

MINUTES
MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE
MEDICAL SPA TASK FORCE

May 28, 2008

PRESENT

Medical Spa Task Force Members

Boards:

Nancy Achin Audesse, Board of Registration in Medicine

Gino Chisari, RN, Board of Registration in Nursing

Legislature:

Senator Joan Menard

Appointees:

Stephanie Cogliano, RE

Dianne Quibell, MD

Winifred Nee Tobin, Consumer

Jeffrey Dover, MD

Faye Marie Jenkins, RN

Karen Bonney, Board of Cosmetology

An G. Hinds

Karen McKoy, MD

Carol Balulescu, Department of Public Health

Charles Kilb, Board of Cosmetology

Absent:

Representative Peter Koutoujian

Barbara Kellman, JD, Board of Registration in Nursing

Jagruti Patel, MD

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 (BORIM) called to order the meeting of the Medical Spa Task Force, hereinafter, MSTF. The goal of this meeting is to discuss the major issues still pending with the MSTF including the creation of an advanced aesthetician license, sale of goods policy and legislative issues.

2. Approval of March 19th Minutes

Ms. Achin Audesse brought forth a motion to approve the minutes of the March 19th MSTF. Minor corrections were made to parties present. Minutes were approved unanimously.

3. Discussion Topic: Advanced Aesthetician License & Regulation of Associated Workplaces

Board of Registration in Cosmetology (BORC) provided an update regarding the creation of an advanced aesthetician license. BORC has decided to go forward with the creation of the new license and statute has been drafted by BORC. Mr. Kilb reviewed the draft requirements for obtaining an advanced aesthetician license. One must first obtain a basic aesthetician license before moving to the advanced stage, which would include a proposed 300 hours of additional training. With an advanced license, aestheticians would be able to do procedures which carry 'a minor to moderate risk to patients.' The legislation then recommends that BORC create more specific regulations. Statute will not itemize procedures, rather advanced aestheticians will generally follow Medical Spa guidelines. It is anticipated that the proposed regulations for BORC will be ready next week for disbursement and review for the MSTF. Detailed discussion regarding which types of procedures can be done once the group has had a chance to look at the proposed statute and regulation.

Ms. Bonney revisited the issue that BORC has with aestheticians and cosmetologists working in private physician offices. BORC wishes to continue to have the ability and authority to proactively inspect a space. No other board uses this process, rather each board licenses the person, and the practice space is maintained as a condition of being licensed. BORC wants to be able to check that their licensees are working within the scope of their license and practice. Ms. Achin Audesse stated that it seems like an unnecessary block and burden, and may discourage physicians from hiring licensed aestheticians, and instead choosing to delegate to others as appropriate. The MSTF tried to come to some kind of middle ground on the issue, suggesting a collaborative agreement to BORC when an aesthetician works for a physician, similar to the process BORN currently uses. MSTF agrees that BORC would still have the authority to inspect its licensees practice area. The concern is issues which may arise from random inspections. Ms. Achin Audesse reminded the group that there is a tremendous level of review with mandated reporting and inspections which occur as a result of the complaint process. Dr. Quibell added that physicians do not want to hire untrained persons who are

not capable, as patient safety will always be a number one issue. The concern is if you add another level of review and licensure, it will make it too difficult to hire an advanced aesthetician. Senator Menard asked the members of BORC to take the suggestions back to their Board to discuss the options. If it continues to be an issue, the MSTF will have to vote on the matter. Mr. Kilb stated that that BORC feels it has not been privy to the information of the MSTF. The group disagreed in this matter as past minutes clearly indicate participation by all boards, including BORC, in all of the discussions as they pertain to Medical Spa regulations. Ms. Achin Audesse asked each person in the group to confirm that they feel each board has had appropriate participation in the discussions.

4. Discussion Topic: Proposed Sale of Goods Policy

Mr. Aims stated that since BORIM is currently the only Board with a restrictive sale of goods policy, it would change its policy so that the MSTF does not need to create an additional policy. BORIM would maintain its policy, but would extend it to allow the sale of medical aesthetics as a continuation of one's procedure. Physicians can submit their suggestions to Mr. Aims for possible changes to the existing policy.

5. Discussion Topic: Proposed Medical Spa Legislation General Discussion and Remaining Issues

Ms. Achin Audesse asked what some of the major issues remaining with the draft regulations which were provided to the MSTF. Ms. Balulescu from the Department of Public Health (DPH) will then address some of the issues.

Dr. Dover stated that non-skin rejuvenation must be clarified if it is the practice of medicine or not. Who will deal with complications, like cancers, who will be overseeing? Dr. Quibell asked what level of medical involvement is needed. It would be more practice to have additional training for licensees versus having a constant need for physician referral prior to doing a skin treatment. Dr. McKoy stated that Recommendation 5 regarding laser hair removal not being the practice of medicine is appropriate but that both laser and light used for treatment of brown spots and pigment as referred to on page 15 should be moved to level 3 procedures as it involves diagnosis and treatment of skin. It isn't clear if there is a way to address the concern through DPH and the medical directors of a medical spa. In raising these concerns, it seems to call for an appropriate level of training and education for all licensees in order to have an effective and safe referral process. One would not necessarily be diagnosing a brown spot before treating it, rather recognizing the need for referral. It was the attempt of this document to address these concerns by addressing the when to, how to, and why to collaborate and refer. BORN feels that the collaborative effort through referral is generally predetermined situations.

Ms. Balulescu stated that part of the legislation proposed is to keep the MSTF collective as an advisory group as DPH does not have the expertise for individual licensees. This way there may be advisories from each respective board. Ms. Achin Audesse stated that

there will have to be a licensing fee in order to continue having a task force advisory board.

Dr. Quibell asked how the level of expertise will be resolved with lesion diagnosis. Level 3 procedures are high risk, more medical, surgical and require direct physician involvement. From there, you build in educational requirement. The MSTF all agree that non-medical professionals should not be diagnosing, but how do we create the amount of training that one needs to do a referral. What mechanism can be used, regardless of who is the licensee? Mr. Aims stated that the Level 2 procedures on page 15 can be moved to Level 3 except laser hair removal. Dr. Dover stated that the use of lasers for purpose other than laser hair removal should remain the practice of medicine. The concern was raised about an aesthetician owning a Level 3 medical spa as stated on page 10. Mr. Aims will clarify the language, anybody can own the facility so long as the appropriate people are hired and operating it.

The language on page 12 will be corrected to agree with page 15 regarding the use of laser and light.

Mr. Chisari stated that proper recommendations and referrals come back to proper training. Board can regulate training and must hold their licensees accountable through training. Page 21 of the draft report refers to specific targeted education requirements for recognition of when there should be a referral. Dr. McKoy stated that there should be physician referral or have the procedures moved to Level 3 for physician oversight. If skin spots are treated without physician oversight, there must be a provision that the nurse is not diagnosing. The patient would be notified that nurse reviewed spot within their training and patient would have informed consent that there was not a physician diagnosis. This would help relieve some need for constant physician referral.

Ms. Hinds stated that BORC wants laser or light rejuvenation for 'skin tightening.' Advanced aestheticians should be able to do light rejuvenation on non-spotted skin. The MSTF stated that this may be something that the advisory board can address at a later date. For now, the recommendations will be general. The advisory board could set up education and training requirements protocols. Then the skin experts can look to skin experts for training requirements. Ms. Balulescu stated that there will be an exemption for private offices, but the recommendations would still apply to private offices. It remains the responsibility of each licensing board to set the standard of practice for their licensees. Some discussions and recommendations will apply to all boards, and not just medical spas. Once the guidelines are developed for medical spas, they may continue over to apply to the private practice setting.

6. Goals for Next Meeting- Scheduling

The next meeting of the MSTF is tentatively set for July 16, 2008, 8:00 AM- 11:00 AM. The meeting will be held at the Board of Registration in Nursing at 239 Causeway Street, Boston, Massachusetts 02114

BORC and the attorney working group will provide a draft version of proposed regulations for advanced aesthetic licensure shortly so that the MSTF may review them prior to the final meeting set for July.