

Support:

- Medical decisions that are based on patient outcomes and quality of care
- Appropriate onsite physician supervision, oversight and training
- Bans on the practice of medicine in non-hospital facilities which are not at least fifty-one percent physician-owned in the state where the physician is licensed
- Adequate penalties for violation of the corporate practice of medicine bans

Oppose:

- Decision-making based on financial gain
- Large corporately-owned medical spas hiring so-called “medical directors” to supervise “in name only”
- The practice of renting one’s name and medical license in exchange for a monthly fee or percentage of profits
- Inadequate penalties that do not deter physicians from providing deficient supervision

In the interest of patient care and safety, ASDSA opposes the corporate practice of medicine. Laws prohibiting the corporate practice of medicine, for example, disallow a physician from acting as “medical director” of a spa, salon or other facility where cosmetic medical treatments are performed when the physician does not own the practice. ASDSA is gravely concerned with any proposed erosion of proven patient protections.

The problem lies not with the medical spa model, itself, but rather with non-physician-owned medical spas that do not provide adequate physician supervision and oversight. There are many legitimate, safe, physician-owned medical spas that operate with a high standard of patient care. However, lack of regulation and enforcement has enabled a large number of medspas to offer cosmetic medical procedures by inadequately trained or supervised persons to an unsuspecting public. It is estimated by the American Med Spa Association, who states that ideally a doctor should always be on-site, that half of the medical spas operating across the country are not in compliance with the law.¹

Our Association has, on an ongoing basis, received a number of reports from our members who have been solicited to act as medical directors settings in name only, in a medical spa, or “medspa” in exchange for a fee. We have become increasingly concerned about the proliferation of non-physicians practicing medicine and its impact on patient safety. Recent studies conducted by the ASDSA have shown an increase in patient complications resulting from this trend. A 2013 study of laser complications by non-physicians published in Journal of the American Medical Association (JAMA) found that, from 1999-2012, a total of 64% (n=48) of cases related to injury from cutaneous laser surgery performed by a non-physician

¹ I-Team: Med Spa Patients Badly Hurt By Hair Removal, Botox Treatments (CBS Boston) <http://boston.cbslocal.com/2015/09/23/i-team-med-spa-patients-badly-hurt-by-hair-removal-botox-treatments/>

arose in a nonmedical practice setting. Between 2008 and 2011, the same study found that procedures performed in medical spas by non-physicians account for almost 80% of lawsuits.²

Financial incentives for performing medical procedures in a medical spa setting are inherent to the business model, which more closely represents a retail store than a medical practice. Incentives for non-physician providers to maximize revenue generation in a spa can increase the risk of adverse events. Additionally, non-physician providers who are rewarded for performing increasingly more laser services, without proper physician oversight, may also encourage the treatment of patients who are not suitable candidates for laser treatments. This environment may lead to non-physician providers valuing business goals over patient safety.³

A California law passed in 2012 provides an excellent model with regard to appropriate penalties for violation of the corporate practice of medicine ban in medical spa facilities.⁴ The new law provides that when a business organization either employs a California physician, or contracts with him/her to serve as a “medical director” of a health care practice he/she does not own, and the business organization provides medical care that ordinarily can only be provided by the holder of a valid California medical license – actions already prohibited by California law -- that conduct will be subject to penalties that are more proportionate to the risks to which patients are exposed, and more proportionate to the money of which they’re being defrauded.

Before stricter penalties were passed, medspa chains created business management and franchising schemes that violated the law. The too-common practice of lay-owned businesses hiring so-called medical directors was already prohibited but poorly enforced. Prior to the passage of this law, Joint Medical Board/Nursing Board hearings in 2007 concluded better enforcement is needed of existing California law that prohibits laypersons or corporate entities from owning any part of a medical practice.

² JAMA Dermatol. 2014; 150(4):407-411. doi: 10.1001/jamadermatol.2013.7117

³Alam, M; Dover, J.S; Arndt, K.A. Use of Cutaneous Lasers and Light Sources: Appropriate Training and Delegation. *Skin Therapy Letter*. 2007; 12, 5: 5-9

⁴AB-1548 Practice of medicine: cosmetic surgery: employment of physicians and surgeons. Retrieved from: http://leginfo.ca.gov/faces/billTextClient.xhtml;jsessionid=355e2701012f9f9b2b82f015e282?bill_id=201120120AB1548