Private Labels: A Great Business Opportunity

Maximizing Profits, Minimizing Risks

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The private labeling of face and body skin care products is an excellent way to reinforce your practice or spa brand while increasing your profit margin. There are two ways to do this – you can private label existing products or you can create a new product with your own proprietary formulation.

Typically, private labeling is done with high-end, over-the-counter (OTC) skin care products. However, some medical practices go beyond OTC, co-venturing with compounding pharmacies to private label either custom-made or ready-to-use prescription skin care products. Both OTC skin care and prescription products can be marketed out of your medical practice or your medical spa.

Private labeling is most valuable when it supports your overall branding and positioning, reinforcing your professional image and status with patients and prospects. In this way, it helps to extend your brand outside your four walls, leading to word-of-mouth marketing and a greater overall awareness of your practice or spa. This is important: To be truly effective, private labeling should do more than generate revenue – it should reinforce the underlying values you and your spa or medical practice espouse.

With your name on a private label product line, customers will believe that you have added value to these products – in addition, they’ll take your name on the label as an endorsement of the products. Therefore, practitioners should only private label products that contain high-quality, results-generating ingredients. Continued
PRODUCT SELECTION

If you are having your own products custom formulated, the ingredients must be pure, wholesome and safe – to achieve this, only work with a formulator with a solid reputation for success and the highest professional standing. This is your name on the product, so it’s up to you to pick a formulator you can trust with your own reputation.

If you’re rebranding another company’s products, make sure that those products are not available at corner drug stores or even salons or non-medical spas. Instead, the products you choose to private label should be available to the public only from medical practices or high-end medical spas. Finally, you should seek and obtain some type of geographic market exclusivity – you don’t want “your” products available from a nearby competitor.

COSMETIC LABELING AND PACKAGING REQUIREMENTS

Once you have decided to private label a product line and have chosen the line of products, the next step is to create an effective, professional and compelling label. All cosmetics and drugs marketed in the United States, whether they are manufactured here or imported, must comply with the federal Food, Drug & Cosmetic (FD&C) Act and the Fair Packaging and Labeling (FP&L) Act, as well as the regulations published by the U.S. Food and Drug Administration (FDA).

Carefully following all of these guidelines is critical to anyone venturing into private labeling. Note that the labeling guidelines for drugs are different from those for cosmetics.

The FDA defines a cosmetic as a product that is “intended to be applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.” This definition applies to all topical skin care products, with the exception of soap. In short, a cosmetic has a physical rather than a physiological effect and a drug has a physiological rather than just a physical effect.

Every cosmetic package must accurately represent the quantity of the content, generally (but not always) stated in ounces. In addition, all packages must be branded accurately.

When it comes to branding the package, the FDA considers a product to be misbranded if, for example:

- The labeling is false or misleading.
- The label fails to include a warning statement, when needed, or neglects to list the ingredients, among other factors.
- The label does not state the name and business address of the manufacturer, packer or distributor.
- The label does not accurately state the net quantity of the product in the package or misrepresents the fill size.
- Required information is not stated prominently on the package – it must be sufficiently conspicuous to be read and understood by consumers under customary conditions of purchase and use.
- Ingredients, warning statements and fill sizes do not meet the minimum required type-face size regulations.

Finally, claims that are made on the label as well as claims made in marketing the product must be carefully considered. A cosmetic may unintentionally be classified as a drug if claims are made that the product intends to have physiological effects, rather than just physical effects. This applies even if the cosmetic does not contain any prescription ingredients.

A product can be a drug, a cosmetic or even a combination of the two. While drugs are required to be reviewed and approved by the FDA before they can be marketed, the FDA does not approve cosmetics. Yet, if a product acts like a drug or is marketed as having a “drug-like” effect, then the FDA must approve it as a drug before it can go on the market.

Claims such as “moisturizing” or “softening” are considered a physical effect and are properly used for cosmetic marketing. However, claims such as “increases collagen production” or “minimizes wrinkles” have been determined by the FDA to imply a physiological effect, which makes such products “drugs” requiring FDA review and approval before marketing.

In deciding whether a product is a cosmetic or a drug – or a drug and a cosmetic – the FDA relies on what is presumed to be the consumer’s perception of the meaning of a label statement.

Some cosmetics makers use the term “cosmeceutical” to refer to cosmetic products that have drug-like benefits. Continued
However, “cosmeceutical” has no meaning under the law – which means there is a legal risk to using this term as a marketing tool because a consumer may perceive the product to be a drug rather than a cosmetic. It is best to avoid branding cosmetic products in this manner.

The FDA’s packaging guidelines may seem intimidating to a physician with no practical legal experience in product labeling, but they need not be – so long as you consult experts who know the rules and how to abide by them. By working with the highest-quality product formulators and by seeking out an attorney who is skilled in dealing with the FDA’s seemingly technical regulations, you will avoid both misbranding and inaccurate marketing messages. You will also have the best chance of avoiding legal or regulatory problems that might otherwise arise.

THE BOTTOM LINE

Thousands of doctors and medical spas safely and successfully produce and market private label products. They do so without incurring any problems, but there are good reasons for their success. First, all of them deal with the best-quality product formulators, using the highest-quality product components. In addition, all are protected by the preventative actions of savvy attorneys who understand the rules governing labels and trademarks for private label skin care products.

If done correctly, private labeling will generate profits while spreading your name well beyond the four walls of your practice or spa.

Here are three simple steps to help ensure the success of a private label product:

1. Use a professional over-the-counter product compounding lab to create and manufacture the product on your behalf. If you are relabeling a prescription skin-care item, you should only deal with the most reputable pharmaceutical manufacturer.

2. Once your product line is formulated, use the services of a professional product-marketing consultant to bring your product to market in the most profitable and effective manner. Essentially, the consultant will help you brand it, package it, price it, position it, market it and profit from it.

3. Before taking your product to market, make use of an attorney who is knowledgeable in the laws regulating over-the-counter cosmetic and/or prescription skin care labeling. Your specialist attorney is there to ensure that the product meets labeling requirements as well as to clear brand names and trademarks, avoiding the risk of unintended infringement.

You can find detailed information about the marketing aspects of adding private label products to your practice in the new book written by the founder and CEO of Beautiful Forever, Cheryl Whitman. *Beautifully Profitable / Forever Profitable* is available from the author or from Amazon.com. For more practice-specific or product-specific information, contact Cheryl at [http://www.beautifulforever.com](http://www.beautifulforever.com), via email at cheryl@beautifulforever.com, or by phone at 877.772.6334.

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