

Nursing in the Cosmetic Medical Era

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Nurses have traditionally played an important and vital role in the healthcare delivery system. As technology and medicine evolved, the role of nurses in healthcare has changed dramatically as well. This is even truer in the cosmetic medicine aspect of healthcare.

Today, nurses are not only medical providers, but they are frequently educators and trainers of technology. This helps make the delivery of information and care more efficient and effective. Nurses have the medical background, training, and experience to improve cosmetic medical procedures.

THE EXPANSION OF A NURSE'S ROLE

As the role of nurses expanded over the years, new categories of healthcare providers have emerged. Technicians and certified assistants now perform the functions customarily performed by nurses. This has enabled nurses to participate in the actual care to a greater degree. While there are various different levels of "nursing," this article is discussing primarily registered nurses, LPNs, etc., and specifically not addressing the issue of

Nurse Practitioners.

It is now more difficult to know who can perform which services and under what conditions. Historically, and with limited exceptions, nurses are dependent medical providers. This means that they work in conjunction

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with physicians and medical facilities. Rarely are they able to practice medicine independently.

As the cosmetic medical trend evolved, nurses began injecting fillers, Botox® Cosmetic, and performing laser treatments in addition to traditional functions such as surgical assisting and post-surgical care. Customarily, this was done under the employment or direct supervision of a physician. Some early laser entrepreneurs, especially from the business sector, began to expand into laser businesses and employed nurses to deliver cosmetic medical treatments.

SCOPE OF PRACTICE

In the contemporary cosmetic environment, many facilities have enlarged the scope of practice of nurses. In many instances, this expansion of the scope of practice is not legally supportable given the role of nurses in medicine. I work with medical practices, medical spas, and spas nationally and see many variations of nurses in the delivery of cosmetic medical procedures. I frequently am asked to consult with nurses on business plans. My personal observation is that in many instances, the role of nurses has expanded well beyond legally

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supportable boundaries. The trend is also becoming more concerning as the abuses of the system are increasing at an alarming pace. This

is in no way meant to suggest that nurses are not capable of performing many of the procedures or that they are not performing them well. I am suggesting that in many current instances, nurses are being asked to perform services in a manner outside the scope of their licensure. Given that the penalty for practicing outside the scope of your licensure is license restriction or complete loss of license, care must be taken in determining when and how to utilize nurses in the delivery of cosmetic medical procedures.

SPAS VS. MEDICAL SPAS

Many spas have elected to refer to themselves as “medical spas” by the addition of nurses to their staffs. The belief is that nurses are medical providers and this addition elevates the status of the spa to that of a “medical spa.” Although you may be free to call your facility any type of facility you desire, labeling a spa as a “medical spa” has serious implications and liability. This is not legally supportable because of an earlier comment: with limited exceptions, nurses are dependent medical providers. They are not able to “practice medicine” on their own. Virtually all cosmetic medical procedures constitute the practice of medicine for a variety of reasons.



Accordingly, nurses are not able to perform these services outside the medical facility and physician supervision. A non-physician owned spa may employ nurses but not for the delivery of medical or cosmetic medical procedures.

Accordingly, nurses cannot perform laser, most injectible filler procedures, and certain strength chemical exfoliation (or most other "medical procedures"), outside a traditional medical facility that is owned or operated by physicians or appropriate medical entity. Several states have specifically addressed this issue because of current abuses in the system. Many non-medical facilities have attempted to circumvent the legal requirements by hiring a "medical director" to supervise the nursing component of the facility. This is an improvement, but it does not alter the fact that nurses are dependent practitioners. The

supervision by a medical director does not adequately address the issue of nurses as dependent practitioners. In fact, once again, several states have specifically addressed this issue (including California) and stated that such arrangements are not enough to satisfy the legal requirements to enable nurses to perform laser and many injectible filler procedures.

THE PHYSICIAN AND NURSE RELATIONSHIP

In situations in which nurses are employed by physicians, the situation is dramatically different, as nurses are able to perform cosmetic medical procedures under the supervision and delegation concepts.

However, it is important to note that physicians should supervise and delegate to the extent of their

training and experience. A critical care physician, for example, may not be the best physician to employ, supervise, and delegate cosmetic medical procedures because such activity is not within the context of the training and experience of that physician. Experience has more to do with fellowship and residency training than it does with weekend course or Continuing Medical Education (CME) seminars. This is not only a legal issue but an insurance liability issue.

As medicine and spa services began to merge, new types of insurance policies emerged to cover

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the risks associated with the new procedures. However, there are now more types of insurance policies; and many current practices of facilities would be voided by the insurance carrier because providers are practicing outside the scope of their licensure, and the facilities are not in compliance with insurance policy requirements. This topic will be addressed more thoroughly in the next issue.

WHAT IS THE PRACTICE OF MEDICINE?

This discussion comes full circle back to what is the practice of medicine? Many have come to believe that most of the cosmetic medical procedures are not truly the practice of medicine and can, therefore, be performed by providers outside the medical area. Laser hair removal is an



example, and I can conceptually agree that it is not a "medical procedure." However, the topical anesthesia and devices utilized in the treatment of hair removal are frequently medical devices and require ownership or prescription by a physician. Accordingly, utilizing nurses in an otherwise non-medical facility to deliver laser hair removal is not legally supportable, even in circumstances where there is a medical director.

Virtually all other cosmetic medical procedures constitute the practice of medicine, so we must be concerned about nurses performing such procedures outside of a traditional medical setting, and we must further be concerned about the medical device or substance being utilized in the treatment. Many nurses are primary injectors of Botox Cosmetic. However, this protein is a prescription, and nurses cannot inject this outside of a medical environment. A nurse performing this procedure would need to be an employee of a physician owned medical facility or other appropriate medical facility. A nurse employed by a spa would not be able to inject Botox Cosmetic.

This would also be true for other injectable fillers such as Sculptra®, Restylane® and Juvéderm®. Even though these materials are technically not prescriptive, the injection of them clearly constitutes the practice of medicine. So the proverbial bottom line is that if you are practicing medicine or utilizing medical devices, you must strictly adhere to the scope of practice guidelines for your licensure. With limited exception, nurses are not permitted to practice medicine apart from traditional



physician or other appropriate medical facilities.

I suppose that entrepreneurial spirit and greed have fueled current abuses. This is speculation, of course, but what is certain is that compliance actions are on the rise; and it is essential to utilize more care now than ever before. We must also recognize that, given an all but certain increase in regulations. This mandates even greater care in formalizing our current business arrangements since what is possible today may not be legally supportable in the future, and there may not be an opportunity to recoup investment.

THE HEALTHCARE DELIVERY SYSTEM

The practice of nursing is an essential component of our healthcare delivery system. Nurses are a vital part of the delivery of cosmetic medical care as well. However, it is essential that they be utilized within the scope of their licensure. Abuses

of the system are what frequently cause an increase in regulation and enforcement. Current abuses of the system are the impetus for future legislation and regulation that is certain to be enacted. ❏



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