



Consumer Protection of Medical Beauty Services

A New Regulatory Regime



消費者委員會
CONSUMER COUNCIL

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EXECUTIVE SUMMARY

Introduction

The term “medical beauty” has been popularly used in recent years to describe services offered to consumers that improve cosmetic appearance through the treatment of a range of conditions such as skin wrinkles, excess fat, unwanted hair, skin discoloration, moles etc. While there is no official definition of the term in Hong Kong, a Working Group on Differentiation between Medical Procedures and Beauty Services (the Working Group) set up by the Hong Kong Government (the Government), looking into regulation of the medical beauty services industry, classified medical beauty services as procedures involving skin puncture, external application of energy, mechanical/chemical exfoliation of the skin and others (such as colon hydrotherapy and hyperbaric oxygen therapy) that may pose safety concerns.

The Consumer Council (the Council) has been undertaking work in the beauty sector for many years including efforts to support the beauty sector to develop its code of practice, educate and inform consumers on potential hazards with regard to certain beauty products and services, and conciliate complaints between consumers and beauty service providers. Following the scandal of intravascular infusion at a beauty centre in 2012 and other fatal and permanent damage cases in relation to consumers’ safety and well-being as well as questionable sales practices as reported by news and complaints, the Council considers that these warrant the conduct of an in-depth study on medical beauty services in Hong Kong by:

- gauging the level of consumer understanding on medical beauty services;
- analysing key issues of concern to consumers who currently use or plan to use medical beauty services;
- examining the nature of relevant regulatory regimes that exist in other jurisdictions;
- assessing the manner in which Hong Kong should regulate medical beauty services; and
- making recommendations that will enhance consumer protection, given the serious consequences that can arise to the well-being of consumers if the services are not properly performed.

Consultation with Industry

The Council began its study by sending letters to a range of stakeholders with an interest in the industry, including traders and practitioners from the local beauty industry, experts from academia and different medical professions and relevant government departments for advice and views on the industry. Of particular interest to the Council were the views as to what constituted the term “medical beauty services”.

While there was a general consensus by both the beauty and the medical sectors that the term applied to the use of medical means, knowledge and technologies in performing beauty services, and that there were 15 procedures involving injections, mechanical or chemical exfoliation of the skin below the epidermis, hyperbaric oxygen therapy and dental bleaching recommended by the Working Group to be performed only by registered medical practitioners or registered dentists, the lack of a legal definition for the term “medical treatment” as observed by the Hong Kong Medical Association might mean that anybody could perform anything legally provided he/she does not identify himself/herself as a medical doctor. The need and the importance for a legal definition on “medical treatment” were therefore suggested.

The Council acknowledges the assistance of these stakeholders. Prior to the release of this Study, further comment from these stakeholders about the incorporation of their feedback into the Study was sought and the Council had also discussed with some industry regulators on the Council’s key findings.

Scope of Council Research

Apart from seeking views from those stakeholders, that have an interest in the industry, the Council also undertook a programme of intensive research during 2016 by carrying out:

- consumer research through telephone surveys of 1,004 respondents aged 15-64; on-street interviews of 602 respondents; 6 focus group discussions of 72 respondents;
- market enquiries by Council staff posing as consumers and personally visiting 30 premises covering 9 beauty salons, 13 medical beauty centres, 4 medical beauty clinics and 4 private hospitals; and
- desktop research into the regulatory approaches that are being taken in seven selected jurisdictions i.e., Korea, Mainland China, Singapore, Taiwan, the United Kingdom, and the United States - California and Florida.

Consumer Perception and Understanding

From findings of consumer research, it was of great concern to the Council that it appeared the general perception amongst consumers of the term “medical beauty service” was not in line with what were current regulated practices. A wide gap in consumer understanding existed.

A majority of users (81.3%) treated medical beauty services as ordinary beauty services (e.g. microneedle and JETPEEL). Despite the fact that some of those medical beauty services undertaken were part of the 15 procedures restricted to be performed by registered medical practitioners or registered dentists, the users considered the treatments were - non-invasive (e.g. no use of medicine/injection/ anaesthesia/bleeding/surgery); perceived to be common or normal; could be performed by beauticians; or could be performed in beauty centres. As a result, they might overlook potential safety issues and thereby be less risk cautious when selecting medical beauty treatments and service providers.

Educating consumers to form the right concept on the meaning of medical beauty services, and the risk involved in using the services would be an important element to advance consumer protection in the area. Nevertheless, the rapid change in medical beauty technology that made consumers incapable of catching up with or understanding the hidden hazards involved in the use of the services, as well as the emotive element that drove consumers to undergo medical beauty services, could not be underestimated. In the Council’s consumer research, 74.9% of users chose to undergo medical beauty services for the reason of “keep looking young/beautiful”. This, together with the typical “aggressive selling” practices in the industry as experienced by the users and observed in the market enquiry visits by the Council, would require more stringent safeguards to be put in place for better consumer protection.

Regulating Principles in Other Jurisdictions

Adverse incidents and the high participation of non-specialised medical practitioners in medical beauty practices in many jurisdictions had prompted calls for the establishment of competency requirements in respect of training and the need for specialty training even to medical practitioners.

Apart from this, there was also a common trend in the jurisdictions under study to:

- introduce specific regulatory and licensing regimes to oversee the provision of medical beauty services;
- develop accredited training standards for practitioners in the industry;
- put in place legislation or guidelines to protect the public from relevant misleading medical-related advertising and/or unfair trade practices;
- require that practitioners must by law explain certain details and acquire written consent before undertaking some procedures;

- provide for mandatory cooling-off period for persons proposing to undergo invasive procedures, such as liposuction; and
- provide for dispute resolution procedures and remedies by mediation and arbitration.

From the opinions gleaned during the Council's survey and focus group discussions, it is clear that consumers had a high agreement level (over 90%) for Hong Kong's regulatory regime to match some of the advances that were being made in other jurisdictions.

Council's Recommendations

The Council identified from this study a number of issues concerned with how the industry should be regulated. These are summarised below, as are relevant recommendations that the Council encourages the Government, and the medical and the beauty sectors to consider.

Amongst the many issues identified, two of them stand out in particular. The first is the need for a clear definition of "medical beauty services" in order to secure a proper legal basis upon which consumers can be protected from being treated by unqualified persons. The other one is the fact that an assurance of safety and quality of service in most cases is more important in deciding to proceed with a service rather than merely the price.

Definition of medical beauty services

At present there is no clear definition of a "medical beauty service" in Hong Kong. As a result, practitioners in the local industry, which includes both the beauty and the medical sectors and consumers, have a different understanding and conception of what constitutes medical beauty services. As mentioned above, in the Council's consumer survey, 81.3% of users considered that those medical beauty services that were identified as having potential safety concerns (by the Working Group) were "ordinary" beauty treatments. Focus group discussions also revealed that there was little perceived differentiation between the medical beauty services and ordinary beauty services performed in beauty salons. From desktop research there are clear statutory definitions of the term medical beauty that are used in Mainland China and Taiwan. The Council believes there is real necessity of defining medical beauty service by law. Otherwise a clear line between a "beauty service" and a "medical beauty service" cannot be drawn, and there will be difficulties in undertaking a range of initiatives to govern the industry, such as risk management, quality control and compliance checks.

Recommendation: The Council therefore recommends that the Government should consider defining what constitutes a “medical beauty service”, including lists of procedures, types of surgeries, categories of drugs, lists of medical devices or invasive techniques used in providing a medical service for cosmetic purposes. The object of the legislation should be for the purpose of setting the boundaries for regulating the behaviour of all persons, whether they are medical professionals or beauty sector personnel, in providing a medical beauty service.

Licensing requirement

Most of the seven other jurisdictions studied have put in place licensing requirements for the use of certain cosmetic-related medical devices. For example, Mainland China requires cosmetic-related medical devices to be registered and classified into three categories for regulation, and their licenses have to be renewed every 5 years. In Singapore, a license is required for the use of intense pulsed light devices and cosmetic high-power lasers. In order to be eligible for a license, the applicant should obtain the necessary training on laser safety. In California, the operation of lasers, other prescriptive devices and prescriptive drugs, can only be utilised by licensed registered nurses, or physician assistants under the supervision of physicians.

Apart from licensing of medical beauty devices, the Council also observed in some jurisdictions that practitioners in the beauty sector are subject to a statutory licensing scheme and are only allowed to perform a confined range of aesthetic procedures or related services. For example, in Korea, both business owners and beauticians working in the sector must be licensed by the local government.

The Council’s consumer surveys and focus group discussions indicated that confusion exists in the market place as to the qualifications and regulatory status of persons providing medical beauty services. Having regard to the Council’s findings, existing regulatory instruments with appropriate licensing arrangements can resolve identified information issues and enhance consumer protection. Moreover, a clear licensing system would bring Hong Kong in line with other jurisdictions and could also bring about economic benefits through the creation of a prosperous medical beauty service industry and its corresponding tourism.

Recommendation: The Council is of the view that rather than taking a “piecemeal” approach to regulate “devices”, “drugs”, and “procedures”, the establishment of a clearly identifiable licensing framework with specific operating codes to safeguard the interests of consumer health and the wider interests of the Hong Kong economy is the preferred option.

Competency requirements for performing medical beauty services

The Code of Professional Conduct of the Medical Council of Hong Kong requires that registered doctors should act within their competence which can be assumed to exist from their qualifications as registered medical practitioners. However, a reasonable expectation from users of medical beauty services is to understand whether a registered doctor, regardless of his/her qualification, and proficiency in undertaking basic medical procedures, is actually proficient in application of specialised medical beauty services.

It was also observed in the Council's survey and enquiry visits that different quasi-qualifications or pseudo-professional titles such as "therapists" (治療師) were used in the marketing of medical beauty procedures; and that some medical beauty services which should only be performed by medical doctors, were in fact being done by beauticians according to the findings of the survey.

The Council is of the opinion that because some medical beauty services could be of high-risk, consumers undergoing these services should be able to identify and choose a practitioner with appropriate qualifications and ascertain in advance their skills and experiences in performing such procedures.

Recommendation: The Council therefore considers that medical beauty service providers, whether they are medical practitioners or beauticians should be required to acquire the necessary skills and expertise to perform these procedures not only safely, but to a recognised standard in medical beauty terms. In addition, the related information on qualifications and experience should be clearly accessed by public means with mechanisms for regular updates. By classifying types of medical beauty services, the necessary regulations and competency standards can then be set for different classes of services, and arrangements made for formal certification or appropriate accredited qualifications of practitioners made with reference to training and experience.

Registries and reporting mechanisms

Currently there is no overarching legislation that regulates the manufacture, import, export, sale and use of medical devices or medical beauty devices in Hong Kong. Only some devices or products, due to their nature and characteristics, will be regulated by existing Ordinances, such as the Pharmacy and Poisons Ordinance and the Radiation Ordinance.

Important issues such as pre-market controls to assess the safety, efficacy and quality of medical or medical beauty devices; and a post-market surveillance system which includes adverse incident reporting, can only be satisfactorily addressed with the presence of a clear registration and reporting framework.

While the reported satisfaction rate of medical beauty services was high, as shown in the consumer survey, this might (as suggested at the focus group discussions) be due to the use of services which were perceived by the consumers

as having a low level of risk. However, the possibility of adverse reactions and failed procedures still exists. Accordingly, even if adverse occurrences are not often to happen, consumers should be informed and have a readily accessible information source in which to examine any potential risks that might be encountered, if they decide to undergo certain procedures.

Recommendation: The Council is of the view that under a licensing framework, a systematic and formal reporting mechanism has to be established to record reported adverse reactions caused by these types of services, and the use of related devices. The Council understands that this is a major challenge for an area with currently unregulated practitioners. However, once a licensing and reporting system is developed, licensees can be expected to comply with requirements that monitor device safety and register medical beauty devices installed in their premises. That will serve to provide oversight and pre-market controls safeguarding public health. Appropriate licensing conditions and sanctions can also be expected to provide incentives to report adverse incidents.

Independent, evidence-based information and general advice

Personal experiences shared in focus group discussions or collected at enquiry visits, indicated that consumers were rarely told about the details such as level of risks and potential side-effects of the devices or products used. In addition, there is no centralised collection of performance and safety information of these devices or products, except for those medical devices voluntarily listed in the Medical Device Administrative Control System under the Department of Health. Consumers are therefore left to mainly rely on the information provided by the service providers to execute their judgements on the choice of devices or products.

Findings from the consumer survey indicate that in order to source information on medical beauty services, almost three-quarters of users relied on word-of-mouth from “family/relatives/friends”, one-fifth sourced the information by themselves through online discussion forums, search engines and social media. Only 1.7% users sought advice from medical professionals, which usually involved a consultation fee.

As a result, inflated claims, particularly when new services and technologies are promoted, can persist in the marketplace and remain untested until problems begin to emerge; and gradually make their way into general knowledge. Focus group participants told the Council that they had considerable difficulty in assessing the quality and differences amongst services and treatments, especially to new services.

Recommendation: In order to assist consumers in assessing the efficacy of different services and treatments (as distinct from specific safety issues) an evidence-based information service providing standardised advice on medical beauty services, drugs and devices that are prevalent in the market should be

developed. For impartiality and convenience, the information should ideally be disseminated by the Government or through any proposed industry licensing regime that is created. Information should be kept up to date and made available in a form that is accessible to consumers.

Consent process

Three-quarters of users in the consumer survey chose to undergo medical beauty services for the reason of “keep looking young/beautiful”. The other factors to have the treatment are “deal with some bodily problems” and “improve self-confidence” ranked the second highest.

The emotive element that drives consumers to undergo medical beauty services should therefore not be underestimated. In enquiry visits, except for those visits to medical clinics and hospitals, there was often insufficient explanation about the associated risks of medical beauty services. Moreover, the service providers, in particular beauty salons, appeared to deliberately undertake psychological tactics to entice prospective consumers into making a rush decision. This practice was also mentioned by focus group participants.

In Taiwan there is a requirement that service providers, having regard to the possibility of complications, the potential risks and side effects of undergoing medical beauty treatment, must explain the details to the persons undergoing these medical beauty procedures and acquire their written consent before undergoing the procedures.

Recommendation: The Council considers that it would be of benefit to consumers and the reputation of the industry as a whole, that any proposed regulatory framework should require some form of written consent being given before a specified medical beauty service is undertaken. The consent should include an acknowledgement that relevant complications, side effects or remedial action might arise. Moreover, there should be a prohibition on any action that is construed as persuading consumers to undergo subsequent procedures that are separate and unrelated to the initial procedure that is subject to the existing written consent, when a consumer is undergoing a course of treatment.

Advertising code

The Undesirable Medical Advertisements Ordinance prohibits the advertisement of medicines, surgical appliances or treatments for prevention or treatment of certain diseases or bodily conditions as specified in Schedules 1 and 2 to the Ordinance. Advertisements involving surgical alteration of a person's appearance, such as breast augmentation, will therefore be subject to the Ordinance. Registered medical practitioners or registered dentists are also required to comply with their respective codes of professional conduct in relation to advertising and promotion.

However, in the context of advertising or marketing of medical beauty services, there are no specific guidelines or regulations on the use of terms such as “medical”, “specialist”, “clinic”, “doctor”, etc. even though the use of these terms in some contexts can be misleading, and is used to convince consumers to purchase a service. Some other common advertising and marketing practices used in the sector are also questionable. For example, the use of “before” and “after” photos which may be digitally altered; and claims being made without any supporting evidence, thereby creating unrealistic expectations. It is noted that currently the Trade Descriptions Ordinance contains provisions having the effect of prohibiting certain kinds of misleading and deceptive advertising. However, the extent to which these provisions might apply to some of the more vague, but still problematic, claims of medical beauty service providers, requires further monitoring.

Recommendation: Given the importance of specific terms used in the promotion of medical beauty services, and the problems that can arise, the Council suggests that consideration should be given to restricting the manner in which some advertising claims are made in the medical beauty service market. Under a licensing regime, a code on advertisement could be issued to regulate the way in which the services are promoted.

Cooling-off period

The presence of a highly emotive element which is sometimes employed in enticing consumers to consider medical beauty services, has been established through the Council’s surveys, focus groups and enquiry visits. Conversations in the focus group discussions reflected the fact that cost is also a key factor in choosing whether to go ahead with a service or who to choose as a provider. It follows that if a service is promoted at a “low” or “discount” price then a consumer, given the right “emotive prompts”, might then be persuaded to go ahead with a procedure. Findings from the enquiry visits highlighted the prevalence of so called “special offers” being made when the fieldworkers showed a reluctance to immediately accept a service. There was a tendency to discount prices at will, with no apparent regard to a cost standard, but with more regard given to securing a “quick sale”.

Non-transparent pricing, time-limited deals, and discounts within a short time frame, make it difficult for prospective consumers to engage in mindful consideration of either the potential risks involved in medical beauty services, or whether they are actually necessary. Clinical psychologists from the Division of Clinical Psychology of the Hong Kong Psychological Society suggested that a cooling-off period is necessary for some of the medical beauty service consumers who tend to be persuaded to purchase those services by marketing tactics, such as foot-in-the-door techniques, modelling effecting of advertisements, pressuring tactics etc. but in fact they do not have enough knowledge about the process and evidences of the medical beauty services, and the qualifications of the medical beauty service providers.

In the case of highly invasive medical procedures, any behaviour on the part of service providers to secure a quick decision from a prospective consumer should be discouraged, and safeguards should be put in place to ensure that an appropriate cooling-off period exists. In Singapore, a seven-day cooling-off period is mandatorily provided for persons undergoing liposuction procedures. Under a voluntary accreditation programme by CaseTrust of Singapore, participants (beauty, spa and massage businesses) shall accord a cooling-off period of at least five working days to allow clients, including tourists, to seek a full refund if they do not wish to proceed with the service package offered.

Recommendation: The Council has planned to conduct research in the coming year on whether and, if so, how to adopt cooling-off period in Hong Kong. High risk medical beauty services and aggressive selling tactics in the industry are supporting factors for this measure. A cooling-off period would give consumers who are enticed into purchasing medical beauty services, or have made a prepayment, the right to withdraw within a reasonable time frame. This could also have the effect of dissuading service providers from using undesirable “aggressive selling” tactics to procure customers, but instead, establish a business relationship with a consumer that focuses on providing a clearly acceptable and beneficial service.

Resolution and redress mechanism

There is currently a professional duty on registered doctors and dentists to have indemnity arrangements to cover claims of negligence. However, other medical beauty service providers are not legally required to hold any indemnity insurance. It is inevitable that disputes will arise either because the result of the service is not satisfactory or the treatment is improperly conducted. Whilst the Council can and does conciliate consumer disputes, the lack of alternative dispute resolution options that specifically relate to medical beauty services is out of step with the protection that should be afforded to consumers, given the high level of risk and possible dire consequences to consumers’ well-being. Moreover, the provision of medical beauty services, as distinct from other medical services indicates that some degree of specialisation is required in considering the merits of any claim of malpractice.

Consumers in Korea, for example, who suffer from malpractice in the provision of medical beauty services, are able to seek remedies from the Korea Medical Dispute Mediation and Arbitration Agency or through other civil mediation channels such as the Korea Consumer Agency.

Recommendation: The Council suggests that some efforts should be made in the medical beauty service industry to collectively develop a specialist mediation agency with a view to giving consumers in Hong Kong a feasible and practical choice to resolve their disputes with service providers as an alternative to the current channels of dispute resolution.

Recommendations



Licensing Requirement



Clear Definition of Medical Beauty Services



Competency Requirements for Performing Medical Beauty Services



Registries and Reporting Mechanisms

Independent, Evidence-based Advice



Advertising Code



Consumers' Consent Process



Resolution & Redress Mechanism

Cooling-off Period



The Way Forward

Incidents happened in the Mainland China and Hong Kong and works undertaken by the Council over the past two years indicated that there are serious problems in the medical beauty service industry that need to be addressed.

On the one hand, there is consumer confusion on a number of aspects of the industry such as the competency requirements, qualifications and identities of persons providing medical beauty services. On the other hand, with new services and technologies, inflated claims and problematic sales practices persist in the marketplace and remain untested until problems begin to emerge. Consumers will find it difficult to assess the quality and differences amongst services and treatments, especially to new services and technologies.

Having regard to the Study findings, the Council considers that there is an urgent need to bring in appropriate regulatory instruments with licensing arrangements to resolve the issues and enhance consumer protection. The Council urges the Government, the beauty and the medical sectors, as well as other relevant stakeholders to seriously consider the Council's recommendations for better consumer protection.

As this is an area that has attracted much attention from regulatory authorities in other jurisdictions to address similar problems that also arise in Hong Kong, the Council is of the view that it would be in Hong Kong's interest closely examine the efforts being taken in those jurisdictions and keep abreast of world's best regulatory practice, in the interests of consumer safety and the healthy development of the local industry.

The Council will continue to undertake its role as a conciliator in disputes and a watchdog of the industry. The Council will also inform and educate the public on aspects of the industry through its various media initiatives. A professional medical beauty service industry that safeguards consumer interests and provides high standards of work can develop Hong Kong into a highly sought after and reputable centre of excellence for not only Hong Kong residents, but consumers from other jurisdictions seeking these types of services.

INTRODUCTION

- Safety issues, in addition to questionable sales practices in the medical beauty services market in Hong Kong over the past few years have raised concerns with the Council and the Government, that have warranted close scrutiny of the medical beauty service industry to ensure that consumers of services are being adequately protected.
- The Government is considering to develop a regulatory framework for medical devices and the need for a new regulatory regime for private healthcare facilities. Meanwhile, the Council as a watchdog for consumers, has also taken the initiative to investigate the problems associated with medical beauty services and recommend appropriate measures to enhance consumer safeguards.
- This Council Study aims at:
 - gauging the level of consumer understanding on medical beauty services;
 - analysing key issues of concern to consumers who currently use or plan to use medical beauty services;
 - examining the nature of relevant regulatory regimes that exist in other jurisdictions;
 - assessing the manner in which Hong Kong should regulate medical beauty services; and
 - making recommendations that will enhance consumer protection, given the serious consequences that can arise to the well-being of consumers if the services are not properly provided.

This chapter provides background information on the medical beauty service industry in Hong Kong. An important issue is to examine how the service is defined within the wider context of the industry, and to establish what current regulatory environment exists that governs the operation of the industry. Complaint statistics are noted, in order to provide an overview of the extent to which there is a consumer problem. A brief description of current government policy relating to the service is also provided, along with views expressed by various stakeholders including the Government and the private sectors that have an interest in the topic.

1.1 Background

The provision of beauty services and procedures under the cover of “medical beauty services” (醫學/醫療美容服務) has been increasing rapidly in Hong Kong, leading to problems in different nature and severity. In October 2012, one woman died and three women became seriously ill after receiving intravascular infusions at a beauty treatment centre¹. In June 2014, another woman died after undergoing a liposuction procedure in a beauty centre². Ten probable botulism cases³, that arose after receiving injections, with problems of different degrees of weakness in the neck, throat and limbs; while more severe cases had difficulties in standing and walking, swallowing, speaking and breathing, and a case of allergic reaction after intradermal microinjection (水光槍)⁴ had been reported in 2016.

These adverse incidents relating to medical beauty services have prompted public concern over issues such as the differentiation between medical procedures and beauty services; the regulatory gaps in governing the beauty sector in the provision of medical beauty services; and what measures are required to enhance consumer safety in the consumption of medical beauty services.

As a result, in October 2012 the Hong Kong Government (the Government) established the Steering Committee on Review of the Regulation of Private Healthcare Facilities (the Steering Committee) and set up a Working Group on Differentiation between Medical Procedures and Beauty Services (the Working Group) under the Steering Committee⁵. The Working Group’s task was to examine the differentiation between medical treatments and ordinary beauty services, as well as consider recommendations on current procedures in the industry that should be performed by registered medical practitioners.

In November 2013, the Working Group identified 35 common medical beauty procedures with potential safety concerns (Table 1)⁶. Among them, the Working Group recommended that 15 of the procedures involving injections, mechanical or chemical exfoliation of the skin below the epidermis, hyperbaric oxygen therapy and dental bleaching should only be performed by registered medical practitioners or registered dentists; in view of the inherent risks of the procedures.

For beauty procedures involving the use of medical devices, particularly energy-emitting devices (such as laser and intense pulsed light), the Working Group considered that the control of their use should be deliberated under the proposed regulatory framework for medical devices.

At the time of preparation of this Report, the Government has not as yet introduced a regime for regulating the use of medical devices for beauty procedures and defining clearly the types of personnel and level of training and competence required for performing these procedures to safeguard the safety of consumers in both the medical and beauty sectors in the market.

1.2 Medical Beauty Services in Hong Kong

1.2.1 Types of services

Although the term “medical beauty” has been popularly used in recent years, there is no official definition of the term. As shown in Table 1, the Working Group classified medical beauty services with potential safety concerns into procedures involving (a) skin puncture, (b) external application of energy, (c) mechanical/chemical exfoliation of the skin and (d) others (such as colon hydrotherapy and hyperbaric oxygen therapy that may pose safety concerns).

To better understand the issues relating to medical beauty, the Council sent letters in August 2015 to 13 organisations which included traders and practitioners from the local beauty industry, experts from academia and different medical professions and relevant government departments for advice. Of these, 9 had provided views to the Council, through either written responses, meetings or telephone interviews. The Council acknowledges the assistance of these stakeholders.

1 Food and Health Bureau, (2013) LCQ1: *Regulation of high-risk medical procedures* Available at: http://www.fhb.gov.hk/en/legco/replies/2013/lq130619_q01.htm [Accessed 23 Nov. 2016].

2 HKSAR Government, (2014) *Liposuction death probe launched* Available at: http://www.news.gov.hk/en/categories/health/html/2014/06/20140627_170325.shtml [Accessed 28 Nov. 2016].

3 HKSAR Government, (2016) *10 botulism cases reported* Available at: http://www.news.gov.hk/en/categories/health/html/2016/08/20160805_165034.shtml [Accessed 23 Nov. 2016].

4 Appledaily, (2016) *24歲女打水光槍出事 成塊面出「蕁麻疹」* Available at: <http://hk.apple.nextmedia.com/realtime/breaking/20160228/54809121> [Accessed 23 Nov. 2016].

5 HKSAR Government, (2012) *Steering Committee on Review of the Regulation of Private Healthcare Facilities* Available at <http://www.info.gov.hk/gia/general/201211/02/P201211020491.htm> [Accessed 23 Nov. 2016].

6 Department of Health, (2013) *Report of the Working Group on Differentiation between Medical Procedures and Beauty Services* Available at: http://www.dh.gov.hk/english/useful/useful_medical_beauty/files/WG_report_eng.pdf [Accessed 23 Nov. 2016].

Table 1 Categorisation and recommendation of the 35 medical beauty procedures with potential safety concerns by the Working Group on Differentiation between Medical Procedures and Beauty Services in Hong Kong⁷

Item	Procedure		Perform by medical practitioners /dentists	Deliberate within the regulatory framework for medical devices
Procedures involving skin puncture 涉及皮膚穿刺的程序				
1.	Dermal filler injection	皮下填充劑注射	✓	
2.	Botulinum toxin A injection	A型肉毒桿菌毒素注射	✓	
3.	Autologous platelet-rich plasma	自體高濃度血小板血清	✓	
4.	Autologous cellular therapy	自體細胞療程	✓	
5.	Cryo-crystalised Growth Factor	冰釋細胞複製再生療程	✓	
6.	Skin whitening injection	美白針注射	✓	
7.	Injection lipolysis	減肥針注射	✓	
8.	Mesotherapy	中胚層療法	✓	
9.	Microneedle therapy	微針療程		✓
10.	Tattooing	紋身	Exempted	
11.	Body piercing	穿環	Exempted	
Procedures involving external application of energy 涉及體外能量源的程序				
12.	Laser (Class 3B and 4)	激光(第3B類/4類)		✓
13.	Radiofrequency	射頻		✓
14.	Intense pulsed light (IPL)	強烈脈衝光		✓
15.	Extracorporeal shock wave	體外衝擊波		✓
16.	Ultrasound for lipolysis (high intensity focused ultrasound and non-thermal ultrasound)	消脂用途的超聲波 (高強度聚焦超聲波和非熱能性超聲波能量)		✓
17.	Cryolipolysis	冷凍溶脂術		✓
18.	High voltage pulsed current	高壓脈衝電流		✓
19.	Plasma	等離子		✓
20.	Lighting emitting diode phototherapy	發光二極管光線療法		✓
21.	Infrared light	紅外線		✓
22.	Micro-current therapy	微電流		✓
23.	Cryoelectrophoresis	低溫電泳導入術		✓
24.	Electroporation / Iontophoresis	電穿孔導入術/離子導入術		✓
25.	Pulsed magnetic field therapy	脈衝磁療		✓
26.	Microwave application	微波應用		✓
Procedures involving mechanical / chemical exfoliation of the skin 涉及以機械或化學方法進行皮膚剝脫的程序				
27.	Microdermabrasion	微晶磨皮	✓	
28.	Chemical peel	化學剝脫	✓	
29.	JETPEEL	水磨嫩膚	✓	
30.	Water microjet plus vacuum	水鑽嫩膚加真空療程	✓	
Other procedures that may pose safety concerns 其他有機會引起安全關注的美容程序				
31.	Colon hydrotherapy	洗腸		✓
32.	Hyperbaric oxygen therapy	高壓氧氣治療	✓	
33.	Jet injector	氣壓槍	✓	
34.	Dental bleaching	漂牙	✓	
35.	Suction massage	吸力按摩	Not required	

List of consultation of local industry, experts and government officials in August 2015:

Trade related

- The Cosmetic & Perfumery Association of Hong Kong
- Federation of Beauty Industry (H.K.)
- Hong Kong Association of Cosmetic Surgery
- Hong Kong College of Dermatologists
- The Hong Kong Medical Association
- The Hong Kong Society of Dermatology and Venereology

Government departments

- Customs and Excise Department
- Department of Health

Others

- The Division of Clinical Psychology of the Hong Kong Psychological Society

The other four parties with nil responses received were: Hong Kong Hair & Beauty Merchants Association, Hong Kong Medical and Healthcare Device Industries Association, The Hong Kong College of Psychiatrists, and Hong Kong Police Force.

Prior to the release of this Report in November 2016, further comment from the nine stakeholders about the incorporation of their feedback into this Report was sought. The Council also engaged relevant government departments or bureaus in discussion of the Council's key findings. These included exchanging policy views with the Food and Health Bureau and the Department of Health (DH), consulting on the enforcement issue with the Customs and Excise Department and seeking advice on consumers' privacy issues from the Office of the Privacy Commissioner for Personal Data; and cooling-off period from the Commerce and Economic Development Bureau.

Based on their responses, both the beauty and the medical sectors (including the Federation of Beauty Industry (H.K.) (FBIHK), the Hong Kong Association of Cosmetic Surgery (HKACS), the Hong Kong College of Dermatologists (HKCD), the Hong Kong Medical Association (HKMA) and the Hong Kong Society of Dermatology and Venereology (HKSDV)) were of a similar view that the term "medical beauty services" generally refers to the improvement of physical appearance with the use of medical means, knowledge, or technologies.

HKACS, HKMA and HKSDV, from the medical sector, generally supported the categorisation and recommendation of the Working Group. HKMA thought that the lack of a legal definition for the term "medical treatment" might imply anybody can perform anything legally provided he/she does not identify himself/herself as a doctor. It further emphasised the need and the importance for a legal definition on "medical treatment" for regulation of the medical beauty industry.

7 Ibid.

On the other hand, FBIHK from the beauty sector disagreed with the categorisation and recommendation of the 35 medical beauty procedures (with risk levels classification expressed by the Working Group) and thought that medical procedures and beauty services should be differentiated only by nature and not by levels of risk. According to FBIHK, different levels of risk do not change the nature of the medical beauty services, while different risk levels should be controlled by different levels of risk management. The Cosmetic & Perfumery Association of Hong Kong (CPAHK) also shared similar views and commented that levels of risk would be affected by qualifications and experiences of the practitioners.

1.2.2 Service providers

CPAHK and FBIHK considered that both beauty practitioners and medical doctors could perform medical beauty services with appropriate training and proven skill competencies through assessments and that the existing Hong Kong Qualifications Framework should be further deployed to assist beauty practitioners⁸ in obtaining quality-assured qualifications so as to enhance the overall quality and continual professional development of the medical beauty industry.

HKACS and HKSDV were of the view that depending on the nature of the procedure and client requirements, the roles of beauty practitioners and medical doctors might overlap to a certain extent.

On the contrary, HKMA and HKCD were of the view that only medical doctors could perform medical beauty services; although they did not need to be specialists. In addition, it was also conceded that under the supervision of medical doctors, “non-doctor” operators with adequate training and/or qualifications might be allowed to perform certain medical beauty procedures.

1.2.3 Policy measures and regulations

Competency requirements

As mentioned in Table 1, the Working Group had recommended that 15 high-risk medical beauty procedures should only be performed by registered medical practitioners or registered dentists. There is no specific requirement on their competency or experience in performing these procedures. However, registered medical practitioners or registered dentists are required to comply with the codes of professional conduct issued by their respective councils and they are subject to the disciplinary action imposed by the respective councils^{9,10} if they commit any professional misconduct.

According to a consultancy report, it was estimated that there were a total of approximately 6,000 to 8,000 Class 3B and 4 Laser equipment and IPL devices being used by local beauty operators; and approximately 5,000 beauty salons in Hong Kong. Local industry stakeholders believe that at least 90% (about 4,500) of these beauty salons have IPL devices¹¹. This raised concerns about adequate qualified staff to operate the devices.

The beauty sector has developed an industry “Specification of Competency Standards” under the Hong Kong Qualifications Framework¹², established by the Secretary for Education, which lays down the learning pathways and competency requirements for different levels of qualifications for practitioners. As at the end of 2015, only 220 employees (less than 0.6% in the beauty industry) gained the Level 1 to Level 4 Statements of Attainment Awarded under the Recognition of Prior Learning (RPL) Mechanism¹³. In December 2015, the beauty sector announced the launch of the “Beauty Industry Professional Development Charter” (the Charter) to strengthen self-regulation over the industry; and nearly 60 employers had signed the Charter¹⁴. Effectiveness of these self-regulatory measures is not yet known.

Laws and regulations

At present, there is no specific legislation governing the manufacture, sale and use of medical devices or governing the provision of medical beauty services in Hong Kong. Pending the enactment of legislation, an administrative control system called the Medical Device Administrative Control System was set up in 2004 to facilitate the transition to the long-term statutory control by the Medical Device Control Office under the Department of Health. After a decade, the legislation has not yet been introduced. Generally, consumers of medical beauty services are protected to some extent by consumer protection legislation that has application across the economy as a whole, including:

- a. The Consumer Goods Safety Ordinance (Cap. 456), which requires manufacturers, importers and suppliers ensure that consumer goods they supply in Hong Kong meet general safety requirements;

⁸ According to the “Quarterly Report of Employment and Vacancies Statistics” from the Census and Statistics Department, there were 10,115 establishments and 38,763 persons engaged in the beauty sector as at June 2016. While some of them have been providing conventional beauty services such as hairdressing, make-up, manicuring or nail sculpting etc., there are more and more beauty centres and personnel engaged in providing medical beauty services which involves skin puncture and the use of energy-emitting devices as can be shown from the Council’s research and enquiry visits in the following Chapters. Source: Census and Statistics Department, (2016) *Quarterly Report of Employment and Vacancies Statistics* Available at: <http://www.statistics.gov.hk/pub/B10500032016QQ02B0100.pdf> [Accessed 23 Nov. 2016].

⁹ Source: Medical Council of Hong Kong, *Code of Professional Conduct for the Guidance of Registered Medical Practitioners* Available at: http://www.mchk.org.hk/english/code/files/Code_of_Professional_Conduct_2016.pdf [Accessed 1 Dec. 2016].

¹⁰ Source: Dental Council of Hong Kong, *Code of Professional Discipline for the Guidance of Dental Practitioners in Hong Kong* Available at: <http://www.dchk.org.hk/docs/code.pdf> [Accessed 1 Dec. 2016].

¹¹ Food and Health Bureau, (2014) *Proposed Regulatory Framework for Medical Devices* Available at: <http://www.legco.gov.hk/yr13-14/english/panels/hs/papers/hs0616cb2-1754-4-e.pdf> [Accessed 23 Nov. 2016].

¹² The Hong Kong Qualifications Frameworks (www.hkqf.gov.hk) is a seven-level hierarchy of qualifications covering the academic, vocational and continuing education sectors. The aims of the Hong Kong Qualifications Framework are to clearly define the standards of different qualifications, ensure their quality and indicate the articulation ladders between different levels of qualifications.

¹³ HKSAR Government, (2016) *LCQ17: Implementation of Qualifications Framework* Available at: <http://www.info.gov.hk/gia/general/201602/17/P201602170470.htm> [Accessed 24 Nov. 2016].

¹⁴ The three principles of the Charter were: giving priority to applicants with professional qualifications when hiring frontline beauticians; encouraging employees who have no certified qualifications to study further and try to assist them to pursue on-the-job training; and ensuring beauticians undergo adequate training before providing beauty services to their customers. Source: *Beauty Industry Professional Development Charter*, (2015) Available at: <http://www.legco.gov.hk/yr15-16/chinese/panels/hs/papers/hscb2-786-1-ec.pdf> [Accessed 23 Nov. 2016].

- b. The Unconscionable Contracts Ordinance (Cap. 458), which empowers the courts to refuse to enforce, or to revise unconscionable terms in consumer contracts for the sale of goods or supply of services;
- c. The Trade Descriptions Ordinance (TDO) (Cap. 362), which prohibits specified unfair trade practices deployed by traders against consumers, including false trade descriptions of services, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment;
- d. The Supply of Services (Implied Terms) Ordinance (Cap. 457), which stipulates that a supplier of a service is obliged to carry out the service with reasonable care and skill and within a reasonable time;
- e. The Sale of Goods Ordinance (Cap. 26), which provides that where a seller sells goods in the course of a business, there is an implied condition that the goods supplied are of merchantable quality and that a buyer has the right to reject defective goods unless he or she has a reasonable opportunity to examine the goods; and
- f. Other Ordinances such as the Pharmacy and Poisons Ordinance (Cap. 138), the Radiation Ordinance (Cap. 303), the Telecommunications Ordinance (Cap. 106), etc., to regulate the manufacture, import, export, sale and use of medical devices in Hong Kong depending on the nature and characteristics of the products concerned (e.g. radiofrequency device)¹⁵.

In addition, the Undesirable Medical Advertisements Ordinance (Cap. 231) prohibits any person from publishing any advertisement that is likely to lead to the use of any medicine, surgical appliance or treatment for the purpose of treating or preventing from contracting any disease or condition specified in the Ordinance.

With respect to the recommendations by the Working Group, that 15 high-risk medical beauty procedures should only be performed by registered medical practitioners or registered dentists, enforcement actions under the Medical Registration Ordinance (Cap. 161) or the Dentists Registration Ordinance (Cap. 156) will be taken if the procedures are not carried out in accordance with the recommendations. However, as mentioned before, the medical profession pointed out that the lack of a legal definition for the term "medical treatment" might imply anybody can perform anything legally provided he/she does not identify himself/herself as a doctor. In other words, enforcement actions under the relevant ordinance might not be so forthcoming for protection of consumers.

1.3 Consumer Detriments

1.3.1 Complaint statistics and incident reports

As there is no official definition of the term “medical beauty service”, complaint statistics held by the Council that relate specifically to medical beauty services have been grouped under the category of beauty services. However, through identifying those beauty service complaints that relate to the application of high energy and invasive procedures, the Council can be said to have received about 150 to 200 per annum medical beauty service complaints over the years (Table 2).

Table 2 Complaint statistics on medical beauty services (related to application of high energy and invasive procedures) received by the Council

	2013	2014	2015	Jan - Oct 2016
Sales practices	32	60	37	64
Price disputes	14	6	7	6
Service quality	76	65	64	82
Safety issues	36	30	27	30
Others	39	25	8	20
Total	197	186	143	202

With regard to the nature of the complaint, most of these complaints were in relation to quality of services, sales practices and safety issues.

Below are examples of complaint cases with problems faced by consumers.

Case 1 Laser treatment by medical practitioner

A complainant bought a HK\$40,000 facial treatment from a beauty salon and was offered a free laser treatment for the neck, conducted by a medical doctor. During the neck treatment, the complainant felt pain and requested the doctor concerned to cease the treatment. However, the doctor insisted and continued the treatment till completion of both sides of the neck. The complainant later found her neck was seriously burnt and was diagnosed by another specialist, arranged by the salon that the burning of the neck was due to laser treatment. As the burning scars on the neck remained, the complainant sought help from the Council. After seeking advice under the Duty Lawyer Service, the complainant applied for legal aid assistance to take legal action against the salon. The application was still underway.

Case 2 Injection treatment by non-registered medical practitioners

A complainant purchased a treatment involving an invasive procedure. Premises staff claimed that the procedure could be conducted by a beautician in the beauty salon. After the injection treatment by the beautician, the complainant found red and brown spots left on the skin for a long period of time. The case was forwarded to DH for case analysis.

¹⁵ Department of Health, *Frequently Asked Questions* Available at: <http://www.mdco.gov.hk/english/faq/faq.html#gen02> [Accessed 23 Nov. 2016].

Case 3 Physical damage with ultrasound treatment

A complainant found two burning scars were left on the skin after the second ultra-sound treatment in a beauty salon. Being diagnosed by a medical doctor with burning of the skin, the complainant requested a refund of HK\$25,600 for the remaining therapies but was refused by the beauty salon, which claimed that the remaining value could only be exchanged for other beauty products or services. The complainant was reminded to seek legal advice and decide if further action should be taken.

Case 4 Bait advertising on group buying website

A complainant bought a HK\$488 coupon for a treatment service from a group buying website. During the treatment, the complainant was subjected to high-pressure selling and wrangling with the beauty salon staff and eventually persuaded to buy a HK\$5,160 package of six therapies. The complainant later developed an allergic reaction to the treatment (certified by a doctor) and requested cancellation of the package and a refund; but was refused by the beauty salon.

Case 5 Misleading prices

A complainant bought a hair removal by laser treatment at HK\$288. Upon completion of the treatment, the complainant was being prompted to purchase two treatment packages for different body parts on a 70% off discount with original list price at HK\$14,600 and HK\$18,000 respectively. The complainant doubted whether the discounts offered were genuine as another beauty salon that the complainant enquired a week ago offered a similar treatment at an original price of only HK\$7,800.

Since the tragic incident in October 2012 noted earlier, DH stepped up its screening of advertisements of beauty services and worked with the Council to analyse relevant complaint information.

Between the period from October 2012 to November 2016, DH received a total of 150 complaint cases referred by the Council related mainly to invasive procedures and the use of energy or laser devices. During the same period, DH itself received 111 complaints or enquiries in relation to beauty services. If an illegal medical practice is suspected, based on the available information, DH will refer the case to the Police for further investigation and necessary enforcement action.

1.3.2 Areas of concern

The total number of complaints in relation to all beauty services received by the Council in 2015 and 2016 (January to October) was 1,378 and 1,039 respectively. While most of them were about poor service quality and questionable sales practices in which consumers could suffer a financial loss up to thousands dollars or more, those in relation to medical beauty services could

even bring severe and irreversible impacts on the health and well-being of consumers. In light of the severity of the issue, the Council has been working with DH by referring those complaint cases relating to invasive procedures and the use of energy or laser devices for further investigation.

The fact that there is neither specific legislation in Hong Kong governing the provision of medical beauty services, nor specific control by health authorities over the importation and sale of certain devices used for “medical beauty services”, means that consumers consuming medical beauty services could be left exposed to questionable and dangerous practices that require urgent attention.

1.4 The Council’s Study

The Council is mindful that at the time of preparing this Report the regulatory framework for medical devices is still under review and the new regulatory regime for private healthcare facilities has not yet been introduced. A major focus of the Council's Study apart from satisfying the Council’s statutory obligations as a consumer advocate is therefore, intended as a reference for relevant government bureaus, departments and the industry, to obtain information on the medical beauty services industry; from the consumers’ perspective.

Telephone surveys, on-street interviews and focus group discussions were conducted to gauge consumers’ level of understanding and their experiences on medical beauty services. To assess the sales practices of the industry, enquiry visits to selected medical beauty service providers were also undertaken by the Council’s staff, posing as potential customers. For comparison purposes, the Council conducted desktop research on the regulatory regimes in a number of selected jurisdictions. The findings of the surveys and research are presented in the following Chapters. Based on the findings, the Council has identified, in the last Chapter, a list of issues requiring public attention and has suggested the key recommendations as a way forward to protect consumers.

Summary

The medical beauty service industry is a complex area of study, which raises not only legal questions that are critical to the maintenance of public safety, but also questions as to how consumers can be better served in the market. While current complaint figures are not numerically high, the nature of the service means that any failure to provide an appropriate and safe service could have catastrophic consequences for consumers which warrant close scrutiny of the medical beauty service industry to ensure that consumers of services are being adequately protected.

STUDY METHODOLOGY

- In conducting this study into medical beauty services in Hong Kong through the eyes of consumers, the Council embarked on a multifaceted process of information gathering to gauge how the industry performs and to identify areas of concern.
- In brief, the following research work was carried out by the Council during the period of February - September 2016.
 - Consumer research (telephone surveys of 1,004 respondents aged 15-64; on-street interviews of 602 respondents; 6 focus group discussions of 72 respondents);
 - Market practices (enquiry visits of 30 premises covering 9 beauty salons, 13 medical beauty centres, 4 medical beauty clinics and 4 private hospitals); and
 - Regulatory approach in other jurisdictions (desktop research on 7 selected jurisdictions including Korea, Mainland China, Singapore, Taiwan, the United Kingdom, and the United States - California and Florida).
- Key findings of the research work are grouped into subsequent chapters by topic of concern - namely Chapter 3: Consumer Choice (to describe consumer attitudes and usage patterns on medical beauty services); Chapter 4: Market Practices (to reflect consumer experiences along with the sales practices of medical beauty service providers and market enquiry visits); Chapter 5: Perception and Identification (to describe the confusion over restricted medical beauty procedures and non-restricted medical beauty procedures) and Chapter 6: Regulatory Approach (to gauge consumer opinions on existing and proposed regulation).
- Further details and relevant reference materials can be found on the Council's website for additional information.

This chapter outlines the methodology which the Council has employed to obtain information that provides an overall picture of the medical beauty services from the viewpoint of consumers in Hong Kong, and government and consumer bodies in other jurisdictions. The methodology encompasses three approaches - utilising survey practices, market enquiry exercises, and desktop research.

2.1 Consumer Research

The Council commissioned a research agency to conduct consumer research into medical beauty services in Hong Kong and aimed to understand the consumers' perspective on the subject of medical beauty services and sales practices adopted by the relevant service providers; assess the extent and the scope to which consumers thought Hong Kong should regulate medical beauty services; and identify key areas of concern to set future policy directions in enhancing consumer protection.

To achieve the above, both quantitative¹⁶ (telephone surveys and on-street interviews) and qualitative (focus group discussions) approaches were adopted in three different stages, each with specific areas of interest.

Stage 1 Telephone surveys

All land-based households that were installed with residential telephone lines in Hong Kong were included within the reach of the survey. Within each household, views and opinions of an eligible Chinese-speaking household member aged between 15 and 64 (both ages inclusive), excluding foreign domestic helpers, were collected by way of telephone interviews.

The fieldwork of the telephone surveys was conducted between 22 February and 23 March 2016, with a total of 1,004 successfully completing the interviews.

Through the telephone surveys, the prevalence of the general public aged 15 to 64 in using a local or non-local medical beauty service was determined¹⁷; and the profile of users and non-users of medical beauty services from the telephone interviews was used to establish the working guideline for the sampling control of the subsequent on-street face-to-face interviews.

Stage 2 On-street face-to-face interviews

The on-street face-to-face interviews covered persons aged 15 to 64 who had experienced medical beauty services¹⁸ in Hong Kong.

Quota sampling was adopted to ensure that the enumerated samples could represent an appropriate composition of the target population. The quota was set with reference to the corresponding population figures as collated in Stage 1: Telephone interviews, including (i) age; (ii) gender; (iii) education level; and (iv) working status.

A total of 602 respondents were successfully enumerated in 15 locations near shopping centres, commercial buildings and MTR stations in Hong Kong covering Hong Kong Island, Kowloon and the New Territories, between 16 June and 7 July 2016.

From the on-street interviews, the Council aimed to understand consumers' perception and use of medical beauty services, their determining factors in choosing medical beauty services and service providers, their awareness about the medical beauty services to be received (e.g. the materials and devices used, procedures and potential risks involved, and the qualification, training and experience of the persons performing the services), and their views on regulation of medical beauty services.

Stage 3 Focus group discussions

Subsequent to the completion of quantitative telephone and on-street interviews, six focus group discussions, encompassing a total of 72 respondents recruited from various channels¹⁹ and summarised in the table below, were conducted between 23 August and 8 September 2016 (Table 3). The objective of these qualitative focus groups was to understand the individual experiences of users and perception of non-users about medical beauty services.

Table 3 Profile of the focus group discussions

Respondent Group	No. of Respondents
Users	
Female aged 15-24	13
Female aged 25-34	12
Female aged 35-64	11
Male aged 15-64	13
Non-Users	
Female aged 15-64	12
Male aged 15-64	11
Total	72

¹⁶ For quantitative surveys, due to rounding issues, the sum of the percentages for the figures presented in this study report may not be equal to 100.

¹⁷ Medical beauty services here referred to any one of the 30 listed medical beauty procedures excluded those 5 procedures either not classified, exempted or not required such as tattooing and body piercing with potential safety concerns by the Government's Working Group on Differentiation between Medical Procedures and Beauty Services in Hong Kong. The experiences of medical beauty services are reported usage of the respondents only.

¹⁸ Medical beauty services here referred to 23 common medical beauty procedures (19 out of the 30 listed are popular medical beauty procedures plus four other common medical beauty procedures, viz. liposuction, light and micro-current slimming treatment, hair transplant and plastic surgery (e.g. eyelid, eye bag, nose)) available in the market. Such experiences of medical beauty services are reported usage of the respondents only.

¹⁹ The respondents were recruited via the research agency recruitment network, from the list of participants from telephone interviews and on-street interviews, and referrals from the Council as collected at the Book Fair on consumers who had indicated their interest to take part in the focus group discussions.

2.2 Market Enquiry Visits

The Council is aware from news reports and complaint cases that most of the serious problems that arise in the medical beauty service industry occur at the time consumers are actually having their medical beauty services performed. However, a critical precursor to the actual service being provided is the manner in which services are sold and consumers are convinced to precede. The consumer survey also pointed to issues of unfavourable sales tactics encountered by consumers during the purchase of medical beauty services.

As a result, a series of market enquiry visits were conducted by Council staff, posing as ordinary consumers, with the use of a standardised data collection form to collect information on the practices of various service providers in order to ascertain whether consumers are, in general, being provided with adequate information; and to obtain information on the manner in which the services are being marketed.

Specifically, through the enquiry visits the Council assessed what kind of information would typically be provided to consumers upon their first visit and their enquiry about having (what the Council considered to be) a medical beauty service. At the same time, the Council identified and evaluated the sales practices used by the service providers during the enquiry process; and examined if there were substantial differences with regard to the above, in different case categories (as explained below) and among different medical beauty service premises and personnel.

Premises that provide medical beauty services were identified via various sources such as advertisements in magazines, on-line search engines, group buying websites and a list of private hospitals. With reference to the nature of complaint cases in relation to medical beauty services received by the Council, the enquiry visits were divided into four case categories. They were:

- a. the provision of laser therapy, which is the most common and popular service in the medical beauty industry as reflected from the Council's consumer research in Chapter 3;
- b. the provision of high risk medical beauty services that involve skin puncture, such as botulinum toxin injections;
- c. the provision of group buying medical beauty services; and
- d. the provision of medical beauty services with claims and/or guarantees.

From 20 June to 18 August 2016, a total of 30 enquiry visits by 8 Council staff were conducted, covering 9 beauty salons, 13 medical beauty centres, 4 medical beauty clinics and 4 private hospitals. The classification of medical beauty service providers was based on the name and description of the premises as provided in websites and/or advertisements. The premises to be visited were determined by the types of medical beauty services provided, the content of their

advertisements, and the location of the premises. The distribution of the case categories to be examined and the relevant types of premises were as follows (Table 4):

Table 4 Distribution of market enquiry visits by case categories

Case Category	Beauty Salons	Medical Beauty Centres	Medical Beauty Clinics	Private Hospitals
Laser therapy	2	2	2	2
Botulinum injection	2	2	2	2
Group buying	4	4	–	–
Claims	1	5	–	–
Total	9	13	4	4

2.3 Benchmarking with Regulations in Other Jurisdictions

For the purpose of benchmarking Hong Kong’s regulatory framework, insofar as it can be seen to protect the interests of consumers of medical beauty services, the Council conducted desktop research on regulation of medical beauty services in other jurisdictions. Seven jurisdictions which are either close to Hong Kong or popular to Hong Kong consumers for medical beauty services were identified, and information was obtained through the Internet and/or directly from relevant regulators and consumer bodies. These seven jurisdictions are Korea, Mainland China, Singapore, Taiwan, the United Kingdom (UK), the United States - California (California) and the United States - Florida (Florida). A comparison between them is made in Chapter 6. Reference was also made from the research report entitled “Regulation of aesthetic practices in selected places” prepared by the Research Office of the Information Services Division of the Legislative Council Secretariat in Hong Kong.

Summary

The methodological approach taken by the Council, as outlined in this chapter, conforms with standard practice as employed by consumer advocates around the world; in circumstances where information is sought from the market on issues facing consumers. Consumer surveys and desktop research are helpful in providing the views of persons directly or indirectly involved in the service under study. Market enquiry exercises are of particular value because the information gleaned by the professionals involved in the exercise is obtained in a systematic and targeted fashion; designed to provide specific answers.

CONSUMER CHOICE

- The findings from consumer research suggest that while consumers are generally satisfied with the medical beauty services they have used, there are a range of factors influencing consumer demand and market outcomes in terms of price, quality of service and choice. These factors are important in seeking to understand whether consumers purchasing services are well-informed of the nature of the services they are using.
- Patterns of behaviour as to how consumers use, purchase, choose and seek redress regarding the supply of medical beauty services are observed:
 - one in five persons aged 15-64 in Hong Kong had used medical beauty services;
 - laser therapy was the most popular medical beauty service that was used;
 - the vast majority of users undertook the service in Hong Kong beauty centres;
 - over half of them used the medical beauty at least once a month;
 - key determining factors for choosing service providers were “guaranteed service quality and safety” and “professional qualification of the service providers”;
 - family, relatives and friends were the major sources to look for information and advice on matters related to medical beauty services;
 - less than half expressed an understanding of the materials/devices/qualification of the medical beauty service providers; and
 - one-fifths would do nothing when dissatisfied.

This chapter provides a detailed picture of what motivates consumers to use medical beauty services, how they exercise choices in the market, the source of information they obtained about the services, and their understanding of different aspects about the medical beauty services and action taken in case of being dissatisfied with the services.

3.1 Demand Factors

3.1.1 Use of Medical Beauty Services

Of the 1,004 respondents to the telephone interviews, 39.0% respondents aged 15-64 claimed that they had used beauty services and 20.1% aged 15-64 claimed that they had used listed “medical beauty procedures” (i.e. they had used at least one of the 30 listed medical beauty procedures identified by the Working Group)²⁰. Among the users, 82.6% were female and 17.4% were male, with the major user groups aged 25-44 (Table 5).

Table 5 Usage of medical beauty services by gender and age

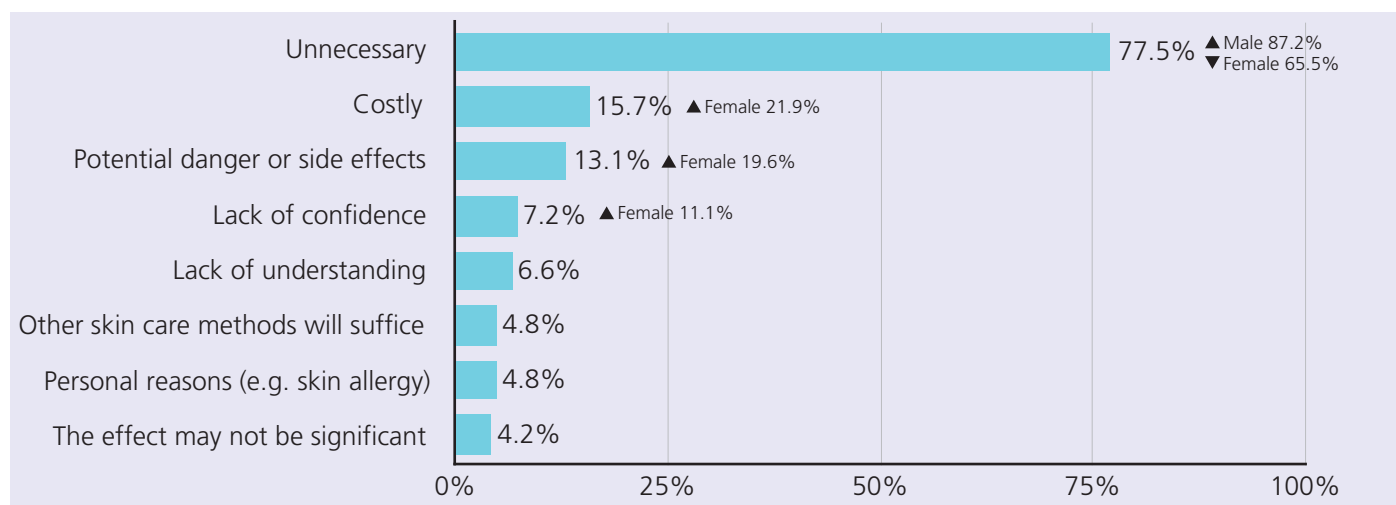
Gender	Female	Male	Total
	82.6%	17.4%	100.0%
Age			
15-24	15.0%	25.5%	16.9%
25-34	29.9%	17.4%	27.7%
35-44	28.6%	4.1%	24.3%
45-54	18.0%	32.9%	20.6%
55-64	8.5%	20.1%	10.5%
	100.0%	100.0%	100.0%

3.1.2 Reasons for not using medical beauty services²¹

77.5% of non-users of medical beauty service, especially the male respondents, found it unnecessary to use these type of services for a number of reasons. For instance, they were satisfied with their own appearance or they accepted the ageing process. Other reasons included the high price of medical beauty services (15.7%), potential danger or side effects of using medical beauty services (13.1%) and lack of confidence in medical beauty services (regarding to procedures and service quality) (7.2%) (Figure 1). Those citing “other reasons” were significantly higher among female non-users.

As reflected in the focus group discussions, a lack of an in-depth understanding about medical beauty services; and annoyance with sales tactics adopted by service providers, were two other crucial factors for respondents not using any medical beauty services. It is worth-noting that gender stereotypes also had an effect on consumers’ usage of medical beauty services, with male respondents generally being more reluctant to use medical beauty services as they had concerns of being judged and considered feminine.

Figure 1 Reasons for not using medical beauty services



3.1.3 Reasons for undergoing medical beauty services²²

Amongst the group of on-street interviewees, there were five major reasons for using medical beauty services (Figure 2), stemming from the desire to look young/beautiful (74.9%), especially for female users, followed at a distance by having the feeling that it was necessary (e.g. to deal with some bodily problems) (11.5%), especially for male users, the wish to improve self-confidence (11.5%), being introduced by family/relatives/friends (8.6%), and price discounts (e.g. “free trials”/“trial price”) (3.7%).

A view shared in the focus groups was that male users tended to believe that undergoing medical beauty services could help them deal with some bodily problems, while female users tended to believe that the treatment could help them keep looking young and improve self-confidence. One other key reason, as expressed in the focus group discussions, was the achievement of instant more significant and long-lasting effects of particular treatments as compared with ordinary beauty services; and that the treatments were considered to be more convenient and cost-effective than spending time on heavy make-up and/or doing long-hours of regular facials (especially for male users).

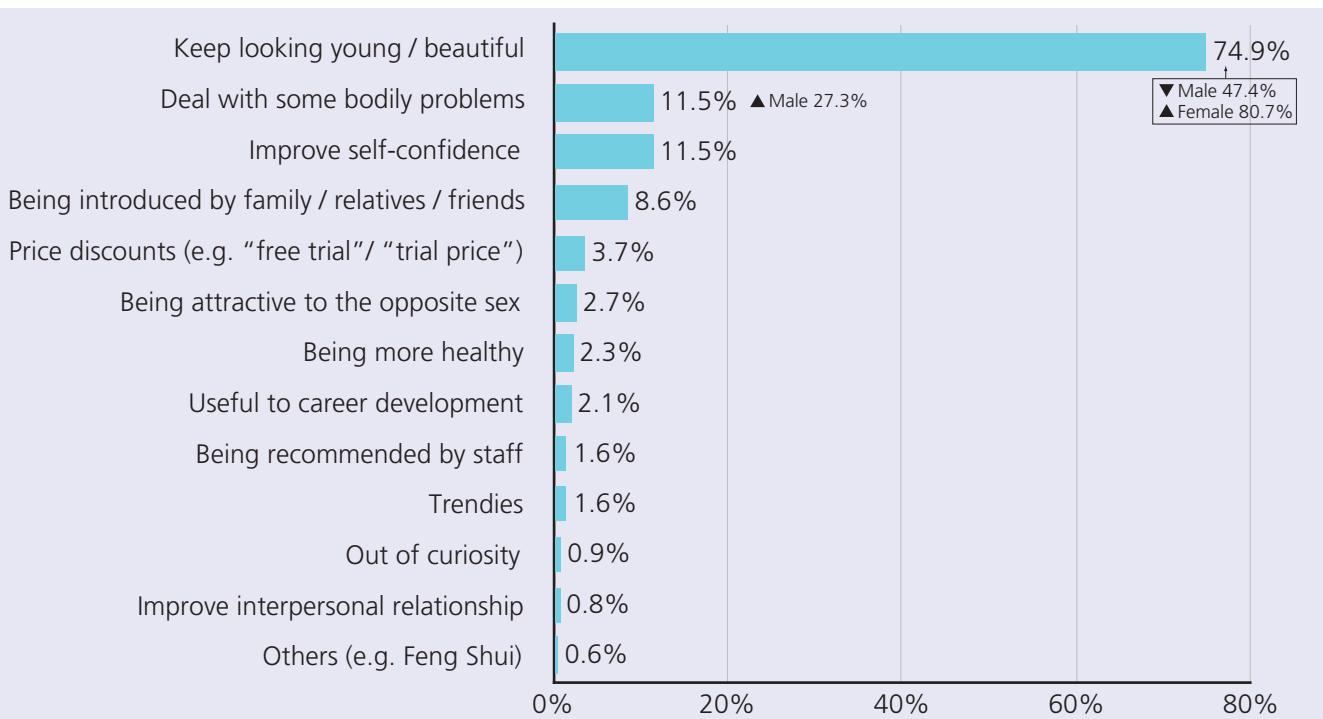
These demand factors, as shown in the market enquiry visits, were commonly interlaced with other factors such as sales or psychological tactics employed in the marketplace.

²⁰ The experiences of medical beauty services are reported usage of the respondents only.

²¹ Figures in this section were based on those who had not used medical beauty services in the telephone interviews (i.e. n = 730; N = 4,019,965).

²² Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

Figure 2 Reasons for undergoing medical beauty services



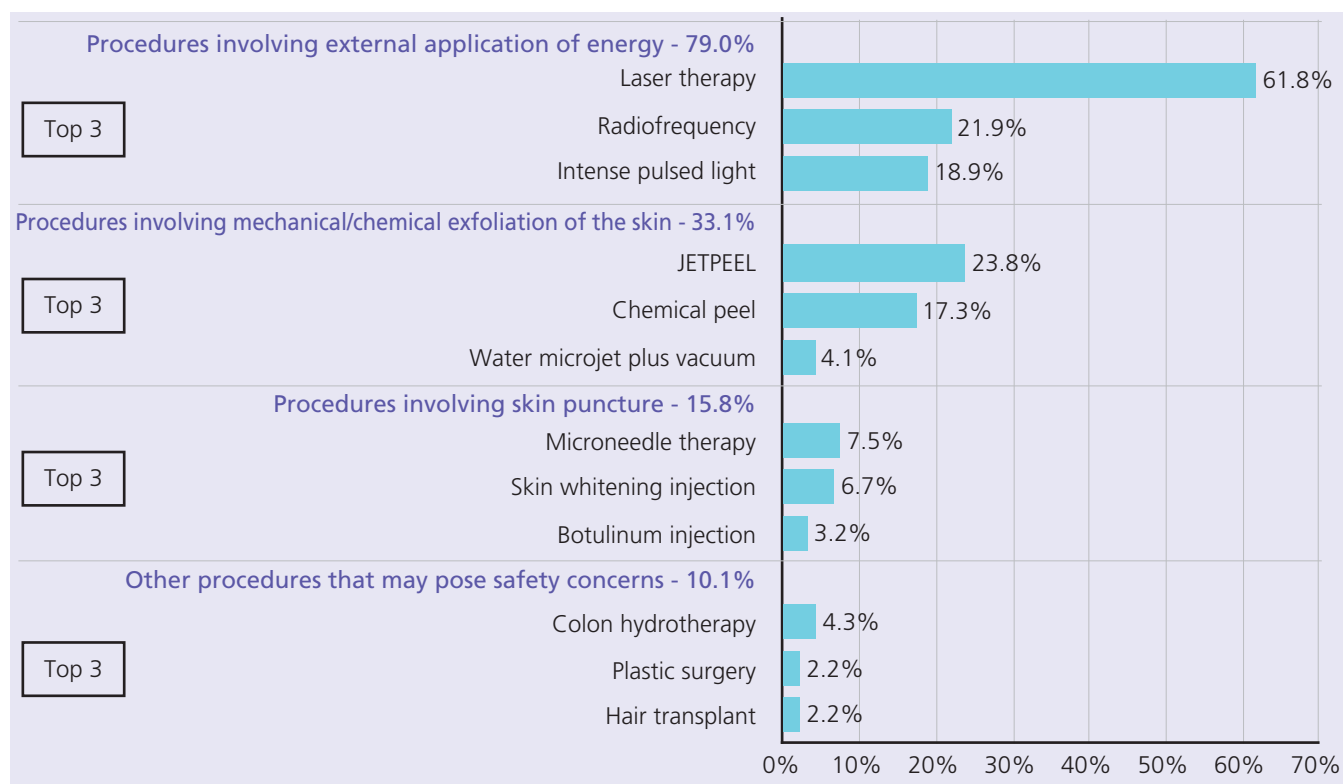
3.2 Patterns of Demand²³

3.2.1 Usage pattern

On average, respondents had only ever used 2 types of medical beauty services with male respondents only ever having used 1 type. However, one respondent claimed that she had used 10 types of the services. The most common types were largely the same as those used on their last occasion, with details as set out below.

Of the listed medical beauty procedures, those procedures involving external application of energy had the highest usage of 79.0%, with laser therapy (61.8%) as the most popular treatment. Procedures involving mechanical/chemical exfoliation of the skin were 33.1%, with JETPEEL (23.8%) as the most popular treatment in this category. Procedures involving skin puncture were 15.8%, with microneedle therapy (7.5%) as the most popular treatment within this category (Figure 3).

Figure 3 The top 3 medical beauty procedures under different types of medical beauty procedures



3.2.2 Where they have the services

With regard to the geographic location of the medical beauty service purchased by the interviewees, almost all medical beauty service users (98.8%) had chosen to undergo the medical beauty treatments in Hong Kong, distantly followed by Mainland China (e.g. Shenzhen, Guangzhou, Hainan) (1.1%) and other regions (e.g. Taiwan, the United Kingdom) (0.4%).

The on-street interviews and focus group discussions both revealed that word-of-mouth (e.g. recommendations from family, relatives and friends) and affordable price were the two most common reasons for medical beauty service users undergoing the services outside Hong Kong. In addition, respondents would also take into account their perception of the different locations and then choose the one which best fitted their needs.

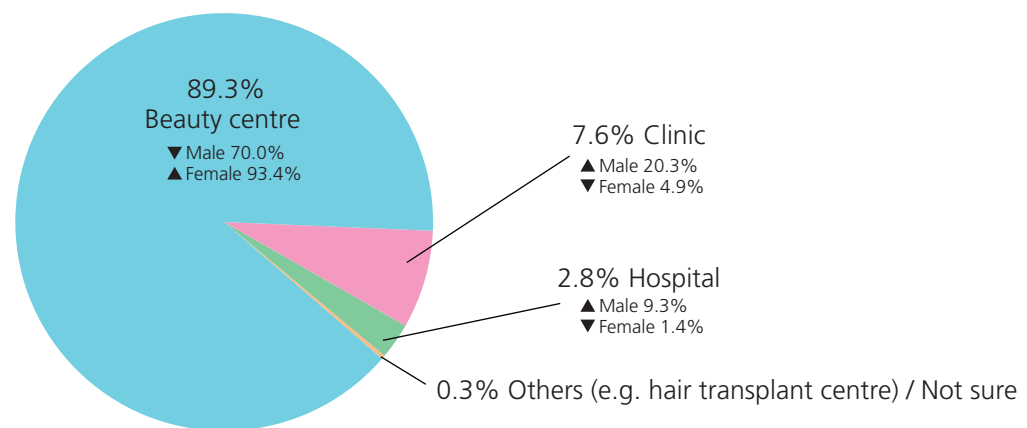
- a. Korea: Medical beauty services were seen to be prevalent in Korea, and the medical beauty treatments were therefore perceived to be more advanced and with quality guaranteed.
- b. Mainland China (e.g. Shenzhen): Medical beauty service users who had used medical beauty procedures in Mainland China generally thought it was cheaper to undergo some medical beauty procedures which suited their needs (e.g. embedment of wire for double eyelid fold).

²³ Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

- c. Taiwan: Unlike the case in Korea, the language barrier would not be a concern and they could directly communicate with the practitioners and follow up on their situations where necessary. As compared with Mainland China, medical beauty service users generally considered the procedures in Taiwan are more reliable.

As to the choice of premises, the survey found (Figure 4) that the most common premises for undergoing medical beauty services were beauty centres (89.3%), especially for female users. These were followed by clinics (7.6%) and hospitals (2.8%) and especially for male users.

Figure 4 Premises of undergoing medical beauty services



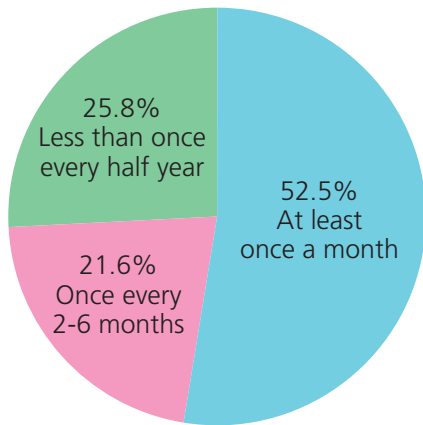
The respondents in the focus group discussions indicated that their choice of premises was subject to the complexity of the medical beauty procedures. For common and simple procedures (e.g. hair removal by laser), medical beauty centres or beauty centres were preferred because of the affordable price and convenient location.

In contrast, hospitals were preferred when complicated procedures (e.g. liposuction and plastic surgery) were to be conducted because the procedures would be undertaken by registered doctors who were accountable for the customers' safety; the hospitals were generally well-equipped with advanced medical beauty equipment; emergency management and follow-up action could be easily taken and directed to the hospital concerned; and users would not have to worry about the sudden closure of the establishment, unlike the case with some beauty centres.

3.2.3 Usage frequency and money spent

Respondents were asked how frequently they use medical beauty services and 52.5% claimed that they used medical beauty services at least once a month, followed by less than once every half year (25.8%) and once every 2 to 6 months (21.6%) (Figure 5).

Figure 5 Frequency of using medical beauty services

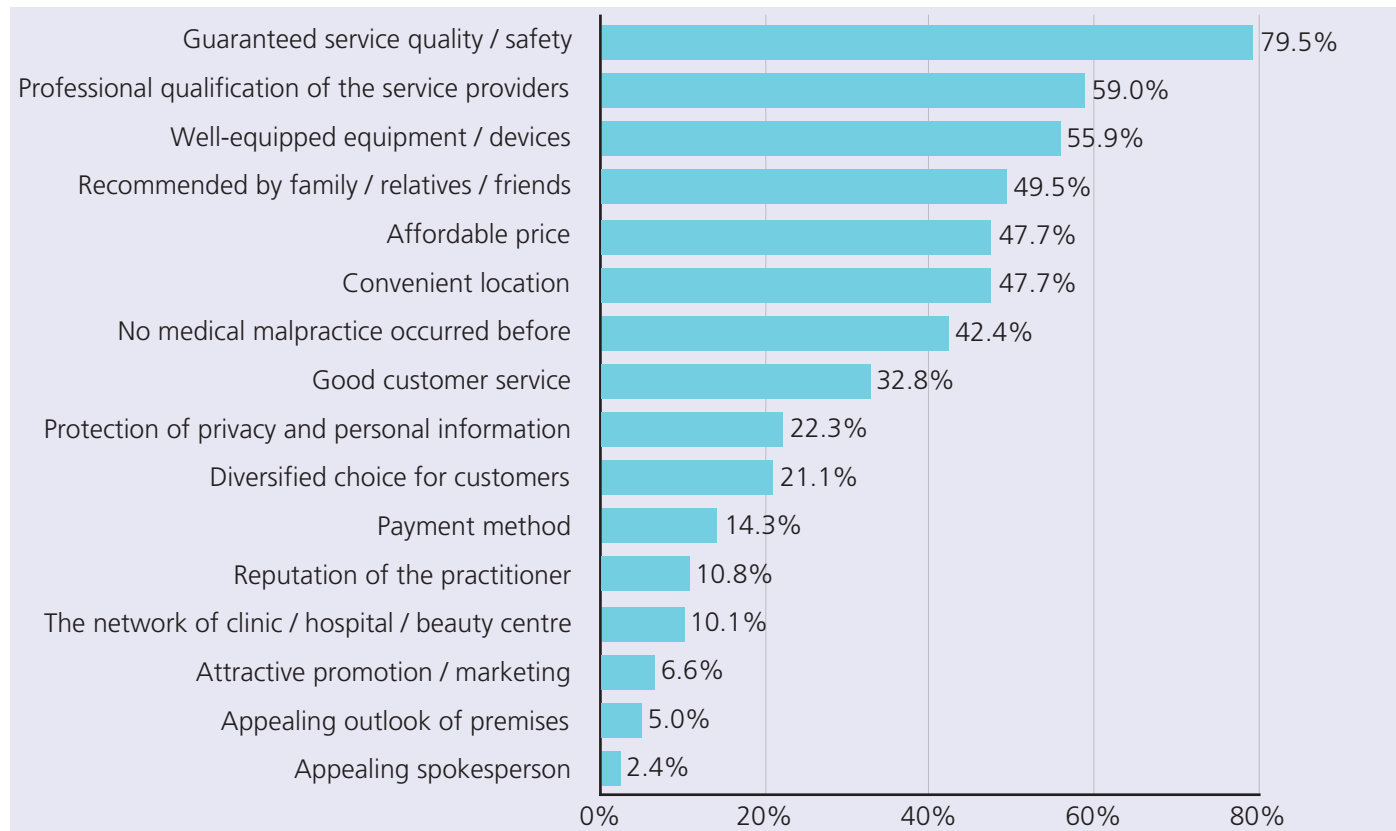


With regard to the amount of money spent by respondents on medical beauty services, which was based on the last purchase of the services regardless of the location they used, was estimated to be HK\$6,603 per purchase.

3.3 Determining Factors for Choosing Service Providers²⁴

As for the determining factors of choosing service providers, the top three factors among the medical beauty service users included guaranteed service quality/safety (79.5%), professional qualification of the service providers (59.0%) and well-equipped equipment/devices (55.9%) (Figure 6).

Figure 6 Determining factors for choosing service providers



²⁴ Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

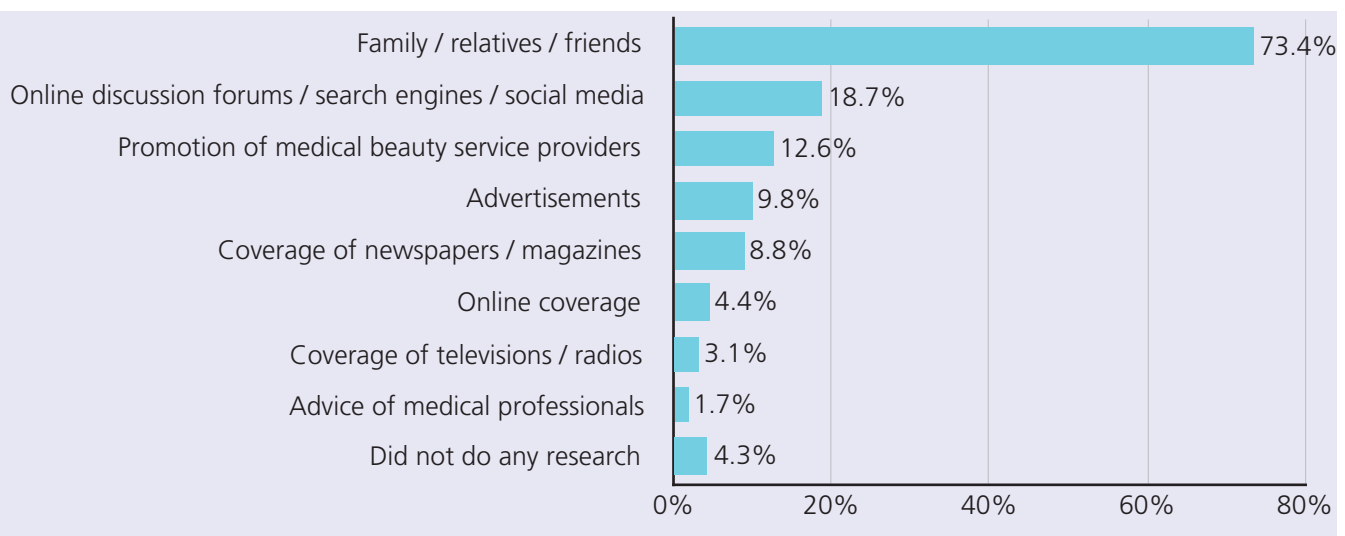
The focus group discussions revealed that notwithstanding the importance of a guarantee, respondents found that the use of the term “guaranteed service quality” could be misleading. A guarantee was generally defined by the respondents as the service provider being able to deliver the promised results, reasonably taking follow-up action in case of customers’ unexpected body reactions or unsatisfactory results, and using registered and licensed devices. However, this was not always the case.

The respondents found that family and friends’ real life experiences could be the most important determining factor in their decision processes. Reputation and scale of the service provider were another two important considerations. Specifically, a chain-brand service provider could instil respondents with confidence as it signified the company’s financial stability; that it was much more equipped with advanced equipment and devices; and redress actions were likely to be feasible in case of customers’ unexpected body reactions or unsatisfactory results. The price was also considered important as respondents needed to ensure the treatments were affordable.

Advertisements and spokespersons were considered to be relatively less important because the results shown were rather unconvincing and unreliable. Amongst all the consideration factors provided, the decoration of the premises rarely concerned respondents.

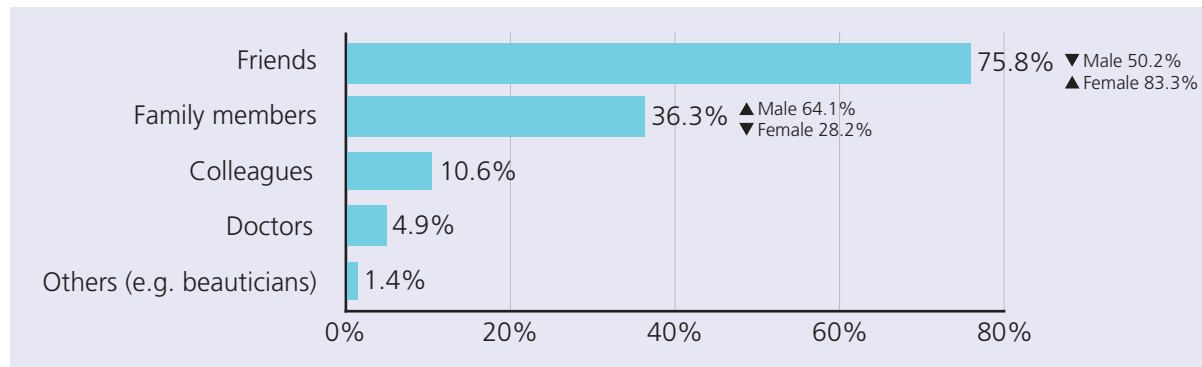
As to the channels used for finding out information, 73.4% of medical beauty service users relied on word-of-mouth of family/relatives/friends when sourcing information about medical beauty service providers, followed by online discussion forums/search engines/social media (18.7%) and promotion of medical beauty service providers (12.6%). Of concern to the Council was that only 1.7% (a very small percentage of the users) sought advice from medical professionals (Figure 7).

Figure 7 Source of information



When medical beauty service users were asked specifically if the opinions of others had been consulted before buying medical beauty procedures, 56.9% of the users, especially for male users (73.8%) responded that they consulted with others. Among them, 75.8%²⁵ consulted with their friends, followed by family members (36.3%) and colleagues (10.6%) (Figure 8). Regarding the gender difference, female users would consult friends more but male users tend to consult family members. However, only 4.9% consulted doctors.

Figure 8 People consulted



The focus group discussions were in line with the above results, in which respondents tended to consult others before using medical beauty services, particularly their female friends who had undergone the same treatment. However, it was noteworthy that female respondents rarely sought advice from their partners, and male respondents seldom discussed the matter with their male friends as they had the perception that male counterparts were not quite knowledgeable about the subject matter and they were worried about being misjudged since medical beauty services were still widely considered by the general public to be redundant, unnatural and expensive. Other channels of information included online sources, such as Facebook, Google and YouTube.

The information that respondents usually enquired about, when they consulted with others, included the details of the procedures, effectiveness, price, risk level, and potential side-effect of the treatments.

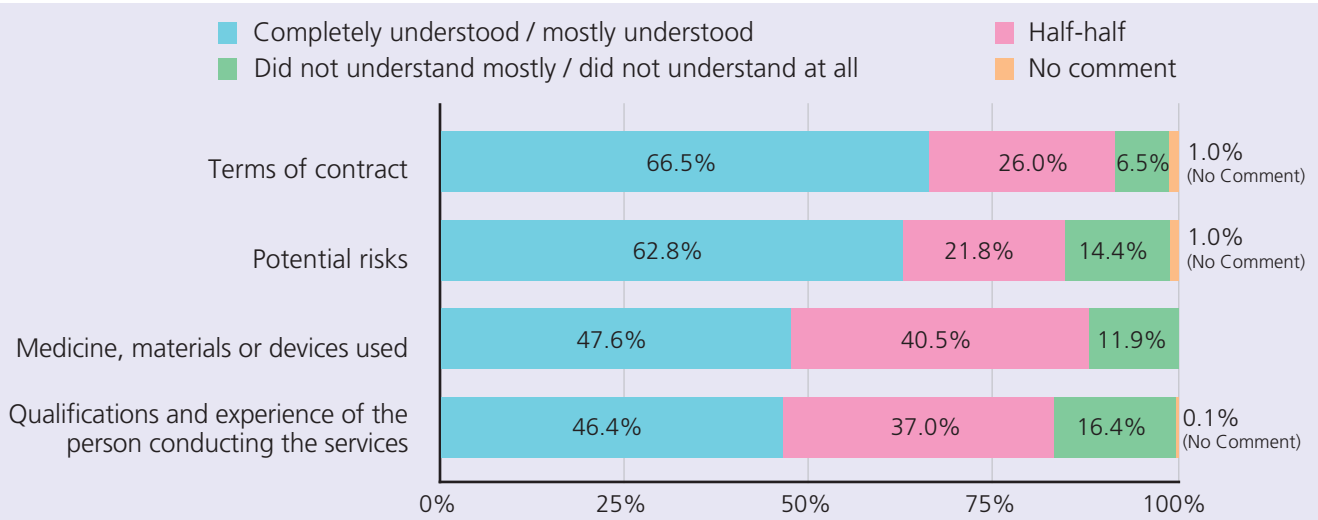
3.4 Confidence and Satisfaction²⁶

66.5% of medical beauty service users claimed that they understood the terms of service contracts and 62.8% understood the potential risks of using medical beauty services. It was note-worthy that 47.6% of the medical beauty service users said that they understood the medicine, materials or devices used in the medical beauty services and 46.4% claimed that they understood the qualifications and experience of the person conducting the services (Figure 9).

²⁵ Figures in this paragraph were based on those who consulted others before using medical beauty services in the on-street interviews (i.e. n = 348; N = 577,600).

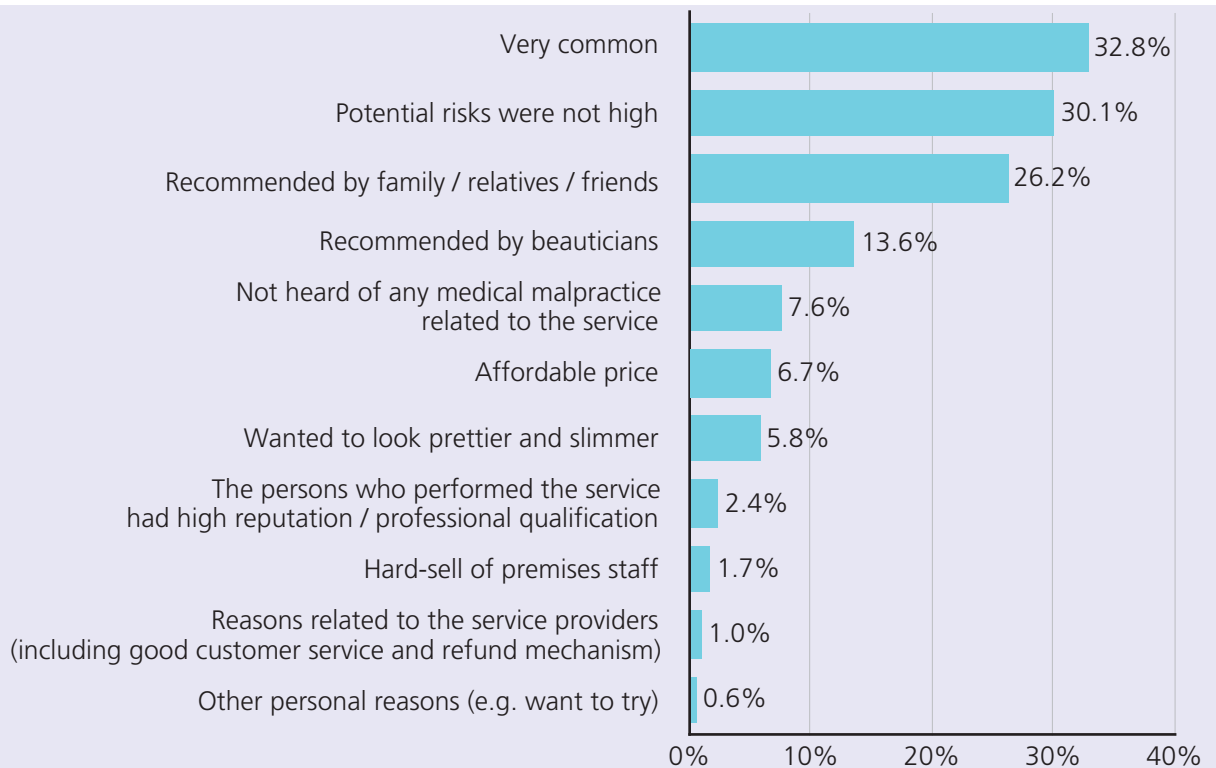
²⁶ Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

Figure 9 Understanding of different aspects of the medical beauty services



For those who had limited understanding about the potential risks of medical beauty services, the key reasons for continuing to use medical beauty services were that they felt the services were very common (32.8%)²⁷, the potential risks were not high (30.1%) and the services were recommended by family/relatives/friends (26.2%) (Figure 10).

Figure 10 Reasons to use the medical beauty services despite limited understanding about the potential risks involved



From the focus group discussions, the respondents also noted that they were aware that all medical beauty procedures involve a certain degree of risk, and they would tend to choose the procedures that were less risky (based on the rare occurrence of related medical incidents) (e.g. hair removal by laser). In addition, they would normally consult opinions from others (e.g. friends and online

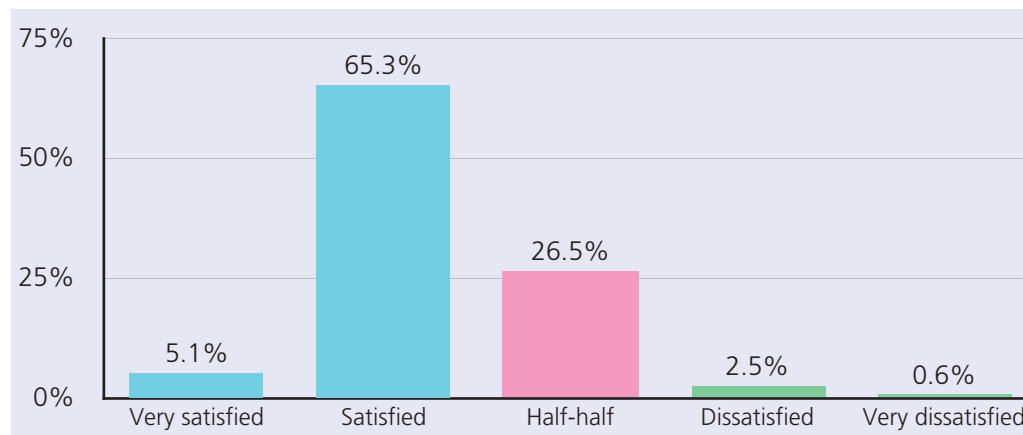
platforms) about the medical beauty procedures and/or service centres before actually undergoing the procedures. When they were asked about the worst scenario that could happen after undergoing medical beauty services, some of them worried about permanent injury to their body and the subsequent psychological influence on themselves.

Overall, 79.5% of the medical beauty service users believed the information provided by service providers, with 19.9% picking half-half and 0.6% thought not believable.

3.4.1 Overall satisfaction towards medical beauty services

Overall, users were highly satisfied with the medical beauty services they purchased. 70.4% were satisfied with the medical beauty services that they had used; 26.5% picked half-half; and 3.1% were dissatisfied (Figure 11).

Figure 11 Satisfactory level for the medical beauty services



The main reason for satisfaction was that the results of the services met their expectations (97.2%)²⁸. Despite the high satisfaction rate, 75.3% of the dissatisfied users²⁹ thought that the results did not meet their expectations and 34.3% of them said they had the feeling that service providers were being unprofessional/cheating.

The findings of the focus group discussions also affirmed the findings of the on-street interviews. They noted that an important source of satisfaction was found in the service being a comfortable process, good after-sales service, detailed explanation provided by the personnel performing the treatment, and no forceful or persistent selling of services. Against this, a decrease in service quality after purchasing new services, a lack of after-sales service and the adoption of persistent sales tactics were factors that aggravated respondents' dissatisfaction.

²⁷ Figures in this paragraph were based on those who had limited understanding about the potential risks of the medical beauty services in the on-street interviews (i.e. n = 213; N = 368,021).

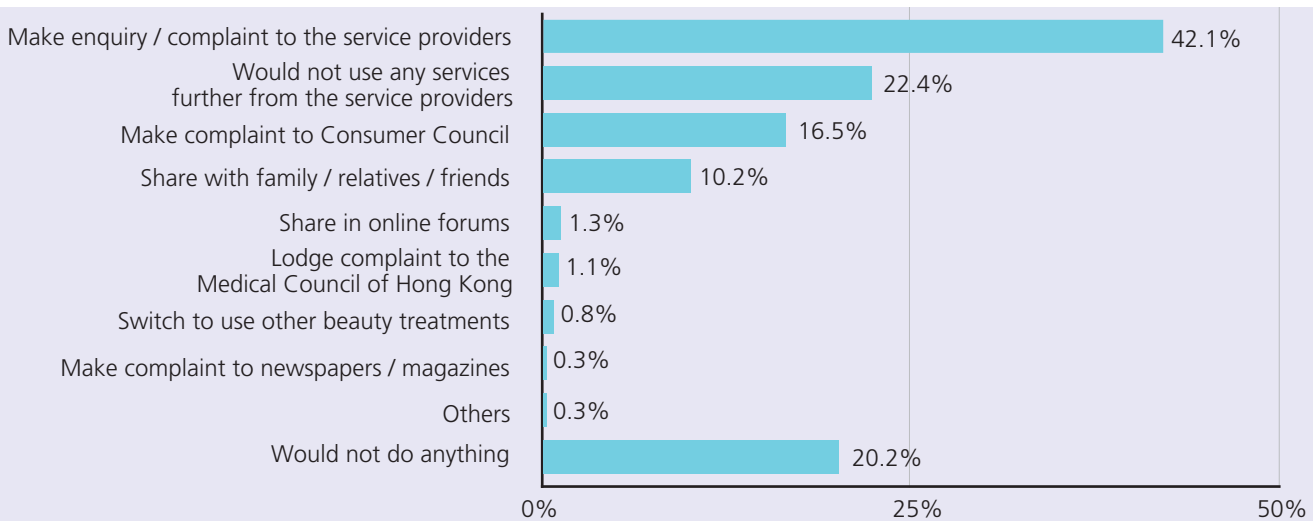
²⁸ Figures in this paragraph were based on those who were satisfied with the medical beauty services in the on-street face-to-face interviews (i.e. n = 435; N = 714,833).

²⁹ Figures were based on those who were dissatisfied with the medical beauty services in the on-street interviews (i.e. n = 14; N = 30,914).

3.4.2 Ways of Redress

In cases where respondents were dissatisfied with medical beauty services, 42.1% medical beauty service users indicated that they would make an enquiry/complaint to the service providers. Other actions included refusing to use any services further from the service providers (22.4%) and making a complaint to the Consumer Council (16.5%). It should be noted that 20.2% of the medical beauty service users would not take any action even if they were dissatisfied with their medical beauty services (Figure 12).

Figure 12 Action taken in case of being dissatisfied with the medical beauty services used



With regard to redress measures when procedures were not satisfactory, the ones that came to mind, as raised in the focus group discussions, were making complaints to the media, requesting the service provider to provide redress, and sharing their bad experience in online discussion forums. It was also observed that most respondents did not have much knowledge of their consumer rights. For instance, some respondents claimed that they would rather give up the amount paid and discontinue the use of the services. Some, however, would try to safeguard themselves by researching information about the service provider, as well as the procedures and effectiveness of the treatments, before making any purchase.

Summary

It can be concluded from the information obtained on behavioural characteristics that consumers are generally satisfied with the medical beauty services they have used. Nevertheless, while some can be said to be reasonably cautious and astute in making their purchasing decisions, it is also clear that some consumers are not as well informed about a range of factors that influence their demand and the outcomes that are expected in the market for the services under examination. A market functions best when there is a high level of information on both the demand and supply side. Any information imbalance on the part of consumers, particularly with a service that has critical implications for health and safety, must be corrected and not be taken lightly as the risks involved can result in physical damage at different levels of severity; even to the extent of a fatal incident.

MARKET PRACTICES

- A series of market enquiry visits were conducted by Council staff, posing as ordinary consumers, to collect information on the practices of various service providers offering medical beauty services in order to ascertain whether consumers are, in general, being provided with adequate information; and to obtain information on the manner in which the services are being marketed. As a result of these visits, it was noted with concern that
 - little information was provided to clarify whether treatments that typically should only be conducted by medical practitioners, such as injections, would be by beauticians or other non-qualified persons;
 - critical information such as the application, performance, limitations and safety concerns of devices to be used was not clearly stated;
 - the competencies and qualifications of staff performing the service was not clearly and accurately disclosed;
 - the term “medical” was commonly used in advertisements and sales information etc without any apparent justification;
 - excessive personal data was sought;
 - typical “aggressive selling” practices were used to entice the hesitant prospects to make a quick decision;
 - pricing of services was not transparent, and it was difficult to compare and justify whether a price offered was reasonable;
 - assurances as to guarantee were made but not followed up through the provision of appropriate information, documents or contracts to confirm the guarantee; and
 - substantial differences in prices and information provision between different medical beauty service providers.
- To better protect consumers, a much more robust and properly designed regulatory regime should be in place to govern the malpractices of the industry.

This chapter outlines the manner in which the Council undertook a market enquiry exercise to examine a number of facets that it considered were crucial to understanding how the medical beauty industry in Hong Kong markets its services, and how it interacts on a personal level with persons making inquiries into purchasing a service. The methodology used by the Council was designed to test a range of service providers against variables that the Council considered were important to further its understanding of industry compliance with existing law, and the tactics used by service providers to sell their services.

4.1 Information Provision

4.1.1 Availability of information prior to visit

Prior to conducting an enquiry visit, Council staff (fieldworkers) reviewed information as provided in the websites and/or advertisements of the medical beauty service providers to be visited.

It was observed that in general, promotional information on the service was readily provided, such as the claimed benefits and special offers (Figure 13). On the other hand, details of the service such as the procedures to be involved, the drugs/devices to be used, the persons undertaking the service and their qualifications, any acknowledgement of safety and health concerns; and price information were not often available. In 21 out of the 29 medical beauty service providers with websites, consumers were requested to provide their contact details or to make a booking with the service provider if the consumer would like to know more about the service (Figure 14).

Figure 13 Examples of promotions of medical beauty services in service providers' websites

The figure displays two promotional elements from a medical beauty service provider's website. On the left is a Botox advertisement, and on the right is a table for a Laser Treatment Package.

Botox Advertisement: The advertisement features the text "Botox 塑小腿" (Botox Leg Shaping) and a price of "\$2,180* 新客户首次优惠价" (New customer first-time special price). It includes a circular seal with "絕對安全" (Absolute Safety) and "劑量和發" (Dose and Effect). A diamond-shaped seal says "正廠正貨 ASSURANCE" (Genuine Factory, Genuine Goods Assurance). At the bottom, it states "專業醫生主理" (Managed by Professional Doctors). A small disclaimer at the bottom left reads: "此優惠只適用於年滿18歲之新客戶；此優惠只適用於小腿位置。如有任何爭議，以PromoKit保留最終決定權。" (This promotion is only applicable to new customers aged 18 and above; this promotion is only applicable to the calf position. In case of any dispute, the PromoKit reserves the final decision-making power.)

Laser Treatment Package Table:

Items	Price
Q Laser Treatment Treatment of Warts, Seborrheic warts, Naevi (Moles) and other benign skin growth, etc.	\$2,100.00
Q Laser Treatment Removal of skin pigment including freckles, lentigines, birthmarks (Naevus of Ota and Café au lait spot), etc.	\$1,500.00

Rates subject to change without prior notice

Figure 14 An example of medical beauty service provider website seeking consumer's contact information

The image shows a contact form on a website. At the top, there is a purple button labeled '免費諮詢' (Free Consultation). Below it, there are several input fields: a dropdown menu for '查詢療程' (Inquiry Course), a text box for '姓名' (Name), a dropdown menu for '女' (Female), a text box for '聯絡電話' (Contact Number), a text box for '電郵' (Email), a dropdown menu for '年齡' (Age), and a dropdown menu for '療程地點' (Treatment Location). Below these fields, there are two checkboxes: the first is '本人已閱讀並同意私隱政策及優惠條款及細則' (I have read and agree to the privacy policy and terms and conditions), and the second is '本人不願意日後繼續收取The Beauty Group成員及The Beauty Group之產品資料、宣傳資訊及推廣優惠' (I do not wish to receive The Beauty Group members' and The Beauty Group's product information, promotional information, and promotional offers in the future). A '提交' (Submit) button is located to the right of the checkboxes. At the bottom left, there is a small asterisked note: '*如選擇拒絕接收，本人同時將不會收到貴公司任何禮品、折扣及其他優惠。' (If you choose to refuse to receive, I will also not receive any gifts, discounts, and other offers from your company.)

4.1.2 Procedures provided by professionals

Among the four case categories³⁰, not all of the medical beauty services were required to be performed by medical practitioners. Nevertheless, when the staff of the medical beauty service premises (premises staff) were asked if the particular service had to be performed by a medical practitioner or not, except staff from one medical beauty centre, they were able to explain the types of medical beauty service or treatment that had to be conducted only by medical doctors. For example, those services involving injection procedures; and those services which can be undertaken by beauticians or other persons. However, the fieldworker was not able to validate if it is fully obliged when the procedure takes place.

Based on the findings from the on-street survey³¹, marketing practices in the supply of medical beauty services were mainly provided by beauticians or beauty consultants throughout the services. For instance, the medical beauty services that medical beauty service users last used were mostly explained by beauticians (49.2%) and beauty consultants (38.1%). Interestingly, the proportion of having beauticians explained the medical beauty services was significantly lower among male (38.3% vs total 49.2%). Among the male users, this was on the other hand explained by registered medical practitioner (22.4%) and beauty consultant (16.4%). As mentioned in Chapter 3, more male users would go to clinics and hospitals than female users. As a result, it was found that male users had encountered different situations in purchasing or using the medical beauty services.

Moreover, 82.2% medical beauty service users responded that the medical beauty services last used were conducted by beauticians, with only 8.6% of the last medical beauty procedure experience was conducted by registered medical practitioners. Again, the proportion of having beauticians conducted the medical beauty services was significantly lower among male (59.8% vs total 82.2%). For the male users, this was on the other hand conducted by registered medical practitioner (22.8%) and therapist (9.7%).

³⁰ The four case categories are i) Laser therapy; ii) high risk medical beauty services that involve skin puncture; iii) medical beauty services from group buying websites; and iv) medical beauty services with claims.

³¹ Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

4.1.3 Information about the device

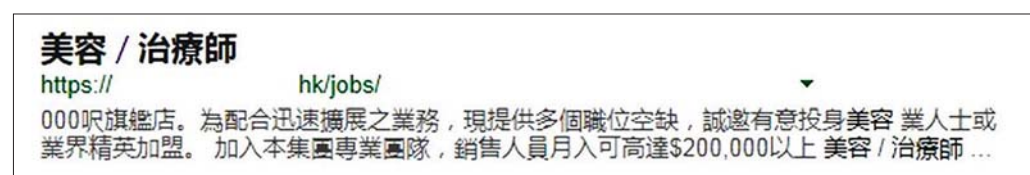
The need to use devices in providing the medical beauty services enquired into by fieldworkers was common. However, in most of the enquiry visits, very hardly the premises staff would provide detailed information about the devices, the qualifications of the operators and any potential risks, etc. Fieldworkers were told, in 10 enquiry visits, the brand name of the device to be used, its import origin and shown a photo, leaflet or certificate pertaining to the device. However, such information on the device was difficult to ascertain.

4.1.4 Qualifications of person undertaking the service

For those medical beauty procedures that could only be performed by a medical practitioner, fieldworkers observed that amongst the beauty salons or medical beauty centres visited, only in one visit the premises staff provided the name card of the medical practitioner who would perform the service. For the rest of the visits, fieldworkers were told only the surname of the doctor, and premises staff were quite reluctant to provide further details on the medical practitioner. Whereas for medical beauty clinics or hospitals, as doctors were directly consulted, their identity were known though detailed qualifications were not provided or mentioned during the consultation.

For those medical beauty services that did not require a medical practitioner, personnel who would be responsible for conducting the service were commonly referred to by the premises staff as “beauticians” (美容師) or “therapists” (治療師) by the beauty salons or medical beauty centres. However, there was no explanation or information given about these titles or their associated qualifications (Figure 15).

Figure 15 The titles “beauticians” (美容師) or “therapists” (治療師) are commonly used in beauty salons or medical beauty centres but details about their qualifications are unknown



4.1.5 Awareness/Understanding of service provider's identity

In most enquiry visits, premises staff who provided information to fieldworkers did not take the initiative to disclose their identity. Fieldworkers observed in some enquiry visits, particularly those of medical beauty centres, that the premises were decorated in a “clinic” setting and premises staff wore white laboratory coats similar to medical personnel. When they were asked, they admitted that they were not medical practitioners.

4.1.6 Disclosure of risks

Except for those medical beauty clinics and hospitals where the explanations were mainly conducted by medical practitioners, the potential risks of the medical beauty services were rarely mentioned in the enquiry visits, only 2 out of the 22 beauty salons or medical beauty centres visited by the fieldworkers had provided risk information that comparable with clinics and hospitals. On the contrary, explanations by staff of these premises were mainly about the expected outcomes and beneficial effects of the service; and promotions or offerings related to the service.

4.2 Sales Practices

4.2.1 Collection of personal information

Upon arrival at the premises being visited, fieldworkers were often required to fill in a form and provide personal information such as name, age, contact number, ID card number, occupation etc. In 4 visits fieldworkers were even requested to present their ID card to the premises staff despite the fact that no medical consultation was involved. For instance, a fieldworker was requested to present an ID card claiming that it was for confirmation of age so as to determine the appropriate service for the fieldworker.

According to the guideline for the beauty industry published by the Privacy Commissioner for Personal Data in June 2016, unless there is a doctor-patient relationship involved in the treatment, the service provider is not entitled to collect the HKID card number of a customer.

The enquiry visits also found that registration forms were used to collect information on the prospective user's health condition and lifestyle, among other information, for the sake of assessing designated medical beauty services.

4.2.2 Sales tactics

As observed from the enquiry visits, it was common (except in 4 visits) that premises staff invited fieldworkers to a room to promote and sell the service, and in 6 enquiry visits more than one premises staff would be involved in selling.

It was noted that during 7 enquiry visits the physical appearance of fieldworkers was tactfully criticised by the premises staff, thereby promoting the service treatments to "solve" the problems.

In 14 out of the 30 visits, fieldworkers were directed to services other than or more than the original one under enquiry. These were typically under a current promotion by the medical beauty service providers or at relatively higher prices and claimed by the premises staff to be more effective. Taking Figure 13 as an example, the advertised price of a botulinum injection was about HK\$3,000 for a new customer, but at the enquiry visit the premises staff told the fieldworker that

unless a package of 8 injections at HK\$44,000 was taken, there would not be any long term total effect of the injection. Prospective consumer might be misled by the discounted price and number of injection treatment by the advertisement.

In group buying cases related to discounted medical beauty services, fieldworkers were often told the effect or the coverage of the discounted service was not good enough for the fieldworkers and a full service at a much higher price was recommended. For example, in one case about a laser treatment offered in the group buying website at HK\$188, upon arrival at the premises and enquiry, fieldworker was immediately told by the premises staff that the offer consisted of “1 round” treatment only and recommended the fieldworker to try a “2 rounds” package at the cost of HK\$688, which would be more effective.

4.2.3 Observations from consumer research³²

Similar sales practices were observed from the consumer surveys and focus group discussions. The consumer survey findings showed that more than three-quarters of surveyed medical beauty service users had encountered at least one of the nine listed sales tactics during the purchase of medical beauty services. The most common sales tactics encountered, as shown in Figure 16, were promotion of the services at trial price or other discounted price (57.7%), especially for female users; promotion of purchasing additional or upgraded services or products (29.3%); criticisms of their appearance and thereby be promoted to address the problem (28.4%); persuasion to purchase new services even though they had already purchased a lot (19.4%) and promotion of the services by several staff at the same time or in turn (15.1%). Regarding the gender difference, 56.2% of male users did not encounter any sales tactics for medical beauty services but only 17.3% of female users did not encounter any these sales tactics.

³² Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

Observations on Sales Practices



Excessive
Collection of
personal
information



Verbal
Commitments
only



Criticise on physical
appearance to
promote services



Unable to validate
the information



Bait Tactics

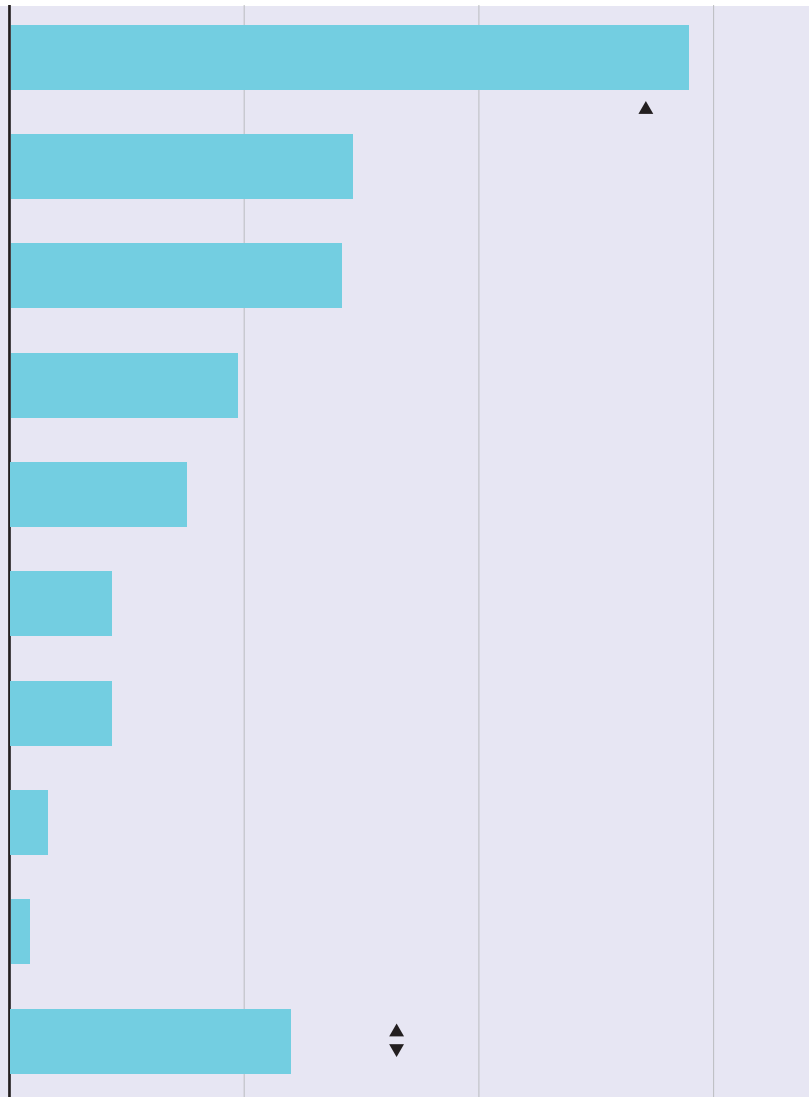


No Price List



Floating Price
no reference to
any standard

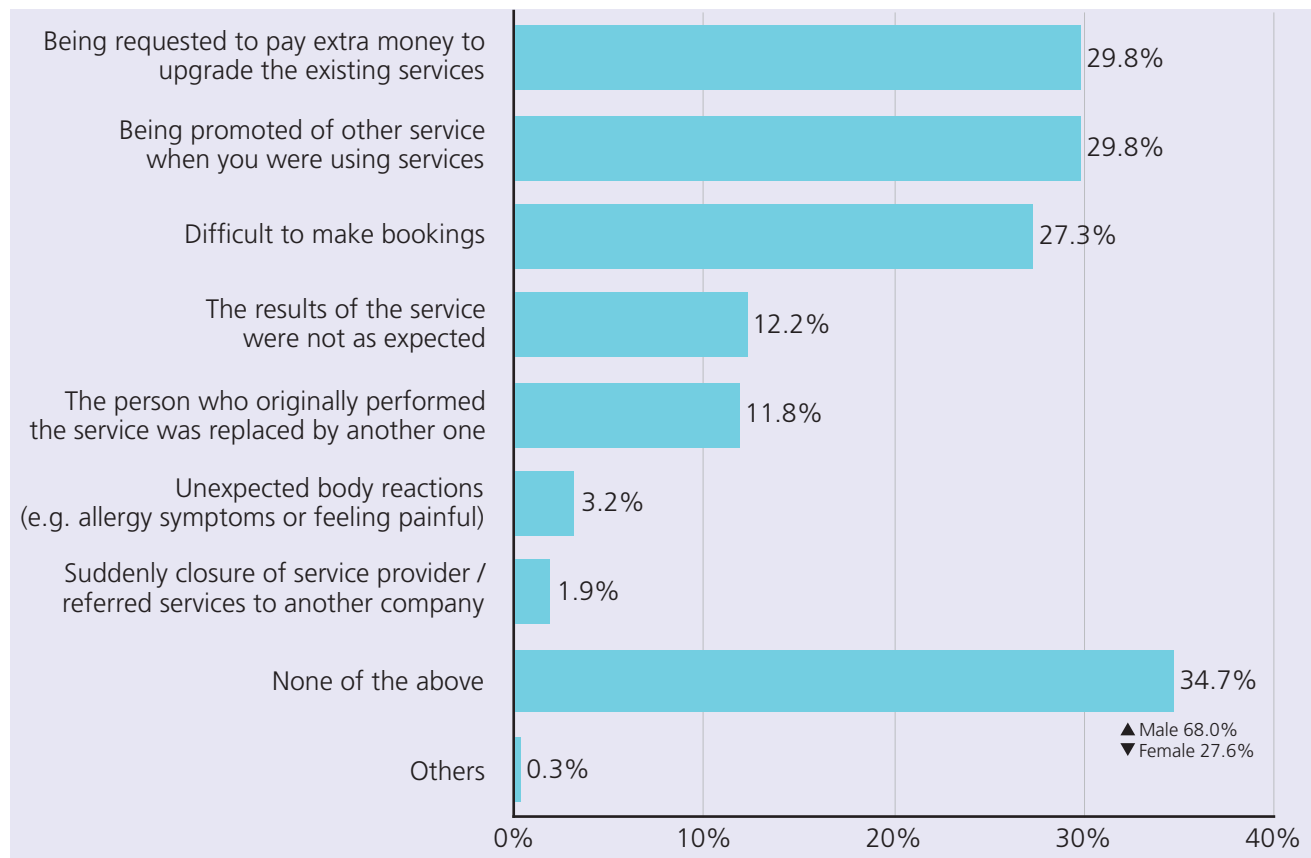
Figure 16 Sales tactics encountered during the purchase of medical beauty services



In addition to the aforementioned sales tactics, nearly all respondents in the focus group discussions had experience with being persuaded to purchase medical beauty services via telephone and/or on-street promotion. In addition, they had also been bombarded with suggestions to purchase additional services every time they used the medical beauty procedures. A few respondents stated that they had been annoyed by these forceful sales tactics to the extent that they would switch to another service provider once their pre-paid services were used up.

The most common situations encountered by medical beauty service users in using the services included paying extra money to upgrade the existing services (29.8%); promotion of other new services when they were using the services (29.8%) and difficulties in appointment bookings (27.3%) (Figure 17). Again, 68.0% of male users did not encounter any of these situations but only 27.6% of female users did not encounter these situations in using medical beauty services.

Figure 17 Situations encountered in using medical beauty services

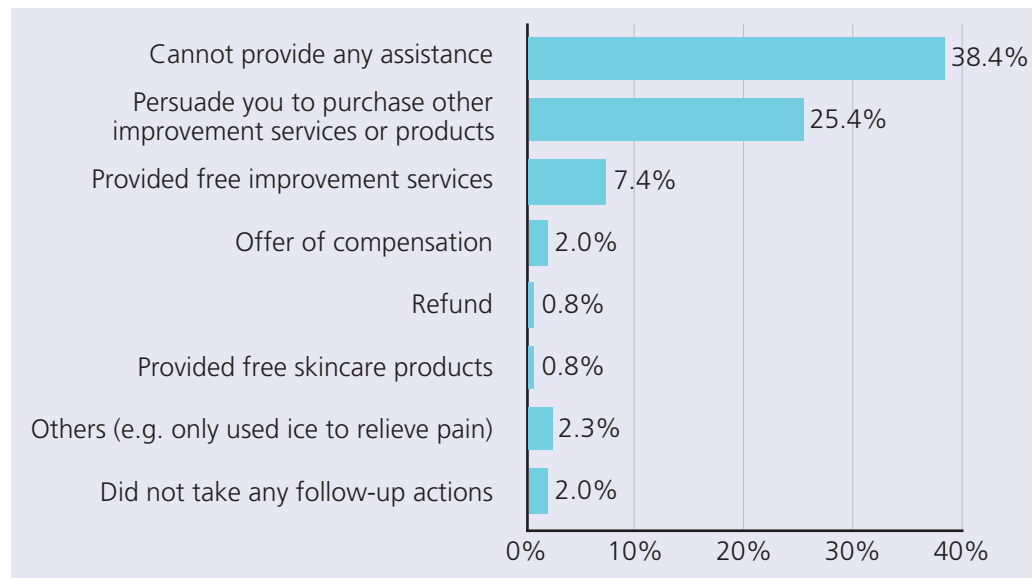


To tackle the adverse situations above (especially services being promoted during the treatment), the focus group respondents shared the view that they would either forfeit the left-over treatments or in future go to the premises without bringing any credit cards.

Among those medical beauty service users who claimed that the results of the service treatments were not as ideal as expected (12.2%) or had unexpected body reactions (3.2%), the most common response by service providers was to claim that the results would vary from person to person and hence that the service just provided could not in fact provide any assistance (38.4%)³³, and to persuade them to purchase further improvement services or products (25.4%) (Figure 18). As revealed in the focus group discussions, some users were persuaded to shift to another plan for free, to extend the existing plan or to upsell to another plan.

³³ Figures in this paragraph were based those who had encountered “the results of the service treatments were not as ideal as expected” and “unexpected body reactions” in the on-street interviews (i.e. n = 84; N = 148,860).

Figure 18 Follow-up actions taken by the service provider if not satisfactory



4.3 Payment Methods

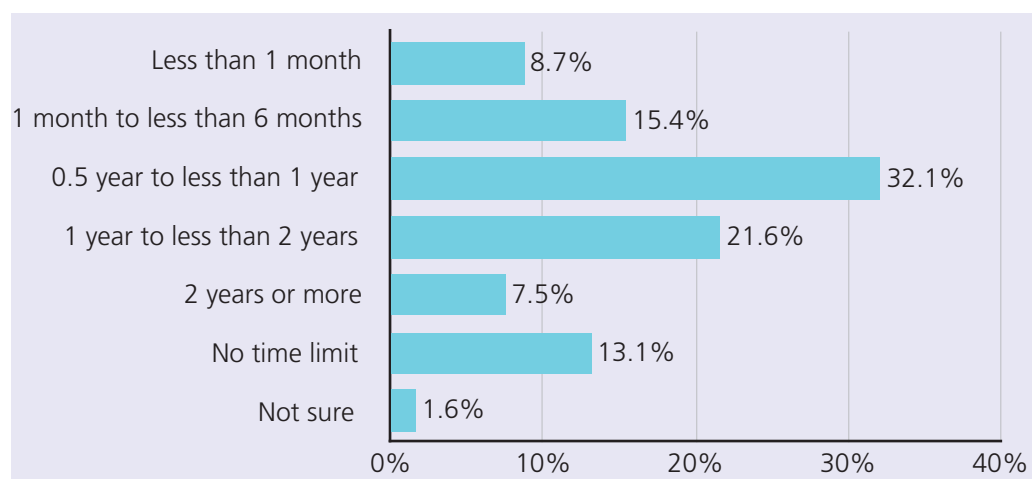
Most of the medical beauty service providers visited by fieldworkers offered services in the form of a package with a number of varied therapies, ranging from 5 to 24 as found in the Council's enquiry visits. Medical beauty service providers would usually charge relatively higher for consumers who purchase a service per treatment, rather than a pre-paid package with a number of therapies. In general the more the number of packaged therapies purchased, the higher the discount to be provided. For example, in one visit involving laser treatment, fieldworker was offered a package for 20 therapies at HK\$14,400 (HK\$720 per therapy), while the original price for each treatment was HK\$880.

During 5 enquiry visits, premises staff claimed that the pre-paid packages were open ended and there would be no expiry date for the therapies. In some enquiry visits, in order to persuade consumers to buy pre-paid packages, premises staff would even verbally commit to allow fieldworkers to use (i.e. transfer) a pre-paid fee for other services or therapies if the fieldworkers wanted to.

This echoed the survey findings³⁴ where one-off payments (65.6%) were the most popular payment methods used for purchasing the medical beauty services in the last occasion, followed distantly by instalment payments by credit cards (27.0%) and separate payment for each time (7.4%).

For those who paid for medical beauty services through a one-off payment or instalment payment by credit card, 32.1% of them³⁵ claimed that their pre-paid medical beauty services would still be valid for half year to 1 year, followed by 1 year to less than 2 years (21.6%) (Figure 19).

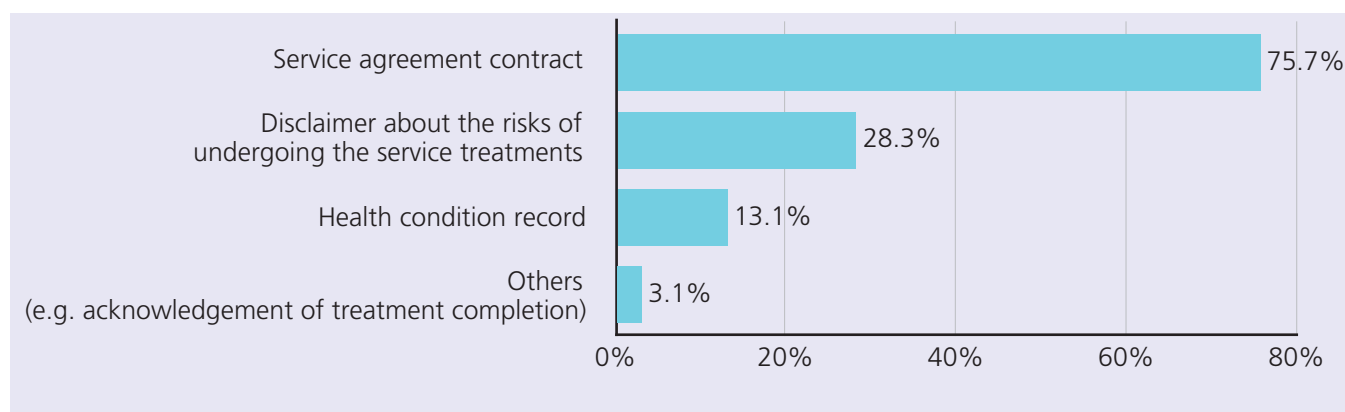
Figure 19 Validity period of the purchased yet unused medical beauty services



Among those having pre-paid medical beauty services with a time limit, 82.8% believed that they could use them all up before the expiry date, 12.8% picked half-half, and 4.2% thought they could not.

As to the types of documents signed by the users, 20.9% had signed documents in addition to credit card payment receipts. The most common documents signed included service agreement contracts (75.7%)³⁶, disclaimers about the risks of undergoing the service treatments (28.3%) and health condition records (13.1%) (Figure 20).

Figure 20 Documents signed in addition to credit card payment receipts



The respondents in the focus group discussions noted that price and package details (e.g. number of treatments, valid period) were two important items that they would pay attention to when they signed the service agreement contracts. A few respondents in the focus group discussions indicated that disclaimers were in fact subsumed in the contracts, while others might not be aware of such statements made by the service providers.

³⁴ Figures in this paragraph were based on those who had spent money on medical beauty services in the on-street interviews (i.e. n = 595; N = 999,396).

³⁵ Figures in this paragraph were based on those who selected one-off payment and instalment payment in the on-street interviews (i.e. n = 547; N = 925,435).

³⁶ Figures in this paragraph were based on those who had signed documents in addition to credit card payment receipts in the on-street interviews (i.e. n = 128; N = 212,141).

Only 13.8% of users had actually received a copy of the signed service agreement contract. Most of the documents that the users received were just service treatment receipts (61.7%)³⁷ related to the medical beauty services, other than credit card payment receipts. The survey finding indicated that the availability and transparency of information on treatment terms, conditions and liabilities were limited.

4.4 Price Certainty

Often when fieldworkers showed hesitation in purchasing the medical beauty services, premises staff would suggest fieldworkers either purchase a trial therapy at a discounted price, make a deposit first so as to enjoy the discount or promotional offer at a later date, or offer a substantial discount. Fieldworkers were told that these discounted or promotional price offers were only valid for a very short period of time. For example, "ends today" and "exclusive to the first visit customer only", in order to prompt fieldworkers into making a quick purchase decision.

In some cases, if a consultation fee was involved, fieldworkers were often made an offer that if they purchased the treatment service immediately or within a short period of time, the consultation fee would be waived by deducting it from the price of the service.

As mentioned above, premises staff usually provided extra discounts during the lobbying process when fieldworkers seemed not interested in the first offer. Fieldworkers noted that these additional offers, which in most of the enquiry visits were referred to as "special offer for today" or "trial price", could be substantially cheaper than the original offer. In some other cases, once the fieldworkers told the premises staff that he/she was shopping around and had gathered price information of other medical beauty service providers, the premises staff would enquire about the prices offered by those other service providers and then offer a lower price. It seemed to the fieldworkers that premises staff would readily offer a price for a service with no reference to a standard other than a level at which they could entice a customer into making a purchasing decision.

A request for a price list or quotation was usually rejected by premises staff as they claimed that there would be a price change or adjustment in a short period of time. Only in 2 amongst the 30 visits hand written price information were provided, for the rest only verbal price information was given, while only 1 hospital under study provided an official quotation for the treatment enquired.

Similar observations were made from the respondents in the focus group discussions, in that they were aware of the difference in price of the same medical beauty service across different service providers; and even within the same service provider. The impression was that there was a price difference

within the same service provider and across different service providers; and they expressed the view that they had considerable difficulty assessing the quality of different services and treatments.

4.5 Case Story

4.5.1 By case categories

Laser therapy

Laser treatment involves the use of medical devices, but the qualifications of personnel performing the treatment varied. According to explanations by premises staff in beauty salons and medical beauty centres, laser treatments with an energy level below a certain threshold were considered to be safe and could be performed by any personnel. Usually these personnel were referred to as “therapists” or “beauticians”. In one enquiry visit, the premises staff stated that the treatment would be conducted by a “certified laser therapist”. However, relevant certification or proof as to a qualification was not shown.

Botulinum toxin injection

In all the cases related to botulinum injections, premises staff were able to explain to fieldworkers that the service could only be conducted by a medical doctor; although as mentioned previously, not all premises staff could provide detailed information about the medical practitioner who was going to perform the service. In a case fieldworker was told that a doctor would be responsible to perform the injection procedure in the beauty salon. However, the premises staff refused to disclose the name or provide the name card of the doctor when the fieldworker enquired.

Group buying medical beauty services

Fieldworkers were told by some premises staff that the purpose of selling services via a group buying website is to let new customers have a trial therapy at a discounted price; but they also claimed the effect and scope of having only one trial would be limited. In 3 out of the 8 visits fieldworkers were persuaded to purchase a “normal price” package which claimed to be more effective.

In other 2 visits, upon arrival at the premises fieldworkers were even pressured to buy other more expensive treatments or services.

Medical beauty services with claims and/or guarantees

There were claims made such as “guaranteed”/“guaranteed with contracts” in some of the advertisements or websites that were examined. However, during the enquiry visits, when asked, premises staff provided no information nor written documents or contracts to fieldworkers to confirm the existence and extent of these guarantees.

³⁷ The proportion of receiving service treatment receipt was significantly lower among male (47.8%, vs. total 61.7%).

Figure 21 Examples of medical beauty service providers' advertisements providing guarantee for their services



4.5.2 By different types of service providers

In general, for private hospitals and medical beauty clinics, where medical consultation was involved, more information on potential risks and side-effects with regard to the consulted services was provided. Taking laser therapy as an example, fieldworkers were advised by doctors in the selected private hospitals and medical beauty clinics about the potential risks such as burning, darkening or in some cases scarring to the skin. This kind of information was rarely mentioned in other premises. However, a consultation fee was usually required when consulting with a doctor in a private hospital or medical beauty clinic (ranging from HK\$350 to HK\$1,040 in the Council's enquiry visits).

There were also substantial differences in prices and the number of therapies between different medical beauty service providers. For instance, a fieldworker was advised by one doctor to undergo several laser therapies at a price of around HK\$5,000 per therapy. But the same fieldworker was advised by a medical beauty centre to undergo a package of 24 laser therapies at a unit price of HK\$700 per therapy. In the case of botulinum injections, prices ranged from HK\$2,900 to HK\$10,200 per therapy, depending on the choices of premises and/or service providers.

There were mainly two types of personnel explaining the medical beauty services to fieldworkers during the enquiry visits. They were either the medical practitioners or the premises staff such as beauticians or consultants. In general, medical practitioners would place more emphasis on the procedures involved and potential risks posed by the related medical beauty service treatment, while non-medical personnel would focus on the effects and pricing of the service treatment. The latter would also tend to promote the use of more and other different services, claiming that they could enhance the effect of original service treatment and further improve fieldworkers' skin quality.

4.5.3 Confusing and contradictory information observed from the enquiry visits

Throughout the enquiry visits, it was noted that the information and recommendations provided by some medical beauty service providers were confusing and contradictory.

For example, in one case a young male fieldworker was told by a beauty salon staff that he had serious skin disease of viral warts and for the sake of health he had to undertake her salon treatment immediately so as to solve the problem. In addition, the same fieldworker was also told by the staff of two medical beauty centre that his freckles were caused by hormone (荷爾蒙斑). But when the same fieldworker sought advice from medical practitioners in subsequent enquiry visits, he was told he did not have the disease and no treatment would be needed and that hormone freckle would only be found on female.

As with different opinions, the types of medical beauty service treatment recommended also varied. For instance a medical beauty centre staff suggested a fieldworker undergo “intense pulsed light treatment” while other service providers recommended the same fieldworker “laser treatment”. The number of therapies suggested by the medical beauty service providers also varied from a few times up to 24 therapies. In addition, there were substantial differences suggested by different medical beauty service providers in terms of prices and the lapse of time between each therapy. For example, the fieldworker was offered laser treatments ranging from around HK\$500 to HK\$5,000 per therapy.

The Council understood that as different devices might be used by the different service providers, the frequency and the effect of the treatment would be different. However, in the absence of information about the devices to be used and any technical understanding of the devices and treatments, it would be difficult for a consumer, even with prior research, to make a choice of the service treatment, particularly when there was confusing and contradictory information provided by the medical beauty services providers.

Summary

It was observed by Council fieldworkers that there was a clear pattern of selling tactics, particularly in beauty salons and similar non-medical premises, which employed subtle emotional prompts aimed at satisfying a person's desire to maintain a pleasing appearance. Moreover, the pricing strategy employed by many premises, when fieldworkers demonstrated a hesitance in purchasing a service, used substantial discounting from the initial quoted price, rendering that initial price meaningless. A clear distinction could also be observed between medical establishments and non-medical beauty salons etc. in terms of how potential risks of some medical beauty services were explained. The risks were more likely to be stated and discussed by doctors in selected private hospitals and medical clinics than in other premises. In addition, staff in some non-medical establishments used titles that alluded to the medical profession, without making a blatant misrepresentation, and designed their premises in a "clinic" setting.

PERCEPTION AND IDENTIFICATION

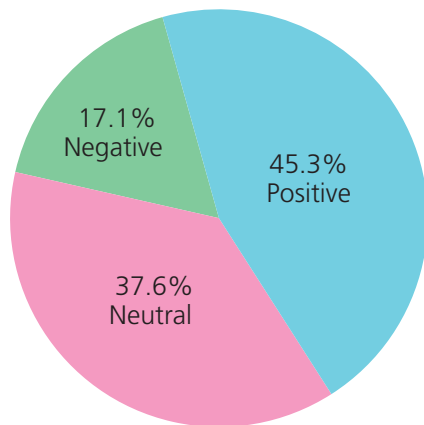
- Consumers in general have a different perception of the term “medical beauty services” when compared with the Government’s categorisation of medical beauty procedures. This gap in consumer understanding may lead to wrongful assessment of risk.
- Another misconception is that a majority of users treated medical beauty services as ordinary beauty services. As a result, they might overlook potential safety concerns and thereby be less risk cautious when selecting medical beauty treatments and service providers. Some of the risks that could arise would be from improper use of energy devices, questionable sources of injection materials or incompetent service practitioners; as has been reported in the news.
- There are frequent news reports of non-medically qualified staff in beauty salons performing invasive procedures, despite prohibitions on non-medical staff performing certain high risk medical beauty procedures.
- Observations about the accurate understanding for the listed restricted medical beauty procedures (i.e. those high-risk procedures which should only be performed by registered medical practitioners or registered dentists) was also found to be unsatisfactory.

This chapter examines information gleaned from the surveys and focus group discussions on the perceptions that consumers have with regard to the regulated medical characteristics of medical beauty services. A range of variables are detailed across different categories of consumers, together with relevant consumer responses on matters such as choice of service providers, premises used, and understanding of regulations.

5.1 Users' Perception of Medical Beauty Services

Among all the persons who had used medical beauty services in the on-street interviews, 45.3% of the users were positive towards medical beauty services, 37.6% of them held a neutral stance (i.e. held both positive and negative views towards medical beauty services), and only 17.1% had negative views (Figure 22). So, in general there is a fair level of receptiveness for medical beauty services.

Figure 22 Attitude towards medical beauty procedures



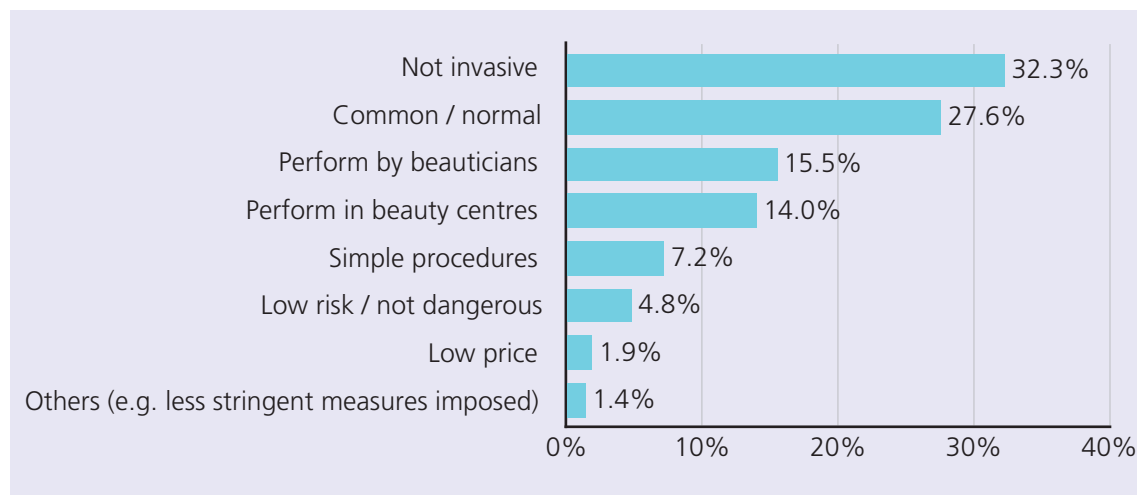
Consumers' level of understanding will affect their perception of medical beauty services. Among all positive perceptions, medical beauty services were generally perceived to be "effective" (52.4%), "trendy" (32.2%) and "common" (19.8%). On the other hand, the top two negative impressions of medical beauty services were "risky" (36.5%) and "expensive" (34.8%).

Focus group discussions also revealed that medical beauty service users tended to be more positive. For instance, notwithstanding the potential risks, users of medical beauty services also thought them to be "professional", "common", "easily accessible", and "necessary" (for women in particular) in addition to being "effective" and "trendy". On the contrary, medical beauty service non-users generally did not have much confidence about the service quality and they were uncomfortable with the sales tactics employed by the service providers.

81.3% of medical beauty service users considered the medical beauty service they had used to be an ordinary beauty treatment and did not place any special connotation on the service being a "medical" procedure. Based on the on-street interviews³⁸, the main reasons consumers gave for perceiving medical beauty procedures (e.g. microneedle and JETPEEL) as ordinary beauty treatments included:

- a. The treatments were non-invasive (e.g. no use of medicine/injection/ anaesthesia/bleeding/surgery) (32.3%);
- b. The treatments were perceived to be common/normal (27.6%);
- c. The treatments could be performed by beauticians without the presence of doctors/professionals (15.5%); and
- d. The treatments could be performed in beauty centres or at home without using medical devices (14.0%) (Figure 23).

Figure 23 Reasons for perceiving medical beauty service as ordinary beauty treatment



Other reasons which were replicated in the focus group discussions included “not painful”, “relatively shorter recovery time” and “rather short-term effects”.

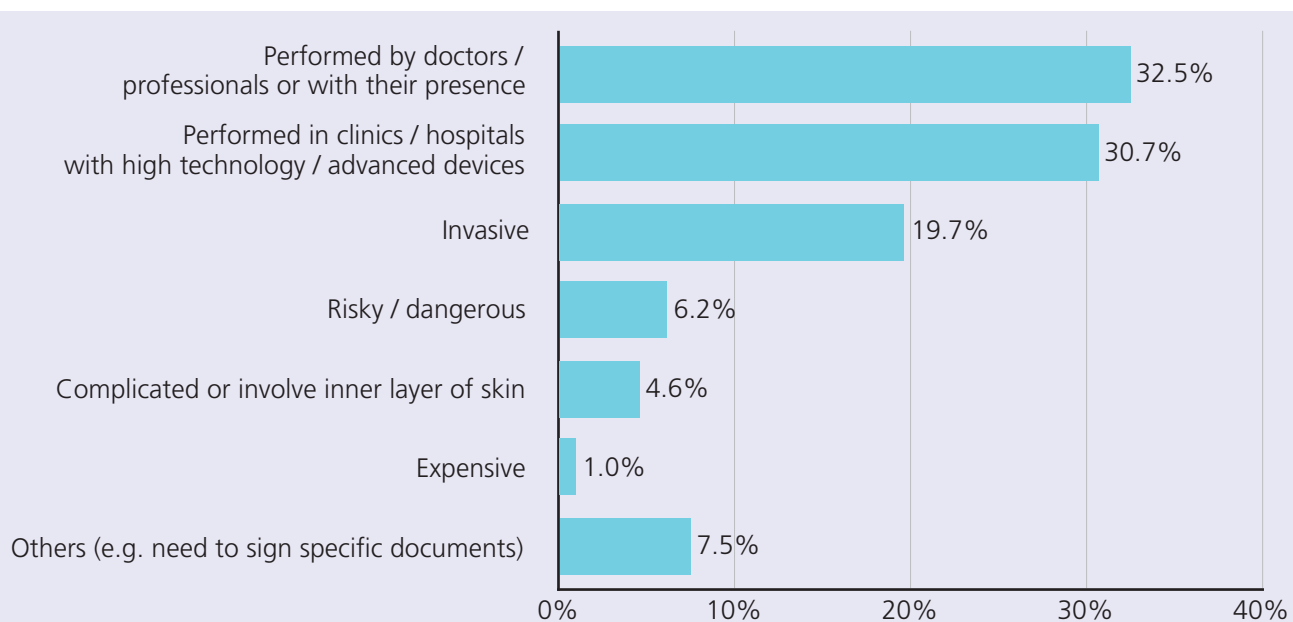
Only 17.8% answered that the beauty services they used were in fact listed medical beauty procedures with potential safety concerns. The key reasons for perceiving these beauty services (e.g. dermal filler injection, botulinum injection, skin whitening, colon hydrotherapy, liposuction and plastic surgery) as medical beauty procedures were as follows (based on the on-street interviews shown in Figure 24)³⁹:

- a. The treatments had to be performed by doctors/professionals or with in their presence (32.5%);
- b. The treatments had to be performed in clinics/hospitals with high technology/advanced devices (30.7%);
- c. The treatments were invasive (e.g. using medicine/injection/surgery) (19.7%).

³⁸ Figures in this paragraph were based on those who selected ordinary beauty treatment in the on-street interviews (i.e. n = 493; N = 827,361).

³⁹ Figures in this paragraph were based on those who selected medical beauty treatment in the on-street interviews (i.e. n = 106; N = 183,129).

Figure 24 Reasons of perceiving medical beauty service as medical beauty procedures



Other reasons (which were backed up in the focus group discussions) included “complicated procedures” and “serious potential consequences”, “relatively longer recovery time”, “rather instant and long-lasting effects”, and “scientifically-proven beauty options”.

These findings raised an important awareness problem i.e. a majority of the users treated medical beauty services with potential safety concerns as ordinary beauty services. Accordingly, they might overlook safety issues and thereby be less risk cautious when selecting medical beauty treatments and service providers. These risks could arise from improper use of energy devices; questionable sources of injection materials or incompetent or unqualified service practitioners; issues of liabilities and redress as reported in the news. Consumers therefore need to be better educated that medical beauty services are not “ordinary” beauty services; and that they are “medical”. Educating consumers to form the right concept on the meaning of medical beauty services, and the risk involved in using the services, would therefore be one of the most important recommendations, to advance consumer protection in the industry.

5.2 Conception of Medical Beauty Services

From the telephone survey, 11.5% of persons aged 15-64 had a different conception of medical beauty services by either:

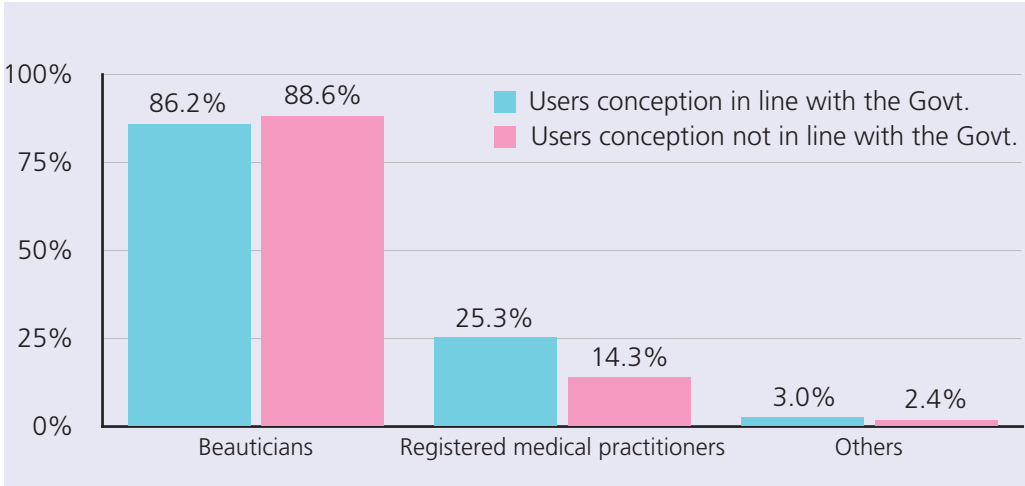
- a. claiming that they had not used any beauty or medical beauty services, even though they had in fact used at least one of the listed medical beauty procedures (when the listed medical beauty procedures were read out to them), or
- b. claiming that they had used medical beauty services but they did not use any of the listed medical beauty procedures.

The different conception was much higher for medical beauty service users. More than half of the medical beauty service users from the telephone interviews (56.1%) claimed that they had not used any beauty or medical beauty services when in fact they had used at least one of the listed medical beauty procedures after validating the categorisation of the treatment.

5.3 Conception of Medical Beauty Services across Different Users

Although beauticians were the most popular practitioners to perform the services, as found in the telephone survey, 25.3% of the medical beauty service users who had the conception that the beauty service they had was a medical beauty procedure (users with conception in line with the Government's), would nevertheless look for registered medical practitioners to undergo the services. On the other hand, only 14.3% of medical beauty service users with conception not in line with the Government's would choose medical practitioners. This finding suggests that when consumers have a clear concept towards medical beauty services, they tend to look for medical practitioners to perform the services (Figure 25).

Figure 25 Selection of practitioners to undergoing the medical beauty services



5.4 Identification of Restricted Medical Beauty Procedures

With reference to the Government's categorisation on those medical beauty procedures with potential safety concerns, respondents' experiences collected from the on-street interviews were mainly classified into 2 different categories based on the medical beauty procedure they used on the last occasion:

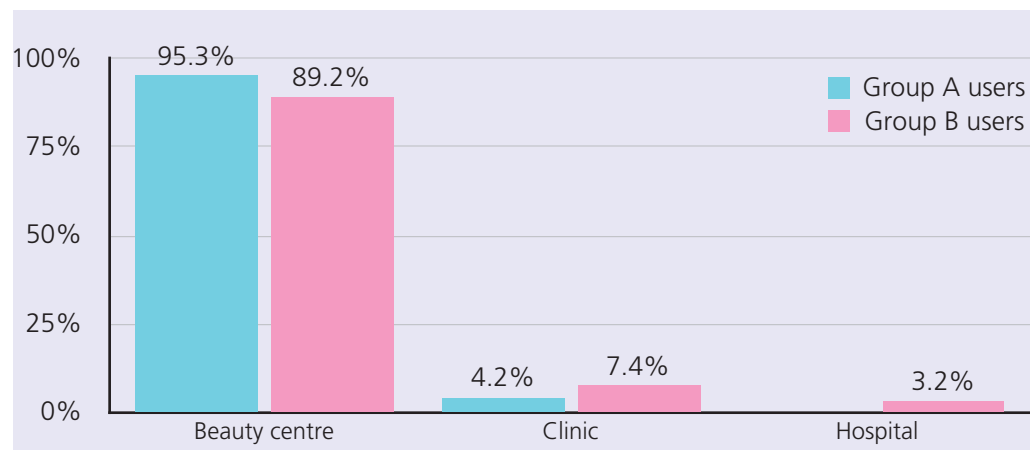
- a. Group A - 15 restricted medical beauty procedures (for purpose of this report to refer as "restricted medical beauty procedures") which should only be performed by registered medical practitioners or registered dentists; and

- b. Group B - Other outstanding medical beauty procedures (“listed medical beauty procedures”) involving the use of devices which would be dealt with under a proposed new regulatory regime for medical beauty devices.

5.4.1 Type of premises and services providers used to conduct medical beauty services, based on the users’ last experience

A slightly larger proportion of Group A users (95.3%)⁴⁰ responded that they had undergone medical beauty services at beauty centres on the last occasion than Group B users (89.2%)⁴¹ (Figure 26).

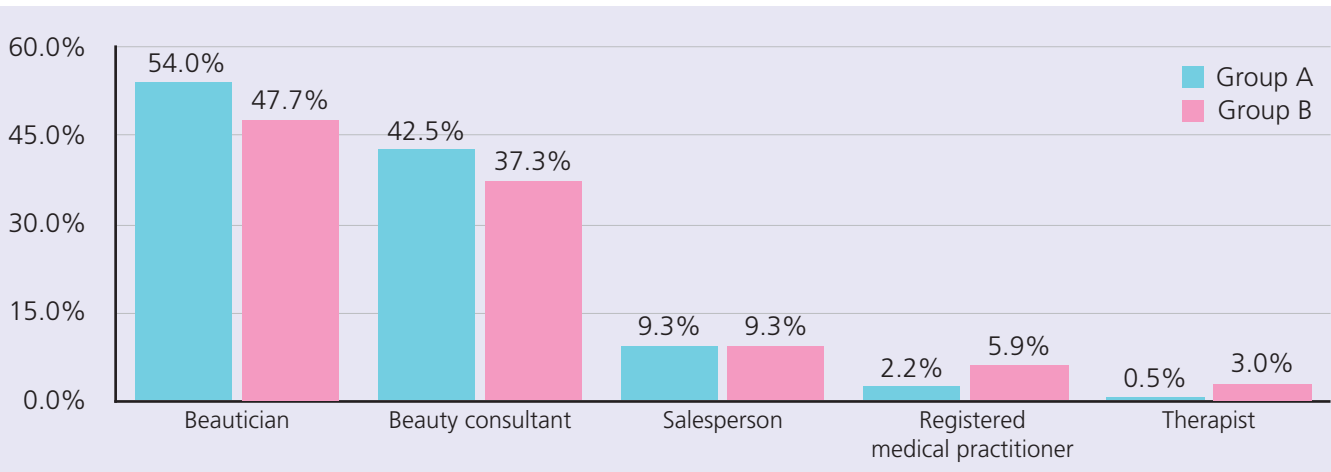
Figure 26 Premises of undergoing the medical beauty services



5.4.2 Marketing of medical beauty services

Information from on-street interviews indicated that 54.0% of Group A users responded that a beautician was the person who promoted the medical beauty service to them (Figure 27), and 55.8% of Group A users said that a beautician was the person who explained the medical beauty service to them.

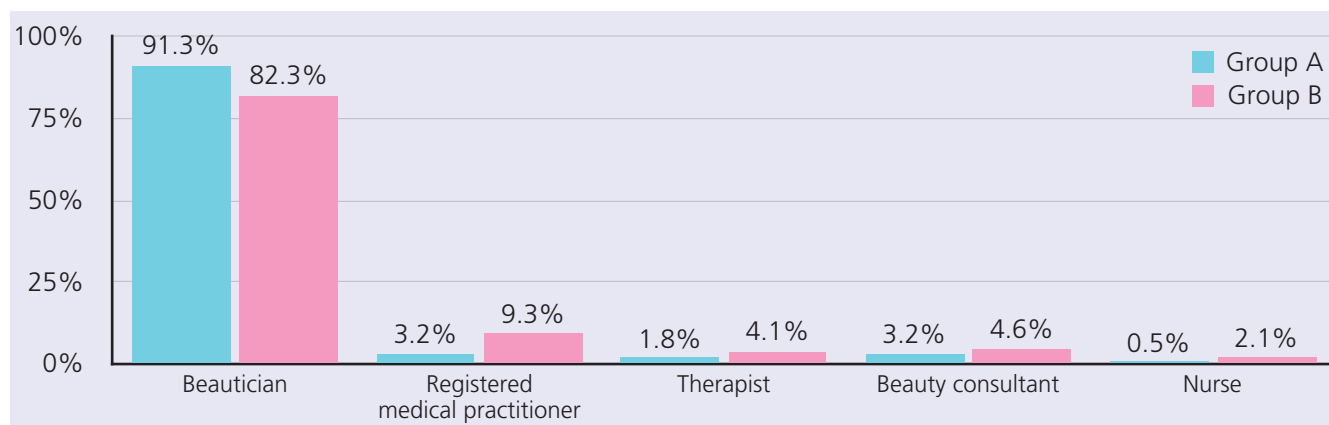
Figure 27 Persons promoting medical beauty procedures



91.3% of Group A users claimed that a beautician was the person who conducted the treatment, even though Group A treatments are restricted procedures and should only be performed by medical practitioners. This observation suggests that a misconception exists between the type of restricted

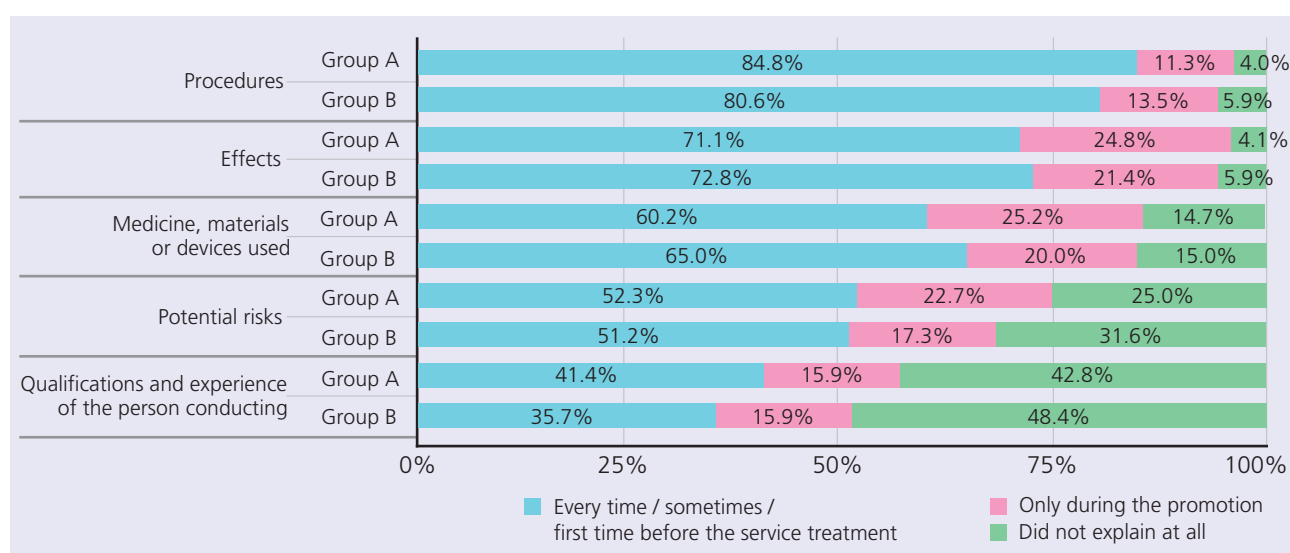
medical beauty procedures and the required qualification of medical beauty practitioners; or there is a misconception on the part of users that because the practice is being allowed in the market then it must be in line with the requirement (Figure 28). It should also be noted that the users were asked for the medical beauty services last used and there was no information as to the timing of the occasion of use. Nevertheless, in the consumer survey, over half of the users undertook the services at least once a month.

Figure 28 Persons conducting the services of medical beauty procedures



Regarding the explanations provided by the service providers on their last occasion of use, both Group A and Group B users shared similar experiences. For instance, at least half of Group A and Group B users claimed that their service providers explained the procedures to be used in carrying out the medical beauty service, the effect of the beauty procedure or medicine to be used, the materials or devices to be used and potential risks, either at every time it was undertaken, sometimes or at the first time of treatment (Figure 29).

Figure 29 Explanations of medical beauty procedures



⁴⁰ Figures were based on those who undertook restricted medical beauty procedures in the last occasion in the on-street interviews (i.e. n = 153; N = 262,180).

⁴¹ Figures were based on those who undertook non-restricted medical beauty procedures in the last occasion in the on-street interviews (i.e. n = 425; N = 708,809).

Nevertheless, less than half of the users for both Group A and Group B responded that service providers had explained the qualifications and experience of the person who would be performing medical beauty services on them, either at every time, sometimes or at the first time of treatment. Having regard to the requirement that Group A procedures should only be performed by registered medical practitioners or registered dentists, the relatively lower percentage citing an explanation of the qualifications and experience of the person conducting the medical beauty service (42.8%) poses problems to consumers in identifying and getting appropriate and qualified service providers to provide the services.

Summary

It is apparent that once consumers have a clear concept towards what is a medical beauty service as compared to a non-medical beauty service that will look for medical practitioners at clinics/hospitals to undergo the service. However, judging from the consumer responses in surveys and focus groups, it seems that there are many consumers who are unclear as to what constitutes a regulated practice; and that less than half of those users had the qualifications and experience of the person conducting the medical beauty services explained to them. In many circumstances as found in the consumer survey non-medical staff conducted treatment on users, even though the treatments were restricted and should only to be performed by medical practitioners. Based on the findings and observations, the Council has a particular concern that consumers are not aware that only registered medical professionals can conduct these procedures.

REGULATORY APPROACH

- Opinions gleaned during the Council's survey and focus group discussions that consumers have a high agreement level for Hong Kong's regulatory regime to match some of the advances that are being made in other jurisdictions.
- Council desktop research on the regulation of medical beauty services in seven other jurisdictions demonstrates that common areas of concern have arisen across all jurisdictions.
- While the research indicates that there is no uniform definition of a "medical beauty service" across all jurisdictions, a general consensus is that the service involves the improvement of physical appearance through the use of "medical" means.
- Adverse incidents and the high participation of non-specialised medical practitioners in medical beauty practices in many jurisdictions have prompted calls for the establishment of competency requirements in respect of training and providing for specialty training of medical practitioners.
- A common trend is developing across all jurisdictions to:
 - introduce specific regulatory regimes to oversee the provision of medical beauty services;
 - develop accredited training standards for practitioners in the sector;
 - put in place legislation or guidelines to protect the public from relevant misleading medical-related advertising and/or unfair trade practices;
 - require that practitioners must by law explain certain details and acquire written consent before undertaking some procedures;
 - provide for mandatory cooling-off period for persons proposing to undergo invasive procedures, such as liposuction; and
 - provide for dispute resolution procedures and remedies by mediation and arbitration.

This chapter provides consumer opinions on the different legislative regulations of medical beauty services and benchmarks the regulation of medical beauty services in Hong Kong against seven jurisdictions that reflect regulatory responses in Asia, the UK and the US. In examining the regulatory framework in these areas, a broad picture can be drawn of how concerns in the medical beauty service industry in those jurisdictions, that might also exist in Hong Kong, are being regulated. The information can be assessed in terms of examining what might be appropriate for Hong Kong.

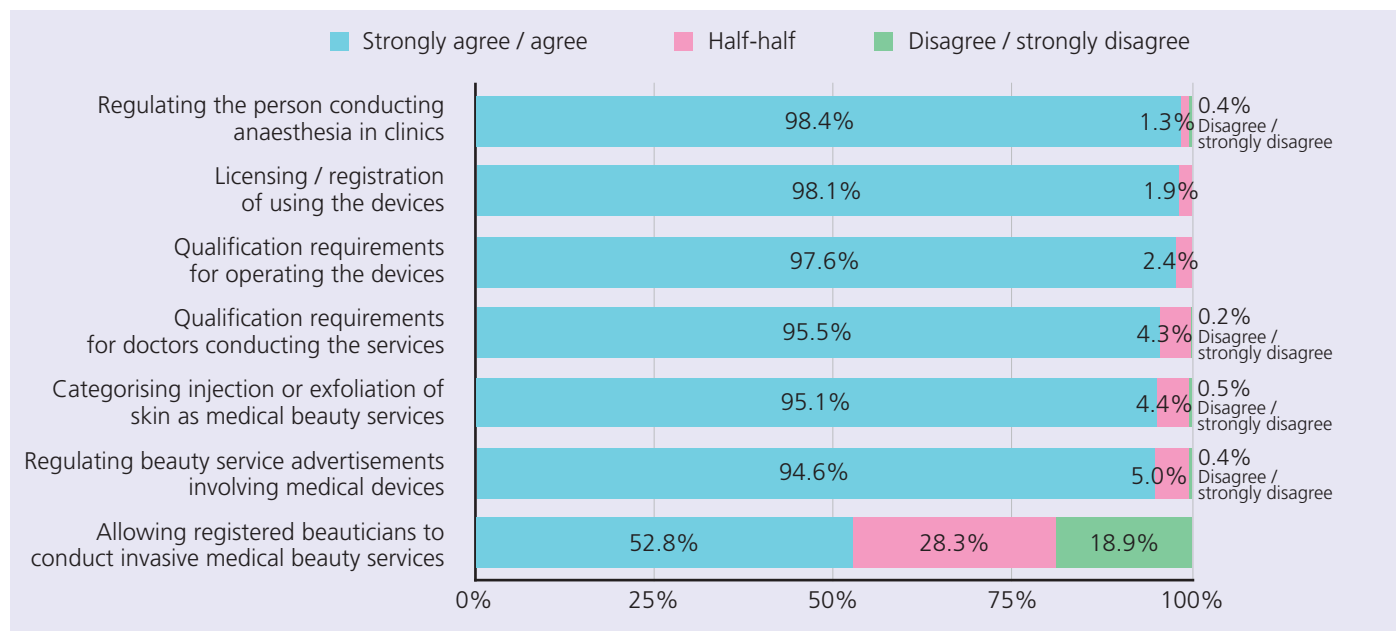
6.1 Consumer Views on Regulating Medical Beauty Services

Consumers were asked in the Council's survey and focus group discussions on whether there is a need to regulate medical beauty services in Hong Kong. Their opinions and findings were summarised in the following paragraphs.

In general, the respondents in the focus group discussions had mixed views towards medical beauty services in Hong Kong. Some were of the view that Hong Kong's medical beauty service technology was on par with other reputable countries, such as Korea and Taiwan, while some (medical beauty service non-users in particular) did not have much confidence in medical beauty services in Hong Kong (particularly those procedures which had higher risk levels). Various ways to raise consumers' confidence in medical beauty services was suggested including regulating the types of medical beauty services and regulating the providers of medical beauty services.

During the on-street interviews⁴², different legislative regulations were proposed and the views of medical beauty service users were solicited. Regulation of medical beauty services, to a various extent, was welcomed. Over 90% medical beauty service users agreed with six of the current and proposed regulations. They include regulating (a) the persons conducting anaesthesia in clinics; (b) licensing/registration of using the devices; (c) qualification requirements for operating the devices; (d) qualification requirements for doctors conducting the services; (e) categorising injection or exfoliation of skin as medical beauty services; and (f) beauty service advertisements involving medical devices or medicine. Only 52.8% of medical beauty service users agreed that beauticians, if registered, could provide invasive medical beauty services (Figure 30).

Figure 30 Regulations of medical beauty services

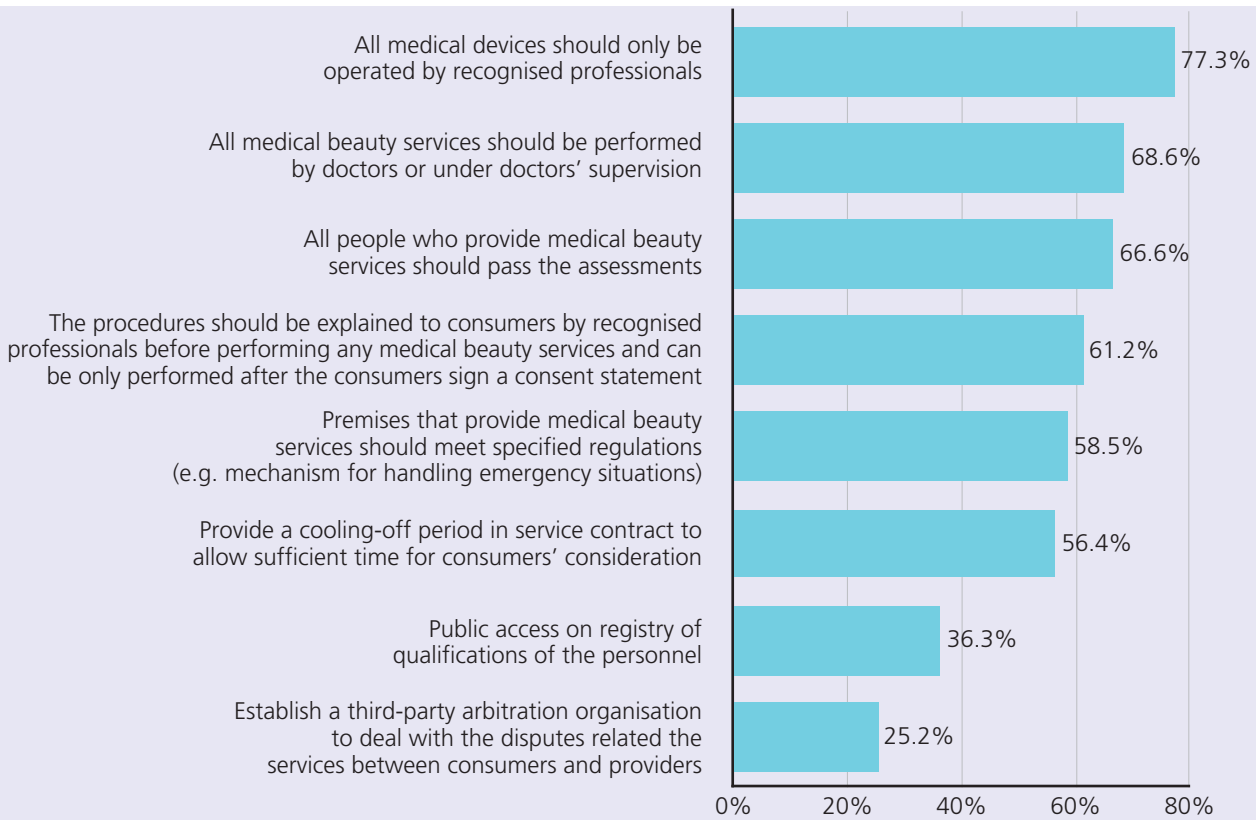


Regardless of the type and risk-level of different procedures being taken, users welcomed to see the regulation of medical beauty services for better safeguards. For example, the vast majority agreed that persons who would conduct anaesthesia in clinics should be regulated. Similarly, the vast majority of users also supported regulating (i.e., licensing/registration) the use of beauty related medical devices and setting qualification requirements for operating beauty related medical devices.

With reference to other jurisdictions in which there are different measures regulating medical beauty services, over 60% of Hong Kong medical beauty service users support four of those measures. They are (a) all medical devices should only be operated by recognised professionals; (b) all medical beauty services should be conducted by doctors or under doctors’ supervision; (c) all people who provide medical beauty services should pass the assessments; and (d) the actual procedures should be explained to consumers by recognised professionals before performing any medical beauty services and can be only performed after consumers have signed a consent statement (Figure 31).

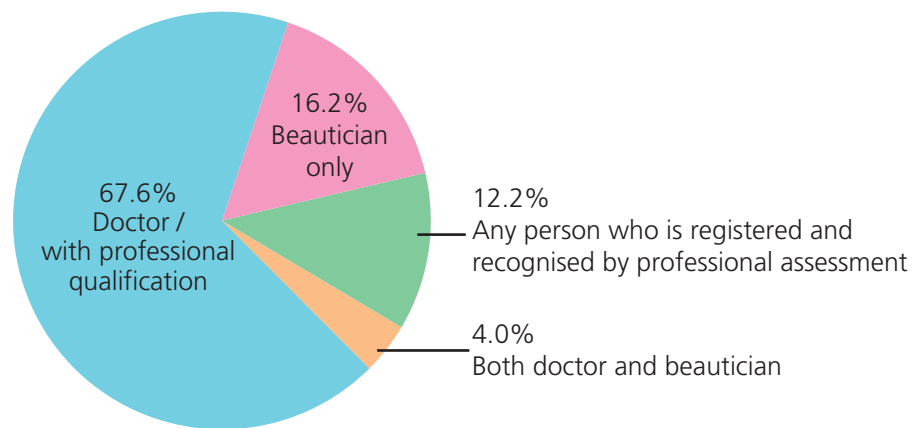
⁴² Figures indicated in this section were based on the findings of Stage 2: On-street interviews (i.e. n = 602; N = 1,015,301).

Figure 31 Views towards the regulations of medical beauty services in other jurisdictions



In relation to a question regarding the persons being responsible for conducting risky medical beauty treatments, 67.6% preferred medical doctors / with professional qualifications, only 16.2% preferred beauticians (Figure 32).

Figure 32 Preferred person for conducting medical beauty services of high risk

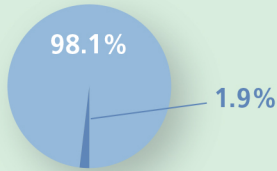


With regard to the provision of a cooling-off period for medical beauty service contracts that involved pre-payments, the vast majority of medical beauty service users (98.1%) agreed, with strong support being for an 8 to 14 days period.

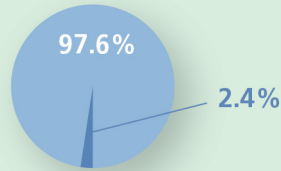
The respondents in the focus group discussions shared a similar view on the establishment of a cooling-off period, and offered the opinion that a cooling-off period could allow sufficient time for them to rethink (under non-pressurised conditions) if the purchased treatment was indeed necessary, and whether the price and risks involved were truly affordable.

Consumers' Opinions Towards Regulation

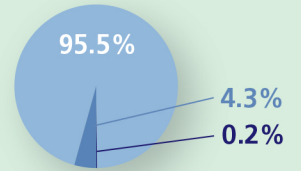
Over 90% Agreed towards Legislative Regulations



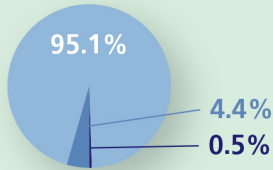
Licensing medical beauty devices



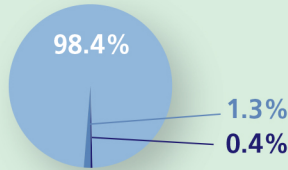
Setting qualifications for operating medical beauty devices



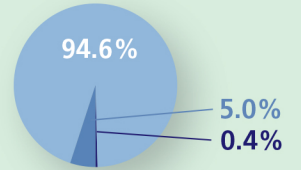
Setting qualifications for doctors to conduct medical beauty services



Categorising injection / skin exfoliation as medical beauty services

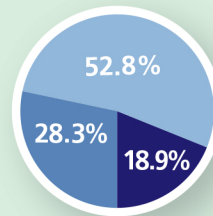


Regulating person conducting anaesthesia



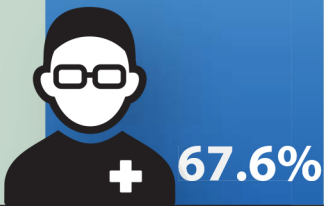
Regulating medical beauty service advertisements

● Strongly agree/agree
● Half-half
● Disagree/strongly disagree



Only 50% agreed invasive medical beauty services be conducted by registered beauticians

Doctors / with relevant professional qualifications were most preferred for conducting medical beauty services of high risks



Doctor / with professional qualification



Beautician only

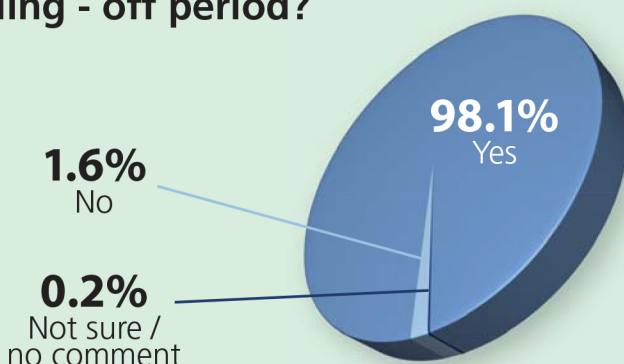


Any person who is registered and recognised by professional assessment



Both doctor and beautician

Do consumers want cooling - off period?



Strong support of 8-14 days cooling - off period



6.2 Regulations in Other Jurisdictions

Table 6 benchmarks the regulation of medical beauty services in Hong Kong against seven jurisdictions that were selected for study, i.e., Korea, Mainland China, Singapore, Taiwan, the United Kingdom (UK), California and Florida of the United States (US).

Table 6 Benchmarking the regulation of medical beauty services in Hong Kong with selected jurisdictions

	Hong Kong	Korea	Mainland China	Singapore	Taiwan	UK	US – California	US – Florida
Definition of Medical Beauty	✗	✗	✓	✗	✓	✗	✗	✗
Regulatory Framework								
Classification on types of procedures as medical procedures	✓	✓	✓	✓	✓	✓	✓	✓
Competency requirements of medical practitioners for performing medical beauty procedures	✗	✗	✓	✓	✓	✓ ^[4]	✗	✓
Preclude non-medical practitioners (beauticians) to perform non-invasive or non-surgical procedures	✗	✓	✓	✗	✗	✗	✗	✗
Control on use of cosmetic-related medical devices	✗ ^[1]	✓	✓	✓	✓	✓ ^[4]	✓	✓
Control on types of ambulatory facilities in performing medical beauty procedures	✗ ^[1]	✓	✓	✓	✗	✓	✓	✓
Regulation of the beauty sector								
Mandated qualification / licensing requirements	✗	✓	✓	✓ ^[3]	✓	✓ ^[4]	✓	✓
Consumer Protection								
Specific advertising restrictions	✗ ^[2]	✓	✓	✓	✓	✓	✓	✓
Information disclosure	✗	–	✓	✓	✓	–	–	–
Cooling-off period	✗	✗	✗	✓ ^[3]	✗	✗ ^[1]	✗	✗
Redress mechanism	✗	✓	–	–	–	✓	–	–
	[✗] = No and [✓] = YES [1] Under review/consultation [2] Covered by Trade Descriptions Ordinance [3] Covered certain aspects only [4] In progress – Information not available							

4 key areas were focused on the regulatory research to better understand how various jurisdictions regulated aspects of medical beauty services. They are (a) definition of medical beauty services - the scope of the regulation; (b) regulatory framework - regulating procedures, devices and premises; (c) regulation of beauty sector - who has legal liability; and (d) consumer protection.

6.2.1 Definition of medical beauty services

There is no official definition of a medical beauty service in Hong Kong, Korea, Singapore, UK, California and Florida; whereas a specific legal definition on medical beauty can be found in Mainland China and Taiwan.

In Mainland China, medical beauty is defined under 《醫療美容服務管理辦法》第二條 as 「醫療美容是指運用手術、藥物、醫療器械以及其他具有創傷性或者侵入性的醫學技術方法對人的容貌和人體各部位形態進行的修復與再塑。」⁴³

In Taiwan, the Ministry of Health and Welfare termed medical beauty as 「美容醫學」, and defined it as 「由醫師透過醫學技術，如：手術、藥物、醫療器械、生物科技材料等，執行侵入性或低侵入性之醫療技術來改善身體外觀的醫療行為，而輔以治療疾病為目的。」⁴⁴

According to the Council's previous consultation with local industry and experts, both the beauty and medical sectors were of a similar view that medical beauty refers to the improvement of physical appearance with the use of medical means such as surgery, drugs, medical devices or invasive techniques. That is, the term generally used in Hong Kong has a similar meaning to those in Mainland China and Taiwan.

6.2.2 Regulatory framework

Classification of medical procedures

All seven jurisdictions under study have regulated medical beauty services by classifying the types of procedures to be regarded as “medical procedures” and therefore only to be performed by medical practitioners. In most places, the procedures are classified by the inherent risk level and/or invasiveness level. See Box 1 at the end of this chapter for details of the classification requirements of these jurisdictions.

In Hong Kong, procedures involving injections, mechanical/chemical exfoliation of the skin below the epidermis, and hyperbaric oxygen therapy are specified to be medical procedures and only allowed to be performed by medical professional. Nevertheless, while this does recognise the risk associated with these procedures, there is no specific requirement on the competency or experience of the medical practitioners in performing these procedures in a specialised medical beauty context.

⁴³ Source: PRC Government, (2002) 醫療美容服務管理辦法 Available at: http://big5.gov.cn/gate/big5/www.gov.cn/banshi/2005-08/02/content_19315.htm [Accessed 23 Nov. 2016].

⁴⁴ Source: Ministry of Health and Welfare, (2014) 衛生福利部重申「美容醫學」屬「醫療行為」範疇 Available at: http://www.mohw.gov.tw/cht/Ministry/DM2_P.aspx?f_list_no=7&fod_list_no=4979&doc_no=46205 [Accessed 23 Nov. 2016].

Competency requirements

The level of required competency and qualifications of medical practitioners for performing the procedures varies among the jurisdictions studied.

Singapore has developed detailed guidelines specifying the competency requirements for medical practitioners performing each procedure and the appropriate premises at which the procedure to be performed. There are also requirements in Mainland China, Taiwan, Florida that surgical or certain procedures must be performed by medical practitioners who have the appropriate training and skills. The related requirements on medical practitioners in Hong Kong, Korea, UK and California have yet to be set.

Adverse incidents in recent years in many jurisdictions have prompted public calls for the establishment of competency requirements in respect of the training and specialty of medical practitioners. A number of jurisdictions such as Taiwan and the UK are following the public calls and studying the issue intensively. Their decisions in future will be useful guidance for Hong Kong in designing its own competency requirements and governance system.

Non-medical procedures

Among the jurisdictions studied, Hong Kong, Singapore, Taiwan, UK, California and Florida do not preclude non-medical practitioners, such as beauticians, from performing certain types of non-invasive or non-surgical beauty procedures. But there are mandated qualifications or licensing requirements in most of these jurisdictions. On the other hand, Korea and Mainland China do not allow beauticians to perform such procedures.

Use of cosmetic-related medical devices

Except for Hong Kong, most of the jurisdictions studied have put in place a regulatory regime for the manufacture, import and distribution of medical devices commonly used for medical beauty purposes. The use of certain cosmetic-related medical devices such as IPL and lasers are also subject to registration/licensing requirements in most of the jurisdictions studied. See Box 2 for more details.

The research findings showed that the operators of cosmetic-related medical devices, particularly high-power lasers, in the jurisdictions studied must be either medical practitioners or those who possess accredited knowledge and skills. Hong Kong is now considering to construct a regulatory framework for medical devices.

Ambulatory facilities

In Hong Kong, existing legislation governing private healthcare facilities mainly covers private hospitals and non-profit-making medical clinics. There have been concerns about the lack of statutory control on the safety standards of private medical clinics and beauty treatment centres, where high-risk medical beauty

procedures may be performed. The Government is considering extending the regulatory regime to cover ambulatory facilities in which outpatient surgeries or high-risk medical services are performed; in addition to premises processing health products for advanced therapies.

The Council is of the view that safety standards of ambulatory facilities in which medical beauty procedures are performed are important in protecting the health and safety of the persons undergoing those procedures. It is clear from the research that standards on anaesthesia work, equipment and supplies for handling emergencies, and the competence of the practitioners in dealing with emergencies are also of paramount concern across the jurisdictions that were studied. Details of the related requirements can be found in Box 3.

6.2.3 Regulation of the beauty sector

Services provided by “beauticians”

As of now, Hong Kong, Singapore, Taiwan, the UK, California and Florida do not preclude beauticians from performing certain types of non-invasive or non-surgical procedures.

While in Hong Kong surgical and invasive procedures are provided mainly by the medical sector, procedures involving the use of devices such as laser or other procedures, not classified as medical procedures, can be provided by the beauty sector. Although the beauty sector has developed the Specification of Competency Standards under the Hong Kong Qualifications Framework which lays down the learning pathways and competency requirements for different levels of qualifications for beauty practitioners, it is only a voluntary framework. As at the end of 2015, only 220 employees (less than 0.6% in the beauty sector) gained the Level 1 to Level 4 Statements of Attainment Awarded under the Recognition of Prior Learning (RPL) Mechanism⁴⁵.

The situation of Singapore is similar to Hong Kong. In Singapore, beauticians may carry out non-invasive procedures or services. Currently there is no specific law regulating such practices, except where high-power lasers are engaged, a licence for the possession and operation is needed.

In the UK, the beauty sector can perform a wide range of non-surgical aesthetic procedures such as botulinum and dermal filler injections, chemical peel, and laser and IPL treatments, and at present no mandatory licensing and training is required of beauticians. To ensure safe delivery of non-surgical procedures, the UK Government is developing new qualification requirements for practitioners who perform these procedures; and imposing requirements for non-surgical laser and IPL treatments to be prescribed and supervised by clinical professionals.

⁴⁵ HKSAR Government, (2016) *LCQ17: Implementation of Qualifications Framework* Available at: <http://www.info.gov.hk/gia/general/201602/17/P201602170470.htm> [Accessed 24 Nov. 2016].

Licensing of beauty salons

In Mainland China, with reference to the 《美容服務規範》, beauty treatment centres or salons could conduct only ordinary beauty services 「生活美容」⁴⁶. For beauticians, they have to receive full-time vocational education with not less than 120 hours technical training and need to obtain a beautician qualification certificate.

In Korea, beauty treatment centres can only provide conventional beauty services as set out in the Public Health Control Act. The centres cannot use any medical devices or medicines. Both business owners and beauticians working in the sector must be licensed⁴⁷ by the local government.

In Taiwan, beauticians 「需經過基礎知識和技術學習，根據《美容技術士技能檢定規範》設定的考試向勞動者委員會申請技術士證照。該技能鑑定規範亦明確指出凡被視為需由醫療人員負責的“醫療行為”⁴⁸，均不列入檢定範圍。」

In California and Florida, the beauty sector is regulated through a dedicated licensing scheme. Under the scheme, cosmetologists are required to meet training requirements set by the respective licensing authorities, and pass a licensing examination prior to practicing. However, cosmetologists are only allowed to perform some non-invasive aesthetic treatments.

The research findings show that beauty practitioners in many jurisdictions are subject to a statutory licensing scheme or a voluntary accreditation programme and are only allowed to perform a confined range of aesthetic procedures or related services. It is also observed that most jurisdictions studied have developed or will develop accredited training standards for practitioners in the sector.

6.2.4 Consumer protection

Advertising restrictions

In Hong Kong, the interests of persons undergoing medical beauty services are in some circumstances protected under the Trade Descriptions Ordinance, which prohibits false trade description in relation to services and certain unfair trade practices such as misleading omissions, aggressive commercial practices and wrongly accepting payment. Advertisements related to medical and health matters are regulated under the Undesirable Medical Advertisements Ordinance.

All other jurisdictions studied have dedicated legislation or guidelines to protect the public from misleading medical-related advertising and/or unfair trade practices of businesses including medical beauty service providers.

For example, in Mainland China there is legislation which prohibits the advertising of medical devices on safety guarantee or the cure rate to the persons undergoing medical beauty procedures. In Korea, according to the Medical Service Act, medical advertisements on transport facilities and means of transport are required to undergo a prior review by the Minister of Health and Welfare in regard to its contents, methods, etc.

California law is specific in requiring advertisements to include the physician's name (Business & Professions Code Section 2272) or the name of the supervising physician if nurses may actually be performing the treatment, and prohibiting advertising practices currently being used to promote cosmetic treatments, such as the use of models without stating that they are models, the use of touched-up or refined photos and claiming superiority of a facility or procedures with no objective scientific evidence, and the use of discount or "bait and switch" promotions. More examples can be found in Box 4.

Information disclosure to consumers

Clear information disclosure is an integral part of protection for persons undergoing medical beauty procedures. Mainland China, Singapore and Taiwan have put in place requirements that adequate information about the inherent risk and possible complications be provided and prior consent be obtained from persons undergoing the procedures.

In Mainland China, the 《醫療美容管理辦法》第二十條 stipulates that the persons undergoing the procedures must be told about the potential risks, 「執業醫師對就醫者實施治療前，必須向就醫者本人或親屬書面告知治療的適應症、禁忌症、醫療風險和注意事項等，並取得就醫者本人或監護人的簽字同意。未經監護人同意，不得為無行為能力或者限制行為能力人實施醫療美容專案。」。

Singapore has put in place requirements that medical clinics should adequately provide information to persons undergoing liposuction procedures about the inherent risk and possible complications, and obtain a written consent from them prior to the performance of the procedures. For procedures that are low evidence in nature, medical practitioners in Singapore have a duty to ensure that the persons undergoing the procedures are aware of the low-evidence in nature and obtain a specific written consent from them before performing the procedure.

Similarly in Taiwan, medical practitioners must explain details to persons undergoing stipulated procedures and acquire their written consent before undertaking the procedures.

⁴⁶ 根據《美容服務規範》規定，美容院實際可以開展和提供的服務為皮膚護理、修眉、美體、足浴等。另外，還明文規定禁止醫務人員在無經營許可的生活美容機構從事醫學美容手術。

⁴⁷ To obtain a license in Korea, individuals must go through a curriculum for a certain period at schools accredited by the Ministry of Education; be graduates from beauty-related department at college or universities; or acquire a qualification of beautician according to National Technical Qualifications Act under the Ministry of Employment and Labor.

⁴⁸ 如割雙眼皮、拉皮、小針美容、換膚、隆胸、隆鼻、販賣藥物等項目。

Cooling-off period

It is noteworthy that Singapore is the only place⁴⁹ under study that has mandated the provision of a seven-day cooling-off period for persons undergoing liposuction procedures. A voluntary accreditation programme was also implemented in 2008 by CaseTrust (the accreditation arm of the Consumers Association of Singapore). Under the programme participants (beauty, spa and massage businesses) shall accord a cooling-off period of at least five working days to allow clients, including tourists, to seek a full refund of payments made if they do not wish to proceed with the service package offered.

Redress mechanism

Since 2012, persons in Korea suffering from medical malpractice have been able to seek remedies from the mediation organisation, Korea Medical Dispute Mediation and Arbitration Agency (KDMAA). The conciliation scheme at KDMAA is to reach an agreement between parties of medical disputes, unlike a legally binding judicial decision passed by judicial institutions.

In July 2014, the UK introduced new legislation requiring all regulated healthcare professionals, including medical practitioners and nurses, to have relevant insurance or indemnity cover for their practices, including aesthetic practices, to provide patients with redress after adverse clinical incidents. It has also considered extending the remit of the Parliamentary and Health Service Ombudsman to cover services provided in the private medical sector including aesthetic procedures.

6.3 Development in Regulation

6.3.1 Hong Kong - Public consultation and study

The Government commissioned a consultancy study⁵⁰ in 2015 to examine overseas experiences, practices and the scope of control on the use of selected medical devices. The study is expected to be discussed at the LegCo Panel on Health Services in December 2016.

From December 2014 to March 2015, the Food and Health Bureau (FHB) conducted a public consultation⁵¹ proposing to introduce a new licensing scheme for three types of private healthcare facilities, including private hospitals, day procedure centres, which are ambulatory facilities where high-risk medical procedures are performed, and medical clinics under the management of incorporated bodies. The Government plans to introduce the relevant Bill to the Legislative Council in the 2016/17 legislative session. Regarding the premises carrying on the business of practicing cosmetic/beauty services which involve some risks but not high-risks, the Council commented in its response that the operation and maintenance of such facilities should also be regulated in order to safeguard consumer interests.

6.3.2 Developments in other Jurisdictions

Mainland China - Trial implementation of evaluation standard

In 2014, Mainland China started implementing an evaluation standard (《醫療美容機構評價標準(試行稿)》). Under the standard, the responsible authority would evaluate medical beauty organisations or centers and award certificates for those meeting the standard. Where there is any case found of “counterfeit drugs” or “business activities violating laws and regulations”, the medical beauty organisations or centres would be blacklisted and consumers would be able to assess the information through the official platform.

Taiwan - Standard agreements and assurance scheme

In 2015, the Ministry of Health and Welfare in Taiwan announced 14 types of agreement and instruction templates in 《美容醫學處置之同意書及說明書範本》 and 2 types in 《美容醫學針劑注射處置同意書及說明書範本》 to the public for reference. The standard templates provide information about the common 16 types of medical beauty treatments, the possibility of complications, sequelae and the corresponding treatments, and the potential risks and side effects of undertaking these medical beauty treatments.

In early 2013, the Taiwan Ministry of Health and Welfare also introduced a quality assurance scheme for medical beauty centres and professionals (《美容醫學品質認證》).

UK - Review of the regulation of cosmetic interventions

Following widespread problems in the UK with breast implants in 2012, there was a review on the regulation of medical beauty practices. In response to the recommendations of the review, the following was to be undertaken:

- Set clinical standards for the training and practice of aesthetic surgery;
- Develop appropriate accredited qualifications for prescribers and providers of non-surgical aesthetic procedures;
- Impose requirements for non-surgical laser and IPL treatments to be prescribed and supervised by clinical professionals; and
- Provide information to better inform persons undergoing the procedures.

⁴⁹ The UK General Medical Council (GMC) has proposed a series of guidelines for cosmetic surgery, including a mandatory cooling-off period between the initial consultation and committing to the procedure (nevertheless no particular time period was specified in the consultation document). The GMC guidance is expected to be published in early 2016 but at the time of preparation of this Report, it has not been released. The Council also noted that the Medical Board in Australia has introduced this year mandatory cooling-off periods for cosmetic surgery patients: a seven-day cooling-off period for all patients considering a major procedure, and a three-month cooling-off period for patients under 18 years old.

⁵⁰ Department of Health, (2015) *Consultancy Study on the Control of Use of Selected Medical Devices in Hong Kong* Available at: http://www.mdco.gov.hk/english/news/news_20151029.html [Accessed 23 Nov. 2016].

⁵¹ Food and Health Bureau, (2014) *Consultation Document on Regulation of Private Healthcare Facilities* Available at: http://www.hpdo.gov.hk/doc/Regulation_of_PHFs_con_doc_e.pdf [Accessed 23 Nov. 2016].

US - Florida - Advance therapies

In order to strengthen the regulation of medical spas and clinics providing advance therapies, two legislative proposals were made to the Florida Senate in 2011 and early 2014 to amend the Health Care Clinic Act such that medical spas and medical clinics would be subject to regulation of the Agency for Health Care Administration. The legislative proposal regarding medical spas was subsequently withdrawn due to the lack of support in the Senate while the legislative proposal regarding medical clinics providing advance therapies is currently under consideration by the Senate.

Summary

A clear definition of what constitutes a medical beauty service is a vexing issue for most jurisdictions and only Mainland China and Taiwan currently have a specific legal definition of the term. Nevertheless, all jurisdictions under study have approached the regulation of the medical beauty sector with a clear understanding of the need to protect consumers from the risks to personal safety that can arise due to the medical nature of the services. There are various examples of measures that governments have taken in this regard. For example, specifying competency requirements for medical practitioners performing medical beauty procedures, mandating the provision of a seven-day cooling-off period for high risk procedures, such as liposuction. On the marketing side, examples can be found of legislation prohibiting the advertising of medical devices with claims as to a safety guarantee or cure rate; and various restrictions on medical advertisements including requirements for prior review by a government agency in relation to advertising content. Clear information disclosure is an integral part of consumer protection for persons undergoing medical beauty procedures. The responses made in surveys and focus groups reinforce a basic desire by Hong Kong consumers that a clear regulatory system that focuses on differentiating between medical beauty services and non-medical beauty services is required.

Comparison of Regulations across Jurisdictions

Box 1 Classification of medical procedures

In Mainland China, the Ministry of Health issued the 《醫療美容項目》 and the 《醫療美容項目分級管理目錄》 to regulate the different types of procedures. For medical practitioners to perform these procedures, they must obtain the qualification of 「醫療整形美容主診醫師」.

In Singapore, procedures are classified into non-invasive, minimally invasive, invasive and supported by low or very low level of scientific evidence. Procedures supported by low or very low level of scientific evidence are to be performed on justifiable grounds only and invasive procedures must be performed by medical practitioners with appropriate surgical training. Medical practitioners performing these procedures are on a self-regulatory basis⁵².

Procedures involving skin puncture and those requiring the use of medical devices are considered as medical procedures in Korea, and they must be performed by medical practitioners in licensed hospitals or medical clinics⁵³.

In Taiwan, medical beauty procedures are classified into injections, light and energy related treatments, and medical surgeries. These procedures must be performed by medical practitioners. The Ministry of Health and Welfare in Taiwan revised its 《特定醫療技術檢查檢驗醫療儀器施行或使用管理辦法》 in 2015 to provide detailed guidelines and requirements for performing these procedures.

In the UK, procedures are generally classified into surgical and non-surgical procedures. At present, there is no requirement for medical practitioners to have specialised training or experience in what is termed “aesthetic surgery”. However the UK Government is working on setting clinical standards for the training and practice of aesthetic surgery. As for non-surgical aesthetic procedures, the UK Government is also developing accreditation qualifications for prescribers and providers of non-surgical aesthetic procedures.

In California, the use of prescriptive medical devices and injections for “cosmetic” reasons is considered to be the practice of medicine and should only be conducted by physicians or appropriate licensed staff. The Medical Board of California is responsible for licensing and regulating physicians, surgeons and certain allied healthcare professions.

In Florida, surgical procedures, procedures involving injections, and those involving the use of Intensive Pulse Light (IPL) and high-power laser devices are restricted to medical practitioners or healthcare practitioners under the supervision of a medical practitioner. These procedures are considered as medical practices by the Florida Board of Medicine which is responsible for the licensing of medical practitioners.

⁵² These are regulated by the Guidelines on Aesthetic Procedures issued by the Singapore Medical Council, the Academy of Medicine and the College of Family Physicians in Singapore.

⁵³ In Korea, any licensed medical practitioners can perform these procedures and they are regulated by the Ministry of Health and Welfare.

Box 2 Use of cosmetic-related medical devices

In Mainland China, cosmetic-related medical devices are registered and classified into three categories for regulation and their licenses have to be renewed by the China Food and Drug Administration every 5 years.

Control over the operation of cosmetic-related medical devices is stringent in Singapore. In Singapore, a license is needed for the use of IPL and cosmetic high-power lasers. In order to be eligible for a license, the applicant should obtain the necessary training on laser safety.

In Korea and Taiwan, medical devices that can be used for cosmetic treatment are subject to legislation.

In California, the operation of lasers, other prescriptive devices and prescriptive drugs, can only be utilised by licensed registered nurses, nurse practitioners, or physician assistants under the supervision of physicians.

In Florida, the use of high-power laser devices is considered a practice of medicine, and hence the use of such devices is confined to medical practitioners or some other healthcare practitioners under the supervision of a medical practitioner.

Control on the use of cosmetic lasers in the UK is less rigorous. Only the facilities in which surgical laser treatments are provided are required to be registered. For those offering non-surgical lasers, there are no uniform registration requirements at the national level but some local authorities may require the operators to hold a special treatment licence. The UK Government is developing new qualification requirements for practitioners who perform these procedures; and imposing requirements for non-surgical laser and IPL treatments to be prescribed and supervised by clinical professionals.

Box 3 Ambulatory facilities

In Mainland China, 《醫療美容服務管理辦法》第十六條states that「實施醫療美容專案必須在相應的美容醫療機構或開設醫療美容科室的醫療機構中進行。」第十七條requires that「美容醫療機構和醫療美容科室應根據自身條件和能力在衛生行政部門核定的診療科目範圍內開展醫療服務，未經批准不得擅自擴大診療範圍。美容醫療機構及開設醫療美容科室的醫療機構不得開展未向登記機關備案的醫療美容專案。」

Singapore and Florida have also introduced regulatory control on various types of ambulatory facilities in which medical and/or medical beauty procedures are performed. Singapore has laid down guidelines for aesthetic practices, and the appropriate facilities in which the various types of aesthetic procedures are performed. In addition, all medical clinics in Singapore are required to have functional and effective equipment including those for resuscitation and emergency use. In Florida, the premises which are allowed to perform aesthetic procedures, e.g. ambulatory surgical centres, electrology facilities and cosmetology salons, are subject to regulation under the respective licensing or registration systems. These facilities are required to meet the specified standards on safety, infection control and sanitary conditions.

In Korea, under the Emergency Medical Service Act, there are mandatory requirements for facilities to handle emergency work. Regarding ambulatory facilities to deal with anaesthesia work, there is also an enforcement regulation stating that surgery should have a detection system for breathing.

In Taiwan, the Ministry of Health and Welfare issued the《醫療機構設置標準》⁵⁴, though facilities performing medical beauty procedures are not mentioned explicitly,「美容醫學」are classified as medical practices.

Facilities providing surgical medical beauty procedures in UK are regulated by the Care Quality Commission (CQC). Facilities providing non-surgical procedures e.g. laser treatments may be subject to regulatory control of local authorities. CQC has developed a new inspection framework for providers offering cosmetic surgery which came into effect in April 2015.

In California, laws prevent surgeries from being conducted in unregulated out-of-hospital settings. Specifically, if the surgical procedure requires anaesthesia to be administered in doses that have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes, then the surgery must be performed in an accredited, licensed, or certified setting.

⁵⁴ Ministry of Health and Welfare, 醫療機構設置標準 Available at: <http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=L0020025> [Accessed 23 Nov. 2016].

Box 4 Advertising restrictions

All overseas places studies have put in place legislation or guidelines to protect the public from misleading medical-related advertising and/or unfair trade practices of businesses including medical beauty service providers.

For example, in Mainland China there is legislation which prohibits the advertising of medical devices on safety guarantee or the cure rate to the persons undergoing medical beauty procedures. The 《醫療美容管理辦法》第二十九條 states that 「發佈醫療美容廣告必須按照國家有關廣告管理的法律、法規的規定辦理。」 The amended 《廣告法》 stipulates that 「醫療廣告的表現形式不得涉及保證治癒或者隱含保證治癒的。」、「醫療器械廣告不得含有表示功效、安全性的斷言或者保證，說明治癒率或者有效率等。」.

Singapore prohibits medical practitioners from advertising that they are performing procedures classified as those having a low level of scientific evidence. At the same time, unacceptable claims on beauty advertisements are restricted under the Singapore Code of Advertising Practice issued by the Consumers Association of Singapore (CASE).

In Korea, according to the Medical Service Act, medical advertisements on transport facilities and means of transport are required to undergo a prior review by the Minister of Health and Welfare in regard to its contents, methods, etc. Also, Seoul restricts negative aesthetic-related advertisements in areas close to schools. Education booklets about the negative effects associated with specific cosmetic surgery have been distributed by the Ministry of Food and Drug Safety through websites or related hospitals.

In Taiwan, as medical beauty is part of medical practice, advertising of medical beauty services is prohibited.

In the UK, to address concerns around advertising, the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) published new, expanded guidance on the marketing of cosmetic interventions in October 2013.

California law requires advertising to include the physician's name or the name for which they have a fictitious name permit (Business & Professions Code Section 2272). While nurses may actually be performing the treatment, the name of the supervising physician, or his or her registered fictitious name, must be in the advertisement. The law governing physician advertising is specific, and requires the physician advertisements not to be misleading.

California law is also specific in prohibiting many of the advertising practices currently being used to promote cosmetic treatments. The use of models, without stating that they are models, the use of touched-up or refined photos, and claiming superiority of a facility or procedures with no objective scientific evidence is prohibited. Also, the use of discount or "bait and switch" promotions is prohibited. The use of "for as low as" in advertising procedures, is also strictly prohibited.

In Florida, medical practitioners cannot disseminate any advertising which contains a misrepresentation of facts, makes only a partial disclosure of relevant factors or contains any misleading or deceiving statements.

KEY FINDINGS AND RECOMMENDATIONS

- From this Study, the Council identified a number of issues concerned with how the industry should be regulated. Amongst the many issues identified, two of them stand out in particular. The first is the need for a clear definition of “medical beauty services” in order to secure a proper legal basis upon which consumers can be protected from being treated by unqualified persons. The other one is the fact that an assurance of safety and quality of service in most cases is more important in deciding to proceed with a service rather than merely the price.
- As summarised below a list of relevant recommendations that the Council encourages the Government, and the medical and the beauty sectors to consider.
 - Defining what constitutes a “medical beauty service”, including lists of procedures, types of surgeries, categories of drugs, lists of medical devices or invasive techniques used in providing a medical service for cosmetic purposes in Hong Kong;
 - Establishing a clearly identifiable licensing framework to safeguard the interests of consumer health and the wider interests of the Hong Kong economy;
 - Setting out specific competency requirements for medical beauty service providers, whether they are medical practitioners or beauticians, to perform the procedures safely;
 - Introducing registries and formal reporting mechanisms for adverse incidents;
 - Developing an evidence-based information service providing standardised advice on medical beauty services, drugs and devices that are prevalent in the market to assist consumers in assessing the efficacy of different services and treatments;
 - Requiring some form of written consent being given to consumers before a specified medical beauty service is undertaken;
 - Issuing a code on advertisement to regulate the way in which the medical beauty services are promoted;
 - Adopting a cooling-off period for medical beauty services; and
 - Developing a specialist mediation agency with a view to giving consumers a feasible and practical choice to resolve their disputes with service providers.

This chapter puts forward the Council's recommendations of introducing appropriate regulatory instruments with licensing arrangement to resolve the issues identified in the report and enhance consumer protection, for consideration of the Government, the beauty and medical sectors.

7.1 Regulatory Framework

In November 2013, the Working Group on Differentiation between Medical Procedures and Beauty Services set up by the Government identified and made recommendations on 35 common medical beauty procedures with potential safety concerns. Apart from the restriction on medical practitioners undertaking the 15 procedures noted above, service providers are not subject to specific regulation beyond those of the wider services sector. For example, the Supply of Services (Implied Terms) Ordinance (Cap. 457) and The Trade Descriptions Ordinance (Cap 362). In 2006, The Council spared effort to work with some beauty sector associations to advocate for self-regulation but the beauty sector is too fragmented in nature that very little results could be realised.

Other important consideration that relate to what sort of regulatory approach should be taken is that assurance of quality and safety of service in most cases is more important in deciding to proceed with a service rather than merely the price.

7.1.1 Definition of medical beauty services

At present there is no clear definition of a "medical beauty service" in Hong Kong. As a result, practitioners in the local industry, which includes both the beauty and the medical sectors and consumers, have a different understanding and conception of what constitutes medical beauty services. In the Council's consumer survey, 81.3% of users considered that those medical beauty services that were identified as having potential safety concerns (by the Working Group) were "ordinary" beauty treatments.

Focus group discussions also revealed that there was little perceived differentiation between the medical beauty services and ordinary beauty services performed in beauty salons. From desktop research, there are clear statutory definitions of the term medical beauty that are used in Mainland China and Taiwan. The Council believes there is real necessity to define medical beauty service by law. Otherwise a clear line between "beauty service" and "medical beauty service" and the division between "medical beauty service" and "medical procedures" cannot be drawn, and there will be difficulties in undertaking a range of initiatives to govern the industry, such as risk management, quality control and compliance checks.

For medical beauty services to become “regulated” services, either by law or through industry self-regulation, the scope of medical beauty services needs to be clearly stated. According to the statutory definitions used in Mainland China and Taiwan, as well as general industry and consumer views collected in Hong Kong, medical beauty services are considered to be the improvement of physical appearance with the use of “medical” means such as surgery, drugs, medical devices or invasive techniques.

Recommendation: The Council therefore recommends that the Government should consider defining what constitutes a “medical beauty service”, including lists of procedures, types of surgeries, categories of drugs, lists of medical devices or invasive techniques used in providing a medical service for cosmetic purposes. The object of the legislation should be for the purpose of setting the boundaries for regulating the behaviour of all persons, whether they are medical professionals or beauty industry personnel, in providing a medical beauty service.

7.1.2 Licensing requirement

Most of the seven other jurisdictions studied have put in place licensing requirements for the use of certain cosmetic-related medical devices. For example, Mainland China requires cosmetic-related medical devices to be registered and classified into three categories for regulation, and their licenses have to be renewed by the China Food and Drug Administration every 5 years. In Singapore, a license is required for the use of IPL and cosmetic high-power lasers. In order to be eligible for a license, the applicant should obtain the necessary training on laser safety. In California, the operation of lasers, other prescriptive devices and prescriptive drugs, can only be utilised by licensed registered nurses, or physician assistants under the supervision of physicians.

Apart from licensing of medical beauty devices, the Council also observed in some jurisdictions that practitioners in the beauty sector are subject to a statutory licensing scheme and are only allowed to perform a confined range of aesthetic procedures or related services. For example, in Korea, both business owners and beauticians working in the sector must be licensed by the local government. In California and Florida, the beauty sector is regulated through a dedicated licensing scheme.

Confusion exists in Hong Kong with regard to a number of aspects of the industry such as the qualifications and regulatory status of persons providing medical beauty services; as shown in Chapter 5. Complaints will no doubt continue to be made against service providers and a clear desire in other jurisdictions for direct regulation in the sector is documented in Chapter 6. Having regard to the Council’s findings, existing regulatory instruments with appropriate licensing arrangements can resolve identified information issues, enhance consumer protection. Moreover, a clear licensing system would bring Hong Kong in line with other jurisdictions and could also bring about economic benefits through the creation of a prosperous medical beauty service industry and its corresponding tourism.

Recommendation: The Council is of the view that rather than taking a “piecemeal” approach to regulate “devices”, “drugs”, and “procedures”, the establishment of a clearly identifiable licensing framework with specific operating codes to safeguard the interests of consumer health and the wider interests of the Hong Kong economy is the preferred option.

7.1.3 Competency requirements for performing medical beauty services

The current regulatory framework⁵⁵ restricts the operation of 15 medical beauty procedures involving 4 types (a) injections, (b) mechanical or chemical exfoliation of the skin below the epidermis, (c) hyperbaric oxygen therapy and (d) dental bleaching; to be performed by registered medical practitioners or registered dentists.

However, it was observed in the Council’s survey and enquiry visits that different quasi-qualifications or pseudo-professional titles such as “therapists” (治療師) were used in the marketing of these types of procedures. It was also observed that there is a prevailing situation in Hong Kong where some medical beauty services which should only be performed by medical doctors, were in fact being done by beauticians according to the findings of the survey.

Whilst it is a requirement that only medical practitioners can perform the above 15 restricted medical beauty procedures, and the Code of Professional Conduct of the Medical Council of Hong Kong requires that registered doctors should act within their competence⁵⁶, issues related to the specialised nature of medical beauty services exist. However, a reasonable expectation from users of medical beauty services is to understand whether a registered doctor, regardless of his/her qualification, and proficiency in undertaking basic medical procedures, is actually proficient in application of specialised medical beauty services. Moreover, as noted by the HKMA in Chapter 1, the lack of a legal definition for the term “medical treatment” could mean that any person, subject to a court decision to the contrary, may perform restricted medical beauty treatments without legal liability, provided that the person does not identify himself/herself as a doctor. The Council is of the opinion that because some medical beauty services could be of high-risk, consumers undergoing these services should be able to identify and choose a practitioner with appropriate qualifications and ascertain in advance their skills and experiences in performing such procedures.

Recommendation: The Council considers that medical beauty service providers, whether they are medical practitioners or beauticians should be required to acquire the necessary skills and expertise to perform these procedures not only safely, but to a recognised standard in medical beauty terms. In addition, the related information on qualifications and experience should be clearly accessed by public means with mechanisms for regular updates. By classifying types of medical beauty services, the necessary regulations and competency standards can then be set for different classes of medical beauty services, and arrangements made for formal certification or appropriate accredited qualifications of practitioners made with reference to training and experience.

7.1.4 Registries and reporting mechanisms

Currently there is no overarching legislation that regulates the manufacture, import, export, sale and use of medical devices or medical beauty devices in Hong Kong⁵⁷. Only some devices or products, due to their nature and characteristics, will be regulated by existing Ordinances, such as the Pharmacy and Poisons Ordinance (Cap. 138) and the Radiation Ordinance (Cap. 303).

Important issues such as pre-market controls to assess the safety, efficacy and quality of medical or medical beauty devices; and a post-market surveillance system which includes adverse incident reporting, can only be satisfactorily addressed with the presence of a clear registration and reporting framework.

While the reported satisfaction rate of medical beauty services was high, as shown in the consumer survey, this might (as suggested at the focus group discussions) be due to the use of services which were perceived by the consumers as having a low level of risk. However, the possibility of adverse reactions and failed procedures still exists. Even though they may only be a small fraction of the total number of procedures undertaken in Hong Kong, they can be extremely critical in terms of consumer health. Accordingly, even if adverse occurrences are not often to happen, consumers or the public should be informed and have a readily accessible information source in which to examine any potential risks that might be encountered, if they decide to undergo certain procedures.

Recommendation: The Council is of the view that under a licensing framework, a systematic and formal reporting mechanism has to be established to record reported adverse reactions caused by these types of services, and the use of related devices. The Council understands that this is a major challenge for an area with currently unregulated practitioners. However, once a licensing and reporting system is developed, licensees can be expected to comply with requirements that monitor device safety and register medical beauty devices installed in their premises. That will serve to provide oversight and pre-market controls safeguarding public health. Appropriate licensing conditions and sanctions can also be expected to provide incentives to report adverse incidents.

⁵⁵ The Department of Health issued an Advisory Note on the Provision of Cosmetic Procedures in November 2013 stating that providers should refrain from performing those procedures classified as medical treatment if they are not themselves registered medical practitioners or registered dentists; those who fail to follow may be liable for offences under the Medical Registration Ordinance (Cap 161) or the Dentists Registration Ordinance (Cap 156).

⁵⁶ Para 3.1, Code of Professional Conduct, the Medical Council of Hong Kong.

⁵⁷ A statutory control framework for medical devices is being developed by the Government. To enable traders to familiarise themselves with the future mandatory requirements, the Government launched a Medical Device Administrative Control System (MDACS) in 2004. The different phases of MDACS, which include voluntary listing of Class II, Class III & Class IV (High-Medium Risk) Medical Devices, have been launched in 2005.

7.2 Aspects to be Considered under the Licensing Regime

7.2.1 *Independent, evidence-based information and general advice*

Personal experiences shared in focus group discussions or collected at enquiry visits, indicated that consumers were rarely told about the details such as level of risks and potential side-effects of the devices or products used. In addition, there is no centralised collection of performance and safety information of these devices or products, except for those medical devices voluntarily listed in the Medical Device Administrative Control System under the Department of Health⁵⁸. Consumers are therefore left to mainly rely on the information provided by the service providers to execute their judgements on the choice of devices or products.

Findings from the consumer survey indicate that in order to source information on medical beauty services, almost three-quarters of users relied on word-of-mouth from “family/relatives/friends”, one-fifth sourced the information by themselves through online discussion forums, search engines and social media. Only 1.7% users sought advice from medical professionals, which usually involved a consultation fee.

As a result, inflated claims, particularly when new services and technologies are promoted, can persist in the marketplace and remain untested until problems begin to emerge; and gradually make their way into general knowledge. Focus group participants told the Council that they had considerable difficulty in assessing the quality and differences amongst services and treatments, especially to new services.

In addition, there were some consumers in the surveys and the focus groups who exhibited what could be regarded as using an exorbitant amount of time, effort and expense on medical beauty services to fix an apparent “defect”. Clinical psychologists from the Division of Clinical Psychology of the Hong Kong Psychological Society indicate that some of the medical beauty service consumers have over-subjective and over-interpreted perceptions on the defects or imperfections of their appearance without objective agreements from their friends or family members.

Recommendation: In order to assist consumers in assessing the efficacy of different services and treatments (as distinct from specific safety issues that are addressed above), an evidence-based information service providing standardised advices on medical beauty services, drugs and devices that are prevalent in the market should be developed. For impartiality and convenience, the information should ideally be disseminated by the Government or through any proposed industry licensing regime that is created. Information should be kept up to date and made available in a form that is accessible to consumers.

7.2.2 Consent process

Three-quarters of users in the consumer survey chose to undergo medical beauty services for the reason of “keep looking young/beautiful”. The other factors to have the treatment are “deal with some bodily problems” and “improve self-confidence” ranked the second highest.

The emotive element that drives consumers to undergo medical beauty services should therefore not be underestimated. In enquiry visits, except for those visits to medical clinics and hospitals, there was often insufficient explanation about the associated risks of medical beauty services. Moreover, the service providers, in particular beauty salons, appeared to deliberately undertake psychological tactics to entice prospective consumers into making a rush decision. This practice was also mentioned by focus group participants.

The issue of consumer consent should therefore be given a high priority in regard to any proposed safeguards in the sector. As an example, the Ministry of Health and Welfare in Taiwan announced standard agreements and instruction templates for 16 common types of medical beauty treatments, with a requirement that service providers (having regard to the possibility of associated complications, sequelae and corresponding treatments, and the potential risks and side effects of undergoing the treatment) must explain the details to the persons undergoing these medical beauty procedures and acquire their written consent before undertaking the procedures.

Recommendation: Any proposed regulatory framework should require some form of written consent being given before a specified medical beauty service is undertaken. The consent should include an acknowledgement that relevant complications, side effects or remedial action might arise. Moreover, there should be a prohibition on any action that is construed as persuading consumers to undergo subsequent procedures that are separate and unrelated to the initial procedure that is subject to the existing written consent, when a consumer is undergoing a course of treatment.

⁵⁸ Information on the voluntarily listed medical devices and traders is posted on the Department of Health's website.

7.2.3 Advertising code

The Undesirable Medical Advertisements Ordinance (Cap. 231) prohibits the advertisement of medicines, surgical appliances or treatments for prevention or treatment of certain diseases or bodily conditions as specified in Schedules 1 and 2 to the Ordinance. Advertisements involving surgical alteration of a person's appearance, such as breast augmentation, will therefore be subject to the Ordinance. Registered medical practitioners or registered dentists are also required to comply with their respective codes of professional conduct in relation to advertising and promotion.

However, in the context of advertising or marketing of medical beauty services, there are no specific guidelines or regulations on the use of terms such as "medical", "specialist", "clinic", "doctor", etc. even though the use of these terms in some contexts can be misleading, and is used to convince consumers to purchase a service. Some other common advertising and marketing practices used in the sector are also questionable. For example, the use of "before" and "after" photos which may be digitally altered; and claims being made without any supporting evidence, thereby creating unrealistic expectations. It is noted that currently the Trade Descriptions Ordinance contains provisions having the effect of prohibiting certain kinds of misleading and deceptive advertising and the promotion of unspecified products and services. However, the extent to which these provisions might apply to some of the more vague, but still problematic, claims of medical beauty service providers, requires further monitoring.

Recommendation: Given the importance of specific terms used in the promotion of medical beauty services, and the problems that can arise, the Council suggests that consideration should be given to restricting the manner in which some advertising claims are made in the medical beauty service market. Under a licensing regime, a code on advertisement could be issued to regulate the way in which the services are promoted.

7.2.4 Cooling-off period

The presence of a highly emotive element which is sometimes employed in enticing consumers to consider medical beauty services, has been established through the Council's surveys, focus groups and enquiry visits. Conversations in the focus group discussions reflected the fact that cost is also a key factor in choosing whether to go ahead with a service or who to choose as a provider. It follows that if a service is promoted at a "low" or "discount" price then a consumer, given the right "emotive prompts", might then be persuaded to go ahead with a procedure. Findings from the enquiry visits highlighted the prevalence of so called "special offers" being made when the fieldworkers showed a reluctance to immediately accept a service. There was a tendency to discount prices at will, with no apparent regard to a cost standard, but with more regard given to securing a "quick sale".

Non-transparent pricing, time-limited deals, and discounts within a short time frame, make it difficult for prospective consumers to engage in mindful consideration of either the potential risks involved in medical beauty services, or whether they are actually necessary. Clinical psychologists from the Division of Clinical Psychology of the Hong Kong Psychological Society suggested that a cooling-off period is necessary for some of the medical beauty service consumers who tend to be persuaded to purchase those services by marketing tactics, such as foot-in-the-door techniques, modelling effecting of advertisements, pressuring tactics etc. but in fact they do not have enough knowledge about the process and evidences of the medical beauty services, and the qualifications of the medical beauty service providers.

In the case of highly invasive medical procedures, any behaviour on the part of service providers to secure a quick decision from a prospective consumer should be discouraged, and safeguards should be put in place to ensure that an appropriate cooling-off period exists. In Singapore, a seven-day cooling-off period is mandatorily provided for persons undergoing liposuction procedures. Under a voluntary accreditation programme by CaseTrust of Singapore, participants (beauty, spa and massage businesses) shall accord a cooling-off period of at least five working days to allow clients, including tourists, to seek a full refund if they do not wish to proceed with the service package offered.

Recommendation: The Council has planned to conduct research in the coming year on whether and, if so, how to adopt cooling-off period in Hong Kong. High risk medical beauty services and aggressive selling tactics in the industry are supporting factors for the measure. A cooling-off period would give consumers who are enticed into purchasing medical beauty services, or have made a prepayment, the right to withdraw within a reasonable time frame. This could also have the effect of dissuading service providers from using undesirable “aggressive selling” tactics to procure customers, but instead, establishing a business relationship with a consumer that focuses on providing a clearly acceptable and beneficial service.

7.2.5 Resolution and redress mechanism

There is currently a professional duty on registered doctors and dentists to have indemnity arrangements to cover claims of negligence. However, other medical beauty service providers are not legally required to hold any indemnity insurance⁵⁹. It is inevitable that disputes will arise either because the result of the service is not satisfactory or the treatment is improperly conducted. Whilst the Council can and does conciliate consumer disputes, the lack of alternative dispute resolution options that specifically relate to medical beauty services is out of step with the protection that should be afforded to consumers, given the high level of risk and possible dire consequences to consumers' well-being. Moreover, the provision of medical beauty services, as distinct from other medical services indicates that some degree of specialisation is required in considering the merits of any claim of malpractice.

Consumers in Korea, for example, who suffer from malpractice in the provision of medical beauty services, are able to seek remedies from the Korea Medical Dispute Mediation and Arbitration Agency or through other civil mediation channels such as the Korea Consumer Agency.

Recommendation: The Council suggests that some efforts should be made in the medical beauty service industry to collectively develop a specialist mediation agency with a view to giving consumers in Hong Kong a feasible and practical choice to resolve their disputes with service providers as an alternative to the current channels of dispute resolution.

7.3 The Way Forward

Incidents happened in the Mainland China and Hong Kong and works undertaken by the Council over the past two years indicated that there are serious problems in the medical beauty service industry that need to be addressed.

On the one hand, there is consumer confusion on a number of aspects of the industry such as the competency requirements, qualifications and identities of persons providing medical beauty services. On the other hand, with new services and technologies, inflated claims and problematic sales practices persist in the marketplace and remain untested until problems begin to emerge. Consumers will find it difficult to assess the quality and differences amongst services and treatments, especially to new services and technologies.

Having regard to the Study findings, the Council considers that there is an urgent need to bring in appropriate regulatory instruments with licensing arrangements to resolve the issues and enhance consumer protection. The Council urges the Government, the beauty and the medical sectors, as well as other relevant stakeholders to seriously consider the Council's recommendations for better consumer protection.

As this is an area that has attracted much attention from regulatory authorities in other jurisdictions to address similar problems that also arise in Hong Kong, the Council is of the view that it would be in Hong Kong's interest closely examine the efforts being taken in those jurisdictions and keep abreast of world's best regulatory practice; in the interests of consumer safety and the healthy development of the local industry.

The Council will continue to undertake its role as a conciliator in disputes and a watchdog of the industry. The Council will also inform and educate the public on aspects of the industry through its various media initiatives. However, the Council's findings and recommendations also point to the need for action to be taken by the Government to assure the public that their health and well-being will be protected by all means available in the form of adequate legislation with an appropriate regulatory framework. A professional medical beauty service industry that safeguards consumer interests and provides high standards of work can develop Hong Kong into a highly sought after and reputable centre of excellence for not only Hong Kong residents, but consumers from other jurisdictions seeking these types of services.

⁵⁹ The Beauty Industry Standardisation Organisation announced in March 2016 that traders of their Quality Beauty Service Scheme would be protected by a professional liability insurance that bear claims and expenditures in case of accidents.



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