

MINUTES
MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE
MEDICAL SPA TASK FORCE

July 18, 2007

PRESENT

Task Force Members

Boards:

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

Legislature:

Senator Joan Menard

Appointees:

Stephanie Cogliano, RE
Faye Marie Jenkins, RN
Dianne Quibell, MD
Winifred Nee Tobin, Consumer

Absent:

Karen McKoy, MD
Jeffrey Dover, MD
Jagruiti Patel, MD
Representative Peter Koutoujian

Board Staff

Russ Aims, Board of Registration in Medicine
Fallon Onufrak, Board of Registration in Medicine

1. Welcome, Scheduling, 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. Mr. Russ Aims discussed scheduling for the August meeting and the Task Force decided on August 22nd for the next meeting. Senator Menard and her staff spoke about the proposed legislation and informed the group of the extension to September 1st that the Task Force was granted to submit their recommendations. They will try to get a further extension until November 1st to allow the Task Force more time to work on the recommendations.

2. Approval of May 23 and June 21 Minutes

Ms. Achin Audesse brought forth a motion to approve the meeting minutes of the May 23, 2007 and the June 21, 2007 Medical Spa Task Force Meeting.

Dr. Quibell made a comment to revise her practice specialty in the April 25th minutes as she is not Board certified in obstetrics and gynecology, as reflected in the minutes.

3. Discussion Topic: Should cosmetologists and estheticians be able to perform non-ablative laser and pulsed light procedures?

Ms. Achin Audesse's brought up the fact that it was in her memory that the Task Force had concluded that cosmetologists and estheticians should be able to perform non-ablative laser and pulsed light procedures. Other members of the Task Force agreed. Dr. Quibell noted that some procedures are tricky to define as non ablative versus ablative procedures, and therefore fall into a category of sub-ablative. Ms. Achin Audesse felt that would it make sense to reserve some time to talk about the sub-ablative procedures, but until that time, the Task Force agreed that cosmetologists and estheticians will be able to perform non-ablative laser and pulsed light procedures.

4. Discussion Topic: Until there is a national certification process, what constitutes basic training for individuals using non-ablative devices?

Ms. Achin Audesse would like to hear from the Task Force of the thoughts on a "National Certification Committee" for accrediting. She began pondering the idea for this type of committee to ensure that the public can be protected as the technology changes. If the Task Force over defines, especially in the area of technology, the public may not be as well protected under the regulations because equipment and knowledge changes so fast in the esthetics industry. Ms. Achin Audesse expressed to the group that she would like to talk about whether there is a need for an entity within state government in a the form of a committee similar to the Task Force to keep all Boards together that license the professionals to communicate and work together.

Ms. Jenkins added that British Columbia uses a very successful system similar to this that has people that physically visit the facilities and assess for safety.

Ms. Kellman wished to bring up the issue of the Department of Public Health's (DPH) involvement in this type of committee. She posed the question; if DPH is the licensing facility, how will DPH interact with the individual Board's that the professionals are licensed under? This question and similar questions will be answered in future Task Force meetings.

Dr. Quibell added that the American Society for Laser Medicine Surgery (ASLMS) will be coming forward with standards to be adopted in collaboration with state Boards. She also introduced to the group Senate Bill 1281 which was initiated in January 2007 by Richard Moore, but stalled because of Task Force. Dr. Quibell expressed to the group her wish to stall this bill further until the Task Force is able to come up with recommendations because the bill and the recommendations will propose a different agenda.

Ms. Achin Audesse added that the Senate Bill is currently on hold so that the Task Force can do work with proposing the recommendations. She believes that the bill has some good components and some that will not be consistent with recommendations. However, because of the thoughtfulness, amount of time, process and input that was put into the recommendations, she feels that the recommendations will carry much weight in the legislature. Senator Menard added that she will ask that this bill be stalled again until after the Task Force is able to give recommendations to the legislature.

The Task Force went into a discussion of how a bill is presented to the legislature and the number of bills that actually get passed in legislature. Several bills are filed just to generate discussion, as this particular bill may be. Ms. Achin Audesse added that the fact that this bill has been filed in the Senate gives Task Force members a chance to testify at that hearing to talk about that bill. The Task Force also spoke very kind words about Senator Moore and his strive for improved health care.

Ms. Mullally asked for clarification on the "regulatory committee" as previously discussed. Ms. Achin Audesse expanded on her idea, stating that she felt this committee would be a little bit of a regulatory authority, and a little of a credentialing committee of the medical spas throughout the Commonwealth. Licensing boards will decide who is fit to practice, but will not do the credentialing of the practice environments. Medical spas need credentialing standards. Ms. Mullally asked for an explanation what credentialing means and entails. Ms. Kellman added that she thinks the Task Force must find a common denominator and create openness of discussion. Doctors and Nurses can not define every procedure at the Boards. Dr. Quibell agreed with Ms. Kellman on this point and added that she thinks the Task Force is missing a big point which is: who decides who is well trained, and what is considered well trained?

The proposed committee will be considered an interdisciplinary unit. Ms. Jenkins added that the Task Force must pay attention to what exists and what should exist going forward, requiring the credentialing process to be specific for electrologists, physicians, nurse practitioners, nurses, etc. that are helping people all the time. Hours of experience

should be used as a way to grandfather these professionals into any new system that may develop under new regulations.

Ms. Achin Audesse asked the Task Force if they agreed that it would make sense to have an ongoing entity to look at changing technology, certification, and to work with the involved Boards of licensure. The Task Force agreed unanimously and decided that the Lawyers Subgroup will work together to detail out this committee and bring back their findings to the Task Force.

5. Discussion Topic: Can the provision of these services be delegated and, if so, by whom and to whom?

Ms. Achin Audesse presented a three page draft document on definitions from Board of Nursing After the Task Force had some time to review this document.

Mr. Chisari talked about training, and how prerequisite knowledge to understand the training is required. He added that the hours that physicians and nurses spent learning about natural sciences, anatomy and physiology helped them to understand how the body works. Dr. Quibell understands that concern, but she added that the cosmetologists do not need to understand all of this in order to perform many non-ablative procedures.

Ms. Hinds added that cosmetologists are hairdressers, and are not estheticians. Some of these cosmetologists have been grandfathered in, which is why the issue of training is so huge. Currently, 30-75 hours are devoted to the skin during cosmetology training. The group went into a discussion over the difference between cosmetologists and estheticians with significant contributions from Senator Menard and Ms. Hinds.

Ms. Kellman added that the Task Force should be more careful about lumping the two together with regards of which person can perform which procedure. Ms. Mullally gave presentation back in March which touched upon this subject. The Board of Cosmetology will require the people meet a basic minimum of training and what do we do with those that have licenses now, and what additional training can be done to bring those professionals up to speed. The Board has already started to look at that and has come up with what they think is a minimum. The Lawyers Subgroup will incorporate Ms. Mullally's presentation with their recommendation.

At this point, Mr. Chisari wanted to discuss physician supervision and the necessity for prescribing. Dr. Quibell added that some of these procedures the Task Force is discussing are not medical procedures, but can also cause harm. Physician oversight does not protect patient any better unless training is up to standards.

The Task Force then went into a discussion of the issue of delegation. All are in agreement that licensed professionals must be answerable to their respective Board.

The Task Force also agreed that a licensed professional should only be able to delegate to another licensed professional, for example, physicians can only delegate to another licensee.

At this time, Dr. Quibell volunteered to not only be a member of the committee, but to chair the committee. Ms. Achin Audesse gave the Task Force some homework to begin thinking about what they think the composition of committee should be, and be prepared to discuss their ideas with the Task Force at a later meeting.

In terms of delegation, Ms. Mullally brought up the issue of language. In response, Ms. Achin Audesse brought forth a motion to adopt the language in Section 2 regarding Delegation Options in Medical Spas. The language in Section 2 was approved, which states: [t]he performance of Level I and/or Level II services which could be performed by a licensed Cosmetologist, Aesthetician, Nurse, or Electrologist under that individual's license may not be delegated to an unlicensed personnel.

Ms. Achin Audesse brought up the issue of quality assurance and reporting responsibilities. This is a place to measure and continually drive the level of procedures offered to the public in Massachusetts there are currently no good quality numbers reporting how safe procedures are, just how dangerous they are. Dr. Quibell agreed and wanted to bring up another point about how there is a lot of data about how there is a “great result” for a machine, but usually “great results” are unusual. She posed the question: how do we protect the public against frauds and machinery that will not actually treat?

Ms. Jenkins added that this issue is a very subjective topic, and “great results” for one person may not be “great results” for another. Ms. Achin Audesse added that injury is definitely measurable, and although we can not protect the public from everything, we can protect the public from injury.

Mr. Chisari asked for an explanation on the role of quality assurance, for example, if (s)he is going to be the receiver of complaints, or if the complaints will rest with the individual Boards that the licensees are licensed under.

The Task Force went into discussion of accountability standards, and who will impose discipline when equipment and machinery is not working appropriately. Dr. Quibell discussed regular equipment upkeep and maintenance plans, where machines are inspected regularly to ensure that equipment is up to standards. This way, if there is a complaint, it can be proven that the machinery is constantly kept up to date with safety standards.

6. Recap, Homework

Ms. Achin Audesse recapped today's discussion and opened up the discussion for questions from the Task Force members and the audience.

The Task Force discussed what types of discussions will be on the next meeting agenda. The definition of what a medical spa is and is not will be on the next agenda as well as the idea of in facility sale of goods, and who can purchase equipment.

Kempton Cody, President and Owner of Viva Skin Care Center added a comment that one of the key factors for safety is patient assessment before you begin any procedure because there is a chance you may hurt a patient based solely on the information the patient may tell you. The Task Force then briefly discussed this point.

The next meeting of the Medical Spa Task Force is tentatively scheduled for Wednesday, August 22, 2007 from 8:00-11:00 am.