WHAT CONSTITUTES A MEDICAL, MEDICALLY RELATED or COSMETIC PROCEDURE?

May 2021

Introduction

This paper sets out the JCCP position on this subject. The paper was developed by a subgroup of the JCCP's Clinical Advisory Group. The group consisted of the following members

Dr Paul Charlson - Aesthetic Doctor and Co-chair and JCCP Trustee
Andrew Rankin - Aesthetic Nurse and Co-chair and JCCP Trustee
Prof David Sines - Chairman JCCP
Zain Bhojani – Co-Director Church Pharmacy
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Dawn Knight – Patient by Experience and JCCP Trustee
Caroline Larissey - National Hair and Beauty Federation and JCCP Trustee
Christine Mozzamdar – Head of Operations - Transform
Sally Taber – JCCP Trustee
Feedback on matters of factual accuracy was also shared with the MHRA, CQC and the GMC.

The statement and the associated FAQs that are included in this document act as a guide to inform decision making as to whether an aesthetic procedure/clinical episode would be considered medical, medically related or purely cosmetic in nature. The opinion expressed in this paper has been formulated in accordance with current English law, Health Improvement Scotland, the Care Quality Commission (CQC) and the Medicines and Healthcare Products Regulatory Agency (MHRA) regulations and guidance.

The scope of this document covers any consultation or procedure undertaken for aesthetic purposes whether it has therapeutic benefits or not.

Appendix 1 – sets out relevant sections of English law and CQC regulations
Appendix 2 – provides an explanation of CQC guidance

Purpose

The JCCP has been approached on many occasions to produce and disseminate guidance concerning the cosmetic or medical nature of non-surgical aesthetic procedures that are performed in the United Kingdom by a range of registered healthcare practitioners and non-registered beauty therapists. The JCCP is also mindful of a range of assumptions that have been made regarding these issues, which vary across a diverse range of stakeholders and for which no unifying protocol exists. The purpose of this document is to make a purposeful evidence-based contribution to create both understanding and insight into the nature of aesthetic treatments in order to create a single, robust position which can apply to all practitioners undertaking any procedure within the non-surgical aesthetic sector.

Whilst the insights gained from this work will be important in their application to practice, this document does not seek resolve all the challenges or instances of discord that exists within the aesthetics sector. As with the development of any emergent guidance of this nature there is scope for interpretation with regard to JCCP's position statement that is reflected in this paper. Accordingly, we anticipate that further work will be required to identify emergent issues and to respond to questions to further inform further insight and understanding.

The purpose of this work should not be seen to limit professional practice, but rather to establish a better foundation upon which to build a stronger evidence base to enhance patient safety, public protection and clinical effectiveness. This applies not only to the clinician-patient relationship that is core to any professional undertaking, but also to the tripartite relationship that is formed when delegation occurs to other therapists.

Scope

The non-surgical aesthetic sector is characterised by a diverse range of procedures and a disparate array of stakeholders who practise within the context of a highly commercial and rapidly evolving environment. In recognition of such diversity of practice the scope of this document cannot be restricted only in application to the range of procedural modalities for which CPSA and the JCCP have set their standards and for which the JCCP applies non-mandated oversight. Rather, the scope of our work relies on broader principles and their application in the wider sense. It is hoped that these principles can be applied to all instances of aesthetic practice where a medical or cosmetic determination is required, including procedural modalities that are currently outwith the JCCP's remit and indeed to be able to be 'future proofed' for application to adjunctive or emergent procedures that are not currently recognised officially within the aesthetics sector. Furthermore, for the purposes of making a medical or cosmetic determination, the JCCP has extended the scope of our definition beyond that which narrowly relates to 'appearance', to encompass also the wider sense of 'health and wellbeing'.

Target Audience

This document is intended for anyone with an interest in non-surgical aesthetic procedures. Regulated healthcare clinicians who have professional responsibility for exercising their clinical judgement to make a

diagnostic determination should find it useful to assist them in so doing. Those to whom they delegate may benefit also by gaining greater understanding and insight to inform safe and effective practice, whilst unregulated practitioners will also benefit from the acquisition of information regarding the scope of their work and also into schemes of professional delegation and supervision. In these instances, there remains much to be gained from the understanding achieved.

This work will be of interest to regulators and policy makers to better inform their understanding. Importantly this guidance has also been designed to enable members of the public who seek aesthetic procedures and to acquire better understanding of key issues to enable them to make informed decisions when deciding who should perform their treatment. For this latter group of lay persons, we anticipate that further work is required to provide clarity, including the provision of public facing frequently asked questions.

JCCP Statement

Whilst many aesthetic consultations and procedures performed by suitably qualified Health Care Practitioners are deemed to be 'medical' or 'medically related' in nature, the JCCP acknowledges also that there are occasions when members of the public elect to seek aesthetic treatments that are deemed not to be either 'medical' or 'medically related'. The latter are considered by definition to be purely 'cosmetic' in nature' and not to be associated with a medically determined diagnosis or resultant clinical therapeutic benefit. The JCCP is of the opinion that only designated registered healthcare professionals (within the limitations of their competence), following the undertaking of an informed pre-treatment consultation and the exercise of assessment and clinical judgement with the patient, can determine whether a consultation and/or a procedure is 'medical' or 'medically related'. Patients/members of the public present with a wide variety of physical, psychological or psychosocial symptoms and effects that relate to pre-disposing conditions. Having performed a diagnostic assessment of the patient, a practitioner should be able to demonstrate whether there is a physical, psychological or psychosocial therapeutic benefit arising from either the consultation and/or the treatment of that condition or its associated presentations. If there is a demonstrable clinically determined therapeutic benefit to the person then that treatment episode is deemed to be 'medical' or 'medically related'.

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Frequently Asked Questions

If, as a basic principal, a registered and appropriately trained Health Care Professional determines that a cosmetic a procedure has ‘demonstrable' therapeutic benefit, then would the procedure be considered as being automatically categorised as ‘a medical treatment’?

The key determinant is that there has to be a recorded statement of therapeutic benefit/outcome (that includes reference to the presenting concern and the treatment plan that has been co-designed with the patient to offer relief or benefit to the person) that is recorded in the patient record and agreed during the consultation prior to treatment. There is also a subtle difference between the fact that any procedure (‘medical’, ‘medically-related’ or ‘cosmetic’) that is provided by a registered and appropriately trained Health Care Professional who promotes their service as being delivered by a ‘Registered Health Care Professional’, must always be conducted in accordance with the Practitioner’s Professional Code of Practice and within their professional 'scope of practice’, irrespective of the category that the treatment or reason for referral is made. There will maybe some treatments/procedures that clinicians perform for purely commercial reasons for which no medical benefit can be ascribed to or indeed requested or alluded to by members of the public seeking elective treatment. This latter group of elective procedures should be categorised as being purely ‘cosmetic’ in nature.

What is the Definition of a Healthcare Professional in UK ?

A healthcare professional is a person associated with either a specialty or a discipline and who is qualified and registered by one the designated Government Professional Statutory Regulatory Bodies to provide a healthcare service to a patient (e.g. the GMC, GDC, NMC, GPhC and the HCPC).

The status of a healthcare professional is protected in law and imposes obligations and responsibilities on the regulated individual. The individual must abide by a set of practical and ethical behaviours that can extend beyond their work and into their personal life. To maintain registration the practitioner must demonstrate ongoing competence, good character, and an ability to work within a defined framework of competence. Trust is a key feature of the professional/patient relationship and exists by virtue of the position held, but enabled through the obligations imposed on that position. Another feature of this relationship is the requirement that all healthcare professionals have a ‘duty of care’ (as defined in law) to their patient.

A healthcare professional must be able to demonstrate that they have undertaken sufficient training/education and are proficient to undertake any specific treatment/procedure that they intend to perform prior to doing so. Additionally, the healthcare professional should undertake a full and holistic assessment of the patient to inform the formulation of a written diagnosis and produce a written care treatment plan that identifies also the benefits/risks of the treatment. Details of the patient’s personal expectations of the outcomes of the procedure should also be documented. In this way the healthcare professional should use this information to make the case that a particular treatment has been determined to be for ‘medical’ purposes (or otherwise should the case be proven following the exercise of clinical judgement). The level of training and assessment/treatment plan documentation must be proportionate to the treatment undertaken. The Healthcare Professional can only demonstrate that a treatment is ‘medical’ or ‘medically related’ if it falls within their defined scope of legal, professional and ethical practice.

For example, a potential life changing plastic surgical procedure would require more detailed assessment

and documentation than, for example ‘skin tag’ removal. Similarly, the length of the time and amount of support required for the patient to reflect on the information provided to them, e.g. risks, benefits and expected outcomes, (sometimes known as a ‘cooling off’ period) and make a decision prior to the commencement of any procedure should be proportionate to the procedure as stated in GMC guidance Decision making and consent (paragraph 27). For aesthetic practice a ‘good’ medical record would also include examining a patient’s concerns and reasons for seeking a procedure and psychological/emotional assessment screening for anxiety, Body Dysmorphic Disorder or for any other form of presenting mental health condition.

What is the difference between a ‘medical’ procedure, a ‘medically related’ procedure and a ‘cosmetic procedure’

By definition any proposed elective non-surgical aesthetic procedure that is not linked to a ‘medical’ or ‘medically related’ diagnosis (as determined by a suitable qualified and registered healthcare professional’) and which does not have a clinically determined therapeutic outcome benefit for the patient can be defined as being purely cosmetic in nature.

Is a particular procedure always medical?

Any procedure can be medically determined provided that it can be demonstrated that the procedure has an evidenced-based clinical therapeutic benefit and is considered by the Health Care Professional to be in the patient’s best interests following the completion of an agreed (and recorded) pre-treatment holistic assessment of the patient’s presentation and an exploration of the patient’s expectations with regard to perceived treatment outcome.

It is a matter of judgement for Health Care Professionals to decide whether the proposed treatment has a clinically determined therapeutic benefit. If challenged the Health Care Professional is expected to be able to demonstrate that a specific procedure is ‘medical’ by citing evidence to confirm that their professional judgement was informed by their consideration of a range of treatment options that relate specifically to their approach to individual patient assessment, including an appropriate history, examination and demonstration of a therapeutic benefit being derived from the proposed resultant procedure. It is important to note however that is not the case that a particular aesthetic procedure is always ‘medical’ by definition or determined by the rationale for electing to receive the treatment. For instance, a dermal filler lip augmentation could be regarded as a “medical” procedure for one patient and “cosmetic” in another based on the patient’s reason for seeking to procure and to receive the treatment.

It should be noted however that some procedures will ‘almost always’ be classified as being ‘medical’, such as treatment of a disease as in the case of Botulinum toxin in Chronic Migraine or for any condition that has been classified within the meaning of the ‘International Classification of Diseases’ (ICD11) – WHO, 2018, Geneva. The ICD is the foundation for identifying health trends and statistics worldwide, and contains around 55,000 unique codes for injuries, diseases and causes of death. It provides a common language that allows health professionals to share health information across the globe and provides a framework for determining specific disease categories/diagnoses. Practitioners should use the ICD 11 framework to aid determining the medical nature of the proposed procedure, along with supporting guidance such as is provided by the National Institute for Health and Clinical Excellence (NICE).

What is the difference between a ‘medical’ procedure and a ‘medically related’ one?

A medical procedure will be linked to an ICD 11 code and may require CQC registration. A medical treatment may or may not be elective. This does not apply to medically related procedures, instead in such cases the regulated professional will be required to exercise their clinical judgement and diagnostic skills to determine and evidence a reasonable and genuine therapeutic benefit for the treatment. Medically related procedures are always elective.

Can a medical determination be applied retrospectively to a known client?

A medical determination must arise as a result of a consultation between a patient and an appropriately trained and experienced healthcare professional arising from which the medical ‘intention’ or ‘determination’ is identified and documented within the context of treatment plan. The determination applies to a single treatment episode with ongoing assessment required for future treatment episodes. The determination cannot be applied retroactively in the absence of documented evidence of medical intention. Furthermore, the patient should confirm their understanding of the ‘medical’ or ‘cosmetic’ nature of the intended procedure and agree and consent to the proposed clinical treatment plan. This cannot be applied retrospectively.

What do we mean by ‘Therapeutic Benefit’?

The clinical definition of a therapeutic benefit is a benefit or effect obtained as a result of treatment. The term ‘therapeutic’ defines any action or method used for the treatment of diseases or disorders. Thus, a therapeutic benefit is a positive result that occurs as a result of a method used to treat a disease or disorder. Therapeutic benefits may sometimes be referred to as therapeutic effects; a treatment may be considered to have therapeutic benefit if it enhances an individual's physical or mental well-being.

It should be noted that a treatment may be of therapeutic benefit whether or not it is classified as a medical or medically related treatment, inn such cases where the treatment has a positive effect on the individual's well-being and mindfulness. It is however important to note that it may sometimes be important to categorise a specific therapeutic method of treatment as a medical treatment or not in order to comply with professional regulatory compliance standards.

In such cases having identified a physical, psychological or psychosocial concern, a remedial treatment plan is agreed with the intention of resolving these specified concerns. ‘Therapeutic’ in this context therefore relates to the specific medical or medically related intention that requires remediation. Benefit relates to the outcomes as measured against the intentions.

It follows therefore that when a regulated healthcare practitioner assesses the outcome or benefit of the treatment, they are assessing improvement against the ‘baseline’ presenting problem – physical, psychological or psychosocial, rather than focussing exclusively on cosmetic/appearance related improvement.

Can a non-Health Care Professional carry out a ‘Medical’ or ‘Medically-Related’ procedure?

Yes, if a Health Care Professional makes a fully informed assessment of the patient first and identifies that a particular procedure is ‘medical’ or ‘medically related’ in nature. The procedure could be delegated under supervision to a non-Health Care Professional, for instance laser treatment of a spider naevus.

Assessments must be made on a case by case basis and relate only to a single consultation and treatment

and not subsequent treatments provided in the future, as each would require a consultation by an appropriately qualified and trained Health Care Professional prior to the procedure being undertaken.

The regulated healthcare professional must comply with their regulatory and indemnity requirements for delegation and for supervision, ensuring also that the premises are suitable for the proposed procedure. When delegating and supervising in these circumstances, the healthcare professional should take into account the diagnosis, the medical nature of the procedure and the risks and benefits of delegating. As in all instances of delegation, the regulated professional holds overall responsibility for the patient. Doctors should also be aware of the GMC 'Guidance for Doctors who Offer Cosmetic Interventions (paragraph 42) and ensure that anyone they delegate patient care or treatment to has the necessary knowledge, skills and training and is appropriately supervised. When delegating, doctors may take some assurance that practitioners registered with a statutory regulatory body, including voluntary registers in some cases, have met defined standards of competence and adhere to agreed standards for their professional skills and behaviour (GMC guidance on 'Delegation and Referral – paragraph 4).

In the case whereby prescription only medicines form part of the aesthetic procedure then the JCCP advises that having made such a diagnosis, the responsible healthcare practitioner prescriber may then delegate the administration to a responsible and competent person. When delegating such authority to non-healthcare practitioners, the JCCP supports the position maintained by the UK healthcare Professional Statutory Regulators who advise that that, if regulated healthcare professional delegate, they retain an overarching and ongoing responsibility to the patient, including assessment of outcomes and intervention in and reporting of adverse incidents. Further, they must be satisfied that the person to whom they delegate is both competent and proficient to administer the treatment prior to agreeing to delegating responsibility to perform the aesthetic procedure.

Whenever the healthcare prescriber delegates the treatment after a face to face consultation, the JCCP reminds healthcare professionals that if delegating to a non-registered healthcare practitioner the legal and professional liability for the delegation of the procedure remains with the delegating practitioner. The delegating registered healthcare practitioner therefore accepts, in these circumstances, responsibility not only for oversight of the in accordance with expected professional practice and in accordance with appropriate legal parameters.

If a Non-Health Care Professional carries out a preliminary consultation that does not involve the use of prescription only medicines can the subsequent procedure be classified as 'medical' or 'medically-related'?

Yes, but only if, in the judgement of the healthcare professional and without prejudice to their regulatory requirements, they determine that a physical examination is not required, and if the record of that consultation provides sufficient information for a Health Care Professional to make an objective associated assessment of the patient and their treatment aims and needs and if they identify that a particular procedure is recommended for a therapeutic/clinical purpose. Under such circumstances the designated health care professional who oversees this process will assume longer-term responsibility for the treatment (and its associated evaluation) as delegated to the non-health care professional to administer. The assessment must be made on a case by case basis and relates only to a single consultation and treatment plan. Any additional treatments would require separate consultation and further assessment by a Health Care Professional. The designated Health Care Professional would also be required to assume full responsibility for the administration of any required aftercare assess and clinical intervention.

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Can a consultation be medical even if no procedure is provided?

Yes, if a consultation has been determined by a clinician to have a clinical/therapeutic benefit then it can be considered to be 'medical' or 'medically related' in nature. The therapeutic basis for any such intervention is determined by the Health Care Professional and must be justified with an appropriate medical record, assessment treatment plan and an outcomes measurement framework. Advice given during a consultation that demonstrates direct therapeutic benefit may include reference to improvement in or avoidance of ill health and the maintenance of good health or health gain.

This position is supported also by the GMC's guidance on 'Good Practice in Prescribing and Managing Medicines and Devices (2021) which advises on the provision of prescription-related 'written information' or 'advice' that is provided to patients, both of which may be regarded as a type of prescribing activity and therefore a regulated medical activity. The 2021 guidance is clear that doctors should follow the guidance in relation to such activities as far as it is relevant and applicable (Page 2 paragraph 5).

Is it possible to undertake both a "medical" consultation and a "cosmetic" procedure?

Yes, if the consultation is performed in accordance with expected professional practice but the outcome of the assessment and one of the resulting procedures is considered to be elective and to have no demonstrable clinically determined therapeutic benefit.

Can a Non-Health Care Professional undertake a medical consultation or determine if a procedure is medical?

No, only a suitably qualified and experienced registered Healthcare Professional can undertake and determine whether a procedure is 'medical' or 'medically-related'.

What does a medical consultation and assessment consist of?

A medical consultation can only be carried out by a suitably qualified and experienced registered Health Care Professional who possesses the appropriate skills, competence and capability to make that assessment.

Such a consultation (regardless of device, injectable or intervention) should consist of the following:

1. Informed consent (reference should be made in this regard to the GMC's published guidance on Decision making and consent to illustrate the considerations/steps to take to achieve informed consent - in particular paragraphs 27-30 .
2. Basic patient demographic data
3. Medical/healthcare history – past and current illnesses, allergies, medication history, family history, psycho-social and emotional history, socio-economic factors, cultural and well-being determinants
4. Exploration and assessment of reasons/expectations for the patient undertaking an aesthetic procedure and the provision of informed consent; as part of informed consent, sufficient time should be provided to enable the patient to reflect on the information provided/discussed which will vary for each individual patient and proposed procedure
5. Physical assessment of the patient in particular the skin and structures relevant to the procedure
6. Psychological/emotional health assessment

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7. Description and agreement of benefits and risks associated with the proposed treatment plan
8. Determination of post-treatment/outcome expectations and timescale for evaluation of the same and the provision of suitable arrangements to be put in place for any follow up care required outside of the planned evaluation appointment in the event that an adverse reaction or emergency occurs.

What psychological assessment tools might be useful in making an aesthetic assessment and demonstrating that a procedure has a therapeutic benefit?

There are several screening tools available to Health Care Professionals to help inform whether a patient is suitable for an aesthetic procedure. Some of these are listed in a separate JCCP resource document.

What skills would a suitably qualified Health Care Professional be expected to deploy in order to make a valid, informed professional assessment?

Some Health Care Professionals will not have acquired all of the necessary skills to enable them to make an holistic physical, psychosocial and emotional diagnostic assessment of the patient in order to determine whether a treatment episode is medical or medically related. However, all healthcare professional practitioners are required by their Code of Practice to recognise and to work ethically and efficiently within the expected parameters of their competence and at all times to uphold patient safety, trust and confidence. Health Care Professionals also need to demonstrate substantive training in clinical diagnosis, taking a medical, psychological and psychosocial history and making a fully informed physical and psychological assessment of the patient. They would also need to be able to outline the risks and benefits of a particular intervention as part of the consultation and to share such information with their patients prior to the commencement of any treatment episode.

Must a Clinic be CQC registered to provide aesthetic medical treatments?

No, aesthetic practice for CQC unregulated aesthetic procedures is currently outside the scope of the CQC. However, some procedures fall within the scope of the CQC (e.g. hair restoration surgery which falls within the CQC scope of registration in cases and where it is carried out by a health care professional - such surgery constitutes a *Regulated activity). These procedure are classed as being ‘medical’. CQC Regulated activities are described in Schedule 1 of The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

What injectable treatments might fall under the scope of CQC registration?

Botulinum toxin treatments may also fall within the CQC scope in some cases where the treatment is related to a disease, disorder or injury (the regulated activity of ‘Treatment of Disease, Disorder or Injury’ (TDDI)). The regulated activity of TDDI excludes PURELY cosmetic interventions. For example, the provision of treatment using botulinum toxin by or under the supervision of a healthcare professional for the purposes of treating a disease or disorder such as spasmatic torticollis, prophylaxis of headaches in chronic migraine, or severe hyperhidrosis of the axillae. The treatment of a ‘disorder’ such as injecting hyalase in the event of an adverse incident, would require registration unless it forms an insignificant part of the business. These are examples of where the treatment could fall within CQC scope registration. The CQC has published a specific list of health care professions who are entitled to undertake ‘Regulated Activity of Treatment of Disease, Disorder or Injury’ (a list of such designated professions is published on the CQC website).

The provision of treatment using dermal fillers would only fall within CQC scope of registration if the dermal filler was used by, or under the supervision of healthcare professional to treat a disease, disorder or injury.

There are also a range of non-injecting activities, such as prescribing following a medical diagnosis which may also require registration.

In all cases, the subcutaneous injection of a substance or substances for the sole purpose of enhancing a person's appearance is explicitly exempt from CQC registration, regardless of who provides or supervises the injection.

https://www.cqc.org.uk/guidance-providers/registration/what-registration

What Responsibilities do Practitioners have Regarding Reporting and Learning from Complaints?

Irrespective of the category of treatment, in all businesses good complaint management is a key aspect of the organisational leadership commitment to customer focus and should be part of the wider quality management system. The focus on enhancing customer satisfaction should be maintained and the opportunity for continual quality improvement should be applied when receiving customer feedback, including learning from complainants.

Good complaints management is an integral component of good governance and quality management. It is the JCCP's Registrant's aim to provide a prompt response and appropriate reassurance to patients should they raise a concern or a complaint.

JCCP – 18th May 2021

APPENDIX 1

Legal position

English law regarding what is a 'medical' rather than a 'cosmetic' consultation and treatment has been tested in the area of the HMRC's ruling regarding VAT exemptions in the area of aesthetic medicine. This provides one specific determination to inform this discussion.

1. Current VAT law allows for a medical exemption to VAT being added onto services. (The reason for this is to allow for equitable access to Healthcare for members of the public by ensuring that no unreasonable financial barriers are imposed that might inhibit patient access to regulated health care professionals when there is 'medically' diagnosed benefit. It is in the public interest therefore that patients seek healthcare from those qualified and registered to do so for both 'medical' and 'medically' related treatment requirements and procedures.

2. The European Court of Justice (ECJ) viewed 'Healthcare' as broad in its definition, to include prevention, diagnosis, physical health, psychological, emotional and psychosocial health and wellbeing etc.

3. There are two specific criteria which must be filled in order for a cosmetic treatment to quality for VAT exemption: The person delivering the care must be a Registered Health Care Practitioner and the purpose of the service must have a therapeutic/medical benefit for the patient within the broader definition set out above.

4. The ECJ considered the question of cosmetic services and stated that 'Purely Cosmetic Services' are not exempt from VAT whereas, should there be a specific diagnosed medical benefit then that whole service would be exempt. This set out a clear distinction between 'Purely Cosmetic' and 'Medical'…this is binary, it is either one or the other.

5. The ECJ stated also that in determining if the purpose is 'medical' or purely 'cosmetic' then only the Health Care Professional could make that determination. Such determinations must therefore made on a case by case basis. In the medical records one could expect to find a purpose statement and a treatment plan that would set out the reasons for the treatment and the medical benefit.

6. Simply performing a proper history and examination, which has medical benefit for the patient, is not enough to prove that the purpose of the subsequent treatment is medical. If you perform a medical consultation which has a health benefit then that service, if charged for separately, would be exempt from VAT. (as set down by HMRC vs Laserase 1st tier VAT Tribunal 2008).

However to prove that a service or treatment is medical and not purely cosmetic a practitioner needs also to show that the presenting reason for referral or 'complaint' has a specific medical element to it (i.e. physical, psychological, preventative, curative, etc.) and that the purpose in performing the subsequent treatment is in response directly to the 'complaint'. It is important to document this in the medical record as part of the clinicians duty to care for the patient and as required by the clinicians Professional Statutory Regulator and by their Code of Practice.

JCCP Stated Position

The JCCP advises that it is important for practitioners to understand that cosmetic procedures being performed by healthcare professionals are not automatically designated as being either 'medical' or 'medically-related' in nature, in fact many such procedures fall outwith this definition. Rather, there must be a clearly defined, discernible and intended 'medical' evidenced benefit for the patient. The JCCP is of the opinion that if the practitioner is able to determine that they have applied a full diagnostic physical and psychological/emotional assessment of the patient's presenting condition and can justify that the provision of the proposed treatment would assist the patient to prevent and/or reduce the physical and/or psychological and psychosocial symptoms and effects associated with that condition, then the practitioner could justify that the treatment as being either 'medical' or 'medically related'.

Care Quality Commission (CQC)

The CQC has identified a range of 'regulated' or 'restricted' cosmetic treatments, such as Hair Restoration Surgery. The activities that require CQC registration are set out The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Schedule 1, although general exemptions are set out in Schedule 2).

The CQC also issued further guidance in March 2015 in their `Scope of Registration' document (this guidance document is currently under review - updated guidance will be published by the CQC later in 2021).

Such activities relate to:

- The Treatment of disease, disorder or injury
- Diagnostic or screening procedures
- Surgical procedures

Specific definitions exist within the CQC regulations (See Appendix One).

The issue with the CQC definition is that the "treatment of disease disorder …" is narrow in scope and definition as someone might not present with a "disorder or disease", but still derive a therapeutic benefit from receiving an aesthetic treatment. For instance, for reason of increased physical and/or psychological wellbeing. If one considers the definition of healthcare it takes account of social and psychosocial aspects and this is the definition that has maximal currency in current thinking and application within the aesthetics industry. Such a definition also confirms with the in the context of the spirit of the World Health Organisation's current definition of 'Health' (1948):

'Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity'.

Friedman HS, Adler NE. The history and background of health psychology. In: Friedman HS, Silver RC, editors. Foundations of Health Psychology. NY: Oxford University Press; 2007. pp. 3-18

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APPENDIX 2 CQC Definitions

Treatment of Disease, disorder and injury

This definition includes a wide range of treatments, such as, but not limited to, emergency treatment, ongoing treatment for long-term conditions, treatment for a physical or mental health condition or learning disability, giving vaccinations/immunisations, and palliative care. This definition relates only to treatments when they are provided by, or under the supervision of a designated CQC health care professional (whom are listed by the CQC within their published Treatment of Disease, Disorder and Injury list), or a team which includes a health care professional.

Purely cosmetic interventions are normally excluded, unless an explicit medical diagnosis determines their use as a therapeutic procedure. This relates to the fact that the exemption applies to cosmetic procedures involving subcutaneous injection of a substance or substances to enhance a person's appearance; so as an example, the CQC's view is that this explicit exemption could not apply to breast enhancement / augmentation using injectable fillers. In the event of any doubt it is the regulated healthcare professional's responsibility to confirm with the CQC the registration requirements for any intervention.

Diagnostic and screening procedures

This regulated activity includes a wide range of procedures related to diagnostics, screening and physiological measurement.

Surgical Procedures

This regulated activity covers the following procedures carried out by a healthcare professional:

- Surgical procedures for the purpose of treating disease, disorder or injury; or cosmetic surgery; or for religious observance (e.g. circumcision)
- Surgery carried out for the purpose of sterilisation or reverse sterilisation. However, surgical procedures are not captured if they are:
- Undertaken by a medical practitioner and the minor procedures are limited to: - curettage (scraping), cautery (burning) or cryocautery (freezing) of warts, verrucae or other skin lesions, and - carried out using local anaesthesia (or no anaesthesia), or:
- Undertaken by any health care professional and the procedures are limited to: - nail surgery and nail bed procedures on the foot and which are carried out using local anaesthesia (or no anaesthesia) - curettage (scraping), cautery (burning) or cryocautery (freezing) of warts, verrucae or other skin lesions on any area of the foot and which are carried out using local anaesthesia (or no anaesthesia).

Cosmetic surgery is not defined separately but the procedures that are captured by this regulated activity include those described as being for cosmetic purposes if they involve the insertion of instruments or other equipment into the body. For the avoidance of doubt, the activity does not include: • Piercing • Tattooing • Subcutaneous injections to enhance appearance • Removal of hair or minor skin blemishes by application of heat using an electric current. The regulated activities have been published in the CQC Guidance

Document ‘The Scope of Registration: March, 2015’ (this guidance document is currently under review - updated guidance will be published by the CQC later in 2021).

‘As an example, we consider liposuction involving the insertion of instruments into the body to be included in this activity. This is regardless of whether the liposuction is carried out using general or local anaesthesia, or whether the procedure involves the administration of a laser through a cannula inserted into the body. However, a procedure such as the external application of ultrasonic energy without any incision or insertion of instruments into the body is not considered a surgical procedure.

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