

Policy Bulletin on Practices Outside the Scope of Licensure

Policy No. 2017-01

I. PROHIBITED MEDICAL AND INVASIVE PROCEDURES

Individuals licensed by the Board as cosmetologists, aestheticians, manicurists, barbers or electrologists shall not perform any medical or invasive procedures, as they are beyond the authorized scope of licenses issued by the Board and represent a risk of infection and consumer injury except as permitted under Sections II, III and IV below. Prohibited medical and invasive procedures include, but are not limited to, the following:

- A. Any injection of substances, including but not limited to Botox, dermal fillers such as collagen, hyaluronic acid (restylane), and any other injectable substances;
- B. Tattooing and Tattoo Removal, Permanent Makeup and Micro-Blading;
- C. Tanning and any process using equipment that emits ultraviolet radiation;
- D. Saunas;
- E. Body piercing or ear piercing;
- F. The use of Laser technology for hair removal or any other purpose by licensees other than electrologists. Aestheticians and cosmetologists are authorized to use Intense Pulsed Light technology for hair removal only, under the requirements of the Board's Policy on Intense Pulsed Light Devices;
- G. Any form of microdermabrasion, derma-planing or other technique that invades or removes cells beyond the stratum corneum, or outermost layer of the epidermis/skin. Microdermabrasion, derma-planing or other techniques that do not invade or remove cells beyond the stratum corneum are permitted, provided that licensees maintain documentation of adequate theory and practical training and make it available for inspection upon request.
- H. Deep and medium level chemical peels using adulterated chemical peeling and exfoliation agents or any combination of the following:
 - 1. Carboic Acid (Phenol);
 - 2. Trichloroacetic Acid (TCA);
 - 3. Resorcinol (Jessner's Solution);
 - 4. Alpha hydroxy acids (AHA) including glycolic, lactic and citric acids, with concentrations exceeding 30%;

5. AHA solutions with pH lower than pH 3.0; and
 6. Beta Hydroxy Acids (BHA), including Salicylic Acid, with concentrations exceeding 2%;
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- I. Ear Candling and any procedure designed to remove wax from the ears;
 - J. Teeth Whitening;
 - K. Acupuncture and micro-needling techniques that invade cells beyond the stratum corneum;
 - L. "Credo" blades or any blade, cutting tool or grater used to remove corns or calluses;
 - M. The use of animals or fish in any procedure.

This list is not exhaustive, and any licensee who performs any of the prohibited procedures listed above or other invasive service that is beyond the authorized scope of a Board-issued license will face disciplinary action except as permitted in Sections II, III and IV below.

II. PERMITTED BEAUTIFICATION PROCEDURES

The Board acknowledges that licensees may want to provide certain procedures that serve beautification purposes but are outside the scope of Board licenses. Therefore, to avoid public confusion, to ensure the public is properly protected, and to ensure that licensees do not misrepresent their qualifications, the Board will allow exceptions to the legal requirement that licensees not provide services outside the scope of licensure, subject to the following conditions:

- A. Certain procedures which pierce the stratum corneum or otherwise pose a risk of infection but are not medical in nature, namely tattooing, permanent makeup, micro-blading, body piercing and ear piercing may be performed in a shop or salon subject to the following provisions:
 1. The floor-plan submitted to the Board must provide a dedicated, separate and distinct room clearly marking the procedures to be performed in it. The procedures may not be performed outside of this room. All advertising, including price lists and brochures, must distinguish between the procedures not regulated by the Board and cosmetology, aesthetics, manicuring, barbering or electrology services.
 2. All individuals performing procedures not regulated by the Board must have any and all required local or state licenses or permits to perform these procedures and must abide by all applicable laws, rules, and regulations.

3. The provision of these procedures is at the licensee's own risk and may subject his or her license to disciplinary action should the procedures not be provided in a safe and sanitary way.

III. PROCEDURES SEPARATELY LICENSED

- A. Certain procedures that are not regulated by the Board have separate licensure or regulation, such as tanning using equipment that emits ultraviolet radiation. These procedures may be performed in a shop or salon so long as all required licenses or approvals are obtained and such procedures are clearly identified in a separate room in the floor plan in full compliance with regulations of the Board.
- B. Full body therapeutic massage and massage of parts of the body not otherwise receiving cosmetology, barbering or electrology services may be performed in a shop or salon only if the practitioner is licensed by the Massachusetts Board of Registration of Massage Therapy and conducts their practice in full compliance with "Policy Bulletin: Dual Use of Room for Cosmetology and Massage Therapy" and regulations of the Board.

IV. SERVICES IN OR ADJACENT TO MEDICAL ESTABLISHMENTS

The Board acknowledges that doctor's offices and other medical establishments may wish to hire Board licensees to perform services within the scope of their licenses on a regular basis in a medical establishment. In environments under the jurisdiction of the Board of Registration of Medicine or the Department of Public Health, licensure in cosmetology, aesthetics, manicuring, barbering or electrolysis is still required to perform services within the scope of those licenses. Such services are only authorized subject to the following procedures:

- A. A cosmetologist, aesthetician, manicurist, barber or electrologist must obtain a Board-issued salon license for a separate and distinct room in the facility. This license will not be issued with a medical name as, for purposes of the Board, this room is a separate business.
- B. The cosmetologist, aesthetician, manicurist, barber or electrologist is solely responsible for ensuring that the licensed services in that room are safe and sanitary and will be subject to random inspections in the same fashion as any other licensee.
- C. Unlicensed individuals may not practice any branch of cosmetology, aesthetics, manicuring, barbering or electrology. Licensees in an unlicensed facility who perform cosmetology, aesthetics, manicuring or barber services or otherwise hold themselves out as performing services under their Board-issued licenses are engaging in unlicensed practice and may be subject to disciplinary action.

- D. If a licensee of the Cosmetology and Barbering Board wishes to perform a service, including but not limited to a medical service, based on a delegation from someone in another licensed profession (e.g. a physician):
1. The licensee of the Cosmetology and Barbering Board should be aware that the delegation they are performing has no affiliation with their licensed profession and is in no way authorized by the Board; and
 2. The licensee of the Cosmetology and Barbering Board shall not hold him or herself out or advertise as operating under his or her license, and shall not use a deceptive hybrid of said license such as "medical aesthetician," as such a designation does not exist under the law.

Discussion: Massachusetts General Laws c. 112, § 61 prohibits Board licensees from performing any service that falls outside the authorized scope of their licenses. The services listed above do not fit within the definitions of "aesthetics," "cosmetology" or "manicuring" as defined in G.L. c. 112, § 87T. Accordingly, those services, and any other services outside the scope of a cosmetology, aesthetic or manicuring license, shall not be performed by any of the Board's licensees or within any licensed salon, except that the Board recognizes that some services outside the scope of cosmetology licensure are not medical in nature, provide beautification or relaxation only, and are not invasive. These services, which are explicitly referred to in this policy, have been determined to not cause confusion to consumers, thus the Board has made a policy decision to allow those specific services which have a minimal likelihood of impacting the public's health, safety, and welfare. The Board also allows massage in a cosmetology salon if it also licensed as a massage establishment in accordance with the rules and regulations of the Board of Registration of Massage Therapy, available at: <http://www.mass.gov/ocabr/licensee/dpl-boards/mt/regulations/>.

If a licensee has a question concerning their appropriate scope of practice, he or she may contact the Board at 617-727-9940.