

SPECIAL NEWSLETTER - YOUR ACTION NEEDED!!!

For the past decade, the NYSSDDS has grappled with the issue of quality of care in the delivery of laser treatment. As you know, many non-physicians have gotten 'into the business' of performing skin treatments using lasers. In the past, legislation has been introduced which would make the use of IIIb and IV lasers on human beings the practice of medicine. This legislation would also specify to whom and under what circumstances physicians could delegate the use of these devices.

Over the years, several issues regarding the specifics the legislation has been discussed and we need your assistance in helping to guide the NYSSDDS toward a final resolution of these concerns.



Judith Ann Mysliborski, MD
Society President

In the articles that follow, your Society leaders have articulated their differing opinions regarding the resolution of these issues. We need you to reflect upon each of

these positions and to answer the questions that have been set forth below. Please read these questions carefully. The answers to question 2 and 3 below are central to the resolution of this matter. Each of the possible responses are dependent upon whether you embrace the use of the conjunctive "and" or disjunctive "or".

I would like to take this opportunity to thank you for taking the time to read the materials and to respond to our questionnaire. Your responses will guide the direction that will be taken by the Society on the laser legislation. Please take the time to complete the questions below and to return your responses by email, fax or mail to the addresses listed below.

NYSSDDS OFFICERS

President

Judith A. Mysliborski, MD
Albany, NY

President-Elect

David E. Bank, MD
Mount Kisco, NY

Vice President

Mary Ruth Buchness, MD
New York, NY

Secretary

Janet A. Moy, MD
New York, NY

Treasurer

Lynn Silverstein, MD
Port Washington, NY

Immediate Past President

Peter C. Lombardo, MD
New York, NY

Executive Director

Liz Dears Kent, Esq.
Voorheesville, NY

Dear Colleague:

The Future of Dermatology:

Your help is needed to protect our specialty and the patients of New York. Unlike most other states, New York has become the wild west for dermatologic procedures involving lasers and related technologies. New York's law relating to the procedures performed with these devices is inconsistent with the policies of the AAD, ASDS, plastic surgery societies, and most of the states in the country including California, Florida, Texas, Connecticut and New Jersey.

There are "practitioners" throughout our state with no licensure nor training practicing dermatology often in the setting of spas or salons. They are using lasers and other technologies to treat excess hair, tattoos, acne scarring, acne and performing cosmetic rejuvenation. As de facto "dermatologists" these untrained and unqualified laypersons are often called upon to evaluate and diagnose skin conditions including pigmented lesions.

Protect our Specialty:

We must restrict the practice of dermatology to either physicians or medical personnel under our supervision.

The issue at hand involves laser hair removal which unlike all other states is not considered the practice of medicine. As a consequence of a 1927 legal ruling defining the removal of hair from consideration of medical procedures, laser hair removal with high power devices is often performed by non-medical personnel with no licensure nor medical training. The devices used by these non-medical personnel are limited by the FDA to the sale to physicians only as a result of their potential for injury to the skin and eyes but nevertheless they end up in the hands of the lay public with no medical credentials.

The Problem:

Data from the American Society for Dermatologic Surgery has shown that 78% of laser related complications occur in the spa or salon setting by unqualified medical personnel. Another recently published study states that Laser/IPL hair removal causes more complications than any other cosmetic treatment. Experience in NY State has also shown that those facilities using lasers and related devices for hair removal also use these and other devices for other common dermatologic conditions. A flagrant example of the non-physician practice of dermatology is an advertisement by an unlicensed individual describing the listed services below.

Conveniently located in the heart of midtown Manhattan, (Name Removed) serves the entire New York area offering comprehensive laser removal for unwanted tattoos, hair, spider veins, pigmented lesions and more using state of the art technology including the Alexandrite EpiTouch™ and the Medlite IV Nd:YAG lasers.

This facility was founded and is run by one of New York City's premier tattoo removal specialists, (Name Removed / Lay Person). Owner stays abreast of new developments and advances in cosmetic laser technology and prefers the Alexandrite EpiTouch™ and Medlight IV Nd:YAG lasers for their efficacy and safety in cosmetic use.

Act Now:

We have a unique and possibly our last opportunity to create legislation to close the loophole in New York State's laws, which would require the reclassification of laser hair removal as the practice of medicine. The proposed legislation is designed to protect our patients from injury by stopping laypersons from practicing dermatology with high energy devices.

The Bill:

In preparing this bill there are some political realities in the NY state political arena to consider. Firstly, we cannot pass a bill without the support of the state medical society (MSSNY). Secondly, the state society will not change its policy on the scope of practice issue (to whom the practice of medicine can be delegated). This means that the practice of medicine can only be delegated to PAs, RNs, and nurse practitioners. Thirdly, the other core societies will not support a bill that requires on-site supervision although they have agreed to limit off site supervision to medical facilities excluding spas and salons. Without their support there will not be a bill of any kind. Consequently, we will need to modify our original bill to allow for off-site supervision. New York State law will still require physician evaluation prior to a patient's treatment which would only be performed in a medical facility as opposed to the storefront, spa or salon.

Economic Benefit and Consequences Of our Decision:

While the proposed bill may not be ideal for many of us, its support will help protect our patients from the unqualified and untrained non-medical personnel practicing dermatology and injuring patients in non-medical settings. Some physicians have expressed concern that their unlicensed medical assistants are well trained and will not fall within the scope of practice guidelines. This is a necessary sacrifice to stop laypersons from using these devices and putting patients in harms way. *Consequently, we will need to discontinue using unlicensed medical assistants in an effort to stop all laypersons from using these devices. The secondary benefit will be the preservation of dermatology for generations to come.*

We fully anticipate an influx of patients seeking dermatology services as a result of this legislation. This influx should more than cover the cost differential in hiring medical personnel should a dermatologist choose to delegate these procedures.

Support of this bill with the suggested modifications is critical, otherwise, New York State will be one of two remaining states in the country without legislation regulating these potentially dangerous procedures. Failure to enact legislation will send the wrong message to our patients, the public and our colleagues across the country.

**VOTE "YES" FOR QUESTION 1
VOTE "A" FOR QUESTION 2
VOTE "B" FOR QUESTION 3**

Roy Geronemus, M.D., Ronald Brancaccio, M.D., Melanie Grossman, M.D., Deborah Sarnoff, M.D.

Dear Colleague:

The proposed laser bill leaves room for abuses that would harm our patients and would be detrimental to dermatology practices. As currently written, physician assistants, nurse practitioners, or registered nurses with minimal laser training could open a storefront or shopping mall spa and perform laser procedures without physician supervision. In contrast, the bill would not permit highly-trained medical assistants with on-site supervision of dermatologists to perform those procedures.

Most dermatologists hire and train medical assistants. While some of us hire licensed PAs, NPs, and RNs, this bill would empower all licensed individuals, regardless of their level of training in laser procedures, to open laser facilities on their own and allow them to treat patients without physician supervision. A medical assistant who may have spent years in training and may have treated hundreds of patients under direct supervision of a dermatologist, would not be allowed to continue performing those procedures.

Several years ago, I recall that a vote of the membership of the New York State Society of Dermatology and Dermatologic Surgery was conducted on this precise issue, and our members overwhelmingly supported a bill that would not exclude medical assistants from performing these procedures, but would require the presence of an on-site physician.

There are many reasons to call for the presence of an on-site physician. What if a patient has a vasovagal reaction and happens to be pregnant or has other concurrent medical conditions? What if a patient is inadvertently over-treated? What if the patient is on medications that might make skin more sensitive to the laser procedure? What if the patient doesn't recall those medications until after the procedure? Many other scenarios can be imagined, and physicians would be most qualified to deal with them.

No one wants untrained and unsupervised individuals to have the ability to treat patients with laser procedures, and we fear that is precisely what the proposed bill would allow. At the same time, the bill would restrict the ability of our medical assistants to perform those procedures under our supervision.

Ultimately, we have to ask what is best for our patients. We would rather have our patients treated by highly-trained medical assistants under our direct supervision than by residents, fellows, or other licensed healthcare professionals who are poorly trained in laser procedures.

Mark Lebwohl, MD
David Bank, MD

Peter Lombardo, MD
Herb Hochman, MD

**PLEASE COMPLETE THE FOLLOWING QUESTIONS AND RETURN BY MAY 1ST
MAIL TO: NYSSDDS, 69 Springfield Dr., Voorheesville NY 12186
FAX: 518-765-3865 or EMAIL: nyskindocs@nycap.rr.com**

As present law stands if you vote that laser is the practice of medicine than both lay persons as well as your medical assistant will NOT be able to perform laser procedures.

1. **Should** the use of IIIb and IV lasers, intense pulsed light treatment, radiofrequency or medical microwave device **be legally considered** the practice of medicine **(including for the purpose of hair removal) in the state of New York (which would preclude the use of such devices by lay persons and unlicensed medical assistants)?**
yes ___ no ___.
2. Which of the following statements represents your opinion and should be the position of the NYSSDDS?
A. ___ B. ___
A. The use of IIIb and IV lasers, intense pulsed light treatment, radiofrequency or medical microwave treatment should be delegated to persons qualified by training, experience and licensure. (physician, nurse practitioner, physicians' assistant or registered nurse)
B. The use of IIIb and IV lasers, intense pulsed light treatment, radiofrequency or medical microwave treatment should be delegated to persons qualified by training and experience (could include delegation to an aesthetician, LPN or medical assistant) or licensure (Physicians' Assistant, Nurse Practitioner or RN)
3. Which of the following statements represents your opinion and should be the position of the NYSSDDS?
A. ___ B. ___
A. A supervising physician needs to be on site and immediately available.
B. A supervising physician needs to be on site or immediately available provided that the site at which service is delivered is owned and operated by a physician **in a medical facility whose primary focus is the practice of medicine.**

**NYS Society of Dermatology &
Dermatologic Surgery**

69 Springfield Drive
Voorheesville, NY 12186

Phone: 518-765-2696

Fax: 518-765-3865

E-mail: nyskindocs@nycap.rr.com

PRSRT STD
U.S. Postage
PAID
Permit No. 220
Albany, NY

Please email us at nyskindocs@nycap.rr.com your current email address so that we may provide you with timely reports and updates.

**SPECIAL NEWSLETTER -
YOUR ACTION NEEDED!!!**

**NYSSDDS MEMBERS PLEASE TAKE THE SURVEY ON PAGE 3 TO HAVE YOUR VOICE HEARD ON THIS
CRITICAL ISSUE.**

NON-MEMBERS TO HAVE YOUR VOTE COUNT PLEASE JOIN NOW!!!

**TO JOIN NOW FILL OUT THE ENCLOSED APPLICATION AND SUBMIT WITH YOUR
\$200 ANNUAL MEMBERSHIP DUES.**