



# Consulting Room

## AVOIDING THE PITFALLS WHEN ENTERING THE AESTHETIC MARKETPLACE

SAFEGUARDING YOUR BUSINESS, REPUTATION AND YOUR CUSTOMERS BY NAVIGATING  
PAST THE REGULATORY CROCODILES AND BEING WARY OF THE SALES SHARKS



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**EDITOR, THE CONSULTING ROOM**



# WHO AM I?

- Editor of The Consulting Room™ ([www.consultingroom.com](http://www.consultingroom.com)) since 2003
- Aesthetic industry commentator and writer for twelve plus years
- Attend key aesthetic conferences, trade shows, workshops and training events
- Featured in various trade publications, including expert on editorial board
- Speaker at various industry events
- Save Face ([www.saveface.co.uk](http://www.saveface.co.uk)) Advisory Board member

# THINKING OF ENTERING THE AESTHETIC MARKETPLACE?

Facial Aesthetics? Body Treatments? Teeth Whitening?

You need to think about...



- Within scope of practice?
- Regulation?
- Training?
- Competency?
- Supervision?
- Insurance?
- Supply chain?

# WITHIN SCOPE OF PRACTICE

## Are you a suitable professional to enter into aesthetics?

- A treatment may appear cosmetic but it may also be medical or dental?
  - Do you have the background skills and experience required?
- Are you legally allowed to perform certain treatments?
- Will the trade associations or member organisations for your speciality support you?
- Do you think you'd be happy to do it on a member of your family?
- Is it too risky? Could it put your existing business practices and reputation at risk?

# REGULATION

## What regulation applies in the aesthetic sector...?

- Teeth Whitening - Practice of Dentistry
- Lasers & Light - Minimum of a Core of Knowledge course
- Botulinum Toxins - Prescription only medicines
- Dermal Fillers
- The Keogh Review >> HEE Framework
- Advertising Standards Compliance

# TEETH WHITENING — ‘THE PRACTICE OF DENTISTRY’

- Dentists Act 1984 - criminal offence for anyone other than a registered dental professional to carry out dentistry.
- Tooth whitening is **‘the practice of dentistry’**. Confirmed by 2013 High Court ruling.
- Law - **teeth whitening must only be carried out by registered dentists, dental hygienists, dental therapists and clinical dental technicians (working to the prescription of a dentist)**.
- GDC is committed to protecting the public by bringing cases of illegal practice to court. They prosecute the act of undertaking the tooth whitening rather than the type of product used (that is Trading Standards). 20+ Prosecutions to date in 2015

# TEETH WHITENING — ‘THE PRACTICE OF DENTISTRY’

- What about client ‘self-administered’ tooth whitening systems?

According to the GDC:

“The Dentists Act makes it illegal for anyone who is not a dentist to give “*treatment, advice or attendance*” that would usually be given by a dentist. Handing an individual a tooth whitening tray and advising them on application, amongst other things, could constitute the giving of “*advice or attendance*” and would be illegal.”

- Paying for and attending a tooth whitening training course, getting a certificate and being told you are now legally qualified to whiten teeth is incorrect.
- GDC has the weight of legislation on its side – do you want to risk prosecution?

Resource: [www.gdc-uk.org/Membersofpublic/Illegalpractice/Pages/FAQs.aspx](http://www.gdc-uk.org/Membersofpublic/Illegalpractice/Pages/FAQs.aspx)

# TEETH WHITENING — ‘THE PRACTICE OF DENTISTRY’

29 September 2015



Victoria Reeve

Yesterday at 08:19 · Edited ·

## Essex based woman pleads guilty to tooth whitening

The UK regulator of dental practice, the General Dental Council, has successfully prosecuted a woman for unlawfully practicing tooth whitening.

Tooth whitening is the practice of dentistry. This means that, by law, it must only be carried out by registered dentists, dental therapists and clinical dental technicians (working to the supervision of a dentist).

On 29 September 2015, Victoria Reeve pleaded guilty to unlawfully holding herself out as being prepared to perform an act of dentistry, namely tooth whitening, contrary to Section 38 (1) and (2) of the Dentists Act 1983.

She's been fined £1000 and ordered to pay a £1000 contribution to the GDC of £939.71.

The offences took place at The Nail Bar, 15 Head Street, Essex.

Ms Reeve was offering a 'self-administered' method of tooth whitening and claimed she was using a banned chemical to whiten her teeth.

The court felt this was a serious case, aggravated by two previous warning letters from the GDC.

Unfortunately I am very sad to say that I was left no option yesterday but to plead guilty to being prepared to perform an act of dentistry namely teeth whitening. I was not prosecuted for using an illegal substance as reported by the radio and papers.

I have at no point portrayed myself to be a dentist and didn't believe I was breaking any law.

In good faith I attended what I thought to be a legitimate training course, made sure I used the correct products which stayed within the restraints of the law which released less than 0.1% peroxide, I even had Trading Standards test my products to make sure they were legal and safe. I obtained the correct teeth whitening insurance and believed everything I was doing was legal. But this was not the case I was repeatedly told by the company who trained me that I was not to worry and that we were covered and working under a cosmetic law not one of dentistry. I believed them and I was wrong.

People could legally buy my self administered kits or the same type of kit using the same product from well known pharmacies such as Boots and Tescos and perform the treatment on themselves at home but if I let the client use this same product in my salon then I am breaking the law because "teeth whitening is usually performed by dentists" and the law says that any treatment usually carried out by dentists should remain performed only by dentists.

I feel extremely let down by the company who gave me the qualification and sold me these products knowing they would be used in a salon environment. Unfortunately for me I am the one paying the price and the companies who are fooling people into attending training for something which isn't even legal are getting away with this and they continue to train new people on a daily basis setting them up to break the law.

The laws regarding this are just not clear enough and the General Dental Council will take you to court, I have learned the hard way but I urge anyone thinking about having this product in your salon. AVOID at all costs.

I would just like to reassure any client who had their teeth whitened at the salon that the products were completely legal and safe and apologise for any confusion the reporters cause. I will be at work today but if anyone has any questions please don't hesitate to ask.



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# LASERS & LIGHT – CORE OF KNOWLEDGE

- Normally a one-day introduction to lasers and light.
- Pre-requisite to advanced treatments courses and BTECs
- Covers requirements of the MHRA document '*Guidance on the safe use of lasers, intense light source systems and LEDs in medical, surgical, dental and aesthetic practices*' DB2008(03).
- Core of Knowledge certification remains a requirement for the Care Quality Commission, Local Authority licencing and Insurers.
- Investing in laser/IPL : Who you buy from? Where is it made? Service and maintenance

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# BOTULINUM TOXINS – PRESCRIPTION ONLY

- Botulinum Toxin (Type A) – Botox®/Vistabel®, Azzalure®/Dysport®, Bocouture®/Xeomin®
- Prescription only – requires Face-to-Face consultation with a prescriber (doctor, dentist, nurse independent prescriber or pharmacist prescriber) – can give direction to administer to others (they take responsibility). Remote prescribing banned.
- Carry risks – ptosis (drooping)
- NHS says “Botulinum toxin is a prescription-only medicine that should only be given by an appropriately trained doctor, pharmacist, dentist or registered nurse in a clinical environment. The injections shouldn't be carried out by beauty therapists, who lack the necessary clinical background.”
- Don't be tempted to buy product online

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# DERMAL FILLERS

- Temporary and Permanent – Majority are temporary hyaluronic acid based
- Medical devices – no prescription
- Carry risks – blindness, lumps (granulomas), vascular occlusion, necrosis etc.
- NHS says “Most manufacturers of dermal fillers recommend that treatments should only be carried out by medical professionals, although this isn't currently a legal requirement..”
- Several training companies around offering one-stop services to beauty therapists, AHPs etc. >> training + certificate + insurance + supply
- Don't be tempted to buy product online

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# THE KEOGH REVIEW

- ‘*Review of the Regulation of Cosmetic Interventions in England*’ - April 2013
- Government responded in February 2014
- DoH – “...look to strengthen standards through training and qualifications and look at how far supervision from regulated professionals can support self-regulation of the sector.”
- Health Education England (HEE) conducted a review of the training and skills needed for non-surgical cosmetic procedures – produced a framework based on various entry levels and submitted report to government.
- Final publication pending. Standards enforcement? Accreditation? WHO?
- Resource: <https://nwl.hee.nhs.uk/our-work/non-surgical-cosmetic-interventions/>



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# ADVERTISING STANDARDS COMPLIANCE

- The British Code of Advertising, Sales Promotion and Direct Marketing – ‘The Code’
- Created, revised and enforced by Committee of Advertising Practice (CAP)
- Policed by Advertising Standards Authority (ASA)
- Adverts must not mislead the public or make unsubstantiated, unrealistic or exaggerated claims – both about products/treatments and providers.
- Even applies to social media !
- Resource: [www.cap.org.uk/Advice-Training-on-the-rules/Help-Notes/Cosmetics-interventions-marketing.aspx](http://www.cap.org.uk/Advice-Training-on-the-rules/Help-Notes/Cosmetics-interventions-marketing.aspx)

# TRAINING

**How thorough is the training course? Will it give you enough knowledge?**

**Is it aimed at your entry level?**

- Not all training courses are equal – look for long-standing, reputable companies
- Bear in mind not all training houses/suppliers will train non-medics - varies
- Pre-requisite skills (NVQ levels), foundation training may be required – anatomy etc.
- Is the course long enough? Do you get hands-on supervised practice? How many delegates per session? Do you get paperwork to take away for continued learning?
- Is the trainer able to answer all your questions?
- What about emergency training?

# COMPETENCY

**You have your training certificate but can you do the treatment competently on a member of the public?**

- This goes back to scope of practice – you may have had the training (one day course?) but can you do it competently
- How much practice do you need?
- Do you know what to do if something goes wrong?
- Is advanced training an option?

# SUPERVISION

## Do you need a mentor or adviser?

- Will the training company offer any follow-up help and advice?
- Can you find a local mentor to help you continue to learn?
- Do you want to practice under supervision?
- Even if legally you don't require one, you may wish to consider having a mentor/adviser and to find out about opportunities
- If you can't deal with a complication, who will you turn to?

# INSURANCE

**Can you get appropriate and adequate cover to insure you to perform a treatment?**

- Pick insurance companies or brokers who know and understand the sector
- Not all companies will insure you for all aesthetic procedures
- Insurance underwriters assess risk only, so getting insurance can be easy, but small print could mean it means nothing in a claim situation



# SUPPLY CHAIN

## Where are you going to source products from?

- Buy quality products
- Source from reputable suppliers, wholesale pharmacists
- Don't be tempted to buy cheap online imports from China or eBay
- If suppliers are reluctant to sell you products due to your non-medical status, find out what training or accreditation is available to you to undertake (HEE?) or consider if this is really an appropriate option for you.

# SUMMARY

I am not trying to put you off !

- Can you legally perform a treatment?
- Think about your own professional and ethical capabilities and competencies
  - Will you be putting people at risk?
  - Do you know what to do if something goes wrong?
- If something does goes wrong, could it ruin your core business or long-standing reputation?
- Before you invest in training or equipment:
  - Get advice from regulators and authoritative organisations
  - Check you can get appropriate and adequate insurance
  - Don't believe everything suppliers and trainers tell you
  - Do you own research



**Good Luck!**



# RESOURCE REMINDER

- General Dental Council FAQs on Teeth Whitening - [www.gdc-uk.org/Membersofpublic/Illegalpractice/Pages/FAQs.aspx](http://www.gdc-uk.org/Membersofpublic/Illegalpractice/Pages/FAQs.aspx)
- HEE Training Standards Review for Non-Surgical Cosmetic Intervention - <https://nwl.hee.nhs.uk/our-work/non-surgical-cosmetic-interventions/>
- Advertising Standards Compliance Guidance for Cosmetic Interventions - [www.cap.org.uk/Advice-Training-on-the-rules/Help-Notes/Cosmetics-interventions-marketing.aspx](http://www.cap.org.uk/Advice-Training-on-the-rules/Help-Notes/Cosmetics-interventions-marketing.aspx)