

Support:

- Medical decisions that are based on patient outcomes and quality of care
- Appropriate supervision, oversight and training by qualified onsite physicians

Oppose:

- Decision-making based on financial gain
- Large corporately-owned medical spas hiring so-called “medical directors” to supervise “in name only”
- The practice of renting one’s name and medical license in exchange for a fee or percentage of profits
- Inadequate penalties that do not deter physicians from providing deficient supervision

In the interest of patient care and safety, ASDSA opposes in-name-only medical directors without appropriate onsite supervision, oversight and training¹ by qualified¹ physicians.

The problem lies not with the medical spa model, itself, but rather with non-physician-owned medical spas that do not provide adequate physician supervision and oversight.

There are many legitimate, safe, physician-owned medical spas that operate with a high standard of patient care. However, lack of regulation and enforcement has enabled a large number of medspas to offer cosmetic medical procedures by inadequately trained or supervised persons to an unsuspecting public.² It is estimated by the American Med Spa Association, which states that ideally a doctor should always be on-site, that half of the medical spas operating across the country are not in compliance with the law.^{3, 4}

Our Association has, on an ongoing basis, received a number of reports from our members who have been solicited to act as medical directors in name only, in a medical spa, or “medspa” in exchange for a fee. We have become increasingly concerned about the proliferation of non-physicians practicing medicine and its impact on patient safety. Recent studies conducted by the ASDSA have shown an increase in patient complications resulting from this trend. A 2013 study of laser complications by non-physicians published in Journal of the American Medical Association (JAMA) found that, from 1999-2012, a total of 64% (n=48) of cases related to injury from cutaneous laser surgery performed by a non-physician arose in a

¹ Qualified is defined in ASDSA’s *Position Statement on Chemical Peels*. <https://www.asds.net/Portals/0/PDF/asdsa/asdsa-position-statement-chemical-peels.pdf> “Physicians should be properly trained in all procedures performed to ensure the highest level of patient care and safety. They should be qualified by residency training that includes an extensive understanding of cutaneous medicine and surgery, the indications for each procedure and the pre- and post-operative care involved in treatment.

² Hogan S, Wood E, Mishra V. Who Is Holding the Syringe? A Survey of Truth in Advertising Among Medical Spas [published online ahead of print, 2023 Sep 26]. *Dermatol Surg*. 2023;10.1097/DSS.0000000000003929.

³ O’Brien, P. *The Texas Med Spa IV Therapy Death: What You Need to Know*. American Med Spa Association. <https://americanmedspa.org/blog/the-texas-med-spa-iv-therapy-death-what-you-need-to-know>

⁴ In 2020 the American Med Spa Association changed their position regarding direct on-site supervision of non-physician providers but in 2023 they continue to highlight the need for proper supervision and delegation when administering medical procedures in medical spas. <https://americanmedspa.org/blog/the-texas-med-spa-iv-therapy-death-what-you-need-to-know>

nonmedical practice setting. Between 2008 and 2011, the same study found that procedures performed in medical spas by non-physicians account for almost 80% of lawsuits.⁵

Financial incentives for performing medical procedures in a medical spa setting are inherent to the business model, which more closely represents a retail store than a medical practice. Incentives for non-physician providers to maximize revenue generation in a spa can increase the risk of adverse events. Additionally, non-physician providers who are rewarded for performing increasingly more laser services, without proper physician oversight, may also encourage the treatment of patients who are not suitable candidates for laser treatments. This environment may lead to non-physician providers valuing business goals over patient safety.⁶

A California law passed in 2012 provides an excellent model with regard to appropriate penalties for violation of the corporate practice of medicine ban in medical spa facilities.⁷ The law provides that when a business organization either employs a California physician, or contracts with him/her to serve as a “medical director” of a health care practice he/she does not own, and the business organization provides medical care that ordinarily can only be provided by the holder of a valid California medical license – actions already prohibited by California law - that conduct will be subject to penalties that are more proportionate to the risks to which patients are exposed, and more proportionate to the money of which they’re being defrauded.

Before stricter penalties were passed, medspa chains created business management and franchising schemes that violated the law. The too-common practice of lay-owned businesses hiring so-called medical directors was already prohibited but poorly enforced. Prior to the passage of this law, Joint Medical Board/Nursing Board hearings in 2007 concluded better enforcement was needed of existing California law that prohibits laypersons or corporate entities from owning any part of a medical practice.

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⁵ JAMA Dermatol. 2014; 150(4):407-411. doi: 10.1001/jamadermatol.2013.7117

⁶Alam, M; Dover, J.S; Arndt, K.A. Use of Cutaneous Lasers and Light Sources: Appropriate Training and Delegation. *Skin Therapy Letter*. 2007; 12, 5: 5-9

⁷AB-1548 Practice of medicine: cosmetic surgery: employment of physicians and surgeons. Retrieved from: http://leginfo.ca.gov/faces/billTextClient.xhtml;jsessionid=355e2701012f9f9b2b82f015e282?bill_id=201120120AB1548

⁹Gibson J, Greif C, Nijhawan RI. Evaluating Public Perceptions of Cosmetic Procedures in the Medical Spa and Physician's Office Settings: A Large-scale Survey. *Dermatol Surg*. 2023;10.1097/DSS.0000000000003811.

¹⁰ ASDSA's *Medical Spa Safety Act Model Legislation*. <https://www.asds.net/Portals/0/PDF/asdsa/asdsa-medical-spa-safety-act.pdf>

Related AMA Policy:

D-35.983 Addressing Safety and Regulation in Medical Spas

Our AMA will: (1) advocate for state regulation to ensure that cosmetic **medical** procedures, whether performed in **medical spas** or in more traditional **medical** settings, have the same safeguards as "medically necessary" procedures, including those which require appropriate training, supervision and oversight; (2) advocate that cosmetic **medical** procedures, such as botulinum toxin injections, dermal filler injections, and laser and intense pulsed light procedures, be considered the practice of medicine; (3) take steps to increase the public awareness about the dangers of those **medical spas** which do not adhere to patient safety standards by encouraging the creation of formal complaint procedures and accountability measures in order to increase transparency; and (4) continue to evaluate the evolving issues related to **medical spas**, in conjunction with interested state and **medical** specialty societies.