



**Lippes Mathias** LLP  
ATTORNEYS AT LAW

# Medical Spa Legal Seminar

What to consider when opening and operating a  
Med Spa in New York State

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# Goals for Today

1. What is a “Med Spa”?
2. Who can own a Med Spa in New York State?
3. How do you form a professional entity?
4. What do you need to consider when operating a Med Spa?

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What is a “Med Spa”?



# What is a “Med Spa”?

- **Growth:** Reports have estimated the med spa market to be worth over \$16 billion, with the number of med spas increasing rapidly each year.
- **Definition:**
  - No standard legal definition of “Med Spa”
    - Definition of “Medicine” – N.Y. Educ. Law § 6521
    - Definition of “Nursing” – N.Y. Educ. Law § 6902
    - Definition of “Nurse Practitioner” – N.Y. Educ. Law § 6902
  - Will likely depend on the types of services provided -- does anything “pierce the skin”?
- **Examples of Services:**

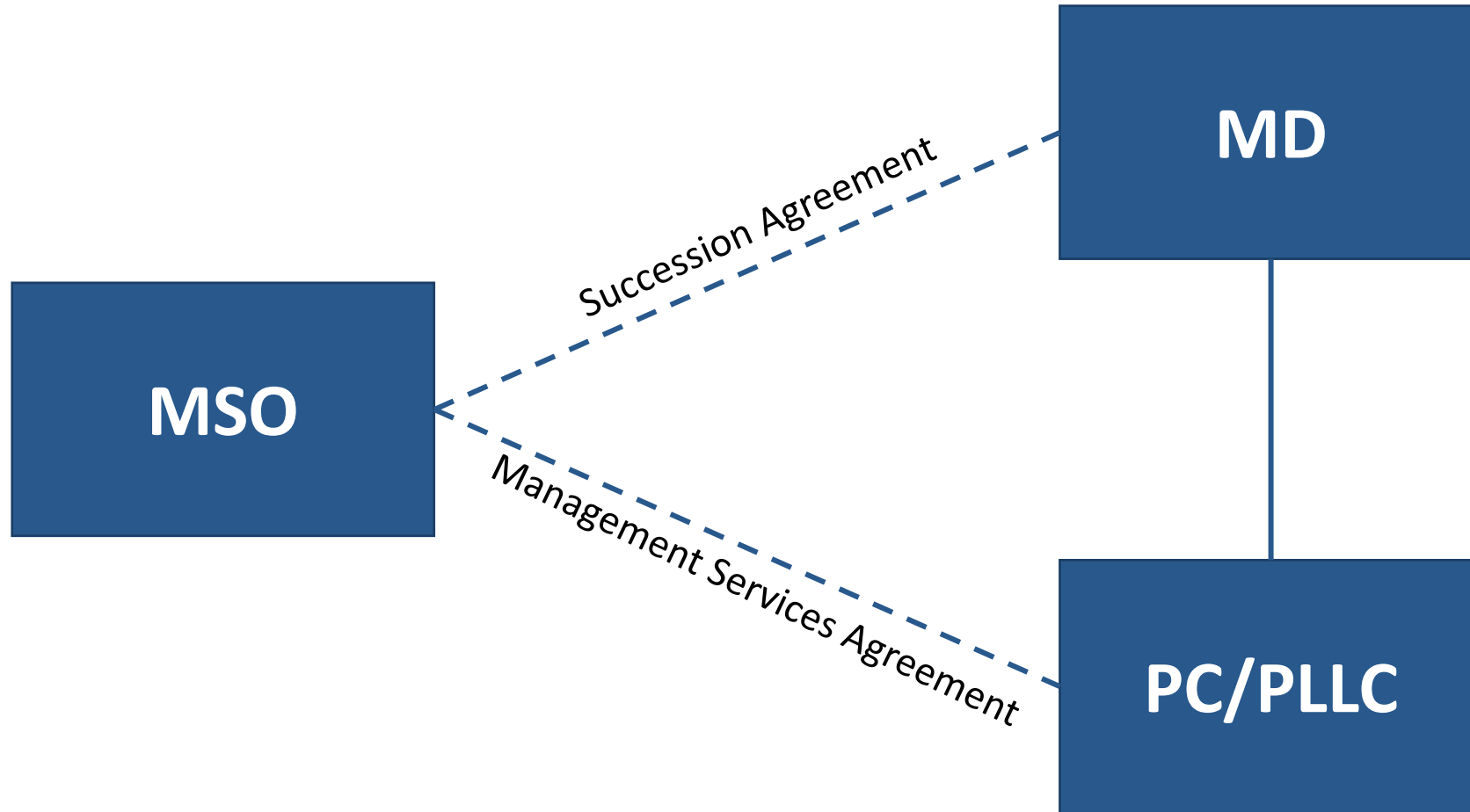
• IV Therapy	• Acne Treatments	• Platelet-Rich-Plasma
• Botox Injections	• Microneedling	• Microblading
• Vitamin Injections	• Hair Removal	• Dermaplaning
• Chemical Peels	• Facials	• Body Contouring
• Laser Treatments	• Fillers	• Peptide Therapy

Who can own a Med Spa  
in New York State?

# Who can own a Med Spa?

- **CPOM:** New York State prohibits the “Corporate Practice of Medicine”
  - Professional services can only be offered by licensed professionals or authorized professional organizations.
  - Unlicensed individuals or firms, including business corporations, cannot offer professional services (this includes owning a professional entity or employing licensed professionals)
  - Professional licensees may not split fees with unlicensed persons.
- **Entity Types:** professional corporation (“PC”) or professional limited liability company (“PLLC”)
- **Owners:** Must be a NYS licensed NP or MD
- **MSO/PC Structure**

# MSO/PC Structure





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How do you form a  
professional entity?



# How do you form a professional entity?

1. Select entity type - typically a PC or PLLC
2. Choose a name - must include the profession being practiced; the word “Spa” is not permitted
3. Owner - must be an MD or NP
4. Apply for Consent from the NYS Education Department, Office of the Professions
5. Wait...
6. File Consent with NYS Secretary of State

What do you need to consider  
when operating a Med Spa?

# Med Spa Operational Considerations: Speed Round!

- Human Resources
- Medical Records
- Informed Consent
- Policies, Procedures, and Protocols
- Adverse Events
- Data Protection and Privacy
- Licensure, Permitting, Registration
- Pharmacy Rules (compounding, controlled substances)
- Ordering Supplies and Equipment
- Banking
- Insurance (including professional liability insurance)
- Contracts (medical directors, employees, independent contractors, vendors, landlords)
- FDA Requirements
- Prescriptions and Standing Orders
- Provider-Patient Relationship
- Physician Collaboration and Supervision
- Avoiding Fee-Splitting
- Other Licensed Services
- Professional Misconduct



# TAKEAWAYS

# Takeaways

- Beware of CPOM laws.
- Stay within your scope of practice and know your limitations.
- Contact your licensing board often.
- This is an emerging area, laws will change.

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QUESTIONS?





Navigating what's next.



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