

DRAFT- MINUTES
MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE
MEDICAL SPA TASK FORCE

March 19, 2008

PRESENT

Medical Spa 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

Legislature:

Senator Joan Menard

Appointees:

Stephanie Cogliano, RE

Dianne Quibell, MD

Winifred Nee Tobin, Consumer

Jeffrey Dover, MD

Jagruti Patel, MD

Faye Marie Jenkins, RN

Karen Bonney, Board of Cosmetology

An Hinds, Board of Cosmetology

Karen McKoy, MD

Absent:

Catherine Hinds, Board of Cosmetology

Representative Peter Koutoujian

Board Staff

Russ Aims, Board of Registration in Medicine

Brenda Beaton, Esq., Board of Registration in Medicine

Kathleen DiTonno, Board of Registration in Medicine

1. Welcome, Goals for Today's Discussion

Nancy Achin Audesse, Executive Director of the Board of Registration in Medicine called to order the meeting of the Medical Spa Task Force, hereinafter, MSTF. The goal of this meeting is to discuss the legislative outline for medical spa regulations including looking at the final document to move forward, focusing on the protection of public safety. Mr. Aims states that there will be one more meeting to discuss the Board of Registration in Medicine's Sale of Goods Policy as well as the framework of statutory language.

2. Approval of January 16th Minutes

Ms. Achin Audesse brought forth a motion to approve the meeting minutes of January 16th MSTF Meetings. Clarification will be made to state that a medical director is required at a Level 3 Medical Spa and a site director required at a Level 2 Medical Spa. A medical director is not needed at Level 2 Medical Spa; the site director may be a nurse or physician.

3. Discussion Topic: Cosmetology Board Position on Advanced Aesthetician License and Regulation of Associated Workplaces

Ms. Bonney states that the Board of Registration in Cosmetology (BORC) is in full support of an advanced aesthetician license, though the Board has not yet begun the process of creating an advanced license. BORC wants to maintain the right to regulate conditions of their licensees by proactively inspecting cosmetology salons. BORC does not want the requirement that their licensees obtain additional licensure through Department of Public Health in order to perform services within their scope of practice.

Ms. Bonney stated that not every aesthetician wants to work in a medical spa, though those that do would need the advanced license. BORC has not yet discussed the hour requirement to obtain advanced licensure. Some of the procedures being performed now would be performed only under an advanced aesthetician's license, once created. The procedure levels I-III as previously proposed by the MSTF were used by BORC to help determine which procedures would be appropriate for advanced aesthetician licensure. The MSTF expressed concern about unqualified aestheticians being grandfathered in to an advanced license. Ms. Bonney stated that licensees would need to provide documentation of advanced training prior to licensure.

Ms. Achin Audesse stated that a public board should remain in effect to deal with future updates to the level list of procedures. This public board could then make recommendations to individual board for regarding training needed for additional licensure. If the advisory board and the regulatory board disagree, it would then go to the commissioner of DPH for resolution. Ms. Achin Audesse stated that all Boards should use similar levels to reflect the procedures named by the MSTF. In a memo provided to the MSTF, BORC states that they wish to have flexibility to add procedures to its own list of approved procedures. Ms. Bonney stated that BORC has not agreed on levels of

procedures as established by the MSTF. Procedures and levels, by which they are defined, have already been established by the MSTF and will not be changed at this time. Ms. Bonney stated that she will supply the list to BORG to see if BORG is in agreement.

The MSTF went into discussion at this time about the basic training requirement for advanced aesthetician licensure. Currently, cosmetologists can perform basic aesthetics, though their skin care hour requirement is much lower than someone holding an aesthetician license. The MSTF stated that one must complete the training required for an aesthetician license before being able to pursue an advanced aesthetician license. Ms. Mullaly stated that BORG is rejecting the increase in level of training for basic cosmetologists. Ms. Achin Audesse stated that the MSTF will make a recommendation for possible changes of licensure for BORG, including the possibility of separating aestheticians' and cosmetologists' license. The MSTF agreed that one should not be able to go from a cosmetology license to advanced aesthetician license without first obtaining a basic aesthetician license. This matter will be brought back to BORG for discussion before the next meeting of the MSTF.

Designated space issue: BORG wishes for all levels that there be a carved out space in a practitioner's office so BORG would have jurisdiction of the licensee and his/her physical space. Ms. Achin Audesse stated that DPH has the training and experience to oversee facility and spaces. BORM and BORN state that space used by their licensees is regulated via the scope of practice and that there is not separate licensure for space, (beyond DPH requirements). BORG stated they would consider using this model and DPH would continue to act as an additional oversight. Ms. Mullaly stated that BORG wishes to maintain its right to proactively inspect the practice area of its licensee, even if it is not a separate 'carved out' space. The MSTF agreed that a carved out space would not be practical or necessary in an office setting, but that BORG will continue to have the right to proactively inspect their licensees and their practice space, whether in a medical spa or private office.

The MSTF raised the matter that physicians can delegate services when appropriate. Ms. Mullaly said that BORG licensees must stay within their scope of practice. Aestheticians cannot perform delegated tasks if the task is beyond their scope of practice. This will remain unchanged.

4. Discussion Topic: Proposed Sale of Goods Policy

The MSTF was presented with a draft version of the Board's Proposed Sale of Goods Policy. With the proposed policy, standard medical offices would remain prohibited from selling goods other than durable medical goods. Non-durable medical goods may be sold if they are an extension of the patient procedure and treatment. Practice-related products for aesthetic medical procedures may be sold. Patients must be informed of any financial interests of the physician, such as the products being a special line created and distributed by the physician. The sale of products must be in the best interest of the patient. Products could not be displayed in the patient exam or consultation rooms, so as to prevent undue pressure on the patient. The MSTF requested clarification for limitation in the private

office setting. The updated draft policy will be presented at the next meeting of the MSTF.

5. Discussion Topic: Proposed Medical Spa Legislation

The MSTF was presented with draft legislation for Medical Spas. The MSTF requested more detail in defining the levels of Medical Spa. Mr. Aims stated that the detail would be added to DPH regulations. Too much specificity should be avoided in the statute because it is difficult to change. Details should remain in the policy and regulatory levels. Mr. Aims explained that the respective regulatory authority would be referenced in the statute, though not attached to ensure that they may be updated easily by the appropriate entities.

The MSTF stated that the word 'generally' should be removed from the definition of Level II procedures. A detailed account of use, supervision and training regarding lasers will be addressed in regulations, however, the MSTF wants clarification added to the statute so that non-hair removal laser is being done by or under the direct supervision of a registered nurse or physician.

The issue was raised that nurses cannot delegate under their regulations, and therefore cannot be a clinical supervisor to an aesthetician. Nurses could be a supervisor in a director role, just not clinical. Mr. Chisari stated he will take the supervising and delegation issues to BORN for review and discussion.

The MSTF expressed concern about clinical assessment and judgment for skin lesions. Ms. Mullaly stated that BORG could provide specific guidelines for patient referral regarding skin lesions. Dr. Dover suggested moving ablative and non-hair removal laser light treatment to Level 3, ensuring that there will be direct physician care. MSTF did not agree in this matter. Mr. Aims stated that the working group will meet to discuss this issue and bring it before the MSTF in the next meeting.

Section 220 of the proposed statute mimics the current DPH facility requirements. It was discussed that funding needs to go to the board in order to maintain the finances needed to inspect facilities. The MSTF stated that annual inspection may be too much, though inspection should happen at least before licensure. Mr. Aims explained that any changes to the statute must have public comment. No one person or agency will be able to change the statute without input from the public.

6. Goals for Next Meeting- Scheduling

The next meeting of the MSTF is tentatively set for May 28, 2008, 8:00 AM- 11:00 AM.

Any additional comments or questions regarding the statute should be sent to Mr. Aims. The MSTF stated that if BORG does not create the advanced aestheticians license, the language referencing advanced aestheticians may not be used in MSTF documents set forth until the terminology is created.