



March 29, 2021

The Honorable Patricia Ann Spearman  
Chairwoman, Senate Committee on Commerce and Labor  
401 S. Carson Street, Room 2135  
Carson City, NV 89701  
Submitted electronically: Pat.Spearman@sen.state.nv.us

**RE: Oppose NV SB 291: Provides for the licensure and regulation of master estheticians and instructors of master estheticians. (BDR 54-997)**

Dear Chairwoman Spearman,

On behalf of the undersigned organizations, we appreciate the opportunity to provide comments on Senate Bill 291 that would create a master esthetician license. Protecting patient safety is always the primary concern of our organizations, and professional licensing ensures that providers remain in their scope of practice.

We appreciate all included parties' effort to protect public safety by recognizing that any services provided must be nonablative and not wound or scar the skin or underlying tissue. However, the legislation—as currently written—is concerning since an advanced practice registered nurse (APRN) or physician assistant (PA) would be able to supervise procedures done by a master esthetician. It is our position that non-physicians, such as master estheticians, be directly supervised by a properly licensed physician. The American Society for Dermatologic Surgery Association (ASDSA), the American Academy of Dermatology Association (AADA) and the Nevada Society for Dermatology and Dermatologic Surgery (NSDDS) recommend that a supervising physician should be physically present on-site, immediately available and be able to respond promptly to any problems that may occur during a patient encounter.<sup>i</sup>  
ii

Medical esthetic services should only be delegated to an esthetician when competency can be established based on theoretical and didactic education, and clinical training and experience. Estheticians should only perform delegated medical esthetic services under the direct, on-site supervision of a board-certified dermatologist. Our organizations support the *Medical Spa Safety Act* (attached), which would allow non-physicians to perform cosmetic medical procedures ***under the direct, on-site supervision of a physician.***<sup>iii</sup>

Quality patient care includes evaluating a patient's needs and current condition, selecting an appropriate course of treatment and providing adequate information and follow-up care. Any physician performing a cosmetic medical procedure should be qualified by residency training and a fellowship or other post-graduate 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. When non-physician practitioners are given legal authority to perform the same procedures physicians spend years in medical and surgical training to perform, patient safety is seriously compromised. ***Short***

***term, basic training is in no way equivalent to a physician's training and understanding of a medical procedure and its implications for each patient.***

A 2019 study published in the *Dermatologic Surgery Journal* found that both physicians and patients feel that more regulation is needed for who can perform cosmetic procedures. Adverse events, such as burns and discolorations, occurred with patients seeing non-physicians compared with those seeing physicians. Patient safety is of the highest concern when it comes to any type of cosmetic medical procedure.<sup>iv</sup>

Without specific information on devices, procedures and oversight, patients may seek the services of a master esthetician, resulting in serious, life-altering complications. For example, some states have expressly prohibited the use of plasma pens by estheticians. Plasma pens are relatively new and although they are safe and effective when used by properly trained medical professionals, serious adverse events—such as skin damage—can occur when this device is in the wrong hands.

Board-certified dermatologists complete a rigorous undergraduate academic curriculum, four years of medical school, 3 – 7 years of residency and 12,000 to 16,000 hours of patient care training.<sup>v</sup> Without this vast level of training and experience, the safety of patients in Nevada could be at risk. For optimal care, patients should have the opportunity to receive a proper examination by an appropriately trained and licensed physician and follow-up care under the direct supervision of a board-certified dermatologist.

In order to protect the people of Nevada from adverse events and to ensure quality care, **we urge you to vote no on SB 291**. For further information, please contact Emily Besser, ASDSA Manager of Advocacy and Practice Affairs, at [ebesser@asds.net](mailto:ebesser@asds.net) or (847) 956-9121.

Sincerely,



Kenneth J. Tomecki, MD, FAAD, President  
American Academy of Dermatology Association



Mathew Avram, MD, JD, President  
American Society for Dermatologic Surgery Association



Whitney Hovenic, MD, MPH, President  
Nevada Society for Dermatology and Dermatologic Surgery

cc: Members of the Senate Committee on Commerce and Labor

---

<sup>i</sup> ASDSA *Position Statement on Delegation*. <https://www.asds.net/Portals/0/PDF/asdsa/asdsa-position-statement-delegation.pdf>

<sup>ii</sup> AADA *Position Statement on the Practice of Dermatology*. <https://server.aad.org/Forms/Policies/Uploads/PS/PS-Practice%20of%20Dermatology-Protecting%20Preserving%20Patient%20Safety%20Quality%20Care.pdf>

<sup>iii</sup> Medical Spa Safety Act. Accessed March 29, 2021. <https://www.asds.net/Portals/0/PDF/asdsa/asdsa-medical-spa-safety-act.pdf>

<sup>iv</sup> Rossi A, Wilson B, Hibler B and Drake L. Nonphysician Practice of Cosmetic Dermatology: A Patient and Physician Perspective of Outcomes and Adverse Events. *Dermatol Surg* 2019;45:588-597.

<sup>v</sup> Why Choose a Board Certified Dermatologist? Accessed March 29, 2021. <https://www.aad.org/public/fad/why-choose-a-derm>

1                                    In the General Assembly State of \_\_\_\_\_

2                                    **“Medical Spa Safety Act.”**

3    **Section 1. Title.** This act shall be known as and may be cited as the “Medical Spa Safety Act.”

4    **Section 2. Purpose.** The legislature hereby finds and declares that:

- 5                    (a) Patients are increasingly seeking cosmetic medical procedures and it is crucial that  
6                    patient safety remains the top priority for providers of these services.
- 7                    (b) These procedures are often done outside of a physician office and in a medical spa  
8                    (“med spa”), many of which are legitimate, safe, physician-owned facilities that  
9                    operate with a high standard of patient care.
- 10                  (c) Lack of regulation have enabled med spas to offer cosmetic medical procedures by  
11                  inadequately trained or supervised persons to an unsuspecting public.
- 12                  (d) Some facilities have a physician listed as a medical director, who does not own the  
13                  facility and/or is not on-site or immediately available to directly supervise non-  
14                  physician providers.
- 15                  (e) It is in the public interest to protect patients from harm by ensuring that med spas  
16                  deliver safe medical care supervised by an on-site physician.

17    **Section 3. Definitions.**

- 18                  (a) “Medical spa (med spa)” means a facility that provides cosmetic medical procedures,  
19                  which may include neuromodulators, dermal fillers and non-ablative laser  
20                  procedures outside of a physician’s office.
- 21                  (b) “Cosmetic medical procedure” means medical procedures or treatments that are  
22                  performed to alter or reshape normal structures of the body or ablate or remove  
23                  living tissue solely in order to improve physical appearance.
- 24                  (c) “Medical Director” means a physician who assumes the role of, or holds oneself out  
25                  as, medical director at a medical spa. The medical director is:
- 26                          i. Trained in the indications for, and performance of, cosmetic medical  
27                          procedures, including all medical devices or instruments that can alter or  
28                          cause biologic change or damage the skin and subcutaneous tissue and;
- 29                          ii. Responsible for implementing policies and procedures to ensure quality  
30                          patient care and for the delegation and supervision of cosmetic medical  
31                          procedures and;
- 32                          iii. Responsible for all cosmetic medical procedures performed by physicians  
33                          or non-physician providers at a medical spa and;

- 34                   iv. Responsible for ensuring that all supervising physicians and non-physician  
35                   providers to whom a cosmetic medical procedure has been delegated are  
36                   properly trained in the safe and effective performance of all cosmetic  
37                   medical procedures performed at the medical spa.  
38           (d) “Physician” means an allopath or osteopath who has an active, unrestricted medical  
39           license granted under the authority of XX and practices within the state that the  
40           medical spa is located.

**Drafting Note – RE: “Physician”:** States may choose to define “allopath” and “osteopath” for further clarification.

- 41           (e) “Delegate” means a non-physician tasked with performing a procedure as defined in  
42           Paragraph (b) by a Physician as defined in Paragraph (d).

**Drafting Note – RE: “Delegate”:** States may choose to list the different types of non-physician categories that have the authority to perform cosmetic medical procedures. This should not be interpreted to expand the scope of practice authority of any non-physician health care provider.

- 43           (f) “Supervision” means a supervising physician that is both present at the site and  
44           immediately able to respond in-person as needed.

#### 45   **Section 4. Protecting Patients in a Medical Spa Setting**

- 46           (a) A physician who performs or supervises cosmetic medical procedures by a non-  
47           physician must be trained in the indications for and performance of the cosmetic  
48           medical procedure.
- 49                   i. Training by a vendor or manufacturer of any injectables and/or medical  
50                   devices used during a cosmetic medical procedure is insufficient as the  
51                   physician’s only educational training.
  - 52                   ii. ACGME or AOA approved continuing medical education, or completion of  
53                   an ACGME or AOA accredited postgraduate program that includes  
54                   training in the cosmetic medical procedure being performed satisfies the  
55                   education requirement.
- 56           (b) The supervising physician must:
- 57                   i. Develop and maintain written office protocols for each cosmetic medical  
58                   procedure.
  - 59                   ii. Perform the initial assessment of the patient.
  - 60                   iii. Prepare a written treatment plan for each patient, including diagnosis,  
61                   course of treatment and specifications for any device being utilized.
  - 62                   iv. Obtain patient consent if the procedure is being done by a non-physician  
63                   provider and identify credentials and name of the non-physician provider  
64                   who will be performing the medical procedure.

- 65 v. Create and maintain medical records in a manner consistent with  
66 accepted medical practice and in compliance with the rules of the State  
67 of XX.
- 68 (c) Non-physician providers may only perform cosmetic medical procedures in which  
69 they have been properly trained and if the procedure has been delegated to them  
70 by a supervising physician. All non-physician providers must:
- 71 i. Wear identification that clearly communicates they are not physicians  
72 and identifies the type of provider they are and their licensing.
- 73 ii. Review and follow written protocols for each delegated cosmetic medical  
74 procedure;
- 75 iii. Verify that the supervising physician has assessed the patient and given  
76 written treatment instructions for each procedure to be performed;
- 77 iv. Review the cosmetic medical procedure to be performed with each  
78 patient;
- 79 v. Notify the medical director and supervising physician of any adverse  
80 events or complications before the patient leaves the medical spa or as  
81 they become aware; and follow-up communications with the patient  
82 post-operatively;
- 83 vi. Document all relevant details of the cosmetic medical procedure in each  
84 patient's medical record; and
- 85 vii. Satisfy any requirements imposed by the licensing board of the non-  
86 physician.

**Drafting note - RE: Protecting Patients in a Medical Spa Setting:** This section should not be interpreted to expand existing statute or regulation regarding the scope of practice of non-physician providers.

States may choose to require medical spas to post if a physician is not on-site and mandate adverse event reporting to the U.S. Food and Drug Administration. States may also require reporting to a physician organization's adverse event database, such as the American Society for Dermatologic Surgery Association's CAPER (coming in 2020).

87 **Section 5. Effective.** This Act shall become effective immediately upon being enacted into law.