: [sandye@professional-ins.com](mailto:sandye@professional-ins.com).

Until my next newsletter remember to...

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