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Post-bariatric survey reveals procedures more common – with room for growth

BY LYNN YOFFEE

Bariatric surgery is opening doors to a relatively new and expanding area of practice for plastic surgeons. Approximately 92 percent of plastic surgeons now perform body contouring surgery after massive weight loss, according to a survey by the ASPS/ASAPS Post-Bariatric Surgery Task Force. However, the survey also showed that most physicians are still deriving a relatively small percentage of their income from this subspecialty.

ASPS/ASAPS Post-Bariatric Task Force Chair J. Peter Rubin, MD, Pittsburgh, says the field will continue to grow and suggests there is plenty of space for surgeons interested in doing post-bariatric body contouring.

“If you look at the demographics of post-bariatric body contouring, we had about 65,000 cases last year and that’s a significant number,” says Dr. Rubin, who is also director of the Life After Weight Loss clinical program at the University of Pittsburgh. “This is a high growth area for our field, and we’re starting to see physicians choosing it as a focus. But, like some other complex areas of practice, plastic surgeons need to have a certain infrastructure to handle those patients as well as a steady referral source.”

Dr. Rubin says that 95 percent of his practice has been focused on this type of patient for the past several years. “In my geographic area, there’s a history of a high volume of bariatric cases. There was a great need for these services afterwards, so it was a very fertile environment for me to build on.”

ASPS/ASAPS Post-Bariatric Task Force Vice Chair Felmont Eaves III, MD, Charlotte, N.C., estimates that 25-50 percent of his practice revenue is already generated by post-bariatric surgery – and he expects that percentage to increase. In fact, the ASPS National Clearinghouse of Plastic Surgery Statistics showed a 22 percent increase in body contouring procedures (68,000) after massive weight loss from 2004 to 2005 – the

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Battle of the blogs

Negative web logs targeting surgeons increasing – but tools to fight them are available

BY JIM LEONARDO

The Internet is a valuable tool in the exchange and transfer of information, but, like many tools, it can also be misused in a way its creators never imagined. New York plastic surgeon Sydney Coleman, MD, knows this

all too well – he is the target of a disgruntled patient’s campaign to destroy the physician’s reputation by posting defamatory entries on multiple medical web logs, or “blogs,” and even creating new websites to further disparage the doctor and mislead potential patients.

The trouble began shortly after Dr. Coleman performed corrective plastic surgery on the patient, who, after leaving the recovery room, was never again seen by the physician or his staff. Several weeks later, however, the patient telephoned the practice insisting that Dr. Coleman pay his airfare from Chicago to New York for a follow-up appointment – and if Dr. Coleman refused, he threatened to use the Internet to damage his practice.

Dr. Coleman refused, and the patient began his online assault. “First he began

posting on blogs to disparage me and got kicked out of them for making trouble,” Dr. Coleman says. “He then went outside the United States and, in that host nation, registered a domain name that was very similar to my name, in order to launch a website attacking me.” The patient was able to get the domain name into an Internet search

engine, allowing his attack website to pop up near the top of the list for anyone searching for Dr. Coleman.

Often, those who launch such destructive assaults hide behind a curtain of anonymity and are hard to find, much less stop. It ultimately took Dr. Coleman seven months of litigation to shut down the offending website and get back the rights to his own name – but the problem has not gone away. Recently, the patient registered yet another domain name that includes one of Dr. Coleman’s signature procedures, and he was able to position it in a high-visibility

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“pay-per-click” position at the top of a popular search engine’s webpage – so that anyone who seeks information on the procedure will first see this “advertising” link. (This is typically not allowed if a name is a registered trademark.)

The new site contains several patient photos that aren’t of his work and which also have been sent to disciplinary and investigative bodies in an attempt to ruin Dr. Coleman’s reputation with the public, the medical community and related administrative boards.

“It’s guilt by association through this website,” Dr. Coleman says. “I have patients asking me about this site all the time, and I have seen an effect on my patient base. This is extortion with a malice that is overwhelming.”

Dr. Coleman is considering going through the legal process again to shut down the latest website, but it’s costly and time-consuming action, he says. In the interim, Dr. Coleman has devoted the website www.drscydneycoleman.com to informing patients of the deceptive site and refuting its false allegations.

World Wide Web – of deceit

Blog authors (a.k.a. “bloggers”) have become the 21st century’s version of the town crier, with their posted messages spanning the globe in a few seconds’ time. Blogs, in particular medical blogs, can be useful sources of information when their authors have an honest desire to put forth facts or accurate accounts of their experiences, but a blogger who wants to damage another’s reputation needs only to post misinformation about their intended target; it’s as easy as typing a few paragraphs and hitting the “enter” key. No reliable safeguards exist to restrain the blogger from posting lies and the issue of free speech prevents misinformation-related policing and policymaking.

The same is true for websites. As with blogs, websites can inflict damage through misinformation, but with a twist: They can misdirect unsuspecting visitors searching for truthful information about a particular plastic surgeon to another website with a variation on the name. Instead of entering a legitimate website maintained by the physician, visitors are greeted by misinformation and defamation. The principle of openness that makes blogs so attractive also invites website crackpots and hucksters.

To truly understand the depth of potential damage that can be inflicted upon those targeted by “poison” blogs or deceptive websites, it’s necessary to understand the breadth and reach of both Internet vehicles.

According to Technorati (www.technorati.com/about), an Internet search engine devoted solely to tracking blogging, as of late January more than 63 million blogs were in operation worldwide and 170,000 were being created daily. Technorati estimates that nearly 3 million blogs were created in the third quarter of 2006 alone, with an average of 1.3 million postings per day.

Netcraft, a website devoted to tracking Internet technology, reported in late November that the Internet hosted more than 100 million websites, a gain of 3.5 million from October. (In comparison, the total number of Internet websites reached 1 million in April 1997.)

Due to the Internet’s reach and continuing growth, it’s clear that the potential harm caused by malicious use of blogs or websites that target plastic surgeons can be widespread and have lasting effects. The good news is that defamatory and libelous speech are always illegal and can be stopped. The

What should you do when you’re the target of an attack blog?

Steps to take when faced with blogs that contain defamatory statements – or websites so close in name that they misdirect potential patients to a website that contains defamatory or maliciously intended materials – include:

- Ignore it (in mild cases).
- Have a satisfied patient visit the blog or website and post that they’ve had a positive experience.
- Visit the blog or website and refute the misinformation (but the possibility of extending the negativity following the post exists).
- Buy for a relatively inexpensive price all the domain names that are close to the physician’s or the practice’s name (godaddy.com is an example of where to buy these).
- Google the physician and/or practice name weekly to see what’s being written about the physician online.
- Hire an attorney who specializes in Internet law. [PSM](#)

bad news is that once libelous claims are posted online, the battle to remove them will require time, effort and money.

Open season on blogs

It seems that any blog, no matter how innocuous, can attract detractors. Even plastic surgery blogs that strive to provide only basic information on topics of general interest can draw bitterness and bile.

Robert Oliver, MD, Birmingham, Ala., says he strives to inform the public of new procedures, breakthroughs and other basic problems and conditions through the blog he’s been running for slightly more than one year. The responses generally have been positive, but some responding bloggers have forced Dr. Oliver to install a feature on his blog that allows him to delete comments.

“I tend to address diverse topics such as face transplants and staph infections, and silicone gel breast implants before and after they gained ‘approvable with conditions’ status from the FDA,” Dr. Oliver says. “It’s an outlet for me and covers things that I find interesting rather than serving as a practice builder.

“But I’ve had people – particularly after any of my silicone implant posts – put in comments not necessarily directed at me personally, but about how ‘greedy and evil’ plastic surgeons are,” he says. “Some people started causing mischief and some were getting vulgar; I was forced to put in a function to moderate the comments. Unfortunately, if you leave your blog wide open with no editing or protection, you get people who will abuse the freedom and anonymity of the Internet.”

Trying to make sense

Neal Reisman, MD, JD, Houston, ASPS Professional Liability Insurance Committee member and co-leader of a Plastic Surgery 2006 panel titled, “You’ve Been Sued – Why and What Now?” says patients who use the Internet to damage a plastic surgeon’s practice usually have one of two motives: They are angry over their real or perceived treatment by the physician or staff and feel compelled to lash out in any manner at their disposal, or they have demanded a refund and/or other financial compensation for work they deem to be substandard – contrary to objective standards – and they want to exact revenge in a public forum when their demands are not met.

“We’re not talking about rational patients who are upset with an outcome,” Dr. Reisman says. “This is a group that is very manipulative and mean-spirited, who not only try to get their money back, they try to get even. It’s as if they think the practice did something to hurt them, and now swear ‘I’m going to get them back.’”

In past years, such a patient would threaten to go to court, “but now the threat is, ‘If you don’t give me X dollars, I’m going to go to a patient blog and tell them what a bad doctor you are and what you did to me,’” he says.

Dr. Reisman adds that the anonymity of blogging and the difficulty in assigning legal responsibility – who or what should be held responsible – make it hard to hold accountable the people who post defamatory statements and the entities that post them. Plastic surgeons have every right to feel besieged, he says.

“These physicians do good work, but then they somehow wind up deflecting vicious rumors that are being published worldwide,” Dr. Reisman says. “This is an extremely frustrating situation.”

Where is the line?

According to Dr. Reisman, a fine line exists between a negative opinion of an outcome or physician and a statement that’s purposefully deceitful or defamatory.

“People have a right to their opinion,” he says. “They may say, ‘Don’t go to this doctor – he or she is cold or impersonal. I don’t like the staff and the office is horrible.’ But while you might not like it, you can’t challenge these statements because they’re protected free speech.

“However, postings that endanger the public or are clearly misrepresentative, lies or defamatory significantly change that legal landscape,” he adds. “For instance, lies such as, ‘The physician overcharged me, used unsterile instruments, went outside the standard of care which led to complications or fondled me,’ could very well be actionable in the legal system.”

University of Illinois College of Law professor Larry Ribstein, JD, Champaign, Ill., agrees with Dr. Reisman’s assessment. “If the postings say, ‘This guy’s a crummy doctor,’ chances are this situation won’t rise to actionability,” says Ribstein, author of *From Bricks to Pajamas: The Law and Economics of Amateur Journalism*, an academic paper on Internet communication.

“If they say something much more specific, such as pointing to the details of a medical procedure and simply lying about them, that goes far down the line toward being actionable,” Ribstein says.

Dr. Reisman says a website that plays off a physician’s name or specialty procedure to deceitfully direct visitors to it is also actionable, notwithstanding the absence of false or defamatory postings.

To carry out the scam, a clever Internet user determined to damage the reputation of his or her plastic surgeon – let’s say “Dr. Jane M. Doe,” could obtain a web domain and call it “Dr. Jane A. Doe,” which hasn’t been

reserved. If someone were to run a Google search on Dr. Doe, “Jane A.” will come up before “Jane M.” but the unwitting visitor will go to the “A.” site, where this unhappy patient would post negative information.

“They have no right to have a website with my name,” he continues. “That is intentionally deceitful and confusing, and it can directly harm my practice and my reputation. If patients go to this website before my website because of the minor change of name, that’s a misrepresentation designed to confuse the public. That’s actionable.”

John Dozier, founder and president of Dozier Internet Law PC, Glen Allen, Va., maintains that “misdirection” websites are perhaps the most damaging form of Internet deceit perpetrated against physicians.

“The most harm to a physician can come from these websites, many of which contain damaging images along with damaging words,” he says. “Images often can be more powerful than words alone. And taken together, words and images can have a fairly potent cumulative effect. You need to look at the two taken together” to gain the full view of how damaging the website can be.

Dozier, whose firm specializes in combating Internet communications abuse, recently completed a case in which a plastic surgeon found that his reputation was being dragged through the mud by a patient who posted false information and deceptive images – including photos that falsely purported to represent the patient’s surgical outcome after treatment by the physician. Dozier helped the plastic surgeon shut down the website, he says.

Fighting back

When targeted by a malicious blog or website, a common dilemma plastic surgeons may face is knowing whether it makes more sense to fight or to walk away. Free speech issues have become enmeshed with Internet abuse cases, so it’s not surprising that no legislation exists to control web-based speech or punish individuals or sites that post purposefully false information. Therefore, plastic surgeons likely will need to take matters into their own hands.

Dr. Reisman says that depending on what’s being written, and where and how it appears, an aggrieved plastic surgeon has three courses of action: Ignore, respond or go to court.

“If the issue is a blog that’s truthfully presented, you could have one of your patients visit it and have him or her provide a brief refutation,” he says. “They could simply post, ‘That’s not my experience at all,’ and leave it at that. The physician could answer it, but the likelihood exists that the more you respond, the more you escalate the situation – although it’s very hard to remain silent when someone is lying about you.”

However, Dr. Reisman says he would certainly consider aggressive action to put an end to a misdirection website. “I might hire a lawyer and try to have the courts shut that page down; in this instance, I’m not trying to suppress free speech,” he says. “Defamatory and confusing speech is not protected, it’s actionable.”

One plastic surgeon faced with such a website fought for six months and paid several thousand dollars to have it removed. “He did it,” Dr. Reisman says. “It took some work, but the results were there. In this case, it was worth the effort.”

Dozier says most of those who post with malicious intent don’t have the resources to undertake a court battle, so winning a damage judgment would not be difficult under normal circumstances. Unfortunately, they also would very likely have few resources to compensate a physician for

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damages, he adds.

There are multiple fronts on which to do battle with misdirection websites – including trademark infringement – and multiple parties may be culpable or at least share a burden of responsibility, Dozier says. Because of that, he recommends that at the first hint of trouble, physicians should contact an Internet attorney (see sidebar on page 35).

Grab those domain names

There are several legal avenues to address “poison” blogs and misdirection websites, but they are nuanced, Dozier says. Knowing when and whom to contact to request a website’s removal or writing an appropriate “cease-and-desist” letter that doesn’t give the perpetrator a chance to change his or her tactics can be difficult and time-consuming. Therefore, he recommends that plastic surgeons resist the urge to take matters into

their own hands and instead leave such action to an Internet attorney.

In the meantime, Dozier has several pieces of advice for plastic surgeons who want to block misdirection web pages. First, purchase all the Internet domain names possible that come close to the physician’s name or his or her practice name. One site, *godaddy.com*, will sell domain names for about \$9 per year.

“Purchase all the variations of your name and your practice, which might amount to 40 domain names,” Dozier says. “Next, sign up for a Google service alert that gives daily or weekly reports on where the name is being picked up on the Internet. Then on a weekly basis type in all the names you’ve purchased and check to see if someone’s attacking you. It might take you 10 minutes a week and cost a few hundred dollars, but you’ll be tipped off early.

“We’ve had people come in one-and-a-half years after the problem started, and their business was hurt,” he adds. “If you can get to the problem early, you can mitigate the damage.”

Heading off trouble

The surest way to deal with problem patients can be summed up in one statement, says Dr. Reisman: It’s easier *not* to get in than it is to get out. Use your best judgment in patient selection – don’t take on those you feel will be problematic, no matter what.

Dr. Coleman’s experience is a prime example of this principle. He reluctantly performed the corrective procedure against his better judgment on the patient who went on to start the “poison blog” – Dr. Coleman initially declined to treat the problematic patient not because there wasn’t a problem that needed correcting, but rather because the patient’s personality was so unpleasant.

“But he kept after my office staff, and he kept telling me that he was having a very hard time dealing with the result of that previous procedure, which was performed by another plastic surgeon,” Dr. Coleman says. “Eventually, I decided to try to help.”

He says that decision “became one of the biggest problems of my life. When I cancelled him, he should have stayed cancelled.”

In the current environment of Internet abuse, Dr. Reisman advises plastic surgeons who contemplate offering a refund or complimentary corrective surgery to a problematic patient to include language in the consent form that prohibits them from discussing or disclosing anything about the treatment, and prohibiting any discussion or disclosure from being posted on a blog, website or even in an e-mail.

Taking such precautions might keep your good name and reputation in practice from being tangled in a worldwide web of deceit. [PSW](#)

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