

# IS A TURF WAR BREWING AMONG PHYSICIANS AND ESTHETICIANS?

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some combo of money,  
safety and politics may be to blame

OVER THE PAST SEVERAL MONTHS, THERE HAS BEEN A GROWING MOVEMENT in many states to dramatically change the way spas, medi-spas, skin care professionals and certain physicians may conduct their businesses or perform certain esthetic services. This is a very serious issue that could affect the livelihood of skin care professionals as well as the esthetic practices of physicians who are neither dermatologists nor plastic surgeons. Pending legislation in some states could cause many esthetics businesses to close and drastically affect the income of estheticians. There are both valid and invalid reasons for this pending legislation.

Is this movement brought on by concerns for public safety, politics, money or greed? Why is this happening? What can be done to derail this oncoming train to avoid head-on confrontations among some state legislatures, selected licensure bodies, physicians and estheticians?

With 11,000 people in the United States turning 50 years of age every day and the public's increasing interest in looking younger, the stakes are high for those who perform nonsurgical cosmetic and skin care procedures. ➔

by Rob and Carol Trow

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### Massachusetts, a case in point

To highlight the issue we are going to discuss events that occurred over the past several months in one state, Massachusetts. While it is not the only example, it serves as an example of what is transpiring in several states, what could happen in your state and how to effectively address the legitimate concerns raised by state legislatures in a professional and positive way. Your aim should be to ensure the highest level of services to the public without disenfranchising estheticians, spas and some medi-spas.

The Commonwealth of Massachusetts State Senate introduced a bill, Senate Bill 1281, with the title, "Requiring Licensure and Professional Standards for the Protection of Consumers of a Medical Spa." If passed, this bill would require a spa or medi-spa to have a dermatologist or plastic surgeon as a medical director present on-site at all times during the performance of all esthetic procedures including the following: microdermabrasion, peels of any kind, use of lasers for hair removal, IPL, injectables and fillers.

Some say the proposed Massachusetts Senate Bill 1281 is motivated by the economic self-

interest of a small group of specialists, while others believe it is driven by a sincere interest in public safety.

If you read the wording carefully, the bill would exclude the myriad of physicians who work in the medi-spa and esthetics field who are not board certified dermatologists or plastic surgeons.

At the present time, all physicians may oversee and supervise esthetic services by those they think competent, whether the physician is on-site or not. Further, they do not have to be a board certified dermatologist or plastic surgeon. Presently there are many physicians who have entered the realm of esthetics medicine including those who are board certified in fields such as Ear Nose and Throat, Oral and Maxillary Surgery, General Surgery, Internal Medicine, OB/GYN and the like.

Most, if not all, of these doctors have been educated on how to perform limited esthetics procedures. In addition, many skin care professionals who have obtained certifications and professional education to perform microdermabrasion, light peels, laser hair removal, IPL and LED, would be forbidden to continue carrying out these procedures if Massachusetts Senate Bill 1281 passes as written. Currently their respective licensing boards allow these treatments to be performed with appropriate training and certification.

### Turf war or public safety?

Is this simply a case of a battle brought on by deep and legitimate concerns for public safety or does it stem from other factors such as territorial issues and money? Could it force many esthetic practices and medi-spas out of business despite years of serving the public with impeccable safety records and lower cost treatment procedures? The simple answer to both seemingly diametrically opposed justifications is yes.

A recent study by the International Association for Physicians in Aesthetic Medicine (IAPAM) finds that the public is going to physician-run practices and medi-spas for nonsurgical cosmetic procedures. Jeff Russell, the executive director of IAPAM states, "You are as likely to find a Botox® brochure in your family physician's office as in a plastic surgeon's." The number of medi-spas in the United States has grown from under 300 in 2004 to over 3,000 today. This figure continues to grow every week.

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It is important that estheticians advocate for mandatory continuing professional education.

As an example of what is happening, let's look at Botox injections in plastic surgery offices. The American Society for Aesthetic Plastic Surgeons reports a 12 percent decline in members performing Botox injections. Yet for the same period, Allergan, the maker of Botox, boasts of a 29 percent increase in sales. Russell feels this shows that the public is more accepting of having injectables, lasers, IPL, LED and other noninvasive procedures performed outside of a plastic surgeon's office. More and more dermatologists are making room in their practices for cosmetic procedures.

Boston TV station WHDH-TV reports that dermatologists book cosmetic patients sooner than those concerned about skin cancers, suspicious moles or full body checks for full body skin cancer screening. Are cosmetic patients given priority over medical patients by some practices? The answer is yes in many cases.

But is the public safe if physicians rather than board certified dermatologists and plastic surgeons perform nonsurgical cosmetic procedures and if licensed estheticians offer services such as microdermabrasion, light peels, laser hair removal, IPL and LED? The answer is yes and no. The solution lies in improved licensing requirements, advanced education and training. There are now national standards for esthetician training. The differences in licensing requirements and device training/certification among states are legendary. One measure of how well estheticians are performing certain services is the amount of insurance claims. In Massachusetts, the claims are less than .01 percent, a very small number indeed.

### **Training and education are key**

A Medical Spa Task Force has been formed in Massachusetts to address the issues surrounding Senate Bill 1281. Working in a collegial manner and focusing on safety issues, the group is making progress on defining the scope of treatments and procedures that can be performed by non Board certified dermatologists or plastic surgeons including by other physicians and estheticians.

One of those speaking before the Task Force, Ms. Josephine Torrente, a past president of the Manufacturers of Equipment for Light Based Aesthetics, says that training and education is the answer, rather than physician on-site supervision. She pointed out that while there is less than a 1 percent adverse effect rate, it is related to education and training—not the Board certification of the physician, whether the supervising medical professional is on-site or not or whether a properly trained esthetician performed the procedure. (Task Force Minutes, June, 21, 2007.)

If your state is considering regulations similar to those being considered in Massachusetts, it is worthwhile to read the published minutes of this group (go to [http://www.massmedboard.org/public/med\\_spa.shtm](http://www.massmedboard.org/public/med_spa.shtm)). There has also been mention of limited ownership or supervision of medi-spas with multiple sites under the same ownership.

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Clearly outline what procedures and devices you feel an esthetician should and should not be able to perform.



### A call to action

As professionals in the skin care field, you should embrace concerns about public safety. Estheticians should get ahead of the curve and seek ways to demonstrate that safety and efficacy are of paramount importance to their profession. Further, embrace the licensing boards in your state as having the legal right to propose and monitor the terms and conditions of what you can and cannot do.

Set up ways to work collegially with them on establishing training and certifications to demonstrate that those estheticians performing specific procedures have been adequately trained. Advocate for mandatory continuing professional education.

Clearly outline what procedures and devices you feel an esthetician should and should not be able to perform. The same should be

said for physicians who are not board certified dermatologists and plastic surgeons. Do not overreach. Know your limitations. Embrace education, training and independent certification requirements.

Make sure your professional associations monitor what legislation is being considered or is in discussion. Estheticians should work diligently to join a national organization to work towards certifications, education, training, professional credentialing and lobbying efforts on their behalf. An organization like the National Coalition of Estheticians, Manufacturers/Distributors and Associations (NCEA) may be the best place to start (go to <http://www.ncea.tv/index.html>). They have united to provide the political voice of skin care and spa professionals to state legislators and licensing boards, as well as serving as a leading voice for advocacy of national standards through a rigorous certification program.

Contact your local legislatures to make sure you and your colleagues are kept informed. If legislation is pending or introduced, think of organizing your fellow professionals so your voices can be heard as soon as possible. If warranted, seek out the services of professional lobbyists and other interested professional organizations such as the NCEA to help ensure that your thoughts are properly articulated. ■

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