

**DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
HEALTH REGULATION AND LICENSING ADMINISTRATION
BOARD OF MEDICINE**

Policy No. 15-02

November 13, 2014

POLICY ON THE PRACTICE OF AESTHETIC MEDICINE

The purpose of this policy is to clarify the practice of medicine as it relates to the performance of aesthetic medical procedures. This policy is issued to promote the safety of the public in seeking aesthetic or cosmetic medical services. This policy defines various levels of aesthetic (non-medical) services and aesthetic medical procedures. Mere aesthetic services, as described in this policy, do not constitute the practice of medicine, while aesthetic medical procedures that involve a certain level of risk to the patient constitute the practice of medicine. This policy clarifies which services the Board considers low risk services that should be performed in facilities by non-medical personnel and therefore should not be regulated by the Board. This policy also clarifies which procedures the Board considers to be higher in risk performed by medical personnel regulated by the Board of Medicine, and therefore considered to be the practice of medicine. Accordingly, this policy explains how higher risk services should be provided to ensure the safety of patients seeking those services. The Board of Medicine has resolved to adopt the following policy until the Board promulgates regulations governing the practice of medicine in medispas. Until the Board promulgates these regulations, the following policy is a directive in nature and not mandatory. Moreover, this policy merely supplements all of the current laws and regulations already in existence under the Health Occupations Revision Act of 2009, as amended, and Title 17 of the District of Columbia Municipal Regulations, Chapter 46. This policy is not intended to alter any current standard of care or standard of conduct required by District of Columbia law. Furthermore, all current laws and regulations governing the practice of medicine apply even in the absence of current regulations governing the practice of aesthetic medicine. The Board encourages each practitioner under the Board's governance to adhere to this policy while continuing to comply with all current laws, rules and regulations governing the practice of medicine.

- 1.1 The provision of aesthetic services and aesthetic medical procedures involve various levels of risk, as defined in this policy. Aesthetic services shall be classified as Level I aesthetic services, including those services listed in § 1.2. Aesthetic medical procedures shall be classified as Level II and Level III procedures, as determined by the Board from time to time, including those medical procedures listed in §§ 1.3 and 1.4.
- 1.2 Level I aesthetic services do not constitute the practice of medicine. Level I aesthetic services include, but are not limited to, procedures meeting the definition of Level I aesthetic services, as defined in § 1.19, involving:
- (a) Electricity, such as:
 - (1) Galvanic current;
 - (2) Thermolysis;
 - (3) Blend;
 - (4) Iontophoresis;
 - (5) Cryoelectrophoresis;
 - (6) Cathiodermie; and
 - (7) Low energy radiofrequency;
 - (b) Ultrasonics used for therapeutic purposes;
 - (c) Heat therapy, such as saunas, for which the heat is below 40 degrees Celsius;
 - (d) Mechanical manipulation, such as:
 - (1) Superficial (above the stratum corneum and no deeper than 35% of the depth of the dermis) microdermabrasion;
 - (2) Superficial dermaplane exfoliation;
 - (3) Superficial, non-invasive cellulite treatment; and
 - (4) Massages, such as:
 - (i) Hand to elbow;
 - (ii) Foot to knee;

- (iii) Face; and
 - (iv) Full body wraps;
- (e) Chemicals, such as:
 - (1) Superficial (above the stratum corneum and no deeper than 35% of the depth of the dermis) exfoliation;
 - (2) Superficial chemical peels using less than or equal to a 20% concentration with a pH value of greater than or equal to 3.0.; and
 - (3) Hair coloring and perming;
- (f) Light, such as:
 - (1) Light-emitting diodes;
 - (2) Infrared; and
 - (3) Low level light therapy, to exclude photo dynamic therapy;
- (g) Application of cosmetic preparations, such as:
 - (1) Cleaning, manipulating and stimulating skin by use of facials, face masks, body wraps; and
 - (2) Cleaning, manipulating, and stimulating of the skin through the use of paraffin wraps;
- (h) Depilation, such as:
 - (1) Tweezing;
 - (2) Waxing;
 - (3) Threading; and
 - (4) Sugaring; and
- (i) Beautification, such as:
 - (1) Make-up application and artistry;

- (2) Manicures and pedicures;
- (3) Nail care;
- (4) Artificial nails and polish;
- (5) Hair dressing; and
- (6) Scalp care.

1.3 Level II procedures include, but are not limited to, procedures meeting the definition of Level II procedures, as defined in § 1.19, involving:

- (a) Laser-based devices, such as:
 - (1) Non-ablative, non-vaporizing lasers for hair removal, only; or
 - (2) Non-ablative, non-vaporizing lasers for the treatment of skin;
- (b) Light-based devices, such as:
 - (1) Light-emitting diodes;
 - (2) Intense pulsed light therapy for hair removal; and
 - (3) Intense pulsed light therapy for the treatment of skin;
- (c) Energy-based devices, such as:
 - (1) Monopolar radio frequency devices for skin tightening and photo-rejuvenation, only;
 - (2) Bipolar radio frequency devices for skin tightening and photo rejuvenation, only; and
 - (3) Combination radio frequency devices for skin tightening and photo rejuvenation, only, including:
 - (i) Ultra-sonic procedures;
 - (ii) Intense pulsed light therapy; and
 - (iii) Infrared based procedures;
- (d) Mechanical tissue alteration, such as:

- (1) Microdermabrasion;
- (2) Dermaplane exfoliation; and
- (3) Electrotherapy;
- (e) Chemical tissue alteration, such as:
 - (1) Chemical peels that are non-superficial (below the stratum corneum and deeper than 35% of the depth of the dermis), as determined by the medical director of the medical spa; and
 - (2) Chemical exfoliation by the use of acids comprised of greater than 20% concentration with a pH value of less than or equal to 3.0, or unbuffered; and
- (f) Non-invasive body contouring, including cryotherapy and radio-frequency body sculpting, and as determined by the board from time to time.

1.4

Level III procedures include, but are not limited to, procedures meeting the definition of Level III procedures, as defined in § 1.19, involving:

- (a) Lasers, such as ablative and non-ablative, vaporizing lasers;
- (b) Light, such as photodynamic therapy using aminolevulinic acid;
- (c) Combination modalities, such as:
 - (1) Laser and radio-frequency combinations; and
 - (2) Intense pulsed light and radio frequency combinations;
- (d) Injectables such as:
 - (1) Neromodulators (Botulinum toxins);
 - (2) Tissue fillers; and
 - (3) Sclerotherapy;
- (e) Mechanical tissue alteration, such as dermabarsion;
- (f) Chemical tissue alteration that require going below the stratum corneum and deeper than 35% of the depth of the dermis, such as:

- (1) Chemical peels that are non-superficial; and
 - (2) Chemical peels that use trichloroacetic acids of any concentration;
 - (g) Tattoo removal; and
 - (h) Invasive body contouring, such as:
 - (1) Laser-assisted liposuction;
 - (2) Cryogenic liposuction; and
 - (3) Liposuction by any other method.
- 1.5 Level I aesthetic services are regulated by the Department, the District of Columbia Department of Consumer and Regulatory Affairs, and any other agency as determined by the Mayor.
- 1.6 Level I aesthetic services may be performed in a cosmetic salon or similar facility in which medicine is not practiced by estheticians or cosmetologists, pursuant to 17 DCMR Chapters 33 (General Rules), 37 (Barber and Cosmetology), and 38 (Beauty Shops and Cosmetology), and 22 DCMR Chapters 8 (Barber Shops and Barbering) and 9 (Beauty Shops and Cosmetology).
- 1.7 The board shall regulate practitioners of aesthetic medicine performing Level II and Level III procedures, whether or not such procedures are described as aesthetic medicine, cosmetic medicine, or medical spa procedures, or any derivation of those descriptions. Each practitioner shall have the necessary education, training and experience to perform Level II and Level III procedures.
- 1.8 Level II and Level III aesthetic procedures may be performed only as part of a medical practice, whether or not the practice is called a “med spa” or any similar name incorporating the terms “med,” “medi,” or “medical spa.”
- 1.9 The terms “medical cosmetics,” “medical aesthetics,” “medical spa,” or any derivative of these terms may not be used to describe a practice, unless that practice and the practitioners of the practice perform Level II or Level III procedures.
- 1.10 Level II and Level III procedures constitute the practice of medicine and may be performed only by persons authorized to practice medicine under D.C. Official Code § 3-1201.02(7). Any practitioner who provides services in a facility where Level II and Level III procedures are

performed shall be duly licensed to practice medicine pursuant to the laws of the District of Columbia.

- 1.11 A facility in which Level II and Level III procedures are performed shall employ a medical director, a clinical director, and a site director, which may be the same person.
- 1.12 The Level II medical director shall:
- (a) Have sufficient and appropriate training, as determined by the board, to perform and supervise any Level II procedures performed in the facility; and
 - (b) Be physically present in the medical spa for a period of time equal to at least fifty (50) percent of the hours of operation of the facility each week and shall be available to all staff for consultation and referral as needed.
- 1.13 The Level II clinical director shall:
- (a) Have sufficient and appropriate training, as determined by the board, to perform and supervise the performance of all Level II procedures performed in the facility; and
 - (a) Be physically present in the medical spa for a period of time equal to at least fifty (50) percent of the hours of operation of the facility each week.
- 1.14 The Level II site director shall:
- (a) If also serving in the capacity of medical director or clinical director to the facility in which Level II procedures are performed, have clinical training and expertise that is sufficient to perform and supervise the performance of any Level II procedure performed in the facility for which he or she serves as site director;
 - (b) Be responsible for a site-based credentialing process, as established by the board, for all practitioners in the facility that includes requirements related to professional licensure, training, continuing education, and experience, and for ensuring that all practitioners in the facility have adequate back-up coverage as medically necessary; and
 - (c) Be physically present in the facility during all hours of operation of the facility or shall designate an equally qualified substitute if he or she is unable to be present in the facility at any particular time.

1.15 The Level III medical director shall:

- (a) Have sufficient and appropriate training, as determined by the board, to perform and supervise any Level III procedures performed in the facility; and
- (b) Be physically present in the facility for at least fifty (50) percent of the hours of operation of the facility each week and shall be available to all staff for consultation and referral as needed.

1.16 The Level III clinical director shall:

- (a) Have sufficient and appropriate training, as determined by the board, to supervise all Level III procedures performed in the facility; and
- (b) Be physically present in the facility for at least fifty (50) percent of the hours of operation of the facility each week.

1.17 The Level III site director shall:

- (a) If also serving in the capacity of medical director or clinical director to the facility in which Level II and Level III procedures are performed, have clinical training and expertise that is sufficient to perform and supervise the performance of any Level III procedure performed in the facility for which he or she serves as site director;
- (b) Be responsible for a site-based credentialing process, as established by the board, for all licensed professionals in the facility that includes requirements related to professional licensure, training, continuing education, and experience, and for ensuring that all licensed professionals in the facility have adequate back-up coverage as medically necessary; and
- (c) Be physically present in the facility during all hours of operation of the facility or shall designate an equally qualified substitute if he or she is unable to be present in a facility at any particular time.

1.18 All practitioners practicing under this policy must be clinically competent and must comply with the continuing education requirements of 17 DCMR Chapter 46, the American Board of Medical Specialties, and other continuing education requirements as determined by the board from time to time.

1.19

For purposes of this policy, the following terms have the meanings indicated:

Aesthetic medical procedure - any medical procedure performed by a practitioner licensed by the Board of Medicine upon an individual which is directed at improving the individual's appearance and which does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Aesthetic medical procedure includes, but is not limited, to aesthetic or cosmetic surgery, hair transplants, aesthetic or cosmetic injections, aesthetic or cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, and sclerotherapy. Aesthetic medical procedure does not include reconstructive surgery.

Clinical Director - a practitioner who is employed at a facility in which Level II or Level III procedures are performed and is responsible for working with a site director to establish and implement policies and protocols related to Level II and Level III procedures at a medical spa.

Cosmetic - aesthetic.

Department - District of Columbia Department of Health.

Level I aesthetic services - procedures defined by the board from time to time which shall be minimally invasive and carry low risk to patients, including, but not limited to, the procedures described in § 1.2.

Level II procedures - those aesthetic medical procedures defined by the board from time to time as moderate risk which shall be more invasive and of greater risk than Level I procedures, including, but not limited to, the procedures described in § 1.3. Level II procedures constitute the practice of medicine as defined in D.C. Official Code § 3-1201.02(7).

Level III procedures - those aesthetic medical procedures defined by the board from time to time as high risk which shall be more invasive and of greater risk than both Level I and Level II, including, but not limited to, the procedures described in § 17.4. Level III procedures constitute the practice of medicine as defined in D.C. Official Code § 3-1201.02(7).

Medical director - a duly-credentialed medical doctor or doctor of osteopathic medicine, licensed pursuant to District of Columbia law, with the necessary training, as determined by the board, to oversee a site director in the establishment and implementation policies and protocols related to perspective practice and performance of aesthetic medical procedures classified as Level II and Level III procedures.

Medical Spa - any facility in which Level II or Level III aesthetic medical procedures are conducted.

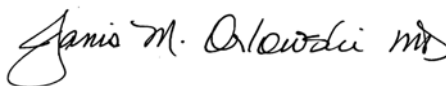
Medical Spa, Medi Spa, MediSpa, Medispa, Med-Spa, Med Spa, or Medspa - an entity or organization that is owned by, or an organization of which the majority shares are held by, a physician(s) licensed in the District that provides services in the practice aesthetic medicine or a facility in which aesthetic medical procedures are performed, as described in this policy. These terms also include any entity, however organized, and whether or not conducted for profit, that is advertised, announced, established, or maintained for the purpose of providing aesthetic medical procedures.

Practitioner - a person authorized to practice medicine under D. C. Official Code § 3-1201.02(7).

Practice of aesthetic medicine - conducting any aesthetic medical procedure or treatment that is performed to alter or reshape normal structures of the body. Practice of aesthetic medicine is the practice of medicine as defined in D. C. Official Code § 3-1201.02(7).

Site director - a practitioner who is employed full-time at a facility in which Level II or Level III procedures are performed and is responsible for the facility's compliance with applicable laws and regulations.

DISTRICT OF COLUMBIA BOARD OF MEDICINE



November 13, 2014

Date

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Chairperson