

Storm Clouds On The Horizon

Is A Turf War Brewing Between Physicians and Estheticians?

Is It About Money, Safety or Politics?

By Carol and Rob Trow

Introduction

Over the past twelve months, there is a growing movement in many states to dramatically change the way spas, med-spas, skin care professionals and certain physicians may conduct their businesses or perform certain aesthetic services. This is a very serious issue that could affect the livelihood of skin care professionals along with the aesthetic practice of physicians who are neither dermatologists nor plastic surgeons. In material ways, pending legislation in some states could cause many aesthetic businesses to close and drastically affect the income of estheticians. The reasons for this pending legislation are both valid and invalid.

Is this movement brought on by concerns for public safety, politics, money, or greed?

Why is this happening? What can be done to derail this oncoming train to avoid a head on collision between some state legislatures, selected licensure bodies, physicians and estheticians?

With 11,000 people in the United States turning 50 years of age every day and the public's overwhelming increased interest in looking younger, the stakes are high for who can or cannot perform non surgical cosmetic and skin care procedures.

Massachusetts – A Case in Point

To highlight the issue, we are going to discuss events over the past year in one state, Massachusetts. While this is not the only instance, it serves as an example of what is transpiring in several states, what could happen in yours and how to effectively address the legitimate concerns raised by state legislatures in a professional and positive way to ensure the highest level of services to the public without disenfranchising estheticians, spa and some med spas.

The Commonwealth of Massachusetts State Senate introduced a bill (Senate Bill 1281) with the title "Requiring Licensure and Professional Standards for the Protection of Consumers of a Medical Spa" (<http://mass.gov/legis/bills/senate/185/st01/st01281.htm>). If passed this bill would require a spa or med spa to have a dermatologist or plastic surgeon as a medical director present on site at all times during the performance of all aesthetic procedures including the following: microdermabrasion, peels of any kind, use of lasers including for hair removal, IPL, injectables and fillers.

Some say the proposed Massachusetts Senate Bill 1281 is motivated by the economic self interest of a small group of specialists while other believe it is driven by a sincere interest in public safety.

If you read the wording carefully, if passed, this would exclude the myriad of physicians who work in the med spa and aesthetic field who are not board certified dermatologists or plastic surgeons.

At the present time, all physicians may oversee and supervise aesthetic services by those they think competent whether the physician is on site or not. Further, they do not have to be a board certified dermatologist or plastic surgeon. Presently there are many physicians who have entered the realm of aesthetic medicine including those who are board certified in fields such as Ear Nose and Throat (ENT), Oral and Maxillary Surgery, General Surgery, Internal Medicine, OBGYN, and the like.

Most, if not all, of these doctors have taken advanced education to learn how to perform limited aesthetic procedures. In addition, many skin care professionals who have obtained certifications and professional education to use certain classes of devices (e.g. microdermabrasion, light peels, laser hair removal, IPL, LED) would be forbidden to continue to perform these tasks if Massachusetts Senate Bill 1281 passes as written despite the fact that their respective licensing boards currently allow these to be done with appropriate training and certification.

Turf War or Public Safety Concern

Is this simply a case of a battle brought on by deep and legitimate concerns for public safety or other factors such as territorial issues and money? Could it force many aesthetic practices and med spas out of business despite many years of serving the public with impeccable safety records and lower cost treatment procedures? The simple answer to both seemingly diametrically opposed justifications is "yes" to both sides of the battle.

A recent study by the International Association for Physicians in Aesthetic Medicine (IAPAM) finds that the public is going to physician run practices and med spas for non surgical cosmetic procedures. Jeff Russell, the executive director of IAPAM states that "you are as likely to find a Botox brochure in your

family physician's offices as in plastic surgeon's". The number of med spas in the United States has grown from under 300 in 2004 to over 3,000 today, and climbing weekly.

As an example of what is happening, let's look at Botox injections in plastic surgery offices. The American Society for Aesthetic Plastic Surgeons reports a 12% decline in members performing Botox injections. Yet, for the same period Allergan, the maker of Botox, boasts of a 29% increase in sales. Russell feels this shows that the public is more accepting of having injectables, lasers, IPL, LED and other non invasive procedures performed outside of a plastic surgeon's office. More and more dermatologists are making room in their practices for cosmetic procedures.

A Boston TV station, WHDH-TV reports that they found dermatologists book cosmetic patients sooner than those concerned about skin cancers and suspicious moles or full body checks for full body skin cancer screening. (<http://www!.whdh.com/features/articles/specialreport/BO67043>). Is the priority to service cosmetic patients over medical patients by some practices? The answer is "yes" for many offices.

But, is the public safe if physicians other than board certified dermatologists and plastic surgeons perform non surgical cosmetic procedures and if licensed estheticians offer services such as microdermabrasion, light peels, laser hair removal, IPL and LED? The answer is "yes" and "no". The solution lies in improved licensing requirements, advanced education and training. There are now national standards for aesthetician training. The differences in licensing requirements and device training/certification between states are legendary. One measure of how well estheticians are performing certain services is the amount of insurance claims. In Massachusetts, the claims are less than .01 %, a very small number indeed.

A Medical Spa Task force has been formed in Massachusetts to address the issues surrounding Senate Bill 1281. Working in a collegial manner and focusing on safety issues, the group is making progress on defining the scope of treatments and procedures that can be performed by non Board certified dermatologists or plastic surgeons including by other physicians and estheticians.

One of those speaking before the Task Force, Ms. Josephine Torrente, a past president of the Manufacturers of Equipment for Light Based Aesthetics said that physician on site supervision is not the answer to safety concerns but rather training and education. She pointed out that while there is less than a 1% adverse effect rate, it is related to education and training not the Board certification of the physician, if the supervising medical professional is on site or not, or if a properly trained aesthetician performed the procedure. (Task Force Minutes – June, 21, 2007).

If your state is considering regulations similar to what is transpiring in Massachusetts, it is worthwhile reading the published minutes of this group (http://www.massmedboard.org/public/med_spa.shtm). There has also been mention of limited ownership or supervision of med spas with multiple sites by the same ownership.

What Estheticians and Physicians Should Do – A Call for Action

As professionals in the skin care field, you should embrace concerns about public safety. Estheticians should get out in front of the curve and seek ways to demonstrate that safety and efficacy are of paramount importance to their profession. Further, embrace the licensing boards in your state as having the legal right to propose and monitor the terms and conditions of what you can and cannot do.

Set up ways to work collegially with them on establishing training and certifications to demonstrate that those estheticians performing specific procedures have been adequately trained. Advocate for mandatory continuing professional education.

Clearly set out what procedures and devices you feel an aesthetician can and should be able to perform and those that are out of your purview. The same should be said for physicians who are not Board certified dermatologists and plastic surgeons. Do not overreach. Know your limitations. Embrace education, training and independent certification requirements.

Medical and Aesthetic Professional Organizations

Make sure your professional associations monitor what legislation is being considered, has been introduced or is in discussion. **Estheticians should work diligently to join a national organization to work towards certifications, education, training, professional credentialing, and lobbying efforts on their behalf.** An organization like the National Coalition of Estheticians, Manufacturers / Distributors and Associations (NCEA) may be the best place to start (<http://www.ncea.tv/index.html>). They have untied to provide the political voice of the skin care professionals to state legislators and licensing boards as well as the serving as a leading voice for advocacy of national standards through a rigorous certification program.

Contact your local legislatures to make sure you and your colleagues are kept informed. If legislation is pending or introduced, think of organizing your fellow professionals so your voices can be heard as soon as practical. If warranted, seek out the services of professional lobbyists and other interested professional organizations such as NCEA to help ensure your thoughts are properly articulated.

This advice is meant for Board certified Dermatologists, Plastic Surgeons, other Physicians and Skin Care Professionals.

(note – need to add the register mark for Botox)