

MINUTES
MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE
MEDICAL SPA TASK FORCE

April 25, 2007

PRESENT

Task Force Members

Boards:

Nancy Achin Audesse, Board of Registration in Medicine
Gino Chisari, RN, Board of Registration in Nursing
Barbara Kellman, JD, Board of Registration in Nursing
Kathe Mullally, JD, Board of Cosmetology
Catherine Hinds, Board of Cosmetology

Legislature:

Senator Joan Menard

Appointees:

Stephanie Cogliano, RE
Jeffrey Dover, MD
Faye Marie Jenkins, RN
Karen McKoy, MD
Dianne Quibell, MD
Jagruti Patel, MD

Absent:

Jennifer Infurna, Representative Koutoujian staff
Winifred Nee Tobin, Consumer

Board Staff

Russ Aims, Board of Registration in Medicine
Brenda Beaton, JD, Board of Registration in Medicine
Fallon Onufrak, Board of Registration in Medicine

1. Welcome, Goals for Today's Discussion

Nancy Achin Audesse, the Executive Director of the Board of Registration in Medicine called to order the meeting of the Medical Spa Task Force. Ms. Achin Audesse expressed her goal of today's Task Force Meeting which included discussion about scheduling future meetings, general housekeeping issues, and a lengthy discussion to guide the group toward recommendations for Legislature now that the group has learned so much over the past year. The group discussed many complex scheduling issues including possible meeting dates for May and June. It was decided that tentative meetings will be scheduled for May 23rd and June 6th.

2. Discussion of Proposed Regulatory Framework

Ms. Achin Audesse asked the Task Force to look at the draft of the work done by Mr. Chisari and Ms. Kellman that was presented at the last meeting, and asked the group if there were any objections to any of the material. Mr. Chisari and Ms. Kellman's work was the first effort that was done to put something on paper that will eventually be recommended to Legislature. The Task Force was in agreement that they liked the approach of tiering the levels of severity of procedures in order to easily group together the types of procedures and the effects they can potentially have on consumers. Dr. McKoy added a suggestion of perhaps tiering procedures by level of risk rather than severity. Dr. Quibell was in agreement and added that the level of risk is important when categorizing procedures because this profession is dealing with levels of skin, which can be very superficial, and the level of risk seems to be consistent with the Task Force's other approaches.

Mr. Chisari expressed his appreciation to the group for the feedback and described a concern of his that involved leveling the amount of physician supervision that is required for each procedure. He would like the group to be more specific in defining what they are trying to portray when they define "direct" and "onsite" supervision.

Ms. Achin Audesse expressed her interest in discussing the structure of the document, specifically the issue of "where," which she believes can go easily. She said that she would like input from the committee members of the respective committees that the proposed legislation affects. The Task Force members agreed that the details of the document can be filled in by other Boards and Committees (such as the Department of Public Health and the Board of Cosmetology). If the Boards are given a framework to work with, they will be more open to the statutory changes that are being proposed.

While discussing the definition of "medical spa," the types of procedures that are being performed at the spas, and the level of supervision that is required, Ms. Mullally shared her vision that somewhere within a larger structure, there would be part that would be regulated by the Board of Cosmetology and some parts that would be regulated by the other Boards that have licensees working in the medical spa. Under this "umbrella," they

are all working in a “medical spa,” regardless of whether or not they are being regulated by the same Board.

Dr. McKoy raised her concern about the advertising of medical spas. She believes that if a practice is called a “medical spa,” then there needs to be a licensed physician actively supervising the employees every day. The Task Force Members agreed with this notion, and added that it could be deception to the public to have the term “medical” in the name of a business where no medical services are being rendered. The Department of Public Health (DPH) regulates the businesses that offer these types of services, so the Task Force agreed that an important issue that needs to be addressed with regards to the regulations is the ownership structure of the medical spas. DPH regulates the “where,” but the Task Force is working on regulating the “who” and the “what” of the practice.

Ms. Jenkins brought up her concern about the truth in advertising issue that arises from the medical spas. She is specifically concerned about a consumer going to a spa where s/he can get a Botox or other cosmetic procedure done. The consumer may assume that there will be a licensed professional available to contact at all times. If a spa is performing medical procedures only a few times a week, people may go in and believe that there will be someone there constantly when in reality, that may not be the case. Dr. Quibell added that she shares this same concern; however, the Task Force will be unable to recommend legislature that will regulate ethics. The primary goal of the Task Force is to regulate the practice and not the entity, as they can not determine the “good doctors” from the “bad doctors.”

Ms. Achin Audesse raised the point that she would like the Task Force really begin thinking about what is best for the public, and not in the best interest of the individual agencies. For example, the Board of Registration in Medicine may have to rethink some of the ways they regulate the practice of medicine.

The Task Force spoke extensively about the best way to differentiate which rooms in a medical spa were designated for each type of procedure. For example, electrology and cosmetology procedures could potentially be done under the same roof in a medical spa, but it is important for the consumer to be able to know that the procedures are not being done concurrently. This raised concerns, especially by Ms. Jenkins that if the medical spas do not have the physical space or resources to create boundaries for the different procedures being performed, that this would defeat the purpose of differentiating which rooms are for certain procedures. This is an issue that DPH must raise in their regulations to ensure that there are different rooms for each type of procedure being performed.

The group then moved toward a discussion of the accountability of clinicians, and the accountability of the supervising physician. Mr. Chisari raised the issue of what types of procedures or issues are the clinicians and the actual people performing the procedures held accountable for. He would like to hold the individual accountable for the standard of procedures that they are performing. Another issue was raised that according to the

way the regulations are being proposed, if a licensed physician is supervising the facility, than everything that goes wrong in that particular facility will fall under the accountability of the supervising physician. Dr. Dover specifically liked the idea of this accountability toward the supervising physician. If the Task Force is careful, only qualified physicians that are constantly involved in the medical spa that they are supervising will agree to become supervising physicians because the consequences will be so high if something were to go wrong under their direction.

Ms. Jenkins brought up the issue of consumer education and how public safety would benefit from this idea of education. She would like to have a component of consumer education incorporated into the regulations. She feels that this will help educate people that are having the procedures done to be more comfortable with the types of procedures performed in the medical spas.

Dr. Quibell and Dr. Patel both agree with Ms. Jenkins' notion of consumer education. They feel that the duty falls on the physician to educate the consumer. Dr. Patel added an idea of a group dedicated to mass communication so that all professions within the field can come together and publish writings that can be delivered to educate the public. The Task Force agreed with this idea and felt that a few people from the Task Force may want to come together and form a "Patient Education Committee."

3. Approval of Minutes

Ms. Achin Audesse brought forth a motion to approve the meeting minutes of the March 28, 2007 Medical Spa Task Force meeting.

The meeting minutes were approved.

4. Discussion of Proposed Regulatory Framework (continued)

The Task Force began looking at the document that was prepared by Mr. Chisari and Ms. Kellman. The group started looking at the document and deciding what procedures should be classified as a "level one" procedure, and what procedures involve more of the practice of medicine and should be classified at a higher level. Ms. Achin Audesse began going around the room and gathering the Task Force member's objectives on what procedure's they feel should be in level one, and what procedures should not.

This stemmed a conversation about qualifications for the professionals performing procedures that are done in medical spas. The Task Force agreed that just because an individual has a title does not mean that they have the experience and the education to perform procedures such as laser treatments. Dr. Dover raised the issue that it is very difficult to measure competence in the field of esthetics. For example, hospitals will credential physicians, and they do credential physicians who are specialized in laser procedures.

Dr. Quibell then read a letter she received from an advanced aesthetic training program denying her attendance in the program because her specialty, Internal Medicine, suggested she was not qualified. This raises the issue of arbitrarily denying training to individuals, when the need for expanding it is clear.

Ms. Mullally brought up the point that a constant theme within the past six months has been that doctors and nurses do not have sufficient training to perform procedures such as laser procedures. She offered the idea of creating another Board to regulate those that are competent to perform laser procedures. Although the Task Force thought that it was great to “think outside the box,” it was agreed that it would be better to regulate those performing the procedures within the individual Boards that they are licensed.

The Task Force Members went through a list of procedures that are currently considered “level one” procedures, and made the determination whether the procedure should be categorized as a level one procedure, or whether it involves medical procedures, and should be categorized at a higher level. For example, exfoliation is considered a level one procedure, but medium and deep exfoliations involve medical treatments and are not considered level one procedures.

4. Next Steps

The next meeting of the Medical Spa Task Force is tentatively scheduled for Wednesday, May 23, 2007 from 8:00-11:00 am.