



Dentistry and Litigation

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The search for facial aesthetic procedures has been growing absurdly, and the application of facial fillers operates in the 2nd place, second only to the application of botulinum toxin, among the Top Five Cosmetic Minimally-Invasive Procedures. In 2019, with an increase of 4% compared to the previous year (2018), the botulinum toxin presented about 7.7 million of cosmetic procedures, based on Plastic Surgery Statistics Report of the American Society of Plastic Surgeons. In the same year (2019), aesthetic procedures with facial fillers increased by 1%, with a total 2.7 million [1]. Facial fillers gained popularity for being a non-invasive option for the management of conditions associated with facial aging and loss of volume [2,3].

An excellent review by Rayess and colleagues [2] presented very timely results in facial plastic surgery, with the use of facial fillers. The authors used the Manufacturer And User Device Experience (MAUDE) - a data base of FDA (Food and Drug Administration's) - and the Westlaw Next Database (Thomson Reuters), to search for malpractice litigation stemming from the use of soft tissue fillers in the face. Of 1,748 adverse events analyzed, between 2014 and 2016, 751 cases (43%) occurred on the cheek and 524 cases (30%) on the lips. The main events were swelling (755 cases, 43.2%) and infection (725 cases, 41.5%), although there were still more serious conditions, due to vascular impairment and blood supply, such as dermal necrosis and blindness. Of the 9 cases identified for negligence, 6 presented inadequate informed consent. The median award in resolved cases was \$ 262,000 [2].

More recently, Beauvais and Ferneini [3] also used the MAUDE and Westlaw Edge (Thomson Reuters), data were collected be-

tween 2008 and 2017. Of 2,813 adverse events, 915 cases (32.5%) occurred in cheeks, 503 in lips (17.9%) and 412 in nasolabial folds (14.6%). The main events were edema (1,691 cases, 60.1%), nodules (948 cases, 33.7%) and pain (636 cases, 22.6%). Serious complications, such as necrosis and blindness, resulting from intra-arterial injections have also been reported. In 90.9% of the negligent medical records (10 of 11), the failures of the informed consent term about possible post-surgical complications of facial fillers were observed. The median of the award in cases resolved by a verdict in favor of the plaintiff or settlement was \$ 600,000.

Considering the median of the premium values of the two articles (\$ 262,000 [2] and \$ 600,000 [3], respectively), we can see an increase of 229% in the financial amount, which will cause great expenses to the professional involved, in addition to its wear and tear emotional by the legal process.

It is essential to highlight the importance of the complete and adequate informed consent term about possible risks in the post-surgical period, as well as to discuss the validity of the performance of these aesthetic procedures by the dental surgeon, as previously discussed by us [4-8]. Since we can cause important inconvenience to the patient, and to ourselves professionals, in the face of physical, emotional, psychological, social and legal stress, the real need for the dental surgeon to work in this context must be considered.

The inadequate technical qualification of dental surgeon to perform orofacial harmonization procedures, as well as diagnoses possible complications and treat them, has led to an increase in litigation. Moral, material and aesthetic damages caused to patients are

usually requested. Additionally, there is an aggravating lack of clarification about the real risks of the procedure in the Consent Form that makes up the patient's medical record. This term is a legal instrument for both professional and patient protection. However, it is clear that the dental surgeon, without considering the risks from a legal perspective, leaves their primary activity, whose obligation to the patient is the means, when there is no guarantee of results, to an activity whose end is eminently aesthetic, where the result becomes an obligation, especially from a legal point of view.

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