

**USE OF LASERS/DELEGATION OF MEDICAL FUNCTIONS
REGULATION BY STATE**

STATE	LASER REGULATION/POLICY/POSITION STATEMENTS	REQUIREMENTS RELATING TO SUPERVISION AND/OR DELEGATION OF MEDICAL FUNCTIONS TO UNLICENSED INDIVIDUALS	PENDING LEGISLATION/REGULATION
AL	<p>Chapter 540-X-11. Guidelines for the Use of Lasers and Other Modalities Affecting Living Tissue.</p> <p>Designates Mid-Level Practitioners, Level 1 Delegates, and Level 2 Delegates; categorizes treatments as ablative or non-ablative; defines energy source, direct physician supervision, and on-site supervision.</p> <p>540-X-11-.03 Use of Lasers and Other Modalities Affecting Living Tissue in the Practice of Medicine.</p> <p>(1) The use of lasers/pulsed light devices, or other energy source, chemical, or modality that affects living tissue, for the purpose of treating a physical disease, disorder, deformity or injury shall constitute the practice of medicine pursuant to Ala. Code §34-24-50.</p> <p>(2) The use of lasers/pulsed light devices for non-ablative procedures cannot be delegated to Level 2 Delegates without the delegating/supervising physician being on-site and immediately available.</p> <p>(3) The use of lasers/pulsed light devices or other energy devices for ablative procedures may only be performed by a physician.</p> <p>(4) Electrocautery may be used by a Level 1 or Level 2 delegate under direct physician supervision.</p> <p>Establishes guidelines on minimum education requirements for physicians and delegates, quality assurance, equipment safety, mandatory injury reporting, physician registration, and safe use of lasers</p>	<p>540-X-11-.05 Supervision.</p> <p>Supervision by the delegating physician shall be considered adequate for purposes of this section if the physician is in compliance with this section and the physician:</p> <ol style="list-style-type: none"> (1) Ensures that patients are adequately informed and, prior to treatment, have signed consent forms that outline reasonably foreseeable side effects and complications which may result from the non-ablative treatment; (2) Is responsible for the formulation or approval of a written protocol which meets the requirements of these rules and is responsible for any patient-specific deviation from the protocol; (3) Reviews and signs, at least annually, the written protocol and any patientspecific deviations from the protocol regarding care provided to a patient under the protocol on a schedule defined in the written protocol; (4) Receives, on a schedule defined in the written protocol, a periodic status report on the patient, including any problems or complications encountered; (5) Remains on-site for non-ablative treatments performed by delegates consistent with these rules and is immediately available for consultation, assistance and direction; (6) Personally attends to, evaluates, and treats complications that arise; and (7) Evaluates the technical skills of the delegate performing non-ablative 	

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		<p>treatment by documenting and reviewing at least quarterly the delegate's ability to perform the following:</p> <p>(a) To properly operate the devices and provide safe and effective care; and</p> <p>(b) To respond appropriately to complications and untoward effects of the procedures.</p>	
AK	<p>Guidelines As To Who May Perform Laser Surgery The Alaska State Medical Board has adopted the policies of the American Medical Association, following, to be its guidelines to its licensees in Alaska with regard to who may perform laser surgery.</p> <p><u>Performance of Laser Surgery</u> American Medical Association's Policy H-475.989, Laser Surgery, reads: "Laser surgery should be performed only by practitioners licensed to practice medicine and surgery or by those categories of practitioners currently licensed by the state to perform surgical activities." American Medical Association's Policy H-475.988, Laser Surgery, reads: "The board opines that revision, destruction, incision or other structural alteration of human tissue using laser is surgery." Adopted January 16, 2004</p>	<p>Guideline For Physicians In Delegating Procedures To Non-Physician Personnel When Performing Certain Dermatological Procedures.</p> <p>"Under the appropriate circumstances, a physician may delegate certain procedures to certified, licensed, non-physician office personnel e.g., nurse, physician assistants, or certified medical assistants). Specifically, the physician must directly supervise the non-physician office personnel to protect the best interest and welfare of each patient. The supervising physician shall be physically present on-site, immediately available, and able to respond promptly to any question or problem that may occur while the procedure is being performed. It is the physician's obligation to insure that, with respect to each procedure performed, the non-physician office personnel possess the proper training in cutaneous medicine, the indications for the procedure, and the pre- and post-operative care involved." Adopted January 16, 2004</p>	
AZ-M	<p>Arizona Admin. Code Article 14</p> <p>R12-1-1440. Medical Lasers</p>	<p>A.R.S. R4-16-301through 303 provides for a Supervising physician to delegate specific Medical procedures to a medical assistant Consistent with the CAAHEP <i>Standards for</i></p>	

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	<p>Class 3 and Class 4 laser products used in the practice of medicine must have a means for measuring the level of laser radiation within specified range of error and a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.</p> <p>Must calibrate a laser according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.</p> <p>In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a Laser Safety Committee must be formed to govern laser activity, establish use criteria, and approve operating procedures.</p> <p>For Class 3b and Class 4 lasers, a Physician must also establish a written laser safety training program.</p> <p>R12-1-1438. Hair Removal and Other Cosmetic Procedures Using Laser and Intense Pulsed Light</p> <p>Requires "registration of any medical laser or IPL device that is a Class II surgical device, certified as complying with the labeling standards in 21 CFR 801.109"</p> <p>Registrant must "ensure that the device is only used by a licensed practitioner or an operator who is working under the direct supervision of a licensed practitioner, or at minimum, an operator who is working under the indirect supervision of a licensed practitioner."</p> <p>"Ensure that a licensed practitioner purchases or orders the Class II surgical device that will be used for hair removal procedures."</p>	<p><i>An Accredited Educational Program for the Medical Assistant.</i></p> <p>R12-1-1438. Hair Removal and Other Cosmetic Procedures Using Laser and Intense Pulsed Light</p> <p>A registrant must "[n]ot permit an individual to use a medical laser or IPL device for hair removal procedures unless the individual completes an approved operator didactic training program of at least 40 hours duration; is directly supervised for at least 24 hours on the job by a licensed practitioner; and performs or assists in at least 10 hair removal procedures. The individual shall obtain this hands-on experience under the direct supervision of a licensed practitioner</p> <p>A registrant must ensure that the operator follows written procedure protocols established by a licensed practitioner; ensure that the operator follows any written order issued by a licensed practitioner, which describes the specific site of hair removal; maintain a record of each hair removal procedure protocol , maintain each procedure protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; design each protocol to promote the exercise of professional judgement by the operator "commensurate with the individual's education, experience, and training."; require that a licensed practitioner observe the performance of each operator during actual procedures at intervals that do not exceed six months, maintain a record of the observation, verify that a licensed practitioner is qualified to</p>	

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		perform hair removal procedures, and provide radiation safety training	
AZ-O			
AR	<p>Regulation No. 22. Laser Surgery Guidelines Pursuant to Ark. Code Ann. 17-95-202, the practice of medicine involves the use of surgery for the diagnosing and treatment of human disease, ailment, injury, deformity, or other physical conditions. Surgery is further defined by this Board as any procedure in which human tissue is cut, altered, or otherwise infiltrated by mechanical means, to include the use of lasers. The Board further finds that the use of medical lasers on human beings, for therapeutic or cosmetic lasers, constitutes the practice of medicine. Adopted 6/5/1998; Amended 6/2/2005</p>	<p>Arkansas statutes 17-105 to 111 governs the delegation of health care services to a physician assistant. Physician assistants may perform those duties and responsibilities, including the prescribing, ordering, and administering drugs and medical devices that are delegated by their supervising physician. Supervision shall be continuous, but does not require the physical presence of the supervising physician at the time and place that the services are rendered.</p>	
CA-M	<p>The Business and Professions Code includes the use of laser devices in the definition of the practice of medicine. Only physicians, dentists, physician assistants and nurses may use laser devices, including intense pulse light devices, with physician supervision within their legal scope of practice. The law requires written protocols and procedures relating to supervision. Laser hair removal may be performed only by a physician, or, when working with a physician, registered nurse or physician assistants.</p> <p>A 1997 Attorney General opinion states that physicians may not authorize medical assistants to perform laser treatments.</p>	<p>The CA Business and Professions Code Relating medical assistants allows a medical assistant, under the supervision of a licensed physician, to administer medication by intradermal, subcutaneous, or intramuscular injections and to perform skin tests and other technical supportive services upon specific authorization. Authorized procedures must be within the scope of the physicians practice and the physician must be physically present in the treatment facility during the performance of the procedures.</p>	
CA-O		<p>California Business and Professional Code Section 2459.6 regulates the delegation of a task to an unlicensed person. Physicians may assign only those patient-related tasks that can</p>	

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		be safely and effectively performed by an aide. The supervising physician shall be responsible at all times and shall provide continuous and immediate supervision. The physician shall be in the same facility as, and in proximity to the location where the aide is performing the task and shall be readily available at all times.	
CO	It is Board policy that the use of lasers for patient care constitutes the practice of medicine. The Board adopted a policy statement in November 1997 that lasers must be used by a Colorado licensed physician or under the direct and on-site supervision of a Colorado licensed physician. The Board expressed its intent that this be an employer/employee relationship such that the physician has direct control of the unlicensed person.	In November 2002 , the Board held a hearing on proposed rules regarding the delegation of medical functions to unlicensed persons.	
CT	In December 1997 , and confirmed in March 1998, the Board issued a Declaratory Ruling on Use of Lasers for Hair Removal. The Board ruled that a licensed physician with appropriate knowledge, experience and training should assess each patient prior to and during the course of hair removal treatment with laser therapy. Such physicians may delegate the operation of the laser for hair removal to a licensed physician assistant, registered nurse, or licensed practical nurse, who may render service under the supervision, control and responsibility of a licensed physician, provided the assessment of each patient is performed by the physician. The physician shall provide direct on-site supervision in the course of hair removal with laser therapy.		
DE		In 1700 Board of Medical Practice, Section 21.1.1 states that a physician who delegates medical responsibility to a non-physician is responsible for that person's activities and must provide adequate supervision. No function may be delegated to a non-physician who is prohibited by statute or regulation from performing that function. Direct and indirect	

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		supervision are defined. Physicians who choose to have their patients followed by a non-physician must personally evaluate any patient at least every three months.	
DC			
FL-M	<p>The Board of medicine considers the use of high-powered lasers (all Class IIIa, IIIb, and IV lasers as designated by the FDA) to be the practice of medicine. These may be used only by physicians, or by those exempt from the Medical Practice Act (such as nurses) while acting under the direct supervision of a physician. Florida also requires all high-powered laser systems to be registered with the Department of Health. Failure to do so may be grounds for disciplinary action against a physician and may result in a criminal penalty. Adm Rules 64B8-56.002 Statute Title 32, Chapter 501, Subsection 501.122 (Florida office surgery rules (64B8-9.009) include use of lasers in the definition of surgery)</p>	<p>F.S.A. 458.348</p> <p>“Protocols requiring direct supervision.--All protocols relating to electrolysis or electrology using laser or light-based hair removal or reduction by persons other than physicians licensed under this chapter or chapter 459 shall require the person performing such service to be appropriately trained and work only under the direct supervision and responsibility of a physician licensed under this chapter or chapter 459.”</p> <p>- In office setting where supervision not on-site, primary health practitioners limited to supervising 4 offices in addition to the primary office location; Specialty practitioners limited to 2; dermatologists limited to 1.</p>	
FL - O		<p>F.S.A.459.025</p> <p>Provisions similar 458.348 above, applied to Osteopath physicians</p>	
GA	<p>Georgia Cosmetic Laser Services Act</p> <p>Provides for licensure of cosmetic laser practitioners on two levels: assistant laser practitioner and senior laser practitioner.</p> <p>Provides licensing standards and requirements, permitted and prohibited activities and requires that each facility offering cosmetic laser services have an agreement with a consulting physician trained in laser modalities and is available for</p>		<p>2008 HB 1323 (SB 498) - Requires any facility providing cosmetic laser services to have an agreement with a consulting physician who shall examine each patient prior to any cosmetic laser service being performed. Further, rules relating to supervisory requirements for facilities providing cosmetic laser services are clarified. The advisory committee</p>

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	emergency consultation with the cosmetic laser practitioner or anyone employed by the facility. Enacted 05/29/2007		representing the licensed cosmetic laser practitioners shall include at least one person licensed to practice medicine. FAILED
GU			
HI	The Board's informal opinion is that, except as otherwise provided by law, the use of lasers is considered to be the practice of medicine.		
ID	The Board adopted guidelines recommending physician evaluation and assessment of the patient prior to and following prescribed treatment with an intense pulsed light and/or laser device. If the actual treatment with an intense pulsed light device is delegated to a properly trained individual, the physician must maintain on-site supervision while treatment is being performed. The MPA creates an exemption from medical licensure only with regard to the use of Class I or II, nonprescriptive medical devices.		
IL		The MPA, Section 54.5 , provides authority for physicians to delegate tasks or duties to licensed practical nurses, registered nurses, or other personnel.	<p>2007 HB 3679 - Allows a physician to delegate the operation of an intense pulsed light system or laser for the purpose of epilation, photorejuvenation, or other non-medical cosmetic procedures to a physician assistant, advanced practice nurse, registered nurse, electrologist, or other personnel provided those persons have adequate training. PENDING</p> <p>2008 HB 4667 - States that a Board-certified plastic surgeon shall be the only individuals permitted to perform laser surgeries, Botox injections, or chemical peels on patients. The Board-certified plastic surgeon may not delegate the performance of any of these procedures to any other individual. A violation of this section that results, directly or indirectly, in</p>

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			the death of a patient is punishable as a Class 1 felony with a minimum prison term of 10 years. PENDING
IN	State statute defines the use of lasers as surgery and, therefore, such use constitutes the practice of medicine. MPA, Article 4, Section 844 IAC 4-3-2 Surgical Operations	The MPA, IC 25-22.5-1-2 allows a physician to delegate a medical task that is within the physician's specific area of practice to an employee who is under the direction and supervision of the physician.	
IA	<p>The Board established an Ad Hoc Committee on the Use of Lasers, Intense Pulsed Light Devices, and Radio-Frequency Devices. The Committee issued a report that was accepted in April 2006.</p> <p>Summary: The Committee concluded that the regulation of lasers and associated devices is a very complex issue, involving a broad range of changing technologies and significant scope of practice implications. However, unregulated widespread use of these devices is an increasing public safety concern. Concerns regarding safety risks for these devices vary significantly. In addition to safety risks, there are concerns regarding the efficacy of the services offered, including fraudulent practices. Choosing a qualified healthcare provider to provide medical treatment with lasers or associated devices is an important decision. The public should consider all of the issues discussed above before choosing a provider.</p>		
KS	In April 2001 and amended in March 2002 , the Board adopted regulations relating to supervision of light-based medical treatments. The regulations require physicians to have written practice protocol agreements with those who use a light-based medical device to provide a professional service under their supervision. Treatments are required to be performed at a location where the supervising physician maintains a practice or while the physician is physically immediately available. Treatments performed while the physician is not physically present are required to be	<p>KSA 65-2872(g) establishes that persons performing medical services under the supervision of a physician are not unlawfully practicing medicine.</p> <p>KSA 65-28, 127 places specific duties on physicians who delegate, etc., acts that constitute the practice of medicine under the MPA.</p>	

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	performed within written operating parameters. Person receiving treatment are required to give consent. This rule does not apply to phototherapy in treatment of hyperbilirubinemia or to a chiropractor engaging in light-based physiotherapy. KSA Article 27, 100-27-1.		
KY	Only a physician may use a laser for hair removal.		
LA	Statute states that the use of lasers or chemical treatments for therapeutic or cosmetic purposes constitutes the practice of medicine. Only persons licensed under the laws of the state to practice medicine, veterinary medicine, dentistry, or podiatry shall perform laser surgery. In November 2001 , the Board issued a position statement on the use of medical lasers for chemical skin treatments stating that such treatments are the practice of medicine and may be performed only by a licensed physician or by a non-physician who acts under the direct supervision of a physician licensed in LA. Non-physicians who perform laser or chemical treatments in violation of the law, will be considered to be engaged in the unauthorized practice of medicine.		
ME-M	Only a physician may use a laser for hair removal.	The MPA, Chapter 48, Section 3270-A states that nothing in this chapter shall be construed as prohibiting a physician or surgeon from delegating to his employees certain activities relating to medical care and treatment now being carried out by custom and usage when such activities are under the direct control of and in the personal presence of a physician or surgeon. The physician delegating such activities... shall be deemed legally liable for such activities of such persons, and such persons shall be in this relationship be construed as the physician's agent.	
ME-O			
MD	In October 2002 , the Board issued a Declaratory Ruling (00-1) stating that the use of lasers for hair removal is a surgical act. Only physicians, certified nurse practitioners, registered	Title 14 of the Maryland Code, 14-306, authorizes the BPQA to adopt rules and regulations relating to duties delegated by a	

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	nurses under Board of Nursing Declaratory Ruling (9701), and physician assistants may use lasers for hair removal.	licensed physician.	
MA	MA administrative code allows for use of laser acupuncture by acupuncturists.	The Code of MA Regulations, 243 CMR 2.00 allows a physician to permit a skilled professional or non-professional assistant to perform services in a manner consistent with accepted medical standards and appropriate to the assistant's skill.	2007 SB 1281 - Requires the Board of Registration in Medicine, the Board of Registration of Nursing, and the Board of Registration of Cosmetology to evaluate issues surrounding the use of lasers or intense light pulse device for elective cosmetic procedures to establish licensure and professional standards for protection of consumers of medical spas. PENDING
MI-M		Michigan Public Health Code, Article 15, part 161, 333.16215: <u>Delegation of acts, tasks, or functions to licensed or unlicensed individuals; supervision; rules; immunity</u> states that licensed physicians may delegate selected functions to licensed or unlicensed individuals when the functions are within the scope of practice for their profession and are performed under the physician's supervision. Functions that require physician expertise may not be delegated.	
MI-O			
MN	State statute defines the use of lasers as surgery and, therefore, such use constitutes the practice of medicine.		2008 HB 3937 (SB 3625) - Provides general restrictions on the use of lasers, intense pulsed light devices, and radio frequency devices. States that the use of a laser, intense pulsed light device, or radio frequency device for ablative treatments for the purpose of treating a physical disease, disorder, deformity, or injury shall constitute the practice of medicine and may only be performed by a physician. The use of a laser, intense pulsed light device, or radio frequency device for nonablative treatments may be performed by a health

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			practitioner if the treatment has been delegated by a physician and the practitioner meets certain training requirements. FAILED
MS	In 1999 , the Board adopted regulations stating that the use of laser devices for invasive or cosmetic procedures is considered the practice of medicine and is, therefore, limited to physicians and those directly supervised by a physician who is on the premises where the procedure is being performed. XIX Regulation Concerning Use of laser Devices, Section 1		
MO	It is the board's position that the use of Lasers is considered surgery and should only be used by professionals whose statutory scope of practice authorizes them to perform surgery, or by a healthcare professional under the supervision of a physician.		
MT	Board rules include the use of lasers in the definition of surgery.		
NE	The Board of Medicine and Surgery has gone on record to state that use of a laser, for aesthetic procedures, or any other procedures, is the practice of medicine and surgery.	The physician may not delegate the use of a laser to non-physicians, except that it may be delegated to a physician assistant with supervision and training consistent with the requirements for duties delegated to a physician assistant.	
NV-M	In December 1998 , the Board issued an advisory opinion indicating that the use of lasers is included in the definition of the practice of medicine. The opinion states that physicians are allowed to delegate certain responsibilities, including the use of lasers, only to employees qualified to perform procedures by way of special skills, education, or experience. NRS 630.371 Performance of laser surgery on eye without proper training. Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed physician who has completed a program of progressive postgraduate education in ophthalmology as a		

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	resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.		
NV-O	NRS 633.693 Performance of laser eye surgery or intense pulsed light therapy without proper training. Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed osteopathic physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the Bureau of Osteopathic Education of the American Osteopathic Association, the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.		
NH	<p>TITLE XXX. OCCUPATIONS AND PROFESSIONS CHAPTER 329 PHYSICIANS AND SURGEONS Section 329:1</p> <p>329:1 Practice. – Any person shall be regarded as practicing medicine under the meaning of this chapter who shall diagnose, treat, perform surgery, or prescribe any treatment of medicine for any disease or human ailment. ""Surgery" means any procedure, including but not limited to laser, in which human tissue is cut, shaped, burned, vaporized, or otherwise structurally altered, except that this section shall not apply to any person to whom authority is given by any other statute to perform acts which might otherwise be deemed the practice of medicine. ""Laser" means light amplification by stimulated emission of radiation.</p> <p>Only physicians and physician assistants who are licensed by the Board are allowed to perform laser procedures.</p>		
NJ	<p>SUBCHAPTER 4A. SURGERY, SPECIAL PROCEDURES, AND ANESTHESIA SERVICES PERFORMED IN AN OFFICE SETTING</p> <p>“Surgery” means a manual or operative procedure, including</p>		

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	<p>the use of lasers, performed upon the body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, prolonging life or relieving suffering. Surgery includes, but is not limited to: incision or curettage of tissue or an organ; suture or other repair of tissue or an organ; a closed or open reduction of a fracture or extraction of tissue from the uterus.</p> <p>13:35-4A.12 Alternative privileging procedure (d) A practitioner who seeks to utilize laser surgery techniques in an office, but does not hold privileges at a licensed hospital to do so, shall submit to the Board an application, which shall include:</p> <ol style="list-style-type: none"> 1. Certification of successful completion of an accredited laser training program, in which the curriculum includes instruction in laser care, physics and clinical indications for utilization of the specific laser; or 2. Documentation from the program director of an accredited residency training program which the applicant has successfully completed, attesting to the inclusion of training in the specific laser therapy for which privileges are being sought during residency training. 		
NM-M	<p>In 2000, the Board revised rules and regulations on the use of lasers and light activated devices to incorporate board policy. The rule states that non-physician personnel performing hair removal on patients must have appropriate training in laser usage and the supervising physician must be on the immediate premises during the procedure. However, when the procedure is performed by a trained physician assistant, the supervising physician is not required to be physically present in the building where the surgery is being performed.</p> <p>In April 2002, the Board adopted a rule stating requirements that must be met before unlicensed personnel may perform hair removal using lasers and light activated devices, including that the supervising physician must be on the immediate</p>	<p>The MPA, Section 61-6-16(6)(3) states that the Act does not limit or prevent a physician from delegating any task or function to a qualified person otherwise permitted by state law or established by custom, except the dispensing of dangerous drugs.</p> <p><i>LASERS & LIGHT ACTIVATED DEVICES FOR HAIR REMOVAL</i> New Mexico allows a non-physician to perform laser or light activated hair removal. However, these services to be performed under the supervision of a licensed physician. The rules require:</p>	

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	premises at all times during a procedure.	<ul style="list-style-type: none"> * the supervising physician must have interviewed the patient and recorded appropriate history and physical information; *the unlicensed person who will be performing the hair removal must have been trained on the procedure; *the supervising physician must be on the immediate premises at all times during the procedure; * the unlicensed person performing the service must be fully insured under the physician's medical malpractice policy; * the patient must be informed that the person providing the service is not a physician; and * the Board must have a record of non-licensed staff who are performing these services. 	
NM-O			
NY	In August 2002 , the NY State Board of Medicine passed a resolution recommending that the use of lasers and intense pulsed light for hair removal be considered the practice of medicine and thus be performed by a physician or under direct physician supervision.	Section 6530 of the New York Education Law defines professional misconduct and includes: 24) Practicing beyond the scope of practice permitted by state law and performing professional responsibilities a licensee knows he/she is not competent to perform..... 25) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, experience or by licensure to perform.	2007 AB 8142 (SB 4173) - Amends the current law in relation to the regulation of the use of laser, intense pulsed light, radiofrequency and medical microwave devices. States only authorized persons can use any laser classified as Class IIIB or Class IV, intense pulsed light, radiofrequency and medical microwave devices on human beings, and that their use on human beings is deemed to be the practice of medicine. PENDING
NC	In July 1999 , the North Carolina Board adopted a position statement that laser surgery is the practice of medicine and should be performed only by a physician or by a practitioner working within his/her scope of practice and with appropriate medical training under the supervision of a physician or other practitioner licensed to perform surgical services and preferably on-site. The statement was slightly amended in March 2002.	MPA, Chapter 90, Section 90-18, under practicing without a license, states that physicians are not prohibited from delegating any act or task to a qualified person that is otherwise permitted by law or established by custom. Rule 800 – adopted 11-15-02, establishes 1)	

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	<p>In August 2002, the Board amended its position statement on laser hair removal to state that laser hair removal should be performed only by a physician or by an individual having adequate training and experience under the supervision of a physician who should be on-site or readily available to the person performing the procedure.</p> <p>In July 2005 the Board once again amended its position statement on laser hair removal. It is the Board's position that each patient should be examined by a physician, physician assistant, or nurse practitioner prior to receiving the first laser hair removal treatment. The examination should include a full medical history and a focused physical examination. The position also defines "readily available" in terms of physician supervision.</p> <p>In 2007, the Board of Medical Examiners was given authority to license laser hair practitioners and laser hair practitioner instructors and requires that such practitioners provide treatment only under the supervision of a physician. Only a licensed physician may use laser, light source or pulsed-light devices for ablative procedures.</p>	<p>that the responsibility for the delivery and outcome of any delegated function lies solely with the delegating physician, 2) adequacy and appropriateness of training for the function should be documented, 3) adequacy and appropriateness of supervision will be judged by the standard of care for a physician directly delivering the same medical service, and 4) delegated services cannot be re-delegated by anyone other than the responsible physician. In addition, prescribing of medication, other than refills, cannot be delegated under CO statute.</p>	
ND	Only a physician may use a laser for hair removal.	Title 50 of the ND Adm. Code, Chapter 50-03-01-12 states that the code does not prohibit a physician from delegating any tasks or functions to a qualified person otherwise permitted by state law or established by custom.	
NMI			
OH	In 2000 , the Board adopted rules that state that the application of light-based medical devices to the human body is the practice of medicine, osteopathic medicine and podiatric medicine. Licensed physicians and osteopathic physicians may delegate the use of light-based medical devices approved by the FDA for phototherapy in treatment of hyperbilirubinemia	Ohio Adm. Rule 4731-23 regulates the delegation of medical tasks. Medical tasks may be delegated by a physician only under certain circumstances including that the person to whom the task is delegated is competent based on specific factors; the task is within the	

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	in neonates to any appropriate person. Additionally, physicians may delegate the application of light-based medical devices to physician assistants and cosmetic therapists for the purpose of hair removal under certain conditions. Violation of the rules constitutes failure to conform to minimum standards of care. Ohio Adm. Rule 4731-18-01 through 04.	physician's expertise; and the supervising physician retains responsibility for the delegated task.	
OK-M			
OK-O			
OR	In January 2002 , the Board adopted a position statement that the medical use of lasers is the practice of medicine. Physicians using lasers should be trained appropriately and any physician who delegates a procedure using lasers or intense pulsed light devices to a non-physician should be qualified to do the procedure themselves. Allied health professionals employed to perform a laser or intense pulsed light procedure must have appropriate training and education and must be under the direct supervision of a licensed physician under written guidelines and/or policies. The ultimate responsibility for performing any procedure lies with the physician.		
PA-M		MPA, Section 17 allows a physician to delegate the performance of a medical act to a health care practitioner or technician if such delegation is consistent with the standards of acceptable medical practice; the delegation is not prohibited by board regulations; and/or the delegation is not prohibited by statutes or regulations relating to other health care practitioners.	
PA-O			
PR			
RI	<p>12-15-2003 - Policy statement on office based esthetic procedures:</p> <p>It is the position of the Board that office based cosmetic or esthetic procedures that require the use of medical lasers, high-</p>		

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	<p>frequency radio waves, or injection of sclerosing chemicals or biologically active compounds [e.g. Botulinum toxin A, Botox] are medical procedures.</p> <p>Therefore, prior to undergoing such procedures patients must receive a medical evaluation for appropriateness by a licensed and qualified physician or other practitioner acting within his/her scope of practice.</p> <p>Although these procedures may be performed by an appropriately trained nonphysician working under the supervision and direction of a physician or other practitioner acting within his/her scope of practice, it is the supervising physician's [or other practitioner acting within his/her scope of practice] responsibility to assure that procedures are conducted appropriately; with appropriate assessment, consent and follow-up; and upon appropriate patients; and that all patient records are maintained according to standards applicable for medical records; and that patient privacy is protected. The supervising physician or other practitioner acting within his/her scope of practice is responsible for any procedures carried out by nonphysicians under his/her direction.</p> <p>Physicians [or other practitioner acting within his/her scope of practice] who perform and supervise such procedures must be able to demonstrate appropriate training and experience. Such training and experience may include, but is not limited to, residency or fellowship.</p> <p>The physician or other practitioner acting within his/her scope of practice is responsible to assure and document adequate training for individuals under his/her supervision.</p> <p>Additionally, other cosmetic procedures such as dermabrasion or the application of potentially scarring chemical treatments [e.g. so-called chemical peels] should also meet this same</p>		

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	standard.		
SC	<p>In October 1999, the Board adopted a policy statement defining the use of laser devices as surgery and stating that laser surgery should be performed only by individuals licensed to practice medicine. Use of a laser device for hair removal may be performed by a licensed physician or may be a delegated medical act. If delegated, the person performing the procedure must be under the direct supervision of a physician who must be on-site when the procedure is performed.</p>	<p>The MPA, Title 40, Chapter 47, Section 40-47-60 states that the Act does not prohibit licensed physicians from delegating tasks to unlicensed personnel in their employment and on their premises if the task is routine in nature; is performed while the physician is present on the premises and readily available; the task does not involve the verbal transmission of a physician's order; and the unlicensed person is wearing a badge denoting their status.</p>	
SD	<p>State statute defines the use of lasers as surgery and, therefore, such use constitutes the practice of medicine.</p>		
TN-M	<p>0880-2-.14 SPECIALLY REGULATED AREAS AND ASPECTS OF MEDICAL PRACTICE. (10) Use of Laser Equipment - Any procedure encompassed within the definition of the practice of medicine contained in T.C.A. § 63-6-204 that is to be performed by use of a laser shall be considered, except as provided in T.C.A. §§ 63-26-102 (5) and 63-9-106, to be the practice of medicine and any person performing such procedure must be under the supervision of a licensed physician.</p> <p>0880-2-.21 OFFICE BASED SURGERY. (3) Definitions (q) Surgery - The excision or resection, partial or complete, destruction, incision or other structural alteration of human tissue by any means (including through the use of lasers) performed upon the body of a living human for purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering, or for aesthetic, reconstructive or cosmetic purposes, to include, but not limited to: incision or curettage of tissue or an organ; suture or other repair of tissue or organ, including a closed or an open reduction of a fracture; extraction of tissue, including premature extraction of products</p>		

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	<p>of conception from the uterus; and insertion of natural or artificial implants. For the purpose of this rule, certain diagnostic and therapeutic procedures requiring medication to immobilize the patient are contained within the definition of surgery.</p> <p>(11) Miscellaneous (b) Laser surgery - Laser surgeries performed pursuant to these rules require written policies and procedures that include, but are not limited to, laser safety, education, training, and the supervision of other licensed health care practitioners who are performing laser treatments. A safe environment shall be maintained for laser surgery.</p>		
TN-O	<p>1050-2-.13 SPECIFICALLY REGULATED AREAS AND ASPECTS OF MEDICAL PRACTICE.</p> <p>(10) Use of Laser Equipment - Any procedure encompassed within the definition of the practice of osteopathic medicine contained in T.C.A. § 63-9-106 that is to be performed by use of a laser shall be considered, except as provided in T.C.A. §§ 63-26-102 (5) and 63-6-204, to be the practice of osteopathic medicine.</p>		
TX	<p>§193.11. Use of Lasers.</p> <p>(a) Purpose. As the use of lasers/pulsed light devices is the practice of medicine, the purpose of this section is to provide guidelines for the use of these devices for ablative and non-ablative treatment by physicians. Nothing in these rules shall be construed to relieve the supervising physician of the professional or legal responsibility for the care and treatment of the physician's patients.</p> <p>(b) Definitions. For the purpose of this section, the following definitions will apply.</p> <p>(3) On-site supervision--On-site supervision shall mean continuous supervision in which the individual is in the same building. Texas State Board</p> <p>(c) Use of lasers in the practice of medicine.</p>	<p>The TX MPA in Section 3.06 states that a physician has the authority to delegate a medical act to qualified and properly trained persons if the physician determines that the act can be properly and safely performed by that person and such delegation does not violate any other statute. The delegating physician remains responsible for delegated medical acts.</p> <p>TX Board rules, Standing Delegation Orders Chapter 193.1-193.10 relate to delegation of Health care tasks to qualified non-physicians Providing services under physician supervision. A physician may delegate only health care acts that do not require the exercise</p>	

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	<p>(1) The use of lasers/pulsed light devices for the purpose of treating a physical disease, disorder, deformity or injury shall constitute the practice of medicine pursuant to §151.002(a)(13) of the Medical Practice Act.</p> <p>(2) The use of lasers/pulsed light devices for non-ablative procedures cannot be delegated to nonphysician delegates, other than an advanced health practitioner, without the delegating physician being on-site and immediately available.</p> <p>(3) The use of lasers/pulsed light devices for ablative procedures may only be performed by a physician.</p>	<p>of independent medical judgment and only when the physician is satisfied that the person has the ability and competence to perform the task. Effective March 6, 2003.</p>	
UT-M			
UT-O			
VT-M			
VT-O			
VA		<p>Title 54.1 of the Code of Virginia provides that the code does not prohibit a licensed physician from delegating activities or functions to employees that are nondiscretionary and do not require professional judgment and are customarily delegated to such persons. The physician assumes responsibility for delegated tasks.</p>	<p>Proposed Board Guidance Document for Laser (Light-Based) Hair Removal in Physician Practices in 2008.</p>
VI			
WA-M	<p>WAC 246-919-605 Use of lasers, light, radiofrequency, and plasma devices as applied to the skin.</p> <p>(1) For the purposes of this rule, laser, light, radiofrequency, and plasma devices (hereafter LLRP devices) are medical devices that:</p> <p>(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and</p> <p>(b) Are classified by the federal Food and Drug Administration as prescription devices.</p> <p>(2) Because an LLRP device penetrates and alters human tissue, the use of an LLRP device is the practice of medicine under RCW 18.71.011. The use of an LLRP device can result</p>		

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	<p>in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.</p> <p>(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than the purpose set forth in subsection (1) of this section constitutes surgery and is outside the scope of this section.</p> <p>(10) A physician who meets the above requirements may delegate an LLRP device procedure to a properly trained and licensed professional, whose licensure and scope of practice allow the use of an LLRP device, provided certain conditions are met.</p>		
WA-O	<p>246-919-605. Use of laser, light, radiofrequency, and plasma devices as applied to the skin.</p> <p>the use of an LLRP device is the practice of medicine</p> <p>A physician must be appropriately trained in the physics, safety and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.</p> <p>(5) A physician must use an LLRP device in accordance with standard medical practice.</p> <p>(6) Prior to authorizing treatment with an LLRP device, a physician must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that a nonphysician may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.</p> <p>(7) Regardless of who performs LLRP device treatment, the physician is ultimately responsible for the safety of the patient.</p> <p>(8) Regardless of who performs LLRP device treatment, the physician is responsible for assuring that each treatment is</p>	<p>A physician who meets the above requirements may delegate an LLRP device procedure to a properly trained and licensed professional, whose licensure and scope of practice allow the use of an LLRP device, provided all the following conditions are met:</p> <p>(a) The treatment in no way involves surgery as that term is understood in the practice of medicine;</p> <p>(b) Such delegated use falls within the supervised professional's lawful scope of practice;</p> <p>(c) The LLRP device is not used on the globe of the eye;</p> <p>(d) A physician has a written office protocol for the supervised professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:</p> <p>(i) The identity of the individual physician authorized to use the device and responsible for the delegation of the procedure;</p>	

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	<p>documented in the patient's medical record.</p> <p>(9) The physician must ensure that there is a quality assurance program for the facility at which LLRP device procedures are performed regarding the selection and treatment of patients</p>	<p>(ii) A statement of the activities, decision criteria, and plan the supervised professional must follow when performing procedures delegated pursuant to this rule;</p> <p>(iii) Selection criteria to screen patients for the appropriateness of treatments;</p> <p>(iv) Identification of devices and settings to be used for patients who meet selection criteria;</p> <p>(v) Methods by which the specified device is to be operated and maintained;</p> <p>(vi) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and</p> <p>(vii) A statement of the activities, decision criteria, and plan the supervised professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made;</p> <p>(e) The supervised professional has appropriate training in, at a minimum, application techniques of each LLRP device, cutaneous medicine, indications and contraindications for such procedures, preprocedural and postprocedural care, potential complications and infectious disease control involved with each treatment;</p> <p>(f) The delegating physician ensures that the supervised professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device;</p>	

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		<p>(g) The delegating physician shall be on the immediate premises during the patient's initial treatment and be able to treat complications, provide consultation, or resolve problems, if indicated. The supervised professional may complete the initial treatment if the physician is called away to attend to an emergency;</p> <p>(h) Existing patients with an established treatment plan may continue to receive care during temporary absences of the delegating physician provided that there is a local back-up physician who satisfies the requirements of subsection (4) of this section. The local back-up physician must agree in writing to treat complications, provide consultation or resolve problems if medically indicated. The local back-up physician shall be reachable by phone and able to see the patient within sixty minutes.</p>	
WV-M	<p>In July 2007, the Board adopted a Public Policy Statement on Surgery using Lasers, Pulsed Light, Radiofrequency Devices, or Other Techniques from the American College of Surgeons, ST-11.</p> <p>The use of ablative lasers may be delegated to nonphysician advanced health care practitioners (defined as nurse practitioners or physician assistants) who are appropriately trained and licensed by the state in which they practice. Ablative treatments or procedures performed by nonphysician advanced health care practitioners should fall within the statutory and/or regulatory scope of the practitioner's profession. The physician may delegate the performance of ablative treatments through the use of written protocols to an advanced health care practitioner. Direct supervision should be provided by the physician whenever performance of ablative</p>		

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	<p>treatments has been delegated to an advanced health practitioner, unless specific state regulations allow for lesser amounts of supervision. The physician is responsible for doing the initial review of the patient and for authorizing the treatment plan. This should be appropriately noted in the patient's chart prior to any initial ablative treatment.</p> <p>Physicians may also delegate the performance of nonablative treatments to nonphysician health practitioners (defined as registered nurses, cosmetologists, aestheticians, and medical assistants or other qualified personnel), provided the treatments are performed under direct supervision by the physician consistent with state laws and regulations in the state where they practice. The physician must also assure that these practitioners are appropriately trained, licensed by the state in which they practice, practicing within the scope of their licensure, and provided with written protocols. Similar to ablative treatments, the physician is responsible for doing the initial review of the patient and for authorizing the treatment plan, and this should be appropriately noted in the patient's chart prior to any initial nonablative treatment. In those cases where the surgeon may utilize the services of a nonphysician advanced health practitioner or nonphysician health practitioner as an assistant during the performance of laser surgery (including ablative or nonablative procedures), the assistant must meet the following requirements:</p> <ul style="list-style-type: none"> •Be properly licensed, certified, and/or credentialed to practice his or her profession; •Have appropriate education and training for assisting the surgeon in laser surgery procedures; and •Complete assigned duties under the direct supervision of the surgeon performing the procedure. <p>Individuals who perform laser surgery utilizing lasers, pulsed light, radiofrequency devices, or other techniques should meet the principles of the College in all</p>		

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	respects (see http://www.facs.org/fellows_info/statements/stonprin.html), to include the avoidance of any misrepresentations to the public regarding unfounded advantages of the laser compared with traditional operative techniques		
WV-O			
WI			
WY			

Other Resources:

American Society for Laser Medicine and Surgery – *Standards of Care*, Adopted April 15, 1999