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## Administrative Summary: SB 40

### All Cosmetic Medical Procedures shall be performed under proper supervision in a Cosmetic Medical Facility.

[58-1-505(2)]

#### Truth in Advertising

[58-1-507]

Beginning July 1, 2013 a facility that performs a cosmetic medical procedure may not advertise or hold itself out to the public as a "medical spa", "medical facility", or a "medical clinic" unless the facility has an individual on the premises at the time of the procedure is performed who is licensed under

- Nurse Practices Act, as an Advanced Practice Registered Nurse
- Utah Medical Practice Act
- Utah Osteopathic Medical Practice Act

#### General Rules for Supervisors

[58-1-506(4)]

Supervisors shall ensure:

- That the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor
- A copy of the supervisor's license is displayed on the wall of the cosmetic medical facility
- The patient receives written information with the name and licensing information of the supervisor who is supervising the non-ablative cosmetic medical procedure and the person who is performing the non-ablative cosmetic medical procedure
- The patient is provided with a telephone number that is answered within 24 hours for follow-up communication
- The cosmetic medical facility's contract with a master esthetician who performs a non-ablative cosmetic medical procedure at the facility is kept on the premises of the facility

#### Delegation Group A

[58-1-506(1)(a)]

The following can be delegated to if they meet the Qualifications to Perform Non-Ablative Procedures:

- Physician assistant acting under supervision of a physician and the procedure is included in the delegation of services agreement
- Registered nurse
- Master esthetician
- Electrologist, if evaluating for or performing laser hair removal

#### Delegation Group B

[58-1-506(1)(b)]

The following can be delegated to if they meet the Qualifications to Perform Non-Ablative Procedures:

- Licensed practical nurse within the scope of their practice
- Licensed esthetician within the scope of their practice
- Medical assistant

#### Degrees of Supervision

[58-1-506(1)(c)-(e)]

A supervisor has authorized the procedure to be done by the supervisee and under

- **Direct Supervision** - is present and available for face-to-face communication when & where procedure is performed
- **Indirect Supervision** -
  - Provides written instructions
  - Is present within facility
  - Is available to provide immediate face-to-face communication and to evaluate the patient, if necessary
- **General Supervision** - is available in a timely and appropriate manner to evaluate and initiate care for a patient with a suspected adverse reaction by being located within 60 min. or 60 miles of the facility

#### Supervision for Non-ablative Cosmetic Medical Procedure for Hair Removal

#### Supervision for Non-ablative Cosmetic Medical Procedure Other Than Hair Removal

[58-1-506(2)]

Supervisors shall:

1. Have an unrestricted license (M.D., D.O., or Advanced Practice Registered Nurse)
2. Develop the medical treatment plan for the procedure
3. Conduct, or delegate *only* to a member of Delegation Group A to conduct, a Hair Removal Review prior to initiating treatment
4. Personally perform procedure or authorize and delegate a member of Delegation Group A or B to perform procedure using one of the following Degrees of Supervision:
  - o Delegation Group A - General Supervision *except* Physician Assistants who are supervised according to Chapter 70a
  - o Delegation Group B - Indirect Supervision
5. Verify that all persons to whom the evaluation or procedure is delegated are licensed or are performing the procedure under the license of a supervising physician and meets the Qualifications to Perform Non-ablative Procedures

\*\*\*A licensed chiropractic physician is not subject to the supervision requirements for non-ablative cosmetic medical procedures for hair removal if they are acting within the scope of their practice. [58-1-506(6)]\*\*\*

[58-1-506(3)]

Supervisors shall:

1. Conduct an in-person evaluation and develop a treatment plan, *or*
2. Delegate the conduct of the evaluation and development of a treatment plan to an Advanced Practice Registered Nurse or Physician Assistant, *except* for tattoo removal, prior to beginning treatment
3. Have an unrestricted license (M.D., D.O., or Advanced Practice Registered Nurse)
4. Personally perform the procedure or authorize and delegate as follows:
  - o To a registered nurse or master esthetician under General Supervision
  - o To a physician assistant if procedure is included in the delegation of services agreement (referenced in 58-70a)
  - o To an esthetician under Direct Supervision
5. Verify that all persons to whom the procedure is delegated have
  - o Received the appropriate training
  - o Has an unrestricted license and is acting in the scope of their practice
  - o Has maintained competence to perform the procedure (see Qualifications to Perform Non-ablative Procedures)

### Supervision for Ablative Cosmetic Medical Procedures

[58-67-805 &amp; 58-68-805]

- A physician may not delegate the performance of an ablative cosmetic medical procedure to an individual who is not licensed as a M.D. or D.O. *except* ...
- To an Advanced Practice Registered Nurse with an unrestricted license to perform an *erbium full ablation resurfacing procedure* or a *CO2 fractionated resurfacing procedure* if the physician
  - o Prescribes the specific procedure for the patient
  - o Ensures the Advanced Practice Registered Nurse performs the procedure under Indirect Supervision of the supervisor (see Degrees of Supervision)
  - o Verifies the Advanced Practice Registered Nurse is qualified to perform the procedure by having at least 50 hours of training specific to the procedure to be performed and the laser to be used

### Definitions

- **Ablative Cosmetic Medical Procedure** - a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue *excluding hair removal*. [58-67-102(1) & 58-68-102(1)]
- **Cosmetic Medical Device** - tissue altering energy device that has the potential for altering living tissue and that are used to perform ablative and non-ablative procedures. [58-67-102(5)(a) & 58-68-102(6)(a)]
- **Cosmetic Medical Facility** - a physician's office or a facility that has a supervisor who performs the supervision required. (see Supervisor) [58-1-505(1)(a)]
- **Cosmetic Medical Procedure** - (a) includes the use of cosmetic medical devices to perform ablative or non-ablative procedures; and (b) does not include a treatment of the ocular globe such as refractive surgery. [58-67-102(6) & 58-68-102(7)]
- **Non-ablative Cosmetic Medical Procedure** - a procedure that is expected or intended to alter living tissue, but not to excise, vaporize, disintegrate, or remove it; *including hair removal*. Excludes (a) superficial procedures, (b) the application of permanent make-up, (c) the use of photo therapy and lasers for neuromusculoskeletal treatments performed by a licensed individual who is acting within the scope of their practice. [58-102(8)(a)(i)]
- **Superficial Procedure** - a procedure that is expected or intended to temporarily alter living skin tissue and may remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum. [58-102(9)]
- **Supervisor** - (a) a M.D. or D.O. with an unrestricted license acting within the scope of their practice, (b) an Advanced Practice Registered Nurse with an unrestricted license acting within the scope of their practice, (c) the supervisory role can only be delegated to someone who qualifies as a supervisor. [58-1-505(1)(b) & (2)(c)]

### Qualifications to Perform Non-ablative Procedures

[58-1-506(2)(f)]

Those who are not supervisors need to have:

- Received appropriate training regarding the medical procedure
- An unrestricted license or needs to perform under the license of a supervising physician and surgeon
- Maintained competence to perform non-ablative cosmetic medical procedures through documented education and experience of at least 80 hrs., as defined by rule, regarding:
  - o Appropriate standard care for performing procedure
  - o Physiology of skin
  - o Skin conditions, disorders, and diseases
  - o Pre- and post- procedure care
  - o Infection control
  - o Laser and light physics training
  - o Laser technologies and applications
  - o Safety and maintenance of lasers
  - o Cosmetic medical procedures an individual is permitted to perform under this title
  - o Recognition and appropriate management of complications from a procedure
  - o CPR

### Hair Removal Review

[58-1-506(1)(f)]

- Conducting an in person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor
- Evaluating for contraindications and conditions that are part of the treatment plan
- If the supervisor is not performing the review and if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the

supervisor before starting treatment

**Legal Disclaimer**

*This summary is provided for general informational purposes and it is not intended to provide legal advice or to substitute for the advice of an attorney. If you have specific legal questions, read the relevant law or consult your attorney.*

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