



# Public Forum

## Protecting Your Health

### The Bureau of Health Professions

▪ MICHIGAN DEPARTMENT OF COMMUNITY HEALTH ▪ WINTER 2008 ▪ VOLUME 2 ▪ ISSUE 1 ▪

#### Use of Laser Equipment By Health Professionals

Laser therapy is a medical term or procedure you may have heard about, but are not quite sure what it is. Laser (short for Light Amplification by Stimulated Emission of Radiation) refers to a device that emits light by a special fluorescent organic dye. This light can be adjusted to radiate at a wide range of frequencies, and is used for a variety of healthcare procedures.

Lasers are recognized by the U.S. Food and Drug Administration (FDA) as medical devices. Their use is considered a medical or dental practice, as explained below.

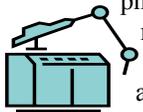
Laser use falls within the definition of the practice of medicine in the Public Health Code because it is used for the "diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition by attendance, advice, device, diagnostic test, or other means..."

A physician/dentist may delegate the use of laser equipment to a licensed or unlicensed individual if the delegated individual works under the physician's/dentist's supervision. In this case, supervision, as defined by the Public Health Code, requires at least all of the following:

- Acknowledgment by the physician/dentist that the delegated individual has the appropriate education, training or experience to properly use lasers.
- Continuous availability of direct communication in person, by radio, telephone or other telecommunication, between the physician/dentist and the delegated individual.
- Regularly scheduled availability of the physician/dentist to consult, educate, and review the records and practice of the delegated individual in laser use.

- Development by the physician/dentist of written procedures and protocols to guide the delegated individual's laser use.

Physicians and dentists must adhere to these supervision requirements. As the delegated individual works under the authority of a licensee, the licensed physician/dentist is ultimately responsible for the outcome of the tasks and duties performed by the delegated individual.



Many programs have recently used lasers to help people stop smoking. The FDA has not approved the use of lasers for smoking cessation. While the FDA has allowed research into the use of lasers for smoking cessation, these approvals have been limited.

Public Health Code provisions and applicable FDA guidelines show that dentists may also use FDA-approved lasers for patient care within the scope of their license.

#### Scope of Practice

Have you ever wondered what each licensed health professional is allowed to do in their practice? Can a nurse aide give a patient a shot? Can a dental hygienist drill a tooth? Can a physician's assistant perform minor surgery? What a licensed health professional can do is called "scope of practice". The Public Health Code and the related administrative rules provide information about a licensee's scope of practice. You can access the Public Health Code and administrative rules at [www.michigan.gov/healthlicense](http://www.michigan.gov/healthlicense) under *Links*, in the center of the page. A customer service professional can also help answer your questions at 517-373-7079.



#### Gambling Problem?

Problem Gambling Services, administered by the Office of Drug Control Policy's Division of Substance Abuse and Gambling Services, are available. Services include: 24-hour helpline, prevention programs, and treatment programs. If you, or someone you know, has a potential gambling problem, help is available. Call the **Problem Gambling Helpline** at (800) 270-7117, 24 hours a day. Non-Michigan residents can call (313) 224-7000 to obtain a number for other states' problem gambling help-lines. You can also visit the department's website at [Problem Gambling](#) for more information.

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## Microdermabrasion

Microdermabrasion (also known as "power peel") is like softened sandblasting. It involves tiny crystals that are sprayed on the skin and works best on superficial skin problems like fine lines, dull skin, brown spots, mild acne scars, and age spots.

Equipment used for microdermabrasion has been approved for use by the U.S. Food and Drug Administration (FDA), which requires that the equipment be sold only to licensed individuals. The FDA allows each state to decide which licensed individuals may purchase the equipment. The State of Michigan, Department of Community Health, has determined that only physicians licensed to practice medicine in Michigan may purchase microdermabrasion equipment. Therefore, companies selling microdermabrasion equipment in Michigan may only sell to physicians.



The use of microdermabrasion equipment is not within the scope of practice of licensed cosmetologists or estheticians. Scope of practice refers to the range of activities that a given profession is allowed to do. The decision to exclude microdermabrasion from the scope of practice of non-physicians is based on a review of literature describing microdermabrasion, the Michigan Public Health Code, the Occupational Code, and the Administrative Rules of the Board of Cosmetology and the Administrative Rules of the Boards of Medicine and Osteopathic Medicine and Surgery.

Microdermabrasion falls within the scope of the practice of medicine because it utilizes equipment that removes a layer of skin. The "practice of medicine" as defined by the Michigan Public Health Code includes the following: "the diagnosis, **treatment**, prevention, cure, or **relieving** of a human disease, ailment, **defect, complaint**, or other physical or mental condition, by attendance, advice, **device**, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts."

A physician may delegate the microdermabrasion procedure to another licensed individual *if* the licensed individual is working under the physician's supervision. Refer to the article on page one entitled *Use of Laser Equipment by Health Professionals* for the definition of supervision.

Microdermabrasion procedures can be delegated to licensed individuals including a physician's assistant, registered nurse, cosmetologist, or esthetician. However, the supervised individual must not imply that he or she is independently performing the procedure under his or her own license. Because the supervised individual is working under delegation from the physician, it is the physician's license that allows for the practice of the supervised individual. Therefore, if a problem occurs while the supervised individual is performing the procedure, the physician is ultimately responsible for the outcome. In such a case, the responsible physician could even lose their license because of something done by the delegated individual.

The Bureau of Commercial Services has also issued a position statement regarding licensed cosmetologists and estheticians performing microdermabrasion. Additional information is available on their website at [www.michigan.gov/bcs](http://www.michigan.gov/bcs).

## Patient Safety Website Launched October 15, 2007

Every year thousands of American citizens die because of medical/nursing errors, medication errors and accidental injuries in hospitals, nursing homes and in home health settings. In 2005, the State Commission on Patient Safety sent its final report to Governor Granholm. To review the report in its entirety, select the following link: [Call to Action: A Plan to Improve Patient Safety](#). A link to the report is also on the home page of the *Professional* section of the patient safety website.

In the spirit of these recommendations, our new patient safety website [www.michigan.gov/patientsafety](http://www.michigan.gov/patientsafety) was developed to educate and assist the general public and health professionals in Michigan about this important topic. The public portion of the site includes topics about protecting yourself in a variety of healthcare settings, such as nursing homes, hospitals and office settings.

There are also categories with information about how to prevent or reduce medication errors and links to other sites and articles about general safety tips, and how to better communicate with your healthcare providers.

The professional portion of the site includes topics about improving patient literacy, the advantages of electronic medical record keeping, reporting errors, state and national laws and a section where health professionals can share their patient safety success stories.

We hope the information contained in this website will provide you with the tools necessary to protect yourself, your family members and your patients. If you have questions about the site, or recommendations for additional content, please contact Doreen Lyman at [dalyman@michigan.gov](mailto:dalyman@michigan.gov).



### Receive future editions automatically

Do you find the information contained in this newsletter helpful? If so, sign-up to receive future editions automatically, free of charge (electronically only).



Go to [www.michigan.gov/healthlicense](http://www.michigan.gov/healthlicense) and select the *Public Forum Newsletter* link in the *Spotlight* box. It's that easy!

## QUESTION & ANSWER

**Question:** How can I get a copy of my mental health or medical records? Can the practitioner charge for the copy?

**Answer:** Public Act 47 of 2004, the Medical Records Access Act, gives patients the right to obtain a copy of their patient records. The request must be in writing and the law provides for a certain length of time for the practitioner to prepare the information. The practitioner is allowed to charge for copies of the records. Currently, the law allows the practitioner to charge an initial fee of \$21.20 per request for a copy of the record. They are also allowed to charge \$1.06 per page for the first 20 pages, \$.53 per page for pages 21 through 50 and \$.22 per page for pages 51 and over. The law describes some other conditions about requesting the information and about the practitioner providing the information in more detail at <http://legislature.mi.gov/doc.aspx?mcl-Act-47-of-2004>. Another law, Public Act 481 of 2006, requires physicians and hospitals to retain patient records for a minimum of seven years. Dentists are required to retain their patient records for ten years. For complete details, see <http://legislature.mi.gov/doc.aspx?mcl-333-16213>.

## Caring for You!

Influenza (flu) is a contagious respiratory illness caused by influenza viruses. It can cause mild to severe illness, and at times can lead to death. The best way to prevent the flu is by getting a flu **vaccination** each year. Every year in the United States, on average:

- 5% to 20% of the population gets the flu;
- more than 200,000 people are hospitalized from flu complications, and,
- about **36,000** people die from the flu.



1918 influenza epidemic, Camp Funston, Kansas

Some people, such as older people, young children, and people with certain health conditions (such as asthma, diabetes, or heart disease), are at high risk for serious flu complications. Getting a flu vaccination cannot only protect you, but can protect the health of your family and co-workers. For more information about flu vaccinations, contact your doctor or local health department.

## Sexual Boundaries Between Patients and Healthcare Providers

The relationship between a health care provider and a patient is a professional relationship based on trust. When a provider behaves in such a way that oversteps his or her professional role with the patient to create a personal relationship, we say that a professional *boundary* has been crossed. When a provider inappropriately uses words or actions of a sexual nature with a patient, a *sexual boundary has been violated*. This includes any words, actions or behavior that could reasonably be interpreted as sexually inappropriate or unprofessional. This is why, for example, a provider must leave the room when a patient is undressing for an examination. The potential for sexual misconduct exists with any health care provider.

According to the statistics identified in our most recent annual report, there were 46 allegations of sexual misconduct made against health care providers in 2006. This is a serious violation and all allegations of sexual misconduct are investigated thoroughly. An allegation, however, is a formal accusation of such conduct by a patient. While some allegations are found to be without a basis in fact, many are found to be supported by the facts. The 2006 report identified 22 allegations of sexual misconduct against medical doctors and doctors of osteopathic medicine (M.D.s and D.O.s) and 16 allegations against three mental health professions (counselors, psychologists and social workers). There were also eight allegations filed against various other health professions.

Unfortunately, these 2006 allegations likely represent only a portion of such violations occurring in Michigan that year, as many patients do not report violations of this nature due to embarrassment or fear of not being believed. In fact, according to the American Medical Association, the percentage of physicians who have crossed sexual boundaries with patients may be as high as 10%. The allegation statistics from our 2006 annual report indicate that less than one percent of licensed health professionals may have crossed sexual boundaries with their patients.

Violations of sexual boundaries between a provider and his or her patient include beginning a personal relationship during or after treatment, engaging in sexual activity, discussing sexual matters that are not relevant to treatment, using “off color” humor or telling “dirty jokes”, or repeatedly engaging in prolonged conversation about personal matters unrelated to treatment.

There are many harmful consequences to the patient when sexual boundaries are violated, including emotional turmoil, shame, fear, rage, guilt, self-blame, identity confusion, sexual dysfunction, depression, self-harm, and even suicide. It is sometimes difficult to know when a provider has violated a personal or sexual boundary. To protect yourself against this type of behavior, be wary if a health practitioner begins to disclose personal problems or discusses personal details regarding their love life, offers to not charge for appointments, explores any kind of relationship outside the provider-patient relationship, such as a business partnership or exchanging personal favors.

If you or someone you know has been a victim of sexual misconduct by a health professional, you should report it immediately to the appropriate licensing board, seek counseling and consult an attorney to determine if civil or criminal action may need to be taken. Remember, this type of behavior by health professionals may be quite rare, but it does occur. If you have questions about this article, staff in our Allegation Section may be able to answer your questions. They can be reached at 517-373-9196.

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This newsletter is a periodic publication of the Department of Community Health, Bureau of Health Professions.

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Readers' comments are invited. Please e-mail comments and suggestions to the editor at: [dalyman@michigan.gov](mailto:dalyman@michigan.gov) or write to Public Forum Editor, Doreen Lyman, Bureau of Health Professions, P.O. Box 30670, Lansing, MI 48909-8170.

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