



Guidance Related to 2015 Legislation

July 24, 2015

SUMMARY

Medical clinics that employ cosmetologists, estheticians, or nail technicians to carry out delegated medical procedures on patients are not required to obtain salon licensure. Services provided for patients that are delegated by a physician, that are part of the patient's treatment plan, and are included in the patient's medical record, have been, and remain the practice of medicine and are regulated by the Board of Medical Practice. Cosmetologists, estheticians, or nail technicians who practice in a medical clinic but who provide non-delegated, non-medical services to clients must do so within a licensed salon.

In response to inquiries from the Minnesota Medical Association and its own licensees regarding the statutory changes related to licensed practice made to Minn. Stat. Ch. 155A during the 2015 legislative session, the Minnesota Board of Cosmetologist Examiners, at its Board meeting held July 24, 2015 approved the following statement to provide guidance in response to those inquiries.

BACKGROUND

While passing a bill containing policy, fiscal and technical changes to Minn. Stat. Ch. 155A, the Minnesota Legislature repealed Minn. Stat. § 155A.23, Subd. 6 and approved the following changes to Minn. Stat. § 155A.29:

Minnesota Statute Section 155A.29

~~Any A person who offers~~ must not offer cosmetology services for compensation ~~in this state shall be (1) licensed as a salon if not employed by another licensed salon or (2) employee as an esthetician or cosmetologist in connection with medical care in relation to esthiology in the office of a licensed physician unless the services are provided by a licensee in a licensed salon or as otherwise provided in this section. Each salon must be licensed as a cosmetology salon, a nail salon, esthetician salon, or advanced practice esthetician salon. A salon may hold more than one type of salon license.~~

When taken alone this caused many physician practices that employ cosmetologists, estheticians, or nail technicians to believe this language obligated the physician practice to become licensed as a salon. However, Minn. Stat. § 155A.34, clearly exempts services performed in the practice of medicine:

Minnesota Statute Section 155A.34

Nothing in sections 155A.21 to 155A.36 prohibits services in cases of emergency where compensation or other reward is not received, nor in domestic service, **nor in the practice of medicine**, surgery, dentistry, podiatry, osteopathy, chiropractic, or barbering. This section shall not be construed to authorize any of the persons so exempted to wave the hair, or to color, tint, or bleach the hair, in any manner (*emphasis added*).

CONCLUSION

Services related to the practice of medicine are expressly exempted from regulation by the Board of Cosmetology by Minn. Stat. § 155A.34, and therefore the amendments made to Minn. Stat. § 155A.29 do not apply to these services.

The changes to Minn. Stat. Ch. 155A are not intended and should not be construed to affect the practice of cosmetologists, estheticians, or nail technicians practicing in appropriately-supervised medical setting as part of the practice of medicine. As was the law before these changes, cosmetologists, estheticians, or nail technicians who provide delegated medical services to patients may continue to do so, as long as the cosmetologist, esthetician, or nail technician is accountable to the supervising physician, who is in turn accountable to the Board of Medical Practice. Medical clinics that employ cosmetologists, estheticians, or nail technicians to carry out delegated medical procedures on patients are not required to obtain salon licensure. Services provided for patients that are delegated by a physician, that are part of the patient's treatment plan, and are included in the patient's medical record, have been, and remain the practice of medicine and are regulated by the Board of Medical Practice. Cosmetologists, estheticians, or nail technicians who practice in a medical clinic but who provide non-delegated, non-medical services to clients must do so within a licensed salon.

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